

## US PERFORMANCE RIGHTS FACTSHEET

### DID YOU KNOW?

**In the USA, when an over-the-air radio station broadcasts music, it doesn't pay the artists, musicians or owners of recordings for this privilege.**

- This is unlike any other OECD country.
- This is unlike any other copyright work.
- This is unlike other types of radio – such as satellite radio, Internet radio, cable radio, and emerging mobile phone radio – all of whom pay artists, musicians and owners of recordings for the use of their music.
- This is unlike what they do for songwriters and music publishers, who should and DO get paid by radio.
- This is unlike what these same broadcasters do when they simulcast the very same programming on the Internet.

That radio stations in the USA do not have to pay artists, musicians and owners of recordings for the use of their music is an anomaly that cannot be explained or justified.

**When satellite radio, Internet radio and cable radio broadcast music, they DO pay artists, musicians and owners of recordings.**

- Why should over-the-air radio stations in the USA enjoy an unfair advantage over other types of radio and over the people who create the music on which they rely for their profits?
- The US radio industry is worth \$20bn a year, yet pays nothing to the artists and labels that create and invest in the sound recordings that make up the bulk of their programming.

### CONSIDER THE FACTS:

1. **We're in a new world**, where all the old ways of doing business in media are converging. All of us are adapting to this new competitive marketplace. But US radio stations want to preserve the old rules under which they got away without paying for the music – their primary programming material. That rule was unfair then. It is absurd now.
2. **The US broadcasters want it both ways.** When cable and satellite systems use their programming, they want the choice to negotiate for payment. When they use our music, they don't want to pay for it. Understandable, but hypocritical.

### 3. Radio stations in the USA already get spectrum for free, they shouldn't get music for free too.

- All other types of radio pay. Why shouldn't they?
- They argue that paying for music would constitute a "tax." It's actually the reverse. Because all other types of radio in the US and all broadcasters worldwide pay artists, musicians, and owners of recordings to broadcast their music, the radio stations' exemption from payment actually constitutes a giant subsidy.
- They pay for DJs, equipment, utilities and salaries, just like any other business would. Why shouldn't they pay for their most important profit-driver of all – the music they broadcast?
- They already rightly pay songwriters and music publishers, and that should continue. Why not also the artists and owners of recordings who bring the songs to life?
- They will tell you that they shouldn't have to pay because they claim to "promote" sales of music. This is wrong.
  - Studies show that in many formats, radio is actually substitutional, not promotional. Radio stations play music to attract listeners and advertisers, not to promote music.
  - Satellite radio, Internet radio and cable radio all also claim that their services are promotional. But they pay artists, musicians and owners of recordings to broadcast music.
  - Moreover, songwriters benefit from any claimed promotional value as much as artists, musicians and owners of recordings, yet they are paid for their songs. What's the distinction?
  - Movies promote the sale of books. But no one would ever suggest that movie studios shouldn't have to pay authors.
  - Radio stations in the rest of the developed world pay the artists, musicians and owners of recordings.
- They will tell you that they shouldn't have to pay because they have "public interest" obligations that make them special. This is no excuse.
  - By that reasoning, they shouldn't be paying songwriters either – but they do and always have, and should continue to do so.
  - In exchange for what they do in the public interest, broadcasters have been granted extraordinarily valuable spectrum by the federal government FOR FREE. Their public interest obligations have nothing to do with paying for music.
- They will tell you that they shouldn't have to pay because they deliver radio for "free" to the consumer. This is no excuse.

➤ Many webcasts are also “free” to the consumer, but they pay artists, musicians and owners of recordings.

4. **Don't let them plead poverty.** If webcasters, satellite radio and cable radio can afford to pay musicians, artists and owners of recordings for the music they use, broadcasters can certainly afford to pay as well. It is, after all, the primary reason that they have an audience that attracts \$20 billion in advertising.

### CONSIDER THE EXPERTS:

**The expert government agency says the disparity is unfair.** The US Copyright Office has testified that broadcasters should pay artists, musicians, and owners of recordings when they broadcast their music.

### WHAT IS THE SOLUTION?

Over-the-air radio broadcasters should be subject to the same system already established for other types of radio that appropriately compensates musicians, artists, and owners of recordings who create the music that radio stations broadcast.

For more information on the musicFIRST campaign, visit

[www.musicfirstcoalition.org](http://www.musicfirstcoalition.org)