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 6 – Motion Picture Theatres (2025-2027)

1. Description of Uses Covered by the Proposed Tariff

This tariff applies to performances of any or all of the works in SOCAN's repertoire in connection with a motion picture theatre or any establishment exhibiting motion pictures at any time during the year.

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

Users are motion picture theatres and establishments that exhibit motion pictures. 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 royalty rate for 2025-2027 is 0.25% of gross receipts from ticket sales, exclusive of any applicable taxes, with a minimum annual fee of $300 per screen. The proposed royalty structure differs from that in the previously approved tariff, which was approved in 2017 for the years 2014-2016.

The proposed tariff sets a percentage of revenue royalty, rather than a per-seat royalty.

In order to arrive at the proposed royalty rate and structure, SOCAN conducted a jurisdictional survey of motion picture theatre performing rights tariffs in other jurisdictions and determined that most comparable jurisdictions apply a royalty rate in the 1% to 2% range. Based on SOCAN's data analysis, a transition into this range could not be done abruptly and may be disruptive to users. Further, it may be considered inequitable to increase the rate to, for example, 1% of gross receipts from ticket sales which would result in an increase in royalties payable of over 1000%. Accordingly, SOCAN proposes a rate for the years 2025 to 2027 that was well below the mean (1/4 to 1/8 of the global range) in order to minimize disruption.

The proposed structure and rate better reflects the value of music as used by motion picture theatres, and a percentage of revenue royalty self-adjusts as users' revenues fluctuate. This proposed change also obviates the need to adjust the royalty to account for establishments that are not open for the full year.

The proposed increase to the minimum annual royalty is even smaller. The rationale behind this difference is to further minimize disruption to smaller theatres, who typically pay the annual minimum.

It is anticipated that as part of the 2025-2027 tariff proceeding, objectors will produce information and documents that will assist in establishing the value and monetization of motion picture theatres during the relevant period. The anticipated information and documents are highly confidential and not otherwise available to SOCAN. As in prior tariff proceedings, it is expected that this relevant information and expert analysis will enable SOCAN to provide a detailed valuation analysis to permit the Copyright Board to set an equitable royalty rate for motion picture theatres during the relevant period.

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SOCAN reserves the right to adopt and advance additional or alternative valuation methodologies and inflationary rates in the course of the proceedings relating to the proposed tariff.

4. Submissions on the Collection of Information

The proposed tariff requires users to report their actual gross receipts from ticket sales in a calendar year. This is an annual fee tariff, which is paid in advance, based on the gross receipts in the previous year. The report made no later than January 31 of the following year allows SOCAN to verify the fees paid for the previous year and adjust as necessary.

The information collected under the proposed tariff is needed to calculate royalties.

5. Explanation of Changes from Previously Approved Tariff

Proposed Tariff 6 includes the following changes from the previously approved tariff:

1) The proposed tariff sets out a new royalty structure and minimum per-screen annual fee as explained above.

2) The proposed tariff removes the adjustments for establishments that are not open for the full year, as explained above.

3) 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.

4) 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. Other clauses from the previously approved tariff, such has reporting and audit, have been moved to this general "Terms and Conditions" section.