



Briefing on

“Respecting Artists with the American Music Fairness Act”

**United States House of Representatives
Committee on the Judiciary**

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I. Introduction

Good morning, Chairman Nadler, Ranking Member Jordan and members and staff of the House Judiciary Committee. My name is Curtis LeGeyst, and I am the President and Chief Executive Officer of the National Association of Broadcasters (NAB). I am proud to testify today on behalf of our more than 5,200 free, local, over-the-air radio members who serve your constituents across the United States.

For more than 100 years, broadcast radio has impacted the lives of Americans in many beneficial and significant ways. Radio broadcasters inform, educate and alert our listeners to important events, issues and emergencies. We introduce them to new music. We entertain them with sports, talk and interviews. We are local, involved in our communities and proud to serve the public interest.

Radio stations' critical role as first informers, emergency lifelines and entertainment media has never been more apparent than today – during the coronavirus pandemic. Even in the face of decimating and unprecedented losses in advertising revenue – as well as risk to their own health and safety – local radio stations and their employees report for duty every day, providing a lifeline and the latest local information that keeps communities safe and connected.

I look forward to discussing today the enduring value of broadcast radio, the importance of the existing copyright framework that governs it for the benefit of musicians and the public, and how enactment of the American Music Fairness Act (AMFA) would harm the public good and fail artists by imposing a new performance royalty that is economically untenable for local radio stations.

II. Broadcast Radio Remains Unique Among All Communications Media

Local radio has played a crucial role in communities across the country for more than a century. From FDR's fireside chats to MLK's speeches, from the first U.S. commercial

broadcast on Election Day 1920 to the current coronavirus coverage, radio is integral to the fabric of American life.

More than 239 million listeners tune into U.S. radio stations every week¹ because our programming, service and cost remain unique among all entertainment mediums. Our locally focused content informs, educates and alerts listeners to important events impacting their communities. Our resilient architecture ensures that listeners will not lose access to their hometown teams in the bottom of the ninth inning, or – more importantly – to an emergency alert during a time of crisis. Local radio broadcasters do all of this through a service that is completely free to listeners, requiring no monthly subscriptions or expensive data charges. For your constituents who may be unable to pay for quality, vetted local news, radio broadcasters help ensure that they are not left behind. In addition, local radio serves a number of diverse linguistic and ethnic audiences, providing a unique and vital service to non-English speakers who may be underserved by general market media.

As a result of its massive popularity, radio continues to be an engine of local economic activity. Local radio stations employ more than 116,000 people nationwide and contribute more than \$380 billion to the U.S. economy through our broad stimulative effect.²

Radio's enduring commitment to local communities – and its recognition and support of the local diversity within those communities – has driven extraordinary levels of public service. The attached Exhibit A includes recent representative examples of local radio broadcasters serving their communities, as well as examples of radio groups leading nationwide initiatives. These are not isolated incidents of public service. Rather, these are only a handful of examples of

¹ The Nielsen Total Audience Report, June 2021.

² Local Radio and TV: Helping Drive the United States Economy, Woods & Poole Economics, 2021.

what radio stations do across the country every day, every week and every year for their local communities.

Of course, you cannot talk about broadcast radio without recalling the countless artists whose careers were made when their first song played over our airwaves,³ or our listeners whose memories are indelibly intertwined with a song playing on their favorite station. Broadcast radio continues to drive music discovery for both new musicians and legacy artists.⁴

III. The AMFA Would Disrupt the Music Licensing Framework Governing Broadcast Radio and Harm the Public Good

Radio's place in the fabric of American culture is not accidental. It is the product of policy choices and a resulting legal framework that enables broadcast radio to remain completely free and dedicated to local communities. Anyone in the country can access local radio without needing a subscription or internet connection. During emergencies and times when other forms of communication fail, radio is there to deliver critical information to listeners across America.

While the world around radio has changed dramatically in the past century, the popularity of broadcast radio has not. Its enduring listenership is testament to consumers' continued demand for a free listening alternative, populated by familiar personalities who are part of their local communities. As the music industry grows and streaming offerings expand, broadcast radio remains as popular as ever, for music listening and discovery year after year. Eighty-five percent of Americans listen to radio each week. As a result, the mutually beneficial relationship between performers and radio – free airplay for free promotion – continues to thrive, and the laws governing that relationship continue to serve the public interest.

³ See <https://www.rbr.com/musicians-thank-radio-for-airplay/>; <https://www.cbsnews.com/news/cma-awards-2017-winners-highlights-and-best-moments/>; <https://www.nab.org/documents/newsroom/pressRelease.asp?id=1785>

⁴ <https://radioink.com/2022/01/26/will-ethnic-radio-survive-in-the-u-s-a/>

When 239 million listeners hear a new artist or song they like on the radio, consumers then engage with that artist in other ways, whether it's streaming, through social media, or by attending live events – all of which adds up to significant income for performers through the promotional value of radio. To put the reach of local broadcasting in context, a single song played during the morning drive on Spanish Broadcasting System's salsa and English/Spanish language adult contemporary station WCMQ-FM in Miami, Florida, is the equivalent of more than 15,200 unique streams on Spotify or Pandora.

Some of my fellow panelists have suggested that despite broadcast radio's time-tested benefits to both performers and listeners, Congress ought to overhaul the current music licensing laws that apply to local radio and impose a new sound recording performance royalty on local radio stations by enacting the AMFA.

Such an abrupt change in law that governs relationships between incumbent rights holders and users would be wholly inconsistent with Congress' long-held approach to copyright policy. Whether it was the emergence of player piano rolls, copy machines, VHS recordings, streaming services or search engines, Congress has consistently focused its major copyright reforms on updates to law that are needed to account for new or emerging technologies – not mediums that have existed for more than 100 years. It would be unprecedented for Congress to upend copyright laws that have governed decades-long relationships, on which entire industries have been built to the mutual benefit of stakeholders as well as the public, and where the fundamental nature of each remains intact.

Moreover, the imposition of a new performance royalty is simply economically untenable for local radio broadcasters. While our critical lifeline service is free to listeners, it is not to those who provide it. The current pandemic has demonstrated not only how important broadcast radio

is, but also the narrow margins with which radio owners operate. This financial reality is true for radio stations of all sizes and in all markets.

By contrast, thanks in large part due to the continued exposure given to artists on radio, the American recording industry is the largest in the world, whether measured in terms of revenue, or creation and export of music. Even during the pandemic, U.S. recorded music revenues have continued to boom. In 2019, U.S. recorded music revenues grew 13% to \$11.1 billion;⁵ in 2020, they grew more than nine percent to \$12.2 billion (the fifth consecutive year of growth for the industry);⁶ and in the *first half* of 2021, they grew 27% versus the prior year, from \$5.6 to \$7.1 billion.⁷

Radio stations invest considerable amounts of money in producing content, employing on-air talent and updating the equipment they need to run successful stations. They also pay substantial FCC license fees and hundreds of millions of dollars in royalties to performing rights organizations like ASCAP and BMI and streaming collectives like SoundExchange. Without reliance on the subscription fees that listeners pay to streaming services and satellite radio, broadcasters cover these costs entirely through advertising revenue. Those in the radio industry know that during tough times, businesses' advertising expenditures are the first thing to be cut and the last to return. At the outset of the pandemic, that revenue source was put on life support, and it is still working on a full return.

Make no mistake: enacting the AMFA would jeopardize jobs, require radio stations to cut back their involvement in local communities and place more pressure on radio stations already struggling to survive. It would also incentivize radio stations to play less music per hour, shift to

⁵ <https://www.riaa.com/wp-content/uploads/2020/02/RIAA-2019-Year-End-Music-Industry-Revenue-Report.pdf>

⁶ <https://www.riaa.com/wp-content/uploads/2021/02/2020-Year-End-Music-Industry-Revenue-Report.pdf>

⁷ <https://www.riaa.com/wp-content/uploads/2021/09/Mid-Year-2021-RIAA-Music-Revenue-Report.pdf>

non-music formats as a means of economic survival and cause some stations to go out of business altogether. This would hurt not only the radio stations and their local communities, but also the artists who rely on radio's unprecedented reach to broadcast them to the 85% of Americans who tune in each week. Lesser known or up-and-coming artists may suffer in particular, with radio stations being forced to air the most popular or larger performing artists in an attempt to draw a larger audience at minimal cost.

For these reasons, Reps. Kathy Castor (FL-14) and Steve Womack (AR-03) and Sens. Martin Heinrich (NM) and John Barrasso (WY) introduced the Local Radio Freedom Act this Congress (H. Con. Res. 33 / S. Con. Res. 9), which opposes any new performance royalty on broadcast radio. NAB thanks the combined 232 House and Senate cosponsors of the resolution for their support of local radio.

IV. The AMFA Fails to Consider the Marketplace Realities of Broadcast Radio and the Broader Music Licensing System

The AMFA disregards the value of radio and would create a music licensing scheme that is financially unsustainable for broadcasters and leads to less music airplay. Rather than balancing the marketplace realities and allowing broadcast radio to thrive – which in turn promotes artists and benefits local communities – the AMFA imposes a piecemeal terrestrial performance royalty that would further stress the viability of the current local broadcast radio model as discussed above. If radio cannot thrive, its benefits to artists and local communities wither.

The AMFA delivers a second punch to local radio by ignoring how the current webcasting compulsory license⁸ impedes broadcasters from innovating, which further limits radio's benefit to artists and the public. For broadcasters striving to serve their listeners by

⁸ 17 U.S.C. § 114(f).

offering simulcasts of their terrestrial programming through online platforms, there is simply no formula for offsetting the significant webcasting rates set by the Copyright Royalty Board (CRB) with digital revenues. Radio stations already pay tens of millions of dollars in royalties to streaming collectives like SoundExchange, which in turn go to record labels and artists. Because webcasting is cost prohibitive, however, many broadcasters currently choose either not to stream or to limit streaming. This does not serve artists or the public interest.

For broadcasters in particular, the digital space offers an opportunity to expand the footprint of the public benefits highlighted above. It also provides the chance for exciting new innovations that improve the listening experience, like radio feeds that automatically transition from terrestrial to streaming as a driver leaves a local market. But the current rates set by the CRB undermine this possibility because they have resulted in license fees that make webcasting cost prohibitive. Today, whether you are a large broadcaster or small broadcaster, or your station is based in Washington, D.C., Lima, Ohio, or New York City, the revenue that can be generated from streaming simply does not, and cannot, offset the costs. This imbalance impedes the growth of internet radio among local radio broadcasters and diminishes the possibility of our increased service to your constituents, which ultimately is not to the benefit of artists, songwriters, or, most of all, consumers.

Even outside of broadcast, the non-interactive webcasting space lacks effective competition to maximize consumer choice. Today, the only companies that can attempt to take on the challenge of a non-interactive streaming service (as distinct from on-demand platforms like Apple Music, Spotify and YouTube) are those that are successful in other businesses – whether it be broadcasting, satellite radio, internet search, or consumer electronics. Those entities can leverage that success to subsidize a long-term investment in music distribution. For example,

SiriusXM radio acquired Pandora in 2019, making it the then-largest audio company in the world. But even after such an acquisition, Pandora has continued to shed thousands of subscribers. This leaves a limited pool of competitors in this space and little opportunity for new entrants, harming both the music industry and consumers.

V. Conclusion

Thank you for inviting me to testify today. We are extremely proud of the role we play in serving your constituents and supporting our music industry partners. Unfortunately, by disregarding today's marketplace realities, the AMFA would undermine both. We look forward to working with this Committee in support of balanced music licensing policies that ensure a thriving future for musicians while enabling broadcasters to grow our uniquely free and local service.

I look forward to answering your questions.

Exhibit A

Recent representative examples of local radio broadcasters serving their communities, as well as radio groups' nationwide initiatives:

- CD 92.9 FM in Columbus, OH raised money for various children's charities in Central Ohio through the 29th Annual Andyman-A-Thon, a radio drive that accepted donations in exchange for playing contributors' favorite songs.⁹
- As an initiative to promote diversity, equity and inclusion, Audacy Sacramento launched "Audacy Serves" across its six stations in the market, airing a new weekly public affairs show, a mentoring program for students exploring media careers, and an ongoing series of on-air public service announcements from like-minded organizations in the community.¹⁰
- iHeartMedia's WLTW-FM New York City raised more than \$1.2 million to benefit Hassenfeld Children's Hospital at NYU Langone as part of its third annual "Hope for the Holidays" Radiothon.¹¹
- KALC-FM Denver, Co. raised \$1.3 million for Children's Hospital Colorado, part of the Children's Miracle Network during Alice 105.9's Cares for Kids Radiothon. The amount donated during the 20th annual radiothon brought the overall fundraising total to more than \$24 million since 2001.¹²
- Audacy's WDOK-FM Cleveland raised over \$250,000 to benefit the local children's hospital, bringing the station's radiothon contributions to \$4.7 million since 2003.¹³
- Beasley Media Group's WMGC-FM Detroit, MI morning show "The Gello Show" reported on an initiative aiming to help Black restaurants, cooks and chefs hit hardest by the COVID-19 pandemic and celebrate Africa's contribution to American food during Black History Month.¹⁴
- A group of iHeartMedia's radio stations in Milwaukee launched an initiative to support local Black-owned businesses, restaurants, and nonprofits.¹⁵

⁹ <https://www.columbusnavigator.com/the-29th-annual-andyman-a-thon/>

¹⁰ http://www.insideradio.com/free/audacy-serves-promoting-diversity-launches-in-sacramento/article_b5430908-ba76-11eb-8ec4-978e720b8413.html

¹¹ <https://ramp247.com/formats/ac/lite-fm-ny-raises-over-1-2-mil-for-hassenfeld-childrens/>

¹² <https://radioink.com/2021/02/13/kalc-fm-denver-comes-up-big-for-kids/>

¹³ <https://entercom.com/press/local/entercom-raises-over-200000-for-university-hospitals-rainbow-babies-childrens-hospital/>

¹⁴ <https://michmab.com/wmgc-celebrates-african-diaspora-food/>

¹⁵ <http://www.urbanradiation.com/2020/08/iheartmedia-milwaukee-launches.html>

- Beasley Media Group’s WMGK-FM Classic Rock 102.9 legendary morning personality John DeBella hosted the annual Turkey Drop, collecting a record-breaking 9,056 turkeys for needy families in the Philadelphia area.¹⁶
- Cumulus Media’s Dallas-Fort Worth, Texas, station HOT 93.3 partnered with Dallas Area Rapid Transit (DART) to celebrate Hispanic Heritage Month by airing stories highlighting local Hispanic-owned businesses and recognizing the achievements and contributions of inspiring Hispanic Americans in the community.¹⁷
- In response to Hurricane Ida, iHeartMedia Houston’s seven radio station cluster mobilized with the help of their listeners to fill and deploy dozens of trucks filled with donations for impacted communities.¹⁸
- Audacy Country KWJJ (99.5 THE WOLF)/PORTLAND, OR morning show hosts Nick and Kristen held a “Medical Debt Payoff” event, in partnership with RIP Medical Debt, to eliminate \$2.1 million in medical expenses in the Pacific Northwest area.¹⁹
- Capitol Broadcasting’s WRAL-FM Raleigh, NC raised nearly \$643,000 to help patients and families as part of the 27th annual Mix 101.5 Radiothon for Duke Children’s Hospital.²⁰
- CUMULUS’s KMJ-FM Fresno teamed up with a local agriculture company and raised more than \$500,000 for the Central California Food Bank through the “2021 Feeding Families Fund Drive.”²¹
- iHeartMedia Atlanta stations partnered with local television station CBS affiliate WGCL-TV to collect water and toiletries over the weekend of March 28, 2021 to benefit the many tornado victims of Coweta county.²²
- Hubbard Broadcasting’s WIRK Indiantown, Fla., morning show team Tim Leary and Chelsea Taylor, along with the Wounded Veterans Relief Fund, raised \$10,000 worth of tools and services for an Army veteran.²³
- Missouri Valley Broadcasting’s KMMO Marshall, Mo., highlighted on its website a state initiative designed to assist older Missourians with accessing the COVID-19 vaccine.²⁴

¹⁶ <https://www.urbaninsite.com/news/wmgk-fm-john-debella-turkey-drop-collects-9056/>

¹⁷ <https://www.wearebroadcasters.com/publicService/story.asp?id=4884>

¹⁸ <https://radioink.com/2021/08/31/iheart-houston-helping-new-orleans-community/>

¹⁹ <https://www.allaccess.com/net-news/archive/story/213331/kwjj-99-5-the-wolf-portland-or-morning-show-elimin>

²⁰ <https://www.wral.com/mix-101-5-radiothon-raises-nearly-643-000-for-duke-children-s-hospital/20034416/>

²¹ [https://news.radio-online.com/articles/n41114/Fresnos-KMJ-Raises-Ove-\\$500K-for-Central-California-Food-Bank](https://news.radio-online.com/articles/n41114/Fresnos-KMJ-Raises-Ove-$500K-for-Central-California-Food-Bank)

²² <https://power961.iheart.com/featured/atlanta/content/2021-03-26-coweta-county-tornado-relief-donate-water-toiletries-this-saturday/>

²³ <https://radioink.com/2021/09/01/wirk-helps-a-florida-vet-in-need/>

²⁴ <https://www.kmmo.com/2021/02/18/missouri-seniors-can-obtain-assistance-with-getting-covid-19-vaccinations/>

- When a local recovery center for women needed funding, WKRQ, a Hubbard station, hosted an '80s-themed party, donated \$16,000 to the center and devoted over 15,000 minutes of airtime. The station spent thousands of community service hours to help raise \$5.5 million for Cincinnati charities in 2019.²⁵
- iHeartMedia News-Talk KGB-A (AM 760)/San Diego helped raise more than \$1.4 million for the Warrior Foundation Freedom Station during a 12-hour “Give-a-Thon” broadcast, with funds raised to help the organization reunite injured service members with their families during the holidays.²⁶
- After Hurricane Ida left most of New Orleans without power, air conditioning and television, Audacy’s WWL AM/FM New Orleans, La., remained on the air and provided a reliable link between their listeners and the outside world. Nineteen station employees moved into WWL’s studios the day before to ride out the storm and keep the station broadcasting 24 hours a day to cover the aftermath and provide support for residents in need.²⁷
- Beasley Media Group, Cox Media Group, Alpha Media, Neuhoff Media and Townsquare Media partnered with BMI and country music’s top songwriters, including Luke Bryan, for a nationally broadcast concert to benefit the MusiCares COVID-19 relief fund.²⁸
- Univision launched its “Unidos Por Los Nuestrs” multimedia campaign, which aims to close the in-language information gap that has emerged for Hispanic Americans during the pandemic.²⁹
- iHeartMedia held the second annual “iHeartRadio Living Black! Empowered by AT&T,” a month-long on-air celebration of black culture, featuring a mix of custom audio tributes from artists, influencers and thought leaders.³⁰

²⁵ <https://www.wearebroadcasters.com/americasStories/crystals.asp>

²⁶ <https://www.allaccess.com/net-news/archive/story/213373/kgb-a-san-diego-raises-1-455-471-in-annual-give-a->

²⁷ http://www.insideradio.com/free/new-orleans-radio-went-wall-to-wall-sunday-as-hurricane-ida-made-landfall/article_f0735c20-0969-11ec-8a74-e753e1d99dcf.html

²⁸ <https://musicrow.com/2020/05/luke-bryan-to-co-host-a-salute-to-the-songwriters-radio-concert-benefit/>

²⁹ <http://www.hispanicad.com/agency/health/univision-unveils-unidos-por-los-nuestrs-covid-19>

³⁰ <https://www.iheartmedia.com/press/big-sean-her-moneybagg-yo-ari-lennox-perform-plus-special-moment-lizzo-during-iheartradio>