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Dear U.S. Copyright Office:

When it comes to licensing music, I have been firmly planted at the intersection of creativity and commerce for the better part of three decades. I secured my first synchronization license in 1984, ran a music rights & clearance company for twenty one years and I am currently clearing and/or overseeing the clearance of several hundred music copyrights for a wide variety of uses. I am delighted the U.S. Copyright Office has initiated this conversation about the effectiveness of existing methods of music licensing.

Section 115 of the U.S. Copyright Act is highly effective due to its straightforward application based process and established rate(s). Section 115, Section 118 the voluntary noncommercial broadcasting provision and the collection societies of the UK, Europe and Japan, are all models worthy of consideration as we begin a discussion about new music licensing paradigms.

If you need to secure a synchronization agreement, direct licensing is your only option. While everyone involved in this process is doing their best and the individual corporate websites make it easier to confirm ownership and percentages thereof, the status-quo method of seeking consent and negotiating fees is highly inefficient. It sometimes takes several weeks to get a response and the fees can vary widely from one rights holder to another. Add to the mix the prevalent most favored nation requirement and you are building a house of cards. The current music licensing system does not encourage the use of music.

It is time to streamline certain music licensing processes, increase profitability and encourage investments in new products, markets and distribution models. I can site more than one example of full-fledged profitable businesses that cannot exist in the USA due to the current ways in which we license musical compositions and sound recordings.

When discussing the USA's perspective on music licensing, the concept of antitrust laws always seems to work its way into conversation. But when you think about it, a musical copyright is a monopoly to start with. There is an owner, who may employ an administrator and together they have total control over that copyright's availability and cost. As counter intuitive as it may seem, to have some form of blanket licensing rubric in place would actually open up markets and allow more money to flow more freely through the system. Theoretically, a percentage of this increased revenue should flow directly into the pockets of the people who matter most; the songwriters, composers and performers who created the copyrights.

Our government plays a key role in the economic solvency of the country. They are also responsible for establishing compulsory uses and statutory rates. I do think our government should spearhead a balanced and earnest debate about the possibility of regulation and alternative music licensing models.

Next steps could include: Identify the markets and uses of music therein that would benefit mutually with the rights holders if a reasonable compulsory licensing scheme were established. For synchronization uses, I envision a model whereby consents would still be required, thus providing accountability and the right to deny a use, but the rates would be preordained. The fundamental ability to accurately budget for the use of music would be welcomed by many.

A communal conversation about Best Practices in Music Licensing might be an enlightening next step. If the goal is to open up new markets and increase profitability, then the music licensing community needs to come together and make doing the right thing easier and more efficient.

Regards,

Cathy Carapella
Vice President