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To: All Radio Clients

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## **SOUNDExchange TO AUDIT DIGITAL PERFORMANCE ROYALTY PAYMENTS OF SIX WEBCASTERS**

The U.S. Copyright Office has announced that SoundExchange intends to audit the 2005 digital performance royalty payments of webcasters Susquehanna Radio Corp.; Yahoo!, Inc.; Real Networks, Inc., Ltd.; AOL LLC; and MTV Networks, and the 2005 through 2007 royalty payments of Last.fm, Ltd.

Webcasters may digitally transmit sound recordings under the U.S. Copyright Act's compulsory licenses, but must pay royalty fees in exchange for doing so. SoundExchange is the designated agent for collecting the royalty fee payments under the compulsory licenses, and for distributing the fees to copyright owners and performers entitled to receive them. Webcasters operating pursuant to the compulsory licenses must calculate and pay the applicable royalty fees to SoundExchange on a monthly basis. SoundExchange may conduct a single audit of a webcaster for any

or all of the three prior calendar years. The cost of the audit will be paid by SoundExchange unless it is determined during the audit that the webcaster underpaid its royalties by 10% or more, in which case the webcaster must pay the cost of the audit.

SoundExchange's determination to audit these webcasters' royalty payments serves as a reminder of the importance of properly calculating and timely submitting monthly royalty fee payments to SoundExchange. Webcasters are required to retain records relating to royalty fee payments for at least a three-year period. If you have any questions about digital performance right royalties or filings with SoundExchange, please contact our office.

*Leventhal Senter & Lerman PLLC*

This memorandum is intended only as a general discussion of these issues and should not be regarded as legal advice. We would be pleased to provide additional details or advice about specific situations if desired. To discuss any of the issues presented here, please contact Philip Bonomo at 202-416-6773 or another attorney in our office.