

The Songwriter Equity Act of 2015 (SEA)

Background: Songwriters and composers earn royalty income through two separate rights; the right to publicly perform their musical works, and the right to make reproductions of those works and distribute those reproductions. **Two outdated portions of the Copyright Act, Section 114(i) and Section 115, prevent songwriters from receiving royalty rates that reflect fair market value for the use of their intellectual property. This has created inequity in the marketplace that harms America's songwriters and music publishers.**

Section 114(i) of the Copyright Act forbids federal rate courts from considering sound recording royalty rates as a relevant benchmark when setting performance royalty rates for songwriters and composers. In fact, the performing rights organizations (PROs) that collectively license on behalf of songwriters and publishers to music users including satellite radio, digital music services, restaurants, television and more, are not allowed to present this evidence to the courts at all. The result is an uneven playing field where songwriters and composers receive substantially less than sound recordings for a performance, or “stream,” of the same song.

Section 115 of the Copyright Act has regulated musical compositions since 1909, before recorded music existed. Section 115 allows anyone to seek a compulsory license to reproduce a song in exchange for paying a statutory rate. The initial rate set by Congress in 1909 was 2 cents per song. Today, that rate is 9.1 cents per song. This minimal increase is due to current law, which directs the Copyright Royalty Board (CRB) – the government body responsible for setting the rate – to apply a standard that does not reflect market value.

Specifically, the SEA would:

- **Allow a “rate court” to consider other royalty rates as evidence when establishing digital performance rates** | Amend Section 114(i) of the Copyright Act and allow a rate court to consider all relevant evidence when determining songwriter compensation, an ability that is currently prohibited by law. The specifics of how the rate court will apply the evidence are left to the rate court’s discretion.
- **Adopt a fair rate standard for reproduction (mechanical) licenses** | Replace the current substandard rate currently used by the CRB to determine mechanical royalties with a rate that reflects free market conditions.

The Songwriters’ Equity Act is an important step toward modernizing the music licensing system and leveling the playing field to ensure that songwriters, composers and publishers are appropriately compensated for the use of their intellectual property.