

Before the
UNITED STATES COPYRIGHT ROYALTY JUDGES
Washington, D.C.

In the Matter of:

Determination of Rates and Terms for
Digital Performance of Sound Recordings
and Making of Ephemeral Copies to
Facilitate those Performances (*Web VT*)

Docket No. 23-CRB-0012-WR
(2026-2030)

**NOTICE OF PARTIAL WITHDRAWAL OF SOUNDEXCHANGE’S MOTION TO
COMPEL DISCOVERY FROM THE NATIONAL ASSOCIATION OF
BROADCASTERS**

On November 12, 2024, SoundExchange, Inc. (“SoundExchange”) filed a motion (Dkt. No. 43827, the “Motion”) that, among other things, sought to compel the National Association of Broadcasters (“NAB”), to produce documents related to cost per thousand impressions advertising (“CPM”) data from a selection of NAB members from which NAB had otherwise agreed to produce documents (the “Advertising Rate Request”).

SoundExchange and the NAB met and conferred extensively regarding the Advertising Rate Request in the month since the NAB served its responses and objections to SoundExchange’s document requests on October 7, 2024. SoundExchange explained why the data sought by the Advertising Request went to the heart of the NAB’s direct case, yet the NAB steadfastly refused to produce such data. Believing the parties to be at an impasse, SoundExchange undertook the expense of drafting the Motion, and shared it with the NAB at an agreed-upon exchange time on November 7, 2024. The parties further agreed that opposition briefs would be exchanged in the evening of November 12, 2024, so the moving party could compile and file motion packets.

At 4:16 p.m. on November 12, 2024, counsel for the NAB informed SoundExchange that, “[u]pon further review” it would now agree to produce the data sought by the Advertising Rate

Request. No further explanation for the NAB’s reconsideration was given. Due to the late hour of this notice—which came five days after the parties’ agreed deadline to finalize moving briefs, and as SoundExchange was finalizing its opposition to a separate motion filed by the NAB— SoundExchange filed the Motion in the same form that it had been exchanged with the NAB on November 7, 2024. In light of the NAB’s offer, which SoundExchange has accepted, there is no longer a need for the Judges to resolve the Motion with respect to the Advertising Rate Request, and SoundExchange hereby withdraws solely the portion of the Motion related to that request.¹

November 13, 2024

Respectfully submitted,

s/ Scott A. Edelman

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¹ For the avoidance of doubt, SoundExchange does not withdraw the balance of the Motion, which seeks to compel the production of documents and an interrogatory response related to iHeart Media, Inc.’s service offerings.

Proof of Delivery

I hereby certify that on Wednesday, November 13, 2024, I provided a true and correct copy of the Notice of Partial Withdrawal of SoundExchange's Motion to Compel Discovery from the National Association of Broadcasters to the following:

College Broadcasters, Inc., represented by Seth D. Greenstein, served via E-Service at sgreenstein@constantinecannon.com

Educational Media Foundation, represented by Keenan P Adamchak, served via E-Service at kadamchak@wbklaw.com

George Johnson dba Geo Music, represented by George D Johnson, served via E-Service at george@georgejohnson.com

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

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

Sirius XM Radio LLC/Pandora Media LLC, represented by Todd Larson, served via E-Service at todd.larson@weil.com

The National Association of Broadcasters, represented by Joseph R. Wetzel, served via E-Service at joe.wetzel@lw.com

Word Collections, Inc., represented by Eric B Goldberg, served via E-Service at eric@wordcollections.com

Signed: /s/ Scott Edelman