



June 7, 2007

Dear Representative:

On May 1, 2007 the U.S. Copyright Royalty Board decided industry-wide rates for Internet radio services' royalty payments to record companies and recording artists. You have heard criticism of the new royalty rates from webcasters, music consumers and artists for several weeks, and you have also heard from the Recording Industry Association of America in support of this decision, citing the fairness of the arbitration process that Congress legislated.

On behalf of our Internet radio industry, and the millions of music listeners, purchasers and artists who enjoy and benefit from Internet radio, we request that Congress focus on the results of the arbitration and not just the process.

For several reasons the CRB decision has shocked the industry and neutral analysts:

- The CRB-imposed royalties will cause immediate bankruptcy of the majority of the Internet radio industry when it becomes effective July 15, and will actually reduce royalties to record companies and artists as services go dark and royalties are never paid.
- For large webcasters the new royalty rates are effectively 300 percent of the pre-existing rate. For small webcasters the effective royalty increases up to 1200% -- immediately.
- Additionally, a \$500 per channel minimum fee dwarfs the basic rate increases. As interpreted by SoundExchange just this fee would cost only three companies well over **\$1 billion combined annually** (and the CRB decision states that retroactive royalties are due immediately, so the July 15 invoice for just three services **would exceed \$2 billion**). The "minimum fee" was justified as paying SoundExchange administrative costs, but it is extraordinary in relation to 2006 total industry SoundExchange royalties of less than \$20 million.

The new royalty's impact on a nascent, growing, competitive industry is contrary to what Congress intended in 1995 when it first legislated a sound recording performance royalty, or in 1998 when Congress first enacted a royalty-setting calculation that applies **only** to Internet radio.

- A statutory license is essentially a license to be in business, but the CRB has taken that away by setting royalty rates that are not merely unprofitable, but will eliminate much if not all of the industry.
- Internet radio competes against satellite and broadcast radio, but the competitive landscape is tilted by differing royalties rates among these platforms. For example, cable radio pays royalties of 7.25% of revenue, satellite radio less than 5% but **Internet radio, which now pays approximately 30% of industry-wide revenues will be forced to pay between 60 and 300% of revenue plus \$1 billion in administrative fees.**
- Internet radio technology empowers consumers, artists and independent record labels by enabling more new music to be introduced to more fans than any pre-existing medium. Internet radio is a marketplace solution to media consolidation and programming diversity concerns, but only if the Congress acts by July 15.

As a result of the CRB's decision, the future of music, of technology and innovation, of small artists and independent labels and millions of music-loving consumers is at stake. While process is important, we submit that the end result, which threatens the viability of the smallest, most innovative, most artist- and consumer-friendly promotional radio industry, is most significant. We ask you for your help to restore balance and fairness so that this new industry can survive and continue to pay artists reasonable royalties.

Thank you for your consideration.

Very sincerely,

Jerry Yang
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Rob Glaser
Founder, Chairman and CEO
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