



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>
TTY: 1-888-835-5322

DA 09-1773

Released: August 7, 2009

MEDIA BUREAU ACTION

COMMENT DATES ESTABLISHED FOR MUSICFIRST PETITION REGARDING THE ACTIONS OF CERTAIN RADIO BROADCASTERS IN OPPOSITION TO THE PERFORMANCE RIGHTS ACT

MB Docket No. 09-143

Comment Date: September 8, 2009

Reply Comment Date: September 23, 2009

The MusicFIRST Coalition (“MusicFIRST”) has filed a petition requesting that the Commission investigate the actions of certain radio broadcasters in opposition to the Performance Rights Act (“PRA”). The PRA is legislation pending before Congress which would provide for the payment of royalties to artists and musicians when their work is played publicly on terrestrial radio. The National Association of Broadcasters (“NAB”) and most individual broadcasters oppose the PRA, while MusicFIRST supports it.¹ MusicFIRST requests that the Commission issue a declaratory ruling that the actions of certain radio broadcasters in opposition to the PRA are contrary to the public interest, and ensure that broadcasters cease such actions.² MusicFIRST also requests that the Commission consider “strengthening the license renewal process and shortening license terms” in the appropriate proceeding.³ In general, MusicFIRST asserts that broadcasters are violating their public interest obligations “[b]y using their licenses over public airwaves to promote their own pecuniary interests and to distort an important matter of public debate.”⁴ Through this *Public Notice*, we seek comment on MusicFIRST’s petition, in particular:

- (i) whether and to what extent certain broadcasters are “targeting and threatening artists who have spoken out in favor of the PRA,”⁵ including a refusal to air the music of such artists;

¹ Request for Declaratory Ruling Filed on Behalf of MusicFIRST Coalition at 4 (filed June 9, 2009).

² *Id.* at 1-4.

³ *Id.* at 16.

⁴ *Id.* at 10.

⁵ *Id.* at 5.

- (ii) the effects of radio broadcasters' alleged refusal to air advertisements from MusicFIRST in support of the PRA;
- (iii) whether and to what extent broadcasters are engaging in a media campaign, coordinated by NAB, which disseminates falsities about the PRA; and
- (iv) whether certain broadcasters have evaded the public file requirements by characterizing their on-air spots in opposition to the PRA as public service announcements.

We also seek comment on any related issues that would inform the Commission's examination of the matters described in the Petition. We recognize that substantial First Amendment interests are involved in the examination of speech of any kind, and it is not clear whether remedies are necessary or available to address the actions alleged by MusicFIRST. We are seeking comment on the issues raised by MusicFIRST in order to develop a more complete factual record.

This proceeding will be treated as "permit but disclose" for purposes of the Commission's *ex parte* rules. See generally 47 C.F.R. §§ 1.1200-1.1216. As a result of the permit-but-disclose status of this proceeding, *ex parte* presentations will be governed by the procedures set forth in Section 1.1206 of the Commission's rules applicable to non-restricted proceedings.⁶

All filings must reference **[MB Docket No. 09-143]**. Comments sent via e-mail to the Commission will be considered informal and will not be part of the official record. Comments may be filed using: (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies.⁷

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the website for submitting comments.
 - For ECFS filers, in completing the transmittal screen, filers should include their full name, U.S. Postal service mailing address, and the applicable docket number: **[MB Docket No. 09-143]**. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to ecfs@fcc.gov, and include the following words in the body of the message: "get form". A sample form and instructions will be sent in response.
- Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission.
 - The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of *before* entering the building.

⁶ 47 C.F.R. § 1.1206.

⁷ See *Electronic Filing of Documents in Rulemaking Proceedings*, GC Docket No. 97-113, *Report and Order*, 13 FCC Red 11322, 11326, ¶ 8 (1998).

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, S.W., Washington, D.C. 20554.

One copy of each filing must be sent to Diana Sokolow, Media Bureau, Room 4-A860, 445 12th Street, S.W., Washington, D.C. 20554 or diana.sokolow@fcc.gov.

Filings are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th St., S.W., Room CY-A257, Washington, DC 20554, telephone (202) 418-0270. They may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th St., S.W., Room CY-B402, Washington, DC, 20554, telephone (202) 488-5300, facsimile (202) 488-5563, or via email at fcc@bcpiweb.com.

Alternate formats of this *Public Notice* (computer diskette, large print, audio recording, or Braille) are available to persons with disabilities by contacting the Consumer and Governmental Affairs Bureau at (202) 418-0530 or (202) 418-0432 (TTY).

For further information, contact Diana Sokolow, (202) 418-0588. Press inquiries should be directed to David Fiske, (202) 418-0513.

-FCC-