

Copyright Board
Canada



Commission du droit d'auteur
Canada

[PN 2022-006]

August 5, 2022

Note: This Practice Notice, including any timelines established thereby, may be amended following the coming-into-force of the *Copyright Board Rules of Practice and Procedure*.

PRACTICE NOTICE ON FILING OF GROUNDS FOR PROPOSED TARIFF

Requirement to File Notice of Grounds for Proposed Tariff

A collective society that files a proposed tariff must file with the Board a Notice of Grounds for Proposed Tariff within 30 calendar days after the day on which the proposed tariff is filed.

The information contained in the Notice of Grounds for Proposed Tariff should permit users to determine whether it applies to them and their activities. Understanding the scope and basis for the Proposed Tariff also permits users who decide to object to the Proposed Tariff to identify the specific basis for their objection.

Along with any Notice of Grounds for Objection, the Notice of Grounds for Proposed Tariff will help the Board identify potential issues to consider in its examination of a proposed tariff. These issues may be of a legal, economic, or practical nature.

The Notices of Grounds will also help the Board determine whether it should hold a hearing in respect of a proposed tariff (*Time Limits in Respect of Matters Before the Copyright Board Regulations*, SOR/2020-264, s. 5).

Contents of the Notice of Grounds for Proposed Tariff

The Notice of Grounds for Proposed Tariff must include:

1. A description and examples of the activities covered by the proposed tariff.

This description and examples must be sufficient to permit a user to readily determine whether their activities would be covered or not.

2. A description of the group of users that are intended to be covered by the proposed tariff.

This description should permit a user to readily determine whether or not they belong to that group of users.

3. An explanation of how the royalty rates or levies were determined.

The explanation should be sufficient to permit the Board and users to understand the general basis for the royalty rates and royalty structure—including any minimum fees.

The explanation should identify any source for the royalty rate and rate structure (*e.g.*, previously approved tariff, licensing agreements, theoretical or economic model, estimates, hypotheses). If there is no such source, this must be indicated. If the proposed royalty rates or structure differ from the identified source, explain how the adjustment was determined (*e.g.*, inflation, gradual adjustments, changes in the market).

4. An explanation of how the information that would be collected by the collective society pursuant to the proposed tariff would be used.

This explanation should specify the purposes for which it is needed by the collective society, and how it will be shared by the collective society.

5. In the case of a proposed tariff based on a previously-approved tariff, identification and explanation of all changes not explained in any of the points above.

This includes changes to any royalty rates, terms, or conditions. This should permit the Board and users to readily identify and understand such changes.

The Notice of Grounds for Proposed Tariff should use plain language and concrete examples that would be generally understood by potential users of the proposed tariff.

Additional Information

Each Notice of Grounds for Proposed Tariff may be filed in the official language of the collective societies' choice, and will be published, as filed, by the Board on its website.

No information in the Notice of Grounds for Proposed Tariff may be designated as confidential

A collective society that files a Notice of Grounds for Proposed Tariff may also, at the same time, file additional information for the Board's consideration of the proposed tariff.