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Copyright Royalty Board

[Docket No. 17-0015-CRB-AU]

Notice of SoundExchange's Intent to Audit Music Choice's "Preexisting" Subscription Service and Business Establishment Service for CY 2016

AGENCY: Copyright Royalty Board (CRB), Library of Congress.

ACTION: Public notice of receipt of a notice of intent to audit statements of account.

SUMMARY: The Copyright Royalty Judges announce receipt of a notice of intent to audit the 2016 statements of account of Music Choice concerning the royalty payments its Preexisting Subscription Service and Business Establishments Service made pursuant to two statutory licenses.

DATES: The notice of intent to audit was filed with the Copyright Royalty Board on June 27, 2017.

ADDRESSES: *Docket:* For access to the docket to read the notice of intent to audit, go to eCRB, the Copyright Royalty Board's electronic filing and case management system, at <https://app.crb.gov/> and search for docket number 17-0015-CRB-AU.

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

SUPPLEMENTARY 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 for transmissions to business establishments¹. 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 preexisting 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. *See* 37 CFR 382.2, 384.4(b).

As the Collective, SoundExchange may, not more than once 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. 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 382.6, 384.6.

On June 27, 2017, SoundExchange filed with the Judges a notice of intent to audit Music Choice's Preexisting Subscription Service and Business Establishment Service for

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

calendar year 2016. Today's notice fulfills the Judges' publication obligation with respect to SoundExchange's June 27, 2017 notice of intent to audit.

Dated: July 19, 2017

Suzanne M. Barnett,
Chief Copyright Royalty Judge.

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