

Response to FCC Form 312 Question 39

In the ordinary course of business, we are a defendant or party to various claims and lawsuits, including those discussed below. These claims are at various stages of arbitration or adjudication.

Telephone Consumer Protection Act Suits. We are a defendant in several purported class action suits, which were commenced in February 2012, January 2013, April 2015 and July 2015, in the United States District Court for the Eastern District of Virginia, Newport News Division, the United States District Court for the Southern District of California, the United States District Court for the Northern District of Illinois and the United States District Court for the Middle District of Florida, respectively, that allege that we, or call center vendors acting on our behalf, made numerous calls which violate provisions of the Telephone Consumer Protection Act of 1991 (the “TCPA”). The plaintiffs in these actions allege, among other things, that we called mobile phones using an automatic telephone dialing system without the consumer’s prior consent or, alternatively, after the consumer revoked his or her prior consent. In one of the actions, the plaintiff also alleges that we violated the TCPA’s call time restrictions and in one of the other actions the plaintiff also alleges that we violated the TCPA’s do not call restrictions. The plaintiffs in these suits are seeking various forms of relief, including statutory damages of five-hundred dollars for each violation of the TCPA or, in the alternative, treble damages of up to fifteen-hundred dollars for each knowing and willful violation of the TCPA, as well as payment of interest, attorneys’ fees and costs, and certain injunctive relief prohibiting any violations of the TCPA in the future.

The plaintiffs in the cases titled, Francis W. Hooker v. Sirius XM Radio, Inc., No. 4:13-cv-3 (E.D. Va.), and Erik Knutson v. Sirius XM Radio Inc., No. 12-cv-0418-AJB-NLS (S.D. Cal.) have filed motions to certify several classes.

We have notified certain of our call center vendors of these actions and requested that they defend and indemnify us against these claims pursuant to the provisions of their existing or former agreements with us. We believe we have valid contractual claims against call center vendors in connection with these claims and intend to preserve and pursue our rights to recover from these entities.

These purported class action cases are titled Erik Knutson v. Sirius XM Radio Inc., No. 12-cv-0418-AJB-NLS (S.D. Cal.), Francis W. Hooker v. Sirius XM Radio, Inc., No. 4:13-cv-3 (E.D. Va.), Yefim Elikman v. Sirius XM Radio, Inc. and Career Horizons, Inc., No. 1:15-cv-02093 (N.D. Ill.) and Anthony Parker v. Sirius XM Radio, Inc., No. 8:15-cv-01710-JSM-EAJ (M.D. Fla). Additional information concerning each of these actions is publicly available in court filings under their docket numbers. We believe we have substantial defenses to the claims asserted in these actions, and we intend to defend them vigorously.

Pre-1972 Sound Recording Matters. In August 2013, SoundExchange, Inc. filed a complaint in the United States District Court for the District of Columbia alleging that we

underpaid royalties for statutory licenses during the 2007-2012 period in violation of the regulations established by the Copyright Royalty Board for that period. SoundExchange principally alleges that we improperly reduced our calculation of gross revenues, on which the royalty payments are based, by deducting non-recognized revenue attributable to pre-1972 recordings and Premier package revenue that is not “separately charged” as required by the regulations. SoundExchange is seeking compensatory damages of not less than \$50 million and up to \$100 million or more, payment of late fees and interest, and attorneys’ fees and costs.

In August 2014, the United States District Court for the District of Columbia granted our motion to dismiss the complaint without prejudice on the grounds that the case properly should be pursued before the Copyright Royalty Board rather than the district court. In December 2014, SoundExchange filed a petition with the Copyright Royalty Board requesting an order interpreting the applicable regulations. We believe we have substantial defenses to the claims asserted, and intend to defend this action vigorously.

This matter is titled SoundExchange, Inc. v. Sirius XM Radio, Inc., No.13-cv-1290-RJL (D.D.C.), and *Determination of Rates and Terms for Preexisting Subscription Services and Satellite Digital Audio Radio Services*, United States Copyright Royalty Board, No. 2006-1 CRB DSTR. Additional information concerning each of these actions is publicly available in filings under their docket numbers.

In addition, in August 2013 and September 2013, we were named as a defendant in three putative class action suits challenging our use and public performance via satellite radio and the Internet of sound recordings fixed prior to February 15, 1972 (“pre-1972 recordings”) under California, New York and/or Florida law. These cases are titled Flo & Eddie Inc. v. Sirius XM Radio Inc., No. 2:13-cv-5693-PSG-RZ (C.D. Cal.), Flo & Eddie, Inc. v. Sirius XM Radio Inc., No. 1:13-cv-23182-DPG (S.D. Fla.), and Flo & Eddie, Inc. v. Sirius XM Radio Inc., No. 1:13-cv-5784-CM (S.D.N.Y.) (collectively, the “Flo & Eddie cases”). In September 2015 and October 2015, we were named as a defendant, along with Pandora Media, Inc., in four putative class action suits challenging our use and public performance of pre-1972 recordings and, in two of the cases, alleging violations of the putative plaintiffs’ rights of publicity under California and New York law. These cases are titled Arthur and Barbara Sheridan v. Sirius XM Radio Inc. and Pandora Media, Inc., No. 4:15-cv-04081-VC (N.D. Cal.), Arthur and Barbara Sheridan v. Sirius XM Radio Inc. and Pandora Media, Inc., No. 1:15-cv-07056-GHW (S.D.N.Y.), Arthur and Barbara Sheridan v. Sirius XM Radio, Inc. and Pandora Media, Inc., No.2:33-av-00001 (D.N.J.), and Arthur and Barbara Sheridan v. Sirius XM Radio, Inc. and Pandora Media, Inc., No. 1:15-cv-09236 (E.D. Ill.) (collectively, the “Sheridan cases”). The plaintiffs in the Flo & Eddie and Sheridan cases purport to seek in excess of \$100 million in compensatory damages along with unspecified punitive damages and injunctive relief. In June 2015, we settled a separate suit brought by Capitol Records LLC, Sony Music Entertainment, UMG Recordings, Inc., Warner Music Group Corp. and ABKCO Music & Records, Inc. relating to our use and public performance of pre-1972 recordings for \$210 million which was paid in July 2015. These settling record

companies claim to own, control or otherwise have the right to settle with respect to approximately 85% of the pre-1972 recordings we have historically played.

Additional information concerning the Flo & Eddie and Sheridan cases is publicly available in court filings under their docket numbers. We believe we have substantial defenses to the claims asserted, and we are defending these actions vigorously.

With respect to certain matters described above under the captions “*Telephone Consumer Protection Act Suits*” and “*Pre-1972 Sound Recording Matters*”, we have determined, based on our current knowledge, that the amount of loss or range of loss, that is reasonably possible is not reasonably estimable. However, these matters are inherently unpredictable and subject to significant uncertainties, many of which are beyond our control. As such, there can be no assurance that the final outcome of these matters will not materially and adversely affect our business, financial condition, results of operations, or cash flows.

Other Matters. In the ordinary course of business, we are a defendant in various other lawsuits and arbitration proceedings, including derivative actions; actions filed by subscribers, both on behalf of themselves and on a class action basis; former employees; parties to contracts or leases; and owners of patents, trademarks, copyrights or other intellectual property. None of these matters, in our opinion, is likely to have a material adverse effect on our business, financial condition or results of operations.