

## **NOTICE OF GROUNDS FOR OBJECTION**

Filed by **Canadian Association of Broadcasters (CAB)**

In relation to Proposed Tariff **SOCAN Tariff 22.D.3 – Allied Audiovisual Services (2027-2029)**

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

This is the Notice of Grounds for Objection of the Canadian Association of Broadcasters (CAB) to the Statement of Proposed Royalties to be Collected by SOCAN for Allied Online Audiovisual Services for 2027-2029, (the “Statement of Proposed Royalties” or “proposed SOCAN Tariff 22.D.3”). CAB respectfully reserves the right to rely on objections raised by other parties to the proceedings, *mutatis mutandis*. CAB also reserves its right to raise additional substantive points of objection throughout the proceedings related to the Statement of Proposed Royalties.

### **Grounds for objecting to any royalty or levy rates in the proposed tariff**

SOCAN has proposed significant increases to the rates in section 3 and 4 of the Proposed Tariff, as follows:

- An increase in the regular music use rate from 1.9% to 3%;
- An increase in the low music rate from 0.8% to 1.5%;
- An increase in the minimum fee for a service with no revenue from \$15 to \$129.95;
- An increase in the per subscription rate from 7.5¢ per subscriber to 19.5¢ per subscriber.

SOCAN states that the increase is intended to reflect changes in the market including increased efficiencies and expanded uses of music, which SOCAN assumes will be justified by evidence produced by the objectors during the proceeding. CAB is not aware of any factor that could justify an increase to the value of music used by licensees of this tariff. The proposed rate increases should be rejected entirely.

### **Grounds for objecting to any terms or conditions in the proposed tariff**

The terms and conditions should be fair and reasonable and not place undue burden on the payors of the tariff. To the fullest extent possible CAB requests harmonization on the terms and conditions between the proposed tariff and any other certified tariffs applicable to the same users for the same use. Ensuring consistency in the reporting obligations and administrative provisions across collectives will maximize efficiency and reduce the possibility for error.

SOCAN has proposed changes to several definitions and has provided no explanation for these proposed changes other than to note that “Several of the definitions in the proposed tariff have been amended for clarity.” Further explanation is required to

explain the proposed changes to the definitions, indicate why clarity is required and how the proposed changes achieve that clarity, and to provide assurances that the proposed changes do not as result in material modifications to the tariff. Absent justification and assurance, CAB maintains an objection to any such modifications to the tariff language.

CAB objects to the proposed amendments to section 4(b) which purport to alter the framework under which a service qualifies as a low music service. SOCAN has provided no explanation for these proposed amendments in its Notice of Ground for Proposed Tariff. The low music use rates are essential to ensure fair application of the tariff to services that engage SOCAN's repertoire below the threshold.

CAB objects to the onerousness of the reporting and payment obligations under section 7, including the reduction in the time for reporting from 30 days after the end of the month to 20 days.

SOCAN has proposed a new section 8 relating to the making available right. SOCAN's request for information to determine whether and to what extent there are songs that were made available but not played, presumably so that it may provide distributions to the rightsholders associated with those songs, is *prima facie* reasonable. The CAB does not contest the modifications only to the extent the music use requirements are subject to the "where available" caveat.

That said, it is possible that CAB's members may not have readily available records that will enable them to differentiate between the content that was made available and the content that was actually streamed. SOCAN's request for services to use commercially reasonable efforts to obtain cue sheets from third parties set out in section 8 combined with the definition of "cue sheet" in section 2 does not appear to incorporate the "where available" caveat. In the event a service requests a cue sheet from a third-party audiovisual producer and that cue sheet is not provided or does not include the components articulated in the definition, the service could be non-compliant with the tariff. The definition of "cue sheet" should be modified to reflect this possibility.

### **Any Grounds not identified above**

SOCAN's position regarding artificial intelligence is *prima facie* reasonable but is potentially overbroad. CAB reserves the right to make arguments as to the reasonable use of AI systems in its operations with appropriate limitations in place provided that the use is not excluded under principles of fair dealing or other exceptions under the Copyright Act.

The CAB also notes that the tariff needs additional interpretive clarifications to reflect end-user engagement with the services that are licenced under this tariff.