U.S.C. § 300j–9(i), 33 U.S.C. § 1367, 15 U.S.C. § 2622, 42 U.S.C. § 6971, 42 U.S.C. § 7622, 42 U.S.C. § 9610, 42 U.S.C. § 5851, 49 U.S.C. § 42121, 18 U.S.C. § 1514A, 49 U.S.C. § 60129, 49 U.S.C. § 20109, 6 U.S.C. § 1142, 15 U.S.C. § 2087, 29 U.S.C. § 218c, 12 U.S.C. § 5567, 46 U.S.C. § 2114, 21 U.S.C. § 399d, and 49 U.S.C. § 30171.

Signed at Washington, DC on July 18, 2014.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2014–17342 Filed 7–22–14; 8:45 am]

BILLING CODE 4510–26–P

LIBRARY OF CONGRESS

Copyright Office

[Docket No. 2014–03]

Music Licensing Study: Second Request for Comments

AGENCY: U.S. Copyright Office, Library of Congress.

ACTION: Notice of inquiry.

SUMMARY: The U.S. Copyright Office has undertaken a study to evaluate the effectiveness of current methods for licensing musical works and sound recordings. At this time, the Office seeks additional comments on whether and how existing music licensing methods serve the music marketplace, including new and emerging digital distribution platforms.

DATES: Written comments are due on or before August 22, 2014.

ADDRESSES: All comments shall be submitted electronically. A comment page containing a comment form is posted on the Office Web site at *http://www.copyright.gov/200B;docs/200B;musiclicensingstudy.* The Web site interface requires commenting parties to complete a form specifying their name and organization, as applicable, and to upload comments as an attachment via a browser button. To meet accessibility standards, commenting parties must upload comments in a single file not to exceed six megabytes (MB) in one of the following formats: The Portable Document File (PDF) format that contains searchable, accessible text (not an image); Microsoft Word; WordPerfect; Rich Text Format (RTF); or ASCII text file format (not a scanned document). The form and face of the comments must include both the name of the submitter and organization. The Office will post the comments publicly on its Web site in the form that they are received, along with associated names and organizations. If electronic submission of comments is not feasible, please contact the Office at 202–707–8350 for special instructions.

FOR FURTHER INFORMATION CONTACT: Jacqueline C. Charlesworth, General Counsel and Associate Register of Copyrights, by email at *jcharlesworth@loc.gov* or by telephone at 202–707–8350; or Sarang V. Damle, Special Advisor to the General Counsel, by email at *sdam@loc.gov* or by telephone at 202–707–8350.

SUPPLEMENTARY INFORMATION:

I. Background

The U.S. Copyright Office is conducting a study to assess the effectiveness of the current methods for licensing musical works and sound recordings. To aid with this study, the Office published an initial Notice of Inquiry on March 17, 2014 (''First Notice'') seeking written comments on twenty-four subjects concerning the current environment in which music is licensed. 78 FR 14739 (Mar. 17, 2014). The eighty-five written submissions received in response to this initial notice can be found on the Copyright Office Web site at *http://www.copyright.gov/docs/musiclicensingstudy/200B;comments/Docket2014_3/.* In June 2014, the Office conducted three two-day public roundtables in Nashville, Los Angeles, and New York City. The three roundtables provided participants with the opportunity to share their views on the topics identified in the First Notice and other issues relating to music licensing. *See* 79 FR 25626 (May 5, 2014). Transcripts of the proceedings at each of the three roundtables will be made available on the Copyright Office Web site at *http://www.copyright.gov/docs/200B;musiclicensingstudy/.*

In the initial round of written comments and during the roundtable sessions, a number of significant issues were discussed that the Office believes merit additional consideration.

First, as explained in the First Notice, in 2013, the two federal district courts overseeing the antitrust consent decrees governing the largest performance rights organizations (''PROs''), American Society of Composers, Authors and Publishers (''ASCAP'') and Broadcast Music, Inc. (''BMI''), held in separate opinions that under those decrees, music publishers could not withdraw selected rights—such as ''new media'' rights—to be directly licensed outside of the PROs; rather, a particular publisher's song catalog must either be ''all in'' or ''all out.'' [1] Following these rulings, both in public statements and at the recent roundtables, certain major music publishers have indicated that, if the consent decrees remain in place without modification, they intend to withdraw their entire catalogs from the two PROs and directly license public performances.[2] Such a move would affect not only online services, but more traditional areas of public performance such as radio, television, restaurants, and bars.

Stakeholders at the roundtables expressed significant concerns regarding the impact of major publishers' complete withdrawal from the PROs. Notably, traditional songwriter contracts typically include provisions that assume that a songwriter's performance royalties will be collected by and paid directly to the songwriter through a PRO, without contemplating alternative arrangements. Songwriters and composers raised questions as to how withdrawing publishers would fulfill this responsibility in the future, including whether they would be in a position to track and provide adequate usage and payment data under a direct licensing system. Another concern is how such withdrawals would affect the PROs' cost structures and the commission rates for smaller entities and individual creators who continued to rely upon these organizations to license and administer their public performance rights. At the same time, some stakeholders questioned the existing distribution methodologies of the PROs, suggesting that the PROs should rely more on census-based reporting (as is typically supplied by digital services) and less on sampling or non-census-based approaches to allocate royalty fees among members.

Next, many stakeholders appear to be of the view that the Section 115 statutory license for the reproduction and distribution of musical works should either be eliminated or significantly modified to reflect the realities of the digital marketplace. While music owners and music users have expressed a range of views as to the particulars of how this might be accomplished, much of the commentary and discussion has centered on two

[1] *In re Pandora Media, Inc.*, Nos. 12–cv–8035, 41–cv–1395, 2013 WL 5211927 (S.D.N.Y. Sept. 17, 2013); *Broadcast Music, Inc.,* v. *Pandora Media, Inc.,* Nos. 12–cv–4037, 64–cv–3787, 2013 WL 6697788 (S.D.N.Y. Dec. 19, 2013).

[2] *See* Ed Christman, *Universal Music Publishing Plots Exit From ASCAP, BMI,* Billboard (Feb. 1, 2013), *http://www.billboard.com/biz/articles/news/publishing/1537554/universal-music-publishing-plots-exit-from-ascap-bmi; see also* Ed Christman, *Sony/ATV's Martin Bandier Repeats Warning to ASCAP, BMI, Billboard* (July 11, 2014), *http://www.billboard.com/biz/articles/news/publishing/6157469/sonyatvs-martin-bandier-repeats-warning-to-ascap-bmi.*

possible approaches. The first would be to sunset the Section 115 license with the goal of enabling musical work owners to negotiate licenses directly with music users at unregulated, marketplace rates (as the synchronization market for musical works currently operates). Some stakeholders have acknowledged, however, that such a market-based system might still have to allow for the possibility of collective licensing to accommodate individuals and smaller copyright owners who might lack the capacity or leverage to negotiate directly with online service providers and others.

A second model, advocated by the record labels, would be to eliminate Section 115 and instead allow music publishers and sound recording owners collectively to negotiate an industrywide revenue-sharing arrangement as between them. For the uses falling under this approach, a fixed percentage of licensing fees for use of a recorded song would be allocated to the musical work and the remainder would go to the sound recording owner. Record labels would be permitted to bundle musical work licenses with their sound recording licenses, with third-party licensees to pay the overall license fees to publishers and labels according to the agreed industry percentages. While musical work owners would retain control over the first recordings of their works, such an arrangement would cover not only audio-only uses but would extend to certain audiovisual uses not currently covered by the Section 115 license, such as music videos and lyric display.

Another theme that emerged from the first round of written comments and the public roundtables relates to the Section 112 and 114 statutory licenses for the digital performance of sound recordings.[3] Although there appeared to be substantial agreement that these licenses are largely effective, there was also a general consensus that improvements could be made to the Copyright Royalty Judges' (''CRJs'') statutorily mandated ratesetting procedures. For instance, under 17 U.S.C. 803(b)(6), parties in proceedings before the CRJs must submit written direct statements before any discovery is conducted. A number of commenters believed that the ratesetting process could be significantly streamlined by allowing for discovery before presentation of the parties' direct cases, as in ordinary civil litigation. Stakeholders were also of the view that it would be more efficient to combine what are now two separate direct and rebuttal phases of ratesetting hearings, as contemplated by 17 U.S.C. 803(b)(6)(C), into a single integrated trial—again as is more typical of civil litigation. There was also general agreement that more could be done to encourage settlement of rate disputes, such as adoption of settlements earlier in the process and allowing such settlements to be treated as non-precedential with respect to non-settling participants.

Finally, many commenting parties pointed to the lack of standardized and reliable data related to the identity and ownership of musical works and sound recordings as a significant obstacle to more efficient music licensing mechanisms. Stakeholders observed that digital music files are often distributed to online providers without identifiers such as the International Standard Recording Code (''ISRC'') and/or International Standard Musical Work Code (''ISWC''), and that the lack of these identifiers (or other unique or universal identifiers) makes it difficult for licensees or others to link particular music files with the copyrighted works they embody. In addition to problems identifying the musical works and sound recordings themselves, commenters noted the difficulties of ascertaining ownership information, especially in the case of musical works, which frequently have multiple owners representing varying percentages of particular songs. These issues, in turn, relate to a more general ''transparency'' concern of music creators that usage and payment information—including information about advances and equity provided by licensees to publishers and labels—may not be fully and readily accessible to songwriters, composers and artists.

At this time, the Office is soliciting additional comments on these subjects, as set forth in the specific questions below. Parties may also take this opportunity to respond to the positions taken by others in the first round of comments and/or at the roundtables. Those who plan to submit additional comments should be aware that the Office has studied and will take into consideration the comments already received, so there is no need to restate previously submitted material. While a party choosing to respond to this Notice of Inquiry need not address every subject below, the Office requests that responding parties clearly identify and separately address each subject for which a response is submitted.

Subjects of Inquiry

Data and Transparency

1. Please address possible methods for ensuring the development and dissemination of comprehensive and authoritative public data related to the identity and ownership of musical works and sound recordings, including how best to incentivize private actors to gather, assimilate and share reliable data.

2. What are the most widely embraced identifiers used in connection with musical works, sound recordings, songwriters, composers, and artists? How and by whom are they issued and managed? How might the government incentivize more universal availability and adoption?

3. Please address possible methods for enhancing transparency in the reporting of usage, payment, and distribution data by licensees, record labels, music publishers, and collective licensing entities, including disclosure of non-usage-based forms of compensation (*e.g.,* advances against future royalty payments and equity shares).

Musical Works

4. Please provide your views on the logistics and consequences of potential publisher withdrawals from ASCAP and/or BMI, including how such withdrawals would be governed by the PROs; whether such withdrawals are

[3] Based upon written comments and discussion at the roundtables, it appears that certain language in the First Notice concerning the lack of availability of licenses for pre-1972 recordings under Sections 112 and 114 may have been misinterpreted by some. In a footnote, the First Notice observed that ''a person wishing to digitally perform a pre-1972 sound recording cannot rely on the Section 112 and 114 statutory licenses and must instead obtain a license directly from the owner of the sound recording copyright.'' 78 FR 14739, 14741 n.12. In making this statement, the Office was not opining on the necessity of obtaining such a license under state law, but merely observing that licenses for the digital performance of pre-1972 sound recordings, and for the reproductions to enable such performances, are not available under Section 112 or 114. A licensee seeking such a license would thus need to obtain it directly from the sound recording owner (as the Office understands to be the current practice of some licensees with respect to performances of pre-1972 recordings).

On the other side of the coin, it appears that others have misread the Office's observation in its report on pre-1972 sound recordings that ''[i]n general, state law does not appear to recognize a performance right in sound recordings'' as an official statement that no such protection is (or should be) available under state law. *See U.S. Copyright Office, Federal Copyright Protection for Pre-1972 Sound Recordings* 44 (2011). This, too, is a misinterpretation. While, as a factual matter, a state may not have affirmatively acknowledged a public performance right in pre-1972 recordings as of the Office's 2011 report, the language in the report should not be read to suggest that a state could not properly interpret its law to recognize such a right. As the Office explained, ''common law protection is amorphous, and courts often perceive themselves to have broad discretion.'' *Id.* at 48.

compatible with existing publisher agreements with songwriters and composers; whether the PROs might still play a role in administering licenses issued directly by the publishers, and if so, how; the effect of any such withdrawals on PRO cost structures and commissions; licensees' access to definitive data concerning individual works subject to withdrawal; and related issues.

5. Are there ways in which the current PRO distribution methodologies could or should be improved?

6. In recent years, PROs have announced record-high revenues and distributions. At the same time, many songwriters report significant declines in income. What marketplace developments have led to this result, and what implications does it have for the music licensing system?

7. If the Section 115 license were to be eliminated, how would the transition work? In the absence of a statutory regime, how would digital service providers obtain licenses for the millions of songs they seem to believe are required to meet consumer expectations? What percentage of these works could be directly licensed without undue transaction costs and would some type of collective licensing remain necessary to facilitate licensing of the remainder? If so, would such collective(s) require government oversight? How might uses now outside of Section 115, such as music videos and lyric displays, be accommodated?

Sound Recordings

8. Are there ways in which Section 112 and 114 (or other) CRB ratesetting proceedings could be streamlined or otherwise improved from a procedural standpoint?

International Music Licensing Models

9. International licensing models for the reproduction, distribution, and public performance of musical works differ from the current regimes for licensing musical works in the United States. Are there international music licensing models the Office should look to as it continues to review the U.S. system?

Other Issues

10. Please identify any other pertinent issues that the Copyright Office may wish to consider in evaluating the music licensing landscape.

Dated: July 18, 2014.

Jacqueline C. Charlesworth,

General Counsel and Associate, Register of Copyrights.

[FR Doc. 2014–17354 Filed 7–22–14; 8:45 am]

BILLING CODE 1410–30–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2014–044]

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before August 22, 2014. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: You may request a copy of any records schedule identified in this notice by contacting Records Management Services (ACNR) using one of the following means:

Mail: NARA (ACNR), 8601 Adelphi Road, College Park, MD 20740–6001.

Email: request.schedule@nara.gov.

Fax: 301–837–3698.

Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Margaret Hawkins, Director, Records Management Services (ACNR), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: 301–837–1799. Email: *request.schedule@nara.gov.*

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

The schedules listed in this notice are media neutral unless specified otherwise. An item in a schedule is media neutral when the disposition instructions may be applied to records regardless of the medium in which the records are created and maintained. Items included in schedules submitted to NARA on or after December 17, 2007, are media neutral unless the item is limited to a specific medium. (See 36 CFR 1225.12(e).)

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit