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Copyright Royalty Board Raises Rate for SiriusXM, Lowers It for Music Choice

12/15/2017 by [Ed Christman](#)



Getty Images

SoundExchange CEO Michael Huppe responded, "It is long past time for Congress to change the standard that currently forces music creators to subsidize flourishing companies."

The Copyright Royalty Board has determined that Satellite Audio Radio Services, i.e. SiriusXM will pay 15.5 percent of revenue for the next five years beginning in 2018 to 2022, although the full determination has yet to be posted on the [CRB's website](#) while the participants scrutinize the document to make sure proprietary data is not publicly revealed.

That represents a nearly 41 percent jump from the 11 percent the service was paying in the current year, although it's short of the 23 percent that SoundExchange was advocating to the CRB judges, who are appointed by the U.S. Librarian of Congress. But it's better than the static rate that Sirius was hoping from the judges. While apparently happy for the higher rate, [SoundExchange issued a statement](#) urging Congress to change the "grandfathered" disposition that allowed the judges to take into consideration the cost of building and launching expensive satellites in the early days of the industry when Sirius and XM were still separate entities, competing against each other, and losing money.

"Yesterday's decision confirms the need to change the so-called Section 801(b) rate standards under which satellite radio and the 'grandfathered' cable radio services operate, and which permit the CRB to adopt rates different than what the market would provide," according to SoundExchange. "As a result of that rate standard, SiriusXM has paid below-market rates for years, and the recording artists and rights owners SoundExchange represents have subsidized the company's growth."

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In the first nine months of this year, Sirius has generated net income of \$691.3 million, or 14 cents per diluted share, on revenues of \$4.02 billion.

"There's no reason recording artists and record labels should subsidize a company as profitable as Sirius XM," SoundExchange president and CEO **Michael Huppe** said in a statement. "Everyone should play by the same rules, and it is long past time for Congress to change the standard that currently forces music creators to subsidize flourishing companies whose success is built on top of the music."

In another move that will be viewed as disappointing to artists and labels, the CRB -- a royalty setting tribunal created by Congress that is part of the U.S. Copyright Office of the Library of Congress -- ruled that pre-existing subscription services (Music Choice and MUZAK) will enjoy a reduced rate of 7.5 percent of revenue for the next five years. That is down from 8.5 percent of revenue in the current year that the two services are paying to the industry.

"Music Choice and Muzak pay significantly lower rates than their non-grandfathered competitors offering the same service," SoundExchange noted in a statement; and urged Congress to establish rate standard parity so all digital services are subject to a "willing buyer/willing seller" standard.

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"SoundExchange is dedicated to our mission of ensuring that creators are properly recognized and compensated for the use of their work," Huppe added in a statement. "And while the Copyright Royalty Board did not adopt the rates we proposed for SiriusXM, its ruling demonstrates an important step in the right direction toward valuing the contributions of the music creators represented by SoundExchange."

SoundExchange is a not-for-profit agency created by Congress to collect and distribute royalties to artists and labels for music played by SiriusXM, Music Choice, and other programmed digital music services.

As the news unfolded about the rate, other organization's put out statements on the decision. For instance, the RIAA said the decision is a move in the right direction but rates remain short of what music creators deserve.

"For more than a decade, SiriusXM pocketed billions of dollars on the backs of music creators by paying below-market rates while the company crowed about record profits and boasted a market cap about the size of the entire recorded music market," according to an RIAA statement. "At the same time, SiriusXM continues to go out of its way to file lawsuits to deny fair compensation to legacy pre-1972 artists who depend on that income for their living. That's no record to be proud of."

Similarly, the American Federation of Musicians of the U.S. and Canada welcomed the rate increase but its president Ray Hair said in a statement that the copyright system is broken because it "allows this wildly profitable company to underpay for recorded music based on a below-market standard."

musicFIRST also expressed disappointment in the decision. "The rate SiriusXM will pay the artist may have changed but the facts surrounding the company's sweetheart deal have not," the organization's executive director Chris Israel said in a decision. "This decision virtually guarantees the company will pay an unfair, below market royalty rate for the music that it plays well into the future."

He further said that SiriusXM has benefitted from a below-market rate at the expense of music creators for nearly two decades, during which time they "dragged legacy artists through the courts rather than pay them what they deserve." He called upon Congress to pass Fair Play Fair Pay Act, which would apply willing buyer, willing seller standards across all music licensing platforms.

At press time, the SiriusXM company website hadn't yet acknowledged the CRB's decision, nor did the company respond to a request for comment. But in a filing with the Securities and Exchange Commission, Sirius said, "We are in the process of studying and evaluating the rates and terms announced by the Copyright Royalty Board. We also expect to evaluate changes in our pricing, including the amount of our U.S. Music Royalty Fee."

Sirius stated that the decision will result in an increase in the company's annual royalty expenses, but the company is not yet able to estimate the impact of it on the company's

financial statement, although the filing notes that the additional royalty expense could be material.

While many in the music industry have long complained that Sirius rates are not set by "market" consideration, the company nevertheless has one of the highest per play rates in the U.S. industry, paying some \$25-\$30 per play, according to industry sources and as disclosed in the settlement the company made with the Class Actions lawsuit led by the Turtles.

Sirius, Music Choice, Muzak and Sound Exchange have 60 15 days to move for a rehearing. Once that process plays out, i.e. if there is a rehearing motions and responses to such motions, the CRB hands of the determination to the Register of Copyright who has 60 days to review the determination for legal error. If the Register signs off on the determination, it is published in the Federal Register, after which the parties have 30 days to appeal the decision to the U.S. Court of Appeals in D.C.

On news of the rate increase, the Sirius share price fell 5.1 percent to close at \$5.37 today from yesterday' close at \$5.66.

Meanwhile, the industry is still anxiously awaiting other rate setting decisions from the CRB, such as the mechanical rate record labels and on-demand digital services that use the compulsory license have to pay publishers.

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Detroit's Shinola Makes Bid for Crowded High-End Headphones Market

3/7/2018 by [Gil Kaufman](#)



Courtesy of Shinola

Canfield Over-Ear Headphones

The market is getting more crowded now with news that Apple is also hopping in.

With Apple [reportedly developing](#) a new line of Apple-branded over-the-ear headphones that could compete with its own Beats By Dre line, the high-end headphone market is suddenly getting even more crowded.

Though it seems like a left-field bid, Shinola CEO Tom Lewand doesn't think it's odd at all that his Detroit-based company -- known for making bespoke watches, bicycles, handbags and jewelry -- has branched out into designer audio over the past two years.

"For us, it's an authentic commitment to being in the multi-billion dollar audio space and it's not a one-off," says Lewand, of the company's recent bid to take on such headphone giants as Apple's Beats with its \$195 Canfield in-ear monitors and sleek \$450 over-ear headphones. "We invested heavily in the design and development and we think we're doing it in a way that's consistent with our other categories. It starts with quality and craftsmanship like we did with the watches and leather goods and does it in a way that we hope establishes some credibility in the space."

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Lewand saw an opening in the mid-to-high-end headphone niche, which is part of a headphone and earphone market that Statistics MRC [reported](#) in 2017 could grow from a \$9.6 billion to \$13.82 billion global business by 2023. FutureSource Consulting's Zlata Jelisejeva tells *Billboard* that in 2017, the premium headphones market (\$200 and up) was projected to grow 15 percent in units (to 14 million) and 17 percent in revenues to \$3.5 billion, with North American and Western Europe driving the market demand.

The Shinola boss says he's focused on getting the products right, and then pushing toward future expansion into other lines that could include wireless offerings and an "enhancement" of their current bookshelf speaker line; he declined to share the company's sales targets for the headphones.

Shinola's jump to audio began in late 2016 with the Runwell Turntable, made in conjunction with respected turntable manufacturer VPI and under the guiding ears of Alex Rosson. The former CEO of pioneering headphone manufacturer Audeze came on board at Shinola for a two year-stint, to help fine-tune the products and give the Motor City company the same credible, marketable aesthetic that has made its other goods favorites in what Lewand calls the "approachable luxury" category.

While Lewand declined to disclose how much money Shinola poured into R&D on the headphone line, he says the company made the "necessary" capital investment to give the

products a warmth and richness of sound, which he says will surprise seasoned audiophiles. "I'm not a technical guy, but what we tell our customers is that when you put on a pair of Shinola headphones and listen to a song you've heard hundreds of times, you will hear things you've never heard before," he says of the range -- which was personally tuned by Rosson's "golden ear."

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Teaming with Audeze co-founder Rosson and Portland's respected Campfire Audio (for the in-ear models) was one way to bake authenticity into the products, which have so far met with [mixed to good reviews](#) for their audio quality from some consumer reviewers, while earning the expected plaudits for their sleek, sturdy design.

"They are beautiful," says *Stereophile* Senior Contributing Editor Michael Fremer, who has spent a lot of time testing out the company's turntables and said of Shinola's headphones: "the sound-producing element appears high in quality," even as he felt the bass/mid-bass heavy tonal balance obscured the detail at times.

"They clearly spent a lot on building, designing, advertising and promoting [their audio products]... and if you go into a hi-fi showroom now, you will find a room where there are just headphones and all these young people in their teens and 20s are way into it. When they hear good sound, the first thing they realize is that they've been bullshitted by Apple and all these companies saying MP3 sound is fine, and you can't hear the difference. This is growth market right now and I imagine Shinola is figuring they've got the brand and the clientele, and those people will be interested in Shinola's take on headphones whether they sound good or not."

As for the high price point, Lewand says it's consistent with Shinola's other product categories, with the promise of polished steel and real leather accents that present a stark contrast with the plastic and vinyl materials often found in comparable products.

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In addition to the potential competition that could come from Apple's headphones -- which could launch by year's end -- the crowded headphone market includes such prominent players as Sony, Skullcandy, Bose and Sennheiser, with Apple and Beats currently making up a 27 percent share of the total market, according to NPD Group.

And, there's yet another new entry into the field from Melbourne, Australia-based Nura that uses an innovative touch that could join Shinola in disrupting the field. Nura launched the \$399 [Nuraphone](#) in October as a "smart," self-learning headphone that promises to automatically measure your hearing and use the information it collects to "sonically mold the sound of the headphones to perfectly match your hearing, and bring your music back into sharp focus." The Nuraphone recently won the 2018 CES "Best of Innovation Award."



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