

REPLY TO NOTICE OF GROUNDS FOR OBJECTION

Filed with the Copyright Board by SOCAN on 2024-01-26 pursuant to Rule 21 of the *Copyright Board Rules of Practice and Procedure*

SOCAN TARIFF 2.A.R – COMMERCIAL TELEVISION REPRODUCTION TARIFF (2025-2027)

1. This Reply is in response to the Notices of Grounds for Objection filed by the Canadian Association of Broadcasters (“CAB”), Canadian Broadcasting Corporation/Société Radio-Canada (“CBC”) and the Independent Broadcasters (collectively, the “Objectors”).
2. The Objectors have filed numerous grounds for objection. SOCAN denies these grounds and any factual or evidentiary assertions made in the Notices of Grounds for Objection and puts the Objectors to the strict proof thereof.
3. CBC claims that any value in broadcast incidental copies “would be due entirely to investments and risks in new technologies that were incurred by users.” SOCAN denies this and puts CBC to the strict proof thereof.
4. CBC has claimed that “specialty television is subject to competitive pressures” and “declining revenues/profits...” that “...justify a decrease in royalties.” SOCAN denies this and puts CBC to the strict proof thereof.
5. Both CBC and the Independent Broadcasters claim that SOCAN does not own all of the relevant copyrights. SOCAN denies this and puts the Objectors to the strict proof thereof.
6. The Objectors have objected to the language in the confidentiality provisions of the proposed tariff. SOCAN notes that this language is consistent with accepted uses of confidential information outside the context of approved tariffs. Further, this language is found in a number of approved tariffs, including:
 - a. *SOCAN Tariff 22.B – Commercial Radio and Satellite Radio (2007-2018)* - 2023 CB 6-T-1
 - b. *SOCAN Tariff 22.C – Other Audio Websites (2007-2018)* - 2023 CB 6-T-2
 - c. *CPC – Private Copying Tariff (2022-2024)* - 2021 CB 12-T
 - d. *SOCAN - Tariff 22.D.1 (Internet - Online Audiovisual Services), 2007-2013 [Redetermination]*
7. The CAB argues that the proposed tariff is not applicable to simulcasts. SOCAN disputes this. The application section of the proposed tariff expressly includes simulcasts. This is consistent with past Board practice of including simulcasts under the “home tariff” for the traditional broadcast medium.
8. Although Rule 22 of the *Copyright Board Rules of Practice and Procedure* provides that the Board may decide the matter of a proposed tariff only on the information provided under Part 3 of the Rules, SOCAN submits that it would not be appropriate in this case for the Board to decide the matter without hearing additional evidence and submissions from both SOCAN and the Objectors absent a settlement or further developments between SOCAN and the Objectors. For

greater certainty, in the event of a settlement between SOCAN and the Objectors, the Board should not rely on any of the information provided under Part 3 of the Rules.