



## **LIBRARY OF CONGRESS**

### **Copyright Royalty Board**

**[Docket No. 17-0006-CRB-AU]**

#### **Notice of Intent to Audit**

**AGENCY:** Copyright Royalty Board, Library of Congress.

**ACTION:** Public notice.

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**SUMMARY:** The Copyright Royalty Judges announce receipt of a notice of intent to audit the 2013, 2014, and 2015 statements of account of Sirius XM Radio, Inc., concerning royalty payments its Commercial Webcaster service, Preexisting Satellite Digital Audio Radio Service, New Subscription Service, and Business Establishment Service made pursuant to two statutory licenses.

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

**SUMMARY INFORMATION:** The Copyright Act, title 17 of the United States Code, grants to copyright owners of sound recordings 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 transmissions to business establishments.<sup>1</sup> 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 licensees, including those that operate commercial webcaster services, preexisting satellite digital audio radio services, new subscription services, and those that make ephemeral copies for transmission to business establishments. The Collective is also charged with distributing the royalties to the copyright owners and performers entitled to receive them under the section 112 and 114 licenses. *See* 37 CFR 380.4(d), 382.13(b)(1), 383.4(a), 384.4(b)(1).

As the Collective, SoundExchange may, once during a calendar year, conduct an audit of a licensee for any or all of the prior three 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* 37 CFR 380.6, 382.15, 383.4(a), and 384.6.

On December 22, 2016, 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 the years 2013, 2014, and 2015. 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* 37 CFR

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<sup>1</sup> Subject to the limitations set forth in section 114(d)(1)(C)(iv).

380.6(c), 382.15(c), 383.4(a), and 384.6(c). Today's notice fulfills this requirement with respect to SoundExchange's December 22, 2016, notice of intent to audit.

Dated: January 13, 2017

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Suzanne M. Barnett,  
Chief Copyright Royalty Judge.

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