

July 23, 2018

The Honorable Chuck Grassley
Chairman, Senate Committee on the Judiciary

Dear Sen. Grassley:

We, the undersigned organizations dedicated to limited government and constitutional principles, are writing to voice concern about a provision in the Music Modernization Act (MMA) that was recently marked-up by the Senate Judiciary Committee.

The MMA intends to ensure songwriters are compensated by digital music services in a timely manner for uses of their works. We support this overall objective. However, we are concerned that the creation of the Mechanical Licensing Collective (MLC) would short-circuit a spirited marketplace, undercut competition, and grant unprecedented power to a handful of decision-makers.

The MLC represents a continuation of the same interventionist approach that has proven inadequate. Usefully, it calls for the creation of a comprehensive database of music copyright holders, though it lacks funding for the project. Unfortunately, it also links the database with the functionality of a collective rights organization empowered to grant licenses, receive royalties, and remit payments to rights holders. In doing so, the MLC repeats past mistakes by relying on compulsory licensing and regulated rates, instead of encouraging direct negotiation and other forms of market competition.

Today, there are numerous services that online streaming services can utilize to ensure publishers and self-published songwriters are compensated. Technology has advanced as competition has increased. As proposed, the government-created Collective undercuts this competition and would create near-monopoly market conditions resulting in the use of a single technology to match songwriters and publishers with recordings. And without competitive pressures, the MLC is more likely to adopt an approach relying on inferior technology or fail to adapt as new technology becomes available.

Like consumers, publishers and songwriters are best served in a competitive marketplace. There is no need for a government-designated entity to duplicate and crowd out the work of competing, private sector firms.

We urge you to forgo the creation of a government licensing collective in favor of a more market-oriented approach to ensuring that publishers and artists receive all due compensation.

Sincerely,

Andrew F. Quinlan, President, Center for Freedom and Prosperity
Norman Singleton ~ President, Campaign for Liberty
Andrew Langer ~ President, Institute for Liberty
Seton Motley ~ President, Less Government
Jerry Rogers ~ Founder, Capitol Allies
Chuck Muth ~ President, Citizen Outreach

