

PROPOSED TARIFF ~~1.C~~

Filed with the Copyright Board by SOCAN on 2021-10-15 pursuant to subsection 67(1) of the Copyright Act

Proposed Tariff Title: SOCAN Tariff I.C. Radio - Canadian Broadcasting Corporation (2023-2025)

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

Proposed Short Title: *SOCAN CBC Radio Tariff, 2023-2025*

Effective Period: 2023-01-01 – 2025-12-31

SOCAN TARIFF I.C. RADIO – CANADIAN BROADCASTING CORPORATION (~~SOCAN: 2015-2018; RE:SOUND: 2012-2019~~ 2023-2025)

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.

GENERAL PROVISIONS

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.

Except where otherwise specified, fees payable for any licence granted by SOCAN shall be due and payable upon grant of the licence.

Each licence shall subsist according to the terms set out herein. 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. 1

RADIO

C. Canadian Broadcasting Corporation

Short Title

1. This tariff may be cited as the SOCAN CBC Radio Tariff ~~(SOCAN: 2015-2018; Re: Sound: 2012-2019)~~, 2023-2025.

Definitions

2. In this tariff,

“device” means any device capable of receiving and playing a digital file of a musical work, including a computer, digital media player, cellular phone, smartphone, or tablet; (« *appareil* »)

“gross income” means the gross amounts paid by any person for the use of one or more broadcasting services or facilities provided by a station’s operator, including the value of any goods or services provided by any person in exchange for the use of such services or facilities, and the fair market value of non-monetary consideration (e.g. barter or “contra”), but excluding the following:

(a) income accruing from investments, rents or any other business unrelated to the station’s broadcasting activities. However, income accruing to or from any allied or subsidiary business, income accruing to or from any business that is a necessary adjunct to the station’s broadcasting services or facilities, or income accruing to or from any other business that results in the use of such services or facilities, including the gross amounts received by a station pursuant to turn-key contracts with advertisers, shall be included in the station’s “gross income”;

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

(c) the recovery of any amount paid to obtain the exclusive national or provincial broadcast rights to a sporting event, if the station can establish that the station was also paid normal fees for station time and facilities; and

(d) 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 subsequently 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.”

This definition includes any income from simulcast; (« *revenus bruts* »)

“month” means a calendar month; (« *mois* »)

“reference month” means the second month before the month for which royalties are being paid; (« mois de référence »)

“simulcast” means the simultaneous, real-time communication of an over-the-air CBC radio broadcast to which this tariff applies, via the Internet or another digital network, to a device, which is identical to the original signal and over which the recipient exercises no control over the content or the timing of the communication. For example, the recipient cannot skip, pause, rewind or fast-forward the communication of a file or influence the content of the communication by indicating a preference for a musical genre, artist or sound recording; (« diffusion simultanée »)

Application

3. This tariff sets the royalties to be paid by the CBC for the communication to the public by telecommunication, in Canada, of musical and dramatico-musical works in the repertoire of SOCAN for the years ~~2015~~2023 to ~~2018~~ ~~and of published sound recordings embodying musical works and performers’ performances of such works in the repertoire of Re:Sound for the years 2012-2019,2025 by over-the-air radio broadcasting and simulcast by the radio networks and stations owned and operated by the CBC.~~

Royalties

4. (1) The CBC shall pay, per month, on the first day of each month, the following amounts, plus 4.4 per cent of any gross income in connection with the above uses for the reference month to SOCAN ~~and Re:Sound~~ for its over-the-air radio broadcasting and simulcasts in that month:

Table 1: Monthly Royalties

YEAR	SOCAN	RE:SOUND
2012	n/a	\$112,110.68
2013	n/a	\$113,399.95

2014	n/a	\$114,851.30
2015	\$144,406.60	\$117,140.57
2016	\$144,406.60	\$118,616.53
2017	\$144,406.60	\$119,802.70
2018	\$144,406.60	\$121,348.15
2019	n/a	\$121,348.15

<u>Year</u>	<u>Monthly Royalty</u>
<u>2023</u>	<u>\$169,497.24</u>
<u>2024</u>	<u>\$171,861.21</u>
<u>2025</u>	<u>\$174,225.19</u>

(2) The royalties set in subsection (1) are exclusive of any applicable federal, provincial or other ~~government~~governmental taxes or levies of any kind.

Interest on Late Payments

5. 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.

~~**Music Use Information**~~

~~6. (1)~~

Administrative Provisions

6. (1) No later than the first day of each month, the CBC shall

(a) pay the royalties for that month; and

(b) report the CBC's gross income for the reference month.

(2) Each month, the CBC shall provide to ~~both~~ SOCAN ~~and Re:Sound~~ the sequential lists of all musical works, and published sound recordings embodying musical works, or parts thereof, broadcast during the previous month by each of the CBC's conventional radio services, as may be applicable. For greater clarity, sequential list reporting requires full music use reporting for each day of the month, for 365 days per year. Each entry shall include the following information:

- ▲(a) the date, time, duration of the broadcast of the musical work and sound recording, and the type of broadcast (e.g. local, regional);
- ▲(b) the title of the sound recording and work and the name of its author, composer and arranger;
- ▲(c) the type of usage (e.g. feature, theme, background, ~~ete.~~);
- ▲(d) the title and catalogue number of the album, the name of the main performer or performing group and the record label or maker that released the sound recording, and whether the track performed is a published sound recording;
- ▲(e) the name of the program, station (including call letters) and location of the station on which the musical work or sound recording was broadcast; and
- ▲(f) where possible, the International Standard Musical Work Code (ISWC) of the work, the Universal Product Code (UPC) of the album, the International Standard Recording Code (ISRC) of the sound recording, the names of all of the other pero formers (if applicable), the duration of the musical work and sound recording as listed on the album and the disc and track numbers on the album.

(~~2~~3) The information set out in subsection (~~1~~2) shall be provided electronically, in Excel format or in any other format agreed upon by SOCAN, ~~Re:Sound~~ and the CBC, with a separate field for each piece of information required in paragraphs (a) to (f), no later than 15 days after the end of the month to which it relates.

Audit

7. SOCAN shall have the right to audit the CBC's books and records, on reasonable notice and during normal business hours, to verify the statements rendered and the fees payable by the CBC.

Delivery of Notices and Payments

~~7. (1) Anything addressed to Re:Sound shall be sent to 1235 Bay Street, Suite 900, Toronto, Ontario M5R 3K4, email: radio@resound.ca, fax number 416-962-7797, or to any other address, email address or fax number of which the CBC has been notified in writing.~~

~~(2)~~

8. (1) Anything addressed to SOCAN shall be sent to 41 Valleybrook Drive, Toronto, Ontario M3B 2S6, email: ~~licence@socan.com~~licence@socan.com, fax number ~~416-445-7108~~[416-445-7108](tel:416-445-7108), or to any other address, email address or fax number of which the CBC has been notified in writing.

~~(3)~~2 Anything addressed to the CBC shall be sent to 1400, René-Lévesque Boulevard, Montréal, Quebec H2L 2M2, email: ~~servjur@radio-canada.ca~~servjur@radio-canada.ca, or to any other address, email address or fax number of which ~~Re:Sound and~~ SOCAN ~~have~~has been notified in writing.

~~(4)~~3 A notice may be delivered by hand, by postage-paid mail, by fax, by email or by file transfer protocol (FTP). A payment may be made by credit card or by electronic bank transfer (EBT), or be delivered by hand or by postage-paid mail. Where a payment is made by EBT, the associated reporting shall be provided concurrently to ~~Re:Sound and~~ SOCAN by email.

~~(5)~~4 The information set out in subsection ~~6(1)~~6(2) shall be sent by email.

~~(6)~~5 Anything mailed in Canada shall be presumed to have been received four business days after the day it was mailed. Anything sent by fax, email, by FTP or by EBT shall be presumed to have been received the day it was transmitted.

Transitional Provisions

~~8. Royalties owed on or before December 1, 2020, as a result of differences between this tariff and, in the case of Re:Sound, the SOCAN Re:Sound CBC Radio Tariff, 2006-2011, and, in the case of SOCAN, the SOCAN CBC Radio Tariff, 2012-2014, shall be due on February 1, 2021, and shall be increased by using the multiplying interest factors (based on the Bank Rate) set out in the following table with respect to each period.~~

Table 2: Multiplying Factors Applicable to Monthly Payments

	2012	2013	2014	2015	2016	2017	2018	2019	2020
January	1.1127	1.0989	1.0852	1.0718	1.0622	1.0543	1.0443	1.0272	1.0069
February	1.1115	1.0977	1.0841	1.0707	1.0615	1.0536	1.0431	1.0255	1.0052
March	1.1104	1.0966	1.0830	1.0698	1.0609	1.0529	1.0418	1.0238	1.0035

April	1.1092	1.0954	1.0818	1.0689	1.0602	1.0523	1.0405	1.0221	1.0025
May	1.1081	1.0943	1.0807	1.0680	1.0595	1.0516	1.0392	1.0204	1.0021
June	1.1069	1.0932	1.0796	1.0672	1.0589	1.0510	1.0379	1.0187	1.0017
July	1.1058	1.0920	1.0785	1.0663	1.0582	1.0503	1.0366	1.0170	1.0013
August	1.1046	1.0909	1.0773	1.0655	1.0576	1.0495	1.0352	1.0153	1.0008
September	1.1035	1.0898	1.0762	1.0648	1.0569	1.0486	1.0337	1.0136	1.0004
October	1.1023	1.0886	1.0751	1.0642	1.0562	1.0476	1.0322	1.0119	1.0000
November	1.1012	1.0875	1.0740	1.0635	1.0556	1.0465	1.0306	1.0102	n/a
December	1.1000	1.0864	1.0729	1.0628	1.0549	1.0454	1.0289	1.0085	n/a