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## **The Harry Fox Agency Collects over \$379 Million in Royalties for its more than 31,000 Affiliated Publishers in 2006**

*Company Uses Technology and Business Process Improvements to Expand  
Beyond Traditional Mechanical Licensing Role*

March 19, 2007 – The Harry Fox Agency, Inc. (HFA), a leading U.S. music rights licensing organization, announced today that its total 2006 royalty collections from all sources was \$379.4 million, a 2% increase from 2005, with 1.49 million mechanical licenses issued in the year. 182 music publishers chose to affiliate with HFA in 2006, bringing the company’s total representation to over 31,000, with over 1.6 million songs available for licensing.

“I’m pleased that HFA exceeded our previous year’s overall results in a continued softening of mechanical royalty market. While we got a nice bump from additional Royalty Compliance Examination collections, I believe these positive returns are due in large part to our improvements in our technology and our people-driven business processes, which have allowed us to focus our resources in new ways,” said Gary L. Churgin, President and CEO. “2006 was our first full year of operations with our new integrated technology platform, and it is satisfying that we have been able to realize immediate results for our publishers and licensees. Among other benefits, this has allowed HFA to offer some services to its affiliated publishers on a non-commission basis, including a lyrics licensing arrangement with LyricFind and all transactions through the HFA Songfile online licensing service. The real benefactor of our infrastructure, the licensees and users, are paying for its benefits.”

“2007 will mark HFA’s 80<sup>th</sup> year of operation,” Churgin continued. “In that time, the company has moved from licensing paper piano rolls to digital downloads. Although known principally as a mechanical licensing source, upgrades to our infrastructure and our highly qualified staff allow us to support many new rights exploitation opportunities for the publishing industry. Looking ahead, we will continue to seek alternative licensing arrangements and to pursue relationships that allow us to move away from a pure commission-based system to provide cost-effective solutions for music publishers.”

- **Financials**

Overall collections were up just over 2% from 2005, due primarily to an increase in Royalty Compliance Examination collections. Total mechanical collections, excluding collections derived from Royalty Compliance Examinations, was over \$ 349.2 million, a decrease of 4% from 2005, reflecting the expected continued decline of the market for physical albums, which was down more than 7% for 2006.

For 2006, Royalty Compliance Examination collections were \$29 million, a dramatic increase of 358% from the previous year. The increase in collections from HFA’s Royalty Compliance Exams was due in part to the conclusion early in the year of a significant exam that was in progress in 2005, as well as several additional examination closures. In total, 23 examinations were concluded, with 63 in progress. Royalty Compliance is the process by which HFA examines the books and records of licensees to evaluate the accuracy of royalty statements submitted and payments remitted by licensees, and enters into a settlement for additional monies owed if applicable.

HFA’s collections period for mechanical royalties is 45 days after the close of the calendar quarter, which means HFA’s reporting for 2006 most closely reflect the actual retail sales period of October 2005 through September 2006.

The U.S. statutory mechanical rate for 2005 was 8.5 ¢ for songs under five minutes and 1.65¢ per minute

for songs over five minutes. It increased on January 1, 2006 to 9.1¢ and 1.75¢, respectively. HFA's commission on distributed royalties in 2006 remained at 6.75%.

- **Technology & Business Process Improvements**

In early spring 2006, HFA completed its major technology transformation initiative, which brought online a suite of catalog management services for publishers and licensing tools for licensees of all sizes. 2006 was the first full year of utilization of these tools and results have been promising:

- The number of pre-paid, limited quantity licenses issued by HFA has increased 25% while collections increased 13.4% over 2005 when the new HFA Songfile was launched. Since these licenses are pre-paid at the current statutory rate, this translates into immediate royalties for HFA publishers. This service has been so successful that as of January 1, 2007, HFA eliminated the commission on HFA Songfile transactions and in response to the requests of publishers and Songfile users, the minimum number of units for physical products was reduced from 500 to 250 copies.
- 75% of licenses were signed online using eSignature, reducing the turnaround time and postage and handling costs to execute a license.
- Publishers' use of CWR and eSong to enter songs into the HFA database strongly contributed to a 180% increase in the number of songs added, from 96,000 for 2005 to almost 173,000 for 2006.

Collectively, these technology improvements have removed much of the manual labor from HFA's processes. This has allowed HFA to redeploy its Licensing and Publisher Services teams to focus more of their efforts on reducing unprocessed and unclosed requests, which have reached an all-time low for the company. In addition, HFA's Collections team now has more tools to track proactively key release sales against royalty payments, ensuring that publishers are receiving their royalties on a more timely basis, rather than in connection with a later Royalty Compliance Examination. In 2006, they tracked over \$35 million in royalties using this new system.

HFA continued to release additional enhancements to several of its technology applications during the year. As a part of this effort, it developed a new Income Tracking Reports (ITR) application, which began a wider rollout to publishers in January 2007. ITR gives publishers the ability to access detailed information about their HFA royalty history, and to create customized searches for specific information regarding a song, licensee or sub-publisher over a period of time.

HFA continues to champion the standardization of data exchanged between rights organizations, publishers, and licensees. As part of that effort, it is an active charter member of Digital Data Exchange (DDEX), which launched in May to explore, develop and maintain a robust framework of voluntary data exchange standards for information relating to digital media content including licensing and royalty reporting.

- **Licensing**

HFA issued 1.49 million licenses in 2006, bringing the total number of licenses HFA administers to 11.95 million. All license requests were processed in less than 60 days, with an average of 90% processed in less than 30 days. HFA added over 50 new licensees to its bulk licensing program for permanent digital downloads (DPDs) in 2006, bringing the number of companies participating in this program to 615.

HFA's Business Development team continued to deliver new opportunities for affiliated publishers in 2006. Most notable was the landmark LyricFind licensing agreement, which not only expanded HFA's business from mechanicals to lyrics licensing, but it was also offered to publishers on a commission-free basis. HFA also offered publishers the option to participate in licensing arrangements with four ringtone companies, the Orchard, Quios, SingleTouch, and TouchM, and three previous ringtone agreements with Zingy, EMI Music, & Zapptrio were renewed. For digital background music, HFA offered a new arrangement with PLR and a renewal of the arrangement with Trusonic. HFA also offered a licensing

arrangement with NIDEC Sankyo Shoji Corp., a musical movement manufacturer, for the use of musical compositions in their products that are imported and distributed in the U.S.

- **Copyright Law Review & Rate Negotiation**

As the National Music Publishers' Association (NMPA) operating subsidiary, HFA works closely with that organization on lobbying and legal actions to protect and promote copyright for the benefit of music publishers and songwriters and provides the bulk of its funding.

Two of the important issues the organizations worked on in 2006 were the statutory mechanical rate hearings of the Copyright Royalty Board (CRB), and the Section 115 Reform Act, or SIRA. The CRB proceeding and licensing reform will continue to be priorities.

The current schedule of mechanical rates is set to expire at the end of 2007, and the Copyright Royalty Board proceedings began in January 2006 to determine the next schedule of rates. In addition to determining the statutory mechanical royalties for physical products and permanent digital downloads, for the first time rates will be set for limited downloads and interactive streams. HFA has issued over 3.1 million licenses for these two formats since 2001, and collecting and distributing the royalties for these uses will be a major activity for late 2007 and beyond.

As part of this rate proceeding, the Register of Copyrights issued an administrative ruling in October stating that ringtones and mastertones may also be licensed as a compulsory mechanical under certain circumstances. This ruling would limit publishers' ability to negotiate terms for ringtone licensing in the free market, as they have been doing for the past several years. This decision has no effect on HFA's existing ringtone licensing policy. At the appropriate time in the process, the NMPA will pursue appellate review of this decision.

The Section 115 Reform Act (SIRA) sought to amend Section 115 of the U.S. Copyright Act to create a better system for the licensing of digital music services. Among its proposals, SIRA would create a blanket license for digital uses and certain hybrid products. A General Designated Agent would be created to handle these blanket licenses, with provisions for the creation of additional Alternate Designated Agents. Designated Agent candidates would have to meet certain market share thresholds; based on its level of representation, HFA would have been a leading candidate for the General Designated Agent.

This legislation was passed by the House Judiciary Subcommittee on Courts, the Internet and Intellectual Property but was not considered by the full House Judiciary Committee or the Senate before the 109<sup>th</sup> Congress ended. Congress is expected to consider music licensing in the new 110<sup>th</sup> Congressional session.

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#### **About HFA**

Established in 1927 by the National Music Publishers' Association, HFA represents over 31,000 U.S. music publishers for their mechanical licensing needs, issuing licenses and collecting and distributing royalties. HFA also provides collection and monitoring services to its U.S. publisher clients for music distributed and sold in over 95 territories around the world. For more information about HFA, or to become an affiliate publisher or a licensee, see [www.harryfox.com](http://www.harryfox.com).