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By Email

Lara Taylor, Secretary General

Copyright Board of Canada
Suite 800 - 56 Sparks Street,
Ottawa, Ontario
K1A 0C9

Dear Ms. Taylor,

Re: Totem Medias Inc. Application to Fix Royalty Rates for Background Music Supplier

Introduction and Summary

Totem Medias Inc. (“**Totem**”) is applying to the Copyright Board (the “**Board**”) pursuant to section 71(1) of the *Copyright Act*, to fix the royalties that Totem pays to Connect Music Licensing Service Inc. (“**Connect**”) for the right to reproduce published sound recordings in Connect’s repertoire for the purpose of providing a background music service.

Since July 2025, Totem has attempted to negotiate a licence for the 2025-2028 period (the “**Licence**”) with Connect based on rates set by the Board’s July 22, 2025 decision (the “**Decision**”).¹ Connect has not meaningfully engaged with Totem’s attempts at negotiation for more than nine months. During this time, Totem continued providing Connect with the reports required under the Licence, but Connect has so far refused to provide Totem with any invoices for the payment of royalties. At no time did Connect ever direct Totem to stop using its repertoire.

Although Totem remains willing to negotiate, it sees no viable path forward other than applying to the Board under section 71(1). Totem therefore requests that the Board expeditiously fix the royalty rate and related terms for the 2025–2028 period on the same basis as the prior decision, given the significant effort invested in establishing those rates and the absence of any material change in circumstances.

¹ Application to Fix Royalty Rates for the Reproduction of Musical Works in the Repertoire of CONNECT Music Licensing Service Inc. by Totem Médias Inc., July 22, 2025, [2025 CB 8](#).



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The Parties

Totem is a background music supplier that provides services to commercial establishments that publicly perform recorded music. Totem provides each customer with copies of sound recordings of musical works that are stored on a hard drive at the customer's premises.

Connect is a collective society within the meaning of s. 2 of the *Copyright Act* that administers the copyright in the vast majority of sound recordings produced and/or distributed in Canada owned by the major record labels, independent labels, artists and producers.² More specifically, Connect issues licences for the right to reproduce published sound recordings to background music suppliers, digital service providers, and radio broadcasters.

The Background to the Licence

This is the second time since 2023 that Totem has applied to the Board for assistance in setting the royalty rates that Totem pays to Connect under the Licence. From May 5, 2023 to July 22, 2025, the parties engaged in a lengthy proceeding in which the Board established the appropriate rates for the Licence, which covered the time period from July 1, 2022 to June 30, 2025.

The Decision came out shortly following the expiry of the License period, so all of the rates established were retroactive. In order for the parties to maintain their relationship moving forward, further discussion and a renewal of the licence was needed.

The Ongoing Outreach

Totem has been attempting to negotiate with Connect on a renewal of the Licence between the parties since July of 2025, immediately following the Board's Decision.

Connect has failed to engage with Totem beyond telling Totem that it is seeking the guidance of its outside counsel. When outside counsel was approached, Totem was told that counsel is seeking instructions from their client. Totem has continued to be rebuffed in its attempts to meaningfully negotiate for more than nine months, during which time it continued to send Connect reports on the use of sound recordings. At no point has Connect ever told Totem to refrain from sending the reports or to cease reproducing sounds recordings.

A number of the various exchanges between Totem and Connect since July 2025 are attached as Appendix A.³ An example of the outreach Totem's external counsel has made to Connect's external counsel is attached as Appendix B.

Totem is still very much prepared to continue discussions and is ready to engage constructively with Connect without involving the Board. However, Totem is at a loss as to how else to move forward other than by bringing this application.

² <https://connectmusic.ca/about/>

³ Please note that the reproduced correspondence contains typographical anomalies introduced during the record retention and extraction process, including the appearance of extraneous characters.

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Relief Requested

Given the amount of time, effort, and money it took the parties and the Board to establish fair and equitable rates as a result of the prior section 71(1) application, Totem respectfully requests that the Board fix the Connect royalty rate and related royalty terms (i.e. the lack of separate rate for music with advertising and no minimum royalty) for the next three year period (i.e. July 1, 2025, to June 30, 2028) that are the same as those established in the Decision. The rates in the Decision established through a comprehensive Board proceeding, very little time has elapsed, and there has been no material change in circumstances. It is perfectly reasonable for the rates to still be considered fully fair and equitable.

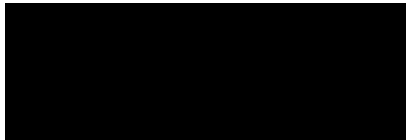
Totem also respectfully requests that the Board consider the Application in an expedited process with no need for additional evidence. Totem is an incredibly small business that does not have the resources to devote to partaking in multiple years' long processes every few years because there is no appetite for negotiation on behalf of large collectives like Connect. The fair and equitable rates and royalty terms set by the Board less than a year ago remain fair and equitable and should be renewed in short order.

Pursuant to section 71(1) of the Act, Connect was given notice of this application on March 12, 2026 (attached as Appendix C).

Please do not hesitate to contact the undersigned if you have any questions.

Yours truly,

FASKEN MARTINEAU DuMOULIN LLP



Jay Kerr-Wilson

