

# Congress of the United States

Washington, DC 20515

April 22, 2002

Honorable James H. Billington  
The Librarian of Congress  
LM 608  
101 Independence AVE SE  
Washington DC, 20540

Dear Mr. Billington:

We are writing regarding the Library of Congress's ongoing review of a recommendation of a Copyright Arbitration Royalty Panel (CARP), which proposed Internet radio sound recording performance and reproduction royalty rates pursuant to the Digital Millennium Copyright Act's (DMCA) statutory licensing provisions. We are concerned that the CARP proposal is contrary both to the intent of the DMCA and Congress's general policy not to stifle innovation on the Internet. Many of us have already been contacted by webcasters in our states, particularly small webcasters, who are concerned that the recommended royalty rate would force them out of the business of creating and webcasting innovative music programming over the Internet.

As you know, a portion of the DMCA modified statutory sound recording performance and reproduction licenses to ensure their application to Internet radio. In doing so, Congress intended that (a) creators be fairly paid for commercial uses of their creative works; and (b) the media promise of the Internet, including the opportunity for new cultural and competitive programming that generates value to creators and citizens, should be realized. As the legislative history makes clear, Congress intended the statutory license process to be fair and efficient, so that the webcast industry could be free of legal uncertainty, grow quickly and pay creators increasing amounts as the industry developed.

We want to ensure that all creators are fairly compensated for their work. We are concerned that the CARP recommended rates for sound recording copyright owners are, however, high in comparison to historical royalty rates, such as rates paid by terrestrial broadcast radio to songwriters and music publishers. Additionally, we are concerned that the absence of a traditional percentage-of-revenue royalty formula, such as that which has been employed by songwriters and music publishers in the broadcast radio world for decades, seems to undermine entirely the ability of small webcasters to survive. In our view, if the royalty rates or formula stifle an inchoate industry and force hundreds of small webcasters out of business, Congress's goals would not have been met.


Congress to date has intentionally refrained from over-regulating the Internet, so as to promote competition and creativity and to let the marketplace pick successful business models. Competition among numerous online music services means greater innovation and diversity in programming, which benefits artists as well as consumers. We encourage you to carefully


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consider this when making a final determination on these royalty rates. We believe that a balanced approach for royalties based on traditional compensation formulas can be created to ensure that artists and recording companies receive compensation commensurate of their services, while not penalizing the webcasting industry.

Thank you for your consideration of our views.

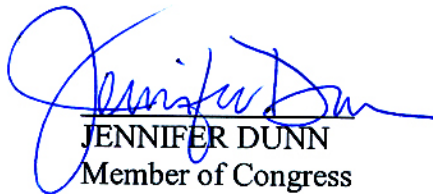
Sincerely,

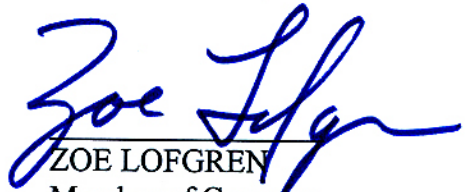
  
JAY INSLEE  
Member of Congress


  
RICK BOUCHER  
Member of Congress

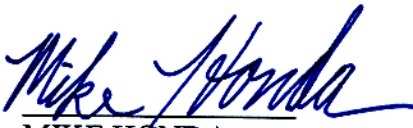
  
CHRIS CANNON  
Member of Congress

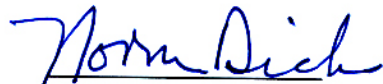
  
JEFF FLAKE  
Member of Congress

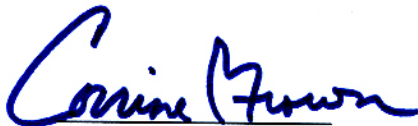
  
JENNIFER DUNN  
Member of Congress


  
ZOE LOFGREN  
Member of Congress

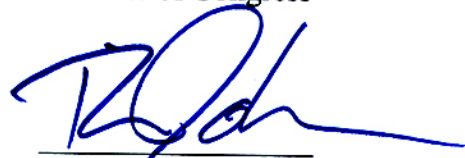
  
GEORGE NETHERCUTT  
Member of Congress


  
MIKE HONDA  
Member of Congress

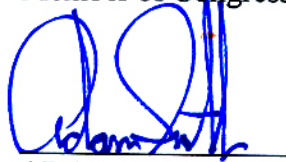
  
NORM DICKS  
Member of Congress


  
CORRINE BROWN  
Member of Congress

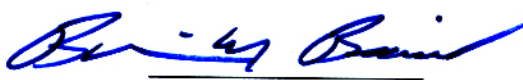
  
ANDER CRENSHAW  
Member of Congress

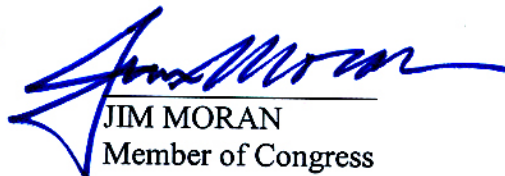
  
TIM JOHNSON  
Member of Congress


  
DOC HASTINGS  
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ADAM SMITH  
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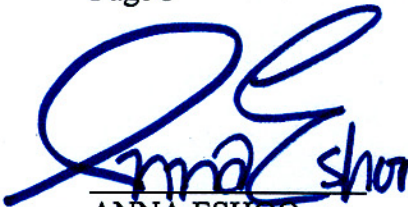
  
BRIAN BAIRD  
Member of Congress

  
JIM MORAN  
Member of Congress

  
TOM LANTOS  
Member of Congress

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A stylized, cursive handwritten signature in blue ink, appearing to read "Anna Eshoo".

ANNA ESHOO  
Member of Congress

A cursive handwritten signature in blue ink, appearing to read "Lane Evans".

LANE EVANS  
Member of Congress