

## ALLIANCE FOR RECORDED MUSIC



July 27, 2020

Via email at [regans@copyright.gov](mailto:regans@copyright.gov) and [jslo@copyright.gov](mailto:jslo@copyright.gov)

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Assistant General Counsel  
U.S. Copyright Office  
Library of Congress  
101 Independence Ave. SE  
Washington, DC 20559-6000

RE: Follow Up to July 22, 2020 Ex Parte Call Regarding Metadata, Docket No. 2020-5

Dear Ms. Smith and Mr. Sloan,

We write to summarize the contributions made by the Alliance for Recorded Music (“ARM”) during the multi-stakeholder *ex parte* call on July 22, 2020 regarding the metadata that will be required to be included by the DMPs in the monthly reports of usage they are required to submit to the MLC pursuant to the regulations that have been proposed by the Office in this rulemaking. A list of the participants in the July 22 call is attached as Exhibit 1 to this letter.

As we made clear during the call, ARM’s concern is that the MLC not propagate non-authoritative sound recording data in its public-facing database and outward reporting. Our comments were directed solely to that issue and were not intended to address the separate issue of what sort of data should be provided to the MLC for the purposes of the MLC’s internal matching function.

As we had stated in our written comments and reiterated during the call, we believe that, to avoid the problem of having non-authoritative sound recording data in the MLC's public-facing database, the MLC should obtain a data feed from an authoritative source—we recommended SoundExchange for that purpose, as it cleans and normalizes the sound recording metadata it receives from record labels-- and should use that data to populate the MLC's public-facing database and outward reporting. As we explained in our May 22, 2020 written comments in this proceeding:

To avoid these problems and to ensure that the sound recording data in the MLC's public-facing database is and remains as authoritative as possible, the Office must adopt a regulation that requires the MLC, for purposes of outward reporting (e.g., in its database and royalty statements), to resolve any conflicts between sound recording data reported by a DMP and data provided by SoundExchange (or other authoritative data source) for the same recording by giving priority to the authoritative version of the data. The same rule should apply to any sound recording data reported to the MLC by musical work copyright owners pursuant to proposed 37 CFR §§210.26(c)(3)(i) and (ii) (requiring musical work copyright owners to periodically monitor the MLC database for "missing and inaccurate sound recording information relating to applicable musical works . . . [and] promptly delivering complete and correct sound recording information to the mechanical licensing collective."). Without such regulations, the advantages of obtaining authoritative sound recording data will be lost.<sup>1</sup>

The issue of using ISRC data to aid in this purpose was discussed on the call. We noted that all of the tracks produced and/or distributed by ARM's members that embody musical works that are subject to the blanket mechanical license are provided to the DMPs under direct licenses, which licenses require ARM's members to provide metadata (including ISRCs) to the DMPs. We also noted that all of the major record companies use ISRCs to process royalties. And we noted that the DMPs use ISRCs in their monthly reports to the labels. Finally, we pointed to the July 22, 2020 press release (a copy of which can be found at <https://www.riaa.com/riaa-designates-soundexchange-as-authoritative-source-of-isrc-data-in-the-united-states/>), which announced that the RIAA designated SoundExchange as the authoritative source of ISRC data in the United States. While there may have been some issues with the ISRC historically, we have a high degree of confidence in it as an identifier on a going-forward basis.

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<sup>1</sup> Comments of the Alliance for Recorded Music, Docket No. 2020-5, May 22, 2020, at 6.

During the course of the call, a distinction was drawn between the issue of sourcing for the MLC's *public-facing* data, on the one hand, and the issue of data that DMPs should include in their monthly reports of use for purposes of the MLC's *internal* matching processes, on the other. Although it acknowledged that these issues are to some extent interrelated, the Office informed us that an NPRM proceeding on the issue of transparency is forthcoming and that we would be able to address the issue of the MLC's public-facing data in that proceeding. On that basis, and without prejudice to our position on the public-facing data issue (which we continue to regard as important), we reserved our comments for the forthcoming NPRM on the issue of transparency.

On the issue of the data to be included in the DMPs' monthly reports of use, we stated during the call that we did not oppose a regulation that requires the DMPs to provide unaltered data in the monthly reports. At the end of the day, however, our concern is ultimately about the public-facing data, and we leave it to the Office, the MLC, and the DLC to resolve the issue of which data to include in the monthly reports of use for purposes of the MLC's internal matching function. As we summarized in our May 22, 2020 comments:

Our primary concern with respect to the sound recording data that is reported to the MLC is ensuring that all sound recording data that ultimately appears in the MLC's public-facing database is as accurate as possible and is taken from an authoritative source (e.g., SoundExchange). On the one hand, this task would be made easier if the DMPs were required to populate their monthly reports of usage with only unaltered data. See RIAA's Initial Comments in Docket No. 2019-5 at 4-5; A2IM and RIAA's Reply Comments in Docket No. 2019-5 at 2-3. On the other hand, we are sympathetic to the operational challenges this would create for DMPs, who alter a certain amount of the sound recording metadata they receive for display purposes and would then be forced to maintain "a parallel archive of [unaltered] data that may entail material engineering efforts." 85 Fed. Reg. at 22523. *We leave it to the MLC and the DLC to find some mutually workable way to bridge this gap.*<sup>2</sup>

An issue was raised on the call about how to handle metadata for the back catalog of tracks already on the DMPs' servers. The DMPs stated that they have not stored the original, unaltered data for those tracks and would not be able to provide it. They argued that any regulation requiring them to provide unaltered data would have to apply on a going-forward basis only, and that obtaining unaltered data from the labels for the estimated 80+ million tracks already on their servers would be unworkable. We reminded the Office that the statute

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<sup>2</sup> *Id.* (emphasis added).

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Mr. Jason Sloan  
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places no obligations whatsoever on ARM's members. The Office encouraged ARM to discuss this issue with the MLC after the call; based on a preliminary call we had with the MLC's counsel, it appears that the MLC agrees that ARM's members do not (and should not) have any obligations in connection with this issue.

In response to the Office's questions about whether the DMPs should be required to include the DPID party in their monthly usage reports and who should convert the numerical DPID to a party name, we stated that we are agnostic as to whether the DLC or the MLC converts the numerical identifier to the party name. In addition, we explained that we continue to think that the DPID party name will be useful to members of the public who are looking for a licensing contact. If conflicts arise in the matching process, the DPID would also allow the MLC to determine if the tracks at issue originated from the same source.

We thank you for the opportunity to participate in this call. If we can be of any further assistance on this matter, please let us know.

Sincerely,



Susan Chertkof  
SVP, Legal and Regulatory Affairs  
RIAA



Joshua F. Hurvitz  
For  
American Association of Independent Music  
(A2IM)

**EXHIBIT 1  
PARTICIPANT LIST**

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