Before the
COPYRIGHT ROYALTY JUDGES
LIBRARY OF CONGRESS
Washington, D.C.

In The Matter Of:	:	
Notice and Recordkeeping for Use of Sound Recordings Under Statutory License	:	Docket No. 14-CRB-0005 (RM)

JOINT COMMENTS OF THE NATIONAL ASSOCIATION OF BROADCASTERS AND THE RADIO MUSIC LICENSE COMMITTEE REGARDING THE COPYRIGHT ROYALTY JUDGES' NOTICE AND RECORDKEEPING RULEMAKING

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INTRODUCTION

The National Association of Broadcasters ("NAB") and the Radio Music License Committee ("RMLC") hereby provide their comments on the Copyright Royalty Judges' ("Judges'") proposed modifications to the regulations for providing copyright owners with reasonable notice of the use of their sound recordings under the statutory licenses set forth in 17 U.S.C. §§ 112 and 114 (the "Statutory Licenses") and for how records of such use shall be kept and made available to copyright owners. *See Notice and Recordkeeping for Use of Sound Recordings Under Statutory License: Notice of Proposed Rulemaking*, 79 Fed. Reg. 25038 (May. 2, 2014) (the "NPRM").

The NAB is a non-profit incorporated association that is the primary legislative advocate of America's radio and television broadcast stations and networks, ensuring that policymakers are informed on the issues that impact the broadcast industry. In addition, NAB is representing the radio broadcast industry in the on-going Webcasting IV proceeding before the Judges to set rates and terms under the Statutory Licenses for 2016-2020. It also has represented the interests of the industry in negotiations under the Statutory Licenses and in previous notice and recordkeeping rulemaking proceedings related to those licenses.

The RMLC represents the collective interests of the majority of commercial radio stations in the United States (approximately 10,000 stations) in connection with music licensing matters, including the negotiation and litigation over licensee fees for the public performance of musical works by commercial radio stations throughout the country.

As the Judges repeatedly have recognized, the Copyright Act requires notice and recordkeeping requirements applicable to the Statutory Licenses to be "reasonable" and to balance the need for information with the burdens imposed on services to gather, maintain, and

report that information. *See infra* Part II.A. SoundExchange's proposed changes to the existing notice and recordkeeping regulations fail this fundamental test.

SoundExchange seeks to impose substantial new burdens and draconian penalties on radio broadcasters that stream their programming over the Internet ("Broadcasters") without any showing that such burdens or penalties are necessary or reasonable. In fact, SoundExchange's own Petition to commence this rulemaking demonstrates that its proposed changes are unnecessary. SoundExchange admits that during 2010-2012 the total amount it was unable to distribute "due to missing or unusable ROUs" was only "about 1.2% of total royalties for that period." SoundExchange Petition at 27-28.[1] The remainder was distributed based on proxy reports. *Id.* Ninety-nine percent distribution based on existing Reports of Use ("ROUs") does not demonstrate the need for change.

There is a unifying theme to SoundExchange's requests. SoundExchange's clear aim is to make its own job easier by shifting any of its (as yet undemonstrated) burdens to others, where the burden is clear. That is not a "reasonable" standard of "reasonable" for the Judges to apply.

As Broadcasters demonstrate in these comments, compliance with the current regulations already imposes enormous burdens and challenges. Many of the requirements are inconsistent with longstanding business realities. New burdens and penalties are not the path to compliance. Instead, the Judges should reform the existing rules so that compliance is commercially reasonable and possible. Similarly, the right answer is not to add new requirements (such as "International Standard Recording Code" ("ISRC")) that will only increase the burden and make compliance even less reasonable.

[1] "SoundExchange Petition" denotes the Petition of SoundExchange, Inc. for a Rulemaking To Consider Modifications to Notice and Recordkeeping Requirements for Use of Sound Recordings Under Statutory License, which was filed with the Copyright Royalty Judges on October 21, 2013.

For the reasons set forth in these comments, Broadcasters oppose SoundExchange's proposals that would increase the burdens on services reporting under the Statutory Licenses or impose additional penalties. Rather, Broadcasters submit that the current regulations should be ameliorated to make reporting more reasonable and consistent with radio and recording industry practices. Specifically, Broadcasters submit that the Judges should:

- Reject SoundExchange's request for mandatory reporting of ISRCs. ISRCs are not uniformly used even by the recording industry, not included in many digital formats, not available from any accessible database, and often not provided to Broadcasters when they receive recordings from record labels or music services. *See infra* Part III.C.

- Eliminate the requirement that Broadcasters be required to report album and label information. Record companies and the music services they emply frequently fail to provide that information to Broadcasters. Artist and title information is widely used in the industry as sufficient identification of recordings. *See infra* Part III.B.

- Reject SoundExchange's request for harsh penalties and late fees for report submission errors. SoundExchange has made no showing that such penalties are reasonable or necessary. *See infra* Part IV.A.

- Reject SoundExchange's request to reduce the already-short reporting period from 45 days to 30 days. This request will only serve to increase the burden on Broadcasters and the number of errors on reports. *See infra* Part IV.C. The Judges should adopt a regulation requiring SoundExchange to confirm receipts of ROUs promptly following receipt. *See infra* Part VII.C.

- Reject SoundExchange's attempt to limit to 90 days the period during which Broadcasters can reclaim overpayments. SoundExchange's attempt to lock Broadcasters into overpayments is inconsistent with its own three-year right to audit and seek to recover for underpayments and does not allow sufficient time to catch errors that may not immediately be obvious. *See infra* Part IV.B.

- Adopt reasonable provisions that excuse Broadcasters from providing information that they do not receive from third-party (syndicated) program producers if they have made a commercially reasonable effort to obtain that information. Broadcasters cannot report information that they do not have and cannot obtain. *See infra* Part III.E.

- Reject SoundExchange's request for additional data elements from classical-format radio stations. SoundExchange has made no showing that additional information beyond title and artist is needed, and the request would impose

enormous burdens on a radio format that is already struggling. *See infra* Part III.D.

- Reject SoundExchange's request for reports of performances of recordings that are not licensed under the Statutory Licenses (such as pre-1972 recordings and directly licensed recordings). Such recordings are beyond SoundExchange's purview. *See infra* Part III.F.

- Grant SoundExchange's request for standing authority to use proxy data to distribute royalties where warranted. This proposal is a more reasonable alternative than the expansion of reporting obligations or the imposition of harsh penalties. *See infra* Part IV.D.

- Reject again SoundExchange's repeated request for access to server logs, which do not constitute "reports of use." *See infra* Part V.

- Exempt Broadcasters paying no more than an annual minimum fee from any reporting requirements. In light of the relatively small royalties involved (currently $500), it is inefficient to impose a significant reporting burden on those least able to absorb it. *See infra* Part III.G.

- Allow Broadcasters that cannot reasonably make census reports to report using a sample of two weeks per calendar quarter. Sample reporting would reduce the data that must be processed by the Broadcaster and SoundExchange, and is likely to provide an accurate royalty distribution given the characteristics of Broadcasters' programming. *See infra* Part III.H.

- Reject SoundExchange's proposed requirement of header files. SoundExchange has long supported the continuation of ROUs without header files, such ROUs have worked successfully for years, and Broadcasters have developed practices in reliance on SoundExchange's continued support. *See infra* Part VI.B.1.

- Clarify that incidental performances, which are not "performances" under the regulations, need not be reported. *See infra* Part III.I.

Subject to certain caveats, discussed in Part VI.A, Broadcasters generally agree with or accept SoundExchange's proposals to (i) authorize parties to vary the reporting requirements by agreement; (ii) allow electronic signatures; (iii) provide for consistent naming and account numbers, provided that this is done at the licensee level and not at the station level and that failure to comply with this administrative convenience does not expose a Broadcaster to adverse consequences; (iv) provide for consistency between the ROUs and Statements of Account

("SOAs"), with the same proviso against adverse consequences; (v) provide for separate ROUs for separate services, but only if the services are subject to different fee structures and SoundExchange is not reasonably able to allocate and distribute royalties from a single report; and (vi) limit SoundExchange's obligation to provide its address. Broadcasters will not oppose the elimination of the Quattro Pro template if SoundExchange demonstrates that it is not being used.

Broadcasters additionally propose elimination of the obligation to sign ROUs under penalty of perjury. *See infra* Part VI.A.2. Broadcasters' opposition to SoundExchange's remaining format, delivery, and technical proposals are discussed in Part VI.B.

As services making substantial payments to SoundExchange, Broadcasters also have an interest in ensuring that SoundExchange operates in a transparent manner, as the government-sanctioned collection monopoly. Thus, Broadcasters oppose SoundExchange's efforts to relax its obligations to file annual reports. Rather, Broadcasters believe that the Judges should, as part of their designation of SoundExchange as an exclusive collection agent, impose specific requirements on SoundExchange with respect to the content of its reports. *See infra* Part VII.A. SoundExchange, similarly, should be obligated to be more transparent in its structure, operations, and its distribution activities. See infra Part VII.B. SoundExchange should also be required to continue to make reasonable efforts to locate copyright owners and artists. *See infra* Part VII.D.[2]

[2] In order to take into account the views of other commenting parties in this rulemaking, Broadcasters intend to submit revised, proposed regulations along with their reply comments.

I. RADIO BROADCASTERS AND THEIR USE AND HANDLING OF SOUND RECORDINGS AND INFORMATION RELATING TO THOSE SOUND RECORDINGS.

A. The Broadcasters Providing These Comments

Today, 15,405 commercial and non-commercial radio stations have been licensed by the Federal Communications Commission ("FCC") and operate in hundreds of formats across the United States. *See* Broadcast Station Totals As of March 31, 2014, *available at* http://www.fcc.gov/encyclopedia/broadcast-radio-am-and-fm-application-status-lists. Broadcasting is a highly regulated industry, characterized by its mandate to serve the "public interest, convenience and necessity." Communications Act of 1934, ch. 652, 48 Stat. 1064 (1934). The FCC regulates broadcast radio licensees and sets forth numerous programming and operations rules with which stations must comply. Local radio stations embrace their mandate to serve their communities. Stations deliver information during crises, natural disasters, and other emergencies, participate in the Emergency Alert System ("EAS"), air local and national news and other audience-responsive programming, coordinate with local law enforcement to assist with the recovery of abducted children, support and organize community events, and provide a voice for charitable, civic, and other organizations. The value of the public services provided by local broadcasters (radio and television) exceeds $10 billion annually. NAB, National Report on Broadcasters' Community Service, at 3 (http://www.nab.org/documents/newsRoom/pdfs/2008_National_Report.pdf.).

These radio stations and the licensees that own them come in a variety of sizes, formats, and other characteristics, and this diversity is seen in the eleven Broadcaster declarations that illustrate, with personal detail, the points made in these Comments. These statements are attached hereto as Exhibits A through J and M, as follows:

On the larger side, **Cumulus Media Inc.'s** approximately 525 stations in 110 cities make it the second largest operator of radio stations and the largest company in the United States whose business is exclusively the operation of radio stations. Cumulus broadcasts in a wide range of formats, including Classic Rock, Country, Urban, News, Hot Adult Contemporary, Contemporary Hit Radio, and Sports, to name only a few. *See* http://www.cumulus.com/local-radio-2/; Decl. of Michael Gay ¶ 2 ("Gay Decl.") (Ex. M).

Entercom Communications Corp. is a national broadcasting company that owns and operates over 100 radio stations in 23 markets in a variety of formats, including Talk, Sports, Country, Adult Contemporary, and Classic Rock. *See* http://www.entercom.com/about-us; Decl. of Eugene Levin ¶ 2 ("Levin Decl.") (Ex. A).

Salem Communications owns and operates 95 radio stations across 21 states and the District of Columbia, serving large and small markets in a variety of formats that include significant amounts of both talk and music programming and focus on Christian and family-themed content. *See* http://salem.cc/about-us/; Decl. of Jim Tinker ¶ 2, 3 ("Tinker Decl.") (Ex. B).

Mid-sized broadcaster groups are represented in these Comments as well. For example, **Cox Media Group, LLC** is a broadcasting company with national breadth, reaching over 14 million Americans each week through its 57 radio stations in 11 markets, including Houston, Long Island, Miami, San Antonio, and Atlanta. *See* http://www.coxmediagroup.com/about/. Some of Cox's formats include Adult Contemporary, Mix, Country, Sports, News/Talk, Classic Rock, and Adult R&B. Decl. of Sandhi Kozsuch ¶ 2 ("Kozsuch Decl.") (Ex. C).

Similarly, **Beasley Broadcast Group** has 44 radio stations (28 FM and 16 AM) in 11 radio markets and has served listeners in large and small communities across America since

1961. *See* http://www.bbgi.com/overview.php. It broadcasts in a diverse range of formats, featuring on-air personalities and programming that appeals to a wide range of audiences and demographic groups. Decl. of Michael Cooney ¶ 2 ("Cooney Decl.") (Ex. D).

West Virginia Radio Corporation owns and operates 26 radio stations across West Virginia and part of Maryland, providing the region with a variety of formats, including Adult Contemporary, Sports, Country, News, and Top 40. *See* http://www.greerindustries.com/radio.html; Decl. of Chris Moran ¶ 2 ("Moran Decl.") (Ex. E).

Emmis Communications operates 24 different stations in several markets, including Los Angeles, New York City, St. Louis, Austin, and Emmis' hometown of Indianapolis. Emmis stations have formats including Classic Hits, Contemporary, Country, News/Talk, Sports and Latino. *See* http://www.emmis.com/who-we-are/history.aspx; Decl. of Chase Rupe ¶ 3 ("Rupe Decl.") (Ex. F).

Aside from these groups, there are many radio stations in the United States today that operate as single stations, or in small clusters of stations, and these Comments attach statements from two such examples: **WDAC (94.5 FM),** which streams two channels, signed on the air in 1959 from Lancaster, Pennsylvania and plays Christian music, news, issues programs, and religious teaching programs. WDAC has only 23 full and part-time employees. *See* http://www.wdac.com/about/history/; Decl. of Douglas Myer ¶ 2 ("Myer Decl.") (Ex. G); and **Cape Cod Broadcasting,** which has four streamed music channels (country, classical, current hits and soft rock and classic hits). Cape Cod has 34 full and part-time employees. Decl. of Gregory D. Bone ¶ 2 ("Bone Decl.") (Ex. H). In addition, Cape Cod's classical station, WFCC 107.5 FM, is the flagship station for the World Classical Network, which originates and programs near turnkey, operations friendly, full-time syndicated programming, delivered via

broadband from WFCC's Cape Cod Broadcasting studios to three affiliate stations. *See id;* http://capecodbroadcasting.com/about-us/wfcc-107-5-fm/; http://www.worldclassicalnetwork.com/.

Of the 15,405 radio stations across the U.S., 4,057 are FM non-profit educational stations, and 314 are non-commercial AM stations. *See* Broadcast Station Totals As of March 31, 2014, http://www.fcc.gov/encyclopedia/broadcast-radio-am-and-fm-application-status-lists (Ex. N); AM Query Results (as of June 26, 2014) http://www.fcc.gov/encyclopedia/am-query-broadcast-station-search (Ex. O). Such noncommercial broadcasters are similarly diverse in size and other characteristics. For example, **KCFY (88.1 FM)** is a single, community-supported, non-commercial radio station serving Yuma County, Arizona, which broadcasts both talk and music programming. It has a total of five (5) employees, only two of which are full-time. The General Manager wears many hats, also functioning as the program director, music director and engineer. *See* http://www.kcfyfm.com/aboutus.html; Decl. of Greg Myers ¶ 2 ("Myers Decl.") (Ex. I). **Educational Media Foundation ("EMF"),** a 501(c)(3) not-for-profit ministry, owns and operates two radio networks, K-LOVE and Air1 Radio, that are broadcast throughout the United States. K-Love, offering an Adult Contemporary Christian format, reaches about 15 million listeners each week in cities such as New York City, Chicago, Nashville, San Antonio, and Denver, and Air1 Radio broadcasts in the Contemporary Christian Music format on 250 radio stations in 43 states. *See* http://www.klove.com/about/; http://www.air1.com/about/; Decl. of Brian Gantman ¶ 2 ("Gantman Decl.") (Ex. J).

B. Streaming and Its Relationship to Broadcasters' Business.

Despite the wide range of formats and business models among radio broadcasters, they one thing in common: simulcast streaming of over-the-air broadcast programming is an activity that is ancillary to their primary broadcasting business. Streaming serves the stations' various

local communities and is offered as a convenience to their audience. Moran Decl. ¶ 3 ("To date, West Virginia Radio has been simulcasting its radio broadcasts for the benefit of our listeners and we view it as a cost of doing business"); Cooney Decl. ¶ 3 ("Streaming is ancillary to our core radio broadcasting business.").

For the broadcasters that stream their stations, the Internet audience size remains much smaller than the broadcast audience.[3] *See, e.g.*, Myers Decl. ¶ 4; Bone Decl. ¶ 3; Levin ¶ 3. Even without accounting for any reporting burdens, streaming remains – and will continue to remain – a money-losing proposition for many broadcasters given the steep royalties and other streaming expenses. Myer Decl. ¶ 3 ("Streaming has never been a profit center for WDAC and I do not expect it to be anytime in the near future. Rather, we do it as a service to our listeners."); Rupe Decl. ¶ 4 ("We simulcast our radio broadcasts to better serve our listeners, but it is not a profitable activity for us").

C. Broadcasters Have Diverse Systems for Handling Sound Recording Information that Are Ill-Equipped To Handle the Current Reporting Requirements.

Broadcasters use a wide variety of software systems and databases for their on-air broadcasts and streaming, including digital automation systems for music playback and scheduling software to program the order of the music. *See infra* Part I.C. Digital automation systems play back music and other broadcast content from the music scheduling software, provide cues to on-air personalities, and push necessary reporting information to streaming providers to synchronize it with listenership data. *See infra* Part II.B.1.b. These systems have been designed for broadcasting, not streaming, and, thus, store the key operational information relevant to broadcasting: the title, the artist, and the timing information for each sound recording

[3] Nearly 242 million people listen to radio each week. "State of The Media: Audio Today 2014, How America Listens," Nielsen, February 2014.

played. *See id*. They typically are not designed to store a wide range of detailed information about sound recordings. Most do not provide data fields for album title, label or ISRC. *See id*.

Digital automation systems do not control the schedule of songs to be played – that function is fulfilled by music scheduling software, which is designed to track information that affects scheduling decisions, such as a recording's "energy" and "mood." *See id*. Music scheduling software similarly does not track album title, label, or ISRC. *See id.*

D. Broadcasters Obtain Many of Their Sound Recordings from Record Companies and Music Services that Often Do Not Provide the Relevant Information.

Broadcasters obtain the new music recordings that they broadcast from a number of sources, including record labels and online music services. *See infra* Part I.D. These sources often provide only limited information about the recording.

Broadcasters historically have received, and continue to receive, large numbers of new "promotional" recordings directly from record companies and artists, who eagerly seek the free publicity that Broadcasters give them by playing their music. *See id.* Promotional CDs often are distributed in plain packaging, with song title and artist information, but without the album name, label information, text, artwork, or ISRC that would eventually appear on the commercial version. *See id.* Promotional singles often are sent to radio stations in anticipation of a new album before the album is even named, so album information often is not available or provided when first delivered to radio stations. *See id.* Even for recordings provided by a label representative, label information often is not provided, as the representative acts on behalf of multiple labels and does not provide information regarding the particular label or sub-label associated with the recording. *See infra* Part III.B.1.

Broadcasters also obtain music from online music services (such as TM Studios, PlayMPE, TM Century, and New Music Server). The amount of information that these services

provide varies greatly and frequently does not include album and label information. *See infra* Part I.D.

Nor do any of these music sources routinely – or reliably – provide ISRC information for the recordings that they provide to Broadcasters. ISRCs are not obtained by all artists and labels for new music, are often not available for music more than a few years old, and remain unsupported by many electronic formats, including WAV and AIFF file formats, which are commonly used to deliver new music to radio stations. *See id*. Further, file conversion programs rarely copy the ISRC. *See id*. ISRCs do not even exist for many recordings, as the codes are optional – it is up to the copyright owner to decide whether to obtain them and pay the associated fee. *See infra* Part I.C.1.

E. Broadcasters Frequently Receive Limited Information from Third-Party Program Providers (Syndicators).

Many radio stations broadcast programming provided by third parties, such as network and syndicated programming. *See infra* Part III.E. Those third parties frequently do not provide information identifying the sound recordings included in that programming or when those recordings are played, which prevents Broadcasters from identifying and reporting those sound recording performances. Kozsuch Decl. ¶ 6; Tinker Decl. ¶ 17; Myer Decl. ¶ 13; *infra* Part III.E.

II. PRINCIPLES FOR ESTABLISHING REASONABLE REPORTING REQUIREMENTS

Broadcasters understand that copyright owners need to receive certain information in order reasonably to identify sound recordings transmitted under the section 114 statutory license. On the other hand, Congress, the Copyright Office, and the Judges have made clear that the reporting requirements must be "reasonable" and that reasonable requirements must embody a cost-benefit balance to ensure that the added reporting costs and burdens placed on licensees do not outweigh the benefits of increased accuracy in identifying sound recording usage.

A. Congress Has Mandated "Reasonable" Reporting Requirements That Do Not Place an Undue Burden on Broadcasters and Other Webcasters.

1. The Statute Mandates a Balancing of Interests.

The Judges have the authority to "establish requirements by which copyright owners may receive reasonable notice of the use of their sound recordings under this section." 17 U.S.C. § 114(f)(4)(A) (emphasis added); *see also id.* § 112(e)(4). By the express terms of these provisions, the records need only give "reasonable notice" – perfection is not required. See 17 U.S.C. §§ 112(e)(4), 114(f)(4)(A). To accomplish the statutory purpose of fostering the development of new digital transmission services in a manner consistent with the express statutory requirement of "reasonable" notice, a notice and recordkeeping rule must strike the appropriate balance between (a) providing sufficient notice of use for SoundExchange to collect, allocate, and distribute royalties and (b) not being unduly burdensome on licensees.

2. The Judges and the Copyright Office Have Recognized the Importance of Balancing Interests.

The Judges' interpretation of the statutory term "reasonable" itself must be reasonable and consistent with the goals of the underlying statute. *Troy Corp. v. Browner*, 120 F.3d 277, 285 (D.C. Cir. 1997) (observing that an administrative rule must be "reasonable and consistent with the statutory purpose); *accord City of Cleveland v. U.S. Nuclear Regulatory Comm'n*, 68 F.3d 136, 1367 (D.C. Cir. 1995) (stating that an agency's interpretation must be "reasonable and consistent with the statutory scheme"). A court will not uphold a rule "that diverges from any realistic meaning of the statute." *Massachusetts v. DOT*, 93 F.3d 890, 893 (D.C. Cir. 1996).

To that end, the Judges and the Copyright Office both have recognized the importance of balancing all interests in setting reasonable reporting requirements under the Statutory Licenses. In the recently concluded *Web III* proceeding setting webcaster sound recording performance

rates for 2011-2015, the Judges rejected a proposal by SoundExchange to impose a particular obligation on services because:

> SoundExchange failed to note, let alone balance, the burden on licensees against the likely benefits from the proposed change. The Judges are loathe to adopt a term without such evidence.

Determination of Royalty Rates for Digital Performance Right in Sound Recordings and Ephemeral Recordings: Final Rule and Order, 79 Fed. Reg. 23102, 23125 (Apr. 25, 2014) ("*Web III Remand*").

Similarly, in a notice and recordkeeping rulemaking, the Judges recognized the importance of considering the burdens imposed on all parties in determining reasonable requirements. The Judges observed that:

> The Board's goal here is to obtain a fair and practical allocation of the burdens of data delivery for those who are unable to negotiate their own data delivery solutions with SoundExchange. The resulting system should not impose an unnecessary burden on owners: at this time, <u>the system cannot allow copyright owners to throw up burdens that would defeat or unnecessarily discourage use of the statutory licenses</u>.

Notice and Recordkeeping for Use of Sound Recordings Under Statutory License: Supplemental Request for Comments, 70 Fed. Reg. 43364, 43365 (July 27, 2005) (emphasis added).

The Copyright Office also has acknowledged that "the burdens associated with reporting information cannot be so high as to be unreasonable or to create a situation where many services cannot comply." *Notice and Recordkeeping for Use of Sound Recordings Under Statutory License: Interim Regulations*, 69 Fed. Reg. 11515, 11521 (Mar. 11, 2004). Against this backdrop, the Office rejected a proposal to report nonfeatured vocalists and musicians because it would be a "prohibitively costly undertaking for services that would raise the likelihood of noncompliance and error rates in reporting." *Id.* at 11522. Further, in the recordkeeping rulemaking for the preexisting subscription services, the Copyright Office directed the

commenting parties to focus on "both the adequacy of the notice to the copyright owners of the sound recordings and the administrative burdens placed on the digital transmission services in providing notice and maintaining records of use." *Notice and Recordkeeping for Subscription Digital Transmissions: Notice of Proposed Rulemaking*, 61 Fed. Reg. 22004, 22004 (May 13, 1996).

3. Congress' Intent Was To Strike a Balance Between Competing Interests, and it Was Particularly Concerned with Accounting for the Interests of Entities Operating FCC-Licensed Radio Stations.

Congress' purpose in establishing the sound recording performance statutory license is clear: it meant "to strike a balance among all of the interests affected thereby." S. Rep. No. 104-128, at 14-17 (1995) ("This legislation reflects a careful balancing of interests, reflecting the statutory and regulatory requirements imposed on U.S. Broadcasters, recording interests, composers, and publishers"); *accord* H.R. Rep. No. 104-274, at 14-15 (1995). As the Senate Judiciary Committee stated in its report accompanying the 1995 Digital Performance Rights in Sound Recordings Act ("DPRA"):

> It is the Committee's intent to provide copyright holders of sound recordings with the ability to control the distribution of their product by digital transmissions, <u>without hampering the arrival of new technologies</u>.

S. Rep. No. 104-128, at 15 (emphasis added). The House similarly stated that the new right being conferred upon sound recording copyright holders was provided "<u>without imposing new and unreasonable burdens on radio and television broadcasters</u>, which often promote, and appear to pose no threat to, the distribution of sound recordings." H.R. Rep. No. 104-274 at 14 (emphasis added).

Congress was particularly concerned about the effect of the new right on radio broadcasters, emphasizing that the legislation should not upset "the longstanding business and contractual relationships among record producers and performers, music composers and

publishers and Broadcasters that have served all of these industries well for decades." *Id*. at 12. Observing that the "sale of many sound recordings and the careers of many performers have benefitted considerably from airplay and other promotional activities provided by both noncommercial and advertiser-supported, free over-the-air broadcasting," Congress made clear that the legislation should "not change or jeopardize the mutually beneficial economic relationships between the recording and traditional broadcasting industries." *Id.* at 13. Congress did not waiver from this stated intention when it enacted the clarifying provisions of the Digital Millennium Copyright Act in 1998. *See* H.R. Rep. No. 105-551, at 67 (1998) (acknowledging continued exemption from the sound recording performance right for non-subscription broadcast transmissions made by terrestrial radio broadcasters).

B. SoundExchange Should Be Required To Demonstrate that the Changes It Seeks Are Reasonable Before Those Changes Are Adopted.

Broadcasters appreciate the Judges' recognition that the mere publication of SoundExchange's proposed changes does not create any presumption in favor of their adoption:

> The Judges stress that, by setting forth the proposed amendments in this NPRM, the Judges are neither adopting them nor endorsing their adoption. The Judges will decide whether to adopt, modify, or reject any of the proposed amendments after reviewing any comments that they receive in response to this NRPM.

NPRM, at 25045. Rather, as the Judges rightly recognized, they should examine comments received, without favoring one side over another, to determine on the basis of those comments what is reasonable and necessary and what is not, taking into account both the need for copyright owners to receive reasonable notice of the use of their sound recordings and the compliance costs and burdens imposed on licensees by the reporting obligations under consideration.

As the proponent of the changes identified in the NPRM, SoundExchange reasonably must bear the burden of demonstrating that the changes are necessary and would not impose

unreasonable compliance burdens and costs.[4] Those opposing the proposed rule should have a full opportunity to address whatever evidence SoundExchange adduces.[5]

As Broadcasters discuss in detail below, SoundExchange has not established the reasonableness of – or its need for – its requested requirements. The proposed requirements seek to achieve perfect accuracy to the point of redundancy but impose unreasonably (and, in many respects, impossibly) high compliance burdens upon Broadcasters.

Rather, the available evidence thus far presented demonstrates that harsher reporting requirements would not give SoundExchange any appreciable distribution benefit that remotely justifies the magnitude of the countervailing burdens that they would place on Broadcasters. SoundExchange claims great success in making royalty payments under the current reporting requirements, professing to have distributed more than "$2 billion in royalties to artists and copyright owners" in the decade since its inception. *See* Comments of SoundExchange, Inc. in Copyright Office Music Licensing Study: Notice and Request for Public Comment, Docket No. 2014-03, at 1 (May 23, 2014) ("SoundExchange NOI Comments"), http://www.copyright.gov/docs/musiclicensingstudy/comments/Docket2014_3/ (last visited June 29, 2014).

SoundExchange's own petition demonstrates the lack of need for the changes it seeks. SoundExchange admits that, during 2010-2012, the total amount it was unable to distribute "due to missing or unusable ROUs" was only "about 1.2% of total royalties for that period."

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[4] In those cases where a burden of proof is allocated in a rulemaking proceeding, it falls on the proponent of the proposed rule. NPRM, at 25045; 5 U.S.C. § 556(d) (allocating burden of proof to proponent in formal rulemaking involving hearing). Although this proceeding is not a formal, on the record, rulemaking where the proponent of a rule would have the burden of proof, it nevertheless makes eminent sense for SoundExchange to demonstrate why it needs the amendments that it seeks before putting others to the task of demonstrating why those requirements are unreasonably burdensome to implement.

[5] It would be wholly inappropriate for SoundExchange to reserve the evidence in support of the changes it requests for its reply comments, when Broadcasters will not have an opportunity to respond.

SoundExchange Petition at 27-28**.** Even during the prior five years, from 2004-09, the amount that SoundExchange could not distribute due to missing or unusable ROU's was only 3.4%. *Id.* at 28. These amounts were distributed based no proxy information, so there is no evidence that any copyright owner or artist was left unpaid. These distribution rates demonstrate that the missing or unusable ROUs are a very small subset of the massive amounts of information that services are required to report, and that the current system does not need to impose greater burdens on services. The reporting requirements cannot be as deficient as SoundExchange claims, or it would not have been able to distribute nearly 99% of the royalties it received for 2010 through 2012.

Given these significant burdens balanced against questionable and marginal benefits, no further obligations should be imposed upon statutory licensees. To the contrary, the requirements should be scaled back.

C. The Regulatory Flexibility Act Requires Consideration of Small Entities.

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. §§ 601-612, requires the Judges to analyze and consider the impact of the proposed requirements on small entities. The RFA requires that notices of proposed rulemaking issued under the Administrative Procedure Act ("APA")[6] either: (a) include, "for public comment an initial regulatory flexibility analysis . . . [that] describe[s] the impact of the proposed rule" on those entities or (b) certify "that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." 5 U.S.C. §§ 603(a), 605(b). The regulatory analysis must consider various factors set

[6] The Judges are subject to the Administrative Procedure Act ("APA"). *See* 17 U.S.C. § 803(a)(1) ("The Copyright Royalty Judges shall act in accordance with this title, and to the extent not inconsistent with this title, in accordance with subchapter II of chapter 5 of title 5 [the APA], in carrying out the purposes set forth in section 801.").

forth in the statute, including a description of the steps "taken to minimize the significant economic impact [of the rule] on small entities." *Id.* § 604(a)(6).

This analysis is extremely important in the radio broadcasting industry, which has numerous small non-profit and single station broadcasters. The concerns addressed by the RFA are similar to those underlying the notion of "reasonable" reporting requirements, but target specifically those small entities that often are least able to shoulder added regulatory costs and burdens. The many small and non-profit radio stations frequently are least equipped to shoulder burdensome administrative requirements due to limited staffing, funds, equipment, and other resources. The RFA requires the Judges to publish their analysis and provide an opportunity for comment.

III. THE SOUND RECORDING IDENTIFICATION REQUIREMENTS SHOULD BE SCALED BACK, NOT MADE MORE DEMANDING.

In numerous respects, the current reporting requirements do not strike the appropriate balance of costs and benefits inherent in the concept of "reasonableness," and SoundExchange's additional proposed requirements would only exacerbate this imbalance. Broadcasters therefore propose to amend the requirements in several respects to strike a more reasonable and efficient balance that takes into account both the burdens and the benefits of the reporting requirements. These include proposals to:

- permit Broadcasters to report sound recording usage based on sound recording title and featured artist information, without requiring album title, label name, or ISRC;
- exempt Broadcasters that pay only the annual minimum fee from reporting obligations;
- give Broadcasters the option to report on a sample basis in cases where census reporting is unduly burdensome or not statistically beneficial; and
- modify the reporting requirements to account for the business reality that Broadcasters often have been provided limited or no information concerning sound recordings included in third-party programming.

Broadcasters also oppose many of SoundExchange's new proposals and describe the basis for their opposition below.

A. The Current Reporting Requirements Are Unreasonably Burdensome for Broadcasters and Should Be Modified To Accommodate Business Realities More Effectively, Not Made More Punitive.

The hallmark of a "reasonable" reporting requirement is that it properly balances the benefit of giving sound recording owners reasonable notice of use against the costs and burdens of complying with the requirement – such as associated out-of-pocket costs, diverted labor resources, administrative burdens, and the risks of noncompliance with governing regulations. As recently recognized by President Obama, government agencies should adopt a regulation "only upon a reasoned determination that its benefits justify its costs." *Improving Regulation and Regulatory Review*," Exec. Order 13563, 76 Fed. Reg. 3821 (Jan. 21, 2011). It also should ensure that the regulation is tailored to "impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations." *Id.* The agency should select "those approaches that maximize net benefits." *Id.* As the Copyright Office has recognized in a prior notice and recordkeeping rulemaking, "the burdens associated with reporting information cannot be so high as to be unreasonable or to create a situation where many services cannot comply." *Notice and Recordkeeping for Use of Sound Recordings Under Statutory License: Interim Regulations*, 69 Fed. Reg. 11515, 11521 (Mar. 11, 2004).

Where the burden of complying with a particular requirement outweighs its benefit, the requirement should be reevaluated and modified so that its benefits outweigh its costs, including financial costs, diverted labor resources, and the administrative burdens associated with the requirements. In other words, "reasonable" requirements are ones that provide copyright owners

with reasonable notice of the use of their sound recordings without imposing unreasonable compliance costs and other burdens.

Because the current requirements are inconsistent with recording and broadcasting industry practices and incompatible with the systems that power Broadcasters' core broadcasting businesses, Broadcasters have tremendous difficulties in complying with those requirements. Even without accounting for the significant burdens imposed by the recordkeeping and reporting requirements and the additional burdens that SoundExchange now seeks to impose, streaming remains – and will continue to remain – a money-losing proposition for many Broadcasters given the steep sound recording performance royalty rates and other associated streaming expenses. Myer Decl. ¶ 3; Rupe Decl. ¶ 4.

The current reporting requirements applicable to streaming add substantially to the financial and administrative burden of Broadcasters, particularly given that, as described below, Broadcasters use digital automation systems that are designed for their terrestrial operations and are typically ill-suited to the reporting requirements applicable to streaming. Unlike Internet-only webcasters that launched streaming businesses with systems built specifically for Internet transmissions, Broadcasters' systems are primarily used for terrestrial broadcasting and are ill-suited for the information sought by SoundExchange. Moreover, Broadcasters often do not receive information regarding currently required reporting elements – namely, album title and marketing label information – when record companies and music services provide them with recordings to broadcast. *See infra* Part III.B.1

Even when they do, many of the software programs used by Broadcasters do not have the data fields needed to accommodate the entry of album and label information, as Broadcasters do not need this information to operate their core broadcasting business, and industry practice is to

identify recordings by title and artist information alone. *See infra* Part III.B. It is unreasonable to require Broadcasters to purchase new digital automation systems or to persuade vendors that serve Broadcasters' over-the-air business needs to make costly software modifications to their existing products.

Broadcasters also experience significant challenges in reporting sound recording usage in programming that they themselves do not originate or control but rather receive as a finished product (*i.e.*, syndicated) from third parties. As to that programming, the only information that Broadcasters have is what the third parties provide. *See infra* Part III.E. They should not be penalized for not reporting this information where a third party simply does not provide it, or provides incomplete or inaccurate information.

It is also difficult for smaller and noncommercial Broadcasters to comply with the reporting requirements at all, much less to provide ROUs on a census basis. Census reporting requires specific technical capabilities and resources, which many Broadcasters simply do not have. Broadcasters may need to spend substantial time and effort each month modifying their lengthy ROUs to make sure that they include required information. For EMF, it takes their in-house counsel a full day of effort every month to review the data for consistency with prior reporting, research and attempt to fill in any missing information, reformat the data, export the files in the proper format, perform a final quality control, and submit the numerous reports for EMF's stations to SoundExchange. Gantman Decl. ¶¶ 4-5. This undertaking can be overwhelming for smaller stations with limited staffing and resources. *See* Myers Decl. ¶¶ 3, 15 (testifying that all administrative requirements are met by one person).

In the face of such widespread reporting challenges among this uniquely situated class of licensees, the answer is emphatically <u>not</u> to make the reporting requirements more stringent, thus

further compounding Broadcasters' reporting challenges, as SoundExchange suggests. Rather, the Judges should take a hard look at the existing reporting requirements in light of the business realities of the industries involved and carefully consider how the requirements should be adjusted to make them reasonable and workable for this class of services while also ensuring that copyright owners receive "reasonable" notice of sound recording use.

If the regulations are modified to make reporting even more difficult, reporting errors and gaps will inevitably increase despite Broadcasters' best efforts to supply accurate information. More stringent, punitive regulations likely also will induce some Broadcasters to reconsider their decision to simulcast, thus depriving copyright owners of the royalties that they would otherwise receive for that activity and the added exposure their recordings receive, and depriving consumers of the benefit of online access to radio programming. The Judges should take these considerations into account in both reevaluating the reasonableness of certain current reporting requirements as well as considering SoundExchange's proposed changes.

B. Experience and Industry Practice Show that Broadcasters Have Significant Difficulties Reporting Album and Label Information and that this Information Is Rarely Needed To Identify a Recording; Broadcasters Should Be Exempted from Reporting this Information.

Broadcasters strongly urge the Judges to reconsider whether it is reasonable to continue to require Broadcasters to report album and label information given:

(1) the recording industry's failure regularly to provide that information;

(2) the widespread industry practice of identifying recordings by title and artist;

(3) Broadcasters' reliance on reporting systems designed for their core over-the-air businesses and often ill-suited to accommodate information not needed for those businesses; and

(4) Broadcasters' more limited playlists than those found on custom Internet webcasters such as Pandora, which transmit a diffuse array of sound recordings in niche formats.

Broadcasters submit that any questionable marginal benefit to SoundExchange in identifying recordings by information other than artist name and song title is far outweighed by the heavy burdens on Broadcasters in providing this information. As described below, Broadcasters often do not even receive this information from the record companies and music services from which they obtain music. Even when they do receive album and label information, many use digital automation systems that do not have available fields for including it, as Broadcasters have no operational reason for tracking this information with respect to their terrestrial broadcasts. In light of these realities, the most efficient cost-benefit balance is struck by exempting Broadcasters from this requirement.

An ASCAP rate court decision addressing a similar issue with respect to musical works confirms that unreasonable burdens should not be placed on radio Broadcasters to supply information that collectives representing copyright owners do not actually need to identify the music that is played.[7] In *United States v. ASCAP (In re Applications of Salem Media)*, the U.S. District Court for the Southern District of New York ASCAP's request to require radio stations to report: "(1) title; (2) name of composer, author, and publisher; (3) name of performing artist; (4) name of record company; and (5) all other information as to composer, author and publisher in full as shown on the label." 981 F. Supp. 199, 221 (S.D.N.Y. 1997). There was evidence at trial that ASCAP actually was able to identify songs based on title and artist information alone. *See id.* Despite ASCAP's argument that "the more information the station gives us, the easier it is to identify the work," the court found that "ASCAP's reporting requirements are excessive." *Id.* The court then scaled back ASCAP's proposed reporting requirement to include only (a) title

[7] Although there are certain differences between the identification of the owners of sound recordings and the identification of owners of musical works, SoundExchange has not shown that those differences require greater reporting in the case of sound recordings.

and (b) "the identity of either the performer, composer, or recording artist." *Id.* (emphasis added). Similarly, here, title and artist information alone should suffice to identify the vast majority of copyright owners.

1. It Is Often Difficult – and Sometimes Impossible – for Broadcasters To Report Album and Label Information Reliably.

For reasons described below, Broadcasters as a class have unique difficulties in reporting album and label information that weigh heavily against continuing to require them to provide that information.

a. Broadcasters Often Do Not Receive Album and Label Information from the Record Companies and Music Services that Provide Them with Music.

A promotional recording, or promo, is an audio recording distributed for free, weeks or months before a recording is commercially available in order to promote a single or an album. For decades, Broadcasters have received – and continue to receive – large numbers of new promotional recordings directly from record companies (both major and independent labels) and artists, who are eager for the free publicity that Broadcasters give them by playing their music. Kozsuch Decl. ¶ 4; Tinker Decl. ¶ 8; Myer Decl. ¶ 5. Emmis reports that it receives 95% of the music it plays directly from record labels. Rupe Decl. ¶ 7. At least half of the recordings that Cox broadcasts come from promotional CD and audio files. Kozsuch Decl. ¶ 4. Cumulus obtains a great deal of its new music from promotional CDs and electronic audio files (which may be sent to its program directors or posted on servers by record label representatives). Gay Decl. ¶ 5.

Record labels typically send either promotional CDs or electronic audio files in a high bit rate MP3 or WAV file. Rupe Decl. ¶ 7, 8; Cooney Decl. ¶ 8; Levin Decl. ¶¶ 5-6. Examples of promotional CDs received by the commenting Broadcasters are attached to declarations provided

by Entercom (Levin), Emmis (Rupe), Salem (Tinker), West Virginia (Moran), and Cumulus (Gay). As these examples show, promotional CDs are often distributed in plain packaging, with song title and artist information, but without the label information, text, artwork or ISRC that would eventually appear on the commercial version. Kozsuch Decl. ¶ 4; Tinker Decl. ¶ 8; Levin Decl. ¶ 3. Promotional CDs may be fully packaged as single releases, but some CDs are hand delivered with sharpie writing instead of a label. *See e.g.*, Ex. 1 to Levin Decl. Some of these promotional CDs may include multiple artists. Levin Decl. ¶ 6.

Promotional singles are often sent to the radio stations in anticipation of a new album before the album is even named, so album title information is not available or provided – in fact, some recordings stay as single releases, never being included on an album. *See generally* Kozsuch Decl. ¶ 4; Rupe Decl. ¶¶ 8-9; Moran Decl. ¶ 5; Tinker Decl. ¶ 8; Cooney Decl. ¶ 8. Even for recordings provided by a label representative, label information is often not provided, as the representative acts on behalf of multiple labels and does not provide information regarding the particular label or sub-label associated with the recording. *See* Rupe Decl. ¶ 9. The only way to find out that information would be through guessing or through independent research, which itself would require assumptions or guesses. *Id.*

Broadcasters also obtain music from online music services (such as TM Studios, PlayMPE, TM Century, and New Music Server). Myers Decl. ¶¶ 9, 11; Moran Decl. ¶¶ 6-8; Cooney Decl. ¶¶ 6-7. These services carry millions of songs from thousands of labels – for example, PlayMPE states that its database has over 1,693,300 songs from over more than 2,700 record labels. Tinker Decl. ¶ 6. The amount of information that these services provide varies greatly, and frequently does not include album and label information. For example, PlayMPE and New Music Server are inconsistent in providing album information for songs. Myer Decl.

¶¶ 7, 9; Tinker Decl. ¶ 6; Moran Decl. ¶¶ 6, Ex. 2; Cooney Decl. ¶ 7. This may be the case even if an album has been assigned. Beasley receives WAV files (uncompressed audio files) from its music services that do not contain ISRC information and typically do not contain album and label information either. Cooney Decl. ¶ 6. Even where metadata is included with a file, conversion from one digital file format to another often removes such information. Decl. of Rusty Hodge ¶ 7 ("Hodge Decl.") (Ex. K); Bone Decl. ¶ 6.

For a station to play these songs, it needs to load the limited amount of information it receives (such as title, artist, and length) into its music database. The information received when the recording is first obtained is the only information that would be entered into the Broadcaster's music information database, and there typically would be no operational need for a Broadcaster to update that information later. Rupe Decl. ¶ 11; Gay Decl. ¶ 6. Further, conducting later independent research – in addition to being a significant time investment – is very unreliable. "The selection of a label can be confusing and our personnel might get it wrong. To be clear, there are thousands of labels (some very small), and labels often have sub-labels. There are hundreds of small, independent labels, many of which we have never heard of." Rupe Decl. ¶¶ 9, 12.

The Copyright Office has long recognized that it is unreasonable to require services to report information that record companies and music services themselves do not give to Broadcasters when they provide them sound recordings to play. Although the Copyright Office promulgated a general requirement to report album and label, it nonetheless observed:

> [T]he title of an album on which a particular sound recording appears may not be determined at the time the sound recording is released to broadcasters and webcasters for performance; or the album title information may not be supplied by the recording label. Consequently, <u>services need only report the album title for a particular sound recording when they have that information in their possession,</u>

> or it has been supplied by the recording label, at or before the time of performance of the sound recording.

69 Fed. Reg. at 11524 (emphasis added). Similarly, with respect to label information, the Copyright Office stated:

> Services need only report the marketing label if that information was in their possession, or was supplied to them by the marketing label, at or before the time the performance of the sound recording is made.

Id. Broadcasters are unaware of statements in subsequent rulemakings that negate this commonsense principle.

The basis for this principle is obvious: when Broadcasters do not receive album and label information, it makes no sense to require them to conduct external research on the Internet and elsewhere to try to track down album and label information. In the vast majority of cases, there will likely be only one recording matching a particular title/artist combination, so SoundExchange will not need album or label information to allocate and distribute royalties associated with the performance of those recordings.

Even in the minority of cases where there may be multiple recording matches for a single title-artist combination, SoundExchange does not need album and label information when the copyright owner and featured artists are the same on each such recording because the payees will be the same. It is only in the small handful of cases where (a) there are multiple recordings associated with a particular title/artist combination and (b) copyright owners are different on at least one of those recordings where album and label information will help identify the payees. But even in these rare cases, SoundExchange – which represents the vast majority of sound recording copyright owners as well as performing artists and has a massive database filled with sound recording identifying information – is in a far better position to identify accurately and

efficiently the most likely recording match than are radio broadcasters, who do not have access to such information and thus are forced to guess which recording they have in their possession.

b. Digital Automation Systems Designed for Radio Broadcasting Often Do Not Support Entry of Album and Label Information.

Even where Broadcasters do receive album and label information, many use digital automation systems designed to facilitate their terrestrial broadcasts that do not include data fields that would support the entry of this information. Broadcasters must maintain a large number of software systems and databases for their on-air broadcasts and streaming – such as a digital automation system for the playback of music and scheduling software to program the order of the music.

A digital automation system plays back music, imaging (liners, promos and jingles), and commercials from the music scheduling software and provides cues to on-air personalities. The digital automation software also pushes the necessary reporting data to streaming providers in order to synchronize that data with listenership data. For many broadcasters, their digital automation systems simply cannot handle all of the data points SoundExchange seeks. Digital automation systems play music, but they typically are not designed to store a wide range of detailed information about sound recordings in their databases. These systems have been designed for broadcasting, not streaming. Myers Decl. ¶ 5; Levin Decl. ¶ 9; Gay Decl. ¶ 3. Many such systems tend to store the key operational information for traditional radio broadcasting: the title, the artist, and the timing (*i.e.* duration) information for each sound recording. *See, e.g.*, Tinker Decl. ¶ 10. Thus, capturing and reporting album, label, and ISRC is not viable for some of the present automation systems, which are a critical link in a broadcaster's streaming chain. Moran Decl. ¶ 10; Rupe Decl. ¶ 5; Bone Decl. ¶¶ 5, 7, 8; Myers Decl. ¶ 5.

Digital automation systems do not control the schedule of songs to be played – that function is fulfilled by music scheduling software, which is designed to track important scheduling information, such as a recording's "energy" and "mood." Tinker Decl. ¶ 11. Music scheduling software assists program and music directors in implementing sophisticated song placement and ordering rules. *Id*. ¶ 11. The music director categorizes the songs in the database and creates rules to determine what kinds of songs can be played near each other. *Id*. There are several different music scheduling software programs in use today, including Selector Scheduling, Stratus, and MusicMaster. *Id*. (Selector, MusicMaster); Myer Decl. ¶ 9 (Selector); Gay Decl. ¶ 8 (Stratus). While critical to the operations of broadcasters, music scheduling software does not provide information to the streaming provider.

Broadcasters' systems are typically adequate for their broadcasting needs. *See, e.g.*, Myers Decl. ¶ 5; Tinker Decl. ¶ 12. Upgrading broadcaster systems would be prohibitively expensive for many broadcasters. Bone Decl. ¶ 5 ("It is an older system that we presently do not have the budget to upgrade and we are not focused on doing so because the system meets our broadcasting needs."); Myers Decl. ¶ 6.

2. Updating Old Databases and Keeping Them Updated with the Required Datapoints Would Require a Massive and Costly Effort.

Because of the nature of Broadcasters' radio broadcasting systems and the lack of information provided by record labels and music services, a massive human effort is required to input the data points required by SoundExchange. The imposition of additional requirements would mean a substantial further burden on broadcasters, if they could even comply with them with any consistency or accuracy.

Broadcasters' systems do not automatically populate themselves with information when music is received. Although artist and title information sometimes is populated, "additional

information must be entered manually (*e.g.*, album, composer, publisher and label)." Myer Decl. ¶ 9. The same information must be manually entered into the music scheduling software. *Id.*; *accord* Myers Decl. ¶ 10 (title and artist are manually entered in digital automation system; album and label are manually entered into music scheduling system).

As shown above, basic information is often not included with music received by Broadcasters – including a large percentage of "promotional" music obtained directly from the labels – let alone the data points now requested by SoundExchange. If this information is not received with the recording, Broadcasters have to go back and research the information and enter it into each system, which is "burdensome, impractical, and unnecessary, at least from the standpoint of our broadcast operations." Kozsuch Decl. ¶ 4; *accord* Rupe Decl. ¶¶ 11 ("This could require a program director to check multiple times, if the album is delayed in being assigned, or if the recording is never released on an album.").

Researching information is difficult, costly, and unreliable. As discussed above, identifying the appropriate label for reporting purposes may be difficult. *See supra* Part III.B.1.a. As discussed further below, there is no available source of information for accurate and complete ISRC data. Moran Decl. ¶ 14; Tinker Decl. ¶ 15; Cooney Decl. ¶ 11; Gay Decl. ¶¶ 13, 15; Hodge Decl. ¶ 9. The research would be a major undertaking. Broadcasters already have expended substantial time and effort in developing their music information databases. *See* Myer Decl. ¶ 22; Kozsuch Decl. ¶ 5 ("Backfilling the ISRC into the stations' various information databases for all of our recordings would require an enormous effort"). Moreover, broadcasters do not necessarily use the same systems or centralized databases for all of their stations. Even within one commonly owned group of radio stations, the digital automation systems in use can vary widely, and the systems at one station often cannot communicate or share data with the

systems of another. Cox, Cumulus, Beasley, Emmis, Entercom, and Salem report that they maintain separate systems and music databases on a market-by-market, or even station-by-station, basis. Kozsuch Decl. ¶ 4; Gay Decl. ¶¶ 3, 9; Cooney Decl. ¶ 5; Rupe Decl. ¶ 14; Levin Decl. ¶ 10; Tinker Decl. ¶ 14. Broadcasters run different types of software as well (including Scott Systems, ENCO, Audiovault, Prophet Wizard, NexGen, ENCO, WideOrbit, and Rivendell digital automation systems). *See* Tinker Decl. ¶ 10; Gay Decl. ¶ 8. This means that updated information about recordings must be entered into <u>each</u> such database, vastly expanding the time and effort to complete enter the data on a company-wide basis.

In light of these realities, the cost of backfilling information in the databases would be substantial. *See* Gay Decl. ¶ 4; Moran Decl. ¶¶ 14-15; Levin Decl. ¶¶ 11, 12; Cooney Decl. ¶¶ 10, 12; Bone Decl. ¶¶ 9, 10; Myers Decl. ¶ 14. Adding to the requirements would be near impossible for certain Broadcasters without adding additional staff. For example, KCFY has a total of five personnel, with only two full-time employees. Myers Decl. ¶ 3. Greg Myers performs the functions of general manager, program director, music director, and engineer, and "[a]ny new administrative requirements must be met by [him] personally, at the cost of spending [his] time on other critical station functions." *Id.* It is possible that a requirement to backfill entire music databases could cause some Broadcasters to revisit the viability of streaming, with potential losses of valuable programming and corresponding sources of revenue for SoundExchange's constituents. Bone Decl. ¶ 10 ("[S]uch an investment of time and money would cause us to reconsider the viability of streaming our classical station, and perhaps all four of our stations.").

3. Industry Practice Confirms that Title and Artist Information Generally Suffices To Identify Sound Recordings.

Actual marketplace experience confirms that title and artist information suffices to identify sound recordings. There has been no showing by SoundExchange why – if the industry accepts title and artist as sufficient to identify recordings – it cannot follow suit.

First, SoundExchange's own record company members routinely send radio stations promotional sound recordings with only title and artist information provided (along with the song's length necessary for broadcast scheduling), in their constant quest to obtain free airplay to promote consumer sales. *See supra* Part I.D; Levin Decl. ¶ 5; Gay Decl. ¶ 6; Cooney Decl. ¶ 8.[8] The record labels must believe that title and artist information is enough to identify a recording without the need for album information; otherwise, they would regularly provide radio stations with additional identifying information.

Second, online music services used by the Broadcasters require only title and artist to identify and select recordings. *See* Cooney Decl. ¶ 6; Myer Decl. ¶ 6. Although they may deliver additional information, such as label name, to the Broadcasters in search results, these services do not require entry of such information to identify the proper recording. Moreover, third-party services, including GraceNote, enable the unique identification of new sound recordings over 90% of the time solely from title and artist information. Rupe Decl. ¶¶ 15-16.

Third, as discussed above, in the context of musical works, courts have found artist and title information to provide sufficient identification, and both ASCAP and BMI have issued

[8] In this regard, Columbia Record's website permits visitors to listen to featured tracks and displays title and artist information, but no album name. http://www.columbiarecords.com (last visited June 30, 2014) (Ex. P).

licenses to radio stations that allow radio stations to identify songs by title and artist alone, among other options.[9]

If title and artist information is enough for other major industry players to identify sound recordings – including SoundExchange's own record company members – it should be enough for SoundExchange.

4. SoundExchange Should Be Required To Quantify the Scope of Its Alleged Matching Problems Using Title and Artist Information Alone on Broadcaster ROUs Before the Judges Decide Whether It Is Reasonable To Continue To Require this Information from Broadcasters.

If SoundExchange continues to seek album and label information from Broadcasters despite the demonstrated impracticability, the Judges should require SoundExchange to quantify how album and label information are necessary to identify the copyright owner for a significant proportion of the royalties that it distributes from Broadcasters. Specifically, SoundExchange should be required to disclose the percentage of royalties collected from Broadcasters as a whole that are required to submit census ROUs –as well as the proportion of sound recordings on a sample month of Broadcaster ROUs – that cannot be accurately associated with a copyright owner based on title and artist information alone. This information is uniquely in SoundExchange's possession, but has never been disclosed to expressly quantify the alleged problem of the the absence of album and label information. SoundExchange's refusal to disclose this information speaks volumes regarding which way this evidence likely cuts.

* * *

[9] *See, e.g.*, ASCAP 2010 Radio Station License Agreement at 7 (emphasis added), http://www.ascap.com/~/media/files/pdf/licensing/radio/2010%20radio%20station%20license%20agreement.pdf (last visited June 26, 2014); BMI Radio Station Blanket/Per Program License Agreement at 9, http://www.bmi.com/forms/licensing/radio/2012_RMLC_blanket_per_program.pdf (emphasis added) (last visited June 26, 2014).

For the reasons discussed above, Broadcasters should not be required to report album and label information. SoundExchange has made no showing that title and artist information are insufficient to identify the applicable copyright owner for the vast majority of recordings performed by Broadcasters. Indeed, industry practice confirms that title and artist information are, as a general rule, sufficient.

At the very least, Broadcasters should not be required to report album and label information unless (a) the record companies and music services (*e.g.*, independent promoters and services that obtain recordings from the record companies for distribution) that provide Broadcasters with music include such information in the delivered music and (b) their digital automation systems include fields where they are able to enter and store that information.

C. Requiring ISRC Reporting for Each Sound Recording Played Would Exacerbate Current Reporting Burdens and Is Unreasonable, Unnecessary, and Error-Prone.

SoundExchange's request for mandatory reporting of the International Standard Recording Code ("ISRC"), a 12-digit alphanumeric identifier, for each sound recording played (SoundExchange Petition at 21), would only compound the significant burdens and difficulties associated with the current reporting requirements. It should be denied.

As detailed below, mandatory ISRC reporting would be extraordinarily burdensome to Broadcasters, who frequently do not have these codes and cannot ascertain them by any economically practical means. In fact, many sound recordings do not even have an ISRC assigned. The ISRC is not at all necessary to allocate and distribute royalties, and in fact may make royalty allocations less accurate. Perhaps most revealingly, when a mandatory ISRC reporting requirement for <u>copyright owners</u> was at issue, both SoundExchange and RIAA strongly opposed any such requirement, instead arguing that reporting should be optional. In

light of this history and the other significant difficulties with mandatory ISRC reporting, SoundExchange's proposal should be rejected.

1. Mandatory ISRC Reporting Would Be Extraordinarily Burdensome Because Broadcasters Often Do Not Have the ISRCs.

Despite SoundExchange's assertion that ISRCs typically will be available (SoundExchange Petition at 22), many services do not have access to ISRCs for the sound recordings that they play. Rusty Hodge, the founder of SomaFM, a listener-supported Internet-only webcaster, conducted a search of approximately 208,000 sound recordings available to SomaFM and determined that fewer than 2% had ISRCs attached. Hodge Decl. ¶ 5. Mr. Hodge, who has been involved in the music industry and the software industry since the early 1980s, is very knowledgeable regarding industry practice with respect to these codes. As the General Manager of webcaster SomaFM.com, he faces many of the same issues that Broadcasters would face if required to identify, maintain, and report ISRC codes for all streamed sound recordings. Similarly, Ethan Diamond, the co-founder and CEO of Bandcamp, a large online music store, found that only 12% of the standalone tracks and 8.5% of the albums sold on Bandcamp had ISRCs. Diamond Decl. ¶ 6. The most common reason for this is that independent artists simply do not have ISRCs to provide – they are not required, and too expensive. Hodge Decl. ¶¶ 6-7; Diamond Decl. ¶ 7; *see also* Rupe Decl. ¶10; Myer Decl. ¶11.

There are several reasons why ISRC information is so often unavailable. To begin with, many sound recordings have no ISRC assigned. The system for assigning ISRCs was not created in the U.S. until 1989, so sound recordings made before 1989 often have no ISRC. *See* International Standard Recording Code (ISRC) Handbook, § 2 (3rd ed. Aug. 2009), https://www.usisrc.org/resources/documents.html (last visited June 30, 2014) ("ISRC Handbook"). This creates particular difficulties for Broadcasters who play older music, such as

older, classical works. Bone Decl. ¶ 10. Even for new sound recordings, obtaining an ISRC is optional and requires effort and money; as a result, many smaller independent labels and self-published artists do not obtain them. Decl. of Ethan Diamond ¶ 7 ("Diamond Decl.") (Ex. L); Hodge Decl. ¶ 6; ISRC Code Summary, at 3, http://www.usisrc.org/assets/attachment/ISRC_Summary.pdf (last visited June 25, 2014) ("Although an ISRC should be assigned by the first owner, this does not always happen."). Even artists distributing through well-established music services may find that their sound recordings have been issued identification numbers that are not actual ISRCs. Hodge Decl. ¶ 6. Even if a particular sound recording has an ISRC assigned, it may be distributed in a format that does not transmit or preserve the ISRC information. Many online music stores either do not include the ISRC with their sales of sound recordings or else do not expose the ISRC to the purchaser. Diamond Decl. ¶ 6; Hodge Decl. ¶ 8; Cooney Decl. ¶ 6. Conversion from one digital file format to another often removes the ISRC information, if there was any. Hodge Decl. ¶ 7. Some common digital music file formats (*e.g.*, WAV, AIFF) and most analog formats (*e.g.*, vinyl records, reel-to-reel tape) do not permit ISRC information to be included at all; other formats (*e.g.*, MP3) are capable of including ISRC data although some services find that the feature is rarely employed, even by promoters from large, commercial record labels. Tinker Decl. ¶ 8; Hodge Decl. ¶ 7. Some online music stores likewise offer little support for ISRCs. For example, the Apple iTunes store conceals the ISRC in a hidden data field which is not visible using the iTunes music player software. Less than 10% of record labels or promoters who distribute via iTunes attempt to circumvent this problem by adding the ISRC in a text comment or including it in a promotional PDF file. The Amazon Music service likewise does not provide ISRCs to music purchasers. Hodge Decl. ¶ 8.

The lack of ISRCs in WAV files could cause particular ISRC reporting issues if such a requirement were imposed, as many labels, independent promoters, and third-party services prefer to provide broadcasters with WAV files. *See e.g.*, Gay Decl. ¶ 5; Cooney Decl. ¶ 6. If the file format that copyright owners elect to use in delivering recordings to Broadcasters cannot even support ISRC information, then Broadcasters should not be required to report ISRC information.

On those occasions when ISRC information is provided, it typically is not provided in an easily perceptible way. ISRCs are rarely, if ever, listed on the packaging of promotional CDs or provided with electronic files in a way that is readable to the human eye. Hodge Decl. ¶ 8; Moran Decl. ¶13; Rupe Decl. ¶ 10; Myer Decl. ¶ 11. Broadcasters' music services also do not reliably provide ISRC information. *See* Moran Decl. ¶¶ 7-8, Ex. 2, 3, 4; Myers Decl. ¶ 9. Even if an ISRC is embedded by a record label in a CD or electronic audio file – and that is not always the case – it would take specialized software and experience, which broadcasters typically do not have, in order to read and locate the code. Hodge Decl. ¶ 8; Myer Decl. ¶ 11; Rupe Decl. ¶ 13; Gay Decl. ¶ 14. Even SoundExchange admits as much, conceding that for sound recordings obtained from those commercial products that include ISRCs, the ISRCs are "encoded" in those products and need to be "extracted" with "software tools." *See* SoundExchange Petition at 23.

Broadcasters agree that "the benefits of ISRC use can only be fully realized when those identifiers are available to (and effectively utilized by) all participants in the music licensing value chain." SoundExchange NOI Comments, at 21. They are not. *See, e.g.*, Hodge Decl. ¶¶ 5, 10 (no ISRC for more than 98% of the music available to SomaFM); Cooney Decl. ¶ 11 ("I am not aware of an accepted, publicly available, reliable source for this information.").

In short, ISRC use is not yet sufficiently ubiquitous within the industry to warrant even considering mandatory ISRC reporting. Moreover, broadcasters should not have to defend whether ISRC information is "available and feasible" (*see* SoundExchange Petition at 54), as feasibility will almost certainly be viewed differently by SoundExchange, on one hand, and broadcasters and webcasters, on the other.

2. Broadcasters Cannot Obtain ISRC Identifiers in Any Economically Reasonable Manner; the Burden of Locating Missing ISRCs Therefore Should Not Be Placed on Them.

The burden of looking up the ISRC, or determining that a particular sound recording has no ISRC, should not be placed upon the broadcasters because they have no way to accomplish the task. Broadcasters and other services do not have access to a database in which they could look up the ISRCs for particular sound recordings. Barrie Kessler, Sound Exchange's former Chief Operating Officer, admitted years ago that "there's no public place to go and get the ISRC number." *See* Docket No. 2000-9, CARP DTRA 1 & 2, Tr. 11836 (Oct. 18, 2001) (Kessler) (Ex. Q). That remains true today. When a service plays a sound recording to which no ISRC is attached, the service has no way to find the missing ISRC. Hodge Decl. ¶ 9. Nor would the service know in advance whether the sound recording even had an ISRC assigned to it, so a requirement to report the ISRC would inevitably lead to wasteful efforts to locate identifiers that do not even exist. Broadcasters report that they are not aware of a source of information from which they could obtain accurate and complete ISRC data. Moran Decl. ¶ 14; Tinker Decl. ¶ 15; Cooney Decl. ¶ 11; Gay Decl. ¶¶ 13, 15. Rusty Hodge confirms that, "There is no publicly available resource (such as an industry-wide database) to look up an ISRC." Hodge Decl. ¶ 9.

Even if a public ISRC database were hypothetically available, the impact of being required to locate and enter the missing ISRC for each sound recording played would be substantial. Michael Cooney, the Vice President of Engineering and Chief Technology Officer

for the Beasley Broadcast Group, estimates the cost of researching and entering the ISRC for all their sound recordings to be $150,000. Cooney Decl. ¶ 12. Jim Tinker, Director of Technical Operations at the Los Angeles operating division of Salem Communications, estimates that it would take at least 500 personnel hours – about three months of work for a full-time employee – to locate and enter missing metadata such as the ISRC in Salem's Los Angeles market alone. *See* Tinker Decl. ¶ 15.[10]

For small services with few staff and limited resources, the burden is simply insurmountable. Internet webcaster SomaFM, for example, plays approximately 80,000 unique tracks per year, 98% of which lack ISRC information. Hodge Decl. ¶¶ 4-5. If the research and data entry required ten minutes per sound recording, SomaFM would have to expend over 13,000 hours of staff time per year locating ISRCs,[11] an impossible allocation of resources for a webcaster with only one full-time and three part-time employees. Hodge Decl. ¶ 10; *see* Tinker Decl. ¶ 15.

Until ISRCs become more generally available and commonly used to identify sound recordings, Broadcasters have no economically practical way to identify, input, and report ISRCs for each sound recording that they play (and certainly no business reason to do so in connection with their core broadcast operations). Even if the data is "available and feasible" for a handful of sound recordings, the Judges should not require Broadcasters to report data that they commonly do not have, and which they have no practical way to obtain or verify.

If SoundExchange believes it useful to associate ISRCs with other sound recording identifying information, it is far better situated to make these associations itself rather than

[10] 3,000 recordings * 10 minutes/recording * 1 hour/60 minutes = 500 hours. At 7.5 hour work days, this amount to 66.7 days, or approximately 3 months.

[11] 80,000 tracks * 98% * 10 minutes/track * 1 hour/60 minutes = 13,066 hours.

requiring Broadcasters to attempt to find these codes from external sources. In fact, SoundExchange professes already to have built a large database of sound recording metadata that includes ISRCs. SoundExchange NOI Comments at 21 ("SoundExchange has undertaken a number of initiatives intended to aid [the] dissemination and use [of ISRCs], including building and populating a comprehensive database of sound recording metadata based on submissions by rights owners."). In terms of economic efficiency, the task of maintaining such a database can be far more economically accomplished by one central organization – SoundExchange – than by thousands of separate Broadcasters, many of whom lack the resources, staffing, and technological skills to build and properly maintain their own separate databases of sound recording metadata. Even if SoundExchange decides someday to make its database available for services to use (or if the Judges mandated such disclosure), mandatory ISRC reporting still would make no sense, as those services would merely be attempting to replicate in their ROUs information about a sound recording that SoundExchange already has collected.

3. SoundExchange and RIAA Oppose Requiring Their Own Members to Report ISRCs – an Irony That Exposes the Unreasonableness of SoundExchange's ISRC Proposal Here.

When the shoe was on the other foot regarding required ISRC reporting, SoundExchange's and the recording industry's own position speaks volumes regarding the unreasonableness of SoundExchange's proposal here. In the Copyright Office's notice of inquiry in connection with its ongoing music licensing study, SoundExchange strongly opposed requiring its own members to provide ISRCs when submitting copyright registration applications or recording any other documents with the Copyright Office. It stated:

> [T]he Office should not require ISRCs when remitters record documents relating to sound recordings. Rather, the use of ISRCs during recordation should be voluntary. In the record industry today, many versions of a particular sound recording can be released; as a result, the number of ISRC codes associated with a

> sound recording can be quite large and can change over time, both before and after a transfer in copyright ownership of a particular sound recording.

Comments of SoundExchange, Inc., Notice of Inquiry of the Copyright Office, Library of Congress, Regarding Strategic Plan for Recordation of Documents, Docket No. 2014-1, at 4-5 n. 3 (Mar. 15, 2014), http://www.copyright.gov/docs/recordation/comments/79fr2696/SoundExchange.pdf (last visited June 30, 2014). RIAA – "the national administrator of the ISRC program in the United States"[12] – similarly proposed that the submission of such codes to the Copyright Office be "on a voluntary basis." Comments of the Recording Industry Association of America, Inc., Docket No. 2014-03, at 46 (Copyright Office May 23, 2014), http://www.copyright.gov/docs/musiclicensingstudy/comments/Docket2014_3/ (last visited June 29, 2014). Broadcasters further understand that at the recent Copyright Office roundtable session in Nashville, Tennessee regarding the Copyright Office's music licensing study, RIAA vigorously opposed any requirement that the submission of ISRCs by sound recording copyright owners be mandatory rather than strictly voluntary.

SoundExchange's and RIAA's own opposition to required ISRC reporting should be reason enough to deny SoundExchange's request, even if ISRC reporting may occasionally be manageable for certain statutory licensees.

4. ISRC Reporting Is Not Necessary to Apportion Royalties, and May Actually Increase Reporting Errors.

In the vast majority of cases, title and artist information suffices to identify the sound recording copyright owners to whom royalty payments from sound recording performances are due. *See* supra Part III.B.3; Rupe Decl. ¶¶ 15-16. And of course, featured artists, to whom fully

[12] ISRC Code Summary.

45% of all royalties due are payable, are, by definition, identifiable from artist information alone. Even in those rare cases where additional information beyond the artist and title is needed to uniquely identify a sound recording's copyright owner(s), however, the ISRC is not the panacea that SoundExchange portrays it to be.

The portion of the ISRC identifying the registrant (characters 3-5 of the 12-character string) does not necessarily determine the copyright owner, as "the recording may have changed hands since code allocation." *See* ISRC Handbook § 3.5.1 ("In particular, the Registrant Code (*see* Section 3.5.3. Registrant Code) cannot be assumed to identify a current rights owner as the recording may have changed hands since code allocation."). In those cases where "a recording is sold or licensed and is then released unchanged[,] the ISRC remains the same." *Id.* § 3.2.

The proposed mandatory use of ISRCs may also increase errors in ROUs. The titles of sound recordings and the names of artists are easy for humans to read and understand. These names may even have been intentionally selected by the performers and recording labels to be distinctive and memorable. An ISRC, on the other hand, is an arbitrary alphanumeric string that conveys little information to a casual reader. As Rusty Hodge points out, his DJs can easily verify that they played the track "Lion (Jamie XX Remix)" performed by the group "Four Tet" from the album "Chilltronica No. 4," but probably have no idea whether they played the recording identified as "GBXNG1220002." Hodge Decl. ¶ 13. Similarly, DJs are likely to spot typographic or content errors in a name or title, but very unlikely to spot them in an ISRC. *Id.* ¶ 14; Gantman Decl. ¶ 6 (noting the same concern for the data review process prior to submission of ROUs).

Broadcaster ROUs are more likely to be accurate if Broadcasters can easily read and comprehend the data they are reporting, and verify that it corresponds to the sound recordings

that they have actually played. SoundExchange's reporting proposal would reduce the likelihood of accurate reports, since Broadcasters have no economically practical way to (a) determine whether a particular ISRC matches a particular soundtrack or (b) spot typographical errors in the lists of 12-digit alphanumeric identifiers they would be required to collect, maintain, and report.

* * *

For all of these reasons, SoundExchange's ISRC reporting proposal would move the reporting requirements in the wrong direction by making them more unreasonable and burdensome. It should be rejected.

D. SoundExchange's Numerous Proposed Additional Reporting Requirements for Classical Recordings Are Unnecessary and Unreasonable.

SoundExchange's request for numerous data elements from Broadcasters who transmit classical music (in addition to title, artist, album, label, SoundExchange seeks ensemble, conductor, all soloists identified on the commercial product packaging, composer, and title of the subpart of music being played) unreasonably and harshly discriminates against a culturally beneficial genre of music that has become more and more scarce on commercial radio. *See* SoundExchange Petition at 23-24.

Commercial classical radio stations already are a dying breed, with their number decreasing from 34 in 2004 to a mere 16 in 2013. http://www.insideradio.com/Article.asp?id=1746714#.U6j5OtfD-Ul (last visited June 26, 2014) (Ex. R)). Simulcasting classical radio programming over the Internet is a way for this handful of stations to serve listeners who appreciate classical music, but SoundExchange's burdensome additional reporting would likely result in these few remaining stations ceasing operations under the Statutory Licenses.

Moreover, noncommercial classical stations – due to their even more limited reporting abilities – typically are subject to alternative, less burdensome reporting requirements set forth in either the published Noncommercial Educational Webcaster rates or one of several WSA agreements applicable to noncommercial broadcasters and other webcasters. *See, e.g.*, 37 C.F.R. § 380.23(g).

As Gregory Bone attests on behalf of Cape Cod Broadcasting, the burdens of the proposed reporting requirements on classical stations would be overwhelming. Cape Cod is the owner/operator of one of the few remaining commercial classical stations, as well as the World Classical Network, a programmer of classical music that is currently syndicated to three affiliates. Bone Decl. ¶ 2. Its streaming activities are not profitable. *Id.* ¶ 3. Cape Cod's current technology is not capable of handling the numerous data points requested by SoundExchange (*e.g.*, ensemble, conductor, each soloist, and title of the relevant movement or component), and it is not in a position to make a significant financial investment in its technology to support its streaming operations alone. *Id*. ¶¶ 5, 8. The new data points requested by SoundExchange would eclipse the capabilities of these already taxed systems. Notably, the requirements would not only force classical stations to report lengthy and complex song titles, such as the "Allegro (from Sonata in d for 2 oboes and basso continuo)," they also would compel the identification of five different solo artists for this piece (Burkhardt Glaetzner (oboe); Ingo Goritzki (oboe); Lutz Klepel (bsn.); Siegfried Pank (viola da gamba), and Christine Schornsheim (hpsch.)), along with the remaining data points. *Id*.

Even if Cape Cod's systems could be updated to handle this data, it would take that Broadcaster hundreds – and possibly thousands – of hours to research and manually update the requested data. *Id*. ¶¶ 9-10. Obtaining some data, such as ISRC codes, might not even be

possible for Cape Cod's older classical works. *Id.* ¶ 10. Cape Cod reports that, if small market, local community radio broadcasters who have a classical format in their radio group would be expected to purchase new technology or divert budget to add administrative staffing merely to meet Sound Exchange's requested reporting requirements, it would be forced to consider ceasing its streaming operations. *Id.* ¶ 11.

SoundExchange's efforts are better spent working with classical stations to provide title and artist information in the first instance, which should be sufficient to identify the copyright owners in the vast majority of cases. *See supra* Part III.B.3. Broadcasters simulcasting classical music should only be required to report title and artist information, which will help prevent the extinction on the Internet of this increasingly rare genre of commercial Broadcaster and recognize the more limited reporting abilities of noncommercial stations.

E. The Regulations Should Be Amended To Include Reasonable Reporting Requirements Regarding Programming Provided to Broadcasters by Third Parties.

Broadcasters can reliably provide reports of use containing title and artist information for their original programming. Many radio stations, however, broadcast third-party programming at some point during their broadcast day. *See, e.g.*, Kozsuch Decl. ¶ 6; Tinker Decl. ¶ 17. This programming can come in the form of networked content, where stations share programming; satellite delivered syndicated programming, where a third-party company produces a show and makes it available to stations in exchange for either a cash consideration or on a barter arrangement; or even the sale of block program time to national and local program producers.

Broadcasters have particularly acute problems reporting on third-party programming (*i.e.*, "syndicated programming"), as they receive little, if any, information from the programming providers regarding the recordings included in that programming (either the identifying information for the recordings or when they are played). Kozsuch Decl. ¶ 6. As a result,

streaming providers cannot match up the music embedded in the syndicated programming with the streaming audience at the time the music is played. Tinker Decl. ¶ 17; Myer Decl. ¶ 13. Nor, as a commercial matter, are Broadcasters able to require additional information from program providers.

The difficulty in obtaining and reporting information from third-party providers – even at the current level required – has led to a result likely unexpected by SoundExchange: some stations have decided not to stream such programming because they cannot report on the music embedded in that programming in a way that meets the current requirements. Myer Decl. ¶ 13.

For example, WDAC, 94.5 FM in Lancaster, Pennsylvania broadcasts Hispanic programming obtained from Moody Broadcasting over the air, but due to the requirements of reporting, does not stream. This programming represents about 160 hours a week of total programming, of which about 60% is music and the rest is biblical teaching. Due to the onerous reporting requirements already in place, the station's Internet audience is deprived of this programming – 40% of which (about 65 hours a week) is not even music programming. *Id.*

Similarly, prior to August 2011, Salem Communications streamed its "Crosswalk" programming on approximately 12 channels for approximately 8 years. This programming included a lot of unique content, such as children's music, alternative Christian Rock, Southern Gospel, Urban Gospel, and praise and worship content. Because of the royalty fees and reporting requirements, Salem made the decision to stop streaming this content. Tinker Decl. ¶ 18.

Ironically, as a result of demanding more information to facilitate the payment of royalties, the copyright owners and artists have been deprived entirely of the revenue that they would have earned had the reporting requirements been less onerous. Increasing the

requirements for reporting will likely lead to other stations making similar decisions with respect to curtailing third-party programming.

To address this very real problem, Broadcasters propose to amend 37 C.F.R. § 370.4(d) to include a new subsection (d)(7) as follows:

> (7) In the case of programming provided by third parties to a Service that owns and operates a terrestrial AM or FM radio station that is licensed by the Federal Communications Commission, the Service shall make commercially reasonable, good-faith efforts to cause such third parties to furnish the information required in paragraph (d)(2) of this section. If, however, some or all of that information is not provided to the Service, the Service shall not be required to provide the information that it did not receive from the third-party programming provider regarding its sound recording performances for such programming. In all cases, the Service shall be permitted to report Aggregate Tuning Hours and play frequency in lieu of actual performances for such programming.

Broadcasters should not suffer adverse consequences if a third-party programmer fails to provide them with complete reporting information despite having been requested to do so. Rather, Broadcasters should only be required to provide to SoundExchange the information that they themselves receive from third parties.

F. Broadcasters Should Not Have To Identify or Report Recordings as to Which SoundExchange Is Not Authorized To Collect or Distribute Royalties.

SoundExchange's request that services report and separately identify recordings for which SoundExchange has no authority to collect and distribute royalties – including directly licensed recordings and recordings not subject to federal copyright protection – is an unwarranted overreach that should be rejected. *See* SoundExchange Petition at 24-26.

The statutorily defined scope of the notice and recordkeeping requirements under review in this rulemaking is confined to providing copyright owners with "reasonable notice of the use of their sound recordings under" the Statutory Licenses. *See* 17 U.S.C. §§ 112(e)(4),

114(f)(4)(A). Nowhere do these provisions authorize required reporting of sound recordings not subject to the statutory licenses.

Similarly, SoundExchange is only the designated collection and distribution agent for royalties it receives under the statutory licenses. *See id.* § 112(e)(2) (providing that copyright owners "may designate common agents to negotiate, agree to, pay, or receive such royalty payments" made under "a statutory license under this subsection" 114(e)); *id.* § 114(e)(1) (providing that copyright owners may designate agents to "negotiate, agree to, pay, or receive payments" in connection with "statutory licenses in accordance with subsection (f)"). It has no statutory authority to collect and distribute royalties for sound recordings not subject to the statutory licenses.

Recordings created before February 15, 1972 are not subject to federal copyright protection at all, so SoundExchange has no power to collect and distribute royalties for their performances. *See id.* § 301(c) ("[N]o sound recording fixed before February 15, 1972, shall be subject to copyright under this title before, on, or after February 15, 2067."); 37 C.F.R. §§ 380.11, 380.12(a) (providing that statutory license fee is "payable on a per-performance basis" and excluding from the definition of "Performance" "[a] performance of a sound recording that does not require a license (e.g., a sound recording that is not copyrighted").

Similarly, performances of recordings that have been directly licensed by their copyright owners are not subject to the Statutory Licenses. *See id.* § 380.11 (excluding from definition of "performance" "[a] performance of a sound recording for which the Broadcaster has previously obtained a license from the Copyright Owner of such sound recording"). Sound Exchange has no right to obtain information regarding performances of recordings for which it has no right to

collect and distribute royalties and thus are outside the ambit of its statutorily authorized functions.

G. The Smallest Broadcasters Paying No More Than the Annual Minimum Fee Should Be Exempt From any Reporting Requirements, Which Would Increase the Royalties That SoundExchange Is Able To Distribute.

It is particularly difficult for smaller Broadcasters – both commercial and noncommercial – to comply with the existing reporting requirements, much less any added requirements. They typically are the entities with the smallest staffing, fewest resources, and least sophisticated reporting technology. Single-station Broadcaster KCFY, for example, has only five personnel, with just two full-time employees, and one of them functions simultaneously as general manager, program director, music director, and engineer. Myers Decl ¶ 3. Indeed, the Judges' current regulations, as well as SoundExchange itself, recognize the "unique business and operational circumstances" of these small broadcaster entities. 37 C.F.R. § 380.13(g)(2) (commercial broadcasters); *id.* § 380.23(g)(1) (noncommercial educational broadcasters); *Notification of Agreements Under the Webcaster Settlement Act of 2009: Notice of Agreements*, 74 Fed. Reg. 40614, 40618 (Aug. 12, 2009) (SoundExchange WSA agreement). These severe resource limitations, coupled with Broadcasters' use of systems designed to operate their over-the-air broadcasts rather than simulcast streaming, make the reporting burdens described in 37 C.F.R.§ 370.4 particularly daunting for these broadcasters.

At the same time, these small Broadcasters generate far lower royalty payments than large Internet-only webcasters due to their vastly smaller stream audiences. Many such entities are entitled to pay only a $500 annual minimum fee. *See* 37 C.F.R. §§ 380.3(a), 380.22(a), (b).

Given this combination of (a) severely limited resources and (b) relatively lower streaming payments, Broadcasters propose that the Judges exempt from the reporting requirements Broadcasters that pay no more than the minimum fee (currently $500) and

authorize SoundExchange to distribute royalties from these entities based on proxy data. Indeed, many licensees with small stream listenership already are exempt from any reporting requirements for the current license period so long as they pay an additional $100 annual fee to SoundExchange. For example, "Small Broadcasters" that stream no more than 27,777 annual Aggregate Tuning Hours ("ATH") are exempt from reporting. 37 C.F.R. § 380.13(g)(2). Noncommercial Educational Webcasters streaming less than 55,000 annual ATH similarly are exempt. 37 C.F.R. § 380.23(g)(1); *see also* 74 Fed. Reg. at 40618-19.

Exempting small Broadcasters from the reporting requirements is an efficient and reasonable outcome for all parties involved. These entities pay the least amount of royalties yet may generate higher processing costs by SoundExchange due to their more limited reporting capabilities. Moreover, SoundExchange's then-Chief Operating Officer, Barrie Kessler, estimated SoundExchange's annual administrative costs to be $833 per channel or station and that larger services "in effect subsidize the costs associated with processing payments and information from smaller services that typically pay only the minimum fee."[13] Test. of Barrie Kessler, Docket No. 2009-1 CRB Webcasting III, at 22, 25 (Sept. 29, 2009), http://www.loc.gov/crb/proceedings/2009-1/statements/index.html.

If Broadcasters paying only the minimum fee were exempted from the reporting requirements in exchange for payment of an additional annual fee of no more than $100, it would increase the overall royalties available for distribution to copyright owners and performing artists in numerous ways. Specifically, such a system would:

- significantly increase the royalty pool by decreasing SoundExchange's report processing costs because it would be able to distribute royalties from these entities on a proxy – and likely far more efficient – basis, without having to process these records and thereby consume all or almost all of the royalties at issue;

[13] Broadcasters do not concede that SoundExchange's annual minimum cost per channel or station is $833.

- increase the royalty pool by adding an additional $100 per station or channel to that pool; and
- further increase the royalty pool by encouraging other smaller entities to stream without fear of being subjected to onerous reporting requirements.

Moreover, such a solution is particularly beneficial with respect to Broadcasters, which are more likely to play more "mainstream" music, with playlists that are necessarily more limited than those of large multi-channel webcasters like Pandora. Given the nature of their programming, the music played by many smaller Broadcasters likely also would be played by larger Broadcasters with stations in the same format, thereby enabling those recordings to be captured more easily by a proxy distribution method based on ROUs filed by larger entities.

For all of these reasons, Broadcasters strongly urge the Judges to make the existing reporting exemptions permanent and to expand them to all Broadcasters paying no more than the minimum annual fee.

H. The Copyright Royalty Judges Should Allow Broadcasters for Whom Census Reporting Is Not Commercially Feasible To Submit ROUs for a Reasonable Sample of Their Programming.

In addition to the numerous reporting difficulties that Broadcasters already face, it is particularly daunting for noncommercial and other smaller Broadcasters with limited resources and personnel to prepare and submit ROUs on a census basis. Small Broadcasters paying more than the minimum fee also have difficulty providing the sheer volume of data that census reporting requires, particularly when they have to engage in extensive manual modifications to their ROUs to attempt to provide the required information. Gantman Decl. ¶ 4. These Broadcasters should be permitted to provide ROUs for a reasonable sample of the recordings that they perform – *e.g.*, no more than two weeks per calendar quarter.

Reporting based on a reasonable sample has a number of advantages. *First*, it greatly reduces the amount of data processing involved in reporting music use, which, in turn simplifies

royalty verification and distribution. In lowering both music reporting and royalty administration costs, sampling benefits both owners and users.

Second, sampling would be particularly well-suited to measure music use for radio broadcast streams because radio stations focus more on "mainstream" music and have more targeted playlists[14] than do large multi-channel custom webcast services. Indeed, the Recording Industry Association of America ("RIAA"), of which SoundExchange was initially a part, in the past has specifically identified this difference between broadcast radio programming and the Internet-only services participating in the subscription services proceeding in initially opposing sample reporting, stating that "[s]ampling could deny many sound recording copyright owners of non-mainstream sound recordings[] royalties to which they are entitled." Reply Comments of the Recording Industry Association of America, Inc., Docket No. RM 96-3, at 7 (U.S. Copyright Office Aug. 12, 1996) (Ex. S). This argument is not applicable to the vast majority of radio programming that Broadcasters simulcast.

Third, sampling is a widely used, well-respected, and accurate means of gauging music use that even RIAA has previously agreed to accept. In the musical works context, ASCAP and BMI continue to rely on samples to calculate their member distributions from over-the-air radio station royalties. ASCAP, for example, has long distributed to its members royalties collected from over-the-air radio broadcasts on the basis of sample surveys. Indeed, for over 50 years, the consent decree governing ASCAP's operations has permitted ASCAP to distribute royalties to its

[14] *Compare* Myer Decl. ¶ 11 (information for over 20,000 recordings); Gay Decl. ¶ 9 ("500 stations, with hundreds of current of songs, and possibly thousands of older songs in each database") *with* Executive Summary of Written Testimony of Chris Harrison, Vice President, Business Affairs, Pandora Media Inc., *Music Licensing Under Title 17: Part Two*: Hearing Before the H. Comm. on the Judiciary, 113th Cong. 1 (June 25, 2014) ("Every month, Pandora performs more than 1.5 million songs by more than 100,000 recording artists, 80% of whom would not be discovered otherwise."), http://judiciary.house.gov/index.cfm/hearings?Id=F7CAE46F-263F-4912-AE53-787FF242472B&Statement_id=7563D3C3-5B74-49E4-A4F2-2DD924AB919F (last visited June 29, 2014).

members on the basis of sample surveys rather than on census data. *United States v. ASCAP*, 1960 Trade Cas. (CCH) ¶ 69,612, at 76,468 (S.D.N.Y. 1960) (allowing ASCAP to conduct a sample survey of performances of its members' compositions for royalty distribution purposes in lieu of a census survey); *see also* Second Amended Final Judgment, *United States v. ASCAP*, Civ. Action No. 41-1395, 2001 WL 1589999, at *9 (S.D.N.Y. June 11, 2001) (ordering ASCAP to distribute royalties to members "primarily on the basis of performances of its members' works … as indicated by objective surveys" and allowing ASCAP to conduct sample, in lieu of census, surveys).

In light of the well-established reliability of sampling, the regulations should be amended to permit Broadcasters for whom census reporting is difficult and not commercially feasible due to limited resources, staffing, and technology to submit reports of music use on a sample basis. If such Broadcasters were to submit reports for two weeks per calendar quarter – *i.e.*, approximately 15% of their programming – SoundExchange would have ample data upon which to base its distribution, particularly given that many Broadcasters are able to provide census reports and would continue to do so. Such a regime most effectively fulfills the statutory requirement that copyright owners receive "reasonable" notice of the use of their sound recordings.

I. The Regulations Should Be Clarified To Confirm That Incidental Performances of Sound Recordings Need Not Be Reported.

When RIAA first petitioned the Copyright Office to issue notice and recordkeeping provisions applicable to webcasting, it expressly acknowledged that it was not requesting reporting of non-featured sound recording performance, such as incidental or background uses. *See* Petition for Rulemaking To Establish Notice and Recordkeeping Requirements for the Use of Sound Recordings in Certain Digital Audio Services, Docket No. RM 2002-1 (U.S. Copyright

Office May 24, 2001) ("We also reserve the right to request information concerning non-featured uses of sound recordings, although we have not done so at this time." (emphasis added)).

Consistent with that position, the notice and recordkeeping regulations include a definition of the term "performance" that excludes certain types of incidental performances that clearly were not intended to be reported. *See* 37 C.F.R. § 370.4(b)(4). Indeed, there would be no reason to include a definition for "performance" that excludes certain defined incidental performances unless those performances were intended to be omitted from the reporting requirements.

Even the definition of "performance" for the purpose of calculating webcasting fees excludes the same types of incidental performances that are excluded in the notice and recordkeeping provision. *Compare id.* § 370.4(b)(4) *with id.* § 380.11. It would make no sense to require Broadcasters to report incidental performances of sound recordings where those performances do not result in any royalty liability.

The reporting regulation, however, confusingly states that ROUs should include certain information "for each sound recording transmitted" during the relevant reporting period rather than requiring reporting of sound recording "performances." 37 C.F.R. § 370.4(d)(2). To correct this anomaly, Broadcasters propose that 37 C.F.R. § 370.4(d)(2) be modified to require reporting "for each performance of a sound recording transmitted" during the applicable reporting period.

IV. THE JUDGES SHOULD REJECT SOUNDEXCHANGE'S ATTEMPTS TO IMPOSE HARSH PENALTIES FOR REPORT SUBMISSION ERRORS AND DELAYS AND TO SHORTEN THE SUBMISSION PERIOD ITSELF.

In addition to SoundExchange's efforts to make the reporting requirements more difficult and burdensome, it also has proposed a number of provisions that would unreasonably penalize

services for errors in preparing ROUs or delays in their submission. These provisions should be rejected.

A. The Judges Should Reaffirm Their Rejection of SoundExchange's Request for Onerous Late Fees for Delayed or Imperfect ROUs, Particularly Given that SoundExchange Already Is Overcompensated for the Time Value of Money Through the Late Payment Fee.

SoundExchange's request for a late fee of 18% per year for late or imperfect ROUs – which would be in addition to the annual late fee of 18% already applicable to late royalty payments or SOAs – is highly unreasonable, has recently been rejected by the Judges, and should be rejected again.

A key purpose of a late fee is to compensate a person for the lost time value of money or property that is not remitted when it should have been. *In re Continental Ill. Sec. Litig.*, 962 F.2d 566, 571 (7th Cir. 1992) ("The cost of delay in receiving money to which one is entitled is the loss of the time value of money, and interest is the standard form of compensation for that loss"). A provision authorizing the assessment of a modest late fee as a percentage of the late payment amount makes a certain degree of sense so that the person owed the payment is made whole for the delay in receiving payment. Here, SoundExchange already is able to collect a hefty annual late fee of 18% of the late royalty payment amount when a licensee does not make the payment or submit a statement of account on time. *See* 37 C.F.R. §§ 380.4(e), 380.13(e). This amount is significantly higher either than the federal rate on judgments (currently 0.10% per year)[15] or the prime rate (currently 3.25% per year), http://www.bankrate.com/rates/interest-rates/wall-street-prime-rate.aspx (last visited June 30, 2014) (Ex. T).

[15] *See* 18 U.S.C. § 3612 (f)(2). For the Week Ending June 20, 2014, the rate is 0.10%. *See* http://www.utd.uscourts.gov/documents/int2014.html (last visited June 29, 2014).

This purpose, however, is not relevant to a late or imperfect ROU. A late ROU does not affect payments to SoundExchange. So long as SoundExchange has received the actual royalty payment, it will be able to accrue interest on that payment until it processes and distributes that money. Assessing such a fee at all makes no sense, nor does tying the amount of the fee for imperfect ROUs to a timely payment already in SoundExchange's possession. And it is even more unreasonable to assess separate 18% annual fees against licensees who are delayed in submitting payments and the relevant SOAs and reports of use – which would potentially double the penalty and create a usurious windfall to SoundExchange.

SoundExchange does not argue that its proposed late fee relates to the time value of money. Rather, SoundExchange makes clear that its real purpose is to impose an 18% penalty to punish services who have trouble preparing their ROUs and submitting them on time in the hopes that it will enforce compliance. But it is well settled that contracts may not impose penalties and that penalty damage clauses are unenforceable. *See* Am. Jur. 2d Damages § 507; *see, e.g., Interstate Markings, Inc. v. Mingus Constructors, Inc.*, 941 F.2d 1010, 1014 (9th Cir.1991) (recognizing that penalties in contracts are disfavored and generally not enforceable). The same principle should apply here, in the context of a license term that is comparable to a contract provision.

In the remanded decision in Web III just issued two months ago, the Judges rejected SoundExchange's request for an additional late fee, stating that "[t]he Judges are not persuaded that a late fee for reports of use is necessary" and that "SoundExchange failed to meet its burden with regard to this proposal." *Web III Remand*, 79 Fed. Reg. at 23126. Therefore, "the Judges decline[d] to adopt the proposed late fee terms." *Id.* The Judges should reiterate their prior

position in Web III and reject SoundExchange's recycled request for this windfall – and punitive – fee.[16]

In the NPRM, the Judges rightfully expressed concern about whether the imposition of a late fee accruing from the ROU due date until a fully compliant ROU is delivered would be punitive and specifically sought comments on this issue. NPRM, at 25044. In light of the numerous reporting challenges applicable to Broadcasters described in these comments, Broadcasters emphatically believe that imposition of any additional late fees beyond that applicable to royalty payments and statements of account would be punitive.[17]

Moreover, Broadcasters do not believe that imposition of a cap on SoundExchange's proposed ROU late fee is an appropriate solution for this problem. Given the widespread compliance difficulties, the regulations should first be amended so that Broadcasters are reasonably able to comply with them with no imposition of any late fee. Once a reasonable time period under the amended regulations has elapsed, the issue can be revisited to consider whether there are any significant lingering compliance problems to address through other measures.

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[16] NAB acknowledges that the agreement SoundExchange negotiated with it includes a late fee applicable to reports of use and that this late fee provision was included in the Web III rates and terms applicable to Broadcasters. This agreement, however, was a product of SoundExchange's market power, negotiating leverage, and the unusual timing and circumstances under which it was negotiated. The agreement does not represent valid marketplace evidence for the rates and terms included therein, as NAB will demonstrate during the upcoming Web IV proceeding. The particular late fee provision was introduced by SoundExchange at the last minute, on a take it or leave it basis, at a time when the NAB negotiators were not able to fully digest its unreasonableness. NAB will oppose vigorously any demand by SoundExchange that a late fee applicable to ROUs be part of the rates and terms set in that proceeding.

[17] Nor does SoundExchange explain when an ROU would be non-compliant. On its face, SoundExchange appears to be asking for a penalty if Broadcasters do not have – and are unable to determine for at least one reported sound recording – album and label information for any one that recording during the period, which highlights the absurdity of its request. Their ROU either would remain noncompliant ad infinitum, or they would be forced to guess at that information in those rare cases where there is not a unique match based on title and artist information alone.

B. SoundExchange's Attempt To Force Licensees To Forfeit the Right To Reclaim Overpayments After only Ninety Days Is Discriminatory and Unwarranted Given Its Own Unlimited Right To Recapture Overpayments to Copyright Owners and Three-Year Right To Audit Licensees.

SoundExchange's effort to require licensees to forfeit the ability to seek refunds of erroneous overpayments is outrageous and ironic given its own marketplace behavior. Its request should be rejected.

SoundExchange itself claims to have the unlimited right to recoup its own erroneous overpayments from the copyright owners and performing artists it has paid, with no time restriction on that right whatsoever. The applicable provision of its Policies and Procedures guide states:

> 5.6. Adjustments. In the event an improper royalty amount is paid to an entity (e.g., as a result of inaccurate reporting by a Service), SoundExchange will make future adjustments to accounts in order to correct any errors in royalty distributions. Adjustments typically take the form of an additional payment or a reduced payment to an existing account in the next scheduled distribution.

SoundExchange Policies and Procedures § 5.6, https://register.soundexchange.com/assets/downloads/090423_policies_and_procedures.pdf (last visited June 26, 2014) (Ex. U). This provision does not include any time limit on SoundExchange's ability to recoup any such overpayments.

Moreover, SoundExchange has given artists and copyright owners nine months – triple the time it seeks to give to licensees here – to complain to SoundExchange about royalty underpayments:

> (b) A complaint must be filed within nine months of the following events:
>
> (i) if the complainant is paid directly by SoundExchange, the complainant's receipt of the annual statement of calculated royalties at issue;
>
> (ii) if the complainant did not receive an annual or other royalty statement from SoundExchange and/or the complaint relates to the

> fact that the complainant did not receive any payment, the time at which the complainant reasonably would have been put on notice of the circumstances giving rise to the claim."

Id. § 7.2.2(b). While Broadcasters believe that nine months is also too short of a window to bring such complaints, this provision at least shows that SoundExchange is far more generous to its own members than it seeks to be to licensees – the very entities who generate the payments for those members.

SoundExchange also is able to audit licensees and assert the right to royalty underpayments for a full three years. *See* 37 C.F.R. §§ 380.6(b), 380.15(b), 380.25(b). It is disingenuous and discriminatory for SoundExchange to seek to limit licensees' rights to correct overpayments to three months while maintaining a licensees' obligation to correct underpayments for a full three years and giving itself an unlimited right to recapture overpayments from its members.

Apart from the sheer one-sidedness of this provision, there is a practical reason for rejecting SoundExchange's request: licensees may detect overpayment errors far longer than three months after submitting a required royalty payment and SOA.

Moreover, there is no harm to SoundExchange in maintaining the reporting regulations without the forfeiture provision that SoundExchange requested. As the above provision from SoundExchange's policies and procedures demonstrates, SoundExchange can simply withhold future royalty distributions from its payees to account for any overpayments it has made.

For the reasons set forth above, SoundExchange's requested forfeiture provision should be rejected. Moreover, the regulations should be amended to require that SoundExchange pay (or credit) services interest at the prime rate (currently 3.25% per year) to compensate services for the lost time value of their overpayment amounts while that money was in SoundExchange's possession.

C. The Report Submission Due Date Should Not Be Accelerated by 15 Days; SoundExchange Itself Only Distributes Royalties Every Three Months, and Services Need the Full 45 Days To Prepare and Verify the Reports.

Not only does SoundExchange seek to penalize broadcasters for report submission difficulties, but it also seeks to curtail the submission period by 33%, from 45 days to 30 days following the end of the reporting period. SoundExchange Petition at 31. This request should be rejected.

The current 45-period is already quite short for preparing and submitting ROUs, particularly when one accounts for the time sometimes necessary to detect and correct human or computer errors in preparing ROUs. These reports are very data-heavy. For example, Cox's latest report had just under 11,000 lines of data, each with multiple columns. Kozsuch Decl. ¶ 7. Indeed, several Broadcasters observe that they need time to review the ROUs and have had to spend time correcting errors. *See* Gantman Decl. ¶¶ 4-5; Bone Decl. ¶ 12, Tinker Decl. ¶ 19; Levin Decl. ¶ 13; Cooney Decl. ¶ 13; Moran Decl. ¶ 17; Kozsuch Decl. ¶ 7. EMF reports that "[t]he total time for the entire report generation and submission process for me is about one full day of my time (although additional time is spent by others at EMF on this process)," including review for consistency with prior reporting and for any obvious anomalies, researching missing information, reformatting the raw data, creating individual reports, exporting files, and sending the reports. See Gantman Decl. ¶¶ 4-5.

A 45-day period for submission of ROUs is reasonable given the difficulties that Broadcasters have in preparing these reports and the lack of demonstrated need for faster reporting. Maintaining the 45-day deadline also is an efficient outcome, as it would minimize reporting errors that would lead to amended reports and additional processing time by SoundExchange by ensuring that Broadcasters have adequate time to prepare the ROUs in the first instance.

Moreover, for two reasons, there is an elegant logic to the current 45-day submission period. *First*, the deadline corresponds with the due date for monthly payments and SOAs for Broadcasters. *See* 37 C.F.R. § 380.13(c) ("Broadcasters must make payments where required by § 380.12, and provide Statements of Account and reports of use, for each month on the 45th day following the month in which the Eligible Transmissions subject to the payments, SOAs, and reports of use were made."); *see also id.* §§ 380.4(c), (f) (providing that monthly royalty payments and SOAs from webcasters are due "on or before the 45th day after the end of each month for that month"). Accelerating the date for ROUs unreasonably would require Broadcasters to keep track of two separate deadlines for the reports required in connection with a single royalty payment.[18]

Second, "SoundExchange endeavors to distribute royalties at least four times a year on a calendar quarter basis." SoundExchange Policies and Procedures § 5.5. Even assuming that SoundExchange adheres to this quarterly royalty distribution scenario, giving services 45 days following a monthly reporting period to submit payments and associated reports and SoundExchange the remaining 45 days to process those payments and reports and pay copyright owners and performers equally allocates the quarterly period between services and SoundExchange.

Even if SoundExchange seeks to accelerate its own payments to copyright owners and performers (*e.g.*, by moving to monthly payments), statutory licensees should not be burdened with unreasonable deadlines simply to satisfy SoundExchange's desire to make accelerated payments to distributees. Any benefit that SoundExchange and copyright owners and performers

[18] To the extent that SoundExchange's ultimate goal is to seek acceleration of the deadline for payments and statements of account, which it does not – and cannot appropriately – seek in this rulemaking, Broadcasters would opposed that request.

may derive from more rapid or frequent payments must be balanced against the burdens and potential for noncompliance with an unreasonably accelerated due date that would be imposed upon licensees.

Finally, SoundExchange's request to curtail services' ROU preparation time is ironic in light of its own request for an additional six months in which to post its annual reports, which Broadcasters oppose for the reasons specified in Part VII.A. It also is in sharp tension with SoundExchange's many other requests that seek to make Broadcasters' reporting burdens more onerous, which would warrant more time – not less – assuming that such requests were reasonable to begin with, which they are not. The Judges should leave the 45-day ROU due date unchanged.

D. Many of SoundExchange's ROU Complaints Can Be Resolved If the Judges Give SoundExchange Standing Authority To Use Proxy Data To Distribute Royalties Where Warranted, A Proposal that Broadcasters Support.

Ironically, SoundExchange itself has proposed an effective solution for addressing many of its complaints regarding ROUs – it seeks standing authority to seek the approval of its Board to use proxy data to make distributions where circumstances so warrant. *See* SoundExchange Petition at 27-29. Broadcasters support this proposal because it is a reasonable and far more effective way to address reporting challenges than imposing harsh penalties on entities already ill-equipped to handle some of the current requirements.

Distributions based on proxy data are a particularly effective means for distributing statutory royalties paid by terrestrial radio stations. Radio formats tend to be more consistent and better defined than Internet-only webcasts. *See supra* Part III.G. Therefore, distribution of radio station simulcast royalties based on proxy data from a station of the same format is likely to be highly accurate. Moreover, as described elsewhere in these comments, Broadcasters face particular challenges in complying with the reporting requirements given the limited information

that they often receive from record companies and music services that provide them music and their systems designed for the core broadcasting businesses rather than their ancillary streaming operations. *See supra* Part. I.B.

Further, enabling SoundExchange to use proxy data to distribute royalties would not significantly decrease the integrity of overall distributions. SoundExchange has indicated that only 1.2% of the royalties it has received for 2010-2012 remain undistributable due to ROU issues. SoundExchange Petition at 28. That means that the overwhelming majority of collected royalties would still be distributed based on actual sound recording usage data associated with those payments. Tellingly, it also means that the data deficiencies arising from current reporting requirements are not as pervasive and voluminous as SoundExchange makes them out to be.

SoundExchange has itself indicated that its Board of Directors provides a balanced representation of the recording industry. SoundExchange Petition at 29. If this is indeed the case (and Broadcasters take no position on whether the power exercised by the different constituencies constituting the SoundExchange Board is balanced), then SoundExchange should not only be empowered to use proxy data where appropriate or necessary but should be encouraged to rely on proxy data where it is economically efficient to do so.

For all of these reasons, Broadcasters support the grant of broad authority to SoundExchange to use proxy data to allocate and distribute statutory royalties promptly and efficiently. Rather than imposing penalties on statutory licensees that are unable to provide ROUs fully compliant with the regulations, as SoundExchange proposes in its Petition (SoundExchange Petition at 29), the use of proxy data for the distribution of royalties paid by terrestrial radio stations simulcasting their transmissions over the Internet would likely result in

highly accurate (and efficient) royalty allocations and distributions among copyright owners and recording artists, particularly when measured across the entire licensee royalty pool.

V. SOUNDEXCHANGE'S REPEATEDLY REJECTED REQUEST THAT SERVICES MAINTAIN SERVER LOGS IS NOT APPROPRIATELY ADDRESSED IN THIS RULEMAKING AND, IN ANY EVENT, SHOULD BE REJECTED AGAIN.

SoundExchange's recycled request that services maintain server logs was just rejected in the Web III proceeding setting webcaster rates and terms, and SoundExchange should not be permitted to continue to re-litigate this issue here. *See* SoundExchange Petition at 32-34. To the extent that the Judges do reconsider this request, Broadcasters strongly oppose it for the reasons discussed below.

SoundExchange's request for server logs was just litigated in Web III. In that proceeding, "[t]he Judges f[ou]nd that SoundExchange has failed to meet its evidentiary burden" to justify its request. *Web III Remand*, 79 Fed. Reg. at 23125. They further observed that:

> SoundExchange failed to note, let alone balance, the burden on licensees against the likely benefits from the proposed change. The Judges are loathe to adopt a term without such evidence. The Judges decline to amend § 380.4(h) to specify server logs.

Id. It is not appropriate for SoundExchange to rehash this issue here under the guise of "recordkeeping." Therefore, the Judges should not entertain SoundExchange's server log proposal here.

If the Judges do reconsider SoundExchange's request for server logs in this rulemaking, they should deny it. As was true in Web III, SoundExchange again failed even to discuss – much less support with evidence – the burden that this request would impose on services and their stream providers compared with any professed usefulness of the logs. Retaining logs of every user connection for three years across multiple stations when Broadcasters have no operational need for this information imposes an undue burden that is not necessary in order to provide

copyright owners with reasonable notice of use of their sound recordings. Against these burdens are highly questionable benefits: Server logs are difficult to interpret and often reflect activity such as data connectivity problems, robotic activity, and server faults, where no performance was actually streamed to a listener. *See, e.g.*, Gantman Decl. ¶ 8. If SoundExchange and its auditors were to review these logs, services and their stream providers would have to shoulder the significant burden, expense, and diversion from their normal business operations to explain these logs to SoundExchange's auditors.

Moreover, Broadcasters often rely on third-party stream providers to facilitate their simulcasting. *See* Levin Decl. ¶ 10; Cooney Decl. ¶ 9; Bone Decl. ¶ 7; Tinker Decl. ¶ 10. These third parties operate the servers that are used to connect a user to a stream and calculate performances that are then matched with the specific recordings fed to the streaming provider by the digital automation systems of the Broadcaster. *See* Tinker Decl. ¶ 10. Certain providers view server log data – and the methods that they have developed over the years to process that information – as a proprietary trade secret, developed using proprietary systems and methods, and guard this information carefully, refusing to provide it even to their own broadcaster customers. *See* Myer Decl. ¶ 17; Cooney Decl. ¶ 17. Moreover, these providers have their own data retention policies over which Broadcasters have little control.

The regulations already provide that when a licensee such as a terrestrial radio station uses the services of a third party to facilitate streaming, it must use commercially reasonable efforts to provide access to such underlying reports and records. *See, e.g.*, 37 C.F.R. § 380.15(d) ("The Broadcaster shall use commercially reasonable efforts to obtain or to provide access to any relevant books and records maintained by third parties for the purpose of the audit."); *accord id.* § 380.6(d). Broadcasters rely upon stream providers in the ordinary course of business to

provide them with accurate performance information regarding that programming and then use that performance information to calculate their royalty liability and prepare their ROUs. They are willing to make available to SoundExchange in connection with an audit these relevant records that they request and receive from third parties.

SoundExchange and its auditors, however, should not be entitled to gain access to documents reflecting these providers' proprietary business methods as opposed to the business records that Broadcasters themselves receive and rely upon to track and report their performances in connection with an audit. SoundExchange's request for server logs should be denied.

VI. SOME OF SOUNDEXCHANGE'S PROPOSED FORMAT, DELIVERY, AND OTHER TECHNICAL PROPOSALS APPEAR TO BE WORKABLE, BUT OTHERS ARE UNREASONABLE AND SHOULD BE REJECTED.

A. Subject to Certain Caveats, Broadcasters Do Not Oppose Several of SoundExchange's Proposed Format, Delivery, and Technical Requirements.

1. Authorization for Parties To Vary the Reporting Requirements by Agreement

Broadcasters support SoundExchange's proposal to include a provision authorizing licensees and SoundExchange to vary reporting requirements by agreement. Broadcasters hope that SoundExchange is sincere in its statement that it is "very willing to work with licensees to make adjustments in reporting procedures to make the statutory licenses work better for all concerned." SoundExchange Petition at 15. Private agreements are a means by which parties can customize regulations to fit the unique challenges faced by particular categories of licensees in a way not possible with a one-size-fits-all regulation.

2. Electronic Signatures; Broadcasters' Proposal To Delete Penalty of Perjury Signature Requirement

Broadcasters similarly support SoundExchange's proposal to permit the use of electronic signatures by licensees (SoundExchange Petition at 15-17) because it will streamline both the submission and processing of ROUs.

With respect to the signature requirement, Broadcasters additionally propose deletion of the requirement that ROUs be signed under penalty of perjury. Given the many difficulties that Broadcasters experience in trying to find and populate some of the required data elements, including album and label information, this provision is particularly troubling. Moreover, SoundExchange is under no parallel requirement to attest to the accuracy of its royalty distribution statements under penalty of perjury. *See, e.g.*, 37 C.F.R. § 380.13(i) (providing only that "[t]he Collective shall promptly distribute royalties received from Broadcasters to Copyright Owners and Performers, or their designated agents, that are entitled to such royalties").

Broadcasters and other licensees are permitted to sign their SOAs with the following simple affirmation:

> I, the undersigned owner or agent of the Broadcaster, or officer or partner, have examined this Statements of Account and hereby state that it is true, accurate, and complete to my knowledge after reasonable due diligence.

See id. § 380.13(f)(8); *see also id.* § 380.4(f). A similar affirmation confirming the accuracy of ROUs, without the potentially harsh penalties of perjury attached, should be sufficient.

3. Consistent Naming and Use of Account Numbers

Broadcasters also do not oppose SoundExchange's proposal to assign licensees account numbers and their inclusion in ROUs (SoundExchange Petition at 9) so long as the account numbers are assigned at the licensee level rather than to individual stations. Otherwise, the

burden of reporting such numbers would be unreasonable and unworkable for broadcasters such as Cumulus, which operates over 500 stations.

Nor do Broadcasters object to a requirement that SOAs and ROUs use the same licensee name, so long as such a provision does not have adverse consequences attached if a licensee does not do so. *See id*. at 8-9. As SoundExchange observes (*id.* at 6), Broadcasters often have different people and departments prepare ROUs as opposed to SOAs, so the licensee names may not be 100% consistent in all respects. For example, the person preparing ROUs may omit "Inc.," whereas the person preparing SOAs for the same licensee may include it.

SoundExchange has been processing SOAs and ROUs for years from small and large entities, and it should easily be able to handle minor company naming discrepancies. SoundExchange likely suffers little, if any, injury when SOAs and ROUs don't match precisely, and SoundExchange is always free to have its staff reach out to licensees to confirm any unclear or missing information.

4. Consistent Scope of Performance Activity in SOAs and ROUs

Broadcasters similarly do not oppose a provision requiring that the scope of performance activity on a given monthly SOA and associated ROU be the same, again so long as there are no adverse consequences that attach if this preference is not followed. *See* SoundExchange Petition at 6-8. Again, given that different people and departments sometimes prepare these two statements, Broadcasters should not be penalized for discrepancies, particularly where SoundExchange is readily able to match and process the respective reports. If SoundExchange truly experiences difficulty in matching performance counts on SOAs and ROUs, it is always free to contact the person specified on the report to resolve such issues cooperatively.

5. Separate ROUs for Separate Services

Broadcasters also do not object to a narrow amendment to require licensees to submit separate ROUs for separate services subject to different rate structures (SoundExchange Petition at 8)[19] provided that submission of separate reports actually is necessary for SoundExchange to allocate and distribute royalties.

If, on the other hand, SoundExchange is able to obtain the information that it needs to distribute royalties from a single report for different services, Broadcasters oppose any requirement to submit separate ROUs. For example, some licensees may operate a service subject to a rate structure dependent on listenership (*e.g.*, an eligible nonsubscription or new subscription service) and another service subject to a rate structure based on a percentage of the licensee's revenues (*e.g.*, a business establishment service or a satellite digital audio radio service). If the playlists are identical for both such services, the licensee should not be subject to a burdensome and duplicative obligation to submit two lengthy ROUs listing the same playlist information. Rather, the licensee should be able to submit a single ROU with listenership information applicable to the service for which such information is relevant.

To address the above concern, Broadcasters propose to modify SoundExchange's proposed second sentence in 37 C.F.R. § 370.4(d)(1) as follows:

> However, a provider of Services subject to different statutory rates shall provide a separate Report of Use for each such type of Service, but only where the submission of separate Reports of Use is necessary in order for the Collective to allocate and distribute royalties.

[19] Of course, if the rate structures and rates are the same for different types of services (*e.g.*, if a licensee operates an eligible nonsubscription service and a new subscription service subject to the same rates), there would be no need for separate reports, and Broadcasters would oppose any such requirement.

6. Modification of SoundExchange's Address

Broadcasters do not oppose SoundExchange's proposal to remove its physical address from 37 C.F.R. § 370.4(e)(4) and replace it with a reference to its website so long as SoundExchange is required to publish its address on its homepage (www.soundexchange.com). Broadcasters note that SoundExchange still must disclose its physical address in the Notice of Designation as Collective required under 37 C.F.R. § 370.5(b).

7. Deletion of Requirement that SoundExchange Maintain a Quattro Pro NOU Template

Broadcasters have reservations about SoundExchange's proposal to eliminate the requirement that it offer a Quattro PRO template for NOUs (SoundExchange Petition at 34), but they lack sufficient information to know whether a material number of Broadcasters operating under the Statutory Licenses, if any, still use Quattro Pro for the creation of NOUs. SoundExchange, as the advocate for this change, should be required to support its proposal with evidence regarding the number of licensees currently delivering ROUs using Quattro Pro. If SoundExchange does so and is able to establish that no one still uses Quattro Pro in report preparation, then Broadcasters will drop their reservations concerning this proposal.

Broadcasters also believe that SoundExchange should develop new templates for other software programs that may be developed, should more than a substantial number of licensees (*e.g.*, a dozen) request support for such a program. As many computer programs are moving from proprietary desktop programs to cloud supported programs (*e.g.*, Google Docs), Broadcasters believe that SoundExchange should accommodate new technologies and programs that may be utilized by statutory licensees.

8. Conforming Changes

Finally, Broadcasters do not object to the following minor clean-up revisions proposed by SoundExchange:broadc

- consistent capitalization of defined terms (SoundExchange Petition at 39);
- elimination of the term "AM/FM Webcast" (*id.* at 40); and
- referring to the statutory licenses under Sections 114(d)(2) and 112(e) of the Copyright Act as the "Section 114" and "Section 112(e)" statutory licenses (*id.*).

B. Certain of SoundExchange's Format, Delivery, and Technical Proposals Are Unreasonable and Should Be Rejected.

While Broadcasters support certain of SoundExchange's proposals with certain caveats, as detailed above, several other proposals are unreasonable and objectionable for the reasons given below.

1. SoundExchange's Proposed Elimination of No-Header Files – Which It Originally Proposed and Which Many Broadcasters Use – Should Be Rejected.

For numerous reasons, Broadcasters oppose SoundExchange's about-face in proposing to require all services to submit ROUs with seventeen-line header records after years of supporting a no-header option and accepting and processing ROUs without such headers. *See id. at* 10-12. The header lines that SoundExchange proposes do not include information necessary to identify sound recordings or the number of performances of those sound recordings that the ROUs target but rather basic contact and technical information that SoundExchange already receives in other ways, or does not need.

First, it was RIAA itself – of which SoundExchange was initially a part – that first proposed that ROUs be submitted exclusively <u>without</u> headers, asking the Copyright Office to adopt regulations to require services to report elements of data in a specified order "<u>with no headers or footers</u>." *See* Comments of the Recording Industry Association of America, Docket

No. RM 2002-1A, Ex. A at A-9 (U.S. Copyright Office Apr. 5, 2002), http://www.copyright.gov/carp/114/comments.html (last visited June 29, 2014) ("RIAA 2002 Recordkeeping Comments"). It was only at the request of particular services for whom headers were more convenient that SoundExchange agreed to add files with headers as an option at all:

> We highlight here that SoundExchange agreed to offer headers as an optional method of submitting reports of use in order to accommodate the requests of certain webcasters.

Comments of SoundExchange, Inc., Docket No. RM 2005-2, 27 (Aug. 26, 2005), http://www.loc.gov/crb/proceedings/2006-1/soundex-exh417.pdf (last visited June 30, 2014) ("SoundExchange Aug. 2005 Comments").

Second, SoundExchange for years has continued to support giving services the flexibility to choose between submitting ROUs with or without headers. *See* Comments of SoundExchange, Inc., Docket No. RM 2002-1B, at 7 (U.S. Copyright Office Sept. 30, 2002) ("SoundExchange Sept. 2002 Comments") (Ex. V) ("SoundExchange is proposing that the Copyright Office give statutory licensees the choice to create reports of use in one of two layouts: files without headers and files with headers."); *see also* SoundExchange Aug. 2005 Comments at 27 ("Services wishing to deliver reports of use without headers may do so, as long as the reports are in a uniform format of pre-determined order."). SoundExchange has expressly recognized that permitting no-header ROUs is a "reasonable accommodation" to services and that it "has already developed systems to receive and process reports without headers." *Id.* at 22-23. Indeed, SoundExchange is required to post a Microsoft Excel ROU template on its website, and "[t]the Macro on SoundExchange's Excel template automatically generates files without headers and is available for free to all services." SoundExchange Aug. 2005 Comments at 27.

Third, both the Copyright Office and SoundExchange itself have recognized that permitting services to submit no-header ROUs has been successful. The Copyright Office, for

example, noted their successful operation with respect to preexisting subscription services and advocated their adoption for webcasters and others:

> The previous regulation adopted by the Copyright Office for records of use by preexisting subscription services, 37 CFR 270.2(g), specifies the reporting of data without headers. <u>These provisions have operated successfully, and the Office is proposing that they be adopted in this docket</u> with some slight modifications to avoid duplication of information.

Notice and Recordkeeping for Use of Sound Recordings Under Statutory License: Notice of Proposed Rulemaking, 70 Fed. Reg. 21704, 21709 (Apr. 27, 2005) (emphasis added). SoundExchange similarly noted the success of no-header file submissions and even acknowledged that "[i]t is appropriate to expect that the application of those requirements to the services implicated in this proceeding will meet with similar success." SoundExchange Aug. 2005 Comments at 31.

Fourth, Broadcasters and other services have relied on the no-header option for years and use systems that are consistent with that option. *See* Tinker Decl. ¶ 20; Cooney ¶ 17. SoundExchange itself has recognized the force of this reliance interest in continuing to support no-header ROUs:

> SoundExchange recommends the adoption of regulations that permits the continued use of reports of use without headers as an accommodation to statutory licensees or vendors who designed reports of use relying upon the regulations that were adopted for the preexisting subscription services or the comments initially submitted by RIAA in this proceeding.

SoundExchange Sept. 2002 Comments at 7.

Fifth, the information that SoundExchange seeks in the headers (Rows A-Q) has nothing to do with the allocation and distribution of royalties. Rather, as SoundExchange's own prior declarant has acknowledged:

> SoundExchange uses the header of the data file only for record keeping …. It is the data within the records that is loaded directly into the database along with the record.

Decl. of Shane Sleighter on behalf of SoundExchange, Docket No. RM 2005-2, 13 (Aug. 26, 2005) (Ex. W). For examples, rows A, C-J, and O consist of basic contact information, signature verification, and reporting period information that SoundExchange already obtains with ROU submissions under current regulations, and row B, the account number, is information that SoundExchange could similarly obtain in that manner if an account number is required. *See* 37 C.F.R. §§ 370.4(e)(3), (5). SoundExchange's professed need for identification of the audience measurement type (row M) is questionable, as that should be self-evident from the fields they submit under 37 C.F.R. § 370.4(d)(2)(vii) and (viii), or character encoding format (row N), as the format should be recognizable from the file itself. In any event, this information can be submitted along with the other contact information if the Judges determine that it is truly necessary. Row Q (report headers) are not necessary and self-evident, as the data elements already are required to appear in a specified order in no-header files. *Id.* § 370.4(d)(2). Row P is merely a blank line.

Remaining rows K and L – *i.e.*, the number of rows and the total audience measurement (checksum) – seek information concerning the file size itself and will be self-evident when the complete file is submitted. SoundExchange has not provided any evidence that there is a problem with it receiving incomplete files, where data is lost in transmission. Unless and until SoundExchange justifies its need for this information, the Judges should not entertain this request. In any event, these additional requirements provide another opportunity for SoundExchange to seek to fine or otherwise penalize services for inadvertent inaccuracies in reporting this information – which does nothing to help identify the sound recordings themselves that have been performed.

Sixth, requiring seventeen-line headers in every file would be unnecessarily burdensome for services. At least some of these rows – *e.g.*, start and end dates of the reporting period (Rows H-I), number of rows (Row K), and checksum/audience measurement (Row L) – would need to be modified in every ROU. Others may change over time and would need to be updated accordingly. Moreover, for Broadcasters that use stream providers to prepare the initial ROU files, it is not at all clear that those providers would be in a position to populate those fields (even if they are able to transmit a file with seventeen blank rows preceding the initial line of actual reporting data).

Seventh, requiring such rigid, multi-line headers, would give SoundExchange another excuse to seek punitive fees against Broadcasters for inadvertent minor errors in this header information. There is simply too much room for error – *e.g.*, in forgetting to include a line of data or mixing up the order of the required information – to make this a mandatory reporting convention on a universal basis.

SoundExchange has been accepting ROUs without headers for years, has had a system in place to process and distribute royalties based on those ROUs, and has expressly recognized that no-header ROUs are a "reasonable accommodation" to services. Services have been relying on those systems for years and should not now not be required to change their reporting practices to embed additional information in their ROUs that does not actually identify the sound recordings performed.

2. The ATH Definition and Reporting Option Provisions Should Be Generalized, Not Restricted to Specific Services, Whose Authorization To Report Based on ATH May Change Over Time.

Broadcasters oppose SoundExchange's proposal to narrow the list of services that are permitted to report on an ATH basis and are identified in the definition of ATH set forth in 37 C.F.R. § 370.4(b)(1) and in the ATH reporting option in 37 C.F.R. § 370.4(d)(2)(vii). *See*

SoundExchange Petition at 37-38. In both instances, SoundExchange's list of services is unnecessary, inaccurate, and underinclusive.

Although SoundExchange seeks to remove the reference to "a nonsubscription transmission service" from the definition of ATH, several categories of nonsubscription transmission services are able to report some or all of their sound recording usage on an ATH basis. *See, e.g.*, 37 C.F.R. § 380.13(g)(3)(ii) (permitting Broadcasters to report some of their sound recording usage on an ATH basis); *id.* § 380.23(g)(2) (permitting Noncommercial Educational Webcasters submitting sample reports to report on an ATH basis). Moreover, noncommercial webcasters are only obligated to pay per-performance usage fees if their monthly ATH exceeds a certain threshold; therefore, the ATH definition is relevant to these services as well.

Section 370.4(d)(2)(vii) is similarly inaccurate in identifying services able to report some or all of their sound recording usage on an ATH basis, as it does not identify broadcasters other than minimum fee broadcasters or certain types of noncommercial nonsubscription services that are permitted to report some or all of their performances based on ATH. Further, it appears to identify services required to report ATH that may not be able to do so.[20] It is not appropriate to exclude nonsubscription transmission services from the ATH definition or reporting option while specifically identifying other types of services.

More fundamentally, Broadcasters strongly believe that ATH reporting in lieu of per performance reporting should be an authorized reporting methodology and that such reporting will provide copyright owners with reasonable notice of the use of their works. Per-performance reporting has proven difficult for Broadcasters. *See, e.g.*, Cooney Decl. ¶ 16. Reporting

[20] These services include satellite digital audio radio services and business establishment services. Broadcasters, however, leave this issue for those services to address.

performances for syndicated programming is of particular concern, as Broadcasters transmitting such programming frequently do not receive information about the sound recordings embodied in that programming, much less about when during the course of that programming those sound recordings are played, which is necessary in order to calculate the number of performances of those recordings to a listener. *See supra* Part. I.E. Indeed, performance-based reporting already has led to disputes regarding how performances are counted given that server logs sometimes reflect activity such as connectivity problems, robotic activity, and server faults, where no performance was actually streamed to a listener. *See, e.g.*, Gantman Decl. ¶ 8; Cooney Decl. ¶ 16.

Apart from the difficulties in reporting performances, certain rate structures are not directly tied to streaming activity at all but rather require royalty payments based on a percentage of a service's revenues, and the Judges have expressed openness to such a fee metric for webcasting services in upcoming license terms. *See Determination of Royalty Rates for Digital Performance in Sound Recordings and Ephemeral Recordings (Web IV): Notice Announcing Commencement of Proceeding with Request for Petitions To Participate*, 79 Fed. Reg. 412, 414 (Jan. 3, 2014). The notice and recordkeeping regulations should be flexible enough to account for the possibility that other services will be subject to a revenue-based metric in the future, as those regulations are not amended on the same timetable as the rates and terms for the various statutory licenses are. Requiring ATH and play frequency information in lieu of actual performances will give copyright owners reasonable notice of which recordings are played, how frequently, and the audience size of the station or channel on which those recordings are performed. Broadcasters therefore believe that the notice and recordkeeping regulations should

be flexible enough to permit reporting on an ATH basis should the CRJs adopt rates and terms in Web IV that permit the determination of liability on an ATH basis.

To address the above concerns and provide needed flexibility in the reporting regulations, Broadcasters propose to define "Aggregate Tuning Hours" without referring to specific types of services but instead using a generic reference to "service" or "licensee" throughout the definition. This more flexible solution would ensure that the definition of a simple concept would not need to be updated constantly depending on which services are able to report some or all of their sound recording performances on an ATH basis.

Broadcasters further propose to amend 37 C.F.R. § 370.4(d)(2)(vi) and (vi) as follows (but make no proposal regarding the most appropriate reporting metric for preexisting satellite digital audio radio services or business establishment services):

(vi) For a new subscription service or nonsubscription transmission service except those services qualifying as minimum fee broadcasters and those services permitted to report under an alternative metric, such as Aggregate Tuning Hours:

> The actual total performances of the sound recording during the reporting period.

(vii) For [[a preexisting satellite digital audio radio service]], a new subscription service[[a business establishment service]] or a nonsubscription service permitted to report usage using Aggregate Tuning Hours in lieu of performances ~~qualifying as a minimum fee broadcaster~~: The actual total performances of the sound recording during the reporting period or, alternatively, the

> (A) Aggregate Tuning Hours;
>
> (B) Channel or program name; and
>
> (C) Play frequency.

Broadcasters believe that the above modifications will provide the Judges with the necessary flexibility to determine in individual rate-setting proceedings the most reasonable

metric, if any, by which a service should be required to provide information regarding the frequency and volume of its sound recording performances. This flexibility will enable the Judges to determine this metric – *e.g.*, play frequency, play frequency and ATH, actual performances, or some other metric – in conjunction with the rates and terms that they adopt in particular proceedings for particular types of services. Indeed, many such reporting provisions are already set forth in the rates and terms applicable to specific services rather than in the notice and recordkeeping regulations. Such an approach will better enable the Judges to determine reasonable reporting requirements based on the evidence presented therein regarding a service's ability, if any, to measure ATH and actual performances in connection with the chosen rate structure than in a one-size-fits all regulation that does not automatically adjust in accordance with the outcome of rate-setting proceedings.

3. Services Should Not Be Forced To Provide Duplicate Copies of Publicly Available NOUs to SoundExchange, Particularly If SoundExchange Is Unwilling To Assume Responsibility for Maintaining and Providing Public Access to Them.

Broadcasters also oppose SoundExchange's request that services send it – a private entity – duplicate copies of their Notice of Use of Sound Recordings Under Statutory License ("NOUs") that services already are required to file with the Copyright Office. *See* SoundExchange Petition at 12-14. Unless SoundExchange is willing to undertake the obligation currently borne by the Copyright Office to maintain and make available to the general public these public records – which RIAA vigorously opposed in a prior notice and recordkeeping rulemaking[21] – its request should be denied.

[21] RIAA argued that "the collection entities should not be required to substitute for the Copyright Office in providing open access to documents that are required under Congressional mandate." RIAA 2002 Recordkeeping Comments at 23.

SoundExchange claims to have an "operational need" to receive the basic contact information included on NOUs (SoundExchange Petition at 13), but this so-called "need" is nonexistent. SoundExchange already receives the very same contact information – including the service's full name and address, a contact person's name, telephone number, and email address, on every ROU that it receives by email or by CD-ROM. *See* 37 C.F.R. § 370.4(e)(3). For ROUs received by File Transfer Protocol, it is able to provide delivery instructions that similarly require services to disclose this information. Moreover, each ROU also is required to identify the type of service to which the ROU applies. *See id.* § 370.4(d)(2)(ii). There simply is no reason why SoundExchange also needs to receive NOUs providing this same information.

If SoundExchange nonetheless would like to review NOUs, then it is free to do so. Indeed, its office is only blocks from the Copyright Office. But Broadcasters and other services should not be required to provide it with duplicate filings to save it this short trip.

Requiring services to provide SoundExchange with duplicate NOUs also raises troubling questions about potential penalties that SoundExchange might seek to impose on services that do not provide such NOUs to SoundExchange. Indeed, SoundExchange has sought harsh penalties against services that make even minor errors or omissions on their ROUs, and Broadcasters have no reason to believe that SoundExchange would not seek to subject non-delivered NOUs to similar types of penalties.

In RIAA's own words:

> [T]he Copyright Office should be the official repository for all Notices of Use. As the government agency designated to oversee the administration of statutory licenses for copyrighted works, the Copyright Office should have these official records within its control and readily accessible to it. It is the entity best suited to retain the official records of services operating under a statutory license or exemption. The Copyright Office already receives numerous types of filings from both copyright owners and users, and there is no reason why the Copyright Office

> should not continue to receive filings of Notices of Use from entities that operate under Section 112 or section 114.

RIAA 2002 Recordkeeping Comments at 23. SoundExchange should be required to access these forms in the same way that copyright owners and all other members of the public do – by accessing them at the governmental entity tasked with maintaining these public records.

4. The Statutory Licenses Do Not Authorize Non-Copyright Owner Performing Artists To Access ROUs.

Broadcasters oppose SoundExchange's request to give artists access to Broadcasters' highly confidential ROUs (SoundExchange Petition at 36) because such access is not contemplated by the statute. Congress only granted authority to establish notice and recordkeeping requirements that give "copyright owners" "reasonable notice of the use of their sound recordings under" the statutory licenses. 17 U.S.C. § 114(f)(4)(A) (emphasis added); *see also id.* § 112(e)(4). Featured artists are not copyright owners and therefore are not granted the legal right to access to the services' ROUs. Moreover, even copyright owners are only entitled to notice of use of their own recordings – not any and all recordings reflected in a service's ROU. As SoundExchange stated: "Copyright owners and artists receive notice of the use of their recordings from the royalty statements SoundExchange generates for them." SoundExchange Petition at 35. Moreover, artists are able to use an independent Certified Public Accountant to audit SoundExchange's distributions to give them further comfort that their royalty receipts correctly reflect usage of their sound recordings. *See* 37 C.F.R. § 380.16; *see also id.* § 380.7, 380.26. These mechanisms are sufficient to notify artists of the performed recordings that gave right to the royalty payment that they received from SoundExchange.

If performing artists believe that they should receive notice of use of their sound recordings, then it is not for the Judges to provide such notice but instead for Congress to amend the Copyright Act to give performing artists such a right.

5. UTF-8 and XML Character Encoding Formats Should Be Optional, Not Mandatory.

Broadcasters support SoundExchange's proposal "to provide more options for reporting" but oppose its proposal to make the UTF-8 encoding format required if feasible. *See* SoundExchange Petition at 17-18. It was SoundExchange itself that successfully sought to require ROUs to be submitted in then-50-year-old ASCII format:

> SoundExchange believes that the Copyright Office's regulations should require data reporting in the American Standard Code for Information Interchange ('ASCII'). The ASCII format has been in use since the early 1960s and is one of the most widely adopted formats for the reporting of alphanumeric data. Every computer operating system supports ASCII text files and nearly every database management system supports the import of ASCII text files.

SoundExchange Sept. 2002 Comments at 5; *see also* Comments of SoundExchange, Inc., Docket No. RM 2002-1H, 17 (U.S. Copyright Office May 27, 2005), http://www.loc.gov/crb/proceedings/2006-1/soundex-exh416.pdf (last visited June 30, 2014) ("SoundExchange May 2005 Comments") (reiterating preference for requiring ASCII format). In SoundExchange's own words, "SoundExchange has already invested millions of dollars in developing systems that process the reports of use in ASCII format provided by the three preexisting subscription services as well as many other licensees who are providing reports of use voluntarily or under mandatory, non-Copyright Office reporting requirements." *Id.* Broadcasters and other services have relied on SoundExchange's insistence upon ASCII format and have been submitting ROUs in that format for years. This option should not now be suddenly pulled out from under them.

On the other hand, Broadcasters do not object to a regulation that adds UTF-8 or XML as character encoding format options. Indeed, it may make sense for those stations that play music that is identified in a non-Latin language, such as Korean, Chinese, Vietnamese, Japanese, etc., to report in alternative formats. But for the many Broadcasters that ASCII format has served so

well for years, they should continue to be permitted to report in that format without having to consider whether reporting in UTF-8 format is feasible.

VII. SOUNDEXCHANGE'S SEARCH OBLIGATION SHOULD BE MAINTAINED AND ITS INFORMATION DISCLOSURE OBLIGATIONS MADE MORE RIGOROUS.

SoundExchange's proposals that its annual report requirements be relaxed and that it be absolved of any obligation to search for and locate the copyright owners and performers entitled to be paid (at 34) are rich with irony in that, at the same time it seeks to make obligations imposed on services more onerous, it seeks to minimize its own obligations under the regulations. SoundExchange – as the monopoly collective collecting hundreds of millions of dollars in royalties from thousands of services and allocating and distributing these royalties to thousands of copyright owners and performing artists – should be subject to more stringent search and disclosure obligations, not more relaxed ones.

A. SoundExchange Should Be Required To Provide Much More Information in Its Annual Report Regarding Its Structure and Operations and To Disclose It on a Timetable Consistent with SEC Filing Requirements.

To begin with, SoundExchange should not be given an additional six months in which to publish its annual report. *See* SoundExchange Petition at 38-39. The Securities and Exchange Commission ("SEC") requires Form 10-K annual reports to be filed within 90 days after the close of company's fiscal year. *See Revisions to Accelerated Filer Definition and Accelerated Deadlines for Filing Periodic Reports: Final Rule*, 70 Fed. Reg. 76626, 76632 (Dec. 27, 2005); *see also* https://www.sec.gov/answers/form10k.htm. Moreover, quarterly reports are due no later than 45 days after the close of a company's fiscal quarter. 70 Fed. Reg. at 76632; https://www.sec.gov/answers/form10k.htm. There is no reason why SoundExchange – a large association representing almost the entire recording industry and numerous performing artists handling hundreds of millions of dollars per year in royalties – should not be required to comply

with the same 90-day reporting requirement that companies are required to follow under applicable SEC regulations. To the extent that SoundExchange is concerned that its report at that time will include unaudited results, it can easily update its report once its audit is complete, and note when reports are unaudited.

More importantly, the public interest requires that SoundExchange's annual reports should include more comprehensive and detailed information regarding SoundExchange's structure and operations. SoundExchange's annual reports have never contained that much information to begin with, but its latest unaudited report provides even less detail than previously.[22] For example, while SoundExchange at least provided a general breakdown of its expenses in 2012 (although even that breakdown was lacking in detail), its 2013 unaudited report provides a single lump sum of expenses. *Compare* SoundExchange 2012 Annual Report, http://www.soundexchange.com/wp-content/uploads/2013/06/2012-Annual-Report-06-13-13.pdf (last visited June 30, 2014), *with* SoundExchange's 2013 Draft Annual Report, http://www.soundexchange.com/wp-content/uploads/2014/03/2013-Fiscal-Report-PRE-AUDIT.pdf (last visited June 30, 2014) (Ex. X).

Moreover, huge portions of SoundExchange's annual reports consist of generalized boilerplate statements that are available from other publicly available sources, such as the statute and regulations themselves. *See* SoundExchange's 2012 Annual Report at 1-2, 5. There is virtually no information regarding SoundExchange's internal operations, the manner in which it handles disputes among parties entitled to royalties, or the decisions made by its Board of Directors that is discernible from these generalized reports.

[22] It is not clear whether SoundExchange intends to provide additional detail in its 2013 annual report once its annual audit is complete.

SoundExchange, as the monopoly collective designated to collect royalties from the entire webcasting community and allocating and distributing those royalties to the entire recording industry and performing artist communities, should be required to provide much more detail regarding its structure, operations, and expenses. As best Broadcasters can tell, there is little – if any – external oversight of SoundExchange, which, according to its own website, has now distributed over $2 billion in royalties. SoundExchange NOI Comments at 1**.** This is shocking, as the amount of money being paid into this private organization is not governed by any regulations other than the potential for an audit pursuant to various sections of the CFR. *See, e.g.*, 37 C.F.R. §§ 380.7, 380.16, 380.26. Rather, SoundExchange is allegedly subject to control by a Board of Directors that is split "evenly" between representatives of sound recording copyright owners and performing artists. *See* Proposed Findings of Fact of SoundExchange, Inc., Docket No. 2009-1 CRB Webcasting III, ¶ 27 (Sept. 10, 2010) ("SoundExchange is controlled by an 18-member Board of Directors comprised of equal numbers of representatives of copyright owners and performers."), http://www.loc.gov/crb/proceedings/2009-1/pffcol/index.html (last visited June 29, 2014).

The lack of third party oversight and transparency into the workings of the organization should be deeply troubling to any party that pays money to SoundExchange, litigates against it, or is subject to its policies. First and foremost, it appears as though the three major record companies and its trade association, RIAA, by themselves control one-third of the seats on the entire Board of Directors. *See id.* (observing that on SoundExchange's 18-member Board, "[c]opyright owners are represented by board members associated with the major record companies (four), independent record companies (two), the Recording Industry Association of America (two), and the American Association of Independent Music (one)").

Moreover, the SoundExchange Board is self-perpetuating – several seats are "institutional" seats not subject to vote by the thousands of labels and performers to whom SoundExchange distributes royalties. It is not clear how SoundExchange claims to represent so many third parties when it does not subject itself to oversight by such third parties, including by allowing its constituents to have a say on who sits on the organization's Board of Directors.

SoundExchange routinely advocates for imposing larger royalty obligations on services. Another way to increase the payments received by record labels and artists is to ensure that those royalties are properly handled. Services, and the public, are entitled to know how SoundExchange handles the funds that the services pay.

To address this lack of transparency and increase SoundExchange's accountability to licensees, copyright owners, and performing artists, Broadcasters propose that 37 C.F.R. § 370.5(c) be amended to increase greatly SoundExchange's annual report disclosure obligations:

> (c) *Annual Report.* (1) *Disclosure.* Ninety days following the close of the Collective's fiscal year, the Collective will post and make available online, for the duration of three ~~one~~ years, an Annual Report on how the Collective operates, how royalties are collected and distributed, and what the Collective spent that fiscal year on administrative expenses. Such report shall include, but not be limited to, the following information and such other information as the board of directors of the Collective may require:
>
> (a) The identity of the Collective's board members;
>
> (b) The identity of every operating committee and subcommittee of the Collective, the identity of each member thereof, and a detailed description of each such committee's and subcommittee's functions and activities;
>
> (c) The total amount of license revenue collected in the past fiscal year identified by category of service, including revenue collected from:
>
> (i) commercial broadcasters subject to the statutory rate;
>
> (ii) commercial broadcasters subject to alternative rates;

(iii) noncommercial broadcasters subject to the statutory rate;

(iv) noncommercial broadcasters subject to alternative rates;

(v) nonsubscription transmission services other than broadcasters subject to the statutory rate;

(vi) nonsubscription transmission services other than broadcasters subject to alternative rates;

(vii) new subscription services;

(viii) preexisting subscription services and preexisting satellite digital audio radio services; and

(ix) business establishment services.

(d) The amount of payments made to registered copyright holders in the past fiscal year;

(e) The amount of payments made to registered recording artists in the past fiscal year;

(f) The amount of money transferred to the control of the American Federation of Television and Radio Artists and the American Federation of Musicians for compensation of session musicians and background singers in the past fiscal year;

(g) The amount of any reserve established, previously or in the future, by the Collective to pay future claims, the location of the reserve, and the procedures by which claims against the reserve are proven;

(h) A detailed breakdown of administrative expenses, including the amounts spent on royalty allocation and distribution activities, litigating rate-setting proceedings (including both an amortized amount and an actual amount spent during that fiscal year), negotiating licenses, legislative lobbying, other outreach and public relations expenses, personnel expenses, operating expenses, any other significant expenses, as well as all expenses approved by any governing board that are only chargeable against those copyright owners and performers who have specifically authorized the Collective to act on their behalf but not against any other copyright owners or performers;

(i) The amount of money subject to any forfeiture for failure to be claimed under current regulations and the location of the escrow accounts for those monies;

(j) A prospective distribution schedule for the following year that discloses approximate dates of payments and the reporting periods to be covered;

(k) A prospective schedule of all forfeitures for the next year that discloses deadlines, the reporting periods covered by the forfeiture, the number and name of recording artists and sound recording copyright owners affected. The report shall also include an explanation of what actions, if any, the Collective intends to take to publicize the forfeiture;

(l) A detailed explanation of policies and procedures for identifying, locating and registering copyright owners and performing artists; and

(m) A detailed explanation of the basis for distributing royalty amounts, if any, during the past fiscal year that were based on proxy information rather than sound recording reports of use received from the Services.

(2) The annual report shall include a certification from an authorized representative of the Collective that the information provided in the annual report is accurate and that all regulatory requirements regarding forfeitures, including segregation of the funds, have been followed.

Adoption of such heightened disclosure requirements will not fully remedy the lack of accountability and transparency regarding SoundExchange's inner workings, but it will be a good start.

B. SoundExchange Should Be Required To Disclose and Update Information Available on Its Website Regarding Its Structure and Operations and the Method, Frequency, and Amounts of Its Distributions.

In addition to the above annual report disclosures, and for the same reasons, Broadcasters also propose that SoundExchange be subject to certain more frequent disclosures regarding its distributions.

To begin with, Broadcasters support the Judges' proposal that SoundExchange be obligated to "disclose the methodology serving as the basis for a proxy distribution and afford copyright owners and performers an opportunity to object to the proffered methodology."

NPRM at 25043. As described above, SoundExchange all too often lacks transparency and accountability in its policies and procedures, and it should be required to disclose the basis for such proxy distributions and give affected parties the opportunity to object.

Broadcasters further propose that SoundExchange be required to disclose on its website homepage all of its other internal policies and procedures for the allocation and distribution of statutory royalties and its procedures for resolving disputes among competing claimants and to update those policies and procedures within 30 days following the adoption of any material change. There should be nothing proprietary about these decisions. Given SoundExchange's operation as a monopoly agent for the receipt and distribution of hundreds of millions of dollars in royalties paid pursuant to the Statutory Licenses, the parties entitled to receive those royalties – sound recording copyright owners and recording artists – should be able to access and question those policies and procedures. Such an obligation would impose no hardship on SoundExchange, would shed light on the inner workings of an organization responsible for the collection, allocation, and distribution of royalties measured in the hundreds of millions of dollars per year, and where governance practices and procedures are nontransparent to the outside world.

C. SoundExchange Should Be Required To Confirm Receipt of ROUs Within One Business Day Using an Automatic Notification System.

SoundExchange also should be required to inform licensees that it has received each submitted ROU either immediately or within one business day following such receipt. On numerous occasions, SoundExchange has contacted a broadcaster to complain that it has not received a particular ROU that the broadcaster, in fact, submitted. *See* Myer Decl. ¶ 16; *see also* Gantman Decl. ¶ 9 (observing that "SoundExchange has incorrectly notified EMF of a failure to

file required submissions with SoundExchange"). Broadcasters then have to search their records to disprove such statements, consuming valuable time and resources.

To remedy this issue, SoundExchange should be required to establish an automatic notification system that would issue an electronic mail receipt to services upon receipt of each ROU. That way, Broadcasters could easily establish submission by resending SoundExchange the e-mail confirming receipt. Indeed, SoundExchange itself has affirmatively supported such a proposal with the understanding that such receipts would not equate to a substantive judgment by SoundExchange that the report complied with all applicable reporting requirements:

> The Copyright Office has proposed that SoundExchange be required to acknowledge receipt of e-mail delivery of reports of use "as soon as possible through use of an automated reply e-mail to the delivering party." *Id.* SoundExchange supports this proposal ….

SoundExchange May 2005 Comments at 21 (emphasis added).

To implement this proposal, Broadcasters request that the Judges amend 37 C.F.R. § 370.4(e)(4) to include the following sentence immediately before the final sentence of that subsection:

> SoundExchange shall acknowledge receipt of each report of use by sending a return e-mail to the service delivering such report of use within one business day of receiving the report.

D. SoundExchange Should Continue To Be Required To Make Reasonable Efforts To Locate Copyright Owners and Artists Entitled to Royalties, Including by Searching Public Records and Published Directories.

SoundExchange's proposal that it be absolved of any obligation to search for and locate the copyright owners and performers entitled to be paid (at 34) should be rejected. Rather, the provision detailing SoundExchange's search obligations should be modified to clarify that those

search efforts are for the purpose of locating and paying persons[23] the royalties to which they are entitled in accordance with the ROUs submitted by the services.

Broadcasters do not disagree with SoundExchange's specific proposition that making unprocessed ROUs available in the ordinary course of business does not make sense given the amount of data contained in the ROUs. Nonetheless, Broadcasters oppose the wholesale removal of this provision because it would excuse SoundExchange from <u>any</u> obligation to search for and locate the very persons on whose behalf it acts that are entitled to royalty payments under the Statutory Licenses.

Broadcasters believe that SoundExchange, as the designated monopoly royalty collection and distribution entity, should be subject to a high burden of researching, identifying, locating, and notifying persons whose sound recordings are being used under statutory license and who thus are entitled to receive statutory royalties for these uses. Although the specific obligation to make unprocessed ROUs available to these persons may not make sense, SoundExchange <u>should</u> be subject to an overarching obligation to use its best efforts to search for and locate these persons so that they "receive reasonable notice of the use of their sound recordings" and are paid for that use, consistent with the statute. *See* 17 U.S.C. §§ 112(e)(4), 114(f)(4)(A). Moreover, no other search provision exists in the rates and terms adopted pursuant to the Statutory Licenses. Rather, only provisions regarding the disposition of unclaimed funds when SoundExchange is <u>not</u> able to locate these persons in rates and terms regulations appear. *See* 37 C.F.R. §§ 380. 8, 380.17, 380.27 (specifying treatment and disposition of unclaimed royalties where SoundExchange "is unable to identify or locate a Copyright Owner or Performer who is entitled

[23] As used herein, "person" refers to both legal and natural persons unless otherwise indicated by the context.

to receive a royalty distribution" but imposing no obligations on SoundExchange to identify or locate these persons).

To ensure that copyright owners are notified of, and paid for, the use of their sound recordings, Broadcasters propose that the sentence at issue in 37 C.F.R. § 370.5(d) be modified as follows:

> The Collective shall render its best efforts to locate copyright owners and featured artists in order to identify and locate those copyright owner and featured artists who are entitled to receive a royalty distribution under section 112(e) or 114 of title 17, United States Code, or both ~~make available reports of use, and~~. S~~s~~uch efforts shall include searches in Copyright Office public records and published directories of sound recording copyright owners.

Broadcasters believe that this provision is best housed in its current location in the notice and recordkeeping requirements rather than in the rates and terms provisions applicable to specific statutory licenses. Not only is such a search obligation part and parcel of providing copyright owners with "reasonable notice of the use of their sound recordings," but housing the obligation here will prevent disputes over this fundamental obligation of a collective during each individual rate-setting proceeding in which statutory rates and terms are adjusted.

CONCLUSION

For the foregoing reasons, the Judges should:

- Reject SoundExchange's request for mandatory reporting of ISRCs.
- Eliminate the requirement that Broadcasters be required to report album and label information.
- Reject SoundExchange's request for harsh penalties and late fees for report submission errors.
- Reject SoundExchange's request to reduce the already-short reporting period from 45 days to 30 days and adopt a regulation requiring SoundExchange to confirm receipts of ROUs promptly following receipt.
- Reject SoundExchange's attempt to limit to 90 days the period during which Broadcasters can reclaim overpayments.

- Adopt reasonable provisions that excuse Broadcasters from providing information that they do not receive from third-party (syndicated) program producers, if they have made a commercially reasonable effort to obtain that information.

- Reject SoundExchange's request for additional data elements from classical-format radio stations.

- Reject SoundExchange's request for reports of performances of recordings that are not licensed under the Statutory Licenses (such as pre-1972 recordings and directly licensed recordings).

- Grant SoundExchange's request for standing authority to use proxy data to distribute royalties where warranted.

- Reject again SoundExchange's repeated request for access to server logs.

- Exempt Broadcasters paying no more than an annual minimum fee from any reporting requirements.

- Allow Broadcasters that cannot reasonably make census reports to report using a sample of two weeks per quarter.

- Reject SoundExchange's proposed requirement of header files.

- Adopt the additional positions set forth herein by Broadcasters and identified in the Introduction to these Comments.

Respectfully submitted,

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Counsel for the National Association of Broadcasters

June 30, 2014

Before the
COPYRIGHT ROYALTY JUDGES
LIBRARY OF CONGRESS
Washington, D.C.

In The Matter Of:	:	
Notice and Recordkeeping for Use of Sound Recordings Under Statutory License	:	Docket No. 14-CRB-0005 (RM)

JOINT COMMENTS OF THE NATIONAL ASSOCIATION OF BROADCASTERS AND THE RADIO MUSIC LICENSE COMMITTEE REGARDING THE COPYRIGHT ROYALTY JUDGES' NOTICE AND RECORDKEEPING RULEMAKING

EXHIBITS A-X

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June 30, 2014

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1. Promotional CDs, including:

   "Na Na," performed by Trey Songz
   "The Big Bang," performed by Katy Tiz
   "The Walker," performed by Fitz and the Tantrums
   "No Matter Where You Are," performed by Us the Duo
   "Skinny Love," performed by Birdy
   "Old School Love," performed by Lupe Fiasco
   "Dance Apocalyptic," performed by Janelle Monáe
   Roadrunnner Records CD with artists' names (*e.g.*, Jason Mraz, Oh Honey, and Cash Cash)

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X. SoundExchange Draft Annual Report for 2013 Provided Pursuant to 37 C.F.R. § 370.5(c)

A

Before the
COPYRIGHT ROYALTY JUDGES
LIBRARY OF CONGRESS
Washington, D.C.

In The Matter Of:	:	Docket No. 14-CRB-0005 (RM)
Notice and Recordkeeping for Use of Sound Recordings Under Statutory License	:	

Declaration of Eugene D. Levin, Entercom Communications Corp.

1. My name is Eugene D. Levin, and I am the Vice President, Treasurer and Controller at Entercom Communications Corp. ("Entercom"). I have been with Entercom since 1977. I base this declaration on my personal knowledge and on information provided to me by other Entercom personnel.

Entercom's Operations

2. Entercom is a national broadcasting company that owns and operates more than 100 terrestrial radio stations in 23 markets, including San Francisco, Boston, Seattle, Denver, Portland, Sacramento, and Kansas City. Entercom's stations reach a broad range of audiences through a variety of program formats including news, talk, sports, adult contemporary, classic rock, contemporary hits and country, among others. Entercom's radio stations have received numerous awards, including multiple Edward R. Murrow Awards for excellence in broadcast journalism, as well as the National Association of Broadcasters (NAB) Marconi Award for excellence in radio broadcasting.

3. Entercom's radio stations primarily transmit their programming through terrestrial radio broadcasts. In addition to their terrestrial broadcasts, most of our stations also stream their broadcast programming over the internet, which allows listeners to access our broadcasts using their computers or mobile phones. While internet streaming of our content has grown over time,

it still represents a small fraction of the total consumption of our programming. Terrestrial radios remain the primary way in which our audiences listen to our station content.

The Number of Music Labels, the Manner in Which Entercom Acquires New Music, and the Information Provided by Labels Creates Challenges in Appropriately Identifying Each Recording's Record Label and ISRC

4. There are three major record labels that provide the bulk of the non-independent new music that is produced; however, each of these companies markets their artists under numerous sub-labels. In total, there are hundreds of sub-labels that provide music to Entercom's radio stations as well as hundreds of independent labels. This makes it extremely difficult for our station personnel to identify the precise label that needs to be reported to SoundExchange. Programming personnel may associate an artist with a major label (*e.g.*, Sony or Universal) when the proper label for reporting purposes should be one of their subsidiary labels. This could happen out of ignorance of the appropriate sub-label or confusion because the contact person that we deal with is for the umbrella label (rather than the applicable sub-label). Also, independent representatives may work for multiple labels when representing artists, or an artist may be allowed by its normal label to release a song as part of another label.

5. An additional challenge is created by the way that Entercom obtains new music. One of the most common ways that Entercom stations access new music is through the promotional activity of record label representatives. Rather than interacting with Entercom corporate programming employees who oversee more than 100 stations, these representatives instead generally meet directly with Entercom personnel at stations whose music program format fits with the artist that the record label represents. For example, the record label that represents an adult contemporary artist would try to meet personnel at one of Entercom's adult contemporary stations to promote that artist's latest CD and encourage the station's programmers to play that artist's songs. In these meetings, the record label representatives typically provide new music in the form of promotional CDs and electronic audio files. Because the labels' promotional activity is primarily targeted at the station level, Entercom's music information databases tend to be built on a station-by-station basis, and not through a consolidated master database at the corporate level. Entercom stations collectively have databases providing information for thousands of recordings.

6. Many of the promotional recordings we receive from these meetings with record label representatives provide very little information. For example, I asked our Vice President of Operations for Entercom Milwaukee for some examples, which are attached as Exhibit 1. You can see in the first photo that the CD has, hand written, three song titles with corresponding artists – "Na Na" by Trey Songz, "The Big Bang" by Katy Tiz, and "The Walker" by Fitz and the Tantrums. There is no album or label information contained on this CD. Station personnel have to perform research to determine that information, which was not provided when the music was delivered. Some CDs come from labels with just artist names on them. The second photo in Exhibit 1 is a CD from Roadrunnner Records (which is part of Atlantic), which just contains the artists' names (*e.g.*, Jason Mraz, Oh Honey, and Cash Cash). Labels sometimes send us material this way to promote more than one artist at a time. In any event, if the recordings on this CD were played, the relevant information (if available) would all have to be researched by our staff. I have attached several other photographs of examples of promotional CDs as part of Exhibit 1 that contain title and artist information only ("No Matter Where You Are" by Us the Duo; "Skinny Love" by Birdy; "Old School Love" by Lupe Fiasco; "Dance Apocalyptic" by Janelle Monáe).

7. The International Standard Recording Code (or "ISRC") is not something that we generally use in our radio broadcasting operations, and many of our program personnel have not even heard of an ISRC. As noted above, label representatives do not consistently provide album and label information to us, and similarly do not generally provide ISRC information. In addition, because music is often received at the station level, information may be entered into our databases multiple times by different personnel, which increases the potential for error in capturing label and ISRC information.

8. Collectively, the large number of music labels, the difficulty in identifying a song's record label, the incomplete information provided by label representatives, and the decentralized distribution of content to our stations makes it very challenging for Entercom to accurately capture the label and ISRC information.

Our Technology Remains Focused on Radio Broadcasting and Not the Reporting Requirements Associated with Streaming

9. Because our audience primarily consumes our content through terrestrial broadcasts, our technology infrastructure has been designed to support and maximize efficient terrestrial broadcasting, with less emphasis placed on the design of our systems that enable digital streaming.

10. Entercom stations use digital automation systems to schedule and play their music, and these stations have information about hundreds of songs in their databases. Our digital automation systems provide the data that is synchronized with the listenership data from our streaming provider to determine the number of song performances that we have streamed. Entercom does not have a standardized automation system. Instead, our stations use a variety of systems, including Scott Studios, NexGen, AudioVault, Maestro, Enco and WideOrbit (including different versions of the foregoing). Because we have disparate and un-standardized automation systems, it is not technologically practical for us to maintain a consolidated master repository of song data. Each system operates independently at each station, so there is no centralized information database at Entercom.

11. Identifying and tracking information that is not provided is extraordinarily burdensome. Entercom has information about thousands of songs in its databases. Researching and backfilling missing information that the record labels did not think it important enough to provide when sending their recordings compounds the burden.

12. As noted above, correctly identifying the label and ISRC information can be very challenging. In addition, our disparate automation systems and the decentralized method in which we acquire much of our new music (*e.g.*, at the station level, not at corporate headquarters) means that this information would be entered into our systems by multiple personnel, greatly increasing the odds of data entry error.

The Reporting Period Should Not be Shortened, and a Penalty for Non-Compliant Reports Is Unreasonable

13. We presently file our Reports of Use in a timely manner (within 45-days). The proposal to shorten that time period to 30 days raises concerns for us because of the large amount

of data that must be prepared and submitted, which primarily comes from a third party (our streaming provider). If there is a failure in the process (technical or human), we need time to correct for that failure. It is also unreasonable and unnecessary to impose a penalty on late and non-compliant reports, especially if the applicable royalties are paid on time (and late royalty payments already carry a penalty).

Conclusion

14. The current recordkeeping and reporting requirements remain greatly burdensome for Entercom. Our resources and focus must remain on our core business of radio broadcasting. SoundExchange appears to want broadcasters to shoulder the burden of developing elaborate and costly technology and implementing labor intensive data collection, entry and reporting procedures, when SoundExchange and the record labels are in a much better position to know and track this information. Therefore, I would urge the Copyright Royalty Judges to reject the expansion of the recordkeeping and reporting requirements and to consider ways in which the current requirements could be made less costly and burdensome for broadcasters.

I declare under penalty of perjury that the foregoing statements are true and accurate to the best of my knowledge, information, and belief.

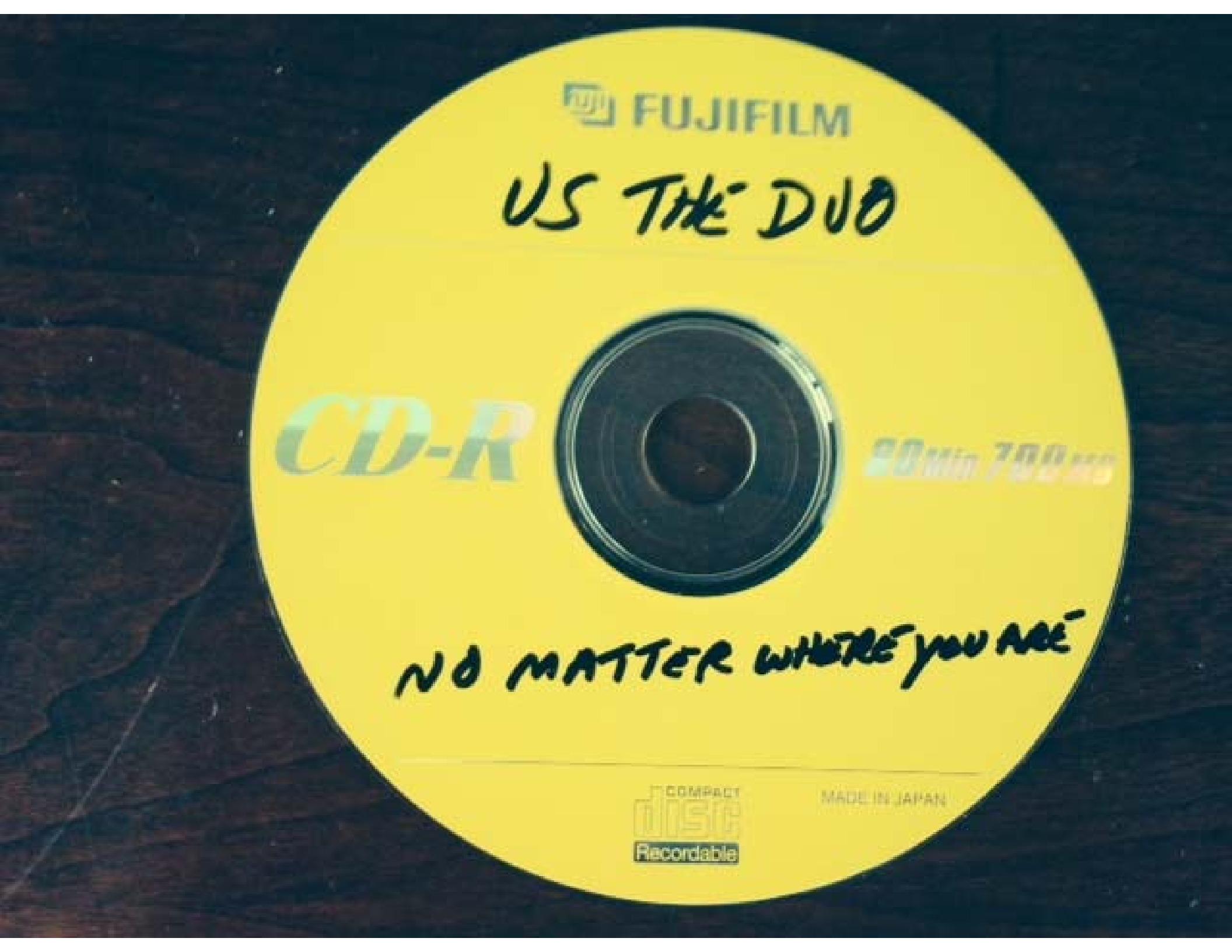
Date: June 27, 2014

Eugene D. Levin, Vice President
Treasurer and Controller
Entercom Communications Corp.

A-1

1. NA NA
Trey Songz

2. The Big Bang - Katy Tiz
3. The Walker -
Fitz + the Tantrums


FUJIFILM
US THE DUO
CD-R
NO MATTER WHERE YOU ARE
COMPACT
disc
Recordable
MADE IN JAPAN

1. The Walker
Fitetthe Tantrums

2. Skinny Love -
Birdy

1. Old School Love
Lupe Fiasco feat. Ed Sheeran
2. How I feel - Flo Rida

3. Dance Apocalyptic - Janelle Monae
4. All Night - Icona Pop

Charli XCX
CB
Chromeo
memorex
CD-R
Jason Mraz
Cash Cash
Off Honey

B

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Washington, D.C.

In The Matter Of:	:	Docket No. 14-CRB-0005 (RM)
Notice and Recordkeeping for Use of Sound Recordings Under Statutory License	:	

Declaration of Jim Tinker, Salem Los Angeles

1. My name is Jim Tinker, and I am the Director of Technical Operations for Salem Los Angeles, the Los Angeles operating division of Salem Communications. Salem is the nation's leading commercial provider of Christian and family-friendly radio content. I base this declaration on my personal knowledge and on information provided to me by other Salem personnel, including the individual who oversees the development and submission of our reports of use to SoundExchange, our Assistant Program Director and Music Director of 95.9 KFSH-FM, and our Salem's National Projects Director.

2. I have been with Salem for 22 years. Prior to my tenure with Salem, I worked in production at several different Southern California radio stations. In my current position, I oversee the technical operations of all four of Salem's commercial, FCC-licensed broadcast radio stations in the Los Angeles area. These stations include Christian talk station KKLA-FM, conservative talk stations KRLA-AM and KTIE-AM, and contemporary Christian music–formatted ("CCM") station KFSH-FM ("The Fish"). KKLA is regarded nationwide as a leader in the Christian talk format, and The Fish is one of the nation's most listened-to CCM-format stations. Salem's other successful "Fish" stations in such markets as Atlanta, San Francisco, and Chicago are based upon the model pioneered by KFSH.

3. Salem owns and operates 95 radio stations across 21 states and the District of Columbia, serving America's largest markets, including New York, Los Angeles, Dallas, and

Houston, as well as smaller ones, such as Louisville, Columbus, and Colorado Springs. These stations feature a wide array of formats, including Christian Music, News, Talk, Southern Gospel, and Country. Salem's stations have been recognized as Religious Radio Station of the Year finalists and feature programming awarded the National Religious Broadcasters Radio Program of the Year Award.

4. KKLA was the first radio station in L.A., and among the first radio stations in the country, to stream its broadcast live on the Internet 24/7 in the fall of 1995. Today, all 95 of the radio stations in the Salem family simulcast the programming to their audiences through the Internet.

5. I have considered the proposed additions and changes to the recordkeeping requirements. In sum, the present requirements cause substantial difficulties and hardship in terms of reporting title, artist, album, and label. The imposition of additional requirements, such as reporting the International Standard Reporting Code ("ISRC"), would not be possible for us given our current capabilities. The reporting requirements are disconnected from the way record labels and online music services provide music to radio stations, and the way stations categorize, organize, and broadcast the recordings that they play, and the proposed changes only exacerbate that disconnect.

Where Salem Gets Its Music and What Information It Receives

6. For KFSH and many of our other stations, we get the vast majority of our new music from PlayMPE, an online resource from which we can obtain recordings for play over the air. The PlayMPE website states that it launched in 2003 and has over 1,693,300 songs from more than 2,700 record labels, including labels such as Sony Music, Universal Music Group, and Warner Music Group.

7. If a recording is selected on the PlayMPE site, certain information is provided, and this information varies greatly. For example, most recordings will include title and the artist, which is how we identify the recording in the first place. It will also typically include recording length, availability date, and genre (*e.g.*, Christian), and will sometimes include other information such as label information, album title, a link to the artist website, background

information provided by the artist, and the lyrics for the song. ISRC is sometimes provided, but not consistently. I have noticed that the ISRC is less likely to be available for independent artists on PlayMPE and for music that is more than a few years old. In any event, for music that we obtain from PlayMPE, we still need to type in manually any of the relevant data that we wish to record into our database.

8. We also still receive promotional CDs, including albums and singles, from record labels. A promotional single will typically have the title and artist information, but the album may not yet be determined. To my knowledge, promotional CDs typically do not contain ISRC information either. As an example, attached as Exhibit 1 are photos of two promotional CDs that we have received, neither of which contains an album title or an ISRC. The first promotional CD for the band "About a Mile" includes several recordings, but there is no album information. The same is true for the recording "Don't Deserve You" by the band Plumb. Neither of these CDs displayed an ISRC on their packaging.

9. For music we received some time ago, often obtained from promotional CDs and free compilations provided by the labels, we would have entered the relevant information, such as the song title and artist, into our information database at that time. The recordings might have gone out of rotation but come back many years later. At that point, because we already had the music, program personnel would not have a need to go and obtain additional information to enter into our database.

The Limitations of our Music Scheduling and Digital Automation Systems

10. KFSH uses the NexGen digital automation system, which we also use at around 30 other stations; however, across Salem, we also use ENCO (at approximately 35 stations), Wide Orbit (at one station), and Rivendell (at approximately 10 stations). These systems are used to create our broadcast and are where we maintain data for recordings that are fed to our streaming provider to match up with listenership data. The most important operational data contained in these systems are the title, artist, and length, which are used by the system to retrieve and play recordings.

11. KFSH uses Selector for its music scheduling software. Music scheduling software programs replace the manual scheduling systems radio stations used before the advent of personal computers. Music scheduling software allows for more sophisticated decision making, giving the music director the ability to create rules to determine what kinds of songs can be played near each other. While Selector has the capability to track many different types of information, there are no fields dedicated to collecting the ISRC. For music scheduling, we rely mostly on title, artist, composer, mood and energy information, and runtime, because these are fields that most affect our scheduling choices. Other Salem stations use MusicMaster for program scheduling, and similar data field limitations apply, as well as our practices regarding data entry.

12. In order to upgrade these systems to track and maintain ISRC across Salem Communications, we would have to upgrade our systems at substantial expense. At this time we view this as cost prohibitive, as it would only support the streaming service and not our radio broadcast operations.

The Difficulties of Reporting Album and Label

13. Album and label remain problematic for us to collect, maintain, and report. As discussed above, there are cases in which we do not receive the album title when we receive the music. Therefore, to ensure that album title is in the system, we would have to go back later to identify and enter that information, creating a process by which data is entered inefficiently, increasing our data collection and entry burden. Also, for music we obtained years ago, we may have only entered title and artist into our system, and unless someone has gone back to update this information, which would not be relevant to our primary broadcasting operations, that is the only information that remains in our database.

14. As mentioned above, we maintain several different automation systems in which the information is maintained. For our Los Angeles stations, we maintain data for approximately 6,500 pieces of music (which includes incidental music), and our other markets are similar. Any requirement to update each of these databases, including multiple updates for the same recording if it appears in databases for multiple markets, is extraordinarily burdensome and amounts to

potentially tens of thousands of updates overall, which would take an untold number of hours to perform.

Reporting ISRC Would Greatly Increase our Administrative Burden

15. A requirement to report ISRC would present an even greater problem. This is an additional, and unnecessary, data point for us to manage, when we are already struggling with the current requirements. Aside from the fact that some of our systems do not presently accommodate this data point, and my belief that the information is not affirmatively provided to us from our music sources (or even readily available to us in most instances), I do not see how we could manage this additional requirement. Moreover, this would require that we research the ISRC for thousands of recordings. If we had to research album, label, and ISRC for all of our databases (assuming it is available), I would estimate it to take at least 10 minutes of research and data entry for each of Salem Los Angeles' 3,000 recordings, which would represent 500 man-hours of effort. I would conservatively estimate that that would be a cost of $10,000 just for our Los Angeles database – and likely many, many times that for Salem Communications overall. But again, my understanding is that many of the recordings in our database do not have ISRCs assigned to them, and we know of no reliable resource that provides an ISRC for all of the recordings that have been issued ISRCs.

Reporting on Recordings Not Requiring Payment to SoundExchange

16. I understand that SoundExchange has asked broadcasters to report and specifically identify streamed recordings that do not require payment to SoundExchange (*e.g.*, recordings made before February 15, 1972). Currently, Salem reports and pays for performances for some falling into this category, but does not separately identify them. While we recognize that we may be paying more than we are required to pay, it would, at this time, be impractical for Salem to determine such recordings from our reporting. If we did decide to separate out such recordings from Salem's royalty payment calculation in the future, we do not believe that we should be forced to report these recordings to SoundExchange.

Special Problems with Syndicated Reporting

17. Salem's stations also utilize some programming provided by third parties, some of which includes at least some performances of music. With Salem's present technology and the lack of information provided to us by the providers of the syndicated programming, our streaming provider cannot match up the music embedded in the syndicated programming with the streaming audience at the time the music is played. We make adjustments to our report of use to account for these recordings.

18. Prior to August 2011, Salem streamed its "Crosswalk" programming on approximately 12 channels for approximately 8 years. This programming included a lot of unique content, such as children's music, alternative Christian Rock, Southern Gospel, Urban Gospel, and praise and worship content. Because of the royalty fees and reporting requirements, Salem made the decision to stop streaming this content, which we believe is a loss for our audience and also a loss of an outlet – and a revenue source – for the associated copyright owners.

The Difficulties We Would Face if our Time for Submitting Reports Were Curtailed

19. We presently file our Reports of Use within the 45-day window. The proposal to shorten that time period to 30 days seems unnecessary, burdensome, and potentially problematic. We currently report on 95 streaming channels, and one individual must go in after the conclusion of the month and generate the report, review it for conformance to the requirements, add or correct any information that requires attention, and complete and submit the report. While we are able to perform this exercise within the current time period allowed, we are uncomfortable with shortening the time period given the growing number of stations that we have and the amount of data we are reporting. Also, we have had instances in which there has been a temporary disconnect between our streaming provider and our automation system, and we must revisit the reports at the end of the month to address any impacted time periods for particular stations. Shortening the reporting period would unreasonably reduce the time to deal with unexpected problems and to ensure our report is accurate and complete. For the same reasons, we oppose the imposition of a late fee for untimely or noncompliant reports of use.

Salem's Views on the Remainder of SoundExchange's Requests

20. We object to SoundExchange's request that all reports be required to include headers with 17 lines of data. Salem has developed a process for pulling together the data for dozens of streaming channels on a monthly basis. For many years now, we have prepared and submitted our reports of use without such header information. Requiring multiple-line headers would require us to change our method of reporting and it would also require us to update and maintain the header information with every submission. Because some of the fields would change with every report, including rows in the data file, checksum, and start and end dates of the reporting period, it adds additional work to the reporting process and increases the likelihood that we will make a mistake.

21. We would not disagree with being assigned an account number to be reported when submitting Reports of Use so long as the number is assigned to Salem as a whole and not to each individual station. We also do not object to digital signatures.

22. We do not use Quattro Pro, so we would not object to SoundExchange no longer being required to maintain a Quattro Pro template; however, I do not know whether others use this software.

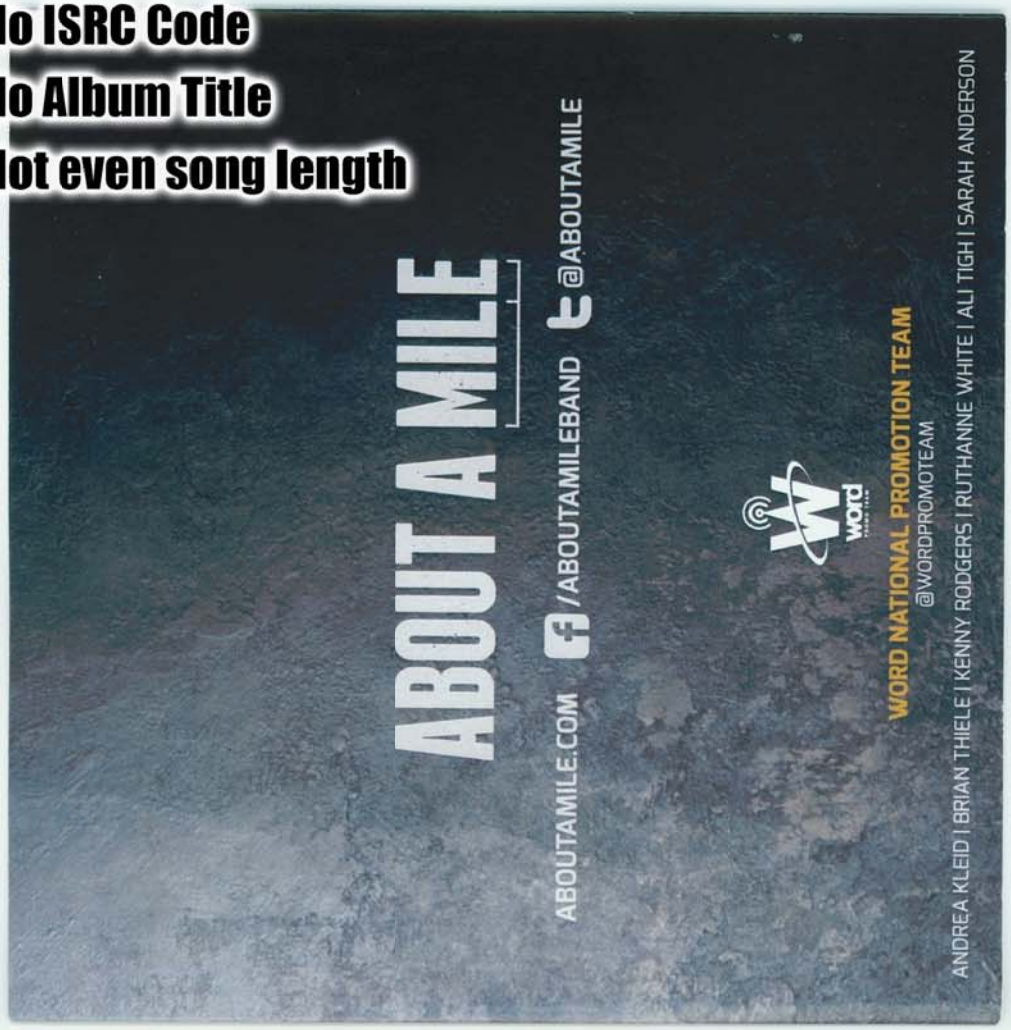
I declare under penalty of perjury that the foregoing statements are true and accurate to the best of my knowledge, information, and belief.

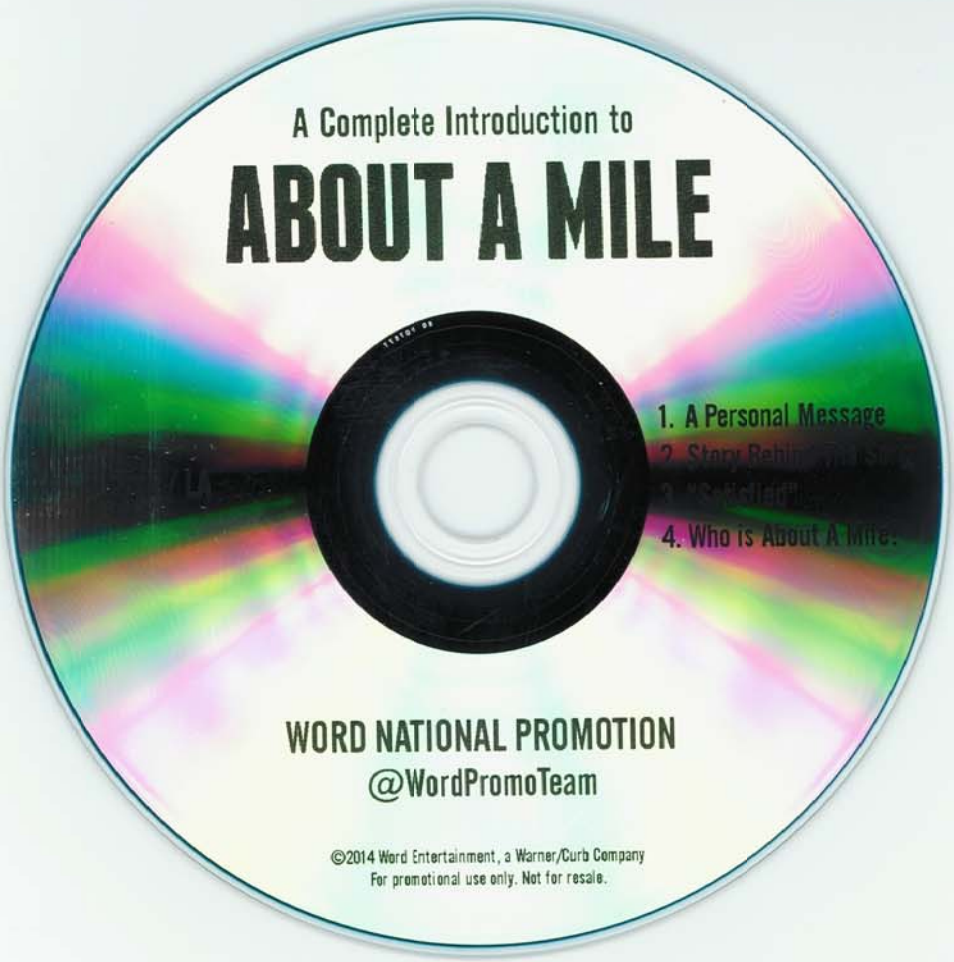
Date: 6/30/14

Jim Tinker
Director of Technical Operations
Salem Los Angeles

B-1

No ISRC Code
No Album Title
Not even song length





No ISRC Code
No Album Title

plumb

Don't Deserve You

(Tiffany Arbuckle Lee, Matt Bronleewe) © 2012 ShoeCrazy Publishing (adm. by Curb Congregation Songs) (SESAC)/
Sony/ATV Cross Keys Publishing/Songs From The Science Lab (ASCAP) All rights reserved. Used by permission. International Copyright Secured.

1. Album Edit (3:41)
2. Radio Mix (3:51)

Produced by Matt Bronleewe.

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curb.com

CURBD 2237
(510637)

C

Before the
COPYRIGHT ROYALTY JUDGES
LIBRARY OF CONGRESS
Washington, D.C.

In The Matter Of:	:	Docket No. 14-CRB-0005 (RM)
Notice and Recordkeeping for Use of Sound Recordings Under Statutory License	:	

Declaration of Sandhi Kozsuch, Cox Media Group, LLC

1. My name is Sandhi Kozsuch, and I am the Senior Director, Broadcast & Strategy, Cox Media Group, LLC. I have been with Cox for almost fourteen years. I base this statement on my personal knowledge and on information provided to me by other Cox personnel.

2. Cox Media Group is a major media company with national breadth, reaching over 14 million Americans each week through its radio properties. Cox presently owns and operates over 50 radio stations in 11 markets, including Houston, Long Island, Miami, San Antonio, and Atlanta. These stations feature a diversity of formats, such as Classic Rock, Adult Contemporary, Country, Sports, Talk, and Alternative. Stations in the Cox portfolio have garnered widespread recognition in the field, including awards from the National Association of Broadcasters as well as state-level broadcaster associations.

3. Almost all of our radio stations are simultaneously streaming their broadcast programming over the Internet, and we have been submitting reports of use to SoundExchange under the applicable regulations for this activity. Our streaming audience is a small fraction of our radio audience.

4. The reporting process is already quite burdensome and is made more difficult by the lack of information we are provided by the record labels. As a rough approximation, at least half of the music we broadcast comes directly from record companies and artists in the form of promotional CDs and audio files. Many of these promotional recordings do not contain album

and label information, and apart from the reporting that we do in connection with our streaming, we do not use – and do not need – to keep track of album and label information for our main broadcasting business. Also, our radio stations maintain separate databases of information regarding the sound recordings that they broadcast, so radio stations playing the same recording must each enter the data for each such recording into their separate databases. If that information is not received when we receive the recording (*e.g.*, missing album information), we would be required to go back and update our database at a later date, which is burdensome, impractical, and unnecessary, at least from the standpoint of our broadcasting operations.

5. Cox is very concerned about SoundExchange's proposed changes, including its request that we begin reporting the International Standard Recording Code (ISRC) for each recording that we play. This would make compliance even more difficult, costly, and burdensome than it is now. Cox is not aware of the ISRC being provided to us in any consistent and easy to read manner. We should not be required to research this code, enter it into our systems, and report it back to SoundExchange if the labels cannot transmit it to us in the first instance. Backfilling the ISRC into the stations' various information databases for all of our recordings would require an enormous effort. If SoundExchange truly needs the ISRC, which is a code that Cox does not use for any purpose in its digital automation systems, music scheduling software, or any other aspect of our broadcasting operations, it would be far more efficient, and provide more consistent results, to require SoundExchange to match the recording information provided by broadcasters (such as title and artist information, which is the information that we do use for our broadcast operations) with the information that SoundExchange maintains on its own master database. The labels and SoundExchange are in a far better position to compile the remaining types of information from their own records than Cox or any broadcaster would be.

6. Reporting syndicated programming is a particular challenge for us. It is my understanding that we do not receive any information from our syndicated programming providers regarding the recordings included in that programming (either the identifying information for the recordings or the time in the programs when they are played). I urge the Judges to modify the reporting regulations to take into account these business realities associated with the difficulties of reporting syndicated programming.

7. We presently file our Reports of Use within the 45-day window, and Cox is not comfortable with shortening that window to 30 days. In the first place, we believe that 45 days is a reasonable and necessary time period to allow us to prepare our reports given the massive amount of data that must be compiled, verified, and submitted. For example, our March 2014 report contains just under 11,000 rows (each row for a different recording), each with multiple columns of data. Cox also opposes SoundExchange's proposed time limitation on broadcasters' ability to obtain refunds based on erroneous overpayments. I am not aware of Cox seeking a return of overpayments in the past; however, limiting our ability to do so to only 90 days for such detailed and data driven reports is not commercially reasonable, in my experience.

8. Last, with respect to the technical changes proposed by SoundExchange, in checking with other departments at Cox, concerns were raised with moving to a UTF-8 format. For example, our finance group has identified a need to continue to use ASCII format so that they are assured compatibility with our other programs and systems (and we know that ASCII is compatible). As a general matter, we have developed our SoundExchange reporting process (and format) over the years, and it currently works for us. It would be an additional burden for us to limit our reporting to one format and to make us bear the cost of doing so.

I declare under penalty of perjury that the foregoing statements are true and accurate to the best of my knowledge, information, and belief.

Date: 6/27/2014

Sandhi Kozsuch
Senior Director
Cox Media Group, LLC

D

Before the
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Washington, D.C.

In The Matter Of:	:	Docket No. 14-CRB-0005 (RM)
Notice and Recordkeeping for Use of Sound Recordings Under Statutory License	:	

Declaration of Michael Cooney, Beasley Broadcast Group

1. My name is Michael Cooney, and I am the Vice President of Engineering, Chief Technology Officer, at Beasley Broadcast Group. I have been with Beasley since August 2007 and have worked in the radio industry since 1984. I am a Certified Engineer for the Society of Broadcast Engineers (CBRE), and I am also the Chairman of the National Association of Broadcasters Radio Technology Committee. I base this declaration on my personal knowledge and on information provided to me by other Beasley personnel.

Beasley's Operations

2. Beasley owns and operates 44 FCC-licensed radio stations in 11 different large and mid-size markets in Delaware, Florida, Georgia, Massachusetts, Nevada, North Carolina, New Jersey, and Pennsylvania. Beasley stations feature top on-air personalities and programming that appeal to a wide range of audiences and demographic groups and are home to a diverse range of formats, including Country, Oldies, Adult Contemporary, Sports, Talk, CHR, and Rock.

3. Beasley currently streams the programming from 40 of its stations over the Internet and has been submitting reports of use to SoundExchange under the applicable regulations. Streaming is ancillary to our core radio broadcasting business.

4. Beasley, and I suspect most broadcasters that stream, have designed and used systems to further their core business, and these systems often are incompatible with the reporting requirements that SoundExchange has sought to impose. As I describe below, even the current reporting requirements present enormous challenges for broadcasters generally, including Beasley. Beasley is very concerned about SoundExchange's proposed changes, which would make compliance even more difficult, costly, and burdensome than it is now. I believe that some of the current requirements and many of the proposed changes are simply unreasonable for radio broadcasters.

Beasley's Sources of Music and the Information It Receives

5. Beasley has developed its music information databases over many years and maintains separate databases for each market in which it broadcasts. Therefore, information regarding the same sound recording may be in multiple Beasley databases throughout the country. Of course, we regularly obtain new music from sources such as record companies and music services such as TM Studios and New Music Server.

6. The information received for songs provided by music services varies greatly, depending on the source. For example, TM Studios provides WAV files (uncompressed audio files) without headers. They do not contain the International Standard Recording Code (ISRC), and only a few recordings have album and label information. However, the title and artist of each recording received from these services is known because that is how the recordings are searched and selected by those seeking music from these services. TM Studios has no trouble determining which tracks are to be purchased based on title and artist information alone.

7. There are similar information limitations when music is obtained from another one of the music services, New Music Server. Again, however, title and artist information for every track is known because that is the information provided to New Music Server for a broadcaster's use. New Music Server is easily able to identify the tracks requested based on these two pieces of information.

8. Music may also be received directly from record companies who are eager for broadcasters to play their music, and the information obtained from them varies as well. For

example, record companies often provide promotional CDs or WAV files of songs before they have determined the name of the album on which those songs will be released. This makes the collection and entry of album information, if and when it becomes available, extremely burdensome and subject to error, particularly in cases where our personnel try to figure out the album title on their own from Internet research or other sources.

The Difficulties of Reporting Album and Label

9. Album and label information is extremely difficult for broadcasters to collect, maintain, and report with current technology. First, most broadcasters' digital automation systems do not currently support fields for entering this information. Moreover, some streaming providers cannot support these additional fields.

10. Moreover, broadcasters typically do not receive album and label information from the sources from which music to be played is obtained, as I discuss above. This makes the identification and entry of album information difficult and open to error. It makes no sense to require broadcasters to bear the substantial burdens of trying to obtain this information after the fact, either by going back to the record companies and music services or by having employees conduct their own Internet and other research to try to find it, and then enter it piecemeal. This is compounded by recordings that were released on more than one album. It cannot be determined after the fact from which album or label the song originated. The burden is exacerbated because Beasley maintains different databases for its 11 different markets, and its databases on average include information regarding approximately 3,000 songs – approximately 33,000 recordings overall; and if other larger broadcasters who have many more markets operate in the same manner, it would be even more burdensome for them. This type of independent research and manual data entry also creates additional potential for errors during data input (either from inaccurate research or inaccurate data entry). If Beasley, or any broadcaster for that matter, is not provided accurate album and label information from its music sources, I do not understand why the burden should fall on the broadcaster to try to figure this out.

The Added Difficulties of Reporting ISRC

11. A requirement to report ISRC would present an even bigger hurdle, and an unknown, for us. We do not use the ISRC in any aspect of our operations – terrestrial or Internet – so it is not a data point that is otherwise relevant to Beasley. I have looked into the ISRC and how it is used and do not believe that each song has been assigned an ISRC, especially older songs and songs from independent artists and smaller labels. Even if an ISRC has been assigned to a recording, it is not always – or even typically – provided from music sources (as discussed above). In addition, assuming that Beasley were required to research and locate the ISRC independently, I am not aware of an accepted, publicly available, reliable source for this information. I am particularly concerned about this additional requirement given that SoundExchange has asked for the imposition of an additional fine – above and beyond the late fee for late payments – for "non-compliant" reports of use.

12. Even if we could easily and accurately identify ISRCs for the recordings that we play, adding ISRC as an additional data point would greatly increase Beasley's reporting burden. In addition to the costly modification to our systems to accommodate information that is of no operational concern to us otherwise, we would have to backfill our existing music information database to include this information. This would require research and data entry for thousands of recordings. If we had to research ISRC for all of our databases (assuming it is available), I would estimate it to cost approximately $150,000 to research and enter the applicable ISRC for all of our recordings (to the extent the ISRCs exist and are obtainable).

The Difficulties We Would Face if our Time for Submitting Reports Were Curtailed

13. We presently file our Reports of Use within the 45-day window. The proposal to shorten that time period to 30 days is unnecessary, burdensome, and potentially problematic. Shortening the already short 45-day window would allow us no buffer and likely lead to inaccuracies in reporting. It is important to keep the time period as is to minimize erroneous and amended reports and allow for the most accurate information possible. In my view, a 45 day period is already short for a data-heavy report such as the required reports of use.

Licensees' Ability To Correct Overpayments

14. Beasley also opposes SoundExchange's proposed time limitation on broadcasters' ability to obtain refunds based on erroneous overpayments. This was a specific issue for our company, and it took some time to recognize that our system was over-reporting. I think that there are many potential opportunities for errors in this process, and to limit a broadcaster's ability to correct errors seems completely unfair. Also, the more requirements that are added to this process, the greater the chance for errors.

Server Logs

15. Broadcasters and their stream providers should not be forced to acquiesce to SoundExchange's demand that they keep and make available to SoundExchange their server logs. We rely on our stream provider to track our performances, and we retain the performance information provided to us by our provider for three years, as the regulations require. Moreover, our stream provider is unwilling to provide these logs to us because it views them as the product of their proprietary systems; therefore, we have no mechanism for meeting this requirement.

Perspective Gained from SoundExchange's Audit of Beasley

16. Beasley has been undergoing a SoundExchange audit for more than 2 years, so we have special insight into how unreasonable SoundExchange can be with respect to its requests for information and how SoundExchange ignores the Judges' regulations when it is in its interest to do so. Indeed, SoundExchange did not even use an independent Certified Public Accountant to conduct the audit although that is required by the Judges' regulations. This audit has required a great deal of manpower and focus from some of our key personnel and has been a major and unwelcome distraction from our operations. On multiple occasions, Beasley was asked to provide information that was wholly irrelevant to an audit of our royalty payments, including requests for Beasley's revenues, requests for listener ID, performance duration, ISRC, and aggregate tuning hours, none of which relate to the proper determination of Beasley's license fees. At the end of the audit, SoundExchange also arbitrarily attempted to assess additional royalties that we do not owe based on an incorrect claim that SoundExchange's auditors admit is "speculat[ion]" regarding how our streaming service provider counts performances even though we have provided SoundExchange with both oral and written representations from our provider

that SoundExchange's speculative claim is incorrect. If additional informational requirements are imposed on broadcasters, I have concerns that this will lead to further disputes with SoundExchange and create additional opportunities for them to unjustly penalize broadcasters. Given SoundExchange's abuse of the existing rights that it has, SoundExchange's latest set of requirements and its professed need for them should be taken with a grain of salt.

Beasley's Views on the Remainder of the SoundExchange Requests

17. Below, I set forth Beasley's position with respect to some of SoundExchange's other requested modifications:

- We object to SoundExchange's request that all reports be required to include headers with 17 lines of data. For many years now, we have prepared and submitted our reports of use without such header information other than identification of the reported data fields themselves (as is our option). Deleting the no-header option and requiring multiple-line headers would require us to change our method of reporting. It also would require us to update and maintain the header information with every submission – and thus increase both our reporting burdens and the risk of errors in the reports – as some of the fields would change with every report, including rows in the data file, checksum, and start and end dates of the reporting period. It is unreasonable for Beasley and other broadcasters to shoulder this burden when SoundExchange has been processing reports and distributing royalties based on files not including this header information for years.
- We would not disagree with being assigned an account number to be reported on Reports of Use so long as the number is assigned to Beasley as a whole and not to each individual station.
- We do not object to digital signatures and, in fact, affirmatively support that proposal.

- We do not use Quattro Pro, so we would not object to SoundExchange no longer being required to maintain a Quattro Pro template; however, I do not know whether others using this software would be affected by this proposed change.

Conclusion

18. Beasley expends substantial time and effort already to prepare and submit its reports to SoundExchange. I believe that they provide SoundExchange with a reasonable basis for allocating and distributing to the implicated copyright owners and performing artists the royalties that we pay. I also believe that some accommodations should be made for radio broadcasters, who have purchased and implemented music playout and reporting systems geared toward their core business of broadcasting rather than streaming. The music data that we receive from record companies and music services simply does not include all of the information requested by SoundExchange. If the record companies and music services do not consider it important enough to provide, it is not clear why it is important to report, particularly given the heavy burdens imposed. For these reasons, I urge the Copyright Royalty Judges to take a hard look at not only the new proposals but the current requirements as well and consider whether the information is truly necessary for SoundExchange to make reasonable distributions. I also urge the Judges to consider instances where the burden of locating music information – such as album, label, and ISRC – might more efficiently be placed on SoundExchange rather than broadcasters.

I declare under penalty of perjury that the foregoing statements are true and accurate to the best of my knowledge, information, and belief.

Date: 6-30-14

Michael Cooney
Vice President of Engineering
Beasley Broadcast Group

E

Before the
COPYRIGHT ROYALTY JUDGES
LIBRARY OF CONGRESS
Washington, D.C.

In The Matter Of:	:	Docket No. 14-CRB-0005 (RM)
Notice and Recordkeeping for Use of Sound Recordings Under Statutory License	:	

Declaration of Chris Moran, West Virginia Radio Corporation

1. My name is Chris Moran, and I am the Director of Technology at West Virginia Radio Corporation. I have been with West Virginia Radio since approximately 1997. I am a member of the National Association of Broadcasters Radio Technology Committee. I base this declaration on my personal knowledge and on information provided to me by other West Virginia Radio with employees whom I regularly work.

West Virginia Radio's Operations

2. West Virginia Radio owns and operates 26 radio stations across West Virginia and part of Maryland. Metropolitan markets served include Charleston, Morgantown, Clarksburg, and Cumberland, Maryland, in addition to West Virginia Radio's statewide MetroNews Network. West Virginia Radio stations have a variety of formats, including Adult Contemporary, Sports, Country, News, and Top 40. West Virginia Radio has been recognized as one of America's top radio companies.

3. West Virginia Radio simulcasts the broadcasts of 19 of our stations on the Internet. To date, West Virginia Radio has been simulcasting its radio broadcasts for the benefit of our listeners and we view it as a cost of doing business. The cost of streaming is substantial and as a stand-alone function it is not profitable. I expect it to continue to generate losses when viewed independently for some time into the future. Our streaming audience is a very small percentage of our radio broadcast audience.

4. Our technology at West Virginia Radio was put into place many years ago and was designed to support our over-the-air broadcasting. Our digital automation system, which is the system that we use to program our broadcasts, is also the system that feeds data to our streaming provider. That system has serious limitations when it comes to the data that SoundExchange desires. West Virginia Radio is very concerned about SoundExchange's proposed changes, including the addition of another reporting data point, the International Standard Recording Code (ISRC). Adding the ISRC would make compliance even more difficult, costly, and burdensome than it is now.

West Virginia Radio's Sources of Music and the Information It Receives

5. We receive most of our music from music service providers; however, we also receive some promotional CDs from labels and artist. When we receive promotional CDs, they typically come as singles with title and artist information, but they often do not have album information. For example, I have attached copies of promotional CD packaging for two recordings – "America Kids" be Kenny Chesney, and "I Don't Dance" by Lee Brice. Exhibit 1. Neither of these examples contains album information for these recordings, nor do they contain the ISRC (assuming one was obtained for these recordings). I am not aware that we ever receive the ISRC with promotional CDs and audio files.

6. We use a few online music services to obtain music, mostly PlayMPE and New Music Server, which allow us to obtain electronic audio files through their internet sites. Similar to promotional CDs, some singles are released by the labels through these services before they have an album. Therefore, if we download the single and enter the relevant information into our database, we would not have the album at that time. Sometimes, these services do not include album information, even when an album has been assigned.

7. The PlayMPE site has similar limitations. There are also older songs that have stayed singles, and therefore have no album title.

8. Even for the same artist, the information may vary. For example, Jason Mraz's new song "Love Someone", which was released on June 19, 2014, has no album listed on PlayMPE, although if you search the Internet, you can find that it is part of his new album

"Yes!". This release has an ISRC assigned. But for Jason Mraz's recording "93 Million Miles." I see no ISRC provided. Also, this entry in PlayMPE for "93 Million Miles" has no album listed. Exhibit 2.

The Limited Information Stored in our Music Scheduling and Digital Automation Systems

9. All of our stations use WideOrbit Radio Automation (WideOrbit) as our digital automation system (DAS). The DAS is the engine that runs both over-the-air broadcasting and streaming. The DAS plays back all of our music, imaging (liners, promos and jingles) and commercials as it is fed to the DAS from the music scheduling software. It provides queues to on-air personality and also pushes the necessary SoundExchange reporting data to our streaming provider in order to synchronize that data with listenership data. Our music scheduling software, MusicMaster, is used to program the order of the music we play; however, this software does not provide information to our streaming provider. MusicMaster contains hundreds, if not thousands, of rules regarding the separation of music by the same artist, how much time must separate by songs of the same category, whether songs of the same tempo can be played consecutively, etc. The music scheduling software generates the log of music, which is then sent to WideOrbit to stream and play over-the-air.

10. WideOrbit has limitations on the information it will accept for each recording. Our current version has fields available for title, artist, note and year, but does not have specific fields for entry of album, label, or ISRC.

11. Each of our stations operates independently in terms of the music information database it maintains. For streaming, the significance of that is that each station needs to provide our streaming provider with the necessary reporting data for SoundExchange. It does not come out of a centralized system.

The Difficulties of Reporting Album and Label and, if Required, ISRC

12. Even apart from our system limitations, we do not always receive album information, as discussed above. If the album information were available later, that would

require us to go back and research that information at a later time and enter it into our DAS, creating a disjointed data collection and entry process.

13. The ISRC is an additional concern. I have asked others, and we are not aware of West Virginia Radio using the ISRC in any of its broadcasting operations. I have looked into the ISRC and how it is used and do not believe that each song has been assigned an ISRC. For example, I mentioned a few recordings above from prominent artists that do not have the ISRC displayed on our music service's site. I also examined some of the electronic audio files we have received for recordings we play. In looking at the data contained in these files, I do not see any ISRC provided.

14. If we were required to research and locate the ISRC independently, I am not familiar with a source of that information that I can be sure provides accurate and complete ISRC information. If we are forced to backfill our music databases with ISRC data, that would be an additional, enormous effort, requiring modifications to our digital automation systems, and a major research and data entry effort. Again, the ISRC would have to be located for each entry in each system. Because we maintain separate databases for our 19 different stations that stream, and our databases on average include information regarding approximately 500-700 recordings, I would estimate that we would have to revisit approximately 10,000-15,000 database entries overall. This would be a major undertaking for us and would add further cost to our streaming operations, which already operate at a loss.

15. Based on the fact that popular music services such as PlayMPE do not display the ISRC for every recording (assuming there is one in the first place), we may have to search multiple sites for this information. It is unreasonable to impose this kind of requirement on West Virginia Radio, and broadcasters in general. It would make streaming content more costly (and more of a loss for us).

Syndicated Programming Presents Particular Reporting Problems

16. Syndicated programming, which is essentially content obtained from others that is then streamed, presents a particular problem for reporting purposes. Our technology and the information provided by most third parties for syndicated content does not allow for the

matching of specific recordings embedded in the syndicated programming with real time listenership data. I would urge the Copyright Royalty Judges to consider exempting syndicated programming from reporting or, alternatively, allowing broadcasters to report music played in syndicated programming on an average listenership basis.

West Virginia Radio's Views on Certain Other Proposed Changes

17. We object to shortening any time period for filing our report of use or for any time period in which we are allowed to submit for overpayments. This is a complex, data driven process and there is potential for mistakes that cannot be avoided. Furthermore, our reports require the input from third parties, such as our streaming provider. While we typically do not experience problems meeting the 45 day reporting requirement, shortening it makes us uncomfortable for the reasons I have described above.

18. We would not disagree with being assigned an account number provided that the number is assigned to West Virginia Radio as a whole and not to each individual station. We do not object to digital signatures and, in fact, affirmatively support that proposal. We do not use Quattro Pro, so we would not object to SoundExchange no longer being required to maintain a Quattro Pro template.

Conclusion

19. West Virginia Radio expends substantial time and effort to prepare and submit reports of use to SoundExchange for its streaming operations. The recordkeeping and reporting requirements relate only to a small, and already costly and unprofitable, portion of our business. The reporting of additional data points, such as the ISRC, will only serve to make this burdensome process more costly for West Virginia Radio.

I declare under penalty of perjury that the foregoing statements are true and accurate to the best of my knowledge, information, and belief.

Date: June 30, 2014

Chris Moran
Director of Technology
West Virginia Radio Corporation

E-1

KENNY CHESNEY
American Kids

Words and Music by Rodney Clawson, Shane McAnally, and Luke Laird (BMI/ASCAP)
Produced by Buddy Cannon and Kenny Chesney

Doublewide Quick Stop midnight T-top
Jack in her Cherry Coke town
Momma and Daddy put their roots right here
'Cause this is where the car broke down

Yellow dog school bus kickin' up red dust
Pickin' us up by a barbed wire fence
MTV on the RCA, no A/C in the vents

Chorus
We were Jesus save me, blue jean baby
Born in the USA
Trailer park truck stop, faded little map dots
New York to LA
We were teenage dreamin', front seat leanin'
Baby, come give me a kiss
Put me on the cover of the Rolling Stone
Uptown down home American kids

Growin' up in little pink houses
Makin' out on living room couches
Blowin' that smoke on a Saturday night
A little messed up, but we're all alright

Baptist church parkin' lot, tryin' not to get caught
Take her home and give her your jacket
Makin' it to second base, but sayin' you went all the way
Monday afternoon at practice

Sisters got a boyfriend Daddy doesn't like
Now he's sittin' out back, 3030 in his lap
In the blue bug zapper light

Repeat Chorus 2x

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Track 1: American Kids :12 / 3:07 / cold
Track 2: American Kids, Intro Liner :05
Track 3: Kenny talks about "American Kids" - Part 1 2:06
Track 4: Kenny talks about "American Kids" - Part 2 2:00

From the upcoming Blue Chair Records/Columbia Nashville release, 88843-06274-2
www.columbianashville.com

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88843-09473-2

CURB

LEE BRICE • I Don't Dance

CURBD 2240 (510640)

LEE BRICE

I Don't Dance 3:41

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Callout Hook :10

Produced by Lee Brice

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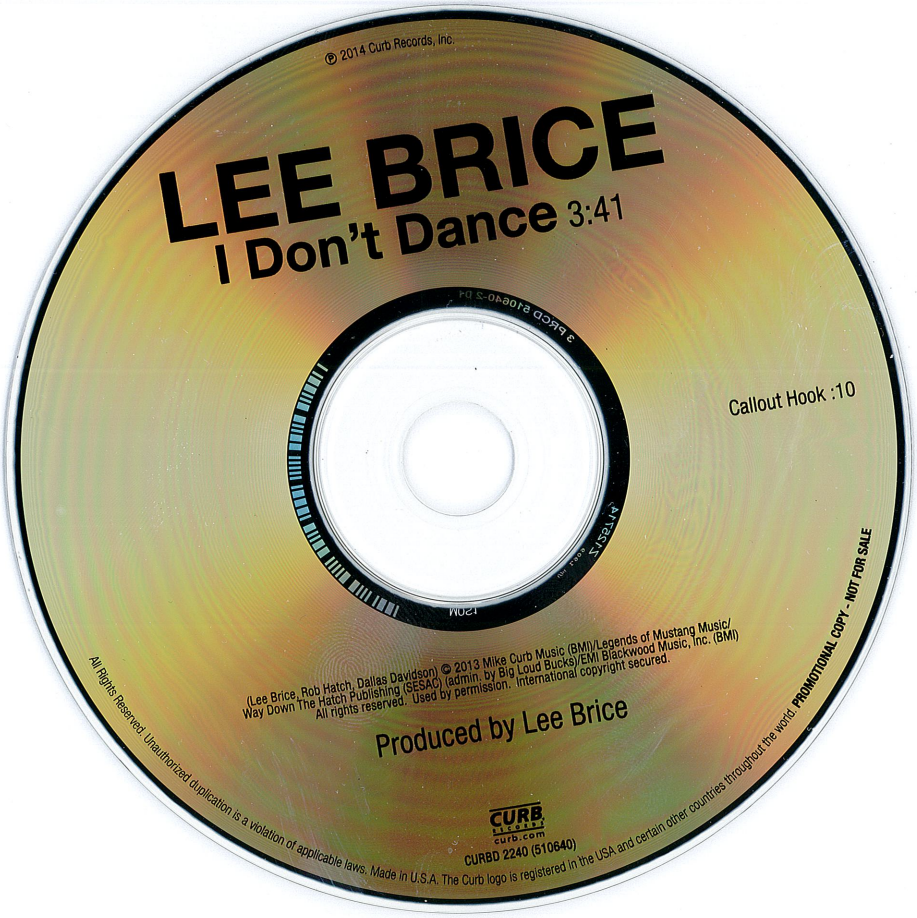
CURBD 2240
(510640)

CURBD 2240 (510640)

LEE BRICE • I Don't Dance

CURB



E-2

RELEASE INFORMATION

ATLANTIC RRP

Jason Mraz : Love Someone

Total Time: 03:55
Available Date: 19-Jun-2014 Impact Date: 19-Jun-2014
Format: AAA Hot AC
Available to: Stream | Download | Add To Library | Burn CD
Attachment:

TRACK LIST | ALBUM INFO | ADDITIONAL INFO | CONTACT INFO | OVERVIEW

Jason Mraz - Love Someone (Radio Edit) *Atlantic Records / Roadrunner Promotion*	03:55

RELEASE INFORMATION

Jason Mraz : Love Someone

Total Time: 03:55
Available Date: 19-Jun-2014 Impact Date: 19-Jun-2014
Format: AAA Hot AC
Available to: Stream | Download | Add To Library | Burn CD
Attachment:

TRACK LIST | ALBUM INFO | ADDITIONAL INFO | CONTACT INFO | OVERVIEW

RELEASE INFORMATION

Jason Mraz : Love Someone

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Attachment:

TRACK LIST | ALBUM INFO | ADDITIONAL INFO | CONTACT INFO | OVERVIEW

RELEASE INFORMATION

ATLANTIC RRP

Jason Mraz : Love Someone

Total Time: 03:55
Available Date: 19-Jun-2014 Impact Date: 19-Jun-2014
Format: AAA Hot AC
Available to: Stream | Download | Add To Library | Burn CD
Attachment:

TRACK LIST | ALBUM INFO | ADDITIONAL INFO | CONTACT INFO | OVERVIEW

Artist Website:
http://summerofyes.jasonmraz.com/

Mitch Mills
212-707-3042
mitch.mills@atlanticrecords.com

RELEASE INFORMATION

1. Jason Mraz - Love Someone (Radio Edit) - 03:55

Marketing Labels: Atlantic Records / Roadrunner Promotion

ISRC: USEE11400514

Artist Website: http://www.jasonmraz.com

contact email: mitch.mills@atlanticrecords.com

contact name: Mitch Mills

contact phone: 212-707-3042

Album Information:

PRINT EXPORT

RELEASE INFORMATION

Jason Mraz : 93 Million Miles

Total Time: 03:25
Available Date: 18-Sept-2012
Format: Hot AC
Available to: Stream | Download | Add To Library | Burn CD
Attachment:

TRACK LIST | ALBUM INFO | ADDITIONAL INFO | CONTACT INFO | OVERVIEW

Jason Mraz - 93 Million Miles (Radio Edit) *Atlantic Records / Roadrunner Promotion*	03:25

RELEASE INFORMATION

Jason Mraz : 93 Million Miles

Total Time: 03:25
Available Date: 18-Sept-2012
Format: Hot AC
Available to: Stream | Download | Add To Library | Burn CD
Attachment:

TRACK LIST | ALBUM INFO | ADDITIONAL INFO | CONTACT INFO | OVERVIEW

CHECK OUT JASON MRAZ'S NEW SINGLE 93 MILLION MILES!!

RELEASE INFORMATION

ATLANTIC RRP

Jason Mraz : 93 Million Miles

Total Time: 03:25
Available Date: 18-Sept-2012
Format: Hot AC
Available to: Stream | Download | Add To Library | Burn CD
Attachment:

TRACK LIST | ALBUM INFO | ADDITIONAL INFO | CONTACT INFO | OVERVIEW

Follow up to the smash hit "I Won't Give Up"!

Jason Mraz – “93 Million Miles” (US Radio Edit)

RELEASE INFORMATION

ATLANTIC RRP

Jason Mraz : 93 Million Miles

Total Time: 03:25
Available Date: 18-Sept-2012
Format: Hot AC
Available to: Stream | Download | Add To Library | Burn CD
Attachment:

TRACK LIST | ALBUM INFO | ADDITIONAL INFO | CONTACT INFO | OVERVIEW

Label Website:
www.atlanticrecords.com

Mitch Mills
212-707-3042
Mitch.Mills@atlanticrecords.com

RELEASE INFORMATION

1. **Jason Mraz - 93 Million Miles (Radio Edit) - 03:25**

Marketing Labels: Atlantic Records / Roadrunner Promotion

PRINT EXPORT

F

Before the
COPYRIGHT ROYALTY JUDGES
LIBRARY OF CONGRESS
Washington, D.C.

In The Matter Of:	:	Docket No. 14-CRB-0005 (RM)
Notice and Recordkeeping for Use of Sound Recordings Under Statutory License	:	

Declaration of Thomas James (Chase) Rupe, Emmis Austin Radio

1. My name is Thomas James (Chase) Rupe, and I am the Vice President of Programming and Operations for Emmis Austin Radio. I have been with Emmis Communications since 2006 and have worked in the radio industry since 1998. I base this declaration on my personal knowledge and on information provided to me by other Emmis personnel that report to me.

An Overview of Emmis' Operations

2. Emmis Communications Corporation (formerly Emmis Broadcasting) was incorporated in Indiana in 1979 by Founder and Chairman Jeff Smulyan. Our first station (WENS) went on the air on July 4, 1981, broadcasting an adult contemporary format. This flagship station continues to be a strong competitor in the Central Indiana market.

3. Emmis went public in 1994 and now owns and operates 24 radio stations in the nation's largest markets, including WQHT-FM (HOT 97) in New York City and KPWR-FM (Power 106) in Los Angeles, as well as Austin, St. Louis, Indianapolis, and Terre Haute. Our stations broadcast a number of different formats, including Young Urban, Sports, Soft/Lite Rock, Country, Alternative/Hard/New Rock, Variety/Mix, and Oldies, among others.

4. Emmis currently simulcasts the programming from all of its stations over the Internet. We simulcast our radio broadcasts to better serve our listeners, but it is not a profitable activity for us.

5. Emmis submits monthly statements of account and reports of use to SoundExchange for its streaming. We face substantial challenges in the reporting process because of the technology limitations of our "Wide Orbit" automation system (including its "TLC" load program), and the fact that we do not consistently receive album and label information for the recordings that are provided to us. As discussed below, we receive a great deal of our recordings directly from record labels. The promotional CDs and electronic audio files that we receive often do not contain album information, and the label information can be confusing or even absent. The necessity for all four pieces of information is not clear to me, as we are able to identify the recordings we want to play with title and artist information only. Also, our experience with our TagStation® product, as discussed further below, is that title and artist information will provide a successful song match over 90% of the time for contemporary music.

6. Emmis is also concerned about the possibility of additional data reporting requirements, such as the ISRC, given that the current reporting requirements are both difficult to meet and seemingly unnecessary in the vast majority of cases. In my experience, the ISRC is never provided with promotional recordings. Why SoundExchange would need this piece of information is also puzzling given my experience with identifying recordings using title and artist information only. The ISRC would simply add to an already burdensome recordkeeping and reporting process. We should be looking for ways to streamline the reporting process, not complicate it further.

Emmis Receives Most of its Music Directly from Record Labels and We Often Receive Limited Information for such Promotional Material

7. Emmis still receives the vast majority – about 95% – of the music that it plays directly from record labels in the form of promotional CDs and electronic audio files. Promotional music often comes in the form of CDs delivered to our program directors, and it may be as simple as a plain audio CD with just a title of the song hand-written on the disc. For

example, attached as Exhibit 1 are photos of two CDs, “10 Mile Stereo” by Beach House, and “Ooh , It’s Over” by All the Elements That Make the Earth. There is no album, label, or ISRC for these CDs. Promotional CDs such as these often come with only the title and artist information for the recording.

8. Promotional CDs often do not have album information because we receive the recording before the album is released. The album may not yet have a title, or there may not have been a decision to release an album for the artist. Some recordings simply stay as single releases, never being released as part of an album. Therefore, when we receive the promotional material and load the relevant information into our digital automation system that supports our broadcasting and streaming, we would not have album information available. This is also true for electronic audio files, which typically come to us in the form of high bit rate MP3s.

9. Also, it is not always a simple matter to determine the applicable label for the recording. Major labels have sub-labels, some of which are very small. We might receive a promotional recording from someone at the major label, when in fact the applicable label is the sub-label, but we would not know that from the material we receive. The only way to find that out would be through independent research, and even then we might be guessing as to the name of the appropriate label. Also, some independent promoters handle multiple labels. So, if they send us a recording, we would not necessarily know which label on behalf of which the recording is being sent, unless it is specified, which it often is not.

10. For ISRC, I have not seen any material come to us directly from labels with the ISRC presented in a way that the program director would see it. I do not believe that the recordings we receive from record labels contains ISRC information in most cases. It may be embedded in a relatively small number of CDs, but even if the ISRC is embedded, we would need special software and training for program directors to know where to access the information.

The Difficulties of Reporting Album, Label, and ISRC

11. As discussed above, because we often do not receive album information when we receive a recording, that information will not be entered when we load the necessary information

into our systems and play the recording. To obtain the album information, a program director would have to go back later after it is known what album the recording is being released on and then separately enter that information into our systems (which we would not need to do for any other operational reason). This could require a program director to check multiple times, if the album is delayed in being assigned, or if the recording is never released on an album.

12. Similarly, if we do not receive definitive label information upon receipt of the recording, our personnel would be required to independently research a recording to see which label should be recorded in our system for reporting purposes. The selection of the appropriate label can be confusing and our personnel might get it wrong. To be clear, there are hundreds and hundreds of labels (some very small), and labels often have sub-labels. There are scores of small, independent labels, many of which we have never heard of. Asking broadcasting personnel to judge the appropriate record label to be reported for copyright ownership purposes is unreasonable.

13. My understanding is that not every recording has been assigned an ISRC and that there is no single source of information that we could query for assigned ISRCs. Also, as stated above, I have never seen promotional material labeled with this information. If SoundExchange is asking that we purchase new software and alter our technology to read, accept and maintain the ISRC for all of our recordings, that seems to be a completely unreasonable request. This would require a huge capital investment for broadcasters. Also, manually entering the ISRC for thousands of recordings will certainly lead to errors in data entry, causing further confusion in the reporting process.

14. Last, I would note that Emmis maintains separate digital information systems at each of its stations. Therefore, information must be entered into each station's system, meaning that each of our stations would need to separately research and complete the information for all of the recordings used by that station, greatly expanding the effort of data collection, entry and reporting. There would be no easy way for this information to be shared among all of our stations.

Emmis' TagStation® System Is Able To Match Title and Artist with the Proper Recording in the Vast Majority of Cases

15. TagStation® is a cloud-based server that Emmis developed to support a few different interfaces, including NextRadio® and the HD Radio Artist Experience® (which are third-party solutions). NextRadio® is an application that allows supported mobile devices to receive FM radio. Artist Experience® is a solution that allows the synchronous transmission, delivery, and display of images on the HD Radio receiver that are related to the specific audio segment (such as album cover art, commercial images related to advertisement, etc.). For both, our TagStation® system relies upon third-party databases, such as GraceNote® (which supplies, among other things, album cover art where available), and matches Emmis' title and artist information with desired related information, such as album cover art. TagStation® is not integrated with our SoundExchange reporting process and there are no plans to do so. That integration would require a significant investment of time and money by Emmis.

16. Our experience is that for contemporary music, TagStation® is able to make an appropriate match with third-party album cover art information over 90% of the time solely from Emmis' title and artist information. For older music, I would estimate that title and artist information is sufficient to identify a specific recording between 70-80% of the time.

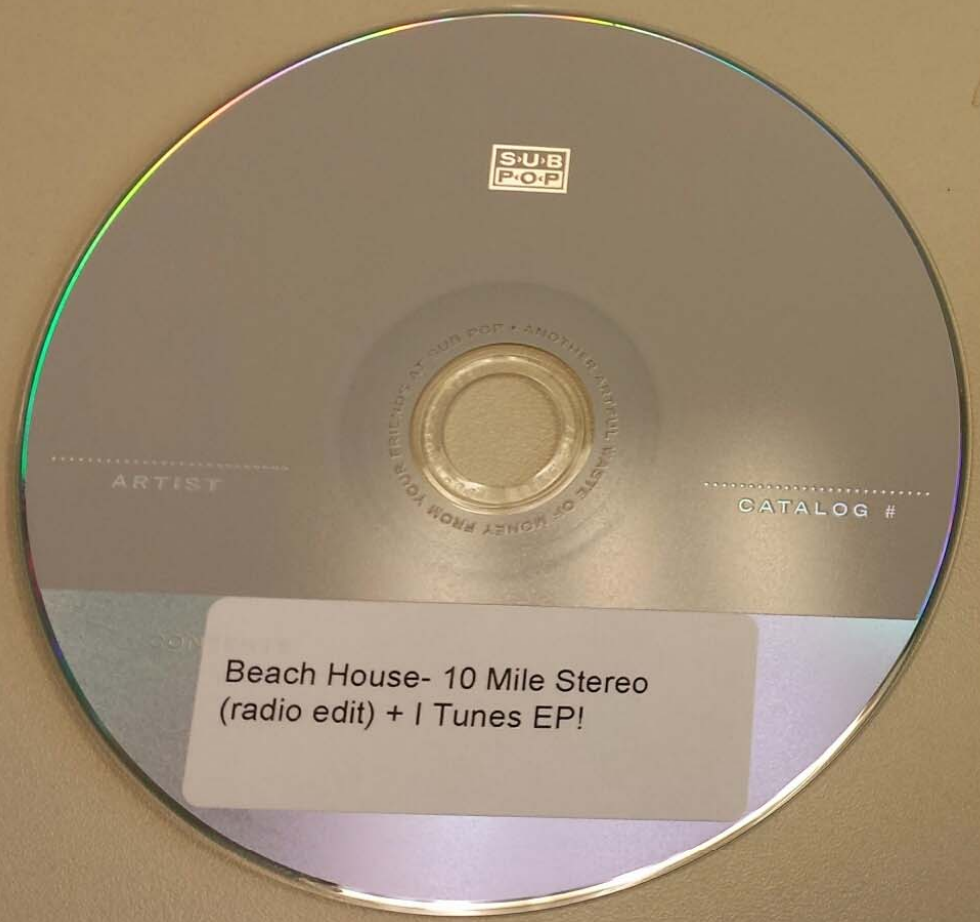
17. Given that SoundExchange likely has a large database of information, it should be equally effective, if not more effective, in matching title and artist information with any other information it desires (such as album, label, and ISRC). SoundExchange is in a much better position to receive all of this information directly from the labels and process it in a manner that is most efficient to its mission of distributing royalties. Alternatively, SoundExchange could query the same third-party databases that we are querying through TagStation® for this information. Asking legions of broadcasters across the country to obtain, enter, maintain and report on album, label, and ISRC rather than having SoundExchange match title and artist information to recordings in a centralized and streamlined manner is both inefficient and unnecessarily burdensome on broadcasters.

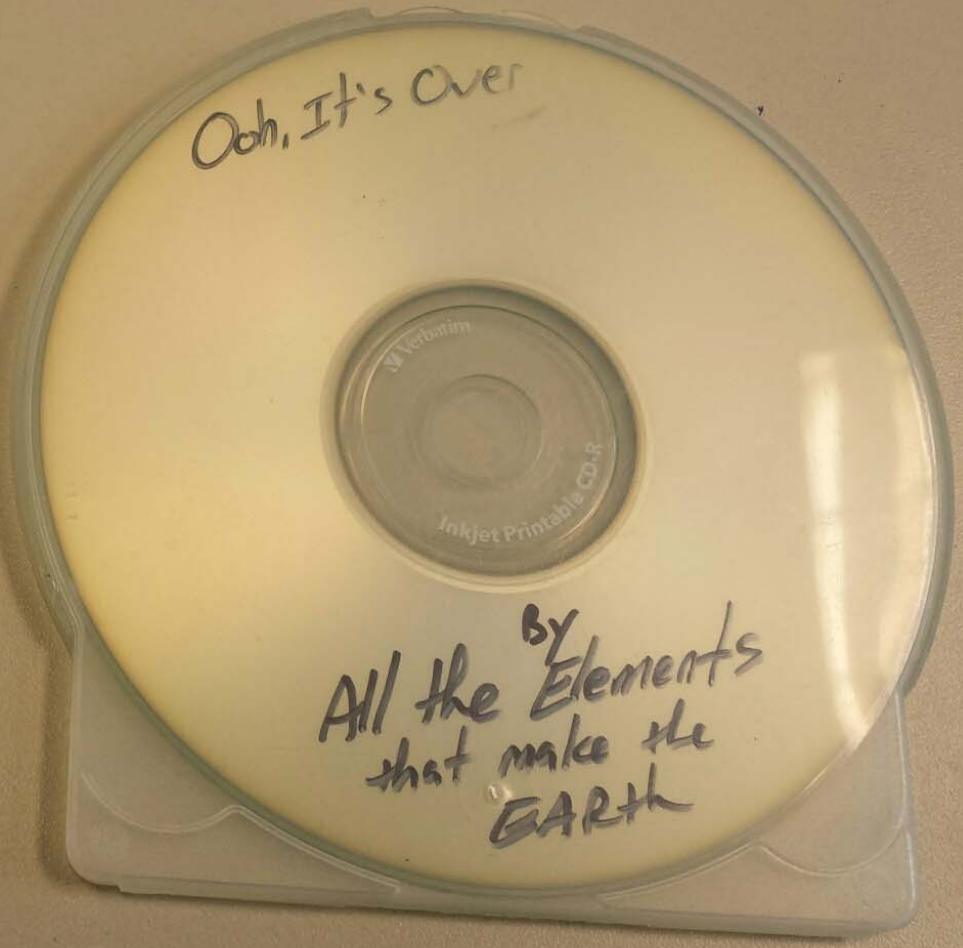
I declare under penalty of perjury that the foregoing statements are true and accurate to the best of my knowledge, information, and belief.

Date: 6/27/14

Thomas James Rupe
Vice President
Emmis Austin Radio

F-1


S·U·B
P·O·P
ARTIST
CATALOG #
Beach House- 10 Mile Stereo
(radio edit) + I Tunes EP!


Ooh, It's Over
Verbatim
Inkjet Printable CD-R
By
All the Elements
that make the
EARth

G

Before the
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LIBRARY OF CONGRESS
Washington, D.C.

In The Matter Of:	:	Docket No. 14-CRB-0005 (RM)
Notice and Recordkeeping for Use of Sound Recordings Under Statutory License	:	

Declaration of Douglas Myer, WDAC

1. My name is Douglas Myer, and I am the Chief Operating Officer and General Manager of WDAC, 94.5 FM in Lancaster, Pennsylvania. I have been with WDAC since 1998 and have worked in the radio industry for 16 years. I base this declaration on my personal knowledge and on information provided to me by other WDAC personnel that report to me.

WDAC's Operations

2. WDAC signed on the air on December 13, 1959. The station was founded by evangelist Percy Crawford, and the station is now owned by his two sons (Richard and Dan Crawford) and Paul Hollinger, who retired as Chief Operating Officer on December 31, 2006. Known for fifty-five years as the "Voice of Christian Radio," the station's 23 full and part-time employees provide programming 24 hours daily and devote 30% of the air time to Bible teaching programs. The remainder of the broadcast day is made up of Christian music, news, and issues programs.

3. WDAC streams its radio broadcast over the Internet. Streaming has never been a profit center for WDAC and I do not expect it to be anytime in the near future. Rather, we do it as a service to our listeners. Our streaming audience, averaging approximately 850 listeners per day, is a small fraction of our radio audience.

4. WDAC has been submitting reports of use for its streaming to SoundExchange under the applicable regulations. WDAC is very concerned about SoundExchange's proposed changes to the recordkeeping and reporting requirements. We have expended extensive resources in developing our database of music information, and the proposed changes would add additional cost and administrative burden to an already burdensome process.

WDAC's Sources of Music and the Information We Receive and Maintain

5. Over the years, we have developed a large music information database that includes information for approximately 23,000 sound recordings. Up until recently (several months ago), WDAC obtained most of its new music from CDs provided by record labels and artists. As of right now, we receive approximately half of our new music from music services (primarily PlayMPE) and half from record labels and artists (and their promoters). Between record labels and artists, it seems like more and more music comes from artists directly, as opposed to labels.

6. We consistently receive the artist name and song title from our sources of music. And that is the information we use to identify new songs we would like to play – for example, when we visit the PlayMPE website, we require only title and artist in order to quickly select the recording for which we are looking. When we receive music from an artist or label, we do not always receive album information, as that information may not yet have been determined. With respect to label name, that information is not always provided to us, requiring us to make assumptions about the appropriate label. I am not familiar with us ever receiving the ISRC from artists and labels; if we do receive it, it is certainly not provided in a way that is readily determinable.

7. Even music service providers do not always have the album name or ISRC. For example, for a new song that we are playing – "Redemption Song," by MIKESCHAIR – the PlayMPE site contains no album or ISRC information for this selection.

8. WDAC has expended a great deal of resources, including, time, effort, and labor, updating our information systems to include title, artist, album, and label for virtually every song. Because, as discussed above, not all of this information was provided when we obtained

the music, WDAC undertook the significant and very time-consuming effort to have its personnel independently research these data points and manually enter them into our music database. We did the best we could by having knowledgeable personnel perform this function, but there almost certainly are errors in our data due to both data entry errors and errors in researching applicable album and label. These errors would be mitigated by the sources of our music providing accurate and complete information at the time of delivery. Indeed, the artists, labels and music services are much better candidates than broadcasters to ensure accurate and complete information is provided for each song. I do not understand why the reporting requirements direct us to provide album and label information for the recordings that we play when we are easily able to identify those recordings based on the title and performing artist.

Our Music Scheduling and Digital Automation Systems

9. We use Selector Scheduling for our music scheduling program and NexGen for our digital automation system. For new music, we can sometimes load the recording into our automation system and have certain relevant information, such as artist and title, load with the recording; however, additional information must be entered manually (*e.g.*, album, composer, publisher, and label). Whenever we have to manually enter data, however, we must enter it into both NexGen and Selector. This is not uncommon in the industry.

The Current Reporting Requirements Are Burdensome; Adding the ISRC Would Greatly Expand that Burden

10. WDAC has already shouldered a huge burden in an effort to comply with the current requirements. For example, we had to leave our original streaming provider, which was only able to report aggregate information, for a more advanced and expensive streaming provider that could meet the census reporting requirements. That was a cost that we had to absorb in order to stream. Furthermore, as discussed above, we have been required to absorb the very significant costs and burdens associated with identifying and entering into our systems the title, artist, album, and label information for thousands of recordings. We view this level of detailed data collection and reporting as unreasonable, and it detracts from our core mission of serving our listeners.

11. Now, SoundExchange wants even more information – the ISRC. First, I do not believe that the ISRC is provided to us when music is delivered to us from labels and artists. Even in those cases where it may have been provided – for example, embedded in a CD that is provided to us by a label – the ISRC is not located with the other relevant information, such as the song titles in the CD's table of contents. If it is embedded on a CD, my understanding is that we would need special software to read such information – yet another step in the process and another software resource that would need to be licensed by us and maintained. Second, I am not aware of any reliable and accepted source of the ISRC that we could go to and determine the ISRC for each recording we play. It should not be our responsibility in the first instance to go and identify the ISRC, and the fact that there is no centralized source of ISRCs for all recordings indicates to me that the ISRC is not yet fully accepted by the industry. Third, I do not believe that the ISRC is available for every song—for example, we play a number of independent artists that do not obtain ISRCs, and our online music service does not display ISRCs for every recording that they provide. The ISRC is also a 12-digit alphanumeric code that would need to be manually entered into our automation system for over 20,000 songs (if it is even available). This seems to me to be a herculean task that would require at least 1,500 hours of labor (assuming approximately 5 minutes per song for research and data entry). In addition to the effort required, it would be certain that there would be mistakes in data entry for such a large number of entries for this type of 12 digit code. This particularly concerns me because SoundExchange appears to want to penalize us for inaccurate reports.

12. Also, I would urge the Judges to ask why the ISRC is needed by SoundExchange. I have not seen an explanation of how this would improve the distribution of royalties; however, I do know that it would be a tremendous burden on WDAC to research, obtain, enter, and maintain this information.

<u>We Do Not Stream Syndicated Programming Because of the Reporting Challenges</u>

13. We have identified syndicated programming that we would like to stream to our listeners, but we have decided not to stream that programming because we cannot report on the music embedded in that programming in a way that meets the current requirements. Although I do believe that we could report on the music embedded in the syndicated programming on an

average listenership basis, given the limitations of the data that we would receive for these syndicated programs and the limitations of our streaming providers, the demands of the current census reporting requirements do not allow us to match up the music with the listeners.

14. As an example, we have certain Hispanic Christian programming available from Moody Broadcasting that we broadcast over the air, but do not stream. It represents about 160 hours per week of total programming, and it is approximately 40% teaching and 60% music. It is unfortunate that sound recording performance reporting requirements are keeping this programming – including non-music programming – from our audience.

Shortening the Window for Submitting Reports of Use Is Unnecessary and Unfair

15. We presently file our reports of use within the 45-day window. The proposal to shorten that time period to 30 days seems unreasonable to me. While we are able to submit the report within the current time period, shortening the time period concerns me because of the large of amount of data we must report and our reliance on third parties as part of the reporting process. My concern regarding shortening this time period is heightened if the current proposals to increase the data reporting requirements and the complexity of the reporting overall are adopted. Broadcasters not only take on the obligation to collect and report the information, but that information is expected to be accurate. In order to allow for any corrections that may need to be made and allow us to be comfortable with the accuracy of our reports, the 45-day period should be maintained.

16. I would also request that SoundExchange be required to send us a confirmation of receipt of our reports of use. We have had an instance in which SoundExchange contacted me regarding a missing report of use; however, we had submitted the report in a timely manner. I resolved the issue by resubmitting my prior filing; however, a confirmation of receipt from SoundExchange would assist in the process and also give broadcasters comfort that their filing has been received. This seems to be a fairly typical procedure in today's world of electronic filing.

The Request for Broadcasters To Maintain Detailed Server Logs Is Unreasonable

17. My understanding is that SoundExchange wants access to server logs and a requirement for these logs to be maintained for a period of three years. I have checked with our streaming provider, and my understanding is that they are not willing to provide third-party access directly to those logs. Therefore, we have no way to meet this requirement.

18. I would also like to make a more general point. Just because the information may be available at some point in time does not mean that it should necessarily be retained for years. First, there is a huge cost for maintaining such voluminous and detailed information that ultimately must be paid for by the broadcasters. Also, because the structure proposed by SoundExchange essentially makes the broadcasters the party responsible for this information, we would be required to ensure that it is maintained, and we would also then be responsible for its accuracy. There is a hidden cost to this responsibility and the risk associated with a failure (including inadvertent failures) to properly maintain the data. I would urge the Judges to resist the idea of vastly expanding the data collection and maintenance requirements proposed.

WDAC's Views on Some of the Other Proposed Changes

19. I am also opposed to SoundExchange's attempt to cut of our ability to seek refunds for inadvertent overpayments. It seems patently unfair to limit the broadcasters to a period of 90 days to make corrections regarding overpayments, while allowing SoundExchange a much longer time to audit for errors.

20. We are opposed to the imposition of a fee for noncompliant reports. Given the vast amount of data being researched, collected, entered, collated, and reported, there inevitably will be errors, and the imposition of a fine for that is unreasonable.

21. We would not disagree with being assigned an account number to be provided when we submit our reports of use. Also, we do not use Quattro Pro, so we would not object to SoundExchange being excused from having to maintain a Quattro Pro template; however, I do not know whether others use this software who would be affected by this proposed change.

Conclusion

22. WDAC has already expended substantial time and effort in developing its music information database. Maintaining this system, through research and data entry, is already burdensome for us, and we do not need all of this information for our much larger radio broadcasting operations. The imposition of additional requirements would require us to update the information we maintain for 23,000 recordings. This is especially unreasonable and inequitable, as we relied upon the prior requirements in developing and updating our data and systems. Moreover, I do not believe that the newly requested ISRC is readily available, nor do I believe that it is fair or reasonable to place the burden on broadcasters to obtain the ISRC for each recording that we play. For these reasons, I urge the Copyright Royalty Judges to reject the newly proposed requirements and to make the existing rules less burdensome going forward.

I declare under penalty of perjury that the foregoing statements are true and accurate to the best of my knowledge, information, and belief.

Date: 6/27/2014

Douglas Myer
General Manager
WDAC

H

Before the
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Washington, D.C.

In The Matter Of:	:	Docket No. 14-CRB-0005 (RM)
Notice and Recordkeeping for Use of Sound Recordings Under Statutory License	:	

Declaration of Gregory Bone, Cape Cod Broadcasting

1. My name is Gregory D. Bone, and I am a partner of Sandab Communications II, L.P. (which does business as Cape Cod Broadcasting). I have been in the radio industry since 1979, including having owned and operated radio stations in Florida. I base this declaration on my personal knowledge and on information provided to me by other Cape Cod personnel, including our Operations Manager and our Manager of Online Services & Interactive Media.

Cape Cod's Operations

2. Cape Cod has four radio stations – WQRC (The Q, 99.9 FM), WKPE (Cape Country, 104 FM), WFCC (Classical 107.5 FM), and WOCN (Ocean 104.7 FM). All four stations broadcast from Cape Cod, Massachusetts. The format for WQRC is current hits, and the format for WOCN is soft rock. We are a local broadcaster serving Cape Cod by providing local news, weather, and other information relevant to our community. Cape Cod also owns the World Classical Network, a programmer of classical music that is syndicated to three affiliates. Cape Cod has 34 full-time and part-time employees.

3. Cape Cod streams the content of all four radio stations. We do not profit from our streaming operations, and we mainly provide our broadcast simulcast programming (and cover national ads with local public service announcements) as an audience and community service. Our streaming audience represents a small percentage of our combined streaming and broadcast audiences.

4. Our classical station is one of the few remaining commercial classical stations in the United States. While it engages passionate listeners, classical is a niche format that does not attract large listening audiences or generate strong revenue streams. The listenership for classical music is highly sophisticated and demanding in terms of quality. Although it has become increasingly difficult to maintain a viable, commercial, classical radio station, our company has a strong commitment to classical music, and our classical station is a leader in this area and has a dedicated and vocal following. The number of affiliates for our World Classical Network, however, has dropped substantially over the years (down to 3 from 12 in 2008), creating cost pressures for us. We must continue to scrutinize the costs of providing classical programming. The recordkeeping and reporting requirements, as well as the associated SoundExchange royalty payments, are significant considerations in our budget and planning for our classical station.

5. Our technology presents us with limitations that make reporting difficult. Our main studio automation system (which feeds our data cast to our streaming provider) does not capture or store album, label, or ISRC metadata. It is an older system that we presently do not have the budget to upgrade, and we are not focused on doing so because the system meets our broadcasting needs. As discussed below, this system is certainly inadequate to the task of capturing the numerous data points proposed by SoundExchange for detailed track identification for reporting going forward, particularly for the new classical reporting requirements sought by SoundExchange. Overall, we need to maintain the flexibility to report as we are reporting now. Any further reporting requirements, especially those that would require capital investment in our technology, jeopardize our ability to stream our content.

Cape Cod's Systems Are Limited in the Information We Can Maintain

6. Cape Cod obtains the non-classical recordings that it plays mostly from music services, such as PlayMPE and TM Century. Most files are not directly imported into our automation system, so any related metadata is not captured. Most of the music that we receive in the form of MP3 files does not contain album title and label information. Rather, we usually only receive title and artist information, which we manually input for each music file.

7. For our classical station, we operate using Rivendell. Rivendell is open source software for radio automation customized by a software developer. The on-air log (RDAirPlay) has limited data fields and displays title of the work and composer, which is imported into our data casting software and provided to our streaming provider. Exhibit 1. For our other stations, we use an older version of Audiovault, which also just captures title (under "Description") and artist (under "Client/Artist"). Exhibit 2.

8. Our Rivendell system does not have the capability to report all of the fields that are contemplated by the newly proposed reporting requirements – such as the ensemble, conductor, each soloist, and title of the relevant movement or component. That is an incredible amount of information for us to track and is not supported by our automation system. Take, for example, the "Allegro (from Sonata in d for 2 oboes and basso continuo)" by the composer Fasch. In addition to the lengthy title, composer, and label (in this case, Cappricio), we would have to report the five different soloists, including: Burkhardt Glaetzner (oboe); Ingo Goritzki (oboe); Lutz Klepel (bsn.); Siegfried Pank (viola da gamba), and Christine Schornsheim (hpsch.). For the "Trumpet concerto in D (7 trumpets & timp.)" by the composer Altenburg (Essay Records), we would have to report all seven trumpet soloists, including Carroll, Bilger, Mase, Soper, Burns, Morrison, Holton, as well as Harms (timp.).

9. Even if our system were able to display this information, we would have to go back and populate all of these fields for all of the recordings that we play. This level of detail could easily take 15 minutes per work, as most of this information would need to be further researched and manually updated. For our 1,500 classical recordings, this would take an estimated 375 hours of time by someone with sufficient knowledge to identify this information (most likely our classical music director). We simply do not have the resources for this.

10. Providing an ISRC in addition to the foregoing detailed information would also be a huge undertaking. Aside from the fact that our systems do not include fields for this information, we are not even sure where we would obtain the codes, especially for older classical works. If we were required to obtain ISRCs for each of our 6,500 recordings, that could take as much as another 30 minutes per recording, or another estimated 3,250 man-hours of work. Such

an investment of time and money would cause us to reconsider the viability of streaming our classical station, and perhaps all four of our stations.

We Need Flexibility in Recordkeeping and Reporting

11. Because of the limitations that come with legacy systems, constrained budgets, and the fact that streaming is not a profitable enterprise for us (or most small broadcasters simulcasting their radio broadcasts), we would urge the Judges to maintain as much flexibility as possible in the recordkeeping and reporting process. This would include allowing us to report only title and artist. If small market, local community radio broadcasters who have a Classical format in their radio group are expected to purchase new technology or divert budget to add administrative staffing to meet SoundExchange's requested reporting requirements, shutting off our stream would be a compelling option.

12. We presently file our reports within the 45-day period; however, shortening that time to 30 days is concerning. We are a small operation, and given our strong local news, weather, public affairs, information and entertainment programming, and budget commitment to our community, we have few administrative personnel; shortening the time period for filing reports of use gives us little room for error or emergencies that might compete for the same resources that cover reporting. For similar reasons, we object to the imposition of a penalty for late or non-compliant reports of use. The addition of a penalty fee for noncompliant reports is also troubling and would also cause us to consider shutting off our streams. The large amount of additional data being requested would only compound this problem, especially for classical recordings.

I declare under penalty of perjury that the foregoing statements are true and accurate to the best of my knowledge, information, and belief.

Date: June 27, 2014

Gregory D. Bone

Gregory D. Bone, Partner
Sandab Communications II, L.P. (d/b/a Cape Cod Broadcasting)

H-1

RDAirPlay - Host: wcn0 User: user Log: Thursday Service: Production

Thursday, May 22, 2014
15:25:23

Next Timed Start [--:--:--]

Next Stop [23:45:23]
08:20:01

Operating Mode
Automatic

L
-30 -25 -20 -15 -10 -5 0 +8
R

STOP
15:19:00
1

157392 001 115 15:16:14 :00 11:49 PLAY
Five Hungarian Dances
BRAHMS
0:06:22.4 0:05:27.5

START
15:30:50

941506 001 th2 15:16:19 :00 :19 PLAY
Imported from c.wav
0:00:00.0 0:00:19.7

START
15:31:10

991002 OTH 15:16:24 :00 :17 PLAY
Bumper 2

START
15:31:27

991004 OTH 15:28:00 :00 :00 PLAY
Optional break start

START
15:31:27

157734 001 115 15:28:10 :00 3:47 PLAY
Rondo from VI. conc. #2 in D
WESLEY

START
15:35:14

941508 001 th2 15:28:15 :00 :12 PLAY
Imported from c.wav

START
15:35:26

990001 OTH 15:31:59 :00 :01 PLAY
PAUSE

	EST TIME	LEN	TRANS	CART	TITLE
	15:01:00	12:40	PLAY	114295	Sinfonia in g, Op. 6 #6
	15:13:40	:31	PLAY	941502	Imported from c.wav
	15:14:12	:22	PLAY	991001	Bumper 1
	15:14:34	:00	PLAY	991004	Optional break start
	15:14:35	3:42	PLAY	031379	Allegro from VI. conc. in A, RV 349
	15:18:17	:30	PLAY	941504	Imported from c.wav
	15:18:48	:01	PLAY	990001	PAUSE
	15:18:49	:11	PLAY	991003	Bumper 3
	15:19:00	11:49	PLAY	157392	Five Hungarian Dances
	15:30:50	:19	PLAY	941506	Imported from c.wav
	15:31:10	:17	PLAY	991002	Bumper 2
	15:31:27	:00	PLAY	991004	Optional break start
	15:31:27	3:47	PLAY	157734	Rondo from VI. conc. #2 in D
	15:35:14	:12	PLAY	941508	Imported from c.wav
	15:35:26	:01	PLAY	990001	PAUSE
	15:35:27	:11	PLAY	991003	Bumper 3

Play | Make Next | Modify | Scroll | Refresh Log | Select Log

ADD | DEL | MOVE | COPY

Sound Panel | Main Log [Thursday] | Aux 1 Log [--] | Aux 2 Log [--]

H-2

Create/Modify Cut

Category	DAC WQRC Hot AC M
Name/No.	1407-04
Description	On Top Of The World
Duration	03:10.000
Default Duration	03:10.000
Out Cue	C
Start Date	
Kill Date	
Client/Artist	Imagine Dragons
Class	ALL All Servers
Intro	15
Codes	
Modified	04/13/14 06:30:53 AM
Format	44100 Stereo

Options

Stereo

Auto-Trim

Discard Scrap

Redo

Audio

Cues

Defaults

Fields

Duration

COM

CNS

PRO

FTR

DGW

QCP

QID

MIS

OK

Cancel

Delete

Before the
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Washington, D.C.

In The Matter Of:	:	Docket No. 14-CRB-0005 (RM)
Notice and Recordkeeping for Use of Sound Recordings Under Statutory License	:	

Declaration of Greg S. Myers, KCFY

1. My name is Greg S. Myers, and I am the General Manager of KCFY FM in Yuma, Arizona. I graduated college in May 1990 with a degree in communication and immediately went to work for a broadcaster as a producer. I have been at KCFY for over twenty years. I make this declaration based on my personal knowledge.

KCFY's Mission and Operations

2. KCFY is a community-supported, non-commercial radio station serving Yuma County, Arizona. Founded in 1992 and operating on channel FM 88.1, KCFY broadcasts primarily Christian Adult Contemporary music as well as several talk programs. KCFY is proud to be "Yuma's Family Friendly Radio Station," and seeks to serve its community through its involvement with a variety of local community groups and organizations, such as Crossroads Mission and Living Free Recovery, as well as multiple churches throughout the community.

3. Our operations are streamlined and small. We have a total of five personnel, with only two full-time employees (myself and a community relations specialist). I wear many hats, serving the functions of general manager, program director, music director, and engineer. Any new administrative requirements must be met by me personally, at the cost of spending my time on other critical station functions.

4. We have been streaming since 2006 under an agreement that was entered into under the Webcaster Settlement Act of 2009. Under that agreement, we have been exempt from reporting sound recording performances until this year. Due to a slight change in my station's streaming activities, we are now required to submit reports of use to SoundExchange for two weeks per calendar quarter even though we have only modest listenership levels.

Our Present Technological Capabilities and Limitations

5. Our current systems are geared toward over-the-air broadcasting and not set up for the demanding requirements of reporting the information required for digital streaming. We use an older digital automation system (Scott Studios) that works well for us; however, it only has fields for title, artist, and notes for the sound recordings in our system, with no specific fields for album, label and ISRC. *See* Exhibit 1.

6. It is simply not viable for us to upgrade our automation system to a system that might allow for the retention of title, artist, album, label and ISRC in a manner that would cleanly output such information to our streaming provider. A digital automation system upgrade would cost approximately $12,000.00. We have no capital available for such a large investment and I have no other operational need to upgrade the system.

7. For preparing the report to SoundExchange, I am using Natural Music, a solution for music scheduling. This software has an export feature for SoundExchange reporting; however, I have not been able to make this work cleanly. I therefore have had to devote substantial additional time and effort to prepare the report.

Where We Obtain Our Music and the Information Available

8. We obtain all of our music from PlayMPE, which I believe is the "go to" source for Christian music (although PlayMPE provides music for other genres). PlayMPE is an online service through which I download selected songs that I import into our digital automation system. I also have accounts with certain record labels so that when that label releases a song, it is made available to me by the label through PlayMPE.

9. PlayMPE provides certain information along with its electronic audio files. That information is displayed in various "tabs" that are brought up on the screen when a recording is selected. The information provided varies widely – sometimes very detailed information (such as song lyrics and artist background) is provided, and sometimes almost no information is provided, not even an album title. In going through the PlayMPE site looking for data, I noticed the following:

- PlayMPE is fairly new and the farther back in time one goes, the less likely the song is to be included. So, for example, even a major artist such as Steven Curtis Chapman, who started his career in the late 1980s, does not have anything on PlayMPE prior to 2007.

- Generally speaking, the older the song, the less information that is available with respect to that song.

- Generally speaking, songs from the independent labels and artists have less information than the songs supplied by the major labels.

- The ISRC appears to be only sporadically provided for recordings released more than a year or two ago although it is more commonly provided with brand new music. For example, Steven Curtis Chapman is a major Christian music artist. For his releases "Do Everything" (2011) and "Meant to be Me" (2010), the ISRC is provided, but for his older releases "Yours" (2006) and Cinderella (2008), the ISRC is not provided. Similarly, for Third Day, a popular group active today, I didn't see any ISRCs for any of their recordings.

- Album title is not always available either. For example, for the song "My All" by Plus One, a brand new release, there does not appear to be an album associated with the track, so I cannot obtain that information at the time I download the song from PlayMPE. Also, once we download a song from PlayMPE, we never have a need to go back to PlayMPE or any third-party source to determine on what album a particular track may be included.

10. With respect to information such as title and artist, I manually enter that information in our automation system when I import the song. Where available, I also enter album and label into our music scheduling system (but that system does not support our streaming efforts, and it is not compatible with generating reports of use for SoundExchange).

The Difficulties of Reporting the Data Requested by SoundExchange

11. Reporting title, artist, album, and label is difficult. As mentioned above, not all of this information is available when I obtain a song from my music service, so I cannot capture it all at once. To the extent that such information is not available, I would need to revisit our database periodically to identify gaps in data, and then look for the additional information required to be reported from third-party sources, which is not practical and something I simply do not have time to do.

12. It is not always easy to determine the correct information to put in the system either. For example, the band Third Day is associated with Essential Records, which is part of Provident Label Group (PLG), which is a division of Sony Music Entertainment. Given the information provided with different songs on the PlayMPE site – the label may be listed as Essential Records, but the contact information provided may indicate PLG – I think it is easy to get confused as to the correct information that should be provided to SoundExchange.

13. For ISRC, if the information is not immediately available on the PlayMPE site, which it often is not, I would have no idea where to go to obtain this information. Also, if PlayMPE or some music service displays the ISRC, I have no way of knowing if it is correct, and I would simply be providing the code to SoundExchange that I saw on the PlayMPE site. But if KCFY is required to collect and report the ISRC, it seems like I am taking on some responsibility to ensure the code is correct. This is a shifting of responsibility that does not make sense to me.

14. If ISRC were required, I would also need to update our database of information concerning approximately 700 songs to include that information. Each song would need to be researched and, where available, the ISRC manually inputted into our system (assuming it could handle this information in a way that it could be outputted to our streaming provider, which I do

not think could be done). Such a requirement might force me to hire someone to update our database of information, and I do not have the funds to do that.

Flexibility in Reporting Should be Available

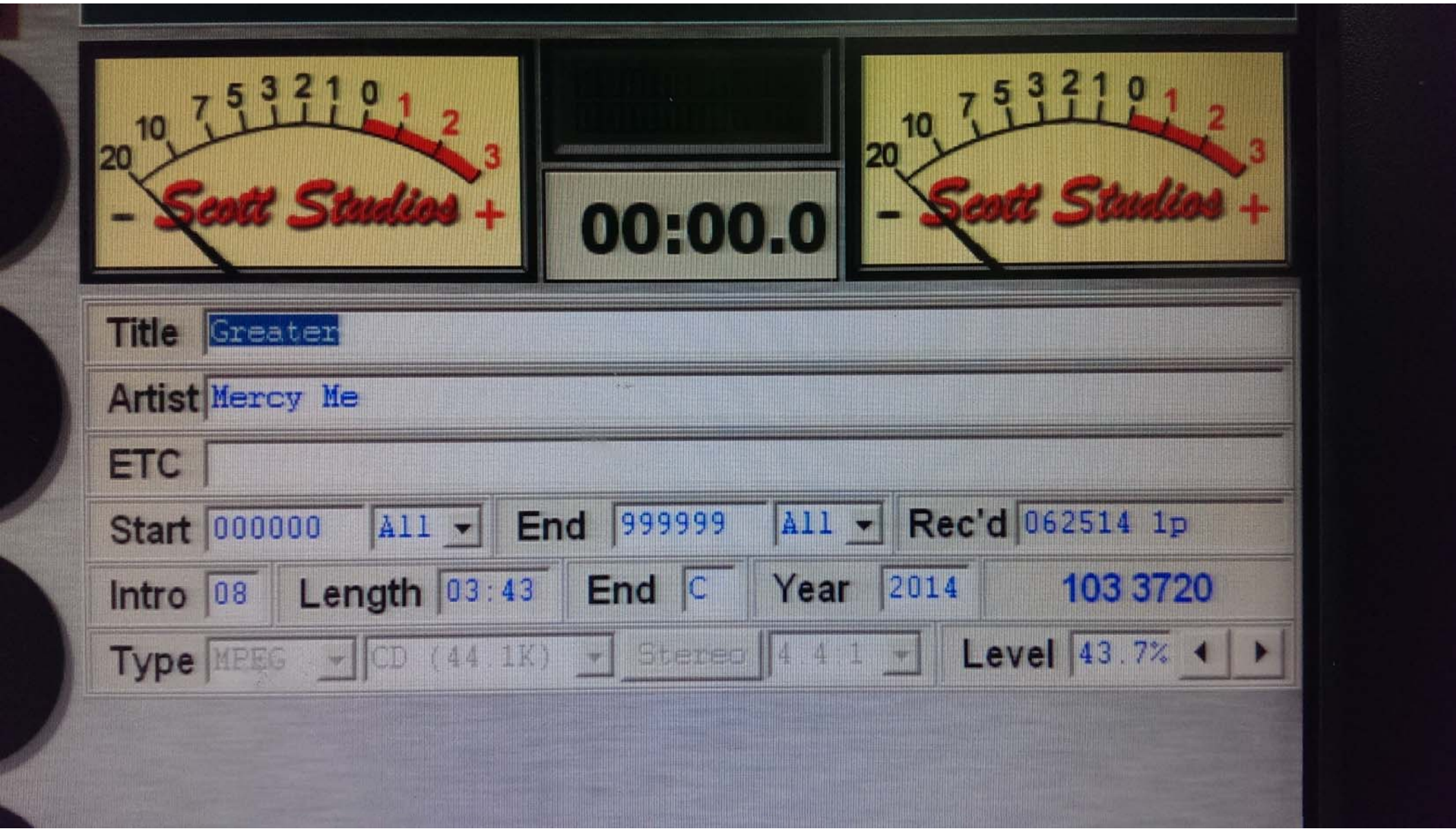
15. I have not been required to submit reports to SoundExchange in the past and therefore do not have a great deal of experience with the applicable time limits (time to file reports of use, time to file correction, etc.) or the technical reporting requirements (headers, report format, etc.); however, I would urge the Copyright Royalty Judges to err on the side of flexibility in these matters. From the perspective of a small, non-commercial broadcaster, we do not have the resources to change or upgrade our systems to meet new reporting requirements, nor do our limited personnel have time to devote to submitting our reports faster or investigating new formats (such as the UTF-8). Therefore, I would ask for the greatest flexibility possible in both formatting requirements and time limitations, especially for small broadcasters with limited funds and personnel, such as KCFY.

I declare under penalty of perjury that the foregoing statements are true and accurate to the best of my knowledge, information, and belief.

Date: 6/27/14

Greg S. Myers
General Manager
KCFY FM

I-1


Scott Studios
00:00.0
Scott Studios
Title Greater
Artist Mercy Me
ETC
Start 000000 All
End 999999 All
Rec'd 062514 1p
Intro 08
Length 03:43
End C
Year 2014
103 3720
Type MPEG
CD (44.1K)
Stereo
44.1
Level 43.7%

J

Before the
COPYRIGHT ROYALTY JUDGES
LIBRARY OF CONGRESS
Washington, D.C.

In The Matter Of:	:	Docket No. 14-CRB-0005 (RM)
Notice and Recordkeeping for Use of Sound Recordings Under Statutory License	:	

Declaration of Brian Gantman

Government Relations Director / In-House Counsel at Educational Media Foundation

1. My name is Brian Gantman and I am the Government Relations Director / In-House Counsel at the Educational Media Foundation (EMF). I have been with EMF for almost twelve years. I base this declaration on my personal knowledge and on information provided to me by other EMF personnel.

EMF's Operations

2. EMF is a not-for-profit religious organization based in Rocklin, California that seeks to educate the public about core beliefs and to encourage them to serve their church, community, family, and friends. As part of its overall mission, EMF provides Contemporary Christian music and educational and informational programming throughout the country on its K-LOVE and Air1 radio networks. EMF operates approximately 350 full power stations across the country, including stations in New York City, Chicago, Nashville, San Antonio, San Francisco and Denver and has a weekly listening audience of approximately 14 to 15 million people. EMF also streams the programming of 43 of its over-the-air stations, two seasonal Christmas music channels (K-LOVE Christmas and Air1 Christmas), and one independent channel that was created for French speaking listeners (K-LOVE France).

3. EMF presently files monthly statements of account and quarterly reports of use. I make this declaration to inform the Copyright Royalty Judges of some of the difficulties and

burdens created by the current recordkeeping requirements and to express concerns regarding some of the proposed changes.

4. I prepare and file with SoundExchange the statements of account and reports of use for EMF. For the reports of use, I receive information that has been provided by other personnel at EMF. Once I receive the data, I first need to substantially reformat the data (*e.g.*, de-duplicating, sorting) that I receive for our K-LOVE stations in order to convert it into a suitable form for the SoundExchange template that is used to create the text file that will be submitted as our report of use. I then use the reformatted data to create the individual reports for the K-LOVE stations that we stream. For the reports of use for our Air1, K-LOVE France, and seasonal Christmas streams, since we only have one stream/channel for each and it is too time consuming to substantially reformat the data for only one stream/channel, I do not reformat the data to the extent that I do for the K-LOVE stations. Because of this, the reports for those streams/channels contain thousands of lines of data and the text files that are submitted are extremely large. For each of the reports of use, I also need to determine if there is any missing information, such as the album title and record label information. Since there is always some missing information, I must take the time to research this information myself and fill in these gaps, which generally requires that I look for that information on the Internet.

5. After completing the clean-up and reformatting of the data, I input the data into the SoundExchange Excel template and create the text files for submission. Because of the large amount of information that is inputted into the SoundExchange template for our Air1, K-LOVE France, and Christmas streams, it can sometimes take over 15 minutes for each of those text files to be created. I also recheck all of the files for errors before emailing them to SoundExchange. For submission, it takes multiple emails to transmit the 44 to 46 reports of use that must be filed for EMF. It typically takes me about one full day to prepare and submit each of the reports of use each quarter and additional time is spent by others at EMF on this process.

6. I am concerned about the addition of the International Standard Recording Code ("ISRC") as a data point that must be captured, maintained, and reported by EMF as part of this process. Whether or not that information is readily available to us for the sound recordings that

we play, I believe that it would be prone to data entry errors and that there would be no way that I could review our reports of use for accuracy or identify errors with respect to the ISRC.

7. Reducing the report of use submission period to 30 days from 45 days also concerns me. It takes time for the other personnel at EMF to prepare the information that I need for the reports, in addition to the time mentioned above that it take for me to prepare the reports. This also does not take into account other business obligations that compete for my and my co-workers' attention, as well as other issues that could potentially cause delays.

8. One of the issues with regard to the accuracy of the streaming data that is reported is that the information that is being provided by the some streaming providers appears to be showing an inflated number of listeners and listening hours. It is my understanding from speaking with others at EMF that listenership may have been inflated by things like "bots" and "spiders," which are supposed to "test" the streams, but those "tests" were incorrectly recorded by the stream providers as human listenership when that was not, in fact, the case. I was informed by others at EMF, that we had an instance of this that required us to revisit our listening data with our streaming provider.

9. It has occurred on several occasions in the past that SoundExchange has incorrectly notified EMF of a failure to file required submissions with SoundExchange. In these instances, I was able to resolve the situation by providing SoundExchange with the emails in which I had previously submitted those documents to them. It would be helpful to receive confirmation receipts from SoundExchange for all of our submissions, as well as allowing the submitting party to provide an email address for the individual that should receive notices other than (or at least in addition to) the email address of the party signing the statement of account.

10. As a general matter, I would urge the Copyright Royalty Judges to maintain flexibility in reporting for broadcasters, both in terms of timing and technical requirements. It has taken time to develop a process at EMF that works for these submissions, and imposing shorter deadlines and new technical requirements will require the further diversion of resources from our core broadcasting mission.

I declare under penalty of perjury that the foregoing statements are true and accurate to the best of my knowledge, information, and belief.

Date: 6/30/14

Brian Gantman
Government Relations Director/
In-House Counsel
Educational Media Foundation

K

Before the
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LIBRARY OF CONGRESS
Washington, D.C.

In The Matter Of:	:	Docket No. 14-CRB-0005 (RM)
Notice and Recordkeeping for Use of Sound Recordings Under Statutory License	:	

Declaration of Rusty Hodge

1. My name is Rusty Hodge, and I am the Founder and General Manager of SomaFM.com, an Internet radio station that I have operated for nearly fifteen years. I have been involved in both the music industry and the software industry since the early 1980s. During that time I have managed a college radio station, earned a degree in communications from California State Polytechnic University, developed software for the media publishing industry, and worked on streaming media issues with numerous TV and radio stations in Los Angeles and the San Francisco Bay Area. I am also a musician and play the guitar, drums, and electronic synthesizers.

2. I understand that SoundExchange has submitted a petition to the Copyright Royalty Judges seeking to amend the existing notice and recordkeeping requirements for webcasters and others that rely on the statutory licenses for sound recording performances and server copies and to require, among other things, that all Internet radio stations (including SomaFM) provide the International Sound Recording Code ("ISRC") to SoundExchange for each sound recording played, in addition to all the other information already provided regarding these recordings. I submit this declaration to discuss why I believe this proposal is unreasonable, unworkable, and not consistent with typical practices in the recorded music industry. I base this declaration on my personal knowledge.

Description of SomaFM

3. In 2000, I founded SomaFM, a commercial-free independent Internet radio station. We have no corporate sponsors and play no advertisements. Our entire budget comes

solely from small donations offered by individual listeners. In an average month, we transmit more than 5 million "listener hours" to approximately 450,000 unique monthly listeners, making us one of the larger Internet-only webcasters. Our programming includes 30 music channels and focuses on types of music that otherwise receive little air time or commercial attention. We provide channels of space music, vintage soul, ambient, indie and alternative rock, chillout, lounge, and a wide variety of electronic and experimental genres. We also offer seasonal channels that perform recordings from music festivals around the world. Presently, for example, we have channels devoted to the Iceland Airwaves festival and the South by Southwest ("SXSW") festival.

4. Because of our independent programming and eclectic channel mix, we play a large and diverse array of recordings. SomaFM currently has access to more than 350,000 such recordings. Last year we played approximately 80,000 unique tracks. We get most of our music from unsigned or self-published artists, very small independent record labels, vintage media such as vinyl records and reel-to-reel tape, and digital files transmitted to us by email from labels and artists, on custom-burned CDs, and from legal music download websites.

We Do Not Have ISRC Information for the Vast Majority of our Recordings

5. A large majority of the music that SomaFM receives comes without an ISRC. While preparing this declaration, I searched approximately 208,000 digital recordings that we have received or obtained. Only 2,570 of them had ISRCs stored in the data field designated to store these codes, the "TSRC"[1] field. Another 2,027 digital recordings contained codes that appeared to be ISRCs but were stored in data fields not intended for that purpose. The analog recordings to which we have access contain no ISRC information at all. In total, we have ISRCs for less than 2% of the total recordings we have received or obtained.

6. There are several reasons why we have so little ISRC information. To begin with, many commercially released sound recordings do not even have an ISRC assigned to them. Artists are not required to obtain an ISRC when distributing a sound recording, and many do not. Although the three major record labels and many larger independent record labels may purchase ISRCs in large, cost-efficient blocks, registration for an ISRC presents discouraging administrative and financial barriers to individual artists who are not affiliated with a recording label. The ISRC registration fee is a burdensome expense for amateur musicians and a serious

[1] The "TSRC" field is the appropriate place to store ISRC information according to the ID3v2 specification, Section 4.2.1, available at http://id3.org/id3v2.3.0 (last viewed June 23, 2014).

impediment to financially challenged artists in developing countries. Even artists who distribute through well-established music services may lack ISRCs. Consider, for example, TuneCore, a large, independent music distributor on the Apple iTunes platform, with a long-standing policy of issuing its own song identifier numbers that are formatted like ISRCs but are not actually registered ISRCs. Older recordings also may not have ISRCs, unless they are commercially successful enough to get re-released.

7. Even when ISRCs are assigned, some music formats do not support them. For example, the WAV and AIFF file formats often used for music transmission on personal computers do not support storing an ISRC. The ubiquitous MP3 file format is technically capable of storing an ISRC, but the field is commonly left empty in the MP3s we receive from artists and record labels. Professionally manufactured music CDs may include the ISRC, but the "burned" CDs used by music promoters, collaborative artists, very small record labels, and independent musicians rarely do. Further, file conversion programs rarely copy the ISRC, so any music transferred from one format to another (*e.g.*, from CD to MP3) will probably lose its ISRC, assuming that the original format had one to begin with. SomaFM also has a large number of tracks in analog formats, such as vinyl records, which we use to support Internet webcast channels such as "Seven Inch Soul" (playing tracks from the 1960's and 1970's, exclusively from vinyl records), "Underground 80's" (playing new wave and synthpop tracks, many from vinyl records that were never released on CD), and "Illinois Street Lounge" (likewise from vinyl records or reel-to-reel tapes, and never released in a digital format). None of these analog formats provide ISRCs.

8. Some online music stores likewise offer little support for ISRCs. For example, the Apple iTunes store conceals the ISRC in a hidden data field which is not visible using the iTunes music player software. Some record labels or promoters who distribute via iTunes attempt to circumvent this problem by adding the ISRC in a text comment or including it in a promotional PDF file, but in my experience this appears to be done less than 10% of the time. The Amazon Music service likewise does not provide ISRCs to music purchasers. The Bandcamp music service rarely includes ISRCs with its music files, and suggests on its "frequently asked questions" web page that musicians who wish to provide an ISRC to a radio station should send it in a separate e-mail.[2]

[2] See https://bandcamp.com/help/soundscan (last viewed June 24, 2014).

9. There is no publicly available resource (such as an industry-wide database) to look up an ISRC. Even if a webcaster or a member of the general public wanted to find the ISRC (if any) for a particular recording, no one offers a searchable database or application programming interface ("API") capable of providing the ISRC for a specific sound recording. Even if such a database were hypothetically available, it would be burdensome for us to divert our limited staff and resources to looking up ISRCs on a recording-by-recording basis for each track that we play.

10. Given that about 98% of the songs that SomaFM has acquired have no ISRC within the recording itself and there is no publicly accessible database to look up the missing ISRCs, finding and reporting an ISRC for each track that we play is not possible. Even if a publicly accessible ISRC search database were made available to us, looking up the ISRC for each recording would be a time-consuming and costly enterprise. SomaFM operates on a very limited budget, supported exclusively by listener donations, and has only one full-time employee (myself) and three part-time employees. Requiring us to research and report another field of information for each track that we play would substantially increase our workload and costs.

Increased Errors and Decreased Efficiency from Required ISRC Reporting

11. SomaFM supports recording artists as a matter of principle, particularly independent artists who have limited opportunities for commercial success. We want every artist to receive the royalties that they are due. For several reasons, however, I strongly believe that requiring us to report ISRCs would make the royalty payment process less efficient and less accurate.

12. The ISRC is unnecessary, and is not uniformly used by sound recording copyright owners entitled to royalties from the recordings played by Internet webcasters and broadcast simulcasters. We already are required to provide sufficient information (such as recording title and artist name) for SoundExchange to uniquely identify each track that we play. Otherwise, SoundExchange would presumably not have been able to distribute over $2 billion in royalties that they claim to have distributed.[3] At best, adding the ISRC is redundant. At worst, if the ISRC conflicts with the other information we have provided in our reports of use, adding the

[3] See Comments of SoundExchange, Inc. In the Matter of U.S. Copyright Office Music Licensing Study: Notice and Request for Public Comment, Docket No. 2014-03, at 1, available at http://www.copyright.gov/docs/musiclicensingstudy/comments/Docket2014_3/SoundExchange_Inc_MLS_2014.pdf (last viewed June 24, 2014).

ISRC may cause errors and increase our reporting burden and SoundExchange's processing burden.

13. The ISRC is less likely to be correct than the title and artist name that we already provide. It is much easier for us to provide an accurate list of the recordings that we play when we make the report in a format humans can read. For example, our deejays and program directors can confidently verify that we played the track "Lion (Jamie XX Remix)" performed by the group "Four Tet" from the album "Chilltronica No. 4." But they have no idea whether we played the recording identified as "GB-XNG-12-20002." Verifying that the ISRC correctly matches the track we played would require a burdensome database lookup, and no such database is even available. Our reports will inevitably be more accurate when made in a human-readable format, rather than a format composed of arbitrary alphanumeric strings which carry no inherent meaning to the deejays and program directors responsible for choosing and playing the music. In short, our reports will be more accurate if our staff can actually comprehend the data that they contain.

14. Because ISRCs are not inherently meaningful, the initial data entry stage is also more prone to error than human-readable data such as title, artist, and album. Particularly in cases where we would have to locate and enter the ISRC by hand (as, for example, when the ISRC is included separately in an email or promotional PDF), data entry errors are inevitable. With titles, we can often catch typographic errors. We know, for example, that the song is called "Lion" rather than "Liom". But spotting the difference between "GB-XMG-12-20002" and "GB-XNG-12-20002" is far more difficult, and it is not obvious which of the two is correct.

15. SoundExchange may have sufficient information to spot such errors; however SoundExchange has consistently declined to provide webcasters with exception reports revealing which tracks from our reported playlists failed (whether due to typographical error or obscurity of the musical performer) to match royalty payment records in the SoundExchange database. As a result, errors are unlikely to be discovered, and musicians may not receive the royalties they are due. Unfortunately this burden falls disproportionately upon independent musicians who are not well known or affiliated with mainstream labels.

Conclusion

16. It would not be practical for SomaFM to report an ISRC for each sound recording that we play because many recordings do not contain ISRCs. Although commercially released sound recordings from major labels may have ISRCs, there are many recordings distributed to

the public that do not contain ISRCs. Many digital music files do not contain ISRCs; the largest digital music services do not provide them; conversion software does not preserve them; and no one provides a publicly accessible database where these codes may be found (a database that would be highly burdensome to use even if it were available). As a result, approximately 98% of our recordings have no ISRC attached. Even in those cases when we have an ISRC, we cannot verify by looking at it whether the alphanumeric code is consistent with the title, artist, and album information. The reports of use that we are required to provide to SoundExchange under federal regulations will be more accurate if our deejays and program directors can read all the data that those reports contain. Reporting our playlists by titles and artist names is less error-prone than using arbitrary alphanumeric codes that we do not have and cannot decipher.

[Remainder of this page intentionally left blank]

I declare under penalty of perjury that the foregoing statements are true and accurate to the best of my knowledge, information, and belief.

Date: 23-Jun-2014

Rusty Hodge
SomaFM.com

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Before the
COPYRIGHT ROYALTY JUDGES
LIBRARY OF CONGRESS
Washington, D.C.

In The Matter Of:	:	Docket No. 14-CRB-0005 (RM)
Notice and Recordkeeping for Use of Sound Recordings Under Statutory License	:	

Declaration of Ethan Diamond

1. My name is Ethan Diamond, and I am the co-founder and CEO of Bandcamp, Inc., an Internet music store that caters primarily to independent artists. I understand that SoundExchange, Inc. has submitted a petition to the Copyright Royalty Judges asking that broadcast simulcasters and webcasters operating under a statutory license be required to report the International Sound Recording Code ("**ISRC**") to SoundExchange for each sound recording that they play. I make this declaration to explain why I believe that this proposal is impractical and why it will harm independent artists and the general public. I base this declaration upon my personal knowledge and belief.

Description of Bandcamp

2. Bandcamp is an Internet music store that I and my colleagues founded in 2007. In terms of sales, Bandcamp is one of the largest online commercial stores focused on providing and selling sound recordings by independent artists. We offer more than 1.4 million albums and 10.8 million tracks, and our customers' purchases are now generating more than $3,000,000 each month in payments to artists. A large number of independent artists offer their tracks for sale in the store. Last year alone we made commercial sales of sound recordings from approximately 160,000 different artists.

3. Our customers can stream online the sound recordings that we offer for sale. This allows them to browse a wide variety of new music, find new artists they like, and then buy and listen to their purchases using our mobile app, or download the sound recordings in a variety of digital music formats including the MP3, FLAC, ALAC, AAC, and Ogg Vorbis formats.

4. Artists can choose from among multiple pricing models, which gives them tremendous flexibility in selecting how their sound recordings will be distributed. These models include traditional, fixed-fee pricing, a "name your price" model in which the customer can decide how much they wish to pay for each track or album (subject to designated minimums that can be set by the artist), and a donation pricing model in which the customer is allowed to download the sound recording for free, and the artist requests a voluntary donation. Bandcamp offers these various pricing models because the flexibility appeals to our customers and to the independent artists who provide the majority of the sound recordings available through our store.

5. Bandcamp is also often used by radio station DJs and webcasters who are looking for interesting new independent music to play on their stations. Broadcasters and webcasters whose DJs routinely browse and shop at Bandcamp include, for example, National Public Radio, KPFK, KEXP, BBC Radio 3, BBC Radio 6, Solar Radio, Double J, 3RRRFM, and Play.FM.

Most Bandcamp Sound Recordings Lack ISRC Information

6. Sound recordings sold by Bandcamp rarely contain ISRCs. Only 8.5% of the albums we sell have ISRC information provided for each of the sound recordings on the album. In addition to album sales, we also sell individual tracks. ISRCs are included in only approximately 12% of the individual tracks sold by Bandcamp.

7. There are many reasons why a sound recording might not include an ISRC. For example, certain digital file formats, media types, and common music software simply do not support ISRCs. However, the most common reason for sound recordings sold on Bandcamp lacking an ISRC is because the artist/label failed to provide one to us when uploading their tracks to our servers. Many independent artists (who provide the bulk of the tracks we sell) simply do not have ISRCs to provide. In my experience, most of the independent artists who form our target demographic have little interest in obtaining ISRCs for their sound recordings due to the administrative hassle, the expense, and the fact that ISRCs are completely optional and not particularly useful to them.

Conclusion

Bandcamp is a leading provider of independent music. Most of the sound recordings made available through Bandcamp do not contain ISRCs. The adoption of regulations that require services to report ISRCs when the use thereof is not uniform throughout the industry is unreasonable.

I declare under penalty of perjury that the foregoing statements are true and accurate to the best of my knowledge, information, and belief.

Date: June 27, 2014

Ethan Diamond
Bandcamp, Inc.

M

Before the
COPYRIGHT ROYALTY JUDGES
LIBRARY OF CONGRESS
Washington, D.C.

In The Matter Of:	:	Docket No. 14-CRB-0005 (RM)
Notice and Recordkeeping for Use of Sound Recordings Under Statutory License	:	

Declaration of Michael Gay, Cumulus Media, Inc.

1. My name is Michael Gay, and I am the Director of Corporate Engineering, at Cumulus Media, Inc. and Cumulus Broadcasting, Inc. I have been with Cumulus since November 2005, and have worked in broadcasting since 1989. I base this declaration on my personal knowledge and on information provided to me by other Cumulus personnel, including individuals who report to me.

Cumulus' Operations

2. Cumulus operates approximately 525 radio stations in 110 different cities and towns across America. By number of stations, it is the second largest operator of radio stations in the United States. Cumulus also simulcasts most of its radio stations over the Internet to better serve its audience. Cumulus' simulcast audience, however, is just a small fraction of our over-the-air audience.

3. Like other broadcasters, our internal systems were designed long ago to support our primary over-the-air broadcast radio business. These systems were not designed for streaming and were not designed to track and provide the information that SoundExchange wants broadcasters to report. To add to the difficulties, Cumulus has acquired numerous other broadcasters over the years, including Citadel Broadcasting and Susquehanna Radio. This has left us with a variety of different technology systems in place for our radio stations, including many different digital automation systems.

4. We are presently reporting on a monthly basis. As I discuss below, however, our legacy systems and the age and incompleteness of the data provided to us by the sources of our music, makes the reporting process challenging. SoundExchange's request to add the ISRC as an additional data point would only compound our existing difficulties and impose an unrealistic obligation. It would simply not be possible for Cumulus to obtain, enter, and report the ISRC for the thousands of recordings that we report every month. I am especially concerned about any changes that will expand the already burdensome process and require the dedication of even more of our resources to resolving reporting issues with SoundExchange. Cumulus also has concerns with other proposals made by SoundExchange. For example, it is unreasonable for SoundExchange to seek to increase the sanctions for failure to comply with the already burdensome and unrealistic reporting obligations.

Cumulus' Sources of Music

5. Cumulus obtains a great deal of its new music from promotional CDs and electronic audio files (WAV files that may be sent to our program directors or posted on servers by record label representatives). Promotional CDs come to us in many forms, some fully packaged as single releases, some hand delivered with sharpie writing on the CD. I obtained a few examples from our program directors, and I have included a photograph of six different promotional CDs (Exhibit 1). As you can see, some look professionally packaged, while others are CDs with handwritten information on the disc itself. The information we receive from the record labels varies greatly. For example, the top left CD is for the Madden Brothers new release "We are Done" (released in June 2014), but the CD just has the information "Cap Cities" (the label) and "Madden Bros" the artist. It does not even show the song title. Also, the bottom center CD has only "Sam/Mary" and "Sam-Orig" written in green marker. This appears to be for the recently released recording "Stay with Me" performed by Sam Smith and Mary J. Blige. But the disc does not contain any of that information. The bottom left CD, for Erin Bowman's "Hey Summer," has a printed label on it with title, artist and song length, but the recording also remains a single, so there is no album information provided.

6. Record labels and artists have provided these promotional recordings to us for years because they want us to play their music and it benefits them to get their releases out to us (and other broadcasters) as quickly as possible so we can expose the music to as wide an

audience as possible. For Cumulus to play these songs (which we might receive at our stations across the country), we need to load the limited amount of information that we need to play the recording (such as title, artist and length) into our database when we receive it. If we receive limited information at the time the recording was first played, that is the only information that would be entered into our system, and there would typically be no operational need for us to update that information later.

Our Technology and Challenges with Reporting Title, Artist, Album, Label, and ISRC

7. The technology that runs our radio broadcasting is not centralized. Therefore, Cumulus radio stations operate on many different digital automation systems on an individual station or market level. The local systems are what feed the information related to streaming to our streaming provider. The streaming provider syncs that information with the listenership data it obtains and provides us with our base reports for submission to SoundExchange.

8. For digital automation systems, we employ Scott Systems software across approximately half of our stations. The other half of our stations use ENCO, BSI, Audiovault, and Prophet Wizard. For our music scheduling system, which assists us in selecting the order in which recordings are played, we primarily use Stratus.

9. Because of the limited information we receive when we obtain new music, we are often unable contemporaneously to enter all the information required by SoundExchange into our automation systems. This problem is made worse by the fact that information must be entered into every single automation system across the country on a station by station basis. With over 500 stations, with hundreds of current of songs, and possibly thousands of older songs in each database, and separate databases in different markets or even at different stations, we would likely have hundreds of thousands of song entries across all of our stations.

10. An added requirement to track ISRC would only compound the problems we face today. I do not believe we could report ISRC for many of the songs we play, even if our systems could track it. More fundamentally, our systems do not now allow us to track ISRC. It would be very problematic for Cumulus to do so, potentially requiring us to revise our several digital automation systems. It would be very costly for us to incorporate the ISRC field into our digital

automation systems, and the ISRC is not something we need to track for our broadcasting operations.

11. Aside from acquiring and building new software, we would need to populate all of this information into our systems. This is another massive effort – for example, filling in album information where it was not provided to us at the time of original delivery. If we did not change our business to a centralized system—which would require us to reconsider everything about how we do business, and which may or may not be the most operationally effective way to proceed—we would have to enter this information into every single database. Information for a specific recording may have to be entered scores of times in our various databases around in the country.

Additional Concerns Regarding Possible ISRC Reporting

12. The ISRC is not relevant to our broadcasting operations. I have had experienced program directors at Cumulus tell me they do not even know what it is. To begin tracking the ISRC, we would need to have an internal educational campaign about what the ISRC is and where to obtain the information, which is a major undertaking for a company of our size.

13. This leads me to the problem of obtaining ISRCs. My understanding is that ISRCs do not exist for every recording (even for new music), and I am also not familiar with any authoritative sources where this information could be found. The ISRC also is not provided to us in a way where it can be seen by our personnel and then manually entered into our automation systems.

14. Even if the ISRC is embedded in certain CDs that are sent to us, we cannot easily read it. I am aware that there is software that can read ISRC codes on those CDs that contain the information, but we presently have no such software. If we were required to read the codes off of CDs sent to us, I would need to obtain this software for hundreds of stations and have them trained on how to use it, and it would serve no operational purpose other than to track the code for SoundExchange reporting. This could be an enormous expense with a great deal of associated manpower. Also, I do not think that it is at all commercially reasonable – if even

possible – to require Cumulus to backfill the ISRC for all of our recordings at all of our stations. The research and data entry for such an undertaking is hard even to estimate.

15. Another problem that would arise if we were required to research the ISRC is that there is no centralized source of information. Thus, we could not determine whether a code even exists for a particular recording or whether a particular code is correct. For the many recordings that are provided to us without ISRC, and for the tens of thousands of recordings already in our music information databases, we would have to try to find the ISRC. At what point would our obligation to find the ISRC stop (including determining that the particular recording has no ISRC)? Would we be required to contact the artist or the label to try and obtain this information? How many hours of time, per track, would have to be expended by Cumulus to research each recording to be found to be in compliance with this reporting obligation? Placing the burden and responsibility entirely on Cumulus for this effort is unfair and unreasonable, especially given that we are not the party that obtains the code in the first place, or wants or needs the code for our own purposes.

16. Also, what if a third party provides us the wrong ISRC? If we then enter the wrong code into our system, are we then responsible for misreporting the information? What if we erroneously enter the information ourselves, which would be very likely given that the ISRC is a 12-digit code with letters and numbers and would be entered by local personnel, with minimal opportunity for quality control. Indeed, radio personnel might naturally catch an error in title and artist information in our system because they know the industry, but they cannot do so for the ISRC. Errors will lead to confusing results for SoundExchange and potentially result in further communications between Cumulus and SoundExchange to correct these errors, requiring us to devote more resources to the recordkeeping and reporting process.

Our Experience from a SoundExchange Audit

17. Cumulus is presently undergoing a SoundExchange audit. SoundExchange has issued multiple data requests and continuously persists in seeking more information. As one example, for a particular month, SoundExchange complained about a minor differential between our total performances and the amount reported. I calculated it to be approximately $1,000 in royalties that we were spending months (and many personnel hours) attempting to resolve. This

amount of money is a fraction of 1% of our annual royalty payments to SoundExchange, and it was absorbing an inordinate amount of time for our technical and accounting personnel. I do not see how this is a good use of our time or SoundExchange's time. This audit experience heightens my concerns about adding additional reporting detail, shortening reporting windows and imposing new penalties on broadcasters.

Cumulus's Reaction to SoundExchange's Other Requests

18. We object to shortening the time period for submitting reports of use to 30 days (down from the current 45-day period). As stated, we have hundreds of stations, and our reports must be some of the largest received by SoundExchange. We need time to prepare and check the reports, and 45 days is currently working for us fairly well.

19. We object to the imposition of a fee for the submission of a late or non-compliant report of use. We make our payment in a timely manner, so a late report of use results in no loss of time value of money for SoundExchange. Also, as discussed above, we have to put together a report for hundreds of stations with thousands of entries. While we meet the 45-day reporting deadline, we should not be penalized for being late. My concerns are heightened in light of the request to shorten the reporting window to 30 days. Last, I am not sure what would constitute non-compliance, which makes me even more concerned about how aggressively SoundExchange would try to collect such fees. I am concerned that SoundExchange may seek late fees for even minor discrepancies in the information provided (*e.g.*, misspellings) or missing data fields where, for example, album or label information may not be available for particular recordings.

20. We object to limiting our right to correct reports and receive refunds for overpayments to only 90 days. We have had a situation in which we were reporting non-music cuts to SoundExchange, and we had to correct the report after submitting it. Given the complexity and scope of our reporting, it is unfair to expect us to catch overpayments within the short time period of 90 days.

21. We would not disagree with being assigned an account number if the number is assigned to Cumulus as a whole and not to each individual station. We do not object to digital

signatures. We do not use Quattro Pro, so we would not object to SoundExchange to no longer being required to maintain a Quattro Pro template.

I declare under penalty of perjury that the foregoing statements are true and accurate to the best of my knowledge, information, and belief.

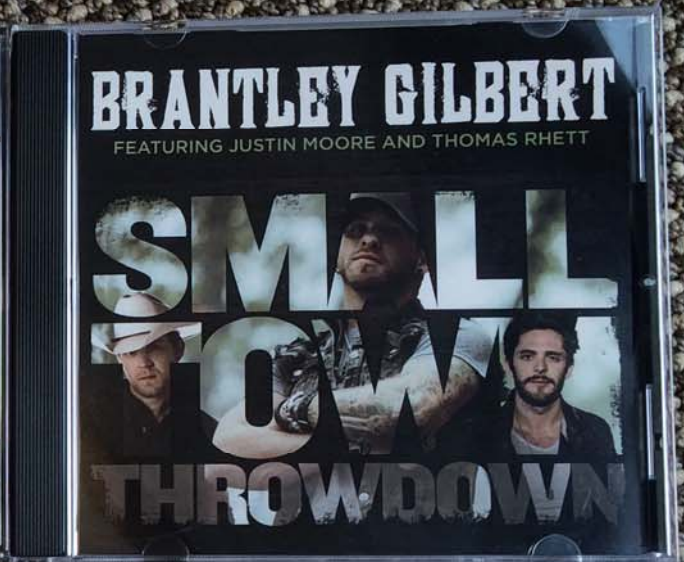
Date: 6/30/14

Michael Gay
Cumulus Media Inc.

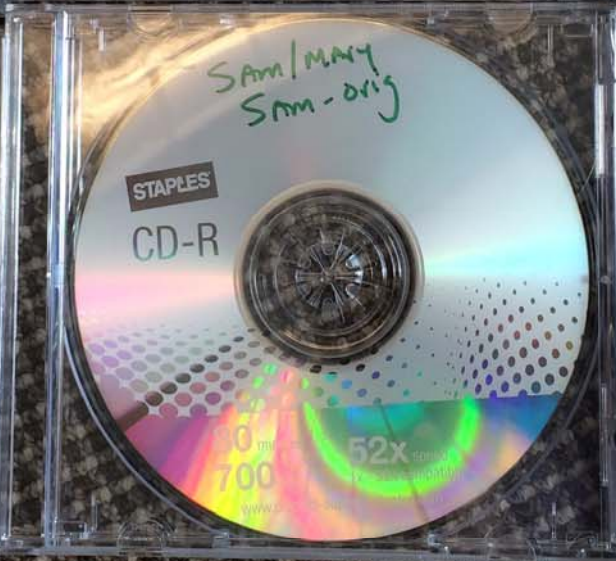
M-1

Cap Cities
Madden Bros
CD-R
80 minutes
700 MB
52x speed
1x - 52x compatible
www.product-support-staples.com

Hunter Hayes
Tattoo
(Intro: 0:01/0:09/0:20) 3:14 (Cold Fade)
(Track repeats 3 times)
Warner Music Nashville (WMN) Promotion Team:
Kevin Herring
SVP, Promotion
615.214.1537
kevin.herring@wmg.com
Kristen Williams
VP, Promotion
615.479.2470
kristen.williams@wmg.com
Tyler Wall
Promotion Coordinator
615.214.1525
tyler.wall@wmg.com
Katie Bright
National Director, Promotion
615.788.2203
katie.bright@wmg.com
Lou Ramirez
Southeast Regional
210.240.4001
lou.ramirez@wmg.com
Rick Young
West Coast Regional
818.926.8189
rick.young@wmg.com
PROMOTION ONLY. NOT FOR SALE.


BRANTLEY GILBERT
FEATURING JUSTIN MOORE AND THOMAS RHETT
SMALL TOWN
THROWDOWN

erin bowman
Hey Summer
(3.29)


Sam/Mary
Sam - orig
STAPLES
CD-R
52x

Thompson Square
I CAN'T OUTRUN YOU

N

NEWS

Federal Communications Commission
445 12th Street, S.W.
Washington, D. C. 20554

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Internet: http://www.fcc.gov
TTY: 1-888-835-5322

This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action.
See MCI v. FCC. 515 F 2d 385 (D.C. Circ 1974).

April 9, 2014

BROADCAST STATION TOTALS AS OF MARCH 31, 2014

The Commission has announced the following totals for broadcast stations licensed as of March 31, 2014:

AM STATIONS	4725		
FM COMMERCIAL	6624		
FM EDUCATIONAL	4057		
TOTAL		**15,406**	
UHF COMMERCIAL TV	1030		
VHF COMMERCIAL TV	358		
UHF EDUCATIONAL TV	288		
VHF EDUCATIONAL TV	107		
TOTAL		**1,783**	
CLASS A UHF STATIONS	379		
CLASS A VHF STATIONS	50		
TOTAL		**429**	
FM TRANSLATORS & BOOSTERS	6082		
UHF TRANSLATORS	2901		
VHF TRANSLATORS	1055		
TOTAL		**10,038**	
UHF LOW POWER TV	1658		
VHF LOW POWER TV	377		
TOTAL		**2,035**	
LOW POWER FM	774	**774**	
TOTAL BROADCAST STATIONS			**30,465**

- FCC -

O

Federal Communications Commission

AM Query Results

More search options at AM Query

AM Query Search by Call Sign: Submit callsign

AM Query Search by Facility ID No.: Submit Facility ID

AM Query Search by City/State:
City:
State: All States
Submit City/State

AM QUERY FM QUERY TV QUERY TV STATION PROFILES & PUBLIC INSPECTION FILES CDBS SEARCH MEDIA BUREAU

AM Query results are derived from the public files available here.
Requests to correct data should be referred to Dale Bickel.
Comments on the AM Query may be referred to Dale Bickel.

Resize Results
12 Resize

- This list is best printed in LANDSCAPE mode.
- Use the *Resize Results* option on this page to change the text size in the list below, for easier printing or viewing.
- Click on the blue Call Sign or blue Facility ID Number to retrieve more detailed information from the AM Query, including access to the CDBS database records pertaining to that station.
- Records for stations outside the USA are derived from international notifications.
- License, application, and construction permit (CP) coordinates shown in the AM Query results below are NAD 27 coordinates.
- Antenna Structure Registration (ASR) coordinates are NAD 83.
- Records for stations outside the USA are derived from international notifications.
- The FCC does not collect information on the types of programming (jazz, talk, Top40, etc.) aired on radio broadcast stations, or about specific programs.

Sun Jun 29 10:10:36 2014 Eastern time

Search Parameters

Lower Frequency	530
Upper Frequency	1700
Noncommercial Educational AM stations only	

KRXA	AM 540	kHz	DA2	Daytime	B	B	LIC	CARMEL VALLEY	CA	US	BML-20130516AOS	10.0	kW	9849	N 36 39 36.00	W 121 32 29.00	3	Pacific	EL SEMBRADOR MINISTRIES
KRXA	AM 540	kHz	DA2	Nighttime	B	B	LIC	CARMEL VALLEY	CA	US	BML-20130516AOS	0.5	kW	9849	N 36 39 36.00	W 121 32 29.00	3	Pacific	EL SEMBRADOR MINISTRIES
KJMJ	AM 580	kHz	DAN	Daytime	B	B	LIC	ALEXANDRIA	LA	US	BML-20001103ACL	5.0	kW	20492	N 31 18 30.00	W 92 24 57.00	1	Central	RADIO MARIA, INC.
KJMJ	AM 580	kHz	DAN	Nighttime	B	B	LIC	ALEXANDRIA	LA	US	BML-20001103ACL	1.0	kW	20492	N 31 18 30.00	W 92 24 57.00	3	Central	RADIO MARIA, INC.
KEAR	AM 610	kHz	ND2	Daytime	B	B	LIC	SAN FRANCISCO	CA	US	BML-20060522ADM	5.0	kW	1082	N 37 50 58.00	W 122 17 44.00	1	Pacific	FAMILY STATIONS INC
KEAR	AM 610	kHz	ND2	Nighttime	B	B	LIC	SAN FRANCISCO	CA	US	BML-20060522ADM	5.0	kW	1082	N 37 50 58.00	W 122 17 44.00	1	Pacific	FAMILY STATIONS INC
KMJC	AM 620	kHz	ND2	Daytime	D	B	LIC	MOUNT SHASTA	CA	US	BML-20020607ABU	1.0	kW	60024	N 41 19 9.00	W 122 18 35.00	1	Pacific	JPR FOUNDATION INC.
KMJC	AM 620	kHz	ND2	Nighttime	D	B	LIC	MOUNT SHASTA	CA	US	BML-20020607ABU	0.029	kW	60024	N 41 19 9.00	W 122 18 35.00	1	Pacific	JPR FOUNDATION INC.
KYFI	AM 630	kHz	DA2	Daytime	B	B	LIC	ST LOUIS	MO	US	BML-20130725AFO	5.0	kW	73299	N 38 40 18.00	W 90 6 52.00	3	Central	BIBLE BROADCASTING NETWORK, INC.
KYFI	AM 630	kHz	DA2	Nighttime	B	B	LIC	ST LOUIS	MO	US	BML-20130725AFO	5.0	kW	73299	N 38 40 18.00	W 90 6 52.00	3	Central	BIBLE BROADCASTING NETWORK, INC.
WPOG	AM 710	kHz	DAD	Daytime	D	B	LIC	ST. MATTHEWS	SC	US	BML-20050616AEO	1.0	kW	54577	N 33 37 4.00	W 80 46 50.00	2	Eastern	GRACE BAPTIST CHURCH OF ORANGEBU
WROM	AM 710	kHz	NDD	Daytime	D	B	LIC	ROME	GA	US	BML-20110719ADN	1.0	kW	66283	N 34 15 11.00	W 85 9 19.00	1	Eastern	HEIRBORN MINISTRIES, INC
WGCR	AM 720	kHz	ND2	Daytime	D	B	LIC	PISGAH FOREST	NC	US	BL-20110323ACL	50.0	kW	2198	N 35 15 10.00	W 82 40 28.00	1	Eastern	ANCHOR BAPTIST BROADCASTING ASSO
WGCR	AM 720	kHz	ND2	Critical Hours	D	B	LIC	PISGAH FOREST	NC	US	BL-20110323ACL	15.0	kW	2198	N 35 15 10.00	W 82 40 28.00	1	Eastern	ANCHOR BAPTIST BROADCASTING ASSO
WLTQ	AM 730	kHz	ND2	Daytime	D	B	LIC	CHARLESTON	SC	US	BML-20110427ABQ	5.0	kW	73874	N 32 46 24.00	W 80 0 56.00	1	Eastern	MEDIATRIX SC, INC.
WLTQ	AM 730	kHz	ND2	Nighttime	D	B	LIC	CHARLESTON	SC	US	BML-20110427ABQ	0.103	kW	73874	N 32 46 24.00	W 80 0 56.00	1	Eastern	MEDIATRIX SC, INC.
KCIK	AM 740	kHz	ND2	Daytime	B	B	LIC	KIHEI	HI	US	BL-20130830ATB	5.0	kW	161239	N 20 47 30.00	W 156 28 1.00	1		IHR EDUCATIONAL BROADCASTING
KCIK	AM 740	kHz	ND2	Nighttime	B	B	LIC	KIHEI	HI	US	BL-20130830ATB	5.0	kW	161239	N 20 47 30.00	W 156 28 1.00	1		IHR EDUCATIONAL BROADCASTING
WRMS	AM 790	kHz	DA2	Daytime	D	B	LIC	BEARDSTOWN	IL	US	BL-20081003AEV	0.5	kW	13649	N 40 0 11.00	W 90 23 51.00	2	Central	COVENANT NETWORK
WRMS	AM 790	kHz	DA2	Nighttime	D	B	LIC	BEARDSTOWN	IL	US	BL-20081003AEV	0.055	kW	13649	N 40 0 11.00	W 90 23 51.00	2	Central	COVENANT NETWORK
WAOB	AM 860	kHz	DA2	Daytime	B	B	LIC	MILLVALE	PA	US	BML-20090709APC	1.0	kW	60155	N 40 29 27.00	W 79 58 55.00	2	Eastern	SAINT JOSEPH MISSIONS
WAOB	AM 860	kHz	DA2	Nighttime	B	B	LIC	MILLVALE	PA	US	BML-20090709APC	0.83	kW	60155	N 40 29 27.00	W 79 58 55.00	3	Eastern	SAINT JOSEPH MISSIONS
WQRX	AM 870	kHz	NDD	Daytime	D	B	LIC	VALLEY HEAD	AL	US	BML-20090204AEI	10.0	kW	60648	N 34 33 20.00	W 85 37 12.00	1	Central	AUGUSTA RADIO FELOWSHIP INSTITUT
WQRX	AM 870	kHz	NDD	Critical Hours	D	B	LIC	VALLEY HEAD	AL	US	BML-20090204AEI	4.7	kW	60648	N 34 33 20.00	W 85 37 12.00	1	Central	AUGUSTA RADIO FELOWSHIP INSTITUT
WPIP	AM 880	kHz	NDD	Daytime	D	B	LIC	WINSTON-SALEM	NC	US	BL-20071210ADY	1.8	kW	41508	N 36 2 38.00	W 80 10 55.00	1	Eastern	BEREAN CHRISTIAN SCHOOL
KIHC	AM 890	kHz	DA2	Daytime	B	B	LIC	ARROYO GRANDE	CA	US	BMML-20121210AEG	5.0	kW	87729	N 35 8 44.00	W 120 31 15.00	2	Pacific	IHR EDUCATIONAL BROADCASTING
KIHC	AM 890	kHz	DA2	Nighttime	B	B	LIC	ARROYO GRANDE	CA	US	BMML-20121210AEG	5.0	kW	87729	N 35 8 44.00	W 120 31 15.00	3	Pacific	IHR EDUCATIONAL BROADCASTING
KPYN	AM 900	kHz	ND1	Daytime	D	B	LIC	ATLANTA	TX	US	BL-19991027ADL	1.0	kW	2766	N 33 4 58.00	W 94 10 58.00	1	Central	FREED AM CORP.
KPYN	AM 900	kHz	ND1	Nighttime	D	B	LIC	ATLANTA	TX	US	BL-19991027ADL	0.033	kW	2766	N 33 4 58.00	W 94 10 58.00	1	Central	FREED AM CORP.
KTIS	AM 900	kHz	DA2	Daytime	B	B	LIC	MINNEAPOLIS	MN	US	BL-20081008ANA	50.0	kW	49770	N 44 59 24.00	W 92 58 52.00	4	Central	UNIVERSITY OF NORTHWESTERN-ST. P
KTIS	AM 900	kHz	DA2	Nighttime	B	B	LIC	MINNEAPOLIS	MN	US	BL-20081008ANA	0.5	kW	49770	N 44 59 24.00	W 92 58 52.00	4	Central	UNIVERSITY OF NORTHWESTERN-ST. P
WSUI	AM 910	kHz	DAN	Nighttime	B	B	LIC	IOWA CITY	IA	US	BL-20020717ABR	4.0	kW	63119	N 41 31 26.00	W 91 30 11.00	3	Central	THE UNIVERSITY OF IOWA
WSUI	AM 910	kHz	DAN	Daytime	B	B	LIC	IOWA CITY	IA	US	BL-20020717ABR	5.0	kW	63119	N 41 31 26.00	W 91 30 11.00	1	Central	THE UNIVERSITY OF IOWA
KECR	AM 910	kHz	DA2	Daytime	B	B	LIC	EL CAJON	CA	US	BL-20070430CGQ	5.0	kW	20977	N 32 53 44.00	W 116 55 32.00	4	Pacific	FAMILY STATIONS INC
KECR	AM 910	kHz	DA2	Nighttime	B	B	LIC	EL CAJON	CA	US	BL-20070430CGQ	5.0	kW	20977	N 32 53 42.00	W 116 55 31.00	4	Pacific	FAMILY STATIONS INC
KRIO	AM 910	kHz	DA2	Daytime	B	B	LIC	MCALLEN	TX	US	BML-20110504ADF	5.0	kW	56477	N 26 17 52.00	W 98 12 26.00	3	Central	RIO GRANDE BIBLE INSTITUTE, INC.
KRIO	AM 910	kHz	DA2	Nighttime	B	B	LIC	MCALLEN	TX	US	BML-20110504ADF	5.0	kW	56477	N 26 17 52.00	W 98 12 26.00	4	Central	RIO GRANDE BIBLE INSTITUTE, INC.

KIHM	AM	920	kHz	DAN	Daytime	B	B	LIC	RENO	NV	US	BML-20000607AFN	4.6	kW	53707	N	39	30	41.00	W	119	42	51.00	1	Pacific	IHR EDUCATIONAL BROADCASTING
KIHM	AM	920	kHz	DAN	Nighttime	B	B	LIC	RENO	NV	US	BML-20000607AFN	0.85	kW	53707	N	39	30	41.00	W	119	42	51.00	2	Pacific	IHR EDUCATIONAL BROADCASTING
KYFR	AM	920	kHz	DA2	Daytime	B	B	LIC	SHENANDOAH	IA	US	BML-20000519ADZ	5.0	kW	20806	N	40	37	22.00	W	95	14	42.00	3	Central	FAMILY STATIONS INC
KYFR	AM	920	kHz	DA2	Nighttime	B	B	LIC	SHENANDOAH	IA	US	BML-20000519ADZ	2.5	kW	20806	N	40	37	22.00	W	95	14	42.00	4	Central	FAMILY STATIONS INC
KFLB	AM	920	kHz	DAN	Daytime	B	B	LIC	ODESSA	TX	US	BML-20051114AOJ	1.0	kW	39900	N	31	49	14.00	W	102	25	42.00	1	Central	FAMILY LIFE BROADCASTING SYSTEM
KFLB	AM	920	kHz	DAN	Nighttime	B	B	LIC	ODESSA	TX	US	BML-20051114AOJ	0.5	kW	39900	N	31	49	14.00	W	102	25	42.00	2	Central	FAMILY LIFE BROADCASTING SYSTEM
WYBY	AM	920	kHz	DAN	Daytime	B	B	LIC	CORTLAND	NY	US	BML-20070105AEY	1.0	kW	9428	N	42	33	22.00	W	76	9	18.00	1	Eastern	BIBLE BROADCASTING NETWORK, INC.
WYBY	AM	920	kHz	DAN	Nighttime	B	B	LIC	CORTLAND	NY	US	BML-20070105AEY	0.5	kW	9428	N	42	33	22.00	W	76	9	18.00	2	Eastern	BIBLE BROADCASTING NETWORK, INC.
WDMC	AM	920	kHz	DA2	Daytime	B	B	LIC	MELBOURNE	FL	US	BML-20130102AOV	5.0	kW	68615	N	28	8	11.00	W	80	41	20.00	4	Eastern	DIVINE MERCY COMMUNICATIONS, INC
WDMC	AM	920	kHz	DA2	Nighttime	B	B	LIC	MELBOURNE	FL	US	BML-20130102AOV	1.0	kW	68615	N	28	8	13.00	W	80	41	23.00	2	Eastern	DIVINE MERCY COMMUNICATIONS, INC
WYFQ	AM	930	kHz	DAN	Daytime	B	B	LIC	CHARLOTTE	NC	US	BML-20020312AAV	5.0	kW	5152	N	35	16	0.00	W	80	54	5.00	1	Eastern	BIBLE BROADCASTING NETWORK, INC.
WYFQ	AM	930	kHz	DAN	Nighttime	B	B	LIC	CHARLOTTE	NC	US	BML-20020312AAV	1.0	kW	5152	N	35	16	0.00	W	80	54	5.00	3	Eastern	BIBLE BROADCASTING NETWORK, INC.
WLBL	AM	930	kHz	ND2	Daytime	D	B	LIC	AUBURNDALE	WI	US	BL-20050106ABY	5.0	kW	63138	N	44	36	48.00	W	90	2	14.00	1	Central	STATE OF WISCONSIN - EDUCATIONAL
WLBL	AM	930	kHz	ND2	Nighttime	D	B	LIC	AUBURNDALE	WI	US	BL-20050106ABY	0.07	kW	63138	N	44	36	48.00	W	90	2	14.00	1	Central	STATE OF WISCONSIN - EDUCATIONAL
KNSA	AM	930	kHz	ND2	Daytime	B	B	LIC	UNALAKLEET	AK	US	BL-20100804ACW	4.2	kW	68754	N	63	53	16.00	W	160	41	28.00	1		UNALAKLEET BROADCASTING, INC.
KNSA	AM	930	kHz	ND2	Nighttime	B	B	LIC	UNALAKLEET	AK	US	BL-20100804ACW	4.2	kW	68754	N	63	53	16.00	W	160	41	28.00	1		UNALAKLEET BROADCASTING, INC.
WIDG	AM	940	kHz	ND1	Daytime	D	B	LIC	ST. IGNACE	MI	US	BML-20100714ACW	5.0	kW	42146	N	45	51	44.00	W	84	46	55.00	1	Eastern	BARAGA BROADCASTING, INC
WIDG	AM	940	kHz	ND1	Nighttime	D	B	LIC	ST. IGNACE	MI	US	BML-20100714ACW	0.004	kW	42146	N	45	51	44.00	W	84	46	55.00	1	Eastern	BARAGA BROADCASTING, INC
WGRP	AM	940	kHz	DA2	Daytime	D	B	LIC	GREENVILLE	PA	US	BML-20110923AFG	1.0	kW	25227	N	41	23	7.00	W	80	24	33.00	2	Eastern	VCI RADIO, INC.
WGRP	AM	940	kHz	DA2	Nighttime	D	B	LIC	GREENVILLE	PA	US	BML-20110923AFG	0.002	kW	25227	N	41	23	10.00	W	80	24	35.00	2	Eastern	VCI RADIO, INC.
WIPR	AM	940	kHz	DAD	Daytime	B	B	LIC	SAN JUAN	PR	US	BML-20120504ADF	10.0	kW	53861	N	18	25	36.00	W	66	8	29.00	2		PUERTO RICO PUBLIC BROADCASTING
WIPR	AM	940	kHz	DAD	Nighttime	B	B	LIC	SAN JUAN	PR	US	BML-20120504ADF	10.0	kW	53861	N	18	25	36.00	W	66	8	29.00	2		PUERTO RICO PUBLIC BROADCASTING
KTBR	AM	950	kHz	ND2	Daytime	D	B	LIC	ROSEBURG	OR	US	BL-20060911ABQ	3.4	kW	33247	N	43	10	8.00	W	123	22	28.00	1	Pacific	JPR FOUNDATION INC.
KTBR	AM	950	kHz	ND2	Nighttime	D	B	LIC	ROSEBURG	OR	US	BL-20060911ABQ	0.02	kW	33247	N	43	10	8.00	W	123	22	28.00	1	Pacific	JPR FOUNDATION INC.
KJRG	AM	950	kHz	ND2	Daytime	D	B	LIC	NEWTON	KS	US	BL-20110819ACJ	0.5	kW	35021	N	38	2	39.00	W	97	22	21.00	1	Central	COMMUNITY BROADCASTING, INC.
KJRG	AM	950	kHz	ND2	Nighttime	D	B	LIC	NEWTON	KS	US	BL-20110819ACJ	0.147	kW	35021	N	38	2	39.00	W	97	22	21.00	1	Central	COMMUNITY BROADCASTING, INC.
WKDN	AM	950	kHz	DA2	Daytime	B	B	LIC	PHILADELPHIA	PA	US	BML-20120921AFA	43.0	kW	25095	N	39	58	28.00	W	75	16	19.00	3	Eastern	FAMILY STATIONS INC
WKDN	AM	950	kHz	DA2	Nighttime	B	B	LIC	PHILADELPHIA	PA	US	BML-20120921AFA	21.0	kW	25095	N	40	9	15.00	W	75	22	10.00	4	Eastern	FAMILY STATIONS INC
WHA	AM	970	kHz	ND1	Daytime	D	B	LIC	MADISON	WI	US	BL--	5.0	kW	6139	N	43	2	30.00	W	89	24	31.00	1	Central	BOARD REGENTS OF UNIV OF WI SYST
WHA	AM	970	kHz	ND1	Nighttime	D	B	LIC	MADISON	WI	US	BL--	0.051	kW	6139	N	43	2	30.00	W	89	24	31.00	1	Central	BOARD REGENTS OF UNIV OF WI SYST
KJLT	AM	970	kHz	ND2	Daytime	D	B	LIC	NORTH PLATTE	NE	US	BML-20090130AVJ	5.0	kW	67751	N	41	9	36.00	W	100	52	43.00	1	Central	TRI-STATE BROADCASTING ASSOCIATI
KJLT	AM	970	kHz	ND2	Nighttime	D	B	LIC	NORTH PLATTE	NE	US	BML-20090130AVJ	0.055	kW	67751	N	41	9	36.00	W	100	52	43.00	1	Central	TRI-STATE BROADCASTING ASSOCIATI
KNIH	AM	970	kHz	DA2	Daytime	B	B	LIC	PARADISE	NV	US	BML-20120807ADC	5.0	kW	33074	N	36	0	40.00	W	115	14	28.00	3	Pacific	IHR EDUCATIONAL BROADCASTING
KNIH	AM	970	kHz	DA2	Nighttime	B	B	LIC	PARADISE	NV	US	BML-20120807ADC	0.5	kW	33074	N	36	0	40.00	W	115	14	28.00	5	Pacific	IHR EDUCATIONAL BROADCASTING
KEYQ	AM	980	kHz	ND1	Daytime	D	B	LIC	FRESNO	CA	US	BML-19970627AD	0.5	kW	2098	N	36	44	28.00	W	119	51	12.00	1	Pacific	THE ASSOCIATION FOR COMMUNITY ED
KEYQ	AM	980	kHz	ND1	Nighttime	D	B	LIC	FRESNO	CA	US	BML-19970627AD	0.048	kW	2098	N	36	44	28.00	W	119	51	12.00	1	Pacific	THE ASSOCIATION FOR COMMUNITY ED
WRAR	AM	1000	kHz	NDD	Daytime	D	B	LIC	TAPPAHANNOCK	VA	US	BML-20060419AFE	0.3	kW	55170	N	37	52	27.00	W	76	43	37.00	1	Eastern	A.C.T.I.O.N., INCORPORATED
KCEO	AM	1000	kHz	DA2	Daytime	B	B	LIC	VISTA	CA	US	BMML-20121016ADQ	5.0	kW	67666	N	33	13	58.00	W	117	16	11.00	4	Pacific	IHR EDUCATIONAL BROADCASTING
KCEO	AM	1000	kHz	DA2	Nighttime	B	B	LIC	VISTA	CA	US	BMML-20121016ADQ	0.9	kW	67666	N	33	13	58.00	W	117	16	11.00	4	Pacific	IHR EDUCATIONAL BROADCASTING
KRNI	AM	1010	kHz	ND1	Daytime	D	B	LIC	MASON CITY	IA	US	BML-19970929KB	0.76	kW	69035	N	43	8	31.00	W	93	6	40.00	1	Central	UNIVERSITY OF NORTHERN IOWA
KRNI	AM	1010	kHz	ND1	Nighttime	D	B	LIC	MASON CITY	IA	US	BML-19970929KB	0.016	kW	69035	N	43	8	31.00	W	93	6	40.00	1	Central	UNIVERSITY OF NORTHERN IOWA
WCKW	AM	1010	kHz	ND2	Daytime	D	B	LIC	GARYVILLE	LA	US	BML-20070713AGA	0.5	kW	115	N	30	4	35.00	W	90	37	17.00	1	Central	COVENANT NETWORK
WCKW	AM	1010	kHz	ND2	Nighttime	D	B	LIC	GARYVILLE	LA	US	BML-20070713AGA	0.042	kW	115	N	30	4	35.00	W	90	37	17.00	1	Central	COVENANT NETWORK
KIHU	AM	1010	kHz	DA2	Daytime	D	B	LIC	TOOELE	UT	US	BL-20050209AVP	50.0	kW	35687	N	40	43	15.00	W	112	2	29.00	1	Mountain	IHR EDUCATIONAL BROADCASTING
KIHU	AM	1010	kHz	DA2	Nighttime	D	B	LIC	TOOELE	UT	US	BL-20050209AVP	0.194	kW	35687	N	40	43	15.00	W	112	2	29.00	2	Mountain	IHR EDUCATIONAL BROADCASTING
KIHU	AM	1010	kHz	DA2	Critical Hours	D	B	LIC	TOOELE	UT	US	BL-20050209AVP	42.0	kW	35687	N	40	43	15.00	W	112	2	29.00	2	Mountain	IHR EDUCATIONAL BROADCASTING
WUFL	AM	1030	kHz	DAD	Daytime	D	B	LIC	STERLING HEIGHTS	MI	US	BL-20070726AMP	5.0	kW	20629	N	42	36	17.00	W	82	54	40.00	3	Eastern	FAMILY LIFE BROADCASTING SYSTEM
KXPD	AM	1040	kHz	ND2	Daytime	D	B	LIC	TIGARD	OR	US	BML-20060714ACV	2.2	kW	18859	N	45	28	26.00	W	122	39	33.00	1	Pacific	RIVERSIDE BROADCASTING, LLC
KXPD	AM	1040	kHz	ND2	Nighttime	D	B	LIC	TIGARD	OR	US	BML-20060714ACV	0.2	kW	18859	N	45	28	26.00	W	122	39	33.00	1	Pacific	RIVERSIDE BROADCASTING, LLC
KJPG	AM	1050	kHz	DAD	Daytime	D	B	LIC	FRAZIER PARK	CA	US	BML-20040618ABD	10.0	kW	2268	N	35	1	28.00	W	118	55	5.00	3	Pacific	IHR EDUCATIONAL BROADCASTING
KJPG	AM	1050	kHz	DAD	Nighttime	D	B	LIC	FRAZIER PARK	CA	US	BML-20040618ABD	0.007	kW	2268	N	35	24	7.00	W	119	2	47.00	1	Pacific	IHR EDUCATIONAL BROADCASTING
WCOK	AM	1060	kHz	NDD	Daytime	D	B	LIC	SPARTA	NC	US	BL-20121025ADD	1.1	kW	61680	N	36	28	55.00	W	81	5	35.00	1	Eastern	GOSPEL BROADCASTING, INC.
WFRF	AM	1070	kHz	NDD	Daytime	D	B	LIC	TALLAHASSEE	FL	US	BML-20040816ACK	10.0	kW	70860	N	30	30	34.00	W	84	20	7.00	1	Eastern	FAITH RADIO NETWORK, INC.
WRYT	AM	1080	kHz	DA3	Daytime	D	B	LIC	EDWARDSVILLE	IL	US	BMML-20140207ABK	0.5	kW	27556	N	38	47	58.00	W	89	54	0.00	4	Central	COVENANT NETWORK
WRYT	AM	1080	kHz	DA3	Nighttime	D	B	LIC	EDWARDSVILLE	IL	US	BMML-20140207ABK	0.02	kW	27556	N	38	47	58.00	W	89	54	0.00	3	Central	COVENANT NETWORK
WRYT	AM	1080	kHz	DA3	Critical Hours	D	B	LIC	EDWARDSVILLE	IL	US	BMML-20140207ABK	0.38	kW	27556	N	38	47	58.00	W	89	54	0.00	4	Central	COVENANT NETWORK
WHGG	AM	1090	kHz	ND2	Daytime	D	B	LIC	KINGSPORT	TN	US	BML-20000328AHN	10.0	kW	64508	N	36	27	40.00	W	82	27	12.00	1	Eastern	INFORMATION COMMUNICATIONS CORPO
WHGG	AM	1090	kHz	ND2	Critical Hours	D	B	LIC	KINGSPORT	TN	US	BML-20000328AHN	1.8	kW	64508	N	36	27	40.00	W	82	27	12.00	1	Eastern	INFORMATION COMMUNICATIONS CORPO
KEXS	AM	1090	kHz	DA2	Daytime	D	B	LIC	EXCELSIOR SPRINGS	MO	US	BMML-20100512AIZ	8.0	kW	14620	N	39	17	39.00	W	94	15	37.00	3	Central	CATHOLIC RADIO NETWORK, INC.
KEXS	AM	1090	kHz	DA2	Critical Hours	D	B	LIC	EXCELSIOR SPRINGS	MO	US	BMML-20100512AIZ	4.0	kW	14620	N	39	17	39.00	W	94	15	37.00	3	Central	CATHOLIC RADIO NETWORK, INC.
KAGV	AM	1110	kHz	ND1	Daytime	B	B	LIC	BIG LAKE	AK	US	BL-20041206AFS	10.0	kW	129316	N	61	38	3.00	W	149	47	36.00	1		VOICE FOR CHRIST MINISTRIES, INC
KAGV	AM	1110	kHz	ND1	Nighttime	B	B	LIC	BIG LAKE	AK	US	BL-20041206AFS	10.0	kW	129316	N	61	38	3.00	W	149	47	36.00	1		VOICE FOR CHRIST MINISTRIES, INC
WSFW	AM	1110	kHz	NDD	Daytime	D	B	LIC	SENECA FALLS	NY	US	BML-20091217AFM	1.0	kW	5391	N	42	54	55.00	W	76	46	28.00	1	Eastern	CALVARY CHAPEL OF TWIN FALLS, IN
WMUX	AM	1110	kHz	NDD	Daytime	D	B	LIC	HURRICANE	WV	US	BML-20120210AEJ	1.0	kW	42653	N	38	26	41.00	W	82	0	54.00	1	Eastern	ST. PAUL RADIO CO.
WVHF	AM	1140	kHz	DAD	Daytime	D	B	LIC	KENTWOOD	MI	US	BML-20130315AEL	5.0	kW	41667	N	42	56	9.00	W	85	27	26.00	3	Eastern	HOLY FAMILY RADIO
WCUE	AM	1150	kHz	DA2	Daytime	B	B	LIC	CUYAHOGA FALLS	OH	US	BML-20000519ADY	5.0	kW	20674	N	41	12	5.00	W	81	31	25.00	6	Eastern	FAMILY STATIONS INC
WCUE	AM	1150	kHz	DA2	Nighttime	B	B	LIC	CUYAHOGA FALLS	OH	US	BML-20000519ADY	0.5	kW	20674	N	41	12	5.00	W	81	31	25.00	6	Eastern	FAMILY STATIONS INC
KLPF	AM	1150	kHz	ND2	Daytime	D	B	LIC	MIDLAND	TX	US	BML-20050729DYU	1.0	kW	17235	N	31	58	55.00	W	102	3	29.00	1	Central	LA PROMESA FOUNDATION
KLPF	AM	1150	kHz	ND2	Nighttime	D	B	LIC	MIDLAND	TX	US	BML-20050729DYU	0.148	kW	17235	N	31	58	55.00	W	102	3	29.00	1	Central	LA PROMESA FOUNDATION
WCTF	AM	1170	kHz	DA2	Daytime	D	B	LIC	VERNON	CT	US	BML-20000519AEC	1.0	kW	20826	N	41	52	7.00	W	72	29	4.00	2	Eastern	FAMILY STATIONS INC
WCTF	AM	1170	kHz	DA2	Critical Hours	D	B	LIC	VERNON	CT	US	BML-20000519AEC	0.5	kW	20826	N	41	52	7.00	W	72	29	4.00	2	Eastern	FAMILY STATIONS INC
WQHC	AM	1170	kHz	ND2	Daytime	D	B	LIC	HANCEVILLE	AL	US	BML-20130625ADK	0.85	kW	57437	N	34	4	28.00	W	86	46	44.00	1	Central	FATIMA FAMILY APOSTOLATE INTERNA
WQHC	AM	1170	kHz	ND2	Critical Hours	D	B	LIC	HANCEVILLE	AL	US	BML-20130625ADK	0.5	kW	57437	N	34	4	28.00	W	86	46	44.00	1	Central	FATIMA FAMILY APOSTOLATE INTERNA
WUMY	AM	1180	kHz	DA3	Daytime	D	B	LIC	TURRELL	AR	US	BMML-20090824AMR	5.0	kW	52906	N	35	8	31.00	W	90	8	6.00	2	Central	MEMPHIS FIRST VENTURES, LP
WUMY	AM	1180	kHz	DA3	Nighttime	D	B	LIC	TURRELL	AR	US	BMML-20090824AMR	0.026	kW	52906	N	35	8	31.00	W	90	8	6.00	2	Central	MEMPHIS FIRST VENTURES, LP
WUMY	AM	1180	kHz	DA3	Critical Hours	D	B	LIC	TURRELL	AR	US	BMML-20090824AMR	3.5	kW	52906	N	35	8	31.00	W	90	8	6.00	2	Central	MEMPHIS FIRST VENTURES, LP
WBMJ	AM	1190	kHz	DA2	Daytime	B	B	LIC	SAN JUAN	PR	US	BL-12058	10.0	kW	8440	N	18	21	0.00	W	66	6	50.00	2		CALVARY EVANGELISTIC MISSION, IN
WBMJ	AM	1190	kHz	DA2	Nighttime	B	B	LIC	SAN JUAN	PR	US	BL-12058	5.0	kW	8440	N	18	21	0.00	W	66	6	50.00	2		CALVARY EVANGELISTIC MISSION, IN
KVCU	AM	1190	kHz	ND3	Daytime	D	B	LIC	BOULDER	CO	US	BL-20001211AER	6.8	kW	48965	N	39	57	53.00	W	105	14	7.00	1	Mountain	THE REGENTS OF THE UNIVERSITY OF
KVCU	AM	1190	kHz	ND3	Nighttime	D	B	LIC	BOULDER	CO	US	BL-20001211AER	0.11	kW	48965	N	39	57	53.00	W	105	14	7.00	1	Mountain	THE REGENTS OF THE UNIVERSITY OF
KVCU	AM	1190	kHz	ND3	Critical Hours	D	B	LIC	BOULDER	CO	US	BL-20001211AER	5.0	kW	48965	N	39	57	53.00	W	105	14	7.00	1	Mountain	THE REGENTS OF THE UNIVERSITY OF
WWIO	AM	1190	kHz	NDD	Daytime	D	B	LIC	ST. MARYS	GA	US	BL-20010419ABG	1.8	kW	38286	N	30	45	47.00	W	81	36	39.00	1	Eastern	LIGHTHOUSE CHRISTIAN BROADCASTIN
WNWC	AM	1190	kHz	DA2	Daytime	D	B	LIC	SUN PRAIRIE	WI	US	BL-20070723AFL	4.8	kW	17381	N	43	9	36.00	W	89	12	55.00	2	Central	UNIVERSITY OF NORTHWESTERN-ST. P
WNWC	AM	1190	kHz	DA2	Nighttime	D	B	LIC	SUN PRAIRIE	WI	US	BL-20070723AFL	0.021	kW	17381	N	43	9	36.00	W	89	12	55.00	2	Central	UNIVERSITY OF NORTHWESTERN-ST. P
WVUS	AM	1190	kHz	ND2	Daytime	D	B	LIC	GRAFTON	WV	US	BML-20100225AEB	4.5	kW	64661	N	39	21	1.00	W	80	2	40.00	1	Eastern	LIGHT OF LIFE COMMUNITY, INC.
WVUS	AM	1190	kHz	ND2	Nighttime	D	B	LIC	GRAFTON	WV	US	BML-20100225AEB	0.022	kW	64661	N	39	21	1.00	W	80	2	40.00	1	Eastern	LIGHT OF LIFE COMMUNITY, INC.
KYAA	AM	1200	kHz	DAN	Daytime	B	B	LIC	SOQUEL	CA	US	BML-20130103AFP	25.0	kW	60852	N	36	39	38.00	W	121	32	29.00	1	Pacific	IHR EDUCATIONAL BROADCASTING
KYAA	AM	1200	kHz	DAN	Nighttime	B	B	LIC	SOQUEL	CA	US	BML-20130103AFP	10.0	kW	60852	N	36	39	38.00	W	121	32	29.00	4	Pacific	IHR EDUCATIONAL BROADCASTING
KEBR	AM	1210	kHz	DAD	Nighttime	B	B	LIC	ROCKLIN	CA	US	BML-20000519AEE	0.5	kW	20930	N	38	43	51.00	W	121	19	8.00	1	Pacific	FAMILY STATIONS INC
KEBR	AM	1210	kHz	DAD	Daytime	B	B	LIC	ROCKLIN	CA	US	BML-20000519AEE	5.0	kW	20930	N	38	27	46.00	W	121	7	49.00	6	Pacific	FAMILY STATIONS INC
WQUN	AM	1220	kHz	DA2	Daytime	B	B	LIC	HAMDEN	CT	US	BL-20021210ACN	1.0	kW	42658	N	41	22	38.00	W	72	55	44.00	2	Eastern	QUINNIPIAC UNIVERSITY
WQUN	AM	1220	kHz	DA2	Nighttime	B	B	LIC	HAMDEN	CT	US	BL-20021210ACN	0.305	kW	42658	N	41	22	38.00	W	72	55	44.00	2	Eastern	QUINNIPIAC UNIVERSITY

KWG	AM	1230	kHz	ND1	Daytime	C	C	LIC	STOCKTON	CA	US	BML-20040618ABC	0.9	kW	60418	N	37	57	34.00	W	121	15	28.00	1	Pacific	IHR
KWG	AM	1230	kHz	ND1	Nighttime	C	C	LIC	STOCKTON	CA	US	BML-20040618ABC	0.9	kW	60418	N	37	57	34.00	W	121	15	28.00	1	Pacific	IHR
WABN	AM	1230	kHz	ND1	Nighttime	C	C	LIC	ABINGDON	VA	US	BL-20041019ACP	1.0	kW	36981	N	36	44	3.00	W	81	58	18.00	1	Eastern	INFORMATION COMMUNICATIONS CORPO
WABN	AM	1230	kHz	ND1	Daytime	C	C	LIC	ABINGDON	VA	US	BL-20041019ACP	1.0	kW	36981	N	36	44	3.00	W	81	58	18.00	1	Eastern	INFORMATION COMMUNICATIONS CORPO
KKPC	AM	1230	kHz	ND1	Nighttime	C	C	LIC	PUEBLO	CO	US	BL-20101217ABP	1.0	kW	53851	N	38	16	40.00	W	104	39	15.00	1	Mountain	PUBLIC BROADCASTING OF COLORADO,
KKPC	AM	1230	kHz	ND1	Daytime	C	C	LIC	PUEBLO	CO	US	BL-20101217ABP	1.0	kW	53851	N	38	16	40.00	W	104	39	15.00	1	Mountain	PUBLIC BROADCASTING OF COLORADO,
WDWR	AM	1230	kHz	ND2	Daytime	C	C	LIC	PENSACOLA	FL	US	BML-20111118CTL	1.0	kW	21773	N	30	25	57.00	W	87	13	7.00	1	Eastern	DIVINE WORD COMMUNICATIONS
WDWR	AM	1230	kHz	ND2	Nighttime	C	C	LIC	PENSACOLA	FL	US	BML-20111118CTL	1.0	kW	21773	N	30	25	57.00	W	87	13	7.00	1	Eastern	DIVINE WORD COMMUNICATIONS
KWLC	AM	1240	kHz	ND2	Daytime	C	C	LIC	DECORAH	IA	US	BML-20001003APQ	1.0	kW	39255	N	43	18	35.00	W	91	48	30.00	1	Central	LUTHER COLLEGE
KWLC	AM	1240	kHz	ND2	Nighttime	C	C	LIC	DECORAH	IA	US	BML-20001003APQ	1.0	kW	39255	N	43	18	35.00	W	91	48	30.00	1	Central	LUTHER COLLEGE
KJOP	AM	1240	kHz	ND2	Daytime	C	C	LIC	LEMOORE	CA	US	BML-20041105BDG	0.25	kW	31589	N	36	18	47.00	W	119	43	48.00	1	Pacific	IHR EDUCATIONAL BROADCASTING
KJOP	AM	1240	kHz	ND2	Nighttime	C	C	LIC	LEMOORE	CA	US	BML-20041105BDG	1.0	kW	31589	N	36	18	47.00	W	119	43	48.00	1	Pacific	IHR EDUCATIONAL BROADCASTING
KCVV	AM	1240	kHz	ND2	Daytime	C	C	LIC	SACRAMENTO	CA	US	BML-20100824ABV	1.0	kW	29297	N	38	35	17.00	W	121	28	5.00	1	Pacific	RADIO SANTISIMO SACRAMENTO, INC.
KCVV	AM	1240	kHz	ND2	Nighttime	C	C	LIC	SACRAMENTO	CA	US	BML-20100824ABV	1.0	kW	29297	N	38	35	17.00	W	121	28	5.00	1	Pacific	RADIO SANTISIMO SACRAMENTO, INC.
KSOX	AM	1240	kHz	ND2	Daytime	C	C	LIC	RAYMONDVILLE	TX	US	BML-20101108AEU	0.52	kW	18653	N	26	24	19.00	W	97	54	52.00	1	Central	VISION HISPANA INCORPORATED INTE
KSOX	AM	1240	kHz	ND2	Nighttime	C	C	LIC	RAYMONDVILLE	TX	US	BML-20101108AEU	0.85	kW	18653	N	26	24	19.00	W	97	54	52.00	1	Central	VISION HISPANA INCORPORATED INTE
KMHI	AM	1240	kHz	ND2	Daytime	C	C	LIC	MOUNTAIN HOME	ID	US	BML-20130522AEY	1.0	kW	72657	N	43	9	3.00	W	115	42	26.00	1	Mountain	CALVARY CHAPEL OF TWIN FALLS, IN
KMHI	AM	1240	kHz	ND2	Nighttime	C	C	LIC	MOUNTAIN HOME	ID	US	BML-20130522AEY	1.0	kW	72657	N	43	9	3.00	W	115	42	26.00	1	Mountain	CALVARY CHAPEL OF TWIN FALLS, IN
KJCR	AM	1240	kHz	ND2	Daytime	C	C	LIC	BILLINGS	MT	US	BML-20130827AFM	1.0	kW	41600	N	45	45	29.00	W	108	29	52.00	1	Mountain	AGNUS DEI COMMUNICATIONS
KJCR	AM	1240	kHz	ND2	Nighttime	C	C	LIC	BILLINGS	MT	US	BML-20130827AFM	1.0	kW	41600	N	45	45	29.00	W	108	29	52.00	1	Mountain	AGNUS DEI COMMUNICATIONS
KDEI	AM	1250	kHz	DAN	Daytime	B	B	LIC	PORT ARTHUR	TX	US	BML-20001103ACN	5.0	kW	20490	N	29	57	4.00	W	93	52	46.00	1	Central	RADIO MARIA, INC.
KDEI	AM	1250	kHz	DAN	Nighttime	B	B	LIC	PORT ARTHUR	TX	US	BML-20001103ACN	1.0	kW	20490	N	29	57	4.00	W	93	52	46.00	2	Central	RADIO MARIA, INC.
KHOT	AM	1250	kHz	ND2	Daytime	D	B	LIC	MADERA	CA	US	BML-20120502ACJ	0.5	kW	39566	N	36	57	58.00	W	120	2	6.00	1	Pacific	IHR EDUCATIONAL BROADCASTING
KHOT	AM	1250	kHz	ND2	Nighttime	D	B	LIC	MADERA	CA	US	BML-20120502ACJ	0.081	kW	39566	N	36	57	58.00	W	120	2	6.00	1	Pacific	IHR EDUCATIONAL BROADCASTING
WWVT	AM	1260	kHz	ND2	Daytime	D	B	LIC	CHRISTIANSBURG	VA	US	BL-20050802AGJ	5.0	kW	48622	N	37	9	13.00	W	80	30	26.00	1	Eastern	VIRGINIA TECH FOUNDATION, INC.
WWVT	AM	1260	kHz	ND2	Nighttime	D	B	LIC	CHRISTIANSBURG	VA	US	BL-20050802AGJ	0.025	kW	48622	N	37	9	13.00	W	80	30	26.00	1	Eastern	VIRGINIA TECH FOUNDATION, INC.
KSFB	AM	1260	kHz	ND2	Daytime	B	B	LIC	SAN FRANCISCO	CA	US	BML-20090731AGV	5.0	kW	6369	N	37	42	59.00	W	122	23	38.00	1	Pacific	IHR EDUCATIONAL BROADCASTING
KSFB	AM	1260	kHz	ND2	Nighttime	B	B	LIC	SAN FRANCISCO	CA	US	BML-20090731AGV	1.0	kW	6369	N	37	42	59.00	W	122	23	38.00	1	Pacific	IHR EDUCATIONAL BROADCASTING
WFJS	AM	1260	kHz	DA2	Daytime	B	B	LIC	TRENTON	NJ	US	BML-20100730AEF	5.0	kW	53443	N	40	15	56.00	W	74	45	27.00	3	Eastern	DOMESTIC CHURCH MEDIA FOUNDATION
WFJS	AM	1260	kHz	DA2	Nighttime	B	B	LIC	TRENTON	NJ	US	BML-20100730AEF	2.5	kW	53443	N	40	15	56.00	W	74	45	27.00	3	Eastern	DOMESTIC CHURCH MEDIA FOUNDATION
KNWC	AM	1270	kHz	DA2	Daytime	B	B	LIC	SIOUX FALLS	SD	US	BL-20041202AGN	5.0	kW	49774	N	43	17	7.00	W	96	45	53.00	2	Central	UNIVERSITY OF NORTHWESTERN-ST. P
KNWC	AM	1270	kHz	DA2	Nighttime	B	B	LIC	SIOUX FALLS	SD	US	BL-20041202AGN	2.3	kW	49774	N	43	17	7.00	W	96	45	53.00	4	Central	UNIVERSITY OF NORTHWESTERN-ST. P
KFRN	AM	1280	kHz	DAD	Nighttime	B	B	LIC	LONG BEACH	CA	US	BML-20000519AED	1.0	kW	21005	N	33	47	54.00	W	118	14	47.00	1	Pacific	FAMILY STATIONS INC
KFRN	AM	1280	kHz	DAD	Daytime	B	B	LIC	LONG BEACH	CA	US	BML-20000519AED	1.0	kW	21005	N	33	47	54.00	W	118	14	47.00	2	Pacific	FAMILY STATIONS INC
KVXR	AM	1280	kHz	DA2	Daytime	B	B	LIC	MOORHEAD	MN	US	BML-20090227ACS	5.0	kW	35863	N	46	49	10.00	W	96	45	56.00	3	Central	REAL PRESENCE RADIO
KVXR	AM	1280	kHz	DA2	Nighttime	B	B	LIC	MOORHEAD	MN	US	BML-20090227ACS	1.0	kW	35863	N	46	49	10.00	W	96	45	56.00	3	Central	REAL PRESENCE RADIO
WRNI	AM	1290	kHz	DA2	Daytime	B	B	LIC	PROVIDENCE	RI	US	BL-20030401CKB	10.0	kW	48308	N	41	51	21.00	W	71	26	41.00	3	Eastern	RHODE ISLAND PUBLIC RADIO
WRNI	AM	1290	kHz	DA2	Nighttime	B	B	LIC	PROVIDENCE	RI	US	BL-20030401CKB	10.0	kW	48308	N	41	51	21.00	W	71	26	41.00	3	Eastern	RHODE ISLAND PUBLIC RADIO
KLAR	AM	1300	kHz	ND2	Daytime	D	B	LIC	LAREDO	TX	US	BL-19991228AAV	1.0	kW	14656	N	27	31	45.00	W	99	31	15.00	1	Central	FAITH AND POWER COMMUNICATIONS,
KLAR	AM	1300	kHz	ND2	Nighttime	D	B	LIC	LAREDO	TX	US	BL-19991228AAV	0.08	kW	14656	N	27	31	45.00	W	99	31	15.00	1	Central	FAITH AND POWER COMMUNICATIONS,
KPMO	AM	1300	kHz	ND1	Daytime	D	B	LIC	MENDOCINO	CA	US	BML-20020607ABW	5.0	kW	31596	N	39	20	33.00	W	123	46	51.00	1	Pacific	JPR FOUNDATION INC.
KPMO	AM	1300	kHz	ND1	Nighttime	D	B	LIC	MENDOCINO	CA	US	BML-20020607ABW	0.077	kW	31596	N	39	20	33.00	W	123	46	51.00	1	Pacific	JPR FOUNDATION INC.
WCKI	AM	1300	kHz	ND2	Daytime	D	B	LIC	GREER	SC	US	BML-20090514ADA	1.0	kW	60503	N	34	55	39.00	W	82	15	42.00	1	Eastern	MEDIATRIX SC, INC.
WCKI	AM	1300	kHz	ND2	Nighttime	D	B	LIC	GREER	SC	US	BML-20090514ADA	0.094	kW	60503	N	34	55	39.00	W	82	15	42.00	1	Eastern	MEDIATRIX SC, INC.
WRVP	AM	1310	kHz	DA2	Daytime	D	B	LIC	MOUNT KISCO	NY	US	BML-20021029ABZ	5.0	kW	70273	N	41	11	37.00	W	73	44	22.00	2	Eastern	RADIO VISION CRISTIANA MANAGEMEN
WRVP	AM	1310	kHz	DA2	Nighttime	D	B	LIC	MOUNT KISCO	NY	US	BML-20021029ABZ	0.033	kW	70273	N	41	11	37.00	W	73	44	22.00	2	Eastern	RADIO VISION CRISTIANA MANAGEMEN
KIHP	AM	1310	kHz	DAN	Daytime	B	B	LIC	MESA	AZ	US	BML-20091216AFV	5.0	kW	19468	N	33	26	23.00	W	111	50	9.00	1	Mountain	IHR EDUCATIONAL BROADCASTING
KIHP	AM	1310	kHz	DAN	Nighttime	B	B	LIC	MESA	AZ	US	BML-20091216AFV	0.5	kW	19468	N	33	26	23.00	W	111	50	9.00	2	Mountain	IHR EDUCATIONAL BROADCASTING
WAGF	AM	1320	kHz	ND2	Daytime	D	B	LIC	DOTHAN	AL	US	BL-20030807AJH	1.0	kW	30278	N	31	14	54.00	W	85	23	20.00	1	Central	WILSON BROADCASTING CO., INC.
WAGF	AM	1320	kHz	ND2	Nighttime	D	B	LIC	DOTHAN	AL	US	BL-20030807AJH	0.092	kW	30278	N	31	14	54.00	W	85	23	20.00	1	Central	WILSON BROADCASTING CO., INC.
KAWC	AM	1320	kHz	ND2	Daytime	D	B	LIC	YUMA	AZ	US	BL-20070202AGC	0.73	kW	2758	N	32	41	22.00	W	114	30	0.00	1	Mountain	ARIZONA WESTERN COLLEGE
KAWC	AM	1320	kHz	ND2	Nighttime	D	B	LIC	YUMA	AZ	US	BL-20070202AGC	0.106	kW	2758	N	32	41	22.00	W	114	30	0.00	1	Mountain	ARIZONA WESTERN COLLEGE
KJPR	AM	1330	kHz	DA2	Daytime	B	B	LIC	SHASTA LAKE CITY	CA	US	BL-20040719AEL	1.0	kW	129174	N	40	40	48.00	W	122	16	1.00	2	Pacific	JPR FOUNDATION INC.
KJPR	AM	1330	kHz	DA2	Nighttime	B	B	LIC	SHASTA LAKE CITY	CA	US	BL-20040719AEL	1.0	kW	129174	N	40	40	48.00	W	122	16	1.00	2	Pacific	JPR FOUNDATION INC.
KVOQ	AM	1340	kHz	ND2	Daytime	C	C	LIC	DENVER	CO	US	BML-20001116ATX	1.0	kW	34585	N	39	41	0.00	W	105	0	24.00	1	Mountain	PUBLIC BROADCASTING OF COLORADO,
KVOQ	AM	1340	kHz	ND2	Nighttime	C	C	LIC	DENVER	CO	US	BML-20001116ATX	1.0	kW	34585	N	39	41	0.00	W	105	0	24.00	1	Mountain	PUBLIC BROADCASTING OF COLORADO,
WSSC	AM	1340	kHz	ND2	Daytime	C	C	LIC	SUMTER	SC	US	BML-20050920AGO	1.0	kW	39621	N	33	55	45.00	W	80	19	29.00	1	Eastern	SUMTER BAPTIST TEMPLE, INC.
WSSC	AM	1340	kHz	ND2	Nighttime	C	C	LIC	SUMTER	SC	US	BML-20050920AGO	1.0	kW	39621	N	33	55	45.00	W	80	19	29.00	1	Eastern	SUMTER BAPTIST TEMPLE, INC.
WMDR	AM	1340	kHz	ND2	Daytime	C	C	LIC	AUGUSTA	ME	US	BML-20070625ADW	1.0	kW	37469	N	44	19	43.00	W	69	45	53.00	1	Eastern	LIGHT OF LIFE MINISTRIES, INC.
WMDR	AM	1340	kHz	ND2	Nighttime	C	C	LIC	AUGUSTA	ME	US	BML-20070625ADW	1.0	kW	37469	N	44	19	43.00	W	69	45	53.00	1	Eastern	LIGHT OF LIFE MINISTRIES, INC.
KCLU	AM	1340	kHz	ND2	Daytime	C	C	LIC	SANTA BARBARA	CA	US	BML-20080707ALA	0.65	kW	10327	N	34	25	7.00	W	119	41	10.00	1	Pacific	CALIFORNIA LUTHERAN UNIVERSITY
KCLU	AM	1340	kHz	ND2	Nighttime	C	C	LIC	SANTA BARBARA	CA	US	BML-20080707ALA	0.65	kW	10327	N	34	25	7.00	W	119	41	10.00	1	Pacific	CALIFORNIA LUTHERAN UNIVERSITY
KCRN	AM	1340	kHz	ND2	Daytime	C	C	LIC	SAN ANGELO	TX	US	BML-20110602ADL	1.0	kW	14514	N	31	28	43.00	W	100	27	50.00	1	Central	FIRST DALLAS MEDIA, INC.
KCRN	AM	1340	kHz	ND2	Nighttime	C	C	LIC	SAN ANGELO	TX	US	BML-20110602ADL	1.0	kW	14514	N	31	28	43.00	W	100	27	50.00	1	Central	FIRST DALLAS MEDIA, INC.
KUOW	AM	1340	kHz	ND2	Daytime	C	C	LIC	TUMWATER	WA	US	BML-20110801ARA	1.0	kW	20298	N	47	0	25.00	W	122	55	7.00	1	Pacific	UNIVERSITY OF WASHINGTON BOARD O
KUOW	AM	1340	kHz	ND2	Nighttime	C	C	LIC	TUMWATER	WA	US	BML-20110801ARA	1.0	kW	20298	N	47	0	25.00	W	122	55	7.00	1	Pacific	UNIVERSITY OF WASHINGTON BOARD O
KTFI	AM	1340	kHz	ND2	Daytime	C	C	LIC	WENDELL	ID	US	BML-20130115ADT	1.0	kW	160750	N	42	43	26.00	W	114	40	11.00	1	Mountain	SALT & LIGHT RADIO, INC.
KTFI	AM	1340	kHz	ND2	Nighttime	C	C	LIC	WENDELL	ID	US	BML-20130115ADT	1.0	kW	160750	N	42	43	26.00	W	114	40	11.00	1	Mountain	SALT & LIGHT RADIO, INC.
WNLK	AM	1350	kHz	ND2	Daytime	B	B	LIC	NORWALK	CT	US	BML-20111115ARL	1.0	kW	14378	N	41	6	54.00	W	73	26	6.00	1	Eastern	SACRED HEART UNIVERSITY, INCORPO
WNLK	AM	1350	kHz	ND2	Nighttime	B	B	LIC	NORWALK	CT	US	BML-20111115ARL	0.5	kW	14378	N	41	6	54.00	W	73	26	6.00	2	Eastern	SACRED HEART UNIVERSITY, INCORPO
WOAM	AM	1350	kHz	DA2	Daytime	B	B	LIC	PEORIA	IL	US	BML-20140312ABZ	1.0	kW	33878	N	40	35	41.00	W	89	35	40.00	3	Central	AMERICAN EDUCATION FOUNDATION, I
WOAM	AM	1350	kHz	DA2	Nighttime	B	B	LIC	PEORIA	IL	US	BML-20140312ABZ	1.0	kW	33878	N	40	35	41.00	W	89	35	40.00	4	Central	AMERICAN EDUCATION FOUNDATION, I
KNIR	AM	1360	kHz	ND2	Daytime	D	B	LIC	NEW IBERIA	LA	US	BML-20030731BNN	1.0	kW	6349	N	30	1	32.00	W	91	49	20.00	1	Central	RADIO MARIA, INC.
KNIR	AM	1360	kHz	ND2	Nighttime	D	B	LIC	NEW IBERIA	LA	US	BML-20030731BNN	0.209	kW	6349	N	30	1	32.00	W	91	49	20.00	1	Central	RADIO MARIA, INC.
KAHS	AM	1360	kHz	DA2	Daytime	B	B	LIC	EL DORADO	KS	US	BL-20070502AHE	1.0	kW	48538	N	37	48	47.00	W	96	48	44.00	2	Central	KANSAS CITY CATHOLIC NETWORK, IN
KAHS	AM	1360	kHz	DA2	Nighttime	B	B	LIC	EL DORADO	KS	US	BL-20070502AHE	0.24	kW	48538	N	37	48	47.00	W	96	48	44.00	3	Central	KANSAS CITY CATHOLIC NETWORK, IN
KDJW	AM	1360	kHz	DA2	Daytime	B	B	LIC	AMARILLO	TX	US	BML-20100823ADE	6.0	kW	48509	N	35	14	33.00	W	101	47	3.00	5	Central	CATHOLIC RADIO OF THE TEXAS HIGH
KDJW	AM	1360	kHz	DA2	Nighttime	B	B	LIC	AMARILLO	TX	US	BML-20100823ADE	0.32	kW	48509	N	35	14	32.00	W	101	47	2.00	3	Central	CATHOLIC RADIO OF THE TEXAS HIGH
WTOC	AM	1360	kHz	DA2	Daytime	B	B	LIC	NEWTON	NJ	US	BML-20110902ACI	2.0	kW	25414	N	41	2	22.00	W	74	44	19.00	2	Eastern	CENTRO BIBLICO OF NJ, INC.
WTOC	AM	1360	kHz	DA2	Nighttime	B	B	LIC	NEWTON	NJ	US	BML-20110902ACI	0.32	kW	25414	N	41	2	22.00	W	74	44	19.00	2	Eastern	CENTRO BIBLICO OF NJ, INC.
KUPA	AM	1370	kHz	ND2	Daytime	B	B	LIC	PEARL CITY	HI	US	BL-20020307ACY	6.2	kW	26441	N	21	26	18.00	W	157	59	29.00	1		BROADCASTING CORPORATION OF AMER
KUPA	AM	1370	kHz	ND2	Nighttime	B	B	LIC	PEARL CITY	HI	US	BL-20020307ACY	6.2	kW	26441	N	21	26	18.00	W	157	59	29.00	1		BROADCASTING CORPORATION OF AMER
KWTL	AM	1370	kHz	ND2	Daytime	B	B	LIC	GRAND FORKS	ND	US	BML-20090616ACS	12.0	kW	69201	N	47	52	59.00	W	97	6	46.00	1	Central	REAL PRESENCE RADIO
KWTL	AM	1370	kHz	ND2	Nighttime	B	B	LIC	GRAND FORKS	ND	US	BML-20090616ACS	0.27	kW	69201	N	47	52	59.00	W	97	6	46.00	1	Central	REAL PRESENCE RADIO
WLLM	AM	1370	kHz	ND3	Daytime	D	B	LIC	LINCOLN	IL	US	BML-20130130ALH	1.0	kW	9963	N	40	8	24.00	W	89	23	10.00	1	Central	CORNERSTONE COMMUNITY RADIO, INC
WLLM	AM	1370	kHz	ND3	Nighttime	D	B	LIC	LINCOLN	IL	US	BML-20130130ALH	0.035	kW	9963	N	40	8	24.00	W	89	23	10.00	1	Central	CORNERSTONE COMMUNITY RADIO, INC
WLLM	AM	1370	kHz	ND3	Daytime	D	B	LIC	LINCOLN	IL	US	BML-20130130ALH	1.0	kW	9963	N	40	8	24.00	W	89	23	10.00	1	Central	CORNERSTONE COMMUNITY RADIO, INC
WLLM	AM	1370	kHz	ND3	Nighttime	D	B	LIC	LINCOLN	IL	US	BML-20130130ALH	0.035	kW	9963	N	40	8	24.00	W	89	23	10.00	1	Central	CORNERSTONE COMMUNITY RADIO, INC
WPAZ	AM	1370	kHz	ND2	Daytime	D	-	LIC	POTTSTOWN	PA	US	BML-20130426ADA	1.0	kW	25002	N	40	16	35.00	W	75	37	44.00	1	Eastern	FOUR RIVERS COMMUNITY BROADCASTI
WPAZ	AM	1370	kHz	ND2	Nighttime	D	-	LIC	POTTSTOWN	PA	US	BML-20130426ADA	0.052	kW	25002	N	40	16	35.00	W	75	37	44.00	1	Eastern	FOUR RIVERS COMMUNITY BROADCASTI
KQKD	AM	1380	kHz	DA2	Daytime	D	B	LIC	REDFIELD	SD	US	BML-20041021AGE	0.5	kW	70083	N	44	53	53.00	W	98	30	23.00	2	Central	FAMILY STATIONS INC
KQKD	AM	1380	kHz	DA2	Nighttime	D	B	LIC	REDFIELD	SD	US	BML-20041021AGE	0.142	kW	70083	N	44	53	53.00	W	98	30	23.00	2	Central	FAMILY STATIONS INC

WPYR	AM	1380	kHz	DA2	Daytime	D	B	LIC	BATON ROUGE	LA	US	BML-20120201ASD	5.0	kW	47403	N	30	27	39.00	W	91	13	23.00	3	Central	CATHOLIC COMMUNITY RADIO, INC.
WPYR	AM	1380	kHz	DA2	Nighttime	D	B	LIC	BATON ROUGE	LA	US	BML-20120201ASD	0.062	kW	47403	N	30	27	39.00	W	91	13	23.00	3	Central	CATHOLIC COMMUNITY RADIO, INC.
KGNU	AM	1390	kHz	ND2	Daytime	D	B	LIC	DENVER	CO	US	BML-20040914AGC	5.0	kW	31349	N	39	39	29.00	W	105	0	49.00	1	Mountain	BOULDER COMMUNITY BROADCAST ASSO
KGNU	AM	1390	kHz	ND2	Nighttime	D	B	LIC	DENVER	CO	US	BML-20040914AGC	0.139	kW	31349	N	39	39	29.00	W	105	0	49.00	1	Mountain	BOULDER COMMUNITY BROADCAST ASSO
WABB	AM	1390	kHz	ND2	Daytime	D	B	LIC	BELTON	SC	US	BL-20050525ARV	1.0	kW	10076	N	34	35	19.00	W	82	32	17.00	1	Eastern	THE POWER FOUNDATION
WABB	AM	1390	kHz	ND2	Nighttime	D	B	LIC	BELTON	SC	US	BL-20050525ARV	0.017	kW	10076	N	34	35	19.00	W	82	32	17.00	1	Eastern	THE POWER FOUNDATION
WJRM	AM	1390	kHz	ND2	Daytime	D	B	LIC	TROY	NC	US	BML-20110318AFQ	1.0	kW	43632	N	35	21	43.00	W	79	51	38.00	1	Eastern	FAMILY WORSHIP MINISTRIES, INC.
WJRM	AM	1390	kHz	ND2	Nighttime	D	B	LIC	TROY	NC	US	BML-20110318AFQ	0.035	kW	43632	N	35	21	43.00	W	79	51	38.00	1	Eastern	FAMILY WORSHIP MINISTRIES, INC.
WAMC	AM	1400	kHz	ND2	Daytime	C	C	LIC	ALBANY	NY	US	BML-20030401CJO	1.0	kW	4683	N	42	41	21.00	W	73	47	37.00	1	Eastern	WAMC
WAMC	AM	1400	kHz	ND2	Nighttime	C	C	LIC	ALBANY	NY	US	BML-20030401CJO	1.0	kW	4683	N	42	41	21.00	W	73	47	37.00	1	Eastern	WAMC
KIHH	AM	1400	kHz	ND2	Daytime	C	C	LIC	EUREKA	CA	US	BL-20080821AEG	0.79	kW	160910	N	40	48	10.00	W	124	8	16.00	1	Pacific	IHR EDUCATIONAL BROADCASTING
KIHH	AM	1400	kHz	ND2	Nighttime	C	C	LIC	EUREKA	CA	US	BL-20080821AEG	0.79	kW	160910	N	40	48	10.00	W	124	8	16.00	1	Pacific	IHR EDUCATIONAL BROADCASTING
KHCB	AM	1400	kHz	DA2	Daytime	C	C	LIC	LEAGUE CITY	TX	US	BL-20090415AMM	1.0	kW	27703	N	29	25	35.00	W	95	8	0.00	2	Central	HOUSTON CHRISTIAN BROADCASTERS,
KHCB	AM	1400	kHz	DA2	Nighttime	C	C	LIC	LEAGUE CITY	TX	US	BL-20090415AMM	1.0	kW	27703	N	29	25	35.00	W	95	8	0.00	2	Central	HOUSTON CHRISTIAN BROADCASTERS,
WBFN	AM	1400	kHz	ND2	Daytime	C	C	LIC	BATTLE CREEK	MI	US	BML-20110308ABP	1.0	kW	37462	N	42	18	15.00	W	85	11	32.00	1	Eastern	FAMILY LIFE BROADCASTING SYSTEM
WBFN	AM	1400	kHz	ND2	Nighttime	C	C	LIC	BATTLE CREEK	MI	US	BML-20110308ABP	1.0	kW	37462	N	42	18	15.00	W	85	11	32.00	1	Eastern	FAMILY LIFE BROADCASTING SYSTEM
WSTC	AM	1400	kHz	ND2	Daytime	C	C	LIC	STAMFORD	CT	US	BML-20111115ARK	0.78	kW	10660	N	41	2	49.00	W	73	31	36.00	1	Eastern	SACRED HEART UNIVERSITY, INCORPO
WSTC	AM	1400	kHz	ND2	Nighttime	C	C	LIC	STAMFORD	CT	US	BML-20111115ARK	0.78	kW	10660	N	41	2	49.00	W	73	31	36.00	1	Eastern	SACRED HEART UNIVERSITY, INCORPO
KGWU	AM	1400	kHz	ND2	Daytime	C	C	LIC	UVALDE	TX	US	BML-20120301AET	1.0	kW	69620	N	29	11	16.00	W	99	46	36.00	1	Central	LA PROMESA FOUNDATION
KGWU	AM	1400	kHz	ND2	Nighttime	C	C	LIC	UVALDE	TX	US	BML-20120301AET	1.0	kW	69620	N	29	11	16.00	W	99	46	36.00	1	Central	LA PROMESA FOUNDATION
WLYY	AM	1400	kHz	ND2	Daytime	C	C	LIC	COPPER HILL	TN	US	BML-20130513ADV	1.0	kW	13862	N	34	58	4.00	W	84	19	39.00	1	Central	JOY CHRISTIAN COMMUNICATIONS, IN
WLYY	AM	1400	kHz	ND2	Nighttime	C	C	LIC	COPPER HILL	TN	US	BML-20130513ADV	1.0	kW	13862	N	34	58	4.00	W	84	19	39.00	1	Central	JOY CHRISTIAN COMMUNICATIONS, IN
WIHM	AM	1410	kHz	DA2	Daytime	D	B	LIC	TAYLORVILLE	IL	US	BML-20010530ADB	1.0	kW	42644	N	39	32	38.00	W	89	16	30.00	2	Central	COVENANT NETWORK
WIHM	AM	1410	kHz	DA2	Nighttime	D	B	LIC	TAYLORVILLE	IL	US	BML-20010530ADB	0.063	kW	42644	N	39	32	38.00	W	89	16	30.00	2	Central	COVENANT NETWORK
KHCH	AM	1410	kHz	ND1	Daytime	D	B	LIC	HUNTSVILLE	TX	US	BML-20080204AEL	0.25	kW	30274	N	30	42	54.00	W	95	31	42.00	1	Central	HOUSTON CHRISTIAN BROADCASTERS,
KHCH	AM	1410	kHz	ND1	Nighttime	D	B	LIC	HUNTSVILLE	TX	US	BML-20080204AEL	0.087	kW	30274	N	30	42	54.00	W	95	31	42.00	1	Central	HOUSTON CHRISTIAN BROADCASTERS,
WGAS	AM	1420	kHz	ND2	Daytime	D	B	LIC	SOUTH GASTONIA	NC	US	BML-20080201CPR	0.5	kW	39515	N	35	10	58.00	W	81	12	30.00	1	Eastern	VICTORY CHRISTIAN CENTER, INC.
WGAS	AM	1420	kHz	ND2	Nighttime	D	B	LIC	SOUTH GASTONIA	NC	US	BML-20080201CPR	0.041	kW	39515	N	35	10	58.00	W	81	12	30.00	1	Eastern	VICTORY CHRISTIAN CENTER, INC.
KMHS	AM	1420	kHz	ND1	Daytime	D	B	LIC	COOS BAY	OR	US	BL-20080604ADI	1.0	kW	55243	N	43	22	7.00	W	124	12	11.00	1	Pacific	COOS BAY SCHOOL DISTRICT NO. 9
KMHS	AM	1420	kHz	ND1	Nighttime	D	B	LIC	COOS BAY	OR	US	BL-20080604ADI	0.041	kW	55243	N	43	22	7.00	W	124	12	11.00	1	Pacific	COOS BAY SCHOOL DISTRICT NO. 9
WCOJ	AM	1420	kHz	DAN	Daytime	B	B	LIC	COATESVILLE	PA	US	BML-20090219AEW	5.0	kW	63593	N	40	1	21.00	W	75	48	53.00	1	Eastern	HOLY SPIRIT RADIO FOUNDATION, IN
WCOJ	AM	1420	kHz	DAN	Nighttime	B	B	LIC	COATESVILLE	PA	US	BML-20090219AEW	5.0	kW	63593	N	40	1	21.00	W	75	48	53.00	4	Eastern	HOLY SPIRIT RADIO FOUNDATION, IN
WPLN	AM	1430	kHz	DAN	Daytime	B	B	LIC	MADISON	TN	US	BL-20020513ABA	15.0	kW	21473	N	36	16	19.00	W	86	42	53.00	1	Central	NASHVILLE PUBLIC RADIO
WPLN	AM	1430	kHz	DAN	Nighttime	B	B	LIC	MADISON	TN	US	BL-20020513ABA	1.0	kW	21473	N	36	16	19.00	W	86	42	53.00	4	Central	NASHVILLE PUBLIC RADIO
KSHJ	AM	1430	kHz	DA2	Daytime	B	B	LIC	HOUSTON	TX	US	BML-20121114AGN	5.0	kW	33737	N	29	45	21.00	W	95	16	37.00	2	Central	LA PROMESA FOUNDATION
KSHJ	AM	1430	kHz	DA2	Nighttime	B	B	LIC	HOUSTON	TX	US	BML-20121114AGN	1.0	kW	33737	N	29	45	20.00	W	95	16	37.00	3	Central	LA PROMESA FOUNDATION
WCWC	AM	1430	kHz	ND2	Daytime	D	B	LIC	WILLIAMSBURG	KY	US	BL-20130819AGE	4.6	kW	72290	N	36	46	50.00	W	84	9	36.00	1	Eastern	WHITLEY COUNTY BOARD OF EDUCATIO
WCWC	AM	1430	kHz	ND2	Nighttime	D	B	LIC	WILLIAMSBURG	KY	US	BL-20130819AGE	0.031	kW	72290	N	36	46	50.00	W	84	9	36.00	1	Eastern	WHITLEY COUNTY BOARD OF EDUCATIO
KJCV	AM	1450	kHz	ND2	Daytime	C	C	LIC	JACKSON	WY	US	BL-20090921AEC	1.0	kW	160983	N	43	27	45.00	W	110	47	37.00	1	Mountain	COMMUNITY BROADCASTING, INC..
KJCV	AM	1450	kHz	ND2	Nighttime	C	C	LIC	JACKSON	WY	US	BL-20090921AEC	1.0	kW	160983	N	43	27	45.00	W	110	47	37.00	1	Mountain	COMMUNITY BROADCASTING, INC..
WLUX	AM	1450	kHz	ND1	Daytime	C	C	LIC	DUNBAR	WV	US	BL-20110201AFV	1.0	kW	160953	N	38	20	57.00	W	81	44	53.00	1	Eastern	ST. PAUL RADIO CO.
WLUX	AM	1450	kHz	ND1	Nighttime	C	C	LIC	DUNBAR	WV	US	BL-20110201AFV	1.0	kW	160953	N	38	20	57.00	W	81	44	53.00	1	Eastern	ST. PAUL RADIO CO.
KEZJ	AM	1450	kHz	ND2	Daytime	C	C	LIC	TWIN FALLS	ID	US	BML-20130401AVI	1.0	kW	3402	N	42	32	36.00	W	114	28	14.00	1	Mountain	SALT & LIGHT RADIO, INC.
KEZJ	AM	1450	kHz	ND2	Nighttime	C	C	LIC	TWIN FALLS	ID	US	BML-20130401AVI	1.0	kW	3402	N	42	32	36.00	W	114	28	14.00	1	Mountain	SALT & LIGHT RADIO, INC.
KARR	AM	1460	kHz	DA2	Daytime	B	B	LIC	KIRKLAND	WA	US	BL-20070725AMK	5.0	kW	20669	N	47	40	23.00	W	122	10	8.00	3	Pacific	FAMILY STATIONS INC
KARR	AM	1460	kHz	DA2	Nighttime	B	B	LIC	KIRKLAND	WA	US	BL-20070725AMK	2.5	kW	20669	N	47	40	23.00	W	122	10	8.00	3	Pacific	FAMILY STATIONS INC
WOPG	AM	1460	kHz	DAN	Daytime	B	B	LIC	ALBANY	NY	US	BML-20131031AHN	5.0	kW	72117	N	42	37	21.00	W	73	48	9.00	1	Eastern	PAX ET BONUM, INC.
WOPG	AM	1460	kHz	DAN	Nighttime	B	B	LIC	ALBANY	NY	US	BML-20131031AHN	5.0	kW	72117	N	42	37	21.00	W	73	48	9.00	3	Eastern	PAX ET BONUM, INC.
WLOA	AM	1470	kHz	DAN	Daytime	B	B	LIC	FARRELL	PA	US	BML-20110923AFI	1.0	kW	47569	N	41	11	58.00	W	80	31	22.00	1	Eastern	VCI RADIO, INC.
WLOA	AM	1470	kHz	DAN	Nighttime	B	B	LIC	FARRELL	PA	US	BML-20110923AFI	0.5	kW	47569	N	41	11	58.00	W	80	31	22.00	3	Eastern	VCI RADIO, INC.
WTZE	AM	1470	kHz	NDD	Daytime	D	B	LIC	TAZEWELL	VA	US	BML-20130314ADM	5.0	kW	64664	N	37	7	57.00	W	81	33	21.00	1	Eastern	CALVARY CHAPEL OF TWIN FALLS, IN
WGVU	AM	1480	kHz	DAN	Daytime	B	B	LIC	KENTWOOD	MI	US	BL-20061002CAF	2.0	kW	24785	N	42	50	36.00	W	85	37	7.00	1	Eastern	GRAND VALLEY STATE UNIVERSITY B
WGVU	AM	1480	kHz	DAN	Nighttime	B	B	LIC	KENTWOOD	MI	US	BL-20061002CAF	5.0	kW	24785	N	42	50	36.00	W	85	37	7.00	4	Eastern	GRAND VALLEY STATE UNIVERSITY B
WKGC	AM	1480	kHz	ND2	Daytime	D	B	LIC	SOUTHPORT	FL	US	BL-20090327AIB	5.0	kW	25564	N	30	17	45.00	W	85	39	42.00	1	Central	GULF COAST COMMUNITY COLLEGE
WKGC	AM	1480	kHz	ND2	Nighttime	D	B	LIC	SOUTHPORT	FL	US	BL-20090327AIB	0.034	kW	25564	N	30	17	45.00	W	85	39	42.00	1	Central	GULF COAST COMMUNITY COLLEGE
WPFJ	AM	1480	kHz	ND2	Daytime	D	B	LIC	FRANKLIN	NC	US	BML-20110630AJF	5.0	kW	17566	N	35	10	58.00	W	83	21	27.00	1	Eastern	TOCCOA FALLS COLLEGE
WPFJ	AM	1480	kHz	ND2	Nighttime	D	B	LIC	FRANKLIN	NC	US	BML-20110630AJF	0.013	kW	17566	N	35	10	58.00	W	83	21	27.00	1	Eastern	TOCCOA FALLS COLLEGE
KCFC	AM	1490	kHz	ND1	Daytime	C	C	LIC	BOULDER	CO	US	BML-20010703ABL	1.0	kW	70405	N	40	1	42.00	W	105	15	6.00	1	Mountain	PUBLIC BROADCASTING OF COLORADO,
KCFC	AM	1490	kHz	ND1	Nighttime	C	C	LIC	BOULDER	CO	US	BML-20010703ABL	1.0	kW	70405	N	40	1	42.00	W	105	15	6.00	1	Mountain	PUBLIC BROADCASTING OF COLORADO,
KSYC	AM	1490	kHz	ND2	Daytime	C	C	LIC	YREKA	CA	US	BML-20020607ABV	1.0	kW	15313	N	41	43	28.00	W	122	39	0.00	1	Pacific	JPR FOUNDATION INC.
KSYC	AM	1490	kHz	ND2	Nighttime	C	C	LIC	YREKA	CA	US	BML-20020607ABV	1.0	kW	15313	N	41	43	28.00	W	122	39	0.00	1	Pacific	JPR FOUNDATION INC.
WKDR	AM	1490	kHz	ND2	Daytime	C	C	LIC	BERLIN	NH	US	BL-20090720AEK	1.0	kW	160163	N	44	28	58.00	W	71	10	38.00	1	Eastern	WHITE MOUNTAINS BROADCASTING, LL
WKDR	AM	1490	kHz	ND2	Nighttime	C	C	LIC	BERLIN	NH	US	BL-20090720AEK	0.93	kW	160163	N	44	28	58.00	W	71	10	38.00	1	Eastern	WHITE MOUNTAINS BROADCASTING, LL
KDFN	AM	1500	kHz	NDD	Daytime	D	B	LIC	DONIPHAN	MO	US	BL-20040206AEF	1.0	kW	29621	N	36	36	51.00	W	90	49	22.00	1	Central	EAGLE BLUFF ENTERPRISES
WSMX	AM	1500	kHz	NDD	Daytime	D	B	LIC	WINSTON-SALEM	NC	US	BL-20070806AFR	0.14	kW	24682	N	36	4	26.00	W	80	15	19.00	1	Eastern	TRUTH BROADCASTING CORPORATION
WPGR	AM	1510	kHz	DA2	Nighttime	D	B	LIC	MONROEVILLE	PA	US	BML-20090709APD	0.001	kW	4028	N	40	28	13.00	W	79	51	4.00	1	Eastern	SAINT JOSEPH MISSIONS
WPGR	AM	1510	kHz	DA2	Daytime	D	B	LIC	MONROEVILLE	PA	US	BML-20090709APD	5.0	kW	4028	N	40	28	13.00	W	79	51	4.00	2	Eastern	SAINT JOSEPH MISSIONS
WPGR	AM	1510	kHz	DA2	Critical Hours	D	B	LIC	MONROEVILLE	PA	US	BML-20090709APD	2.5	kW	4028	N	40	28	13.00	W	79	51	4.00	2	Eastern	SAINT JOSEPH MISSIONS
WFIC	AM	1530	kHz	ND2	Daytime	D	B	LIC	COLLINSVILLE	VA	US	BML-20120716AFG	1.0	kW	59418	N	36	42	56.00	W	79	55	15.00	1	Eastern	GRACE MISSIONARY BAPTIST CHURCH
WFIC	AM	1530	kHz	ND2	Critical Hours	D	B	LIC	COLLINSVILLE	VA	US	BML-20120716AFG	0.25	kW	59418	N	36	42	56.00	W	79	55	15.00	1	Eastern	GRACE MISSIONARY BAPTIST CHURCH
WKXG	AM	1540	kHz	ND2	Daytime	D	B	LIC	GREENWOOD	MS	US	BML-20101109ADU	1.0	kW	65008	N	33	31	12.00	W	90	8	28.00	1	Central	ETERNITY RECORDS COMPANY, LLC
WKXG	AM	1540	kHz	ND2	Nighttime	D	B	LIC	GREENWOOD	MS	US	BML-20101109ADU	0.002	kW	65008	N	33	31	12.00	W	90	8	28.00	1	Central	ETERNITY RECORDS COMPANY, LLC
KKAA	AM	1560	kHz	DA2	Daytime	B	B	LIC	ABERDEEN	SD	US	BMML-20100104AFE	10.0	kW	15965	N	45	25	5.00	W	98	28	36.00	3	Central	FAMILY STATIONS INC
KKAA	AM	1560	kHz	DA2	Nighttime	B	B	LIC	ABERDEEN	SD	US	BMML-20100104AFE	10.0	kW	15965	N	45	25	5.00	W	98	28	36.00	6	Central	FAMILY STATIONS INC
WLYG	AM	1560	kHz	NDD	Daytime	D	B	LIC	CENTRE	AL	US	BML-20111115ARI	1.0	kW	54521	N	34	7	41.00	W	85	38	27.00	1	Central	JOY CHRISTIAN COMMUNICATIONS, IN
WYZD	AM	1560	kHz	ND2	Daytime	D	B	LIC	DOBSON	NC	US	BL-20130627ACD	4.2	kW	17047	N	36	23	33.00	W	80	44	0.00	1	Eastern	GOSPEL BROADCASTING, INC
WYZD	AM	1560	kHz	ND2	Critical Hours	D	B	LIC	DOBSON	NC	US	BL-20130627ACD	0.51	kW	17047	N	36	23	33.00	W	80	44	0.00	1	Eastern	GOSPEL BROADCASTING, INC
WISP	AM	1570	kHz	DA2	Daytime	B	B	LIC	DOYLESTOWN	PA	US	BML-20090219AEX	5.0	kW	48310	N	40	19	34.00	W	75	9	40.00	4	Eastern	HOLY SPIRIT RADIO FOUNDATION, IN
WISP	AM	1570	kHz	DA2	Nighttime	B	B	LIC	DOYLESTOWN	PA	US	BML-20090219AEX	0.9	kW	48310	N	40	19	34.00	W	75	9	40.00	4	Eastern	HOLY SPIRIT RADIO FOUNDATION, IN
KAMI	AM	1580	kHz	ND2	Daytime	D	B	LIC	COZAD	NE	US	BML-20040421AFO	1.0	kW	69845	N	40	50	18.00	W	99	56	20.00	1	Central	COMMUNITY BROADCASTING, INC.
KAMI	AM	1580	kHz	ND2	Nighttime	D	B	LIC	COZAD	NE	US	BML-20040421AFO	0.017	kW	69845	N	40	50	18.00	W	99	56	20.00	1	Central	COMMUNITY BROADCASTING, INC.
WVZN	AM	1580	kHz	ND2	Daytime	D	B	LIC	COLUMBIA	PA	US	BML-20110602ADM	0.5	kW	25819	N	40	0	53.00	W	76	28	13.00	1	Eastern	RADIO VISION CRISTIANA MANAGEMEN
WVZN	AM	1580	kHz	ND2	Nighttime	D	B	LIC	COLUMBIA	PA	US	BML-20110602ADM	0.005	kW	25819	N	40	0	53.00	W	76	28	13.00	1	Eastern	RADIO VISION CRISTIANA MANAGEMEN
KMOZ	AM	1590	kHz	ND2	Daytime	D	B	LIC	ROLLA	MO	US	BL-20060927AQN	1.0	kW	53651	N	37	56	40.00	W	91	48	42.00	1	Central	COMMUNITY BROADCASTING, INC.
KMOZ	AM	1590	kHz	ND2	Nighttime	D	B	LIC	ROLLA	MO	US	BL-20060927AQN	0.085	kW	53651	N	37	56	40.00	W	91	48	42.00	1	Central	COMMUNITY BROADCASTING, INC.
WHGT	AM	1590	kHz	DA2	Daytime	D	B	LIC	MAUGANSVILLE	MD	US	BMML-20130805ADR	15.0	kW	39494	N	39	48	23.00	W	77	46	45.00	2	Eastern	WHGT CHRISTIAN RADIO, LLC
WHGT	AM	1590	kHz	DA2	Nighttime	D	B	LIC	MAUGANSVILLE	MD	US	BMML-20130805ADR	0.058	kW	39494	N	39	48	23.00	W	77	46	45.00	2	Eastern	WHGT CHRISTIAN RADIO, LLC
KDAE	AM	1590	kHz	DA2	Daytime	B	B	LIC	SINTON	TX	US	BML-20131113BUY	1.0	kW	63346	N	28	1	16.00	W	97	28	14.00	2	Central	THE WORSHIP CENTER OF KINGSVILLE
KDAE	AM	1590	kHz	DA2	Nighttime	B	B	LIC	SINTON	TX	US	BML-20131113BUY	0.5	kW	63346	N	28	1	16.00	W	97	28	14.00	4	Central	THE WORSHIP CENTER OF KINGSVILLE
KOPB	AM	1600	kHz	DAN	Daytime	B	B	LIC	EUGENE	OR	US	BML-20071130BID	5.0	kW	841	N	44	3	5.00	W	123	3	48.00	1	Pacific	OREGON PUBLIC BROADCASTING
KOPB	AM	1600	kHz	DAN	Nighttime	B	B	LIC	EUGENE	OR	US	BML-20071130BID	1.0	kW	841	N	44	3	5.00	W	123	3	48.00	2	Pacific	OREGON PUBLIC BROADCASTING
KSMH	AM	1620	kHz	ND2	Daytime	B	B	LIC	WEST SACRAMENTO	CA	US	BML-20040618ABB	10.0	kW	87036	N	38	35	17.00	W	121	28	5.00	1	Pacific	IHR EDUCATIONAL BROADCASTING

KSMH	AM 1620 kHz	ND2	Nighttime	B	B LIC	WEST SACRAMENTO	CA US	BML-20040618ABB	1.0	kW	87036	N 38 35 17.00	W 121 28 5.00	1	Pacific	IHR EDUCATIONAL BROADCASTING

*** 314 Records Retrieved ***

Related Nonbroadcast Facilities: ULS Search

Using a broadcast station's facility ID number, you may search in the WTB's ULS database for nonbroadcast station records that are related to radio and TV broadcast stations, such as microwave facilities. Use the ULS Radio Services List to determine the nonbroadcast station's service. Not every AM, FM, or TV broadcast station will have related nonbroadcast operations.

Facility ID Number Search ULS Clear

Output will appear in a new browser window or tab. Alternate Form

Return to AM Query Data Entry screen

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P

DJ Cassidy

His new video "Make The World Go Round" featuring R. Kelly is out now. Watch it HERE

RT @johnlegend: Early flight back to LA for the @BETAwards. Excited to perform tonight!

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COPYRIGHT ARBITRATION ROYALTY PANEL

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In the matter of:	Docket No. 2000-9
Digital Performance Right in Sound Recording and Ephemeral Recording	CARP DTRA 1 & 2

Conference Room 216
Second Floor
Offices of Arnold & Porter
555 12th Street, N.W.
Washington, D.C.

Thursday,
October 18, 2001

The above-entitled matter came on for rebuttal hearing, pursuant to notice, at 9:30 a.m.

BEFORE

THE HONORABLE ERIC E. VAN LOON Chairman
THE HONORABLE JEFFREY S. GULIN Arbitrator
THE HONORABLE CURTIS E. von KANN Arbitrator

C-O-N-T-E-N-T-S

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
Mary Kessler				
By Ms. Woods	11729		11874	
By Mr. Jacoby		11751		11877
By Mr. Joseph		11823		11879
By Ms. Leary		11864		
Michael Williams				
By Mr. Jacoby		11883		
Michael Mazis				
By Mr. Joseph	11930		11996	
By Mr. Garrett		11960		
By Mr. Schechter		11940		
Richard Seltzer				
By Mr. Schechter	12007			
By Mr. Joseph		12046		

EXHIBIT	DESCRIPTION	MARK	RECD
RIAA			
142 DPX	Survey	12079	12079
SERV Rebuttal			
8	Seltzer Study	12083	12083
9	Seltzer Study	12091	12091

Kessler's testimony? If that's not agreeable, he can, of course, go outside.

MR. JACOBY: Since they are in fact testifying about some of the same subject matter, it probably would be the appropriate thing to exclude Mr. Williams. Nothing personal.

CHAIRMAN VAN LOON: Good morning. Welcome. Please make yourself at home. We're delighted to have you with us, and you've missed a real gem of a conference room at the Library of Congress.

MS. KESSLER: So I understand.

Whereupon,

MARY KESSLER

was called as a witness by Counsel for the Recording Industry Association of America, Inc. and having been first duly sworn, assumed the witness stand and was examined and testified as follows:

MS. WOODS: And Ms. Kessler was actually designated as a responsive witness to some of the rebuttal testimony on the other side, so I have a few questions for her before we start the cross

being reported by any of the licensee. There's no public --

CHAIRMAN VAN LOON: It's not being recorded by --

THE WITNESS: Reported by any of the licensees. There's no public place to go and get the ISRC number. The ISRC is used in the sound recording database, which is a completely separate project under the RIAA.

CHAIRMAN VAN LOON: As I understand --

THE WITNESS: I'm sorry. But the ISRC is generally on, you know, from some point in time, say-- I mean, I'm just -- for example, 1998 forward the ISRC is assigned to new releases, sound recording new releases. So depending on, you know, the section of the catalogue you're looking in you could be 100 percent populated with an ISRC. The farther back you go, the more likely it is that you will not have an ISRC assigned to that song.

CHAIRMAN VAN LOON: Then I understand your testimony directly that the monthly logs that you receive have a slot for IRSC and anyone that doesn't

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TEN YEAR FORMAT TRACK

Format	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Country	2047	2022	2038	2027	2018	1995	1997	1987	2020	2042
News/Talk	1287	1326	1338	1368	1365	1416	1437	1455	1503	1453
Spanish	665	696	706	786	799	803	806	818	816	835
Sports	472	508	535	564	595	634	665	670	692	740
Classic Hits	237	271	429	477	524	582	637	657	657	678
Adult Contemporary	696	683	660	665	670	626	634	607	597	605
Top 40	502	503	484	472	472	484	495	523	559	573
Oldies	811	762	725	709	708	649	637	628	597	566
Classic Rock	451	461	456	456	474	477	481	477	477	486
Hot AC	420	374	378	373	373	409	417	435	420	428
Religion*	329	319	311	287	299	324	322	332	342	336
Rock	282	269	276	281	287	298	294	301	295	299
Adult Standards	458	404	368	369	358	327	265	251	240	227
Black Gospel	274	286	267	253	244	242	235	225	214	212
Contemp. Christian	169	172	150	153	136	162	166	166	171	172
Southern Gospel	204	206	208	204	211	209	197	188	170	172
Urban AC	140	156	167	161	161	162	159	155	152	158
Ethnic	107	115	116	115	118	121	127	131	132	142
Soft AC	319	324	302	242	223	204	173	161	156	141
R&B	157	150	136	134	135	127	128	134	132	131
Alternative Rock	100	103	108	120	121	107	99	101	102	101
Modern Rock	164	151	134	125	122	114	111	101	93	96
R&B Adult/Oldies	50	53	47	41	36	40	48	50	51	46
Variety	41	37	35	37	37	42	43	45	49	46
Pre-Teen	59	60	58	57	56	52	44	39	35	33
Jazz	88	84	78	73	60	40	38	24	36	28
Rhythmic AC				27	24	18	18	16	17	21
Gospel	35	36	32	26	26	25	26	25	23	19
Easy Listening	18	19	21	19	16	18	19	17	19	18
Classical	34	28	29	23	22	23	19	22	20	16
Modern AC	34	23	20	19	21	20	18	20	15	14
Format Not Available	1	1	11	5	7	4	16	12	12	36
TOTAL STATIONS	10651	10602	10623	10668	10718	10754	10771	10773	10814	10870
Stations off the air	81	72	88	92	135	223	253	261	264	237
Construction Permits	111	238	358	435	377	329	341	321	356	295

Source: M Street Database, July 2013. Format Counts for All Commercial U.S. Stations (does not include HD stations) *Teaching, Variety. All data provided by www.PrecisionTrak.com.

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GENERAL COUNSEL
OF COPYRIGHT

AUG 12 1996

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Before the
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Reply Comment Letter

RM 96- 3

No. 3

In re:	)	
Notice and Recordkeeping for	)	Docket No. RM 96-3
Subscription Digital Transmissions	)	

Reply Comments of the Recording Industry Association of America, Inc.

The Recording Industry Association of America, Inc. ("RIAA"), in response to comments by DMX, Inc. ("DMX"), Digital Cable Radio Associates ("DCR" or "Music Choice"), and MUZAK (collectively the "Services"), on the requirements by which sound recording copyright owners ("sound recording copyright owners") shall receive *reasonable notice* of the use of their works from subscription digital transmission services, and how records of such use shall *be kept* and *made available* to sound recording copyright owners, respectfully submits its reply comments. 61 Fed. Reg. 22,004 (1996).

I. SUMMARY

The following points are fully discussed in these reply comments:

- As set forth in the comments of the RIAA submitted to the Library of Congress, Copyright Office (the "Copyright Office") on July 12, 1996 (the "RIAA comments"), the RIAA requires notice of actual use information in the format set forth in its comments, in order to properly and accurately distribute statutory

sound recording and the number of times that sound recording was played. Id. At first blush this appears reasonable. However, as fully set forth in the RIAA's comments, specific sound recording information is required to accurately track sound recording usage data necessary to distribute the collected royalties, as well as to monitor compliance with the sound recording complement. Comments of the RIAA at 5-6, 7-9. Additionally, to the extent that royalties may be paid to sound recording copyright owners based upon the age of the sound recording, or the particular time slot in which the sound recording was performed, date and time elements will be required. Summarized data, as proposed by DMX, will not contain these crucial elements.

MUZAK proposes sampling of data to guesstimate sound recording usage: "The reports should consist of accurate listings of all songs played during a limited period...on a limited number of channels..." Comments of MUZAK at 2. However, sampling would not provide statistically representative distribution data, and could deny certain sound recording copyright owners royalties to which they are entitled under the law. Specifically, a unique characteristic of the programming provided by the Services is the diversity of music that is available on anywhere from 30-92 channels. Comments of DMX, Inc. at 4. As DMX points out, at least for its programming, they are not primarily focused on hit selections: "Unlike traditional broadcast media that focus primarily on hit selections, the diversity of channels on DMX exposes many artists and musical styles that otherwise would receive little or no air play in the United States." Id. Sampling could deny many sound recording copyright owners of non-mainstream sound recordings, royalties to which they are entitled.

V. CONCLUSION

Under the Act, sound recording copyright owners are entitled to actual notice of the use of their sound recordings by the Services. Notice of use information must contain more then summary information; both the Song Library and the Performance log are necessary for cross-referencing purposes. These reports can be fully automated for a minimal cost, thus alleviating all of the concerns raised by the Services in terms of dollars, manpower, and time.

Based upon the foregoing, we respectfully request that the Office adopt the amended proposed regulations as set forth in the attached Schedule "A".

Respectfully submitted,

Linda R. Bocchi, Esq.
Associate General Counsel
Director of Royalty Administration

Jean R. Milbauer, Esq.
Counsel

1020 Nineteenth Street, N.W.
Suite 200
Washington, D.C. 20036
(202) 775-0101

Counsel for the Recording Industry
Association of America

August 12, 1996

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MORTGAGE

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By Bankrate.com

Prime rate, federal funds rate, COFI Updated 6/25/2014

	This week	Month ago	Year ago
WSJ Prime Rate	3.25	3.25	3.25

What it means: The initials stand for The Wall Street Journal, which surveys large banks and publishes the consensus prime rate. The Journal surveys the 30 largest banks, and when three-quarters of them (23) change, the Journal changes its rate, effective on the day the Journal publishes the new rate. It's the most widely quoted measure of the prime rate, which is the rate at which banks will lend money to their most-favored customers. The prime rate will move up or down in lock step with changes by the Federal Reserve Board.

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20 year fixed	30 year fixed refi	5/1 ARM	5/1 ARM refi	7/1 ARM (IO)	30 year (IO) refi
30 year fixed	30 year FHA refi	7/1 ARM	7/1 ARM refi	30 year fixed (IO)	Sell all ARMs
30 year FHA	See all fixed	10/1 ARM	10/1 ARM refi	3/1 ARM (IO) refi	Sell all IOs

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1. Purpose of SoundExchange. SoundExchange, Inc. ("SoundExchange") is a 501(c)(6) Delaware not-for-profit performance rights organization established to ensure the collection and distribution of royalties payable to Featured Artists (defined below) and Sound Recording Copyright Owners (defined below) for certain uses of sound recordings. SoundExchange administers the statutory license codified in 17 U.S.C. Sec. 112 and 114 which covers streaming of digital audio transmissions over the Internet, cable, and satellite radio services, as well as a variety of other platforms. As the sole collective designated by the United States Copyright Royalty Judges to collect and distribute these royalties in the United States, SoundExchange pays registered Copyright Owners and Featured Artists whose works are being performed under the terms of the statutory license, whether or not they are members of SoundExchange. All that is required is the completion of registration requirements, so that SoundExchange has the necessary information to issue royalty checks. In addition, SoundExchange also functions as a membership organization. On behalf of its members, SoundExchange engages in voluntary licensing within the scope of the statutory license and enters into agreements with foreign sound recording performance rights organizations to collect and distribute royalties for the use of member sound recordings outside the United States. Sound Recording Copyright Owners and Featured Artists must be SoundExchange members to receive foreign royalties.

1.1. Purpose of these Policies and Procedures. These are the Policies and Procedures adopted by the SoundExchange Board of Directors, an eighteen (18) member body comprised of equal representation of sound recording copyright owner representatives and performer representatives, in conjunction with SoundExchange management. It is intended to inform Registrants (defined below) and Members (defined below) of the policies applicable to their relationship with SoundExchange. These policies are subject to ongoing review by SoundExchange and may be amended periodically. It is the duty of Registrants and Members to remain informed of these policies, as they may be amended, which are posted on the SoundExchange website.

1.2. Definitions.

1.2.2. Authorized Representative. "Authorized Representative" shall mean an individual or organization authorized by a Featured Artist or Sound Recording Copyright Owner to represent such Featured Artist or Sound Recording Copyright Owner. An Authorized Representative must present sufficient evidence to SoundExchange of its representative status (e.g., a power of attorney, evidence of legal guardianship, or trusteeship, etc.) at the time of, or prior to, submitting or requesting information on behalf of a Featured Artist or Sound Recording Copyright Owner.

1.2.1. Featured Artist. "Featured Artist" shall mean the performing group or individual identified most prominently in print or in connection with the sound recording being performed.

1.2.2. Member. "Member" shall mean a Registrant who has completed either the Featured Artist Membership Agreement or the Sound Recording Copyright Owner Membership Agreement.

1.2.3. Non-Featured Artist. "Non-Featured Artist" shall mean any vocalist or musician who performs on a particular sound recording who is not the Featured Artist.

1.2.4. Registrant. "Registrant" shall mean a Featured Artist or individual member of a Featured Artist group or Sound Recording Copyright Owner who completes the registration section of the Registration Form but does not complete a Featured Artist or Sound Recording Copyright Owner Membership Agreement.

1.2.5. Sound Recording Copyright Owner. "Sound Recording Copyright Owner" or "Copyright Owner" shall mean the copyright owner of the master sound recording being performed. Typically the Copyright Owner is listed in the copyright registration form, or in the copyright notice for the sound recording on the phonorecord. For example, if the copyright notice states "(P) 2008 Wonderful Records," Wonderful Records should have been the copyright owner of the sound recording when the sound recording was first distributed. A Sound Recording Copyright Owner may be an individual, a group of individuals, or an organization.

1.2.6. Services. "Services" shall mean a service transmitting sound recordings pursuant to the statutory licenses codified in 17 U.S.C. Secs. 112 and 114. These services include, for example, satellite radio services, cable transmission services, and webcasters.

2. Registration. Featured Artists and Copyright Owners must register with SoundExchange in order to receive royalties. SoundExchange distributes royalties it has collected to Featured Artists and Copyright Owners who come forward with sufficient evidence to prove that they are entitled to receive such royalties and fill out the necessary paperwork. Registration is required so that SoundExchange has the correct address and payee information, and the required tax forms, to enable it to issue royalty checks to the recipient. SoundExchange works with partner organizations to gather name and contact information of those partner members in order to identify and contact artists and copyright owners for whom SoundExchange may have royalties. In order to be paid SoundExchange royalties a Featured Artist or Copyright Owner must complete and submit the SoundExchange Registration Form and a W-8 or W-9 tax form. Please note that Registration is distinct from Membership, which requires a Featured Artist or Copyright Owner (or their Authorized Representative) to complete the membership section of the Registration and Membership Form.

2.1. Registration Requirements.

2.1.1. Featured Artists. Featured Artists or their Authorized Representatives must complete and submit a SoundExchange Featured Artist Registration Form and a W-9 tax form (for U.S. citizens) or a W-8 tax form (for non-U.S. citizens) (all available on the SoundExchange website), and copies of any of the following (for payments made to individuals) in order to receive royalties: 1) a valid passport; 2) a valid government issued driver's license or government issued identification card; or 3) a notarized statement affirming the Featured Artist's identity. For Featured Artist royalty payments made to entities other than individuals, SoundExchange may require separate documentation to show that entity's entitlement to such Featured Artist Royalties. Failure to accurately complete and submit these forms or documentation, and to submit new forms or documentation as may be necessary to keep information up to date, may result in SoundExchange's inability to timely remit royalty payments.

2.1.2. Sound Recording Copyright Owners. In order to receive royalties from SoundExchange, Sound Recording Copyright Owners, or their Authorized Representatives must complete and submit a SoundExchange Copyright Owner Registration Form and a W-9 tax form (for U.S. Citizens) or a W-8 tax form (for non-U.S. Citizens) (all available on the SoundExchange website). In addition, if a Copyright Owner is also an individual, he or she must supply any of the following: 1) a valid passport; 2) a valid government issued driver's license or government issued identification card; or 3) a notarized statement affirming the Copyright Owner's identity. Failure to accurately complete and submit these forms, and to submit new forms as may be necessary to keep information up to date, may result in SoundExchange's inability to timely remit royalty payments.

2.1.3. Registration Processing. Provided the Registrant has properly completed and submitted the required paperwork, processing of registrations may take up to ninety (90) days or longer from receipt of the applicable Registration Forms. If a Registrant has provided an email address, SoundExchange will send Registrant a confirmation of receipt of its Registration and Membership Form.

2.2. Registrant Information Changes. Information contained on a Registration Form, e.g., name, address, payee information, etc., may be changed by the Featured Artist Registrant, the Copyright Owner Registrant, or their Authorized Representatives. Changes must be filled out on the change form available upon request to SoundExchange. The effective date of changes shall be the date SoundExchange processes such changes provided Registrant has submitted all necessary documentation to effectuate such changes.

2.3. Successor Registrants. Successor Registrants may apply to succeed Registrant Featured Artists or Registrant Copyright Owners by completing and submitting a new Registration and Membership Form and providing sufficient information to prove to SoundExchange staff the successor Registrant's basis for that status (e.g., trustee, heir, successor-in-interest corporation, etc.). The effective date of successor Registrant's accession to the prior Registrant's status shall be the date SoundExchange processes such successor Registration provided successor Registrant has submitted all necessary documentation to complete such registration.

2.4. Withdrawal of Registration. Registrants may withdraw their registration with SoundExchange by completing and submitting a Registration Withdrawal Form, available upon request from SoundExchange. Please allow up to 90 days or longer for SoundExchange to process such withdrawal, during which time the Registrant ("Withdrawing Registrant") may continue to receive royalty distributions. Because SoundExchange is required under U.S. law to collect sound recording performance royalties for all performers and sound recording copyright owners, the Withdrawing Registrant acknowledges that

SoundExchange cannot be prohibited by the Withdrawing Registrant from collecting royalties attributable to such Withdrawing Registrant for performances reported by a Service.

2.5. Notice to Registrants. Notice for all purposes may be given to Registrants through any of the following means, either alone or together: U.S. first class mail, electronic mail, posting on the SoundExchange website, or by publication in the SoundExchange newsletter.

3. Membership. In addition to its functions as the designated collective for sound recording performance royalties, SoundExchange also operates as a membership organization. Membership offers a number of benefits, including offering Members a centralized method for obtaining sound recording performance royalties from collectives outside the United States. Membership is distinct from registration. Registrants do not have to become Members in order to receive their U.S. statutory royalties from SoundExchange. However, a Registrant must become a Member if it would like SoundExchange to collect and distribute to it foreign sound recording performance royalties on its behalf, and to receive the other benefits of membership.

3.1. Membership Requirements.

3.1.1. Featured Artists. In addition to completing a SoundExchange Featured Artist Registration Form, Featured Artists, or their Authorized Representatives, must complete and submit a SoundExchange Featured Artist Membership Agreement in order to become SoundExchange Featured Artist Members. The Featured Artist Membership Agreement, and instructions for submitting it, are available on the SoundExchange website or upon written request to SoundExchange. Failure to accurately complete and submit a Featured Artist Membership Agreement, and to update it as necessary, may result in SoundExchange's inability to timely remit royalty payments owed to Featured Artists by operation of the Featured Artist Membership Agreement.

3.1.2. Sound Recording Copyright Owners. In addition to completing a SoundExchange Copyright Owner Registration Form, Copyright Owners, or their Authorized Representatives, must complete and submit a SoundExchange Copyright Owner Membership Agreement to become SoundExchange Copyright Owner Members. The Copyright Owner Membership Agreement, and instructions for submitting it, are available on the SoundExchange website, or upon written request to SoundExchange. Failure to accurately complete the Copyright Owner Membership Agreement, and to update it as necessary, may result in SoundExchange's inability to timely remit royalty payments owed to Copyright Owners by operation of the Copyright Owner Membership Agreement.

3.1.3. Membership Processing. Provided the Featured Artist or Copyright Owner Member has properly completed and submitted the required paperwork, processing may take up to ninety (90) days or longer from receipt of the applicable documentation.

3.2. Member Information Changes. Information contained on a Featured Artist or Copyright Owner Membership Agreement, e.g., name, address, payee information, etc., may be changed by the Featured Artist Member, the Sound Recording Copyright Owner Member, or their Authorized Representatives. Changes must be filled out on the change form accompanying royalty statements and must be submitted to SoundExchange via regular mail, facsimile, or email. The effective date of changes shall be the date SoundExchange processes such changes provided the Featured Artist or Copyright Owner Member has submitted all necessary documentation to effectuate such changes.

3.3. Successor Member. A trustee, heir, or successor-in-interest or other entity legally entitled to succeed a Featured Artist or Copyright Owner Member may become a SoundExchange Featured Artist or Copyright Owner Member by completing and submitting a new Membership Agreement, as applicable, and providing sufficient information to prove to SoundExchange staff the successor Member's basis for that status (e.g., trustee, heir, successor-in-interest corporation, etc.). The effective date of a successor Member's accession to the prior Member's status shall be the date SoundExchange processes such Successor Membership Form provided successor Member has submitted all necessary documentation to complete such Membership Form.

3.4. Termination of Membership. Members may terminate their Agreements by operation of the termination provisions of their respective Membership Agreements.

3.5. Notice to Members. Notice may be given to Members through any of the following means, either alone or together: U.S. mail, electronic mail, posting on the SoundExchange website, or by publication in the SoundExchange newsletter.

4. Royalty Allocation Overview. On a regular basis, SoundExchange receives royalty payments from compliant Services, generally with supporting documentation for how that royalty payment was calculated (i.e., based upon either the services' revenues or a metric of consumption, such as per performance). Additionally, Services generally must provide information regarding the performed sound recordings, including but not limited to title of sound recording, album title and artist name. In some circumstances, SoundExchange may use proxy usage data. When a Service pays royalties to SoundExchange, those royalties are allocated on a *pro rata* basis among the performances transmitted by that service as reported to SoundExchange or established by proxy data. By way of illustration only, if the net royalties (after deducting costs) paid by Service A total $100 for period X and Service A reported 10,000 discrete performances during that period, then each distinct performance would be valued at one cent ($0.01)($100/10,000). The royalties paid by a Service are allocated on a nondiscriminatory basis. Each sound recording is valued equally, regardless of whether the Copyright Owner of, or Featured Artist on, the sound recording has specifically authorized SoundExchange to collect and distribute royalties on their behalf. SoundExchange allocates all royalties received for domestic performances equally among all performers, regardless of whether or not they have executed appropriate registration or membership documentation with SoundExchange. Currently, certain Services are not required under the statutory license to provide census reporting (i.e. a listing of all sound recording performed during the entire reporting period). Rather, they are only required to submit the sound recordings for two seven consecutive day periods, of their choosing, each calendar quarter. When a Service only reports a sample, Featured Artists and Copyright Owners may not be compensated for sound recordings transmitted in the weeks missed by the sample. SoundExchange continues to advocate for full census reporting and works with Services to provide full reporting whenever practicable. Royalties may remain undistributed, for example, when there is an ongoing legal proceeding, including appeals, which may alter previously established rates. Royalties may also remain undistributed where there are reporting or payment irregularities.

5. Royalty Distributions Overview.

5.1. Performance Royalty Splits. With respect to U.S. statutory performance royalties, SoundExchange distributes royalties, net of administrative costs, to Copyright Owners, Featured Artists, and Non-Featured Artists, according to the following schedule.

5.1.1. Sound Recording Copyright Owners. SoundExchange distributes to Copyright Owners 50% of the royalties.

5.1.2. Featured Artists. SoundExchange distributes to Featured Artists 45% of the royalties it receives.

5.1.3. Non-Featured Artists. SoundExchange distributes to Non-Featured Artists 5% of the royalties it receives. SoundExchange distributes this amount to the AFM & AFTRA Intellectual Property Rights Distribution Fund, an independent administrator responsible for the further distribution of these funds to non-featured vocalists and musicians.

5.2. Ephemeral Royalties. Royalties paid for the making of temporary phonorecords solely for the purposes of facilitating transmissions covered by the statutory license, and addressed in 17 U.S.C. Sec. 112(e), are allocated to Copyright Owners.

5.3. Royalty Statements. For each Registrant or Member who receives statements electronically, SoundExchange provides royalty statements that reflect the performances for which the royalty payment is made, as well as the licenses under which the sound recordings were performed.

5.4. Royalty Payment Threshold. SoundExchange does not distribute royalty payments to a payee for amounts less than US$10.00. For amounts above US$10.00, SoundExchange will make payments via Electronic Funds Transfer ("EFT"), for those who have signed up for the service, on a regular basis (typically quarterly). SoundExchange will make payments via check for amounts above US$100.00 on a regular basis (typically quarterly), but will make payment via check for amounts between US$10.00 and US$100.00 during our final annual distribution in the fourth quarter.

5.5. Frequency of Distributions. SoundExchange endeavors to distribute royalties at least four times a year on a calendar quarter basis, subject to the provisions of Section 5.4. When appropriate, SoundExchange may also undertake discretionary distributions of specific royalty pools, for example, after a rate-setting in order to true-up to a new rate.

5.6. Adjustments. In the event an improper royalty amount is paid to an entity (e.g., as a result of inaccurate reporting by a Service), SoundExchange will make future adjustments to accounts in order to correct any errors in royalty distributions. Adjustments typically take the form of an additional payment or a reduced payment to an existing account in the next scheduled distribution.

5.7. Deductions.

5.7.1. Deductions from Registrant Statutory Royalties. Prior to distribution, SoundExchange takes deductions from royalties received by Services operating under the statutory license to offset costs incurred in the following:

(a) the administration of the collection, distribution, and calculation of royalties;

(b) the settlement of disputes relating to the collection and calculation of royalties;

(c) the licensing and enforcement of rights with respect to the statutory licenses codified in 17 U.S.C. Secs. 112 and 114.

5.7.2. Deductions from Member Royalties. Prior to distribution, SoundExchange takes deductions from royalties received from all sources as authorized by the SoundExchange Board.

6. Undistributed Royalties. SoundExchange expends significant resources to reduce the amount of allocated but undistributed royalties. Under applicable regulations, SoundExchange retains all such undistributed royalties for not less than three (3) years from the date of payment, and thereafter may release those funds for the benefit of all other Featured Artists, Non-Featured Artists, and Copyright Owners entitled to royalties.

7. Royalty Claim Disputes.

7.1. Generally. SoundExchange does not arbitrate disputes among performers, between performers and Copyright Owners, or among Copyright Owners as to royalty claims. If two or more Featured Artists or Copyright Owners come forward claiming conflicting amounts of the same royalties, SoundExchange staff will disclose contact and financial information sufficient to alert the entities to the conflict and to resolve it among themselves. During the resolution of such conflict, SoundExchange will hold the disputed royalty amounts in reserve, and will continue to collect royalties for such account. These royalties are not subject to release as undistributed royalties per Section 6 above.

7.2. Royalty Claims Committee. In addition to the royalty verification procedures available to Copyright Owners and Featured Artists, codified in the applicable regulations, SoundExchange has a Royalty Claims Committee which handles disputes about royalties between royalty recipients and SoundExchange.

7.2.1. Composition. The SoundExchange Board shall establish a Royalty Claims Committee (the "Royalty Claims Committee") consisting of an equal number of Copyright Owner and performer members.

7.2.2. Purpose and Procedures. The Royalty Claims Committee shall resolve claims of royalty recipients with respect to the receipt of their royalties. Except for the royalty verification procedures codified in the applicable regulations, Registrants and Members shall not be permitted to make claims against SoundExchange in any way, outside the Royalty Claims Committee process, for any royalties which SoundExchange has already paid to a payee. The Royalty Claims Committee shall meet as needed to resolve royalty claims and shall proceed as follows:

(a) Any Copyright Owner, Featured Artist or union representing Non-Featured Artist (i.e., AFTRA or AFM) who has a claim to royalties may give notice to that effect in writing to the Executive Director of SoundExchange, stating the claim and setting forth the grounds for the complaint. The Executive Director will forward such complaint to the Royalty Claims Committee. For purposes of this Section, claims for royalties must be based upon evidence that is contained in a report of use provided by a Service under regulations adopted by the Copyright Office or under an executed license agreement.

(b) A complaint must be filed within nine months of the following events:

(i) if the complainant is paid directly by SoundExchange, the complainant's receipt of the annual statement of calculated royalties at issue;

(ii) if the complainant did not receive an annual or other royalty statement from SoundExchange and/or the complaint relates to the fact that the complainant did not receive any payment, the time at which the complainant reasonably would have been put on notice of the circumstances giving rise to the claim.

The monetary relief that the SoundExchange Board, as recommended by the Royalty Claims Committee, may grant shall not extend back beyond the period of time covered by such annual or other royalty statement; provided, however, that if the claim is such that the complainant would not reasonably be put on notice of it by the annual or other royalty statement or the aggrieved party did not receive any such statement, the relief given may reach back as far as, in the opinion of the Royalty Claims Committee, is required to redress the claim.

(c) The Royalty Claims Committee shall form a panel to hear the complaint and give the complainant the opportunity to appear in person, or by any other person, or to present the complaint in writing or both. Such panel shall consist of three members of the Royalty Claims Committee, (i) two of whom shall be Copyright Owner representatives and one of whom shall be a performer representative, if such complaint is brought by a Copyright Owner; or (ii) two of whom shall be performer representatives and one of whom shall be a Copyright Owner representative, if such complaint is brought by a Featured Artist or union. Any and all other parties to the claim shall similarly have the opportunity to appear in person, or by any other person, or to present the complaint in writing or both.

(d) The Royalty Claims Committee shall issue a decision, based on the findings by the panel in accordance with the provisions herein, and shall set forth its findings and grounds for its decision in writing.

(e) The Royalty Claims Committee shall not entertain in any way (i) disputes between or among performers regardless of their subject matter, (ii) disputes between or among performers and Copyright Owners regardless of their subject matter or (iii) disputes between or among Copyright Owners with respect to the ownership of sound recordings. In the event of any such dispute, SoundExchange may, in its sole discretion, hold any related royalties in reserve pending a final determination by a court of competent jurisdiction, after the exhaustion of all appeals and may deduct any related administrative costs from such account.

7.2.3. Appeals. The decision of the Royalty Claims Committee shall be appealable (i) to the Recording Label Group of the SoundExchange Board if the original complaint was brought by a Sound Recording Copyright Owner, or (ii) to the Artist Group of the SoundExchange Board if the original complaint was brought by a Featured Artist or union**,** within fourteen (14) days of the Royalty Claims Committee's decision. The Recording Label Group or the Artist Group shall issue a decision with respect to such complaint as soon as practicable after the appeal is made. In reaching its determination, the Royalty Claims Committee shall follow the royalty calculation methodology then in effect, supplemented by the principles of law and equity, including, but not limited to, the laws relating to contracts, principal and agent, estoppel, waiver, fraud, misrepresentation, duress, coercion, mistake, bankruptcy or other validating or invalidating cause.

8. Letters of Directions, Copyright Ownership Transfers, and Payee Changes.

8.1. Letters of Direction. Creative participants in the recording process (e.g., Record Producers) ("Creative Participant"), may submit a completed Letter of Direction (available on the SoundExchange website) in order to be paid directly a portion of Featured Artist royalties. The Letter of

Direction must be properly completed and executed by the Featured Artist, or its Authorized Representative, for whom the Creative Participant seeks a portion of royalties and must contain the requested royalty split. Applicable tax reporting and tax withholding, as required by Federal law, will take place at the level of the Featured Artist.

8.2. Copyright Owner Transfers. A Copyright Owner who is acquiring master recordings from a Copyright Owner that SoundExchange is already paying must complete and submit a Payment Change Form, available upon request from SoundExchange. Both parties to the transaction must execute the Payment Change Form in order for SoundExchange to pay the new Copyright Owner.

8.3. Payee Changes. Featured Artists and Copyright Owners (or their Authorized Representatives) may change payee information on their accounts by completing a Payment Change Form, available upon request from SoundExchange.

9. Prohibition on Payment of Featured Artist Royalties to Sound Recording Copyright Owners. SoundExchange will not direct payment of Featured Artist royalties to a Sound Recording Copyright Owner unless the Featured Artist is also the Copyright Owner (e.g., the performer owns his or her own masters).

10. Miscellaneous.

10.1. Notice to SoundExchange. All communications to SoundExchange by Registrants and Members shall be in writing and deemed received (a) when delivered in person; (b) upon confirmed delivery by a recognized and reputable overnight delivery services (e.g., FedEx, UPS, DHL); or (c) five (5) days after being deposited in U.S. mails, postage prepaid, certified or registered mail, addressed to SoundExchange at the following address:

SoundExchange, Inc.
Account Services
733 10th St. NW., 10th Floor
Washington, DC 20001
Facsimile: 202-640-5859

10.2. Choice of Law; Jurisdiction; Severability. These Policies & Procedures shall be governed by and construed in accordance with the federal laws of the United States; provided that to the extent not covered by the federal laws of the United States, the law of the District of Columbia shall apply without regard to its conflict of laws principles. Subject to Sections 7 and 10.3, with respect to any non-arbitrable matter, including but not limited to arbitrability, SoundExchange and Registrant hereby irrevocably consent to the exclusive jurisdiction in the United States District Court for the District of Columbia or the District of Columbia Superior Court. Should any provision of these Policies & Procedures be rendered or declared invalid by a court of competent jurisdiction, such invalidity shall not invalidate any other provision of these Policies & Procedures and such provisions shall remain in effect.

10.3 **ARBITRATION. ANY CONTROVERSY OR CLAIM ARISING OUT OF OR RELATING TO THESE POLICIES & PROCEDURES, OR THE BREACH THEREOF, WHETHER IN CONTRACT, TORT, OR OTHERWISE, SHALL BE SETTLED IN THE DISTRICT OF COLUMBIA BY ARBITRATION ADMINISTERED BY THE AMERICAN ARBITRATION ASSOCIATION IN ACCORDANCE WITH ITS COMMERCIAL ARBITRATION RULES, AND JUDGMENT ON THE AWARD RENDERED BY THE ARBITRATOR(S) MAY BE ENTERED IN ANY COURT HAVING JURISDICTION THEREOF. THE ARBITRATION WILL BE LIMITED SOLELY TO THE DISPUTE OR CONTROVERSY BETWEEN REGISTRAN AND SOUNDEXCHANGE. NEITHER REGISTRANT NOR SOUNDEXCHANGE SHALL BE ENTITLED TO JOIN OR CONSOLIDATE CLAIMS BY OR AGAINST OTHER PERSONS, OR ARBITRATE ANY CLAIM AS A REPRESENTATIVE OR CLASS ACTION OR IN A PRIVATE ATTORNEY GENERAL CAPACITY. THE INDIVIDUAL (NON-CLASS) NATURE OF THIS DISPUTE PROVISION GOES TO THE ESSENCE OF THE PARTIES' ARBITRATION AGREEMENT, AND IF FOUND UNENFORCEABLE, THIS ENTIRE SECTION 10.3 SHALL NOT BE ENFORCED.**

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DOCKET NO
RM 2002 1
COMMENT NO. 9

BEFORE THE
UNITED STATES COPYRIGHT OFFICE
LIBRARY OF CONGRESS
Washington, D.C.

RECEIVED
SEP 30 2002
GENERAL COUNSEL
OF COPYRIGHT

In the Matter of:

NOTICE AND RECORDKEEPING FOR USE OF SOUND RECORDINGS UNDER STATUTORY LICENSE

Docket No. RM 2002-1B

COMMENTS OF SOUNDEXCHANGE

SoundExchange, currently an unincorporated division of the Recording Industry Association of America, Inc. ("RIAA"), and an entity recently designated by the Copyright Office to collect and distribute royalties from eligible nonsubscription transmission services, respectfully submits these comments in response to the Copyright Office's notice requesting written proposals governing data format and delivery for recordkeeping requirements to be established by the Copyright Office, under the authority of the Librarian of Congress, for the Section 112 and Section 114 statutory licenses. 67 Fed. Reg. 59573 (Sept. 23, 2002) (the "September Notice").

I. INTRODUCTION

SoundExchange appreciates the opportunity to provide the Copyright Office with its thoughts on the technical specifications for the electronic delivery of reports of use. Requiring services to provide reports of use in an electronic format is both sensible and reasonable in light of the transmission mediums at issue. For licenses that apply to the digital audio transmission of sound recordings, it is appropriate for the reports of use under those licenses to be provided in a digital format. We are also pleased that the Copyright Office has rejected certain entities' proposals to permit the delivery of reports

to avoid confusion and error in the reporting of recordkeeping data.

A. Reports Of Use Should Be Provided In ASCII Format

SoundExchange believes that the Copyright Office's regulations should require data reporting in the American Standard Code for Information Interchange ("ASCII"). The ASCII format has been in use since the early 1960s and is one of the most widely adopted formats for the reporting of alphanumeric data. Every computer operating system supports ASCII text files and nearly every database management system supports the import of ASCII text files. The ASCII would facilitate the efficient electronic communication of data between diverse automated systems.

One objective of bulk data processing includes the homogenization of data sources during the extraction, transformation and loading ("ETL") process. It is essential for files to be in formats that are vendor agnostic, giving freedom of choice to both the statutory licensee and the designated agent to purchase or develop software systems that support their business activities. Requiring the reports of use to be in ASCII file format accomplishes both objectives.

The overriding benefit of adopting a single file format for data reporting is that it will enable entities designated to collect and distribute statutory royalties to develop only one data load system. If more than one file format is adopted, however, then collection and distribution entities may have to purchase or develop numerous systems to handle identical data in multiple formats. Such a system would increase the costs of royalty collection and distribution and result in fewer royalties being distributed to copyright owners and performers.

C. File Contents

SoundExchange is proposing that the Copyright Office give statutory licensees the choice to create reports of use in one of two layouts: files without headers and files with headers. Files with headers are preferred, but SoundExchange will continue to support files submitted without headers as this convention was adopted for the reports of use provided by the preexisting subscription services.

1. Files Without Headers

A file without headers is a file that contains only the data elements required by the Copyright Office for providing copyright owners with notice of use of their sound recordings. A file without headers is not the preferred format for reports of use. However, SoundExchange recommends the adoption of regulations that permits the continued use of reports of use without headers as an accommodation to statutory licensees or vendors who designed reports of use relying upon the regulations that were adopted for the preexisting subscription services or the comments initially submitted by RIAA in this proceeding. Statutory licensees electing to use this format must use the carat (^) as the text indicator and the pipe (|) as the delimiter. No column headings are to be used in this file format.

2. Files With Headers

A file with headers is a file that contains, *inter alia*, information identifying the statutory licensee, the period for which data is being provided and column headers that identify the data elements in each column. The file format with headers was developed in response to discussions with webcasters during the public hearing held on May 10, 2002, and subsequent discussions with certain statutory licensees. This file format will provide statutory licensees with the flexibility to select the text indicator and delimiter of their

Office for the interim regulations are insufficient for accurately identifying the sound recordings performed by statutory licensees and properly allocating those royalties to individual copyright owners and performers, the technical specifications proposed herein are designed to permit the efficient computer-to-computer exchange of electronic reports of use.

SoundExchange respectfully requests that the Copyright Office adopt the regulations proposed by SoundExchange herein and the regulations previously proposed by RIAA on April 5 and 26.

Respectfully submitted,

SOUNDEXCHANGE

John L. Simson
Barrie L. Kessler
Samuel I. Gilchrist
Gary R. Greenstein, Esq.
1330 Connecticut Avenue, N.W., 3rd Floor
Washington, D.C. 20036

September 30, 2002

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Before the
COPYRIGHT ROYALTY BOARD
LIBRARY OF CONGRESS
Washington, D.C.

In the Matter of: **NOTICE AND RECORDKEEPING FOR USE OF SOUND RECORDINGS UNDER STATUTORY LICENSE**	)	**Docket No. RM 2005-2**

DECLARATION OF SHANE SLEIGHTER

I, SHANE SLEIGHTER, declare:

1. I am a Manager of Software Development for Acumen Solutions, Inc. I am currently consulting to SoundExchange, Inc. ("SoundExchange"), managing the development and utilization of custom software for the collection, allocation and distribution of royalties from the use of digital music. I have been working on SoundExchange projects for approximately five months.

2. I received a Bachelors of Business Administration (B.B.A.) in Computer Information Systems (CIS) and one in Production and Operations Management (POM) from James Madison University in 1993.

3. Upon graduation from JMU, I managed the order department of a large industrial laundry in Dallas, Texas for one year. I moved back to Virginia in 1994 and began applying my CIS degree as an employee of Tri-Cor Industries, where I was subcontracted to Booz Allen & Hamiltion to develop acquisition tracking software for the National Aeronautics and Space Administration (NASA).

4. After the successful completion of the NASA project, I went to work at Booz Allen & Hamilton in Tysons Corner, Virginia, as a Senior Consultant, and eventually became an Associate during my tenure there. In that position I consulted for various government agencies

include header information in the file, they would have to either use other software to create the report of use or change the file generated by the Microsoft Excel template to add the header information to the beginning of the text file. Headers are optional and do not need to be included in the data submission. I understand that they were added at the request of certain webcasters. Files with headers can be created by any other text editor as well, so long as the text editor creates an ASCII file that follows the standard (see response B-1).

2. Given that preexisting subscription services are not required by Copyright Office regulations to report the data contained in the first six lines of SoundExchange's proposal, what are the costs/benefits to requiring this information in each data file?

Headers were offered as an optional method of reporting based on requests from certain webcasters. SoundExchange uses the header of the data file only for record keeping, to ensure that the submissions it receives from licensees are (i) uniquely named and (ii) easily retrieved for the appropriate licensee and time period if questions should arise about the submission. It is the data within the records that is loaded directly into the database along with the record.

Services wishing to deliver reports of use without headers may do so. I understand that SoundExchange's proposal to give services the option of reporting with or without headers was merely for the benefit of the services, and it is difficult to quantify any costs or benefits associated with either approach. However, if a service is going to report data with headers, then the headers must appear in every report of use and in the correct order. If a service finds this too burdensome, then it presumably could report data without headers at no additional cost.

3. Given that lines 7 and 8 of the header information contained in SoundExchange's proposal are already reported in the file name, what are the costs/benefits of requiring them to be repeated in the data file?

Building a custom program that could look at a filename and retrieve the information to be supplied in lines 7 and 8 of the header could be expensive. There are programs such as Oracle SQLLoader that are used to load a delimited file into databases by reading each line of a text file and loading it as a row in a database table. However, these types of utilities are not built to

4. To what extent would it be permissible to allow automated services to report playlist data in native form to SoundExchange?

Playlist data submitted in a "native" format that does not conform to the standard format recognized by SoundExchange's software system would be incompatible with the system. As I have previously explained, SoundExchange's system will only accept data that conforms to a fixed format. SoundExchange would have to rebuild its system's loading process in order to accommodate a new format. The Microsoft Excel template, on the other hand, will always create the proper file format when it is used by the services.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 26th day of August, 2005 in Washington, D.C.

Shane Sleighter

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SOUNDEXCHANGE DRAFT ANNUAL REPORT FOR 2013
PROVIDED PURSUANT TO 37 C.F.R. § 370.5(c)

SoundExchange, Inc. ("SoundExchange") is a 501(c)(6) tax exempt organization incorporated in Delaware and headquartered in Washington, D.C. It is overseen by an 18 member board of directors, with half representing sound recording copyright owners and the other half representing featured and non-featured recording artists. SoundExchange was incorporated on September 22, 2003.

The presentation of financial information in this annual report is intended to comply with SoundExchange's requirements under 37 C.F.R. § 370.5(c) and is not intended to be a presentation in accordance with generally accepted accounting principles. The information provided in this presentation is based upon pre-audited financial statements and is therefore subject to revision upon completion of the 2013 audit.

Royalty Collection

Statutory

Services paying royalties to SoundExchange are generally doing so under rates and terms established by the Copyright Royalty Board or published in the Federal Register pursuant to the Webcaster Settlement Acts.

Services availing themselves of the statutory license are able to do so by operation of law and are not "SoundExchange licensees" even though they are frequently referred to as such. Congress created a statutory regime under which any service complying with the statutory and regulatory conditions may obtain a license via federal statute. This license permits such services to reproduce and transmit sound recordings lawfully released to the public without having to negotiate directly with the copyright owner for the rights to those recordings.

During 2013, SoundExchange was the sole entity designated by the Copyright Royalty Board to collect royalties paid by services operating under the statutory licenses set forth in Sections 112 and 114 of the Copyright Act and the implementing regulations established thereunder. (17 U.S.C. §§ 112 & 114; 37 C.F.R. Parts 370, 380, 382, 383 and 384). The services paying royalties to SoundExchange fall into the following statutorily defined categories:

- Preexisting Subscription Services
- Preexisting Satellite Digital Audio Radio Services
- Eligible Nonsubscription Transmission Services
- New Subscription Services (e.g., subscription webcasters; certain cable or satellite television music distribution services)
- Services exempt from liability for transmissions to business establishments under 17 U.S.C. § 114(d)(1)(C)(iv) but liable for ephemeral phonorecords made to facilitate such transmissions ("Business Establishment Services")

Royalty Distribution

In accordance with the applicable regulations, SoundExchange generally allocates a service's royalties on a pro rata basis in accordance with the information provided in the service's reports of use. For example, if the net royalties (after deducting costs) paid by Service A total $100 for period X and Service A reported 10,000 discrete sound recordings during that period with identical usage reported for each track, then each distinct sound recording would be valued at one cent ($0.01) ($100 ÷ 10,000).

Royalties may remain undistributed when there is an ongoing legal proceeding, including appeals, which may alter a previously established rate. Royalties may also remain undistributed if SoundExchange has not received reports of use information, if reports of use are received but have faulty data, or if the Copyright Royalty Board has not approved a proxy in lieu of actual reports of use data.

The royalties paid by a service are allocated on a nondiscriminatory basis. Each sound recording is valued equally. SoundExchange allocates all royalties received for domestic performances equally among **all** featured artists and copyright owners, regardless of whether or not they have executed appropriate membership documents with SoundExchange. Any potential payees must provide appropriate registration documents to SoundExchange prior to receiving any royalties owed to them. There is no fee for registering with SoundExchange.

The performance royalties collected by SoundExchange are allocated according to the percentages set forth in Sections 114(g)(2)(A)-(D) of the Copyright Act. *See* 17 U.S.C. §§ 114(g)(2)(A)-(D).[1] The statute requires that:

(A) 50 percent of the receipts shall be paid to the copyright owner of the exclusive right under section 106(6) of [the Copyright Act] to publicly perform a sound recording by means of a digital audio transmission.

(B) 2½ percent of the receipts shall be deposited in an escrow account managed by an independent administrator jointly appointed by copyright owners of sound recordings and the American Federation of Musicians or any successor entity) to be distributed to non-featured musicians (whether or not members of the American Federation of Musicians) who have performed on sound recordings.

(C) 2½ percent of the receipts shall be deposited in an escrow account managed by an independent administrator jointly appointed by copyright owners of sound recordings and the Screen Actors Guild-American Federation of Television and Radio Artists (or any successor entity) to be distributed to non-featured vocalists (whether or not members of the

[1] In accordance with the statute, SoundExchange distributes 100% of the royalties collected pursuant to 17 U.S.C. § 112(e) for the ephemeral copy of the phonorecord to the copyright owner.

American Federation of Television and Radio Artists) who have performed on sound recordings.

(D) 45 percent of the receipts shall be paid, on a per sound recording basis, to the recording artist or artists featured on such sound recordings (or the persons conveying rights in the artists' performance on sound recordings). 17 U.S.C. §§ 114(g)(2)(A)-(D).

Royalties among a "featured artist" are generally allocated on a pro rata basis unless all of the members of a featured artist instruct SoundExchange as to an alternative allocation. By this we mean, for example, that where the featured artist is a band with four members, each member shall be entitled to 25% of the featured artist's share absent their full agreement on different ratios. When the members of a featured artist disagree as to the appropriate allocation of royalties, the amount of royalties in dispute are held pending resolution of the dispute.

Pursuant to the provisions of Section 114(g)(3) of the Copyright Act, SoundExchange deducts from its receipts, prior to their distribution, the reasonable costs incurred in:

(A) the administration of the collection, distribution, and calculation of the royalties;

(B) the settlement of disputes relating to the collection and calculation of the royalties; and

(C) the licensing and enforcement of rights with respect to the making of ephemeral recordings and performances subject to licensing under section 112 and [section 114], including those [costs] incurred in participating in negotiations or arbitration proceedings under section 112 and [section 114], except that all costs incurred relating to the section 112 ephemeral recordings right [are] only . . . deducted from the royalties received pursuant to section 112. *See* 17 U.S.C. § 114(g)(3).

SoundExchange distributes royalties directly to copyright owners and featured artists when provided with the information necessary to effectuate payment. SoundExchange may also distribute royalties to featured artists and copyright owners pursuant to reciprocal payment agreements with foreign collecting societies when those artists and copyright owners have appropriately authorized SoundExchange to undertake this activity. For example, SoundExchange may pay the Dutch collecting organization all of the royalties due the featured artists and copyright owners who have designated the Dutch organization to collect U.S. statutory royalties on their behalf. As part of that exchange, SoundExchange may also collect from the Dutch organization all the royalties due to featured artists and copyright owners that have designated SoundExchange to collect foreign royalties on their behalf. SoundExchange may also consider paying a featured artist's royalties to a third party under a letter of direction received from a featured artist as an accommodation to such featured artist; provided the third-party is: 1) considered creative personnel credited or recognized publicly for the commercially

released sound recording on which the featured artist performs, or 2) is a usual and customary royalty participant in such sound recording.

When SoundExchange is unable to distribute allocated royalties to either a copyright owner or featured artist, those royalties are held for the copyright owner or featured artist pending further attempts to effectuate payment.

SoundExchange expends significant resources to reduce the amount of allocated but undistributed royalties. Under the applicable regulations, SoundExchange retains all such undistributed royalties for not less than three years from the date of the initial distribution of the royalties, and thereafter may release those funds for the benefit of all other copyright owners, featured artists and nonfeatured performers entitled to royalties. During 2013, we released unclaimed funds for distribution years prior to 2009.

Key Financial Statistics

The following table summarizes SoundExchange's operating administrative rates, royalty collections, gross distributions and expenses.

($ in millions)	Pre-Audit 2013	2012	2011
Operating Administrative Rate	4.5%	4.9%	5.3%
Total Royalties Collected[2]	$656	$507	$378
Total Gross Distributions	$590	$462	$292
Total Expenses	$30	$25	$20

[2] Statutory royalties in 2013 were $650M compared to $502M for 2012, up 29%. The remaining collections represent royalties received from non-statutory services (primarily from foreign performance rights organizations). Statutory royalties are typically paid 45 days following the end of the month in which the liability accrued.