

Broadcasters Can't Have It Both Ways on Compensation for Creators

[musicFIRST Coalition](#)

The NAB wants to have its cake and eat it too. We won't let them get away with it.

By Congressman Joe Crowley



At some point today, nearly all of us are likely to do two things: listen to music and consume the latest news or current events in

some capacity. Maybe we'll click on a broadcast story shared on Facebook, ask Alexa to play some country ballads, or get our news and entertainment the old-fashioned way: from local television, newspapers, and radio stations. It may not matter to you how you get it, but it sure does to the creators.

Why? Because in an era where the news and music industries have been upended by technology and the internet, how you get your content has a big impact on whether creators are compensated, and if so, what cut of the pie they receive. For example, if you get your news watching your local NBC affiliate, the broadcaster gets paid. But if you watch that same news story from your local NBC affiliate on Facebook, the social network may receive the lion's share of the money. Similarly, if you turn to Pandora for music, the performer gets paid — but the same creator won't see a penny when their songs are played on AM/FM radio.

Now, Congress is being asked to address these disparities in creator compensation — and one organization is trying to disingenuously play both sides of the issue.

The organization is the National Association of Broadcasters, the lobbying arm for the largest corporate broadcasters in America. And as the musicFIRST Coalition explain today in [a new filing with the Federal Communications Commission](#), the NAB simply can't be trusted to be consistent on this important issue.

The NAB's duplicitousness can perhaps best be seen in two pieces

of testimony it gave *on the very same day* last month before the Senate and House Judiciary Committees.

On the afternoon of February 2, the NAB told the Senate that online platforms are not adequately paying broadcasters for the content the platforms use to generate advertising revenue. The platforms “simply take [broadcaster] coverage and profit from it, and virtually nothing comes back,” [radio broadcaster Joel Oxley](#) testified on behalf of the NAB. The answer, Oxley testified, is for Congress to pass the [Journalism Competition and Preservation Act](#) (JCPA), which would give broadcasters and other news organizations an antitrust exemption to negotiate collectively for fair compensation from platforms.

We at [musicFIRST](#) — a coalition fighting for artists’ rights that includes SoundExchange, SAG-AFTRA, The Recording Academy, the Recording Industry Association of America and the American Association of Independent Music, among others — agree that distributors should compensate content creators fairly. But what’s good for the goose must be good for the gander — and the NAB can’t have it both ways.

Just a few hours before Oxley’s testimony in the Senate, NAB CEO Curtis LeGeys appeared before the House Judiciary Committee to oppose the [American Music Fairness Act](#) (AMFA). That legislation would require radio broadcasters to pay music artists fairly for the sound recordings they use to generate millions of advertising dollars. Today, radio broadcasters pay recording artists nothing for

the content they create.

Under the AMFA, large stations — those making more than \$1.5 million per year or owned by a conglomerate making more than \$10 million per year — would pay a per-song royalty to performers. The royalty would be determined by an independent panel of copyright royalty judges that must consider economic, competitive, and programming information presented by all parties.

Small stations that make less than \$1.5 million per year, on the other hand, would only pay a low, flat annual royalty of just \$500 — less than two dollars per day for all the music they need to play. And some stations would pay even less: Noncommercial and college radio stations would pay \$100 per year, while any station with less than \$100,000 per year in revenue would pay only \$10.

Incredibly, LeGeyt went so far as to characterize even these minimal royalties as a financial hardship. When asked to explain why, he absurdly claimed some station owners [might not be able to send their children to camp](#). Nashville Musicians Association president Dave Pomeroy responded by noting that rather than worrying about sending their kids away for the summer, many artists and musicians are struggling just to pay their food, housing, and medical bills. Talk about being out of touch.

But the NAB's shamelessness goes even further. They continue to claim that radio broadcasters don't need to pay recording artists because the "promotional value" of airplay is compensation

enough. But the marketplace has changed dramatically over the last two decades, and radio broadcasters have lost significant audience share. The NAB will be the first to admit this — when it benefits their members’ bottom line. As we speak, they are asking the FCC to [loosen limits on how many radio stations a broadcaster can own](#) in a local market, specifically to compensate for this significant decrease in audience share. And this same reality is why they’re seeking government intervention via the JCPA to require online platforms to compensate struggling broadcasters for content those platforms use to power their businesses.

We’re sympathetic to the challenges broadcasters are facing, but the NAB’s conflicting arguments beg the question: if the marketplace has changed so drastically and radio has lost so much audience share that it needs the government to step in and protect it, how can the NAB *simultaneously* argue that “promotional value” on these same struggling stations is enough to somehow compensate music performers for their hard work?

These two arguments can’t both be true. And the simple fact is, promotional value was *never* adequate “payment” to music creators, just as the NAB doesn’t think online promotion is adequate for news creators.

We should all agree: content creators we rely upon — whether to be informed *or* entertained — must be paid, and paid fairly, for their work. Let’s face it, it shouldn’t matter what button you push on your car radio whether a musical artist gets paid or not, nor should

it matter if you watch the same clip on Facebook or on your local NBC affiliate's news broadcast whether a newsmaker is compensated.

We stand with creators no matter the industry — and we hope the NAB will stop twisting itself into a pretzel of contradiction and join us.

Congressman Joe Crowley is Chairman of the musicFIRST Coalition — the voice for fairness and equity for music creators.