

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

In the Matter of)	
)	
Music Licensing Study:)	
Second Request for Comments)	Docket No. 2014-03
)	

COMMENTS BY SINGER-SONGWRITER GEORGE JOHNSON

SUBMITTED ELECTRONICALLY BY WEBSITE

September 12, 2014

Ms. Jacqueline Charlesworth
General Counsel and Associate, Register of Copyrights
Library of Congress — Copyright Office
101 Independence Avenue, SE
Washington, DC 20559-6000

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. Summary & Solutions
- B. Answers to 10 *Subjects of Inquiry* questions posed by the Copyright Office
- C. Attached info-graphics created for the Copyright office, Congress, and music industry
- D. Music Licensing Study: First Request for Comments (Final corrected version)

If you have any further questions or need any additional material please let me know.

Respectfully submitted,

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Music Licensing Study Second Request for Comments

<http://copyright.gov/fedreg/2014/79fr42833.pdf>

SECTION A

SUMMARY — 100% Computer Data & Royalty Transparency in real time, direct deposit.

Most importantly, what it all comes down to is Pandora, Google, Spotify and all other streamers, digital broadcasters, and most other music licensees *need to decide* if they want to *voluntary negotiate* with songwriters, music publishers and sound recording copyright owners in a *free market*, where *we ALL actually profit* **OR** have the *federal government, Congress, and the courts use legal force* to put streamers out of business permanently and let *new streamers who pay for copyrights* enter the market **OR** force specific streamers to accept a well deserved *new consent decree* to make them pay copyright owners first — that is *their only choice*. It is that simple.

Otherwise, most major publishers and record companies will **BYPASS** the current collective, progressive music royalty system by December 31, 2014 if the consent decree is not lifted by the DOJ. By Congress, The DOJ, and the Copyright Office *not acting* on the following recommendations in these comments and others, the only other logical remedy would be “free-market litigation” or class-action suits by copyright owners as a last resort. Music copyright creators and owners would then be forced to use federal and state court systems to shut down abusive streamers for good, or make them change their criminal behavior outside the three federal rate “courts” and in real courts with real juries made up of local communities.

Songwriters, music publishers, sound recording creators and all copyright owners must be allowed to regain *control* over their songs and *profits* **immediately** and to restore *value* to their own hard earned private property and creations. **For over 100 years, songwriters have had no control over their own creations, negotiations, value and primarily profit that’s been stolen by the music licensees and their lobbyists. It’s time to stop, there’s no free market in music.**

The only real solution at this point in time, whether it be free-market or price-fixed, are bundled “Copyright Accounts” or “Streaming Accounts” that pay for all copyrights up-front in dollars, not nano-pennies. There are at least 5 or more copyrights associated with each final sound recording and they must be paid up-front **in dollars**, period. Will it be voluntary or by force?

Copyright is a right, it is private property, it’s the law, and it comes *first*, **not** a music licensees’ profitability, which has nothing to do with **public policy**, copyright law, my personal private property that I created, or my civil and constitutional **rights**.

Free songs, free money. “**Permission-less innovation**” combined with “**willful ignorance**” — it’s a brilliant scam by convicted hackers, convicted copyright infringers, and serious party animals who steal property and are allowed to continue stealing songs and ruining lives. It’s like saying an art or jewel thief gets to keep the diamonds because he has found a new way to crack the safe or fool the security guard — it’s “permission-less innovation”, but don’t ever call it *theft*.

Unfortunately, other than having an **actual free-market in music**, or free-market litigation, the only other solution for songwriters and copyright creators is **government force for streamers** and certain music licensees. If the constant use of government force is the only tool streamers and music licensees have to control and steal from songwriters, music publishers and sound recording owners, without paying, then **government force should be equally applied** to them to *stop the theft or put them out of business for good, no questions asked.*

Streamers must either start obeying the copyright law or go bankrupt and face actual criminal charges for serial copyright infringement and other crimes. So called “legal” streamers are no different than **pirate sites** like Mega-Upload by Kim Dotcom. Spotify was created by Pirate Bay’s Daniel Ek and is Napster 2.0, according to progressive Sean Parker, finishing what Napster started. Spotify is ironically run by the same person the US federal government prosecuted the first time for massive copyright infringement by Napster — so why does the federal government let Mr. Parker do it again if the government’s whole purpose is to protect our private property?

Pandora and Google have destroyed far more music jobs than they’ve ever created, but more importantly, they are **destroying the source of music**, songwriters and music publishers, and ironically, **the source of their income**, but they could care less.

Since **streamers** don’t believe in a free-market and **only government force**, then new policies must unfortunately be implemented by the federal government using the legal force of statute or new consent decrees to protect copyright and private property owners. If streaming companies do not comply, **and they will not comply** since their business model is based on intentional “legal” copyright theft combined with free Wall Street money, **then shut ‘em down for good.**

While it may seem frivolous in a summary or oddly critical at first, and as much as we all truly appreciate the various opportunities to participate and comment this entire summer; it’s unusual that all the roundtables, copyright studies and a few of the judiciary hearings all use the exact same term, “Music Licensing”, yet we are supposedly engaged in massive “Copyright Reform”.

“Copyright Reform” is for the **copyright owners**, not music licensees. I agree there needs to be great “Music Licensee Reform” but it would be great to have **copyright owners first agree** on what *they wanted and needed to survive* before ever speaking to lobbyists who represent streamers and music licensees.

I’d love to see a new round of “Copyright Reform” studies, roundtables and a hearing or two with **only copyright owners**, instead of 1 or 2 songwriters and publishers, then 20 music licensees, streamers, broadcasters and their lobbyists, not the actual copyright owners.

Then, NMPA and RIAA representatives like Steve Marks are allowed the majority of time and opportunity to speak. While I was told by the Copyright Office I could only attend *one of the three roundtables to make room for others*, which I happily obliged, however NMPA representatives and Mr. Marks from RIAA were allowed to attend **all three** of these two-day roundtables, then do most of the talking. The record shows both organizations, as well as streaming lobbyists, were clearly given the majority of the time, while others were cut off or

once they finally had a chance to speak, we're instructed that they "had to keep it short". Of course, NMPA and RIAA represent the world's largest music copyright owners, so it only seems natural they would get most of the time at a "Music Licensing" hearing.

I'm only trying to make the subtle but very relevant point that: Mr. Marks is still **not an actual shareholder**, only **the individual copyright creators themselves are true shareholders, and they don't seem to have much say**. So, for example, a lobbying group like DiMA that really represents music licensees, especially streamers like Pandora and Google, really has no business being involved in **real Copyright Reform for copyright owners**. I understand that music licensees are a vital part of the process, but Lee Knife from DiMA is not a shareholder, Loretta Lynn is a shareholder. Google is not a shareholder, Merle Haggard is a shareholder.

The point is: current Copyright Reform seems to be *primarily focused* on the **Music Licensee**, not the Copyright Creator. Clearly, Copyright Reform would be much better served by **consulting with copyright creators first**, then finding out what *their business model* even is and what it needs to function — then worry about Pandora's billion dollar laundry machine.

Why is everyone in Washington DC so obsessed with Pandora's so-called "business model" and not the millions of songwriters' and music publishers' business model or *profits*? Does anybody in DC respect copyright anymore? I hate to say it, but at .00012 cents, does the Copyright Office truly respect copyright creators anymore?

If I was a judge in charge of all salaries for Copyright Office employees and set them at .0012 or .00000012, wouldn't you be angry?

The only job the Copyright Office has is to protect copyrights, yet it's selling songs out the back door for .00012 cents or less, but mostly giving them away for free!

I really hate to be so critical, but it's unbelievable that the US Copyright Office that registers copyrights for \$55 or more is literally giving away my copyrights, for FREE, to music licensees like Pandora, Google, and Spotify.

15 years ago, 1 million performances or sales of a copyrighted song used to feed a family and put them through college, now 1 million performances on streaming can't even cover the Copyright office's \$55 administration fee to register your copyright. It's beyond hypocritical.

With all do respect, especially as a songwriter, *it's shameful* what the Copyright Office and CRB have allowed Google and Pandora to do to the America songwriter the past 15 years *by the simple price-fixing of music royalties at nano-pennies and it must stop immediately.*

To make matters worse, we then read that the Copyright Office is giving away *free downloads* by simply calling them "limited downloads" in CFR 385.1 to .29, blatantly violating the 9.1 cent mechanical royalty section for a download, ironically, found in the first section of CFR 385, it's unbelievable, especially looking at it as a songwriter.

The irony doesn't end there, CFR 385 then goes on to do away with the Copyright Act's 100 year old "minimum statutory rate" as it relates to streams!

Since the minimum statutory rate applies to mechanicals, and streams are a mechanical and a performance at the same time, streamers didn't want to pay the 9.1 cents per stream, so they lobbied the rate court to do away with the minimum rate. It defeated the entire purpose of having a minimum statutory rate and Congress and the Copyright Office let the streamers do it to us.

BMI's attorney even told me that they had to make sure Pandora made it and that's why they effectively did away with the minimum statutory rate for mechanical streams!

WE BEG the Copyright Office stop setting our rates at absolutely nothing, giving away and letting others give away our hard earned copyrights for absolutely nothing.

If you must price-fix, then give us the **CPI adjusted 50 cents per copyright owner** in a digital bundle, per-song, one time, in a **Copyright Account** or **Streaming account**, plus a better streaming rate per-play from advertising dollars and customers subscription fees.

Either abolish the CRB rate setting process or force parties to actually voluntarily negotiate by not setting rates ever again. *If streamers don't pay, they don't get the songs.*

If that doesn't work, then set our rates at dollars in copyright bundles or streaming accounts, not nano-pennies.

There is no more incentive to professionally write, publish or record music since there's no more money in music anymore. The federal government is allowing it to happen while copyright law and copyright creators are both being abused by streamers like Google, Spotify and Pandora.

Of course, **restoring a free market in music** could easily and quickly be accomplished if Congress passed a bill immediately *abolishing both consent decrees for ASCAP and BMI along with their rate courts, abolishing the Copyright Royalty Board rate court system, then repealing the hideous DMCA Digital Millennium Copyright Act to stop streamers from abusing the "safe harbor" provisions and "grey areas"* which directly destroys the livelihoods and lives of **ALL** songwriters, music publishers, artists and copyright owners.

Since relying on any branch of the American federal government to follow the Constitution, copyright law, or traditional free-market principles would be asking too much in this day and age, all copyright owners have left to look forward to is more price-fixing - so let's start price-fixing, but in **dollars** and accounting for 100 years of inflation and real inflation in the future.

Unfortunately, the government having a monopoly on price-fixing never works and it's exactly why we're in this mess. This obsession with Collectivism, especially forced Collectivism, which is usually the form it comes in, never, ever works.

The continued use of government force by streamers and most other music licensees through the **consent decree**, the **central economic planning and price-fixing of music royalty rates by federal judges**, and the **abuse by streamers of the safe harbor provisions and gray areas in the Digital Millennium Copyright Act** must be stopped.

This includes at least temporarily restoring the **minimum statutory rates for mechanicals of 9.1 cents** found in the Copyright Act that has been ignored by the Copyright Royalty Board, rate court judges and lobbied or lawyered away by streaming company attorneys. Restore the 9.1 cent mechanical stream royalty immediately and even temporarily, it is at the heart of problem if our only solution is to keep on political price-fixing.

Most importantly, the more that the government pushes to keep us into a consent decrees or Pandora sues and the Judges act like they did recently with her all in her all-out rulings, the worse it's going to get for them. We see this happening right now. Ironically, everything Pandora has done the past 2 to 5 years especially the last three months has absolutely backfired and what they're doing is causing everyone to leave collective licensing and do direct deals.

Everyone will go around the consent decrees, go around the Copyright Royalty Board, go around the Copyright Office, go around Congress, ASCAP and BMI like BMG just did this week into their own deals, but the federal government will lecture they have to keep control, to keep the boot on the next generation of copyright creators, for some weird reason. It's like the "Monuments Men" for songs, every streamer must have every piece of music ever created all in one place and use force to do it, while stealing all the profits. It's no accident, it's the same bankrupt and dangerous philosophy called "Collectivism".

Why would any reasonable person continue to prop up the exact same bankrupt system that has failed after 100 years, for the next 100 years. The free market is the only solution and that means actually free. It can happen overnight, only if Congress has the will to act over the next few months and pass a bill by end of this year. If not, the entire collectivist music system collapses and that's actually best solution anyway, a true free market.

Finally, since the only tool in the handbag of Pandora, Spotify, and Google attorneys is to initiate legal force and use government force to do their dirty work for them — and it is dirty work, spending million of dollars destroying songwriters, music publishers, and hundreds of years of American copyright law. It is time to take our songs back from the low-life lobbyists and attorneys who represent the hackers of Silicon Valley.

I recently read an article where the author said that music consumers have now traded "**buying music**" for "**listening**". I thought to myself that's like saying I've traded "**buying food**" for "**eating**". I don't know if Ruth's Chris steakhouse, or their food suppliers, or local grocery would appreciate that? Should we start opening companies that offer **free food for six months** and then a **monthly \$9.99 "subscription model"** for *all the food you can eat*? Of course, if we gave away **free food** for the past 20 years that would clearly change behavior — just like giving away **free music** or dare I say **free sex**. Do you think giving away **free sex** would change people's behavior? Of course it would. Stop giving away free music, or at virtually nothing, or at .0012 per-song or worse.