

Copyright Board  
Canada



Commission du droit d'auteur  
Canada

October 28, 2020

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

- Re:Sound Tariff 1.B – Non-Commercial Radio, 2022-2024
- **Re:Sound Tariff 1.C – CBC Radio and Simulcasts, 2022-2024**
- Re:Sound Tariff 4 – Satellite Radio Services, 2022-2024
- Re:Sound Tariff 8 – Non-Interactive and Semi-Interactive Streaming, 2022-2024

By that same section, the Copyright Board hereby gives notice to any person affected by these proposed tariffs that users or their representatives who wish to object to the above-mentioned proposed tariffs must 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 tariffs, that is no later than **November 27, 2020**.

**Lara Taylor**

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PROPOSED TARIFF

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

2020-10-14

RE:SOUND

*Tariff 1.C*

For the communication to the public by telecommunication, in Canada, of published sound recordings embodying musical works and performers' performances of such works

2022-01-01 – 2024-12-31

Proposed citation:

*Re:Sound, CBC Radio & Simulcasts (2022–2024)*

STATEMENT OF PROPOSED ROYALTIES TO BE COLLECTED FROM THE CANADIAN BROADCASTING CORPORATION BY RE:SOUND FOR THE COMMUNICATION TO THE PUBLIC BY TELECOMMUNICATION, IN CANADA, OF PUBLISHED SOUND RECORDINGS EMBODYING MUSICAL WORKS AND PERFORMERS' PERFORMANCES OF SUCH WORKS FOR THE YEARS 2022-2024

*Tariff No. 1*

RADIO

*C. Canadian Broadcasting Corporation (CBC)*

*Short Title*

1. This tariff may be cited as the *Re:Sound CBC Radio & Simulcasts Tariff, 2022-2024*.

*Definitions*

2. In this tariff,

“device” means any device capable of receiving and playing a file, including a computer, digital media player, cellular phone, smartphone, or tablet; (« *appareil* »)

“file” means a digital file of a sound recording of a musical work or a part thereof, whether or not that sound recording has been published, is in the public domain, is eligible to receive equitable remuneration or is within the repertoire of Re:Sound; (« *fichier* »)

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

“play” means a single communication of a file or a part thereof, to a single person; (« *écoute* »)

“simulcast” means the simultaneous communication of an over-the-air CBC radio broadcast to which this tariff applies, via the Internet or another digital network, to a device, which is identical to the original signal and over which the recipient exercises no control over the content or the timing of the communication. For example, the recipient cannot skip, pause, rewind or fast-forward the communication of a file or influence the content of the communication by indicating a preference for a musical genre, artist or sound recording; (« *diffusion simultanée* »)

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

*Application*

3. (1) This tariff sets the royalties to be paid to Re:Sound by the CBC for the communication to the public by telecommunication, in Canada, of published sound recordings embodying musical works and performers' performances of such works, by over-the-air radio broadcasting and simulcast by the radio networks and stations owned and operated by the CBC.

(2) For greater certainty, this tariff does not apply to the public performance of sound recordings or to a communication to the public by telecommunication by a background music supplier, by satellite radio, in connection with the transmission of a pay audio signal or by non-interactive or semi-interactive webcast/streaming. This tariff does not apply to the communication to the public by telecommunication of sound recordings to end-users via the Internet or another digital network, to a device, except by simulcast.

### *Royalties*

4. (1) CBC shall pay to Re:Sound on the first day of each month, \$250,000 for its over-the-air radio broadcasting in that month.

(2) CBC shall pay to Re:Sound no later than 14 days after the end of each month, for its simulcasts in that month, the greater of:

- (a) \$37,500; and
- (b) \$0.00126 for each play of a file in Canada by simulcast.

(3) Together with its monthly payment under section 4(2), CBC shall provide Re:Sound with a report setting out:

- (a) the number of plays of each file by simulcast;
- (b) the total number of plays of all files by simulcast; and
- (c) the total simulcast audience relative to the over-the-air broadcast audience.

(4) All royalties payable under this tariff are exclusive of any applicable federal, provincial or other governmental taxes or levies of any kind.

### *Music Use Information*

5. (1) No later than 14 days after the end of each month, CBC shall provide to Re:Sound, the sequential lists of all musical works and published sound recordings or parts thereof, broadcast during the previous month by each of CBC's conventional radio services, as may be applicable. For greater clarity, sequential list reporting requires full music use reporting for each day of the month, for 365 days per year. Each entry shall include the following information:

- (a) the date of the broadcast;
- (b) the time of the broadcast;
- (c) the title of the sound recording;
- (d) if the sound recording was released as part of an album, the name, identifier, product catalogue number and Universal Product Code (UPC) assigned to the album, together with the associated disc and track numbers;
- (e) the name of the record label or maker that released the sound recording;
- (f) the name of each author of the musical work;
- (g) the name of the music publisher associated with the musical work;
- (h) the name of each performer or group to whom the sound recording is credited;
- (i) the running time of the sound recording as broadcast, in minutes and seconds;
- (j) the running time of the sound recording as listed on the album, in minutes and seconds;
- (k) the International Standard Recording Code (ISRC) assigned to the sound recording;
- (l) the Global Release Identifier (Grid) assigned to the sound recording and, if applicable, the Grid of the album or bundle in which the sound recording was released;
- (m) any alternative title used to designate the musical work or sound recording;

- (n) the type of usage (feature, theme, background, etc.);
- (o) the International Standard Musical Work Code (ISWC) assigned to the musical work;
- (p) the type of broadcast (local, regional);
- (q) the name of the program; and
- (r) the station (including call letters) and location of the station on which the sound recording was broadcast.

(2) The information set out in section 5(1) shall be provided electronically, in Excel format or in any other format agreed upon by Re:Sound and CBC, with a separate field for each piece of information required in subsections (a) to (r).

#### *Records and Audits*

6. (1) 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 section 5(1) can be readily ascertained.

(2) CBC shall keep and preserve, for a period of six years after the end of the year to which they relate, records from which the calculation of CBC's payment under section 4(2) can be readily ascertained, including the information required under section 4(3).

(3) Re:Sound may audit these records at any time during the period set out in section 6(1) or 6(2), on reasonable notice and during normal business hours.

(4) Re:Sound shall, upon receipt, supply a copy of the report of the audit to CBC and to any other Canadian collective society with a tariff applicable to the CBC.

(5) If an audit discloses that royalties due to Re:Sound under section 4(2) have been understated in any month by more than ten per cent, CBC shall pay the reasonable costs of the audit within 30 days of the demand for such payment. The amount of any understatement shall be paid within 30 days of the demand for such payment.

#### *Late Payments and Reporting*

7. (1) In the event that CBC does not pay the amounts owed under sections 4(1) and 4(2) or provide the reporting required under section 4(3) by the due date, CBC shall pay to Re:Sound interest calculated on the amounts payable for the relevant period, from the due date until the date both the amounts and the report are received by Re:Sound. 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 CBC does not provide the music use reporting required by section 5(1) within 7 days of the due date, upon written notice by Re:Sound, CBC shall pay to Re:Sound a late fee based on the number of days from the due date to the date the reporting is received by Re:Sound of:

- (a) \$10.00 per day for the first 30 days after the due date;
- (b) \$20.00 per day for the next 30 days; and
- (c) \$50.00 per day thereafter;

until the reporting is received.

### *Confidentiality*

8. (1) Subject to sections 8(2) to 8(4), information received from the CBC pursuant to this tariff shall be treated in confidence, unless the CBC consents in writing to the information being treated otherwise.

(2) Information received from the CBC pursuant to this tariff may be shared:

- (a) with Re:Sound's agents and service providers, to the extent required by the service providers for the service they are contracted to provide;
- (b) in connection with the collection of royalties or the enforcement of a tariff, with any other Canadian collective society that has a tariff applicable to the CBC;
- (c) with the Copyright Board;
- (d) in connection with proceedings before the Copyright Board, if it is protected by a confidentiality order;
- (e) to the extent required to effect the distribution of royalties; or
- (f) if required by law.

(3) Where confidential information is shared with a service provider pursuant to section 8(2)(a), that service provider shall sign a confidentiality agreement.

(4) Section 8(1) does not apply to information that is publicly available, to aggregated information, or to information obtained from someone other than the CBC and who is not under an apparent duty of confidentiality to the CBC with respect to the supplied information.

### *Adjustments*

9. Adjustments in the amount of royalties owed as a result of the discovery of an error or otherwise, shall be made on the date the next royalty payment is due. No adjustments to reduce the amount of royalties owed may be made in respect of an error discovered by the CBC which occurred more than 12 months prior to notification to Re:Sound. Excess payments are not subject to interest.

### *Delivery of Notices and Payments*

10. (1) Anything addressed to Re:Sound shall be sent to 1235 Bay Street, Suite 900, Toronto, Ontario M5R 3K4, email: [radio@resound.ca](mailto:radio@resound.ca), fax number (416) 962-7797 or to any other address, email address or fax number of which the CBC has been notified in writing.

(2) Anything addressed to the CBC shall be sent to the last address, email address or fax number of which Re:Sound has been notified in writing.

(3) A notice may be delivered by hand, by postage paid mail, by fax, by email or by file transfer protocol (FTP). A payment may be made by credit card or delivered by hand, by postage paid mail or by electronic bank transfer (EBT). Where a payment is delivered by EBT, the associated reporting shall be provided concurrently to Re:Sound by email.

(4) The information set out in section 5(1) shall be sent by email.

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