



**MUSIC LICENSING COMMITTEE  
REPORT TO THE IMLA BOARD OF DIRECTORS  
April 9, 2005**

Last year, during the April meeting of the Board of Directors, the ad hoc Music Licensing Committee was directed to continue to try and seek an agreement for a blanket copyright license for the use of music represented by SESAC, and to examine the possibility of an agreement for copyright license for the use of motion pictures by local governments.

Over the course of the past year, the Committee, led by Mac McCarley, has worked diligently to arrive at an agreement with SESAC. The Committee's objective has been to ensure the terms of the agreement are as comprehensive, if not more so, than the existing BMI and ASCAP agreements; and to establish a fair rate schedule. During the course of negotiations, SESAC was willing to negotiate the terms of the license, however they remained firm on the rate schedule they currently have in place. It is the opinion of this Committee that these rates, which are equal to or higher than those offered by ASCAP and BMI, are not appropriate. SESAC controls a significantly smaller percentage of the commercial music market (2-5% in comparison to 47-50% controlled by BMI or ASCAP) and therefore in order to ensure that local governments are receiving a fair and equitable agreement it was important to this Committee that the rates in an agreement with SESAC reflect this.

Since SESAC was unwilling to agree to a significant reduction in the rates offered to local governments, this Committee has concluded that an agreement which can be endorsed by IMLA is not possible. Therefore this Committee now recommends that this Board that it adopt the following resolution:

**A RESOLUTION OF THE IMLA BOARD OF DIRECTORS**

**Whereas**, the U.S. Copyright Act does not provide explicit language that would exempt several uses of music engaged by local governments; and

**Whereas**, in an effort to provide an efficient and affordable way in which local governments can obtain blanket license agreements, IMLA has successfully completed negotiations with ASCAP and BMI; and

**Whereas**, IMLA has sought to negotiate a similarly equitable agreement with SESAC, a third music licensing company, with a significantly smaller share of the market in the United States; and

**Whereas**, SESAC was unwilling to reduce their rates to more closely reflect their share of the market and therefore the rates offered local governments are, in many cases, higher than those offered by ASCAP or BMI.

**Now, Therefore, Be It Resolved** that IMLA advises local governments to ensure they continue to comply with all requirements of the U.S. Copyright Act;

IMLA additionally resolves to advise local governments that IMLA does not endorse the SESAC licensing agreement and the rate schedule currently offered by SESAC and that local governments either not use music requiring a license from SESAC, or if they seek to play music, requiring a license and represented by SESAC should seek to negotiate a fair and equitable licensing agreement directly with SESAC.

This \_\_\_\_\_ day of April, 2005.

### **OTHER MATTERS**

In addition to the questions regarding SESAC, the Music Licensing Committee reexamined the question of whether the U.S. Copyright Act provides protections that may mitigate the need for the types of licenses currently being sought by the industry. After reviewing The Copyright Act, its legislative history, articles and papers written on the subject, and arguments made by several members, this Committee concluded that the law is not clear. There are several uses of music by local governments that may be exempted, however many of these decisions will need to be made on a case-by-case basis. The Committee recommends that IMLA continue to maintain and provide research and other information regarding copyright requirements, support the licensing agreements as a type of "insurance" for local governments to find an easy solution to this question, and provide service to the membership as questions arise.

Finally, last year, this Committee was charged with determining whether local governments require licenses to show films, and what type of need might exist to be met by IMLA. As information, the motion picture industry is primarily represented by the Motion Picture Licensing Corporation (MPLC). The Committee has begun to research this question and will report to the Board at future meetings.