

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.C – Internet – Other Audio 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 an online service ordinarily accessed to listen to audio-only content other than a service covered other SOCAN Internet audio tariffs.

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

Users are online services that offer audio-only content who are not captured by Tariffs 1.A (Commercial Radio), 1.B (Non-Commercial Radio other than the Canadian Broadcasting Corporation), 1.C (CBC Radio Tariff), 22.A (Online Music Services), 22.B (Internet – Commercial Radio), 22.E (Internet – Canadian Broadcasting Corporation), 25 (Satellite Radio Services) or 26 (Pay Audio and Ancillary Services). 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 based on the amount of music in SOCAN's repertoire used on the service. If SOCAN repertoire use is 20% or less, the royalty is 2% of the service's Canadian Internet-related revenues. If SOCAN repertoire use is between 20% and 80%, the royalty is 5.5% of the service's Canadian Internet-related revenues. If SOCAN repertoire use is 80% or more, the royalty is 7% of the service's Canadian Internet-related revenues.

If a service cannot determine its Canadian Internet-related revenues, the royalty is based on the service's global Internet-related revenues multiplied by 0.1.

The proposed tariff sets out an annual minimum royalty based on SOCAN repertoire use ranging from \$46.06 per year to \$164.50 per year.

The proposed royalty is 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 with respect to online services ordinarily accessed to listen to audio-only content 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 assist the Copyright Board in setting fair and equitable royalty rates and fees for online services ordinarily accessed to listen to audio-only content for the relevant period.

The proposed annual minimum royalty 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 2018. SOCAN has estimated the appropriate inflationary increase based on projected CPI for the relevant 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 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 approval of the tariff and that such inflation calculation commence as of the last increase to the minimum fees.

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 Internet-related revenue of the service (Canadian or global), the number of plays of each file and the total number of plays of all files;
- for services that offer subscriptions with their provisions of streams, the number of subscribers, the amount paid by subscribers, the number of subscribers provided with free subscriptions and the total number of plays of all files by such subscribers; and
- 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.

5. Explanation of Changes from Previously Approved Tariff

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

- 1) The proposed tariff adjusts the annual minimum fee to account for inflation. It also proposes increases to the percentage of revenue rates which, as described above, are intended to reflect changes in the market.
- 2) The proposed tariff removes the adjustment for page impression ratios. The Board has recognized that page impressions have become less appropriate for measuring music use.
- 3) Several of the definitions in the proposed tariff have been amended or added for clarity.
- 4) The proposed tariff introduces new reporting requirements, described above.
- 5) 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.
- 6) 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.
- 7) 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.