

ALERT

Monitoring Re:Sound Impact to Recreation Facility Operations

August 29, 2012

Some ORFA members are returning from their summer vacation to find an invoice from Re:Sound that may reach as far back as four years. Please be reminded that Re:Sound (formally known as the NRCC or the Neighbouring Rights Collective of Canada) is simply just another collection agency (no different than SOCAN) who are legally entitled to collect on behalf of musical artists and recording companies when venues use music as part of their operation.

You are hearing more about Re:Sound lately as the Copyright Board of Canada has recently certified one of their tariffs after hearing industry objections. The tariff that was recently certified includes weddings and ice shows and is retro-active to 2008. Read more at: <http://www.orfa.com/enews/2012/2012-06-15.html> and <http://www.cb-cda.gc.ca/tariffs-tarifs/certified-homologues/2012/supplement-May26.pdf>

So, what is the difference between Re:Sound and SOCAN? The answer is best explained with this example:

Otis Redding is the composer of "Sitting on the Dock of the Bay". Every time "Sitting on the Dock of the Bay" is played in public by any artist a tariff for its use is collected by SOCAN and paid to Otis Redding's estate. This tariff will be collected by SOCAN for 75 years from the date of his passing at which time it becomes public domain and no tariffs can be collected for its use. ORFA members are free to use any music that has passed this time threshold.

Musical artist Michael Bolton has "covered" Otis Redding's "Sitting on the Dock of the Bay" so when this version is now played in public, Otis Redding's estate is compensated as the composer by the tariff's collected by SOCAN and now Michael Bolton is compensated for singing it through the collection of a tariff by Re:Sound

Tariffs are not a tax. They are a "user fee" for the use of someone else's copyrighted property for financial gain. It is important to understand that a tariff holds the same legal collection and submission obligations as provincial and federal tax laws. To ORFA's knowledge, no user of music that has undertaken a legal challenge of music tariffs have ever won in the courts. For example, Maple Leaf Sports and Entertainment most recent high profile legal challenges was not successful. ORFA members are reminded that even ORFA lodged an appeal during the mid 1990s to the Copyright Board of Canada regarding various proposed SOCAN tariffs. Although not successful, it did result in the creation of Tariff #21 that allowed for a consolidation of different tariffs into one under certain conditions.

If your recreation facility has received a payment notice from Re:Sound, ORFA encourages open discussion and suggests you demonstrate a willingness to comply with a negotiated settlement.

Both Re: Sound and SOCAN are scheduled to present at the upcoming ORFA Annual General Meeting and Facility Operational Forum to be held in King Township, Ontario on December, 5th 2012.

The [Ontario Recreation Facilities Association Inc.](http://www.orfa.com) (ORFA) was incorporated in 1947 as a provincially-recognized, not-for-profit, volunteer driven recreation organization to be the leader in the recreation facility profession. The mission of ORFA is to provide leadership in the development and delivery of innovative training and education programs, value-added services, and quality products for the benefit of the recreation facility profession. The ORFA serves as the National Head Office of the [Canadian Recreation Facilities Council](http://www.crcfc.ca).