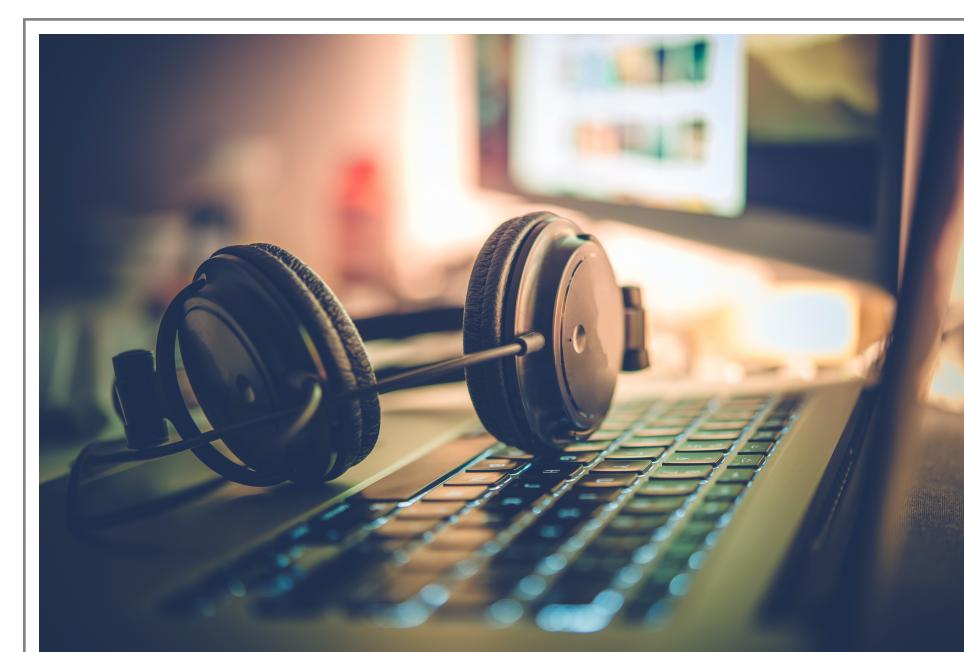


## Musical Works Modernization Act

Title I of the Orrin G. Hatch–Bob Goodlatte Music Modernization Act, the Musical Works Modernization Act, replaces the existing song-by-song compulsory licensing structure for making and distributing musical works with a blanket licensing system for digital music providers to make and distribute digital phonorecord deliveries (e.g., permanent downloads, limited downloads, or interactive streams).



### Mechanical Licensing Collective

The legislation establishes a “mechanical licensing collective” (“MLC”) to administer the blanket license, and a “digital licensee coordinator” (“DLC”) to coordinate the activities of the licensees and designate a representative to serve as a non-voting member on the board of the MLC. The MLC will receive notices and reports from digital music providers, collect and distribute royalties, and identify musical works and their owners for payment. The MLC will establish and maintain a publicly accessible database containing information relating to musical works (and shares of such works) and, to the extent known, the identity and location of the copyright owners of such works and the sound recordings in which the musical works are embodied. In cases where the MLC is not able to match musical works to copyright owners, the MLC is authorized to distribute the unclaimed royalties to copyright owners identified in the MLC records, based on the relative market shares of such copyright owners as reflected in reports of usage provided by digital music providers for the periods in question.

The operational costs of the MLC will be paid for by digital music providers through voluntary contributions and an administrative assessment set by the Copyright Royalty Judges. The MLC and the DLC are authorized to participate in proceedings before the Copyright Royalty Judges to establish the administrative assessment.

The Copyright Office conducted a rulemaking designating the Mechanical Licensing Collective, Inc. as the MLC, and the Digital Licensee Coordinator, Inc. as the DLC, with the Librarian’s approval.

### Notices to Obtain License

The existing system for filing notices of intention to obtain a compulsory license for making and distributing phonorecords of nondramatic musical works (“NOIs”) with the Copyright Office on a song-by-song basis will remain in place for non-digital uses (e.g., CDs, vinyl). However, the Office will no longer accept NOIs for making a digital phonorecord delivery of a musical work, such as in the form of a permanent download, limited download, or interactive stream. Instead, after a transition period, during which the Register will issue relevant regulations and designate key entities to carry out administration of the license, users will be able to obtain a blanket license (covering all musical works available for compulsory licensing) for digital phonorecord deliveries by submitting a notice of license to the MLC. While the Copyright Office will no longer accept NOIs for making a digital phonorecord delivery of musical works, licensees may still serve NOIs directly on copyright owners.

### Interim Period

Prior to the license availability date (January 1, 2021), liability may be limited to royalties due under the compulsory license if the digital music provider complies with certain requirements, including engaging in good-faith, commercially reasonable efforts to identify and locate each copyright owner of a musical work they use on their service.

### Rate Standard

The new rate-setting standard applied by the Copyright Royalty Judges will be a market-based willing buyer / willing seller standard, replacing the policy-oriented 801(b)(1) rate-setting standard.

### PRO Rate Court Proceedings

The section 114(i) provision that prohibits PRO rate courts from considering licensing fees paid for digital performances of sound recordings in its ratesetting proceedings for the public performance of musical works is partially repealed. This repeal does not apply to radio broadcasters. Additionally the legislation changes how judges in the Southern District of New York are assigned to the rate court proceedings set forth in the consent decrees for ASCAP and BMI, by assigning each new rate dispute on a rotating basis instead of all disputes being handled by the same judge.

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