

WSPR 2009

SoundExchange
Why do we have to do this!

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The Statutory License

The license conferred by Section 114 of the Copyright Act is “compulsory”

- (i) It applies only to “sound recordings”
- (ii) It licenses only the right to perform sound recordings by means of a non-subscription, non-interactive digital audio transmission

The Statutory License (Cont'd)

What it doesn't cover

- Podcasts
- Interactive services
- Video
- Creating CDs
- Live Music
- Dramatico-Musical Works

Statutory License Content Restrictions

Within 3 hours, play no more than

- 4 songs by a particular artist
- 3 songs from a particular album
- 2 songs consecutively from a particular album
- 4 songs from a boxed set
- 3 songs consecutively from a boxed set



Statutory License Content Restrictions (cont'd)

No prior announcements on the air or in advance written schedules

Identify song, artist and album in text on website during song



DMCA Basics:

Performance Defined

Each instance in which any portion of a sound recording is publicly performed *except* a sound recording:

- Directly licensed from the copyright owner
- In the public domain
- Whose performance is permitted under “Fair Use” Doctrine



Performance Defined (cont.)

- An **incidental** performance that **both**:
 - makes no more than incidental use of the music
 - brief musical transitions in or out of commercials or program segments
 - brief performances during news, talk or sports programming
 - brief background performances during disk jockey announcements
 - brief performances during commercials of *sixty* seconds or less in duration
 - brief performances during sporting or other public events

and



Performance Defined (cont.)

- Does not contain an entire sound recording, and
- Does not **feature** a particular sound recording of more than *thirty* seconds (as in the case of theme song)
- Ambient music that is background at a public event is not counted

Public Domain

- Federal copyright for sound recordings after 2/15/1972, but
- Possible common law copyright for sound recordings before 2/15/1972

- Chart on determining works in the public domain:

<http://copyright.cornell.edu/resources/publicdomain.cfm>



Scope of SX Agreement

- (1) No limit on listeners
- (3) No limit on number of channels
- (5) Subject to limits of statutory license
- (6) Subject to limits on number of stations and amount of listening
- (7) Subject to reporting requirements

