

Copyright Board
Canada



Commission du droit d'auteur
Canada

[PN 2023-012]

Publication date: June 27, 2023

PRACTICE NOTICE ON FILING OF STATEMENT OF ISSUES TO BE CONSIDERED

General Statement

If a proposed tariff has been objected to, Rule 24 requires parties to file a Statement of Issues to be Considered—unless the Board or case manager orders otherwise.

This Statement of Issues to be Considered must be filed within 90 days after the day on which the proceeding is commenced (Rule 24(2)), or as otherwise ordered by the Board or case manager.

The purpose of the Statement of Issues to be Considered is to concretely identify areas of agreement and dispute between the parties early in the proceeding. This will help the Board or the case manager with making procedural decisions, including what procedural steps to take (*e.g.*, whether to order an interrogatory process), and how to evaluate the relevance of any interrogatory questions.

Parties must file a Statement jointly unless they are unable to agree

Parties are expected to work together to identify issues the Board should consider as part of the proceeding and to prepare a joint Statement.

Rule 24(1) requires parties to file a Statement jointly, unless they are unable to agree (Rule 26). However, such disagreement must be in regards to which issues ought to be considered—not in regards to the manner in which the Board should conclude on those issues.

If a party or parties require guidance in identifying issues or assistance with discussing opportunities for agreement, they may file a request for guidance or assistance with the case manager or the Board.

Parties shall list all issues to be considered

The Statement must contain an objective description of the issues the Board should consider (Rule 25(a)). Parties should only identify issues that are substantive in nature. For certainty, substantive issues include disputes about royalties, reporting requirements, any repertoire adjustment, the meaning of a statutory provisions, or the application of jurisprudence to an issue.

Substantive issues do not include disputes about the need or nature of a repertoire study, the conduct of interrogatory processes, or the fairness of various procedures.

Parties may propose to consolidate

When filing a Statement—whether jointly or separately— Parties may also propose to consolidate the proceeding with the consideration of other proposed tariffs (Rules 25(b), 26(b)).

This may be appropriate, where, for example, other proposed tariffs cover similar activities or raise similar issues.

The proposal must concisely state the reasons for the consolidation. It should address any procedural issues that are likely to arise from such a consolidation, especially if significant procedural steps have already occurred in respect of one or more of the other proposed tariffs.