

Songwriters and music publishers rightly do get paid when their song is played on the radio, but the artist whose voice or musical talent brings in the ad revenue for the station never receives a penny from the station. That means that under existing law, when you hear "White Christmas" on the radio this holiday season, the estate of Irving Berlin will get paid for the words and music that he wrote. But the estate of Bing Crosby will not—even though it is the tone and texture of his voice that symbolizes Christmas for so many. This disparity makes no sense. Therefore, in an effort to begin the journey towards parity among platforms and fairness to artists, the bill as introduced will affect three areas where there is currently disparate treatment:

Platform parity—Never in the past have there been more engaging technological platforms which offer music to consumers at almost any time, in any format. Especially with the roll-out of HD, "hybrid digital," radio which will provide greater choice, it becomes harder to justify an exemption for any one platform. Both the radio station, regardless of the platform, and the performer benefit from the playing of music over the air. But only one party, the station, gets to keep the revenue it generates. While stations use music to get their ad revenue, they gladly leave others to pay the artist for another use of the music. It is certainly true that on all platforms there are differing degrees of promotion that may benefit the artist. That is why the Copyright Royalty Board takes into consideration any promotional element and adjusts the compensation to the artist appropriately.

While calling the performance right a "tax" might make for good rhetoric, it is also good rhetoric to call it "corporate welfare" when the U.S. Code compels copyright owners, artists, and musicians to give broadcasters their music for free. It is simply time to eliminate this anachronistic and unjustified subsidy.

International parity—During a recent meeting in Nashville President Bush was asked about this issue. When he was told that broadcasters in every country in the world except for China, Iran, North Korea, and Rwanda pay a performance right, he rightfully observed, "it sounds like we're keeping interesting company."

Because America does not have an adequate performance right, our own artists and musicians cannot receive royalties when their music is played on radio stations outside the U.S. In many countries between 20–50 percent of the music played abroad is "American-made" and because of the lack of reciprocity, we are denying our performers millions of dollars in revenue.

Rights parity—Songwriters have long been compensated for the songs that are played on the radio—as they should be. However, just as there would be nothing for musicians to play without notes, and nothing for the artist to sing without the words, there is also nothing for a DJ to play without a recorded song.

Our kids know the song "Breakaway" because Kelly Clarkson recorded it—but few know that it was written by Avril Lavigne. Does it make sense for Lavigne to get paid but for Clarkson not to get paid? The fact that Patsy Clines' estate is not compensated for over-the-air performances of her singing "Crazy" seems crazy. Shouldn't performers be paid as well?

One of America's greatest treasures is its intellectual property. In cities and towns across

the Nation and in countries around the world, American music is heard throughout the streets. People are consuming more music than ever. Yet the music industry is in crisis. The total value for the music industry at retail declined from \$14.5 billion in 1999 to \$11.5 billion in 2006. So, any claim that radio should get a free ride because so-called "free airplay" contributes to record sales just isn't true. Record sales have fallen 18 percent since 2000.

In 1995 Congress took a step forward and established a limited performance right for digital sound recordings. Yet, the performance right Congress created with one hand was taken away with other, by exempting all terrestrial broadcasts.

Cable, satellite, and Internet radio services are granted a statutory license to broadcast music as long as they pay the defined fee determined by the Copyright Royalty Board. This bill extends the statutory licensing requirement to terrestrial broadcasters to avoid an unfair advantage. I do note however, that as we discuss reform of the section 114 license—other issues will likely arise such as, the standard to be used in determining royalty rates, the sound recording complement, and treatment of ephemeral copies.

We are fortunate that with the evolution of new technologies there are many legal music distribution services currently available. Cable, Internet, and satellite platform providers all compete to provide consumers their choice of music, anytime, in any place, in any format. While I am encouraged by the many options, I am concerned that the government seems to be giving preference to one platform over the others by exempting over-the-air broadcasters from compensating owners of the music which they use to grow their business. This bill seeks the appropriate balance between promoting the creativity of music and fostering innovation. Following is a section-by-section summary of the legislation:

Section 1. Short title

This Act may be cited as the "Performance Rights Act."

Section 2. Equitable treatment for terrestrial broadcasts

This section repeals the exemption for terrestrial broadcasters and makes conforming changes by deleting references to the word "digital" from the types of audio transmissions that are subject to a performance right. With these changes, all terrestrial (over-the-air) broadcast transmissions, including analog audio transmissions, would be subject to sound recording performance rights thereby providing parity for the technologies currently covered under the section 114 license.

Section 3. Special treatment for small and non-commercial Public Broadcasting stations; and religious stations and certain uses

This section would create an accommodation for certain qualifying broadcasters from the negotiation and arbitrated rate-setting. Instead, such broadcasters would pay a prescribed flat fee or would retain their current exemption.

For small broadcasters who make revenue less than \$1.25 million and therefore are concerned about the uncertainty of the rate and the impact on the growth and viability of their business—this section sets a flat annual royalty fee of \$5,000 per year for any individual station (even those part of a larger radio network) with no litigation, negotiation, arbitration, royalty board proceeding or licensing costs.

Furthermore, for non-commercial/public broadcast stations (irrespective of size) the rate is capped at \$1,000 per year per station.

Finally, for those stations that broadcast religious services or make "incidental use of musical sound recordings" such as brief musical transitions in and out of commercials or program segments, or brief performances during news, talk and sports programming there is an outright exemption.

Section 4. Availability of per program license

This section allows terrestrial radio stations to obtain program licenses for sound recordings (at separately set rates), in lieu of blanket licenses. In some cases, a radio station may not make many featured uses of music, for example a mixed-format station. In such cases, rather than requiring a station to pay a general blanket license fee in the same amount paid by a station that primarily makes featured uses of music, this section requires the Copyright Royalty Board to establish a "per program license" so that such stations can choose only to pay for the music they use, which may be less costly than the general blanket license. This parallels the licenses offered by the performance rights organizations for performing the underlying musical copyright.

Section 5. No harmful effects on songwriters

Finally, this section protects the songwriters from the impact of providing this new performance right. In the first instance, the bill adopts the songwriters' suggestion to remove the prefatory language which merely expressed "the intent of Congress" not to diminish the royalties of the songwriters. Furthermore, it includes the express indication that nothing in the Act shall adversely affect the royalties to songwriters.

I do not want to suggest that this bill is a "perfect" solution. But it is an appropriate starting place. I know there are other parts of section 114 that need to be reformed as well, and therefore will begin to examine additional provisions in the coming months. Furthermore, I remain open to suggestions for amending the language to improve its efficacy or rectify any unintended consequences.

This bill attempts to strike a balance between providing adequate protection to our musicians and artists and continuing to support new innovative technologies. My goal is to preserve the legitimate marketplace by providing a technology neutral structure or at least one with parity for all services that appropriately pay for the music. I hope the parties can work together to reach further consensus on how to achieve parity between technologies and provide rightful compensation to our artists and musicians.

We hope that with introduction of this companion bill in the House to the Performance Rights Act in the Senate, Congress will act quickly to level the playing field between technologies and ensure rightful compensation to performers.

HONORING THE LIFE OF GRACE
CARLTON ALLEN

HON. KATHY CASTOR

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 2007

Ms. CASTOR. Madam Speaker, I rise today to honor the life and legacy of Grace Carlton Allen, and to commend her contributions to the University of South Florida.

"Amazing Grace," as she was nicknamed by former Tampa Congressman Sam Gibbons, was born in North Dakota in 1908. She attended the University of South Dakota and the University of Minnesota, where she graduated with degrees in English and Secondary Education. After graduation, Allen taught high school English and secondary education.

She met her husband, John Allen at the University of Minnesota, and they married in 1933. The couple moved to Gainesville, Florida in 1948, where her husband was appointed President of the University of Florida, and from 1954 to 1955, Grace served as the University of Florida's interim First Lady.

In 1957, John was named as the first president of a yet unnamed and newly established university in Tampa. Grace and her husband moved to Tampa, where they would remain for the rest of their lives. As classes weren't scheduled to start until 1960, the Allens themselves, shaped what would later be known as the University of South Florida.

The summer before the University opened its doors, "Amazing Grace" invited all of USF's wives and female staff members to her home. With this group of women, she established the USF Women's Club, which remains active on campus today as a social, cultural, and philanthropic organization. In 1994, the USF Women's Club endowed the Grace Allen Scholarship, and within the first ten years of being established, it awarded 119 full tuition scholarships for excellence in academics, leadership, and service.

Another endowed fund of the USF Women's Club was given to the University in Mrs. Allen's name to provide funds to the university's library.

The Allens were one of the first families to live in the Tampa neighborhood of Carrollwood, where Grace also made her mark. She started a tradition where residents set luminaries outside of their homes on Christmas Eve. Pilots have been known to divert their planes over the neighborhood to see the lights each year.

When John retired from the University in 1970, the Board of Regents named USF's administration building after John and Grace in recognition of their lasting contributions to the university community. In 1996, USF awarded Grace the honorary degree of Doctorate of Humane Letters.

Until her death on December 16, 2007 at the age of 99, Grace remained an active member of and advocate for the University of South Florida's community. She is remembered as a powerful spokesperson for academic excellence, and as a caring, spirited woman by the countless friends, staff members and students whose lives she touched.

The Tampa community honors the life of Grace Allen for her outstanding contributions to the University of South Florida and the Tampa Bay area. Her life serves as an inspiration and will continue to influence the lives of people in our community for years to come.

PERSONAL EXPLANATION

HON. SUE WILKINS MYRICK

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 2007

Mrs. MYRICK. Madam Speaker, I was unable to participate in the following votes. If I

had been present, I would have voted as follows:

December 17, 2007: Rollcall vote 1163, on motion to suspend the rules and agree to the resolution—H. Res. 856, expressing heartfelt sympathy for the victims and families of the shootings in Omaha, Nebraska, on Wednesday, December 5, 2007—I would have voted "aye."

Rollcall vote 1164, on motion to suspend the rules and agree to the resolution—H. Res. 851, honoring local and state first responders, and the citizens of the Pacific Northwest in facing the severe winter storm of December 2 and 3, 2007—I would have voted "aye."

Rollcall vote 1165, on ordering the previous question—H. Res. 873, waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules—I would have voted "nay."

Rollcall vote 1166, on agreeing to the resolution—H. Res. 873, waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules—I would have voted "nay."

Rollcall vote 1167, on agreeing to the resolution—H. Con. Res. 271, providing for the sine die adjournment of the first session of the 110th Congress—I would have voted "nay."

Rollcall vote 1168, on ordering the previous question—H. Res. 878, providing for the consideration of the Senate amendment to the bill (H.R. 2764) making appropriations for the Department of State, foreign operations, and related programs for the fiscal year ending September 30, 2008, and for other purposes—I would have voted "nay."

Rollcall vote 1169, on agreeing to the resolution—H. Res. 878, providing for the consideration of the Senate amendment to the bill (H.R. 2764) making appropriations for the Department of State, foreign operations, and related programs for the fiscal year ending September 30, 2008, and for other purposes—I would have voted "nay."

Rollcall vote 1170, on motion to suspend the rules and pass—H.R. 4286, to award a congressional gold medal to Daw Aung San Suu Kyi in recognition of her courageous and unwavering commitment to peace, non-violence, human rights, and democracy in Burma—I would have voted "aye."

IN RECOGNITION OF JIMMY BRISTOW

HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 2007

Mr. WILSON of South Carolina. Madam Speaker, I wish to recognize James E. "Jimmy" Bristow of West Columbia, South Carolina for his many years of public service to the people of South Carolina and the country, and congratulate him on a successful year of leadership as President of Ruritan National.

Ruritan National is a national civic organization made up of 33,000 members with 1,178 clubs in 25 States. Since its founding in 1928, Ruritan has built a strong reputation as one of our Nation's leading community service organizations. Under the excellent leadership of Mr. Bristow, Ruritan has continued to grow

and make a substantial and positive impact in the community.

Mr. Bristow is a graduate of The Citadel with 31 years of experience working with community businesses. He now serves as vice president and resident construction lender for Security Federal Bank. In addition to his work with local businesses, Mr. Bristow is a life-long member of the Mount Hebron United Methodist Church where he has taught Sunday school for 22 years. Over the last decade, he has served as Scoutmaster for Troop 331 of the Indian Waters Council of the Boy Scouts of America.

For his years of public service, Mr. Bristow has received numerous honors and recognitions including the Order of the Silver Crescent from South Carolina Governor Mark Sanford—the State's highest honor given for volunteer and community service.

I am grateful for Mr. Bristow's service to his community. I want to recognize and thank his wife Fran and their three sons—Jeremy, Andrew, and Ryan—for their years of support, and wish them many more years of happiness.

INTRODUCTION OF H.R. 1413

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 2007

Mrs. LOWEY. Madam Speaker, I rise in strong support of H.R. 1413, which would create a pilot program testing the effectiveness of physically screening 100 percent of airport workers with access to secure and sterile areas at seven airports across the country.

I want to thank Homeland Security Chairman BENNIE THOMPSON, Ranking Member PETER KING, Representative GINNY BROWN-WAITE and the other members of the Homeland Security Committee for their support of this legislation. I also want to thank Rosaline Cohen, Michael Stroud and Matt Washington from the majority staff of the committee, Coley O'Brien and Jennifer Arangio from the minority staff, and Justin Wein from my staff.

Meticulously screening passengers but giving workers open access is like installing an expensive home security system but leaving your back door wide open.

In 2001, Congress recognized that while we were investing significant resources in screening passengers and their baggage, we needed to close the backdoor of airports as well. That's why we passed the Aviation and Transportation Security Act which required the Transportation Security Agency to screen all airport workers.

Yet, nearly six years after September 11th and passage of legislation requiring the physical screening of all airport workers, astonishingly TSA has failed to implement this basic policy or set a deadline for doing so.

At Heathrow Airport, the busiest international airport in the world, 100% of workers are screened, yet TSA refuses to acknowledge the national security benefits of following the same procedures here at home.

We know there is criminal activity taking place at some of our airports. Just this year alone, there have been frightening security breaches at Orlando International Airport, the arrest of a former airport worker as part of a