

Copyright Board
Canada



Commission du droit d'auteur
Canada

October 30, 2020

In accordance with section 68.2 of the *Copyright Act*, the Copyright Board hereby publishes the following proposed tariffs:

- SOCAN Tariff 1.A – Commercial Radio, 2022-2024
- SOCAN Tariff 1.B – Non-commercial Radio Other than the CBC, 2022-2024
- SOCAN Tariff 2.A – Commercial Television Stations, 2022-2024
- SOCAN-SODRAC Tariff 2.A.R – Commercial Television, 2022-2024
- SOCAN Tariff 3.A – Cabarets, Cafes, Clubs, etc. – Live Music, 2022-2024
- SOCAN Tariff 4.A – Live Performances at Concert Halls, etc. – Popular Music Concerts, 2022-2024
- **SOCAN Tariff 4.B – Live Performances at Concert Halls, etc. – Classical Music Concerts , 2022-2024**
- SOCAN Tariff 5.A – Exhibitions and Fairs, 2022-2024
- SOCAN Tariff 5.B – Concerts at Exhibitions and Fairs, 2022-2024
- SOCAN Tariff 6 – Motion Picture Theatres, 2022-2024
- SOCAN Tariff 14 – Performance of an Individual Work, 2022-2024
- SOCAN Tariff 15.A – Background Music in Establishments not Covered by Tariff 16 – Background Music, 2022-2024
- SOCAN Tariff 15.B – Background Music in Establishments not Covered by Tariff 16 – Telephone Music on Hold, 2022-2024
- SOCAN Tariff 16 – Background Music Suppliers, 2022-2024
- SOCAN Tariff 17 – Transmission of Pay, Specialty and Other Television Services by Distribution Undertakings, 2022-2024
- SOCAN Tariff 23 – Hotel and Motel In-Room Services, 2022-2024

By that same section, the Copyright Board hereby gives notice to any person affected by these proposed tariffs that users or their representatives who wish to object to the above-mentioned proposed tariffs must file written objections with the Board, at the address indicated below, no later than the 30th day after the day on which the Board published the proposed tariffs, that is no later than **November 30, 2020**.

Lara Taylor

Secretary General

Copyright Board Canada

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PROPOSED TARIFF

Filed with the Copyright Board pursuant to subsection 67(1) of the *Copyright Act*

2020-10-15

SOCAN

Tariff 4.B

For the public performance of musical or dramatico-musical works

2022-01-01 – 2024-12-31

Proposed citation:

*SOCAN Tariff 4.B, Live Performances at Concert Halls, Theatres,
and Other Places of Entertainment
Classical Music Concerts (2022-2024)*

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 perform in public, in Canada, musical or dramatico-musical works forming part of its repertoire.

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 terms “licence” and “licence to perform” mean a licence to perform in public or to authorize the performance in public.

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

Each licence shall subsist according to the terms set out therein. 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. 4

LIVE PERFORMANCES AT CONCERT HALLS, THEATRES AND OTHER PLACES OF ENTERTAINMENT

B. Classical Music Concerts

1. Per Concert Licence

For a licence to perform, by means of performers in person at a concert in the years 2022-2024, any or all of the works in SOCAN’s repertoire, at concerts or recitals of classical music, the fee payable per concert is as follows:

- (a) 1.56 per cent of gross receipts from ticket sales of paid concerts, exclusive of any applicable taxes, with a minimum fee per concert of \$35; or
- (b) 1.56 per cent of fees paid to singers, musicians, dancers, conductors and other performers during a free concert, with a minimum fee per concert of \$35.

For greater certainty, Tariff 4.B.1 applies to the performance of musical works by lip synching or miming.

“Free concert” includes, with respect to festivals, celebrations and other similar events, a concert for which no separate admission charge is made.

Administrative Provisions

No later than 30 days after the concert, the licensee shall

- (a) pay the royalties due for the concert;
- (b) report the gross receipts from the ticket sales or the total fees paid to the performers, including all singers, musicians, dancers, conductors, and other performers, as may be applicable;
- (c) provide the legal names, addresses and telephone numbers of the concert promoters, if any, and of the owners of the venue where the concert took place (if other than the licensee);
- (d) provide the name of the act(s) at the concert, if available; and
- (e) provide the title of each musical work performed, if available.

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

Tariff 4.B.1 does not apply to uses covered under Tariff 22.

2. Annual Licence for Orchestras

For an annual licence to perform, at any time and as often as desired in the years 2022-2024, any or all of the works in SOCAN's repertoire, as live performances by orchestras (including singers), at concerts or recitals of classical music, an annual fee calculated in accordance with the following is payable in semi-annual instalments by no later than January 31 and July 31:

Annual Orchestra Budget	Annual Fee × Total Number of Concerts
\$0 to \$100,000	\$73
\$100,001 to \$500,000	\$117
\$500,001 to \$1,000,000	\$191
\$1,000,001 to \$2,000,000	\$238
\$2,000,001 to \$5,000,000	\$398
\$5,000,001 to \$10,000,000	\$436
Over \$10,000,000	\$477

“Orchestras” include a musical group which offers to the public one or more series of concerts or recitals that have been predetermined in an annual budget.

Included in the “total number of concerts” are the ones where no work of SOCAN's repertoire is performed.

Where fees are paid under this tariff, no fees shall be payable under Tariff 4.B.1.

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

Tariff 4.B.2 does not apply to uses covered under Tariff 22.

3. Annual Licence for Presenting Organizations

For an annual licence to perform, by means of performers in person at a concert in the years 2022-2024, any or all of the works in SOCAN's repertoire during a series of concerts or recitals of classical music forming part of an artistic season of a presenting organization, the fee payable per concert is as follows:

0.96 per cent of gross receipts from ticket sales, subscription and membership revenues, for all concerts (including concerts where no work of SOCAN's repertoire is performed), exclusive of any applicable taxes, with a minimum annual fee of \$35.

Where a series of concerts and recitals forming part of a presenting organization's artistic season is free of charge, the fee payable is as follows:

0.96 per cent of fees paid to singers, musicians, dancers, conductors, and other performers, for all concerts (including concerts where no work of SOCAN's repertoire is performed) in the series, with a minimum annual fee of \$35.

For greater certainty, Tariff 4.B.3 applies to the performance of musical works by lip synching or miming.

No later than 30 days after each concert, the licensee shall

- (a) provide the legal names, addresses and telephone numbers of the concert promoters, if any, and of the owners of the venue where the concert took place (if other than the licensee);
- (b) provide the name of the act(s) at the concert, if available; and
- (c) provide the title of each musical work performed, if available.

No later than January 31 of the year for which the licence is issued, the licensee shall file with SOCAN a report estimating the gross receipts from ticket sales, subscription and membership revenues for that year. For a series of free concerts and recitals, the licensee shall file a report estimating the fees paid to singers, musicians, dancers, conductors, and other performing artists for all concerts in the series. If the estimated payment is \$100 or less, payment shall accompany the report. Otherwise, payments based on the report's estimate shall be made quarterly within 30 days of the end of each quarter.

No later than January 31 of the following year, the licensee shall file with SOCAN a report of the actual gross receipts from ticket sales, subscription and membership revenues or, for a series of free concerts and recitals, the fees paid to singers, musicians, dancers, conductors and other performing artists, during the year for which the licence is issued, and an adjustment of the licence

fee shall be paid to SOCAN. Any amount due shall accompany the report; if the fee due is less than the amount paid, SOCAN shall credit the licensee with the amount of the overpayment.

Where fees are paid under this tariff, no fees shall be payable under Tariff 4.B.1.

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

Tariff 4.B.3 does not apply to uses covered under Tariff 22.