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Copyright Royalty Board

[Docket Nos. 18-CRB-0001-AU (Music Choice), 18-CRB-0002-AU (Google Inc.), 18-CRB-0003-AU (Alpha Media LLC)]

Notice of Intent to Audit

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

ACTION: Public notice.

SUMMARY: The Copyright Royalty Judges announce receipt of three notices of intent to audit the 2013, 2014, and 2015 statements of account submitted by commercial webcaster and broadcaster Alpha Media LLC and by commercial webcasters Google Inc. and Music Choice¹ concerning royalty payments each made pursuant to two statutory licenses.

ADDRESSES: *Docket:* For access to the docket to read background documents, go to eCRB, the Copyright Royalty Board's electronic filing and case management system, at <https://app.crb.gov/> and search for docket numbers 18-CRB-0001-AU (Music Choice), 18-CRB-0002-AU (Google Inc.), and 18-CRB-0003-AU (Alpha Media LLC).

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

SUPPLEMENTARY 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

¹ The Judges' receipt and publication of SoundExchange's notice of intent to audit Music Choice in these circumstances does not imply an opinion regarding the applicability of the section 112 and 114 licenses to Music Choice's webcast transmissions.

limitations. Specifically, the performance right is limited by the statutory license in section 114, which allows nonexempt noninteractive digital subscription services, eligible nonsubscription services, pre-existing subscription 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. 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 for these licenses, the Judges designated SoundExchange, Inc., as the Collective, *i.e.*, the organization charged with collecting 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)².

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 December 22, 2017, SoundExchange filed with the Judges notices of intent to audit licensees Alpha Media LLC and Google Inc. for their transmissions terminating in the United States for the years 2014, 2015, and 2016. On December 29, 2017, it filed a notice of intent to audit Music Choice for its webcast transmissions for the same years.

² Citations are to current sections of the CFR.

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 requirement with respect to SoundExchange's notices of intent to audit filed December 22, 2017, and December 29, 2017.

Dated: January 17, 2018.

Suzanne M. Barnett,

Chief Copyright.

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