

In Need of a Sound Check

Record labels are misleading artists about who will benefit the most from performance-right legislation: the labels themselves. **By BILL VELEZ**

A bit of intellectual honesty is in order with respect to the proposed sound recording performance right legislation.

I have championed songwriter causes for the better part of my career (at ASCAP, BMI and SESAC) and do not take a back seat to music-industry advocates in terms of my admiration for the songwriter. We tend to gloss over the fact that a relatively small number of songwriters make a living from their craft. The rest continue to persevere at their second jobs, hoping for the day when one of their songs gets recorded and experiences airplay so that he or she can look forward to receiving a royalty check, courtesy of terrestrial radio.

It is a shame that the controlled-composition clause in recording contracts and nefarious record-label accounting practices have contributed to the current scenario where disenfranchised recording artists have bought into the feeding frenzy created by their industry. They're biting the radio hand that feeds them. These record-label practices are reminiscent of the Hollywood of the '80s, when high-grossing movies failed to book profits due to studio shenanigans.

Yet, these record labels (that have had to weather lawsuits brought by their own artists) have the chutzpah to tell the radio industry that, by virtue of its current performance-right exemption, it is not living up to its moral obligation to pay artists. This ignores the fact that, for many decades, the radio industry has contributed to the livelihoods of the true progenitors of recorded music – the songwriters. As my former ASCAP boss, Hal David, was fond of saying, "It all starts with the song."

In the course of the recording industry's attempt to make their case by orchestrating a parade of sympathetic artist "victims" before Congress, we pay short shrift to the reality that the labels themselves will be the biggest winner in the performance-right battle. They are lobbying for access to a lucrative new performance-royalty revenue stream. If history holds true, their proposed 50% portion of this newly created revenue stream will translate to considerably more once these funds have to negotiate the gauntlet of the labels' accounting filter.

If recording artists are truly deprived of their fair share of royalty dollars, perhaps those should be achieved from retention of better representation – one that can negotiate label contracts that secure an equitable share of existing dollars.

Congress has alluded to "the mutually beneficial economic relationship between the recording and traditional broadcast industries" that justifies terrestrial radio's current exemption from the sound-recording performance right burden. Yet, the recording industry takes the position that "free radio" does not offer promotional value worthy of such a carve-out.

I suppose this explains why the record labels have been exposed for payola practices aimed at securing "adds" to radio playlists.

When the sound-recording performance right legislation was introduced in Congress several years ago, various arguments were offered by the music industry, justifications for imposing this burden upon free radio. While space constraints do not allow for a detailed rebuttal, the bottom line is that they all constitute red herrings that mask the true intent of the proposed legislation – a way to offset the recording industry's failure to develop a successful digital media strategy to combat revenue losses wrought by file sharing and shrinking brick-and-mortar sales.

Surely, the terrestrial radio industry can empathize with the recording industry in terms of enduring tough economic times. The difference is that the radio industry has owned its pain and has not sought to create a bailout for itself on the back of another industry.

There is no disputing that terrestrial radio's 270 million listeners per week remain an exceptional value for the music industry. This is evidenced by the parade of artists who, while receiving industry kudos at various award shows, go out of their way to thank radio for its contribution to their success. In fact, the National Association of Broadcasters benchmarks the promotional value of terrestrial radio at between \$1.5 and \$2.4 billion annually.

I hope that my former music industry colleagues (and particularly recording artists and indie labels) will reconsider biting the radio hand that feeds them.

William Velez is the executive director of the Radio Music License Committee (RMLC), a nonprofit that represents the terrestrial radio industry in music licensing matters. A version of this column originally appeared in Billboard magazine, and is reprinted with its permission.



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