

File / Dossier : SOCAN Tariff 22.D.1 – Online Audiovisual Services (2007-2013) /
Tarif 22.D.1 de la SOCAN – Services audiovisuels en ligne (2007-2013)

November 4, 2016

[CB-CDA 2016-090]

NOTICE OF THE BOARD

SOCAN and Netflix filed the request below. Other Parties may comment on the request by no later than **Tuesday, November 8, 2016**, and SOCAN and Netflix may reply by no later than **Thursday, November 10, 2016**.

From: L. Watt

Sent: October-31-16 5:31 PM

To: M. Choquette Pingyin, N. Campanella, G. McDougall

Cc: A. Thomas, C. Masse, G. Van Loon, K. Simmons, J. Kerr-Wilson, C. Masse, M. Koch, T. Gilbert, s. Halwani, D. Kent, M. Estabrooks

Subject: RE: SOCAN Tariff 22.D.1 - Online Audiovisual Services (2007-2013) - Notice of the Board [CB-CDA 2016-079]

On behalf of SOCAN and Netflix (and with the consent of Cineplex, none of the other parties having responded yet to an email that we sent out to them last week), I write in response to the Board's notice of July 21, 2016 regarding a process to re-determine the royalties for free trials in accordance with the Federal Court of Appeal's decision in *Netflix v SOCAN*.

The portion of the certified tariff that was affected by the FCA's decision is subsection 3(b). SOCAN and Netflix have engaged in negotiations and have agreed on proposed wording to replace subsection 3(b) in the certified tariff as follows:

(b) For a service that offers subscriptions to end-users: 1.7% for the years 2007-2010 and 1.9% for the years 2011-2013 of the amounts paid by subscribers, subject to a minimum monthly fee of 6.8¢ for the years 2007-2010 and 7.5¢ for the years 2011-2013 per subscriber. In the case of a single, initial free trial of no more than one month's duration in any 12 month period offered to induce a prospective subscriber to enter into a paid subscription, there shall be no royalty fee payable.

In the circumstances, SOCAN and Netflix do not believe a hearing is necessary and we would ask the Board to certify tariff 22.D.1 (2007-2013), as amended above in respect of s.3(b).

D. Lynne Watt