CONTENT CREATORS COALITION

Future of Music Coalition
Education, Research and Advocacy for Musicians
www.futureofmusic.org

RECORDING ACADEMY

SAG·AFTRA

March 26, 2018

Dear House Judiciary Committee Members:

As unions, membership organizations, and advocacy groups that represent the interests of recording artists, performers, vocalists, and musicians, we write to reiterate our enthusiastic support for the CLASSICS Act (H.R. 3301) and our opposition to the so-called "termination rights" amendment we understand may be considered at markup.

The CLASSICS Act is vital and time sensitive legislation that is critical to thousands of artists who recorded music or spoken word performances before 1972 and are literally watching the clock run out on their ability to receive fair pay for their work – even as digital radio makes billions of dollars a year from airplay of those recordings.

The CLASSICS Act would correct this inequity and ensure that the artists who made and contributed to those timeless songs finally get their due. And it would bring much needed certainty to one of the most contentious and confused areas of music licensing today.

That is why we strongly oppose any efforts to complicate and destabilize the legislative process and undermine chances for passage of the bill. Anything that would jeopardize royalties for the pre-72 artists who desperately need them is not advancing artists' interests. The so-called "termination rights" amendment would do just that.

This misleading amendment purports to "terminate" the term of copyright protection for copyright owners 25 years early, but it does not actually do so. A genuine "termination" would cause ownership and control of a recording to revert to the artists who recorded it. But the amendment instead leaves control of the recording in the hands of the record label copyright owner while requiring all licensing proceeds go to some of the artists. It compels the record company to bear the administrative costs of licensing music even though it won't earn any of the proceeds.

In practice, this amendment would be a disaster for labels, artists, streaming services – and for fans of pre-72 music that find the songs they love tied up in legal disputes. The record labels would no longer have an incentive to license pre-72 music, the marketplace for pre-72 music would dwindle, royalties would crater, and legacy artists would ultimately inherit nothing.

Fortunately, the CLASSICS Act already includes powerful safeguards to ensure fair pay for artists who recorded pre-72 music. It places pre-72 digital performances under the federal system,

ensuring that legacy artists receive a 50/50 split of royalties for streaming radio services with direct payment to the artist.

It's no secret that historically, some artists lacked negotiating leverage and faced disadvantageous terms, and this was especially acute for artists of color. Understanding this history should be a reason to accelerate remedies to current inequities rather than delay remedies; for many elderly artists, justice delayed would be justice denied. To build a more equitable future, purportedly "pro-artist" measures should not be advanced without artists' full support and involvement. The CLASSICS ACT is supported by a diverse group of thousands of artists. By contrast, this proposed amendment has no known artist support. It takes a narrowly tailored, consensus approach that is supported by all parties – artists, labels, digital services, tech companies and the Copyright Office – and turns it into a contentious bill that cannot pass. It puts the Committee's entire music licensing reform effort at risk.

We urge you to reject the amendment and move to pass CLASSICS as part of the Music Modernization Act quickly to the floor.

Sincerely,

American Federation of Musicians

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