

NOTICE OF GROUNDS FOR OBJECTION

Filed by **Hotel Association of Canada and Restaurants Canada**

In relation to proposed tariff *SOCAN Tariff 3.A – Cabarets, Cafes, Clubs, Cocktail Bars, Dining Rooms, Lounges, Restaurants, Taverns, and Similar Establishments – Live Music (2025-2027)*

Filed with the Copyright Board on 2023-12-15 pursuant to Rule 18 of *Copyright Board Rules of Practice and Procedure*.

NOTICE OF GROUNDS FOR OBJECTION

The following Notice of Grounds for Objection (the “Notice”) is filed on behalf of the Hotel Association of Canada (HAC) and Restaurants Canada (RC), (together “the Associations”) in respect of Proposed Tariff *SOCAN Tariff 3.A – Cabarets, Cafes, Clubs, Cocktail Bars, Dining Rooms, Lounges, Restaurants, Taverns, and Similar Establishments – Live Music (2025-2027)* which was filed with the Copyright Board by SOCAN on 2023-10-23 pursuant to Rule 15 of *Copyright Board Rules of Practice and Procedure*. This Notice is filed in accordance with PN 2022-007 rev.1.

1. Any grounds for why the Board should not approve the proposed tariff despite any alteration of royalties or levies or fixation of terms and conditions

This proposed tariff applies to performances in person of any or all of the works in SOCAN’s repertoire in cabarets, cafes, clubs, cocktail bars, dining rooms, lounges, restaurants, taverns, and similar establishments. The Associations object to the proposed increases in minimum fees as outlined below.

2. Any grounds for objecting to any royalty or levy rates in the proposed tariff

SOCAN is seeking to increase the minimum fees in this tariff on the basis of generalized inflation. While this is a popular justification for widescale price increases in the current economic climate, SOCAN offers no explanation as to why the factors driving inflationary increases across other sectors of the economy are specifically applicable to works in SOCAN’s repertoire such that SOCAN should be entitled to almost double its minimum fees. The Associations acknowledge that the Copyright Board has accepted inflation as a justification for price increases in other tariffs but note that the increases proposed by SOCAN are so significant that this justification should not be accepted without substantial economic evidence to support it.

In the context of a weakening economy and reduced discretionary consumer spending, there is no evidence that the value of music has increased on par with inflationary calculations that are based on a measure of a basket of goods that have no correlation with music valuation. In Canada, the “basket” of goods and services used to calculate CPI includes a wide range of items. “Other cultural and recreational services” comprises less than 2% of the value of the basket.¹ “Purchase of digital media” comprises less than 0.2% of the value of the basket. In any event, the overall index, which is overwhelmingly impacted by food, shelter, household operations, furnishings and equipment as well as transportation, is a poor proxy from which to calculate the change in the value of music over time. Absent valid justification, the rate increases should be rejected entirely.

¹ <https://www150.statcan.gc.ca/n1/pub/62f0014m/62f0014m2023003-eng.htm>

3. Any grounds for objecting to any terms or conditions in the proposed tariff

SOCAN is proposing to add music use reporting requirements seeking the names of “all musicians, singers and other performers” of live music. It is not clear why SOCAN, the entity that represents the authors, composers and publishers, would require reporting of performer information. If this information is indeed required by SOCAN to assist in its distributions, which we do not accept, we request that the tariff include a “where available” qualifier with this reporting requirement. The businesses that are the ultimate payors of this tariff are restaurants, taverns, cafes, clubs, lounges and similar establishments. These are businesses that use music and understand that there is a fee to be paid for that use, but many of them may not be in a position to create and provide detailed reporting that includes the names of all musicians, singers and other performers. It may be possible to provide the name of the band or the headliners for live performances, but it would be unduly onerous for bars and restaurants to seek out comprehensive lists of all performers involved if that information is not provided to them.

Submitted on behalf of the Associations by

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