

Copyright Board  
Canada



Commission du droit d'auteur  
Canada

**Date** 2020-08-07  
**Citation** *SOCAN Tariff 21 (2021-2022)*, 2020 CB 012  
**Member** Nathalie Théberge  
**Proposed Tariff Considered** SOCAN Tariff No. 21 - Recreational Facilities Operated by a Municipality, School, College, University, Agricultural Society or Similar Community Organizations (2021-2022)

### **Approval of Proposed Tariff**

**As**

***SOCAN Tariff No. 21 - Recreational Facilities Operated by a Municipality, School, College, University, Agricultural Society or Similar Community Organizations (2021-2022)***

### **REASONS FOR DECISION**

#### **I. OVERVIEW**

##### **TARIFFS CONSIDERED**

[1] The Society of Composers, Authors and Music Publishers of Canada (SOCAN) filed the following proposed tariff, applicable to Recreational Facilities Operated by a Municipality, School, College, University, Agricultural Society or Similar Community Organizations, for approval by the Copyright Board:

- Statement of Proposed Royalties to Be Collected by SOCAN for the Public Performance or the Communication to the Public by Telecommunication, in Canada, of Musical or Dramatico-Musical Works (2021-2022), (18 May 2019) C Gaz Supplement, Vol 153 No 20.

[2] The proposed tariff was published in the *Canada Gazette* on the date indicated above, and prospective users and their representatives were given notice of their right to file objections to the proposed tariff. There were no objections raised by any users or their representatives for the years 2021 to 2022.

[3] For the following reasons, we find that SOCAN Tariff 21 meets the requirement of being fair and equitable, and as a result, we approve it.

## II. BACKGROUND

[4] When certain activities are held at recreational facilities operated by community organizations, Tariff 21 applies in lieu of other normally applicable tariffs. These are Tariff 5.A (Activity: Exhibitions and Fairs); Tariff 7 (Activity: Skating Rinks); Tariff 8 (Activity: Receptions, Conventions, Assemblies and Fashion Shows); Tariff 9 (Activity: Sports Events, including minor hockey, figure skating, roller skating, ice skating, youth figure skating, carnivals and amateur rodeos); Tariff 11.A (Activity: Circuses, Ice Shows, etc.), and Tariff 19 (Activity: Fitness Activities and Dance Instruction).

[5] Other activities [i.e., those not listed in Tariff 5.A, 7, 8, 9, 11.A or 19] carried out at a community recreational facility will not be subject to Tariff 21. For example, a concert with admission fee taking place at a fair or exhibition held in a community recreational facility will be subject to SOCAN Tariff 5.B (Exhibition and Fairs).

[6] In its recent decision<sup>1</sup> on Tariff 21, the Copyright Board approved the latest royalties following a written hearing between SOCAN, a collective society administrating certain aspects of copyright in musical works, and numerous objectors including not-for-profit organizations such as community leagues and community operators of recreational facilities. In that decision, the Board addressed issues such as not-for-profit communities wanting exemptions from tariff payment, the burden of different reporting requirements, and the changes to the proposed fixed fee and upper-limit of gross revenues for all activities covered by the tariff.

[7] For clarity, the Board explains that “gross revenue” means all revenues generated by the use and/or rental of the facility, including but not limited to rental charges, admission charges, ticket sales, food and beverage sales, advertising, product placement, promotion, or sponsorship.

[8] On March 28, 2019, SOCAN filed its proposed Tariff 21 for 2021 and 2022.

[9] SOCAN’s proposal was duly published and not opposed by the community leagues or other potential users.

[10] SOCAN’s proposed tariff sets out royalties and terms and conditions that are unchanged from the last approved Tariff 21 (for 2013-2020). There is a fixed fee of \$198.58 for each facility, if the licensee’s gross revenue from these events during the year covered by the licence does not exceed \$17,500. A facility paying under this tariff is not required to pay under Tariff 5.A, 7, 8, 9, 11.A or 19 for the events covered in this tariff.

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<sup>1</sup> CB-CDA 2018-222, published December 8, 2018

[11] Beyond this upper-limit of \$17,500, the user can no longer benefit from Tariff 21 and must comply with the individual tariffs for each of its activities.

[12] The Board is aware that the COVID-19 pandemic has had unexpected consequences for many businesses and that economic activity has been severely disrupted in 2020. In order to ensure tariff royalties remain fair and equitable in the future, we include the condition that the fee paid is prorated on a monthly basis dependent on economic activity – so if a licensee operates for less than 12 months in each year, the fee payable shall be reduced by one twelfth for each full month during the year in which no operations occur. Inserting such a clause in a multi-year tariff does not affect the total royalties owing in any year in which economic activity operates for all months of the year. Using a full month of inactivity as the benchmark also takes into account the rights holders whose rights are being affected as well by the pandemic.

### **III. REASONS FOR THE DECISION**

[13] The proposed tariff sets the same royalty rate and terms and conditions as those in the last approved tariff. We are not aware of any changes in the market that would lead us to conclude that such a proposal is not fair and equitable for the years 2021 to 2022. Furthermore, we have not identified any aspect of the proposed tariff, other than the one noted above, that should be modified.

### **IV. CONCLUSION**

[14] Compared to the last approved SOCAN Tariff 21 (for 2013-2020), the rate and terms and conditions in the tariff proposal are unchanged for the years 2021 and 2022. For the reasons described above, we find this tariff to be fair and equitable with only minor modifications, and approve it as *SOCAN Tariff 21 - Recreational Facilities Operated by a Municipality, School, College, University, Agricultural Society or Similar Community Organizations (2021-2022)*.