



May 25, 2017

[CB-CDA 2017-058]

**File: Re:Sound – Tariff 5.D (Festivals, Exhibitions and Fairs), 2013-2015**

## ORDER OF THE BOARD

**Attention: Re:Sound, CAFE and CAPACOA (the “Parties”)**

On December 23, 2015, Re:Sound wrote to the Board requesting that it certify Tariff 5.D, along with other subparts of Tariff 5, in the form and content set out in Appendix A (the “Settlement Tariff”) (attached) of their agreement (the “Agreement”) with the Objectors. The Agreement provided that the tariff for 2013 and 2014 be certified in the same form and content as the tariff certified by the Board for 2008-2012 as published in the *Canada Gazette* on May 26, 2012. The Agreement also provided for rates for 2015 that are different from both the rates certified for 2008-2012, and those proposed for 2013-2015 as published in the *Canada Gazette* on June 9, 2012.

The following tables represent the three relevant sets of rates.

Table 1: Certified Rates (2008-2012)\*

Total Attendance	Fee Payable per Day
Up to 25,000 persons	\$8.39
25 001 to 50,000 persons	\$21.78
50 001 to 75,000 persons	\$42.05

Total Attendance	Fee Payable per Person
For the first 100,000 persons	0.54¢
For the next 100,000 persons	0.24¢
For the next 300,000 persons	0.18¢
All additional persons	0.13¢

\* As published in the *Canada Gazette* (26 May 2012)

Table 2: Proposed Rates (2013-2015)\*

Total Attendance	Fee Payable per Day
Up to 25,000 persons	\$19.22
25,001 to 50,000 persons	\$38.67
50,001 to 75,000 persons	\$96.47

<b>Total Attendance</b>	<b>Fee Payable per Person</b>
For the first 100,000 persons	1.61¢
For the next 100,000 persons	0.71¢
For the next 300,000 persons	0.53¢
All additional persons	0.39¢

\* As published in the *Canada Gazette* (9 June 2012)

Table 3: Settlement Rates (2015)\*

<b>Average Daily Attendance</b>	<b>Fee Payable per Day</b>
Up to 5,000 persons	\$8
5,001 to 10,000 persons	\$18
10,001 to 20,000 persons	\$36
20,001 to 30,000 persons	\$60
30,001 to 50,000 persons	\$96
50,001 to 75,000 persons	\$150
75,001 to 100,000 persons	\$210
100,001 to 150,000 persons	\$300
150,001 to 200,000 persons	\$420
Over 200,000 persons	\$600

\*As proposed in the Settlement Tariff filed with the Board pursuant to the Agreement (23 December 2015)

The Board draws the Parties' attention to the following:

*Example A*

A one-day festival with 23,000 attendees would have paid Re:Sound \$8.39 under the tariff for 2008-2012 (see Table 1) and would pay the same amount for 2013-2014 pursuant to the Settlement Tariff. This same festival would have paid Re:Sound \$19.22 under the Proposed Tariff for 2013-2015 (see Table 2) and would pay \$60 under the Settlement Tariff for 2015 (see Table 3). In sum, for 2015, for this festival the Settlement Tariff rates represent a tripling of the rate proposed by Re:Sound for 2013-2015, which is, itself, a doubling of the rate under the 2008-2012 certified tariff.

*Example B*

A one-day fair with 5,500 attendees used to pay \$8.39 under the 2008-2012 certified tariff but would pay \$19.22 under the Proposed Tariff and \$18 under the Settlement Tariff.

*Example C*

A one-day fair with 250,000 attendees used to pay \$870 under the 2008-2012 certified tariff but would pay \$2,585 under the Proposed Tariff and \$600 under the Settlement Tariff.

The Parties are asking the Board to certify rates that amount to a large increase relative to the previously certified rate; they are also asking for the Board to certify rates that exceed the rates

proposed in the *Canada Gazette*. Both of these requests raise issues that require further examination. As such, the Board puts the following questions to the Parties.

#### **QUESTIONS TO ALL PARTIES**

**Q1.** One of the features of the Settlement Tariff is that small festivals, exhibitions and fairs will pay more and large festivals, exhibitions and fairs will pay less for 2015, compared to the certified tariff for 2008-2012, as is demonstrated in the examples above.

Please comment on the fairness of this change and provide reasons for this change.

**Q2.** Re:Sound filed a proposed tariff for 2013-2015. As shown in the examples above, there are circumstances where the Settlement Tariff for 2015 (vastly) exceeds the proposed tariff.

Are there reasons for the Board to certify a tariff that, for some payers of the tariff, exceeds the proposed tariff? Please discuss procedural and substantive fairness issues in regards of users not represented by CAFE and CAPACOA.

#### **QUESTION TO CAFE AND CAPACOA**

**Q3.** Please describe the governance structure of CAFE and CAPACOA. In particular, please indicate how small users of Tariff 5.D who are members of your respective organizations were represented in the negotiations with Re:Sound.

#### **ORDER**

The Board orders as follows:

Parties shall file answers to the questions above by no later than **Tuesday, June 6, 2017**.

Parties shall respond to the answers to the questions filed by the other parties by no later than **Friday, June 9, 2017**.



Gilles McDougall  
Secretary General