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SoundExchange and “PurePlay” Webcasters Reach Unprecedented Experimental Rate Agreement

Music’s creators to share in webcasting revenue and growth

WASHINGTON, D.C. – SoundExchange announced today innovative, experimental new terms for “pureplay” commercial webcasters, covering royalties for the Internet streaming of sound recordings that offer the potential for artists and copyright holders to share in the revenue growth of pureplay webcasters.

The agreement, under the Webcaster Settlement Act of 2009, gives “pureplay” webcasters the option of electing an alternative set of rates and terms to those issued by the Copyright Royalty Board (CRB) in 2007. The experimental formula includes revenue sharing for most services, and more robust reporting requirements, in exchange for a discount on per stream rates. Pureplay webcasters that elect these new terms will agree to pay artists and rights owners (through SoundExchange) a minimum percentage of *all* their U.S. revenues of up to 25 percent, and to pay a more significant annual minimum royalty.

“More than two years in the making, this is an agreement we’re proud of because it shows that both sides can address the business concerns of the webcasters while giving artists and copyright holders the potential to share in the revenue growth of webcasters,” said John Simson, Executive Director of SoundExchange. *“It’s a creative, groundbreaking approach that we wanted to try, and we hope it will work well for everyone involved – the artists, labels and eligible webcasters.”*

This agreement accommodates the specific characteristics of a distinct class of webcasters whose predominant form of business and revenue generation is the streaming of sound recordings under a government license -- hence the term “pureplay.” For these webcasters, the agreement provides for three rate classes, under which webcasters can opt for an alternative rate structure.

The three rate classes are large pureplay webcasters, small pureplay webcasters (defined as those earning \$1.25 million or less in total revenues with a cap on music streamed) and pureplay webcasters that provide bundled, syndicated or subscription services. SoundExchange views these newly negotiated rates as an experimental structure intended to provide an innovative

approach for a particular genre of webcasters and does not consider these terms indicative of fair market rates. *“Time will tell if revenue sharing is the right move for both the recording community and webcasters,”* Simson commented, *“but we’re willing to take the risk in the hope that artists, rights holders and webcasters can all benefit.”*

Details and Background:

Larger pureplay services will pay the greater of either a per performance rate or 25 percent of total revenue, and will agree to provide more comprehensive reporting about the sound recordings used than regulations currently require. Through 2014, small pureplay webcasters will have the option of paying the greater of a percentage of revenue or a percentage of expenses, and in certain circumstances have less stringent play list reporting requirements in return for payment of an additional “proxy fee.” Bundled, syndicated or subscription services will pay per-performance fees that are the same as those contained in an agreement concluded earlier in the year by SoundExchange with the National Association of Broadcasters. All pureplay webcasters would pay an annual minimum fee of \$25,000 that can then be applied to their royalties owed.

“What we found is that some webcasters use music to attract consumers and are able to generate revenue in many different ways. However, by virtue of the fact that the lion’s share of pureplay webcasters’ revenues come from playing music, we felt they faced unique business circumstances but that there was also an opportunity for artists and copyright holders and we wanted to address those issues,” said Simson. *“We believe the rates the CRB set were appropriate and fair. However, by incorporating an experimental approach whereby artists and copyright holders share in the growth of pureplay services, it gives certain pureplay webcasters the opportunity to flesh out various business models and the creators of music the opportunity to share in the success their recordings generate.”*

Simson also noted that by extending the agreement through 2015 (2014 for small pureplay rates), it provides these webcasters with business certainty and provides artists and copyright owners a steady and reliable stream of income with the potential for more through revenue sharing

Today’s announcement follows agreements concluded earlier in the year by SoundExchange with the National Association of Broadcasters for over-the-air radio stations that stream on the Internet, with the Corporation for Public Broadcasting, and with other small commercial webcasters.

The agreement will be binding on all copyright owners and performers and will be available to other eligible commercial webcasters once the agreed-upon rates and terms are published in the *Federal Register* by the U.S. Copyright Office.

The agreement was reached under the authority of the Webcaster Settlement Act of 2009 and applies to all commercially-released sound recordings webcast by these entities under the statutory licenses provided by Sections 112 and 114 of the Copyright Act.

For additional information please visit www.soundexchange.com