May 31, 2022

The Honorable Dave Cortese, Chair
Senate Committee on Labor, Public Employment & Retirement
The Honorable Tom Umberg, Chair
Senate Judiciary Committee
State Capitol
Sacramento, CA 95814

Re: AB 983 (Kalra) – OPPOSE

Dear Chairs Cortese and Umberg:

As members of California's world-leading music community, we write to oppose AB 983 – a bill that would gut our state's music business and destroy opportunities for working musical artists, especially new artists and those from less commercial genres.

The Assembly declined to enact two prior versions of this legislation in the last two legislative sessions (AB 1385 in 2021 and AB 2926 earlier this year) and we urge Senators to reject AB 983 as well.

Despite superficial revisions, AB 983 includes the same core defects that rendered its predecessors unacceptable. It is – like its predecessors – based on a bizarre and false premise that the law that has been in place for years covering personal services contracts in the California music and film sectors somehow "exempts" music contracts. It does not. In fact, to be clear:

> *Recording agreements have been covered by California's seven-year limit on the enforcement of personal service contracts contained in Labor Code Section 2855 since 1987 – some 35 years now.*

These agreements typically require an artist – in exchange for upfront, nonrefundable payments from record labels plus significant monetary and human investments in the artist's career – to deliver a set number of recordings to the label. They might also include options under which the artist receives additional payment and investments to produce additional recordings.

Importantly, recording contracts are not affixed to a calendar or valid for a set time. And because these agreements blend personal services with promised deliverables, Labor Code 2855 currently makes clear that if an artist elects to leave their contract after seven years but has not delivered their contractually-promised recordings, the record company may seek to recover any provable losses – just as any party to a contract can do when the other party fails to hold up its end of the bargain.

This balance, which has underpinned California's now-thriving music industry for decades, creates clear incentives for both sides to do what they promised while discouraging breaches of contract by either party – allowing record companies to invest in and promote the long-term success and careers of their artist partners.

AB 983 would upend this balance and undercut California's music economy in several ways, including:

- **AB 983 would gut support for and investment in artists and their careers**

  By eliminating the record company's ability to recover damages in case of an artist's breach of contract and replacing it with a narrow requirement that a breaching artist repay "contractual advances" related to undelivered recordings, AB 983 would artificially render a label's vast investment in artist development, marketing, promotion and other activities as well as any expected return on those investments unrecoverable when an artist breaches their contract. That would drive down investment in artists by injecting significant risk that the contracts could be summarily breached without recourse. It's also completely unnecessary – since the law already protects breaching artists by allowing labels to recover only when real and concrete damages can be proven in court; if there are no damages, then the artist pays nothing under the law as it stands today.

  The results would be predictable and dire: fewer California artists signed and lower advances on new deals. All to give new leverage to established stars and generate new paydays for millionaire lawyers, managers, and agents seeking to breach existing contracts without the consequences provided for in existing law.

- **AB 983 would undermine diverse new voices and risk-taking artists**

  By disincentivizing risk taking and putting a thumb on the scale for commercial acts and established stars, AB 983 would hurt diverse voices, niche genres, and artists seeking to break new ground and take creative risks. Acts without an obvious and immediate path to commercial success would be unviable. Record labels could no longer take as many chances on new artists. Vital but less commercial genres like jazz, classical, gospel, folk, and Tejano would wither.

- **AB 983 would make it harder for artists to renegotiate their deals**

  By introducing vague and contrived requirements that renegotiations must create separate royalty accounts and be a "material improvement" in order to be effective, AB 983 would sharply limit new deals that often produce large payments to artists and increased long-term investment in their careers. Freezing deal terms that today are carefully negotiated into vague statutory dictates would limit artists' ability to structure deals to meet their economic needs – and introduce profound uncertainty that would deter new deals. That would lead to a steep drop in renegotiations (which typically deliver significant paydays to artists) and tie the hands of artists who seek deeper partnerships and greater commitment from their label.

- **AB 983 would undermine artists' creative freedom and commercial opportunities**

  AB 983 would force record companies to decide whether to exercise options for subsequent records within twelve months of the previous album, effectively shrinking what is supposed to be a seven-year rule for recording contracts to a single year for option albums. Today's model allows artists and labels flexibility in the recording schedule and to decide when a record is ready for delivery, while the arbitrary timeframe in AB 983 would rush the creative process,

truncate tours, limit development and marketing opportunities, and, perversely, discourage labels from exercising lucrative options artists negotiated for.

- **AB 983 would violate the U.S. and California Constitutions**

  It would apply retroactively to all "existing" employment contracts, in violation of both the federal and state constitutions, miring the music community in years of costly and harmful litigation.

- ***AB 983 would undermine California's stature as a music epicenter***

  Music currently adds nearly $40 billion annually to California's GDP, supporting over 430,000 jobs and 72,000 venues across the state. Destabilizing a major California industry will drive down pay and penalize thousands of working artists and the businesses that support them.

AB 983 would gut the existing framework at the heart of every recording contract and upend the existing healthy ecosystem. The amendments represent a purported "solution" in search of a non-existent problem and risks doing severe harm just as our state's music community is starting to enjoy real momentum after years of decline. California is today an undisputed music capital of the world. The current system is producing the highest artist advances and royalties for artists in the history of the music business, with a record number of new artists choosing a diverse number of options with record labels.

We urge the Committee to reject this harmful legislation that would undermine our state's creative economy, jeopardize thousands of California jobs, and harm diverse, new voices and working artists trying to get signed.

Sincerely,

10:22 PM
Astralwerks Records
Blue Note Records
Buena Vista Records
Capitol Music Group
Columbia Records
Disa Records
Epic Records
Fonovisa Records
Harvest Records
Hollywood Records
Interscope Geffen A&M
Motown Records
RCA Records
Recording Industry Association of America (RIAA)
Rhino Records
Sony Music Entertainment
Universal Music Enterprises
Universal Music Group
Universal Music Latin Entertainment

Universal Music Latino
Virgin Label and Artist Services
Walt Disney Records
Warner Music Group
Warner Records

cc: Honorable Members, Senate Committee on Labor, Public Employment & Retirement
Honorable Members, Senate Judiciary Committee
Cory Botts, Morgan Branch/Senate Republican Caucus