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INTRODUCED BY MRS. COLLINS

THE AUDIO HOME RECORDING ACT OF 1992

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mrs. COLLINS of Illinois. Mr. Speaker, today I am introducing legislation entitled the "Audio Home Recording Act of 1992." The bill provides for the incorporation of the serial copy management system in all digital audio recorders and interface devices, prohibits on certain copyright infringement actions, and establishes a royalty payment system.

Digital audio technology has been around for several years. Compact discs are examples of digital technology. In the mideighties, consumer electronics companies decided to market a new wave of digital audio technology to American consumers—the digital audio recorder. Unlike the familiar analog audio recorder, the digital audio recorder is capable of making virtually perfect copies of source music. With analog recorders, as one continues to make copies from copies, the sound quality deteriorates. With digital audio recorders, on the other hand, multigenerational copies—from the 1st generation to the 15th generation—maintain virtually perfect sound quality.

Due to the precision of digital audio recording technology, the recording companies, music publishers, artists, musicians and others in the recording industry have been afraid that the digital audio recorders will increase copying by consumers and illegal bootleg companies, thereby reduce sales and royalties. For this reason, the recording industry threatened lawsuits against manufacturers that considered making digital audio recorders available to American consumers. The music publishers and songwriters eventually did sue a manufacturer. This has had a chilling effect on the manufacturers, who to this date have not made digital audio recording technology widely available to American consumers.

The Audio Home Recording Act of 1992, breaks the deadlock. It will make this innovative technology widely available to American consumers. This significant legislation has three principal provisions.

First, the Audio Home Recording Act of 1992 requires consumer electronics manufacturers, importers, and distributors to incorporate the serial copy management system into all digital audio recorders and interface devices. The serial copy management system allows consumers to make unlimited copies of original source music, yet it prohibits multigenerational copying of copyrighted music.

Second, the legislation prohibits certain infringement actions. A copyright holder cannot sue for infringement based on the manufacture, importation, or distribution of digital or analog audio recorders or media. In addition, consumers are protected from infringement suits based on the use of these items.

Third, manufacturers and importers must pay a small royalty fee on each digital audio recorder and medium ultimately made available to consumers. The money paid into the royalty fund will be distributed to interested copyright parties to compensate for any loss of royalties due to home copying by consumers. There will continue to be no royalties on analog tape recorders or tapes used by these recorders. The fees are very modest—2 percent of the transfer price for recorders and 3 percent of the transfer price for media—and will have little impact upon consumer prices.

Mr. Speaker, the Audio Home Recording Act of 1992 is a model compromise, agreed to through difficult negotiation by the recording industry, electronic industry, and the copyright coalition of songwriters and music publishers.

It will ensure that American consumers have access to the newest and best technology.

It will provide an incentive for consumer electronics manufacturers to continue to produce innovative technology and for recording companies to develop prerecorded music to support that technology.

It will once and for all resolve a multitude of lawsuits surrounding the recording of copyrighted materials, and will clearly establish the right of consumers to make copies for their own use and noncommercial use.

It should have a beneficial effect on trade relations by allowing American artists to receive reciprocity royalties from foreign countries that already have royalty protection from home taping. Currently, many countries have such systems in place, but will not allow American artists to get their share of royalties, because the United States does not have a royalty system in place from which the foreign artists could benefit.

Finally, Mr. Speaker, the Audio Home Recording Act of 1992, will make sure that copyright holders are compensated for the use of their work.

Mr. Speaker, the Audio Home Recording Act of 1992 is legislation that is long overdue.