

**HEARING BEFORE THE UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON THE JUDICIARY**

Select Subcommittee on Courts, Intellectual Property, and the Internet

July 8, 2023

Additional Comments of Abby North

Mr. Chairman, Members of the Subcommittee:

Thank you for the opportunity to participate as a witness in the field hearing held at Belmont University in Nashville on June 27, 2023.

DATA SETS TO IMPROVE MATCHING AND CLAIMING RATES AND ACCURACY

In my written testimony submitted in advance of the field hearing, I noted that in my opinion one data set is not enough for a best-in-class database containing musical work, sound recording, songwriter and publisher metadata contemplated by Title I of the MMA.

In my experience, various sectors of the music business gather and maintain this data on an ongoing basis. These sectors include music publishers, record labels, DSPs and CMOs.

Different industry sectors focus on different identifiers and metadata elements. Consequently, licensing data from multiple sources among the various sectors would allow The MLC to compare and contrast and validate data in order to foster the creation of a truly authoritative database.

Record labels license mechanicals directly from publishers, and also from Mechanical Rights Organizations. To pay the mechanicals owed to publishers of the works the label's artists have recorded, labels must have extensive song, songwriter and publisher data.

DSPs license from publishers under voluntary licenses and CMOs under statutory license, and must report to these licensors. To report, the DSPs must have recording, performer and label data, and they often have the data regarding the compositions embodied in the recordings and parties associated with those compositions.

PROs have immense data sets of musical works, parties, and recordings.

If The MLC's database includes data from the various sectors listed above, and the database logic artfully compares and contrasts the various data sets, The MLC not only would almost certainly improve its claiming and matching data gaps, but also dramatically improve its ability to identify and correct errors in existing claims and matches.

In my opinion, The MLC should utilize commercially available audio "fingerprint" technology in addition to text metadata. Associating such comprehensive sound recording fingerprints of diverse catalog with musical works would facilitate matching and claiming even further.

TECHNOLOGY VENDORS

Having access to multiple data sets as suggested above would help The MLC achieve its mandated role of creating and maintaining the gold standard authoritative musical works database.

However, to take advantage of these data, The MLC's database technology and product must be developed by skilled database architects with experience in big data and creation of efficient and speedy algorithms for matching and claiming. Experience and skill in machine learning and artificial intelligence is crucial.

Further, The MLC's website must include a Dispute Resolution/Claiming Portal and many advancements and functionality updates to existing portals/tools so publishers may administer their works efficiently and at scale.

The Harry Fox Agency could be one of MULTIPLE vendors engaged by The MLC. The back-end administration and technology demands placed on HFA are extensive. The MLC and its members could benefit if The MLC would engage a variety of vendors who specialize in developing the most current and advanced database and licensing and distribution technologies. These multiple subject matter experts could work together to build a truly substantial and powerful technology stack.

Aggregating and iterating multiple datasets with a top-tier database with robust and state-of-the-art matching, claiming and dispute resolution technology could empower The MLC to be best in class.

INDUSTRY BEST PRACTICE WORKING GROUPS

While The MLC has statutory committees whose roles include Operations Advisory, Dispute Resolution and Unclaimed Royalties Oversight, there are few opportunities for songwriters, publishers and other interested parties who are not committee members to participate in product ideas, operations and music industry best practice initiatives at The MLC.

I suggest The MLC regularly engage with broader constituencies for roundtables and working groups about its operations and best practice concepts. This would provide the opportunity and forum for the wider songwriter and publisher community to offer ideas and experiences, and contribute to decision-making.

MATCHING SOUND RECORDING TO MUSICAL WORK

This week, I reviewed new statements I received from The MLC that include new matches of historical unmatched royalties, along with current royalties for the period. One such statement included works from several prominent legacy songwriters of well-known (and lesser-known) works. Of 51 musical works in the statement, 7 were matched to the wrong sound recordings. Those mismatches account for 56% of the royalties on the statement. To be clear, 56% of the royalties reflected on this statement are being paid to the wrong party.

The historical unmatched royalties from CRB Phonorecords III years 2018 – 2022 will apparently be distributed in the near future.

The MLC must focus on correcting existing mismatches of musical works to sound recordings. When such a mismatch occurs, royalties may be distributed to the wrong parties.

It is imperative that these royalties be paid to the correct parties, and The MLC must prioritize its extensive resources to this task.

Given the apparently imminent distribution of Black Box monies from CRB Phonorecords III years 2018 – 2022, I suggest multiple matching vendors be engaged immediately to review existing work to sound recording matches. It may be beneficial to assign works from specific eras, genres, and foreign languages to unique vendors who specialize in those areas.

DISPUTES LEADING TO SUSPENDED ROYALTIES

In my testimony, I described how claim conflicts at The MLC result in The MLC's suspension of royalties under its business rules.

With a well-known work that has been covered by many artists, when a new, infringing claim is delivered to The MLC for that work, I recommend that solely the recording(s) matched to that infringing claim be placed in suspense rather than royalties from both infringing and non-infringing uses.

It makes no sense for royalties generated by every recording that is associated with the true, verified musical work claim to be placed in suspense.

CONCLUSION

The MLC has a tremendous opportunity and responsibility to create a best-in-class database and musical works/recordings data set, as well as world-class Mechanical Rights Organization back-end technology.

The DSPs have provided the money, and The MLC must use it to license more data, build and license more technology and hire more humans to review those matches that elicit minimal confidence in terms of their accuracy.

Songwriters will benefit when The MLC successfully creates an authoritative database with vetted and validated matches and claims. I hope Congress will exercise oversight to confirm The MLC does so.

Songwriters deserve to have their rights protected, and they must be paid the royalties they are owed.