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UNCLAIMED ROYALTIES           )
STUDY ROUNDTABLE          )

Remote Roundtable
Suite 206
Heritage Reporting
Corporation
1220 L Street, N.W.
Washington, D.C.

Friday,
March 26, 2021

The parties met remotely, pursuant to notice,
at 10:00 a.m.

PARTICIPANTS:

Session 1:  Holding and Distribution, Part 1

STEVEN AMBERS, Society of Composures, Authors and
Music Publishers of Canada (SOCAN)
RICK CARNES, Songwriters Guild of America (SGA)
ALI LIEBERMAN, SoundExchange, Inc.
IAIN MORRIS, Pandora
WILLIAM NIX, Creative Projects Group
SAM SOKOL, Artist Rights Alliance
SHANNON SORENSEN, National Music Publishers
Association (NMPA)
ERIKA NURI TAYLOR, The MLC (Unclaimed Royalties
Committee)
PARTICIPANTS:  (Cont'd.)

Session 2:  Holding and Distribution, Part 2

JOHN BARKER, ClearBox Rights
ALISA COLEMAN, The MLC
TODD DUPLER, Recording Academy
JÖRG EVERS, The International Council of Music Creators (CIAM)
FRANK LIWALL, The MLC (Unclaimed Royalties Committee)
MARK MEIKLE, Easy Song/Giddy Music
JOHN SIMSON
JENNIFER TURNBOW, Nashville Songwriters Association International (NSAI)
MS. SMITH: Good morning, everyone. My name is Regan Smith. I'm General Counsel of the U.S. Copyright Office. And welcome to day two of our roundtables in connection with our study to recommend best practices for the mechanical licensee to consider in connection with its project of reducing the incidence of unclaimed royalties.

Before we begin, I'm going to go over a few logistical items for the whole day. So, first, the roundtable sessions will be moderated by Copyright Office attorneys. We will pose questions and call on panelists to respond. You can either raise your hand old school or use the Zoom button to indicate if you would like to speak. And if you're not speaking, I know we know this, but please mute your audio.

Given the panelists and the topics that we hope to cover today, we ask that you try to limit your responses to two minutes and to stick to the question posed. We'll kind of go through everything in an order, so thanks for understanding that.

Second, there's three sessions today. They can all be accessed using the same Zoom link we are on now. And so, if anyone has any technical
difficulties, just type in the Q&A, and someone from
the Copyright Office will respond and help you out.

Our last session of the day is an audience
participation session in which members of the public
are able to provide comments for the record. So, if
you are interested in participating, you may sign up
using a SurveyMonkey link that is provided in the chat
right now by no later than 12:45 p.m. Either you are
not on a panel but would like to contribute to the
discussion or even you were a panelist and wish to add
something on a topic that is of a different subject
matter.

That will start around 1:00 p.m., and we
will call up those who have signed to participate. If
you could please try to limit your comments to about
three minutes, that would be in keeping with our
general approach.

So, third, today's event is being recorded,
and the video is going to be posted on the Copyright
Office website. Please note that we will also have a
court reporter, who is transcribing the proceedings,
and that transcription will also be posted online.

So, before we begin, I'd like to ask my
Copyright Office colleagues to introduce themselves.

MR. SLOAN: Hi, everyone. I'm Jason Sloan,
Assistant General Counsel.

MS. SCIORTINO: Good morning, everyone. My name is Cassie Sciortino. I am a Barbara Ringer Fellow with the Copyright Office.

MS. SMITH: Thank you. And now I'm going to ask the panelists to introduce themselves. If you can provide your name, your affiliation, and whether you have any connection with MLC or the Digital Licensee Coordinator. We'll go in alphabetical order, so Mr. Ambers.

MR. AMBERS: Hi, I'm Steven Ambers. I am the Vice President of Corporate Development at SOCAN. We are a mechanical rights society in Canada, a lot of the performing rights, so we do have about 300,000 copyrights as a, I guess they would call us a publisher with the MLC. Previously, we owned MediaNet and were members of the DLC, but we have sold MediaNet and are no longer members of the DLC.

MS. SMITH: Thank you. Mr. Carnes?

MR. CARNES: Yes, I'm Rick Carnes, President of the Songwriters Guild of America and a professional songwriter. I have no current affiliation with the MLC.

MS. SMITH: Thank you. Ms. Lieberman?

MS. LIEBERMAN: Hi, I'm Ali Lieberman. I'm
the Senior Director of Business Process and Product Management at SoundExchange. We do not have a current affiliation with the MLC. SoundExchange is a collective management organization in the U.S. for sound recordings and performance royalties.

MS. SMITH: Thank you. Mr. Morris?

MR. MORRIS: Hello, Iain Morris. I head up publishing, licensing, and songwriter relations for Pandora. We are an MLC blanket licensee, and we're also part of the DLC.

MS. SMITH: Thank you. Mr. Nix?

MR. NIX: I am the CEO of a company called Creative Projects Group, as well as an adjunct professor at Pepperdine University, and not affiliated with the MLC.

MS. SMITH: Thank you. Mr. Sokol?

MR. SOKOL: Sorry. I'm Sam Sokol. I am with the Artist Rights Alliance. We're an artist-run nonprofit organization advocating for fair pay for music creators and the digital economy. We work for musicians and songwriters. No affiliation with the MLC or DLC.

MS. SMITH: Thank you. Ms. Sorensen?

MS. SORENSEN: Hi, thanks for having me. I am Vice President for Legal and Business Affairs at

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the National Music Publishers Association. NMPA was part of the coalition that helped create and propose this MLC. And our executive vice president and general counsel, Danielle Aguirre, sits on the board of the MLC as a nonvoting member.

MS. SMITH: Thank you. And Ms. Taylor.

MS. TAYLOR: Hi, thank you for having me. I'm Erika Nuri Taylor. I am a Grammy-nominated and ASCAP award-winning songwriter. I'm also on the Unclaimed Royalties Oversight Committee for the MLC.

MS. SMITH: Thank you all for joining us this morning. I want to provide sort of a quick roadmap so you know the order of the questions. So we're hoping to touch upon four main areas. First is any recommendations of best practices for the appropriate length of holding of unclaimed royalties before they ultimately are distributed to those copyright owners who are identified; second, best practices regarding the market share calculations required under the statute for making those distributions; third, issues relating to the advance public notice required to go out for distribution; and fourth, any considerations for general transparency in the holding and distribution process.

So starting with the holding period, I want
to just refresh our minds on the statute this Friday morning. So, under the MMA, the MLC will not distribute any of the historical unmatched royalties until 2023 at the earliest. And the statute also sets a minimum three-year holding period going forward before any unmatched royalties can be distributed by a market share as unclaimed royalties. And if you are doing math and wondering how we get to 2023 since the MLC didn't hold any royalties until 2021, I think it's because, in February of this year, the MLC received $424 million transferred for so-called historical unmatched royalties, some of which has been held by DSPs for uses dating back prior to 2020.

So two of our panelists today, Ms. Taylor and someone else, Mr. Liwall on the next session, are members of the Unclaimed Royalties Oversight Committee. And, Ms. Taylor, I wonder, could you start out just by explaining what that committee is and if there's any current thinking you would be able to share about the committee's approach to these issues?

MS. TAYLOR: So, yeah, the Unclaimed Royalties Oversight Committee is a committee of songwriters and publishers, and we talk about and discuss what the best way is to make sure that all copyright owners, rightful copyright owners, are able
to collect their mechanical royalties. The process of outreach, the process of getting people familiar with the portal, getting people signed up at the MLC, getting people to make sure that they upload the correct data, that's really, really important.

Also, just making sure that we educate a lot of the songwriters and educate a lot of the copyright owners. This is completely new. The MLC is new, so we're starting from zero. Everyone is familiar -- a lot of people are familiar with ASCAP, and a lot of people are familiar with BMI and the PROs. But people are not familiar with how mechanical royalties are going to be now collected and distributed.

So definitely this is something that I'm very passionate about as a songwriter as I feel like it's very important for songwriters to make sure that they're collecting all of their money. It doesn't matter if it's a dollar. I feel like it's important. They worked for it, and it's theirs, you know. So it doesn't matter what the amount is. You know, if it's based on their ownership of a song, then they should be collecting it.

As far as distribution, I feel like definitely there should be some guide points in distribution. Like, I would love to see kind of,
like, maybe, like, a five touchpoint where, you know, as far as contact, was that writer emailed, did we call that writer, did someone call that writer, you know, did someone call their publisher.

We have to try to find every single copyright owner that we can. And I feel like, if there's a guide of, okay, like, a checklist of did we do this, did we do this, did we do this, I think that would really, really help. And maybe there's a certain criteria that we need to have to say, okay, we've tried this, we've tried this, we've tried this, and, you know, at this point, we've exhausted every single possibility of finding this writer and having, you know, their money distributed to them before we consider going to market share.

MS. SMITH: Thank you, Ms. Taylor. And I guess for those who don't know, the committee is going to be also developing policies and procedures that aren't written for the distribution practice. So, hopefully, this session will be informative to you. And then, under the statute, the board will ultimately approve the policies and procedures developed by this committee.

Can you just remind everyone the makeup of the committee, so you’re a songwriter -- how many
people are on the board and what is the representation?

MS. TAYLOR: So there's five songwriters and five publishers on the oversight committee, and the MLC really wanted to make sure that copyright owners and songwriters were represented in the best way. And I think the best way is to have actual songwriters on that board and knowing how to communicate with songwriters.

It's a small -- I mean, even though there's millions, right? There's millions of songwriters, they're still, like, in each genre, they're still a small-knit community, and I know a lot of people and a lot of other songwriters. So MLC felt it was really important for there to be representation and as far as songwriters and publishers as well so we could really give some inside information of, you know, the publishers, how they're collecting, what are the problems that they see on a daily basis, the communication between publisher and songwriter, and that's all, like, very, very important.

MS. SMITH: Thank you. So teeing up the question of the holding period, I want to focus first on the initial holding period. So, by the statute, once the MLC makes an initial distribution by market
share, it must do so on a yearly basis, but, arguably, it has discretion to hold off timing for the first distribution. Does anyone want to offer key factors that the MLC should evaluate in considering an appropriate initial holding period, as well as in general when determining when unclaimed royalties should no longer be held? So Ms. Taylor suggested a checklist approach. I see Ms. Lieberman with your hand raised. Would you like to go?

MS. LIEBERMAN: Yes, sure. So, you know, SoundExchange was in a very similar situation when we launched in 2003. And Ms. Taylor touched on this point, which is exactly right in that -- is the organization exhausting all efforts to make sure royalties are paid accurately and quickly and correctly. You could argue that the timeframe in which unclaimed royalties are held is a bit arbitrary. So, you know, thinking through -- is that checklist being met? Are all efforts being exhausted?

SoundExchange, for example, we're permitted to release unclaimed funds after three years. We actually waited about 10 years before we released any money to make sure, in the unclaimed royalties, to make sure -- is our data quality up to our high standards? Is our match rate up to our high

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standards? You know, in terms of outreach efforts, are we doing everything we can to reach the rightsholders to let them know about SoundExchange and that we have money for them? Is our operational efficiency where it needs to be?

So, until we felt like those high standards were met, we weren't comfortable releasing royalties. So, again, the timeframe, it should not be considered in isolation. You want to look at all the efforts that the organization's doing before those unclaimed funds are released.

MS. SMITH: Thank you. Can I just probe a little bit as to SoundExchange's approach? And I see others are wanting to chime in too. But did SoundExchange develop a specific set of criteria? Was it a little more organic? And relatedly, what was sort of the first initial pool and how was that defined?

MS. LIEBERMAN: Yeah. So we have a lot of different functional organizations or functional groups within SoundExchange, so within each group we had certain criteria. So, you know, our matching team had certain criteria in terms of match rates. Our customer services team had certain criteria in terms of what are the steps we're taking to reach out to the
rightsholders and artists who aren't registered. We have an industry relations team that was, you know, working a lot of different events in the industry, working with other organizations to build up that trust.

So within each sort of functional group, we had specific criteria that we were looking to meet. And I believe the first release of unclaimed funds was in 2013. I'm not sure of the exact amount, but that's when we first released unclaimed royalties.

MS. SMITH: Okay, thank you. So I think the order I saw people is Mr. Ambers, then Ms. Sorensen. But, if I'm missing anyone else, just give a wave. And Mr. Sokol. Okay. Those will be the next three. So Mr. Ambers?

MR. AMBERS: Yeah, so a couple points I want to make. We're based in Canada. And in Europe, things are done a little bit differently than they are here, so let's explain how the processes over there and how it's handled and comments about here.

In Canada, in Europe, it's mostly a claiming function, so the DSPs or the services would provide usage data to all the organizations that are claiming on behalf of their members. They will then invoice the DSPs for that. So it's the entities, like SOCAN
ourselves or the European societies, don't really have unmatched because they're only receiving what is already matched.

Currently, in Canada, I can tell you we have made a deal with the record labels for physical that it's us and CMRA that are the two sides that collect mechanicals. We created an entity that's jointly called CSI, and the record labels provide us all the what is unmatched, and we have it on a joint site together that we try to clear up that unmatched and get claimed before it gets paid out.

In Europe, my understanding is after a point in time the services will do some sort of distribution to the societies, but it's done at the DSP level, not at the society level.

With regards to holding periods, I know one thing that was important to the sides that we talked to and our society is not based on when the society receives the royalties but as actually, like, when they put it up on the portal and it's available to be claimed.

And the other, like, just general questions, there's different reasons why things are unmatched. Some are just purely unmatched. You don't know who it belongs to. Some are you know who the songwriter is
or the publisher, but you can't get a hold of them, a change of address, someone's passed away, an estate, things of that reason.

And the other reason why things don't get distributed is because of disputes, and, you know, what's going to happen with those royalties that are in dispute. I know a lot of those disputes take a lot more than three years to be resolved.

MS. SMITH: And is it your recommendation that it be a best practice to sort of segregate those buckets when thinking about a holding period? So going by the claiming period if someone is identified but not located or if there's disputes, separating that out?

MR. AMBERS: Yes.

MS. SMITH: I just want to clarify for the record what I'm hearing you saying.

MR. AMBERS: Yes, yeah. I think, yeah, there should be different policies for each bucket of why things are in the unclaimed.

MS. SMITH: Thank you. Ms. Sorensen?

MS. SORENSEN: Thanks. I mean, just as a guiding principle, we think that, as Ali said, it's not exactly like a number of years that this is sufficient to match everything. It's probably going
to be a little bit of a moving scale as the MLC's operations get underway. And as we learn more, you know, especially as the MLC begins to assess the historical unmatched royalties that it received in February and understand more about that data, we think that we'll get a better understanding of how long is needed for the MLC to attempt matching and how long to allow rightsholders to view and claim.

And that will probably change a little bit over time, but the general principle is the funds should be held as long as the matching efforts continue to be effective, and, you know, I don't know what that is yet, but I think we will soon.

MS. SMITH: Mr. Sokol?

MR. SOKOL: Yeah, thanks very much. So we agree very much with what you said at the outset, Regan, that the MLC does under the statute have discretion to hold longer. The statute establishes, it seems, minimum holding periods and then it can distribute at some point after those.

We very much agree with what Erika said at the outset too, that, you know, holding as long as it takes to really feel you've done all you can. I mean, the goal is, you know, for no royalties to go out by market share, certainly, as much as possible to be
matched to specific publishers and writers that
generated them and are owed them. Then, you know,
market share, ultimately, is a fallback that is just
kind of inherently a rough justice and imperfect
measure.

I think, you know, what Shannon just said
too about it's, you know, a moving target and that
sort of as you see efforts to the extent you are doing
things that feel productive and learning more and the
effort seems worth it, continuing on with that effort
until you've sort of exhausted it seems very much like
the right call.

I mean, it's helpful in terms of an
organization looking for benchmarks and procedures and
very clear rules, but it's like, you know, when you're
trying to figure out when to take popcorn out of the
microwave, and it's sort of like it's slowing down,
but how much has it slowed down that it really feels
just kind of done. And, you know, as matching rates
decline and as the things you can think of to do feel
like the things you've already done, you know, is
probably the time that, you know, you wouldn't want
distribution before then.

And just lastly, I would acknowledge that,
you know, we very much align ourselves with the
Recording Academy, which has been very active in making this point. Multiple filings discussed the SoundExchange, the choices that SoundExchange made supportively and behind the idea of taking all the time that's needed to do as complete a job matching as possible before the initial distribution.

MS. SMITH: Ms. Taylor, I think you had raised your hand and then Mr. Nix.

MS. TAYLOR: Yeah, I just wanted to add that on the disputes, those disputed monies will be held until those disputes are resolved. That dispute money will not be sent out in market share. So I just wanted to make that clear.

MS. SMITH: Thank you. And so that was one of the questions I had. In the MLC's view, you would say if there's a pending dispute, it's not considered unattributable. It's not considered in the potential pool of unclaimed funds, is that correct?

MS. TAYLOR: Yeah, that's correct. We're going to wait until everything is resolved, and then that's when it will be distributed. So it'll be held.

MS. SMITH: Thank you. So Mr. Nix and then I see Mr. Carnes. I think you may need to unmute.

MR. NIX: I'm looking to say if you go back to historical precedents to even the institution of
the copyright royalty tribunal, there are a lot of startup issues, and there were many of exactly these same sorts of issues that were arising back then, and, you know, they were sort of bumpy in the beginning and then sort of it became more institutionalized where representative organizations, you know, began to weigh in and deal with the issues. So I think that, you know, the Copyright Office has always risen to the occasion over time to sort of do this.

When I was looking at this change, I was also looking in relating this to what was done with the study back in 2015 of orphan works and, you know, solutions to the orphan works problem as well. And this is very much, I think, the same kind of issue that we're dealing with.

I think probably what's going to be needed is a massive education effort once the systems get put into place with as soon as we need to go to all forms of representatives, whether it's lawyers, representative organizations, agents, managers, all of that, and particularly to reach down to artists who may not, you know, be within the system to get the information out there as to how there's compliance.

The other question I had in looking at this and sort of jumping into the trademark area is that
trademarks are protectable almost indefinitely as long as you're using them, but there's a 10-year check in. And I wonder whether there's some level of responsibility of copyright owners and their representatives and the artists to stay current in their registrations and some sort of system that could be put into place, the way you have to re-register every 10 years and show proof of use, some things of that sort. That kind of responsibility, you know, placed on the artists and representatives, I think, is an appropriate thing to consider as well.

MS. SMITH: Thank you. Mr. Carnes.

MR. CARNES: Yes. Before we start talking about rules and holding periods and all these formalities like re-registering every 10 years, those sort of things, perhaps we should talk about what the goal is in terms of, you know, what metric defines success in distributing these royalties.

And I know the Copyright Office commissioned an independent report a few years back about how the global CMO -- what they considered to be an effective successful match rate, and their match rates that this report determined were 80 percent. And I think that the MLC should be able to do better than that. So, when we talk about unmatched funds, if we don't know...
what our destination is, there's no way we should be
mapping the route, okay?

And I would like to see some sort of
discussion from the Copyright Office about what the
MLC ought to be accomplishing, because the potential
for conflict of interest here, assuming that -- and
this is in the legislation. We have a high unmatched
percentage right. That's all going to be distributed
on market share. And the people on the board of the
MLC will -- that unmatched will accrue to their
benefit. So, with that in place, somebody outside of
the MLC needs to establish what success looks like and
hold them to that rate. Thank you.

MS. SMITH: Thank you, Mr. Carnes. And, you
know, you're referring to the statute says when there
is a distribution, it goes to those who are identified
in the MLC's records. But you're sort of, I think,
making the jump that those who are on the board are
more likely to be identified.

And I guess, I shared with you yesterday we
tried to go through, like, can we set a date or a
benchmark, and the first panel did have a little bit
of pushback on identifying metrics that easily. So
one sort of question in the background if there's not
consensus on that is can disclosure or a number of
potential metrics be helpful if we're still trying to define what is success, because I think the Copyright Office, you know, shared we don't want the MLC to feel like it is based on a moving target of trying to be successful without defining what it is.

So, Mr. Morris, you can comment on that or anything else that, you know, the previous question. Thank you.

MR. MORRIS: Thank you. Yes, I just really wanted to echo the sentiment that one size doesn't really fit all in this area, and it's not uncommon for splits to be unconfirmed two to three years after release, and that's for major releases if there's a cowriter or producer who's difficult to track down.

And on top of that, the international aspect is something that we really need to look at, and the matching efforts domestically versus internationally are going to be very different. I think someone mentioned on a panel yesterday the idea of MLC joining CISAC and tapping into an existing network of folks around the world, and I think that would be a good idea to consider here for matching.

MS. SMITH: Do you or does anyone else think that sort of reporting in certain buckets, such as the amount being held because there's a dispute or the
amount because we may know who to pay, but we can't find them, would that help the project? I see Ms. Taylor has her hand raised and then I think Mr. Ambers.

MS. TAYLOR: Yeah, hi. I just wanted to -- let me take my hand down. I mean, that's one of the reasons why the MLC has songwriters on the Royalty Oversight Committee, right, unclaimed money, because, like, we don't want to see market share distribution go out, right? We want to match 100 percent. Is that, you know, completely -- you know, is 100 percent, you know, is that, like, you know, really realistic? You know, we may get to 99 percent. There may be that 1 percent that we can't find.

But, you know, I think that it's important for Rick to know that, you know, we will do everything in our power to make sure that songwriters and copyright owners are going to be receiving what they should be receiving and, you know, to match the royalties and get it distributed to them.

It's just very, very important. You know, this is not something that we want, you know, money to go out and just say, oh, we couldn't find them, you know. Oh, sorry. Like, no, that's not the goal at all. Like, we definitely want to make sure that every
single songwriter is paid what they're supposed to be paid.

MS. SMITH: Mr. Ambers and then Mr. Carnes if you wish to respond.

MR. AMBERS: Yeah. I would just want to add one other bucket for the initial 424, and that would be relating to settlements in the past for unmatched. So, if a party has already settled with a MediaNet, for example, or Spotify and then that unmatched was part of the 424 and they already received their market share, they shouldn't be able to claim --

MS. SMITH: Can you put a pin in that?

MR. AMBERS: Yeah.

MS. SMITH: Because I think that's going to some of the distribution questions we'll get to later.

MR. AMBERS: Okay. That's fine.

MS. SMITH: So, Mr. Carnes.

MR. CARNES: Yes, I wanted to address Ms. Taylor's statements. First of all, I'm not in any way impugning the motives of any of the songwriters on that Unclaimed Royalties Committee. I truly believe that they are diligently going to go after that money. I just wanted to point out that there needs to be a metric in place to determine what success is because, as well intentioned as the songwriter members...
of that unclaimed board might be, they answer to the main board, and main board has 10 publishers and four songwriters, so there's complete imbalance there, unlike most of the rest of the world, where the boards are majority songwriters or at least 50/50.

So, in view of that imbalance and the nature of the power in the board's structure always answering to the main board, I think that the metric needs to be set by an independent agency of some sort and not by the MLC, because I don't think the MLC has the proper economic incentives to set that rate. Thank you.

MS. SMITH: Okay. So I would like to move the discussion now to something that came up earlier, which is sort of the MLC's startup nature. So, in our 2019 kickoff symposium, I think a representative from the MLC said, well, we'll be ready to function at the license availability date, which was last January. But ultimate performance may take three to five years to be fully judged because then you have to develop and build out everything. We also heard yesterday that the claiming portal is planned to be up and running in June, with the ability to claim the historical unmatched royalties available in mid-September.

So that period of royalty shortened the...
minimum claiming period from two years to 15 months. How do we factor in some of this initial ramp-up phase to the MLC? Should we measure it? Or should it just be something that it is generally cognizant of in delaying any first potential distribution? Anyone?

(No response.)

MS. SMITH: Does anyone think it should not be factored in?

(No response.)

MS. SMITH: All right. Well, then we will let the record show no one disagreed, so maybe we have identified a best practice.

So are there any other criteria or metrics that the MLC should consider? You know, I think people have thrown out different ones. Some idea is, you know, should we look at where key metadata is missing? Should we look at economic value or number of uses for streams? Mr. Carnes?

MR. CARNES: Yes. I hate to sound like a broken record about this. I know you've heard this 10,000 times. Put in the database in the metadata of every file a songwriter's identifying number, okay. We could put this in ID3 in the mp3 files, whatever. But we really need to have that number because that's the only thing that doesn't change. Publishing
information changes every 10 minutes. My catalogues have been bought and sold and distributed around the world. But, if we had a global or at least a United States -- let's start there -- ID number for every songwriter, we probably wouldn't even be talking right now. The MLC wouldn't even be necessary because they could have identified these funds by the songwriter number and distributed them to begin with.

But I've been talking about this for 20 years, and the only people that I've really gotten any traction with is the Patent and Trade Office. They've been interested, and I know they've discussed this with the Copyright Office. And I know you guys are not in, you know, charge of telling the software writers how to put in, you know, ID3 files and mp3 files, but you could state that there's going to be a database set up at the Copyright Office of this number for songwriters.

A creator and composers, a creator identifying number so that it is put in the mp3 files so every time Pandora or Spotify or Apple Music or something gets one of these files uploaded to them, that number is in there and they will not have a problem matching it with the songwriter. Just wanted to say it one more time. Thanks.
MS. SMITH: Okay, thank you. And you know we're lucky that our new register of copyrights comes from PTO and we have a good relationship, so that's slightly adjacent to this study, but thank you for the contribution. And, Mr. Morris, I think you wanted to respond.

MR. MORRIS: Yes, I just wanted to respond to your comment on tying this to economic value. Just to make the point that I think some international societies in the past have used a kind of sliding scale, like one to four dollar signs, in terms of unmatched, so not showing the actual amounts but at least categorizing it into, I guess, open table style value.

MS. SMITH: Okay, thank you. One question for the group, is there a countervailing point at which holding unattributable royalties too long is detrimental to the overall goal of reducing -- getting people to come forward and claim the royalties? Can the length of the holding period if something's very unlikely to be matched affect the incentives for people to come forward in a negative way? Ms. Sorensen.

MS. SORENSEN: I don't know that it impacts the incentive for people to come forward. I think the
incentive for people to come forward is to claim the 
royalties that are owed to them that they haven't 
received yet.

But there is a point at which holding too 
long has a negative impact on the industry. Part of 
the goal and I think why a lot of publishers and 
songwriters supported the MMA and in particular this 
provision of distributing historic unmatched was those 
royalties matter a lot to songwriters and to small 
publishers and all publishers. When you're holding 
funds for an indefinite period of time, those are 
funds that are not going back into the industry's 
pocket, and that's really important.

MS. SMITH: Mr. Sokol, then Mr. Carnes.

MR. SOKOL: Well, with that really, I would 
just agree with what Shannon said. I think it goes 
back to where we started, the little bit of know it 
when you see it. But, at some point, there's some 
folks in the industry, the individuals that make up 
the industry, you know, that this is their livelihood. 
So, you know, it's just within a balance of 
probably not three years. Also, I mean, I would say, 
you know, probably not the 10 years that SoundExchange 
needed, which was standing up at a very different time 
and kind of just trailblazing and figuring out new
problems, that the MLC has been able to benefit from that experience and see the issues of data matching the sort of digital ecosystem much more clearly. So, hopefully, it would be less time than that.

And the only other, I would just add I think there's the historical unmatched, that's one set of money and a time period for those. But then the rolling annual distributions, our understanding is those don't need to be complete. It's not that every year you've got to get out -- you've had them for three years.

The same question remains how long to hold each of the buckets that have been discussed, how to communicate around them, how to describe them. And, you know, as with the disputes needing more time because the dispute takes what it takes as opposed to sort of purely, you know, orphan-type royalties that maybe at some point you kind of feel, you know, that you just know how much you don't know about something.

MS. SMITH: Mr. Carnes?

MR. CARNES: Yes. Something I haven't heard mentioned so far in any discussions about the MLC, and I know this is going to determined later. But, when we're talking about holding period, and I think this is critical because I've written over 2,500 songs, and
the vast majority of those haven't earned more than $10. And most publishers hold funds until it accrues to $25 or more before they pay it out because paying it out nowadays, particularly when you, you know, earn 15 cents on a whole bunch of songs, they don't want to cut a check for 15 cents and send it out to you, right? So I'm wondering what if --

MS. SMITH: I think --

MR. CARNES: Go ahead.

MS. SMITH: I just want to keep you guys on time. We did do a rulemaking about this, and $5 is the answer when --

MR. CARNES: So they're going to hold everything under $5, but what's going to happen is the vast of that $400 million, how long are they going to hold that $5 before they distribute that? Or do they ever distribute it? And if they don't, that's going to amount to more than $400 million very shortly. That's all I want to say because it may seem like $5 is a very low amount, but you have to understand these are independent songwriters that weren't identified to begin with. There's going to be a tremendous about of $5 and under money.

MS. SMITH: Right. I am not suggesting that $5 is not important, but I do think it is lower than
some of the other thresholds, at least, is what our rulemaking demonstrated. But I think, if something has accrued to a payee, it would also not be in the unattributable bucket. So it's just in a different bucket where it wouldn't be eligible for market share distributions. I'm hoping that is helpful to the point you're trying to say.

MR. CARNES: But over a period of time, if it's not distributed, it will be a tremendous amount of money. That's all I'm saying, because we make pennies --

MS. SMITH: Okay. That is --

MR. CARNES: -- off of every one of these services.

MS. SMITH: Right. It would be aggregate, and it is just sort of separate from the question of the unattributable royalties because it would be attributable in that case.

All right. So one last question about holding periods before we switch to distribution is, when money is held at different times, should the pool be by time period, or should it be broken up into these buckets that people are talking about?

I can see yesterday, for example, people mentioned maybe 3 to 5 percent of pieces made would
be, like, nature recordings or public domain sort of things where it's very unlikely that a copyright holder is ever going to come forward, and then we've identified disputes as another area that really need to be taken out of the pool.

So, when we start thinking about the hold period, should it be by time period or by type or, you know, by category? Anyone?

MS. TAYLOR: Yeah. Hi. I think it should be by both. I think that we should have as many categories as we need. So I think it should be, you know, by the type of royalty that it is, but it also should be by time period because I think, when you think of an arc of a song or the way in time it makes money, you know, there are songs that, you know, are hits and they're hits forever and they play and they generate, you know, a consistent amount of income every single year, right? But then you have other songs that, you know, may generate a large sum of money in a three-month period, you know, and then kind of trail off, right? And then you have those other songs that were hits 10 years ago and someone redoes them and then they're hits again.

So I think it's important that it's not one or the other, but I think as many categories as we
need for holding, I think, is important.

MS. SMITH: Thank you. So that is a great segue if that approach is taken to figuring out how the distributions will go. I like how Mr. Nix brought up the Copyright Royalty Board because I know at the Copyright Office we work a lot for the judges on some of the key issues that can stem from the way in which you do those distributions, which I think may be some issues for the MLC to consider too. So I wonder, Mr. Sloan, do you want to refresh everyone's understanding of the statutory background for distributions?

MR. SLOAN: Sure. Thank you. So we talked about it a bit, but just before we dive into it, to refresh everyone's memory, the MMA provides that at the end of the statutory holding period, accrued royalties that are still unmatched become eligible for distribution at that time to identified copyright owners in the MLC's records, and at that point, they become what are called unclaimed accrued royalties under the statute.

And the way that works, the MMA says, is the copyright owners' payment shares for the unclaimed royalties for a particular reporting period is determined in a transparent and equitable manner based on data indicating relative market share of those
copyright owners as reflected in the usage reports provided by the digital services for the relevant periods. But that can include, in addition to usage data provided to the MLC, usage data provided to copyright owners under voluntary licenses and individual download licenses as well to the extent that the MLC has that material.

So keeping in mind those statutory parameters, are there any best practices for the Unclaimed Royalties Oversight Committee and MLC that they should be looking to for guidance in establishing how that market share calculation should actually be done? Ms. Lieberman.

MS. LIEBERMAN: Yeah. So, at SoundExchange, we actually don't look at market share in the traditional sense. I think, as some others have pointed out, it's an imprecise metric when you're looking at market share and specifically on how different companies can be categorized within a market share allocation.

So what we've done at SoundExchange is we've taken a more precise approach in that we are looking at transactional details from past royalties, looking at usage and allocation and payments of what's happened in past periods, and that's how we determine
how those funds should be distributed. So, again, not
looking at market share in the traditional sense but
trying to take a more granular approach to how those
funds should be allocated.

MR. SLOAN: And so I know, in the past,
SoundExchange has made some proxy-based distributions.
I think there are some times in the past where you
found royalties but no reporting under the 114
license, for example. Is what you just said, is that
kind of the methodology SoundExchange used in those
instances?

MS. LIEBERMAN: Not exactly. We're more so
looking at prior payments from the past year to
determine who's received funds in the past year and
then basing the allocation on that distribution
period. So, yeah, not exactly looking at proxy logs
with no reports but looking at who's received
royalties in the past year and making the
determination that way, which we like because you tend
to pay more people that way. Like, everyone's
eligible to receive some of the unclaimed royalties
using that method if you've received royalties in the
past.

MR. SLOAN: Thank you. Anyone else? Yes,
Ms. Sorensen.
MS. SORENSEN: Yeah. So, as you said, the statute requires that the unmatched be paid out based on actual usage either reported by the digital services under the blanket license or reported under direct licenses. So the way that the royalties statement is divvied up between all copyright owners for any given month should be the same way that the unmatched is divvied up for that month.

So this means any rightsholder that receives royalties for a given period should also receive a share of the unmatched for that given period. So, for example, if you had a really big hit in February and your usage is higher, your usage, your market share for the purposes of the distribution will be higher for that period. So, as always, that market share is maybe not totally the right -- it may be a little bit of a misnomer because what we're really talking about is actual usage, not, like, the size of the company but how many streams did you have in a particular period. And that's what the unmatched should be paid out based on.

MR. SLOAN: Just to clarify, what I hear you saying is it's market share in the sense of the market share of the copyright owner for that particular month in terms of the usage and, of course, whatever
royalties for that particular snapshot in time?

    MS. SORENSEN: Yes. Bingo. So, for a particular month or a particular payment period, the amount of royalties that's accrued is based on the actual usage. That's the same basis on which the unmatched should be paid out.

    MR. SLOAN: Thank you. In terms of, you know, and maybe it's not any more complicated than that, but in terms of doing the actual processing of that, are there any other potential analogues to look to? I think the comments mentioned some prior industry arrangements or agreements, and, obviously I'm not asking anyone to disclose anything confidential, but is there anything in any of, like, the NMPA and DSP pending and unmatched agreements that have any relevance that might be useful for guidance or I think the 2009 RIAA and NMPA agreement or if those are just totally not relevant here? I just wanted to see if anyone has anything to say about that. Yes, Ms. Sorensen.

    MS. SORENSEN: I'm happy to jump in since those are our agreements. And without saying anything confidential about exactly how those are calculated, it's really following this exact same pattern most of the time based on actual usage. Based on how much
royalties you received in a period, that's how much of the unmatched that you receive for that period. We think the statute is written in a way that reflects industry practices 99 percent of the time.

MR. SLOAN: Thank you. Yes, Mr. Carnes.

MR. CARNES: Yeah, I would like to point out in the context of the private agreements, in the settlements that have already been made, some of them just prior to the passage of the MMA, we're still looking for the money that was distributed. We have contacted all three major publishers that we, you know, thought these people at least know more than anybody else will about this, and we're still looking for the money.

So, when we talk about these distributions and how they should be handled in terms of market share, et cetera, remember this stuff is coming into the publishers in a non-title-based way. And every songwriter nowadays has a different level of contract. Some people are getting 50 percent, some people are getting 70, up to 90 percent of the publishing money themselves.

So, when we talk about transparency, transparency doesn't stop at the moment that the money is distributed to the publishers. If the real goal of
this process is to get the money to the songwriters, 
it needs to be transparent all the way through to the 
songwriter. Thank you.

MR. SLOAN: Thank you, Mr. Carnes. And we 
definitely are going to get to transparency in a 
little bit, but just to stay focused on the actual 
distribution for the moment, I want to ask if there 
are any steps -- well, and this is kind of related to 
some of what was said earlier. Are there any steps 
the MLC can take to ensure confidence in how the 
market share calculation is done, you know, speaking 
to some of what Mr. Carnes was raising earlier? 
Should it be performed by or at least checked by, 
like, an independent third-party accountant or auditor 
or someone approved by the Unclaimed Royalties 
Oversight Committee or anything along those lines?

Yes, Mr. Carnes?

MR. CARNES: My concern is, if it isn't 
checked independently, then it's going to be checked 
legally. You know, it's going to end up in court. I 
mean, am I wrong about that? That somebody's going to 
ask for injunctive relief and try to stop the 
distribution if they don't think the distribution is 
fair. So I think that something ought to be done to 
independently verify this so that it doesn't end up in
MR. SLOAN: Thank you. Mr. Ambers. I think you're muted.


With regards to the prior settlements, and I was a publisher before I joined SOCAN during some of them and at SOCAN when we did the Media Net one. It was based on the period as a whole, not, like, on a monthly period. So that was my understanding of those settlements.

I do agree that, you know, there should be some independent or someone verifying that. And what I mentioned before, I think there should be something with regards to the parties that received settlements in the past that the distribution would be for them again that they -- I think that was part of -- I think Warner Chappell made that comment, that they're not expecting any more from previous settlements because they already received their money. And I think the money should be going market share to the parties that weren't a party to any of those settlements.

MR. SLOAN: Yes, Ms. Sorensen.

MS. SORENSEN: I just want to note a couple of things just while we're talking about this, that self-published writers are going to be paid directly,
not through publishers, right? So only songwriters that are affiliated with a publisher are going to be getting their funds through their publisher. Everyone else that's self-administered or self-published will be getting their royalties straight from the MLC. And for those songwriters that are getting their payments through their publisher, the statute requires that they get at least 50 percent as a minimum. So that's one thing to note for transparency.

And then also songwriters also have an audit right in the statute. So I think there's a lot of stopgaps here or a lot of safeguards that protect against -- that provide for the kind of transparency and double-checking that we're talking about.

MR. SLOAN: Thank you. And so, since we're talking about these agreements, I do want to open it up and ask if there are any other kinds of special considerations that should be accounted for here with some of these pre-MMA agreements where certain copyright owners might have received certain unclaimed royalties or may have given certain releases for particular periods in the past.

I believe some of the comments suggested they might not, maybe shouldn't share in the distribution of the unclaimed in the same way as
others, and I want to see if anyone has anything
they'd like to say about that.

MS. SORENSEN: I'll jump in.

MR. SLOAN: Sure, Ms. Sorensen.

MS. SORENSEN: I mean, it's important to
consider that settlements are not necessarily always
just a distribution of unclaimed but also a settlement
of infringement claims sometimes. So, without having
the details about each specific settlement, it's
really impossible to say. I know that we provided a
lot of feedback on this exact point in the recent
rulemaking, so I'll just refer back to those comments.

MR. SLOAN: Thank you. Yes, Mr. Sokol.

MR. SOKOL: Yeah, ARA has made that point
too, along with SOCAN in this discussion, and I just
thought I'd echo our prior position that, I mean, the
going-forward distribution of unmatched royalties, and
I thought what Shannon said about, you know, each time
period's different and each month is its own, that was
very interesting. And sort of just as she said, under
the old agreements, kind of 99 percent of the time
just that sort of very somewhat mechanical market
share based on actual usage is the industry practice.
And covers, it's just I think those comments
acknowledged just kind of the fact that the time
period and context matters in that 1 percent of the
time.

The situation with the $424 million, a large
sum of long-held unmatched royalties covering this
pre-MMA period, as Mr. Ambers said, we share the view
that the statute created a process for those
historical unmatched royalties to be paid and an
effort made to match them as robustly and for as long
as it's needed, as we've discussed, and to hopefully
have there be no market share distribution at the end
or to have that as small as possible but, at the end
of the day, to distribute that out, you know, on a
sort of rough justice basis to writers and publishers
that hadn't been paid that were sort of, you know,
finding someway to get that money out of the services
and into the hands of the people who generated it in
some fashion.

For folks who settled their claims to
either -- I mean, characterized as -- I mean, the
payments are for the usage of music under those
settlements, whether it's by way of kind of getting a
license through a royalty concept or a use fee if I
had a license and we have an infringement claim
against you, to us, it seems to amount to the same
thing. And so we would think that folks who have
already been paid, who have already received
significant payments for that period of time shouldn't
share at the end of the day after the matching and
distribution of what's left, and those monies should
go to the folks who haven't been paid.

I think that the statute allows for -- it
certainly contemplates that just with its repeated, as
Jason said, in the authorizing provision creating the
MLC, it authorizes it to conduct equitable
distributions of unmatched royalties. The sort of
market share description, which specifically talks
about an equitable distribution based on the usage,
doesn't say exactly how that usage must be used. It
doesn't provide a formula. It doesn't sort of say, here's the calculation, map it out.

The fact that the statute contemplates the
Unclaimed Royalties Oversight Committee, you know,
establishing policies and sort of figuring out how to
do this also is kind of as an administrative law.
Certain matter contemplates that there's still
questions to figure out and just discretion to --

MR. SLOAN: Mr. Sokol.

MR. SOKOL: -- do what's fair, right.

Sorry.

MR. SLOAN: So are you suggesting that they
should get nothing, or are you suggesting that there
should be some kind of offset against what they got
previously? I mean, hopefully, right, everyone hopes
the unmatched is very small, but just to discuss all
scenarios, if it were the case that there would be
money left after such an offset, do you think they
would be entitled to that?

MR. SOKOL: I think that, you know, they
certainly through the matching process should, may and
should receive additional money if new things are
matched that don't appear to be covered by the prior
settlements and payments that they're able to make a
showing that these are monies that are outside of what
those previous payment agreements contemplated because
of the timeframe they're in or the market they were in
or other. You know, we were not privy to the
agreements to know exactly what the payment -- how
they were characterized.

Certainly would hope that at the end of the
day the unmatched that goes out through this broader
distribution is small and certainly open, look, to a
process in discussing it. I haven't exactly talked
with my board about that precise question, so I
wouldn't want to get further than they've authorized
me to say in terms of what seems fair.
I have a reaction and based on the kind of equities and how they've looked at it in our organization, just how it seems to go that at the end of the day, yeah, distributing nothing to folks who have already received and entered into agreements to receive substantial payments, releasing their claims for usage of their music during this period, shouldn't receive more and that it should all go to individual writers and publishers that didn't enter into those releases who instead went to Congress with the problem to fight for the MMA and for this system regarding these historical unmatched royalties.

MS. SMITH: So I want to sort of reframe Mr. Sloan's question and ask again and maybe direct it at Mr. Ambers, since we told you to put a pin in it before. And so I think there is still the question of who is maybe potentially participating but also the time period because we did do a lot of regulatory work when it was sort of unknown what would be transferred. Now that we know what has been transferred, it is a very small proportion, I think, that could be implicated. There are a lot of time periods where there's no dispute that there's been no sort of offset.

So do you agree with, what I guess what Mr.
Sloan was suggesting, that if anything were to be factored into account, it would be sort of a proportionate consideration for the specific time period at issue and that would be how that might operate?

MR. AMBERS: Yes, I agree with that, Regan. Yes, so it's only for the period that the settlement was part of and if there's any monies in that period. But other periods from the same DSP, no, they should, you know, receive like any other distribution.

MR. SLOAN: Thank you. Sticking on the topic of distribution, at what point in time would it be appropriate for the market share calculation to be performed? And I understand the market share is by period, but in terms of, you know, at what point before an unclaimed distribution is about to be made should that market share calculation be done to know how much you're paying which identified owner?

Anyone? Mr. Carnes.

MR. CARNES: Yeah, once again, I don't think this is about a timeframe. I think this is about reaching a destination, reaching an objective. I mean, once we --

MR. SLOAN: Well, no, I --

MR. CARNES: Yeah.
MR. SLOAN: Sorry.

MR. CARNES: Yeah. Once we get to the point where we understand that we've done best efforts, once we have verified the best efforts, it's not about timeframe. If you can do that in two months, that's fine. But, if you can't, then it should go as long as statute of limitations or whatever will allow it to go.

MR. SLOAN: Yes, Ms. Sorensen.

MS. SORENSEN: I think, as Rick said, just as late as possible that still provides the MLC enough time to do those calculations and figure out the exact distributions. The distributions of unmatched should be based on as much accurate usage information as we have. So that means you have to wait until you've done most of the matching and you understand who owns most of those songs that were used. So I say that calculation should be done at the very end.

MR. SLOAN: Thank you. Just being mindful of our time here, I have just one more distribution-related question in terms of the mechanics. As was mentioned before, since the market share calculation under the statute is for the same reporting period as the unclaimed royalties being distributed, if partial distributions were made, that
was kind of referenced to earlier where some unclaimed royalties for certain works from the reporting period would get distributed while other royalties for other works from the same period might get held back, for example, if you were making a distinction between completely unidentified owners versus identified owners that you just haven't tracked down and located yet, how does that impact the market share calculation?

Because you have -- you know, you potentially are depend -- if you pay out some stuff while holding back other stuff and then there's additional matching, now you have additional identified owners. Does that make it necessary to do a recalculation to adjust everyone's relative market share at that point?

MS. SORENSEN: Is that directed to me, or is that directed in general?

MR. SLOAN: Anyone who'd like to answer, but, by all means, please, lead off.

MS. SORENSEN: I think -- so, if I'm understanding your question correctly, you're saying if we're identifying a matching and then making some payments out and then later identifying additional people and if that somehow implicates the splits or
the usage percentage that someone is owed, should we go back later and adjust it. 

I don't have an exact answer for that, and I don't want to, you know, get out ahead of my organization at all. So I don't know exactly the math that should be done there, but I imagine that the statutory period should at least come into play a little bit here because part of the balance of the MMA is to make sure that the money is being sent back to people, not being held.

So, if you indefinitely hold it and never pay out any unmatched, you'd never encounter that problem. But we want to make sure that that's not what's happening. So I don't think it makes a lot of sense for the MLC to be going back and reclaiming unmatched payments that have gone out. I think that's partly why it's important to hold for a very long period of time, as long as it's possible, and then to pay out at the end of that period if that makes sense. And I'm sure we can get more detailed information on that question.

MS. SMITH: I do think it's good to start considering -- and I see Mr. Sokol, I think, was a little bit before you, Mr. Carnes -- because, in the Copyright Royalty Board context, they do do different
phases of distributions, and the way that works is they make whole and they sort of recalculate at various points to get everyone to the end as opposed to cutting off one distribution, then another distribution.

And I can say when we engaged with them, as well as legal issues with connection with the Copyright Office Licensing Division because we are the fiduciary for those royalty funds once they come into the Office, it's very complicated financial transactions. So I think it's something that the MLC is going to have to grapple with, and, you know, there's certainly a role for the UROC here. So Mr. Sokol.

MR. SOKOL: No, I think Shannon really covered exactly what I was going to say too about it. That feels like a very hard question, and it certainly feels, like, impractical to be trying to reclaim, especially, you know, maybe these payments may be small, but money that's gone out the door to independent publishers, especially through to their writers does.

But I just lean towards not doing that and with a bias towards waiting longer before those initial distributions at least to minimize the...
possible shift. And maybe you find this spot where
the shift would ultimately be immaterial with the
amount of money that's left for the additional
matching that could happen and you would just feel
like it's fair to come up with a market share for a
period when you begin doing distributions and have
further distributions according to that market share.
    But that's me reacting really in the space
of this call more than talking to my organization
about how they would view the equities in detail.

    MR. SLOAN: Thank you. Ms. Lieberman.

    MS. LIEBERMAN: Yeah, this point is a little
more anecdotal unless getting into the specific
details on how it's calculated. But I will say at
SoundExchange we typically engage in outreach surge
efforts and matching efforts before any unclaimed
funds are released.
    So leading up into that period, you know,
we're kind of firing on all cylinders to make sure
that we're getting things matched. We're doing
outreach efforts to get folks registered before we
actually start the calculations of the release of
those unclaimed funds.
    So speaking more in broader terms, it's, I
think, a best practice to make sure that, you know,
there is a surge in efforts leading up to that release.

MR. SLOAN: So let me use that as a segue into the next topic with the few minutes we have remaining, which is the statutory notice that's required to go out at least 90 days in advance of one of these distributions. If anyone would like to speak to how that should be publicized and the content of it and kind of the how, where, and when of the notice if anyone has any thoughts on that. Yes, Ms. Taylor.

MS. TAYLOR: Yeah, I'll jump in. I feel like that should be a huge effort to get the word out that there's still 90 days for you to, you know, connect with the MLC, let the MLC know that you are the copyright owner of this song. So I feel like it should be -- you know, I feel like the music community in a whole also needs to kind of take responsibility for this as well.

So should it be blasted on, you know, websites, label websites? Should it be, you know, on ASCAP's website? Should it be on BMI's website? It should definitely, you know, I feel like award shows, right? Award shows, you know, everyone watches award shows. Everyone wants to see, like, even the public, right? Like, those are the high touch kind of venues.
We really have to get the word out.

And I feel like, if you're not in the music community, if you're not a songwriter, maybe you're not necessarily paying attention to that. So we have to use social media. I feel like we have to use also influencers, right, celebrities. Everyone wants to know what celebrities are doing.

And, you know, so I feel like we should use every single avenue to let people know that, you know, look, in 90 days, there's going to be a distribution, and if you know anyone, right, that maybe had a song released and they know nothing about the way that royalties are collected, it's like, you know, we got to get the word out. It's like tell your friends, tell your family members, you know.

But I feel like social media, TikTok is huge. I feel like things go viral, you know. And it's like, email, I think all the publishers also should send a mass email out to all of their writers, which, you know, I think, if we try to target every single avenue of communication, I think we can -- I mean, obviously, that will help with finding unmatched as well. But as far as distribution and the statutory notice, I think it should be blasted everywhere.

MR. SLOAN: Thank you.
MS. SCIORTINO: Just to follow up and elaborate on the medium of publicizing the notice, besides posting the notice on its website and issuing a general press release about it, what else should the MLC do to publicize the notice and promote the pending distribution? And this bleeds a little into third-party partnerships and the role that they play and overall, you know, as discussed yesterday, the MLC's education and outreach strategy.

So, again, what should the MLC be doing to publicize the notice in considering the overall education and outward strategy and potential third-party partnerships? Ms. Lieberman?

MS. LIEBERMAN: Yeah, I'm going to echo a lot what my colleague, Linda, mentioned on the Education and Outreach Panel, I think, and Erika was mentioning this as well. The biggest thing to do, I think, and what one of the main channels that we've exercised in that exchange is to meet the rights owners, those artists, songwriters where they are. So, you know, that means going to trade events, going to South by Southwest. You know, the best thing you can do is meet someone face-to-face or virtually. Let me tell you about SoundExchange, register, and here's money for you ready to go.
So it's really not expecting the public to consume information that's posted on a website. That alone is not sufficient. So it's really just activating all of those outreach channels and going through trusted third-party resources, like the NMPA, like SONA, like these other organizations that are a trusted resource and a known resource. That way, you have more warm introductions rather than cold calling.

MS. SCIORTINO: Thank you. Mr. Carnes, I saw you had your hand up?

MR. CARNES: Yes. I don't understand why ASCAP, BMI, and CISAC haven't been proactive on this. I don't know whether the MLC has contacted them, but they're the only groups that can actually reach all the songwriters or at least all the professional songwriters and most of the amateur songwriters. And they did this with an email blast, like, the day before Christmas Eve telling people to support the MMA. So why are they not now sending out something to tell the writers how to claim their work?

MS. SCIORTINO: Thank you.

MR. SLOAN: Thank you. I see we're actually out of time. We're going to go a couple minutes over. I just have one more quick question on notices before we ask one or two questions on transparency, and
that's in addition to how the notice goes out, does anyone have any best practice suggestions for the actual content of the notice, what should be in it?

MR. SOKOL: I'll just refer to the testimony yesterday from my Executive Director, Ted Kalo, who, you know, gave a lot of examples coming and urged the MLC and the office in the study to look, as the MMA contemplates, beyond just music industry outreach and communication practices into the broader universe of lost property and bank accounts, class action litigation notices, all areas where people have rights and kind of there's a whole meeting them where they are, plain English, ways to avoid their kind of bullshit -- sorry, their spam detector and kind of sense that this is people saying they want to give me money and throw it away. And a lot of information there, and we're happy to talk more offline about what our research in that area has shown.

MR. SLOAN: Thank you. Okay. Let's, I guess, move to transparency very quickly.

MS. SCIORTINO: Sure. So just quickly, how can the MLC be open and transparent in making distributions of unclaimed royalties? For example, making practices, procedures, and its decision-making publicly available on its website? Does anyone have
insight as to that? Ms. Taylor.

MS. TAYLOR: Yeah. I think, for
transparency, I think that the public database that
you can actually go on now, that anyone can go on now,
you don't have to be a member, and search your work.
It's great to see if your work -- if all of your data
is there, if there's anything missing for any of your
songs.

Also, like I said, I think, you know, social
media is huge and is a great way for people to get
notified. So I don't think that things should just
live on the website. I know for me, honestly, like, I
hardly ever go onto websites. I definitely prefer an
app on my phone just to go to or link, you know.

And also I think it's important too, and
this may be off topic a little bit, but to have some
type of a sharing mechanism in the MLC so that just
say a songwriter goes in and they look up their song
and they're like, oh, wait, my cowriter's information
is missing, let me just share this link with them to
let them know, like, hey, you got to put your
information, you know, you got to put your information
in here.

And I feel like it doesn't need to have any,
you know, any other information. It doesn't need to
have any classified information. It's just like,
look, we wrote this song together, you're missing your
information, like, you know, go ahead and put it in
there. So, yeah, I think that's important as well.

MS. SCIORTINO: Thank you. I guess, lastly,
is there anything the MLC should do to empower
songwriters who are seeking to ensure that their
publishers are properly sharing or distributing these
distributions with them, as required under the MMA?

Mr. Carnes.

MR. CARNES: If there's some way to notify
them that a distribution has gone out, because we
didn't know the private agreements were being
negotiated when they were being negotiated. We don't
know what they're doing. So, I mean, yes, if they
really want to make sure the money gets to the
songwriters, then they should at least let the
songwriters know some money has gone out.

MS. SMITH: Thank you, Mr. Carnes. I think
that was a good closing remark because I think the MMA
establishes an obligation for that to happen that
we're all hopeful will be an improvement. So thank
you all for your contributions. We ran a little bit
over, so we're going to take a break and come back at
11:30 with our second panel, which will cover similar
MS. SMITH: So we're going to start the second session now. My name is Regan Smith, General Counsel of the Copyright Office. This is the second session on Holding and Distribution Best Practices to Recommend to the Mechanical Licensing Collective in connection with its overall project of reducing the incidence of unclaimed royalties from the mechanical license.

I think probably most viewers may have watched the prior panel today, but not everyone, and this will also live on the Copyright Office website later. There may be a little bit of repetitiveness for context. So I'm going to go very shortly over some logistics.

We will be moderating this panel, posing questions and calling on respondents. You can either wave your hand or use the Zoom button to indicate that you would like to speak. And please mute your audio if you're not talking. Please try to limit any responses to two minutes. In the questions posed, I'll provide a roadmap so people have a sense of where we're trying to go.

One thing to flag for anyone watching right
now is at 1:00 today, shortly after this session, we will have what we're calling the audience participation session, so anyone can sign up to provide comments. We actually are limiting it to around three minutes for the record that's to be included in our study. There is a link to a SurveyMonkey link in the chat that you can use to sign up, and you should do that now in the next hour or so. That will be the last opportunity for public input in our study. So, if you are interested, please go ahead and sign up.

We will be posting this video to the Copyright Office website, as well as the transcript. And to start off, I'd like to ask my Copyright Office colleagues to introduce themselves.

MR. SLOAN: Hi, everyone. Jason Sloan, Assistant General Counsel.

MR. RILEY: Hello. I'm John Riley, Assistant General Counsel.

MS. SMITH: And now let's introduce our panelists. If you could please provide your name, your affiliation, your current organization, and also whether you have any relationship with the Mechanical Licensing Collective or the Digital Licensee Coordinator. We will go alphabetically, so Mr.
MR. BARKER: Thanks for having me, Regan.

And John Barker, President, CEO of ClearBox Rights, independent administration company based in Nashville, representing hundreds of clients from small songwriters who own their own publishing to medium publishers with tens of thousands of songs, and also heirs who have received termination rights. And no affiliation with the MLC, sorry.

MS. SMITH: Thank you. Ms. Coleman.

MS. COLEMAN: Hi, Regan. My name's Alisa Coleman. I'm the COO of ABKCO Music and Records, Inc. I'm also the board chair of the MLC.

MS. SMITH: Thank you. Mr. Dupler.

MR. DUPLER: Hi, I'm Todd Dupler. I'm the managing director of Advocacy and Public Policies for the Recording Academy, a membership organization representing thousands of songwriters, musicians, performers, producers, and engineers. And we do not have any formal affiliation with the MLC or the DLC.

MS. SMITH: Thank you. Mr. Evers.

MR. EVERS: Hi, I'm Jörg Evers. I'm the Vice President of International Council of Music Creators, CIAM. And we are representing all around the world nearly 500,000 creators which are members.
from the CISAC societies. And I'm also a songwriter, and I'm not affiliated with MLC or DLC.

MS. SMITH: Thank you. Mr. Liwall, I'm not sure if I'm saying that right?

MR. LIWALL: Frank Liwall. I'm President, CEO of the Royalty Network. We are an independent music publisher. And I am a member of the Unclaimed Royalty Oversight Committee.

MS. SMITH: Thank you. Mr. Meikle.

MR. MEIKLE: Regan, I'd like to thank you and your colleagues for holding this Unclaimed Royalties Study Roundtable. Thank you, United States Copyright Office. My name is Mark Meikle. I'm from Easy Song Licensing. We help do-it-yourself artists navigate the music business. We're proud to be one of a few companies that puts their phone number high and proud and bold on the top of their website. We are probably one of the newest members of the DLC.

MR. SIMSON: Hi, I'm John Simson. I am the Director of the Business and Entertainment Program at American University. I'm also counsel at Fox Rothschild. More importantly for this panel, I was one of the people who launched SoundExchange in 2000, and I ran it from 2001 to 2010.

MS. SMITH: Thank you. And Ms. Turnbow.
MS. TURNBOW: Hi, I'm Jennifer Turnbow. I am the Chief Operating Officer for the Nashville Songwriters Association International. We are a trade association for songwriters, and we have a nonvoting board seat on the MLC.

MS. SMITH: And can you remind me, are you also involved in any of the committees?

MS. TURNBOW: I am a nonvoting observing member on the operations committee.

MS. SMITH: Great, thank you. So I'm going to give a quick roadmap. We're going to follow sort of the same structure of the prior panel. And, again, if anyone wants to refer back, if they can provide some context for the discussion so it is understandable, but we're hoping to cover four main areas. This is to recommend best practices for the MLC.

So first is best practices for the appropriate length of time and how to calculate that for the holding period with respect to unclaimed royalties; secondly, any issues with respect to the market share calculation for making a distribution; third, issues related to the advance public notice required by statute to go out before distribution; and fourth, any general best practices in transparency or
disclosure to make the project understandable.

So starting with the holding period, brief statutory background. Under the MMA, the MLC will not be distributing any of the historical unmatched royalties until 2023 at the earliest, although, arguably, it has discretion to hold it back longer. There's a minimum three-year holding period going forward before any unmatched royalties can be distributed by market share.

I wonder if someone from the MLC, either Ms. Coleman or Mr. Liwall, wants to sort of tee it off and say anything about how the MLC is thinking of this project.

MS. COLEMAN: Sure, I'll start. So, obviously, the goal is to match the maximum and to continue to match over time. Three years is the number set in the statute, but it's not a number that we necessarily need to live by. We intend to dig deep, reach out and really find the owners of the compositions and the songwriters and the publishers in order to make the distributions.

The timeframe for 2023 for the period of what we're talking about, the $424,000,000 that was collected, really will over time, you know, be churned and churned and churned through various ways. You
know, the hope is, of course, to allow people to go into a portal and make their own matches through audio matching. It's so important that we have direct access and, you know, that the DSPs give us insight and make it easy for us to listen to the sound recordings because only the songwriters and the publishers really know if that's their song once they listen to it.

So all these things need to come together in order to make that happen, and, you know, we want to work towards that goal for however long it takes.

Thank you, Regan.

MS. SMITH: Thank you. And, you know, Mr. Liwall, I think we started the last panel asking your counterpart to explain the role of the Unclaimed Royalties Oversight Committee. Could you do the same for this panel? So, by the statute, there's a committee, explain its makeup and its project of proposing policies and procedures to the MLC board?

MR. LIWALL: Sure, thank you, Regan. So the Unclaimed Royalty Oversight Committee is a committee of 10 members, five independent music publishers and five songwriters. I speak for, you know, my company. We are an independent publisher. We represent hundreds of independent songwriter-owned publishing
companies, as well as hundreds of thousands of copyrights that are administered by us.

You know, we have vast experience on the committee dealing with matters of matching songs, trying to determine unpaid pools of money, going in claiming unpaid and trying to match our works to those. And, you know, we tried to put together on the committee some best practices that we can bring to the board and actions for the board to take where possible to ensure that the most equitable and fair matching and distribution is done through the MLC.

So we are highly engaged with the MLC on those matters, and, you know, as details come in and as we're exposed to some of the data that they're receiving, we'll be able to suggest processes that will hopefully minimize any unmatched funds in the future.

MS. SMITH: Thank you. So the first piece I want to tee up is criteria for determining when the first initial distribution should start because, by statute, once the MLC starts, it needs to make a distribution annually. So I think that first point is going to be of interest to a lot of people. And I wonder, Mr. Simson, I'm not sure if your ears were burning yesterday, but there was a lot of discussion
about SoundExchange's practices when you were at the helm. Do you want to offer any insight into best practices for the MLC or what your experience or approach was when you were at SoundExchange?

MR. SIMSON: Sure. You know, when SoundExchange started -- and, again, we did our first distribution in November of 2001 -- there were royalties being paid into escrow by the very early services who were paying for online music under the DPRA passed in 1995. But, you know, when you look at $424 million, we had $6.3 million paid into escrow from services who were streaming music at that time. So it was tiny.

So 1996 was the first obligation for services to pay for online music. So, when we started, it was already five years old. We waited until 2006 to do our first pool distribution, so ten years from those early royalties. But, again, very small amount. What we did was to a) try to publicize as much as we could, get as much press as we could about these royalties, who were owed these royalties. But I think we also kept a 30 percent reserve so that if there were latecomers that they wouldn't lose their money. Ten years later, there was still money in that reserve. So you can only imagine that either people
never came forward or it was bad data that was corrupting our ability to find them and pay them. But we waited five years from our inception, ten years from the first royalties. It'd be very similar, I think, for the MLC to wait five years. I think it serves many purposes. One, I think it gives the community a better sense that they're really trying hard to make payments to the deserving people who are owed them.

MS. SMITH: And can I just confirm you waited five years before making a distribution of otherwise unattributable usage of the royalties, or was that longer?

MR. SIMSON: It was five years. It was 2006. Our first distribution was in 2001.

MS. SMITH: Okay.

MR. SIMSON: And, again, the monies we were distributing was a pool that we inherited from an escrow account that was collected between 1996 and 2000 from basically services that were providing. We took over cable, satellite. Internet radio still didn't actually pay. Their obligation to pay wasn't fixed until October 30, 1998.

MS. SMITH: Okay. I see Ms. Coleman.

Sorry, but I just want to make sure, so the first
unattributable distribution was five years, and you

did that. How did you determine who to pay? And then

how did you determine 30 percent was the right amount
to hold back?

MR. SIMSON: I think we kept the reserve

thinking it was just the right amount to keep back

just to pay latecomers given how -- remember, too,

there's a very big difference between a brand-new
digital performance for sound recordings, which no one

had ever -- you know, we would contact well-known

managers and agents and business managers who would

say, oh, there's no digital performance right now.

There's no right for artists to collect money.

With the mechanical royalty, people should

be well aware. It's been here since 1909. So there's

a different education process that's required. But,

you know, I think, you know, there's another huge
difference. They had a 30-plus-million-dollar fund to

work with to create their organization and to gear up.

I had five employees in 2000, and I had 13

in 2002. So, for us, it was all technology trying to

match things, and, you know, we were very creative.

What we would do is we would take our unpaid list and

match it against the unions. We'd match it against

Reverb Nation later on. We would go to South by
Southwest and match it against every band that was showcasing there. We did lots of really creative things to try to find people.

Remember, the Copyright Office regulations didn't require us to find people back in those days. We took it upon ourselves to do that. We just thought it was the right thing to do.

MS. SMITH: Thank you. Ms. Coleman.

MS. COLEMAN: Yes, I want to point out, thank you, John. John and I have had a lot of conversations about this over the years, the last couple of years at least, and, you know, one of the important things to recognize, especially with the historic unmatched money, is that there will be a lot of matching done with that in the first period right away and that money will be distributed as soon as it's matched. In June, when we get more information from the DSPs as to information on that money, that will be distributed.

So, Regan, you brought up a really good point, which is that the law requires that once we make the first unmatched distribution, we're required by law to continue to make distributions year after year. So, you know, that is an extremely important thing to keep in mind, that we have to keep going and...
going and going.

Now, of course, that doesn't mean the historic unmatched is going to keep going. The unmatched will continue to keep going. So, you know, it's all about how we segregate what we're paying, when we're paying, how we're paying it.

And I kind of wanted to just take a moment to go back to a comment that was made on the previous panel because I kind of want to head that off a little bit, which is everyone that is not on the board and the committees is a volunteer, and the majority of the volunteers that are with the MLC are from the indie and songwriter community. And in the board makeup, okay, there are only a few major publishers. The majority is made up of indie publishers and songwriters, and everybody only gets one vote.

So there's no unbalanced weighting where the majors have more influence than anybody else in making decisions on how this all rolls out. In fact, the UROC committee is only made up of indie publishers and songwriters. So, you know, we're very aware of making sure that the little guys and the medium guys really have a voice in this process. Thank you.

MS. SMITH: Thank you. Mr. Dupler.

MR. DUPLER: Thanks, Regan. So, on the
holding period, you know, a couple of thoughts. One, I think it's really positive that I think there's general consensus that although the law says the first distribution can take place January of 2023, everyone agrees that it can take longer. It doesn't have to be January 2023. And I think there's also growing consensus that it will take longer than January 2023. We're hearing, you know, that the MLC is very much a startup and there's things that will continue to come online and be added throughout this year, and June of this year will be on another benchmark. And so I think an acceptance that it will take longer, I think, is a good thing.

I think, in terms of how long and how do you measure that, you know, on the last panel, there was a lot of discussion of the unclaimed distribution that SoundExchange made in 2013 that was, like, 10 years running that they waited to match that money. And I think one thing that stood out to me in reading accounts of when they announced that distribution, John's successor, the current CEO, said, you know, I think the biggest reason we waited was we just kept wanting to give people a little more time to sign up. And I think that principle, that idea, should be the governing principle.
One of the discussions on the last panel was how long is too long, you know, is there a point where holding it too long is detrimental or harmful. And I think, if you're going to err, you should err on waiting a little bit too long to give songwriters a chance to find their money as opposed to doing it a little bit too early before they don't.

Two things that you could look at as metrics beyond just a percentage of a match. I think, again, outreach could be a metric that can be measured. And what kind of outreach are you doing? There's two different kinds of outreach. One that's been talked about a lot yesterday was the MLC inviting people to come in, come look at our portal, come look at your data, come see what's there. But the other critical piece is the MLC going out and again finding songwriters where they are, and that has to be more than just the obvious. Of course, you have to engage with organizations and trade groups and all the big festivals and all the big conferences. But the songwriters that are going to be unmatched are also going to be the songwriters that are hardest to find. And so, again, as people were talking about John yesterday of him going with his laptop to visit business managers and lawyers and show them where the
money was, I think the MLC will have to think about how do we find those hard-to-find songwriters and do that outreach. I think that should be part of the consideration.

I think the other is, are you continuing to match people? If you've been waiting three years, but you're still finding people and still matching money, wait a little longer and keep doing it. If you see a change in the curve where you found more people, you're paying out more, and now, all of a sudden, it's leveling off and you're not finding people the way you used to, maybe that's a useful metric.

Ted Kalo yesterday talked about the number of small payouts. Are you increasing or finding that you are making more small individual payouts to indie songwriters? Again, those hard-to-find songwriters. I think that could be a useful metric.

And, finally, I was amused by Sam's anecdote about popcorn in the microwave. You know, as long as popcorn is still popping, let it keep popping. You know, keep finding those songwriters and give them that extra time. So I don't know that you have to say it should be 10 years, but I do think you should err on, if you are having success and you are still finding those songwriters, then let that process
continue a little bit longer.

MS. SMITH: Thank you, Mr. Dupler. Can I just get one factual quick question? Maybe you know or maybe Mr. Simson or someone else knows. But the date saying SoundExchange's first distribution was 2001 and then also 2013 from Ms. Lieberman, what is the difference between those two distributions so we're clear for our report if anyone can offer that?

MR. SIMSON: Well, I can only speak to the 2006 distribution because, obviously, that distribution was done under my watch. And, again, as I mentioned, it was a distribution of unclaimed funds that had been accumulating where it had 2 million prior to our launch, so between 1996 and 2000, and we distributed that pool in 2006.

The 2013 distribution occurred after I was gone. And it's very possible that SoundExchange waited. You know, there was also a huge explosion in revenue toward, you know, my last years at SoundExchange, up to $300 million a year from the first year in 2001, when it was $3 million. So, you know, there was a lot more to dig into. And, obviously, we also had -- you know, I went from five employees to 80 employees over that period of time, and now they're at 185 employees.
So the advantage that the MLC has is that they have the funding to be fully staffed up. It's a massive task taking this on. There's a lot of, you know, work to do. But, you know, I don't know that you need 10 years, but, you know, I certainly think three is too short. Five may be right, seven might be right. You know, again, I think, as Todd said, you will find out as you see how much you're actually churning each year, how many people are coming forward and getting signed up.

MS. SMITH: Thank you.

MR. SIMSON: And one other thing is really critical, which is following the dollar. A collecting society has to be efficient. It does not make any sense to spend $500 to find someone owed five. I hate to say it, but it's true. You know, we would start at the top of our list and work our way down, and that's really the only -- you know, obviously, you can do all these matches that we did. Matching technology is way better now than it was when we started, and AI is certainly helping that. But, you know, again, you have to be efficient as well as being accurate.

MS. SMITH: Thank you. So I want to turn this next to Mr. Barker to talk about what, you know, criteria we're going to know if the popcorn is still
popping, and, you know, encourage if you want to comment upon the follow-the-dollar approach. One thing different for the MLC is that it does not need to pay -- its administrative costs are covered by an assessment levied by the DSPs as opposed to coming out of the pool, so I don't know if that shifts some of the calculus in terms of where efforts can go to try to identify those lost in the unattributable royalty pool. Mr. Barker?

MR. BARKER: Yeah, thanks, Regan. I think, first of all, I want to make sure we clarify. And as it was done in the earlier panel, there's at least three buckets of what we're calling unidentified. There's the unmatched songs to the recordings. That may be the biggest part of it. There's the unidentified payees or writers or publishers. And then there's the dual claim or misclaimed or overclaimed songs, conflicts.

I think what I want to really address is the unmatched primarily because I think that's going to be the biggest part of it. And maybe, you know, to John's point in SoundExchange's days, maybe it was less about the identification of the recording, it was more about trying to find the payees. I think this is a little bit of a different scenario.
I want us to remember -- in my opinion, I'm not a fan of market share distribution, but that is in the law, and I respect that. But market share distribution is knowingly paying the wrong people money. So I try to avoid that, and I would love to see the MLC do that. And, honestly, I agree with Frank and his committee in what they have put in their comments suggesting that these royalties be held indefinitely. That sounds like a long time, but, you know, whether it's, you know, to John's point, three, years, five years, 10 years, we may not know that. But I think the thing to remember here, again, is unidentified, we're talking two primary buckets, if you will, of money. The 424, that's for, potentially, 10 or more years of unidentified, which probably has the least identification data attached to it. The monthly that starts in January of '21 we all hope is going to be better. Yes?

MS. SMITH: I have sort of two questions coming off of that, so I'm going to break it up to give others an opportunity to respond. One is, you touched on something that came out in prior panels, which is maybe this pool of unattributable royalties should be conceived of in buckets. And so you said the buckets should be unmatched, unidentified,
overclaim or disputes, which I think the last panel suggested that shouldn't be considered unattributable, maybe unlocatable where you know who the copyright owner is or who is entitled to it, but you just can't find them to pay them.

And then I think there's at least one more bucket that came up yesterday, which were things that really are kind of public domain or nature sounds, things that sort of end up in there where it's really unlikely that someone's going to come forward.

Do people agree, first, that this is a best practice to segregate it this way? And, secondly, are these the right buckets? Are there more? Are there less? Anyone? Mr. Evers?

MR. SIMSON: Three, yes --

MS. SMITH: Let's let Mr. Evers go.

MR. EVERS: Okay. There might be another category, and this is for unknown works, unknown songs, unknown writers, and no conflicts. Okay, the conflict is that everything's unknown, of course. And if you imagine that there are so many works around, especially in the unclaimed market, which are from unpublished writers, which may be from -- or there are publishers or they are published which are not assigned to MLC from international, from India, from
Asia. The world is big, you know.

And I guess, in America, there are diasporas everywhere, and they have their special listening habits, and the creators and the writers of those works will never assign to MLC. Okay, we hope in the future that they will assign the works to MLC. But this is a big bucket of rights we have to find the right-holders, so there's a lot of work to be done, and I guess the three years won't be enough to find all those right-holders which are heavily used in the U.S.

MS. SMITH: Thank you. Ms. Coleman.

MS. COLEMAN: Sure. So I just want to clarify something. In the buckets, in the world of the buckets, anything that is matched to a song, and the song's shares are already determined, but we don't know who to pay because they hadn't registered or we don't have their payee information is not considered unmatched. That will not go into the market share distribution. We've matched that. We know that money is due to that song. It's just that we now need to find that copyright owner and the song owner.

If there's a share that is not claimed, that share could go into the unmatched. So we're talking about entire songs that could be unmatched. We're
talking about portions of songs that could be unmatched. We're not talking about disputes. Disputes are identified. We know that eventually when the dispute gets determined we know we'll know who to pay. So we're going to hold that money for as long as it remains active in order to find those people. That will never go into the market share distribution.

The only thing that will go into the market share distribution is something that is totally unidentifiable, a recording that is not matched to a song that we don't have any copyright, songwriter, owner, or publisher information. So it needs to be really clear.

MS. SMITH: Thank you. Mr. Dupler.

MR. DUPLER: So thanks. I actually have a question, a clarifying question following up on that point, and it's kind of a definition of terms issue that could be for the Copyright Office and/or Alisa, which is you have a term unmatched and you have a term unclaimed. The term in the statute usually is unclaimed royalties. And so I just want to be extra clear and confirm what Alisa just said, which is that if you have a work where the songwriter or the rights-holder is identified, so it's matched, but you have not been able to pay it because that person has
not come forward to register with the MLC or get the money from the MLC, you're saying that that will not be considered an unclaimed royalty that would be distributed in the unclaimed royalty distribution. Is that correct? And does everybody else agree that that's correct?

MS. SMITH: Well, Mr. Dupler, I think you're right that the statute does speak to that somewhat. So unmatched means unidentified or unlocated. And then there's a statutory definition of unclaimed accrued royalties, which are those which are eligible for distribution. So, you know, if anyone else wants to comment on that, I think you are putting your finger on an issue.

MS. COLEMAN: Unclaimed is unmatched, but when we know who it is, we at least have somewhere to start looking for somebody. So, in that particular bucket of unclaimed, you know, but it's matched, it's a better starting point than where we are. It's kind of like the same situation that the Copyright Office has espoused on on orphan works. It's the same thing. You know, we have to look at all of that.

MS. SMITH: Can I ask a slightly different question, and this may be for you, Ms. Coleman, or someone, maybe Mr. Liwall. But Mr. Barker also talked
about differences in the data on the historical
transfer that was received, as well as those which are
going to start coming into the MLC for the blanket
license, which we have gone through a regulatory
process to try to get a lot of data to be provided,
and we know there's been industry efforts to improve
data quality.

About the historical use, right now, the MLC
should have a variety of data points for the
historical unmatched, such as artists, ISRC, ISWC,
title, writers, maybe catalogue or label or UPC. Is
the MLC doing -- and then you're going to get more
data in June. The MLC, has it thought about either
making that data available in advance or starting some
of the matching between now and June? Or, you know,
sort of what is the thinking about how to handle that
issue? Mr. Liwall?

MR. LIWALL: Sure. You know, the first
blanket royalties that have been received, this is the
first set of data that's actually coming in to the
MLC, and that will reveal a lot of issues. It will
also determine some things clearly that are going to
be unmatched in the first blanket distribution are
clearly some songs that were left over from the
historical unmatched as well. So that may already
start the process, kick it off in terms of clearing up some of the historical unmatched as well. And, you know, the more data, as we start to receive it month after month, you know, processes can be put in place that make the matching efforts more effective.

So, you know, this first blanket royalty distribution that will be coming next month is going to be, you know, the first real effort that's put into, you know, having a look at what's in the unmatched pool. And also just seeing those data points is going to allow the MLC to perhaps, you know, change their methods, their methodology in terms of matching and what is going to be the most effective way at moving forward and starting to clear up the historical unmatched.

MS. SMITH: Okay. One question for you, Mr. Liwall, and then I see Mr. Barker and Mr. Meikle. Do you know -- I guess it's really a two-part question -- but whether the MLC is also looking at the data it's already got for the historical at the same time? And also, is there any sense -- and if you don't know, that's fine -- but if the MLC has an understanding of how much time might pass between, you know, going forward once it's operating when it receives the usage report and the time in which the data will become
available in the portal? Because I think you'll get data on a monthly basis going forward.

MR. LIWALL: So the historical data is not being turned over until June, so the MLC has not received that.

(Technical interference.)

MS. SMITH: -- the MLC has got that already?

MR. LIWALL: I'm sorry, you were muted, so I didn't hear what you were saying.

MS. SMITH: So the MLC does have a lot of data already on the historical unmatched. So unique identifiers for the same criteria that was supposed to be reported in monthly statements for the old license have already been turned over to the MLC or was required to be at least?

MR. LIWALL: Right. But the services have until June to turn over all the identifiers and all of the portions of songs that are unmatched. So we may know 50 percent of a song was matched, but we can't yet identify what 50 percent of the song may have been matched and paid. So, if there's three parties or two parties on a song, we may not have all the details yet as to what party was paid. We only know 50 percent was unpaid, although we don't know what 50 percent was unpaid.
MS. SMITH: Okay, let's go to Mr. Meikle.

MR. MEIKLE: Yeah. Regarding the holding period, I think Mr. Barker's spot on. If you were to ask a songwriter, an artist, I'm holding money of yours, it's your money, but we just don't know it's your money, how long do you want me to hold that for you, what do you think the response would be? Well, hold it until I figure that out and get it to me, right.

And then I think, collectively, as a music business, we have a tremendous opportunity to greatly reduce, if not prevent, unclaimed royalties going forward. I've thought quite a bit about this recently in listening to these roundtables, and you think of a case of ownership where there's not a lot of mistakes, motor vehicles. Why is that? Because, at the point of creation, at every point of transfer, and at the point of termination of the vehicle, it's clearly defined what is required to establish who owns this.

At the point of entry of music, which would be distribution, it's possible to collect the information we need, including an ISRC and an ISWC, for every song or just say it's not going up unless we have this. If we do that, if we make that decision as a music business going forward, we can significantly
reduce this problem going forward. And as Alisa said, yes, we can churn through the past as much as we need to and give them time to do that. But there's a real opportunity here and it needs to be thought about.

MS. SMITH: Thank you. So going, I think, in order of hand raise, I think we have Ms. Coleman, Mr. Barker, then Mr. Evers.

MS. COLEMAN: Well, I just wanted to make a comment to Mark's comment. We would love that. We would love those required metadata, that the DSPs say to aggregators we have to have this or we won't put these songs up on our services. I think publishers and songwriters would rejoice up and down. So thank you, Mark, for making that point. That's really what I wanted to just clarify. I'm glad to hear you're on the DLC committee, and we hope that we can get that on vote. Thank you.

MS. SMITH: Mr. --

MR. BARKER: I think you said Mr. Barker. I think you turned off here real quick, so I'll go. And two quick points, Regan. One is just as a reminder, the 424 that has come in as previously unidentified is, as we've, I think, talked and Frank has even suggested, they don't even have all the data yet and it's probably the least unidentified data. Yet the
law, unfortunately, gives it the shortest trigger to pay out. Everything else is held for minimum three years. This is held for really less than three years. Yeah, and --

MS. SMITH: Well, it's also held for three years. I think you would factor in the time the service has been holding it or has --

MR. BARKER: Correct, correct. But, in reality, if the claiming portal is this summer, then there's really reality 18 months or so to claim it before it potentially gets paid out. I'm not hearing anybody saying they're anxious to pay it out in 2023, but just to know that the law says that.

I think the second point is to kind of support what I'm trying to suggest as well as what I have read from the unclaimed committee. The longer we hold it may be the better because the question is, what parties are going to be negatively impacted the longer it is held? It won't be the people who are supposed to be receiving the money. Thanks.

MS. SMITH: Thank you. Mr. Evers?

MR. EVERS: Yeah, I would like to second Mr. Meikle because there is a very interesting tool available from CISAC, and I hope you know about them. This is the ISWC allocation service, which would
guarantee the publishers in 24 hours to get an ISWC, and this would solve the biggest problem, matching the ISRC to the ISWC. This is one tool which should be promoted by all the music industry.

And there's another tool that CISAC developed that is called the unidentified use, usage, UP, the unidentified users, and the UDS, the undistributed shares, which gives you information of all the unidentified works and unclaimed works all over the world, and it would be very good if the MLC could join this project in a special way.

MS. SMITH: Thank you. Next question, which we raised in the last panel too, and it speaks to what Mr. Meikel is saying, is there ever a point where holding royalties indefinitely or too long is negatively affecting the incentive to come forward? Do people have thoughts about that?

MR. SIMSON: Yeah, I don't think negatively affect those people who waited or just weren't sure, weren't educated, didn't know. Certainly, we had that education problem early on, and I think it's imperative that the MLC, the Copyright Office, and every organization in the industry as an ecosystem gets the word out and does a lot of work.

As I mentioned before, we did matching

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(202) 628-4888
exercises, which helped get people educated. That got people understanding that there was money being held for them. And I think, you know, go to GAMA, go to CISAC, go to all of the organizations around the world that represent thousands and thousands of songwriters to do a match when you have unidentified unclaimed work. You might find that songwriter in their database. So I think it's important.

One other thing about -- this came up on the earlier panel. One thing, I have to say Pandora was a fabulous partner with us. We fought over the rates, what they should pay, but when Pandora accepted a song into their music genome, they would send an email out to that group saying, right now, I'm tabbing it to SoundExchange royalties if you get played on our service. And they gave a link to our site. You know, if the DSPs did that, if Spotify did that, if Apple did that, they reach far more people.

MS. SMITH: Yes.

MR. SIMSON: They are the vice.

MS. SMITH: And they do have an obligation under the statute to publicize availability of the MLC. Thank you for reminding us of that. Ms. Turnbow?

MS. TURNBOW: I certainly advocate for
holding the unmatched longer than the minimum amount of time, but I will say I think at some point, when you start to get to a diminishing return on matching, a call to action, a moment of, hey, either show up or you're going to lose this, is a motivator for people. You know, at some point, people will just procrastinate unless you give them a reason that they have to stop. And, no, that's probably not two to three years, but I don't think it can be indefinite either.

MR. SIMSON: Regan, I think that's a really good point. Let me just make a point that in 2006, when we said we were going to do a pool release, we got coverage on NBC Nightly News. We got coverage in the L.A. Times, in the New York Times, lots of major publications saying, artists, you're going to lose your money if you don't come forward and claim it now. And so she's absolutely right, it does do that. It's a motivator.

MS. SMITH: Thank you. Ms. Coleman.

MS. COLEMAN: Yeah. Look, the minute they announced that we collected $424 million everybody's hands went up and, you know, we got calls from all over the world, you know, when am I going to get it. And, you know, everybody wants to know when they're
getting it. So the first thing I'm going to say is I don't think there is a too long, but I am concerned about the starting date because the starting date sets a trigger to have to do it every year after that, and that every year after that concerns me more than when the initial date is.

The other part of that is that, you know, we've begun reviewing the historical data, but our priority is on getting the January statement right now and getting that out the door in the spring, okay. And then those unmatched will be the first things that everybody will be able to see to make claims to, which will then trigger back to the historical unmatched.

We know it's all tied together. We know generally most songs are repeated. You know, we know the catalogue songs are done over and over again. There's consistency within this. So, you know, there are new songs added to the system every day that don't get identified, but, over time, we know they'll all filter back.

So right now we're focusing on January, and those will be the first unmatched things that people will see up in the portal. Thank you.

MS. SMITH: Thank you, Ms. Coleman. We are about halfway in this session, and so I wanted to say
this is sort of a last call to sign up for the
audience participation at 1. The information is in
the chat if anybody is watching and listening.

And then my final question about the holding
period is, you know, Ms. Coleman pointed out what is
making her nervous is once you start the distribution
you have the trigger. And my question is, does the
pool distribution -- should that be defined only by a
particular period, or should it also be sort of
partial based on these buckets that I think we're sort
of loosely circling on as being a best practice for
the MLC to think about? Because that, I think as we
saw on the next panel, might tee up some questions
about how the distribution can be calculated.

So does anyone want to speak to that or
anything else for that holding? I see Mr. Dupler.

MR. DUPLER: Yeah, my only comment on that
would just be whatever facilitates the most
opportunity to continue to match unmatched funds,
that's the direction that the default should be. I
was going to joke that I was not told that math would
be a part of this panel, but I think, in terms of
defining whichever approach allows you to continue
matching as long as possible, that's the approach that
should be taken.
MS. SMITH: Yeah. I think anyone who is interested in entertainment law or accounting didn't realize how in the weeds it can get. So Ms. Turnbow, then Mr. Evers.

MS. TURNBOW: Well, I certainly think that there are some of those buckets that have more of an opportunity to be matched than others. I mean, if there's songs that have portions matched, you know, there's the opportunity to put manhours, which is going to take time, into reaching out to the known owners to say, hey, do you know anything about these other people, where, on things where we've got absolutely nothing and we've had absolutely nothing for 10, 12 years, that's much less likely to ever result in any sort of matching.

So, yeah, I definitely think that it makes sense to parcel these things into how likely they are if we put the time and effort and, frankly, man hours. I mean, it's not all going to be able to be done by a machine. You know, certainly, I think we want to make sure that if there's any chance that we're parceling that out, even if the time period is the same.

MS. SMITH: Thank you. Mr. Evers?

MR. EVERS: It's very important, you know, especially for those songs where you don't know
anything, and this is why I'm referring to the works which come from far away, you know, and with the different language, nobody knows the title. And this is so important that you have the audio track. Then you can define it and analyze it.

And I don't have any idea how this tool, this feature will be implemented because this would be a very, very helpful tool especially for the thousands of foreign songs. Do you have any idea, Alisa? You were talking about this implemented how big is the percentage of these audio files which could be heard by the interesting parties?

MS. COLEMAN: Currently, the Operations Advisory Committee is working with the -- they're working together. The Operations Advisory Committee, it's made up of DSPs and publishers and songwriters. And Jennifer sits as an oversight. And they are discussing how to move that forward to get everybody access to that information. So that's a work in progress, but it is a priority for us.

MR. EVERS: So I would like this to depend on the period, you know. I would like to depend it on this availability of this feature as another action item.

MS. SMITH: Thank you, Mr. Evers.
So return to distribution, Mr. Sloan, do you want to refresh the panelists of some of the statutory requirements?

MR. SLOAN: Sure. I don't know if everyone was watching the last session, so at the risk of being repetitive, the MMA, just as a reminder, says that at the end of the statutory holding period the accrued royalties that remain unmatched at that time become eligible for distribution to copyright owners that are identified in the MLC's records and at that point, they become what's called unclaimed accrued royalties under the statute.

And the MMA requires that the identified copyright owners' payment shares of the unclaimed accrued royalties for a particular reporting period is determined in a transparent and equitable manner based on data indicating the relative market shares of those copyright owners as reflected in reports of usage provided by the digital services for a particular period. And that includes, in addition to the usage data provided to the MLC, usage data provided to copyright owners under voluntary licenses and individual download licenses to the extent that information is available to the MLC.

So keeping those statutory parameters in
mind, does anyone have any best practice
recommendations for the Unclaimed Royalties Oversight
Committee and MLC to be looking to for guidance on how
to actually carry out this statutory market share
calculation? I see Mr. Barker.

MR. BARKER: There we go. Thanks, Jason. I
think, you know, I've given a lot of thought to this
because we have a wide variety of types of clients and
songs that we collect, and we've experienced some
prior market share distributions for settlements that
were done through another means, which we've been able
to recognize are not necessarily fair in a lot of
areas.

So, here, we have an opportunity to do
something at a higher level, I think. And my
suggestion is because we're trying to make sure,
number one, that the proper owners somehow share in it
and that the songwriters share in it as well, in my
opinion, the only way to do a market share correctly
is to do it at the song level rather than the
publisher or the owner level, the reason being, as you
said, if I understand the statute correctly, the
period that the DSPs provide in order to establish
market share is important because five years ago, if
that is the period, a song may have been bought or
sold or perhaps terminated since that date.

So the interested party today is different than it was five years ago. And if a payment goes out to the owner from five years ago, first of all, that publisher may not even be in business. Second of all, the likelihood that that would, indeed, get passed on to the writers is pretty slim.

So I think it has to be at a song level basis, and the information sounds like it would be there to do that to assure that the songwriters participate in that at the level that they should.

MR. SLOAN: Thank you. Anyone have anything to add?

MR. SIMSON: Yeah, I would add. And, again, Alisa made a comment that maybe impacts this, but I had typically thought of there being two pools. One was bad data where, you know, the data that you got is so bad you're never going to be able to distribute that royalty, and that royalty is likely to be a market share distribution in the sense that the people who have the most likely -- you know, in songs, they're the mostly likely to have a song with bad data as others.

But where it is identified but unclaimed, when the majors or publishers or whatever publishers
have done their direct licenses, they've sent all the
data of who they represent to the DSP and, therefore,
when that money gets distributed, it shouldn't go --
they shouldn't be involved in that pool. It should
only be the money flowing through the MLC at that
point. So I think two buckets is important if, in
fact, we're going to distribute money that's
identified but unclaimed at some point.

MR. SLOAN: Thank you. Ms. Turnbow.

MS. TURNBOW: I just wanted to make the
point that the paragraph that you read was
painstakingly written and negotiated while we were
working on the bill because we wanted to make sure
that when we ultimately had to make a distribution of
unclaimed that it was made in the most fair way
possible, that market share didn't mean, you know, I'm
publisher A and I have 50 percent of the market, that
it really was attributable all the way down the line
to, you know, the smallest self-published songwriter
who earned money from that service during that period.

And, to me, even more importantly, we made
it statutory that at least 50 percent of that money
flows through to the songwriters. And so that, I
think, is a really important distinction from
distributions we've seen in the past.
MR. SLOAN: Just to follow up on what you're saying, Ms. Turnbow, do you have a particular perspective on the ideas that Mr. Barker and Mr. Simson were just expressing?

MS. TURNBOW: More specifically?

MR. SLOAN: Do you agree, disagree, have any other thoughts?

MS. TURNBOW: I don't have any additional thoughts on that. I think, you know, we tried to craft the law very specifically so that there wasn't really a question as to when these distributions were made, how they should be made, that there wasn't this gray area of, you know, could publisher X get way more and pocket it, you know, that there really was this sort of transparency and pass-through to the songwriters, and that was what was really important to us.

MR. SLOAN: Thank you. So, in terms of analogues, I mean, we talked about this a little bit on the previous panel, but are there any in particular that might be relevant? I know we talked previously about some of the previous industry settlements that it was suggested might be reasonable to look at for guidance. And then we also talked a little bit also about SoundExchange specifically and some of these
proxy distributions they have made in the past. Would anyone like to speak to either of those? Mr. Evers?

MR. EVERS: I would like to speak about the settlements I guess the major publishers have done because they apparently include unclaimed royalties. That's what we think about. And this has led to a big criticism all around world in the community of creators because this is probably money which is owed to creators worldwide. And so there is a danger that if they are those artists which have received those settlement monies will cash in another time, you know, on the disadvantage of the real claimants and the parties who would deserve those monies.

So this is a reason why we are very critical all around the world in the creative communities what refers to this point. So this must be cleared in a way which is understandable for everybody, yeah. So please, in the U.S. Copyright Office, you can find a solution to minimize this dissatisfaction.

MR. SLOAN: Thank you. I believe, Mr. Simson, I saw your hand earlier.

MR. SIMSON: Yes. I was just going to say that we did have one major influx of money in 2002 early on. I mentioned earlier that webcasters didn't have to pay until October of 1998. Unfortunately,
there was no rate set in October of 1998. The rate didn't get set until 2002. So webcasters were supposed to be escrowing money. I'm not sure at what rate because there was no historic rate to even do that, but they were also supposed to be keeping data.

The big services like Microsoft and AOL and Yahoo sent us big checks and basically said, oh, we don't have any data, we didn't keep the data. So here we had money, no data at all, and so our job at that point was to figure out what's the proper proxy, can we look at the channels that they were playing and what kind of repertoire they were using, and we tried to backfill that.

And we then filed, you know, a notice with the Copyright Office and said, look, we have no data. Here's what we think is an appropriate proxy. I don't know if you can back into the same thing for your unmatched where you know what channels these are being played on, on Apple or Spotify or, you know, playlists or things like that if the data comes that granularly. But that would certainly make for a more fair distribution of this unmatched money.

MR. SLOAN: Thank you. Ms. Coleman.

MS. COLEMAN: Well, I'm going to address John and then I'm going to address Mr. Evers. But,
yes, the data is that granular, and you can go to our
website and see how the historical unmatched was
reported to us for each period by each service from
each identifier, and so we can make distributions
based on service by service. You know, we can take
all that into consideration when planning this out.

I want to address Mr. Evers' comment about
those settlements that we made. Obviously, I can't
speak to any publisher's particular settlement, but I
can tell you that the services have to tell the MLC
who they settled with, that the MLC has to reach out
to that publisher to verify that they were part of the
settlement, and then the timeframe, there's about a
year period that goes on. Don't quote me on something
like that. And then, in that timeframe, those
publishers that are part of the settlement do not
participate in the market share distribution whenever
that happens for those historical unmatched periods.

So nobody's getting, you know, paid twice if
they were part of a settlement already and they agree
that they were part of that settlement. In fact, if
you look at the income that was received out of the
$424 million, only 12-and-a-half percent of that money
is attributable to the period prior to 2018. Sorry
about the math, Todd. And, you know, it's all very
interesting. And if you go to the MLC website, you
can drill down on that information if you have the
time. Thank you.

MR. SLOAN: Thank you. So, in terms of
distributions, since before we were talking about
potentially having different buckets of unclaimed
depending on various aspects of what the money's
related to, that kind of raises this potential issue
of partial distributions I was asking about on the
previous panel. I just want to pose the same question
here, which is, if you are doing, you know, because
the market share calculation under the statute is for
the same reporting period as the unclaimed that's
being distributed, if you're only distributing part of
the unclaimed from a given reporting period at one
time and then you do subsequent distributions from the
same reporting period after there's been additional
matching and, therefore, additional identified owners
that could potentially share in those later
distributions, how does that impact the market share
calculation? Or are there any suggestions on how that
should or should not be accounted for? No takers?
Yes, Mr. Barker.

MR. BARKER: Yeah, I'll take a stab at that
because I heard that question on the prior panel. You
know, I think it's -- I don't know that the market share -- again, if we go at the song level, that it really is going to matter at that point. If 50 percent of something gets paid out and the other 50 percent remains unidentified, at that point, it's not identified and not unmatched because we matched it in order to pay out the first 50 percent.

Then there's no reason that that should not continue to be -- that 50 percent, I believe, should be passed -- or should not be passed out on market share once the determination is made to do it at the song level because, again, I think the correct writers and payees would participate in that. So I see no problem with doing it the way you suggested.

MR. SLOAN: Thank you. Does anyone else have any thoughts on partial distributions? Yes, Ms. Coleman.

MS. COLEMAN: Well, I need a little clarity on your question, okay? So, in my estimation, market share does not dramatically -- dramatically is the word -- fluctuate, you know, over time for the same period of time in my experience. So can you drill down a little bit more about what --

MR. SLOAN: Sure. So I think all I was getting at -- I'm asking you guys if it's an issue.
I'm not necessarily suggesting it absolutely is. I'm asking your opinions on it. But let's say you do a partial distribution at one point in time for, you know, everything's been held long enough for everyone where you haven't identified anyone, and that's 100 rights owners, but you hold on to everything that you've identified but not located, and that's another 100, but you identify 50 of them later in time and then so, at the end of the day, there's only 50 left that goes into that final distribution of unclaimed. So now, instead of 100 copyright owners having their relative market shares being calculated, there's 150 owners. So what kind of adjustments do you need to account for the shares of those other new 50 owners, is kind of the idea.

MS. COLEMAN: Yeah, I guess that's why timing is everything here and why we really need to take our time and not be forced into a position to make a distribution before the -- I like the popcorn analogy. The popcorn's popped. I just think that's the key.

MR. SLOAN: Thank you.

MR. EVERS: Jason, I think --

MS. SMITH: Yeah, I think --

MR. SLOAN: Just because we're short on
time, I know -- I'm sorry, Ms. Smith.

MS. SMITH: I heard it, but let me say the one thing that I think a real question is whether it would make sense for the MLC for efficiency reasons to be able to cut off if it does a partial distribution phase and not have to recalculate the prior distributions, right, because of, at least in this year, the really complicated accounting. And so, if you do have more people coming forward, that's great. You just calculate it based on the distribution of what's located or not, but maybe that's not right.

So, okay.

MS. COLEMAN: But, to that point, we already had an issue because of CRB rates where we've collected money on the historical unmatched based on a rate that's not set. So we're going to have to make adjustments, you know, depending upon how the CRB rate turns out.

MR. SLOAN: Thank you. I see a bunch of hands. I want to let everyone respond, but just keep in mind we're very short on time and have more topics we want to get to. I believe I saw the order and forgive me if I get it wrong, but I saw Ms. Turnbow, Mr. Evers, and then Mr. Dupler.

MS. TURNBOW: I was going to say I think
that you have to -- the way that you're explaining
this, I think the best you can do is to operate on
what you have at the time of distribution, and if that
changes for a later distribution, then, yes, you
recalibrate for that next distribution. But you can
only operate on the information you have at the time.

MR. SLOAN: Thank you. Mr. Evers?

MR. EVERS: Yeah, there might be cases where
you only know the language and you only know the
territory where this recording of this work is coming
from. And this could be a hint that you can send the
revenues, for instance, to the MRO, to the Mechanical
Rights Organization, in that country because there's
no other way to make for it, so there's a high
probability that this stems from this country. So
that might be a possibility.

MR. SLOAN: Thank you. Mr. Dupler.

MR. DUPLER: So sort of step back a little
more generally from that question but also echoing
what Jennifer said about you have to do the best you
can with the data you have when you have it. The
point in that paragraph in the statutory language, as
was discussed in the last panel, it does talk about an
equitable manner for calculating market share and for
making it -- you know, that word, equitable, is used a
few different times. And so I think that does give a little bit of latitude in discretion on how you're making these calculations.

And I think, again, as Jennifer pointed out in the legislative history, yeah, we know that this kind of distribution is not the perfect solution because it's awarding money to people that have already had their works matched, but, you know, we try to make it as equitable as possible within that constraint. And so I think even when you're talking about how to treat, you know, participants in the settlement or other things, whatever you can do to make that market share calculation most equitable to increase the likelihood that people that haven't gotten paid are able to get paid, I think all of that could be taken into consideration.

MR. SLOAN: Thank you. I'd like to move on to notices. As we discussed on the earlier panel, under the statute, there's a required advanced public notice that has to go out at least 90 days before a distribution of the unclaimed happens. Does anyone have any comments or thoughts about best practices for this notice in terms of how it should be publicized and its content and things like that? I saw Mr. Liwall.
MR. LIWALL: Yes. A little bit more of what Mr. Evers said. You know, I think, when we actually have a look at what the undistributed song titles look like, just from historical settlements in the past, you know, we often find foreign titles tend to be the most problematic when it comes to actually matching songs that are not fully matched.

So I think, when we have a look at what the dataset looks like and if we can determine that they're foreign language titles from India or Latin titles, I think further engagement can be done to make sure that notices are sent to those, whether they're specific societies within a particular country, you know, or just further engagement with the clientele that those songs are likely to have come from, you know, just in terms of being able to make sure within that 90-day window we're reaching, you know, the audience or reaching the potential pool of more likely suitors for the unmatched.

MR. SLOAN: Thank you. Mr. Evers?

MR. EVERS: Yeah, especially in this case, there must ever be done a big promotion campaign, international promotion campaign with the international, the CISAC net, to reach those people who monies are owed to, or this 90 days must be
prolonged in cases where you have foreign titles and
not enough information about the right HOLDERS.
Otherwise, there's no solution in sight, I would say.

MR. SLOAN: Thank you. I think I saw Ms.
Coleman's hand.

MS. COLEMAN: Thank you, Jason. So, first
of all, the MLC has already established relationships
with almost 50 societies around the world and have
engaged with them in coming aboard to review the
portal, submit songs if they have the right to collect
in the territory, and generally advise them as to
what's happening. And we will engage them in the
unmatched as well. So that's currently happening.

As far as public announcement, we just have
to be everywhere and anywhere. Anyplace. It means
aggregators especially need to go out to people that
have contributed to them. It means all the PROS. It
means PROS around the world as well, everyone. You
know, any public place we need to be. We need to make
announcements far and wide.

You know, the banking industry prints pages
and pages and pages in newspapers that no one reads
anymore of all of the accounts that they're about to
turn over. You know, we can do a better job than
that.
MR. SLOAN: Thank you. Ms. Turnbow.

MS. TURNBOW: I think the at least is really important in that paragraph, that, you know, three months, we should certainly send out notice far longer ahead than that. You know, that's not a limiting factor, the 90 days. And also I think it's going to be really important in the public campaign around any of these distributions to explain to people that this isn't hard. This is a user-friendly website. Go here, we'll walk you through it. We want to help you. We want you to claim this money.

And we'll need the help of organizations like the Copyright Office to reinforce that the MLC is legitimate, that this is really your money. Give them your information so that you can get this, you know, so the people aren't afraid to go in and provide that kind of information too.

MR. SLOAN: Thank you. Mr. Meikle.

MR. MEIKLE: Yeah, you know, I think there are a lot of do-it-yourselfers, widows of songwriters that just have no idea what to do. And as easy as the MLC website might actually be, it can be intimidating for a lot of those people. So I think it's important to let the market reach out to some of those people, and, I mean, there's so many ways to do it. You know,
it's kind of a hard problem for us to solve right here. What I think we're all in consensus on is that every channel in the music business needs to get this word out there.

At the same time, I just want to point out that there are existing companies, distributors, just small music licensing companies that are right there on the ground level with these widows or just DIYers that have no idea what they're doing to help them and kind of maybe act as an interface between them and the MLC website.

MR. SLOAN: Thank you.

MR. RILEY: I think these comments were a good lead into kind of some questions we have about how to increase transparency and what best practices of the MLC would be to make it clearer to the public when they're making distributions of these unclaimed royalties.

So I know we're running a little late in overtime right now, but if anyone has any comments on, for example, ways to increase transparency, including documenting practices and procedures and putting it on the MLC's website or anything of the like that the MLC can do to help songwriter transparency. I saw a hand, Mr. Barker.
MR. BARKER: Yeah, thanks, John. I think a very quick point on that is, first of all, let me say I appreciate what I'm hearing from both Frank and Alisa with the way the MLC and the subcommittee will treat all of these unidentified royalties. It sounds like everybody's on the same page.

However, I heard yesterday there's a perception at least that there's an imbalance on the MLC board, which has the voting rights, whereas there's a five and five makeup on the subcommittee. So, if there is communication between the two -- let's say the subcommittee proposes something -- I would suggest that those be made public, especially if there's a difference between the subcommittee and the board. So I think that transparency for those who may have the perception of imbalance would be very important.

MS. COLEMAN: I kind of addressed that imbalance at the start of the call in that the board is made up of songwriters, indie publishers, and major publishers. Everyone has one vote. And the major publishers do not outweigh the songwriters and the indie publishers. So I appreciate what you're saying, John, but I think that is someone else's perception. It's not a reality.
MR. BARKER: And again, Alisa, I'm not saying it is a reality, but it is a perception. So I think, as we're asking for transparency, that would help do away with that perception.

MR. EVERS: I would second Mr. Barker's statement because, in CIAM, where most writers, global writers, are under one roof, there is a big -- they are not very amused about this board's composition, which is 10 to four, you know, because we are used, as you might know, for instance, with JASRAC or with GEMA, we are used to two-thirds creators and one-third publishers.

MR. RILEY: Mr. Evers, I appreciate the comments. I'd like to keep people on point because we only have a couple of minutes before the audience participation portion. So I appreciate that point, but I'd like to give anybody else the opportunity to talk about transparency. I see Mr. Simson.

MR. EVERS: You were talking, though --

MR. SIMSON: Yeah. No, I just think it's kind of interesting that, you know, people on the songwriter side have been jumping on this 10 to four. I mean, mechanical royalties have always historically been collected by publishers, who then split them 50/50 with the writer. So the publisher and the
writer, you know, they're partners in this particular revenue stream even though the publisher collects it. So, you know, I think it's more being made, you know, and I just think we do not worry about conspiracy theories. I think transparency is very important. I think it's really important that the MLC go out and show that they're really trying to track people down, they're doing everything they can. Alisa saying that there's 50 societies that they've already been in touch with, great news. You know, it looks to me like they're doing all the right things.

Let's not focus on the 10 to four because I just think that, you know, 50 percent of songwriters are stuck at BMI. There's not one artist on the BMI board. It's all broadcasters. Why have you not raised that as an issue, you know? So, you know, to me, it's apparent, frankly.

MR. RILEY: Okay. Well, let me ask one final question and relate it to transparency because I think we've been -- you know, I appreciate the comments about having the committee submit their information and make that public. But I want to talk for a minute if anyone has any comments about best practices that the MLC can do to help empower songwriters seeking to ensure that they are getting
their share properly from publishers. So not the publishers themselves but the MLC in its best practices. Ms. Turnbow.

MS. TURNBOW: One of the things that the MLC is working on that the songwriters have requested is what we call a songwriter portal. I think the MLC's using a different term for it. But essentially an opportunity for songwriters who are not their own publisher or their own administrators, so they don't have -- you know, they aren't members at the MLC. They have someone else administering their copyrights.

A way for them to sign in, see all of the data that is attributed to them as a songwriter, and be able to flag issues with that. So, you know, hey, I see I wrote this song, ABC, and it shows that I have 25 percent and I actually have 33 percent. So to be able to very easily flag that so that it goes directly to their administrator or publisher for correction and then get a response that there's been a correction or, no, you're wrong, here's the paperwork behind it, you know, I'm sorry you thought you had 25 percent, but you don't actually.

So that is a huge piece of transparency for songwriters and, honestly, the first time they've ever even with a public portal been able to get a look at
all of this data and have an opportunity to make
corrections on it.

MR. RILEY: Thank you.

MR. LIWALL: I just want to add that, you
know, the success of this whole program is engagement,
right? So, you know, as publishers, our engagement
with songwriters should be like Jennifer said, like,
you know, right now, it may have a look at a public
portal, which fully discloses all of their shares,
what they should look at.

And I think it's a matter of, you know,
success being the engagement that's going on between
publisher and songwriter, between the MLC and the
independent songwriters, who own their own copyrights,
who now have the ability to join an organization and
collect their mechanical streams where, in the past,
when an independent songwriter would try to figure out
how to collect from Spotify, you know, they would be
in this mire of information that they could get never
get through.

Right now, you know, the MLC is doing a
great job at engaging as much as possible. More can
still be done. And, of course, you know, I think
that's why we're having these roundtables, to gather
other ideas from others where we can put those things
into best practices so that we are engaging with the audience that needs to be engaged with.

But I think, you know, we've moved so far just in building the MLC, so far ahead of where things were. And there's still work to be done, but, you know, at the end of the day, I think so much of this comes back to engagement, songwriters talking with their publishers and the MLC reaching out to those independent songwriters who own their copyrights, for them to be engaged and become a part of the MLC.

MS. SMITH: Thank you. Thank you, Mr. Liwall, and thank you to all of our panelists today, as well as yesterday. I think due to our time we're going to go straight into the audience participation. So I think ending on a note talking about the importance of engagement, you know, totally fits our theme.

So we'll just sort of segue right into the sign-up for audience participation. So the panelists now, if you have said your piece, maybe you can turn off your video and thank you again for all of your contributions.

If there's anyone who wished to speak yesterday and did not get the chance or if you're now, if you can just signal in the Q&A, we'll find you and
we'll promote you to a panelist. We do have a list of
groups to start with. And I'll read the three people
so you know that we have you to start. So Adam
Gorgoni will be first, then Cecille Chen, then Michele
Vice-Maslin. So if any of you maybe get ready and if
we can promote Mr. Gorgoni to panelist.

Okay, and then if you turn on your video.

So thank you again for signing up. Do you want to
state your name, what organization you're with, and
then the floor is yours.

MR. GORGONI: Sure. I'm Adam Gorgoni. I'm
a professional composer and songwriter, co-chair of
Advocacy for Songwriters of North America, SONA.
First, I just want to thank you, Regan, and all your
colleagues and the Copyright Office for hosting these
discussions and for all the hard work you guys have
been doing on all of the topics, you know, herding the
various cats that you encounter, and we really do
appreciate you and look forward to continue working
with you.

Very quickly, SONA's an organization made up
of working professionals, mostly middle-class
songwriters, although we run the gamut from young
songwriters who are just starting out to some heavy
hitters. Our organization was an active participant
in the passage of the MMA and all the negotiations that have led up to it and are now working with everyone on the implementation. We have SONA members on the board, as well as on all of the different committees, and we are very much a part of the process and want to be as helpful as we can.

Just very quickly on the topics that have been discussed today and yesterday, we believe that the more data the better. The MLC should be sourcing its data from as many sources as possible. For example, if we can get the MLC into the CISAC hold, it could avail itself of the fact that the CISAC societies share their unclaimed works databases, and the sooner we clean up the data the better, and there's no reason why, in our opinion, that the MLC should not be getting help from anywhere it can.

And in that same vein, we would strongly support the idea that the MLC create some kind of a songwriter data repository that was mentioned earlier where songwriters can deliver their knowledge of the data. We think we know as much as anyone about our material in our songs, splits, all of those things. And, currently, there's no way for, as was said, a songwriter to communicate if they're not actually a member. They have to do it though their publisher.
And we think that creating a shortcut there would be advantageous.

Quickly, and I'll finish in a second, as far as the unmatched works, we believe the MLC should take as -- you know, what's the rush? The MLC should take as long as is legally possibly to try to match unmatched works and pay the rightful owners and thereby minimize any distributions by market share.

Obviously, there's things in the statute that, you know, will govern that process. But, as far as we're concerned, let's take as long as we have to, and let's all work to match as much as possible and pay out as much as possible to the people who deserve it.

I was tickled by the popcorn analogy. You know, the idea to me would be let's make sure most of the kernels are popped before we turn off the heat.

And, lastly, we have been, you know, continuing, we have been working very hard to reach out to various songwriting communities that, you know, we have members, and we're getting more and more members in making outreach into different communities that we haven't touched so far. And there's definitely huge gaps in knowledge and information.

And we are going to continue these educational activities working with all the songwriters and all
the various stakeholders to make this thing work. And
we are proud to be participating, and thank you for
all your efforts.

MS. SMITH: Thank you and thank you for
participating. We really appreciate your contribution
today. Thank you.

I think the next person who signed up is
Cecille Chen. Can we get her up here? Hello there,
Ms. Chen. If you could please introduce yourself, any
organization or affiliation you have, and then, you
know, the floor this yours.

MS. CHEN: Hello, good afternoon. My name
is Cecille Chen, and I'm Director of Business Affairs
and Royalties at Smithsonian Folkways Recordings, the
nonprofit record label of the Smithsonian Institution.
We're a DSP with over 60,000 tracks. That includes a
significant number of sounds that are in the public
domain, or PD. Our testimony focuses on the issue of
royalties charged by the MLC for streams of PD songs.

Streaming royalties are based on a DSP's
total revenue, and so, in effect, DSPs are paying
royalties on all streams, including streams of PD
songs. Royalties paid for unmatched PD songs will be
deposited into the unclaimed royalties account, and
money unclaimed after three years will be distributed
to known copyright owners in proportion to their market share.

We believe this approach is inconsistent with the Section 115 compulsory license framework. That framework is derived from Clauses 1 and 3 of Section 106, which grant copyright owners exclusive rights to make and distribute phonorecords of copyrighted works. Although Section 115 does not specifically exclude PD songs, royalties under Section 115 can only be charged for copyrighted works.

With regard to unclaimed royalties, Section 106 authorizes the MLC to establish a process by which "royalties for songs for which the owner is not identified or located are equitably distributed to known copyright owners." A PD song by definition has no copyright owner, and the MLC thus is not authorized under Section 115 to distribute unclaimed royalties from PD musical works to known copyright owners.

For these reasons, we believe the MLC's collection and distribution of royalties charged for PD songs is inconsistent with the law. We'd like to suggest a solution. The amount of royalties charged for PD songs can be calculated by multiplying the royalty per play by the number of songs that have been reported by DSPs as believed public domain in their

Heritage Reporting Corporation
(202) 628-4888
usage reports.

If the MLC deducted royalties charged for PD songs from the invoices of DSPs that reported songs as believed public domain, then the MLC's royalty obligations would more effectively align with the requirements of Section 115. And should a publisher later claim valid copyright ownership of an arrangement of a PD song that was previously reported as believed public domain by a DSP, then the MLC may issue a notice of default for erroneous reporting, which provides the DSP with a 60-day cure period in which to pay retroactive royalties for the copyrighted arrangement.

We appreciate that the MLC is not charging royalties for downloads of PD songs, and this is possible under the current rate structure because download royalties are calculated on a per unit basis. But the issue of streaming royalties is also of significant concern, particularly to DSPs like Smithsonian Folkways that specialize in genres of music that are predominantly PD. And there are many nuances to this issue that we are unable to address in a brief statement, but we believe our proposal would provide an equitable solution that is consistent with the letter and spirit of Section 115. Our proposal...
would also directly further one of the stated goals of the Unclaimed Royalty Study, to reduce the incidence of unclaimed royalties.

Finally, we understand that the rate proceeding for royalty rates for 2023 to '27 is currently under way, and we urge the Copyright Royalty Board to consider the issue of PD musical works in its deliberations. Thank you.

MS. SMITH: Thank you, Ms. Chen. That is an interesting comment. We appreciate it. I do think the DSP obligations to report is on covered activity. So, if there's something known to be public domain, it may not fall in. And so the reporting rules that we've set up are, you know, kind of complicated to look up, but they may somewhat address some of your concern already. But, if it is something, you know, that you would wish to engage with the office on separately, we'd be happy to take a meeting. And I think separately yesterday there was a comment related to the administrative assessment amount by the Copyright Royalty Board for services that mainly use public domain works. That would also be something where the Copyright Office or Library of Congress, you know, has a role, but it's the Copyright Royalty Board and not the Copyright Office that sets the regulations
with respect to the administrative assessments. So I mainly wanted to clarify that from yesterday, but we very much appreciate your comments. Thank you.

MS. CHEN: Thank you.

MS. SMITH: So I think the last person is Michele Vice-Maslin. And I'm not sure, Michele, if you have video capability today or not, but could you -- I guess, can we make her a panelist? Oh, here you are.

MS. VICE-MASLIN: Yes, hi there.

MS. SMITH: Hi.

MS. VICE-MASLIN: So sorry, I'm outside, but it's early here in L.A., and my husband keeps musician hours, so he's still sleeping, so I am relegated to being outside.

But, first of all, I just wanted to thank you, Regan, and all of the panelists the last two days for doing this. It's wonderful. I want to thank you for the opportunity to speak. And I want to say I'm grateful that the MLC exists. It gives us all such a new and great opportunity to be paid.

My name is Michele Vice-Maslin. I'm a songwriter and music publisher. I have published my catalogue most all of my 41-year career except for...
sometimes being signed to major publishers. I do have major sub-publishers in some territories. My catalogue is quite, quite large, and I've had many hit songs worldwide.

So I made some notes and I might be reading them a bit just to make sure that I don't stumble too much, and there's a few things I wanted to comment on, first to add what Adam just said about sharing data. It'd be really wonderful if the MLC could have PRO information to aid with the transparency and matching.

I was on an early planning committee for the MLC, and I was very surprised that PRO information was not to be included in the MLC's song information because this so aids in our ability to match the unmatched in my humble songwriter opinion. I hope that you'll work on that.

And this was touched on next, another point of it, and I'd like to expand, ISWC codes. ISWC codes would be so helpful in matching our songs. But, of course, it is so impossible to get an ISRC code. I have hundreds of songs that are reconciled at the PROs and still don't have ISWC codes, so I hope the MLC can help in this. I don't know why it is so difficult to get an ISWC code.

And I heard someone mentioning on this
previous panel -- forgive me, my brain is not remembering who it was -- but somebody mentioned about the concept of an ISWC code being allocated at the moment of registration regardless of reconciliation. And I think that's a really good idea because this having to wait until reconciliation and then even afterwards still not having a code is not helping us in our mission to get paid as writers and publishers and our mission with the MLC to find all these unmatched royalties. So I'd like that to be looked at.

Now, in terms of education, we've been discussing how do we get more affiliates to hop on that could have unmatched songs or even matched songs that are not getting paid, publishers and songwriters. Something that hit me very much when the MLC was first being brought up and Chris discussed on some platforms but has not been discussed that I've heard the last two days as I missed some of the early panels because it's too early for people in L.A., but the concept of not being able to opt out is, I think, very imperative.

The concept that we can opt in by choice, but if we don't, we cannot opt out, I think, really resonated with me thinking, well, then I'm going to
opt in, of course, because, if I can't opt out and I'm not going to get paid if I don't opt in, then that's a no-brainer. So I think that we should make that more clear to potential affiliates, that they cannot opt out.

Now one more thing. This just happened today, that I took a look in my MLC portal while this webinar was going on, and now I searched one registration of mine, a hit song. It's been out since October and it's quite a nice hit, and the registration has disappeared from my portal. I don't know what happened. I know it was there. But, when I go in the public search, I do find it. That is not helping the situation of us getting our catalogues organized or getting our unmatched royalties.

Then I looked for another hit song, and that one, I found the information was correct in my personal portal, but in the public search, only my co-writer is listed and his publishing company, yet my name, as the writer, and my publishing company do not exist in the public search. So the opposite of the other song.

Then I see another hit song that has two major label artists attached because, gratefully, I had two major artists on major labels record and have
hits with the same song. The ISRCs are missing completely from both songs. So these are the basic things that really need to be addressed and need to be aligned and should be the same in one's personal portal as it is in the public search. So this will also aid, in my humble opinion, in matching unmatched royalties.

And the last thing I'd like to mention is that it's very difficult to search song by song in one's catalogue if one has a very big catalogue because the number of songs per page in one's personal portal is so small that you have flip through, like, 500 pages to find a song if you're going song by song, which I did in my search trying to figure out why is this available in the public search and not in my portal. Maybe just the search box is not working.

So I would also think that in order to help us expedite our mission of matching that there might be a way to expand to even 500 a page as opposed to -- I don't know. Now it seems like there's only about 20 or 25 registrations.

So those are my little points to make today, and I'm grateful for the opportunity. Thank you all very much.

MS. SMITH: Thank you very much. Thank you
for getting up so early on the west coast and
contributing. We really appreciate it. I think that
our study is benefitting from a lot of participation.
And we know it's very early out in Los Angeles. I
know for some of our European participants the last
couple days it got quite late. You know, the
Copyright Office really believes that full input will
help inform our studies, so thank you.

I think we have one last commenter, which is
Herman Rodriguez Mahandas. Hopefully, I'm pronouncing
that fairly right. But if we can find him. And thank
you, Ms. Vice-Maslin.

MS. VICE-MASLIN: Thank you.

MS. SMITH: Okay, if you could turn on your
video, please. Mr. Rodriguez Mahandas, I don't know
if you have video capability or if you could unmute
yourself, but we would love to hear from you. Oh,
there you are. Can you hear me? I think you're here
on the screen, but if you could please unmute
yourself. I know we'd be happy to hear from you.
Hello? I think we can hear you. Can you say
something?

(No response.)

MS. SMITH: Okay. So I think what we will
do, because it appears we might be seeing some
technical difficulties, is, Mr. Rodriguez Mahandas, if
you're not able to speak, maybe you could shoot the
Copyright Office a short note. If someone could put
an email address in the chat or the Q&A, we can
consider that as part of our record.

And I think this will conclude the Copyright
Office's roundtables in connection with its study on
best practices for the Mechanical Licensing
Collective. Our study will be provided to Congress by
July 28 of this year.

And thank you, everyone, for signing up and
contributing. It's now at least finally a sunny day
in Washington, D.C. So I hope everyone enjoys the
rest of the day. And, again, thank you very much.

(Whereupon, at 1:25 p.m., the meeting in the
above-entitled matter adjourned.)
CERTIFICATE

CASE TITLE: Unclaimed Royalties Study Roundtable
DATE: March 26, 2021
LOCATION: Washington, D.C.

I hereby certify that the proceedings and evidence are contained fully and accurately on the digital recording and notes reported by me at the meeting in the above case before the Library of Congress.

Date: March 26, 2021

[Signature]

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