



SoundExchange Agreement with Pureplay Webcasters

Frequently Asked Questions

What does this agreement cover?

The agreement covers royalty rates and related terms from 2006-2015 (2014 for small webcasters) accepted by SoundExchange and certain pureplay commercial webcasters, and is available to all eligible pureplay webcasters. It applies to all commercially-released sound recordings used under the government “statutory” licenses, not just recordings of members of SoundExchange.

What are pureplay webcasters?

It is up to each commercial webcaster operating under the statutory licenses to determine whether it designates itself as a pureplay webcaster. Because the agreement requires payment of a percentage of a webcaster’s total U.S. revenue, it will be most attractive to webcasters that derive pureplay webcaster is one deriving an overwhelming portion of their revenue from the streaming of sound recordings.

What time period does the agreement cover?

The agreement is retroactive to 2006 and extends through 2015 (2014 for small webcasters).

Who is covered?

Once the agreed-upon rates and terms are published in the *Federal Register* by the U.S. Copyright Office, the agreement will be binding on all copyright owners and performers. After publication, the rates and terms will be available for opt-in by other eligible pureplay webcasters

What are the terms?

As detailed below, the agreement provides for three pureplay rate classes based on the revenues and level of streaming activity of the eligible pureplay webcaster and the type of service it provides. For standard, or large pureplay webcasters, SoundExchange would receive 25 percent of revenue if that share is higher than a per-stream rate. This revenue share allows SoundExchange to provide an alternative per-stream rate to that set by the Copyright Royalty Board (CRB).

What is the significance of the share of revenue?

Artists and copyright holders are providing a discount from the CRB-set rates, in return for a share of the revenue generated by an industry whose growth is based on the use of their music. The discounted rates help pureplay webcasters grow their businesses and

develop business models while allowing artists and labels to share in the upside potential of webcasting that is driven by their recordings.

What are the three rate classes? What rates will each class pay?

The three rate classes are:

- Large commercial webcasters (earning more than \$1.25 million in annual revenues)
- Small commercial webcasters (defined as those earning \$1.25 million or less in total revenues with a cap on the amount of sound recordings streamed), and
- Webcasters providing bundled, syndicated or subscription services

– **LARGE:** Large commercial webcasters will pay either 25 percent of total U.S. revenue or a per stream rate that is discounted from the CRB rate, whichever is higher. For all pureplay webcasters, there is a minimum \$25,000 per year payment, against which the per performance rates or share of revenue applies.

Large commercial webcasters pay the greater of these rates:

EITHER

Year	Rate per Performance	Per Aggregate Tuning Hour*
2006	\$0.00080	1.2¢
2007	\$0.00084	1.26¢
2008	\$0.00088	1.32¢
2009	\$0.00093	
2010	\$0.00097	
2011	\$0.00102	
2012	\$0.00110	
2013	\$0.00120	
2014	\$0.00130	
2015	\$0.00140	

OR

25 percent of gross revenues.

*In the years where specified, a usage-based royalty either computed on a per-performance basis or on an aggregate tuning hour basis (amount of airplay).

– **SMALL:** For small webcasters (defined as those earning \$1.25 million or less in total revenues with a cap on music streamed), there is the option of choosing the greater of a percentage of revenue or percentage of expenses. For 2009-2014, the percentage of

revenue for small commercial webcasters is 12 percent of the first \$250,000 in U.S. gross revenue and 14 percent of U.S. gross revenue above \$250,000. For 2006-2008, retroactive payments of 10 percent will be made for the first \$250,000 in U.S. gross revenue and 12 percent of U.S. gross revenue above \$250,000. In either case the percentage of expenses is 7 percent. The agreement also provides for a transitional rate for small webcasters that exceed the \$1.25 million revenue cap.

– **BUNDLED, ETC.:** The rates for commercial webcasters providing bundled, syndicated or subscription services are to be the same as the rates agreed to by the National Association of Broadcasters (NAB).

Year	Rate per Performance
2006	\$0.0008
2007	\$0.0011
2008	\$0.0014
2009	\$0.0015
2010	\$0.0016
2011	\$0.0017
2012	\$0.0020
2013	\$0.0022
2014	\$0.0023
2015	\$0.0025

*NAB rates apply only for the period 2009-2015

Are all pureplay webcasters required to sign?

While this offer is available to all qualified commercial pureplay webcasters, they can opt not sign, and instead pay the prevailing CRB-set rates. Rates for 2011-2015 will be set in a pending proceeding.

If a pureplay webcaster chooses not to enter this agreement, would it be subject to the prevailing CRB commercial rates?

Yes. Under the law, commercial webcasters generally must pay the CRB-set rates. SoundExchange does not have the authority to unilaterally alter or lower the rate structure industry-wide, and is equally bound by the CRB ruling. This agreement, reached under the Webcaster Settlement Act, is an opportunity to provide an alternative rate structure which includes a revenue sharing option for artists and copyright holders.

Who is eligible?

Any commercial webcaster can opt in based on the eligibility criteria in the different classes.

When are payments due?

If payments due for the period January 1, 2006, through publication of the agreement in the *Federal Register* (expected in mid-July) have not previously been made, they must be

paid within 60 days following publication of the agreement, including late fees on previously due royalties. Otherwise, minimum payments are due by January 31 each year, and running royalties are paid monthly. Small pureplay webcasters may make quarterly payments of the annual minimum.

What are the reporting and recordkeeping requirements with respect to plays?

Commercial webcasters electing this agreement generally must provide census reporting (actual recordings played and total listenership) and retain server logs for at least four years. These requirements enable SoundExchange to more accurately process royalty payments to artists and copyright holders. In certain circumstances, small pureplay webcasters will have less stringent reporting requirements in return for payment of an additional “proxy fee.”

What impact will this agreement have on proceedings before the Copyright Royalty Board?

A commercial webcaster wishing to take advantage of this deal who has participated in the appeal of the Webcasting II proceeding (to set rates for 2006-2010) or in the Webcasting III proceeding (to set rates for 2011-2015) must elect to withdraw from those proceedings when it elects this agreement. Additionally, commercial webcasters that opt-in to the pureplay agreement may not participate in rate proceedings before the Copyright Royalty Board for any part of the period from 2006-2015.

Can webcasters choose to opt-in at anytime?

Services wishing to opt in for any of the periods between 2006 and 2009 must do so no later than 30 days after the agreement is published in the Federal Register. Thereafter, services must elect annually at the beginning of each year.

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