



December 21, 2017

[*CB-CDA 2017-171*]

File: Commercial Radio Tariff [CSI: 2012-2013; Connect/SOPROQ: 2012-2017; Artisti: 2012-2014] – Application to Vary

NOTICE OF THE BOARD

On April 23, 2016, the Board issued its decision pertaining to the *Commercial Radio Tariff, 2011-2017* (the “Certified Tariff”), which certified reproduction tariffs for the following collectives/years: CSI (2012-2013); Connect/SOPROQ (2012-2017); and Artisti (2012-2014).

On September 15, 2017, Connect/SOPROQ and CSI, writing on behalf of themselves, Artisti, and the Canadian Association of Broadcasters (CAB), informed the Board that they had reached a settlement agreement, which includes settlement tariffs for periods that have already been certified, as well as for periods that have not (the “Settlement Tariffs”).

In that letter, the Parties made two requests. One was for the Board to certify a tariff based on the Parties’ Settlement Tariffs for the following periods: CSI (2014-2018); Connect/SOPROQ (2018); and Artisti (2015-2018). In this respect, the Board issued Notice 2017-154 on December 8, 2017.

The second request was for the Board to vary its Certified Tariff:

[T]he Parties ask that the Board both certify the Settlement Tariffs for the periods following the expiry of the Certified Tariffs and vary its Decision under section 66.52 of the Act by replacing the terms of the Certified Tariffs with those of the applicable Settlement Tariffs.

The Parties state briefly the grounds they believe demonstrate there has been a material change, and submit that the limited jurisprudence that has interpreted section 66.52 of the *Copyright Act* supports a variation of the decision under the circumstances. They also request a telephone case conference with the Members of the Board, “to discuss the most appropriate way to place this proposal, and the remainder of the settlement (to the extent necessary), formally before the Board.” (emphasis added)

It is not clear, however, from the September 15, 2017 letter, whether the Board is to consider this letter as a formal Application to vary. As such, we ask the Parties to clarify whether a formal request was filed and if not, to file such a request, by no later than **Friday, January 12, 2018**. In doing so, the Parties may wish to provide more detailed references to the relevant case law and relevant supplementary factual information. Subject to eventual new filings by the parties, the

Board does not consider a formal case conference with the Members of the Board to be of much assistance in this file.

A handwritten signature in black ink, appearing to read "Gilles McDougall". The signature is fluid and cursive, with the first name being the most prominent.

Gilles McDougall
Secretary General