

*Netflix: Notice of Grounds for Objection*

**CMRRA – Audiovisual Services (2025-2027) (“Proposed Tariff”)**

**December 14, 2023**

**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 to the royalty structure of the Proposed Tariff, which is a combination of a percentage of revenue, fee per file or fee per subscriber per month.

The proposed royalty amounts that would be payable under the Proposed Tariff are excessive relative to the value of the music used, whether considered at the level of percent of revenue, fee per subscriber, fee per play, or as proposed, a combination of these factors.

The Proposed Tariff’s structure and the proposed royalty rates are not sensitive to many circumstances of Netflix’s audiovisual service that must reduce the amount of any royalties that are payable under the tariff. These include:

- 1) Netflix has cleared, and continues to clear, a wide range of the necessary reproduction rights for musical works at the time of acquisition or production of content, and thus does not require all rights for all CMRRA works under the Proposed Tariff;
- 2) Most reproductions in connection with Netflix’s audiovisual service are made outside of Canada;
- 3) Many of the reproductions made inside Canada are covered by various exceptions under the *Copyright Act*; and
- 4) CMRRA’s repertoire represents only a portion of the musical works that Netflix may reproduce in Canada.

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

Netflix objects to the Proposed Tariff that contains overly onerous and over-inclusive reporting terms to the prejudice of Netflix. For example, the Proposed Tariff could require Netflix to provide music end-use information and cue sheet data on files for which the Netflix does not need to rely on the Proposed Tariff for reproduction rights. Moreover, any reporting is subject to CMRRA’s audit rights, and services are required to preserve all records for a certain duration of time, despite the potential for limited reliance on rights under the Proposed Tariff as described above.