

Testimony of

# Alice Peacock

November 13, 2007

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ALICE PEACOCK  
SINGER-SONGWRITER, PRESIDENT, CHICAGO CHAPTER, THE RECORDING ACADEMY  
BEFORE THE  
SENATE COMMITTEE ON THE JUDICIARY  
"HEARING ON EXPLORING THE SCOPE OF PUBLIC PERFORMANCE RIGHTS"  
NOVEMBER 13, 2007

Good morning Chairman Leahy, ranking member Specter, and members of the Committee.

My name is Alice Peacock, and I am a singer songwriter from Chicago. I'm also a member of the musicFIRST Coalition, President of the Chicago Chapter of The Recording Academy, and a member of AFTRA. I am truly honored to have the privilege of addressing this distinguished committee about what is one of the most important issues facing those of us in the music community today.

As President of the Recording Academy's Chicago Chapter, I have the honor of working with hundreds of music creators of all types. From those just starting out and hoping to make a career in music, to the few--I should note, the very few--who have achieved superstar status.

But the vast majority are just like me: what I call the great middle class of artists. Like other Americans, we go to work every day to earn a living and support our families. Like other Americans, we produce a product that people value and want to buy. And like other Americans, we expect to be compensated when businesses make a profit from our work product.

Music may be our calling, but make no mistake, it's also our job.

And for the most part, artists are compensated for their work. When I sell a record, I make a royalty. When I perform a concert, I receive a fee from the promoter. And when my tracks are broadcast on satellite radio, Internet radio or cable, I receive a performance royalty.

All this seems fair. But there is one glaring, inexplicable exception to the notion of fair payment:

There is no performance right for sound recordings for terrestrial radio. AM and FM radio--the platforms I grew up with and grew to love--do not compensate me when they broadcast my recordings.

There are people more qualified than I to address the legal, historic and economic background of this issue. I'm not an expert in copyright law, but I do understand the concept of basic fairness. If a business uses recorded music to earn advertising revenue, then it should compensate those who created that recorded music. It's that simple.

Now I understand that this concept nearly always turns into a discussion about promotion. Broadcasters say radio promotes record sales, so they shouldn't have to pay a royalty. I just don't get that. Every performance has the potential to be promotional, but why should that make a difference?

I just got back from a gig in Grand Rapids, MI. Imagine if the club owner used the same logic about promotion. What if at the end of the night, after I had filled his club with paying customers, he told me he didn't have to pay me because my performance helped promote my record sales. Such a scenario would be unacceptable by any standard.

Frankly, the promotion argument sounds a little silly. Last week I bought a pair of Nike shoes. I wear them everywhere--well, except to Senate hearings. With the Nike logo on my feet, I am probably promoting their brand wherever I go. Can you imagine if I decided not to pay for the shoes on the grounds that my promoting Nike should excuse me from payment? My refusal to pay would be called "shoplifting." But radio's refusal to pay artists is called "business as usual."

I would like to make one other point, an important point about songwriters, who do enjoy a broadcast performance royalty. I'm also a songwriter, and in addition to the affiliations I noted earlier, I'm a proud member of ASCAP. Many songwriters are not performers, and many performers are not songwriters. These are two different jobs, and (as Congress has legislated) two different copyrights. A new performance right for artists should never be implemented at the expense of the existing right for songwriters. Any new legislation should make this clear. Just as satellite and internet radio pays songwriters and artists, so should terrestrial radio.

Which brings me back to the issue of fairness.

Is it fair that only one platform--the \$20 billion corporate radio industry--be exempt from paying to use the music that is the basis of its business? Is it fair that sound recordings are not protected with a performance right when movies, literary works and other copyrighted works are? And is it fair that American artists lack this basic right when our counterparts in every other developed country enjoy fair compensation?

Everyone in this room knows the answer is no. But you, distinguished Senators, have the power to make it right. On behalf of the great middle class of recording artists, I urge you correct this historic inequity and grant a performance right for sound recordings. It's only fair.

Thank you.