

U.S Senate
Committee on Commerce, Science and Transportation
Hearing on
“The Future of Radio”

Testimony of Tim Westergren
Founder and Chief Strategy Officer
Pandora Media

On behalf of the
Digital Media Association

Chairman Inouye, Vice Chairman Stevens, and Members of the Committee:

My name is Tim Westergren. I am the Founder and Chief Strategy Officer of Pandora, and it is my pleasure today to speak with you on behalf of my company and the Digital Media Association (“DiMA”), about the radio industry, and particularly about innovation and the future of radio.

What is Pandora?

Pandora is an Internet radio service that listeners enjoy on their personal computers, through home entertainment products and on mobile phones. Pandora is powered by a very unique musical taxonomy, called the Music Genome Project, developed by our team of university-degreed musicologists. Our team has identified hundreds of musical attributes and they assign values to each attribute in each song. When applied across a repertoire of hundreds of thousands of songs, the Music Genome Project literally connects the dots between songs and artists that have something – often quite subtle things – in common. This is the foundation that enables Pandora to offer listeners – quickly and easily – radio stations that play music that matches their taste if the listener simply tells us the name of a favorite song or artist.

The result is remarkable in many ways. More than 8.5 million registered Pandora listeners enjoy a better radio experience, and they are passionate about our service. They listen to more music, they re-engage with their music, and they find new artists whose recordings they purchase and whose performances they attend. Pandora is a bit of a phenom – in only two years since our launch we have become the third largest Internet radio service in America. But the real winners are music fans, artists, record companies, songwriters and music publishers.

Something unique about Pandora is that all music, once analyzed by our musicologists and entered into our database, wins and loses audience in the purest of democratic processes. If listeners vote “thumbs up” a song and artist are electronically added to more station playlists, the exposure is greater, and more people can offer opinions about that music. If listeners consistently vote “thumbs down” then the song is performed and heard less. Not even my musical tastes or the CEO’s favorites can modify the purity of how our musical taxonomy determines all Pandora radio performances.

Equally unique is the breadth of our playlist. Pandora musicologists will review any CD that is delivered to us, and in most cases enter it into our database and make it available for our millions of listeners to hear. Pandora’s collection includes hundreds of thousands of songs across the genres of Pop, Rock, Jazz, Electronica, Hip Hop, Country, Blues, R&B, Latin and in just a few weeks, Classical. These recordings range from the most popular artists to the completely obscure, and each month our nearly fifty musicologists analyze and add roughly 14,000 new songs to the catalogue – a very deliberate process that requires between 15 and 30 minutes per song.

There are no prerequisites for inclusion in the Music Genome Project. Indeed, it is quite common for us to add amateur homemade CDs to the service. As a card-carrying independent musician I am proud to report that fully 70% of the sound recordings in our collection, representing over 35,000 artists, are recordings of artists who are not affiliated with a major record label. Most important, because we rely only on musical relevance to

connect songs and create radio playlists, all artists are treated equally in the playlist selection process and as a result independent music is likely heard more on Pandora than perhaps any other popular radio service. More than 50 percent of Pandora radio performances are from independent musicians, compared to less than 10 percent on broadcast radio.

What qualities are unique about “new media” radio, and what benefits are associated with those qualities?

In one sense multimedia convergence has already blurred the line between traditional ‘terrestrial radio’, Internet radio, mobile radio, cable radio, satellite radio and even community radio. For example:

- Your mobile phone today can transmit a “webcast”, and with a \$2 adaptor you can listen to that Internet radio through your car stereo.
- You can start a “community” radio station on the Internet and while content is focused locally, an audience is available (and may actually listen) globally.
- Your car stereo today comes pre-loaded with AM/FM and perhaps XM, but in only a few years cars will have WiMAX broadband access and you will be able to enjoy Internet radio directly and throw away the adaptor I just spoke of.

To a listener who is hearing a single station at a given time, it is just radio and their choices are amazing – which content do I want to hear, when do I want to hear it, and on what device?

But in another sense, Internet radio is uniquely different from broadcast, satellite and even low-power FM radio, because on the web there are virtually no spectrum limitations and therefore no capacity or scarcity issues. As a result, Internet radio offers almost unlimited “stations” which results in unlimited content diversity.

For music fans, Internet radio means no longer being confined to local or even satellite stations playing homogenous music for broad audiences of thousands or tens of thousands of listeners. Instead, individuals can hear the types of music they enjoy and simultaneously discover new songs and artists that would otherwise be literally invisible

to them. Unconstrained by spectrum limitations, webcasting has created a genuine explosion of accessible musical diversity. Lute music, classic country, jazz, klezmer, dixie, gospel, Latin and Hawaiian music – you name it and you can find it – every kind and color of music has found a home and connected with its audience, no matter how small, on the Internet.

Another unique feature of Internet radio is click-to-buy purchasing opportunities, and immediate access to artist information, including the artist’s promotional website and tour schedule. Pandora is a powerful platform for recording companies and artists during this tumultuous period for recorded music. An August 2007 Nielsen/NetRatings research study concluded that Pandora listeners are three to five times more likely to have purchased music in the last 90 days than the average American. Similarly, Pandora is one of the top referral sites for music purchasing from both Amazon.com and the iTunes Music Store. Other studies have documented that Internet radio listeners are generally more engaged with music, they talk about it more and attend more performances, and they inevitably promote artists and music through word-of-mouth marketing.

Finally, of course, there is the issue of royalties to performers and recording companies. As you know, traditional broadcasters do not pay royalties but the rest of us – cable, satellite and Internet radio – do pay. You may not be aware that Internet radio has the smallest of all radio revenue streams, but we pay proportionately the highest royalties.

RADIO REVENUES AND ROYALTIES

	Internet Radio	Cable/Satellite Radio	European Radio (Music)	Broadcast Radio (Music)
2006 Revenue	\$100-150 Million	\$1.5-2 Billion	unknown	\$15.5 Billion
Sound Recording Royalties	47-300% of Revenue	3-7.25% of Revenue	4.3% of Revenue	0% of Revenue
Songwriter Royalties	4% of Revenue	4% of Revenue	5.2% of Revenue	3% of Revenue

I am proud that in 2006 Pandora paid more than \$2 million in royalties to artists and recording companies, and had the old royalties rates stayed in effect, then in 2007 we would be on track to pay over \$4 million. Instead, unfortunately, the Copyright Royalty Board recently increased royalty rates more than 30% so our royalty in 2007 is now likely to reach over \$6 million, almost 50% of our total revenue. And per listener per track royalty rates for Internet radio are scheduled to climb an additional 27% in 2008, and 29% more in 2009.

Under the CRB decision Internet music radio is economically unsustainable; it is not even a close call. Pandora has skyrocketed from a standing start to millions of listeners in two years; we were getting within sight of cash-flow positive operations under the old rates, but now we are back under water with no hope of ever emerging as the royalty rates continue to increase. Of course our disappointment is magnified because our broadcast and satellite competitors enjoy no royalties or very reasonable royalties, respectively.

It is for these reasons that Pandora and the entire Internet Radio industry thank Senators Kerry and Dorgan for cosponsoring the Internet Radio Equality Act, S. 1353, which would resolve this industry crisis by reversing the Copyright Royalty Board's recent rate-setting decision and set royalties at a reasonable 7.5% of revenue – higher than that paid by any U.S.-based radio service and higher than the average royalties in Europe that the recording industry references as the bastion of sound recording performance royalty fairness.

In the starkest possible terms, the Committee and the Congress should be aware that Pandora and the entire Internet music radio industry cannot afford the CRB royalty rates. Today, we still are hopeful and we believe that some combination of Congress, the courts, or a negotiated resolution with SoundExchange will favorably resolve this threat. But if we conclude that the CRB royalty rates are not going to be rectified, Pandora would shut down immediately.

Congress should also understand that Pandora and our DiMA colleagues are not alone in our effort to reverse this unfair CRB royalty decision. Since the SaveNetRadio campaign began several hundred thousand people have contacted Congress and urged support for Internet radio and more than 6,000 artists have joined the effort in support of the Internet Radio Equality Act and more reasonable royalties for artists and recording companies. Everyone in the Coalition wants artists to be paid fairly and supports the growth of Internet radio which directly and indirectly benefits tens of thousands of working artists. But without reduced royalties there is simply no way for Pandora, or any other webcaster, to remain in business.

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In just ten years more than 70 million listeners have flocked to Internet radio, a virtual fountain of music discovery. Many of our listeners are returning to radio after years of exile spent listening to the same CDs they bought in college, or not listening to music at all. And musicians are back in business also, as they can now find fans and build community with people who want to buy their music and want to attend their performances. The Internet continues to be a remarkable democratizing force for creativity and innovation.

It has been a wonderful experience to watch our service grow and to witness our listeners' passion and enthusiasm as they have rediscovered their love of music. I am Pandora's traveling minstrel, and in the last 18 months I have visited almost 100 different towns and cities meeting in "town hall"-style with Pandora listeners. From Biloxi and Baton Rouge to Seattle and San Francisco I have met with tens and often hundreds of listeners at each meeting and enjoyed the energy of enthusiastic music fans and musicians who are re-engaged and re-committed to their music and their newfound radio experience.

As a former performing musician and composer, it is exciting to be at the dawn of a new renaissance for musicians, who are empowered with new ways to market their music and successfully develop a fan base. I often wish I could start my band now instead of back in the early nineties when our resources were a van, a staple gun and a pile of flyers that we handed out or stapled to telephone poles.

It is my hope, indeed the reason I started this company, that we are at the beginning of the development of a musicians' middle class, as radio services like Pandora allow musicians to find a fan base and maintain a steady career making music, which is a real alternative to the major-label system that makes you an enormous star or leaves you unemployed. These emails from Pandora listeners testify to this new era for independent musicians:

“I think the best thing you've done is introduced me to so many artists that I love but would have never known that they existed otherwise. Now I buy their albums and look for upcoming shows in my area. You've done the music industry a great service from what I can tell.”

“Let me tell you that you are a blessing in my life. I'm 77 years old and the music I like and grew up with just isn't played much any more. Sometimes tears come to my eyes when I hear certain songs. They bring back so many memories. I don't think I have heard any songs I haven't liked. Thank you from the bottom of my heart. I send you arms full of appreciation.”

And from a musician:

“Hi guys - just wanted to thank you for putting my music into your system. I have had sales all over the US from people who found me via your site. Pandora is great. I use it all the time. And I can't believe what a promotional tool it has become for my own music.”

Since 1999 Pandora has survived the dot-com collapse thanks to more than 30 employees who worked months without salaries, and we are now one of the largest payors of sound recording performance rights in this great nation. We employ more than 100 people, most of whom are trained and experienced musicians and most of whom work at our headquarters in an enterprise zone in Oakland, California. We have invested; we have innovated; and we have had some very good initial success. Please support resolution of

the Internet radio royalty crisis by cosponsoring the Internet Radio Equality Act so our industry can continue to grow, and continue to benefit artists by paying fair royalties and developing new audiences.

As a musician who spent a decade walking in the shoes of the working artist, I am heartbroken at the prospect of silencing what has become an extraordinary resource for the artist community. As a listener and music lover, I am depressed at the prospect of losing the most powerful music discovery tool ever put in the hands of music lovers. And as a webcaster, I am dismayed at the prospect of telling millions of devoted listeners that their radio stations are dead.

Thank you for your time and consideration.