



Copyright Board  
Canada

Commission du droit  
d'auteur du Canada



# User Guide

## TARIFF APPROVAL PROCESSES





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### **User Guide**

### **Tariff Approval Processes**

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# Table of Contents

<b>Background</b>	4
<b>1. Filing a proposed tariff</b>	5
Before you begin	5
Criteria and requirements	5
Related documents	6
Deadlines	6
Next steps	7
<b>2. Objecting to a proposed tariff</b>	8
Before you begin	8
Grounds for Objection	8
Next steps	9
<b>3. Board proceedings</b>	10
Before you begin	10
Case management	11
Starting a proceeding	11
Other ways to participate in a proceeding : application to intervene and letter of comment	12
Proceedings not requiring a hearing	13
Hearings	13
Written hearing	13
Oral hearing	13
Next steps	14
<b>4. Publishing approved tariffs and Board decisions</b>	15



# Background

The [Copyright Board of Canada](#) is an independent administrative tribunal and economic regulator. It approves royalties to be paid and associated terms in the form of tariffs that apply when copyright-protected material is managed by collective management organizations (CMOs), defined in the *Copyright Act* as [collective societies](#). The Board also issues licences for the use of copyright materials when owners cannot be located and can intervene when CMOs and users disagree on royalties or licensing terms, for the use of materials within a CMO's catalogue or repertoire.

The [Copyright Act](#) directs the Board to review tariffs proposed by CMOS in a timely manner so that creators are compensated efficiently and content is easier to access and use, contributing to the growth and innovation of Canada's creative economic sector.

The Board's tariff approval processes are set out in the [Copyright Act](#), [Time Limits in Respect of Matters Before the Copyright Board Regulations](#) and the [Copyright Board Rules of Practice and Procedure](#). Together, these inform all the Board's procedural steps, from the filing of tariff proposals to their approval, and explain the parties' obligations therein.

Created in collaboration with the [Canadian Institute for the Administration of Justice \(CIAJ\)](#), this guide aims to:

- Improve the experience of all parties in their interactions with the Board; and
- Better inform all parties about their participation in Board proceedings.

Specifically, this guide describes a tariff's life cycle as it pertains to the Board and expands on the processes linked to the:

1. Filing of a proposed tariff;
2. Objecting to a proposed tariff;
3. Administration of Board proceedings; and
4. The publishing of decisions.

For more information about the Board and its other responsibilities not covered within this guide, please visit the Copyright Board of Canada's [website](#) or write to [registry-greffe@cb-cda.gc.ca](mailto:registry-greffe@cb-cda.gc.ca).



# 1. Filing a proposed tariff

## Before you begin

- a. Only collective management organizations (CMOs), defined in the Copyright Act as [collective societies](#), can propose tariffs, either individually or jointly with other CMOs.
- b. The [Copyright Act](#) says a proposed tariff must be filed by no later than October 15 of the 2<sup>nd</sup> year before its effective period (the period during which time the tariff applies), AND must cover at least a three-year period. For example, a tariff with an effective period starting in 2026 would have to be filed by October 15, 2024.
- c. The information contained within a tariff proposal and its related documents cannot be confidential.

## Criteria and requirements

To file propose a tariff, CMOs must complete the intake form available on the Board's [website](#) during filing season, before October 15. All proposed tariffs must:

- Comply with the [Practice Notice on Filing a Proposed Tariff](#);
- Comply with the [Practice Notice on Format of Electronic Documents](#);
- Be written in both official languages (English and French);
- Indicate the tariff's term (must be a minimum of three (3) years);
- Be filed as one (1) distinct document along with related documents (see below); and
- Specify all applicable royalties, terms & conditions.

Proposed tariffs will be published on the Board's website as received. The Board is not responsible for the quality assurance and agreement of the English and French versions of the documents filed but does reserve the right to notify CMOs when documents are found to be either inadequate, incomplete, or inaccurate.

## Related documents

Proposed tariffs must be accompanied by the two (2) following documents: 1. The Notice of Grounds and, 2. The comparative document. Both of these accompanying documents must be provided in clear and plain language; complying with the Board's [Practice Notice on Format of Electronic Documents](#).

### 1. The Notice of Grounds

CMOs must explain the grounds on which they are filing the proposed tariff, to allow the Board and tariff users to understand the scope and basis for the proposal. The Notice of Grounds must:

- a. Describe the tariff's intended use with tangible examples for potential users, to help determine which areas of activity are impacted.
- b. Explain the basis of the proposed royalties and their structure.
- c. Include the following additional information:
  - i. A description of the intended users;
  - ii. An explanation of how user information will be collected, used and disclosed by CMOs; and
  - iii. Any proposed changes to the most recently approved or most recently proposed tariff intended for the same (or fairly the same) uses and which are not explained in the Notice of Grounds.

### Deadlines

- **Proposed tariffs:** No later than 5:00 PM EST on October 15, two (2) calendar years before the intended effective period AND must cover at least a three (3) year application period.
- **Notice of Grounds:** Upon filing or within seven (7) days following filing.
- **Comparative document:** At the same time as the Notice of Grounds, noted above.

For more information, please consult the Board's [Practice Notice on Filing a Notice of Grounds for Proposed Tariff](#).

### 2. The comparative document

CMOs must file a comparative document which identifies the differences between the newly proposed tariff and the most recently approved tariff for the same (or about the same) uses. In the absence of an existing certified tariff, CMOs must use the most recent tariff which covers the same types of uses. These differences must also be explained in the Notice of Grounds document (see above).

## Next steps

The Board publishes proposed tariffs and all related documents as received on its website for potential users to review and object. Upon publication, the Board specifies the date by which users may file an objection, i.e., within thirty (30) days of the new tariff's publication on the Board's website.

CMOs may ask to withdraw their proposals at any time prior to its approval by the Board, in accordance with the requirements noted within the [Practice Notice on Filing an Application to Withdraw a Proposed Tariff](#).

Subscribe to [the Board's mailing list](#) or to its [X account, formerly Twitter](#) to stay informed of publication of proposed tariffs.



## 2. Objecting to a proposed tariff

### Before you begin

- a. Only users or potential users of a tariff, be it either a person or a legal entity, can object to a proposed tariff.
- b. Objectors may object to one (1) or more proposed tariffs.
- c. None of the information provided within an objector's Grounds for Objection to a Proposed Tariff may be designated as confidential.

### Grounds for Objection

Users or potential users must outline their reasons or grounds for objection by filling out the objection form on the Board's [website](#). This should include:

- a. Why the Board should not approve a proposed tariff despite any modification of the royalties or terms.
- b. Why it would be inappropriate for the Board to approve the proposed royalties and terms.

Objections must be filed thirty (30) days after the publication date of a proposed tariff on the Board's website.

The Grounds for Objection must be stated in plain language, and can be provided in the official language of the objector's choice. They must comply with the Board's [Practice Notice on Format of Electronic Documents](#).

For more information, consult the Board's [Practice Notice on Filing a Notice of Grounds for Objection](#).



## Next steps

The Board communicates submitted Grounds for Objection to relevant CMOs which can in turn elect to reply to the Board within fourteen (14) days.

Once all required documents filed by CMOs and objectors have been received, the Board determines the most effective way to proceed in the matter in question, including whether a hearing will be required.

The Board has a three-month period, from the publication date of the proposed tariff on its website, to inform parties of their decision on the path selected. The Board will also inform parties if it intends to use case management in the consideration of the proposed tariff (details in Section 3 of this document).

Once parties have been notified, the Board may also decide to rule solely based on Notice of Grounds, Grounds for Objection, CMOs' replies to objections, as well as any other information filed.

# 3. Board proceedings

## Before you begin

- a. A proceeding is a set of procedural steps that lead to a decision being made by the Board in a case.
- b. The Copyright Act requires the Board to proceed expeditiously and without formality, taking a case's particular circumstances and procedural fairness into consideration.
- c. The Board may, at any time, at the request of a party or of its own initiative, order that a proceeding be divided or that two (2) or more proceedings be convened or heard together, consecutively, or separately.
- d. The Board may communicate with parties, before or after the issuance of a Notice of Initiation of Proceeding, noting the start of a proceeding, to obtain more information or to gain perspectives on the scope and complexity of a proposed tariff. Parties can also communicate with the Board on the status of market negotiations, schedules, specific issues, or challenges related to a proposed tariff; all in accordance with the principle of procedural fairness.
- e. At any time, objectors and intervenors can decide to end their participation in a case by notifying the Board and relevant parties. Documents already submitted remain on the record.
- f. Unless the Board elects otherwise, the record, including submissions or evidence filed by parties who withdraw from a proceeding or who request a change to their status, remains unchanged. The record also includes the Grounds for Objection filed by parties who withdraw from a proceeding, even when the latter declares that it wishes to withdraw its objection.



## Case management

The Board may decide to use case management for a proceeding. Case management is an informal approach which promotes the fast and efficient flow of cases by simplifying internal processes and minimizing costs and delays, without compromising procedural fairness by:

1. Streamlining the number of issues in dispute.
2. Determining what is necessary to set a fair and equitable tariff in a proceeding; and
3. Reducing the number of interlocutory motions.

First, the Board's Chair appoints a case manager, who may be Board personnel, a Board Member, or an external party with relevant experience. The cases manager then collaborates with parties, issues orders as required, reviews procedural issues, and invites people to file documents within the scope of a proceeding (e.g., a reply to a motion, a reply to a response, the filing of a legal brief, or other relevant documents).

## Starting a proceeding

A proceeding starts when the Board issues a Notice of Initiation of Proceeding, which marks the Board's decision to begin the examination of one or more proposed tariffs. This notice is sent to the relevant parties and is published on the Board's website.

The Board will identify the official language in which a proceeding will be conducted, after consulting with the parties.

The Board's Chair appoints [Board members](#) to a panel responsible for deciding on a matter. For less complex cases, a one-member panel may be selected as the most efficient way forward. Otherwise, a panel usually consists of three (3) Board members.

## Other ways to participate in a proceeding: application to intervene and letter of comment

Once a proceeding has been initiated, anyone (other than the identified parties within the proceeding in question) can provide views to the Board, by either submitting a formal application to intervene in a proceeding or by filing a letter of comment.

- a. **Applications to intervene:** Intervenors are persons or entities, other than the identified parties, possessing an interest in a proceeding who wish to offer views regarding a proposed tariff. To become an intervenor, individuals must send a formal request to the Board. Applications are assessed as per the following criteria:
  1. Whether the intervenor has sufficient interest in the proceeding in question.
  2. Whether the intervenor is providing useful or different information or views.
  3. The potential of the intervention causing harm to a party or proceeding.
  4. The potential of the intervention to adversely affect the expeditious and fair conduct of the proceeding; and
  5. Other factors the Board deems appropriate.

Applications to intervene must be sent to [registry-greffe@cb-cda.gc.ca](mailto:registry-greffe@cb-cda.gc.ca) as soon as possible, following the publication of a Notice of Initiation of Proceeding on the Board's website. They must include:

1. The applicant's name and address and their authorized representative, if any.
2. The reasons why the intervention is necessary and the applicant's interest in the case.
3. The facts on which the request is based.
4. The issues the applicant wishes to raise; and
5. The desired method for participating in the proceeding.

Upon receipt, the Board communicates applications to intervene to relevant parties. If they so choose, parties must reply to these applications within fifteen (15) days; Day 1 being the day on which the application was communicated to parties by the Board. The Board then takes a decision on whether and how the intervenor will participate.

### Deadlines

- **Application to intervene:** As soon as possible following the publication of the Notice of Initiation of Proceeding on the Board's website.
- **Parties' replies to Applications to intervene:** Within fifteen (15) days of receipt of the application from the Board.
- **Letters of comment:** A date identified by the Board or case manager, typically before the last date on which parties can make submissions.
- **Parties' replies to letters of comment:** Within fifteen (15) days of receipt of the letter of comment communicated by the Board.



- b. **Letters of comment:** Letters of comment may be sent to the Board by individuals with an interest in a proposed tariff who want to present written views within the scope of a proceeding, without becoming an intervenor. There is no formal step in a proceeding where the Board asks for letters of comment. However, in order to be considered as part of the record, letters of comment should be filed with the Board before one of the following dates:
1. The last date, either set by the Board or case manager, on which parties may make oral or written submissions to the Board; or
  2. Any other date established by the Board or case manager.

Letters of comment must be submitted to the Board by email to [registry-greffe@cb-cda.gc.ca](mailto:registry-greffe@cb-cda.gc.ca) and should contain:

1. The individual's comments with respect to the proceeding.
2. The description or nature of the individual's interest in the proceeding.
3. Any relevant information that explains or supports the individual's comments.

Upon receipt, letters of comment are communicated by the Board, to the proceeding's parties. Any party may, within fifteen (15) days of receiving letters of comment, submit a reply to the Board.

## Proceedings not requiring a hearing

The Notice of Grounds and the Grounds for Objection of a proposed tariff allow the Board to determine whether a hearing is required or not. When determining that a proceeding does not require a hearing, the Board must render and communicate this decision prior to the start of a proposed tariff's effective period. The Board must also notify the relevant CMOs of the relevant proposed tariff that a hearing will not be held, and that a decision on the case will be rendered before the start of the tariff's effective period.

## Hearings

When a proposed tariff raises complex issues that will be debated, or if there are objections from one or more parties, the Board usually elects to hold a hearing.

The Board employs two (2) types of hearings, depending on the complexity of the case in question:

### Written hearing

A written hearing accounts for most Board's hearings and is centered on analyzing evidence and written submissions offered by the parties.

### Oral hearing

An oral hearing allows the presentation of oral evidence to panel members, including testimony. Interpretation services in both official languages are always available.

To optimize accessibility and reduce participation costs, the Board always prioritizes written hearings unless circumstances warrant an oral hearing.

Administrative tribunals, such as the Board, are not bound by the formal evidentiary rules of the justice system. The Board is required however, to ensure that the evidence it examines is relevant and dependable, in accordance with the principles of procedural fairness.

In particular, Board hearings reflect the principle of the **right to be heard**, meaning that adequate notification is given to all potential parties and that the opportunity for parties to respond is also provided. Parties affected by a decision receive all relevant information about a case, to prepare a response. This is called *disclosure* or the *no surprise* rule whereby the Board discloses all relevant information about a particular proceeding in its possession, including information provided by the parties. In instances where there are conflicts between one party's interest in obtaining all relevant information about a proceeding and another party's interest in keeping certain information confidential, the Board evaluates these interests and decides whether the information should be disclosed or not.

For more information, please see sections 40 to 44 of the [Copyright Board Rules of Practice and Procedure](#).

## Next steps

Whether written or oral, Board hearings involve the following steps, depending on the complexity of the case in question:

- a. **Joint Statement of Issues (JSI):** Intended to encourage early agreement between parties on the issues to be considered within a proceeding, the Joint Statement of Issues (JSI) must be submitted to the Board, jointly by the parties, within 90 days of the Notice of Initiation of Proceeding. The JSI's purpose is to identify the points on which the parties agree and disagree, at the beginning of a proceeding. This information allows the Board or case manager to evaluate the procedural steps which will be required (for example, whether to order a request for information) and helps to assess the relevance of the issues expressed.

If consensus cannot be reached between parties, parties must individually file their Statement of Issues with the Board within the same 90-day period as the JSI. For more information: [Practice Notice on Filing of Statement of Issues to be Considered](#).

## Deadlines

- **Joint Statement of Issues:** Within 90 days of the Notice of Initiation of Proceeding or as otherwise directed by the Board or case manager.
- **Filing of final submissions by parties:** Deadline set by the Board.
- **Board decision after a hearing:** The Board must render its decision no later than twelve (12) months from the date of final submission unless there are exceptional circumstances.
- **Board decision without a hearing:** The Board must render its decision before the start of a tariff's effective period.

- b. **Requests for information:** Parties may exchange questions, answers, and other information with each other or with the Board over the course of a proceeding. For more information: [Practice Notice on Interrogatory Process](#).

Other references to potential steps of a hearing process, applied as needed:

- [Practice Notice on Filing of Jointly-Submitted Texts in a Proceeding](#)
  - [Practice Notice on the Filing of Economic Evidence](#)
  - [Practice Notice on Testimony of Lay Witnesses in Oral Hearings](#)
  - [Practice Notice on Acknowledgement of Expert Witnesses](#)
- c. **Final submissions:** In all of its proceedings, the Board sets the deadline for the parties to file final submissions by sending a notice. This notice is published on the Board's website. Once set, the deadline cannot be changed unless there are exceptional circumstances.
- d. **Deliberation:** Following final submissions by parties, the Board begins its deliberation period with the aim of rendering a decision as per the deadlines provided within the [Time Limits in Respect of Matters Before the Copyright Board Regulations](#); no later than twelve (12) months after the deadline for final submissions.

## 4. Publishing approved tariffs and Board decisions

[Approved tariffs](#) are published in the [Canada's Gazette](#) as well as on the Board's website.

The Board also publishes the reasons for a [decision](#) on its website.

Parties are informed when a decision is published.

The Board's decisions are subject to judicial review by the Federal Court of Appeal, upon application by any party to a proceeding. As such, decisions from previous years can be overturned, in whole or in part, and referred to the Board for further consideration.