



Support The “Protecting the Rights of Musicians Act”

On April 23, 2015, Energy and Commerce Committee Vice Chairman Marsha Blackburn and Communications and Technology Subcommittee Ranking Member Anna Eshoo introduced the ‘Protecting the Rights of Musicians Act.’ This legislation recognizes that the National Association of Broadcasters’ biggest corporate members are doing two things: (1) hypocritically demanding payment for their content while refusing to pay for others’ and (2) foisting their outdated technology onto modern cell phones and others’ products to cheat musicians, performers, vocalists, and copyright owners out of their fair share. The ‘Protecting the Rights of Musicians Act’ ensures that they won’t get away with either.

Radio broadcasters are making a killing from a special interest legal loophole.

Unlike every other radio platform – including Internet and satellite – AM/FM radio by law does not have to pay for the sound recordings it uses in its programming. That means that these businesses receive a windfall of \$16 billion annually in advertising revenue, all without having to pay a cent for the very art that generates those ad sales.

The ‘Protecting the Rights of Musicians Act’ corrects broadcasters’ hypocrisy.

Broadcasters cannot legitimately refuse to pay for use of someone else’s property (radio music) while simultaneously demanding payment for use of their own (video programming). Yet, this is exactly what they are doing. Under the Communications Act “retransmission consent” regime, television broadcasters demand significant amounts of money when cable and satellite stations “retransmit” their local TV programming. At the same time, the radio side of these broadcasting corporations refuses to pay anything for the sound recordings they play in their transmissions. This bill would require broadcasters to be consistent, and pay musicians, performers, vocalists, and copyright owners for the use of their creative property if they are going to demand retransmission consent payments for the use of their own.

FM chip mandates are detrimental. Obviously, an FM chip mandate benefits broadcasters with an increased audience reach. More listeners = more ad revenue. But at what cost? Moving smartphone listening from digital apps – that pay creators for their work – to forced FM chip listening – that pays nothing – would devastate music creators and slash their pay. And requiring all smartphones to include an additional operational component means increased cost, size, and power consumption – no benefit to consumers. The government should not be in the business of telling device manufacturers what features they should include or how to design their products? That should be left to consumers, the marketplace, and the

incredible innovators and technologists who have made the mobile revolution such a success.

Old technology shouldn't dictate the design of new technology. FM chips benefit only one party: AM/FM broadcasters. They are a relic of the past, attempting to freeride on the backs of next generation products. FM chips aren't needed for public safety, as determined by discussions leading to the implementation of the WARN Act and underscored by the new wireless alert system. Consumers aren't clamoring for it, or else manufacturers would have implemented them voluntarily. And manufacturers should not be saddled with the additional unnecessary design adjustments and cost.

This bill leaves the decision to implement FM chips in the right place – the marketplace. By prohibiting the FCC from mandating the implementation of an FM chip in smartphones and other devices, the bill properly leaves it to the marketplace to determine what technology should be included in new devices. The personal device market has thrived over the past few years, due in large part to consumers' freedom to decide what is important to them. The bill will allow this technological growth to continue.