

Before the
UNITED STATES COPYRIGHT ROYALTY JUDGES
Washington, D.C.

In the Matter of:

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)

WRITTEN REBUTTAL TESTIMONY OF

Aaron Harrison

Senior Vice President, Business & Legal Affairs
UMG Recordings, Inc.

February, 2017

TESTIMONY OF AARON HARRISON

1. My name is Aaron Harrison. I am Senior Vice President, Digital Business & Legal Affairs for UMG Recordings, Inc. UMG Recordings, Inc. is the primary recorded music company in the United States for the Universal Music Group (“UMG”), the colloquial name for a group of music-related companies owned by Vivendi S.A. Along with other members of the Digital Business & Legal Affairs Team, I negotiate agreements with various digital music service providers that use the sound recording repertoire of UMG and its digitally distributed indies, including agreements between UMG and on demand or interactive music services. My qualifications and background were submitted with my Written Direct Testimony in this proceeding.

2. I submit this rebuttal testimony to respond to the Written Direct Testimony submitted by Sirius XM (“SXM”) witness Dr. Carl Shapiro. Dr. Shapiro’s direct testimony states that the record labels’ agreements involving on-demand or interactive services do not arise under “workably competitive conditions” and call for the payment of rates by the services “at the monopoly level (or even higher).” Written Direct Testimony of Dr. Carl Shapiro (“Shapiro WDT”), page 24. He also asserts that the rates found in the interactive services agreements are “supra-competitive.” Shapiro WDT, page 49. This is not true.

3. The UMG agreements with these interactive service providers (such as [REDACTED]) provide fair market rates, and not rates that are “supra-competitive.” This is because the services have substantial bargaining power and leverage that they can and do exercise in our negotiations. This bargaining power and leverage arises out of the fact that these services, individually and collectively, are of increasing importance to our business. Because subscription streaming represents a very substantial portion of UMG’s total revenue, the negotiations with subscription services have been complex and intense, requiring UMG to accept more compromises on terms, including financial terms, in the agreements that it has reached. The reasons for this and some examples that demonstrate the bargaining power of the services are as follows.

4. Some of the companies that offer interactive services are among the largest and most powerful companies in the history of commercial enterprise. The interactive subscription deals are far more important to UMG than they are to these companies. [REDACTED]

[REDACTED]

[REDACTED]

5. [REDACTED]

[REDACTED] Google/YouTube is the largest streaming destination in the U.S. by streaming volume. It is the gateway to the internet for many people to consume music. [REDACTED]

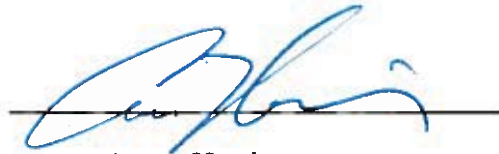
[REDACTED] Pandora is the largest internet radio service in the US and is the second most popular streaming destination. [REDACTED]

[REDACTED]

6. If UMG operated in a market in which it was able to set supra-competitive rates, one would expect to see uniform rates and terms across on-demand subscription services. Instead, UMG's contracts with subscription services that are part of the benchmark identified by Dr. Orszag evince the results of extensive back-and-forth negotiations that display a range of rates and terms driven by the unique strengths and positions of the diverse companies operating in an intensely competitive market.

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

Date: February 17, 2017



Aaron Harrison