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New Bills Would Require Radio To Pay Royalties
by Andrew Noyes

Lawmakers in the House and Senate on Tuesday took the first step in a process to eliminate a longstanding exemption granted to AM and FM radio stations, which allows them to broadcast music without paying royalties.

Under current copyright law, webcasters, satellite radio services and cable companies pay artists for use of their sound recordings, but over-the-air radio does not. The National Association of Broadcasters has described the effort as a "tax" on local stations.

The bills, S. 2500 and H.R. 4789, were introduced respectively by Senate Judiciary Committee Chairman Patrick Leahy, D-Vt., and California Democrat Howard Berman, chairman of the House Judiciary Subcommittee on Courts, the Internet and Intellectual Property.

Both panels have held hearings on the topic, which is being pushed by the Recording Industry Association of America-backed musicFirst coalition and others. Country artist Lyle Lovett, folk musician Judy Collins and soul singer Sam Moore each have testified on behalf of the group.

In addition to closing the royalty loophole, the bills propose an annual flat fee as a payment option for noncommercial radio stations, including public, educational and religious broadcasters. Commercial stations whose annual revenue is less than \$1.25 million also would get reprieves.

"The work of songwriters is promoted by the airplay, but no one seriously questions the right of the songwriter to be paid for the use of his or her work," Leahy said in a statement. "The time has come to end this inequity."

Senate Judiciary ranking Republican Arlen Specter of Pennsylvania said he has not decided whether the legislation strikes the right balance and plans to analyze it further. He said changes to the law are necessary, but more discussions are needed.

Utah Republican Orrin Hatch, a co-sponsor of the legislation, said when weighing the value of content and terrestrial radio, "you can't have one without the other, and both make significant contributions to our culture and economy."

Berman added that it is "only fair that we work toward parity for the different technology platforms that deliver that music." He noted, however, that lawmakers "have a long road ahead" and they have just started a lengthy process.

John Simson, who heads the digital-royalty collector SoundExchange, said "any business needs to pay for its inputs" and industries that profit off the labor of others should pay the workers.

NAB spokesman Dennis Wharton said recording labels have a legacy of "Ebenezer Scrooge-like exploitation" of artists, and they are now "singing a new holiday jingle to offset their failing business model." His trade group will "aggressively oppose" the bills, he said.

A House resolution introduced in late October, which states that Congress "should not impose any new performance fee, tax, royalty or other charge" for local radio stations, has garnered the support of 127 members.

The Free Radio Alliance, which represents several large broadcasting companies and state-based radio groups, said the bills amount to "bad public policy." If passed, they could threaten local radio stations' survival and reduce programming quality and diversity, the group said.