

SOCAN Tariff 2.D – Television – Canadian Broadcasting Corporation (2015, 2016, 2017, 2018, 2019, 2020-2022, 2023-2025)

Tariff 2.D covers the communication to the public by telecommunication of works in SOCAN's repertoire by the single broadcaster, the Canadian Broadcasting Corporation (CBC). CBC is the sole user covered by the proposed tariff.

Explanation of how Royalties are Determined

Tariff 2.D was last approved by the Board in 2017 for the years 2013-2014. SOCAN had proposed the same annual royalty rate as approved in 2012, namely the annual royalty of \$6,922,586. The CBC withdrew its objection before the Board and the Board approved the tariff as proposed.

~~For the years 2015-2022, SOCAN proposed an inflationary increase to the annual royalty. To the extent the proposed rates differ from the inflationary adjustment as calculated according to the Board's approved inflationary adjustment method, SOCAN requests that the Board certify the rates for each of the years 2015-2022 that are the maximum SOCAN is entitled to based on the Board's approved inflationary adjustment calculation.~~

The proposed royalties are based on the previously approved tariff and have been adjusted for inflation. The inflation calculation commences in January 2006, the last year the annual royalty was adjusted for inflation. At the time of filing proposed Tariff 2.D for each of the years covered by this Notice of Grounds, SOCAN estimated the appropriate inflationary increase, including where necessary, based on projected CPI for years that full CPI data is not available. For the years 2023-2025, the monthly royalty amounts are an inflationary adjustment from the last approved tariff which received a rate increase, which was approved in 2008 for the years 2002 to 2008, divided into 12 monthly amounts. For the years 2015-2022, the inflationary adjustment is the same as previously described, but on an annual basis. According to the Board's adjustment formula, the inflationary adjustment SOCAN is entitled to pursuant to the Board's default methodology has likely changed since these tariffs were proposed. Notwithstanding the proposed royalties and any jointly-submitted text for years prior to 2025, SOCAN requests that the Board certify the maximum inflationary increase that SOCAN is entitled to under the Board's default methodology as published by the Board in its *Inflation Adjustment to Royalty Rates – Default Methodology*, and that such inflation calculation commence as of the last increase to the royalty amount.

Beginning for the year 2023, SOCAN has proposed a new tariff form for Tariff 2.D. This new form sets out a rate that includes both a percentage of gross revenue and a flat monthly fee. For the years 2023, 2024, and 2025, SOCAN has proposed a monthly royalty of 1.9% of gross revenue, (plus a monthly fee of \$764,555.48 / \$775,218.73 / \$785,881.99, respectively). The rationale for the inflationary adjustment to the monthly fee is described above. With respect to the 1.9% of gross revenue, as the CBC's business model moves more towards that of a conventional commercial broadcaster, it becomes appropriate to set tariff terms that approximate the terms in Tariff 2.A, thereby including 1.9% of gross revenue. However, since the CBC continues to receive funding from the government, it is necessary to retain the flat fee royalty structure as well.

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 monetization of television networks and stations, and the value of the use of SOCAN's repertoire by the CBC, 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 permit the Copyright Board to set an equitable royalty rate 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, including, but not limited

to, applying the relative audience share methodology employed by the Board in its 1991 decision approving Tariff 2.D (see *SOCAN - Various Tariffs, 1991*, Board File 1990-4, 1991 CanLII 13297).

Submissions on the Collection of Information

Aside from monthly gross income for the years 2023-2025, this tariff does not collect any information from the CBC. The proposed tariff for 2015-2022 does not collect any information from the CBC.

Explanation of Changes from Previously-Approved Tariff

The changes from the previously-approved tariff are as follows:

1. Beginning in 2023, a change from an annual payment to a monthly payment
2. Changes to the annual fee to account for inflation
3. Beginning in 2023, the addition of a percentage of gross revenue component, along with definitions for "gross revenue" and "reference month"
4. A provision allowing SOCAN to audit the CBC's reporting

Official Language

SOCAN wishes to participate in the proceeding in English.