

**STATEMENT OF PAUL ALMEIDA
PRESIDENT,
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BEFORE THE

**COMMITTEE ON THE JUDICIARY
U.S. HOUSE OF REPRESENTATIVES**

on

H.R. 848, THE "PERFORMANCE RIGHTS ACT OF 2009"

March 10, 2009

Good morning, Chairman Conyers, Ranking Member Smith, and distinguished Members of the Committee. My name is Paul Almeida. I am the President of the Department for Professional Employees (DPE), a coalition of 24 national unions affiliated with the AFL-CIO. I am honored to speak today on behalf of the more than four million professionals represented by our union affiliates, including the American Federation of Television and Radio Artists, the American Federation of Musicians, the Federation of Professional Athletes, the United American Nurses, the American Federation of Government Employees, and all of our other affiliates. I am here today to stand in support of the hundreds of thousands of recording artists, singers, and musicians who seek to secure a performance right so that they may finally be able to receive the fair compensation they deserve for the work they create.

I am especially pleased to be able to deliver a letter today to the Committee which is signed by the Presidents of the Service Employee International Union, the American Federation of Teachers, the United Steelworkers, the International Association of Fire Fighters, the American Federation of State, County and Municipal Employees, and the Communications Workers of America, in solidarity with our brothers and sisters in the music industry. I would ask that this letter be made part of today's hearing record. We are joining this critical campaign as a united labor movement and we deeply appreciate the leadership of Chairman Conyers, Representatives Berman and Issa, and the other Members of this Committee who support this legislation.

Like all professionals, singers and musicians spend years developing their musical talents and abilities and invest substantial resources in their careers. Just like other professionals, they make considerable sacrifices in an effort to succeed in their chosen field. And just like other professionals, recording artists, musicians and background singers deserve to be paid fairly for the work they do. In what other profession would you be required to give your work away for free without your permission? In all of my years representing professionals, I have never encountered such a situation. And while a relatively small number of performers are able to attain (but not necessarily sustain) fame and fortune, the vast majority of recording artists, singers and musicians must work hard to patch together modest earnings from various sources in order to support their families. The most successful ones are able to build middle-class careers in music. Most performers, even those who appear to the outside world to be successful, have to work “day jobs” to pay the bills. Labor ardently supports the efforts of our brothers and sisters in the music profession to be fairly compensated when the music they have created is played on the radio.

The labor community is also concerned about the many, many hardworking singers and musicians who are now growing older and can no longer easily tour. Yet, their jazz hits, country tunes, and R & B melodies continue to be played over and over again on commercial radio stations. While these stations earned over \$16 billion in advertising revenues last year, they paid nothing to the performers whose music they played. AM/FM radio depends for its success on the recordings created by great performers like the Four Tops, the Supremes, Miles Davis, Patsy Cline and so many other great artists

and their equally talented session musicians and singers. What does it pay those artists? Not one penny. The radio stations have had a good gig for decades now, but it is time they start paying for the music they play.

As union members, we believe that this is an issue of fairness. We believe in the principle that a fair day's work deserves a fair day's pay. Music broadcasters have fought hard over the years to avoid paying anything for the foundation of their business model – the music that they play 24 hours a day on a myriad of stations. Let's not kid ourselves – no one tunes into the local hard rock or oldies' station to listen to the commercials. We tune in for the music – to be entertained or energized or to reminisce.

These same broadcasters pay their on air “personalities” and shock jocks millions each year to entertain their listening audience. And they pay millions more in licensing fees to broadcast baseball, football and basketball games. Yet, they refuse to pay anything at all to the artists and musicians who bring music to life. This is simply not fair.

And, the current system creates an unfair competitive advantage for AM/FM radio broadcasters over the “new media” radio platforms. All radio platforms except AM/FM radio, including satellite, Internet, and cable radio, pay for the music they play – yet the AM/FM radio broadcasters continue to block artists' efforts to be paid when the same music is played over terrestrial radio. That is just not right!

We believe that both songwriters and performers should be compensated when the music they have jointly created is played on the radio. Unfortunately, under current law, only songwriters are entitled to compensation. While it is absolutely right that songwriters be paid for the broadcast of their songs, it follows that performers also should be paid for the broadcast of their recordings. We all know that the musicians and singers play a crucial role in creating the masterpieces we hum throughout the day – whether it is the National Symphony Orchestra’s version of a Mozart classic, or The Temptations singing “My Girl” written by Smokey Robinson and Ronald White. Performers, too, are creators who deserve and need to be paid.

In this worsening economic crisis, we are leaving 70 to 100 million dollars on the table each year because we do not have a performance right for artists here in the United States. Talented artists are denied the ability to recover what they are owed from the airplay of their music overseas. Does it really make sense for the U.S. to continue to allow millions of dollars to go into a French cultural fund every year, instead of coming home to the U.S. where it can help performers make ends meet, and help our local economies? Unless Congress enacts this Performance Rights Act, artists in the U.S. will continue to be precluded from collecting these royalties from overseas. That too is unfair. The United States is the only developed country in the world that does not have a performance right in sound recordings. In our failure to provide a performance right we stand in the company of such countries as China, North Korea, Rwanda, and Iran. In so many other areas, we fight to ensure that the United States is a leader – clearly we have fallen down on the job here.

It is long past time that our brothers and sisters who belong to our affiliated unions, AFM and AFTRA, are paid for the work that they create. We all benefit greatly from their wonderful music – we listen to it in the car to and from work, on the job, and at home while relaxing with family and friends. And like many others, for many years I assumed that they were paid a little bit each time I heard The Grateful Dead play “Touch of Grey” or Jefferson Airplane perform “White Rabbit.” Now I know that the broadcasters have prevented that – for over 80 years.

I know this has been a long fought battle – from Glen Miller to Frank Sinatra to those like Sam Moore, Martha Reeves, Herbie Hancock and others who are leading the charge now - It is time. It is only fair that these talented artists be fairly compensated for what they create and the joy they bring into our lives.

Thank you for asking me to be a part of this hearing today. I, and thousands of my union colleagues, are eager to help our brothers and sisters in the music industry earn a decent living from the craft that they have chosen – music.

I would be happy to answer any questions you may have.