January 24, 2022

Filed Electronically

Mr. Claude Doucet
Secretary General
Canadian Radio-television and Telecommunications Commission
Ottawa, Ontario K1A 0N2

RE: Broadcasting Part 1 Application CRTC 2021-0784-6, Joint intervention from ACCORD

1. This is a joint response to CRTC 2021-0784-6 reflecting the positions of Canada's songwriters, composers, and music publishers as well as the organizations and collective management organizations that support them. Collectively, this includes: l'Association des professionnels de l'édition musicale; the Canadian Council of Music Industry Associations including Alberta Music, Cultural Industries Ontario North, Manitoba Music, Music BC, Music Nova Scotia, Music PEI, Music Yukon, Music/Musique NB, Music NL, MusicOntario, SaskMusic; the Canadian Musical Reproduction Rights Agency; Music Publishers Canada; the Songwriters Association of Canada, the Screen Composers Guild of Canada; the Society of Composers, Authors and Music Publishers of Canada; and la Société professionnelle des auteurs et des compositeurs du Québec, known collectively as "**ACCORD**". Together, ACCORD represents over 170,000 English and French-Canadian songwriters, composers and music publishers as our members.

2. This submission is supported by the Music Managers Forum Canada. MMF Canada is the national trade association representing music managers in Canada. Managers are the direct link between the industry and creators (artists, songwriters, producers). MMF Canada represents over 250 managers, management companies, and self-managed artists ranging from new business owners to those working with some of the biggest bands in Canada.

3. This submission is supported by ADVANCE. ADVANCE is a community leader, interested in developing an infrastructure for the betterment, upliftment, and retention of Black people in the music business. ADVANCE aims to help foster an environment within the Canadian music industry that improves, promotes, and better retains Black employees and partners.

4. Note that the points raised in this intervention are supported by the Canadian Independent Music Association (CIMA), the not-for-profit national trade association representing the English language, Canadian-owned sector of the music industry, as well as L'Association québécoise de l'industrie du disque, du spectacle et de la vidéo (ADISQ), a non-profit trade organization whose mission is to support the independent

music industry in Quebec.

5. Similarly, ACCORD supports the interventions submitted by CIMA and l'ADISQ, respectively.

6. This intervention is in response to the Part 1 application submitted by Stingray Group ("Stingray") to request regulatory relief from tangible benefits in broadcast years 2019-2020 and 2020-2021. As noted in their application, Stingray is requesting to amend the letter decision dated April 22nd, 2015 relating to Stingray's initial public offering (IPO) (the "IPO Decision"), Broadcasting Decision CRTC 2018-4042 ("BD 2018-404") and Broadcasting Decision CRTC 2019-2533 ("BD 2019-253") by altering the amount of tangible benefits payable for broadcast years 2019-20 and 2020-21. The rationale for this request is the financial impacts relating to the COVID-19 pandemic.

7. We wish to highlight that ACCORD also intervened in Broadcasting Decision CRTC 2021-274 ("BD 2021-274"), whereby the Canadian Association of Broadcasters (CAB) requested widespread regulatory relief due to the impacts of COVID-19. As was the case when ACCORD filed our joint submission in October 2020, we remain opposed to widespread measures of regulatory relief for broadcasters that come at the expense of Canada's music industry.

8. As was the case in the October 2020 joint submission referenced above, we acknowledge that this is an unprecedented time, and that the economic impacts of the COVID-19 pandemic are far-reaching and will be felt for years to come.

9. The most immediate impacts of COVID-19 are being felt in the live music community - a sector that was among the first to close, and that will be one of the last to re-open. According to the Canadian Live Music Association, 64% of the live music industry is at-risk of permanent closure, and the industry has reported a 92% revenue loss.[1] Beyond the live music sector, the independent music sector has experienced a $233 million drop in revenues, most acutely felt by emerging artists and their representatives (which may include managers, record labels, music publishers, etc.)[2] According to research from Nordicity, the cumulative impact of COVID-19 on the independent music sector in Canada represents a shortfall of over $2.8 billion from the industry's five-year growth trend.[3] Specifically, the sound recording and distribution sectors are expected to experience a 32% decline in revenues, while music publishing companies are

[1] For The Love of Live, Canadian Live Music Association, https://canadianlivemusic.ca/wpcontent/uploads/2021/02/CLMA_press-release_EN_final.pdf

[2] COVID-19 Recovery Recommendations for the Canadian Independent Music Industry, Canadian Independent Music Association, https://cimamusic.ca/news/recent-news/read,article/17882/new-reportoutlines-Devastating-impact-of-covid-19-on-canadian-independent-music-industry

[3] Ibid

anticipating a 44% decline from 2019 levels.[4] It's important to note that this research was conducted before the second and third waves of the pandemic. It is fair to say that the situation is likely worse than had predicted and hoped for.

10. Equally dire, a survey from Music Canada and CONNECT Music Licensing provides that nearly half of Canadian artists reported that they have lost more than 75% of their income and that 80% of Canadian artists are in need of financial assistance due to the COVID-19 pandemic. [5]

11. We also recognize that the COVID-19 pandemic most certainly had an impact on broadcasters like Stingray, as it did across many sectors of the Canadian economy. However, as was the case with CAB's proposal, Stingray's proposal benefits Stingray, but ultimately inflicts disproportionate harm on the music ecosystem that relies on tangible benefits to fund critical activities that support the development of Canadian content.

STINGRAY'S APPLICATION UNREASONABLY AFFECTS THE MUSIC INDUSTRY

12. Stingray is requesting to waive its tangible benefits obligations for broadcast year 2019-20 and 2020-21 to FACTOR/Musicaction and the Radio Starmaker Fund/Fonds Radiostar for the total amount of $9,025,079 ($4,723,635 for 2019-20 and $4,301,444 for 2020-21).

13. The criteria set out by the CRTC in considering a regulatory relief proposal like Stingray's is set out as follows, as outlined in BD 2021-274:
    a. the viability of the Canadian broadcasting sector, insofar as it has been affected by the COVID-19 pandemic, is not further harmed as a result of the regulatory relief proposed;
    b. parties that currently benefit from the requirements imposed by the CRTC on broadcasters are not unreasonably affected by any potential regulatory relief;
    c. when viewed as a whole, current news and information programming and the service such programming provides to Canadians is maintained; and
    d. any resulting regulatory action granting potential relief is minimally administratively burdensome on those entities seeking relief but is easily monitored and supervised by the CRTC in order to ensure appropriate accountability.

14. ACCORD submits that Stingray's application does not satisfy criterion (b) set out in paragraph 5 above, because this relief would result in unreasonable effects on the music

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[4] Ibid
[5] COVID-19 Artist Impact Survey, Music Canada & CONNECT Music Licensing, https://musiccanada.com/news/covid-19-continues-to-hit-the-music-industrys-most-vulnerable-music-canadasurvey/.

industry ecosystem that depends on regulatory requirements like tangible benefits obligations to fund critical activities and support the development of Canadian content.

15. Stingray's tangible benefits obligations are a result of ownership transactions resulting in a change in effective control, chiefly acquisitions and an IPO. The Commission, as per the tangible benefits policy, requires that applicants need to make tangible benefit contributions to Canadian Content Development ("CCD") representing at least 6% of the value of the transaction, with those benefits divided between FACTOR/Musicaction, Radio Starmaker/Fonds Radiostar, the Community Radio Fund of Canada as well as other eligible CCD initiatives at Stingray's discretion.

16. This funding supports the creation of new content and a wide variety of activities integral to the functioning of the sector, including showcases at music festivals, professional development and training, award shows, conferences as well as local, regional and national music initiatives. For creators and organizations engaging in these activities, COVID-19 may have shifted them towards virtual formats, and the sector has proven to be innovative and forward-thinking in the way that it has embraced the new digital environment. Thus, the importance of the activities that CCD supports have not diminished in importance due to COVID-19.

17. We disagree with Stingray's assessment that their proposal meets the criteria outlined by the CRTC in BD 2021-274. First, we vehemently disagree with the argument that "*FACTOR/MUSICACTION and Starmaker, two large, well-established funds with significant resources*" are the only parties impacted by this proposal, and furthermore, that these two parties are unlikely to be affected by any relief provided to Stingray because the organizations helped disburse federal emergency support funds to the hardest hit sectors of the music industry. The real impact of this proposal will ultimately be felt by those who receive funding from bodies like FACTOR, Musicaction, Radio Starmaker, and Fonds Radiostar.

18. According to FACTOR's 2020-21 annual report, FACTOR administered $21,518,856 in Emergency Support Funding across 585 projects[6]. This funding was part of the Department of Canadian Heritage's **temporary relief** to cultural, heritage, and sport organizations who were facing significant financial losses due to the COVID-19 pandemic. As the annual report notes, the situation for the Canadian music ecosystem remains dire: *"the emergency needs did not subside in fiscal 2020-2021 and this theme will again be picked up in next year's Annual Report."* This emergency funding was made available to one of the hardest hit sectors because it was necessary for the survival of the sector - not because it was intended to replace Stingray's tangible benefit obligations.

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[6] FACTOR Annual Report 2020-2021,
https://factorportalprod.blob.core.windows.net/portal/Documents/Annual_Reports/FACTOR%20Annual%20Report%202020-2021.pdfm

19. In the 2021 federal budget, the Canada Music Fund, administered by FACTOR and Musicaction, received $50 million in emergency support funding to administer to the live music sector and artists in fiscal 2021-2022 across three streams. We wish to highlight that stream 3, valued at $5 million, was intended to **"ensure that the level of funding to artists is maintained despite declining contributions to Canadian Content Development (CCD) from commercial radio broadcasters"**.[7] In our estimation, this is clear evidence that any relief from Stingray's tangible benefit obligations would most definitely be felt by the music sector as it continues to navigate COVID-19 in this environment. Any further removal of CCD funding from the system could have disastrous impacts for the many artists, songwriters, performers, record labels, performance venues, music publishers, screen composers and other members of the music industry who benefit from these investments.

20. The temporary relief administered by organizations like FACTOR, Musicaction, Radio Starmaker and Fonds Radiostar are not simply dollars available to these "well-established funds with significant resources" to distribute at-will. These funds were a bulwark against the many waves of the COVID-19 pandemic, intended to help artists and companies navigate closures, cancellations and ever-shifting conditions. These temporary investments are not a replacement for the long-term commitments that Stingray is obligated to make as a result of its various acquisitions. Moreover, these measures, like the government assistance accessed by Stingray and other broadcasters, are equally time-limited, declining and will likely fall well-short of recouping lost revenues for the many artists, songwriters, performers, record labels, performance venues, music publishers, screen composers and other members of the music industry ecosystem whose livelihood has evaporated during the COVID-19 pandemic.

21. ACCORD acknowledges that this is an unprecedented time, and the economic effects of the COVID-19 global pandemic will be felt for years to come. However, Stingray's request for relief ignores the symbiotic relationship between broadcasters and the music industry ecosystem. Unfortunately, providing the relief as set out in Stingray's proposal disproportionately *harms* our members. It does not meet the threshold outlined by the Commission as part of BD 2021-274.

CONCLUSION

22. In conclusion, the proposal put forward by Stingray ultimately inflicts disproportionate harm on the music ecosystem that relies on tangible benefits to fund critical activities that support the development of Canadian content.

23. As demonstrated earlier in this submission, the music industry is still experiencing significant disruption due to the COVID-19 pandemic, and these effects will be felt for

[7] FACTOR website, https://www.factor.ca/details-of-emergency-support-funding-announced-first-program-stream-now-open-for-applications/

years to come.

24. Ultimately, Stingray's proposal would harm those who receive support from bodies like FACTOR, Musicaction, Radio Starmaker, and Fonds Radiostar through tangible benefit contributions - the artists, songwriters, performers, record labels, performance venues, music publishers, screen composers and others who are among the hardest hit parts of the sector.

25. Consequently, ACCORD submits that Stingray's tangible benefits obligations should not be waived, and should be made in accordance with BD 2021-274, that is, for broadcast year 2019-20, Stingray is required to make up any missed tangible benefits payments with 50% by August 31, 2022 and 50% by August 31, 2023.

26. Any deferral of tangible benefits obligations for broadcast year 2020-21 is not addressed in BD 2021-274 and we do not believe regulatory relief is required.

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