

## [SoundExchange Claims Credit for Shutting Down Webcaster Who Was Not Paying Royalties](#)

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**SoundExchange** [claims on its website](#) that webcaster **SWCast.net** was shut down when SoundExchange complained to its ISP that the service was not paying royalties for the use of the music played by the site. SWCast was an aggregator of webcast channels created by other individuals, who paid the company - allegedly for the streaming and for the royalties that were due for that streaming. According to the SoundExchange press release, the webcaster was shut down when SoundExchange "sent a letter requesting that the hosting ISP disable access to the SWCast site." SoundExchange's statement says that, despite repeated attempts to engage the webcaster, SWCast neither paid royalties nor filed reports of use for the songs streamed by the service, leading to SoundExchange's action. As far as we know, this is the first time that SoundExchange has taken such an action.

How did this work? While we have not seen the letter that SoundExchange sent to the ISP, we can assume that it alleged that SWCast was infringing on copyrighted materials by not paying the required royalties. ISPs have a **safe harbor** under the **Digital Millennium Copyright Act**, protecting them from liability for the infringement of users of their services, if the ISP does not encourage the infringement, registers an agent with the Copyright Office, and agrees to take down infringing content when properly notified by a copyright holder (see our post [here](#)). We can only assume that SoundExchange or the copyright holders themselves notified the ISP that the material streamed by this webcaster was infringing as no royalties were being paid and, to protect itself, the ISP blocked access to the site.

Does this action reflect a new aggressiveness on the part of SoundExchange? We [have noted](#) before that, from time to time, there seems to be a flurry of collection activity by SoundExchange. We have heard from several streaming companies that they have recently received notices from SoundExchange inquiring about various compliance issues. SoundExchange has been staffing up, and they have an attorney on staff whose principal job is enforcement. Perhaps, with a new President, and with the last webcasting royalty proceeding done but for the appeals, this is a time when SoundExchange feels comfortable enough to act to ensure compliance with its royalty requirements.

We've [summarized the Internet radio royalty rates recently](#), and [reminded webcasters not to forget their minimum fee payments and yearly election requirements](#). If you are streaming, this might be a good time to check your royalty compliance to make sure that you are doing all that is expected by SoundExchange. They may be watching!

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