



## CALCULATION OF PER PROGRAM FEES

(for music performance rights licenses)

### General Description

- ♪ The **per program license was developed as an alternative to the blanket license** that allows stations to reduce their otherwise applicable blanket license fees to account for music performance rights that stations either license directly from the copyright holder (a direct license), license from the program producer (a source license), or own. Stations that are affiliated with **ABC, NBC, and CBS and produce local programming** typically have achieved **savings** by switching from a blanket to a per program license.
- ♪ The more a station airs programming that uses only direct or source licensed music, the greater the potential benefits of a per program license
- ♪ Per program fees are a **function of a station's blanket license fee and revenues that are derived from each program**
- ♪ **ASCAP/BMI/SESAC** are referred to below as **PROs** or performing rights organizations

### Methodology/Calculation of Per Program License Fees

- ♪ **Step 1** – Stations pay an **incidental and ambient use fee of 15%** of the station's monthly blanket license fee. This fee covers performances of music (i) in commercials; (ii) that is heard in the background of news and public events programs so long as the performance is less than 15 seconds in duration; and (iii) that is heard in the background of sporting events. No cue sheets need to be provided to the PROs for these types of music performances. The remaining 85% of the monthly blanket license fee is subject to adjustment as set forth in Step 2 below.
- ♪ **Step 2 – Calculation of the Program Fee.** The Program Fee is calculated by first multiplying the remaining 85% of the monthly blanket license fee by a "per program multiplier" (the specific multipliers used are noted below). This yields the "maximum program fee" i.e. the program fee that would be paid if 100% of the programs contain at least some music licensed through the licensing PRO. The "maximum program fee" is then reduced by multiplying it by a fraction, the numerator of which is the revenue attributable to the "non-network" programs broadcast on the station's main channel that contain music licensed through the licensing PRO and the denominator of which is the station's total revenues attributable to "non-network" TV programs broadcast on the station's main channel. The precise formulas used by each PRO are below:



- ♪ **Formula for ASCAP**-  $145\% \times [\text{Monthly Blanket License Fee-Incidental/Ambient Use Fee i.e. } 85\% \text{ of the Monthly Blanket License Fee}] \times \text{Revenues attributable to Non-Network TV programs that use music licensed through ASCAP/Revenues attributable to Non-Network TV programs}$ . The resulting fee is inclusive of the administrative fee paid to ASCAP.
- ♪ **Formula for BMI** -  $150\% \times [\text{Monthly Blanket License Fee-Incidental/Ambient Use Fee i.e. } 85\% \text{ of the Monthly Blanket License Fee}] \times \text{Revenues attributable to Non-Network TV programs that use music licensed through BMI/Revenues attributable to Non-Network TV programs}$ . The resulting fee is inclusive of the administrative fee paid to BMI.
- ♪ **Formula for SESAC** –  $480\%$  in 2016,  $320\%$  in 2017 and  $290\%$  in each of 2018 and 2019  $\times [\text{Monthly Blanket License Fee-Incidental/Ambient Use Fee i.e. } 85\% \text{ of the Monthly Blanket License Fee}] \times \text{Revenues attributable to Non-Network TV programs that use music licensed through SESAC/Revenues attributable to Non-Network TV programs}$ . A separate administrative fee is paid to SESAC.

#### Additional Detail:

- ♪ **Calculation of Revenues attributable to Non-Network TV programs that use music licensed through the licensing PRO (numerator)** – The revenues attributable to TV programs that use music licensed through the licensing PRO generally comprise 100% of the revenues from programs that use any music from the licensing PRO's repertory, provided that those music performances are not otherwise licensed through a source or direct license. The revenues attributable to programs that only have incidental or ambient uses of music from the licensing PRO's repertory are not included. In addition, the revenues of a program that only contain "split works" (works that have joint ownership and can be licensed through two or more PROs) are not included so long as the station has secured the right to perform the work either through a source or direct license or through a PRO other than the licensing PRO. When the music in particular programs cannot be identified, a portion of the revenues attributable to the program are included, the details of which vary by program and licensing PRO.
- ♪ **Calculation of Revenues attributable to non-network TV programs (denominator)** – This is a station's total revenues attributable to "non-network" TV programs broadcast on the station's main channel. Revenue generally means: (i) amounts billed by the station for the sale of commercial or program time, including political advertisements; and (ii) the value of trades and barter the station receives in exchange for commercial or program time. Revenues include commercial announcements within a program and those preceding a program that are broadcast after the completion of the prior program.



- ♪ Add-on for administrative fee (SESAC only) – A separate fee is paid to SESAC to cover its costs in administrating the local TV per program license. In total, SESAC is to receive \$400,000 in 2016 and \$500,000 in each year 2017-2019 in administrative fees. Each licensed station with a per program license is allocated a portion of these fees.

**DISCLAIMER** – This summary is a tool for reference purposes only and is designed to explain the basic concepts and methodology contained in music performance license agreements. It is not meant to be a substitute for use or interpretation of the actual agreements which contain additional and more extensive terms and conditions. Full details of these agreements can be found on [www.tvmlc.com](http://www.tvmlc.com).