

Written Testimony of

Daniel Tashian

GRAMMY-Winning Artist, Songwriter, and Producer

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Subcommittee on Courts, Intellectual Property, and the Internet

Hearing On

“Five Years Later – The Music Modernization Act”

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Chairman Issa, Ranking Member Johnson, and members of the Subcommittee.

Thank you for the opportunity to speak with you today about the Music Modernization Act. My name is Daniel Tashian, and I am a songwriter, producer, musician, and artist. Throughout my career I've released music of my own and collaborated with artists ranging from Tim McGraw to Demi Lovato to the legendary Burt Bacharach. In 2019, I received two GRAMMY Awards for my work with Kacey Musgraves on her Album "Golden Hour," which won the GRAMMY for Album of the Year. I am also a voting member of the Recording Academy, the organization behind the GRAMMY Awards, which represents thousands of music creators like me here in Nashville and across the country.

The Music Modernization Act was a landmark piece of legislation that reflected years of work by Members of Congress, stakeholders across the music industry like the Recording Academy and others, and direct activism by individual music creators. The MMA addressed many issues that impact music makers in different crafts, and I've personally benefited by all aspects of the law.

As a songwriter, I am grateful that the MMA changed the way songwriters are paid for mechanical licenses by streaming services. The MMA reformed an unreliable and opaque system into one that provides transparency and accountability. Since beginning payments in April of 2021, The Mechanical Licensing Collective has paid out over a billion dollars in royalties and has achieved a matching rate of nearly 90 percent. These are remarkable outcomes that should encourage every songwriter. I am personally grateful for the work of The MLC to ensure songwriters receive the payments they are due. But even with this incredible progress and the good work of The MLC, there are still opportunities on the horizon to improve.

First, The MLC is still holding on to hundreds of millions of dollars in historically unmatched royalties. The MLC must continue to match this money to the appropriate songwriters. To its credit, The MLC has made all its data related to unmatched money publicly available and searchable. But they must also continue their outreach efforts to the songwriter community to identify every songwriter who has money owed to them. The MMA requires that any unmatched money will eventually be paid out by market share, but importantly it gives The MLC the flexibility to take the time necessary to make every effort to match royalties to the correct songwriter. I know that my works are registered with The MLC, and I have a team around me that ensures my data is correct. But I know not every songwriter is so fortunate—these unidentified songwriters are most likely to be those who are independent and unaffiliated with a publisher, and the most in need of receiving those royalties.

Second, now that we have finally resolved the dispute over the Copyright Royalty Board's "Phonorecords III" rate decision that determined royalty rates for the 2018-2022 period, The MLC must work expeditiously to collect and distribute the backpay owed by the streaming services to songwriters. The law is clear: once the final ruling is published

in the federal register, the DSPs have six months to pay the additional royalties they owe. Imagine if you were told you were finally receiving a raise after being underpaid for your entire career, only to have to wait another five years before receiving any of it. Songwriters have waited long enough.

Finally, Congress should remember that the MMA contemplated a robust oversight role for Congress and the U.S. Copyright Office over the operations of The MLC. The MLC is an administrative body, not a policymaking body. Recent disputes over the impact of The MLC's policies on songwriter termination rights illustrate that Congress and the Copyright Office must continue to stay engaged to protect the rights and interests of songwriters.

But the MMA did much more than reform royalty payments for songwriters. As a producer, I am grateful for the provisions of the MMA known as the "AMP Act". For the first time, the AMP Act recognized the important role of producers, engineers and mixers in copyright law, and codified the "letters of direction" or "LOD" process by which producers can collect their share of digital royalties directly through SoundExchange. A featured artist can use a LOD to instruct SoundExchange to pay a percentage of their royalties to a producer, engineer or mixer who participated in creating a recording, pursuant to their contract. Without a LOD, studio professionals must collect their royalties from the artist, which can be inefficient and burdensome for everyone involved. I personally have an LOD in place with SoundExchange and benefit from this practice.

To fully realize the potential of the AMP Act to help producers and other studio professionals collect their royalties, more needs to be done. SoundExchange, which has been an important partner and friend to our community, should continue to improve and streamline the LOD application process to make it as easy as possible for individuals, especially those producers and engineers who don't have management teams to help them navigate the necessary paperwork. In addition, industry stakeholders should increase awareness of the LOD process to both the producer community and especially the artist community to normalize the widespread adoption of these agreements and the payments SoundExchange facilitates.

Finally, I want to briefly mention the last part of the MMA, the "CLASSICS Act," authored by Chairman Issa, which provides for the payment of digital royalties for sound recordings created prior to 1972. As I mentioned earlier, I had the great privilege of collaborating with the late Burt Bacharach in 2020 on the EP *Blue Umbrella*, which was recognized with a GRAMMY nomination. Many of Burt's most famous songs were recorded by Dionne Warwick, who herself was a vocal advocate for fixing what was known as the pre-72 loophole. But I have a more personal connection to this issue. My father, Barry Tashian, led the epic legacy act Barry and The Remains, who opened for the Beatles on their 1966 U.S. tour. His music is still streamed and listened to today. It's incredible to think that he was not paid royalties for years because of an arbitrary gap in the law. I applaud Congress for fixing this quirk and ensuring that my family and other legacy artists are now fairly compensated for their classic tracks.

Artists like Dionne aren't done fighting; she continues to be a fierce advocate for finally establishing a public performance right for artists and sound recordings on AM/FM radio. The radio performance right remains the biggest unresolved issue in music that can only be fixed by Congress. I applaud this Committee's work to pass the American Music Fairness Act last December, and I hope we can work to find a solution to pass this bill into law.

In conclusion, the Music Modernization Act represents a generational reform of music law. It also represents a sea change in the relationship between the music community and Congress. For Congress, you saw stakeholders from all sides of our industry come together to solve real, longstanding problems. And for music makers like me, we saw that the decision-makers in Washington actually care about us, and that you were willing to take the time to learn about our complicated and oftentimes messy business to try to help make our lives a little better. My hope is that the MMA serves as a foundation of how we can work together to solve the challenges that still face us. Whether it's resolving the historic inequity of the lack of performance royalties for artists on broadcast radio or ensuring a fair CRB rate-setting process for songwriters, I am hopeful the MMA will continue to be an example of what we can achieve.

For the professional songwriters, producers, and artists like me who are working everyday in anonymity to create new music for the world, we are counting on you to look out for our interests.

Thank you.