

*Before the*  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

In the Matter of )  
 )  
Request for Declaratory Ruling )  
Concerning Sponsorship Identification )  
of Certain Programming Carried by )  
Radio Stations Licensed to Clear )  
Channel Communications, Inc. and/or )  
Its Direct and Indirect Subsidiaries. )

To: The Commission

**REQUEST FOR DECLARATORY RULING**

Pursuant to 47 CFR §1.2, the Future of Music Coalition (“FMC”)<sup>1</sup>, by its counsel, Media Access Project, respectfully asks the Commission to issue a declaratory ruling to resolve any possible uncertainty as to the applicability of the Commission’s sponsorship identification rules to certain broadcast programming carried by Clear Channel Communications, Inc.

Specifically, FMC asks that the Commission rule that;

waiver of digital performance rights in exchange for broadcast carriage of music constitutes consideration within the meaning of Sections 317 and 507 of the Communications Act and 47 CFR §73.1212, and, consequently, an artist waiving such performance rights is a sponsor of the broadcast of such broadcasts and must be identified as such.

**The “Voluntary Agreement”**

This controversy arises from implementation the Consent Decree entered into between the Federal Communications Commission and Clear Channel Communications, Inc. (“Clear Channel”)

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<sup>1</sup>FMC is a national non-profit education, research and advocacy organization that identifies, examines, interprets and translates the challenging issues at the intersection of music, law, technology and policy. FMC achieves this through continuous interaction with its primary constituency - musicians - and in collaboration with other creator/citizen groups.

terminating investigations initiated by the Enforcement Bureau against Clear Channel as to whether Clear Channel and its direct and indirect subsidiaries that hold FCC authorizations may have violated the sponsorship identification requirements set forth in Sections 317 and 507 of the Communications Act of 1934 and 47 CFR §73.1212. *Clear Channel Communications, Inc.*, 22 FCCRcd 7875 (2007). Incident to the Consent Decree, Clear Channel entered into a “voluntary agreement” to air 1600 hours of programming “which will feature the recordings of local, regional and unsigned artists and artists affiliated with independent labels.” *See id.*, 22 FCCRcd at 7890 (Statement of Commissioner Adelstein). The “voluntary agreement” was set forth in a letter to the Commissioners sent on or about April 6, 2007. See Attachment A. Significantly, the second of eight “rules of engagement” set forth in the “voluntary agreement” is the following: “Radio should not be allowed to sell or barter access to its music programmers.”

### **Applicable Legal Provisions**

47 USC §317(a)(1) provides in relevant part that

All matter broadcast by any radio station for which any money, service or other valuable consideration is directly or indirectly paid, or promised to or charged or accepted by, the station so broadcasting, from any person, shall, at the time the same is so broadcast, be announced as paid for or furnished, as the case may be, by such person....

The Commission has implemented Section 317(a) through the promulgation of 47 CFR §73.1212(a), which provides in relevant part that

When a broadcast station transmits any matter for which money, service, or other valuable consideration is either directly or indirectly paid or promised to, or charged or accepted by such station, the station, at the time of the broadcast, shall announce:

- (1) That such matter is sponsored, paid for, or furnished, either in whole or in part, and
- (2) By whom or on whose behalf such consideration was supplied....

\* \* \* \*

- (i) For the purposes of this section, the term “sponsored” shall be deemed to

have the same meaning as “paid for.”

17 USC §106 provides in relevant part that

[T]he owner of copyright under this title has the exclusive rights to do and to authorize...the following:

\* \* \* \*

- (6) in the case of sound recordings, to perform the copyrighted work publicly by means of a digital audio transmission.

Section 106(6) was an amendment contained in the Digital Performance Right in Sound Recordings Act (“DPRA”), Public Law 104–39, 109 Stat. 336 (1995). Thus, under the DRPA, copyright owners of sound recordings are granted a limited performance right to make or authorize the performance of their works “by means of a digital audio transmission.” Both analog and digital radio broadcast of music are exempt from digital performance right royalty payments. However, under the DPRA, web streaming of music is ordinarily subject to digital performance right royalty payments.

### **The Clear Channel Contract**

In fulfilling the commitment set forth in the “voluntary agreement,” Clear Channel has imposed conditions on the carriage of the programming in question which raise questions as to the applicability of Sections 317 and 508 of the Communications Act of 1934 and 47 CFR §73.1212. In particular, those artists seeking airplay on Clear Channel’s radio stations must accept a contract (the “Clear Channel Contract”), which is set forth as Attachment B hereto. Paragraph 1 of the contract provides in relevant part that:

You grant to Clear Channel the royalty-free non-exclusive right and license, in perpetuity (unless terminated earlier by You or Clear Channel as set forth below), to use, copy, modify, adapt, translate, publicly perform, digitally perform, publicly display and distribute any sound recordings, compositions, pictures, videos, song lyrics, still images,

## Analysis

The quoted language in the Clear Channel Contract clearly compels waiver of digital performance right royalty payments for Clear Channel's web streaming of music submitted pursuant to the "voluntary agreement." The music is "sound recordings," web streaming of such music is a "digital performance," and the contractual provision compels the grant of a "royalty-free non-exclusive right and license, in perpetuity...to...digitally perform" all submitted music.

There can be no doubt that the digital performance right is an asset of value, and that waiver of that right is a form of consideration. The second "rule of engagement" set forth in the "voluntary agreement" is that "Radio should not be allowed to sell or barter access to its music programmers." Thus, conditioning of airplay upon the waiver of digital performance right royalties clearly violates the letter and spirit of the "voluntary agreement." Simply put, Clear Channel is charging a price for airplay by bartering airplay in exchange for waiver of the digital performance right. So, too, does the conditioning of airplay upon the waiver of digital performance right royalties constitute "consideration" within the meaning of 47 USC §317 of the Communications Act, as implemented by the Commission at 47 CFR §73.1212.

As set forth above, 47 USC §317, as implemented by the Commission at 47 CFR §73.1212, provides that any carriage of program matter which is provided in exchange for consideration of any kind must be announced as or "paid for or furnished as the case may be, by such person [as provided the consideration]." Accordingly, it is clear that, since all music provided under the Clear Channel Contract is provided in exchange for consideration and must be identified on air as having been "sponsored," "paid for" or "furnished."

**Conclusion**

WHEREFORE, FMC asks that the Commission promptly issue the requested declaratory ruling and that it grant all such other relief as may be just and proper.

Respectfully submitted,

Andrew Jay Schwartzman

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Counsel for FMC

July 13, 2007

# **ATTACHMENT A**

April 6, 2007

Hon. Kevin J. Martin  
Hon. Michael J. Copps  
Hon. Jonathan S. Adelstein  
Hon. Deborah Taylor Tate  
Hon. Robert M. McDowell

Dear Mr. Chairman and Commissioners:

The undersigned Radio Companies wish to advise you that, on a purely voluntary basis, they have elected to collectively air 4,200 hours of programming between 6 AM and Midnight which will feature the recordings of local, regional and unsigned artists and artists affiliated with independent labels. These programs will air on appropriately formatted stations selected by the Radio Companies, as follows:

|                |            |
|----------------|------------|
| CBS:           | 800 hours  |
| Citadel:       | 1300 hours |
| Clear Channel: | 1600 hours |
| Entercom:      | 500 hours  |

Similarly, the Radio Companies voluntarily endorse the attached Rules of Engagement, which arose out of a dialogue with the American Association of Independent Music and relate to the interaction between record labels and radio stations.

These voluntary actions are being taken separately and apart from the Consent Decree which concludes the Commission's inquiry relative to its sponsorship identification rules.

Sincerely,

CBS RADIO, INC.  
CITADEL BROADCASTING CORPORATION  
CLEAR CHANNEL COMMUNICATIONS, INC.  
ENTERCOM COMMUNICATIONS CORP.

## 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.

# **ATTACHMENT B**

## LICENSE AGREEMENT

This is a License Agreement (“Agreement”) between Clear Channel Broadcasting, Inc., on behalf of itself, its subsidiaries, parents, successors in interest and affiliates (“Clear Channel”, “we” or “us”) and you, on behalf of yourself, your band members and all others who have an ownership interest in the “Content” (as defined below) (collectively, “You” or “you”). All capitalized terms shall have the meaning set forth in this Agreement.

1. License. You grant to Clear Channel the royalty-free non-exclusive right and license, in perpetuity (unless terminated earlier by You or Clear Channel as set forth below), to use, copy, modify, adapt, translate, publicly perform, digitally perform, publicly display and distribute any sound recordings, compositions, pictures, videos, song lyrics, still images, Your name, picture, portrait, photograph, band information data, graphics, trademarks, text, information, screen names, profiles, newsletters, gig listings, playlists, podcasts, blogs, broadcasts, messages, software, XML, RSS and links and/or other content (collectively, the “Content”) submitted by You to us on this website (the “Site”), including portions, composites, likenesses or distortions or alterations of same, in whole and in part, and to prepare derivative works of, or incorporate into other works, the Content, in connection with the preparation transmission, operation, production and advertising of and for (all media and methods checked by you above (check all that are applicable).

The foregoing services as indicated by You are hereafter known as the “Clear Channel Services.”). You acknowledge that, although Clear Channel intends for “online streaming” media (box 1, above) not to allow downloading by the consumer, Clear Channel is not responsible and disclaims all liability for unlawful circumvention by the consumer where streamed files are downloaded. Further, you acknowledge that all downloads (box 2, above) will be in an unprotected format and Clear Channel is not responsible and disclaims all liability for further copying of this file (e.g. file sharing, posting on peer 2 peer networks, etc.).

The foregoing rights shall be without limitation as to time, place or manner on or in connection with the Clear Channel Services, including in advertising and promotion related to the Clear Channel Services and any other lawful purpose

Clear Channel may or may not charge for such services, but shall not be liable to You for any portion of such fees. This License shall include the right to record, dub and synchronize the Content with other materials, and to exhibit, distribute and/or broadcast the content in the soundtrack of and in timed relation with advertisements and promotions in any and all media. The foregoing license shall be sublicensable by Clear Channel without further permission from You. You agree to execute and deliver documents to us that we may request to confirm our rights under this Agreement.

2. No Obligation to Use. Clear Channel shall have no express or implied obligation to use or permit the Content to appear or remain on the Site or on any Clear Channel Service or to promote, perform, display or distribute the Content at all, or in any particular manner or in any minimum quantities. Clear Channel retains the right to provide (or not to provide) the Clear Channel Services and advertising or promotional support to the Clear Channel Services and the Content as it may choose, it being understood that all decisions in this regard shall be made by the Clear Channel in its sole discretion. Clear Channel shall further have the right to remove the Content from the Site and from all other Clear Channel Services without any liability or obligation to you.

3. Ownership. As between You and Clear Channel, Clear Channel acknowledges and agrees that You have all rights of ownership, including without limitation, all rights of copyright and copyright renewal in and to the Content. Clear Channel acknowledges that nothing in this license shall give Clear Channel any right, title or interest in the Content other than to use the Content as specified in this Agreement.

4. Editing rights. Clear Channel shall have the right, but not the duty, to use, adapt, edit, add to, subtract from, arrange, rearrange, revise, and change the Content or any part thereof for purposes of conforming to time segment requirements, applicable laws and regulations, establish telecast policy and standards and practices, and to insert commercials and/or other announcements. You hereby waive on behalf of Yourself and Your band members, Your employees and all persons who provide services and materials in connection with the Content, any “moral rights” of authors or “droit morale” and any similar rights or principles of law throughout the world, including, without limitation, any right (i) to approve any revisions, deletions, abridgment, or other changes in the materials furnished hereunder or (ii) to withdraw the materials from distribution.

5. Representations and Warranties. You represent and warrant that:

- (a) You are at least 18 years old. If any member of Your band is a minor, You hereby warrant that you have the

legal right to execute this Agreement on behalf of the minor artist and have obtained all necessary consents and guarantee such person's performance of the terms of this Agreement;

(b) You have full right and power to enter into and perform this Agreement, and have secured all third party consents necessary to enter into this Agreement and to submit the Content as provided herein, including from Your band members and all other who may claim ownership of the Content;

(c) The Content is Your or Your band's own original work (this means You or Your band recorded it and wrote it in its entirety and it contains no sampled or replayed material or material otherwise created by someone who is neither You nor Your band);

(d) The Content does not and will not infringe any third party's copyright, trademark or other intellectual property or other proprietary right, or right of publicity or privacy;

(e) The Content does not and will not violate any local, state, federal or international law;

(f) The Content is not and will not be defamatory, libelous, abusive, pornographic or obscene, or infringe upon the rights of any third party, including but not limited to rights of privacy and publicity;

(g) The Content will not contain or transmit files, data or other materials containing a computer virus, corrupted data, worms, "Trojan horses" or other instructions or designs that would erase data or programming or cause the Site or any equipment or system to become inoperable or incapable of being used in the full manner for which it was designed;

(h) You have not falsified Your identity or provided forged e-mail addresses or mail addresses, or otherwise attempted to mislead others as to Your identity in this submission and will not do so in the future in connection with this submission;

(i) You are a resident of the United States; and

(j) All factual assertions that You have made and will make to us are true and complete.

6. Indemnity. You shall be fully responsible for any violation of this Agreement including the representations and warranties made herein, and You agree to indemnify and hold Clear Channel, its officers, directors, employees, agents, listeners and users of the Site from any and all losses, costs, liability, damages and expenses, including reasonable attorneys' fees, arising out of or related to Your breach of the representations and warranties made in this Agreement or any claims arising from the Content you submit, post, transmit or make available through the Site, or Your use of the Site. You are solely responsible for all licensing, reporting and payment obligations of all kinds in connection with the Content, its distribution and use (including but not limited to union or guild payments and any other third party payments of any kind). You agree to execute and deliver documents to us that we may request to confirm our rights under this Agreement.

You acknowledge that our Site and other Clear Channel Services may from time to time encounter problems and may not necessarily continue uninterrupted without technical or other errors, and we shall not be responsible to You or others for any such interruptions, errors or problems or an outright discontinuation of our service.

7. DISCLAIMERS. IN ADDITION TO ANY DISCLAIMERS PROVIDED ELSEWHERE IN THIS AGREEMENT, CLEAR CHANNEL MAKES NO WARRANTIES RELATED TO THIS AGREEMENT OR THE SITE OR ANY OF THE CLEAR CHANNEL SERVICES AND EXPRESSLY DISCLAIMS AND EXCLUDES ALL WARRANTIES, WHETHER STATUTORY, EXPRESS, OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS AND THOSE ARISING FROM COURSE OF DEALING, USAGE OR TRADE. CLEAR CHANNEL SHALL NOT BE LIABLE TO YOU FOR ANY SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE, RELIANCE OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, OR LOSS OF USE DAMAGES), AND WHETHER OR NOT FORESEEABLE AND REGARDLESS OF THE FORM OF ACTION, WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), OR OTHERWISE, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, EVEN IF CLEAR CHANNEL HAS PREVIOUSLY BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND EVEN IF THIS AGREEMENT OR ANY LIMITED REMEDY HEREUNDER FAILS ITS ESSENTIAL PURPOSE.

8. Termination and Repeat Infringer Policy. At any time after the date you first upload Content onto the Site, You may choose to terminate this Agreement for that Content by sending an e-mailed request to [IPPermission@clearchannel.com](mailto:IPPermission@clearchannel.com) identifying the Content and the specific date of submission. Clear Channel will make commercially reasonable efforts to delete the identified Content within sixty (60) days from the Clear Channel Services. Clear Channel will not be responsible for, and need not take any steps to withdraw or terminate the future distribution of, any copies of any of Your Content that may have been distributed (including by download) by Clear Channel or from the Site before we removed Your Content.

You agree that Clear Channel may, in its sole discretion and without prior notice, immediately terminate Your account, any associated email address, and Your access to the Site and remove Your Content from the Clear Channel Services. Cause for such termination shall include, but not be limited to: (a) breaches or violations of this Agreement or other incorporated agreements or guidelines, (b) requests by law enforcement or other government agencies, (c) a request by You (self-initiated account deletions), (d) discontinuance or material modification to the Site (or any part thereof), (e) unexpected technical or security issues or problems, (f) extended periods of inactivity, or (g) if You have engaged in fraudulent or illegal activities in connection with the Site or the Content.

Clear Channel respects the copyrights and other intellectual property rights of others. We expect You to respect those rights as well. Among other things, You agree that You will not include in the Content recordings made by others, recordings the copyright in which is owned by anyone else, recordings of songs written by anyone other than You, recordings of songs the copyright in which is owned by anyone else, recordings that include samples of other recordings. Clear Channel will terminate Your account and Your ability to use the Site if You are determined to be an infringer of the copyrights of others. Clear Channel may, in its sole discretion, terminate Your account and Your ability to use the Site if You are the subject of one or more notices or subpoenas claiming that You have posted infringing content and such notices or subpoenas have not been timely contested, or if it otherwise determines that You are engaging in infringement. In addition, Clear Channel expressly reserves the right to terminate Your account and Your ability to use the Site if Clear Channel, in its sole judgment, believes that circumstances relating to the infringement of third party intellectual property rights warrant such action.

9. Modifications to Agreement. We reserve the right, at any time and from time to time, for any reason in our sole discretion, to change the terms of this Agreement. We will post or display notices of material changes on the Site or we may e-mail You about these changes. Once Clear Channel posts them on the Site, these changes become effective immediately and if You use the Site after they become effective, it will signify Your agreement to be bound by the changes with respect to existing as well as new Content. You should check back frequently and review the terms and conditions of this Agreement regularly so You are aware of the most current rights and obligations that apply to You and the terms and conditions of Your Agreement with us.

10. Ownership of Intellectual Property on the Site. Except as explicitly provided herein, the contents of this Site and all other Clear Channel Services, including all software, design, text, images, photographs, illustrations, audio and video material, artwork, graphic material, databases, proprietary information and all copyrightable or otherwise legally protectable elements of the Site and other Clear Channel Services, including, without limitation, the selection, sequence and “look and feel” and arrangement of items, and all trademarks, service marks and trade names (individually and/or collectively, “Material”), are the property of Clear Channel, and any of its parent companies, subsidiaries, successors and assigns, and any of their respective licensors, advertisers, suppliers, and operational service providers and are legally protected, without limitation, under U.S. Federal and State, as well as applicable foreign laws, regulations and treaties. Unless the context clearly requires otherwise or we explicitly say so in writing, the term “Site” and “Clear Channel Services” includes all related “Material” as well.

The Site is to be used solely for Your noncommercial, non-exclusive, non-assignable, non-transferable and limited personal use and for no other purposes. You must not alter, delete or conceal any copyright or other notices contained on the Site, including notices on any Material You download, transmit, display, print or reproduce from the Site. You shall not, nor will You allow any third party (whether or not for Your benefit) to reproduce, modify, create derivative works from, display, perform, publish, distribute, disseminate, broadcast or circulate to any third party (including, without limitation, on or via a third party website), or otherwise use, any Material without the express prior written consent of Clear Channel or its owner if Clear Channel is not the owner. Any unauthorized or prohibited use of any Material may subject You to civil liability, criminal prosecution, or both, under applicable federal, state and local laws. We require users to respect our copyrights, trademarks, and other intellectual property rights. We likewise respect the

intellectual property of others. On receipt of paper notice under the Digital Millennium Copyright Act, we will act expeditiously to remove content on the Site that infringes the copyright rights of others and will disable the access to the Site and its services of anyone who uses them to repeatedly to infringe the intellectual property rights of others. You do not have and we expressly shall not provide You the right to use any of our trademarks, copyrights or other proprietary information or property in connection with any activity, or to create any implied endorsement by us of You, unless authorized by Clear Channel in its sole discretion in writing in advance.

11. Notice for Claims. Clear Channel has no obligation to monitor the Site. However, if You or any user believes that the Site contains elements that infringe copyrights in Your work, please follow our Notice and Procedure for Making Claims of Copyright Infringement.

Notice and Procedure for Making Claims of Copyright Infringement. Pursuant to Title 17, United States Code, Section 512(c)(2), all notifications of claimed copyright infringement on this Site should be sent ONLY to our Designated Agent.

NOTE: THE FOLLOWING INFORMATION IS PROVIDED SOLELY FOR NOTIFYING THE SERVICE PROVIDERS REFERENCED BELOW THAT YOUR COPYRIGHTED MATERIAL MAY HAVE BEEN INFRINGED.

Written notification must be submitted to the following Designated Agent:

Service Provider(s): Clear Channel Broadcasting, Inc.

Name of Agent Designated to Receive Notification of Claimed Infringement: DMCA Designated Agent

c/o Legal Department

Clear Channel Communications, Inc.

200 East Basse Road

San Antonio, TX 78209

By Facsimile: (210) 832-3428

By Email: [dmca@clearchannel.com](mailto:dmca@clearchannel.com)

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Under Title 17, United States Code, Section 512(c)(3)(A), the Notification of Claimed Infringement must include the following:

(a) An electronic or physical signature of the owner or of the person authorized to act on behalf of the owner of the copyright interest;

(b) Identification of the copyrighted work (or works) that You claim has been infringed;

(c) A description of the material that You claim is infringing, and the location where the original or an authorized copy of the copyrighted work exists (for example, the URL of the page of the website where it is lawfully posted; the name, edition and pages of a book from which an excerpt was copied, etc.);

(d) A clear description of where the infringing material is located on the Site, including as applicable its URL, so that we can locate the material;

(e) Your name, address, telephone number, and e-mail address;

(f) A statement that You have a good-faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law; and

(g) A statement by You, made under penalty of perjury, that the above information in Your notice is accurate and that You are the copyright owner or authorized to act on the copyright owner's behalf.

12. General Provisions.

(a) Binding agreement. This Agreement shall inure to the benefit of and be binding upon the parties and their respective successors and permitted assigns.

(b) Choice of law and forum. This Agreement and the relationship between you and Clear Channel shall be governed by (and construed and interpreted in accordance with) the laws of New York, without regard to its conflict of law provisions or your actual state or country of residence. You hereby irrevocably submit to the personal jurisdiction and venue of the federal and state courts serving the City and County of New York, other than for actions to enforce any order or judgment entered by such courts, in the event of any dispute arising out of or relating to this Agreement.

(c) Severability and Waiver. If any provision of this Agreement shall for any reason be held invalid, illegal or unenforceable in any respect, the remaining provisions shall remain in full force and effect, and the parties agree that the court should endeavor to give effect to the parties' intentions as reflected in the provision. The failure to exercise or enforce any right or provision of this Agreement shall not constitute a waiver of any prior, concurrent or subsequent breach of the same or any other provisions hereof, and no waiver shall be effective unless made in writing.

(d) Survival. Unless otherwise explicitly stated, the terms of this Agreement will survive the expiration or deletion of your account or the Content for any reason.

(e) No Partnership. The parties bear the relationship to each other of independent contractors, and nothing in this Agreement shall be deemed to create a partnership, joint venture, or agency relationship between them, nor shall either party have the power or authority by virtue of this Agreement to bind the other.

(f) Entire Agreement. This Agreement, accepted upon clicking "I Agree," contains the entire agreement between you and Clear Channel regarding the use of the Content, and it supersedes all prior and contemporaneous agreements, promises, representations, warranties, and understandings of the parties regarding the same subject matter.

(g) Statute of Limitations. You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of the Service or these Terms that you bring must be brought within one (1) year after such claim or cause of action arose or be forever barred.

(h) Third Party Rights. This Agreement does not create, and shall not be construed as creating, any rights or interests enforceable by any person not a party to this Agreement. This Agreement is not intended to be for the benefit of any third party and shall not confer upon any third party any right, privilege, remedy, claim or other right.

(i) Privacy. In the event of an inconsistency between these Terms and the Privacy Policy of the Site, these Terms shall control. (The Privacy Policy is available at <http://www.clearchannelmusic.com/cc-common/tou.html#privacy>).

(j) Agreement Admissible. A printed version of this agreement and of any notice given in electronic form shall be admissible in judicial or administrative proceedings based upon or relating to this agreement to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form.

You represent that you have carefully read this agreement, that you understand its contents, and that You have had an opportunity to seek independent legal advice regarding the advisability of entering into this Agreement.