

Subcommittee on Innovation, Data, and Commerce
Hearing entitled “Preserving Americans’ Access to AM Radio”
[April 30, 2024]

Documents for the record

At the conclusion of the meeting, the Chair asked and was given unanimous consent to include the following documents into the record:

1. A letter from undersigned organizations to Chair Rodgers and Senator Ted Cruz regarding the AM Radio for Every Vehicle Act, April 29, 2024, submitted by the Majority.
2. A letter to Chairman Durbin, Ranking Member Grassley, Chairman Nadler, and Ranking Member Jordan, September 28, 2022, submitted by the Minority.
3. A letter from Chris Castle to Chair Rodgers on the AM Radio for Every Vehicle Act, April 23, 2024, submitted by the Majority.
4. A document from the Consumer Technology Association titled, “CTA U.S. Adult Emergency Alert Survey 2023,” October 2023, submitted by the Majority.
5. A letter from Heritage Action for America to Chairs Rodgers and Bilirakis regarding the AM Radio for Every Vehicle Act, April 25, 2024, submitted by the Majority.
6. A letter from first responder organizations to Speaker Johnson, Leader Schumer, Leader McConnell, and Leader Jefferies on the AM Radio for Every Vehicle Act, April 29, 2024, submitted by the Minority.
7. A letter from former leaders of the Federal Emergency Management Agency (FEMA) to Chairs Rodgers and Bilirakis and Ranking Members Pallone and Schakowsky regarding the AM Radio for Every Vehicle Act, April 29, 2024, submitted by the Majority.
8. A letter from musicFirst Coalition to Chairs Rodgers and Bilirakis and Ranking Members Pallone and Schakowsky regarding the AM Radio for Every Vehicle Act, April 29, 2024, submitted by the Majority.
9. A letter from TechNet to Chair Rodgers and Ranking Member Pallone regarding the AM Radio for Every Vehicle Act, April 29, 2024, submitted by the Majority.
10. Comments for the record from Brian Winnekins, Owner of WRDN 1430-AM, regarding the AM Radio for Every Vehicle Act, submitted by the Minority.
11. Comments for the record from Native Public Media President/CEO Loris Taylor, submitted by the Minority.
12. A letter to Chairs Graham and Nadler and Ranking Members Feinstein and Jordan, January 19, 2021, submitted by the Minority.

April 29, 2024

The Honorable Cathy McMorris Rodgers
Chair, House Committee on Energy & Commerce
2125 Rayburn House Office Building
Washington, DC 20515

The Honorable Ted Cruz
Ranking Member, Senate Committee on Commerce, Science and Transportation
167 Russell Senate Office Building
Washington, DC 20510

Dear Chair McMorris Rodgers and Ranking Member Cruz:

On behalf of the undersigned organizations, we raise concern about the AM Radio for Every Vehicle Act (H.R. 3413/S.1669), which would impose a perpetual unfunded mandate on the automotive sector to include century-old technology in all new vehicles. This legislation represents a dangerous overreach of government into the private sector and an unnecessary intervention in the free market.

The AM Radio for Every Vehicle Act is antithetical to conservative values of limited government and free enterprise. It imposes unnecessary costs on consumers and the private sector, stifles innovation, and distorts resource allocation. Government mandates often have unintended consequences, negatively impacting both consumers and businesses. For example, when the government imposes costly regulations on businesses, it may force them to cut back on research and development or hiring, resulting in reduced economic activity.

The automotive market already responds to consumer preferences without undue intervention. By imposing a one-size-fits-all solution, this mandate disregards consumer preferences and eliminates consumer choice. Individuals should have the right to choose the audio technology that best suits their needs and preferences. Congress's role should be limited to protecting the rights of individuals and ensuring a level playing field for all businesses.

An unfunded mandate imposed on the automotive sector could significantly increase costs for an industry already grappling with supply chain shortages. The additional burden could lead to further production delays as companies need to allocate resources towards complying with the mandate, exacerbating existing disruptions in the production and distribution of vehicles.

It is not too late to preserve consumer choice, foster innovation, and uphold the principles of a free market economy. Thank you for considering our perspective on this important matter.

Sincerely,

Dr. Edward Longe,
Director, Center for Technology and Innovation
The James Madison Institute

Dr. Erin Bendily
Vice-President of Policy and Strategy
Pelican Institute for Public Policy

Caden Rosenbaum
Senior Policy Analyst
Libertas Institute

Lindsay Zea
Deputy Director of Policy
Virginia Institute of Policy

CC: Members of the United States 118th Congress



September 28, 2022

The Honorable Dick Durbin
Chairman
Senate Committee on the Judiciary
United States Senate
711 Hart Senate Office Building
Washington, DC 20510

The Honorable Chuck Grassley
Ranking Member
Senate Committee on the Judiciary
United States Senate
135 Hart Senate Office Building
Washington, DC 20510

The Honorable Jerrold Nadler
Chairman
House Committee on the Judiciary
U.S. House of Representatives
2132 Rayburn House Office Building
Washington, DC 20515

The Honorable Jim Jordan
Ranking Member
House Committee on the Judiciary
U.S. House of Representatives
2056 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Durbin, Ranking Member Grassley, Chairman Nadler, and Ranking Member Jordan:

We write to express the support of the United States Patent and Trademark Office (USPTO) and the United States Copyright Office for amending the Copyright Act to require radio stations to provide fair compensation to copyright owners and performers when their sound recordings are broadcast “over the air.” Our offices have long endorsed such a change, which would benefit U.S. creative industries both domestically and internationally.¹

Adding a public performance right for the broadcasting of sound recordings would remedy an anomaly under U.S. copyright law that harms American performers and record companies. These creators do not benefit from the protection afforded to such broadcasts in most other countries because of the lack of a reciprocal right in U.S. copyright law. The United States stands alone

¹ For the details of previous support, see our offices’ January 19, 2021, letter to The Honorable Lindsey Graham, Chairman, and The Honorable Dianne Feinstein, Ranking Member, Committee on the Judiciary, United States Senate; and The Honorable Jerrold Nadler, Chairman, and The Honorable Jim Jordan, Ranking Member, Committee on the Judiciary, United States House of Representatives, available at www.copyright.gov/laws/hearings/performance-rights-letter.pdf.

among industrialized nations in not recognizing such a right. As a result, SoundExchange estimates that American performers and record companies lose approximately \$200 million per year in foreign royalties.²

At the domestic level, a public performance right for over-the-air broadcasts of sound recordings would rectify the inequities caused by the longstanding omission of this right from copyright law. Most notably, performers and record companies currently receive no royalties when their sound recordings are broadcast over the air, despite the revenue those recordings can generate for broadcasters. Amending section 106 of the Copyright Act would ensure that these creators receive fair compensation for the use of their works, just as the law requires for other types of copyrighted works. This would further the goal of U.S. copyright law, as set forth under the Constitution, to incentivize the creation and dissemination of new works for the benefit of the public.³ In addition, it would bring the treatment of broadcast radio stations into alignment with satellite, cable, and internet streaming services, all of which pay performance royalties when they play sound recordings.

In sum, our offices share the view of multiple prior administrations that the Copyright Act should be amended to provide a public performance right for over-the-air broadcasts of sound recordings.

The USPTO has been advised by the Office of Management and Budget that the Administration has no objection to the submission of this letter. If you have any questions, please feel free to contact us.

Sincerely,



Kathi Vidal
Under Secretary of Commerce for Intellectual
Property and Director of the United States
Patent and Trademark Office



Shira Perlmutter
Register of Copyrights and Director of the
United States Copyright Office

² See SoundExchange, "AM/FM Radio Royalty Loophole," www.soundexchange.com/advocacy/closing-the-amfm-radio-royalty-loophole/ ("[B]ecause U.S. radio broadcasters refuse to pay artists when they use their recordings on the air, American artists and record labels are denied the estimated \$200 million in performance royalties annually that would be paid to them in nearly every other nation."). SoundExchange is the organization designated to collect and distribute royalties pursuant to the statutory license under 17 U.S.C. § 114 for digital transmissions of sound recordings.

³ See U.S. Const. art. I, § 8, cl. 8 (authorizing Congress "[t]o promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries").

Christian L. Castle

Admitted in California and Texas

April 23, 2024

By email

The Honorable Cathy McMorris Rodgers
2107 Rayburn HOB
Washington, DC 20515

Re: AM Radio for Every Vehicle Act (H.R. 3413)

Dear Chair Rodgers,

On April 30th the Energy and Commerce Committee that you chair is scheduled to review the AM Radio for Every Vehicle Act (H.R. 3413) to mandate that AM radio devices continue to be installed in new cars as standard equipment.

The bill is particularly striking to me because of the dark irony that it guarantees the means to perpetuate one of the great free rides in American history—the uncompensated performance of recordings by America’s recording artists, musicians, and vocalists. This freebie is due to the AM radio loophole in the U.S. Copyright Act that allows broadcast radio to dodge paying performance royalties on AM radio - yet H.R. 3413 would mandate AM radio be included in automobiles into the foreseeable future.

This injustice should at least be as much a topic of conversation at your hearing on H.R. 3413 as it is around the kitchen tables of the artists detrimentally affected by the loophole.

I hope that when the Energy and Commerce Committee meets to discuss H.R. 3413, you and your colleagues will ask witnesses representing corporate radio why America’s artists don’t deserve the same level of appreciation and regard that AM radio operators do. I also hope that you will send a message to radio corporations that it would be unfair to help AM radio while not also coming to the aid of artists seeking performance royalties.

Christian L. Castle, Attorneys

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Hon. Cathy McMorris Rodgers
Re: AM Radio for Every Vehicle Act
April 23, 2024
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There is nothing as American as small business. You certainly know that firsthand from working at your family’s orchard and fruit stand in Kettle Falls. I write to discuss a different type of small business: these small businesses emerge in communities, often without support or funding. They struggle, grow, and over time many of them become local institutions. I’m talking about the local singers and musicians who strive to make a living in Kettle Falls and all over our great nation.

America usually honors our small businesses. But too often, our recording artists, musicians and vocalists – family members, friends, and neighbors – don’t get the respect they deserve. For example, while tens of millions of songs are played on AM/FM radio every year, broadcasters have never paid performers for their work due to a loophole in the U.S. Copyright Act.

I raise the plight of these artists – our family, friends, and neighbors – because of your upcoming hearing on ensuring that AM radio continues to be installed in new cars.

I certainly support AM radio. However, it’s disheartening that radio corporations get prompt action when faced with AM radio being phased out of automobiles - yet artists who have long asked their nation’s lawmakers for *compensation* for AM/FM plays do not.

Artists have asked Congress *for decades* to amend the copyright law to act on artist pay for radio play. [Frank Sinatra](#) raised the issue of performance royalties as far back as 1988! Artists are still waiting for Congress to act.

There is proposed legislation to finally grant relief for music creators. The American Music Fairness Act has been carefully crafted so as not to impose a significant burden on small local radio stations, including religious stations and public radio, while granting the long-standing and independent Copyright Royalty Board the authority to determine the fair compensation artists deserve for their work.

This income would make a profound difference in the lives of artists, most of whom struggle to make a living. Like others that have launched a small business, they scrape and hustle. They are the living embodiment of the American Dream and deserve our appreciation. I have witnessed their struggle as a long-time advocate for artist rights and an adviser to music start-ups.

Hon. Cathy McMorris Rodgers
Re: AM Radio for Every Vehicle Act
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Not only is the U.S. freebie unfair, it is entirely out of step with practically every country in the world, and certainly every democracy. America's failure to pay performance royalties put it in dubious company with North Korea and Iran as among the only countries denying artists compensation for AM/FM radio plays. And the failure provides an excuse for European nations to stiff American artists on the royalties paid locally that Americans rightly deserve. In this unfortunate tit for tat, *France collects royalties from American artists only to divert those funds to cultural funds that benefit solely French artists*. This practice would likely stop as soon as America joins the international community and closes the AM radio loophole.

Thank you for taking the time to consider the predicament of artists. As small business owners you and your family share much in common with music creators: you both demonstrate the initiative and fortitude that are the hallmark of our nation of entrepreneurs.

You have the power to insist that both AM radio and artists get the relief they need. That would be a wonderful legacy to cap your distinguished congressional career.

Very truly yours,



Christian L. Castle

CLC/ko

cc: Rep. Michael Burgess
Rep. Dan Crenshaw
Rep. Lizzie Fletcher
Rep. August Pfluger
Rep. Marc Veasy
Rep. Randy Weber

CTA U.S. Adult Emergency Alert Survey 2023

October 2023

Executive Summary

On Wednesday, October 4 at 2:20 PM EST, the Federal Emergency Management Agency (FEMA) in participation with the Federal Communications Commission (FCC) conducted the nationwide test of the Emergency Alert System (EAS) and Wireless Emergency Alerts (WEA). The goal of this test was to ensure that the system continues to be a successful means of communicating emergency information with the public.

Key Findings

- Nine in ten (95%) or 245 million U.S. adults received/heard the October 4 emergency alert via their phone. Specifically, 92% of U.S. Adults (237 million) indicated they received the alert through their smartphone.
- Fifteen percent (15%) of U.S. adults, or 39 million, received/heard the alert through their Television (via. Cable, live streaming, or using an antenna or over-the-air).
- Six percent (6%) of U.S. adults reported they received/heard the alert via radio. Specifically, 5% heard the alert on FM radio and 1% (3 million) reported hearing on AM radio.

Base: U.S. Adults N=800; Q: In which of the following ways, if any, did you receive/hear the emergency alert on Wednesday, October 4? Select all that apply. Note: Answers will equal over 100% as respondents were allowed to select multiple methods of receiving/hearing the alert.

Research Objectives

CTA conducted this research to understand the method for how U.S. Adults received/heard the Emergency Alert on October 4, 2023.

Research Methodology

CTA's Recap of Emergency Alert Systems was administered as an online survey among 800 U.S. Adults (aged 18 plus) from October 4 to October 6, 2023.

As is common practice in survey research, incoming participant respondents were screened and balanced using quotas to reflect the known demographics of the study population based on age, gender, race and geographic region.

As a result, **data can be generalized to 258 million U.S. adults** (ages 18-plus), per the U.S. Census Bureau's [2021 American Community Survey](#) (one-year estimates published September 2022).

The margin of sampling error at 95% confidence for aggregate results is +/-3.5%. Sampling error is larger for subgroups of the data. As with any survey, sampling error is only one source of possible error. Precautionary steps were taken in all phases of the survey design and the collection and processing of the data to minimize its influence because non-sampling errors cannot be accurately calculated.

Due to rounding, numbers presented throughout the report may not add up precisely to the totals and percentages.

CTA designed this study in its entirety and is responsible for all content contained in this report. CTA is a member of the Insights Association (IA) and adheres to the research and analysis guidelines set forth in the MRA Code of Marketing Research Standards and CASRO Code of Standards and Ethics.

Disclaimer

When referencing information from this report, please credit **“CTA U.S. Adult Emergency Alert Survey 2023, © 2023 Consumer Technology Association.”**

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Chair Cathy McMorris Rodgers

House Energy and Commerce Committee
2125 Rayburn House Office Building
Washington, D.C. 20515

Subcommittee Chairman Gus Bilirakis

Innovation, Data and Commerce Subcommittee
House Energy and Commerce Committee
2125 Rayburn House Office Building
Washington, D.C. 20515

APRIL 25, 2024

Dear Chair McMorris Rodgers and Subcommittee Chairman Bilirakis,

On behalf of the two million+ grassroots members of Heritage Action, I write to offer support for H.R.3413 - AM Radio for Every Vehicle Act.

Many Americans depend on AM radio broadcasting to reliably access emergency communications, religious content, local news, sports programming, and more. That access to content and media landscape becomes even more important to families in rural communities, which are often disproportionately reliant on AM radio. Importantly, the AM radio signals used in federal and state emergency communications reach 90% of the American population – making unfettered access essential.

Heritage Action offers our support of H.R.3413 to protect AM radio in all new motor vehicles, without unnecessary fees or surcharges to users.

A handwritten signature in black ink, appearing to read "Ryan Walker", is positioned above the printed name.

RYAN WALKER

Executive Vice President,
Heritage Action for America

April 29, 2024

The Honorable Mike Johnson
Speaker
U.S. House of Representatives
The Capitol, Room H-232
Washington, DC 20510

The Honorable Hakeem Jefferies
Minority Leader
U.S. House of Representatives
The Capitol, Room H-204
Washington, DC 20510

The Honorable Chuck Schumer
Majority Leader
United States Senate
The Capitol, Room S-221
Washington, DC 20515

The Honorable Mitch McConnell
Minority Leader
United States Senate
The Capitol, Room S-230
Washington, DC 20515

Dear Speaker Johnson, Leader Schumer, Leader McConnell, and Leader Jefferies:

We are writing to express our strong support for the AM Radio for Every Vehicle Act (H.R. 3413; S. 1669). As firefighters, law enforcement officers, and representatives of the emergency medical service, we understand the critical importance of reliable communication channels, particularly during emergencies and crises.

AM radio has long served as a dependable means of communication, especially in situations where other forms of communication may be compromised. Whether it's a natural disaster, a severe accident, or a public safety threat, AM radio provides a lifeline for disseminating crucial information to the public and coordinating our emergency response efforts.

By ensuring the inclusion of AM radio receivers in all new vehicles, this legislation ensures that drivers and passengers have access to vital emergency broadcasts, including areas with limited or disrupted cellular or internet connectivity. Through the Integrated Public Alert and Warning System, or IPAWS, AM radio is one of the broadcast methods relied upon after a hurricane when cell service is unreliable. AM radio repeatedly proves a very reliable source of providing information to the community in times where other forms of communication may have been impacted.

Moreover, AM radio remains a reliable source of information for communities in rural and remote areas, where access to other communication technologies may be limited. Rural states with limited broadband or FM and satellite radio coverage rely on AM radio as an integral part of their Emergency Alert State Relay Network, a component of IPAWS. This allows officials to convey instructions for evacuations, sheltering, or shelter-in-place as well as provide regular updates and announce "all-clear" messaging. Passage of the AM Radio for Every Vehicle Act will ensure that this critical communication infrastructure remains universally accessible to all, regardless of geographical location or socioeconomic status.

We urge you to join us in advocating for this important legislation and to ensure its swift passage. Together, we can enhance public safety, improve emergency preparedness, and save lives.

Thank you for your attention to this matter.

Sincerely,



International Association of Fire Chiefs
International Association of Chiefs of Police
International Association of Fire Fighters
Major County Sheriffs of America
National Association of Emergency Medical Technicians
National Sheriffs' Association

cc:

The Honorable Cathy McMorris-Rodgers, Chair, House Committee on Energy and Commerce
The Honorable Frank Pallone, Ranking Member, House Committee on Energy and Commerce
The Honorable Maria Cantwell, Chair, Committee on Commerce, Science and Transportation
The Honorable Ted Cruz, Ranking Member, Committee on Commerce, Science and Transportation
The Honorable Gary Peters, Chair, Committee on Homeland Security and Government Affairs
The Honorable Rand Paul, Ranking Member, Committee on Homeland Security and Government Affairs
The Honorable Mark Green, Chair, Committee on Homeland Security
The Honorable Bennie Thompson, Ranking Member, Committee on Homeland Security
The Honorable Sam Graves, Chair, Committee on Transportation and Infrastructure
The Honorable Rick Larsen, Ranking Member, Committee on Transportation and Infrastructure

:sa

April 29, 2024

The Honorable Cathy McMorris Rodgers
2188 Rayburn House Office Building
Washington D.C. 20515

The Honorable Frank Pallone
2107 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Gus Bilirakis
2306 Rayburn House Office Building
Washington, D.C. 20004

The Honorable Jan Schakowsky
2367 Rayburn House Office Building
Washington, D.C. 20004

Dear Chair McMorris Rodgers, Chair Bilirakis, Ranking Member Pallone, and Ranking Member Schakowsky:

We, the undersigned former leaders of the Federal Emergency Management Agency (FEMA), thank and commend you for your leadership and commitment to public safety by holding a legislative hearing on the AM Radio for Every Vehicle Act, bipartisan legislation to ensure that AM radio remains in automobiles driven on American roadways.

FEMA has spent millions of taxpayer dollars in creating and bolstering the National Public Warning System to communicate with the public during times of crisis. It is powered principally by AM radio because it is the only communication system with the reach and resiliency to ensure that elected leaders and public safety officials can communicate with the public under the worst conditions.

We have seen tremendous advancements in communications technologies over the past decades. Hopefully, in the future cellular, satellite, and internet-based communications can achieve the reach and resiliency of AM radio signals, especially during emergencies. Unfortunately, these platforms do not yet offer that fail-safe reliability. That is why it is critical that AM radio remain available to Americans and those trying keep the public safe and informed.

From the February nationwide cell phone outages to last year's Maui wildfires, the United States is constantly reminded that cellphones and Internet — while extremely useful emergency management communications tools — do not yet have enough reliability during crises and bad weather to stand on their own. During Maui, Superstorm Sandy, and plenty

of other disasters over the years, AM radio signals have saved countless lives at a time when no other communications method was available.

It took FEMA decades to build out this network, and the government continues to spend millions on perfecting it to this day. With the number of natural and man-made disasters in this country rising to previously unthinkable heights, there is too much at stake to allow this critical public safety infrastructure to go to waste.

Again, we thank you for holding a hearing on this important bill on April 30. Your leadership has helped to enlighten scores of your colleagues and thousands of Americans on what is at stake.

Now, we humbly ask that you quickly schedule it for a committee vote so the full House can act on the bill before hurricane season begins in June.

The legislation has bipartisan majority support in the U.S. Congress and has already been approved by the Senate Committee on Commerce, Science, and Transportation. Should you schedule it for a vote, we are confident that the bill will soon become law, and millions of Americans will be safer because of it.

Sincerely,

James Lee Witt
Director, 1993-2001

Joe M. Allbaugh
Director, 2001-2003

Michael Brown
Administrator, 2003-2005

David Paulison
Administrator, 2006-2009

Craig Fugate
Administrator, 2009-2017

Brock Long
Administrator, 2017-2019

Pete Gaynor
Administrator, 2019-2021

CC: The Honorable Maria Cantwell, Chair of the Committee on Commerce, Science, and Transportation Committee

The Honorable Ted Cruz, Ranking Member of the Committee on Commerce, Science, and Transportation Committee

The Honorable Sam Graves, Chair of the House Committee on Transportation & Infrastructure

The Honorable Rick Larsen, Ranking Member of the House Committee on
Transportation & Infrastructure

The Honorable Mark Green, Chair of the House Committee on Homeland Security

The Honorable Bennie Thompson, Ranking Member of the House Committee on
Homeland Security



April 29, 2024

The Honorable Cathy McMorris Rodgers
Chair
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Frank Pallone
Ranking Member
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Gus Bilirakis
Chair
Subcommittee on Innovation, Data, and
Commerce
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Jan Schakowsky
Ranking Member
Subcommittee on Innovation, Data, and
Commerce
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515

Dear Chair Rodgers, Chair Bilirakis and Ranking Members Pallone and Schakowsky:

On behalf of the musicFirst Coalition, we write to share our concerns with the implications of expanding listenership across a platform that directly benefits from the uncompensated work of artists.

On April 30, 2024, the Subcommittee on Innovation, Data, and Commerce will hold a hearing to discuss the *AM Radio for Every Vehicle Act*, draft legislation directing the Department of Transportation (DOT) to require that new motor vehicles be equipped with AM radio technology. The musicFirst Coalition is a national organization of musicians, recording artists, and other stakeholders, representing the interests of music creators. We are strong supporters of local radio stations, including AM broadcasters. However, we must advise against enacting such a mandate until Congress amends the copyright laws to create a performance right for music played over the radio. While recognizing the important services that AM radio provides to Americans, we urge lawmakers to take caution in working to enact this legislation before resolving existing inequities that inhibit fair compensation for hard working artists. Perpetuating technologies that enable radio conglomerates to refrain from compensating artists should be rejected.

In light of recent speculation regarding automakers phasing out AM radio installation as a standard car feature, big radio behemoths—like iHeart Radio—are imploring you to enact a tech mandate which will ultimately perpetuate their dominance in the market. It is well documented that consolidation within the radio industry has led to increased ownership of local stations, including AM stations, by national radio corporations. For example, iHeart owns approximately 250 AM radio stations, and AM stations play an estimated 240 million songs per year. Music often provides the foundation of radio's business model, and a congressionally imposed AM



radio mandate will benefit broadcasters at the expense of music creators. Without the musical ingenuity resulting from immeasurable amounts of work and dedication that artists put toward their craft, major music format broadcasters would have no advertising revenue. However, iHeart and others shamefully refuse to pay artists for this monetized content and they fight every day against the creation of a performance right for music played on the radio.

To be clear, AM radio stations are not adverse to paying talented people, like talk radio personalities, for their hard work that drives advertising revenue. However, iHeart and other radio conglomerates fight reasonable efforts to pay artists for the music they create. It is time Congress updates copyright law to reinforce the most basic of human rights – being compensated for one’s labor. The United States is the only democratic nation that does not require performers to be compensated when their music is played on the radio. Additionally, because artists are not compensated for radio play in the United States, many foreign performance rights societies do not distribute royalties to American recording artists when their music is played on radio overseas. It is hardly a compliment that we are in league with North Korea and Iran as the few countries that deny artists compensation for their work. Even China provides a performance royalty for radio play.

Representatives Issa and Nadler have introduced H.R.791, the *American Music Fairness Act* (AMFA), which would require terrestrial radio stations, like all other music delivery platforms such as SiriusXM or Spotify, to compensate musicians when their songs are played. Indeed, terrestrial radio stations do pay royalties when they stream the same programming over the internet. AMFA would also unlock approximately \$300 million in royalties that foreign countries withhold from U.S. artists when their music is played overseas because the United States doesn’t provide an AM/FM performance royalty.

AMFA has been carefully crafted so as not to impose a significant burden on small local radio stations. Large corporate radio, however, should not be allowed to continue profiting from advertising directed at music listeners without compensating the artists that bring them to the station, and Congress should not mandate technologies that will perpetuate this inequity.

Talk radio and other radio personalities are paid. So too should musical performers. Both the Trump and Biden Administrations (letters attached) have expressed support for creating an exclusive right to public performance for sound recordings over terrestrial radio. Our simple request is that Congress enact AMFA before considering mandating technologies that allow big radio to profit off the backs of music performers.

Sincerely,

The musicFIRST Coalition
<https://musicfirstcoalition.org/>



TECHNET
THE VOICE OF THE
INNOVATION ECONOMY

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April 29, 2024

Chair Cathy McMorris Rodgers
Committee on Energy and Commerce
U.S. House of Representatives
203 Cannon House Office Building
Washington, D.C. 20515

Ranking Member Frank Pallone
Committee on Energy and Commerce
U.S. House of Representatives
2017 Rayburn House Office Building
Washington, D.C. 20515

Dear Chair Rodgers and Ranking Member Pallone:

In advance of the April 30 House Committee on Energy and Commerce Subcommittee on Innovation, Data, and Commerce legislative hearing titled "Draft Legislation to Preserve Americans' Access to AM Radio," I am writing to share TechNet's concerns with the *AM Radio for Every Vehicle Act of 2024*.

TechNet is the national, bipartisan network of technology CEOs and senior executives that promotes the growth of the innovation economy by advocating a targeted policy agenda at the federal and 50-state level. TechNet's diverse membership includes dynamic American businesses ranging from startups to the most iconic companies on the planet and represents over 4.4 million employees and countless customers in the fields of information technology, artificial intelligence, e-commerce, the sharing and gig economies, advanced energy, transportation, cybersecurity, venture capital, and finance.

As new products come to market, the federal government must prioritize policies that promote innovation, consumer preferences, and freedom of choice. While there are many benefits to AM radio, there are several reasons why such a mandate is unnecessary and contrary to the principles of a free-market economy. While we acknowledge the important role AM radio has played over the last century as part of an emergency communications system layered across different media with multiple redundancies, the requirement would unnecessarily hinder progress in the automotive industry.

Some argue AM radio is necessary for emergency broadcasts, but FM radio, internet streaming services, better rural broadband, and text alerts supplement any loss of AM radio access. The Integrated Public Alert & Warning System (IPAWS) is the Federal Emergency Management Agency's national alerting system that connects all public alert systems in the U.S. into a single system. AM radio is only one layer of IPAWS and is unlikely to be relied upon in most emergencies. In October, the Consumer Technology Association (CTA) conducted research on how U.S. adults received the October 4, 2023, nationwide test of the Emergency Alert System (EAS) and Wireless Emergency Alerts (WEA). The study found that nine in ten (95%) or 245 million U.S. adults received or heard the October 4 emergency alert via their phone, while only 1% (three million) reported hearing it on AM radio.¹

¹ "CTA U.S. Adult Emergency Alert Survey 2023." October 2023. Consumer Technology Association. https://shop.cta.tech/collections/research/products/cta-u-s-adult-emergency-alert-survey-2023?_gl=1.&_ga=2.256670027.1194011604.1713378160-185974485.1713378160

The FCC and FEMA are also working to update their respective emergency alert systems. Last year, the FCC proposed rules to improve WEAs by ensuring that participating wireless providers send the alerts in a reliable, accurate, and timely manner.² FEMA's 2019-2021 Annual Performance Report mentioned working to adapt IPAWS to new industry platforms for disseminating alerts,³ and the IPAWS Strategic Plan for Fiscal Years 2022-2026 includes objectives on expanding IPAWS coverage. FEMA recognizes that technology and societal tastes have evolved and is working toward the goal of IPAWS engaging additional media organizations to establish new partners and expanding alert capabilities to additional platforms and outlets.⁴

Mandating AM radio does not lead to greater safety outcomes. The latest EV models are providing multiple options for the consumer to access AM radio content. EVs can offer access to AM stations nationwide through either physical AM radio receivers or streaming and satellite services. Additionally, each EV on the road provides access to IPAWS, so drivers and passengers are alerted to important public service announcements in real time. AM radio frequency through an analog receiver interferes with EV drivetrain technology, generating static and making the radio unintelligible. A recent study found that fixing the problem could cost \$3.8 billion over the next seven years.⁵

Mandating analog AM radio in automobiles — which Congress has never done — is an unnecessary action in the modern communication era and has no bearing on the ability of drivers to receive emergency alerts across multiple modes of communication currently available in automobiles manufactured today. Congress should allow auto manufacturers and consumers to choose designs that prioritize individual choice and technological innovation rather than mandate a particular communications technology for information and content that is otherwise widely available to the public through multiple other modes of communication.

Thank you for your attention to our views.

Sincerely,



Peter Chandler
Senior Vice President, Federal Policy and Government Relations

² "FCC Proposes Action to Improve Wireless Emergency Alerts." April 21, 2023. Federal Communications Commission. <https://www.fcc.gov/document/fcc-proposes-action-improve-wireless-emergency-alerts#:~:text=Notice%20of%20Proposed%20Rulemaking%20to>.

³ "U.S. Department of Homeland Security FY 2019-2021 Annual Performance Report." 2021. Department of Homeland Security. https://www.dhs.gov/sites/default/files/publications/dhs_fy_2019-2021_apr_final.pdf

⁴ "Strategic Plan for the Integrated Public Alert and Warning System (IPAWS) Program Management Office." 2022. https://www.fema.gov/sites/default/files/documents/fema_ipaws-strategic-plan-fy-2022-2026.pdf.

⁵ "Automakers say AM radio in EVs is too costly: report." November 6, 2023. Susan Carpenter. <https://ny1.com/nyc/all-boroughs/transportation/2023/11/06/automakers-say-am-radio-in-evs-is-too-costly>

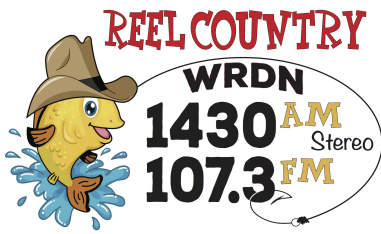


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Comments in support of The AM For Every Vehicle Act to the House Energy and Commerce Subcommittee on Innovation, Data and Commerce.

From Brian Winnekins, Owner of WRDN 1430-AM in Durand, WI

- In 2012 I put WRDN back on the air in Durand, WI in one of the smallest counties in WI. We are about 35 miles southeast of the Prairie Island Nuclear Power Plant. We feature Farm News, Local News, High School Sports, weather, emergency information, and Community Events. We have been successful with the station and are an important part of the community.
- Many in Western Wisconsin have unreliable internet and cell phone services. Our station is the only way farmers and residents receive news, emergency information, and local community events.
- It makes no sense to ban Tic-Tok due to security issues but then abandon free over-the-air radio for internet streaming when that has just as many or more security issues.
- Opponents of AM radio say it sounds terrible, but it is not the AM band, but the poor-quality receivers. The FCC says it does not have congressional authority to enforce receiver standards like with TV.
- The FCC is not enforcing current Part 15 interference rules due to a lack of staff but continues to increase our regulatory fees. So, what am I getting for those fees? If EV vehicles cause electromagnetic interference to other vehicles that is against FCC Rules and they should not be allowed on the road until fixed.
- In 2022 Ford claimed it was electromagnetic interference from the EV motor that prevented inclusion of AM in EV vehicles. Then they backtracked and said they would include AM and any customer that purchased a 2023 F-150 Lightning without AM could get an infotainment center update. No hardware or engineering requirements? Just a software update? Something doesn't make sense.
- General Motors announced the end of Apple Car Play in their vehicles and the expectation of \$25 Billion in subscription revenue by 2030. How will they do that if there is still free, over-the-air radios in vehicles?



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In 2012, I became the licensee of WRDN 1430-AM in Durand Wisconsin. Durand is the County Seat of Pepin County, Wisconsin, which has one of the smallest county populations in the state and is about 35 miles southeast of the Prairie Island Nuclear Power Plant. I remember how many in the industry told me I was crazy for buying a stand-alone AM, much less one in such a small community. Many told me “AM is dead or is dying” and that I would not last 6 months. In 2022 I celebrated our 10th Anniversary of returning the station to the air, all the station debt is paid off and the station is an integral part of our community.

Because agriculture is a \$1.5 billion industry in our listening area, farm programming is a critical part of our daily programming. We have about 7hrs of farm programming during the weekdays, local news, high school sports, local weather, emergency information, and other community events. Many farmers listen to us in their vehicles, trucks, tractors, and combines. During the pandemic we provided “school on the radio” for the elementary school students of the Durand-Arkansaw and Pepin School districts because many elementary school students were unable to use the online classes due to internet limitations, or their siblings and parents were already using the computer. We saw a need and filled that need for our community, free of charge.

While digital streaming services are available in many areas and alerts may be sent via data services, many regions in our area do not have access to reliable broadband or cellular service. Terrestrial radio is the only way many people in our area can receive the services we provide. AM radio is a free service functioning by government mandate to serve communities. Why should those who purchase automobiles be forced to pay a fee for a service that is free today? What is the alternative for those who do not have access to reliable data streams? I find it ironic that in the recently passed foreign aid package, an amendment to eliminate Tic-Tok unless the Chinese Company that owns it sells it because of security issues, while at the same time opponents of the AM For Every Vehicle Act believe its a great idea to abandon over-the-air radio for streaming audio that could be just as much or even more of a security risk for our country.

It does us no good to have receivers in vehicles that are of such inferior quality, they give our listeners a terrible experience and drive them to satellite radio or streaming audio. Our listeners deserve quality receivers, especially if they are purchasing a vehicle costing tens of thousands of dollars. If a vehicle can drive itself, it should be expected to have a quality free over-the-air AM/FM receiver that can receive HD AM/FM, AM Stereo, FM Stereo, and noise blanking technology. In 2021, we converted the station to AM-Stereo. It was not even a few weeks after the conversion that I had some of my farmer listeners started asking what happened to the station because it “sounded like FM.” They also asked me why the station sounded so good on their old work truck but sounded terrible on the \$70,000 truck they had just bought. The FCC says they cannot mandate receiver standards even though they do with TVs (all smart TVs must have an



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over-the-air antenna connection). The FCC is also not enforcing the Part 15 interference rules due to a lack of staff, but they continue to raise the regulatory fees I pay. What am I getting for those fees if they will not protect the radio bandwidth I am licensed for?

The Committee should also ask Ford about their decision to abandon AM radio in EV's. In 2022, they claimed that because of the electromagnetic interference from the electric motor AM radio would not work. Then after the public outcry and the threat of legislation they backtracked and say they would keep AM radio in EV and non-EV vehicles through 2024 and if a customer had purchased an EV without AM, they could come back to dealership and the dealer would "upgrade" the infotainment center. No hardware, (like an AM antenna or receiver) needed to be installed? I thought it was an engineering issue not a computer software issue. Also, if EV vehicles cause interference to the AM band not only to the EV but other vehicles on the road, isn't that a violation of FCC rules and should be fixed before the EV vehicles are on the road?

Recently General Motors announced the end of Apple Car Play in their vehicles in favor of something from Google. In the announcement the CEO said they want to have \$25 Billion in subscription revenue by 2030. How will they do that without the removal of free, over-the-air AM and FM radio?

If congress does not respond to this, it could also lead to the elimination of FM from vehicles for many of the same reasons Ford used to propose eliminating AM. That would mean an end to free, over the air radio in one of our largest sources of listeners, vehicles.

Respectfully Submitted

Brian Winnekins

Owner-WRDN Radio, Durand, WI
2016 NAFB President.



Access to AM Radio in Vehicles Enhances Public Safety and Emergency Preparedness

Opportunity Editorial by Loris Taylor, President/CEO, Native Public Media

In an era dominated by high-speed Internet and satellite radio, the humble AM radio might seem like a relic of the past, just like a landline telephone. However, recent events have underscored its enduring importance, especially in times of crisis. The absence of AM receivers in vehicles leaves citizens and communities vulnerable.

Take it from someone who has survived two disastrous floods. Reliable communication is paramount when disaster strikes, whether it is a natural calamity or a public safety threat. Our car AM radio has long served as a lifeline during emergencies, providing crucial updates and instructions to the public. However, the absence of AM radio receivers in many new vehicles has compromised this vital communication channel.

Recent incidents, such as cellular service outages for AT&T customers, highlight the need for redundant modern communication systems. In areas with limited or disrupted cellular or Internet connectivity, AM radio remains one of the few reliable means of communication when life and property are at stake. The absence of AM radio from vehicles exacerbates the challenges first responders and citizens face during emergencies.

Nowhere is the loss of AM radio more acutely felt than in rural and remote areas, particularly among Tribal communities. Tribal communities often lose access to broadband, cellular, or electric service during severe weather, making reliance on AM radio essential for information. In crises, when every second counts, the absence of AM radio from vehicles further isolates Tribal communities and hampers emergency response efforts.

The AM Radio for Every Vehicle Act (H.R. 3413; S. 1669) ensures the inclusion of AM receivers in all new vehicles regardless of make or model and recognizes the critical role of AM radio in emergency preparedness and response. The legislation ensures that no community is left behind during emergencies by bridging the communications gap in areas with limited or disrupted cellular, broadband, or electric service.

XXX



January 19, 2021

The Honorable Lindsey Graham
Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

The Honorable Jerrold Nadler
Chairman
Committee on the Judiciary
United States House of Representatives
Washington, D.C. 20515

The Honorable Dianne Feinstein
Ranking Member
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

The Honorable Jim Jordan
Ranking Member
Committee on the Judiciary
United States House of Representatives
Washington, D.C. 20515

Dear Mr. Chairmen and Ranking Members:

We write to express the support of the United States Copyright Office (Copyright Office) and the United States Patent and Trademark Office (USPTO) for amending the Copyright Act to require radio stations to provide fair compensation to copyright owners and performers when their sound recordings are broadcast “over the air.”

Section 106 of the Copyright Act sets forth the exclusive rights of copyright owners, including public performance rights for all performable works. Section 106(6) stipulates that copyright holders in sound recordings have a public performance right, but that right is limited in scope to only digital audio transmissions. This right was added pursuant to the Digital Performance Right in

Sound Recordings Act of 1995, which also created a statutory license for sound recordings for non-interactive, subscription-based digital transmissions (where the listener cannot control the songs that are played), such as those offered by Sirius XM. Later, the Digital Millennium Copyright Act of 1998 expanded the statutory license to include non-interactive, non-subscription digital transmissions such as the ad-supported services offered by Pandora and iHeart Radio. Both statutes, however, exempted terrestrial—or “over the air”—broadcasts of sound recordings from the public performance right.

Both the Copyright Office and the Department of Commerce (Department) have long endorsed providing a broad public performance right for sound recordings. When the Copyright Act was revised in 1976, Congress directed the Register of Copyrights to make recommendations on such a right.¹ In 1978, the Register recommended that Congress enact a public performance right for sound recordings, stating, “[t]o leave the creators of sound recordings without any protection or compensation for their widespread commercial use can no longer be justified.”² Since that time, the Copyright Office has consistently supported such a right.³ The Department testified in 1978 in support of the Copyright Office’s recommendation and has subsequently testified and written in support of establishing a public performance right in sound recordings on several occasions.⁴

¹ Copyright Act of 1976, Pub. L. 94-553, § 114(d) (1976).

² U.S. Copyright Office, *Performance Rights in Sound Recordings* 1063 (Comm. Print 1978), <http://copyright.gov/reports/performance-rights-sound-recordings.pdf>.

³ See, e.g., *Oversight of the U.S. Copyright Office: Hearing Before the H. Comm. on the Judiciary, Subcomm. on Intellectual Property*, 116th Cong. 13 (2019) (written statement of Karyn A. Temple, Register of Copyrights); *Register’s Perspective on Copyright Review: Hearing Before the H. Comm. on the Judiciary*, 114th Cong. 52-53, 68 (2015) (statement of Maria A. Pallante, Register of Copyrights); U.S. Copyright Office, *Copyright and the Music Marketplace* 138-39 (2015), <https://www.copyright.gov/docs/musiclicensingstudy/copyright-and-the-music-marketplace.pdf>; *The Performance Rights Act and Parity Among Music Delivery Platforms: Hearing Before the S. Comm. on the Judiciary*, 111th Cong. 117-18 (2009) (statement of Marybeth Peters, Register of Copyrights); *Ensuring Artists Fair Compensation: Updating the Performance Right and Platform Parity for the 21st Century: Hearing Before the Subcomm. on Courts, the Internet, & Intellectual Prop. of the H. Comm. on the Judiciary*, 110th Cong. 13-30 (2007) (statement of Marybeth Peters, Register of Copyrights); *Internet Streaming of Radio Broadcasts: Balancing the Interests of Sound Recording Copyright Owners With Those of Broadcasters: Hearing Before the Subcomm. on Courts, the Internet, and Intell. Prop. of the H. Comm. on the Judiciary*, 108th Cong. 8-22 (2004) (statement of David O. Carson, General Counsel, U.S. Copyright Office); *Performers’ and Performance Rights in Sound Recordings: Hearing Before the Subcomm. on Intell. Prop. and Judicial Admin. of the H. Comm. on the Judiciary*, 103rd Cong. 3-5 (1993) (statement of Ralph Oman, Register of Copyrights); U.S. Copyright Office Report on Copyright Implications of Digital Audio Transmission Services 157 (1991); U.S. Copyright Office, *Performance Rights in Sound Recordings* (Comm. Print 1978), <http://copyright.gov/reports/performance-rights-sound-recordings.pdf>.

⁴ The Department has weighed in, through testimony, letters, and/or policy papers, under the Carter, Clinton, G. W. Bush, and Obama Administrations. See, e.g., Department of Commerce Internet Policy Task Force, *Copyright Policy, Creativity And Innovation in the Digital Economy* 12, 38, 100 (2013); Letter from Cameron Kerry, General Counsel, U.S. Department of Commerce, to Senator Patrick J. Leahy (Apr. 1, 2010); Letter from Lily Fu Claffee,

At the national level, a public performance right in sound recordings furthers the goals of U.S. copyright law and the Constitution to incentivize authors to create and disseminate new works. As the Supreme Court has observed, the “encouragement of individual effort by personal gain is the best way to advance public welfare through the talents of authors and inventors ... ”⁵ This rationale for copyright supports assuring fair compensation to America’s performers and record companies through a broad public performance right in sound recordings. In today’s digital music marketplace, where performers and record labels face both unprecedented challenges and opportunities, providing such incentives for America’s performing artists and recording companies is particularly important.

At the international level, such legislation would remedy a long-standing omission in U.S. copyright law that has harmed American performers and record companies. The United States stands alone among industrialized nations in not recognizing a public performance right for the broadcasting of sound recordings.⁶ American performers and producers do not benefit from the protection afforded to such broadcasts in most other countries because of the lack of a reciprocal right in U.S. copyright law. As a result, substantial royalties due for the public performance of U.S. sound recordings abroad (estimated at approximately \$200 million per year)⁷ are not paid to American performers and record companies. Correcting this

General Counsel, U.S. Department of Commerce, to Representative Howard Berman (June 10, 2008); Information Infrastructure Task Force, Intellectual Property and the National Information Infrastructure, the Report of the Working Group on Intellectual Property Rights 222 (Sept. 1995); *Digital Performance Right in Sound Recordings Act of 1995: Hearing Before the Subcomm. on Courts and Intell. Prop. of the H. Comm. on the Judiciary*, 104th Cong. 156 (1995) (statement of Bruce A. Lehman, Assistant Secretary of Commerce) (endorsing the establishment of a limited public performance right when sound recordings are transmitted by digital means, but only as a step in the direction of providing a full public performance right in sound recordings); *Performance Rights in Sound Recordings Act of 1995: Hearing Before the S. Comm. on the Judiciary*, 104th Cong. 32-34 (1995) (statement of Bruce A. Lehman, Assistant Secretary of Commerce); *Performance Rights in Sound Recordings: Hearing Before the Subcomm. on Courts, Civil Liberties, and the Admin. of Justice*, H. Comm. on the Judiciary, 95th Cong. 179-81 (1978) (statement of Louise Wiener, Special Assistant to the Secretary of Commerce).

⁵ *Mazer v. Stein*, 347 U.S. 201, 219 (1954).

⁶ Instead, we keep company with other countries such as China, Iran, and North Korea, which also do not afford a sound recording broadcaster right. We note, however, that China’s recently enacted copyright amendments, which will go into effect on June 1, 2021, will require broadcasters to remunerate the copyright owners of the sound recordings that they broadcast, bringing China into the mainstream ahead of the United States.

⁷ See SoundExchange, *Closing the AM/FM Radio Royalty Loophole*, <https://www.soundexchange.com/advocacy/closing-the-amfm-radio-royalty-loophole> (last visited Dec. 14, 2020) (“[B]ecause U.S. radio broadcasters refuse to pay artists when they use their recordings on the air, American artists and record labels are denied the estimated \$200 million in performance royalties annually that would be paid to them in nearly every other nation.”); MusicFIRST, *Music Creators Put a Mic to the Fair Play Fair Pay Act* (Oct. 26, 2017), <http://musicfirstcoalition.org/music-creators-put-mic-fair-play-fair-pay-act> (“Passage of the [Fair Pay Fair Play Act] has the potential to bring home more than \$200 million left overseas due to global standards in royalty payments, which are not reciprocated in the United States.”).

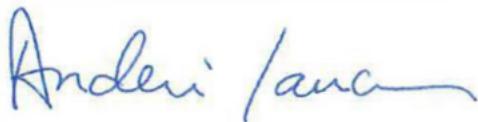
omission in our law would better allow the United States to lead by example in the international copyright community.

In recent years, the sound recording marketplace has shifted from a distribution model to a performance model, and consumption has shifted from purchasing products to purchasing access. Until recently, sales of physical records, and then downloads, made up the vast majority of the recording industry's revenues. Music revenue has now shifted to a marketplace dominated by streaming services, including satellite and cable, as well as internet streaming services like Apple Music and Spotify. Streaming services now account for approximately 79% of U.S. recorded music revenues, while digital downloads and physical products (*i.e.*, sales) only account for approximately 18%.⁸ In this marketplace, broadcast radio stations should also pay sound recording performance royalties, just as satellite, cable, and internet streaming services do. We recognize the impact on broadcast radio stations, and we understand that Congress will have to balance that impact with the ongoing hardships that artists face by not having received these royalties for many decades.

In sum, at a time when performers' and record labels' livelihoods depend heavily on the public performance of sound recordings, and when new digital services must pay royalties to transmit such performances, we believe over the air radio broadcasters should be required to do so as well.

USPTO has been advised by the Office of Management and Budget that the Administration has no objection to the submission of this letter.

Sincerely,



Andrei Iancu
Under Secretary of Commerce for
Intellectual Property and
Director of the United States
Patent and Trademark Office



Shira Perlmutter
Register of Copyrights and Director of
the United States Copyright Office

⁸ Joshua P. Friedlander, *Year-end 2019 RIAA Music Revenues Report 3* (Feb. 25, 2020), <https://www.riaa.com/wp-content/uploads/2020/02/RIAA-2019-Year-End-Music-Industry-Revenue-Report.pdf>.