

PROPOSED TARIFF

Filed with the Copyright Board by SOCAN on 2023-10-15 pursuant to subsection 67(1) of the *Copyright Act*

Proposed Tariff Title: *SOCAN Tariff 2.A – Commercial Television Stations (2025-2027)*

For the communication to the public by telecommunication of musical or dramatico-musical works.

Effective Period: 2025-01-01 – 2027-12-31

SOCAN TARIFF 2.A – COMMERCIAL TELEVISION STATIONS (2025-2027)

Proposed statement of royalties to be collected by the Society of Composers, Authors and Music Publishers of Canada (SOCAN) in compensation for the communication to the public by telecommunication, in Canada, of musical or dramatico-musical works forming part of its repertoire..

Definitions

1. In this tariff,

“ambient music” means music unavoidably picked up in the background when an event is videotaped or broadcasted. (« *musique ambiante* »)

“cleared music” means any music, other than ambient music or production music, in respect of which a station does not require a licence from SOCAN. (« *musique affranchie* »)

“cleared program” means

(a) if the only cleared music contained in the program is music that was cleared before 60 days after the publication of this tariff, a program containing no music other than cleared music, ambient music or production music; and

(b) if not, a program produced by a Canadian programming undertaking and containing no music other than cleared music, ambient music or production music. (« *émission affranchie* »)

“gross income” means the gross amounts paid by any person for the use of one or more broadcasting services or facilities provided by the station’s operator, whether such amounts are

paid to the station owner or operator or to other persons, excluding the following:

- (a) any such amounts received by a person other than the operator or owner of the station which form part of the base for calculation of the SOCAN royalty payable by such other person under this or another tariff;
- (b) income accruing from investments, rents or any other business unrelated to the station's broadcasting activities. However, income accruing from any allied or subsidiary business that is a necessary adjunct to the station's broadcasting services and facilities or which results in their being used shall be included in the "gross income";
- (c) amounts received for the production of a program that is commissioned by someone other than the licensee and which becomes the property of that person;
- (d) the recovery of any amount paid to obtain the exclusive national or provincial broadcast rights to a sporting event, if the licensee can establish that the station was also paid normal fees for station time and facilities. SOCAN may require the production of the contract granting these rights together with the billing or correspondence relating to the use of these rights by other parties; and
- (e) amounts received by an originating station acting on behalf of a group of stations, which do not constitute a permanent network and which broadcast a single event, simultaneously or on a delayed basis, that the originating station pays out to the other stations participating in the broadcast. These amounts paid to each participating station are part of that station's "gross income." (« *revenus bruts* »)

"production music" means music contained in interstitial programming such as commercials, public service announcements and jingles. (« *musique de production* »)

"programming undertaking" means a programming undertaking as defined in the *Broadcasting Act*, S.C. 1991, c. 11. (« *entreprise de programmation* »)

Application

2. (1) This tariff sets the royalties to be paid for the communication to the public by telecommunication by a broadcast television station, at any time and as often as desired, for the years 2025-2027, for private or domestic use, of any or all of the works in SOCAN's repertoire.
- (2) This tariff does not apply to stations owned and operated by the Canadian Broadcasting Corporation or licensed under a different tariff.

Election of Licence

3. (1) A station can elect for the standard or modified blanket licence.
- (2) A station's election must be in writing and must be received by SOCAN at least 30 days before the first day of the month for which the election is to take effect.
- (3) A station's election remains valid until it makes a further election.
- (4) A station can make no more than two elections in a calendar year.
- (5) A station that has never made an election is deemed to have elected for the standard blanket licence.

Standard Blanket Licence

4. (1) A station that has elected for the standard blanket licence shall pay 2.1 per cent of the station's gross income for the second month before the month for which the tariff applies.
- (2) No later than the day before the first day of the month for which the tariff applies, the station shall pay the royalty, and report the station's gross income for the second month before the month for which the tariff applies.

Modified Blanket Licence (MBL)

5. (1) A station that has elected for the modified blanket licence shall pay the amount calculated in accordance with Form A (found at the end of this Tariff).
- (2) No later than the last day of the month after the month for which the tariff applies, the station shall
 - (a) provide to SOCAN, using Form A, a report of the calculation of its royalty;
 - (b) provide to SOCAN, using Form B (found at the end of this Tariff), reports identifying, in respect of each cleared program, the music used in that program;
 - (c) provide to SOCAN any document supporting its claim that the music identified in Form B is cleared music, or a reference to that document, if the document was provided previously; and
 - (d) pay the amount payable pursuant to subsection (1).

Audit Rights

6. (1) A station shall keep and preserve, for a period of six years after the end of the month to which they relate, records from which the information set out in sections 4 and 5 can be readily ascertained.

(2) SOCAN may audit these records at any time during the period set out in subsection (1) on reasonable notice and during normal business hours.

(3) Subject to subsection (4), if an audit discloses that royalties due have been understated in any month more than 10 per cent, the station shall pay the reasonable costs of the audit within 30 days of the demand for such payment.

(4) For the purposes of subsection (3), any amount owing as a result of an error or omission on the part of SOCAN shall not be taken into account.

MBL: Incorrect Cleared Program Claims

7. Amounts paid pursuant to lines C and D of Form A on account of a program that a station incorrectly claimed as a cleared program are not refundable.

Adjustments

8. Adjustments in the amount of royalties owed (including excess payments), as a result of the discovery of an error or otherwise, shall be made on the date the next royalty payment is due.

Taxes and Interest on Late Payments

9. (1) All amounts payable under this tariff are exclusive of any federal, provincial or other governmental taxes or levies of any kind.

(2) Any amount not received by the due date shall bear interest from that date until the date the amount is received. Interest shall be calculated daily, at a rate equal to 1% above the Bank Rate effective on the last day of the previous month (as published by the Bank of Canada). Interest shall not compound.

TARIFF 2.A (COMMERCIAL TELEVISION STATIONS)

FORM A

CALCULATION OF ROYALTY FOR A MODIFIED BLANKET LICENCE (MBL) FOR THE MONTH OF _____

Payment on account of cleared programs

— to account for additional expenses incurred by SOCAN because of the availability of the MBL: (A) _____
 $3\% \times 2.1\% \times$ gross income from all programs

— to account for the fact that stations that use the MBL pay royalties two months later than other stations: (B) _____
 $1\% \times 2.1\% \times$ gross income from all programs

— to account for the use of ambient and production music in cleared programs: (C) _____
 $5\% \times 2.1\% \times$ gross income from cleared programs

— to account for SOCAN's general operating expenses: (D) _____
 $22\% \times 95\% \times 2.1\% \times$ gross income from cleared programs

TOTAL of A + B + C + D: (E) _____

Payment on account of programs other than cleared programs:

— $2.1\% \times$ gross income from all programs other than cleared programs (F) _____

TOTAL ROYALTY FOR THE MONTH (E + F): (G) _____

Please remit the amount set out in (G)

TARIFF 2.A (COMMERCIAL TELEVISION STATIONS)

FORM B

MUSIC REPORT FOR CLEARED PROGRAMS

Television Station: _____

Program Title and Episode Number: _____

Air Date: _____

Producer: _____

Gross Income from Program: _____

Please complete the following report for EVERY musical work included in the program. Please provide, for each musical work, a copy of any document on which you rely to conclude rights that the music is cleared music, or a reference to that document, if you provided it previously.

Item	Title	Use (Theme, Feature, Background)	Timing	COMPOSER		PUBLISHER		PERFORMER
				NAME	CLEARANCE (DIRECT, SOURCE, PUBLIC DOMAIN) (with reference to any supporting documents)	NAME	CLEARANCE (DIRECT, SOURCE, PUBLIC DOMAIN) (with reference to any supporting documents)	