

Copyright Board  
Canada



Commission du droit d'auteur  
Canada

# FACT SHEET

## **Re:Sound Tariff 8 – Non-Interactive and Semi-Interactive Webcasts, 2009-2012**

May 16, 2014

### **1. What is the Copyright Board of Canada?**

The Copyright Board of Canada is an independent, quasi-judicial tribunal created under the *Copyright Act* to establish the royalties to be paid for the use of works, sound recordings or other matters protected by copyright, when the administration of these rights is entrusted to a collective society.

### **2. What is Re:Sound and who will benefit from the royalties?**

Re:Sound Music Licensing Company (Re:Sound) is the Canadian, private, not-for-profit collective society authorized under the *Copyright Act* to administer the performance rights of performers and record labels in their sound recordings. Re:Sound will collect the royalties payable under Tariff 8 and distribute them equally (50/50) between performers (singers, musicians) and makers (record labels).

### **3. What are the activities covered by the tariff?**

The Re:Sound Tariff 8 covers non-interactive and semi-interactive webcasting by commercial webcasters and by the Canadian Broadcasting Corporation (CBC). It also covers all webcasting activities by non-commercial webcasters. It does not cover simulcasting by commercial webcasters and the CBC.

### **4. What is a webcast, a non-interactive webcast and a semi-interactive webcast?**

A webcast is a communication via the Internet of one or more music files for the purpose of listening at substantially the same time as they are communicated. A non-interactive webcast is a webcast over which the recipient exercises no control over the content or timing. A semi-interactive webcast is a webcast over which the recipient exercises some level of control over the content or timing.

### **5. What are the rates set by the decision?**

The rates certified by the Board can be seen in the following table:

<b>Item</b>	<b>Rates</b>
<b>CBC</b>	
Webcast	13.1¢ per thousand plays
Minimum fee	\$100 per year
<b>Commercial webcasters</b>	
Webcast	10.2¢ per thousand plays
Minimum fee	\$100 per year
<b>Community and non-commercial webcasters</b>	
Webcast	\$25 per year

**6. How do these rates compare with rates set in the United States for similar uses?**

In the United States, for 2012, the rate that webcasters must pay for the same rights when their sole business is webcasting is \$1.10 per thousand plays (the “Pureplay rate”).

**7. In general, how much royalties will commercial webcasters operating in Canada need to pay in respect of this new Re:Sound Tariff?**

The following table shows how much a webcaster would pay as a function of the number of plays it transmits per year. The very large webcaster is based on the Board’s estimate for Pandora; the large webcaster is based on the Board’s estimate for Songza. The very small webcaster pays the minimum annual fee of \$100 set in this decision.

	<b>Very Large Webcaster</b>	<b>Large Webcaster</b>	<b>Medium Webcaster</b>	<b>Small Webcaster</b>	<b>Very small Webcaster</b>
<b>Plays per year (millions)</b>	3,000	70	15	1.5	0.5
<b>Estimated Annual Revenues</b>	\$5,800,000	\$130,000	\$30,000	\$3,000	\$1,000
<b>Estimated Annual Royalties</b>	\$306,000	\$7,140	\$1,530	\$153	\$100

**8. How much will CBC pay?**

The Board estimates that under this tariff, CBC will pay annual royalties of about \$36,000 for all of its webcasting operations, English and French.

**9. What was the process leading to the certification of this tariff?**

The decision follows a public hearing that lasted 10 days where the Board heard experts and other evidence from both Re:Sound and the potential music users who objected to the proposed tariff. The Board also addressed a number of questions to all parties.

**10. When does the tariff start to apply?**

Re:Sound Tariff 8 starts to apply on January 1, 2009. Re:Sound is entitled by the *Copyright Act* to collect royalties set in a tariff from the date on which the tariff takes effect. That date is determined by the time at which the proposed tariff is filed, not by when the final tariff is certified. Re:Sound is required to file a proposed tariff by March 31<sup>st</sup> of the year before it takes effect. Since Re:Sound filed its proposed Tariff 8 in March 2008, it is entitled to collect royalties starting in 2009.

**11. Is this tariff a tax?**

No. Taxes are introduced by government, collected by government and spent for government purposes. This tariff is a royalty, paid for the use of someone else's intellectual property, to be collected by a not-for-profit collective and distributed to individual rights holders. The purpose of such royalties, established under the *Copyright Act*, is to provide fair compensation to performers and record labels for the use of their sound recordings.

**12. Why did the Board certify a tariff at all?**

Artists and labels are entitled by the *Copyright Act* to be paid royalties for the use of their sound recordings. Once a tariff is proposed by a collective society for a use protected under the *Act*, and where there is proper and reliable evidence, the Board is required to certify a fair and equitable tariff and has no discretion in this respect.

**13. Can the Board create exemptions from the tariff?**

No. The right of performers and record labels to royalties for the public performance of their sound recordings is established by the *Copyright Act*. The Board cannot alter the requirements of the *Act* by creating exemptions.

Note: The Certified Tariff, along with the Reasons and a News Release can be found on the Board's Website under "What's New – Recent Decisions" at: <http://www.cb-cda.gc.ca/home-accueil-e.html>.