

Copyright Board
Canada



Commission du droit d'auteur
Canada

October 30, 2020

In accordance with section 68.2 of the *Copyright Act*, the Copyright Board hereby publishes the following proposed tariffs:

- SOCAN Tariff 1.A – Commercial Radio, 2022-2024
- SOCAN Tariff 1.B – Non-commercial Radio Other than the CBC, 2022-2024
- SOCAN Tariff 2.A – Commercial Television Stations, 2022-2024
- SOCAN-SODRAC Tariff 2.A.R – Commercial Television, 2022-2024
- SOCAN Tariff 3.A – Cabarets, Cafes, Clubs, etc. – Live Music, 2022-2024
- SOCAN Tariff 4.A – Live Performances at Concert Halls, etc. – Popular Music Concerts, 2022-2024
- SOCAN Tariff 4.B – Live Performances at Concert Halls, etc. – Classical Music Concerts, 2022-2024
- SOCAN Tariff 5.A – Exhibitions and Fairs, 2022-2024
- SOCAN Tariff 5.B – Concerts at Exhibitions and Fairs, 2022-2024
- SOCAN Tariff 6 – Motion Picture Theatres, 2022-2024
- SOCAN Tariff 14 – Performance of an Individual Work, 2022-2024
- SOCAN Tariff 15.A – Background Music in Establishments not Covered by Tariff 16 – Background Music, 2022-2024
- SOCAN Tariff 15.B – Background Music in Establishments not Covered by Tariff 16 – Telephone Music on Hold, 2022-2024
- **SOCAN Tariff 16 – Background Music Suppliers, 2022-2024**
- SOCAN Tariff 17 – Transmission of Pay, Specialty and Other Television Services by Distribution Undertakings, 2022-2024
- SOCAN Tariff 23 – Hotel and Motel In-Room Services, 2022-2024

By that same section, the Copyright Board hereby gives notice to any person affected by these proposed tariffs that users or their representatives who wish to object to the above-mentioned proposed tariffs must file written objections with the Board, at the address indicated below, no later than the 30th day after the day on which the Board published the proposed tariffs, that is no later than **November 30, 2020**.

Lara Taylor

Secretary General

Copyright Board Canada

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PROPOSED TARIFF

Filed with the Copyright Board pursuant to subsection 67(1) of the *Copyright Act*

2020-10-15

SOCAN

Tariff 16

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

2022-01-01 – 2024-12-31

Proposed citation:

SOCAN Tariff 16, Background Music Suppliers (2022–2024)

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 or to 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.

GENERAL PROVISIONS

All amounts payable under this tariff are exclusive of any federal, provincial or other governmental taxes or levies of any kind.

As used in this tariff, the terms “licence,” “licence to perform” and “licence to communicate to the public by telecommunication” mean a licence to perform in public or to communicate to the public by telecommunication or to authorize the performance in public or the communication to the public by telecommunication, including the right to make 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.

Except where otherwise specified, fees payable for any licence granted by SOCAN shall be due and payable upon grant of the licence. Any amount not received by the due date shall bear interest from that date until the date the amount is received. Interest shall be calculated daily, at a rate equal to one per cent above the Bank Rate effective on the last day of the previous month (as published by the Bank of Canada). Interest shall not compound.

Each licence shall subsist according to the terms set out therein. SOCAN shall have the right at any time to terminate a licence for breach of terms or conditions upon 30 days’ notice in writing.

Tariff No. 16

BACKGROUND MUSIC SUPPLIERS

Definitions

1. In this tariff,

“quarter” means from January to March, from April to June, from July to September and from October to December. (« *trimestre* »)

“revenues” means any amount paid by a subscriber to a supplier. (« *recettes* »)

“small cable transmission system” has the meaning attributed to it in sections 3 and 4 of the *Definition of “Small Cable Transmission System” Regulations*, SOR/94-755 (*Canada Gazette*, Part II, Vol. 128, page 4096), amended by SOR/2005-148 (*Canada Gazette*, Part II, Vol. 139, page 1195). (« *petit système de transmission par fil* »)

“supplier” means a background music service supplier. (« *fournisseur* »)

Application

2. (1) This tariff sets the royalties payable in the years 2022-2024 by a supplier who communicates to the public by telecommunication works in SOCAN's repertoire or authorizes a subscriber to perform such works in public as background music, including making 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, and including any use of music with a telephone on hold or by means of a television set.

(2) This tariff does not cover the use of music expressly covered in other tariffs, including performances covered under SOCAN Tariffs 8 and 19 and the Pay Audio Services Tariff.

Royalties

3. (1) Subject to subsection (4), a supplier who communicates a work in SOCAN's repertoire during a quarter pays to SOCAN 2.25 per cent of revenues from subscribers who received such a communication during the quarter, subject to a minimum fee of \$1.75 per relevant premises.

(2) Subject to subsections (3) and (4), a supplier who authorizes a subscriber to perform in public a work in SOCAN's repertoire during a quarter pays to SOCAN 7.5 per cent of revenues from subscribers so authorized during the quarter, subject to a minimum fee of \$5.85 per relevant premises.

(3) A supplier who authorizes a subscriber to perform in public a work in SOCAN's repertoire is not required to pay the royalties set out in subsection (2) to the extent that the subscriber complies with SOCAN Tariff 15.

(4) Royalties payable by a small cable transmission system are reduced by half.

Reporting Requirements

4. (1) No later than 60 days after the end of the quarter, the supplier shall pay the royalty for that quarter and shall report the information used to calculate the royalty.

(2) A supplier subject to subsection 3(1) shall provide with its payment the sequential lists of all musical works transmitted on the last seven days of each month of the quarter. Each entry shall mention the date and time of transmission, the title of the musical work, the name of the author and the composer of the work, the name of the performer or of the performing group, the running time, in minutes and seconds, the title of the record album, the record label, the Universal Product Code (UPC) and the International Standard Recording Code (ISRC).

(3) The information set out in subsection (2) is provided only if it is available to the supplier or to a third party from whom the supplier is entitled to obtain the information.

(4) A supplier subject to subsection 3(1) is not required to comply with subsection (2) with respect to any signal that is subject to the Pay Audio Services Tariff.

(5) A supplier subject to subsection 3(2) shall provide with its payment the name of each subscriber and the address of each premises for which the supplier is making a payment.

(6) Information provided pursuant to this section shall be delivered electronically, in plain text format or in any other format agreed upon by SOCAN and a supplier.

(7) A small cable transmission system is not required to comply with subsections (2) to (4).

Records and Audits

5. SOCAN shall have the right to audit the supplier's books and records, on reasonable notice during normal business hours, to verify the statements rendered and the fee payable by the supplier.

Confidentiality

6. (1) Subject to subsections (2), (3) and (4), SOCAN shall treat in confidence information received pursuant to this tariff, unless the person who supplied the information consents in writing to the information being treated otherwise.

(2) SOCAN may share information referred to in subsection (1)

(a) with SOCAN's agents and service providers, to the extent required by the service providers for the service they are contracted to provide;

(b) in connection with the collection of royalties or the enforcement of a tariff, with Re:Sound;

(c) with the Copyright Board;

(d) in connection with proceedings before the Copyright Board, if the supplier had the opportunity to request a confidentiality order;

(e) to the extent required to effect the distribution of royalties, with any other collective society or with any royalty claimant; or

(f) if required by law or by a court of law.

(3) Where confidential information is shared with a service provider pursuant to paragraph (2)(a), that service provider shall sign a confidentiality agreement.

(4) Subsection (1) does not apply to information that is publicly available, or to information obtained from someone other than a supplier and who is not under an apparent duty of confidentiality to the supplier.