

Royalty Rates for Radio Broadcasters
under the
Performance Rights Act

Rates for Public Broadcasters:

Station category:	Royalty	S. 379	Exact language from S. 379	H.R. 848	Exact language from H.R. 848
		§ 3.a.1.E.ii	<i>“each individual terrestrial broadcast station that is a public broadcasting entity as defined in section 118(f) and has gross receipts in any calendar year of—“</i>	§ 3.a.1.E.ii	<i>“each individual terrestrial broadcast station that is a public broadcasting entity as defined in section 118(f) and has gross receipts in any calendar year of—“</i>
Only in S. 379: Revenues < \$50K	\$100/yr	§ 3.a.1.E.ii.I	<i>“(I) less than \$50,000 may elect to pay for its over-the-air nonsubscription broadcast transmissions a royalty fee of \$100 per year;”</i>		
S. 379: \$50K < Revenues < \$100K H.R. 848: Revenues < \$100K	\$500/yr	§ 3.a.1.E.ii.II	<i>“(II) at least \$50,000 but less than \$100,000 may elect to pay for its over-the air nonsubscription broadcast transmissions a royalty fee of \$500 per year;”</i>	§ 3.a.1.E.ii.I	<i>“(I) less than \$100,000 may elect to pay for its over-the-air nonsubscription broadcast transmissions a royalty fee of \$500 per year;”</i>
\$100K < Revenues	\$1K/yr	§ 3.a.1.E.ii.III	<i>“(III) \$100,000 or more may elect to pay for its over-the air nonsubscription broadcast transmissions a royalty fee of \$1,000 per year.”</i>	§ 3.a.1.E.ii.II	<i>“(II) \$100,000 or more may elect to pay for its over-the air nonsubscription broadcast transmissions a royalty fee of \$1,000 per year;”</i>

Rates for Commercial Broadcasters:

Station category:	Royalty	S. 379	Exact language from S. 379	HR 848	Exact language from HR 848
		§ 3.a.1.D.ii	<i>“each individual terrestrial broadcast station that has gross revenues in any calendar year of—“</i>	§ 3.a.1.D.ii	<i>“each individual terrestrial broadcast station that has gross revenues in any calendar year of—“</i>
Only in S. 379 Revenues < \$50K	\$100/yr	§ 3.a.1.D.ii.I	<i>“(I) less than \$50,000 may elect to pay for its over-the-air nonsubscription broadcast transmissions a royalty fee of \$100 per year;”</i>		
\$50K < Revenues < \$100K	\$500/yr	§ 3.a.1.D.ii.II	<i>“(II) at least \$50,000 but less than \$100,000 may elect to pay for its over-the air nonsubscription broadcast transmissions a royalty fee of \$500 per year;”</i>	§ 3.a.1.D.ii.I	<i>“(I) less than \$100,000 may elect to pay for its over-the-air nonsubscription broadcast transmissions a royalty fee of \$500 per year;”</i>
\$100K < Revenues < \$500K	\$2.5K/yr	§ 3.a.1.D.ii.III	<i>“(III) at least \$100,000 but less than \$500,000 may elect to pay for its over-the air nonsubscription broadcast transmissions a royalty fee of \$2,500 per year.”</i>	§ 3.a.1.D.ii.II	<i>“(II) at least \$100,000 but less than \$500,000 may elect to pay for its over-the air nonsubscription broadcast transmissions a royalty fee of \$2,500 per year;”</i>
\$500K < Revenues < \$1.25 MM	\$5K/yr	§ 3.a.1.D.ii.IV	<i>“(IV) at least \$500,000 but less than \$1,250,000 may elect to pay for its over-the air nonsubscription broadcast transmissions a royalty fee of \$5,000 per year.”</i>	§ 3.a.1.D.ii.III	<i>“(III) at least \$500,000 but less than \$1,250,000 may elect to pay for its over-the air nonsubscription broadcast transmissions a royalty fee of \$5,000 per year.”</i>
\$1.25 MM < Revenues	Rate set by Copyright Royalty Board*	See footnote			

*Both S. 372 and H.R. 848 would require the Copyright Royalty Board (CRB) to determine the royalty rate applicable to the performance of sound recordings by commercial radio stations that have gross revenues of more than \$1.25 million per year. As amended, H.R. 848 and S. 372 would require the CRB to set a rate that reflects the following factors (found in: United States Code, Title 17, § 801(b)(1)(A)- (C))

(A) To maximize the availability of creative works to the public.

(B) To afford the copyright owner a fair return for his or her creative work and the copyright user a fair income under existing economic conditions.

(C) To reflect the relative roles of the copyright owner and the copyright user in the product made available to the public with respect to relative creative contribution, technological contribution, capital investment, cost, risk, and contribution to the opening of new markets for creative expression and media for their communication. [\[United States Code, Title 17, § 801\(b\)\(1\)\(A\)- \(C\)\]](#)

Exact language in S. 372 and H.R. 848: §2.e.B.ii:

“services, in addition to the objectives set forth in subparagraphs (A), (B), and (C) of section 801(b)(1), the Copyright Royalty Judges may consider the rates and terms for comparable types of services and comparable circumstances under voluntary license agreements.”

Relief for current economic situation

S. 379 and H.R. 848

Revenues < \$5,000	3 yrs.	§ 3.a.1.F.i.I	“(I) less than \$5,000 shall not be required to pay a royalty under this paragraph during 3 years immediately following the date of enactment of the Performance Rights Act.”
\$5,000 < Revenues	1 yr.	§ 3.a.1.F.ii.I	“(II) \$5,000 or more shall not be required to pay a royalty under this paragraph during the 1 year immediately following the date of the Performance Rights Act.”

Splitting of royalties between performers and labels

S. 379 and HR 848

Adapted from Congressional Research Service *“Expanding the Scope of the Public Performance Right for Sound Recordings”*:

The bills establish the following requirements for the distribution of royalties: (Section 6 of S. 379/HR 848, amending 17 U.S.C § 114(g).)

- A featured recording artist who performs on a sound recording that has been licensed for public performance by means of an audio transmission is entitled to receive payments from the copyright owner of the sound recording in accordance with the terms of the artist’s contract.
- Sound recording copyright owners must deposit 1% of the receipts from their licensing of public performance rights by means of an audio transmission, into a fund established by the American Federation of Musicians and American Federal of Television and Radio Artists, for the benefit of nonfeatured performers who have performed on sound recordings. (The bills specify that the fund shall be distributed 50% to nonfeatured musicians and 50% to nonfeatured vocalists)
- Radio broadcasters must pay 50% of the total royalties owed for the public performance of sound recording directly to featured and nonfeatured artists, in the proportions called for under existing law. (Under the Copyright Act, 17 U.S.C. § 114(g)(2)(B)-(D), the distribution of payments to all artists who performed on sound recordings are to be made as follows: 2.5% to nonfeatured musicians, 2.5% to nonfeatured vocalists, and 45% to featured artists)

Exemptions for religious and incidental uses of musical sound recordings

Grants an exemption from royalty payments for broadcasts of religious services and for incidental uses of musical sound recordings (e.g. talk radio, news and sports programming)

S. 379 and HR 848: § 3.b:

(b) TRANSMISSION OF RELIGIOUS SERVICES; INCIDENTAL USES OF MUSIC.—Section 114(d)(1) of title 17, United States Code, as amended by section 2(b), is further amended by inserting the following before subparagraph (B):

“(A) an eligible nonsubscription transmission of—

“(i) services at a place of worship or other religious assembly; and

“(ii) an incidental use of a musical sound recording;”