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Music Modernization Act

Bill Information

- Introduced: December 21, 2017, in House Judiciary Committee as H.R. 4706
January 24, 2018, in Senate Judiciary Committee as S.2334
- Introduced by:
 - Reps. Doug Collins (R-GA), Hakeem Jeffries (D-NY)
 - Sens. Orrin Hatch (R-UT), Lamar Alexander (R-TN), Sheldon Whitehouse (D-RI)
- Original co-sponsors:
 - Reps. Karen Bass (D-CA), Diane Black (R-TN), Marsha Blackburn (R-TN), Steve Cohen (D-TN), Jim Cooper (D-TN), Kevin Cramer (R-ND), Joseph Crowley (D-NY), Chuck Fleischmann (R-TN), Ted Lieu (D-CA), Adam Schiff (D-CA), Pete Sessions (R-TX)
 - Sens. Christopher A. Coons (D-DE), Bob Corker (R-TN), Richard J. Durbin (D-IL), Kamala D. Harris (D-CA), Johnny Isakson (R-GA), Doug Jones (D-AL)
- Additional co-sponsors:
 - Reps. Andy Biggs (R-AZ), Robert Brady (D-PA), Julia Brownley (D-CA), Judy Chu (D-CA), Yvette Clarke (D-NY), Val Demings (D-FL), Ted Deutch (D-FL), Daniel Donovan (R-NY), Louie Gohmert (R-TX), Karen Handel (R-GA), Darrell Issa (R-CA), Robin Kelly (D-IL), Tom Marino (R-PA), Grace Napolitano (D-CA), Donald Payne (D-NJ), Ted Poe (R-TX), Jamie Raskin (D-MD), John Ratcliffe (R-TX), Martha Roby (R-AL), David Roe (R-TN), Brad Schneider (D-IL), Louise Slaughter (D-NY), Lamar Smith (R-TX), Ted Yoho (R-FL)

Bill Summary

- Creation of Blanket Mechanical Licenses:
 - Creates a compulsory blanket mechanical license that covers limited downloads and interactive streaming of musical works. Permanent downloads of musical works may be voluntarily licensed under this new blanket license or individually licensed per song by record companies while physical configurations of musical works (vinyls, CDs) will continue to be individually licensed. The blanket license does not cover certain uses of musical works such as displaying and reprinting lyrics/sheet music or using musical works in audiovisual works. Parties may continue to strike licensing deals on their own regarding activities and musical works covered by the blanket license.
 - The blanket licenses will become available on January 1 following the second anniversary of the enactment of the bill.
 - Before the blanket licenses are made available, digital services who make good-faith efforts to identify musical work owners with accrued, unmatched royalties will only be liable for actual royalties owed. After the blanket licenses are made available, digital services that obtain and comply with these licenses will not be liable for infringement of the reproduction and distribution rights of musical works for activities covered by the license.



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- The Copyright Office will no longer accept Notices of Intention (NOIs) for digital uses once the blanket license is available. NOIs are currently required under §115 when a party requests a compulsory mechanical license.
- The Copyright Royalty Board (“CRB”) will use the willing buyer/willing seller standard (a market-based standard) when determining the rates for this new blanket mechanical license.
- Creation of a “Mechanical Licensing Collective”
 - The bill creates a new mechanical licensing collective (“MLC”) whose board is composed of voting music publishers, voting self-published songwriters, a nonvoting trade association representing music publishers, and a nonvoting member of the digital licensee community. The MLC and its board will establish and maintain an operations advisory committee to address technology and data issues, an unclaimed royalties oversight committee to overlook the distribution of unclaimed royalties, and a dispute resolution committee to resolve song ownership and royalty disputes.
 - This new collective is funded by administrative assessment fees paid out by blanket licensees and by “significant” non-blanket licensees (those who earn \$500,000 plus in revenue/year and operate under the voluntary or individual permanent download licenses). These fees are determined by the CRB judges.
 - The MLC will administer the new blanket licenses and will also collect, distribute, and audit the royalties generated from these licenses to and for the respective musical work owners. Music publishers and songwriters may also audit the MLC to ensure that royalties are being properly paid out.
 - The MLC will create and maintain a public database that identifies musical works with their owners along with ownership share information. The MLC will also provide information to help match musical works with their respective sound recordings.
 - The MLC will hold unclaimed royalties for at least 3 years before distributing them on a market-share basis to music publishers. Market share is determined by the royalty reports provided by digital licensees. When music publishers receive their market-share of these royalties, they must pay at least 50% of it to their songwriters.
- “Wheel Approach” to Public Performance Rate Setting Judges
 - District court judges from the Southern District of New York will be randomly assigned to oversee the public performance royalty rate proceedings that ASCAP and BMI are subject to. Currently, ASCAP and BMI are each assigned a judge who oversees these rate proceedings for life. Those assigned judges will continue to oversee non-rate proceedings, such as questions of consent decree interpretation.
- Usage of Market Rates for Rate Setting Proceedings
 - Permits performance royalty rate setting judges to consider sound recording royalty rates when determining the rates for musical works.
 - In addition, the CRB must use the willing buyer/willing seller standard (market-based standard) when determining rates for the new, compulsory blanket mechanical licenses.

Bill Support

- Copyright Alliance members: Copyright Alliance, American Association of Independent Music (A2IM), ASCAP, Association of Independent Music Publishers (AIMP), BMI, Church Music Publishers
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Association, Nashville Songwriters Association International (NSAI), National Music Publishers Association (NMPA), Recording Academy, Recording Industry Association of America (RIAA), SAG-AFTRA, SoundExchange

- Others: Administrators of Gospel Music, American Federation of Musicians (AFM), Content Creators Coalition, Council of Music Creators, Digital Media Association (DiMA), Internet Association, Living Legends Foundation, MusicAnswers, Music Managers Forum U.S., Music Publishers Association, Pandora, Production Music Association, Rhythm & Blues Foundation, Society of Composers and Lyricists (SCL), Songwriters of North America (SONA), Spotify, SX Works

Bill Opposition

- Sirius XM