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ZUMIX Radio, an online youth and community radio station that is one of several programs under ZUMIX, INC., believes the CBI-SX Web IV settlement is unreasonable and should not be adopted.

The following are reasons why we are opposed to the rate proposal

1. No other commercial or noncommercial agreements have been reached 99.5% of the SX royalty revenue is commercial, 0.5% noncommercial. CBI is only a small fraction of the 0.5% noncommercial. Other rates should be determined before such an insignificant agreement should be considered.
2. Major noncommercial webcasters such as CPB qualified webcasters (CPB/NPR/NFCB) with large per stream web audiences currently pay only \$300 per entity and much less per stream. CPB qualified stream pay at least half the per stream rate as SX proposes. The CRB needs to determine the whole noncommercial web royalty rate market place before approving any agreement.
3. In 2009 and \$2010 Live365 paid SX a flat \$50,000 per year to cover over 5,000 streams, a rate of less than \$10 per year per stream.

The CRB needs to determine all noncommercial "willing buyers - willing sellers" before approving a \$600 per stream rate.

4. The purpose of the statute is to reward the ownership of digital music performances, usually by artists/labels. The CBI agreement provides for a \$100 proxy in lieu of all reporting of use. Therefore the royalty revenue cannot be accurately allocated to the artists that earned the money paid by the CBI Member (\$600 per stream per year).
5. Many, if not most, of the web streams covered under the CBI agreement would be from public (50 State) entities like public schools, community colleges, and State colleges/universities. Most State statutes forbid payments from State entities to lobbying organizations. SoundExchange is a lobbying organization that files annual federal lobbying reports. The CRB should de conflict State and Federal law, perhaps through an aggregator payment like is done through CPB, Live365, and is proposed for IBS Members

Thanks for your attention, Lucia Duncan

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