

# The Performance Rights Act Puts Local Jobs at Risk

## Issue

During the past two Congresses, some members of Congress, at the behest of the big record labels, introduced a bill to impose a performance tax on local radio broadcasters. The Performance Rights Act would have imposed a devastating new fee on local stations simply for airing music on the radio – airing the music that provides free promotion to the labels and artists. A new performance fee could financially cripple local radio stations putting jobs at risk, stifle new artists trying to break into the recording business and harm the listening public who rely on local radio.

## History

Because of the promotional value of free radio airplay, Congress has repeatedly rejected the record labels' attempts to impose a performance tax on local radio stations.

NAB and broadcasters have been, and continue to be, unalterably opposed to the Performance Rights Act since it was first introduced in 2007. In the 111th Congress, NAB worked with Reps. Gene Green (TX-29) and Mike Conaway (TX-11) and then-Sen. Blanche Lincoln (AR) and Sen. John Barrasso (WY) to introduce the Local Radio and Freedom Act in the House and Senate, resolutions to oppose a performance fee on local radio stations. More than 300 members of the House and Senate supported these resolutions.

In the 112th Congress, the Local Radio Freedom Act was introduced again by Reps. Conaway and Green. Additionally, Sens. Ben Nelson (NE) and John Barrasso (WY) introduced the resolution in the Senate. More than 150 members of the House and Senate currently support these resolutions.

In February 2010, at the request of congressional leaders, NAB began a constructive dialogue with musicFIRST – the organization representing artists, record labels and unions. Our goal in entering into discussions was to shape a positive outcome for the radio industry.

In late October 2010, after months of discussion and feedback from the radio industry, NAB presented musicFIRST with a legislative term sheet designed to resolve the longstanding performance fee issue. Under language included in the term sheet, music-playing terrestrial radio stations would pay a limited performance fee, which would be set at between 0.25 percent and 1 percent of a station's net revenue or less, depending on the size of a station and a provision related to the penetration of radio-activated mobile devices in the U.S. The term sheet also included provisions providing for lower streaming rates, resolution of union issues that make streaming difficult for stations and permanent removal of the Copyright Royalty Board from the rate setting process.

NAB remains unalterably opposed to the language proposed in the Performance Rights Act. However, in a good faith effort to resolve this issue in the best interests of both radio and the music industry, NAB's Radio Board of Directors endorsed a solution that provides broadcasters with a foothold in future digital platforms.

While the term sheet was not agreed to by the music industry, NAB plans to maintain discussions and continue to fight any performance fee legislation on Capitol Hill.

*(Continued)*

### **NAB Position**

For more than 80 years, record labels and performers have thrived from radio airplay – what is essentially free advertising – from local radio broadcasters. Free, broadcast radio touches 239 million listeners a week, a number that dwarfs the reach of Internet and satellite radio. Free radio airplay provides the recording industry increased popularity, visibility and record sales. In fact, 85 percent of listeners of all audio services identify radio as the place they first heard new music. And the promotion by local radio does not just include the music; it includes concert promotion, on-air interviews with bands and ticket and CD giveaways.

But now the record labels find themselves struggling because they have failed to adapt their business model to the digital age. While their business model suffers, they seek to recoup revenues on the backs of local radio stations that are, ironically, their greatest promotional tool. The value of free radio promotion to record labels and performers is well recognized.

Performance Rights Act legislation threatens the local radio stations on which communities depend. Broadcasters are engaged in a good faith effort to resolve this issue in the best interests of both radio and the music industry.

### **Action Needed**

Congress should oppose a congressionally mandated performance tax on free, local radio broadcasters that would jeopardize local jobs, prevent new artists from breaking into the recording business and harm the 239 million Americans who rely on local radio. Additionally, members should cosponsor H. Con. Res. 21 and S. Con. Res. 7, opposing any new performance tax, fee or royalty on local radio stations.

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