



**Gary Churgin, President & CEO, The Harry Fox Agency, Inc.  
2006 National Music Publishers' Association Annual Meeting Speech  
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Thanks, David. David has laid out an inspiring course for the future of our industry, and I look forward to continuing to work with him to make this vision a reality.

I'm going to take things in a bit of a different direction, and briefly discuss where HFA is at in the first half of the year, and then focus on the new web-based services that HFA is offering and how publishers can increase their revenue by entrusting HFA with more of their mechanical licensing.

As of May 31<sup>st</sup>, HFA's collections for mechanical licenses seem to be tracking along with the market. Although album sales are reported to be down 2.5% from last year, our first two quarter collections, which reflect sales in the last quarter of 2005 and the first quarter of 2006, are down 3.6% over the same period in 2005. While this is certainly not good news by any means, it is actually better than we'd projected for this year.

On the plus side, we have collected quite a bit more than we'd expected to in royalty compliance exams early in the year, mainly due to the delay in closing some exams late last year. Because of the timing of these additional collections, overall HFA is up about 5% over last year's numbers.

We are continuing our focus on proactive collections by tracking more of our reporting against Soundscan. By doing this, we can recognize any discrepancies sooner and get them resolved well before we have a royalty compliance issue.

The tracking system that allows us to do this was part of the transformation of our technology platforms, which we completed last year. I want to give a special thanks to all of the publishers who took part in the design, testing and launch of these new tools.

Everything a publisher or a licensee needs to manage their mechanical licensing through HFA is now integrated through our website, [www.harryfox.com](http://www.harryfox.com). As of May 31<sup>st</sup>, we have over 4,000 publisher and licensee user accounts, and I want to encourage the rest of HFA's publishers to register if you have not already done so. You will find that using the system will expedite your work with HFA.

Publisher options include online access to our POLI+ system, which can be used to approve license requests, review a catalog's licensing activity, access copies of licenses, and request additions and updates to song data. HFA fully implemented Common Works Registration 2.1 (also known as CWR), providing a global standard for publishers to electronically communicate large volumes of song catalog information with rights organizations around the world.

Publishers also have access to electronic versions of their royalty and licensing reports. This allows you to sort out and download this information directly to your own computer, and integrate the information with your system as needed. Another feature on the website is the ability to respond to any new licensing arrangements that HFA has secured and review a publisher's status in all past licensing arrangements offered by HFA.

So if you handle your mechanical licensing through HFA, you have the ability to manage all your information completely electronically, from license approvals to executed licenses to your royalty reports. This can really help you keep organized and save time and storage space for all those paper files.

Our technology transformation also had a focus on licensee systems – the side that generates your mechanical licensing revenue. We now have three online options for licensees: HFA Songfile, for up to 2,500 prepaid licenses for physical recordings or full digital downloads; eMechanical, a tool for established HFA licensing accounts to request and sign licenses online; and the bulk physical and digital licensing systems for high volume HFA accounts.

HFA Songfile licensees constitute a large portion of our business -- over 39,000 licenses were issued through HFA Songfile in 2005, and Songfile transactions in 2006 have already increased almost 36% over last year. If taken in aggregate, it would be one of our top 10 licensees each month. We launched a new version of Songfile last fall, and among its many new features, licensees can now obtain licenses for permanent downloads as well as for CDs, cassettes, and vinyl records. In most cases, users will have their HFA mechanical license available for download from their Songfile account within 24 hours, if not minutes. Since we launched HFA Songfile last October, over 11,000 user accounts have been created, and we're seeing between 1,500-1,600 new users added every month.

Our other two licensing systems, eMechanical and Bulk, are for established accounts. eMechanical was launched in late 2004, and is an end-to-end electronic licensing system from request to signature. Issuing a stat rate license, which can take a week in the best of circumstances when done on paper, can now be completely executed electronically in minutes and signed using our electronic eSignature. The use of eMechanical has reduced the number of paper license requests that HFA receives by 10%, and in the first half of this year, 76% of executed licenses were signed electronically.

The new bulk licensing program for physical products integrates with eMechanical, and allows record labels that request a high volume of licenses to convert information contained in their back office systems into thousands of HFA license requests and integrated that into the eMechanical system. You can imagine how much this simplifies workflow and expedites licensing.

Even though our official transformation is over, we are continuing to improve our technology and processes to deliver more options and enhanced service. In particular, we are working on an ongoing project to improve our writer data and include Composer, Author, Editor identification numbers, which will run through all of next year. We are also looking at adding tools that would improve HFA's current business, but would also

be crucial to have in place if we are successful in being named a Designated Agent under the proposed copyright legislation that David mentioned earlier.

I want to stress that all of these systems were developed collaboratively with publishers and licensees, who continue to be at the table as we evolve these systems and develop new improvements. It's really not practical for most publishers to develop such extensive online systems on their own, but working through HFA allows you, the publisher, to take advantage of these great innovations.

We've been able to deliver all this to you while keeping our commission at the low, low 6.75%. I'm proud to say that HFA has one of the lowest commission rates of any comparable national rights organization, in the most active and demanding music market in the world.

Which brings me to a point near and dear to my heart. As you all know, affiliation with HFA is non-exclusive, and publishers can license outside of HFA as the situation warrants. I'm sure there are instances where you can try to argue with me that this makes sense. But some cases simply do not make any sense to me – like why anyone would want to handle stat rate licenses for limited quantities themselves. Is it worth handling the phone calls, the paper processing and the check clearance for the extra \$6.14 you'd make on a statutory rate mechanical license for 1,000 copies, when HFA can handle the same transaction cleanly through our website and issue the license within a few minutes of the request?

I sometimes hear from publishers that they can handle all of their records –mechanical licensing, collections, and compliance exams – on their own for cheaper than 6.75%. But what does “cheaper” really mean? I really believe this is “penny wise, pound foolish.” If you have staff handling what the HFA crew can do more efficiently, you are diverting your people away from activities that can be more lucrative. Song plugging; placements in advertising, TV and movies; discovering new talent; finding new opportunities for your catalog – clearly, this is the real added value of a music publisher to a songwriter.

Further, it is certainly to your economic advantage to have your licenses included when HFA goes in to a record company to conduct a royalty compliance exam or pursue the release of an advance. For most companies, hiring the needed audit and legal teams would be prohibitively expensive. HFA's experience and level of representation has made us extremely efficient and effective in this area.

With our website tools, publishers have an unprecedented level of transparency into their licensing and royalty distribution activity with HFA. You maintain complete control while getting the benefit of our technology development and expertise.

Over the past several years, we have also been aggressive about finding new licensing opportunities for our publishers outside of Section 115. This is a real value-add for our publishers, as they do not have to negotiate their own deals with these companies, and since these arrangements are generally for relatively short period of time – about two years – they are not locked into inflexible terms if the market changes.

In the past few months, we've offered new ringtone licensing arrangements with TouchM, SingleTouch, and eWingz, in addition to a digital background music service with PLR.

I'm particularly excited about the mastertone and ringback arrangements that we have with The Orchard and with EMI Recorded Music. This agreement allows these companies to distribute these popular cell phone options through third party retailers. This streamlines the overall licensing process so the retailer does not have to obtain all of the mechanical rights and master user rights on their own.

We're also very pleased about a recent licensing agreement in a more traditional area of the business. HFA has entered into a landmark licensing arrangement with the record club BMG Columbia House. This brings to a close a battle that HFA has fought and won on behalf of the publishing community to prevent the implementation of an onerous licensing scheme as part of the settlement of what is known as the "Ory" case, which would have forced publishers to constantly monitor a website to see if one of their songs was going to be used, with no floor to the rate.

Pending the final settlement in July, BMG Columbia House will now need to obtain licenses and pay royalties in the same manner as any other mechanical licensee with an established rate has been established at 3/4 of stat. While perhaps not the most cutting-edge area of the industry, HFA has collected almost \$33 million from the clubs last year, which is nothing to sneeze at.

All HFA affiliated publishers received a notice to opt into the BMG Columbia House licensing arrangement in April. Once the settlement is accepted by the court, HFA will be able to begin to license.

These new agreements are examples of how HFA is working very closely, hand in glove with the NMPA, to fight on behalf of the publishers to obtain their fair share.

Next year will mark the 80<sup>th</sup> anniversary of HFA. In some ways, we've come a long way from collecting 2¢ for piano rolls. But fundamentally, HFA is the company you trust to go after your pennies – so that you can focus your energies on developing and promoting your catalogs of great songs. Regardless of what turns the music industry takes, the songs will always be its soul.

Thank you for your time today.

I think next up, we have Peter Felcher to give the Legal and Legislative update for the NMPA.