



June 26, 2023

The Honorable Darrell Issa
2108 Rayburn House Office Bldg.
Washington, DC 20515

The Honorable Hank Johnson
2240 Rayburn House Office Bldg.
Washington, DC 20515

Dear Chairman Issa and Ranking Member Johnson,

We thank you and the rest of the House Judiciary Subcommittee on Intellectual Property for holding a hearing “Five Years Later – The Music Modernization Act” on June 27, 2023. We write to you as American independent music creator and artist groups. Together, we represent the professional interests and aspirations of tens of thousands of professional songwriters, composers, lyricists, recording artists, supporting musicians, producers and recording engineers in the United States. Hundreds of small businesses that together own vast catalogues of sound recordings and musical works are among our members.

Congress's passage of the Music Modernization Act (MMA) and its creation of the Music Licensing Collective (MLC) was beneficial to the professional creator community, and demonstrated how Congress and various disparate stakeholders in the music ecosystem could come together for the common good on several very important economic and administrative matters. Experience gained over the past five years has revealed a number of significant issues that we, as creators, face in the digital age. However, we believe that with some experientially based reforms, the MMA can be made to benefit the overall music community even more significantly in the future.

At this five-year anniversary of the MMA’s passage, and as the Subcommittee engages in its appropriate oversight function to consider what is working well with the MLC and what needs to be improved, we request that the Subcommittee consider addressing the following, notable shortcomings in the MLC structure, bylaws and process that negatively impact the independent music creator community in very significant ways:

1. Adoption of internal MLC rules requiring adherence by board and committee members to strict conflict-of-interest policies.
2. Recognition of the need for inclusion of songwriter and composer contact information in the MLC Musical Works database.
3. Creation of a system that allows access to the MLC Musical Works database by music creators so that they are able to file formal demands for correction of data. (Currently, even those music creators who remain the “owners” of their works pursuant to MMA



definitions are not afforded such MLC database access. This is not only unfair and counter-productive, but also contrary to Congressional intent set forth in the statute).

4. Inclusion in the MLC bylaws of a process for replacing music-creator board and committee members that includes meaningful music-creator community participation in the selection process, without music publisher oversight, approval, or interference.
5. Review and approval by the USCO and the Librarian of Congress of all such music-creator candidates and appointees.
6. Increased transparency for both owners and creators so that they can understand, with appropriate privacy safeguards, the amount of money attached to any unmatched unclaimed title. Thus, the creation of a system or process for the immediate compilation, calculation, and publication of the aggregate amounts of unmatched royalties being held by or already transferred to the MLC by digital music distributors, and updates to such information on an ongoing basis. In particular, the MLC should begin immediately publishing on a monthly basis (i) the amounts of unmatched royalties that have been matched and distributed from the original tranche of \$426 million in unmatched royalties; (ii) a description of ongoing efforts to properly match the remainder of such historically unmatched royalties; (iii) the amount of additional, unmatched royalties being held by the MLC sorted by year received, and; (iv) a description of ongoing efforts to properly match the remainder of such new unmatched royalties.
7. Adoption of internal MLC rules that would require the MLC to disclose its investment policies, its investment portfolio, and its returns on investment in a timely manner.
8. Adoption of internal MLC rules to require that the MLC's Annual Report include a statement signed by the Songwriter representatives on the MLC board (including the non-voting organizational member) independently evaluating the MLC's performance of its duties, and enumerating areas of concern specific to music creators that need to be addressed by the MLC in the coming year.
9. Lastly, legislative amendments to the MMA should redress the unbalanced representation and undue influence of larger, multi-national publishers on the MLC board, the interests of whom are frequently in conflict with those of the creators the legislation primarily seeks to benefit. An MLC board with an equal number of creators and publishers would help to counteract some of the more pernicious effects of such inherent conflicts. (For example, the MMA contains a legislative mandate for distribution of *permanently* unmatched royalties on a market share basis --a system of potentially great economic



benefit to the major publishers-- while at the same time counter-intuitively tasking the MLC Board dominated by those same major publishers with the task of matching and distributing those royalties to the unaffiliated, unidentified creators whose works actually earned them).

We appreciate the opportunity to address the House Judiciary Subcommittee on Intellectual Property regarding the notable shortcomings in the MLC structure and process. We urge the Subcommittee to carefully consider our recommendations and we look forward to seeing a revised MLC fulfill its intended purpose of benefiting the overall music community even more significantly in the future. Thank you for your time and consideration of these important matters.

Sincerely,

Ashley Irwin
President
The Society of Composers & Lyricists

Rick Carnes
President
The Songwriters Guild of America