

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 4.B – Live Performances at Concert Halls, Theatres, and Other Places of Entertainment – Classical Music Concerts (2025-2027)

1. Description of Uses Covered by the Proposed Tariff

This tariff applies to performances, by means of performers in person, of any or all of the works in SOCAN's repertoire, at concerts or recitals of classical music.

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

Users are concert venues, concert promoters, and presenting organizations, who present or promote classical music recitals or concerts. 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 tariff sets out different royalty rates depending on whether the use is a single concert licence, an annual licence for orchestras, or an annual licence for presenting organizations.

The royalty rate on a per-concert basis is:

- a) 1.56% of gross receipts from ticket sales of paid concerts, exclusive of any applicable taxes, with a minimum fee per concert of \$60.14; or
- b) 1.56% of fees paid to singers, musicians, dancers, conductors and other performers during a free concert, with a minimum fee per concert of \$60.14.

The annual royalty rate for orchestras is based on the annual budget of the orchestra and the number of concerts performed by the orchestra in the year. This per-concert royalty ranges from \$113 to \$737.

The annual royalty rate for performing organizations is:

0.96% of gross receipts from ticket sales, subscription and membership revenues, for all concerts (including concerts where no work of SOCAN's repertoire is performed), exclusive of any applicable taxes, with a minimum annual fee of \$60.14.

Except where a series of concerts and recitals forming part of a presenting organization's artistic season is free of charge, in which case, the royalties payable are based on the fees paid to singers, musicians, dancers, conductors, and other performers. The royalty rate and minimum annual fee is the same as paid concerts.

The proposed percentage of gross receipts and fees paid royalty rates are the same as the royalty rates in the previously approved tariff, which was approved by the Board in 2021 for the years 2018-2024 (2021 CB 11-T).

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The minimum royalties in proposed Tariffs 4.B.1 and 4.B.3 and the flat, per-concert royalty for orchestras in proposed Tariff 4.B.2 have been increased for inflation according to the Board's established CPI-adjustment formula. SOCAN has estimated the appropriate inflationary increase based on projected CPI for the relevant years. According to the Board's adjustment formula, this figure will likely change once actual CPI data is available. Notwithstanding the proposed minimum fees in Tariffs 4.B.1 and 4.B.3 and the per-concert royalties in proposed Tariff 4.B.2, SOCAN requests that the Board certify the maximum inflationary increase that SOCAN is entitled to under the Board's adjustment formula at the time of certification of the tariff.

4. Submissions on the Collection of Information

Proposed Tariffs 4.B.1, 4.B.2, and 4.B.3 require users to report the information used to calculate the royalty (i.e. gross receipts from the ticket sales, the total fees paid to the performer, or the orchestra's annual revenue).

Proposed Tariffs 4.B.1 and 4.B.3 require users to report:

- (a) the legal names, addresses and telephone numbers of the concert promoters, if any, and of the owners of the venue where the concert took place (if other than the user);
- (b) the name of the performers at the concert, if available; and
- (c) the title of each musical work performed, if available.

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

The requirement that orchestras covered under Tariff 4.B.2 report on their annual budget at the time of the report is a new requirement. This requirement will assist SOCAN in verifying the royalty payable.

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

5. Explanation of Changes from Previously Approved Tariff

Each of proposed Tariff 4.B.1, Tariff 4.B.2, Tariff 4.B.3 includes the following changes from the previously approved tariff:

- 1) The minimum fees (in the case of Tariff 4.B.1 and 4.B.3) and the per-concert royalty rate (in the case of Tariff 4.B.2) have been adjusted to account for inflation as explained above.
- 2) Tariff 4.B.2 adds a requirement that orchestras report their annual budget.
- 3) Tariff 4.B.2 has changed "Annual Fee x Total Number of Concerts" to "Royalty per concert" for clarity purposes.
- 4) 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 references to licences and limit itself to royalty rates and any related terms and conditions.