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January 30, 2017

The Honorable Bob Goodlatte
Chairman
House Committee on the Judiciary
Washington, DC 20515

The Honorable John Conyers, Jr.
Ranking Member
House Committee on the Judiciary
Washington, DC 20515

Dear Chairman Goodlatte and Ranking Member Conyers:

SoundExchange appreciates the significant time and resources that the Committee has dedicated to examining the state of our copyright laws and whether and where modernization of those laws may be in order. You have invited input from stakeholders at every step of your process, and we welcome the opportunity to comment on the proposal for reform of the U.S. Copyright Office that the Committee put forth last month. SoundExchange participated in collective comments on your proposal with others in the music industry, but we are writing independently to comment in more detail on the provisions of your proposal dealing with information technology upgrades, in particular the management of copyright data and our unique role in improving data management for the sound recording industry.

SoundExchange was originally formed to help the artists and record companies that create sound recordings thrive in the digital age by simplifying the royalty collection and payment process under the statutory licenses provided by Sections 112(e) and 114 of the Copyright Act. We are the sole collective designated by the U.S. Copyright Royalty Judges to collect and distribute sound recording royalties under those statutory licenses, and we represent the entire sound recording industry in rate-setting proceedings before the Copyright Royalty Board. As a result, we have had an active and engaged relationship with the Copyright Office since our inception. Under our administration of the statutory licenses, SoundExchange represents more than 130,000 artist and rights owner accounts and administers payments from more than 2,800 different digital radio services. We also administer directly-licensed agreements between leading digital music services and copyright owners and have agreements with 45 international counterpart organizations, which allow us to collect and pay artist and rights holders when their music is played in those countries.

Since its formation, SoundExchange has distributed more than \$4 billion in royalties to artists and copyright owners. We receive and process tens of millions of lines of data every month from licensees. Doing our job effectively and efficiently for the entire sound recording industry and the digital services licensing their recordings requires intensive data management. Occupying this pivotal role, SoundExchange has unique perspective, experience, and capabilities when it comes to building and maintaining both (i) repertoire and (ii) rights ownership databases, and we have used this expertise to create guidelines and principles critical for accuracy in these databases. The result is that our system has been praised for the transparency it brings to the industry.

It is based on this experience that we offer our thoughts on the “Information Technology Upgrades” section of your proposal. First, we firmly agree with the conclusion that the Information Technology (IT) objectives of the Copyright Office are different from those of the Library or Congress and that the Register should have the autonomy to determine the most effective course for the Copyright Office’s IT needs. These specialized systems should be built with the precise needs of the Copyright Office and its stakeholders as the focus, as opposed to being forced into a framework built for the broader needs of the Library of Congress. Upgrading the Copyright Office’s IT systems is an urgent need and should include solutions for modern, electronic registration and recordation systems. Any new IT initiative should encourage copyright owners to include additional metadata, such as standardized identifiers, instead of charging them a fee to do so.

Getting those systems developed and operational should be the immediate IT priority in the Office’s efforts to modernize. At the same time, we would have serious concerns about expanding those IT upgrade efforts into development of a government-run rights ownership database. And in no event should a Copyright Office database of any kind become a tool to further weaken the copyright protection enjoyed by creators. The Copyright Office could facilitate stakeholder discussions on industry data issues. In fact, it has already done so. But as your Senate Judiciary Committee colleagues noted in their Draft Principles for Copyright Office Structural Improvements and Modernization, “[L]egislating a specific database result is a poor fit for the rapidly changing technological landscape.”

While government could certainly play a role in encouraging development and use of common data standards and unique identifiers, in our experience, a robust incentive structure to maintain rights ownership data and improve data quality already exists in the private sector. Indeed, SoundExchange has relied on those incentives in our extensive work to build and share useful tools for the sound recording industry and those seeking to license their work. The platform of digital databases that SoundExchange has built is fully cloud-based, leverages open source software, and processes the high data volumes we deal with in near real-time. It addresses the three critical components of managing data in the music industry: *Registration*, the process of

“signing-up” and submitting data; *Repertoire*, the unchanging facts about sound recordings that registrants submit; and *Rights*, which tracks the constantly-changing agreements between copyright owners and services for the exploitation of this content. An effective industry solution requires all three of these components, and we maintain distinct databases for each, in addition to strict standards for sources of data. It is important to recognize as part of this discussion that rights ownership data is sensitive business information, reflecting negotiations and agreements between parties that few private sector actors would want included in a government-run database.

Beyond the substantial investment that we have made in our IT platform and digital databases, SoundExchange has been a leader in the industry’s extensive efforts to develop and encourage the use of unique identifiers and common data standards, efforts which have realized exceptional success over the past several years. In February 2016, we launched a publicly available, free service that provides access to our database of over 20 million unique International Standard Recording Codes (ISRCs) because we believe that use of ISRCs in reports of use of sound recordings will only further improve accuracy and transparency for the industry. The service is accessible 24/7 at <http://isrc.soundexchange.com>. SoundExchange is also a charter Board Member of the Digital Data Exchange (DDEX) consortium, which brings together representatives from all areas of the music industry, including digital retailers, sound recording companies, music publishers, performance rights and collective management societies. The DDEX standards for the exchange of digital content and metadata are widely adopted with over 2,500 organizations using the standards; DDEX is a model of effective implementation of industry standards.

We would welcome the opportunity to answer any questions you have about data management challenges in the music industry or provide you and Members of the Committee with a briefing on how the sound recording industry has met these challenges. Again, we appreciate your continued focus on improving the Copyright Office for its stakeholders, and we look forward to engaging further on your proposal as the process moves forward.

Sincerely,

A handwritten signature in blue ink that reads "Michael J. Huppe". The signature is fluid and cursive, with a large initial "M" and a long, sweeping underline.

Michael J. Huppe
President & CEO