



December 9, 2019

Via email at regans@copyright.gov and achau@copyright.gov

Regan A. Smith
General Counsel and Associate Register of Copyrights
Anna Chauvet
Assistant General Counsel
U.S. Copyright Office
Library of Congress
101 Independence Ave. SE
Washington, DC 20559-6000

RE: Summary of the December 5, 2019 Ex Parte Meeting regarding the Music Modernization Act
Implementing Regulations for the Blanket License for Digital Uses and Mechanical Licensing
Collective, Docket No. 2019-5

Dear Ms. Smith and Ms. Chauvet,

On December 5, 2019, the following individuals from Sony Music (“Sony”) and the Recording Industry Association of America, Inc. (“RIAA”) participated in an ex parte meeting with Regan Smith, Anna Chauvet, Jason Sloan, John Riley and Cassandra Sciortino of the Copyright Office concerning the above referenced matter: Jay Gress and Lisette Morton of Sony; and Ken Doroshow, Susan Chertkof and David Hughes of RIAA. The meeting focused exclusively on issues related to sound recording data.

1. Sound Recording Copyright Owner Information. We discussed the problems identified in our Initial Comments concerning the inclusion of a field in the MLC database labeled “sound recording copyright owner,” without defining and/or renaming that field; we also discussed the need for a disclaimer concerning the sound recording data. We described different ways and reasons that record label/company names appear in the digital supply chain metadata. These include: Party ID (a numerical identifier that refers to the party sending the DDEX message--and frequently the binary music file--to the DMP; it’s also generally the party to whom the DMP sends royalties), Imprint Label (which generally refers to the label that released the relevant album) and P-Line (which generally refers to the owner of the track, but only exists for post-72 sound recordings). We discussed how these various data fields are used in practice today, along with some examples.

We discussed the pros and cons of using each of the above data points to populate the sound recording copyright owner (“SRCO”) field in the MLC database. For DIY artists and aggregators serving that community (e.g., CdBaby, Distrokid) the field most likely to be consistently populated is the Party ID field. Whichever data point is selected, we discussed the need for the regulations to be precise about: (a) which data point the MLC must use to populate the SRCO field; (b) how the field should be labeled so as to dispel confusion about what the data represents (e.g., as the sound recording administrator rather than copyright owner); and (c) the need for a clear and strong disclaimer.

2. Sound Recording Data Should Come from a Single Source. We explained that labels do manual research to match new tracks to the underlying musical works. We also explained that each DMP receives its own idiosyncratic metadata feed from each record company/distributor. If all the DMPs were to forward their individual metadata feeds to the MLC (which would have to be done on an unaltered basis, if at all), the MLC would likely end up with multiple versions of each record company’s metadata, which would then need to be deduped and have the conflicts resolved. If, instead, the data were to come from a single, authoritative source, such as SoundExchange, the MLC would not need to dedupe, reconcile, etc. the data, as that work will already have been done by SoundExchange. That would benefit both the users of the database, who end up with more authoritative data, and the MLC, which will save time, human resources and money.
3. Reports of Use. The Office asked whether the DMPs should have to indicate the data source (i.e., the party whose data was relied on) when populating its reports of use. We reiterated the view expressed in our Initial Comments that the DMPs should populate their reports of use by “pinging” the authoritative data in the MLC’s database and only directly populating the reports of use where the recording at issue is not in the MLC’s database. In such cases, the recording should be flagged as unverified.
4. DMPs Alter The Sound Recording Metadata They Receive. We explained that each DMP has different display rules and different concatenation rules, making it necessary that any metadata the DMPs are required to pass on to the MLC be done in unaltered form. DMPs should also be required to include ISRCs in all reports of use, as the ISRC is the best way to disambiguate conflicting data.
5. Late Fees MOU and Best Practices. We touched briefly on the best practices for clearing new releases that have been adopted by labels and publishers as a result of the Late Fees MOUs, the first of which was entered into in 2009.
6. MDX. As licensing practices shifted from HFA-based licensing to direct licensing over the years, this put even more of the initial clearance and work-by-work share-by-share licensing work on labels. Sony Music clears thousands of shares per month. Labels work hard at initial clearance and endeavor to pre-clear their releases with publishers to ensure their tracks can be released without issue and will stay up once they are released. Labels generally know about new songs before the relevant publishers know they were written and their clearance process frequently serves as the initial notification.

We gave a demo of the MDX portal, which SoundExchange built in collaboration with the label and publishing licensing execs in the Best Practices Group to establish an automated portal to facilitate clearance of new releases. MDX displays P-Line, ISRC and title and a list of products associated with each release along with publishing ownership information as it is confirmed by publishers. We showed how MDX integrates seamlessly with Sony's in-house database system. The system sends Sony's metadata to MDX and receives the publishers' confirmed and authoritative composition metadata back from the portal in a DDEX compliant format, which is then ingested into Sony's system. The portal creates an organized workflow that replaces large numbers of individual emails and includes reporting and push notifications to parties with their relevant "outstanding items. Labels generally route their requests specifically to the likely publishers of new songs via MDX based on information supplied from the label copy and producers which we believe speeds up the overall process and cuts down on disputes and the potential for fraudulent claims. MDX also supports a number of the best practices that were negotiated as part of the Late Fees MOUs. The participants worked with DDEX to develop MWN, the musical work notification message standard, so that labels and publishers can communicate with one another using a much more standardized and automated process, and the MDX project helped drive progress on that implementation. After the demo, we emphasized how valuable MDX is from the label perspective and made clear that it would offer a turnkey solution for the MLC that should speed things up for launch, not slow them down. We encouraged the Office to mandate the use of MDX, at least for new releases.

We appreciated the ability to meet with the Copyright Office on these matters.

Sincerely,

A handwritten signature in cursive script that reads "Susan Chertkof". The signature is written in dark ink and is positioned centrally below the word "Sincerely,".

Susan Chertkof
Senior Vice President, Legal and Regulatory Affairs
Recording Industry Association of America