
Radio should pay royalties to performers

The music industry has changed. Stations use music to sell ads, and should pass some of that along to musicians and their heirs.

By By Marsha Blackburn, Special to The Commercial Appeal

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I was fortunate to visit with Isaac Hayes shortly before he passed away last year. His sonorous voice was still intact, but his walk was slower and his movements were more measured. He was still the kind and generous man I had come to know, but he was tired. The years of touring and performing had worn him out. The last thing we talked about were efforts to get him the compensation he deserved.

Isaac's story isn't uncommon among my constituents. The 7th Congressional District stretches from Memphis through Nashville and north to the Kentucky border. It is said to be home to more singers, songwriters and performing artists than any other congressional district in America. The music industry unites our state in a way that few other concerns do and Tennesseans can be credited with writing the soundtrack to the American story. They also bring millions of dollars to the Memphis economy every year.

Isaac wasn't alone in his concerns about compensation; I hear about it almost every day.

The music industry is remarkably different than it was in the 1940s, '50s or '60s. Then, artists like Isaac Hayes and other Memphis greats would gladly allow radio stations to play their music for free. Radio play drove listeners to the record store or to concerts and artists made their money from selling albums and tickets. The industry just isn't that simple anymore.

Today, as the sale of CDs continues to decline, artists increasingly depend on downloads and concert appearances to pay the bills. Artists like Isaac Hayes, who could no longer tour, are especially hard hit by the transition from physical to digital music sales. While the technological revolution has made music more accessible and portable for the consumer, it has made compensation more challenging for the artist. To compensate artists fairly, copyright law must keep up with the music industry; and that means making an important change.

Every American media platform pays royalties to the artist except for one: over-the-air radio. Radio stations enjoy this unique exemption from basic copyright law even though they sell advertising based on the music they play. This denies Memphis musicians the fair compensation they deserve.

To correct the situation, I support the Performance Rights Act, which the House Judiciary Committee begins considering this week. The act simply allows the Copyright Royalty Board to establish terrestrial radio compensation rates for performers just as it currently does for songwriters. The benefits to artists, and to their heirs, would be enormous.

Those benefits include many advantages beyond the domestic revenue that fair royalties generate. The United States is one of the only industrialized countries that does not require royalties for terrestrial broadcast. Others include China and North Korea. Until we change our laws at home, recording artists are being denied royalties from every other nation in the world. That means possibly hundreds of millions in new revenue to American artists.

To be sure, terrestrial radio stations have a number of arguments about why the status quo should continue. They say that free airplay drives listeners to purchase music. That is less and less true as music buyers surf iTunes, listen to satellite radio, or outright steal 40 billion songs every year online. While stations that play cutting-edge music may be able to make this claim, oldies stations, easy listening stations or those that play "hits from the '70s, '80s and today" can't. They are using an artist's property as a means to sell advertising, plain and simple.

Radio stations will also tell you that this is a new and unfair tax. That is simply untrue. While the government will regulate a royalty, as it already does for other media, the money does not go to Washington. The money goes to the artist, whose artistic creation has gone uncompensated for far too long. That could mean millions of dollars to the Memphis economy.

Isaac Hayes, Sam and Dave, Elvis Presley, Dolly Parton and Hank Williams all wrote the American soundtrack in Tennessee. The problem is that they or their heirs were never fairly paid for a creation we all enjoy. Radio stations use their hard work to generate millions in ad sales, and the artists, many of whom are now near destitute, don't see a cent. That's unfair and it needs to change.

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