Moving Music Licensing into the Digital Era:
More Competition and Less Regulation*

Thomas M. Lenard
Lawrence J. White

“…the time is ripe to question the existing paradigm for the licensing of musical works and sound recordings and consider meaningful change. There is a widespread perception that our licensing system is broken.”¹

Abstract

The system for licensing music in the United States for public performances through radio, television, digital services and other means is complicated, arcane, and heavily regulated. Its basic structure is oriented toward distributing music through pre-digital channels. Although much of the pricing of music rights is supposed to be based on competitive prices, in reality that is currently unnecessarily difficult: The widespread regulation of music prices (royalties) largely blocks the development of a competitive market and the associated efficiencies.

In this paper we review the current structure of the music licensing system and suggest ways of making it more competitive and less reliant on regulation. Central to our proposals are a comprehensive database of musical compositions (including the specific sound recording version, where relevant) and their owners, so that users can readily identify from whom they need to license rights; a greater ability of intermediaries to aggregate the various categories of music ownership rights; and the consequent development of a system of more competitive negotiations and transactions between music rights holders and music distributors.