MUSIC. INNOVATION. CONSUMERS.

Reply Comments of the MIC Coalition
In the US Copyright Office Notice of Inquiry:
Issues Related to Performing Rights Organizations
May 27, 2025

The Music Innovation Consumers Coalition ("MIC" or "Coalition") is pleased to submit the following supplemental comments in response to the Notice of Inquiry ("Notice") issued by the United States Copyright Office ("Copyright Office") on February 10, 2025, 90 Fed. Reg. 9253, requesting stakeholder feedback on various issues relating to performing rights organizations ("PROs").

As the principal organization representing a broad cross-sector of musical work licensees, the MIC Coalition is well-versed in the various aspects associated with licensing the right to publicly perform musical works in our respective places of business. MIC members are responsible for the vast majority of the nearly $4 billion in licensing fees collected by the nation's leading PROs in the form of performance royalties.

MIC is extremely proud of the financial contributions we provide to the creative industry and deeply believe that a well-functioning PRO licensing marketplace depends, in large part, on a system that is competitive, efficient, and, most importantly, transparent. It is based upon these principles that we offer the following recommendations.

The Copyright Office Should Encourage the Creation of a Comprehensive Musical Works Database

The successful completion of this Copyright Office initiative would lead toward the development of an efficient and well-functioning PRO licensing marketplace that protects music users from fraudulent licensing practices, while preventing valuable performance royalties from being redirected to less than scrupulous purported PROs. The most useful step toward these goals would be the creation of a comprehensive and legally reliable musical works database of PRO licensing data.

The need for such a database is well documented. In fact, several Members of Congress wrote to the Copyright Office back in 2021 pointing out that "…there are multiple performing rights organizations ("PROs"), most songs have multiple songwriters, and data challenges are made even more daunting by split ownership and the *historic lack of a comprehensive database of musical works information*."[1] The congressional letter went on to describe the then newly launched Songview Initiative as a "step in the right direction"[2], but quickly noted that it does not solve the current challenges plaguing licensees because it "does not provide users with access to authoritative information about works represented by other PROs, including SESAC and GMR".[3]

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[1] Letter from U.S. Representatives Issa, Ross, Fitzgerald to USCO (DEC 2021)
[2] Id.
[3] Id.

Members of the MIC Coalition were pleased to learn of SESAC and GMR's potential willingness to incorporate their respective catalogues into the Songview database.[4] We would be glad to see this go beyond the "exploration" phase,[5] as the written comments suggested and instead become requisite participation for all PROs, including AllTrack, PRO Music Rights, and any new PRO entrants that emerge. The Mechanical Licensing Collective (MLC) would be well-poised to serve as a centralized repository for PRO data as well. Whether Songview, the MLC, or some other database becomes the comprehensive PRO database, it must present data in an updated, consistent, comprehensible format, enable bulk searching and downloads, and must be deemed legally reliable by PROs such that licensees can use and rely upon the data within such a database without fear of copyright infringement liability (and risk of statutory damages). Should Songview prevail as the preferred database, it would require significant updates to modernize it from its existing form into a utilizable format moving forward, as much has changed since Songview's initial creation.

The inherent uncertainties surrounding the proliferation of PROs have created a unique opportunity for the Copyright Office to act. In light of this fact, we would strongly encourage the Office to develop a report, including legislative recommendations, that Members of Congress could enact that would require all existing and future PROs to participate in a singular musical works database. The report should focus on important incentives that could be leveraged by policymakers to ensure full participation. It should also make clear that music users should be extended free access to the database, that the database should permit bulk searches and downloads, and be legally reliable. The failure to act now could inspire other would-be PROs to follow GMR, AllTrack, and PRO Music Rights' lead. Such an outcome could potentially lead to the diversion of millions of dollars in paid royalties from deserving songwriters.

The Copyright Office Should Further Monitor the Practices of PROs that Distort the Music Licensing Marketplace

The initial round of comments in this proceeding was highly enlightening. Comments were submitted by thousands of stakeholders touching upon several different topics. Yet, when describing the recent business practices of certain PRO new entrants, a common narrative quickly emerged that should prompt the Copyright Office's continued monitoring.

For example, one PRO commenter said that "AllTrack and PRO Music Rights have entered the marketplace with a substantially different strategy at the expense of licensees…AllTrack does not publish any meaningful level of repertoire information on its website, making it practically impossible for any user of music to ascertain the works that AllTrack represents."[6] They went on to assert that "AllTrack and PRO Music Rights'…1) failed to amass any meaningful repertoire that a licensee would find valuable to its business and (2) represented to licensees that they have acquired the rights to a much more substantial body of work than they actually have, thereby misleading and placing undue pressure on small business to take a performance license that they may not even need (but cannot verify)."[7]

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[4] SESAC comments, p.6; GMR comments, p.7.
[5] Id.
[6] GMR Comments, p. 4.
[7] GMR Comments, p. 4.

Another commenter expressed similar concerns, that "…no reliable, readily accessible, publicly available information exists regarding the number or identity of the songwriters, composers, and music publishers represented by AllTrack and PRO Music, or the number of musical works in their respective repertoires."[8] This presents inherent difficulties faced by music users in determining whether to obtain a license from either of the two entities.[9]

Other commenters expressed concerns about the relative ease with which PROs can secure and exploit substantial market power despite holding a small percentage of the rights to license the performance of musical works. Such commenters noted that this possibility of obtaining outsized market power and charging supra-competitive rates is a major driver behind the proliferation of new PROs.

We firmly believe these observations should embolden the Office to continue to monitor PRO business practices; including systemic flaws or circumstances that contribute to the ability of new PRO entrants to distort the music licensing system. Music licensees should not be left to fend for themselves in this area, nor should they be asked to determine the appropriate legal status of a current or future musical work licensing collective.

Notwithstanding the undeniable need for greater clarity, some have suggested that existing state and federal laws are adequate to protect music users against fraudulent or deceptive acts carried out by new entrants into the PRO licensing marketplace.[10] Members of the MIC Coalition could not disagree more.

At the state level, laws governing the licensing of performance rights by PROs only exist in about half of the states throughout this country, meaning hundreds of thousands of businesses would be left without any meaningful protection. Safeguards at the federal level, in comparison, are also lacking due to the number of years that it would take for the FTC to investigate and bring an enforcement action to remedy an alleged unfair or deceptive practice. Such proceedings could take years to resolve and over the course of that period music users would be expected to pay millions in potentially unrecoverable licensing fees to an entity that is only later determined to have engaged in fraudulent activity from the beginning. This hardly seems like a fair or reasonable outcome.

Instead, the Copyright Office should seize this opportunity to further monitor the recent activities of PROs that distort the music marketplace in conjunction with creation of a comprehensive musical works database. This would allow the Office to collect additional information from all interested parties that could help inform potential PRO-related policy and legislative efforts.

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[8] BMI Comments p. 9.

[9] BMI Comments, p. 21.

[10] "…music users are well protected from unscrupulous PRO entrants by virtue of numerous state and federal laws that address fraudulent and deceptive business practices to protect music users, in addition to the PRO licensing legislation already passed by states at the request and lobbying of music users. ASCAP. p. 39. Also, "To the extent new market entrants are engaged in abusive practices, including by misrepresenting the scope and nature of their purported repertoires, existing legal and regulatory frameworks provide a broad suite of mechanisms to address and remedy that conduct." BMI, p. 4.

Existing Consent Decrees Must Remain Intact and Undisturbed

Some commentors have suggested, incorrectly, that the ASCAP and BMI consent decrees no longer serve their purpose, suggesting further review or reopening of such consent decrees.[11] As we stated in our initial comments, the MIC Coalition has consistently supported the continuation of the ASCAP and BMI consent decrees. This view is shared by both the Department of Justice (DOJ) as well as Congress. The DOJ reaffirmed its commitment to maintaining the decrees following reviews in both 2014 and 2019.[12] Congress has also explicitly expressed support for maintaining the consent decrees through direct correspondence with the DOJ[13] and through the enactment of the Orrin G. Hatch-Bob Goodlatte Music Modernization Act, which among other things, mandates that Congress be consulted prior to any termination of the decrees.[14] The ASCAP and BMI consent decrees are working and an important pillar to the existing system that must remain intact and undisturbed.

In addition to preventing unfair or deceptive practices, monitoring, and if needed, further inquiry, could also help to protect against unwanted "holdups" or "hold outs" whereby PROs engage in refusals to deal or otherwise seek to leverage their limited catalogs, representing a relatively small market share of musical works, to charge monopolistic rates. Existing provisions within the consent decrees governing ASCAP and BMI protect against such abuses, but those safeguards only apply to ASCAP and BMI. While MIC isn't proactively seeking an expansion of the current decrees to cover other current or future PROs, we vigorously oppose any effort to roll back the important set of protections contained within the existing decrees.

Conclusion

Since our inception, MIC has tirelessly fought for a more efficient and transparent music licensing system. We firmly believe that greater transparency benefits music users as well as the songwriters who create the music that we pay billions of dollars in annual royalties to license. The proliferation of PROs threatens the current PRO licensing marketplace and is indicative of the numerous problems often associated with a music licensing system that is devoid of complete and total transparency. We sincerely hope the Copyright Office will take this opportunity to usher in much needed improvements in this area.

Thank you again for the opportunity to provide these comments.

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[11] Warner Chappel Music Comments at 2.

[12] U.S. Dept. of Justice, Statement of the Department of Justice on the Closing of the Antitrust Division's Review of the ASCAP and BMI Consent Decrees (Aug. 4, 2016), https://www.justice.gov/atr/file/882101/dl?inline; U.S. Dept. of Justice, Statement of the Department of Justice on the Closing of the Antitrust Division's Review of the ASCAP and BMI Consent Decrees (Jan. 15, 2021), https://www.justice.gov/atr/page/file/1355391/dl.

[13] Letter from Senate and House Judiciary Committee Leadership to Makin Delrahim, Assistant Attorney General, U.S. Department of Justice, June 8, 2018 (stating "[I]t is obvious that the marketplace for licensing public performance rights in musical works has been shaped for decades by these decrees. Terminating them without a clear alternative framework in place would result in serious disruption in the marketplace, harming creators, copyright owners, licensees and consumers.").

[14] See Orrin G. Hatch–Bob Goodlatte Music Modernization Act, Pub. L. No. 115-264, § 105(b), 132 Stat. 3676, 3722 (2018).

Respectfully,

The MIC Coalition

American Beverage Licensees (ABL)
American Hotel & Lodging Association (AHLA)
Brewers Association (BA)
Computer & Communications Industry Association (CCIA)
Consumer Technology Association (CTA)
Digital Media Association (DiMA)
Exhibitions & Conferences Alliance (ECA)
Global Health & Fitness Association (IHRSA)
International Association of Exhibitions and Events (IAEE)
International Association of Venue Managers (IAVM)
Meeting Professionals International (MPI)
National Association of Broadcasters (NAB)
National Restaurant Association (NRA)
National Retail Federation (NRF)
National Religious Broadcasters (NRB)
Society of Independent Show Organizers (SISO)
WineAmerica