

**Before the
UNITED STATES COPYRIGHT OFFICE
Washington, D.C.**

In the Matter of:

Docket No. 2015-3

Mass Digitization Pilot Program

**COMMENTS OF THE
RECORDING INDUSTRY ASSOCIATION OF AMERICA, INC.**

The Recording Industry Association of America, Inc. (“RIAA”) is pleased to have the opportunity to provide these comments in response to the Copyright Office’s June 9, 2015, Notice of Inquiry (“NOI”) in the above-captioned proceeding. *See* 80 Fed. Reg. 32614 (June 9, 2015). The RIAA is the trade organization that supports and promotes the creative and financial vitality of the major music companies. Its members comprise the most vibrant record industry in the world. RIAA members create, manufacture and/or distribute approximately 85% of all legitimate recorded music produced and sold in the United States.

The NOI seeks comments on a limited pilot program and corresponding draft legislation that would establish a legal framework known as extended collective licensing (ECL) for certain mass digitization activities that are currently beyond the reach of the Copyright Act. The pilot program would apply to certain collections of books, photographs or other materials and would be limited to uses made for nonprofit educational and research purposes and without any purpose of direct or indirect commercial advantage.

Because sound recordings are not affected by the proposed pilot program, the RIAA is not commenting on the specifics of the proposal. We leave that task to those who are directly impacted by the current proposal. It is unclear whether the Copyright Office has any interest in extending this pilot program, if deemed successful, to other classes of copyrighted works. Assuming that it may wish to do so, we question whether there is any need for ECL in connection with sound recordings given the relative ease with which large catalogs of sound recordings are already being licensed for digital uses: via voluntary licenses with our member companies (see <http://whymusicmatters.com> for a listing of such services) or via the statutory licenses administered by SoundExchange (which are now used by approximately 2,000 licensees).

Should the Copyright Office, nevertheless, become interested in the possibility of extending the pilot ECL program to sound recordings, it is imperative that the Office seek additional comments before doing so. Because there are a multitude of differences in the way sound recordings, books and photographs are used, licensed and distributed, the application of ECL to the mass

digitization of sound recordings would raise issues not likely to be raised in connection with the mass digitization of books and photographs and such issues will not, therefore, be addressed in the comments submitted in connection with this NOI.

Dated: October 8, 2015

Susan Chertkof
Senior Vice President, Business and Legal Affairs

Recording Industry Association of America, Inc.