

## **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 25 – Satellite Radio Services (2027-2029)

### **1. Description of Uses Covered by the Proposed Tariff**

This tariff applies to the communication to the public by telecommunication of works in SOCAN's repertoire by Satellite Radio Services, defined as any "multi-channel subscription satellite radio service licensed by the Canadian Radio-television and Telecommunications Commission as well as any similar service distributed in Canada." It applies to both terrestrial satellite radio services and the online activities of such satellite radio services.

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

At present, the only satellite radio service operating in Canada is SiriusXM Canada Inc.

### **3. Explanation of How Royalties are Determined**

The proposed royalty rate for 2027-2029 is:

- (a) 5% of its service revenues for the reference month, subject to a minimum fee of 74¢ per subscriber to the multi-channel subscription satellite service (with or without simulcast); and
- (b) 10.3% of its Internet-related revenues for the reference month, subject to a minimum fee, which shall be the greater of \$1.30 per subscriber to whom the service offers semi-interactive streams and/or on-demand streams and 0.13¢ per play of a file requiring a SOCAN licence as a semi-interactive stream or on-demand stream.

With respect to (a), the increase to the proposed percentage of revenue royalty rate is intended to reflect changes in the market, including increased efficiencies and expanded uses of music. The proposed minimum fee 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 2005. 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 fee.

With respect to (b), the proposed percentage of revenue royalty and minimum fees are the same as those proposed by SOCAN in Tariff 22.A and Tariff 22.B for the years 2027-2029. Such proposed royalty and fees remove the page-impression ratio calculation that exists in the last approved Tariff 22.B (2007-2018), and 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, SiriusXM Canada Inc. (or any other potential objector) will produce information and documents that will assist in establishing the value and monetization of music by satellite radio services (terrestrial and online) 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 a fair and equitable royalty rates and fees for satellite radio services during 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 total number of subscribers as of the end of the reference month, broken down by the number of paid subscribers and free subscribers, to: (a) the multi-channel subscription satellite service (with or without simulcast); (b) whom the service offered semi-interactive streams; and (c) whom the service offered on-demand streams;
- its service revenues connected to the multi-channel subscription satellite service (with or without simulcast);
- its Internet-related revenues;
- music use information; and

- with respect to on-demand and semi-interactive streams, the number of plays of each files, the total number of plays of all files, and the total number of plays of all files by subscribers provided with free subscriptions.

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 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 increases to the percentage of revenue rate, the rate applicable to on-demand and semi-interactive streaming, and minimum per-subscriber and per-play fee, as described above.
- 2) The proposed tariff applies to both terrestrial satellite radio services and the online activities of such satellite radio services.
- 3) The proposed tariff introduces new reporting requirements, described above.
- 4) Several of the definitions in the proposed tariff have been amended or added for clarity, including some to reflect that the proposed tariffs now applies to the online activities of satellite radio services.
- 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.