



**Please take action immediately.**  
**Performance Tax legislation is being introduced in Congress this week.**  
**You must call or email your representative's office as soon as possible.**

A group of royalty backers plan to introduce the Performance Rights Act this week. Estimates say its radio royalty could cost the industry as much as \$7 billion, but sponsors say their bill factors in how radio helps sell music. Radio will face a tough fight since the record industry has ramped-up lobbying efforts.

ABA members were successful in securing six of our seven Congressmen's support of HCR 244 last year. With a new Congress we have to start all over again.

Representatives Rogers and Bonner have already signed the Resolution.

We need to pursue all the others, especially our new Congressmen - Representatives Bright and Griffith and Representative Davis who didn't sign on in the last round.

In addition, we need both Senators Shelby and Sessions to sign on as cosponsors of the Senate version of the Resolution.

Read further for details on HCR 244 and SCR 82.

## Information about HCR 244 and SCR 82

In support of local radio, Reps. Gene Green (D-TX-29) and Mike Conaway (R-TX-11) introduced H. Con. Res. 244, and Sens. Blanche Lincoln (D-AR) and Roger Wicker (R-MS) introduced S. Con. Res. 82, the "Local Radio Freedom Act," which recognizes the importance of local radio broadcasters and the significant services they provide to their local communities. These resolutions also express opposition to the imposition of a performance tax on local radio broadcasters. In the 110<sup>th</sup> Congress, the House resolution carried more than 218 cosponsors – a majority of the House of Representatives – and the Senate resolution had strong bipartisan support with 14 Senators signed on.

The big record labels are on Capitol Hill asking Congress to support the imposition of a new performance tax that would require local broadcasters to pay record labels and performers for the *free* music played on the radio. Broadcasters consider this new fee a performance tax that could financially hamstring local radio stations, stifle new artists trying to break into the recording business and harm the listening public who rely on local radio.

For more than 80 years, a symbiotic and mutually beneficial relationship has existed between radio and the recording industry. Record labels and performers have prospered from the free airplay by local broadcasters. From this free airplay, which touches 235 million listeners a week, the recording industry enjoys increased popularity, visibility and sales. In fact, 85 percent of listeners of all audio services identify radio as the place they first hear music.

Congress has long recognized the inherent value to record labels and performers from free radio promotion. For that reason, Congress has repeatedly declined to impose a performance tax on radio broadcasters. In fact, *every time* Congress has looked at this issue, it has rejected calls to impose such a tax on broadcasters. In 1971 and 1976, Congress considered and refused to grant a performance tax. In 1995, Congress again opted not to impose a performance tax on broadcasters so as not to jeopardize what Congress called "the mutually beneficial economic relationship between the recording and traditional broadcasting industries" (House Report 104-274, 1995).

In reality, the system in place today fairly compensates everyone. The free promotion that record labels and performers receive from radio airplay drives album, concert and merchandise sales, which ultimately results in compensation for performers and record labels. Local radio broadcasters are not the reason the recording industry is losing money, and local stations and listeners should not bear the burden of fixing it. The existing system is in fact the epitome of fairness for all parties: free music for free promotion. It has allowed American music and the recording industry to thrive and grow, and has allowed local radio broadcasters to better serve their communities.

## Suggestions for your conversations or emails...

Here is an email I sent to Representative Aderholt's office last week. Apparently, the other side has really been working on them. Aderholt's Telecom

person said that the performance tax bill will offer smaller broadcasters a break. This was my response:

They hope to create a divide among broadcasters, making it easier to push this through Congress. The smaller broadcasters know that if any kind of performance tax is levied, it's only a matter of time until they are included in it – or if they are taxed from the beginning – in no time at all, their rates will go up.

Who should be taxed or how much isn't the argument. It's whether a radio station should have to give money to record label while providing free promotion to the record labels product.

Think about it this way for a minute – for decades, the government has been working to make sure the record labels don't pay the stations under the table to play their music (especially the new stuff). What changed in this scenario? Nothing! The free promotion is as valuable as it was 80 years ago.

I was in a radio station yesterday and on the guy's desk, I saw his company's policy that prohibited employees from accepting payola. Early last year and late in 2007, the NY State Attorney General was attempting to prosecute radio stations for taking money under the table for playing music. When did record labels stop trying to buy their way on to radio and decide they should be paid for it?

Again, nothing has changed about the fact that the promotion has great value to them. What's changed is the fact that people don't buy CDs anymore. Just ask Tower Records, or Turtles or any of the many brick and mortar companies that have closed for the same reason.

And, it's not that people don't buy music – they just pay less for it now because of the internet. They have the ability to pick and choose one song at a time instead of paying \$15 for 11 songs when they only like one or two of them. Record labels are now turning a profit online and they should – they don't have production and distribution costs anymore.

I could make an argument about how a performance tax will be another financial burden on radio owners and operators who are already in serious trouble financially (and it's very true) but that isn't even the point. This is a desperate attempt by the recording industry to save themselves. The radio industry is not their "bailout."

## Contact info for Congressional offices

**Griffith and Bright's phone numbers were switched. They are now correct below and on our website.**

We have permanently posted contact for the Alabama delegation in the upper left corner of the ABA website homepage at [www.al-ba.com](http://www.al-ba.com).

For easy reference today:

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If you live/work in Representatives Rogers or Bonner's Districts, please email or call to thank them for adding their name to the "Local Radio Freedom Act" - HCR 244.

**Representative Mike Rogers**

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