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Sent: Wednesday, March 24, 2010 4:26 PM
To: FN-OMB-IntellectualProperty
Subject: From The National Songwriters Association

Follow Up Flag: Follow up
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Dear Ms. Espinel and the Obama Administration:

My name is Bart Herbison, Executive Director of the National Songwriters Association (NSA). The NSA is a songwriter advocacy group that includes the California Songwriters Association, the Nashville Songwriters Association International and the Texas Songwriters Association. We feature more than 150 chapters around the world.

Over the past decade the erosion of intellectual property rights has decimated American songwriters. Internet piracy is one of the chief reasons that the ranks of professional composers and songwriters has shrunk to a fraction of what it was only a decade ago. In terms of "staff" songwriting deals the number of professional songwriters has declined by as much as two-thirds. When someone steals a song on the Internet it is not a victimless crime. Songwriters pay their rent, medical bills and children's educational expenses with royalty income. That income has been dramatically impacted by illegal downloading, so many have reassessed their careers as songwriters. They are choosing other professions because they cannot earn a living- in great part due to illegal downloading.

While statistics that indicate the decline in record sales in the era of Internet piracy and the accompanying decline in mechanical royalties are alarming, the stories we hear everyday from songwriters who composed the soundtracks of our lives are even harder to accept. Many simply cannot earn a living as songwriters or composers anymore. To understand how piracy has really impacted the profession of songwriting it might be illustrative to explain the difficulties in earning songwriter royalties throughout history.

Here are the facts:

America has Lost up to Two-Thirds of Professional Songwriters and Composers

These losses occurred over just the past decade, in large part due to Internet piracy.

Most Songwriters NEVER get paid!

Thousands of aspiring songwriters work for years and never get a song recorded. It is a fact that most songwriters NEVER get paid for a song.

Most Who do Get Paid Never Have a Big Payday!

Nine of ten songwriters who do make money--NEVER have a big hit song. The average income for an American songwriter is astonishingly around \$5,000!

Even Smaller Percentage Have More Than One Hit

Of the small percentage of songwriters who do have a hit song, it is estimated that less than 10% ever have more than one hit song!.

Much of Songwriters Lifetime Income is Generated by A Few Songs

Songwriters work a lifetime for the hope that they will have one good year-which comes when their song is a single and gets played on the radio. They are waiting for that "classic" hit that gets played for many years.

Tax Dilemma

If a songwriter gets lucky and has a big year, they will receive their royalty income when it is collected. They do not get to average their income for tax purposes. So, if a songwriter is fortunate enough to have a big hit record and earn a large

royalty, they will be placed in an income tax bracket that will cost them much of their royalty income. In the old days songwriters were allowed to average their income over a period of years, but that is no longer the case.

Cannot Raise Product Price

A songwriter cannot negotiate or raise their mechanical or performance royalties.

These facts were true PRIOR to Internet piracy. Imagine how difficult the songwriting profession is today with billions of illegal downloads each year. A song is the creator's property. A song is no different than an invention, a book or a computer program. The Founding Fathers recognized this in the Constitution (Article 1, Section 8). Unfortunately a new generation of Americans are of the mindset that music should be free. Just because new delivery systems can bring music into our homes that does not mean that the creator should go uncompensated.

The National Songwriters Association has been at the forefront of songwriter/composer advocacy and has positions on numerous pieces of legislation, regulations and has been actively involved in a number of court cases involving copyright issues. Those positions are readily available and many center on respecting the value of copyright royalties and curbing piracy. On behalf of our songwriter-members across America we ask that Ms. Espinel and the Obama Administration take every action possible to adopt and enforce Internet piracy regulations that will allow songwriters to continue creating the compositions that mark the moments in our lives. We further ask that you carefully consider any pending or future legislation or regulations that may negatively impact songwriter royalties including the issue of "Net Neutrality." Structures that will easily allow for the legitimate commerce of music via the Internet are imperative.

Thank you for allowing the NSA to offer these comments.

Sincerely,

Bart Herbison, Executive Director
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(NOTE: NSA will be glad to provide songwriters for any testimony, or to personally recount their difficulties in the era of Internet piracy and on other issues.)