

## DSP Obligations under The Music Modernization Act of 2018

The Music Modernization Act of 2018 (the “MMA”) imposes a number of legal obligations on digital service providers (DSP) that make music available to consumers in the U.S. via an interactive streaming or digital download service (“digital audio services”). These legal obligations will require those services to interact directly with The MLC.

### Reporting and Payment Obligations

Reporting: The MMA requires almost every DSP that operates a digital audio services in the U.S. to report usage data for their services to The MLC. The only DSPs that are not required to report their usage data to The MLC are services that: (1) are not operating under the blanket license, (2) make fewer than 5,000 unique sound recordings available to U.S. consumers each month and (3) generate less than \$50,000 in revenue each month (and less than \$500,000 in revenue in any 12-month period) from U.S. covered activities (“Small DSPs”).

Royalty Payments: All DSPs that secure the new blanket license established by the MMA (described below) are required to pay the mechanical royalties due under that license to The MLC.

Assessment Payments: Finally, the MMA requires all DSPs that are required to report usage to The MLC to contribute toward funding The MLC’s operating costs. The amount of The MLC’s operating budget is set by The U.S. Copyright Royalty Board, a panel of three judges that functions as an independent unit within the Library of Congress, in an administrative assessment proceeding. The MLC collects these contributions directly from DSPs.

### The Blanket License

As of January 1, 2021, digital audio services in the U.S. are eligible to secure a blanket license that covers their use of musical works on those services. Services that secure the blanket license and comply with the corresponding regulations established by the U.S. Copyright Office are not liable for copyright infringement arising from their use of musical works on their services.

Obtaining a blanket license does not preclude services from maintaining or entering into new voluntary licenses directly with music publishers or other musical works rightsholders; the MMA permits DSPs to continue to license musical works rights directly should they so choose, as long as they provide The MLC with the required written notice and data regarding those direct licenses, so that The MLC can determine which musical works on those services are covered by those voluntary licenses and not the blanket license. Services that maintain voluntary licenses will be able to “carve out” Royalties for uses that are covered by those licenses and pay them directly to their direct licensees.

Likewise, for permanent digital downloads and ringtones, record companies may continue to obtain compulsory mechanical licenses on a song-by-song basis, and a DSP may continue to obtain voluntary mechanical licenses from record companies who are authorized and choose to “pass through” mechanical licenses to the DSP.