

## **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.G – Internet – Game 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 play games, including gambling.

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

Users are services ordinarily accessed to play games, including gambling 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 3% of the service's Canadian Internet-related revenues, with a minimum annual fee of \$129.95.

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 royalties payable with respect to any game containing less than 20% music use for which a licence is required from SOCAN are 1.5% of the service's Canadian Internet-related revenues generated by such a game. If the service cannot determine such Canadian Internet-related revenues, then the royalties payable are 1.5% of the service's global Internet-related revenues generated by such a game multiplied by 0.1.

The proposed percentage of revenue royalty and minimum fee 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 game 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 for online game 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 service's Internet-related revenues (Canadian or otherwise);
- identification information about each game that was delivered as a stream, including information that would assist SOCAN in identifying the game, the number of starts of each and all games delivered as streams, the number of hours end users played of each and all games,
- for services that offer subscriptions in connections with its provisions of streams, the number of subscribers at the end of the month and the total amount paid by subscribers during the month, the number of subscribers with free subscriptions as of the end of the month, and the number of subscribers provided with initial free trial subscriptions as of the end of the month (as well as additional information relating to such free trial subscribers); and
- music use information.

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 games 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 introduces a new royalty rate and calculation formula, and adjusts the minimum fee from \$15.00 per year to \$129.95 per year.
- 2) The proposed tariff includes a new rate applicable for games with less than 20% music use.
- 3) The proposed tariff introduces changes to the frequencies with which services are required to report sales information and pay royalties, as well as changes to the reporting of music use information, to enable timely and accurate distribution of royalties.
- 4) The proposed tariff introduces new reporting requirements, described above.
- 5) Several of the definitions in the proposed tariff have been amended for clarity.
- 6) The proposed tariff introduces records and audits, confidentiality, addresses for notices and delivery of notices provisions that are customary to and consistent with other SOCAN tariffs.
- 7) 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.
- 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.