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ISSUE: No New Performance Taxes on Radio Stations

An initiative floated by the recording industry would create a new regime requiring radio broadcasters to pay broadcast royalty payments, or what is essentially a performance tax, for every song that is played. Such a scheme is not only unfair, but wholly unnecessary.

The 110th Congress will continue to be pressed by the recording industry to impose a performance tax on radio stations. However, since a limited copyright in sound recordings was recognized in 1972, Congress has rejected the idea of a general public performance tax covering radio broadcasts. Congress has continually recognized the mutually beneficial relationship that exists between the recording industry and radio broadcasters. The cornerstone of this relationship is the promotional value the record labels receive from radio airplay. Simply put, radio airplay has been and continues to be the driving force behind record sales in the United States. In fact, the Copyright Arbitration Royalty Panel (CARP) found “essentially undisputed testimony that traditional over-the-air radio play has a tremendous promotional impact on phonorecord sales.” And a 2006 Omnitel survey found that 63% of respondents rate local radio as their primary source to learn about new music.

The broadcast industry believes its position is simple – since record labels are not required to pay radio stations for promotion of their recorded songs and artists, radio stations should not be required to pay for the use of the label’s music. The broadcast industry strongly opposes the performance tax because artists receive a great benefit from the free airplay provided by radio stations.

In late October 2007, a bipartisan resolution (H. Con. Res. 244) was introduced that recognizes the promotional value of free airplay by radio stations. This resolution, which has been gaining steady support, affirms that "Congress should not impose any new performance fee, tax, royalty, or other charge relating to the public performance of sound recordings on a local radio station for broadcasting sound recordings over-the-air, or on any business for such public performance of sound recordings."

Recommendation: The Georgia delegation is asked to become a co-sponsor of House Concurrent Resolution 244 and thus oppose the unfair imposition of a performance tax on free-over-the-air radio broadcasters.

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