



Copyright Board

TikTok Notice of Grounds for Objection

SOCAN Tariff 22.D.2 – User-Generated Content Services (2024-2026) (“Proposed Tariff”)

January 16, 2023

Further to TikTok Technology Canada Inc.’s (“**TikTok**”) objection filed with the Board on December 19, 2022, TikTok files this Notice of Grounds for Objection to SOCAN’s Proposed Tariff for user-generated content services (“**UGCS**”) 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.

TikTok objects to the royalties in the Proposed Tariff. Three of the most important reasons for the objection are set out below.

First, TikTok objects to the percentage of revenue model. The percentage of revenue model is ill-suited to the business model of UGC services as such tariff model yields calculated license fees that are excessive given the scope of rights such fees are intended to cover and are wildly out of synch with the rest of the world.

Second, even if the Board were to certify a tariff based on a percentage of revenue model, the Proposed Tariff contains a percentage of revenue rate that is extreme on its face, including compared to the last approved tariff (for the 2007-2013 period). The Proposed Tariff seeks major royalty increases based on inaccurate predictions of UGCS market changes. Specifically, TikTok disagrees that there will be “increased efficiencies and expanded uses of music” that will fundamentally alter the value of musical works so as to justify higher royalties from users for 2024-2026.¹

Third, the Proposed Tariff ignores the extent to which a UGC service transmits non-commercial UGC that is non-infringing pursuant to section 29.21 of the *Copyright Act*. To the extent a service transmits non-infringing UGC, royalty payments under a certified tariff should be significantly reduced.

¹ SOCAN Notice of Grounds for Proposed Tariff, SOCAN Tariff 22.D.2 – User-Generated Content Services (2024-2026) November 14, 2022, p. 1.

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

TikTok objects to the reporting requirements under sections 4 and 5 as unduly onerous for a service, especially given the structural changes required to the tariff as explained above.

Additionally, TikTok specifically objects to the obligations under section 4(2) and section 5 for services to provide SOCAN with certain information regardless of whether that information is available to the service. A service cannot be required to provide information that is not available.

The Board deliberately included an “if available” qualification in the last certified version of the tariff. The “if available” qualification must be included in a certified tariff so that these reporting obligations of a service are limited only to information that is available.