

February 2, 2022

The Honorable Jerrold Nadler  
Chairman  
U.S. House of Representatives Committee on the Judiciary  
Rayburn House Office Building 2138  
Washington, DC 20515

The Honorable Jim Jordan  
Ranking Member  
U.S. House of Representatives Committee on the Judiciary  
Rayburn House Office Building 2056  
Washington, DC 20515

**Re: The American Music Fairness Act (H.R. 4130)**

Dear Chairman Nadler and Ranking Member Jordan:

We write in support of H.R. 4130, the American Music Fairness Act. We believe it represents a chance to update copyright law to reflect today's music market, while minimizing impacts on small, independent, and nonprofit broadcasters.

Copyright has historically been a contentious field, and this bill is no exception. For the first 70 years of commercial radio, broadcasting did not require a royalty fee. Even when Congress altered the law in 1998 to account for digital transmission, it maintained the exemption for terrestrial radio broadcasters. This made sense in the context of the 20th Century music marketplace; radio play was the primary means by which consumers discovered music, and radio play drove record sales. Today, however, radio is only one of many means by which consumers discover music. The royalty exception for terrestrial radio no longer reflects the value of radio airplay to rightsholders. Instead, it increasingly creates an inequality in the market among competing music services, and deprives artists of a much-needed revenue stream.

As a consumer advocacy organization, we believe that consumers, and the public as a whole, benefit from a healthy creative ecosystem. This requires a legal framework which enables creators to flourish, while *also* maximizing the public's ability to access and make fair uses of creative works. This bill advances both fronts by updating the law to reflect the modern music marketplace by applying the same general royalty regime to all music services, and doing so with

a tiered rate structure that meaningfully protects smaller broadcasters and their ability to reach the public.

Radio has long been, and remains, a crucial public good. Local radio in particular is an important means of connection in rural and under-served areas. It serves as a literal lifeline in times of natural disasters. AMFA's tiered fee structure recognizes the financial challenges faced by non-commercial, nonprofit, and small, independently owned stations, and offers low fee structures to avoid creating undue burdens.

Artists are struggling. While this bill alleviates one part of that struggle, it does not solve the numerous systemic problems that exist within our music marketplace. We remain deeply concerned by the dysfunctional state of the marketplace overall. The recording industry in particular suffers from deep inequities. Perhaps most galling is labels' tendency to operate as a "black box," inside of which record-breaking profits mysteriously evaporate before reaching artists. This opacity is deliberate, strategic, and harmful. It props up a toxic atmosphere in which labels claim low payouts from streamers, streamers claim predatory behavior by labels, policymakers have no way to meaningfully assess the problem, and artists are left holding the bag.

We support H.R. 4130, and hope that this signals the beginning of greater Congressional scrutiny on the inequities of the music licensing ecosystem.

Sincerely,

Meredith Rose  
Senior Policy Counsel  
Public Knowledge