BEFORE THE
UNITED STATES COPYRIGHT ROYALTY JUDGES
COPYRIGHT ROYALTY BOARD
WASHINGTON, DC

In re Determination of Rates and Terms for Making and Distributing Phonorecords (Phonorecords IV) 37 CFR Part 385 Proposed Regulations	Docket No. 21–CRB–0001–PR (2023–2027)

COMMENTS OF HELIENNE LINDVALL, DAVID LOWERY AND BLAKE MORGAN ON PROPOSED REGULATIONS FOR SUBPARTS A, C AND D

Songwriters Helienne Lindvall, David Lowery and Blake Morgan (collectively, the "Writers") thank the Copyright Royalty Judges for the opportunity and respectfully submit the following comments responding to the Judges' notice[1] ("Notice") soliciting public comments on a *Motion to Adopt Settlement of Statutory Royalty Rates and Terms for Subpart C and D Configurations,* Docket No. 21–CRB–0001–PR (2023–2027) ("New Rules")[2] received by the Judges from the National Music Publishers Association, Nashville Songwriters Association International, Amazon.com Services LLC, Apple, Inc., Google LLC, Pandora Music LLC and Spotify USA Inc. (the "DSPs") regarding the so-called "streaming

[1] 87 FR 66976, *Proposed Rule*, Docket No. 21–CRB–0001–PR (2023–2027) (Nov. 7, 2022).

[2] *Joint Motion to Adopt New Settlement of Statutory Royalty Rates and Terms for Subpart B Configurations*, Docket No. 21–CRB–0001–PR (2023–2027) (May 25, 2022) available at https://app.crb.gov/document/download/26619

mechanical" statutory rates and terms[3] relating to the Subpart C and D configurations in the docket referenced above ("Proceeding").

The Writers are independent songwriters who own the copyrights to many of their songs. They previously submitted comments to the Judges in the Subpart B proceeding. They were amici in *Google v. Oracle* together with the Songwriters Guild of America at the Supreme Court of the United States. In some instances, they have written songs whose copyrights they have transferred in limited parts and in some cases for limited periods of time to major music publishers. In other cases, their songs are not owned by major music publishers but are administered by one or more of them, in many cases also for limited periods of time. In some instances, these transfers were in perpetuity subject to certain statutory or contractual termination rights. They also have retained the copyrights to many of their songs and are self-administered songwriters with respect to those nondramatic musical works.[4]

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[3] 37 C.F.R. §385.11(a).

[4] The Writers omit the customary "Statement of Interests" having included the statement in prior filings. Prior statements may be found at The Writers previously submitted comments in the Subpart B proceeding: Comments of Helienne Lindvall, David Lowery and Blake Morgan, *Determination of Rates and Terms for Making and Distributing Phonorecords (Phonorecords IV)* (July 26, 2021) available at https://app.crb.gov/document/download/25533 and Second Reopening Period Comments of Helienne Lindvall, David Lowery and Blake Morgan, *Determination of Rates and Terms for Making and Distributing Phonorecords (Phonorecords IV)* (Nov. 22, 2021) available at https://app.crb.gov/document/download/25936. The most significant change from prior comments is that Helienne Lindvall has been elected President of the European Composer and Songwriter Alliance (announcement available at https://composeralliance.org/about/who-we-are/the-board/helienne-lindvall-sweden-uk/).

I. SUMMARY

The Writers wish to support the proposed rule as far as it goes but with some meaningful reservations. First, the Writers respectfully request that the Judges consider the mind-numbing complexity of the streaming mechanical calculation coupled with the scale at which music streaming operates. Streaming must be approaching or has surpassed the trillion-stream mark[5] on an industry-wide basis—is the correct approach to make the statutory license more complex the more the total streams increase?

The streaming mechanical calculation compels what is arguably a hyperefficient market share distribution of adjusted revenue as it is. While the backslapping over a change in the headline rate may be distracting, one can still hear the muffled march of the Malthusian algebra that causes the net royalty to decline as the denominator increases over time. This is not a criticism of the Judges; rather it is a comment on the voluntary settlement process because "there's no success like failure and failure is no success at all."[6]

When one adds inflation to the equation, the real royalty rate definitely declines and may actually turn negative. The Writers would prefer to at least hold

[5] Ariel Shapiro, *The Year of 1 trillion streams*, THE VERGE (Nov 30, 2022) available at https://www.theverge.com/2022/11/29/23484646/music-streaming-trillion-spotify-apple-youtube-google ("Luminate, the data firm behind Billboard charts, reported that liseners in the US have racked up over 1 trillion streams so far in 2022, which is a first.")

[6] Bob Dylan, *Love Minus Zero/No Limit* (1965).

on to whatever value the compulsory allows them and so propose an easy to apply cost of living adjustment to the streaming mechanical.

Given that we are, once again, at the end of a rate period, any new rates set by the Judges for Phonorecord IV are likely to extend into the 2023-2027 period. The Writers respectfully suggest that from their vantage point this delay seems to be entirely due to overlawyering by the dozens of lawyers and lobbyists billing time to this proceeding.

Considering the tremendous productivity loss resulting from having to both render, receive, review and audit retroactive statements for 1 trillion streams and the related restatements of revenue, adjustments to recouped balances and the like, we ask the Judges in future to consider working backward from a hard date[7] on which the new rates would apply in the applicable case management schedules. This would at least place the overlawyering by the richest corporations in commercial history on a clock. It also seems that the entire burden of retroactive accountings should not fall on the Copyright Owners (and therefore the songwriters).

The Writers also wish to call the Judges attention to the application of the late-fee penalty and the long song formula.

[7] It is beyond the scope, but it may be time for the Judges to consider whether accounting at a higher rate pending appeal is appropriate given the mess in the Phonorecords III remand.

II. MINOR REPAIRS TO NEW RULES

A. COST-OF-LIVING ADJUSTMENT FOR SUBPARTS C AND D IS FAIR

At this writing, it appears that the streaming mechanical will be the only music-related statutory royalty that does not include a cost-of-living adjustment. The Writers argue this is wrong and arbitrary particularly since there appears to be no justification given.

Opponents may argue against a streaming COLA because songwriters receive a share of revenue from the statutory licensees under Section 385.21; increasing revenue including revenue derived from increases in subscription prices or number of subscribers will trickle down to songwriters through the many steps in the calculations in the greater of/lesser of formula. Opponents of a COLA for streaming may argue that this trickle-down effect combined with modest increases in the "headline rate" obviate the need for a COLA that maintains the buying power of the songwriter royalty.

The trickle-down arguments compare apples to oranges to derive a pomegranate. The greater of/lesser of formula *determines* the value of the song (rightly or wrongly); a COLA would *protect* that value. Just because the trickle-down formula is complex does not mean the royalty is undeserving of inflation protection.

This trickle-down argument misses the underlying reason for a cost-of-living adjustment on statutory royalties: The government rate prevents songwriters from renegotiating their rate to reflect the lived reality of providing new inputs to the

DSPs during the rate period. On the DSP's side of the transaction, it must be said that the reason the DSPs can point to an increase in their pricing as a trickle-down benefit in the first place *is because the DSPs are free to raise their prices during the rate period*.

Songwriters are not.

For example, if rent on multiple floors of World Trade Center office space[8] increases during the rate period due to inflation, tenant DSPs are permitted to raise their prices to cover such operating cost increases. If a songwriter's rent, food or utility costs increase during the rate period due to inflation or energy shortages, the songwriter's real royalty rate declines because they are not free to raise their price to anyone.

Songwriters have had that freedom taken from them in the form of the government-compelled license which greatly benefits statutory licensees. The transaction is out of balance unless the government also requires DSPs to compensate songwriters for a cost-of-living increase that occurs during the five-year rate period.

Moreover, it is unfair to expect the Judges to guess at the inflated cost of CPI-U components like "food at home," "energy" or "rent" five years in the future any more than it is fair to expect songwriters to guess those same increases. We all can

[8] *Life at Spotify*, "Where We Are" ("We're based at 4 World Trade Center in the heart of New York's Financial District. With a number of floors to call our own…") available at https://www.lifeatspotify.com/locations/new-york

agree that the value of songs should increase over time but if the Judges do not protect that value from inflation the government is giving with one hand, taking away with the other, and locking down any struggle. Been down so long it looks like up.[9]

Dealing with this unfairness is, of course, exactly why the Judges (and indeed the government broadly) utilize the cost-of-living adjustment in the first place. It is unfair to expect anyone to predict the future so we develop tools to allow us to approximate fairness and the COLA is one of those tools.

Applying the COLA to Section 115 may actually have a simple solution. The Judges already have a COLA formula. That formula can simply be applied as a step (5) in 37 CFR §385.21(b). This way the negotiated settlement terms are not re-opened.

Adding a COLA uplift to the applicable royalty calculation is simple. First, determine the applicable payable royalty for the accounting period concerned under the negotiated rates. Then apply the COLA formula derived by the Judges as an uplift to the payable royalties as a last step in the royalty calculation. The COLA could be calculated either annually or monthly although monthly seems more appropriate and accurate.

The uplifted amount (after any uplifted overtime adjustment to plays) would then be reflected on the applicable Copyright Owner's royalty statement as the payable royalty for that accounting period. If that Copyright Owner was required to

[9] Richard Farina, *Been Down So Long It Looks Like Up to Me* (1966).

account to songwriters or co-publishers, no additional accounting would be required to take into account the COLA; the adjustment would already have been made.

B. JUSTICE DELAYED: THE THIRTY-NINE STEPS AND THE THIRTY-SIX LAWYERS

Consider the railhead of the problems with streaming mechanicals: The nearly incomprehensible 2009 settlement.[10] Unlike the long-established penny rate for physical carriers, it appears that the participants in the 2009 settlement disregarded 100 years of statutory law and tradition under Section 115 to establish statutory trickle-down streaming mechanical rates based on a negotiated share of defined revenue. The calculation has grown more complex ever since through numerosity of streams if nothing else.[11]

Given that on-demand streaming exploded the album format even further than had permanent downloads, it was only a matter of time until numerosity overtook complexity like a blindside sack in the pocket. Fans of the "celestial jukebox" were probably not royalty accountants or songwriters trying to decipher royalty statements.

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[10] Copyright Royalty Board, *Mechanical and Digital Phonorecord Delivery Rate Determination Proceeding; Review of Copyright Royalty Judges Determination; Final Rule and Notice*, Docket No. 2006-3 CRB DPRA, 74 FR 4510 (Jan. 26, 2009).

[11] The apocryphal story of a DSP seeking a royalty accountant may be helpful. Interviewing three candidates, each was given a complex royalty accounting problem and asked to find the answer and determine how much the DSP owed. The first got out a calculator and spent several hours coming up with an answer. The second asked to take the problem home and come back the next day. The third looked at the worksheets to try to divine the answer. Finally, he asked, "What do you want the answer to be?"

Respectfully, the calculation of streaming mechanicals is mind-numbing in complexity. The potential for error abounds--monthly. Yet conducting a royalty compliance examination of an on-demand streaming DSP is so extremely challenging and costly that most songwriters can't afford it and so have no idea if they get a straight count. Imagine living your entire creative life relying on the kindness of strangers?

While the Judges may assume that the calculation is acceptable to songwriters because their "representatives" have spent so much time arguing about it and because of the backslapping over a modest increase in the "headline rate," the Judges do not have a ready feedback loop to know whether they have actually improved anyone's life. It is hard to see how a minor increase in the headline rate can escape the tractor beam of the Malthusian algebra.

Critics of the methodology might say that the entire streaming mechanical calculation has been rather nonsensical[12] since it was first established in 2009 after many years of rateless licenses.[13]

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[12] For example, the "Performance Royalty" to be expensed and deducted under 37 CFR §385.21(b)(2) is paid quarterly but must be deducted monthly in order to pay the streaming mechanical. While the Performance Royalty can be estimated and accrued, once it is known must all statements previously issued be re-calculated including deductions for minimum guarantees?

[13] But see Glenn Peoples, *Fare Play: Could SoundCloud's User-Centric Streaming Payouts Catch On?*, Billboard (March 12, 2021) available at https://www.billboard.com/index.php/articles/business/streaming/9539421/use-centric-streaming-soundcloud-explainer-analysis ("When Spotify first negotiated its initial licensing deals with labels in the late 2000s, both sides focused more on how much money the service would take in than the best way to divide it. The idea they settled on, which divides artist payouts based on the overall popularity of recordings, regardless of how they map to individuals' listening habits, was 'the simplest system to put together at the time,' recalls Thomas Hesse, a former Sony Music executive who was involved in those conversations." It appears the publishers simply followed along.)

After the Judges adopted the methodology of the streaming royalty rate calculation, no publisher can tell a songwriter what rate they will earn next month much less next year due to the fluctuation in the calculation even for the same number of streams. While there may not be 39 steps in the calculation, songwriters could still use the skills of Alfred Hitchcock to help them find the macguffin.

It must also be said that Phonorecords IV streaming mechanical rate proceedings exist in a bubble where thirty-six—thirty-six—lawyers bang away at each other in trench lawfare all designed to determine a royalty for the use of a song that is itself compelled by the government. The fees and costs of this Kafka-esque rutting ritual seem to get more expensive every year and no one ever seems to take a step back and ask if this is really what the Congress—much less the Founders—had in mind. We don't think so. We think that the utility of this entire process must be questioned, preferably before Phonorecords V commences.

For example, it should come as no surprise to anyone that thirty-six lawyers never saw a delay they couldn't lengthen or a rabbit hole left unexplored, all under seal, of course. Is there another kind of rabbit hole except one under seal?

Even when Your Honors asked for simple assurances regarding the notorious side deals, somehow this turns into a reason for a two-month delay which now appears to run the risk of pushing the effective commencement date of the Phonorecords IV rates into 2023. That delay in turn may require another retroactive calculation as with the Phonorecords III remand rate increase. The Writers fully expect that due to these shenanigans a nightmarishly complex

retroactive accounting will be required—and if the Phonorecords III remand is any guide, the participants will then argue about *that too*, pushing off the date that songwriters actually get the much ballyhooed "raise" in pocket. The enthusiasm for "finally getting our raise" is drowned out by the footfalls of the coming double encirclement.

It must also be said that much was made during Phonorecords IV of songwriter royalty statements being produced to the services in discovery to prove some point that now seems long forgotten. It is entirely likely that the songwriters involved were never asked if they objected to their statements being produced and that entire episode has led to a consideration of how much such production of documents can be limited in advance through contractual consent rights. The Writers fully expect that whatever utility this production may have had, it's likely that the entire exercise was designed to be punitive and that no one ever read the documents produced. How would songwriters ever know?

Such discovery-bombing creates a perverse incentive; rather than encouraging songwriters to participate in the CRB, these exercises in futility instead encourage songwriters to run for the hills.

The Writers believe that these things happen because there are virtually no restraints on the lawyers and no downside to delays. It is not our place to ask whether the Judges incentivize the lawyers through customary penalties such as sanctions, bonds or extending the rate period by the amount of delay, but we do request that the Judges consider how to get the proceeding back under control to

avoid retroactive accountings and that these methods be adopted by the Judges in the case management schedule to the extent possible, perhaps through the use of special masters or hourly arbitrators to help the Judges paid by the Participants. It might even be productive at the outset of Phonorecords V to ask the Copyright Owners to brief how much time their royalty accounting departments would need to implement an industrywide change in rates compelled by the Judges. That way the Judges could work backwards with scheduling or at least know what they were up against.

C. LATE FEE PAYMENTS

The Writers wish to call the Judges' attention to the royalty treatment of late fees under the existing and proposed Section 385.3. Respectfully, it must be noted that a late fee of 1.5% per month is in the general vicinity of "credit card interest." While the late fee is to be charged "for any payment owed to a Copyright Owner and remaining unpaid after the [applicable] due date…", the regulations should add clarifying language that would require the applicable Copyright Owner[14] to treat any late fee payment so received as an additional royalty payment under any publishing agreement. Otherwise, a late fee might be treated as a catalog-wide penalty that a Copyright Owner collecting the late fee could argue should be retained for its own account. The Writers do not know if this treatment is common, but it is worth looking into.

[14] The Writers use the statutory term "Copyright Owners" interchangeably with "songwriters" and "publishers" as the context requires.

D. THE LONG SONG FORMULA AND DENOMINATORS

1. **The Long Song Formula**: It may be well to clarify the "overtime adjustment" language to be clear that the long-song adjustment is to be a bonus and not a penalty.

The so-called "long song" bonus formula paid by music users to songwriters was established by Congress in the Copyright Act of 1976[15] and continues to the present day.[16] The 76 Act also introduced Congress's promise to songwriters of a "minimum" statutory rate paid by music users to songwriters for recordings of songs of five minutes playing time or less.[17] The long-song bonus[18] was intended by Congress to mandate just compensation to songwriters and publishers for songs of more than five minutes duration, as recorded.

Without the long-song bonus, Congress would use the compulsory license to essentially take uncompensated property rights away from songwriters on the face

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[15] Copyright Act of 1976, Pub. L. No. 94-553, 90 Stat. 2541 (October 19, 1976) (hereafter "76 Act") at Sec. 115(c)(2); see also *Copyright Law Revision*, S. Rep. No. 94-473 (94th Cong. 1st Sess., Nov. 20, 1975) at 94 ("[T]he publishers and composers will have the opportunity to present their case to the Copyright Royalty Tribunal, an expert body qualified to review the economic evidence in detail.")

[16] For example, the current rate paid by music users for physical phonorecords is 9.1¢ or 1.75¢ per minute of playing time or fraction thereof, whichever is larger, for physical phonorecord deliveries.

[17] Getting long-song right is not a small thing. One may well ask if Congress had already given effect to a taking in the 1909 Copyright Act by limiting the statutory royalty to 2¢ for all songs regardless of running time. We may never know the answer to that interesting question, but whatever the answer Congress offered a solution through the long-song formula.

[18] 76 Act §115(c)(2) as enacted stated "With respect to each work embodied in the phonorecord, the royalty shall be either two- and one-half cents, or one half cent per minute of playing time or fraction thereof, whichever amount is larger." The long song formula has been maintained since the effective date of the 76 Act on January 1, 1978. See, e.g., U.S. Copyright Office, *Mechanical License Royalty Rates* available at https://www.copyright.gov/licensing/m200a.pdf.

of the Copyright Act.[19] Not only is the long song bonus formula rooted in the Constitution and legislative history, it is also has the benefit of common sense; if Congress establishes a minimum statutory rate based on playing time of the sound recording, it is only good housekeeping to address what happens if the creative process exceeds the statutory minimum.

The statutory long-song formula has, of course, continued uninterrupted since 1976.[20] Section 115 (c)(2) of the 76 Act stated clearly "With respect to each work embodied in the phonorecord, the royalty shall be either two and three-fourths cents, or one-half of one cent per minute of playing time or fraction thereof, ***whichever amount is larger***" (emphasis added). The long song formula resulted in a bonus paid on a work-by-work basis in addition to the minimum royalty that was also paid on a work-by-work basis. We have found no evidence that it was ever the intention of Congress to use the long song formula to reduce the minimum statutory rate on a per-music user basis or to require copyright owners, including unrelated

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[19] Of course, as Register Peters noted in 2004 testimony to Congress, controlled compositions clauses took away what Congress gave in 1976 and became "…a de facto ceiling on privately negotiated rates" as had the 2¢ rate before it. *Summary of Statement of U.S. Register of Copyrights Marybeth Peters Before the U.S. Senate Committee on the Judiciary, Subcommittee on Intellectual Property* (July 12, 2005) at 3 and 6 (available at https://www.judiciary.senate.gov/imo/media/doc/peters_testimony_07_12_05.pdf

[20] See, e.g., *In re Compulsory License for Making and Distributing Phonorecords; Royalty Adjustment Proceeding*, Copyright Royalty Tribunal (CRT Docket No. 80-2); *Mechanical and Digital Phonorecord Delivery Rate Adjustment Proceeding* (1997 Mechanical Rate Adjustment Proceeding), Copyright Arbitration Royalty Panel (CARP Docket No. 96-4 CARP DPRA).

copyright owners, to bear the cost of the long song bonus through a reduction in the minimum statutory rate.

Congressional intent in amending and increasing the mechanical royalty rate required by the 1909 Copyright Act was clearly compensatory and not punitive, meaning the long song rate was additive and not dilutive. Congress also clearly intended as both the law and common sense require that the music user determine the payable royalty rate in separate calculations based on the playing time of *each musical work concerned*, not *all* musical works exploited by the same music user in a particular accounting period.

Respectfully, the Judges should take precautions that the streaming mechanical "overtime adjustment" in 37 CFR §385.21(b)(4) and (c) is not misunderstood to result in a penalty charged to all musical works owners by each service for the complex streaming mechanical calculation rather than the bonus for "long songs" intended by Congress. That is, ***the Judges should avoid an interpretation of the "overtime adjustment" being a bonus to the music users rather than to the copyright owners by miscalculating the pool used to determine the minimum statutory rate as a cap for all songs regardless of running time.***

2. **Denominator Discipline**: The Writers also request that the Judges take notice that music users accounting under the blanket license may take it upon themselves to include tracks in the denominator that should not be there (such as podcasts or spoken word recordings, white noise, machine generated recordings not

capable of copyright). Once included, it is very difficult to remove these non-royalty bearing tracks and restate all earnings.

III. CONCLUSION

The Writers support the settlement as far as it goes, but we do not think it goes far enough. We respectfully request that the Judges consider the comments above and especially the cost-of-living adjustment. In an economic environment marked by long-term volatility,[21] failing to protect songwriters from the rot of inflation alone could finally deliver the *coup de grâce* to these standard bearers of free expression.[22]

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[21] Red Jahncke, *Rising Interest Rates Will Crush the Federal Budget*, WALL STREET JOURNAL (June 29, 2022) available at https://www.wsj.com/articles/high-interest-rates-will-crush-the-federal-budget-inflation-debt-spending-costs-recession-economy-11656535631 ("The current debate about inflation and whether the Fed's monetary moves have been too late or too aggressive misses the point. The U.S. has been on an unsustainable fiscal and financial path for a long time. We are beginning to see the inevitable result."); Christian L. Castle, *Goldilocks, "Neutral Interest Rates," Inflation and the Unfrozen Mechanical Royalty*, MUSIC TECH SOLUTIONS (April 13, 2022) available at https://musictech.solutions/2022/04/11/goldilocks-neutral-interest-rates-inflation-and-the-unfrozen-mechanical-royalty/ ("How high will these [Fed funds] rates go? One way to look at a potential near-term target is for the Fed to reach a "neutral interest rate", that is one that is neither accommodative nor restrictive. Given that inflation is currently in the 8% range and likely to go higher still in the near term, that means raising the federal funds rate to over 8% [the Taylor Rule]. Such an increase highlights the debt trap that the US is in (along with most of the world), because if the government had to pay over 8% for government bonds it would bankrupt the country or require massive tax increases in a shrinking GDP. The failure to tax as we went along is, of course, how we got here. Government will always take easy money debt that nobody really notices rather than tax to pay as it goes, which everyone will notice and not like.").

[22] As Professor Nye notes in *Soft Power* "[l]ong before the Berlin Wall fell in 1989, it had been pierced by [music,] television and movies.... Lennon trumped Lenin.... One [Chinese] dissident told a foreign reporter [during the Tiananmen Square massacre] that when she was forced to listen to local Communist Party leaders rage about America, she would hum Bob Dylan tunes in her head as her own silent revolution." Joseph S. Nye, Jr. *Soft Power: The Means to Success in World Politics* (2009) at n. 57.

We think it is also quite clear that there are many voices[23] that should have been heard in the rate-setting process and hopefully will be heard in future proceedings.[24] These would include both major and independent record companies, major and independent music publishers, artist-songwriters, screen composers and individual songwriters. Again, solving the root causes of this problem may be outside the scope of the Judges' jurisdiction but the Writers want the Judges to know that we stand ready to assist in finding collaborative solutions.[25] These discussions in the songwriter community are happening anyway and will likely continue to happen both in the United States and at least among affected songwriters abroad which could find their way back to the U.S. in a variety of ways and in a variety of fora.

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[23] Kristin Robinson, *Is This the Age of the Songwriter?* BILLBOARD (Nov. 28, 2022) available at https://www.billboard.com/pro/artists-rights-symposium-songwriters-metadata-merck-mercuriadis/

[24] *See,* Ed Christman, *Major Labels Appeal to Keep Mechanical Royalty Rate at 9.1¢*, BILLBOARD (April 14, 2022) available at https://www.billboard.com/pro/major-labels-appeal-keep-mechanical-royalty-rate/ ("[RIAA chief Mitch] Glazier, however, says that [while] he has no control [over] who participates in the CRB proceedings — it has its own process that makes those decisions — he does have a say [in] who participates in the negotiations for a new rate settlement ***and wants to include other independent songwriting groups, publishers and labels. He wants their point of view to inform negotiations***, he says."(emphasis added)).

[25] Indeed, Writer Dr. David Lowery hosted the Artist Rights Symposium at the University of Georgia Terry College of Business (where he teaches) to the subject of improving the voluntary negotiation process, procedures and discovery practice at the CRB available at https://www.youtube.com/watch?v=4LFYCBeGzI4. Speakers included Merck Mercuriadis, Abby North, Erin McAnally, Melanie Santa Rosa, Rick Carnes, Helienne Lindvall, Chris Castle, Richard Burgess and Crispin Hunt. *See David Lowery and Chris Castle, The Smartest People in the Room* (June 9, 2022) available at https://www.youtube.com/watch?v=_Y1TPMJiemk

With these caveats and concerns, the Writers wholeheartedly support the Judges' efforts in crafting new and equitable rates and thank the Judges for this opportunity to comment.

Respectfully submitted.

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