

**Copyright Board**Filed by / Déposé par: SOCANDate: 2022-11-14***Notice of Grounds for Proposed Tariff*****SOCAN Tariff 22.B – Internet – Commercial Radio and Satellite Radio (2024-2026)**

November 14, 2022

1. Description of Uses Covered by the Proposed Tariff

This tariff applies to the communication to the public by telecommunication (including, where applicable, the making available) of works in SOCAN's repertoire in connection with the online communication of audio-only content by commercial radio stations and satellite radio services.

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

Users are broadcasters who are subject to Tariff 1.A (Commercial Radio) and satellite radio services subject to Tariff 25 (Satellite Radio Services).

3. Explanation of How Royalties are Determined

For radio broadcasters that offer on-demand streams and/or semi-interactive streams, the proposed royalty rate for 2024-2026 is 10.3% of the broadcaster's Internet-related revenues, with a minimum fee of the lesser of 0.13¢ per stream requiring a SOCAN licence and 60.8¢ per subscriber. Commercial radio simulcast streams are excluded from this tariff.

For satellite radio services, the proposed royalty rate for 2024-2026 is either (a) 10.3% of the service's Internet-related revenues if the service offers on-demand streams and/or semi-interactive streams, subject to a minimum fee of the lesser of 0.13¢ per stream requiring a SOCAN licence and 60.8¢ per subscriber; and (b) 5% of the service's Internet-related revenues if the service only offers simulcasts.

The proposed rate is intended to reflect changes in the market, including increased efficiencies and expanded uses of music. It is anticipated that as part of the 2024-2026 tariff proceeding, objectors will produce information and documents that will assist in establishing the value and monetization of the services captured by this proposed tariff during the relevant period. The anticipated information and documents are highly confidential and not otherwise available to SOCAN. As in prior tariff proceedings, it is expected that this relevant information and expert analysis will enable SOCAN to provide a detailed valuation analysis to permit the Copyright Board to set an equitable royalty rate for the relevant period.

4. Submissions on the Collection of Information

The proposed tariff requires each licensee to report, on a monthly basis, the Internet-related revenue of the service, the number of plays of each file, the total number of plays of all files, the number of subscribers, the amount paid by subscribers, the number of subscribers provided with free subscriptions and the number of free streams delivered. The proposed tariff also requires each licensee to report the music use information for each file streamed.

Following the decision of the Supreme Court of Canada in *Society of Composers, Authors and Music*

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Publishers of Canada v. Entertainment Software Association, 2022 SCC 30, which clarified the meaning of the making available provision (section 2.4(1.1)) of the *Copyright Act*, the proposed tariff introduces a new reporting requirement, namely a provision that allows SOCAN to request, no more than twice per year, a list of files made available by the service for on-demand streaming.

The proposed tariff also requires each licensee to report basic service-identification information.

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

1. The proposed tariff has been changed to remove references to commercial television, non-broadcast television, and pay audio services.
2. The proposed tariff has been changed to remove the reference to simulcasts of commercial radio simulcasts, which are now covered by Tariff 1.A.
3. The rates in the proposed tariff for on-demand streams and semi-interactive streams have been amended in harmony with the proposed rates for online music services. The proposed rate for simulcast-only services is set at the rate proposed for Tariff 25 (Satellite Radio) for the same period.
4. The proposed tariff removes the adjustment for page impression ratios. The Board has recognized that page impressions have become less appropriate for measuring music use.
5. Several of the definitions in the proposed tariff have been amended for clarity.
6. The proposed tariff introduces new reporting requirements, described above.
7. The proposed tariff introduced changes to the confidentiality provisions to allow sharing of reporting information with SOCAN's agents and service providers. SOCAN relies on service providers to facilitate efficient processing of reporting data, among other things.

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