

Copyright Board  
Canada



Commission du droit d'auteur  
Canada

[CB-CDA 2024-001]

## ORDER OF THE BOARD

### Proceeding: Online Music Video Services (2014-2018)

January 17, 2024

#### I. ORDER

[1] SOCAN filed its Notice of Grounds for Proposed Tariffs on January 8, 2024.

[2] Rule 16 of the *Rules of Procedure* requires that a Notice of Grounds for Proposed Tariff must “set out a basis for the proposed royalty [...] rates.”

[3] The SOCAN 22.A proposed tariffs included several different rates not addressed in SOCAN’s Notice of Grounds for Proposed Tariffs. These include separate rates for on-demand or semi-interactive streams, hybrid services, limited downloads, permanent downloads, and free streams.

[4] While I recognize that a significant amount of time has passed since the filing of the Proposed Tariffs, and SOCAN’s position may have changed, I nevertheless find that the rates in the Proposed Tariffs have not been sufficiently addressed.

[5] SOCAN shall address the missing rates, in accordance with the directions below, by **Monday, January 29, 2024.**

[6] I adjust the Schedule of Proceedings to take into account the additional time required for this response.

#### II. ADDITIONAL DIRECTIONS

[7] In its response, SOCAN will address any rates in its Proposed Tariffs for which it has not yet provided a basis. In particular, it will address the following five issues.

*1. 2014 Rates for the Communication Right*

[8] In its Notice of Grounds, SOCAN states that “[t]he rates [for the communication right] proposed for 2014 involve a slightly different structure and are not summarized in this Notice of Grounds.”

[9] It is not clear whether SOCAN merely decided not to address those rates, or whether it is now asking for different rates for 2014.

[10] SOCAN shall either address the rates proposed in SOCAN 22.A (2014) or indicate which rate or rates it is now seeking for that year.

*2. Different Royalty Rates for the Communication Right for music video services that also offer music-only files*

[11] The SOCAN 22.A proposed tariffs propose a different rate for streams, hybrid services, and limited downloads depending on whether the service offered only music videos or offered music videos in addition to music-only files.

[12] SOCAN shall confirm that it is no longer seeking separate rates for these different services, and that the rates it sets out in its Notice of Grounds will apply to both services that offered only music videos as well as services that offered music videos and music-only files.

*3. Royalty Rates for the Communication Right for Limited Downloads and Permanent Downloads*

[13] SOCAN Proposed Tariff 22.A (for all years 2014-2018) included royalty rates for the communication right for online music services that offered limited downloads or permanent downloads of musical works.

[14] SOCAN shall confirm that it is no longer seeking royalties for the communication right for these activities (e.g., because of the Supreme Court’s decision in *Society of Composers, Authors and Music Publishers of Canada v. Entertainment Software Association*, 2022 SCC 30).

*4. Royalty Rates for the Communication Right for Hybrid Services*

[15] In its Notice of Grounds, SOCAN stated that “[t]he proposed tariffs also provide for an adjustment to the rates in the case of a hybrid service.”

[16] SOCAN shall confirm whether or not it continues to seek such an adjustment to the rates for the communication right in the case of a hybrid service. If so, it will provide a basis for that adjustment.

*5. 2014 Royalty Rate for Reproduction Right*

[17] While SOCAN notes that the SODRAC 6 2014 proposed tariff applies to permanent downloads only, it does not provide a basis for that rate.

### III. REVISED SCHEDULE OF PROCEEDINGS

[18] Given the time provided to SOCAN to respond to this Order, I am modifying the Schedule of Proceedings as follows.

<b>Step</b>	<b>Deadline</b>
SOCAN files Supplement to Notice of Grounds for Proposed Tariffs	January 29, 2024
Objector files Notice of Grounds for Objection	February 8, 2024
SOCAN responds to Notice of Grounds for Objection	February 22, 2024
Board issues Preliminary List of Issues	March 7, 2024
SOCAN and Stingray file Joint Statement of Issues	April 4, 2024
Apple and Sirius file additional issues	April 11, 2024
SOCAN and Stingray respond to Apple and Sirius	April 18, 2024
Board finalizes List of Issues	May 2, 2024
Case Management Conference re. interrogatories and scheduling	May 9, 2024

Nathalie Théberge  
Case Manager