



May 15, 2024

VIA EMAIL

Mr. David Kaefer, VP and Global Head, Music and Audiobook Businesses
Ms. Eve Konstan, General Counsel
Spotify USA Inc.
4 World Trade Center
150 Greenwich Street, 62nd Floor
New York, NY 10007
dkaefer@spotify.com
eve@spotify.com

Re: Unlicensed Use of Music on Spotify

Dear Mr. Kaefer and Ms. Konstan:

I write on behalf of the National Music Publishers' Association ("NMPA") regarding copyright infringement of our members' musical works on the Spotify platform. As the voice of our members, NMPA protects, promotes, and advances the interests of music creators and enforces the rights of publishers, and their songwriter partners, who own and/or control musical work copyrights.

Music is essential to Spotify's service; it is the reason subscribers utilize the Spotify platform every day. Spotify's primary use of musical works via interactive streams and downloads is subject to the antiquated compulsory license under 17 U.S.C. § 115 and consent decree-governed public performance licenses.

Regardless of the mechanical and public performance licenses Spotify may have, however, the use of lyrics and music in videos and podcasts on its platform requires rights that must be negotiated directly with rightsholders in a free market.

It has come to our attention that Spotify displays lyrics and reproduces and distributes music videos and podcasts using musical works without the consent of or compensation to the respective publishers and/or administrators (our members) who control the copyrights in the musical compositions. As such, these uses of musical works on the Spotify platform are not licensed or will soon become unlicensed.

U.S. copyright law generally grants copyright owners the exclusive right to, among other things, reproduce, distribute, display, perform publicly, and create derivative works from their

copyrighted works under 17 U.S.C. § 106. Violation of these exclusive rights constitutes copyright infringement under 17 U.S.C. § 501.

Spotify thus appears to be engaged in direct infringement by hosting unlicensed musical works in its lyrics, videos, and podcasts, and by distributing unauthorized reproductions, synchronizations, displays, and derivative uses of these musical works to its users. Making matters worse, Spotify profits from such infringement.

Accordingly, on behalf of our members, NMPA demands that unlicensed lyrics, music videos, and podcasts be removed from the platform or Spotify will face copyright liability for continued use of these works.

We also understand that Spotify wishes to offer a “remix” feature allowing Spotify subscribers to “speed up, mash up, and otherwise edit” their favorite songs to create derivative works.¹ Spotify is on notice that release of any such feature without the proper licenses in place from our members may constitute additional direct infringement.

NMPA further demands that Spotify preserve all electronically stored information (“ESI”), as defined by Rule 34 of the Federal Rules of Civil Procedure, along with any paper files, in Spotify’s possession, custody, or control that is relevant to use of our members’ unlicensed works. Spotify must also cease any auto-deletion operations affecting ESI relevant to this matter.

This letter is not intended as a full recitation of the facts or claims that may be made against Spotify by NMPA, its members, and/or other copyright owners, and is made without prejudice to all rights or remedies against Spotify and all others acting in concert with Spotify, including without limitation, monetary damages and attorneys’ fees as provided under 17 U.S.C. §§ 502-505.

Sincerely,

A handwritten signature in black ink that reads "Danielle M. Aguirre". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

Danielle Aguirre, EVP & General Counsel, NMPA

CC: David Israelite, President & CEO, NMPA
NMPA Board of Directors
NMPA Legal Committee

¹ Anne Steele, *Spotify Plans New Remixing Tools for the TikTok Generation*, WALL STREET JOURNAL, April 11, 2024.