

Lawyer Toolkit



This Lawyer Toolkit was prepared by our Educational Partnerships team and is provided to assist members of the legal and music publishing community in finding answers to their most common questions regarding The MLC. The purpose of these materials is to provide general information about The MLC and is not intended to provide legal advice, and nothing contained within the materials should be construed as legal advice.

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1. Roles and Responsibilities for Mechanical Licensing and Royalties

There are a few concepts to understand before exploring the roles and responsibilities with respect to mechanical licensing and royalties in the U.S.

First (Mechanical) Use: First time a musical work will be:

- incorporated into a sound recording
- the sound recording will be distributed to the public as phonorecord (vinyl, CD, etc.), or digital phonorecord delivery (DPD) (interactive stream, permanent or limited download)
- for the public's private use

Second + Mechanical Use: Second time or later time this happens, such as with:

- "Cover" sound recordings
- Change in format/distribution that comes after the first phonorecord or DPD is released (e.g., originally released on CD, but then later released on vinyl or digitally).

Compulsory Mechanical License:

- License is created by the U.S. Copyright Law (§115), not negotiated between the licensee and licensor
- Law and related federal regulations set the eligibility requirements and rules that must be followed (first use or second + comes into play)
- The blanket compulsory license (created by the Music Modernization Act) is available only to digital services (DSPs), not record labels. The work-specific compulsory license continues to be available to record labels and digital services.
- "Statutory" Royalty Rates are set by the Copyright Royalty Board

Table 1.0 *Mechanical Licensing Responsibilities* which follows this text describes which party is responsible for securing the mechanical license and for paying mechanical royalties. The Music Modernization Act changed the process with



respect to mechanical licensing and royalties for digital uses. It did not change the process with respect to mechanical licensing and royalties for physical products.

Table 1.0 Mechanical Licensing Responsibilities

	Interactive Streaming / Limited Download	Permanent Download where DSP will secure a license	Permanent Download where DSP relies on Label pass through license	Physical Products
First Mechanical Use	<p>Record Label: obtains direct voluntary license, then</p> <p>DSP: (a) relies on the blanket compulsory license, or (b) obtains a direct voluntary license</p>	<p>Record Label: obtains direct voluntary license, then</p> <p>DSP: (a) relies on the blanket compulsory license, or (b) obtains a direct voluntary license</p>	<p>Record Label: obtains direct voluntary license, then</p> <p>DSP: relies on the license the Record Label obtained</p>	<p>Record Label: obtains direct voluntary license</p>
Second + Mechanical Use	<p>Record Label: does not need to obtain a mechanical license</p> <p>DSP: (a) relies on the blanket compulsory license, or (b) obtains a direct voluntary license</p>	<p>Record Label: does not need to obtain a mechanical license</p> <p>DSP: (a) relies on the blanket compulsory license, or (b) obtains a direct voluntary license</p>	<p>Record Label: (a) obtains direct voluntary license or (b) obtains compulsory license, then</p> <p>DSP: relies on the license the Record Label obtained</p>	<p>Record Label: (a) obtains direct voluntary license or (b) obtains compulsory license</p>
Royalty Flow	Either DSP → The MLC → Publisher, or DSP → Publisher (or agent)	Either DSP → The MLC → Publisher, or DSP → Publisher (or agent)	DSP → Record Label → Publisher (or agent)	Record Label → Publisher (or agent)

In addition to the responsibilities of record labels, DSPs, and The MLC as outlined in Table 1.0, the following responsibilities should also be considered:

	Published / Administered	Self-Administered
Songwriters / Composers	Agree on song splits with any co-writers and memorialize the agreement	
	Notify their music publisher / publishing administrator of all new songs that have been recorded	Register their songs with The MLC



	Signed to a Label	Self-Released
Recording Artists	Ensure that complete songwriter/composer information is provided to their record label when providing the recording credits	Ensure that complete songwriter/composer information is provided to their recording distributor when providing the recording credits
	Comply with recording artist agreement terms regarding mechanical licensing	Secure first use mechanical licenses when applicable; secure second + mechanical licenses for permanent downloads if required by the recording distributor, and for any physical products

2. Becoming a Member of The MLC

Who: The party entitled to receive digital audio mechanical royalties from licensees in the United States needs to become a Member of The MLC. This includes music publishers and administrators; [ex-U.S. collective management organizations](#) (CMOs) that collect mechanical royalties on behalf of their members; and *self-administered* songwriters, composers, and lyricists. Songwriters, composers, and lyricists are considered *self-administered* if they have not authorized a music publisher or publishing administrator to collect mechanical royalties on their behalf. A songwriter, composer, or lyricist who has engaged a personal representative to assist with administering their songs, such as a lawyer, is considered self-administered.

How: It is free to join The MLC, and the process is initiated by selecting the [Connect to Collect](#) menu button found at the top right of The MLC’s website.

The process of becoming a member involves two steps. Step 1 establishes access to The MLC's Portal and done by providing some personal information used to verify an individual's identity. Step 2 establishes the Member, which is the party entitled to collect the digital mechanical royalties. Self-administered songwriters, composers, and lyricists do not have to join a Performing Rights Organization (as either a writer, or also as a publisher) before joining The MLC. However, if they have done so and established their publisher name with their PRO, they should provide that information when joining The MLC. If they join The MLC and then later join a PRO, they should update the information in their MLC Member profile. They also do not have to create a legal entity (LLC, etc.) in order to join The MLC. If they join The MLC and then create one later, their Member profile can be updated with the name of the entity and its tax ID. The MLC's Customer Support team is available to help with any Member profile updates involving name and tax ID changes.

3. The MLC's Member Tools

The MLC provides a number of tools to its Members, to assist them with registering and managing their musical works and recommending matches of sound recordings to their musical works. A current list of tools can be found on the [Members Tools](#) page on The MLC's website.

Works Registration Tools - Members can register musical works (and their claims to works) and manage their works in several ways:

- The **Claiming Tool** allows Members to easily search The MLC's database within The MLC Portal for partially claimed musical works, and to claim their shares.
- For musical works not already in The MLC's database, Members can:
 - register one work at a time via the **Individual Work Registration** tool in The MLC Portal
 - upload musical works in bulk in a spreadsheet format using the **Bulk Work Registration** tool in The MLC Portal

- send The MLC a special digital file called a **Common Works Registration** (CWR) file (requires the use of special software)
- Members can also use the **Catalog Export Tool** to download data about their Musical Works from The MLC's portal into a spreadsheet, which can make analyzing a large number of works easier.

Sound Recording Matching Tool - In order for mechanical royalties to be paid by The MLC to its Members, a match must be made between the Member's musical works and the sound recordings that embody the work. The MLC performs both an automated and a manual matching process to attempt to match as many sound recordings to works as possible. The data in The MLC's **Matching Tool** is what remains unmatched after The MLC's process. Members are able to look through, and listen to, unmatched recordings and recommend matches to The MLC team.

4. Mechanical Royalties

Definitions - There are some key concepts and terms to understand before exploring The MLC's royalty processes.

Blanket Royalties - Digital mechanical royalties paid to The MLC for usage from January 2021 and later are referred to as **blanket royalties** because they are governed by the blanket compulsory license established by the Music Modernization Act. Currently, The MLC has blanket royalties going back to January 2021 available to be paid out to its Members.

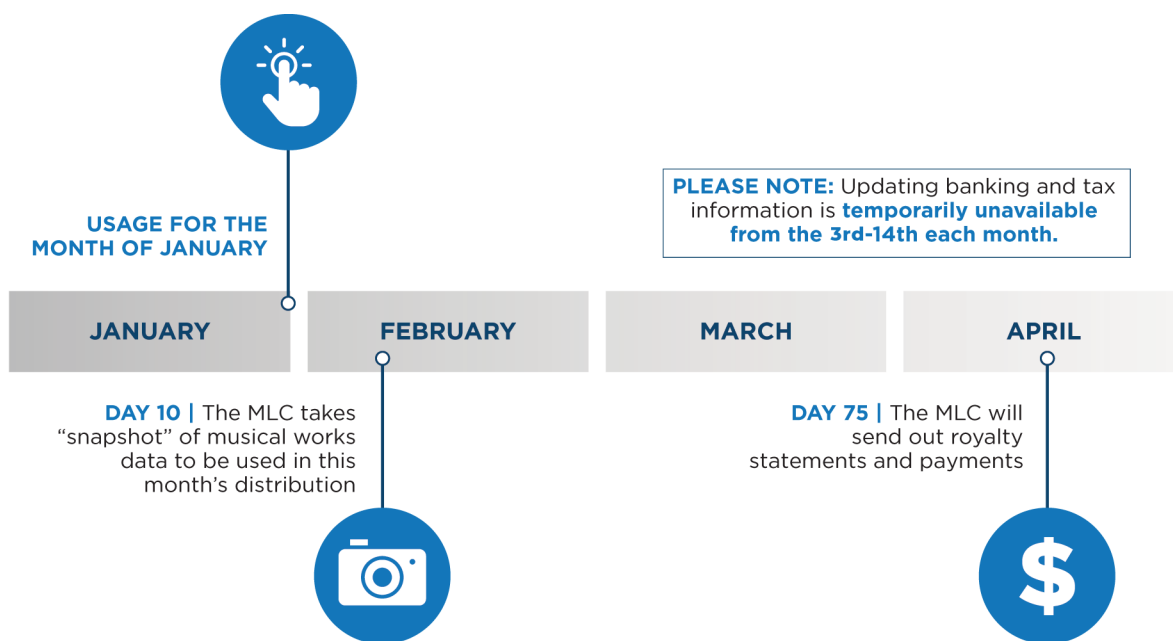
Historical Unmatched Royalties - Digital mechanical royalties for usage prior to January 2021 are referred to as **historical unmatched royalties**. These royalties were being accrued by digital music services through the end of 2020, and transferred to The MLC as required in order for the services to seek the MMA's limitation on liability for past infringement. Currently, The MLC has historical unmatched royalties going back to 2007 (for some digital music services) available to be paid out to its Members.



Unmatched Royalties - The MLC uses the term **unmatched royalties** to refer to royalties for musical works where The MLC has not yet matched the data for a particular sound recording use (reported by DSPs) to a musical work in The MLC’s musical works database.

Unclaimed Royalties - The MLC uses the term **unclaimed royalties** to refer to royalties that it has been able to match to a musical work in its musical works database, but where less than 100% of the ownership shares for that matched musical work have been claimed by a Member of The MLC. For example, if only 80% of a matched musical work has been claimed, the remaining 20% is unclaimed.

Timeline of Royalty Distributions - The MLC pays royalties on a monthly basis, approximately 75 days after the end of the month the activity took place. A detailed description of the timeline can be found on the [Blanket Royalty Distributions](#) page on The MLC’s website.



Every month, The MLC’s matching processes are applied to both the current month and prior months usage data.



Royalty Rates - Royalty rates and terms are determined by the [Copyright Royalty Board](#) (CRB) through “rate proceedings” that occur every five years. The rate proceedings are given short names:

Pre-Phono I	Phono I	Phono II	Phono III	Phono IV
2007	2008-2012	2013-2017	2018-2022	2023-2027

While The MLC is prohibited by law from taking part in those proceedings, representatives of both copyright holders and DSPs do participate. More information about royalty rates can be found on the [Rate Period FAQ](#) page on The MLC’s website. Members also have access to more specific rate calculations for each DSP within The MLC Portal.

Distribution of any remaining Unmatched or Unclaimed Royalties - At some point in the future, The MLC will implement a process whereby any remaining unclaimed and unmatched royalties still held after a prescribed holding period are distributed to its Members in a transparent and equitable manner based on data indicating the relative market share of the Member. The MLC has no current plans to perform a market share distribution, and it doesn’t intend to begin considering when we might do one until after we've completed distributing all of the matched Phono III historical royalties we can.

6. Missing Members

In some cases, a musical work has been created in The MLC’s database with information about the parties entitled to collect royalties, but the parties have not yet completed The MLC’s membership process. We call these parties **Missing Members**. The list of missing Members is available to search on the [Missing Member Lookup](#) page on The MLC’s website. When searching the list, it is a good idea to search using all of the potential names a rightsholder has used when registering works or collecting royalties, such as their writer name and any publishing entity names.

7. Catalog Transfers

It is essential that Members notify The MLC as soon as possible when musical works are transferred from one rightsholder to another so that the works can be updated in The MLC's database to reflect the new rightsholder. In such cases, a Letter of Direction (LOD) and supporting documentation should be submitted along with a **Catalog Transfer Notification Form** which is found on the [Catalog Transfers](#) page on The MLC's website. To get the process started, reach out to The MLC Support Team by [clicking here](#). Select "Catalog Management" as the Topic, and then "I need help with a catalog transfer" as the Sub Topic.

Any changes in ownership due to Catalog Transfers (or otherwise) must be submitted to The MLC and processed by The MLC before the snapshot date (day 10 in the monthly royalties distribution timeline) in order to be effective for the distribution covered by that snapshot. The MLC cannot apply ownership changes to prior distribution periods after the snapshot for those periods has been taken. Please see the [Timeline for Royalty Distributions](#) section in this document and the [Blanket Royalty Distributions](#) page on The MLC's website for more information about the timeline and snapshot date.

8. Ownership Dispute Policy

The MLC's policies serve a central function in The MLC's rights management operations. The Music Modernization Act of 2018 (MMA) requires that The MLC establish policies and procedures for resolving musical works ownership disputes under the guidance of the Dispute Resolution Committee. The primary goal of MLC policies is to create a process to facilitate timely and efficient resolution of disputes directly among the impacted parties. The current MLC Ownership Dispute Policy can be found on the [Policies](#) page of The MLC's website. If your client is unable to register a share of a work because another party is already claiming all or part of the same share resulting in a Conflict, then they may seek to resolve the Conflict through a Conflict Procedure as outlined in the Ownership

Dispute Policy. To give notice to The MLC of a Conflict, [click here](#). Select “Catalog Management” as the Topic, and then select the appropriate Sub Topic.

9. Statutory Terminations Notice and Dispute Policy

Please be advised that The MLC has suspended its Statutory Terminations Notice and Dispute Policy pending the outcome of the rulemaking proceeding initiated by the U.S. Copyright Office in its Notice of Proposed Rulemaking published on October 25, 2022 ([available here](#)). The MLC will hold all royalties for uses of musical works that are subject to statutory termination claims beginning with the October 2022 usage period, which would have been distributed in January 2023. Updates to The MLC’s Statutory Terminations Notice and Dispute Policy will be posted on the [Policies](#) page of The MLC’s website.

10. Information about and for Digital Services

A list of digital services operating under the blanket compulsory mechanical license can be found on [DSP Notices](#) page of The MLC’s website.

Lawyers representing digital services can find information on how to obtain the blanket compulsory mechanical license, reporting requirements, and more on the [DSP Resources](#) page on The MLC’s website.

11. Online Resources and Getting Assistance

The MLC provides information and resources on its website, social media channels, and online portal help center. For more information, visit:

- [The MLC website](#) (www.themlc.com; social media channel links are found on the top right of the website)
- [YouTube Channel](#) (many instructional videos are available)
- [The MLC Help Center](#) (step-by-step instructions for actions taken in The MLC’s Member portal)



If additional assistance is required, contact The MLC via telephone, email, or via chat in the online Member portal. [Click here](#) to visit the Contact page on The MLC's website.