

June 26, 2023

The Honorable Darrell Issa
Chairman, The Subcommittee on Courts, Intellectual Property, and the Internet
House Judiciary Committee

The Honorable Hank Johnson
Ranking Member, The Subcommittee on Courts, Intellectual Property, and the Internet
House Judiciary Committee

Dear Chairman Issa and Ranking Member Johnson,

Thank you for holding a hearing on the five-year anniversary of the Music Modernization Act (P.L. 115-264). Passage and signing of the Music Modernization Act (MMA) was a watershed moment for the music industry. It was the product of years of negotiations, and recognition by stakeholders across industry, large and small, that the prior system was not working for songwriters, publishers, or streaming services.

We support the goals of the MMA – an improved system for all, the creation of a blanket license, and a better, more efficient, and transparent system. We are writing to you today as companies that believe strongly that together, we can continue to build a better music industry that supports creators, connects fans with music they love, and provides unique listening experiences.

Prior to the MMA, the licensing system was outdated, inefficient, opaque, and led to numerous business uncertainties that made it difficult to operate and innovate. The MMA sought to address these challenges by reducing uncertainty and increasing efficiency, allowing digital service providers to provide greater consumer choice in the on-demand streaming space. The costs of licensing and various technical and legal complexities by their nature create barriers to entry for many would-be innovators. Our companies – which seek to provide legal access to music and ensure creators get paid – are part of a competitive market for fans' attention and listening, which ultimately drives revenue to copyright owners. We were heartened to see the MMA take steps to improve efficiency and certainty, better empowering new entrants to the market to launch a service with lower barriers to entry. A vibrant streaming and music market should have numerous options for fans to choose from, numerous places to listen, and numerous avenues for creators to share their songs with the world.

Our companies, along with dozens of others, utilize the statutory blanket license administered by the Mechanical Licensing Collective (MLC), which was created by statute and designated by the Copyright Office. We also, under the terms of the law, contribute to the budget of the MLC.

We supported and continue to support the MMA, which is why we want to ensure it's working well. As the MLC has been operational for the last few years, and as the law has begun functioning in earnest, we believe it is important for Congress to exercise oversight so that the system continues to improve for all stakeholders and to understand the perspective of a wide range of stakeholders, including smaller digital music services.

The budget of the MLC is not insubstantial. The services have consistently agreed to the MLC's requested budgets, including recent significant increases. Unique among other collective licensing organizations, the funding we pay for the MLC comes on top of the royalties that services already pay for the mechanical rights covered by the statutory license. This is a statement of fact, and a feature of the statute. These costs are meaningful for us, particularly given our already low margins and the high cost of music licensing. Oversight of the MLC's budget is vital to ensure that the dozens of services that operate under the blanket license are able to continue innovating and new entrants can afford to enter the market.

We also want to highlight the fact that decisions the MLC makes, particularly those related to interpretations of the statute and governing regulations, have a direct, material impact on our operating costs that may be different than those experienced by larger services. Most smaller services are dependent on a limited number of commercial vendors to assist in usage reporting and royalty payments. This is true not only for mechanical licensing under the MMA, but the other licenses that we must obtain to legally operate our services. While the MLC has shown willingness to work with services in bilateral contexts to find solutions to reporting issues, they have also taken numerous positions on statutory and regulatory compliance that have required us to alter our existing operations. These changes come with costs and in light of the MLC's ability to terminate the blanket license for non-compliance we generally have no recourse but to accept those interpretations and absorb the corresponding costs.

The music licensing landscape is undoubtedly complex, and while challenges remain, the Music Modernization Act was a significant step in the right direction for the licensing of mechanical rights. Streaming provides copyright owners and creators with valuable information, generates millions in royalties for creators, helps artists to connect with their fans, and provides consumers with access to the world's music.

We appreciate your ongoing attention and interest in improving the landscape for all music industry stakeholders, and for holding this hearing. We are encouraged to see that Congress remains committed to these issues, and we look forward to ongoing conversations to ensure that the MMA reaches its potential and lives up to its promises.

Sincerely,


Till Janczukowicz (Jun 24, 2023 00:32 GMT+2)

Till Janczukowicz, CEO
IDAGIO GmbH


Daniel Hubbert (Jun 23, 2023 07:25 PDT)

Daniel Hubbert, CEO
Power Music, Inc.


Matt Eccles (Jun 23, 2023 11:33 PDT)

Matt Eccles, SVP and General Counsel
Napster



Dan Mackta, Managing Director
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Brandon Shevin (Jun 23, 2023 12:40 MDT)

Brandon Shevin, Chief Operating Officer | General Counsel
The Beatport Group

cc:

The Honorable Jim Jordan
Chairman, House Judiciary Committee

The Honorable Jerrold Nadler
Ranking Member, House Judiciary Committee