



# MUSIC. INNOVATION. CONSUMERS.

June 27, 2023

The Honorable Darrell Issa  
Chairman  
Subcommittee on Courts, Intellectual Property, and the Internet  
Committee on the Judiciary  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Henry C. Johnson  
Ranking Member  
Subcommittee on Courts, Intellectual Property, and the Internet  
Committee on the Judiciary  
U.S. House of Representatives  
Washington, D.C. 20515

CC: Members of the Judiciary Committee's Subcommittee on Courts, Intellectual Property, and the Internet

**RE: House Judiciary Committee's Subcommittee on Courts, Intellectual Property, and the Internet hearing, "Five Years Later – The Music Modernization Act"**

Dear Chairman Issa, Ranking Member Johnson, and members of the Subcommittee on Courts, Intellectual Property, and the Internet:

Founded almost a decade ago, the Music Innovators Consumers ("MIC") Coalition represents a broad-based collection of businesses that provide music in retail establishments, live entertainment venues, hotels, restaurants, bars, wineries, and taverns throughout the country, as well as over the nation's radio and television airwaves and Internet. Our members employ millions of workers in cities both large and small across America and pay the vast majority of the more than \$3 billion in annual licensing fees going to the nation's performing rights organizations, which collect such payments on behalf of members of the songwriting community.

Our top priority is creating a functional music marketplace that benefits consumers, creators, and the millions of MIC member businesses who regularly license musical works for purposes of public performance. Our members have united to be a voice for positive change and greater balance and transparency in music licensing.

We appreciate the opportunity to provide input as the Subcommittee marks the five-year anniversary of the enactment of the Music Modernization Act (MMA). While the MIC Coalition and some of our members were involved in the discussions leading up to the MMA, the Act did not address the problems licensees represented by the MIC Coalition face when licensing the public performance of musical works. These problems pose challenges for all licensees, but particularly for the small business owners attempting to lawfully play music in their establishments. As the Subcommittee takes stock of things still to be done to improve music licensing, we hope that you will focus on these challenges.

All businesses that license music are faced with inefficiencies when licensing public performance rights for musical works. These inefficiencies are exacerbated by the ongoing proliferation of performance rights organizations (PROs). Over recent years the number of PROs has grown from three (ASCAP, BMI

and SESAC) to *at least* six (including GMR, PRO Music Rights and AllTrack), with new ones popping up all the time. The current music licensing system incentivizes the proliferation of new PROs through a combination of factors unique to the US market. Business licensees often find it necessary to purchase licenses from any PRO that controls even a relatively modest number of musical works that a licensee might want to play. This means more negotiations, more invoices, more time spent determining if a purported PRO is a legitimate business and not a scam, and more checks to be written for more and more money despite no increase in the amount of music being performed.

For our members, the problem is not paying 100% of the value for the musical work—they want to lawfully pay for the music they play—the problem is paying more than 100% of the value. Each PRO purports to license only *fractions* of works, which they assert cannot be legally performed until all of the other fractions of the same works are licensed (frequently from at least one other PRO). The proliferation of PROs, combined with a lack of transparency as to what portion of a musical work a PRO controls, not to mention the complications caused by mere fractional PRO control of works, often results in licensees paying for more than 100% of the value of the music they actually play. And for many licensees, the rights obtained from the PROs are only one part of what they must license to offer music.

Ultimately, PRO licensing today is inefficient, lacks transparency, potentially exploits marketplace imbalances, and is ripe for improvement. The MIC Coalition was grateful last Congress when Chairman Issa and Representatives Ross and Fitzgerald recognized the need for improved transparency and wrote to the U.S. Register of Copyrights, highlighting the need for a comprehensive database of public performance of musical works data. As they noted, licensees “have essentially no choice but to obtain a license from each PRO in order to cover any meaningfully sized repertoire, and even then, data about what is being licensed remains fragmented and unreliable.” Solving the lack of a comprehensive database would be one positive first step in the right direction.

The MIC Coalition looks forward to working with the Subcommittee on solutions to improve data transparency and make it easier for businesses to license music.

Sincerely,

### **The MIC Coalition**

American Beverage Licensees (ABL)  
American Hotel & Lodging Association (AHLA) Brewers  
Association (BA)  
Computer & Communications Industry Association (CCIA)  
Consumer Technology Association (CTA)  
Digital Media Association (DiMA)  
Exhibitions & Conferences Alliance  
International Association of Exhibitions and Events (IAEE)  
International Association of Venue Managers  
(IAVM)

Meeting Professionals International (MPI) National  
Association of Broadcasters (NAB) National  
Restaurant Association (NRA) Television Music  
License Committee (TVMLC)  
The National Religious Broadcasters Music License  
Committee (NRBMLC)  
National Retail Federation (NRF)  
Radio Music License Committee (RMLC)  
Society of Independent Show Organizers (SISO)  
WineAmerica

