



MAJOR MUSIC INDUSTRY GROUPS ANNOUNCE BREAKTHROUGH AGREEMENT

A few words from Gary Churgin, HFA President & CEO:

On September 23, 2008, The National Music Publishers' Association (NMPA), along with the Recording Industry Association of America (RIAA), and the Digital Media Association (DiMA), together with the Nashville Songwriters Association International (NSAI) and the Songwriters Guild of America (SGA), announced their agreement on mechanical royalty rates for online music services that offer on-demand streams and limited downloads. The press release follows.

The agreement, in the form of draft regulations submitted to the Copyright Royalty Judges (CRJ) yesterday, proposes for the first time mechanical royalty rates for interactive streaming and limited downloads, including for subscription and ad-supported services. It does not include rates for physical products, full permanent digital downloads, or ringtones, which will be incorporated in the Copyright Royalty Judges' ruling, expected on or before October 2, 2008.

A number of HFA staff worked closely with the NMPA to reach this resolution, and we applaud everyone for the tremendous effort of late nights, lost weekends, and complex negotiations it has taken to reach this achievement after nearly seven years of disagreement between these parties. HFA can now move ahead with implementing these rate structures in order to calculate the royalties for all activities to date, and we expect to commence distributions in early 2009. As always, we will keep you informed of these activities in [HFA Soundcheck](#).

Joint Press Release from NMPA, RIAA and DiMA with NSAI & SGA:

WASHINGTON -- In a breakthrough that will facilitate new ways to offer music to consumers online, the Digital Media Association (DiMA), the National Music Publishers' Association (NMPA) and the Recording Industry Association of America (RIAA), together with the Nashville Songwriters Association International (NSAI) and the Songwriters Guild of America (SGA), today announced an agreement on how music creators will be compensated for music distributed through certain online models.

The agreement, in the form of draft regulations submitted to the Copyright Royalty Judges, proposes for the first time mechanical royalty rates for interactive streaming and limited downloads, including for subscription and ad-supported services. The agreement proposes a flexible percentage of revenue rate structure, with minimum payments in certain circumstances.

Limited download and interactive streaming services will generally pay a mechanical royalty of 10.5 percent of revenue, less any amounts owed for performance royalties. In certain instances, royalty-free promotional streaming is allowed. Outside the scope of the draft regulations, the parties confirmed that non-interactive, audio-only streaming services do not require reproduction or distribution licenses from copyright owners.

The agreement does not address royalty rates for physical product or permanent music downloads. The Copyright Royalty Judges are expected to issue a ruling on those rates on or before October 2.

“This historic agreement is the foundation for a new generation of music distribution,” said David Israelite, NMPA President and CEO. “This agreement will ensure that songwriters and music publishers continue to thrive in the digital age. I am grateful for the good faith efforts of everyone involved in the discussions leading to this important announcement.”

“This agreement provides a flexible structure to support innovative business models in the digital music marketplace that will benefit music fans, creators and online services,” said Mitch Bainwol, Chairman and CEO, RIAA. “The agreement demonstrates that our industries can work collaboratively to solve complex issues.”

“Innovative music services will enjoy a more stable business environment because of this agreement and that will benefit music fans and music creators alike,” stated Jonathan Potter, Executive Director of DiMA. “DiMA is particularly pleased with the agreement to end litigation and threats of litigation involving several of our member companies, so that they can focus on building innovative businesses that can effectively fight piracy, the music industry’s greatest threat.”

Roger Faxon, Chairman and CEO of EMI Music Publishing, who was independently represented in the CRB, also lauded the agreement. “We’re very pleased that these matters have finally been agreed, and that we have reached an agreement that is good for the songwriters we represent, and good for music consumers. This is a first step to establishing fair rates that properly compensate writers for their creative efforts, and we’ll continue to work hard to establish a framework that properly reflects the value of songs in all their digital forms.”

“NSAI, the Nashville Songwriters Association, is proud to be part of this historic agreement which assures that America’s music creators are compensated, music consumers benefit from the many new choices provided by digital technology, and those who invest in America’s intellectual property are rewarded,” said Steve Bogard, President, Board of Directors, NSAI.

“Digital music has become the ubiquitous soundtrack of American life,” said Rick Carnes, President of SGA. “The digital age has helped American songwriters create more value for both the economy and the culture than ever before. With this deal, the Songwriters Guild of America, the music publishers, the record labels, and the digital

music services have come together in an historic agreement that creates a workable payment structure and a fair rate for songwriters in the digital music distribution models of today and tomorrow."

Agreement Facts:

The agreement proposes mechanical royalty rates that cover both limited downloads and interactive streaming, including when offered by subscription and ad-supported services.

- The percentage rate structure in the agreement provides much-needed flexibility for new business models.
- The agreement permits the use without payment of certain kinds of promotional streams, in the interest of encouraging paid uses of musical compositions.
- The agreement confirms that the mechanical licenses issued under its provisions will include all reproduction and distribution rights necessary to provide the licensed limited downloads or interactive streams.
- Outside the scope of the draft regulations, the parties confirmed that non-interactive, audio-only streaming services do not require reproduction or distribution licenses from copyright owners.

The Copyright Royalty Board Judges are expected to issue a ruling on the acceptance of this settlement and on mechanical rates for physical products, permanent digital downloads, and ringtones on or before October 2.

HFA Presents a Mechanical Licensing Panel at the Billboard Regional Mexican Music Summit

October 7, 2008

12:45pm – 2:00pm

Wilshire Grand, Los Angeles

On Tuesday, October 7 as part of the Billboard Regional Mexican Music Summit, HFA will present a lunch panel, "Get the Royal(ty) Treatment: Mechanical Licensing North & South of the Border." Moderated by HFA Senior Latin Licensing Agent Cristal Downing, the panelists, including Elias Andrade of Peer Music Publishing, Claribel Cuevas of Sony/ATV Publishing and Josh Norek at Nacional Records, will address both general mechanical licensing issues and those that are unique to Mexican music genres.

Now in its third year, this unique summit – taking place October 6-8 at the Wilshire Grand in Los Angeles - unites the artists, concert promoters, retailers, sponsors, managers and record label executives that drive this lucrative sector of the Latin music business.

HFA publishers and licensees can receive a reduced rate to the Billboard Mexican Music Summit of \$225, which is a 50% savings on registration. Enter promotional code **SPONSOR** when registering at www.RegionalMexicanMusicSummit.com.

Digital Music Distribution & Mechanicals

There are three basic types of online music distribution that are covered under the statutory mechanical license: permanent full-length digital downloads, limited full-length digital downloads, and on-demand streams.

A full, permanent download is each individual delivery of a recording of a song (or “phonorecord”) by digital transmission resulting in a reproduction made by or for the recipient. Permanent downloads reside on a recipient’s computer indefinitely and may be transferred to portable devices or burned onto CDs (in accordance with copyright law and the rules set by specific digital distributors).

A limited download is a song that is delivered electronically to a computer to reside there for a limited period of time. There are two types of limited downloads: limited-time download (i.e. the song resides on the computer for a limited number of days) and limited-use download (i.e. the song is can be heard a certain number of times before it can no longer be played).

Streaming is when a song is delivered electronically to a computer, read in real time by the computer and is stored temporarily on the computer for the purpose of a one-time use. On demand streaming is the term given to streams that have been prepared and are available for users who wish to play a specific song at a specific time.

Online music services offer various combinations of these delivery types. Napster, for example, offers limited downloads and on-demand streams as part of its subscription service, but does also provide permanent digital downloads. Rhapsody is primarily known as an on-demand streaming provider, but does also offer downloads. HFA has direct licensing relationships with many of these providers, and a publisher can see the activity of their catalog for these services in their HFA Royalty Statements and Licensing reports.

Apple’s iTunes Music Store, in contrast, is a non-subscription, “a la carte” online service. HFA does not directly license to Apple. In keeping with the Copyright Act, record labels are able to “pass along” the mechanical license authority for digital distribution to third parties such as Apple. It is our understanding that Apple is relying for mechanical license authority on licenses that have been obtained by the record labels from HFA and others. Under our digital distribution licenses, the labels must report to and pay HFA royalties for downloads made available through the Apple service. So you will not find “Apple” or “iTunes” in your HFA Royalty Statements and Licensing reports. Instead, a publisher should look for DPD reporting from the label that issued the recording.

Once the Copyright Royalty Judges issue the final decision on rates for all these formats in the coming weeks, we will provide more detailed information on how it applies to each digital music transmission type.

HFA on the Road

In addition to the Billboard Regional Mexican Music Summit (see page 3), HFA staff will be participating in a number of events this fall. The NMPA also has several upcoming events, which are also included below:

- **Digital Music Forum West, Los Angeles CA, October 2-3**

On October 3, VP of Licensing and Business Affairs Maurice Russell will be participating in the “Digital Rights and Clearances for Music” panel. For registration and information, see www.digitalmusicforum.com/west.

- **Washington Update with David Israelite, New York NY, October 17**

David Israelite, President and CEO of the NMPA, will address the NY AIMP chapter at this lunch event at the Princeton Club. Again, for registration and information, go to www.aimp.org.

- **NMPA West Coast Music Publisher & Songwriter Reception, Los Angeles CA, October 20**

The NMPA will host an evening event at The Four Seasons Hotel at 300 South Doheny Drive from 6:00pm – 8:00pm. HFA staff including Gary Churgin, Al Pedecine (CFO), Michael Simon (SVP of Business Affairs, General Counsel and Chief Strategic Officer), Lou Trebino (CIO) and others will be there to answer questions. RSVP to members@nmpa.org.

- **CMJ Music Marathon and Film Festival, New York NY, October 21-25**

On October 24, two members of HFA’s Legal team can be found speaking at CMJ in NYU’s Kimmel Center. Michael Simon will be participating in the panel “Show Me The Money: Understanding The Current Controversies Over Broadcast and Digital Music Royalties,” and VP of Business Affairs and Senior Counsel Stephen Block will moderate the panel “Global Mobile Music Business.” For registration and information go to www.cmj.com/marathon/.

And mark your calendars for an **HFA Event in Nashville on November 3**, and an **HFA event with the NY AIMP on November 19**. More details to come!

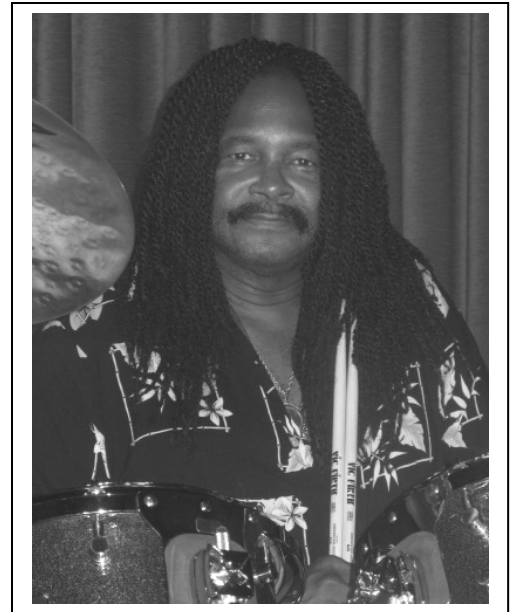
Publisher Profile:

Alphonse Mouzon Mouzon Music

By Cori Barger, HFA Publisher Services Agent

To describe Alphonse Mouzon as a composer, arranger, producer, and multi-instrumentalist would not do him justice. Add family man, teacher, actor, medical student, multi-linguist, and businessman to the list and you may be getting somewhere.

A leader of the jazz-fusion revolution in the 70's, Mouzon has performed, recorded and toured with an impressive roster of musicians, including Gil Evans, Herbie Hancock, Dizzy Gillespie, Stanley Clarke, Al DiMeola, Miles Davis, Stevie Wonder, Eric Clapton, Jeff Beck, and Carlos Santana among others.



Mouzon truly built his empire from the ground up. After graduating high school, he moved to New York to pursue music. He studied with jazz pianist Billy Taylor's drummer, Bobby Thomas, while attending New York City College. He also studied medicine at Manhattan Medical School. After graduating, he worked as a medical technician before catching his first break in the music industry. "I was in the right place at the right time," he explains. "I had just moved into a new apartment in New York and every night I would hear music coming from the basement of the apartment building across the street. One night I went over to check it out and it turned out to be the Ross Carnegie Orchestra. I ended up auditioning and was hired on the spot. I didn't even have a drum set, they just liked my groove!"

Mouzon spent a little over two years with the orchestra. Then in the early 70's he co-founded the jazz-rock fusion band Weather Report. After recording on Columbia Records and touring with the band, he went on to co-found The Eleventh House with Larry Coryell. It was around this time that Mouzon started his own publishing company. "I was surrounded by people who were signing away their copyrights. I wanted to have more control and autonomy over my music."

Shortly after Mouzon Music was established, Alphonse broke into the disco scene as founder of the European-influenced group Poussez. He was one of the first Americans to bring European disco to the States. "I brought those strings to America," he recalls, and this led him to become one of the top ten disco dance producers in the world. He is now making plans to release his original disco tracks as remixes on his record label, Tenacious Records. "I want to give the songs a little tummy-tuck, a different make-up," says Mouzon.

Mouzon has also found his way to the big screen. Not only has he acted with the likes of Tom Hanks, Michael Keaton, and Katie Holmes, but he has also placed his music in these films. "The beauty of licensing for films is that you can set your own price," he says. "Just put the right bait on the hook and see what bites." Mouzon will also co-star along with Chazz Palminteri, Robert Davi and Peter Bognanovich in the upcoming Italian-American drama/comedy film *The Dukes*. The three play doo-wop singers."

Mouzon has established a strong foundation for Mouzon Music and is working to grow and develop the company through his family. He is now expanding the catalog to include compositions from his children, Emma, Alphonse Jr. and Jean-Pierre. With the company growing as a family business, the Mouzon Music catalog may start to see some new opportunities in the near future.

Word on the Street . . . HFA Affiliate Publisher News

EMI Music Publishing announced the signing of long-term worldwide publishing agreement with singer-songwriter/ producer/ arranger **Eddy Grant**. The new arrangement covers Grant's new and future music, as well as his extensive back-catalogue including classic hits such as "Electric Avenue," "Gimme Hope Jo' Anna," "I Don't Wanna Dance," "Living On The Frontline" and "Baby Come Back."

EMI Music Publishing also announced the extension of his global co-publishing agreement with multi-award winner **Mark Ronson**. The extension of the agreement covers the artist's existing catalog as well as future projects. Ronson was named Best Male Artist at this year's BRIT Awards. His songwriting credits include work for Amy Winehouse, Lily Allen, Christina Aguilera, Nas, Rhymefest and Nikka Costa, as well as material for his own projects.

Cherry Lane Music Publishing Company, Inc. announced the signing a worldwide administration agreement for **Fergie's** hit "Big Girls Don't Cry." The four-time platinum song was co-written by Fergie and songwriter Toby Gad. The song was the fourth single from Fergie's widely successful debut solo album, *The Dutchess*.

Cherry Lane has also partnered with **Nimbit, Inc.** to create online storefronts (widgets) for Cherry Lane clients and brand partners. Nimbit is a music commerce solution that allows clients to sell and distribute digital and physical music, merchandise and tickets directly to fans. Fans will be able to purchase music directly from Cherry Lane's brand partners including Sanrio, PBR, and NASCAR using online storefronts powered by Nimbit's platform. These storefront widgets can be customized

to represent the brand, and can offer custom pricing and product bundles, allowing fans to buy music on any website without a 3rd party retailer.

olé has announced the signing of **Shiloh** to a worldwide co-publishing deal through its tanjola co-venture. Shiloh a 15-year-old singing and songwriting sensation is currently completing her first Universal Music album for a fall release. Her music has been featured in TV and film projects as CW show *Gossip Girl*, *What Happens In Vegas*, and *Dr. Doolittle 4*.

Peermusic's CWR manager Frederic Schaeren traveled to Bogotá on an invitation from the **Colombian Music Publishers' Association** to speak to the **ACODEM** membership and the Colombian Society, **SAYCO**, on the current status of the CISAC CWR (Common Works Registration) system.

Spirit Music has announced the signing of a multi-year publishing administration deal with rock band **MGMT**. The Brooklyn-based band, founded by the duo of Andrew VanWyngarden and Ben Goldwasser while undergrads at Wesleyan University, has enjoyed critical success since releasing their Columbia Records debut, *Oracular Spectacular*, last January.

Williamson Music has announced the signing of *Legally Blond* songwriters **Laurence O'Keefe** and **Nell Benjamin**. Williamson Music, a division of **The Rodgers & Hammerstein Organization**, will represent all of these scores worldwide, as well as future work from the team of O'Keefe and Benjamin.

"Word on the Street" is taken from press release material.

***“On the Road Again?”
Make Sure Your Mail’s Not
Marked “Return to Sender”***

On the move? Make sure HFA has your current contact information. You can obtain change of address information on our website at www.harryfox.com or by contacting HFA Publisher Services at 212-834-0100.

The HFA website also has a list of publishers for whom we may be holding royalties due to the lack of a valid mailing address - see the “Help Us Find Publishers” link.

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If you have any comments regarding HFA Soundcheck, please contact Laurie Jakobsen at 212-834-0133 or email soundcheck@harryfox.com.

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