

November 25, 2016

Ms. Mélanie Joly,
Minister of Canadian Heritage,
Department of Canadian Heritage,
15 Eddy Street, Gatineau, QC K1A 0M5, Canada

Dear Minister

I would like to thank you for engaging our sector in the consultations regarding “Canadian Content in a Digital World”. The Canadian Music Publishers Association (CMPA) and its members are pleased to take part in the consultation process.

Canadian music publishers welcome the growth of new services and technologies that connect music fans to the songs they love. These changes present a vital opportunity for both songwriters and music publishers to realize the full economic potential of the music they create and promote. At the same time, rights holders deserve to receive fair value for what their music brings to those new technologies and music services and, to do so, they require a well-functioning infrastructure. The need for strong cultural policies, programs, legislation, and regulation is more important than ever.

CMPA therefore recommends that the Government of Canada:

- 1. Increase the Canada Music Fund to \$30 million;**
- 2. Establish a new annual \$10 million music export fund;**
- 3. Extend the term of copyright for musical works to Life plus 70 years;**
- 4. Empower the Copyright Board to make timelier, fair market-driven decisions;**
- 5. Ensure a timely review of the Copyright Act in 2017; and**
- 6. Ensure existing cultural policies are adapted to the internet – not abandoned.**

Who We Are:

Canadian Music Publishers Association is the oldest music industry association in Canada (founded in 1949). We represent more than 40 music publishers who range in size from multinational companies to large Canadian independents and smaller entrepreneurs with one or two employees. These companies all represent and invest in thousands of Canadian songs and songwriters who are heard daily on the radio, on streaming services, in video games and in film and television productions around the world.

What is a Music Publisher?

Let me first step back and tell you about the Canadian music publishing industry. While some musicians record their own songs, there are many who do not. Instead they either co-write their tracks with songwriters or perform songs written by other songwriters. Additionally, there are also many composers who create the soundtracks of your favourite movies, television shows or video games. They do not have celebrity names, but are part of a very important creative economy in Canada.

A music publisher is the songwriter's business partner in a musical composition. The music publisher invests in the songwriter, supports the songwriter in his or her creative development and uses specialized knowledge and contacts to promote the songwriter and his or her songs. (<http://www.musicpublisher.ca/music-publishing-animated-video/>)

Typically, a publisher enters into a publishing agreement with the songwriter, whereby the songwriter assigns ownership and control of the copyright protected musical works to the publisher in exchange for a percentage of the income derived from the use of the musical works. In other cases, a publishing administration agreement provides the songwriter the ability to retain ownership of copyright while the publisher administers those rights in exchange for a negotiated fee. In either case, the publisher's role is to maximize the revenue generated by each work, both by pursuing opportunities for the works to be recorded and performed and by ensuring that those who benefit from those works account and pay for their use.

Music Publishing in Canada:

CMPA and our partner in Quebec - Association des professionnels de l'édition musicale (APEM) - recently released a report by Circum Network Inc. on the current state of the Canadian music publishing industry. Our members represent companies with over \$199M in music publishing revenues in the most recent year. Performing rights constitute the majority of the revenues for our music publisher members (56%); mechanical rights come second with 22% of music publishing revenues, followed by synchronization licensing fees (16%).

RECOMMENDATIONS:

1. Increase the Canada Music Fund to \$30 Million with Staged Increases for Inflation and Growth

Some of our publisher members access funding through the MEC-Aid to Canadian Music Publishing Firms program and we would like to thank the government for this ongoing support. We understand that the criteria for this program will be reviewed in the next year and are involved in providing input for that process. We support a program that addresses the needs of music publishing companies of various sizes and provides funding that allows these companies to build on their successes and grow so that they can compete globally.

CMPA supports the Canadian Independent Music Association (CIMA) in its recommendation that the Canada Music Fund be increased to \$30 million with staged increases for inflation and growth. Support from the

Government of Canada is integral to promoting the growth of the Canadian music industry and the Canada Music Fund enables a wide cross-section of entrepreneurs to access capital that is necessary to finance the development of their companies and the creators they invest in.

2. Establish a New Annual \$10 million Music Export Fund

In order to compete and grow, Canada's music publishers must look for ways to export Canadian songs and promote their songwriters on an international basis. The recent Circum report, released in June 2016, showed that 73% of the revenues reported by our members in the most recent year were from foreign sources. In order to develop robust export strategies and to form international relationships, there is a need for robust and flexible funding from government programs. Current export programs lack multi-year support.

CMPA supports CIMA's recommendation that the Government establish an annual, dedicated \$10 million fund for Canadian music sector exports. We support a program that recognizes the need of music publishers and their songwriting partners.

Currently, the government has budgeted \$10 million for cultural exports this year, and another \$25 million next fiscal year, for its Showcasing Canada's Cultural Industries to the World program. We recommend that the Canadian music industry be allocated between \$3 million to \$4 million this fiscal year, \$7 million of the following year's \$25 million budget; and in year three and beyond, increase to \$10 million annually in a permanent music export fund.

3. Extend the Term of Copyright for Musical Works to Life plus 70 years

Canada's copyright regime is falling behind internationally. Of our largest 20 trading partners, 14 of them have longer copyright terms for musical works than Canada. In 2014, SOCAN reported that \$46 million in royalties was distributed to Canadian songwriters and publishers from the U.S., France, U.K., Brazil, Germany, Italy, Australia, Netherlands, and Japan. All of those countries, excluding Japan, have copyright terms of life plus 70 years. The "rule of the shortest term" or "national treatment"- that is, foreign works that have shorter protection durations may not receive the benefit of longer terms in other countries – will disproportionately affect Canadian publishers and songwriters. In effect, this means that Canadian works used abroad will earn significantly less money than comparable works originating in countries that protect works for life plus 70 years.

4. Empower the Copyright Board to Make Timelier Decisions;

The Copyright Board fulfills an integral role in establishing the inherent value of music, and it is a vital institution to the survival of the music publishing industry in Canada. Our members would like to see an independent and properly resourced Copyright Board that can nimbly deal with the constant changes in our technological landscape. This currently is not our reality.

Performing rights royalties are collected in Canada for publishers and songwriters by SOCAN and mechanical (reproduction) rights royalties are collected in Canada by CMRRA and SODRAC. In some cases, CMRRA and

SODRAC collect royalties through CMRRA-SODRAC Inc., a joint licensing venture established to offer their combined repertoires to radio stations and online music services.

Music Publishers require a functioning marketplace in order to innovate and make Canada globally competitive. In the music publishing world, our members are dealing with a quickly changing model where royalties for downloads and physical products are declining faster than new revenue sources are emerging. Unfortunately, this market position suffers further when we do not have access to a Copyright Board that has the correct resources to release required decisions in a timely manner.

Today, our members are still waiting for a tariff that includes the first webcasting rates for reproduction. The 2011-2013 CSI Online Tariff was filed in March 2010 and the final arguments were delivered at the Copyright Board in May 2014. We are still waiting for a decision and CSI has been put at a severe disadvantage in negotiating deals with webcasting services without a tariff of first impression to set the rates for that activity in Canada. Additionally, we are still waiting for a valuation of the making available right that was introduced in the 2012 amendment to the Copyright Act.

This delay in rate setting has introduced a great deal of uncertainty for domestic and foreign businesses in recent years, and we believe that uncertainty has influenced their decision to refrain from offering their services in Canada. This is detrimental to music rights holders and users alike.

Without an effective, independent, and properly resourced Copyright Board, the Canadian music industry suffers from loss of value and opportunity. While we are unable to comment on exactly what resources the Board requires, we urge our Government to:

- a) assess the Board's workload in light of the current environment to determine the proper and sufficient resources it needs to get through the current backlog, and
- b) put in place a work plan to ensure new tariff applications can be dealt with in a timely fashion.

Such an assessment, in fact, has little to do with the five-year review of the Copyright Act that is set to take place next year. Our view is that it was incumbent on our Government to anticipate the impact of the 2012 amendments by developing a plan to properly support the implementation of those changes. It is in this spirit that we urge our Government to begin such an assessment immediately, and not wait to do so as part of the 2017 Copyright Act review.

5. Ensure a Timely Review of the Copyright Act in 2017

The 2012 amendments to the Copyright Act in C-11 saw the introduction of exceptions that have had a staggering economic impact on rights holders. Copyright protection of intellectual property is fundamental to any of the creative industries, and none more so than protection of the rights of performers, composers, authors and lyricists. The Copyright Act will be up for review in 2017, and CMPA intends to actively participate in that process. If music rights holders are given the tools to protect and enforce their rights, it will go a long way to sustain a vibrant music industry in Canada.

6. Ensure Existing Cultural Policies Are Adapted to the Internet – Not Abandoned.

A digital world must encourage the creation and discovery of new Canadian content. Today's digital distributions are fuelled to a large extent by products like music.

The need for strong cultural policies, programs, legislation and regulation has never been so important. Canadian Content policies and regulations that Canada enacted a generation ago are no less important today. In fact, they may be more important. This consultation has already seen that new distribution models take place outside of the terrestrial broadcasting model.

We urge the government to not abandon the successes of the past but to develop new policies, programs, legislation and regulation that include digital distributors in the same governance framework that require terrestrial TV and radio stations to help fund and promote the discovery of Canadian content.

Best Regards,

A handwritten signature in dark ink, reading 'Margaret McGuffin', is centered below the text. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Margaret McGuffin
Executive Director