



October 17, 2018

[*CB-CDA 2018-205*]

RULING OF THE BOARD

**Files: SOCAN-Re:Sound – Pay Audio Services Tariffs, 2007-2016;
Online Music Services [SOCAN: 2007-2018; Re:Sound: 2013-2018; CSI: 2014-2018]**

On July 12, 2018, Rogers, Bell, and Quebecor requested that those transmissions that start as simulcasts, but that become de-synchronized with the primary pay audio transmission as a result of the use of a skip function, be considered in the *Pay Audio* proceeding. They termed such transmissions “near simulcasts.”

In Ruling 2018-191, the Board stated that Notice 2016-002 established that near simulcasts, as far as SOCAN is concerned, are properly in the *Pay Audio* proceeding for the years 2007 to 2016. It also stated that, in respect of Re:Sound, this was not so. Only the simulcast portion of Re:Sound Tariff 8 was included in Notice 2016-002. Near simulcasts, not being simulcasts, are not included in the *Pay Audio* proceeding.

The Board wrote that to the extent the Parties wish to include these portions of Re:Sound Tariff 8 in the *Pay Audio* proceeding instead of the *Online Music Services* proceeding, all Parties must agree that they will have no right to adduce additional evidence relating to these tariffs.

The Parties agree that these portions of Re:Sound Tariff 8 should be in the *Pay Audio* proceeding, and that they would file no additional evidence of their own motion on the value of that portion.

One of the main reasons for the July 12, 2018 request was to avoid participation in the *Online Music Services* proceeding solely because near simulcasts of pay audio would be considered therein. As such, the Board will not consider the SOCAN and Re:Sound proposed tariffs applicable to near simulcasts of pay audio in the *Online Music Services* proceeding and confirms that following proposed tariffs are under consideration in the *Pay Audio Services Tariffs* (2007-2016) proceeding:

SOCAN	
<i>Pay Audio Services Tariff</i>	2010, 2011, 2012, 2013, 2014, 2015
Tariff 26 – <i>Pay Audio Services Tariff</i>	2016
Tariff 22.2 – <i>Audio Webcasts</i> [simulcast & near simulcast of pay audio only]	2007, 2008
Tariff 22.B – <i>Audio Webcasts</i> [simulcast & near simulcast of pay audio only]	2009, 2010, 2011, 2012, 2013

SOCAN Tariff 22.B – <i>Commercial Radio, Satellite Radio and Pay Audio</i> [simulcast & near simulcast of pay audio only]	2014, 2015, 2016
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Re:Sound	
(NRCC) <i>Pay Audio Services Tariff</i>	2010-2011
<i>Pay Audio Services Tariff</i>	2012-2013, 2014-2016
Tariff 8.A – <i>Simulcasting and Webcasting</i> [simulcast of pay audio only]	2009-2012
Tariff 8 – <i>Simulcasting, Non-Interactive Webcasting and Semi-Interactive Webcasting</i> [simulcast & near simulcast of pay audio only]	2013-2015
Tariff 2.B – <i>Pay Audio Services Simulcasts</i>	2016
Tariff 8 – <i>Non-Interactive and Semi-Interactive Webcasts</i> [near simulcast of pay audio only]	2016

For greater certainty: near simulcasts do not include stand-alone mobile services provided by Stingray directly to customers (as opposed to via the BDUs to BDU subscribers) and remain under consideration in the *Online Music Services* proceeding.

The Board wishes to draw the Pay Audio Parties' attention to the fact that under the above arrangement, near simulcasts for the years 2017 and 2018 would not be considered in the *Pay Audio* proceeding.

The Board could either

1. add the relevant portions of those two years in the *Pay Audio* proceeding; or
2. not consider the relevant portions of those two years in any current proceeding, with a view to considering these in a future *Pay Audio* proceeding.

Parties in the *Pay Audio* proceeding may comment, jointly or separately, on the two options listed above by no later than **Wednesday, October 24, 2018**.



Gilles McDougall
Secretary General