

NOTICE OF GROUNDS FOR PROPOSED TARIFF

Filed with the Copyright Board by SOCAN on 2023-10-23 pursuant to Rule 15 of *Copyright Board Rules of Practice and Procedure*

SOCAN Tariff 4.A – Live Performances at Concert Halls, Theatres, and Other Places of Entertainment – Popular Music Concerts (2025-2027)

1. Description of Uses Covered by the Proposed Tariff

This tariff applies to performances, by means of performers in person at a concert, of any or all of the musical works in SOCAN's repertoire, at concert halls, theatres and other places where entertainment is presented, including open-air events. Tariff 4.A.1 sets a per-concert royalty. Tariff 4.A.2 sets an annual royalty.

2. Description of Users / Groups of Users Covered by the Proposed Tariff

Users are concert venues and concert promoters. Importantly, it is the nature of the *use*, and not the nature of the user, that determines whether the tariff applies.

3. Explanation of How Royalties are Determined

The proposed per-concert royalty rate for 2025-2027 is either:

- a) 3% of gross receipts from ticket sales of paid concerts, exclusive of any applicable taxes, with a minimum fee per concert of \$60.14; or
- b) 3% of fees paid to singers, musicians, dancers, conductors and other performers during a free concert, with a minimum fee per concert of \$60.14.

The proposed annual royalty for 2025-2027 is either:

- a) 3% of gross receipts from ticket sales of paid concerts, exclusive of any applicable taxes, with a minimum annual fee of \$103.09; or
- b) 3% of fees paid to singers, musicians, dancers, conductors and other performers during a free concert, with a minimum annual fee of \$103.09.

The proposed percentage of gross receipts and fees paid royalty rates are the same as the royalty rates in the previously approved tariff, which was approved by the Board in 2017 for the years 2015-2017.

The proposed minimum per-concert and minimum annual royalties have been increased for inflation according to the Board's established CPI-adjustment formula. SOCAN has estimated the appropriate inflationary increase based on projected CPI for the relevant years. According to the Board's adjustment formula, this figure will likely change once actual CPI data is available. Notwithstanding the proposed minimum fees, SOCAN requests that the Board certify the maximum inflationary increase that SOCAN is entitled to under the Board's adjustment formula at the time of certification of the tariff.

4. Submissions on the Collection of Information

The proposed tariff requires users to report:

- (a) the gross receipts from the ticket sales or the total fees paid to the performers (per-concert in the case of Tariff 4.A.1 and annually in the case of Tariff 4.A.2),
- (b) the legal names, addresses and telephone numbers of the concert promoters, if any, and of the owners of the venue where the concert took place (if other than the user);
- (c) the name of the act(s) at the concert, if available; and
- (d) the title of each musical work performed, if available.

The information collected under the proposed tariff is needed to identify users, calculate royalties and distribute those royalties to rights holders.

These reporting requirements are the same as those set out in the previously approved tariff.

5. Explanation of Changes from Previously Approved Tariff

Each of proposed Tariff 4.A.1 and Tariff 4.A.2 includes the following changes from the previously approved tariff:

- 1) The minimum fees have been adjusted to account for inflation as explained above.
- 2) The application clause has been updated to improve clarity and consistency with other SOCAN tariffs and to comply with the Board's *Practice Notice on Filing of Proposed Tariffs* [PN 2019-004 rev. 3] by limiting reliance on ambulatory references to other tariffs.
- 3) The proposed tariff adds a "Terms and Conditions" section that includes clauses concerning taxes on royalty payments and interest on late royalty payments. These clauses are consistent with other approved SOCAN tariffs and were included in the "General Provisions" of the previously approved tariff. The audit clause from the previously approved tariff has been moved to this general "Terms and Conditions" section.
- 4) To comply with the Board's *Practice Notice on Filing of Proposed Tariffs* [PN 2019-004 rev. 3], the proposed tariff has been revised to remove references to licences and limit itself to royalty rates and any related terms and conditions.