

H.R. 848, the Performance Rights Act

H.R. 848 was introduced again in this term of Congress on February 4, 2009 and was referred to the House Judiciary Committee, on which I serve. H.R. 848 would require radio stations to pay royalties to performers for music played on the radio as other media (satellite radio, cable radio, webcasters, telecasters, etc) are already required to do. A “performance right” is recognized and performers customarily receive royalties from radio stations for the use of their music in every country in the world except the United States, China, Iran and North Korea. U.S performers are currently unable to receive the royalties they are entitled to receive from foreign countries because no “performance right” has been legally recognized in the United States. H.R. 848 would formally recognize such a right. The full Judiciary Committee held a hearing about H.R. 848 on March 10, 2009. On May 13, 2009 the full Judiciary Committee considered the bill and reported an amended version of the bill favorably to the full House by a vote of 21 to 9. After working with others to amend the bill in the Judiciary Committee in an effort to address concerns about the bill’s impact on small, gospel, minority and public radio stations, I voted for the amended version of the bill because I support the recognition of a “performance right” and the right of performers to be compensated when their work is used for commercial purposes.

The amended version of the bill that was reported favorably out of the Judiciary Committee to the House included the following substantial changes:

- It capped royalty payments by radio stations with gross income of less than \$100,000 per year at no more than \$500 per year, capped royalty payments by radio stations with gross income of \$100,000 to \$500,000 per year at no more than \$2500 per year and capped royalty payments by radio stations with gross income of \$500,000 to \$1.25 million per year at no more than \$5,000 per year to minimize the impact of the bill on small, gospel and minority-owned radio stations;
- It capped royalty payments by public radio stations with gross revenue of less than \$100,000 per year at \$500 per year and capped royalty payments by other public radio stations at \$1000 per year to minimize the impact of the bill on public, educational and community radio stations;
- It gave all stations who believe that the above payments are unfair because of their economic status, the composition of their programming or other factors the right to appeal for lower rates to a review board with broad authority to address inequities; and
- It delayed the effective date of the bill and the obligation of radio stations to pay royalties in any amount for 3 years for stations with gross income of less than \$5 million and for 2 years for stations with gross income of over \$5 million per year in an effort to address concerns that the legislation could have unintended consequences if implemented during these difficult economic times.

I and other members of the Judiciary Committee are continuing to meet with and work with radio stations, their owners and others to address their concerns about the impact H.R. 848 could have. However, I strongly believe that it is unfair to performers for radio stations to continue to make commercial use of music recorded by performers without working out a fair

method of compensating performers for the use of their property.