

REPLY TO NOTICE OF GROUNDS FOR OBJECTION

Filed with the Copyright Board by SOCAN on 2024-05-10 pursuant to Board Order [CB-CDA 2024-031]

SOCAN Tariff 18 – Recorded Music for Dancing (2023-2025)

This is SOCAN's response to the Notice of Grounds for Objection to SOCAN Tariff 18 (2023-2025) filed by Hotel Association of Canada and Restaurants Canada (the "Objectors").

The Objectors advance one ground for objecting to SOCAN's proposed Tariff 18 (2023-2025). The Objectors take issue with the proposed inflation adjustment to the dollar-denominated royalty. The Objectors argue that an adjustment for inflation is not justified and that the Consumer Price Index (CPI) is a "poor proxy" for the change in the value of music over time.¹ The Objectors' position ought to be rejected.

The Board has consistently explained that the goal of adjusting dollar-denominated royalties for inflation is to preserve the general purchasing power of rights holders. The Board relies on Statistics Canada's CPI monthly series, all-items, not seasonally adjusted and not adjusted for taxes ("CPI – All-Items") as the most appropriate metric for achieving this goal.² Further, the Board routinely approves CPI-indexed inflation adjustments to royalty rates to avoid erosion to the value of music and of the royalties collected by collective societies over time and, in fact, has done so citing this reason numerous times when certifying other SOCAN tariffs relating to the years 2023-2025.³ What the Objectors are suggesting ignores the Board's long-standing position on inflation adjustments and it runs contrary to the great weight of Board practice on this issue.

CPI – All-Items provides a strong economic foundation for calculating inflation adjustments. The CPI is the index most often used by the Bank of Canada and other renowned organizations to determine the rate of inflation. Moreover, CPI – All-Items is considered the most representative, most relevant, and least distorted for the purpose of calculating inflation adjustments. It reflects the prices of all types of goods and services, does not include any seasonal adjustments or transformations, and does not exclude any goods or services. The Board has stated that its current approach to inflation (namely, to calculate the inflation rate as the percentage change in the CPI – All-Items between January of the first year and December of the last full year of available data) is "the simplest and most direct method of

¹ Although the Objectors do not specify, it is implicit that they take the issue with the use of CPI, all-items, not seasonally adjust and not adjusted for taxes, which is the data series used by the Board to calculate inflation increases.

² See, for example, [SOCAN, Re:Sound – Tariff for CBC Radio 2006-2011](#) (8 July 2011) at paras 82-91; [Access Copyright - Tariff for Provincial and Territorial Governments, 2005-2014](#) (22 May 2015) at paras 494-497; SOCAN Tariff 3.C – Adult Entertainment Clubs (2023-2025), [2022 CB 13](#) at paras 16-22; Re:Sound Tariff 8 – Non-Interactive and Semi-Interactive Streaming (2013-2018), [2023 CB 12](#) at paras 98-104.

³ SOCAN Tariff 3.C – Adult Entertainment Clubs (2023-2025), [2022 CB 13](#) at para 18; SOCAN Tariff 7 – Skating Rinks (2023-2025), [2022 CB 14](#) at para 19; SOCAN Tariff 12.A – Theme Parks, Ontario Place Corporation and Similar Operations and SOCAN Tariff 12.B – Canada's Wonderland and Similar Operations (2023-2025), [2022 CB 15](#) at para 18; SOCAN Tariff 11.B – Comedy Shows and Magic Shows (2023-2025), [2022 CB 10](#) at para 18; SOCAN Tariffs 10.A & 10.B – Parks, Parades, Streets and Other Public Areas (2023-2025), [2022 CB 6](#) at para 16; SOCAN Tariff 13.A – Public Conveyances – Aircraft (2023-2025), [2023 CB 7](#) at para 41; SOCAN Tariff 13.B – Public Conveyances – Passenger Ships (2023-2025), [2023 CB 8](#) at para 19; SOCAN Tariff 13.C – Public Conveyances – Railroad Trains, Buses and Other Public Conveyances (2023-2025), [2023 CB 9](#) at para 20.

calculating the rate of inflation. Also, this method remains a familiar approach for parties and the general public.”⁴ The Objectors have not presented a compelling reason for the Board to reconsider its approach to inflation, or for denying SOCAN's members the benefit of the inflationary adjustment sought in proposed Tariff 18 (2023-2025).

The Objectors have not offered a convincing reason for the Board to depart from its long-standing approach to inflation adjustments. Given the Board's jurisprudence on inflation, SOCAN should not be required to provide economic evidence to support the requested inflationary adjustment, since it is based on the Board's established methodology and data series. As set out in SOCAN's Notice of Grounds dated March 8, 2024, SOCAN requests that the Board certify the maximum inflationary increase that SOCAN is entitled to using the Board's adjustment formula and current CPI data at the time of certification of the tariff.

⁴ SOCAN Tariff 11.A – *Circuses, Ice Shows, Fireworks Displays, Sound and Light Shows and Similar Events* (2023-2025), [2023 CB 10](#) at para 30; SOCAN Tariff 21 – *Recreational Facilities Operated by a Municipality, School, College, University, Agricultural Society or Similar Community Organizations* (2023-2025), [2023 CB 11](#) at para 19.