

# A Performance Right is Not a Tax, Congress should Exit the Music Business



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Posted by **Katie McAuliffe** on Monday, May 10th, 2021, 4:15 PM

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Americans for Tax Reform send a [letter](#) to the Senate and House sponsors of the Local Radio Freedom Act, that reasserts our long-held position that the government should not insert itself into markets.

You can read the full letter below and linked to [here](#).

Dear Congressman:

I am writing today to clarify Americans for Tax Reform's position on licensing and copyright, especially as it pertains to what does and does not constitute a tax.

As language circulates concerning music distribution, we urge the consideration of the entire universe of music distribution and how copyright is applied. Artists and distributors, including broadcasters, should have the opportunity for free-market negotiations, as do other businesses.

When Congress considers reform, it should support market forces rather than increased government intervention as the best tool for unleashing innovation and fostering creativity.

All parties, e.g., writers, artists, recording companies, broadcasting companies and others, should be allowed to negotiate mutually agreeable terms. There is no way, ultimately, for a legislator to decide what the fair market value of a product or service is.

We should move toward a market where setting prices; forbidding actions on one side or another; preventing the acceptance of payment for one service or another; or prohibiting collection of compensation for the use of property, are things of the past. We should not prevent compensation for work created or compensation from promotion supplied. This should not be a regulatory issue. This should be the work of a functional market.

The debate on performance rights is an interesting and important one. Ultimately, it should be made in the marketplace, not in House and Senate office buildings. Prior private agreements between music creators and record labels demonstrate that the performance rights issue is better addressed through private contracts than a broad government mandate.

By definition, charging for content is not a tax. Specifically, a performance right is not a tax. We often correct tax proponents who try to call a new tax something (anything)



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other than a tax, however, the term “tax” doesn’t apply in this case.

We believe in an open and free market, and the vigilant protection of property rights. Government should extract itself from this debate to allow an environment for negotiations to develop among broadcasters, record companies, artists, and other interested parties.

Moving forward, I urge you to enact reforms that protect intellectual property, nurture the private sector and allow the free market to determine prices and compensation for labor and intellectual property.

Onward,

Grover Norquist  
President,  
Americans for Tax Reform



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