

**Copyright Board*****Netflix Notice of Grounds for Objection*****SOCAN Tariff 22.D.1 – Online Audiovisual Services (2024-2026) (“Proposed Tariff”)****January 16, 2023**

Further to Netflix, Inc.’s (“**Netflix**”) objection filed with the Board on December 19, 2022, Netflix files this Notice of Grounds for Objection to SOCAN’s Proposed Tariff for online audiovisual services (“**OAS**”) in accordance with the Board Practice Notice 2022-007.

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

N/A.

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

Netflix objects because the Proposed Tariff contains significant royalty rate increases compared to the last approved tariff (for the 2007-2013 period). Similarly, Netflix 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 OASs during the 2024-2026 period that would justify such increases.

The Proposed Tariff seeks major royalty increases based on inaccurate predictions of OAS market changes. Specifically, Netflix 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 2024-2026.¹

The Proposed Tariff is 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 content than other services. Any certified tariff should properly account for the variations between services in the degree of SOCAN music used.

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

Netflix objects to the obligation under section 5 that would require Netflix to “use commercially reasonable efforts to secure the cue sheet”. SOCAN is in a better position to secure cue sheets than

¹ SOCAN Notice of Grounds for Proposed Tariff, SOCAN Tariff 22.D.1 – Online Audiovisual Services (2024-2026) November 14, 2022, p. 1.

a service like Netflix. 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.