Before the
UNITED STATES COPYRIGHT OFFICE
LIBRARY OF CONGRESS
Washington, D.C.

In the Matter of:	)	Docket No. 2014-3
Music Licensing Study	)	Submitted May 23, 2014

COMMENTS OF THE NATIONAL ACADEMY OF RECORDING ARTS & SCIENCES

INTRODUCTION

THE INTERESTS OF MUSIC CREATORS SHOULD BE PARAMOUNT IN REVISIONS TO THE MUSIC LICENSING REGIME

In the interest of promoting a healthy recorded music industry capable of sustaining a livelihood for creators, The National Academy of Recording Arts & Sciences ("The Recording Academy") submits these comments on behalf of the creative music professionals it represents.[1] Of the myriad of interests in the sound recording industries, music creators -- the essential talent behind the music -- fall into three general categories: 1) the songwriters and composers who create the musical works; 2) the vocalists and musicians who perform the works; and 3) the producers and engineers who create the overall sound of the recordings. As the Copyright Office studies "the effectiveness of the existing methods of licensing music," it should consider the primacy of these music creators in its report. The Academy's specific comments to the questions in the NOI are informed by three main principles:

1) Performers, songwriters and studio professionals should always receive fair market value for their work across all platforms. When a rate-setting body is determining compensation, the rates should approximate the fair market value as closely as possible.

[1] Established in 1957, The Recording Academy is an organization of musicians, songwriters, producers, engineers and recording professionals that is dedicated to improving the cultural condition and quality of life for music and its makers. Internationally known for the GRAMMY Awards — the preeminent peer-recognized award for musical excellence and the most credible brand in music — The Recording Academy is responsible for groundbreaking professional development, cultural enrichment, advocacy, education and human services programs. The Academy continues to focus on its mission of recognizing musical excellence, advocating for the well-being of music makers and ensuring music remains an indelible part of our culture. For more information about The Academy, please visit www.grammy.com.

2) Music creators and music consumers are best served when licensing is done in an efficient manner that allows the creators to receive the maximum exposure they seek and maximum compensation for their work. Reforms should allow for a more efficient marketplace, while maintaining the equivalence of fair market rate compensation for creators.

3) Current music licensing law is a patchwork of fixes that have accumulated over decades. Congress should act to revise the law in one comprehensive "music omnibus" legislation.

THE SHIFT FROM OWNERSHIP TO STREAMING HAS CREATED SIGNIFICANT CHALLENGES FOR MUSIC CREATORS

The steady and inevitable transition of a consumer-driven music economy from a "purchase-to-own" model based on physical products and downloads to a model based on streaming is challenging the ability of professional music creators to make a secure living. As always, technology is the impetus of change. Now more than ever, the law is chasing the impact of technology and the distance between the two seems to be greater than ever. While The Recording Academy believes the structure of the Copyright Act, based on traditional principles of respecting creators and their creative works, remains mostly sound, the reality of modernity requires new modifications. It is with these general observations that The Recording Academy respectfully submits its comments.

STANDING OF THE RECORDING ACADEMY

The Recording Academy is a trade association whose voting membership and board leadership consists of individual music professionals with creative and technical credits on commercially released recordings. There are no company or institutional members. The Academy is the only organization advocating for all individual music creators: performers, songwriters and studio professionals.

MUSICAL WORKS

MECHANICAL LICENSING RATES SHOULD REFLECT THE FAIR MARKET VALUE FOR SONGWRITERS AND COMPOSERS

If the songwriters' and composers' works are to remain subject to a compulsory license under 17 U.S.C. § 115 (thus depriving the author of the exclusive rights to his works), The Recording Academy supports a structure that is fair, simple and efficient for both the licensor and licensee.

A major concern with Section 115 is the antiquated royalty rate-setting process. The initial statutory rate set by Congress in 1909 was 2¢ per song and remained in effect from 1909 through 1977. Under the Copyright Act of 1976, Congress raised the rate to 2¾¢ per song. Thereafter, Congress left authorized royalty rate-setting to the Copyright Royalty Board ("CRB"). The CRB raised the rate to 4¢ in 1981. The last Mechanical Rate Adjustment Proceeding of the CRB occurred in 1997, setting rates through 2007. The last increase in the compulsory mechanical rate occurred more than eight years ago, in 2006, with a rate increase to 9.1¢ per song.

The Recording Academy believes the current rate as set by the CRB under Sections 115(c)(3)(D) and 801(b)(1) is substandard. These provisions direct the CRB to apply a standard that does not reflect fair market value, but rather a standard based on a collection of vague objectives. The application of these antiquated standards has resulted in depressed mechanical license rates relative to other non-compulsory royalty streams, which have increased at greater rates over the same period of time. The CRB needs to have the authority to recognize and apply fair market standards.

The Songwriter Equity Act ("SEA"), H.R. 4079/S. 2321, is an important step toward modernizing the music licensing system and leveling the playing field to ensure that songwriters, composers and publishers are appropriately compensated for the use of their musical compositions (while not impacting the rate proceedings for artists) and should be included in any comprehensive music legislation considered for enactment by Congress. In particular, SEA would amend Sections 115 and 801 by directing the Copyright Royalty Judges to apply the following standard with respect to compulsory mechanical license rate-setting:

> The Copyright Royalty Judges shall establish rates and terms that most clearly represent the rates and terms that would have been negotiated in the marketplace between a willing buyer and a willing seller. In establishing such rates and terms, the Copyright Royalty Judges shall base their decision on marketplace, economic, and use information presented by the participants. In establishing such rates and terms, the Copyright Royalty Judges may consider the rates and terms for comparable uses and comparable circumstances under voluntary license agreements.

Accordingly, The Recording Academy supports SEA. Like other property owners, songwriters and composers deserve to be paid the fair market value for their intellectual property. In particular, as discussed in more detail under the section "Platform Parity," the rate-setting objective expressed in § 801(b)(1)(D) distorts the rate-setting process and produces below-market rates of compensation.

BLANKET LICENSING OF MECHANICAL ROYALTIES WOULD ADD EFFICIENCIES TO THE MARKETPLACE

The Recording Academy is in favor of voluntary, non-compulsory blanket licensing as part of arms-length transactions between respective rights holders. The Recording Academy believes this would lead to efficiencies in licensing musical compositions just as there are marketplace efficiencies from the blanket licensing regime for the public performance of musical works. In most cases, licensors can gain the performance rights for nearly the entire repertoire of musical works through three agencies: ASCAP, BMI and SESAC. The PROs already possess the database and procedures to effectuate mass licensing and collection domestically (and internationally through affiliated foreign PROs). However, licensing of mechanical royalties is currently processed on a song-by-song basis that often requires a more complicated clearance process. In addition, ASCAP's and BMI's consent decrees prevent them from licensing mechanicals. Lifting that restriction could result in a more efficient licensing process with more services and more works being available in the marketplace. As long as the rights for these royalties reflect fair market value, the increased marketplace activity would be beneficial to songwriters as well as to music consumers.

The Recording Academy believes that the current implementation of 17 U.S.C. 114(i) creates an unacceptable, uneven playing field which results in songwriters and composers receiving royalties that are substantially less than fair market value. As noted above, the enactment of the Songwriter Equity Act would be an important step toward modernizing the music licensing system to ensure that songwriters, composers and publishers are appropriately compensated for the use of their musical compositions and should be included in any comprehensive music legislation considered for enactment by Congress. In particular, SEA would amend Section 114(i) to allow federal rate courts to consider all relevant evidence, including sound recording royalty rates, when establishing royalty rates for songwriters. How the rate court would apply the evidence is left to the discretion of the court.

SOUND RECORDINGS

THE STRUCTURE OF THE STATUTORY LICENSE FOR SOUND RECORDINGS IS BENEFICIAL TO PERFORMERS

The Recording Academy supports the statutory license under Section 114, which is beneficial for performers and efficient for licensees. Revenues from digital music services using the statutory license are paid to a nonprofit Agency (SoundExchange) and 50 percent of all revenue is paid to artists directly. Of this 50 percent share of revenue, 90 percent is allocated to the featured artists and 10 percent is paid to non-featured performers. The direct payment of revenue to artists is a critical feature of the statutory license. While other streams of revenue have shrunk or disappeared entirely at a volatile time in the music industry, the 50-50 split of revenue and direct payment to artists have provided a financial lifeline to many performers.

Under current law, only non-interactive digital music services can use the statutory license, but in today's marketplace the line between interactive and non-interactive services is increasingly blurred. Online music streaming is growing rapidly and is quickly becoming the primary way

that the public consumes music.[2] As streaming services experiment and innovate with different features to appeal to consumers, arbitrary definitions in the law should not prevent qualified music services from availing themselves of the license. Allowing more services to operate within the statutory license will improve the efficiency of music licensing for services and consumers and provide a greater benefit to artists through the direct-pay feature.

Accordingly, The Recording Academy believes that the definition of "interactive service" should be narrowly defined to cover those services that truly offer an "on-demand" experience. In addition, the performance complement, which currently results in nonsensical outcomes in the playback of music, should be re-examined. For example, the performance complement raises questions about whether a listener of a non-interactive service can hear Beethoven's Fifth Symphony in its entirety on a classical music station, because each movement is considered a separate track. Consistent with the principle of fair value to creators, the features and functionality that a service offers to enhance its product to consumers should be factored into the rate-setting process by the CRB. In other words, more consumer preference allowed in a non-interactive service should result in higher rates.

RECORD PRODUCER PAYMENTS MUST BE STREAMLINED AND CONSISTENTLY APPLIED

While the Recording Academy favors direct payment of 50 percent of revenues to performers, it must be noted that producers were not granted a statutory share of this royalty in the Digital Performance Right in Sound Recordings Act of 1995 ("DPRA"). At that time, studio professionals were not adequately represented in policy discussions with the Copyright Office or Congress.[3] Producers are entitled to performance royalties, as they are often co-authors of the recordings, providing the overall creative direction for the project (similar to the role of a film director on a motion picture) as well as the overall sound of the recording.

Without a statutory share established in the DPRA, producers and royalty-earning engineers ("producers") earn royalties based on contract (usually with the featured artist). To provide the same fair, direct-payment option available to performers, SoundExchange currently offers a still-developing service for producers whereby SoundExchange, upon direction by the featured artist, will process the contractual share owed to producers by contract with the featured artist. The Recording Academy appreciates SoundExchange's ongoing efforts to develop an efficient

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[2] *See, e.g.,* Ben Sisario, *A Stream of Music, Not Revenue*, N.Y. Times, Dec. 12, 2013, http://www.nytimes.com/2013/12/13/business/media/a-stream-of-music-not-revenue.html ("Rather than buying physical records, or even digital downloads, consumers are starting to prefer buying music on demand from streaming services."); Ben Sisario, *Music Sales Fell in 2013, Even as Streaming Revenue Increased,* N.Y. Times, March 18, 2014, http://www.nytimes.com/2014/03/19/business/media/music-sales-fell-in-2013-even-as-streaming-revenue-increased.html ("Digital sales last year grew by 4.3 percent around the world, led by a 51 percent increase in revenue from subscription services….Yet this success was offset by declines in downloads and physical sales.").

[3] Seeing a need for more comprehensive representation of all music creators, The Recording Academy opened a Washington office in 1998. A membership affiliation group for studio professionals, the Producers and Engineers Wing, was created in 2000.

system for direct pay for producers. However, producers should be assured that this process will be consistent and permanent, applied by SoundExchange and any successor or competing Agency in the future. The Recording Academy is continuing productive dialogue with SoundExchange and the Copyright Office on this matter and looks forward to resolving this issue with all relevant stakeholders.

SOUND RECORDING RATES

Under current law, certain digital music services are allowed to pay a below market rate for licensing sound recordings under Section 114. The Recording Academy believes that all digital music services should use the same standard that pays fair market value to artists. This issue is discussed in more detail below under the section "Platform Parity."

FEDERALIZATION OF PRE-1972 SOUND RECORDINGS

The Recording Academy supports extending federal copyright protection to pre-1972 sound recordings and mostly supports the recommendations presented in the Copyright Office's report *Federal Copyright Protection for Pre-1972 Sound Recordings*.

When copyright protection was established for sound recordings in 1972, Congress acknowledged that the recorded music industry had evolved due to technological changes that made the mass creation of copies much easier. In the digital era, the rules and reality have changed again. Today, the vast library of pre-1972 recordings can be easily accessed and exploited through new digital subscription platforms. These copyrights are best registered and licensed under federal law to ensure consistent licensing practices and fair compensation for the rights holders and creators.

Music services utilizing the statutory license under Section 114 are currently exploiting this inconsistency in the law and withholding performance royalties to legacy artists whose sound recordings were created before 1972. These older artists, who contributed greatly to our nation's cultural legacy, often rely on their recordings as their sole source of income. Such publicly held corporations as SiriusXM Radio, Pandora Media and Clear Channel's iHeartRadio exploit this loophole in the law to the detriment of older artists. Congress should apply federal copyright protection to these works to ensure fairness to those who created classic recordings. At a minimum, and as a stop-gap until full federalization can be achieved, Congress should mandate that any service utilizing the compulsory license in Section 114 must pay performance royalties for all sound recordings, regardless of when they were created.

All protections available under federal law should be made available to pre-1972 sound recordings, specifically including the licensing provisions under Section 114.

TERMINATION AND PRE-1972 WORKS: A SOLUTION TO THE QUESTION OF OWNERSHIP

Congress has noted "the unequal bargaining position of authors, resulting in part from the impossibility of determining a work's value until it has been exploited" and thus established procedures for termination.[4] The Copyright Office also favors the author's right "to recapture the value of their authorship years after they have assigned the rights."[5] The Recording Academy agrees with these positions and favors the rights of authors of musical works and sound recordings to recapture ownership of their works after a prescribed period of time.

In the context of federalization of pre-72 sound recordings, however, the Copyright Office has indicated its reluctance to recommend that termination rights should apply. The basis for this reluctance is that a right to terminate grants of sound recording copyrights made prior to the effective date of a statute federalizing such copyrights would raise significant concerns relating to retroactive legislation and possible "taking" without due process of law.[6]

The Recording Academy wishes to address these concerns. The U.S. Constitution does not expressly forbid retroactivity in civil legislation.[7] Moreover, not all retroactive legislation violates due process.[8] This is true even if the effect of legislation is to impose a new duty or liability based on past acts.[9]

The test of due process is a balancing of interests to determine whether the imposition of retroactive legislation is unreasonable under the circumstances.[10] With respect to pre-1972 sound recordings, the balancing of interests weighs heavily in favor of full recapture of rights for all artists, including artists of pre-1972 recordings. Both Congress and the Copyright Office have expressed uniform support for the rights of authors to recapture their copyrights to protect against unremunerative transfers. The failure to extend termination rights to pre-1972 sound recordings discriminates against older recording artists, many of whom signed the most

[4] 533 H.R. REP. NO. 94–1476, at 124 (1976); S. REP. NO. 94-473, at 108 (1975)

[5] U.S. Copyright Office, *Federal Copyright Protection for Pre-1972 Sound Recordings* at 148 (2011).

[6] *Id*. at 149.

[7] *Calder v. Bull*, 3 U.S. 386 (1798) (*Ex Post Facto* clause applies to criminal legislation only).

[8] *Usery v. Turner Elkhorn Mining Co.*, 428 U.S. 1, 16 (1976) ("our cases are clear that legislation readjusting rights and burdens is not unlawful solely because it upsets otherwise settled expectations") (*citing Fleming v. Rhodes*, 331 U.S. 100, 67 S.Ct. 1140, 91 L.Ed. 1368 (1947); *Carpenter v. Wabash R. Co.*, 309 U.S. 23, 60 S.Ct. 416, 84 L.Ed. 558 (1940); *Norman v. Baltimore & Ohio R. Co.*, 294 U.S. 240, 55 S.Ct. 407, 79 L.Ed. 885 (1935); *Home Bldg. & Loan Assn. v. Blaisdell*, 290 U.S. 398, 54 S.Ct. 231, 78 L.Ed. 413 (1934); *Louisville & Nashville R. Co. v. Mottley*, 219 U.S. 467, 31 S.Ct. 265, 55 L.Ed. 297 (1911)).

[9] *Id*. (*citing Lichter v. United States,* 334 U.S. 742, 68 S.Ct. 1294, 92 L.Ed. 1694 (1948); *Welch v. Henry*, 305 U.S. 134, 59 S.Ct. 121, 83 L.Ed. 87 (1938); *Funkhouser v. Preston Co.*, 290 U.S. 163, 54 S.Ct. 134, 78 L.Ed. 243 (1933)).

[10] *Usery*, *supra*, 428 U.S. at 17-20.

unremunerative contracts offered by the recording industry.[11] Artists of pre-1972 sound recordings have historically received significantly less in sound recording royalties than that paid to younger artists. If any group deserves the right to recapture copyright, it is the pre-72 artists. The record labels have enjoyed the full financial benefits of those agreements since album release.

The Recording Academy is deferential to the Copyright Office's disinclination to grant a termination right to pre-1972 works. However, we believe that legacy artists should still be afforded the ability to enjoy a reasonable economic benefit from their work. Accordingly, The Academy proposes a solution that diminishes the legal questions that have been expressed by the Copyright Office and some stakeholders.[12]

In lieu of traditional terminations rights, the Academy proposes that artists should instead be entitled to receive 50 percent of royalties generated from their work from the rights holder, beginning on the date at which termination rights would otherwise apply under full federalization. Specifically, the current copyright owner would still retain the right to exploit the works for 56 years (the length of term for federal copyright for pre-72 works) and, following that period, that entity would continue to retain ownership of the work. Replacing termination rights for the author would be a more equitable split of royalties derived from the work for the duration of the term.

This solution assuages the Copyright Office's concerns about the takings clause issue by leaving intact the current rights holder of a pre-72 sound recording, while imposing a revenue-sharing requirement that has already proven effective in other licensing contexts after the rights holder has had the ability to exploit the work for decades. This proposal also accomplishes a legitimate public purpose by honoring Congress' intent to provide "a second bite at the apple" for creators.[13]

PLATFORM PARITY

The use of different rate standards for different licenses and different delivery platforms is both irrational and inequitable. The lack of uniformity hurts licensees and licensors alike. Some licensees pay a fair market rate, others pay below-market rates, while others pay nothing. This

[11] *See Federal Copyright Protection for Pre-1972 Sound Recordings*, *supra,* at 147 (citing Artist's Reprieve's Reply at 1-2).

[12] *See* Comment 51, Recording Industry Association of America and American Association of Independent Music, Federal Copyright Protection for Pre-1972 Sound Recordings NOI, at 29 (Jan. 31, 2011) (noting concerns about establishing a termination right due to the "difficulty in determining who, if anyone, had or has the ability to terminate any grant.").

[13] *United States Copyright Office And Sound Recordings As Work Made For Hire: Hearing Before the Subcomm. on the Courts and Intellectual Property*, 106th Cong. 112 (2000) (statement of Rep. Berman, Member, House Comm. On the Judiciary) (available at http://commdocs.house.gov/committees/judiciary/hju65223.000/hju65223_0.HTM)

chaotic rate structure underpays licensors and creates baseless and unfair differences between radio platforms.

In the context of Section 114, for example, licensees that provide similar services are treated differently by the statute and are subject to different rate standards. The 801(b) standard applied to SiriusXM and other grandfathered services results in a royalty rate that is below market value. This produces an uneven playing field in the marketplace and inequitable value paid to artists and producers. Specifically, the factor in § 801(b)(1)(D), which requires the CRB to "minimize any disruptive impact" on the services licensing music, results in a marketplace distortion. The CRB should only be concerned with calculating the fair value of the music, not with protecting the business models of the licensees.

Nowhere is this disparity more clear, however, than in the context of terrestrial AM/FM radio. While satellite, cable, and Internet radio services are all required to pay royalties for the public performance of sound recordings (albeit under varying rate standards), traditional radio broadcasters pay nothing because the Copyright Act does not recognize a performance right for a sound recording in terrestrial broadcast radio. As noted in the NOI, the Copyright Office has long supported extending the public performance right for sound recordings to include broadcast radio, and The Recording Academy strongly agrees. While other areas of inquiry under the NOI refer to questions of "how much" or "by what mechanism" creators should be paid, the lack of a performance right for artists and producers is a more dire case where the fundamental right to be compensated does not exist. Broadcast radio is the only industry in America that bases its business on using the intellectual property of another without permission or compensation.

In the 113th Congress there have been two novel legislative proposals to address this inequity, each of which exposes the vacuity of the broadcasters' obstinacy in a specific way. H.R. 3219, the Free Market Royalty Act, would establish the performance right in law, but allow broadcasters and rights holders to negotiate licensing in the open market, outside of the statutory rate-setting process. The bill responds to the false retort of broadcasters that private market deals are sufficient to resolve this issue, without recognition that private deals cannot establish a performance right in law.[14] H.R. 4588, the Protecting the Rights of Musicians Act, would condition the ability of television broadcasters who also own radio stations to receive retransmission consent fees on the payment of royalties for the use of sound recordings on radio. The bill highlights the hypocrisy of the broadcasters in demanding fair compensation for the use of their television content while refusing to acknowledge the need to compensate artists for their music.[15]

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[14] *A Performance Tax Puts Local Jobs at Risk*, National Association of Broadcasters, http://www.nab.org/advocacy/issue.asp?id=1889 (last visited May 22, 2014) ("Recent private agreements between broadcasters and record labels that compensate artists and copyright owners for Internet and over-the-air play demonstrate that this issue is more appropriately addressed through private sector resolution rather than a government mandate.").

[15] *See, e.g.,* Cecilia Kang and Robert Barnes, *Supreme Court to Decide on Aereo, an Obscure Start-up That Could Reshape the TV Industry,* Wash. Post, April 21, 2014 (quoting National Association of Broadcasters President Gordon Smith, "Quite simply, Aereo takes copyrighted material, profits from it and does so without compensating copyright holders"); *Gordon Smith Keynote at 2014 NAB Show*, NAB Show, (April 7, 2014) http://www.nabshow.com/2014/newsroom/news-releases/pressRelease.asp?id=3384 ("Whether it's attempts by the

The Recording Academy believes that one rate standard should apply universally to all licensing across the music ecosystem. All creators, whether they contribute to a musical work or to a sound recording, deserve to be paid fair market value for their work, and anyone who licenses music, whether a record label, a broadcaster, or a digital music service, should expect to pay fair market value for the music they use. In current statute, the standard that best approximates this principle is the "willing buyer/ willing seller" standard found in § 114(f)(2)(B).[16] However, the Academy does not foreclose the possibility that a new rate standard could articulate the same principle of fair market value.

CHANGES IN MUSIC LICENSING PRACTICES

DIRECT LICENSE TRANSACTIONS SHOULD TREAT CREATORS FAIRLY

The Performance Rights Act of 2009 included language recognizing the need for creators of sound recordings to be properly compensated under direct licensing. The construct called for 50 percent of revenues for certain direct licensing distributed to performers. As the marketplace has evolved significantly since then, Congress should encourage stakeholders representing creators — such as The Recording Academy and performer unions AFM and SAG-AFTRA – along with representatives of sound recording copyright owners to determine legislative language that ensures that 50 percent of compensation be paid directly to performers.

DATA STANDARDS

The Recording Academy supports the goal of universal standards for data used to identify musical works and sound recordings. Not only would such standards facilitate more efficient licensing for music, they would also enhance the experience for consumers. In the age of physical media, liner notes significantly enriched the music listening experience. Consumers had the ability to learn about all of the creators who contributed to their favorite songs: songwriters, studio musicians, background vocalists, producers, and engineers. Liner notes not only gave proper credit to the many professionals who collaborate to create any sound recording, it also led to new music discovery for consumers and deepened their appreciation of the music. However, most consumers of digital music services today are generally only able to access information

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big record labels to impose a tax on local radio stations for simply playing music, or pay-TV companies' attempts to get out of fairly compensating broadcasters for the highly-valued content they resell, you can be sure we won't let down our guard.")

[16] "In establishing rates and terms for transmissions by eligible nonsubscription services and new subscription services, the Copyright Royalty Judges shall establish rates and terms that most clearly represent the rates and terms that would have been negotiated in the marketplace between a willing buyer and a willing seller." 17 U.S.C. § 114(f)(2)(B).

about the featured artist, song title, and associated album for a sound recording. This narrow scope of consumer-facing data diminishes the music experience.

Any data collected and/or centralized for the identifications of sound recordings should include *all* relevant data for the sound recording, including the songwriters or composers, the non-featured artists, and the producer(s). This comprehensive standard for music data has been the focus of the Academy's "Give Fans the Credit" campaign.[17] The campaign launched in August 2012 to build awareness of the need for digital music services to give credit to all music creators; an online petition supporting the initiative currently carries more than 13,000 signatures. On May 6, 2014, Rhapsody became the first digital music service to support the initiative.[18] Adopting this comprehensive standard universally will provide benefits both to consumers, who will have access to more information that adds value to their music, and to music professionals, who will be identified more easily for compensation purposes.

CONCLUSION

The copyright clause of the Constitution, from which copyright law emanates, mentions only one class of stakeholders: "authors and inventors." In the music ecosystem, the authors are the songwriters, performers and studio professionals who create the songs and recordings. As the only trade association representing this broad class of authors, The Recording Academy greatly appreciates the Copyright Office's interest in providing Congress with recommendations for a modernized music licensing system. The Recording Academy requests that in doing so, the Copyright Office takes into account the needs of the very creators that the Framers sought to protect, and proposes licensing regimes that give creators the equivalent of fair market compensation for every exploitation of their work.

Respectfully submitted,

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[17] Additional information about the Give Fans the Credit campaign can be found at www.givefansthecredit.com.

[18] James C. McKinley, Jr., *Digital Credit Where It's Due*, N.Y. Times, May 17, 2013, http://www.nytimes.com/2013/05/18/arts/music/rhapsodys-move-to-liner-notes-for-digital-tunes-may-set-trend.html