

## NOTICE OF GROUNDS FOR PROPOSED TARIFF

Filed with the Copyright Board by Re:Sound on 2024-10-11 pursuant to Rule 15 of *Copyright Board Rules of Practice and Procedure*

### RE:SOUND TARIFF 5.D – FESTIVALS, EXHIBITIONS AND FAIRS (2026-2030)

#### **1. Uses covered by the proposed tariff**

The proposed tariff applies to the communication or public performance of recorded music at a festival, exhibition or fair. The proposed tariff applies to all uses of recorded music at a festival, exhibition or fair such as recorded music played throughout the fairgrounds or recorded music used as part of a live performance such as a dance performance or concert. No additional Re:Sound tariffs apply to an event which is subject to the proposed tariff.

#### **2. Basis for proposed royalty rates**

The proposed rates are based on *Re:Sound Tariff 5.D – Festivals, Exhibitions and Fairs (2015)*. The proposed rates are adjusted to allow for a repertoire adjustment of 100% (from 50%) and a 20% increase to the value of music. In addition, the proposed rates are adjusted for inflation since 2015 (the last year for which the Tariff 5.D rates were adjusted), estimated to 2030.

#### Inflation Calculations

Inflation was calculated for the period of 2016 to 2023 using Statistics Canada's Consumer Price Index (CPI) monthly series for Canada, all-items, not seasonally adjusted, and not adjusted for taxes. CPI for January 2016 (126.8) was subtracted from CPI for December 2023 (158.3) and divided by CPI for January 2016, resulting in an inflation rate of 24.8%.

For the period of 2024 to 2030, as full year CPI is not yet known, inflation was estimated using an average of the last 3 years of inflation. This was calculated by subtracting CPI for January 2021 (138.2) from CPI for December 2023 (158.3) and dividing by CPI for January 2021, resulting in an inflation rate of 14.5%, which when divided by 3 years, results in an average annual rate of inflation of 4.8%. The period of 2024 to 2030 is 7 years, so the estimated inflation was calculated by multiplying 4.8% by 7 years for an estimated inflation rate of 33.6%.

Combining the known inflation rate of 24.8% with the estimated inflation rate of 33.6% results in a total inflationary adjustment of 58.4%. As it is not known at this time when the Copyright Board will approve the proposed tariff, the full inflationary adjustment has been applied to the period of 2026-2030, recognizing that a re-calculation will be required based on known inflation values at the time of approval.

### **3. Description of the group of users intended to be covered by the proposed tariff**

The proposed tariff applies to festivals, exhibitions and fairs using recorded music such as the Canadian National Exhibition.

### **4. Explanation of how the information that would be collected by Re:Sound pursuant to the proposed tariff would be used**

The information to be collected under section 6 of the proposed tariff would be used by Re:Sound to calculate and verify the royalty payments of a music user reporting and paying royalties under the tariff. This is the same information already required under *Re:Sound Tariff 5.D – Festivals, Exhibitions and Fairs (2015)*.

### **5. Identification and explanation of changes from the previously approved tariff**

#### **(a) Stand-alone document**

The proposed tariff has been drafted as an individual stand-alone document that contains all applicable terms and conditions, in accordance with the Copyright Board's *Practice Notice on Filing a Proposed Tariff* [PN 2019-004 rev.4] (the "Practice Notice"). References to other tariffs have been removed in accordance with the Practice Notice.

#### **(b) Royalties and Rate Tiers (s.5)**

The proposed rates are increased for the reasons outlined above. Additional rate tiers have been added at the request of the relevant industries to accommodate a wider range of event sizes and to minimize the impact of moving between tiers based on fluctuations in attendance from year to year.

(c) Accounts and Records (s.7)

Section 7(3) is revised to require Re:Sound to share the results of an audit with other Canadian collective societies with tariffs applicable to the same uses as the proposed tariff in order to increase efficiencies and reduce the need for multiple audits of the same music user by different collective societies.

(d) Confidentiality (s.8)

Section 8 is updated for consistency with more recently approved Re:Sound tariffs, including changes to allow Re:Sound to share information with its agents and service providers such as Entandem. Section 8(2)(b) is revised to allow Re:Sound to share information in connection with the collection of royalties or enforcement, not just with SOCAN, but with any other Canadian collective society with a tariff applicable to the same uses as the proposed tariff. This proposed revision would increase efficiencies and allow for potential joint enforcement practices.

(e) Adjustments (s.9)

Section 9 has been revised to impose a 12 month limit on adjustments on account of overpayments made by a music user subject to the tariff. As a self-reporting tariff, the accurate calculation of royalties owing rests solely on the music user. In order to be able to make timely and accurate distributions to rights holders, Re:Sound cannot be subject to unlimited adjustments on account of retroactive overpayments, based on information that is solely in the hands of a music user.

(f) Late Payments and Reporting (s.10)

Section 10 has been revised to include a financial disincentive for late reporting under the proposed tariff. The last approved tariff provides for interest payable on late payments which acts as a disincentive for music users to miss their payment due date. The proposed revision would provide a similar disincentive for late reporting which increases Re:Sound's costs of administering the tariff.

(g) Addresses for Notices, etc. (s.11) and Delivery of Notices and Payments (s.12)

These provisions have been updated for consistency with more recently approved Re:Sound tariffs, allowing for notice by file transfer protocol and for payment by credit card and electronic bank transfer. The use of fax numbers has been removed from these provisions as it is out of date and no longer used by Re:Sound as a means of communication. Re:Sound's address is updated, which will be effective December 1, 2024.