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January 17, 2023

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Registry  
Copyright Board of Canada  
56 Sparks St, Suite 800  
Ottawa, Ontario  
K1A 0C9

To whom it may concern,

**Re: Notice of Grounds for Objection- SOCAN Tariff 22.D.2 (User-Generated Content), 2024-2026**

This is the Notice of Grounds for Objection of the Entertainment Software Association, Entertainment Software Association of Canada, Google Inc., Google LLC., and Meta Platforms Inc., (formerly known as Facebook, Inc.) (the “Service Providers”) to the Statement of Proposed Royalties to be Collected by SOCAN for User-Generated Content for 2024-2026 (the “Statement of Proposed Royalties” 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 Service Providers respectfully reserve the right to rely upon objections raised by other parties to the proceedings, *mutatis mutandis*. The Service Providers 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 Service Providers object to the following:

**Grounds for Objecting to Royalty Rates in the Proposed Tariff**

The Services Providers object to the rates set out in section 3.

This document has not been made nor issued by the Copyright Board. It has not been translated and is only available in the language in which it was filed with the Board.

Le présent document n'émane pas de la Commission du droit d'auteur. Il n'a pas été traduit et il est disponible uniquement dans la langue dans laquelle il a été déposé auprès de la Commission.

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

The Service Providers 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.D.2 licence than from other users who make substantially similar uses of music.

The Service Providers also object to the fact that the Statement of Proposed Royalties proposes to collect royalties for activities for which no royalties are payable as they fall within the scope of section 29.21 of the *Act*.

Further, the Service Providers 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.

#### **Grounds for Objecting to Terms and Conditions in the Proposed Tariff**

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

The Service Providers 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