

NOTICE OF GROUNDS FOR PROPOSED TARIFF

Filed with the Copyright Board by SOCAN on 2024-10-15 pursuant to Rule 15 of *Copyright Board Rules of Practice and Procedure*

SOCAN Tariff 11.A – Circuses, Ice Shows, Fireworks Displays, Sound and Light Shows, Dance Shows and Similar Events (2026-2028)

1. Description of Uses Covered by the Proposed Tariff

This tariff applies to public performances of any or all of the musical works in SOCAN's repertoire by means of recorded music or performers in person at circuses, ice shows, fireworks displays, multimedia shows (including sound and light), dance shows and similar events.

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

Users are either event organizers or hosting venues who organize or authorize the public performance of musical works at events such as circuses, ice shows, multimedia shows, dance shows, and similar events. 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 2026-2028 is 1.6% of gross receipts with a minimum fee of \$95.63 per event.

The proposed royalty rate of 1.6% of gross receipts is the same as the royalty rate in the previously approved tariff, which was approved by the Board in 2023 for the years 2023-2025 (2023 CB 10-T). The proposed minimum fee has been increased for inflation according to the Board's established CPI-adjustment formula and the Board's default methodology as published by the Board in its *Inflation Adjustment to Royalty Rates – Default Methodology*. The inflation calculation commences in January 2023. Further, in accordance with the Board's 2023 decision (2023 CB 10 at para 37), the proposed inflationary adjustment starts at a January 2023 rate that includes an additional \$3.84 to account for the difference between the inflation adjustment the Board used to arrive at the last approved rate and the actual inflation during the January 2014 to December 2022 period. SOCAN has estimated the appropriate inflationary increase based on projected CPI for years that full CPI data is not available. According to the Board's adjustment formula, this figure will likely change once actual CPI data is available. Notwithstanding the proposed minimum fee of \$95.63, 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 approval of the tariff and that such inflation calculation commence as of the last inflationary increase to the minimum fee.

4. Submissions on the Collection of Information

The proposed tariff requires users to report, 30 days after the end of each quarter, the date of the event, the event type, the event venue and gross receipts from ticket sales. The information collected under the proposed tariff is needed to calculate and verify the applicable royalties, as well as to confirm for which events royalties have been paid.

5. Explanation of Changes from Previously Approved Tariff

- 1) The explanation for the proposed minimum fee for 2026-2028 is found above.
- 2) The proposed tariff specifies that royalties are due 30 days after the end of each quarter and requires users to report the date of the event, the event type, the event venue and gross receipts from ticket

sales. The previously approved tariff did not specify a royalty payment due date and reporting obligations. SOCAN has been collecting payments on a quarterly basis under the previously approved tariff. As described above, the basic reporting obligations in the proposed tariffs are needed to calculate and verify the applicable royalties, and are consistent with the reporting that SOCAN has received under this tariff for many years.

2) The tariff wording has been amended to add “dance shows” to the list of example events covered by the tariff. SOCAN has added dance shows to the scope of the proposed tariff. Dance shows are dance performances (both professional and amateur) that feature music as a fundamental element of the performance. Dance shows typically involve dancers performing choreographed dance moves accompanied by music. The audience at a dance show does not typically participate in the dancing, but rather observes the dancers and listens to the music. Popular examples of professional dance shows are “Dancing With the Stars Live”¹ and “Revolution en Tournée”.²

SOCAN proposes to include dance shows in Tariff 11.A because the nature, extent, and manner in which music is used in dance shows is very similar to the nature, extent, and manner in which music is used in the other events already covered by Tariff 11.A. More specifically, ice shows, which have historically been included in Tariff 11.A, are analogous to dance shows. Both types of events involve performers performing choreographed performances accompanied by music; the only difference is that ice shows occur on ice, while dance shows occur off ice. The value of music in each type of event should, therefore, be the same.

Like the other types of events under Tariff 11.A, dance shows can encompass both professional performances and amateur performances, ticketed and free-admission events, held in large and small venues, short performances and hours-long performances, and performances with little music and those with wall-to-wall music. SOCAN submits that the tariff’s fee structure, which contains both a percentage of revenue formula (so that the fee scales according to the size and revenues of the event) and a flat minimum fee, is the most suitable and equitable approach to covering the multiplicity of variations of dance shows that use music.

At this stage of the tariff proposal process, it is not feasible or possible for SOCAN to advance all of the evidence that relate to the inclusion of dance shows in Tariff 11.A. In particular, it may be necessary for SOCAN to rely on evidence that is not in its possession or publicly available. In which case, SOCAN will need to access this evidence through the interrogatory process or through other evidence-gathering tools available through the Board’s process. Upon the Board’s consideration of this proposed tariff, it may be that the Board determines that additional evidence is required to establish the similarities in music use between ice shows and dance shows and to support SOCAN’s proposal to include dance shows in this tariff. As a matter of procedural fairness, in the event that the Board determines it requires further evidence, SOCAN requests that the Board identify the nature of that additional evidence and grant SOCAN the opportunity and procedural tools (if required) to advance additional evidence prior to the Board’s decision on this proposed tariff.

¹ <https://www.dwtstour.com/#dates>

² <https://revolutionentournee.com/>