



BEFORE THE U.S. COPYRIGHT OFFICE

Copyright Office Fees

Docket No. 2026-2

The American Association of Independent Music (A2IM), the Artist Rights Alliance, Music Managers Forum-US (MMF-US), the Recording Academy, the Society of Composers & Lyricists (SCL), Songwriters of North America (SONA), the Songwriters Guild of America (SGA), Music Artists Coalition (MAC), the American Federation of Musicians, and Future of Music Coalition submit the comments below in response to the Copyright Office's Notice of Proposed Rulemaking regarding proposed adjustments to the Office's fee schedule.

Together, the undersigned organizations represent the working core of the American independent music community: more than 600 independently owned record labels, tens of thousands of professional recording and performing musicians, songwriters, composers and lyricists, producers and engineers, hundreds of artist managers and self-managed artists, and the broader community of creators who depend on the copyright system as the foundation of their livelihoods. What unites the undersigned organizations in this proceeding is a shared interest in a registration system that remains accessible to the full diversity of independent rights holders that the copyright system is designed to serve.

We appreciate the Copyright Office's responsibilities to set fees that recover the Office's costs while giving "due consideration to the objectives of the copyright system." We recognize that the Office faces real budgetary pressures, including inflation, labor costs, and the ongoing work of modernization. We submit these comments not to dispute the existence of those pressures, but to

respectfully urge the Office to reconsider whether a 43% average fee increase, applied across a registrant population that has limited ability to absorb or pass through such costs, is consistent with the statutory standard or with the broader objectives Congress has set for the copyright system.

Before turning to the economic position of our members, we want to address a framing question that runs through the NPRM. The Office's cost-recovery rationale implicitly treats registration as a discretionary government service whose costs should be borne by its “users,” analogous to patent fees or FDA user fees. That analogy is inapt and, we believe, legally consequential.

Patent and FDA fees are paid by applicants seeking an affirmative government grant that does not otherwise exist. Copyright, by contrast, subsists automatically upon fixation. Registration is not the source of the right; it is the statutorily designated gateway to enforcement of a right the creator already holds. Congress made registration the predicate for statutory damages, attorney's fees, and Copyright Claims Board jurisdiction precisely because it wanted to encourage creators to register. A fee schedule that treats registration purely as a cost-recovery user charge risks losing sight of the incentive function Congress built into the system, and the undersigned organizations respectfully suggest that the “due consideration” directive in Section 708 requires the Office to weigh that function carefully.

The most fundamental flaw in the Office's cost-recovery rationale is its implicit assumption that copyright registrants can absorb or pass through fee increases as a cost of doing business. For the working creators and independent businesses our organizations represent, that assumption does not hold. The primary income streams available to independent musicians, recording artists, and songwriters are not set by the creators themselves. They are set by others, whether through government-administered rate proceedings, through collective licensing structures, or through commercial negotiations in which independent rights holders have limited leverage.

As the music landscape has pivoted toward on-demand streaming, the effective per-stream rates paid by major DSPs are determined predominantly through agreements negotiated with the major labels, which then become the de facto market rate for independents. The cosigning organizations do not have comparable negotiating leverage to extract higher per-stream rates from the dominant platforms. On the publishing side, mechanical royalties are set by the Copyright Royalty Board, and performance royalties flow through collective licensing structures whose rates our members likewise do not set. Across the primary streaming and statutory royalty frameworks, independent creators have limited ability to set pricing and largely operate as price-takers.

BLS Occupational Employment and Wage Statistics data for Musicians and Singers shows that the median hourly wage for this occupation rose from \$31.40 in May 2020 to \$42.45 in May

2024, equating to a 35% nominal increase. Adjusted for the approximately 23% CPI increase the Office itself cites as the primary justification for its fee proposal, real wage growth for this occupation was roughly 10% over the same period. The Office is proposing to impose an average 43% fee increase on registrants whose inflation-adjusted wages grew at less than a quarter of that rate.

Critically, however, the OEWS data excludes self-employed workers and therefore does not capture the vast majority of the independent recording artists, session musicians, touring artists, and songwriters our organizations represent, most of whom work on a self-employed, gig, or royalty basis. The musicians captured in the OEWS data work in categories with more stable employment than the recording and touring artist community. For artists working on streaming and licensing royalties, per-stream payments from the major DSPs have ranged between approximately \$0.003 and \$0.005 per stream over the period since the last fee adjustment. The actual economic position of independent recording artists, songwriters, and the labels that serve them is diminished.

The Office should also weigh this against broader BLS consumer expenditure data, which shows household spending on recorded music and streaming subscriptions has not kept pace with overall entertainment spending growth, and certainly has not kept pace with the 23% CPI figure the Office relies on. The input side of the creator economy (what artists earn per work) and the output side (what consumers pay for recorded music) have both been compressed, even as the Office proposes to raise the cost of the one administrative step that makes enforcement possible.

This is an embodiment of a structural feature of the recorded music economy: small players are price-takers with respect to the primary revenue source for which copyright protection is sought. The Copyright Act requires fees to give “due consideration to the objectives of the copyright system,” including the encouragement of creative production and participation in the registration and recordation process. Fees set at a level that deters registration by independent labels because those labels cannot pass through costs is antithetical to that objective.

In the United States, the independent sector accounts for over 35% of market share. This reflects exactly the democratization of creative production and distribution that the copyright system is designed to foster. Every independent label in A2IM's membership, every self-managed artist in MMF-US's community, every freelance musician in AFM's union, every songwriter and composer in the Recording Academy's, SCL's, SGA's and SONA's membership, and every working artist ARA, FMC, MMF-US, MAC, and the Recording Academy serve is a direct expression of copyright's foundational purpose: incentivizing creative production and ensuring that creators can benefit from their work.

Yet registration rates among individual creators remain strikingly low. A recent A2IM survey of its members, while limited in sample size, reinforces the point: fewer than a third of respondents had registered more than 75% of their catalog and cost was the most frequently cited barrier. Multiple labels reported that they limit registration to their highest-value works or have stopped registering certain categories of works altogether because the per-registration economics do not justify the expense at their scale. Nine out of ten respondents said they would register more works if an affordable bulk registration option were available. The registration gap among independent music rights holders is not primarily a function of indifference; it is a function of price.

A fee increase cannot be reconciled with the Office's stated goal of maintaining, much less expanding, participation. It will further depress registration among exactly the creators Congress has repeatedly signaled it wants to bring into the system. Major music labels and major publishers treat registration as a routine line item, which makes the fee increase immaterial. For an independent label and self-releasing recording artist registering dozens or hundreds of releases per year, for a songwriter maintaining registration across a growing catalog, for a session musician trying to protect recordings made over years of studio work, the fee increase is material and compounds.

The Copyright Office has, over the years, developed group registration options that reflect the practical realities of how certain creative industries produce and publish work at scale. Photographers, for example, may register up to 750 published photographs created within a single calendar year through the Group Registration for Published Photographs option (GRPPH) for a single modest filing fee. A parallel option exists for unpublished photographs. Options like these exist because the Office has recognized, correctly, that a one-work-per-application model does not fit industries in which creators routinely produce hundreds or thousands of copyrightable works per year, and that without accommodation, the registration system would be functionally inaccessible to them.

Music, and independent music in particular, presents precisely the same structural challenge. An active independent label may release dozens of albums and hundreds of individual sound recordings in a given year. The current suite of group registration options available for musical works and sound recordings does not meaningfully accommodate this reality, and the gap is widening as streaming economics push independent creators toward higher-volume, lower-margin release strategies. We simply ask for parity with other creators for whom the Office has already recognized that affordable mass registration is the only path to meaningful participation in the copyright system.

While registration is technically voluntary, it is a practical prerequisite for the enforcement mechanisms that make copyright meaningful, and framing the fee as a user fee for a

discretionary service ignores the legal architecture of the copyright system. Statutory damages and attorney fees are unavailable for infringement commencing before registration, and without statutory damages, infringement of the vast majority of copyrighted works by independent creators is practically unenforced. Actual damages are difficult to prove and insufficient to support litigation costs. Registration is therefore not an optional upgrade; it is the condition precedent to any meaningful enforcement.

The Copyright Claims Board, which Congress created precisely because federal district court litigation is prohibitively expensive for individual creators, similarly depends on registration. For artists, labels, and songwriters whose works are infringed on a daily basis across the internet, the CCB represents a concrete, accessible remedy. But CCB jurisdiction requires a registered work. The registration fee increase therefore raises the price of access to the very system Congress designed to be affordable and does so at a moment when the CCB is still working to build awareness and usage among the independent creator community.

We acknowledge that modernization is a significant driver of the Office's costs, and we support the Office's efforts to modernize its registration systems. We respectfully ask the Office to consider, however, that Congress has over the past several years appropriated substantial funds at the Library of Congress's request for IT modernization, the Enterprise Copyright System, and related infrastructure investments. Those investments were intended, at least in part, to bring down per-transaction processing costs over time. We are concerned that registrants are now being asked, in effect, to contribute twice: first through direct appropriations, and again through fee increases to fund modernization that has yet to be fully delivered. We respectfully encourage the Office, to the extent feasible, to separate modernization costs from registration fees and to continue to seek congressional appropriations to fund modernization.

Finally, we urge the Office to consider the broader legislative context in which this fee proposal arrives. Congress is actively constructing a suite of bipartisan AI transparency mechanisms, each of which is most meaningful, and in some cases only operable, for copyright holders with registered works. Legislation such as the CLEAR Act reflects a coherent bipartisan congressional agenda: give creators the tools to find out whether their works were used to train AI models, and give them meaningful remedies when they were. That agenda is only as effective as the underlying registration infrastructure that makes those remedies available. We are concerned that, if that bill were enacted, every independent creator priced out of registration by a fee increase would be a creator who cannot meaningfully participate in the enforcement framework Congress is building in an era of extreme uncertainty given Generative AI. The Copyright Office has a responsibility to consider this legislative context when setting fees. The Office serves as the registration system on which all of this AI-era enforcement depends. Setting fees at a level that discourages registration by working artists and independent labels undercuts the very infrastructure Congress is building around the Copyright Office's role.

We appreciate the difficult balance the Copyright Office must strike between cost recovery and the participation objectives of the copyright system. We respectfully submit that the proposed fee increase, applied to a registrant population whose income is structurally constrained and whose registration rates are already lower than the system needs, does not strike that balance correctly. We urge the Office to reconsider the magnitude and distribution of the proposed increases, to give meaningful weight to the incentive function of registration, and to continue working with the independent creator community to ensure that the registration system remains accessible to the full diversity of American rights holders the copyright system is designed to serve.

Respectfully submitted,

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