

NOTICE OF GROUNDS FOR PROPOSED TARIFF

Filed with the Copyright Board by SOCAN on 2023-10-23 pursuant to Rule 15 of *Copyright Board Rules of Practice and Procedure*

SOCAN Tariff 2.A – Commercial Television Stations (2025-2027)

1. Description of Uses Covered by the Proposed Tariff

This tariff applies to the communication to the public by telecommunication of musical works in SOCAN's repertoire by a broadcast television station.

2. Description of Users / Groups of Users Covered by the Proposed Tariff

Users are broadcast television stations. Importantly, it is the nature of the *use*, and not the nature of the user, that determines whether the tariff applies.

3. Explanation of How Royalties are Determined

The proposed royalty rate for 2025-2027 is 2.1% of the broadcast television station's gross revenues, subject for an adjustment for cleared music ("Modified Blanket Licence").

SOCAN has proposed a rate increase to reflect the fact that the value of music on broadcast television has increased since the tariff was last approved. The proposed rate is based on the previously-approved tariff and changes in the market since the last contested hearing on Tariff 2.A which took place in 2003 for the 1998-2004 tariff period. SOCAN cannot know the full extent of the changes to the market since the last contested hearing that warrant the rate increase until the interrogatory phase of this proceeding. In light of recent jurisprudence from the Federal Court of Appeal, SOCAN is proposing an increase to 2.1% to provide sufficient notice to users.

It is anticipated that as part of the 2025-2027 tariff proceeding, objectors will produce information and documents that will assist in establishing the value and monetization of broadcast television stations during the relevant period. The anticipated information and documents are highly confidential and not otherwise available to SOCAN. As in prior tariff proceedings, it is expected that this relevant information and expert analysis will enable SOCAN to provide a detailed valuation analysis to permit the Copyright Board to set an equitable royalty rate for broadcast television stations during the relevant period.

SOCAN reserves the right to adopt and advance additional or alternative valuation methodologies and inflationary rates in the course of the proceedings relating to the proposed tariff.

4. Submissions on the Collection of Information

The proposed tariff requires each broadcast television station to report, on the first day of each month, on a two-month trailing basis, the station's gross income for the relevant month.

If a station elects for the Modified Blanket Licence, the proposed tariff requires the station to provide, by the end of the next month after the month to which the tariff applies: (1) a calculation of the royalty owing, according to the formula set out in Form A, (2) a report, in the form set out in Form B, a list of each cleared program that identifies the music used in that program, and (3) any document supporting

the station's claim that the music identified in Form B is cleared music, or a reference to that document, if the document was provided previously.

The information collected under the proposed tariff is needed to calculate royalties and to distribute those royalties to rights holders.

These reporting requirements are the same as those set out in the previously approved tariff.

5. Explanation of Changes from Previously Approved Tariff

The proposed tariff includes the following changes from the previously approved tariff:

1) The proposed tariff updates the audit clause (clause 6) that allows SOCAN to audit a user's records to confirm compliance with the terms of the tariff. The change to this clause requires a user to retain certain records for a period of six years. The changes to this clause are intended to harmonize audit clauses across SOCAN tariffs.

2) The proposed tariff adds a clause concerning adjustments to royalty payments under the tariff. This clause provides that adjustments in the amount of royalties owed (including excess payments), as a result of the discovery of an error or otherwise, shall be made on the date the next royalty payment is due. This clause is consistent with adjustments clauses in other approved SOCAN tariffs.

3) To comply with the Board's *Practice Notice on Filing of Proposed Tariffs* [PN 2019-004 rev. 3], the proposed tariff has been revised to remove reference to licences and limit itself to royalty rates and any related terms and conditions.