Understanding the New Re:Sound Tariffs

Arts in Perspective conversation
With Frédéric Julien, Director of Research and Development
CAPACOA
January 23, 2018
Arts in perspective

- Webinar presentation
- Panel discussion
- Town hall
- Roundtable
- Meeting

More interaction
Less control
ABOUT RIGHTS
Whose right is this?

• Grand rights:
  – Rights for the public performance of a dramatic work.

• Copyright:
  – The right of composers and music publishers

• Neighbouring rights:
  – The rights of performers (musicians and vocal artists) and producers (record companies) of *published* sound recordings
Where does it come from?

• Neighbouring Rights were first acknowledged in the 1961 Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations.
• Copyright Act of Canada was amended in 1997 to integrate neighbouring rights.
• Re:Sound was formed in 1997 (originally as NRCC) following this amendment.
• Re:Sound is designated by the Copyright Board of Canada as the sole collective society authorized to collect neighbouring right royalties on behalf of member organizations.
How are tariffs and rates established?

- The Copyright Board is a federal tribunal empowered to establish royalties to be paid for the use of copyrighted works.
  1. Re:Sound proposes tariffs
  2. Re:Sound consults with music users
  3. Music users may provide input to the Copyright Board.
  4. The Board sets the royalties and certifies the tariffs
CAPACOA and Re:Sound: a brief history

• The first Re:Sound live events tariffs were certified by the Copyright Board in 2012.
• CAPACOA started negotiating new tariffs that were more suited to the realities of presenting organizations.
• A Settlement agreement was struck in 2014.
• The tariffs certified in 2017 include the new tariffs jointly developed by CAPACOA and Re:Sound.
Core values for tariff development

- Fair
- Simple
- Flexible
- Efficient

17,000 payments per year

>$40M in royalty revenues
QUESTIONS?
COMMENTS?
WHICH LICENCE DO YOU NEED?
Neighbouring Rights Decision Tree for Multi-Disciplinary Presenters

Note: This simplified decision tree accounts only for the use of recorded music at events that involve live performances. Other types of events and activities may be subject to other tariffs.

What type of live event is this?

Is this event a festival?

Yes

Licence under Re:Sound 5.D - Festivals, Exhibitions and Fairs

No

Is recorded music being used as part of the performance?

How is recorded music being used?

Yes

Licence under Re:Sound 5.K - Theatrical, Dance and Other Similar Live Performances

No

Is background music being played before/after the performance or during intermission?

Yes

Licence under Re:Sound 3.B - Background music *

No

No Re:Sound licence is required

Receptions and other types of events may be subject to other tariffs.
Festivals – Tariff 5.D

This is a ‘blanket’ tariff that accounts for both performance use and background use.

<table>
<thead>
<tr>
<th>Average Daily Attendance</th>
<th>Fee Payable per Day</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 5,000 persons</td>
<td>$8.00</td>
</tr>
<tr>
<td>5,001 to 10,000 persons</td>
<td>$18.00</td>
</tr>
<tr>
<td>10,001 to 20,000 persons</td>
<td>$36.00</td>
</tr>
<tr>
<td>20,001 to 30,000 persons</td>
<td>$60.00</td>
</tr>
<tr>
<td>30,001 to 50,000 persons</td>
<td>$96.00</td>
</tr>
<tr>
<td>50,001 to 75,000 persons</td>
<td>$150.00</td>
</tr>
<tr>
<td>75,001 to 100,000 persons</td>
<td>$210.00</td>
</tr>
<tr>
<td>100,001 to 150,000 persons</td>
<td>$300.00</td>
</tr>
<tr>
<td>150,001 to 200,000 persons</td>
<td>$420.00</td>
</tr>
<tr>
<td>Over 200,000 persons</td>
<td>$600.00</td>
</tr>
</tbody>
</table>
Performance use – Tariff 5.K

• Tariff 5.K - Recorded Music Accompanying Theatrical, Dance and other Live Performances
  – Single tariff designed specifically with multi-disciplinary presenters in mind.
  – Applies to “live entertainment event including theatrical, dance, acrobatic arts, integrated arts, contemporary circus arts or other live performances”
Performance use – Tariff 5.K

• Two degrees of use:
  – Integral use: more than 10%
  – Incidental use: less than 10% of the length of the event or less than 10 minutes in total duration

• Also covers all use of background music at the event, whether inside or outside the venue, including sound recordings played during intermissions and during the entrance and exit of the audience
Performance use – Tariff 5.K

Fees payable:

• Integral use (at least 10% of performance length):
  – 3.2¢ per admission (free or paid)
  – Minimum fee of $30 per event

• Incidental use (less than 10% or 10 min. total):
  – 0.8¢ per admission (free or paid)
  – Minimum fee of $15 per event

• Annual minimum fee of $50 applies instead of cumulative minimum fees per event (when these exceed $50)
Performance use – Calculation Examples

• A single performance with 400 admissions
  – 400 x $0.032 = $12.80
  – Minimum fee per event = 30$
  – The higher of the two applies ⇒ 30$

• A single performances with 1,000 admissions
  – 1,000 x $0.032 = $32.00
  – Minimum fee per event = 30$
  – The higher of the two applies ⇒ $32.00
Performance use – Calculation Examples

• Two performances with 800 total admissions
  – 800 x $0.032 = $25.60
  – Minimum annual fee takes over per-event fee = $50
  – The higher of the two applies ⇒ $50

• Eight performances with 3,200 total admissions
  – 3,200 x $0.032 = $102.40
  – Minimum annual fee takes over per-event fee = $50
  – The higher of the two applies ⇒ $102.40
Background music – Tariff 3.B

• Applies to any background use of recorded music that isn’t licenced under another tariff.
  – Does not apply to background music suppliers who already pay royalties under Tariff 3.A
  – Does not apply to AM/FM radio
Background music – Tariff 3.B

• Fees payable:
  – 0.0931¢ per admission, attendee, or tickets sold.
  – Minimum annual fee of $25.
  – Other fees exist based on capacity (for restaurants) or area (for stores). These fees are however comparatively more expensive.
OTHER TARIFFS
Other tariffs that may apply

• Receptions – Tariff 5.B
  – Applies to receptions (including weddings), conventions, video game events, assemblies and fashions shows
  – You should pass it on to your rental clients as a distinct line item on their invoices:
    “Neighbouring rights royalties for the use of recorded music during a reception, as per Re:Sound Tariff 5.B”
Receptions – Tariff 5.B

<table>
<thead>
<tr>
<th>Room capacity (seating and standing)</th>
<th>Fee per event without dancing</th>
<th>Fee per event with dancing</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-100</td>
<td>$9.25</td>
<td>$18.51</td>
</tr>
<tr>
<td>101-300</td>
<td>$13.30</td>
<td>$26.63</td>
</tr>
<tr>
<td>301-500</td>
<td>$27.76</td>
<td>$55.52</td>
</tr>
<tr>
<td>Over 500</td>
<td>$39.33</td>
<td>$78.66</td>
</tr>
</tbody>
</table>
Discipline-specific tariffs

- Organizations that present a single discipline or a single type of event may be subject to other, discipline-specific, live events tariffs, such as:

  - 5.E – Circuses, Ice Shows, Fireworks Displays and Similar Events
  - 5.I – Comedy and Magic Shows
  - 5.J – Concerts
Other tariffs that may apply

• 5.C – Karoke
• 5.F – Parades
• 5.G – Parks, Streets and other Public Areas
• 6.A – Dance (if you operate a dance club or hold dance events on a regular basis)
• 6.B – Fitness Activities (including dance classes)
  – Note to municipal presenters: municipalities may have a licencing arrangement with Re:Sound. If you are a municipally-owned presenting organization, check with your accounting department.
QUESTIONS?
COMMENTS?
REPORTING AND REMITTING
Who is responsible to pay?

• All parties involved (presenter, rental client, venue, producer) have a joint liability

• Many factors may be taken into account:
  – Who is likely to remit the most licence fees (cost-efficiency)?
  – Who has access to the information required for licensing?
  – Who has the primary business relationship with the audience?
Deadline for reporting

• Reports and payments of royalties for the 2017 calendar year are due January 31, 2018
• If you owe licences in excess of $500 per year, you will have to report on a quarterly basis.
• The Receptions Tariff (5.B) also requires quarterly reporting.
The PDF reporting form

- Re:Sound designed a PDF reporting form for CAPACOA members:
  - Tip on downloading: The form is saved within a .zip directory. You will have to uncompress the directory to access the form.

- The form only includes the performance, background, reception and festival tariffs.
The online reporting form

http://www.resound.ca/music-use-reporting-form/
DISCUSSION