

Important Section 114 Statutory Requirements

NAB's agreements with Sony Music Entertainment and Warner Music Group waive certain Section 114 statutory requirements. In order to be eligible to stream under the statutory license, however, broadcasters must still meet certain other requirements found in Section 114(d)(2) of the Copyright Act. Statutory provisions that remain unchanged by the agreements include, but are not limited to, the following:

- Complying with the requirement that the stream be non-interactive.
- Not making available for on-demand listening "archived programs" that are (1) less than five hours long or (2) available for a period exceeding two weeks.
- Not transmitting continuous programs that are less than three hours long.
- Not performing any track as part of a service that synchronizes video imagery with sound recordings in a manner likely to confuse or deceive as to (1) the affiliation of the copyright owner or featured artist with either the broadcaster or a product or service being advertised by the broadcaster or as to (2) the endorsement of the copyright owner or featured artist of the broadcaster's activities (other than performing music).
- Streaming tracks only from lawfully made copies that have been (1) distributed to the public under the authority of the copyright owner or (2) authorized by the copyright owner for the transmitting entity to play (e.g., no bootlegs).
- Reasonably cooperating to prevent certain kinds of selective transmitting and/or copying of the transmission by the listener, and reasonably not interfering with technical copyright protection techniques. Transmitting, if technically feasible, the identifying information encoded in the sound recording (e.g., title, artist, songwriter, etc.).
- Not automatically and intentionally causing any device receiving the transmission to switch from one program channel to another.

To fully understand the impact of these waivers, the eligibility requirements of streaming under the statutory license and the related rights and responsibilities involved, we urge you to contact your station counsel.