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Copyright Royalty Board

[Docket No. 19-CRB-0012-AU (Sirius XM Radio Inc.)]

Notice of Intent to Audit

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Public notice.

SUMMARY: The Copyright Royalty Judges announce receipt of a notice of intent to audit the 2018 statements of account submitted by Sirius XM Radio Inc.'s Commercial Webcaster service, Preexisting Satellite Digital Audio Radio Service, New Subscription Service, and Business Establishment Service concerning royalty payments they made pursuant to two statutory licenses.

FOR FURTHER INFORMATION CONTACT: Anita Blaine, Program Specialist, by telephone at (202) 707-7658 or by email at crb@loc.gov.

SUMMARY INFORMATION: The Copyright Act, title 17 of the United States Code, grants to sound recordings copyright owners the exclusive right to publicly perform sound recordings by means of certain digital audio transmissions, subject to limitations. Specifically, the right is limited by the statutory license in section 114 which allows nonexempt noninteractive digital subscription services, eligible nonsubscription services, and preexisting satellite digital audio radio services to perform publicly sound recordings by means of digital audio transmissions. 17 U.S.C. 114(f). In addition, a statutory

license in section 112 allows a service to make necessary ephemeral reproductions to facilitate the digital transmission of the sound recording, including for transmissions to business establishments. 17 U.S.C. 112(e).

Licensees may operate under these licenses provided they pay the royalty fees and comply with the terms set by the Copyright Royalty Judges. The rates and terms for the section 112 and 114 licenses are set forth in 37 CFR parts 380 and 382-84.

As part of the terms set for these licenses, the Judges designated SoundExchange, Inc., as the Collective, *i.e.*, the organization charged with collecting the royalty payments and statements of account submitted by eligible licensees and with distributing royalties to the copyright owners and performers entitled to receive them under the section 112 and 114 licenses. *See, e.g.*, 37 CFR 380.2(a).

As the Collective, SoundExchange may, only once a year, conduct an audit of a licensee for any or all of the prior three calendar years in order to verify royalty payments. SoundExchange must first file with the Judges a notice of intent to audit a licensee and deliver the notice to the licensee. *See, e.g.*, 37 CFR 380.6(c).

On July 29, 2019, SoundExchange filed with the Judges a notice of intent to audit Sirius XM Radio Inc.'s Commercial Webcaster service, Preexisting Satellite Digital Audio Radio Service, New Subscription Service, and Business Establishment Service for transmissions terminating in the United States for the year 2018.¹ The Judges must publish notice in the **Federal Register** within 30 days of receipt of a notice announcing the Collective's intent to conduct an audit. *See id.* Today's notice fulfills this

¹ The notice does not include an intent to audit statutory license payments made by Pandora Media, LLC or its predecessor company, Pandora Media, Inc.

requirement with respect to SoundExchange's notice of intent to audit filed July 29, 2019.

Dated: August 23, 2019.

Jesse M. Feder,
Chief Copyright Royalty Judge.
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