

Copyright Board
Canada



Commission du droit d'auteur
Canada

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Proceeding Number	PT25-04
Proceeding	SOCAN Tariff 5.A – Exhibitions and Fairs (2025-2027) and SOCAN Tariff 5.B – Concerts at Exhibitions and Fairs (2022-2027)
Proposed Tariffs Considered	SOCAN Tariff 5.A – Exhibitions and Fairs (2025-2027) SOCAN Tariff 5.B – Concerts at Exhibitions and Fairs (2022-2024) SOCAN Tariff 5.B – Concerts at Exhibitions and Fairs (2025-2027)
Member	Drew Olsen

Approval of Proposed Tariffs

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**SOCAN Tariff 5.A – Exhibitions and Fairs (2025-2027) and SOCAN Tariff 5.B –
Concerts at Exhibitions and Fairs (2022-2027)**

Reasons for Decision

I. Overview

[1] This decision relates to three tariffs proposed by the Society of Composers, Authors and Music Publishers of Canada (SOCAN), filed with the Copyright Board of Canada (the “Board”): Tariff 5.A for exhibitions and fairs for the years 2025 to 2027, and Tariff 5.B for concerts at exhibitions and fairs for the years 2022 to 2024 and 2025 to 2027 (the “Proposed Tariffs”).

[2] The Proposed Tariffs covers the performances in public of the musical works and dramatico-musical works in SOCAN’s repertoire for years ranging from 2022 to 2027.

[3] No objections to the Proposed Tariffs were filed.

[4] Having reviewed all evidence on the record, I find that the royalties and related terms and conditions set out in the Proposed Tariffs are fair and equitable. For the reasons that follow, I approve the Proposed Tariffs, with some modifications, under the titles *SOCAN Tariff 5.A – Exhibitions and Fairs (2025-2027)* and *SOCAN Tariff 5.B – Concerts at Exhibitions and Fairs (2022-2027)*.

II. Background

[5] SOCAN Tariff 5.A – Exhibitions and Fairs applies to performances in public of any works in SOCAN's repertoire, at exhibitions or fairs. The users are organizers or promoters of exhibitions and fairs, and the royalty rate is calculated based on daily rate for attendance up to 75,000 persons and per person afterwards. The Board last approved Tariff 5.A on December 10, 2022 for the years 2018-2024¹.

[6] The royalty rates for this tariff have remained unchanged since they were increased for the years 2015-2017 to take the inflation into account. In its proposed Tariff 5.A – Exhibitions and Fairs (2025-2027), SOCAN seeks an increase in royalty rates of up to 57%, in comparison to the last approved tariff, to account for inflation.

[7] SOCAN Tariff 5.B – Concerts at Exhibitions and Fairs applies to performances in public of the works in SOCAN's repertoire, at musical concerts presented at exhibitions or fairs, where an admission charge is made that is separate from any charge that may apply to the exhibition or fair itself. The users are organizers, promoters, or presenters of concerts during exhibitions or fairs where an additional admission charge is made for attendance at the concert. The royalty rate is calculated based on the gross receipts from ticket sales to the concert.

[8] The Board last approved Tariff 5.B on August 8, 2020 for the years 2018 to 2021². The royalty rate of 3% of gross revenue from ticket sales has remain unchanged since 2002. The proposed SOCAN Tariffs 5.B provides the same royalty rate for both tariff periods but subject to a minimum fee of \$60.14 for the years 2025-2027. SOCAN has also added a section concerning taxes on royalty payments and interest on late royalty payments.

[9] The proposed tariffs along with Notices of Grounds filed by SOCAN on October 23, 2023, as well as the answers to the Board's questions posed in the Notice of Initiation CB-CDA 2025-061, filed on August 15, 2025, are the only evidence submitted in this proceeding.

¹ SOCAN Tariff 5.A – Exhibitions and Fairs (2018-2024) 2022 CB 18-T (December 10, 2022), C Gaz I, Supplement, vol 156, No. 50.

² SOCAN Tariff 5.B – Exhibitions and Fairs (2018-2021) 2020 CB 009-T (August 8, 2020), C Gaz I, Supplement, vol 154, No. 32.

III. Issues

[10] In approving tariffs, the Board must determine what is fair and equitable.³ My analysis considers the following four issues concerning the Proposed Tariffs:

1. Can the last approved tariffs be the basis for approving the Proposed Tariffs?
2. Is the rate increase proposed in Tariff 5.A appropriate?
3. Is the imposition of a minimum fee in Tariff 5.B appropriate?
4. Is the proposed section on taxes and royalties in Tariff 5.B justified?

IV. Analysis

A. ISSUE 1: Can the last approved tariffs be the basis for approving the Proposed Tariffs?

[11] The Board often considers the rates and terms and conditions as the last approved tariff if it is not aware of changes to the relevant industry that would have an impact on the price of the use of protected material in issue. This is especially the case if it is considering an unopposed proposed tariff.

[12] In this case, the Proposed Tariffs are unopposed and maintain the same rates and terms and conditions as the last approved tariffs except for an increase to account for inflation for Tariff 5.A in 2025-2027, the inclusion of a minimum fee in Tariff 5.B in 2025-2027 and some minor adjustments. I am not aware of any significant changes in the marketplace during or immediately preceding the tariff periods that would prevent the last approved tariffs from being appropriate proxies.

[13] With no known market changes related to the proposed tariffs, I consider it appropriate to use the last approved tariffs as the basis for approving the Proposed Tariffs.

B. ISSUE 2: Is the rate increase proposed in Tariff 5.A appropriate?

[14] SOCAN's proposed royalties include an increase intended to reflect the inflation. That said, SOCAN has not advanced an argument for an alternative basis to calculate the inflation, so I will use the Board's default methodology.

[15] When calculating the inflation increase based on the Board's guidelines on *Inflation Adjustment to Royalty Rates – Default Methodology*⁴, I arrive at 30.95% inflation rate (the calculation is in the Annex) which I then applied to the last approved rates to produce the results as seen below:

³ *Copyright Act*, RSC 1985, c C-42, s 66.501

⁴ Copyright Board, *Inflation Adjustments To Royalty Rates: Default Methodology*, 2024

Table 1: Royalties — Attendance does not exceed 75 000 persons			
Total Attendance in persons	Last approved Daily Rate (2018-2024)	Proposed Daily Rate (2025-2027)	Board's calculation (2025-2027)
Up to 25,000	\$13.75	\$21.46	\$18.01
25,001 to 50,000	\$27.66	\$43.16	\$36.22
50,001 to 75,000	\$69.00	\$107.68	\$90.36

Table 2: Royalties — Attendance exceeds 75 000 persons			
Total Attendance in persons	Last approved Rate/Person (2018-2024)	Proposed Rate/Person (2025-2027)	Board's calculation (2025-2027)
First 100,000	1.15¢	1.79¢	1.51¢
For the next 100,000	0.50¢	0.78¢	0.65¢
For the next 300,000	0.38¢	0.59¢	0.50¢
All additional persons	0.28¢	0.44¢	0.37¢

[16] I believe an adjustment for inflation, based on the Board's default methodology as reproduced above, is appropriate.

C. ISSUE 3: Is the imposition of a minimum fee in Proposed Tariff 5.B appropriate?

[17] In support of their proposition that a minimum fee is required in tariff 5.B, SOCAN argues essentially that the proposed minimum fee is intended to match the minimum fee per concert set out in the Proposed *SOCAN Tariff 4.A.1 Popular music Concerts — Per Event Royalty (2025-2027)* which includes an inflation adjustment.

[18] SOCAN believes that the imposition of the minimum fee would be fair and equitable on the basis that:

1. Tariff 5.B and Tariff 4.A.1 apply to nearly identical uses and have a similar tariff structure (3% of gross receipt from tickets sales);
2. The minimum fees prevent rightsholders from subsidizing the business model choices of users;

3. The minimum fees reflect a minimum value for music use and administration costs of the tariff;
4. The proposed minimum fee will have minimal, if any, applicability.

[19] In reply to the Board's question in Notice and Order CB-CDA 2025-061, SOCAN provided confidential data that clearly shows a significant difference in the number of users, royalties collected and number of instances where a minimum fee applicable for the period 2022-2024 was collected under Tariff 4.A.1 than would have been collected under the proposed Tariff 5.B.

[20] In assessing the need and the amount of the minimum fee to be imposed for a tariff, the Board has in previous proceedings raised the importance of internal coherence where the minimum fee for a particular tariff should be coherent with the rest of the tariff structure and the characteristics of the users to which it applies. The minimum fee should be adjusted so that the number of users that pay it is neither disproportionately too high nor too low.⁵

[21] The Board has also recognized the importance of horizontal harmonization where the minimum fees should reflect the value of music use for users, as well as SOCAN's administrative costs in issuing a licence.⁶ It may be expected that there could be some harmonization of minimum fees across different tariffs, especially when similar uses of music are involved.

[22] In the current proceedings, I do not believe that SOCAN has demonstrated that the value of the music use is being endangered or decreased by the absence of a minimum fee. Neither have they demonstrated a level of administrative burden that would warrant the imposition of a minimum fee at this stage.

[23] One of the main goals of a minimum fee is to help alleviate some of the pressure stemming from administering user payments that would cost more to administer than the actual revenue being generated by it. The data provided does not demonstrate a level of administrative pressure that would compare to administering payments under Tariff 4.A.

[24] I recognize the importance of harmonizing royalty rates between tariffs that apply to similar uses. However, in attempting to align the structures of Tariff 5.B and Tariff 4.A.1, SOCAN fails to explain why the harmonization is appropriate as it is limited only to the per-concert minimum fee in Tariff 4.A without addressing other aspects such as free concerts or annual royalties. There is no explanation as to why the proposed structure for Tariff 5.B should not incorporate any of these other elements. In my opinion, these

⁵ *SOCAN Tariff 9 – Sports Events 1998-2001* (reasons) (September 15, 2000) and *SOCAN – Various Tariffs, 1998-2007* (reasons) (March 19, 2004).

⁶ *Ibid.*

gaps significantly undermine SOCAN's arguments in favor of aligning SOCAN Tariff 5.B to SOCAN Tariff 4.A.1.

[25] In addition, in its reply to the Board's Notice and Order CB-CDA 2025-061, SOCAN submitted that no Tariff 5.B users would have paid less than the Tariff 4.A.1 minimum fee in 2024, had it been applicable to them. This suggests that if a new user were to enter the market, they could be negatively affected by the newly added minimum fee, especially if their business model includes a ticket price that results in a royalty payable lower than the minimum fee.

[26] I do not believe that SOCAN has demonstrated the necessity to impose a minimum fee for Tariff 5.B. Notwithstanding the similarity between the Tariffs 4.A and 5.B and the expectation for harmonization, the information provided about the number of users and the number of instances where the proposed minimum fee would be triggered in Tariff 5.B is not compelling.

[27] I believe it is premature at this stage to impose a minimum fee in Tariff 5.B. The fee level appears purely theoretical at this stage and I would recommend that SOCAN revisits this proposition in the future, as appropriate, including explaining the practical effect in alleviating administrative pressure and safeguarding the repertoire's value for users.

D. ISSUE 4: Is the proposed section on taxes and royalties justified?

[28] The proposed Tariff 5.B (2025-2027) proposes terms and conditions prescribing interest to be paid on royalties that remain unpaid after the close of the exhibition. This requirement existed in the last approved tariff under the general provisions applicable to the licence issued under the tariff. The same also applies to the proposed terms and conditions that specifies that payments are exclusive of any federal, provincial or other governmental taxes or levies.

[29] Although these requirements appeared in the last approved tariff, I am concerned that, at the close of an exhibition, users may not have all the information needed to calculate and remit royalties. It would therefore be unfair for interest to begin accruing immediately. By comparison, I note that tariffs 4.A.1 and 5A provide a 30-day grace period to calculate and remit royalties.

[30] To remedy this situation, and to harmonize Tariff 5.B to Tariffs 5.A and 4.A.1, I add the same 30-day grace period after the close of the event to pay the royalties, with interest accruing only thereafter:

The royalties due under this tariff shall be calculated on a per concert basis and shall be payable within 30 days after the close of the exhibition.

[31] I believe this approach is fairer, more equitable and aligns well with SOCAN's proposed uniform approach between these two tariffs.

[32] I also note that SOCAN Tariff 5.B for the years 2022-2024 specifically excluded uses covered under Tariff 22, whereas SOCAN has not proposed a similar exclusion for the years 2025-2027. In my view, such an exclusion is unnecessary, as the activities addressed by each tariff are sufficiently distinct and as such I decline to include it.

V. Decision

[33] Having duly considered the submissions and the evidence on the record, for the reasons set out above, I find that the Proposed Tariffs, with the adjustments identified above in regard to the inflation calculation for Tariff 5.A, rejecting the inclusion of a minimum fee, adding a 30 days grace period for payment and removing the reference to tariff 22 in Tariff 5.B, can serve as a basis for establishing a fair and equitable tariffs in this proceeding.

[34] As such, I am satisfied that the adjusted royalty rates and related terms and conditions of the Proposed Tariffs are fair and equitable. I therefore approve the Proposed Tariffs, with the modifications listed above, as *SOCAN Tariff 5.A – Exhibitions and Fairs (2025-2027)* and *SOCAN Tariff 5.B – Concerts at Exhibitions and Fairs (2022-2027)*.

Annex

Inflation calculation

$$INF = \frac{CPI_T - CPI_1}{CPI_1}$$

CPI_T : All items Consumer price index (CPI) of December of the last year of the calculation period (the end of the last approved tariff), in this case it would be December 2024 which is 161.2.

CPI₁: The last period for which the Board last taken into account inflation in a tariff proceeding, in this case, the last time the rate was increased for inflation was in consideration of the tariff proposed for 2015-2017, based on CPI data ranging from 2005 to 2013, and as such we must take the CPI from January of 2014 which is 123.1.

The **Inflation** for Tariff 5.A = $(161.2 - 123.1) / 123.1 = 0.3095 = \mathbf{30.95\%}$.