

Mechanical Rate Debate

A few words from Gary Churgin, HFA President & CEO

At the NMPA annual meeting in June, I had the opportunity to be on a panel about Section 115 of the Copyright Act with Cary Sherman of the RIAA, Jon Potter of DiMA, and MaryBeth Peters of the U.S. Copyright Office. Moderated by NMPA president and CEO David Israelite, it was an interesting and respectful debate from the key players that are trying to come together to reshape the law in a way that reflects the realities of the digital marketplace while giving songwriters and artists their due.

While no specific legislation to restructure 115 is yet pending before Congress, the proceedings to determine the next schedule of mechanical rates under the current law continue. Each party, including HFA's parent organization the NMPA, has submitted its proposal regarding the rates.

For physical phonorecords (such as CDs), the publishers have proposed the greater of 12.5¢ per song or 2.4¢ per minute (adjusted by the CPI), and for permanent downloads, the greater of 15¢ per track or 2.9¢ per minute (adjusted by the CPI). For non-permanent or limited downloads, the publishers have proposed a tiered rate structure under which the licensee pays the greater of a percentage of its revenue or of total content costs, with a per-play floor. This gives new businesses flexibility to grow, while recognizing the intrinsic value of the compositions.

NMPA's proposed rate for limited downloads is the greatest of: (i) 15% of revenue, (ii) 33.3% of content costs or (iii) the greater of

.33¢ per use or .0064¢ per minute. Similarly, for interactive streams, the NMPA has proposed a rate that is the greatest of (i) 12.5% of revenue, (ii) 27.5% of content costs, or (iii) the greater of .275¢ per use or .053¢ per minute.

These proposed mechanical rates reflect several basic facts: compositions are the fundamental component of music; digital distribution is currently a singles-based market; distribution costs have decreased; and free market rates for the use of compositions in non-compulsory markets are higher than the current statutory rate.

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Neil Sedaka, awarded the 2007 NMPA Songwriter Icon Award at the NMPA annual meeting in June, performed several of his great hits including "Love Will Keep Us Together" and "Laughter in the Rain" and "Breaking Up is Hard to Do."

Recent HFA Press Releases:

HFA and INgrooves Enter Download Licensing Arrangement

HFA announced in June that it has entered into a licensing arrangement with INgrooves, a leading digital distributor and administrator of independent music, for full-length, permanent digital downloads.

“This licensing arrangement with HFA allows us to offer a significant service to the many independent labels we work with,” said INgrooves Chairman & CEO, Robb McDaniels. “This enables us to deliver even more great content to online and mobile music services, allowing us to increase the distribution and visibility of our labels, who in turn can streamline their business efforts and concentrate on their most important task, making music.”

Acting as the licensee, INgrooves will be leveraging its ONE Digital distribution and administration platform to automate the licensing and payment process with HFA, resulting in a virtually hands free relationship between the two.

MySongStore.com and HFA Announce Licensing Agreement for Digital Downloads

MySongStore.com, a leading independent music download service, and HFA announced in early July they have entered an arrangement to issue mechanical licenses for full-length, permanent digital downloads to MySongStore artists.

This arrangement allows MySongStore to act as a licensee on behalf of their independent artists. Once they are licensed, they have the ability to record and sell downloads of cover songs directly from their website, MySpace page or virtually anywhere they can post a link.

“This alliance is a breakthrough for artists who have wanted to sell cover songs,” said Gene Gibson, MySongStore.com president. “If an artist wants to record and sell a download of their version of another artist’s song, they can now do it legally through our licensing arrangement with HFA. Everything they need to assure that their recordings are properly licensed, and that royalties are paid, can be handled seamlessly through MySongStore.”

“Our goal was to streamline the entire licensing process for our artists,” said Larry Heller, MySongStore chairman. “We wanted to offer musicians the ability to focus on writing, recording and marketing music, confident that all their legal responsibilities are covered.”

HFA and Bus Radio Enter Licensing Arrangement

HFA announced in June that it has entered a licensing arrangement for digital background music with Bus Radio, a national radio program for school buses. HFA's almost 35,000 affiliated publishers will have the option of participating in this licensing arrangement, which covers the use of their catalogs in Bus Radio's specially formatted programming for elementary, middle and high school audiences.

"Our partnership with Harry Fox enhances our commitment to providing our very targeted listening audience with fun and entertaining content," said Michael Yanoff, CEO and Co-founder of Bus Radio. "By pairing up with the number one mechanical licensing agency in the country, we have opened ourselves up to a comprehensive library of musical offerings from which we can hand pick the most appropriate songs that our listeners will love."

"Digital delivery of music creates so many new businesses, and HFA is dedicated to connecting its publishers with these opportunities for their consideration," said Gary Churgin, President and CEO of HFA. "Bus Radio gives a new twist to background music, creating original programming each day and making it accessible to a focused audience that is on the move."

HFA and Bullroarer Announce Ringtone & Ringback Licensing Arrangement

HFA announced in early July that it has entered into a licensing arrangement for ringtones and ringbacks with next generation mobile entertainment provider Bullroarer. Bullroarer operates the consumer sites zon3d.com, krushmut.com, and clubmorty.com, and the business portal O-Zone Wireless™.

"Working with HFA makes it easy for us to reach thousands of music publishers to license their catalogs," said Mike Pearse, Senior Vice President, Corporate Development, Bullroarer. "We then have the opportunity to provide a much more comprehensive catalog of mobile music offerings to our consumer and corporate clients."

"To date HFA has offered 24 ringtone and/or ringback licensing opportunities to our almost 35,000 affiliate publishers and we are pleased to be working with Bullroarer," said Lauren Apolito, Vice President of Business Development, HFA. "These licensing arrangements represent the true market value of songs and each licensing proposition."

By some estimates, master ringtones are already an over half-billion dollar business in the U.S., and ringback tones, which entered the market approximately two years ago, are gaining in popularity. HFA continues to entertain non-compulsory licensing arrangements for ringtones and related mobile music offerings.

*** The Bullroarer licensing arrangement was offered as an opt-in to HFA affiliate publishers. If you want to be included in this licensing arrangement, please respond by August 9, 2007. Otherwise, you will NOT be included in this arrangement.**

Gov't Mule Sells Over 1 Million Live “Mule Tracks” Downloads HFA’s Express Live Licensing Helps Deliver Live Cover Versions to Fans Fast

Gov't Mule is known for their awesome live shows, and their fans keep those nights alive, having purchased over one million downloads of those shows from the band's website since 2004. Of those downloads, nearly half are covers of songs as diverse as “Ain't No Sunshine,” “No Quarter,” “Paranoid Android” and “Papa's Got A Brand New Bag.” To get these live tracks up online quickly, they use HFA's Express Live mechanical license.

On the “Mule Tracks” area of the Gov't Mule, www.mule.net, fans can download complete sets from live shows by the band from fall 2004 to the present. Shows are offered in MP3 and FLAC formats, and liner notes, album art, and CD labels are also available. There is a “Top 10” show ranking, and customer reviews for each release are also provided.



“We know our fans want to take the live experience home, and we provide that to them directly with Mule Tracks,” said Warren Haynes, Guitarist/Vocalist of Gov't Mule. “As a band who plays a different setlist every night, not only do we randomly tap into our entire original repertoire, we're always throwing some new cover songs into the set as well. HFA Express Live lets us get the music up for our fans quickly, while still obtaining the right licenses to make sure that those great songwriters are compensated for their work.”

“Gov't Mule was one of our first Express Live clients, and we're so pleased to have played a role in their success with Mule Tracks,” said Lauren Apolito, Vice President of Business Development, HFA. “Downloads of concerts are such a great way for bands to build their relationship with their fans, while keeping control of the quality of their music.”

Gov't Mule has tour dates throughout the summer in the U.S. and Europe, as well as a trip to Japan for the Fuji Rock Festival and South Korea for The Pentaport Festival. They will be conducting a Fall Headlining Tour across the U.S. and Canada that will start on September 6th in Central Park, the heart of Manhattan and continue until December. The band is supporting its latest release, *HIGH & MIGHTY*, and its single “Million Miles From Yesterday,” for which the band filmed its first music video.

HFA began to offer Express Live mechanical licensing in December 2004. Distinct from the standard mechanical license, Express Live licenses are limited to product recorded at live concerts and sold to consumers either at the concert venue or through direct mail delivery. The license is “reusable,” in that one license will cover all recordings of the same song by a particular artist in the Express Live context.

HFA International Society Update

Starting in 2006, catalyzed by the growth in the online music market overseas, HFA made a focused effort to improve its International royalty collections and distributions processes, as well as strengthen our relationships with other national collections societies. This included how we sent and received royalty payments and data, the creation of a new tool at HFA for handling Notices of Foreign Activity, and setting regular meetings with key societies. Here is a recap of these initiatives:

Collections and Distributions of International Royalties

We have also improved our process of notifying the societies of works that HFA represents for international collections. For HFA to begin to pursue royalties for a work, the publisher must complete a Notice of Foreign Activity (NFA). NFAs had been tracked in HFA's Inquiry Management System (IMS), which was not the most efficient method for ongoing collections. We created a new method of tracking NFAs, which launched in December 2006. This NFA application ties directly into HFA's song database and can then be applied more easily to our distributions processing, so we can now match the payments we receive against the NFA.

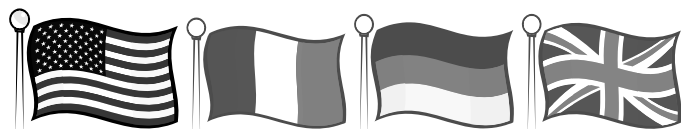
Foreign royalty payments are often difficult to process because many societies provide to us paper-based statements. As a result, their distributions require extensive manual handling. Getting the societies to report to us electronically has been a top priority. In the meantime, HFA's implementation of new royalty processing systems automated much of our U.S. mechanical royalties processing and enabled us to dedicate more staff time to distributing ex-U.S. royalties. All royalties received from January 1, 2003 through year-end 2006, approximately \$3.07 million, were distributed by the end of March 2007.

Society Relations

We focused special attention on improving our relationships with the collection societies by in-person meetings. We traveled to Europe for meetings with MCPS, GEMA, and SDRM last July, and with MCPS Ireland in February 2007; GEMA, SGAE, and COTT have come to our offices. We have also been working to expand our relationships, and hope to offer reciprocal agreements with additional territories soon.

Facilitating data exchange is key to improving all of our processes. HFA concluded its agreement with CISAC earlier this year, so we now can register our catalog into the international CIS-Net database. This will allow the other societies to see that a song is represented in the U.S. by HFA. To do this, we need to add additional information to our records, so we expect to have our catalog on CIS-Net by year-end.

These process improvements, supported by technology development, have improved our ability to exchange information with the societies and to pursue and distribute collections for our affiliated publishers. We continue to build on these efforts to become an even more valued partner to both the societies and our publishers.



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Further, as publishers know only too well, statutory rates are a ceiling – controlled composition clauses can reduce the royalty rate substantially.

As you might imagine, the RIAA and DiMA have differing opinions – both from us and from each other. The RIAA has suggested that the royalty rate for physical product, as well as full and limited downloads, should be 7.8% of wholesale, representing about 6¢. For interactive streams, their proposed rate is 9.6% of public performance royalties.

DiMA's proposal is perhaps more problematic. For full downloads, they have suggested a rate of 4.1% of retail, or about 4¢. For limited downloads, it's 4% of retail multiplied by a fraction equal to the number of times a work is played more than 30 seconds, divided by the total number of plays. They have proposed no rate for interactive streaming, which suggests that DiMA feels there is no mechanical needed for interactive streams.

Each organization will have its opportunity to bolster its case before the Copyright Royalty Board judges, and you can be sure the NMPA and its songwriter allies will fight hard for publishers and songwriters. But given these divergent positions, the fact that Cary Sherman and Jon Potter were willing to participate in the NMPA's annual meeting speaks volumes for the relationships David Israelite has built for the publisher community with these organizations. We must remember that while we do not agree with these organizations and their member companies in this area, we also do stand with them on other issues. Ultimately, we need each other in order to foster a healthy industry where we all can thrive.

A handwritten signature in blue ink, appearing to be 'J' or 'G', located below the main text.

HFA Technology and Website Upgrades

You may have noticed that we've been working quite a bit on our online systems. We have a major project underway to move our computer servers to be managed on an off-site location. This is a typical arrangement for companies with complex computer systems such as ours, as it provides better maintenance and security from specialists in the hosting center. Removing these large servers also saves valuable real estate in our offices.

The preparation for moving the servers has required us to take HFA Online down several times. We've tried to schedule this over weekends and holidays to minimize disruption to your business.

In addition, we will be launching a new web-based version of eSong, our online song registration tool for our publishers. This will also require some downtime of HFA Online; we will post the information on the site in advance so you can plan accordingly.

Word on the Street . . . HFA Affiliate Publisher News

The Bicycle Music Company announced that it has acquired **Dwight Yoakam's Coal Dust West Music** catalogue of songs. The catalogue, which spans almost two decades of gold and platinum albums for Warner/Reprise Records, includes such songs as "Guitars, Cadillacs," "A Thousand Miles From Nowhere" and "Fast As You." Yoakam has released 18 albums, sold more than 23 million albums worldwide, and has written with many music legends. Bicycle Music has also added several other acquisitions to its roster, including the "**Lonesome**" **Dave Peverett**, 80's rockers **Night Ranger**, and **Cy Curnin** of **The Fixx**. Dave Peverett was a founding member of both Savoy and Foghat. His songs include the classic rock smash "Slow Ride." Night Ranger scored a top five U.S. single with the song "Sister Christian," and their songbook also includes "Don't Tell me You Love Me," "When You Close Your Eyes" and "Goodbye." Cy Curnin's collaborations include the songs "One Thing Leads To Another," "Deeper and Deeper" and "Stand or Fall."

Cherry Lane Music Publishing Company, Inc. has signed a worldwide, long term, co-publishing agreement with **Dilana Robichaux**, who is best known as one of the finalists on the hit CBS reality show *Rock Star: Supernova*. Dilana is working on material for an upcoming album, and is co-writing with Mötley Crüe guitarist and Cherry Lane songwriter Mick Mars.

olé has signed Emmy Award winning composer **Tom Harriman** to a Creative Freedom Advance deal. Harriman's scoring and songwriting credits included *Baywatch Nights*, *Days of Our Lives*, and *The West Wing*, and he has worked with artists such as Phil Collins, David Lee Roth, and Natalie Cole.

Spirit Music Group has acquired the rights to the complete back catalog of writer and

producer **Rick Nowels**. The catalog, which spans three decades, contains more than 300 songs. Nowels wrote the hits "I Can't Wait," and "Rooms On Fire" for Stevie Nicks, and helped launch Belinda Carlisle's solo career by writing and producing the 80's classic, "Heaven Is A Place on Earth." Nowel has also penned songs for Celine Dion and Anita Baker, and collaborated with Madonna on several songs for her 1998 album *Ray of Light*. His more recent work includes the Santana/Michelle Branch collaboration, 2004's "The Game Of Love," and Dido's 2005 hit "White Flag."



Ten Ten Music announced the signing of a worldwide publishing agreement with **Robert Ellis Orrall**. Orrall is a producer and songwriter who has over 250 songs to his credit. He has written several number one songs including "Next to You, Next to Me" (Shenandoah), "What's It To You" (Clay Walker), and "From Here to Eternity" (Michael Peterson). His songs have been recorded by stars such as Reba McEntire, Olivia Newton-John, and Lorrie Morgan, and he has produced several artists including Taylor Swift, Be Your Own Pet, and The Road Hammers.

"Word on the Street" is taken from press release material

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

If you are a music publisher (or the assign, successor in interest, heir or beneficiary of a music publisher) that has been affiliated with HFA, and you're not sure whether HFA has your current contact information, it is possible that HFA is holding royalties due to the lack of a valid mailing address.

To find out if HFA is looking for you and to provide current information so we can pay you any royalties we may be holding, visit “Help Us Find Publishers” at www.harryfox.com, or call HFA Publisher Services at 212-834-0100.

If you've moved, please remember to update your contact information with HFA. You can obtain change of address information from the website or by contacting HFA Publisher Services.

If you have any comments regarding HFA Soundcheck, please contact Laurie Jakobsen at 212-834-0133 or Shaliza Thomas at 212-922-3290, or email soundcheck@harryfox.com.

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