Monday, June 12, 2023

Good Reasons to Initiate Study to Repeal §115 Compulsory License Including Relevant Roundtable and Ex Parte Meeting Issues

1. **The 3 Major Record Labels' Misuse of the License *Is* the #1 Problem** — These *same* 3 record labels have lobbied Congress for 25 *years using regulatory capture* and can now wield their *marketshare*[1] at the CRB, *and* the MLC that *they* designed, to create rates and terms that benefit *only* them, against all their *competitors*, and work against *all* American songwriters and publishers above and beyond just setting rates. (*See* #2) Misuse is the #1 reason why we need roundtables, to show the negative effects on all competitors. These 3 companies and their counsel have re-written *our* music copyright laws to create endless *limitations* and *exceptions (See* Register Oman quote below*)* to *my* exclusive rights guaranteed to *all* individual American songwriters under §106 and art I.

2. **Antitrust Exemption and Compulsory Misuse on *All* Competitors is # 2 Problem** — Since the 3 major record labels can do *direct deals* with a.) their *own* 3 publishing divisions in Subpart B, and then b.) with Digital Service Providers (DSPs) in Subpart C while c.) *simultaneously using the government compulsory license on all their competitors,* the 3 labels have invented strategies to misuse the license *over and above* simply setting a legal statutory rate. It's also an abuse of their *antitrust exemption*. This has a horrible antitrust effect on *all their competitors* (and their *own* songwriters) and the most important *reason* a compulsory license study, roundtables, and *ex parte* meetings are needed — not just a study influenced by these *same* exact 3 labels, their lobbyists, and the Services to echo why the license is doing just fine, as is, so why change?

This anti-competitive misuse, designed to keep *their* "song costs" down includes;

A. The 3 labels using RIAA, NMPA, NSAI, and Pryor Cashman to *intentionally freeze all songwriter/publisher income at 9.1 cents for 15 years at the CRB.*

B. …*to not propose any increase* in the 9.1 cent mechanical and *with no COLA indexing* for Subpart B in 2021, since inflation indexing for §115 is a "cost".

C. …*to not propose* any increase *above* the 12 cent royalty rate for all songwriters in 2021–2022 and *to keep rates "static"* as possible for all co-writers and co-publishers.

D. …to *willfully short all songwriters* by 1.73 cents on a COLA in their 12 cent proposal in 2022, *intentionally* leaving out 2021 & 2022 in their "calculation".

E. …*to not propose a songwriter "cost" COLA for all Subpart C streams in 2022*!

[1] Marketshare is *king* in administrative law proceedings *v.* exclusive rights in copyright to *incentivize* authors.

F. …misusing 3 "*voluntary settlement*" proposals in 2022 to *short-circuit* the process that only benefits 3 to 15 corporations, *designed to force the Judges to accept agreements that don't benefit all their American music competitors*.

G. …*legally re-writing* 37 C.F.R. §385 *regulations, laws, and definitions* every CRB proceeding to the labels' favor, against their *own* songwriters, misusing the license to *regulate their competitors*, using the force of federal law.

H. …lobbying, writing, and *continuing to re-write MMA and MLC regulations*[2], laws, and definitions using the force of federal law and regulatory capture.

I. Then, Pryor Cashman *audits* the MLC, while *setting rates* at the CRB?

J. Despite valid *termination rights*[3] being recognized by the Copyright Office, the 3 labels, RIAA, NMPA, NSAI, and Pryor Cashman wrote into the MMA these rights *were not recognized* by MLC, who would then *keep all royalties*?

K. Add the *original* "end-run"[4] around the compulsory license, the 45 year old "private contract" *controlled composition clause* from 1978, originally created by major record labels. Ironically, in response to the 1976 Copyright Act COLA inflation indexing. While the CRB rightly says this clause is a private contract, it's still an end-run around the 1976 Act. The *same 3 labels* have gotten away with this *scheme for 45 years*! We pray the Office can somehow discourage or forbid this 25% siphon of *earned* songwriter and publisher royalties by these *parasitic* 3 major record labels, lobbyists, and counsel.[5]

L. (NOTE: This is a current CRB issue still being decided, but a great example of control and misuse thru lobbying and capture, in other words, *songwriters don't have a chance*.) *A rate has never been set in 25 years* for the "*zero rate*" Restricted Download and Limited Download in §385 that has been hidden in Subpart C in plain sight! The 3 Labels, NMPA, RIAA, and Pryor Cashman (and DiMA and the Services) *renamed* the old §385.11 Limited Download into

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[2] https://www.federalregister.gov/documents/2019/07/08/2019-13292/copyright-royalty-board-regulations-regarding-procedures-for-determination-and-allocation-of July 08, 2019, *Bob Goodlatte Music Modernization Act, Mechanical License Collective CRB Regulations Regarding Procedures*.

[3] https://www.copyright.gov/rulemaking/mma-termination/ *Termination Rights and Music Modernization Act*

[4] https://app.crb.gov/document/download/26557 April 28, 2022, *Referral of Novel Material Question of Substantive Law* filed by Chief Copyright Royalty Judge Suzanne Barnett. Footnote 11, Page 3. "It might be argued that *the settling parties were attempting an end-run at modification of regulatory interest terms outside the statutory rate setting procedures*. This is a legal question not as yet presented directly in this proceeding and not a part of the referred question." (emphasis added)

[5] https://www.bmg.com/us/news/bmg-statement-us-mechanical-royalty-rates.html. May 26, 2022, BMG Release."Thankfully, they have backed down. They could show *further humility* by following BMG's example in *abandoning unfair and anachronistic controlled composition deductions which are solely designed to depress songwriter earnings*."

the new §385.2 Eligible Limited Download[6] for "free and unlimited" *offline listening*, without paying the 12 cents download statutory rate, but oddly pays the $.00012 streaming rate. This "Eligible" *legally qualifies* as a paid permanent download[7], but label lawyers and lobbyists have incrementally re-defined this old limited download (or Digital Phonorecord Delivery ("DPD")) as a "transmission" - despite the word "download" being in *both titles*. Paying $.00012 cents for a download that all songwriters are used to being paid 9.1 cents seems like legal trickery may have taken place. Then, *not placing these downloads in Subpart B* which is traditionally associated with downloads, but hiding it in Subpart C primarily known for streaming *is also odd to me*. It seems they simply didn't want to pay songwriters and co-publishers the 7 to 9.1 cents for a *buffer download* (aka. incidental, limited, or restricted).

M. Overall and most importantly, by *re-defining* and morphing the dormant Limited Download into the new Eligible Limited Download *over decades*, the 3 record labels found a *brilliant way* to legally kick the can down the road and *not pay for restricted, limited, buffer, or incidental downloads,* and the RIAA, NMPA, and 3 labels have accomplished this *over 25 years by lobbying Congress!* Congress *is* their business model. In my opinion from 1997 to 2006 the 3 labels, RIAA, NMPA, NSAI and DiMA used regulatory capture *to control the digital download* and as time went on to *sabotage* their competitors' 9.1 cent iTunes *sales* download business model *in favor of* their new *access* streaming transmission business model that only *cost them* $.00012 per-song*, not 9.1 cents.* So, the labels pushed and marketed the access streaming model *through legislation*, not the natural ebb and flow of a free-market in streaming. Of course, they will argue they did the best they could at the time, but when you *read what they wrote in 1997 and 2001*, et al., all this behavior is *over and above* what was intended by Congress for setting a simple statutory rate. In short, these agreements need to be studied and properly discussed in the *sunlight* so that a *new rate-structure* created by a bonafide "long table" of creators — one that's RIAA, NMPA, NSAI, 3 record label, and Grammy Advocacy *lobby-proof,* that actually pays songwriters in *dollars*, *not nano-pennies,* by reclaiming "the customer".

This first RIAA Agreement[8] from November 4, 1997 is one of the *most fascinating proposed regulations sold to Congress* as section §255.7, essentially guaranteeing these 3 corporations *a 10 year window to infringe digital phonorecord deliveries till*

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[6] https://www.ecfr.gov/current/title-37/chapter-III/subchapter-E/part-385/subpart-A/section-385.2

[7] Their excuse is it's *not* a permanent download since the customer can *cancel their subscription*, so it's *unpaid*. Why doesn't a 1 year subscriber, or 5 year, or 1 month, not get the *full value* of the song?

[8] https://www.crb.gov/proceedings/2006-3/riaa-ex-j-108-dp.pdf November 4, 1997, *Joint Petition for Adjustment of Physical Phonorecords and Digital. Phonorecords Delivery Royalty Rates,* Submitted by NMPA, RIAA, and SGA.

2008! Yet in this same document they also claim that "no precedent should be set" from their proposals, while demanding here their "procedures…shall be repeated"?

> "The procedures specified in 17 U.S.C. § 115(c)(3)(C) shall be repeated in 1999, 2001, 2003 and 2006 so as to determine the applicable rates and terms for the making of digital phonorecord deliveries during the periods beginning January 1, 2001, 2003, 2005 and 2008. The procedures specified in 17 U.S.C. § 115(c)(3) (D) shall be repeated, in the absence of license agreements negotiated under 17 U.S.C. g 115(c)(3)(B) and (C), upon the filing of a petition in accordance with 17 U.S.C. g 803(a)(1), in 2000, 2002, 2004 and 2007 so as to determine new rates and terms for the making of digital phonorecord deliveries during the periods beginning January 1, 2001, 2003, 2005 and 2008. Thereafter, the procedures specified in 17 U.S.C. § 115(c)(3)(C) and (D) shall be repeated in each fifth calendar year. Notwithstanding the foregoing, different years for the repeating of such proceedings may be determined in accordance with 17 U.S.C. g 115(c)(3) (C) and (D)."

Next, on December 4, 1998 they created an Amended Joint Petition[9], then relevant agreements in 1999, 2000, and a March 11, 2004 Rulemaking.[10] But in a February 6, 2002 Comments[11] in response to *their* December 6, 2001 "milestone" Agreement[12] [13] the RIAA and NMPA basically say — we don't even have a royalty rate or need to pay our *own* songwriters, much less co-writers or competitor co-publishers, but let's create a new digital license for songs for all our cool streamer friends to "launch" *their businesses*, but don't worry, the Copyright Office can set a songwriter rate and pay them songwriters someday later, it'll all be fine. It's an astonishing section and not how I thought copyright worked:

> "The Agreement provides a framework to establish fair royalty rates, thereby encouraging songwriting by providing for the payment of a fair royalty to songwriters for their creative efforts, *while ensuring that services can launch and operate in the interim*. Although the *Agreement does not establish a royalty rate* for On-Demand Streams or Limited Downloads, the parties *have committed to engage in good faith negotiations to arrive at such*

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[9] https://www.crb.gov/proceedings/2006-3/riaa-ex-j-110-dp.pdf December 4, 1998, *Amended Joint Petition.*

[10] https://www.federalregister.gov/documents/2004/03/11/04-5595/compulsory-license-for-making-and-distributing-phonorecords-including-digital-phonorecord-deliveries March 11, 2004, *Federal Register*, *Notice of Proposed Rulemaking* for Compulsory License §115.

[11] https://www.copyright.gov/docs/section115/comments-2/rm2000-7a_riaa_nmpa_hfa_sga.pdf February 2, 2022, *Joint Comments of RIAA, NMPA, HFA, and SGA.* Not a "marketplace solution".

[12] https://www.crb.gov/proceedings/2006-3/riaa-ex-a-120-dp.pdf December 06, 2001, *Joint Statement of The Recording Industry Association of America, Inc., National Music Publishers' Association, Inc. and the Harry fox Agency, Inc. in the Mechanical and Digital Phonorecord Delivery Compulsory License.* Docket No. RM-2007, Page 8.

[13] https://www.copyright.gov/fedreg/2001/66fr64783.html *Federal Register*, December 14, 2001.

> *a rate* (or rates). *If negotiations fail*, an applicable rate (or rates) *will be established by a CARP* convened by the Copyright Office. *In the interim, however, the Agreement allows licensees to launch their services now and pay the royalties due on a retroactive basis once rates are established*. The Agreement represents the type of *marketplace solution that Congress has urged* to resolve these business and legal issues." (emphasis added)

3. ***"Cost" of Songwriters to 3 Record Labels is the #3 Problem*** — Next to the related anticompetitive and antitrust exemption issues, as listed above the "*cost*" of songwriters to these 3 major record labels is the #3 overarching issue. Again, the 3 record labels use the "voluntary negotiation" process to short-circuit the songwriter compulsory license and "freeze" our rates. It is one of the *worst abuses* by the 3 labels, NMPA, RIAA, and NSAI and we pray that Congress can please put a stop to their behavior. *Freezing* songwriter rates by the 3 major record labels *and our own songwriter lobbyists* could be one of the worst betrayals of American songwriters ever! "Cost" is all that matters to these 3 major record labels who have misused[14] the compulsory license to regulate their own record label costs, and primarily to benefit *their stock price*. This is why NMPA and NSAI refused to offer a rate increase or COLA indexing to Subpart B *for their own publishers until they had to*, and *still refuse* a COLA for Subpart C?

As Hipgnosis Songs founder Mr. Merck Mecuriadis correctly framed it in 2021:

> "I believe the reason that the songwriter is the low man or woman in the economic equation is because the three biggest publishers in the world *aren't advocating for songwriters*, *because they're owned and controlled by the three biggest recorded music companies*. The recommendation of having the CMA look at this, what I call, *unhealthy relationship between the major companies and publishers* is essential to bring change in a way that will finally reward songwriters. Songs are the currency of our business: there's nothing without the song, so how can it be that the songwriter is the lowest paid?"[15] (emph.)

4. **Rate-Structure at Below-Market $.00012 Stream Rate and Ceiling Is A Complete Failure and #4 Problem** — Considering the never-ending yet justified complaints by U.S. and global songwriters and music publishers on the complete failure of the below-market $.00012 (or less) per-stream royalty *rate-structure, with no sales,* repealing or reforming the current U.S. rate-structure is perfectly reasonable to study, timely, and necessary. The

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[14] https://www.bmg.com/us/news/bmg-statement-us-mechanical-royalty-rates.html. May 26, 2022, BMG Release. "More broadly, this case again highlighted the *dismissive approach of record companies toward songwriters* who just a month ago *entered a motion designed to exclude the vast majority of songwriters from benefiting from any rate increase*." (emphasis added)

[15] https://www.musicweek.com/publishing/read/hipgnosis-founder-merck-mercuriadis-message-to-the-majors/084030 September 1, 2021, Music Week, quotes by Mr. Merck Mercuriadis of Hipgnosis from article titled, "*Hipgnosis founder Merck Mercuriadis' message to the majors."*

rate-structure must be re-structured *in dollars,* or *repealed* so copyright authors can negotiate for once.

5. **Vertical Integration At the 3 Record Labels is the #5 Problem for the CRB and the Music Creator Community** — Vertical integration among the 3 major record labels and their publishing arms arguably *creates considerable conflicts of interest* in certain CRB rate-setting contexts, since these 3 companies are the biggest record labels in the world and they are negotiating with themselves. Once they enter a CRB rate proceeding, their vertical (and horizontal) integration *instantly causes* all kinds of real problems for millions of songwriters and publishers *who rely* on the music publishing community to represents their rights, and we need real help and guidance on this issue now please. And what about the issue of how vertical integration within the 3 major record labels (with the *large majority* of national and global marketshare) makes achieving a truly fair market rate impossible at the CRB, even if compulsory licensing were reformed, or repealed? Don't we also have to suggest ways to level the playing field *in negotiations* as a condition for eliminating benchmark rates in total? And what if the license is repealed? The field is *so tilted in favor of the 3 vertically integrated and aligned major companies that eliminating compulsory licensing still may not legislatively get us where we need to be in terms of enabling actual free-market competition.*

6. "***Voluntary Settlements" Are Another "End Run" Around License and #6 Problem*** — The "voluntary settlement" process is the part that's been *corrupted* the most, so it's more than coincidental this is the part that NMPA now wants to "reform" at the CRB since this is the way I *raised the 9.1 cent rate to 12 cents for all songwriters* and publishers[16], *then* added a COLA inflation to Subpart B! By NMPA *not even proposing* a Subpart C COLA for streaming for songwriters in the 3rd voluntary settlement of 2022, the Judges *had no choice but to accept no COLA for streaming*. This is why the license should be 100% repealed, because RIAA, NMPA and these 3 record labels *will never, ever stop misusing this section.* Even if you eliminate the voluntary negotiation (which you shouldn't have to) *these labels, lobbyists, and lawyers will find a way around it*. Recent quotes from Mr. Israelite at a Grammy week luncheon demonstrate how he plans to short-circuit the process *again — now wanting Congress to do "CRB reform",* ironically to the voluntary settlement process I objected to *to win at the CRB.* So, when Mr. Israelite says he "would get rid of the compulsory license", he's hypocritical, or else he wouldn't belittle it as "*utopia*" or "*that's not happening*". History shows compulsory licensing has been nothing more than a *ceiling* for songwriters for 114 years, and under streaming it's worse than ever.

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16 https://www.federalregister.gov/documents/2022/12/16/2022-27237/determination-of-royalty-rates-and-terms-for-making-and-distributing-phonorecords-phonorecords-iv, March 30, 2022, CRB *Withdrawal of Proposed Rule for Subpart B.* The Judges used the term "end-run" around the license.

> "Now, our top legislative priority is about what's broken about this system. When I tell you we are 5 years and 33 days late of knowing what our rates are, and counting, that is the definition of a broken process. And that is why our top legislation priority for this next Congress is going to be reforming the way that CRBs work. Now, I think you're used to me in this room being fairly honest and blunt with you, and I'm gonna' do it again. *We cannot pass a bill in Congress over the objection of any of the parties in this eco-system.* There are lots of people in the music industry who like to pretend they're gonna' go fight for something legislatively and get a win with *zero-percent chance*. *Zero.* CRB reform *will only happen if all the parties come together and agree on what to do the way that we did with MMA*. And so when I talk about CRB reform, I'm going to talk about it in terms of what is possible, not in terms of what is *utopia*. There's a lot that we would change if we could, *we would get rid of the compulsory license*, *we would get rid of the CRB*, *that's not happening*. First, this process should encourage settlements. That is the goal of the process is to avoid going to court and working things out like we did in *Phono IV*. Both with record labels in one settlement, and with digital service providers in the other settlement. So, the types of things we're talking about in CRB reform is more resources for the court. They need more resources."[17] (emphasis added)

7. **It Took 7 Years to Finish *Phonorecords III*** — This could probably be the No. 1 *good reason to repeal* (and study) the license — the *7 years* it took to finish *Phonorecords III* for a rate period ending in 2022? This is unacceptable and unnecessary. *Over-lawyering* and misuse of the license is why it took so long.

8. **Upcoming 2024 Review of the MLC** — In light of the upcoming 2024 *review* of the Music License Collective (MLC), it would benefit the new Congress and Judiciary Committees to *update* them on how the license is working in general at the CRB, and MLC, considering Congress voted *unanimously* (435-0) to pass the MMA in 2018. But the study should also reflect its *widespread ineffectiveness for all American songwriters and independent music publishers, et al.,* at $.00012 per-stream, compounded by our now weak and limited *exclusive right* protections under §106 of the Copyright Act and art I., §8, cl.8. (*See* Oman)

9. **No Study of Compulsory License Since 2007** — As far as other good reasons to initiate a study and *ex parte* communications and meetings is there has been no comprehensive compulsory license study *since* 2007 with Register Peters, so a current study would be reasonable. In her statements to Congress, Register

[17] https://vimeo.com/795669420/d4dea2d73f?embedded=true&source=vimeo_logo&owner=16656974 February 2, 2023, NMPA CEO Mr. David Israelite at Lawry's Steakhouse, Hollywood, California at AIMP Grammy luncheon.

Peters was a strong advocate for *total repeal* of the license in 2004[18], 2005[19] [20] and 2007[21], while also making simultaneous arguments for total *reform*.

In her 2005[22] (and 2007[23]) statements to Congress, Register Marybeth Peters eloquently explained the law and solid reasoning for both repeal and reform:

a.) One of Register Peters' good reasons for needed *reform*[24] of the 1909 license was**;**

> "There is no debate that section 115 needs to be reformed to ensure that the United States' vibrant music industry can continue to flourish in the digital age. As evident from the numerous proposals for change recently submitted to the Chairman of the House of Representatives' Subcommittee on Courts, the Internet, and Intellectual Property ("House Subcommittee") by entities representing all aspects of the music industry, the operative question is not whether to reform section 115, but how to do so."

b.) Or, one of Register Peters' good reasons to *repeal* the 1909 license altogether,

> "Our compulsory license in the United States is also an anomaly. Virtually all other countries that at one time provided for this compulsory license have

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[18] https://www.copyright.gov/docs/regstat031104.pdf March 11, 2004, *Statement of Marybeth Peters, The Register of Copyrights before the Subcommittee on Courts, Internet and Intellectual Property, of the House Committee on the Judiciary*.

[19] https://www.copyright.gov/docs/regstat071205.html July 12, 2005, S*tatement of Marybeth Peters, The Register of Copyrights before the Subcommittee on Intellectual Property, Committee on the Judiciary,* on "reform" or "simple repeal" of 1909 license.

[20] https://www.judiciary.senate.gov/imo/media/doc/peters_testimony_07_12_05.pdf July 12, 2015, Summary.

[21] https://www.copyright.gov/docs/regstat032207-1.html March 22, 2007, *Reforming Section 115 of the Copyright Act for the Digital Age. Statement of Marybeth Peters The Register of Copyrights before the Subcommittee on Intellectual Property, Committee on the Judiciary.*

[22] https://www.copyright.gov/docs/regstat071205.html July 12, 2005, *Statement of Marybeth Peters, The Register of Copyrights before the Subcommittee on Intellectual Property, Committee on the Judiciary,* on "The Need for Reform" and "Simple Repeal of the Compulsory License" on all U.S. songwriters and music publishers.

[23] https://www.copyright.gov/docs/regstat032207-1.html March 22, 2007, *Reforming Section 115 of the Copyright Act for the Digital Age. Statement of Marybeth Peters The Register of Copyrights before the Subcommittee on Intellectual Property, Committee on the Judiciary.*

[24] The Need for Reform — "At its inception, the compulsory license facilitated the availability of music to the listening public. However, the evolution of technology and business practices has eroded the effectiveness of this provision. Despite several attempts to amend the compulsory license and the Copyright Office's regulations (13) in order to keep pace with advancements in the music industry and in technology, the use of the section 115 compulsory license, other than as a de facto ceiling on privately negotiated rates, has remained at an almost non-existent level."

"The United States also has collective licensing organizations, such as ASCAP, BMI and SESAC, which appear to function quite successfully. These performing rights organizations license the public performance of musical works – for which there is no statutory license – providing users with a means to obtain and pay for the necessary rights without difficulty. It seems reasonable to ask whether a similar model would work for licensing of the rights of reproduction and distribution."

> eliminated it in favor of private negotiations and collective licensing administration. Many countries permit these organizations to license both the public performance right and the reproduction and distribution rights for a musical composition, thereby creating "one-stop shopping" for music licensees and streamlined royalty processing for copyright owners. (24)"

Register Peters continues with a full and "simple repeal" in her own words.

> **"b. Simple Repeal of the Compulsory License**
> Should the concept of free marketplace negotiations for reproduction and distribution rights for nondramatic musical works appear to be desirable, then a variation on this legislative concept might also be worthwhile to explore. One might ask whether it would further benefit the industry as a whole simply to repeal, yet not replace, the section 115 compulsory license. Then reproduction and distribution rights would truly be left to marketplace negotiations. A sunset period of several years would likely be prudent to permit the industry to develop a smooth transition. My prediction would be that music publishers would voluntarily coalesce into music rights organizations, or perhaps would create a single online clearinghouse (or a handful of such clearinghouses) which would permit one-stop shopping while nevertheless permitting each publisher to set its own rates. It might be wise to couple repeal of section 115 with incentives designed to promote one of these alternatives that would result in one-stop shopping or something close to it. In principle, I favor this approach. After all, the Constitution speaks of authors' "exclusive rights to their Writings," and in general authors should be free to determine whether, under what conditions and at what price they will license the use of their works."

I would hope Register Peters would approve of this study in that same spirit.

10. **We Can't Negotiate Because of Compulsory License** — Maybe Congress can *repeal the 3 labels' antitrust exemption*? Maybe *Congress can allow all American songwriters and music publishers our own antitrust exemption* so we can organize? We have no leverage and no say, unlike the current Writer's Guild of America (WGA) strike for movies and television, where less *money from streaming shows* and AI are the main topics, but it's much worse for songwriters who are forced to accept $.00012 as a *living*. As former DOJ AAG Mr. Delrahim said "*Compulsory licensing eviscerates essential aspects of the right to exclude*", and "the *recognition that the compulsory license is not the answer*" (*See* Pg. 16)

11. **Price-Fixing and Central-Planning of Songwriters Before WW-1** — 114 *years* of price-fixing and central-planning of songwriters by the federal government has not only *led us here*, but has only amplified it's *negative effects*. Even more price-fixing and planning under digital streaming *has led us from 2 cents in 1909 to $.00012 or worse in 2023!* Any mistake or below-market rate is

negatively *amplified by millions*. I always thought this quote from the Judges in the *Phonorecords III* Final Determination was interesting because *it's exactly what I proved* in *Phonorecords IV,* the *3 record labels are literally engaged in anti-competitive price-fixing at below-market rates, using the compulsory license*:

> "But, Mr. Johnson has not even hinted at evidence to support his argument that the representative negotiators are engaged in anti-competitive price-fixing at below-market rates. The very definition of a market value is one that is reached by negotiations between a willing buyer and a willing seller, with neither party being under any compulsion to bargain."[25]

Except there *is no negotiation* in these proceedings outside the 3 major labels, and unfortunately, we songwriters and music publishers are under 100% *compulsion*.

12. **No Willing Buyer, Willing Seller in MMA Put In Effect by NMPA or NSAI** — NMPA and NSAI *lobbied for* "willing buyer, willing seller" in the MMA but *never put it into effect* at the CRB since we had no hearings or litigation. NMPA also *short-circuited* the process with their 5 year *"voluntary settlement" end-run* which should be *eliminated* or foolproof so it can no longer be *misused* by the 3 major record labels, NMPA, NSAI, RIAA, DiMA, the Services or any other future participant against U.S. copyright creators. And let's face it, *there is no willing buyer, willing seller* under a compulsory license, or at $.00012, *and* also at the CRB since the 3 major record labels and major publishers are simply *negotiating with themselves*. *No* songwriter is a willing seller at $.00012 a song.

13. **Supreme Court Reigns In Administrative Law in W.Va. & Sackett** — SCOTUS has handed down 2 decisions reigning in administrative law overreach in *West Virginia v. EPA*, 142 S. Ct. 2587 (2022)[26] and *Sackett v. EPA* No. 21-454 (2023)[27]. There is now a need to reevaluate Copyright Royalty Board authority, and how that impacts exclusive rights, the compulsory license, property rights, and CRB proceedings. *Sackett* further strips administrative law procedures for federal agencies which would drastically affect the assumed powers of the CRB. "Today's ruling returns the scope of the CWA to its original and proper limits. Courts now have a clear measuring stick for fairness and consistency by federal regulators. This is a profound win for property rights and the separation of powers." — PLF attorney @DamienSchiff

14. ***No* Other U.S. Copyright Author Has A Compulsory License** — *No* American painter, photographer, illustrator, book author, journalist,

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[25] https://www.federalregister.gov/documents/2019/02/05/2019-00249/determination-of-royalty-rates-and-terms-for-making-and-distributing-phonorecords-phonorecords-iii February 5, 2019, 37 CFR Part 385 [Docket No. 16–CRB–0003–PR] *Determination of Royalty Rates and Terms for Making and Distributing Phonorecords* (Phonorecords III); Subpart A Configurations of the Mechanical License.

[26] https://www.supremecourt.gov/opinions/21pdf/20-1530_n758.pdf *West Virginia v. EPA*, 142 S. Ct. 2587 (2022)

[27] https://www.supremecourt.gov/opinions/22pdf/21-454_4g15.pdf *Sackett v. EPA,* No. 21-454 (2023)

screenwriter, actor, animator, director, etc., or any professionally copyrightable work (PA, VA, SR) has a compulsory license *except for songwriters!* And certainly not at a legal "zero-rate", or as a legal free "offline" download, with no sales due to substitution by streams, with no right to sue for past infringement in the MMA, and an *access only* business model at $.00012 per-stream, that is split, on *a draw from a publisher*. So, why are we songwriters being singled out?

15. **The Marketplace Currently Has Voluntary Collective Blanket Licensing** — Current *voluntary deals* by NMPA with Tik Tok or Youtube licensing *outside the compulsory license*, proves there's *no need for forced licensing* to efficiently operate in the marketplace. The market is currently *full of private* collective blanket licensing agencies already in place to collect multiple licenses, from BMI, SESAC, or GMR, to SoundExchange. (NOTE: Soundexchange, et al., could take over §115 collections from the MLC with the repeal of the license, *but the digital mechanical right kept* in place, if possible.) As music attorney Mr. Chris Castle just wrote, "What would happen if the compulsory license vanished? Very likely the industry would continue its easily *documented history of voluntary* catalog licenses. The evidence is readily apparent for how the industry and music users handled services that did not *qualify* for a compulsory license like YouTube or TikTok. However stupid the deals were *doesn't change the fact that they happened in the absence of a compulsory license*." (emphasis added)[28]

16. **Foreign Parent Companies Should *Not Set License* for U.S. Songwriters** — Yes, this goes for any 3 corporations, foreign or domestic, but it is odd that 3 *foreign corporations* like Sony, Vivendi, and Access Industries are *all setting the royalty rates and terms for all American songwriters and music publishers for more than a decade*? This seems like a manipulation of all their U.S. *competitors* and *our income* by these 3 *foreign headquartered parent companies in* France, Russia, and Japan, paying U.S. lobbyists RIAA, NMPA, and NSAI to *astroturf by setting all U.S. royalty rates is a real problem*. These foreign *parent companies, labels, and lobbyists are* using Congress to make *them* new laws, designed to *set all their American competitors' rates and terms,* at literally *zero cents,* or $.00012 nano-pennies. Why is Spotify in Sweden, or Tencent in China, that owns 10 to 20% interest in UMG, owned by Vivendi in France, *setting all* U.S. songwriter and music publisher rates? It's *unbelievable* and we need help.

17. **Rising Costs of Living for Songwriters** — *Songwriters are suffering financially*, with *no* COLA adjustment for all Subpart C streaming, below-market royalty rates at $.00012, and the highest inflation in 40 years! No COLA on streaming is the *result of this misuse of the license* and "voluntary

[28] https://musictechpolicy.com/2023/05/28/should-the-compulsory-license-be-re-upped/ May 28, 2023, *Should the Compulsory License Be Re-Upped?* by music attorney and *Phonorecords IV* Commenter Mr. Chris Castle.

> settlement" process by the 3 labels, RIAA, NSAI, DiMA, and NMPA[29], and precisely the problem. These labels and lobbyists would have *never proposed* a COLA for Subpart B (or increase to 12 cents) if it weren't for pushback.[30] The labels and lobbyists *intentionally* froze Subpart B for *15 years* to keep *their costs down*, just like *no* COLA in Subpart C. Again, Mr. Israelite makes around $2 million dollars per-year in salary and bonuses. Then, I just found out that the MLC executives, former lawyers from the 3 major record labels, get an Employment Cost Index ("ECI")[31], so a 3% COLA *adjustment as civl workers*, yet the songwriters they oversee *are bound* to a compulsory license at $.00012, coincidentally a rate-structure and royalty rate NMPA and the 3 labels created *and* set, *get nothing*? That seems more than unfair and extremely hypocritical considering the 3 record labels also just *gave themselves* a COLA in 2022 in *Webcasting V* at the CRB? Furthermore, the MLC CEO takes home a $691,922 dollar per-year salary including bonuses[32] (possibly health care) and *now he and all executives get a 3% percent* COLA increase, and songwriters *zero*? The CEO of the MLC *makes more in salary than* the President of the United States *and* all members of Congress? Why is a former Warner Records attorney making $691,922 dollars for a government job?

This joint motion was filed with the CRB by Pryor Cashman representing the MLC just a few weeks ago on May 31, 2023, under a *new proceeding* for *another* "*voluntary settlement*". Under the heading of *Nature of the Voluntary Agreement* on Page 2, Section II, Pryor Cashman's new voluntary settlement gives the MLC CEO and all MLC executives a 3% percent COLA increase, yet Pryor Cashman *intentionally did not propose* a COLA *for all streaming for songwriters and music publishers* in *Phonorecords IV* at the CRB, which again seems like a gross misuse of the license for only their self-interests, and not what Congress indented. It reads:

> (iii) For the calendar year 2025 and all subsequent years the amount of the Annual Assessment will be automatically adjusted by increasing the amount from the Annual Assessment of the preceding calendar year by the lesser of (a) 3 percent and (b) the percentage change in the Employment Cost Index (ECI) for Total Compensation (not seasonally adjusted), all civilian workers, as published on the website of the United States Department of Labor, Bureau of Labor Statistics, for the most recent 12-month period for which

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[29] Lobbyists NMPA and Nashville Songwriters Association International (NSAI) have *fought every rate increase and COLA indexing* I've proposed in *Phonorecords III*, *Johnson*, and *Phonorecords IV*.

[30] https://www.bmg.com/us/news/bmg-statement-us-mechanical-royalty-rates.html. May 26, 2022, BMG Release. "Without their belief and commitment, the RIAA (representing record companies) and the NMPA (representing music publishers) would not have been forced back to the negotiating table."

[31] https://app.crb.gov/document/download/28271 May 31, 2023, *Joint Motion to Adopt Voluntary Agreement and Proposed Regulations*, filed by Pryor Cashman for the MLC, and Latham & Watkins for the DLC in the *Proceeding to Adjust Administrative Assessment to Fund Mechanical Licensing Collective by Adoption of a Voluntary Agreement. Contains 3% ECI indexing for MLC executives.*

[32] https://www.themlc.com/hubfs/Marketing/Website/MLC-Finance_Form990-2021_CEOSigned.pdf 2021 Music Licensing Collective tax return, Page 9.

data are available on the date that is 60 days prior to the start of the calendar year.

18. ***No* Steaming COLA Proposal by NMPA / NSAI to Help Songwriters** — (Also a *Phonorecords IV* issue for rehearing or appeal, but a Final Rule was published on December 30, 2022[33]) As mentioned, NMPA, RIAA, NSAI, and the 3 record labels' proposal with *no* COLA indexing for Subpart C streaming *is evidence* of how they misuse and manipulate the compulsory license, and in this case DiMA and the 5 Services *who did not want to pay for a COLA*. Mr. Israelite recently explained that no COLA for streaming was the #1 *complaint* with NMPA's *proposed* settlement. He also gave some *bad reasons* as to why he didn't, explaining:

> "Now most people who have looked at this settlement have had nothing but praise, but the only criticism that I've heard is "Well, but the 2nd and 3rd tiers don't have cost of living adjustments (COLA), they don't go higher during the 5 year term". *What's important to understand is that the jumps that we took in the 2nd and 3rd tier are significantly better than if we had a COLA, significantly better*, and so we were able to raise those 2 rates to a hard number, starting in year 1, and that will *dwarf* what would have happened if we instead went by a CPI-U index, which is a Consumer Price Index Urban inflation unit for the 5 year period *based on all projections*. So, while yes, *we would have loved to have both*, the fact that we got the giant increases in the numbers originally *is better than a CPI-U adjustment. We now look at this as a partnership with the digital streaming companies. We are now in this together. When they do better, we do better.*"[34] (emphasis)

19. **An Opt-Out of the Compulsory License if Reformed** — The Copyright Office has always advocated for this option since Register Peters, and expressed similar views as recent as 2015[35] in *Copyright and the Music Marketplace*, which was not a compulsory license study. The opt-out is just one more good reason to study the license.

20. **3 Labels Use Compulsory on All Competitors, Yet Still Do Direct DSP Deals** — While the labels are free to do direct deals on sound recordings and underlying works, they still use the CRB compulsory license *on all their competitors*, and that seems very *unfair* to millions of American songwriters,

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[33] https://www.govinfo.gov/content/pkg/FR-2022-12-30/pdf/2022-28316.pdf. December 30, 2022, Subpart C Rule

[34] https://vimeo.com/795669420/d4dea2d73f?embedded=true&source=vimeo_logo&owner=16656974 February 2, 2023, NMPA CEO David Israelite at Lawry's Steakhouse, Hollywood, California at AIMP Grammy luncheon.

[35] https://www.copyright.gov/policy/musiclicensingstudy/copyright-and-the-music-marketplace.pdf February 2015, *Copyright and the Music Marketplace*. I participated in the Music Row panels and the 512 study in NYC.

and DIY music publishers with exclusive rights, property rights, et al.[36] [37] How is it legal that the 3 labels do *direct deals* with themselves in Subpart B, then the DSP streamers in Subpart C, but can still set a *compulsory license royalty rate on all their millions of competitors?* This behavior seems anti-competitive.

21. **The MLC is Also Broken** — The MLC is *broken,* just like the 1909 license, and the Copyright Office has been put in the position of having to defend a failing MLC system designed by Congress that nobody really ever asked for. With that said, now that we *have a digital mechanical*, it would be a shame not *keep that copyright configuration and payment*, while *removing the compulsory part* of the equation, if lawfully possible. MLC collections could be transferred to SoundExchange, or SESAC, or could all compete? The MLC is not turning out as promised and the *opposite for the songwriters* it was *supposed to benefit*.

22. **The Black Box Problem at the MLC and $1 Billion Dollars?** — The Black Box at the MLC is another perfect example to add to the list of going above and beyond the license, or "end-run" around the license. This is a *huge issue* to all songwriters and publishers and more proof the compulsory license is *not working in general*, *not working* at the MLC, and that the entire current system is *only* set up to help the 3 major labels. Unclaimed and unmatched royalties by non-MLC writers and co-publishers now go to the 3 major record labels *by marketshare* and the *opposite* of the entire *purpose* of the bill. Nobody also knows how much is in it — $1 billion? This is also why Congress must help.[38] As Mr. Merck Mercuriadis accurately addressed this issue in 2022 stating:

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[36] https://app.crb.gov/document/download/27289 October 25, 2022, *[Revised To Remove Redactions] Joint Response to George Johnson's Motion to Compel Production of Settlement and CRB Order* 63 "While the Individual Service Participants have ongoing business relations both in the U.S. and globally with individual copyright owners that are not a part of this proceeding, the Judges will also see that the settlement agreement attached as Exhibit A contains the entire agreement of the Parties with respect to *Phonorecords IV* rates and terms."

[37] https://app.crb.gov/document/download/27279 October 7, 2022, *Google and NMPA's Joint Notice of Public Lodging* "Rather, they relate to Google's concerns about double payment of royalties arising from YouTube's having entered into direct agreements with certain music publishers while simultaneously operating under the Section 115 statutory license."

NOTE 1: I realize this is about alleged double payments, and this may or may not be legal, but 3 corporations doing direct deals, while using the privilege of a government compulsory license on all their competitors seems unfair and unlawful.

NOTE 2: Also *see* https://musictechpolicy.com/2020/11/11/the-false-double-payment-bottom-of-the-mma-black-box/ November 11, 2020, *The False Double Payment at the Bottom of the MMA Black Box* by attorney Chris Castle. Also search "black-box" at www.musictechpolicy.com for more information.

[38] https://musictechpolicy.com/2023/06/09/the-uk-joins-the-black-box-rebellion-for-minimum-viable-data/ June 9, 2023 by music attorney Mr. Chris Castle. Quote by Mr. Merck Mecuriadis CEO of Hipgnosis Songs commenting on the black-box and how much the 3 record labels "love that system".

> "On average something more than 30% to 40% ends up in black box because people haven't been able to match the songs, there's human error that takes place every step of the way. *And of course, black box gets shared by market share so the beneficiaries of black box, you know who they are, love that system so they are not encouraging anyone to ensure that ISWC codes are embedded in metadata*." (emphasis added)

23. **Where is the Black Box Money Invested and How Much Is the Profit?** — *Where is* the black-box money invested is another question and *how much* have they made off their *secret investments*? Where will that profit go? Don't songwriters and publishers have a right to know where *their money is being invested* by some new quasi-governmental agency with huge executive salaries? Is it at City National, other investment houses, or *stock* in Big Tech, et al?[39]

24. **UMG's "Verified" AI, Substitution / Dilution of Streaming Royalty Pool Money and by New Independent AI Startups** — While many overreact to AI or see it as an existential threat, *AI song substitution and dilution of the streaming royalty pool* by the 3 labels and independent AI music creation start-ups over the next 5 years seems like it *could be exponential*. It was just reported that UMG has partnered with a "verified" AI music creator, Endel, owned in part by WMG[40]? What happens when UMG's Lucian Grainge partners with 20 AI start-ups? WMG? SME? How much will the streams dilute the royalty pool, making the per-play rate *less for human musicians* and *substitute* for $.00012?

25. **Is the Compulsory License Really A Labor Issue at $.00012 per-stream?** — All American *songwriters would need an antitrust exemption to organize as they see fit*, ironically just like the *antitrust exemptions* the lobbyists, 3 labels and 5 streamers have *long enjoyed* at the CRB, and then they all wrote one into the MMA for themselves — but not for songwriters. Songwriting is labor.

26. **The Role of Our Own Astroturfing Songwriter / Publisher Lobbyists** — Many lobbyists like NMPA and NSAI are *paid* to lobby for the 3 major *record labels*, *acting* like they are advocating for songwriters and publishers or are really for the elimination of the compulsory license, but aren't and *actively working against the interests of all songwriters* and independent publishers at

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[39] Again, why are former attorneys for the 3 major record labels *running* the MLC and *making $691,922.00 per year more than the President of the United States*? Why is former WMG counsel in charge of competitor publishers and songwriters' royalties? Mr. David Israelite's salary at NMPA is just *under $2 million dollars* in 2018 to keep *all* American songwriters at $.00012 per song makes no sense, is unjust, and especially under a 1909 government license.

[40] https://www.billboard.com/pro/universal-music-group-endel-functional-music/ May 23, 2023, *Universal Music Partners With AI Company to Win Sleep Playlists*, Endel, a leader in the lucrative "functional music" space, will transform projects from UMG's roster into soundscapes for relaxing or studying.

the CRB, et al. Their astroturfing and betrayal further exacerbates our problems.

27. **A New Compulsory License on §114 Sound Recordings?** — Of course, *nobody is for a new §114 license*, and I'm kidding to make the *valid point* that the 3 labels are *so aggressive towards to all their U.S. competitor songwriters and publishers,* and even their *own* publishing arms and songwriters in wielding their "free market" §114 power *over* §115 "regulated" songs,[41] it would be a last resort. It's the last thing the 3 labels want since they currently take 58% percent of the streaming pie on §114 sound recordings, while §115 songs only get 15% percent. Mr. Mercuriadis makes an excellent hypothetical point in the footnote below, and his idea would most certainly be "fair play".

28. **U.S. DOJ Antitrust AG Delrahim's Policy Direction in 2021 is Pro-Repeal of the Compulsory License** — Just over 2 years ago former U.S. DOJ Assistant Attorney General for the Antitrust Division Mr. Makan Delrahim made some very powerful policy recommendations at Vanderbilt Law School on January 15, 2021[42] in favor of repealing the compulsory license as "not the answer". He provided *direction to all branches* of government, including Congress, regarding exclusive rights, copyright law, and the harmful and negative consequences of continuing to force songwriters and music publishers to *labor under a compulsory license,* and against their will. His clear and concise remarks should be read by Congress and music copyright policymakers as to the good reasons why the §115 compulsory license must be repealed:

> "The third principle that should guide any future review of the ASCAP and BMI consent decrees, *as well as the Division's—and Congress's—efforts with regard to music licensing more generally, is the recognition that compulsory licensing is not the answer.* Too often, however, it has been creators—songwriters, artists, and other rightsholders—*who have received the short end of the stick under compulsory licensing*, necessitating reforms…by Congress.
>
> *Compulsory licensing also runs counter to the principles that form the very foundation of the free market and rights in intellectual property.* Those

[41] https://www.musicbusinessworldwide.com/do-the-write-merck-mercuriadis/ May 18, 2023, *Do The Write Thing* by Merck Mecuriadis, Music Business Worldwide, "It should not be left to legislation to decide what crumbs from the 'streaming pie' go to the songwriter. If how a songwriter is going to get paid is determined by legislation, then the entire streaming economy should be determined by legislation. More appropriately, if how recorded music companies are paid is determined by a free market then how songwriters are paid should also be also determined by the same free market."

[42] https://www.justice.gov/opa/speech/remarks-assistant-attorney-general-makan-delrahim-future-ascap-and-bmi-consent-decrees January 15, 2021, "*And the Beat Goes On": The Future of the ASCAP/BMI Consent Decrees,* Remarks by Assistant Attorney General Makan Delrahim on the Future of ASCAP and BMI Consent, Nashville, TN, Virtual Event Hosted by Vanderbilt Law School.

> principles hold that the best, most efficient way to allocate resources—and the most effective way to maximize consumer welfare—is through allowing parties to negotiate, to set prices based on supply, demand, and available information. Antitrust law serves as a crucial backstop when market conditions become distorted or when industry actors attempt to stifle the free and full exchange of goods. Compulsory licensing, however, does not permit this sort of market-based negotiation—*quite the opposite*.
>
> Similarly, *chief among basic property rights*, including intellectual property rights, *is the right to exclude*, to determine who may or may not use your property. *It is this right to exclude that gives property its value, and that enables property holders to negotiate over use rights. Compulsory licensing eviscerates essential aspects of the right to exclude*. It transfers the power to set rates—to determine when property may be used or exploited by a non-rightsholder—to a third party. That third party may be seeking to act in the public interest, but it is not the rightsholder, and the two entities' goals may be in conflict. For this reason, compulsory licensing in the United States is the exception—the rare exception—not the rule, and *our representatives seek to avoid compulsory licensing requirements in agreements* with other countries.
>
> It is incumbent upon the Division, the Congress, and the courts to keep these principles in mind as they strive to ensure a free, fair, and competitive music licensing marketplace. In all of these efforts, competition must be the watchword. Competition for the benefit of consumers, competition for the benefit of innovation, and most importantly, *competition for the benefit of the artists and songwriters without whom the American music industry would not exist*."[43] (*emphasis added*)

If we don't fully repeal the compulsory license, Pryor Cashman, the 3 labels, RIAA, NMPA, NSAI, DiMA (Google), the Services, and all their attorneys will never stop abusing *their privilege of using it*, and that is the dilemma?

Maybe these parties should *lose their privilege* and be foreclosed from every using the compulsory or the MMA blanket license every again because of their 25 years of misuse and *anticompetitive* behavior towards *all* American songwriter music publishers, and our epic loss of sales income the past 25 years due to their regulatory capture?

So, this is why we need a *free market in music* which has *not been tried in America for 114 years*, and that *is incredible,* and un-American as it gets.

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[43] One fundamental issue is whether a compulsory license on *my copyright* is still necessary after 114 years? Just because 3 record labels have an antitrust exemption from Congress doesn't mean the horrible negative effects of price-fixing and centrally planning music royalties for 114 years *will not cause the exact same harm to all other competitors* just because 3 companies have federal permission.

Conclusion

Copyright is supposed to benefit the author *first*, with *actual incentive* and *profit*[44], but it no longer does for the U.S. songwriter, and in a way never contemplated in 1909.

Copyright is for the creators first, the corporations next, and the public good as the final beneficiaries, not the other way around which is our current system — now inverted 180º degrees.

I do recognize how the compulsory license *works for* all licensees, for terrestrial radio all these decades, for vinyl, downloads, and now streamers. I respect that and in no way am I trying to disrupt the industry or radically change it. The streamers *did disrupt all American songwriter and music publishers*, and destroyed our songwriter/publisher business model over the past 25 years and *that is always ignored*. *Merging the sale and the stream* like Apple TV seems reasonable, utilizing these platforms built on the backs of songwriters and publishers for decades, for the creators *to finally take our profits* as our *incentive,* and their *privilege*.

All songwriters want is a *simple rate* for streaming we all can understand, and with a *functioning royalty rate system* that *pays us in dollars,* not nano-pennies. I've also worked as hard as can to achieve that the past 10 years.[45] These 3 major record labels, their lobbyists, and licensees should not be allowed to overshadow or dominate this system any longer, nor any study, or *ex parte* meetings.

The former Register Ralph Oman has my favorite quote on the current state or lack of, copyright protection for all authors, but it really applies to music copyright:

> "Finally, two talented authors add intellectual heft to the ongoing debate *about the true nature of copyright—as an exclusive private property right, or as a limited right to be doled out stingily, riddled with exceptions and limitations, to be given away free-of-charge*. It has become fashionable in some academic circles to treat copyright exclusivity as a quaint but outmoded notion, and its advocates as hopeless naifs…Their learned analysis should be widely read, especially by Members of Congress and judges, to help them understand the true nature of the debate and the deep roots of the copyright pedigree as a natural private property

[44] *Herbert v. Shanley Co.*, 242 U.S. 591 (1917), "It is true that the music is not the sole object, *but neither is the food*, which probably could be got cheaper elsewhere. The object is a repast in surroundings that to people having limited powers of conversation, or disliking the rival noise, give a luxurious pleasure not to be had from eating a silent meal. *If music did not pay, it would be given up*. If it pays, it pays out of the public's pocket. Whether it pays or not, *the purpose of employing it is profit*, *and that is enough*." (emphasis added)

[45] https://www.billboard.com/pro/george-johnson-songwriter-royalty-rates-crb-interview/ July 29, 2002, Billboard magazine, written by Steve Knopper. *Meet George Johnson.*

> right—historically unique, socially revolutionary, and worth fighting for. Three cheers for Messrs. May and Cooper!" (*emphasis added*) — *Ralph Oman, Register of Copyrights of the United States, 1985-1993*[46]

Our downloads and sales are "given away for free of charge" and streaming is "riddled with exceptions and limitations" at $.00012 cents per play.

I lived *on* Music Row for almost 25 years, and when I got there in 1997 there were about 4,000 songwriters or "publishing deals" according to the Tennessean, and in 2018 *there were less than 400 songwriters!* That is a 90% percent drop in 20 years and nobody cared! All due to the negative harmful effects of Congressional price-fixing and central-planning under the 1909 compulsory license, compounded by the regulatory capture of 3 major record labels, their lobbyists, Google/DiMA, and their armies of attorneys.

Again, *songwriters don't stand a chance* without the help of Congress and the Copyright Office and for which we would all be truly grateful.

Thank you for your time and thoughtful consideration.

Respectfully,

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https://cap-press.com/books/isbn/9781611637090/The-Constitutional-Foundations-of-Intellectual-Property 2015, *The Constitutional Foundations of Intellectual Property, A Natural Rights Perspective*, by Randolph J. May, Seth L. Cooper