

**ALOE BLACC TESTIMONY**  
**The State of Music in 2018**

Good morning/afternoon Chairman Goodlatte, Ranking Member Nadler and Members of the Committee.

My name is Aloe Blacc, and I am a songwriter and a member of ASCAP. I'm happy to be here today, representing my friends in the songwriting community.

I know the Judiciary Committee has been hearing pretty regularly from songwriters over the last few years regarding our struggles with the consent decrees and below-market rates and our ideas for reform. I'm proud that today, we actually have a bill that addresses some of these issues.

Legislation was recently introduced in both houses of Congress called the Music Modernization Act. I want to thank Rep. Collins and Rep. Jeffries and all of you who have chosen to co-sponsor the bill. The Music Modernization Act is an important bill for songwriters because it finally brings our laws into the digital age. It includes key provisions that will help solve some of our challenges to getting a fair deal.

The first is rate court reform: this legislation would change ASCAP and BMI rate court procedures to make the rate-setting process for performance rights consistent with other federal litigation by randomly assigning a federal judge using a lottery "wheel" system.

The second is repealing Section 114(i) of the Copyright Act so that a judge could consider all relevant evidence when determining songwriter compensation— including what record labels and artists make for the exact same performance.

With these two provisions, this legislation will enable judges representing a variety of perspectives to consider a broader set of relevant evidence when determining rates songwriters earn from the use of their music. Right now, the cards are stacked against us when it comes to rate court. These changes will help level the playing field for us so we can at least *hope* for compensation for our music that better reflects its value to the people who listen to it.

In addition to reforming how performance rights are considered, the MMA greatly improves how mechanical royalty rates are determined by the Copyright Royalty Board every five years by updating the standard used by the judges. The MMA changes the rate standard to a Willing-Seller/Willing-Buyer – which reflects rates negotiated in a free market. This will dramatically improve fairness for songwriters in terms of how their work is valued and helps us get fair royalties from the massive interactive streaming companies who rely on our work but who currently pay a below-market rate.

The bill also eliminates the bulk "NOI" loophole which has allowed streaming companies to hold onto millions of dollars that they should be paying out to songwriters and publishers. This bill creates a single entity to collect mechanical royalties for all songs

played by the digital music services. This will help to make sure that songwriters and music publishers are paid mechanical royalties that are currently being unpaid by the streaming companies for unmatched works. This single entity – called the Mechanical Licensing Collective (MLC) also gives songwriters a seat at the table by putting two on its board – and it increases transparency by allowing the MLC to audit digital music companies, and by allowing copyright owners to audit the MLC.

Unlike many things in Washington, DC these days, this legislation actually has bipartisan support. Further defying the odds, the music and technology industries have also come together in support of it. You asked us for a consensus bill, and we delivered a consensus bill. Now it's time to move it forward.

I've been fortunate to find some success in making music. That's because as a recording artist, I have access to more revenue streams, like touring and endorsement deals. But for those who are solely songwriters, they make the majority of their money off the performance of their song, like when it's played in a bar or streamed on a digital service.

These performance royalty payments are what enable songwriters to put food on their family's table and a roof over their heads. They're what make songwriting the ultimate small business.

The great news for music creators? More music is being listened to than ever before thanks to the advent of streaming services. The bad news? Music is now valued less—literally fractions of pennies on the dollar. This is because the government-regulated marketplace has suppressed the rates paid by digital music services for streamed songs, and the royalties from these services are remarkably low.

For example, my biggest hit -- "Wake Me Up" -- was streamed by the two leading interactive streaming services -- for a combined 136 million times in the past four quarters alone. Yet, as one of three co-writers on the song, I only received about \$2,400 total -- that's only 1.8 cents for every 1,000 streams. It's hard for a songwriter to earn a living when counting pennies.

Ever since I started a family, I've wished I could stop touring to focus on my songwriting and spend a little more time with my wife and kids. But the financial realities of being a songwriter don't allow it.

All we're asking for is fair market value for our creative works – which requires a system better designed to determine that fair market value. Why should the government deny songwriters – alone among all property owners - the right to earn what our products are worth?

While the Music Modernization Act certainly won't fix all of the problems with our music licensing system, it is a significant first step in the right direction.

This is a defining time for music licensing reform. I can tell you we are in desperate need of change if we're going to protect what is arguably America's greatest export—music.

I applaud all of you for taking the time to understand our issues and hopefully, advocate on our behalf. Now is the time to take action. I urge you to move this legislation through quickly—songwriters need this relief.

Thank you.