



Contact:  
Laurie Jakobsen  
VP, Communications & Marketing  
212-834-0133  
ljakobsen@harryfox.com

## **HFA Collects almost \$394 Million in Royalties for its nearly 35,000 Affiliated Publishers in 2007**

### *Commission Free Opportunities and Innovative Licensing Arrangements Mark Year*

March 17, 2008 – The Harry Fox Agency, Inc. (HFA), a leading U.S. music rights licensing organization, announced today that its total 2007 royalty collections from all sources was \$393.5 million, an almost 4% increase from 2006. HFA issued over 1.51 million mechanical licenses in the year, bringing the total number of licenses under HFA’s administration to over 13.9 million. The company represents almost 35,000 publishers, with over 1.9 million songs available for licensing.

“In the context of a declining market for CDs, HFA’s continued positive performance validates our efforts over the past several years to upgrade our technology and business approach to licensing and, most important, to collections and compliance examination results,” said Gary Churgin, HFA President & CEO. “Our licensing arrangements for tablature with MusicNotes, the collaboration agreement with AudibleMagic, and other new offers reflect our sustained effort to bring more valuable opportunities to the publishing market.

“In addition, we constantly examine our current business for areas of improvement,” continued Churgin. “The changes to our online licensing service Songfile®, especially the reduction of the required minimum and the elimination of our commission on Songfile-generated royalties, deliver real benefit to publishers, licensees, and HFA.”

- **Collections & Royalty Compliance Results**

Total license collections, excluding collections derived from Royalty Compliance Examinations, were \$361.2 million, an increase of 3.4% from 2006. This increase reflects HFA’s focus on proactively pursuing royalty collections on a current basis. For 2007, Royalty Compliance Examination collections were \$21.1 million, a decrease from \$29 million over the previous year. The decrease was due in part to the conclusion of a significant exam in 2006, and HFA’s concentration on conducting more frequent exams covering shorter time periods. HFA actually closed several more exams in 2007 than in 2006. In total, 26 examinations were concluded, while 47 are 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 settlements for additional monies owed.

HFA’s collections period for mechanical royalties is 45 days after the close of the calendar quarter, which means HFA’s reporting for 2007 reflects the actual retail sales period of October 1, 2006 through September 30, 2007.

The U.S. statutory mechanical rate for 2007 was 9.1¢ for compositions of 5 minutes or less in duration and 1.75¢ for those greater than five minutes. The schedule for the next five years of mechanical rates is currently under review by the Copyright Royalty Board (CRB). In April 2007, HFA’s commission on distributed royalties increased from 6.75% to 7.75%, with the additional 1% directly funding the NMPA’s efforts on behalf of the music publishing community before the CRB.

- **Licensing**

Of the almost 1.52 million mechanical licenses HFA issued in 2007, 82% were for digital formats, which include permanent digital downloads (DPDs), interactive streams, and limited downloads. In 2007, HFA added almost 200 new licensees to its bulk DPD licensing program, a standardized method of submitting large quantities of license requests by exchanging digital files, bringing the number of companies participating in this program to 813. HFA now administers almost 14 million mechanical licenses.

In addition, HFA issued over 2 million licenses for lyrics and tablature under its arrangements with LyricFind and Musicnotes. The Musicnotes deal was one of the innovative new licensing opportunities produced by HFA's Business Development team last year, and like LyricFind, it was extended to HFA's affiliate publishers on a commission-free basis. In 2007, the team met with over 650 companies regarding various licensing opportunities. Other new licensing arrangements offered in 2007 included those from ringtone provider Bullroarer, online music service Slacker, and digital background music company BusRadio. In addition, HFA closed a pioneering collaboration agreement with AudibleMagic, a leader in audio fingerprint technology. The companies are now working on a data interaction model, which may be useful to identifying compositions distributed on peer-to-peer services.

HFA also introduced significant changes to Songfile, its popular online mechanical licensing service targeted for customers seeking to license fewer than 2,500 copies of a recording. As of January 1, 2007, royalties collected from Songfile licensing activity are distributed to publishers with no commission deducted. In the year, Songfile users took over 50,000 licenses, resulting in over \$4.4 million in royalties that were 100% distributed to the songs' publishers. In December 2007, based on feedback from publishers and Songfile customers, HFA lowered the required minimum quantities of licenses to 25, and introduced payment by checking account debit. Publishers can affiliate with HFA for Songfile licensing only.

- **Technology & Business Process Improvements**

As illustrated by the upgrade to Songfile, HFA continues to develop new web applications and improve currently available tools for use by publishers, licensees and its own employees. In 2007, HFA introduced a new automated process to consolidate duplicate song records while maintaining complete licensing histories; a web-based version of eSong, its song catalog management system; and upgraded its underlying reports technology. There were also a number of enhancements to HFA's back-office royalty processing systems.

Over 80% of HFA's mechanical licenses are requested and executed electronically, either using the company's eMechanical system or through the exchange of electronic files. Almost 253,000 new song entries (75%) were requested using HFA's eSong and the catalog administration application Common Works Registration (CWR), as compared to 130,000 (57%) the previous year. This level of automation has allowed HFA's 140 employees to focus their efforts in areas other than manual data entry. Nearly 28,000 calls and emails to the main line and email address were handled by the HFA Publisher Services team, and the Licensing department can generally process requests for physical product licenses that need individual attention within a week.

HFA continues to promote the effort to standardize the global exchange of data between rights organizations, publishers, and licensees. It is an active charter member of Digital Data Exchange (DDEX), an international organization which aims to create voluntary data exchange standards. In addition to sitting on its Board, HFA is a co-chair of two working groups, and the company has been working with partners to conduct the first tests of DDEX exchange messages for Electronic Release Notification (ERN).

- **Events**

HFA was also active at industry conferences and events in 2007, providing its perspective on licensing and music industry issues. HFA staff keynoted or participated on panels at Music 2.0, SXSW, CMJ, Digital Music Forum East & West, IAJE, and WIPO's Conference on Collective Management of Copyright and Related Rights in North America. HFA also exhibited at SXSW, Leadership Music Digital Summit, the ASCAP Expo, and CMJ.

Continuing its outreach efforts to the publisher community, HFA also participated in the National Music Publishers' Association's (NMPA) New York and Los Angeles publisher events, and hosted its own event for Nashville area affiliates at the Country Music Hall of Fame and Museum.

- **Copyright Royalty Board & Other Legal Matters**

HFA works closely with the NMPA 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. The statutory mechanical rate hearings of the CRB and the Bertelsmann class actions were primary areas of collaboration in 2007.

The CRB proceedings began in January 2006, and are expected to conclude in the fall of 2008. In addition to determining the statutory mechanical royalties for physical products and permanent digital downloads, rates will be set for the first time for limited downloads and interactive streams.

In October, the U.S. District Court of Northern California preliminarily approved the proposed settlement of litigation between the NMPA, Bertelsmann AG and Bertelsmann, Inc. relating to Bertelsmann's relationship with Napster in 2000-2001. This action certified a settlement class consisting of all music publisher-principals of HFA during all or part of the time period from October 30, 2000 until October 1, 2007. Under the preliminary settlement, Bertelsmann will pay \$130 million, of which up to \$32 million will be applied to cover litigation expenses, including attorneys' fees. The Garden City Group, a class action settlement administrator, was appointed to act as the claims administrator. The settlement was approved in January 2008, and payments have commenced.

- **Office Relocation**

In August, HFA moved its offices from midtown Manhattan to 601 West 26<sup>th</sup> Street, Suite 500, New York, New York, 10001.

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### **About HFA**

Established in 1927 by the National Music Publishers' Association, HFA represents almost 35,000 music publishers for their licensing needs in the United States, issuing licenses and collecting and distributing the associated royalties. In addition to being the premier mechanical licensing agent in the U.S., HFA is dedicated to finding new ways for its affiliates publishers to recognize value for their catalogs, including lyrics and tablature. Further, HFA provides collection and monitoring services to its 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).

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