

## Statutory Licensing: Eligibility Requirements for Webcasters [17 U.S.C. § 114(d)(2) of Copyright Act]

FOR EDUCATIONAL PURPOSES ONLY.  
THIS IS **NOT** LEGAL ADVICE.

## 1) Non-interactive

- Does not enable listener to receive transmission specially created for the listener, selected by (or on behalf of) the listener.
- “Requests” from listeners should not substantially consist of sound recordings performed within one hour from the request, nor at a time designated by either party.
- Full definition of “interactive service” at 114(j)(7).

## 2) Sound Recording Performance Complement

During any 3-hour period, the service *may not transmit more than:*

- 3 different selections from the same “phonorecord” (e.g., album), and no more than 2 selections consecutively
- 4 different selections from any set or compilation of phonorecords distributed as a unit (e.g., box set), and no more than 3 selections consecutively
- 4 different selections from the same featured artist
- Full definition at 114(j)(13)

## **3) No pre-published / advance schedule of transmissions**

- Does not preclude announcement of a particular artist being featured within an unspecified time period
- Some exceptions for retransmissions
- Full description at 114(d)(2)(C)(ii)

## 4) Archived Programming

- Cannot be less than **5** hours in duration
- Cannot be made available for a period exceeding **2** weeks
- Not a “podcast”** (i.e., cannot be downloaded)
- Full description at 114(d)(2)(C)(iii)(I)&(II)

## 5) Continuous Programming (e.g., looping playlist)

- Cannot be less than **3** hours in duration
- Full description at 114(d)(2)(C)(iii)(IV)

## 6) Commercially Released

The phonorecord needs to have been lawfully created, **and**  
(1) the phonorecord needs to have been distributed to the public under the authority of the sound recording copyright owner, **or**

(2) the sound recording copyright owner needs to have authorized the transmission of the phonorecord by the webcaster

-Some exceptions for retransmissions

-Full description at 114(d)(2)(C)(vii)

## 7) Display of Identifying Information

Textual data *during* the performance of the transmission must be displayed on the streaming device that includes:

- (1) the **title** of the sound recording,
- (2) the title of the phonorecord embodying the sound recording (e.g., **album**) (if any), and
- (3) the **featured artist**.

-Some exceptions for retransmissions

-Full detail at 114(d)(2)(C)(ix)

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For the full list of all eligibility requirements, including those not listed previously, please see 17 U.S.C. §114(d)(2) of the Copyright Act:

<http://www.copyright.gov/title17/92chap1.html#114>

Questions?

Call the Licensing & Enforcement Dept. at **202.559.0555**  
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