

Copyright Board
Canada



Commission du droit d'auteur
Canada

October 30, 2020

In accordance with section 68.2 of the *Copyright Act*, the Copyright Board hereby publishes the following proposed tariffs:

- SOCAN Tariff 1.A – Commercial Radio, 2022-2024
- SOCAN Tariff 1.B – Non-commercial Radio Other than the CBC, 2022-2024
- **SOCAN Tariff 2.A – Commercial Television Stations, 2022-2024**
- SOCAN-SODRAC Tariff 2.A.R – Commercial Television, 2022-2024
- SOCAN Tariff 3.A – Cabarets, Cafes, Clubs, etc. – Live Music, 2022-2024
- SOCAN Tariff 4.A – Live Performances at Concert Halls, etc. – Popular Music Concerts, 2022-2024
- SOCAN Tariff 4.B – Live Performances at Concert Halls, etc. – Classical Music Concerts, 2022-2024
- SOCAN Tariff 5.A – Exhibitions and Fairs, 2022-2024
- SOCAN Tariff 5.B – Concerts at Exhibitions and Fairs, 2022-2024
- SOCAN Tariff 6 – Motion Picture Theatres, 2022-2024
- SOCAN Tariff 14 – Performance of an Individual Work, 2022-2024
- SOCAN Tariff 15.A – Background Music in Establishments not Covered by Tariff 16 – Background Music, 2022-2024
- SOCAN Tariff 15.B – Background Music in Establishments not Covered by Tariff 16 – Telephone Music on Hold, 2022-2024
- SOCAN Tariff 16 – Background Music Suppliers, 2022-2024
- SOCAN Tariff 17 – Transmission of Pay, Specialty and Other Television Services by Distribution Undertakings, 2022-2024
- SOCAN Tariff 23 – Hotel and Motel In-Room Services, 2022-2024

By that same section, the Copyright Board hereby gives notice to any person affected by these proposed tariffs that users or their representatives who wish to object to the above-mentioned proposed tariffs must file written objections with the Board, at the address indicated below, no later than the 30th day after the day on which the Board published the proposed tariffs, that is no later than **November 30, 2020**.

Lara Taylor

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PROPOSED TARIFF

Filed with the Copyright Board pursuant to subsection 67(1) of the *Copyright Act*

2020-10-15

SOCAN

Tariff 2.A

For the communication to the public by telecommunication of musical or dramatico-musical works

2022-01-01 – 2024-12-31

Proposed citation:

SOCAN Tariff 2.A, Commercial Television Stations (2022-2024)

PROPOSED STATEMENT OF ROYALTIES TO BE COLLECTED BY THE SOCIETY OF COMPOSERS, AUTHORS AND MUSIC PUBLISHERS OF CANADA (SOCAN)

in compensation for the right to communicate to the public by telecommunication, in Canada, musical or dramatico-musical works forming part of its repertoire, including the right to make such works available to the public by telecommunication in a way that allows a member of the public to have access to them from a place and at a time individually chosen by that member of the public.

GENERAL PROVISIONS

All amounts payable under this tariff are exclusive of any federal, provincial or other governmental taxes or levies of any kind.

As used in this tariff, the terms “licence” and “licence to communicate to the public by telecommunication” mean a licence to communicate to the public by telecommunication or to authorize the communication to the public by telecommunication, including the right to make works available to the public by telecommunication in a way that allows a member of the public to have access to them from a place and at a time individually chosen by that member of the public.

Except where otherwise specified, fees payable for any licence granted by SOCAN shall be due and payable upon grant of the licence. Any amount not received by the due date shall bear interest from that date until the date the amount is received. 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.

Each licence shall subsist according to the terms set out therein. SOCAN shall have the right at any time to terminate a licence for breach of terms or conditions upon 30 days’ notice in writing.

Tariff No. 2

TELEVISION

A. Commercial Television Stations

Definitions

1. In this tariff,

“ambient music” means music unavoidably picked up in the background when an event is videotaped or broadcasted. (« *musique ambiante* »)

“cleared music” means any music, other than ambient music or production music, in respect of which a station does not require a licence from SOCAN. (« *musique affranchie* »)

“cleared program” means

(a) if the only cleared music contained in the program is music that was cleared before 60 days

after the publication of this tariff, a program containing no music other than cleared music, ambient music or production music; and

(b) if not, a program produced by a Canadian programming undertaking and containing no music other than cleared music, ambient music or production music. (« *émission affranchie* »)

“gross income” means the gross amounts paid by any person for the use of one or more broadcasting services or facilities provided by the station’s operator, whether such amounts are paid to the station owner or operator or to other persons, excluding the following:

(a) any such amounts received by a person other than the operator or owner of the station which form part of the base for calculation of the SOCAN royalty payable by such other person under this or another tariff;

(b) income accruing from investments, rents or any other business unrelated to the station’s broadcasting activities. However, income accruing from any allied or subsidiary business that is a necessary adjunct to the station’s broadcasting services and facilities or which results in their being used shall be included in the “gross income”;

(c) amounts received for the production of a program that is commissioned by someone other than the licensee and which becomes the property of that person;

(d) the recovery of any amount paid to obtain the exclusive national or provincial broadcast rights to a sporting event, if the licensee can establish that the station was also paid normal fees for station time and facilities. SOCAN may require the production of the contract granting these rights together with the billing or correspondence relating to the use of these rights by other parties; and

(e) amounts received by an originating station acting on behalf of a group of stations, which do not constitute a permanent network and which broadcast a single event, simultaneously or on a delayed basis, that the originating station pays out to the other stations participating in the broadcast. These amounts paid to each participating station are part of that station’s “gross income.” (« *revenus bruts* »)

“production music” means music contained in interstitial programming such as commercials, public service announcements and jingles. (« *musique de production* »)

“programming undertaking” means a programming undertaking as defined in the *Broadcasting Act*, S.C. 1991, c. 11. (« *entreprise de programmation* »)

Application

2. (1) This tariff applies to licences for the communication to the public by telecommunication by a broadcast television station, at any time and as often as desired, for the years 2022-2024, for private or domestic use, of any or all of the works in SOCAN’s repertoire.

(2) This tariff does not apply to stations owned and operated by the Canadian Broadcasting Corporation or licensed under a different tariff.

Election of Licence

3. (1) A station can elect for the standard or modified blanket licence.
- (2) A station's election must be in writing and must be received by SOCAN at least 30 days before the first day of the month for which the election is to take effect.
- (3) A station's election remains valid until it makes a further election.
- (4) A station can make no more than two elections in a calendar year.
- (5) A station that has never made an election is deemed to have elected for the standard blanket licence.

Standard Blanket Licence

4. (1) A station that has elected for the standard blanket licence shall pay 2.1 per cent of the station's gross income for the second month before the month for which the licence is issued.
- (2) No later than the day before the first day of the month for which the licence is issued, the station shall pay the fee, and report the station's gross income for the second month before the month for which the licence is issued.

Modified Blanket Licence (MBL)

5. (1) A station that has elected for the modified blanket licence shall pay the amount calculated in accordance with Form A (found at the end of this Tariff).
- (2) No later than the last day of the month after the month for which the licence is issued, the station shall
 - (a) provide to SOCAN, using Form A, a report of the calculation of its licence fee;
 - (b) provide to SOCAN, using Form B (found at the end of this Tariff), reports identifying, in respect of each cleared program, the music used in that program;
 - (c) provide to SOCAN any document supporting its claim that the music identified in Form B is cleared music, or a reference to that document, if the document was provided previously; and
 - (d) pay the amount payable pursuant to subsection (1).

Audit Rights

6. SOCAN shall have the right to audit any licensee's books and records, on reasonable notice and during normal business hours, to verify the statements and reports rendered and the fee payable by the licensee.

MBL: Incorrect Cleared Program Claims

7. Amounts paid pursuant to lines C and D of Form A on account of a program that a station incorrectly claimed as a cleared program are not refundable.

TARIFF 2.A (COMMERCIAL TELEVISION STATIONS)

FORM A

CALCULATION OF LICENCE FEE FOR A MODIFIED BLANKET LICENCE (MBL) FOR THE MONTH OF _____

Payment on account of cleared programs

— to account for additional expenses incurred by SOCAN because of the availability of the MBL: (A) _____
 $3\% \times 2.1\% \times$ gross income from all programs

— to account for the fact that stations that use the MBL pay royalties two months later than other stations: (B) _____
 $1\% \times 2.1\% \times$ gross income from all programs

— to account for the use of ambient and production music in cleared programs: (C) _____
 $5\% \times 2.1\% \times$ gross income from cleared programs

— to account for SOCAN's general operating expenses: (D) _____
 $22\% \times 95\% \times 2.1\% \times$ gross income from cleared programs

TOTAL of A + B + C + D: (E) _____

Payment on account of programs other than cleared programs:

— $2.1\% \times$ gross income from all programs other than cleared programs (F) _____

TOTAL LICENCE FEE FOR THE MONTH (E + F): (G) _____

Please remit the amount set out in (G)

