

Bringing Back the Oldies – Legislation for Equal Treatment in the Music Industry

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by Charlene Krogh



On July 19, 2017, the CLASSICS Act ([H.R. 3301](#) - Compensating Legacy Artists for their Songs, Service, and Important Contributions to Society Act) was introduced into the House, the purpose of which is to provide copyright protection for sound recordings fixed

before February 15, 1972. The bill is widely supported by stakeholders in the music industry such as the Recording Industry Association of America, American Federation of Musicians, SAG-AFTRA, and the Recording Academy (the Grammys) as a way to ensure payment to artists and labels of royalties on digital transmissions of their sound recordings. Presently, the law provides for payment of royalties to songwriters and publishers only.

The bill is intended as an addition to the Fair Play Fair Pay Act ([H.R. 1836](#)) bill re-introduced in March 2017 aimed at establishing performance rights at terrestrial radio. Under current U.S. law, radio stations are allowed to broadcast music without payment of royalties to artists and labels. Among those in the music industry, the United States is regarded as lagging far behind other countries in its failure to pay royalties to artists to broadcast their songs.

Many broadcasters, including the National Association of Broadcasters, remain opposed to the bills, believing that artists and labels receive fair treatment based on the free promotion when the song is broadcast and resulting purchase of albums, merchandise and concert tickets. Smaller, independent stations likewise fear the fees could create serious financial concerns. Opponents also believe the bill may ultimately result in less airtime for newer or emerging artists, ensuring labels make more money, while new

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artists disappear.

This is not the first time a bill has been introduced seeking to rectify inequality in the treatment of broadcast and digital performance of pre-1972 sound recordings. In 2015, the first Fair Play Fair Pay Act was introduced (H.R. 1733) but ultimately did not pass the House. In addition, in 2009, Rep. Mel Watt (D-N.C.) and others introduced the Performance Rights Act (H.R. 848), which would have mandated royalties for artists and labels for radio play. Though the 2009 bill cleared the House Judiciary Committee it never reached a floor vote amid pushback from the broadcast industry. It remains to be seen whether these bills will fare better.

In the meantime, at least one company in the broadcast industry has begun entering into private deals for payment of royalties in exchange for favorable rates for online streaming. In 2013, Clear Channel Communications struck a deal with the Warner Music Group (the smallest of the major labels) that allows the label and its acts to collect royalties when their songs are played on Clear Channel's 850 broadcast stations. In exchange, Clear Channel receives a favorable rate in the expensive world of online streaming. Clear Channel has also struck a similar deal with Taylor Swift's label, Big Machine.

It remains to be seen whether other broadcasters will similarly begin striking private deals while these bills make their way through the legislative process, with the hope that the bills do not encounter the same fate as their predecessors. Stay tuned for more updates.