

PROPOSED TARIFF

Filed with the Copyright Board by SOCAN on 2023-10-15 pursuant to subsection 67(1) of the *Copyright Act*

Proposed Tariff Title: *SOCAN Tariff 16 – Background Music Suppliers (2025-2027)*

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

Effective Period: 2025-01-01 – 2027-12-31

SOCAN TARIFF 16 – BACKGROUND MUSIC SUPPLIERS (2025-2027)

Proposed statement of royalties to be collected by the Society of Composers, Authors and Music Publishers of Canada (SOCAN) in compensation for the performance in public or the communication to the public by telecommunication, in Canada, of musical or dramatico-musical works forming part of its repertoire, which, where applicable, includes the making available of such works 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.

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 2025-2027 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) For greater certainty, this tariff does not apply to uses of music covered in other tariffs, including:

(a) performance of musical works as part of events at receptions, conventions, assemblies and fashion shows, such as those covered by SOCAN Tariff 8;

(b) performance of musical works in conjunction with physical exercises (dancercise, aerobics, body building and other similar activities) and dance instruction, such as those covered by SOCAN Tariff 19; and

(c) communication to the public by telecommunication of musical works in connection with a pay audio service, such as those covered by SOCAN Tariff 26.

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 \$2.63 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 \$8.78 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 royalties payable by the supplier.

Taxes and Interest on Late Payments

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

7. 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 1% above the Bank Rate effective on the last day of the previous month (as published by the Bank of Canada). Interest shall not compound.

Confidentiality

8. (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;

(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;

(f) with any person who knows or is presumed to know the information; or

(g) if required by 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 must be provided pursuant to the *Copyright Act*, to information that is publicly available, to aggregated information, or to information obtained from someone other than a supplier and who is not under an apparent duty of confidentiality to the supplier.