



## **INFLATION AND US MUSIC MECHANICALS, 1976–2010**

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## Inflation and US music mechanicals, 1976–2010

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**Abstract:** Recorded music is a commodity bundled with a number of intellectual property rights. This paper illustrates the conflict over the value of one of the most important rights of music, the so-called mechanical rate that the record labels pay to songwriters and their publishers for the reproduction, in a recorded medium, of their work. There has been a serious devaluation of the US mechanical rate against inflation since the Copyright Act of 1976. As Congress and the CARP Tribunal are ultimately involved in setting terms, the implication is that songwriters and their publishers are losing power in the USA against the record labels. For a variety of reasons, the phenomenon seems to be particular to the USA. It has also gone unnoticed in the current music business literature. Scholars who succeed in clarifying musicians' legal rights should also consider basic economics as a useful analytical tool.

**Keywords:** inflation; record labels; songwriters' income; mechanical royalties; US copyright law; Harry Fox Agency; music publishers; music trade; recorded music; European copyright law; USA.

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## 1 Introduction

Mechanical royalties<sup>1</sup> from sound recordings are one of the key income sources for musicians. In the days when recorded music ruled, and LPs or CDs represented the main cash crop of the music industry, revenues from mechanicals were a reliable source of receipts for songwriters and their publishers. Songwriters, in particular, knew that, by law, mechanicals had to be paid dutifully by the record labels. Whereas artist royalties on recorded music sales were always subject to the record label's break-even with the artist – and the label's 'recoupment' had to be considered before any payment to the performing musicians – mechanicals guaranteed immediate income for the songwriter.

Moreover, mechanicals loom large in the consideration of music creators, for they are one of the most important rights that the law recognises for recorded music. From the mid-1980s to the new millennium, in many of the most developed countries, songwriters and publishers collected money from mechanicals roughly in the same proportion as they collected money from performance rights on radio and TV broadcasting, sporting venues, clubs, and restaurants. This has changed since 2001, as recorded music sales have dropped, and the comparable figure is now \$1 of mechanicals for every \$2 or even \$3 of performance income.<sup>2</sup>

In 2008, Harry Fox, the organisation that reports the bulk share of the collection of mechanicals in the US, valued the market at \$307 million, a figure that was distributed almost in its entirety to music publishers.<sup>3</sup> Roughly half of this was then passed on to songwriters. The latter likely earned upwards of \$4 billion in mechanicals since 1976.<sup>4</sup>

Collections are based almost entirely on the application of the current statutory rate, presently at 9.1 cents per song under five-minute-duration per copy made and distributed. For lengthier songs, the rate is calculated at 1.75 cents per minute, but this exception tends to discourage record labels from recording longer material, because for them the mechanical rate is a cost of production. Digital downloads at iTunes pay the same statutory rate of 9.1 cents per 99-cent song. Other newer mechanical licences involve

ringtones and interactive streams and limited downloads from subscriptions services.<sup>5</sup> However, the combined revenue to Harry Fox from such activities is still relatively small.

## 2 A checkered history since 1976

A ‘new era’ of US mechanical collections was truly inaugurated with the Copyright Act of 1976, at a time when the recorded music business had reached a high point in sales. The rate was then set at 2.75 cents, and it has been periodically revised upwards to take marketplace conditions into account.

However, there seems to be some confusion in the existing music business literature about how inflation factors into the determination of the rate, which is key to overall collections. Depending on the year of the edition of a music business text, the rate is seen as determined by inflation only when it is declared so by the Copyright Arbitration Royalty Tribunal (CARP). The problem is that there have been many years since 1976 when the rate has been revised upwards with no reference to the rate of inflation. In that case, authors will often refer to the upward revision of the rate without reference to inflation. A few examples follow.

In the eighth edition of *This Business of Music*, William Krasilovsky and Sidney Shemel maintain that the increase in the statutory mechanical royalty rate is based on the Consumer Price Index.<sup>6</sup> By the ninth edition, in 2003, there is no mention at all of any CPI adjustment.<sup>7</sup> For Jeff and Todd Brabec’s *Music, Money and Success*, the CPI correction was always on the table. As they write in the 2009 edition, their sixth, “[mechanical] rate adjustments were provided for in the legislation based on the US Consumer Price Index”.<sup>8</sup> Harold Vogel, author of *Entertainment Industry Economics* cuts through the middle in his latest edition, suggesting that “to keep pace with marketplace conditions, [mechanicals] are now subject to upward revision over time and are either negotiated by the interested parties or go to arbitration by the Copyright Arbitration Royalty Panel”.<sup>9</sup> Vogel does not mention the CPI in the main text, although in a footnote, he adds: “after January 1988, [the] rate has been adjusted every two years in proportion to changes in the CPI”.<sup>10</sup> The source for the footnote, incidentally, is *Billboard* – a magazine that, historically, has not placed emphasis on inflation-adjusted data.

The question here is whether or not the statutory mechanical rate has really kept up with inflation since 1976. If so, songwriters and their publishers could be said to have obtained fair terms against the record labels. A table, below, shows the data.<sup>11</sup>

Inflation, in short, has not been accommodated properly. There has been a serious devaluation of the mechanical statutory rate against the Consumer Price Index since 1976. Moreover, the downward trend is steady throughout, suggesting that the periodic upward revisions of the mechanical rate – much publicised in the creative music community – are at best cosmetic.

The above data shows an overall decline in the inflation-adjusted mechanicals of 14% between 1976–2009. Year-in and year-out, this represents a real loss of a half percentage point in the value of the mechanical rate – quite a significant drop.

For illustrative purposes, we estimate the effect this had on US songwriters. If Harry Fox likely collected about \$300 million in mechanicals every year, a number well below the average collections of the 1990s and 00’s, then a half percentage drop in the mechanical rate implies a \$1.5 million loss in distributions every year. Presuming an

active recording catalogue for each of the 5,000 songwriters registered at the Songwriters Guild of America,<sup>12</sup> the data implies an annual per capita loss of \$300 in songwriting monies. Over the 33-year period of the study, the total is approximately \$10,000 per songwriter (half of this figure would have been appropriated by the publishers). It should be observed that the result is given without factoring a possible interest earning on the unpaid sum. Also, the distribution of mechanicals, like the sale of recorded music, is uneven, so that mid-level and established songwriters probably lost much more than that.

**Figure 1** Songwriters and inflation

<u>The Devaluation of Mechanicals, 1976-2009</u>				
	<u>Mechanical Rate</u>	<u>Inflation Adjusted</u>	<u>Mechanicals, 1976=100</u>	<u>Cost of Living, 1976=100</u>
1976	.0275	.0275	100	100
1988	.0525	.0253	191	208
1994	.0660	.0253	240	260
1998	.0710	.0248	258	286
2000	.0755	.0249	275	303
2002	.0800	.0248	291	323
2003	.0800	.0243	291	330
2004	.0850	.0251	309	339
2005	.0850	.0243	309	350
2006	.0910	.0252	331	361
2007	.0910	.0245	331	372
2008	.0910	.0236	331	386
2009	.0910	.0236	331	385

Conclusions

The mechanical rate was much higher in 1976 than it is today.  
It has dropped sharply since 2006, and there has been no adjustment since.

The evidence, in summary, suggests songwriters and their publishers were losing power in the USA against the record labels. Today, it is the mitigating circumstances of the current recession that perhaps justify the sway labels have on CARP – and on Congress. But in the golden mid-1980s and 1990s, proper artist representation could have addressed the decline in mechanicals at a time when the record business was financially strong.

### 3 US law and inflation, 1877–1976

There is nothing in the legislation of 1976 that explicitly says that upward revisions of the statutory mechanical rate be based on the Consumer Price Index. However, when viewed in an historical context, the mechanical royalty was never designed as a windfall for composers that would rise forever higher.

The mechanical reproduction of sound dates back to 1877, when Thomas Edison made a voice recording of the song ‘Mary Had a Little Lamb’ (Schoenherr, 2005). At that time, the US copyright law did not recognise such a reproduction as a ‘copy’ of a musical composition that would require permission of the composer (White-Smith Music Pub. Co. v. Apollo Co., 1908). This was confirmed by the Supreme Court when, in 1908, it ruled that neither piano rolls nor phonograph records constituted infringements of the musical compositions embodied within them (White-Smith Music Pub. Co. v. Apollo Co., 1908). Clearly, then, the USA did not recognise a mechanical right at the dawn of the early twentieth century.

This put the USA at odds with prevailing European copyright law. Back then, under Article 9 of the Berne Convention, most European composers enjoyed the right to control the reproduction of their work ‘in any manner or form’, including early mechanical reproductions of sound (Berne Convention, 1886). By the time that *White-Smith Music Pub. Co. v. Apollo* was decided in 1908, Belgium, Denmark, France, Germany, Italy, Luxembourg, Monaco, Norway, Spain, and the UK were all signatories to the Berne Convention and had thus brought their local copyright laws into parity with the treaty.<sup>13</sup>

The USA finally recognised a mechanical right of reproduction for composers with the passage of a new, comprehensive Copyright Act in 1909 (Copyright Act, 1909). The 1909 Act covered recordings of a musical composition, granting an author “the exclusive right ... to make any arrangement or setting of it or of the melody of it in any system of notation or any form of record in which the thought of an author may be recorded and from which it may be read or reproduced” (Copyright Act, 1909).

In addition to recognising this new right, the 1909 Act also created the first compulsory licence and statutory rate. Under the provisions of this new law, once a composer had knowingly allowed her composition to be reproduced mechanically, she was *required* to grant a licence to anybody else who wished to do the same; hence the compulsory licence was born. In addition, Congress gave the compulsory licence practical benefit by setting the price for which composers were required to grant a licence at two cents per unit, the first statutory rate.

However, while clearly a financial boon to composers, these new rights were created first and foremost as a means to prevent a potential monopoly in the piano roll industry. Anticipating a shift in the law following *White-Smith*, The Aeolian Company, a piano roll manufacturer, began entering into exclusive agreements with composers to position itself as a monopoly holder of mechanical reproduction rights [Kohn et al., (1996), pp.656–657]. Therefore, the compulsory mechanical licence coupled with the statutorily set rate of two cents was intended primarily as a bulwark against monopoly practices by companies entering the new market for mechanical sound reproduction rather than as a windfall for composers. It is therefore unsurprising that the statutory mechanical rate remained unchanged at two cents for more than 70 years.

#### 4 US law and inflation, 1976–2010

The statutory mechanical rate remained frozen until January 1, 1978 when the Copyright Act of 1976 went into effect (Copyright Act, 1976a). This new law greatly changed the function of the mechanical rate. By looking closely at the provisions of the Copyright Act, it is clear that Congress no longer intended for the rate to remain static.

In particular, section 801 of the Copyright Act establishes the functions of Copyright Royalty Judges, i.e., the officials who have the authority to set the mechanical royalty rate. In setting the rate, those judges have four considerations. They are (sic):

- 1 to maximise the availability of creative works to the public
- 2 to afford the copyright owner a fair return for his or her creative work and the copyright user a fair income under existing economic conditions
- 3 to reflect the relative roles of the copyright owner and the copyright user in the product made available to the public with respect to relative creative contribution,

technological contribution, capital investment, cost, risk, and contribution to the opening of new markets for creative expression and media for their communication

- 4 to minimise any disruptive impact on the structure of the industries involved and on generally prevailing industry practices (Copyright Act, 1976b).

These considerations are a clear departure from the anti-monopoly role of the compulsory licence and statutory rate under the 1909 Act. However, there is no mention here about keeping pace with the rate of inflation. In fact, among the canons of legal interpretation, it is usual to fall back on the phrase *expressio unius est exclusio alterius* – which has the implication that if something is not accounted for explicitly, it should not be considered. As there is nothing about the Consumer Price Index, it can be argued that inflation need not be an official consideration for the tribunal of judges (still, inflation is such an important element of ‘existing economic conditions’ that it is difficult to imagine that Congress would have intended to exclude the subject).

Indeed, all of the objectives, but most particularly the fourth, seem to caution against raising the rates to keep in pace with the Consumer Price Index. A lower rate would maximise the availability of works to the public under the first objective. In addition, the investments made by record labels in recording and distributing sound recordings are almost always greater than those made by the composer in writing the song, leading the third objective to also weigh in favour of keeping the rate low. Finally, the fourth objective also plays against a periodic increase, as any rise would cause at least some disruption in the record industry. Overall, the four objectives may be considered somewhat of a sweetheart deal for the labels.

Under a provision of section 801, furthermore, when Copyright Royalty Judges set rates for compulsory music licensing in the secondary transmission of music by cable systems, only two factors may be considered and the first is ‘national monetary inflation or deflation’. Therefore, it is not as if monetary factors were entirely absent in the mind of Congress when the 1976 Copyright Act was drafted. The absence of inflation as a consideration in the setting of a mechanical rate is indeed conspicuous.

## 5 A special case

It seems reasonable to suggest, furthermore, that the US mechanical rate has probably lagged inflation more than in other developed music markets. Even though at the time of writing more detailed research is required to establish this firmly, a number of factors suggest that collections of mechanicals in European countries, for instance, are much less prone to ‘money illusion’, as historically witnessed in the USA.

Though the USA has entered into several key international treaties involving copyright, mechanical rights licensing remains an area in which the USA is at odds with the prevailing international model. The key differences are who has the power to licence mechanical rights, the existence of statutorily set mechanical royalty rates, and how those rates are calculated. Each of these points is discussed below.

In the USA, the Harry Fox Agency oversees the collection and disbursement of the majority of mechanical royalties; however, that fact belies the absence of a central clearing house for mechanical rights in the USA. For those musical compositions not administered by publishers and composers allied with HFA, record labels need to locate the rights holder in order to obtain a mechanical licence.



In contrast, under the prevailing international model, each nation has designated a mandatory mechanical rights collection society that not only oversees the vast majority of musical compositions within that territory, but holds in trust funds for the use of compositions where the rights holder cannot be found.<sup>14</sup> Mechanical licence fees notwithstanding, such a system of mandatory licensing bodies lowers the transaction costs associated with tracking down rights holders, particularly for older compositions of relatively low notoriety.

In addition to the absence of a mandatory licensing body, the presence of compulsory licences and statutorily determined rates set the USA apart from the rest of the world. As stated in the prior section, under the US Copyright Act once a composer allows his work to be mechanically reproduced, he must grant such a licence to anyone else who requests it at a rate set by the Copyright Arbitration Royalty Panel. In contrast, a majority of World Trade Organization member nations recognise neither compulsory licences nor statutorily set rates [Kohn et al., (2002), p.704].

Rather, composers are not required to licence their compositions for mechanical reproduction at specified rates; however, those who unreasonably deny such licences may nonetheless be forced to acquiesce by a local judicial authority.<sup>15</sup> In the UK, for example, if a record label wishes to obtain a mechanical licence and the Mechanical-Copyright Protection Society, that territory's mandatory mechanical licensing body, is unwilling to offer reasonable terms, the record label may ask the Copyright Tribunal to adjudicate its case and set a one-time rate for its use of the composition.<sup>16</sup> As a result, though there is no 'compulsory licence' created by most copyright legislation outside the USA, most nations nonetheless have some judicial framework by which such compulsory licensing is effected [Kohn et al., (2002), p.704].

Furthermore, the prevailing international copyright model does away with statutorily set rates in favour of licensing schemes arrived at through collective bargaining between record labels and composition rights holders [Kohn et al., (2002), p.704]. Historically, these licensing schemes were negotiated between record labels and the mandatory mechanical rights collection society of each nation [Kohn et al., (2002), p.318]. However, today these collective bargaining agreements take place on a larger scale, between the International Federation of the Phonographic Industry (IFPI)<sup>17</sup> and the *Bureau International des Societies Gerant Les Droits D'Enregistrement et de Reproduction Mecanique* (BIEM)<sup>18</sup>. The standard contract for mechanical licences is then used by the mandatory mechanical rights collection society of each territory.<sup>19</sup>

Finally, the manner in which mechanical royalties are calculated differs greatly between the USA and the prevailing international model. In the USA, the statutory rate is calculated as a set amount of money per musical composition per unit sold. Conversely, under the BIEM/IFPI Standard Contract, used by most mandatory mechanical rights collection societies throughout the world, royalties are calculated as a percentage of the Published Price to Dealers (PPD), the highest price that a record label or distributor charges to a retailer selling recordings directly to consumers.<sup>20</sup> Under the Standard Contract currently used by member societies, an average mechanical licence receives 9.009% of PPD.<sup>21</sup> As international mechanicals mimic movements in the retail price of recorded music, even if they were not meant to keep pace with national monetary inflation, they at least reflect inflationary/deflationary trends in the market for recorded music.

## 6 US mechanicals today

The US mechanical rate has remained at 9.1 cents since 2006, and will remain so until 2012. Because it has not been adjusted upwards to reflect inflation, it suggests more loss of power by songwriters and their publishers. Conversely, record labels continue to save on the cost of production of intellectual property.

However, a number of points need to be made.

An album is now \$9.99 at Apple iTunes, one of the main retail fronts of the business. Ignoring for a moment that most record label contracts now include controlled composition clauses that reduce payments of the mechanicals to 75% of the mechanical rate and pay mechanicals up to a maximum of ten songs per album, it is clear that the current mechanical rate is now a much greater percentage of the selling price of an album than it was in the 1990s – when wholesale prices, without a discount, were around \$12–\$15.

Many artists, moreover, wish to promote sales of their music on a variety of non-recorded platforms, including live music and merchandise sales. Jazz artists, in particular, may be happy that mechanicals have not risen much because their livelihood is not as dependent on recordings (besides, it makes covering other standards and newer outside compositions more affordable). But they may not be alone. Higher mechanicals might mean more expensive records for the consumer – a factor that is not lost on many artists in other genres and on Apple, who has opposed the increase of the mechanical rate.<sup>22</sup>

There is little evidence, moreover, that the Songwriters Guild and the National Music Publishers Association (for whom the Harry Fox Agency collects) are truly up in arms against the record labels for maintaining the 9.1 cents rate. The recorded music business is in retrenchment, so the struggle over mechanicals is not generating the excitement it might have engendered in better times.

Finally, mechanical concessions for new-recorded media may also be traded against the fixed and standard rate of 9.1 cents. Publishers and their songwriters were not able to change the 9.1 cents rate, but during the latest round of negotiations for a new schedule of mechanical levies, in force until December 31, 2012, they got a new mechanical rate approved for master ringtones. It was the first ever, and was set at 24 cents per download. The NMPA had done well. Although falling short of the 30 cents it wanted, i.e., 15% of a \$1.99 download, it was well over the NMPA's minimum position of 15 cents. Besides, a new compulsory licence for recorded music had been written into law, potentially redressing the continuing inequity of a poor treatment of inflation in the long-standing distribution of mechanical collections.<sup>23</sup>

## 7 Conclusions

This paper has suggested that the mechanical rate earned by songwriters and their publishers in the USA has been devaluing steadily against inflation since 1976. The music business has been largely oblivious to the phenomenon, which is first noted here.

It may be argued that the concessions made to music creators in 1976 had to be reversed somewhat. It might be further suggested that the record labels could prevail in the lobbying match over Congress and the CARP Tribunal, because they were the cash

cow of the business and enjoyed much deeper pockets. But there is a more fundamental reason behind the decline of songwriters' mechanicals.

US copyright law often seems at odds *philosophically* with copyright legislation found throughout Western Europe and the developed world. European copyright protection, for example, finds its roots in the French notion of *droit d'auteur*, i.e., the view that copyright legislation is necessary to protect the financial interests of the *artists* who create new works. Contrarily, the USA views copyright legislation as necessary to create a *market* in which as many artistic works as possible are disseminated to the public.<sup>24</sup>

The USA, in short, favours both content *users* and sound reproduction *manufacturers* and *distributors* at the expense of its creative talent. Intellectual property production costs are kept low, and to this day the price of recorded music is much lower than in Europe. This is not only a matter of better economies of scale and no value added taxes (which incidentally, proves the point that US consumers have a better deal). As well, per capita collections on the so-called performance, or broadcast, right associated with music are generally perceived to be higher in many European countries.<sup>25</sup>

A dwindling payment of mechanicals, moreover, may redress the slings and arrows of a hostile marketplace for sellers of recorded music product. Recorded music prices in fact devalued significantly in real terms at least since 1990, well before file sharing became prevalent with Napster at the start of 2,000 [Alhadeff, (2006), pp.13–27]. During this extended period, the major labels could do little to influence the retail price of music and, in the second half of the 1990s, endured the ignominy of seeing recorded music sold as a loss-leader item in mass merchant stores [Alhadeff, (2006), p.18]. Towards the end of the 1990s, the labels colluded to fix the price of music, but were taken to task by the Federal Trade Commission and desisted [Alhadeff, (2006), p.26].

In a prepared statement in Congress before the Subcommittee on Courts, the internet, and Intellectual Property, Rick Carnes, President of the Songwriters' Guild of America, complained that the modest increases in the mechanical rate to 9.1 cents had not addressed 'the longstanding bedrock inequity' that went back to 1909. Carnes had been invited to comment on a bill designed to better accommodate the digital delivery of musical works, but could not miss the opportunity to alert legislators on the plight of his fellow songwriters. He added: "I am getting 1936 wages in 2006!"<sup>26</sup>

Indeed, the music trade has been under the persistent grip of a buyers' market for at least a decade, and this has especially threatened the livelihood of sellers, including songwriters, on which the business depends. This will likely continue as long as there is no comeback in the fortunes of recorded music. In the meantime, writers' mechanicals have arguably become the forgotten casualty in the current landscape of barren music sales.

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## Notes

- 1 Mechanical royalties refers to income derived by a composer for the use of his work in audio reproductions. Though audio reproduction is usually no longer effected through mechanical means, e.g., the phonograph, the ‘mechanical’ has become a term of art referring to any audio reproduction, be it mechanical or not.
- 2 See, for example, *Music & Copyright* (2010a, 2010b), 10 February and 19 May, pp.7–9, 3–5, respectively.
- 3 Harry Fox Agency (2009a), 24 March, pp.1–4.
- 4 HFA’s collections over 30 years are estimates.
- 5 Harry Fox Agency (2009b), 5 March, pp.1–4.
- 6 Krasilovsky and Shemel (2000, p.176).
- 7 Krasilovsky and Shemel (2003, pp.98–99).
- 8 Brabec and Brabec (2008, pp.31–32).
- 9 Vogel (2007, p.239).
- 10 *Ibid.*, p.257.
- 11 US Copyright Office (2010). The inflation data is standard, and comes from the US Department of Labor (2010).
- 12 Songwriters Guild of America (2005), 16 May.
- 13 [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15) (accessed on 26 November 2010).
- 14 The mandatory mechanical rights collection societies for the four largest markets for recorded music after the USA, i.e., Japan, UK, Germany and France, are:
  - a the Japanese Society for Rights of Authors, Composers and Publishers (JASRAC)
  - b the Mechanical-Copyright Protection Society (MCPS)
  - c Gesellschaft für musikalische Aufführungs- und mechanische Vervielfältigungsrechte (GEMA)
  - d Société des Auteurs, Compositeurs et Editeurs de Musique (SACEM).
 Other similar national organizations are listed at <http://www.biem.org/SocietyShow.aspx> (accessed on 26 November 2010).
- 15 See, for example, sections 149, 205B, and Schedule 6 Copyright, Designs, and Patents Act 1988 (UK as amended).
- 16 *Ibid.*
- 17 The IFPI is the trade group of the international record industry representing record label interests throughout the world. See, generally, <http://www.ifpi.org/> (accessed on 26 November 2010).
- 18 BIEM is an international trade group representing mechanical rights societies of 55 member nations. See, generally, <http://www.biem.org/Index.aspx> (accessed on 26 November 2010).
- 19 See Kohn et al. (2002, p.704) and BIEM/IFPI Standard Contract, available at <http://www.biem.org/downloads/MenuItems/109/BIEM/Standard%20Contract%20English2.pdf> (accessed on 26 November 2010). *Cf.* Kohn et al. (2002, p.705), in Japan and India the rates are set by local government.
- 20 *See* BIEM/IFPI Standard Contract.
- 21 It should be further noted that this is the percentage for an entire recording rather than a single song. A composer of a single song would receive a pro rata share of the royalty.

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- 22 Eddie Cue, Apple's VP for iTunes, was quoted as saying that "[if] the iTunes Store were forced to absorb any increase in the mechanical royalty rates, the result would be to significantly increase the likelihood of the store operating at a financial loss – which is no alternative at all"; see <http://www.digitaltrends.com/computing/could-apple-close-itunes/> (accessed on 14 June 2010).
- 23 *Music & Copyright* (2008), 17 October, p.4.
- 24 Refer to US Const. art. I § 8 cl. 8. The purpose of the law was "[to] *promote the progress of science and useful arts*, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries" (emphasis added). While artists certainly benefit from copyright legislation in the USA, the ultimate beneficiary is intended to be the public.
- 25 As noted frequently by international experts, and the staff of *Music & Copyright* in particular. European Copyright Law also recognises more 'neighbouring' performance rights than the current US legislation. For instance, unlike the USA, sidemen in any broadcast recording are entitled to additional collections.
- 26 SGA (2005), 16 May.