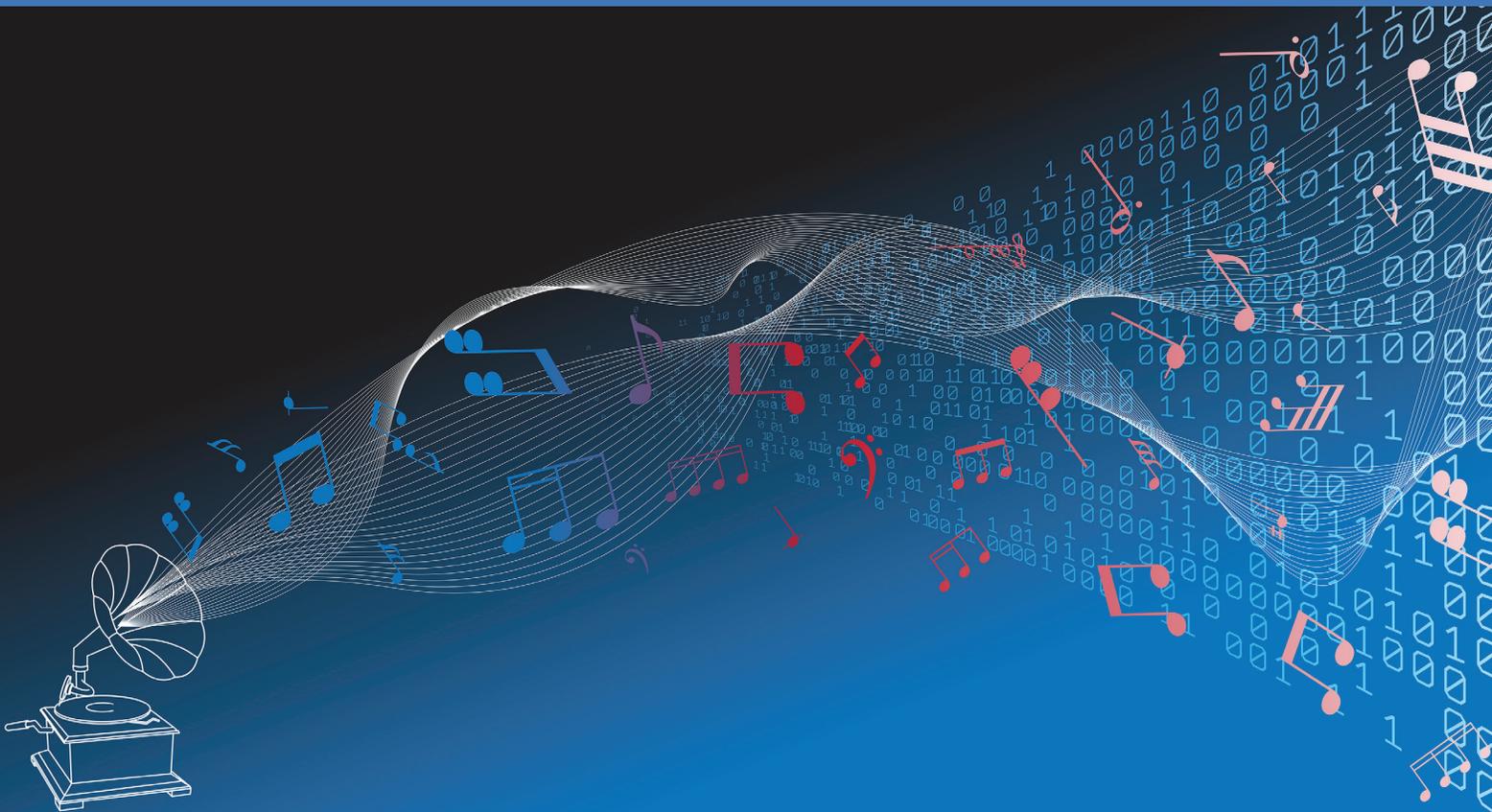


The Orrin G. Hatch — Bob Goodlatte

# Music Modernization Act



**On October 11, 2018, the Orrin G. Hatch — Bob Goodlatte Music Modernization Act was signed into law.**

This bipartisan and unanimously enacted legislation represents the realization of years of effort by a wide array of policymakers and stakeholders, as well as the U.S. Copyright Office itself, to update the music licensing landscape to better facilitate legal licensing of music by digital services.

The Copyright Office welcomes the passage of landmark legislation. The Music Modernization Act (MMA) is expected to benefit the many stakeholders across all aspects of the music marketplace, including songwriters, publishers, artists, record labels, digital services, libraries, and the public at large.

Visit [copyright.gov/music-modernization](https://copyright.gov/music-modernization) for more information about the MMA, including links to the updated law, legislative history, music-related rulemakings, policy studies, new databases related to pre-1972 sound recordings, and other public information aids.

## Music Licensing Modernization Act

### **Title I – The Music Licensing Modernization Act,** addressing Section 115 of Title 17:

- Establishes a blanket licensing system for digital music providers, which replaces song-by-song licensing.
- Establishes a mechanical licensing collective, paid for by digital music providers, to administer the blanket license and maintain a publicly available music ownership database. But note that:
- Existing NOI system remains in place for non-DPDs (*i.e.*, CDs, vinyl)
- Direct licenses still allowed
- Past infringement liability is limited to royalties due if the digital music provider complies with certain requirements, including good-faith attempts to identify and locate the copyright owners.



## Classics Protection and Access Act



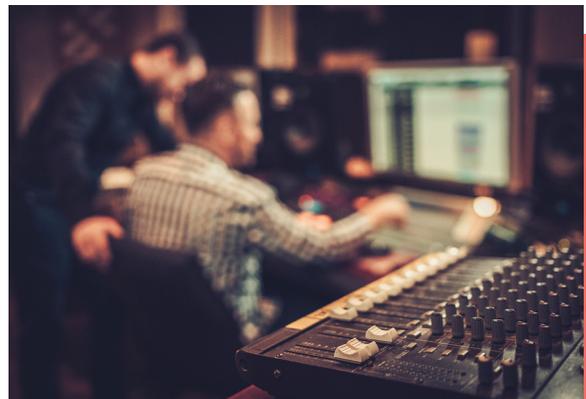
### **Title II – The Classics Protection and Access Act,** addressing pre-1972 sound recordings:

Brings pre-1972 sound recordings partially into the federal copyright system by extending remedies for copyright infringement to owners of sound recordings fixed before February 15, 1972. It also applies to pre-1972 sound recordings certain existing federal statutory licensing and existing limitations and exceptions, and establishes a new exception related to non-commercial use of works that are not being commercially exploited. Because U.S. pre-1972 sound recordings remain ineligible for copyright registration, a new filing requirement applies to claims for statutory damages.

## Allocation for Music Producers Act

### **Title III – The Allocation for Music Producers Act (AMP Act),** addressing royalty payments for certain creators:

Allows music producers to receive royalties collected for uses of sound recordings under the section 114 statutory license by codifying a process wherein the designated collective (Sound Exchange) will distribute royalties to a producer under a “letter of direction.”



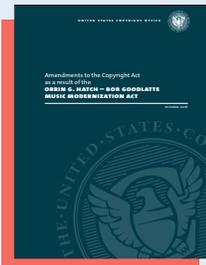
# What We Are Working On

The Copyright Office is undertaking a number of initiatives to implement this historic music law.

- Designation of Mechanical Licensing Collective:** On December 21, 2018, the Office issued a notice of inquiry regarding the designation of a mechanical licensing collective and a digital licensee coordinator to carry out key functions under the updated mechanical licensing process. Submissions from interested parties were received March 21, 2019, with reply comments due April 22, 2019. The Office is committed to an open and transparent designation process. The Register will recommend entities to be designated by July 8, 2019.

- Updated Copyright Office Circulars:**

The MMA made big changes to the copyright law. The Office published a pocket-insert reporting all of the statutory changes. The Office will publish an updated volume of circular 92 containing the entire federal copyright law, electronically and in print, and is updating other circulars, including circular 73 regarding the section 115 license, and circular 75, regarding operations of the Licensing Division.



- Section 115 Regulations:** The Office updated its regulations for the compulsory “mechanical” license for making and distributing phonorecords of musical works. This rule sets out requirements for digital music providers to limit their liability during the transition period before the blanket license is available, and clarifies that the song-by-song licensing system remains available for physical (e.g., CD, vinyl) uses.

- Pre-1972 Sound Recordings:** On October 16, 2018, the Office issued interim regulations establishing new filing mechanisms to onboard the protection and use of pre-1972 sound recordings into the federal scheme. Following multiple rounds of public comment, all pre-1972 sound recording regulations and filing procedures have been fully implemented.

- Schedules of Pre-1972 Sound Recordings:** Rights owners may submit schedules to obtain eligibility for statutory damages and attorneys’ fees for unauthorized uses of these recordings.

- Noncommercial Use:** The Office adopted a rule establishing two filing mechanisms to implement the new exception for noncommercial uses of pre-1972 sound recordings that are not being commercially exploited.

- Notice of Contact Information:** The Office received notice of contact information by digital services who had been publicly performing sound recordings by the April 9, 2019 statutory deadline.

- News Alerts:** Users may subscribe to weekly email alerts to identify recently-indexed pre-1972 sound recordings, and a separate alert is being created regarding notices of noncommercial use.

- Publicly Accessible Databases:** The Office indexes schedules of pre-1972 sound recordings into its online searchable database, with results downloadable into an Excel spreadsheet. A separate online directory displays notices of contact information filed by digital services. The Office will launch a third online searchable database regarding proposed noncommercial uses of these recordings.

## On the Horizon:

- Regulatory Activity:** Before the blanket license becomes available in July 2021, the Office will initiate a variety of rulemakings related to the license and operation of the MLC, including requirements for notices of license and non-blanket activity, usage reporting requirements by digital music providers, the protection of confidential information, and the access, interoperability, and restrictions on usage of the MLC database.

- Public Education:** The Office will engage in education and outreach activities to inform the public of important changes as a result of the legislation, including educating songwriters about the process by which a copyright owner may claim ownership of musical works before the mechanical licensing collective.

- Unclaimed Royalty Study:** The Office will conduct a policy study regarding best practices that the MLC may implement to identify musical work copyright owners with unclaimed accrued royalties and encourage those owners to claim royalties. The Office will consult with GAO, and this study will be presented to Congress and made publicly available.

