



January 26, 2015

To Republican Members of the US House of Representatives:

As organizations supporting property rights, we believe that artists who produce music deserve to hold real, effective rights to their products, including both the writer and performer of a given recording. If a given work is transmitted, common sense and basic fairness dictate that the medium of transmission should not affect the existence of these rights. Currently, however, a performer holds no effective rights to his or her product in terrestrial radio.

Last year, H. Con. Res. 16, the Local Radio Freedom Act (LRFA) was introduced in the House. This resolution is a specific endorsement of the current regime, which offers no meaningful property rights to music performers in regard to transmission over terrestrial radio. **For this reason we urge you to refrain from co-sponsoring the Local Radio Freedom Act**, which sanctions the status quo, and has a chilling effect on the development of a forward-thinking policy that respects the rights of all music producers in all media.

The Constitution protects private property rights and specifically delegates to Congress authority to protect creative works. Unfortunately, LRFA closes the discussion about how best to protect property rights by resolving that terrestrial radio should never pay performance royalties on music broadcast on their stations used for raising advertising revenue. This is not equitable treatment for any musical artist or music distribution service.

Supporters of LRFA have argued that requiring terrestrial broadcast stations to pay a performance royalty is akin to a performance tax. **This is incorrect; a performance royalty is not a tax.** The definition of a tax is the transfer of wealth from a household or business to the government. Royalties go to rights holders, not to the government. It is completely within the

rights of broadcasters to decide not to pay for the use of a performer's song by not using the song. Paying a private citizen or business for the use of their property is clearly not a tax.

Additionally, supporters of LRFA claim that the promotional value artists derive from having their music played on the radio exceeds compensation which would be due under a royalty. However, cable, satellite, and Internet pay a royalty for sound performances. In a free market, some copyright holders might decide to forego royalty payments in return for having their music on the radio. Nonetheless, these decisions should be made by the free market, not the government.

Congress should not preclude a free market approach to royalty payments. We, the undersigned, urge you to refrain from supporting legislation like the Local Radio Freedom Act, and allow the discussion to remain open about how best to protect the rights of both performers and writers in the creation of music.

Sincerely,

Jeffrey Mazzella
President, Center for Individual Freedom

Andrew Langer
President, Institute for Liberty

Seton Motley
President, Less Government

Tom Schatz
President, Council For Citizens Against Government Waste

Phil Kerpen,
President American Commitment

David Williams
President, Taxpayers Protection Alliance

George Landrith
President, Frontiers of Freedom