



# Soundcheck

Volume VII, Number 8

October 2007

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## More than Mechanicals

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

HFA has come to be synonymous with mechanical licensing in the U.S. Certainly, that has been our primary function, and we're proud to be the premier provider of that service in the largest music market in the world. But when HFA was founded 80 years ago, its purpose was to handle synchronization licensing and collection – mechanicals and electronic transcription licensing services were added later, as the recording and radio industries grew.

The underlying rights are what is fundamental; whether paper, shellac, vinyl, plastic or bits and bytes are involved is really incidental. The future will bring an even greater number of possibilities for recording formats, driven by record companies looking to regain sales and by non-traditional companies entering the business. As the industry changes, so must HFA. In the past five years, we have been offering our publishers options for new kinds of mechanical revenue, such as ringtones and subscription services, but we have also expanded beyond them to lyrics and tablature, diversifying according to market demands.

And we're constantly on the lookout for more opportunities to connect publishers and potential licensees. New models for synchronization licensing, including video and user generated content, are certainly hot topics right now – and while there's nothing to announce yet, I can assure you that HFA is part of that dialog.

Ultimately, HFA is format agnostic; what matters to us is the proper licensing and payment of royalties for our publishers' catalogs. While we can argue the benefits of pay per use vs. fee vs. ad supported with the best of them, our job is to provide these new licensing opportunities to our community, and let them decide what works best for their business.

What HFA does is not confined to one product. As an agent, we view our role as a connector; bringing people looking for music together with the publishers that provide it. If it's downloads today and something else tomorrow, we are ready to provide what's needed to serve our publishers, songwriters and the music community.

A handwritten signature in dark ink, appearing to be the initials 'GC' for Gary Churgin.

## Preliminary Approval for Bertelsmann Class Action Settlement

On October 1, 2007, the U.S. District Court of Northern California preliminarily approved the proposed settlement of litigation between the NMPA, Bertelsmann AG and Bertelsmann, Inc. relating to Bertelsmann's relationship with Napster in 2000-2001. This preliminary approval by the court certifies a settlement class consisting of all music publisher-principals of HFA during all or part of the time period from October 30, 2000 until October 1, 2007.

The Garden City Group, a class action settlement administrator, was appointed to act as the claims administrator, and they will be sending a notice to all the publishers in the class this month. Any inquiries relating to the administration of the settlement should be directed to the Garden City Group. A special website, phone number and email address will be set up by the Garden City Group for this purpose, and that information will be provided in the next issue of Soundcheck.

Under the preliminary settlement, Bertelsmann will pay \$130 million, of which up to \$32 million will be applied to cover litigation expenses, including attorneys' fees. Settlement payments shall be calculated by multiplying the net settlement fund (after deducting litigation expenses, service payments and administrative costs as approved by the Court) by each participating class member's total percent market share of mechanical royalties received from U.S. distribution of recordings (physical and digital) during 2001 and 2002.

In order to establish their total mechanical licensing income, class members may rely on the amount of mechanical royalties received and distributed by HFA during this period or they may supplement their HFA mechanical royalty income with proof of direct mechanical licensing income from other domestic sources through a procedure that will be detailed in the class settlement notice. Evidence of direct licensing income must be submitted to Garden City by January 23, 2008 in accordance with the instructions in the class notice. The final approval hearing is currently scheduled for February 11, 2008.

### HFA eSong v2

eSong v2, a web-based version of HFA's current publisher song registration tool in POLI+, was launched in early August. Once a user is provided the credentials by their company's HFA Online Organization Administrator, they can perform all the same tasks as the POLI+ version, but in a more intuitive, user-friendly format.

When using the application, a user can:

1. View details of songs previously submitted through eSong v2
2. Submit new song registration
3. Submit updates to registered songs

The POLI+ version of eSong will be phased out on **November 1, 2007**. If you have any questions, contact HFA Publisher Services at [publisherservices@harryfox.com](mailto:publisherservices@harryfox.com), or call 212-834-0100.

## **HFA and Lala.com Announce Licensing Arrangement for On-Demand Streaming Audio Service**

HFA announced in early October that it has entered into a licensing arrangement with Lala.com for their on-demand streaming audio service.

“Lala.com will enable music fans to ‘try before they buy’ and listen to full albums and individual songs on-demand, promoting the purchase of music wherever fans discover music online,” said Billy Alvarado, Co-founder, Lala.com. “Lala.com will continue to work with HFA’s affiliated publishers to redefine how consumers buy music in the web era.”

“Services such as Lala.com provide more alternatives for music lovers to access tracks online,” said Stephen Block, VP Business Affairs and Senior Counsel, HFA. “HFA strives to give its publishers more revenue opportunities for their catalogs, and this licensing arrangement with Lala.com can expose their songs in a new online venue.”

On-demand streams are covered under U.S. statutory licensing laws, and rates will be determined as part of the current Copyright Royalty Board review, which is expected to conclude in 2008. Under this arrangement, usage will be reported quarterly and payment will be retroactive once the rate is finalized.

### **Upgrade to HFA Online Publisher & Licensee Reports**

In late October, HFA will be upgrading all of its online reports. This includes Royalty Reports, Publisher Licensing Reports, Income Tracking Reports, and Licensee Reports.

You will be able to obtain all the same information, but the functionality will be streamlined to make it easier to use. If you have an HFA Online account, you will receive an email notifying you of the changes. If you would like to set up an account so you have access to these reports, contact HFA Publisher Services at [publisherservices@harryfox.com](mailto:publisherservices@harryfox.com) or call 212-834-0100.

### **HFA Affiliates Receive Almost 45% Off Registration for the 3<sup>rd</sup> Annual ASCAP “I Create Music” Expo**

April 10-12, 2008 in Los Angeles, CA

HFA affiliates can receive almost 45% off their registration for the 3<sup>rd</sup> annual ASCAP “I Create Music” EXPO, which will take place April 10-12 at the Hollywood Renaissance Hotel in Los Angeles. The ASCAP “I Create Music” EXPO is a national conference dedicated to songwriting and composing. The EXPO offers networking opportunities, covers multiple music genres, and features activities such as seminars, workshops, master classes, keynotes, one-on-one sessions with various industry professionals, song critiquing, product displays, technology demonstrations, and live musical performances. With the discount, HFA affiliates can save \$200 off the regular cost of registration, and affiliates who are also ASCAP members get an additional \$25 discount. For more information about the ASCAP “I Create Music” EXPO, visit <http://www.ascap.com/expo/registration.html>.

## HFA Panelists at CMJ & WIPO

### CMJ – New York

In addition to exhibiting at CMJ in New York from October 16-20, 2007, members of the HFA team will be on the following panels:

October 16: Christos Badavas, Vice President and Senior Counsel – “Copyrights, Royalties and Music Legislation in the Digital Age”

October 17: Michele Olton, Senior Vice President of Human Resources and Administration – “Cover Letter Schmover Letter”

### WIPO Conference on the Collective Management of Copyright and Related Rights in North America – Nashville

This event is free, but you must register at [www.wipo.int/meetings/2007/vanderbilt/en/](http://www.wipo.int/meetings/2007/vanderbilt/en/).

October 17: Gary Churgin, President and CEO – “Licensing, Documentation and Distribution Issues in the Management of Copyright and Related Rights”

### NMPA & HFA West Coast Music Publisher and Songwriter Reception

*Launch of NMPA Gold & Platinum Program:  
Daniel Powter – Platinum Composition Award  
Jerry Leiber & Mike Stoller –  
Lifetime Achievement Award*

**Monday, October 22**

6:00pm-8:00pm  
Four Seasons Hotel  
300 South Doheny Drive  
Beverly Hills, CA

Please RSVP by  
October 12 to  
[rsvp@nmpa.org](mailto:rsvp@nmpa.org)

### Cocktails & Conversation with HFA at the Country Music Hall of Fame® and Museum

**Tuesday, November 13**

5:30pm-8:00pm  
222 Fifth Avenue South  
Nashville, TN

Please RSVP by November 7 to  
[press@harryfox.com](mailto:press@harryfox.com) or call 212-922-3290.

## Publisher Profile:

### Helene Blue Musiqué

By Paul Mauceri, HFA Publisher Services  
International Team Lead

Helene Blue Musique Ltd is moving in new and exciting directions, due to the experience, expertise, and reputation of its President and founder Helene Blue and the ears and acumen of Creative Director John Maria. They recently expanded their repertoire to include several new signings in the indie rock and pop fields, as well as works by some of the biggest names in jazz. And they also just signed the iconic American poet, singer, and composer Rod McKuen, adding further depth to an increasingly eclectic catalogue that spans multiple decades and genres.

Helene Blue's first job in the music industry was working for independent record company London Records, where she did "everything." There, she had the opportunity to work with artists as diverse as Luciano Pavarotti, Tom Jones, Engelbert Humperdinck, and The Rolling Stones. Since she had worked in both London Records' copyright and publishing divisions, her transition to music publishing was a natural one. According to Helene, "having the copyright background gave me the ability to work either side."

After London Records, Helene went on to work for various independent music publishers, including Belwin-Mills Publishing Corp, Arc Music, and Paul McCartney's MPL Music Publishing, Inc., where she was their first worldwide General Manager. Helene recalls Sir Paul was very reluctant to let her go when she informed him she would be leaving, but he understood her desire to be on her own and even helped her get her new company off the ground.

Helene says she founded Helene Blue Musique Ltd. because, after having run other companies' catalogues for years, she felt "there was only one way for me to know if I can *really* do this, and that was to do my own thing. There's nothing like that feeling when you really undertake your own endeavor."

Helene Blue Musique has been expanding in a number of different directions. John Maria has brought indie rock and pop signings to the company in the past year, including All Night Chemists, The Voyces, Briana Winter, and Escapist Papers. In recent months, Helene Blue Musique also acquired administration rights for the Irving Mills Music catalogues – amassed by Irving Mills after he sold Mills Music (co-incidentally, Helene had worked with Mills at Belwin-Mills Publishing earlier in her career). The Irving Mills Music catalogs contain seminal jazz compositions, including works from Oscar Peterson, Count Basie, Stan Getz, and Gerry Mulligan. Helene is excited to work with these great songs, noting, "there's still a lot of interest in jazz music being part of film." John adds that these acquisitions and signings represent "two really different directions that give us so much more to work with and to offer for film and television."

Helene is also thrilled over her recent signing of Rod McKuen. McKuen came to prominence during the 1950's for his poetry readings, often appearing with fellow poets Jack Kerouac and Allen Ginsberg. By the 1960's he was a top-draw at college campuses for his ability to capture the spirit of the Vietnam era in his verse. During this time, he also collaborated with legendary



Belgian-born French singer Jacques Brel, translating many of his works into English. A prolific songwriter himself, his songs have been recorded by artists such as Frank Sinatra, Waylon Jennings, Perry Como, and sampled by Madonna. He has also composed symphonies, concertos, and other classical works, which have been performed by orchestras all over the world, including the London Philharmonic, and he has also collaborated with several renowned film composers, including Henry Mancini and John Williams. Currently, McKuen is writing English lyrics to 16 previously untranslated Brel songs. Additionally, Margaret Whiting of the Johnny Mercer Foundation has asked him to write lyrics for a handful of melodies that were left unfinished at Mercer's death.

When asked about what they look for when signing new writers, John recalls three criteria he learned from an early mentor in the industry: the writer should be prolific, the material should be exceptional, and the writer should be easy to work with. John claims all their writers are "incredibly talented people who are also aware that this is a business."

Helene continues that, since both she and John come from music performance backgrounds - Helene studied Opera at the Manhattan School of Music and performed in cabarets for over 15 years while working her day "gig" as a music publisher; and John played in bands after studying music and business at NYU - their writers know they both bring "seasoned ears to the listening session and we both know what's appropriate for today's music world."

In addition to running her own successful company, Helene is very active in larger industry initiatives. She is a founding and current Board member of the New York chapter of the Association of Independent Music Publishers (AIMP), and serves on the Board for the NMPA. Significantly, she is the first ever non-lawyer to be President of The Copyright Society of the USA, an honor for which she is very proud and grateful. She claims that what drives her to be so active reflects not only her love for the music industry, but her belief that "the message of the excitement of this industry has to go to the new people who are coming up."

But despite all this, when asked what makes Helene Blue Musique unique, Helene ponders for a moment and modestly offers, "I don't know that we are completely unique, because there are many excellent independent music publishers out there. But we are very proud of our catalog and our songwriters, and we do try to make the writers who decide to work with us feel like they have found a home." She concludes, "It's about knowing the writers themselves and making sure they know that you care about their music."

For more information on Helene Blue Musique Ltd, visit their web site at [www.helenebluemusic.com](http://www.helenebluemusic.com).

### **Go Green! Get HFA Soundcheck by Email Only**

You can now opt to receive HFA Soundcheck by email only, instead of on paper. Email delivery gets Soundcheck to you faster, and helps us contain our costs for paper and postage. You will receive notification that a new issue is on the website, with a link.

If you would like to discontinue receiving the paper copy, please send an email to [Soundcheck@harryfox.com](mailto:Soundcheck@harryfox.com) and include your name and your company, and we will update your account.

## Word on the Street . . . HFA Affiliate Publisher News

**Cherry Lane Music Publishing** has signed bands **Between the Trees** and **Trustfall**, and rock/pop singer songwriter **Cori Yarckin**. Between the Trees are currently touring the U.S. in support of their debut solo album, *The Story and the Song*. Trustfall's music has been featured on ESPN, MTV, VH1 and Fox. Cori Yarckin rose to fame on Myspace and her songs have been heard on popular television series, including MTV's "The Hills." Cherry Lane has also signed 14-year-old actress/singer/songwriter **Keke Palmer** to a worldwide, long term publishing agreement. Palmer, who has starred in several movies including *Akeelah and the Bee*, *Tyler Perry's Medea Family Reunion*, and *Barbershop 2: Back in Business*, has songs on the soundtracks for *Akeelah and the Bee*, *A Night At the Museum*, and the Disney hit movie *Jump In*. Palmer's debut album *So Uncool* was released on September 18 and features the debut single "Keep It Movin'."

**olé** has signed a multi-year worldwide music administration deal with Winnipeg, Manitoba-based **Frantic Films**. Under terms of the agreement, olé will administer the music from Frantic Films' television production properties. Frantic Films credits include the live action TV series "Til Debt Do Us Part," the science program "Guinea Pig," and the documentary "Music Rising," which focuses on the charity efforts of U2's The Edge and producer Bob Ezrin following the aftermath of Hurricane Katrina in New Orleans.

### *In Other News. . .*

The **New York chapter** of the **AIMP** will host the panel, "YOU SUED YOUTUBE: Why and What Next?" on October 16 at 5:30pm at the Williams Club. Panelists include Robert Bienstock, Esq. (Executive Vice President; Carlin America), Jacqueline Charlesworth (General Counsel, NMPA), William H. Hart, Esq. (Proskauer Rose LLP) and James Hough, Esq. (Morrison & Foerster LLP); moderated by Marc D.

Ostrow (General Manger, Boosey & Hawkes). This event is free to AIMP members and \$15 for non-members. The deadline for reservations is October 15.

The **AIMP Los Angeles** chapter will host the lunch event "Songs for Sale: Valuating Music Publishing Catalogs" on October 18 at 11:45am at the House of Blues. Panelists include John Frankenheimer, Esq. (Loeb & Loeb), John Rudolph (CEO, Bug Music), Jay Morgenstern (former EVP/GM, Warner Chappell), Ira Jaffe (former COO, Famous Music), and Evan Meadow (former CEO, Windswept Pacific); moderated by Jay Faires (President, Music & Publishing, Lionsgate) and publisher/songwriter Richard Feldman. This event is \$32 to AIMP members and \$45 for non-members. The deadline for reservations is October 17.

For more information or to register online for either AIMP event, go to [www.aimp.org](http://www.aimp.org), or call 212-391-2532 for the NY office; 818-771-7301 for the LA office.



Six pioneering women were honored by SOURCE recently with the Fifth Annual Foundation Award. Hosted by Charlie Monk, Brenda Lee and Jeannie Seely, the event also attracted some of the legendary figures of Music Row, including Emmylou Harris, Norro Wilson, Jerry Kennedy, past honoree Jo Walker-Meador, Ed Benson, and others.

*Pictured (left to right):* Honorees Hope Powell, Mary Martin, Dane Bryant (accepting for his late mother, Felice Bryant), Brenda Lee, Jan Ray Suk, Jeannie Seely and Trish Warren Williams.

"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](http://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.

**New HFA Address:**

**601 West 26th Street  
5<sup>th</sup> Floor  
New York, NY 10001**

**All phone numbers and email addresses remain the same.**

If you have any comments regarding HFA Soundcheck, please contact Laurie Jakobsen at 212-834-0133 or Shaliza Thomas at 212-922-3290, or email [soundcheck@harryfox.com](mailto:soundcheck@harryfox.com).

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