

~~(Erratum)~~ PROPOSED TARIFF

~~COPYRIGHT BOARD~~

~~Statement of Royalties to Be Collected by CSI, SODRAC and SOCAN in Respect of Online Music Services~~

~~Notice is hereby given that the *Online Music Services Tariff (CSI: 2011-2013; SOCAN: 2011-2013; SODRAC: 2010-2013)* [the “Tariff”], published in the Supplement of the *Canada Gazette*, Part I, Vol. 151, No. 34, on August 26, 2017, contains errors.~~

~~On August 25, 2017,~~

Filed with the Copyright Board (the “Board”) rendered its decision with supporting reasons for the Tariff. ~~Subsection 6(5) of the Tariff read as follows:~~

~~(5) No later than 20 days after the end of each month, any licensee that operates an online music service in relation to which they are required to pay royalties pursuant to paragraph 4(1)(d) shall provide, in relation to that service, to each of CSI and SOCAN, a report setting out, for that month,~~

- ~~(a) in relation to each file that was transmitted to an end user, the required information;~~
- ~~(b) the number of plays of each file;~~
- ~~(c) the number of times each file was copied onto an end user’s storage device; and~~
- ~~(d) the gross revenue attributable to the operation of the service.~~

~~The Tariff did not reflect the manifest intention of the Board as expressed in its reasons. When addressing the requirement of reporting “the number of plays of cached files” in relation to the operation of hybrid webcast services, the Board concluded that it would not “include the number of plays of a file and the number of times a file was cached in the reporting requirements.”~~

Therefore, by SOCAN on 2022-10-15 pursuant to subsection ~~6(5)~~67(1) of the ~~Tariff~~ is modified and reads as follows: Copyright Act

~~(5) No later than 20 days after the end of each month, any licensee that operates an online music service in relation to which they are required to pay royalties pursuant to paragraph 4(1)(d) shall provide, in relation to that service, to each of CSI and SOCAN, a report setting out, for that month,~~

- ~~(a) in relation to each file that was transmitted to an end user, the required information;~~
- ~~(b) the number of plays of each file, excluding plays of copies stored on an end user’s storage device; and~~
- ~~(c) the gross revenue attributable to the operation of the service.~~

~~For ease of reference, the corrected version of the Tariff can be found in the following pages.~~

~~Ottawa, October 21, 2017~~

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~~STATEMENT OF ROYALTIES TO BE COLLECTED BY CMRRA-SODRAC INC. (2011-2013) AND SODRAC (2010-2013) FOR THE REPRODUCTION, IN CANADA, OF MUSICAL WORKS, AND BY SOCAN (2011-2013) FOR THE COMMUNICATION TO THE PUBLIC BY TELECOMMUNICATION OF MUSICAL OR DRAMATICO-MUSICAL WORKS, IN CANADA, BY ONLINE MUSIC SERVICES-~~

Short Title

~~1. This tariff may be cited as the *Online Music Services Tariff* (CSI: 2011-2013; SOCAN: 2011-2013; SODRAC: 2010-2013)~~

Proposed Tariff Title: *SOCAN Tariff 22.A, Online Music Services (2024-2026)*

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

Effective Period: 2024-01-01 – 2026-12-31

SOCAN TARIFF 22.A, ONLINE MUSIC SERVICES (2024-2026)

Proposed statement of royalties to be collected by the Society of Composers, Authors and Music Publishers of Canada (SOCAN) in compensation for the communication to the public by telecommunication, in Canada, of musical or dramatico-musical works forming part of its repertoire, which, where applicable, includes the making available of such works 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.

Application

1. (1) This tariff sets the royalties to be paid for the communication to the public by telecommunication of works in SOCAN's repertoire, which, where applicable, includes the making available of such works 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 connection with the operation of **an online music service** and its authorized distributors in 2024-2026, including the use of a musical work in a music video or a concert.

(2) This tariff does not apply to uses covered by other tariffs, including SOCAN Tariffs 16 (**Background Music Suppliers**), 22.B (Internet – Commercial Radio and Satellite Radio), 22.C (Internet – Other Audio Services), 22.D.1 (Online Audiovisual Services), 22.D.2 (User Generated Content Services), 22.D.3 (Allied Audiovisual Services), 22.E (Internet – Canadian Broadcasting Corporation), 22.G (Internet – Game Services), 25 (Satellite Radio Services) and 26 (Pay Audio and Ancillary Services).

Definitions

2. In this tariff,

“audio track file” means a digital file of a sound recording of a musical work or works, and, ~~for greater certainty, excludes a music video;~~ (« *piste sonore* »)

~~“authorized distributor” means any person who has entered into an agreement with a licensee permitting that person to distribute the service;~~ (« *distributeur autorisé* »)

~~“bundle” means two or more digital files offered as a single product;~~ (« *ensemble* »)

~~“CMRRA” means Canadian Musical Reproduction Rights Agency Ltd.;~~ (« *CMRRA* »)

~~“collectives” means CMRRA, CSI, SOCAN, and SODRAC;~~ (« *sociétés de gestion* »)

~~“CSI” means CMRRA-SODRAC Inc.;~~ (« *CSI* »)

~~“download” means the receipt by an end-user of a file from a download service and making a reproduction thereof onto a storage device;~~ (« *téléchargement* »)

~~“download service” means a service that transmits to end-users a file that is intended to be copied onto a storage device and results in a durable copy of that file;~~ (« *service de téléchargement* »)

~~“end user” means a person who accesses an online music service, whether the person pays a fee or provides other consideration for the service or uses the service free of charge;~~ (« *utilisateur final* »)

~~“file” means a digital file of either an audio track or~~ includes a music video; (« *fichier* »)

“free stream” excludes any stream (whether on-demand stream or semi-interactive stream) delivered to a subscriber; (« *transmission gratuite* »)

“free subscription” means the provision of free access to streams (whether on-demand streams or semi-interactive streams) to a subscriber; (« *abonnement gratuit* »)

~~“gross revenue” means, in relation~~ the gross amounts paid to an online music service, ~~all revenues received by a licensee whether in cash, in kind, in barter or contra, including revenues received~~ or its authorized distributors for access to and use of the service, ~~and revenues received for promotional activities, such as~~ including membership and subscription fees, amounts paid for advertising, ~~that are attributed~~ sponsorship, promotion and product placement, commissions on third-party transactions, and amounts equal to the value of the consideration received by an online music service or its authorized distributors pursuant to any contra and barter agreements related to the operation of the service; (« *revenus bruts* »)

~~“hybrid webeast service” or “hybrid service tier” means a ~~webeast service where~~ an online music service, or a service tier of an online music service, that offers end-users on-demand streams as well as the ability to cache files ~~transmitted to an end-user may also be copied onto a storage device for the purpose of~~ for offline listening ~~to them later, and where the period for which such files are retained, or the~~~~

number of files that may be so retained, or both, is limited, and established by the service or viewing; (« *service de webdiffusion hybride* ») or « option de service hybride »)

“identifier” means the unique identifier an online music service assigns to a file or bundle; (« *identificateur* »)

“~~interactive webcast service~~” means a webcast service where the files are chosen by the end user and received at a place and time individually chosen by that person; (« *service de webdiffusion interactive* »)

“licensee” means a person that operates an online music service that is licensed under this tariff; (« *titulaire de licence* »)

“limited download service” means a download service where the downloaded files, through technological means, become unusable upon the happening of a certain event or events, such as the end of the end user’s subscription; (« *service de téléchargement limité* »)

“~~mixed bundle~~” means a bundle that contains at least one file containing an audio track and at least one file containing a music video; (« *ensemble mixte* »)

“music video” means an audiovisual representation of ~~one or more~~ a musical work or works, including a concert; (« *vidéo de musique musicale* »)

“~~non-interactive webcast service~~ on-demand stream” means a ~~webcast service where~~ stream selected by the end ~~user exercises no control over the content nor the timing of the-~~ user and received at a place and time individually chosen by that person; (« ~~service de webdiffusion interactive~~ ») end-user; (« transmission of the files; (« service de webdiffusion non interactive sur demande »)

“online music service” means a ~~non-interactive webcast service, a semi-interactive webcast service, an interactive webcast service, a hybrid webcast service, a limited download service,~~ service that delivers streams containing musical work(s) (whether on-demand streams or semi-interactive streams) to end-users. For the avoidance of doubt, an “online music service” includes cloud-based music services and other services using similar technology, but excludes a service that offers only streams that are selected by the service and can only be listened to or viewed at a permanent download time chosen by the service and for which no advance playlist is published; (« *service de musique en ligne* »)

“~~permanent download service~~” means a ~~download service, but does not include a limited download service;~~ (« *service de téléchargement permanent* »)

“play” means the single ~~performance~~ delivery of a ~~file by an end user~~ stream (whether on-demand stream or semi-interactive stream); (« *écoute* »)

“quarter” means from January to March, from April to June, from July to September and from October to December; (« *trimestre* »)

~~“repertoire” means, in relation to each collective, the musical works for which it is entitled to grant a licence pursuant to section 3 of this Tariff; (« repertoire »)~~ required information” means, in respect of a file,

- (a) the unique identifier assigned by an online music service to the file;
- (b) the title of each musical work contained in the file;
- (c) the name of each performer or group to whom the ~~audio track or music video~~ sound recording ~~track or music video~~ contained in the file is credited;
- (d) the name of the person who released the sound recording;
- (e) the name of each author of each musical work;
- (f) the International Standard Recording Code (ISRC) assigned to the ~~audio track or music video~~ sound recording contained in the file;
- (g) if the sound recording is or has been released in physical format as part of an album, the name, identifier, product catalogue number and the Universal Product Code (UPC) assigned to the album, together with the associated disc and track numbers;
- (h) the name of each music publisher associated with each musical work ~~contained in the file;~~
- (i) the International Standard Musical Work Code (ISWC) assigned to each musical work ~~contained in the file;~~
- (j) the Global Release Identifier (GRid) assigned to ~~the file~~ each musical work and, if applicable, the GRid of the album ~~or bundle in which the file was released;~~ in which the musical work was released;
- (k) the running time of the file, in minutes and seconds; and
- (l) any alternative title used to designate each musical work or sound recording; (« renseignements requis »)

~~“semi-interactive webcast service stream” means a ~~webcast service where the~~ stream delivered by an information filtering system that allows an end-user ~~exercises some level of control over~~ to influence the content of the ~~files~~ streams, ~~or the~~ timing of the transmission of the ~~files~~ streams, or both; (~~« service de webdiffusion~~ transmission ~~semi-interactive »~~)~~

~~“service provider” means a professional service provider retained by a collective society to assist in the conduct of an audit or in the distribution of royalties to rights holders; (« prestataire de services »)~~

~~“SOCAN” means the Society of Composers, Authors and Music Publishers of Canada; (« SOCAN »)~~

~~“SODRAC” means SODRAC 2003 Inc. and Society for Reproduction Rights of Authors, Composers and Publishers in Canada Inc.; (« SODRAC »)~~

~~“sound recording” has the meaning given to it in the *Copyright Act*, R.S.C. 1985, c. C-42; (« enregistrement sonore »)~~

~~“subscriber” means a person who accesses an online music service, pursuant to a contract or otherwise, whether the person pays a fee or provides other consideration for the service or uses the service free of charge; (« abonné »)~~

~~“webeast service” means a service that transmits files to end users, where the files are~~

~~“stream” means a file that is intended to be copied by the end user onto a local storage medium or device only to the extent required to allow listening to or viewing the contents of the file at substantially the same time as when the file is received. (« service de webdiffusion; (« transmission »)~~

~~“subscriber” means an end-user with whom an online music service or its authorized distributor has entered into a contract for service other than on a transactional per-stream basis, whether for a fee, for other consideration or free of charge, including pursuant to a free subscription; (« abonné »)~~

~~“year” means a calendar year. (« année »)~~

Application

Royalties

On-Demand and Semi-Interactive Streams

~~3. (1) This tariff entitles a licensee, and their authorized distributors, in connection with the operation of an online music service,~~

~~(a) to communicate to the public by telecommunication, in Canada, a musical work in the repertoire of SOCAN, including, as of November 7, 2012, by making it available to the public by telecommunication in a way that allows a member of the public to have access to it from a place and at a time individually chosen by that member of the public;~~

~~(b) to reproduce a musical work in the repertoire of CSI, where the work is embodied in an audio track, or of SODRAC, where the work is embodied in a music video, for the purpose of transmitting it in a file to members of the public in Canada via the Internet or another digital network, including by wireless transmission;~~

~~(c) to authorize another person to reproduce a musical work for the purpose of delivering to the service a file that can then be reproduced and transmitted pursuant to paragraph (b); and~~

~~(d) to authorize members of the public in Canada to further reproduce, for their own private use, a musical work that has been reproduced and transmitted pursuant to paragraph (b).~~

~~(2) Despite subsection (1), this tariff does not~~

~~(a) apply to activities subject to a previously certified tariff, including SOCAN Tariff No. 16 — *Background Music Suppliers* (2010–2011), SOCAN Tariff No. 22 (*Internet — Other Uses of Music*), Part F (*Audio Websites*), SOCAN Tariff No. 24 — *Ringtones and Ringbacks* (2006–2013), the *Satellite Radio Services Tariff* (Re: Sound: 2011–2018; SOCAN: 2010–2018), and the *Commercial Radio Tariff* (SOCAN: 2011–2013; Re: Sound: 2012–2014; CSI: 2012–2013; Connect/SOPROQ: 2012–2017; Artisti: 2012–2014);~~

~~(b) authorize the reproduction of a work in a medley, for the purpose of creating a mashup, for use as a sample, or in association with a product, service, cause or institution; nor~~

~~(c) authorize the reproduction or communication by telecommunication of a musical work for the purpose of providing a free preview of an entire music album by webcast, in association with the operation of a permanent download service for audio tracks.~~

~~(3) For greater certainty, this tariff—~~

~~(a) does not authorize the reproduction of a work in the repertoire of CMPPRA in a music video; and~~

~~(b) does not apply to the operation of a service that allows end users to store and retrieve—or allows end users to direct the operator of the service to store and retrieve—a musical work.~~

Period of Application

~~(4) This tariff applies to activities from January 1, 2011, to December 31, 2013, except in relation to the reproduction of a musical work in the repertoire of SODRAC in connection with the operation of a permanent download service for music videos, for which the tariff applies from January 1, 2010, to December 31, 2013.~~

Royalties Payable

4. (1) ~~The royalties payable in a month by an online music service that offers on-demand streams and/or semi-interactive streams, including a hybrid service or a service that offers a hybrid service tier, shall be~~

$$\underline{A \times B \times C \div D}$$

where

(A) is 10.3 per cent; if the service offers only music videos, 5.9 per cent,

(B) is the gross revenue of the service for the month,

(C) is the number of plays of files requiring a SOCAN licence during the month, and

(D) is the number of plays of all files during the month,

subject to a minimum fee, which shall be the lesser of 60.8¢ per subscriber and 0.13¢ per stream of a file requiring a SOCAN licence.

Free Per-Stream Transactions

(2) ~~Subject~~ Where an online music service subject to subsection (21) also offers free streams, the

royalties payable by a licensee that operates shall be 0.13¢ per stream (whether on-demand stream or semi-interactive stream) of a file requiring a SOCAN licence.

~~(a) a non-interactive webcast service for audio tracks shall be 1.49% of their gross revenues attributable to the operation of that service, payable to CSI;~~

~~(b) a semi-interactive webcast service for audio tracks shall be 1.49% and 5.3% of their gross revenues attributable to the operation of that service, payable to CSI for 2011 through 2013 and to SOCAN for 2012 and 2013, respectively;~~

~~(c) an interactive webcast service for audio tracks shall be 1.49% and 5.3% of their gross revenues attributable to the operation of that service, payable to CSI and SOCAN, respectively;~~

~~(d) a hybrid webcast service for audio tracks shall be 3.13% and 3.48% of their gross revenues attributable to the operation of that service, payable to CSI and SOCAN, respectively;~~

~~(e) a permanent download service for audio tracks shall be 8.91% of the amount paid by end users for the downloads of audio tracks, payable to CSI;~~

~~(f) a limited download service for audio tracks shall be 8.91% of the amount paid by subscribers for the service during the month, payable to CSI;~~

~~(g) a semi-interactive or interactive webcast service for music videos shall be 2.99% of their gross revenues attributable to the operation of that service, payable to SOCAN; and~~

~~(h) a permanent download service for music videos shall be 5.64% of the amount paid by end users for the downloads of music videos, multiplied by SODRAC's share in those works payable to SODRAC.~~

Minimum Royalties

~~(2) The royalties payable by a licensee pursuant to~~

~~(a) paragraph 4(1)(a) shall be no less than \$100 per year, payable to CSI;~~

~~(b) paragraph 4(1)(b) shall be no less than \$100 per year, payable to SOCAN, and \$100 per year, payable to CSI;~~

~~(c) paragraph 4(1)(c) shall be no less than \$100 per year, payable to SOCAN, and \$100 per year, payable to CSI;~~

~~(d) paragraph 4(1)(d) shall be no less than \$100 per year, payable to SOCAN, and \$100 per year, payable to CSI;~~

~~(e) paragraph 4(1)(e) shall be no less than \$0.036 per downloaded file containing an audio track, if contained in a bundle containing 13 or more files containing audio tracks, or \$0.066 per downloaded file containing an audio track otherwise, payable to CSI;~~

~~(f) paragraph 4(1)(f) shall be no less than \$100 per year, payable to CSI;~~

~~(g) paragraph 4(1)(g) shall be no less than \$100 per year, payable to SOCAN; and~~

~~(h) paragraph 4(1)(h) shall be no less than \$0.066 per music video containing only one musical work, and \$0.026 per musical work in a music video containing two or more musical works, where both of these amounts are to be adjusted for the partial ownership of the musical works by SODRAC.~~

Mixed Bundles

~~(3) For the purposes of paragraph 4(1)(c), where an end user pays for a mixed bundle, the amount paid by the end user for the files containing audio tracks in the bundle shall be deemed to be~~

~~(a) the price of the bundle, multiplied by the sum of the prices of the files containing audio tracks when not sold in a bundle, divided by the sum of the prices of all files in the bundle when not sold in a bundle; or~~

~~(b) when information required to calculate paragraph (a) is not available, the price of the bundle multiplied by the number of files containing audio tracks, divided by the sum of the number of files containing audio tracks and two times the number of files containing a music video.~~

~~(4) For the purposes of paragraph 4(1)(h), where an end user pays for a mixed bundle, the amount paid by the end user for the files containing music videos in the bundle shall be deemed to be~~

~~(a) the price of the bundle, multiplied by the price of the files containing the music videos when not sold in a bundle, divided by the sum of the prices of all files in the bundle when not sold in a bundle; or~~

~~(b) when information required to calculate the amount in paragraph (a) is not available, the price of the bundle, multiplied by two, divided by the sum of the number of files containing audio tracks and two times the number of files containing a music video.~~

Previews

~~(5) Despite paragraphs 4(1)(a) to (e), a person who operates, in association with the operation of a permanent download service for audio tracks, a service identified in those paragraphs only for the purpose of providing a preview of not more than 90 seconds of an audio track by webcast is not required to pay any royalties with respect to the operation of that service.~~

Taxes

~~(6) All royalties payable under this tariff are exclusive of any federal, provincial or other governmental taxes or levies of any kind.~~

ADMINISTRATIVE PROVISIONS

Reporting Requirements-

Service Identification

~~54. (1) No later than the earlier of 20 days after the end of the first month during which a licensee, in connection with the operation of an online music service, communicates or reproduces a file requiring a SOCAN, CSI, or SODRAC licence under this tariff, or authorizes another person to do the same, and in any event and the day before the service first makes that such a file available to the public, the licensee service shall provide to SOCAN, CSI, and SODRAC the following information:~~

(a) the name of the person who operates the service, including

(i) if a corporation, its name and a mention of its jurisdiction of incorporation,

(ii) if a sole proprietorship, the name of the proprietor,

(iii) if a partnership, the ~~name~~ names of each partner, and

(iv) in any event, the names of the principal officers or operators of the service or any other service,

together with any other trade name under which the service carries on business;

(b) the address of its principal place of business;

(c) the name, address and email of the persons to be contacted for the purposes of notice ~~and, if different from that name, address, for the exchange of data~~ and ~~email~~, for the purposes of invoicing and payment of royalties, ~~the provision of information pursuant to subsection 16(2) and any inquiries related thereto;~~

~~(d) the name of each online music service operated by the licensee;~~

~~(e)~~

(d) the name and address of any authorized distributor;

(e) the Uniform Resource Locator (URL) of each ~~Internet site~~ website and the name of each application or platform at or through which the service is or will be offered, as applicable; and

(f) all of the services or service tiers identified in ~~paragraphs 4(1)(a) to 4(1)(h) that the licensee operates.~~

Music Use Report

Definition

~~6. (1) In this section, “required information” means, in respect of a file, where available, 3 that are offered~~ by the service.

~~(a) its identifier;~~

~~(b) the title of the musical work or works it contains;~~

~~(c) whether the file contains an audio track or a music video;~~

~~(d) the name of each performer or group to whom the audio track or music video contained in the file is credited;~~

~~(e) the name of the person who released the audio track or music video contained in the file;~~

~~(f) if the licensee believes that a SODRAC licence is not required, information that establishes why the licence is not required;~~

~~(g) the name of each author of each musical work;~~

~~(h) the International Standard Recording Code (ISRC) assigned to the audio track or music video contained in the file;~~

~~(i) in the case of a file containing an audio track, if the audio track contained in the file is or has been released in physical format as part of an album, the name, identifier, product catalogue number and the Universal Product Code (UPC) assigned to the album, together with the associated disc and track numbers;~~

~~(j) the name of each music publisher associated with each musical work contained in the file;~~

~~(k) the International Standard Musical Work Code (ISWC) assigned to each musical work contained in the file;~~

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

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

~~(n) any alternative title used to designate the musical work, music video, or sound recording contained in the file.~~

~~(1.1) For certainty, information is “available” under subsection (1) if it is in the possession or control of the licensee operating the relevant online music service, regardless of the form or the way in which it was obtained.~~

~~Non-interactive Music Webcast Service~~

Sales and Music Use Reporting

(2) No later than 20 days after the end of each month, any ~~licensee that operates an~~ online music service ~~in relation to which they are required to pay royalties pursuant to paragraph 4(1)(a) shall provide, in relation to that service, to CSI, a report setting out, for that month,~~

~~(a) in relation to each file that was transmitted to an end user, the required information;~~

~~(b) the number of plays of each file; and~~

~~(c) the gross revenue attributable to the operation of the service.~~

~~Semi-interactive Music Webcast Service~~

(3) No later than 20 days after the end of each month, any licensee ~~that operates an online music service in relation to which they are~~ that is required to pay royalties pursuant to ~~paragraph 4(1)(b)~~ this tariff shall provide, ~~in relation to that service, to each of CSI and SOCAN, a report setting out, for that month,~~

~~(a) in relation to each file that was transmitted to an end user, the required information;~~

~~(b) the number of plays of each file; and~~

~~(c) the gross revenue attributable to the operation of the service.~~

~~Interactive Music Webcast Service~~

(4) No later than 20 days after the end of each month, any licensee ~~that operates an online music service in relation to which they are required to pay royalties pursuant to paragraph 4(1)(c) shall provide, in relation to that service, to each of CSI and SOCAN, a report setting out, for that month,~~

~~(a) in relation to each file that was transmitted to an end user, the required information;~~

~~(b) the number of plays of each file; and~~

~~(c) the gross revenue attributable to the operation of the service.~~

Hybrid Music Webcast Service

~~(5) No later than 20 days after the end of each month, any licensee that operates an online music service in relation to which they are required to pay royalties pursuant to paragraph 4(1)(d) shall provide, in relation to that service, to each of CSI and SOCAN, a report setting out, for that month,~~

~~(a) in relation to each file that was transmitted to an end user, the required information;~~

~~(b) the number of plays of each file, excluding plays of copies stored on an end user's storage device; and~~

~~(c) the gross revenue attributable to the operation of the service.~~

Permanent Download Music Service

~~(6) No later than 20 days after the end of each month, any licensee that operates an online music service in relation to which they are required to pay royalties pursuant to paragraph 4(1)(e) shall provide, in relation to that service, to CSI and SOCAN, SOCAN a report setting out, for that month, in relation to each file that was downloaded by an end user,~~

~~(a) the required following information;~~

~~(b) the number of times the file was downloaded as part of a bundle, the identifier of each such bundle, the number of files included in each such bundle, and the amount paid by end users for each such bundle;~~

~~(c) in the case of files downloaded as part of a mixed bundle, the number of audio tracks in the bundle, and the revenues allocated to the audio tracks in the bundle; and~~

~~(d) the number of other permanent downloads of the file and the amounts paid by end users for the file.~~

Limited Download Music Service

~~(7) No later than 20 days after the end of each month, any licensee that operates an online music service in relation to which they are required to pay royalties pursuant to paragraph 4(1)(f) shall provide, in relation to that service, to each of CSI and SOCAN, a report setting out, for that month,~~

(a) in relation to each file that was ~~transmitted to an end user~~ delivered (whether as an on-demand stream or semi-interactive stream), the required information;

(b) the number of ~~times~~ plays of each file ~~was downloaded~~;

(c) the total number of plays of ~~each file~~ all files; and

(d) the number of subscribers to the service during the month and the total ~~amount~~ amounts paid by ~~end users~~ them during that month;

Semi-interactive and Interactive Music Video Webcast Service

~~(8) No later than 20 days after the end of each month, any licensee that operates an online music service in relation to which they are required to pay royalties pursuant to paragraph 4(1)(g) shall provide, in relation to that service, to SOCAN a report setting out, for that month,~~

~~(a) in relation to each file that was transmitted to an end user, the required information, and whether the file contains only one musical work;~~

~~(b)~~

(e) the number of subscribers provided with free subscriptions and the total number of plays of each file all files by such subscribers as streams; and

(f) the gross revenue ~~attributable to the operation~~ of the service.

Permanent Download Music Video Service

~~(9) No later than 20 days after the end of each month, any licensee that operates an online music service in relation to which they are required to pay royalties pursuant to paragraph 4(1)(h) shall provide, in relation to that service, to SODRAC a report setting out, for that month,~~

~~(a) in relation to each file that was downloaded by an end user:~~

~~(i) the required information,~~

~~(ii) whether the file contains more than one musical work, and~~

~~(iii) the amount paid by the end user for the download month;~~

(b) the total amount paid by end users for files that contain more than one musical work number of free streams delivered; and

~~(e) in the case of files downloaded as part of a bundle, including a mixed bundle, the revenues allocated to each music video in the bundle.~~

Reporting Obligations

~~(10) A licensee that is required to provide a report to a collective pursuant to more than one of subsections 6(2) to 6(9), h for the hybrid service or hybrid service tier, the number of times each file was cached onto end-users' local storage medium or device.~~

(3) If the service claims that a SOCAN licence is not required for a file, the service shall provide information that establishes why the licence is not required.

(4) An online music service that offers more than one service or service tier identified in section 3 shall file a separate report for each service or service tier pursuant to each ~~applicable~~ subsection.

Calculation of Royalties this section.

~~7. No later than 20 days after receiving from a licensee a report pursuant to subsection 6(9) for the last month in a quarter, SODRAC shall provide to the licensee a detailed calculation of the royalties payable for that quarter for each file and a report setting out, in relation to the received report,~~

~~(a) which files contain a work that SODRAC then knows to be in its repertoire;~~

~~(b) which files contain a work that SODRAC then knows not to be in its repertoire;~~

~~(c) which files contain a work that SODRAC then knows to be in its repertoire only as to a fraction of the rights, with an indication of that fraction; and~~

~~(d) with respect to all other files, an indication of the reason for which the collective is unable to provide an answer pursuant to paragraph (a), (b) or (c).~~

(5) An online music service that offers music videos shall file ~~(4)~~ the required information separately from the information dealing with audio-only files.

Files Made Available

5. Upon request, an online music service shall provide to SOCAN the required information for all files that were made available to members of the public for on-demand streaming at any time during the year, regardless of whether the file was transmitted to any end-user. SOCAN shall not make such a request more frequently than twice per year.

Payment of Royalties and Interest on Late Payments

6. (1) Royalties payable to SOCAN under this tariff shall be due no later than 20 days after the end of each quarter.

(2) Royalties All amounts payable to CSI under this tariff ~~shall be due no later than 20 days after the end of each quarter~~ are exclusive of any federal, provincial or other governmental taxes or levies of any kind.

(3) ~~Royalties payable to SODRAC~~ All amounts required to be reported or paid under this tariff shall be ~~due no later than 30 days after a licensee receives a report from SODRAC pursuant to section 7~~ reported or paid in Canadian dollars.

Repertoire Disputes

~~9. (1) A licensee that disputes the indication that a file contains a work in the repertoire or requires a SODRAC licence shall provide to SODRAC information that establishes why the licence is not required, unless the information was provided earlier.~~

~~(2) A licensee that disputes the indication more than 20 days after receiving a report pursuant to section 7 is not entitled to interest on the amounts owed to them~~

(4) 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.

Adjustments

~~107.~~ Updates Adjustments to any information provided pursuant to ~~sections 5, 6, 7, and 9~~ section 3 or 4 shall be provided with the next report dealing with such information.

~~118.~~ (1) Subject to subsection (2), 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.

(2) Any excess payment resulting from ~~a licensee~~ an online music service providing incorrect or incomplete information about a file shall be deducted from future amounts owed ~~in respect for the use~~ of works owned by the same person as the work in ~~the~~ that file.

Records and Audits

~~129.~~ (1) ~~A licensee~~ An online music service shall keep and preserve, for a period of six years after the end of the month to which they relate, records from which the information set out in ~~subsections 4(3) and 4(4), and sections 5, 6, 3 and 94~~ can be readily ascertained.

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

(3) Subject to subsection (4), if an audit discloses that royalties due have been understated in any quarter by more than 10% per cent, the ~~licensee~~ online music service shall pay the reasonable costs of the audit within 30 days of the demand for such payment.

(4) For the purposes of subsection (3), any amount owing as a result of an error or omission on the part of ~~SOCAN, CSI, or SODRAC~~ shall not be taken into account.

Confidentiality

~~1310.~~ (1) Subject to subsections (2) and (3), ~~each of~~ SOCAN, the ~~collectives,~~ online music service and ~~each licensee and its~~ authorized ~~distributor,~~ distributors shall treat in confidence information received pursuant to this tariff, unless the disclosing party consents in writing to the information being treated otherwise.

(2) Information referred to in subsection (1) may be shared

~~(a) amongst the collectives;~~

~~(b) with the collectives' service providers, solely to the extent required by the service providers for the service they are contracted to provide;~~

(a) between the service and its authorized distributors in Canada;

(b) in connection with the collection of royalties or the enforcement of a tariff, with other collective societies;

(c) with the Copyright Board;

(d) in connection with proceedings before the Copyright Board ~~and any other court or administrative tribunal~~, once the ~~person whose information is to be shared~~ disclosing party has had a reasonable opportunity to request a confidentiality order;

(e) with any person who knows or is presumed to know the information;

(f) to the extent required to effect the distribution of royalties; ;

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

(g) if required by ~~law or ordered by a court of~~ law.

~~(3) Where confidential information is shared with a service provider as per paragraph 2(b), the service provider shall sign a confidentiality agreement, which shall be shared prior to the release of the information with the party whose information is to be disclosed, and shall not use any confidential information for any purpose other than to assist in the conduct of an audit or in the distribution of royalties to rights holders.~~

←

(3) Subsection (1) does not apply to information that must be provided pursuant to the Copyright Act, to information that is publicly available, to aggregated information, or to information obtained from someone other than the ~~collectives, a licensee~~ online music service or ~~their~~ its authorized distributors, and who is not under an apparent duty of confidentiality with respect to the ~~service-~~

Interest on Late Payments

~~14. (1) Subject to subsections (3) and (4), any amount not received by the due date shall bear interest from that date until the date the amount is received.~~

~~(2) Any overpayment resulting from an error or omission on the part of a collective shall bear interest from the date of the overpayment until the overpayment is refunded.~~

~~(3) For the purposes of this section, a report provided by SODRAC pursuant to section 7 following the late reception of a report required pursuant to subsection 6(9) is deemed to have been received within the time set out in section 7 provided that, after receiving the late report required pursuant to subsection 6(9), SODRAC provides the corresponding report required pursuant to section 7 no later than the date on which the next report required pursuant to section 7 is due.~~

~~(4) Any amount owing by a licensee as a result of an error or omission on the part of a collective shall not bear interest until 30 days after the collective has corrected the error or omission.~~

~~(5) 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~~supplied information.

Addresses for Notices, etc.

~~15~~11. (1) Anything ~~that a licensee sends~~addressed to SOCAN shall be sent to 41 Valleybrook Drive, Toronto, Ontario M3B 2S6, email: ~~licence@socan.ca, fax: 416-445-7108~~licence@socan.com, or to any other address, or email address ~~or fax number~~ of which ~~the~~an online music service has been notified in writing.

(2) Anything that ~~a licensee~~SOCAN sends to ~~CSI shall be sent to 1470 Peel Street, Tower B, Suite 1010, Montréal, Quebec H3A 1T1, email: csi@emrrosodrac.ca, fax: 514-845-3401, or to any other address, email address or fax number of which the~~an online music service ~~has been notified in writing.~~

~~(3) Anything that a licensee sends to SODRAC pursuant to sections 5 or 6 shall be sent by email to audiovisual@sodrac.ca or to any other email address of which the service has been notified in writing. Anything else that a licensee sends to SODRAC shall be sent to 1470 Peel Street, Tower B, Suite 1010, Montréal, Quebec H3A 1T1, email: licences@sodrac.ca, fax: 514-845-3401, or to any other address, email address or fax number of which the service has been notified in writing.~~

~~(4) Anything that a collective sends to a licensee~~ shall be sent to the last address, or email address ~~or fax number~~ of which ~~the collective~~SOCAN has been notified in writing.

Delivery of Notices and Payments

~~16~~12. (1) Subject to subsection (2), a notice may be delivered by hand, by postage-paid mail, ~~by fax,~~ by email or by File Transfer Protocol (FTP). ~~A payment must be delivered by hand, by postage-paid mail, or as otherwise agreed upon by the collective and the licensee.~~

(2) Information provided pursuant to sections ~~5 to 7~~4 and ~~to subsection 9(1)~~5 shall be delivered electronically, by way of ~~a~~ delimited text file or in any other format agreed upon by ~~the applicable collective~~SOCAN and the ~~licensee~~online music service.

(3) A notice or payment mailed in Canada shall be presumed to have been received four business days after the day it was mailed.

(4) A notice sent ~~by fax,~~ by email or by FTP shall be presumed to have been received the day it is transmitted.

Transitional Provisions

~~17. (1) With respect to any activities for which royalties are payable to CSI pursuant to paragraphs 4(1)(a) to 4(1)(f), a licensee shall provide to CSI the information set out in~~

~~(a) section 5 no later than November 24, 2017; and~~

~~(b) subsections 6(2) to 6(7), as applicable, no later than November 24, 2017,~~

~~and pay any royalties due to CSI for that period, no later than February 2, 2018.~~

~~(2) With respect to any activities for which royalties are payable to SOCAN pursuant to paragraphs 4(1)(b) to 4(1)(d), or 4(1)(f), a licensee shall provide to CSI the information set out in~~

~~(a) section 5 no later than November 24, 2017; and~~

~~(b) subsections 6(3) to 6(5), or 6(7) to 6(8), as applicable, no later than November 24, 2017,~~

~~and pay any royalties due to SOCAN for that period, no later than February 2, 2018.~~

~~(3) With respect to any activities for which royalties are payable to SODRAC pursuant to paragraph 4(1)(h),~~

~~(a) a licensee shall provide to SODRAC the information set out in section 5 no later than November 24, 2017;~~

~~(b) a licensee shall provide to SODRAC the information set out in subsection 6(9) no later than November 24, 2017;~~

~~(c) SODRAC shall provide the information set out in section 7 no later than 30 days after it receives information pursuant to paragraph (b); and~~

~~(d) royalties shall be due no later than 30 days after a licensee receives a report pursuant to paragraph (c).~~

~~(4) The information filed pursuant to paragraph 17(1)(b), 17(2)(b), or 17(3)(b), as the case may be, shall be supplied if, and to the extent, it is available.~~

~~18. Any amounts owing pursuant to this tariff for activities carried out during the period of application of this tariff, as set out in subsection 3(4), shall be increased by using the multiplying interest factors set out in the following table with respect to each period.~~

	SOCAN or/ou CSI				SODRAC			
	1	2	3	4	1	2	3	4
2011	1.0713	1.0682	1.0651	1.0620	1.0683	1.0652	1.0621	1.0590
2012	1.0588	1.0557	1.0526	1.0495	1.0558	1.0527	1.0496	1.0465
2013	1.0463	1.0432	1.0401	1.0370	1.0433	1.0402	1.0371	1.0340