

NOTICE OF GROUNDS FOR PROPOSED TARIFF

Filed with the Copyright Board by Canadian Musical Reproduction Rights Agency Ltd. (“**CMRRA**”) on 2023-10-13 pursuant to Rule 15 of *Copyright Board Rules of Practice and Procedure*

CMRRA AUDIOVISUAL SERVICES TARIFF, 2025-2027

I. *Description of Uses Covered by CMRRA’s Proposed 2025-2027 Audiovisual Services Tariff (the “**Tariff**”) (Paragraph 16(a) of the Copyright Board Rules of Practice and Procedure (the “**Rules**”)*

The Tariff sets the royalties payable to CMRRA by audiovisual services for the reproduction of works in CMRRA’s repertoire that are embodied in audiovisual programs, for the purpose of transmitting those programs as streams, downloads, or both, by any means of telecommunication, including the Internet or another digital network. It also authorizes the service to make archival copies of its content, authorizes a person to reproduce a musical work embodied in an audiovisual program for the purpose of delivering a file to the service, and authorizes end users in Canada to further reproduce a musical work as embodied in an audiovisual program for their own private use.

Among other things, the Tariff does not authorize the initial synchronization of the work with the audiovisual program (or any other work, sound recording or performer’s performance). Rather it authorizes the subsequent “post-synchronization” reproductions made by audiovisual services when they offer their services to their customers.

As an example, the Tariff authorizes an online audiovisual service such as Netflix to make the reproductions of musical works that are necessary to transmit, exhibit and/or broadcast audiovisual programs online to Netflix’s subscribers, by streaming, downloading or both.

Uses covered by any other CMRRA or CMRRA-SODRAC (“**CSI**”) tariff are not covered by this Tariff. As a result, the Tariff does not cover commercial television broadcasters, the CBC, or any online music service, except to the extent those users also operate online audiovisual services. As

examples, Bell Media's subscription video-on-demand service CRAVE and CBC's digital video streaming service GEM are covered by this Tariff, but their broadcast linear channels are not.

II. *Basis for the Proposed Rates (Paragraph 16(b) of the Rules)*

The Tariff proposes the following rates:

- For an audiovisual service that offers streams of programs, user-generated content, or both, with or without limited downloads:
 - 3.0 per cent of the gross revenue of the service for the reference month, subject to a minimum equal to the greater of
 - (a) 19.5¢ per subscriber per month, if applicable; and
 - (b) 1.3¢ for each play of a file.
- For free on-demand streams, the lesser of 19.5¢ per unique visitor per month and 1.3¢ per free on-demand stream received by that unique visitor in that month.
- For an audiovisual service that offers permanent downloads of programs, user-generated content, or both, per month:
 - 6.11 per cent of the gross revenue of the service for the reference month, subject to a minimum of 6.79¢ per permanent download in a bundle that contains 12 or more files and 81.43¢ per permanent download in all other cases.
- For an audiovisual service that offers limited downloads of programs:
 - (a) where the payment is per transaction, 6.11 per cent of the amount paid by an end-user for limited downloads, subject to a minimum of 4.52¢ per limited download in a bundle that contains 12 or more files and 52.28¢ per limited download in all other cases, and
 - (b) where limited downloads are offered with a subscription,

A X B

C

where

(A) is 6.11 per cent of the gross revenue from the service for the month, excluding amounts paid by end-users for permanent downloads,

(B) is the number of plays of files during the month, and

(C) is the number of plays of files during the month,

subject to a minimum equal to the greater of 32.59¢ per subscriber, and 0.097¢ for each play of a file.

The proposed royalty rates and minima take into consideration the proposed *SOCAN Tariff 22.D.1, Online Audiovisual Services (2024-2026)*, *SOCAN Tariff 22.D.1.R. Reproduction of Musical Works Embedded in Audiovisual Works for Transmission by a Service* and the public performance rates for online audiovisual services, proposing a 50/50 split between the public performance rights and the reproduction rights for online audiovisual services.

III. Description of Users Covered by the Proposed Tariff (Paragraph 16(c) of the Rules, Practice Direction dated March 1, 2023)

The Tariff applies to services that deliver audiovisual content to end users as streams, downloads, or both, by any means of telecommunication (including the Internet or other digital network), and includes, for greater certainty, any form of video-on-demand service. The Tariff applies primarily to online audiovisual services that require the right to make reproductions of musical works that are necessary to transmit, exhibit and/or broadcast audiovisual programs over the Internet to their customers, whether by streaming, downloading or both.

Uses covered by any other CMRRA or CMRRA-SODRAC (“CSI”) tariff are not authorized by this Tariff. As a result, the Tariff does not apply to commercial television broadcasters, the CBC, or any online music service, except to the extent those users also operate online audiovisual services.

IV. How Collected Information Will be Used (Paragraph 16(c) of the Rules, Practice Direction dated March 1, 2023)

Service Identification. The Tariff requires an audiovisual service to provide its name and contact information, the contact information of any authorized distributor, and the URL of each website through which the service is offered to CMRRA no later than 20 days after the end of the first month during which the service begins offering audiovisual content to the public. This information is necessary for CMRRA to identify the users operating under the Tariff.

Cue Sheets and Additional Information. The Tariff requires an audiovisual service to provide CMRRA with a cue sheet containing certain prescribed information, including information about the program and each musical work embodied in it, in relation to each program transmitted by the service during the reference month. The Tariff seeks detailed information about the musical works contained in each program, such as the identifier of the musical work and, if applicable, of the sound recording in which it is embodied, the International Standard Recording Code (ISRC) assigned to the sound recording, the name of the music publisher associated with the musical work, and the running time of the sound recording. The Tariff seeks this information about the audiovisual program, the musical work embodied in the audiovisual program and the sound recording (if applicable) to assist CMRRA in identifying both the program and the musical work it contains. Among other things, this information is necessary to facilitate the distribution of royalties collected under the Tariff to the appropriate rightsholders.

Revenue Information. The Tariff also seeks information about the total number of plays and downloads of the programs, the service's number of subscribers, the amount of one-time transactional fees paid by end users, the gross revenue of the service, the number of subscribers with free subscriptions, and the number of streams and downloads provided free of charge. For gross revenues, the Tariff also seeks the breakdown of revenues received between subscription, advertising, sponsorships, and any additional revenue sources. This information is necessary to verify the royalty payments calculated and paid by the audiovisual service under the Tariff.

The information sought under the Tariff will be shared by CMRRA as set out in section 13(2).

V. Explanation of All Proposed Changes between the Proposed Tariff and previously proposed tariffs (Paragraph 16(c) of the Rules, Practice Direction dated March 1, 2023)

CMRRA has previously filed proposed tariffs for the reproduction of musical works by audiovisual services in 2016, 2017 and 2018. Those tariff proceedings were suspended *sine die* by the Copyright Board in 2018.

In its previously proposed tariffs, CMRRA sought rates based on the amount of music contained in a file. CMRRA has elected not to propose rates on that basis, so all references to the amount of music have been removed. CMRRA has also proposed certain minima as well as certain rate changes in consideration of proposed tariffs filed by SOCAN since 2018 for the public

performance and reproduction of musical works by audiovisual services. All other changes have been made to comply with the Copyright Board's practice notices on form.