

REPLY TO NOTICE OF GROUNDS FOR OBJECTION

Filed with the Copyright Board by SOCAN on 2024-01-26 pursuant to Rule 21 of the *Copyright Board Rules of Practice and Procedure*

SOCAN TARIFF 17 – TRANSMISSION OF PAY, SPECIALTY, AND OTHER TELEVISION SERVICES BY DISTRIBUTION UNDERTAKINGS (2025-2027)

1. This Reply is in response to the Notices of Grounds for Objection filed by the Canadian Association of Broadcasters (“CAB”), Canadian Broadcasting Corporation/Société Radio-Canada (“CBC”), the Independent Broadcasters, and the Fasken Objectors (collectively, the “Objectors”).
2. The Objectors have filed numerous grounds for objection. SOCAN denies these grounds and any factual or evidentiary assertions made in the Notices of Grounds for Objection and puts the Objectors to the strict proof thereof.
3. The Objectors oppose the amendment proposed at s. 8(2)(f) of the proposed tariff. SOCAN notes that this language is consistent with accepted uses of confidential information outside the context of approved tariffs. Further, this language is found in a number of approved tariffs, including:
 - a. *SOCAN Tariff 22.B – Commercial Radio and Satellite Radio (2007-2018)* - 2023 CB 6-T-1
 - b. *SOCAN Tariff 22.C – Other Audio Websites (2007-2018)* - 2023 CB 6-T-2
 - c. *CPCC – Private Copying Tariff (2022-2024)* - 2021 CB 12-T
 - d. *SOCAN - Tariff 22.D.1 (Internet - Online Audiovisual Services), 2007-2013 [Redetermination]*
4. The Objectors argue that “television has been subject to declining revenues,” and that “competitive pressures” and “declining profitability” “justify a decrease in the royalties.” SOCAN denies this and puts the Objectors to the strict proof thereof.
5. CBC claims that any increase in the value of music to specialty television “would be due entirely to investments and risks in new technologies that were incurred by users.” SOCAN denies this and puts CBC to the strict proof thereof.
6. CBC argues that “it uses less protected music than conventional broadcasters.” SOCAN denies this and puts CBC to the strict proof thereof.
7. CBC claims that some of its specialty programming uses music in a manner that constitutes fair dealing. SOCAN denies this and puts CBC to the strict proof thereof.
8. Although Rule 22 of the *Copyright Board Rules of Practice and Procedure* provides that the Board may decide the matter of a proposed tariff only on the information provided under Part 3 of the Rules, SOCAN submits that it would not be appropriate in this case for the Board to decide the matter without hearing additional evidence and submissions from both SOCAN and the Objectors absent a settlement or further developments between SOCAN and the Objectors. For

greater certainty, in the event of a settlement between SOCAN and the Objectors, the Board should not rely on any of the information provided under Part 3 of the Rules.