

NOTICE OF GROUNDS FOR OBJECTION

Filed by Entertainment Software Association and Entertainment Software Association of Canada.

In relation to proposed tariff *SOCAN Tariff 22.G – Internet – Game Services (2027-2029)*

Filed with the Copyright Board (the “Board”) on 2025-12-17 pursuant to Rule 18 of *Copyright Board Rules of Practice and Procedure*.

General Statement of Objection

This is the Notice of Grounds for Objection of Entertainment Software Association and the Entertainment Software Association of Canada (“ESA and ESAC”) to the Proposed Tariff for Game Services for 2027-2029 (the “Proposed Tariff”) filed by SOCAN and published on the Copyright Board website on November 17, 2025, pursuant to the provisions of section 68.2 of the *Copyright Act*.

ESA and ESAC respectfully reserve the right to rely upon objections raised by other parties to the proceedings, *mutatis mutandis*. ESA and ESAC also reserve their right to raise additional substantive points of objection throughout the proceedings related to the Proposed Tariff.

These objections are filed in accordance with the *Copyright Act* and the Practice Notice on the Filing of Grounds for Objection.

Inter alia and without limiting their general objection, and without admitting that they are liable for the payment of royalties pursuant to the proposed tariff, ESA and ESAC object to the following:

Grounds for Objecting to Royalty Rates in the Proposed Tariff

ESA and ESAC object to the rates set out in section 3 the Proposed Tariff for the following reasons:

- Said proposed fees do not reflect the fair, reasonable, and appropriate value of the public performance or the communication to the public by telecommunication of works in SOCAN’s repertoire.
- Said proposed fees do not reasonably reflect either the amount or the type of the impact of music use by a licensee.
- Said proposed fees have a “minimum fee” that is unnecessary or in the alternative, much too high.

- The Proposed Tariff seeks to include in the rate base revenues which are in no way connected to the use or value of SOCAN's repertoire.

Grounds for Objecting to Terms and Conditions in the Proposed Tariff

ESA and ESAC object to the reporting, payment, and auditing provisions contained in the Proposed Tariff at sections 4, 5, and 8. Said provisions are onerous, intrusive, require the disclosure of potentially sensitive confidential information, require the disclosure of information that is not necessarily available to licensees, and place a disproportionate burden on licensees.

The fact that the Proposed Tariff requires licensees to retain records for a period of six years at section 8(1) is also unreasonable and places a disproportionate burden on licensees. Finally, the fact that services are required to pay for audit costs as per section 8(3) is also not standard.

ESA and ESAC also object to SOCAN's proposal that no adjustment may be made to royalties paid more than six years in the past at section 7, other than by an audit conducted by SOCAN itself. This is unbalanced, unreasonable, and does not appropriately account for the fact that tariff proceedings can begin and only be fully resolved years after interim royalties have been paid.

Finally, the ESA and ESAC object to section 1(3) of the Proposed Tariff (relating to the training of any artificial intelligence system) to the extent it purports to limit the use of works in a manner consistent with the principles of fair dealing and other exceptions under the *Copyright Act*.

Additional Grounds for Objecting to the Proposed Tariff

ESA and ESAC object to the fact that the Proposed Tariff does not adequately reflect the principle of technological neutrality and does not adequately reflect the risk and investment by users in new technology.

Yours truly,