



July 5, 2018

[*CB-CDA 2018-143*]

## **RULING OF THE BOARD**

**File: Online Music Services [SOCAN: 2007-2018; Re:Sound: 2013-2018; CSI: 2014-2018]**

### *Background*

On June 8, 2018, CSI, SOCAN, and Re:Sound (the “Collectives”) asked the Board to confirm that a number of parties within the Networks group are deemed to have withdrawn from the above-mentioned proceedings for failure to provide any responses to the interrogatories by the set deadline of April 20, 2018.

On June 18, 2018, Rogers, Bell, and Quebecor (which referred to themselves as the “BDUs”) explained that their only interest in the proceedings pertains to the potential application of the proposed tariffs to “non-simultaneous internet transmissions of the Stingray Music digital pay audio service.” As such, the BDUs delayed preparing and serving their responses and instead contacted SOCAN and Re:Sound on March 27, 2018 in an effort to reach an agreement on the appropriate treatment of these transmissions. According to the BDUs, they did not receive any substantive response from the Collectives.

The BDUs submit that the Collectives’ motion should be denied and request that the Board order the following:

1. The BDUs’ objections to Re:Sound Tariff 8 and to SOCAN Tariff 22 be maintained with respect to their potential application to non-simultaneous internet transmissions of the Stingray Music digital pay audio service;
2. Any objections by the BDUs to the proposed CSI Online Music Tariff are withdrawn;
3. The BDUs will serve the interrogatory responses in keeping with the principles set out by the Board in Notice 2018-124 in the Online Audiovisual Services proceeding;
4. The BDUs responses will be confined to only those questions that related to non-simultaneous internet transmissions of the Stingray Music digital pay audio service; and
5. The new deadline for the filing and service of BDUs’ responses be set at 6 weeks after the date of the Board’s ruling.

In their response of June 25, 2018, the Collectives generally take no issue with the BDUs’ requests, provided that they can raise any issues relating to deficiencies on the basis that the interrogatories should have been answered as they relate to non-simultaneous internet transmissions of the Stingray Music digital pay audio service. However, the Collectives do

object to the proposed revised deadline and instead refer to the dates set in the modified schedule of proceedings in Notice 2018-109.

*Ruling*

1. The BDUs' objections to Re:Sound Tariff 8 and to SOCAN Tariff 22 are withdrawn, except to the extent they relate to these tariffs' potential application to non-simultaneous internet transmissions of the Stingray Music digital pay audio service.
2. The BDUs' objections to the proposed CSI Online Music Tariff are withdrawn.
3. While it is appropriate for parties to always consider principles of proportionality during the interrogatory process, Notice 2018-124 does not form part of this matter. To the extent it becomes necessary to explicitly adopt the principles enunciated therein in this matter, the Board will do so.
4. The BDUs' responses may be confined to only those questions that related to non-simultaneous internet transmissions of the Stingray Music digital pay audio service.
5. Given that the BDUs had until April 20, 2018 to provide responses to the Collectives' interrogatories, it is unclear why the BDUs elected to let the deadline lapse without informing the Board of their attempt to reach an agreement with the Collectives. While the Board attempts to accommodate parties in difficult situations, it expects that parties will not miss deadlines.
6. The Board sets the following deadlines in relation to the interrogatories put to the BDUs.

<b>Steps</b>	<b>Deadlines</b>
Responses to interrogatories including any objections to interrogatories	<b>Friday, July 20, 2018</b>
Motions re: unsatisfactory responses to interrogatories and responses to objections to interrogatories	<b>Friday, August 3, 2018</b>
Filing of responses to motions re: unsatisfactory responses to interrogatories and responses to objections to interrogatories	<b>Friday, August 10, 2018</b>
[Board ruling on responses and objections to interrogatories]	<b>To be determined</b>
Complete responses to interrogatories	<b>Friday, August 31, 2018</b>



Gilles McDougall  
Secretary General