



H.R. 848 – The Performance Rights Act Providing a Long-Overdue Change in the Law

Over-the-air radio stations have been using the music of recording artists and owners to build their listener base and advertising revenue without sharing any of that revenue to compensate the creators. This is unlike all other forms of radio in the U.S., unlike all other copyrighted works, and unlike the case in every other developed country. This extraordinary windfall for broadcasters at the expense of music creators is due to an unfair and unfortunate anomaly in U.S. law.

H.R. 848, The Performance Rights Act, was introduced by Judiciary Chairman John Conyers and Government Oversight and Reform Ranking Member Darrell Issa, along with Chairman Howard Berman, and Representatives Marsha Blackburn, Jane Harman, and John Shadegg. It currently has 46 co-sponsors, including 8 Committee Chairs. The Performance Rights Act will:

Provide for compensation to creators for the value of their product. Fundamental fairness dictates that recording artists of all types, including royalty artists and session musicians and singers, should be compensated for the use of their recordings, as should the copyright owners in those recordings. Achieving fair treatment from domestic over-the-air radio will also help creators obtain payment of foreign broadcast royalties.

Bring parity to all forms of radio. Under current law, recording artists and owners receive compensation for the use of their music by satellite radio, cable radio channels, and Internet webcasts. By contrast, over-the-air broadcasters have enjoyed an outright exemption from radio's requirement to compensate creators. H.R. 848 removes the broadcaster exemption, removing the artificial distinction between radio services when it comes to compensating the creators of the music they use and assuring that all radio platforms are treated equally.

Provide special accommodations for small stations. H.R. 848 in no way disadvantages or overburdens small radio stations. Instead, it offers the following special accommodations to assure balance and fairness to broadcasters and artists:

- **Small commercial radio stations:** Small commercial stations would pay only \$5,000, \$2,500, \$500 or \$100 per year, depending on the amount of gross annual revenue, and would pay no royalties.
- **Noncommercial radio stations:** Noncommercial stations such as NPR and college radio stations would pay only \$1,000, \$500 or \$100 per year, and no royalties.
- **Stations pay only for the music they use:** Stations that make only incidental uses of music, such as "talk radio" stations, would not pay for that music. Stations that make some use of music, but do not have it as their dominant format, would be able to take advantage of a per program license option so that they pay only for the music they use.
- **Religious services:** Religious services that are broadcast on radio would be completely exempt.

Ensure no adverse effect on songwriters. H.R. 848 makes clear that a new right for recording artists and owners cannot adversely affect the rights of, or royalties payable to, songwriters or musical work copyright owners. Unlike artists and recording owners, songwriters and music publishers have always been compensated by broadcasters.