

**Copyright Board*****Warner Bros. Notice of Grounds for Objection*****SOCAN Tariff 22.D.1 – Online Audiovisual Services (2024-2026) (“Proposed Tariff”)****January 16, 2023**

Further to Warner Bros. Entertainment Canada Inc.’s (“WB”) objection filed with the Board on December 19, 2022, WB files this Notice of Grounds for Objection to SOCAN’s Proposed Tariff for online audiovisual services (“OAS”) in accordance with the Board Practice Notice 2022-007.

1. Grounds for why the Board should not approve the proposed tariff despite any alteration of royalties or levies or fixation of terms or conditions.

N/A.

2. Grounds for objecting to any royalty or levy rates in the proposed tariff.

WB objects to the royalty structure of the Proposed Tariff. The proposed royalty structure is ill-suited and inequitable to OASs, like those of WB, that contain very little SOCAN music. The certified tariff should provide that OASs which use little (and even virtually no) SOCAN music, should pay much lower royalties than OASs which use a greater degree of SOCAN music.

WB also objects to the Proposed Tariff because it contains significant royalty rate increases compared to the last approved tariff (for the 2007-2013 period). WB further objects to the increased minimum monthly fee per subscriber for a service that offers subscriptions to end-users. The Proposed Tariff seeks major royalty increases based on inaccurate predictions of OAS market changes. Specifically, WB disagrees that there will be “increased efficiencies and expanded uses of music” that will fundamentally alter the value of audiovisual works so as to justify higher royalties from users for 2024-2026.¹

3. Grounds for objecting to any terms or conditions in the proposed tariff.

WB objects to the reporting requirements under sections 4 and 5 as being unduly onerous and impractical.

The requirement under section 4(2) for services to provide SOCAN with certain information must be limited to information that is available to the service. A service cannot be required to provide information that is not available. SOCAN’s proposed tariff removes the “if available” qualification

¹ SOCAN Notice of Grounds for Proposed Tariff, SOCAN Tariff 22.D.1 – Online Audiovisual Services (2024-2026) November 14, 2022, p. 1.

to this obligation that the Board deliberately included in the last certified version of the tariff. The “if available” qualification must be included in a certified tariff.

WB specifically objects to the obligation under section 5 that would require WB to provide certain information to SOCAN relating to cue sheets and to attempt to obtain cue sheets for files. Such cue sheets are often not available and it would be unduly onerous and wasteful for every user to try to obtain a cue sheet for every file, particularly where the bulk of those cue sheets do not reflect usage of any SOCAN music.