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Copyright Board
Canada

Commission du droit
d'auteur du Canada

Filed by / Déposé par: BDU

Date: 2023-01-17

To whom it may concern,

Re: Notice of Grounds for Objection- SOCAN Tariff 22.B (Internet - Other Uses of Music - Commercial Radio, Satellite Radio and Pay Audio, 2024-2026)

This is the Notice of Grounds for Objection of Bell Canada, Rogers Communications Canada Inc., and Québecor Média Inc. (“the BDUs”) to the Statement of Proposed Royalties to be Collected by SOCAN for Internet - Other Uses of Music - Commercial Radio, Satellite Radio and Pay Audio for 2024-2026 (the “Statement of Proposed Royalties” or “proposed SOCAN Tariff 22.B”) filed by SOCAN and published on the Copyright Board website on November 18, 2022 pursuant to the provisions of section 68.2 of the *Copyright Act*.

The BDUs respectfully reserve the right to rely upon objections raised by other parties to the proceedings, *mutatis mutandis*. The BDUs also reserve their right to raise additional substantive points of objection throughout the proceedings related to the Statement of Proposed Royalties.

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, the BDUs object to the following:

Grounds for Objecting to Royalty Rates in the Proposed Tariff

The BDUs object to the rates set out in section 3.

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 works in SOCAN’s

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repertoire. Said proposed fees do not reasonably reflect either the amount or the type of the impact of music use by a licensee.

The BDUs also object to the fact that the Statement of Proposed Royalties seeks to include in the rate base revenues which are in no way connected to the use or value of SOCAN's repertoire.

Further, the BDUs object to the fact that the Statement of Proposed Royalties 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.B licence than from other users who make substantially similar uses of music.

Grounds for Objecting to Terms and Conditions in the Proposed Tariff

The BDUs object to the reporting and auditing provisions contained in the Statement of Proposed Royalties at sections 4, 5 and 9. Said provisions are intrusive, require the disclosure of potentially sensitive confidential information, require the disclosure of information that is not necessarily available to licensees, and place a disproportionate burden on licensees.

Additional Grounds for Objecting to the Proposed Tariff

The BDUs object to the fact that the Statement of Proposed Royalties does not adequately reflect the risk and investment by users in new technology.

The BDUs also object to the overlapping nature of SOCAN's proposed Internet tariffs (SOCAN's proposed Tariffs 22.A-G). SOCAN has not clearly differentiated its proposed Internet tariffs, which leaves prospective users unable to determine which tariffs may apply to them.

Yours truly,

FASKEN MARTINEAU DuMOULIN LLP

A handwritten signature in black ink, appearing to read "Jay Kerr-Wilson". The signature is written in a cursive, flowing style.

Jay Kerr-Wilson