Testimony of Chris Leonard
President / General Manager – New West Broadcasting Corp.
President – Hawaii Association of Broadcasters

Before the House Consumer Protection and Commerce Committee
April 6, 2015 – 2:30pm

RELATING TO COPYRIGHTS

Good afternoon Chairman McKelvey and members of the committee. For the record, my name is Chris Leonard and I am the President of New West Broadcasting Corp. We are a locally-owned broadcast company that owns and operates five radio stations in Hilo and Kona. I am also the President of the Hawaii Association of Broadcasters. The Association represents 55 Television & Radio stations that serve local communities across the State of Hawaii. I provide this testimony in opposition to the overly-broad performance fee for Pre-1972 sound recordings proposed in SB1287 SD2.

Local broadcasters across the islands of Hawaii have a duty to serve the public interest through emergency information, news, public affairs programming and entertainment. On this last part, local radio stations have built a lasting relationship with Hawaii's musicians and share in this cultural exchange of the state's history, music and culture on air and through numerous events and festivals across the State.

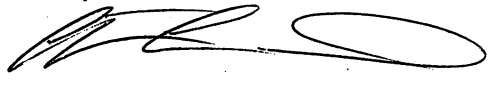
The approach to pre-1972 sound recordings contained in SB1287 SD2 is extremely broad and harmful to the very platforms whose song-play benefits older artists. It would be nearly, if not impossible to implement as proposed. The very intention of this legislation, to expand the musical copyrights for pre-1972 sound recordings, hurts those it attempts benefit. If this legislation were to become law, users of this music, would be so worried by the uncertainty of the liability it creates, they would play less, if no pre-1972 music. This is a lose-lose outcome for all parties and are a result of the unintended consequences of hastily put together policy.

It appears that this bill intends to codify a recent controversial interpretation of a California statute that grants an "exclusive ownership interest" in pre-1972 sound recordings, however there was no mention in this decision of public performance. Prior to this decision, no court interpreted this California statue to include a performance right. SB 1287 SD attempts to go even further by creating an even broader public performance right than was recognized by the California court. SB1287 SD2, as written, is full of what I assume are unintended consequences. The bill would adversely impact not only over-the-air radio and television broadcasts, but music played in bars, restaurants, shopping centers, festivals, churches, etc. All of these industries are integral to the fiscal health of our State. None of these groups are subject to performance royalties for post-1972 sound recordings under Federal law. The litigation in California has been limited to satellite radio and digital services.

SB1287 SD 2 is especially problematic for our television and radio broadcasters that carry syndicated programming. These stations have little or no control over the sound recordings that are performed in this content. It would be virtually impossible to eliminate the possibility of infringement in the event that they are unable to obtain rights to these sound recordings. In addition to syndicated programs (classic tv, radio, etc.) commercials provided by advertisers, agencies and networks that have pre-1972 sound recordings would also expose our stations to infringement and litigation while we have little or no control over licensing agreements for this content. What makes SB1287 even more problematic is that this proposed legislation fails to address how these new sound recording rights would be licensed. SoundExchange serves as the collector of performance royalties paid by digital services under Federal law, but without Federal Congressional action, they could not serve in that role here. As a result, every business in Hawaii including our radio and television broadcasters would be responsible for directly negotiating sound recording rights for each pre-1972 recording performance. We would be required to identify each pre-1972 song, find the owner(s) and negotiate terms and conditions for the performance(s). No country in the world has a granted a right of this type without a licensing mechanism and/or organization in place to implement it.

Chairman McKelvey and committee members, we appreciate your time and consideration of this matter and we ask you to oppose SB1287 SD2. It fails to directly benefit the constituency that it intends to benefit. It would have a huge adverse effect on broadcasters multiple other industries and organizations, because they have no way of knowing whether the music in a program is a "pre-1972" recording for which they would need to clear the rights or a "post-1972" recording for which there would be no license obligation and fails to provide a mechanism to for the clearing the rights for programs with "pre-1972" recordings.

Sincerely,



Chris Leonard
President
Hawaii Association of Broadcasters

President / General Manager
New West Broadcasting Corp.

Testimony of Chuck Cotton
Market President – iHeartMedia Honolulu
Secretary/Treasurer – Hawaii Association of Broadcasters

Before the House CPC
April 3, 2015

RELATING TO COPYRIGHTS

Good afternoon Chairman McKelbey and members of the Committee. For the record, my name is Chuck Cotton. I am the Market President of iHeartMedia Honolulu. iHeart Media operates seven radio stations in Honolulu. I am also the Secretary and Treasurer of the Hawaii Association of Broadcasters. The Association represents 55 Television & Radio stations that serve local communities across the State of Hawaii. I am providing my testimony in opposition to the overly-broad performance fee for Pre-1972 sound recordings proposed in SB1287 SD2.

The approach to pre-1972 sound recordings contained in SB1287 SD2 very broad and harmful to the very platforms whose song-play benefits older artists. It would be nearly, if not impossible to implement as proposed.

It appears that this bill intends to codify a recent controversial interpretation of a California statute that grants an "exclusive ownership interest" in pre-1972 sound recordings, however there was no mention in this decision of public performance. Prior to this decision, no court interpreted this California statue to include a performance right. SB 1287 SD attempts to go even further by creating an even broader public performance right than was recognized by the California court. SB1287 SD2, as written, is full of what I assume are unintended consequences. The bill would adversely impact over-the-air radio and television broadcasts, music played in bars, restaurants, shopping centers, festivals, churches, etc. None of these groups are subject to performance royalties for post-1972 sound recordings under Federal law. The litigation in California has been limited to satellite radio and digital services.

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required to identify each pre-1972 song, find the owner(s) and negotiate terms and conditions for the performance(s). No country in the world has a granted a right of this type without a licensing mechanism and/or organization in place to implement it.

Chairman McKelbey and committee members, we appreciate your time and consideration of this matter and we ask you to oppose SB1287 SD2. It fails to directly benefit the constituency that it intends to benefit. It would have a huge adverse effect on broadcasters, because they have no way of knowing whether the music in a program is a “pre-1972” recording for which they would need to clear the rights or a “post-1972” recording for which there would be no license obligation and fails to provide a mechanism to for the clearing the rights for programs with “pre-1972” recordings.

Sincerely,

Chuck Cotton
Market President
iHeartMedia Honolulu

Secretary and Treasurer
Hawaii Association of Broadcasters

Mark D. Bernstein
Attorney at Law
A Professional Corporation

P.O. Box 1266
Honolulu, Hawaii 96807

e-Fax: (808) 356-1982
E-mail: markdb@hawaii.rr.com

(808) 537-3327

April 4, 2015

RE: Testimony of Mark D. Bernstein in support of SB1287, S.D. 2, H.D. 1
Hearing Date: April 6, 2015
Hearing Time: 2:30 p.m.
Hearing Place: Conference Room 325

To: Rep. Angus L.K. McKelvey, Chair
Rep. Justin H. Woodson, Vice Chair and
The Members of the Committee on Consumer Protection and Commerce

My name is Mark D. Bernstein and I have been a member of the Hawaii State Bar since 1980 and the California State Bar since 1978. My law practice has had a focus on intellectual property matters, specifically the recording industry and music licensing. I have for over 30 years represented Hawaii's largest recording and record distribution company and have been named as one of America's Best Lawyers in the field of music licensing for the past 20 years.

I. *Background*

SB 1287 deals with the rights of recording artists and their record companies in their recordings. These recordings have gone by many names, records, 8-tracks, cassettes, compact discs or CDs; DATs, computer audio files or MP3s and downloads. SB 1287 specifically deals with but one of their rights in these recordings, namely, the right of "public performance for profit". The right of public performance for profit of a recording includes "air play" on regular or terrestrial radio and television, "streams" on Internet radio and music services like Pandora or Spotify, as well as other public performances of recordings for profit.

Important to the understanding of the issues is the basics of copyrights as they are applied to recordings. Each recording has 2 copyrights, one in the musical composition that is recorded and one in the recording of that musical composition. Thus, the copyrights in Israel Kamakawiwo`ole's recoding of *Over the Rainbow* consist of the copyright in the recording itself, which is owned by Israel Kamakawiwo`ole's record company, Big Boy Records and the copyright in the musical composition *Over the Rainbow* which is owned by the composer Harold Arlen's family. SB 1287 only deals with the copyright in the recording, not the copyright in the musical composition.

Because recorded music did not then exist, it was not protected by the United States Copyright Act of 1906 and was not even addressed by U.S. copyright law until limited copyright protection was finally afforded recordings in February of 1972. Omitted from copyright protection was the right of public performance and even today, the public performance of a sound recording for profit, such as background music at a major hotel in Waikiki does not require any compensation be paid to either the recording artist or the record company.

In 1995, the Federal Government provided a limited right of public performance to sound recordings which are publicly performed via digital transmission, meaning on-line streaming. However, this right does not apply to recordings made before February 15, 1972. These recordings, which include a myriad of Hawaii's golden era of post war recordings, are protected solely by the common law of the State of Hawaii and specifically, by HRS Chapter 482C which is a criminal statute enacted in 1975 to protect against record piracy which is the illegal manufacture or bootlegging of records.

My personal experience with HRS Chapter 482C can be summarized thusly. I have never been able to interest Hawaii law enforcement in dealing with the issue of bootleg records and CDs, even though, ironically, most of the bootleg sound recordings that are made in Hawaii are sold at a State of Hawaii facility, the Aloha Stadium swap meet. But I'm not here to denigrate law enforcement. The reality of the situation is that the police (be they Federal, State or Local) have issues they consider to have a higher priority than someone selling a bootleg sound recording. It's a position that's hard to argue with.

So as we stand here today, the works created by many of our most iconic recording artists, Eddie Kamae, Jack de Mello, the Sons of Hawaii, Don Ho, Gabby Pahinui, Sunday Manoa and a host of others are subject to commercial exploitation without their permission or the payment of any compensation. SB 1287 S.D. 2, H.B. 1, will rectify this unfair and inequitable anomaly of history.

II. *SB 1287 is an Appropriate Means of Rectifying an Unfair and Inequitable Anomaly*

SB 1287 will first recognize that the non-permissive, uncompensated commercial exploitation of our most iconic recording artists' works is inconsistent with the public policy and the law of the State of Hawaii. Moreover, if passed, the creators of these recordings will have both the incentive to police the abuse of their rights and an adequate, if not perfect enforcement mechanism to do so. It should be passed and in fairness, there really should be no objection to the fundamental basis or purpose of this statute, namely that the non-permissive, uncompensated commercial exploitation of our most iconic recording artists' works is inconsistent with the public policy of this State, basic fairness and common sense.

But those who commercially exploit these works will no doubt complain, using a series of tired excuses about why they should be able to use someone else's property without permission or compensation. You will be told that the users of these recordings find it difficult to find the owners. But should a person who can't find the owner of a house he/she wants to rent be able to move in because they couldn't find the owner? Of course not! And, SB 1287 requires that

the search be eased by the establishment of collective societies or performance rights organizations to both aid in the search as well as administer and collect royalties.

You will be told that this is unprecedented, but has that ever been a good reason not to do the right thing? Moreover, Hawaii did the unprecedented with its health care law because it was the right thing to do and we as a society have been amply rewarded for the willingness of prior legislators to do the unprecedented because it was the right thing to do. In reality, requiring those who profit from the use of other persons' property to obtain permission and pay for the right to make money from their use is both obviously right and hardly unprecedented.

You will be told that the sky will fall and broadcast television will cease to exist in Hawaii if KHON, KGMB, KFive and the rest are unable to play Guava Jam without permission. Really????? You will be told that old television shows are filled with music that was used without permission and thus they will be flooded with lawsuits. But the bill says no such lawsuit can be filed until a performance rights organization is established to administer the licensing and collection of licensing royalties so is this a legitimate concern, or mere fear mongering. Additionally, there is no factual support for the proposition that all of the music in old TV shows was pilfered.

The plain truth is that the only real reason to oppose this bill is the opposition to paying for the right to use someone else's property to make money. That position is meritless, and it should be and will be firmly rejected by the passage of SB 1287.

This is a critical time for the recording industry in general and Hawaii's recording industry in particular. Simply put, the need to purchase and own sound recordings in order to enjoy music whenever and wherever a consumer wants is going away, if it is not already gone. In its place is streaming, either legally through services such as Pandora or Spotify or illegally through illegal downloading.

The impact on recording artists and record companies is more than dramatic, it is monumental, as one Hawaiian recording artist had over 14,000,000 individual streams of his music in one year generate income of approximately $14,500. Had that artist's recording sold 14,000,000 singles (not albums) on line, revenues over $8,000,000 would have been generated. Had this recording been a 1972 recording, those 14,000,000 streams would have generated income of $0.00. That's correct, absolutely nothing would have been paid.

This can be and should be changed here in Hawaii, which, even before 1972, had a vibrant recording industry with many iconic performers such as Don Ho, Gabby Pahinui and the Sons of Hawaii to name, but a few. SB 1287 will address this shortcoming in the law and the resulting injustice. Therefore I urge you to pass it, unanimously.

Respectfully,

/S/Mark D. Bernstein, Esq.

TESTIMONY OF WILLIAM G. MEYER, III

HEARING DATE/TIME: Monday, April 6, 2015
2:30 p.m.
Conference Room 325

TO: Committee on Consumer Protection and Commerce

RE: Testimony in Support of SB1287, S.D.2, H.D.1

Dear Chair McKelvey, Vice-Chair Woodson and Committee Members:

My name is William G. Meyer, III. I have been practicing law in Honolulu since 1979. My practice focuses on intellectual property matters including entertainment law. Over the years I have had the pleasure and honor of representing many of Hawaii's top songwriters, recording artists and record labels. I strongly support SB1287.

What S.B.1287, S.D.2, H.D.1 will do. S.B.1287 will right a long overdue wrong that has plagued recording artists and their record labels since the inception of the recording industry by making it clear that, under Hawaii law, recording artists and their record labels enjoy a public performance right in their sound recordings like their counterparts in virtually every other developed nation and like all U.S. songwriters and their publishers.

The State may legislate in this area of copyright law. Federal copyright law applies to sound recordings but only to those produced on or after February 15, 1972. Older recordings are protected by individual states' statutes or the common law. Congress brought sound recordings within the scope of federal copyright law for the first time on February 15, 1972. It provided protection on a prospective basis, leaving recordings first fixed before that date under the protection of state law. The issue was revisited during enactment of the 1976 Copyright Act, when Congress federalized protection for works that had been protected by state rather than federal copyright law but preserved the state law regime for pre-1972 sound recordings. Congress did provide some limitations on state law protection for sound recordings: the Copyright Act provides that states are entitled to protect pre-1972 sound recordings until February 15, 2067. At that point, all pre-1972 sound recordings, no matter how old, will enter the public domain. As a consequence of this legal construct, there is virtually no public domain in the United States for sound recordings and a 52-year wait before this will change. Pre-1972 recordings include some of the most commercially successful, and in the case of local music, some of the most culturally important records of all time.

A number of recent federal court decisions affirm a state's right to provide that copyright rights in pre-1972 sound recordings carry a right of public performance. One of these cases (i.e. Flo & Eddie Inc. v. Sirius XM Radio Inc., 2:13-cv-05693-PSG-RZ (C.D. Cal. Sept. 22, 2014), has provided the impetus for this bill. In the Flo & Eddie case, the plaintiffs successfully argued that a 1982 amendment to California's Civil Code provides statutory protection for pre-1972 recordings that includes a right to control the public performance of these sound recordings.

Existing Hawaii law is inadequate to protect important intangible property interests. The potential impact in Hawaii of the Flo & Eddie case, and similar cases, however, is a function of Hawaii's common and statutory law concerning pre-1972 concerning sound recordings. However, there is literally no Hawaii case law on the topic and unfortunately Hawaii's existing statute concerning

"Copyrights in Sound Recordings," found at HRS Chapter 482(c), only makes it a crime to engage in record piracy and does not create civilly protectable rights in sound recordings. To more fully appreciate the shortcomings of HRS Chapter 482(c) it is necessary to understand the historical basis of the Hawaii statute. Chapter 482(c) was enacted in 1975 at a time when vinyl was king and analog tapes were becoming increasingly popular. With the exploding commercial record businesses came exploding record piracy. Chapter 482(c), like the laws in many states, was intended to strike back at record piracy. It was not intended to address the issues currently under consideration as no one in 1975 could have imagined the technological changes that have transformed the music industry over the last 40 years. Today, record sales in the form of CDs are in steep decline and are anticipated to all but disappear in the years ahead. Digital downloads are following suit as consumers abandon **ownership** of copies of music in favor of convenient and cheap **access** to music. As a result, revenue from digital music **sales** continue to fall as a percent of total music revenues while **license fees** (both statutory and negotiated) from music subscription and non-subscription services are rising sharply. The bottom line is that existing Hawaii law, in the form of Chapter 482(c) is woefully out of step with the modern era.

S.B.1287 is a fair solution to a long-standing inequity. U.S. songwriters have enjoyed a public performance right for generations and while most developed nations, other than the U.S., have long recognized a public performance right in sound recordings, the powerful U.S. broadcast industry lobby has thus far successfully prevented sound recording copyright owners from enjoying this important right. With record sales evaporating and music services taking the place thereof, record labels and artists are getting financially squeezed as a result of the lack of a full public performance right. S.B.1287 is a fair, indeed a modest, approach to resolving this long-standing unfairness. In fact, the requirement in the S.B 1287 that the rights recognized by its adoption cannot be pursued in court by rights holders until a PRO is established to assist with the licensing of the affected recordings is a significant accommodation to the industries that continue to profit from the use of other people's property and goes further to protect said industries than in the other states that have recognized the subject right.

Conclusion. S.B. 1287 will clarify that the author of a sound recording enjoys exclusive ownership thereof and that Hawaii's copyright law protection includes the public performance right in all pre-1972 sound recordings. It would also create a civil remedy for the unauthorized public performance of pre-1972 sound recordings but that remedy would become available to rights holders only after the implementation of a system that will facilitate the licensing of affected works. Accordingly, there does not appear to be any rational basis to oppose this measure and I respectfully urge that you do the right thing and pass S.B. 1287.

Respectfully Submitted,

/S/ William G. Meyer, III

William G. Meyer, III

woodson2-Rachel

LATE

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, April 05, 2015 4:44 PM
To: CPCtestimony
Cc: malamapono1994@hotmail.com
Subject: Submitted testimony for SB1287 on Apr 6, 2015 14:30PM

SB1287
Submitted on: 4/5/2015
Testimony for CPC on Apr 6, 2015 14:30PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
cazimero	My God...It's Roland Cazimero LLC	Support	No

Comments: I am in support of this and believe that artist deserve payment for their creativity.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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woodson2-Rachel

LATE

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, April 05, 2015 10:17 PM
To: CPCtestimony
Cc: ericgilliom@gmail.com
Subject: Submitted testimony for SB1287 on Apr 6, 2015 14:30PM

SB1287
Submitted on: 4/5/2015
Testimony for CPC on Apr 6, 2015 14:30PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Eric Gilliom	Individual	Comments Only	No

Comments: Please support this bill, as songwriters we work VERY hard on our composition & deserve to be compensated for them. Thank You very much

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woodson2-Rachel

LATE

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, April 05, 2015 10:03 PM
To: CPCtestimony
Cc: kuuipokumukahi@gmail.com
Subject: *Submitted testimony for SB1287 on Apr 6, 2015 14:30PM*

SB1287
Submitted on: 4/5/2015
Testimony for CPC on Apr 6, 2015 14:30PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Kuuipo Kumukahi	Individual	Support	No

Comments:

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woodson2-Rachel

LATE

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, April 05, 2015 5:06 PM
To: CPCtestimony
Cc: hookwriter@aol.com
Subject: Submitted testimony for SB1287 on Apr 6, 2015 14:30PM

SB1287
Submitted on: 4/5/2015
Testimony for CPC on Apr 6, 2015 14:30PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Larry Lieberman	Individual	Support	No

Comments: Dear Honorable Legislators, I am in full support of SB 1287 and glad to see this important issue finally being addressed by the state. As a long time member of Hawaii's music community I can say that it only makes sense for artists to be paid for their work, especially when that work is being used by others to make money. Please bring Hawaii into the 21st century and recognize a full public performance right for sound recordings. It's only fair! With sincere aloha, Larry

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woodson2-Rachel

LATE

From: mailinglist@capitol.hawaii.gov
Sent: Monday, April 06, 2015 12:26 AM
To: CPCtestimony
Cc: williek@williek.com
Subject: Submitted testimony for SB1287 on Apr 6, 2015 14:30PM
Attachments: Michael Sommers Logo copy.gif

SB1287
Submitted on: 4/6/2015
Testimony for CPC on Apr 6, 2015 14:30PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
William Kahaialii	Individual	Support	No

Comments: ALOHA I'M IN FULL SUPPORT OF SB1287! BEING A WORKING ENTERTAINER HERE IN HAWAII HAS BEEN A BLESSING, ALTHOUGH NOT TOO DEPENDENT ON GIGS, AS A RECORDING ARTIST I ALSO DEPEND ON MY ROYALTY RESIDUALS WHICH ISN'T MUCH BUT EVERY LITTLE BIT HELPS, AND KNOWING THAT I HAVE LEFT THAT FOR "MY" NEXT GENERATION OF OHANA TO LIVE OFF OF IS COMFORTING. I DO HOPE THAT THIS BILL PASSES SO THAT THE DWINDLING BUSINESS OF RECORDING (WHICH IS MOVING INTO A TECH BUSINESS) CAN AND SHOULD PROTECT ARTIST SUCH AS MYSELF AND THOSE WHO ARE UPCOMING ARTIST. IT IS BY OUR VOTES THAT WE SUPPORT YOU HOPING THAT YOU SUPPORT US AS WELL. THANK YOU AND ALOHA! UNCLE WILLIE K

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LATE TESTIMONY

88 Piikoi Street • Honolulu, HI 96814 • Main: (808) 591-2222 Fax: (808) 593-8479

April 6, 2015

Chairman Angus McKelvey
Consumer Protection and Commerce Committee
415 South Beretania Street
Honolulu, HI 96814

RE: Testimony related to Copyrights and SB-1287 SD2

Dear Chairman McKelvey,

My name is Kristina Lockwood, and I am the General Manager of KHON2, and an active board member of the Hawaii Association of Broadcasters. My Station is owned by Media General, and we manage both the Fox Affiliate and the CW Affiliate here in the state of Hawaii. I am providing my testimony in opposition to the overly broad performance fee for Pre-1972 sound recordings proposed in SB-1287 SD2

This proposed legislation would create far broader rights for "pre-1972" sound recordings under state law than federal copyright law has ever recognized for post-1972" copyrights.

- Federal performance rights in sound recordings are limited to "digital audio transmissions." There is no federal performance right in sound recordings for "terrestrial" broadcasts (like those made by local radio and television broadcasters), nor is there a federal performance right for sound recordings in relation to audio-visual materials, such as television programs, whether transmitted digitally or otherwise.

- Federal performance rights in sound recordings are brigaded by compulsory licensing and rate-setting proceedings that eliminate the need for most users to identify the owners of the sound recordings they use and negotiate in individual license transactions.

Local television broadcasters do not select the music in most of the programming and advertisements they broadcast; most programming and advertisements is supplied to stations "in the can" and ready to broadcast, with the exception of the right to perform musical compositions synchronized with the program. The performance rights for musical compositions (as distinct from sound recordings) are not cleared by the program producer, but traditionally have been available to stations through industry-wide, blanket licenses negotiated with collective license organizations subject to federal regulation.

In most cases, stations do not even know what music is in the programs and advertisements that are supplied to them, let alone who owns the rights to the sound recordings.

The proposed legislation would have an enormous chilling effect on broadcasters, because they would have no way of knowing whether the music in a program is a "pre-1972" recording for which they would need to clear the rights or a "post-1972" recording for which there would be no license obligation, or any ready mechanism for clearing the rights to broadcast programs with "pre-1972" recordings.

Even if a station could identify what sound recording was used by the program producer, and whether the sound recording was created prior to February 15, 1972, there is no readily available repository of information concerning the ownership of the recording. Often, ownership rights in older recordings have been transferred many times over, and stations in most cases would not even know whom to contact for a license. There is no collective licensing organization that licenses the rights the proposed legislation to create.

For music that has already been embedded in programming, or is selected by third parties, local television broadcasters would have no ability to obtain the licenses they would need in competitive-market transactions. Even if they could identify the rights holder, the stations would face the choice of paying whatever the licensor demands or foregoing its ability to broadcast the program. This is patently unfair and an unreasonable new fee obligation to impose on local television broadcasters in Hawaii.

We appreciate your time and consideration, and ask you to oppose SB1287 SD2 for the above mentioned reasons.

Sincerely,

Kristina Lockwood
President and General Manager