

SAY “NO” TO A NEW PERFORMANCE FEE, TAX OR OTHER CHARGE

“If a song’s not on the radio, it’ll never sell.” – Mark Wright, Sr. V.P., MCA Records, 2001

- **Local radio stations nationwide contribute more than \$2.4 billion in value to record labels and their performers by promoting their recorded music, concerts, merchandise and careers to an average of 235 million listeners every week.**

Not satisfied, the multi-billion dollar, largely international, record companies want Congress to impose, like a “tax,” an obligation on local radio stations to contribute an *additional \$7 billion not just in promotional value, but in cash.*

- **Under the *Law of Unintended Consequences*, a “performance tax” will harm the public interest in several respects: the legislation (i) will significantly increase station operating costs and thus place many radio stations in breach of their financing covenants and in default of their loans; (ii) force stations to change to a talk format or face foreclosure; (iii) force stations remaining music-based to reduce news departments, eliminate jobs, reduce hours of operation and substitute less costly syndicated programming for costly locally-originated programming, *thereby undermining the goal of program diversity and minority and female ownership in broadcasting.***
- **No *equitable* justifications: record labels and performers have repeatedly admitted how critical local radio stations are to their welfare (see attached); no need for a government “bailout;” the U.S. recording industry is larger than that of “performance tax” countries U.K., France, Germany, Canada, Australia, Italy, Spain and Mexico combined.**
- **No *public policy* justifications: (i) ASCAP, BMI and SESAC music license fees are not precedent-local radio stations actively promote performers, as well as their songs, concerts and merchandise to the recording industry’s economic advantage; in contrast, composers are never promoted; (ii) as Congress has found, Internet and satellite radio providers hurt sales of recorded music whereas local radio stations increase sales; (iii) subscribers pay for the recorded music; however, local radio stations air music for free; (iv) “performance taxes” in foreign countries benefit government-owned stations to the detriment of privately owned stations, result in fewer radio stations (less outlet diversity) and fewer distinct formats (less content diversity), and are disproportionately enjoyed by the record labels and highly-successful performers; and (iv) the subject of a “performance tax” involves many difficult, inter-related, international issues that are not resolved by the pending legislation, e.g., differences in durations of copyright protections, piracy enforcement.**
- **The proposed legislation violates *principles of fundamental fairness* by failing: (i) to include numerous other businesses that use recorded music for their customers, and (ii) to take into account *one-half of billion dollars paid annually* by local radio stations to composers, and to an increasing number of performers through ASCAP, BMI and SESAC.**

- ***Bottomline:*** The recording industry has not provided any justification for second-guessing Congress’s past conclusions that performance fees would jeopardize “the mutually beneficial economic relationship between the recording and traditional broadcast industries.” (House Report 104-274, 1995).