

## PROPOSED TARIFF

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 26, Pay Audio and Ancillary Services (2023-2025)

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

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

### SOCAN TARIFF 26, PAY AUDIO AND ANCILLARY SERVICES (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, 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 term “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.

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.

## Short Title

1. This tariff may be cited as the *SOCAN Tariff 26, Pay Audio and Ancillary Services, 2023-2025*.

## *Definitions*

12. In this tariff,

“affiliation payments” means the total ~~payments made~~ amounts payable by or for a distribution undertaking to ~~Stingray for any services a programming~~ undertaking for the distribution of a pay audio service intended for private or domestic use ~~during a payment period~~ and, in the case where a programming undertaking provides programming and services in a bundle or package that includes a pay audio service, means the total amounts payable to the programming undertaking for the bundle or package; (« paiements d’affiliation »)

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

“file” means a digital file of a sound recording of a musical work or a part thereof; (« fichier »)

“non-interactive webcast service” a webcast service with programming provided by a programming undertaking, where the user does not exercise any control over either the content of the files or the timing of the transmission of the files; (« service de webdiffusion non interactive »)

“pay audio ~~affiliation multiplier~~”

~~is the fraction determined in accordance with subsection 5(2); (« multiplicateur de l’affiliation à l’égard du service »)~~ means any pay audio service licensed by the CRTC; (« service sonore payant »)

“pay audio affiliation payment”

~~is the amount determined in accordance with subsection 5(3); (« paiement d’affiliation pour le service sonore payant »)~~

“pay audio service”

means the national pay audio service operated by Stingray licensed in Broadcasting Decision CRTC 2008-368 and Broadcasting Decision CRTC 2015-377; (« service sonore payant »)

“payment period” means ~~either: (a calendar month or)~~ a calendar year, ~~as the case in subsection 4(1) may be for a distribution undertaking that is a small cable transmission system; and (b) a calendar month, for a distribution undertaking that is not a small cable transmission system;~~ (« période de paiement »)

“premises” has the ~~same meaning as premises as defined~~ attributed to it in ~~Definition~~ section 2 of

“Small Cable Transmission System” the Regulations, SOR/94-755, being which currently reads:

“‘premises’ means

(a) a dwelling, including a single-unit residence or a single unit within a multiple-unit residence; or

(b) a room in a commercial or institutional building;” (*« local »*)

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

“Regulations” means the Definition of “Small Cable Transmission System” Regulations, SOR/94-755 (Canada Gazette, Part II, Vol. 128, page 4096), amended by SOR/2005-148 (Canada Gazette, Part II, Vol. 139, page 1195); (*« Règlement »*)

“semi-interactive webcast service” means a webcast service with programming ~~provided by Sting-ray whose content is similar to that of the pay audio service and is~~ provided to a consumer by virtue of their subscription with a distribution a programming undertaking, ~~and where~~ the ~~consumer~~ user exercises some level of control over the content of the files, or the timing of the transmission of the files, or both; (*« service de webdiffusion semi-interactive »*)

“service area” has the meaning attributed to it in section 2 of the Regulations, which currently reads:

“‘service area’ means an area in which premises served in accordance with the laws and regulations of Canada by a cable transmission system are located.”; (*« zone de service »*)

“signal” means a television or audio signal, other than a signal within the meaning of subsection 31(1) of the Copyright Act, retransmitted in accordance with subsection 31(2) of the Copyright Act; (*« signal »*)

“simulcast service” means a service that provides simultaneous, or nearly simultaneous, transmission ~~of pay audio over the Internet or another digital network of programming and content that is only available~~ identical to customers by virtue ~~that~~ of their subscription ~~a pay audio service to a distribution undertaking; which this tariff applies, where the user does not exercise any control over either the content of the files or the timing of the transmission of the files; and~~ (*« service de transmission simultanée »*)

“small cable transmission system” has the meaning attributed to it in sections 3 and 4 of the Regulations, which currently read:

“3. (1) Subject to subsections (2) to (4) and section 4, ‘small cable transmission system’ means a cable transmission system that transmits a signal, with or without a fee, to not more than 2,000 premises in the same service area, where “premises” and “service area” have the same meaning as in Definition of “Small Cable Transmission System” Regulations, SOR/94-755 and the system meets all other criteria of those regulations; (« petit système de transmission par fil »).  
“Stingray”

means Stingray Digital Group; (« Stingray »)

“Tariff publication date”

means, the date on which this Tariff was published, being May 29, 2021 (« date de publication du tarif »).

Subject Matter Covered

2. This Tariff applies to

- (a) musical and dramatico-musical works that are in SOCAN’s repertoire;
- (b) published sound recordings embodying musical works that are in Re:Sound’s repertoire; and
- (c) performers’ performances embodied in such sound recordings that are in Re:Sound’s repertoire.

Activities Covered

(2) For the purpose of subsection (1), where a cable transmission system is included in the same unit as one or more other cable transmission systems, the number of premises to which the cable transmission system transmits a signal is deemed to be equal to the total number of premises to which all cable transmission systems included in that unit transmit a signal.

(3) For the purpose of subsection (2), a cable transmission system is included in the same unit as one or more other cable transmission systems where

(a) they are owned or directly or indirectly controlled by the same person or group of persons; and

(b) their service areas are each less than 5 km distant, at some point, from at least one other among them, and those service areas would constitute a series of contiguous service areas, in a linear or non-linear configuration, were it not for that distance.

(4) Subsection (2) does not apply to a cable transmission system that was included in a unit on December 31, 1993.

4. The definition set out in subsection 3(1) does not include a cable transmission system that is a master antenna system if it is located within the service area of another cable transmission system that transmits a signal, with or without a fee, to more than 2,000 premises in that service area.”. (« petit système de transmission par fil »)

### Application

3. (1) This tariff sets the royalties to be paid, and ~~permits a person the terms and conditions~~, for a licence to communicate works to the public by telecommunication musical and dramatico-musical works in SOCAN's repertoire, including, where applicable, 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, in the years 2023 to 2025, in connection with ~~Stingray's~~:

(a) a pay audio service, for the years 2010–2016;

(b) a simulcast service, for the years 2007–2016 that is available to users only by virtue of their subscription with a distribution undertaking; and

(c) a semi-interactive webcast service, for the years 2007–2016, and a non-interactive webcast service that are available to users only by virtue of their subscription with a distribution undertaking,

distributed by a distribution undertaking, either directly or indirectly through a programming undertaking, and intended for private or domestic use.

(2) This tariff ~~sets the royalties payable for the~~ does not apply to any communication of published sound recordings to the public by telecommunication of musical and dramatico-musical works in SOCAN's repertoire in connection with ~~Stingray's~~:

~~(a) pay audio service, for the years 2010–2016;~~

~~(b)~~(a) a simulcast service, for the years 2009–2016; and

~~(c) semi-interactive webcast service, for the years 2013–2016.~~

(3) For greater certainty, this Tariff ~~does not set royalties and does not permit a person to communicate works or published sound recordings by telecommunication in connection with~~

~~(a) a semi-interactive webcasting service that is distributed otherwise than by a distribution undertaking;~~

~~(b) a semiwebcast service, or a non-interactive webcasting service whose content is not similar to that of the pay audio service; norwebcast service that is not distributed by a distribution undertaking (whether directly or indirectly through a programming undertaking);~~

~~(c)~~ any service that is not listed in subsections 3(1) and 3(2) subsection (1), even if that service ~~is~~, which may be subject to another SOCAN tariff, is distributed, provided, or sold together with one or more of the listed services. listed in subsection (1); or

~~(d)~~ any service that is provided to commercial subscribers, including a background music supply service.

#### ~~Royalty Payment Periods and Payment Dates~~

~~4. (1) The payment period for activities covered by this Tariff is~~

~~(a) a calendar year, Royalties~~

4. (1) Subject to subsections (2) and (3), the royalties payable to SOCAN for a pay audio service and any simulcast service listed in paragraph 3(1)(b) for a payment period are 12.45 per cent of the affiliation payments for that payment period.

(2) Subject to subsection (3), where the a pay audio service is provided in a bundle or package that contains other service(s), the royalties payable to SOCAN for a payment period are:

(a) where the bundle or package includes the service(s) listed in paragraph 3(1)(c) but no other service:

(i) for the pay audio service and any simulcast service listed in paragraph 3(1)(b):

12.45 per cent x 0.75 x the affiliation payments for that payment period, plus

(ii) for the service(s) listed in paragraph 3(1)(c):

5.3 per cent x 0.25 x the affiliation payments for the payment period; and

(b) where the bundle or package includes any service that is not listed in subsection 3(1):

(i) for the pay audio service and any simulcast service listed in paragraph 3(1)(b):

12.45 per cent x 0.75 x the affiliation payments for the payment period, plus

(ii) for the service(s) listed in paragraph 3(1)(c):

5.3 per cent x 0.10 x the affiliation payments for the payment period.

(3) The royalties payable to SOCAN for a payment period in respect of a distribution undertaking that is a small cable transmission system, ~~or~~ are calculated in accordance with the applicable formula set out in subsections (1) and (2) but at half the percentage rate specified.

~~(b) a calendar month, otherwise.~~

#### ~~(2) Dates of Payments~~

5. Royalties ~~are~~ payable pursuant to section 4 shall be due on the last day of the month following the end of the payment period for which ~~they~~ the royalties are being paid.

Pay Audio Affiliation Payment  
Services provided

5 Reporting Requirements

6. (1) For the purposes of this section, Stingray provided a distribution undertaking
- (a) the Music service, if it provided the distribution undertaking with the service marketed as “Stingray Music,” “Galaxie Music,” or marketed A royalty payment under another name for the equivalent service;
  - (b) the Mobile service, if it provided the distribution undertaking with the semi-interactive webcasting service marketed as “Stingray Mobile” or marketed under another name for the equivalent service;
  - (c) the Ambiance service, if it provided the distribution undertaking with the service marketed as “Stingray Ambiance” or marketed under another name for the equivalent service;
  - (d) the Music Videos service, if it provided the distribution undertaking with the service marketed as “Stingray Music Videos” or marketed under another name for the equivalent service;
  - (e) the Concert TV service, if it provided the distribution undertaking with the service marketed as “Stingray Concert TV,” or marketed under another name for the equivalent service;
  - (f) the Karaoke service, if it provided the distribution undertaking with the service marketed as the “Karaoke Channel,” or marketed under another name for the equivalent service; and
  - (g) the Ubiquicast server, if it provided the distribution undertaking with the service marketed as “Ubiquicast” in relation to the Music service, the Ambiance service, or both.

Pay audio affiliation multiplier

- (2) The pay audio affiliation multiplier this tariff for a payment period in which Stingray provided a distribution undertaking
- (a) the Music service, the Ambiance service, and a Ubiquicast server, is 50 divided by the sum of the points in Table 1 for all services with which Stingray provided the distribution undertaking during the majority of the payment period;
  - (b) the Music service and a Ubiquicast server, but not the Ambiance service, is 55 divided by the sum of the points in Table 2 for all services with which Stingray provided the distribution undertaking during the majority of the payment period; or
  - (c) the Music service, but not a Ubiquicast server — whether or not Stingray provided the distribution undertaking with the Ambiance service — is 40 divided by the sum of the points in Table 3 for all services with which Stingray provided the distribution undertaking during the majority of the payment period.

Pay audio affiliation payment

- (3) The pay audio affiliation payment for a payment period is, in respect of a distribution undertaking



~~(a) that is not a small cable transmission system, the affiliation payments made by that distribution undertaking to Stingray for that period, multiplied by the pay audio affiliation multiplier; or  
(b) that is a small cable transmission system, 50% of the affiliation payments made by that distribution undertaking to Stingray for that period, multiplied by the pay audio affiliation multiplier.~~

#### ~~SOCAN Royalties~~

##### ~~SOCAN—simulecasts (2007–2009)~~

~~6. (1) For the activities identified in paragraph 3(1)(b) carried out in a payment period during the years 2007 to 2009, the royalties payable to SOCAN are \$0.~~

##### ~~SOCAN—pay audio and simulecasts (2010–2016)~~

~~(2) For the activities identified in paragraphs 3(1)(a) and 3(1)(b) carried out in a payment period during the years 2010 to 2016, the royalties payable to SOCAN, in respect of a distribution undertaking, is the pay audio affiliation payment made by that distribution undertaking for that payment period multiplied by the rate in Table 4 for that period.~~

##### ~~SOCAN—semi-interactive webcasts (2007–2016)~~

~~(3) For the activities identified in paragraph 3(1)(c) carried out in a payment period during the years 2007 to 2016, the royalties payable to SOCAN, in respect of a distribution undertaking, are 5.3% of its affiliation payments that are attributable to those activities.~~

~~(4) For greater certainty, no portion of the pay audio affiliation payment for the same period shall be attributed to the activities in paragraph 3(1)(c).~~

#### ~~Re:Sound Royalties~~

##### ~~Re:Sound—simulecasts (2009)~~

~~7. (1) For the activities identified in paragraph 3(2)(b) carried out in a payment period during the year 2009, the royalties payable to Re:Sound are \$0.~~

##### ~~Re:Sound—pay audio and simulecasts (2010–2016)~~

~~(2) For the activities identified in paragraphs 3(2)(a) and 3(2)(b) carried out in a payment period during the years 2010 to 2016, the royalties payable to Re:Sound, in respect of a distribution undertaking, is the pay audio affiliation payment made by that distribution undertaking for that payment period multiplied by the rate in Table 5 for that period.~~

##### ~~Re:Sound—semi-interactive webcasts (2013–2016)~~

~~(3) For the activities identified in paragraph 3(2)(c) carried out in a payment period during the years 2013 to 2016, the royalties payable to Re:Sound, in respect of a distribution undertaking, are its affiliation payments attributable to those activities multiplied by the rate in Table 6 for that period.~~

~~(4) For greater certainty, no portion of the pay audio affiliation payment for the same period shall be attributed to the activities in paragraph 3(2)(c).~~

#### ~~Taxes~~

~~8. All royalties payable under this tariff are exclusive of any applicable federal, provincial or~~



other taxes or levies of any kind.

#### Late Payments

~~9. 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. Any overpayment resulting from an error or omission on the part of SOCAN or Re:Sound shall bear interest from the date of the overpayment until the overpayment is refunded.~~

#### Reporting

~~10. (1) A payment under this Tariff for a payment period occurring in 2010 or later shall, in respect of each distribution undertaking for which the payment is made, be accompanied by the following information, that shall be provided to Re:Sound and SOCAN:~~

~~(a) the name of the distribution undertaking;~~

~~(b) the name of the programming undertaking that provided the services listed in subsection 3(1);~~

~~(c) if applicable, the other services in the bundle or package that included the pay audio service;~~

~~(d) the list of pay audio signals received from Stingray by the programming undertaking supplied to the distribution undertaking for transmission and intended for private or domestic use during that the payment period; and~~

~~(e) the amount of the affiliation payments by for the distribution undertaking for that payment period, as well as;~~

~~(i) the amount of its pay audio affiliation payment for that period, as well as any information necessary to calculate that amount under this Tariff, including the services provided by Stingray to the distribution undertaking for the majority of that period and the computed pay audio affiliation multiplier, and~~

~~(ii) if making a payment for activities identified in paragraphs 3(1)(c) and 3(2)(c), the amount of the affiliation payments that are attributable to those activities;~~

~~(e)(2) In respect of each distribution undertaking that is a small cable transmission system, the following information shall also accompany the royalty payment:~~

~~(a) the number of premises served in the system by the distribution undertaking on the last day of the period; and~~

~~(d) the sequential list in electronic Excel format — or any other format agreed upon by SOCAN,~~

~~Re:Sound, and the person providing the information—of all recordings played on each pay audio signal during the period, where each list entry shall include, where available,~~

- ~~(i) the date and time<sup>month</sup> of the broadcast,~~
- ~~(ii) the title of the musical work,~~
- ~~(iii) the name of the author or composer of the work,~~
- ~~(iv) the name of the sound recording,~~
- ~~(v) any alternative title used to designate the sound recording,~~
- ~~(vi) the International Standard Recording Code (ISRC) of the sound recording,~~
- ~~(vii) the name of the performers or of the performing group,~~
- ~~(viii) the title of the record album,~~
- ~~(ix) the track number on the album,~~
- ~~(x) the catalogue number of the album,~~
- ~~(xi) the Universal Product Code (UPC) of the album,~~
- ~~(xii) the record label,~~
- ~~(xiii) the duration of the sound recording broadcast, in minutes and seconds,~~
- ~~(xiv) the duration of the sound recording as listed on the album, in minutes and seconds, and~~
- ~~(xv) whether a track is a published sound recording.~~

~~(2) On January 31 after each calendar year of 2010 to 2016, each distribution undertaking that made a payment for a payment period in that year shall also provide to both SOCAN and Re:Sound;~~

~~(a<sub>b</sub>) if the system is a master antenna system and is located within the service area of another cable transmission system, the name of that other system and a statement to the effect that the other system transmits a signal, with or without a fee, to not more than 2,000 premises in its service area; and~~

~~(b<sub>c</sub>) if the system is included in a unit within the meaning of the *Definition of “Small Cable Transmission System” Regulations,*~~

- ~~(i) the date the system was included in the unit,~~
- ~~(ii) the names of all the systems included in the unit,~~
- ~~(iii) the names of the person or group of persons who own or who directly or indirectly control the systems included in the unit, and~~
- ~~(iv) the nature of the control exercised by these persons.~~

~~Payment by Stingray~~

~~(3) A payment made by Stingray for a payment period shall also include a list of distribution undertakings to which it provided the pay audio service in that period.~~

~~Reporting by Stingray~~

~~(4) For greater certainty, Stingray may provide to SOCAN and Re:Sound any or all information identified in subsection (1) instead of any or all distribution undertakings, whether or not it makes a payment under this Tariff.~~

(3) Whether or not it makes a royalty payment under this tariff, a programming undertaking shall provide to SOCAN, by no later than January 31 of each year, the name of each distribution undertaking to which it provided a pay audio service, a simulcast service, a semi-interactive webcast service, or a non-interactive webcast service for distribution intended for private or domestic use in the previous year. The programming undertaking shall also indicate who (the programming undertaking or the distribution undertaking) is responsible for paying royalties under this tariff for each distribution undertaking listed.

Music Use Information

7. (1) Whether or not it makes a royalty payment under this tariff, a programming undertaking shall provide to SOCAN, by no later than 30 days after the end of each calendar month, the following information in respect of each distribution undertaking to which it supplied a pay audio signal:

(a) the list of pay audio signals the programming undertaking supplied to each distribution undertaking and intended for private and domestic use during the month; and

(b) the sequential list of all sound recordings played on each pay audio signal on each day of the month, where each list entry shall include the following information:

(i) the pay audio signal ID (e.g., Station ID);

(ii) the date and time of the broadcast;

(iii) the title of the musical work;

(iv) the name(s) of the author(s) or composer(s) of the work;

(v) the name of the music publisher associated with the work;

(vi) the name of the sound recording;

(vii) any alternative title used to designate the musical work or sound recording;

(viii) the International Standard Musical Word Code (ISWC) assigned to the work;

(ix) the International Standard Recording Code (ISRC) assigned to the sound recording;

(x) the name(s) of the performers or of the performing group;

(xi) if the sound recording is or has been released as part of an album, the name, identifier, product catalogue number and Universal Product Code (UPC) assigned to the album, together with the associated disc and track numbers;

(xii) the record label;

(xiii) the duration of the sound recording broadcast, in minutes and seconds; and

(xiv) the duration of the sound recording as listed on the album, in minutes and seconds.

(2) Whether or not it makes a royalty payment under this tariff, a programming undertaking shall provide to SOCAN, by no later than 30 days after the end of each calendar month, the following information in respect of each distribution undertaking to which it provided the services listed in paragraph 3(1)(c):

(a) for each file transmitted on the services during the month:

(i) its identifier;

(ii) the information set out in each of subparagraphs (1)(b)(iii) to (1)(b)(xi);

(iii) the name of the person who released the sound recording;

(iv) the Global Release Identifier (GRid) assigned to the file and, if applicable, the GRid of the album in which the file was released;

(v) the running time of the file, in minutes and seconds; and

(vi) the number of plays of the file during the month; and

(b) the total number of plays of all files transmitted on the services during the month.

(3) The information set out in subsections (1) and (2) shall be provided electronically in a format agreed upon by SOCAN and the programming undertaking.

### *Records and Audits*

#### *Playlist information*

118. (1) Any person that provides information under paragraph 10(1)(d) ~~A programming undertaking~~ shall keep and preserve, for a period of ~~6~~six months after the end of the month to which

they relate, records from which ~~that~~the information set out in section 7 can be readily ascertained.

~~Royalty-related information~~

(2) ~~Any person that provides information under paragraphs 10(1)(a) to 10(1)(c), subsection 10(2), or subsection 10(3),~~Both the distribution undertaking and the programming undertaking shall keep and preserve, for a period of ~~6~~six years after the end of the year to which they relate, records from which ~~that information~~the affiliation payments, the royalties payable pursuant to section 4 and the information set out in section 6 can be readily ascertained.

#### Audits

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

~~(4) The collective society that performs an audit under subsection (3)~~(4) SOCAN shall, upon receipt, supply a copy of the report of the audit to ~~Stingray or the distribution~~ undertaking that was the object of the audit and to ~~the~~any other Canadian collective society with a tariff that applies to pay audio services.

(5) If an audit discloses that ~~amounts~~royalties due to ~~the collective society~~SOCAN have been understated ~~in~~for any ~~month~~payment period by more than 10 per cent, ~~Stingray or the~~ undertaking that was the object of the audit shall pay the ~~amount of the understatement and the~~ reasonable costs of the audit within 30 days of the demand for such payment. The amount of any understatement (whether by more or less than 10 per cent) shall be paid within 30 days of the demand for such payment.

#### *Confidentiality*

~~129.~~ (1) Subject to subsections (2) to (4), ~~a collective society shall treat in confidence~~ information received from an undertaking pursuant to this tariff shall be treated in confidence, unless the undertaking that supplied the information consents in writing to the information being treated otherwise.

(2) Information received from an undertaking pursuant to this tariff may be shared:

(a) with ~~a~~any other Canadian collective ~~society's~~society with a tariff that applies to pay audio services;

(b) with SOCAN's agents and service providers to the extent required by the service providers for the service they are contracted to provide;

~~(b) with the other collective society;~~

(c) with the Copyright Board;

(d) in connection with proceedings before the Copyright Board, if it is protected by a confidentiality order;

(e) to the extent required to effect the distribution of royalties; or

(f) if required by law.

(3) Where confidential information is shared with a service provider pursuant to paragraph (2)(ab), that service provider shall sign a confidentiality agreement.

(4) Subsection (1) does not apply to information that is publicly available, to aggregated information, or to information obtained from someone other than the undertaking that supplied the information who is not under an apparent duty of confidentiality to that undertaking with respect to the supplied information.

#### *Adjustments*

1310. 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. Adjustments in respect of excess payments are not subject to interest.

#### *Interest on Late Payments*

11. 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.

#### *Addresses for Notices, etc.*

1412. (1) Anything ~~addressed to Re:Sound shall be sent to 1235 Bay Street, Suite 900, Toronto, Ontario M5R 3K4, email: , fax number: 416-962-7797, or to any other address, email address or fax number of which the sender has been notified in writing.~~

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

~~(3) Anything addressed~~that SOCAN sends to ~~a person subject to this tariff~~an undertaking shall be sent to the last address, email address or fax number of which ~~Re:Sound and SOCAN have~~has

been notified in writing.

### *Delivery of Notices and Payments*

~~4513.~~ (1) A notice may be delivered by hand, by postage-paid mail, by email, by fax or by file transfer protocol (FTP). A payment may be made by credit card or delivered by hand, by postage-paid mail, or by electronic bank transfer (EBT). Where a payment is delivered by EBT, the associated reporting ~~required under section 5~~ shall be provided concurrently to ~~Re:Sound and~~ SOCAN by email or by FTP.

(2) Anything mailed in Canada shall be presumed to have been received four business days after the day it was mailed.

(3) Anything sent by fax, by email, by FTP or by EBT shall be presumed to have been received the day it ~~was~~is transmitted.

### *Transitional Provisions*

#### *Calculating pay audio affiliation multiplier where no records*

~~16. (1) Despite section 5, where a person makes a payment in respect of a distribution undertaking for a payment period that ended prior to the Tariff publication date and does not have records necessary to determine which categories of services that distribution undertaking received from Stingray in that payment period, the pay audio affiliation multiplier for that payment period shall be determined as if the distribution undertaking received the same category of services as in the next payment period for which such records are available, but the distribution undertaking shall be deemed not have received a service in the original payment period if that payment period ended prior to the year listed in Table 7 for that service.~~

#### *When royalties and reporting due*

~~(2) Despite sections 4 and 10, any royalties or reporting in respect of a payment period that ended prior to the Tariff publication date shall be due 90 days after the Tariff publication date.~~

#### *Records*

~~(3) Despite subsections 11(1) and 11(2), any person that provides information in respect of a payment period that ended prior to the Tariff publication date shall keep and preserve records from which that information can be readily ascertained until the date that is the later of the last day of the period established for that information in subsections 11(1) or 11(2), and~~

~~(a) 6 months after the Tariff publication date, for information listed in paragraph 11(1)(d); or~~

~~(b) 24 months after the Tariff publication date, for all other information.~~

~~(4) Despite 11(3), SOCAN or Re:Sound may audit these records at any time prior to 2 years after the Tariff publication date.~~

#### *Interest on royalties*

~~(5) Amounts owed to SOCAN or Re:Sound — or by SOCAN or Re:Sound — in respect of a~~



~~payment period that ended prior to the Tariff publication date shall be increased by using the multiplying interest factor (based on the Bank of Canada Bank Rate) set out~~

~~(a) where the payment period was a calendar year, in Table 8; or~~

~~(b) where the payment period was a calendar month, in Table 9.~~

~~(6) For greater certainty, no interest payments are due on taxes payable to SOCAN or Re:Sound.~~