

MUSIC MODERNIZATION ACT
ONE-PAGE SUMMARY

Title I: Musical Works Modernization Act

The Musical Works Modernization Act fixes problems that digital music providers (DMPs) and music copyright owners face in licensing musical works for digital uses under §115 of the Copyright Act. It also creates a fairer process for setting royalties for musical works and sound recordings. This title:

- Creates a blanket license under §115 of the Copyright Act that DMPs can use to license musical works (i.e., the underlying notes and lyrics) embodied in sound recordings for digital downloads and interactive streaming.
- Ends the current process through which DMPs file notices of intent with the Copyright Office to obtain royalty-free licenses for musical works for which copyright owners have not been located.
- Authorizes the creation and designation of a mechanical licensing collective (“MLC”) run by music publishers and songwriters and funded by digital services to administer the blanket license. The MLC will receive royalties and usage reports from digital services, locate copyright owners of musical works embodied in sound recordings, and distribute royalties to copyright owners and songwriters. The MLC will also maintain a public database of musical works and their owners.
- Changes the standard the Copyright Royalty Board (CRB) uses to set royalties for §115 mechanical uses (i.e., reproductions, distribution) of musical works. Under the bill, the CRB will set these royalties based on what a willing buyer and willing seller would agree to in a free market.
- Removes §114(i) of the Copyright Act to allow rate court judges for ASCAP and BMI (the two largest performing rights organizations) to consider sound recording royalties when setting royalties for digital public performances of musical works.
- Makes ASCAP and BMI rate court proceedings consistent with other federal litigation by randomly assigning the proceedings to federal judges in the Southern District of New York rather than having all proceedings occur before the same judge each time.
- Changes the standard the CRB uses to set royalties under the §114 statutory license for the public performance of sound recordings by certain preexisting satellite and subscription services (SiriusXM, Music Choice, and Muzak) to the willing buyer/willing seller standard that applies to other digital services.
- Directs the Department of Justice to provide information to Congress upon request regarding Department review of performing rights organization consent decrees and notify Congress before filing a motion to terminate such a decree.

Title II: CLASSICS Act

The CLASSICS Act extends limited federal copyright protection to sound recordings made before 1972. These works currently receive no protection under federal copyright law. This title:

- Extends the right to digital public performance royalties (§106(6) of the Copyright Act) to sound recordings made before February 15, 1972. Provides a rolling timeline for pre-‘72 sound recordings to enter the public domain according to publication date.
- Creates a mechanism to enable noncommercial uses of pre-‘72 recordings that are not being commercially exploited.
- Allows pre-‘72 sound recordings to be licensed under the same statutory scheme as all other sound recordings, as established by §114 of the Copyright Act. Digital radio providers will pay a royalty rate set by the Copyright Royalty Board for the recordings they play, and those royalties will be distributed to performers and record labels by SoundExchange via the statutory license. When songs are licensed through direct deals rather than the statutory license, artists will be paid the same share of royalties that they receive under the statutory license (viz., 45% of performance royalties from non-interactive digital streaming).
- Ends the need for state-by-state litigation for pre-‘72 works by replacing the patchwork of state copyright laws and allows digital services to settle outstanding legal disputes by paying for three years of past performances.
- Preserves fair use limitations; exemptions for libraries, archives, and educational institutions; and safe harbor provisions as they apply to current public performance rights.

Title III: AMP Act

The Allocation for Music Producers (AMP) Act amends §114(g) of the Copyright Act to include a procedure for producers and other participants in the sound recording process to collect performance royalties through SoundExchange. This title:

- Requires SoundExchange to adopt a policy to receive letters of direction from artists designating a portion of their royalties to be paid to producers, engineers, and mixers.