The CLASSICS Act

*The **C**ompensating **L**egacy **A**rtists for their **S**ongs, **S**ervice, and **I**mportant **C**ontributions to **S**ociety Act*

Overview: When a musician records a song today, federal law grants a copyright in the "sound recording"—the captured version of the performance, which is a distinct type of copyright from the one that covers musical notes and lyrics. But for historical reasons, sound recordings made before February 15, 1972 are governed by state, not federal, law. In recent years, disputes have arisen as to the scope of those state law rights when sound recordings are performed by digital music services, creating significant uncertainty for artists, record labels, and music distributors.

The CLASSICS Act would end that uncertainty by bringing digital performances of "pre-1972" sound recordings into the federal system. It would allow these performances of sound recordings to be licensed under the same statutory scheme as all other sound recordings: digital radio providers pay a royalty rate set by the Copyright Royalty Board for recordings they play, which is then distributed to performers and record labels. This act would ensure that digital music distributors who play by the rules have the freedom to continue to spin classic recordings by the likes of the Beatles, Jimi Hendrix, and Janis Joplin.

Supporters: American Association of Independent Music, the Recording Industry Association of America, Pandora, musicFIRST, the Internet Association, the Recording Academy, SoundExchange, Screen Actors Guild-American Federation of Television and Radio Artists, American Federation of Musicians, the Content Creators Coalition, the Future of Music Coalition, the Rhythm and Blues Foundation, the Living Legends Foundation.

Section-by-Section Summary

Section (a) establishes a federal intellectual property interest in which the owners of pre-1972 sound recordings have the exclusive right to digitally transmit them. This eliminates the arbitrary distinction between pre- and post-1972 sound recordings, ensuring that pre-1972 artists and record labels will receive royalties from digital performances of their recordings, just as owners of more modern sound recordings do now.

Section (b) makes the newly created federal right for pre-1972 recordings available under the same "compulsory license" regime that is available for certain digital performances of other sound recordings. This is important for creating a single, nationwide system for sound recordings.

Section (c) guarantees that, if a record label and digital music platform reach a direct deal covering the same sort of rights available through the compulsory license, artists will get paid the same share of royalties as they would get under the compulsory license regime. This will help provide certainty to artists and digital music platforms.

Section (d) provides that this new federal system will displace the patchwork of state copyright laws going forward. As part of this transition, digital music providers will have the option to pay royalties for three years' worth of past performances in order to settle outstanding legal disputes.

Section (e) ensures that various "safe harbors" and other copyright defenses such as "fair use" and provisions from the Digital Millennium Copyright Act for online services apply to this new federal right for pre-1972 recordings. This will provide additional legal certainty and uniformity.

Section (f) provides that this new federal right should be considered an "intellectual property" right for the purpose of another federal "safe harbor" for online services, section 230 of the Communications Decency Act.