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## **The Harry Fox Agency Collects Over \$371 Million in Royalties for its over 28,000 Affiliated Publishers in 2005**

### Licensing Agent Offers New Online Licensing Tools, Improves Processes and Systems

February 21, 2006 – The Harry Fox Agency, Inc. (HFA), the premier U.S. mechanical licensing organization, announced today that its total 2005 royalty collections from all sources on behalf of its affiliated publishers was \$371.5 million, with 1.9 million mechanical licenses processed in the year. HFA also introduced a number of new online tools, including eSignature and HFA Songfile v2, which have markedly improved the company’s ability to process license requests quickly and accurately. Almost 275 music publishers affiliated with HFA in 2005, bringing the company’s total representation to over 28,000, with nearly 1.5 million songs available for licensing.

“2005 was an incredible year for HFA, as we really got to see results from the many technological transformation initiatives that began in 2004. Our publishers and licensees have access to more tools and information than ever before, and we continue to hone our services based on their input,” said Gary L. Churgin, President and CEO. “Despite the overall market downturn, we actually had a slight increase in regular mechanical collections for physical and digital products. We believe this is due to our concentrated efforts to proactively pursue royalties due to our publishers on a current basis, rather than solely through a later royalty compliance exercise.”

- **Financials**

Overall collections were down 11.9% from 2004, due to expected reductions in collections from record clubs, royalty compliance examinations, electronic transcriptions, and the overall decline in recorded music sales. However, HFA’s results for 2005 show total mechanical collections, exclusive of Royalty Compliance Exams, was almost \$ 364 million, down less than 1% from 2004.

The decrease in collections from HFA’s Royalty Compliance Exams was due to the closure of a number of exams that covered long periods of time in 2004, with the focus shifting in 2005 to conducting more frequent exams covering shorter time periods of time. For 2005, royalty compliance exam collections were over \$6.3 million, a decrease of 88% from the previous year. Royalty Compliance is the process by which HFA examines the books and records of licensees to review the accuracy of royalty statements reported and payments remitted by licensees, and enters into a settlement for additional monies owed if applicable.

HFA’s collections period for mechanical royalties is 45 days after the close of the calendar quarter, which means its financials for 2005 most closely reflects the retail period of October 2004 through September 2005. The U.S. statutory mechanical rate for 2005 was 8.5 ¢ for songs under five minutes and 1.65¢ per minute for songs over five minutes. It increased on January 1, 2006 to 9.1¢ and 1.75¢, respectively. HFA’s commission on distributed royalties remains at 6.75%.

- **Technology Transformation**

HFA completed the transformation of its technology systems in 2005, which has had immediate benefits for the company and its publishers and licensees. All of HFA’s online tools are now integrated through its website, [www.harryfox.com](http://www.harryfox.com). As of December 31, 2005, there were almost 3,500 licensee and publisher user accounts for HFA Online, up from less than 700 at the start of the year.

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Building on eMechanical, the online licensing system for established HFA accounts that launched in late 2004 HFA introduced eSignature in September, an electronic signature option which allows a statutory rate license to be executed electronically in minutes. The use of eMechanical has reduced the number of paper license requests that HFA receives by 10%, and in December 2005, more than 2/3 of executed licenses were signed electronically.

In addition, on October 31 HFA launched a new version of HFA Songfile, its online song search and mechanical licensing tool designed for those who plan to make 2,500 copies or less of their recordings. HFA Songfile v2 adds the ability to request licenses for permanent downloads (digital phonorecord deliveries, or “DPDs”), in addition to licenses for CDs, cassettes, and vinyl records, and is also easier to navigate, has improved transaction processing, and will retain a history of the licenses that a customer has purchased. In the two months HFA Songfile has been live, over 4,200 user accounts have been created. Over 39,000 licenses were issued through HFA Songfile in 2005.

In February 2005 HFA rolled out its publisher system POLI+ to its entire publisher community. This secure system allows publishers to approve license requests, review their catalog’s licensing activity, and request additions and updates to their song data. HFA also fully implemented Common Works Registration 2.1 (CWR), providing a standard way for publishers to electronically communicate large volumes of song catalog information with rights organizations around the world.

A number of technology and process improvements were made to internal HFA systems that result in tangible improvements for its publisher clients. This includes an effort to convert key licensees from paper to electronic reporting, which resulted in 97 licensees, representing over \$42 million in reported dollars, switching off paper reporting. This reduced the average distributions turnaround for major manufacturers from 16 to 13 days. As mentioned in the collections results, HFA’s ability to maintain a steady level of mechanical collections year over year, despite the market downturn, was due to the introduction of new tracking systems that allows the company to check on the reporting of royalties against sales reports in real time.

- **Licensing**

HFA issued 1,928,143 license requests in 2005, bringing the total number of licenses HFA administers to almost 10 million. The dramatic increases of the past several years have been due to the licensing of digital music products such as ringtones, permanent downloads or “DPDs”, on-demand streams, and tethered downloads. For 2005, the number of license requests for physical product processed by HFA increased slightly to 233,946, and the number of license requests processed for digital product was almost 5.7 million. It is important to note that a license issued does not directly translate into future collections. Collections are determined by the licensed recording’s distribution and sale in the marketplace.

As noted above, there were numerous technology improvements that had a positive impact on HFA’s license processing. With more transactions handled automatically, HFA’s licensing team was able to focus additional efforts on exceptions processing. Along with improved process management and procedures, by the end of 2005 HFA was able to process over 95% of license requests that required manual handling within 30 days, improved from 60-70% at the start of the year.

HFA signed up over 350 new DPD licensees in 2005, nearly double the amount of new accounts in 2004. These included Hollywood Records, Oxygen Cable, LLC, Univision Music Group, and Walt Disney Records, a division of ABC Inc, bringing the number of companies licensing through HFA to over 550.

In late 2004, HFA began offering mechanical licensing for “Express Live” CDs and permanent digital downloads (DPDs). A number of companies have entered into these arrangements, including market leaders Clear Channel’s Instant Live™ and DiscLive. The company also offered its affiliated publishers several new ringtone licensing arrangements with companies such as BlueFrog and Mtogo, as

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well as renewals of a number of ringtone companies that began licensing through HFA over two years ago. In addition, HFA offered its publishers a landmark licensing arrangement with EMI Music North America for mastertones and ringbacks.

- **Copyright Protection & Rate Negotiation**

A vital part of HFA's mission is to provide financial support to its parent organization, National Music Publishers' Association (NMPA). The two organizations work together to undertake lobbying and legal actions to protect and promote copyright for the benefit of music publishers and songwriters.

One of the NMPA's most important actions in 2005 was the Grokster case. In June, copyright holders won an important victory with the unanimous Supreme Court verdict in their favor in the Grokster and Streamcast case. The NMPA, on behalf of a certified class of over 27,000 songwriters and music publishers, had brought the case to the Court, along with the RIAA and MPAA. This result will help legitimate online music services grow, and HFA is looking forward to working with more new companies on mechanical licensing for their services.

Also in June, HFA and a number of its affiliated publishers filed objections with the U.S. District Court in the Central District of California arguing that the proposed class action settlement in a case brought against the record clubs Columbia House Music Club and BMG Direct should be rejected because it failed to provide publishers with an appropriate role in granting reduced-rate licenses or a reasonable opportunity to opt out of the settlement entirely. HFA also filed 100 additional objections submitted to it by its publisher principals and foreign societies. As a result, HFA has been involved in negotiations for a revised settlement, which is expected to be reviewed by the Court in early 2006.

HFA and NMPA also took part in negotiations to attempt to establish a mechanical license rate with the online music subscription services for limited downloads and on demand streams. HFA had been licensing these products as part of a good faith agreement concluded in October 2001 with the RIAA; under which no royalties are payable until a rate is determined. As of the end of 2005, HFA stopped offering new subscription services licensing under the 2001 terms and is working with services to establish licensing arrangements that reflect the current online music market. All types of mechanical rates will be part of the Copyright Royalty Board review process that commenced in early 2006.

- **Looking Forward**

As traditional sales of recorded music shrink, HFA will continue to pursue new avenues of licensing revenues for its affiliated publishers. Its transformed technology platform is ready to support new opportunities and will continue to evolve and improve the performance of HFA's core mechanical business. HFA expects to conduct more outreach to raise awareness of the need for mechanical licenses and the benefits provided by HFA.

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#### **About HFA**

Established in 1927 by the National Music Publishers' Association, HFA represents over 28,000 U.S. music publishers for their mechanical licensing needs, issuing licenses and collecting and distributing royalties. HFA also provides collection and monitoring services to its U.S. publisher clients for music distributed and sold in over 75 territories around the world. For more information about HFA, or to become an affiliate publisher or a licensee, see [www.harryfox.com](http://www.harryfox.com).