

NOTICE OF GROUNDS FOR PROPOSED TARIFF

Filed with the Copyright Board by SOCAN on 2025-10-22 pursuant to Rule 15 of *Copyright Board Rules of Practice and Procedure*

SOCAN Tariff 22.A – Online Music Services (2027-2029)

1. Description of Uses Covered by the Proposed Tariff

This tariff applies to the communication to the public by telecommunication (including, where applicable, the making available) of works in SOCAN's repertoire in connection with the operation of an online music service (and its authorized distributors), defined as a service that offers streams containing musical works to end users.

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

Users are operators and providers of online music services and their authorized distributors. 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 for 2027-2029 is 10.3% of the gross revenue of the service (for services that only offer music videos, the proposed royalty is 5.9% of the gross revenues of the service), multiplied by a ratio that reflects SOCAN repertoire use on the service, with a minimum fee of the greater of 0.13¢ per play of a file requiring a SOCAN licence and \$1.30 per subscriber. The proposed royalty for free streams is 0.13¢ per play of a file requiring a SOCAN licence. The ratio of SOCAN repertoire use excludes files that are generated entirely by artificial intelligence.

The proposed percentage of revenue royalty, minimum fees, and fee for free streams are intended to reflect changes in the market, including increased efficiencies and expanded uses of music. It is anticipated that, in a proceeding to examine the proposed tariff, objectors will produce information and documents that will assist in establishing the value and monetization of music by online music services during the relevant period, including how AI-generated content would be determined and tracked. 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 assist the Copyright Board in setting fair and equitable royalty rates and fees for online music services for the relevant period.

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 each user to report, on a monthly basis:

- the gross revenue of the service, the number of plays of each file, the total number of plays of all files, the number of subscribers to the service, the amounts paid by subscribers, the number of subscribers provided with free subscriptions, the number of free streams delivered, identification, and the total number of transmissions, of content generated solely by an artificial intelligence system and, for hybrid services or hybrid service tiers, the number of times each file was cached onto end users' local storage; and
- the music use information for each file delivered.

Following the decision of the Supreme Court of Canada in *Society of Composers, Authors and Music Publishers of Canada v. Entertainment Software Association*, 2022 SCC 30, which clarified the meaning of the making available provision (section 2.4(1.1)) of the *Copyright Act*, the proposed tariff introduces a new reporting requirement, namely that upon SOCAN's request, no more than twice per year, services would report certain information about all files made available for on-demand streaming.

The proposed tariff also requires each user to report basic service-identification information.

The information collected under the proposed tariff is needed to identify users, calculate royalties, distribute those royalties to rights holders, and gain a better understanding of the market and industry during the tariff period.

The information related to identification and total number of transmissions of content generated solely by an artificial intelligence system is required for SOCAN to assess, among other things, the impact of artificial intelligence in the online music service industry.

5. Explanation of Changes from Previously Approved Tariff

The proposed tariff includes the following changes from the previously approved tariff:

- 1) The proposed tariff excludes services that offer only non-interactive streams of sound recordings, whereas the previously approved tariff excluded services that offered only non-interactive streams (whether of sound recordings, music videos, or both).

- 2) The proposed tariff introduces (a) a new royalty structure that does not distinguish streaming-only services from hybrid services in respect of the percentage of revenue royalty rate and provides for minimum fees that are calculated as the greater of a per-subscriber fee and a per-play fee, rather than the lesser of the two, and (b) a separate royalty for free streams that is calculated as a per-play fee, all to better reflect the value of the use of music by online audiovisual services.
- 3) The proposed tariff introduces a change to the frequency with which services are required to pay royalties, from quarterly frequency to monthly frequency, to enable timely distribution of royalties.
- 4) Several of the definitions in the proposed tariff have been amended or added for clarity.
- 5) The proposed tariff introduces new reporting requirements, described above.
- 6) The proposed tariff clarifies that per-subscriber minimum fees are to be calculated based on the number of subscribers at the end of the month.
- 7) The proposed tariff introduces changes to the confidentiality provisions to allow sharing of reporting information with SOCAN's agents and service providers. SOCAN relies on service providers to facilitate efficient processing of reporting data, among other things.
- 8) The proposed tariff includes changes to the adjustments clause to clarify how SOCAN and tariff users may make adjustments as the result of the discovery of an error or otherwise. The adjustment clause in the proposed tariff is consistent with other SOCAN tariffs.
- 9) In light of recent technological developments, the proposed tariff clarifies that it does not authorize the use of any works in SOCAN's repertoire in connection with the training of, or the generation of any output by, any artificial intelligence system. That has always been SOCAN's position and practice in applying the tariff.