



COPYRIGHT IN THE 21ST CENTURY FOR THE CANADIAN SCREEN-COMPOSER

Remuneration Models for Artists and Creative Industries

September 25, 2018

Presented to:

The Standing Committee on Canadian Heritage

**THE SCREEN COMPOSERS GUILD OF
CANADA**

SCGC

Introduction

The Screen-Composers Guild of Canada exists to represent the rights and interests of our members with producers, broadcasters, government agencies and other relevant persons and entities. This brief advocates for the four recommendations presented in Music Canada's document, *The Value Gap*,¹ and the Canadian Music Policy Coalition (CMPC) *guiding principles — ten recommendations*. Screen-composers have some unique stories to share and that is why we are here to meet with you in person. We would also like to introduce the idea of a new copyright remuneration levy for the 21st century. Our representatives are veteran Canadian screen composers Ari Posner and Paul Novotny.

Our Story

Unlike songwriters or performing artists, you probably don't know our members by name, but chances are good that you've heard our work in your living rooms or on your devices while you've enjoyed some of the many films and TV shows we've scored. Ari Posner co-wrote the music for five seasons of the Canadian made series *Flashpoint*, which originally aired on CTV here in Canada and on CBS in the United States. Currently he is scoring *Anne with an E*, which is a modern adaptation of the world renowned *Anne of Green Gables* stories, by Lucie Maude Montgomery. Paul Novotny composed the music for CBC's *The Hour* with George Stroumboulopoulos, *CBC News Now* and *CBC The National*. His music underscored CBC's coverage of the horrific 9/11 attacks seventeen years ago.

The front line

Anne with an E places Ari at the front-line of the "screen-media/copyright" discussion, because his work is distributed terrestrially on the CBC, but also digitally to international audiences by Netflix. In 2017, *Anne with an E* was released instantly to 190 countries around the world. Out of the Netflix original content that year, it was the fourth most binge-watched (customer-selected and self-served) show on the network. And yet, Ari is experiencing a staggering 95% drop in public performing royalties by comparison to traditional distribution. Paul recently composed music for the Canadian short film *Mishka*, by the young Canadian writer/director Cleo Tellier. *Mishka* has now surpassed 20 million YouTube views since April 22, 2018, but because it is on YouTube, there is no indication available that a proportionate music copyright remuneration can be distributed. As we see here, self-serve is how media is consumed in the 21st century, but for screen-composers, the Canadian copyright system is still operating in the 20th century.

¹ <https://musiccanada.com/wp-content/uploads/2017/10/The-Value-Gap-Its-Origins-Impacts-and-a-Made-in-Canada-Approach.pdf>

Screen media music and copyright remuneration, how does it work?

Like screenwriters and directors, screen-composers are recognized as *key creative* people in the interdisciplinary craft of screen-media. Screen-composers are the first-owners of their copyrights. From nothing, screen-composers invent a music score and then produce a fixed *sound recording*, resulting in music copyrights that live alongside a bundle of motion picture copyrights. Our work is then consumed domestically and exported internationally via the distribution networks afforded by technology. These shows sell around the world, presenting Canadian stories and talent. They generate revenue for the rights-holders and bring internationally derived revenue back to Canada through licensing fees from sales governed by copyrights.

Follow the money

When a TV show airs terrestrially, (including cable & satellite) a portion of the advertising revenue earned by the broadcaster makes its way back to a composer and their music publishing company in the form of a “public performing rights royalty”, and a “physical/digital reproduction rights royalty.” Through the work of SOCAN, our world-leading performing rights organisation, revenue based on tariffs approved by the copyright board is collected and distributed to screen-composers as the show is sold and broadcast around the world. Our remuneration is tied directly to the success of the show. If it sells and plays more, as *key creatives*, we receive our portion of money for that success.

Specifically regarding *Anne with an E*, the Netflix remuneration continues to be negligible as the show prepares for its third season. With regard to YouTube, which is owned by the advertising company Alphabet-Google, minuscule revenue distribution is being reported by our members. Royalties from the large streaming services, like Amazon and Netflix, are 50 to 95% lower when compared to those from terrestrial broadcasters. Statistics like this indicate that our veteran members will soon have to seek employment elsewhere and young screen-composers will have little hope of sustaining a livelihood. Copyright remuneration is a screen-composers lifeblood and provides income between contracts. It’s now apparent to the SCGC that for digital streaming distribution, copyright tariffs must be augmented to include and gather revenue from subscriptions.

A new music-copyright remuneration levy for the 21st century

There are many arguments that discourage ISP levies. Several condemn stimulating TV/film content creation from an ISP levy. However, the SCGC is suggesting a “copyright levy” that is inspired

by the blank-media levy.²⁻³ We envision a new “internet-light ISP service” that could form the exchange of revenue that we refer to as the *SCGC Copyright Model (SCGC-CM)*.⁴ It would allow home internet users fifteen gigabytes of unlevied data per-month, enabling ample room for email, commerce and downloading, but beyond that, a copyright levy could be collected and re-mitted to a collective for distribution to copyright holders. We believe the *SCGC-CM* could be a first step towards stabilizing copyright remuneration because it would not be tied to globally fragmented digital advertising. It would be the first positive response to address a grave economic condition that is not naturally correctable in the current marketplace.

The Value Gap

Minuscule copyright remuneration from plentiful media consumption over streamed digital distribution networks is disproportionate, resulting in a woeful business climate for our membership. This *Value Gap* is real and we have evidence of it from our SCGC members who are here with you today. It is essential to observe that under the copyright system, unlike most any system of fair trade market interchange, screen-composers rely on Government policy to set a price for the ongoing consumption of their product. Current Canadian copyright policy seems to be disadvantaging our membership by not providing a sustainable revenue stream for consumption of a digital media stream, so we are asking the committee to consider and respond with their support for our following recommendations.

SCGC recommendations

- Consider and explore the potential of the *SCGC-CM*, which adapts screen-composer copyright remuneration from advertising to subscription. 21st century copyright remuneration must be technologically agnostic, meaning that regardless of the method of digital distribution, screen-composer copyright remuneration sustains. A stable levy derived from consumption at top-tier ISP’s could stem declining performance and reproduction royalties to offer hope of a future livelihood for young screen-composers.

² C-15 Levy is not a tax, it is a sum collected for a specific purpose, especially as a supplement to an existing subscription, noun, 1.2 ,Oxford dictionary, accessed 09/17/18

³ https://en.wikipedia.org/wiki/Private_copying_levy

⁴ “Internet light-ISP service”: is a term we have designated to describe a levy-free data bucket of 15 gig. Its concept is rooted in principle at this time, but future econometric analyses would inform what the actual “best size” of the bucket should be. The *SCGC-CM* espouses a basic principle — economic analysis needs to positively affect the community of music creators to stem the erosion of livelihood and hope, due to weak copyright remuneration from digital streaming of their work.

- Our philosophical vision for Canadian copyright policy is to align with other countries and economic unions who embrace copyright protection for music creators. The recent approval of Article’s 11 and 13 in the EU identify our colleagues. Canada must adopt a long-term commitment, championing copyright remuneration as an economic tool that helps to sustain the livelihood of its community of music creators.
- You can help us by endorsing all of the recommendations found in Music Canada’s *Value Gap* report and the 2017 CMPC document titled, *Sounding Like a Broken Record*.
- Our final request is to balance criticism of our recommendations fairly. We have noticed that phrases like “*The Music Industry’s Secret Plan for iPhone Taxes*” or, “*Why the Canadian Music Industry’s Secret Copyright Protection Plan is Off Key*”⁵ display a broad bias, and do not tell the nuanced story we are telling you today. Specifically, our story is a counterpoint to LYA’s “*The Evaluation of TV and new media in Canada*”- 2014,⁶ Richard Stursburgs’s “*Cultural Policy for The Digital Age*”- 2015,⁷ and the Internet Society of Canada, “*Canadian Content in a Digital World*”- 2016, all of which would discount the possibility of an ISP copyright levy.

Summary

The digital-subscription self-serve model for content streaming has firmly taken hold in the 21st century. Responsive copyright shepherds the creative economy and its ecosystem. Like mother nature, copyright policy must quickly intervene to restore balance when there is exaggerated disruption that may result in extinction. The *SCGC-CM* intervention is a first-step toward stabilizing livelihood for screen-composers. Screen-composers are your constituents, they have a community and contribute great social value across Canada and internationally — just imagine watching *Anne with an E* without music to understand the value of screen-music for yourself. Screen-composers need Canadian copyright policy to have their back and look ahead to the 21st century. Thank you for considering our recommendations and we hope that our testimony will help your committee to implement policies that enable fair-trade copyright remuneration for screen-composers in the 21st century.

Ari Posner and Paul Novotny | The Screen Composers Guild of Canada | ©2018

⁵ <http://www.michaelgeist.ca/2018/04/broken-record-why-the-music-industrys-secret-plan-for-iphone-taxes-internet-tracking-and-content-blocking-is-off-key/>

⁶ <http://peternowak.ca/wp-content/uploads/2014/09/lemay-report.pdf>

⁷ <https://techlaw.uottawa.ca/sites/techlaw.uottawa.ca/files/culturalpolicyforthedigitalage.pdf>