

April 9, 2025

Via Electronic Submission

Shira Perlmutter
Register of Copyrights
United States Copyright Office
Washington, D.C. 20559-6000

RE: Public Comment in Response to Notice of Inquiry on Performing Rights Organizations and General Licensing Practices

Dear Register Perlmutter,

On behalf of *Top Music Attorney* and the 130,000 independent music creators and rightsholders in our community (principally independent artists), we submit this public comment to urge the Copyright Office to consider the broader, systemic abuse occurring across the music industry—not just amongst performance rights organizations (“PROs”), but throughout the entire music licensing, royalty and distribution pipeline.

The present inquiry rightly addresses concerns about fairness and transparency in the PRO system. However, the problems independent artists face are far more pervasive and extend into other unregulated businesses called **music distributors**. For context, the most widely accessed platforms for music today include Spotify, Amazon, and Apple Music, known as digital service providers, or “DSPs”. In Spotify’s annual Economics Report¹, Spotify reported that it had paid an astonishing \$10 billion in 2024 in music royalties.



¹ Spotify, *Loud and Clear: Our Annual Music Economics Report*, <https://loudandclear.byspotify.com/#takeaway-1>

However, these amounts were not paid directly to artists; instead, they were funneled through music distributors, who are then responsible for remitting payments to the artists. **Today, artists are unable to directly upload their music to DSPs.** This matters because artists therefore *have no other choice* but to entrust distribution to privately owned music distributors, who handle the receipt and payment of **all streaming music royalties**. This is certainly a big responsibility that *should* include robust protections for artists, few of which actually exist.

In their September 11, 2024 letter to you, the Honorable Jim Jordan, Honorable Darrell Issa, and Honorable Scott Fitzgerald, on behalf of Congress and the Committee on the Judiciary (collectively “**Congress**”), rightfully expressed concern related to the PROs entrusted with licensing, receiving, and paying music royalties to artists, and that there may be a lack of universal oversight to ensure transparency and safeguards for artists. Congress also expressed concern regarding the proliferation of new PROs over the years, making oversight even more difficult.

Comparatively, music distributors control access to **the largest sources of artist income today** and are largely free to operate without oversight, routinely engaging in predatory behavior, including arbitrary royalty withholding, one-sided contract terms, and total lack of due process.

I. Unregulated Royalty Gatekeepers

PROs and music distributors maintain a powerful position between artists and their royalties. Despite this vital role, these companies remain completely unregulated, unlike PROs which, at least a few, operate under the Department of Justice consent decrees due to their influence over licensing and royalty collection. The proliferation of PROs to now six (6) is simply the sister issue to the spread of other unregulated music businesses that have wedged themselves into the royalty collection process on behalf of artists.

Troubling, these music distributors continue to abuse their trusted positions. For example, the contracts for each of these companies are publicly available through their websites (often called “**Terms of Service**”). These are the contracts artists are *required* to sign, without any right of negotiation in the majority of cases. Terms of Service for the major music distributors representing tens of millions of artists include the following:

- The **distributor may unilaterally forfeit** (i.e., keep) artists’ royalties, in their sole discretion, with no requirement to provide evidence or notice of wrongdoing.
- The distributor **may charge an artist’s credit card** at will for any alleged wrongdoing without evidence or notice, and in addition to forfeiting royalties payable to the artist.

- The distributor **may earn interest** on artists' money held in custodial accounts, without passing any of that interest to the artists. In other words, financially benefiting from the artist's royalties without the artist's actual informed consent.
- Many distributors cap any potential liability to \$100.00, **effectively stripping artists of any meaningful legal remedy** for distributor wrongdoing.

This business model disproportionately harms independent artists, who *must* accept these terms in order to access Spotify, Amazon, or Apple Music. The parallels to the licensing functions of PROs are clear, yet music distributors face none of the legal scrutiny applied to PROs.

II. Why the Problem Is Bigger Than PROs

At Congress' direction, the Copyright Office is to report its findings related to transparency, royalty allocation, and fair practices amongst PROs. However, it is important to clarify again that there are different *types* of music royalties. PROs only collect **performance royalties**, whereas music distributors collect **streaming royalties**. In other words, if this review and examination starts and stops with only PROs, Congress will miss the forest for the trees.

Artists are not only underpaid or untracked through general blanket licensing - they are also being exploited through distribution contracts, manipulative payment terms, and a total lack of enforcement options. Without comprehensive oversight, any improvements in the PRO sector will be undermined by systemic abuse further downstream.

III. Recommendations for Broader Oversight and Reform

We strongly encourage the Copyright Office to expand its review and:

1. Recognize the interconnectedness of PROs and music distributors.
2. Recommend Congressional oversight and potential regulation of music distributors who are currently allowed to seize, withhold, or profit from artist earnings without any risk of meaningful legal recourse.
3. Establish minimum fairness standards across all royalty intermediaries - distributors and PROs alike, - including:
 - Artist notice and due process before funds are withheld
 - A ban on profiting from artist funds (e.g., interest earned in custodial accounts)
 - Reasonable liability caps

IV. Conclusion

Concerns related to the exploitation of independent artists is not isolated to PROs – it is systemic with other major music businesses. PROs may require modernization, but any meaningful reform must also address the unchecked practices of music distributors, who exert greater control over the flow of artist royalties today.

Top Music Attorney, on behalf of our music business community, urge the Copyright Office to use this inquiry as a launching point for recommending to Congress industry-wide reform that ensures creators - especially independent artists - are treated with fairness, transparency, and legal respect.

Respectfully,

A handwritten signature in black ink, appearing to be 'MK' with a stylized flourish.

Miss Krystle
Top Music Attorney

Cc: The Honorable Jim Jordan, The Honorable Darrell Issa, and The Honorable Scott Fitzgerald, on behalf of Congress and The Committee on the Judiciary