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Via Electronic Delivery

Copyright Royalty Board 37 CFR Part 385
[Docket No. 21-CRB-0001-PR (2023-2027)]
Determination of Rates and Terms for Making and Distributing Phonorecords (Phonorecords IV)

Interim Chief Copyright Royalty Judge Suzanne Barnett
Copyright Royalty Judge Steven Ruwe
Copyright Royalty Judge David R. Strickler
US Copyright Royalty Board
101 Independence Ave SE
Washington, DC 20024

**SECOND REOPENING PERIOD COMMENTS OF ABBY NORTH, ERIN MCANALLY
AND CHELSEA CROWELL**

To Your Honors:

Thank you for the opportunity to submit additional comments, now that the details of the Memorandum of Understanding (MOU4) apparently related to the Subpart B mechanical rate settlement negotiated by the NMPA, NSAI and three major labels have been made available.

Only the NMPA's 300 or so publishers are potential parties to the MOU, assuming the opt in terms are the same as those of MOU3 (<http://nmpalatefeesettlement.com/mou3/faq.php>). The publishers that opt in to the MOU4 settlement will receive money for their participation, and in exchange for this money, the NMPA Board members have agreed to freeze the Subpart B mechanical rate at the \$.091 rate that's been in place since 2006.

In this exchange, NMPA publishers have a stream of revenue (the MOU4 money) that offsets the negative effect of the lack of rate increase in the Subpart B mechanical.

Although foreign CMOs could opt into the current MOU3 settlement, rightsholders that are not NMPA members may not opt in and will not receive the buffer that the MOU4 money provides, yet they are subject to the frozen mechanical rate that is an apparent condition of the negotiation related to the proposed settlement of the Subpart B rates and terms.

Thousands, if not tens of thousands of songwriters in the world have songs published or administered by those NMPA publishers that are party to the rate freeze settlement, but neither these songwriters nor the vast number of songwriters around the globe were given a say in the decision to freeze the mechanical rate.

The concern we have is not that there is a settlement. The concern is that the settlement does not provide for a base rate greater than \$.091, plus annual increases to adjust for inflation.

To quote the NMPA’s Supplemental Comments: “...mechanical royalties from Subpart B configurations now constitute only a small part of total mechanical royalty revenue in the U.S., and that share is expected to get smaller during the period covered by this proceeding.”

That concept only resonates with a corporation that aggregates thousands or millions of copyrights.

To an individual songwriter or a small rightsholder, it doesn’t matter if Subpart B mechanicals constitute 1% or 15% or 50% of total royalties. Why? Because every single penny counts.

When an individual is paying a mortgage, tuition or a car payment, every single penny counts. When a health crisis occurs, every penny counts. When existing off the very low streaming royalties generated by even a hit song, every penny counts.

Physical and download mechanicals are still an extremely relevant revenue stream to individual songwriters and small publishers.

At the current retail price of \$.99 for a download, the \$.091 mechanical is 9.2%.

The streaming royalty pool for songs is roughly 10.5% of the total, possibly as much as 15.1%, per the CRB III hearing results (after all this time, still under appeal). The NMPA has suggested an increase of the streaming royalty rate to 20%. This would be an exceptional improvement.

How is the download royalty not at least the same percentage as the streaming royalty?

Why is the value of a downloaded song less than that of one that is streamed?

Retail Price	Mechanical \$	Mechanical %
\$.99	\$.091	9.2%
\$.99	\$.104	10.5%
\$.99	\$.149	15.1%
\$.99	\$.198	20%

We suggest the Subpart B rate and the streaming mechanical rate (based on percentage) should be on no less than a most favored nations basis with one another.

To songwriters and most publishers, every royalty type and every revenue stream matters. The move from physical to digital, the unbundling of albums in favor of singles and the unlivable streaming royalty rates absolutely substantiate the need for an increase in Subpart B mechanicals, at least to reach the percentage paid on the streaming side, and with periodic adjustment for inflation.

We appreciate the opportunity to submit these additional comments, and we ask the Judges to recognize that songwriters and small publishers are individuals who do not have the luxury of collecting royalties from the aggregation of hundreds of thousands of works.

It is not fair that songwriters signed to the NMPA publishers have a frozen mechanical rate forced on them, and it is remarkably egregious that non-NMPA publishers and their writers are also forced into this horrible reality.

Respectfully,

Abby North, North Music Group LLC
Chelsea Crowell, Songwriter
Erin McAnally, Songwriter/Factory of Strange Tones