

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.E – Internet – Canadian Broadcasting Corporation (2027-2029)

1. Description of Uses Covered by the Proposed Tariff

This tariff applies the communication to the public by telecommunication (including, where applicable, the making available) of works in SOCAN's repertoire by the Canadian Broadcasting Corporation (CBC) in connection with the transmission of audio and audiovisual content.

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

The single user is the CBC.

3. Explanation of How Royalties are Determined

The proposed tariff sets out three different royalty calculations, depending on the type of use. These royalties mirror the royalties in proposed SOCAN Tariffs 22.D.1, 22.A, and 22.C as follows:

For Online Audiovisual Services operated by the CBC:

3% of revenue from one or more of the following categories, depending on the business model of the service:

- (a) program fees charged to end-users
- (b) amounts paid by subscribers, and
- (c) the “Internet-related revenues” from the CBC Online Audiovisual Service

with a minimum fee of 17¢ per program in the case of (a), and 19.5¢ per subscriber in the case of (b).

For Online Music Services operated by the CBC

For services that deliver on-demand and semi-interactive streams (including hybrid services), 10.3% of Internet-related revenues, subject to a minimum fee of the greater of 0.13¢ per stream of a file requiring a SOCAN licence and \$1.30 per subscriber.

For services that only offer non-interactive streams,

2% of Internet-related revenues if the service's SOCAN repertoire use is 20% or less (subject to a minimum fee of \$46.06 per year)

5.5% of Internet-related revenues if the service's SOCAN repertoire use is between 20% and 80% (subject to a minimum fee of \$129.95 per year)

7% of Internet-related revenues if the service's SOCAN repertoire use is 80% or more (subject to a minimum fee of \$164.50 per year).

The minimum fees for non-interactive streams are the same as those proposed by SOCAN in Tariff 22.C (Internet – Other Audio Services). Those minimum fees are inflationary increases from the last approved Tariff 22.C, and are calculated in accordance with 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 inflationary increase to the minimum fees in Tariff 22.C.

For other online programming offered by the CBC

10% of the total amount payable by the CBC pursuant to Tariffs 1.C (Radio – Canadian Broadcasting Corporation) and 2.D (Television – Canadian Broadcasting Corporation), multiplied by the ratio of audio page impressions to all page impressions relating to online programming, if that ratio is available and 0.15 if not.

The proposed percentage of revenue rates and minimum fees 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, the CBC will produce information and documents that will assist in establishing the value and monetization of music by such services 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 to be paid by the CBC 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 the CBC to report, on a monthly basis the information that users who fall under other SOCAN Internet tariffs are required report. This includes Internet-related revenue of the service, the number of plays of each file, the total number of plays of all files, the number of subscribers, the amount paid by subscribers, the number of subscribers provided with free subscriptions, and the number of free streams delivered. The proposed tariff also requires the CBC to report basic identification data for each file delivered as a stream.

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 new reporting requirements, namely that upon SOCAN's request, no more than twice per year: (a) for each CBC Online Audiovisual Service, the CBC would report certain information about all files made available for on-demand streaming (and, if available, any cue sheet data available for those files, and, if not available, basis identification data), and (b) for each CBC Online Music Service, the CBC would report certain information about all files made available for on-demand streaming.

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 introduces a new royalty rate and minimum fees.
- 2) The proposed tariff introduces new reporting requirements, described above.
- 3) Several of the definitions in the proposed tariff have been amended or added for clarity.

- 4) 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.
- 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 CBC 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) The proposed tariff introduces standard provisions regarding address for and delivery of notices that are consistent with other SOCAN tariffs.
- 8) 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.