

Copyright Board
Canada



Commission du droit d'auteur
Canada

PN 2019-004 rev. 5

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Practice Notice on Filing a Proposed Tariff

General Statement

[1] To facilitate the comprehension of proposed tariffs by prospective users and the public, and of the Board's processing and consideration thereof, proposed tariffs should conform to standards regarding content and format.

[2] This Practice Notice sets out and clarifies the procedure in regards to the filing of proposed tariffs by collective societies.

Electronic Filing

[3] Unless directed otherwise, proposed tariffs must be filed using the electronic form on the Board's website.

Document Format and Official Languages

[4] Documents must meet the requirements set out in *Practice Notice on Format of Electronic Documents* (PN 2019-001).

[5] Each proposed tariff must include a header, in the form set out in the Annex to this Practice Notice.

[6] These documents will be published by the Board as received. The Board will not format these documents, nor review them for clerical errors. The Board will indicate this on its website with the proposed tariffs.

[7] Proposed tariffs and comparative documents must be filed in each official language.

Separate Document for Each Proposed Tariff

[8] Proposed tariffs must be filed in a separate, stand-alone document that contains all applicable terms and conditions.

[9] Where multiple collectives propose a single tariff jointly, they may do so in a single filing. In all other cases, a proposed tariff should contain proposed royalties and related terms and conditions only in respect of the collective society that is filing the proposed tariff.

[10] When preparing their proposed tariffs, collective societies must be ready for the Board to consider all activities covered in a given filed document in a single proceeding. As such, each lowest sub-unit of a proposed tariff should be filed separately.

A. Tariff Is Not a Licence

[11] A proposed tariff should not refer to itself as a licence. While both tariffs and licences permit the use of copyrighted material, the approval of a tariff does not thereby make it a licence. The Supreme Court of Canada has held that the legal effect of these instruments is not the same.¹

[12] A proposed tariff should limit itself to “royalty and levy rates and any related terms and conditions”². The Board may decide to remove terms or conditions that it deems improper for a tariff. For example, the Board has previously amended proposed tariffs by removing provisions that related primarily to compliance and enforcement of the tariff.³

References to Other Proposed or Approved Tariffs

[13] To facilitate comprehension and consideration of a proposed tariff, the scope, terms, and conditions of a tariff should be clearly defined and readily ascertainable from the proposed tariff itself. References to other documents—and in particular, ambulatory (i.e., a reference to a document that can change in the future) and circular (i.e., a reference to a document that references back to the proposed tariff) references—are therefore strongly discouraged.

[14] The Board may decide to address references to other documents by, for example, removing such references in the approved tariff, or—where the scope of the proposed tariff cannot be ascertained—decline to approve the proposed tariff altogether.

¹ *York University v Canadian Copyright Licensing Agency (Access Copyright)*, 2021 SCC 32

² *Copyright Act*, RSC 1985 c C-42, s 68.1(1)(b)

³ *SOCAN Tariff 8 (2018-2022)*, 2022 CB 9; *SOCAN Tariff 11.B (2023-2025)*, 2022 CB 10; *SOCAN Tariff 20 (2018-2022)*, 2022 CB 11.

[15] In exceptional circumstances, a reference to another tariff may be warranted. In such a case, the collective society filing the proposed tariff should provide an explanation in the Notice of Grounds for the Proposed Tariff. In any event, a reference to another tariff must be static, meaning that it must refer to a tariff for a specific period of time.

ANNEX A – Proposed Tariff Header in Each Official Language

PROPOSED TARIFF

Filed with the Copyright Board by [Collective Society Name(s)] on [YYYY-MM-DD] pursuant to subsection [67(1) | 67(2) | 83(1)] of the *Copyright Act*

Proposed Tariff Title: [Proposed Tariff Title]

For the [list of rights (e.g., reproduction or public performance) | activities for which a tariff may be set under ss. 29.7(2), 29.7(3), or 31(2)(d) (e.g., retransmission of a distant signal) | manufacture or importation] of [subject-matter | blank audio recording media].

Proposed Short Title (if applicable): [Proposed Short Title]

Effective Period: [Start Date (YYYY-MM-DD)] – [End Date (YYYY-MM-DD)]

(space)

[NAME OF PROPOSED TARIFF (EFFECTIVE PERIOD)]

PROJET DE TARIF

Déposé auprès de la Commission du droit d'auteur par [Société(s) de gestion] le [AAAA-MM-JJ] en vertu du paragraphe [67(1) | 67(2) | 83(1)] de la *Loi sur le droit d'auteur*

Titre du projet de tarif : [Titre du projet de tarif]

Pour la [liste des droits (par exemple, reproduction) | activités pour lesquelles un tarif peut être établi en vertu des paragraphes 29.7(2), 29.7(3), or 31(2)(d) (par exemple, retransmission d'un signal éloigné) | fabrication ou importation] de [objet | support audio vierge].

Titre court proposé (si applicable) : [Titre court du projet de tarif]

Période applicable : [Date de début (AAAA-MM-JJ)] – [Date de fin (AAAA-MM-JJ)]

(espace)

[TITRE DU PROJET DE TARIF (PÉRIODE APPLICABLE)]

Example of a Proposed Tariff Header in Each Official Language

PROPOSED TARIFF

Filed with the Copyright Board by SOCAN on 2020-10-15 pursuant to subsection 67(1) of the *Copyright Act*

Proposed Tariff Title: *SOCAN Tariff 1.B – Non-Commercial radio Other than the Canadian Broadcasting Corporation (2022-2024)*

For the communication to the public by telecommunication of musical or dramatico-musical works.

Proposed Short Title: *SOCAN Tariff 1.B Non-Commercial radio (2022-2024)*

Effective Period: 2022-01-01 – 2024-12-31

(space)

SOCAN TARIFF 1.B – NON-COMMERCIAL RADIO OTHER THAN THE CANADIAN
BROADCASTING CORPORATION (2022-2024)

PROJET DE TARIF

Déposé auprès de la Commission du droit d'auteur par la SOCAN le 2020-10-15 en vertu du paragraphe 67.1 de la *Loi sur le droit d'auteur*

Titre du projet de tarif : *Tarif 1.B de la SOCAN : Radio non commerciale autre que la Société Radio-Canada (2022–2024)*

Pour la communication au public par télécommunication d'œuvres musicales ou dramatico- musicales.

Titre court proposé : *Tarif 1.B de la SOCAN : Radio non commerciale (2022-2024)*

Période applicable : 2022-01-01 – 2024-12-31

(espace)

TARIF 1.B DE LA SOCAN : RADIO NON COMMERCIALE AUTRE QUE LA SOCIÉTÉ
RADIO-CANADA (2022–2024)