

Copyright Board

Notice of Grounds for Proposed Tariff

SOCAN Tariff 13.A – Public Conveyances - Aircraft

December 15, 2021

1. Description of Uses Covered by the Proposed Tariff

This tariff applies to both on-ground and in-flight public performances and communications to the public by telecommunication of musical works in SOCAN's repertoire in an aircraft by means of recorded music (including music in audiovisual programming).

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

Users are airlines, such as Air Canada and SunWing Airlines.

3. Explanation of How Royalties are Determined

The proposed royalty rate for 2023-2025 is composed of two fees: (1) for music played while the aircraft is on the ground, a fee of \$2.75 per seat in each aircraft in service, and (2) for music played in flight, a fee of \$6.51 per seat in each aircraft in service. The proposed royalty is an inflationary increase based on the Board's established inflation adjustment methodology from the previously-approved rate, which has been in place since 2015.

4. Submissions on the Collection of Information

The tariff requires each licensee to report its estimated fee for the year in advance and report on the number of aircraft operated by the licensee during the preceding year, as well as, for each aircraft, its seating capacity in the previous year. If an aircraft was out of service due to maintenance necessary for regulatory compliance, the licensee must report the dates which the aircraft was out of service. This information allows SOCAN to calculate the royalty payable. This tariff is an annual fee tariff, which is paid in advance, based on estimated data; the report made in January of the following year allows SOCAN to verify the fees paid for the previous year and adjust as necessary.

In the proposed tariff for 2023-2025, SOCAN has proposed the addition of a requirement to report on music use data, if this data is available. Music use data assists SOCAN in distributing royalties to its members.

5. Explanation of Changes from Previously Approved Tariff

There are four changes from the previously-approved tariff:

1. The proposed royalty for 2023-2025 is an inflationary increase, as described above.
2. The proposed tariff requires licensees to report on music use data, if this data is available.
3. The tariff wording has been amended to clarify that for an aircraft to be considered out of service, it must be due to maintenance which is necessary for regulatory compliance. This change reflects the language found in Tariff 13.A prior to the Board's certification of Tariff 13.A for the years 2018-2022. The Board's removal of "due to maintenance necessary for regulatory

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compliance” for the years 2018-2022 was done to reflect COVID-19’s impact on the transportation industry. For the years 2023-2025, it is fair and equitable to re-insert that an aircraft is out of service if the aircraft has not been used to carry the licensee’s passenger due to maintenance necessary for regulatory compliance.

4. The tariff wording has been amended to clarify that the tariff also covers communications to the public by telecommunication.