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September 22, 2025

VIA EMAIL

Emily Chapuis
Acting General Counsel and Associate
Register of Copyrights
U.S. Copyright Office
101 Independence Avenue SE
Washington, DC 20559-6000

Re: DLC September 15, 2025 Ex Parte Meeting (Docket No. 2024-1)

Dear Ms. Chapuis:

We write on behalf of Digital Licensee Coordinator, Inc. ("DLC" or "the DLC") to summarize the ex parte meeting held on September 15, 2025. Attendees at the meeting on behalf of the DLC were Jen Rosen (Google, Chair of DLC Board), Graham Davies (DIMA CEO, Board member, Secretary and Treasurer of DLC), Amy Braun (Amazon, Board member of DLC), Wiatt Bingley (Pandora, Board member of DLC), Josephine Speranza (Spotify, Board member of DLC), Colin Rushing (DIMA EVP and General Counsel, and seconded in-house counsel for DLC), and Alli Stillman and Sy Damle from Latham & Watkins as DLC outside legal counsel. John Riley and Emily Chapuis attended on behalf of the Office. During that meeting, DLC addressed comments raised in the Mechanical Licensing Collective's ("MLC's") ex parte letter dated August 27, 2025 (the "MLC Letter") and in the National Music Publishers' Association's ("NMPA's") ex parte letter dated September 5, 2025 (the "NMPA Letter").

In the MLC's letter, the MLC raised criticisms about the DLC for the first time. Those criticisms are procedurally improper and unsupported, and suggest an effort to distract and deflect attention away from serious issues raised by a number of stakeholders about the MLC throughout the redesignation proceeding.[1] If the MLC had legitimate concerns about the DLC, it should (and would) have raised them much earlier in this proceeding (or even years ago). As the Office is aware, of course, not a *single stakeholder* raised *any* criticisms of the DLC during the initial

[1] *See, e.g.*, Comments of Digital Licensee Coordinator, Inc. and Digital Media Association in Response to Initial Public Comments (June 28, 2024) at 6, 9–10, 14, *available at* https://www.regulations.gov/comment/COLC-2024-0002-0058 (collecting comments); *see also* Exhibit 1, sampling representative songwriter, publisher, and other rightsholder concerns about the MLC by general topic.

comment period.[2] The Office should reject the MLC's belated efforts to distract from its own serious issues.

In any event, the MLC's late-breaking criticisms have no basis in fact or law. As an initial matter, the MLC's argument rests on a faulty premise: that the DLC and the MLC are similarly situated. They are not, in just about every way that matters. The MLC is at the very foundation of the statutory license established by the Music Modernization Act, and has vastly more significant statutory functions and duties, both in kind and in magnitude.[3] By way of limited examples, the MLC, whose board members are inferior officers of the United States that must be appointed by the Librarian of Congress,[4] collects and distributes "more than a billion dollars in annual royalties" owed and paid (by other parties) under the statutory license;[5] is funded entirely by licensees who have no choice but to pay those administrative costs; [6] has the statutory authority to terminate a statutory licensee's blanket license,[7] jeopardizing a digital service provider's ("DSP's") ability to operate in the United States; and can "[e]ngage in legal and other efforts to enforce rights and obligations" tied to that statutory license.[8] These are all powers that, without proper governance, transparency, and oversight, are susceptible to abuse. (In fact, the MLC has brought at least one enforcement action against a statutory licensee that has been ruled to be without merit as a matter of law, on its face).[9]

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[2] The NMPA is the only stakeholder that raised any issues related to the DLC during the entire comment period, and it did so solely in reply, after seeing the criticisms of the MLC made by DIMA and the DLC.

[3] *Compare* 17 U.S.C. § 115(d)(3)(C)(i) (listing the MLC's statutory functions), *with id.* § 115(d)(5)(C)(i) (listing the DLC's statutory functions).

[4] *See* Presidential Statement on Signing of the Orrin G. Hatch-Bob Goodlatte Music Modernization Act (Oct. 11, 2018), *available at* https://www.govinfo.gov/content/pkg/DCPD-201800692/pdf/DCPD-201800692.pdf ("[T]he directors [of the MLC] are inferior officers under the Appointments Clause of the Constitution.").

[5] MLC Initial Submission (Apr. 1, 2024) at 1, *available at* https://www.copyright.gov/rulemaking/mma-designations/2024/initial-submissions/mlc-initial-submission-2024.pdf.

[6] *Id.* § 115(d)(7)(A).

[7] 17 U.S.C. § 115 (d)(4)(E)(ii).

[8] *Id.* § 115(d)(3)(C)(i)(I), (II), (VIII).

[9] *MLC v. Spotify USA Inc.*, 763 F. Supp. 3d 608, 617 (S.D.N.Y. 2025) (dismissing the MLC's suit against Spotify with prejudice). Although the MLC has sought leave to file a first amended complaint as to certain narrow claims, the court denied the MLC's request for reconsideration of its principal Section 115 claims. *MLC v. Spotify USA, Inc.*, No. 24-cv-3809, 2025 WL 786577, at *3 (S.D.N.Y. Mar. 11, 2025). The MLC's motion for leave to file an amended complaint remains pending.

In contrast to the significant statutory power that the MLC wields over the digital music market in the United States (and the associated inherent potential for abuse of that power), the DLC has no authority at all over licensing activity and is powerless to affect the rights, obligations, and resources of third-party stakeholders (or any stakeholders at all, given that even its own membership is entirely voluntary). Instead, the DLC is simply a "coordinator" of digital licensees that helps streamline the DSPs' participation in Section 115's blanket-license system. Even the MLC concedes, as it must (albeit in an extreme understatement), that "the DLC's statutory functions are narrower and less complex than those of The MLC."[10] Similarly, the MLC has a massive budget that is funded entirely by a mandatory administrative assessment fee, as noted the DLC is an entirely voluntary organization. Finally, under the statute, a digital licensee coordinator need not be designated *at all*.[11] (And in that event, as discussed elsewhere, the primary functions served by the DLC would effectively be performed *by the Digital Media Association* ("DIMA").)

These many substantial differences highlight precisely why the MLC is appropriately subject to close regulation and specific governance requirements to which the DLC is not.

In any event, none of the MLC's criticisms of the DLC have any merit. Most of the MLC's criticisms of the DLC (echoed by the NMPA) amount to an argument that the DLC is not sufficiently "independent" of DIMA.[12] But, of course, independence is not the relevant standard. If Congress believed the DLC must be "independent" of anyone else, it knew how to use that word – it appears throughout Section 115 itself, including in reference to who may serve as an officer of the MLC.[13] The question is whether the DLC is *owned* by anyone else and, as has been amply demonstrated, it is not.[14] The DLC is a separate organization with its own board, budget, and member dues; resources from DIMA are seconded to the DLC, with reimbursement handled via recharge arrangements; and shared expenses are generally allocated on a time basis and the cost-sharing arrangement is subject to approval by both the DLC and DIMA boards.[15]

Recognizing that its arguments make no sense in the face of the plain language of the statute, the MLC constructs an elaborate argument based on the New York state law concept of "equitable ownership" that is used to determine whether to pierce the corporate veil in certain

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[10] DLC Letter at 3; *see id.* at 5 ("[T]he DLC's functions are narrower in scope than The MLC's.").

[11] 17 U.S.C. § 115(d)(5)(B)(iii).

[12] MLC Letter at 3-5.

[13] 17 U.S.C. 115(d)(3)(D)(viii).

[14] 17 U.S.C. § 115(d)(5)(A)(i) (emphasis added).

[15] DLC August 8, 2025 Ex Parte Letter at 4–5, *available at* https://www.copyright.gov/rulemaking/mma-designations/2024/Digital-Licensing-Coordinator-to-USCO-Aug-8.pdf.

unrelated contexts.[16] There is no reason to believe that Congress intended for the Copyright Office to apply that complex and fact-intensive standard in determining whether the DLC, a non-profit serving in a limited role funded by its own members, is "owned" by another entity for purposes of re-designation. Veil piercing is an equitable principle of liability used to hold owners liable for the debts of the corporation where the owners "abused the privilege of doing business in the corporate form to perpetrate a wrong or injustice against [a] party such that a court in equity will intervene."[17] Neither that context nor the principle's underlying policy rationales are at play in a proceeding to redesignate the DLC under the MMA. But even assuming, *arguendo*, that New York state veil piercing law applied to a nonprofit with such a limited role under the MMA, it would make no difference here. That's because, far from the "complete[] disregard[] [of] the corporate form" at issue in the sole case MLC cites,[18] DLC and DIMA remain entirely distinct entities, for the reasons articulated above.

Nor is there anything remotely improper about the relationship between DIMA and the DLC. Section 115 indicates that overlap between DIMA and the DLC is to be expected; the DLC must be "endorsed by and enjoy[] substantial support from digital music providers" representing "the greatest percentage of the licensee market for uses of musical works in covered activities."[19] and the statute expressly contemplates that DIMA would step in to fulfill certain of the DLC's statutory functions in the event that no digital licensee coordinator is designated.[20] Again, from the *very beginning of the DLC,* DIMA and the DLC have worked closely together. Moreover, the members of the DLC benefit tremendously from being able to share resources with DIMA. By sharing staff, the members of the DLC can take advantage of the deep expertise that DIMA brings.

In short, there is nothing to the MLC's assertion that the relationship between DIMA and the DLC runs afoul of Section 115. To the contrary, the DLC is operating *exactly as Congress expected and intended*.

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[16] *See* MLC Letter at 4–5 (discussing *Freeman v. Complex Computing Co.*, 119 F.3d 1044 (2d Cir. 1997)). Other than *Freeman*, the only authority the MLC cites are "regulations and standards" that the MLC expressly states "do not apply in this context." *Id.* at 5 n.9.

[17] *JSC Foreign Econ. Ass'n Technostroyexport v. Int'l Dev. & Trade Servs., Inc.*, 386 F. Supp. 2d 461, 465 (S.D.N.Y. 2005) (citation omitted).

[18] *Freeman*, 119 F.3d at 1051.

[19] 17 U.S.C. § 115(d)(5)(A)(ii).

[20] *Id.* § 115(d)(3)(D)(i)(IV) ("One nonvoting member [of the MLC board] shall be a representative of the digital licensee coordinator, provided that a digital licensee coordinator has been designated . . . . Otherwise, the nonvoting member shall be the nonprofit trade association of digital licensees that represents the greatest percentage of the licensee market for uses of musical works in covered activities.").

Similarly, the MLC's suggestion that the DLC "invites conflicts of interest" and engages in "selective advocacy"[21] is unfounded. Every DSP has a shared interest in ensuring the MLC plays the appropriate statutory role and spends administrative assessment funds reasonably. The MLC argues that the DLC is somehow only representing DIMA members, as opposed to the "broader DSP community,"[22] but of course DLC membership extends well beyond just DIMA members. We discussed DLC's continued efforts to add new licensee members, and described the considerable benefits DLC provides to even non-member licensees, the low costs to join and participate in the DLC for smaller services, and the generally high barriers to entry and participation in the industry overall. Notably, not a single DSP, large or small, raised concerns about the DLC during this proceeding's comment period.[23] That, of course, is in stark contrast with the large number of publishers and songwriters that have raised legitimate concerns about the MLC.

Both MLC and NMPA have insinuated that the DLC is somehow violating the prohibition on lobbying, by virtue of the fact that the DLC and DIMA share staff resources, and some DLC board members may lobby Congress wearing other hats. But there is no evidence that the DLC – as such – has engaged in lobbying activities. Any "lobbying" done by DIMA staff is done wearing a DIMA "hat," and is paid for by DIMA. There is nothing in the statute that prevents DIMA and the DLC from sharing staff, and nothing that extends the MMA's lobbying prohibition from the DLC to DIMA – just as there is nothing preventing the MLC board members from engaging in the lobbying activities that they engage in when acting in their non-MLC roles.

The MLC next suggests that "[i]t remains unclear whether, and to what extent, the DLC is fulfilling its core statutory functions."[24] Tellingly, the MLC does not actually point to any statutory function that the DLC has failed to perform. And not even the NMPA's reply comments—the only comments even purporting to raise concerns about the DLC during the time to do so in this proceeding—seriously suggest that the DLC ignored any core function. And, again, no service has raised any concerns with the DLC. There can be no meaningful doubt that the DLC has faithfully fulfilled its (narrow) statutory functions.

Relatedly, the MLC calls for greater "transparency" by the DLC, suggesting, in particular, that the DLC should be required to produce "annual reports."[25] Of course, the DLC, like all non-profits, generates a 990 every year, as required by the IRS. And the DLC engages regularly with

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[21] MLC Letter at 5–6.

[22] *Id.* at 6.

[23] The MLC's suggestion that its enforcement actions against Pandora and Spotify "benefit other DSPs"—and that the DLC thus engages in selective advocacy by opposing those enforcement actions—strains credulity. *Id.* at 6. In any event, the DLC is not aware of any DSP that has complained about the position it has taken with respect to the MLC's use of administrative assessment funds on litigation.

[24] *Id.* at 5.

[25] Id. at 6–7.

its entire membership. There is no reason for the Copyright Office to require the DLC to do more than its members expect, nor any statutory basis for doing so. By contrast, Section 115 expressly requires the MLC to produce annual reports – again, reflecting the fact that the MLC plays a foundational role in the Section 115 statutory license.[26] That said, the DLC Board will discuss whether additional disclosures could be helpful and appropriate for its membership and the public, either in the form of an annual report, posts on its websites, or otherwise.

Finally, the notion that the Office should not be able to exercise its broad regulatory authority to address MLC issues identified from all corners of the industry in connection with the very statutory and regulatory process established to review the MLC is misguided. At most, debating whether the additional needed regulatory oversight of the MLC might be best crafted as conditions on redesignation or stand-alone regulations issued as a result of separate Notice of Inquiry or Notice of Proposed Rulemaking is elevating form over substance to the extreme. In either context, none of the calls for greater regulatory oversight are seeking to re-legislate the MMA. They are intended to implement the MMA as Congress envisioned.

Ultimately, the MLC's and NMPA's "concerns" about the DLC amount to an effort to distract the Office from the very real criticisms that have been raised by stakeholders across the spectrum and, potentially, to muzzle DSPs from raising their own concerns. The Office should reject their gambit and focus on the key issue in the redesignation process: Whether the MLC should be subject to additional oversight and regulations, to ensure it is acting as the steward of the Section 115 license that Congress expects it to be.

Please let us know if you have any follow-up questions. We again appreciate the Office's time and its thoughtful engagement on these important topics.

Sincerely,

Alli Stillman
Latham & Watkins LLP

Encl.

[26] 17 U.S.C. § 115(d)(3)(D)(vii).

EXHIBIT 1

Representative Overview of Critiques of the Mechanical Licensing Collective (MLC) by Songwriters, Independent Publishers, and Other Rightsowners

A broad cross-section of songwriters, independent publishers, and creator organizations have raised substantive criticisms across operational, governance, and transparency dimensions, among others. These critiques have fueled calls for conditional redesignation, increased regulatory oversight, and structural reforms to ensure the MLC fulfills its statutory mandate to serve all rightsowners fairly and efficiently. Many commenters urge the Copyright Office to condition any continued designation of the MLC on concrete performance metrics, stronger oversight, and structural reforms that ensure all songwriters and publishers—large or small—receive accurate, timely, and transparent royalty payments. (The following selection is not meant to be comprehensive.)

1. Unmatched/Unclaimed Royalties ("Black Box" Issues)

Many rightsowners argue that the MLC has failed to significantly reduce the pool of unmatched/unclaimed royalties, with estimates ranging from 20–25% of royalties remaining unmatched, amounting to hundreds of millions of dollars. Critics allege that the MLC's efforts to identify and pay rightful owners are insufficient, and that the incentive structure (market share distribution of unclaimed funds) discourages robust matching. There is widespread concern about the lack of clear, timely, and detailed reporting on the size, status, and handling of the black box, including how and when funds will be distributed.

- Word Collections, Docket 2024-1, Initial Comment pp. 2-4
- Music Answers, Docket 2024-1, Initial Comment p. 1-4
- Michelle Shocked (Campfire Girl Publishing), Docket 2024-1, Initial Comment pp. 1-3
- Artist Rights Alliance, Docket 2024-1, Reply Comment p. 2
- American Association of Independent Music (A2IM), Docket 2024-1, Initial Comment p. 2
- Monica Corton, Docket 2024-1, Initial Comment pp. 1-3
- Music Artists Coalition (MAC)/Black Music Artists Coalition (BMAC), Docket 2024-1, Reply Comment p. 3

2. Data, Matching, and Metadata Management

The MLC's reliance on legacy data sources (notably HFA) is criticized for perpetuating errors, outdated information, and incomplete records, leading to missed matches and incorrect payments. Songwriters and publishers report that the logic and process for matching works to recordings is unclear, and that the tools provided for submitting, correcting, or "unmatching" data are inadequate or cumbersome. Many songwriters (especially those who are not self-published) cannot directly correct or claim their works in the MLC database, relying instead on publishers who, according to the comments, may be unresponsive.

- John Guertin (CleaRights), Docket 2024-1, Initial Comment pp. 1-4
- Abby North, Docket 2024-1, Initial Comment p. 1-4
- Songwriters of North America (SONA), Docket 2024-1, Initial Comments p. 4-5
- Nashville Songwriters Association International (NSAI), Docket 2024-1, Initial Comment p. 3

- Music Artists Coalition (MAC)/Black Music Artists Coalition (BMAC), Docket 2024-1, Reply Comments p. 3
- Songwriters of North America (SONA), Docket 2024-1, Aug. 22, 2025 Ex Parte Letter pp. 4, 11

3. Governance, Conflicts of Interest, and Representation

The MLC board is seen as dominated by representatives of major publishers, with insufficient representation for independent songwriters, small publishers, and diverse communities. Critics argue that board members' companies stand to benefit disproportionately from market share distributions of unmatched royalties, creating a conflict of interest and reducing the incentive to improve matching. There are calls for greater transparency in board actions, committee appointments, and policy decisions, including investment and dispute resolution policies.

- Songwriters Guild of America (SGA)/Society of Composers & Lyricists (SCL)/ Music Creators North America (MCNA), Docket 2022-5, Comments pp. 5-6
- Michelle Shocked (Campfire Girl Publishing), Docket 2024-1, Initial Comment pp. 2-3
- Word Collections, Docket 2024-1, Initial Comment pp. 5-10
- Music Answers, Docket 2024-1, Initial Comment pp. 1-3
- Abby North, Docket 2024-1, Initial Comment pp. 6-8
- Abby North & Artist Rights Institute, Docket 2024-1, Aug. 22, 2025 Ex Parte Letter p. 5

4. Transparency and Accountability

Many rightsowners report difficulty obtaining clear, timely, and actionable information about their royalties, the status of their works, and the MLC's operations. The MLC's dispute resolution process is described as slow, opaque, and ineffective, with little recourse for songwriters and small publishers. Songwriters and small publishers report unresolved inquiries, lack of follow-up, and inconsistent support from the MLC.

- Monica Corton, Docket 2024-1, Initial Comment pp. 3-4
- Dennis Day, Docket 2024-1, Initial Comment p. 2
- Word Collections, Docket 2024-1, Initial Comment pp. 5-9
- Michelle Shocked (Campfire Girl Publishing), Docket 2024-1, Initial Comment pp. 2-4
- John Guertin (CleaRights), Docket 2024-1, Initial Comment pp. 1-4

5. Operational and Technical Concerns

There are complaints about slow ingestion of new works, delays in processing catalog updates, and late or incomplete royalty payments. The MLC's web portal and data submission processes are described as difficult to use, especially for bulk registrations and for those with limited technical resources.

- Word Collections, Docket 2024-1, Initial Comment pp. 2; 37-52
- Monica Corton, Docket 2024-1, Initial Comment pp. 2-5
- Dennis Day, Docket 2024-1, Reply Comment pp. 2-4
- John Guertin (CleaRights), Docket 2024-1, Initial Comment pp. 2-3

- Herman Rodriguez-Bajandas, Docket 2024-1, Initial Comment, p. 2

6. Investment and Use of Unclaimed Royalties

The MLC's practice of investing unclaimed royalties (rather than holding them in non-interest-bearing accounts) is criticized as potentially unlawful and as benefiting the MLC or its board members' companies rather than rightsholders. According to the comments, there is little transparency about how interest earned on unclaimed royalties is handled and whether it is distributed to rightsholders.

- Music Artists Coalition (MAC)/Black Music Artists Coalition (BMAC), Docket 2022-5, Reply Comment p. 2
- Herman Rodriguez-Bajandas, Docket 2024-1, Initial Comment p. 3
- Abby North & Artist Rights Institute, Docket 2024-1, Aug. 22, 2025 Ex Parte Letter pp. 6-10