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Chief Copyright Royalty Judge Jesse M. Feder
Copyright Royalty Judge David R. Strickler
Copyright Royalty Judge Steve Ruwe
U.S. Copyright Royalty Board
101 Independence Ave SE / P.O. Box 70977
Washington, DC 20024-0977

Honorable Judges,

I am an attorney in New York working privately with artists as in house counsel for Cinema VII Entertainment Collective. I am writing to support transparency in the private settlement of 21-CRB-0001-PR (2023-2027) and to separate it from the applicability to all other artists entitled to mechanical rates. The payment assigned to mechanical rights must be kept fluid, adjusting with the times and should not be frozen unless it is at a high number projected upon anticipated inflation and the increasing value of the right to physically imprint recordings into vinyl records.

It is my experience that audio reproduction resulting from the amplification of actual vibrations is the preferred way to listen to recorded music, astronomically increasing its value.

My understanding of the issues is as follows:

1. The "willing buyer-willing seller" concept was established as a basis for fairness in the regulatory regime of the compulsory license when the Copyright Royalty Board (CRB) was established. Vertical integration (ownership, interlocking boards) between the major labels and major publishers creates a serious conflict of interest and engenders self-dealing among negotiators. This is also related to current antitrust discussions in Congress concerning vertical integration between corporations.

2. Hundreds of thousands of songwriters, composers and lyricists are strongly opposed to the proposed adoption by the CRB of a freeze on mechanical royalty rates for physical phonorecords and downloads, and against other non-transparent elements of the so-called agreement presented to the CRB for adoption by the National Music Publishers Association (NMPA), the Nashville Songwriters Association Int'l (NSAI), and the major record labels.

3. No other songwriter or composer group in the entire world joins NSAI in agreeing that adoption of the agreement would serve the interests of music creators rather than cause irreparable harm to their members. NMPA and NSAI have not consulted with any other songwriter organizations despite claiming to represent the interests of songwriters for the entire world.

4. It is difficult and unfair to comment on proposals which have not been fully disclosed, yet the results will be imposed on all songwriters by law and/or regulation. In other words, part of the agreement remains secret, but to agitate for transparency, we must comment on the secret agreement.

5. It is not clear whether the CRB itself has received all the details of the secret side agreement between the major labels and major publishers.

6. It is not clear whether NSAI, which claims to represent music creator interests in the proceedings, has received all the details of the secret side agreement between the major labels and major publishers.

7. The unfairness of frozen rates is a key issue. The rate was frozen for 70 years, from 1909 to 1978 at 2¢. In 2006 it was adjusted for inflation to 9.1¢ but has remained frozen at that rate for more than 20 years.

8. Claims by NSAI that physical and download mechanical royalty collections will represent less than 1% of the market within a short period of time needs to be further evaluated. Statistics from the Recording Industry Association of America (RIAA) and International Federation of the Phonographic Industry (IFPI) estimate the current market share is between 12-20% with physical vinyl shares rising significantly and expected to rise

higher, with hundreds of millions at stake for future rate periods while creators are already struggling under pandemic conditions.

9. The digital streaming services are already using the potential frozen mechanical royalty rate on physical and downloads as a basis for freezing or reducing on demand streaming royalty rates.

10. The secret agreement should be binding only on the parties who opt into the secret agreements, while others should be subject to a different royalty rate determined by equitable and fair marketplace conditions and principles.

Thank you for your consideration,

Sincerely,
S/G/D
Peter Dizozza