

regarding section 103(a) of the Music Modernization Act, which the Senate recently passed.

By striking current sections 114(f)(1) and (2) of title 17 and substituting a new section 114(f)(1) based on current section 114(f)(2), section 103(a) of the bill creates a uniform “willing buyer/willing seller” rate standard in section 114. This fair standard requires that performing artists and copyright owners be appropriately compensated for the use of their works under the statutory license because rates under this standard are to be set at a level that best approximates the rates that artists and copyright owners would have been able to negotiate in a free market. It has long been a goal of Congress to move toward a free market standard for the statutory license and to move away from the 801(b) standard that permits the copyright royalty judges to set a nonmarket rate for satellite digital audio radio services, (SDARS), and preexisting subscription services, (PSS). Discounted nonmarket rates harm artists and copyright owners, as well as the competitors of SDARS and PSS. As a transitional matter, however, the bill amends section 804(b)(3)(B) of the Copyright Act to continue, through 2027, 2018-2022 statutory royalty rates for PSS that are finally determined in the rate proceeding currently pending before the copyright royalty judges.

The bill also continues through 2027 the statutory royalty rates for SDARS set forth by the copyright royalty judges on December 14, 2017, in their initial determination for the rate period ending on December 31, 2022. The remainder of my statement today will address the PSS category.

After 2027, the PSS will remain a distinct category of service under section 114. We have chosen to retain the PSS category as a distinct category because, over the last 20 years, the PSS have been treated distinctly from other types of services for purposes other than the rate standard, such as in the statutory license reporting regulations in 37 C.F.R. 370.3. We express no view as to the merits of those particular provisions or as to whether it makes sense to continue to treat the PSS differently from other types of services as to reporting requirements or any other matter besides the rate standard.

One consequence of retaining the PSS category after 2027 is that, so long as there continue to be PSS in operation, statutory royalty rates for PSS will continue to be set in proceedings separate from those in which rates are set for similar “new subscription services” that also provide music channels delivered over cable and satellite networks as part of cable and satellite subscription packages. Statutory royalty rates for such new subscription services have always been subject to the willing buyer/willing seller rate standard and are currently found at 37 C.F.R. part 383. The difference in the timing of rate proceedings for PSS and

similar new subscription services is simply the result of keeping each service on the same 5-year cycle of rate-setting proceedings that has applied to the service in the past and does not reflect a judgment that the royalty rates for PSS and similar new subscription services should be different. The intent of this legislation is to eliminate the rate-setting preference that the PSS and SDARS previously enjoyed under section 114(f)(1) and require all services to pay statutory royalties reflecting the fair market value of the recordings they use without regard to regulatory categories or the schedule of rate-setting proceedings. We expect that similar services will pay similar market rates.

During the period through 2027, when the PSS may continue to pay statutory royalty rates that have been set at below-market levels depending on the outcome of the pending rate proceeding—eligibility for the PSS rates will continue to be limited to the category of services eligible for grandfathering under the old rate standard when the PSS category was created, so as to protect pre-1998 investments in the particular service offerings at issue.

Mr. President, I now wish to enter into the RECORD a few remarks regarding section 105 of the Music Modernization Act, or MMA, which the Senate recently passed.

An important policy objective of the MMA is to bring legal certainty to areas of the music licensing marketplace where it is lacking today in order to benefit songwriters, recording artists, music users, and ultimately listeners. In the market for the public performance of musical works, where no governing statutory framework exists, that certainty has long been provided by the Department of Justice, DOJ, consent decrees with ASCAP and BMI.

To ensure that certainty remains in that market, section 105 of the MMA creates a process that will enable Congress to exercise an ongoing oversight role over decisions by DOJ to review, modify, or terminate the ASCAP or BMI consent decree. Terminating either of these decrees without a viable legislative alternative in place would create the very market uncertainty that the MMA seeks to remedy.

For that reason, in the event DOJ elects to undertake a review of the ASCAP or BMI consent decree, the MMA instructs DOJ to consult with and report to Congress throughout that review. Such a process will enable Congress to act on any needed legislative improvements or replacement of the consent decree framework as a precursor to DOJ action to terminate the decrees.

Importantly, in the event that DOJ decides to move to terminate either the ASCAP or BMI consent decree, including through a motion to sunset the decree after a specified period of time, the MMA requires DOJ to notify the

House and Senate Committees on the Judiciary of its intent to file such a motion “a reasonable time before” filing the motion. The purpose of this provision is to provide adequate time for congressional consultation and any legislative action that may be necessary as the result of a motion to terminate the decree. The bill’s sponsors believe that such notification is required under section 105 and that “a reasonable time” means at least 90 days before a motion to terminate is filed, in order to provide adequate notice to Congress.

ROHINGYA CRISIS

Mr. DURBIN. Mr. President, Saturday, August 25, 2018, marked 1 year since the brutal attacks in Burma that sent more than 700,000 Rohingya fleeing for their lives to Bangladesh.

Horrific stories were reported, including mass murder, rape, babies being thrown into fires, and entire villages razed to the ground at the hands of Burmese military officials. In Bangladesh, these desperate refugees joined hundreds of thousands of others who fled in waves of previous violence.

The Rohingya sadly have a long history of being discriminated against and even violently attacked in Burma. In fact, UN Secretary General Antonio Guterres said recently of the Rohingya, “there is no population in the world that I have seen more discrimination against.” While we have seen changes in Burma recently, the horrible treatment of ethnic minorities such as the Rohingya has continued.

Saturday, August 25, 2018, is also the day we lost our Senate colleague, the great patriot, John McCain.

John McCain and I historically partnered with Senators FEINSTEIN and MCCONNELL to renew sanctions against Burma until it released Aung San Suu Kyi and moved toward democracy. More recently, John McCain was the sponsor of bipartisan Senate legislation that would narrowly sanction those Burmese military officials responsible for the violence against the Rohingya. I was proud to join him in that effort. The bill has nearly two dozen cosponsors, Members from across the country and the political spectrum. We all recognize as John McCain did that, despite the historic changes in Burma, we must not allow the Burmese military to continue to act with impunity.

We appreciate the efforts of our administration—humanitarian aid, sanctions on a few security officials and units, interviewing refugees and documenting crimes—but it is not enough, especially as Burmese officials continue to deny that any crimes took place and ignore calls of safe and voluntary repatriation and accountability. There are even reports that the Burmese military continues to bulldoze and overtake former Rohingya villages, as well as engage in attacks in Shan and Kachin State against other ethnic minorities.

It is no wonder that the UN's Independent International Fact-Finding Mission on Myanmar reported recently that the Burmese military acted with "genocidal intent"—genocide, not a term taken lightly and not a term applied often. This comes on the heels of reports by others, such as Fortify Rights, Amnesty International, and Human Rights Watch. Presented by the UN's Human Rights Council, the latest report is the result of interviews with nearly 900 witnesses, and it calls for the international community to act.

Our State Department has similarly reported that the Burmese military's operations against the Rohingya were "well-planned and coordinated," although I am disappointed that the Department stopped short of making a legal determination on the crimes.

Senator MCCONNELL continues to block any action on the late John McCain's bipartisan legislation.

A year after the latest wave of violence, report after damning report documents the Burmese military's scorched-earth tactics. The international community calls for immediate action: accountability, humanitarian relief, conducive conditions in Burma for safe and voluntary repatriation.

Congress has its hands tied by the majority leader.

Like Senator MCCONNELL, I have also been a big fan of Aung San Suu Kyi and had high hopes for her, and I recognize the near impossible position she is in with the Burmese military, but her blindness to the suffering of her own people, not to mention her defense of the absurd jailing of the two Reuters reporters, troubles me deeply. That is not the Aung San Suu Kyi that John McCain called his "personal hero."

John McCain's bill is about ensuring that we hold the Burmese military accountable for its operations. I hope the majority leader will finally recognize that and allow this bipartisan bill to move.

MALNUTRITION AWARENESS WEEK

Mr. CASEY. Mr. President, September 24 to 28, 2018, marks Malnutrition Awareness Week. Malnutrition Awareness Week is a multi-organizational, multipronged campaign created by the American Society for Parenteral and Enteral Nutrition to educate healthcare professionals to identify and treat for malnutrition earlier, educate consumers and patients to discuss their nutrition status with healthcare professionals, and increase awareness of nutrition's role in patient recovery.

Last summer, the U.S. Senate Special Committee on Aging held a hearing to discuss the importance of proper nutrition and the impact of malnutrition on America's seniors. We learned that, in 2014, more than 13 percent of seniors in Pennsylvania reported food insecurity. Experts shared that poverty, food insecurity, and changes with age significantly increase the risk of malnutrition.

Unfortunately, we do not know the full extent to which malnutrition plagues seniors across the country. It is for this reason that last fall I called on the U.S. Government Accountability Office to examine what is known about the caloric and nutrient needs of older adults as well as the extent to which federally funded nutrition programs that serve older adults are meeting their nutrition needs.

No seniors should have to choose between putting food on the table and taking their medications. That is why, as ranking member of the Aging Committee, I authored a bill, the Nourishing Our Golden Years Act, to improve seniors' access to the senior food box program, my bill assures that seniors are not kicked off the program simply because of red tape and difficult deadlines.

We cannot solve malnutrition without better understanding the issue. Older adults, caregivers and healthcare professionals require guidance on the identification of and interventions for seniors facing this crisis. I am pleased to raise awareness about malnutrition among seniors as part of Malnutrition Awareness Week.

TRIBUTE TO MATT MEAD

Mr. BARRASSO. Mr. President, today I wish to share my appreciation for Governor Matt Mead. He will complete his second term as Wyoming's commander in chief this year. It is an honor to recognize his devotion to our servicemen and women.

Here in Wyoming, we rely on the cowboy code. The Code of the West was adopted as the State's official code of ethics. It reminds us to "live each day with courage" and "be tough, but fair." It also reminds us to "take pride in our work."

Governor Mead can certainly take pride in his role as a champion and advocate for Wyoming's military members and their families. Since 2008, Matt attended 22 deployment ceremonies for members of the Wyoming Air and Army National Guards. In 8 years, exactly 2,235 airmen and soldiers have been deployed to fight the war on terror and protect our Nation.

Matt knows the importance of supporting our troops, both at home and overseas. He visited deployed troops on six separate occasions to bring words of support and encouragement from home. Similarly, he was on the ground with families and friends at 22 homecoming events, greeting returning men and women with a smile on his face.

Governor Mead is also dedicated to thanking those who have already served. During his tenure, he attended 53 Veterans Day and welcome home events. These welcome home ceremonies began as a way to honor veterans of the Korean conflict and the Vietnam war who returned home without receiving proper recognition of their service and sacrifice.

In addition, he signed legislation designating Interstate 25, which runs

north to south from Buffalo, Wyoming, to the Colorado border, as the Vietnam Veterans Welcome Home Highway.

Finally, under his direction, the Wyoming Veterans Commission assisted over 8,000 veterans and family members with problems or requests for information. Matt's determination to provide high-quality care and support to Wyoming's veterans is unparalleled.

Matt does not stop at honoring veterans and supporting Active-Duty servicemembers. In 2011, he saw a need to recognize those just beginning their service. Now, he regularly hosts enlistment ceremonies for young men and women who commit to joining the Armed Forces.

At these special events, Governor Mead takes time to share his appreciation for their bravery, patriotism, and desire to serve our Nation. His warm words of inspiration provide reassurance to these young people and their families as they embark on this momentous journey. Since the first ceremony, a total of 3,035 enlistees have been recognized for answering the call of duty.

Governor Mead is not alone in his efforts to celebrate their selfless sacrifice. He is aided by the Hon. Gary Hartman, who serves as Mead's military and veteran policy analyst. Judge Hartman is a U.S. Air Force veteran who served in Vietnam. Judge Hartman coordinates each ceremony and plays a vital role in ensuring each and every one of these talented individuals is celebrated.

In addition to his military service, Judge Hartman served for 25 years on the Fifth Judicial District Court. His extensive knowledge of the law, along with his passion for veterans' affairs, allowed him to help bring a veterans treatment court to Laramie County. The program's unique approach aims to add much-needed mental health and mentoring services to veterans facing criminal charges. His experiences, both in the Air Force and on the bench, make him a proud advocate who never hesitates to uphold, encourage, and defend veteran causes.

Wyoming holds two enlistment ceremonies each year. On November 12, Matt, with Judge Hartman's assistance, will host his final ceremony as Governor. Addressing a new group of enlistees, he will impart wisdom and speak about Wyoming's legacy of service. I have been honored to attend many of these ceremonies. It will again be my honor to stand beside my friend as we commend these fine young folks.

President Teddy Roosevelt famously said, "People don't care how much you know until they know how much you care." Time and time again, Governor Matt Mead demonstrates his respect and gratitude for our servicemembers. He leads with honor, integrity, and pride, and our State and Nation are better because of his dedication.