

Statement of  
Tim Westergren  
Chief Strategy Officer & Founder  
Pandora  
before the  
Subcommittee on Communications and the Internet  
Committee on Energy and Commerce  
U.S. House of Representatives  
on  
“The Future of Audio”  
June 6, 2012

Good morning Chairman Walden, Ranking Member Eshoo, and Members of the Subcommittee. Thank you for inviting me to testify this morning on “The Future of Audio.” My name is Tim Westergren and I am Chief Strategy Officer and Founder of Pandora.

Twelve years ago, after spending my twenties and early thirties playing in rock bands, and composing film scores, I founded a music discovery service to help independent musicians like me find their audiences. I had a vision that by marrying musicology and technology, I could solve the great problem of discovery - how to help listeners find new music to love, and how to bring all these talented artists the attention and careers they deserve.

It took six long years before the Music Genome Project finally found its home in the form of Pandora. We have gone from a cramped studio apartment in South San Francisco, financed through salary deferral, credit card debt, and the extraordinary effort of a talented group of musicians and engineers, to the country’s largest Internet radio service, with over 150 million registered listeners and close to 600 employees in offices all across the country. We stream more hours of music every month on Pandora than YouTube streams hours of video and refer more music sales to iTunes and Amazon than virtually any other service in the world.

Today, more than ever before, the dream of connecting listeners and artists seems within our grasp. Thanks to Pandora’s Music Genome Project, and its rich understanding of musical recordings (every song in our collection is hand-analyzed by a trained musician along hundreds of musical attributes per song), Pandora now plays the music of over 100,000 artists (70% of them independent), represented by a catalogue of over a million songs. And over 95% of these songs play every month. Let me repeat that. Over 950,000 unique songs play every month on Pandora. And the music spans hundreds of genres that are rarely heard in any medium – bluegrass, big band, classic country, baroque, klezmer, a cappella, New Orleans jazz, you name it. For most of these artists, Pandora is the only radio play they’ve ever enjoyed. It is

conceivable that this new promotional vehicle, if it continues to grow, may eventually lead to the emergence of a musician's middle class.

We have created a democratic and inclusive form of radio that listeners can access the same way they listen to terrestrial broadcasting. Eight of the world's largest automakers now include Pandora in new models. We are embedded in over 650 consumer electronics devices that enable Pandora to be enjoyed throughout people's homes. We are the second most downloaded iPhone app. Pandora is even built into refrigerators. Long gone are the days when customers accessed internet radio only through their PCs or laptops. In fact, over 70% of our listening now takes place off the computer.

But beneath this exciting transition is a severe and fundamental problem. While Pandora and other Internet radio services compete directly with broadcast and satellite radio for listeners in every place you find music – the home, the car, the office, on the go - we are subject to an astonishingly disproportionate royalty burden compared to these other formats.

All forms of radio pay *songwriters* a very similar percentage of revenue but there are enormous differences in how *performing artists and labels* are compensated.

Last year, on revenues of \$274MM, Pandora paid \$137MM in performance fees to performing artists and labels, or 50% of revenue. That same year, Sirius/XM, on revenues of \$2.74B, paid \$205MM, or 7.5% of revenue; and broadcast radio, on revenues of roughly \$15B, paid zero. Now I am fully supportive of fair compensation for artists. I'm a musician, and I strongly believe that radio can and should reward musicians for the use of their work – both songwriters AND performers. But this lack of a level playing field is fundamentally unfair and indefensible.

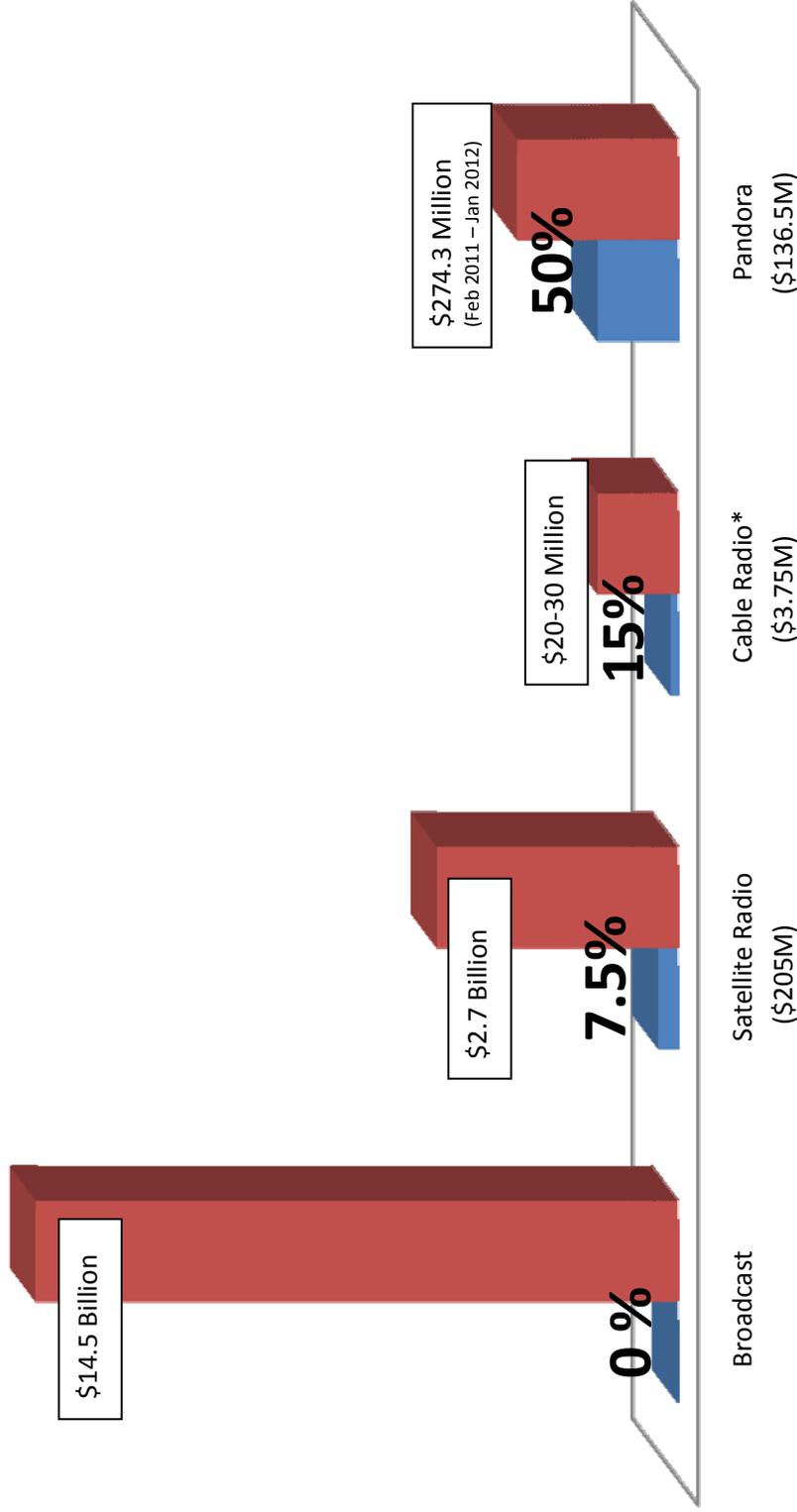
So why is there such a disparity in royalties? The inequity arises from the fact that Congress has made decisions about radio and copyright law in a piecemeal and isolated manner; as each new form of radio transmission was invented, new legislation was passed but only to address the new form. The effect has been to penalize new media and advantage old media when setting the rules for music royalties.

To give you a sense of how absurd the current situation is, consider this example: Drivers of most current Toyota cars can receive AM/FM, satellite and internet radio, all through the vehicle's sound system. If a song is delivered over AM/FM, the associated performing artist and label receive no compensation. If the same song is delivered over satellite, the performing artist and label do receive compensation. But if the song is delivered using internet transmission over 3G or 4G, then the effective percentage of revenue that must be paid by the company delivering the song goes up six fold. It's the same song, same car, and the same sound system.

It is time for Congress to level the playing field and to approach radio royalties in a technology neutral manner. The current rate-setting law is unfair to performing artists, unfair to record labels, and unfair to Pandora and internet radio as we compete every day with broadcast radio and satellite radio for listener loyalty and advertising and subscription revenue. America's obligations to our performers should be shared proportionally by all who use their music. What amounts to a subsidy of entrenched radio media stifles innovation, discriminates against the internet and adversely affects consumers. It is time to unshackle innovation and allow new technologies and new forms of audio consumption to compete fairly.

Thank you for your time and consideration. I look forward to your questions

## 2011 Royalty Rates as a Percentage of Annual Income



\*Exact cable radio annual income unknown at time of submission, percentage calculated using \$25M estimate.