



December 21, 2017

[*CB-CDA 2017-170*]

**File: Non-Commercial Radio [Artisti: 2016-2018; CMRRA: 2003-2010; CSI: 2011-2018;
Re:Sound: 1998-2021]**

NOTICE OF THE BOARD

Proposed Consolidation

The Board intends to commence forthwith proceedings in reference to the proposed tariffs listed below (the “Proposed Tariffs”).

The Board intends to consider in a single proceeding proposed tariffs that are applicable to the public performance and reproduction of musical works and sound recordings by non-commercial radio stations, excluding CBC (referred to as the “non-commercial radio stations” herein) by over-the-air broadcasting and transmissions via the internet, such as simulcasting.

Given that the Board intends to consider, in relation to certain proposed tariffs, only components applicable to non-commercial radio, the Board is aware that many objectors to those proposed tariffs are neither users nor prospective users thereof. As described in the Participation section below, such objectors need not respond to this Notice, and will be deemed to have withdrawn from this proceeding.

The Proposed Tariffs that the Board has preliminarily identified are:

Proposed Tariff	Remarks
Artisti	
<i>Online Music Services</i> (2016-2018) [only reproductions made by non-commercial radio stations].	Given the breadth of the proposed tariff (“a service that delivers a stream or a download to a user”), it appears to apply to internet activities of non-commercial radio stations.

CMRRA	
Tariff 3 – Non-Commercial Radio Stations (2003-2007)	<p>On October 21, 2008, CMRRA informed the Board that agreements have been reached with NCRA, the radio station CKUA (Alberta), the radio station CJLX-FM, and ARC-Canada and RFA (<i>Réseau francophone d'Amérique</i>), for the years 2003-2008.</p> <p>All these agreements ended on December 31, 2008, but were renewed for the years 2009 and 2010. NCRA was the sole objector for those years but withdrew its objection after reaching an agreement on October 27, 2008.</p> <p>On December 19, 2008, the <i>Association des radios communautaires du Québec</i> (ARCQ) wrote to the Board to explain that they rejected a settlement proposal from CMRRA. ARCQ sent a counter-proposal to which CMRRA had not responded.</p> <p>It thus appears to the Board that there remain objectors to this tariff and as such, these proposed tariffs must be considered. It is appropriate to do so in this proceeding.</p>
Tariff 3 – Non-Commercial Radio Stations (2008)	
Tariff 3 – Non-Commercial Radio Stations (2009-2010)	

CSI	
<i>Non-Commercial Radio Stations</i> (2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018)	
<i>Online Music Services</i> (2014, 2015, 2016, 2017, 2018) [only reproductions made by non-commercial radio stations]	<p>The proposed <i>CMRRA-SODRAC Inc. – Non-Commercial Radio Tariff</i> for the years 2014, 2015, 2016, 2017, and 2018, do not apply to reproductions made for the purposes of performance by internet, other than simulcasting. It appears that these activities would therefore be covered by this proposed <i>Online Music Services</i> tariff, and need to be considered in this proceeding.</p>

Re:Sound	
Tariff No. 1.B – Non-Commercial Radio Other than the Canadian Broadcasting Corporation (1998-2002, 2003-2007, 2008, 2009-2011, 2012-2016, 2017-2021)	<p>The following note (that is not part of the tariff) appears in the proposed tariffs:</p> <p>Subsection 68.1(1)(b) of the <i>Copyright Act</i> provides that, notwithstanding the tariffs approved by the Board, community systems shall pay royalties of \$100 in respect of each year for the communication to the public by telecommunication of performers’ performances of musical works, or of sound recordings embodying such performers’ performances. Pursuant to this provision, Re:Sound recognizes that, notwithstanding this tariff filed with respect to non-commercial radio stations, community systems are required to pay only \$100 in respect of each year.</p>
Tariff No. 8 – Simulcasting, Non-Interactive Webcasting and Semi-Interactive Webcasting (2013, 2014, 2015) [only by non-commercial radio stations]	<p>For the years 2012-2016 as well as 2017-2021, Re:Sound’s proposed tariffs for non-commercial radio do not include activities on the internet, such as simulcasting and webcasting. As such, it appears that they would be captured by <i>Tariff 8</i>.</p>
Tariff No. 8 – Non-Interactive and Semi-Interactive Webcasts (2016, 2017, 2018) [only by non-commercial radio stations]	

The Board does not intend to consider the following proposed tariffs:

Re:Sound	
[Tariff No. 8 – Simulcasting and Webcasting (2009-2012)]	<p><i>Tariff 8</i> for 2009-2012 has been certified by the Board on May 17, 2014. The definition of simulcasts, which were excluded therefrom, did not cover the simulcasts of non-commercial radio.</p>

SOCAN	
[SOCAN Tariff 22.2 – Audio Webcasts (2007, 2008)]	<p>While these tariffs appear to cover the internet activities of non-commercial radio stations,</p>

[SOCAN Tariff 22.B – Audio Webcasts (2009, 2010, 2011, 2012, 2013)]	such activities appear to have been certified in SOCAN <i>Tariff 1.B</i> (2007-2017). As such, these tariffs do not require consideration in this proceeding.
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Any collective that has filed any of the Proposed Tariffs, and any person that has objected to any of these tariffs (collectively, the “Parties”) may comment on the proposed consolidation by no later than **Friday, January 12, 2018**, including on the addition or removal of a proposed tariff, or component thereof, from this proceeding.

Participation

Any party (listed in the Annex) that intends to participate in this proceeding shall confirm so by no later than **Wednesday, January 17, 2018**. Parties who do not do so will be deemed to have withdrawn from this proceeding.

Once the Board has confirmed the proposed tariffs that will be considered in this proceeding, and the objectors that will participate therein, it will issue directions with respect to process and scheduling. The Board intends for this proceeding to have simplified procedures, and will consider the possibility of a paper-only hearing.



Gilles McDougall
Secretary General

ANNEX – LIST OF PARTIES

File: Non-Commercial Radio

[Artists: 2016-2018; CMRRA: 2003-2010; CSI: 2011-2018; Re:Sound: 1998-2021]

Collectives

Artists
CMRRA
CSI
Re:Sound

Objectors

Artists – Online Music Services (2016-2018)

The Association québécoise de l'industrie du disque, du spectacle et de la vidéo (ADISQ)
Apple Canada Inc. and Apple Inc. (Apple) [the Board granted Apple intervenor status on September 18, 2015]
Bell Canada (Bell)
Canadian Association of Broadcasters (CAB)
Canadian Broadcasting Corporation (CBC)
Google Inc. (Google)
Music Canada
Québecor Media Inc. (Quebecor)
Rogers Communications Inc. / Rogers Communications Partnership (Rogers)
Shaw Communications Inc. (Shaw)
Sirius XM Canada Inc. (Sirius)
Yahoo! Canada Co. (Yahoo)

CMRRA Tariff 3 – Non-Commercial Radio Stations (2003-2007)

The Alliance des radios communautaires (ARC) [has reached an agreement with CMRRA]
The Association des radiodiffuseurs communautaires du Québec (ARCQ)
CJXL FM Radio Station (CKJL) [has reached an agreement with CMRRA]
CKUA Radio Network (CKUA) [has reached an agreement with CMRRA]
The National Campus and Community Radio Association (NCRA) [has reached an agreement with CMRRA]

CMRRA Tariff 3 – Non-Commercial Radio Stations (2008)

The National Campus and Community Radio Association (NCRA) [has reached an agreement with CMRRA]

CMRRA Tariff 3 – Non-Commercial Radio Stations (2009-2010)

The National Campus and Community Radio Association (NCRA) [has reached an agreement with CMRRA]

CSI Non-Commercial Radio Stations (2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018)

The *Alliance des radios communautaires* (ARC) [objected to all years except 2017]
Radio Station VOWR (VOWR) [objected to 2011 only]

CSI Online Music Services (2014, 2015, 2016, 2017, 2018)

The *Alliance des radios communautaires* (ARC)
Apple Canada Inc. and Apple Inc. (Apple)
Bell Canada (Bell)
Canadian Association of Broadcasters (CAB) [objected to all years except 2014]
Canadian Broadcasting Corporation (CBC)
Google Inc. (Google) [objected to all years except 2014]
Québecor Media Inc. (Quebecor)
Rogers Communications Inc. / Rogers Communications Partnership (Rogers)
Shaw Communications Inc. (Shaw) [objected to all years except 2014]
Spotify AB (Spotify) [objected to 2018 only]
Yahoo! Canada Co. (Yahoo)

Re: Sound Tariff 1.B – Non-Commercial Radio Other than the Canadian Broadcasting Corporation (1998-2002, 2003-2007, 2008, 2009-2011, 2012-2016, 2017-2021)

The *Alliance des radios communautaires* (ARC)
The *Association des radiodiffuseurs communautaires du Québec* (ARCQ)
The National Campus and Community Radio Association (NCRA) [objected to all years except 2003-2007]
Radio Ville-Marie Inc. [objected to 1998-2002 only]

Re: Sound Tariff 8 – Simulcasting, Non-Interactive Webcasting and Semi-Interactive Webcasting (2013, 2014, 2015)

The *Alliance des radios communautaires* (ARC)
The *Association des radiodiffuseurs communautaires du Québec* (ARCQ)
Apple Canada Inc. and Apple Inc. (Apple) [objected to all years except 2013]
Bell Canada (Bell)
Canadian Association of Broadcasters (CAB)
Canadian Broadcasting Corporation (CBC)
Google Inc. (Google) [objected to 2015 only]
The National Campus and Community Radio Association (NCRA)
Pandora Media Inc. (Pandora) [objected to all years except 2015]
Québecor Media Inc. (Quebecor)
Rogers Communications Inc. / Rogers Communications Partnership (Rogers)

Shaw Communications Inc. (Shaw)
Sirius XM Canada Inc. (Sirius)
Stingray Digital Group Inc. (Stingray) [objected to 2013 only]

Re: Sound Tariff No. 8 – Non-Interactive and Semi-Interactive Webcasts (2016, 2017, 2018)

The *Alliance des radios communautaires* (ARC)
The *Association des radiodiffuseurs communautaires du Québec* (ARCQ)
Apple Canada Inc. and Apple Inc. (Apple)
Bell Canada (Bell)
Canadian Association of Broadcasters (CAB)
Canadian Broadcasting Corporation (CBC)
Federation of Calgary Communities (FCC) [objected to 2016 only]
Fitness Industry Council of Canada (FIC) [objected to 2018 only]
GoodLife Fitness Centres Inc. (GoodLife) [objected to 2018 only]
Google Inc. (Google)
The National Campus and Community Radio Association (NCRA)
Pandora Media Inc. (Pandora) [objected to all years except 2017]
Québecor Media Inc. (Quebecor)
Rdio, Inc. (Rdio) [objected to 2016 only]
Restaurants Canada [objected to 2018 only]
Rogers Communications Inc. / Rogers Communications Partnership (Rogers)
Shaw Communications Inc. (Shaw)
Sirius XM Canada Inc. (Sirius)
Stingray Digital Group Inc. (Stingray)