Music Licensing Study: Notice and Request for Public Comment

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of Inquiry.

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SUMMARY: The United States Copyright Office announces the initiation of a study to evaluate the effectiveness of existing methods of licensing music. To aid this effort, the Office is seeking public input on this topic. The Office will use the information it gathers to report to Congress. Congress is currently conducting a review of the U.S. Copyright Act, 17 U.S.C. 101 *et seq*., to evaluate potential revisions of the law.

Dated: May 22, 2014.
To: Jacqueline C. Charlesworth,
General Counsel and Associate, Register of Copyrights.

Dear Ms. Charlesworth,

Thank you for the opportunity to submit the following written comments in response to this Notice of Inquiry. Please find attached the following sections for your review:

A. Author Overview.
B. Answers to 23 *Subjects of Inquiry* questions posed by the Copyright Office.
C. Question 24: Outline of "any pertinent issues not referenced…to consider" by the Office.
D. Author's list of questions to the Copyright Office for discussion, review and answer please.
E. Attached info-graphics created for the Copyright office, Congress, and music industry.

Because of the large volume of material, the number of complicated issues, and the time it takes to fully explore each issue in writing, we ask that we may please revise and extend our remarks.

If you have any questions, clarifications, or need for further information, please feel free to contact me at " Geo Music Group, George Johnson Music Publishing, 23 Music Square East, Suite 204, Nashville, TN 37203. 615-242-9999, george@georgejohnson.com

Thank you for your time and thoughtful consideration.

Respectfully submitted,

George Johnson
singer-songwriter-publisher-sound recording creator-cartoon creator-scriptwriter

Subjects of Inquiry

The Copyright Office seeks public input on the effectiveness of the current methods for licensing musical works and sound recordings. Accordingly, the Office invites written comments on the specific subjects above. A party choosing to respond to this Notice of Inquiry need not address every subject, but the Office requests that responding parties clearly identify and separately address each subject for which a response is submitted.

SECTION A

Author Overview

Unfortunately, as much as I have always respected and felt protected by the Copyright Office as an author, the effectiveness of most current methods for licensing musical works and sound recordings is completely broken and in a total run-down state for creators. Copyright owners have been betrayed the past 100 years by forced central economic planning, price-fixing at pennies—now nano-pennies, song courts, government sanctioned monopolies, "non-profits", corrupt music lobbyists plus all the abuse and known, natural economic consequences that comes with those series of actions and constant behavior.

For over 100 years, the *value* and *control* of *all* musical copyrights, in the name of protecting songwriters or the *public good*, has been hijacked by well-intentioned past Congresses, 100 years of political "music" lobbyists, 100 years of performing rights organizations, central planners, monopolists, price-fixers, "non-profits", phony altruists, corporatists and lately, a small yet determined group of hyper-political Silicon Valley intellectual property pirates—especially the past 15 years since the advent of Sean Parker's Napster and now the flood of so called "legal" streaming services like Pandora, Youtube and Sean Parker's Spotify.

In addition to answering the Subjects of Inquiry, this author will attempt to show that the root cause of this ineffectiveness, mismanagement and financial failure is simple central economic planning of copyrights for 100 years instead of common sense, free market negotiations between copyright owners and licensees. It's self-evident.

We are now paying for the unintended consequences of 100 years of sometimes well-intentioned actions and even hard-won battles, but primarily because of fraudulent actions from the (current) cartel of music lobbyists, streamers and royalty factions who only exist to *use* songwriters, their hard earned copyrights and intellectual property for the faction's financial benefit. These organizations and corporations could absolutely care less about songwriters, music publishers, rights-owners, musicians, recording artists, and copyright creators in general - and it's primarily all streaming companies, broadcasters, PRO's and DC music lobbyists—ironically, this is who the Copyright Office must protect us songwriters from first which seems shocking, but true.

It's their "business model", we're just in it and have no say at all in our own negotiations, despite songwriters and music publishers owning all the underlying copyrights. It's a "perfect storm" for Keynesian economists and utopia for a handful of Wall St. investors funding Silicon Valley streamers, but I assure you it's a real world economic nightmare for *all* copyright owners, songwriters, music publishers, sound recording creators, and performers. It's "Atlas Shrugged" for copyright - the individual producers vs. the collectivist looters. Copyright is the compromise.

As we are all pro-copyright we are also pro-free-speech, but this current batch of music lobbyists are as anti-copyright and anti-free speech as they are anti-free-market - all the while using million-dollar public relations, lobbying, lawyering and rate courts to restrain trade then try and convince us how much they care and advocate for "genius" songwriters - well, they don't, they only advocate for themselves, while others for taxpayer dollars. Those are the cold, hard facts.

Apparently, "genius" songwriters aren't smart enough to know when they're being ripped off, especially at .00000012 cents per song when the standard was .02 to .091 cents for 100 years. 1,000,000 song performances for $60 dollars on streaming is neither fair nor reasonable when BMI pays $1,000,000 for those same 1,000,000 song performances or iTunes pays $91,000 for 1,000,000 downloads. I realize I'm mixing mechanical downloads and radio performances, 115 and 114, but that's not the problem - a song is a song is a song like a copyright is a copyright.

Mechanical was term used in the early 1900's for player pianos and gramophones and may not apply to digital, as much as I like the term. It still causes unnecessary and endless legal arguing about it's definition and becomes another source of bad legal precedent that harms copyright owners because of the lack of focus on the real word, copyright, not mechanical or performance, as well as those two terms have served us. Maybe the definition of mechanical and performance are really outdated words in the digital world that end up dividing song copyrights instead of protecting the real meaning of copyright, a natural right like your liberty.

I think it's hard not to keep the word performance for live performances or public performances which makes perfect sense, but maybe the word performance, like the term mechanical don't apply to digital recordings or digital distribution in the computer age? It's just a thought.

Maybe we should do away with the legal terms mechanical and performance when applied to recordings and change them to *"song copyright"* and *"sound recording copyright"* Maybe those are better definitions for recorded music in the digital age instead of arguing over whether or not a computer server or iPhone is a mechanical device or not?

Those two terms could then apply to satellite radio, streaming, webcasting, terrestrial radio, whether or not it's subscription, non-subscription, interactive, non-interactive, on-demand, or future legal terms of art or new mediums, that doesn't matter. You will always have a sound recording and an underlying song, but we may not always have the term mechanical rate. If the term minimum statutory rate can be done away with, anything is possible.

*However and most importantly, instead of re-inventing the wheel here, we beg and pray the Copyright Office will ask Congress or enact an in-house temporary emergency measur*e for all songwriters and music publishers, to **re-establish the minimum statutory rate of .091 cents per stream effective immediately** - since a stream is a mechanical and a performance at the same, it's still and underlying song. *We know the Copyright Office is aware of this major problem and pray you can find some quick and creative way to legally resolve this issue this year.*

We also pray you ask the DOJ to dissolve, repeal, or abolish the entire consent decree this year.

As a songwriter and copyright creator in entertainment for over 25 years, it breaks my heart and makes me sick to my stomach to see how incompetent and downright mean some streamers, PRO's, and lobbyists have been to songwriters, music publishers and sound recording owners over the decades i.e., the RIAA attempting to make copyright "work for hire" in a bill in 1998, BMI selling out their own members for Pandora, Spotify and Youtube's profit, the CRB allowing streamers to pay .00012 or .00000012 per-song in the first place, or the Grammys ordering their own willing members not to direct license their sound recordings with willing buyer SiriusXM against their own members, their self-interests and livelihoods. It goes on and on.

For the Copyright Office to thrive in this digital age, it really must stand up and protect our millions of individual copyrights, their value and profits over and above the interests of a handful of collection agencies, streamers or a few connected music lobbyists who don't write songs - they are not shareholders since they themselves hold no music copyrights as organizations.

We sincerely pray that the Copyright Office's first priority be to protect and stand up for *all* copyright owners, *their various business models*, their underlying works, sound recordings, performances, *livelihoods* and *profits first,* then consider the business models of broadcasters, streamers and future music licensees, then the public interest, not the reverse as it's always been.

Clearly, the Copyright Office must stop *illegal peer to peer piracy*, illegal streaming sites or illegal download sites and hopefully will through new encryption methods, ISP enforcement, software monitoring, fingerprinting waveforms, embedding copyright metadata in music files, self-corrupting music files, and criminal enforcement of CEO's, executives and directors who knowingly profit from piracy and blatant copyright infringement. Advertisers are not exempt.

First, protecting us from streamers is job number one.

It is imperative that the Copyright office stop the use of our songs by streamers for .0012 cents, or .00000012 cents without our consent, consent decree or no consent decree, we must be involved in our own negotiations. A nano-penny is not even a peasant's wage while Pandora CEO Tim Westergren cashes in his limit in stock for $15,000,000 million dollars a year then Pandora spends $11,000,000 million in legal fees fighting ASCAP to lower songwriter royalties.

Even the .091 cent mechanical rate is artificial, arbitrary, painfully low and should really be about .52 cents if you adjust for a reasonable cost of living increase using the government's own CPI on the 2 cent statutory mechanical rate from 1909. The Copyright office must let copyright owners and creators negotiate their own rates if they so chose instead of another 100 years of forced collective bargaining. Heartland Express drivers make up to .52 cents per mile.

The royalty system should really be a computer program like Nielsen BDS that tracks songs and direct deposits all royalties into individual bank accounts. The computer ruined the music business and the computer can save it if the Copyright Office and Congress have the will to do it. Otherwise every major record label will continue to bypass the CRB, PROs and consent decree, but that's a free market taking over a crumbling centralized price-fixing monopoly gone wrong.

PRO's say they are non-exclusive but with the consent decree, the compulsory license and the CRB setting rates at nano-pennies at way below "below market rates", they are not, they're traps.

My one question for all the folks who use that term "below market rate" is "What is a market rate?" and they never have an answer for that simple question. They always reply, "Well the Copyright Royalty Board sets that rate, dummy, the market rate is whatever the CRB says it is."

Well, to set a true market rate would require the 3 judges to have perfect knowledge of the free market and nobody can have perfect knowledge of a free market, only the free market can set its own prices since *price is the most important signal* to a real free market, not guessing prices.

A true free market will instantly do a few wonderful things for all copyright owners and fix the current broken system. The sooner the better and immediately is best. Here's how.

- It will let 2 parties voluntary negotiate a price like normal people with no CRB as a net.
- If the two parties do not agree on a rate or terms, nobody gets the songs, like at the grocery.
- It would force streamers to pay an actual fair market rate for songs at real free market rates.
- If that streaming company is too cheap to pay songwriters, a lawful streamer will build a real streaming business model that will pay.
- It instantly does away with millions of dollars in attorney fees, delays, and years of wasted time in endless CRB hearings which have kept rates at nano-pennies and allowed Pandora, Youtube and Spotify to abuse the system, the CRB rate process, the DMCA safe harbor grey areas, and ultimately the songwriters, music publishers and sound recording copyright owners.
- For the first time in 100 years *all* songwriters would finally have a real chance to *make a decent living*, where only a handful at the top writers have been allowed to profit.
- For the first time in 100 years songwriters, music publishers and sound recording owners will be *involved in their own negotiations* for their own songs and intellectual property.

The root cause of our copyright problems is that *all* of these various self-interested factions are obsessed with forced collectivism, centralized economic planning, blanket licensing, federal monopolies and price-fixing individual copyrights at nano-pennies. These music factions claim to represent and protect music creators, yet their constant interference has led directly to and created this songwriter peasant wage of .00000012. It's still a free country and any author should have the choice to direct license their own property or not since it's their property.

Why are all these factions so anti-free market, so quick to use force and so vehemently against any person or company direct licensing their own songs and property with streamers or SiriusXM, etc.?

Basic economics teaches us all that a centralized price-fixing of rates in any industry *always* fails and never, ever succeeds. Forced collectivism always leads to the use of force, fraud, loss of income and ultimately theft of personal and private property in the end, every time.

Unfortunately and sadly after years of intensive study and research, the most important central issue facing all individual songwriters, sound recording creators, recording artists, singers, producers, and all music copyright owners comes down to one simple question:

What do streamers want and what is in their self-interests, not copyright owners?

So, what benefits the streamers' "business model" and financial stability is always first and foremost and not what benefits the real business models, financial stability and incomes of millions of songwriters, music publishers and music copyright creators. Compromise they say.

A handful of broadcasters, record companies, music lobbyists and performing rights organizations have always taken precedent over songwriters, music publishers and copyright creators in general. But now, Silicon Valley/Wall Street hybrid streaming companies have seized control and taken over the value, control and profit of copyright away from these record companies. By doing so, the streamers have also taken control of the underlying musical works and therefore *profit* from this income stream that the rightful copyright owners, songwriters and music publishers used to profit from. This has to be corrected immediately.

Now, a handful of streamers take precedent over all the music copyright owners and they will only continue to use and pirate songs, then claim to love and represent copyright owners - nothing will be different this time. Once again, songwriters have been backed into the corner and told to accept the crumbs that are given to them.

The solution? Put songwriters, music publishers, sound recordings owners, and performers first for once, then streamers and all licensees second, the public interest third. Not on an equal basis, since it's been one sided for 15-100 years. Put creators on top where they morally and lawfully belong. It's their property and they created it, not streamers.

Are creators not entitled to the full fruits of their labor? Isn't it their choice who they share the fruits or their copyright with?

The message to all streamers, performing rights organizations, music lobbyists and even the major labels is that: *You* are not doing *us* a favor, *we* are doing *you* a favor. We songwriters, performers and music publishers are giving you the *privilege* of using *our talent*, time, and hard earned property that took you no effort, no financial *risk* and cost you nothing to produce - a *hit* song or a *great* song that stands the test of time. We are doing you a favor by giving you the privilege of using *our property* to *make millions* of dollars for a small, small percent. Life was going on without you and you wouldn't have made *any money* if it weren't for *us letting you use our property* and the fruits of *our labor*.

The Constitution is based on natural law and individual liberty, therefore copyright is based on natural law and individual liberty. Copyright is a right like the right to free speech, no different. In fact, these rights were given to you by your humanity or from God, not from the government or the Constitution, it merely secures these rights and copyright was designed to protect your art, labor and future income, but no longer does.

The public good and public interest has always been best served by the protection of individual private property rights and only when those rights are respected and upheld first, not the other way around. As the Copyright office is well aware, the Founders explicitly wrote that copyright is an individual right to be protected *first* and that will serve the actual public good most efficiently - not the current model where the public good comes first and copyright owners aren't even at the negotiating table, literally. The Founders would be astounded at our current mess.

Unfortunately, the great "compromise" that is waiting to take place once again for songwriters, music publishers and sound recording owners, is only designed to ensure the financial survival of this handful of new Silicon Valley streaming companies, their profit, stock options, Wall Street investors, IPOs, advantage, leverage, brand, self-interests and personal salaries, with their

fraudulent “business models”, serial piracy, copyright infringement: all subsidized at the expense of the creators of their only product, songs. *Please consider our years of sweat equity!*

All songwriters, music creators, publishers, sound recording artists and independent labels will once again be forced to “compromise”, to serve and sacrifice for Pandora, Youtube and Spotify’s “business model” — for their financial stability, again, not for our financial stability but ironically against our own livelihoods and financial self-interests. The situation couldn’t be much more dire than it is now, at this very moment in music - creatively and financially.

We beg the Congress, the Library of Congress, the Copyright Office and the Copyright Royalty Board, while it still exists, to really start standing up for songwriter business models *first*, the music publishers business models *first*, and our stability *first* — immediately.

The same goes for the business model and stability of the independent record label and recording artist, studio musicians, engineers, singers, studios, and all the other ancillary industries and businesses that support the recording and songwriting industries. Streamers and music lobbyists have wiped most of them out too, but streamers keep telling us they are helping artists? Really?

If streamers don’t like it and can’t adjust their business models to pay songwriters, music publishers and sound recording owners, then let them go out of business or let someone else come along who will pay for songs, or streamers can choose to go to jail instead, it’s their choice.

Why is Pandora, Youtube, Spotify, etc., permitted by Congress and the Copyright Office to behave in a way with no concern for other peoples’ copyright and hard-earned personal property?

The fact that streamers can steal songs with no negotiations and profit in the billions is absolutely incredible. Their profits are created by songwriters, music publishers, and sound recording creators copyright owners then subsidized by our business models, yet streamers and music lobbyists ironically have no regard for songwriter and music publisher business models.

Self-interested streamers, outdated federal regulations, rate courts, the Copyright Royalty Board fixing prices and music lobbyists interference have decimated the songwriting and music publishing landscape the past 5 to 15 years. Every songwriter, creator, publisher, singer, or music industry person I know on Music Row is sick to their stomachs over what Congress, the Copyright Office and Copyright Royalty Board have let streamers get away with — *forcing* songwriters to accept .000000012 for our copyright with *no say* in the matter whatsoever.

What should be *most important* to Congress is the *success and business models* of millions of American songwriters, lyricists, melody writers, music publishers, independent labels, sound recording owners, recording artists, singers, background singers, professional studio musicians, recording engineers, producers and all the jobs that surrounds the industry. We can’t let a handful of new streaming companies and their brands, survival, their jobs, salaries, benefits, careers, and self-interests come first - yet their legally allowed and encouraged to live off our creations, our property while songwriters subsidize *their wealth*, while *they sleep*.

Copyright has been stolen and we can't sit around and let it happen again and again. Copyright is probably gone forever if Congress and the Copyright Office don't fight for it right now, or it will most certainly be gone forever. *Imagine the lost tax revenues from millions of songs?*

How many more years of sacrifice are copyright owners and creators expected to endure and why are songwriters and music publishers the only ones asked to compromise and take less? It's never billion dollar broadcasters or newly formed streaming companies who've have skirted lawful copyright laws for years. *So, what will songwriters be forced to accept this time around?*

If the Copyright Office can help us copyright owners solve these *four major problems* with basic copyright in America, we have a chance to protect our private property and income into the future: **Control, Value, Permission and Negotiations**. The copyright creator, claimants, heirs and assigns have *no say* in *any* one of these four categories, and its their property. When I begin to look at this objectively and from a basic economic and business standpoint, it's clear the current royalty system is anti-market, corrupt, broken, fixed, unfair, unlawful, and unsustainable.

- **Control** - 100% *Control* must be restored to copyright owners, copyright creators, claimants, heirs and assigns immediately, *this year*.

- **Value** - 100% *Value* of the copyright must be re-established for copyright creators, after all, it's their property, they created it, not a DC music lobbying firm that allegedly "cares" more about a song than the creator that wrote it. To create value again, music can't be free all the time. It must become scarce again while still being everywhere, but not free. Simply, no more giving away free music without copyright owners getting paid. Streamers like Pandora and Spotify have transferred the money to themselves in the form of monthly subscriptions that used to go to record companies, then songwriters and publishers. So, instead of spending $10 or $20 a month on buying an album, tape, or CD, most consumers are spending that same amount on a Pandora or Spotify monthly subscription fee.

- **Permission** - 100% *Permission* needs to be given back to its rightful and lawful owner, the copyright creators and claimants. The permission has been taken by force, through lobbying, legal challenges, precedent and federal regulations the past 100 years. It's the reason why a streamer can get away with not negotiating with the songwriter or music publisher, not pay either for their property, and maybe pay them .00000012 cents per song.

- **Negotiations** - No songwriter is ever asked to be involved in any of the *negotiations* as to the price of his copyright, his property. Of course, the main excuse is - you're signed to a PRO like ASCAP or BMI and bound by the federal consent decree. It's the legal excuse used by BMI, Pandora and the rate courts, which always say, "Sorry, you're stuck with us. It's the system and you're forced to let us use your song for free because it's "the law". Either way, the songwriter and music publishers *are still not involved in the negotiations for their own property*. It's a license to steal and virtual piracy and it's wrong.

We songwriters, publishers, and recording artists thank you for this opportunity, your consideration and all your efforts. We sincerely applaud the Copyright Office's current reform of music copyright law and helping us creators fix these broken music royalty systems.

SECTION B

Subjects of Inquiry

Musical Works

1. Please assess the current need for and effectiveness of the Section 115 statutory license for the reproduction and distribution of musical works.

Overview of Section 115

In many ways Section 115 has been very effective as a basic anchor in law and it's respect for constitutional copyright by establishing a basic "song copyright" for the reproduction of the underlying musical work, song, or composition on a mechanical device.

However, one major problem because of digital and streaming is it's forced legal advocates and courts to invent new definitions which sometimes far exceed the intended definition of an individual copyright, a mechanical, a performance, or public performance these past 100 years.

Add to those changes in definitions: bad legal precedents, changing technologies, new types of mediums, old lobbyists, rate courts, broadcasters, alleged non-profits, copyright attorneys and Congress, especially the past 15 years, and you end up with .00000012 cents per song and a hollow Songwriter Equity Act that may change a 9.1 cent mechanical rate on an extinct CD in a minimum of 5 years. Yet, everybody still claims their love of "genius" songwriters.

Inflation

Another problem is that the statutory part of Section 115 (or 114) doesn't take into account *rampant inflation*. That's why after 100 years of failure, a statutory rate may not be the best idea moving forward, *instead a direct license with no consent decree, compulsory license, or rate courts fixing prices*.

However, temporarily, for the next 5 years, we probably need to price-fix a current statutory rate of at least 9.1 cents per stream. Then, immediately start adjusting for inflation while setting up *streaming accounts that pay in dollars* for the all the copyrights up front, but more on that later.

Otherwise, let streamers and record labels/publishers negotiate without restraint of trade and if streamers don't want to pay for the songs, Universal or Sony doesn't have to license them and streamers have no choice but to negotiate or go out of business. No more stealing song for nothing.

Inflation is going throughout the roof with no cost of living increases for songwriters as the US dollar has lost 96% of it's value the past 100 years, that alone is incredible! Even though the system may have worked well for a while back when 2 cents was worth something in 1909; but in 2014, when inflation has run rampant for over 100 years, it's only managed to act as a *cap* on profits for all songwriters and music publishers without any cost of living increase for over 68 years!

So, by having the government force songwriters and music publishers to accept 2 cents in 1909, 9.1 cents 100 years later, or .00000012 cents a 100 years later, the *statutory rate is still a cap* and *as non-effective as it gets*, unless you're a major radio broadcaster or a streaming company.

Mechanical Royalty

Again, on one hand, the term mechanical has served us well in that its very definition describes any song copyright that can be reproduced and played on any mechanical device. Unfortunately, the term mechanical and the basic definition of the word copyright has been distorted and papered over with terms streamers prefer to use like *interactive, non-demand, non-subscription, rights holders, musicians, artists*, etc. - these are all *pretty words*, *terms of art* and *legalese* used to avoid paying for the basic songwriter and music publisher copyrights and obeying the hard-earned mechanical minimum statutory rate that lasted over 100 years. Remember, songwriters are in the *"pretty words"* business.

As a songwriter and music publisher, do I think that there's any real difference between a mechanical and a performance? Not really, since a mechanical and performance are both a basic song copyright and that's how we should look at it - *a basic song copyright*. Can I argue the difference between them, sure, and I actually like the two terms? However, behind every performance or mechanical royalty, there's a basic song and two or three basic copyrights at least. Basic copyrights that used to be somewhat respected.

Statutory price-fixing by central planners *always* ends in poverty, despair and loss of property - it's a basic law of economics and natural law, despite the enthusiasm and failure of central planners—continually planning industries and economies the past 100 years. The American music royalty system is the poster child and classic textbook example of the failure of central economic planning. See Nobel Prize winning economist F.A. Hayek or even Milton Friedman.

Abolish the Compulsory License

Nobody wants to stop a Top 40 band from playing cover songs, or recording covers of classic songs, but here in the computer age, copyrights must be licensed, preferably before hand. There is a quote that a live music vendor on the streets of France can't play one song without a proper license. Now, that seems to go to far, but it makes the point, we need to move that direction at least for now 'till the public and licensees learn to respect copyright and music licensing.

Furthermore, with smartphones, computers, tablets and apps, a live set list could be approved on the way to a gig, or right after since sometimes a set list changes. BMI and ASCAP have "live" performance services already so there is no reason why public performances, like recordings to have to be compulsory for copyright owners. Let give copyright owners the rights back to their own creation. *Let's take the compulsory out of the compulsory license*.

Let the copyright owners and creators take back the *control* and *value* of their work which also serves the public interest. However, if *free songs* for the whole world is the definition of *serving the public interest*, then all food, cars, homes and all legal services should be free as well.

Between the 1909 compulsory license and the 1941 consent decree, songwriters are locked into everyone benefiting and profiting from their work, except for the songwriters and music publishers.

When you read the compulsory license statute, Section 201.18, it's clear that anybody intending to record a song must obtain a license anyway, so why not update this process for the computer age with email licensing, apps and website registration. Actually, this is the current method for using photos and videos, direct digital licensing.

So, let's get rid of the compulsory part of the compulsory license. The mechanical is basically gone since it was tossed out so a handful of streaming companies could make billions, plus nobody buys downloads or CDs anymore these days. This is why the SEA Songwriter Equity Act is unfortunately laughable since it makes songwriters wait 5 more years to maybe change an outdated royalty a few pennies on an extinct CD or download, while a streaming royalty at . 00000012 cents per-stream *is the future*. It's a complete waste of time and another painful example of what songwriters must endure. It comes down to survival and another 5 years of loss profits and prosperity which has been transferred to Pandora, Spotify and Youtube.

It's been 100 years of compulsion, force, lost profits for millions of creators and really has been a failure, except for an elite 1%. With computers we can fix and streamline the royalty process and make sure the unauthorized use of music can be gradually done away with, while the public interest and the interests of copyright owners are considered and respected.

Aerosmith frontman, the great Stephen Tyler and others are supporting legislation to do away with the compulsory license on digital sampling of sound recordings. The exact same principle applies to all sound recordings and their underlying works. There should be no discrimination among different copyrights and certainly no compulsion or use of force on creators any longer.

Even legendary songwriter and recording artist Prince has said to get rid of the compulsory license in general and he really has a valid point.

In an interview Prince said that an *"original work is banished to music purgatory once it's covered … but there's this thing called the compulsory license law, which allows artists, through the record companies, to take your music, at will, without your permission. And that doesn't exist in any other art-form, be it books, movies -- there's only one version of "Law and Order" (crowd laughs). There are several versions of "Kiss" and "Purple Rain"."*

Now, I realize that if Prince doesn't want people to cover his song, that may seem crazy to the Copyright Office or music lobbyists, but it's *literally his right* and personal preference and it must be respected. We cannot make light of this extremely valid point. Prince's underlying works and now his masters are the sole property of Prince—he created these brilliant songs and he created these incredible records that will stand the test of time, not some hyper-political DC music lobbyist who's thinks it's his mission in life is to save Prince from himself.

Prince also has a great point for several other reasons, one being it's his property and he can do what he wants with it, second, it's an artistic choice. I know an artistic choice is blasphemy to the music cartel but again, it's not their property. I also agree with what many songwriters and

publishers here on Music Row have told me - maybe I don't like the artist's voice, or think another artist would make my song a hit, or maybe the record company the artist is signed to is notorious for not paying what they owe. Hank Williams Jr. was famous for sitting in the parking lot of Curb records with his accountant at 8 AM waiting for Curb employees to get to work.

Think about it, a music publisher has already paid for a songwriter's salary, office overhead, rent, a song plugger and demo costs, but has no say in the matter of his own property. It's not good business or even close to fair.

Licensing has turned into a Popeye cartoon where Wimpy wants to pay next Tuesday for a free hamburger today - that's the compulsory license combined with the consent decree and it only allows streamers and live performers to make money off your song and not pay you for it. Many digital distributors and 3rd party aggregators are cooking the books and some don't just pay at all, similar to ASCAP and BMI using two week sampling and surveys, and streamers like Spotify and Youtube hiding behind the consent decree and grey areas in the safe harbor provisions of the DMCA. Add foreign royalty payments that from what I understand just end up going to Universal, Sony and Warner Brothers or BMI and ASCAP in yet another music royalty scheme.

Transparency is what's desperately needed at all PRO's and streamers, 100% Transparency, now.

The songwriter and copyright creators need to get back *control* of *their* property, now.

The entire point is, the law is clear that a song is the songwriter's and music publisher's property and it's 100% up to them what *any* other individual does with *their property*.

With the age of the internet, smartphone, email, websites and personal computer for the past 40 years, there is no excuse for not getting a proper license for a song from a music publisher, songwriter or sound recording owner.

As long as we can stick to the basic, plain meaning of the term "mechanical" in 115 and stop creating new terms to disguise the term mechanical or performance as streaming has done, we might be alright.

Then again, for recordings only, "*composition"* or *"song copyright"* and *"sound recording copyright"* may be simpler terms that would still work over all platforms and new mediums.

Restore the "Minimum Statutory Rate" in Section 115 immediately

This *is* the biggest crime, not honoring *the minimum statutory rate* for streaming. *We must restore the minimum statutory rate of 9.1 cents per stream as a temporary emergency measure now.* Even though it's clear a minimum statutory rate only leads to *a cap* or maximum rate paid to songwriters and music publishers in the end, it's also evident that the 9.1 cent rate really acts as a minimum payment for broadcasters, record labels, and now streamers. To eliminate the minimum rate was unlawful in my opinion, especially overnight, and at the heart of the problem.

2. Please assess the effectiveness of the royalty ratesetting process and standards under Section 115.

As mentioned above, it some ways, for a select few copyright owners, the traditional process has been quite effective, but for the majority of creators, it was never designed to benefit us.

To me it seems obvious that having an individual song play or performance on terrestrial radio in your car is fundamentally the same as a satellite radio SiriusXM play in your car as is a Pandora stream via a wireless cellphone tower through your car radio. The problem is they are all being received on different technologies with different rates set by different rate hearings, yet my copyrights all end up in the same place today, funneled to a smartphone or car stereo, so in that sense *every public or private performance is exactly the same to me*. What is the difference really between a CD song performance in your car, a terrestrial radio play, a Pandora play or SiriusXM play in your car? Nothing really, only where the signal is originating.

Does a listener enjoy a song less for those same 3 minutes, because it's streaming through his smartphone to his car radio through Pandora rather than a downloaded version of the same song from a iTunes account on his smartphone? Of course not.

Furthermore, this notion that because I get to choose to play what song I want on on-demand streaming as opposed to just accepting what the algorithm suggested I listen to, makes no difference to me, the copyright or the basic song performance.

Does a listener enjoy the exact same song less for those same 3 minutes, because the song was on-demand vs. non-demand?

Or was the copyright less of an individual performance because it was on-demand vs non-demand? Of course not.

Realizing a download is not a "performance" in the legal definition of the word, it's still a play or performance or use of the copyright and no matter the medium or method of play, it's still exactly the same for the songwriter, music publisher, sound recording owners, artists or performers - it's a basic copyright, it's a basic song, and it's mine.

Also, when it costs more to register your song copyright with the Copyright Office than your song would make on Youtube or Spotify for over 1 million public performances or streams, that really seems fairly ineffective.

1 million performances on BMI earns all the songwriters over $1 million dollars and a "MillionAir" award and certificate. Yet Spotify pays $60 for 1 million performances.

To put it in perspective, "Your Song" by Elton John has over 9 million performances on BMI after about 40 years of airplay. 9 million performances of any hit song on streaming happens in a matter of months or even weeks and pays virtually nothing.

Plus, look at all the wasted time and millions of dollars it takes to go through one CRB rate hearing. So, no, the effectiveness of the royalty ratesetting process is not very effective at all.

3. Would the music marketplace benefit if the Section 115 license were updated to permit licensing of musical works on a blanket basis by one or more collective licensing entities, rather than on a song-by-song basis? If so, what would be the key elements of this system?

Absolutely not! We already have enough collective blanket licensing problems to fix.

NOTE: To discard the song-by-song basis is absolutely unacceptable and a non-starter.

This is a somewhat confusing question in general. The answer also depends on the Copyright Office's definition of "benefit the music marketplace". If music marketplace means streamers, PRO's, music lobbyists, investors, broadcasters and Silicon Valley, then it will surely benefit them but *destroy copyright forever.*

Furthermore, if the Copyright Office defines music marketplace as songwriters, creators, music publishers, sound recording creators and copyright owners, then it will *absolutely not benefit us to abolish licensing songs on a song-by-song, only destroy us*. **It would be the biggest mistake in the world to abandon 100 to 300 years of copyright law and protection on a song-by-song basis.**

If the Copyright Office defines music marketplace as all of the above, it will only destroy creativity, incentive, and songwriters even more than the federal government, PRO's, lobbyist and streamers already have.

If the question also implies streamers, broadcaster and PRO's wanting to calculate royalty payments on a gross, net or blanket basis, that's great: except, since all copyright and performances are **based on an individual basis** and **anything less is piracy and serial copyright infringement, all songs must licensed on a song-by- song basis first**.

If we want to calculate blanket fees after the fact, fine, but it's scary to think the Copyright Office would even consider eliminating individual copyright royalty calculation.

The *entire job* of the Copyright office is to *protect individual copyright*, individual authors, individual performances, register works, educate the public, and report to Congress. The entire rate setting process that was created in 1976 can just as easily be reversed and should be as soon as possible after a noble, but failed experiment.

We need to stop always putting the cart before the horse by worrying about what will benefit collective licensing entities rather than focusing on the sole protection of each individual song and each individual songwriter or music publisher.

It's not in the jurisdiction of the Library of Congress or the Copyright Office to eliminate individual copyright protection found in Article 1, Section 8, Clause 8 of the US Constitution.

We pray that the Copyright Office does not eliminate the song-by-song licensing of copyright.

4. For uses under the Section 115 license that also require a public performance license, could the licensing process be facilitate by enabling the licensing of performance rights along with reproduction and distribution rights in a unified manner? How might such a united process be effectuated?

Absolutely. Yes. By implementing statutory *"copyright accounts"* or *"streaming accounts"* that each streaming service would create to cover the inflation adjusted cost with all the associated copyrights up-front. It would track, collect 100% royalty data on streaming, be 100% transparent to all copyright claimants, and would force streamers to pay the owner splits by check or direct deposit, up-front.

It's just like an iTunes download account with no downloads that pays for ALL copyrights associated with a final mastered record and are **paid up-front and FIRST**. The copyright owners should be treated as *secured creditors* for *every song* a customer buys on each streaming service. Each song is 100% data tracked by a computer in real time and 100% of the money is direct deposited into the various copyright owner's bank accounts by computer.

What this question also implies is the nature of a stream since a stream is a mechanical and a performance at the same time - this is also why I like the terms "composition copyright" and "sound recording copyright". Until a performer copyright bill passes someday to pay Aretha Franklin for singing "Respect" on the radio all these years, those two copyrights are all that really matters to me, not whether streamers or any licensee get's to decide if they have to pay for a song or not depending on if the copyright is labeled "mechanical" or "performance".

So, the minimum statutory rate for a mechanical stream was abolished, ignored, or lowered to a nano-penny so BMI, ASCAP, Pandora, Spotify, Youtube, and all other streamers business models could grow and prosper by the billions of dollars with no price-fixing on their incomes, yet the creators and property owners of the songs in their repertoires were reduced to nothing and copyright owners were forced to accept .00000012 cents for their "genius" creations and personal property like land or a home.

If streamers refuse to comply voluntarily with paying all the copyrights up front, Congress should require by law every streamer to create a "copyright account" for every customer and every song immediately.

If streamers don't comply, file a temporary injunction in US District court like Napster and confiscate all their executives personal assets, files, computers and bank accounts - and then throw the executives in jail for serial copyright infringement, piracy, fraud, restraint of trade and monopolistic price-fixing.

If the idea is to combine the performance side of a stream, with the mechanical side of a stream, with the digital sound recording copyright, or an newly passed performer copyright or royalty for the singer and let different PRO's collect all 3 or 4 or 5 different royalties at once, that's a great idea—as long as you abolished the consent decree, the compulsory license, the CRB and rate courts and also encouraged direct licensing for all independent labels, songwriters, artist and publishers.

As long as Soundexchange, BMI, ASCAP, SESAC, Harry Fox, Nielsen BDS, or new startup PROs could compete in a truly open, free and fair market for ALL copyrights, that would be ideal - but with no harmful consent decrees, compulsory licenses, or judges price fixing rates for 5 years at a time. If performances, mechanical streams, and digital sound recordings are all attached to one copyright bundle for mechanical CD's or primarily *new "streaming accounts" that pay all the copyrights up front*, then let's see who collects them most efficiently in a real free market that is actually free and not hypothetical.

5. Please assess the effectiveness of the current process for licensing the public performances of musical works.

The current process for licensing public performances is also broken, except for a few hit artists/ songwriters on terrestrial radio with high-end film, television or advertising syncs and are on a major tour - for that handful of current hit artists or hit songwriters, the 1%, the public performance of their own musical works and co-writers works is rather effective.

Unfortunately, the rest of the 99% of songwriters and music publishers in America, their system has been decimated the past 15 years. Now, only self-interested lobbyists, caring non-profits, and the rest of the cartel wants to keep songwriter's income price-fixed at nano royalties in a managed economy which always fails and a Keynesian nightmare for the 99%. You talk about income inequality. For the rest of us, public performances on commercial radio is next to impossible since radio consultants rule, and on streaming performances are broken since unlawful and corrupt "business models" by of a handful of streamers took precedent over millions of songwriters, music publishers and copyright creators.

Radio performance pay great but only for a select few because radio consultants are paid to stop artists and record labels from getting airplay on the "public airwaves".

Then, streaming has destroyed the income of a performance by destroying creating a new streaming performance that doesn't pay the copyright owners. Streaming has also destroyed the performance by stealing the profits that used to go to those songwriters that is now being cannibalized by all streaming.

So, any performance that pays .0012 or .00000012 isn't very effective, in fact, completely ineffective.

6. Please assess the effectiveness of the royalty ratesetting process and standards applicable under the consent decrees governing ASCAP and BMI, as well as the impact, if any, of 17 U.S.C. 114(i), which provides that "[l]license fees payable for the public performance of sound recordings under Section 106(6) shall not be taken into account in any administrative, judicial, or other governmental proceeding to set or adjust the royalties payable to copyright owners of musical works for the public performance of their works."

Of course the Copyright Royalty Board should take into account in ALL proceedings, all information, real market rates, sound recording rates, underlying work rates, etc. and not be forced to be constrained by pre-computer thinking and made up rules set forth in the Nixon administration? It's incredible that other information up to this point has been against the law.

The ratesetting process has been a disaster since 1909 much less since 1976 with rates so below market it's been a disaster for creators, all to benefit broadcasters, streamers and investors.

Furthermore, *the CRB is already being abandoned by the major labels and publishers with direct deals with all the major streamers bypassing the harmful consent decree* and price-fixing at below market nano-pennies at the CRB and rate courts.

Again, with all due respect to the Copyright office and the judges who make up the Copyright Royalty Board, on principle alone, *the CRB should be abolished* for the sole reason that no actor has the right to be involved in the negotiations of a direct transaction between two willing parties, especially for a song. Abolishing the CRB after 38 years is the best thing that could happen to music and copyright.

While on the subject of Section 106, this section is the most disregarded, ignored and flaunted section by streamers and all copyright infringers since it outlines in plain meaning what the rights of the author are: the right to duplicate, distribute, sell, publicly display, perform, or exclude use.

Getting back to the original meaning of the idea and definition of copyright which includes all of the basic protections of Section 106 should be given great weight in general.

7. Are the consent decrees serving their intended purpose? Are the concerns that motivated the entry of these decrees still present given modern market conditions and legal developments? Are there alternatives that might be adopted?

The consent decrees *are absolutely not serving their intended purpose and need to be abolished immediately*. They are the *number one regulation* that has ruined the music business next to price-fixing rates at pennies for over 100 years, and now nano-pennies while streamers make billions and rampant inflation further destroys the value of songwriter's hard earned property.

It's not the songwriter's fault that as a huge monopoly, ASCAP was extorting mom and pop diners and bars in 1937 and 1941. Of course, today the decree allows streamers to freely steal songs with no negotiations on the property owners behalf and that is a complete violation of basic copyright law. To then say that it's the songwriter's problem for being a member of ASCAP and BMI completely misses the point and is destructive to all copyright owners. What a destructive legal precedent.

The point is that the songwriter, member of a PRO or not, still *is not involved in the negotiation of their own property*, their only source of income, but yet DC lobbyists insist on being part of the negotiations when it is none of their business.

The individual songwriter must be in charge and in 100% control of his negotiations for the first time in over 100 years. This obsession with forced consent decrees and forced collective bargaining is what's been ruining the music royalty system.

The only solution is to completely abolish the consent decree and not reform it just to keep the antitrust provision. The politically correct or bureaucratic response is don't touch the antitrust part of the consent decree as some radical idea when it really is common sense to abolish it for good.

For some unexplained reason, music performing rights organizations simply can't help breaking federal antitrust laws and seem to claim they need the consent decree or they will be forced to break antitrust laws without it? But this is a straw man argument and can no longer be used to steal songs from millions of songwriters and music publishers.

The Copyright office writes, "These consent decrees were designed to protect licensees from price discrimination or other anti-competitive behavior by the two PROs."

For example, SESAC is not under the consent decree but was recently sued for breaking the antitrust laws. ASCAP and BMI seem to be breaking the antirust laws all the time.

If ASCAP, BMI and SESAC can't stop breaking the antitrust laws, that is no longer songwriter's problem after almost 75 to 100 years of PROs. It's really ridiculous

Plus, every hit songwriter knows that when each co-writer of a song belongs to a different PRO, they always get different amounts because of accounting tricks, copyright infringement, piracy and 2 week sampling at ASCAP, and formerly BMI. These differences in check amounts between ASCAP and BMI can be substantial in the tens of thousands or even hundreds of thousands of dollars in difference for the same song played on the same radio stations.

Because of songwriter protests, ASCAP was forced to create a rule where they would pay the same amount as BMI for co-writers but dropped the practice when the self imposed rule expired after 10 years. This is pure piracy and infringement by '"non-profits" who's only job is to protect the income of songwriters and against copyright infringement.

What is also amazing they got away with for so long and still, ASCAP pays for Nielsen to provide 100% computer data on 1700 radio stations and 2 weeks samples a few hundred reporting stations. After 25 years plus of their own multi-million dollar computer systems and now simply buying their data from Nielsen, it is criminal if ASCAP still 2 week samples each quarter from only the few hundred reporting stations and completely ignores the 100% computer data from the other 1500 secondary radio stations that have right in front of them. That is incredible and should call for a full audit by the GAO on decades of unadulterated song piracy by ASCAP and BMI so that in the future this never happens again and soon.

In this day and age with computer tracking, ALL songs should be tracked on terrestrial radio.

What is also astounding is there are about 7,000 radio commercial radio stations in America and around 5,000 of them pay money to BMI and ASCAP and that money is never allocated to the songwriters when a simple rule that would require ALL stations to send in an Excel spreadsheet at the very least . A simple daily song log or diary playlist. That is piracy and massive copyright infringement when the member creators and copyright owners don't get paid on a per-performance basis as the law requires by BMI and ASCAP. They are supposed to be looking out for you and have a legal and fiduciary responsibility to protect their members, their registered works, and al they do is simply pocket the blanket license fee from the secondary radio stations everyday, and not pay the members who wrote those registered works.

We beg that the Copyright Office really start looking out for songwriters and music publishers first, not ASCAP, BMI, SESAC and streamers first. PRO's may or may not survive the deals they made with streamers years ago at nano-royalties for their members, but they made that decision long ago. Now the majors like Universal and Sony are doing direct deals with Pandora and all other streamers, licensees and bypassing these dinosaur middlemen like they should.

Direct licensing is the future. No creator should have to put up this forced negotiation by federal decree or by a licensee who doesn't even own the property they are using. It must never happen again.

Abolish the consent decree immediately, once and for all, then re-establish the minimum statutory rate of 9.1 cents per stream, this year, not 5 years from now.

Noel L. Hillman sums it up music antitrust in his introduction to his 1998 essay: Intractable Consent: A Legislative Solution to the Problem of the Aging Consent Decrees in United States v. ASCAP and United States v. BMI in the Spring.

"The intersection of intellectual property and antitrust presents one of the great ironies in the law. Antitrust law presumes that the advantages of monopoly are *outweighed* by the dangers inherent in concentrations of market power. Yet the law of intellectual property, especially copyright law, seems to presume the *opposite*. A monopoly is *good* - even one extended and protected by statute for many decades, as is copyright. In those cases where this natural tension between seemingly opposite forces ceases to exist, the danger of monopolistic malfeasance increases. Where these forces coalesce, as when a copyright owner also accomplishes unfettered market power, the results can be disastrous for consumers of products subject to intellectual property rights.

During those years when the federal government vigorously enforces the antitrust laws, consent decrees are entered into which attempt to delineate proper conduct into the future. However, such decrees may fail to anticipate how changes in technology and consumer habits alter market mechanisms and the effect the consent decree itself will have on how market actors behave. Those decrees which lack any meaningful provisions for modification will remain in place, self-perpetuating, and undisturbed during those periods when the antitrust laws are not vigorously enforced. At best, they become dormant and ineffective. At worst, *the decree itself becomes anti-competitive when the market it had sought to control in the past no longer exists* and the market structure created by the consent decree itself favors the former "monopolist" whose behavior the consent decree …" 8 Fordham Intell. Prop. Media & Ent. L.J. 733

I would add that the reason why monopoly of copyright is the exception to the rule when outweighing the dangers inherent in concentrations of market power, is since copyright is an actual right - just like the Bill of Rights and free speech.

What makes a copyright owners' monopoly good as opposed to ASCAP's original monopoly or the current government/lobbyist sanctioned monopoly SoundExchange has on all digital sound recording royalty collection, is that copyright is only the fruits of a person's mind, talent, craft,

sweat equity, risk, stored labor and every person is entitled to and has a right to 100% of their labor.

What the DC music lobbyists and the PRO's have done is claim that *they have to right to use force* and the force of law, laws they draft and lobby, to take control of individual songwriters personal property and creations and the value of the songwriters labor and music publishers investment, guidance and skills. Plus there is no risk for PRO's or lobbyists, only songwriters, publishers and recording artists/labels.

Here is a recent editorial I wrote in The Hill outlining why I left BMI and ASCAP - the consent decree.
http://thehill.com/blogs/congress-blog/judicial/203973-music-industry-stifled-by-old-law

> Music industry stifled by old law
>
> In three words — "federal consent decree"--an antiquated legal ruling from 1941 is destroying the music business and will continue to have a chilling effect on one of America's most creative and beloved industries.
>
> It really should be called the "non-consent" decree, as many current songwriters like me sure didn't consent to it. Interestingly, the 73-year-old federal consent decree could be lifted with the stroke of a pen. But it has to be the right pen. As strange as it sounds, now only the U.S. Department of Justice can save the incomes of all songwriters and music publishers by simply abolishing this outdated decree.
>
> Such an action would immediately help BMI and ASCAP by allowing member songwriters and music publishers to be paid for their songs -- and not allow streamers to use songs from the catalogues of BMI and ASCAP for virtually nothing. We have been witnessing virtual piracy at nano-royalties.
>
> Who would have guessed that the livelihoods and music careers of millions of songwriters, music publishers, sound recording owners plus their heirs and assigns are all in the hands of the Department of Justice?
>
> But today, the songwriter and music publisher no longer have control over their own property: the licensees do, and that has to stop. One major lynchpin is removing the 1941 consent decree for good.
>
> As every lawyer knows, a consent decree is just a legal tool that courts use to punish certain companies for past wrongdoings by letting them continue to operate, while forcing them to stop certain criminal behaviors.
>
> So, in this case, just because ASCAP executives were up to no good in 1941, that doesn't mean streamers and web-casters should be able to steal millions of songs in 2014 at $.00000012 cents per song.
>
> Where is the justice in that? The unintended consequences for songwriters, music publishers, and independent artists has been devastating for them over the past 15 years and into the foreseeable future.
>
> Lately, a great deal of confusion has been created and a series of events has already irrevocably changed the future of music and royalty collection forever.

These historic events have included major publishers leaving BMI and ASCAP the past few years, and as a result, we've had two opposing federal rate court rulings — one forcing ASCAP publishers back in, the other forcing BMI publishers back in or all out. As of this January, a majority of major music publishers completely left BMI, though some have recently signed temporary agreements until the end of the year. In addition, most of these majors publishers have negotiated historic direct licensing deals with streamers like Pandora.

Unfortunately, ASCAP and BMI have never tried that hard to abolish the consent decree as it was always convenient to hide behind it. It creates an instant market, letting broadcasters and streamers license the pair's repertoires while forcing writers and members to take below market rates and stay locked in with a windowed two-year automatically renewing agreement.

Moreover, ASCAP continues the outdated practice of "two-week sampling" on traditional radio. It made sense before computers were invented; however, to continue sampling a few hundred reporting stations while tracking or purchasing three months worth of 100 percent computerized song data from Nielsen of around 1700 stations doesn't seem quite right. To BMI's credit they have stopped the 2 week sample and pay on all performances from approximately 2200 radio stations monitored by Mediabase. For that, BMI should be congratulated.

"It's a godawful system that just doesn't work," Sony/ATV Music Publishing Chairman Martin Bandier has said about streaming rates and the consent decree. If Sony/ATV or Universal leave BMI, it might be over for BMI. After all, Universal and other majors will probably leave if the consent decree and judges' rulings are not resolved by the end of this year. Even legendary songwriter Burt Bacharach called for drastically reforming the consent decree in a Wall Street Journal editorial a few months ago.

For the sake of an American music industry that has given so much to our shared cultural life, we must find a way to improve the music business for the better--a way that benefits all players.

To their credit, BMI tried to make a start in this direction. Last year, BMI provided me and other major publishers with a Digital Rights Withdrawal (DRW) addendum to our standard publisher's agreement. This move allowed publishers to direct-license their catalogs with streamers and other digital web-casters without interfering with BMI's collection of terrestrial radio performance royalties plus cable television and other traditional mediums. This agreement had to be signed by September 15, 2013 to take effect, and I did so.

This was a great agreement, and I hope the courts rule that the DRW addendum still stands. I applaud BMI's current effort to keep the DRW in place and to reform the consent decree in talks with the Justice Department.

For 16 years I've been affiliated with BMI as a songwriter and music publisher. I have great friends who still work there, and I regret having to leave. None of them designed this system; it evolved as distribution and technology evolved.

The outdated and harmful federal consent decree can only force all songwriters and publishing companies to take literally nano-pennies or what some call "below market rates" for so long. All major publishers, as well as this one, have been forced to re-think our affiliation with ASCAP and BMI because of a tiny but devastatingly harmful 73 year old legal decree.

Lift the consent decree, let ASCAP and BMI amend their blanket license for the 21st century, and let those who wish to direct license their catalogs do so. Let songwriters and publishers get back to what they do best: making music.

Johnson is a songwriter, singer and music publisher based in Nashville, Tenn.

Sound Recordings

8. Please assess the current need for and effectiveness of the Section 112 and Section 114 statutory licensing process.

Considering all the current worldwide peer to peer Napster style piracy still going on with Bit-torrent or Mega-upload, and then considering the below market nano-rates by streamers, plus past and current broadcaster refusal to even consider a sound recording copyright on terrestrial radio and a performer/artist copyright, Section 112 really should be reconsidered.

I understand that radio and television stations need the ability to quickly select music for transmission under a blanket license, but if 112 gives radio stations the ability to not pay for sound recording or performer copyrights after all this time then it's no different than streamers ripping of songwriter and music publishers.

It may be time to consider limiting 112 and finally demanding that broadcasters start paying for the other copyrights they have had a free ride on for decades, or lose their 112 status - simple as that. Radio more than television must start paying for all the copyrights they have used for free and stop calling it a tax.

9. Please assess the effectiveness of the royalty ratesetting process and standards applicable to the various types of services subject to statutory licensing under Section 114.

Again, I hate to be critical, but from a creator and copyright owner standpoint, 114 ratesetting may even be a bigger mess than section 115.

I'm currently in the 2016-2020 digital sound recording rate setting and it is one of the most useless bureaucratic paper chases I have ever witnessed. No wonder royalties are virtually nothing and why copyright owners are really doomed.

No independent label is really allowed to participate since Soundexchange has been given the final exclusive authority for negotiating the statutory rate for all digital sound recording owners. This seems unfair the way the system was set up. But the RIAA created Soundexchange and created this collection process for streaming royalties.

I hate to be critical of Soundexchange and personally, they are extremely nice, are eager to talk to you and helpful, so I do like Soundexchange in that sense. I also like that they collect royalties unlike other music lobbyists who are not shareholders or collecting royalties.

What I don't like about Soundexchange is purely economic in nature. Music lobbyists created Soundexchange, they are central planners and price-fixers, they are sanctioned by Congress and the CRB as the exclusive royalty collection organization for all digital sound recordings, so they have a serious "legal" monopoly on all digital sound recording royalty collection, like the RIAA they lobby for record companies and sound recordings only, not songwriter royalties and against their interests most times, they are a billion dollar "non-profit" that profits, and that they are the only organization allowed to represent record labels at CRB rate hearings is troubling, as expensive as the CRB has made the rate setting process, essentially locking out ordinary songwriters, music publishers and in this case, independent record labels and artists is by design and somewhat discriminatory. There is no equal protection under the law in a CRB rate setting hearing.

The CRB rate setting process costs million of dollars in attorney fees for K-St. lobbyists who have made a career out of CRB rate hearings and then it takes an incredible amount of time, over 2 years. Wasted time and wasted income for songwriters, artist and labels with songs that should be on the satellite radio or on streaming services making money but are sitting in song court.

Then these rate courts only raise the DSR nano-rate, a nano-rate increase per year, not even close to real inflation and the CPI.

Finally, the best real evidence for the ineffectiveness of the royalty ratesetting process for Section 114 is the 2011-2015 rate hearing that stared in 2006, just got finished last month in 2014 after 9 years!

Abolish the CRB and rate courts, let copyright owners and any licensee negotiate in a true free market with out this outdated regulation and nightmarish rate proceeding. We are songwriters, not lawyers and lobbyists.

10. Do any recent developments suggest that the music marketplace might benefit by extending federal copyright protection to pre-1972 sound recordings? Are there reasons to continue to withhold such protection? Should pre-1972 sound recordings be included within the Section 112 and 114 statutory licenses?

Yes, no, and yes and no. First, the copyright owners and their heirs and assigns would benefit from finally recognizing pre-1972 recordings or aka "every Beatles' song" - that should be enough reason to extend copyright protection where there already is a copyright for the underlying work, so how is the sound recording not still a valid copyright, it is valid.

Pre-1972 sound recording should be included within Section 112 and 114 statutory licenses. They should be given statutory protection; however, if statutory protection makes these sound recordings *subject to* statutory nano-rates set by the Copyright Royalty Board or any rate court, what's the point at .00000012 cents per play - especially records like these that stand the test of time and are classic songs and records.

Make people negotiate in a real free market and protect the sound recording copyright for all records, even pre-1972..

11. Is the distinction between interactive and noninteractive services adequately defined for purposes of eligibility for the Section 114 license?

No, and there is no distinction between a interactive and noninteractive services from a copyright, sound recording, songwriter, music publisher or performer perspective. There is no distinction. A song is a song and a copyright is a copyright, period and we pray that the Copyright Office will do away with the phony definitions of copyright to avoid payment to the rightful property owners. Emerging and changing technology may have responsible for helping to create these streaming terms like non-interactive, but it can no long be used as an excuse to steal my copyrights.

Platform Parity

12. What is the impact of the varying ratesetting standards applicable to the Section 112, 114, and 115 statutory licenses, including across different music delivery platforms. Do these differences make sense?

In a way they make sense since terrestrial radio performances can be multiplied by a larger number of listener per performance which should pay more. The same goes for satellite radio which is broadcasting the same individual performance to thousands of receivers at one time.

But when you start taking millions of listeners for one performance and turning that into millions of listeners and millions of performances on streaming and say it's worth nothing, there is the problem.

Every rate, no matter the platform *must* be based on a 100% per-song no matter what the rate is set at by the rate courts or CRB, or voluntarily negotiated outside the CRB basis - and whether or not it is also calculated as a gross percentage of revenue.

There could be a basic set minimum copyright fee for each copyright, sound recording and composition, that has a minimum over every different music delivery platform, yet pays per listen and increases with the amount of listeners.

I truly believe that "streaming copyright accounts" that pay a few dollars up front per bundle of each songs various copyrights. It's an up front fee, per-song per customers. Maybe this model should be applied to all platforms. A minimum up front copyright fee and number of listener or number of performances dramatically increases the overall royalties.

13. How do differences in the applicability of the sound recording public performance right impact music licensing?

Well the sound recording and the underlying music licensing are forever tied together. But the rate fixing and monopolies and music lobbyist involved in the value and control of my copyright has ruined the music business and will continue to until the Copyright Office eliminated the CRB, the compulsory license, and the consent decree will creators and owners be able to freely and willingly negotiate with all licensees.

Changes in Music Licensing Practices

14. How prevalent is direct licensing by musical work owners in lieu of licensing through a common agent or PRO? How does direct licensing impact the music marketplace, including the major record labels and music publishers, smaller entities, individual creators, and licensees?

Direct licensing is the best thing to happened to licensing of music works in 100 years and should be encouraged, not discouraged. Direct licensing is quickly becoming the number one form of licensing in digital and streaming as evidenced by the world's largest music publishers in the world leaving both major PRO's ASCAP and BMI and/or withdrawing their digital rights the past few years, as I have, to do direct deals with digital streamers like Pandora and Spotify - primarily because of the harmful consent decree.

Because of Judge Stanton's ruling in the BMI vs Pandora case, Universal, Sony and other major publishers left BMI 100% as of December 31st, 2013 and were completely out of BMI for a few months this year. That is an incredible and historic fact. Even though BMI convinced all the majors and most independents to come back to BMI, Universal and Sony had time to legally sign deals with Pandora another streamers bypassing the consent decree, the Copyright Royalty Board, the rate courts, and most importantly the horrible statutory nano-rate for streamers.

If the consent decree is not abolished or reformed by the end of the year, Universal Publishing, Sony ATV and other major publisher and independents have hinted they may leave BMI for good and that would be devastating to BMI, then ASCAP

Furthermore, legendary manager Irving Azoff is possibly staring his now PRO for his artists to bypass ASCAP, BMI and SESAC. This is another amazing development. The old chains are coming off because or disastrous central economic planning and it's refreshing to see.

These developments scare collectivists lobbyists to no end but to me it's a healthy sign of a free market correcting what will always broken: a collectivist, centralized, price fixing, monopolistic system. Let's encourage the free market instead of desperately holding on to a broken collectivist royalty model from the 20th century before computers were even thought of.

15. Could the government play a role in encouraging the development of alternative licensing models, such as micro-licensing platforms? If so, how and for what types of uses?

Other than eliminating harmful regulations like the consent decree, the compulsory license, the price fixing aspect of the Copyright Royalty Board, not really. Only the free market can encourage the development of alternative licensing models and prosperous models that create wealth and prosperity. Even Bono has changed his mind.

As far as micro-licensing, in theory it makes sense but the fact that both the RIAA and the NMPA lobbyist are behind it, that makes me think there is a catch somewhere and a money maker for them no songwriter or independent.

16. In general, what innovations have been or are being developed by copyright owners and users to make the process of music licensing more effective?

Nielsen, Tunecore, computers in general have made it easier to 100% data track each song by UPC/EAN, IRSC, Title or fingerprinting the mp3 file. More of these private tracking companies and 100% Transparency by all streamers and PRO's like ASCAP and Soundexchange. Online royalty tracking in real time with streaming accounts paying copyright owners up front, for number of plays and by direct deposit.

The most effective thing the Copyright office could do is to make the process of licensing better is to get out of the rate negotiating business, abolish the failed CRB, let us adjust for 100 years of rampant inflation, encourage voluntarily direct license, protect copyright, protect any minimum statutory rates on the books, be great registers of copyright, enforce laws to stop major piracy and infringement and advocate for creators first, not streamers and licenses first.

17. Would the music marketplace benefit from modifying the scope of the existing statutory licenses?

Not sure if I fully understand the question. If the scope was to expand statutory licenses for sound recordings on terrestrial radio or a performer statutory royalty on radio for singers.

Of if the scope was expanded to allow BMI, ASCAP, SESAC, Harry Fox, SoundExchange, Nielsen and others the freedom to compete for all statutory royalties.

Why shouldn't the above collect for the performance side of a stream, but also the ignored mechanical MSR of 9.1 cents temporarily and the digital sound recording at the same time.

Let BMI compete against SoundExchange and may the best royalty collection organization win.

Stop this federal monopoly of digital sound recordings by SoundExchange and the lock BMI and ASCAP have on underlying work collections. Competition in an actual free market will solve this problems instantly, if given a chance.

Revenues and Investment

18. How have developments in the music marketplace affected the income of songwriters, composers, and recording artists?

The developments of the consent decree, streaming corporatists, music lobbyists working against each copyright interests, selfish PRO's looking out for themselves and retirement plans, and paralyzed record companies the past 15 years, have absolutely decimated the music marketplace. If we keep letting the same handful of people who helped destroy the system, try an fix what they broke, we can look forward to the music marketplace getting even worse.

Watch Sean Parker and other streamers confess their intent to commit massive copyright infringement in the great documentary movie called "Downloaded".

To say that developments in the music marketplace have affected the income of songwriters and recording artists is the understatement of the year! It's over for creators if the Copyright doesn't get serious about copyright enforcement and tough on streamers.

19. Are revenues attributable to the performance and sale of music fairly divided between creators and distributors of musical works and sound recordings?

Absolutely not when digital sound recordings make 14 times more money than an underlying work on a stream. Plus, when rates are price-fixed it isn't fair and it isn't fair when the property owners and copyright creators are not involved with their own negotiations. Forced collective licensing of copyrights against the creator's will is stealing.

20. In what ways are investment decisions by creators, music publishers, and record labels, including the investment in the development of new projects and talent, impacted by music licensing issues?

It has destroyed any reasonable investments unless you are connected with one of the 3 major labels - then you have $25 million dollars to waste on promotion on a Lady Gaga record that tanks. There is NO REASON to write songs anymore and the Copyright Office throughout the CRB has destroyed the incentive to write songs and publish music for people at this point. Film, television and ad sync licenses are a rarity since everyone is doing it now, so that is not reasonable to expect that to solve epidemic streamer song theft.

This author is also tired of listening to every phony talking point by streamers to say go on tour, forget about your copyright, go pitch songs to film and television, you're a dinosaur, we are Silicon Valley programmers and we don't care about content creators, we just use them.

All streaming executives need to write and record an album, pay themselves no money, and then go rent a tour bus and get on stage and shake it! We are talking about stealing copyrights and the rule of law, not touring to make up for streamers stealing your copyright then telling you it's your fault for not being out not he road and how lazy you are for not working twice as hard.

21. How do licensing concerns impact the ability to invest in new distribution models?

I'm sure it's of great concern for new streaming companies but at the same time, it seems streaming CEO's could care less about licensing concerns and pay a peasant's wage, mere nano-pennies which proves they have no concern for the songwriters, artists or copyright owners.

Licensing rates is the number one concern for songwriters but new streaming companies could care less, so that's why they just go ahead and invest anyway like they did with Sean Parker's Napster, and nothing has changed.

Currently, unless you are connected to a major Wall St Bank like Goldman Sachs is to like BMI, Pandora and most others are, you have 0% change of making any money from any music investment or creative musical endeavors in 2014 or the next 25 years. That deck is stacked against everybody, especially copyright owners, songwriters and sound recording creators.

Data Standards

22. Are there ways the federal government could encourage the adoption of universal standards for the identification of musical works and sound recordings to facilitate the music licensing process?

I'm sure it's been talked about or may be in the works, but just like Gracenote or Nielsen if the Library of Congress set up a simple digital database of every American copyright owner for musical works and sound recordings for ISP's, streamers, copyright owners, digital licensees to check against might be an idea, but it probably wouldn't be enforced anyway.

Honestly, direct licensing from creator to distributor is the model that should be encouraged in this computerized digital song tracking age, not discouraged like The Grammy's and Soundexchange, ASCAP, BMI and other self-interested non-profits and lobbyists do.

The old, failed method of collective licensing should still be an option in a free market if creators choose to do so, but collective licensers and lobbyists should never be allowed to interfere again in direct licensing transactions between any music licensee like satellite radio or any type of webcasting and streaming ever again. If they do, the Congress should impose severe penalties for price fixing, restraint of trade, and fraud for any lobbyists or PRO who does so.

Other Issues

23. Please supply or identify data or economic studies that measure or quantify the effect of technological or other developments on the music licensing marketplace, including the revenues attributable to the consumption of music in different formats and through different distribution channels, and the income earned by copyright owners.

See attached charts.

Individually, my first album costed around $30,000 and took over two years to complete of my time. My second album took around $50,000 and took around a year and half to complete. So for my sound recordings I should be able to reasonable profit and able to negotiate a price with any and all licensees if I chose, and if I'm too lazy to do that, I can get BMI or Soundexchange to help me collect my royalties and pay them their well deserved fee.

I could submit a budget but am our of time at this point. When you look at players, engineers, studio time, AFTRA costs, AFM costs, cartage, instrument rental and all the other cost, it's quite a bit of money and .00000012 per song will never ever work.

SCHEDULE C

24. Please identify any pertinent issues not referenced above that the Copyright Office should consider in conducting its study.

These **SEVEN** major problem areas need to be solved immediately if copyrights and music royalties are to survive the "freemium" digital music age of worldwide piracy. *All seven problems and solutions work together, they are equally important and are equally urgent.*

1. **STREAMING ROYALTIES & PRICE FIXING**
2. **INFLATION & REAL COST OF LIVING INCREASES**
3. **DE-REGULATION, DMCA FAILURE & CENTRALLY PLANNED INDUSTRIES**
4. **PRO ASCAP & BMI SAMPLING, PIRACY & STREAMING**
5. **NON-PROFITS, LOBBYISTS & POLITICAL CORPORATISM**
6. **SOUNDEXCHANGE SOUND RECORDING MONOPOLY**
7. **PUBLIC AIRWAVES, ACCESS & RADIO CONSULTANTS**
8. **PEER TO PEER PIRACY WORLDWIDE**

1. STREAMING NANO-ROYALTY & RESTORE MINIMUM STATUTORY RATE 9.1 CENTS

A. Immediately restore the 1909 and 1976 "*minimum statutory rate*" for streaming of *9.1 cents per-stream* since a stream is a mechanical *and* a performance at the same time as a temporary emergency measure.

B. Get streamer to agree to this rate or file a temporary injunction against *all streamers* immediately, just like Napster, until minimum statutory rate of 9.1 cents per-stream is complied with.

C. The songwriter, music publisher, performer, and sound recording master owner's *business models* must be considered *first* in any copyright reform or music royalty negotiations *above* streamer's so called "business model" which have had free reign abusing "safe harbor" provisions in the DMCA while stealing song copyrights at below market rates. .00000012 cents per copyright is criminal and must stop immediately.

2. INFLATION - 2 CENT RATE IN 1909 COPYRIGHT ACT USING CPI NOW 52 CENTS

D. Adjust the 2 cent "minimum statutory rate" for a mechanical from 1909 for inflation using the government CPI Consumer Price Index to 52 cents in 2014. All downloads and physical CD rates should be immediately adjusted to pay 52 cents per song mechanical rate. The 2 cent rate in 1909 was not adjusted for 67 years until 1976.

E. Since streams are a mechanical, according to the Copyright Act, each stream should lawfully be 52 cents per-stream. This might seem unreasonable or a so called tax to streamers, but it's really just enforcing the law and for once after 100 years, getting a reasonable restoration toa cost of living increase most other Americans get.

F. "Streaming accounts" for the payment of all copyrights up front of a few dollar and a 9.1 to 52 cents rate per stream to adjust for inflation and years of streaming companies growing their billion dollar companies on the backs of millions of songwriters and music publishers while only the major labels, PRO's and streaming companies make money.

3. DE-REGULATION OF 100 YEARS OF HARMFUL GOVERNMENT INTERVENTION

G. Abolish the Consent Decree - If ASCAP wants to extort restaurants in 1941 or 2014, that shouldn't allow a convicted copyright thief like Sean Parker to steal my catalog on Spotify and pay .00000012 per stream. I did not consent to that. Even the great Burt Bacharach felt compelled to write an editorial this year to reform the consent decree, I say abolish it. All the major publishers in the world have been leaving ASCAP and BMI the past 2 years and are now on temporary agreements, the number one reason is the consent decree. If Congress and the Copyright Royalty Board continue to allow streamers to abuse the decree will be the main reason why Universal Publishing, Sony-ATV and Warner-Chappell may leave BMI by the end of the year. "Consent Decree Free", is my new motto.

H. Abolish the Compulsory License - With computers if somebody wants to license my song, they can register online or send me an email and I'll send them a license. If I was a BMI writer, the licensee could go to www.bmi.com and fill out a license online and pay there. Prince wants to abolish the compulsory license and many publishers do not want 3rd party distributors or record labels who are notorious for not paying to use their property. As harsh as this may sound, as a creator who worked hard to achieve a certain level of craft and skill at songwriting, some singers aren't good enough to cover my song or trustworthy. This also applies to the publisher who has put tens of thousands into a songwriters and paid for the demo costs may not think a certain singer will make it a hit. Would you lend you car to a 16 year old kid who doesn't know how to drive?

I. Abolish the Copyright Royalty Board - This military style song "tribunal" as it was once called has been the number 1 problem with songwriting and music publisher royalties and now sound recording owners for the past 38 years. Their price fixing, centralized, federal, monopoly setting below market rates has ruined the songwriting and music publisher industry. To the experts who say collective bargaining is the only way and direct license is too complicated and would never happen, it just did with Universal and all the major publishers voluntarily leaving because of the consent decree and nano-royalties set by the CRB. Universal and Pandora negotiated just fine together and like normal people until a federal song judge said they could not freely associate and direct license because of the consent decree.

J. Abolish or Modify Music Royalty Rate courts - We all realize music royalty and copyright law can be very confusing for the average person and a good argument to have song courts, but this is also the exact reason why a 12 member jury of regular citizens needs to added to these rate courts or abolish them altogether and let music lawsuits go back to regular courts at the state and local level so the people can realize how broken the system really is. This would help correct why royalties are so pitiful and the system is broken now, the same self interested lobbyists and rich non-profits that broke the music royalty system with their lawyers, and rich CEO's of non-profits behind closed doors want to be the same lobbyist to save and fix our income.

K. Reform or Repeal the DMCA - Digital Millennium Copyright Act - It's great to see Chairman Goodlatte holding hearings on this subject, especially the uselessness of take down notices. Have ISP's shut down access to rouge Napster like infringing sites, capture evidence and send to law enforcement like in the Kim Dotcom case. Most importantly, this bill has been a disaster for copyright owners and creators. The safe harbor provisions and grey areas must be removed or repeal the entire act and get back to real copyright law where there are no special privileges or exemptions for streamers where a basic sound recording copyright or underlying work copyright can no longer be stripped of it's value by changing the definition of a copyright to "on-demand, a webcast, interactive, non-interactive, subscription, non-subscription". That new made up terminology may work for internal marketing and accounting purposes, but all those pretty words should have no bearing on what I am paid for either of my 2 hard earned copyrights. Songwriters need to take back the business of pretty words back from attorneys and lobbyists who have changed the very definition of the word copyright.

4. PRO-PERFORMING RIGHT ORGANIZATION PIRACY & COPYRIGHT INFRINGEMENT

L. Abolish 2 week sampling at ASCAP or another PROs - It's really unbelievable that after 25+ years of computerized data capture of terrestrial radio stations and song fingerprinting by Nielsen BDS, Mediabase, ASCAP, BMI, and SESAC, that 2 week sampling still exist. Other than the consent decree, this is the biggest problem at ASCAP (and formerly BMI) and other main reason why the major publishers are leaving. 100 % Pay Per-Play data is the only way along with 100% Transparency.

M. Rewrite Blanket License at ASCAP & BMI - If the Department of Justice agrees to amend or abolish the consent decree as Burt Bacharach suggested so that Sean Parker can't steal every music catalog in the world and stream them for free, ASCAP and BMI should re-write their blanket license. It should include a significantly increased streaming royalty rate for all streams, abolish or significantly amend the compulsory license, 100% pay per-play royalty with 100% online transparency to songwriters and music in real time, using direct deposit, and increased secondary market collection through diaries and fingerprinting.

N. ASCAP & BMI need to renegotiate ALL STREAMING rates immediately - Once the consent decree is abolished then ASCAP and BMI can withhold their repertoire until streamers agree to acceptable market rates, not whatever they want

O. GAO Audit ASCAP & BMI on 2 week song sampling for past years and ASCAP for current 2 week sampling infringement

P. Make ASCAP & BMI require daily radio diaries - Out of the 7000 primary commercial stations in the US, Nielsen individually fingerprints each and every performance of approximately 1700 stations leaving 5300 secondary radio stations that play songs for free, yet ASCAP and BMI still charge those radio stations a flat fee and don't care about what song is played, just as long as the fee is paid. Require all unmonitored secondary radio stations to send in simple excel daily song logs.

Q. Allow ALL collection agencies, PRO's, etc. to compete not monopolize - Harry Fox, BMI, ASCAP, SESAC, Sound Exchange are all collection agencies that should complete for all royalties. If ASCAP and BMI can collect for terrestrial radio performances and clubs, bars and restaurants at the same time, two totally different mediums, they should be allowed to collect a digital sound recordings instead of just SoundExchange having a monopoly and vice versa.

5. STOP NON-PROFIT ABUSE AND COPYRIGHT ABUSE BY LOBBYISTS:

R. Stop lobbyists masquerading as non-profits interfering and negotiating on behalf of their self-interests while acting as altruists who are advocating for songwriter interests. It's amazing to me how Grammy lobbyists and executives get so upset when you want to pay songwriters more than .000000012 per stream, considering Grammy and non-profit lobbyists can't write songs and take millions in taxpayer dollars.

6. SOUNDEXCHANGE SOUND RECORDING MONOPOLY

S. As explained in the questions above, Soundexchange was created by lobbyist RIAA and given government sanctioned monopoly on all digital sound recordings. Monopolies are supposed to be evil in the private sector but if the government has a monopoly, then it's good. Let Soundexchange and others complete for all royalties and let the free market sort out the best companies, not corporatism.

7. PUBLIC AIRWAVES, ACCESS & RADIO CONSULTANTS

T. Ever since the Radio Consultants have had control over what handful of songs get played and mostly don't get played on terrestrial radio, independent songwriters, artists and indie labels have been literally locked out to any radio play and therefore any real royalties. We need access to radio again where one consultant who ontrols a few hundred radio stains which play the exact same

8. PEER TO PEER PIRACY WORLDWIDE

U. Peer to Peer piracy is a huge problem and can only be stopped by governments enforcing copyright laws, new encryption methods and ISP cooperation. Go for the big pirates not the innocent little infringers first.

Here is a great excerpt from computer scientist and inventor Jaron Lanier.

"Drove My Chevy to the Levee but the Levee Was Dry" by Jaron Lanier from "Who Owns The Future".

The levees weathered all manner of storms over many decades. Before the networking of everything, there was a balance of powers between levees and capital, between labor and management. The legitimizing of the levees of the middle classes reinforced the legitimacy of the levees of the rich. A symmetrical social contract between non equals made modernity possible.

However, the storms of capital became super-energized when computers got cheap enough to network finance in the last two decades of the 20th century. That story will be told shortly. For now it's enough to say that with Enron, Long-Term Capital Management, and their descendants in the new century, the fluid of capital became a superfluid. Just as with the real climate, the financial climate was amplified by modern technology, and extremes became more extreme.

Finally the middle-class levees were breached. One by one, they fell under the surging pressures of super-flows of information and capital. Musicians lost many of the practical benefits of protections like copyrights and mechanicals. Unions were unable to stop manufacturing jobs from moving about the world as fast as the tides of capital would[…]" "sic industry and speak of "unshackling musicians from labels."1 We cheered when public worker unions were weakened by austerity so that taxpayers were no longer responsible for the retirements of strangers.

Homeowners were no longer the primary players in the fates of their own mortgages, now that any investment could be unendingly leveraged from above. The cheer in that case went something like this: Isn't it great that people are taking responsibility for the fact that life isn't fair?

Newly uninterrupted currents disrupted the shimmering mountain of middle-class levees. *The great oceans of capital started to form themselves into a steep, tall, winner-take-all, razor-thin tower and an emaciated long tail.*

How Is Music like a Mortgage?

The principal way a powerful, unfortunately designed digital network flattens levees is by enabling data copying.* For instance, a game or app that can't be easily copied, perhaps because it's locked into a hardware ecosystem, can typically be sold for more online than a file that contains music, because that kind can be more easily copied. When copying is easy, there is almost no intrinsic scarcity, and therefore market value collapses.

*As we'll see, the very idea of[…]"“files when those same people are not paid for their participation in very lucrative network schemes. Ordinary people are relentlessly spied on, and not compensated for information taken from them. While I would like to see everyone eventually pay for music and the like, I would not ask for it until there's reciprocity.

What matters most is whether we are contributing to a system that will be good for us all in the long term. *If you never knew the music business as it was, the loss of what used to be a significant middle-class job pool might not seem important. I will demonstrate, however, that we should perceive an early warning for the rest of us.* Copying a musician's music ruins economic dignity. It doesn't necessarily deny the musician any form of income, but it does mean that the musician is restricted to a real-time economic life. *That means one gets paid to perform, perhaps, but not paid for music one has recorded in the past. It is one thing to sing for your supper occasionally, but to have to do so for every meal forces you into a peasant's dilemma.*

"The peasant's dilemma is that there's no buffer. A musician who is sick or old, or who has a sick kid, cannot perform and cannot earn. A few musicians, a very tiny number indeed, will do well, but even the most successful real-time-only careers can fall apart suddenly because of a spate of bad luck. Real life cannot avoid those spates, so eventually almost everyone living a real-time economic life falls on hard times.

Meanwhile, some third-party spy service like a social network or search engine will invariably create persistent wealth from the information that is copied, the recordings. A musician living a real-time career, divorced from what used to be commonplace levees like royalties or mechanicals, is still free to pursue reputation and even income (through live gigs, T-shirts, etc.), but no longer wealth.* ***The wealth goes to the central server.***

*There are laws that guarantee a musician some money whenever a physical, or "mechanical" copy "“of a music recording is made. This was a hard-won levee for earlier generations of musicians.

Please notice how similar music is to mortgages. When a mortgage is leveraged and bundled into complex undisclosed securities by unannounced third parties over a network, then the homeowner suffers a reduced chance at access to wealth. The owner's promise to repay the loan is copied, like the musicians' music file, many times. So many copies of the wealth-creating promise specific to the homeowner are created that the value of the homeowner's original copy is reduced. The copying reduces the homeowner's long-term access to wealth.

To put it another way, the promise of the homeowner to repay the loan can only be made once, but that promise, and the risk that the loan will not be repaid, can be received innumerable times. Therefore the homeowner will end up paying for that amplified risk, somehow. It will eventually turn into higher taxes (to bail out a financial concern that is "too big to fail"), reduced property values in a neighborhood burdened by stupid mortgages, and reduced access to credit.

Access to credit becomes scarce for all but those with the absolute tip-top credit ratings once all the remote recipients of the promise to repay have amplified risk. Even the wealthiest nations can have trouble holding on to top ratings. The world of real people, as opposed to the fantasy of the "sure thing," becomes disreputable to the point that lenders don't want to lend anymore.

Once you see it, it's so clear. A mortgage is similar to a music file. A securitized mortgage is similar to a pirated music file.

In either case, no immediate harm was done to the person who once upon a time stood to gain a levee benefit. After all, what has happened is just a setting of bits in someone else's computer. Nothing but an abstract copy has been created; a silent, small change, far away. In the long term, the real people at the source are harmed, however."

Author and Copyright Owner’s Subjects of Inquiry

This author seeks input from The Copyright Office on the effectiveness of the current methods for licensing musical works and sound recordings.

1. The Library of Congress, The Copyright Office, and the Copyright Royalty Board claim to be operating in a so-called “hypothetical marketplace” which is not real, unlike the real free market that is real and sets real prices. Is it possible that by Congress price fixing rates at 2 cents for 68 years with no regard for inflation or creating a CRB that operates on pure speculation in a so called hypothetical marketplace for the past 38 years, plus rate courts, has led us from .02 cents in 1909 or 1976 to .00000012 cents in 2014?

2. Can we agree that speculating what a free or fair market price may be in a hypothetical marketplace with an imaginary willing buyer and willing seller inside a federal song court with 3 federal judges *might be at the root* of the problem with why copyright owners are not making any money with all these streaming companies in 2014?

3. Every economist knows that free markets set their own rates, not central planners, especially monopolies that price fix rates rates for other people’s property at nano-pennies to benefit licensees or the public, not the creators and property owners. Since individual price variations in an actual free market are the *most important market signals* as to what a real free and fair market price would actually be, how can 3 individuals, as nice and smart as a person could be, still have perfect knowledge of any hypothetical market? How can any one person, committee or group have perfect knowledge of what a true free market price would be since it’s impossible? This is the problem with the SEA bill other than it’s 5 years away.

4. Please assess how 3 individuals can predict what a mechanical rate should be for millions of copyrights in a free market and at a fair market price that is 5 years away? How do they know?

5. Why does the Copyright Office feel it has the duty, responsibility, authority or dare I say right to price fix song rates at nano-pennies in what is the opposite of an American free market?

6. Should the CPI be used or a more accurate method be tied to music royalties to keep up with rampant inflation and cost of living increases?

7. Since it’s policy for the LOC, Copyright Office, and CRB to regularly engage in hypothetical speculation of the “hypothetical” music royalty and music copyright marketplace as a core foundation for calculating how much income, profit, or wealth copyright creators are allowed to earn from their own property and which doesn't work, why can’t we try a free market and voluntary approach? No press agent or public relations person would ever speculate on a hypothetical in public, but the LOC and CRB do it as daily policy.

8. Please assess why there is no TRB (Trademark Royalty Board) or PRB (Patent Royalty Board) to price fix trademark and patent royalty rates, yet copyrights are discriminated against, and music copyrights especially, with a Copyright Royalty Board?

9. Although patents, trademarks, and copyrights are similarly mentioned in the same section of the US Constitution, is it fair to songwriters and recording artists that their creations and property is instantly controlled by the CRB and which has already set the value of all their music copyrights, while trademark and patent owners get a free-ride on setting the price of their own property?

10. Is it fair that the federal government can set the rates for my copyright, but not my trademark or patent?

11. Would it be fairer to create a TRB and PRB to create an equal and level playing field with fellow creators of copyright or, hypothetically should the Copyright Royalty Board be eliminated to put songwriters and copyright owners on an level playing field with trademark and patent owners?

12. Wouldn't it be prudent to do a competent study to see what a free market music economy might look like in the past and future vs the current collectivist music royalty system the past 100 years?

13. Would it be fair and proper, using the CRB as legal precedent to create a LRB (Lawyer & Lobbyist Rate Board) to set and price fix attorney and music lobbyist rates at .0002 cents per billable hour?

14. Does a Lawyer & Lobbyist Rate Board like a crazy idea or extremely unreasonable? Then why does the Copyright Office think it's entitled to set my rates?

15. If so, then why does the Copyright Office think it's entitled to set the price and have control over my creation and personal property, especially when the Copyright law clearly says I have a monopoly on my property, not the Copyright Office or any self-interested lobbying "non-profit"?

16. Would it be fair to Copyright office employees to create a CORB, or Copyright Office Rate Board that sets all Copyright Office employees or contractor rates at .0002 to .00000012 per hour? Is that fair?

17. Would a new CORB create equality with songwriters who have their income set by a the CRB, hypothetically?

18. Please assess how the Copyright Royalty Board or NY rate court was allowed to ignore, lower or go below the lawful "minimum statutory rate" of 9.1 cents on the mechanical side of all streams, especially the on-demand stream?

19. When setting rates for streaming corporations, did the CRB consider the business models, income and financial stability of the streamer and webcasters like Youtube, Pandora and Spotify?

20. When setting rates for streaming corporations, did the CRB consider the business models, income and financial stability of songwriters when lowering the 9.1 minimum statutory rate overnight?

21. When setting rates for streaming corporations, did the CRB consider the business models, income and financial stability of music publishers when lowering the 9.1 minimum statutory rate overnight?

22. Has the minimum statutory rate become a cap instead of a minimum for the 2 cent or 9.1 cent mechanical or the streaming rate?

23. If the MSR is a cap on income instead of a minimum rate, won't any future price-fixing simply be a cap on income for copyright creators instead of a minimum rate?

24. Does the CRB call for a "gradual measured approach" to raising streaming royalty rates for songwriters and music publishers?

25. Why did the CRB not use a "gradual measured approach" when lowering songwriter and music publisher rates from the 100 years standard minimum statutory rate of 9.1 cents to . 0002 overnight?

26. Does the CRB call for a "gradual measured approach" to raising streaming royalty rates digital sound recordings?

27. Why is every music related entity in government obsessed with what do Google, Youtube, Pandora, Spotify, Soundexchange, iHeartRadio, Clear Channel Radio, NAB, ASCAP, BMI, SESAC, RIAA, NMPA, RMLC, The Grammys, Goldman Sachs, all their investors, executives, employees, stockholders, broadcasters, advertisers, lobbyists, Silicon Valley, Wall Street, Congress, the Copyright Office, the Library of Congress, The Copyright Royalty Board judges and US District rate courts want? Not, what do songwriters, music publishers, independent sound recording master owners, recording artists, performing artist want?

28. Please assess the current SEA Songwriter Equity ACT bill, if it passes, is 3 years away from a mechanical rate hearing which will take 2 years at the minimum, so 5 years before the CRB might "consider" a 5th "free market" criteria added to the current CRB list of 4.

29. Is it possible to have a free market with 3 federal judges setting rates for millions of songs?

30. Is it possible to have a free market with 3 federal judges setting rates for millions of songs, songwriters, music publishers, artists, independent labels, digital sound recording copyright owners, and all their heirs and assigns?

31. If the SEA bill is to correct "below market rates" in the CRB rate setting procedures, what is a "fair market rate" or "normal market rate" in the eyes of the Copyright office for a:

1. digital sound recording stream royalty ___.____
2. songwriter/publisher stream royalty split ___.____
3. a mechanical royalty on a CD and/or download for a songwriter/publisher split? ___.___

32. Does the Copyright Office think .0002 or less is a fair wage for a song a songwriter creates?

33. Should the income inequality between sound recording royalties and songwriter publisher royalties be fixed on mechanicals and for streams?

34. Should songwriters be paid a minimum wage of $10.10 per hour or the equivalent thereof?

35. Does the Copyright Office think that there is income inequality when Pandora CEO Tim Westergren cashes in $15,000,000 million dollars per year in stock options and paying the creators of his only product, songs, only .0012 or .00000012 per song?

36. Please assess if the Copyright Office thinks .0002 is a fair price for streaming "Yesterday" by The Beatles and written by Sir Paul McCartney?

37. Please assess why The Beatles are not on most streaming services to date? Is it because .0002 or a more real market number of .00000012 is unsustainable not a fair price for any copyright owner?

38. If streaming is the future or music consumption and rates are locked into .0012 or even a penny per stream, does the Copyright Office think that is a viable business model for recording artists and record labels to continue to record much less make money and profits? If not, how would the copyright office propose fixing the streaming business model for songwriters and music publishers? How would the Copyright Office propose fixing the sound recording business model for independent record labels and independent artists?

39. Does the Copyright Office think that a Copyright Office employee or executive has the right to their own labor? If so, how much do you think that labor is worth? If not, why do you think a person does not have the right to their own labor or the fruits of it?

40. Does the Copyright Office think that .0002 or .00000012 per hour is a fair wage for a Copyright employee or executive? If so, why? If not, please explain?

41. Why is monopoly on price-fixing rate on private property lawful when the CRB or Copyright Office does it, but if a private citizen does it it's unlawful?

42. Why is a monopoly or price-fixing lawful when the CRB or Copyright Office designates Soundexchange to have the exclusive "right" to collect all digital sound recording copyrights, but if a private citizen does it it's unlawful?

43. Are "non-profits" exempt from the rule of law concerning federal price-fixing and monopoly statutes.

44. Because a “non-profit” or lobbying group is price-fixing music rates instead of private citizens or private corporations, are “non-profits” and music lobbyists such as the Grammys, RIAA and NMPA therefore exempt from the rule of law?

45. Because a “non-profit” or lobbying group such as Soundexchange has a government enforced monopoly on collecting music royalties instead of private citizens or private corporations, are these “non-profits” and lobbyists therefore exempt from the rule of law?

46. Are government monopolies and government price fixing of music rates exempt from the laws of economics? What are the real damages and unintended consequences of long-term price-fixing and monopoly rule, if any on music rates?

47. What are the positives to price fixing music rate over the long term?

48. What financial interest does the RIAA lobbying group still have in Soundexchange?

49. Does the RIAA still have any control over Soundexchange in any way?

50. Why are all these music lobbyists and factions so anti-free market and so vehemently against any person or company direct licensing their own songs and property?

51. Is copyright an individual right like free speech?

52. Is copyright a natural right?

53. Is copyright a collective right?

54. Is copyright a privilege granted by the federal government?

55. Is the “public good” or this CRB criterion in setting rates, is it more important than the individual good of the copyright creator? In other words, does the public good take precedent over the interests of the the copyright creator? If so, please explain?

56. Or, is the “public good”equal to the the creators property and copyright

57. Are monopolies in general a “good” thing or a “bad” thing?

58. Are monopolies in the interest of the “public good”?

59. Is individual copyright inherently at odds with the “public good”?

60. Is individual copyright currently at odds with the “public good” in 2014?

61. Is the “public good” inherently at odds with individual copyright creators?

62. Is the “public good” currently at odds with individual copyright creators?

63. Is Soundexchange inherently at odds with songwriters and music publishers as far as the underlying work getting higher royalty rates vs digital sound recording rate collected by Soundexchange by government sanctioned monopoly

64. Are RIAA lobbyists at odds with songwriters?

65. Does RIAA lobbying for only sound recordings harm songwriters and music publishers?

66. Does Soundexchange and The Grammys lobbying against direct licensing with SiriusXM in a rate court case at odds with sound recording owner interests when they can get a better rate with a direct license? Should this be legal, lobbyists with no direct interest or shareholder stake being able to restrain trade and interfere in a direct license negotiation and transaction between two voluntary and willing buyers in sellers?

67. Are streaming companies like Pandora, Youtube and Spotify currently at odds with individual copyright creatures? If so, please explain why? If not, please explain?

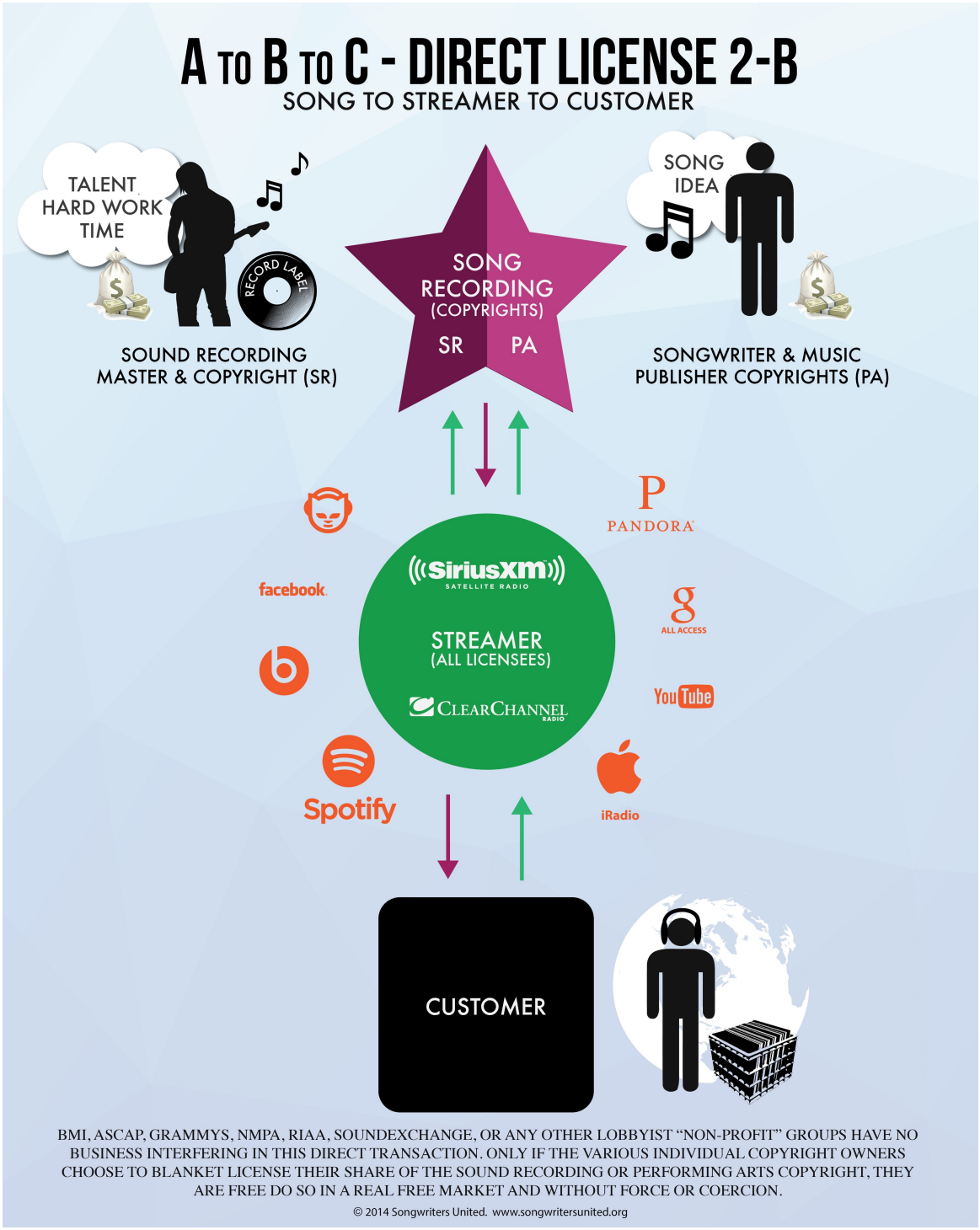
68. What is the opinion of the Copyright Office as to the RIAA's attempt to pass a bill making music copyright creators property "work for hire" in 1998? Should President Clinton have signed this bill to make songwriter's copyrights "work for hire" overnight?

69. What is the constitutional basis and lawful authority for a Copyright Royalty Tribunal in 1976, the further Copyright Royalty Board and finally the Copyright Office established in 1897?

70. Does the Copyright Office think that the CRB rate setting process where songwriters and music publishers are locked out of the negotiations for their own property is fair?

71. Does the Copyright Office think that that CRB rate setting process is fair to songwriters, music publishers and sound recording owners when it cost millions of dollars in legal fees and 2 years of time to complete?

72. Is it possible for the Copyright Office to agree that immediate and voluntary direct license between two willing parties like Universal Publishing and Pandora this January is a much better way of negotiating than millions of dollars in legal fees and 2 years in "voluntary negotiations" in a CRB rate setting hearing and therefore might be better for those millions of Sony ATV, Warner Chappell, or Universal Publishing songwriters, co-writers and co-publishing copyright owners of all those songs?


A TO B TO C - DIRECT LICENSE 2-B
SONG TO STREAMER TO CUSTOMER
TALENT
HARD WORK
TIME
RECORD LABEL
SOUND RECORDING
MASTER & COPYRIGHT (SR)
SONG
RECORDING
(COPYRIGHTS)
SR
PA
SONG
IDEA
SONGWRITER & MUSIC
PUBLISHER COPYRIGHTS (PA)
PANDORA
facebook
SiriusXM
SATELLITE RADIO
STREAMER
(ALL LICENSEES)
CLEAR CHANNEL
RADIO
ALL ACCESS
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CUSTOMER
BMI, ASCAP, GRAMMYS, NMPA, RIAA, SOUNDEXCHANGE, OR ANY OTHER LOBBYIST "NON-PROFIT" GROUPS HAVE NO BUSINESS INTERFERING IN THIS DIRECT TRANSACTION. ONLY IF THE VARIOUS INDIVIDUAL COPYRIGHT OWNERS CHOOSE TO BLANKET LICENSE THEIR SHARE OF THE SOUND RECORDING OR PERFORMING ARTS COPYRIGHT, THEY ARE FREE DO SO IN A REAL FREE MARKET AND WITHOUT FORCE OR COERCION.
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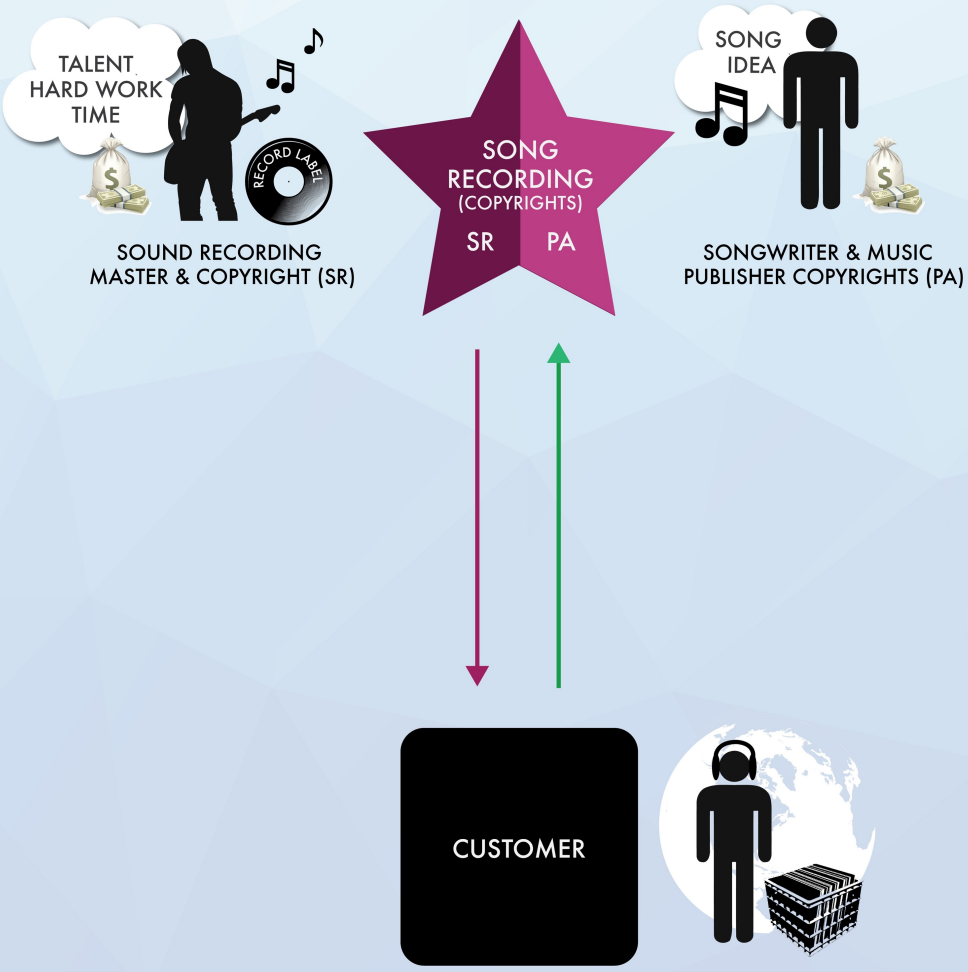
A TO B - DIRECT LICENSE 1

SONG TO CUSTOMER



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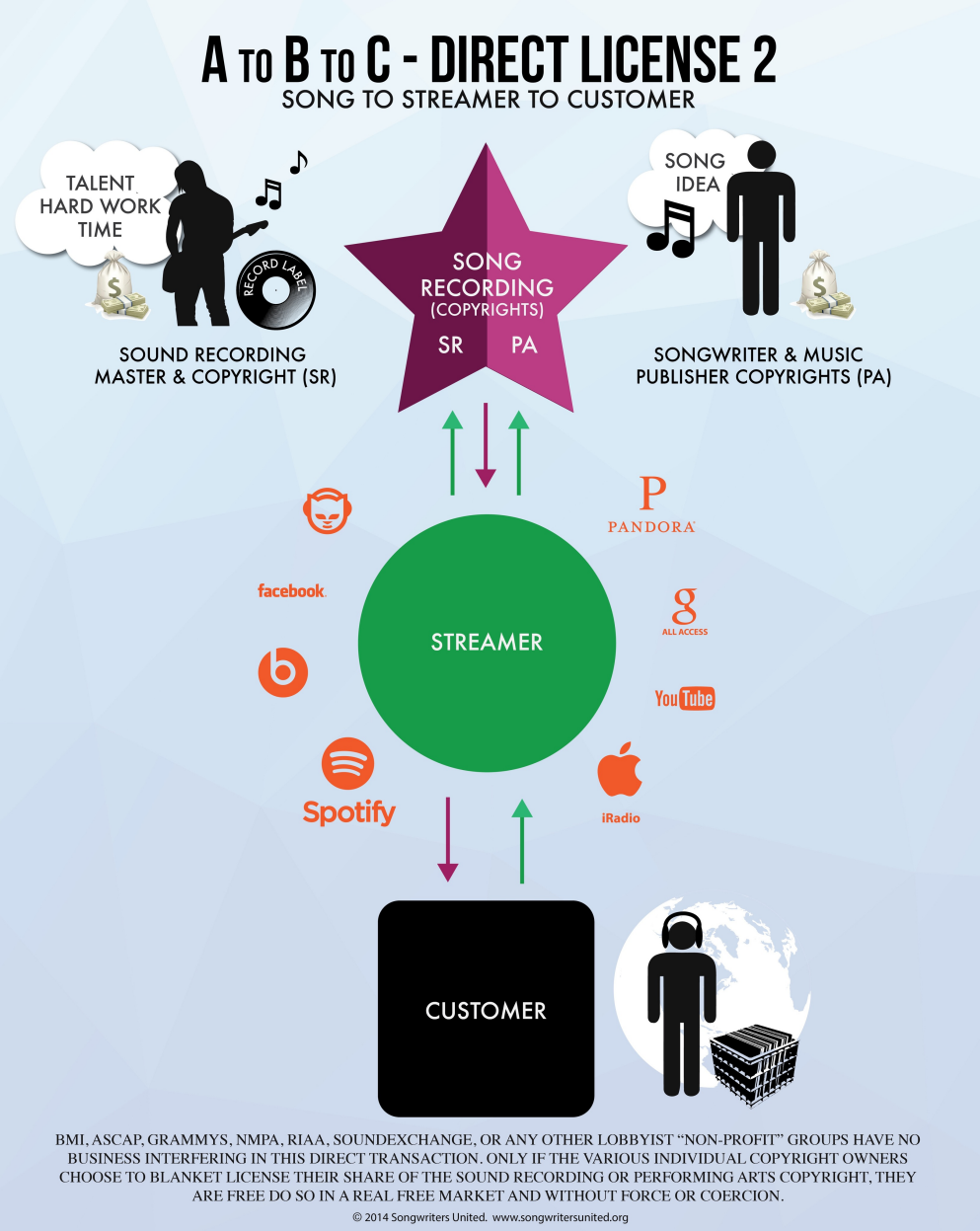
A TO B TO C - DIRECT LICENSE 2
SONG TO STREAMER TO CUSTOMER
TALENT
HARD WORK
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RECORD LABEL
SOUND RECORDING
MASTER & COPYRIGHT (SR)
SONG
RECORDING
(COPYRIGHTS)
SR
PA
SONG
IDEA
SONGWRITER & MUSIC
PUBLISHER COPYRIGHTS (PA)
PANDORA
facebook
ALL ACCESS
STREAMER
YouTube
Spotify
iRadio
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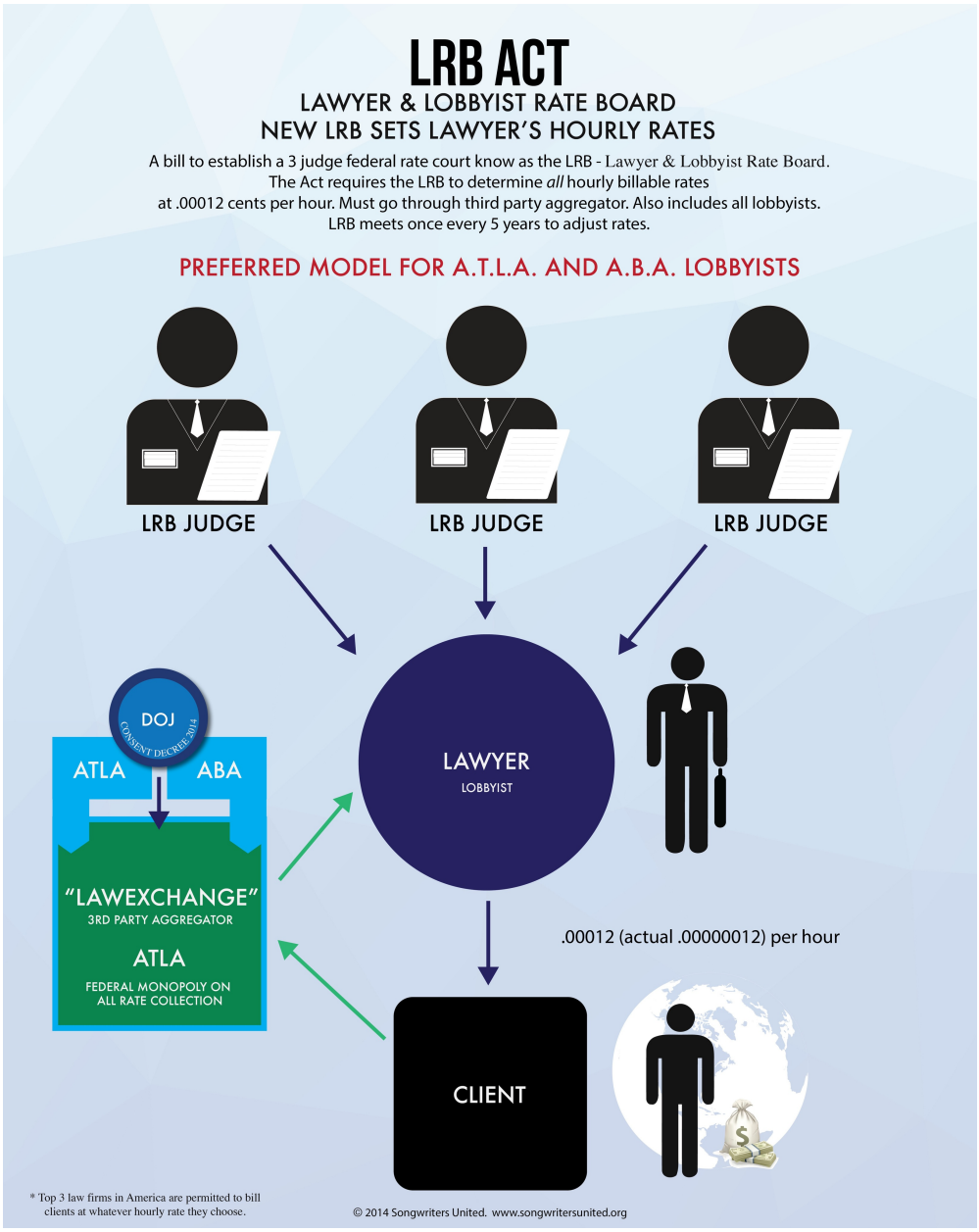
LRB ACT
LAWYER & LOBBYIST RATE BOARD
NEW LRB SETS LAWYER'S HOURLY RATES
A bill to establish a 3 judge federal rate court know as the LRB - Lawyer & Lobbyist Rate Board.
The Act requires the LRB to determine all hourly billable rates
at .00012 cents per hour. Must go through third party aggregator. Also includes all lobbyists.
LRB meets once every 5 years to adjust rates.
PREFERRED MODEL FOR A.T.L.A. AND A.B.A. LOBBYISTS
LRB JUDGE
LRB JUDGE
LRB JUDGE
DOJ
CONSENT DECREE 2014
ATLA
ABA
"LAWEXCHANGE"
3RD PARTY AGGREGATOR
ATLA
FEDERAL MONOPOLY ON
ALL RATE COLLECTION
LAWYER
LOBBYIST
.00012 (actual .00000012) per hour
CLIENT
* Top 3 law firms in America are permitted to bill clients at whatever hourly rate they choose.
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MUSIC ROYALTY & COPYRIGHT CONTROL 1909-2014
EVERYBODY BUT THE SONGWRITERS, MUSIC PUBLISHERS, SOUND RECORDING OWNER, CREATORS, COPYRIGHT OWNERS, HEIRS AND ASSIGNS
Government
Music Lobbyists/Lawyers
Streamers
Banks/Money Supply
PROs - All Royalty Collection
UNITED STATES FEDERAL RESERVE SYSTEM
Founded 1913
Thin Air
GANNETT
Owns BMI
Goldman Sachs
BMI Board of Directors Chair
CENTRAL PLANNING & PRICE FIXING MUSIC COPYRIGHTS
THE WHITE HOUSE
PRESIDENT
INTERNET RADIO FAIRNESS ACT
UNITED STATES CONGRESS
COMPULSORY LICENSE SINCE 1909
FEDERAL GRANTS
3 JUDGE
CRB
COPYRIGHT ROYALTY BOARD
COPYRIGHT ROYALTY TRIBUNAL
SINCE 1976
LIBRARY OF CONGRESS
Neil Portnow $1.5M/year
GRAMMYS
Lobbying office since 1998
US FEDERAL RATE COURTS
P
PANDORA
70 MILLION FREE SUBSCRIBERS
iRadio
facebook
NMPA
Founded 1917
MONOPOLY
Cary Sherman $1.3 - 3.2M/year
RIAA
Created SoundExchange
Founded 1952
AFTRA
SINGERS
AFM
MUSICIANS
CUSTOMER
ALL ACCESS
YouTube
Rhapsody
DOJ
CONSENT DECREE 1941
BMI
Founded 1939
ASCAP
Founded 1914
SESAC
Founded 1930
PERFORMING RIGHTS ROYALTIES
MECHANICAL ROYALTIES
HARRY FOX AGENCY 9.1 CENTS
DIGITAL SOUND RECORDING ROYALTIES
45% TO ARTIST
5%
5%
45% TO RECORD LABEL
soundexchange
Founded by RIAA 2003
Spotify
18-22%
RECORD LABELS
STAKE
UNIVERSAL
UNIVERSAL MUSIC GROUP
UMG PUBLISHING
WARNER CHAPPELL
SONY MUSIC
SONY ATV
MAJOR ARTIST
MAJOR SONGWRITERS
33%
33%
33%
KIDS/ HEIRS
KIDS/ HEIRS
KIDS/ HEIRS
SONG IDEA
Thin Air
.00012 and .00000012 per stream
INDIE PUB
INDIE PUB
INDIE PUB
INDIE LABEL
INDIE SONGWRITERS
33%
33%
33%
KIDS/ HEIRS
KIDS/ HEIRS
KIDS/ HEIRS
INDIE ARTIST
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LRB ACT

LAWYER & LOBBYIST RATE BOARD
NEW LRB SETS LAWYER'S HOURLY RATES

A bill to establish a 3 judge federal rate court know as the LRB - Lawyer Rate Board.
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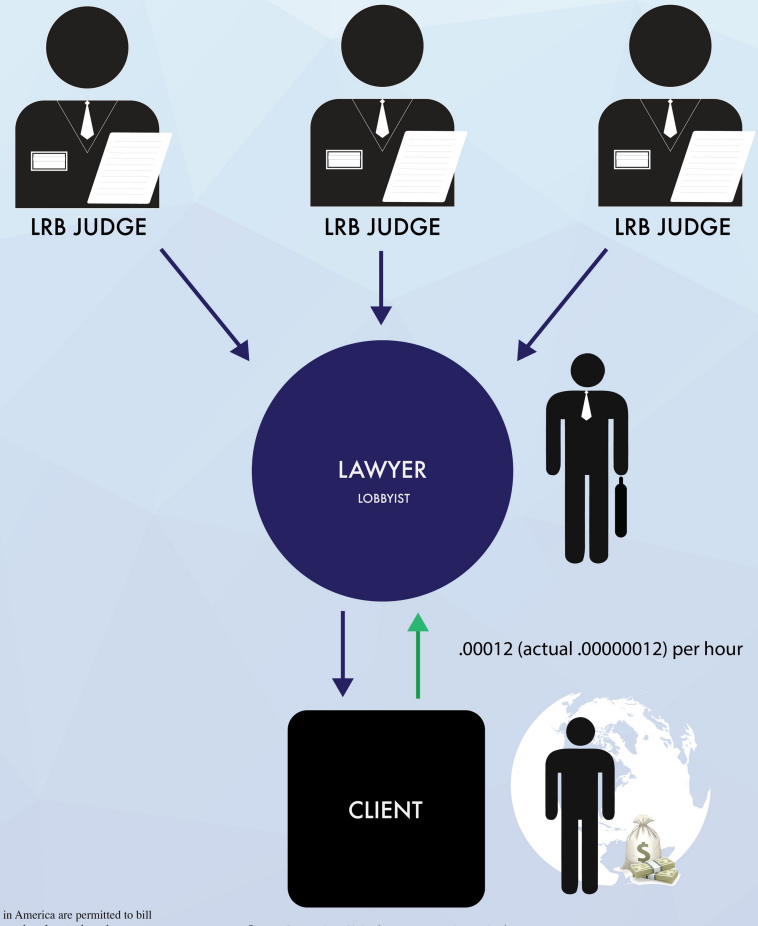
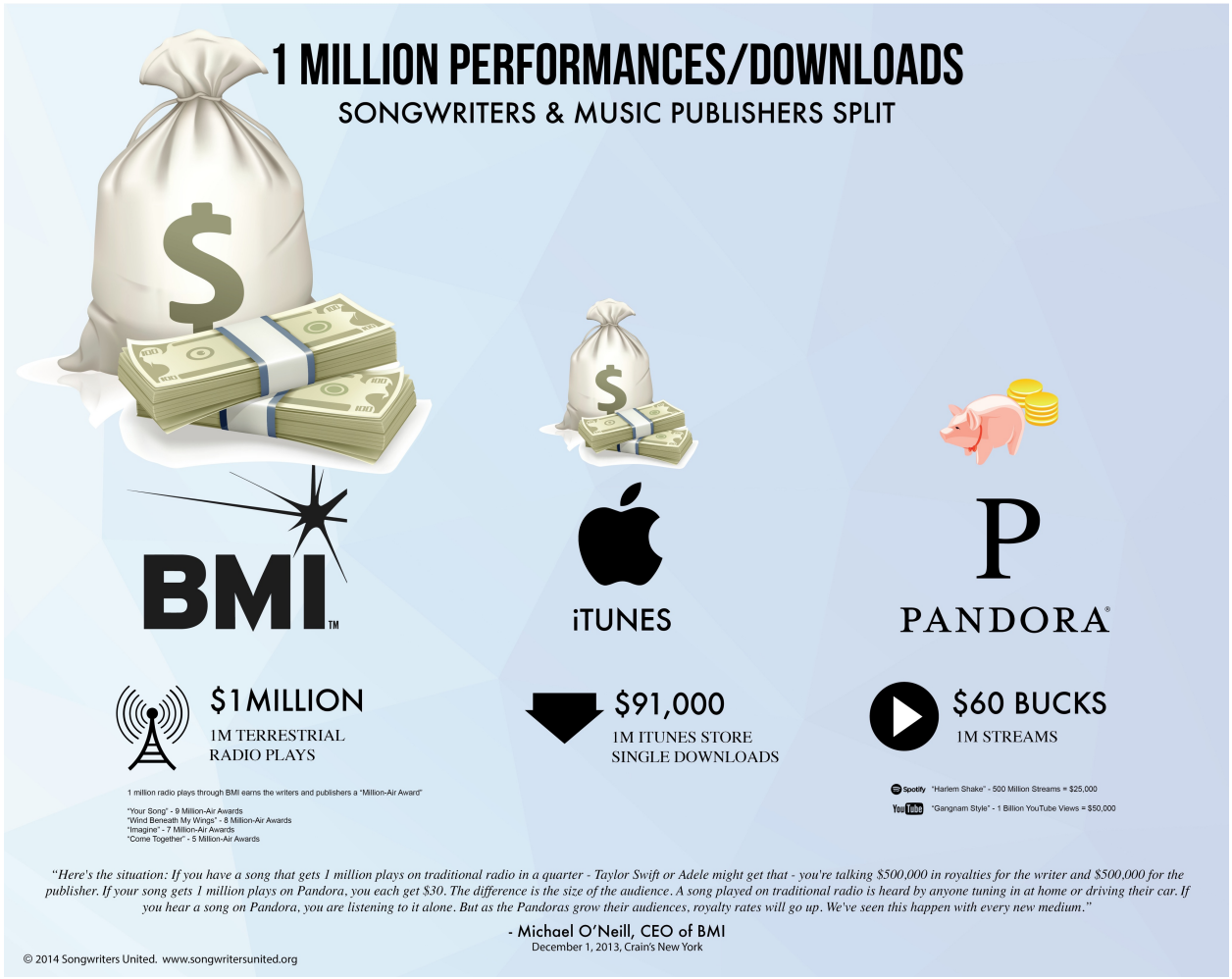
LRB meets once every 5 years to adjust rates.

PREFERRED MODEL FOR LAWYERS



* Top 3 law firms in America are permitted to bill clients at whatever hourly rate they choose.


1 MILLION PERFORMANCES/DOWNLOADS
SONGWRITERS & MUSIC PUBLISHERS SPLIT
BMI
iTUNES
PANDORA
$1 MILLION
1M TERRESTRIAL RADIO PLAYS
$91,000
1M ITUNES STORE SINGLE DOWNLOADS
$60 BUCKS
1M STREAMS
1 million radio plays through BMI earns the writers and publishers a "Million-Air Award"
"Your Song" - 9 Million-Air Awards
"Wind Beneath My Wings" - 8 Million-Air Awards
"Imagine" - 7 Million-Air Awards
"Come Together" - 5 Million-Air Awards
Spotify "Harlem Shake" - 500 Million Streams = $25,000
YouTube "Gangnam Style" - 1 Billion YouTube Views = $50,000
"Here's the situation: If you have a song that gets 1 million plays on traditional radio in a quarter - Taylor Swift or Adele might get that - you're talking $500,000 in royalties for the writer and $500,000 for the publisher. If your song gets 1 million plays on Pandora, you each get $30. The difference is the size of the audience. A song played on traditional radio is heard by anyone tuning in at home or driving their car. If you hear a song on Pandora, you are listening to it alone. But as the Pandoras grow their audiences, royalty rates will go up. We've seen this happen with every new medium."
- Michael O'Neill, CEO of BMI
December 1, 2013, Crain's New York
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