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# Payola pact could boost airplay for indie music

By Jim Puzanghera, Times Staff Writer  
March 6, 2007

WASHINGTON — Sex Mob, a New York band that records for a small music label, was good enough to nab a Grammy nomination last year for best contemporary jazz album.

But it wasn't good enough to be heard on commercial radio.

That now may change. Four of the nation's largest radio-station chains have agreed to air thousands of hours of music from independent record labels and local musicians. The accord with an independent music group came as the companies were working out a settlement of a federal inquiry into allegations that radio programmers illegally received cash and gifts from major record labels in exchange for playing songs without revealing those deals to listeners.

"It's a watershed moment in our industry," Peter Gordon, who helped negotiate the airtime provisions as a board member of the American Assn. of Independent Music, said Monday.

The Federal Communications Commission's "pay for play" probe involved Clear Channel Communications Inc., CBS Radio Inc., Entercom Communications Corp. and Citadel Broadcasting Corp. The radio chains, which didn't admit wrongdoing, agreed to pay a collective \$12.5 million in fines and dedicate a total of 8,400 half-hour segments to independent music over the next three years. A few details of the agreement, under which the chains wouldn't admit wrongdoing, were still being worked on. Any settlement would require approval of the panel of commissioners.

Andy Levin, Clear Channel's executive vice president and chief legal officer, said the FCC found no rule violations and that the company was pleased to "close the door" on the investigation. The other chains did not comment Monday.

Given the history of big record companies' secretly giving money, airline tickets and other gifts to stations to play their music — a practice called payola that is illegal when listeners are unaware of it — many independent labels don't even try to get lesser-known artists on the air.

"You almost see that as a lost cause," said Gordon, president of Thirsty Ear Recordings in Norwalk, Conn., which released Sex Mob's "Sexotica" album.

FCC Commissioner Jonathan S. Adelstein, an amateur musician who helped broker the settlement, said the fine would be one of the largest ever by the commission and could be a breakthrough in the fight against pay-for-play conduct.

"If you take payola out of radio, then music gets heard on the basis of merit, not on the basis of who's got wads of cash backing the artist," he said. "That's likely to make radio fresher and restore its vitality."

The \$12.5-million fine would be in line with accords two of the radio chains reached last year with former New York Atty. Gen. Eliot Spitzer. CBS Radio and Entercom agreed to pay \$2 million and \$4.45 million, respectively.

But the proposed FCC fine falls short of settlements Spitzer got from some major record companies. Universal Music Group, for example, agreed to pay more than \$12 million over the issue. But the FCC has no jurisdiction over record labels.

In a separate pact with independent labels, the radio chains would set aside half-hour segments between 6 a.m. and midnight.

Radio historian Christopher H. Sterling doubted the agreements would end pay-for-play, which dates to the early days of rock music in the 1950s.

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Payola is almost "as hard to stamp out as prostitution," said Sterling, a professor of media and public affairs at George Washington University. He questioned how broadly the broadcasters would define local and independent music.

Susan Busch, director of radio promotions for Sub Pop Records, a Seattle independent rock label that developed such bands as Nirvana and Soundgarden before they took off, expressed concern that the label's artists would continue to be "ghettoized" on commercial radio, where local music often airs from 9 to 11 p.m. Sundays.

But the pact could give new artists a foot in the door, said Michael Bracy of the Future of Music Coalition, a nonprofit group that advocates for independent musicians and record labels.

"If it works, it really could fundamentally change the way independent music gets on commercial radio," Bracy said.

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