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Docket No. 25-CRB-0013-PR

COPYRIGHT ROYALTY BOARD
LIBRARY OF CONGRESS

In re: 91 FR 42698 (Phonorecords V, 2028–2032)

COMMENTS OF KEVIN M. CASINI AND KAILA C. COLEMAN, J.D. REGARDING PHONORECORDS V SUBPART B SETTLEMENT PROPOSAL

Several years ago, I wrote an open letter[1] to my United States Senators and to the Copyright Royalty Board regarding the steadily declining real-world value of the statutory mechanical royalty. At that time, my concern was straightforward: while songwriters and publishers continue to provide the intellectual property that fuels the music industry, the statutory rate for physical phonorecords and permanent downloads had failed to keep pace with inflation and the increasing economic value extracted from those musical works.

Today, as the Board now considers the proposed Phonorecords V settlement for the 2028-2032 rate period, those concerns remain unresolved. The difference is that we now have the benefit of hindsight.

We know what happened during the fifteen-year freeze. We know what happened to the purchasing power of songwriter income. We know what happened (is happening) to the cost of living. We know what happened to the music marketplace. Most importantly, we know that the concerns raised by songwriters during those years were well-founded.

From 2006 through 2022, the statutory mechanical royalty remained frozen at 9.1 cents per song. When the Copyright Royalty Judges considered whether that rate should simply be carried forward into the next rate period, they declined to do so. In rejecting a rulemaking that would have continued the existing framework, the Judges concluded that the proposed settlement "does not provide a reasonable basis for setting statutory rates and terms."[2]

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[1] Comment of Kevin M. Casini, *Determination of Royalty Rates and Terms for Making and Distributing Phonorecords* (Phonorecords IV), Docket No. 21-CRB-0001-PR (2023-2027) (Nov. 20, 2021) ("The bulk of this comment appeared in an open letter to this body, and to my senators, dated May 27, 2021.")
[2] *Determination of Royalty Rates and Terms for Making and Distributing Phonorecords* (Phonorecords IV), 87 Fed. Reg. 18,250 (Mar. 30, 2022).

That decision was significant. The Board was not persuaded that historical continuity alone justified maintaining the statutory rate structure. Instead, the Judges required further consideration of whether the existing framework remained economically reasonable under contemporary conditions. Ultimately, the Board approved a new framework under which the statutory rate increased to 12 cents beginning in 2023, and became subject to annual inflation-based adjustments.[3]

As a result of those adjustments, the statutory mechanical royalty (plus adjustments) has risen to 13.1 cents in 2026.[4] Some may point to that increase and conclude that songwriters have already received a substantial improvement in compensation. That conclusion overlooks the circumstances that made the increase necessary in the first place.

A royalty that remained frozen for fifteen years while inflation steadily reduced purchasing power did not suddenly become generous because it was eventually adjusted upward. It is properly viewed as a correction to a prolonged period of economic erosion rather than evidence that songwriters are now receiving compensation that fully reflects the value of their work, but is still inadequate.

The rationale that led the Board to incorporate annual cost-of-living adjustments remains relevant today. Inflation continues to affect the purchasing power of writers who operate under a compulsory licensing system and cannot renegotiate rates annually. According to the U.S. Bureau of Labor Statistics, the Consumer Price Index increased 3.5% over the twelve-month period ending June 2026. Core inflation increased 2.6%, food prices increased 3.0%, and shelter costs increased 2.8%.[5][6] The latest proposed Phonorecords V settlement would continue the existing inflation-adjustment methodology currently contained in 37 C.F.R. § 385.11. Under the § 385.11framework, the statutory mechanical royalty increased from 12.0 cents in 2023 to 12.4 cents in 2024, 12.7 cents in 2025, and 13.1 cents in 2026.[7] But that is based more on CPI figures and continued COLA adjustments than any market approximation. The rate at the baseline remains the same: 12¢.

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[3] *Determination of Royalty Rates and Terms for Making and Distributing Phonorecords* (Phonorecords IV), 87 Fed. Reg. 76,937 (Dec. 16, 2022).

[4] While the increase from 9.1 cents to 13.1 cents represents, in large measure, an effort to restore value that had already been lost, the appropriate rate for 2026 should be 13.9 cents based on the average rate of inflation for the last fifteen years. DO WE NEED A CITE?

[5] https://www.federalregister.gov/documents/2022/12/16/2022-27237/determination-of-royalty-rates-and-terms-for-making-and-distributing-phonorecords-phonorecords-iv

[6] U.S. Bureau of Labor Statistics, Consumer Price Index News Release (July 14, 2026).

[7] *Determination of Rates and Terms for Making and Distributing Phonorecords* (Phonorecords V), 91 Fed. Reg. 42,698 (July 10, 2026).

Rather than establishing a new benchmark rate for the 2028-2032 period, the proposal would largely preserve the existing structure and continue annual CPI-U-based adjustments from the current baseline.[8] Continuing inflation adjustments is sensible policy. The more significant question before the Board is whether the underlying base rate of 12¢ accurately reflects the value that musical compositions create in today's marketplace.

Every commercial exploitation of recorded music begins with a song. Every vinyl album begins with a song. Every permanent download begins with a song. Every collector's edition, anniversary release, deluxe package, music bundle, and reissue derives value from the copyrighted musical works embodied within those products. Absent the composition, there is nothing to manufacture, distribute, market, download, or sell.

Yet despite providing the essential material that drives every transaction, songwriters continue to possess limited bargaining power relative to the much larger entities that exploit and distribute their works. That reality is one of the reasons Congress established statutory licensing and entrusted the Copyright Royalty Judges with responsibility for setting fair and reasonable rates.

The economics of physical music products have changed dramatically since many of the assumptions underlying prior mechanical royalty structures were developed. Vinyl records have evolved from a declining format into a premium consumer product. At the same time, technological advances have transformed nearly every aspect of the music supply chain. Digital inventory systems have reduced warehousing and inventory-management costs. Modern manufacturing processes have improved production efficiency and forecasting, while e-commerce platforms allow labels and distributors to sell directly to consumers without relying exclusively on traditional retail channels. Automated royalty accounting systems now process and reconcile transactions at a scale that would have been impossible when the 9.1-cent rate was established. Rights databases, digital metadata standards, and centralized licensing organizations have further reduced administrative burdens associated with tracking, matching, and paying royalties.

Collectively, these innovations have created substantial efficiencies throughout the music ecosystem and lowered many of the transaction costs historically associated with exploiting copyrighted works. Yet the demand for compositions has only increased. As technology allows producers and larger

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[8] *Determination of Royalty Rates and Terms for Making and Distributing Phonorecords (Phonorecords IV)*, 87 Fed. Reg. 76,937 (Dec. 16, 2022); *Determination of Rates and Terms for Making and Distributing Phonorecords (Phonorecords V)*, 91 Fed. Reg. 42,698 (July 10, 2026).d

actors to distribute more efficiently, resulting in lower overall cost, and as industrial tech firms generate dilution and flood the market, the value of a songwriter's work must be compensated justly.

The question for this proceeding is whether songwriters have participated proportionately in those gains.

This Board has already demonstrated its willingness to reconsider historical assumptions when they no longer provide a reasonable basis for setting statutory rates. In Phonorecords IV, the Judges expressly declined to perpetuate the long-standing 9.1-cent framework and instead adopted a new structure that recognized the economic impact of inflation and changing market conditions.[9] That precedent remains highly relevant. The issue in Phonorecords V is not whether the current framework can be continued. The issue is whether it remains the most reasonable framework in light of current economic realities. The fact that a methodology was adopted for one rate period does not necessarily establish that it remains the most accurate measure of value for the next.

The Board's obligation extends beyond determining whether a proposed settlement has support among major industry participants. The Board must determine whether the resulting rates are fair, reasonable, and consistent with the objectives of the Copyright Act.

As the Board evaluates the proposed settlement, we respectfully encourage consideration of a broader question: if the statutory mechanical royalty had reflected inflation, purchasing power, *and* marketplace realities consistently over the last two decades, where would the rate stand today?[10] That question deserves careful consideration because the answer affects millions of royalty-bearing transactions and will significantly influence songwriter compensation through 2032 and beyond.

For many years, large industry participants argued that physical music sales would inevitably become economically insignificant as streaming services expanded. Market developments have proven otherwise. Vinyl records have reemerged as a major commercial product, generating premium revenues from collectors, dedicated fans, independent artists, and legacy catalog acts. Global physical music revenues increased 8.0% in 2025, while vinyl revenues grew 13.7%, marking the nineteenth consecutive year of growth for the format.[11] Physical music is no longer a declining

[9] 87 Fed. Reg. 18,250 (Mar. 30, 2022); 87 Fed. Reg. 76,937 (Dec. 16, 2022).
[10] https://www.usinflationcalculator.com/inflation/current-inflation-rates/
[11] Global Music Report 2026: Global Recorded Music Revenues Grow 6.4% as Record Companies Drive Innovation.(March 18, 2026).

format. It is a profitable and expanding segment of the modern music marketplace.

This growth is particularly important for independent artists, independent labels, and legacy songwriters whose businesses often remain closely tied to physical product sales. Unlike the major music companies that derive substantial revenue from diversified global operations, many independent writers continue to rely on vinyl, CDs, deluxe editions, direct-to-consumer sales, and catalog reissues as significant revenue streams. Many of these writers do not have a seat at the negotiating table when industry settlements are reached, yet they remain directly affected by the statutory rates established in these proceedings. For these participants, even modest changes in the mechanical royalty rate can have a meaningful impact on earnings because physical products often represent a larger share of their overall music revenue than they do for the major corporate stakeholders.

At the same time, the value of music copyrights has increased dramatically among rights holders, investors, and major music companies. Over the last decade, billions of dollars have been deployed into music publishing catalogs and royalty-generating assets. Music rights are now widely recognized as a durable asset class capable of producing long-term, predictable revenue streams.[12] Acquisitions include Bob Dylan's catalog (approximately $500 million), Bruce Springsteen's catalog (approximately $500 million), Sting's catalog ($300 million), David Bowie's catalog ($250 million), Pink Floyd's catalog ($400 million), and Queen's catalog (approximately $1.27 billion).[13] These transactions are not being driven by nostalgia. They are being driven by the continuing commercial value of musical compositions and the royalties those compositions generate.

The continued growth of physical sales and the unprecedented demand for music catalogs demonstrate that compositions remain valuable commercial assets. The statutory mechanical royalty is therefore not merely a legacy payment mechanism. For many independent and legacy writers, it remains one of the few guaranteed means by which they share in the ongoing value generated by their works. As the market places ever higher valuations on music copyrights, it is reasonable to ask whether the songwriters whose works create that value are participating proportionately in the economic gains realized throughout the industry.

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https://www.ifpi.org/global-music-report-2026-global-recorded-music-revenues-grow-6-4-as-record-companies-drive-innovation/

[12] https://www.reedsmith.com/articles/private-equity-behind-the-scenes/music-as-an-asset-class-why-pe-continues-to-deploy-capital-into-music-rights/

[13] https://www.chartlex.com/blog/business/music-catalog-acquisitions-tracker-2026

In neglecting any growth in the base rate, the proposed settlement instigates another locked rate era after the fifteen-year freeze that preceded it. Whether it adequately values the musical compositions that continue to drive the modern music economy remains the central question before the Board.

Songwriters are not seeking special treatment. They are seeking compensation that reflects the importance of the works they create and the value those works continue to generate throughout the marketplace.

The Copyright Act entrusts the Copyright Royalty Judges with the responsibility of ensuring that statutory rates remain fair, reasonable, and responsive to economic realities. As you consider Phonorecords V, we respectfully urge you to examine not only the effects of future inflation, but also whether the underlying benchmark itself accurately reflects the present-day value of copyrighted musical works.

Respectfully submitted,

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Kaila C. Coleman, J.D.