

# Congress of the United States

Washington, DC 20515

September 16, 2024

Shira Perlmutter  
Register of Copyrights  
United States Copyright Office  
Washington, D.C. 20559-6000

Dear Register Perlmutter:

We write to you today to express our concern with the current operation of the Mechanical Licensing Collective (MLC) and urge your office to ensure that the MLC is appropriately carrying out its role under Section 115 of the Music Modernization Act (MMA), giving fair treatment and consideration to all parties within its purview.

As you know, the intent of the MMA, as set out almost six years ago upon its enactment on October 11, 2018, was to ensure an adequate accounting of digital streaming uses of music in a world where United States copyright law had not kept up with the rise of new technology. In the words of the U.S. Copyright Office, “the MMA modernized copyright law to make statutory licensing of musical works fairer for creators and more efficient for digital music providers.” Overall, the updated system achieved by the passage of the MMA has been a success, with a single organization—the MLC—established to administer the law’s new blanket license system under Section 115 to distribute associated royalties to cover the use of musical works by music streaming services.

When the MMA was signed into law, Congress intended for the MLC to serve as a neutral conduit in the newly updated music copyright landscape, administering the blanket license system to balance the interests of all three stakeholders—songwriters, music publishers, and streaming services. Unfortunately, recent evidence has left us with serious questions as to whether the MLC is truly serving as a neutral arbiter as Congress intended.

Recently the MLC has unilaterally made decisions to interpret Section 115 regulations and statute in favor of music publishers, to the detriment of songwriters and streaming services. We also find it troubling that when conflicts arise at the MLC between songwriters and publishers, the resulting MLC policy favors the publishers. In a recent example that your Office is aware of, the MLC unilaterally adopted a rule regarding termination of transfer rights that generally would have established a process where, “as long as a publisher had actively licensed the work and used it at least once before the termination date, the publisher would forever receive royalties from the MLC, and not the creator (songwriter) who terminated rights.” The MLC’s decision in this instance is deeply concerning and would have clearly benefitted one party—the publishers as rightsholders—over songwriters as creators. Although the Copyright Office eventually stepped in and overruled the MLC, the initial rule runs contrary to the intended role of the MLC as a neutral entity.

We have also taken notice of additional actions taken by the MLC as a de facto advocate on behalf of music publishers, submitting substantively similar filings and even using the same outside counsel as the trade association representing music publishers in proceedings before the Copyright Office. Given recent decisions to swiftly pursue lawsuits against music streaming services, in some cases without any evidence of an attempt at prior contact or an alternative means of dispute resolution, raise questions about the bounds of the MLC’s enforcement authority granted under the Copyright Act.

The Copyright Office is responsible for designating the entity that serves as the MLC and the MLC’s voting board members are approvable and removable by the Librarian of Congress. The official nature of these appointments carries with it an obligation to act in a manner that is faithful to the law itself, not to private interests, and certainly not to any of the stakeholders with which it is expected to engage as a neutral administrator. As Members of the House Committee on Oversight and Accountability, we further recognize the important role, under the MMA, that Congress has to ensure the MLC is acting in a manner that is faithful to Congressional intent of the law. We therefore request that you ensure

neutrality in the MLC's administration of the Section 115 license in a manner that upholds its responsibilities and balances the equities of all three stakeholders, as Congress intended when it passed the MMA.

Sincerely,

A handwritten signature in black ink, appearing to read "Nick A. Langworthy". The signature is written in a cursive style with a horizontal line extending to the right from the end of the signature.

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Nicholas A. Langworthy  
Member of Congress