

Testimony of

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STATEMENT OF JOHN ONDRASIK BEFORE THE COMMITTEE ON THE JUDICIARY UNITED STATES SENATE
ON MUSIC AND RADIO IN THE 21ST CENTURY: ENSURING FAIR RATES AND RULES ACROSS PLATFORMS

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Chairman Leahy, Ranking Member Specter, Senator Feinstein, Senator Brownback, and members of the Committee. Thank you very much for inviting me here today to speak on the topic of Music and Radio in the 21st Century, Ensuring Fair Rates and Rules Across Radio Platforms. My name is John Ondrasik. I am a singer/songwriter. I record and perform under the band name Five for Fighting. Of course, back at home, I am simply known as "Dad." And my message today is one my two wonderful children have heard from me and have understood from the very beginning: play fair.

I'm not in D.C. often. I have participated in Grammys on the Hill and in events to support our troops. My songs and activities often reflect issues and causes I believe in, and my experiences have shown me the power of words and music. I recently was touched when I heard that Senator Hatch wrote a song for his friend Senator Kennedy. That gesture made me proud as an American, and reminded me how music, at times, can express our basic humanity and feelings better than any other medium. I look forward to hearing that song.

I am here today not on my own behalf, but on behalf of the thousands of creators who have their own talents to share and their own messages to convey. I have been extremely fortunate in my success and I sincerely hope many others have the

opportunities I've had. As with them, creating brings me great joy. But, unfortunately,

joy alone doesn't put food on the table and allow us to take care of our families. The fact is, as creators, we are actually small businesses. Our product - our music

- is borne of our own struggles, hopes, fears, dreams, and sheer hard work. And while we take immense pride in our ability to move and entertain people, like any businessperson - like every American - we expect, need, and deserve fair compensation for our work. I am here today to ask that you ensure the platforms that deliver the music we make are secure and effective, that all uses of music over those platforms are compensated, and that the compensation is fair. In essence, I am asking for platform parity.

I would like to thank Senators Feinstein and Graham for introducing the Perform Act which recognizes these principles, establishing fair and equal procedures and standards across radio platforms.

Songwriters and performers get paid for different uses of their work. If you are selling a concert ticket, that's one value. If a radio station is playing your song, that's another value. If iTunes is selling a copy, that's yet another. Each use has value. You would never think that buying a concert ticket allows you to get an album for free. Respecting these different uses and the revenue streams they provide is crucial to the survival of songwriters and performers who depend on them.

One issue that needs to be addressed by those who broadcast music is the transformation of their radio listening service into a service that offers permanent copies of music, without paying the appropriate license for that use. By essentially turning radio into iTunes without the proper compensation, part of the essential revenue stream for the creator disappears. I'm certain that, no matter how pleasing it is that others appreciate

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your work, each one of you would have something to say if part of your income was put in jeopardy.

Let me be clear: I am excited about the opportunities provided in the digital marketplace. The simple over-the-air radio and neighborhood record store we all grew up with has expanded into unprecedented options for hearing and buying our favorite artists and music. And though I must say I miss that corner record store, this new world has opened up extraordinary new opportunities for music creators, as well as for those who deliver and listen to their music. But for all of us to benefit from these new opportunities, we must all recognize and protect the value of that music. We must provide a landscape that does not discourage the next generation of creators from pursuing their contribution to our culture.

Creators have certainly done their part, including taking action to address theft. Of course, this has sometimes been met with criticism; but at end of day, if there is no protection for what we create, it effectively has no monetary value. And that ultimately hurts not only creators, but our culture, economy, and every business striving to share in the benefits of the new marketplace. Satellite radio has also done its part, ensuring encrypted delivery that protects our music, and working with creators to compensate for all uses of that music on their service.

It's necessary for all music services to recognize, like satellite has, the corresponding obligations and responsibilities they have - both to creators and to each other - to protect and value the music they deliver, the very driver of their business, and to compensate for all uses.

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What should that compensation be? I believe in the principle established in the Perform Act that creators deserve fair market value for their work. Surely it's not too much to ask that when you create something, in our great country, you get fair market value for it. Why should music be different from anything else? Why shouldn't the government consider what a buyer is willing to pay for what I'm offering? That's exactly what fair market value is, and that's exactly the standard that should be used across the board for all of the competing platforms.

The bottom line is that we all want to see a thriving music marketplace. By creating a level playing field for all platforms, including establishing equal standards for the protection and market-based

compensation of music, the Perform Act provides for this and allows all of us - creators, businesses and music lovers - to benefit from these new opportunities.

Let me say that this has been an extraordinary experience for me. I am honored to speak before you and if the opportunity arises again, perhaps I could bring my children. My daughter Olivia, who is seven years old, just wrote her first song, "Secret Diary" and I'm sure she'd sing it for you. I hope we all have the opportunity to hear new music and the works of many more creators for years to come. Ensuring that singers and songwriters are treated fairly across all music platforms is exactly the way to accomplish this. It just makes sense and, as my kids would proudly tell you, allows all of us to play fair.

Thank you.