

## Appendix K

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### **Orrin G. Hatch–Bob Goodlatte Music Modernization Act<sup>1</sup>**

#### *Section 1 · Short Title; Table of Contents.*

(a) SHORT TITLE.—This Act may be cited as the “Orrin G. Hatch–Bob Goodlatte Music Modernization Act”.

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#### **Title I—Music Licensing Modernization**

##### *Sec. 101 · Short Title.*

This title may be cited as the “Musical Works Modernization Act”.

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##### *Sec. 102 · Blanket License for Digital Uses and Mechanical Licensing Collective.*

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(c) EFFECTIVE DATE OF AMENDED RATE SETTING STANDARD.—The amendments made by subsection (a)(3) and section 103(g)(2) shall apply to any proceeding before the Copyright Royalty Judges that is commenced on or after the date of the enactment of this Act.

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(d) TECHNICAL AND CONFORMING AMENDMENTS TO TITLE 37, PART 385 OF THE CODE OF FEDERAL REGULATIONS.—Not later than 270 days after the date of enactment of this Act, the Copyright Royalty Judges shall amend the regulations for section 115 of title 17, United States Code, in part 385 of title 37, Code of Federal Regulations, to conform the definitions used in such part to the definitions of the same terms described in section 115(e) of title 17, United States Code, as added by subsection (a). In so doing, the Copyright Royalty Judges shall make adjustments to the language of the regulations as necessary to achieve the same purpose and effect as the original regulations with respect to the rates and terms previously adopted by the Copyright Royalty Judges.

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(e) **COPYRIGHT OFFICE ACTIVITIES.**—The Register of Copyrights shall engage in public outreach and educational activities—

(1) regarding the amendments made by subsection (a) to section 115 of title 17, United States Code, including the responsibilities of the mechanical licensing collective designated under those amendments;

(2) which shall include educating songwriters and other interested parties with respect to the process established under section 115(d)(3)(C)(i)(V) of title 17, United States Code, as added by subsection (a), by which—

(A) a copyright owner may claim ownership of musical works (and shares of such works); and

(B) royalties for works for which the owner is not identified or located shall be equitably distributed to known copyright owners; and

(3) which the Register shall make available online.

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(f) **UNCLAIMED ROYALTIES STUDY AND RECOMMENDATIONS.**—

(1) **IN GENERAL.**—Not later than 2 years after the date on which the Register of Copyrights initially designates the mechanical licensing collective under section 115(d)(3)(B)(i) of title 17, United States Code, as added by subsection (a)(4), the Register, in consultation with the Comptroller General of the United States, and after soliciting and reviewing comments and relevant information from music industry participants and other interested parties, shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report that recommends best practices that the collective may implement in order to—

(A) identify and locate musical work copyright owners with unclaimed accrued royalties held by the collective;

(B) encourage musical work copyright owners to claim the royalties of those owners; and

(C) reduce the incidence of unclaimed royalties.

(2) **CONSIDERATION OF RECOMMENDATIONS.**—The mechanical licensing collective shall carefully consider, and give substantial weight to, the recommendations submitted by the Register of Copyrights under paragraph (1) when establishing the procedures of the collective with respect to the—

(A) identification and location of musical work copyright owners; and

(B) distribution of unclaimed royalties.

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**Sec. 103 · Amendments to Section 114.**

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(c) **USE IN MUSICAL WORK PROCEEDINGS.** —

(1) **IN GENERAL.** — License fees payable for the public performance of sound recordings under section 106(6) of title 17, United States Code, shall not be taken into account in any administrative, judicial, or other governmental proceeding to set or adjust the royalties payable to musical work copyright owners for the public performance of their works except in such a proceeding to set or adjust royalties for the public performance of musical works by means of a digital audio transmission other than a transmission by a broadcaster, and may be taken into account only with respect to such digital audio transmission.

(2) **DEFINITIONS.** — In this subsection:

(A) **TRANSMISSION BY A BROADCASTER.** — The term “transmission by a broadcaster” means a nonsubscription digital transmission made by a terrestrial broadcast station on its own behalf, or on the behalf of a terrestrial broadcast station under common ownership or control, that is not part of an interactive service or a music-intensive service comprising the transmission of sound recordings customized for or customizable by recipients or service users.

(B) **TERRESTRIAL BROADCAST STATION.** — The term “terrestrial broadcast station” means a terrestrial, over-the-air radio or television broadcast station, including an FM translator (as defined in section 74.1201 of title 47, Code of Federal Regulations, and licensed as such by the Federal Communications Commission) whose primary business activities are comprised of, and whose revenues are generated through, terrestrial, over-the-air broadcast transmissions, or the simultaneous or substantially-simultaneous digital retransmission by the terrestrial, over-the-air broadcast station of its over-the-air broadcast transmissions.

(d) **RULE OF CONSTRUCTION.** — Subsection (c)(2) shall not be given effect in interpreting provisions of title 17, United States Code.

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(e) **USE IN SOUND RECORDING PROCEEDINGS.** — The repeal of section 114(i) of title 17, United States Code, by subsection (b) shall not be taken into account in any proceeding to set or adjust the rates and fees payable for the use of sound recordings under section 112(e) or 114(f) of such title that is pending on, or commenced on or after, the date of enactment of this Act.

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(f) DECISIONS AND PRECEDENTS NOT AFFECTED. — The repeal of section 114(i) of title 17, United States Code, by subsection (b) shall not have any effect upon the decisions, or the precedents established or relied upon, in any proceeding to set or adjust the rates and fees payable for the use of sound recordings under section 112(e) or 114(f) of such title before the date of enactment of this Act.

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(h) EFFECTIVE DATE OF AMENDED RATE SETTING STANDARD. — The amendments made by subsection (a)(1) shall apply to any proceeding before the Copyright Royalty Judges that is commenced on or after the date of the enactment of this Act.

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***Sec. 105 · Performing Rights Society Consent Decrees.***

(a) DEFINITION. — In this section, the term “performing rights society” has the meaning given the term in section 101 of title 17, United States Code.

(b) NOTIFICATION OF REVIEW. —

(1) IN GENERAL. — The Department of Justice shall provide timely briefings upon request of any Member of the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives regarding the status of a review in progress of a consent decree between the United States and a performing rights society.

(2) CONFIDENTIALITY AND DELIBERATIVE PROCESS. — In accordance with applicable rules relating to confidentiality and agency deliberative process, the Department of Justice shall share with such Members of Congress detailed and timely information and pertinent documents related to the consent decree review.

(c) ACTION BEFORE MOTION TO TERMINATE. —

(1) IN GENERAL. — Before filing with the appropriate district court of the United States a motion to terminate a consent decree between the United States and a performing rights society, including a motion to terminate a consent decree after the passage of a specified period of time, the Department of Justice shall —

(A) notify Members of Congress and committees of Congress described in subsection (b); and

(B) provide to such Members of Congress and committees information regarding the impact of the proposed termination on the market for licensing the public performance of musical works should the motion be granted.

## (2) NOTIFICATION.—

(A) IN GENERAL.—During the notification described in paragraph (1), and not later than a reasonable time before the date on which the Department of Justice files with the appropriate district court of the United States a motion to terminate a consent decree between the United States and a performing rights society, the Department of Justice should submit to the chairmen and ranking members of the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a written notification of the intent of the Department of Justice to file the motion.

(B) CONTENTS.—The notification provided in subparagraph (A) shall include a written report to the chairmen and ranking members of the Committee on the Judiciary of Senate and the Committee on the Judiciary of the House of Representatives setting forth—

(i) an explanation of the process used by the Department of Justice to review the consent decree;

(ii) a summary of the public comments received by the Department of Justice during the review by the Department; and

(iii) other information provided to Congress under paragraph (1)(B).

(d) SCOPE.—This section applies only to a consent decree between the United States and a performing rights society.

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**Sec. 106 · Effective Date.**

This title, and the amendments made by this title, shall take effect on the date of enactment of this Act.

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**Title II—Classics Protection Act****Sec. 201 · Short Title.**

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This title may be cited as the “Classics Protection and Access Act”.

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**Title III—Allocation for Music Producers****Sec. 301 · Short Title.**

This title may be cited as the “Allocation for Music Producers Act” or the “AMP Act”.

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**Sec. 303 · Effective Date.**

(a) **IN GENERAL.**—Except as provided in subsection (b), this title and the amendments made by this title shall take effect on the date of enactment of this Act.

(b) **DELAYED EFFECTIVE DATE.**—Paragraphs (5)(B) and (6)(E) of section 114(g) of title 17, United States Code, as added by section 302, shall take effect on January 1, 2020.

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**Sec. 401 · Severability.**

If any provision of this Act or any amendment made by this Act, or any application of such provision or amendment to any person or circumstance, is held to be unconstitutional, the remainder of the provisions of this Act and the amendments made by this Act, and the application of the provision or amendment to any other person or circumstance, shall not be affected.

**Appendix K · Notes**

1. This appendix contains provisions from the Orrin G. Hatch–Bob Goodlatte Music Modernization Act, Pub. L. No. 115-262, 132 Stat. 3676, that do not amend Title 17 of the *United States Code*.