



Soundcheck

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Moving to the Next Phase

*A few words from Gary Churgin,
HFA President & CEO*

It's been said that the only constant in the world is change. We're just past the August 23 rollout of the first phase of T2. Even as we introduce and refine those new services throughout the coming months, we are looking ahead to the development of the next phase, which we expect to debut on February 28, 2005.

Our projects are still right on target, and they build upon the foundations that we have laid in the first segment of the plan. For example, we will build out our bulk licensing capability. There will be more enhancements to our new eMechanical licensing system, and POLI+ will also have more improvements, including bringing it under harryfox.com and giving it a consistent "look and feel" with our other online applications. We expect that the expanded Name & Address capability of our database will begin to fill with information, and then we can really refine how we communicate with you.

There are more elements to this next phase, and we will continue to keep you updated through [HFA Soundcheck](#). I am extremely proud of the team of HFA staff members, dedicated consultants and vendors that have worked so hard on this project.

Most important, while we have worked to improve our technology systems, we have kept our eye on the ball with the regular day-to-day work of HFA. We have moved forward with new licensing opportunities for online music services such as Musicmatch and Ruckus, and continue to work on more ways to improve the closure of pending licenses to begin the process of moving royalties through to our publishers.

There is also a major change taking place at HFA's parent organization, the NMPA. As you can read more about in the following pages, Edward Murphy is retiring from the helm of the NMPA after almost 20 years with the organization. There have been so many important initiatives that he has worked for on behalf of the American publishing community. HFA joins the NMPA in appreciation of Ed's outstanding service, and we wish him the best for the years to come.

A handwritten signature in blue ink, appearing to be 'G. Churgin', is located to the right of the text.

HFA Index 101

HFA's Index Department is responsible for any and all information concerning publisher and licensee account name and address maintenance, as well as all song information in the HFA database. Given that HFA has over 27,000 affiliate publishers and over 1.3 million songs in its database, and the accuracy of this information is the basis of all of HFA's licensing, royalty collection, and distribution activity, the staff has an awesome task. In an average month this year, Index added almost 13,800 songs; updated 2,642 songs; completed 320 updates to affiliate publisher information; added over 100 licensee accounts and updated an additional 116.

Research is involved in all aspects of Index, from song entry to estate issues to catalog administration changes. For example, for songs, Index must ascertain that there is not a prior claim to the composition, and confirm that the appropriate publisher shares are applied. If there is a dispute, they initiate the Notice of Claim process. Estate Changes also require careful examination to ensure that HFA has the appropriate documentation of the update, and changes to publisher administration require confirmation from the administrated company, if that company is already affiliated with HFA. All supporting documentation from publishers and licensees are then assigned a barcode and scanned into HFA's computer systems.

Index is also responsible for tracking down publishers that have moved without providing HFA with a forwarding address, and confirming the change of address notifications that are received back from the Post Office. They also process all the Electronic Funds Transfer (EFT) applications.

Because Index's functions rely so heavily on interaction with HFA's customers and clients, following the successful cross-training of the Client Relations staff on basic Index functions, the two departments were merged last year.

With their involvement in maintaining HFA's song catalog, the Index team is also providing support for new applications that are being created as part of HFA's technology transformation, such as POLI+ enhancements.

HFA and Musicmatch Announce Agreement to License Songs for Musicmatch On-Demand

In August, HFA announced that it has entered into an agreement with Musicmatch, Inc. to license musical works for the new Musicmatch On Demand service, available in Musicmatch Jukebox 9.0.

The Musicmatch On Demand music service and innovative "Send to a Friend" feature give Musicmatch subscribers the ability to send individual songs or complete playlists to friends for listening up to three times.

Licensing to Musicmatch will be covered under terms similar to the October 2001 agreement between the RIAA and HFA for online subscription services. That agreement permits licensing of on-demand streams and limited downloads offered by subscription services at royalty rates to be later determined through industry negotiations or an administrative proceeding. Musicmatch Jukebox 9.0 will be able to license all of the works authorized by HFA's participating publishers, and the company will report its streaming and limited download activity to HFA, including all streams made through its "Send to a Friend" feature. Once the rates for subscription services are determined, Musicmatch will pay royalties to publishers retroactively.

Edward P. Murphy to Retire as President and CEO of the NMPA

Last month, Edward P. Murphy announced that he will retire from his position as the President and CEO of the National Music Publishers' Association (NMPA) on December 31, 2004. Mr. Murphy has held this position since his election by the Board in 1985. HFA is a subsidiary of the NMPA; Mr. Murphy was also President and CEO of HFA until 2001.

“On behalf of the Board of Directors of the NMPA, I want to thank Ed Murphy for his almost 20 years of dedicated service to the American music publishing industry. It is with great respect and appreciation that we support Ed’s decision to retire,” said Irwin Z. Robinson, Chairman of the NMPA Board of Directors and Chairman and CEO of Famous Music Publishing. “From the threats to free speech in the 1980s, the copyright extension and mechanical rate negotiations in the 1990s, to the recent revolution of the Internet marketplace in the past few years, Ed has been in the thick of the fight to protect the interests of music publishers and the songwriters they represent. All of us in the music industry owe him a huge debt for his tremendous work on their behalf.”

“I want to thank the Board for its longstanding support, and for providing me with the opportunity to serve as an advocate on behalf of America’s songwriters and music publishers around the world for the past two decades,” said Edward Murphy. “Striving to preserve and protect the rights of creators and copyright owners has been and will continue to be my professional passion, and I look forward to continuing this work with my many friends and colleagues at NMPA and throughout the songwriter and publisher community, forging even closer relationships in the future.”

Mr. Murphy had succeeded Salvatore Chiantia in his position at the NMPA. The organization’s Board of Directors has commenced a search to replace Mr. Murphy.

Grokster & StreamCast Ruled Not Liable for Copyright Infringement

On August 19, the U.S. Court of Appeals for the Ninth Circuit agreed with the reasoning of a lower federal court and affirmed the decision that the operators of two unlicensed, peer-to-peer (P2P) services, StreamCast Networks, Inc. and Grokster, Ltd., were not liable for the exchange of copyrighted works on their services. In its ruling, the court noted that these services, unlike the illegal version of the Napster service, did not operate central servers where computer users could search for copyrighted materials.

Plaintiffs in the suit included the members of the music publishing, recording, and film industries, represented by the NMPA, RIAA, and MPAA, who are deeply disappointed with the court’s decision.

NMPA and HFA continue to believe that peer-to-peer services have a responsibility to conduct their businesses in a manner that respects the rights of music creators. They remain committed to that cause and will not tire in their efforts because, in the end, they believe that that view will prevail. At the present time, they are considering the appropriate next steps, which include seeking a reconsideration of the ruling by the entire Ninth Circuit, as well as filing a petition for review by the Supreme Court.

Mitch Bainwol, Chairman and CEO of the RIAA, responded in the following statement: “This decision does nothing to absolve these businesses from their responsibility as corporate citizens to address the rampant illegal use of their networks. We will continue to pursue legislative solutions and legal actions to address the ongoing illegal activity facilitated by Grokster and other P2P services.”

Affiliate Profile:

MPL



It's ironic that Paul McCartney is better known for the songs he doesn't own than the impressive catalog that he has amassed through his publishing company, MPL Music Publishing, Inc. MPL is now one of the largest privately owned music publishing companies in the world. Its catalog repertoire features Nor-Va-Jak (which includes many of Buddy Holly's songs), Desilu Music Corp. (Desi Arnaz and Lucille Ball's company), Arko Music Corp., Barwin Music Co., Inc., Claridge Music Company, Conley Music, Inc., Edwin H. Morris & Company, Harwin Music Co., Jerryco Music Co., Meredith Willson Music, Morley Music Co., Remsen Music Corp., Winmor Music, Inc., Wren Music Co., Carl Perkins Music and, notably, Frank Music Corp. (which boasts songs by the great Frank Loesser). And of course, MPL publishes all of the post-Beatle compositions written by McCartney himself.

"I am so proud to be involved with the fantastic catalog of great songs," said McCartney. "It's both a pleasure and an honor to be associated with such great material."

Bill Porricelli, Senior Vice President Promotion and New Product Development, notes that the cornerstone of the company is its catalog, which includes songs from the musicals *Grease*, *A Chorus Line*, *Guys and Dolls*, *Hello, Dolly!*, *Annie*, *Mame*, and *The Music Man* and classic standards "Big Girls Don't Cry," "Blue Suede Shoes," "Unchained Melody," "Till There Was You," "In The Wee Small Hours Of The Morning," "The Christmas Song," "Mister Sandman," "One for My Baby," "Luck Be A Lady," "True Love Ways," "Witchcraft," and "Route 66," just to name a few.

However, MPL has recently ventured into the new writer area, and has brought on its first staff writers, Russ DeSalvo (whose composition "It's Not Just Make Believe" was featured on the *Ella Enchanted* soundtrack) and Martin Briley (who has had works performed by Celine Dion and many other notable artists). MPL is thrilled to be associated with such talented individuals and is actively pursuing new film, TV and record projects for their fresh and innovative material.

While MPL continues to seek placement in traditional media, with recent successes including songs in the soundtracks for *Cold Mountain*, *School*

Of Rock, Big Fish, Mona Lisa Smile, The In-Laws, What a Girl Wants, Anchorman, 50 First Dates, and Shrek 2, and albums such as *Rod Stewart: As Time Goes By*, which featured Meredith Willson's "Till There Was You," and the hit Lloyd Banks album *Hunger for More*, which samples "A Time to Hide," Porricelli says MPL is focusing on new media, such as digital downloads, karaoke and video games, among others. "We're looking for all new streams of revenue. Our strength is thinking outside the box."

Porricelli stressed that while MPL could acquire additional catalogs, McCartney's choice is to go with *quality* over *quantity*. The company also prides itself on its sensitivity to the people behind the songs. "I've been here for 18 years. We haven't lost many significant titles when they come up for renewal and/or the extended terms. It's a main concern for everyone here that we have good communication with writers and their heirs. While as the publisher we may have the right to exploit the songs as we see fit, MPL's policy is to get the proper approvals to make sure everyone is comfortable with the types of licenses we secure."

Clearly, MPL Music Publishing, Inc. is not a hands-off pursuit for Paul McCartney and his staff. Porricelli observes, "Paul knows what's going on. He knows his business and is sensitive to writers' needs. He's an incredible publisher." To learn more about MPL Music Publishing, Inc., visit www.mplcommunications.com or call 212-246-5881.

News from Europe

Mechanical Rate Debate Continues in Germany

There continues to be no resolution to the dispute between the German National Group of IFPI (International Federation of the Phonographic Industry) and GEMA, the German mechanical rights society (with whom HFA has a reciprocal agreement), over the country's mechanical rate. On July 28, an arbitration committee of the German Patents and Brands office failed to reach a conclusion, and will meet again December 9. A ruling was not expected, but publishers are encouraged that the committee has asked for more evidence.

As reported in the March issue of *Soundcheck*, the dispute began in January when the IFPI filed a petition with the Arbitration Board of the German Patent and Trademark Office for the reduction of the current royalty rate for licensing audio carriers from 9.009 % of the Published Price for Dealers (PPD) to 5.57%. This precedent-setting case is being closely watched by both sides.

EU to Review Copyright Laws

In July, the European Commission announced that it will review its copyright laws, including extending copyright protection for recordings from 50 years to 95 years, which would bring them in line with the U.S. and other countries and equal the protection for the publishing rights. However, the commission appears to be reluctant to make this change, noting that the duration is now consistent within Europe. Through a spokesperson, the IFPI stated, "It makes no sense that these treasures of the European recording industry receive greater protection abroad than they do back in Europe." Without a change in the law, recordings from the rock and roll era, which is considered to have begun with the release of Elvis' "That's All Right" in 1954, will fall into the public domain in Europe. The EU review will run through October 31.

Word on the Street . . . HFA Affiliate Publisher News

Zomba Music Publishing has renewed a co-publishing deal with chart-topping writer/producer and former recording artist **Keith Stegall**. Stegall, who has won numerous CMA and ACM awards, has been a Zomba writer since 2000. One of the most successful and sought-after writer/producers in Nashville, Stegall has also had major success in pop and gospel music. He has co-written numerous number one country hits for Alan Jackson (“Love’s Got A Hold On You,” “Dallas,” “Don’t Rock The Jukebox”), Mark Wills (“I Do [Cherish You]”) and Sammy Kershaw (“Love Of My Life”), as well as top five hits for Travis Tritt, Glen Campbell and Ronnie Milsap. Stegall also wrote George Strait’s rising hit single, “I Hate Everything” (MCA). Stegall’s 14-year partnership with Alan Jackson includes songwriting and production work on every album Jackson has released, reaching over 40 million units sold. Among the tracks he has produced for Jackson include 2000’s “It’s Five O’Clock Somewhere,” which spent eight weeks at number one on the country chart, making it the biggest hit of Jackson’s career. Stegall is currently finishing a new album with Jackson following the success of Jackson’s greatest hits release which has gone three times platinum.

The **Universal Music Publishing Group** has signed **Dave Grohl** on an exclusive worldwide co-publishing deal for future works. Grohl is the frontman for The Foo Fighters, who are in pre-production for their next RCA studio album. EMI Music Publishing retains the rights to the group’s catalog.



At BMG Songs' Los Angeles headquarters are (left to right) Juan Madrid (Associate Director, BMI Los Angeles), Lil' Flip, Scott Francis (President, BMG Songs North America), Derrick Thompson (Vice President, Urban A&R, BMG Songs) and Sandy Lal (Flip's Manager/Attorney).

BMG Songs announced the signing of “underground rap king” **Lil’ Flip** to a worldwide music publishing agreement. Lil’ Flip’s latest release, the double CD *U Gotta Feel Me* (Columbia Records), debuted at number four on the *Billboard* 200 Albums chart and peaked at number two on the *Billboard* Hip-Hop/R&B Albums chart in the spring. It was recently certified gold for sales of 500,000 copies. “Sunshine” (featuring Lea), the latest single from *U Gotta Feel Me*, is storming up *Billboard*’s Hot 100 Singles and Hot R&B/Hip-Hop Singles & Tracks charts - for the week ending August 14, 2004, “Sunshine” was the Greatest Gainer/Airplay single, jumping to number five on both charts. Flip scored a top 10 R&B/Hip-Hop single in May with the album’s lead track “Game Over.”

“Word on the Street” is taken from press release material.

HFA Employee Profile

There are many people that work at HFA behind the scenes to keep our company running smoothly. Our team of Executive Assistants is important to the day-to-day operations of HFA, and we thought we'd introduce them to you in this issue of HFA Soundcheck.

Carol Creighton

Carol has worked at HFA as the assistant to the Chief Information Officer for three years. Prior to that, she was a business manager for a small consulting group's ecommerce venture. She loves being part of the HFA IT/Business Technology team with CIO Frank Wander, and says it's great to be part of a group that is central to so many of the changes at HFA. Carol is also a part of the Project Management Office for T2, and is the main point of contact for HFA consultants. Carol volunteers at a shelter for abused women, and works with the children there. In contrast to her technological career, she has a degree in Religious Studies from Elon University.



L to r: Marilyn DeGarcia, Robin Epstein, Erikka Harley, Carol Creighton, Christine Larkin.

Robin Epstein

Robin has been at HFA for over two and a half years, but she has worked with HFA Senior Vice President of Licensing and the Chief of Strategic Development and Marketing Michael Simon for almost seven years, starting at Razorfish. In addition to assisting Michael, Robin provides additional support to the Licensing Department to enter basic licensing requests. Robin likes the culture at HFA, noting that "most of the people here are musically or otherwise creatively inclined," and enjoys HFA's occasional employee showcases. She plays on HFA's softball team, and enjoys yoga, modern dance, and photography.

Marilyn DeGarcia

Marilyn is just about to complete her first anniversary working with HFA Senior Vice President and General Counsel Jacqueline Charlesworth. Marilyn had worked in law firms before, but at HFA, she is more integrated with the legal team she supports. She has a bird's-eye view of how music, technology and the law meet, and she thinks it's interesting to learn of the various ways in which our legal system can facilitate opportunities for music to be used and also defend those who create it. Not surprisingly, one of her favorite TV shows is *Law & Order*.

Erikka Harley

Erikka has worked with HFA Senior Vice President & CFO Al Pedecine for three years. Prior to that, she was an executive assistant at Famous Music Publishing. In addition to working with Al, Erikka lends a hand with distribution, basic licensing requests, processing opt-in and out-out letters, and has helped with ad hoc projects such as the distribution of the Farmclub settlement. Erikka is also a part of the HFA employee Roundtable. Erikka met her future husband here at HFA, Harri Ramkishun, and they are looking forward to a January wedding. She also plays with Robin on the HFA softball team, and is an active volunteer for various organizations, including the T.J. Martell Foundation.

Christine Larkin

Christine has made her career working in entertainment and the arts on an assistant level, including positions at Elektra and Tommy Boy, and has now worked with HFA President & CEO Gary Churgin for over two years. She is very proud to be part of a company that is such an integral part of the music business, especially at this time of transition into the digital era. Christine is also an accomplished singer, who got her start with folk singer Pete Seeger's New York City Street Singer chorus, and she now focuses on jazz.

Did you sign up your publishing company for EFT yet?

Direct Deposit, or Electronic Funds Transfer (EFT) forms, are available online at www.harryfox.com/eft.html. Sorry, at this time we can only offer EFT for U.S.-based accounts.

**“Return to Sender, Address Unknown”
Publishers MIA: Can You Help Us Find Them?**

HFA represents over 27,000 publishers. Over time, some of them change their addresses and forget to provide us with forwarding information. While we do our best to track them down, there are some that we have been unable to reach. We need your help! Please take a moment of your time to go to <http://www.harryfox.com/publisher/infoUpdate.html> and let us know if you can provide any information that would help us locate any of the entities on the site.

If you have any comments regarding HFA Soundcheck, please contact Laurie Jakobsen, Senior Director, Communications, at 212-834-0133 or ljakobsen@harryfox.com.

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