

NATIONAL MUSIC PUBLISHERS' ASSOCIATION

The Note

FALL 2007

The NMPA Launches New Awards Program Honoring Songwriters Behind Gold and Platinum Records

The National Music Publishers' Association is launching a new program to honor the songwriters behind Gold and Platinum records.

The NMPA Gold & Platinum Composition Awards program will celebrate the contributions of songwriters and composers of singles that have been certified by the Recording Industry Association of America (RIAA) as Gold and Platinum.

"Songwriters, who make a significant contribution to the world of music, deserve this recognition," said NMPA President and CEO David Israelite. "The Gold and Platinum Awards program has been fabulous for artists, and I am thrilled the NMPA will now be able to offer this honor to songwriters."

Israelite and RIAA Chairman and CEO Mitch Bainwol unveiled the NMPA Gold & Platinum Composition Awards program at the NMPA Annual Meeting in New York this past June. Beginning this fall, when the RIAA certifies a single as Gold or Platinum, NMPA will have the opportunity to award a similar certificate to the songwriter.

"It's important to work with record labels where we can to strengthen the music industry," Israelite said. "While we may not agree on all issues, we certainly can agree that the outstanding contributions of those who create music should be recognized and celebrated."

Israelite said that the idea for the new program came to him when Bainwol invited him to a concert during which Bainwol presented an artist with a Platinum award.

"I was awed by the moment. I recognized the importance and prestige tied to the RIAA's program, and immediately wanted to provide similar acknowledgment to our songwriters," Israelite said.

Bainwol was impressed with the idea, and the two ironed out the details to get the program rolling.

"It's long overdue that we recognize songwriters for their essential role in the creation of great music," said Bainwol. "We're thrilled that we found a way to do that — to properly recognize through the industry's prized official award the role of the songwriter while maintaining the unparalleled brand that is the G&P Program."

For a record to be certified by the RIAA as Gold, it must have shipped 500,000 units. For Platinum, it must have shipped one million units. The certification process begins with an independent sales audit of each title by an accounting firm that has been auditing title sales for the RIAA for more than 20 years.

For more information about the awards program, visit the NMPA website at www.nmpa.org.



RIAA Chairman and CEO Mitch Bainwol and NMPA President and CEO David Israelite unveiled the new program at the NMPA's Annual Meeting in New York City.



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President's Corner

DAVID ISRAELITE



Greetings,

As President and CEO of the National Music Publishers' Association, I thank you for your positive feedback about our inaugural issue of *The Note*, a twice-yearly magazine for music publishers and songwriters.

This second issue contains even more articles we believe you will find relevant to your lives. As you know, NMPA is the leading association advocating on behalf of music publishers and their songwriting partners. Our magazine's main purpose is to keep you informed about the issues affecting your most important asset — your songs.

Our Washington Update section describes some critically-important battles being waged in our nation's capital. Congress has made it clear that it plans to reform Section 115 of the Copyright Act, which governs the mechanical compulsory license. NMPA is fighting to ensure that any new legislation establishes a collective licensing system for mechanical rights and a better way to collect and distribute mechanical royalties. We want to be sure that any legislation fairly compensates music publishers and songwriters for their creative works.

Also, of particular importance is the rate-setting battle before the Copyright Royalty Judges. By the end of this process, the judges will decide upon new statutory royalty rates for CDs, permanent digital downloads, subscription services and certain ringtones. These rates will govern the compulsory use of musical works under Section 115 of the Copyright Act through the end of 2012. We expect hearings to begin early next year.

NMPA, along with the Nashville Songwriters Association International (NSAI) and the Songwriters Guild of America (SGA), are working hard to convince the three-judge panel to establish fair rates. Their decision affects your bottom line in a very real way, and we are doing everything we can on your behalf.

On a lighter note, the lead news story in this issue describes our exciting new program to honor the songwriters behind Gold and Platinum records.

The NMPA Gold & Platinum Composition Awards program is designed to celebrate the hard work of songwriters and composers of singles that have been certified by the Recording Industry Association of America as Gold and Platinum. I am thrilled to have this chance to give our songwriters the recognition they deserve. This promises to be an outstanding program.

I unveiled the new program along with RIAA Chairman and CEO Mitch Bainwol at the NMPA Annual Meeting in New York this past June. The meeting was a great success and boasted a crowd much larger than in years past. We are already starting our plans for next year's meeting, which we believe will draw an even larger crowd.

We need your participation and we need your voice to make us even stronger. If you haven't already joined, now is the time. We've included an easy-to-use form for that purpose. There are many benefits to being part of the leading association for your industry, and we urge you to take advantage of them.

Until next time,

A handwritten signature in black ink that reads "Dmb".

David Israelite
President & CEO, NMPA

**Our magazine's
main purpose is to
keep you informed
about the issues
affecting your most
important asset
— your songs.**



Irwin Z. Robinson, Chairman of Paramount Allegra Music, a division of Paramount Pictures Corp. and Chairman of the Board of the National Music Publishers' Association.

What's your favorite song & why?

"Climb Every Mountain" is one of my favorites because it's inspirational. I feel I have climbed many mountains getting to this point in my career.

What is the biggest lesson you've learned that you would like to pass along?

There is a great deal of competition in the market for talent. Building a reputation for dealing fairly and equitably with your business partners very often gets you to your goal.



Irwin Z. Robinson, NMPA Chairman

What are some of the changes you've seen over the years in the music publishing industry?

When I entered the business, the writer/artist was just beginning to become more prominent than the pure songwriter. This shift soon resulted in changes in talent acquisition focus, as well as in the economics of our business.

What is the state of the music publishing industry today?

I feel we are still a healthy industry. There is more interest in music as a commodity today than ever before.

What's the biggest challenge facing the music publishing industry?

The greatest challenge we have is being able to fulfill all of the new

licensing opportunities presented by the distribution of music through new digital channels.

How has NMPA changed over the years?

NMPA has evolved over the years into a much more sophisticated trade organization than when I first became part of the board. Increasingly important each year has been how we were represented in Washington and dealing with the

introduction of various bills that could affect our business either positively or negatively. We now recognize the importance of coalitions with other groups that have shared concerns. We are now finally a group whose voice is heard in Washington.

What can you tell us about the NMPA Board this year?

We have a great Board of very serious and sophisticated members. They give their time unselfishly at Committee and Board meetings as well as on weekly conference calls to discuss issues that arise between Board meetings. The majority of the members are heads of both small and large independent music publishing companies.

What should NMPA focus upon in the next few years?

NMPA's focus over the next few years should be on establishing fair licensing rates in the pending rate-setting proceeding, as well as working on legislation to address the changes that Congress feels are needed in Section 115 of the copyright law regarding mechanical licensing.

“The greatest challenge we have is being able to fulfill all of the new licensing opportunities presented by the distribution of music through new digital channels.”





BERKLEY SCHWARZ

So far, 2007 has proven to be a very busy year for NMPA on Capitol Hill.

MUSIC LICENSING REFORM

...music publishers and songwriters should not be forced to depend upon record companies to manage our royalty payments for our copyrights.

Congress has made it clear that it plans to reform Section 115 of the Copyright Act, which governs the mechanical compulsory license. Music publishers and songwriters depend on their mechanical royalties, and it is crucial that these revenues are not diminished. NMPA is dedicated to protecting

music publishers and our songwriter partners and working with Congress to make sure that any reform legislation is beneficial to creators.

On March 22, 2007, the House Judiciary Subcommittee on Courts, the Internet and Intellectual Property held a hearing on "Reforming Section 115 of the Copyright Act for the Digital Age." Register Marybeth Peters was the only witness. In her testimony, Ms. Peters discussed allowing record labels to "sublicense" or "pass through" the musical work copyright along with the sound recording copyright for digital works. NMPA, however, strongly believes that music publishers and songwriters should not be forced to depend upon record companies to manage our royalty payments for our copyrights.

It is important to music publishers that any new legislation establish a collective licensing system for mechanical rights and a better system for collecting and distributing mechanical royalties. Legislation must also ensure that music publishers and songwriters are

fairly compensated for their creative works and confirm that interactive streaming (where the user controls what he or she is listening to) requires a mechanical license under Section 115 of the Copyright Act.

THE BOUCHER BILL

...NMPA strongly opposes this legislation...

Congressman Rick Boucher (D-VA) has once again introduced so-called "fair use" legislation, H.R. 1201. The most disturbing part of this

legislation is the provision that would amend the Copyright Act to limit the availability of statutory damages against individuals and firms who may be found to have engaged in contributory infringement, inducement of infringement, vicarious liability, or other indirect infringement.

NMPA strongly opposes this legislation and is expressing our views to both the House and the Senate Judiciary and Commerce Committees. The legislation has been referred to the House Judiciary Committee, but no action has been taken.

DIGITAL RADIO/SATELLITE RADIO

...We want new technologies to succeed, but not at the expense of the creators of music.

The time has come for Congress to address the current trend of satellite music providers selling devices that allow consumers to make near-perfect copies of music, without paying for distributing the music.

The PERFORM Act (S. 256) introduced by Senator Dianne Feinstein (D-CA) would protect songwriters and music publishers, while encouraging the growth of digital radio. S. 256 has been referred to the Senate Judiciary Committee, and NMPA will continue to work toward the goal of passing this important legislation.

In the meantime, NMPA has filed a lawsuit against XM Satellite Radio for refusing to acknowledge the rights of or pay compensation to the music publishers and songwriters who own songs being distributed through its unauthorized digital download service. We want new technologies to succeed, but not at the expense of the creators of music.

NMPA ON CAPITOL HILL

Berkley Schwarz, Vice President & Counsel
Ms. Schwarz is the NMPA's chief liaison to Capitol Hill and the federal agencies. A former Congressional aide and Department of Justice attorney, Ms. Schwarz works to educate Members and their staff about the value of copyright and the role of music publishers. She is in constant communication with key decision-makers involved in legislation and regulation that directly affect the music publishing industry.





ANTI-PIRACY ENFORCEMENT

...legislation that would give law enforcement the tools they need to bring intellectual property pirates to justice.

The Department of Justice recently released to Congress its proposed enforcement legislation. The copyright community has worked from this draft and has

come up with legislation that would give law enforcement the tools they need to bring intellectual property pirates to justice. We are hopeful that legislation will be introduced soon.

Additionally, U.S. Representative Ric Keller (FL-R) introduced H.R. 1689, the Curb Illegal Downloading on College Campuses Act of 2007. This legislation provides colleges and universities greater incentives to use tools to help curb copyright theft on school networks. NMPA strongly supports HR 1689.

ORPHAN WORKS

...it is our preference that music be excluded from any orphan works legislation.

NMPA expressed to both the House and the Senate that it is our preference that music be excluded from any orphan works legislation. If this is not possible, we will work

to ensure that the protective language from last year's House legislation be included in any bill that is introduced.

To stay on top of these important legislative issues, visit our website, www.nmpa.org.

NMPA Joins YouTube Lawsuit

In August, NMPA joined a class action lawsuit alleging massive copyright infringement by YouTube and its parent company, Google. The lawsuit, *The Football Association Premier League Limited, et al. v. YouTube, Inc., et al.*, 07 Civ. 3582 (LLS), is pending before the Honorable Louis L. Stanton in the United States District Court for the Southern District of New York.

Rate-Setting Proceeding Shifts Into High Gear

Sometime next year, after hearing evidence from music publishers, songwriters, record labels and digital services, a panel of three Copyright Royalty Judges in Washington, D.C. will decide upon new statutory royalty rates for CDs, permanent downloads and subscription services. These rates will govern the compulsory use of musical works under Section 115 of the Copyright Act through the end of 2012.

NMPA, along with the Nashville Songwriters Association International (NSAI) and the Songwriters Guild of America (SGA), are working hard to convince the three judges to establish rates that fairly compensate publishers and creators for the value of their songs. Like the other parties to the proceeding, we are currently gathering critical documents and information to prepare for the hearings that are expected to occur early next year.

"There's no question about it, this is a challenging battle, with both the record labels and digital services on the other side arguing for lower rates," said NMPA President and CEO David Israelite. "But I know that with the support of our publisher members and the songwriting community, we'll put forth a very compelling case."

The current statutory rate for both CDs and permanent downloads is 9.1 cents, and there is no rate yet in effect for uses by subscription services. NMPA is seeking new penny rates for CDs and downloads, and has proposed a flexible, percentage-based approach for subscription services.

Meanwhile, in a related development, the Copyright Office hosted a roundtable discussion for interested parties on June 15th to consider ways in which the Section 115 compulsory licensing process might be clarified for digital uses. NMPA's general counsel Jacqueline Charlesworth urged the Copyright Office to adopt a rule confirming that the process of interactive streaming requires a license under Section 115. The Copyright Office may issue a draft rule this fall.



Jacqueline Charlesworth,
NMPA Senior Vice
President and
General Counsel

NMPA Spotlight: w/ David Renzer

Music Publishers and the Digital Future: Is the Yellow Brick Road Paved in Gold?

While sales of CDs continue to fall, sales of permanent downloads are up, and there's a robust ringtone and mastertone marketplace. Internet lyric services such as Gracenote and video services such as YouTube offer new licensing opportunities. However, digital sales currently make up a very small percentage of overall revenue. As such, the promise of the digital future is still unfulfilled.

In the past year, Universal Music Publishing Group has licensed Q-Trax, SpiralFrog, and Gracenote, among others. We have also just concluded a deal with Slacker. Each of these services offers consumers a unique way to experience music. Q-Trax and SpiralFrog are advertising-supported services offering free limited downloads. Slacker is a multi-tiered service offering Internet radio which may be captured on portable devices. Gracenote provides lyrics to Yahoo's free-to-consumer lyric site.

Each of these services is an experiment in consumer behavior and economics. We don't know which services will be successful, and we don't know how much revenue we will derive from a successful service.

One thing we do know is that it is challenging for these services to license publishing rights in the U.S. The performing rights licenses may be easily obtained from three parties, ASCAP, BMI and SESAC,

but the mechanical rights are more difficult. Most songs are controlled by more than one publisher, and licenses may be needed from each publisher controlling a portion of a song. A license for the catalogs of all four major publishers will not result in sufficient rights to launch a service.

Assuming a service obtains licenses from all of the major music publishers and/or

the Harry Fox Agency, how do they determine what percentage of each song they have licensed and who they should pay? How will they match songs to masters? The matching processes involved are incredibly complex. We want to license many services, but are the licensing complexities reducing the number of potential players in the market?

Realizing how difficult it is to license publishing rights, the National Music Publishers' Association (NMPA) worked closely with other organizations and members of Congress to make amendments to the Copyright Act for licensing collectives called designated agents. A bill was drafted but did not make it out of committee before the Congress was dissolved.

Congress may make another attempt at a bill on this issue. If it does, we'll have to live with whatever that bill imposes, whether we like it or not. Alternatively, publishers may choose to take control of their destiny by creating their own collective to facilitate the licensing of their songs, and the collection and distribution of their royalties. A concept called a "Uni-License" is currently being discussed by the performing rights societies and HFA as a possible solution. This scenario could be similar to the system in the U.K., where the "alliance" of the performing rights and mechanical rights societies issue one license, which covers both the performing right and the mechanical right. Perhaps the time is right for a "Uni-license" solution.

NMPA can play a pivotal role in furthering these initiatives by getting the message out to its members. NMPA can also continue to lobby Congress to make sure that any proposed amendments to the Copyright Act are favorable to the interests of music publishers and songwriters.

Whether Congress imposes a solution or publishers create their own, one thing is clear: When licensing becomes easier, more digital music services will be able to launch, and music publishers and songwriters will be walking down the yellow brick road paved in gold!



David Renzer, Chairman & CEO, Universal Music Publishing Group

In The News...

NMPA Board of Directors Election Results Announced

In June, NMPA announced the results of its biennial election of the organization's Board of Directors. The majority of incumbents were re-elected to the Board, and they were joined by one new member, John Rudolph of Bug Music.



The names of the NMPA Board Members are listed on page eight of this magazine. Board Members are all active U.S. music publishers. They serve two-

year terms. The election results were finalized at the NMPA's Annual Meeting, held at Le Parker Meridien in New York City. The meeting was a great success. Congressman Howard Berman from California, a long-time champion of music publishers and songwriters, was honored with the 2007 NMPA President's Award. Music legend Neil Sedaka received the 2007 NMPA Songwriter Icon Award.

The meeting was packed with hundreds of participants. In addition to a rousing performance by Sedaka, the meeting boasted a dynamic panel discussion on the future of music publishing in the digital age. NMPA staff is already hard at work on next year's meeting. Please plan to join us.



NMPA Hires Kathryn E. Wagner as Vice President and Counsel

NMPA recently hired an experienced intellectual property litigator, Kathryn E. Wagner, as Vice President and Counsel.

Wagner will help manage NMPA's litigation efforts on behalf of music publishers and songwriters. She will also work on the organization's legislative and policy initiatives. Wagner will report directly to Jacqueline Charlesworth, NMPA Senior Vice President and General Counsel.

Wagner joins the NMPA after 10 years practicing in the Litigation Group at Pryor Cashman LLP, where she specialized in intellectual property, corporate and securities litigation and alternative dispute resolution proceedings. She has litigated numerous high-profile cases involving copyright infringement, trademark and Lanham Act unfair competition, and music publishing and film distribution contracts.

Wagner received her J.D. from Tulane University and her B.A. from Duke University.



NMPA Online

To stay on top of the latest legal issues and copyright matters facing the industry, visit us online at www.nmpa.org. On the website you will find press releases and updates about recent victories in the courts and on Capitol Hill.

Working For You

Jamie R. Marotta is the Director of Member Relations for NMPA and NMPAC. She ensures that all members are kept up-to-date on current events in the music publishing industry, manages the NMPA election process and plans the Annual Meeting.





Who, What, Where...

Calendar of Events

September 5 • Recording Arts Day • Washington, D.C. • www.grammy.com

Recording Arts Day will connect music creators and other music professionals with policy makers on Capitol Hill to enlighten Washington's elected officials about the important role that the recording arts play in our cultural and economic life. The best advocates on issues that matter most to professional musicians are professional musicians. For more information, please contact April Canter at (202) 662-1285 or aprilc@grammy.com.

September 17 & 18 • 7th Annual Future of Music Policy Summit • Washington, D.C. • www.futureofmusic.org

Now in its seventh year, the Future of Music Policy Summit brings an unprecedented group of panelists and keynote speakers together with an engaged, diverse audience for a robust debate about the critical issues at the intersection of music, law, technology and policy.

October 16-20 • CMJ Music Marathon & Film Festival 2007 • New York, NY • www.cmj.com/marathon

The 2007 CMJ Music Marathon finds itself in Greenwich Village and packed with emerging music. Although the Marathon includes more than 100,000 fans, professionals and artists, CMJ keeps activities intimate with showcases that have helped launched the careers of R.E.M., Beastie Boys and the Black Eyed Peas. The Marathon also hosts dozens of panel discussions, film screenings and events with seasoned professionals.

October 23 • TJ Martell Award Gala • New York, NY • www.tjmartellfoundation.org

The 32nd Annual Awards Gala Dinner will be held at the New York Hilton in Midtown Manhattan. This year's honorees will be Mel Karmazin, CEO of Sirius Satellite Radio, Berry Gordy, Founder of Motown Records and Joel A. Katz, Chairman of Greenberg Traurig's Global Entertainment Practices. Cocktails and silent auction begins at 5:45 p.m. For information, please call (212) 833-5444.

October 23-25 • CTIA Wireless IT & Entertainment 2007 • San Francisco, CA • www.ctia.org/wirelessit

CTIA WIRELESS I.T. & Entertainment® focuses on integrating wireless data technologies into the enterprise and vertical business markets such as healthcare, government, automotive, retail etc. Additionally, the show reflects the explosive growth in wireless entertainment — encompassing everything from music downloads to digital cameras to interactive games.

November 7 • 41st Annual CMA Awards • Nashville, TN • www.cmaawards.com/2007

This is a big night for Country Music, featuring awards, presentations, and performances honoring the industry's hottest stars.

January 7-10, 2008 • International CES • Las Vegas • www.cesweb.org

The International CES is produced by the Consumer Electronics Association (CEA), which represents more than 2,100 corporate members involved in the design, development, manufacturing, distribution and integration of consumer electronics products. The event features product debuts from 2,700 exhibitors, covering more than 30 product areas, including the latest in content, wireless, digital imaging, mobile electronics, home theater and audio.

WHAT'S ON YOUR PLATE? If you have an event to list on the NMPA Calendar, please submit the details to Jamie Marotta at jmarotta@nmpa.org.

Inside the NMPA

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About the NMPA

The National Music Publishers' Association is committed to promoting and advancing the interests of music publishers and their songwriting partners. As the trade association for the music publishing industry, NMPA's goal is to foster a business climate that allows its members to thrive creatively and financially. Founded in 1917, NMPA battles for domestic and global protection of copyrights.

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