

mba



AIRWAVES

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The Performance Tax Update

To date, the Local Radio Freedom Act, H. Con. Res. 49, has 150 co-sponsors including Massachusetts Representative Mike Capuano. Our sincere appreciation is extended to the Congressman for his continued support of Bay State radio broadcasters.

Tell Congress why this will hurt your station

This proposed fee was instituted by the record companies – not artists, who underestimated the power of digital downloading and are now suffering. They need to reinvent themselves, NOT fee the radio industry for their failures. This is not about the recording artists needing money. This is a blatant, quick fix attempt by the four major labels (three of which are operated by giant international conglomerates) operating the RIAA to hold up the radio industry for a bailout. In fact, artists and background musicians or singers would likely receive a fraction of these fees.

The recording industry wants to charge local radio broadcasters who provide America's communities free entertainment, information and emergency service.

In this current economic climate, this fee would devastate hundreds of small market stations (many locally owned) forcing them to cut back on staffing and in turn community service.

Larger market stations would stop playing or promoting new releases unless the record companies bought the airtime they are accustomed to for exposure. Record labels and artists have benefited from the free radio airplay and on-air interviews, in many cases timed to coincide with concert appearances in the station's coverage area.

A performance fee would radically upset the time tested, delicate balance that has worked for over 50 years for record labels, artists and radio stations. Performers' famous careers have been built and pop music culture as we know it, are creations of this successful, symbiotic relationship between artists, radio and listeners. Without it, the American music industry would not have thrived and grown as it has. This penalty would ruin most chances any new artist has at exposure, the key to growing popularity and financial reward. Furthermore, this plan will backfire on the artists because radio stations will now have a financial incentive to NOT play their music.

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New Legal Guide available



Attorney Elizabeth Ritvo from the law firm of Brown Rudnick Berlack Israels in Boston, in-state counsel for the MBA Legal Hotline, has updated the MBA Member Legal Guide. Last published in 2002, the revised Guide has an extensive new section on Internet issues, a discussion of amendments effective in January to the Americans with Disabilities Act and the Family Medical Leave Act, as well as several statutes that were amended as of January and March of 2009. This new version should be easy to navigate for stations looking for quick answers to questions on hiring and firing, advertising rules and restrictions and more. As always, for more extensive information and/or clarification, members can contact Elizabeth or Attorney Samantha Gerlovin at our free In-state Legal Hotline at 617-856-8249. The Guide is now available on our website, www.massbroadcasters.org for download.



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LETTER FROM THE EDITOR



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BOSTON DMA ANALOG SHUT-OFF GUIDE



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PERFORMANCE TAX UPDATE



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BOARD OF DIRECTORS ANNOUNCED

Boston DMA Analog Shut-Off Guide

As of April 3, 2009:

- WBZ-TV (CBS) – 12:31pm on June 12
- WBPX-TV (ION Media Networks) – midnight on April 16
- WCVB-TV (ABC) – 11:59pm on June 12
- WDPX-TV (ION Media Networks) – midnight on April 16
- WENH-TV (PBS) – full digital on February 17
- WFXT-TV (FOX) – full digital on February 27
- WGBH-TV (PBS) – at 11:59pm on June 12
- WGBX-TV (PBS) – at 11:59pm on April 23
- WHDH-TV (NBC) – 11:59pm on June 12
- WLVI-TV (CW) – 11:59pm on June 12
- WMUR-TV (ABC) – 11:59pm on June 12
- WNEU-TV (Telemundo) – full digital on February 17
- WPXG-TV (ION Media Networks) – midnight on April 16
- WSBK-TV (IND) – 12:01pm on June 12
- WUNI-TV (Univision) – full digital on March 14
- WUTF-TV (Telefutura) – 11:59pm on June 12
- WWDP-TV (Shop NBC) – 11:30am on April 16
- WYDN-TV (IND) – April 30
- WZMY-TV (MyNetworkTV) – full digital on December 1, 2008

FROM THE EDITOR

As we go to press, your Association is heading to Washington DC for the NAB State Leadership Conference and to meet with members of Congress on a number of broadcast-related issues including the DTV Transition, Performance Royalty Tax and Fairness Doctrine.

Upon our return, it will be time to sift through all the applications we've been receiving for our Student Broadcaster Scholarship Program and send finalists out to our participating stations for their decisions. This year, we're proud to award the most deserving recipient with the Al Sprague Memorial Scholarship in the amount of \$2500.

We're also looking forward to our Annual Meeting and Board of Directors Election on Tuesday, April 14 in Framingham. With so many tough legislative issues ahead of us, combined with difficult times in the industry, we're pleased to have such a strong group of people represent our member stations on the Board.

To find out more about what's going on, make sure you check out our Blog at <http://blog.massbroadcasters.org>.

Deanna Raymond

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The Performance Tax Update

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Performers who compose now receive payments from radio stations via BMI, ASCAP, SESAC. Performers also enjoy huge incomes from touring, record sales, merchandising, TV appearances, etc. Historically, composers do not have these opportunities to make money as performers do; justifying the current royalty payments. It is composer's creativity that made records possible and they have been compensated accordingly by radio.

Entertainment businesses that air pre-recorded music for their patrons such as sports stadiums, hotels, restaurants and other venues would also feel the onerous affects of this fee.

Congress has long recognized value in free radio promotion and airplay enjoyed by record labels and recording artists and should continue to do so. Your Massachusetts delegation needs to hear from station owners and operators with real stories of how this could impact you.

NAB releases study that refutes RIAA reports

According to a study released by the NAB earlier this month, the Recording Industry Association of America's performance tax effort is founded on an incomplete and therefore misleading comparison of U.S. and international copyright law.

"The record labels have devised a lobbying strategy that relies on cherry-picking international examples that paint a distorted picture of copyright law," said NAB Executive Vice President Dennis Wharton. "The U.S. protects sound recordings for 45 years longer than Canada and many countries in Europe and elsewhere; if it's 'international parity' that RIAA is looking for, they ought to examine the entire landscape."

Among the foreign regulations cited in the new analysis:

Other countries provide less copyright protection for sound recordings. Under U.S. copyright law, a sound recording is generally protected for 95 years. Canada and many countries in Europe and Asia provide only 50 years of protection. In such countries, the recordings of artists like Elvis Presley, Buddy Holly and many other stars of the 1950s and 1960s have either, or will soon, lose copyright protection.

Other countries' broadcasting systems are or were government-subsidized. While the U.S. broadcasting business was built by private commercial entrepreneurs, broadcasting systems in many other countries were built and owned, or heavily subsidized, by the government and by tax dollars. The 2005 report of the Digital Future Initiative Panel noted a wide disparity between the public funding for broadcasting in the U.S. versus other countries around the world:

Annual Funding Per Capita:	
United States	\$1.70
United Kingdom	\$83.00
Germany	\$85.00
Canada	\$28.00
Japan	\$49.00
Australia	\$28.00

Cultural playlist quotas are imposed on broadcasters abroad. Diversity on the airwaves in the U.S. comes from the high quantity of stations and market-driven differences in programming,

not from government-mandated quotas, as it does in other countries. In Canada, private radio stations must ensure that 35 percent of all popular music aired each week is Canadian. Similar provisions exist in numerous countries abroad, including Mexico, France and Poland.

The analysis concludes by noting that the existing U.S. model of free airplay for free promotion "has served the recording and broadcast industries well for decades." Levying a new performance tax on local radio stations would "take this mutually beneficial system and transform it into an unfair, one-sided scheme that financially benefits only the recording industry -- to the detriment of local radio stations and their listeners," the analysis concludes.

The international analysis is the latest study released by NAB, countering arguments made by the RIAA, a Washington-based organization representing record label conglomerates seeking to levy a new fee, or "performance tax," on America's local radio stations for music aired free to listeners. Last year, NAB released a study showing that free airplay on local radio stations generated between \$1.5 and \$2.4 billion dollars in album sales for the recording industry.

Show the FCC how much you help the record companies!

We're compiling examples of how much radio helps record labels and their artists. Many stations across the country have received recognition from the labels for their work in promoting the music. Do you have any examples of this? Send us your photos so we can compile them for members of Congress and show them just how much these record companies rely on radio. Send your pictures to deanna@massbroadcasters.org.

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