

Before the
United States Copyright Office
Washington, DC

In re

Issues Related to Performing Rights
Organizations

Docket No. 2025-1

**COMMENTS OF
THE COMPUTER & COMMUNICATIONS INDUSTRY ASSOCIATION (CCIA)**

In response to the notice of inquiry (“NOI”) and request for comments published by the U.S. Copyright Office (“the Office”) in the Federal Register at 90 Fed. Reg. 9253 (Feb. 10, 2025), the Computer & Communications Industry Association (“CCIA”)¹ submits the following comments on issues related to performing rights organizations (PROs). CCIA has submitted comments to the Office on related issues and appreciates the opportunity to provide additional input.²

Recent years have seen new challenges and opportunities in the music ecosystem, including the historic enactment of the Music Modernization Act (MMA), the phenomenon of legacy artists selling their catalogs to private equity firms for hundreds of millions of dollars, the rise in music copyright litigation following the Blurred Lines case, and the prevalence of interpolation leading to even more songwriters credited on popular songs. There are also longtime complexities in the music marketplace due to its already fractured nature, with many

¹ CCIA is an international, not-for-profit trade association representing a broad cross section of communications and technology firms. For more than 50 years, CCIA has promoted open markets, open systems, and open networks. CCIA members employ more than 1.6 million workers, invest more than \$100 billion in research and development, and contribute trillions of dollars in productivity to the global economy. A list of CCIA members is available at <https://www.ccianet.org/members>.

² CCIA Comments to Copyright Office In re Music Licensing Study: Second Request for Comments, Docket No. 2014-03 (Sept. 12, 2014), https://www.copyright.gov/policy/musiclicensingstudy/comments/Docket2014_3/extension_comments/Computer_Communications_Industry_Association_CCIA.pdf.

stakeholders possessing control over different bundles of rights and the ongoing need for protections like the ASCAP/BMI consent decrees—a topic on which CCIA has submitted several comments to the U.S. Department of Justice.³

The increase in the number of PROs has resulted in substantial financial and administrative burdens for licensees that want to legally publicly perform music. Historically, licensing through the long-standing PROs—ASCAP, BMI, and SESAC—was generally sufficient to achieve broad coverage for businesses like streaming services. However, the emergence of additional PROs, each representing distinct catalogs, has made it difficult for any licensee to operate without undue expense and complexity. This fragmentation has increased direct licensing costs, as licensees must now negotiate and maintain a number of agreements without legal certainty of full coverage, or rights could change hands, and suddenly compliance could be uncertain. The lack of any practical way to obtain full licensing coverage exposes licensees to legal risks and discourages online and offline opportunities for the lawful public performance of music, harming musicians and other copyright holders, distributors like streaming services, and audiences who want to be able to listen to a wide range of music legally, at the expense of middleman administrators.

The opacity of PRO catalogs further complicates these efforts, as licensees cannot easily verify whether a work is covered by a PRO license given the lack of an authoritative database, at the Office or in the private sector. Even if a licensee tried to avoid music controlled by a particular PRO, the lack of a source of truth on repertoire ownership would make that extremely

³ CCIA submission to Owen Kendler, Chief, Litigation III Section, Antitrust Division, Dep't of Justice, re: ASCAP/BMI Antitrust Consent Decree Review (Aug. 9, 2019), <https://media.justice.gov/vod/atr/ascapbmi2019/pc-167.pdf>; CCIA submission to David C. Kully, Chief, Litigation III Section, Antitrust Division, Dep't of Justice, re: ASCAP/BMI Antitrust Consent Decree Review (Nov. 20, 2015), <https://www.justice.gov/atr/public/ascapbmi2015/ascapbmi16.pdf>; CCIA submission to John R. Read, Chief, Litigation III Section, Antitrust Division, Dep't of Justice, re: ASCAP/BMI Antitrust Consent Decree Review (Aug. 6, 2014), <https://www.justice.gov/atr/page/file/1095876/download>.

difficult if not impossible. On the whole, licensees are forced to operate in an environment of uncertainty, compliance risks, and legal exposure.

Proliferation of additional PROs also creates a significant financial risk for licensees. The threat of statutory damages for infringement due to incomplete licensing can be extremely costly. The availability of statutory damages of up to \$30,000 per work infringed for even inadvertent infringement, regardless of any actual injury suffered, can easily add up to staggering potential liability. Unpredictable and costly damages have been found to discourage investment in the digital music industry to avoid legal uncertainty, chilling crucial funding for advancements.⁴ Overall, the emergence of additional PROs only exacerbates these existing economic challenges for licensees and threatens to stifle innovation in the music landscape, harming businesses, artists, and especially the public through the restricting of licensing options and a lack of transparency.

Respectfully submitted,

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⁴ Michael Carrier, *Copyright and Innovation: The Untold Story*, 2012 Wis. L. Rev. 891, 916-17, 944 (2012), <https://wlr.law.wisc.edu/wp-content/uploads/sites/1263/2012/11/2-Carrier.pdf> (“Any VC [venture capitalist] I would go to – the first thing they would say is: Music business? You’re crazy.”). See also Matthew Le Merle et al., *The Impact of U.S. Internet Copyright Regulations on Early-Stage Investment: A Quantitative Study*, Booz Allen & Co. (2011), <https://static1.squarespace.com/static/5481bc79e4b01c4bf3ceed80/t/54877560e4b0716e0e088c54/1418163552585/Impact-US-Internet-Copyright-Regulations-Early-Stage-Investment.pdf>.