

April 1, 2021

The Music Modernization Act

On January 1, 2021, the Music Modernization Act (the “MMA”) took effect, a new law-making statutory licensing of copyright that is more fair to creators and more efficient for digital music providers. Everyone in the music business should be aware of the MMA, particularly because entitlement to certain royalties requires you to take certain actions.

I. Title I of the MMA, entitled the “Musical Works Modernization Act”, replaces the song-by-song compulsory licensing structure of previous law with a new blanket license allowing digital music providers to make and distribute digital phonorecords, including interactive streams (such as Spotify) or permanent or limited downloads. Pursuant to Title I, the U.S. Copyright Office has designated the Mechanical Licensing Collective, Inc. (“MLC”) to collect and distribute royalties, administrate blanket licenses, identify musical works and ownership for payment, and establish and maintain database of all musical works and their owners, among other things. MLC is funded through donations by digital music providers and an administrative assessment set by the Copyright Royalty Judges. If you are a songwriter or music publisher, consider whether you should join as a member of the MLC by signing up with the online platform Connect to Collect™ at www.themlc.com to register your musical works and receive digital audio mechanical royalties due to you from digital service providers (such as Apple Music or Spotify).

II. Title II, entitled the “Classics Protection and Access Act”, brings pre-1972 sound recordings into the federal copyright system, allowing for infringement remedies for such works. The protection for these works is available for 95 years after the year of first publication of the recording, subject to the following additional periods:

- First published before 1923, ends Dec. 31, 2021;
- First published 1923-1946, plus 5 years after the general 95-year term;
- First published 1947-1956, plus 15 years after the general 95-year term; and
- For all remaining recordings first fixed prior to Feb. 15, 1972, ends Feb. 15, 2067.

III. Title III, entitled the “Allocation for Music Producers Act”, allows music producers, mixers, and sound engineers (“Music Producers”) to receive royalties collected by the designated collective SoundExchange for use of sound recordings. Previously, Music Producers would have to go through the recording artist to get payment, but the MMA now provides Music Producers a legal procedure for them to collect those royalties directly from SoundExchange. Under a “letter of direction”, a recording artist with the exclusive right to publicly perform the sound recording, can instruct SoundExchange to distribute the payments to the producers, mixers, and sound engineers.

Learn more about the MMA at the following websites:

- U.S. Copyright Office announcement: <https://www.copyright.gov/music-modernization/>;
- the MLC <https://www.themlc.com/>; and
- Copyright Royalty Judges program in the Library of Congress <https://www.crb.gov/>.

If you have questions about the MMA and how it may affect you, please contact Svitlana Anderson, Esq. sanderson@peacocklaw.com.