

U.S. Senate
Committee on the Judiciary

“Protecting and Promoting Music Creation for the 21st Century”

May 15, 2018

Statement of
Smokey Robinson

Chairman Grassley, Ranking Member Feinstein, and Members of the Committee, thank you. It's a great honor to appear before you today in support of the Music Modernization Act.

Before I begin, I want to recognize some special people in the room to support the Music Modernization Act today. Rock and Roll Hall of Famer Darlene Love, Mary Wilson of the Supremes, Karla Redding, who runs the Otis Redding Foundation, and Dionne Warwick, who testified in support of the CLASSICS Act in the House of Representatives.

I am here today to deliver a simple message: Musicians who recorded before February 15, 1972 deserve to be compensated the same way as those who recorded after that date.

The CLASSICS Act will fix the quirk in the law that created this loophole.

The loophole works like this: Back in 1972, Congress decided to protect sound recordings under Federal law going forward. That law left in place state law protections for sound recordings made before then.

This worked well back in the day records were sold in stores, because everything was protected completely under one system or the other. When digital radio came along in the late 1990s, thanks to Senators Hatch and Leahy, Congress passed a law so that artists and their labels were paid when their recordings were played on those services. And it was a great deal for the digital radio companies too – a single license to cover all recordings played, no negotiating with every owner of every recording, no need to ask permission to use it, a government set price - it was a win-win.

But some digital radio company lawyers found a loophole.

Those corporate lawyers asked, “What if we don’t pay for classic pre-72 recordings under the new federal license because they are covered under state law, and then what if we argued state laws are too old to cover digital radio?” Then, they figured, they could profit off some of the most valuable recordings of all time, paying legacy artists nothing at all.

The records of the 50’s and 60’s aren’t called “classics” because of their age. They’re called classics because of their greatness. They still resonate today. They add value to our lives and bring people together. They define America.

And their financial value to the companies that play these recordings is clear.

That's why there are dedicated channels on satellite radio, like "50's on 5", and "60's on 6", the Sinatra Channel or the Beatles Channel – you get the idea.

Let me take a step back and put this into perspective. Some great parts of my own career happened before 1972. The Miracles was one of the very first acts signed to Motown in 1957. We recorded the label's first million-selling hit, "Shop Around," in 1960, "Second the Emotion" in 1967 and "Tears of a Clown" in 1970.

Guess how long I was with the Miracles? Until 1972.

So - as the law stands, SiriusXM pays me when they play my solo hits "Cruisin" or "Being with You" from 1979 and 1981– but under the federal law, they don't have to pay me or my brothers in the Miracles when they play any of our records. But those recordings are valuable to these services: Miracles and Smokey Robinson recordings are streamed by the folks who use this federal license *over 50,000 times a day, every day.*

An arbitrary date on the calendar should not be the arbiter of *value*.

I don't recall going to bed on the night of February 14th, 1972, and saying, "Okay, tomorrow I start making it count." And I don't believe the people of this country have ever made that distinction either. In fact, more than three-fifths of Rolling Stone magazine's Top 500 songs of all time were released before 1972.

Companies that exploit our music for profit should pay us for it – pure and simple.

Now - I fully recognize I have been blessed and I've been lucky. But for many legacy musicians and their families, this issue is far more urgent. I'm 78 years young, but many artists I came up with are unable to tour or make appearances or record new material to earn a living. They should be able to rely on income from the recordings used by digital radio companies to attract listeners and earn profits. For so many, especially at this point in their careers, this is how they make ends meet. It's how they pay their mortgage and their medical bills. It's how they feed their families.

The CLASSICS Act enjoys broad support – not just from the entire music community, but also among Internet platforms and digital services such as Pandora and iHeartRadio, the Internet Association and others, because it not only assures compensation for creators, it grants certainty and efficiency for digital services. It

stops litigation and starts cooperation. The CLASSICS Act has brought together parties who don't always see eye-to-eye, but who see clearly the need for a fair and modern system that works for everyone.

Of course, as a songwriter and producer, I am thrilled that the Music Modernization Act also includes mechanical licensing reform for songwriters and a mechanism for music producers to be paid. The value of such a package – and its overwhelming support – is reflected in the unanimous 415-0 vote in the House last month. This is historic momentum for positive change that will benefit so many people: creators, music services and listeners alike.

I would like to give special thanks to all the members of this Committee who've supported the comprehensive music legislation, but especially Senators Coons, Kennedy, Tillis and Booker who were the first to champion CLASSICS. My fellow songwriter, Senator Hatch, and Senator Whitehouse – thank you for leading the fight to modernize mechanical licensing. And Chairman Grassley and Ranking Member Feinstein, thank you for introducing the AMP Act. Senators Graham, Cornyn, Crapo, Flake, Durbin, Harris, Klobuchar and Leahy – thank you for your support and interest in these important issues.

There is an unparalleled feeling of accomplishment that comes from creating music – the reward of knowing that the endless hours and effort that went into writing, recording and producing something will truly make an impact on the world. I wish for you all to share in that experience – to be the creators of something innovative, constructive, and enduring. Something that will make a profound difference in the lives of so many. The Music Modernization Act will make that difference. Thank you for finally making it a reality.