

Copyright Board  
Canada



Commission du droit d'auteur  
Canada

**Date** 2025-10-10

**Citation** SOCAN Tariff 13.C – Public Conveyances - Railroad Trains, Buses and Other Public Conveyances, Excluding Aircraft and Passenger Ships (2026-2028), 2025 CB 16

**Member** Daniela Bassan

**Proposed Tariff Considered** SOCAN Tariff 13.C – Public Conveyances - Railroad Trains, Buses and Other Public Conveyances, Excluding Aircraft and Passenger Ships (2026-2028)

**Approval of Proposed Tariff  
As**

**SOCAN Tariff 13.C – Public Conveyances - Railroad Trains, Buses and Other Public Conveyances, Excluding Aircraft and Passenger Ships (2026-2028)**

**Reasons for Decision**

**I. Overview**

[1] The Society of Composers, Authors and Music Publishers of Canada (SOCAN) filed a Proposed Tariff with the Copyright Board of Canada (the “**Board**”) pertaining to the public performance and communication to the public by telecommunication of musical works in SOCAN’s repertoire by means of recorded music in railroad trains, buses and other public conveyances, excluding aircraft and passenger ships, for the years 2026 through 2028 (the “**Proposed Tariff**”).

[2] Having reviewed the submissions on record, I find that the last-approved tariff can serve as a basis to approve a “fair and equitable” tariff in this proceeding, as required under section 66.501 of the *Copyright Act*.<sup>1</sup>

[3] For the reasons that follow, I approve the Proposed Tariff, subject to an inflation-based rate adjustment and a wording modification as detailed below. The approved rate

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<sup>1</sup> *Copyright Act*, RSC 1985, c C-42.

is \$1.46 per person per year based on the authorized passenger capacity of the car, bus, or other public conveyance, subject to a minimum annual royalty of \$87.37.

## II. Background

### A. The Last-Approved Tariff

[4] The Board last approved SOCAN Tariff 13.C (2023-2025) on November 3, 2023 (the “**Last-Approved Tariff**”). The Last-Approved Tariff set out royalty rates of \$1.32 per person per year based on the authorized passenger capacity of the car, bus, or other public conveyance, subject to a minimum annual royalty of \$78.75.<sup>2</sup>

[5] It is noted that no objections were filed for the corresponding tariff for the years 2023-2025.<sup>3</sup> In addition, no specific evidence was submitted by SOCAN for those prior years (2023-2025).

### B. The Proposed Tariff

[6] SOCAN filed the Proposed Tariff on October 15, 2024.<sup>4</sup> The Proposed Tariff was published by the Board on November 15, 2024.<sup>5</sup> No objections to the Proposed Tariff were received by the Board. SOCAN’s Notice of Grounds for Proposed Tariff was published by the Board on November 15, 2024.<sup>6</sup> No specific evidence was filed for the Proposed Tariff.

[7] The Proposed Tariff provides for royalties as follows:

“For the performance and the communication to the public by telecommunication in railroad trains, buses and other public conveyances, excluding aircraft and passenger ships, by means of recorded music, at any time and as often as desired in the years 2026 to 2028, of any or all of the works in SOCAN’s repertoire, the royalty payable is as follows:

\$1.62 per person per year, based on the authorized passenger capacity of the car, bus or other public conveyance, subject to a minimum annual royalty of \$96.64.”

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<sup>2</sup> SOCAN Tariff 13.C – Public Conveyances – Railroad Trains, Buses, and Other Public Conveyances, Excluding Aircraft and Passenger Ships (2023-2025) 2023 CB 9-T (November 4, 2023), C Gaz I, Supplement, vol 157, No. 44.

<sup>3</sup> SOCAN Tariff 13.C (2023-2025) 2023 CB 9 (November 3, 2023).

<sup>4</sup> SOCAN Tariff 13.C – Public Conveyances – Railroad Trains, Buses and Other Public Conveyances, Excluding Aircraft and Passenger Ships (2026-2028) (Proposed Tariff) (November 15, 2024).

<sup>5</sup> *Ibid.*

<sup>6</sup> SOCAN, Notice of Grounds for Proposed Tariff for SOCAN Tariff 13.C – Public Conveyances – Railroad Trains, Buses and Other Public Conveyances, Excluding Aircraft and Passenger Ships (2026-2028), November 15, 2024.

[8] A few additional comments on the nature and scope of the Proposed Tariff follow.

[9] The proposed royalty rate and minimum fee are based structurally on the Last-Approved Tariff. However, the proposed *amount* of the royalty rate is increased by \$0.30 per passenger and the minimum annual fee is increased by \$17.89 from the Last-Approved Tariff (representing a 22.73% increase).

[10] SOCAN states that this increase for inflation: (i) was calculated according to the Board's CPI-adjustment formula and the Board's default methodology as published by the Board in its *Inflation Adjustment to Royalty Rates – Default Methodology*; and (ii) may need to be updated to reflect the inflation data available at the time of any approval.

[11] In addition, the Proposed Tariff includes an opening general statement.

### III. Issues

[12] In reviewing the submissions, I have identified the three following issues:

1. Is the Last-Approved Tariff an appropriate proxy of what could be fair and equitable for the years 2026 to 2028?
2. Is an inflation-based adjustment appropriate and if so, what should it be?
3. Is the proposed change in wording warranted?

### IV. Analysis

#### **A. Issue 1: Is the Last-Approved Tariff an appropriate proxy of what could be fair and equitable for the years 2026 to 2028?**

[13] When a proposed tariff does not differ substantially from the most recently approved tariff, the Board may consider this as an indication that the rates as well as the terms and conditions of the proposed tariff are fair and equitable, absent any reason to the contrary. One such reason to the contrary could be a change in the relevant market. Without necessarily being determinative, such a change might lead one to question whether the most recently approved tariff can still indicate what is fair and equitable for the period under consideration.

[14] Here, the rates in the Proposed Tariff are based on those set out in the Last-Approved Tariff. This is also the case for the terms and conditions of the Proposed Tariff, except for the inclusion of a general statement, as further discussed below. Other than inflation data, no information suggests that there has been any change, significant or otherwise, in the market.

[15] Given the foregoing, I consider that the Last-Approved tariff can be used as a proxy to determine the rates along with the terms and conditions that are fair and equitable in this proceeding.

**B. Issue 2: Is an inflation-based adjustment appropriate and if so, what should it be?**

[16] The Board has found in the past that, among other things, adjustments for inflation were appropriate for rates expressed in dollars and cents, as they preserved the purchasing power of rights owners' royalties.<sup>7</sup>

[17] In this proceeding, the Board's default methodology is used to calculate the inflation adjustment,<sup>8</sup> namely, by relying on Statistics Canada's Consumer Price Index (CPI) monthly series for Canada, all items, not seasonally-adjusted, and not adjusted for taxes. Inflation, in accordance with this methodology, represents the percentage change in the overall CPI between (1) the month following the last adjustment period and (2) the last full-year of data available, no later than the end of the year preceding the tariff's effective period.

[18] The rate was last adjusted for inflation in the Last-Approved Tariff, based on a calculation of inflation between January 2014 and December 2021, and represented an increase of 16.98%.

[19] For the Proposed Tariff, the inflation adjustment should be calculated from January 2022 (CPI: 145.3) to December 2024 (CPI: 161.2), in accordance with the Board's default methodology. Applying the calculation method in the Board's guidelines, the inflation rate is therefore 10.94% for the relevant period.

[20] Applying a 10.94% increase to the last-approved fee of \$1.32 translates into a royalty rate of \$1.46 per person per year, based on the authorized passenger capacity of the car, bus, or other public conveyance. Similarly, applying the same inflation adjustment to the last-approved minimum annual fee of \$78.75 yields a minimum annual fee of \$87.37. SOCAN had estimated an inflation increase of 22.73% which would translate to a royalty rate of \$1.62 per passenger and a minimum annual fee of \$96.64.

[21] However, as this proposed increase (22.73%) is higher than the actual inflation rate (10.94%) for the relevant period, I will not adopt the former for the Proposed Tariff.

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<sup>7</sup> For example, *SOCAN Tariff 14 – Performance of an Individual Work (2025-2027)* 2024 CB 4 (July 19, 2024).

<sup>8</sup> Copyright Board, *Inflation Adjustments To Royalty Rates: Default Methodology*, 2024.

SOCAN had also anticipated that the inflation adjustment would be based on the most current data, only available at the time of approval.

### **C. Issue 3: Is the proposed change in wording warranted?**

[22] SOCAN proposes the following wording change to the Proposed Tariff.

[23] Specifically, the Proposed Tariff opens with a general statement as follows:

Proposed statement of royalties to be collected by the Society of Composers, Authors and Music Publishers of Canada (SOCAN) in compensation for the right to perform in public and communicate to the public by telecommunication, in Canada, musical or dramatico-musical works forming part of its repertoire, including the right to make such works available to the public by telecommunication in a way that allows a member of the public to have access to them from a place and at a time individually chosen by that member of the public.

[24] The Board did not include a similar statement in the Last-Approved Tariff as it was redundant.<sup>9</sup> For the same reasons, I remove this provision from the Proposed Tariff. Among other things, the general provision is not needed in light of the royalties provision at the second paragraph of the Proposed Tariff.

## **V. Conclusion**

[25] For these reasons, I conclude that, subject to an inflation adjustment and some wording modifications, the rates, terms, and conditions of the Proposed Tariff can be considered fair and equitable. As such, I approve the Proposed Tariff under the title *SOCAN Tariff 13.C – Public Conveyances - Railroad Trains, Buses and Other Public Conveyances, Excluding Aircraft and Passenger Ships (2026-2028)* subject to the following changes:

1. Increasing the royalty rate to **\$1.46** per passenger per year and the minimum annual royalty to **\$87.37** for inflation, based on the Board's default methodology and a calculated increase of **10.94%** for the relevant period; and
2. Removing the opening general statement from the Proposed Tariff.

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<sup>9</sup> *SOCAN Tariff 13.C (2023-2025)* 2023 CB 9 (November 3, 2023), para 36.