

PROPOSED TARIFF

Filed with the Copyright Board by Re:Sound on 2021-10-14 pursuant to subsection 67(1) of the Copyright Act

Proposed Tariff Title: *Re:Sound Tariff 2 - Pay Audio Services (2023–2027)*

For the communication to the public by telecommunication, in Canada, of published sound recordings embodying musical works and performers' performances of such works.

Proposed Short Title: *Re:Sound Pay Audio Services Tariff (2023-2027)*

Effective Period: 2023-01-01 – 2027-12-31

RE:SOUND TARIFF 2 – PAY AUDIO SERVICES (2023-2027)

~~STATEMENT OF ROYALTIES TO BE COLLECTED BY RE:SOUND FOR THE COMMUNICATION TO THE PUBLIC BY TELECOMMUNICATION, IN CANADA, OF PUBLISHED SOUND RECORDINGS EMBODYING MUSICAL WORKS AND PERFORMERS' PERFORMANCES OF SUCH WORKS FOR THE YEARS 2007-2016~~

~~*Tariff No. 2*~~

~~PAY AUDIO SERVICES~~

GENERAL PROVISIONS

All royalties payable under this tariff are exclusive of any federal, provincial or other governmental taxes or levies of any kind.

Short Title

1. This tariff may be cited as the *Re:Sound Pay Audio Tariff (2023-2027)*, ~~(2007-2016), 2021 *CB 5-T*~~

Definitions

2. ~~2.~~ In this Tariff,

-“affiliation payments” means the total payments made by a distribution undertaking to a programming undertaking for the transmission for private or domestic use of a pay audio signal, including the total amounts payable for all programming and services provided by the programming undertaking in a bundle with the pay audio service, without deduction; ~~Stingray for any services intended for private or domestic use during a payment period;~~ (« paiements d’affiliation »)

“device” means any device capable of receiving and playing a file, including a computer, digital media player, cellular phone, smartphone, or tablet; (« appareil »)

“distribution undertaking” means a distribution undertaking as defined in the *Broadcasting Act*, S.C. 1991, c. 11 as amended; (« entreprise de distribution »)

“file” means a digital file of a sound recording of a musical work or a part thereof, whether or not that sound recording has been published, is in the public domain, is eligible to receive equitable remuneration or is within the repertoire of Re:Sound; (« fichier »)

“non-interactive stream” means a stream of content provided by a programming undertaking to a distribution undertaking in a bundle with a pay audio service, which is different from the content of the pay audio service (i.e. online-only channels) over which the end-user is unable to exercise any control over the content or the timing of the stream. For example, the end-user cannot skip or pause the communication of a file or influence the content by indicating a preference for a musical genre, artist or sound recording other than by selecting the channel; (« transmission non interactive »)

“pay audio signal” includes all programming and services licenced by the CRTC as a pay audio service as well as all programming and services supplied by a programming undertaking in a bundle with a pay audio service, whether or not for a fee and whether or not licenced by the CRTC as a pay audio service; (« signal sonore payant »)

“play” means the single communication of a file or a part thereof, to a single person; (« écoute »)

“pay audio affiliation multiplier” is the fraction determined in accordance with subsection 5(2); (« multiplicateur de l’affiliation à l’égard du service sonore payant »)

“pay audio affiliation payment” is the amount determined in accordance with subsection 5(3); (« paiement d’affiliation pour le service sonore payant »)

“pay audio service” means the national pay audio service operated by Stingray licensed in Broadcasting Decision CRTC 2008-368 and Broadcasting Decision CRTC 2015-377; (« service sonore payant »)

“payment period” means either a calendar month or a calendar year, as the case in subsection 4(1) may be; (« période de paiement »)

“premises” has the same meaning as premises as defined in *Regulations Definition of “Small Cable Transmission System” Regulations, SOR/94-755*, being

- (a) a dwelling, including a single-unit residence or a single unit within a multiple-unit residence, or
(b) a room in a commercial or institutional building; (« *local* »)

“programming undertaking” means a programming undertaking as defined in the *Broadcasting Act*, S.C. 1991, c. 11; (« *entreprise de programmation* »)

“Regulations” means the *Definition of “Small Cable Transmission System” Regulations*, SOR/94-755 (*Canada Gazette*, Part II, Vol. 128, page 4096), amended by SOR/2005-148 (*Canada Gazette*, Part II, Vol. 139, page 1195); (« *Règlement* »)

“semi-interactive stream” means a stream of content provided by a programming undertaking to a distribution undertaking in a bundle with a pay audio service, over which the end-user has the ability to exercise some level of control over the content or the timing of the stream, such as by skipping, pausing, rewinding or fast-forwarding the communication of a file or by indicating a preference for a musical genre, artist or sound recording. So long as the possibility of such interaction exists, a stream is considered a semi-interactive stream and not a simulcast, regardless of whether the end-user interacts with the stream or not; (« *transmission semi-interactive* »)

“service area” has the same meaning as service area as defined in the *Regulations*, being: “service area means an area in which premises served in accordance with the laws and regulations of Canada by a cable transmission system are located;” (« *zone de service* »)

~~“semi-interactive webcast service” means a webcast service with programming provided by Stingray whose content is similar to that of the pay audio service and is provided to a consumer by virtue of their subscription with a distribution undertaking, and the consumer exercises some level of control over the content of the files, or timing of the transmission of the files, or both; (« *service de webdiffusion semi-interactive* »)~~

“signal” means a television or audio signal, other than a signal within the meaning of subsection 31(1) of the Copyright Act, retransmitted in accordance with subsection 31(2) of the *Copyright Act*; (« *signal* »)

“simulcast” means the simultaneous communication of a pay audio service to which this tariff applies, via the Internet or another digital network, to a device, which is identical to the original signal and over which the end-user is unable to exercise any control over the content or the timing of the communication. For example, the end-user cannot skip, pause, rewind or fast-forward the communication of a file or influence the content of the communication by indicating a preference for a musical genre, artist or sound recording; (« *diffusion simultanée* »)

~~“simulcast service” means a service that provides simultaneous, or nearly simultaneous, transmission of pay audio programming and is only available to customers by virtue of their subscription to a distribution undertaking; (« service de transmission simultanée »)~~

~~“Small cable transmission system” has the same meaning attributed to it in the Regulations, being:~~

~~“3. (1) Subject to subsections (2) to (4) and section 4, ‘small cable transmission system’ means a cable transmission system that transmits a signal, with or without a fee, to not more than 2,000 premises in the same service area.~~

~~(2) For the purpose of subsection (1), where a cable transmission system is included in the same unit as one or more other cable transmission systems, the number of premises to which the cable transmission system transmits a signal is deemed to be equal to the total number of premises to which all cable transmission systems included in that unit transmit a signal.~~

~~(3) For the purpose of subsection (2), a cable transmission system is included in the same unit as one or more other cable transmission systems where~~

~~(a) they are owned or directly or indirectly controlled by the same person or group of persons; and~~

~~(b) their service areas are each less than 5 km distant, at some point, from at least one other among them, and those service areas would constitute a series of contiguous service areas, in a linear or non-linear configuration, were it not for that distance.~~

~~(4) Subsection (2) does not apply to a cable transmission system that was included in a unit on December 31, 1993.~~

~~4. The definition set out in subsection 3(1) does not include a cable transmission system that is a master antenna system located within the service area of another cable transmission system that transmits a signal, with or without a fee, to more than 2,000 premises in that service area;” (« petit système de transmission par fil »)~~

~~“stream” means the communication in Canada, via the Internet or another digital network, to a device, of one or more files; (« transmission »)~~

~~“year” means a calendar year. (« année »)~~

~~means a cable transmission system that transmits a signal, with or without a fee, to not more than 2,000 premises in the same service area, where “premises” and “service area” have the same meaning as in Definition of “Small Cable Transmission System” Regulations, SOR/94-755 and the system meets all other criteria of those regulations; (« petit système de transmission par fil »)~~

~~“Stingray” means Stingray Digital Group; (« Stingray »)~~

~~“Tariff publication date” means, the date on which this Tariff was published, being May 29, 2021 (« date de publication du tarif »).~~

~~Subject Matter CoveredApplication~~

3. (1) This tariff sets the royalties to be paid for the communication to the public by telecommunication of published sound recordings embodying musical works and performers' performances of such works, for private or domestic use for the years 2023-2027:

(a) in connection with the transmission by a distribution undertaking of a pay audio signal; and

(b) in connection with the transmission by a distribution undertaking of a simulcast, non-interactive stream or semi-interactive stream, which is only available to end-users by virtue of their subscription to the distribution undertaking as part of a package which includes a pay audio signal.

(2) This tariff does not apply to:

(a) a simulcast, non-interactive stream, or semi-interactive stream distributed otherwise than by a distribution undertaking as part of a package which includes a pay audio signal;

(b) any service provided to commercial subscribers including a background music supply service; or

(c) the performance in public of published sound recordings embodying musical works and performers' performances of such works.

Royalties

~~This Tariff applies to~~

~~musical and dramatico-musical works that are in SOCAN's repertoire;~~

~~published sound recordings embodying musical works that are in Re:Sound's repertoire; and~~

~~(e) performers' performances embodied in such sound recordings that are in Re:Sound's repertoire.~~

~~Activities Covered~~

~~4. (1) This Tariff sets the royalties and permits a person to communicate works to the public by telecommunication in connection with Stingray's pay audio service, for the years 2010-2016;~~

~~simulcast service, for the years 2007-2016; and~~

~~semi-interactive webcast service, for the years 2007-2016.~~

~~(2) This tariff sets the royalties payable for the communication of published sound recordings to the public by telecommunication in connection with Stingray's~~

~~pay audio service, for the years 2010-2016;~~

~~simulcast service, for the years 2009-2016; and~~

~~semi-interactive webcast service, for the years 2013–2016.~~

~~(3) For greater certainty, this Tariff does not set royalties and does not permit a person to communicate works or published sound recordings by telecommunication in connection with a semi-interactive webcasting service that is distributed otherwise than by a distribution undertaking;
a semi-interactive webcasting service whose content is not similar to that of the pay audio service; nor
any service not listed in subsections 3(1) and 3(2), even if that service is sold together with one or more of the listed services.
any service provided to commercial subscribers, including a background music supply service.~~

~~Royalty Payment Periods and Payment dates~~

~~5. (1) The payment period for activities covered by this Tariff is~~

- ~~a) calendar year, where the distribution undertaking is a small cable transmission system; or~~
- ~~b) a calendar month, otherwise.~~

~~(2) Royalties are due on the last day of the month following the end of the payment period for which they are being paid.~~

~~Pay Audio Affiliation Payment~~

~~Services provided~~

~~6. (1) For the purposes of this section, Stingray provided a distribution undertaking~~

- ~~a) the Music service, if it provided the distribution undertaking with the service marketed as “Stingray Music,” “Galaxie Music,” or marketed under another name for the equivalent service;~~
- ~~b) the Mobile service, if it provided the distribution undertaking with the semi-interactive webcasting service marketed as “Stingray Mobile” or marketed under another name for the equivalent service;~~
- ~~c) the Ambiance service, if it provided the distribution undertaking with the service marketed as “Stingray Ambiance” or marketed under another name for the equivalent service;~~
- ~~d) the Music Videos service, if it provided the distribution undertaking with the service marketed as “Stingray Music Videos” or marketed under another name for the equivalent service;~~
- ~~e) the Concert TV service, if it provided the distribution undertaking with the service marketed as “Stingray Concert TV,” or marketed under another name for the equivalent~~

service;

- ~~f) the Karaoke service, if it provided the distribution undertaking with the service marketed as the “Karaoke Channel,” or marketed under another name for the equivalent service; and~~
- ~~g) the Ubiquicast server, if it provided the distribution undertaking with the service marketed as “Ubiquicast” in relation to the Music service, the Ambiance service, or both.~~

Pay audio affiliation multiplier

~~(2) The pay audio affiliation multiplier for a payment period in which Stingray provided a distribution undertaking~~

- ~~a) the Music service, the Ambiance service, and a Ubiquicast server, is 50 divided by the sum of the points in Table 1 for all services with which Stingray provided the distribution undertaking during the majority of the payment period;~~

Table 1: Category points — Pay Audio, Ambiance, and Ubiquicast provided

Category	Music	Mobile	Ambiance	Music Videos	Concert TV	Karaoke
Points	50	10	25	5	5	5

- ~~b) the Music service and a Ubiquicast server, but not the Ambiance service, is 55 divided by the sum of the points in Table 2 for all services with which Stingray provided the distribution undertaking during the majority of the payment period; or~~

Table 2: Category points — Pay Audio and Ubiquicast provided, without Ambiance

Category	Music	Mobile	Ambiance	Music Videos	Concert TV	Karaoke
Points	55	10	5	5	5	5

- ~~(b) the Music service, but not a Ubiquicast server — whether or not Stingray provided the distribution undertaking with the Ambiance service — is 40 divided by the sum of the points in Table 3 for all services with which Stingray provided the distribution undertaking during the majority of the payment period.~~

Table 3: Category points — Ubiquicast not provided

Category	Music	Mobile	Ambiance	Music Videos	Concert TV	Karaoke
Points	40	10	20	5	5	5

Pay audio affiliation payment

~~(3) The pay audio affiliation payment for a payment period is, in respect of a distribution undertaking~~

- ~~a) that is not a small cable transmission system, the affiliation payments made by that distribution undertaking to Stingray for that period, multiplied by the pay audio affiliation multiplier; or~~
- ~~b) that is a small cable transmission system, 50% of the affiliation payments made by that distribution undertaking to Stingray for that period, multiplied by the pay audio affiliation multiplier.~~

SOCAN Royalties

~~SOCAN — simulcasts (2007–2009)~~

~~7. (1) For the activities identified in paragraph 3(1)(b) carried out in a payment period during the years 2007 to 2009, the royalties payable to SOCAN are \$0.~~

~~SOCAN — pay audio and simulcasts (2010–2016)~~

~~(2) For the activities identified in paragraphs 3(1)(a) and 3(1)(b) carried out in a payment period during the years 2010 to 2016, the royalties payable to SOCAN, in respect of a distribution undertaking, is the pay audio affiliation payment made by that distribution undertaking for that payment period multiplied by the rate in Table 4 for that period.~~

Table 4: SOCAN royalty rates for pay audio and simulcasts for 2010–2016

Year	2010	2011	2012	2013	2014	2015	2016
Rate	12.45%	12.04%	11.63%	11.21%	10.79%	10.38%	9.96%

~~SOCAN — semi-interactive webcasts (2007–2016)~~

~~(3) For the activities identified in paragraph 3(1)(c) carried out in a payment period during the years 2007 to 2016, the royalties payable to SOCAN, in respect of a distribution undertaking, are 5.3% of its affiliation payments that are attributable to those activities.~~

~~(4) For greater certainty, no portion of the pay audio affiliation payment for the same period shall be attributed to the activities in paragraph 3(1)(c).~~

Re:Sound Royalties

~~Re:Sound — simulcasts (2009)~~

~~8. (1) For the activities identified in paragraph 3(2)(b) carried out in a payment period during the year 2009, the royalties payable to Re:Sound are \$0.~~

~~Re:Sound — pay audio and simulcasts (2010–2016)~~

~~(2) For the activities identified in paragraphs 3(2)(a) and 3(2)(b) carried out in a payment period during the years 2010 to 2016, the royalties payable to Re:Sound, in respect of a distribution undertaking, is the pay audio affiliation payment made by that distribution undertaking for that payment period multiplied by the rate in Table 5 for that period.~~

~~Table 5: Re:Sound royalty rates for pay audio and simulcasts for 2010–2016~~

Year	2010	2011	2012	2013	2014	2015	2016
Rate	5.85%	5.66%	5.46%	5.27%	5.85%	6.88%	6.60%

~~Re:Sound — semi-interactive webcasts (2013–2016)~~

~~(3) For the activities identified in paragraph 3(2)(c) carried out in a payment period during the years 2013 to 2016, the royalties payable to Re:Sound, in respect of a distribution undertaking, are its affiliation payments attributable to those activities multiplied by the rate in Table 6 for that period.~~

~~Table 6: Re:Sound royalty rates for semi-interactive webcasts for 2013–2016~~

Year	2013	2014	2015	2016
Rate	2.49%	2.87%	3.51%	3.51%

~~(4) For greater certainty, no portion of the pay audio affiliation payment for the same period shall be attributed to the activities in paragraph 3(2)(c)4. (1) Subject to subsection (2), the royalties payable each month to Re:Sound are:~~

- ~~(a) 15 per cent of the affiliation payments payable for that month by a distribution undertaking; plus~~
- ~~(b) \$0.00146 for each play of a file in Canada by simulcast in that month; and~~
- ~~(c) \$0.00183 for each play of a file in Canada by non-interactive stream or semi-interactive stream in that month.~~

~~(2) The royalties payable to Re:Sound each year where the distribution undertaking is a small cable transmission system are:~~

- ~~(a) 7.5 per cent of the affiliation payments payable for that year by a distribution undertaking; plus~~
- ~~(b) \$0.00073 for each play of a file in Canada by simulcast in that year; and~~
- ~~(c) \$0.00092 for each play of a file in Canada by non-interactive stream or semi-interactive stream in that year.~~

Dates of Payments

5. (1) Royalties payable pursuant to subsection 4(1) shall be due on the last day of the month following the month for which the royalties are being paid.

(2) Royalties payable pursuant to subsection 4(2) shall be due on January 31 of the year following the year for which the royalties are being paid.;

Reporting Requirements

6. (1) A programming undertaking that makes a payment shall provide with its payment, for the relevant period and with respect to each distribution undertaking to which it supplied a pay audio signal:

- (a) the name of the distribution undertaking;
- (b) the list of pay audio signals, simulcasts, non-interactive streams and semi-interactive streams the programming undertaking supplied to the distribution undertaking for transmission for private or domestic use;
- (c) the amount of the affiliation payments payable;
- (d) the number of plays of each file by simulcast, by non-interactive stream and by semi-interactive stream;
- (e) the total number of plays of all files by simulcast, by non-interactive stream and by semi-interactive stream; and
- (f) the total simulcast audience relative to the audience of the pay audio signal.

(2) A distribution undertaking that makes a payment shall provide with its payment, for the relevant period and with respect to each programming undertaking from which it purchased a signal:

- (a) the name of the programming undertaking;
- (b) the list of pay audio signals, simulcasts, non-interactive streams and semi-interactive streams supplied to the distribution undertaking by the programming undertaking for transmission for private or domestic use;
- (c) the amount of the affiliation payments payable;
- (d) the number of plays of each file by simulcast, by non-interactive stream and by semi-interactive stream;
- (e) the total number of plays of all files by simulcast, by non-interactive stream and by semi-interactive stream; and
- (f) the total audience of the simulcast relative to the audience of the pay audio signal.

(3) The following information shall also be provided with respect to any system for which royalties are being paid pursuant to subsection 4(2):

- (a) the number of premises served in the system on the last day of each month for which payment is being made;
- (b) if the system is a master antenna system and is located within the service area of another cable transmission system, the name of that other system and a statement to the effect that the other system transmits a signal, with or without a fee, to not more than 2,000 premises in its service area;
- (c) if the system is included in a unit within the meaning of the *Definition of "Small Cable Transmission System" Regulations*,
 - (i) the date the system was included in the unit,
 - (ii) the names of all the systems included in the unit,
 - (iii) the names of the person or group of persons who own or who directly or indirectly control the systems included in the unit, and

(iv) the nature of the control exercised by these persons.

(4) Notwithstanding subsections (1), (2) and (3) above, no later than March 31 of each year, a programming undertaking shall provide Re:Sound with the name of each distribution undertaking to which it supplied a pay audio signal, simulcast, non-interactive stream and semi-interactive stream, for private or domestic use in the previous year. A programming undertaking shall be relieved of this obligation if it has already provided the name of each such distribution undertaking pursuant to its obligations under subsection (1). The programming undertaking shall also indicate who (the programming undertaking or the distribution undertaking) is responsible for paying royalties under this Tariff for each distribution undertaking listed.

Sound Recording Use Information

7. (1) No later than the fourteenth day of each month, a programming undertaking shall provide to Re:Sound, the full sequential lists of all published sound recordings embodying musical works or parts thereof, played on each pay audio signal, by simulcast, by non-interactive stream and by semi-interactive stream during each day of the previous month. For greater clarity, sequential list reporting requires full music use reporting for each day of the month, for 365 days per year. Each entry shall include the following information:

- (a) the date of the broadcast;
- (b) the time of the broadcast;
- (c) the title of the sound recording;
- (d) the name of each performer or group to whom the sound recording is credited;
- (e) the name of the record label or maker that released the sound recording;
- (f) the name of each author of the musical work;
- (g) the International Standard Recording Code (ISRC) assigned to the sound recording;
- (h) the name of the music publisher associated with the musical work;
- (i) the International Standard Musical Work (ISWC) assigned to the musical work;
- (j) if the sound recording was released as part of an album, the name, identifier, product catalogue number and Universal Product Code (UPC) assigned to the album, together with the associated disc and track numbers;
- (k) the Global Release Identifier (Grid) assigned to the sound recording and, if applicable, the Grid of the album or bundle in which the sound recording was released;
- (l) the running time of the sound recording as broadcast, in minutes and seconds;
- (m) the running time of the sound recording as listed on the album, in minutes and seconds;
and
- (n) any alternative title used to designate the musical work or sound recording.

(2) The information set out in subsection (1) shall be provided electronically, in Excel format or in any other format agreed upon by Re:Sound and the programming undertaking, with a separate field for each piece of information.

Taxes

~~9. All royalties payable under this tariff are exclusive of any applicable federal, provincial or other taxes or levies of any kind.~~

Late Payments

~~10. Any amount not received by the due date shall bear interest from that date until the date the amount is received. Interest shall be calculated daily at a rate equal to one per cent above the~~

~~Bank Rate effective on the last day of the previous month (as published by the Bank of Canada). Interest shall not compound. Any overpayment resulting from an error or omission on the part of SOCAN or Re:Sound shall bear interest from the date of the overpayment until the overpayment is refunded.~~

Reporting

~~11.(1) A payment under this Tariff for a payment period occurring in 2010 or later shall, in respect of each distribution undertaking for which the payment is made, be accompanied by the following information, that shall be provided to Re:Sound and SOCAN:~~

- ~~a) the list of pay audio signals received from Stingray by the distribution undertaking for transmission for private or domestic use during that period;~~
- ~~b) the amount of the affiliation payments by the distribution undertaking for that period, as well as
 - ~~i. the amount of its pay audio affiliation payment for that period, as well as any information necessary to calculate that amount under this Tariff, including the services provided by Stingray to the distribution undertaking for the majority of that period and the computed pay audio affiliation multiplier, and~~
 - ~~ii. if making a payment for activities identified in paragraphs 3(1)(e) and 3(2)(e), the amount of the affiliation payments that are attributable to those activities;~~~~
- ~~c) the number of premises served in the system by the distribution undertaking on the last day of the period; and~~
- ~~d) the sequential list in electronic Excel format — or any other format agreed upon by SOCAN, Re:Sound, and the person providing the information — of all recordings played on each pay audio signal during the period, where each list entry shall include, where available,
 - ~~i. the date and time of the broadcast,~~
 - ~~ii. the title of the musical work,~~
 - ~~iii. the name of the author or composer of the work,~~
 - ~~iv. the name of the sound recording,~~
 - ~~v. any alternative title used to designate the sound recording,~~
 - ~~vi. the International Standard Recording Code (ISRC) of the sound recording,~~
 - ~~vii. the name of the performers or of the performing group,~~
 - ~~viii. the title of the record album,~~
 - ~~ix. the track number on the album,~~
 - ~~x. the catalogue number of the album,~~
 - ~~xi. the Universal Product Code (UPC) of the album,~~
 - ~~xii. the record label,~~
 - ~~xiii. the duration of the sound recording broadcast, in minutes and seconds,~~
 - ~~xiv. the duration of the sound recording as listed on the album, in minutes and seconds, and~~
 - ~~xv. whether a track is a published sound recording.~~~~

~~(2) On January 31 after each calendar year of 2010 to 2016, each distribution undertaking that made a payment for a payment period in that year shall also provide to both SOCAN and Re:Sound,~~

- ~~a) if the system is a master antenna system and is located within the service area of another cable transmission system, the name of that other system and a statement to the effect that the other system transmits a signal, with or without a fee, to not more than 2,000 premises in its service area; and~~
- ~~b) if the system is included in a unit within the meaning of the *Definition of "Small Cable Transmission System" Regulations*,~~
 - ~~i. the date the system was included in the unit,~~
 - ~~ii. the names of all the systems included in the unit,~~
 - ~~iii. the names of the person or group of persons who own or who directly or indirectly control the systems included in the unit, and~~
 - ~~iv. the nature of the control exercised by these persons.~~

Payment by Stingray

~~(3) A payment made by Stingray for a payment period shall also include a list of distribution undertakings to which it provided the pay audio service in that period.~~

Reporting by Stingray

~~(4) For greater certainty, Stingray may provide to SOCAN and Re:Sound any or all information identified in subsection (1) instead of any or all distribution undertakings, whether or not it makes a payment under this Tariff.~~

Records and Audits

8. (1) A programming undertaking shall keep and preserve, for a period of six months after the end of the month to which they relate, records from which the information set out in section 7 can be readily ascertained.

(2) Both the distribution undertaking and the programming undertaking shall keep and preserve, for a period of six years after the end of the year to which they relate, records from which a distribution undertaking's affiliation payments to the programming undertaking and the calculation of payments under subsections 4(1)(b), 4(1)(c), 4(2)(b) and 4(2)(c) can be readily ascertained, including the information required under section 6.

(3) Re:Sound may audit these records at any time during the period set out in subsection (1) or (2) as applicable, on reasonable notice and during normal business hours.

(4) Re:Sound shall, upon receipt, supply a copy of the report of the audit to the undertaking that was the subject of the audit and to any other Canadian collective society with a tariff applicable to pay audio services.

(5) If an audit discloses that royalties due to Re:Sound have been understated in any month by more than ten per cent, the undertaking that was audited shall pay the reasonable costs of the

audit within 30 days of the demand for such payment. The amount of any understatement shall be paid within 30 days of the demand for such payment.

Records and Audits

Playlist information

~~12. (1) Any person that provides information under paragraph 10(1)(d) shall keep and preserve, for a period of 6 months after the end of the month to which they relate, records from which that information can be readily ascertained.~~

Royalty related information

~~(2) Any person that provides information under paragraphs 10(1)(a) to 10(1)(c), subsection 10(2), or subsection 10(3), shall keep and preserve, for a period of 6 years after the end of the year to which they relate, records from which that information can be readily ascertained.~~

Audits

~~(3) SOCAN or Re:Sound may audit these records at any time during the period set out in subsection (1) or (2), on reasonable notice and during normal business hours.~~

~~(4) The collective society that performs an audit under subsection (3) shall, upon receipt, supply a copy of the report of the audit to Stingray or the distribution undertaking that was the object of the audit and to the other collective society.~~

~~(5) If an audit discloses that amounts due to the collective society have been understated in any month by more than 10 per cent, Stingray or the undertaking that was the object of the audit shall pay the amount of the understatement and the reasonable costs of the audit within 30 days of the demand for such payment.~~

Confidentiality

9. (1) Subject to subsections (2) to (4), information received from an undertaking pursuant to this tariff shall be treated in confidence, unless the undertaking who supplied the information consents in writing to the information being treated otherwise.

(2) Information received from an undertaking pursuant to this tariff may be shared:

- (a) with Re:Sound's agents and service providers, to the extent required by the service providers for the service they are contracted to provide;
- (b) with any other Canadian collective society that has a tariff applicable to pay audio services;
- (c) with the Copyright Board;
- (d) in connection with proceedings before the Copyright Board if it is protected by a confidentiality order;
- (e) to the extent required to effect the distribution of royalties; or
- (f) if required by law.

(3) Where confidential information is shared with a service provider pursuant to subsection 9(2)(a), that service provider shall sign a confidentiality agreement.

~~(4) Subsection (1) does not apply to information that is publicly available, to aggregated information, or to information obtained from someone other than the undertaking that supplied the information and who is not under an apparent duty of confidentiality to that undertaking with respect to the supplied information.~~

~~13. (1) Subject to subsections (2) to (4), a collective society shall treat in confidence information received pursuant to this Tariff, unless the undertaking that supplied the information consents in writing to the information being treated otherwise.~~

~~(2) Information received pursuant to this Tariff may be shared~~

- ~~a) with a collective society's agents and service providers to the extent required by the service providers for the service they are contracted to provide;~~
- ~~b) with the other collective society;~~
- ~~c) with the Copyright Board;~~
- ~~d) in connection with proceedings before the Copyright Board, if it is protected by a confidentiality order;~~
- ~~e) to the extent required to effect the distribution of royalties; or~~
- ~~f) if required by law.~~

~~(3) Where confidential information is shared with a service provider pursuant to paragraph (2)(a), that service provider shall sign a confidentiality agreement.~~

~~(4) Subsection (1) does not apply to information that is publicly available, to aggregated information, or to information obtained from someone other than the undertaking who is not under an apparent duty of confidentiality to that undertaking with respect to the supplied information.~~

Adjustments

10. Adjustments in the amount of royalties owed as a result of the discovery of an error or otherwise, shall be made on the date the next royalty payment is due. No adjustments to reduce the amount of royalties owed may be made in respect of an error discovered by the undertaking which occurred more than 12 months prior to notification to Re:Sound. Excess payments are not subject to interest.

Late Payments and Reporting

11. (1) In the event that an undertaking does not pay the amounts owed under sections 4 and 5 or provide the reporting required under section 6 by the due date, the undertaking shall pay to Re:Sound interest calculated on the amount payable for the relevant period from the due date until the date both the amount and the report are received. Interest shall be calculated daily, at a rate equal to one per cent above the Bank Rate effective on the last day of the previous month (as published by the Bank of Canada). Interest shall not compound.

(2) In the event that an undertaking does not provide the music use reporting required by section 7 within 7 days of the due date, upon written notice by Re:Sound, the undertaking shall pay to

Re:Sound a late fee based on the number of days from the due date to the date the reporting is received, of:

(a) \$10.00 per day for the first 30 days after the due date;

(b) \$20.00 per day for the next 30 days; and

(c) \$50.00 per day thereafter;

until the reporting is received.

Addresses for Notices, etc.

12. (1) Anything that an undertaking sends to Re:Sound shall be sent to 1235 Bay Street, Suite 900, Toronto, Ontario M5R 3K4, email: payaudio@resound.ca, fax number (416) 962-7797, or to any other address, email or fax number of which the undertaking has been notified in writing.

(2) Anything that Re:Sound sends to an undertaking shall be sent to the last address, email or fax number of which Re:Sound has been notified in writing.

~~14. Adjustments in the amount of royalties owed (including excess payments), as a result of the discovery of an error or otherwise, shall be made on the date the next payment is due.~~

~~**Addresses for Notices, etc.**~~

~~15. (1) Anything addressed to Re:Sound shall be sent to 1235 Bay Street, Suite 900, Toronto, Ontario M5R 3K4, email: licensing@resound.ca, fax number: 416 962 7797, or to any other address, email address or fax number of which the sender has been notified in writing.~~

~~(2) Anything addressed to SOCAN shall be sent to 41 Valleybrook Drive, Toronto, Ontario M3B 2S6, email: licence@socan.com, fax number 416 445 7108, or to any other address, email address or fax number of which the sender has been notified in writing.~~

~~(3) Anything addressed to a person subject to this tariff shall be sent to the last address, email address or fax number of which Re:Sound and SOCAN have been notified in writing.~~

Delivery of Notices and Payments

13. (1) A notice may be delivered by hand, by postage paid mail, by email, by fax or by file transfer protocol (FTP). A payment may be made by credit card or delivered by hand, by postage paid mail or by electronic bank transfer (EBT). Where a payment is delivered by EBT, the associated reporting shall be provided concurrently to Re:Sound by email.

(2) The information set out in section 7 shall be sent by email.

(3) Anything mailed in Canada shall be presumed to have been received four business days after the day it was mailed.

(4) Anything sent by fax, email, by FTP or by EBT shall be presumed to have been received the day it is transmitted.

~~16. (1) A notice may be delivered by hand, by postage paid mail, by email, by fax or by file transfer protocol (FTP). A payment may be made by credit card or delivered by hand, by~~

~~postage paid mail, or by electronic bank transfer (EBT). Where a payment is delivered by EBT, the associated reporting required under section 5 shall be provided con- currently to Re:Sound and SOCAN by email.~~

~~(2) Anything mailed in Canada shall be presumed to have been received four business days after the day it was mailed.~~

~~(3) Anything sent by fax, by email, by FTP or by EBT shall be presumed to have been received the day it was transmitted.~~

Transitional Provisions

Calculating pay audio affiliation multiplier where no records

~~17. (1) Despite section 5, where a person makes a payment in respect of a distribution undertaking for a payment period that ended prior to the Tariff publication date and does not have records necessary to determine which categories of services that distribution undertaking received from Stingray in that payment period, the pay audio affiliation multiplier for that payment period shall be deter- mined as if the distribution undertaking received the same category of services as in the next payment period for which such records are available, but the distribution undertaking shall be deemed not have received a service in the original payment period if that payment period ended prior to the year listed in Table 7 for that service.~~

Table 7: deemed First year of Service

Service	Musie	Mobile	Ambiance	Musie Videos	Concert TV	Karaoke	Ubiquicast
Year	2010	2014	2014	2010	2013	2010	2010

When royalties and reporting due

~~(2) Despite sections 4 and 10, any royalties or reporting in respect of a payment period that ended prior to the Tariff publication date shall be due 90 days after the Tariff publication date.~~

~~Records (3) Despite subsections 11(1) and 11(2), any person that provides information in respect of a payment period that ended prior to the Tariff publication date shall keep and preserve records from which that information can be readily ascertained until the date that is the later of the last day of the period established for that information in subsections 11(1) or 11(2), and~~

- ~~a) 6 months after the Tariff publication date, for information listed in paragraph 11(1)(d); or~~
- ~~b) 24 months after the Tariff publication date, for all other information. (4) Despite 11(3), SOCAN or Re:Sound may audit these records at any time prior to 2 years after the Tariff publication date.~~

Interest on royalties

(5) Amounts owed to SOCAN or Re:Sound—or by SOCAN or Re:Sound—in respect of a payment period that ended prior to the Tariff publication date shall be increased by using the multiplying interest factor (based on the Bank of Canada Bank Rate) set out

a) where the payment period was a calendar year, in Table 8; or

b) where the payment period was a calendar month, in Table 9.

Table 8: Annual interest Factors

Payment Period	Original Due Date	Interest Factor
2007	31 Jan 08	1.2130
2008	31 Jan 09	1.1671
2009	31 Jan 10	1.1366
2010	31 Jan 11	1.1306
2011	31 Jan 12	1.1216
2012	31 Jan 13	1.1091
2013	31 Jan 14	1.0966
2014	31 Jan 15	1.0841
2015	31 Jan 16	1.0717
2016	31 Jan 17	1.0631

Table 9: Monthly interest Factors

Payment Period	Original Due Date	Interest Factor
Jan 07	28 Feb 07	1.2130
Feb 07	31 Mar 07	1.2093
Mar 07	30 Apr 07	1.2055
Apr 07	31 May 07	1.2018
May 07	30 Jun 07	1.1980
Jun 07	31 Jul 07	1.1943
Jul 07	31 Aug 07	1.1904
Aug 07	30 Sep 07	1.1864
Sept 07	31 Oct 07	1.1825
Oct 07	30 Nov 07	1.1785
Nov 07	31 Dec 07	1.1745
Dec 07	31 Jan 08	1.1708
Jan 08	29 Feb 08	1.1671
Feb 08	31 Mar 08	1.1636
Mar 08	30 Apr 08	1.1604
Apr 08	31 May 08	1.1574
May 08	30 Jun 08	1.1547
Jun 08	31 Jul 08	1.1520
Jul 08	31 Aug 08	1.1493

Aug-08	30-Sep-08	1.1466
Sep-08	31-Oct-08	1.1439
Oct-08	30-Nov-08	1.1416
Nov-08	31-Dec-08	1.1395
Dec-08	31-Jan-09	1.1379
Jan-09	28-Feb-08	1.1366
Feb-09	31-Mar-09	1.1356
Mar-09	30-Apr-09	1.1349
Apr-09	31-May-09	1.1344
May-09	30-Jun-09	1.1339
Jun-09	31-Jul-09	1.1335
Payment Period	Original Due Date	Interest Factor
Jul-09	31-Aug-09	1.1331
Aug-09	30-Sep-09	1.1327
Sep-09	31-Oct-09	1.1323
Oct-09	30-Nov-09	1.1319
Nov-09	31-Dec-09	1.1314
Dec-09	31-Jan-10	1.1310
Jan-10	28-Feb-10	1.1306
Feb-10	31-Mar-10	1.1302
Mar-10	30-Apr-10	1.1298
Apr-10	31-May-10	1.1294
May-10	30-Jun-10	1.1289
Jun-10	31-Jul-10	1.1283
Jul-10	31-Aug-10	1.1276
Aug-10	30-Sep-10	1.1268
Sep-10	31-Oct-10	1.1258
Oct-10	30-Nov-10	1.1247
Nov-10	31-Dec-10	1.1237
Dec-10	31-Jan-11	1.1227
Jan-11	28-Feb-11	1.1216
Feb-11	31-Mar-11	1.1206
Mar-11	30-Apr-11	1.1195
Apr-11	31-May-11	1.1185
May-11	30-Jun-11	1.1174
Jun-11	31-Jul-11	1.1164

Jul-11	31-Aug-11	1.1154
Aug-11	30-Sep-11	1.1143
Sep-11	31-Oct-11	1.1133
Oct-11	30-Nov-11	1.1122
Nov-11	31-Dec-11	1.1112
Dec-11	31-Jan-12	1.1102
Jan-12	29-Feb-12	1.1091
Feb-12	31-Mar-12	1.1081

Mar 12	30 Apr 12	1.1070
Apr 12	31 Mar 12	1.1060
May 12	30 Jun 12	1.1049
Jun 12	31 Jul 12	1.1039
Jul 12	31 Aug 12	1.1029
Aug 12	30 Sep 12	1.1018
Sep 12	31 Oct 12	1.1008
Oct 12	30 Nov 12	1.0997
Payment Period	Original Due Date	Interest Factor
Nov 12	31 Dec 12	1.0987
Dec 12	31 Jan 13	1.0977
Jan 13	28 Feb 13	1.0966
Feb 13	31 Mar 13	1.0956
Mar 13	30 Apr 13	1.0945
Apr 13	31 May 13	1.0935
May 13	30 Jun 13	1.0924
Jun 13	31 Jul 13	1.0914
Jul 13	31 Aug 13	1.0904
Aug 13	30 Sep 13	1.0893
Sep 13	31 Oct 13	1.0883
Oct 13	30 Nov 13	1.0872
Nov 13	31 Dec 13	1.0862
Dec 13	31 Jan 14	1.0852
Jan 14	28 Feb 14	1.0841
Feb 14	31 Mar 14	1.0831
Mar 14	30 Apr 14	1.0820
Apr 14	31 May 14	1.0810
May 14	30 Jun 14	1.0799
Jun 14	31 Jul 14	1.0789
Jul 14	31 Aug 14	1.0779
Aug 14	30 Sep 14	1.0768
Sep 14	31 Oct 14	1.0758
Oct 14	30 Nov 14	1.0747

Nov 14	31 Dec 14	1.0737
Dec 14	31 Jan 15	1.0727
Jan 15	29 Feb 15	1.0717
Feb 15	31 Mar 15	1.0709
Mar 15	30 Apr 15	1.0700
Apr 15	31 Mar 15	1.0692
May 15	30 Jun 15	1.0684
Jun 15	31 Jul 15	1.0675
Jul 15	31 Aug 15	1.0668
Aug 15	30 Sep 15	1.0662
Sep 15	31 Oct 15	1.0656

Oct 15	30 Nov 15	1.0649
Nov 15	31 Dec 15	1.0643
Dec 15	31 Jan 16	1.0637
Jan 16	28 Feb 16	1.0631
Feb 16	31 Mar 16	1.0624
Payment Period	Original Due Date	Interest Factor
Mar 16	30 Apr 16	1.0618
Apr 16	31 May 16	1.0612
May 16	30 Jun 16	1.0606
Jun 16	31 Jul 16	1.0599
Jul 16	31 Aug 16	1.0593
Aug 16	30 Sep 16	1.0587
Sep 16	31 Oct 16	1.0581
Oct 16	30 Nov 16	1.0574
Nov 16	31 Dec 16	1.0568
Dec 16	31 Jan 16	1.0562