

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 15.A – Background Music in Establishments Not Covered by Tariff no. 16 – Background Music (2025-2027)

1. Description of Uses Covered by the Proposed Tariff

This tariff applies to performances of recorded music forming part of SOCAN's repertoire, by any means, including a television set, as background music.

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

Users are establishments that perform recorded music as background music, such as restaurants and retail establishments. 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 based on the area of the establishment.

The proposed tariff sets an annual royalty of \$2.32 per square metre (or \$0.2158 per square foot), with a minimum annual fee of \$177.99. Seasonal establishments operating less than six months per year pay half the area-based royalty rate, subject to the annual minimum fee.

The proposed royalties have been increased since the previously approved tariff, which was approved in 2012 for the years 2008 to 2011. This proposed increase accounts 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 royalties, 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.

Where royalties are payable under SOCAN Tariff 16, no royalties are payable under proposed Tariff 15.A.

4. Submissions on the Collection of Information

The proposed tariff requires users to report the area of their establishment. The information collected under the proposed tariff is needed to calculate royalties.

5. Explanation of Changes from Previously Approved Tariff

Proposed Tariff 15.A includes the following changes from the previously approved tariff:

- 1) The proposed royalty amounts have been adjusted to account for inflation as explained above.

2) The application clause has been updated to improve clarity and consistency with other SOCAN tariffs and to comply with the Board's *Practice Notice on Filing of Proposed Tariffs* [PN 2019-004 rev. 3] by limiting reliance on ambulatory references to other 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 references to licences and limit itself to royalty rates and any related terms and conditions.

4) The proposed tariff adds a "Terms and Conditions" section that includes clauses concerning taxes on royalty payments and interest on late royalty payments. These clauses are consistent with other approved SOCAN tariffs and were included in the "General Provisions" of the previously approved tariff. The audit clause from the previously approved tariff has been moved to this general "Terms and Conditions" section.