

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

In the Matter Of:

Determination of Webcasting Royalty Rates and  
Terms for Ephemeral Recording and Digital  
Performance of Sound Recordings

Docket No. 2014-CRB-0001-WR  
(Webcasting IV) (2016-2020)

**WRITTEN DIRECT CASE OF THE CORPORATION FOR PUBLIC BROADCASTING,  
ON BEHALF OF NATIONAL PUBLIC RADIO, INC., INCLUDING NATIONAL  
PUBLIC RADIO, INC.'S MEMBER STATIONS, AMERICAN PUBLIC MEDIA,  
PUBLIC RADIO INTERNATIONAL, AND PUBLIC RADIO EXCHANGE  
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**INTRODUCTORY MEMORANDUM TO THE  
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PUBLIC RADIO INTERNATIONAL, AND PUBLIC RADIO EXCHANGE**

The Corporation for Public Broadcasting (“CPB”), on behalf of National Public Radio, Inc. (“NPR”), including NPR’s member stations, American Public Media, and Public Radio International, through its undersigned counsel, respectfully submits this Introductory Memorandum to its written direct case in accordance with 37 C.F.R. § 351.4. This Memorandum describes the contents of CPB’s written direct case, its proposed fee and summarizes the testimony of its witnesses.

**I. CONTENTS OF CPB’S WRITTEN DIRECT CASE**

Volume 1 contains: (A) this Introductory Memorandum; (B) an index of CPB’s witness testimony; (C) an index of CPB’s exhibits; and (D) a certificate of service.

Volume 2 contains the written direct testimony of CPB’s witnesses as well as CPB’s exhibits.

Pursuant to 37 C.F.R. § 350.4(a) and § 351.4(a), CPB is filing an original, five copies, and an electronic copy of the materials in Volumes 1 and 2.

**II. SUMMARY OF THE WRITTEN TESTIMONY OF CPB’S WITNESSES**

A. CPB's Expert Witness Keith Waehrer

Keith Waehrer, Ph.D., is a Partner at Bates White, LLC ("Bates White"), a professional services firm that performs economic and statistical analyses in a variety of industries and forums. Dr. Waehrer specializes in performing economic analyses relevant to antitrust and intellectual property litigation, including the determination of reasonable royalty rates through an analysis of alternative benchmarks. His testimony supports CPB's rate proposal.

Dr. Waehrer analyzes the issue of royalty payments for the non-interactive digital public performances of sound recordings and ephemeral recordings made in the course of transmissions over the internet by NPR, American Public Media, Public Radio International, Public Radio Exchange, and NPR's member radio stations (collectively "Public Radio"). He provides his expert opinion on a reasonable rate for Public Radio to pay SoundExchange for Public Radio's public performances and associated ephemeral recordings made pursuant to the statutory licenses set forth in 17 U.S.C. § 114(d)(2) and (f)(2) and 17 U.S.C. § 112(e)(4) for the period beginning January 1, 2016, and ending December 31, 2020.

In conducting his analysis, Dr. Waehrer acknowledges the impracticability of trying to directly calculate a reasonable royalty using an economic model of bargaining because, in his opinion, measuring the appropriate value and costs to the parties is not possible with the available data. As a result, Dr. Waehrer opines that the task of identifying a reasonable royalty that approximates what would be negotiated between a willing buyer and willing seller is best accomplished through the use of benchmark licenses. In choosing licenses to use as benchmarks, sound economic principles suggest that such license benchmarks should be as similar as possible in all dimensions to the values and costs associated with the hypothetical license being considered (in this case a hypothetical license between Public Radio and the copyright owners comprising SoundExchange). Thus, the most useful benchmarks will be those involving similar parties negotiating over similar rights.

Dr. Waehrer notes that, in this case, we have the benefit of a benchmark based on a willing buyer/willing seller transaction between the identical licensor and licensee, which is ideal. On July 30, 2009, SoundExchange and CPB entered an agreement establishing rates and terms for Public Radio's public performances and ephemeral recordings (the "Prior Agreement"). The Prior Agreement addressed the very statutory license at issue in these

proceedings, and covered the statutory license term immediately preceding the term that is currently at issue. Like the two predecessor voluntary license agreements between SoundExchange and CPB/NPR for Public Radio (covering the entire span of the Section 114/112 statutory license), the Prior Agreement is based on a fixed fee royalty. The terms of the Prior Agreement provide an appropriate starting point for Dr. Waehrer's analysis.

Dr. Waehrer determines that this evidence provides a reliable basis from which to conclude that CPB's proposed rate for a yearly royalty on a flat fee basis of between \$150,720 and \$178,560 per year meets the criteria applicable in this proceeding.

B. Michael Riksen

CPB's proposed rate is also supported by the testimony of Michael Riksen. Mr. Riksen is the Vice President of Policy and Representation for NPR, a position he has continually held since 2003. Mr. Riksen's diverse job responsibilities relate to policy development, NPR's communications strategies, NPR's funding (including federal appropriations), NPR's prior negotiation history with SoundExchange and NPR's engagement with individual stations and outreach in the community. Due to Mr. Riksen's position and wide-ranging job responsibilities, he is able to provide valuable testimony regarding Public Radio's unique programming and role in the community, the promotional value of Public Radio programming, Public Radio's prior licensing history with SoundExchange, and Public Radio music use, and funding.

As Mr. Riksen explains, NPR is a non-profit corporation that produces and distributes educational programming through more than 900 Public Radio stations nationwide, which reach a combined audience of 27.2 million listeners weekly. These 900 Public Radio stations share the common mission of providing educational and culturally enriching programming to the American public. These member stations, which must be qualified by CPB according to certain predetermined criteria, provide a valuable service to the community in the form of programming that would not be available on commercial radio formats. And the diverse and unique programming aired on these Public Radio stations has been widely acclaimed and received hundreds of awards.

Though the license in question in this proceeding pertains to webcast transmission of music recordings, NPR's primary means of distribution is by broadcasting on terrestrial radio, and the content of its broadcasts is primarily comprised of non-music content. As Mr. Riksen



explains, NPR's programming is primarily consumed through over-the-air broadcasts, though NPR also offers the same programming over the Internet as a means of expanding its reach and further fulfilling its educational mission. The bulk of the web-based programming on Public Radio is simply the same content that is also broadcast on terrestrial radio. Importantly, the audience for NPR's non-music programming (e.g., its news, talk, information, quiz and spoken word programming) dwarfs listenership to NPR's music-based programming.

Mr. Riksen also describes how, for the music based programming that NPR does offer, NPR offers unique promotional value to musical artists and labels. NPR and Public Radio pioneer broadcasts and webcasts of non-mainstream artists and music genres that are not widely available elsewhere. And NPR provides access to traditional music genres, like jazz and classical music that are generally unavailable on commercial radio. Thus, NPR provides exposure for music that would otherwise receive little or no radio airplay. Mr. Riksen explains that many artists and labels actually seek out NPR (or member stations) to have their music included in the programming; indeed, as NPR has developed offerings consisting of on-demand streams and full album streams which require separate clearance from copyright owners since they fall outside the Section 114 statutory license, copyright owners generally (if not invariably) do not charge any license fee to NPR for such usage.

Mr. Riksen's testimony also elucidates the relevant licensing history between SoundExchange and Public Radio. Since the advent of the statutory license at issue in this proceeding, SoundExchange and CPB/NPR have negotiated voluntary, fixed fee license agreements in lieu of relying on fees to be set by the Copyright Arbitration Royalty Panel (initially) and then the CRB. Most recently, in 2009, SoundExchange and CPB/NPR entered an agreement covering the same rights at issue in this proceeding. That agreement set a rate based on a flat fee payment of \$480,000 per year, subject to certain usage caps and potential incremental fees if the usage caps were exceeded. Mr. Riksen is not aware of any other relevant, recent licenses, and, as noted above, he testifies that when NPR obtains licenses for on-demand or other performances outside the scope of the statutory license from individual label or artist copyright owners, it obtains those rights on a *gratis* royalty-free basis.

Mr. Riksen, like Dr. Waehrer, believes that this prior license is an appropriate comparator when determining a rate in this instance. Importantly, Mr. Riksen explains that there have been

no significant changes in the amount of music use in Public Radio programming since the last license was agreed upon — other than the fact that in 2009 the parties significantly overestimated the amount of music usage (measured in aggregate tuning hours) of Covered Entities under the agreement. And, as noted, while the last license contained certain music usage thresholds that might trigger a higher rate, the amount of music use never came close to meeting those thresholds.

Finally, Mr. Riksen explains the financial constraints faced by Public Radio. Public Radio funding is dependent on factors such as government appropriations and listener support. Thus the value or income of particular programming is hard to compute, and applying a percentage of revenue license is unworkable. Also, Mr. Riksen explains how the future of Public Radio's funding is inherently uncertain, so the stability provided by a flat-fee license is hugely important.

### **III. PROPOSED RATES AND TERMS OF THE CORPORATION FOR PUBLIC BROADCASTING**

Pursuant to Section 351.4(b)(3) of the Copyright Royalty Judge's Rules and Procedures, 37 C.F.R. § 351.4(b)(3), CPB proposes the rates and terms set forth herein for eligible non-subscription transmissions made by Public Radio, together with the making of ephemeral recordings necessary to facilitate those transmissions, under the statutory licenses set forth in 17 U.S.C. §§ 112(e) and 114 for the period beginning January 1, 2016, and ending December 31, 2020. Pursuant to 37 C.F.R. § 351.4(b)(3), CPB reserves the right to revise its proposed rates and terms at any time during the proceeding up to, and including, the filing of its proposed findings of fact and conclusions of law.

#### **A. Proposed Rates - On Annual Flat Fee Basis**

CPB requests that the statutory rates for Public Radio, inclusive of both the public performance and ephemeral reproduction rights at issue, be set at an annual royalty within the range of \$150,720 - \$178,560.

This flat-fee royalty amount is based on the royalty from CPB's 2009 agreement with SoundExchange (the "Prior Agreement") adjusted to take into account actual music usage thereunder. As explained more fully in the attached testimony of Dr. Waehrer, the Prior Agreement explicitly assumed music usage (as measured in Music Aggregate Tuning Hours, or

“MATH”) of [REDACTED] per quarter. Actual measurements over the course of the prior license term have revealed significantly lower music usage, *i.e.*, average quarterly MATH of as low as 16,416,720 MATH and as high as 19,501,974 MATH. Because music usage was between [REDACTED] and [REDACTED] of the MATH projected in the Prior Agreement, CPB proposes adjusting the annual royalty rate to an amount between 31.4% and 37.2% of the \$480,000 annual flat-fee rate the parties agreed on in 2009.

B. Per Performance Fees If Usage Cap Exceeded

CPB further proposes that, in keeping with the structure of the Prior Agreement, if aggregate MATH across the Covered Entities under the license exceeds a pre-determined cap on music usage, an incremental fee be payable in accordance with the following. The Prior Agreement specified a music usage cap starting at 279,500,000 MATH, after which a per performance fee equivalent to one-third the commercial webcaster rate (which ranged from \$0.00057 - \$0.00083 per performance during the license term) applied. CPB proposes that while this overall structure is maintained, the usage cap figure should be lowered commensurate with the lower actual volume of music usage by CPB. Accordingly, CPB proposes a cap of between 89,979,126 MATH and 106,599,474 MATH (based on 31.4% \* 279,500,000 and 37.2% \* 279,500,000, respectively) in year one of the new license term, depending on which annual fee level is adopted, with a per performance additional fee (subject to the ensuing paragraph) based on any MATH over the usage cap (and assuming, as set forth in the Prior Agreement, 12 performances per MATH). As in the Prior Agreement, the usage cap should be increased year to year by 0.5%.<sup>1</sup>

Additionally, the Prior Agreement contained an absolute limit on any incremental per performance fees for usage above the annual usage cap. In the Prior Agreement, that maximum incremental per performance fee was based on one year’s annual fee, *i.e.*, \$480,000 over five years. Adjusting this number for actual music usage results in an incremental per performance fee limit of between 31.4% and 37.2% of \$480,000, or \$150,720 - \$178,560. A comparable

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<sup>1</sup> In the event that the Prior Agreement as adjusted is not adopted as the benchmark for determining Public Radio’s fee for the upcoming license term, CPB and NPR would oppose the imposition of a usage cap on Public Radio fees as it is inconsistent with the public and educational missions of Public Radio.

provision should be adopted here that would limit CPB's royalty over the 5-year term from 2016 to 2020 such that it would not exceed \$904,320 (\$150,720 per year for 5 years, plus a \$150,720 maximum per performance incremental fee) or \$1,071,360 (\$178,560 per year for 5 years, plus a \$178,560 maximum per performance incremental fee).

### C. Economic Justification Of Proposed Fee Structure

CPB understands that the charge of the CRB is to determine rates and terms that would be as close as possible to those that would be generated in a hypothetical willing seller, willing buyer marketplace between licensors and licensees of sound recording performance rights who are as closely situated as possible to the licensor and licensee at issue in the proceeding. CPB believes that the best benchmarks are those that involve: (1) the same or substantially similar licensees and licensors, (2) the same or as comparable a set of recordings and rights as SoundExchange licenses to Public Radio under the section 114 statutory license, and (3) a time period as close in proximity as possible. CPB's most immediate Prior Agreement with SoundExchange plainly satisfies all three of these criteria better than any other possible benchmarks.

While CPB understands that, in the past, the CRB has chosen to focus on individual licensor (label) deals with the same or similar licensees, NPR's only individual label deals -- for interactive (on-demand) performances or other non-statutory-compliant streaming of SoundExchange member recordings -- have overwhelmingly (if not always) been on a *gratis* basis. Absent suggesting that such zero-royalty agreements are an appropriate benchmark, we submit that the flat annual fee approach adopted in a consistent set of three negotiated agreements between Public Radio and SoundExchange -- since the birth of the statutory license at issue here -- provides the appropriate model to follow. Thus, CPB has proposed a license rate that is simply an adjusted version of the Prior Agreement from 2009.

The only factor that might argue against applying the same rate structure as the Prior Agreement would be if the content offered on Public Radio changed significantly. But it has not. As explained in the accompanying testimony of Mr. Riksen and Dr. Waehrer, Public Radio's music usage during the Prior Agreement's term and Public Radio's audience were quite stable. Additionally, the amount of music usage (measured in MATH) during the term of the Prior Agreement was a fraction of what the parties expected. So, in no instance should the amount

paid to SoundExchange increase, and, in fact, the royalty rates from the Prior Agreement should be adjusted downward to account for this lower-than-expected music usage.

The Copyright Royalty Board is charged with considering various factors in arriving at its fee-setting in this case.<sup>2</sup> Among these factors includes: whether the use of music in public radio programming substitutes for or promotes the sale of phonorecords, or otherwise interferes with or enhances the copyright owner's other streams of revenue from its sound recordings; and the relative roles of the copyright owner and Public Radio in the copyrighted works and the Internet programming distributed by Public Radio with respect to relative creative contribution, technological contribution, capital investment, cost, and risk.

These statutory factors weigh heavily in favor of Public Radio. Mr. Riksen describes how the vast majority of programming streamed by these entities is original, creative, and transformative. The additional material included therein results, in many cases, in entirely new works that are themselves protected by copyright.

Public Radio music programming available on air and on the Web is highly produced programming. As Mr. Riksen explains, most programs are hosted, with significant educational features added to enhance and explain the musical performance, the artist, the context of the performance, the musical genres, and the context in musical history. On the NPR Website and on other Public Radio sites, additional features are often added so that an Internet listener can learn more about the artist (by interview or other material) and the music, and enable interested listeners to find and purchase the music. This is done not for commercial purposes. Rather, it is done to enhance the educational mission of Public Radio. As discussed above and in Mr. Riksen's testimony, Public Radio educates listeners and helps them discover and purchase new music -- thus promoting not substituting for phonorecord sales -- thus enhancing the copyright owners' other revenue streams.

As Mr. Riksen also explains, unlike the sound recording copyright owners, Public Radio incurs substantive financial risks and costs associated with its creating of certain web-only content and use of the Internet as a distribution mechanism, which are not recaptured by listener contributions or underwriting. In addition, Public Radio must make capital

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<sup>2</sup> 17 U.S.C. § 114(f)(2)(B)(i) and (ii).

investments for equipment and Web-related services, and must pay bandwidth costs. These costs cannot be passed on to advertisers or venture capitalists, as can be done in commercial world.

In sum, Public Radio makes substantial investments in order to engage in the streaming of its content, even though streaming is purely ancillary to NPR's and Public Radio's core mission of radio broadcasting. Public Radio thereby, among other things, provides users with the kind of unique niche music programming not available via commercial broadcasters/webcasters.

CPB/NPR believes that the creative contributions, technological contributions, investments, and risk factors associated with Public Radio's transmissions of the music programming described above, coupled with the unique funding model of Public Radio, weigh decidedly in favor of a low, stable fixed-fee royalty for Public Radio. All of these factors favor adoption of rates no higher than NPR/Public Radio's fee proposal.

D. Ephemeral License Fee

Public Radio proposes, consistent with prior CRB jurisprudence and agreements between SoundExchange and licensees, that the fee for the ephemeral reproduction of sound recordings under the section 112(e) component of the license at issue be measured as a fixed percentage – of 5% – of the overall value of the bundle of rights acquired by Public Radio under the combined Section 112/114 statutory license at issue in these proceedings.

E. Non-Fee Terms

Regarding reporting and other terms associated with SoundExchange's license for Public Radio, CPB/NPR proposes that the same reporting and other non-fee terms as are set forth in the Prior Agreement be adopted for the upcoming statutory license term.

Respectfully Submitted,

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**Index of Witness Statements**

<b>Tab</b>	<b>Witness</b>	<b>Title</b>
1	Keith Waehrer, Ph.D.	Partner, Bates White, LLC
2	Michael Riksen	VP or Policy and Representation for NPR



**Index of CPB Exhibits**

<b>Exhibit No.</b>	<b>Sponsored By</b>	<b>Description</b>
CPB Ex. 1	Keith Waehrer, PhD	Curriculum vitae of Keith Waehrer, PhD
CPB Ex. 2	Michael Riksen	Radio Webcasting Performance Agreement between SoundExchange and CPB, July 30, 2009
CPB Ex. 3	Keith Waehrer, PhD	Integrated Media Association, "A Census Report on Public Radio Station Streaming Activity," Oct. 18, 2007
CPB Ex. 4	Keith Waehrer, PhD	Data on size of reporting and non-reporting stations
CPB Ex. 5	Keith Waehrer, PhD	News articles & websites cited
CPB Ex. 6	Michael Riksen	Table Depicting Differences in Arbitron Cume Rating from 2009 to 2014

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**TESTIMONY OF**  
**KEITH WAEHRER, PHD**  
**Partner, Bates White, LLC**

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## **1. Introduction**

### **1.A. Scope of Charge**

1. I have been asked by National Public Radio, Inc. (“NPR”) and the Corporation for Public Broadcasting (“CPB”) to analyze the issue of royalty payments for the non-interactive digital public performances of sound recordings and ephemeral recordings made in the course of transmissions over the internet by NPR, American Public Media, Public Radio International, Public Radio Exchange, and NPR’s member radio stations (collectively, “Public Radio”) and to provide an opinion regarding what would be a reasonable rate for Public Radio to pay SoundExchange for Public Radio public performances and associated ephemeral recordings made pursuant to the statutory licenses set forth in 17 U.S.C. § 114(d)(2) and (f)(2) and 17 U.S.C. § 112 (e)(4) for the period beginning on January 1, 2016, and ending on December 31, 2020.

### **1.B. Qualifications**

2. I am a Partner at Bates White, LLC (“Bates White”), a professional services firm that performs economic and statistical analyses in a variety of industries and forums. I specialize in performing economic analyses relevant to antitrust and intellectual property litigation. This includes the determination of reasonable royalty rates through an analysis of alternative benchmarks. In particular, I have submitted expert reports in litigation over a reasonable royalty for the performance right in compositions. Prior to joining Bates White, I served for seven years as an economist at the Antitrust Division (“the Division”) of the United States Department of Justice. At the Division, I assisted in the analyses of mergers and other potentially anticompetitive conduct. These investigations spanned a wide range of industries, including

financial markets, online auctions, online music services, and heavy industrial equipment. These investigations often implicated intellectual property issues.

3. I have taught economics at University of Maryland, Georgetown University, Johns Hopkins University, Brigham Young University, and Rutgers University. The courses I have taught include industrial organization and microeconomic theory to PhD students at University of Maryland and game theory, microeconomic theory, industrial organization, and mathematics for economists to undergraduate students at the other universities.

4. I received my PhD in economics from Rutgers University in 1992, my MA in economics from Rutgers University in 1989, and my BA in economics from Trinity College in Hartford, Connecticut, in 1985.

5. I have published economic articles in peer-reviewed journals. I have also served as a reviewer for the National Science Foundation and as a referee for many economics journals, including the *American Economic Review*, which is the primary journal of the American Economics Association and the profession's most widely read journal.

6. A copy of my curriculum vitae is located in Exhibit 1.

### **1.C. Summary of Testimony**

7. Public Radio comprises a unique set of entities that are unlikely to be sufficiently similar to other webcasters such that competitive negotiations between other willing buyers and willing sellers would have resulted in a similar royalty as CPB would have negotiated for the license at issue here. However, in this case, there is a previously negotiated agreement between CPB and SoundExchange, dated July 30, 2009 (the "Prior Agreement"), that covers the same rights at issue here, that can be used as a benchmark, because it reflects the royalty that would

have been negotiated by a willing buyer and a willing seller.<sup>3</sup> This is the most recent of three consecutive voluntary agreements, since the advent of the §§ 114/112 statutory licenses, between CPB/NPR and SoundExchange establishing a fixed fee royalty structure for SoundExchange’s licensing of Public Radio.

8. In order to use the Prior Agreement, however, it is important to adjust for changes in usage or expected usage, if any. To this end, I analyze usage data from entities covered by the CPB license. I find that there is no statistically significant time trend in the usage data—suggesting that usage will be roughly the same during the term of the next license (2016–2020) as it has been during the term of the current license (2011–2015). Therefore, I find no reason to make an adjustment for a change in actual usage.

9. While there appears to be no time trend in usage, when the Prior Agreement was being negotiated, both CPB and SoundExchange appear to have believed that Public Radio’s relevant music usage was significantly higher than it actually was. At the time that the Prior Agreement was being negotiated, there was little systematic reporting by Public Radio of online music usage. The best information on music usage appears to have been a 2007 study conducted at the request of CPB.<sup>4</sup> Usage reporting improved significantly during the term of the Prior Agreement. That reporting implies that the Prior Agreement was negotiated under the assumption that usage would be significantly higher than it actually was. Therefore, it is necessary to adjust the royalty and other terms in the Prior Agreement to reflect this change in expected usage.

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<sup>3</sup> Public Radio Webcasting Performance Agreement between SoundExchange and CPB, July 30, 2009.

<sup>4</sup> Integrated Media Association, “A Census Report on Public Radio Station Streaming Activity,” Oct. 18, 2007.

10. Based on the information in the Prior Agreement and Public Radio usage data, I find that an annual payment of between \$150,720 and \$178,560 (or a total payment over the five-year term of between \$753,600 and \$892,800) would represent a reasonable royalty that reflects what would have been negotiated by a willing buyer and a willing seller.<sup>5</sup> As discussed below, this would be subject to increase if the MATH of the Covered Entities under the license exceeded certain annual usage caps.

11. The adjustment that results in the annual royalty amounts above does not take into account the annual minimum fee of \$500 per Covered Entity as described in the Prior Agreement. The question of whether the \$500 per Covered Entity should form the minimum royalty owed in the new license or the \$500 per Covered Entity minimum should also be adjusted for the change in expected usage depends on what costs or other considerations are covered by the \$500 minimum. At this stage in the discovery process, I am unable to reliably analyze that issue.

## **2. Public Radio**

12. CPB is a private, nonprofit entity that was founded by Congress and is funded by the federal government.<sup>6</sup> CPB distributes more than 70% of its federal funding to public television stations and public radio stations, such as NPR member stations.<sup>7</sup> It is the “largest single source of funding for public radio, television, and related online and mobile services.”<sup>8</sup> The 1967 act that created the CPB expressed unique values distinct from that of commercial broadcasting, such as “encourag[ing] the development of programming that involves creative

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<sup>5</sup> In the text below, I discuss the adjustment of other terms in the license.

<sup>6</sup> CPB, “About CPB,” accessed Oct. 5, 2014, <http://www.cpb.org/aboutcpb/>.

<sup>7</sup> CPB, “About CPB,” accessed Oct. 5, 2014, <http://www.cpb.org/aboutcpb/>.

<sup>8</sup> CPB, “About CPB,” accessed Oct. 5, 2014, <http://www.cpb.org/aboutcpb/>.



risks and that addresses the needs of unserved and underserved audiences, particularly children and minorities.”<sup>9</sup> The act also references the need for educational and cultural broadcasting, as well as a desire to make public telecommunications services available to all US citizens.<sup>10</sup>

13. NPR, and Public Radio more broadly, has a unique mission among users of sound recordings.

The mission of NPR is to work in partnership with Member Stations to create a more informed public—one challenged and invigorated by a deeper understanding and appreciation of events, ideas and cultures.<sup>11</sup>

14. While the majority of Public Radio listeners receive that programming by tuning into an AM, FM, or digital radio broadcast, many stations also simulcast their signals over the internet. Other streaming consists of web-only streams and archived material.

15. Public Radio’s use of music covered by the license with SoundExchange includes online streams of simulcasted over-the-air broadcasts as well as web-only streams and archived programs. The streamed music, because of Public Radio’s unique mission, tends to be music that is often not heard on commercial radio.

### **3. An Economic Framework for Determining a Reasonable Royalty for Public Radio**

16. The market determination of a reasonable royalty for the performance of sound recordings would (at least in the case of NPR and copyright owners) involve bargaining. The economics of bargaining is a study of how the gains from trade are shared between buyers and

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<sup>9</sup> “Corporation for Public Broadcasting,” 47 U.S.C § 396(a)(6) (1967), *available at* <http://www.cpb.org/aboutpb/act/PublicBroadcastingAct1967.pdf>.

<sup>10</sup> “Corporation for Public Broadcasting,” 47 U.S.C § 396(a)(1,7) (1967), *available at* <http://www.cpb.org/aboutpb/act/PublicBroadcastingAct1967.pdf>.

<sup>11</sup> NPR, “Our Mission and Vision,” accessed Oct. 5, 2014, <http://www.npr.org/about-npr/178659563/our-mission-and-vision>.

sellers.<sup>12</sup> The gain from licensing the performances of sound recordings is the difference between the value to the user from making use of the sound recordings minus the cost (including opportunity cost) to the copyright holder from allowing the use.<sup>13</sup>

17. The royalty that results from such bargaining will depend on the value of the sound recording to the user such that higher values, all else equal, would imply a higher royalty. The resulting royalty will also depend on the cost to the copyright holder from licensing the user such that higher costs, all else equal, would imply a higher royalty. Other factors can also affect bargaining outcomes, such as the relative impatience (i.e., in economic terms, the discount factor) of the user and the copyright holder to execute a license and asymmetric information between the user and the copyright holder.<sup>14</sup>

18. It would be impractical to try to directly calculate a reasonable royalty by applying an economic model of bargaining because measuring the appropriate value and cost is not possible with available data. Thus, the task of identifying a reasonable royalty is usually facilitated by the use of benchmark licenses. As a matter of economics, a good benchmark for the CPB–SoundExchange license should involve a license that is as similar as possible in all dimensions to the values and costs of Public Radio and the copyright owners comprising SoundExchange. That way, the value to the user and the cost to the copyright owners of the benchmark license will be as close as possible to the value to Public Radio and the appropriate costs to the copyright owners. Some important dimensions are as follows:

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<sup>12</sup> See Martin J. Osborne and Ariel Rubinstein, *Bargaining and Markets* (San Diego: Academic Press, Inc., 1990), at 1.

<sup>13</sup> I use the term “cost” here, but such a cost might also be negative. For example, a copyright holder might be willing to actually pay a user to publically perform its compositions if such a use generates revenue from other sources.

<sup>14</sup> See Martin J. Osborne and Ariel Rubinstein, *Bargaining and Markets* (San Diego: Academic Press, Inc., 1990), at 52.

Similar use and user: The benchmark license should involve either the same user (in this case, Public Radio) or another similarly situated user. Dissimilar users will tend to value the use of the compositions differently. In addition, dissimilar use of the compositions could result in different costs (or benefits) to the copyright owner. That is, different users will tend to cannibalize or benefit other revenue sources of the copyright owner at different rates. In addition, it will be important to verify that the users use music with a similar intensity; even the same user's use of music can change over time.

Similar licensor, sound recordings, and rights: The benchmark license should be a license in which a similar licensor is involved and the same rights are being licensed. Clearly, if the sound recordings or rights being licensed in a proposed benchmark are qualitatively different from the recordings and rights at issue here, then the license will not make a good benchmark.

Similarity of the economic circumstances: The economic circumstances in which a license is negotiated can have a significant effect on the resulting royalty. This would involve differences in general market conditions that affect the costs and benefits derived from a license to perform sound recordings.

Sufficient degree of competition: The market conditions in which a proposed benchmark was negotiated should not reflect the market or monopoly power that is potentially created through collective licensing.

19. The CRB applies a willing buyer/willing seller standard when determining a reasonable royalty for the digital performance rights to sound recording and ephemeral recordings. The law states that “the Copyright Royalty Judges shall establish rates and terms that

most clearly represent the rates and terms that would have been negotiated in the marketplace between a willing buyer and a willing seller.”<sup>15</sup>

20. In this case, I have the benefit of a benchmark based on a willing buyer/willing seller transaction between the identical licensor and licensee that covers the same rights at issue in this proceeding (i.e., the agreement between SoundExchange and CPB dated July 30, 2009). The Prior Agreement established rates and terms for Public Radio’s public performances and ephemeral recordings under the very statutory license at issue in these proceedings, covering the immediately preceding statutory license term. Accordingly, the terms of the Prior Agreement provide the starting point in my analysis. As I discuss below, there have been no material changes in Public Radio’s use of sound recordings or in other relevant circumstances. However, at the time that the Prior Agreement was negotiated, CPB and SoundExchange appear to have assumed that use under the license as measured by Music Aggregate Tuning Hours (“MATH”) would be much higher than Public Radio’s actual use of sound recordings turned out to be. Therefore, an adjustment is needed to account for this change.

#### **4. NPR’s Previously Negotiated License is the Best Benchmark Available For a Reasonable Royalty**

##### **4.A. Public Radio’s unique use of music implies that other users are unlikely to be similar**

21. Public Radio has a unique mission and history that distinguishes it from commercial radio and online music services. Public Radio is committed to offering

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<sup>15</sup> “Licenses for Certain Nonexempt Transmissions,” 17 U.S.C. § 114(f)(2)(B) (2010).

commercially diverse programming.<sup>16</sup> Public Radio takes creative risks that are not normally undertaken by commercial radio.<sup>17</sup> In addition to educating the public, Public Radio gives opportunities to emerging artists who might not otherwise have radio exposure.<sup>18</sup> The Denver-based band DeVotchka described it this way: “These locally-rooted [Public Radio] stations are loved by artists and fans alike because their programming is based on a passion for music and a desire to create a shared experience between listeners.”<sup>19</sup>

22. Copyright law specifies that the Copyright Royalty Judges should consider information on whether the service is promotional or substitutive for the copyright owner’s other revenue streams when deciding fair royalties. Public Radio’s unique mission makes it quite differentiated from other online music services in this aspect.

23. Music programs on Public Radio are considered promotional because they feature additional information on the music played, including historical context and artist background that could help a listener make a purchasing decision. Listening to Public Radio music programs is quite different from listening to music on commercial radio stations. Public Radio programming tends to feature lesser-known musical compositions and contains a significant amount of information about the featured music. Exposure to lesser-known music and the additional content will tend to promote the sales of CDs or digital downloads rather than substitute for them. Public Radio programs often feature detailed information about music

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<sup>16</sup> Corporation for Public Broadcasting, “Serving Diverse Audiences,” accessed Oct. 6, 2014, <http://www.cpb.org/diverseaudiences/>; Tom Hagerman et al., “The Importance of Public Radio to the Music Community,” *Denver Post*, Nov. 9, 2011, available at [http://www.denverpost.com/ci\\_19291045](http://www.denverpost.com/ci_19291045).

<sup>17</sup> Public Radio Music Month, “About,” accessed Oct. 6, 2014, <http://publicradiomusicmonth.org/about/>.

<sup>18</sup> Public Radio Music Month, “About,” accessed Oct. 6, 2014, <http://publicradiomusicmonth.org/about/>; NPR, “Public Radio Music Month Spotlights Invaluable Role of Public Media for Musicians and Music Fans,” news release, Apr. 2, 2012, available at <http://www.npr.org/about/press/2012/040212.PublicRadioMusicMonth.html>.

<sup>19</sup> Tom Hagerman et al., “The Importance of Public Radio to the Music Community,” *Denver Post*, Nov. 9, 2011, available at [http://www.denverpost.com/ci\\_19291045](http://www.denverpost.com/ci_19291045).

streamed so that a listener can purchase the track. Many Public Radio websites feature artist interviews and links for purchasing music.

24. According to a 2012 *Billboard* article,

Managers and publicists at both indie and major labels say the power of an NPR Music feature coupled with NPR News coverage on programs like “Morning Edition,” “All Things Considered,” “Weekend Edition” and “Fresh Air” can really affect a release, especially when compared with music-only sites.<sup>20</sup>

25. A 2013 *Wall Street Journal* article stated,

With 2.7 million unique monthly visitors, 1.4 million podcast downloads every four weeks and an additional 1.4 million iPhone and iPad apps in circulation, NPR Music ([npr.org/music](http://npr.org/music)) has become a sought-after stop for both aspiring and established artists.<sup>21</sup>

As a result of this promotional value, labels license Public Radio to offer on-demand streams and downloads of selected sound recordings (outside the scope of the §§ 114/112 statutory license) without any compensation in the form of a royalty..

26. The uniqueness of Public Radio was also acknowledged by SoundExchange and resulted in a license different from other noncommercial webcasters. The SoundExchange website lists Public Radio as a distinct category of noncommercial webcaster.<sup>22</sup>

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<sup>20</sup> Andrew Hampp, “How NPR Breaks New Music; Five Member Stations that Break Big Artists,” *Billboard*, Oct. 5, 2012, available at <http://www.billboard.com/biz/articles/news/radio/1083516/how-npr-breaks-new-music-five-member-stations-that-break-big-artists>.

<sup>21</sup> Steve Oney, “The Improbable Rise of NPR Music,” *Wall Street Journal*, Mar. 14, 2013, available at <http://online.wsj.com/news/articles/SB10001424127887323495104578314663257286662?mod=e2tw&mg=reno64-wsj&url=http%3A%2F%2Fonline.wsj.com%2Farticle%2FSB10001424127887323495104578314663257286662.html%3Fmod%3De2tw>.

<sup>22</sup> SoundExchange, “Noncommercial Webcaster,” accessed Oct. 6, 2014, <http://www.soundexchange.com/service-provider/non-commercial-webcaster/>.

**4.B. The settlement negotiated during the prior proceedings reflects willing buyer and willing seller at the time**

27. The Prior Agreement between CPB and SoundExchange entered into on July 30, 2009, was a settlement agreement over the appropriate royalty and related terms for Public Radio's digital public performances of sound recording and ephemeral recordings. The terms in this agreement are representative of what would have been negotiated between a willing buyer and a willing seller.

28. When SoundExchange and CPB entered into the negotiations over the appropriate license rate, litigating in the CRB was an alternative of which either party could have availed themselves, meaning that if the parties would not have been able to agree on a rate, then the rate would have been set by the CRB. At any time during the negotiations, either party could have abandoned the settlement discussions and instead elected to have the rate be determined by the CRB.

29. CRB is charged to "establish rates and terms that most clearly represent the rates and terms that would have been negotiated in the marketplace between a willing buyer and a willing seller."<sup>23</sup> Therefore, royalties determined by the CRB, barring evidence to the contrary, should be viewed as reflecting royalty terms that would have resulted from competitive negotiations between a willing buyer and a willing seller.

30. Given that both CPB and SoundExchange willingly agreed to the settlement rather than seeking to have the royalty determined by the CRB, it must be the case that both parties believed that the royalty in the agreement was sufficiently similar to the royalty that would have been determined by the CRB for Public Radio's use of sound recordings. If the terms had been significantly different, then one party or the other would have found it preferable

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<sup>23</sup> "Licenses for Certain Nonexempt Transmissions," 17 U.S.C. § 114(f)(2)(B) (2010).

to litigate the royalty before the CRB. Therefore, the royalty in the Prior Agreement likely reflects a royalty similar to what the CRB would have set and thus reflects an arm's-length negotiation between a willing buyer and a willing seller.

#### **4.C. Public Radio's actual use of music has not materially changed over time**

31. Prior to 2009, there was little systematic reporting of streamed sound recording use by Public Radio organizations. In 2007, the CPB commissioned a study of streaming by entities covered by the CPB license with SoundExchange. At the time, the study estimated MATH for Public Radio of [REDACTED].<sup>24</sup>

32. When the Prior Agreement took effect in 2011, Public Radio was required to collect data on sound recording usage more systematically. Figure 1 shows the growth in reporting by entities covered by the CPB–SoundExchange license. The chart reflects that the percentage of Covered Entities which were reporting their streaming rose from under 15% in Q1 2009 to approximately 84% in Q2 2014..

33. Figure 1 also presents reported and projected MATH. Reported MATH is calculated by only using information from reporting entities. Therefore, I scale up the reported MATH to account for non-reporting entities under the assumption that non-reporting entities, on average, each account for the same amount of MATH as reporting entities. The results of this calculation are presented in column F of Figure 1. Non-reporting entities tend to be small stations that are unlikely to be representative in terms of music streaming. In fact, in terms of over-the-air audience size, non-reporting entities are on average approximately no more than half

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<sup>24</sup> Integrated Media Association, "A Census Report on Public Radio Station Streaming Activity," Oct. 18, 2007.



the size of reporting entities. Therefore, the projected MATH is likely to be an upper bound and reported MATH a lower bound on Public Radio's actual MATH.

**Figure 1. Covered and Reporting Entities, reported ATH, reported MATH, and projected MATH**

Year	Quarter	Covered entities	Reporting entities	Reporting share	Reported ATH	Reported MATH	Projected MATH
		[A]	[B]	[C]=[B]/[A]	[D]	[E]	[F]=[E] / [C]
2014	Q2	398	334	83.92%	43,481,023	20,960,159	24,976,477
	Q1	397	323	81.36%	38,772,228	17,788,474	21,863,852
2013	Q4	395	323	81.77%	61,934,281	15,693,910	19,192,243
	Q3	393	324	82.44%	31,134,529	14,927,150	18,106,080
	Q2	378	323	85.45%	30,239,170	10,634,654	12,445,508
	Q1	377	315	83.55%	32,358,697	14,710,173	17,605,509
2012	Q4	376	302	80.32%	40,828,048	18,549,541	23,094,793
	Q3	375	312	83.20%	38,465,343	17,644,984	21,207,913
	Q2	372	309	83.06%	40,028,039	19,257,484	23,183,767
	Q1	371	319	85.98%	36,780,661	17,288,473	20,106,657
2011	Q4	366	327	89.34%	38,061,513	19,446,855	21,766,205
	Q3	365	313	85.75%	37,758,210	15,860,186	18,495,105
	Q2	363	316	87.05%	28,920,544	13,705,998	15,744,548
	Q1	358	314	87.71%	28,986,523	13,366,036	15,238,984
2010	Q4	368	302	82.07%	26,036,846	11,447,867	13,949,719
	Q3	375	290	77.33%	23,804,926	11,826,952	15,293,472
	Q2	372	288	77.42%	21,337,355	11,752,233	15,179,968
	Q1	378	265	70.11%	19,424,246	11,468,363	16,358,646
2009	Q4	384	227	59.11%	15,610,892	9,483,740	16,042,979
	Q3	378	174	46.03%	13,817,924	8,923,834	19,386,260
	Q2	313	61	19.49%	11,223,629	8,895,323	45,643,215
	Q1	313	45	14.38%	2,720,716	954,837	6,641,422

34. I estimate a simple trend regression on both reported MATH and projected MATH to determine if there is a measureable trend in the data. For the purposes of this analysis, I limit the time period to coincide with the term of the Prior Agreement (i.e., from 2011 to the latest period of reported data). This is a period that also reflects more systematic reporting of usage by Public Radio. The regression results are reported in Figure 2. The time trend coefficient in both regressions is not statistically different from zero at any reasonable significance level (90% confidence interval). This analysis indicates that Public Radio’s digital usage of sound recordings did not materially change during the term of the Prior Agreement; this is consistent with the hypothesis that the usage will not materially change during the term of the next CPB–SoundExchange license. I am also unaware of other information that would tend to suggest an increase in music streaming by Public Radio.

**Figure 2. MATH trend analysis**

	(1)	(2)
	Reported MATH (in '000s)	Projected MATH (in '000s)
	(2011 Q1–2014 Q2)	(2011 Q1–2014 Q2)
Time Trend	141.74	266.81
<i>Std. error</i>	(189.54)	(228.84)
<i>p-value</i>	0.47	0.27
No. of observations	14	14
R-square	4.5%	10.2%

Significance represented by: \*\*\* p<0.01, \*\* p<0.05, \* p<0.1

#### 4.D. Inferring a royalty for the next licensing term

35. While I conclude that Public Radio's use of streaming sound recordings is unlikely to change between the current licensing period and the next licensing period, the Prior Agreement appears to have been negotiated under the assumption that usage, as measured by MATH, would be significantly higher than it actually was. In this section, I propose an adjustment to the economic terms of the Prior Agreement to account for the difference between assumed usage and actual usage.

36. In 2007, the CPB commissioned a census of streaming by Public Radio. The study projected MATH to be [REDACTED] in a representative month.<sup>25</sup> This monthly projection implies MATH of [REDACTED] per quarter and [REDACTED] per year. At the time that the Prior Agreement was negotiated, this was the best projection that CPB seemed to have, and it was based on this projection that the Prior Agreement seems to have been negotiated. The agreement itself contains text affirming this figure (rounded up) as accurate. The agreement states:

CPB represents and warrants that the Streaming Census Report dated October 18, 2007 prepared by CPB and provided to SoundExchange is, to the best of its knowledge, accurate in all material respects, and on the basis thereof, that [REDACTED] [REDACTED] is a reasonable estimate of total Music ATH for all Covered Entities in the aggregate for calendar year 2007.<sup>26</sup>

37. The Prior Agreement is structured as a flat fee of \$480,000 per year (for a total of \$2,400,000 over five years) for usage up to a cap for 2011 of 279,500,000 MATH, after which a per-performance fee of \$0.00057 applies. This cap appears to have been set with the [REDACTED] figure in mind. The usage cap and per-performance fee escalate each year during

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<sup>25</sup> Integrated Media Association, "A Census Report on Public Radio Station Streaming Activity," Oct. 18, 2007.

<sup>26</sup> Public Radio Webcasting Performance Agreement between SoundExchange and CPB, July 30, 2009, at 2.

the term of the license.<sup>27</sup> The 2011 cap is just over [REDACTED] above the [REDACTED] figure. In the following years covered by the agreement, the cap escalates by 0.5% per year.

38. Given the reporting improvements that were implemented as part of the Prior Agreement, it is now clear that the MATH projection contemplated by the Prior Agreement grossly overestimated Public Radio music streaming. For 2011 through the latest available data reporting period (Q2 2014), average quarterly reported MATH is 16,416,720 and an upper bound on average quarterly actual MATH is 19,501,974 based on the projected MATH in Figure 1. This is significantly lower than the assumed quarterly MATH of [REDACTED] that was estimated in 2007 and appears to have served as the basis for the Prior Agreement. Therefore, Public Radio's actual MATH was somewhere between [REDACTED] of the usage that was assumed during the negotiations over the Prior Agreement.

39. The Prior Agreement is structured as a flat fee, with a cap and a per-performance fee if the cap is exceeded. Adjusting the fixed fee and cap to reflect the music usage information based on the improved reporting since the Prior Agreement was negotiated results in an annual fixed fee of between \$150,720 (lower bound based on reported MATH) and \$178,560 (upper bound based on projected MATH). Adjusting the cap similarly would imply usage a cap for 2016 of between 89,979,126 and 106,599,474, assuming that the cap continues to escalate at a rate of 0.5% per year.

40. The Prior Agreement also included a limit on the per-performance fees that would be due if Public Radio usage exceeds the usage caps that I describe above. The Prior Agreement limits those payments to \$480,000 for the term of the license. (Thus, under the Prior Agreement, whatever Public Radio's usage was, it would not owe more than \$2,400,000 plus \$480,000.)

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<sup>27</sup> Public Radio Webcasting Performance Agreement between SoundExchange and CPB, July 30, 2009, at 12.

Adjusting this limit on per-performance fees yields a limit of \$150,720 if adjusted based on reported MATH or \$178,560 if adjusted based on projected MATH. Therefore, under these adjusted terms, the CPB's royalty over the five-year term from 2016 to 2020 could not exceed \$904,320 (\$150,720 per year for 5 years, plus a \$150,720 maximum per performance fee) or \$1,071,360 (\$178,560 per year for years, plus a \$178,560 maximum per performance fee), depending on whether reported or projected MATH is used to make the adjustment.

41. The Prior Agreement also calls out a \$500 minimum per Covered Entity.<sup>28</sup> As of the second quarter of 2014, the CPB–SoundExchange license applied to 398 Covered Entities, implying a minimum that would currently be \$199,500 per year. SoundExchange's other noncommercial webcaster licenses include a \$500 minimum annual fee for entities with low usage.<sup>29</sup> Transaction cost considerations of administering a license for small users and for measuring usage that would normally be implicated in the creation of a minimum fee do not apply in the case of Public Radio. NPR collects and aggregates the usage reports of the entities that are covered by the CPB–SoundExchange license—a value to SoundExchange specified in section 4.2 of the Prior Agreement. Thus, SoundExchange's administration and other transaction costs do not appear to increase with the number of Covered Entities as they would with an increase in the number of entities licensed under one of its standard noncommercial webcaster licenses. This would suggest that the \$500 minimum should be adjusted for the change in expected usage in the same way that some of the other amounts in the Prior Agreement were adjusted. However, at this stage in the discovery process, I am unable to reliably analyze this issue. Therefore, it could be the case that a reasonable royalty would include a minimum royalty

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<sup>28</sup> Public Radio Webcasting Performance Agreement between SoundExchange and CPB, July 30, 2009, at 12.

<sup>29</sup> SoundExchange, "Noncommercial Webcaster (CRB)," accessed Oct. 7, 2014, <http://www.soundexchange.com/service-provider/non-commercial-webcaster/non-commercial-webcaster-crb/>.

of \$500 per Covered Entity. I may modify and/or supplement my opinion on this issue (and other issues discussed herein) as more information becomes available to me.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

A handwritten signature in black ink, appearing to read "Keith Waehrer", written over a solid horizontal line.

October 7, 2014

Keith Waehrer, PhD

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

In the Matter Of:

Determination of Webcasting Royalty Rates and  
Terms for Ephemeral Recording and Digital  
Performance of Sound Recordings

Docket No. 2014-CRB-0001-WR  
(Webcasting IV) (2016-2020)

**WRITTEN DIRECT TESTIMONY OF  
MICHAEL RIKSEN  
VICE PRESIDENT OF POLICY AND REPRESENTATION  
NATIONAL PUBLIC RADIO, INC.**

**Introduction and Witness Background**

1. My name is Michael Riksen. I am the Vice President of Policy and Representation for National Public Radio, Inc. (“NPR”). In that capacity I have overall responsibility for NPR and public radio’s public policy development, federal appropriations to NPR member stations, and strategic station and community engagement plans, among other areas. I have held this position since 2003. Prior to joining NPR, I was Director of Government Relations at Harris Corporation where I developed and implemented public policy positions benefiting the corporation's commercial wireless, broadcasting, and international trade business.

2. My testimony will discuss the nature and mission of NPR and Public Radio, generally, and certain aspects of their operations which may be relevant to this proceeding, which, as I understand it, will determine the fee(s) to be paid for a statutory license for the public performance of sound recordings by means of digital audio transmissions, and the right to make ephemeral recordings to assist such digital transmissions. I understand that among those entities for which the Copyright Royalty Board will set rates and terms are NPR and the Public Radio entities on whose behalf this case is submitted.



3. I understand that the owners of the copyrights in sound recordings are represented by SoundExchange and that SoundExchange is seeking, on their behalf, a fee from the Public Radio entities represented in this case.

4. At the outset, I am compelled to inform the Board that the Corporation for Public Broadcasting (“CPB”) and NPR understood that they had reached a settlement in principle with SoundExchange on all material rates and terms as of September 27, 2014. Accordingly, as resources are scarce for CPB and NPR, we asked the professionals we had retained in the event we needed to participate in these litigated proceedings to “stand down” and focused on working with SoundExchange on finalizing our settlement. It was only at the last minute, on Friday October 3rd, that we were informed by SoundExchange that it felt constrained not to proceed with our settlement. We have done our best to complete preparation of our written direct case over the course of the last three days. That said, under the circumstances, it is possible that we may wish to file an Amended Written Direct Statement on or before the deadline for doing so.

5. I am testifying on behalf of NPR, its member stations and all stations qualified by CPB to receive federal funding (hereafter “CPB-qualified stations”).

6. NPR is a non-profit membership corporation that produces and distributes noncommercial educational programming through more than 900 Public Radio stations nationwide that reach a combined audience of 27.2 million listeners weekly. (See <http://www.npr.org/about-npr/178640915/npr-stations-and-public-media>). The Public Radio system in the United States is composed of noncommercial radio stations whose mission is to provide educational and culturally enriching programming to the American public – programming which would not otherwise be made available by commercial entities. In addition to broadcasting award-winning NPR-produced programming, such as *All Things Considered*® and *Morning Edition*®, NPR member stations are themselves significant producers of local, regional, and national news content, as well as music and other specialized audience programming.

7. As discussed more fully below, CPB-qualified stations are noncommercial educational stations, which meet the criteria established by CPB to receive funding from CPB. CPB is a non-profit organization established by the United States Congress in 1967 to facilitate the development of the public radio and television system. Federal funds are appropriated for

CPB, which in turn, uses the funds for the benefit of Public Radio and television. Public Television is excluded from this proceeding because the relevant statute excludes audio-visual works from the scope of the license at issue.

8. NPR and Public Radio serve the public by providing high quality news, information, and cultural programming. Public Radio is firmly committed to creating a more informed public – a public challenged and invigorated by a deeper understanding of the world's events, ideas, and cultures. Public Radio accomplishes this goal by creating a unique mix of programming that reflects the rich diversity of the American population and the world. At a time when the cultural, economic, and political traditions of the nation are facing tremendous change, a resource like Public Radio -- where the starting point is excellence, not commercialism – is extremely important.

9. Public broadcasting was created with two missions in mind -- one focused on programming services, the other focused on using technology to advance education. The nation's policy makers realized that radio and television were powerful means of communication. Public Radio broadcasters are entrusted with the responsibility of using any available distribution medium – broadcast, Internet streaming, or other means – exclusively for educational purposes.<sup>30</sup> Public Radio's mandate is to serve the American public and listeners abroad by providing informational, educational, and cultural programming that is not generally available on commercial venues. Approximately two-thirds of the Public Radio stations are licensed to colleges, universities, and other educational institutions. The remainder are licensed to non-profit organizations, state and local municipalities, and community organizations.

10. Public broadcasting was created and has been funded since its creation because

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<sup>30</sup> The Public Radio stations represented here meet the statutory definition set forth in 47 U.S.C. § 397(6), which describes a noncommercial educational broadcast station and public broadcast station as a television or radio broadcast station which (a) under the rules and regulations of the Federal Communications Commission ("FCC") in effect on November 2, 1978, is eligible to be licensed by the FCC as a noncommercial educational radio or television broadcast station and which is owned and operated by a public agency or nonprofit private foundation, corporation, or association; or (b) is owned and operated by a municipality and which transmits only noncommercial programs for education purposes. NPR meets the statutory definition set forth in 47 U.S.C. § 397 (11), which defines the term "public broadcasting entity" to mean the Corporation for Public Broadcasting and any licensee or permittee of a public broadcast station, or any nonprofit institution engaged primarily in the production, acquisition, distribution, or dissemination of educational and cultural television or radio programs.

the economic realities of commercial broadcasting do not permit widespread production and distribution of educational and cultural programs that may not have mass audience appeal. As non-profit entities motivated solely by their public mission, NPR and its member stations must produce programming subject to financial constraints that are not applicable to commercial broadcasters and web services. Public Radio is unique in its noncommercial status and its non-profit and public service mission to make educational and cultural programs available to a wide audience.

11. NPR also plays a significant role in the cultural and intellectual life of America. It was founded in 1970, as a private, non-profit corporation. It is the production, distribution, and service center for a nationwide system of Public Radio stations. NPR produces and acquires news, information, and cultural programming for radio broadcast by its member stations. NPR also provides Public Radio programming for radio listeners in Europe, Asia, Australia, and Africa, and to the Armed Forces Network for distribution to American military personnel throughout the world. NPR also distributes its programming by broadcast and cable services to foreign audiences.

12. NPR's diverse programming has been widely acclaimed. NPR journalists and programming have received thirty-four Alfred I. DuPont Columbia University awards, sixty-one George Foster Peabody awards, more than seventy awards from the White House News Photographers Association, and thirty-two Overseas Press Club awards and honors for its distinctive journalism.<sup>31</sup> These are the highest awards of the radio broadcast industry, and they represent the quality of programming distributed by NPR and Public Radio. In December 2000, NPR was honored with America's highest arts award, the National Medal of Arts. NPR was the first media organization to receive this award, which was established in 1984 by the United States Congress and presented to individuals who make outstanding contributions to the excellence, growth, support, and availability of the arts in the U.S. Numerous Public Radio stations. Public Radio producers have been similarly recognized with national and regional awards for excellence in public service.

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<sup>31</sup> A list and discussion of awards won by journalists and programming can be found on the NPR web site at <http://www.npr.org/about-npr/183726490/awards>.

13. Although the primary mode of distribution and by far the largest part of Public Radio's audience remains over-the-air broadcasting, NPR and its member stations stream their broadcast programming and create original music web content that is made available via digital transmissions to listeners who can access our content on digital devices. By doing so, the quantity and quality of programming available to the American public is greatly increased. As noted, however, broadcast programming constitutes the bulk of web-distributed programming; and the broadcast audience for Public Radio dwarfs the audience reached by streaming. Given that Public Radio content streaming is not the core mission or means of distributing Public Radio programming, the statutory license fees to be paid by Public Radio broadcasters should reflect that fact.

14. Nonetheless, streaming offers another avenue for educating the public and extending the mission of public broadcasting. The Internet is used by Public Radio to provide the same high-quality alternative programming as we do on broadcast radio. On the Internet, as through broadcast, Public Radio features certain types of programming not heard elsewhere. In addition to news programming, NPR and Public Radio have pioneered broadcasts and webcasts of non-mainstream artists and music genres – such as world music, Celtic music, folk, blue grass, blues, and others – which are not widely available elsewhere. Some Public Radio entities, including NPR, have created a limited number of “web only” programs, which continue the effort to feature less popular artists and music genres. Likewise, Public Radio provides access to more traditional music genres, such as classical and jazz, that otherwise have very few commercial outlets. Indeed, classical music ranks highest among musical genres in public radio programming, accounting for 25% of total broadcast hours on public radio stations.

15. For the most part, however, programming distributed on the Internet by Public Radio stations are substantially the same as that broadcast over the air, or in the case of NPR, distributed by it for broadcast by member stations. As such, it remains the case that news and information programming dominate our Internet programming. And the broadcast audience for Public Radio dwarfs the audience reached by streaming.

#### **Uniqueness/Promotional Impact of Public Radio Music Streaming**

16. An additional factor for the Board to consider is that music-based programming

on Public Radio Internet sites features music in a completely different way than other Internet sites. Since Public Radio's programming does not depend on maximizing audiences for any one program, Public Radio is able to offer programming that is truly different in its focus and scope from the programming found on other Websites. The fee assessed by this Board should take account of this factor.

17. One aspect of Public Radio's music streaming content is that it promotes music discovery by featuring the kind of programming – and non-mainstream artists or music genres – that find little other airplay. Public Radio appeals to the listener's understanding and appreciation of music; accordingly, Public Radio programming also features discussions, artist interviews, explanations of musical terms, genres, history, and context. Such programming on the Web does not replace purchasing CDs; in fact, it encourages it. Over and again, NPR and other Public Radio outlets have been hailed for launching or developing the careers of artists. Just a few of examples of this are available at the links, which follow:

- <http://www.npr.org/music/blogs/>
- <http://www.npr.org/series/160609993/heavy-rotation>
- <http://www.billboard.com/biz/articles/news/radio/1083516/how-npr-breaks-new-music-five-member-stations-that-break-big-artists>

In addition, NPR and some Public Radio sites allow listeners to purchase music through links on the Web site, which directly help the sales of phonorecords. *See, e.g.,* <http://www.npr.org/blogs/allsongs/2014/09/12/347722286/vikings-choice-xerxes-collision-blonde>; <http://www.npr.org/blogs/allsongs/2014/09/10/347156982/george-harrison-this-guitar-cant-keep-from-crying>; and <http://www.npr.org/2014/07/30/334080369/heavy-rotation-10-songs-public-radio-cant-stop-playing>.

18. The promotional value of the kinds of music streaming featured on Public Radio is also demonstrated by the fact that artists and their labels readily seek out opportunities to be featured on NPR. As the Copyright Royalty Board Judges undoubtedly know, NPR cannot stream on-demand songs or full albums under the terms of the statutory license under section 114; so NPR must secure clearances from the copyright owners voluntarily in order to

engage in such streaming activities. The links shown immediately below reflect examples of the kinds of on-demand streaming/new album release streaming programs, which NPR offers on its site:

- <http://www.npr.org/series/98679384/first-listen>
- <http://www.npr.org/2014/10/05/352734804/first-listen-frazezy-ford-indian-ocean>
- <http://www.npr.org/2014/10/05/352770648/first-listen-angaleena-presley-american-middle-class>

Tellingly, the artists and labels that supply content for these offerings generally do not charge any fee in return for granting NPR the right to engage in such streaming activities. That speaks volumes as to the promotional value of NPR streaming activities.

#### **Public Radio's Licensing History with SoundExchange**

19. Public Radio and SoundExchange have a long history of voluntarily-negotiated agreements dating back to the very first statutory license term under the Section 112 and 114 licenses. In each case, the core structure of the voluntary agreements has been a flat annual fee for the Public Radio system. In each case, SoundExchange and CPB reached a compromise on fees and terms in lieu of continuing to litigate over what the CARP/CRB process would ultimately yield. I agree with the economist retained by Public Radio in this proceeding, Dr. Keith Waehrer, that this consistent embrace of such a structure represents the best indication of what comparable (in this case the identical) willing sellers and willing buyers would agree upon in a free market as a structure for a sound recording performance/ephemeral reproduction license applied to the entire Public Radio system.

20. In regards to what constitutes a good benchmark for fees, we acknowledge that agreements closest in time period to the statutory license at issue may be seen as most probative of what is reasonable for the time period at issue. Hence we focused on the agreement between SoundExchange and CPB dated as of July 30, 2009, applicable to the immediately preceding statutory license term, i.e., 1/1/11 – 12/31/15 (*See Exhibit 2, referred to herein as the "Prior Agreement"*), as the most relevant of the prior SoundExchange – CPB agreements for purposes of arriving at an appropriate fee herein.

21. There can be no dispute that the Prior Agreement covers the identical licensor

and licensee, and the essentially identical set of sound recordings/rights at issue in this proceeding. Nor can there be any dispute that the parties to the Prior Agreement recognized (*see* page 1 of the Prior Agreement) that their agreement was predicated on a compromise “in view of the unique business, economic and political circumstances of CPB, Covered Entities, SoundExchange [and SoundExchange’s affiliated] Copyright Owners and Performers.” In our view, the parties each gave up their ability to litigate over what the CRB would ultimately find to be the result of the willing seller/willing buyer negotiation analysis required by the Section 114 statutory license when they entered into the Prior Agreement.

22. In agreeing upon the fee to be paid for the then-upcoming 5-year term, the Prior Agreement embodies the assumption (as we did not then have accurate data) “that [REDACTED] is a reasonable estimate of the total Music ATH [aggregate tuning hours] for all Covered Entities in the aggregate for calendar year 2007.” (*See* paragraph 6 of Prior Agreement). In Exhibit A to the Prior Agreement, which sets forth the “Agreement Concerning Rates and Terms for Public Radio,” we and SoundExchange agreed on a five-year flat sum fee of \$2.4 million payable in five equal annual payments of \$480,000 (subject to increase if the actual Music Aggregate Tuning Hours (“MATH”) of the Covered Entities exceeded a designated aggregate usage cap that started at 279.5 million MATH in 2011 and grew gradually to approximately 285 million MATH in 2015). (*See* Prior Agreement, Exhibit A, para. 4.1 and 4.3). If Public Radio exceeded the usage cap, additional fees were agreed upon on a per-performance rate basis (assuming a figure of 12 performances per ATH), subject to a maximum amount of such incremental fees of \$480,000 over the life of the agreement. (*See id.*, para. 4.3).

#### **The Lack of Any Material Changes in Music Use/Audience Since the Prior Agreement**

23. The Covered Entities’ actual music use, as measured by the total MATH, has not materially changed since the effective date of the Prior Agreement, and there is no indication that its use will materially change over the course of the next licensing term. And, as stated previously, that actual music use has been well below what the assumed level of Covered Entity music streaming hours would be during the term of the Prior Agreement (*i.e.*, [REDACTED] MATH annually).

24. Covered Entity music use from the beginning of the Prior Agreement license term to the present has remained stable and substantially below the assumed levels and usage caps established in the Prior Agreement. In fact, Public Radio's actual MATH has remained somewhere between [REDACTED] of the usage expected during the negotiations of the prior agreement. (*See* Testimony of Keith Waehrer at 38).

25. As this data demonstrates, Public Radio's highest reported usage year, 2012, barely exceeded 72,000,000 MATH – roughly one-quarter of the total MATH cap. The disparity between cap and actual MATH used is greater in each of the other years covered by the Agreement. (*See id.*) In fact, even Public Radio's total ATH (which includes non-music content) during the Prior Agreement license term falls well short of the MATH caps set forth in the Prior Agreement. (*See* Fig. 1 in Testimony of Keith Waehrer). For example, in 2012, Covered Entity total ATH was 156,102,091 – over 124 million ATH short of the MATH cap. (*See id.*) This trend has carried through all other years within the Prior Agreement term as well.

26. Not only did Covered Entity MATH numbers remain stagnant and fractional vs. what was assumed under the Prior Agreement, but also their cumulative audience (both streaming and over-the-air listeners) for the stations covered by the license remained virtually unchanged from 2009 to 2014. (*See* Exhibit 6). As but one example, the total music audience only grew from 19,148,000 in 2009 to 19,528,400 in 2014 – a two percent change. Other categories, such as news, talk and information, and quiz and spoken word, remained static as well.

27. In sum, Public Radio's MATH usage has failed to approach the levels anticipated by the parties when the Prior Agreement was entered into. This fact, coupled with the lack of growth in Covered Entity cumulative audience during the term of the Prior Agreement, suggests that a significantly lower license fee, based on actual MATH during the Prior Agreement term, which is not expected to materially increase, is appropriate for the next licensing term.

**NPR's Proposed Fee for 1/1/2106 – 12/31/20**

28. NPR understands that the charge of the CRB is to determine the rates and terms that would be as close as possible to those that would be generated in a hypothetical willing buyer/seller marketplace between licensors and licensees of sound recording performance rights who are as closely situated as possible to the licensor and licensee at issue



in the proceeding. We are unaware of any willing buyer/seller agreements involving entities comparable to Public Radio other than our own prior agreements with SoundExchange. While I understand that, in the past, the CRB has chosen to focus on individual licensor (label) deals with the same or similar licensees, NPR's only individual label deals – for interactive (on-demand) performances of SoundExchange member recordings – have overwhelmingly (if not always) been on a *gratis* basis. Unless such zero-royalty agreements are an appropriate benchmark, we submit that the flat annual fee approach adopted in a consistent set of three negotiated agreements between Public Radio and SoundExchange – since the birth of the statutory license at issue here – provides the appropriate model to follow.

29. As the data set forth above indicates, the actual MATH for the Covered Entities during the term of the Prior Agreement has fallen well short of the anticipated levels expressed in the parties' Prior Agreement. As Dr. Waehrer explains, given that the \$480,000 annual fee agreed upon in the Prior Agreement was premised on a gross overestimation of music usage (an annual usage of ██████████ MATH, which equates to ██████████ MATH quarterly), we hereby propose a fee that is adjusted to take into account actual MATH numbers.

30. When adjusted based on the level of actual MATH usage during the Prior Agreement's term, the annual fixed fee implied by that agreement is in the range of \$150,720 - \$178,560 per year. This flat-fee royalty amount is based on the annual royalty under the Prior Agreement adjusted to take into account that actual quarterly MATH over the course of the Prior Agreement has averaged from as low as 16,416,720 MATH to as high as 19,501,974 MATH – or between ██████████ of the MATH projected in the Prior Agreement. Accordingly, Public Radio proposes adjusting the annual royalty fee to an amount between 31.4% and 37.2% of the \$480,000 annual flat-fee rate the parties agreed upon in 2009 for the Prior Agreement term.

31. Public Radio further proposes that, in keeping with the structure of the Prior Agreement, if aggregate MATH across the Covered Entities under the license exceeds a predetermined cap on music usage, an incremental fee be payable in accordance with the following.<sup>32</sup> The Prior Agreement specified a music usage cap starting at 279,500,000 MATH,

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<sup>32</sup> In the event that the Prior Agreement as adjusted is not adopted as the benchmark for determining Public Radio's fee for the upcoming license term, CPB and NPR would oppose the imposition of a usage cap on Public Radio fees

after which a per-performance fee equivalent to one-third the commercial webcaster rate would apply. Public Radio proposes that while this structure is maintained, the usage cap figure should be adjusted to reflect the actual magnitude of music usage by Public Radio. Accordingly, we propose a cap of 89,979,126 MATH - 106,599,474 MATH (based on 31.4% \* 279,500,000 and 37.2% \* 279,500,000, respectively), depending on which annual fee level is adopted, with a per-performance additional fee (subject to the ensuing paragraph) based on any MATH over the usage cap (and assuming, as set forth in the Prior Agreement, 12 performances per MATH).

32. The Prior Agreement also contained an absolute limit on any incremental per-performance fees that might be owed for usage above the annual usage cap. In the Prior Agreement, that maximum incremental per-performance fee was based on one year's annual fee, *i.e.*, \$480,000 over five years. As Dr. Waehrer explains, adjusting this number for actual music usage results in an incremental per-performance fee limit of between 31.4% and 37.2% of \$480,000, or \$150,720 - \$178,560. A comparable provision should be adopted here that would limit Public Radio's royalty over the 5-year term from 2016 - 2020 such that it would not exceed \$904,320 (\$150,720 per year for 5 years, plus a \$150,720 maximum per-performance incremental fee) - \$1,071,360 (\$178,560 per year for 5 years, plus a \$178,560 maximum per-performance incremental fee).

33. We also have analyzed whether there have been any material changes over the course of the Prior Agreement and whether there are any expected material changes from that time period through the end of the 2016 – 2020 statutory license period. As discussed above, other than the fact that the *actual* amount of MATH of Covered Entities under the Prior Agreement turned out to be well below the assumed amount of MATH at the time the Prior Agreement was signed, we are not aware of any such changes. Public Radio music usage during the Prior Agreement's term was generally stable; and Public Radio's audience also was stable, both as to music and non-music streaming activities.

34. My understanding is that the Copyright Royalty Board is charged with considering various factors set out in the copyright statutes,<sup>33</sup> which Public Radio believes

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as it is inconsistent with the public and educational missions of Public Radio.

<sup>33</sup> 17 U.S.C. § 114(f)(2)(B)(i) and (ii).

supports its proposal in these proceedings. These factors includes whether the use of music in public radio programming substitutes for or promotes the sale of phonorecords, or otherwise interferes with or enhances the copyright owner's other streams of revenue from its sound recordings; and the relative roles of the copyright owner and Public Radio with respect to creative contribution, technological contribution, capital investment, cost, and risk. These statutory factors weigh heavily in favor of Public Radio. The vast majority of programming streamed by these entities is original, creative, and transformative. The additional material included therein results, in many cases, in entirely new works that are themselves protected by copyright.

35. Public Radio music programming available on air and on the Web is highly produced programming. As noted above, most programs are hosted, with significant educational features added to enhance and explain the musical performance, the artist, and the context of the performance, the musical genres, and the context in musical history. On the NPR Website and on other Public Radio sites, additional features are often added so that an Internet listener can learn more about the artist (by interview or other material) and the music. In addition, there are links to related interviews or stories about the featured artist. Many Public Radio websites provide detailed information to enable interested listeners to find and purchase the music. This is done not for commercial purposes. Rather, it is done to enhance the educational mission of Public Radio. As discussed above, Public Radio educates listeners and helps them discover and purchase new music – thus promoting not substituting for phonorecord sales. Indeed, we know – from Amazon rankings before and after Public Radio features recordings on air and the Web and from statements made by record labels and artists – that Public Radio exposure is singularly important to the careers and music sales of many artists, which enhances the copyright owner's other revenue streams.

36. In addition to the payment to the record labels to be set in this proceeding, Public Radio incurs substantive financial risks and costs by using the Internet as a distribution mechanism. We believe these costs and investments have not come close to being recaptured by listener contributions or underwriting, which are normally important sources of Public Radio revenues. Moreover, to succeed at their nonprofit mission, NPR and Public Radio entities must hire additional personnel to research, develop and maintain Web

sites, to create Web-only content which adds to the educational nature of the Websites, and to maintain links to other sites which will provide additional information and educational opportunity. In addition, Public Radio must make capital investments for equipment and Web-related services, and must pay bandwidth costs. These costs cannot be passed on to advertisers or venture capitalists, as can be done in commercial world.

37. In addition, use of the Internet to distribute programming is currently ancillary to NPR's and Public Radio's core mission of radio broadcasting. This factor makes the additional costs of Web distribution a greater risk for Public Radio, and is a statutory factor, which should weigh in favor of a low license fee for Public Radio.

38. Finally, most Public Radio entities use their websites as content dissemination platforms ancillary to their broadcast operations. They stream their broadcast programs simultaneously on the web, and provide listeners with program information and listings, pledge opportunities, community calendars, etc., and they create the kind of unique niche music programming not available via commercial broadcasters/webcasters. NPR believes that the creative contributions, technological contributions, investments, and risk factors associated with Public Radio's transmissions of the music programming described above weigh in favor of a low fee for Public Radio. All of these factors favor adoption of rates no higher than NPR/Public Radio's fee proposal. As for reporting and other terms, Public Radio submits that the terms governing such in the Prior Agreement are "tried and true" and do not need to change; and Public Radio urges that they be adopted herein.

#### **Funding of Public Radio**

39. Public Radio is, by definition, non-commercial and non-profit. As non-profit entities motivated solely by their public mission, NPR and its member stations must produce programming subject to financial constraints that are not applicable to commercial broadcasters and web services. Unlike commercial broadcasters and webcasters, which depend upon advertising, or venture capital, Public Radio derives its income through a variety of public and private sources whose rationales for support have little, if anything, to do with reaching maximum audiences *per se* for music programming.

40. The complex web of funding sources for Public Radio demonstrates the lack of

rationale for attempting to tie the sound recording fees payable by Public Radio to Public Radio's "revenues" or to the number of performances of recordings made (which would be enormously difficult if not impossible to calculate, in any event). The relationship of Public Radio "income" to the value of particular programming (let alone music's contribution to it) is quite indirect. For example, the strength of the national or local economy or of political considerations influence personal contributions, underwriting, or government appropriation and, hence, affects Public Radio's resources and significant portions of Public Radio's funding. The use of music on the Internet plays virtually no role in that financing equation.

41. On average, a Public Radio station derives 9% of its annual budget from funds provided by CPB. These funds are important to Public Radio and are used in part to acquire programs from NPR and to fund locally produced programming and station operations.

42. And the future funding available for Public Radio is uncertain. There have been congressional initiatives to reduce annual federal financial support and in some cases to completely eliminate a federal financial investment. These actions arise due to ongoing efforts to trim federal spending, to balance the annual federal budget and, for some, a philosophical question of the role of government in public media. CPB appropriations, like many other appropriations, have already been reduced substantially over the past several years and will be subject to annual reviews going forward. Consequently, a flat annual license fee for the statutory term is essential to the ability of Public Radio to continue to use music as part of its Web programming.

43. A system-wide blanket fee for NPR and the Public Radio stations represented herein also benefits the recording industry. The administrative costs of licensing over 900 separate entities (the number of Public Radio stations plus NPR) is not insignificant. In return for a flat annual fee, which historically has been paid for by CPB out of congressionally appropriated funds, CPB and NPR undertake the costs of administering the license. For the many Public Radio stations who will rely on the license established herein, CPB and NPR handle the license administration.

44. Eligible Public Radio stations will have to sign up with CPB, and agree to comply with the license terms. NPR will provide SoundExchange with quarterly reports of Public Radio stations relying on the negotiated license. These contributions made by CPB and

NPR provide substantial value to SoundExchange (as acknowledged under paragraph 4.2 of the Prior Agreement) and, apart from the many other considerations discussed above, demonstrate how unique – even compared to other noncommercial webcasters – are the economic and other licensing circumstances presented by Public Radio in these proceedings.

**Conclusion**

45. For the foregoing reasons, NPR proposes that a reasonable blanket license fee for the statutory licenses covered by this proceeding for the entities represented herein is a yearly royalty of between \$150,720 and \$178,560.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

*Michael Riksen*

Michael Riksen

# **Exhibit 1**



# Keith Waehrer, PhD

## 1.1. Summary of experience

Keith Waehrer specializes in mergers, monopolization claims, and calculations of reasonable royalties and antitrust damages. He has served as a testifying expert, submitted expert reports, and testified at deposition and at trial. Having authored highly regarded papers on the subject, Dr. Waehrer is also an expert in the analysis of competitive effects in auction markets. As a visiting partner at ESMT Competition Analysis (now known as E.CA Economics) in Berlin, Germany, Dr. Waehrer worked on a number of significant matters before the European Commission and national competition authorities in Europe. Dr. Waehrer's international experience also includes work on a significant merger matter before the South African competition authorities. He has worked on matters involving a wide range of industries, especially financial services, financial exchanges, e-commerce, agricultural inputs, industrial parts, chemical, and energy.

## 1.2. Areas of expertise

- Analysis of exclusionary conduct
- Competition in financial markets
- Competitive effects in auctions
- Market definition
- Negotiation markets
- Unilateral and coordinated effects

## 1.3. Selected experience

- Prepared to served as the testifying expert for the Department of Justice (DOJ) in its challenge of the acquisition by Flakeboard of Sierra Pine's MDF mill on the West Coast of the United States. After it became clear that DOJ intended to sue to block the acquisition, Flakeboard and Sierra Pine withdrew their Hart-Scott-Rodino filing before a complaint was filed.
- Provided expert analysis on behalf of Pandora in its litigation with Broadcast Music, Inc. (BMI) regarding the royalty rate for Pandora's use of music licensed by BMI. Opined on what range of rates would be reasonable for Pandora's blanket license to perform works in the BMI repertory; assessed an appropriate advertising sales cost deduction for a Pandora-BMI license; and proposed a method to adjust the royalties that Pandora would pay to BMI under certain conditions. (Rebuttal Report: October 3, 2014; Expert Report: August 22, 2014.)

- Led the Bates White team providing support for Dr. Joseph Farrell, who provided expert analysis to the FCC on behalf of Cogent Communications regarding the proposed merger of Comcast and TimeWarnerCable. The submission included an analysis of the declarations submitted by the merging parties' economic experts and an assessment of the competitive effects of the merger on the provision of Internet access for both the consumer and Internet content provider sides of the market.
- In the matter *In re Petition of Pandora Media, Inc.*, led the Bates White team providing support for the expert analyses, reports, and testimony of Dr. Leslie Marx on behalf of Pandora in its litigation with the American Society of Composers, Authors, and Publishers (ASCAP). Assisted the trial team with the cross-examination of ASCAP's expert and other witnesses. The court ultimately adopted key aspects of Dr. Marx's analysis of ASCAP's proposed benchmarks and set a rate within the range of rates proposed by Dr. Marx.
- Served as the Bates White lead to support the expert work of Dr. Leslie Marx who filed a report with the Federal Communications Commission (FCC). The report, written on behalf of Verizon, opines that proposals to restrict Verizon's and AT&T's participation in the upcoming Incentive Auction for wireless spectrum would "put at risk its twin priorities of raising significant revenue and reallocating a substantial amount of spectrum from broadcast to mobile wireless services." Analysis provides evidence that the FCC could not impose significant bidding restrictions without materially reducing auction revenues and risking outright auction failure.
- Served as lead consulting expert in the matter *Monsanto v. DuPont*. Provided liability and damages analysis for DuPont in its litigation against Monsanto regarding alleged antitrust and intellectual property violations. Monsanto originally sued DuPont and its Pioneer subsidiary for infringing Monsanto's Roundup Ready soybean patent. DuPont countersued, accusing Monsanto of antitrust violations and of fraudulently obtaining the patent. The parties agreed to dismiss antitrust and patent lawsuits filed against each other as part of a broader licensing agreement reached between the two agricultural biotechnology giants.
- In the matter *American Airlines v. Sabre*, provided support for expert testimony on damages on behalf of American Airlines in a suit filed in Texas state court. The suit alleged anticompetitive conduct by Sabre in markets for airline ticket booking services. After one week of a trial scheduled for two months, American and Sabre settled their disputes and renewed their existing distribution agreement for multiple years. American will receive a monetary settlement and will continue to pursue its direct connect initiative.
- On behalf of Express Scripts in connection with its \$29 billion acquisition of Medco Health Solutions, conducted both an upward pricing pressure analysis and a merger simulation to predict the competitive effect of the merger in order to demonstrate that the proposed transaction would not have an anticompetitive effect. Assisted with the presentation of these analyses to the FTC. The FTC unconditionally approved the merger after an eight-month investigation, finding no

likelihood of future unilateral effects, coordinated effects, or exercise of monopsony power resulting from the merger.

- Testified before the South African Competition Tribunal on the unilateral and coordinated effects of the proposed Pioneer Hi-Bred/Pannar Seed merger, along with the results of a simulation to quantify the effects of efficiencies on post-merger pricing. In a decision upheld by the South African Supreme Court of Appeal, the Competition Appeal Court ultimately agreed that the merger was unlikely to result in significant competitive effects. The court credited results from the merger simulation analysis, as well as Dr. Waehrer's calculation balancing price effects and dynamic efficiencies arising from the merger, as support for its conclusion. (Trial Testimony: September 27–28, 2011; Supplementary Report: August 11, 2011; Expert Report: June 24, 2011.)
- Served as testifying expert on behalf of Allflex in *Allflex v. Avid Identification Systems*. Allegations in the case involved patent infringement and antitrust claims in the market for radio frequency identification microchips used for the identification of pets. Submitted a declaration and expert report on monopoly power, market definition, and antitrust harm. (Declaration: December 20, 2010; Expert Report: June 15, 2011.)
- Worked on behalf of SAP to provide input to the EC on its review of Oracle's acquisition of Sun Microsystems. Reviewed evidence of database switching.
- Provided detailed analysis of the Bundeskartellamt's overcharge calculation used to assess the fine on participants of an alleged cartel in a market related to the design and construction of large-scale engineering projects.
- Supported Bloomberg's expert in the drafting of comments on the Comcast/NBC transaction before the FCC. The analysis included an assessment of foreclosure strategies available to Comcast to competitively weaken independent cable content suppliers.
- Served as testifying expert in *Crystal Import Corporation v. Avid Identification Systems* in an exclusionary conduct matter regarding radio frequency identification microchips. Performed economic analysis to define markets, assess market power, and evaluate the impact of the conduct at issue. (Expert Report: June 2, 2008; Deposition: August 12, 2008.)
- Advised a client on possible monopolization claims related to aftermarket conduct in the commercial aircraft industry in both Europe and the United States. Reviewed evidence to analyze potential anticompetitive conduct and assess the validity of efficiency arguments.
- Led the team that presented before DOJ in connection with its investigation of the acquisition of Delta and Pine Land by Monsanto. The proposed transaction raised both horizontal and vertical concerns.
- Served as consulting expert to provide advice on the viability of a tying claim related to the processing of credit card authorizations. Advised Heartland Payment Systems on liability issues

such as market definition, market power, and competitive effects, and supported Heartland's successful settlement with Micros Systems.

- On behalf of Reed Elsevier, identified potential areas of competitive concern associated with its acquisition of ChoicePoint Asset Company. Conducted an analysis to assess the likelihood of entry in the event of an attempted post-merger price increase.
- On behalf of Lubrizol, evaluated the competitive effects of its acquisition of Dow's thermoplastic elastomers business, and prepared materials for presentation to the FTC. Responsibilities included analyzing win-loss data and market shares and developing an initial assessment of market definition.
- Advised attorneys on case strategy related to an antitrust lawsuit on behalf of a large automotive parts manufacturer. Advised on the legal complaint and supported attorneys in mediation. Work included economic analyses of market definition, bundling, and exclusive dealing.
- Provided expert support in connection with DOJ's investigation of the CME/CBOT merger, including empirical analyses of candidate competitive effects theories.
- Wrote a report assessing the timber leasing policies and possible improvements in those policies on behalf of a foreign government leasing authority.
- Identified antitrust risks and analyzed competitive overlaps in connection with a major acquisition in the consumer and business financial services industry.
- Provided economic analysis for DOJ of the competitive practices in financial markets in connection with mergers and civil (non-merger) investigations.
  - Analyzed likely competitive effects of the NYSE/Archipelago and NASDAQ/Instinet mergers.
  - Supported the testifying expert in the ICAP/BrokerTec merger.
  - Participated in civil investigations of the conduct in the foreign exchange, treasury, and futures markets.
- Drafted position letters to the SEC in response to requests for comments and on CFTC changes in regulations.
- Assisted in civil investigations of joint ventures and anticompetitive practices of e-commerce platforms and online music streaming services.
- Helped develop the competitive effects analysis and supported the testifying expert in *United States v. Northwest Airlines Corporation*.
- Worked on internal damages calculations related to an international cartel.
- Participated in the criminal investigation of a commodity auction market.

## 1.4. Professional experience

Dr. Waehrer joined Bates White in June 2006. Previously, he was a Research Economist with the Antitrust Division of DOJ, where he provided economic analysis in connection with numerous merger investigations and civil and criminal antitrust matters. Dr. Waehrer took a 12-month leave of absence from Bates White in 2009–2010 to work on competition issues in Europe with Bates White’s partner ESMT Competition Analysis (now known as E.CA Economics). Dr. Waehrer served as an economist with the Bureau of Labor Statistics, focusing on measurement of living standards and the construction and interpretation of various price indexes. He also worked for Economist Insight, where he developed models to analyze the West Coast oil and electric power markets; and for Bonneville Power Administration, where his analyses supported long-term contract negotiations and a major rate case. His academic career includes teaching posts at the University of Maryland, Georgetown University, Johns Hopkins University, Brigham Young University, and Rutgers University.

## 1.5. Education

- PhD, Economics, Rutgers University
- MA, Economics, Rutgers University
- BA, Economics, Trinity College

## 1.6. Publications

- “A Primer on Competitive Effects of Mergers in Auction and Bidding Markets.” *ABA Antitrust Section Economics Committee Newsletter*, Spring 2007.
- “Mechanisms for Dividing Labor and Sharing Revenue in Joint Ventures.” *Review of Economic Design* 8, no. 4 (2004): 465–77.
- “Hazardous Facility Siting when Cost Information is Private: An Application of Multidimensional Mechanism Design.” *Journal of Public Economic Theory* 5, no. 4 (2003): 605–22.
- “The Effects of Mergers in Open Auction Markets.” With Martin K. Perry. *Rand Journal of Economics* 34, no. 2 (2003): 287–304.
- “Asymmetric Auctions with Application to Joint Bidding and Mergers.” *International Journal of Industrial Organization* 17 (1999): 437–52.
- “The Ratchet Effect and Bargaining Power in a Two-Stage Model of Competitive Bidding.” *Economic Theory* 13 (1999): 171–81.

- “Auction Form Preferences of Risk-Averse Bidtakers.” With Ronald M. Harstad and Michael H. Rothkopf. *Rand Journal of Economics* 29 (1998): 179–92.
- “Efficiency in Auctions When Bidders Have Private Information about Competitors.” With Ronald M. Harstad and Michael H. Rothkopf. In *Advances in Applied Microeconomics*. Vol. 6, edited by Michael R. Baye, 1–13. Greenwich: Jai Press, 1996.
- “Later Life Economic Inequality in Longitudinal Perspective.” With Stephen Crystal. *Journal of Gerontology: Social Sciences* 51B (1996): S307–18.
- “A Model of Auction Contracts with Liquidated Damages.” *Journal of Economic Theory* 67 (1995): 531–55.
- “The Impact of Coresidence on the Economic Well-Being of Elderly Widows.” With Stephen Crystal. *Journal of Gerontology: Social Sciences* 50B (1995): S250–58.

## 1.7. Unpublished papers, papers in progress, and other papers

- “Cost Reductions and Pass-Through in Open Auction Markets with Application to Merger Analysis.” With Paul Johnson. 2012.
- “The Impact of ‘Rollover’ Contracts on Switching in the UK Voice Market: Evidence from Disaggregate Customer Billing Data.” With Gregory S. Crawford and Nicola Tosini. 2011.
- “Horizontal Mergers in Negotiation Markets with Differentiated Products.” With Charles J. Thomas. 2006.
- “Profit Sharing Among Asymmetric Bidders.” With Patrick Greenlee. 2004.
- “The Effect of Profit Sharing on Auction Markets.” With Patrick Greenlee. Discussion Paper 04-3, Economic Analysis Group, US Department of Justice, 2004.
- “Vertical Integration in Open Auction Markets.” With Martin K. Perry. 2004.
- “A Comparison of the Substitution Effects for Input and Output Price Indexes.” Working Paper 327, US Bureau of Labor Statistics, 2000.
- “Using Hedonic Methods for Quality Adjustment in the CPI: The Consumer Audio Products Component.” With Mary Kokoski and Patricia Rozaklis. Working Paper 344, US Bureau of Labor Statistics, 2000. Presented at the NBER, Summer Institute, 2000.
- “Hedonics and Quality Adjustment of Price Indices for Consumer Electronics Products.” With Mary Kokoski. 1998. Presented at the NBER, Summer Institute, 1998.
- “Wasteful Capital Expenditures Resulting from Rate-of-Return and Used-and-Useful Regulation.” 1996.
- “Coase and Ethics.” Letter to the Editor, *Journal of Applied Philosophy* 11 (1993): 129–30.

## 1.8. Referee

- ACM Conference on Electronic Commerce
- *American Economic Review*
- *Economic and Social Review*
- *Economic Inquiry*
- *Economic Journal*
- *Economic Theory*
- *Electronic Commerce Research*
- *Games and Economic Behavior*
- *Gerontologist*
- *International Journal of Industrial Organization*
- *Journal of Business*
- *Journal of Economics and Management Strategy*
- *Journal of Economic Theory*
- *Journal of Gerontology: Social Sciences*
- *Journal of Industrial Economics*
- *Management Science*
- *Mathematical Social Sciences*
- *Quarterly Review of Economics and Finance*
- *Rand Journal of Economics*
- *Southern Economic Journal*

## 1.9. Speaking engagements

- “Empirical methods in merger analysis.” Presentation, Hunton & Williams LLP, Washington, DC, June 25, 2014. This presentation included natural experiments, simulation methods, and other empirical tools.
- “Economics 101: Theory and merger application.” Presentation, Crowell & Moring LLP, Washington, DC, November 7, 2013. This presentation included basic microeconomic theory of the firm with application to unilateral effects in mergers.

- “Antitrust economics 101.” Presentation, Paul Hastings LLP, Washington, DC, September 10, 2013. This presentation included modules unilateral effects from mergers and an introduction to regression analysis.
- “Vertical foreclosure in front of the agencies and the courts.” Panel discussion, 2013 Hal White Antitrust Conference, Bates White Economic Consulting, Washington, DC, June 3, 2013.
- “Cost reductions and pass-through in open auction markets with application to vertical integration and merger analysis.” Presenter and discussant, 11th International Industrial Organization Conference, Industrial Organization Society, Boston, MA, May 18, 2013.
- “Methods for Quantifying Merger Effects: What Are They & How Do They Work?” Panel discussion, Ninth Annual Antitrust Conference, Bates White Economic Consulting, Washington, DC, June 7, 2012.
- “Introduction to Upward Pricing Pressure Analysis.” This presentation explains how UPP analysis can be useful to defend a merger in concentrated industries with low margins and how UPP brings efficiencies and margins directly into the competitive effects analysis.
  - Crowell & Moring LLP, Washington, DC, November 2010.
  - Proskauer Rose LLP, Washington, DC, November 2010.
  - Cleary Gottlieb Steen & Hamilton LLP, Brussels, Belgium, June 2010.
  - Crowell & Moring LLP, Brussels, Belgium, June 2010.
  - Skadden, Arps, Slate, Meagher & Flom LLP, Brussels, Belgium, June 2010.
- “DeltaPineland Case Presentation.” Fifth Annual Antitrust Conference, Bates White Economic Consulting, Washington, DC, June 3, 2008.
- “The Use of Economic Evidence in Litigation.” Panel moderator, Fifth Annual Antitrust Conference, Bates White Economic Consulting, Washington, DC, June 2, 2008.
- “The Effect of Profit Sharing on Auction Markets.”
  - Securities and Exchange Commission, Washington, DC, April 2006.
  - Charles River Associates, Washington, DC, March 2004.
  - University of Maryland, College Park, MD, February 2004.
  - North American Winter Meetings of the Econometric Society, Philadelphia, PA, January 2004.
- “Changing Market Institutions and the Role of Competition Authorities.” Asia-Pacific Economic Cooperation (APEC) Workshop on Regulation and Competition in the Financial Services Sector, Mexico City, November 2003.



- “Assessing Competitive Effects in Auction and Bid Markets.” Training session for US Department of Justice, Antitrust Division’s legal staff, Washington, DC, March 2002 and November 2003.
- “The Effects of Mergers in Open Auction Markets.”
  - Southern Economic Association Meetings, Tampa, FL, November 2001.
  - North American Summer Meetings of the Econometric Society, College Park, MD, June 2001.
  - Department of Justice, Washington, DC, January 1999.
  - Georgetown University, Washington, DC, October 1998.
  - INFORMS Seattle National Meeting, October 1998.
- “An Introduction to Auction Theory.” Economics Working Group, Department of Energy, Washington, DC, October 2000.
- “The Division of Labor and Revenue Sharing in Joint Ventures.” Indiana University–Purdue University at Indianapolis, February 1998.
- “Hazardous Facility Siting when Cost Information is Private: An Application of Multidimensional Mechanism Design.”
  - North American Summer Meeting of the Econometric Society, Quebec City, Canada, June 1997.
  - Rutgers University, New Jersey, April 1997.
  - University of Maryland, College Park, MD, March 1997.
- “Auction Contract Enforcement When Bidders Have Different Levels of Limited Liability.” Operations Research and the Management Sciences, meetings, Los Angeles, CA, April 1995.

## 1.10. Distinctions and honors

- *Global Competition Review*, International Who’s Who of Competition Economists, 2012.
- The Commissioner’s Award for Eminent Achievement, Bureau of Labor Statistics, May 1997 and July 1996.
- Peter Asch Memorial Scholarship (dissertation award), Rutgers University, May 1991.
- Faculty Honors, Trinity College, May 1985.

## **1.11. Professional associations**

- American Bar Association, Antitrust Section
- American Economic Association
- Econometric Society

## **Exhibit 2**

## PUBLIC RADIO WEBCASTING PERFORMANCE AGREEMENT

This Public Radio Webcasting Performance Agreement ("Agreement"), dated as of July 30, 2009 ("Execution Date"), is made by and between SoundExchange, Inc. ("SoundExchange"), a Delaware corporation with its principal offices at 1121 Fourteenth Street, N.W., Suite 700, Washington DC 20005, and the Corporation for Public Broadcasting ("CPB"), with offices at 401 Ninth Street, N.W., Washington, DC 20004-2129, on behalf of all Covered Entities (SoundExchange, and CPB each a "Party" and, jointly, the "Parties").

WHEREAS, Covered Entities make or intend to make public performances of Sound Recordings by means of digital audio transmissions through their Authorized Web Sites;

WHEREAS, the Copyright Royalty Judges published in the Federal Register at 74 Fed. Reg. 318 and 319 (Jan. 5, 2009) notices announcing commencement of new proceedings entitled *Digital Performance Right in Sound Recordings and Ephemeral Recordings*, Docket No. 2009-1 CRB Webcasting III (the "2011-2015 Webcasting Proceeding"), and *Digital Performance Right in Sound Recordings and Ephemeral Recordings for a New Subscription Service*, Docket No. 2009-2 CRB New Subscription II (the "New NSS Proceeding") to determine royalty rates and terms applicable to the statutory licenses under Sections 112(e) and 114 of the Copyright Act for the period 2011 through 2015;

WHEREAS, SoundExchange is the "receiving agent" as defined in 17 U.S.C. § 114(f)(5)(E)(ii) designated for collecting and distributing statutory royalties received from Covered Entities for their Web Site Performances;

WHEREAS, the Webcaster Settlement Act of 2009 (Pub. L. No. 111-36; to be codified at 17 U.S.C. § 114(f)(5)) authorizes SoundExchange to enter into agreements for the reproduction and performance of Sound Recordings under Sections 112(e) and 114 of the Copyright Act that, once published in the Federal Register, shall be binding on all Copyright Owners and Performers, in lieu of any determination by the Copyright Royalty Judges;

WHEREAS, CPB wishes to agree upon and pay the License Fee so the Covered Entities may make public performances of Sound Recordings by means of digital audio transmissions hereafter referred to as "Web Site Performances" through one or more Authorized Web Sites and to make Ephemeral Phonorecords of such Sound Recordings to enable such transmissions; and

WHEREAS, in view of the unique business, economic and political circumstances of CPB, Covered Entities, SoundExchange, Copyright Owners and Performers at the Execution Date, the Parties have agreed to the royalty rates and other consideration set forth herein for the period January 1, 2011 through December 31, 2015;

NOW, THEREFORE, pursuant to 17 U.S.C. § 114(f)(5), and in consideration of the mutual promises contained in this Agreement and for other good and valuable consideration, the adequacy and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Webcaster Settlement Act Procedure. This Agreement is entered into pursuant to the Webcaster Settlement Act of 2009. CPB hereby authorizes SoundExchange to submit the

rates and terms set forth on Exhibit A (including Attachments 1 and 2 thereto) to the Copyright Office for publication in the Federal Register pursuant to 17 U.S.C. § 114(f)(5)(B) at a date to be determined by SoundExchange, which shall not be later than August 3, 2009. At SoundExchange's request, CPB shall promptly execute and deliver any notice, petition or similar document reasonably requested by SoundExchange to transmit the rates and terms set forth on Exhibit A to the Copyright Office and request such publication. All capitalized terms used but not otherwise defined in this Agreement shall have the meanings given those terms in Exhibit A.

2. Administration of Agreement by CPB. CPB represents, warrants and covenants that it will (i) promptly notify all entities eligible to be considered Covered Entities of the terms of this Agreement; (ii) obtain the agreement of all Covered Entities to comply with the terms of this Agreement, either in writing or by means of a "click-through" mechanism on a secure website creating an enforceable obligation on the part of Covered Entities; (iii) reasonably help promote compliance by Covered Entities with the terms and conditions of this Agreement; and (iv) collect and provide to SoundExchange the administrative information specified on Exhibit B concerning those Covered Entities who agree to comply with the terms of this Agreement, both promptly after the Execution Date and annually thereafter. CPB shall not lobby in favor of any proposed legislation that would overturn any statutory royalty rates for 2011-2015. In the initial notice contemplated by clause (i) above, CPB shall indicate to entities eligible to be considered Covered Entities that CPB is pleased it was possible to resolve issues concerning webcasting by Covered Entities through this Agreement.

3. Improvement of Reporting. In January and September of 2010, CPB shall provide written notice reminding all Covered Entities that as of January 1, 2011, Covered Entities must comply with the reporting requirements applicable to Web Site Performances under 37 C.F.R. Part 370 (or any successor thereto) and other regulations, as well as comply with their other obligations under Sections 112 and 114 of the Copyright Act, and Covered Entities should begin diligent efforts to prepare to do so in advance of that date. The notices shall advise Covered Entities that a failure to comply with such reporting requirements may cause Web Site Performances on or after January 1, 2011 to infringe the copyright in any Sound Recordings performed. CPB shall provide a copy of each form of such notice to SoundExchange.

4. Publicity. SoundExchange shall have the right and discretion to issue a press release announcing this Agreement, whether alone or together with other similar agreements. CPB shall not issue a press release announcing this Agreement until the earlier of (i) the time at which SoundExchange issues its press release or (ii) August 4, 2009.

5. Mutual Representations. The Parties represent and warrant that they each have the right, power and authority to enter into this Agreement and that this Agreement has been duly and validly executed by authorized officers of each Party.

6. Representation Concerning Total Music ATH. CPB represents and warrants that the Streaming Census Report dated October 18, 2007 prepared by CPB and provided to SoundExchange is, to the best of its knowledge, accurate in all material respects, and on the basis thereof, that [REDACTED] is a reasonable estimate of the total Music ATH for all Covered Entities in the aggregate for calendar year 2007.

7. Full Payment for License. The Parties acknowledge and agree that, subject to Section 3.4 of Exhibit A, the License Fee and other consideration provided by CPB under Article 4 of Exhibit A, on behalf of the Covered Entities, shall, during the Term, be in lieu of any payments or other monetary consideration that may be set as the statutory rate for Web Site Performances offered by Covered Entities and due to SoundExchange as sole Collective for all Copyright Owners and Performers of Sound Recordings.

8. Mutual Acknowledgement. The Parties acknowledge their mutual understanding that if Covered Entities make Web Site Performances pursuant to Section 114 or Ephemeral Phonorecords pursuant to Section 112(e) and comply with all provisions of those sections, their implementing regulations and this Agreement, they will, by operation of Section 114(f)(4)(B) and Section 112(e)(6)(A), not infringe the exclusive rights of the Copyright Owners of Sound Recordings licensable under Section 114 and Section 112(e).

9. Notices. All notices and other communications between the Parties hereto shall be in writing and deemed received (a) when delivered in person; (b) upon confirmed transmission by facsimile device; or (c) five (5) days after deposited in U.S. mails, postage prepaid, certified or registered mail, addressed to the other Party at the address set forth below (or such other address as such other Party may supply by written notice):

For SoundExchange:

General Counsel  
SoundExchange, Inc.  
1121 Fourteenth Street, N.W., Suite 700  
Washington, DC 20005  
Phone: 202.640.5880  
Facsimile: 202.640.5883

For the Corporation for Public Broadcasting:

General Counsel  
401 Ninth Street, N.W.  
Washington, DC 20004  
Phone: 202.879.9708  
Facsimile: 202.879.9694

10. Expenses. Except as provided in Section 5.2 of Exhibit A, each Party shall pay all of its own expenses, including attorneys' fees, incurred in connection with the negotiation of this Agreement or the performance of any obligations hereunder, or any costs incurred in connection with any proceedings before the Copyright Royalty Judges.

11. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but which taken together shall constitute one agreement.

12. Assignment. Except as otherwise expressly provided herein, this Agreement and the rights hereunder shall not be assignable or transferable by either Party without the prior

written consent of the other Party (including any attempted assignment or transfer to any subsidiary or affiliate of either Party); provided, however, that SoundExchange may assign its obligations and rights to, or designate, a collective entity or other entity to perform SoundExchange's obligations under this Agreement, in which case such assignee or designee shall assume all obligations and rights of SoundExchange under this Agreement.

13. Relationship of the Parties. This Agreement shall not be construed to create a partnership, joint venture, agency or other legal relationship between the Parties, or to form any other legal entity.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first above written.

**SOUNDEXCHANGE, INC.**

**CORPORATION FOR PUBLIC BROADCASTING**

By: Michael J. Huppe  
Printed Name: MICHAEL J. HUPPE  
Title: EVP + GENERAL COUNSEL  
Date: 7/30/09

By: Vincent Carter  
Printed Name: VINCENT CARTER  
Title: CEO  
Date: 7/30/09



**EXHIBIT A**  
**AGREEMENT CONCERNING RATES AND TERMS FOR PUBLIC RADIO**

This Agreement Concerning Rates and Terms for Public Radio ("Agreement"), dated as of July 30, 2009 ("Execution Date"), is made by and between SoundExchange, Inc. ("SoundExchange") and the Corporation for Public Broadcasting ("CPB"), on behalf of all Covered Entities (SoundExchange, and CPB each a "Party" and, jointly, the "Parties"). Capitalized terms used herein are defined in Article 1 below.

WHEREAS, SoundExchange is the "receiving agent" as defined in 17 U.S.C. § 114(f)(5)(E)(ii) designated for collecting and distributing statutory royalties received from Covered Entities for their Web Site Performances;

WHEREAS, the Webcaster Settlement Act of 2009 (Pub. L. No. 111-36; to be codified at 17 U.S.C. § 114(f)(5)) authorizes SoundExchange to enter into agreements for the reproduction and performance of Sound Recordings under Sections 112(e) and 114 of the Copyright Act that, once published in the Federal Register, shall be binding on all Copyright Owners and Performers, in lieu of any determination by the Copyright Royalty Judges;

WHEREAS, in view of the unique business, economic and political circumstances of CPB, Covered Entities, SoundExchange, Copyright Owners and Performers at the Execution Date, the Parties have agreed to the royalty rates and other consideration set forth herein for the period January 1, 2011 through December 31, 2015;

NOW, THEREFORE, pursuant to 17 U.S.C. § 114(f)(5), and in consideration of the mutual promises contained in this Agreement and for other good and valuable consideration, the adequacy and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

**ARTICLE 1**  
**DEFINITIONS**

The following terms shall have the meanings set forth below:

1.1 "Agreement" shall have the meaning set forth in the preamble.

1.2 "ATH" or "Aggregate Tuning Hours" means the total hours of programming that Covered Entities have transmitted during the relevant period to all listeners within the United States from all Covered Entities that provide audio programming consisting, in whole or in part, of Web Site Performances, less the actual running time of any sound recordings for which the Covered Entity has obtained direct licenses apart from this Agreement. By way of example, if a Covered Entity transmitted one hour of programming to ten (10) simultaneous listeners, the Covered Entity's Aggregate Tuning Hours would equal ten (10). If three (3) minutes of that hour consisted of transmission of a directly licensed recording, the Covered Entity's Aggregate Tuning Hours would equal nine (9) hours and thirty (30) minutes. As an additional example, if one listener listened to a Covered Entity for ten (10) hours (and none of the recordings transmitted during that time was directly licensed), the Covered Entity's Aggregate Tuning Hours would equal 10.

- 1.3 "Authorized Web Site" means any Web Site operated by or on behalf of any Covered Entity that is accessed by Web Site Users through a Uniform Resource Locator ("URL") owned by such Covered Entity and through which Web Site Performances are made by such Covered Entity.
- 1.4 "CPB" shall have the meaning set forth in the preamble.
- 1.5 "Collective" shall have the meaning set forth in 37 C.F.R. § 380.2(c).
- 1.6 "Copyright Owners" are Sound Recording copyright owners who are entitled to royalty payments made pursuant to the statutory licenses under 17 U.S.C. §§ 112(e) and 114(f).
- 1.7 "Covered Entities" means NPR, American Public Media, Public Radio International, and Public Radio Exchange, and, in calendar year 2011, up to four-hundred and ninety (490) Originating Public Radio Stations as named by CPB. CPB shall notify SoundExchange annually of the eligible Originating Public Radio Stations to be considered Covered Entities hereunder (subject to the numerical limitations set forth herein). The number of Originating Public Radio Stations considered to be Covered Entities is permitted to grow by no more than 10 Originating Public Radio Stations per year beginning in calendar year 2012, such that the total number of Covered Entities at the end of the Term will be less than or equal to 530. The Parties agree that the number of Originating Public Radio Stations licensed hereunder as Covered Entities shall not exceed the maximum number permitted for a given year without SoundExchange's express written approval, except that CPB shall have the option to increase the number of Originating Public Radio Stations that may be considered Covered Entities as provided in Section 4.4.
- 1.8 "Ephemeral Phonorecord" shall have the meaning set forth in Section 3.1(b).
- 1.9 "Execution Date" shall have the meaning set forth in the preamble.
- 1.10 "License Fee" shall have the meaning set forth in Section 4.1.
- 1.11 "Music ATH" means ATH of Web Site Performances of Sound Recordings of musical works.
- 1.12 "NPR" shall mean National Public Radio, with offices at 635 Massachusetts Avenue, N.W., Washington, D.C. 20001.
- 1.13 "Originating Public Radio Stations" shall mean a noncommercial terrestrial radio broadcast station that (i) is licensed as such by the Federal Communications Commission; (ii) originates programming and is not solely a repeater station; (iii) is a member or affiliate of NPR, American Public Media, Public Radio International, or Public Radio Exchange, a member of the National Federation of Community Broadcasters, or another public radio station that is qualified to receive funding from the Corporation for Public Broadcasting pursuant to its criteria; (iv) qualifies as a "noncommercial webcaster" under 17 U.S.C. § 114(f)(5)(E)(i); and (v) either (a) offers Web Site Performances only as part of the mission that entitles it to be exempt from taxation under section 501 of the Internal Revenue Code of 1986 (26 U.S.C. 501), or (b) in the case of a governmental entity (including a Native American tribal governmental entity), is operated exclusively for public purposes.

- 1.14 “Party” shall have the meaning set forth in the preamble.
- 1.15 “Performers” means the independent administrators identified in 17 U.S.C. § 114(g)(2)(B) and (C) and the individuals and entities identified in 17 U.S.C. § 114(g)(2)(D).
- 1.16 “Person” means a natural person, a corporation, a limited liability company, a partnership, a trust, a joint venture, any governmental authority or any other entity or organization.
- 1.17 “Phonorecords” shall have the meaning set forth in 17 U.S.C. § 101.
- 1.18 “Side Channel” means any Internet-only program available on an Authorized Web Site or an archived program on such Authorized Web Site that, in either case, conforms to all applicable requirements under 17 U.S.C. § 114.
- 1.19 “SoundExchange” shall have the meaning set forth in the preamble and shall include any successors and assigns to the extent permitted by this Agreement.
- 1.20 “Sound Recording” shall have the meaning set forth in 17 U.S.C. §101.
- 1.21 “Term” shall have the meaning set forth in Section 7.1.
- 1.22 “Territory” means the United States, its territories, commonwealths and possessions.
- 1.23 “URL” shall have the meaning set forth in Section 1.3.
- 1.24 “Web Site” means a site located on the World Wide Web that can be located by a Web Site User through a principal URL.
- 1.25 “Web Site Performances” means all public performances by means of digital audio transmissions of Sound Recordings, including the transmission of any portion of any Sound Recording, made through an Authorized Web Site in accordance with all requirements of 17 U.S.C. § 114, from servers used by a Covered Entity (provided that the Covered Entity controls the content of all materials transmitted by the server), or by a sublicensee authorized pursuant to Section 3.2, that consist of either (a) the retransmission of a Covered Entity’s over-the-air terrestrial radio programming or (b) the digital transmission of nonsubscription Side Channels that are programmed and controlled by the Covered Entity. This term does not include digital audio transmissions made by any other means.
- 1.26 “Web Site Users” means all those who access or receive Web Site Performances or who access any Authorized Web Site.

**ARTICLE 2**  
**AGREEMENT PURSUANT TO WEBCASTER SETTLEMENT ACT OF 2009**

2.1 General. This Agreement is entered into pursuant to the Webcaster Settlement Act of 2009 (Pub. L. No. 111-36; to be codified at 17 U.S.C. § 114(f)(5)).

2.2 Eligibility Conditions. The only webcasters (as defined in 17 U.S.C. § 114(f)(5)(E)(iii)) eligible to avail themselves of the terms of this Agreement as contemplated by 17 U.S.C. § 114(f)(5)(B) are the Covered Entities, as expressly set forth herein. The terms of this Agreement shall apply to the Covered Entities in lieu of other rates and terms applicable under 17 U.S.C. § 112 and 114.

2.3 Agreement Nonprecedential. Consistent with 17 U.S.C. § 114(f)(5)(C), this Agreement, including any rate structure, fees, terms, conditions, and notice and recordkeeping requirements set forth therein, is nonprecedential and shall not be introduced nor used by any Person, including the Parties and any Covered Entities, as evidence or otherwise taken into account in any administrative, judicial, or other proceeding involving the setting or adjustment of the royalties payable for the public performance or reproduction in ephemeral phonorecords or copies of sound recordings, the determination of terms or conditions related thereto, or the establishment of notice or recordkeeping requirements by the Copyright Royalty Judges under 17 U.S.C. § 114(f)(4) or § 112(e)(4), or any administrative or judicial proceeding pertaining to rates, terms or reporting obligations for any yet-to-be-created right to collect royalties for the performance of Sound Recordings by any technology now or hereafter known. Any royalty rates, rate structure, definitions, terms, conditions and notice and recordkeeping requirements included in this Agreement shall be considered as a compromise motivated by the unique business, economic and political circumstances of webcasters, copyright owners, and performers, and the participation by NPR on behalf of itself and its member stations in *Digital Performance Right in Sound Recordings and Ephemeral Recordings*, Docket No. 2009-1 CRB Webcasting III (the pending proceeding before the Copyright Royalty Judges to set statutory rates and terms for 2011-2015), rather than as matters that would have been negotiated in the marketplace between a willing buyer and a willing seller, or otherwise meet the objectives set forth in Section 801(b) of the Copyright Act.

2.4 Reservation of Rights. The Parties agree that the entering into of this Agreement shall be without prejudice to any of their respective positions in any proceeding with respect to the rates, terms or reporting obligations to be established for the making of Ephemeral Phonorecords or the digital audio transmission of Sound Recordings after the Term of this Agreement on or by Covered Entities under 17 U.S.C. §§ 112 and 114 and their implementing regulations. The Parties further acknowledge and agree that the entering of this Agreement, the performance of its terms, and the acceptance of any payments and reporting by SoundExchange (i) do not express or imply any acknowledgement that CPB, Covered Entities, or any other persons are eligible for the statutory license of 17 U.S.C. §§ 112 and 114, and (ii) shall not be used as evidence that CPB, the Covered Entities, or any other persons are acting in compliance with the provisions of 17 U.S.C. § 114(d)(2)(A) or (C) or any other applicable laws or regulations.

### ARTICLE 3 SCOPE OF AGREEMENT

#### 3.1 General.

(a) Public Performances. In consideration for the payment of the License Fee by CPB, SoundExchange agrees that Covered Entities that publicly perform under Section 114 all or any portion of any Sound Recordings through an Authorized Web Site,

within the Territory, by means of Web Site Performances, may do so in accordance with and subject to the limitations set forth in this Agreement; provided that: (i) such transmissions are made in strict conformity with the provisions of 17 U.S.C. §§ 114(d)(2)(A) and (C); and (ii) such Covered Entities comply with all of the terms and conditions of this Agreement and all applicable copyright laws. For clarity, there is no limit to the number of Web Site Performances that a Covered Entity may transmit during the Term under the provisions of this Section 3.1(a), if such Web Site Performances otherwise satisfy the requirements of this Agreement.

(b) Ephemeral Phonorecords. In consideration for the payment of the License Fee by CPB, SoundExchange agrees that Covered Entities that make and use solely for purposes of transmitting Web Site Performances as described in Section 3.1(a), within the Territory, Phonorecords of all or any portion of any Sound Recordings ("Ephemeral Phonorecords"), may do so in accordance with and subject to the limitations set forth in this Agreement; provided that: (i) such Phonorecords are limited solely to those necessary to encode Sound Recordings in different formats and at different bit rates as necessary to facilitate Web Site Performances licensed hereunder; (ii) such Phonorecords are made in strict conformity with the provisions set forth in 17 U.S.C. §§ 112(e)(1)(A)-(D); and (iii) the Covered Entities comply with 17 U.S.C. §§ 112 (a) and (e) and all of the terms and conditions of this Agreement.

3.2 Limited Right to Sublicense. Rights under this Agreement are not sublicensable, except that a Covered Entity may employ the services of a third Person to provide the technical services and equipment necessary to deliver Web Site Performances on behalf of such Covered Entity pursuant to Section 3.1, but only through an Authorized Web Site. Any agreement between a Covered Entity and any third Person for such services shall (i) contain the substance of all terms and conditions of this Agreement and obligate such third Person to provide all such services in accordance with all applicable terms and conditions of this Agreement, including, without limitation, Articles 3, 5 and 6; (ii) specify that such third Person shall have no right to make Web Site Performances or any other performances or Phonorecords on its own behalf or on behalf of any Person or entity other than a Covered Entity through the Covered Entity's Authorized Web Site by virtue of this Agreement, including in the case of Phonorecords, pre-encoding or otherwise establishing a library of Sound Recordings that it offers to a Covered Entity or others for purposes of making performances, but instead must obtain all necessary licenses from SoundExchange, the copyright owner or another duly authorized Person, as the case may be; (iii) specify that such third Person shall have no right to grant any further sublicenses; and (iv) provide that SoundExchange is an intended third-party beneficiary of all such obligations with the right to enforce a breach thereof against such third party.

### 3.3 Limitations.

(a) Reproduction of Sound Recordings. Except as provided in Section 3.2, nothing in this Agreement grants Covered Entities, or authorizes Covered Entities to grant to any other Person (including, without limitation, any Web Site User, any operator of another Web Site or any authorized sublicensee), the right to reproduce by any means, method or process whatsoever, now known or hereafter developed, any Sound Recordings, including, but not limited to, transferring or downloading any such Sound



Recordings to a computer hard drive, or otherwise copying the Sound Recording onto any other storage medium.

(b) No Right of Public Performance. Except as provided in Section 3.2, nothing in this Agreement authorizes Covered Entities to grant to any Person the right to perform publicly, by means of digital transmission or otherwise, any Sound Recordings.

(c) No Implied Rights. The rights granted in this Agreement extend only to Covered Entities and grant no rights, including by implication or estoppel, to any other Person, except as expressly provided in Section 3.2. Without limiting the generality of the foregoing, this Agreement does not grant to Covered Entities (i) any copyright ownership interest in any Sound Recording; (ii) any trademark or trade dress rights; (iii) any rights outside the Territory; (iv) any rights of publicity or rights to any endorsement by SoundExchange or any other Person; or (v) any rights outside the scope of a statutory license under 17 U.S.C. §§ 112(e) and 114.

(d) Territory. The rights granted in this Agreement shall be limited to the Territory.

(e) No Syndication Rights. Nothing in this Agreement authorizes any Web Site Performances to be accessed by Web Site Users through any Web Site other than an Authorized Web Site.

3.4 Effect of Non-Performance by any Covered Entity. In the event that any Covered Entity breaches or otherwise fails to perform any of the material terms of this Agreement it is required to perform (including any obligations applicable under Section 112 or 114), or otherwise materially violates the terms of this Agreement or Section 112 or 114 or their implementing regulations, the remedies of SoundExchange shall be specific to that Covered Entity only, and shall include, without limitation, (i) termination of that Covered Entity's rights hereunder upon written notice to CPB, and (ii) the rights of SoundExchange and Copyright owners under applicable law. SoundExchange's remedies for such a breach or failure by an individual Covered Entity shall not include termination of this Agreement in its entirety or termination of the rights of other Covered Entities, except that if CPB breaches or otherwise fails to perform any of the material terms of this Agreement, or such a breach or failure by a Covered Entity results from CPB's inducement, and CPB does not cure such breach or failure within thirty (30) days after receiving notice thereof from SoundExchange, then SoundExchange may terminate this Agreement in its entirety, and a prorated portion of the License Fee for the remainder Term shall, after deduction of any damages payable to SoundExchange by virtue of the breach or failure, be credited to statutory royalty obligations of Covered Entities to SoundExchange for the Term as specified by CPB.

#### ARTICLE 4 CONSIDERATION

4.1 License Fee. The total license fee for all Web Site Performances and Ephemeral Phonorecords made during the Term shall be two million four hundred thousand dollars (\$2,400,000) (the "License Fee"), unless additional payments are required as described in

Section 4.3 or 4.4. CPB shall pay such amount to SoundExchange in five equal installments of four hundred eighty thousand dollars (\$480,000) each, which shall be due December 31, 2010 and annually thereafter through December 31, 2014.

4.2 Calculation of License Fee. The Parties acknowledge that the License Fee includes: (i) an annual minimum fee of five hundred dollars (\$500) for each Covered Entity for each year during the Term; (ii) additional usage fees calculated at a royalty rate equal to one third the royalty rate applicable to commercial broadcasters under the Webcaster Settlement Act of 2008 (see 74 Fed. Reg. 9299 (March 3, 2009)); and (iii) a discount that reflects the administrative convenience to SoundExchange of receiving annual lump sum payments that cover a large number of separate entities, as well as the protection from bad debt that arises from being paid in advance.

4.3 Total Music ATH True-Up.

(a) If the total Music ATH for all Covered Entities, in the aggregate for any calendar year during the period 2011-2015, as reported or estimated in accordance with Attachment 1, is greater than the Music ATH cap for the year specified in the table below, CPB shall make an additional payment to SoundExchange for all such Music ATH in excess of such Music ATH cap for all Covered Entities in the aggregate on the basis of the per performance rate for the year specified in the table below, which shall be applied to excess Music ATH by assuming twelve (12) performances for each hour of excess Music ATH:

<u>Year</u>	<u>Music ATH Cap</u>	<u>Per Performance Rate</u>
2011	279,500,000	\$0.00057
2012	280,897,500	\$0.00067
2013	282,301,988	\$0.00073
2014	283,713,497	\$0.00077
2015	285,132,065	\$0.00083

(b) Payments under Section 4.3(a) shall be due no later than March 1 of the year following the year to which they pertain. SoundExchange may distribute royalties paid under Section 4.3(a) in accordance with its generally-applicable methodology for distributing royalties paid on the basis of ATH.

(c) Notwithstanding the foregoing provisions of this Section 4.3, CPB shall not be required to make payments under this Section 4.3 exceeding four hundred eighty thousand dollars (\$480,000) in the aggregate during the Term. Because the limitation stated in the immediately preceding sentence is to be applied in the aggregate over the Term, CPB shall make all payments otherwise due under this Section 4.3 for excess Music ATH until such time as such payments, if any, for the Term reach four hundred eighty thousand dollars (\$480,000) in the aggregate, and thereafter CPB shall owe no further payments under Section 4.3(a) regardless of the amount of excess Music ATH.

4.4 Station Growth True-Up: If the total number of Originating Public Radio Stations that wish to make Web Site Performances in any calendar year exceeds the number of such

Originating Public Radio Stations considered Covered Entities in the relevant year, and the excess Originating Public Radio Stations do not wish to pay royalties for such Web Site Performances apart from this Agreement, CPB may elect by written notice to SoundExchange to increase the number of Originating Public Radio Stations considered Covered Entities in the relevant year effective as of the date of the notice. To the extent of any such elections, CPB shall make an additional payment to SoundExchange for each calendar year or part thereof it elects to have an additional Originating Public Radio Station considered a Covered Entity, in the amount of five hundred dollars (\$500) per Originating Public Radio Station per year. Such payment shall accompany the notice electing to have an additional Originating Public Radio Station considered a Covered Entity.

4.5 Late Fee. The Parties hereby agree to the terms set forth in 37 C.F.R. § 380.4(e) as if that section (and the applicable definitions provided in 37 C.F.R. § 380.2) were set forth herein.

4.6. Payments to Third Persons.

(a) SoundExchange and CPB agree that, except as provided in Section 4.6(b), all obligations of, *inter alia*, clearance, payment or attribution to third Persons, including, by way of example and not limitation, music publishers and performing rights organizations (PROs) for use of the musical compositions embodied in Sound Recordings, shall be solely the responsibility of CPB and the Covered Entities.

(b) SoundExchange and CPB agree that all obligations of distribution of the License Fee to Copyright Owners and Performers in accordance with 37 C.F.R. § 380.4(g) shall be solely the responsibility of SoundExchange. In making such distribution, SoundExchange has discretion to allocate the License Fee between Section 112 and 114 in the same manner as the majority of other webcasting royalties.

## ARTICLE 5 REPORTING, AUDITING AND CONFIDENTIALITY

5.1 Reporting. CPB and Covered Entities shall submit reports of use and other information concerning Web Site Performances as set forth in Attachments 1 and 2.

5.2 Verification of Information. The Parties hereby agree to the terms set forth in 37 C.F.R. §§ 380.4(h) and 380.6 as if those sections (and the applicable definitions provided in 37 C.F.R. § 380.2) were set forth herein. The exercise by SoundExchange of any right under this Section 5.2 shall not prejudice any other rights or remedies of SoundExchange.

5.3 Confidentiality. The Parties hereby agree to the terms set forth in 37 C.F.R. § 380.5 as if that section (and the applicable definitions provided in 37 C.F.R. § 380.2) were set forth herein, except that:

(a) the following shall be added to the end of the first sentence of § 380.5(b):  
“or documents or information that become publicly known through no fault of SoundExchange or are known by SoundExchange when disclosed by CPB”;

(b) the following shall be added at the end of § 380.5(c): “and enforcement of



the terms of this Agreement”; and

(c) the following shall be added at the end of § 380.5(d)(4): “subject to the provisions of Section 2.3 of this Agreement”.

## ARTICLE 6 NON-PARTICIPATION IN FURTHER PROCEEDINGS

CPB and any Covered Entity making Web Site Transmissions in reliance on this Agreement shall not directly or indirectly participate as a party, *amicus curiae* or otherwise, or in any manner give evidence or otherwise support or assist, in any further proceedings to determine royalty rates and terms for digital audio transmission or the reproduction of Ephemeral Phonorecords under Section 112 or 114 of the Copyright Act for all or any part of the Term, including *Digital Performance Right in Sound Recordings and Ephemeral Recordings*, Docket No. 2009-1 CRB Webcasting III, any appeal of the determination in such case, any proceedings on remand from such an appeal, or any other related proceedings, unless subpoenaed on petition of a third party (without any action by CPB or a Covered Entity to encourage such a petition) and ordered to testify in such proceeding. Notwithstanding anything to the contrary herein, any entity that is eligible to be treated as a “Covered Entity” but that does not elect to be treated as a Covered Entity may elect to participate in such proceedings.

## ARTICLE 7 TERM AND TERMINATION

7.1 Term. The term of this Agreement commences as of January 1, 2011, and ends as of December 31, 2015 (“Term”). Through August 27, 2009, CPB shall have the right to rescind this Agreement in its entirety by notifying SoundExchange in writing that it wishes to exercise such right; provided however, that CPB may only exercise such right in the event that the Board of Directors of CPB fails to approve CPB’s entering into the Agreement. As conditions precedent to reliance on the terms of this Agreement by any Covered Entity, (a) CPB must pay the License Fee as and when specified in Section 4.1, and (b) NPR must withdraw from participation in the proceeding before the Copyright Royalty Judges entitled *Digital Performance Right in Sound Recordings and Ephemeral Recordings*, Docket No. 2009-1 CRB Webcasting III (see 74 Fed. Reg. 318 (Jan. 5, 2009)) by no later than September 3, 2009 (which NPR has agreed to do if CPB does not exercise its right of rescission).

7.2 Mutual Termination. This Agreement may be terminated in writing upon mutual agreement of the Parties.

7.3 Consequences of Termination.

(a) Survival of Provisions. In the event of the expiration or termination of this Agreement for any reason, the terms of this Agreement shall immediately become null and void, and cannot be relied upon for making any further Web Site Performances or Ephemeral Phonorecords, except that (i) Articles 6 and 8 and Sections 2.3, 2.4, 3.3, 5.2, 5.3 and 7.3 shall remain in full force and effect; and (ii) Article 4 and Section 5.1 shall remain in effect after the expiration or termination of this Agreement to the extent

obligations under Article 4 or Section 5.1 accrued prior to any such termination or expiration.

(b) Applicability of Copyright Law. Any Web Site Performances made by a Covered Entity or other Originating Public Radio Station in violation of the terms of this Agreement or Section 112 or 114 or their implementing regulations (except to the extent such implementing regulations are inconsistent with this Agreement), outside the scope of this Agreement, or after the expiration or termination of this Agreement for any reason shall be fully subject to, among other things, the copyright owners' rights under 17 U.S.C. § 106(6), the remedies in 17 U.S.C. § 501 *et seq.*, the provisions of 17 U.S.C. §§ 112(e) and 114, and their implementing regulations unless the Parties have entered into a new agreement for such Web Site Performances.

## ARTICLE 8 MISCELLANEOUS

8.1 Applicable Law and Venue. This Agreement shall be governed by, and construed in accordance with, the laws of the District of Columbia (without giving effect to conflicts of law principles thereof). All actions or proceedings arising directly or indirectly from or in connection with this Agreement shall be litigated only in the United States District Court for the District of Columbia located in Washington, D.C., or if it does not have subject matter jurisdiction, other courts located in the District of Columbia. The Parties and Covered Entities, to the extent permitted under their state or tribal law, consent to the jurisdiction and venue of the foregoing court and consent that any process or notice of motion or other application to said court or a judge thereof may be served inside or outside the District of Columbia by registered mail, return receipt requested, directed to the Person for which it is intended at its address set forth in this Agreement (and service so made shall be deemed complete five (5) days after the same has been posted as aforesaid) or by personal service or in such other manner as may be permissible under the rules of that court.

8.2 Rights Cumulative. The remedies provided in this Agreement and available under applicable law shall be cumulative and shall not preclude assertion by any Party of any other rights or the seeking of any other remedies against the other Party hereto. This Agreement shall not constitute a waiver of any violation of Section 112 or 114 or their implementing regulations (except to the extent such implementing regulations are inconsistent with this Agreement). No failure to exercise and no delay in exercising any right, power or privilege shall operate as a waiver of such right, power or privilege. Neither this Agreement nor any such failure or delay shall give rise to any defense in the nature of laches or estoppel. No single or partial exercise of any right, power or privilege granted under this Agreement or available under applicable law shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege. No waiver by either Party of full performance by the other Party in any one or more instances shall be a waiver of the right to require full and complete performance of this Agreement and of obligations under applicable law thereafter or of the right to exercise the remedies of SoundExchange under Section 3.4.

8.3 Severability. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this

Agreement shall be prohibited by or invalid under applicable law, such provisions shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

8.4 Amendment. This Agreement may be modified or amended only by a writing signed by the Parties.

8.5 Entire Agreement. This Agreement expresses the entire understanding of the Parties and supersedes all prior and contemporaneous agreements and undertakings of the Parties with respect to the subject matter hereof.

8.6 Headings. The titles used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first above written.

**ATTACHMENT 1**  
**REPORTING**

1. Definitions. The following terms shall have the meaning set forth below for purposes of this Attachment 1. All other capitalized terms shall have the meaning set forth in Article 1 of the Agreement.

(a) "Content Logs" shall have the meaning set forth in Section 3(a)(ii) of this Attachment 1.

(b) "Major Format Group" shall mean each of the following format descriptions characterizing the programming offered by various Covered Entities: (i) classical; (ii) jazz; (iii) music mix; (iv) news and information; (v) news/classical; (vi) news/jazz; (vii) news/music mix; and (viii) adult album alternative. A Covered Entity's Major Format Group is determined based on the format description best describing the programming of the principal broadcast service offered by the Covered Entity and will include all channels streamed.

(c) "Reporting Data" shall mean, for each Sound Recording for which Reporting Data is to be provided, (1) the relevant Covered Entity (including call sign and community of license of any terrestrial broadcast station and any Side Channel(s)); (2) the title of the song or track performed; (3) the featured recording artist, group, or orchestra; (4) the title of the commercially available album or other product on which the Sound Recording is found; (5) the marketing label of the commercially available album or other product on which the sound recording is found; and (6) play frequency.

2. General. All data required to be provided hereunder shall be provided to SoundExchange electronically in the manner provided in 37 C.F.R. § 370.3(d), except to the extent the parties agree otherwise. CPB shall consult with SoundExchange in advance concerning the content and format of all data to be provided hereunder, and shall provide data that is accurate, to the best of CPB's and the relevant Covered Entity's knowledge, information and belief. The methods used to make estimates, predictions and projections of data shall be subject to SoundExchange's prior written approval, which shall not be unreasonably withheld.

3. Data Collection and Reporting. CPB shall provide data regarding Web Site Performances during the Term to SoundExchange, and Covered Entities shall provide such data to CPB, consistent with the following terms:

(a) ATH and Content Logs. For each calendar quarter during the Term:

(i) Music ATH Reporting. CPB shall provide reports (the "ATH Reports") of Music ATH by all Covered Entities. Such ATH reports shall be accompanied by the Content Logs described in Section 3(a)(ii) for the periods described therein for all Covered Entities. All ATH Reports and Content Logs for a quarter shall be provided by CPB together in one single batch, but all data shall be broken out by Covered Entity and identify each Covered Entity's Major Format Group. The ATH Reports shall be in a form similar to CPB's Streaming

Census Report dated October 18, 2007, except as otherwise provided in this Section 3(a)(i).

(ii) Reporting Period and Data. The information about Music ATH referenced in Section 3(a)(i) shall be collected from Covered Entities for two 7-consecutive-day reporting periods per quarter. The ATH Reports shall be provided within thirty (30) days of the end of each calendar quarter. During these reporting periods, Covered Entities shall prepare logs containing Reporting Data for all their Web Site Performances ("Content Logs"). These Content Logs shall be compared with server-based logs of Music ATH throughout the reporting period before the ATH Report is submitted to SoundExchange.

(iii) Additional Data Reporting. Each quarter, CPB shall, for Covered Entities representing the highest 30% of reported Music ATH, provide SoundExchange Reporting Data collected continuously during each 24 hour period for the majority of their Web Site Performances, along with the Covered Entity's Music ATH, for the relevant quarter. If during any calendar quarter of the Term, additional Covered Entities, in the ordinary course of business, collect Reporting Data continuously during each 24 hour period for the majority of their Web Site Performances, CPB shall provide SoundExchange such data, along with each such Covered Entity's Music ATH, for the relevant quarter.

(b) ATH and Format Surveys. CPB shall semiannually survey all Covered Entities to ascertain the number, format and Music ATH of all channels (including but not limited to Side Channels) over which such Covered Entities make Web Site Performances. CPB shall provide the results of such survey to SoundExchange within sixty (60) days after the end of the semiannual period to which it pertains.

(c) Consolidated Reporting. Each quarter, CPB shall provide the information required by this Section 3 in one delivery to SoundExchange, with a list of all Covered Entities indicating whether any are not reporting for such quarter.

(d) Timing. Except as otherwise provided above, all information required to be provided to SoundExchange under this Section 3 shall be provided as soon as practicable, and in any event by no later than sixty (60) days after the end of the quarter to which it pertains. Such data shall be provided in a format consistent with Attachment 2.

**ATTACHMENT 2**  
**REPORTING FORMAT**

1. **Format for Reporting Data.** All Reporting Data provided under Attachment 1, Section 3(a)(ii) shall be delivered to SoundExchange in accordance with the following format:

Column 1	Station or Side Channel
Column 2	Sound Recording Title
Column 3	Featured Artist, Group or Orchestra
Column 4	Album
Column 5	Marketing Label
Column 6	Play Frequency

2. **Format for Music ATH.** All Music ATH reporting by Covered Entities under Attachment 1 shall be delivered to SoundExchange in accordance with the following format:

Column 1	Station or Side Channel
Column 2	Major Format Group
Column 3	ATH
Column 4	Reporting Period

3. **Major Format Groups.** All requirements to provide "Major Format Group" as that term is defined in Attachment 1, Section 1(b), shall correspond with one of the following:

<b>Major Format Groups</b>
Classical
Jazz
Music Mix
News and Information
News/Classical
News/Jazz
News/Music Mix
Adult Album Alternative

**EXHIBIT B**  
**ADMINISTRATIVE INFORMATION**

Station Call Letters

Station Type: Radio or Television

Radio Band (if applicable): AM or FM

Primary Contact

Primary E-mail

Secondary Contact (must be station management)

Secondary E-mail

Address 1

Address 2

City

State

Zip/Postal Code

Phone

Fax

Registration Date

Contract Acceptance: Yes or No

URLs Currently Covered

Status: Unapproved, Approved, Rejected, Station already exists

Status Date

## **Exhibit 3**



# **A CENSUS REPORT ON PUBLIC RADIO STATION STREAMING ACTIVITY**

**An online streaming census**

Prepared by  
The Integrated Media Association

For  
The Corporation for Public Broadcasting,

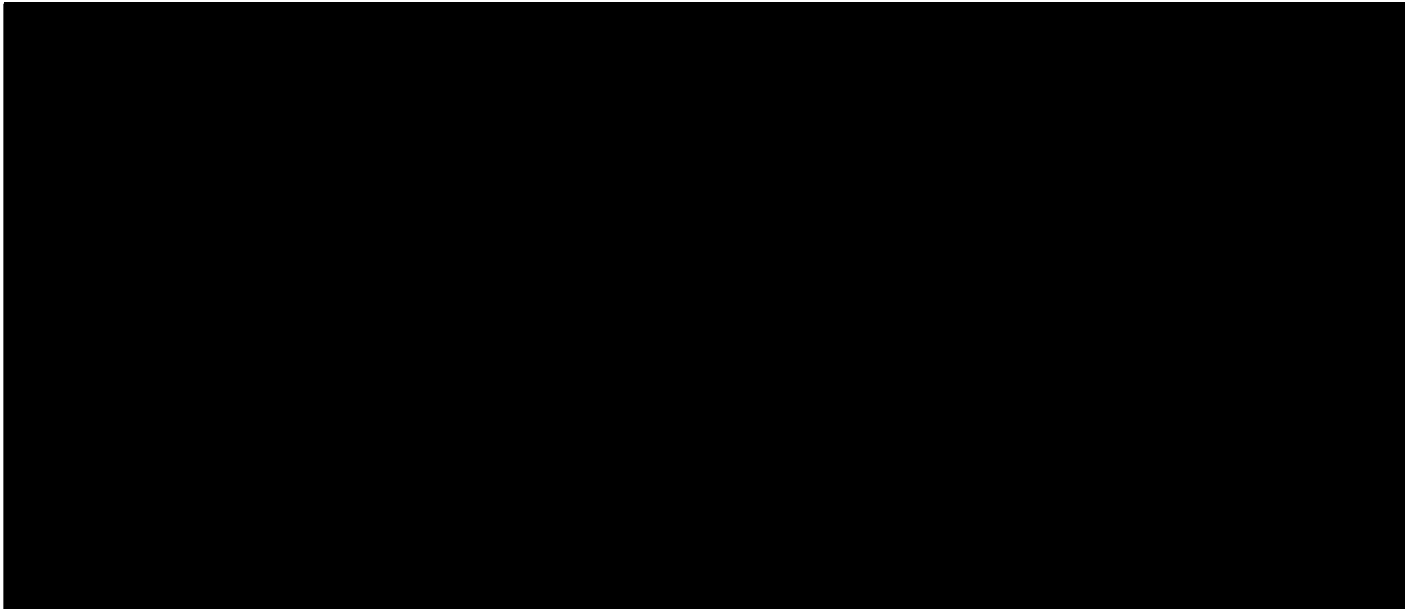
**CONFIDENTIAL AND FOR SETTLEMENT PURPOSES ONLY**

## Streaming Census Report

Our census came to the following conclusions:

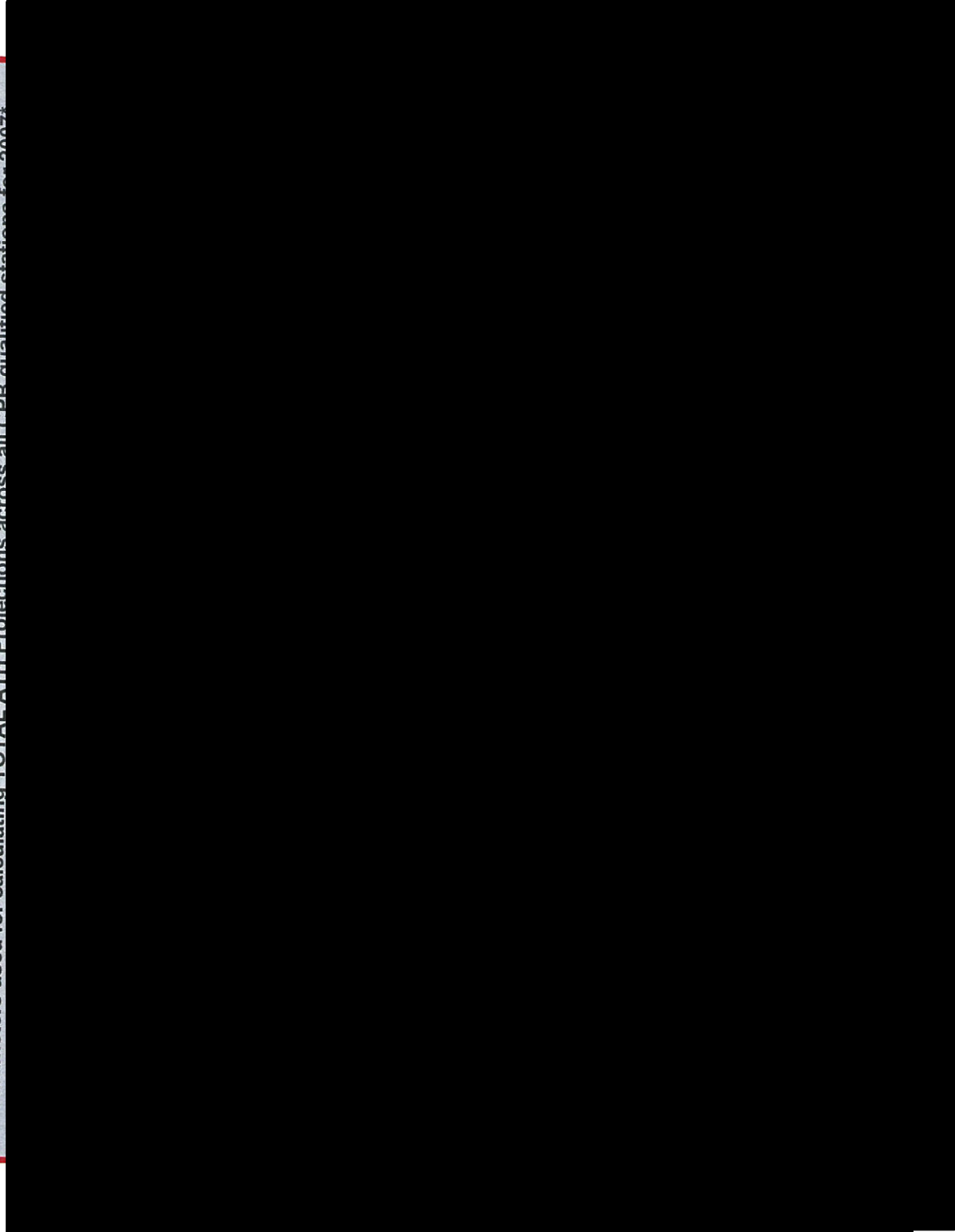
1. There are 405 public radio stations, out of the over 900 stations in the public radio system, that originate programming and stream it from their websites. These "Originating Stations" provide 483 total streams, of which 453 have music. The remaining stations either repeat an originating station and/or do not have a website or stream.

2. There are currently 15 originators providing cumulative stream volume over the 146,000 SWSA cap.

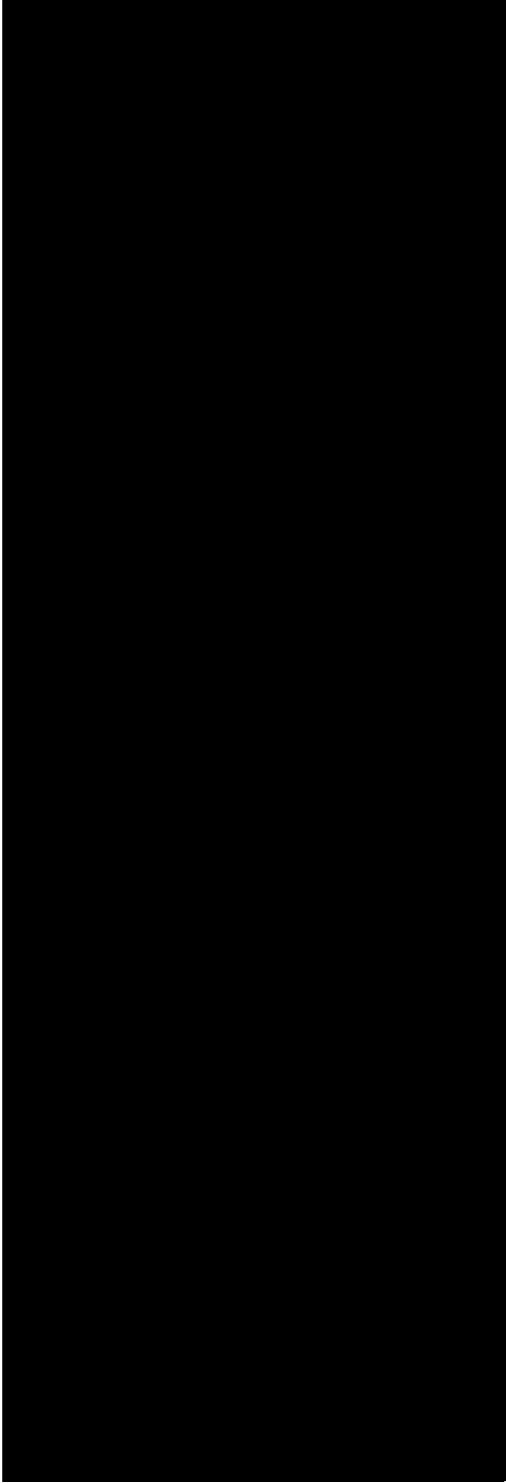


# Streaming Census Report

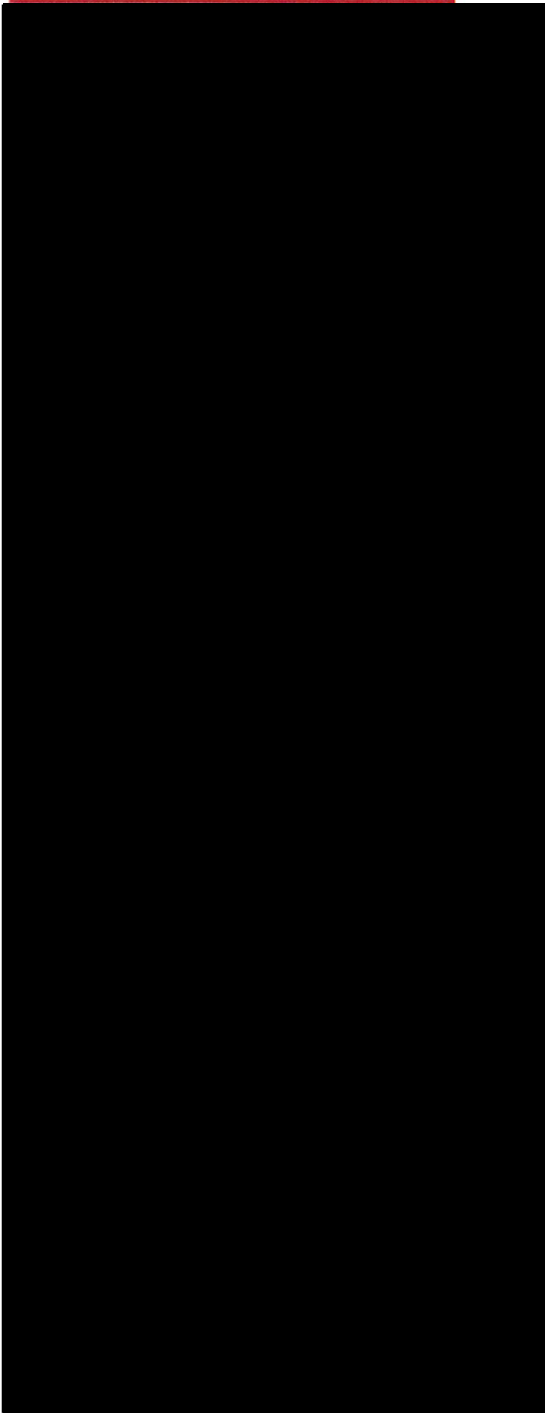
Parameters used for calculating TOTAL ATH Projections across all CPR qualified stations for 2007\*



**Streaming Census Report**



## Streaming Census Report



\* - The model projects total system ATH (and Music ATH) by:

- a) selecting three tiers of service for each format (Small, Medium and Large streamers), with the tiers defined by market size;
- b) selection within each tier of a representative total ATH and a ratio of total ATH to music ATH, determined based on inspection of the stations in that tier that participated in the survey;
- c) an “adjustment” ratio that allows us to account for mismatches in the model. Such as a very small station existing in a very large market, or a large volume of streaming originating from a regional hub that might be located in a small market.

APPENDIX 1  
Heavy Streaming Stations

STREAM SOURCE AND CHARACTERISTICS									
Source	News/Talk Streams	Music Streams	All Streams	ATH Streams	Station	Stream	Originating Station Format	Market Size	
H		1	1	S	KEXP-FM	Simulcast	AAA	14	
H		1	1	C	KCRW-FM	Web only music	News_Music	2	
H		1	1	D	WFUV-FM	Simulcast	AAA	1	
H		1	1	C	KPLU-FM	Web only jazz	News - Jazz	14	
H		1	1	S	KCRW-FM	Simulcast	News_Music	2	
H		1	1	D	MPR/KSUN-FM	MPR 2, Classical	Classical	15	
H		1	1	D	WKSU-FM	Folk Alley	News - Classical	17	
H		1	1	D	KCSM-FM	Simulcast	Jazz	5	
H		1	1	D	WXPN-FM	Simulcast	AAA	4	
H		1	1	D	CPH/KVOB-FM	Simulcast Music	Classical	18	
H		1	1	D	WWOZ-FM	Simulcast	Jazz	54	
H		1	1	D	MPR/KOMP-FM	MPR 3, AAA	Jazz	15	
H		1	1	S	WNYC-AM/FM	Simulcast (FM)	News - Classical	15	
H		1	1	S	KUSC-FM	Simulcast	Classical	2	
H		1	1	D	WBGO-FM	Bluegrass	News & Info	8	
H		1	1	D	WAML-FM	Simulcast	Music Mix	7	
H		1	1	D	WUMB-FM	Simulcast	Classical	8	
H		1	1	D	WETA-FM	Simulcast	Classical	33	
H		1	1	D	WGUC-FM	Simulcast	Classical	20	
H		1	1	D	KXPR-FM	Simulcast	Classical	24	
H		1	1	D	WTMD-FM	Simulcast	AAA	2	
H		1	1	S	WNYC-AM/FM	NY12, HD	News - Classical	1	
H		1	1	D	WSHU-FM	Simulcast WSHU-FM	News - Classical	1	
H		1	1	D	WRTI-FM	Web only jazz	Classical - Jazz	4	
H		1	1	D	WGBH-FM	Simulcast	News - Classical	7	
H		1	1	D	WXPB-FM	Stream3	AAA	4	
H		1	1	D	KUT-FM	Simulcast	News - Music	52	
H		1	1	D	WSHU-FM	Web only Classical	News - Classical	1	
H		1	1	D	VPR/WVPR-FM	Web only classical	News - Classical	90	
H		1	1	D	WFPK-FM	Simulcast	Music Mix	48	
H		1	1	D	WABE-FM	Simulcast	News - Classical	7	
H		1	1	D	WGBH-FM	Simulcast HD Classical	News - Classical	9	
H		1	1	D	WDLQ-FM	Simulcast	News - Jazz	22	
H		1	1	D	WAML-FM	Simulcast	News & Info	8	
H		1	1	D	WRTI-FM	Stream1	Classical - Jazz	4	
H		1	1	D	WRTI-FM	Stream2	Classical - Jazz	4	
H		1	1	D	WKSU-FM	Simulcast HD Classical	News - Classical	17	
H		1	1	D	WXPB-FM	Stream2	AAA	4	
H		1	1	D	VPR/WVPR-FM	Simulcast	News - Classical	90	
H		1	1	D	WFCR-FM	Web only Celtic	Music Mix	109	
H		1	1	D	WUMB-FM	Simulcast	News - Classical	7	
H		1	1	D	KPBS-FM	Simulcast	News & Info	27	
H		1	1	D	KOPB-FM	Simulcast	News - Classical	23	
H		1	1	D	KXJZ-FM	Simulcast	News - Jazz	20	
H		1	1	D	WKSU-FM	Simulcast	News - Classical	17	
H		1	1	D	WABE-FM	Simulcast of HD Classical	News - Classical	9	
H		1	1	D	WLJL-FM	Simulcast	Classical	48	
H		1	1	D	WUMB-FM	Web only Folk	Music Mix	7	
H		1	1	D	WERN-FM	Simulcast of HD1	News - Classical	85	
H		1	1	D	KEFA-FM	Simulcast	News & Info	6	
H		1	1	S	KPFA-FM	Simulcast	News - Music	5	
H		1	1	D	WUNC-FM	Simulcast	News & Info	29	
H		1	1	D	WUCC-FM	Simulcast	News - Classical	19	
H		1	1	D	WGBH-FM	Simulcast of WCAI	News - Classical	7	
H		1	1	D	WERN-FM	Simulcast of WERN	News - Classical	85	
H		1	1	D	WUMB-FM	Web only World	Music Mix	7	
H		1	1	D	IPR/WOJ-FM	Classical	Music Mix	73	
H		1	1	D	WUHF-FM	Simulcast HD2	News - Classical	12	
H		1	1	D	MPR/KNOW-FM	MPR 1, News	News & Info	15	
H		1	1	D	WAMC-FM	Simulcast	News & Info	56	
H		1	1	D	WISHU-FM	Simulcast WSHU-AM	News - Classical	1	
H		1	1	D	WNYC-AM/FM	Web only Roots	Music Mix	7	
H		1	1	D	WXXL-FM	WNYC-AM (simulcast)	News & Info	1	
H		1	1	D	WUMB-FM	Simulcast	News & Info	33	
H		1	1	D	WJZZ-FM	Web only Xfolk	Music Mix	7	
H		1	1	D	WBEZ-FM	Simulcast	News & Info	21	
H		1	1	D	WNPB-FM	Simulcast	News - Jazz	3	
H		1	1	D	WSHU-FM	Sunday Baroque	News & Info	28	
H		1	1	D	WSHU-FM	Web only acoustic	News - Classical	1	
H		1	1	D	IPR/WOJ-AM	News/Talk	Music Mix	73	
H		1	1	D	KPCC-FM	Simulcast	News & Info	2	

Note: Direct ATH reports are identified with a 'D' in column 5, 'ATH Source', site-visit interpolations are identified with 'S', and a combination of methods is identified by 'C'.



**APPENDIX 1  
Heavy Streaming Stations**

STREAM SOURCE AND CHARACTERISTICS												
Source	Streams/Talk	Streams	All	Streams	ATH	Station	Stream	Originating Station Format	Market Size			
H	1	1	1	D	WERN-FM	Simulcast of WHA	News - Classical	85				
H	1	1	1	D	WAMC-FM	Simulcast of HD News	News & Info	56				
H	1	1	1	D	WBUR-FM	Simulcast	News & Info	7				
H	1	1	1	D	WUSF-FM	Simulcast	News - Classical	12				
H	1	1	1	D	WSHU-FM	Web only Folk Profiles	News - Classical	1				
H	1	1	1	D	WRNI-FM	Simulcast	News & Info	51				
H	1	1	1	D	WKSU-FM	Simulcast HD News	News - Classical	17				
H	1	1	1	D	WFPL-FM	Simulcast	News & Info	48				
H	1	1	1	D	KQED-FM	Simulcast	News & Info	5				
H	1	1	1	D	KCRW-FM	Web News	News Music	2				
H	1	1	1	D	OPR/KFCR-FM	Simulcast News	News & Info	18				
H	1	1	1		WXXI-FM	Simulcast	Classical	78				
H	1	1	1		WXXI-FM	Simulcast of WRUR	Classical	78				
H	1	1	1		WXXI-FM	Simulcast of WXXI-AM	Classical	78				
H	1	1	1		WNLX-FM	Simulcast	Classical	33				
H	1	1	1		WNLX-FM	Simulcast	Music Mix	33				
H	1	1	1		WLRN-FM	Simulcast	News - Music	16				
H	1	1	1		WLRN-FM	Simulcast HD	News - Music	16				
H	1	1	1		WKSU-FM	Folk Alley Sidelstream	News - Classical	17				
H	1	1	1		WICN-FM	Simulcast	Jazz	7				
H	1	1	1		WHYY-FM	HD Stream	News & Info	4				
H	1	1	1		WHYY-FM	Simulcast	News & Info	4				
H	1	1	1		WFCR-FM	Simulcast of WNNZ	News - Classical	109				
H	1	1	1		WEMU-FM	Simulcast	News - Jazz	11				
H	1	1	1		WEMU-FM	Simulcast of HD Jazz	News - Jazz	11				
H	1	1	1		WUHQ-FM	Simulcast of HD Jazz	News - Jazz	22				
H	1	1	1		WDET-FM	Simulcast	News - Music	11				
H	1	1	1		WBJC-FM	Simulcast	Classical	24				
H	1	1	1		WBAI-FM	Simulcast	News - Music	1				
H	1	1	1		WAMU-FM	Simulcast of HD3	News & Info	8				
H	1	1	1		WAMU-FM	Simulcast of WTMJ	News & Info	8				
H	1	1	1		WPRV-WPR-FM	Web only Public Affairs	News - Classical	90				
H	1	1	1		WPRV-WPR-FM	Web only Public Affairs	News - Classical	90				
H	1	1	1		NPR/KWSU-AM	Access to BBC	News & Info	77				
H	1	1	1		NPR/KWSU-AM	Simulcast	News & Info	77				
H	1	1	1		NPR/KWSU-AM	Simulcast of News/CI	News & Info	77				
H	1	1	1		KUT-FM	Stream2 - HD News	News - Music	52				
H	1	1	1		KUOW-FM	Simulcast HD	News & Info	14				
H	1	1	1		KUOW-FM	Simulcast HD	News & Info	14				
H	1	1	1		KUOW-FM	Simulcast HD	News & Info	14				
H	1	1	1		KUOW-FM	Stream2	News & Info	14				
H	1	1	1		KUHF-FM	Simulcast	News - Classical	10				
H	1	1	1		KUHF-FM	Simulcast of HD Music	News - Classical	10				
H	1	1	1		KUHF-FM	Simulcast of HD News	News - Classical	10				
H	1	1	1		KTSU-FM	Simulcast	Jazz	10				
H	1	1	1		KPRX-FM	Simulcast	News - Classical	2				
H	1	1	1		KNBA-FM	Simulcast	Music Mix	154				
H	1	1	1		KKJZ-FM	KKJZ	Jazz	2				
H	1	1	1		KKJZ-FM	KKJZ	Jazz	2				
H	1	1	1		KKJZ-FM	Simulcast	News - Music	13				
H	1	1	1		KBQO-FM	Simulcast	Classical	13				
H	1	1	1		IPR/WSUJ-AM	News/Talk	News & Info	73				
H	1	1	1		IPR/KUN-FM	AAA	News - Music	73				
H	1	1	1		IPR/KSUH-FM	Classical	Classical	73				
H	1	1	1		IPR/KHKE-FM	Classical	Classical	73				
<b>Total</b>	<b>24</b>	<b>102</b>	<b>126</b>									

Stations from our original list that repeat other regional signals and offer no original streams

Station	Signal rebroadcast by this station	Format	Market Size
OPR/KFCR-AM	CPR	News & Info	18
KCRB-FM	Minnesota PR	Classical	15
KLWS-FM	NWPR	News & Info	77
KQWS-FM	NWPR	News & Info	77
KSFC-FM	KPBX	News & Info	77
KSUJ-FM	IPR	Classical	89
KUOW-AM	KUOW	News & Info	14

Note: Direct ATH reports are identified with a "D" in column 5, "ATH Source", site-visit interpolations are identified with "S"; and a combination of methods is identified by "C".

**APPENDIX 1**  
Heavy Streaming Stations

STREAM SOURCE AND CHARACTERISTICS										MUSIC.ATH DISTRIBUTION															
Source	News/Talk	Streams	Music	All	Streams	ATH	Station	Stream	Originating Station Format	Market Size	Calculated ATH	Projected TOTAL ATH	Projected MUSIC.ATH	Classical	Jazz	R&B	AAA	Folk	Celtic	New Age	World	Eclectic	Oldies	Other Music	Total
H							WAMC-AM	WAMC-FM	News & Info	56															
H							WHAD-FM	WERN	News & Info	34															
H							WKRJ-FM	WKSU	News - Classical	17															
H							WKRW-FM	WKSU	News - Classical	17															
H							WKSU-FM	WKSU	News - Classical	17															
H							WRTQ-FM	WRTI	Classical - Jazz	4															
H							WRTX-FM	WRTI	Classical - Jazz	4															
H							WRVT-FM	VPR	News - Classical	90															
H							WSHU-AM	WSHU-FM	News & Info	1															
H							WYPA-FM	VPR	News - Classical	90															
H							WYPS-FM	VPR	News - Classical	90															
H							WXPB-FM	WXPB	AAA	41															

Note: Direct ATH reports are identified with a 'D' in column 5, 'ATH Source,' site-visit interpolations are identified with 'S', and a combination of methods is identified by 'C.'



Appendix 2  
Other Stations Selected for Review

STREAM SOURCE AND CHARACTERISTICS									
Source	News/Talk Streams	Music Streams	All Streams	ATH Source	Station	Originating Station Format	Stream	Market Size	
O		1	1	D	KIPO-FM	Classical	Simulcast	72	
O		1	1	D	KMFA-FM	Classical	Simulcast	52	
O		1	1	D	WAAA-FM	Classical	Simulcast	113	
O		1	1	D	KXCI-FM	Music Mix	Simulcast	70	
O		1	1	D	WFIU-FM	News - Classical	Simulcast	25	
O		1	1	D	KKFI-FM	Music Mix	Simulcast	31	
O		1	1	D	KMUD-FM	Music Mix	Simulcast	193	
O		1	1	D	KOHM-FM	Classical	Simulcast	147	
O		1	1	D	KZUM-FM	Music Mix	Simulcast	104	
O		1	1	D	WNJN-FM	News - Jazz	Simulcast	4	
O		1	1	D	WTIP-FM	News - Music	Simulcast	137	
O		1	1	D	WLOM-FM	News & Info	Simulcast	11	
O		1	1	D	WUOM-FM	News - Classical	Stream? HD	11	
O		1	1	D	WCBU-FM	News - Classical	Simulcast	116	
O		1	1	S	WKRY-FM	News - Music	Simulcast	63	
O		0	0	D	WVEP-FM	News - Music	No Stream	8	
O		0	0	D	KCUK-FM	News - Music	No Stream	300	
O		0	0	D	KDNA-FM	Targeted	No Stream	125	
O		0	0	D	KPAC-FM	Classical	No Stream	37	
O		0	0	D	KUFN-FM	News - Music	No Stream	168	
O		0	0	D	WBLU-FM	Classical - Jazz	No Stream	39	
O		0	0	D	WLTR-FM	Classical	No Stream	83	
O		0	0	D	WSIE-FM	Jazz	No Stream	21	
O		0	0	D	WSKG-FM	News - Classical	No Stream	157	
O		0	0	D	WGBU-FM	News - Classical	Stream? HD	116	
O		0	0	D	KRCC-FM	News - Music	Simulcast	94	
O		0	0	D	KUJZ-FM	News & Info	Simulcast	70	
O		0	0	D	KAOS-FM	Music Mix	Simulcast	14	
O		0	0	D	KBSU-FM	Jazz	Simulcast of KBSU-FM	118	
O		0	0	D	KBSU-FM	Jazz	Simulcast of Jazz	118	
O		0	0	D	KBSU-FM	Jazz	Simulcast of 81FM	118	
O		0	0	D	KBSU-FM	Jazz	Simulcast of 730AM	118	
O		0	0	D	KMUN-FM	News - Music	Simulcast	23	
O		0	0	D	WGLT-FM	News - Jazz	Web-only Blues	116	
O		0	0	D	WGLT-FM	News - Jazz	Simulcast	116	
O		0	0	D	WGY-FM	News - Jazz	Simulcast	39	
O		0	0	D	WKNC-FM	News & Info	Simulcast	44	
O		0	0	D	WRTE-FM	Targeted	Streaming on Live 365	3	
O		0	0	D	WSCL-FM	Classical	Simulcast	148	
O		0	0	D	WUNV-FM	News - Classical	Simulcast of GPR	145	
O		0	0	D	WWNO-FM	News - Classical	Simulcast	54	
O		0	0	D					
O		3	29	30					

Total Strs	27	131	158
News/Talk Streams	27		
Music Streams		131	
All Streams			158

Note: Direct ATH reports are identified with a 'D' in column 5, 'ATH Source'; site-visit interpolations are identified with 'S'; and a combination of methods is identified by 'C'.

Appendix 2  
Other Stations Selected for Review

STREAM SOURCE AND CHARACTERISTICS										MUSIC ATH DISTRIBUTION													
Source	News/Talk	Music Streams	All Streams	ATH Source	Station	Originating Station Format	Stream	Market Size	Calculated ATH	Projected Total ATH	Projected Music ATH	Classical	Jazz	R&B	AAA	Folk	Celtic	New Age	World	Eclectic	Oldies	Other Music	Total
					Station	Format	Repeater for this Service	Market Size															
					KHPR	News - Classical	KIPO	72															
					<b>WKNA-FM</b>	News & Info	WKNO	44															
					<b>WMUM-FM</b>	News - Music	GPR	173															
					WSQE-FM	News - Classical	WSKG	1															
					WNJM-FM	News & Info	NJN	3															
					WBEC-FM	News - Jazz	WBEZ	5															
					KPFB-FM	News - Music	KPFZ	29															
					WROM-FM	News & Info	WUNC	41															
					WJAZ-FM	Classical - Jazz	WRTI	73															
					KOWI-FM	Classical - Jazz	WOI/PR	113															
					WICV-FM	Classical	WJAA	127															
					KXLC-FM	News & Info	MPR	186															
					KPRN-FM	News & Info	CPR	193															
					KMUE-FM	Music Mix	KMUD	206															
					KUHM-FM	News - Music	KUJFM	300															
					WDCO-FM	News - Classical	GPR	148															
					WSDL-FM	Classical	WSCL	54															
					<b>KTLN-FM</b>	News - Classical	WWNO																

that are not public radio stations

Source	News/Talk	Music Streams	All Streams	ATH Source	Station	Originating Station Format	Stream	Market Size	Calculated ATH	Projected Total ATH	Projected Music ATH	Classical	Jazz	R&B	AAA	Folk	Celtic	New Age	World	Eclectic	Oldies	Other Music	Total
					Station	Format		Market Size															
					WERS-FM	Music Mix		7															
					WESL-FM	News - Classical		28															
					KCOZ-FM	Jazz		76															
					WISE-FM	Jazz		92															
					KMSK-FM	Music Mix		153															
					WIGH-FM	Targeted		174															
					KEZL-FM	Jazz		181															

Note: Direct ATH reports are identified with a 'D' in column 5, 'ATH Source;' site-visit interpolations are identified with 'S'; and a combination of methods is identified by 'C.'



Streaming Census Report

Source	Station	News/Talk Streams	Music Streams	All Streams	Stream	Originating Station Format	Market Size	ADJUST
H	KEXP-FM		1	1	Simulcast	AAA	14	100%
	KMPO-FM					AAA	20	100%
	KOTZ-AM					AAA	300	100%
	KSJV-FM		1	1		AAA	55	100%
	KSLU-FM		1	1		AAA	54	100%
	KUMD-FM		1	1		AAA	137	100%
	KUOI-FM		1	1		AAA	77	100%
	KWSO-FM		1	1		AAA	23	100%
	WBJB-FM		1	1		AAA	1	100%
H	WFUV-FM		1	1	Simulcast	AAA	1	
	WNCW-FM		1	1		AAA	36	100%
	WOAS-FM		1	1		AAA	178	100%
	WRAS-FM		0	0		AAA	9	100%
H	WTMD-FM		1	1	Simulcast	AAA	24	100%
	WXPH-FM					AAA	41	100%
H	WXPB-FM		3	3	Combined	AAA	4	100%
	WYEP-FM		1	1		AAA	22	100%
	WAMK-FM					News & Info	1	
	WEDW-FM					News & Info	1	
	WNJM-FM					News & Info	1	
	WNJP-FM					News & Info	1	
	WOSR-FM					News & Info	1	
	WRLI-FM					News & Info	1	
	WSHU-AM					News & Info	1	
	WSUF-FM					News & Info	1	
H	KPCC-FM		1	1	Simulcast	News & Info	2	100%
	KVCR-FM	1		1		News & Info	2	25%
	WEPS-FM					News & Info	3	
H	WHYY-FM	1	1	2	Combined	News & Info	4	100%
	WNJB-FM					News & Info	4	100%
	WNJS-FM					News & Info	4	
	WNJT-FM					News & Info	4	
	WNJZ-FM					News & Info	4	
	KALW-FM		1	1		News & Info	5	80%
	KPMO-AM					News & Info	5	
H	KQED-FM	1		1	Simulcast	News & Info	5	
H	KERA-FM		1	1	Simulcast	News & Info	6	
	WBUR-AM					News & Info	7	
H	WBUR-FM		1	1	Simulcast	News & Info	7	
	WCAL-FM	1		1		News & Info	7	100%
	WCCT-FM					News & Info	7	
	WEVN-FM					News & Info	7	
	WEVO-FM		1	1		News & Info	7	100%

Streaming Census Report

	WEVS-FM								News & Info	7	
	WNAN-FM								News & Info	7	
	WSDH-FM			1	1				News & Info	7	100%
H	WAMU-FM			4	4		Combined		News & Info	8	
	WYPP-FM						WYPR		News & Info	8	
O	WUOM-FM			2	2		Combined		News & Info	11	
	KPUB-FM						KNAU		News & Info	13	
	KMWS-FM						NWPR		News & Info	14	
	KUOW-AM						KUOW		News & Info	14	
H	KUOW-FM		4		4		Combined		News & Info	14	100%
	KXOT-FM		1		1		Simulcast		News & Info	14	100%
	KBPN-FM						MPR		News & Info	15	
	KNBJ-FM						MPR		News & Info	15	
	KNCM-FM						MPR		News & Info	15	
	KNGA-FM						MPR		News & Info	15	
	KNSR-FM						MPR		News & Info	15	
H	MPR		3	3	3		Combined		News & Info	15	
	WHWC-FM								News & Info	15	
	WREW-FM								News & Info	15	
H	KVOD			1	1		Simulcast		News & Info	18	
	KPYR-FM						GPR		News & Info	18	
	KGEI-FM						KQED		News & Info	20	
H	KWUU-FM			1	1		Simulcast		News & Info	21	
H	KOPB-FM			1	1		Simulcast		News & Info	23	
	KTVR-FM						OPF		News & Info	23	
	WYPR-FM			1	1				News & Info	24	100%
	WFYI-FM			1	1				News & Info	25	100%
	WFAE-FM			1	1		WFAE		News & Info	26	100%
	WFHE-FM								News & Info	26	
H	WNPR-FM			1	1		Simulcast		News & Info	28	0%
	WPKT-FM								News & Info	28	
	WRQM-FM								News & Info	29	
H	WJNC-FM			1	1		Simulcast		News & Info	29	
	WPLN-AM		1		1				News & Info	30	100%
	KCUR-FM			1	1				News & Info	31	100%
	WOSU-AM		1		1				News & Info	32	100%
	WVXC-FM								News & Info	32	
H	WAXU-FM						Combined		News & Info	33	0%
	WHAD-FM								News & Info	34	
	WUWM-FM			1	1				News & Info	34	100%
	KBSJ-FM						KBSU		News & Info	35	
	KCPW-AM								News & Info	35	
	KCPW-FM		1	1	1				News & Info	35	100%
	KSGU-FM		1	1	1				News & Info	35	100%
	KWPR-FM								News & Info	35	100%
	KSTX-FM			1	1				News & Info	37	100%
	WGSV-AM			1	1				News & Info	39	100%

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WVGR-FM				WUOM	News & Info	39
WUND-FM				WUNC	News & Info	42
KLNR-FM				KUNR	News & Info	43
KNPR-FM		1	1		News & Info	43
KTPH-FM				KNPR	News & Info	43
WKNA-FM					News & Info	44
H WFPL-FM	1		1	Simulcast	News & Info	48
WNED-AM		1	1		News & Info	49
H WRNI-AM	1		1	Simulcast	News & Info	51
WXNI-AM				WRNI	News & Info	51
WAMC-AM					News & Info	56
H WAMC-FM	1	1	2	Combined	News & Info	56
WAMQ-FM					News & Info	56
WCAN-FM				WAMC	News & Info	56
KUCA-FM					News & Info	57
WVXR-FM					News & Info	58
KWGS-FM		1	1		News & Info	62
WFUM-FM				WUOM	News & Info	66
WVVT-AM				WVTF	News & Info	68
WHDI-FM				WPR	News & Info	69
WHID-FM				WPR	News & Info	69
KUAZ-AM					News & Info	70
O KUAZ-FM	1	1	1	Simulcast	News & Info	70
H IPR	1	5	6	Combined	News & Info	73
WOI-AM					News & Info	73
WEVC-FM					News & Info	74
WEVJ-FM					News & Info	74
KLWS-FM					News & Info	77
KQWS-FM					News & Info	77
H NWPR/KWSU-AM	1	2	3	Simulcast	News & Info	77
WXXI-AM					News & Info	78
WRVD-FM				WRVO	News & Info	79
WRVJ-FM				WRVO	News & Info	79
WRVO-FM		1	1		News & Info	79
WILL-AM		1	1		News & Info	82
WRJA-FM				SCERN	News & Info	83
WHA-AM		1	1		News & Info	85
WHHL-FM				WPR	News & Info	85
WVPE-FM		1	1		News & Info	88
KLNI-FM				MPR	News & Info	89
WANG-FM				WAMC	News & Info	90
WCEL-FM				WAMC	News & Info	90
WEVH-FM				NHPR	News & Info	90
KKPC-AM				CPR	News & Info	94
WJWJ-FM				SCERN	News & Info	97
WHMC-FM				SCERN	News & Info	105
WBJD-FM				WTEB	News & Info	107

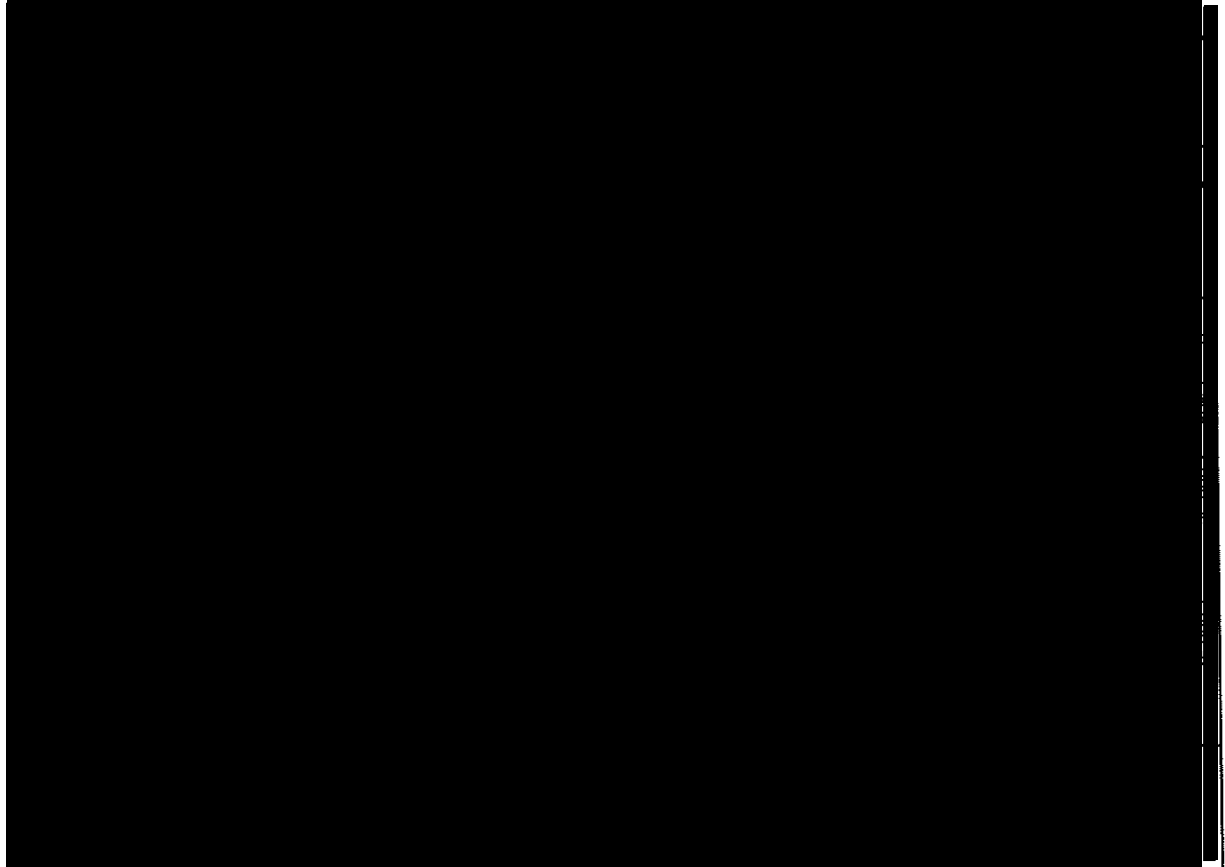
Streaming Census Report

	WKNS-FM					WTEB	News & Info	107	100%
	WZNB-FM	1	1				News & Info	107	100%
	WFSU-FM	1	1			WUMB	News & Info	108	100%
	WPNI-AM						News & Info	109	
	WKAR-AM	1	1			IPR NEWS	News & Info	112	100%
	WLJK-FM					SCERN	News & Info	113	
	KNSW-FM						News & Info	114	
	KBSQ-FM					KBSU	News & Info	115	
	KBSX-FM					KBSU	News & Info	118	
	KCCD-FM					MPR	News & Info	118	
	KNTN-FM						News & Info	119	
	KOAC-AM					OPB	News & Info	119	
	KRVM-AM					JEFFNET	News & Info	120	
	KTBR-AM					JEFFNET	News & Info	120	
	KAZU-FM	1	1				News & Info	124	100%
	KRBM-FM					OPB	News & Info	125	
	KWWS-FM					NWPR	News & Info	125	
	KXLC-FM						News & Info	127	
	WHLA-FM					WPR	News & Info	127	
	WNIJ-FM					No stream	News & Info	133	
	WHBM-FM					WPR	News & Info	134	
	WLBL-AM					WPR	News & Info	134	
	KUWS-FM						News & Info	137	
	WIRN-FM					MPR	News & Info	137	
	WSCN-FM					MPR	News & Info	137	
	KAGI-AM					JEFFNET	News & Info	141	
	KMJC-AM					JEFFNET	News & Info	141	
	KOAP-FM					OPB	News & Info	141	
	KSJK-AM					JEFFNET	News & Info	141	
	KSYC-AM					JEFFNET	News & Info	141	
	WSDL-FM					WSCL	News & Info	148	
	KZSE-FM					MPR	News & Info	153	
	KSKA-FM	1	1				News & Info	154	100%
	WFSW-FM					WFSU	News & Info	156	
	WRUN-AM					WAMC	News & Info	169	
	WRVN-FM					WRVO	News & Info	169	
	KPRN-FM						News & Info	186	
	KBSY-FM					MPR	News & Info	191	
	KNHM-FM					JEFFNET	News & Info	193	
	KOAB-FM					OPB	News & Info	194	
	WVGN-FM					Virgin Islal	News & Info	200	
	WLIU-FM	1	1				News - Jazz	1	100%
	WBEO-FM						News - Jazz	3	
	WBEW-FM						News - Jazz	3	
H	WBEZ-FM	1	1			Simulcast	News - Jazz	3	
O	WNJN-FM	1	1			Simulcast	News - Jazz	4	

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H	WEMU-FM	2	2	Simulcast	News - Jazz	11	100%
H	KPLU-FM	1	1	Web only	News - Jazz	14	
	WFIT-FM	1	1		News - Jazz	19	100%
	KKTO-FM				News - Jazz	20	
	KQNC-FM				News - Jazz	20	
	KUOP-FM				News - Jazz	20	
	KXJS-FM				News - Jazz	20	
H	KXJZ-FM			KXPR	News - Jazz	20	
H	WDUQ-FM	2	2	Combined	News - Jazz	22	
	KLCO-FM				News - Jazz	23	
	WFSS-FM	1	1		News - Jazz	29	100%
	WMUB-FM	2	2		News - Jazz	33	
O	WGV5-FM	1	1	Simulcast	News - Jazz	39	100%
	WGVU-FM	1	1		News - Jazz	39	100%
	WHRV-FM				News - Jazz	42	
	WRVS-FM				News - Jazz	42	100%
	WURC-FM	1	1		News - Jazz	44	100%
	WBFO-FM	3	3		News - Jazz	49	100%
	WOLN-FM				News - Jazz	49	
	WUJF-FM				News - Jazz	49	
	KUAR-FM				News - Jazz	57	
	WUCX-FM				News - Jazz	66	
	KIPO-FM				News - Jazz	72	
	WAER-FM	1	1		News - Jazz	79	100%
	KTEP-FM	1	1		News - Jazz	99	100%
O	WGLT-FM	1	1	Web-only	News - Jazz	116	100%
	KDSU-FM	1	1		News - Jazz	119	100%
	KLCC-FM	1	1		News - Jazz	120	100%
	KLFO-FM				News - Jazz	120	
	KLFR-FM				News - Jazz	120	
	KMPQ-FM				News - Jazz	120	
	KCBX-FM	1	1		News - Jazz	122	100%
	KSIX-FM				News - Jazz	122	
	WESM-FM	1	1		News - Jazz	148	100%
H	WBGO-FM	1	1	Simulcast	Jazz	1	
H	KKJZ-FM	2	2	KKJZ	Jazz	2	100%
	KUOR-FM				Jazz	2	
H	KCSM-FM	1	1	Simulcast	Jazz	5	100%
H	WICN-FM	1	1	Simulcast	Jazz	7	100%
	WCLK-FM	1	1		Jazz	9	100%
	KPVU-FM				Jazz	10	
H	KTSU-FM	1	1	Simulcast	Jazz	10	100%
	WDNA-FM	1	1		Jazz	16	100%
	KUVO-FM	1	1		Jazz	18	100%
	WUCF-FM	2	2		Jazz	19	100%
O	WSIE-FM		0	No Stream	Jazz	21	100%
	KMHD-FM	1	1		Jazz	23	100%

Streaming Census Report



WEAA-FM			1	1		Jazz	24	100%
WNSC-FM						Jazz	26	
KSDS-FM			1	1		Jazz	27	100%
WNCU-FM			1	1		Jazz	29	100%
WSHA-FM			1	1		Jazz	29	100%
WMOT-FM			1	1		Jazz	30	100%
WYMS-FM			1	1		Jazz	34	100%
WNSB-FM			1	1		Jazz	42	100%
KCEP-FM			1	1		Jazz	43	100%
KUNV-FM			1	1		Jazz	43	100%
WSNC-FM						Jazz	47	100%
H WWOZ-FM			1	1	Simulcast	Jazz	54	
WCSU-FM			1	1		Jazz	56	100%
WJSU-FM			2	2		Jazz	87	100%
WPRL-FM						Jazz	87	100%
KBBG-FM			1	1		Jazz	89	100%
KCCK-FM			1	1		Jazz	89	100%
WVAS-FM			1	1		Jazz	117	100%
KBSK-FM			1	1		Jazz	118	100%
O KBSU-FM	1		3	4	Combined	Jazz	118	100%
WKGC-AM			1	1		Jazz	156	100%
WSOX-FM						Jazz	157	
WNYC-FM	1		2	3	Combined	News - Classical	1	
H WSHU-FM	1		5	6	Combined	News - Classical	1	
KCSN-FM			1	1		News - Classical	2	100%
H KPRX-FM			1	1	Simulcast	News - Classical	2	100%
WNIW-FM			1	1		News - Classical	3	100%
KRCB-FM			1	1		News - Classical	5	100%
H WGBH-FM			3	3	Combined	News - Classical	7	
WAUA-FM						News - Classical	8	100%
WFWM-FM			1	1		News - Classical	8	100%
H WVPR-FM	2		2	4	Combined	News - Classical	90	
H WABE-FM			2	2	Combined	News - Classical	9	
WGPB-FM			1	1		News - Classical	9	100%
WNGU-FM			1	1		News - Classical	9	100%
WPPR-FM						News - Classical	9	100%
WUGA-FM						News - Classical	9	100%
WUWG-FM			1	1		News - Classical	9	100%
H KUHF-FM	1		2	3	Simulcast	News - Classical	10	100%
WJUF-FM			1	1		News - Classical	12	100%



# Streaming Census Report

H	WUSF-FM	1	1	2	Combined	News - Classical	12	
	KNAA-FM		1	1		News - Classical	13	100%
	KNAD-FM					News - Classical	13	100%
	KNAG-FM					News - Classical	13	100%
	KNAQ-FM		1	1		News - Classical	13	100%
	KNAU-FM					News - Classical	14	100%
	KNWP-FM		1	1		News - Classical	14	100%
	KZAZ-FM					News - Classical	15	100%
	WVSS-FM					News - Classical	17	100%
	WKRJ-FM					News - Classical	17	100%
	WKRW-FM					News - Classical	17	100%
H	WKSU-FM	1	4	5	Combined	News - Classical	17	
	WKSU-FM					News - Classical	17	100%
	WNRK-FM		1	1		News - Classical	17	100%
	KCNE-FM					News - Classical	18	100%
	KPRE-FM		1	1		News - Classical	18	100%
	KRNE-FM					News - Classical	18	100%
	KTNE-FM		1	1		News - Classical	18	100%
H	WMFE-FM		1	1	Simulcast	News - Classical	19	
	KUMR-FM		1	1		News - Classical	21	100%
	WVPM-FM					News - Classical	22	100%
	KCPB-FM		1	1		News - Classical	23	100%
	WBSB-FM					News - Classical	25	100%
	WBST-FM		1	1		News - Classical	25	100%
	WBSW-FM					News - Classical	25	100%
O	WFU-FM		1	1	Simulcast	News - Classical	25	
H	KPBS-FM		1	1	Simulcast	News - Classical	27	
	WHRB-FM		1	1		News - Classical	30	100%
	WPLN-FM		1	1		News - Classical	30	100%
	WTML-FM		1	1		News - Classical	30	100%
	KANU-FM					News - Classical	31	100%
	KRNW-FM		1	1		News - Classical	31	100%
	KXCV-FM		1	1		News - Classical	34	100%
	WGTD-FM		1	1		News - Classical	35	100%
	KUSR-FM		1	1		News - Classical	35	100%
	KUSU-FM		1	1		News - Classical	36	100%
	WCQS-FM		1	1		News - Classical	36	100%
	WEPR-FM		1	1		News - Classical	36	100%
	WFQS-FM		1	1		News - Classical	38	100%
	WQCS-FM		1	1		News - Classical	38	100%
	WXEL-FM		1	1		News - Classical	39	100%
	WMUK-FM		1	1		News - Classical	40	100%
	WBHM-FM		1	1		News - Classical	40	100%

Streaming Census Report

WSGN-FM						News - Classical	40	100%
WTF-FM			1	1		News - Classical	41	100%
WKNO-FM			1	1		News - Classical	44	100%
WMAV-FM			1	1		News - Classical	44	100%
WFDD-FM			1	1		News - Classical	47	100%
WKUJ-FM			1	1		News - Classical	48	100%
WPSX-FM						News - Classical	49	100%
WJCT-FM						News - Classical	50	100%
WWIO-AM			1	1		News - Classical	50	100%
WWIO-FM			1	1		News - Classical	50	100%
WXVS-FM			1	1		News - Classical	50	100%
WVJA-FM			1	1		News - Classical	53	100%
WVYA-FM						News - Classical	53	100%
KTLN-FM						News - Classical	54	100%
WWNO-FM			1	1		News - Classical	54	100%
KVPR-FM			1	1		News - Classical	55	100%
WBTN-FM						News - Classical	56	100%
WXLG-FM			1	1		News - Classical	56	100%
WXLH-FM						News - Classical	56	100%
WBSH-FM						News - Classical	58	100%
WUOT-FM			1	1		News - Classical	60	100%
WCVE-FM			1	1		News - Classical	61	100%
WMLU-FM						News - Classical	61	100%
KOSN-FM			1	1		News - Classical	62	100%
WDCL-FM			1	1		News - Classical	63	100%
WEKF-FM						News - Classical	63	100%
WEKH-FM						News - Classical	63	100%
WEKU-FM			1	1		News - Classical	63	100%
WMKY-FM			1	1		News - Classical	63	100%
WGCU-FM						News - Classical	64	100%
WMKO-FM			1	1		News - Classical	64	100%
WVFN-FM			1	1		News - Classical	65	100%
WVWV-FM						News - Classical	65	100%
KHCC-FM			1	1		News - Classical	67	100%
KHCD-FM						News - Classical	67	100%
KHCT-FM						News - Classical	67	100%
WMRL-FM						News - Classical	68	100%
WVTF-FM			1	1		News - Classical	68	100%
WFND-FM						News - Classical	69	100%
WPNE-FM			1	1		News - Classical	69	100%
WGBE-FM			1	1		News - Classical	71	100%
WGDE-FM						News - Classical	71	100%
WGTE-FM						News - Classical	71	100%
KOWI-FM						News - Classical	71	100%
KTPR-FM			1	1		News - Classical	73	100%
KWOI-FM			1	1		News - Classical	73	100%
WMEA-FM						News - Classical	74	100%

Streaming Census Report

	WMEP-FM				News - Classical	74	100%
	WMEW-FM				News - Classical	74	100%
	KSMS-FM				News - Classical	76	100%
	KSMU-FM	1	1		News - Classical	76	100%
	KSMW-FM				News - Classical	76	100%
	KIBX-FM	1	1		News - Classical	77	100%
	KNWO-FM				News - Classical	77	100%
	KNWV-FM				News - Classical	77	100%
	KPBX-FM	1	1		News - Classical	77	100%
	KRFA-FM				News - Classical	77	100%
	WSQG-FM				News - Classical	79	100%
	KRCU-FM	1	1		News - Classical	80	100%
	WSIU-FM	1	1		News - Classical	80	100%
	WVSI-FM				News - Classical	80	100%
	KDAQ-FM	1	1		News - Classical	81	100%
	KTXK-FM	1	1		News - Classical	81	100%
	WUIS-FM	1	1		News - Classical	82	100%
O	WLTR-FM		0	No Stream	News - Classical	83	100%
	WLRH-FM				News - Classical	84	100%
H	WERN-FM	3	3	Combined	News - Classical	85	
	WMAU-FM				News - Classical	87	100%
	WMPN-FM				News - Classical	87	100%
	WRVT-FM				News - Classical	90	100%
	WSLL-FM				News - Classical	90	100%
	WSLO-FM				News - Classical	90	100%
	WVPA-FM				News - Classical	90	100%
	WVPS-FM				News - Classical	90	100%
	WXLU-FM				News - Classical	90	100%
	KHID-FM	1	1		News - Classical	91	100%
	KMBH-FM	1	1		News - Classical	91	100%
	WETS-FM				News - Classical	92	100%
	WVTR-FM				News - Classical	92	100%
	WRKF-FM	1	1		News - Classical	93	100%
	KAMU-FM	1	1		News - Classical	95	100%
	WNIQ-FM				News - Classical	96	100%
	WVIK-FM	1	1		News - Classical	96	100%
	WSVH-FM	1	1		News - Classical	97	100%
	WPSU-FM	1	1		News - Classical	98	100%
	KRWG-FM	1	1		News - Classical	99	100%
	WSCI-FM				News - Classical	100	100%
	WKPB-FM				News - Classical	101	100%
	WNIN-FM	1	1		News - Classical	101	100%
	KJAF-FM				News - Classical	102	100%
	WYSU-FM	1	1		News - Classical	103	100%
	KHNE-FM	1	1		News - Classical	104	100%
	KLNE-FM				News - Classical	104	100%

Streaming Census Report

	KMNE-FM			1	1		News - Classical	104	100%
	KUCV-FM						News - Classical	104	100%
	WBSJ-FM						News - Classical	106	100%
	WWET-FM						News - Classical	108	100%
H	WFOR-FM	1		1	2	Combined	News - Classical	109	
	KLDN-FM			1	1		News - Classical	111	100%
	WKAR-FM			1	1		News - Classical	112	100%
	WAGF-FM						News - Classical	114	100%
	KGSD-FM			1	1		News - Classical	115	100%
	KDSD-FM						News - Classical	115	100%
	KESD-FM						News - Classical	115	100%
	KGSD-FM						News - Classical	115	100%
	KTSD-FM						News - Classical	115	100%
	KUSD-FM						News - Classical	115	100%
O	WCBU-FM	1		1	2	Simulcast	News - Classical	116	100%
	WTSU-FM						News - Classical	117	100%
	KPRJ-FM			1	1		News - Classical	119	100%
	KUND-FM			1	1		News - Classical	119	100%
	KFAE-FM			1	1		News - Classical	125	100%
	KNWR-FM						News - Classical	125	100%
	KNWY-FM						News - Classical	125	100%
	WLSU-FM			1	1		News - Classical	127	100%
	WJEC-FM						News - Classical	127	100%
	WJSP-FM						News - Classical	128	100%
	WJWV-FM						News - Classical	128	100%
	WTJB-FM			1	1		News - Classical	128	100%
	KEDT-FM			1	1		News - Classical	129	100%
	KENW-FM						News - Classical	131	100%
	WMAB-FM						News - Classical	132	100%
	WMAE-FM						News - Classical	132	100%
	WNIE-FM						News - Classical	133	100%
	WHRM-FM			1	1		News - Classical	134	100%
	KBSA-FM			1	1		News - Classical	135	100%
	KEDM-FM						News - Classical	135	100%
	WHQR-FM			1	1		News - Classical	136	100%
	WHSA-FM			1	1		News - Classical	137	100%
	KANH-FM						News - Classical	138	100%
	KANV-FM						News - Classical	138	100%
	KBIA-FM			1	1		News - Classical	139	100%
	KVLU-FM						News - Classical	140	100%
	WQLN-FM			1	1		News - Classical	142	100%
	KXNE-FM			1	1		News - Classical	143	100%
	KRPS-FM			1	1		News - Classical	144	100%
	WABR-FM						News - Classical	145	100%
	WUNV-FM						News - Classical	145	100%
	KCCU-FM						News - Classical	146	100%

Streaming Census Report

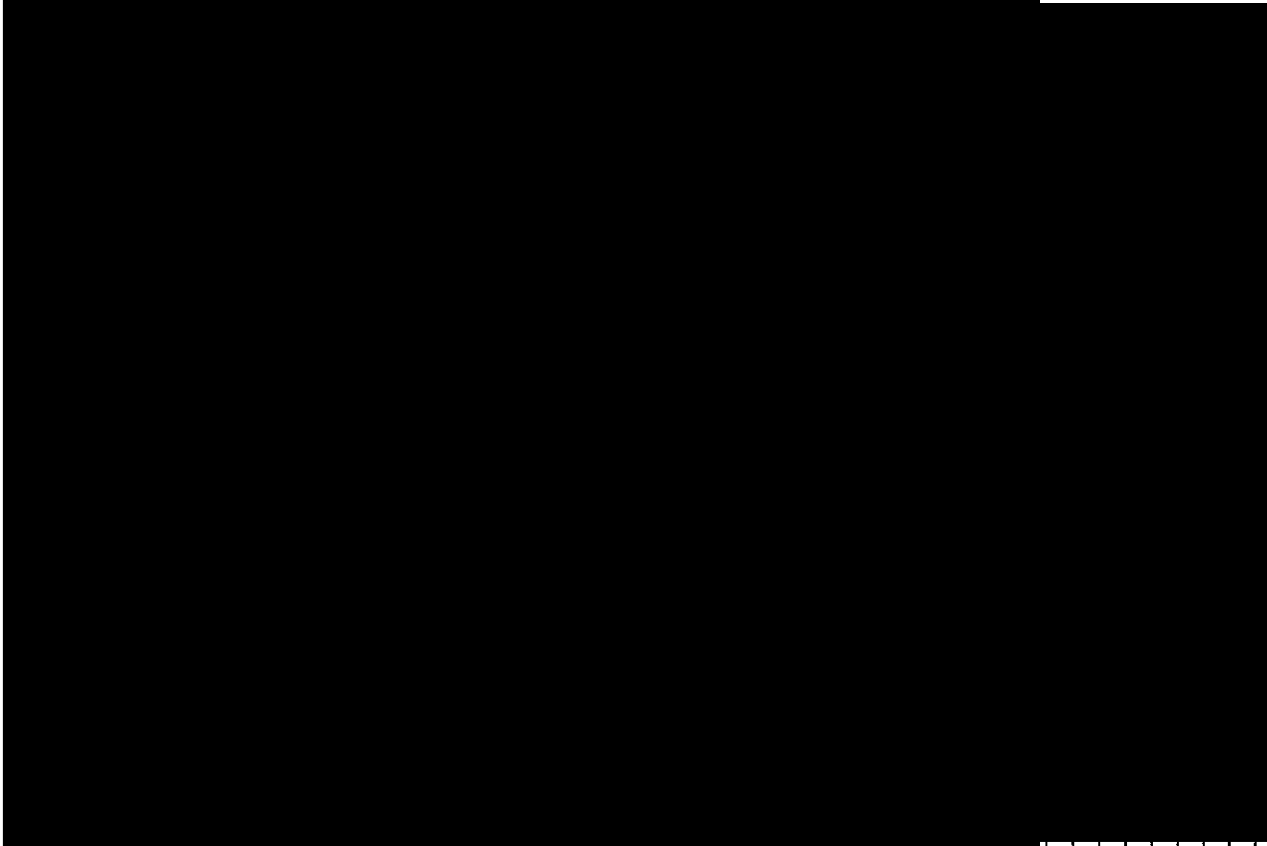
KMCU-FM			1	1	News - Classical	146	100%
KOCU-FM			1	1	News - Classical	146	100%
WVPB-FM			1	1	News - Classical	150	100%
WUSI-FM					News - Classical	151	100%
WMED-FM					News - Classical	152	100%
WMEH-FM					News - Classical	152	100%
WVNP-FM			1	1	News - Classical	155	100%
WKGC-FM					News - Classical	156	100%
WSKG-FM					News - Classical	157	100%
KCND-FM			1	1	News - Classical	158	100%
KDPR-FM					News - Classical	158	100%
KMPR-FM			1	1	News - Classical	158	100%
KPPR-FM					News - Classical	158	100%
WMAH-FM					News - Classical	160	100%
KLCU-FM			1	1	News - Classical	161	100%
WUFT-FM					News - Classical	162	100%
WVPW-FM			1	1	News - Classical	166	100%
KAWC-FM			1	1	News - Classical	167	100%
KQVO-FM					News - Classical	167	100%
WSQC-FM			1	1	News - Classical	169	100%
KEMC-FM					News - Classical	170	100%
KYPR-FM			1	1	News - Classical	170	100%
WIPA-FM					News - Classical	171	100%
WIUM-FM			1	1	News - Classical	171	100%
WIUF-FM			1	1	News - Classical	171	100%
WQUB-FM					News - Classical	171	100%
WRWA-FM			1	1	News - Classical	172	100%
WSQA-FM					News - Classical	173	100%
WSQE-FM					News - Classical	173	100%
WKNP-FM					News - Classical	174	100%
WSLJ-FM					News - Classical	176	100%
WSLU-FM			1	1	News - Classical	176	100%
KBHE-FM			1	1	News - Classical	177	100%
KPSD-FM					News - Classical	177	100%
KZSD-FM					News - Classical	177	100%
WNMU-FM			1	1	News - Classical	177	100%
KLSA-FM			1	1	News - Classical	178	100%
KASU-FM					News - Classical	179	100%
WEMC-FM					News - Classical	180	100%
WMRA-FM			1	1	News - Classical	181	100%
WMRY-FM					News - Classical	181	100%
WVTU-FM					News - Classical	182	100%
WVTW-FM					News - Classical	182	100%
WKYU-FM			1	1	News - Classical	183	100%
WMAO-FM					News - Classical	184	100%
WMAW-FM					News - Classical	185	100%
WVPG-FM					News - Classical	189	100%

Streaming Census Report

	KBSW-FM		1	1		News - Classical	191	100%
	KBMC-FM		1	1		News - Classical	192	100%
	WGLE-FM					News - Classical	196	100%
	KKTR-FM					News - Classical	199	100%
	WMEF-FM					News - Classical	204	100%
	WMEM-FM					News - Classical	204	100%
	KVRT-FM		1	1		News - Classical	205	100%
	KPNE-FM		1	1		News - Classical	209	100%
	WDCO-FM					News - Classical	300	100%
	KMTH-FM					News - Classical	45t	100%
	KOSU-FM					News - Classical	45t	100%
	KYCU-FM		1	1		News - Classical	45t	100%
	KECC-FM					News - Classical	301	100%
	KPRG-FM		1	1		News - Classical	302	100%
	WIPR-FM					Classical	0	0%
	WMNR-FM		1	1		Classical	1	100%
	WRHV-FM					Classical	1	100%
	WRXC-FM					Classical	1	100%
	WWNJ-FM					Classical	1	100%
	KDSC-FM					Classical	2	100%
H	KUSC-FM		1	1	Simulcast	Classical	2	100%
	WWCJ-FM					Classical	4	100%
	WWFM-FM		1	1		Classical	4	100%
	WWPJ-FM					Classical	4	100%
H	WETA-FM		1	1	Simulcast	Classical	8	100%
H	KBAQ-FM		1	1	Simulcast	Classical	13	100%
	KBPR-FM					Classical	15	100%
x	KGRB-FM				Minnesota	Classical	15	100%
	KGAC-FM					Classical	15	100%
	KFSU-FM					Classical	15	100%
	KSJR-FM					Classical	15	100%
	WOSV-FM					Classical	17	100%
	KPRU-FM					Classical	18	100%
	KYOD-FM					Classical	18	100%
	KVOV-FM					Classical	18	100%
H	KXPR/KXJZ		2	2	Combined	Classical	20	100%
	KXSR-FM					Classical	20	100%
	WQED-FM		1	1		Classical	22	100%
	KBPS-FM		1	1		Classical	23	100%
	KQHR-FM					Classical	23	100%
H	WBJC-FM		1	1	Simulcast	Classical	24	100%
	WDAV-FM		1	1		Classical	26	100%
	WGRS-FM					Classical	28	100%
	WGSK-FM					Classical	28	100%
	WOSB-FM					Classical	32	100%
	WOSE-FM					Classical	32	100%
	WOSU-FM		1	1		Classical	32	100%

Streaming Census Report

H	WGUC/WVXU	2	2	Combined	Classical	33
	KBYU-FM	1	1		Classical	35
O	KPAC-FM	1	1	No Stream	Classical	37
	KTXI-FM	1	1		Classical	37
	WBUX-FM	1	1		Classical	42
	WHRO-FM	1	1		Classical	42
	WURI-FM				Classical	42
	KONV-FM	1	1		Classical	43
H	WUOL-FM	1	1	Simulcast	Classical	48
	WJSL-FM				Classical	49
	WNED-FM	1	1		Classical	49
	WNJA-FM				Classical	49
O	KMFA-FM	1		Simulcast	Classical	52
	WBKK-FM				Classical	56
	WMHT-FM	2	2		Classical	56
	KLRE-FM	1	1		Classical	57
	WDPG-FM				Classical	58
	WDPR-FM	1	1		Classical	58
	KBCW-FM				Classical	62
	KWTU-FM	1	1		Classical	62
	WOSP-FM				Classical	65
	KUAT-FM	0	0		Classical	70
N	KANO-FM				Classical	72
	KHPR-FM	1	1	Simulcast	Classical	72
O	KIPO-FM				Classical	72
	KKUA-FM				Classical	72
H	IPR/KHKE-FM			Classical	Classical	73
H	IPR/KSUJ-FM			Classical	Classical	73
	KVNO-FM	1	1		Classical	75
H	WXXI-FM	2	3	Simulcast	Classical	78
	WCNY-FM	1	1		Classical	79
	WILL-FM	1	1		Classical	82
	WSMC-FM	1	1		Classical	86
	WAUS-FM				Classical	88
	KLCD-FM				Classical	89
	WNCH-FM				Classical	90
	KCFP-FM				Classical	94
	KCME-FM	1	1		Classical	94
	WQEJ-FM				Classical	98
	WBNI-FM				Classical	106
	WTEB-FM	1	1		Classical	107
	WFSL-FM	1	1		Classical	108
	WFSG-FM				Classical	108
O	WIAA-FM	1	1	Simulcast	Classical	113
	WIAB-FM				Classical	113
N	WICV-FM				Classical	113
	KRSD-FM				Classical	115



Streaming Census Report

KRSW-FM						Classical	115	100%
KCCM-FM						Classical	119	100%
KCMF-FM						Classical	119	100%
KCMN-FM						Classical	119	100%
KOOZ-FM						Classical	120	100%
KRSR-FM						Classical	120	100%
KWAX-FM				1	1	Classical	120	100%
KWVZ-FM						Classical	120	100%
KQSC-FM						Classical	122	100%
WNIU-FM				1	1	Classical	133	100%
WIRR-FM						Classical	137	100%
WMLS-FM						Classical	137	100%
WSCD-FM						Classical	137	100%
KLMF-FM						Classical	141	100%
KNYR-FM						Classical	141	100%
KSOR-FM				1	1	Classical	141	100%
KSRG-FM						Classical	141	100%
WMCE-FM				1	1	Classical	142	100%
O KQHM-FM				1	1	Classical	147	100%
O WSCL-FM				1	1	Classical	148	100%
KPSC-FM						Classical	149	100%
KLSE-FM						Classical	153	100%
WJUNY-FM						Classical	169	100%
WJUNY-FM						Classical	176	100%
WGGL-FM						Classical	178	100%
WBAA-FM				1	1	Classical	188	100%
KWRV-FM						Classical	191	100%
KNHT-FM						Classical	193	100%
KWRX-FM						Classical	194	100%
KCSC-FM				1	1	Classical	45t	100%
WETH-FM						Classical	#N/A	100%
KBRW-AM				0	0	News - Music	0	0%
KBRW-FM				0	0	News - Music	0	0%
KCAW-FM				0	0	News - Music	0	0%
KCHU-AM				1	1	News - Music	0	5%
KDLG-AM				0	0	News - Music	0	5%
KFSK-FM				1	1	News - Music	0	5%
KHNS-FM				1	1	News - Music	0	5%
KIYU-AM				1	1	News - Music	0	5%
KMXT-FM				1	1	News - Music	0	5%
KRBD-FM				1	1	News - Music	0	5%
KSDP-AM				0	0	News - Music	0	5%
KSKO-AM				1	1	News - Music	0	1%
KSTK-FM				0	0	News - Music	0	1%
KUJB-FM				0	0	News - Music	0	1%
KXGA-FM				1	1	News - Music	0	0%
KXKM-FM						News - Music	0	0%



Streaming Census Report

	KYUK-AM		0	0			News - Music	0	0%
H	WBAL-FM		1	1	Simulcast		News - Music	1	50%
	WJFF-FM		1	1			News - Music	1	10%
	KCRU-FM		1	1			News - Music	2	
H	KCRW-FM	1	2	3	Combined		News - Music	2	
	KCRY-FM						News - Music	2	
	KPFK-FM		1	1			News - Music	2	20%
	WDIY-FM		1	1			News - Music	4	20%
	KBBF-FM		1	1			News - Music	5	10%
H	KPFA-FM		1	1	Simulcast		News - Music	5	
N	KPFB-FM						News - Music	5	
	KZYX-FM		1	1			News - Music	5	20%
	KZYZ-FM						News - Music	5	
	KPFT-FM		1	1			News - Music	10	100%
H	WDET-FM		1	1	Simulcast		News - Music	11	100%
	KGHR-FM		0	0			News - Music	13	0%
H	KJZZ/KBAQ		2	2	Combined		News - Music	13	100%
	KNNB-FM		0	0			News - Music	13	
	KUYI-FM		0	0			News - Music	13	0%
	KSER-FM		1	1			News - Music	14	100%
H	WLRN-FM		1	1	Simulcast		News - Music	16	100%
	WCPN-FM		1	1			News - Music	17	100%
	KAJX-FM		1	1			News - Music	18	100%
	KBUT-FM		1	1			News - Music	18	100%
	KBUW-FM						News - Music	18	100%
	KDNK-FM		1	1			News - Music	18	100%
	KRZA-FM		1	1			News - Music	18	100%
	KUNC-FM		1	1			News - Music	18	100%
	KUWG-FM						News - Music	18	100%
	KUWR-FM		1	1			News - Music	18	100%
	KVNF-FM		1	1			News - Music	18	100%
	KBOO-FM		1	1			News - Music	23	100%
	KBPS-AM		1	1			News - Music	23	100%
O	KMJN-FM		1	1	Simulcast		News - Music	23	100%
	KTCB-FM						News - Music	23	
	WCBE-FM		1	1			News - Music	32	100%
	WOUB-AM						News - Music	32	
	WOUB-FM		2	2			News - Music	32	100%
	WOUC-FM						News - Music	32	
	WOUH-FM						News - Music	32	
	KNCC-FM						News - Music	35	
	KPCW-FM		1	1			News - Music	35	100%
	KJER-FM		1	1			News - Music	35	100%
	KUWA-FM						News - Music	35	
	KUWX-FM						News - Music	35	
	KUWZ-FM						News - Music	35	
	WUAL-FM		1	1			News - Music	40	100%



Streaming Census Report

	KOJI-FM		1	1		News - Music	143	100%
	KWIT-FM					News - Music	143	
	KCRI-FM					News - Music	149	
	KRNI-AM					News - Music	153	
	KUNY-FM					News - Music	153	
	KBBI-AM		1	1		News - Music	154	100%
	KTNA-FM		1	1		News - Music	154	100%
	KLND-FM		0	0		News - Music	158	100%
	KMHA-FM		0	0		News - Music	158	100%
	KOCV-FM		0	0		News - Music	159	100%
	KISU-FM		1	1		News - Music	163	100%
	KUWJ-FM					News - Music	163	
	KACU-FM		1	1		News - Music	164	100%
	KAWC-AM		1	1		News - Music	167	100%
	KUFM-FM					News - Music	168	
O	KUFN-FM			0	No Stream	News - Music	168	100%
	KUKL-FM					News - Music	168	
	KUWP-FM					News - Music	170	
	KILI-FM		0	0		News - Music	177	100%
	KUWD-FM					News - Music	177	
	KUWN-FM					News - Music	177	
	KVMT-FM					News - Music	186	
	WBAA-AM		2	2		News - Music	188	100%
	KGPR-FM					News - Music	190	
	KGVA-FM		0	0		News - Music	190	100%
	KAPC-FM					News - Music	192	
	KHSR-FM					News - Music	193	
	KHSU-FM		1	1		News - Music	193	100%
	KIDE-FM		0	0		News - Music	193	100%
	KUTX-FM					News - Music	197	
	KDUW-FM					News - Music	198	
	KUWC-FM					News - Music	198	
	KUWT-FM					News - Music	198	
	KWRR-FM		0	0		News - Music	198	100%
	KUAC-FM		1	1		News - Music	202	100%
	WOUZ-FM					News - Music	203	
N	KUHM-FM					News - Music	206	
	KTOO-FM		1	1		News - Music	207	100%
	WCML-FM					News - Music	208	
O	KCUK-FM			0	No Stream	News - Music	300	100%
	KABR-AM		0	0		News - Music	45t	100%
	KGLP-FM		1	1		News - Music	45t	100%
	KGOU-FM		1	1		News - Music	45t	100%
	KROU-FM					News - Music	45t	
	KSJD-FM		1	1		News - Music	45t	100%
	KSJT-FM		1	1		News - Music	45t	100%
	KUNM-FM		1	1		News - Music	45t	100%

Streaming Census Report

Station	Genre	Streams	Percentage	45t	Percentage
KUTE-FM	News - Music			45t	100%
KRNM-FM	News - Music	300	100%	300	100%
WRTU-FM	Music Mix	0	0	0	100%
WRUO-FM	Music Mix	0	0	0	100%
WUSB-FM	Music Mix	0	0	300	100%
WDCB-FM	Music Mix	1	1	3	100%
WXLV-FM	Music Mix	1	1	4	100%
KETR-FM	Music Mix	1	1	6	100%
KNON-FM	Music Mix	1	1	6	100%
WBPR-FM	Music Mix			7	100%
WFPB-AM	Music Mix			7	100%
WNEF-FM	Music Mix			7	100%
H WUJB-FM	Combined	6	6	7	
WPFW-FM	Music Mix	1	1	8	100%
WREG-FM	Music Mix	1	1	9	100%
WMIN-FM	Music Mix	1	1	12	100%
O KAOS-FM	Music Mix	1	1	14	100%
KBCS-FM	Music Mix	1	1	14	100%
KFAI-FM	Music Mix	1	1	15	100%
KGNU-FM	Music Mix	1	1	18	100%
KVMR-FM	Music Mix	1	1	20	100%
KDIX-FM	Music Mix	1	1	21	100%
WZRN-FM	Music Mix			29	100%
O KKKL-FM	Simulcast	1	1	31	100%
WNKU-FM	Music Mix	1	1	33	100%
KRCL-FM	Music Mix	1	1	35	100%
KZMU-FM	Music Mix	1	1	35	100%
H WFPK-FM	Simulcast	1	1	48	
WHIL-FM	Music Mix	1	1	59	100%
WVLS-FM	Music Mix	1	1	68	100%
O KXCH-FM	Simulcast	1	1	70	100%
H IPRWOI-AM	News/Talk			73	100%
H IPRWOI-FM	Classical			73	100%
WMPG-FM	Music Mix	1	1	74	100%
WEET-FM	Music Mix	1	1	82	100%
WORT-FM	Music Mix	1	1	85	100%
WMMT-FM	Music Mix	1	1	92	100%
KNCT-FM	Music Mix	1	1	95	100%
KRUX-FM	Music Mix	1	1	99	100%
O KZUM-FM	Simulcast	1	1	104	
KBSM-FM	Music Mix			118	100%
KBSU-FM	Music Mix	1	1	118	100%
KFJM-FM	Music Mix	1	1	119	100%
KRVS-FM	Music Mix	1	1	123	100%
KAXE-FM	Music Mix	1	1	137	100%
WERU-FM	Music Mix	1	1	152	100%
H KNBA-FM	Simulcast			154	100%

Streaming Census Report

	KEYA-FM			0	0	Music Mix	158	100%
	KUBO-FM		1	1	Music Mix	167	100%	
	WTJL-FM		1	1	Music Mix	182	100%	
	KOTO-FM		1	1	Music Mix	186	100%	
O	KMUD-FM		1	1	Simulcast	193	100%	
N	KMUE-FM				Music Mix	193	100%	
	KZPA-AM		1	1	Music Mix	202	100%	
	KCIE-FM		1	1	Music Mix	45t	100%	
	KSHI-FM		1	1	Music Mix	45t	100%	
N	WRTE-FM		1	1	Targeted	3	100%	
	WLCH-FM		0	0	Targeted	41	100%	
O	KDNA-FM		0	0	No Stream	125		
	KANW-FM		1	1	Targeted	45t	100%	
	KTDB-FM		0	0	Targeted	45t	100%	
H	WRTI-FM		3	3	Combined	4		
x	WRTQ-FM				Classical - Jazz	4	100%	
x	WRTX-FM				Classical - Jazz	4	100%	
	WRCJ-FM		1	1	Classical - Jazz	11	100%	
O	WBLU-FM		0	0	Classical - Jazz	39	100%	
	WBLV-FM				Classical - Jazz	39	100%	
N	WJAZ-FM		1	1	Classical - Jazz	41	100%	
	WRTL-FM				Classical - Jazz	41	100%	
	WRTY-FM				Classical - Jazz	53	100%	

30 453 483

**Meeting Date: Oct. 24, 2007**

**Start Time: 2:00 pm**

**End Time: 4:00 pm**

**Place: CPB Madden Rm**

**Conference Call Dial-in Number: n/a**

**Invited Participants: Dana Davis Rehm; Denise Leary; Mike Riksen, John Crigler, Tom Thomas, Terry Clifford, Bruce Theriault, Steve Altman, Paul Shapiro**

**Purpose: Sound Exchange – planning meeting**

**Facilitator: Bruce Theriault**

**Action Items:**

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**Draft Agenda items – Items subject to additions or deletions**

1. Review revised docs sent to SX
2. Who will be covered under the license?
3. Strategy discussion
4. Summary

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Notes – People in *italics* will join for part of the meeting

## **Exhibit 4**

CPB ID	StationName	StationCallLetters	SXQ214 (reported)	Cume	Listener Hours
2	TalkeetnaCommunityRadio,Inc.	KTNA	1	2,800	8,252
8	FingerLakesPublicRadio	WEOS	1	7,600	40,947
10	WKMS	WKMS	1	18,400	17,168
12	TriStatesPublicRadio	WIUW,WIUM	1	9,400	40,056
18	FreshAirCommunityRadio	KFAI	1	11,200	14,423
20	SunriseCommunications,Inc.	KZUM	1	8,700	68,774
28	KRCU	KRCU	1	6,400	-
30	WKSU	WKSU,WNRK	1	157,300	713,400
34	Public Radio, Inc.	WRKF	1	41,800	302,125
38	WGTE	WGTE, WGDE, WGBE	1	50,600	373,802
40	KSDS	KSDS	1	60,100	77,354
44	Peconic Public Broadcasting	WPPB(wasWLIU)	1	21,000	74,987
46	wyso	WYSO	1	58,900	465,338
48	TexasPublicRadio	KPAC,KSTX,KTXI	1	216,500	806,500
52	ClassicalKUSC	KUSC	1	808,400	2,418,901
60	KVLU	KVLU	1	13,300	122,859
68	WRCJ90.9FM	WRCJ	1	183,900	605,155
78	WSIURadio	WSIU	1	35,300	21,766
80	Listener's Supported Community Radio of Utah	KRCL	1	56,000	123,165
88	WhiteAshBroadcasting,Inc.	KVPR	1	41,600	304,609
90	Capital Community Broadcasting, Inc.	KTOO,KXLL,KRNN	1	14,600	-
94	KLCC	KLCC	1	53,900	395,116
98	WFSU	WFSU,WFSQ,WFSL,W	1	93,000	577,298
102	WUCF,Jazz&More,	WUCF	1	86,000	308,289
104	KSLU	KSLU	1	1,300	4,663
112	88.5 WFDD	WFDD	1	106,300	278,611
114	WTJU	WTJU	1	6,000	14,295
116	Southern Ute Tribal Radio	KSUT	1	22,100	101,223
118	MIDDLETENNESSEESTATEUNIVERSITY	WMOT	1	21,100	25,074
122	Yuma Public Radio, Colorado River Public Media	KAWC	1	-	-
126	WXXI Public Broadcasting Council, Inc.	WXXI,WXXI,WJSL,W	1	151,500	962,073
134	FresnoFreeCollegeFoundation	KFCF	1	13,600	78,397
136	WesternMichiganRadio	WMUK	1	26,700	159,870
138	WVTF Public Radio	WVTF	1	149,700	933,815
142	WDIY Allentown, Lehigh Valley Community Public Radio	WDIY	1	19,400	104,825
144	Wyoming Public Media	KUWR,KBUW	1	20,700	66,719
146	WKUPublicRadio	WKU, WKUE, WDCL, W	1	25,700	95,981
152	WEAAFMTTheVoiceoftheCommunity	WEAA	1	116,900	318,553
158	KCRW	KCRW	1	540,200	1,592,177
160	NorthForkValleyPublicRadio,Inc.	KVNF	1	3,400	19,721
162	KRFC88.9fm	KRFC	1	7,400	40,072
168	WBAA	WBAAAM,FM	1	25,100	161,937
170	WUWFFM	WUWF	1	53,800	311,802
172	WNCW	WNCW	1	90,800	354,180
176	PRX,Inc.	PRX	1	-	-
184	WUMB	WUMB, WBPR, WFPE	1	78,800	219,847
186	ClassicallyAustin89.5/CapitolBroadcasting,Inc	KMFA	1	109,200	225,479
194	Back Porch Radio Broadcasting	WORT	1	26,100	147,740



204	KAOS	KAOS	1	9,200	17,376
206	Grand Valley Community Radio	KAFM	1	5,200	31,286
216	KCSC	KCSC	1	-	-
222	WisconsinPublicRadio	WERN,WHA,WVSS,W	1	300,300	1,223,462
224	KGOU	KGOU	1	39,400	203,822
226	WRTI	WRTI, WJAZ	1	332,800	1,332,261
228	Northern Public Radio	WNIJ,WNIW,WNIE,W	1	101,200	454,240
236	WVPE88.1FMEIkhart/SouthBend	WVPE	1	64,700	419,797
238	KKFI	KKFI	1	27,600	17,147
242	PugetSoundPublicRadio	KUOW	1	319,600	1,562,966
244	KHSU	KHSU	1	11,700	-
246	WCPE	WCPE, WBUX	1	111,700	407,914
254	WUWM Milwaukee Public Radio	WUWM	1	142,500	554,671
256	NortheastPublicRadio	WAMC	1	199,300	1,331,050
258	WOUBCenterforPublicMediaatOhioUniversity	WOUB,WOUB,WOUC	1	32,900	241,288
260	KSMU	KSMU	1	31,500	252,110
262	CookCountyCommunityRadio	WTIP	1	3,000	40,186
266	WMMTFM	WMMT	1	16,700	102,288
268	KUNM	KUNM	1	108,800	536,872
278	88.9 FM	WQCS	1	59,200	444,942
284	KWIT-KOJI	KWIT-KOJI	1	12,100	26,276
292	WUIS	WUIS	1	37,100	52,576
298	Nashville Public Radio	WPLN,WHRS,WTML	1	173,600	457,315
300	PublicRadio90	WNMU	1	16,600	2,812
302	AmericanUniversity	WAMU	1	728,300	3,531,523
308	DaytonPublicRadio,Inc.	WDPR	1	21,600	158,049
310	MississippiPublicBroadcasting	WMPN,WMAH,WMAE	1	22,700	152,870
312	WFUVPublicRadio	WFUV	1	414,000	1,305,771
320	JeffersonPublicRadio	KSOR,KSRG,KOOZ,K	1	13,700	93,028
322	WMFE	WMFE	1	198,700	896,324
324	RadioCatskill	WJFF	1	10,500	-
330	WYSU	WYSU	1	24,300	195,530
332	WBHM	WBHM, WSGN	1	131,000	940,654
334	WMRA/WEMC	WMRA,WEMC	1	5,600	59,422
338	KTEP	KTEP	1	49,600	400,359
340	WEMU	89.1FM	1	42,200	146,825
342	WichitaPublicRadio	KMUW	1	38,200	365,649
346	North Carolina Public RadioWUNC	WUNC	1	280,500	1,221,294
348	SIMPLYBEAUTIFUL91.3	KNCT	1	63,400	352,643
352	KPLU	KPLU	1	348,700	888,951
356	AmericanPublicMedia/MinnesotaPublicRadio	KSJN,KNOW,KCMP,K	1	1,195,900	4,876,976
362	PublicRadioKMST	KMST(formerlyKUMR)	1	11,600	75,813
366	KCSM	KCSM	1	171,600	539,052
368	WNCU90.7FM	WNCU	1	43,200	75,328
370	KBIA	KBIA	1	38,700	189,306
372	KUSP	KUSP	1	38,300	180,925
382	Public Broadcasting Atlanta	WABE	1	402,500	1,386,322
386	WMHT Educational Telecommunications	WMHT, WEXT	1	77,200	661,034
390	KALW	KALW	1	81,300	168,575
392	KUNV	KUNV	1	50,900	52,869
398	VermontPublicRadio	WVPS,WVPR	1	100,700	584,806
402	moabpublicradio	kzmu	1	1,000	-
410	WMKY	90.3fm	1	15,800	114,184

412	WFYI	WFYI	1	109,500	281,224
414	ArizonaPublicMedia	KUAT;KUAZ,FM	1	46,500	444,452
418	BendCommunityRadio	KPOV	1	1,800	-
420	WQLNPublicMedia	WQLN	1	26,600	178,383
424	WLRN	WLRN,WKWM	1	322,600	1,199,590
428	KUAF	KUAF	1	48,200	277,221
430	Newark Public Radio	WBGO	1	335,700	1,122,893
434	WKAR	WKAR	1	80,700	486,351
442	WCPN	WCPN,	1	139,700	616,923
444	kuer90.1fm	kuer	1	156,300	388,744
448	89.7 FM WNKU	WNKU	1	77,300	298,939
452	RedRiverRadio	KDAQ,KLSA,KBSA,KL	1	29,200	123,164
456	KUNC	KUNC	1	137,800	447,412
460	KGNU	KGNU	1	9,500	4,587
464	KAMU	KAMU	1	9,400	36,438
470	Xponential Radio	WXPN	1	323,200	865,093
474	WAER	WAER	1	32,500	209,472
480	CincinnatiPublicRadio	WGUC,WVXU	1	268,200	1,319,787
482	KNAU,ArizonaPublicRadio	KNAU,KPUB,KNAG,K	1	43,900	272,930
486	Colorado Public Radio, Colorado Public Broadcasting	KCFR,KVOD,KPRE, KV	1	280,100	1,113,855
494	Public Radio East	WTEB,WKNS	1	13,900	96,184
498	WUOT	WUOTFM	1	87,300	600,382
500	WUFT	WUFT,WJUF	1	75,100	466,894
504	90.7WFAE	WFAE	1	207,000	554,442
506	Public Radio Tulsa	KWGS,KWTU	1	54,900	419,881
508	KOSU	KOSU	1	61,100	332,480
514	WFMU	WFMU	1	-	-
518	PrairiePublicBroadcasting	KDSU,KCND,KUND,K	1	6,500	40,215
520	PacificaRadio	WBAI,WPFW,KPFT,K	1	110,600	567,118
524	WDET101.9FM	wutc	1	140,100	319,783
530	New York Public Media	WNYC	1	1,663,000	8,031,691
532	Maine Public Broadcasting Network, MPB, MPBN	WMEA,WMEH	1	176,300	1,311,336
536	WOSUPublicMedia	WOSU	1	110,300	402,774
540	Portsmouth Community Radio	WSCA	1	-	-
542	CLASSICAL89	KBYU	1	133,800	395,703
548	KUT90.5FM	KUT	1	187,400	-
552	RadioBilingue	KSJV	1	25,100	144,598
560	WDAV	WDAV	1	135,000	321,099
564	TerminalRadio,Inc.	KCHU	1	-	-
568	ClassicalWETA90.9FM	WETA	1	467,600	2,246,025
572	WCQS	WCQS, WFQS	1	84,600	505,749
576	KRWG	KRWG	1	24,500	169,814
580	Capital Public Radio,Inc.	KXJZ, KKTO, KUOP, KC	1	308,600	1,267,632
582	WestVirginiaPublicBroadcasting	WVPN,WVPW,WVWV	1	16,200	82,744
588	Texas Tech University	KTTZ, KOHM, KNCH	1	12,900	63,858
590	90.7 KSER Independent Public Radio	KSER	1	15,500	37,789
594	Koahnic Broadcasting Corporation	KNBA, NV1, KCIE	1	9,000	51,927
596	WNED	WNED,WBFO	1	56,500	436,926
600	Redwood Community Radio, Inc	KMUD	1	12,800	-
604	AllClassicalPublicMedia,Inc.	KQAC,KQOC,KQHR,K	1	154,400	513,724
608	91.3TheSummit	WAPS	1	36,700	182,374
610	Radio Ntenna	WHRO Now WHRV	1	129,800	430,520
612	WNRN	WNRN	1	35,100	-

614	UALRPublicRadio	KUAR,KLRE	1	53,800	381,707
616	BlueLakePublicRadio	WBLV,WBLU	1	19,900	105,877
620	WMNRFineArtsRadio	WMNR,WRXC,WGRS	1	41,100	206,856
622	WSHUPublicRadio	WSHU,WSHU,WSUF	1	168,200	777,910
630	OmahaPublicRadio	KIOS	1	70,600	546,326
634	KUMD-YourCommunityConnection	KUMD	1	15,600	68,774
636	IowaPublicRadio	KUNI,WOIFM,WOIAM	1	80,300	-
638	WUSF89.7	WUSF	1	215,500	949,915
640	KDHX	KDHX	1	100,700	150,160
648	PublicRadioDelmarva	WSCL,WSDL	1	13,000	77,865
650	Public Radio for theTennessee Valley	WLRH	1	40,300	291,710
652	KANW	KANW,KNLK,KIDS	1	134,800	900,321
654	High Plains Public Radio	KANZ, KTOT, KZNA, KZ	1	3,900	28,119
658	KRVS	KRVS	1	42,700	212,805
660	WESM	WESM	1	25,300	98,091
662	WBJC	WBJC	1	171,600	690,502
666	Mendocino County Public Broadcasting	KZYX	1	19,400	931
674	KISU	KISU	1	14,000	-
678	Bethel Broadcasting	KYUK	1	-	-
680	KKCRKauaiCommunityRadio	KKCR	1	4,800	13,188
686	KJazz	KKJZ	1	419,900	884,541
688	WNTI,PublicRadiofromCentenaryCollege	WNTI	1	60,200	249,125
690	WCSU/CentralStateUniversity	WCSU	1	6,600	39,799
700	NorthstatePublicRadio	KCHO,KFPR	1	27,600	183,365
712	WSKG	WSKG	1	77,900	924,970
716	North Texas Public Broadcasting	KERA,	1	328,800	1,153,512
718	MontanaPublicRadio	KUFM	1	29,500	-
722	GeorgiaPublicBroadcasting	WJSP,WMUM,WUNV, ,WACG,WSVH,WWI O,WXVS,WATY,WW ET,WABR,WJWV, WUWG, WGPB, WNGH, WNGU, WPPR,WUGA, WWIO	1	70,500	93,557
724	WEKU	WEKU	1	34,200	243,946
726	91.3fmWYEPittsburgh	WYEP	1	96,900	228,916
730	North Country Public Radio	WSLU, WXLG	1	3,500	17,549
738	KDNKCommunityRadio	KDNK	1	15,300	9,183
748	GoldenValleyCommunityBroadcasters,Inc	KZFR	1	13,300	61,888
750	WCMU	WCMU, WWCM	1	21,800	217,097
754	St. Louis Public Radio	KWMU	1	198,200	961,935
756	Northern Community Radio	KAXE, KBXE	1	7,900	65,370
758	New Hampshire Public Radio, NHPR	WEVO,WEVS,WEVN,	1	110,000	665,861
764	WCBE(ColumbusCitySchools)	WCBE	1	70,300	180,585
768	WQED	WQED, WQEJ	1	96,100	261,243
778	Arts Council for Chautauqua	WRFA	1	500	-
788	South Carolina Educational TV/Radio	WLTR,WSCI,WEPR,W	1	43,500	220,481
790	Alabama Public Radio	WUAL,WHIL, WQPR	1	17,300	124,667
800	LacCourteOreillesOjibwaPublciBroadcastingCorp.	WOJB	1	10,700	30,475
802	Illinois Public Radio	WILL	1	20,400	147,955
804	NETRadio	KUCV,KCNE,KRNE,K	1	38,300	259,522
808	WVIA	WVIA, WVYA	1	68,800	379,293

816	KUYIHopiRadio88.1FM	KUYI	1	2,600	-
820	BoiseStateRadio	KBSU,KBSX,KBSW	1	100,900	622,417
828	Hawai'i Public Radio	KHPR,KIPO	1	71,800	474,508
834	AgapeBroadcastingFoundation	KNON	1	164,600	350,561
836	KEXP	KEXP	1	150,000	376,969
840	RenoPublicRadio	KUNR	1	44,700	359,466
842	AlaskaPublicTelecommunications,Inc	KSKA	1	38,800	332,058
844	MichiganRadio	WUOM,WFUM,WVGR	1	478,400	2,396,186
850	KUAC	KUAC	1	16,500	-
852	InterlochenPublicRadio	WIAA,WIAB,WICV	1	26,300	171,365
854	WICNPublicRadio	WICN	1	29,300	98,773
856	90.3 KAZU	KAZU	1	60,100	346,616
864	WFIT	WFIT	1	17,800	62,522
866	ChicagoPublicMedia	WBEZ,WBEW	1	457,200	1,532,873
868	WGVU	WGVU	1	38,400	193,607
870	kbaq/kjzz	kbaq	1	146,700	381,633
878	WCBU	WCBU	1	31,400	181,750
882	LouisvillePublicMedia	WFPL,WUOL,WFPK	1	201,600	1,238,187
886	ShawUniversityRadio	WSHA	1	29,500	65,817
896	Nevada Public Radio	KNPR,KCNV,KSGU,K	1	85,500	256,106
898	KPBSRadio	KPBS	1	373,500	1,231,695
930	KASU	KASU	1	13,100	57,077
936	CheyenneMoutainPublicBroadcastingHouse,Inc	KCME	1	42,600	297,527
946	KOHN	KOHN	1	3,500	32,487
954	DriftlessCommunityRadio	WDRT	1	1,900	-
988	WHYY	WHYY	1	526,800	2,670,779
1034	KVNO	KVNO	1	25,900	179,001
1040	KGVA	KGVA	1	800	-
1042	RezRadio	KOPA	1	-	-
1064	KDFC	KDFC	1	344,500	1,667,781
1066	WVIK	WVIK	1	23,200	166,895
1114	RadioBoise	KRBX	1	7,300	-
1136	Radio Free Palmer	KVRF	1	-	-
1140	RadioPortTownsend	KPTZ	1	3,400	-
1146	KING	KING	1	309,700	719,097
1150	KOJB	KOJB	1	-	-
1168	WVMR	WVMR	1	700	1,229
22	WUKY	WUKY	1	36,800	230,465
24	TillicumFoundation,CoastCommunityRadio,CoastRadio	KMUN,KCPB	1	14,000	-
70	KCUR	KCUR	1	169,600	475,606
74	WJCT	WJCT	1	118,400	361,138
76	WNINTri-StatePublicMedia,Inc.	WNIN	1	30,200	179,490
96	KBOOFoundation	KBOO	1	40,900	48,856
106	WUTC-FM	WUTC	1	41,400	301,748
130	NorthwestPublicRadio	KRFA,KWSU,KZAZ, K	1	63,300	145,898
154	MarfaPublicRadio	KRTS, KXWT	1	11,600	76,401
156	WhitePineCommunityBroadcasting,Inc.	WXPR	1	11,400	32,976
198	KWMR	KWMR	1	-	-
208	Mid-South Public Communications	WKNO	1	65,900	217,992
220	WGCUPublicMedia	WGPU, WMKO	1	92,300	616,955
232	WYCE88.1	WYCE	1	24,700	-
234	88 Nine Radio Milwaukee	WYMS	1	83,000	178,347
250	WPSU	WPSU	1	33,300	245,530

270	NorthernCaliforniaPublicBroadcasting,Inc.	KQED,KQEI	1	788,200	3,020,419
314	KCBX	KCBX	1	35,000	258,521
350	WRVS/HD,89.9	WRVS	1	8,200	2,733
358	Jazz88	KBEM	1	69,800	207,442
380	WDVX	WDVX	1	29,800	136,434
384	WMRW	WMRW	1	-	-
396	New Wave Corporation	KOPN	1	9,100	25,623
406	DenverEducationalBroadcasting,INC	KUVO	1	96,100	201,829
416	OregonPublicBroadcasting	KOPB	1	337,500	1,570,925
440	KCCU	KCCU	1	11,100	65,851
484	SouthDakotaPublicBroadcasting	KUSD	1	-	-
492	WWFM The Classical Network	WWFM	1	49,600	259,953
510	WWNO	WWNO	1	97,300	700,630
570	WFCR,Amherst,Massachusetts	WFCR	1	147,800	868,944
578	KRCC	KRCC	1	61,600	408,865
592	WCUWInc.	WCUW	1	3,700	-
628	KFSR	KFSR	1	13,600	-
664	NortheastIndianaPublicRadio,Inc	WBOI, WBNI	1	52,200	304,864
668	WMNF	WMNF	1	89,000	127,261
672	89.7 The River	KIWR	1	70,000	393,252
702	PrairieAir,Inc.	WEFT	1	6,000	24,223
710	KVMR89.5fm	KVMR	1	29,500	63,930
744	KOTO	KOTO	1	1,200	-
746	90.5 WSNC	WSNC	1		
766	KSJD	KSJD	1	7,200	15,020
784	Rainbird Community Broadcasting	KRBD	1	-	-
786	WDCB	WDCB	1	188,700	460,163
822	KDLG		0	-	-
858	Jazz91.9WCLK	WCLK	1	158,500	481,991
872	WITF	WITF	1	146,200	1,011,447
904	KDNA	KDNA	1	20,500	133,608
910	WJSU88.5	WJSU	1	8,700	40,599
1038	KETR	KETR	1	8,300	832
1048	WHQR	WHQR	1	55,400	197,604
1106	WSIE	WSIE	1	36,000	167,634
1124	Radio Fairfax, Fairfax Public Access		1	-	-
1142	Essential Public Radio	WESA	1	109,400	407,927
1154	KPCW	KPCW	1	4,000	-
1170	KQNY	KQNY	1	-	-
14	KCCK	KCCK	1	18,800	63,624
92	KMXT	KMXT	1	-	-
182	KXCICommunityRadio	KXCI	0	26,000	197,598
248	90.9TheBridge	KTBG	1	31,000	119,878
274	WBUR	WBUR	1	485,000	1,858,323
276	CLASSICFM	WCNY	1	34,600	230,594
296	KXCV/KRNW	KXCV,KRNW	1	3,200	16,239
376	TheVoiceofthePascuaYaquiTribe	KPYT	0	6,600	-
388	WERUCommunityRadio	WERU	1	14,100	70,865
432	KBUT	KBUT	0	3,600	-
446	KRCB	KRCB	1	2,400	1,116
566	BascombMemorialBroadcastingFoundation,Inc.	WDNA	1	52,300	100,730
598	KWSO	KWSO	1	1,700	16,668
642	WVAS	WVAS	1	21,400	178,360

682	WFHB	WFHB	1	20,800	-
696	KRZA	KRZA	1	4,100	11,053
706	KansasPublicRadio	KANU	1	97,900	410,736
742	KVSC88.1FM	KVSC	1	6,300	14,762
752	WGLT	WGLT	1	18,500	85,410
762	Houston Public Radio	KUHF	1	302,400	1,549,858
776	WGDR	WGDR	1	2,000	9,272
830	KACU	KACU	1	7,400	61,103
894	RadioKansas	KHCC	1	29,000	213,665
976	KBCS	KBCS	0	40,100	83,420
1044	KPCN	KPCN	1	-	-
218	LowerCapeCommunicationsInc.	WOMR	0	5,600	25,768
466	SequimCommunityBroadcasting	KSQM	0	6,600	-
584	SUNY-Oswego	WRVO	0	75,800	435,166
720	KCLU Radio	KCLU	1	73,000	381,023
826	SpokanePublicRadio	KPBX, KPBZ, KSFC	1	42,900	261,563
1108	National Public Radio	NPR	0	-	-
1158	KMUZ	KMUZ	1	1,600	-
1180	WDDE	WDDE	1	8,200	29,418
1204	WRFI Community Radio	WRFI	1	1,900	-
16	KRVM-LaneCountySchoolDistrictNo.4J	KRVM	0	21,800	160,966
326	Yellowstone Public Radio	KEMC	0	19,700	110,971
458	KCSB	KCSB	1	6,000	-
488	Indiana Public Radio	WBST, WBSB, WBSH	1	11,300	80,653
772	RadioUniversidad	WRTU	0	-	275,359
848	WWOZ	WWOZ	1	62,400	321,576
890	HudsonValleyCommunityRadio,Inc., Westchester Public R	WDFH	0		
1088	WLPR	WLPR	0	12,900	20,653
1208	KCPW	KCPW	1	24,800	64,109
120	WCVE	WCVE	1	113,400	729,645
202	FORTLEWISCOLLEGECOMMUNITYRADIO	KDUR	1	2,800	6,054
394	Unalaska Community Broadcasting	KUCB, KIAL	0	-	-
496	KSUN COMMUNITY RADIO	KSBP, KSUN	0	-	-
512	KSFR	KSFR	0		
538	WNPR	WNPR, WPKT, WEDW, W	0	273,600	1,176,177
734	WMPG		0	10,000	35,838
884	KankakeeCommunityCollege	WKCC	0		
924	KOTZ	KOTZ	1	-	-
932	WBCX	WBCX	0	9,900	1,578
1100	Oregon Public Broadcasting	KMHD	0	109,700	287,481
1224	Aspen Public Radio	KAJX	1	5,400	-
36	KEDM	KEDM	1	12,600	75,642
188	Public Radio International	PRI	0	-	-
306	89.7 FM WTMD	WTMD	0	78,900	113,487
502	Raven Radio	KCAW	1	-	-
626	KMRE-LP102.3FM	KMRE	0	-	-
770	KPVU-91.3	KPVU	1	-	-
782	KachemakBayBroadcasting,Inc./PickleHillPublicRadio	KBBI, KDLL	1	-	-
914	RobinhoodRadio	WHDD	1	2,600	6,348
962	WGXC	WGXC	0	900	-
1062	Columbus Community Radio Corp.	WHUM	0	9,400	-
1112	WYPR	WYPR	0	175,100	561,383

1374	Public Radio Guam	KPRG	1	-	-
1420	KGLP	KGLP	1	5,900	20,989
1548	Nez Perce Tribe	KIYE	1	1,400	-
32	KIYU	KIYU	0	-	-
50	Texas Southern University	KTSU	0	266,200	778,597
82	KCSN	KCSN	0	95,600	79,950
84	Top of the World Radio	KBRW	0	-	-
196	KBRP-LPFM	KBRP	0	1,200	-
200	LansingCommunityCollege	WLNZ	0		
240	NorthlandCommunity&TechnicalCollege	KSRQ	0	2,500	3,634
272	KWBU	KWBUTV,FM	0	6,800	29,171
304	WEVL	WEVL	0	22,100	-
328	Radio K, U of Minnesota	KUOM	0		
344	VincennesUniversity	WVUB	0	32,900	304,177
360	WFIUPublicRadio	WFIU	0	51,900	111,048
374	WNMC	WNMC	0		
408	WCRS	WCRS	0	-	-
490	KJLU	KJLU	0	12,900	72,396
546	WGBHRadio	WGBH	0	431,200	1,490,240
558	WQUB,QuincyUniversity	WQUB	0	1,300	-
684	Hot91	WNSB	0	600	392
692	RadioArte	WRTE	0	-	-
694	KVCR		0	80,900	178,415
698	KMOJ	KMOJ	0	139,000	430,561
708	KMBH	KMBH, KHID	0	24,700	152,511
806	Wrangell Radio Group	KSTK	0	-	-
814	CorporacióndePuertoRicoparalaDifusiónPública	WIPR	0	-	679,364
860	90.5 The NIGHT	WBJB	0	17,600	62,783
862	Fayetteville State University	WFSS	0	27,400	151,379
918	KCEP	KCEP	0	119,100	233,865
940	Alcorn Public Radio	WPRL	0	500	2,700
990	GatheringsIslandVoices&Expressions(GIVE)	KLOI	0	-	-
1014	Sandpoint Community Radio -North Idaho	KRFY	0	1,000	-
1134	KPFZ	KPFZ	0	4,900	-
1162	Acorn Enterprises	KKRN	0	1,600	-
1164	CenterforCommunityArts	WCFA	0	-	-
1166	OccidentalArtsandEcologyCenter	KOWS	0	-	-
1182	KUHN	KUHN	0	-	-
1188	Baton Rouge Community Radio	WHYR	0	1,500	-
1190	AmericanRiverFolkSociety	KFOK	0	-	-
1288	East Tennessee State University	WETS	0	45,000	307,755
1338	WGVV	WGVV	0	17,200	89,479
1400	South Texas Public Broadcasting	KEDT	0	16,700	57,183
1454	Confederated Tribes of the Umatilla Indian Reservation	KCUW	0	-	-
1464	KMHA		0	700	54
1492	WLCH	WLCH	0	9,200	67,426
1554	Ramah Navajo School Board	KTDB	0	600	146
1576	Rocky Mountain Public Broadcasting	KEDT	0	16,700	57,183
1580	KGPR	KGPR	0	15,000	-

## **Exhibit 5**



# About CPB

CPB promotes the growth and development of public media in communities throughout America.

When Congress created CPB, it declared that developing public media is an important objective not only for private and local initiatives, but also “of appropriate and important concern” to the federal government. Congress also decided that establishing CPB as a private, not-for-profit corporation would facilitate the development of public media.

CPB funds ITVS (the Independent Television Service) and five program consortia, which represent African American, Latino, American, Native American, and Pacific Islander television produ

Since 1968, CPB has been the steward of the federal government’s investment in public broadcasting and the largest single source of funding for public radio, television, and related online and mobile services. For approximately \$1.35 per American per year, CPB provides essential operational support for the nearly 1,400 locally-owned and -operated public television and radio stations, which reach virtually every household in the country.

Local public television and radio stations collectively reach more than 98 percent of the U.S. population with free programming and services.

CPB also makes available some of the most entertaining, informative, educational, and culturally-relevant programming—including *Sesame Street*, *PBS NewsHour*, *Frontline*, *Great Performances*, *All Things Considered*, *Morning Edition*, and *Marketplace*—through the Public Broadcasting Service (PBS), NPR, American Public Media, and Public Radio International (PRI).

More than 118 million Americans tune into PBS stations on a monthly basis, and 37 million listen to public radio each week.

CPB itself produces no programming, but helps support the production of broadcast programs and other services for multiple digital platforms by thousands of producers and production companies throughout the country. These CPB-funded programs and services reflect our common values and cultural diversity, and address the needs of unserved and underserved audiences around the country in ways that are not possible with commercial media alone.

Respondents to the 2010 Roper Public Affairs Poll named PBS the most-trusted institution for the seventh consecutive year.

CPB, PBS, and NPR are independent of each other and of the local public television and radio stations across the country. CPB neither owns, operates, nor controls broadcast stations, but distributes more than 70 percent of its federal funds directly to stations throughout the country.

## OPEN TO THE PUBLIC

Comments on programming are compiled in [annual and monthly Open to the Public reports](#).

- [Contact CPB](#)
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## FINANCIAL INFORMATION

- [Federal Appropriation](#)
- [Operating Budget](#)
- [Business Plan](#)
- [Annual Reports](#)
- [Funding By State](#)
- [Audited Financial Statements](#)
- [Form 990](#)

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- [Goals and Objectives](#)
- [Objectivity and Balance](#)
- [National Opinion Polls](#)
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- [Annual Reports](#)
- [Open to the Public](#)
- [Services to Minorities and Diverse Audiences](#)
- [Independent Television Service \(ITVS\)](#)
- [CPB’s Response to the Office of Inspector General Report PDF](#)
- [2012 CPB Report to Congress Cover Letter PDF](#)

## FUNDAMENTAL DOCUMENTS

- [Public Broadcasting Act of 1967](#)

At a time of continued media consolidation, local public television and radio stations provide their communities with unparalleled local content and coverage. Public radio stations, for example, produce 29 percent of their own programming locally, responding to community needs and leveraging local support.

[ion for Public Broadcasting Statute PDF](#)

[of Incorporation PDF](#)

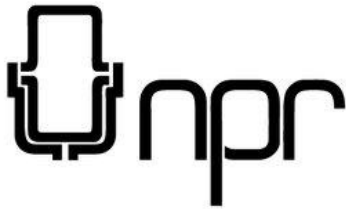
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## Our Mission and Vision

### Original Logo and Mission (circa 1971)



NPR

### The NPR Mission

The mission of NPR is to work in partnership with Member Stations to create a more informed public — one challenged and invigorated by a deeper understanding and appreciation of events, ideas and cultures.

To accomplish our mission, we produce, acquire, and distribute programming that meets the highest standards of public service in journalism and cultural expression; we represent our members in matters of their mutual interest; and we provide satellite interconnection for the entire public radio system.

### Our Strategic Vision

In May 2014, the NPR Board of Directors adopted our strategic plan, which includes a declaration of NPR's strategic aspiration, four strategic priorities, and a description of the path forward toward achievement of this strategic plan, including aspirational outcomes and goals for the next three to five years for each of the priorities. [Read the Strategic Plan.](#)

# Serving Diverse Audiences

Public broadcasting has a fundamental commitment to develop and fund quality, culturally-diverse programming for the American public.

Since its inception, CPB has sought to meet the needs of diverse audiences. With the profound changes in 21st Century demographics, public television must reach out to a new, more textured America.

For the past 25 years, CPB has funded the organizations of public broadcasting's National Minority Consortia, which serve as liaisons between minority independent producers and audiences, and the public broadcasting system. The Independent Television Service, also supported by CPB, provides funding to a growing community of independent television producers for the development of programming that meets the need of unserved and underserved audiences -- particularly minority audiences.

Public radio provides programming and services that respond to the diverse cultural makeup of America. Local public radio stations and producers are reaching into their communities and finding new and innovative ways to address the needs of a wide array of listeners. CPB is committed to supporting projects that increase and diversify public radio's audience.

## SERVING THE PUBLIC

- [Serving Diverse Audiences](#)

## RELATED INFORMATION

- [Services to Minorities and Diverse Audiences reports](#)
- [National Minority Consortia](#)
- [Programs with diverse themes](#)

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Geek Mythology's drag queen videos strut onto national stage

([http://www.denverpost.com/theater/ci\\_26652053/geek-mythology-s-drag-queen-videos-strut-onto-national-stage?source=JBarTicker](http://www.denverpost.com/theater/ci_26652053/geek-mythology-s-drag-queen-videos-strut-onto-national-stage?source=JBarTicker))

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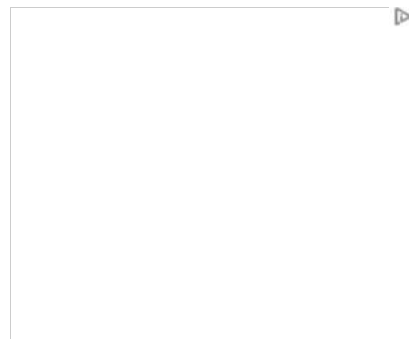
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# The importance of public radio to the music community

By Tom Hagerman, Shawn King, Jeanie Schroder and Nick Urata

POSTED: 11/09/2011 01:00:00 AM MST

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some members of Congress

story and explain how NPR has given us, and many like us, an audience and a chance at a career.

Telling our story to policymakers was empowering, but we felt a need to take it a step further. Several weeks ago, we sent a letter to the Colorado Congressional delegation, expressing our concern and amazement that America's elected officials would even consider eliminating support for such an important platform for American musical culture.

Many current musicians, who do not fit into a major-label industry, have a strikingly similar story which emphasizes how noncommercial radio helped shape their early influences, played their music when they were getting started and opened the door to a larger audience as they continued. These locally-rooted stations are loved by artists and fans alike because their programming is based on a passion for music and a desire to create a shared experience between listeners.

And that's what we told Congress. Unfortunately, some members have yet to tune in.

▶ Over the last few months, House Republicans signaled their intent to significantly cut back funding for public radio while placing other dramatic restrictions on noncommercial radio stations who want to air programs produced by NPR. While we personally do not feel this is a wise budget cut, professionally this is clearly not helpful to the music community, which depends on noncommercial and public radio to thrive.

In fact, DeVotchka's own musical path took a turn that we can largely credit to National Public Radio.

A little more than five years ago, the filmmakers Jonathan Dayton and Valerie Faris were listening to one of their favorite radio stations, Santa Monica's beloved KCRW, when they heard our music on the air.

They thought our sound and aesthetic could be a perfect fit for a new movie they were shooting, and came out to one of our shows to meet and discuss the film with us. From there, we agreed to help score their movie, Little Miss Sunshine, which ended up receiving a nomination for best picture at the Oscars. The movie brought our music to a universe of fans who had never heard us before.

Now the need to convey the importance of public radio in our personal and professional lives has compelled us to join the growing network of musicians and artists that are writing letters and visiting Congress in support of this crucial broadcast sector.

Ultimately, policymakers need to recognize that local, over-the-air broadcast radio remains a vibrant medium for music discovery. Even in this era of online taste making and subscription music services, radio retains an almost mystical allure.

Radio connects people to culture and community in a way that other media cannot. To be moved by a song over the airwaves is a very powerful thing. It's happened to us as listeners, and we've benefited from it happening to others. We want to preserve that dynamic for artists and fans everywhere, especially those who have yet to come on to the scene.

The public and noncommercial sector remains committed to providing a platform for the widest range of American art and culture imaginable.

To limit or eliminate this vital infrastructure would result in serious harm to the sustainability and growth of today's music industry. As music lovers and music makers, we can't let that happen.

*Tom Hagerman, Shawn King, Jeanie Schroder and Nick Urata are members of Denver-based band DeVotchka.*

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(http://mylocal.denverpost.com/)

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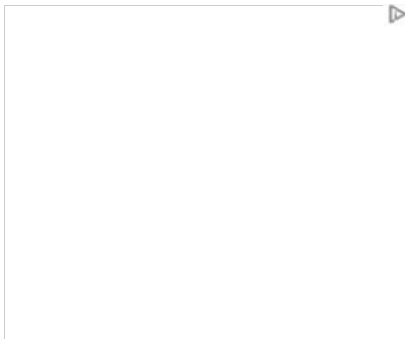
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# public radio music month

for the love of music

## about

Music in America would sound very different without public radio.

Local public radio stations take creative risks, nurture new talent, and give emerging artists a chance to be heard. They celebrate traditional music genres like classical and jazz, and partner with local music organizations to take these art forms to the next level. And they play a key role in their local music economies, sustaining and growing the careers of musicians by connecting them to local listeners.

Say **#thankspublicradio** (<http://www.twitter.com/#thankspublicradio>) to your favorite local station during Public Radio Music Month this April for playing the music you love.

## 2 responses to “about”

1. *Kris Pagenkopf* [April 13, 2013 at 3:34 pm](#) · · [Reply](#) →

How can we get our local public radio station to air more music programs that are available through NPR and its affiliate networks (American Public Media, PRI, etc)?

○ *public radio music month* [April 15, 2013 at 12:30 pm](#) · · [Reply](#) →

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## PUBLIC RADIO MUSIC MONTH SPOTLIGHTS INVALUABLE ROLE OF PUBLIC MEDIA FOR MUSICIANS AND MUSIC FANS

**INITIATIVE THROUGHOUT APRIL CELEBRATES THE IMPACT OF PUBLIC  
STATIONS, WITH EVENTS FEATURING NORAH JONES, DEATH CAB FOR CUTIE,  
RODRIGO Y GABRIELA, JOSHUA ROMAN AND MORE**

It's invaluable: millions of hours of eclectic music from tastemakers; access and insights to the world's best artists; conversations with legends, and chances to discover emerging talent; troves of new music and multiple genres; a free front-row seat to an original live performance.

This is the sound of public radio music - and this April is the time to turn it up.

Throughout April, Public Radio Music Month celebrates the essential role that hundreds of public radio stations play in championing and preserving a diverse array of musicians and music styles for millions of listeners. Audiences look to public radio stations every day for interviews and performances, introductions to new artists and a trusted ear and knowledge about genres such as blues, jazz, classical, bluegrass and indie rock. In this nationwide initiative, local public radio stations, musicians and fans spotlight the importance of this work and how federal funding helps make it possible.

To learn more about Public Radio Music Month, visit [publicradiomusicmonth.org](http://publicradiomusicmonth.org) and follow [@pubradiomusic](https://twitter.com/pubradiomusic) on Twitter. Throughout the month, artists and stations will be tweeting their support using the hashtag #PRMM.

"We benefited from radio play on many public stations around the country at a time when we received little or no love from commercial broadcasters," said Nate Query of the Decemberists, whose 2006 album, *The Crane Wife* was voted top CD of the year by NPR listeners. "This airplay was, and is, essential to the growth of our band and business. And we're hardly alone. Thousands of today's artists rely on the exposure generated by NPR and non-commercial radio stations."

Dozens of stations are presenting special Public Radio Music Month events and performances in their local communities throughout April. Most events will be streamed at the stations' web sites; info is available at [publicradiomusicmonth.org](http://publicradiomusicmonth.org). Spotlight events include:

- April 8: WGUC, Cincinnati Public Radio, Cincinnati, OH - Broadcast of performance by pianist Jonathan Biss as part of Cincinnati Symphony Orchestra concert.
- April 13: WFPK, Louisville Public Media, Louisville, KY - Interview with Chris Walla of Death Cab for Cutie.
- April 13: WBGO, Newark, NJ - In-studio performance of NYU's Wayne Shorter Jazz Ensemble as part of Student Broadcast Festival.
- April 19: WWNO, New Orleans, LA - Exclusive interview with local New Orleans funk/rock band Bonerama.
- April 20: WFUV, New York, NY - Live broadcast of Rodrigo y Gabriela from Radio City Music Hall.
- April 27: KING-FM, Seattle, WA - Live performance and interview with acclaimed cellist Joshua Roman as part of NW Focus Live.
- April 30: WDIY, Bethlehem, PA - Live in-studio interview & performance by jazz great David Liebman.

The importance of public radio music stations is more than anecdotal. A national snapshot reveals how these stations differ from the commercial landscape, and offer listeners and musicians diversity in sounds and opportunities:

- Nationally, more than 180 public radio stations are devoted to non-commercial music formats such as classical, jazz, blues and bluegrass, and another 480 more include them in their programming line ups.
- A recent study of public radio found that 1 out of every 3 hours of listening is to music.
- On the whole, local public radio stations air nearly 5 million hours of music per year, the majority of which is locally programmed.
- Nearly 90% of all classical radio stations are public radio stations. The number of public radio classical stations has almost tripled in the past 20 years.

NPR is a content producer, program distributor and membership organization made up of more than 900 locally-owned and independent Member stations located in communities across the country. Among its many roles, NPR represents Member stations on matters of public policy at the federal level and pursues policies designed to ensure the continued growth and vitality of the public radio system.

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## How NPR Breaks New Music; Five Member Stations That Break Big Artists

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By Andrew Hampp | October 05, 2012 2:10 PM EDT

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It's a Tuesday night at the Bell House in Brooklyn, and a packed crowd is about to hear the latest track from Django Django. But the British psych-pop quartet is nowhere to be found -- instead, the room-full of music fans has gathered to rate the track on a scale of 1 to 10, becoming a real-time focus group for the hosts of NPR's "All Songs Considered."

As the jangly, tambourine- and hand clap-driven rhythms of Django Django's "Default" fill the room, the listeners, largely 20-something and bespectacled, respond favorably, lifting 8s and 9s into the air.

"It's like fist-pumping for a paler persuasion," one says, in Pitchfork-perfect parlance.

"I can't think of a single song that isn't improved by hand claps," another adds.

The Bell House gig is the latest in the first, six-city "All Songs Considered" listening tour, which wraps Sept. 13 at the Gibson Guitar Showroom in Washington, D.C. But it's also the latest in a series of initiatives that has given NPR Music programming more of a visual, accessible presence. Individual public-radio stations like KCRW Los Angeles, KEXP Seattle, KCMP Minneapolis and many more have often been the first places to

play acts like Norah Jones, Fleet Foxes, Vampire Weekend, Bon Iver and Of Monsters & Men, among countless others, but the NPR Music banner is bringing all that content to a more national audience.

Whether it's live concert streams from venues like New York's Le Poisson Rouge and Celebrate Brooklyn at the Prospect Park Bandshell, exclusive streaming coverage of major festivals like South by Southwest and Newport Jazz or securing highly anticipated releases for its "First Listen" series (everything from Bruce Springsteen to Ariel Pink's *Haunted Graffiti*), NPR Music is taking a more active role in moving the needle for new releases and live acts -- particularly the type of indie rock for which blogs used to be the leading authority.

In May, Sub Pop publicist Frank Nieto chose NPR Music over Pitchfork to premiere the first stream of Beach House's *Bloom* LP. "It legitimized them as an artist," he says. Helped by that extra exposure, the band scored a top 10 debut on the Billboard 200 and its largest-ever sales week (41,000 copies, according to Nielsen SoundScan). "A 'First Listen' album stream helps fuel the campaign at the regional level as well as secondary outlets," Nieto adds. "When you see an item on 'First Listen,' it makes outlets say, 'I have to go listen to this.' It gives them the impetus to cover it."

Managers and publicists at both indie and major labels say the power of an NPR Music feature coupled with NPR News coverage on programs like "Morning Edition," "All Things Considered," "Weekend Edition" and "Fresh Air" can really affect a release, especially when compared with music-only sites.

Kevin Duneman, director of artist development for Jagjaguwar, Dead Oceans and Secretly Canadian, says NPR coverage is "almost irreplaceable" in terms of its wide reach and real-time impact on digital sales charts after major features air. "It's pretty much the first thing on my marketing report every week and it's the first thing we talk about when we sit down with Amazon, iTunes or indie retailers," he says. "Publicists and radio coordinators spend a lot of time trying to convince NPR to run something. But at the end of the day, NPR is so good at curating its own content, it feels untouchable. When you actually land something you'll get that desired retail impact."



**Five NPR Stations  
That Break Big  
Artists:**

**Click here for a look  
at five stations that  
just might help find  
the next Bon Iver,  
Fleet Foxes or  
Regina Spektor.**



In part, it's a matter of scale. In June, NPR.org was visited by 3.4 million unique visitors, according to comScore, a major advantage over music sites like PasteMagazine.com (888,000), Pitchfork (780,000), NME.com (707,000) and Stereogum (523,000). NPR

Music content reaches an average of 3 million viewers on a monthly basis across online and mobile platforms, according to the company's internal audience data. (Its mobile app has been downloaded more than 1 million times.)

### NPR's Amy Schriefer Talks 'First Listen' Exclusives

"I think of them as apples and oranges a little bit," Duneman says of NPR Music's appeal compared with that of music blogs. "With Pitchfork, you get a feature and it's generally up and gone by the end of the day, sometimes even in an hour. But with NPR or the New York Times, you'll take up valuable space for a whole week sometimes."

"What's exciting about NPR is they can really stay partners as the campaign progresses," says Jake Friedman, co-owner at We Are Free Management, whose acts Beach House, Lower Dens, Dirty Projectors and Wild Nothing have all been featured on various NPR platforms this summer. "When I think of a tastemaking website, they want access to things first and to make their mark at the top of the cycle. NPR you can grow with -- they have different songs you can premiere, or you can come in and do a Tiny Desk Concert and, at some points, stream a concert later into your cycle."

The combined power of music and news is heavily favored by Lisa Sonkin, Columbia VP of triple A and public radio promotion, who partnered with NPR on multiplatform content surrounding new releases from Springsteen and Jack White earlier this year.

"It's an incredible way to reach not only the core music fans, but the link to the NPR News network also helps engage a harder-to-reach potential music buyer," Sonkin says. "This buyer trusts the NPR brand and they turn their education about the artist and the music into action -- hopefully becoming a new fan." As further proof, in July, Columbia act Passion Pit's *Gossamer* debuted at No. 4 on the Billboard 200 the week after its "First Listen" episode aired, with career-high sales of 37,000 in its first week.

In fact, "First Listen" grew out of an idea initially suggested by Columbia. In 2008, Sonkin approached NPR Music director/executive producer Anya Grundmann and senior product manager Amy Schriefer to explore ways they could stream Bob Dylan's *Tell Tale Signs*, part of its Dylan "bootleg" series.

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Having more of a visual approach to NPR programming has been a long time coming for Boilen, a 19-year veteran of "All Things Considered" and co-host of "All Songs Considered," which he created in 2000. For as much as NPR still appeals to a certain kind of old-school listener (and indeed, it's remained a go-to for the latest classical and jazz releases), streams from other venues like 9:30 Club in D.C. and Philadelphia's World Cafe have helped add a much-needed hip factor.

Meanwhile, taking "All Songs Considered" on the road has exposed Boilen and co-host Robin Hilton to all sorts of deep discussions about different people's approaches to new music. At the Bell House event, songs are introduced completely anonymously to evoke an unbiased response. "It's like if I gave you wine and tell you it's an expensive wine, you're going to taste it and your brain's going to say, 'Whoa,'" Boilen says from the stage.

Guest critics Will Hermes of Rolling Stone and Maura Johnston of the Village Voice both confide to the room their inability to hear lyrics the first time they listen to a song. "I hear lyrics better when I have music on in the background. It's almost like overhearing people's conversations that way," Johnston says.

"I never hear lyrics first. Even a cappella music -- first I hear the timbre before I pay attention to what they're singing," Hermes says.

Such discussions likely wouldn't have happened had NPR Music not played an active role in NPR's digital expansion into podcasts and live streams in 2007 -- years before Clear Channel created iHeartRadio as a national brand for its local stations online.

"In terms of our online audience, they're definitely younger than the core NPR demographic, often in their early 20s," Grundmann says. "We've seen anecdotal evidence of people coming to NPR Music and then hanging out with our news programs. So we're kind of a gateway drug."

PAGE 1 | PAGE 3

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## MUSIC

# The Improbable Rise of NPR Music

By STEVE ONEY

Updated March 14, 2013 8:43 p.m. ET

*Washington*

How did public-radio broadcaster NPR become a power in the music world? Steve Oney takes a look and a listen.

The cluttered corner of an office on the fifth floor of NPR headquarters hardly suggests a coveted music venue, but the band Lucius is thrilled to be here. On a winter afternoon, the up-and-coming five-member group, led by singers Holly Laessig and Jess Wolfe, performs a spirited four-song set for about 30 network employees who drift in following a PA announcement. The crowd, however, is just for show. What counts is the audience outside the building. Brooklyn-based Lucius, whose buoyant sound calls to mind the girl groups of the '60s, is playing a "Tiny Desk Concert," and NPR Music will stream it online and make it available as a podcast. "For a young band trying to get people to hear us," Ms. Laessig says, "this is amazing." Other Tiny Desk guests have included Adele and Wilco.

### NPR Music Performers



With 2.7 million unique monthly visitors, 1.4 million podcast downloads every four weeks and an additional 1.4 million iPhone and iPad apps in circulation, NPR Music ([npr.org/music](http://npr.org/music)) has become a sought-after stop for both aspiring and established artists. More broadly, it has become a rising power in the music industry. "NPR is an extremely important part of our overall plan," says Lisa

NPR's Bob Boilen *Eli Meir Kaplan for The Wall Street Journal*

Sonkin, a vice president of promotion at Sony Music. Last year the label launched Passion Pit's "Gossamer" by streaming the album exclusively on the site, thereby assuring that it would attract the sort of loyal, affluent and geographically diverse audience associated with public radio. Peter Standish, a senior vice president of marketing at Warner Bros. Records, whose artists include Neil Young and Eric Clapton, says, "You can reach a lot of people on NPR Music that you can't reach elsewhere."

For all of that, there's no getting around the fact that NPR remains best known for its radio news broadcasts, which are often characterized by sonorous interviews with heads of state and winsome features about pumpkin-growing contests. Some decision makers in the music business believe the network's music site hasn't fallen far enough from the tree. This ain't no disco, or CBGB. This is still NPR: safely highbrow, never snarky and, in its quest for inclusiveness, sometimes labored. Like NPR, whose listeners have long been stereotyped as Volvo-driving, tweedy elitists, the site comes across to some industry executives as indifferent to the broader audience.

Mark Satlof, senior vice president of Shore Fire Media, which represents Bruce Springsteen and Elvis Costello, concedes that NPR Music doesn't showcase many top-40 artists. But, he says, that is not its mission. "If you're a sentient consumer, you'll already know about those acts. The purpose of NPR Music is to curate music and champion their taste."

The "Tiny Desk Concert" series—which has also featured Rufus Wainwright, Lyle Lovett, Robert Cray, the Soweto Gospel Choir and more than 250 other artists—is only one of NPR Music's attractions. At least once a week, "First Listen" streams a forthcoming album in its entirety (among the most memorable of 2012 was Miguel's "Kaleidoscope Dreams"). Then there is "Live in Concert." In January, it carried the grand opening of the SF Jazz Center in San Francisco. Every Tuesday, "All Songs Considered," the creation of network stalwarts Bob Boilen and Robin Hilton, debuts a playlist of six to eight of its hosts' favorite tunes. Add the showcases (Tori Amos at Le Poisson Rouge Club in New York last fall and countless acts at the South by Southwest Music Festival in Austin, Texas, going on now), together with links to music programming produced by public radio stations around the country and the blog postings of a staff curious about everything from alt Latino to avant-garde noise, and you have a serious contender for the ears and eyeballs of music lovers on the Web.

The competition for online audience has recently grown intense. According to Triton Digital, which tracks Web traffic, Pandora, which streams a full spectrum of music 24 hours a day, generates the biggest numbers. (NPR.org, the network's overall website, ranks sixth, with NPR Music accounting for 15% of its audience.) Sites like Pitchfork, which appeals largely to indie-rock fans who appreciate not just music and videos but at-times-scalding reviews, are also playing the game. In addition, RollingStone.com, by drawing on its parent magazine's reporting while offering music and videos, has become an increasingly big factor, especially when it comes to introducing forthcoming albums. (The Wall Street Journal also posts exclusive streams and videos of in-house concerts online.)

NPR Music's breadth, depth and ability to break new material are its main strengths. The site offers music that appeals to rock, jazz and classical lovers—all under one roof. Still another advantage is NPR Music's ties to "All Things Considered" and "Morning Edition," which, even if Washington-centric, have music woven into their fabric and provide news for the site as well as a familiar storytelling style.

NPR Music in its present form just turned five. "It's the closest thing we have to a pure startup inside

what is now a 40-plus-year-old institution," says Kinsey Wilson, NPR's executive vice president and chief content officer. "This group of now roughly 20 people has had an opportunity to invent something from scratch."

In 1999, Bob Boilen, then a director of "All Things Considered" who also played synthesizer in the D.C. band Tiny Desk Unit (namesake for NPR Music's concert series), had an idea. Among his duties on "All Things Considered" was to come up with the musical interludes used between stories that enable a host to shift seamlessly from, say, a battleground report to a profile of an eccentric sculptor. Known as "buttons" (because they hold disparate elements together), these melodic transitions have always generated thousands of inquiries from listeners wanting to know the names of the artists who recorded them and where they could purchase the music. In response, Mr. Boilen started "All Songs Considered," which at first was dedicated solely to highlighting the acts behind the buttons.

By 2005, "All Songs Considered" had added Mr. Hilton and widened its interests from the buttons to any tune that caught the fancies of its co-hosts. Shortly thereafter, NPR Music hired Anya Grundmann as its executive producer to run the site. She had previously worked at "Performance Today," a concert program produced by NPR competitor American Public Media. "At the time there was all this wonderful music presentation happening across the public radio system," she says. "It was embedded in every nook and cranny. So the concept was: What if we take this wealth of music content and bring it together?"

Initially, NPR executives were worried that such a wide-ranging effort would not work on the Web. "I was skeptical that you could create a multigenre site," says Mr. Wilson, whose job is to ride herd over what goes out on the air and via the Web at the network. But he says NPR's audience tends to be more wide-ranging than that of other music sites. "Even if they gravitate to a particular genre, they are curious about some of the others," he says.

In 2008, Sony proposed streaming all of Bob Dylan's new album, "Tell Tale Signs," on NPR Music, and the website took off. "For years we'd been battling just to get the rights to play one song off new records," says Mr. Boilen. "Now they wanted to give us everything. But we didn't say yes right away. We wanted to hear the album. If it sucked, we weren't going to do it. But it was great." Thus was born "First Listen," a series that caused a shift in the way record labels do business. The companies had been holding almost everything back, but as the online culture emerged, that no longer worked, and they opened their cupboards, betting that listeners, once enticed, would buy.

Since the inaugural "First Listen," a nod from the series has become such a plum that NPR Music keeps record-label submissions in a secret computer file, accessible only to employees who have the password. Called "The Watermark Drive," because its contents are stamped with watermarks to protect them from piracy, the file is spoken of at NPR as if it were a sacred vessel.

"We want to create the feeling you used to get in record stores when somebody would hand you something and say, 'You have to hear this,'" says Amy Schriefer, who supervises "First Listen" and the live events. "That's why some of our picks sometimes seem a little off the wall or under the radar." Despite its virtues, such eclecticism has a downside, providing an opening for rivals. "RollingStone.com has been making a move lately," says Warner Bros.' Mr. Standish. "They're more mainstream, in a good way."

To date, NPR Music has performed beyond expectations. NPR doesn't break out its financial results, but it says NPR Music, which has an annual budget of \$3 million, is close to breaking even. Part of the

reason is that its audience tends to be younger than public radio's general audience. Its median age is 34, and only 29 for those connecting via social media, compared with 53 for "Morning Edition" and 52 for "All Things Considered." Thus it appeals to sponsors, or underwriters, as they're known in public radio. Among them are Lexus, Ketel One vodka and Pabst Blue Ribbon beer. Moreover, NPR Music attracts grant money. "The underwriters like our mass audience," says Mr. Wilson, "and the foundations like our support of forms of music that don't find wide commercial interest." And NPR itself welcomes the opportunity to bring younger listeners into the radio fold.

This year, NPR Music will introduce personal music streams created by DJs currently working throughout the public radio system. Known for the moment as simply "the streaming project," it will offer local stars like Tom Schnabel of KCRW in Los Angeles the chance to present their online playlists for a national audience. "It's an effort to corral the music discovery that's happening on the station level," says Roger LaMay, general manager of Philadelphia's WXPB, which produces "World Café," a music show already distributed by NPR. "The stations have a real sense of place," he adds.

Meanwhile, NPR Music will push further into video productions. Already, the site periodically offers "Field Recordings," stylish videos of such bands as the Civil Wars, who performed last fall at an outdoor setting in the Pacific Northwest. Ms. Grundmann, NPR Music's executive producer, says the streaming project and "Field Recordings" capitalize on the unique powers of the Web. Radio and the Web are so different, she notes, that in the future, the biggest challenge will be to remain "true to who we are as we move from one medium to another."

Bertis Downs, the longtime manager of R.E.M. and a music entertainment lawyer, says: "To me, a mention on NPR Music is more valuable than any magazine cover. A magazine cover is just one shot, but on NPR Music you're linked to the whole world. If I had a choice between a hard copy and a link, I'd take the link."

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Services which are owned by a governmental entity for public purposes or owned by a tax-exempt service under Section 501 of the Internal Revenue Code (e.g., churches, schools, etc.) must operate as "noncommercial" webcasters. All other webcasters must operate as "commercial" webcasters. (The "noncommercial" status of a webcaster is not based on an absence of advertisements or commercials on the web site or within the programming.)

There are five categories for noncommercial webcasters:

### • Noncommercial Webcasters (CRB):

*The "default" category for a noncommercial service, whether offering "Internet-only" transmissions or simulcasting AM and/or FM transmissions.*

[2014](#)

[2014 Memo](#)  
[Minimum Fee SOA](#)  
[Monthly SOA](#)  
[Report of Use](#)

[2013](#)

[Minimum Fee SOA](#)  
[Monthly SOA](#)  
[Report of Use](#)

### • Noncommercial Webcasters (WSA):

*An alternate set of rates and terms for noncommercial services, whether offering "Internet-only" transmissions or simulcasting AM and/or FM transmissions, and requiring less detailed reporting submissions than the default category.*

[2014](#)

[2014 Memo](#)  
[Minimum Fee SOA](#)  
[Monthly SOA](#)  
[Report of Use](#)

[2013](#)

[Minimum Fee SOA](#)  
[Monthly SOA](#)  
[Report of Use](#)

### • Noncommercial Microcaster:

*This category is intended for noncommercial services with low online listenership and waives most of the reporting requirements for statutory licensing.*

### Non-Waiver of Rights:

Important! SoundExchange does not confirm that a service is eligible or compliant with the law by accepting payments, Statements of Account and/or Reports of Use. Also, artists and rights owners do not waive any legal rights by accepting payments from SoundExchange based upon those submissions. Please read on for more detail.

[> READ MORE](#)

### Licensee Relations:

If you have questions about music licensing and streaming please contact us at:

202-559-0555

[email us](#)

<u>2014</u>	<u>2013</u>
© 2014 SoundExchange • 733 10th Street NW 10th Floor Washington, D.C. 20001 • 202-640-5858 <a href="#">2014 Memo</a> <a href="#">Minimum Fee SOA</a>	<a href="#">Minimum Fee SOA</a>

[FAQ](#) • [Sitemap](#) • [Privacy Policy](#) • [Terms of Use](#) • [Non-Waiver of Rights](#)

#### • Noncommercial Educational Webcasters:

*These rates and terms are for services primarily operated by students, and owned by accredited educational institutions.*

<u>2014</u>	<u>2013</u>
<a href="#">2014 Memo</a> <a href="#">Minimum Fee SOA</a> <a href="#">Monthly SOA</a> <a href="#">Report of Use</a>	<a href="#">Minimum Fee SOA</a> <a href="#">Monthly SOA</a> <a href="#">Report of Use</a>

#### • Public Radio (CPB):

*The category for NPR, American Public Media, Public Radio International, Public Radio Exchange, and certain other stations annually named by CPB (e.g., certain members of the National Federation of Community Broadcasters, etc.).*



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This is the "default" category for noncommercial services offering "Internet-only" transmissions and/or simulcasts of AM or FM transmissions. The rates and terms are described at 37 CFR 380 Subpart A.

### 2014

[2014 Memo Minimum Fee SOA Monthly SOA Report of Use](#)

### 2013

[Minimum Fee SOA Monthly SOA Report of Use](#)

### Licensee Relations:

If you have questions about music licensing and streaming please contact us at:

202-559-0555

[email us](#)

#### 1) Minimum Fees and Minimum Fee SOA:

1.

**Amount:** \$500, per station or channel. All payments must be accompanied by a signed and completed minimum fee Statement of Account.

2.

**Recoupability of Minimum Fee:** The minimum fee is credited against monthly liability accrued within the same calendar year. Services do not submit additional payment for that year until they have exceeded the minimum fee.

3.

**Due date:** Annual, on or before January 31. New services beginning streaming on or after February 1 are required to pay minimum fees within 45 days after the end of the month in which streaming first occurs.

#### 2) Liability Rate, Payment and Monthly SOA:

1.

**Rate:** Any listenership in excess of 159,140 aggregate tuning hours ("ATH") monthly (per station or channel) has liability calculated at the below rates:

1.

2011: \$0.0019 per performance

2.

2012: \$0.0021 per performance

3.

2013: \$0.0021 per performance

4.

2014: \$0.0023 per performance

5.

2015: \$0.0023 per performance

2.

**Payment and Statements of Account:** Services must submit a Statement of Account for each month in which they accrue excess listenership liability,

calculating the liability owed for that month, within 45 days after the end of that month, accompanied by any payment indicated on the form (if any). Statements of Account must be certified with a handwritten signature.

1. If no payment is owed, Statements of Account may be submitted via e-mail as a PDF to [royaltyadministration@soundexchange.com](mailto:royaltyadministration@soundexchange.com), or via fax to 202.640.5883.
2. If payment is owed, the Statement of Account (accompanied by payment) should be mailed to: SoundExchange, Dept. 4037, Washington, DC 20042-4037.
3. Payment must be in the form of a check, money order, or direct bank wire (or ACH payment). For assistance in delivering money via bank wire, please contact SoundExchange at 202.640.5858 or e-mail us at [royaltyadministration@soundexchange.com](mailto:royaltyadministration@soundexchange.com).

**3) Reports of Use:** Services are required to submit Reports of Use (i.e. the "playlists") as described in 37 CFR 370.4.

1. **Minimum Fee Broadcasters.** Services simulcasting AM or FM transmissions which do not exceed the annual minimum fee ("minimum fee broadcasters") have the following Reports of Use obligations:
  1. **Frequency of Submission.** Quarterly, within 45 days after the end of each calendar quarter.
  2. **Content.** Reports of Use must contain a sample consisting of all sound recordings accruing performance liability within any two seven-consecutive-day periods during the calendar quarter.
    1. **Identifying Information.** Each track listing must include the following:
      1. **Name of Track** as listed on the recording
      2. **Name of Artist** as listed on the recording
      3. **ISRC** as listed on the recording, or if unavailable, the combination of *both the album name, and the marketing label* as listed on the recording
      4. **Audience Measurement.** Each track must have associated with it the amount of "actual total performances" accrued by the track within the sample periods. Services unable to submit actual total performances must report for each track:
        1. The total ATH for the sample periods,
        2. The program or channel name on which the transmission occurred, and
        - 3.



The play frequency (i.e. "spins") that the track accrued during the sample periods.

2.

#### All Other Noncommercial Webcasters:

1.

**Frequency of Submission.** Monthly, within 45 days after the end of each month.

2.

**Content.** Reports of Use must contain a complete census of all sound recordings accruing performance liability within the month.

1.

**Identifying Information.** Each track listing must include the following:

1.

**Name of Track** as listed on the recording,

2.

**Name of Artist** as listed on the recording,

3.

**ISRC** as listed on the recording, or if unavailable, the combination of *both the album name, and the marketing label* as listed on the recording.

4.

**Audience Measurement.** Each track must have associated with it the amount of "actual total performances" accrued by the track within the month.

4) **Format and Delivery Specifications:** Reports of Use are required to be *electronically* submitted in one of the following ways:

1.

E-mail to [reports@soundexchange.com](mailto:reports@soundexchange.com). This method is preferred for all services if the Report of Use contains fewer than 200,000 lines.

2.

FTP. This method is preferred for services submitting Reports of Use containing greater than 200,000 lines. To request a login ID and a password, please e-mail [ftp@soundexchange.com](mailto:ftp@soundexchange.com).

3.

CD-R, DVD-R, or portable USB drive. If a service is unable to submit Reports of Use via e-mail or FTP, they may be delivered physically using the above media to SoundExchange, ATTN: Royalty Administration, 733 10<sup>th</sup> St., NW, 10<sup>th</sup> Floor, Washington, DC 20001.

#### 5) Late Payments and Monthly SOA:

The late fee program is designed to catch all late payments, any statement of account or any report of use on a month to month basis. A Licensee is required to pay a late fee of 1.5% per month (0.75% for Business Establishment Services; increase to 1.0% effective January 1, 2014) for any payment and/or statements of account received by the collective after the due date. Late fees accrue from the due date of this payment, statement of account or report of use until payment and the related statement of account are received by the collective.

[Get more information about Reporting Requirements](#)

## **Exhibit 6**

## Cume Audience

Time Period	TOTAL: News, Talk & Information	TOTAL: Quiz and Spoken Word	TOTAL: Music	Subgroup: Classical	Subgroup: Jazz
2009 Spring	23,138,200	10,321,000	19,148,000	6,032,900	9,855,900
2014 Spring	23,183,100	9,759,200	19,528,400	5,689,300	9,532,200
Difference	44,900 #	(561,800)	380,400	(343,600)	(323,700)
Percent					
Difference	0.2%	-5.4%	2.0%	-5.7%	-3.3%

Source: © The Nielsen Company. Act 1 Systems based on Nielsen Audio Nationwide, cume persons, persons 12+, Spring 2009 and Spring 2014.

## CERTIFICATE OF SERVICE

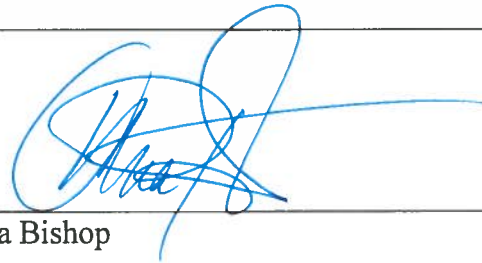
I, Tina Bishop, hereby certify that I caused a copy of the foregoing document, unless otherwise specified, by US Mail and email to the participants shown below on the October 8, 2014 in Docket No. 14-CRV-0001-WR (“Web IV”), pursuant to an agreement among the parties:

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Tina Bishop

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

In the Matter Of:

Determination of Webcasting Royalty Rates and  
Terms for Ephemeral Recording and Digital  
Performance of Sound Recordings

Docket No. 2014-CRB-0001-WR  
(Webcasting IV) (2016-2020)

**REDACTION LOG FOR THE WRITTEN DIRECT CASE OF THE CORPORATION  
FOR PUBLIC BROADCASTING, ON BEHALF OF NATIONAL PUBLIC RADIO, INC.,  
INCLUDING NATIONAL PUBLIC RADIO, INC.'S MEMBER STATIONS, AMERICAN  
PUBLIC MEDIA, PUBLIC RADIO INTERNATIONAL, AND PUBLIC RADIO  
EXCHANGE BROADCASTING**

The Corporation for Public Broadcasting, on behalf of National Public Radio, Inc., including National Public Radio, Inc.'s member stations, American Public Media, Public Radio International, And Public Radio Exchange Broadcasting ("Public Radio") hereby submits the following list of redactions from its Written Direct Statement filed October 7, 2014, and the undersigned certifies, in compliance with 37 C.F.R. § 350.4(e)(1), that the listed redacted materials are properly designated confidential and "RESTRICTED."

Document	Page/Paragraph/Exhibit No.	General Description
Introductory Memo	Page 7, Lines 1, 3 and 4	Contains non-public information concerning Public Radio's user data and internal projections.
Testimony of Keith Waehrer	Page 28, Paragraph 31, Line 4	Contains non-public information concerning Public Radio's user data and internal projections.
	Page 32, Paragraph 36, Lines 2, 3, 9 and 10	Contains non-public information concerning Public Radio's user data and internal projections.
	Page 32, Paragraph 37, Line 4	Contains non-public information concerning Public Radio's user data and internal projections.
	Page 33, Paragraph 37, Line 5	Contains non-public information concerning Public Radio's user



	Page 33, Paragraph 38, Lines 6 and 8	data and internal projections. Contains non-public information concerning Public Radio's user data and internal projections.
	Page 43, Paragraph 22, Lines 2-3	Contains non-public information concerning Public Radio's user data and internal projections.
	Page 43, Paragraph 23, Line 5	Contains non-public information concerning Public Radio's user data and internal projections.
	Page 44, Paragraph 24, Line 4	Contains non-public information concerning Public Radio's user data and internal projections.
	Page 45, Paragraph 29, Line 5	Contains non-public information concerning Public Radio's user data and internal projections.
	Page 45, Paragraph 30, Line 6	Contains non-public information concerning Public Radio's user data and internal projections.
Testimony of Michael Riksen		
Exhibits	Ex. 2, Paragraph 6, Line 4  Ex. 3	

Respectfully submitted, October 8, 2014,

By:   
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*Counsel for The Corporation  
for Public Broadcasting*