

STATEMENT OF PROPOSED ROYALTIES TO BE COLLECTED BY ~~CMRRA-SODRAC INC. (2011-2013) AND SODRAC (2010-2013) FOR THE REPRODUCTION, IN CANADA, OF MUSICAL WORKS, AND BY~~ SOCAN (2011-2013) FOR THE COMMUNICATION TO THE PUBLIC BY TELECOMMUNICATION, IN CANADA, OF MUSICAL OR DRAMATICO-MUSICAL WORKS, ~~IN CANADA, BY ONLINE MUSIC SERVICES~~

Tariff No. 22

INTERNET

A. Online Music Services

[NOTE TO PROSPECTIVE USERS: SOCAN Tariff 22.A (2011 to 2013) was the subject of Copyright Board hearings in November 2013. A decision of the Board is pending. SOCAN files Tariff 22.A for the year 2018 as set out below but reserves the right to propose changes as may be justified as a consequence of the hearing process, the Board's decision and any resulting judicial review.]

Short Title

1. This tariff may be cited as the SOCAN Tariff 22.A (Online Music Services ~~Tariff (CSI: 2011-2013; SOCAN: 2011-2013; SODRAC:2010-2013)~~, 2018).

Definitions

2. In this part of the tariff,

~~“audio track” means a sound recording of a musical work, and, for greater certainty, excludes a music video; (« piste sonore »)~~

~~“authorized distributor” means any person who has entered into an agreement with a licensee permitting that person to distribute the service; (« distributeur autorisé »)~~

~~“bundle” means two or more digital files offered as a single product, if at least one file is a permanent download; (« ensemble »)~~

~~“CMRRA” means Canadian Musical Reproduction Rights Agency Ltd.; (« CMRRA »)~~

~~“collectives” means CMRRA, CSI, SOCAN, and SODRAC; (« sociétés de gestion »)~~

~~“CSI” means CMRRA-SODRAC Inc.; (« CSI »)~~

~~“download” means the receipt by an end user of a file from a download service and making a reproduction thereof onto a means a file intended to be copied onto a consumer's local storage device; (« téléchargement »)~~

~~“download service” means a service that transmits to end users a file that is intended to be copied onto a storage device and results in a durable copy of that file; (« service de téléchargement »)~~

~~“end user” means a person who accesses an online music service, whether the person pays a fee or provides other consideration for the service or uses the service free of charge; (« utilisateur final »)~~

"file" except in the definition of "bundle," means a digital file of ~~either an audio track or a sound recording of a musical work, and includes~~ a music video; (« *fichier* »)

"free on-demand stream" excludes an on-demand stream provided to a subscriber;
(« *transmission sur demande gratuite* »)

"free subscription" means the provision of free access to limited downloads or on-demand streams to a subscriber; (« *abonnement gratuit* »)

"gross revenue" means, ~~in relation~~ the gross amounts paid to an online music service, ~~all revenues received by a licensee whether in cash, in kind, in barter or contra, including revenues received for or its authorized distributors for access to and~~ use of the service, ~~and revenues received for promotional activities, such as advertising, that are attributed~~ including membership and subscription fees, amounts paid for advertising, sponsorship, promotion and product placement, commissions on third-party transactions, and amounts equal to the value of the consideration received by an online music service or its authorized distributors pursuant to any contra and barter agreements related to the operation of the service; (« *revenus bruts* »)

~~"hybrid webcast service" means a webcast service where the files transmitted to an end user may also be copied onto a storage device for the purpose of listening to them later, and where the period for which such files are retained, or the number of files that may be so retained, or both, is limited, and established by the service; (« service de webdiffusion hybride »)~~

"hybrid service" means an on-demand streaming service which, as an added feature of the mobile subscription tier, offers users the ability to cache tracks for offline listening; (« *service hybride* »)

"identifier" means the unique identifier an online music service assigns to a file or bundle; (« *identificateur* »)

~~"interactive webcast service" means a webcast service where the files are chosen by the end user and received at a place and time individually chosen by that person; (« service de webdiffusion interactive »)~~

~~"licensee" means a person that operates an online music service that is licensed under this tariff; (« titulaire de licence »)~~

"limited download service" means a download ~~service where the downloaded files, through technological means, that uses technology that causes the file to~~ become unusable upon the happening of a certain event ~~or events, such as the end of the end user's subscription;~~ (« *service de téléchargement limité* »)

~~"mixed bundle" means a bundle that contains at least one file containing an audio track and at least one file containing a music video; (« ensemble mixte »)~~

"music video" means an audiovisual representation of ~~one or more~~ a musical work, including a concert; (« *vidéo de musique musicale* »)

~~"non-interactive webcast service" means a webcast service where the end user exercises no control over the content nor the timing of the transmission of the files; (« service de webdiffusion non-interactive »)~~

"on-demand stream" means a stream selected by its recipient; (« *transmission sur demande* »)

~~"online music service" means a non-interactive webcast service, a semi-interactive webcast service, an interactive webcast service, a hybrid webcast service, a limited download service, or~~

~~"a permanent download service"~~ means a service that delivers streams (recommended or on demand) and downloads (limited or permanent) to subscribers. For greater certainty, "online music service" includes cloud-based music services and other services using similar technology, but excludes a service that offers only streams (other than recommended) in which the file is selected by the service, which can only be listened to at a time chosen by the service and for which no advance play list is published; (« service de musique en ligne »)

~~"permanent download service"~~ means a download service, but does not include other than a limited download service; (« service de téléchargement permanent »)

~~"play"~~ means the single performance of a file by an end user recommended or on-demand stream; (« écoute »)

"portable limited download" means a limited download that uses technology that allows the subscriber to reproduce the file on a device other than a device to which an online music service delivered the file; (« téléchargement limité portable »)

"quarter" means from January to March, from April to June, from July to September and from October to December; (« trimestre »)

"recommended stream" means a stream delivered by an information filtering system that allows the end user to influence the selection of the musical works delivered specifically to the end user; (« transmission recommandée »)

"stream" means a file that is intended to be copied onto a local storage device only to the extent required to allow listening to the file at substantially the same time as when the file is transmitted; (« transmission »)

"subscriber" means an end user with whom an online music service or its authorized distributor has entered into a contract for service other than on a transactional per-download or per-stream basis, for a fee, for other consideration or free of charge, including pursuant to a free subscription; (« abonné »)

"unique visitor" means each end user, excluding a subscriber, who receives a free on-demand stream from an online music service in a month. (« visiteur unique »)

~~"repertoire" means, in relation to each collective, the musical works for which it is entitled to grant a licence pursuant to section 0 of this Tariff; (« répertoire »)~~

~~"semi-interactive webcast service" means a webcast service where the end user exercises some level of control over the content of the files, or timing of the transmission of the files, or both; (« service de webdiffusion semi-interactive »)~~

~~"service provider" means a professional service provider retained by a collective society to assist in the conduct of an audit or in the distribution of royalties to rights holders; (« prestataire de services »)~~

~~"SOCAN" means the Society of Composers, Authors and Music Publishers of Canada; (« SOCAN »)~~

~~"SODRAC" means SODRAC 2003 Inc. and Society for Reproduction Rights of Authors, Composers and Publishers in Canada Inc.; (« SODRAC »)~~

~~"sound recording" has the meaning given to it in the Copyright Act, R.S.C. 1985, c. C-42; (« enregistrement sonore »)~~

~~“subscriber” means a person who accesses an online music service, pursuant to a contract or otherwise, whether the person pays a fee or provides other consideration for the service or uses the service free of charge; (« abonné »)~~

~~“webcast service” means a service that transmits files to end users, where the files are intended to be copied by the end user onto a storage device only to the extent required to allow listening or viewing the contents of the file at substantially the same time as when the file is received. (« service de webdiffusion »)~~

Application

~~3. (1) This tariff entitles a licensee, and their authorized distributors, in connection with the operation of an online music service,~~

~~3. (a) to communicate~~ (1) This tariff sets the royalties to be paid for the communication to the public by telecommunication, in Canada, a musical work in the of works in SOCAN's repertoire of SOCAN, including, as of November 7, 2012, by making it works available to the public by telecommunication in a way that allows a member of the public to have access to it them from a place and at a time individually chosen by that member of the public; in connection with the operation of an online music service and its authorized distributors in 2018, including the use of a musical work in a music video or a concert.

(2) This part of the tariff does not apply to uses covered by other applicable tariffs, including SOCAN Tariffs 16, 22.B-G, 24 and 25.

~~(b) to reproduce a musical work in the repertoire of CSI, where the work is embodied in an audio track, or of SODRAC, where the work is embodied in a music video, for the purpose of transmitting it in a file to members of the public in Canada via the Internet or another digital network, including by wireless transmission;~~

~~(c) to authorize another person to reproduce a musical work for the purpose of delivering to the service a file that can then be reproduced and transmitted pursuant to paragraph 0; and~~

~~(d) to authorize members of the public in Canada to further reproduce, for their own private use, a musical work that has been reproduced and transmitted pursuant to paragraph 0.~~

~~(2) Despite subsection 0, this tariff does not~~

~~(a) apply to activities subject to a previously certified tariff, including SOCAN Tariff No. 16—Background Music Suppliers (2010-2011), SOCAN Tariff No. 22 (Internet—Other Uses of Music), Part F (Audio Websites), SOCAN Tariff No. 24—Ringtones and Ringbacks (2006-2013), the Satellite Radio Services Tariff (Re:Sound: 2011-2018; SOCAN: 2010-2018), and the Commercial Radio Tariff (SOCAN: 2011-2013; Re:Sound: 2012-2014; CSI: 2012-2013; Connect/SOPROQ: 2012-2017; Artisti: 2012-2014);~~

~~(b) authorize the reproduction of a work in a medley, for the purpose of creating a mashup, for use as a sample, or in association with a product, service, cause or institution; nor~~

~~(c) authorize the reproduction or communication by telecommunication of a musical work for the purpose of providing a free preview of an entire music album by webcast, in association with the operation of a permanent download service for audio tracks.~~

~~(3) For greater certainty, this tariff~~

~~(a) does not authorize the reproduction of a work in the repertoire of CMRRA in a music video; and~~

~~(b) does not apply to the operation of a service that allows end users to store and retrieve— or allows end users to direct the operator of the service to store and retrieve—a musical work.~~

Period of Application

~~(4) This tariff applies to activities from January 1, 2011, to December 31, 2013, except in relation to the reproduction of a musical work in the repertoire of SODRAC in connection with the operation of a permanent download service for music videos, for which the tariff applies from January 1, 2010, to December 31, 2013.~~

Royalties Payable

On-Demand and Recommended Streams

4. (1) ~~Subject to subsection (2), the~~The royalties payable by a licensee that operates in a month by an online music service that offers on-demand and/or recommended streams shall be

$$\frac{A \times B}{C}$$

~~(a) a non-interactive webcast service for audio tracks shall be 1.49% of their gross revenues attributable to the operation of that service, payable to CSI;~~

~~(b) a semi-interactive webcast service for audio tracks shall be 1.49% and 5.3% of their gross revenues attributable to the operation of that service, payable to CSI for 2011 through 2013 and to SOCAN for 2012 and 2013, respectively;~~

~~(c) an interactive webcast service for audio tracks shall be 1.49% and 5.3% of their gross revenues attributable to the operation of that service, payable to CSI and SOCAN, respectively;~~

~~(d) a hybrid webcast service for audio tracks shall be 3.13% and 3.48% of their gross revenues attributable to the operation of that service, payable to CSI and SOCAN, respectively;~~

~~(e) a permanent download service for audio tracks shall be 8.91% of the amount paid by end users for the downloads of audio tracks, payable to CSI;~~

~~(f) a limited download service for audio tracks shall be 8.91% of the amount paid by subscribers for the service during the month, payable to CSI;~~

~~(g) a semi-interactive or interactive webcast service for music videos shall be 2.99% of their gross revenues attributable to the operation of that service, payable to SOCAN; and~~

~~(h) a permanent download service for music videos shall be 5.64% of the amount paid by end users for the downloads of music videos, multiplied by SODRAC's share in those works payable to SODRAC.~~

Minimum Royalties

where

(A) is 10.3 per cent of the gross revenue of the service for the month, excluding amounts paid to the service for permanent and limited downloads; if the service provides only music videos, the rate shall be 5.9 per cent,

(B) is the number of plays of files requiring a SOCAN licence during the month, and

(C) is the number of plays of all files during the month,

subject to a minimum fee, which shall be the lesser of 60.8¢ per subscriber or unique visitor per month, and 0.13¢ per stream requiring a SOCAN licence.

In the case of hybrid services, the applicable rate for SOCAN on the mobile subscription tier shall be 50 per cent of the total rate certified by the Copyright Board for SOCAN and CSI for on-demand streams.

Limited Downloads

(2) The royalties payable ~~by a licensee pursuant to~~ in a month for an online music service that offers limited downloads of musical works shall be

$$\frac{A \times B}{C}$$

~~(a) paragraph 0 shall be no less than \$100 per year, payable to CSI;~~

~~(b) paragraph 0 shall be no less than \$100 per year, payable to SOCAN, and \$100 per year, payable to CSI;~~

~~(c) paragraph 0 shall be no less than \$100 per year, payable to SOCAN, and \$100 per year, payable to CSI;~~

~~(d) paragraph 0 shall be no less than \$100 per year, payable to SOCAN, and \$100 per year, payable to CSI;~~

~~(e) paragraph 0 shall be no less than \$0.036 per downloaded file containing an audio track, if contained in a bundle containing 13 or more files containing audio tracks, or \$0.066 per downloaded file containing an audio track otherwise, payable to CSI;~~

~~(f) paragraph 0 shall be no less than \$100 per year, payable to CSI;~~

~~(g) paragraph 0 shall be no less than \$100 per year, payable to SOCAN; and~~

~~(h) paragraph 0 shall be no less than \$0.066 per music video containing only one musical work, and \$0.026 per musical work in a music video containing two or more musical works, where both of these amounts are to be adjusted for the partial ownership of the musical works by SODRAG.~~

~~Mixed Bundles~~

~~(3) For the purposes of paragraph 0, where an end user pays for a mixed bundle, the amount paid by the end user for the files containing audio tracks in the bundle shall be deemed to be~~

~~(a) the price of the bundle, multiplied by the sum of the prices of the files containing audio tracks when not sold in a bundle, divided by the sum of the prices of all files in the bundle when not sold in a bundle; or~~

~~(b) when information required to calculate paragraph 0 is not available, the price of the bundle multiplied by the number of files containing audio tracks, divided by the sum of the number of files containing audio tracks and two times the number of files containing a music video.~~

~~(4) For the purposes of paragraph 0, where an end user pays for a mixed bundle, the amount paid by the end user for the files containing music videos in the bundle shall be deemed to be~~

~~(a) the price of the bundle, multiplied by the price of the files containing the music videos when not sold in a bundle, divided by the sum of the prices of all files in the bundle when not sold in a bundle; or~~

~~(b) when information required to calculate the amount in paragraph 0 is not available, the price of the bundle, multiplied by two, divided by the sum of the number of files containing audio tracks and two times the number of files containing a music video.~~

Previews

~~(5) Despite paragraphs Part 13 to 0, a person who operates, in association with the operation of a permanent download service for audio tracks, a service identified in those paragraphs only for the purpose of providing a preview of not more than 90 seconds of an audio track by webcast is not required to pay any royalties with respect to the operation of that service.~~

where

(A) is 4.9 per cent of the gross revenues of the service during the month, excluding amounts paid to the service for on-demand streams, recommended streams and permanent downloads; if the service provides only music videos, the rate shall be 2.8 per cent.

(B) is the number of limited downloads requiring a SOCAN licence during the month, and

(C) is the total number of limited downloads during the month.

subject to a minimum fee of 73.1¢ per subscriber or unique visitor per month if portable limited downloads are allowed; 47.9¢ per subscriber or unique visitor per month if not.

For the purpose of calculating the minimum payable pursuant to subsection (2), the number of subscribers shall be determined as at the end of the quarter in respect of which the royalties are payable.

Permanent Downloads

(3) The royalties payable in a month for an online music service that offers permanent downloads requiring a SOCAN licence shall be

$$\frac{A \times B}{C}$$

Taxes

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

where

(A) is 4.1 per cent of the gross revenue of the service for the month, excluding amounts paid to the service for on-demand streams, recommended streams and limited downloads.

(B) is the number of permanent downloads requiring a SOCAN licence during the month, and

(C) is the total number of permanent downloads during the month.

subject to a minimum of 2.04¢ per file in a bundle that contains 13 or more files, and 2.8¢ per file in all other cases.

Free Per-Stream Transactions

(4) Where an online music service subject to subsection (1), (2) or (3) also offers streams free of charge, the royalty shall be 0.13¢ per streamed file requiring a SOCAN licence.

ADMINISTRATIVE PROVISIONS

Reporting Requirements: Service Identification

5. No later than ~~the earlier of~~ 20 days after the earlier of the end of the first month during which a licensee, ~~in connection with the operation of~~ an online music service, ~~communicates or reproduces~~ a file requiring a SOCAN, ~~CSI, or SODRAC~~ licence ~~under this tariff, or authorizes another person to do the same, and in any event~~ and the day before the service first makes ~~that such a~~ file available to the public, the ~~licensee~~ service shall provide to SOCAN, ~~CSI, and SODRAC~~ the following information:

(a) the name of the person who operates the service, including

(i) if the name of a corporation, ~~its name~~ and a mention of its jurisdiction of incorporation,

(ii) ~~if a sole proprietorship,~~ the name of the proprietor of an individual proprietorship, or

~~(iii) if a partnership, the name of each partner, and~~

(iii) (iv) in any event, the names of the principal officers ~~or operators of the service or~~ any other service, together with any other trade name under which the service carries on business;

(b) the address of its principal place of business;

(c) the name, address and email of the persons to be contacted for the purposes of notice ~~and, if different from that name, address and email,~~ for the exchange of data and for the purposes of invoicing and payment ~~of royalties, the provision of information pursuant to subsection Part 114(2) and any inquiries related thereto;~~

~~(d) the name of each online music service operated by the licensee;~~

(d) (e) the name and address of any authorized distributor; and

(e) (f) the Uniform Resource Locator (URL) of each ~~Internet site~~ web-site at or through which the service is or will be offered; ~~and~~

~~(g) all of the services identified in paragraphs 0 to 0 that the licensee operates.~~

Sales Reports

~~Music Use Report~~ Definition

6. (1) In this section, "required information" means, in respect of a file, ~~where available~~

(a) its identifier;

(b) the title of the musical work ~~or works it contains~~;

~~(c) whether the file contains an audio track or a music video;~~

~~(c)~~ (d) the name of each performer or group to whom the ~~audio track or music video contained in the file~~ sound recording is credited;

~~(d)~~ (e) the name of the person who released the ~~audio track or music video contained in the file~~ sound recording;

~~(e)~~ (f) if the ~~licensee~~ service believes that a ~~SODRAC~~ SOCAN licence is not required, information that establishes why the licence is not required;

~~(f)~~ (g) the name of each author of ~~each~~ the musical work;

~~(g)~~ (h) the International Standard Recording Code (ISRC) assigned to the ~~audio track or music video contained in the file~~ sound recording;

~~(h)~~ the name of the music publisher associated with the musical work;

~~(i)~~ the International Standard Musical Work Code (ISWC) assigned to the musical work;

~~(i)~~ (i) ~~in the case of a file containing an audio track, if the audio track contained in the file~~ if the sound recording is or has been released in physical format as part of an album, the name, identifier, product catalogue number and ~~the~~ Universal Product Code (UPC) assigned to the album, together with the associated disc and track numbers;

~~(j)~~ ~~the name of each music publisher associated with each musical work contained in the file~~;

~~(k)~~ ~~the International Standard Musical Work Code (ISWC) assigned to each musical work contained in the file~~;

~~(k)~~ (l) the Global Release Identifier (GRid) assigned to the file and, if applicable, the GRid of the album or bundle in which the file was released;

~~(l)~~ (m) the running time of the file, in minutes and seconds; and

~~(m)~~ (n) any alternative title used to designate the musical work, ~~music video,~~ or sound recording ~~contained in the file~~.

On-Demand and Recommended Streams

~~(1.1) For certainty, information is “available” under subsection 6 if it is in the possession or control of the licensee operating the relevant online music service, regardless of the form or the way in which it was obtained.~~

~~Non-interactive Music Webcast Service~~

(2) No later than 20 days after the end of each month, any licensee that operates an online music service ~~in relation to which they are~~that is required to pay royalties pursuant to ~~paragraph 4(1)(a)~~subsection 4(1) shall provide, ~~in relation to that service, to GSI, to SOCAN~~ a report setting out, for that month, the following information:

(a) in relation to each file that was ~~transmitted to an end user~~delivered as an on-demand or recommended stream, the required information;

(b) the number of plays of each file; ~~and~~

~~(c) the gross revenue attributable to the operation of the service.~~

~~Semi-interactive Music Webcast Service~~

~~(3) No later than 20 days after the end of each month, any licensee that operates an online music service in relation to which they are required to pay royalties pursuant to paragraph 0 shall provide, in relation to that service, to each of GSI and SOCAN, a report setting out, for that month,~~

~~(a) in relation to each file that was transmitted to an end user, the required information;~~

~~(c) (b)~~ the total number of plays of ~~each file~~all files; ~~and~~

~~(d) the number of subscribers to the service during the month and the total amounts paid by them during that month;~~

~~(e) the number of subscribers provided with free subscriptions and the total number of plays of all files by such subscribers as on-demand or recommended streams;~~

~~(f) (c)~~ the gross revenue ~~attributable to the operation~~ of the service: for the month; and

~~Interactive Music Webcast Service~~

~~(g) the total number of streams provided free of charge.~~

Limited Downloads

~~(3) (4)~~ No later than 20 days after the end of each month, ~~any licensee that operates~~ an online music service ~~in relation to which they are required to pay royalties pursuant to paragraph 0~~that offers limited downloads shall provide, ~~in relation to that service, to each of GSI and to~~ SOCAN, a report setting out, for that month,

~~(a) in relation to each file that was transmitted to an end user, the required information;~~

(a) the identifier, number of portable limited downloads, number of other limited downloads, and number of plays of each file that requires a SOCAN licence;

(b) the total number of portable limited downloads, other limited downloads, and plays of each file files that require a SOCAN licence;~~and~~

(c) the total number of portable limited downloads, other limited downloads, and plays of all files;

(d) the number of subscribers entitled to receive portable limited downloads at the end of the month, the number of other subscribers at the end of the month and the total amounts paid by all subscribers;

(e) (e) the gross revenue attributable to the operation of the service; ~~for the month; and~~

Hybrid Music Webcast Service

~~(5) No later than 20 days after the end of each month, any licensee that operates an online music service in relation to which they are required to pay royalties pursuant to paragraph 0 shall provide, in relation to that service, to each of CSI and SOCAN, a report setting out, for that month,~~

~~(a) in relation to each file that was transmitted to an end user, the required information;~~

~~(f) (b) the total number of plays of each file, excluding plays of copies stored on an end user's storage device; and~~ streams provided free of charge.

~~(c) the gross revenue attributable to the operation of the service.~~

Permanent Download Music Service Downloads

~~(4) (6) No later than 20 days after the end of each month, any licensee that operates an online music service in relation to which they are required to pay royalties pursuant to paragraph 0 that offers permanent downloads shall provide, in relation to that service, to CSI and to SOCAN, a report setting out, for that month, in relation to each file that was downloaded by an end user,~~

(a) the ~~required information~~ total number of permanent downloads supplied;

(b) the total number of permanent downloads requiring a SOCAN licence supplied and the total amount payable by subscribers for those downloads;

(c) with respect to each permanent download requiring a SOCAN licence,

(i) the number of times the file was downloaded,

(ii) (b) the number of times the file was downloaded as part of a bundle, the identifier of each such bundle, the number of files and of the file as included in each such that bundle, and the amount paid by end users consumers for each such bundle; the share of that amount assigned by the service to the file, and a description of the manner in which that share was assigned, and

~~(c) in the case of files downloaded as part of a mixed bundle, the number of audio tracks in the bundle, and the revenues allocated to the audio tracks in the bundle; and~~

~~(iii) (d) the identifier and number of other permanent downloads of the file and the amounts paid by ~~end-users~~consumers for the file, including, if the file is offered as a permanent download at different prices from time to time, the number of permanent downloads of the file at each different price;~~

Limited-Download Music Service

~~(7) No later than 20 days after the end of each month, any licensee that operates an online music service in relation to which they are required to pay royalties pursuant to paragraph 0 shall provide, in relation to that service, to each of GSI and SOCAN, a report setting out, for that month,~~

~~(a) in relation to each file that was transmitted to an end user, the required information;~~

~~(d) (b) the number of times each file was downloaded~~total amount paid by consumers for bundles;

~~(c) the number of plays of each file; and~~

~~(e) (d) the total amount paid by ~~end-users~~.~~consumers for permanent downloads;

Semi-interactive and Interactive Music Video Webcast Service

~~(f) the gross revenue of the service for the month; and~~

~~(g) the total number of streams provided free of charge.~~

Free On-Demand Streams

~~(5) (8) No later than 20 days after the end of each month, any licensee that operates an online music service in relation to which they are that is required to pay royalties pursuant to ~~paragraph 0~~subsection 4(4) shall provide, ~~in relation to that service,~~ to SOCAN a report setting out, for that month,~~

~~(a) in relation to each file that was ~~transmitted to an end user~~delivered as a free on-demand stream, the required information, ~~and whether the file contains only one musical work;~~~~

~~(b) the number of plays of each file as a free on-demand stream; and~~

~~(c) the ~~gross revenue attributable to the operation of the service.~~total number of plays of all files as free on-demand streams;~~

Permanent Download Music Video Service

~~(9) No later than 20 days after the end of each month, any licensee that operates an online music service in relation to which they are required to pay royalties pursuant to paragraph 0 shall provide, in relation to that service, to SODRAC a report setting out, for that month,~~

~~(a) in relation to each file that was downloaded by an end user:~~

- ~~(i) the required information,~~
- ~~(ii) whether the file contains more than one musical work, and~~
- ~~(d) (iii) the amount paid by the end user for the download~~number of unique visitors;
- (e) a description of the manner in which each unique visitor is identified; and
- (f) the number of free on-demand streams provided to each unique visitor.
- ~~(b) the total amount paid by end users for files that contain more than one musical work; and~~
- ~~(c) in the case of files downloaded as part of a bundle, including a mixed bundle, the revenues allocated to each music video in the bundle.~~

Reporting Obligations

~~(6) (10) A licensee~~An online music service that is required to ~~provide a report to a collective~~pay royalties pursuant to more than one ~~of subsections Part 16(2) to 0,~~subsection of section 4 shall file a separate report pursuant to each ~~applicable~~ subsection of this section.

(7) An online music service that is required to pay royalties with respect to music videos shall file the required information separately from the information dealing with audio-only files.

Calculation of Royalties

~~7. No later than 20 days after receiving from a licensee a report pursuant to subsection 6(9) for the last month in a quarter, SODRAC shall provide to the licensee a detailed calculation of the royalties payable for that quarter for each file and a report setting out, in relation to the received report,~~

- ~~(a) which files contain a work that SODRAC then knows to be in its repertoire;~~
- ~~(b) which files contain a work that SODRAC then knows not to be in its repertoire;~~
- ~~(c) which files contain a work that SODRAC then knows to be in its repertoire only as to a fraction of the rights, with an indication of that fraction; and~~
- ~~(d) with respect to all other files, an indication of the reason for which the collective is unable to provide an answer pursuant to paragraph 0, 0 or 0.~~

Payment of Royalties

7. 8. (1) ~~Royalties payable to SOCAN under this tariff~~ shall be due no later than 20 days after the end of each quarter.

~~(2) Royalties payable to CSI under this tariff shall be due no later than 20 days after the end of each quarter.~~

~~(3) Royalties payable to SODRAC under this tariff shall be due no later than 30 days after a licensee receives a report from SODRAC pursuant to section 0.~~

Repertoire Disputes

~~9. (1) A licensee that disputes the indication that a file contains a work in the repertoire or requires a SODRAC licence shall provide to SODRAC information that establishes why the licence is not required, unless the information was provided earlier.~~

~~(2) A licensee that disputes the indication more than 20 days after receiving a report pursuant to section 7 is not entitled to interest on the amounts owed to them.~~

Adjustments

~~8. 10.~~ Updates Adjustments to any information provided pursuant to ~~sections~~ section 5, or 6, ~~0, and 0~~ shall be provided with the next report dealing with such information.

~~9. 11.~~ (1) Subject to subsection 9(2), adjustments in the amount of royalties owed, including excess payments, as a result of the discovery of an error or otherwise, shall be made on the date the next royalty payment is due.

(2) Any excess payment resulting from ~~a licensee~~ an online music service providing incorrect or incomplete information about a file shall be deducted from future amounts owed ~~in respect for the use~~ of works owned by the same person as the work in ~~the~~ that file.

Records and Audits

~~10. 12.~~ (1) ~~A licensee~~ An online music service shall keep and preserve, for a period of six years after the end of the month to which they relate, records from which the information set out in ~~subsections 0 and 0, and~~ sections 5, and 6, ~~and 0~~ can be readily ascertained.

(2) ~~SOCAN, CSI, and SODRAC~~ may audit these records at any time during the period set out in subsection (1) on reasonable notice and during normal business hours.

(3) ~~Subject to subsection 0, if~~ if an audit discloses that royalties due have been understated in any quarter by more than 10% per cent, the ~~licensee~~ online music service shall pay the reasonable costs of the audit within 30 days of the demand for such payment.

~~(4) For the purposes of subsection (3), any amount owing as a result of an error or omission on the part of SOCAN, CSI, or SODRAC shall not be taken into account.~~

Confidentiality

~~11. 13.~~ (1) Subject to subsections 11(2) and 11(3), ~~each of the collectives, and each licensee and authorized distributor,~~ SOCAN shall treat in confidence information received pursuant to this tariff, unless the ~~disclosing party~~ online music service consents in writing to the information being treated otherwise.

(2) Information referred to in subsection (1) may be shared

(a) in connection with the collection of royalties or the enforcement of a tariff, with CMRRA, SODRAC or CSI;

~~(a) amongst the collectives;~~

~~(b) with the collectives' service providers, solely to the extent required by the service providers for the service they are contracted to provide;~~

~~(b)~~ ~~(e)~~ with the Copyright Board;

~~(c)~~ ~~(d)~~ in connection with proceedings before the Copyright Board ~~and any other court or administrative tribunal~~, once the ~~person whose information is to be shared has~~ online music service had a reasonable opportunity to request a confidentiality order;

~~(d)~~ ~~(e)~~ with any person who knows or is presumed to know the information;

~~(e)~~ ~~(f)~~ to the extent required to effect the distribution of royalties, with royalty claimants; and

~~(f)~~ ~~(g)~~ if ~~required~~ ordered by law ~~or ordered by a court of law~~.

~~(3) Where confidential information is shared with a service provider as per paragraph 00, the service provider shall sign a confidentiality agreement, which shall be shared prior to the release of the information with the party whose information is to be disclosed, and shall not use any confidential information for any purpose other than to assist in the conduct of an audit or in the distribution of royalties to rights holders.~~

~~(3)~~ ~~(4)~~ Subsection (1) does not apply to information that is publicly available, or to information obtained from someone other than ~~the collectives, a licensee or their~~ an online music service or its authorized distributors, and who is not under an apparent duty of confidentiality to the service.

Interest on Late Payments

~~12. 14. (1)~~ ~~Subject to subsections 0 and 0, any~~ Any amount not received by the due date shall bear interest from that date until the date the amount is received.

~~(2) Any overpayment resulting from an error or omission on the part of a collective shall bear interest from the date of the overpayment until the overpayment is refunded.~~

~~(3) For the purposes of this section, a report provided by SODRAC pursuant to section 0 following the late reception of a report required pursuant to subsection 6(9) is deemed to have been received within the time set out in section 0 provided that, after receiving the late report required pursuant to subsection 0, SODRAC provides the corresponding report required pursuant to section 0 no later than the date on which the next report required pursuant to section 0 is due.~~

~~(4) Any amount owing by a licensee as a result of an error or omission on the part of a collective shall not bear interest until 30 days after the collective has corrected the error or omission.~~

~~(5)~~ Interest shall be calculated daily, at a rate equal to one per cent above the Bank Rate effective on the last day of the previous month (as published by the Bank of Canada). Interest shall not compound.

Addresses for Notices, etc.

~~13. 15. (1)~~ ~~(1)~~ Anything ~~that a licensee sends~~ addressed to SOCAN shall be sent to 41 Valleybrook Drive, Toronto, Ontario M3B 2S6, ~~email: licence@socan.ca, email: licence@socan.ca, fax number: 416-445-7108, or to any other address, email address or fax number of which~~ thea service has been notified in writing.

~~(2) Anything that a licensee sends to CSI shall be sent to 1470 Peel Street, Tower B, Suite 1010, Montréal, Quebec H3A 1T1, email: csi@cmrrasodrac.ca, fax: 514-845-3401, or to any other address, email address or fax number of which the service has been notified in writing.~~

~~(3) Anything that a licensee sends to SODRAC pursuant to sections Part 15 or 0 shall be sent by email to audiovisual@sodrac.ca or to any other email address of which the service has been notified in writing. Anything else that a licensee sends to SODRAC shall be sent to 1470 Peel Street, Tower B, Suite 1010, Montréal, Quebec H3A 1T1, email: licences@sodrac.ca, fax: 514-845-3401, or to any other address, email address or fax number of which the service has been notified in writing.~~

~~(4) (2) Anything that a collective SOCAN sends to a licensee an online music service shall be sent to the last address, email address or fax number of which the collective SOCAN has been notified in writing.~~

Delivery of Notices and Payments

~~14. 16-~~(1) Subject to subsection 14(2), a notice may be delivered by hand, by postage-paid mail, by fax, by email or by File Transfer Protocol (FTP). ~~A payment must be delivered by hand, by postage-paid mail, or as otherwise agreed upon by the collective and the licensee.~~

(2) Information provided pursuant to sections 5 ~~to 0~~ and ~~to subsection 06~~ shall be delivered electronically, by way of a delimited text file or in any other format agreed upon by ~~the applicable collective SOCAN~~ and the licensee online music service.

(3) A notice or payment mailed in Canada shall be presumed to have been received four business days after the day it was mailed.

(4) A notice sent by fax, by email or by FTP shall be presumed to have been received the day it is transmitted.

(5) All amounts required to be reported or paid under this tariff shall be reported or paid in Canadian dollars.

Transitional Provisions

~~17. (1) With respect to any activities for which royalties are payable to CSI pursuant to paragraphs 0 to 0, a licensee shall provide to CSI the information set out in~~

~~(a) section Part 15 no later than November 24, 2017; and~~

~~(b) subsections Part 16(2) to 0, as applicable, no later than November 24, 2017, and pay any royalties due to CSI for that period, no later than February 2, 2018.~~

~~(2) With respect to any activities for which royalties are payable to SOCAN pursuant to paragraphs 0 to 0, or 0, a licensee shall provide to CSI the information set out in~~

~~(a) section Part 15 no later than November 24, 2017; and~~

~~(b) subsections 0 to 0, or 0 to Part 16(5), as applicable, no later than November 24, 2017, and pay any royalties due to SOCAN for that period, no later than February 2, 2018.~~

~~(3) With respect to any activities for which royalties are payable to SODRAC pursuant to paragraph 0,~~

~~(a) a licensee shall provide to SODRAC the information set out in section Part 15 no later than November 24, 2017;~~

~~(b) a licensee shall provide to SODRAC the information set out in subsection 0 no later than November 24, 2017;~~

~~(c) SODRAC shall provide the information set out in section 0 no later than 30 days after it receives information pursuant to paragraph 0; and~~

~~(d) royalties shall be due no later than 30 days after a licensee receives a report pursuant to paragraph 0.~~

~~(4) The information filed pursuant to paragraph 0, 0, or 0, as the case may be, shall be supplied if, and to the extent, it is available.~~

~~18. Any amounts owing pursuant to this tariff for activities carried out during the period of application of this tariff, as set out in subsection 0, shall be increased by using the multiplying interest factors set out in the following table with respect to each period.~~

SOCAN or/ou CSI				
	1	2	3	4
2011	1.0713	1.0682	1.0651	1.0620
2012	1.0588	1.0557	1.0526	1.0495
2013	1.0463	1.0432	1.0401	1.0370