Before the
UNITED STATES COPYRIGHT OFFICE

In the matter of Issues Related to Performing Rights Organizations Docket No. 2025–1

COMMENTS OF EPIDEMIC SOUND

Epidemic Sound AB is a global music and tech company. We are the market-leading soundtrack innovation platform. Empowering creativity is at the heart of what we do. Our model paves the way for video creators (small to large) to use music to take their content to the next level via, whilst simultaneously supporting the musicians we work with, both financially and creatively. Epidemic Sound owns both the master and publishing rights to the music in our catalog and provides direct licenses to our customers. Our company was co-founded in 2009 and operates across the globe with offices in New York, Los Angeles, Paris, Berlin, Seoul, and headquarter in Stockholm.

We would like to start by thanking the U.S. Copyright Office (the "Office") for the opportunity to provide our comments on issues related to performing rights organizations ("PROs") . In this document, we would like to provide our views on matters that we deem are of high importance, relating to PROs and their license agreements with music users.

Topic 3

It is very important that PROs have an obligation to act responsibly and fairly - both towards its members but also toward entities seeking to obtain licenses from PROs to publicly perform musical works.

For reference we would like to highlight the EU directive 2014/26/EU on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market (the "CRM Directive"), which, *inter alia,* includes the following:

(Recital 31) "Fair and non-discriminatory commercial terms in licensing are particularly important to ensure that users can obtain licences for works and other subject-matter in respect of which a collective management organisation represents rights, and to ensure the appropriate remuneration of rightholders. Collective management organisations and users should therefore conduct licensing negotiations in good faith and apply tariffs which should be determined on the basis of objective and non-discriminatory criteria. It is appropriate to require that the licence fee or remuneration determined by collective management organisations be reasonable in relation to, inter alia, the economic value of the use of the

rights in a particular context. Finally, collective management organisations should respond without undue delay to users' requests for licences.

Article 16 (Licensing) of the CRM Directive requires that PROs comply with the following:

"1.Member States shall ensure that collective management organisations and users conduct negotiations for the licensing of rights in good faith. Collective management organisations and users shall provide each other with all necessary information.

2. Licensing terms shall be based on objective and non-discriminatory criteria. When licensing rights, collective management organisations shall not be required to use, as a precedent for other online services, licensing terms agreed with a user where the user is providing a new type of online service which has been available to the public in the Union for less than three years.

Rightholders shall receive appropriate remuneration for the use of their rights. Tariffs for exclusive rights and rights to remuneration shall be reasonable in relation to, inter alia, the economic value of the use of the rights in trade, taking into account the nature and scope of the use of the work and other subject-matter, as well as in relation to the economic value of the service provided by the collective management organisation. Collective management organisations shall inform the user concerned of the criteria used for the setting of those tariffs."

3. Collective management organisations shall reply without undue delay to requests from users, indicating, inter alia, the information needed in order for the collective management organisation to offer a licence. [ ]"

We deem that it is important that <u>all</u> PROs, regardless of nationality, are obliged to comply with similar principles as those reflected above. Tariffs should be fair and reasonable. They shall take into account the scope of the use of the relevant collecting society's repertoire (only) and shall in a fair manner reflect and lower the license fees when other repertoire is used. The setting of tariffs shall be objective, non-discriminatory and transparent for the user.

General

We would also like to underline the importance of the fact that rightholders shall be free to choose how to administer their rights. Collective management of rights shall be a possibility for rightholders, not an obligation. Rightholders shall be entitled to choose if they want to manage their rights individually or entrust or transfer the management of all or part of them to a collective management organisation or other entity.

We remain at your disposal for any questions and we would very much like to keep working with the Office going forward in these matters.

Respectfully submitted,

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