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VIA U.S. FIRST CLASS AND ELECTRONIC MAIL

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Re: SoundExchange Proposal to Non-commercial Webcasters

Dear Representatives of Non-Commercial Webcasters:

I am writing regarding webcasting rates and terms set in the recent CRB order for the period January 1, 2006 – December 31, 2010. We continue to believe that the Judges' decision in the webcasting case was well-reasoned, and based upon the extensive evidence presented by the dozens of participating parties. Recently, however, SoundExchange received a letter from Reps. Berman and Coble pressing us to push forward the terms of the Small Webcaster Settlement Act ("SWSA") for a limited time, even though it means that certain noncommercial webcasters will pay below-market rates. As you know, these legislators are the Chairman and Ranking Minority Member of the Subcommittee on Courts, the Internet and Intellectual Property (of the House Committee on the Judiciary).

Specifically, Chairman Berman and Rep. Coble wrote that the "public interest will be best served . . . [by] an agreement to permit . . . noncommercial webcasters to continue to pay a rate below the full commercial rate." They also note that the case record and the CRB opinion "suggest that, at least on a temporary basis, it would be appropriate to extend below-market rates to . . . the vast majority of noncommercial webcasters, which includes many college and NPR-affiliated stations" such as you and/or your clients. Finally, while they note Congress' disinclination to micro-manage the process, they also "make clear that Congress has the authority and the ability to impose a resolution if the parties prove unable or unwilling to voluntarily address our concerns."

Following their direction, SoundExchange therefore proposes to extend, by private agreement, the key components of the rates and terms adopted for noncommercial webcasters

pursuant to SWSA, with a few minor modifications, for the current license period (i.e., January 1, 2006 through the end of 2010).

As part of this offer to your clients, we have a need to incorporate strict requirements for providing payments, statements of account and reports of use to SoundExchange. As you may know, the compliance of noncommercial webcasters, especially regarding the notice and recordkeeping requirements, leaves much to be desired. In fact, 92% of noncommercial services paying royalties in 2006 failed to submit a single report of use, even though the Copyright Royalty Board adopted regulations requiring services to submit reports of use to SoundExchange nearly eight months ago.

Such failure to meet their obligations under the law is unacceptable. In exchange for our willingness to extend below-market rates to certain noncommercial webcasters for five additional years, we fully expect greater compliance from these services. Furthermore, to ensure that noncommercial services are monitoring their usage and maintaining compliance, we would also include a provision requiring that services submit statements of account on a monthly basis whether they owe usage fees or not. Services would also no longer be permitted to pay a \$25 monthly fee in lieu of reporting.

Meeting these obligations must be a condition of the agreement. Therefore, if a noncommercial webcaster is in material violation of their obligations under the agreement, then that service would no longer be eligible for this settlement offer. In such instances, they would be required to pay the full noncommercial rates established by the Copyright Royalty Board in its recent decision.

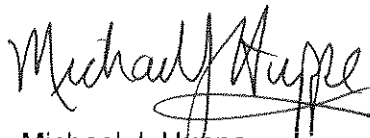
Please recognize that by extending this proposal, the content owners and artists are providing another subsidy through below-market rates for noncommercial webcasters at the behest of Congress. As such, pursuant to Congress's express statements, this agreement must have no precedential value and should be viewed solely as a compromise motivated by the unique business, economic, and political circumstances of noncommercial webcasters, copyright owners, and performers rather than as rates and terms that would have been negotiated in the marketplace between a willing buyer or willing seller. Reps. Berman and Coble made clear their desire to avoid any collateral impact of this below-market rate, by stating that "such rate should not be admissible as evidence or otherwise taken into account in any future government or rate-setting proceeding."

We hope that you and your constituents will find the terms of this proposal acceptable. Please feel free to contact me when you have the opportunity to discuss this matter further.

This letter is intended for settlement purposes only. All rights are expressly reserved.

I look forward to hearing from you soon.

Sincerely,



Michael J. Huppe
General Counsel