Copyright Board Canada
Commission du droit d'auteur Canada
CANADA

NEWS RELEASE

The Copyright Board of Canada sets royalties to be paid by commercial radio stations for their use of music

April 21, 2016

Ottawa. Today, the Copyright Board of Canada issued a decision setting the royalty rates that commercial radio stations must pay to the following collective societies representing rights holders for the years indicated in brackets: the Society of Composers, Authors and Music Publishers of Canada (SOCAN: 2011-2013), Re:Sound Music Licensing Company (Re:Sound: 2012-2014), the Canadian Musical Reproduction Rights Agency and the Society for Reproduction Rights of Authors, Composers and Publishers in Canada (jointly, CSI: 2012-2013), the Connect Music Licensing Service Inc. and the *Société de gestion collective des droits des producteurs de phonogrammes et de vidéogrammes du Québec* (jointly, Connect/SOPROQ: 2012-2017) and Artisti (2012-2014).

A Canadian radio station that broadcasts recorded music reproduces and communicates musical works, performers' performances and sound recordings. Collective societies filed five separate tariffs dealing with one or more of those activities. The Board consolidated their examination into a single hearing that took place in October 2013 in order to be able to set tariffs for all of those rights at the same time.

Today's decision leaves the rates for SOCAN and Re:Sound unchanged at 4.4 and 2.1 per cent, respectively, of a radio station's gross income above $1.25 million. The rate for CSI decreases from 1.24 to a base rate of 0.95 per cent. The rates for Connect/SOPROQ and Artisti also decrease, from 1.19 and 0.023 to base rates of 0.94 and 0.02, respectively. In addition, the CSI, Connect/SOPROQ and Artisti rates could be further reduced if commercial radio stations are able to demonstrate they meet certain conditions relating to the types of reproductions they make.

The decrease in the rates for CSI, Connect/SOPROQ and Artisti reflects the coming into force (on November 7, 2012) of certain provisions of the *Copyright Modernization Act* providing new copyright exceptions that apply to radio stations activities.

The Canadian Association of Broadcasters (CAB), representing the radio stations, essentially argued that, as a result of the new exceptions and of decisions from the Supreme Court of Canada, there was no legal basis for the commercial radio "reproduction tariffs". The Board agreed in part with CAB, and decided that there were three types of copies made by radio stations that qualify for an exception and for which no royalties would need to be paid: the Music

Evaluation copies, the Streaming copies and the Backup copies. This resulted in a general discount of about 22 per cent to the reproduction royalty rates, equivalent to a reduction in royalties to be paid of $5.6 million.

The Board also found that stations able to demonstrate that they comply with the requirements in the *Copyright Act* in respect of "ephemeral" reproductions could benefit from an additional, station-specific discount to account for this new exception in respect of the following types of reproductions: Ingest copies, Voice-Tracking copies and Live Performance copies. This discount will vary between stations depending on their degree of compliance with the statutory requirements. The Board estimates that this potential discount could result in a maximum, further reduction of about 28 per cent, equivalent to an additional reduction in royalties to be paid of about $7 million.

Mr. Gilles McDougall, Secretary General of the Board, explained that "as a result of today's decision, the Board estimates that, without the additional reduction, the royalties to be paid by all commercial stations in a year will total $93.5 million." Of that amount, $55.5 million will go to SOCAN, $18 million to Re:Sound, $10 million to CSI, $10 million to Connect/SOPROQ and $200,000 to Artisti.

"With total radio stations revenues slightly over $1.5 billion for 2013," added Mr. McDougall, "the effective total royalty rate to be paid by radio stations is close to 6 per cent. This corresponds to the proportion of their revenues that commercial radio stations will effectively be paying to all rights owners for their use of music."

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Note: The Certified Tariff (available on April 22, 2016), along with the Reasons and a Fact Sheet 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.

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