

## **Questions for the Record**

### **U.S. Senate Committee on the Judiciary Subcommittee on Competition Policy, Antitrust, and Consumer Rights**

The following questions were addressed to Horacio Gutierrez. Mr. Gutierrez is no longer at Spotify, so Dustee Jenkins, Global Head of Public Affairs, is responding on behalf of Spotify.

#### **Questions from Senator John Kennedy**

1. Recent studies have argued that ad delivery on the Facebook platform can be skewed by gender or race due to hidden algorithmic optimization by the platforms, even when not requested by the advertisers. Are your algorithms using age, gender, race or other prohibited characteristics to deliver employment, housing, or credit ads based on ad relevance, even when an advertiser does not desire those characteristics to be used?

We work closely with our U.S. advertising partners and do not permit employment, housing, or loan/credit advertisers to use gender, race or zip code for the purposes of targeting advertising campaigns within the Spotify advertising platform. As an overall matter, Spotify only permits age targeting for advertising campaigns for ages 18+, to avoid serving those ads to younger audiences. For loan/credit advertisers, we do permit age targeting for advertising campaigns, however this is limited to only two age groups (+18) and (+25).

#### **Questions from Senator Thom Tillis**

1. While today's hearing seeks to investigate the App market and anticompetitive behavior, I understand Spotify uses antitrust protections that were not meant for digital streaming platforms to devalue songs it must license. Spotify, along with other digital services, have fought to keep antiquated consent decrees to pay songwriters below market rates. They also led efforts to appeal a decision by the Copyright Royalty Board that would have increased songwriter pay. Mr. Gutierrez, Spotify is the world's largest streaming service valued at \$72 billion and has significant market power with respect to songwriters and their publishers. How can it be advocating for fairness and a level playing field in the App market, while fighting against fairness and equitable compensation to songwriters in the music market?

Spotify pays out more royalties than any other streaming service and our approach to paying for publishing rights is generally in line with other DSPs. We are committed to working with publishers and songwriters to find a fair balance between valuing their work and operating a sustainable streaming platform, as well as with others in the music ecosystem.

In 2021, Spotify paid out over \$7 billion in music royalties. Even adjusting for inflation, this amount is the largest annual sum paid by one retailer to the music industry in history, including at the height of the CD or digital download era. In 2021, both the recorded music and the music publishing sectors were able to report record revenue, driven by streaming. We believe that the continued growth of music streaming will be to the benefit of all stakeholders, including songwriters.

Regarding the recent CRB rate-setting known as “Phonorecords III”, covering the years 2018-2022, songwriters received an unprecedented increase in their royalty rate, which moved from 10.5% to 15.1%. On August 31, 2022, the Digital Media Association (DiMA), the National Music Publishers’ Association (NMPA), and the Nashville Songwriters Association International (NSAI) jointly announced a settlement of the rate-setting known as “Phonorecords IV,” covering the years 2023-2027. That agreement establishes an escalating higher so-called headline rate of up to 15.35%, as well as adjusting other components of the rate. It ensures that services like Spotify can continue to innovate and attract new subscribers into the music ecosystem and that all parties will benefit from the continued growth of the industry.