

Copyright Board
Canada



Commission du droit d'auteur
Canada

FACT SHEET

Online Music Services SOCAN Tariff 22.A (2007-2010) and CSI Tariff (2008-2010)

October 5, 2012

What is the Copyright Board of Canada?

The Copyright Board of Canada is an economic regulatory body empowered to establish, either mandatorily or at the request of an interested party, the royalties to be paid for the use of works protected by copyright, when the administration of these rights is entrusted to a collective society. The Board also supervises agreements signed between users and collective societies and can issue licences when the copyright owners cannot be located.

What are the tariffs the Board certifies today?

The tariffs the Board certifies today set the royalties Canadian online music services must pay for the use of copyrighted musical works when they offer permanent and limited downloads, on-demand streaming and video-clips. iTunes, Zik, Slacker and Songza are just a few examples of the services available in Canada. The services pay these fees to two collective societies: SOCAN and CMRRA/SODRAC Inc. (CSI). For a description of the two societies, see the answer to the last question.

What are the rates set in today's decision?

The rate that online music services must pay to CSI is 9.9 per cent of the amount paid by consumers or subscribers for permanent and limited downloads. For on-demand streams, the services must pay to both CSI and SOCAN a total of 12.7 per cent of the amount paid by subscribers. The following table shows the details of the rates certified today:

	Royalties to be paid to CSI (2008-2010)	Royalties to be paid to SOCAN (2007-2010)
Permanent Downloads	9.90% of the amount paid by the consumer <i>Minimum fee</i> 3.92¢ per file in a bundle of 13 tracks or more 6.86¢ per file otherwise	n/a
Limited Downloads	9.9% of the amount paid by subscribers <i>Minimum fee</i> 99¢ per month, per subscriber, if portable limited downloads are allowed 66¢ if not	n/a
On-Demand Streams	5.18% of the amount paid by subscribers <i>Minimum fee</i> Free streaming: 0.09¢ per file streamed per visitor, up to a maximum of 34.53¢ per visitor per month Otherwise 34.53¢ subscriber per month	7.60% of the amount paid by subscribers <i>Minimum fee</i> Free streaming: 0.13¢ per file streamed per visitor, up to a maximum of 50.67¢ per visitor per month Otherwise, 50.67¢ per subscriber per month
Video-Clips (2010 only) On-Demand Streams	n/a	5.02% of the amount paid by subscribers <i>Minimum fee</i> Free streaming: 0.13¢ per file streamed per visitor, up to a maximum of 50.67¢ per visitor per month Otherwise, 50.67¢ per subscriber per month

What were the rates certified before today’s decision?

Before today’s decision, the online music services paid CSI and SOCAN a total of 11 per cent of the amount paid by consumers of subscribers for permanent downloads, limited downloads and on-demand streams. The following table shows the details of the rates that were certified before:

	Royalties to be paid to CSI (2005-2007)	Royalties to be paid to SOCAN (1996-2006)
Permanent Downloads	7.9% of the amount paid by a consumer <i>Minimum fee</i> 4.1¢ per file in a bundle; 5.3¢ per file in all other cases	3.1% of the amount paid by the consumer <i>Minimum fee</i> 1.5¢ per file in a bundle 2.1¢ per file in all other cases
Limited Downloads	5.3% of the amounts paid by subscribers <i>Minimum fee</i> 51.3¢ per month, per subscriber, if portable limited downloads are allowed; 33.7¢ if not	5.7% of the amounts paid by subscribers <i>Minimum fee</i> 54.8¢ per month, per subscriber, if portable limited downloads are allowed; 35.9¢ if not
On-Demand Streams	4.1% of the amounts paid by subscribers <i>Minimum fee</i> 26.3¢ per month, per subscriber	6.8% of the amounts paid by subscribers <i>Minimum fee</i> 43.3¢ per month per subscriber

How will the new rates affect the total royalties that the services will be paying, relative to what they paid before?

The Board estimates that the rates it certifies today will reduce total royalties paid by online music services by 10 per cent relative to the last certified tariffs.

The decrease in total royalties is the result of the combined impact of three key changes relative to the previously certified tariffs. First, as a result of the Supreme Court decisions in *ESA v. SOCAN* and *Rogers Communications Inc. v. SOCAN*, SOCAN receives nothing for permanent and limited downloads. Second, the Board eliminates the 10 per cent, first-tariff discount. Finally, it increases the rates for CSI by 12.5 per cent.

What are the various types of activities of online music services these tariffs apply to?

This decision deals with three types of products, namely permanent downloads, limited downloads and on-demand streaming. The SOCAN Tariff applies to streaming of both audio files and video-clips. The CSI Tariff applies to permanent and limited downloads as well as streaming of audio files.

A **permanent download** is a file that contains a sound recording of a musical work sent to and first stored on the device (computer, cell phone, Smartphone, iPod, etc.) used to purchase it. The person who receives the download can listen to it indefinitely.

Limited downloads are offered as part of a subscription service and can only be used as long as the user’s subscription is paid. The digital rights management (“DRM”) software attached to the music file prevents further use once the subscription expires.

On-demand streams are not downloads. The user does not receive the complete file containing the sound recording. The service only transmits or streams enough data to allow the user to listen to the recording at the time of the transmission and the user is prevented from copying the recording onto a recording medium or device. This decision also deals, for the first time, with video-clips.

Who are the two collective societies entitled to receive royalties as a result of these tariffs?

The Society of Composers, Authors and Music Publishers of Canada (SOCAN) is a society that administers performing rights in musical works on behalf of Canadian composers, authors and publishers, as well as affiliated societies representing foreign composers, authors and publishers.

CMRRA/SODRAC Inc. (CSI) acts for the Canadian Musical Reproduction Rights Agency (CMRRA) and the Society for Reproduction Rights of Authors Composers and Publishers in Canada (SODRAC). CMRRA is a Canadian centralized licensing and collecting agency for the reproduction rights of musical works in Canada. It represents more than 6,000 Canadian and U.S. publishers who own and administer approximately 75 per cent of the music recorded and performed in Canada. SODRAC administers royalties stemming from the reproduction of musical works. It represents some 6,000 Canadian songwriters and music publishers as well as the musical repertoire of more than 89 countries.

Note: The reasons and the certified tariff can be found on the Board's website under "What's New – Recent decisions" at the following address: <http://www.cb-cda.gc.ca/home-accueil-e.html>.