

Copyright Board
Canada



Commission du droit d'auteur
Canada

October 25, 2019

In accordance with section 68.2 of the *Copyright Act*, the Copyright Board hereby publishes the following proposed tariffs:

Artisti – Multi-channel subscription satellite radio services for the reproduction of performers' performances (2021-2023);

Artisti – CBC Tariff for the reproduction of performers' performances in connection with over-the-air radio broadcasting and on the Internet (2021-2023); and

Artisti – Tariff for Pay Audio Services for the reproduction of performers' performances (2021-2023).

By that same section, the Copyright Board hereby gives notice to any person affected by these proposed tariffs.

Users or their representatives who wish to object to the above-mentioned proposed tariffs may file written objections with the Board, at the address indicated below, no later than the 30th day after the day on which the Board published the proposed tariff under paragraph 68.2(a), that is no later than **November 25, 2019**.

Lara Taylor

Secretary General

Copyright Board Canada

56 Sparks Street, Suite 800

Ottawa, Ontario K1P 5A9

613-952-8624 (Telephone)

Registry-greffe@cb-cda.gc.ca

Proposed tariff

Filed with the Copyright Board pursuant to subsection 67 (1) of the

Copyright Act

2019-10-15

ARTISTI

CBC Tariff

For the reproduction of performers' performances in connection with over-the-air radio broadcasting and on the Internet

2021-01-01 – 2023-12-31

Proposed citation: *Artisti-CBC Tariff, 2021-2023*

STATEMENT OF ROYALTIES TO BE COLLECTED BY ARTISTI FOR THE REPRODUCTION OF PERFORMERS' PERFORMANCES MADE BY THE CANADIAN BROADCASTING CORPORATION (CBC), IN CANADA, IN CONNECTION WITH ITS OVER-THE-AIR RADIO BROADCASTING, ITS SIMULCASTING OF AN OVER-THE-AIR RADIO SIGNAL AND ITS WEBCASTING ACTIVITIES ON ITS WEBRADIOS, FOR THE YEARS 2021 TO 2023

Short Title

1. This tariff may be cited as the *Artisti-CBC Tariff, 2021-2023*.

Application

2. This tariff sets the royalties to be paid by the Canadian Broadcasting Corporation (CBC), for the reproduction that it makes, in Canada, of the performers' performances in the repertoire of Artisti, in connection with its over-the-air radio broadcasting, its simulcasting of an over-the-air radio signal and its webcasting activities on its webradios.

3. This tariff does not authorize the use of any reproduction made pursuant to section 2 in association with a product, service, cause or institution.

Royalties

4. The Canadian Broadcasting Corporation (CBC) shall pay, per year, on the first day of January, thirty-five thousand dollars (35 000.00\$) for the year 2021, thirty-five thousand eight hundred and five dollars (35 805.00\$) for the year 2022 and thirty-six thousand six hundred and twenty-eight dollars and fifty-two cents (36 628.52\$) for the year 2023.

5. All royalties are exclusive of any federal, provincial or other governmental taxes or levies of any kind.

Information on Repertoire Use

6. (1) Each month, the Canadian Broadcasting Corporation (CBC) shall provide to Artisti the sequential list of all works (or parts of works) and sound recordings (or parts of sound recordings) broadcasted, simulcasted or webcasted during the reference month, including the information set out below:

(a) the date, time, duration of the broadcast, simulcast or webcast of the sound recording, and the type of broadcast (e.g. *local, regional*);

(b) the title of the work and the name of its author and composer;

(c) the type of usage (*feature, theme, background, etc.*);

(d) the title and catalogue number of the album, the name of the main performer or performing group and the record label, and whether the track performed is a published sound recording; and

(e) where possible, the Universal Product Code (UPC) of the album, the International Standard Recording Code (ISRC) of the sound recording, the names of all of the other performers (if applicable), the duration of the sound recording as listed on the album and the track number on the album.

(2) The information set out in subsection (1) shall be provided electronically, in Excel format or in any other format agreed upon by Artisti and the Canadian Broadcasting Corporation (CBC), with a separate field for each piece of information required in paragraphs (a) to (e), no later than 15 days after the end of the month to which it relates.

Records and Audits

7. (1) The Canadian Broadcasting Corporation (CBC) shall keep and preserve, for a period of six months after the end of the month to which they relate, records from which the information set out in subsection 6(1) can be readily ascertained.

(2) Artisti may audit these records at any time during the period set out in subsection (1), on reasonable notice and during normal business hours.

(3) Artisti shall, upon receipt, supply a copy of the report of the audit to the Canadian Broadcasting Corporation (CBC).

Confidentiality

8. (1) Subject to subsections (2) and (3), Artisti shall treat in confidence information received pursuant to this tariff, unless the Canadian Broadcasting Corporation (CBC) consents in writing to the information being treated otherwise.

(2) Information referred to in subsection (1) may be shared

(a) with any other collective society in Canada that has secured a certified tariff applicable to the Canadian Broadcasting Corporation (CBC);

(b) with the Copyright Board;

(c) in connection with proceedings before the Board, if the Canadian Broadcasting Corporation (CBC) is first given the opportunity to request a confidentiality order;

(d) to the extent required to effect the distribution of royalties, with royalty claimants; or

(e) if ordered by law.

(3) Subsection (1) does not apply to information that is publicly available, or to information obtained from someone other than the Canadian Broadcasting Corporation (CBC) and who is not under an apparent duty of confidentiality to the Canadian Broadcasting Corporation (CBC).

9. (1) If the Canadian Broadcasting Corporation (CBC) discovers an error in a payment already made to Artisti under this tariff, the Canadian Broadcasting Corporation (CBC) shall notify Artisti of the error, and an appropriate adjustment shall be made to the next payment due following the notification. No adjustments to reduce the amount of royalties owed may be made in respect of an error discovered by the Canadian Broadcasting Corporation (CBC) which occurred more than 12 months prior to its discovery and notification to Artisti.

(2) When an error is discovered by Artisti at any point in time, Artisti shall notify the Canadian Broadcasting Corporation (CBC) and an appropriate adjustment shall be made to the next payment due following notification.

(3) The 12-month limit in subsection (1) shall not apply to an error discovered by Artisti, including without limitation an error discovered pursuant to subsection (2).

Interest and Penalties on Late Payments and Reporting

10. (1) In the event that the Canadian Broadcasting Corporation (CBC) does not pay the amount owed under this tariff, the Canadian Broadcasting Corporation (CBC) shall pay to Artisti interest calculated on the amount owed from the due date until the date the amount is received by Artisti. Interest shall be calculated daily, at a rate equal to one per cent above the Bank Rate effective on the last day of the previous month (as published by the Bank of Canada). Interest shall not compound.

(2) In the event that the Canadian Broadcasting Corporation (CBC) does not provide the sequential lists required by section 6 by the due date, the Canadian Broadcasting Corporation (CBC) shall pay to Artisti a late fee of \$50.00 per day from the due date until the date the sequential lists are received by Artisti.

Addresses for Notices, etc.

11. (1) Anything addressed to Artisti shall be sent to 5445 De Gaspé Avenue, Suite 1005, Montréal, Quebec H2T 3B2, email: radioreproductionsrc@artisti.ca, fax number: 514-288-7875, or to any other address, email address or fax number of which the Canadian Broadcasting Corporation (CBC) has been notified in writing.

(2) Anything addressed to the Canadian Broadcasting Corporation (CBC) shall be sent to the last address, email address or fax number of which Artisti has been notified in writing.

Delivery of Notices and Payments

12. (1) A notice may be delivered by hand, by postage-paid mail, by email or by fax. A payment must be delivered by hand, by postage-paid mail or by electronic bank transfer. Where payment is made by electronic bank transfer, the reporting required under subsection 6(1) shall be provided concurrently to Artisti by email.

- (2) Anything mailed in Canada shall be presumed to have been received four business days after the day it was mailed.
- (3) Anything sent by fax or by email shall be presumed to have been received the day it was transmitted.