Sony Music Entertainment Inc. Memorandum

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To: M. ANTHONY, A. LACK, R. WILCOX, P. WISER
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cc: S. Bondell, B. Bowlin T. Connolly, R. Dobbis, M. Ghuneim D. Jenner, K. Kelleher

Re: **Overview of Internet and "Streaming Radio" Deals**

At senior management's request, we have prepared a general overview of the various types of digital distribution platforms and outlets currently licensed to "stream" Sony Music content - either on a linear "broadcast" basis (akin to traditional radio), or on more interactive, one-to-one basis (for which the Internet is particularly well suited). As the granularity of the specific deals and the licensing terms associated with each have been discussed in the normal course over the past several years, the focus of this memo is to take a step back and review the "digital radio" space from a more conceptual, *30,000 foot* view - perhaps as a tool in redefining our relationship with traditional terrestrial radio.

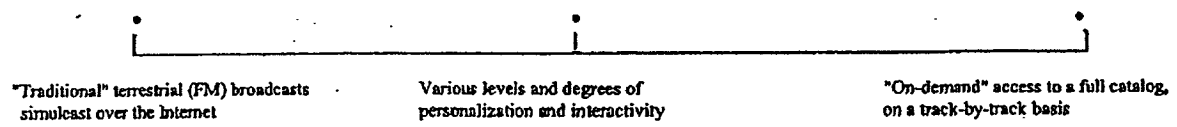
I. DISTRIBUTION PLATFORMS

- Internet, including
  - the Worldwide Web (destination sites, ISP's, portals)
  - Private Data Networks (cable, satellite)
- Wireless networks (telcos)

The bulk of our existing licensing deals for digital streaming in the United States currently falls within the Internet space -- due in large part to the relative maturity of this digital distribution platform, vis-à-vis other digital platforms to date. It is important to note that outside the US -- particularly in Europe and Asia -- the opportunities for delivering music content via wireless networks are growing rapidly, and are likely to be equally, if not more plentiful, than Internet-only delivery platforms.

II. THE "WEBCASTING" SPECTRUM

Music service providers who provide "streaming" content to end-users (i.e., digital transmissions which are "listen-only" and not "downloadable") are referred to generically as *"webcasters"* below. Webcasting, taken as a whole, is best analyzed along a functionality spectrum:



- "Traditional" terrestrial (FM) broadcasts simulcast over the Internet occupies the far left pole.
- "On-demand" access to a full catalog, accessible on a per-track basis occupies the far right pole.
- Between these two poles sits a continuum of service offerings -- from (i) linear, internet-originated webcasts to (ii) "personalized" to (iii) "interactive" one-to-one 'narrowcasts' -- which allow for various amounts of consumer preferences and/or influence in tailoring a service's music offerings to a listener's particular taste in genres, sub-genres and niche-oriented programming (or alternatively, to the collective tastes of a self-selected "community" with which the user identifies himself).

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♠ From a *programming perspective,* internet webcasting which takes the form of *simulcasts or re-broadcasts* of terrestrial radio stations mirror "traditional" radio as we know it. Music is interspersed with DJ banter, audio ads and the like, and more importantly, the consumer is presented with a constant repetition of the tracks in rotation. Thus, simulcasts can be considered complementary to a record company's efforts in promoting new releases and familiarizing record buyers through repetition. On the negative side, the lack of diversity among over-the-air stations is reflected as well. From a *"reach "perspective,* simulcasting provides for a much wider audience, since the streams are accessible by anyone on the worldwide web -- a webcasted broadcast transcends a listener's local market (e.g., a New Yorker can tap into KMTT in Seattle). This broader reach may be helpful in certain respects, but also may be inconsistent with certain local marketing efforts (e.g., creating and building a story within in a circumscribed geographic market, for further build-out over time).

♠ In contrast to simulcasts, *webcaster-originated programming* is perhaps best viewed when plotted along a continuum - ranging from non-interactive, genre-based (and potentially, very niche-specific) stations --e.g., "Psychedelic Rock of the Late-60's" -- to highly interactive programming (whereby consumers have the ability to create their own "one-to-one" customized stations by rating or selecting artists, albums and songs). Webcaster-originated programming is markedly different from traditional radio. While it can be argued that niche formats and/or customized stations can ultimately be used as "discovery tools" for finding new music (and perhaps spurring record purchases), they also carry a fairly significant risk of displacing recorded music sales while also substituting for full-access subscription services which are sold to consumers on a "for-pay" basis). For this reason, the rates at which we license webcasters are inextricably tied to the core functionality licensed for the service.

Compulsory Licenses (Non-interactive) vs. Voluntary Licenses (Interactive)

As further described below, pursuant to US copyright legislation (known as the DMCA), record companies are required to license their recordings to **"non-interactive"** webcasting services under a statutorily mandated (compulsory) license, provided the service concerned satisfies a series of very specific functionality rules designed to keep the programming more tightly aligned with the "left" pole rather than the "right" pole in the above-illustrated spectrum. (These restrictions include, for example, (i) limits on the number of tracks from a particular album or artist that can be played in a 3-hour block; (ii) a prohibition against publishing playlists in advance of the webcast; (iii) a minimum program length, if the program is to be repeated or archived; and (iv) affirmative requirements to prominently display the song title as a track is being played.)

"Interactive" and/or other programming which does not comply with the DMCA restrictions are licensable at the record company's discretion - i.e., record *companies are free to voluntarily negotiate individually with each service --- and ultimately, they may withhold licenses, in their sole discretion*

Note: There is a lively debate (currently, unresolved) between webcasters and record companies as to what constitutes "interactivity" under the DMCA. In fact, Sony has been a plaintiff in several litigations on the issue, including actions against MTV and Launch (later acquired by Yahoo) - both of which we ultimately settled prior to judgment. The courts have not yet ruled on the precise issue, though we understand that one of the majors is still pressing ahead in its case against Launch.

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Schedule 1 (attached) provides a summary listing of the various types of non-interactive licenses, (compulsory) licenses which have been issued collectively through the RIAA, pursuant to the DMCA -- together with the rates/fees negotiated.

Schedule 2 (attached) provides a summary listing of the various types of voluntary and/or interactive licenses which Sony Music has entered into for streaming audio / radio deals - together with representative rate/fee structures.

SCHEDULE 1 - DMCA COMPULSORY LICENSED SERVICES

The following types of webcasters have been licensed collectively through the RIAA (by way of industry arbitrations - known as CARPS - and/or associated negotiations).

Simulcasts of Terrestrial (FM) Radio (e.g., K-Roc; ClearChannel)

$.0088 per listener, per "tuning hour" *(roughly 9/10 of 1 cent per hour of listening, per user)*

***Webcaster-originated Programming/Large Webcasters** (e.g., Yahoo, AOL, Real, MSN)

(i) $.000762 per-play, per listener, or *(roughly 7/100 of 1 cent per-play, per user)*
(ii) $.0117 per listener, per "tuning hour", or *(roughly 1 cent per hour of listening, per user)*
(iii) 10.9% of webcaster's subscription revenue,
subject to $.27 subscriber minimum per month

*Webcaster may elect from amongst payment options (i), (ii) and (iii) - option (iii) being conditioned upon the webcaster charging a subscription fee

Webcaster-originated Programming / Small Webcasters

8% of revenues (escalating to 12% in outer years),
subject to floor-of 5% of webcaster's operating expenses (escalating to 7% in outer years)

Noncommercial Webcasters (e.g., college and universities)

Nominal / flat fee $250-$500/yr*

*Subject to surcharge of roughly 2/100 cent per-play or.25 cents per "tuning hour" (webcaster election) surcharge in the event listenership exceeds an average of 200 simultaneous listeners per month.

Pre-existing Digital Radio Services (Music Choice, DMX and Muzak)

7% of revenues, escalating to 7.25% in outer years.

Satellite Radio Services (XM and Sirius)

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SCHEDULE 2 - VOLUNTARY LICENSES with WEBCASTERS

Personalized / Customized Internet Radio

Listener can influence the programming of his station(s), through a combination of ratings or selections from among (i) genres; (ii) artists and (iii) songs. The degree of customization falls significantly short of accessing individual tracks for "on demand" listening. The level of interactivity also does not permit users to build their own playlists on a track-by-track basis. Skipping functionality often licensed, allowing users to "forward" past a particular song (or series of songs). "Rewinding" typically not permitted.

Licensees of Sony Music:

MTVi (Radio SonicNet)
Launch (Yahoo)
RCS Radio
MusicMatch (includes "Artist On-Demand" functionality where a single artist can comprise approximately 80% of a user's programming channel)

NextRadio (late-stage negotiation)
AOL Radio (awaiting functionality parameters from them)

Representative Rates (Rates in each deal proportionate to level of interactivity being licensed)

"Consumer-paid" Services	15%-33%* of webcaster's subscription revenues, subject to floors of (i) $.0025 to $.0045 "per play" and (ii) subscriber minimums of $.45 to $2 per subscriber, per month*. *(Pro-rata, based on use of Sony content)
Ad Supported Services	$.0025 to $.0045 "per play"

"On Demand" Streaming Access to Full Catalog

Listener can build individual playlist(s), track-by-track, or alternatively, listen to any track in the content library on an "on demand" basis. Rewinding and repeat plays permitted.
To date, on-demand streaming of full-length tracks has been licensed by Sony only within the context of a broad, subscription service offering (many of which provide "on demand" streams as one component of a more robust consumer offering which also features timed-out downloads, internet radio programming and burns).

Licensees of Sony Music:

Napster (f/k/a Pressplay) Listen / Rhapsody*
MusicNet Streamwaves**
Full Audio
CenterSpan

*Subscription Service offering streams and burns only
* *Subscription Service offering streams only

Representative Rates

$.01 "per-play"(per user). This variable rate is a built-in "minimum" within an overall subscription deal, which provides for Sony to receive a share of the service's revenues (in the range of 38%-50%)* or alternatively, a minimum monthly subscriber minimum ($2.00-$5.00).* *(Prorata)

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