



January 26, 2018

[*CB-CDA 2018-016*]

NOTICE OF THE BOARD

**Files: Online Music Services / Services de musique en ligne
[SOCAN: 2007-2018; Re:Sound: 2013-2018; CSI: 2014-2018; Artisti: 2016-2018]**

**Online Audiovisual Services – Music / Services audiovisuels en ligne – Musique
[SOCAN: 2007-2018; CMRRA: 2014-2018; SODRAC: 2014-2018]**

On December 22, 2017, Sirius wrote to the Board, seeking clarification on certain issues. First, it writes that Notice 2017-157 provided that “[t]he Board will exclude certain simulcasts from these proceedings, as defined in Re:Sound’s *Tariff No. 8 – Non-Interactive and Semi-Interactive Webcasts (2009-2012)*.” However, Sirius correctly notes that the certified tariff does not define the term “simulcast” or “simulcast activities.”

Rather, as noted in Re:Sound’s reply of January 12, 2018, the delineation between simulcasts and other non-interactive webcasts was described in the reasons themselves, where the Board stated that “[a] *simulcast* is the substantially simultaneous streaming of a signal via the Internet or another digital network. The content is identical in the two transmissions.” (para 12)

The Board continues to be of the view that this is the appropriate delineation between simulcasts and other webcasts for the purpose of identifying the scope of these proceedings.

Second, Sirius “seeks guidance” on whether its services fall within the scope identified by the Board in Notice 2017-157 is correct.

The Board broadly agrees with Re:Sound, that whether or not any particular offering of Sirius is captured by the scope of the proceedings is a question which would require additional factual evidence—something that may be done during the course of the proceedings. As such, it cannot provide a definitive ruling in this respect.

However, it may assist the Parties for the Board to emphasize that the Board stated it intends to exclude “components of the Proposed Tariffs [...] that relate to the simulcasting of a primary activity.”

Contrary to what Sirius suggests in its letter (“Coupling together all activities that ‘relate to the simulcasting of a primary activity’ makes intuitive sense [...]”) (emphasis added), the Board did not state that it intends to exclude “components of the Proposed Tariffs [...] that relate to activities related to the simulcasting of a primary activity.”

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

Gilles McDougall
Secretary General