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April 19, 2001

Mr. David Carson, Copyright General Counsel
Office of the Copyright General Counsel
PO Box 70977, Southwest Station
Washington, DC 20024

Dear Mr. Carson:

The Nashville Songwriters' Association, International (NSAI), the largest not-for profit songwriters' association in the world, represents over **fifteen thousand current and former songwriter members**, with chapters in over 100 U.S. cities and in four countries.

We are responding to your request for public comments on the interpretation and application of the mechanical and digital phonorecord compulsory license, 17 U.S.C. 115. Our comments pertain specifically to payment of royalties to composers and publishers for On-Demand Streaming and Limited Downloads.

Based on technology, as it exists today, we believe that:

1. If the delivery of the downloaded song (file) is random, in that the user cannot choose the song being played at a given time, and a permanent copy is not made, then it is a performance.
2. If the delivery of the downloaded song (file) is limited by time (i.e. 30 days) or # of listens, then it is a mechanical, though a lower than full mechanical rate would probably apply. It is our understanding that the NMPA has asked for that rate to be arbitrated, and we support that request.
3. If the delivery of the downloaded song (file) is interactive, in that, for a subscription fee a listener can choose to listen to a specific song at any time, then it should be subject to the full mechanical rate, because it replaces the need for the listener to buy a hard copy of the song.

We urge the Copyright Office to continue to re-open these issues as technology evolves and to allow our position to similarly evolve as the technical landscape changes.

We also urge you to ensure that Songwriters are fairly compensated for all the uses of their music as applicable under the Copyright Law.

Thank You,

Barton Herbison, Executive Director
Nashville Songwriters Association International