

Copyright Board
Canada



Commission du droit d'auteur
Canada

November 6, 2019

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

- Commercial Radio Reproduction Tariff (CMRRA, SOCAN, Connect/SOPROQ, and Artisti: 2021-2023)

By that same section, the Copyright Board hereby gives notice to any person affected by this proposed tariff that users or their representatives who wish to object to this proposed tariff 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 **December 6, 2019**.

Lara Taylor

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PROPOSED TARIFF

filed with the Copyright Board pursuant to subsection 67(1) of the *Copyright Act*

2019-10-15

CMRRA, SOCAN, Connect/SOPROQ, and Artisti

Commercial Radio Reproduction Tariff

for the reproduction of musical works by commercial radio stations

2021-01-01 – 2023-12-31

Proposed citation:

Commercial Radio Reproduction Tariff

(CMRRA, SOCAN, Connect/SOPROQ, and Artisti: 2021-2023)

STATEMENT OF ROYALTIES TO BE COLLECTED FROM COMMERCIAL RADIO STATIONS BY THE CANADIAN MUSICAL REPRODUCTION RIGHTS AGENCY LTD. (CMRRA), AND BY THE SOCIETY OF COMPOSERS, AUTHORS AND MUSIC PUBLISHERS OF CANADA, THE SOCIÉTÉ DU DROIT DE REPRODUCTION DES AUTEURS, COMPOSITEURS ET ÉDITEURS AU CANADA INC. AND SODRAC 2003 INC. (SOCAN), FOR THE REPRODUCTION, IN CANADA, OF MUSICAL WORKS, BY CONNECT MUSIC LICENSING SERVICE INC. AND THE SOCIÉTÉ DE GESTION COLLECTIVE DES DROITS DES PRODUCTEURS DE PHONOGRAMMES ET DE VIDÉOGRAMMES DU QUÉBEC (CONNECT/SOPROQ) FOR THE REPRODUCTION, IN CANADA, OF SOUND RECORDINGS, AND BY ARTISTI FOR THE REPRODUCTION, IN CANADA, OF PERFORMERS' PERFORMANCES, FOR THE YEARS 2021-2023

Short Title

1. This tariff may be cited as the *Commercial Radio Reproduction Tariff (CMRRA, SOCAN, Connect/SOPROQ, and Artisti: 2021-2023)*.

Definitions

2. In this tariff,

“Act” means the *Copyright Act*; (« *Loi* »)

“collective societies” means CMRRA, SOCAN, Connect/ SOPROQ and Artisti; (« *sociétés de gestion* »)

“French-language station” means a station that is licensed by the Canadian Radio-television and Telecommunications Commission (CRTC) to operate in the French language or as an ethnic station, including the stations listed in Schedule A to this tariff (« *station de langue française* »)

“gross income” means the gross amounts paid by any person for the use of one or more broadcasting services or facilities provided by a station’s operator, including the value of any goods or services provided by any person in exchange for the use of such services or facilities, and the fair market value of non-monetary consideration (e.g. barter or “contra”), but excluding the following:

- (a) income accruing from investments, rents or any other business unrelated to the station’s broadcasting activities. However, income accruing from any allied or subsidiary business that is a necessary adjunct to the station’s broadcasting services and facilities or which results in their being used, including the gross amounts received by a station pursuant to turnkey contracts with advertisers, shall be included in the “gross income”;
- (b) amounts received for the production of a program that is commissioned by someone other than the station and which becomes the property of that person;
- (c) the recovery of any amount paid to obtain the exclusive national or provincial broadcast rights to a sporting event, if the station can establish that the station was also paid normal fees for station time and facilities; and
- (d) amounts received by an originating station acting on behalf of a group of stations, which do not constitute a permanent network and which broadcast a single event, simultaneously or on a delayed basis, that the originating station subsequently pays out to the other stations participating in the broadcast. These amounts paid to each participating station are part of that station’s “gross income.”

In the case of CMRRA and SOCAN, this definition is understood to include any income from simulcast; (« *revenus bruts* »)

“low-use station” means a station that

- (a) as to CMRRA and SOCAN, broadcasts musical works for less than 20 per cent of its total broadcast time (excluding production music) during the reference month;
- (b) as to Connect/SOPROQ and Artisti, broadcasts published sound recordings of musical works for less than 20 per cent of its total broadcast time (excluding production music) during the reference month; and
- (c) keeps and makes available to CMRRA, SOCAN, Connect/SOPROQ and Artisti complete recordings of its last 90 broadcast days; (« *station à faible utilisation* »)

“month” means a calendar month; (« *mois* »)

“performer’s performance” means a performer’s performance that has been fixed with the authorization of the performer; (« *prestation* »)

“production music” means music used in interstitial programming such as commercials, public service announcements and jingles; (« *musique de production* »)

“reference month” means the second month before the month for which royalties are being paid; (« *mois de référence* »)

“service provider” means a professional service provider which may be retained by a collective society to assist in the conduct of an audit or in the distribution of royalties to rights holders; (« *prestataire de services* »)

“simulcast” means the simultaneous, unaltered, real-time streaming of the over-the-air broadcast signal of the station, or of another station that is part of the same network as the station, via the Internet or other similar digital network; (« *diffusion simultanée* »)

“year” means a calendar year. (« *année* »)

Application

3. (1) This tariff sets the royalties to be paid each month by commercial radio stations

(a) in connection with the over-the-air broadcasting operations of a station,

(i) to reproduce in Canada musical works in the repertoire of CMRRA or SOCAN, sound recordings in the repertoire of Connect or SOPROQ, and performers’ performances in the repertoire of Artisti; and

(b) in connection with a simulcast, to reproduce in Canada musical works in the repertoire of CMRRA or SOCAN.

(2) This tariff also entitles a station to authorize a person to reproduce a musical work or performer’s performance for the purpose of delivering it to the station, so that the station can use it as permitted in subsection (1).

(3) This tariff does not authorize the use of any reproduction made pursuant to subsection (1) in association with a product, service, cause or institution.

Royalties

4.(1) A low-use station shall pay, on its gross income for the reference month,

(a) if the station is not a French-language station,

	CMRRA	SOCAN	Connect/SOPR OQ	Artisti
on the first \$625,000 gross income in a year	0.0882%	0.0018%	0.089%	0.002%
on the next \$625,000 gross income in a year	0.1695%	0.0035%	0.171%	0.003%
on the rest	0.2832%	0.0058%	0.287%	0.006%

(b) if the station is a French-language station,

	CMRRA	SOCAN	Connect/SOPR OQ	Artisti
on the first \$625,000 gross income in a year	0.0495%	0.0405%	0.089%	0.002%
on the next \$625,000 gross income in a year	0.0952%	0.0778%	0.171%	0.003%
on the rest	0.1590%	0.1300%	0.287%	0.006%

5.(1) A station that is not a low-use station shall pay, on its gross income for the reference month,

(a) if the station is not a French-language station,

	CMRRA	SOCAN	Connect/SOPR OQ	Artisti
on the first \$625,000 gross income in a year	0.1989%	0.0041%	0.201%	0.005%
on the next \$625,000 gross income in a year	0.3900%	0.0080%	0.396%	0.008%
on the rest	0.8095%	0.0165%	0.822%	0.017%

(b) if the station is a French-language station,

	CMRRA	SOCAN	Connect/SOPR OQ	Artisti
on the first \$625,000 gross income in a year	0.1117%	0.0913%	0.201%	0.005%
on the next \$625,000 gross income in a year	0.2189%	0.1791%	0.396%	0.008%
on the rest	0.4543%	0.3717%	0.822%	0.017%

6. All royalties payable under this tariff are exclusive of any federal, provincial or other governmental taxes or levies of any kind that may apply.

Administrative Provisions

7. No later than the first day of each month, a station shall

- (a) pay the royalties for that month;
- (b) report the station's gross income for the reference month;
- (c) provide to CMRRA and SOCAN, for the reference month, the gross income from any simulcast, as well as the number of listeners and listening hours or, if not available, any other available indication of the extent of the listeners' use of simulcast; and
- (d) provide to the collective societies the sequential lists of all musical works and published sound recordings, or parts thereof, broadcast during each day of the reference month. For greater clarity, sequential list reporting requires full music use reporting for each day of the month, for 365 days per year.

8. At any time during the period set out in subsection 10(2), a collective society may require the production of any contract granting rights referred to in paragraph (c) of the definition of "gross income," together with the billing or correspondence relating to the use of these rights by other parties.

Information on Repertoire Use

9. (1) Each entry provided under paragraph 7(d) shall include the following information, where available:

- (a) the date of the broadcast;
- (b) the time of the broadcast;
- (c) the title of the sound recording;
- (d) the title of the musical work;
- (e) the title of the album;
- (f) the catalogue number of the album;
- (g) the track number on the album;
- (h) the record label;
- (i) the name of the author and composer;
- (j) the name of all performers or the performing group;
- (k) the duration of the sound recording broadcast, in minutes and seconds;
- (l) the duration of the sound recording as listed on the album, in minutes and seconds;
- (m) the Universal Product Code (UPC) of the album;
- (n) the International Standard Recording Code (ISRC) of the sound recording; and
- (o) the cue sheets for syndicated programming, with the relevant music use information inserted into the report.

(2) The information set out in subsection (1) shall be provided in electronic format (Excel format or any other format agreed upon by the collective societies and the station) where possible, with a separate field for each piece of information required in subsection (1) other than the cue sheets which are to be used to insert the relevant music use information into each field of the report.

(3) For certainty, the use of the expression "where available" in subsection (1) means that all the listed information in the station's possession or control, regardless of the form or the way in which it was obtained, must mandatorily be provided to the collective societies.

Records and Audits

10. (1) A station 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 9(1) can be readily ascertained.
- (2) A station shall keep and preserve, for a period of six years after the end of the year to which they relate, records from which the station's gross income can be readily ascertained.
- (3) A collective society may audit the records referred to in subsections (1) and (2) at any time during the period set out therein, on reasonable notice and during normal business hours. The collective society shall, upon receipt, supply a copy of the report of the audit to the station that was the object of the audit and to the other collective societies and Re:Sound Music Licensing Company ("Re:Sound").
- (4) If an audit discloses that royalties due have been understated in any month by more than 10 per cent, the station shall pay the reasonable costs of the audit within 30 days of the demand for such payment.

Confidentiality

11. (1) Subject to subsections (2), (3) and (4), information received from a station pursuant to this tariff shall be treated in confidence, unless the station that supplied the information consents in writing and in advance to each proposed disclosure of the information.
- (2) Information referred to in subsection (1) may be shared
 - (a) amongst the collective societies, Re:Sound, and their respective service providers to the extent required by the service providers for the service they are contracted to provide;
 - (b) with the Copyright Board;
 - (c) in connection with proceedings before the Board, if the station had the opportunity to request that it be protected by a confidentiality order;
 - (d) to the extent required to effect the distribution of royalties, with royalty claimants; or
 - (e) if required by law.
- (3) Where confidential information is shared with service providers as per paragraph (2)(a), those service providers shall sign a confidentiality agreement which shall be shared with the affected station prior to the release of the information.
- (4) Subsection (1) does not apply to information that is publicly available, or to information obtained from someone other than the station that supplied the information and who is not under an apparent duty of confidentiality to that station with respect to the supplied information.

Adjustments

12. Adjustments in the amount of royalties owed (including excess payments), as a result of the discovery of an error or otherwise, shall be made on the date the next royalty payment is due.

Interest on Late Payments

13. Any amount not received by the due date shall bear interest from that date until the date the amount is received. 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.

Addresses for Notices, etc.

14. (1) Anything addressed to CMRRA shall be sent to 56 Wellesley Street West, Suite 320, Toronto, Ontario M5S 2S3, email: tariffnotices@cmrra.ca, fax number: 416-926-7521, or to any other address, email address or fax number of which a station has been notified in writing.
- (2) Anything addressed to SOCAN shall be sent to 41 Valleybrook Dr., Toronto, Ontario M3B 2S6, email: licence@socan.com, fax number: 416-442-3371, or to any other address of which the service has been notified in writing.

(3) Anything addressed to Connect shall be sent to 85 Mowat Avenue, Toronto, Ontario M6K 3E3, email: radioreproduction@connectmusic.ca, fax number: 416-967-9415, or to any other address, email address or fax number of which a station has been notified in writing.

(4) Anything addressed to SOPROQ shall be sent to 6420 Saint-Denis Street, Montréal, Quebec H2S 2R7, email: radioreproduction@soproq.org, fax number: 514-842-7762, or to any other address, email address or fax number of which a station has been notified in writing.

(5) Anything addressed to Artisti shall be sent to 5445 De Gaspé Avenue, Suite 1005, Montréal, Quebec H2T 3B2, email: radiorepro@artisti.ca, fax number: 514-288-7875, or to any other address, email address or fax number of which a station has been notified in writing.

(6) Anything addressed to a station shall be sent to the last address, email address or fax number of which a collective society has been notified in writing.

Delivery of Notices and Payments

15. (1) Royalties payable to Connect/SOPROQ are paid to Connect. All other information to which Connect/SOPROQ is entitled pursuant to this tariff is delivered to Connect and SOPROQ separately.

(1.1) Royalties payable to CMRRA are paid to CMRRA at 56 Wellesley Street West, Suite 320, Toronto, Ontario M5S 2S3, email: tariffnotices@cmrra.ca, fax number: 416-926-7521.

(1.2) Royalties payable to SOCAN are paid to SOCAN at 41 Valleybrook Dr., Toronto, Ontario M3B 2S6, email: licence@socan.com, fax number: 416-442-3371.

(2) A notice may be delivered by file transfer protocol (FTP), 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 (EBT), provided that the associated reporting is provided concurrently to the collective society by email.

(3) Information set out in sections 7 and 9 shall be sent by email. Anything mailed in Canada shall be presumed to have been received four business days after the day it was mailed.

(4) Anything sent by fax, email, FTP or EBT shall be presumed to have been received the day it was transmitted.

SCHEDULE "A"

LIST OF FRENCH-LANGUAGE STATIONS

Station Name / Call Sign	Station Owner/Parent Company/Legal Name
JFN Productions	9097-2001 Québec Incorporé
CHRC-AM	9183-9084 Quebec Inc.
CJVD-FM	9188 7208 Quebec inc.
CKIN-FM	9427899 Canada Inc.
CFEI-FM	Bell Media Inc.
CFIX-FM	Bell Media Inc.
CFVM-AM	Bell Media Inc.
CFVM-FM	Bell Media Inc.
CFZZ-FM	Bell Media Inc.
CHEY-FM	Bell Media Inc.
CHIK-FM	Bell Media Inc.
CHRD-FM	Bell Media Inc.
CIGB-FM	Bell Media Inc.
CIKI-FM	Bell Media Inc.
CIMF-FM	Bell Media Inc.
CIMO-FM	Bell Media Inc.
CITE-FM	Bell Media Inc.
CITE-FM-1	Bell Media Inc.
CITF-FM	Bell Media Inc.
CJAB-FM	Bell Media Inc.
CJDM-FM	Bell Media Inc.
CJMM-FM	Bell Media Inc.
CJMV-FM	Bell Media Inc.
CJOI-FM	Bell Media Inc.
CKTF-FM	Bell Media Inc.
CKMF-FM	Bell Media Radio
CHTO-AM	Canadian Hellenic Toronto Radio Inc
CJSA-FM	Canadian Multicultural Radio

CJLL-FM	CHIN Radio
CHOX-FM	CHOX FM Inc.
CIBM-FM	CIBM-FM Mont-Bleu Ltée
CIRV-FM	CIRC Radio Inc.
CJMC-FM	CJMC Radio du Golfe Inc
CFGE-FM	Cogeco Diffusion Inc.
CFGL-FM	Cogeco Diffusion Inc.
CFOM-FM	COGECO Media Inc.
CHMP-FM	COGECO Media Inc.
CIME-FM	COGECO Media Inc.
CJEB-FM	COGECO Media Inc.
CJMF-FM	COGECO Media Inc.
CJTS- FM	COGECO Media Inc.
CKAC-AM	COGECO Media Inc.
CKOB-FM	COGECO Media Inc.
CKOF-FM	COGECO Media Inc.
CKOI-FM	COGECO Media Inc.
CKOY-FM	COGECO Media Inc.
CHOE-FM	Communications de Matane Inc.
CHRM-FM	Communications de Matane Inc.
CFXM-FM	Coopérative de Travail de la Radio de Granby
CHNC-FM	Cooperative des Travailleurs CHNC
CJWI-AM	CPAM Radio Union Com. Inc.
CFMB-AM	Evanov Radio Group
CHLO-AM	Evanov Radio Group Inc.
CIAO-AM	Evanov Radio Group Inc.
CKJS-AM	Evanov Radio Group Inc.
CHKF-FM	Fairchild Radio Group Ltd.
CHKG-FM	Fairchild Radio Group Ltd.
CHKT-AM	Fairchild Radio Group Ltd.
CJVB-AM	Fairchild Radio Group Ltd.
CKCN-FM	Groupe Attraction Inc. Division: CKCN-FM

CFDA-FM	Groupe Attraction Radio
CFJO-FM	Groupe Attraction Radio
CHEQ-FM	Groupe Attraction Radio
CILM-FM	Groupe Attraction Radio
CJIT-FM	Groupe Attraction Radio
CJLM-FM	Groupe Attraction Radio
CKGS-FM	Groupe Attraction Radio
CKLD-FM	Groupe Attraction Radio
CKYQ-FM	Groupe Attraction Radio
CKDG-FM	Groupe CHCR
CFGT-FM	Groupe Radio Antenne 6 Inc.
CHRL-FM	Groupe Radio Antenne 6 Inc.
CHVD-FM	Groupe Radio Antenne 6 Inc.
CKXO-FM	Groupe Radio Antenne 6 Inc.
CKYK-FM	Groupe Radio Antenne 6 Inc.
CIQI-FM	Groupe Radio Simard
CJRJ-AM	IT Productions
CHRF-AM	Le Groupe Radio Antenne 6
CHVD-AM	Le Groupe Radio Antenne 6
CHYC-FM	Le5 Communications Inc
CHYK-FM	Le5 Communications Inc
CHYQ-FM	Le5 Communications Inc
CFEL-FM	Leclerc Communication Inc.
CJEC-FM	Leclerc Communication Inc.
CHMB-AM	Mainstream Broadcasting Corp.
CHOY FM	Maritime Broadcasting System
CJPX-FM	Media Classic
CJSO-FM	Media Classic
CJSQ-FM	Media ClassiQ Inc
CINA-AM	Neeti Prakash Ray
CINA-FM	Neeti Prakash Ray
CHIN-AM	Radio 1540 Ltd.

CHIN-FM	Radio 1540 Ltd.
CJVA-AM	Radio Acadie Ltee. (La Super Station)
CKLE-FM	Radio Acadie Ltee. (La Super Station)
CHJM-FM	Radio Beauce Inc.
CKRB-FM	Radio Beauce Inc.
CFOR-FM	Radio CFOR Inc.
CHLC-FM	Radio CHLC 97,1 FM Stereo
CIEL-FM	Radio CJFP (1986) Ltée
CFVD-FM	Radio Dégelis Inc
CFMV-FM	Radio du Golfe Inc.
CJEM-FM	Radio Edmundston Inc.
CFLM-AM	Radio Haute Mauricie Inc.
CHRN-AM	Radio Humsafar
CJLV-AM	Radio Humsafar
CIHO-FM	Radio MF Charlevoix inc.
CHOU-AM	Radio Moyen-Orient du Canada
CJAN-FM	Radio Plus B.M.D. Inc
CJAN-AM	Radio Plus B.M.D. Inc.
CIPC-FM	Radio Port-Cartier inc.
CKCN-AM	Radio Sept-Illes Inc.
CKVM-AM	Radio Temiscamingue
CKVM-FM	Radio-Témiscamingue Inc.
CFTX-FM	RNC Media Inc.
CHGO-FM	RNC Media Inc.
CHLX-FM	RNC Media Inc.
CHOA-FM	RNC Media Inc.
CHOI-FM	RNC Media Inc.
CHPR-FM	RNC Media Inc.
CHXX-FM	RNC Media Inc.
CJLA-FM	RNC Media Inc.
CKLX-FM	RNC Media Inc.
CKER-FM	Rogers Media Inc.

CKYQ-FM	Société Radio Média CKYQ 95.7 FM
CFLO-FM	Sonème Inc. (Radio CFLO FM)
CKYE-FM	South Asian Broadcasting Corp, Inc
CKYR-FM	South Asian Broadcasting Corp, Inc
CJMS-AM	T.A.M.M. Communications Inc.
CKOD-FM	Torres Media Valley Field
CJMR-AM	Trafalgar Broadcasting Limited (div. of Whiteoaks Communications Group Ltd.)
CFNV-AM	TTP Média 7954689 Canada Inc
CHOH-FM	Vista Radio Ltd