

ASCAP SETTLEMENT FINALLY MADE

Court decrees total station payments to decrease 9%

The on-again, off-again "settlement" with ASCAP on rates for new music licenses for radio stations finally became official last week, with results about as reported 10 months ago—a 9% decrease in total station payments.

Chief Judge Sylvester J. Ryan of U.S. District Court in New York signed an order last Tuesday incorporating the settlement and thus terminating the suit in which some 800 stations, considering ASCAP's original offer exorbitant, had asked the court to fix reasonable fees.

The new terms, expected to shave \$750,000 to \$800,000 a year off radio stations' payments for ASCAP music, are for a period of five years, retroactive to Jan. 1, 1959, when the old contracts expired. While Judge Ryan's order applies only to the 800-odd litigants, ASCAP some time ago indicated that the terms finally agreed upon would be extended also to stations which signed one-year renewals and did not join the litigation.

The Parties • The new agreement was reached in negotiations conducted under Judge Ryan's aegis by the all-industry radio music license committee, headed by Robert T. Mason of WMRN Marion, Ohio, with Emanuel Dannett as committee counsel, and an ASCAP group headed by President Stanley Adams and counsel Herman Finkelstein.

Mr. Mason, whose committee represented the stations involved in the court action, estimated the total savings of stations would come to at least \$800,000, while ASCAP sources pegged it closer to \$750,000. In any event, Mr. Mason made clear that the saving would vary from station to station. In a letter to broadcasters who had contributed to the committee's support, he said:

"Some may find that the agreement will result in saving of 10% or more; others may have little or no saving. However, the overall saving to the industry we estimate will be approximately 9%."

ASCAP's radio revenues increased from \$6.8 million in 1949 to \$9 million in 1957, according to estimates filed in the case. (The society's revenues from television, according to these estimates, increased from \$200,000 to \$14 million during the same period.)

Past Influences Future • Observers reflected that in many cases the amount of reduction individual stations would receive would depend on their past practices. For instance, some stations have been taking no talent deductions while others have deducted all over-scale payments. The feeling was that stations which in the past had been taking no talent deductions will, through the deductions spelled out in the new con-

tract, realize savings exceeding 9%. On the other hand, those who have taken comparatively large deductions in the past despite ASCAP objections, may find themselves saving less than 9%.

Similarly, through changes in the base for putting blanket-license sustaining fees, stations which have had artificially low half-or quarter-hour rates—in relations to their minute rates—may realize little or no savings. But those whose half-and quarter-hour rates have had a realistic relationship to the minute rate may achieve savings ranging up to 30% on sustaining fees, it was estimated.

In blanket licenses—which permit unlimited use of ASCAP music at no extra charge, and which are used by most stations—the new contract reduces the commercial fee by 5.6% in addition to revising the base on which sustaining fees are based. In per-program licenses, which require payments only for programs in which ASCAP music is used, the rate structure is unchanged; but there are comparatively few of these and, in view of the widespread use of music on radio today, the number is not expected to go up materially if at all.

Deductions Defined • The new blanket license cuts the commercial fee, which formerly was 2.25%, to 2.125% of "net receipts from sponsors after deduction." It clarifies the "deductions" that may be taken in determining "net receipts," and specifically disallows deductions of any flat percentage "except for the advertising agency commission and the sales commission."

A new formula, somewhat more favorable than the one being considered earlier in the negotiations (BROADCASTING, Nov. 9, 1959), is incorporated for determining a station's talent deductions. This sets up, for stations of various sizes, a table of weekly compensation scales and permits talent payments in excess of those amounts to be deducted in determining "net receipts."

For instance: A station in the under-\$50,000 class which pays out more than \$100 a week for talent may deduct all such payments over \$100; in the \$50,000-\$150,000 class it may deduct all over \$300 a week; \$150,000-\$300,000, all over \$450; \$300,000-\$500,000, all over \$675; \$500,000-\$750,000, all over \$750; \$750,000-\$1 million, all over \$875; and above \$1 million, all over \$1,000. For stations up to the \$300,000

Radio's negotiators

Formation of the All-Industry Radio Music License Committee was authorized at a meeting of radio broadcasters during the NAB convention in 1958 and negotiations with ASCAP authorities were commenced in the fall of that year. Most of the negotiations were conducted by counsel Emanuel Dannett, his partner William W. Golub, and members of the executive committee: Robert Mason, WMRN Marion, Ohio; George W. Armstrong, Storz Stations; Richard D. Buckley, WHIM Providence, R.I.; Robert D. Enoch, WXLW Indianapolis; Herbert Evans, Peoples Broadcasting; Elliott M. Sanger, WQXR New York, and Sherwood J. Tarlow, WHIL Medford, Mass. Other committee members:

Cy N. Bahakel, WRIS Roanoke, Va.; Hugh K. Boice Jr., WEMP

Milwaukee; Bert Ferguson, WDIA Memphis; J. Allen Jensen, KSL Salt Lake City; Herbert L. Krueger, WTAG Worcester, Mass.; William S. Morgan, Jr., McLendon Stations; Leslie H. Peard, Jr., WBAL Baltimore; Calvin J. Smith, KFAC Los Angeles; Ben Strouse, WWDC Washington, and Jack S. Younts, WEEB Southern Pines, N.C.

Some 900 stations were pledged to contribute 10 times their highest average one-minute rate to pay committee expenses, but about 100 of these, while supporting the committee, did not join the court action. In addition to the 800-plus who participated in the litigation, ASCAP records on file in the case indicated that approximately 1,000 other stations had renewed their old licenses for one year beyond Jan. 1, 1959, and 1,000 others held unexpired licenses.