

May 9, 2007

Dear Senator _____:

The recording industry is asking Congress to support the creation of a new “performance right” that would require local broadcasters to pay for the use of sound recordings when they are aired on the radio. But this is not a right – this is a new tax.

On behalf of the 6900 radio station members of the National Association of Broadcasters (NAB), I am writing to ask that you oppose this effort. What the recording industry is asking you to support is a new “performance tax” on your local broadcasters. Not only would this new performance tax upend the longstanding mutually beneficial business relationship that exists today between record labels, recording artists and broadcasters, but it would have a serious financial impact on broadcasters that could affect their ability to serve their local markets.

For the last 70 years, a symbiotic relationship has existed between radio and the recording industry. Radio has prospered with the use of recorded music, and record labels and performers have benefited from airplay and other promotional activities of local broadcasters. From this free airplay, the recording industry enjoys increased popularity, visibility and record sales. Performers also benefit from radio airplay and on-air interviews, often timed to coincide with concert appearances in the radio stations’ service areas. In many cases, radio stations promote new and emerging musicians giving them needed exposure and access to a listening market.

Congress has long recognized the inherent value to record labels and performers from free radio promotion. For that reason, Congress has repeatedly declined to impose a performance tax on radio broadcasters. In fact, *every time* Congress has looked at this issue, it has rejected calls to impose such a tax on broadcasters. In 1971 and 1976, Congress considered and refused to grant a performance tax. In 1995, Congress again opted not to impose a performance tax on broadcasters so as not to jeopardize what Congress called “the mutually beneficial economic relationship between the recording and traditional broadcasting industries.” Senate Report 104-128 (1995); House Report 104-274 (1995).

In 1995, Congress specifically responded to the concern of the record labels that subscription and interactive services would harm music sales. Congress, however, explicitly found that local radio broadcasters did not pose such a threat to sales. In fact, Congress found just the opposite: that local broadcasters promote sales of music to the financial benefit of the record labels. [Senate Report 104-128 (1995).]

In reality, the system in place today adequately compensates everyone. Radio stations pay hundreds of millions of dollars every year to composers and publishers through fees paid to ASCAP, BMI and SESAC. While record labels and performers may not receive payments from broadcasters, the free promotion that they receive by having their music played on the radio increases album and concert sales, which ultimately results in compensation for performers and record labels.

The existing system actually provides the epitome of fairness for all parties: free music for free promotion. It has allowed American music and the recording industry to thrive and grow, and has allowed local radio broadcasters to better serve their communities. Levying a tax on local broadcasters to play recorded music will compromise these benefits and will upset longstanding business relationships among record labels, composers, performers and broadcasters that have served all of these industries well for decades.

For these reasons, NAB strongly urges you to oppose the imposition of a new performance tax on your local broadcasters.

Best Wishes.

Sincerely,

A handwritten signature in blue ink that reads "David K. Rehr". The signature is written in a cursive, flowing style.

David K. Rehr
President and CEO