



Virginia Association of Broadcasters Legal Review



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Legal Memorandum

IMPORTANT Music Licensing Reminder: GMR Interim License Is Available to Commercial Radio Stations; Stations Must Take Action by **January 31, 2017!**

As we have previously reported, the Radio Music License Committee (RMLC) and the new performing rights organization named Global Music Rights (GMR) have been in protracted negotiations over music licensing fees for the public performance by radio stations of songs in GMR's newly-created repertory. In November 2016, the RMLC filed an antitrust lawsuit against GMR in a federal district court in Pennsylvania. And in early December 2016, GMR responded with its own antitrust lawsuit against the RMLC (and up to 3,000 yet-to-be-named radio station operators) in a federal district court in California.

In late December 2016, GMR made available to radio stations an interim license agreement pending the resolution of these lawsuits. In the absence of this development, stations risked potential copyright infringement—and possible litigation with GMR—if they continue to play songs in GMR's repertory without a license.

GMR is reportedly making the interim license available to all commercial radio stations until January 31, 2017, and GMR will reportedly not file a copyright lawsuit against any station without a license before that date.

You must **take action** if you wish to use the interim license for your commercial radio station. The interim license is not automatic. You must contact GMR to enter into the interim license and ascertain your station's specific fee for the interim license. You can contact GMR at: licensing@globalmusicrights.com.

Here's a summary of the key provisions of GMR's interim license:

- You have until January 31, 2017, to enter into the GMR interim license and to start making payments of your station's interim fee.
- The term of the interim license is for nine (9) months, commencing January 1, 2017 (ending September 30, 2017).
- The interim license is on a "non-precedential basis," meaning that your station and GMR each retains the right to seek a retroactive fee adjustment in future license agreements or as a result of the RMLC's and GMR's pending lawsuits.
- The interim license covers terrestrial, non-interactive digital simulcasts, and promotional websites owned by your station.
- The license fee is payable on a monthly basis, without monthly invoices from GMR. Fees are due on or before the end of each month during the term (e.g., on or before January 31, 2017, February 28, 2017, etc.).
- GMR is required to provide your station with a full and complete list of all songs owned or controlled by GMR, along with all ownership splits.
- Your station must provide substantially the same reporting data to GMR that it provides to ASCAP, BMI, and SESAC from time to time.
- The terms of the interim license—in particular, your specific license fee and GMR's non-public client and song list—must be kept confidential.

Again, for your specific interim license fee and to enter into the interim license, you need to contact GMR. You should evaluate your specific interim license proposal with your legal counsel.

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A Special Note for Noncommercial Radio Stations

The interim GMR license is only for **commercial** radio stations. A separate compulsory license under copyright law generally covers terrestrial broadcasts (but not internet streaming) for **noncommercial** radio stations.

Noncommercial radio broadcasters should consult with their legal counsel about the applicability/availability of the compulsory license to—and the impact of GMR's entry into the PRO market on—their stations.

If you have any questions concerning the information discussed in this memorandum, please contact your communications counsel or any of the undersigned.

Stephen Hartzell, Editor

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