BEFORE THE UNITED STATES COPYRIGHT OFFICE

LIBRARY OF CONGRESS

In the Matter of Music Streaming Fraud

Docket No. 2026-6

COMMENTS OF THE ARTIST RIGHTS INSTITUTE

The Artist Rights Institute ("ARI") respectfully submits these comments in response to the Copyright Office's Notice of Inquiry[1] concerning music streaming fraud.

ARI is an Austin, Texas-based 501(c))(3) nonprofit organization dedicated to protecting the rights and livelihoods of artists, songwriters, musicians, and other professional creators (www.artistrightsinstitute.org). ARI's directors are David Lowery, Christian Castle and Abby North. ARI hosts the Artist Rights Symposium and Artist Rights Roundtable events held at the University of Georgia Terry College of Business and at American University Kogod School of Business. ARI files amicus briefs and policy comments from time to time, including in support of Mr. Cyril Vetter in the Court of Appeals for the Fifth Circuit in the *Vetter v. Resnik* copyright termination case (quoted by the Court in its affirmance).

We appreciate the Office's attention to this timely matter which has become a central concern to artists and songwriters around the world due to the AI tracks flooding the music markets.[2] Streaming fraud compounds the market harm of AI by diverting revenues from legitimate works, diluting royalty pools, and undermining existing and potential markets for human-created music, as well as placing an extraordinary burden on both licensees, copyright owners and artists to police the networks concerned.

It must be said that one of the quickest ways to reduce streaming fraud would be to require digital service providers (DSPs) to pay a fixed per-stream penny rate for statutory mechanical royalties rather than relying exclusively on a revenue-share formula. As the Copyright Office observes in its Notice of Inquiry (text at n12), "Streaming services commonly pay for their use of copyrighted works by dedicating a percentage of their revenue to royalty pools, which are then used to pay various rights owners."

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[1] Music Streaming Fraud, 91 Fed. Reg. 64,188 (Oct. 7, 2026) (notice of inquiry) (U.S. Copyright Office) (Docket No. 2026-6)

[2] *See* Ivan Mehta, *Music Streamer Deezer Says More Than 50% of Daily Uploads Are AI-Generated*, TechCrunch (July 21, 2026), https://techcrunch.com/2026/07/21/music-streamer-deezer-says-more-than-50-of-daily-uploads-are-ai-generated/ (reporting that Deezer received approximately 90,000 fully AI-generated tracks daily in June 2026, representing more than half of daily uploads, compared with approximately 10,000 daily AI uploads in January 2025); *3 in 4 AI Tracks Are Distributed Through DistroKid, and TuneCore's Share Fell by Two Thirds*, The AI Musicpreneur (Sept. 15, 2026) (reporting that DistroKid accounted for 77.6% of AI-music releases with identified distributors in the Sonic Intelligence Academy's April–August 2026 dataset of 1,743 submissions from 886 artists; the nonrandom sample includes AI-assisted and hybrid recordings and should not be construed as representative of all streaming-platform uploads); Stanley Wu et al., *An Empirical Analysis of AI Slop in Music Streaming*, arXiv:2606.18052, abstract & § 6 (June 16, 2026), https://arxiv.org/abs/2606.18052 (finding that 93% of identified AI tracks on Spotify received few or no plays and that testing across eleven independent distributors revealed inconsistent and frequently unenforced AI-content policies).

This deal structure creates a fundamental misalignment of incentives. When the DSP's royalty obligation is determined by a percentage of their own revenue, fraudulent streams generally dilute the royalties payable to legitimate copyright owners *without increasing the DSP's aggregate royalty expense*. The DSP therefore has little direct financial incentive to scrutinize the legitimacy of streams, recordings, or payees.

This problem is particularly difficult to address on the sound recording side, where artists generally have no meaningful visibility into the confidential licensing agreements between their record labels and on-demand streaming services. The statutory mechanical royalty system, however, is subject to the Copyright Royalty Board's rate-setting authority. Establishing a meaningful per-stream minimum, calculated at the individual-stream level, would force DSPs to internalize the marginal cost of fraudulent activity. Rather than allowing fraudulent streams simply to redistribute a fixed royalty pool, the rate structure would give the services themselves a direct economic incentive to prevent fraud before royalties are incurred.

The CRB thus has an opportunity to address streaming fraud through the design of the mechanical royalty rate itself, without depending on disclosure or renegotiation of confidential sound recording licenses. As this is a hot-button issue before the CRB in Phonorecords V at the present time, we will not discuss it further here.

A similar misalignment of incentives exists at the distribution level. Many digital music distributors operate on a flat-fee model in which artists pay the distributor in advance to deliver recordings to streaming services, regardless of whether those recordings generate legitimate streams or royalties. Unlike a traditional record label investing in an artist's career, these distributors typically bear little or no financial risk associated with the commercial performance of the recordings they deliver.

Indeed, their revenue may increase with the volume of customers and recordings they distribute, whether legitimate or fraudulent. Unless distributors face meaningful financial consequences for delivering fraudulent recordings, impersonating artists, or facilitating streaming manipulation, they have limited economic incentive to conduct rigorous due diligence before supplying content to DSPs. The result is a distribution system in which the intermediary gets paid upfront, the DSP distributes royalties from a largely fixed pool, and legitimate copyright owners bear the losses. We will not get into a detailed discussion of distributor policies, either, but respectfully note in passing that the economics are, in our view, entirely out of whack.

The central problem that we will come back to in this comment is that it has become far too easy to upload millions upon millions of AI-generated recordings through digital distributors without meaningful verification of their origin, ownership, or even eligibility to generate royalties. All the alliances, policy pronouncements and working groups do not change the fact that the system is not working. Generative AI can manufacture recordings at industrial scale. Automated distribution can place them on commercial streaming services almost immediately. Yet the industry continues to rely heavily on downstream detection rather than enforcing the workflow through which recordings enter royalty-bearing systems in the first place. The opening paragraphs of the NOI describe a scene out of Dante's *Divine Comedy*.

Respectfully, the answer is not necessarily more sophisticated algorithms. It is better administration of the distribution process. The same weaknesses permit other forms of streaming fraud, including unauthorized redistribution of existing recordings, appropriation of established artist identities, and manipulation of playlists and listening activity to divert royalties.

We hope to persuade policy makers that if distributors required meaningful vetting to get access to their services in the first place and if DSPs considered that paying royalties to essentially unvetted recordings and songs also gave largely anonymous access to the US banking system, Congress would likely not need to consider market regulations. Yet here we are. Is anyone really surprised at the current state of play?

I. Know the Customer: Streaming Fraud Begins at the Distribution Gateway

Digital distributors are the principal gateway through which recordings enter streaming services.[3] That position creates an opportunity—and ought to create a responsibility—to conclusively verify the identity of uploaders, their claimed distribution authority, and the ultimate recipients of royalty payments.

The allegations in *UMG Recordings, Inc. v. DistroKid LLC*,[4] cited in the Notice,[5] illustrate the consequences of inadequate gatekeeping. Although those allegations remain disputed, the litigation raises an important question: Why should enormous quantities of recordings enter commercial distribution before anyone meaningfully examines whether the uploader has the right to distribute them?

Spotify's October 20, 2026 announcement[6] provides an equally revealing example of the industry's downstream approach. Spotify reported excluding more than 50 million AI-generated slop and spam tracks from its recommendations during 2026, in addition to more than 75 million spam tracks it says it removed entirely for serious or repeated violations.

The distinction is critical for today's proceeding. Excluding a track from algorithmic recommendations does not necessarily remove it from the service, correct its metadata, establish its provenance, or determine whether it should have been distributed in the first place.

Spotify also defended its 1,000-stream annual recording-royalty threshold as a safeguard against AI-generated content, observing that tracks identified as likely AI-generated are ten times more likely to fall below that threshold. (Which also implies that Spotify is not removing the tracks

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[3] It bears emphasizing that a relatively limited number of digital distributors serve as principal gatekeepers to the distribution pipeline supplying digital music providers ("DSPs"). Spotify, for example, does not permit artists to upload audio recordings directly to its service, instead requiring delivery through labels or distributors. Spotify maintains a directory of preferred and recommended providers that it identifies as meeting its standards for metadata quality and anti-infringement measures. See *Getting Music on Spotify*, Spotify, https://support.spotify.com/mh/artists/article/getting-music-on-spotify/; *Provider Directory*, Spotify for Artists, https://artists.spotify.com/providers. This established distribution architecture provides an obvious opportunity to enforce identity, ownership, provenance, and content-verification requirements at the point of entry, rather than requiring every downstream DSP to identify and remediate the same questionable recordings independently.

[4] Complaint, *UMG Recordings, Inc. v. DistroKid, LLC*, No. 1:26-cv-01156 (D. Del. Sept. 15, 2026), ECF No. 1.

[5] 91 Fed. Reg. 64,191 n.46 (Oct. 7, 2026).

[6] One Year In: Putting Human Artistry First on Spotify, Spotify Newsroom (Oct. 20, 2026), https://newsroom.spotify.com/2026-10-20/prioritizing-human-artistry/

altogether and forces artists and songwriters to rely on Spotify's algorithms working and Spotify maintaining its free-stream landgrab forever, a self-licking ice cream cone if there ever was one.)

These measures raise a fundamental policy question: Why should the industry rely on suppressing the discovery of questionable recordings and denying royalties to tracks below an arbitrary listening threshold instead of verifying questionable uploads *before* they enter the system?

The 1,000-stream threshold also affects legitimate independent artists whose recordings may attract fewer than 1,000 plays. Spotify's rule withholds recording royalties on those tracks and reallocates the corresponding revenue to eligible recordings. It is not a substitute for determining whether a particular recording or stream is out of compliance or perhaps even fraudulent. It also does not create an incentive to stop the unknown uploaders from flooding the market.[7]

More importantly, Spotify's approach addresses only Spotify. Proper verification at the distributor level would benefit every downstream music service, including services that do not impose a 1,000-stream royalty threshold.[8]

The DSPs should be required to enforce the distribution workflow rather than use recommendation algorithms and royalty thresholds to compensate for failures at the point of entry.

ARI recommends proportionate, risk-based verification of customer identity consistent with "Know Your Customer" requirements designed to protect against money laundering, among other things, claimed distribution authority, and ultimate payees, with enhanced scrutiny of extraordinary upload volumes, inconsistent ownership claims, repeat offenders, and other objective indicators of risk. The harms from this KYC failure may be measured in a number of forms of fraud which we now turn to.

II. Distinct Forms of Streaming Fraud and the Responsibilities of Distributors and DSPs

Streaming fraud is not one single phenomenon. Different schemes exploit different vulnerabilities in the streaming distribution and royalty system. Treating them as one obscures both the injury to legitimate artists and the intermediary best positioned to prevent it. Distributors control the entry of recordings and associated rights claims; DSPs control artist-profile associations, playlists,

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[7] Deezer reported in July 2026 that it was receiving approximately 90,000 fully AI-generated tracks daily, representing more than half of new music deliveries on peak days. Deezer specifically identified Suno and Udio among the generative AI systems whose outputs its detection technology can identify, although it did not disclose the proportion attributable to either service. These figures illustrate the industrial scale at which AI-generated recordings are entering the distribution pipeline and the importance of verifying provenance and distribution authority before delivery to DSPs. See *Deezer: AI Music Has Surpassed 50% of New Music Uploads for the First Time*, Deezer Newsroom (July 21, 2026), https://newsroom-deezer.com/2026/07/ai-music-exceeds-50-percent-daily-uploads-deezer/.

[8] Although this Comment does not separately address the provisions concerning "User Manipulation" in 37 C.F.R. § 385.2, those provisions warrant further consideration by both the Copyright Office and the Copyright Royalty Judges. The regulations expressly exclude plays resulting from manipulation from the definition of royalty-bearing "Plays" and define "User Manipulation" to include conduct artificially distorting play counts through automated means, including bots. The interaction between these provisions, AI-generated recordings, and the administration and distribution of statutory mechanical royalties deserves closer examination, particularly where fraudulent activity may distort royalty allocations or divert compensation from legitimate copyright owners.

listening data, and royalty accounting. Effective safeguards must follow that division of control. We will consider a few of the common hustles for fraudsters.

Recording Piracy and Royalty Diversion

In this scam, fraudsters copy existing sound recordings from CDs, digital downloads, or other media and submit them through distribution accounts while falsely claiming the right to monetize them. An unauthorized copy may be uploaded under a different title or artist name, creating a competing listing that pays the fraudster for actual listening. Alternatively, the uploader may use the original artist name and metadata, producing duplicate releases or conflicting rights claims. The harm is not necessarily just artificial streaming: it is collecting royalties on a recording the uploader does not own or control.

Distributors should authenticate the uploader, verify the uploader's authority to distribute the subject recordings, compare incoming audio against existing repertoire through acoustic fingerprinting, and investigate conflicting claims before delivery (similar to YouTube's ContentID). DSPs should flag duplicate audio and conflicting deliveries across distributors, prevent unauthorized changes to established royalty accounts, and preserve disputed payments while claims are resolved. The distributor verifies the right to deliver; the DSP protects the catalog and royalty accounting already on its service.

AI-Generated Cover Recordings and Catalog Appropriation

A related but distinct tactic is to generate stylistically transformed versions of familiar albums or songs and distribute them as purported covers. One example is an apparently AI-generated dream-pop version of Camper Van Beethoven's album *Key Lime Pie*. Unlike unauthorized copying of a master, such a recording may reproduce an underlying musical composition without reproducing the original sound recording. A cover is not inherently fraudulent, nor does AI use alone establish infringement. The concerns arise from inaccurate attribution, unsupported claims to rights or royalties, misleading artist associations, or failures to license the underlying compositions as required.

Distributors should verify the uploader's identity, identify the underlying compositions and songwriters accurately, obtain reliable information concerning licensing and claimed authorship, and disclose material AI use in standardized metadata. DSPs should ensure that purported covers are not misrepresented as authentic performances by the original artist or automatically associated with that artist's profile. These controls protect lawful cover recording practices while preventing false claims to established catalogs.

Artist Identity and Audience Hijacking

Fraudsters may associate unauthorized recordings, including potentially AI-generated performances, with the profiles of established or deceased artists.[9] For example, an uploader may

[9] See Emanuel Maiberg, *Spotify Publishes AI-Generated Songs From Dead Artists Without Permission*, 404 Media (July 21, 2025), https://www.404media.co/spotify-publishes-ai-generated-songs-from-dead-artists-without-permission/ (documenting the appearance of a purported new recording, "Together," on the official Spotify artist profile of Texas songwriter Blaze Foley, who died in 1989, without authorization from the label administering his recordings and artist profile, and reporting a similar incident involving deceased songwriter Guy Clark, who died in 2016). Craig McDonald, owner of Lost Art Records, which

submit a newly generated recording under a deceased performer's name and cause it to appear among the artist's legitimate releases, thereby exploiting followers, reputation, and recommendation history. The fraudulent recording need not copy an existing master; the misappropriated asset is the artist's identity and audience, and royalties may flow to an unrelated uploader.

One example of artist-profile hijacking involved the late Academy Award-winning film composer Alex North encountered by ARI Director Abby North. In July 2025, a member of North's family discovered a discussion posted on May 18, 2025, on a film-score website announcing what appeared to be a new release by the composer, entitled *The Life of Me*. One participant expressed enthusiasm about the purported discovery, commenting, "This looks really promising, love to hear new stuff from Mr. North!"

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manages Foley's recordings and Spotify presence, confirmed that the purported Foley recording was not authentic. Spotify subsequently removed the recording under its Deceptive Content policy. *See also* Alex Rigotti, *AI-Generated Songs Are Being Added to Dead Musicians' Pages on Spotify Without Permission*, NME (July 22, 2025), https://www.nme.com/news/music/ai-generated-songs-are-being-added-to-dead-musicians-pages-on-spotify-without-permission-3879795; Crystal Koe, *Spotify Posting AI-Generated Songs of Dead Artists Without Permission, New Report Reveals*, MusicTech (July 22, 2025), https://musictech.com/news/music/spotify-ai-generated-songs-dead-artists/ (discussing the Foley and Clark incidents and the apparent use of fabricated recordings and AI-generated artwork). These incidents were not isolated. *See* Joe Wilkins, *Spotify and YouTube Profiles of Legendary Jazz Musicians Hijacked by AI Waifu Spam*, Futurism (Aug. 31, 2026), https://futurism.com/artificial-intelligence/spotify-youtube-music-jazz-musicians-ai-waifu-spam (reporting that Spotify, YouTube, and Amazon Music artist profiles associated with historical jazz musicians displayed newly uploaded, apparently AI-generated recordings falsely attributed to those artists, including two purported new recordings by alto saxophonist Sonny Criss, who died in 1977, and four purported singles by clarinetist Jimmie Noone, who died in 1944; identifying accompanying synthetic artwork and questionable composer and publisher metadata; and reporting Spotify's subsequent removal of disputed releases from the affected artist profiles); *see also* Music in Africa Found., *AI Spam Tracks Uploaded to Profiles of Deceased Jazz Musicians*, Music in Africa (Sept. 2, 2026), https://musicinafrica.net/magazine/ai-spam-tracks-uploaded-to-profiles-of-deceased-jazz-musicians/ (describing the same apparent manipulation of deceased artists' identities across multiple streaming services); Ashley King, *Multiple YouTube, Amazon Music, and Spotify Profiles of Jazz Legends Were Hijacked to Churn Out AI Slop*, Digital Music News (Aug. 31, 2026), https://www.digitalmusicnews.com/2026/08/31/jazz-legends-streaming-profiles-ai-slop/ (reporting Spotify's acknowledgment of the incidents and its development of an opt-in Artist Profile Protection mechanism). These reports illustrate a distinct species of streaming fraud: the submission of purportedly new recordings falsely attributed to established artists, including deceased artists who could not possibly have authorized or performed the recordings. The fraud exploits the authority of an established artist identity, the automated ingestion of third-party distributor submissions, and the apparent legitimacy conferred by placement in an existing artist's official discography. It does not necessarily depend on copying an existing sound recording, reproducing a copyrighted composition, or generating an output substantially similar to a protected work. Rather, the misrepresentation concerns the identity, authority, provenance, and authenticity of the purported recording. The reports further demonstrate that removing falsely attributed recordings after discovery is not equivalent to verifying the submitting party's authority before publication. These incidents warrant examination of distributor authentication obligations, digital service provider verification and notice procedures, controls over changes to artist-profile metadata, and the allocation of responsibility when fraudulent submissions are accepted and commercially distributed. The cited reporting establishes false attribution to artist profiles but does not independently establish placement on editorial or algorithmic playlists, the number of streams generated, or the amount of royalties, if any, diverted.

The family member subsequently confirmed that the recording, which had been released on Spotify on May 15, 2025, was *incorrectly associated with North's official artist profile.* The composition was not written by North, who died in 1991, and the release had no legitimate connection to his musical catalog.

The subject recording had been delivered to Spotify through the digital distributor DistroKid. Upon receiving a complaint from the family member requesting that the recording be disassociated from North's artist profile, Spotify responded promptly and removed the release. Although Spotify's response was effective *once the misattribution was reported*, the incident illustrates how an unauthorized recording can be distributed under a deceased composer's identity, appear on an established artist profile, and mislead listeners before *the artist's representatives* become aware of the problem—not the distributor, not the DSP, but the artist's heirs. It also underscores the importance of distributor-level identity verification and proactive measures to prevent fraudulent attribution, rather than relying exclusively on rights holders and estates to discover and report such misuse.

Distributors should authenticate the authority of anyone delivering a release under an established artist's name, including appropriate representative or estate authorization where applicable. DSPs should independently control associations with established artist profiles, flag anomalous releases, and provide expedited procedures to remove unauthorized associations and correct misdirected royalties. A matching artist name in supplied metadata is not proof of authority to occupy that artist's profile. Record companies and bricks and mortar retailers just don't seem to have these problems; why do DSPs?

Playlist-Based Stream Laundering

Fraudsters create playlists interspersing recordings they control with well-known, legitimately popular tracks and then direct bots to play the playlists. Automated accounts generate plays for both categories of recordings. The familiar tracks provide a plausible listening context, while the perpetrator seeks artificial stream counts and royalties on the recordings the perpetrator controls. When a DSP invalidates suspicious playlist or account activity, innocent artists' tracks may also lose counted plays. Bot-generated plays may not themselves be entitled to royalties owed to those legitimate artists; the additional danger is that overbroad detection or accounting adjustments may discount genuine listening or wrongly penalize innocent rights holders.

DSPs bear primary responsibility for detecting this manipulation because they control playlist histories, listening events, account relationships, and royalty calculations. They should distinguish invalid activity from genuine consumption and identify the financial beneficiaries rather than treating every recording in a suspect playlist as culpable. Distributors should investigate customers whose recordings repeatedly benefit from suspicious activity, verify the ultimate payees, and cooperate with DSP inquiries. Innocent artists should have meaningful access to the reasons for adverse adjustments and a process for correcting errors.

Allocating Responsibility and Protecting Legitimate Creators

These schemes require distinct remedies: recording-rights verification for copied masters, composition and metadata checks for purported AI covers, authenticated artist-profile control for identity hijacking, and account-level listening analysis for playlist manipulation. Distributors

should police who and what enters the system; DSPs should police how recordings are presented, consumed, and monetized after delivery. Both should preserve relevant records, share sufficiently specific findings, and protect disputed payments while providing meaningful review. Neither should shift the consequences of its own enforcement failures to innocent creators. It is likely that if questioned, DSPs and distributors will point to efforts they make to reduce fraud, which they probably are implementing. Whatever they are doing, it clearly is not working.

III. Know the Content: AI Provenance and Statutory Royalty Eligibility

The Notice specifically asks[10] about metadata standardization and labeling content ineligible for statutory royalties. These questions are especially important when machine-generated recordings can be manufactured and uploaded in extraordinary quantities.

AI-generated music is not inherently fraudulent. As the Copyright Office has already recognized,[11] human creators may lawfully employ AI as an assistive tool and works incorporating AI-generated material may qualify for copyright protection where sufficient human authorship is present. The relevant distinctions are therefore not simply between AI and non-AI recordings, but between authorized and unauthorized uses, copyrightable and uncopyrightable expression, and legitimate distribution and fraudulent exploitation.

As the foregoing examples demonstrate, AI-generated recordings may be used in fraudulent schemes, but neither the presence nor the absence of AI alone establishes whether a particular recording or transaction is fraudulent.[12]

But accepting an audio file for distribution does not establish that its uploader owns a copyright, possesses distribution authority, or qualifies for a particular statutory royalty.[13]

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[10] Music Streaming Fraud, 91 Fed. Reg. 64,188, 64,192 (Question 7(c)–(d)) (Oct. 7, 2026) (notice of inquiry).

[11] U.S. Copyright Office, Copyright and Artificial Intelligence, Part 2: Copyrightability iii, 1, 12 (2025)

[12] See, e.g, International Federation of the Phonographic Industries, *Music Community Introduces New Labelling Program to Distinguish Generative AI in Sound Recordings* (July 10, 2026), https://www.ifpi.org/music-community-introduces-new-labelling-program-to-distinguish-generative-ai-in-sound-recordings/ (announcing voluntary, track-level labeling standards distinguishing "AI-Generated" recordings, in which generative AI produces the entirety or primary portion of the recording's creative elements, from "AI-Assisted" recordings created substantially by human performers; contemplating implementation through metadata and delivery systems involving digital service providers, distributors, and aggregators); *see also* IFPI, *IFPI Rolls Out Global Principles for the Eligibility of Recordings Developed Using AI in Official Music Charts Worldwide* (July 30, 2026), https://www.ifpi.org/ifpi-rolls-out-global-principles-for-the-eligibility-of-recordings-developed-using-ai-in-official-music-charts-worldwide/ (establishing chart-eligibility criteria requiring lawful and authorized AI services, substantially human-made recordings, absence of stream manipulation concerns, compliance with copyright and personality rights, and appropriate disclosure of generative AI use to consumers).

[13] Indeed, nothing prevents DSPs from adopting their own business practices restricting or prohibiting the delivery of AI-generated recordings, regardless of whether those recordings might otherwise qualify for copyright protection. DSPs could establish contractual conditions of distribution requiring disclosure of AI-generated content or declining to accept specified categories of such recordings altogether. Such policies would allow DSPs to address the problem at the point of delivery, rather than incurring the substantial expense of detecting, identifying, and removing questionable recordings after they have entered the service. Copyright eligibility, however remote, does not create an entitlement to distribution.

We keep coming back to essentially the same point, which is that incentivizing the market to produce actionable information at the right point in the workflow may efficiently and conclusively solve some if not much of the problem the Office has identified. Distributors should obtain reliable provenance information before delivery and transmit standardized metadata identifying materially AI-generated recordings. That information should follow the recording through streaming services and royalty administrators.

If DSPs do not want AI slop on their platforms, they have the power to set conditions for their distributors (particularly in the case of Spotify and Distrokid which is part owned by Spotify). If the conditions are not met, the distributor should anticipate being penalized and if necessary, cut off. If there is no corrective action taken by anyone in the chain, it should be clearly apparent that artist complaints alone have no, as in zero, impact on changing behavior. Which may tell you everything you need to know.

Statutory royalty eligibility must be evaluated incrementally. A human songwriter retains copyright in an underlying musical composition even when an AI-generated recording embodies it. Conversely, a wholly machine-generated sound recording should not acquire a statutory copyright royalty entitlement premised on rights that do not exist.[14]

The Office should examine practical mechanisms for distinguishing human-created, AI-assisted, mixed, and wholly machine-generated recordings, with appropriate safeguards against erroneous classification. Alternatively, it may be useful to encourage distributor-DSP workflow rules that block malicious distribution of objective categories of works.

IV. Follow the Money: Beneficial Ownership and Financial Integrity

Streaming fraud is also a financial-integrity problem. Streaming fraudsters do it for the same reason Willie Sutton robbed banks—because that's where the money is. Cut off the money and you may solve much of the problem.

Royalty payments can pass through distributors, digital music providers, collecting societies, administrators, and payment processors before reaching an ultimate beneficiary whose identity may be obscured.

Generative AI creates the possibility of an almost entirely synthetic commercial transaction: manufactured recordings, manufactured listening activity, but genuine royalty payments. The Notice discusses criminal proceedings involving artificial streaming and concerns about money laundering and organized crime. These examples demonstrate why fraud prevention cannot stop at detecting suspicious plays.

Distributors and royalty intermediaries should employ proportionate procedures for identifying beneficial payees, examining anomalous royalty flows, and sharing reliable information about repeat offenders. Artists and songwriters are entirely dependent on digital distributors and DSPs to police streaming fraud because they have neither access to the platforms' detection systems nor control over the distribution and royalty-accounting infrastructure. Yet legitimate artists may bear the consequences twice: first when fraudulent recordings divert listening activity and dilute royalty pools, and again when distributors and DSPs respond with blanket royalty thresholds,

[14] See, e.g., Letter from Suzanne V. Wilson, Gen. Couns. & Assoc. Register of Copyrights, U.S. Copyright Off., to Kris Ahrend, Chief Exec. Officer, Mech. Licensing Collective 2–3 (Apr. 20, 2023).

withheld payments, account suspensions, or other measures that penalize innocent creators alongside bad actors. Artists should not be required to subsidize the industry's failure to prevent fraud at the distribution gateway, nor should they bear the financial burden of correcting mistakes made by the intermediaries on whom they depend. Fraud prevention should place responsibility on the parties best positioned to identify and exclude fraudulent content, while ensuring that legitimate artists retain access to distribution, receive royalties they have earned, and have meaningful remedies when enforcement measures cause them harm. The cure should not become a second injury to the very creators the system is supposed to protect.

These recommendations do not require imposing the entire Bank Secrecy Act framework on music distributors (31 U.S.C. § 5311 et seq.). They recognize that commercial intermediaries responsible for delivering recordings and remitting royalties should know whose business they are conducting and where the money goes.

Most importantly, verification at the distributor level protects the integrity of the entire royalty ecosystem, rather than leaving individual streaming services to develop inconsistent and potentially inequitable responses after questionable content has already been distributed.

V. The Hot Potato Problem: Who Decides Whether AI Music Qualifies for Statutory Royalties?

The Copyright Office has made clear that copyright protection for works containing AI-generated material depends on the existence of sufficient human authorship, determined on a case-by-case basis. The Office has not established a numerical threshold or other objective formula for measuring human contribution. Instead, it examines the nature of that contribution, the operation of the AI system, and the extent to which a human controlled the expressive elements of the resulting work.[15]

That same case-by-case analysis necessarily has consequences for eligibility under the section 115 blanket mechanical license. A musical work that lacks sufficient human authorship to qualify for copyright protection has no copyright owner entitled to statutory mechanical royalties. Merely uploading a sound recording to a streaming platform, supplying songwriter metadata, or registering a purported musical work with the Mechanical Licensing Collective (MLC) cannot confer copyright protection on otherwise uncopyrightable AI-generated expression.

Indeed, the Copyright Office concisely addressed this exact issue in an April 20, 2023 letter to the MLC cited above. The Office explained that when circumstances reasonably suggest that a musical work lacks sufficient human authorship, the MLC should investigate its copyrightability and hold the associated royalties in suspense pending that determination. The Office specifically identified extraordinary volumes of compositions attributed to an individual songwriter over a short period and affirmative indications of AI generation as examples of circumstances warranting investigation.

[15] Copyright Registration Guidance: Works Containing Material Generated by Artificial Intelligence, 88 Fed. Reg. 16,190, 16,192–93 (Mar. 16, 2023).

The problem is that the enormous volume of AI-generated recordings entering the streaming ecosystem raises serious questions about whether this process is happening at all.

Deezer has reported receiving approximately 90,000 fully AI-generated tracks per day, accounting for more than half of daily uploads on peak days. Spotify has likewise reported removing tens of millions of spam tracks, although those figures should not be equated with wholly AI-generated compositions. The sheer volume of machine-generated music creates a substantial risk that claims involving compositions without sufficient human authorship will enter the statutory licensing system without meaningful eligibility review. It is reasonable to infer from the sheer numbers and the "look busy" takedowns that this daily if not hourly flooding of the market has already occurred.

This creates what might be called the Hot Potato Problem. Ultimately, the hot potato lands back in the hands of artists and songwriters.

The AI developer generates the output. The distributor accepts the recording and accompanying metadata, often at industrial scale. The DSP makes the recording available and reports usage. The MLC receives the usage reports, matches recordings to purported musical works, and administers the corresponding royalties. Yet at each stage, the question of whether the underlying musical work actually qualifies for copyright protection may be passed to someone else.

The MLC's own publicly available guidance illustrates the problem. While acknowledging that wholly AI-generated musical works lacking human authorship cannot be registered with the MLC, it also states that the MLC does not independently determine whether a particular work meets the legal threshold for human authorship.[16]

That position raises an obvious question: If the MLC does not make the determination, who does?

There is an important distinction between registration with the Copyright Office and registration of a work in the MLC database. A Copyright Office registration standing alone is not a prerequisite for receiving statutory mechanical royalties. But eligibility for copyright protection is. The absence of a registration requirement cannot become an exemption or safe harbor from the substantive requirement of human authorship.[17]

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[16] The Mech. Licensing Collective, *General Questions About The MLC*, https://help.themlc.com/internal-knowledge-base/what-question-is-your-garticle-answering (last visited Oct. 30, 2026) (stating that the MLC does not independently determine whether a work meets the human-authorship threshold and that wholly AI-generated musical works lacking human authorship are ineligible for registration with the MLC).

[17] *See* Berne Convention for the Protection of Literary and Artistic Works art. 5(2), Sept. 9, 1886, as revised at Paris July 24, 1971, 1161 U.N.T.S. 3 (providing that the enjoyment and exercise of copyright shall not be subject to formalities); Berne Convention Implementation Act of 1988, Pub. L. No. 100-568, 102 Stat. 2853; H.R. Rep. No. 100-609, at 41–42 (1988) (distinguishing copyright protection from registration as a prerequisite to infringement litigation and explaining Congress's decision to preserve the registration requirement for domestic works); *see generally* Jane C. Ginsburg & John M. Kernochan, *One Hundred and Two Years Later: The U.S. Joins the Berne Convention*, 13 Colum.-VLA J.L. & Arts 1 (1988) (examining the United States' accession to Berne and the resulting changes to domestic copyright law). Congress expressly provides that copyright registration is not a condition of protection. 17 U.S.C. § 408(a). The absence of a registration formality, however, does not dispense with the substantive requirements of

Nor does the Copyright Office's letter require individualized examination of every composition before it enters the MLC database. Rather, it calls for investigation when circumstances reasonably indicate that a particular work may lack copyrightable human authorship. But that qualification makes the current flood of AI-generated content more troubling, not less. Extraordinary upload volumes and affirmative evidence of AI generation are precisely the warning signs the Office identified in 2023.

The consequences extend beyond improper payments to individual claimants. Statutory mechanical royalties are calculated and distributed through a system in which eligibility, matching, usage, and ownership information determine the allocation of significant sums of money. Payments to claimants whose purported works lack copyright protection risk diverting royalties from legitimate copyright owners. They may also compound the existing problems of unmatched and unclaimed royalties, particularly where fraudulent or inaccurate metadata frustrates identification of the actual works being exploited.

This is not an argument that every recording involving AI should be excluded from streaming platforms or denied statutory royalties. Human creators can employ AI tools while contributing copyrightable expression. A recording may contain substantial AI-generated material while embodying an independently copyrightable human-authored composition. The inquiry must distinguish the sound recording from the underlying musical work and determine whether the claimed composition satisfies the applicable authorship standard.

That is precisely why a meaningful eligibility process is necessary. The Copyright Office should require the MLC to explain how it has implemented the Office's April 20, 2023 guidance, including:

1. The procedures used to identify musical works presenting credible indications of insufficient human authorship, including unusually prolific claimants and disclosures of AI generation.
2. The number of AI-related copyrightability investigations opened, completed, and pending since the Office issued its guidance.
3. The amounts of statutory royalties placed in suspense as a result of those investigations, and the amounts subsequently released, adjusted, or denied.
4. The extent to which the MLC obtains information from distributors and DSPs identifying AI-generated or AI-assisted recordings and the underlying musical works.
5. The procedures by which copyright claimants establish sufficient human authorship when their works have been flagged for investigation, including opportunities to contest adverse determinations.

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copyrightability or establish entitlement to statutory royalties. *See* 17 U.S.C. §§ 102(a), 115(a)(1), (d)(1)(A)–(B), (d)(13)(A) (limiting compulsory licensing to qualifying musical works and providing that the blanket license covers only musical works available for compulsory licensing under § 115). Accordingly, the elimination of registration formalities under Berne does not authorize distribution of statutory mechanical royalties for uncopyrightable AI-generated compositions merely because they have been submitted to the MLC or embodied in recordings delivered to digital music services.

The Office should also consider requiring standardized reporting of AI-generation information through existing distributor and DSP metadata channels, accompanied by appropriate safeguards against false positives and improper withholding of royalties. Congress, of course, should consider providing the support necessary to carry out that vital role.

Congress should support the Office for a very simple reason—Congress forces songwriters to submit to the statutory compulsory license. That market-control decision has consequences. The statutory license is not and should not be allowed to become a copyrightability laundering mechanism. It cannot transform an uncopyrightable AI-generated composition into a royalty-bearing musical work simply because that composition survives the successive automated processes of a distributor, a streaming service, and the MLC.

The Copyright Office has already articulated the relevant principles and advised the MLC how to respond when eligibility is reasonably in doubt. The question now is whether those principles are being operationalized in the statutory licensing system—or whether everyone is simply passing the hot potato to the next participant until somebody gets paid.

V. Interagency Coordination on Financial Fraud, Deceptive Practices, and Organized Racketeering

Because streaming fraud may involve coordinated schemes to obtain royalty payments through interstate electronic communications, the Office should coordinate with the Department of Justice and the Federal Trade Commission in developing recommendations arising from this inquiry. Such conduct may implicate the federal wire fraud statute, 18 U.S.C. § 1343, and Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45.

The Office should also recommend that DOJ evaluate whether existing predicate offenses under the Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. §§ 1961–1968, adequately address organized, industrial-scale streaming fraud. Wire fraud and certain money-laundering offenses are already RICO predicates, but the increasing use of coordinated distribution accounts, automated streaming networks, false identities, and royalty-payment arrangements warrants examination of whether targeted statutory refinements or enforcement guidance would improve accountability.

Any such recommendations should distinguish intentional participation in fraudulent schemes from ordinary payment processing or legitimate distribution activity. Above all, enforcement should target the organizers and beneficiaries of fraud rather than impose additional financial penalties on innocent artists and songwriters who depend on DSPs and distributors to protect the integrity of the royalty system.

VI. Congressional and Executive Oversight of the MLC

Congress need not stand on the sidelines while the Mechanical Licensing Collective administers billions of dollars in other people's money. The MLC is a creature of federal statute, exercising responsibilities delegated by Congress under the Music Modernization Act. Congress retains the

authority to amend those responsibilities, impose additional transparency and accountability requirements, and conduct oversight of the MLC's administration of the statutory license.

There is also an important constitutional dimension to executive oversight. In his October 11, 2018, signing statement accompanying the MMA, President Trump expressly characterized MLC directors as inferior officers of the United States under the Appointments Clause and stated that the Librarian of Congress must retain ultimate authority to appoint and remove them.[18] The Copyright Office subsequently acknowledged that interpretation in its notice soliciting applications for designation of the MLC.[19] As discussed in *Defiance or Collaboration? The Role of the Presidential Signing Statement in MLC Board Appointments*, the MLC's private nonprofit corporate form does not necessarily insulate its directors from constitutional accountability.[20]

Although the signing statement is not itself binding law, the President's interpretation reinforces the substantial governmental interest in supervising an entity entrusted with administering a federal statutory license. The Office's existing supervisory authority under 17 U.S.C. § 115(d)(12) provides an additional statutory basis for oversight.

Congressional oversight and executive supervision are complementary, not mutually exclusive. Congress can investigate the MLC's finances and strengthen its statutory safeguards; the Copyright Office and Librarian of Congress can exercise their respective existing authorities. If the MLC has already used unclaimed songwriter royalties to finance operating shortfalls, both branches have compelling reasons to demand a public accounting.

Congress created the MLC. The Executive Branch designates and oversees its board members. The Copyright Office has ostensible oversight authority over it. None should accept the proposition that a federally authorized collective quango may spend other people's money without meaningful public accountability.

Conclusion

Streaming fraud is not simply a problem of detecting suspicious listening activity after royalties have been calculated. It is a failure of accountability throughout the distribution and payment chain, beginning with the admission of recordings into the digital marketplace. The most effective response is to prevent fraudulent content from entering that marketplace in the first place through meaningful customer identification, verification of distribution authority, reliable provenance information, and financial transparency.

DSPs and distributors control the infrastructure through which recordings reach audiences and royalties reach creators. They are therefore better positioned than individual artists and

[18] Statement on Signing the Orrin G. Hatch–Bob Goodlatte Music Modernization Act, 2018 Daily Comp. Pres. Doc. 692, at 1 (Oct. 11, 2018).
[19] Designation of Mechanical Licensing Collective and Digital Licensee Coordinator, 83 Fed. Reg. 65,747, 65,750 (Dec. 21, 2018) (acknowledging the presidential signing statement's interpretation of the Appointments Clause and its implications for subsequent MLC board appointments).
[20] Christian L. Castle, *Defiance or Collaboration? The Role of the Presidential Signing Statement in Mechanical Licensing Collective Board Appointments*, 29 Tex. Ent. & Sports L.J. 4 (2020),

songwriters to prevent, identify, and remedy fraudulent activity. Legitimate creators should not suffer twice—first through the diversion or dilution of royalties caused by fraud, and again through indiscriminate monetization thresholds, withheld payments, or distribution restrictions adopted in response to it. Fraud prevention must protect the integrity of the royalty system without transferring the costs of industry enforcement failures to innocent creators.

The Office should also recognize that industrial-scale streaming fraud may implicate federal law beyond copyright, including wire fraud, unfair or deceptive commercial practices, and potentially organized racketeering activity. Accordingly, the Office should coordinate with the Department of Justice and Federal Trade Commission in developing recommendations, including consideration of whether existing RICO predicates and enforcement mechanisms adequately address coordinated streaming-fraud enterprises or warrant targeted refinement.

Ultimately, the objective should be to place responsibility where control resides with the intermediaries that admit recordings, administer distribution, monitor exploitation, and disburse royalties, and with the individuals and enterprises that knowingly perpetrate fraud. A coordinated approach emphasizing prevention, accountability, appropriate law enforcement, and meaningful protection for legitimate creators would serve both the integrity of the streaming marketplace and the purposes of copyright law.

Respectfully submitted,

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