

# THE NATIONAL OPERA CENTER AMERICA

## STATEMENT OF CONCERN FAIR COMPENSATION FOR MUSIC CREATORS

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### Opposition to Local Radio Freedom Act

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We urge Members of Congress **not** to cosponsor the misleading “Local Radio Freedom Act” (H. Con. Res. 13 and S. Con. Res. 6) resolution.

The Local Radio Freedom Act (LRFA) attempts to preemptively undercut a much-needed and comprehensive discussion on copyright modernization by putting members of Congress on the record against the many talented and hard-working artists and creators in their districts and against intellectual property. Despite its name, LRFA has little to do with local radio and more to do with ensuring that big radio broadcasters can continue to generate billions in annual revenues without compensating performers.

- Terrestrial radio (AM/FM stations) profits without paying a single cent to the musicians, vocalists, and recording artists whose works they exploit.
- AM/FM radio is the only industry in America that can take and use another’s intellectual property without permission or compensation.
- This loophole for AM/FM radio gives broadcasters a competitive advantage over other platforms (i.e. Internet and satellite radio, streaming services) that do compensate performers.
- The U.S. is the only developed nation that doesn’t recognize a performance right, resulting in a loss of \$200 million in royalties from overseas earned by American performers whose work is broadcast internationally. Those royalties are collected but never paid because the U.S. does not reciprocate.

Performers are entitled to be compensated for their work. Such royalty payments are standard abroad, are not a form of taxation, and are not a financial burden on large broadcasters. And with an appropriate carve-out for non-commercial broadcasters, paying compensation to performers won’t interfere with true local radio broadcasters such as college, community, and public stations.

### BACKGROUND

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Although royalties are paid to songwriters and publishers whenever their work is used by terrestrial radio, this public performance right does not extend to the performers or the sound recording copyright owner (usually the record label, but sometimes the artist him/herself). So, when you hear Patsy Cline singing “Crazy” on the radio, songwriter Willie Nelson and his publisher are compensated appropriately, but the estate of Patsy Cline receives no pay for the performance. Neither do the studio musicians, backing vocalists, or the record label.

Because of the Digital Performance in Sound Recording Act of 1995 (DPRA), digital radio broadcasters — webcasters, satellite radio, cable subscriber channels — all pay royalties to the performers. SoundExchange — the performance rights organization established by the DPRA — distributes the royalty payments directly to performers (45 percent) and to the sound recording copyright owner (50 percent). Non-featured performers receive 5 percent of the royalties, via a royalty pool managed by American Federation of Musicians (AFM) and SAG/AFTRA. This means that terrestrial radio is the only medium that broadcasts music but does not compensate artists or labels for the performance. LRFA helps further entrench this outdated loophole.

In a recent joint statement, House Judiciary Chairman Bob Goodlatte (R-VA) and Ranking Member John Conyers (D-MI) indicated their intention to address music licensing concerns in 2017.