Create, promote, protect: Growth and global competitiveness for Canadian music publishers

Written Submission for the Pre-Budget Consultations in Advance of the 2020 Budget

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List of recommendations

RECOMMENDATION 1
The government must ensure that its cultural and trade funding programs take into account activities that allow SMEs in the creative sector to grow, for example through B2B activities that foster trade and include criteria that looks at building globally competitive SMEs. This will lead to greater investment in Canadian creators.

RECOMMENDATION 2
When ratifying CUSMA and other trade agreements, the government must ensure that the term extension provisions are included and enacted immediately with no conditions so that the music industry remains globally competitive.

RECOMMENDATION 3
Amend section 31.1 of the Copyright Act, which gives broad immunity to network and hosting services, to narrow the value gap by treating certain Internet intermediaries as more than "dumb pipes."

RECOMMENDATION 4
Make the private copying regime technologically neutral to cover audio recording devices such as digital audio recorders, tablets and smartphones.

RECOMMENDATION 5
In order for the industry to keep growing, the government should continue investing in the Canada Music Fund while ensuring an annual baseline budget of $36 million.

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Who we are

Canada's creators and the companies that invest in their success are second to none. At the Canadian Music Publishers Association, we represent both publishers who are the Canadian offices of multinational companies and others who are entirely independent small and medium-sized enterprises (SMEs) and Canadian-owned. Our 50-plus member publishing companies fulfill many roles: they manage songs, breathe new life into existing songs, invest in the creation of new songs that work in different markets and, they're a critical part of the music industry's success.

But first and foremost, these professional music publishers are the "first business partners" of songwriters, lyricists and composers. Publishers 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, television and other screen based productions around the world. Our companies embrace changes in technology and adapt to these changes quickly. Besides helping songwriters develop and promote their works, publishers ensure that all money owed for use of those songs is paid.

Essentially, by investing in songwriters, music publishers help create, promote and protect the value in Canadian songs.

We're pleased to participate in the Budget 2020 process to highlight the important issues that need to be addressed relevant to SMEs and the creative industries, in particular the Canadian music publishing sector.

1. Strong support for SME exporters crucial to helping them compete on global stage

Because of the size of Canada's music market, there is not enough volume — of writers, catalogues, deals, or copyright royalties — for the music publishing sector to thrive domestically. International trade and exports have allowed the sector to grow exponentially in the face of digital transformation and global competitiveness.

In fact, export has become the major driver of growth for Canada's music publishing industry. Among our members, who generate the substantial majority of the revenues of active Canadian music publishers, more than two-thirds of revenues comes from foreign sources.There is no doubt that our industry plays an important, innovative role in helping to improve Canada's export potential.

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The report Export Ready, Export Critical describes that for publishers to create an international presence, they travel to established and emerging markets to land co-write opportunities as well as synchronizations in films, TV, commercials, trailers, video games, digital content and being added to radio or online playlists. All of this takes time and relationship building.

Export programs that support travel to domestic and international trade events and that take into account the larger business potential of a company including developing new foreign sub-publishing partnerships will generate future economic gains and lead to future investment in Canadian songwriters.

As an association, we are also creating programs to benefit our members in the area of export. We host writing camps and business-to-business (B2B) trade missions that bring together Canadian and international songwriters and publishers to collaborate, which helps to build strategic business connections and encourages export. We've hosted seven Create missions, which include a B2B component—two in Los Angeles, and two in Germany, and one each in Denmark, Toronto and Calgary. We have been able to use diplomatic assets to help the music publishing sector while building relationships and exporting Canadian songs around the world.

Programs to support these activities and grow export and trade opportunities are crucial and should be expanded.

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2. Maximizing trade agreements for the music publishing sector

After being on the sidelines internationally for decades, the term of copyright in Canada will be strengthened to the life of the author plus 70 years, thanks to the renegotiated free trade agreement between Canada, the U.S. and Mexico (CUSMA). This is an important development in our global trade relationships.

As Daniel Lafrance, general manager of music publishing company Éditorial Avenue, wrote in an editorial: “Canada's current term, life plus 50 years, limits the revenue available to music publishers and other domestic rights-holders to finance the discovery and development of

Canadian talent. In the music publishing business, a forward-looking, digitally attuned copyright regime will foster Canadian innovation, investment, and growth in a key economic sector."

With this in mind, it is imperative that CUSMA be ratified to ensure that Canadian songwriters and the businesses that invest them are properly compensated for their work. The term extension provisions should be enacted immediately with no conditions rather than upholding the two and a half year waiting period so as to align with our global trading partners. This should also be the case for any trade deals signed by Canada.

RECOMMENDATION 2
When ratifying CUSMA and other trade agreements, the government must ensure that the term extension provisions are included and enacted immediately with no conditions so that the music industry remains globally competitive.

3. Creating jobs in the music industry by closing the value gap

The business of making and distributing music has radically changed over the past 20 years. Today we see a value gap that can be defined as the difference between the economic value of a creation and the amount of money that's actually paid back to those who created it and invested in its creation.

According to Music Canada's latest report, Closing the Value Gap: How to Fix Safe Harbours & Save the Creative Middle Class, since 1997, the discrepancy between what songwriters, artists and those who invest in them make and what they create is a loss worth $19.3 billion. In 2017 alone, this number was $1.6 billion. Each year, the increase in the value gap is $82 million.

As Eric Miller, fellow at the Canadian Global Affairs Institute and president of Rideau Potomac Strategy Group, wrote recently: "The sustainability of the Canadian music sector is being imperiled by a longstanding and damaging weakness in our copyright law."

And, to quote the House of Commons Canadian Heritage report on remuneration models for artists and creative industries, Shifting Paradigms: "The inability of policy to evolve with technology has prevented artists from receiving fair market value for their work."

Closing this value gap is integral to a thriving music sector. This means making changes to the Copyright Act to address the technical issues in today's digital world that allow the value gap to increase. Not doing so means songwriters and the businesses that invest in them are unable to continue generating songs and grow Canada's creative industries.

Closing the value gap means, for example, that Red Brick Songs president Jennifer Mitchell can continue investing in songwriters and create jobs at her publishing company. She started Red Brick in 2011 through perseverance and an entrepreneurial spirit, succeeding in a very male-dominated and fiercely competitive industry. Now, with seven employees, Red Brick is one of Canada's largest independent music publishing companies, investing in and representing almost 40 songwriters such as Charlotte Cardin and Dan Davidson, emerging songwriters like Zanski and household Canadian favourites Sharon, Lois and Bram.

Closing the value gap means that Red Brick can continue matching people like songwriter Jeen O'Brien with partners in lucrative markets like Japan to co-write singles that become hits or that are later used in TV, movies, video games, or translated into other languages or licensed to other artists.

"Music publishing is about championing a songwriter and a song through the lifetime of their career and that song's copyright. We take a long-term perspective and work a lot behind the scenes to create value," Mitchell said. "We also invest time and leverage our relationships to ensure that we get the best licensing arrangements and deals to evolve a songwriter's career."

This is why closing the value gap is extremely important if the Canadian music industry is to grow and continue contributing to the Canadian economy.

In September 2018, the European Parliament voted in favour of a comprehensive overhaul of the EU's Copyright Directive, which ensures that online services that are more than just conduits for online content either obtain and pay for the necessary rights or face the consequences

Canada can't fall behind — we risk not being able to compete globally or keeping pace with our global trading partners. Following Europe's lead, there is no better time to address the value gap with made-in-Canada solutions.

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4. Permanent increase to Canada Music Fund essential to growth

The government increased its contribution to the Canada Music Fund by $10 million in the 2019 Budget. This brings the annual funding to a much needed $36 million per year. This supports existing programs being enhanced and developing new programs that allow more of the sector to access capital that then allows them to scale up or create jobs and invest in new talent.

It is essential to keep in mind the music publishing industry is the focus of increased global competition and the Canadian sector is very much in need of better access to capital to compete internationally, particularly for the acquisition of catalogues of musical works that are a key to revenue generation.

RECOMMENDATION 5
In order for the industry to keep growing, the government should continue investing in the Canada Music Fund while ensuring an annual baseline budget of $36 million.

Conclusion

Shifting technological and consumer trends have presented significant challenges in recent years. Despite this, Canada's music publishers are a cultural and economic force to be reckoned with on the world stage. In order to continue doing so, however, strong support for SME exporters is needed; copyright term extension must be enacted without conditions; the value gap must be closed; and the Canada Music Fund must have a permanent increase to its annual budget.

The music industry is part of Canada's creative sector, a brilliant bright spot that accounts for nearly $53 billion of Canada's GDP, some 650,000 direct jobs, countless spin-off jobs, and a growing export value worth $16 billion annually. Music publishing is a key part of this ecosystem. The recommendations in this submission provide continued momentum for the country's creative sector and for the future of the Canadian economy.