



May 8, 2020

Honorable Nancy Pelosi
 Speaker
 U.S. House of Representatives
 Washington, DC 20515

Honorable Kevin McCarthy
 Republican Leader
 U.S. House of Representatives
 Washington, DC 20515

Honorable Mitch McConnell
 Majority Leader
 U.S. Senate
 Washington, DC 20510

Honorable Charles Schumer
 Democratic Leader
 U.S. Senate
 Washington, DC 20510

Dear Speaker Pelosi, Leader McConnell, Leader McCarthy, and Leader Schumer:

The broad and diverse American entertainment community would like to thank you for your continued efforts to provide assistance to those affected by the COVID-19 pandemic. The Coronavirus Aid, Relief, and Economic Security (“CARES”) Act and the subsequent “Paycheck Protection Program and Health Care Enhancement Act” were sincerely welcomed programs, particularly their essential coverage of independent contractors, sole proprietors, and other self-employed individuals who make up so much of the live entertainment workforce.

As you know, many of our jobs have not only vanished, they will be gone for quite some time. From on-set production to public performance, our work in the entertainment industry naturally requires close personal interaction and public gatherings. Even when business restrictions are eased, it will take much longer to restore the social interaction inherently necessary for the creative industries to operate.

For those of us in the creative field to survive – and recover – after this crisis, we must be able to access the full support intended by Congress. Thus, we would like to highlight a few ways that the CARES Act has fallen short in assisting those of us most in need and hope that it will be instructive in your continued discussions on any further federal funding assistance.

First, given the unique nature of our industry, many in our profession work from project to project and gig to gig, not only in multiple jobs but in various capacities. As a result, creators often find themselves working as employees receiving W-2 wages and as independent contractors (or otherwise self-employed) receiving 1099 income for performances, royalties, and other services. Unfortunately, implementation of the Pandemic Unemployment Assistance program (PUA) has overlooked workers with mixed income. In almost all cases that we see in every state, a minimum amount of W-2 income disqualifies a self-employed individual for PUA and significantly lowers the amount of assistance they

receive. PUA must be updated to recognize these different income streams and allow individuals to show their mixed sources of revenue for a full accounting of their annual income.

In addition, those who work on location or perform on tour earn freelance income in multiple states, some of which does not come with a 1099. While some state agencies allow for this type of reporting, some do not. Congress's intent is that such workers should be fully eligible for at least the minimum PUA amount, but state implementation does not fully reflect this intention. PUA must be updated to recognize these unique circumstances.

Second, the CARES Act does not recognize the full scope of small business arrangements prevalent within our industry. As the PUA mixed income issue and the actual operation of our industry make clear, the Paycheck Protection Program (PPP) should be sure to allow payments to self-employed individuals, including independent contractors. The workers in our industry cannot afford to be shut out of federal assistance on such a technicality and any future plan should recognize self-employed individuals as eligible payroll participants.

Third, SBA's PPP guidelines on eligibility criteria and requirements for the self-employed are overly burdensome and restrictive. SBA requires a 2019 Schedule C as the principal document to determine eligibility and loan size, even though the IRS delayed the 2019 tax year filing deadline to July 15, 2020. This puts a burden on smaller, independent creators who must now scramble to secure professional accounting services so they can supply a 2019 Schedule C. More importantly, the SBA restricts self-employed applicants to loans that are sized according solely to *net business income* as reflected on a Schedule C. Net business income does not reflect the fact that professionals have significant overhead costs – mortgages, studio rentals, equipment costs, health insurance premiums, and other expenses.

The SBA should allow the use of 1099-MISC forms and consideration of health insurance costs in the calculation of loan amounts, as well as the 2018 Schedule C when a 2019 form is not readily available. SBA should calculate loans consistent with the intent of the CARES Act, which allows for consideration of any compensation to a sole proprietor or independent contractor.

Finally, the SBA has limited the Economic Injury Disaster Loan (EIDL) grant of up to \$10,000 to only \$1,000 per employee. This means self-employed individuals who do not have employees are unfairly penalized, even though they need immediate relief just as much as any other small business. Congress clearly lays out in the CARES Act that funds from the EIDL advance may be used for many purposes other than payroll.

And when it's time to once again open the doors to live performances, recording studios, soundstages, and sets, entertainment will continue to need help. The government must commit to provide adequate testing, contact tracing, viral treatments and a vaccine to ensure safety and restore public trust. We will also need clear national guidelines to facilitate touring and live performances from musicians and entertainers in venues of all sizes.

There is no sugarcoating this: the entertainment industry has been decimated. We trade in imagination, but the reality of our situation is dire. Today, we eagerly share our craft when we can – through video streams, on social media, or from apartment balconies. But it is not a viable "work from home" solution and it will not sustain us. We need help that only you can provide, in a way that recognizes the particulars of our industry. On behalf of the hundreds of thousands of us across the country, thank you for your understanding and your action.

Sincerely,

Academy of Country Music (ACM)
Actors' Equity Association
Alliance for Recorded Music (ARM)
American Association of Independent Music (A2IM)
American Federation of Musicians (AFM)
Americana Music Association
Artist Rights Alliance (ARA)
Artist Rights Watch
ASCAP
Association of Independent Music Publishers (AIMP)
BMI
California Arts Advocates
Christian Music Trade Association (CMTA)
Church Music Publishers Association (CMPA)
Country Music Association (CMA)
CreativeFuture
Digital Media Association (DiMA)
Folk Alliance International
Future of Music Coalition
Guild of Italian American Actors
Global Music Rights (GMR)
Gospel Music Association
The Harper Agency
International Bluegrass Music Association (IBMA)
Music Artists Coalition (MAC)
MusicAnswers
Music Business Association (MusicBiz)
Music Managers Forum – US
Musicians On Call
Music Technology Policy Blog
National Independent Venue Association
National Music Publishers' Association (NMPA)
National Songwriters Association International
On Board Experiential
Paradigm Talent Agency
Recording Academy
Recording Industry Association of America (RIAA)
Reel Muzik Werks, LLC

Screen Actors Guild – American Federation of Television and Radio Artists (SAG-AFTRA)

SESAC

Songwriters Guild of America

Songwriters of North America (SONA)

SoundExchange

Southern Gospel Music Guild

Trichordist

Writers' Guild of America, East