

**Before the  
UNITED STATES COPYRIGHT ROYALTY JUDGES  
THE LIBRARY OF CONGRESS  
Washington, D.C.**

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In the Matter of )  
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 **DETERMINATION OF ROYALTY RATES** ) **Docket No. 14-CRB-0001-WR**  
 **FOR DIGITAL PERFORMANCE IN SOUND** ) **(2016-2020)**  
 **RECORDINGS AND EPHEMERAL** )  
 **RECORDINGS (WEB IV)** )  
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**REBUTTAL TESTIMONY OF MARISSA MORRIS, VICE PRESIDENT,  
NATIONAL PROGRAMMING PLATFORMS, iHEARTMEDIA, INC.**

1. I am the Vice President within iHeartMedia, Inc.’s National Programming Platforms division specializing in Artist Relations. I invite artists and record labels to participate in iHeartMedia events, including concerts and Music Summits – gatherings of iHeartMedia’s top programmers at which record labels and artists present new music. I am also responsible for collecting song submissions for iHeartMedia’s Digital Artist Integration Program (“DAIP”). I am submitting this statement in support of iHeartMedia’s rebuttal case in the above-captioned proceeding.

2. I understand that SoundExchange, Inc.’s expert witness, Daniel Rubinfeld, contends that the promotional benefits of playing music on iHeartMedia’s radio platforms – which includes AM/FM terrestrial broadcasts and iHeartRadio – are “increasingly limited.” My personal experience is directly to the contrary, and the many record label executives and artists I deal with repeatedly tell me the opposite. These record label executives and artists tell me that having their music played on iHeartMedia’s platforms has been important to their success selling music in the past, and will be even more critical to their success selling music in the future.

3. I often hear about the promotional power of radio at iHeartMedia’s Music Summits. For the last four years, iHeartMedia has hosted two or three Music Summits for our top music programmers from around the country each year. During each Music Summit, record label executives and artists present upcoming releases to our music programmers.

4. We invite major and independent record labels to come present at Music Summits. We have increased the size and length of our Music Summits over time, but it is still always the case that we have more labels that want to present than we have time for, and the labels in effect compete to get slots. We have to carefully limit the length of presentations, because there are so many. In my experience, labels that are invited to present never decline our invitation and the labels are constantly increasing the sophistication of their presentations.

5. During their presentations, record labels’ most senior executives discuss their labels’ new artists and upcoming releases and play so-called “sizzle reels” of carefully-produced video programming, highlighting music they plan to release during the next year.

6. Often the record labels will bring selected artists to perform and discuss their new music live in front of our small group of top programmers. As many as twenty to thirty established and emerging artists will perform, often with full bands, for an audience of about 100 people. In the past, artists have re-routed their tours and changed their vacations to come to Music Summits.

7. Major artists including [REDACTED]  
[REDACTED]  
[REDACTED] have participated in our Music Summits.

8. “HITS Daily Double,” which covers the music industry, recently described the record labels’ presentations at an iHeartMedia Summit, writing: “Competition to woo the

audience . . . has grown stiff over the past few years, so everyone was curious to see what was in store. One after another, industry heavies took the stage armed with multimedia sizzle reels, plaques and, of course, music. . . . The labels showed off their A-game of breaking acts with performances/appearances.”<sup>1</sup>

9. During a recent Music Summit in January 2015 in Los Angeles, a total of [REDACTED] record labels and [REDACTED] artists presented to us over the course of three days. Without exception, a key theme of each of the labels’ presentations was that exposure on the iHeartMedia radio network was necessary for their success, and that their music could not successfully be introduced to the public without being played on our radio network. The labels and artists thanked us, in unqualified terms, for playing their music in the past, and they asked us to play their new music in the future.

10. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]]

11. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

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<sup>1</sup> “iHeartMedia Music Summit: Day Two,” Rumor Mill, HITS Daily Double (Jan. 22, 2015), available at <http://hitsdailydouble.com/news&id=294379>.

[REDACTED]  
[REDACTED]]

12. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]]

13. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]]

14. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]]

15. The week after our January 2015 Music Summit in Los Angeles, Scooter Braun – who manages Justin Bieber, Ariana Grande, and Carly Rae Jepsen among others – said it was an “honor” to participate in the Music Summit with iHeartMedia’s programmers, “many of whom have made big decisions on records I’ve been involved with. They’ve changed the lives of those artists. They’ve changed my life.” He went on to say that even in 2015, “radio is still

significantly important. You look at [*Billboard's* Digital Songs] chart and [so many] of those records in the top 10 have been influenced by the power of radio. We can stream all we want, but we still need tastemakers.”<sup>2</sup>

16. We hear similar stories about the power of radio from artists all year round. . . For example, earlier this month, Kenny Chesney gave an interview in which he said that radio has been important to his career and is still important for young artists. When asked “What role has radio played in the success of your career?” Chesney said “Radio is how we reached the fans.” And, when asked “Would you advise young country artists to go radio station to radio station to try to get their music played today?” he said “I do think that personal connection with and at radio is important.”<sup>3</sup>

17. [[ [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]]]

18. [[ [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]]]

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<sup>2</sup> Gary Trust, “Exclusive: Scooter Braun Talks Bieber and Rick Rubin, Carley Rae Jepsen’s Topping ‘Call Me Maybe’ & More,” Yahoo! Music (January 30, 2015), *available at* <https://www.yahoo.com/music/by-gary-trust-at-last-weeks-jan-20-23-109616701256.html> (modification in original).

<sup>3</sup> “Radio Is How We Reach Fans,” Radio Ink (Feb. 17, 2015), *available at* <http://www.radioink.com/Article.asp?id=2895467&spid=30800>.

19. I am aware that SoundExchange’s witnesses have attempted to draw a distinction between playing music on AM/FM terrestrial radio and playing music on digital radio, like iHeartRadio, and argue that even if AM/FM terrestrial radio once promoted music sales, digital radio has an increasingly limited promotional effect on music sales. But, I have never heard an artist or a person from a record label’s marketing or promotion department make such a distinction or tell me that they do not want us to play their music on digital radio. To the contrary, record labels’ promotion and marketing staff often contact me to specifically request that we play their music as part our Digital Artist Integration Program (“DAIP”), which runs only on digital radio. Moreover, the number of requests I receive from record labels’ is increasing – not decreasing.

20. iHeartMedia’s DAIP Program is similar to iHeartMedia’s Artist Integration Program (“AIP”). Both programs feature new music selected by our brand managers from a pool of submissions. However, there are two important differences. First, whereas AIP is played on terrestrial radio and simulcast, DAIP is exclusive to digital radio and plays only on iHeartRadio streams. Second, AIP spots are less than a minute long, and never include the entire song. DAIP spots are three minutes in length, allowing us to play much more of the track within the spot.

21. Record labels submit new songs for the DAIP Program via our website or via e-mail. I send the pool of submissions to our brand managers. Our brand managers will select a song for inclusion in the DAIP Program when they believe the song has the potential to be a hit and will enhance our digital programming.

22. When record labels submit a new song for the DAIP Program, they explicitly waive their right to charge sound performance copyright fees. They grant us a license to play the song in connection with the DAIP Program in “any advertising, marketing, simulcasting,

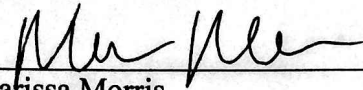
streaming, both live-online and digital on-demand and broadcasting” and agree that iHeartMedia “shall not be required to pay any royalties” to the record label or Sound Exchange, “in consideration of potential promotional opportunities afforded to [the record label] for being part of the AIP Program.” Ex. C ¶¶ 1-2. The record labels agree to this because they have decided that the promotional value of us playing one of their new songs on iHeartRadio outweighs the value of the performance copyright fee.

23. Record labels and artists are constantly submitting new songs for the DAIP Program. For example, last month we received over [REDACTED] submissions.

24. Record labels and artists thank me when our brand managers select new songs for the DAIP Program. For example, [REDACTED]  
[REDACTED]  
[REDACTED]]

**PUBLIC**

I declare under penalty of perjury that the foregoing is true and correct.

  
\_\_\_\_\_  
Marissa Morris

2/23/15  
Date