



September 7, 2017

[CB-CDA 2017-096]

File: SOCAN-Re:Sound – Pay Audio Services Tariffs, 2007-2016

RULING OF THE BOARD

On June 16, 2016, the Board issued Order CB-CDA 2016-054 (the “Confidentiality Order”). The Confidentiality Order was to govern how information for which confidentiality may be claimed would be treated.

On April 26, 2017 the Board issued Order CB-CDA 2017-032 (the “Disclosure Order”), requiring that an entity (the “Disclosing Entity”) disclose certain agreements in its possession, in accordance with the terms of that Order. The Board was informed by the Disclosing Entity that the information contained in the agreements, as well as information about the agreements, was considered highly confidential.

In response, the Disclosing Entity submitted that the Confidentiality Order in place was insufficient to properly protect the highly confidential nature of the information to be provided by a non-party, and as such proposed that the Board issue a confidentiality order and related agreement to supplement the original Confidentiality Order.

Re:Sound argued that the Confidentiality Order is insufficient to protect the commercial information and business terms contained in the agreements. Some counter-parties to the agreements that would be disclosed pursuant to the Disclosure Order also expressed concerns about the disclosure of the agreements.

The Objectors opposed the request by the Disclosing Entity for a supplementary confidentiality order and agreement. The Objectors subsequently proposed that the names of the counter-parties to the agreements may be redacted prior to the disclosure.

After considerations of the submissions of Re:Sound, the Disclosing Entity, and the Objectors, and of the letters of comment from the counter-parties referred to above, the Board hereby issues the attached Supplementary Confidentiality Order applicable to the agreements to be disclosed pursuant to the Disclosure Order.

The Supplementary Confidentiality Order addresses the following issues:

- highly confidential information is only provided to external counsel, their staff and any expert or consultant for the purposes of these proceedings and that person’s staff;
- the Disclosing Entity is deemed to be a “supplier” without being otherwise considered a participant to these proceedings;
- the Disclosing Entity has an opportunity to object to the disclosure of information from the agreements subject to the Disclosure Order; and

- the Disclosing Entity shall redact the names of the counter-parties to the agreements subject to the Disclosure Order.

While the order proposed by the Disclosing Entity contained other provisions, the Board is of the view that they were either duplicative or unnecessary to achieve the proper protection of the information in and about the agreements subject to the Disclosure Order.

The Board further orders that the Disclosing Entity file with the Board the agreements subject to the Disclosure Order forthwith, and provide to the external counsel of the Parties to these proceedings the same promptly after receipt of their respective executed Supplementary Confidentiality Order.



Gilles McDougall
Secretary General