Copyright Board Canada

CANADA

Commission du droit d’auteur Canada

Date	2025-10-10
Citation	2025 CB 14
Member	Drew Olsen
Proposed Tariffs Considered	SOCAN Tariff 10.A – Parks, Parades, Streets and Other Public Areas - Strolling Musicians and Buskers; Recorded Music (2026-2028) SOCAN Tariff 10.B – Parks, Parades, Streets and Other Public Areas - Marching Bands; Floats with Music (2026-2028)

Approval of Proposed Tariffs
As
SOCAN Tariff 10.A – Parks, Parades, Streets and Other Public Areas - Strolling Musicians and Buskers; Recorded Music (2026-2028)
and
SOCAN Tariff 10.B – Parks, Parades, Streets and Other Public Areas - Marching Bands; Floats with Music (2026-2028)

Reasons for Decision

I. Overview

[1] This decision relates to two tariffs proposed by the Society of Composers, Authors and Music Publishers of Canada (SOCAN): SOCAN Tariff 10.A — Parks, Parades, Streets And Other Public Areas - Strolling Musicians And Buskers; Recorded Music (2026-2028) and SOCAN Tariff 10.B — Parks, Parades, Streets And Other Public Areas - Marching Bands; Floats with Music (2026-2028) (collectively the “Proposed Tariffs”)

[2] The Proposed Tariffs cover performances in public of the musical works and dramatico-musical works in SOCAN’s repertoire by strolling musicians or buskers, or by means of recorded music, in parks, streets or other public areas (Tariff 10.A) and by marching bands or floats with music participating in parades (Tariff 10.B)

[3] I find that tariffs based on the Proposed Tariffs are fair and equitable, and approve them with changes relating to the tariff scope clarification, reporting and to the inflation calculation, as described below.

A. Background

[4] The Proposed Tariffs were filed on October 15, 2024. The Proposed Tariffs were duly published and users were provided with an opportunity to file objections, as provided for in subsection 68.3(2) of the Copyright Act.

[5] No objections were filed in regard to the Proposed Tariffs.

[6] The previously approved SOCAN Tariff 10.A for the years 2023-2025 includes a royalty rate of $40.86 per day on which music in SOCAN's repertoire is performed by strolling musicians or buskers, or by means of recorded music, in parks, streets or other public areas. There is a maximum royalty of $279.82 in any three-month period.

[7] The previously approved SOCAN Tariff 10.B for the years 2023-2025 includes a royalty rate of $11.02 per marching band or float with music that are participating in parades, with a minimum royalty of $40.86 per day. These royalty rates apply when the marching band or float is playing music in the repertoire of SOCAN.

[8] In Notice CB-CDA 2025-044, I noted that the Notices of Grounds for Proposed Tariffs and the Proposed Tariffs appear to say different things. The Notices of Grounds suggest that reporting only applies if, and after, there is a use that would trigger a payment under the proposed tariff. In contrast, the Proposed Tariffs require users to report, 30 days after the end of each quarter in which a performance of any works in SOCAN's repertoire occurs, the actual number of days in which music is performed. The Proposed Tariffs seem to require to post-quarterly report on whether there has been a tariff 10 use.

[9] In the same Notice, I expressed a preliminary view that establishing a requirement that all users file quarterly reports whether or not there has been a use that would require a payment under the proposed tariff may be more onerous than required in the circumstances, and that I was considering a modification to the Proposed Tariffs to specify that a report would only be required following a quarter in which there was a use that would trigger a payment under the proposed tariff.

[10] SOCAN was invited to comment on appropriate language that could be added to the Proposed Tariffs to this effect. On July 7, 2025, SOCAN proposed modifying the wording of the proposed tariffs as follows:

> No later than 30 days after the end of each quarter <u>in which a performance of any works in SOCAN's repertoire occurs</u>, the user shall file with SOCAN a report for that

quarter of the number of days in which music is performed, and pay the applicable royalties.

[11] I note that the Proposed Tariff 10.A includes a clause stating that certain activities not covered by it are subject to another tariff.

II. Analysis

[12] I consider the following issues:

1. Whether the previously approved tariffs are an appropriate proxy for the Proposed Tariffs;
2. Whether the inflationary adjustment is appropriate;
3. Whether SOCAN's proposed modification to the Proposed Tariffs related to reporting is appropriate; and
4. Whether it is appropriate to refer to the application of another tariff to activities not covered by the Proposed Tariff.

A. Issue 1: Whether the previously approved tariffs are appropriate proxies for the Proposed Tariffs

[13] The Board has frequently held that it is appropriate—absent reasons to the contrary—to use the previously approved tariff as a proxy of what could be fair. The Board has identified changes in the relevant market as one potential indicator of whether an adjustment to the rate is appropriate or necessary.[1]

[14] In this proceeding, SOCAN has not proposed any market-based changes to the royalty rates beyond the adjustment for inflation and has not mentioned any other changes to the market.

[15] Since there is no information on the record that points to market-based changes relevant to the consideration of these Proposed Tariffs, I have no reason to question the appropriateness of using them as proxies.

[16] Therefore, I find that the previously approved tariffs are appropriate proxies in this proceeding.

B. Issue 2: Whether the inflationary adjustment is appropriate

[17] The Board has found, in the past, that adjustments for inflation were appropriate as, among other things, they preserved the purchasing power of rights owners' royalties.[2]

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[1] For example, *SOCAN Tariff 9 – Sports Events (2018-2023)*, 2021 CB 6.
[2] For example, *SOCAN Tariff 14 – Performance of an Individual Work (2025-2027)*, 2024 CB 4.

[18] I use the Board's methodology in the Board's Guidelines on inflation adjustments,[3] (that is: a period commencing after the last adjustment for inflation and continuing to the end of the last year for which the Statistics Canada measure of the "Consumer Price Index monthly series" is available) to calculate the inflationary adjustment in this proceeding.

[19] In this case, the inflation adjustment period is from January 2022 (CPI: 145.3) to December 2024 (CPI: 161.2). The inflation calculation yields a cumulative inflation rate of 10.94%. I adjust the amounts in the Proposed Tariffs accordingly. This yields the following:

- Tariff 10A: $45.33 per day to a maximum of $310.44 in any three month period
- Tariff 10B: $12.23 per float or marching band, with a minimum of $45.33.

C. Issue 3: Whether SOCAN's proposed modification to the Proposed Tariffs related to reporting is appropriate

[20] As noted above, in response to my preliminary view, SOCAN proposed that the wording of the Proposed Tariffs be adjusted to clarify that the reporting obligation on users would only be effective following a quarter in which there was a use of SOCAN's repertoire covered by the Proposed Tariffs. The original formulation of the Proposed Tariffs had left an ambiguity as to whether potential users of the tariff would have had to report to SOCAN every quarter irrespective of whether there was a use of SOCAN's repertoire or not.

[21] I find this revised proposal reduces the burden on users and is appropriate.

D. Issue 4: Whether it is appropriate to refer to the application of another tariff to activities not covered by Proposed Tariff 10.A.

[22] Proposed Tariff 10.A provides that "[t]his tariff does not apply to concert performances in parks, streets or other public areas, which are subject to another SOCAN tariff." [Emphasis added]

[23] As mentioned in other decisions,[4] since I am not seized of the hypothetical other tariff that would apply to the situation described above, I am not in a position to endorse, and therefore will not include, the underlined text.

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[3] Copyright Board, *Inflation Adjustments To Royalty Rates: Default Methodology*, 2024.
[4] For example, SOCAN Tariffs 12.A and 12.B (2023-2025), 2022 CB 15 (September 23, 2022) at para 24.

III. Decision

[24] The Proposed Tariffs, with changes to the rates to account for inflation, changes to the scope of tariff clarification for Tariff 10.A, and reporting requirements, as set out above, are approved.