

Before the
UNITED STATES COPYRIGHT ROYALTY JUDGES
THE LIBRARY OF CONGRESS
Washington, DC

In re

**DETERMINATION OF ROYALTY
RATES AND TERMS FOR
PERFORMANCE OR DISPLAY OF
NONDRAMATIC MUSICAL WORKS
AND PICTORIAL, GRAPHIC, AND
SCULPTURAL WORKS BY PUBLIC
BROADCASTING ENTITIES (PB IV)**

**Docket No. 21-CRB-0002-PBR
(2023-2027)**

**PROPOSAL OF GLOBAL MUSIC RIGHTS, LLC OF
RATES AND TERMS FOR COLLEGES AND UNIVERSITIES**

Global Music Rights, LLC (“GMR”) hereby submit this proposal for statutory license fees to be paid to GMR by noncommercial educational radio broadcast stations licensed to colleges or universities that are not affiliated with National Public Radio, Inc. (“NPR”) for the performance of copyrighted musical works in GMR’s repertory for the years 2023 through 2027. GMR proposes a revised version of 37 C.F.R. § 381.5 that applies to the performance of copyrighted published nondramatic musical compositions in the GMR repertory “by noncommercial radio stations which are licensed to colleges, accredited universities, or other accredited nonprofit educational institutions and which are not affiliated with NPR” (“College Radio Stations”).

BACKGROUND

GMR is a performing rights organization that represents many of today’s most popular music creators in licensing public performance rights in their musical compositions. Founded in 2013 as the first performing rights organization in the United States in nearly 75 years, GMR’s

catalog has quickly expanded to include over 50,000 musical works. This is the first time that GMR has participated in a proceeding to set statutory license rates pursuant to 17 U.S.C. § 118.

The National Association of College and University Business Officers (“NACUBO”) is a membership organization that represents more than 1,700 colleges and universities in the United States. The American Council on Education (“ACE”) is the nation’s most visible and influential higher education organization and represents more than 1,700 colleges and universities.

NACUBO and ACE have participated in past proceedings under 17 U.S.C. § 118 on behalf of College Radio Stations. *See, e.g.*, 72 Fed. Reg. 67646; 77 Fed. Reg. 71104; 83 Fed. Reg. 2739.

On January 5, 2021, the Copyright Royalty Judges (“Judges”) published a notice in the above-captioned proceeding to set rates for the five-year term from January 1, 2023 through December 31, 2027. *See* 86 Fed. Reg. 325. GMR timely filed a petition to participate in the proceeding. However, unlike past section 118 proceedings, no entity or representative of the College Radio Stations submitted a petition to participate in the proceeding.

THE PROPOSAL

GMR hereby proposes GMR blanket license fees for College Radio Stations for the five-year period 2023 through 2027. The proposed GMR blanket license fees consist of rates for each year during the five-year period that increase based on an annual cost-of-living adjustment.

GMR proposes that these rates be codified as 37 C.F.R. § 381.5(c)(4). GMR also proposes corresponding revisions to the text of 37 C.F.R. §§ 381.1, 381.5, and 381.10, as follows:

1. Revising 37 C.F.R. § 381.1 to reflect the 2023-2027 period;
2. Renumbering current 37 C.F.R. § 381.5(c)(4) to 37 C.F.R. § 381.5(c)(5);
3. Revising 37 C.F.R. § 381.5(c)(4) (proposed to be renumbered as 37 C.F.R. § 381.5(c)(5)) to reflect the 2023-2027 period and to make clear that the \$1 fee covers all public performances in the aggregate of all musical compositions not in the repertoires of ASCAP, BMI, SESAC, or GMR;

4. Revising 37 C.F.R. § 381.5(d) to add GMR to the provision on royalty rate payments;
5. Revising 37 C.F.R. § 381.5(e) to add GMR to the provision on records of use;
6. Revising 37 C.F.R. § 381.10 to reflect the 2023-2027 period, to add GMR to the provision on publishing notices of revised rate schedules based on cost-of-living adjustments, and to refer to the GMR rates in 37 C.F.R. § 381.5(c)(4) as proposed herein.

The proposed changes to 37 C.F.R. §§ 381.1, 381.5, and 381.10 are set forth in Appendix A. No other revisions to 37 C.F.R. § 381 are proposed.

As noted above, no entity or representative for the College Radio Stations submitted a petition to participate in this proceeding. However, GMR has shared the proposed rates and revisions attached hereto as Appendix A with NACUBO and ACE, and NACUBO stated that: “NACUBO holds a position that royalty rate escalations limited to an annual consumer price index-based adjustment is a reasonable approach to updating 37 CFR § 381.5 - Performance of musical compositions by public broadcasting entities licensed to colleges and universities.”¹

GMR proposes these fees as the GMR license fees for all College Radio Stations, which the Judges may adopt and incorporate within 37 C.F.R. § 381.5. Such adoption in the regulations would make further proceedings, including filing of Written Direct or Rebuttal Statements, discovery, or a hearing, unnecessary for College Radio Stations insofar as their performance of GMR musical compositions is concerned.

CONCLUSION

GMR respectfully requests that the Judges adopt this proposal for the statutory license fees to be paid to GMR by the College Radio Stations pursuant to section 118 of the Copyright

¹ E-mail dated September 9, 2021, from Bryan Dickson, NACUBO Director, Student Financial Services and Educational Programs to Scott A. Zebrak and Lucy Grace D. Noyola, counsel for GMR. ACE has not voiced any objection to the proposal.

Act. GMR requests that 37 C.F.R. §§ 381.1, 381.5, and 381.10 be amended with the new rates and further amended as set forth in Appendix A of this proposal.

Dated: September 9, 2021

Respectfully submitted,

/s/ Scott A. Zebrak

Scott A. Zebrak (D.C. Bar No. 452649)

scott@oandzlaw.com

Oppenheim + Zebrak, LLP

4530 Wisconsin Avenue, NW, 5th Floor

Washington, DC 20016

Telephone: (202) 450-3758

Fax: (866) 766-1678

Counsel for Global Music Rights, LLC

APPENDIX A

§ 381.1 General.

This part establishes terms and rates of royalty payments for certain activities using published nondramatic musical works and published pictorial, graphic and sculptural works during a period beginning on January 1, 2023, and ending on December 31, 2027. Upon compliance with 17 U.S.C. 118, and the terms and rates of this part, a public broadcasting entity may engage in the activities with respect to such works set forth in 17 U.S.C. 118(c).

* * *

§ 381.5 Performance of musical compositions by public broadcasting entities licensed to colleges and universities.

* * *

(c) *Royalty rate.* A public broadcasting entity within the scope of this section may perform published nondramatic musical compositions subject to the following schedule of royalty rates:

* * *

(4) For all such compositions in the repertory of GMR, the royalty rates shall be as follows:

(i) 2023: The 2022 rate, subject to an annual cost of living adjustment in accordance with § 381.10.

(ii) 2024: The 2023 rate, subject to an annual cost of living adjustment in accordance with § 381.10.

(iii) 2025: The 2024 rate, subject to an annual cost of living adjustment in accordance with § 381.10.

(iv) 2026: The 2025 rate, subject to an annual cost of living adjustment in accordance with § 381.10.

(v) 2027: The 2026 rate, subject to an annual cost of living adjustment in accordance with § 381.10.

(5) For the performance of all other such compositions in the aggregate, from 2023 through 2027: \$1.

(d) *Payment of royalty rate.* The public broadcasting entity shall pay the required royalty rate to ASCAP, BMI, SESAC, and GMR not later than January 31 of each year. Each annual payment to ASCAP, BMI, SESAC, and GMR shall be accompanied by a signed declaration stating the number of full-time students enrolled in the educational entity operating the station and/or the

effective radiated power (ERP) as specified in its current FCC license. An exact copy of such declaration shall be furnished to each of ASCAP, BMI, SESAC, and GMR.

(e) *Records of use.* A public broadcasting entity subject to this section shall furnish to ASCAP, BMI, SESAC, and GMR upon request, a music-use report during one week of each calendar year. ASCAP, BMI, SESAC, and GMR shall not in any one calendar year request more than 10 stations to furnish such reports.

* * *

§ 381.10 Cost of living adjustment.

(a) On or before December 1, 2023, the Copyright Royalty Judges shall publish in the Federal Register a notice of the change in the cost of living as determined by the Consumer Price Index (all consumers, all items) during the period from the most recent Index published prior to December 1, 2022, to the most recent Index published prior to December 1, 2023. On or before each December 1 thereafter the Copyright Royalty Judges shall publish a notice of the change in the cost of living during the period from the most recent index published prior to the previous notice, to the most recent Index published prior to December 1, of that year.

(b) On the same date of the notices published pursuant to paragraph (a) of this section, the Copyright Royalty Judges shall publish in the Federal Register a revised schedule of the rates for §§ 381.5(c)(3) and (c)(4), the rate to be charged for compositions in the repertories of SESAC and GMR, which shall adjust the royalty amounts established in a dollar amount according to the greater of:

(1) The change in the cost of living determined as provided in paragraph (a) of this section; or

(2) One-and-a-half percent (1.5%).

(3) Such royalty rates shall be fixed at the nearest dollar.

(c) The adjusted schedule for the rates for §§ 381.5(c)(3) and (c)(4) shall become effective thirty (30) days after publication in the Federal Register.

Proof of Delivery

I hereby certify that on Thursday, September 09, 2021, I provided a true and correct copy of the Proposal of Global Music Rights, LLC of Rates and Terms for Colleges and Universities to the following:

Broadcast Music, Inc., represented by Jennifer T. Criss, served via ESERVICE at jennifer.criss@faegredrinker.com

Church Music Publishers' Association, Inc., represented by Carroll C Rigler, served via ESERVICE at cheshirerigler@shrumhicks.com

Educational Media Foundation, represented by David Oxenford, served via ESERVICE at doxenford@wbklaw.com

Public Broadcasting Entities, represented by David P Mattern, served via ESERVICE at dmattern@kslaw.com

Powell, David, represented by David Powell, served via ESERVICE at davidpowell008@yahoo.com

American Society of Composers, Authors and Publishers, represented by Sam Mosenkis, served via ESERVICE at smosenkis@ascap.com

SESAC Performing Rights, LLC, represented by John C. Beiter, served via ESERVICE at john@beiterlaw.com

National Religious Broadcasters Noncommercial Music License Committee, represented by Karyn K Ablin, served via ESERVICE at ablin@fhhlaw.com

The Harry Fox Agency LLC, represented by John C. Beiter, served via ESERVICE at john@beiterlaw.com

Signed: /s/ Scott A Zebrak