



COPYRIGHT BOARD



ANNUAL REPORT
1993 – 1994

Copyright Board
Canada



Commission du droit d'auteur
Canada

The Honourable John Manley, P.C., M.P.
Minister of Industry
Ottawa, Ontario
K1A 0A6

Dear Mr. Minister:

It is my pleasure to transmit to you, pursuant to section 66.9 of the *Copyright Act*, the sixth Annual Report of the Copyright Board, covering the period from April 1, 1993 to March 31, 1994, for submission to Parliament.

Yours sincerely,

Michel Héту
Vice-Chairman and
Chief Executive Officer

HIGHLIGHTS

Bill C-93 [*An Act to implement certain government organization provisions of the 1992 budget*] which provided, among other things, for the merger of the Copyright Board and the Trade Marks Opposition Board in order to create the Intellectual Property Tribunal, was defeated in the Senate on June 10, 1993. The Board's jurisdiction accordingly remains as it is under the *Copyright Act*.

The Board rendered a decision on December 6, 1993, concerning the public performance of music. This decision stated the reasons for certifying several tariffs including those for commercial television for the years from 1990 to 1993 and commercial radio for 1993, which were the subject of hearings before the Board.

During the last year the Board also held hearings on the use of music on non-commercial radio and in municipal recreation facilities. A decision will be rendered in 1994-1995.

Bill C-88 [*An Act to Amend the Copyright Act*] received Royal assent on May 6, 1993. This legislation modernizes the definition of a "musical work" and provides a clearer definition of the expression "performance" of a work. It confirms the duty that cable operators will have in future with respect to the tariff for the use of music by services other than broadcasting. The Board will hold hearings on this tariff during the coming year.

In March 1993, the Board organized a colloquium on collective administration of copyright in cooperation with the *Association littéraire et artistique canadienne* (ALAI Canada), the *Centre de recherche en droit public* at the *Université de Montréal* and the *Chaire de gestion des arts* at *L'École des Hautes Études Commerciales*. This colloquium gave all participants a chance to familiarize themselves with the various systems of collective administration of copyright on both the national and international levels and with the consequences and impact of new technologies and new media on copyright.

The colloquium also provided an opportunity to consider the relevance and effectiveness of the existing regulatory schemes for which the Board is responsible and, on the basis of the experience of the last five years, to suggest changes that could be made to these schemes as part of the review of the *Copyright Act* (Phase II).

Furthermore, members of the Board were invited to speak at conferences organized by professional associations and conference organizers in the intellectual property area. Information on these activities may be obtained from the Secretariat of the Board

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**BOARD MEMBERS AND STAFF
as of April 1, 1994**

Chairman: Mr. Justice Donald Medhurst

*Vice-Chairman and
Chief Executive Officer:* Michel Hétu, Q.C.

Members: Dr. Judith Alexander
Michel Latraverse

General Counsel: Mario Bouchard

Secretary: Claude Majeau

Researcher-Analyst: Pierre Lalonde

Administrative Officer: Ivy Lai

Assistants: Michel Gauthier
Lise St-Cyr

THE MANDATE OF THE BOARD

Established on February 1, 1989, as the successor of the Copyright Appeal Board, the Copyright Board has four distinct areas of jurisdiction under the *Copyright Act*. Its responsibilities are to:

- ◆ establish tariffs for the retransmission of distant television and radio signals (sections 70.61 to 70.67);
- ◆ establish tariffs for the public performance of music (sections 67 to 69);
- ◆ adjudicate rate disputes between licensing bodies representing classes of copyright owners and users of their works (sections 70.2 to 70.4);
- ◆ rule on applications for non-exclusive licences to use published works of unlocatable copyright owners (section 70.7).

In addition, the Minister of Industry can direct the Board to conduct studies with respect to the exercise of its powers (section 66.8).

Finally, any party to an agreement on copyright royalties payable to a licensing body can file the agreement with the Board within 15 days of its conclusion (section 70.5).

ORGANIZATION OF THE BOARD

Detailed information on the Board's resources, including financial statements can be found in its Expenditure Plan for 1994-95 (Part III of the Estimates), which was tabled in Parliament on February 24, 1994.

Board members are appointed by the Governor in Council to hold office during good behaviour for a term not exceeding five years. They may be reappointed once.

The *Act* states that the Chairman must be a judge, either sitting or retired, of a superior, county or district court. The Chairman directs the work of the Board and apportions its caseload among the members. In matters before the Board, the Chairman casts the deciding vote in the case of a tie.

The *Act* also designates the Vice-Chairman as Chief Executive Officer of the Board, exercising direction over the Board and supervision of its staff.

Chairman

The Honourable Donald Medhurst has been a justice of the Alberta Court of Queen's Bench since 1979. He previously served on that province's District Court. His appointment to the Board is on a part-time basis. Mr. Justice Medhurst was appointed in 1989 and reappointed in 1992 for two years.

Vice-Chairman & Chief Executive Officer

Michel Héту, Q.C., was the Head of Legal Services at the Federal Department of Communications from 1981 to 1988. In that capacity, he was extensively involved in the reform of copyright law. He was also a member of the Copyright Appeal Board from 1982 to 1989, when it was replaced by the Copyright Board. Mr. Héту is a full-time member of the Board and was appointed in February 1989 and reappointed in 1994 for five years.

Members

Judith Alexander has held various teaching positions in Economics since 1972 at the University of Kentucky, the University of Regina, Simon Fraser University and Carleton University. She has been an economist with the Patented Medicine Prices Review Board and, from 1986 to 1988, she was the Director of Regulatory Affairs of the Bureau of Competition Policy within the Federal Department of Consumer and Corporate Affairs. Dr. Alexander has also been a member of the Medical Care Insurance Commission of Saskatchewan. She is a full-time member of the Board, first appointed in 1989 and reappointed in 1992 for two years.

Michel Latraverse was a member of the Economic Council of Canada from 1986 to 1988. He has held senior management positions in various Quebec-based corporations. Mr. Latraverse is a member of the Chamber of Notaries of Quebec. He is a full-time member of the Board, first appointed in 1989 and reappointed in 1992 for two years.

The Board's staff

The Board has a staff of six employees, three of whom report to the Chief Executive Officer — the General Counsel, the Secretary and the Researcher-Analyst.

The General Counsel provides legal advice on proposed tariff and licence applications before the Board. The General Counsel also represents the Board before the Courts in matters involving its jurisdiction or decisions.

The Secretary plans the Board's operations, serves as its Registrar, represents the Board in its relations with members of parliament, provincial governments, the media and the public and directs the preparation of the Board's reports to Parliament and to the federal government's central agencies.

The Researcher-Analyst provides economic expertise to the Board on matters raised by proposed tariffs and licence applications and conducts studies on specific aspects of rate regulation.

To avoid the cost of additional administrative staffing, the Board entered into a support services agreement with the Department of Industry. The department provides support services and expert advice in personnel, administrative and financial matters. The Board appreciates the excellent services provided under this agreement.

ACTS, REGULATIONS AND ORDERS IN COUNCIL

1. The *Act to Amend the Copyright Act and Other Acts (Industrial Design, Integrated Circuit Topography, Patent and Trade Marks)* [Bill S-17] received Royal assent on May 6, 1993. Section 11 of this *Act*, which came into effect on January 15, 1994, provides that the time for the filing of proposed tariffs for the retransmission of distant radio and television signals is moved up from June 30 to March 31 preceding the date on which the approved statement ceases to be effective. Since the tariffs currently in force expire at the end of 1994, the licensing bodies filed their new proposed tariffs in late March 1994.

2. The *Act to Amend the Copyright Act* [Bill C-88] also received Royal assent on May 6, 1993. An Order of the Governor in Council dated June 8, 1993 set August 31, 1993, as the date on which the *Act* would take effect. It amends the definition of “musical work” and the concept of “performance” of a work. It also clarifies the nature of the use of music by cable operators when they transmit services other than broadcasts.

3. The *Act to Implement certain government organization provisions of the 1992 budget* [Bill C-93] was defeated in the Senate on June 10, 1993. Among other measures, this Bill provided for the merger of the Copyright Board and the Trade Marks Opposition Board. Thus, the jurisdiction of the Board remains unchanged.

4. An Order of the Governor in Council dated June 15, 1993, transferred all the jurisdiction of the Minister of Consumer and Corporate Affairs to the Minister of Industry, Science and Technology. The latter is now the Minister through whom the Board reports to Parliament on its activities.

5. On August 26, 1993, the Governor in Council approved the *Programming Undertaking Regulations*, made under the *Copyright Act*. The Regulations define the expression “programming undertaking” as a network consisting of a programming creator and a programming distributor.

HEARINGS HELD BY THE BOARD IN 1993-1994

The hearings held by the Board during this period concerned the following tariffs:

1.A (Commercial Radio), 1.B (Non-Commercial Radio), 7 (Skating Rinks), 8 (Receptions, Conventions, Assemblies and Fashion Shows), 9 (Sport Events), 11 (Circuses, Ice Shows, Comedy Shows and Magic Shows) and 19 (Fitness Activities). Tariff 1.A was the subject of a decision that will be noted later. The other tariffs will be the subject of decisions to be rendered in 1994-1995.

MUSIC PERFORMANCE TARIFFS

Background

The Board inherited this area of jurisdiction from the former Copyright Appeal Board which for many years had been responsible for setting the annual tariffs of the licensing bodies for performing rights.

The Society of Composers, Authors and Music Publishers of Canada (SOCAN) must file a statement of proposed royalties with the Board at least four months before the beginning of the year in which the tariff is to apply. This proposed tariff is then published by the Board in the *Canada Gazette*. Any music user or its representative has the right to file an objection with the Board within 28 days of publication. SOCAN and the objectors are provided with an opportunity to present evidence and argument to the Board before the tariff is established. Once the Board has completed its inquiry, the Board establishes the tariff, publishes it in the *Canada Gazette*, and provides written reasons in support of its decision.

Decisions of the Board

The Board issued a decision on December 6, 1993, concerning the public performance of music. This decision concerned the following tariff items:

For the years 1990 to 1993:

Tariff item 2.A.1 (Commercial Television)

For the years 1992 and 1993:

Tariff item 10 (Parks, Streets or Squares)

For the year 1993:

Tariff items:

- 1.A (Commercial Radio)
- 2.B (Ontario Educational Communications Authority)
- 2.C (Société de radio-télévision du Québec)
- 3 (Cabarets, Cafes, Clubs, Cocktail Bars, Dining Rooms, Lounges, Restaurants, Roadhouses, Taverns and Similar Establishments)
- 5.A (Exhibitions and Fairs)
- 12 (Ontario Place Corporation, Canada's Wonderland and Similar Operations)
- 13.A (Aircraft)
- 14 (Performance of an Individual Work)
- 15 (Background Music in Establishments not covered by Tariff No. 16)
- 16 (Music Suppliers)
- 18 (Recorded Music for Dancing)
- 20 (Karaoke Bars and Similar Premises)

Tariff items 1.A (Commercial Radio) and 2.A.1 (Commercial Television) were certified following hearings before the Board. Tariff items 2.B, 2.C, 3, 5.A, 12, 13.A, 16, 18 and 20 reflect agreements

concluded between SOCAN and potential users. Tariff items 10, 14 and 15 were not opposed. The Board did not increase the amounts of money involved because the increase in the *Consumer Price Index (CPI)* for the relevant periods was below 2 per cent.

Wording of Tariff items

The Board strove to make the tariff items it certifies clearer and more readable. SOCAN and user representatives co-operated with the Board in this regard. This is part of a long-term effort to ensure that the regulations made by the Board are more accessible to those who are subject to them.

Commercial radio

SOCAN requested three amendments to the tariff applying to commercial radio in its statement of proposed royalties for 1993. The first was designed to increase the percentage of gross income payable by stations generally from 3.2 to 5 and the percentage payable by stations using protected music for less than 20 per cent of their air time (“low users”) from 1.4 to 2.2. The second request was that low-user status be established each month rather than for the whole year. The third request was that stations claiming low-user status have an express duty to establish their eligibility.

The Canadian Association of Broadcasters (CAB), Standard Broadcasting, and CFMX filed objections. They requested that the general rate be reduced to 2.8 per cent and

that the low-users rate remain at 1.4 per cent. They said that they agreed that the applicable rate should be determined each month but were opposed to the principle that the station should have the onus of establishing that it was entitled to the reduced rate. Finally, they requested that so-called “production” music, which was incorporated particularly in advertisements, public interest messages and incidental music, not be taken into account for the purpose of establishing a station’s low-user status.

The Board maintained the rates at their current levels. It recognized that the radio industry had experienced difficulties over the last few years but concluded that the situation seemed to have stabilized. It felt that it was not the price paid for music that led to losses on investment in the industry, which was still able to pay just as much for this music as it had paid five or six years ago.

The Board noted the symbiotic relationship between the music and radio industries but did not accept CAB’s argument that it was necessary to take this fact into account in setting the tariff. Nor did it accept the comparison with the American rate since it felt that the conditions in the Canadian and American markets were very different.

As far as low users were concerned, the Board required them to retain the recording of a day’s broadcasts for a period of ninety days; as it happens, the CRTC already requires these recordings to be kept for a period of twenty-eight days. Since such recordings are a faithful reflection of a station’s daily use of music, they could be

used to establish low-user status. The Board also accepted the request of the parties that this status be established each month. Moreover, it also acceded to the request that production music be excluded in calculating the use of music.

Commercial television

This was the first time that the Board had to examine this tariff. Previously, judicial challenges had prevented the Board from doing so. The CAB, which had opposed SOCAN's statement of proposed royalties, suggested that the amount of royalties to be paid by American stations to the American licensing bodies be taken as a starting point. It also requested that machinery be put in place that would enable each station to reduce the amount of royalties to be paid to SOCAN on the basis of the number of programs containing only unprotected music or which were otherwise free of royalties. Finally, CAB attempted to show that the role of music in television programming was less important than that of other production inputs and that, in any event, its importance had declined since 1958.

On July 5, 1993, CAB asked that the Board reopen the television tariff hearings. It argued that in setting the price for a television broadcaster's music performance licence, the Board should not take account of those viewers who receive their local signals through a retransmitter.

At the very outset the decision disposed of two questions raised during the hearings: one concerning the onus of proof and the other the Board's mandate. The Board

stated that the ordinary rules governing the onus of proof did not apply before the Board. It expected each participant to state the reasons why it supported or was opposed to a given proposed tariff. It also rejected the claim that the *Act* required the adoption of tariff structures and levels based on prices that would prevail if there were a free market in performance rights. The Board interpreted its mandate as being to establish tariffs on a "reasonable and suitable" or "rational" basis and it felt that a reasonable price was not necessarily a market price.

The Board rejected the various arguments made by the CAB in favour of setting aside the existing tariff formula since it felt that this formula, which was "simple, easy to administer and understand, does not require continual reassessment, and automatically accounts for changes in audience, prices, revenues and the number of users". It held that the alternative proposed by the CAB, namely, establishment of a lump sum tariff for each station, did not provide any advantages over the existing formula.

As to the granting of discounts for programming in which music is not subject to SOCAN's control, the Board found that it was unlikely that a system would be set up in Canada for the discharge of royalties at source. What is more, since the United States is the only country where licensing bodies cannot obtain exclusive assignments, their members are the only ones who can assign their performance rights to Canadian television stations. The result could be a benefit for the members of these licensing bodies.

Moreover, the Board also held that nothing in the development of the industry since 1986 (the year when, following a review, the Copyright Appeal Board established the rate at its current level of 2.1 per cent) seemed to justify a reduction in the rate. It also held that the deterioration in the situation of the industry was not related to royalties for the performance of music.

We should note that composition royalties are negotiated, performance royalties are regulated and there seems to be a balance between the two. Moreover, the CAB maintained that it would be preferable to reduce performance royalties to enable the market to play a greater role in determining total remuneration of those copyright owners. Out of fear that such a change would lead to distortions during the transition period, which could be lengthy, and produce an unfavourable balance of power for copyright owners in the Canadian market, the Board rejected this claim. It also stressed that such a measure could unduly reduce the role of collective management of performance rights.

The Board also held that the role played by cable operators had no impact on what constituted a fair price to be paid by broadcasters for the public performance of music when it did so by broadcasting a television signal in a local market. It accordingly refused to “discount” the tariff payable by broadcasters to take into account the viewing of television programs on cable.

[NOTE: On January 5, 1994, the CAB filed an application in the Federal Court of Appeal for judicial review of this part of the decision dated December 6, 1993.]

SOCAN-CAMP Agreement

An agreement was concluded on November 20, 1992, between SOCAN and the Canadian Alliance of Music Presenters (CAMP) and filed with the Board on August 9, 1993. This agreement relates to the following tariffs: 4 (Concerts), 5.B (Concerts at Exhibitions), 9 (Sports Events) and 11 (Circuses, Comedy Shows, etc.); it covers periods ranging from two to five years beginning in 1992.

On September 3, 1993, the Board distributed copies of the agreement as well as the questions and comments it had sent to SOCAN and CAMP to persons who had expressed an interest in the tariffs involved in the agreement. The Board received replies from Canada’s Wonderland, the Canadian Arts Presenting Association (CAPACOA), the Kaslo Concert Society, Live Entertainment of Canada and Mr. Patrick Cardy, President, Carleton University Committee on Cultural Activities, and the *Société professionnelle des auteurs et des compositeurs du Québec* (SPACQ).

The hearings to examine this tariff will take place early in 1994-1995.

Tariffs proposed for 1994

The Board published SOCAN's statement of proposed royalties for 1994 in the *Canada Gazette* on October 9, 1993. The main features were as follows:

- Commercial television: SOCAN continues to request that the networks pay 2.1 per cent of their revenues, although it has suggested two alternative formulas. Under the first, the revenue base on which stations affiliated with a network would pay royalties would be broadened. Under the second, these stations would pay royalties solely on their own revenues but at a 3 per cent rate;
- Retransmission of local television and radio signals: SOCAN proposes a 40-cent tariff per month per subscriber for television and 10 cents per month per subscriber for radio.

RETRANSMISSION TARIFFS

Background

In the 1987 Free Trade Agreement with the U.S., Canada agreed to amend its *Copyright Act* so that copyright owners of works aired on television and radio stations would be compensated when those works are retransmitted outside the area served by the broadcaster. The Copyright Board sets the royalties to be paid each year by cable operators and other retransmitters, and decides how they are to be divided among the collecting bodies that represent the copyright owners.

A collecting body must file a statement of proposed royalties with the Board before March 31 preceding the date when the approved statement ceases to be effective. This proposed tariff is then published by the Board in the *Canada Gazette*. Any retransmitter or its representative has the right to file an objection with the Board within 28 days of publication. The collecting bodies and the objectors are provided with an opportunity to present evidence and argument to the Board before the tariff is established. Once the Board has completed its inquiry, the Board establishes the tariff, publishes it in the *Canada Gazette*, and provides written reasons in support of its decision.

The Board issued its first decision, which set tariffs for 1990-91, on October 2, 1990. Interim tariffs were approved for 1992 to enable the Board to complete its inquiry on new tariffs. On January 14, 1993, the Board announced new tariffs for 1992, 1993 and

1994. These tariffs were published in the *Canada Gazette* on January 16, 1993.

CBRA application

On January 21, 1994, the Canadian Broadcasters Rights Agency (CBRA) asked the Board to amend the tariff for 1994, maintaining that the amendments made to the *Copyright Act* that came into effect on January 1, 1994, meant that the broadcast day was a work of compilation that entitled them to compensation under the retransmission royalties system.

Section 66.52 of the *Act* enables the Board to vary a decision if there has been a material change in the relevant circumstances. The Board concluded, however, that the situation did not allow it to determine quickly whether the conditions prescribed by this section had been satisfied. Moreover, it noted that any delay in acting could prejudice the applicant: in fact, it could well lose any compensation for the period preceding the decision to vary even if the Board allowed the application. It therefore decided to make the tariff published in the *Canada Gazette* on January 16, 1993, an interim tariff until it had decided on the application for a variation, as part of its review of the statement of proposed royalties for 1995 and the following years.

Statement of proposed royalties for retransmission (1995-1997)

On March 31, 1994, the Board received a statement of proposed royalties for the retransmission of distant radio and television signals for 1995-1997 by the following collecting bodies:

Television signals:

Border Broadcasters' Collective (BBC)
Canadian Broadcasters Rights Agency (CBRA)
Canadian Retransmission Collective (CRC)
Canadian Retransmission Right Association (CRRA)
FWS Joint Sports Claimants (FWS)
Major League Baseball Collective of Canada (MLB)
Society of Composers, Authors and Music Publishers of Canada (SOCAN)

Radio signals:

Canadian Broadcasters Rights Agency (CBRA)
Canadian Retransmission Right Association (CRRA)
Society of Composers, Authors and Music Publishers of Canada (SOCAN)

The Board will publish the statements of proposed royalties for these collecting bodies in the *Canada Gazette* early in 1994-1995 and retransmitters or their representatives will have an opportunity to object to the collecting bodies' proposals within the usual time limits.

Agreement between the parties

On March 30, 1994, the CCC representative informed the Board that an agreement had been concluded between the collecting bodies and the Canadian Cable Television Association (CCTA). The parties agreed to submit to the Board the following:

- The certified proposal will relate to the years 1995 to 1997;
- The rates and discounts applicable to systems other than small systems will remain the same without adjustment for inflation for the whole period, subject to what the Board might allow as compilation royalties;
- The applicable rate for small retransmission systems will remain at \$100;
- The collecting bodies will not request additional royalties for compilation in excess of:
 - (a) 3 cents per month per subscriber for systems serving more than 6,000 subscribers;
 - (b) 2 cents per month per subscriber for systems serving between 3,001 and 6,000 subscribers;
 - (c) 1 cent per month per subscriber for systems serving between 1,001 and 3,000 subscribers.
- The CCTA may object to the addition of a further royalty for compilation.

COURT DECISIONS ISSUED DURING 1993-1994

CTV decision (*Court File: 23455 and 23456*)

In 1989, SOCAN's predecessors asked the Board to approve a tariff for the use of music by commercial television networks. The CTV network applied to the Federal Court to prevent the Board from considering this proposal. The Federal Court Trial Division granted the CTV's application in April 1990 (*for a summary of the decision see the Board's 1990-1991 Annual Report, page 12*). The Federal Court of Appeal confirmed this decision on the ground that a network's communication of its programming to its affiliates is a private communication and that the stations already hold a general licence for public communication that covers broadcast network programming.

On December 23, 1993, the Supreme Court of Canada dismissed SOCAN's application for leave to appeal the decision of the Federal Court of Appeal.

Canadian Cable Television Association decision (*Court File: 23457*)

CAPAC and PROCAN also sought a tariff for pay and specialty television services transmitted by cable. The Canadian Cable Television Association (CCTA) applied to the Federal Court to prevent the Board from considering this tariff. It was unsuccessful before the Trial Division in January 1991 (*for a summary of this decision, see the Board's 1990-1991 Annual Report, page 12*). The Federal

Court of Appeal confirmed this decision on January 5, 1993.

On December 23, 1993, the Supreme Court of Canada dismissed the CCTA's application for leave to appeal the decision of the Federal Court of Appeal.

Major League Baseball Collective of Canada (MLB) decision (*Court File: A-149-93*) and

Public Broadcasting Service (PBS) decision (*Court File: A-164-93*)

On February 10, 1993, the Major League Baseball Collective of Canada applied to the Federal Court of Appeal to review the Board's decision dated January 14, 1993, concerning the retransmission tariff for 1992-1994 on the ground that the Board had not taken sufficient note of the programs broadcast by superstations in establishing the division of royalties. The Federal Court of Appeal dismissed MLB's application on January 12, 1994, on the ground that it failed to establish that the Board's error was so grave as to justify a reopening of the case.

The Public Broadcasting Service (PBS) television network also applied to the Federal Court of Appeal on February 15, 1993, to review the same decision. PBS alleged that the Board had discriminated on the basis of nationality in dividing royalties among the various collecting bodies, in contravention of the provisions of the *Copyright Act*. The Court dismissed the application on January 13, 1994.

UNLOCATABLE COPYRIGHT OWNERS

Under section 70.7 of the *Act*, the Board may grant licences authorizing the use of a published work if the copyright owner is unlocatable. However, the *Act* requires licence applicants to make reasonable efforts to find the copyright owner. Licences granted by the Board are non-exclusive and valid only in Canada.

In 1993-94, the Board issued no licences.

ARBITRATION PROCEEDINGS

Under section 70.2 of the *Act*, the Board can arbitrate disputes between a “licensing body”, that represents copyright owners, and the users of the works of those owners. Its intervention is triggered by application by either the licensing body or the user.

There were no applications in 1993-94.

AGREEMENTS FILED WITH THE BOARD

Under section 70.5 of the *Act*, agreements concluded between licensing bodies, acting on behalf of copyright owners, and users of the works of these owners, may be filed by any of the parties to the agreement within 15 days of the agreement. These agreements can be investigated by the Board if it is asked to do so by the Director of Investigation and Research appointed under the *Competition Act*.

Country Music Television (CMT) and The Nashville Network (TNN) with Audio-Video Licensing Agency (AVLA): These agreements, which were filed by AVLA, were concluded on May 18, 1993 and received by the Board on June 1, 1993. In these agreements AVLA granted CMT and TNN a non-exclusive licence from January 1, 1993 to December 31, 1997 to broadcast as often as they wish, programming containing videoclips from the AVLA repertoire. The cost of the licence was set at a percentage of the gross annual revenues of CMT and TNN.

The Canadian Reprography Collective (CANCOPY) and The Board of Trustees of Edmonton School District No. 7: This agreement, which was filed by CANCOPY, was concluded on July 29, 1993 and received at the Board on July 30, 1993. It grants the School Board a licence for a fixed sum to make copies of up to 10 per cent of any publication recorded in the CANCOPY listings. This licence covers the period from August 29, 1992 to August 25, 1993.