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HFA Ready to Implement New Digital Era Mechanical Royalty Rates

October 2, 2008 – The Harry Fox Agency, Inc. (HFA), a leading U.S. music rights licensing organization, applauds today’s decision of the Copyright Royalty Judges (CRJ), and is ready to implement the new digital era mechanical royalty rates, including the first-ever statutory royalties for on-demand streams, limited downloads, and ringtones, as well as for physical recordings and permanent downloads. 180 days after the rates take effect, record labels, online music services, and other licensees will include these royalties in their quarterly reports. This will include the payment of all of the retroactive royalties for subscription services, which HFA has been licensing since 2001.

“HFA has more than 80 years’ experience licensing, collecting, and distributing royalties – we have evolved with every rate and music delivery format in the history of the U.S. recording industry, and we have already issued millions of licenses for online music services. With this decision from the Copyright Royalty Judges, we’re very pleased to finally be able to distribute these long-awaited royalties,” said Gary Churgin, HFA’s President and CEO. “Our systems are ready to handle these more complex royalty reports, and we also have the added strength of our highly skilled Collections and Royalty Compliance teams to ensure the application of the correct rate structure. Publishers and licensees can trust HFA to deliver for them as we have for nearly a century.”

The new schedule of mechanical rates, which will be in effect after final publication in the Federal Register until December 31, 2012, is:

Physical recordings: 9.1 ¢ for recordings five minutes or less; for recordings over 5 minutes, 1.75 ¢ for each minute, rounded up.

Permanent Digital Downloads: 9.1 ¢ for recordings five minutes or less; for recordings over 5 minutes, 1.75 ¢ for each minute, rounded up.

Mastertone Ringtones: 24¢ (mono- and polyphonic ringtones are not included)

Rates for limited downloads and on-demand streams vary by service offering; see attached chart.

Mechanical licenses are required under U.S. Copyright Law if one wants to duplicate and distribute a recording of a song that is owned by someone else whether in a physical or digital configuration. Through proper licensing, the publisher, and ultimately, the songwriter, are compensated for the use of their work. HFA is the largest mechanical rights agent in the U.S. Cumulatively, HFA administers over 15.2 million licenses for the almost 36,000 publisher catalogs it represents. In addition to mechanicals, HFA licenses a variety of formats, including lyrics, tablature, and more.

About HFA

Established in 1927 by the National Music Publishers’ Association, HFA represents almost 36,000 music publishers for their licensing needs in the United States, issuing licenses and collecting and distributing the associated royalties. In addition to being the premier mechanical licensing agent in the U.S., which includes CDs, ringtones, digital downloads, interactive streams, limited downloads and more, HFA is dedicated to finding new ways for its affiliated publishers to recognize value for their catalogs, including lyrics and tablature. Further, HFA provides collection and monitoring services to its publisher clients for music distributed and sold in over 95 territories around the world. For more information about HFA, or to become an affiliate publisher or a licensee, see www.harryfox.com.

Proposed Royalty Rates for the Use of Musical Works in Services Providing Interactive Streaming and Limited Downloads

Calculation Steps:	Offering Type				
	Standalone Non-Portable Subscriptions, Streaming Only	Standalone Non-Portable Subscriptions, Mixed Use	Standalone Portable Subscriptions, Mixed Use.	Bundled Subscription Services	Free Non-Subscription / Ad-Supported Services
1. Calculate All-In Royalty For Service as <u>greater of</u> :					
(a) applicable % of Service's Revenue, and	(a) pre-12/31/07: 8.5%, 10.5% thereafter	(a) pre-12/31/07: 8.5%, 10.5% thereafter	(a) pre-12/31/07: 8.5%, 10.5% thereafter	(a) pre-12/31/07: 8.5%, 10.5% thereafter	(a) pre-12/31/07: 8.5%, 10.5% thereafter
(b) applicable Service Type Minimum	(b) <u>Lesser of</u> \$.50 per subscriber per month, and if pass thru license, 18% (14.53% if pre-01/08) of service roy. exp. for label, if not pass thru, 22% (17% if pre-01/08) of service roy. exp. for label	(b) <u>Lesser of</u> \$.50 per subscriber per month, and if pass thru license, 17.36% (14.53% if pre-01/08) of service roy. exp. for label, if not pass thru, 21% (17% if pre-01/08) of service roy. exp. for label	(b) <u>Lesser of</u> \$.80 per subscriber per month, and if pass thru license, 17.36% (14.53% if pre-01/08) of service roy. exp. for label, if not pass thru, 21% (17% if pre-01/08) of service roy. exp. for label	if pass thru license, 17.36% (14.53% if pre-01/08) of service roy. exp. for label, if not pass thru, 21% (17% if pre-01/08) of service roy. exp. for label	if pass thru license, 18% (14.53% if pre-01/08) of service roy. exp. for label, if not pass thru, 22% (17% if pre-01/08) of service roy. exp. for label
2. Subtract from All - In Royalty for Offering	PRO royalties re. licensed activities	PRO royalties re. licensed activities	PRO royalties re. licensed activities	PRO royalties re. licensed activities	PRO royalties re. licensed activities
3. Payable Royalty Pool (\$ payable for all musical works used in the period) =	<u>Greater of:</u> 1. Step 2 Result, or 2. \$.15 per Subscriber Month *	<u>Greater of:</u> 1. Step 2 Result, or 2. \$.30 per Subscriber Month *	<u>Greater of:</u> 1. Step 2 Result, or 2. \$.50 per Subscriber Month *	<u>Greater of:</u> 1. Step 2 Result, or 2. \$.25 per Subscriber Month *	Step 2 Result
4. Per Work Royalty Allocation for Each Relevant Work, applicable to all offering types:					
(a) Payable Royalty Pool for an offering divided by the total number of plays of all musical works through the offering (other than promo rate plays) to yield a per-play allocation.					
(b) Multiply per-play allocation times the number of plays each musical work (other than promo rate plays). After 10/01/10 the number of plays for musical works with a playing time of <u>over 5 minutes</u> shall be counted so that each actual play is counted as 1 plus 0.2 for each minute or portion thereof in excess of 5 minutes.					



* - Subscriber Month for all offerings except bundled subscription services shall be calculated for the accounting period, taking into account all end users who were subscribers for complete calendar months, prorating in the case of end users who were subscribers for only part of a calendar month, and deducting on a prorated basis for end users covered by a free trial period subject to the promo royalty rate. For bundled subscription services, determined with respect to active subscribers (i.e., each end user who made at least one play of a licensed work during such month).