**H.R. 5447, the Music Modernization Act**

**Background:** The current music licensing system is outdated and leads to depressed compensation for songwriters and publishers, and inefficient business practices and legal exposure for digital companies. U.S. music licensing laws were written before Amazon and Spotify existed, and the music ecosystem has changed drastically since we last updated policies governing this system.

**What it Does:** The Music Modernization Act represents unprecedented industry consensus and bipartisan support to update outdate music licensing laws. The bill ensures music creators are more fairly compensated, increases efficiency in the licensing process, provides greater transparency, and reforms our outdated system to meet the needs of today.

**Title I:**

Current law:Under current law, digital music providers are required to license music on a song-by-song basis—an extremely difficult task for start-ups and existing companies alike, particularly given that digital music services are often trying to offer millions of tracks. If services fail to license properly, they are subject massive liability.

Songwriters today suffer under a system where the government wields a heavy hand and laws dictate the use of a standard that doesn’t reflect the free market. They’re also barred from presenting certain evidence in court when negotiating rates. On top of this, entities representing songwriters are forced to repeatedly engage in proceedings before the same pre-determined judges, rather than the random assignment of judges used in most federal court cases. The current system too often makes it difficult for songwriters to get compensated fairly for their work.

The fix: The MMA creates a single licensing entity, paid for by digital services and administered by publishers and songwriters, that administers a blanket license for the mechanical reproduction rights for all digital uses of musical compositions, ensuring songwriters are matched with their works and get paid, and digital services can more efficiently get the proper license for use of works.

The bill calls for the creation of a publically accessible and transparent database on ownership of works. It requires the CRB to use the willing buyer/willing seller standard, rather than the current policy standard, when setting mechanical license royalty rates. The bill also allows rate court judges, when setting rates for public performances of musical works, to consider rates for public performances of sound recordings, and alters the current system of assigning rate court judges to ASCAP and BMI rate setting cases to allow for the random assignment of judges.

**Title 2:**

Current law: Under current law, there is no federal copyright protection for sound recordings fixed prior to February 15, 1972 (typically referred to as “pre-72 works” in contrast to those fixed afterward which are referred to as “post-72 works”). Any royalties or other compensation for the usage of such work is therefore governed by state law. Few, if any, states have created any specific statutory framework for such royalties by online webcasters leaving it to state common law copyright. This has led to a number of state class actions filed by copyright owners in California, Florida, New York, and elsewhere often under state takings provisions in order to seek royalties. The case results have been mixed and settlements have usually been reached after significant expenditures of legal costs.

The fix: The Music Modernization Act ensures that copyright owners of sound recordings made prior to February 15, 1972, would receive the same federal copyright protection parity as copyright owners of sound recordings made after that date.

**Title 3:**

Current law: Under current law, producers don’t have a statutory right to seek a portion of webcasting royalties for their work, although in most cases they receive one administratively.

The fix: The Music Modernization grants producers the statutory right to seek payment of their royalties via a designated agent (i.e. SoundExchange) when they have a letter of direction from a featured artist.

**Committee Action:** On April 11, 2018, the House Judiciary Committee passed the Music Modernization Act by 32 – 0.

**Supported by:** National Music Publishers Association, Digital Media Association (Spotify, Amazon, Pandora, YouTube, Napster, etc), Internet Association, Recording Industry Association of America, The Recording Academy, Broadcast Music Inc, American Society of Composers, Authors, and Publishers, Nashville Songwriters Association International, Songwriters of North America, Songwriters Guild of North America, Global Music Rights, Copyright Alliance, US Chamber of Commerce Global Innovation Policy Center, Association of Independent Music Publishers, Church Music Publishers Association, Music Publishers Association, Society of Composers and Lyricists, Council of Music Creators, Sound Exchange, SXWorks, Production Music Association, Association of Gospel Music, A2IM, American Federation of Musicians, SAG-AFTRA, Rhythm and Blues Foundation, Living Legends Foundation, Music Managers Forum, Americans for Tax Reform, Council for Citizens Against Government Waste, Center for Individual Freedom, Free State Foundation, Taxpayers Protection Alliance, American Commitment, American Conservative Union, American Legislative Exchange Council, Consumer Action for a Strong Economy, Digital Liberty, FreedomWorks, Frontiers of Freedom, Institute for Policy Innovation, Property Rights Alliance, Small Business and Entrepreneurship Council, National Taxpayers Union, Trade Alliance to Promote Prosperity, Content Creators Coalition