

**APPENDIX A - HEARING EXHIBITS<sup>1</sup>**

**ASCAP Hearing Exhibits**

<b>EXHIBIT NO.</b>	<b>DESCRIPTION</b>	<b>ADMITTED</b>
ASCAP H.E. 1	Book entitled <u>Made Possible By...The Death of Public Broadcasting in the United States</u> by James Ledbetter (1997)	Yes
ASCAP H.E. 2	Diagram representing ASCAP music use analysis	Yes
ASCAP H.E. 3	Diagram entitled "Distribution System"	Yes
ASCAP 1X	Article entitled <u>Common Carriage Not Always Low, But Underwriters Want Guarantee</u> , Current, November 20, 1995, by Karen Everhart Bedford	Yes
ASCAP 2X	Article entitled <u>Four Producing Stations Okay Standard Contract with PBS; While Others Reject "Extraneous" Provisions</u> , Current, October 28, 1996	Yes
ASCAP 3X	Article entitled <u>PBS Sponsorship Group Garner \$7.5 Million in New Underwriting During Its Second Quarter</u> , PBS Web Page, January 8, 1998	Yes
ASCAP 4X	PBS publication entitled <u>PBS National Program Funding Standards and Practices</u> , February 2, 1997	Yes
ASCAP 5X	WESTLAW printout of article entitled <u>Lobbyists Want Relaxed PBS Ad Rules</u> , Electronic Media, April 21, 1997, by David Hatch	No
ASCAP 6X	Promotional materials regarding various public broadcasting radio and television stations (all retrieved from the Internet)	Yes
ASCAP 7X	WESTLAW printout of article entitled <u>Fan Mail Keeps "Wishbone" Alive</u> , The Des Moines Register, October 10, 1996, by John Kiesewetter	No

---

<sup>1</sup> Exhibits offered during a party's presentation of its oral direct or oral rebuttal case, are identified as "H.E." preceded by the name of the party and followed by the exhibit number. Exhibits offered by a party during cross-examination of another party's witness, are identified as "X" preceded by the name of the party conducting the cross-examination and the exhibit number.

ASCAP 8X	Article entitled <u>Press Tour Notes: "Wishbone" Finds Underwriters</u> , Current, January 19, 1998, by Karen Everhart Bedford	No
ASCAP 9X	Article entitled <u>Move Over, Big Bird: A New Blue Dog's in Town</u> , The New York Times, March 25, 1998, by Lawrie Mifflin (with printout retrieved from The N.Y. Times web page attached)	No
ASCAP 10X	Article entitled <u>Television; Inside Boston TV; WGBH Gives Its Viewers Some Breaks So It Can Get One</u> , The Boston Herald, December 1, 1997, by Daniel M. Kimmel (printout from on-line legal research service)	No
ASCAP 11X	Article entitled <u>What Points to a Pledge Megahit?</u> , Current, August 4, 1997 by Karen Everhart Bedford	No
ASCAP 12X	WESTLAW printout of article entitled <u>Spring Pledge Drive Keeping Pace with Last Year, Early Results Suggest</u> , Public Broadcasting Report, March 21, 1997	No
ASCAP 13X	Article entitled <u>Many Stations Dancing Over December Pledge</u> , Current, January 20, 1997	No
ASCAP 14X	PBS 1997 Annual Report entitled <u>PBS...Quality Counts</u>	Yes
ASCAP 15X	Article entitled <u>PBS Revenue Grows 20% in Fiscal 1997, PBS President Ervin Duggan Tells Annual Fall Planning Meeting of Station Executives</u> , PBS Web Page, October 23, 1997	Yes
ASCAP 16X	Article entitled <u>Duggan Names Four Priorities for Coming Year at PBS</u> , Current, June 16, 1997, by Steve Behrens	No
ASCAP 17X	Letter to the Honorable Tom Bliley and the Honorable Bill Paxon, U.S. House of Representatives, Committee on Commerce, from Colin G. Campbell and Milton P. Wilkins, Jr., PBS, responding to inquiry on employee compensation, dated February 13, 1998	Yes

ASCAP 18X	Article entitled <u>PBS Proposes to Keep Budget on Projected Growth Track</u> , Current, March 2, 1998, by Karen Everhart Bedford	No
ASCAP 19X	Article entitled <u>NPR Highlights Strategy: Thinking Dayparts</u> , Current, May 27, 1996	Yes
ASCAP 20X	Internet printouts on NPR advertising campaign entitled "NPR Takes You There"	Yes
ASCAP 21X	NPR publication entitled <u>Guidelines for Underwriting of National Program Service Programs</u> , July 30, 1982; Amended: July 17, 1985, July 16, 1992, and November 30, 1995	Yes
ASCAP 22X	WESTLAW printout of article entitled <u>Debate Follows NPR Underwriting Change, Prefaces Membership Change</u> , Public Broadcasting Report, March 7, 1997	No
ASCAP 23X	Article entitled <u>Radio Fundraisers Meet "High Intensity Marketing,"</u> Current, July 7, 1997	No
ASCAP 24X	Promotional materials regarding various NPR radio stations (all retrieved from the Internet)	Yes
ASCAP 25X	NPR Promotional material entitled "What's Unique about NPR? Our Programming!" dated 2/97	Yes
ASCAP 26X	Calendar entitled "Music Used in the Program 'All Things Considered'" for December 1996, January 1997 and September 1997	No
ASCAP 27X	Article entitled <u>Oregon Public Broadcasting Returns Music to Weekly Programming</u> , Business Wire, December 9, 1997 (printout from on-line legal research service)	Yes
ASCAP 28X	Article entitled <u>The Amazing Shrinking dis List; All But Six Stations Avoid CPB Probation</u> , Current, March 16, 1998, by Jacqueline Conciatore	No
ASCAP 29X	Page 21 of unidentified document with chart entitled "Percentage of Broadcast Hours Represented by Various Program Types"	No

ASCAP 30X	Table entitled "All Episodes of 'Barney and Friends' During 1992"	No
ASCAP 31X	Corporation for Public Broadcasting publication entitled <u>Public Broadcasting Revenue, Fiscal Year 1996, September 1997</u>	Yes
ASCAP 32X	Page 175 of <u>Black's Law Dictionary</u> (6th ed. 1990)	Yes
ASCAP 33X	Table entitled "Public Broadcasting's Fee--Actual versus Adjusted for CPI"	Yes
ASCAP 34X	Document entitled "ASCAP's Television and Radio Revenue Charts"	No
ASCAP 35X	Spreadsheet entitled "Gross Revenue for Public Broadcasting Grantees, FY 1996" for Radio	No
ASCAP 36X	Spreadsheet entitled "Gross Revenue for Public Broadcasting Grantees, FY 1996" for Television	No
ASCAP 37X	Spreadsheet entitled "Gross Revenue of Public Broadcasting Grantees, FY 1996" for Radio and Television	No
ASCAP 38X	Redacted excerpt, pp. 8-10, of document entitled "Applicants' Contentions" filed in <u>United States v. ASCAP</u> , Civ. 13-95 (S.D.N.Y), dated 10/12/92	Yes

**BMI Hearing Exhibits**

<b>EXHIBIT NO.</b>	<b>DESCRIPTION</b>	<b>ADMITTED</b>
BMI H.E. 1	Table entitled "MIMSA Music Publishing 1996 Earnings"	Yes
BMI H.E. 2	PBS Music Cue Sheet for "The American Experience: TR, The Story of Theodore Roosevelt (Part 1 of 2) and (Part 2 of 2)," Original Broadcast dates: October 6 & 7, 1996, respectively on WGBH-TV Boston	Yes
BMI H.E. 3	Handwritten table prepared by witness, Dr. Bruce Owen	Yes
BMI H.E. 4	Table entitled "BMI's Share of Combined BMI-ASCAP Music on PBS National Feed on the Basis of Dr. Jaffe's Revised Data and Methodology as Set Forth in His Rebuttal Testimony"	Yes
BMI 1X	Article entitled <u>PBS Salary Issue Up In Air, House Not Satisfied with Explanations</u> , Electronic Media, February 23, 1998	Yes
BMI 2X	Article entitled <u>Music is in the Mix at PBS</u> , Broadcasting & Cable, September 1, 1997	Yes
BMI 3X	Corporation for Public Broadcasting publication entitled <u>Frequently Asked Questions About Public Broadcasting 1997</u>	Yes
BMI 4X	Article entitled <u>Rivalry Grows at Low End of Dial, Behind the Sedate Tone of Public Radio Is a High-Pitched Battle</u> , The New York Times, March 2, 1998, by Iver Peterson	No
BMI 5X	Table entitled "Programming Expenditures as Percentage of Total Revenues (1992-1996)"	No
BMI 6X	Excerpt from pamphlet entitled <u>Cable TV Facts</u>	No
BMI 7X	<b>(CONFIDENTIAL)</b> Table entitled "PBS Music Use - Per Origination and Per Music Type Average Minutes of Music Per Identified Showhour"	No

**Public Broadcasters<sup>2</sup> Hearing Exhibits**

<b>EXHIBIT NO.</b>	<b>DESCRIPTION</b>	<b>ADMITTED</b>
PB H.E. 1	WESTLAW printout of article entitled <u>Fan Mail Keeps "Wishbone" Alive</u> , The Des Moines Register, October 10, 1996, by John Kiesewetter	Yes
PB H.E. 2	Table entitled "Category Codes" with TVData Program Type Description	Yes
PB H.E. 3	<b>(CONFIDENTIAL)</b> Table entitled "Public Television Local Programming in the BMI Dataset"	Yes
PB 1X	Opinion issued in <u>ASCAP v. Showtime/The Movie Channel</u> , 912 F.2d 563 (2d Cir. 1990)	Yes
PB 2X	Opinion issued in <u>United States v. ASCAP</u> , 782 F. Supp. 778 (S.D.N.Y. 1991)	Yes
PB 3X	Opinion issued in <u>United States v. ASCAP</u> , 1993 WL 60687 (S.D.N.Y. 1993)	Yes
PB 4X	<b>(UNREDACTED COPY FILED UNDER SEAL)</b> Opinion and Order filed in <u>United States v. ASCAP</u> , Civil Action No. 13-95 (S.D.N.Y.), September 2, 1994	Yes
PB 5X	Opinion issued in <u>United States v. ASCAP</u> , 870 F. Supp. 1211 (S.D.N.Y. 1995)	No
PB 6X	Filing before the Copyright Royalty Tribunal entitled "Comments of the American Society of Composers, Authors and Publishers," dated December 17, 1979	Yes
PB 7X	Filing in Docket No. 96-6 CARP NCBRA entitled "Joint Proposal of the American Society of Composers, Authors and Publishers, the National Federation of Community Broadcasters and the National Religious Broadcasters Music License Committee," dated September 26, 1997	No

---

<sup>2</sup> Public Broadcasters will be abbreviated as "PB."

PB 8X	Filing in Docket No. 96-6 CARP NCBRA entitled "Joint Proposal of the American Society of Composers, Authors and Publishers and the American Council of Education," dated September 17, 1997	No
PB 9X	George S. Grossman, <u>Omnibus Copyright Revision Legislative History</u> , U.S. Congress House Committee on the Judiciary, Subcommittee on Courts, Civil Liberties and the Administration of Justice Hearings 1975 (Part 2), Volume 15 - Joint Statement of the Association of American Publishers, the Authors League of America, Educational Media Producers Council, Harcourt Brace Jovanovich, Inc., and Macmillan, Inc. on the proposed "Public Broadcasting" amendment, pp. 910-925, 976-979	Yes
PB 10X	"Brief <i>Amicus Curiae</i> of the Association of American Publishers, Inc., in Support of Petition for a Writ of Certiorari," filed in <u>Henry Holt and Co. v. New Era Publications International, ApS</u> , No. 89-869 (U.S. Supreme Court)	Yes
PB 11X	Excerpts from <u>Made Possible By...The Death of Public Broadcasting in the United States</u> , by James Ledbetter (1997)	No
PB 12X	Document entitled <u>Final Report Temporary Commission on Alternative Financing for Public Telecommunications</u> , October 1, 1983	Yes
PB 13X	Excerpt of article entitled <u>Briefing: Listeners &amp; Viewers: Look Back at the Audiences of Public Broadcasting</u> , Current Web Page	Yes
PB 14X	LEXIS/NEXIS printout of Memorandum Opinion and Order in <u>In re Commission Policy Concerning the Noncommercial Nature of Educational Broadcasting Stations</u> , 97 F.C.C.2d 255 (1984)	Yes
PB 15X	Table entitled "Match 96"	No
PB 16X	BMI pamphlet entitled <u>BMI Payment Schedule</u>	Yes

PB 17X	Filing in Docket No. 96-6 CARP NCBRA entitled "Joint Proposal of Broadcast Music, Inc., the National Religious Broadcasters Music License Committee, and the National Federation of Community Broadcasters," dated October 1, 1997	No
PB 18X	Excerpt of transcript of Dr. Bruce Owen testimony on direct examination in Buffalo Broadcasting antitrust proceeding re setting of prices in marketplace in which BMI and ASCAP operate, pages 2336-2340	Yes
PB 19X	Filing in Docket No. 96-6 CARP NCBRA entitled "Notice of Appearance" (Hughes Hubbard & Reed LLP for BMI), dated September 10, 1997	No
PB 20X	( <b>CONFIDENTIAL</b> ) Table entitled "Michael Bacon: 1996 Projects in Television Scoring"	Yes
PB 21X	PBS Music Cue Sheet for "The American Experience: Daley, The Last Boss," Original Broadcast date: January 22, 1996, on WGBH-TV Boston	Yes
PB 22X	Opinion issued in <u>United States v. ASCAP</u> , 1992 WL 142749 (S.D.N.Y. 1992)	Yes
PB 23X	Transcript of 1987 Public Broadcasting Rate Adjustment Proceeding before the Copyright Royalty Tribunal, Docket No. 87-4 PBRA, October 8, 1987	Yes
PB 24X	Corporation for Public Broadcasting publication entitled <u>Public Broadcasting Income, Fiscal Year 1990, Data Collection and Analysis</u> , December 1991	Yes
PB 25X	Corporation for Public Broadcasting publication entitled <u>Public Broadcasting Income, Fiscal Year 1985, Data Collection and Analysis</u>	Yes
PB 26X	Hearing of House of Representatives Subcommittee on Courts, Civil Liberties, and the Administration of Justice, Committee on the Judiciary, on revision of the Copyright Law, H.R. 2223, relating to public broadcasting, on July 10, 1975, pp. 857, 925-947	Yes

PB 27X	Filing before the Copyright Royalty Tribunal, In re Use of Certain Copyrighted Works by Noncommercial Broadcasting entitled "Statement of the American Society of Composers, Authors and Publishers," including proposed license fees and terms for performance of works in ASCAP repertory, dated February 28, 1978	Yes
PB 28X	Filing before the Copyright Office in Docket No. 97-1, In re Revision of the Cable and Satellite Compulsory License Public Meeting, entitled "Testimony of Ross J. Charap on Behalf of the American Society of Composers, Authors and Publishers Before the United States Copyright office May 6-9, 1997"	Yes (for impeachment only)
PB 29X	Table entitled "LTV"	No
PB 30X	<b>(PRIVILEGED and CONFIDENTIAL)</b> Draft of "Summary of First Negotiating Session Between Public Broadcasting and BMI, July 9, 1992"	Yes
PB 31X	<b>(CONFIDENTIAL)</b> Table entitled "Record Layout #4: 2nd Through 4th Quarter Files: PBS 1993-1996 Include Performances from Previous Quarters"	Yes
PB 32X	<b>(CONFIDENTIAL)</b> Table showing BMI minutes of music for various episodes of "Shining Time Station" for second quarter of 1993	Yes
PB 33X	PBS Music Cue Sheet for various episodes of "Shining Time Station," Original Broadcast dates: March 22 - June 11, 1993, on Thirteen/WNET	Yes
PB 34X	Table comparing MURS minutes of music and BMI minutes of music for various episodes of "Shining Time Station"	No
PB 35X	<b>(CONFIDENTIAL)</b> Table entitled "PBS - Local Programming" for years 1993-1996	No
PB 36X	Table entitled "Category Codes," with TVData Program Type Description	No
PB 37X	<b>(CONFIDENTIAL)</b> Table entitled "Record Layout #8, PBS 1993-1996: By Music Components Include Performances from Previous Quarters"	Yes

PB 38X	(CONFIDENTIAL) Table entitled "Record Layout #9, PBS 1992: By Music Components Include Performances from Previous Quarters"	Yes