

NOTICE OF GROUNDS FOR PROPOSED TARIFF

Filed with the Copyright Board by Re:Sound on 2023-10-13 pursuant to Rule 15 of *Copyright Board Rules of Practice and Procedure*

RE:SOUND TARIFF 1.B – NON-COMMERCIAL RADIO, SIMULCASTING, NON-INTERACTIVE AND SEMI-INTERACTIVE STREAMING (2025-2029)

1. Uses covered by the proposed tariff

The proposed tariff consolidates the current Re:Sound Tariffs 1.B (Non-Commercial Radio) and 1.B.2 (Non-Commercial Simulcasts & Webcasts) into a single tariff for greater simplicity and ease of administration, reducing the number of tariffs applicable to non-commercial radio stations.

The proposed tariff applies to over-the-air (AM/FM) broadcasting of recorded music by non-commercial radio stations (e.g. campus and community radio stations). The proposed tariff also applies to simulcasts, non-interactive streaming and semi-interactive streaming of recorded music by non-commercial streaming services.

Simulcast refers to the simultaneous online stream of an over-the-air non-commercial radio station broadcast. A simulcast is identical to the original radio signal and the listener cannot exercise any control over the content or the timing of the music. For example, the listener cannot skip, pause, rewind or fast-forward a song or influence which songs they hear by indicating a preference for a musical genre, artist or song. If the possibility of such influence over the music exists, a stream is not a simulcast, regardless of whether the listener actually uses any of the semi-interactive functionality available or not.

Non-interactive streaming refers to an online music service or radio station (other than a simulcast), where the listener has no control over the content or the timing of the music. For example, the listener cannot skip or pause the song or influence which songs they hear by indicating a preference for a musical genre, artist or song, other than by selecting the channel.

Semi-interactive streaming refers to an online music service or radio station where the listener can exercise some level of control over the content or the timing of the music, such as by skipping,

pausing, rewinding or fast-forwarding a song, or by indicating a preference for a musical genre, artist or song.

The proposed tariff does not apply to downloads, podcasts, or on-demand streaming where the listener can listen to the song of their choice at the time and place of their choosing.

2. Basis for proposed royalty rates

The proposed rates for over-the-air non-commercial radio station broadcasts are based on SOCAN Tariff 1.B (Non-Commercial Radio other than the CBC), allowing for a repertoire adjustment of up to 100%, and adjusted for an increase in the value of music. These rates are proposed by Re:Sound as a precaution, in the event that the current statutory rate of \$100 per year applicable to community systems under section 72(3) of the Copyright Act is amended or repealed during the term of the proposed tariff. In the event that there is no change to section 72(3) of the Copyright Act during the term of the proposed tariff, the current annual rate of \$100 per year would continue to apply.

The proposed rates for simulcasts, non-interactive streaming and semi-interactive streaming are based on international best practices, primarily the minimum fees applicable to non-commercial webcasters in the United States under SoundExchange's Non-Commercial Webcaster rate.

3. Description of the group of users intended to be covered by the proposed tariff

The proposed tariff applies to non-commercial radio stations and non-commercial streaming services (which includes non-commercial radio stations that also deliver simulcasts, non-interactive streams or semi-interactive streams in addition to their over-the-air radio broadcasts).

A non-commercial radio station is any radio station that transmits in analog or digital mode, whether in the A.M. or F.M. frequency band or in any other assigned range, other than a Canadian Broadcasting Corporation radio station, that is owned and operated by a not-for-profit organization, including any campus station, community station, native station, or ethnic station owned and operated by a not-for-profit organization, whether or not any part of the station's gross operating costs is funded by advertising revenues, and whether or not the station is licensed by the Canadian Radio-television and Telecommunications Commission.

A non-commercial streaming service is any streaming service other than the Canadian Broadcasting Corporation, that is owned and operated by a not-for-profit organization including

any campus or community radio station, whether or not any part of the streaming service's operating costs is funded by advertising revenues.

The proposed tariff does not apply to the Canadian Broadcasting Corporation (CBC), commercial radio stations, satellite radio or pay audio services.

4. Explanation of how the information that would be collected by Re:Sound pursuant to the proposed tariff would be used

The information to be collected under section 5 of the proposed tariff would be used by Re:Sound to calculate and verify a station's royalty payments. This is the same information required under SOCAN Tariff 1.B. This information would only be required in the event the statutory rate under section 72(3) of the Copyright Act is repealed.

The information to be collected under section 6 of the proposed tariff would be used by Re:Sound to identify and contact a service, ensure the applicable tariff and rates are applied, and to ensure the applicable taxes are charged and remitted based on the service's residency. This is the same information currently required under Re:Sound Tariff 1.B.2 (2013-2019).

5. Identification and explanation of changes from the previously approved tariff

The main changes to the proposed tariff from the previously approved Re:Sound Tariff 1.B (1998-2021) relate to the consolidation of Re:Sound Tariffs 1.B and 1.B.2, which was done for simplicity and to reduce the number of tariffs applicable to non-commercial radio stations. The other main changes are due to the proposed rates and structure based on SOCAN Tariff 1.B as opposed to the statutory rate of \$100, which as is explained above, are proposed simply as a precaution in the event of a change to section 72(3) of the Copyright Act.