

Before the
UNITED STATES COPYRIGHT ROYALTY JUDGES
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)**

**SUBMISSION OF CORPORATION FOR PUBLIC BROADCASTING, NATIONAL
PUBLIC RADIO AND PUBLIC BROADCASTING SERVICE**

The Corporation for Public Broadcasting (“CPB”), National Public Radio (“NPR”) and Public Broadcasting Service (“PBS” and, with CPB and NPR, the “Public Broadcasting Entities”) (each a “Party” to this proceeding) hereby submit proposed regulations, a draft of which is attached, to establish rates and terms pursuant to certain provisions of 17 U.S.C. § 118 for the Public Broadcasting Entities and other public broadcasting entities (collectively the “Licensed Parties”) engaged in the activities set forth in 17 U.S.C. § 118 relating to the public performance of copyrighted works for the years 2023 through 2027 (the “2023-2027 Statutory License Term”).

By separate letters, each of the American Society of Composers, Authors and Publishers (“ASCAP”), Broadcast Music, Inc. (“BMI”), Global Music Rights, LLC (“GMR”) and SESAC Inc. (“SESAC”) have submitted to the Copyright Royalty Board, pursuant to 17 U.S.C. § 118 (b)(2), redacted versions of four separate final voluntarily-negotiated license agreements concerning the 2023-2027 Statutory License Term covering the public performance royalties due from the Licensed Parties for their performance of works licensed by, respectively: ASCAP, BMI, GMR and SESAC.

The provisions of 37 CFR § 381.4 govern performances of musical compositions by the Public Broadcasting Entities and other public broadcasting entities except for performances of compositions which are the subject of voluntary license agreements or which are covered by 37 CFR §§ 381.5 and 381.6. Attached as Exhibit A is a proposed provision to be set forth in 37 CFR § 381.4. The proposed regulations attached as Exhibit A carry forward the existing regulations, except for (i) updating the dates referenced in the regulations to reflect the 2023-2027 term, and (ii) eliminating a table of rates for 2013-2017 that was erroneously included in the prior regulations (the rates referenced in that table were not applicable during the 2018-2022 term). Attached as Exhibit B is a comparison document showing the proposed revisions to the current regulations.

DATED: December 30, 2022

Respectfully submitted,

**COUNSEL FOR PUBLIC
BROADCASTING ENTITIES**

By: /s/ David P. Mattern

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EXHIBIT A

§ 381.4 Performance of musical compositions by PBS, NPR and other public broadcasting entities engaged in the activities set forth in 17 U.S.C. 118(c).

(a) *Determination of royalty rate.* The following rates and terms shall apply to the performance by PBS, NPR and other public broadcasting entities engaged in activities set forth in 17 U.S.C. 118(c) of copyrighted published nondramatic musical compositions, except for public broadcasting entities covered by §§ 381.5 and 381.6, and except for compositions which are the subject of voluntary license agreements: The royalty shall be \$1.

(b) *Payment of royalty rate.* The required royalty rate shall be paid to each known copyright owner not later than July 31 of each calendar year for uses during the first six months of that calendar year, and not later than January 31 for uses during the last six months of the preceding calendar year.

(c) *Records of use.* PBS and NPR shall, upon the request of a copyright owner of a published musical work who believes a musical composition of such owner has been performed under the terms of this schedule, permit such copyright owner a reasonable opportunity to examine their standard cue sheets listing the nondramatic performances of musical compositions on PBS and NPR programs. Any local PBS and NPR station that shall be required by the provisions of any voluntary license agreement with ASCAP, BMI, GMR or SESAC covering the license period January 1, 2023, to December 31, 2027, to provide a music use report shall, upon request of a copyright owner who believes a musical composition of such owner has been performed under the terms of this schedule, permit such copyright owner to examine the report.

EXHIBIT B

§ 381.4 Performance of musical compositions by PBS, NPR and other public broadcasting entities engaged in the activities set forth in 17 U.S.C. 118(c).

(a) *Determination of royalty rate.* The following rates and terms shall apply to the performance by PBS, NPR and other public broadcasting entities engaged in activities set forth in 17 U.S.C. 118(c) of copyrighted published nondramatic musical compositions, except for public broadcasting entities covered by §§ 381.5 and 381.6, and except for compositions which are the subject of voluntary license agreements: The royalty shall be \$1.

| | |
|--|---------------------|
| (1) For performance of such work in a feature presentation of PBS: | |
| 2013-2017 | \$232.18 |
| (2) For performance of such a work as background or theme music in a PBS program: | |
| 2013-2017 | \$58.51 |
| (3) For performance of such a work in a feature presentation of a station of PBS: | |
| 2013-2017 | \$19.84 |
| (4) For performance of such a work as background or theme music in a program of a station of PBS: | |
| 2013-2017 | \$4.18 |
| (5) For the performance of such a work in a feature presentation of NPR: | |
| 2013-2017 | \$23.53 |
| (6) For the performance of such a work as background or theme music in an NPR program: | |

| | |
|--|-------------------|
| 2013-2017 | \$5.70 |
| (7) For the performance of such a work in a feature presentation of a station of NPR: | |
| 2013-2017 | \$1.66 |
| (8) For the performance of such a work as background or theme music in a program of a station of NPR: | |
| 2013-2017 | \$.59 |

~~(9) For purposes of this schedule the rate for the performance of theme music in an entire series shall be double the single program theme rate.~~

~~(10) In the event the work is first performed in a program of a station of PBS or NPR, and such program is subsequently distributed by PBS or NPR, an additional royalty payment shall be made equal to the difference between the rate specified in this section for a program of a station of PBS or NPR, respectively, and the rate specified in this section for a PBS or NPR program, respectively.~~

(b) Payment of royalty rate. The required royalty rate shall be paid to each known copyright owner not later than July 31 of each calendar year for uses during the first six months of that calendar year, and not later than January 31 for uses during the last six months of the preceding calendar year.

(c) Records of use. PBS and NPR shall, upon the request of a copyright owner of a published musical work who believes a musical composition of such owner has been performed under the terms of this schedule, permit such copyright owner a reasonable opportunity to examine their standard cue sheets listing the nondramatic performances of musical compositions on PBS and NPR programs. Any local PBS and NPR station that shall be required by the provisions of any voluntary license agreement with ASCAP, BMI, [GMR](#) or SESAC covering the license period January 1, 2023~~18~~, to December 31, 2027~~27~~, to provide a music use report shall, upon request of a copyright owner who believes a musical composition of such owner has been performed under the terms of this schedule, permit such copyright owner to examine the report.

Proof of Delivery

I hereby certify that on Friday, December 30, 2022, I provided a true and correct copy of the Public Broadcasting Entities' Notice of Settlement and Proposed Regulations to the following:

SESAC Performing Rights, LLC, represented by Timothy L Warnock, served via E-Service at twarnock@loeb.com

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

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

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

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

Powell, David, represented by David Powell, served via E-Service at davidpowell008@yahoo.com

The Harry Fox Agency LLC, represented by Stephen Block, served via US Mail

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

Global Music Rights, LLC, represented by Scott A Zebrak, served via E-Service at scott@oandzlaw.com

Signed: /s/ David P Mattern