



August 12, 2010

Dear NAB Radio Member:

You may have recently heard about a Radio Board of Directors meeting that was held August 6 at NAB headquarters. We want to share what was discussed at that meeting and update you on recent activity regarding the performance tax.

As you know, there is legislation pending in Congress, the Performance Rights Act, that would levy significant fees on the radio industry. Broadcasters refer to this as a "performance tax." First introduced in 2007, NAB and broadcasters have been, and continue to be, unalterably opposed to this legislation.

In the current congressional session, the Performance Rights Act has been voted out of the House and Senate Judiciary Committees and also has the support of congressional leaders. However, the Local Radio Freedom Act, broadcasters' counter resolution opposing a performance tax, has garnered significant support and served as an effective barrier to further movement on the Performance Rights Act.

In late 2009, at the insistence of House and Senate leaders, NAB met with musicFIRST – representing artists, labels and unions – for the first time. During this initial meeting, it was agreed that further discussions would be held.

Despite good faith discussions, NAB remains opposed to the Performance Rights Act pending in Congress. In February 2010, broadcasters participated in an effective grassroots on-air campaign in opposition to the bill. This put us in a strong position as we began discussions with musicFIRST. Our goal in entering into discussions was to shape a better outcome for the industry.

Those discussions have been productive and have exceeded our expectations. We started negotiations because we felt we had an obligation to protect the interests of our industry. We want to be able to look back on this process and know that every scenario was thoroughly considered and investigated together as an industry.

We have reached a point in the negotiation process where we felt it was appropriate to share what has been discussed. To date, the negotiation process has yielded the following **potential** terms. These terms **have not been agreed to**, but are under

discussion by the industry. We are sharing them with you for your feedback and will be discussing them in further detail during an upcoming virtual town hall meeting for radio members.

Terms include:

- A tiered rate of 1 percent **or less** for all net revenue (roughly \$100 million for the industry) which is **permanent** and can not be adjusted without a statutory change (passing a new law) or by mutual agreement.
- Permanent removal of CRB jurisdiction for terrestrial and streaming rates.
- A streaming rate reduction.
- Inclusion of an activated radio chip on all future mobile phones.
- Resolution of AFTRA issues (agency commercial replacement on webcasts).

More specifically, the tiered rate of 1 percent **or less** for all net revenue would be as follows:

- Commercial and non-profit stations with revenue less than \$50,000 annually would pay the lesser of \$100 or 1% of revenue annually.
- Commercial and non-profit stations with revenue between \$50,000 and \$100,000 annually would pay \$500 annually.
- Non-profit stations with revenue more than \$100,000 annually would pay \$1,000 annually.
- Commercial stations with revenue between \$100,000 and \$500,000 annually would pay the lesser of \$2,500 or 1% of revenue annually.
- Commercial stations with revenue between \$500,000 and \$1,250,000 annually would pay \$5,000 annually.
- Commercial stations with revenue more than \$1,250,000 annually would pay 1% of revenue annually.

It is important to note that stations with incidental music use – news, talk and sports radio – **would not pay for music**. Additionally, religious services – not religious music – would be exempt from music fees.

And again, the above referenced rates would be **permanently** fixed by statute and can only be changed by act of Congress or joint agreement between both parties.

Many items were discussed during these meetings, and at the outset, musicFIRST suggested a rate of 8 percent, which we found unacceptable. If left to the CRB, an 8 percent rate would not be unlikely. And certain financial analysts have suggested a performance tax could cost the industry \$2 billion and up annually. If the radio industry supports the terms that have been proposed above, it would be roughly \$100 million annually.

It is because of your grassroots advocacy and our position of strength that we have been able to garner such significant concessions from musicFIRST. But it is important to reiterate, there is **no agreement on the table** and these terms **have not been agreed to**, but are being shared with you, the radio industry, for your feedback.

With your help, we have been successful thus far in staving off the Performance Rights Act in the House and Senate. And while this is an ongoing battle, NAB and radio broadcasters are in a strong position. Because we are in a position of strength, we have been able to have a constructive dialogue with musicFIRST, keeping the best interests of broadcasters foremost in our minds.

We all share the goal of ensuring the long-term health and success of the radio business. This has been the overarching goal in these discussions, and we thank you for your engagement and support as we've successfully backstopped movement to date on the Performance Rights Act.

In sharing the details of our proposed terms with you, we hope you also hold candid discussions with your station personnel and update them on our dialogue with musicFIRST.

Our discussions are ongoing and we will be sure to keep you updated on any new developments as they happen.

On August 23, we plan to hold a virtual town hall meeting to discuss the proposed terms with you directly. It's important that we hear your feedback, as well as answer any of your questions. You'll be receiving more information on this soon.

In the meantime, please feel free to contact any one of us should you have any questions about this information and our ongoing efforts to ensure a bright future for radio.

Sincerely,

Steve Newberry  
Joint Board Chair

Caroline Beasley  
Radio Board Chair

Gordon H. Smith  
President and CEO