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# Universal Fined a Record to Settle Payola Claims

**More than \$12 million will end allegations in New York that radio employees were bribed.**

By Charles Duhigg, Times Staff Writer  
May 12, 2006

Universal Music Group, the world's largest record company, has agreed to pay more than \$12 million to settle allegations that in exchange for airplay it bribed radio programmers with vacations, electronics and cash, New York Atty. Gen. Eliot Spitzer said Thursday.

The fine against Universal Music, which releases nearly 1 in every 3 of the albums sold in the United States, is the largest paid by a record company to settle claims of so-called pay for play.

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Universal Music did not admit guilt in settlement documents released by Spitzer. But the Santa Monica-based company, a unit of French company Vivendi, did acknowledge that some employees "pursued some radio promotion practices that were wrong and improper." The company agreed to stop offering gifts and cash in return for airplay of its artists, who include Lindsay Lohan and Ashlee Simpson.

Echoing statements he made last year when two other music companies agreed to similar settlements, Spitzer said he believed that pay for play was

accepted and encouraged not just by promotional employees but by those at all levels of Universal Music. In settlement documents, he wrote that gifts and cash were "so fundamental to UMG's success as a record company that senior label executives have frequently been involved."

In one instance cited by Spitzer, a Universal Music executive allegedly attempted to disguise a 2004 bribe for airplay of songs by the band Limp Bizkit by falsifying a letter from a Rochester, N.Y.-area radio employee thanking the company for giving a listener an iPod.

The supposed letter writer's name was misspelled and the letterhead contained an out-of-service area code. The radio employee later told Spitzer's investigators that he hadn't written the note. It is unclear what was allegedly given to the radio station in exchange for airplay.

Other documents released by Spitzer allege that Universal Music executives gave Yankee tickets and Target gift certificates to radio programmers in return for adding artists to playlists.

Thursday's announcement was part of Spitzer's multi-faceted campaign to expose the secret quid pro quos that can dictate what songs radio listeners hear. Last year, Spitzer announced settlements with record companies Sony BMG Music Entertainment and Warner Music Group for a combined \$15 million. Investigations of Britain's EMI Group and various radio corporations are continuing.

There's no better way to sell records than getting songs played on the radio. And for that reason, pay for play has plagued the music industry since the 1930s, with disc jockeys at times accepting cash, drugs or the services of prostitutes in exchange for airplay.

In 1960, Congress passed laws banning broadcasters from taking cash or anything of

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value in exchange for playing specific songs unless they disclosed the transactions to listeners. Spitzer launched his investigation based on similar statutes passed by the New York Legislature.

Despite such laws, pay for play is "pervasive within the music industry and by no means unique to UMG," Spitzer said in the settlement.

Universal Music owns such labels as Interscope Geffen A&M Records, Island Def Jam Music Group, Universal Motown Records Group, UMG Nashville and Verve Music Group.

The company, home to such artists as U2 and Lynyrd Skynyrd, said in a statement Thursday that the company had "been working cooperatively with the attorney general's office in resolving these promotion issues and are pleased to have completed the process with this agreement. The reforms that we have agreed to with the attorney general are consistent with the policies that we voluntarily implemented over a year ago."

Sources close to the attorney general's office, however, said Universal Music's settlement was delayed because the company's attorneys had battled to prevent access to certain documents and argued that Universal Music should receive a smaller fine than the \$10 million paid by Sony BMG last year.

Sources at Universal Music who requested anonymity for fear of angering Spitzer disputed those characterizations, saying that the company had merely argued that many of the practices cited in Thursday's settlement documents — such as phony call-in requests and so-called spin programs in which stations divulge that airplay has been paid for — do not violate any laws.

Those sources also said that despite Spitzer's allegations, the company's top executives were unaware of the practices described by Spitzer.

"You think that label presidents know what some promotion guy in Kansas is doing?" asked one Universal Music executive.

In an interview, Spitzer said that is precisely what he thinks.

"When a practice is this pervasive and has become almost standard fare, it's hard to believe most executives are not at least conscious of them, even if they don't know about the specifics," he said.

The documents released Thursday contend that pay for play is common.

Universal Music "promotion executives trained, and pressured, their subordinates to buy airplay," Spitzer wrote in the settlement. In one instance, an executive allegedly instructed his staff to get airplay for the band Dream, complaining that the \$300,000 spent thus far to promote the band to radio executives had produced few results.

"As they say, heads are gonna roll, including mine," the unnamed executive wrote in an e-mail to subordinates.

Other e-mails released by Spitzer included "price sheets" for airplay in certain markets. A missive sent by one Universal Music executive to another described a series of gifts — a laptop computer as well as tickets to KISS and Eagles concerts — that had been given in exchange for airplay. Underneath the list, the executive commented: "Looks pretty awful when you put it all together."

The documents also reveal how Universal Music mounted false call-in requests. One such campaign allegedly paid a firm \$3,500 to call stations nationwide to request the song "Where the Hood At" by DMX. The order specified that callers should be predominantly male, 50% African American and sound 18 to 24 years old. The recording company, in a similar ploy, allegedly paid \$1,500 to callers who posed as 12- to 13-year-olds and targeted Radio Disney.

Many music industry insiders had anticipated that Universal Music would pay a large fine because of its size and success in the urban music market, where rumors of corruption among hip-hop and rap stations are particularly prevalent.

Indeed, sources close to Spitzer's office said they were still investigating testimony that suggested that urban music stations solicited cash bribes in exchange for airplay. But the lack of physical evidence in the form of e-mails meant that these allegations were excluded from settlement documents released Thursday, sources said.

A Universal Music source said that if there was evidence of bribery among urban music executives, it would have been discovered.

"Blackberrys are very popular in the urban field," said this source, an executive at a Universal music label. "There are whole networks of people who talk to each other via

PRE-CONSTRUCTION  
FROM \$650,000.

Blackberry. We handed over everything they asked for, and if it was there, they would have found it."

Although Sony BMG fired one executive in the wake of its settlement, Universal Music has no plans to terminate employees, a spokesman said. But insiders said that was because executives responsible for the e-mails released Thursday had already left the company.

Although Spitzer's investigators agreed to remove the names of Universal Music executives from the e-mails, they still contained information identifying radio programmers who allegedly solicited or received bribes. Such information may affect the Federal Communications Commission's continuing investigation of pay for play at four of the nation's largest radio chains: Clear Channel Communications Inc., CBS Radio Inc. (formerly Infinity Broadcasting), Entercom Communications Corp. and Citadel Broadcasting Corp.

"We'd like to see these practices eliminated," Spitzer said in the interview. "My hope is that this will inspire greater confidence on the part of the public that radio choices aren't dictated by under-the-table payments. I hope the FCC will pursue these investigations."

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