

Copyright Board
Canada



Commission du droit d'auteur
Canada

[PN 2022-006 rev. 2]

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PRACTICE NOTICE ON FILING A NOTICE OF GROUNDS FOR PROPOSED TARIFF

General Statement

Detailed grounds for a proposed tariff help users determine whether the proposed tariff applies to them and their activities. Understanding the scope of, and the basis for, a proposed tariff also permits users who decide to object to identify the specific basis for their objection.

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

The Notice of Grounds also helps 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).

Rule 15 of the *Copyright Board Rules of Practice and Procedure* requires a collective society that files a Proposed Tariff to also file a Notice of Grounds for Proposed Tariff with the Board within 7 days of its filing of the Proposed Tariff.

This Practice Notice clarifies what information to provide in the Notice of Grounds for Proposed Tariff pursuant to paragraphs 16(a) and 16(b) of the *Rules*, and what additional information the Board requires under paragraph 16(c) of the *Rules*.

Contents of the Notice of Grounds for Proposed Tariff

Collective societies must use plain language and concrete examples that would be generally understood by potential users of the proposed tariff.

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

Describing Covered Uses Under Paragraph 16(a) of the Rules

In describing the uses covered by the proposed tariff under paragraph 16(a) of the *Rules*, collective societies must provide descriptions and examples that are sufficient to permit a user to readily determine whether their activities are covered or not.

Explaining How the Proposed Rates were Determined Under Paragraph 16(b) of the Rules

In setting out the basis for the proposed royalty or levy rates under paragraph 16(b) of the *Rules*, collective societies must provide explanations that are 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, identify the grounds for that adjustment (e.g., inflation, gradual adjustments, changes in the market) and state the effect of each adjustment.

If a proposed royalty rate includes an increase from a previously-approved royalty rate to account for inflation, this should be explained. This explanation should include the calculation used to determine the increase, and identify the variables used, including any calculation index.

Other Information Required Pursuant to Paragraph 16(c) of the Rules

This section identifies other information that collective societies must include in a Notice of Grounds for a Proposed Tariff, pursuant to paragraph 16(c) of the *Rules*.

Describing The Users

Collective societies must include a description of the users to which the proposed tariff is expected to apply. This description should permit a user to readily determine whether or not they belong to that group of users.

References to Other Tariffs

Collective societies that have filed a proposed tariff that includes references to other tariffs (see. *Practice Notice on Filing a Proposed Tariff* [PN 2019-004]) must provide grounds for such references and explain the effects.

Explaining How Collected Information Would Be Used

Collective societies must include an explanation of how the information that it would collect 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.

Identifying and Explaining Any Changes

In addition to the comparative document required by subrule 17(1), collective societies must identify and explain all proposed changes not explained in any other portion of the Notice of Grounds. This includes changes to any royalty rates, terms, or conditions. The explanations must permit the Board and users to readily identify and understand such changes.

Format

Documents must meet the requirements set out in the Board's *Practice Notice on Format of Electronic Documents* [PN 2019-001].

Notice of Grounds shall include a header, in the form set out in the Annex to this Practice Notice, and meet the following formatting requirements:

- Font: Times New Roman
- Font style: Regular
- Font size: 12-point
- Line spacing: 125% or 1.25 times font size
- Margins: Normal (2.54 cm)
- Page size: Letter (21.5 cm by 28 cm)

As set out in rule 14, the Notice of Grounds for Proposed Tariff may be filed in the official language of the collective society's choice.

Filing and Publication

Unless directed otherwise, a Notice of Grounds for Proposed Tariff shall be filed using the electronic form on the Board's website.

The Board will publish the Notice of Grounds for Proposed Tariff and accompanying documents, as filed, on its website, pursuant to subrule 17(2).

ANNEX – Header for a Notice of Grounds for Proposed Tariff

NOTICE OF GROUNDS FOR PROPOSED TARIFF

Filed with the Copyright Board by [Name of Collective Society] on [YYYY-MM-DD] pursuant to Rule 15 of *Copyright Board Rules of Practice and Procedure*

(space)

[NAME OF PROPOSED TARIFF]

Example

NOTICE OF GROUNDS FOR PROPOSED TARIFF

Filed with the Copyright Board by SOCAN on 2020-10-21 pursuant to Rule 15 of *Copyright Board Rules of Practice and Procedure*.

SOCAN TARIFF 1.B – NON-COMMERCIAL RADIO OTHER THAN THE CANADIAN
BROADCASTING CORPORATION (2022-2024)