

NOTICE OF GROUNDS FOR OBJECTION

Filed by Netflix Inc. (“**Netflix**”)

In relation to proposed tariff *SOCAN Tariff 22.D.1.R – Reproduction of Musical Works Embedded in Audiovisual Works for Transmission by Online Audiovisual Services and User-Generated Content 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

Netflix objects because the Proposed Tariff contains proposed fees for royalties that do not reflect the fair and reasonable value of the reproduction of musical works in SOCAN’s repertoire. The proposed fees do not reasonably reflect the amount or the type or the impact of such reproductions by users.

The proposed fees and royalties also do not adequately reflect the varying types of reproduction made in Canada by different services, including that many reproductions by Online Audiovisual Services (“**OAS**”) are covered by various exemptions in the *Copyright Act*. 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 contains a “minimum fee” that is unnecessary or, in the alternative, much too high.

The Proposed Tariff also includes 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 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 does 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.

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

Netflix objects to the reporting and auditing provisions contained in the Statement of Proposed Royalties at sections 6 and 8. These 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.

Netflix objects 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).

Netflix objects to the confidentiality provision at section 9. In particular, it objects 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.