

# EXHIBIT E

**Before the  
UNITED STATES COPYRIGHT ROYALTY JUDGES  
Library of Congress**

*In re*

Determination of Royalty Rates and Terms  
for Transmission of Sound Recordings by  
Satellite Radio and “Preexisting”  
Subscription Services (SDARS III)

Docket No. 16–CRB–0001–SR/PSSR

(2018–2022)

**WARNER’S RESPONSES AND OBJECTIONS TO THE FIRST SET OF REQUESTS  
FOR PRODUCTION OF DOCUMENTS TO WARNER MUSIC GROUP FROM SIRIUS  
XM, MUSIC CHOICE, AND MUZAK**

Warner Music Group (“WMG”), by its attorneys, hereby responds and objects to the First Set of Requests for Production of Documents to WMG from Sirius XM, Music Choice, and Muzak (the “Requests”).

**GENERAL OBJECTIONS**

1. WMG objects to the Requests, including all Definitions and Instructions, to the extent they purport to impose upon WMG requirements that exceed or are inconsistent with 17 U.S.C. § 803(b), 37 C.F.R. § 351.5, or any other applicable rule or order governing this proceeding, including applicable prior precedent.
2. WMG objects to the Requests, including all Definitions and Instructions, as premature to the extent that they purport to impose a duty on WMG to produce documents. While WMG is willing to make certain voluntary disclosures of information before it submits its written direct case, Congress contemplated that discovery in CRB royalty rate proceedings would commence after submission of the Participants’ written direct statements and according to a schedule issued

after the Copyright Royalty Judges considered the views of Participants in the proceeding. 17 U.S.C. § 803(b)(6)(C)(i), (ii). The CRB regulations likewise contemplate that a discovery schedule will issue after the Participants submit written direct statements and after the Copyright Royalty Judges have conferred with the Participants. 37 C.F.R. § 351.5(a). Any documents that WMG agrees to produce prior to the submission of its written direct statement will be produced on a voluntary basis. WMG reserves its rights to challenge the CRB's authority to require discovery prior to the submission of written direct statements.

3. WMG objects to the Requests, including all Definitions and Instructions, as premature because the parties have not yet submitted written direct statements. The Requests therefore seek documents that necessarily are not "directly related" to SoundExchange and/or WMG's written direct statement. *See* 17 U.S.C. § 803(b)(6)(C)(v), 37 C.F.R. § 351.5(b).

4. WMG objects to the Requests, including all Definitions and Instructions, to the extent they are ambiguous, duplicative, and/or vague.

5. WMG objects to the Requests, including all Definitions and Instructions, to the extent they are oppressive, harassing, overbroad, and/or unduly burdensome, and to the extent they would require WMG to spend an unreasonable amount of time, effort, and resources in order to respond.

6. WMG objects to the Requests, including all Definitions and Instructions, to the extent they call for information that is already in the possession of the parties propounding these Requests or call for information that is publicly available and readily accessible. Such Requests are overbroad, unduly burdensome, oppressive, and harassing, and would needlessly increase the cost of this proceeding.

7. WMG objects to the Requests, including all Definitions and Instructions, to the extent they seek information or documents protected from discovery under any statute, regulation, agreement, protective order or privilege, including, but not limited to, the attorney-client privilege and work-product immunity doctrine. Any inadvertent disclosure of such information shall not be deemed a waiver of the attorney-client privilege, the attorney work-product immunity doctrine, and any other applicable privilege or doctrine.

8. WMG objects to the Requests, including all Definitions and Instructions, to the extent any Request contains factually inaccurate information or statements, is argumentative, is predicated on erroneous assumptions or states legal conclusions. A statement herein that WMG will produce documents responsive to a Request does not indicate and should not be construed as meaning that WMG agrees, admits, or otherwise acknowledges the characterization of fact or law or the factual expressions or assumptions contained in the Request, that the scope of the Request is consistent with the discovery permitted in this proceeding, or that the documents are relevant and admissible.

9. WMG objects to the Requests, including all Definitions and Instructions, to the extent they seek documents that are not in the possession, custody, or control of WMG, including documents from other parties.

10. WMG objects to the Requests, including all Definitions and Instructions, to the extent they seek documents from other proceedings. Such Requests are overbroad, harassing, and unduly burdensome. WMG further objects to such Requests to the extent they violate or are inconsistent with any statute, rule, order, or other authority governing the other proceeding, including applicable protective orders and prior precedent.

11. WMG objects to the Requests, including all Definitions and Instructions, to the extent they seek “all documents” of a certain nature, as vague, ambiguous, overbroad, and unduly burdensome.

12. WMG objects to the Requests, including all Definitions and Instructions, as overbroad, unduly burdensome, oppressive, and harassing to the extent they seek the production of draft documents, which may be numerous and irrelevant to resolution of the issues in this proceeding.

13. WMG objects to the Requests, including all Definitions and Instructions, to the extent they seek documents that do not exist or are not maintained in the ordinary course of business. WMG further objects to the Requests, including all Definitions and Instructions, to the extent they seek to require the creation of documents or the compilation of documents in a manner different from the manner in which they are maintained in the ordinary course of business.

14. WMG objects to the Requests, including all Definitions and Instructions, as overbroad, unduly burdensome, oppressive and harassing, to the extent the Requests seek to impose an obligation to search for documents from every label with a larger record company.

15. By agreeing to search for and produce documents responsive to any particular Request, WMG does not represent that such documents exist or that they are in the possession, custody or control of WMG, or that all documents responsive to the Request fall within the permissible scope of discovery or will be produced.

16. WMG reserves any and all objections to the use or admissibility in any proceeding of any information, material, documents, or communications identified, produced or disclosed in response to the Requests.

17. WMG objects to the requested date of production as unduly burdensome, and providing insufficient time for WMG to locate responsive documents. If WMG agrees to produce documents, WMG will produce documents as set forth below and after conducting a reasonable search.

18. The responses and objections contained herein are made to the best of WMG's present knowledge, belief, and information, and are based on a reasonable, diligent, and ongoing search. WMG reserves the right to amend or supplement its objections and responses based on, among other reasons, its continuing investigation of this matter, further review, or later acquisition of responsive information.

#### **OBJECTIONS TO DEFINITIONS**

1. WMG objects to the definition of "Digital Music Service" in Definition No. 1 to the extent it purports to define the relevant universe of services as broadly as possible without limitation to issues that are relevant to this proceeding. To the extent the Requests purport to impose an obligation to produce documents related to the overbroad array of services described in the definition, including documents for services operating outside the United States, WMG objects to the definition as irrelevant, overbroad, unduly burdensome, oppressive, harassing, and not reasonably limited to the issues in this proceeding.

2. WMG objects to the definition of "Document" and "documents" in Definition No. 2 to the extent it purports to impose obligations beyond the scope of the applicable statute and regulations governing discovery in this proceeding, including 17 U.S.C. § 803(b), 37 C.F.R. § 351.5, and any other applicable rule, order or precedent governing this proceeding, and to the extent it suggests that the Federal Rules of Civil Procedure govern discovery in this proceeding.

3. WMG objects to the definition of “Record Company” in Definition No. 6 as overbroad, unduly burdensome, oppressive, harassing, and beyond the scope of permissible discovery in this proceeding, to the extent it seeks to impose an obligation to produce documents related to any record company that is not a participant in this proceeding.

4. WMG objects to the definition of “WMG” in Definition No. 8 as overbroad, unduly burdensome, oppressive, harassing, and beyond the scope of permissible discovery in this proceeding, to the extent it purports to impose an obligation to collect documents from an unreasonably wide array of people and entities, including anyone acting on WMG’s behalf.

### **OBJECTIONS TO INSTRUCTIONS**

1. WMG objects to the Instructions to the extent they seek to impose obligations that are inconsistent with or not supported by the governing statute or regulations.

2. WMG objects to Instruction No. 1 to the extent it is inconsistent with the requirements imposed by statute, regulations and the Court’s “Notice of Participants, Commencement of Voluntary Negotiation Period, and Case Scheduling Order.”

3. WMG objects to Instruction No. 2 as overbroad, unduly burdensome, harassing, oppressive, and exceedingly vague to the extent that it seeks to impose an obligation to collect documents from an unreasonably wide array of people and entities, including “WMG’s attorneys, agents, employees, representatives, or any other persons or entities directly or indirectly employed by or connected with WMG.” There are numerous people and entities who might fit this description and the request to produce documents in the possession of any of them is egregiously overbroad.

4. WMG objects to Instruction No. 5's request for a privilege log, which purports to impose upon WMG requirements that exceed 17 U.S.C. § 803(b), 37 C.F.R. § 351.5, and any other applicable rule or order governing this proceeding. The governing statute and regulations do not provide for the exchange of privilege logs, and providing privilege logs would be extremely burdensome given the limited time for discovery in this proceeding. WMG will not produce a privilege log in connection with its production of documents.

5. WMG objects to Instruction No. 7 to the extent it seeks to impose an obligation to interpret language that is ambiguous.

6. WMG objects to Instruction No. 9 to the extent it seeks documents from time periods the Services themselves have deemed not reasonably related to the matters in this proceeding (i.e., time periods prior to January 1, 2013). Unless otherwise indicated in response to a specific Request, where WMG agrees to search for and produce documents, it will only search for and produce documents for the time period January 1, 2013 through the present.

#### **RESPONSES AND OBJECTIONS TO DOCUMENT REQUESTS**

Subject to and without waiving the foregoing objections, WMG sets forth below specific responses and objections to the Requests.

**Document Request No. 1.** All agreements executed or in effect between January 1, 2013 and the present between any Digital Music Service and Warner, including any amendments, extensions or renewals of such agreements. To the extent an agreement executed before January 1, 2013 was modified, extended, renewed, adapted, amended or otherwise altered after January 1, 2013, the original (pre-2013) agreement shall be produced in addition to the post-2013 modifications/extensions.

**RESPONSE:** WMG objects to this request as overbroad, unduly burdensome, oppressive, harassing, and not reasonably limited to the issues in this proceeding, to the extent it seeks "all" responsive documents. WMG objects to this request as overbroad, unduly burdensome,

oppressive, harassing, and not reasonably limited to subject matters at issue in this proceeding, to the extent it seeks agreements with “any Digital Music Service.” As set forth in WMG’s Objections to Definitions above, “Digital Music Service” is defined too broadly and not reasonably limited to the issues in this proceeding.

Without waiver of and subject to WMG’s general and specific objections, WMG is conducting a reasonable and diligent search for and is producing interactive/on-demand webcasting, custom radio, non-interactive webcasting, and video agreements, plus any other agreements provided to WMG’s expert witnesses in this proceeding, including amendments, extensions and renewals, executed on or after January 1, 2013. If an agreement was amended, extended or renewed after that date, WMG is conducting a reasonable and diligent search for and producing the original agreement and the post-January 1, 2013 amendments, extensions and renewals.

**Document Request No. 2.** All agreements executed between January 1, 2013, and the present between any PSS and Warner, including any amendments, extensions or renewals of such agreements. To the extent an agreement executed before January 1, 2013 was modified, extended, adapted, renewed, amended or otherwise altered after January 1, 2013, the original (pre-2013) agreement shall be produced in addition to the post-2013 modifications/extensions.

**RESPONSE:** WMG objects to this request as overbroad, unduly burdensome, oppressive, harassing, and not reasonably limited to the issues in this proceeding, to the extent it seeks “all” responsive documents. WMG objects to this request from the PSS (Music Choice and Muzak) to produce their agreements with WMG, because such agreements are already in Music Choice and Muzak’s possession. It is harassing and unnecessary to ask WMG to produce Music Choice’s and Muzak’s agreements back to them.

Without waiver of and subject to WMG's general and specific objections, WMG will search for and produce responsive documents, if any, that can be located after a reasonable and diligent search.

**Document Request No. 3.** All agreements executed between January 1, 2013, and the present in any other service category that Warner intends to use as a benchmark in this proceeding, including any amendments, extensions or renewals of such agreements. To the extent an agreement executed before January 1, 2013 was modified, extended, renewed, adapted, amended or otherwise altered after January 1, 2013, the original (pre-2013) agreement shall be produced in addition to the post-2013 modifications/extensions.

**RESPONSE:** WMG objects to this request as overbroad, unduly burdensome, oppressive, harassing, and not reasonably limited to the issues in this proceeding, to the extent it seeks "all" responsive documents. WMG objects to the request for this information as premature. The parties have not yet submitted their written direct statements or identified the agreements that will form the basis of benchmarks in this proceeding. Without waiver of and subject to WMG's general and specific objections, to the extent that WMG agreements are used by SoundExchange and/or WMG as part of a benchmark in SoundExchange and/or WMG's written direct statement, and to the extent requested documents have not already been produced, WMG will search for and produce responsive documents, if any, that can be located after a reasonable and diligent search.

**Document Request No. 4.** To the extent not encompassed in Requests 1-3 above, Exhibit 12 to Ron Wilcox's written rebuttal testimony in the Web IV proceeding (and all agreement included therein), any subsequent modifications, extensions, and/or renewals of such agreements, and any new agreements with same counter-parties.

**RESPONSE:** WMG objects to this request for materials from a prior proceeding, which are governed by a protective order in that proceeding. WMG objects to the request as not reasonably limited to the issues in this proceeding. The referenced Exhibit contains numerous documents. To the extent the requested documents are not responsive to other document requests, and not

relevant to this proceeding, WMG does not agree to produce the requested documents. Without waiver of and subject to WMG's general and specific objections, to the extent the requested documents are responsive to Requests 1-3 above, and WMG agreed to produce them in response to those requests, WMG will produce the requested documents.

**Document Request No. 5.** For each agreement responsive to Requests 1-4 above, statements, payments, and/or play details sufficient to calculate effective rates for such services from January 1, 2013 to present.

**RESPONSE:** WMG objects to this request as overbroad, unduly burdensome, oppressive, harassing and not reasonably limited to the issues in this proceeding, to the extent it relates to all agreements responsive to the prior requests. WMG objects to this request as overbroad, unduly burdensome, oppressive and harassing, to the extent it requests a large volume of very detailed information that may be extremely burdensome to collect, review and produce. WMG also objects to the request for this information as premature. The parties have not yet submitted their written direct statements or identified the agreements that will form the basis of benchmarks in this proceeding. Information sufficient to calculate effective rates for certain agreements may be relevant once the parties have disclosed their benchmark agreements. Without waiver of and subject to WMG's general and specific objections, to the extent that WMG agreements are used by SoundExchange and/or WMG as part of a benchmark in SoundExchange and/or WMG's written direct statement, WMG will consider searching for and producing responsive documents for certain relevant agreements. Until that time, WMG does not agree to produce the requested information, if it has any.

**Document Request No. 6.** For each agreement responsive to Requests 1-4 above, for each monthly, quarterly, or annual reporting period for the years 2013 to the present (as specified by the agreement), documents sufficient to show:

- a. total payments collected from the service;

- b. revenue reported by the service (including the calculation of revenue base, if available);
- c. advances paid during the reporting period;
- d. number of subscribers during the reporting period, including the number of users of various service tiers (e.g., users of free tiers versus paid tiers);
- e. number of streams/plays during the reporting period;
- f. number of downloads, ringtones, ringbacks and/or mastertones sold during the reporting period;
- g. reported advertising and other ancillary revenue;
- h. the service retail price (including all tiers);
- i. Warner's pro rata share for any aspect of the service reported; and
- j. any other data reported to Warner (other than logs of specific songs streamed or downloaded).

**RESPONSE:** WMG objects to this request as overbroad, unduly burdensome, oppressive, harassing and not reasonably limited to the issues in this proceeding, to the extent it relates to all agreements responsive to the prior requests. WMG objects to this request as overbroad, unduly burdensome, oppressive and harassing, to the extent it requests a large volume of detailed information that may be extremely burdensome to collect, review and produce.

WMG also objects to the request for this information as premature. The parties have not yet submitted their written direct statements or identified the agreements that will form the basis of benchmarks in this proceeding. Some of the information responsive to this request for certain agreements may be relevant once the parties have disclosed their benchmark agreements.

Without waiver of and subject to WMG's general and specific objections, to the extent that WMG agreements are used by SoundExchange and/or WMG as part of a benchmark in SoundExchange and/or WMG's written direct statement, WMG will consider searching for and

producing responsive documents for certain relevant agreements. Until that time, WMG does not agree to produce the requested information, if it has any.

**Document Request No. 7.** For each agreement responsive to Requests 1-4 above, for each monthly, quarterly, or annual reporting period for the years 2013 to present (as specified by each agreement), all royalty statements or statements of account to Warner.

**RESPONSE:** WMG objects to this request as overbroad, unduly burdensome, oppressive, harassing and not reasonably limited to the issues in this proceeding, to the extent it relates to all agreements responsive to the prior requests. WMG objects to this request as overbroad, unduly burdensome, oppressive and harassing, to the extent it requests a large volume of very detailed information that may be extremely burdensome to collect, review and produce.

WMG also objects to the request for this information as premature. The parties have not yet submitted their written direct statements or identified the agreements that will form the basis of benchmarks in this proceeding. Some of the information responsive to this request for certain agreements may be relevant once the parties have disclosed their benchmark agreements.

Without waiver of and subject to WMG's general and specific objections, to the extent that WMG agreements are used by SoundExchange and/or WMG as part of a benchmark in SoundExchange and/or WMG's written direct statement, WMG consider searching for and producing responsive documents for certain relevant agreements. Until that time, WMG does not agree to produce the requested information, if it has any.

**Document Request No. 8.** For any agreement that was entered into between a Record Company and any Digital Music Service offering interactive or non-interactive digital music streaming (audio or video), or any other transmission that does not result in the creation of a permanent digital download, or for any agreement in a category that Warner and/or SoundExchange intends to present as a benchmark in this proceeding, (a) all drafts of such agreements and correspondence concerning such drafts, and (b) all documents, whether internal to the Record Company or between the Record Company and service, concerning the value of the agreement or any of its provisions to either the buyer/licensee or seller/licensor.

**RESPONSE:** WMG objects to this request as overbroad, unduly burdensome, oppressive, harassing, and not reasonably limited to the issues or Participants in this proceeding, to the extent it seeks documents related to “any agreement” responsive to the request. WMG objects to this request as overbroad, unduly burdensome, oppressive, harassing and not reasonably limited to the Participants in this proceeding, to the extent it seeks documents related to agreements between “a Record Company” and the specified digital music services. As set forth in WMG’s Objections to Definitions above, “Record Company” is defined too broadly and is not reasonably limited to the Participants in this proceeding. WMG further objects to this request to the extent it is duplicative of requests served on other Participants in this proceeding, to the extent it seeks documents not in the possession, custody or control of WMG, and to the extent it seeks documents from record companies that are not Participants or that do not supply a witness for this proceeding.

WMG also objects to this request because agreements speak for themselves and drafts are irrelevant to determining the rates and terms in the agreements themselves, absent ambiguity. WMG also objects to this request as overbroad, unduly burdensome, oppressive and harassing, to the extent it seeks drafts and correspondence for a large number of agreements. Such information would be extremely time-consuming to collect, review and produce, and the burden would far outweigh any alleged benefit. WMG further objects to the request for valuation information as premature. The parties have not yet submitted their written direct statements or identified the agreements that will form the basis of benchmarks in this proceeding. Valuation information responsive to this request for certain agreements may be relevant once the parties have disclosed their benchmark agreements. Without waiver of and subject to WMG’s general and specific objections, to the extent that WMG agreements are used by SoundExchange and/or

WMG as part of a benchmark in SoundExchange and/or WMG's written direct statement, WMG will consider searching for and producing non-privileged, responsive documents for certain relevant agreements. Until that time, WMG does not agree to produce the requested information, if it has any.

**Document Request No. 9.** For any Digital Music Service offering interactive or non-interactive digital music streaming (audio or video), or any other transmission that does not result in the creation of a permanent digital download, or for services in any other category of service that Warner and/or SoundExchange intends to present as a benchmark in this proceeding, all analyses, memoranda, presentation decks, studies, surveys, research findings, or other similar documents concerning the market characteristics for each service, including without limitation documents discussing, analyzing, or evidencing:

- a. the consumer demand, price at every level a price is charged, demand or price elasticities, and other characteristics of the Service;
- b. consumer usage of the Service;
- c. whether the Service may serve as a substitute for other Digital Music Services, terrestrial radio, sales of physical copies of sound recordings (e.g., CDs), sales of digital downloads, or for any other distribution channels for sound recordings;
- d. whether the Service promotes or otherwise increases the sale, distribution, or other licensed uses of sound recordings; and
- e. comparisons of the Service with satellite radio or any other Digital Music Service.

**RESPONSE:** WMG objects to this request as overbroad, unduly burdensome, oppressive, harassing and not reasonably limited to the issues in this proceeding, to the extent it relates to all agreements responsive to the prior requests. WMG objects to this request as overbroad, unduly burdensome, oppressive, and harassing, to the extent it requests a large volume of very detailed information that may be extremely burdensome to collect, review and produce.

WMG also objects to the request for this information as premature. The parties have not yet submitted their written direct statements or identified the agreements that will form the basis of benchmarks in this proceeding. Some of the information responsive to this request for certain agreements may be relevant once the parties have disclosed their benchmark agreements.

Without waiver of and subject to WMG's general and specific objections, to the extent that WMG agreements are used by SoundExchange and/or WMG as part of a benchmark in SoundExchange and/or WMG's written direct statement, WMG will consider searching for and producing non-privileged, responsive documents for certain relevant agreements. Until that time, WMG does not agree to produce the requested information, if it has any.

**Document Request No. 10.** Warner's annual financial statements, whether audited or unaudited, at every level of specificity at which they are created or maintained, including without limitation cost and revenue breakdowns, digital and physical revenue and costs, and digital revenues reported by Digital Music Service category (e.g., non-interactive and custom radio or webcasting services, interactive or on-demand services, video services). For 2016, all available quarterly results should be produced.

**RESPONSE:** WMG objects to this request as overbroad, unduly burdensome, oppressive and harassing, to the extent it requests a large volume of very detailed information and to the extent it requests projections by categories, that may not be maintained in the ordinary course of business or that may be extremely burdensome to collect, review and produce. WMG objects to this request to the extent it seeks to require the creation of documents or the compilation of documents in a manner different from the manner in which they are maintained in the ordinary course of business. WMG objects to this request to the extent it is predicated on erroneous assumptions about the way in which its financial information is organized and maintained. WMG's response should not be construed as meaning that WMG agrees, admits, or otherwise acknowledges that it maintains financial information in the requested categories.

WMG also objects to the request for this information as premature given that the parties have not yet submitted their written direct statements and WMG's financials may not be relevant to SoundExchange's or WMG's written direct statement. Without waiver of and subject to WMG's general and specific objections, WMG will search for and produce responsive documents, if any, that can be located after a reasonable and diligent search.

**Document Request No. 11.** Documents sufficient to show Warner’s projected revenue, costs and expenses by category over the 2016-2022 licensing period.

**RESPONSE:** WMG objects to this request as overbroad, unduly burdensome, oppressive, and harassing, to the extent it requests projections by categories that may not be maintained in the ordinary course of business or that may be burdensome to collect, review and produce. WMG objects to this request to the extent it seeks to require the creation of documents or the compilation of documents in a manner different from the manner in which they are maintained in the ordinary course of business. WMG objects to this request to the extent it is predicated on erroneous assumptions about the way in which its financial information is organized and maintained. WMG’s response should not be construed as meaning that WMG agrees, admits, or otherwise acknowledges that it maintains the requested projections for this time period. WMG further objects to the use of the phrase “by category” as vague and ambiguous as it is used in this request.

WMG also objects to the request for this information as premature given that the parties have not yet submitted their written direct statements and WMG’s financials may not be relevant to SoundExchange’s or WMG’s written direct statement. Without waiver of and subject to WMG’s general and specific objections, WMG will search for and produce responsive documents, if any, that can be located after a reasonable and diligent search.

**Document Request No. 12.** All analyses, memoranda, presentation decks, studies, surveys, research findings, or other similar documents concerning:

- a. the promotional value and/or substitutional effect of Sirius XM or any PSS on sales, subscriptions to other Digital Music Services, or other sources of revenue;
- b. any substitution between Digital Music Services (including Sirius XM or any PSS) and sales, subscriptions, and radio;
- c. the relative elasticities of demand across different Digital Music Services at both the licensing and consumer sales/use level;

- d. customer preferences related to lean-back or lean-forward experiences or services;
- e. listening of on-demand service users to non-on-demand service features and modes of listening (e.g., non-interactive listening features, playlists);
- f. any purported shift from music ownership to access; and
- g. listening of subscribers to Sirius XM or any PSS.

**RESPONSE:** WMG objects to the request for “all” responsive documents as overbroad, unduly burdensome and oppressive, and to the extent such a request will yield cumulative information.

WMG also objects to the extent the request seeks information that may be difficult to locate.

Without waiver of and subject to WMG’s general and specific objections, WMG will search for and produce non-privileged, responsive documents, if any, that can be located after a reasonable and diligent search.

**Document Request No. 13.** All analyses, memoranda, presentation decks, studies, surveys, research findings, or other similar documents concerning the ability of any Digital Music Service to “steer” plays toward or away from particular Record Companies, or to steer listening more generally.

**RESPONSE:** WMG objects to the request for “all” responsive documents as overbroad, unduly burdensome and oppressive, and to the extent such a request will yield cumulative information.

WMG objects to the extent the request seeks information that may be difficult to locate. WMG objects to the request for documents concerning “the ability of any Digital Music Service . . . to steer listening more generally” as overbroad, unduly burdensome, oppressive and harassing, to the extent it is vague, ambiguous, and not reasonably limited to the issues in this proceeding.

Without waiver of and subject to WMG’s general and specific objections, WMG will search for and produce non-privileged, responsive documents, if any, that can be located after a reasonable and diligent search.

**Document Request No. 14.** All analyses, memoranda, presentation decks, studies, surveys, research findings, or other similar documents concerning the relative value of the programming of music versus the music itself to consumers of any Digital Music Service.

**RESPONSE:** WMG objects to the request for “all” responsive documents as overbroad, unduly burdensome and oppressive, and to the extent such a request will yield cumulative information.

WMG also objects to the extent the request seeks information that may be difficult to locate.

WMG further objects to the comparison contemplated by this request as vague and ambiguous.

Without waiver of and subject to WMG’s general and specific objections, WMG will search for and produce non-privileged, responsive documents, if any, that can be located after a reasonable and diligent search.

**Document Request No. 15.** All analyses, memoranda, presentation decks, studies, surveys, research findings, or other similar documents addressing and/or quantifying the degree to which plays on on-demand or interactive services (whether in general or particular) are from playlists programmed by the service, from playlists programmed by users of the service or other third-parties, or reflect songs chosen specifically by the user for on-demand listening.

**RESPONSE:** WMG objects to the request for “all” responsive documents as overbroad, unduly burdensome and oppressive, and to the extent such a request will yield cumulative information.

WMG also objects to the extent the request seeks information that may be difficult to locate.

WMG further objects to the comparison contemplated by this request because the request fails to make clear why such a comparison is relevant to this proceeding. Without waiver of and subject

to WMG’s general and specific objections, WMG will search for and produce non-privileged, responsive documents, if any, that can be located after a reasonable and diligent search.

**Document Request No. 16.** All analyses, memoranda, presentation decks, studies, surveys, research findings, or other similar documents concerning whether users of interactive services desire features that editorialize, curate, or recommend music, or that such users want to listen to service- programmed plays, including any data, communications or other information regarding the share of programmed plays on such services and (or as compared to ) the share of user-selected plays on such services (including without limitation Spotify, Rdio, Rhapsody, Google Play All Access, Amazon Prime, and Slacker).

**RESPONSE:** WMG objects to the request for “all” responsive documents as overbroad, unduly burdensome and oppressive, and to the extent such a request will yield cumulative information. WMG also objects to the extent the request seeks information that may be difficult to locate. WMG further objects to the comparison contemplated by this request because the request fails to make clear why such a comparison is relevant to this proceeding. Without waiver of and subject to WMG’s general and specific objections, WMG will search for and produce non-privileged, responsive documents, if any, that can be located after a reasonable and diligent search.

**Document Request No. 17.** All analyses, memoranda, presentation decks, studies, surveys, research findings, or other similar documents concerning:

- a. a digital distribution or licensing strategy;
- b. the role of promotion and/or substitution in the licensing strategy; and
- c. the existence or nonexistence of a substitutional or promotional effect by any Digital Music Service or terrestrial radio on other sources of revenue.

**RESPONSE:** WMG objects to the request for “all” responsive documents as overbroad, unduly burdensome and oppressive, and to the extent such a request will yield cumulative information. WMG further objects to the request for all documents concerning digital distribution or licensing strategy as vastly overbroad, vague and not reasonably limited to issues in this proceeding. There potentially are numerous documents concerning digital distribution or licensing strategy that have absolutely nothing to do with any of the issues in this proceeding. WMG also objects to the extent the request seeks information that may be difficult to locate. Without waiver of and subject to WMG’s general and specific objections, WMG will search for and produce non-privileged documents responsive to parts (b) and (c) of this request, if any, that can be located after a reasonable and diligent search.

**Document Request No. 18.** All analyses, memoranda, presentation decks, studies, surveys, research findings, or other similar documents concerning Warner’s strategy for licensing Digital Music Services, or the effect on Warner’s revenues or business of its licenses with Digital Music Services.

**RESPONSE:** WMG objects to the request for “all” responsive documents as overbroad, unduly burdensome and oppressive, and to the extent such a request will yield cumulative information.

WMG further objects to the request for all documents concerning licensing strategy or the effect on WMG’s revenues or business as vastly overbroad, vague and not reasonably limited to issues in this proceeding. There potentially are numerous documents concerning these broad subject matters that have absolutely nothing to do with any of the issues in this proceeding. WMG also objects to the extent the request seeks information that may be difficult to locate. If the Services propose a reasonable limitation on this request, WMG will consider it.

**Document Request No. 19.** All analyses, memoranda, presentation decks, studies, surveys, research findings, or other similar documents concerning the effect of YouTube or any other Interactive Streaming Service offering access to audiovisual recordings (e.g., VEVO, Vimeo) on Warner’s actual or projected revenues or otherwise on its business.

**RESPONSE:** WMG objects to the request for “all” responsive documents as overbroad, unduly burdensome and oppressive, and to the extent such a request will yield cumulative information.

WMG also objects to the extent the request seeks information that may be difficult to locate.

WMG further objects to the request as vague and ambiguous. Without waiver of and subject to WMG’s general and specific objections, WMG will search for and produce non-privileged, responsive documents, if any, that can be located after a reasonable and diligent search.

**Document Request No. 20.** All analyses, memoranda, presentation decks, studies, surveys, research findings, or other similar documents concerning the effect of free or ad-supported Interactive Streaming Services offering access to audio recordings on Warner’s actual or projected revenues or otherwise on its business.

**RESPONSE:** WMG objects to the request for “all” responsive documents as overbroad, unduly burdensome and oppressive, and to the extent such a request will yield cumulative information. WMG also objects to the extent the request seeks information that may be difficult to locate. WMG further objects to the request as vague and ambiguous. Without waiver of and subject to WMG’s general and specific objections, WMG will search for and produce non-privileged, responsive documents, if any, that can be located after a reasonable and diligent search.

**Document Request No. 21.** All analyses, memoranda, presentation decks, studies, surveys, research findings, or other similar documents concerning the effect of any PSS on Warner’s actual or projected revenues or otherwise on its business.

**RESPONSE:** WMG objects to the request for “all” responsive documents as overbroad, unduly burdensome and oppressive, and to the extent such a request will yield cumulative information. WMG also objects to the extent the request seeks information that may be difficult to locate. WMG further objects to the request as vague and ambiguous. Without waiver of and subject to WMG’s general and specific objections, WMG will search for and produce non-privileged, responsive documents, if any, that can be located after a reasonable and diligent search.

**Document Request No. 22.** All analyses, memoranda, presentation decks, studies, surveys, research findings, or other similar documents concerning the effect of any CABSAT on Warner’s actual or projected revenues or otherwise on its business.

**RESPONSE:** WMG objects to the request for “all” responsive documents as overbroad, unduly burdensome and oppressive, and to the extent such a request will yield cumulative information. WMG also objects to the extent the request seeks information that may be difficult to locate. WMG further objects to the request as vague and ambiguous.

WMG objects to the request for this information as premature. The Participants have not yet submitted their written direct statements. Documents related to the effect of any CABSAT on WMG’s actual or projected revenues or business may be relevant once the parties have

submitted their written direct statements. Without waiver of and subject to WMG's general and specific objections, to the extent that such information becomes relevant, WMG will consider searching for and producing non-privileged, responsive documents. Until that time, WMG does not agree to produce documents responsive to this request, if it has any.

**Document Request No. 23.** All documents related to the potential entry of any Digital Music Service into the CABSAT market, including any documents relating to Warner's encouragement or facilitation of such market entry.

**RESPONSE:** WMG objects to the request for "all" responsive documents as overbroad, unduly burdensome and oppressive, and to the extent such a request will yield cumulative information.

WMG also objects to the extent the request seeks information that may be difficult to locate.

WMG further objects to the request as vague and ambiguous.

WMG also objects to the request for this information as premature. The Participants have not yet submitted their written direct statements. Documents related to the potential entry of any digital music service into the CABSAT market may be relevant once the parties have submitted their written direct statements. Without waiver of and subject to WMG's general and specific objections, to the extent that such information becomes relevant, WMG will consider searching for and producing non-privileged, responsive documents. Until that time, WMG does not agree to produce documents responsive to this request, if it has any.

**Document Request No. 24.** All documents related to the effect of statutory rates on license fees that Warner is able to obtain in direct license negotiations with Digital Music Services.

**RESPONSE:** WMG objects to the request for "all" responsive documents as overbroad, unduly burdensome and oppressive, and to the extent such a request will yield cumulative information.

WMG also objects to the extent the request seeks information that may be difficult to locate.

WMG further objects to the request as vague and ambiguous. Without waiver of and subject to

WMG's general and specific objections, WMG will search for and produce non-privileged, responsive documents, if any, that can be located after a reasonable and diligent search.

**Document Request No. 25.** All documents concerning the effect of statutory streaming royalties on Warner's investment in developing sound recordings.

**RESPONSE:** WMG objects to the request for "all" responsive documents as overbroad, unduly burdensome and oppressive, and to the extent such a request will yield cumulative information.

WMG also objects to the extent the request seeks information that may be difficult to locate.

WMG further objects to the request as vague and ambiguous. Without waiver of and subject to

WMG's general and specific objections, WMG will search for and produce non-privileged, responsive documents, if any, that can be located after a reasonable and diligent search.

**Document Request No. 26.** Documents sufficient to evidence Warner's relative contribution, as defined in Section 801(b)(1)(c), with respect to cable radio, satellite radio, or otherwise to the offerings of Sirius XM, the PSS, or the CABSATs.

**RESPONSE:** WMG objects to this request as overbroad, unduly burdensome and premature.

WMG further objects to the request as vague and ambiguous. The parties have not yet submitted their written direct statements, and whether WMG will submit witness testimony related to

WMG's relative contributions under Section 801(b)(1)(c) is undetermined at this time. If WMG does submit such testimony, then the Services can seek documents "directly related" to that

testimony, to the extent WMG has any such documents, after the testimony has been submitted.

Until that time, WMG does not agree to produce documents responsive to this request, if it has any.

**Document Request No. 27.** All documents submitted by Warner to the Federal Trade Commission or European Commission in connection with the Universal/EMI merger, and any other submissions made to those or other government agencies by Warner, since the Universal/EMI merger, involving investigations related to competition among record companies or between record companies and other music distributors.

**RESPONSE:** WMG objects to the request as overbroad, unduly burdensome, oppressive harassing and not reasonably limited to the issues in this proceeding to the extent it seeks “all” responsive documents, including documents submitted to agencies located outside the United States. WMG objects to the request as overbroad, unduly burdensome and oppressive, to the extent the request for “all” responsive documents will yield cumulative information. WMG objects to the request for “any submissions . . . involving investigations related to competition” between certain entities as overbroad, unduly burdensome, oppressive, harassing, vague, ambiguous and nonspecific. As to the request for documents submitted to the FTC or European Commission in connection with the Universal/EMI merger, if the Services propose a reasonable limitation on this request, WMG will consider it.

**Document Request No. 28.** Documents sufficient to show, for each year from 2013 to the present, the royalty rates and terms for any sound recording licenses, fees or tariffs, paid or payable by any cable radio, CABSAT or satellite radio service in each country outside the United States.

**RESPONSE:** WMG objects to this request as overbroad, unduly burdensome, oppressive, and harassing, to the extent it requests a large volume of information that would be extremely burdensome to collect, review and produce. The burden would far outweigh any alleged benefit.

WMG further objects to the request for this information as irrelevant and premature. In prior proceedings, neither WMG nor SoundExchange has proposed international rates and terms as benchmarks, and they currently have no plans to do so in this proceeding. Moreover, the Participants have not yet submitted their written direct statements or disclosed their benchmark agreements. Without waiver of and subject to WMG’s general and specific objections, to the extent that WMG or SoundExchange uses such documents as part of a benchmark in its written direct statement, WMG will consider searching for and producing responsive documents for

certain relevant agreements. Until that time, WMG does not agree to produce documents responsive to this request, if it has any.

**Document Request No. 29.** All communications related to Sirius XM's use of Warner music and/or its direct license program, including without limitation emails, correspondence, draft press releases, and any joint representation or common interest agreements. The time period for this Request is from inception of the Sirius XM direct license program to the present.

**RESPONSE:** WMG objects to the request for "all" communications "related to Sirius XM's use of WMG music" as overbroad, unduly burdensome, and vague and ambiguous, because it could encompass an extremely large volume of information from a large number of custodians, much of which would be irrelevant to the issues in this proceeding. WMG objects to the request for all communications related to Sirius XM's "direct license" program on the same grounds. WMG objects to the request for any joint representation or common interest agreements related to Sirius XM's use of WMG music or its direct license program as vague, ambiguous and irrelevant to the issues in this proceeding and to the extent it seeks information that is privileged or otherwise protected from disclosure. WMG objects to the request for draft press releases as overbroad and unduly burdensome, and because final releases speak for themselves, rendering drafts irrelevant.

WMG further objects to the time period contemplated by this request as overbroad and unduly burdensome. WMG also objects to the request for this information as premature. The parties have not yet submitted their written direct statements, and whether WMG will submit witness testimony related to Sirius XM's use of WMG's music or Sirius XM's direct license program is undetermined. If WMG does submit such testimony, then the Services can seek documents "directly related" to that testimony, to the extent WMG has any such documents, after the testimony has been submitted. Until that time, WMG does not agree to produce the requested information, if it has any.

**Document Request No. 30.** All public statements, remarks, testimony, speeches, including but not limited to Congressional testimony, declarations, affidavits, articles, tweets, or blog postings,

made by or given by Warner or any officer, employee, or representative of Warner concerning this rate proceeding, statutory licenses, the recorded music industry, sound recording royalties, copyright reform and/or legislation, record companies, and/or digital music services.

**RESPONSE:** WMG objects to the request for “all” responsive documents as overbroad, unduly burdensome and oppressive, and to the extent such a request will yield cumulative information and information that is trivial. WMG further objects to the request as overbroad, unduly burdensome and oppressive because it is vague and seeks irrelevant information not reasonably limited to the issues in this proceeding. There potentially are numerous documents concerning these broad subject matters that have absolutely nothing to do with any of the issues in this proceeding. If the Services propose a reasonable limitation on this request, WMG will consider it.

**Document Request No. 31.** All documents provided to (or prepared in anticipation of providing them to) the Securities and Exchange Commission, Congress, the Copyright Office, the Department of Justice, or any other governmental agency concerning this rate proceeding, the recorded music industry, sound recording royalties, copyright reform and/or legislation, record companies, and/or digital music services.

**RESPONSE:** WMG objects to the request for “all” responsive documents as overbroad, unduly burdensome and oppressive. WMG further objects to the request as overbroad, unduly burdensome and oppressive because it is vague and seeks irrelevant information not reasonably limited to the issues in this proceeding. There are documents concerning these broad subject matters that have absolutely nothing to do with any of the issues in this proceeding. If the Services propose a reasonable limitation on this request, WMG will consider it.

**Document Request No. 32.** All written and oral testimony and exhibits (in restricted/non-public form where applicable) submitted by any Warner witness in a prior Copyright Royalty Board proceeding or ASCAP or BMI rate court proceeding.

**RESPONSE:** WMG objects to the request for “all” responsive documents as overbroad, unduly burdensome and oppressive because it is not reasonably limited to subject matters at issue in this

proceeding. Testimony and exhibits from prior CRB, ASCAP or BMI rate court proceedings may have nothing to do with the issues in this proceeding. WMG also objects to the request for Restricted, confidential, or non-public information to the extent the disclosure of such information is prohibited by protective orders entered in those other proceedings. If the Services propose a reasonable limitation on this request, WMG will consider it.

Respectfully submitted,

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*Counsel for Warner Music Group*

Dated: July 25, 2016

**CERTIFICATE OF SERVICE**

I, Alex Trepp, do hereby certify that, on the 25<sup>th</sup> day of July, 2016, copies of the foregoing were sent via electronic mail to all parties at the email addresses listed below. Hard copies will follow by first class mail.

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Dated: July 25, 2016

/s/ Alex Trepp  
Alex Trepp