

PROPOSED TARIFF

Filed with the Copyright Board by SOCAN on 2025-10-15 pursuant to subsection 67(1) of the *Copyright Act*

Proposed Tariff Title: *SOCAN Tariff 22.D.1 – Online Audiovisual Services (2027-2029)*

For the communication to the public by telecommunication of musical or dramatico-musical works.

Effective Period: 2027-01-01 – 2029-12-31

SOCAN TARIFF 22.D.1 – ONLINE AUDIOVISUAL SERVICES (2027-2029)

Application

1. (1) This tariff sets the royalties to be paid for the communication to the public by telecommunication of works in SOCAN's repertoire, which, where applicable, includes the making available of such works to the public by telecommunication in a way that allows a member of the public to have access to them from a place and at a time individually chosen by that member of the public, in connection with the operation of an online audiovisual service and its authorized distributors in the years 2027-2029.

(2) This tariff does not apply to uses covered by other tariffs, including SOCAN Tariffs 16 (Background Music Suppliers), 22.A (Online Music Services), 22.B (Internet – Commercial Radio), 22.C (Internet – Other Audio Services), 22.D.2 (User-Generated Content Services), 22.D.3 (Allied Audiovisual Services), 22.E (Internet – Canadian Broadcasting Corporation), 22.G (Internet – Game Services), 25 (Satellite Radio Services) and 26 (Pay Audio and Ancillary Services).

(3) This tariff does not apply to an online music video service or to a user-generated content service.

(4) This tariff 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.

Definitions

2. In this tariff,

“additional information” means, in respect of each musical work contained in a file, the following information:

(a) the unique identifier assigned by the service to the musical work;

- (b) the title of the musical work;
- (c) the name of each author of the musical work;
- (d) the name of each performer or group to whom each sound recording contained in the file is credited;
- (e) the name of the person who released each sound recording in the file;
- (f) the International Standard Recording Code (ISRC) assigned to each sound recording in the file;
- (g) if any sound recording in the file is or has been released in physical format as part of an album, the name, identifier, product catalogue number and the Universal Product Code (UPC) assigned to the album, together with the associated disc and track numbers;
- (h) the name of the music publisher associated with the musical work;
- (i) the International Standard Musical Work Code (ISWC) assigned to the musical work;
- (j) the Global Release Identifier (GRid) assigned to the musical work and, if applicable, the GRid of the album in which the musical work was released;
- (k) the running time of the musical work, in minutes and seconds; and
- (l) any alternative title used to designate the musical work or each sound recording in the file; (*« renseignements additionnels »*)

“audiovisual program” means any combination of sounds and visual images that are intended to inform, enlighten, or entertain, irrespective of its duration, initial intended use, or manner of distribution; (*« programme audiovisuel »*)

“Canadian Internet-related revenues” means all Internet-related revenues generated in connection with end users with Canadian IP addresses; (*« recettes d’Internet provenant du Canada »*)

“cue sheet” means a report containing, at minimum, the following information: the title of the audiovisual program, the title of each of the musical works embedded into the audiovisual program, the name of the author of each of the musical works, the duration of each of the musical works, and the total running time of the audiovisual program; (*« rapport de contenu musical »*)

“file” means a digital file of an audiovisual program; (*« fichier »*)

“Internet-related revenues” means all revenues generated by Internet-related activities, including membership, subscription and other access fees, amounts paid for advertising, product placement, promotion and sponsorship, net revenues from the sale of goods or services and commissions on third-party transactions, but excluding

- (a) revenues that are already included in calculating royalties pursuant to another SOCAN tariff;
- (b) revenues generated by an Internet-based activity that is subject to another SOCAN tariff;
- (c) agency commissions;
- (d) the fair market value of any advertising production services provided by the service; and
- (e) network usage and other connectivity access fees; (« *recettes d’Internet* »)

“music video” means an audiovisual program, including a concert video,

- (a) for which the visual content was produced to feature, accompany, depict, portray, or represent one or more sound recordings or performances of one or more musical works;
- (b) where the musical work(s) are in the foreground of the audiovisual program; and
- (c) where the making of the audiovisual program was authorized by the owner of copyright in each musical work it contains, or the owner’s agent, licensee, or other representative; (« *vidéo musicale* »)

“on-demand stream” means a stream selected by the end user and received at a place and time individually chosen by that end user; (« *transmission sur demande* »)

“online audiovisual service” means a service that offers streams containing audiovisual programs to end users. For the avoidance of doubt, an “online audiovisual service” includes services that also offer end users the ability to cache files for offline listening or viewing, but excludes a service that offers only streams that are selected by the service and can only be listened to or viewed at a time chosen by the service and for which no advance playlist is published; (« *service audiovisuel en ligne* »)

“online music video service” means a service that predominantly offers music videos and is not a user-generated content service; (« *service de vidéo musicale en ligne* »)

“play” means the single delivery of a stream; (« *écoute* »)

“quarter” means from January to March, from April to June, from July to September and from October to December; (« *trimestre* »)

“service” means a person or entity that communicates musical works in SOCAN’s repertoire to the public (which, where applicable, includes making such works available to be accessed by members of the public at a time and place of each member’s choosing) by means of digital transmission, including the Internet; (« *service* »)

“stream” means a file that is intended to be copied onto a local storage medium or device only to the extent required to allow listening to or viewing of the file at substantially the same time as when the file is received; (« *transmission* »)

“subscriber” means an end user with whom an online audiovisual service or its authorized distributor has entered into a contract for service other than on a transactional per-stream basis, whether for a fee, for other consideration or free of charge, including pursuant to a free subscription; (« *abonné* »)

“user-generated content” means audiovisual content posted to a website, software application or platform by a person other than the operator of the website, software application or platform and available for free viewing by end users; (« *contenu généré par les utilisateurs* »)

“user-generated content service” means an online audiovisual service that predominantly transmits user-generated content; (« *service de contenu généré par les utilisateurs* »)

“year” means a calendar year. (« *année* »)

Royalties

3. (1) The royalties payable for the communication by an online audiovisual service of an audiovisual program containing one or more musical works requiring a SOCAN licence shall be as follows:

(a) for a service that charges per-program fees to end users: 3% of the amounts paid by end users, subject to a minimum of 17¢ per program;

(b) for a service that offers subscriptions to end users: 3% of the amounts paid by subscribers, subject to a minimum of 19.5¢ per subscriber per month. In the case of a single, initial free trial of up to 31 days in any 12-month period offered to induce a prospective subscriber to enter into a paid subscription, there shall be no royalty fee payable; and

(c) for a service that receives Internet-related revenues in connection with its communication of audiovisual programs:

$3\% \times A \times B$

where

if the service can determine its Canadian Internet-related revenues:

- (A) is the service's Canadian Internet-related revenues, and
- (B) is 1,

if the service cannot determine its Canadian Internet-related revenues:

- (A) is the service's Internet-related revenues, and
- (B) is 0.1.

(2) A service with revenues from more than one of the categories in paragraphs (1)(a), (b) and (c) shall pay royalties in accordance with each applicable paragraph, but the calculation in paragraph (1)(c) shall exclude any fees charged to end users in the calculations in paragraphs (1)(a) and (b).

(3) For the purpose of calculating the minimum payable pursuant to paragraph (1)(b), the number of subscribers shall be determined as at the end of the month in respect of which the royalties are payable.

(4) A non-commercial service with no revenue shall pay an annual fee of \$129.95.

(5) In the case of an online music video service, SOCAN Tariff 22.A (Online Music Services) shall apply.

(6) In the case of a user-generated content service, SOCAN Tariff 22.D.2 (User-Generated Content Services) shall apply.

Reporting Requirements

Service Identification

4. (1) No later than 20 days after the end of the first month during which a service communicates a file requiring a SOCAN licence, the service shall provide to SOCAN the following information:

- (a) the name of the person who operates the service, including
 - (i) if a corporation, its name and its jurisdiction of incorporation,
 - (ii) if a sole proprietorship, the name of the proprietor,

- (iii) if a partnership, the names of each partner, and
- (iv) in any event, the names of the principal officers or operators of the service or any other service,

together with any other trade name under which the service carries on business;

- (b) the address of its principal place of business;
- (c) the name, address and email of the persons to be contacted for the purposes of notice, for the exchange of data and for the purposes of invoicing and payment of royalties;
- (d) the name and address of any authorized distributor; and
- (e) the Uniform Resource Locator (URL) of each website and the name of each application or platform at or through which the service is or will be offered, as applicable.

Sales and Music Use Reporting

(2) No later than 20 days after the end of each month, any service that is required to pay royalties pursuant to this tariff shall provide to SOCAN a report setting out, for that month, in relation to each file that was delivered as a stream, the following information:

- (a) the title of the program and/or series, the year of production, episode name, number, season, and running time, and any other information that would assist SOCAN in identifying the file;
- (b) the number of plays of the file;
- (c) the total number of plays of all files;
- (d) the International Standard Audiovisual Number (ISAN) assigned to the file;
- (e) in the case of a translated program, the title in the language of its original production; and
- (f) the additional information.

(3) No later than 20 days after the end of each month, the service shall also report, for that month, its revenues from each of the categories in paragraphs 3(1)(a), (b) and (c), as applicable, and with respect to paragraph 3(1)(c), its Canadian Internet-related revenues or Internet-related revenues, as applicable.

(4) If the service offers subscriptions in connection with its provision of streams, the

service shall provide the following information:

- (a) for each subscription offering, the number of subscribers to the service at the end of the month and the total amounts paid by them during that month;
- (b) the number of subscribers to the service with free subscriptions as of the end of the month; and
- (c) the number of end users provided with an initial free trial referred to in paragraph 3(1)(b) as of the end of the month and the total number of plays of all files by such end users as streams, during that month.

(5) If the service claims that a SOCAN licence is not required for a file, the service shall provide information that establishes why the licence is not required.

(6) A service that is required to pay royalties pursuant to more than one paragraph of subsection 3(1) shall file a separate report pursuant to each subsection of this section.

Files Made Available

5. Upon request, a service shall provide to SOCAN, for each file that was made available to members of the public for on-demand streaming at any time during the year, regardless of whether the file was transmitted to any end user,

- (a) if available, a cue sheet; or
- (b) if the cue sheet is not available, the information specified in paragraph 4(2)(a).

SOCAN shall not make such a request more frequently than twice per year.

If the cue sheet is not available for a file, the service shall, at SOCAN's request, use commercially reasonable efforts to secure the cue sheet from any third party, including from the producer of the audiovisual program.

Payment of Royalties and Interest on Late Payments

- 6. (1) Royalties shall be due no later than 20 days after the end of each month.
- (2) All amounts payable under this tariff are exclusive of any federal, provincial or other governmental taxes or levies of any kind.
- (3) All amounts required to be reported or paid under this tariff shall be reported or paid in Canadian dollars.
- (4) Any amount not received by the due date shall bear interest from that date until the date the amount is received. Interest shall be calculated daily, at a rate equal to 1% above

the Bank Rate effective on the last day of the previous month (as published by the Bank of Canada). Interest shall not compound.

Adjustments

7. If, as a result of the discovery of an error or otherwise, the amount of the royalties paid or payable, including excess payments, requires an adjustment, then SOCAN or the service shall immediately notify the other party, provide an explanation for the claimed adjustment, and propose an adjustment solution, such solution subject to the other party's consent (not to be unreasonably withheld). Adjustments shall not be made in respect of any other royalties or fees owed to SOCAN by the service under another tariff or agreement without SOCAN's consent. No adjustment may be made to royalties paid more than six years previously. For greater certainty, this provision does not apply to any adjustments pursuant to an audit conducted under this tariff.

Records and Audits

8. (1) A service shall keep and preserve, for a period of six years after the end of the month to which they relate, records from which the information set out in sections 3 and 4 can be readily ascertained.

(2) SOCAN may audit these records at any time during the period set out in subsection (1) on reasonable notice and during normal business hours.

(3) Subject to subsection (4), if an audit discloses that royalties due have been understated in any quarter by more than 10%, the service shall pay the reasonable costs of the audit within 30 days of the demand for such payment.

(4) For the purposes of subsection (3), any amount owing as a result of an error or omission on the part of SOCAN shall not be taken into account.

Confidentiality

9. (1) Subject to subsections (2) and (3), SOCAN, a service and its authorized distributors shall treat in confidence information received pursuant to this tariff, unless the disclosing party consents in writing to the information being treated otherwise.

(2) Information referred to in subsection (1) may be shared

- (a) between the service and its authorized distributors in Canada;
- (b) with the Copyright Board;
- (c) in connection with proceedings before the Copyright Board, once the disclosing party has had a reasonable opportunity to request a confidentiality order;

- (d) with any person who knows or is presumed to know the information;
- (e) to the extent required to effect the distribution of royalties;
- (f) with SOCAN's agents and service providers to the extent required by the service providers for the service they are contracted to provide; and
- (g) if required by law.

(3) Subsection (1) does not apply to information that must be provided pursuant to the *Copyright Act*, to information that is publicly available, to aggregated information, or to information obtained from someone other than the service or its authorized distributors and who is not under an apparent duty of confidentiality with respect to the supplied information.

Addresses for Notices

10. (1) Anything addressed to SOCAN shall be sent to 41 Valleybrook Drive, Toronto, Ontario M3B 2S6, email: licence@socan.com, or to any other address or email address of which a service has been notified in writing.
- (2) Anything that SOCAN sends to a service shall be sent to the last address or email address of which SOCAN has been notified in writing.

Delivery of Notices

11. (1) Subject to subsection (2), a notice may be delivered by hand, by postage-paid mail, by email or by File Transfer Protocol (FTP).
- (2) Information provided pursuant to sections 4 and 5 shall be delivered electronically, by way of delimited text file or in any other format agreed upon by SOCAN and the service.
- (3) A notice or payment mailed in Canada shall be presumed to have been received four business days after the day it was mailed.
- (4) A notice sent by email or by FTP shall be presumed to have been received the day it is transmitted.