

REPLY TO NOTICE OF GROUNDS FOR OBJECTION

Filed with the Copyright Board by SOCAN on 2024-01-26 pursuant to Rule 21 of the *Copyright Board Rules of Practice and Procedure*

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

1. This Reply is in response to the Notices of Grounds for Objection filed by the Hotel Association of Canada and Restaurants Canada (collectively, the “Objectors”).
2. The Objectors have filed numerous grounds for objection. SOCAN denies these grounds and any factual or evidentiary assertions made in the Notices of Grounds for Objection and puts the Objectors to the strict proof thereof.
3. To the extent that the Objectors take issue with the proposed inflationary adjustment, SOCAN submits that CPI all-items is the most appropriate measure for inflationary adjustments to nominal values in the proposed tariff. Such an adjustment preserves the purchasing power of rights owners.¹ The Board has, on numerous occasions, confirmed its preferred approach to inflationary adjustments.² There is no reason to depart from this approach. Given the Board’s jurisprudence on inflation, SOCAN should not be required to provide economic evidence to support the requested inflationary adjustment.
4. SOCAN submits that the proposed reporting requirements are necessary to assist in determining whether a user has accurately reported compensation paid for entertainment during the year. The information should not be limited to “where available”, as proposed by the Objectors, since a user should have the information readily available when they are reporting the compensation paid for entertainment. For clarity, by requiring users to report “all of the musicians, singers and other performers of live music during the previous year,” SOCAN is not, for example, seeking the names of each member and musician in a band, but, where the relevant performer is a named band, simply the name of the band, unless information relating to each performing band member is available.
5. Although Rule 22 of the *Copyright Board Rules of Practice and Procedure* provides that the Board may decide the matter of a proposed tariff only on the information provided under Part 3 of the Rules, SOCAN submits that it would not be appropriate in this case for the Board to decide the matter without hearing additional evidence and submissions from both SOCAN and the Objectors absent a settlement or further developments between SOCAN and the Objectors. For greater certainty, in the event of a settlement between SOCAN and the Objectors, the Board should not rely on any of the information provided under Part 3 of the Rules.

¹ *Re:Sound Tariff 8 – Non-Interactive and Semi-Interactive Streaming (2013-2018)*, 2023 CB 12 at para 98.

² See, for example, *SOCAN, Re:Sound – Tariff for CBC Radio 2006-2011* (8 July 2011) at paras 82-91; *Access Copyright - Tariff for Provincial and Territorial Governments, 2005-2014* (22 May 2015) at paras 494-497; *SOCAN Tariff 3.C – Adult Entertainment Clubs (2023-2025)*, 2022 CB 13 at paras 16-22; *Re:Sound Tariff 8 – Non-Interactive and Semi-Interactive Streaming (2013-2018)*, 2023 CB 12 at paras 98-104.