

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
)
musicFIRST Petition Regarding) MB Docket No. 09-143
The Actions of Certain Radio Broadcasters)
In Opposition to the Performance Right)

REPLY COMMENTS OF
THE NATIONAL HISPANIC FOUNDATION FOR THE ARTS AND
THE LATIN RECORDING ACADEMY

The National Hispanic Foundation for the Arts is a non-profit organization created in 1997 by actors Jimmy Smits, Esai Morales and Sonia Braga to advance the presence of Latinos in the media, telecommunications and entertainment industries. We have concentrated on increasing access for Hispanic artists and professionals while fostering the emergence of new Hispanic talent. The Foundation has two principal goals: to offer graduate scholarships to Hispanic students at eight of the country's most prestigious colleges and universities (Harvard, Yale, Columbia, NYU, Northwestern, UT-Austin, UCLA and USC); and to expand career opportunities for existing talent in all aspects of entertainment and the performing arts.

The Latin Recording Academy is an international, membership-based organization comprised of Spanish- and Portuguese-speaking recording artists, musicians, songwriters, producers and other creative and technical recording professionals. The organization is dedicated to improving the quality of life and cultural condition for Latin music and its makers.

These comments are in response to the allegations that broadcasters have engaged in inappropriate and perhaps illegal behavior with regard to their use of public airwaves to oppose the Performance Rights Act. Specifically, the petition claims that broadcasters have retaliated against artists who publicly support the Performance Rights Act ("PRA"), and have violated their obligations to the public by airing misleading advertisements against the PRA and refusing to air spots that run counter to their position on the legislation.

The PRA would, for the first time, require broadcast radio stations to pay for use of the sound recordings they use in their programming. Similar legislation has been introduced periodically over the past 80 years, and has always been opposed by broadcasters. According to the petition, however, broadcasters have taken their opposition campaign to the airwaves, using their government-granted spectrum for their own financial interests. Simply, they are using public resources to protect their bottom line at the expense of those who provide for it.

We have followed this matter with great interest. The importance of ensuring that creators of music are appropriately compensated is not merely an issue of personal interest but

also one of cultural preservation. Like creators of any works, singers, musicians, producers, and others who bring music to life rely on proper payment for their labor in order to continue to create. Without payment for use of their works, creators of the music we love stand to be silenced, including those who create the Latin music that reflects our heritage.

That is why we are deeply concerned about the activities of broadcasters reflected in musicFIRST's petition. For, broadcasters are not merely opposing the Performance Rights Act, which they have a right to do; the filing states that they are attacking those artists who support it, which runs counter to their obligation. We look to radio to keep alive the voices we love – those that reflect our culture and speak of our struggles. Instead, radio is purportedly silencing them for nothing more than its own pecuniary interests. That is not in the interests of the Latin community. And that is not in the interests of the public.

We ask that the Commission launch an investigation into these alleged activities, to review broadcasters' obligations to the public and their possible abuse use of the public airwaves. We further ask that, in light of these allegations, the Commission consider seeking a shorter licensing term to ensure broadcasters are responsibly serving the public and adhering to their statutory obligations.

Respectfully submitted,

/s/ Felix R. Sanchez

Felix R. Sanchez

Chairman

National Hispanic Foundation for the Arts

/s/ Gabriel Abaroa Jr.

Gabriel Abaroa Jr.

President

The Latin Recording Academy, Inc.