

U.S. Senate Committee on the Judiciary

Hearing on “Music and Radio in the 21st Century: Assuring
Fair Rates and Rules across Platforms”

July 29, 2008

Testimony of Matt Nathanson

Songwriter, Performer and Recording Artist

Chairman Leahy, Senator Specter, and Members of the Committee:

Thank you for the opportunity to speak with you today about the importance of Internet radio and Internet music to my career and my life.

My name is Matt Nathanson. I am an ASCAP-affiliated songwriter and I have recorded eight albums (including one on a major label, one on an independent label and several that were self-funded). I have played shows for free and for money; I have opened for other bands in half-empty nightclubs; and I have played coffee houses nationwide. Now my music is heard on television shows like Private Practice and Scrubs and I sell out shows across the country at venues like the Warfield Theatre in San Francisco, the Nokia Theatre in New York, and the 9:30 Club here in Washington, D.C.

I have tens of thousands of friends on MySpace, tens of thousands of fans on my email list, and my latest CD, Some Mad Hope on Vanguard Records, has, to date, sold 72,000 copies. My latest single is played dozens of times each week on radio stations nationwide, and I very much appreciate all that Congress does to support creators and protect copyright. But occasionally the pendulum swings too far in one direction, and when that occurs it is important that Congress re-balances.

For decades there has been a tight bottleneck in the music industry that meant only a few recording artists could succeed and most would fail. This was not caused by devious people, but was simply a fact: a handful of major recording companies, CD distributors and broadcasters collectively controlled an extraordinary share of the radio airwaves and retail shelf space. A small selection of artists benefited from extraordinary investment from that group and succeeded on a grand scale. Most artists received little or no investment, and

the results were unsurprising: the small group of artists captured an extraordinary share of the market and the large mass of artists divided the remainder.

But recently the bottleneck has been exploded. In retail, Amazon.com, iTunes and CD Baby have unlimited shelf space and can present to each consumer the very types of music – including new music – that a customer is likely to enjoy. As a result, the customer buys more music from a dramatically broader group of artists, and the big winner is independent artists and labels.

In radio, the bottleneck was exploded by RealNetworks, Pandora, Yahoo! and SomaFM, which perform the songs of several thousand of artists each week, rather than the several dozen that are typically played by a broadcast station. With unlimited channels, these radio services can also tailor their programming to individual tastes and again, the result is that more fans hear more new music, and they buy it, and they go to our MySpace pages, and they come to our shows. I am proof that today's working professional musician artist can make a very good living without a major label contract or a Top 10 hit. I could not have done this without the Internet- including Internet radio and Internet retail.

I am here today for a very simple reason – because it is in this Committee's power and this Congress's power to protect one of the mediums that has enabled me to have a career in music.

Some naysayers have suggested that Internet Radio is not promotional, that only terrestrial radio repeating the same songs over-and-over again helps artists. That is flat out wrong. I have had hundreds of fans send me emails and approached me at shows and say "I heard you first on Pandora or Rhapsody and now I've bought a CD or downloaded you on iTunes and I'm here at your show." Internet radio should absolutely pay artists royalties, but artists also recognize that the value flows both ways.

I am not a lawyer or a major label executive or an Internet company CEO, but I am a college graduate and one thing is crystal clear. When a song I write is played on broadcast, satellite or Internet radio, they pay me an amount which is reasonably related to their revenue. Higher revenue stations pay a bit more; smaller stations and services pay a bit less. But when a song that I perform is played, broadcast radio pays me nothing; satellite radio pays me a reasonable royalty that when combined with other artist payments effectively equals 6% of its revenue; but Internet radio services pay me and other artists a per-song fee that is unrelated to the revenue of the service, which when combined with other artist payments effectively equals 30 or 40 or 70 percent of their revenue or more.

It is wrong that the smallest industry, which plays the most music by independent artists and labels, pays disproportionately high royalties, while broadcasters pay nothing. I like that Internet radio pays me, but if the royalties are disproportionate

to the medium, that will end up doing in internet radio and cut off a crucial avenue for independent artists and their success...

I am a successful singer-songwriter, who is fortunate enough to make a living doing what I love. Internet radio has helped me to broaden my fan base immensely. They have helped me spread the word and continue to find an audience that supports me. Pandora, Rhapsody and MySpace have introduced me to millions of listeners and helped me sell thousands of albums and thousands of tickets. Please level the playing field for Internet radio; please protect the next generation of artists.

Thank you for inviting me to testify and for listening to me today.