

Copyright Board
Canada



Commission du droit d'auteur
Canada

Date	2025-10-02
Order of the Board	CB-CDA 2025-082
Proceeding Number	PT25-12
Proceeding	SOCAN Tariff 22.G – Internet – Game Services (2020-2026)
Members	The Honourable Luc Martineau Daniela Bassan Drew Olsen

I. Overview

[1] In August 2022, the Board approved *SOCAN Tariff 22.G – Game Sites (2007-2019)*¹ following a request to approve the proposed tariff on the basis of a jointly-submitted text (“JST”) presented by SOCAN and Entertainment Software Association (“ESA”), Entertainment Software Association of Canada (“ESAC”), and Shaw Communications Inc.

[2] On August 25, 2021, following its review of the JST, the Board issued Order CB-CDA 2021-045 requiring Parties to respond to a number of questions to better understand the evolution of the online gaming sector.

[3] As noted by the Board in its reasons, the parties jointly responded to some of the questions, but not all.² For example, the submitted reports did not contain any data related specifically to the size or trends of the Canadian video game sites market segment, nor to the use of music on these sites.

[4] In a sector known to be rapidly evolving with technological and business models changes, the Board is now seeking, on a preliminary and “without prejudice” basis, factual information on the current state of the online gaming, including gambling, sector.

¹ SOCAN Tariff 22.G – Game Sites (2007-2019), 2022 CB 7-T (August 6, 2022)

² SOCAN Tariff 22.G – Game Sites (2007-2019), 2022 CB 7 (August 5, 2022) at para 10.

II. Order

[5] Parties shall respond, providing submissions and, where appropriate and available, supporting information that addresses the following questions by no later than **November 6, 2025**. Explanations and supporting information should be as detailed as possible.

[6] The Board undertakes to consult parties on the next procedural steps no later than 6 weeks after the filing of submissions.

Questions

1. Explain what uses of music are subject to Tariff 22.G – for ex., are we talking about the music in the games offered, the music on the platform but not in the games *per se*, or any other relevant use?
2. Generally, how is music used by game service providers, including those offering online gambling? For example, during a given game, is the music constant or intermittent, in the background or in the foreground?
3. To what extent do tariff users already hold the right to communicate musical works to the public by telecommunication in Canada in connection with online games (for ex., through employment or licences)?
4. What proportion of music used on game platforms, including those offering online gambling, does not require a SOCAN licence (for ex., public domain music, other repertoire or pre-cleared content)?
5. Provide current examples of activities that would be covered by this tariff, including:
 - a. Online game websites and platforms;
 - b. Online gambling; and
 - c. Games that qualify under the 'low use of music' definition.
6. Compared to the last approved tariff – *SOCAN Tariff 22.G – Game Sites (2007-2019)* – describe any changes in the marketplace including updated business models, technologies, service delivery, music uses, or behaviours that are relevant to this tariff. Indicate whether these changes apply to each (or any) of the activities in question 5 above.
7. Provide a detailed description of the technologies that enable the use of music in connection with a game service that would be covered by Tariff 22.G. Particularly, provide submissions on:

- a. The technologies that enable music to be transmitted as part of an online game, including:
 - i. How such music files are transmitted to the end-user; and
 - ii. How such music files may be played on the end-user's device.
- b. The technologies available for use by online games to cache temporary music on an end-user's machine. If any online game service provider may be using such caching technologies, provide submissions on:
 - i. How long such files may be cached, on average, before being removed from an end-user's machine;
 - ii. Whether, and under what circumstances, the use of such technologies constitutes a "stream" under the tariff;
- c. Any technologies available for use by online game service providers to download a copy of a music file to an end-user's machine. If any online game service provider may be using such downloading technologies, provide submissions on:
 - i. If the use of caching technologies is a "stream", what differentiates a download from a cached stream in the context of this tariff;
 - ii. Whether any online gaming service providers transmit music files using both downloading and streaming technologies and, if so, an estimate of the proportion of online gaming service providers that use both technologies.
- d. Whether the proposed tariffs include the transmission of works from "the cloud". If so, provide submissions on:
 - i. Any relevant definition of "the cloud";
 - ii. Whether "the cloud" is distinct from other servers that transmit musical works for use in online game services, and
 - iii. Whether transmissions from "the cloud" constitute communications to the public within the meaning of the [Copyright Act](#);
 - iv. Detailed descriptions of any technologies that enable the transmission of music files from "the cloud" for use as part of an online game service;
 - v. An estimate of the proportion of online game services providers that transmit musical files from "the cloud"; and

- vi. Current examples of online game services supporting the above submissions on “the cloud”.