



HFA Collects almost \$307.1 Million in Royalties for its over 37,000 Affiliated Publishing Clients in 2008

March 24, 2009 – The Harry Fox Agency, Inc. (HFA), a leading U.S. music rights licensing organization, announced today that its total 2008 royalty collections from all sources was \$307.1 million, a 22% decline from 2007. HFA issued over 2.44 million mechanical licenses in the year, 62% more than in 2007. Over 530,000 of those licenses were for permanent digital downloads of singles and albums, which also increased by almost 47% over 2007. This brings the total number of licenses under HFA’s administration to over 16.7 million. The company represents over 37,000 publishing clients, with nearly 2.3 million songs available for licensing.

“2008 was another tough year for the music industry, and HFA was no exception,” said Gary Churgin, HFA President & CEO. “The decline in the market had slowed in 2007, but in 2008, as the overall economy suffered, we saw the effects on the music sector accelerate. The retail closings and reductions of floorspace dedicated to music sales will continue to reverberate through the mechanical licensing market in 2009. The growth of digital sales, while still robust, is also slowing, so we do not expect digital to offset the losses of CD sales any time soon.”

Churgin continued, “However, despite the decrease in royalty collections, we were able to continue to bring new opportunities to our clients such as commission-free licensing from lyrics provider Tunewiki, as well as developing more options for our online offerings such as Songfile® and publisher reports, all while continuing to pay more than 92 cents on every dollar collected straight to our publishing clients – better than any other rights organization in North America, if not the world.

“The focus of 2009 for HFA will be implementing the new schedule of mechanical royalty rates from the Copyright Royalty Board, which set compulsory rates for interactive streams, limited downloads and ringtones, and continuing to find new opportunities to add to our clients’ and HFA’s revenue beyond the traditional mechanical.”

- **Collections & Royalty Compliance Results**

Total license collections, excluding settlements of Royalty Compliance Examinations, were \$285.7 million, a decrease of 21% from 2008. This is due to the decline in the overall market for recorded music, the impact of returns from store closures and reductions in music retail, and the decline of record club royalties. For 2008, Royalty Compliance Examination collections were \$20.8 million, almost even with the previous year’s \$21.1 million. In total, 19 examinations were concluded, while 46 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 has been focused on collecting monies on a more current basis, and as part of that effort, shortening the time period between examinations. This means individual settlements may be smaller than in previous practice.

HFA’s collections period for mechanical royalties is 45 days after the close of the calendar quarter, which means HFA’s reporting for 2008 most closely reflects the actual retail sales period of October 1, 2007 through September 30, 2008.

The U.S. statutory mechanical rate for 2008 for the use of songs on physical formats such as CDs

and for permanent digital downloads was 9.1¢ for compositions of 5 minutes or less in duration and 1.75¢ for those greater than five minutes. HFA's commission on distributed royalties is 7.75%, with 1% of that directly funding the NMPA's efforts on behalf of the music publishing community before the Copyright Royalty Board (CRB).

- **Licensing**

Of the over 2.44 million mechanical licenses HFA issued in 2008, 84% were for digital formats, which include permanent digital downloads. This was nearly 1 million more than in 2007, and the percentage of digital licensing was approximately the same, up 2% year over year. In 2008, HFA added 484 new licensees to its bulk permanent download 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 1,297.

In addition, HFA issued over 206,000 lyric licenses on more than 41,000 songs from its catalog. The various licenses encompass digital uses for lyrics such as downloads, integration with online music services and devices, and enhanced search capability for music catalogs.

HFA's Business Development Department team continues to pursue licensing relationships with numerous players in the music industry value chain and had contact with over 1,000 potential licensees regarding various opportunities. Some of the new licensing arrangements offered in 2008 included those from The Orchard for ringtones, lyrics provider Tunewiki, and digital background music provider Private Label Radio. New Express Live licensees included All Access Today, Aderra and High Steppin' Productions, and new full download licensees included Oxford University Press, Madison Square Garden LP, and the Penguin Group/Dial Books.

HFA now administers five commission-free licensing arrangements for its publishing clients, including the subscription service Slacker, lyrics services LyricFind and TuneWiki, tablature provider Musicnotes, and the HFA limited quantity Songfile application. For these licensing arrangements, participating clients receive their gross royalties with no deduction for HFA commission.

In 2008, HFA continued to leverage its extensive subject matter expertise in copyright ownership information and research services. It continued to produce the quarterly "Top 10 Publisher Airplay Chart" for Billboard magazine and also assisted the National Academy of Recording Arts and Sciences (NARAS) to quickly license its on-demand streaming service of GRAMMY®-nominated tracks for voter consideration. HFA provided NARAS with a one-stop research and clearance services not only for catalogs already represented by HFA, but also for non-represented material.

In addition, to improve its licensing capability, particularly in handling large volume requests, HFA has further built out its song database, linking its composition catalog with over 3.4 million track ISRCs, artist names, album names and UPCs for all releases which have sold more than 4,800 copies according to Soundscan. This data is also matched to audio fingerprint markers. The company is now working on a data interaction model, which may be useful to identifying compositions distributed on user generated content and peer-to-peer sites.

- **International Representation**

In addition to its work in the U.S., HFA has reciprocal arrangements with over 30 foreign rights societies to collect and distribute royalties, covering over 100 territories across the globe. In 2008, HFA concluded agreements with the Russia Authors Society (RAO) and the Southern Africa Music Rights Organisation (SAMRO).

- **Technology & Business Process Improvements**

HFA delivered a number of improvements and new applications to its publishing clients and licensees in 2008. The Songfile online licensing application began 2008 with a reduced minimum and additional payment option of electronic check. Later in the year, the ability to reorder additional licenses from previous orders and a “save cart” capability were added to this popular service, which is aimed at smaller quantity licensees (quantities of less than 2,500) such as independent musicians, schools, and church groups.

For its publishing clients, HFA introduced Consolidated Royalty Payments, which group royalty distributions by dollar and time thresholds to increase efficiency and reduce paper, postage, and labor. To complement this, a Payment Preview option was added to HFA Online, so publishing clients could see their upcoming royalty distributions before the payments were sent out. HFA also added enhancements to eSong®, and announced a new reporting application, Licensee Comparison Reports, which was made available in January 2009.

HFA also made a number of improvements to its internal systems to improve its operational efficiency, and did the groundwork to prepare for the new calculation table of mechanical rates expected to be implemented in 2009.

Almost 100% of HFA’s mechanical licenses are requested and executed electronically, either using the company’s eMechanical® system, through the exchange of electronic files, or through the limited quantity licensing application Songfile. Over 94% of new song entries were requested using HFA’s eSong and the catalog administration application Common Works Registration (CWR), as compared to 87% the previous year. This greatly reduces the manual data entry required to bring songs into HFA’s systems.

As part of its “Go Green” initiative, HFA undertook several projects to reduce the amount of paper sent and received by the organization. This included consolidating royalty payments to certain time and dollar thresholds, converting publishers to direct deposit for royalty payments, transitioning licensees to report usage electronically rather than on paper, and reducing the mailing of newsletter, HFA Soundcheck, to a quarterly basis, while providing more frequent electronic editions. These projects not only reduce environmental impact and printing costs, but also improve service to HFA’s clients by increasing the speed, accuracy and transparency of their reporting and payments. This is an ongoing effort which will continue in 2009.

- **Events & Marketing**

HFA undertook a number of marketing efforts in 2008 to promote awareness of licensing issues for the publishing community. Once again, HFA exhibited at SXSW, Leadership Music Digital Summit, the ASCAP Expo and CMJ, and also had a presence at the Puerto Rico Music Business Conference, San Diego Music Business Conference, Atlantis, and Cutting Edge events.

Members of HFA’s staff spoke on panels at Digital Music West & East, CMJ, the conference of the Major Orchestra Librarians Association, NARAS Chapter events in Philadelphia and New York, the Music Publishers Association and the Copyright Society. The AIMP NY chapter hosted a special panel in November, where HFA staff provided a walk-through of the impacts of the Copyright Royalty Board decision. In addition, the company hosted its own events in Los Angeles and Nashville for the publishing community.

One particular area of focus for HFA in 2008 was the Latin market. The company launched the HFA en Español area of its website in May, and sponsored a panel on issues for mechanical

licensing in the Latin marketplace at the Billboard Regional Mexican Music Conference in October. HFA will continue its outreach to the Spanish-speaking community in 2009.

- **Copyright Royalty Board**

Proceedings to determine the next schedule of statutory royalty rates, including the first rates for interactive streaming, limited downloads, and ringtones, continued throughout 2008. On October 2, 2008, the Copyright Royalty Judges (CRJ) announced rates, maintaining the current royalty for the use of a composition on physical products, such as CDs, and for permanent digital downloads, setting rates for non-derivative ringtones at 24¢ per copy, and establishing parameters for a percentage of revenue royalty calculation for interactive streams and limited downloads. The CRJ also introduced a late payment fee of 1.5% per month or 18% per year. The regulations implementing these rates were published on January 26, 2009.

An Amended Final Determination of these rates was published on February 11, 2009 and modified certain provisions of the implementing regulations. This went into effect on March 1, 2009 and will expire on December 31, 2012. However, the Recording Industry Association of America (RIAA) filed a motion to vacate the CRJ's amended ruling on February 23, 2009, and appealed the Amended Final Determination on February 25, 2009. While the rates are still in effect, a successful appeal may require revisions to certain rate structures. HFA has been working closely with the National Music Publishers' Association (NMPA) throughout the CRB proceedings, and will continue to do so through the appeal.

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About HFA

Established in 1927 by the National Music Publishers' Association, HFA represents over 37,000 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., which includes CDs, ringtones, digital downloads, interactive streams, limited downloads and more, HFA is dedicated to finding new ways for its affiliated 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 100 territories around the world. For more information about HFA, or to become an affiliate publisher or a licensee, see www.harryfox.com.

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Contact:

Laurie Jakobsen
VP, Communications & Marketing
212-922-3297
press@harryfox.com