



Statement of

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Committee on the Judiciary

Hearing on
"Protecting and Promoting Music Creation for the 21st Century"
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Thank you, Chairman Grassley, Ranking Member Feinstein, and members of the Committee. My name is Justin Roberts. I'm a GRAMMY-nominated Children's music artist born and raised in Iowa and currently living in Chicago, Illinois. I'm also a Trustee of the Recording Academy. Recognized internationally for the GRAMMY Awards, the Recording Academy is known here in Washington as the trade association that represents music's creators: the songwriters, performers, and studio professionals who make the music we love.

I thank you for inviting me to testify this morning along with my fellow Academy members Smokey Robinson and Josh Kear. While the Academy's members include people like these wildly successful creators sitting beside me, many of our members – and most of America's music makers – are just like me: middle class artists and songwriters who, although not household names, use their training and talent to bring music to the world. Perhaps the least recognized among us are music producers. Thus, the AMP Act (S. 2625), introduced by Chairman Chuck Grassley and Ranking Member Dianne Feinstein along with Senators Kamala Harris and Bob Corker, is an important component of comprehensive music legislation.

Quincy Jones once said a producer's role is to "capture lightning in a bottle." As an artist, I can tell you most of us rely on the structure, steady hand, and technical talent of a producer. As a child growing up in Des Moines, Iowa, I'm told that in pre-school I loved music so much that I just sat in front of the record player all day. My teacher tried to channel my love of music into something a little more productive. I guess you could say she was my first producer.

As I grew up, learning piano and clarinet in Iowa's public schools, my love of music continued. I played in bands in high school and college and began pursuing a career in music after graduating. While working at a Montessori Preschool in my early 20s, I began writing and recording demos of songs for children, just for fun. I never thought of making a living as a children's musician until a producer, Liam Davis, convinced me to make a professional record. He's been my producer ever since. As my 13 albums have grown creatively and sonically, they've sold over 100,000 copies and garnered three GRAMMY nominations. I've also had the pleasure of touring this great country performing for kids and families.

Liam is not a household name like Quincy Jones, or Sir George Martin. He likely will never reach their level of success or be knighted by the Queen. Yet he represents one of thousands of American studio professionals who are indispensable in the creation of music, from the Billboard Hot 100 chart toppers to the hottest music for children. Without the Liam Davises of the world, the music would not exist.

The Recording Academy's Producers & Engineers Wing has worked tirelessly to help producers receive fair compensation and attribution – cash *and* credit, if you will. And part of that work was the Wing's landmark arrangement with SoundExchange: at the direction of the artist, SoundExchange pays royalties directly to producers, even though they have no statutory right to

receive those royalties.¹ We are grateful to SoundExchange for their creator-friendly approach. But now we need protections for producers in the law.

After two years of discussions that resulted in consensus with all affected parties, Representatives Joe Crowley and Tom Rooney first introduced the Allocation for Music Producers Act, or AMP Act, in 2014, followed by this year's introduction in the Senate. The AMP Act codifies SoundExchange's current policy of paying producers, engineers, mixers, and other studio professionals directly at the artist's direction. In the case of older recordings created before 1995, the bill creates a process for producers to receive a small royalty when the artist cannot be found.

The bill is supported by every major organization representing music, including SoundExchange, the RIAA, the AFM and SAG-AFTRA. It has no opposition. The principle behind the AMP Act was even endorsed by the U.S. Copyright Office in 2015:

The [Copyright] Office notes the further concern of some that the section 112 and 114 royalty allocations do not recognize the contributions of sound recording producers, who in many instances not only supervise, but also have significant creative input into, finished recordings...[Copyright] Office agrees that [the] proposal to confirm the existing practice through a technical amendment of the statute merits consideration.²

The AMP Act is a much-needed reform for music producers, and a priority of the Recording Academy's Producers and Engineers Wing. Given its broad support and non-controversial nature, one might expect producers to ask Congress to pass the AMP Act on its own. But that would be a fundamental misunderstanding of the heart of a producer.

The producer works with artists, but also songwriters, engineers, record labels, studio owners and nearly anyone associated with the creation of a record. The producer takes care of all of us. So, it's no wonder the Recording Academy's Producers and Engineers Wing wants to see the AMP Act passed as part of the broader Music Modernization Act package (S. 2823) so that songwriters and legacy artists receive fair compensation too. Real music reform cannot be done piecemeal. The comprehensive Music Modernization Act is the only way to strengthen protections and promote fair market pay for all music creators.

The Music Modernization Act (S. 2823), introduced last week by Senators Hatch, Grassley, Whitehouse, and 15 other Senators, including many members of this committee, will modernize the laws that govern the music industry, and bring them into the 21st century. S. 2823, like the

¹ The Digital Performance Right in Sound Recordings Act of 1995 established a statutory right for performers to collect 45 percent of the performance royalties collected from non-interactive digital music services. Because producers were not included in this law, they often collect royalties from that 45 percent subject to their contract with the artist. Currently, SoundExchange voluntarily agrees to process these payments.

² "Copyright and the Music Marketplace." U.S. Copyright Office, 2015 (p. 180).

similar companion bill that passed the House of Representatives unanimously on April 25, capitalizes on a vision first set forth by the Recording Academy in 2014, when the Academy's President/CEO Neil Portnow testified to this effect in front of the House Judiciary Committee. His testimony that year, and again in January 2018, urged legislators to adopt a comprehensive and holistic approach to modernizing music licensing laws. I echo Neil's remarks, and urge the Senate to implement comprehensive reforms that will ensure fair market pay for all music creators.

The Academy's vision for comprehensive reform has been endorsed by nearly every major music organization that represents creators or copyright owners including the Recording Industry Association of America (RIAA), the National Music Publishers Association (NMPA), the American Federation of Musicians (AFM), the Nashville Songwriters Association International, the Songwriters of North America, the American Society of Composers, Authors, and Publishers (ASCAP), Broadcast Music Inc. (BMI), SoundExchange and SAG-AFTRA. The vision has also been endorsed by organizations representing the digital streaming services and platforms, including the Digital Media Association (DiMA) and the Internet Association, as well as third-party groups such as the Copyright Alliance, the U.S. Chamber of Commerce, Americans for Tax Reform, the NAACP, and more than a dozen other organizations. And most impressively, the vision was affirmed by the House of Representatives' unanimous 415-0 vote in favor of the Music Modernization Act (H.R. 5447).

S. 2823 combines provisions of three existing Senate bills and a separate House bill that will collectively create a new and robust licensing framework for the betterment of countless performers, songwriters, and studio professionals. First, it includes the original Music Modernization Act (S. 2334), which reforms Section 115 for the digital age and ensures that a songwriter can earn fair market value for their work. Second, it includes the CLASSICS Act (S. 2393), that will ensure legacy artists are properly compensated for sound recordings released before 1972. It includes provisions of the Fair Play Fair Pay Act (H.R. 1733), to provide the same fair market rate standard for all digital radio platforms. And, it includes the AMP Act (S. 2625), which recognizes, for the first time, studio professionals in copyright law.

The Music Modernization Act represents a rare and exciting opportunity. Never before has the music community coalesced behind one consensus legislative package, let alone a package that also has the support of our digital partners and so many other groups and organizations. There is real unanimity, reflected by the unanimous 415-0 House vote, to solve these decade-long problems, and usher in a better and fairer tomorrow for music makers. It will ensure that music creators of yesterday, today and tomorrow—from Liam Davis to Quincy Jones—can continue to create and inspire.

Finally, I'd be remiss if I did not discuss one outstanding issue that is not addressed by the Music Modernization Act, but that is no less important to the Recording Academy and to the recording artists and musicians it represents. And that is the establishment of a performance right for sound

recordings on AM/FM terrestrial radio. The U.S. stands alone in the developed world as the only nation where radio broadcasters can use an artist's work without permission or compensation. I am pleased that representatives from the music community and the broadcasters have been meeting together to pursue a commonsense solution to this untenable situation. But the music creator community will not let this issue remain unresolved. I encourage the Senate and this Committee to ensure that an agreement is reached that ends this mistreatment of artists.

In closing, as you consider this comprehensive Music Modernization Act package I encourage you to try an experiment. Listen to the 1970 song, "Still Water," by the Four Tops. As you listen, reflect on the smooth sonic quality created by producer Frank Wilson. Appreciate the incredible vocals by the Four Tops. And enjoy the emotional truth in the songwriting, by none other than Smokey Robinson. Each individual contributor's efforts combined to make this classic track. Now we ask you to pass this combined, comprehensive bill to protect *all* the music makers who have given us so much.

Thank you.