

Copyright Royalty Board Gives SoundExchange Permission to Use Proxy Information to Distribute Royalties

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What does SoundExchange do when it collects royalties from an Internet radio operator, but the operator doesn't provide complete information about the songs that were played? That question was raised by the **Copyright Royalty Board** in a Notice of Proposed Rulemaking on a proposal by SoundExchange for the distribution of such royalties, about which we wrote [here](#). The CRB [has now agreed](#) to SoundExchange's proposal to distribute this money via a "proxy system." In other words, SoundExchange will be distributing the money pro rata based on the information that it has for the songs on which similar services did accurately report. The CRB provided the authority for this distribution by proxy for unallocated money collected during the period 2004 through 2009, which SoundExchange reports now amounts to approximately \$19.4 million (down from the \$28 million reported when the CRB's Notice was released in April).

Why is there no information for these songs? As [we wrote](#) when the CRB Notice was first released, there are many reasons, beyond simple failure of Internet radio services to meet the requirements for reporting set out in the CRB rules (about which we wrote [here](#)). There are also situations where, under various settlement agreements, no reporting is necessary. For instance, under the settlement agreement with broadcasters, no reporting is necessary for a certain percentage of songs played by each station. Even under the CRB rules, there is a recognition that certain small webcasters (particularly noncommercial operators) can't afford all of the software that is necessary for the recordkeeping required of large webcasters. There will always be some songs for which no information is available, thus the need for this proxy system to distribute the money. And, as the result of the CRB action, SoundExchange now has the authority to use this system.

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