

We the children/relatives/rights holders of the deceased legacy artists Nat King Cole, Natalie Cole, Issac Hayes, Clyde McPhatter, Dave Prater Jr. Billy Preston, Otis Redding, David Ruffin, Mary Wells, Jackie Wilson, Mary Wilson and niece of Bobby Womack together with John Edwards, disabled former lead singer of The Spinners, offer our collective testimony to The Members of The United States House of Representatives Judiciary Committee IN SUPPORT OF THE AMERICAN MUSIC FAIRNESS ACT

February 7, 2022

Chairman Jerrold Nadler and
The House Judiciary Committee Members
House Judiciary Committee Office
2138 Rayburn House Office Building
Washington, DC 20515

RE: THE AMERICAN MUSIC FAIRNESS ACT

Dear Chairman Nadler and All of The House Judiciary Committee Members:

Thank you so much for holding a hearing last week, February 2, 2022, to discuss and consider the plight of the American recording artist, regardless of their genres, who have contributed so much for so long to our country and world culture.

It's untenable that when a song is played on an AM/FM station, only the writer of the song is paid – not anyone else involved in creating the sound recordings they broadcast are compensated. This lack of payment to the talent, the creators is due to an oversight that created “a loophole” that Congress has allowed to exist since the phonograph recording was invented together with a method to broadcast over the airwaves, the live performances embedded on them 80 or so years ago.

The question of how or why this “loophole” could have happened was asked a few times during the hearing Wednesday morning. It came to be because whoever first walked into a radio station with a recorded disc and a suitable method of playing it, made possible by the invention of the victrola, making it possible to be heard with sufficient quality to be transmitted over the airwaves, neglected or just didn't know that they needed to come to Congress first. The copyright laws needed to have been amended then to include, to embrace “The Creators”, the artists, musicians, backing vocalists, producer(s) and engineer(s) with broadcast performances compensation. Up until that time, radio stations would bring the big bands, The Glenn Miller's, The Paul Whiteman Orchestra, Fred Waring and the Pennsylvanians, Ella Fitzgerald, The Andrew Sisters, Count Basie and Duke Ellington to name a few into their cavernous radio studios to perform “*live on the air*” from their studio(s). All the talent were paid for those one-off broadcast performances. It should be noted that at that time, the stations could not pre-record or record performances to rebroadcast them because the technology had not yet been satisfactory to do so.

Having this knowledge should make it easy to understand how the recorded disc suddenly and immediately changed the landscape and how and why the artists suddenly became dispensable.

When you couple that with the failure to come to Congress and that for decades and decades local radio was the media that every Congressional member had to rely on to get their message out to their constituents, especially during election and reelection time. That created quite a serious negotiating tool in the hands of the radio station owner- members of the NAB available to use for decades. To be blunt, it's been pretty easy for the NAB to block and refuse to cooperate with making any modifications to the Copyright Act to correct the unfair exploitation by the station owners of the artist group over all these decades.

“The Loophole” and the leverage has been up until now impenetrable.

It's no secret that the AM and FM (Terrestrial Radio Stations), now primarily owned by large corporations, earn billions of dollars from the advertising revenues broadcasting the live recorded performances of our relatives, that were captured when they stood live, in front of a microphone in a studio to create those sound recordings. It's incomprehensible that not one broadcast of those live captured performances of our parents, siblings and relatives or for that matter any and all of the other artist who ever recorded their live performances on sound recordings have never been compensated for those broadcast performances.

The American Music Fairness Act would finally require the Terrestrial Radio Stations to compensate **all American artists** for their performances, their talent, their essence, their souls embodied on the sound recordings. The passage would also open the doors so all recording artists, regardless of their country of origin would be compensated and in so doing opens the floodgates to the millions and millions and millions of dollars the American recording artists have been unable to collect all of these years because there has been no reciprocity. The overseas compensation should be literally life-changing for so many artists and their families.

AM/FM radio stations are the only media that does not compensate artists for their musical performances. AM/FM radio is the only industry group that feels it can take intellectual property created by others and simply use it for their personal pecuniary gain without permission or compensating the creators. It is decades long overdue for the Terrestrial Radio Stations to stop their practice of using the artists talents like their property reminiscent of their being their indentured servants, lacking in rights and respect.

Let us also be clear, we are more than mildly alarmed and disappointed that many of you have co-sponsored or signed on in support of the NAB's LRFA.

Our opposition to LRFA is based on several reasons because their resolution and bill reinforces the continued practice of using our family members and their peers, by exploiting, without compensation, all American recording artists.

Quite frankly, it makes it more offensive to us that you would continue to allow the use of the talents of our parents and other family members, all of whom are black legacy recording artist.

For us, to hear the NAB claim that passage of a bill that finally would compensate hundreds if not thousands of black artists would somehow put small minority owned radio stations that couldn't afford \$500 a year out of business, thereby devastating low income communities where black and Latino reside is intolerable.

Congressman Darrell Issa, during the hearing, made it very clear that Sam Moore and his wife Joyce, through the 501(c)(3) charitable foundation, The Soul Arts And Music Foundation, would pay for any of those \$10, \$100 or \$500 only annual fees of the designated small or small local neighborhood FCC licensed radio stations that earn not more than \$1,500,000 annually or less. Any of those specific designated stations that could not pay some or all of those \$10, \$100 or \$500 amounts can be covered through an application through a hardship grants program that would be immediately implemented at the Foundation. Sam and Joyce Moore have indicated that, if it's necessary that commitment could be written into the actual bill language for a period of the first two years forward of the passage of the American Music Fairness Act with an annual re-evaluation by The Foundation to continue the program. They believe that a two-year assistance program window should be more than sufficient incentive to the radio stations.

It feels like we have to remind everyone that all of our parents and our relatives and most of their peers began their careers during the height of segregation and The Jim Crow Era which represented a time in our country where treating blacks as second-class people without any of the rights they were to be endowed with as Americans because in those days segregation was unfortunately the norm in society. While those policies thanks to Dr. Martin Luther King, Jr., (himself a vocal performing recording artist whose estate has also never been compensated for the broadcasts of his recorded speeches), do not exist anymore except perhaps i where the last vestige of it seems alive and well in reality and the mentality of Terrestrial Radio.

Our moms and dads faced incredible discriminatory barriers, yet, they persevered, produced an amazing body of creative musical artistry that remains cherished to this day by all Americans and the world. Sadly, a world that collects but does not pay over the compensation they collect that is not distributed to our families because there is no reciprocity, because of "the loophole". Congress has failed for decades to correct the wrong by never passing a broadcast performance right for the broadcast of our parents live performances that were captured on tape and turned into sound recordings.

It wasn't made clear enough during the hearing or above in this letter, that the monies, the hundreds of millions of dollars collected annually in the name of every single American recording artist, including our parents, around the rest of the world and captured on a country-by-country collection society basis, eventually gets reinvested into those individual countries' arts and cultural programs. In other words, our parents, all of their peers and every American recording artist is actually paying to foster and support The Arts including educating the children of those countries about their cultural history.

On the other side of that coin, many of us have lived hard. An example Stacy Womack Henderson's little sister Sugar was four (4) years old when their mom, Mary Wells passed away in 1991. Stacy, in her early 20's took custody of Sugar. At the time, Stacy was living in a one-

bedroom apartment so Sugar slept on an inflated mattress in the hall between the apartment's bedroom and bathroom for around a year until Stacy could do better financially.

Our parents and relatives are deceased so they cannot earn a living at their craft, entertaining and performing live before audiences anymore. We therefore must challenge the statements from the NAB because our deceased family members do not, cannot and have not benefited in any way shape or form from radio's alleged "promotional consideration."

It is our position that our relatives are performing for the public each and every time an AM or FM radio station member of the NAB broadcasts the live performance they gave when they stepped foot in the recording studio booth, stood before the microphone and poured their hearts out, giving it the best they had, capturing that live performance for posterity.

As the children of some of the now deceased legacy artists Nat King Cole, sister of Natalie Cole, Issac Hayes, Curtis Mayfield, Clyde McPhatter, Dave Prater Jr., Billy Preston, Otis Redding, David Ruffin, Mary Wells, Jackie Wilson, Mary Wilson and niece of Bobby Womack along with John Edwards, former lead of the group The Spinners hope and pray that 2022 will finally be the year that brakes the practice by the owners of AM and/or FM radio's unconscionable exploitation of all of the American artists live performances captured on the sound recordings they broadcast and leverage for billions in advertising revenues.

We believe all American artists finally must be honored and respected by being compensated for their broadcast performances that there can be no argument is decades long overdue. Please do the right thing and support the American Music Fairness Act so we can finally have reciprocity with the rest of the world and collect the hundreds of millions of dollars a year we cannot currently benefit from because we are acting no better than North Korea, Iran and Rwanda. Those foreign payments along with a payment from terrestrial radio in the United States literally is life changing money for hundreds if not thousands of the artist community so please support and vote for the passage of the American Music Fairness Act.

Please support and vote for the passage of The American Music Fairness Act so that each and every American artist, their children, their grandchildren, great grandchildren and others who they might want to provide for are finally able to do so with money they have earned, money that is set aside all over the world that's theirs but for the NAB and the AM/FM radio stations who make billions and billions of dollars annually in advertising revenues and historically have refused to do the right thing and close "the loophole."

In closing, we the children who have the grandchildren and even the great grandchildren of our parents who contributed so much and we're so much a part of the American cultural fabric respectfully and humbly ask for your vote to pass the American Music Fairness Act so that all of the American recording artists, musicians, backing singers, producers, arrangers and engineers and their families, significant others and/or worthy causes they wish to support will have the funds to do so once the unfair practice of the NAB member AM/FM stations can no longer continue to reap billions of dollars in revenue without sharing any of the proceeds for the artist responsible for the creation of the music that puts them in a position to make the billions while those artist/creators remain uncompensated.

Thanking you in advance for your consideration and cooperation in making our request reality.

Authorized 2 signature pages of the adult children/relatives/rights holders of Nat King Cole, the sisters of, Natalie Cole, Issac Hayes, Clyde McPhatter, Dave Prater Jr. Billy Preston, Otis Redding, David Ruffin, Mary Wells, Jackie Wilson, Mary Wilson, Cecil Womack and niece of Bobby Womack together with John Edwards, Sam and Joyce Moore are annexed and attached hereto.

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Signers Page 1
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On Behalf Of Our Father

Nat King Cole

On Behalf of Our Sister

Natalie Cole

Timolin Cole Augustus *Jan*
Timolin Cole Augustus

Casey Cole Ray *sm*
Casey Cole Ray

On Behalf Of My Father

Isaac Hayes

Nikki Hayes Murrell *jm*
Nikki Hayes Murrell

On Behalf Of My Father

Otis Redding

Karla Redding Andrews *jm*

Karla Redding Andrews

On Behalf Of My Father

David Ruffin

Cheryl Ruffin Robinson *jm*
Cheryl Ruffin Robinson

John Edwards (of the Spinners)

John Edwards *jm*
John Edwards

On Behalf Of My Father

Clyde McPhatter

Deborah McPhatter *jm*
Deborah McPhatter

On Behalf Of My Father

Dave Prater, Jr.

Sharon Prater *jm*
Sharon Prater

On Behalf of **Billy Preston**

Joyce Moore
Preston Music Group, Inc.
Joyce Moore CEO

On Behalf Of My Mother
Mary Wells

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On Behalf Of My Father
Jackie Wilson

LiNie Shawn Wilson
LiNie Shawn Wilson *jm*

On Behalf Of My Mother
Mary Wilson

Turkessa Babich
Turkessa Babich *jm*

On Behalf Of My Uncle
Bobby Womack
and

On Behalf Of My Father
Cecil Womack

Stacy Womack Henderson
Stacy Womack Henderson *jm*

We are proud to confirm our offer to cover any \$10, \$100 or \$500 radio station fees shortfalls with verification of hardship provided to The Radio Station Grants Program established within the The Soul Arts and Music Foundation, inc a 501(C3) to enable legacy artists and all American recording artists of all genres to receive compensation from The USA and the rest of the world that pays for performance broadcast of sound recordings through the passage of The American Music Fairness Act.

Sam Moore
Sam Moore

Joyce Moore
Joyce Moore