

# More Static

**Independent Labels and Commercial Airplay 18 Months after  
the FCC Consent Decree and the “Rules of Engagement”**

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## EXECUTIVE SUMMARY

Commercial radio has gone through a major upheaval in recent years. Then New York Attorney General Eliot Spitzer launched a high-profile investigation of payola at the nation's biggest radio chains in 2003. The inquiry turned up evidence of surprisingly brazen pay-for-play schemes: major label inducements to radio programmers and stations, and a corrupt system of middle men that acted as gatekeepers for artists seeking airplay.

Spitzer obtained a settlement worth tens of millions of dollars from broadcasters and major record labels. This was followed by a smaller, but similar agreement between the FCC and four broadcasters (CBS Radio, Clear Channel, Entercom Communications and Citadel Broadcasting) in 2007. Around the same time, the independent music community, led by A2IM and the Future of Music Coalition (FMC), signed a separate, voluntary agreement with the radio chains. In the "Rules of Engagement," the broadcasters promised to feature more local and independent artists, air 4,200 hours of independent music, and implement anti-payola guidelines. The stage was set for a new and improved relationship between commercial radio and independent artists and labels.

However, a year later it appears the historic promise of these agreements has yet to be fulfilled. An A2IM survey of a wide range of independent labels found more than 90 percent believe their relationship with commercial radio has not changed since the FCC Consent Decree and the Rules of Engagement were signed, and nearly 80 percent said major broadcasters are no more willing to play independent music. Independent labels report pay-for-play schemes have decreased significantly in recent years, but many said payola is still a factor in getting airplay on commercial radio. Some labels said independent promoters still act as middle men "controlling" access to airplay at some stations, especially in certain formats and secondary markets – a practice that was supposed to have ended with the consent decree and Rules of Engagement.

## BACKGROUND

In 2002, FMC, AFTRA, AFM and a handful of other musicians' advocate groups began raising the issue of payola-like schemes at the nation's commercial radio stations. The pay-for-play tactics were preventing independent artists and labels from getting significant airplay.

Payola has been around since the days of Vaudeville, but the new system was subtle and sophisticated compared to the simple bribery scandals that led Congress to outlaw payola in 1960. "Independent promoters" played a central role. Indies, as they are known, started out as middle men. Labels hired indies to lobby radio stations to play their records. But over the years some indies began to pay radio stations for the exclusive right to service their music. The indie had become a gatekeeper – if a label couldn't afford his or her rate, the label's songs would often not get airplay. Indies weren't the only payola-like scheme. Radio stations often suggested bands play promotional concerts for free or reduced rates, or labels buy on-air advertising in exchange for airplay. Radio no longer featured the best artists, but often showcased those who could afford to get their records on the air.

In 2003, then New York Attorney General Eliot Spitzer began a wide scale investigation into these

practices after receiving tips from music and radio industry sources. Spitzer subpoenaed hundreds of pages of files and e-mails from the biggest record labels and radio station chains. The investigation found evidence of labels offering major inducements to radio programmers, paying stations' operating expenses, and using independent promoters to funnel illegal payments to radio chain employees. In 2005 and 2006, Spitzer settled with the four major record labels — Sony BMG, EMI, Universal and Warner Bros. — for \$30.1 million and with two major broadcasters, CBS and Entercom, for \$6.25 million.

The labels and stations also signed “consent decrees.” The decrees bar exchanges of anything of value between record labels and radio stations beyond advertising fees. There are exceptions for small gifts and promotional materials, such as CDs and concert tickets. Stations must log these gifts and report them to the New York Attorney General's office for five years, as well as announce any time a label has paid for airplay.

When Spitzer completed his investigation, he forwarded his evidence to the FCC. FCC Commissioner Jonathan Adelstein called for a payola investigation, but the FCC took little action. Ultimately, the FCC decided to settle with the major broadcasters in April 2007. Under the terms of the deal, CBS Radio, Clear Channel, Entercom Communications and Citadel Broadcasting Corp. agreed to abide by consent decrees, pay a small fine, and make some reforms. In exchange, they received immunity from prosecution for any past payola violations.

Around the same time, A2IM and FMC led a group of independent artists, executives and labels that inked a separate voluntary agreement with the broadcasters. The goal was to improve the relationship between the independent music community and commercial radio. The negotiations established “Rules of Engagement,” which were the first standardized code of conduct for radio station employees. The broadcasters disseminated the rules to their employees and notified the FCC about their actions in April 2007. They also agreed to broadcast 4,200 hours of independent music and feature “the recordings of local, regional and unsigned artists and artists affiliated with independent labels.”

The Rules of Engagement are reprinted in full in an appendix, but they aim to end payola-like practices at commercial stations. Among other things, the rules ban stations from:

- Selling or bartering access to radio programmers
- Forming exclusive relationships with independent promoters
- Making threats/promises to decrease/increase airplay for promotional consideration
- Asking directly or expecting promotional consideration such as cash and prizes, local concert appearances, or exclusive relationships with artists
- Establishing clear and non-discriminatory guidelines for music submissions and access to radio programmers

## **PURPOSE AND METHOD OF THIS REPORT**

The purpose of this report is to see if there has been any change in commercial radio access for independent artists and labels since the consent decrees and the Rules of Engagement were signed in the early part of 2007.

A2IM sent out a 42-question survey to its label membership. Radio promotions and marketing employees were asked to fill out the questionnaire, which queried them about their relationship with commercial radio over the last year. In all, 61 labels responded. They represent small and large operations and a wide range of musical genres. They are also based in a number of different radio markets around the country. About 25 percent of respondents release five or less releases a year, and about 25 percent release over 30 releases a year. A consultant followed-up the survey with in-depth telephone interviews of 29 respondents including five music labels that did not submit written surveys.

## FINDINGS

### Radio Play Remains Unchanged for Independent Labels and Artists

Many independent labels said they had hopes the FCC’s consent decrees and the Rules of Engagement would improve the climate for independent labels seeking airplay on commercial stations. However, there was near unanimous sentiment that little has changed over the last year and a half. A2IM’s survey of independent labels found the following:

*Q: How has your relationship with commercial radio changed since the FCC settlement in March 2007?*

Much Better	0.0%
Better	5.8%
Same	92.3%
Worse	1.9%
Much Worse	0.0%

*Q: Do you think commercial radio’s willingness to play independent label content has changed since the FCC settlement in March 2007?*

Yes, they are playing more independent label music	7.8%
They are playing the same amount of independent label music	78.4%
No, they are playing less independent label music	13.7%

For many independent labels, the status quo means modest commercial airplay – if any at all – often during specialty shows. Based on these responses, it seems that commercial radio has largely not begun to feature “the recordings of local, regional and unsigned artists and artists affiliated with independent labels,” as it promised under the Rules of Engagement.

“Getting airplay has never been harder in the history of music business — since sheet music,” said the CEO of a midsized hip hop/dance label. “We never really had a problem with access. The problem is we don’t get taken that serious. When you have three records in the top 10, like many majors do, you’ll always be trading for a record that’s already there.”

The director of radio promotions for a large rock/alternative label echoed the sentiment.

“It’s as hard as ever. Radio stations have tightened up,” the promotions director said. “In the grand scheme, less music is being played. If you look at charts right now, you’ll find the same artists as 1999 – Metallica, the Foo Fighters and so on.”

The A2IM survey also found little optimism about the payola settlements, although most labels are unsure of their impacts:

Q: *Do you think that the payola settlements crafted by New York Attorney General Spitzer and the FCC have had any effect on whether independently-released content gets played on commercial radio? If yes, has that effect been for the better or worse?*

Better	11.3%
Worse	15.1%
Don’t Know	73.6%

The head of radio promotions for a midsize alternative label wrote in his survey that shady, payola-like practices have changed, but not stopped. “I genuinely don’t think there’s been a change at all. Folks just went undercover a little more in the cajoling of ad dollars,” he said.

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Many label representatives felt radio has become more conservative in recent years. Some said radio has been spooked by Spitzer’s crackdown on payola, while others cited radio’s shrinking play lists and declining audience. With fewer listeners, they said, programmers are less willing to take risks to break new or unproven acts for fear that even more of their audience will tune out.

“For many programmers, there is an unwritten rule: If they add a record that doesn’t go top 20 they get a strike against them. If they add a record that does, they get a plus,” said the director of radio promotions for a small genre eclectic label. “So they wait to add a record until it is already in the top 20. Unless they see major label backing, they wait.”

In a story that was not uncommon, the head of radio promotions for a large independent heavy metal label said “9 out of 10 times” he doesn’t get a call back from stations he is pitching his records to. Recently, he tried for nearly three weeks to sell one of his singles to a major market rock station. The head of promotions thought the record had potential to go into daytime rotation. The music director at the station gave the head of promotions increasingly good feedback about the single, but ultimately he passed.

“The only reason I got for them not adding it was, ‘If I add this into the rotation something else has to come out,’” the promotions director said.

Though the poll numbers largely do not reflect the sentiment, a handful of labels said in interviews and comments that commercial radio has become more open to independent artists.

“Around the time of the FCC settlement, the door had cracked open to playing indie music, but not wide open. Commercial stations continue to be open-minded to adding indie music, but the majority of music that gets through tends to be major label acts. In my opinion, the reason is part habit and part economic,” said the radio promotions director for a large alternative label.

### **Independent Promoter Schemes and Payola: Better, But Still a Problem**

In recent decades, one of the biggest factors keeping independent artists off the commercial airwaves has been payola and payola-like practices. The FCC and Spitzer settlements, as well as the “Rules of Engagement” took direct aim at these schemes. Most independent label representatives reported the “bad old days” are waning, but they are not entirely gone.

“I know the indie promoter system was out of control at one point,” said a national director of radio promotions for a large dance/electronica label. “I’m sure that money did dictate what happened, but that system has contracted quite a bit. Because it has subsided, radio isn’t just looking to majors for great records.”

The A2IM survey found the following:

Q: *Do you think payola is still a determining factor in what gets played on commercial radio?*

Yes	41.5%
No	13.2%
Don’t know	45.3%

Q: *Do you think the indie promoter system is still a factor in what gets played on commercial radio?*

Yes	47.2%
No	20.1%
Don’t Know	32.8%

Q: *Have you experienced any requests for payola since the settlement?*

Nine out of 39 respondents said they had been approached directly or indirectly.

Reports of abuses by independent promoters were common, but varied widely among different radio formats and market sizes. The head of marketing for a midsized Latin label said independent promoters still served as gatekeepers at commercial stations in the Latin format.

“We’ve taken our songs to radio, but we’ve always hit a brick wall with the larger stations. We’ve been nominated for Latin Grammys, but there’s always a lot of resistance,” the head of marketing said. “In the Latin market, they will approach you directly about a promotion budget. An indie promoter will say you need \$10,000 to ‘get on’ in the number one market.”

The co-founder of a midsized world music label discovered something similar when he worked with an independent promoter to get airplay on some AAA stations for a recent release.

“Before any major market stations would think about adding our record, we were always told ‘There was something you need to do, such as fly out a band for free to a 4<sup>th</sup> of July festival.’ It was always some kind of a promotional thing – buy a fleet of spots during the late night or something else. It was clear the add wasn’t going to happen until we played the game,” the co-founder of the label said.

The experiences of the previous two label representatives were somewhat unusual. Most said independent promoters no longer “controlled” stations in major markets, but they still encountered the problem in secondary markets. Their estimates for the percentage of stations indie promoters still held sway over ranged from 10 percent in the Top 40 format to 70 percent in dance, but most fell on the lower end of the spectrum.

“I would say 10 to 15 percent of stations I deal with are controlled by indie promoters,” said the director of radio promotions for a large rock/alternative label. “It’s not happening in L.A. or San Francisco; it’s happening in places like South Carolina where they don’t have a marketing budget. I think it’s mainly prevalent in Top 40.”

Despite negative experiences with a handful of independent promoters, label representatives said most indies were doing good, legitimate work that helped them get commercial airplay.

There were some other bright spots on the payola front. Few labels said radio stations were asking for gifts in exchange for airplay outside of the amount established in Eliot Spitzer’s consent decrees: Promotional items worth less than \$25, up to 20 copies of a CD, 20 tickets to a concert, gifts of \$150 or less for “life events and holidays,” and meals and entertainment worth \$150 or less.

Labels also reported few radio stations were asking or implying that artists play promotional shows for free in exchange for airplay – a payola-like practice that was common before the pay-for-play inquiries in recent years. Radio stations still ask artists to play showcases, but most labels said broadcasters were paying the artists fairly and picking up their expenses, or the labels were willing to work with stations on reduced fees. Many independent labels said they don’t mind being asked for that type of support.

“It all kind of happens naturally and organically,” said the head of radio promotions for a midsized blues label. “It usually starts when the radio station takes the first step of adding a record. There’s a kind of a natural reciprocity that you want; you want to be involved in the Christmas show to support the record. I try to facilitate that every time we can.”

### **Major Impediments to Commercial Airplay**

When asked what the biggest impediments were to getting airplay, the label representatives cited a number of factors, but two turned up more than any others: access to music and program directors, and commercial radio’s aversion to risk.

Some label representatives reported commercial stations schedule fewer visitation days for indie labels than commercial labels, and music directors and program directors rarely returned calls, although many said this was a problem for major labels as well.

“It’s tough: Everyone is feeling the pinch,” said the CEO of a midsized folk/alternative label. “Radio stations don’t have the staff they used to. A lot of time there’s not staff to handle the volume of calls, or the program director doesn’t have an assistant.”

The marketing director for a midsize eclectic label also commented in his survey that communicating with commercial stations is a major problem.

“The main thing is feedback and access. As an indie, I feel like it is very difficult to have any interaction with the people making the decisions,” the marketing director wrote. “Even if submission guidelines are published, the programming directors remain basically untouchable. DJs can be responsive if you really chase them down (i.e., Myspace or their website) but they often aren’t making the call regarding programming.”

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The head of a midsize indie rock/alternative record label said there are few slots on play lists for bands that are not already established, and radio stations are often not confident in independent labels’ ability to back records.

“I honestly don’t feel like they are biased against indies,” he said. “They are looking for products that are going to be very popular. That’s tied to legacy bands like the Red Hot Chili Peppers or the Foo Fighters. Most of the stations seem open if the song is going to be huge and the band is going to be huge. They are not very interested in breaking bands.”

The head of radio promotions for a large alternative label wrote in her survey that radio chains have tied the hands of local programmers.

“It’s clearly not sales driven because we have releases that are outselling many of the artists currently played on commercial radio,” the head of radio promotions wrote. “The biggest problem is program directors and music directors all having to conform to whatever guidelines their corporations lay down. Even if you do have a great programmer willing to take a chance, their hands are usually tied by someone that doesn’t even live in their city, or work in their office.”

The director of radio promotions for a midsize genre eclectic label said commercial radio is fixated on a particular sound.

“I’ve literally had stations say to me this is my personal favorite record of the year, but I don’t think we will be able to fit it in,” he said. “There’s a lack of trust in these stations in the ability of their listeners to listen to anything that’s the least bit different.”

Most independent labels say money is still a major factor in what gets played on the commercial airwaves — even if it has nothing to do with payola. Most major labels have greater resources to forge better relationships with commercial stations.

"I wish I had the budget that a major label has," said the director of radio promotions for a large heavy metal label. "The majors can basically hire a lot more indie promoters or they have field staffs all over the country — I have two total. Majors can be in the radio stations in major markets every week. For me, it might be once or twice a year to visit a major market."

The radio promotions director for a large Dance/Top 40 label said he is also at a disadvantage.

"It's just our size versus the majors," the promotions director said. "We just don't have the resources they do. I don't have the staff to get the *Rolling Stone* article or the video on MTV."

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### **Getting Spins: The Strategy and The Successes**

Even if some independent labels are frustrated with the amount of commercial airplay they are getting, many have developed solid strategies to help them crack play lists at key commercial stations. The common thread in most label representatives' comments was that radio is no longer interested in breaking bands — they want records that already have a level of success.

"I go inch-by-inch," said the head of a Top 40 start up. "It's not about getting adds. It's about proving your record in the marketplace. Have a small focused team."

The label is enjoying a great run. At the time of the interview, it had a single at the number seven spot on the pop charts — with a bullet. The single had received about 5,500 spins to date. Another label got up to number seven on the alternative charts with a track by a well-known alternative rock band.

"It comes down to music first," said the head of promotions for a large rock/alternative label. "It comes down to a track that's going to make a difference and stand out. You also need to make sure that the artist is being heard by the program director."

A dance record label placed one of its singles on dance stations in a number of major markets this year. It has resulted in more than 2,700 plays since June. The record was being played at all times of the day.

A large jazz label that also releases other genres has received 700, 2,500, and 2,600 spins respectively for three recent records. In one week, a new artist for a large rock label received nearly 400 spins in the Top 40 format and nearly 200 in Hot A.C.

The CEO of a midsize hip hop/dance label said he takes a top-down approach.

"Getting spins on one or two major stations gets you noticed," the CEO said. "There are leader stations and follower stations. If the big ones break it, everyone else will follow like lemmings."

The promotions director for a midsize blues label said it is important to build a record before seeking commercial airplay. He said radio stations want to see that the record is a priority for the label.

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“We really have to deliver a story: How the show is selling live, great press, and anything that we can show to prove this a band on the move and working their way up,” the promotions director said. “We’re up against the negative perception among many commercial radio people of what an indie record label is.”

The head of radio promotions for a large heavy metal label concurred.

“The one thing I like about commercial radio is that it is commercial,” the promotions head said. “If you can find a compelling reason for playing the music, they will play it. For instance, ‘We’re coming to town and sold X amount of

records.’ I’ve had success when we’ve started small building a story and then spreading out. It really helps to have compelling story.”

### **Independents on the Air**

The final area the A2IM survey focused on was how to get more independent labels and artists on the commercial airwaves. The suggestions ranged widely from changes in the stations’ culture to fixes in telecommunications law that would alter the commercial radio playing field. Not surprisingly, many label representatives called for radio to be more open-minded about music selections and to do a better job at facilitating communication between labels and music programmers. Others want commercial radio to produce more verifiable statistics that reflect they are playing truly independent music – not independent labels with connections to major labels.

The owner of small rap label wrote in his survey that commercial radio should be more forward looking when it comes to spins.

“They should be leaders instead of followers in the music they play,” the owner wrote. “Lil’ Wayne, for instance, had to spend years building an audience via different avenues before he ever got any commercial radio play. Only after Lil’ Wayne became big did radio play him. They have power to really impact music and excite their audiences, but instead they drive active fans to alternative sources by playing only a handful of hits.”

The head of marketing for a midsize Latin label said independent labels won’t get more plays until there are a greater number of radio station owners. He would like to see lawmakers revisit the 1996 Telecommunications Act, which set off a wave of consolidation in the radio industry.

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“That’s when everything became cookie cutter because of costs,” the head of marketing said of the 1996 law. “If you had more independent stations, it would allow for more room for independence and space to take risks, like in the ‘70s.”

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“That’s when everything became cookie cutter because of costs,” the head of marketing said of the 1996 law. “If you had more independent stations, it would allow for more room for independence

and space to take risks, like in the '70s. You would never hear Led Zeppelin on the radio today playing an 8-minute song.”

Others pointed to Canada as a model. The nation's radio and TV stations are required to play a certain percentage of Canadian content each day. Some label representatives would like to see a similar requirement for local and independent music here in the United States, although most said the prospects for getting such a law passed are dim.

“Play 15 percent new music from local artists and play 30 to 40 percent independent label music,” wrote the CEO of a midsize hip hop and dance label. “Encourage involvement from their most active listeners and allow those listeners to contribute to the music add and rotation decisions.”

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“We should be broadcasting out loud the great work we are doing. We should have radio stations testifying about what a pleasure it is to work with us. The majors are doing it, and we should be too.”

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Short of changing the law, some label representatives said commercial radio chains should be encouraged to give more control back to local programmers.

“For me, I feel commercial radio station should take chances and program for their market! All so often they are looking for national numbers (chart stories) and research. Many stations are also relying on consultants who are telling them to “play the hits,” wrote the head of promotions for a large heavy metal label, in his survey.

The head of a Top 40 start up said it's not so much about changing commercial radio, as changing the perception of independent labels.

“We need better public relations,” the head of the label said. “We should be broadcasting out loud the great work we are doing. We should have radio stations testifying about what a pleasure it is to work with us. The majors are doing it, and we should be too.”

## CONCLUSION

The climate for independent artists and labels seeking commercial airplay is as challenging as ever. Despite an agreement between the independent music community and commercial radio 18 months ago, A2IM's radio survey shows major broadcasters still are not featuring a significant amount of local, regional and independent music as promised. In the Rules of Engagement and the FCC consent decree, major broadcasters also agreed to put an end to payola schemes at their stations. On this front, commercial radio has made progress, but pay-to-play is still a problem in some formats and markets. FMC is conducting a study to look at whether major broadcasters are complying with another aspect of the agreement with the independent music community: To play 4,200 hours of non-major label music.

A2IM had hoped the “Rules of Engagement” and the FCC settlement would fundamentally redefine the relationship between the independent music community and commercial broadcasters. As the radio survey has shown, that goal remains elusive. In 2007, independent artists accounted for close to 40 percent of internet radio airplay, but only a fraction of that percentage on terrestrial radio. That

is a major problem for independent artists, since traditional radio is still essential for driving album sales. It is also a disservice to listeners, who miss out on a whole spectrum of music from Arcade Fire to Aesop Rock. In fact, many listeners have tuned out of commercial radio in recent years for just this reason.

A2IM will continue to monitor independent artist and label airplay on commercial radio, but it has become clear it is time for lawmakers to act to correct this imbalance. A2IM believes Congress and the FCC should look at instituting guidelines that will bring a diversity of music to the commercial airwaves. As some of A2IM's members mentioned in surveys, the Canadian Content Rules ensure Canadians are exposed to a range of talented, homegrown artists. Similar legislation for independent, local and regional acts could open commercial airwaves here. The rules could be a boon for commercial radio on two fronts: It might help restore some of radio's audience, as well as help ease radio's financial woes by drawing new advertisers who want to reach a different listener segment.

## APPENDIX

### Radio Survey Responses

Sixty-one label representatives responded to the questionnaire.

1. Does your label service commercial radio?

Yes	87.0%
No	13.0%

2. How many releases do you service to commercial radio a year?

1-5	41.2%
6-10	25.5%
11-20	17.6%
21+	15.7%

3. In the past 12 months, have you had your servicing returned by radio stations?

Always	1.9%
Frequently	3.8%
Sometimes	45.3%
Never	49.1%

4. Do you follow up your promotional mailings to commercial radio stations with regular phone calls and e-mails to program directors/music directors?

Always	50.0%
Frequently	26.9%
Sometimes	17.3%
Never	5.8%

4a. If you answered yes to question #4, do you receive an answer?

Always	0%
Frequently	38%
Sometimes	52%
Never	10%

5. Does your label service non-commercial radio?

Always	49.1%
Frequently	34.5%
Sometimes	12.7%
Never	3.6%

6. Does your label service college radio?

Always	36.4%
Frequently	41.8%
Sometimes	20.0%
Never	1.8%

7. Does your label service Low Power FM (LPFM) radio?

Always	11.1%
Frequently	14.8%
Sometimes	51.9%
Never	22.2%

8. Approximately how many radio stations does your label service per release?

1-100	16.4%
101-200	23.6%
201-300	12.7%
301-400	20.0%
400+	27.3%

9. In general, do you use any of the following to distribute your new releases to radio?

Regional Promotional People	25.5%
In-House Radio Promotion Person	74.5%
Hired Radio Promotion Company	72.7%
None of the Above	1.8%

10. Check the type of formats that you "approach" to get airplay.

College	81.8%
AAA	67.3%
NPR	63.6%
Alternative Rock	52.7%
Rock	30.9%
Dance	23.6%
CHR	18.2%
Crossover	14.5%
Urban	14.5%
Country	9.1%
None of the Above	3.6%
Don't approach any	3.6%

11. Check the type of formats where you do get airplay.

College	74.1%
AAA	61.1%
NPR	53.7%
Alternative Rock	40.7%
Rock	25.9%
Dance	22.2%
CHR	11.1%
Urban	11.1%
Country	7.4%
Crossover	5.6%
Don't get any	5.6%

12. Do you service music to specialty programs at commercial radio stations?  
(Mix shows, new music programs, indie programs, morning shows, etc.)

Always	34.5%
Frequently	41.8%
Sometimes	20.0%
Never	3.6%

13. How has your label's relationship with commercial radio changed since the  
FCC settlement in March 2007?

Much Better	0.0%
Better	5.8%
Same	92.3%
Worse	1.9%
Much Worse	0.0%

14. Do you think commercial radio's willingness to play independent label content has changed  
since the FCC settlement in March 2007?

Yes they are playing more independent label music	7.8%
They are playing the same amount of independent label music	78.4%
No, they are playing less independent label music	13.7%

15. Do you think payola is still a determining factor in what gets played on commercial radio?

Yes	41.5%
No	13.2%
Don't Know	45.3%

16. Have you experienced any requests for payola since the settlement?

9 of 39 respondents said yes

17. Do you think the indie promoter system is still a determining factor in what gets played on commercial radio?

Yes	47.2%
No	20.8%
Don't Know	32.1%

18. Do you think that the payola settlements crafted by New York Attorney General Spitzer and the FCC have had any effect on whether independently released content gets played on commercial radio? If yes, has that effect been for the better or worse?

Better	11.3%
Worse	15.1%
Don't Know	73.6%

19. As part of the March 2007 "Rules of Engagement," radio stations were supposed to establish and publicize clear and fair guidelines for submitting music for airplay. To the best of your knowledge, have radio stations done that?

Most stations have	57.1%
Most stations have not	42.9%

## Radio Rules of Engagement

1. Radio should establish, and appropriately publicize, clear and non-discriminatory procedures for music submissions and access to radio station music programmers (to the extent any such access is provided).
2. Radio should not be allowed to sell or barter access to its music programmers.
3. Radio should not form relationships with any music companies, independent promotion companies, or other parties which provide for exclusive access to radio station music programmers, nor should Radio restrict access to its music programmers to those who contribute promotional consideration.
4. Radio should not exclude independent promotion companies, as a class, from gaining access to music programmers except for independent promotion companies which are compensated based upon playlist additions or increased spins.
5. Radio shall not ask for or expect, either directly or indirectly, any quid pro quo to play music, including but not limited to: a. Any promotional considerations including cash and prizes b. Local concert appearances c. Exclusive relationships with recording artists
6. Radio (individual stations or their parent companies) shall not act in a coercive manner, make or imply threats to withhold or reduce airplay or make or imply promises to commence or increase airplay, in connection with the solicitation of any promotional consideration, or any promotional consideration promised or given to competitor stations, including concert appearances and artist "exclusives."
7. Disclosure: All cash and non-cash consideration (above a reasonable threshold) made by labels, artists, or their agents shall be confirmed in writing and shall be subject to internal tracking controls, with the information gathered as a result of these controls available to the FCC upon its request.
8. Contest prize recipients to the extent permitted by applicable law must be identified publicly, and confirmed as not employees of the radio station or members of their immediate families or households.

This proposal was drafted with input from music companies, radio programmers and promotion executives. It has also been endorsed by the following organizations to date: • American Federation of Musicians (AFofM) • American Federation of Television and Radio Artists (AFTRA) • Future of Music Coalition (FMC) • Music Managers' Forum (MMF) • National Association of Recording Arts & Sciences (NARAS) • Recording Artists Coalition (RAC)

FCC Consent Decree: Go to <http://www.fcc.gov>; Release: FCC 07-27