

COPYRIGHT BOARD OF CANADA

IN THE MATTER OF

SOCAN Proposed Tariff 17, 2025-2027

NOTICE OF GROUNDS FOR OBJECTION

OF

ETHNIC CHANNELS GROUP LIMITED, KNOWLEDGE NETWORK CORPORATION, L'OFFICE DES
TÉLÉCOMMUNICATIONS ÉDUCATIVES DE LANGUE FRANÇAISE DE L'ONTARIO, TLN MEDIA GROUP INC.,
AND WORLD FISHING NETWORK ULC (THE "INDEPENDENT BROADCASTERS")

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Introduction

This Notice of Grounds for Objection is submitted on behalf of Ethnic Channels Group Limited, Knowledge Network Corporation, l'Office des télécommunications éducatives de langue française de l'Ontario, TLN Media Group Inc., and World Fishing Network ULC (the "Independent Broadcasters"), all of whom are Objectors to SOCAN's proposed Tariff 17 for the years 2025-2027 (the "Proposed Tariff").

The Independent Broadcasters object to the Proposed Tariff in its entirety. Although the Independent Broadcasters specifically note the following grounds, they reserve the right to raise additional grounds as the Board's consideration of the Proposed Tariff progresses.

1. Any grounds for objecting to any royalty or levy rates in the proposed tariff

The Independent Broadcasters object to the proposed rate of 2.1% in subsection 8(1) of the Proposed Tariff. This proposed rate, if approved, would be an increase from the longstanding approved rate of 1.9%. The relative value of music on cable television has not increased since SOCAN's Tariff 17 was most recently approved.

Contrary to SOCAN's claim in its Notice of Grounds for the Proposed Tariff, the date of the last contested hearing is not relevant to the market value of SOCAN's rights. Agreements between SOCAN and copyright users, on the other hand, support the previously approved rate of 1.9%. The Copyright Board must consider these agreements pursuant to paragraph 66.501(a) of the *Copyright Act*.

2. Any grounds for objecting to any terms or conditions in the proposed tariff

The Independent Broadcasters object to the reporting requirements outlined in sections 11 to 15 of the Proposed Tariff.

The Independent Broadcasters also object to the revised audit provisions outlined in section 16 of the Proposed Tariff.

In particular, and without limiting their general objection, they object to the new proposed requirement in subsection 16(3) that a programming undertaking that is found in an audit to have understated the royalties payable in a quarter by more than 10 per cent to pay the cost of the audit. This provision is potentially onerous for small independent organizations. Further, the provision provides programming undertakings with no input into the choice of auditor or costs of the audit, which makes it unfair to require that programming undertaking to pay for the audit.

The Independent Broadcasters also object to the new confidentiality provisions in section 17 of the Proposed Tariff, in particular, and without limiting their general objection, paragraphs 17(2)(b) and (f).

Paragraph 17(2)(b) appears to allow SOCAN to share confidential information received pursuant to the tariff with any other collective seeking to collect royalties or to enforce any tariff. This provision is overbroad. Confidential information provided pursuant to the Proposed Tariff, once certified, pertains only to SOCAN and should not be shared with other collectives, who are permitted to receive specific information pursuant to their own tariffs or licence agreements.

Paragraph 17(2)(f) of the Proposed Tariff is similarly overbroad and unnecessary. It would permit SOCAN to share programming undertakings' confidential information with "any person who knows or is presumed to know the information". Sharing the information with a person who already knows it is

unnecessary. Sharing the information with a person who is presumed to know the information is either unnecessary (if the person does know the information) or overbroad. There is no limitation in the Proposed Tariff on SOCAN's ability to presume another person's knowledge. The Board should not approve this provision.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 15th day of December, 2023.

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