



Dear Chairman Issa, Ranking Member Johnson and members of the Committee,

Thank you for holding a hearing on “Five Years Later - The Music Modernization Act.” Your ongoing support of music creators and our work has resulted in many positive outcomes for American music and your efforts to protect our Intellectual Property Rights have helped to ensure the sustainability of our profession.

I am a songwriter & composer and the Executive Director of Songwriters of North America (SONA) - a national grassroots, membership-based non-profit organization for songwriters and composers which was founded in 2015 to fight for the value of our profession and our work amid the challenges of a rapidly shifting music marketplace. And what better way to fight than to jump onboard a moving train headed towards copyright reform legislation?

Despite being founded only two years before the Music Modernization Act was drafted, thanks to the former Congressman and lead sponsor of the bill, Doug Collins, Senator Orrin Hatch and other members of Congress who welcomed the opportunity to hear from more songwriter voices; the recognition of the publishers, PROs and other trade groups to include us, and topped by everyone’s inability to keep our attorney Dina LaPolt out of the room, our fledgling friend-group 501c became a primary stakeholder in the formation of the MMA.

The resulting legislation which passed in October of 2018 was viewed as a *promise*. Part of that promise was to build a modern collective licensing entity which would receive the digital services’ payments, match those payments to the correct rights holders and then pay them out with high efficiency and low cost. This new entity was called the Mechanical Licensing Collective (MLC) and our songwriter organization SONA was quickly recruited to assist in its formation.

SONA remained involved in the creation and implementation of the MLC by serving on the songwriter nominating committee (selecting and vetting the slate of songwriters who would serve on the MLC board of directors and committees), and by weighing in on regulations and by-laws that would affect songwriter board members and ultimately the MLC’s songwriter members. Once the current MLC board was designated by the Copyright Office, we met frequently with the new MLC leadership, we provided songwriter input into beta

tests of the portals and data systems, and we consulted on the marketing of the MLC - by translating messaging into "songwriter language" and amplifying its existence and purpose to our creator community, who due to the nature of their work aren't always easy to reach.

As the head of a US songwriter trade association I've had a unique vantage point from which to view the workings and successes of the MLC. You will hear a lot about the match rates, payouts and operational efficiencies from those who testify, so my focus will be on the songwriter perspective when interacting with the MLC.

Songwriters are collaborative by nature, and the staff of the MLC, from their CEO Kris Ahrend and on, have embraced that and continually make efforts to "meet songwriters where they are." Despite establishing an entire company in the middle of a pandemic, fully remotely, the MLC staff have been available and approachable to songwriters who have individual questions and issues, including participating in countless informational and "how-to" webinars, workshops and panels, many of which were co-hosted by SONA. I have further been told that the MLC customer service staff is tireless and willing to remain on with MLC members until their individual problems are resolved. We are so very appreciative of all of these efforts.

I also believe songwriters owe a huge debt of gratitude to Bart Herbison for his leadership and songwriter advocacy on all of our behalf at the MLC, and to the songwriter board members Kara DioGuardi, Kevin Kadish, Oak Felder and Craig Wiseman, along with the songwriters who serve on the MLC's committees, including our own co-founding member of SONA, Kay Hanley. They are all our advocates while being volunteers who give their time and expertise to help the songwriting community and the industry.

While I've been the first to acknowledge the great work that MLC has done, I do need to raise a concern which is not about individual problems that come up for self-published or published songwriters, but a concern that rises to the level of a songwriter advocacy issue. For songwriters, the MLC has one primary function - to collect, to match and to pay out digital audio streaming mechanical royalties due to us and to publishers. It involves three parts of the industry: the digital audio streaming services, music publishers and songwriters. I don't believe it was the intention of the Music Modernization Act to treat any one of those parts preferentially over another.

It's also important to know and understand that songwriters and publishers are two separate entities - often with overlapping interests - but on occasion we differ. Because of the uneven board composition at the MLC - with ten publisher board seats and four songwriter board seats - if a conflict arises where songwriters and publishers are on different sides, the resulting MLC policy favors the publishers. This lack of balance has come into play several times - the most critical example is the current issue of termination rights, where a songwriter is terminating copyright rights that it had once granted to a publisher, and how those rights pertain to the operation of the MLC.

The “pro-songwriter position” that SONA advocated for along with NSAI, MAC, BMAC, and the Recording Academy aligns with the Copyright Office’s proposed rule which would confirm that terminating songwriters receive Section 115 royalties through the MLC following the effective date of the applicable termination under Section 203 or Section 304 of the U.S. Copyright Act. As the Copyright Office has already stated on record, the MLC’s decision to change the rules regarding dispute resolution, solely as it pertains to copyright terminations, was inconsistent with the law.

In these instances where songwriters’ and publishers’ interests are not fully aligned, we would request that, rather than seek board approval, which because of the weighted board composition would require the MLC leadership to side with the publisher majority each time, we would urge either this committee or the US Copyright Office to guide the MLCs decision making process.

Five years ago, we worked together towards a vision of a fairer, more modern marketplace for songwriters and publishers in the era of digital streaming. While we are making strides towards fully realizing the promise of the MMA, we need to lean in, once again, to the spirit of collaboration and partnership. And for partnerships to work, there needs to be balance. To that end, we must strive for fair representation and decision making processes that align equally with all stakeholders to bring a more balanced approach overall.

Thank you once again for your time and your commitment to music creators.

Sincerely,

A handwritten signature in black ink, appearing to read "Michelle Lewis". The signature is fluid and cursive, with a long horizontal stroke at the end.

Michelle Lewis

Executive Director

Songwriters of North America