

## NOTICE OF GROUNDS FOR OBJECTION

Filed by Google Inc. and Meta Platforms Inc.

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

Filed with the Copyright Board (the “Board”) on 2025-12-17 pursuant to Rule 18 of *Copyright Board Rules of Practice and Procedure*.

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### General Statement of Objection

This is the Notice of Grounds for Google Inc. and Meta Platforms Inc. (“Google and Meta”) to the Proposed Tariff for Online Audiovisual Services for 2027-2029 (the “Proposed Tariff”) filed by SOCAN and published on the Copyright Board website on November 17, 2025, pursuant to the provisions of section 68.2 of the *Copyright Act*.

Google and Meta respectfully reserve the right to rely upon objections raised by other parties to the proceedings, *mutatis mutandis*. Google and Meta also reserve their right to raise additional substantive points of objection throughout the proceedings related to the Proposed Tariff.

These objections are filed in accordance with the *Copyright Act* and the Practice Notice on the Filing of Grounds for Objection.

*Inter alia* and without limiting their general objection, and without admitting that they are liable for the payment of royalties pursuant to the proposed tariff, Google and Meta object to the following:

### Grounds for Objecting to Royalty Rates in the Proposed Tariff

Google and Meta object to the rates set out in section 3 of the Proposed Tariff for the following reasons:

- Said fees have been proposed without any justification. SOCAN acknowledges the new proposed formula but does not explain why.
- Said proposed fees have a “minimum fee” that is unnecessary or in the alternative, much too high and does not adequately reflect subscriptions.
- Said proposed fees do not take into account that some services might exclusively offer programming that uses SOCAN music for less than 20% of the run-time or uses SOCAN music in a way that has lesser value. The Tariff should, *inter alia*, include a “low music use” rate to ensure that services with low usage are not being overcharged for what they are using.

- Said proposed fees do not reflect the fair, reasonable, and appropriate value of the public performance or the communication to the public by telecommunication of musical or dramatico-musical works in SOCAN's repertoire.
- Said proposed fees do not reasonably reflect either the amount or the type of the impact of music use by a licensee.
- Said proposed fees include revenues that are unconnected to the use of musical works (e.g. product placement and sponsorship).
- Further, the revenue base and fees as proposed do 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 that certain types of expenses should be excluded from revenue (e.g. app store fees, intermediate billing providers, marketing / partner commissions, and applicable taxes).
- Said proposed fees also do not reflect the business models and business realities of many services, including promotional offers (including samples and demos), trials (both single and refresh), and student subscriptions.
- Said proposed fees do not reflect the fact that in many cases users have already acquired the necessary rights, including by licensing them or acquiring them directly from the copyright owners or otherwise.
- Said proposed fees do not adequately reflect the principle of technological neutrality in that it seeks to collect higher royalty rates from prospective users of the SOCAN Tariff 22.D.1 licence than from other users who make substantially similar uses of music, as discussed in *Canadian Broadcasting Corp v SODRAC 2003 Inc*, 2015 SCC 57.

It is also worth noting that, as with the Proposed Tariff for the years 2024-2026, SOCAN has once again suggested a significant change to the rate calculations by proposing to eliminate the adjustment for the ratio of audiovisual page impressions to all page impressions. For services that offer a mixture of content types, this could result in a significant increase in royalties despite no change in the amount or value of music being used. Google and Meta strongly object to this change, which SOCAN has never adequately explained or justified.

### **Grounds for Objecting to Terms and Conditions in the Proposed Tariff**

Google and Meta object to the reporting, payment, and auditing provisions contained in the Proposed Tariff at sections 4, 5, 6, and 8. Said provisions are onerous, intrusive, impractical, and require the disclosure of potentially sensitive confidential information. Google and Meta should only be required to provide information if that information is available.

The fact that the Proposed Tariff 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.

Google and Meta 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.

Google and Meta also object to SOCAN's proposal that no adjustment may be made to royalties paid more than six years in the past at section 7, other than by an audit conducted by SOCAN itself. This is unbalanced, unreasonable, and does not appropriately account for the fact that tariff proceedings can begin and only be fully resolved years after interim royalties have been paid.

Finally, Google and Meta object to section 1(4) of the Proposed Tariff (relating to the training of any artificial intelligence system) to the extent it purports to limit the use of works in a manner consistent with the principles of fair dealing and other exceptions under the *Copyright Act*.

### **Additional Grounds for Objecting to the Proposed Tariff**

Google and Meta object to the fact that the Proposed Tariff does not adequately reflect the risk and investment by users in new technology, as discussed in *Canadian Broadcasting Corp v SODRAC 2003 Inc*, 2015 SCC 57.

Yours truly,