

The ICSOM Electronic Media Committee

Media activity has always been a major topic at ICSOM conferences. Topics discussed have included:

- sound recording under the Sound Recording Labor Agreement (SRLA), the Symphony, Opera, Ballet Live Recording Agreement (LRA), or the newly negotiated Integrated Media Agreement (IMA);
- broadcasting and taping for commercial radio and television, cable and pay TV, National Public Radio (NPR), Public Broadcasting Service (PBS), and National Educational Television (NET);
- audio-video products for home use;
- Internet use of audio-only and audio-visual product;
- copyright laws, royalties, and revenue sharing;
- electronic media guarantees (EMGs);
- service conversion;
- special sessions paid at rates at variance with national rates;
- conductors and recording companies working abroad; and
- illegal recording activity and AFM enforcement of union recording rules and rates.

A committee was established at the very first meetings of ICSOM in 1962 to explore the entire field of electronic exploitation and to survey orchestra electronic media activity. A year later ICSOM demanded that the AFM allow it to participate in phonograph recording negotiations, and it insisted that only musicians affected be allowed to ratify resulting contracts. As a result, ICSOM representatives were allowed to observe negotiations. The degree of ICSOM participation in negotiations varied thereafter, and dissatisfaction over lack of AFM consultation with ICSOM during TV and radio negotiations in 1970 led to the formation of a standing committee on recording, now the ICSOM Electronic Media Committee.

Despite occasional lapses and disagreements, the AFM has generally consulted regularly with the ICSOM Electronic Media Committee in the negotiation of all national media contracts affecting ICSOM orchestras, and in recent years the ICSOM Electronic Media Committee has formed the core of the negotiating committees for contracts used solely by symphony, opera and ballet orchestras. In 1982 the committee and the AFM negotiated a new and complex audio-visual contract, known as the Symphony, Opera and Ballet Audio-Visual Agreement, which offered upfront payments and revenue sharing and ratification exclusively by signatory symphony, opera, and ballet orchestras. More recently, the ICSOM Electronic Media Committee played an important role in the negotiation of the Symphony, Opera, Ballet Audio-Internet Agreement and the Symphony, Opera, Ballet Live Recording Agreement. It also has been playing a major role in the ongoing negotiations with the Managers' Media Committee over a possible "integrated" successor agreement to these three agreements.

The ICSOM Electronic Media Committee currently consists of nine members appointed by the ICSOM governing board and representing a wide range of orchestras. Additional members have been added when special input is desired. Current members are:

- William Foster (National Symphony), chair
- Matthew Comerford (Chicago Lyric Opera)
- Paul Frankenfeld (Cincinnati Symphony)
- Cathy Payne (San Francisco Symphony)
- Peter Rofé (Los Angeles Philharmonic)
- Laura Ross (Nashville Symphony)
- Roger Ruggeri (Milwaukee Symphony)
- Fiona Simon (New York Philharmonic)
- Bruce Ridge (North Carolina Symphony) (ICSOM Chair, *ex officio*)
- Brian Rood (Kansas City Symphony) (ICSOM President, *ex officio*)

To function effectively, the committee requires the input of orchestras before negotiations and the faithful adherence to agreements once they are ratified. Orchestras have previously been asked to provide information for ICSOM surveys of media activity; failure to provide accurate and complete information hampers negotiations. Orchestras are also expected to exercise collective responsibility in observing rates and conditions mandated by national contracts; individual agreements to perform for lower rates or under inferior conditions force orchestras to face requests for similar concessions.

Following are some of the media issues that arise most often, accompanied by a brief history of ICSOM positions and action.

Service Conversion. ICSOM delegates have consistently opposed exchange of services in lieu of compensation for recording. Delegates first voiced this stand in 1965, urging the AFM to oppose service conversion. In 1967 delegates empowered the ICSOM executive board to work within the AFM to end the practice. The topic continues to be discussed. Very limited service conversion provisions were incorporated into the 1982 audio-visual agreement as a concession to reward increased activity and to gain revenue sharing. The increased activity has not occurred, so this provision has not been used. Service conversion has long been opposed by ICSOM orchestras and the Electronic Media Committee. Orchestras should resist any request to institute this practice.

Pension Taping. Another practice that met with resistance was the broadcasting or taping of concerts with compensation paid to pension or sustaining funds in lieu of direct compensation. Delegates from nine ICSOM orchestras met for one day in Cleveland in July 1967 to discuss this practice, and at the 1967 conference, delegates empowered the ICSOM executive board to work within the AFM to try to establish price minimums for radio broadcasts and tapes, especially those funding pension trusts. In 1972, a resolution called upon the AFM to abolish pension funding through radio broadcasts.

Special Sessions. Delegates in June 1963 noted the unhealthy practice of one orchestra undercutting another due to local variations in recording scale. "Special sessions" under conditions at variance with Federation contracts were opposed at the 1977 conference, and in 1978 the AFM declared such sessions to be in contravention of Federation policy. Opposition to special session was forcefully voiced again in 1979 at the caucus of major orchestras. Orchestras striking their own media agreements continue to be noted, however.

Enforcement. In 1971, a motion carried to express concern to the AFM about lack of enforcement of union recording rules and rates. In 1972 the AFM, having been unsuccessful in controlling illegal recording activity and rates, the recording committee suggested that ICSOM prefer charges against violators.

These are the national media contracts or agreements:

- Sound Recording Labor Agreement (SRLA) [2/1/06 – 1/31/09] – was extended for one year to 1/31/10. Negotiations for a successor agreement began in early 2011. Term has expired but contract remains in effect.
- Theatrical Motion Picture & TV Film Agreement [4/5/10 - 2/23/13]
- Symphony-Opera-Ballet Audio-Visual Agreement (AV Agreement) [2/1/06 – 1/31/08 – term expired, remains in effect (see **NOTE** below)]
- Symphony-Opera Ballet Internet Agreement [8/1/02 - 9/30/04 – term expired, remains in effect (see **NOTE** below)].
- Symphony-Opera-Ballet Live Recording Agreement (LRA) [8/1/06 – 7/31/09 – term expired, remains in effect (see **NOTE** below)]

- National Public Radio Agreement (NPR Agreement) [8/1/09 – 1/31/12 – since 2009 it primarily covers studio-produced programming and not broadcast of live concerts]
- American Public Media Agreement (APM Agreement) [2/1/08 – 1/31/12 – primarily covers studio-produced programming]

NOTE: From late 2007 through May, 2009, the AFM met periodically with orchestra managers to develop a media agreement for symphonies, and opera and ballet companies that would encompass all electronic media under one umbrella rather than under separate agreements for CDs, internet, television, radio, etc. After months of negotiations, a comprehensive agreement was nearly completed, but the managers' group had an arbitrary date set on which the authority to bargain on behalf of a group expired. Thus, the talks dissolved before the final details could be worked out.

Since then, the AFM has been approached by several institutions and has come to an agreement in each case for an Integrated Media Agreement (IMA) based on and completing the productive work carried nearly to completion with the multi-employer group. This IMA is available to any interested orchestra management and, when signed and ratified, replaces the AV and Internet Agreements and the LRA. As of August, 2011, more than thirty orchestra and opera institutions have signed the Integrated Media Agreement.

AFM Locals may not negotiate on behalf of orchestras on topics covered by national media agreements. The Federation is the exclusive bargaining agent for an orchestra's musicians for all media covered by the AV, Internet or Live Recording Agreements.

Additionally, ICSOM has passed resolutions regarding the use of Electronic Media Guarantees and negotiating local rates locally that could replace or undermine AFM national agreements as follows:

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Resolution from the 1998 Conference:

Whereas, The use of Electronic Media Guarantees (EMG), has been grossly abused by symphony managers; and

Whereas, EMGs are intended to be an addition to any compensation due for live services; Therefore, be it

Resolved, That the 1998 ICSOM Conference urges the member orchestras of ICSOM to adopt the following policy regarding Electronic Media Guarantees:

- 1) Work to satisfy the EMG must be done within the contracted season length;
- 2) EMGs shall not be negotiated to reduce previously contracted weeks of service;
- 3) EMGs shall be utilized for work of a symphonic nature, not for commercial work such as jingles, theatrical motion pictures, etc.;
- 4) Orchestras shall not redirect any part of previously negotiated scale wages into EMGs.

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Resolution from the 1999 Conference:

Whereas, It is vital for all ICSOM orchestras and classical musicians in general that wage rates for national and international media product be uniform; and

Whereas, There is currently increasing pressure by employers to undermine these uniform rates by creating locally negotiated rates and other terms and conditions which are lower than the uniform rates; and

Whereas, This effort by employers must be resisted by the AFM, ICSOM, ROPA and OCSM; Therefore, be it

Resolved, That the delegates to the 1999 ICSOM Conference urge the AFM, the Player Conferences, and all their member orchestras, to resist any attempt to create locally negotiated rates, terms, and conditions to replace and/or undermine AFM national agreements covering all media projects covered thereby.

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Resolution from the 2004 Conference:

Whereas, The Recording Musicians Association is a Player Conference representing colleagues in the commercial recording area who make their living working under AFM national agreements including those for motion pictures; and

Whereas, There is growing concern that symphony orchestras with Electronic Media Guarantees in their collective bargaining agreements could be asked to do electronic media work traditionally done by RMA musicians and that work would be subsidized by the Orchestral Association using EMG resources; and

Whereas, Such work may be in non-standard symphonic areas outside those delineated and defined in the Sound Recording Labor Agreement and the Symphony/Opera/Ballet Audio-Visual Agreement, and would, therefore, undercut our colleagues who make their income solely from this type of work; therefore, be it

Resolved, That all ICSOM orchestras with Electronic Media Guarantees or Electronic Media Guarantee equivalents in their collective bargaining agreements be urged to negotiate the following language (or language to the following effect) which will prohibit their managements from selling their services for non-standard symphonic work, e.g. motion picture soundtracks, using EMG resources, or EMG equivalent resources, to subsidize it: "The Association agrees that EMG may not be used to contract out, or otherwise sell the services of the musicians to an outside entity for the purpose of performing any non-standard media work, including, without limitation, motion picture or television sound tracks, or other similar musical genre, the performance and/or recording of which would tend to deprive other non-symphonic musicians of employment."