

## FAIR COMPENSATION FOR MUSIC CREATORS

Supporting All Artists' Right to Earn Fair Compensation on Terrestrial Radio

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### ACTION NEEDED

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#### We urge Congress to:

- Support the establishment of a performance right for sound recordings broadcasted by terrestrial (AM/FM) radio.
- Give music makers control of their own work and empower artists to seek fair compensation for their music.
- Co-sponsor the Ask Musicians for Music (AM-FM) Act (H.R. 5219/ S. 2932).
- Do **not** co-sponsor the misleading, anti-artist Local Radio Freedom Act (LRFA) (H.Con.Res.20/ S.Con.Res.5).

### TALKING POINTS

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- Terrestrial radio (AM/FM) is the only industry in America that can take and use another's intellectual property without permission or compensation.
- AM/FM radio profits without paying a single cent to the musicians, vocalists, and recording artists whose works they exploit.
- The U.S. is the only developed nation that doesn't recognize a performance right, resulting in a loss of \$200 million annually in royalties from overseas earned by American performers whose work is broadcast internationally.
- Unlike the Local Radio Freedom Act (LRFA), the AM-FM Act affirms that all artists, no matter their craft, are entitled to negotiate fair compensation for their work.
- The AM-FM Act, *not LRFA*, is the only bill to propose important protections for small and nonprofit broadcasters—capping total royalty payments at no more than \$500 per year for small broadcasters and \$100 for nonprofits—to ensure that local and community supported radio stations can continue to be diverse and thrive.

### 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, musicians, or artists on the track. So, when you hear Whitney Houston singing "I Will Always Love You" on the radio, songwriter Dolly Parton is compensated appropriately, but the estate of Whitney Houston receives no pay for the performance. Neither do the studio musicians, backing vocalists, or producers.

Such a discrepancy is unique in the U.S. digital platforms such as webcasters, satellite radio, and cable subscriber channels—including digital broadcasts of FM stations—all pay royalties to the performers (45%) and to the sound recording copyright owner (50%) via SoundExchange. Non-featured performers receive 5% of the royalties, via a royalty pool managed by the American Federation of Musicians (AFM) and SAG-AFTRA.

House Judiciary Chairman Jerry Nadler (D-NY) and Senator Marsha Blackburn (R-TN) have long championed the establishment of a terrestrial performance right and introduced the AM-FM Act in Nov. 2019. Prior to introduction, Chairman Nadler called the establishment of a performance right the next issue he hoped to address following the successful passage and enactment of the Music Modernization Act in 2018.