

NOTICE OF GROUNDS FOR OBJECTION

Filed by Warner Bros. Entertainment Canada Inc. (“**WBD**”)

In relation to proposed tariff *SOCAN Tariff 22.D.1 – Online Audiovisual Services (2027-2029)*.

Filed with the Copyright Board on 2025-12-16 pursuant to Rule 18 of *Copyright Board Rules of Practice and Procedure*.

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

N/A.

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

WBD objects because the Proposed Tariff contains significant royalty rate increases compared to the last approved tariff (for the 2007-2013 period). Similarly, WBD objects to the increased minimum monthly fee per subscriber for a service that offers subscriptions to end-users. There has not been, and will not be, any increase in the value of audiovisual works to Online Audiovisual Services (“**OAS**”) during the 2027-2029 period that would justify such increases.

The Proposed Tariff seeks major royalty increases based on inaccurate predictions of OAS market changes. Specifically, WBD 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 2027-2029.¹

The Proposed Tariff is also based on the assumption that all content from all OASs will have a similar amount of SOCAN music content. This is incorrect because different services streaming varying proportions of different types of content may have significantly more or less SOCAN music than other services. For example, some content types use less SOCAN music and therefore the tariff should have a “low music use” rate. Any certified tariff should properly account for the variations between services in the degree of SOCAN music used. The Proposed Tariff also does not reflect that in many cases users already have the necessary rights, including by acquiring them directly from copyright owners.

The Proposed Tariff also include revenues that are unconnected to the use of musical works. Further, the revenue base as proposed does not reflect the business models and business realities of many services, including a company operating multiple services, that royalties should be based on amounts received by services (not paid by users) and

¹ SOCAN Notice of Grounds for Proposed Tariff for SOCAN 22.D.1 – Online Audiovisual Services (2027-2029) filed with the Board on October 22, 2025.

that certain types of expenses should be excluded from revenue (e.g. app store fees, intermediate billing providers, marketing / partner commissions).

The Proposed Tariff also contains minimum fees that create a "greater of" structure that should be rejected by the Board as unfair to users.

SOCAN is seeking to increase the rates in this tariff from 1.9% to 3%, and to increase the minimum fee for services with no revenue from \$15 to \$129.95. SOCAN has not offered any justification for the proposed rate increases other than to suggest that it believes the interrogatories will disclose information that will justify the increases. SOCAN has had access to detailed music use and financial reporting from individual services under the certified tariff for several years and should have information in its possession relating to the type and amount of music being used and the revenues being made. It is open to SOCAN to formulate arguments based on that information to provide some justification to support the contention that the value of music used on these services has somehow increased sufficiently during the tariff term to justify an increase of this magnitude. SOCAN has not done so.

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

WBD objects to the obligation under section 5 that would require WBD to "use commercially reasonable efforts to secure the cue sheet". SOCAN is in a better position to secure cue sheets than a service like WBD. If SOCAN wants a cue sheet that is not available to the service, SOCAN should be expected to secure the cue sheet without further obligation on the service.

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 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.

WBD object to the reporting and auditing provisions contained in the Statement of Proposed Royalties at sections 6 and 8. Said provisions are intrusive and require the disclosure of potentially sensitive confidential information. The fact that the Statement of Proposed Royalties requires licensees to retain records for a period of six years at section 8(1) is also unreasonable and places a disproportionate burden on licensees. Finally, the fact that services are required to pay for audit costs as per section 8(3) is also not standard.

WBD object to the onerousness of the reporting and payment obligations under sections 5, 6, 7 and 8, including the frequency (which should generally be quarterly rather than monthly).

WBD object to the confidentiality provision at section 9. In particular, they object to section 9(2)(d) where SOCAN is given the right to share information with anyone who is

presumed to know confidential information received pursuant to the tariff. This provision could allow for the release of sensitive confidential information to uninvolved third parties.