



Written Remarks for the Record
US Senate Judiciary Subcommittee on Intellectual Property
Hearing on “The NO FAKES Act: Protecting Americans from Unauthorized Digital Replicas”
Washington, DC, April 30, 2024

Chairman Coons, Ranking Member Tillis, and members of the Subcommittee,

I am Robert Kyncl, Chief Executive Officer of Warner Music Group (WMG). It’s an honor to be here to discuss the promise of generative artificial intelligence (AI) and the perils of deep fakes with you.

Being here today is something I couldn’t have imagined as a young boy growing up behind the Iron Curtain in communist Czechoslovakia. In 1992, I crossed the Atlantic to attend a state university in New York. There, I met an amazing woman from the Dominican Republic, who eventually became my wife, and we now have two American daughters. I’m a proud U.S. citizen, and I have a deep appreciation for the freedoms at the heart of this great country, having grown up without them.

Headquartered in New York City, Warner Music Group is home to an extraordinary roster of artists and songwriters who are moving culture across the globe, including legends such as Led Zeppelin, Ray Charles, Aretha Franklin, Prince, and Fleetwood Mac, iconic stars such as Ed Sheeran, Cardi B, Janelle Monae, Bruno Mars, Coldplay, Green Day, and Dua Lipa, and songwriters including Quincy Jones, Liz Rose, Justin Tranter, and Gamble & Huff. Our 2,400 US-based employees work passionately every day to find and develop some of the world’s greatest artists and songwriters, and to deliver incredible music and experiences that enrich, inspire, and uplift millions of lives around the world.

I am honored to be testifying today next to Warner recording artist FKA Twigs, who has worked tirelessly to develop and hone her artistry, as both a groundbreaking musician and a talented actress.

I am well-positioned to speak to issues regarding the intersection of technology and music. For the past 25 years, I’ve been a tech and media executive. I joined Warner Music Group as CEO in January 2023 after 12 years at YouTube and eight years at Netflix.

WMG has always embraced innovative ways to bring technology and music together to offer fans new opportunities to engage with the music they love. Today, our society is on the verge of another potential technological breakthrough – generative artificial intelligence that ingests, copies, and analyzes extraordinary volumes of information and that is developing the ability to answer difficult questions, solve complex problems, and create new text, sounds and images.

For AI to be part of a thriving economy, these models must be developed within a reasonable legislative regime that respects human identity. **We must ensure a robust free-market licensing system to allow the use of copyright-protected materials for training AI models and strong legal protection for name, likeness and voice rights.**

Our fundamental position on AI is simple. Everyone should have the right to decide how their own name, likeness, and voice is used. These characteristics are the very foundations of our individuality – they are

not simply data to be taken and used by others. Each person's identity must not be used in ways that they would never condone or wish to participate in.

Specifically, in the music industry, this means any artist who chooses to lean into AI should have the right to do so in a free market — giving them control over whether and on what terms their name, likeness and voice can be used. If they prefer not to engage with AI, that should be their right, too.

In order to achieve an environment where human beings' identities are respected and protected, we need four these things:

1. **Consent:** The use of people's name, likeness and voice rights to train AI models and create output from them requires consent.
2. **Monetization:** The grant of name, likeness and voice rights must be subject to free-market licenses.

In order to operationalize Consent and Monetization at scale, we need:

3. **Attribution:** AI developers must identify outputs through labels and watermarks, which in turn must be recognized by all distribution platforms.
4. **Provenance:** AI developers must be required to keep sufficiently detailed, publicly available records of the material used to train their models to enable the enforcement of rights.

We've already begun working in this space. We are eager to partner with AI developers, pursuing groundbreaking applications based on artist and songwriter consent and free-market compensation.

We are partnering with companies like YouTube, Endel and LifeScore on experiments featuring artists such as Sia, Charlie Puth, and Roberta Flack who have agreed to explore the possibilities of AI. And we are using AI to help recreate legendary lost voices like those of French chanteuse, Edith Piaf, and Costa Rican singer-songwriter, José Capmany, in collaboration with their estates.

AI will also have many less prominent but equally valuable uses across our industry, from studio production to tour planning, from marketing efficiencies to creative "assists" for musicians.

At the same time, the ability of generative AI models to create deep fake videos and audio recordings depicting people doing, saying or singing things that are utterly fictional creates extraordinary risks. Artists face significant commercial and reputational harm from phony videos and recordings, but that is only the tip of the iceberg. The truth is everyone is vulnerable. These tools are already being used today to create non-consensual pornography, to impersonate politicians and world leaders, and to supercharge frauds and scams.

Like every other business, AI model builders must act lawfully and responsibly. Critical to creating this environment is a strong Federal law establishing an intellectual property right in a person's name, likeness and voice. And, in the music industry specifically, we need to ensure we are able to protect the distinctive names, likenesses and voices of our artists, whose livelihoods are based on their unique talents that they've spent years honing. The current legal framework consists of an insufficient patchwork of inconsistent State laws that will be no match for what's ahead of us.

So, how can you help? We appreciate the process that Members of this Committee have initiated to address this problem, including the *NO FAKES Act* discussion draft authored by Chairman Coons, Senator Tillis, Senator Blackburn, and Senator Klobuchar and which kick-started legislative efforts in this area. We strongly support the bipartisan *No AI FRAUD Act* that was introduced in the House earlier this year and the recently enacted *ELVIS Act* in Tennessee.

As the Committee moves toward the introduction and movement of a Senate bill soon after this hearing, I would like to highlight several elements that we believe any effective bill on deep fakes and voice clones must have to be meaningful:

- **An Enforceable Intellectual Property Right** – Legislation must give each person an enforceable intellectual property right to their own individual name, likeness and voice which will allow them to license or authorize use of that property right on free-market terms, deny use of that property right and seek redress in cases of unauthorized use. As this would be an intellectual property right, creators of unauthorized deep fakes should not be shielded by Section 230 of the Communications Decency Act.
- **A Proper Role for the First Amendment** – Legislation must acknowledge and respect important First Amendment principles without going further than what the First Amendment protects. The harsh reality is that AI can put words in your mouth. AI can make you say things you didn't say, don't believe, and would never want to be associated with you. That's not freedom of speech.
- **Effective Deterrence** – In order to incentivize a vibrant and responsible commercial marketplace which is remunerative for all participants in the value chain, legislation must include meaningful consequences for AI model builders and digital platforms that knowingly facilitate the violation of a person's property rights.

On behalf of the creative community, I applaud the Committee for its leadership on these challenging, rapidly developing issues. The development of AI technology is moving very quickly, and Congress should act now to establish reasonable guardrails which ensure that AI models, digital platforms, artists, songwriters, and other intellectual property owners can prosper together. I urge you to work to move a Bill this session and look forward to answering your questions.