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BENEFITS UPDATE

This *Benefits Update* includes important information about your AFTRA Health and Retirement Plan benefits. Please keep this *Benefits Update* with your AFTRA Health and Retirement Plan documents and share this information with your family.

Retroactive pension benefit increase effective Dec. 1, 2013

Participants who had covered contributions credited to the AFTRA Retirement Fund between May 1, 2009 and Nov. 30, 2012 may be eligible for this increase, but payment of the increase and updated pension benefit estimates will not be available until after Dec. 1, 2013

The Board of Trustees is pleased to announce that, during its summer 2013 meeting, the Board enacted a retroactive pension benefit improvement for AFTRA Retirement Plan participants. Effective Dec. 1, 2013, the Plan is amended to increase the benefit accrual rate to 7% of AFTRA H&R covered contributions (up from the current 4.86%) solely with respect to covered contributions credited for the period May 1, 2009 through Nov. 30, 2012. For participants on whose behalf contributions were due only to the Retirement Fund — and not to the Health Fund — during that period, the formula is 20% of the covered contributions.

The bullets below describe how different groups of Retirement Plan participants will be affected by this change:

- Active performers (not retired) who worked during the period Participants who are not yet receiving a pension from the AFTRA Retirement Fund, but who worked and accrued an AFTRA Retirement Fund pension benefit¹ during this time period, will receive the retroactive accrual adjustments for covered contributions credited for May 1, 2009 through Nov. 30, 2012. Please note, however, that updated pension estimates reflecting the increase will not be available until late 2013, after the framework necessary to implement this change is completed.
- Current retirees who worked during the period Participants who are currently receiving a pension that includes an AFTRA Retirement Fund pension benefit¹ accrued between May 1, 2009 and Nov. 30, 2012 will receive by early 2014 a Retirement Fund benefit payment reflecting the amount payable due to the retroactive increase, and all subsequent monthly benefit payments will reflect the increase. However, please note that those payments cannot be made until on or after the effective date of the increase, Dec. 1, 2013, due both to applicable laws and the administrative work required to implement the improvement. Retirees who were already being paid the maximum benefit will not receive an adjusted payment reflecting the increase, nor increased future payments, nor may some who were

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¹ In order to accrue a pension benefit, a participant must have had covered earnings of \$7,500 or more during the base year Dec. 1, 2008–Nov. 30, 2009 and \$15,000 or more during the base years beginning Dec. 1, 2009 and later.

receiving the minimum benefit (if the increase still does not bring their monthly benefit above the minimum amount). Retirees who worked but did not have sufficient earnings to accrue a pension benefit¹ during the period will receive neither an adjusted payment nor increased future payments.

- Current retirees who did not work during the period – Participants who are currently receiving a pension from the AFTRA Retirement Fund, but who did not have covered contributions credited for May 1, 2009 through Nov. 30, 2012, are unaffected by this change.
- Beneficiaries of participants described above If a deceased participant described above would have received a retroactive adjustment had he or she lived,

the participant's beneficiary will receive a retroactive adjustment based on the type of survivor benefit the beneficiary receives.

Updated accrual examples under the revised accrual formula

Due to timing, the recently issued 2013 Retirement Plan SPD does not reflect the benefit improvement described

in this *Benefits Update* (see table below). To help provide you with a more accurate picture of pension benefit accrual formula following the Dec. 1, 2013 effective date of this benefit improvement, please refer to the table below, which is an updated version of the table at the top of page 27 of the May 2013 edition of the Retirement Plan SPD.

Period Beginning	Period Ending	Annual Covered Earnings	Annual Contributions	Accrual During Period
Dec. 1, 1998 ²	Nov. 30, 2008	\$60,000.00	\$7,800.00	\$14,840.00 ³
Dec. 1, 2008	Nov. 30, 2009	\$60,000.00	\$7,800.00	\$783.004
Dec. 1, 2009	Nov. 30, 2012	\$60,000.00	\$7,800.00	\$1,638.005
Dec. 1, 2012	Nov. 30, 2018	\$60,000.00	\$7,800.00	\$2,274.48 ⁶
TOTAL				\$19,535.48

Annual Benefit Accruals under the Retirement Plan over a 20-year Period (following benefit improvement effective Dec. 1, 2013)

Note: The annual benefit accrual in this example would have been \$18,951.26 without the Dec. 1, 2013 benefit improvement

Dec. 1, 2008 to April 30, 2009 - \$30,000 covered earnings x 1.70% = \$510 May 1, 2009 to Nov. 30, 2009 - \$3,900 contributions x 7.00% = \$273 Total annual benefit for Dec. 1, 2008 to Nov. 30, 2009 = \$510 + \$273 = \$783

 $^{^{2}}$ For the base year Dec. 1, 2002 to Nov. 30, 2003, covered earnings were assumed to be \$30,000 for the first six months and \$30,000 for the second six months of the period.

³ The \$14,840 figure represents the cumulative benefit accrued from Dec. 1, 1998 through Nov. 30, 2008, based on the accrual rates in the table on page 25 of the May 2013 Retirement Plan SPD and constant covered earnings of \$60,000 per year.

⁴ For the base year Dec. 1, 2008 to Nov. 30, 2009, covered earnings were assumed to be \$30,000 for the first five months and \$30,000 for the next seven months and contributions were assumed to be \$3,900 for each of those periods. Therefore, the amounts of the annual benefits were calculated as follows:

 $^{^{5}}$ The \$1,638 figure represents the cumulative benefit accrued during the 3-year period from Dec. 1, 2009 to Nov. 30, 2012 under the improved 7.00% contributions formula, assuming constant contributions of \$7,800 per year. In other words, \$7,800 x 7.00% = \$546 per year, or \$1,638 for the 3-year period.

⁶ The \$2,274.48 figure represents the cumulative benefit accrued during the 6-year period from Dec. 1, 2012 to Nov. 30, 2018 under the 4.86% contributions formula, assuming constant contributions of \$7,800 per year. In other words, \$7,800 x 4.86% = \$379.08 per year, or \$2,274.48 for the 6-year period.

The new 2013 Retirement Plan SPD does not reflect the pension benefit improvement or recent U.S. Supreme Court decisions

The new 2013 Retirement Plan SPD, which was issued effective May 20, 2013 and distributed to participants in June, does not reflect the pension benefit improvement described in this *Benefits Update*. The new Retirement Plan SPD also does not reflect Plan changes that will be necessary following the recent U.S. Supreme Court ruling (see related announcement below).

Because each *Benefits Update* communicates amendments to the Retirement Plan and/or Health Plan, please retain all *Benefits Updates* you receive, and keep them with your current SPDs. The two SPDs, together with the *Benefits Updates* that follow, represent the current Plans as amended. At any time, you may visit *www.aftrahr.com* to view the current Retirement Plan SPD with all modifying *Benefits Updates* ("Retirement Fund" | "Retirement Plan SPD") or the Health Plan SPD with all modifying *Benefits Updates* ("Health Fund" | "Health Plan SPD").

If you wish to receive benefits information or certain other communications from AFTRA H&R by e-mail, click the "E-mail preferences" button in the upper right rail of each page at *www.aftrahr.com* and follow the instructions to choose which types of communications you prefer to receive by e-mail.

U.S. Supreme Court rules DOMA unconstitutional

On June 26, 2013 the U.S. Supreme Court declared unconstitutional the portion of the Defense of Marriage Act (DOMA) that defined marriage, for federal law purposes, as an opposite-sex union, regardless of state law. AFTRA H&R had previously taken steps to treat same-sex spouses similarly to opposite-sex spouses to the full extent permitted by federal law, but the Funds were prevented from doing so in all cases due to this provision of DOMA. Inasmuch as this decision changes federal law, it will affect the benefits provided to many participants in same-sex marriages and their families.

Specifically, if you were legally married in a state or other jurisdiction that permits same-sex marriage and you reside in a state that recognizes that marriage, you will be considered legally married for the purposes of both the AFTRA Health and Retirement Plans. We are awaiting further guidance from the relevant government agencies as to whether this also applies to participants who were legally married in a state (or other jurisdiction/country) that permits same-sex marriage but now reside in a state that does not recognize same-sex marriage.

With respect to the Health Plan, as a result of the Supreme Court's ruling, the federal taxes that the Plan has been collecting from some participants who cover a same-sex partner may not continue to apply to those who are legally married. If you were legally married in a state or other jurisdiction that permits same-sex marriage and you reside in a state that recognizes that marriage, the value of your spouse's coverage will no longer be taxable income to you. The continued application of these taxes to same-sex spouses who were legally married in a state (or other jurisdiction/country) that permits same-sex marriage but now reside in a state that does not recognize same-sex marriage remains an open question for which we are expecting further guidance from the government. If you have enrolled your same-sex spouse in the Health Plan, be sure to provide us with your marriage certificate and state of residence so that we can adjust your premium invoices accordingly, if needed. Note, however, that the taxes will continue to apply to same-sex domestic partners who are not married and are covered under the AFTRA Health Plan (unless they are otherwise tax dependents under federal law for these purposes or you qualify for individual coverage and pay the full buy-up premium).

With respect to the Retirement Plan, certain forms of retirement benefits and other rights and protections that were previously available under federal law only to opposite sex spouses will now extend to all legal spouses, including same-sex spouses. The same open question mentioned previously exists for those who reside in a state that does not recognize same-sex marriages. We are reviewing the implications of the Supreme Court's ruling with respect to the Retirement Plan and will provide additional information in the coming months. In the meantime, if you are legally married, whether to a same-sex or opposite-sex spouse, it is important that you advise us of that marriage and your state of residence when you apply for retirement benefits.

In the coming weeks and months, AFTRA H&R's staff, Trustees and legal counsel will be fully evaluating any further guidance that we expect from the federal agencies on this issue and others, as well as the Health Plan and Retirement Plan changes that may be required. Specific Plan changes will be announced in the coming months, and please watch for these announcements in upcoming

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Benefits Updates. Participants are also encouraged to consult a financial advisor before making any financial decisions based upon the recent Supreme Court ruling.

While the evaluation of the Court's decision will take time, as will the expected guidance from the federal regulators, we will keep our participants informed as much as possible throughout this process. For additional information and any future updates, please visit *www.aftrahr.com*.

Hearing aid benefit expanded retroactively

The benefit first announced last year for active participants is now extended to seniors and early retirees

At its recent summer meeting, the Board of Trustees agreed to extend the Health Plan's recently adopted hearing aid benefit to participants and covered dependents in the Senior Citizen Health Program and the Early Retiree Program. Previously, the benefit was limited to active participants and their dependents.

The extension of coverage is retroactive to Feb. 1, 2012, which was the effective date of the original benefit for active enrollees. As such, any valid claims for hearing aids purchased by Senior Program and Early Retiree Program participants or their covered dependents for dates of service on and after Feb. 1, 2012 that were previously denied as not covered will be reprocessed and paid to the extent

covered under the expanded hearing aid benefit. If you had such a claim but did not submit it, you should submit the claim to AFTRA H&R as soon as possible, but you must submit it by Nov. 30, 2014.



The hearing aid benefit covers only traditional behind the ear (BTE) or in the ear (ITE) hearing aid devices, payable up to a maximum of \$1,000 per BTE or ITE device for each covered individual. This benefit is also limited to one device per ear every three years per covered individual.

As previously announced, the hearing aid benefit is payable only if the hearing aid is medically necessary and prescribed by a licensed physician or other medical provider acting within the scope of his or her license or certification. No benefits are provided for hearing aid repair or battery replacement.

If you have any questions about the expanded hearing aid benefit or to submit a claim, please contact Participant Services at (800) 562-4690.

Note time-sensitive notifications requirements

This *Benefits Update* includes explanations of certain time-sensitive situations which require you to notify or provide information to AFTRA H&R. These time-sensitive notification requirements are identified by the graphic above. Whenever you see this graphic, pay close attention, as it is meant to alert you to a specific notification requirement that may affect your benefits.

Employers will mail notices to participants regarding Health Insurance Marketplace options

However, many of the features of the marketplace (including premium subsidies) are not available to most who qualify for coverage under the Health Plan

By Oct. 1, 2013, employers nationwide are required by the Affordable Care Act (ACA) to notify their employees about the new Health Insurance Marketplace (previously referred to as the "exchanges"). The marketplace is designed to provide one-stop shopping by helping people to identify and compare private health insurance coverage options. Open enrollment for private health insurance coverage through the marketplace begins in Oct. 2013 for coverage starting as early as Jan. 1, 2014.

Employers that contribute to the AFTRA Health Fund are required to provide their employees (regardless of whether these employees have health coverage) with a notice that includes information about the existence of the marketplace, the services offered by plans in the marketplace, how to enroll in or request information from the marketplace and the fact that, under certain circumstances, a tax subsidy may be available to purchase that coverage. The notice may also include information about the AFTRA Health Fund and whether it meets certain standards under the ACA.

Though employers are required by law to provide information about the marketplace to you, it is important to note that most performers who are enrolled (or who qualify to enroll) in the AFTRA Health Plan are unlikely to benefit from purchasing separate health insurance in the marketplace. This is because the Health Plan meets or exceeds minimum ACA requirements for most participants, as

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described and with the conditions noted below, and therefore individuals eligible for coverage under the AFTRA Health Plan will not be eligible for the ACA tax subsidy for coverage under the marketplace.

- The ACA imposes a tax on most people (with a number of exceptions) unless they have health care coverage that qualifies as "minimum essential coverage."
 The AFTRA Health Plan does provide minimum essential coverage.
- While coverage through the marketplace is generally available to everyone, the tax subsidy for coverage is only available to a limited group. Most performers who qualify for coverage under the AFTRA Health Plan (and their family members eligible to enroll)⁷ will not be eligible to receive premium subsidies when purchasing coverage in the marketplace because the AFTRA Health Plan coverage exceeds "minimum value" and is "affordable," as defined under the ACA, for most participants. Subsidies are available in the marketplace for individuals who are not otherwise

offered coverage that meets a "minimum value" standard and is "affordable" within the meaning of the ACA. AFTRA H&R has determined that the coverage offered by the Health Plan meets the minimum value standard for the benefits it provides (because it covers at least 60 percent of allowed charges for covered services). AFTRA H&R has also determined that, for calendar year 2014, the coverage offered by the AFTRA Health Plan is affordable for any performer who qualifies for coverage under the AFTRA Health Plan and has an annual household income of at least \$17,685 in 2014. Under the marketplace rules, a performer in this situation will not be eligible for a tax subsidy when purchasing coverage in the marketplace, whether or not the performer elects coverage under the AFTRA Health Plan.

If you have questions about a marketplace notice that you receive, contact the employer who provided the notice to you or visit *www.healthcare.gov.* If you have any additional questions about benefits provided by the Health Fund, contact AFTRA H&R at (800) 562-4690.

Earlier this summer, Cigna announced its decision to participate in the 2014 Health Insurance Marketplace exchanges required by the Affordable Care Act (ACA) only in some of the states in which Cigna currently markets its fully insured health plans. However, it is important for participants to note this decision in no way affects the separate agreement that Cigna has with the AFTRA Health Plan to provide its nationwide PPO network. AFTRA H&R's provider networks are unaffected by any decisions made by commercial insurers related to the Health Insurance Marketplace provisions of the ACA.

Reminder: Five-year limit for earnings inquiries effective Jan. 1, 2014

Performers should immediately report any potential discrepancies for earnings for covered work from 2008 or earlier

As first announced in the June 2011 *Benefits Update* and reported in several subsequent communications, AFTRA H&R's policies for covered earnings inquiries include a rule that limits the time period during which a performer

may request a covered earnings inquiry. Effective Jan. 1, 2014, performers will have a maximum period of five years from the end of the calendar year in which earnings were (or should have been) credited to request a covered earnings inquiry and submit documentation to AFTRA H&R for consideration⁸. This rule was first announced during the spring of 2011 with a Jan. 1, 2014 effective date to provide ample time for performers to review records and report any incorrect information from past years to AFTRA H&R.

The rule allows AFTRA H&R to address any mistakes or omissions in reported earnings and contributions soon after the earnings should have been received from contributing employers, at a time when supporting information and documentation is more readily available. This means that there is a greater likelihood that discrepancies can be verified and corrected.

Inquiries related to earnings from 2008 or earlier must be received by Dec. 31, 2013

Effective Jan. 1, 2014, any earnings that were (or should have been) credited prior to Jan. 1, 2009 will no longer be considered for review in an earnings inquiry. Therefore, any earnings inquiry requesting a correction of

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⁷ Unless the family member does not enroll AND the participant does not take a personal exemption deduction for the family member.

⁸ If you were a Class Member in the *Moore v. American Federation of Television and Radio Artists et al.* lawsuit, your claim for earnings credit under the procedures of the stipulation of settlement in that case is not affected by this change. If you have questions about the settlement of this lawsuit, please contact AFTRA H&R's Cheri Pearce-Bridges at *cbridges@aftrahr.com* or (212) 499-4865.

covered earnings for calendar year 2008 — or any prior years — **must be received by Dec. 31, 2013.** As of Jan. 1, 2014, the five-year limit will continue to apply with each successive year going forward, as shown in the examples in the chart below.

Application of Five–Year Limitation for Earnings Inquiries – Examples			
Calendar Year for Covered Earnings:	Earnings Inquiry Must Be Received By:		
2008 and all prior years	Dec. 31, 2013		
2009	Dec. 31, 2014		
2010	Dec. 31, 2015		
2011	Dec. 31, 2016		

Reporting discrepancies

If you believe that any earnings information reported to AFTRA H&R is inaccurate, you should complete an Earnings Discrepancy Form, which may be downloaded at *www.aftrahr.com* ("Participant Toolkit" | "Annual Earnings Statements.

Please keep in mind that in the event of a discrepancy between the information reported to AFTRA H&R by a contributing employer (or obtained during a compliance audit) and the credit to which you believe you are entitled, it will be your responsibility to report the amount of covered earnings and to prove that the work in question was:

- performed by you for a contributing employer; and
- covered by a collective bargaining agreement for which contributions were required to be made to AFTRA H&R.

Acceptable forms of documentation are listed in the chart below.

Record of Payment:	Record of Work:
• Pay stubs	• Session or work report
 Royalty statements (if you are a royalty artist under the Sound Recording Code) W-2 Form/1099 Form 	 Proof of participation in AFTRA-covered work Evidence documenting the type of work performed (e.g. personal services contract or agreement)
• Detailed earnings statement from the Social Security Administration	• It is recommended that you include a copy of your personal services contract even if other records submitted with your inquiry satisfy AFTRA H&R's documentation and information requirements

Return the completed Earnings Discrepancy Form and required documentation by mail, e-mail or fax as indicated below:

AFTRA Health & Retirement Funds Attn: Contribution Services 261 Madison Ave., 7th Floor New York, NY 10016 E-mail: *earnings@aftrahr.com* Fax: (212) 499-4973

Please note that it takes AFTRA H&R time to review potential earnings discrepancies. Once AFTRA H&R receives an earnings inquiry, AFTRA H&R notifies the participant to acknowledge receipt, and then the participant will be notified again after the inquiry has been researched.

If you have questions or need assistance, contact AFTRA H&R's Contribution Services department by calling (800) 562-4690 or by sending a request to the fax number or send an e-mail to *earnings@aftrahr.com*.

Changes to align Health Plan with Mental Health Parity and Addiction Equity Act coming soon

Specific Plan amendments, which will be effective Dec. 1, 2013, will be announced in next *Benefits Update*

The AFTRA Health Plan is required to comply with the requirements of the federal Mental Health Parity and Addiction Equity Act on Dec. 1, 2013, the start of its new Plan Year. This act is designed to ensure that mental health and chemical dependency benefits offered by each health plan are on par with the medical benefits provided by that health plan.

For the AFTRA Health Plan, compliance with the act will require certain Health Plan changes — benefit improvements — effective Dec. 1, 2013. Please watch for complete details about these benefit improvements in the next *Benefits Update*, which is scheduled to be distributed to Plan participants in early fall.

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Having a Family: Targeted mailing of new brochure coming soon

A new educational brochure titled *Having a Family: Your AFTRA Health Plan Coverage* soon will be distributed to Health Plan participants in a targeted mailing. The new brochure is designed to help participants prepare for a new child joining their families. Participants receiving this brochure will receive it by mail or by e-mail, based upon established communications preferences. If you do not receive a copy of this brochure in the coming weeks but you would like to view it, visit *www.aftrahr.com* ("News and updates" | "Educational brochures") and download the new brochure, which will soon be available online. Or if you would like a printed copy of the brochure, please e-mail *communications@aftrahr.com* along with your current mailing address.

Annual notice: Women's Health and Cancer Rights Act of 1998

If an enrolled participant or beneficiary received or is receiving treatment in connection with a mastectomy, you may be entitled to certain benefits under the Women's Health and Cancer Rights Act of 1998 (WHCRA). For enrolled participants and covered dependents receiving mastectomy-related benefits, coverage will be provided in a manner determined in consultation with the attending physician and the patient, for:

- All stages of reconstruction of the breast on which the mastectomy was performed;
- Surgery and reconstruction of the other breast to produce a symmetrical appearance;
- Prostheses; and
- Treatment of physical complications at all stages of mastectomy, including lymphedema.

This coverage is subject to all of the Health Plan's rules regarding benefits, including but not limited to the annual deductibles, copayments and coinsurance applicable to other medical and surgical benefits provided under the Plan, as well as the Plan's definitions, limitations and exclusions which are described in this booklet. If you would like more information on WHCRA benefits, call Participant Services at (800) 562-4690.

Ann Calfas joins AFTRA H&R Board of Trustees

AFTRA H&R is pleased to welcome Ms. Ann Calfas, Executive Vice President, Labor Relations and Employment Litigation for FOX Entertainment Group, to its Board of Trustees. Ms. Calfas serves as an Employer (Producer) Trustee for AFTRA H&R.

Ms. Calfas oversees labor relations and all employmentrelated legal matters for the various FOX companies. Prior to joining FOX in 1994, Ms. Calfas was part of the labor and employment department at Gibson, Dunn & Crutcher in Los Angeles. In addition, she also served two terms as President of the Disability Rights Legal Center's (DRLC) Board of Directors and was named "Pro Bono Counsel of the Year" by the Association of Corporate Counsel of America's (ACCA) Southern California Chapter. Ms. Calfas was also recognized by *Los Angeles Business Journal* as one of the city's "Women Making a Difference" for her work advancing the right of adults and children with disabilities.

The AFTRA Health & Retirement Funds are governed by a Board of Trustees with equal representation from both AFTRA and contributing industry employers. The Trustees are responsible for setting the benefits, rules and regulations of the Funds and generally overseeing AFTRA H&R operations.

Notice of Grandfathered Health Plan Status

The AFTRA Health Plan believes that it is a "grandfathered health plan" under the Patient Protection and Affordable Care Act (ACA). As permitted by the ACA, a grandfathered health plan can preserve certain basic health coverage that was already in effect when that law was enacted. Being a grandfathered health plan means that the AFTRA Health Plan may not include certain consumer protections of the ACA that apply to other plans, for example, the requirement for the provision of preventive health services without any cost sharing. However, grandfathered health plans must comply with certain other consumer protections in the ACA, for example, the elimination of lifetime limits on benefits.

Questions regarding which protections apply and which protections do not apply to a grandfathered health plan and what might cause a plan to change from grandfathered health plan status can be directed to the Director or Associate Director of Benefits at (212) 499-4800. You may also contact the US Department of Labor's Employee Benefits Security Administration at (866) 444-3272 or *www.dol.gov/ebsa/healthreform*. This website has a table summarizing which protections do and do not apply to grandfathered health plans. You may also contact the US Department of Health and Human Services at *www.healthreform.gov.*

Important contact information

- AFTRA H&R Participant Services, (800) 562-4690, www.aftrahr.com
- CIGNA HealthCare, (800) 768-4695, www.cignasharedadministration.com
- CIGNA's 24-hour Nurseline, (800) 768-4695
- ValueOptions (mental health & chemical dependency pre-authorization), (800) 704-1421

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Keith Gorham Senior Vice President, Labor Relations NBC Universal 100 Universal City Plaza, 1280-3 Universal City, CA 91608

Harry Isaacs Executive Vice President, Labor Relations CBS Corporation 4024 Radford Avenue Studio City, CA 91064

Jo Ann Kessler Vice President Director of Business Affairs Extreme Reach 8 West 40th St., 20th Floor New York, NY 10018 Hank Lachmund Senior Vice President, Labor Relations Warner Bros. Television 300 Television Plaza, Bldg. 137, Rm. 1009 Burbank, CA 91505

Stephen Mirante Senior V.P., H.R. Specialty Services CBS Corp. 51 West 52nd Street, 19th floor New York, NY 10019

David Silberman Executive Counsel, Labor Relations ABC, Inc. 77 West 66th Street New York, NY 10023

Ron Wilcox Executive Counsel, Business Affairs Warner Music Group 75 Rockefeller Plaza, 13th floor New York, NY 10019

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Denny Delk c/o AFTRA H&R 261 Madison Avenue, 7th floor New York, NY 10016 Mathis Dunn, Jr. Associate National Executive Director SAG-AFTRA 5757 Wilshire Boulevard, 9th floor Los Angeles, CA 90036

David Hartley Margolin c/o AFTRA H&R 261 Madison Avenue, 7th floor New York, NY 10016

Matt Kimbrough c/o AFTRA H&R 261 Madison Avenue, 7th floor New York, NY 10016

Lynne Lambert c/o AFTRA H&R 261 Madison Avenue, 7th floor New York, NY 10016

Roberta Reardon SAG-AFTRA 260 Madison Avenue, 7th floor New York, NY 10016

Joyce Reehling c/o AFTRA H&R 261 Madison Avenue, 7th floor New York, NY 10016

Sally Stevens c/o AFTRA H&R 261 Madison Avenue, 7th floor New York, NY 10016

David White National Executive Director, SAG-AFTRA 5757 Wilshire Boulevard, 9th Floor Los Angeles, CA 90036

Chief Executive Officer

Christine Dubois AFTRA Health & Retirement Funds 261 Madison Avenue, 7th floor New York, NY 10016

Important information

You should take the time to read this *Benefits Update* carefully and share it with your family. It is very important that you retain this notice, which is intended to serve as a Summary of Material Modification (SMM), with the 2011 Health Plan SPD and the 2013 Retirement Fund SPD. While every effort has been made to make this SMM as complete and as accurate as possible, it does not restate the existing terms and provisions of the Plans other than the specific terms and provisions it is modifying. If any conflict should arise between this summary and the terms of the SPDs (other than with respect to the specific terms and provisions this summary is modifying), or if any point is not discussed in this summary or is only partially discussed, the terms of the SPDs will govern in all cases. The Board of Trustees of the AFTRA Health and Retirement Funds or its duly authorized designee reserves the right, in its sole and absolute discretion, to interpret and decide all matters under the Plans. The Board also reserves the right, in its sole and absolute discretion, to amend, modify or terminate the Plans or any benefits provided under the Plans (or qualification for such benefits), in whole or in part, at any time and for any reason (including with respect to retirees and with respect to benefits already earned).