



[PN 2022-005]

June 17, 2022

Note: This Practice Notice may be amended following the coming-into-force of the *Copyright Board Rules of Practice and Procedure*.

PRACTICE NOTICE ON FILING OF JOINTLY-SUBMITTED TEXTS IN A PROCEEDING

General Statement

A set of royalty rates, terms, and conditions submitted jointly by parties to a proceeding (a “jointly-submitted text”) can constitute important evidence in the Board's consideration of a proposed tariff. Additional information is generally required by the Board in evaluating the jointly-submitted text. The purpose of this Practice Notice is to prompt parties to proactively provide this information, in order to expedite the Board’s consideration of affected proposed tariffs.

Joint Request

If a collective society and one or more objectors (the Parties) jointly submit a set of royalty rates and related terms and conditions to the Board and they jointly request that the Board approve a proposed tariff based on those royalty rates and terms and conditions, they must file the following:

1. Submissions in support of their request. These should

- (a) describe, in plain language, the context in which the Parties agreed to file the jointly-submitted text;
- (b) identify each proposed tariff—or a portion of a proposed tariff—that is to be approved on the basis of the jointly-submitted text;
- (c) where a portion of a proposed tariff has been identified in (b), describe the activities covered by that portion, a description of activities covered by the remaining portion of the proposed tariff, and examples of both of these;

(d) indicate whether any users would owe greater royalties pursuant to the jointly-submitted text than under the proposed tariffs identified in (b) and, if applicable, a summary of the situations in which this would arise;

(e) where the jointly-submitted text is based on a source (e.g., proposed tariff, last-approved tariff, other agreement), describe any changes between that source and the joint submission, along with an explanation of the intended effect of such changes;

(f) describe the extent to which the objector or objectors can represent the interests of all other affected users;

(g) describe the extent to which the jointly-submitted text addresses any objections—whether the grounds for these are legal, economic, or other—made to the proposed tariffs identified in (b); and

(h) state whether any of the Parties are aware of other agreements for uses similar to those covered by the jointly-submitted text, and, if so, an indication of the number of such agreements and whether they are substantially similar to the jointly-submitted text.

2. A blackline comparison between

(a) the jointly-submitted text, and each proposed tariff identified in 1(b); and

(b) the jointly-submitted text, and any source identified in 1(e).

3. All agreements concluded between the Parties, in their entirety, including any appendices, annexes, and addendums. If any agreement, or portion, was concluded orally, a description of these.

4. Any other submissions and evidence in support of the proposition that the jointly-submitted text is fair and equitable.

5. If available, an estimate of the total royalties the collective society would expect to collect if all users paid the rates in the jointly-filed text.

6. Any evidence to support any claims made.

Any confidential information must be filed, and will be treated, in conformity with any Confidentiality Order issued in the proceeding.

Failure to provide the above information will result in delays in the Board's consideration of the affected proposed tariffs, and may result in the Board not being able to adequately assess the fairness of the jointly-submitted text.