



Creative
Industries
Series



How to Make a Living from Music

Third edition

WIPO



How to Make a Living from Music

Third edition

David Stopps

This work is licensed under Creative Commons Attribution 4.0 International.

The user is allowed to reproduce, distribute, adapt, translate and publicly perform this publication, including for commercial purposes, without explicit permission, provided that the content is accompanied by an acknowledgement that WIPO is the source and that it is clearly indicated if changes were made to the original content.

Suggested citation: World Intellectual Property Organization (WIPO) (2024). *How to Make a Living from Music*, third edition. Geneva: WIPO. DOI [10.34667/tind.45019](https://doi.org/10.34667/tind.45019)

Adaptation/translation/derivatives should not carry any official emblem or logo, unless they have been approved and validated by WIPO. Please contact us via the [WIPO website](https://www.wipo.int) to obtain permission.

For any derivative work, please include the following disclaimer: "The Secretariat of WIPO assumes no liability or responsibility with regard to the transformation or translation of the original content."

When content published by WIPO, such as images, graphics, trademarks or logos, is attributed to a third party, the user of such content is solely responsible for clearing the rights with the right holder(s).

To view a copy of this license, please visit <https://creativecommons.org/licenses/by/4.0>

Any dispute arising under this license that cannot be settled amicably shall be referred to arbitration in accordance with Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL) then in force. The parties shall be bound by any arbitration award rendered as a result of such arbitration as the final adjudication of such a dispute.

The designations employed and the presentation of material throughout this publication do not imply the expression of any opinion whatsoever on the part of WIPO concerning the legal status of any country, territory or area or of its authorities, or concerning the delimitation of its frontiers or boundaries.

This publication is not intended to reflect the views of the Member States or the WIPO Secretariat.

The mention of specific companies or products of manufacturers does not imply that they are endorsed or recommended by WIPO in preference to others of a similar nature that are not mentioned.

© WIPO, 2024

First published 2008

World Intellectual Property Organization
34, chemin des Colombettes, P.O. Box 18
CH-1211 Geneva 20, Switzerland

wipo.int

ISBN: 978-92-805-3324-8 (print)
ISBN: 978-92-805-3325-5 (online)
ISSN: 2789-5432 (print)
ISSN: 2789-5440 (online)



Attribution 4.0 International (CC BY 4.0)

Cover:
Unsplash/freestocks

WIPO Publication No. 939EN

Table of contents

About the author	8
List of figures	12
List of photographs	13
Acknowledgments	14
Introduction	16
Streaming to the rescue	19
Live	24
Necessity is the mother of invention	26
Fandom	27
Other developments	30
How to make a living from music	33
Essential definitions	35
1 Where the money comes from	38
2 Building a team	41
Authors	42
Performers	43
3 A short history of the music industry	46
Timeline of major milestones in the music industry	47
4 Copyright and related rights	54
Rights for authors	59
Rights for performers	59

Rights for phonogram producers	61
Rights for music publishers	61
Licensing and assignment	61
Exclusive rights and rights of remuneration	62
Making available	63
Limitations, exceptions and the three-step test	67
Fair use and fair dealing	68
Moral rights	69
National treatment, term of protection and the public domain	70
Copyright registration	71
Trademarks	72
Two copyright laws that support authors and performers	72
Creative Commons	74
Creative Heritage Project	74
5 Piracy and how to stop it	75
Digital rights management and technical protection measures	78
Legislation	81
Attractive legal services	82
Education	83
Copyright enforcement	84
Website blocking	88
Advertising	89
Search	89
6 The value gap and safe harbor	91
7 Collective management and collective management organizations	94
The history of collective management and why it is necessary	94
The importance of correct registration of works, performances and recordings	97
Functions and governance of collective management organizations	98
Collective management databases and the concept of an international database	100
Collective management organizations for authors	102
Authors' public performance collective management organizations	102
Authors' mechanical income and mechanical copyright collective management organizations	106
Related rights public performance in sound recordings collective management organizations	108
Featured and non-featured performers	113
Identifiers	114
Private copying levies	116

8 Artist development and artist management	120
Choosing a name	120
Artist management	121
Artists seeking management	121
Managers seeking artists	123
Short-term letter of agreement	124
Long-form artist management agreements	124
The importance of independent legal advice	126
Verbal agreements	127
Legal limitations and implied terms for verbal contracts	128
Alternative agreements	128
Production and publishing agreements as alternatives to management agreements	128
9 Band agreements	131
Legal status	131
Issues covered by band agreements	132
Dispute resolution	133
10 Becoming an independent phonogram producer and engaging a distributor	135
Digital distributors	138
11 Artist and label financing: crowdfunding	141
Patreon, fan clubs and mentoring financing	145
Non-fungible tokens, cryptocurrencies and the blockchain	147
12 Signing to a phonogram producer	149
Advances and recoupment	154
360-degree agreements	154
Website and fan database ownership	155
13 Studio producer agreements: recording, sampling and mastering	156
14 Music publishing	159
15 Streaming licensing and royalties	164
Recordings	165
Works	166
User-centric revenue sharing	167
Streaming manipulation	168

16 Music in film, television, advertising and video games	170
Music in films	172
Music in television	175
Music in advertising	176
Music in video games	177
Commissioned music	178
Library or production music	178
17 Sponsorship and branding	183
18 Live work and touring	188
Getting started as a live artist	190
Sound and lighting	190
How to get live work	191
Sonicbids	192
Street performances and busking	194
The next stage	196
Booking agents	196
Tour managers and tour accounting	198
Building a touring team	199
Visas and work permits	200
Freight agents, shipping and carnets	201
Travel and hotel arrangements	202
Insurance	203
Equipment insurance	204
Travel insurance	204
Employer's liability or worker's compensation insurance	204
Public liability or general liability insurance	204
Cancellation insurance	205
Security	208
Per diems	209
Festivals and conferences	210
Ticketing	212
Secondary ticketing	214
Touring and the environment	216
Holograms and virtual reality	217
Live streaming	217
19 Merchandising	220
20 Building a fan base: digital marketing and social media	225
Digital infrastructure	225
Artist names and search engine optimization	226
Building a website	228
Creating a store and selling direct from the artist website	233
Mailing lists	235

Social media	237
Facebook	239
X (Twitter)	253
YouTube	258
Instagram	265
Snapchat	270
TikTok	271
Music streaming services and algorithms	272
Playlists	273
LinkedIn	276
21 Music cities, education, therapy and tourism	277
Music towns and cities	277
Night mayors	279
Music tourism	280
Music education and music therapy	280
The United Nations Sustainable Development Goals	281
UNESCO Cities of Music	282
22 Artificial intelligence	283
Generative AI and AI tools	283
Case study 1: Lil Nas X and “Old Town Road”	287
Case study 2: The Sabir-Tooth Tigers	291
Glossary	298
Annex A Example of short-term management letter of engagement	335
Example of an expenses schedule	336
Annex B Example of a long-form management agreement	338
The contract	338
The schedule	341
Further reading	351
Books	351
Information and networking	353
Conferences	354

About the author



Photo: © Unknown

Like most people in the music business, **David Stopps** started his career as a musician, playing guitar, keyboards and singing. In the 1960s, he played in several local bands in England, including soul outfit Gearbox, which was voted Bucks Group of the Year 1966. Despite boundless enthusiasm, he realized he would never cut it with the best so turned to the business side of music, first as an artist manager with the band Smokey Rice, whose members went on to play in Genesis and Blondie. In 1969, he became a promoter and co-founded the famous Friars club in Aylesbury.

Between 1969 and 1984 he presented pretty much everyone, but most notably David Bowie, U2, Genesis, Black Sabbath, Pink Floyd, The Kinks, Blondie, The Police, Peter Gabriel, Queen, MC5, Fleetwood Mac, Tom Petty, Lou Reed, Roxy Music, The Jam, Dennis Brown, Toots and the Maytals, Gregory Isaacs, Ramones and The Clash amongst many others. In 2009, he reopened Friars Aylesbury after

a hiatus of 24 years. With more than 90,000 members, it is the largest music club in Europe and is still presenting bands to this day. The club's website (visit www.aylesburyfriars.co.uk) is regarded as a world resource by music journalists and researchers.

In 1982, David went into management, originally with Marillion and then Howard Jones, and later still The Fat Lady Sings. He managed Howard Jones for 33 years, with worldwide album sales of more than 8 million. In 2014, he and business partner Joseph Stopps persuaded Thompson Twins' Tom Bailey to tour after a gap of 27 years. He is management consultant for Miriam Stockley, who as the featured singer with Adiemus, has sold in excess of 3 million albums. With Joseph, he provides management consultancy for dance mash-up mavericks The Young Punx and Italian multi-genre dance producer Phonat. David is frequently on tour as manager and tour manager in Australia, Canada, Europe, Japan and the United States.

Stopps is advisor on copyright and related rights for the Music Managers Forum (MMF UK). He is a former member of the British Copyright Council, and from 2002 to 2010 was the United Nations representative for the International Music Managers Forum (IMMF), which had non-governmental organization (NGO) status at WIPO. He represented featured artists worldwide on new international treaty negotiation in the field of copyright and related rights at the Standing Committee on Copyright and Related Rights (SCCR). Between 2016 and 2022 he was a director of the related rights collective management organization Phonographic Performance Limited (PPL) in the United Kingdom, the second largest related rights collective management organization in the world. In May 2008, he received the MMF Roll of Honour Award in London.

From 2010 to 2012, David was a director of 3DiCD Media, a digital start-up that sought to revolutionize the way digital music is packaged and purchased. A consultant and educator, he has presented a series of international workshops, mainly for musical authors, performers, managers, governments and collective management organizations, but also for telecoms, brands and any organization interested in expanding its business using music. He has presented workshops in Antigua, Argentina, Barbados, Belgium, Brazil, Bulgaria, Canada, Chile, Côte d'Ivoire, Ecuador, Indonesia, Jamaica, Kenya, Mozambique, Namibia, Netherlands, New Zealand, Peru, the Philippines, South Africa, Spain, Thailand, Trinidad and Tobago, Tunisia, Turkey, the United Kingdom and the United States. In January 2017, he made two presentations, How to make a living from streaming and Branding a music city, at the NAMM trade show in California.

In 2011, he became advisor on copyright and related rights for the Featured Artists Coalition (FAC). He gave a speech at the European Parliament in Brussels in March 2013 on the EU's Collective Rights Management Directive and the following July made a presentation at the World Trade Organization's Global Review of Aid for Trade in Geneva.

In March 2014, David co-produced a major exhibition on Friars Aylesbury, The Local Music Club that Rocked the World, at the Buckinghamshire County Museum. On the opening night, Bowie sent him a text that read: ". . . memories are everything apparently, and I have only great ones of the fabulous Friars. Have a wonderful night." He was made an Honorary Freeman of Aylesbury in May of that year in recognition of his services to music in the community, the first such appointment in 42 years.

In 2017, he was appointed by the European Union (via ARCA) as the United Kingdom copyright expert on its review of the implementation of the EU Term Directive, which extended copyright protection in sound recordings in EU member states from 50 to 70 years.

In 2016, David and his wife Sue campaigned for a statue of David Bowie to be erected in Aylesbury Market Square following the artist's untimely death on 10 January 2016. They organized an 11-hour celebration of his art in the square on 16 January, appealing to Bowie fans around the world to play Starman at noon that day. Radio stations and individuals from around the world participated. A 40-day Kickstarter crowdfunding campaign was launched in October 2016 to raise £100,000 for the Bowie statue, reaching £115,000 by the time it ended. The statue, named Earthly Messenger, was unveiled in March 2018 and received worldwide media coverage on television, radio and in print.

Bowie performed the world debut of *Hunky Dory* at Friars Aylesbury on September 25, 1971. Stopps was in his dressing room that night when he formed the Spiders from Mars. Four months later, Bowie played Friars again, performing the world premiere of *The Rise and Fall of Ziggy Stardust and the Spiders from Mars* to an astonished Friars audience. In July 1972, his Ziggy character fully developed, Bowie returned to the club, flying in 50 US journalists for one show and putting Friars and Aylesbury squarely on the world map.

From June to November 2018, David managed the biggest tour of his career, with 80 highly successful dates by Tom Bailey in Canada, United Kingdom and the United States. Playing to between 3,000 and 15,000 each night, most of the dates were with the B52s and Culture Club.

In 2019 Friars Aylesbury celebrated its 50th anniversary. That same year David was also re-elected as a Performer Director of PPL for a further three years, to represent the interests of PPL's 90,000 performers.

In August 2020, he campaigned for the charity Stagehand, which helps stage and road crews. With live events banned due to the COVID-19 pandemic, many had experienced financial difficulty and mental ill health. Two series of international prize draws under the banner #ILoveLive <https://www.crowdfunder.co.uk/i-love-live> were organized, and involved artists such as Mark Knopfler, Muse, Frank Turner, The Cure, Eric Clapton, Radiohead, Queen featuring Adam Lambert, Iron Maiden, Nick Cave and Warren Ellis, Marillion, Elbow, Noel Gallagher, Foo Fighters, The 1975, Blossoms, Tom Bailey, Howard Jones, Steve Hackett, Foals, Pete Townshend, Pink Floyd, Billy Bragg, the Spice Girls, Alfie Boe, Depeche Mode, Florence and the Machine, KT Tunstall, Yungblud, Idris Elba, FKA Twigs, Nile Rodgers, Skunk Anansie, Rex Orange County and many others. With donations, the campaign raised more than \$2.5 million for Stagehand.

List of figures

Figure 1	The 21 st century fall and rise of the recorded music industry	21
Figure 2	Defining rights for authors and performers	36
Figure 3	Rail track mnemonic for author/performer rights	37
Figure 4	Author's team	42
Figure 5	Featured performer team	44
Figure 6	Piracy levels across the world	81
Figure 7	Roadmap for collective management	101
Figure 8	Kickstarter and the David Bowie statue crowdfunding project	144
Figure 9	Sharing the digital dollar	166
Figure 10	Example of simple printed tour envelope	198
Figure 11	Artist website as a hub for all activities	231
Figure 12	Social media links from artist website	238
Figure 13	Most used social media, by number, 2021	240
Figure 14	Facebook users by country, 2021	240
Figure 15	Facebook users by gender/age, 2023	241
Figure 16	Marillion's Steve Hogarth on the Marillion Facebook page	243

List of photographs

Author David Stopps	8
Busking in the 21 st century	193
With a table, chair, computer and broadband connection anyone can be in business worldwide	226
Lil Nas X at the 2019 MTV Music Awards	286

Acknowledgments

I would like to thank all those who have given me help and support while writing this book. I would particularly like to thank my wife Sue for her tolerance, unceasing patience and support in bringing it to fruition. Special thanks, too, to my son and business partner Joseph Stopps for his invaluable help and guidance, particularly on the sections on audiovisual use of music and digital marketing. I also give special thanks to family members Nikki, Hazel, Crispin and Jonathan for their constant support. I wish to sincerely thank the wonderful artists I have represented or represent, particularly Tom Bailey, Howard Jones, Hal Ritson, Phonat and Miriam Stockley.

For their kind help and advice, I would like to thank Francis Gurry, Daren Tang, Sylvie Forbin, Michele Woods, Benoit Muller, Paolo Lanteri, Dimiter Gantchev, Kevin Fitzgerald, Anita Huss-Ekerhult and Miyuki Monroig at WIPO, Chris Cooke (CMU), Mark Mulligan (MIDIa Research), Rob Stringer and Michael Smith (Sony), Martin Mills (Beggars Group), Willard Ahtritz (Kobalt), Bryan Johnson (Spotify), Frances Moore and David Price (IFPI), Will Page, Phil Nelson, Tomas Ericsson (AMRA), Prof Adrian Sterling, Dr. Mihaly Ficsor, Martin Goebbels (Miller Insurance), Andy Allen (BSI Merch), Dennis Muirhead (commercial mediator), Horace Trubridge and Phil Kear (UK MU), Steve Levine, Ric Salmon (Driift), Peter Leathem, John Smith, Laurence Oxenbury, Jez Bell, Sarah Mitchell, David Harmsworth, Camilla Waite and Mark Douglas (PPL), Geoff Taylor, Kiaron Whitehead and Paola Monaldi (BPI), Keith Harris, Alex Macinante, Quynh Huong (VCPMC Viet Nam), Dora Salamba (COSOMA Malawi), Thilak Hewakapuge (OSCA Sri Lanka), Ruth Mwenya (ZARRSO

Zambia), Regan Asgarali (IPO Trinidad and Tobago), Andrea Davis (IRD Jamaica), Evon Mullings (JAMMS), Pamela Gaeteleyton (Santiago), Callum Knight (Rock-It Global), Tom Bradley, Des Agyekumhene (Soga World), Mark Kelly (Marillion), John and Caroline Giddings (Solo), Rupert Sprawson, Jon Webster, Crispin Hunt, Nigel Elderton, Tony Barton and Florent Quercioli (PRS), Roxanne de Bastion, David Martin and Nick Mason (FAC), Robin Firman, Jackie Davidson and Peter Thoms (PPL), Annabella Coldrick, Paul Craig, Kwame Kwaten, Sammy Andrews, Jayne Stynes, Paul Crockford, David Manders, Sumit Bothra, Adam Webb, Joe Lever, Paul Bonham and the members of the UK Music Managers Forum Monday group. Special thanks, too, to Nigel Parker and Peter Jenner for their invaluable contribution to the long-form artist management agreement.

Special thanks also to my fellow touring road warriors Charlotte Raven, Alice Offley, Paulina Sczepaniak, Victoria Warwick, Kat Bax, Yenz Nyholm, Simon Bettison, Luke Russe, Richard Brooker, Kelsh Buckman-Drage and Joe Noonan. For their endless support throughout I would like to thank Mike O'Connor, Robin Pike, Pete Frame, Kris Needs, John Braley, Joanne Tyrrell, and Rick and Judy Pearce. I wish to thank the staff at High Wycombe Library, Aylesbury Library, Exeter Library and the British Library (London) in the United Kingdom, the Salaborsa in Bologna, Italy, the State Library of Western Australia in Perth, and the San Francisco Public Library, Santa Maria Public Library, Santa Barbara Public Library and the Palm Springs Public Library in the United States, where this book was written.

While I thank the above wholeheartedly for their advice, help and support, this does not mean they agree with or endorse anything contained in this book.

David Stopps

Introduction

Never underestimate the power of music.

Music can make you laugh, cry, feel sad, romantic or happy. It can make you want to move your body and dance. It can heighten drama or create a feeling of peace and tranquility. It has the power to influence politics, help fight disease and drive commerce. Imagine a film where all the music was removed. It would be a radically different and poorer experience.

In 1982, Jerry Dammers of The Specials wrote and recorded "Nelson Mandela". This song had a significant effect in speeding up the release of Nelson Mandela in South Africa. At London's Wembley Stadium, 80,000 people sang it at the top of their voices. It was beamed across the world and set the scene for political pressure on the South African Government to affect Mandela's release. No guns or bombs, just music.

In October 1984, singer Bob Geldof was so horrified when he saw the terrible scenes of famine in Ethiopia on the BBC news, he decided to do something about it, through music. He contacted Midge Ure from Ultravox and together they wrote "Do They Know It's Christmas?". Geldof then phoned many of the music stars of the day, including Sting, Bono, Duran Duran, Spandau Ballet, Paul Weller, George Michael and Culture Club and asked them to record the song together, with the proceeds going to famine relief in Africa. They called themselves Band Aid and hoped to raise \$100,000. The single was huge, reaching no.1 in 13 countries.

The success of this single drove further Geldof initiatives, including Live Aid, which took place on 13 July 1985 and centered on two huge concerts. The principal venues were London's Wembley Stadium and the old JFK Stadium in Philadelphia, with other concerts taking place in Australia, Austria, Canada, Germany, Japan, the then Soviet Union and Yugoslavia. These concerts were shown live globally, with the biggest television satellite link-up in the history of broadcasting. It is estimated that 40 percent of the world's population saw those concerts that day.

As a direct result of Geldof's determination to use music to change the world for the better, other recordings and concerts followed. These included "We Are the World" by USA for Africa and re-recordings of "Do They Know It's Christmas?" in 1989, 2004 and 2014. Another massive Geldof initiative was Live 8 in July 2005. Featuring concerts in 11 countries, it aimed to persuade Group of Eight (G8) leaders to change the world order in regard to poverty and famine under the banner Make Poverty History.

As a result of one man's passion to do something through music, over \$300 million has so far been raised for famine relief in Africa, which is 3,000 times greater than the original goal of \$100,000. More importantly, the initiative pressured the G8 to address world poverty and commit to doubling the 2004 pledge of \$25 billion to \$50 billion by 2010, half of which would go to Africa. All this was achieved through music.

In 2016, several musicians and bands in West Africa put out a recording about the appalling Ebola epidemic sweeping Guinea, Liberia and Sierra Leone. Echoing the Band Aid single, some of the region's most famous music stars, including Guinean singer Mory Kante, Senegalese rapper Didier Awadi, Malian singer-songwriters Salif Keita, Oumou Sangare and the duo Amadou and Mariam, Congolese vocalist Barbara Kanam and Ivorian reggae star Tiken Jah Fakoly got together to record "Africa Stop Ebola". Sung in French, English and local languages including Soussou, Kissingala and Malinke, it combined rap with melodies and rhythms distinctive to West Africa. The lyrics stressed the importance of taking Ebola seriously, and trusting doctors. The song also encouraged people to avoid shaking hands and touching dead bodies, and to wash their hands frequently. All proceeds went to the international charity Médecins Sans Frontières, who were working on the ground treating Ebola patients. Subsequent research showed the practical advice in the lyrics, and the fact it was a great song with strong beats and melody, had a major impact on controlling the spread of the disease in West Africa.

In 1946 Bobby Troup and his wife Cynthia wrote the song “Route 66” following a road trip to California in their 1941 Buick. The song is about the highway Route 66 which as the lyrics point out, “winds from Chicago to LA, more than 2,000 miles all the way”. It was later an R&B hit for Nat King Cole, and Bing Crosby with The Andrews Sisters, but it was Chuck Berry, widely acknowledged as one of the founders of the whole genre of rock ‘n’ roll, who immortalized the song in his 1961 recording for Chess Records. His version inspired many artists to record the song, including the Rolling Stones, Them, John Mayer, Dr Feelgood, George Benson, Sammy Davis Jr., Tom Petty and Depeche Mode. It became, and still is, a classic song for any rock ‘n’ roll band performing live. As a result of this song, a whole tourist industry developed around Route 66. The legendary highway still exists and is much as it was in the 1940s in parts of Illinois, Missouri, New Mexico, Arizona and California. People come from all over the world, to ride or drive on the historic American Route 66, which passes through some of the most spectacular scenery on the planet. The whole Route 66 legend and tourist industry continues to grow in the 21st century. It’s all down to music.

In 2001, Apple computers were a comparatively small part of the computer market but Steve Jobs was determined to change that. With his innovative style, he realized people wanted to play music on their computers and mobile devices using digital files rather than carry around vinyl, cassettes or CDs and their associated players. Building on this, Apple brought out the iPod and the iTunes platform in 2001. Jobs then embarked on licensing the entire music catalogues of the major phonogram producers (record companies) and later the independent record companies (the indies), which in 2003 enabled the launch of the iTunes store. His motivation was to sell Apple computers rather than music. The strategy worked beyond his wildest dreams. In 2011, Apple became the biggest corporation in the world, and in August 2018, the first to be valued at more than \$1 trillion. In January 2022 it was still by far the most valuable corporation in the world with a market value of \$3 trillion, which is greater than the GDP of the United Kingdom or India. Music was and still is a major driver of this success.

We can see from the above that music is hugely important in so many ways. Philosopher, poet and composer Friedrich Nietzsche said: “Without music, life would be a mistake.” How right he was. The whole world is mad on music. Even in the poorest countries, singing, dancing and making music are an important part of daily life. How many times do we see people with earbuds in their ears travelling, exercising or even working? The chances are they are listening to music. In the developed world, interest in music is increasing all the time mainly due to the ease of access provided by the internet and the digital ecosystem. Music is deeply embedded in the culture of every country.

Streaming to the rescue

So much has happened since the second edition of this book in 2014. At that time, the whole copyright regime was being challenged, but the principle of copyright itself has survived intact, with all participants in the music industry understanding how important it is for them, if they are to make a living from music.

We have moved further into the attention economy, with legal music services such as Spotify, Apple Music, Amazon Music, YouTube, Tencent, NetEase, Deezer, SoundCloud, Tidal, Resso, Napster, YouTube Music, Yandex, Gaana, JioSaavn, KKBox, Melon, Joox, Boomplay and other streaming platforms halting the 15-year decline of the worldwide recorded music industry and replacing it with steady growth since 2015. Where there was pessimism and gloom, there is now optimism and confidence.

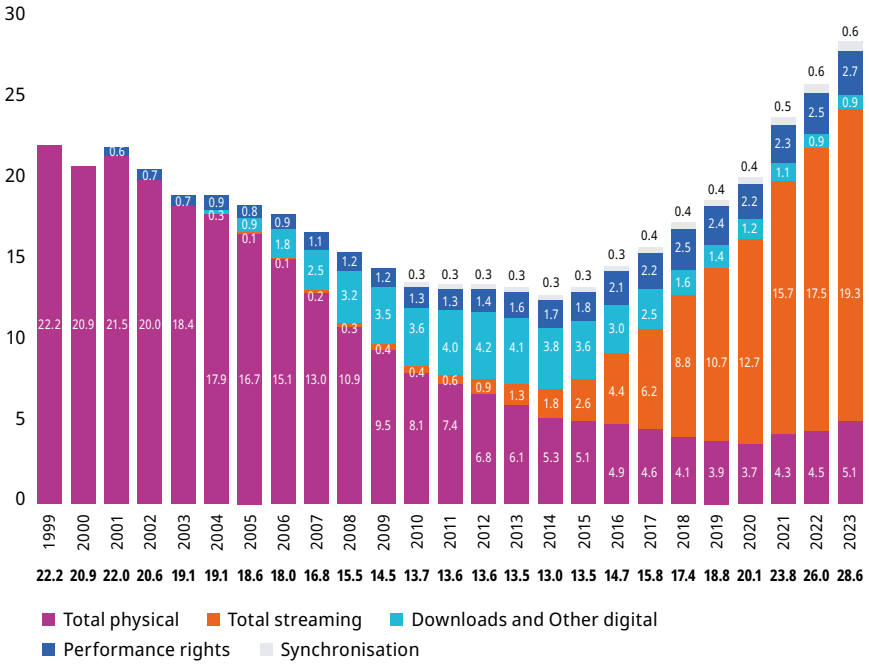
Universal Music, the world's largest phonogram producer, was valued at \$6.5 billion in 2013. With the financial turnaround provided by music streaming, in 2015 Universal's value rose to \$15 billion, while in 2019 Morgan Stanley valued it at \$42 billion, a sixfold increase in just six years. After the company floated on Amsterdam's Euronext stock exchange in September 2021, it reached a market value of \$54 billion. A major reason for this and the new optimism, has been the brilliant innovation of Daniel Ek and his Swedish company Spotify, though notably, despite steady growth, Spotify has failed to make a substantial profit in any of its trading years since being formed in 2008. The music industry cannot afford to let Spotify fail. It will be fascinating and crucial to see how this story unfolds. The company is confident that with constant expansion and diversification into other areas such as podcasting, it will eventually be highly profitable. Shareholders seem to agree. All three of the biggest audio streaming platforms, Amazon, Apple and Spotify, are moving into the podcasting space. Competition is not only on price but also the quality of the service and the streams being delivered. As can be seen in figure 1, according to the phonogram producer's international trade body the International Federation of the Phonographic Industry (IFPI), global revenues for recorded music hit an all-time high of \$26.2 billion in 2022, up from a low in 2014 of \$14.2 billion.

Despite the COVID-19 pandemic, 2022 brought the highest annual revenue for recorded music ever, surpassing the 1999 previous high of \$24.1 billion when the recorded music industry was at the height of the CD boom. The effect of illegal digital file-sharing and public access to unlicensed music caused a 22-year roller coaster but finally the recorded music industry is back on track. Thanks to the painful transition from physical sound carriers to digital

subscription streaming the future looks bright. By 2022, 616.2 million people (7.7 percent of the world population of 8 billion) had signed up to a monthly subscription audio streaming service. If that could be doubled?

This IFPI chart (figure 1) is for recordings only and does not include income from music authors' and their music publishers' works (compositions, songwriting and lyrics) or income from the live event industry. There has been a steady decline of CD and digital download sales (on platforms such as Apple's iTunes), which is accompanied by an exponential increase in music streaming revenues. Collective management-administered performance-rights income on recordings has remained steady despite a slight drop in 2020 and 2021 due to the pandemic. This revenue is from recordings and performers' performances on recordings when they are played on radio, television and in public places. The COVID 19 lockdowns caused a significant drop in public performance income. Synchronization income (the licensing of recordings in audiovisual productions such as in television, film, advertising and video games) continues to be a relatively small revenue stream, but as will be seen in Chapter 16, income from such uses can be significant for an artist's career development and financial income. As with public performance, synchronization took a dip in 2020 due to the pandemic. This was because film, television and audiovisual production companies postponed productions due to lockdowns.

Figure 1 The 21st century fall and rise of the recorded music industry



Source: IFPI

Interestingly, vinyl sales continue to increase, with a vinyl album collection becoming a lifestyle statement for many music fans. There has even been a revival of cassette releases by some artists. This has led to increasing demand for turntables, cassette players, and vinyl manufacturing plants for 12-inch albums, 7-inch singles and EPs (extended play singles). A well-resourced artist with a large fan base will now often release a new album on CD, vinyl and cassette, as well as making it available for download, and of course on as many legitimate streaming platforms as possible. Single releases are frequently accompanied by a limited-edition 7-inch vinyl release. Artists and phonogram producers are also questioning the relevance of the album concept, wherein an artist releases a collection of 10–14 new tracks on one date. Many are now releasing an album track by track and subsequently releasing the whole album after perhaps three or four single releases, or after one of the tracks gets traction on social media, streaming platforms and/or radio. The policy of releasing one or two tracks at a time until one becomes a hit and then releasing the album seems to be working for some artists. There has also been a trend for artists to include more tracks on an album, such as Zayn Malik

including 27 tracks on his album *Icarus*, which his fans loved. A throwback to the 1970s is also evident, with the re-emergence of the concept album, wherein an album is a body of work that has a common theme or tells a story.

Streaming is a fundamentally different business model from that of the physical CD or download. Whereas the income from a CD or download sale was the same whether a fan played it once or 1,000 times, the streaming model is based on income being received every single time a recording is listened to on a music streaming service. Digital service providers (DSPs) such as Apple Music and Spotify pay out on a revenue-share basis, rather than payment as a rate per stream, which is a completely different way for rights holders to receive income. If marketing can create a situation where fans come back to listen to a track time and time again on their streaming service of choice, more money can be made than was ever possible in the physical and download eras.

The artists a fan listens to, and the playlists they create to share with friends, are important to that individual as their playlists can define their identity. This new edition will take a deeper dive into how this works.

As always, technology continues to change art. Because a track only qualifies for a streaming payment if the consumer listens for 30 seconds or more, tracks have been getting shorter. A streaming service will make the same revenue-share payment if a track is 31 seconds or 10 minutes in duration. This disadvantages classical music and jazz, where tracks tend to be longer. That said, more than any other genre, classical is increasing in popularity on streaming services.

Music piracy (the practice of obtaining or streaming music illegally) is still a major problem, particularly in less developed countries, though fans are finding that the sophisticated legal streaming services such as Spotify, Apple Music, Deezer, Tencent and YouTube are delivering a far better music experience than illegal pirate sites ever could. Many fans are choosing to switch to the legal streaming services as they provide a far more interesting, faster and more convenient music experience. These legal streaming services are rapidly becoming available in less developed countries where it is hoped the same trend to legal music consumption will continue. At the time of writing, Spotify was available in 184 countries and Apple Music in 167. Those numbers are bound to rise. After years of campaigning by the music industry, Google has introduced some helpful changes, such as removing links to illegal websites and demoting sites that link to unlicensed music in their search engine. Governments too, are participating in tighter anti-piracy laws and regulations. People's Republic of China (PRC), for example, is developing an effective copyright regime that will, in time, provide the world with a major new income source. Worldwide, piracy is still more than

25 percent, which means a quarter of all income from music is not being paid for and is not getting through to creators and rights holders.

There is an ongoing tension between digital services wishing to license globally and national copyright laws and regulations that can vary from country to country although progress is being made. Tackling piracy and facilitating easier international licensing will require greater global harmonization of copyright law, combined with reasonable enforcement measures and simpler, easier and faster licensing structures at price points consumers find acceptable. Whilst it is essential to have a legal backdrop, the emphasis must remain on innovation and new attractive, convenient and legal digital services that music fans like using. The music industry, technology companies, consumer organizations and governments will need to continue to work together to make this happen. As always, education will be a key element. Inevitably, new copyright legislation and international harmonization of copyright law is a slow process, whereas technology is racing ahead, demanding legal solutions to exciting new digital innovation. The existing legal framework continues to function and tries to adapt to new situations with some significant breakthroughs, such as the World Intellectual Property Organization's 2012 Beijing Treaty on Audiovisual Performances (BTAP), the 2018 Music Modernization Act in the United States and the Directive on copyright and related rights in the Digital Single Market in the EU which was agreed in 2019. To come into force, the Beijing Treaty needed 30 countries to ratify or accede to it. This was achieved on April 28, 2020. In the United States, The Music Modernization Act created the Music Licensing Collective (MLC), which began paying out digital royalties to authors and music publishers in April 2021.

While the three major phonogram producers—Universal, Sony and Warner—continue to dominate the world recording market, independent record companies are taking an increasing share, with more than 40 percent of global record sales, according to WINTEL, who represent independent phonogram producers at the international level. WINTEL and the independent's digital licensing body Merlin, have long been concerned that the majors include income from their independent phonogram producer members, who use the majors to distribute recordings. This distribution is via the majors' distribution arms Virgin and Ingrooves (Universal), ADA (Warner) and The Orchard and AWAL (Sony). This gives the majors greater market share figures, and therefore a better negotiating position with third-party digital services. As a result, WINTEL have started to publish an annual report based on copyright ownership rather than distribution income, which gives the independent sector and Merlin their true market share figures.

With the arrival of voice-activated smart speakers and voice activation on smartphones and in cars, we are seeing yet another major change in how music

is accessed. Typing in the song title and artist of choice is being replaced by a simple voice command. Artists, phonogram producers, lyricists and those in music marketing are having to consider how a song can be easily chosen and played from a voice command. For example, if a music fan asks Alexa (Amazon Echo), Google (Google Home) or Siri (Apple Home Pod) to play the best song ever, the chances are the track played will be One Direction's 2013 international hit "Best Song Ever". It is becoming increasingly important that the name of the artist and of the song have the right keywords to put them at the top of the list, to be chosen on voice command. Increasingly voice assistants such as Alexa, Google and Siri can recognize hundreds of music-related activities such as music for relaxation, music for cooking or electronic dance music for a party. Voice assistants are also providing a far richer musical experience in the car by blue-toothed smartphones and specialized apps such as Apple's CarPlay and Google's Android Auto. The arrival of voice-activated music has dramatically increased music listening, especially as Amazon and Google have made it possible to link Alexa and Google to a fan's third-party music streaming account, such as Apple Music, Deezer or Spotify.

We have seen continued expansion and innovation from Google, Apple, Facebook and, particularly, Amazon, who have ambitions to become the streaming platform of choice via their successful Amazon Prime app and their Echo Alexa smart speaker. Cloud computing and storage continue to expand in the development of digital music services as we continue to move from a copy economy (CDs and downloads) to an access economy (streaming).

Live

During the years of decline in record sales (2000–2014), the live performance industry flourished. For many artists it was and still is their main income stream, which is why the COVID-19 pandemic was so devastating. In normal times the live events music industry was the one area that did not suffer from piracy. Even though it is possible to access an unlicensed live recording or illegally download a video of a live performance, there is nothing like actually being there in person, in the same physical space as an artist, band or orchestra. We have also seen a new disconnect between ticket sales and the number of streams that an artist can achieve. There are many bands with streaming figures in the millions who struggle to sell 300 tickets for a small venue, whilst others with comparatively low streaming figures have no trouble selling out a 5,000 capacity arena. In this book we will explain how to achieve both.

There have been significant initiatives by the music industry, working with governments, to regulate the so-called secondary ticketing market. This is

when a person or business buys tickets for an in-demand event at face value with the intent to resell them, or facilitate the resale, at a higher price. Some third-party secondary ticketing businesses have developed software whereby bots would bombard a ticket-selling site and buy thousands of tickets on the first day of sale, selling them at highly inflated prices in the run-up to the event. Most of the massive profits made by these secondary ticketing businesses do not go back to the music industry. After campaigning by managers, artists, promoters and consumer groups, many governments across the world have brought in laws and regulations to control the practice, or are in the process of doing so. There was a major breakthrough in 2018, when the world's biggest ticketing agent Ticketmaster (owned by Live Nation) closed down its European secondary ticketing operations, Get Me In and Seatwave. They replaced these services with a more ethical service called Fan-to-Fan Ticket Exchange, wherein fans can resell any unwanted tickets to other fans via Ticketmaster, with Ticketmaster making no charge to the seller and charging the buyer 15 percent. Ticketing company AXS has introduced a similar resale service, with an extra security element of dynamic barcodes, where the barcode changes every 59 seconds. Increasingly, ticketing is moving to a paperless model, whereby the ticket barcode is sent digitally to a fan's smartphone, which will be scanned on entry to the venue. Facial recognition technology is also being developed to ensure the ticket holder is the person who purchased the ticket.

This paperless approach will create more efficiency and certainty, will reduce the chance of printed forgeries and have environmental benefits. It also creates greater and more comprehensive data information on who the ticket-buyers actually are. Provided data protection laws are adhered to, this can be used to sell tickets for other events. Managers and artists are realizing that if such data could be legally passed to the artist, it could be used to dramatically increase their fan base and income.

Demolition of small and medium-sized music venues around the world continues to be a major concern. For example, the United Kingdom lost more than 35 percent of its music venues to building developers in the decade 2008–2018. Where venues have survived, they are often subject to noise complaints from new residential developments nearby, which in some cases results in closure. Some governments are now enacting laws to protect established music venues by placing the responsibility on developers to soundproof new buildings close to established music venues. Some towns and cities have taken this further, consciously branding themselves music towns or music cities, and are actively encouraging more venues, events, festivals, recording and rehearsal facilities and artists to work there. This has the effect of boosting the local economy and promoting music tourism. The

world needs government culture departments to facilitate and encourage more small venues (up to 400 capacity), medium-sized venues (400–2,000), arenas (2,000–12,000) and stadium event venues (12,000–100,000) to cater for an ever-increasing public demand for live music venues with great facilities.

Sweeping changes are also taking place in the live music industry, with companies such as Intellitix revolutionizing the music festival experience. By issuing ticket holders with a wristband containing an intelligent microchip and transmitter, it is possible to reduce the time they stand in line. It is possible to load the chip with credit so that food, drink and merchandise can be purchased without cash, which has been found to boost sales. In addition, it allows festival organizers to know where every ticket holder is, manage festival staff and integrate with social networks.

In smaller venues, fans now expect direct contact with the artist. Rather than relaxing in the dressing room after a show, artists are expected to come to the merchandising table at front of house and not only do a meet-and-greet with fans, but also sell and sign merchandise (T-shirts, hats and CDs etc.).

With growing awareness of climate change, a great deal of work is taking place to reduce the carbon footprint of music touring and festivals. Bands such as Coldplay and Massive Attack are doing everything they can to create environmentally sustainable touring models by reducing single-use plastic, encouraging fans to travel by public transport and to reduce the use of air transport and fossil fuel-burning vehicles.

Necessity is the mother of invention

Things were developing well for the music industry until March 2020. Streams were growing exponentially and live music was enjoying great success and expansion. Then the COVID-19 pandemic spread rapidly around the world. Nearly all live events had to be cancelled or postponed and the live events industry literally fell off a cliff. When the pandemic first hit, phonogram producers thought they would be hit too, but as 2020 unfolded, it became clear that in lockdown fans wanted to hear more music than ever. As a result, the recorded music industry had a strong year in terms of income. Because songwriters and music publishers receive some of their money from live events, they were hit by as much as 30 percent, whereas the live music industry itself dropped by up to 100 percent. Many governments and phonogram producers took steps to help, which was appreciated, but the pandemic caused real hardship for musicians, stage and road crews, booking agents, managers, promoters and all those who

depended on the live music industry. Musicians' charities such as Music Cares in the United States and Help Musicians in the United Kingdom received additional funding that allowed them to issue grants to help musicians in greatest need. Musicians' unions were also able to issue grants in many countries. Charities for stage technicians and road crews, such as Crew Nation and Behind the Scenes in the United States, Support Act in Australia and Stagehand in the United Kingdom, raised funds to provide grants to those in the most need.

At this point, the old saying that "necessity is the mother of invention" kicked in and many artists began experimenting with online streaming of live performances with no audience in attendance. Many of these early 2020 streamed concerts were quite basic and free to the viewer, but some artists started putting together bigger productions in empty venues and selling tickets so fans could only see and hear the concert online if they had bought a ticket. This took off, with artists such as Niall Horan having great success with his streamed charity performance from London's Royal Albert Hall on 7 November, and Dua Lipa's live performance, bannered as Studio 2054, representing a futuristic version of the famous New York club Studio 54 which streamed on 27 November. The Dua Lipa live stream was filmed using four stage sets in London's Printworks venue, with guests including FKA Twigs, Kylie Minogue, Elton John, Miley Cyrus, Bukayo Saka and AJ Tracey. More than 284,000 tickets were sold and in some less developed countries it went out for free with local digital service providers (DSPs) paying to stream the concert exclusively. In all, more than 8 million people watched the performance. A new income stream had been born, which with any luck will outlive the pandemic.

Fandom

The direct communication between artists and their fans now lies at the heart of the music industry. In fact, some believe the music industry should be renamed the direct-to-fan industry. The music digital ecosystem is fully immersed in the attention economy, with more and more music becoming social. Sharing and recommendations are now at the heart of discovery and digital music marketing. Whereas in previous times, fans were regarded as consumers, they are now a central, vital and active part of music business models.

With the internet being geographically neutral, where an artist is based has become less important. In previous times, it was often advisable for an author or performer who was serious about a career in music to move to one of the world's major music business centers, such as Hamburg, London, Los Angeles, Nashville, New York, Mumbai, Paris or Tokyo. With the connectivity of the

internet and the roll out of fast broadband, that is far less important. If an artist can create and record great music, all that is needed is a table, a chair, a computer and a broadband connection, which will facilitate them being in business on a global level. Provided an artist can create a good website and have an active presence on the key social networking sites, the world's markets are at their fingertips no matter where they live. In the past, global hits and music culture have been dominated by the United States and the United Kingdom, often referred to as Anglo-American repertoire. The internet and music streaming are changing that. The international success of Korean artists Psy, BTS and Blackpink, and Puerto Rico's Luis Fonsi and Bad Bunny, are the tip of the iceberg. An original and infectious song with a great video can become a global hit regardless of the language it's sung in, or where it is created.

Music is becoming more global than ever. A 2021 analysis by Spotify revealed some surprising facts, including that, globally, the top three cities where fans streamed the most new music were all in Latin America (Sao Paulo, Santiago and Mexico City), that 53 percent of metal music fans also listened to hip-hop artists and that more than 80 percent of streams of Korean K-pop, South African house, German techno and Jamaican reggae happen outside their own countries.

Do-it-yourself (DIY) artists who retain ownership of their copyright and release recordings themselves using a digital distributor, are enjoying an increasing market share. MIDiA Research measured this at 3.5 percent of global sales in 2019. This is establishing a situation where niche is becoming the new mainstream.

More artists and managers are taking the DIY route, at least in the early stages of an artist's career, though the approach cannot function in a vacuum. Fans expect artists to nurture their digital presence by constantly producing new content, updating their websites and socials, providing regular and interesting posts, Facebook and Instagram posts, as well as communications on other social platforms relevant to the artist's genre. Short video apps such as TikTok, Triller, Dubsmash and YouTube Shorts are proving very beneficial in the development of fan engagement for some artists.

There has been increasing collaboration between music authors (songwriters and composers). It is relatively common for there to be eight or more authors participating on a hit recording. Likewise, some of the biggest artists are working together on recordings, which results in success, drawing from both artists' fan bases; Ed Sheeran's "Beautiful People" with DJ Khaled, for example. With no live shows during the pandemic, there was far more virtual collaboration between music authors and performers. This expands each artist's fan base, with many original fans also becoming fans of the collaborating artist, and vice versa.

YouTube continues to be the world's biggest music discovery platform. Psy's "Gangnam Style" video, which for five years held the record for most viewed video on YouTube, has been overtaken by Mark Ronson's "Uptown Funk" featuring Bruno Mars, Wiz Khalifa's "See You Again" with Charlie Puth, Ed Sheeran's "Shape of You" and the most viewed music video of all time "Despacito" by Luis Fonsi featuring Daddy Yankee which currently stands at over 7 billion views. Of all the new music videos receiving more than 1 billion views on YouTube in 2018, more than 70 percent of them came from Latin American artists.

Many people assume the big audio streaming services, such as Spotify and Apple Music, are where most music discovery is happening, but according to MIDiA, audio streaming is fourth in terms of discovery. YouTube is no.1, followed by traditional radio and then music in television programs. This is due to the lack of context and artist awareness on audio streaming services, something the streaming platforms are addressing. The English language is becoming less important due to globalization, with YouTube driving the change. With more than 2 billion monthly users, YouTube reaches nearly half of the network-connected world. In 2021 the world population was 7.9 billion of which 4.66 billion were internet users.

One of the most striking improvements in smartphone technology has been the spectacular increase in the quality of integrated cameras and the resulting video obtainable from IOS and Android devices. This has enabled artists to create good quality situation videos at no cost, which they can post regularly, thus expanding and enhancing their fan bases. Live streaming of concerts, interviews and backstage videos have developed exponentially, which has proved key to fan engagement.

Artists and artist managers are discovering the fundamental importance of data management in growing a database of fans that will be key to their success. New data protection laws have come into force in many countries since the last edition, making it mandatory to obtain a fan's permission before direct legal communication can take place. Digital service providers are also demanding access to accurate and clean data so they know who to pay and are able to provide information to subscribers on who played on each recording and the identity of the music authors. Databases such as MusicBrainz and Gracenote's CDDB are seeking to provide comprehensive information on every recording ever made.

Real-time analytics of an artist's digital world are proving invaluable. They reveal what type of fans an artist has and, more importantly, where they live, greatly assisting successful tour planning. In the digital services landscape, we are increasingly seeing "freemium" offerings such as SoundCloud, WordPress,

Dropbox and ReverbNation, which provide the basic version free to download and use, while more advanced features, including the removal of third-party advertising or increased capacity, have to be paid for. Many artists without a recording agreement from a third-party phonogram producer (with its associated financial advances), are turning to crowdfunding directly from fans, providing an alternative source of finance for projects. Where recording agreements are on offer, phonogram producers sometimes demand a 360-degree style contract, wherein they will receive a small percentage of income from live work, merchandising, branding and sometimes even publishing, in addition to recording income. When it comes to recording, hardware and software are becoming ever more sophisticated and less expensive, meaning that quality recordings are possible even from an artist's bedroom.

Data has always been important in the music business. In the first decade of the 21st century, a music fan might generate annual data points in single digits. They might buy two CDs each year and two concert tickets, so they would have four data points. Now a typical fan will generate more than 20,000 data points each year, including social media likes, comments, shares, playlists, streams and digital purchases. Most of that data can be accessed via digital platform analytics, though services like Chartmetric, Next Big Sound and Soundcharts who pull the data together and bring out key metrics from which decisions can be made.

Other developments

Since the 2014 edition, there has been controversy about the way YouTube and other video content-sharing platforms are licensed for music. Whereas audio streaming platforms such as Spotify, Apple Music, Amazon and Deezer have to license the music on their platforms directly with the recording copyright owners, YouTube operates under the so-called "safe harbor" legislation, as stated in the US Digital Millennium Copyright Act 1998 and the European e-Commerce Directive that was adopted in 2000. Similar laws apply in most other countries. The legislation states that for certain digital services, a service is not responsible for the uploading of unlicensed digital content by their users, provided they either compensate the rights owners or remove infringing material when requested to do so by the copyright owner. The IFPI has produced figures that show the income received by the music industry per stream on Spotify is approximately six times more than it receives from a stream on YouTube. This has come to be called the value gap.

Opportunities for non-white artists and music industry workers has been a significant issue that surfaced in 2020 following the murder of George Floyd in

the United States and the subsequent launch of the international Black Lives Matter movement. As a result, the music industry has taken a hard look at itself in terms of creating equal opportunities for all, no matter their skin color, ethnicity or gender.

Another welcome development has been more female musicians and artists than ever before. There have always been successful, high-profile female artists, such as Pink, Adele, Taylor Swift, Nikki Minaj, Shakira and Madonna and many women orchestra players, but it was comparatively rare to see female drummers, guitar players or bass players. A survey by Fender guitars to find out the gender split for young people learning to play guitar, found that 50 percent were female, which caused the company to rethink its marketing strategy. Whilst the music business has been predominantly white male dominated that is slowly changing for the better too.

A revolution in advertising is also apparent. Instead of blanket advertising such as a television or newspaper ad, where 95 percent of those viewing have absolutely no interest in the product, it is increasingly possible, through services such as Facebook Ads and Google Ads, to target only those consumers who have an interest in a particular type of music. Further, advertising spend is shifting to influencer marketing, where those with a huge presence on socials will be paid to push a brand, an artist's music or an event.

Another development since the last edition has been the way copyright disputes are dealt with, a variety of interpretations being decided by different courts in different countries. The most high-profile was the so-called Blurred Lines case in the United States, where the Marvin Gaye estate took Pharrell Williams and Robin Thicke to court, claiming their hit song infringed the copyright of Gaye's "Got to Give It Up". Musicologists around the world agreed that from a strictly musical point of view there was little similarity. However, the estate's lawyers successfully argued that Williams and Thicke had borrowed the atmosphere of his song, and it was therefore upheld that copyright infringement had taken place, a decision that was retained by the Court of Appeals in 2018. The defense lawyers had argued that all songwriting is influenced by previous works and that there is no such thing as a totally original song; the decision rocked the music publishing industry, creating an interesting and uncertain precedent for future disputes.

In less developed countries, various institutions and basic structures, such as collective management organizations (CMOs), internet access and the ability to open a bank account, may only now be in the process of being established. It is hoped this book will give an insight into how such things work in the world's major music markets and what may be just around the corner. It may

be that where a country has no national CMO, authors and performers can join foreign CMOs. However, unless artists and artist managers can easily access a broadband connection, development will be slow, not only in a country's music industry but in all other economic sectors, too. Research by the International Telecommunication Union (ITU), in its report *The Economic Contribution of Broadband, Digitization and ICT Regulation*, concludes that if a country increases its broadband penetration by 10 percent, there is a corresponding increase of up to 1.9 percent in gross domestic product.

Similarly, the roll-out of 3G, 4G and 5G mobile networks will be crucial for economic growth. It is hoped, therefore, that governments will prioritize the roll-out to not only benefit their music industries, but also the economy in general. The movement from audio only to audiovisual requires greater broadband capacity, making infrastructure ever more critical. If access to the internet and to bank accounts is problematic, it may be possible for authors and performers to form collectives with a broadband connection and joint bank account, so they can receive income from sales of their music online. In other cases, it may be that governments are able to supply these facilities, with network access provided by a local satellite dish at community centers.

Music authors and performers are depending more and more on regular income from CMOs. In the case of authors, that means royalty income for the broadcast and public performance of their works (compositions/lyrics) and mechanical royalties when their works are used in recordings. For performers, it covers royalties for broadcast and public performance of the recordings on which they played. In the interactive world of music streaming, this performer income is being challenged by phonogram producers licensing digital services directly thus bypassing the collective management system altogether. (See the section on making available in Chapter 4.)

Efficient licensing mechanisms, and the creation and management of clean data will be increasingly crucial to ensure authors and performers receive regular income, particularly in the early stages of their careers. As the music industry becomes more global, ease of licensing will be key. In less developed countries collective management is often in its formative stages, with the concept of authors' mechanical rights (the right to reproduce a work in a commercial recording), for example, sometimes being non-existent. On the performer side, further, clarification is required as to when the interactive making available right applies and when it does not. This book will discuss this issue and the importance of establishing efficient CMOs and of accurate registration for the benefit of authors, performers, publishers and phonogram producers. It will stress the need for the world to come together around a global database, or databases, that

are compatible with each other, using IT standards such as DDEX. Standardized international identifiers are required to provide accurate identification of authors, performers, copyright owners/licensees, studio producers and country of recording etc. for every recording and work ever created.

Royalty accounting to creators is also seeing exciting development with the blockchain and crypto currencies such as Bitcoin or Ethereum coming into play as possible future mechanisms for real-time accounting and payments. Artist Imogen Heap's research and development hub Mycelia is an example where artists and independent companies are embracing this new technology to provide smart contracts and licenses that deliver real-time accounting and micropayments. The creation of non-fungible tokens (NFTs), where a single unique copy of a recording or the artwork or any music-related asset can be represented as an NFT, is generating intense interest.

Non-disclosure agreements (NDAs) between digital service providers (DSPs) and copyright owners are both necessary and a barrier to transparency, as creators need to know on what basis they are being paid when undertaking an accounting audit. Progress has been made here, with some phonogram producers and publishers allowing auditors, artists and artist managers to see the details and the basis on which the DSP is paying them. This access is in turn covered by another NDA.

Artificial Intelligence (AI) in music has become far more sophisticated which, unless regulated, threatens to have a major impact on all stakeholders.

How to make a living from music

This book is about the business side of music and provides advice on how musicians can make a full-time living from their creative endeavors. For many artists, playing music part-time, perhaps having a Monday to Friday job and playing local live shows at weekends is their goal. For the more serious artists, the goal is to be earning a full-time living from music as soon as possible, which is hopefully where this book will be useful. Never before have there been so many opportunities for authors and performers to get their music heard and sold on a global level. At the same time, there has never been more competition, so the initial challenge is to find ways to stand out from the rest. The attention economy goes way beyond music. The music industry is competing for fan attention with video games, television, sport, podcasts, Netflix, Amazon Prime, Twitch, Fortnite and other entertainment platforms. The good news is that these entertainment productions usually include music.

Whilst it is hoped this book will be helpful for anyone wishing to be part of the music industry in the more developed world, it is also intended to address the opportunities for authors and performers in less developed countries. There has never been more interest in the music originating from these countries. Online streaming services are providing access to the richness of the wonderful music originating from the world's emerging markets. Africa and Latin America have become a particular focus where the music industry is expected to see rapid development.

This book is designed to identify and explain the basic income streams that exist in the worldwide music industry for musical authors and performers but also for artist managers, phonogram producers, publishers, governments and anyone involved in the music industry. It will reveal how to effectively generate income from talent and endeavor, and the best way to achieve fair arrangements for the exploitation of author's works and performances without being ripped off. It explains the importance of good management, and provides guidelines on finding a manager and reaching fair terms regarding an artist/management contract. A comprehensive example of a long-form artist management agreement can be found in annex B. This sample management agreement also fulfils the function of pulling together all that is contained within this book in a practical way. Basic guidelines on starting a record label, publishing agreements, recording agreements, band agreements, music in film, television, advertising and video games, collective management, live work, building a fan base and the basics of digital marketing can all be found here. There are also recommendations for further reading and online information if the reader wishes to learn more about a particular topic. One of the key sections for those new to the music industry is the glossary section at the end of the book, wherein music terminology and the functionality of the main music business organizations are defined.

Where money has been mentioned it is expressed in US dollars, as this is the most widely used currency worldwide. Digital marketing and services are changing so rapidly that some of the services and digital tools discussed may become less relevant as other more innovative and disruptive services take over. The reader is therefore encouraged to keep abreast of the new changes and services that will inevitably emerge in the digital arena.

Where the term "this author" appears, this refers to personal experiences of the author of this book.

It is hoped that this book will provide a useful overview of the income streams available, and that it may open doors so that music authors and performers can reap the benefits they so richly deserve.

Essential definitions

When using this book, it is useful to refer to the Glossary section at the end to fully appreciate many of the terms used in the music industry. The term author will be used to describe songwriters, composers, arrangers and lyricists. A lyricist is the person who writes the words that are used to accompany music. In many countries, author means a person who writes books but here it will refer to a music author only. The output from a songwriter, lyricist, composer or arranger will be defined as a work. The entity that exploits an author's work is defined as a music publisher.

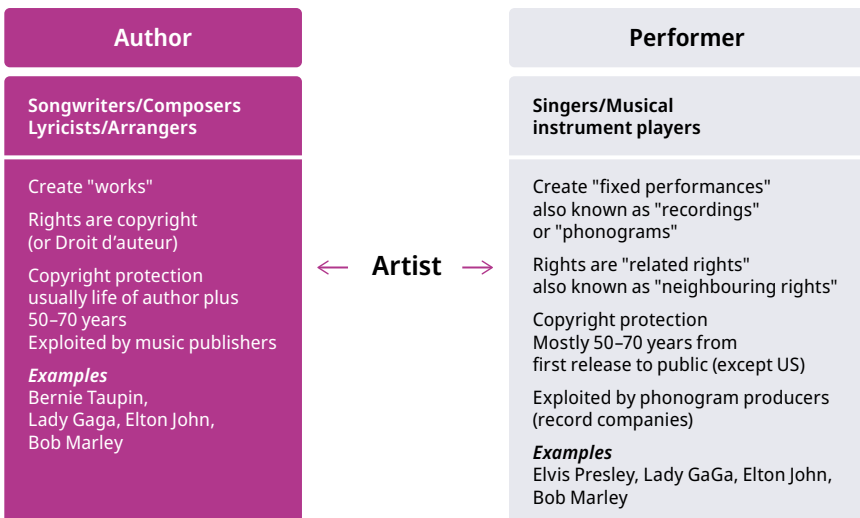
The term performer will be used to describe those who sing or play musical instruments or make any audible sound either live or on a recording. This could be in front of a live audience or in the recording studio. If a performer makes a recording, their performance would be fixed, and becomes a fixed performance, otherwise known as a recording or a master. Some performers are pure performers and do not write the songs or music they perform, while others are both authors and performers. The result of a performer's activity will be defined as a performance and a recording will be referred to as a recording or in the legal context a phonogram. The entity that exploits a recording is defined as a phonogram producer. The broad term artist will be used to describe performers and performers who are also authors. Artist will be used to refer to a single performer or a band or group of performers; so both Beyoncé and her former band Destiny's Child would be referred to as an artist.

There are some definitions that can be confusing. For example, the term producer is commonly used to describe

the person who supervises the recording process in a recording studio. Quincy Jones, for example, who supervised the recording of Michael Jackson's *Thriller*, is often referred to as a producer or as a record producer, whereas the record label Sony Music Entertainment, which owns the copyright in this album, is often referred to as the record company or the record label. In the world of copyright law and intellectual property, however, Sony, in this example, would be referred to as the phonogram producer. For the purposes of this book the Quincy Jones role will be termed a studio producer. We will refer to collective management organizations (historically referred to as collection societies) as CMOs.

Figure 2 shows how the rights for authors and performers are defined. In the examples given, Lady Gaga and Bob Marley are authors and performers as they wrote most of the works on their recordings. Elton John also qualifies as both an author and a performer, as he writes most of the music for his recordings (but not the lyrics) and is also a performer. Bernie Taupin is a pure author, as he only writes lyrics for Elton John and does not perform in the recording studio or on stage. Elvis Presley was a pure performer, as he relied on others to write works for him. It is important to remember these two sets of rights in anything to do with music. Thinking of rail tracks with one rail as author rights and the other as performer rights is a simple way to remember it (see figure 3).

Figure 2 Defining rights for authors and performers



Source: Author

Figure 3 Rail track mnemonic for author/performer rights



The World Intellectual Property Organization (WIPO) is an agency of the United Nations, based in Geneva, Switzerland. It creates and harmonizes rules and practices to protect intellectual property rights and promote cultural diversity and economic growth and ensure a fair balance of rights in the field of intellectual property. Most countries are members of WIPO, and are referred to as member states. In 2021, there were 193 member states participating in WIPO processes. By providing a stable environment for the marketing of intellectual property products such as music, WIPO and the WIPO treaties enable member states to trade with legal certainty, for the economic benefit of all participants. For further information, visit the [WIPO website](#).

1 Where the money comes from

In the modern music industry various income streams are available to authors and performers.

The main income streams for authors can be summarized as follows:

- Public performance licenses when works are used in a broadcast on radio, television or a webcast via the internet and where a work is played in any public space where it can be heard by members of the public such as bars, shops, clubs and football stadiums.
- Public performance licenses when works are accessed by the public on download and streaming platforms via the internet.
- Mechanical licenses when recordings are distributed on physical sound carriers such as CDs, cassettes, vinyl and DVDs, and are sold to the public. These are licenses issued by authors and publishers to phonogram producers and audiovisual producers, allowing them to legally exploit recordings and audiovisual productions containing a work.
- Mechanical licenses when works are accessed by the public as audio or audiovisual downloads and on audio and audiovisual streaming platforms.
- Synchronization licenses when a work is synchronized to visual images, video or film.
- Sale of printed sheet music and scores, or from online digital sheet music downloads.
- Private copying levies.
- Public lending of sound carriers containing the work.

The main income streams for performers can be summarized as follows:

- Public performance licenses when a recording of the performer's performances is broadcast on radio, television or as non-interactive delivery via the internet and where a recording is played in any public space where it can be heard by members of the public such as bars shops, clubs, and football stadiums.
- Fees for live performances at festivals, concert venues, clubs, bars, public places, private events and live performances on radio and television.
- Royalties when a phonogram producer sells a recording of the performer's performances to the public on a physical sound carrier such as vinyl, cassettes, CDs or DVDs.
- Royalties when a phonogram producer receives income from a digital recording of the performers' performances via the internet from download and streaming platforms (except for non-featured performers in many countries).
- Master re-use, when a recording is synchronized to visual images, video or film.
- Merchandising at live events and online.
- Private copying levies.
- Sponsorship and branding.
- Public lending of sound carriers.

It is important for authors, performers and artist managers to ensure they are on the receiving end of all the above income streams. Different countries have different rights, laws and regulations, so the entitlement for some of the above may vary; for example, in the United Kingdom, performers are entitled to equitable remuneration when their audio-only recordings are broadcast or played in public, whereas as soon as the recording is included in a music video their entitlement to broadcast and public performance income ceases. When the BTAP (Beijing Treaty for Audiovisual Performances) is brought in to national law it is possible that it will provide equitable remuneration to performers when their recordings are used in music video.

With the arrival of digital distribution via downloads and streaming, many authors and featured performers are demanding a greater share of the pie, especially as phonogram producers' costs for physical manufacture and distribution, shipping and faulty returns, among others, have evaporated. This is slowly producing results, with many artists managing to negotiate higher royalty rates for digital delivery.

Before 2020, growth in public performance income from collective management organizations (CMOs) was evident, for authors/music publishers and performers/phonogram producers. With COVID-19, a downturn in 2021 was inevitable. With the roll-out of vaccines, CMO income recovered in 2022/23 and is set to increase still further in the future. The creation of clean data, and harmonized standards and identifiers, will be essential going forward.

All these income streams will be discussed in more detail throughout this book.

2 Building a team

At the beginning of their career, an author or performer will need to focus first and foremost on their art and making great music that an audience will want to listen to. In the early stages, the artist, with perhaps the help of friends and family, will have to do everything themselves. A pure author will need to persuade artists to perform and hopefully record their works. A performer may need to form a band or ask other musicians to perform with them, organize rehearsals and try to get some live work in small venues. If they make a recording, they will need to engage a digital distributor, who will enable the recording to be downloaded or streamed on multiple digital platforms.

It will be necessary for an author or performer to join the appropriate CMO as soon as any works or recordings are available to the public or are performed in public. Correct registration with CMOs is fundamental to an author's or performer's career. It is also important to engage a lawyer who is familiar with music business agreements. If a manager is being engaged, it is essential the author or performer hire a separate lawyer to the one being used by the manager when negotiating the management agreement. The author or performer must receive independent advice. When moderate success is achieved, it will become appropriate for an author or performer, together with their manager (if they have one), to start to put in place a bigger team to maximize opportunities. Only a few of the roles described will be necessary in the early stages. Most artists are both authors and performers, so they will need a combination of the roles outlined in each group.

The roles discussed are for authors and performers who have become successful.

Authors

For a pure author who does not perform in the recording studio or at live shows, the team could be as follows (see figure 4).

Figure 4 Author's team



Source: Author

Some authors may decide not to have a manager and will rely solely on a music publisher. A music publisher is a person or organization that seeks to exploit and administer an author's works to achieve the highest possible income. If the author is seriously interested in composing film scores, they would be advised to try to engage one of the big film score agents, such as Gorfaine/Schwartz in Burbank, California, or Air Edel, who have offices in London and Los Angeles.

They may also wish to engage an audiovisual placement agent, shown here as audiovisual synchronization agent, who will try to place recorded versions of the author's works in film, television productions, advertising and video games. Most publishers will also provide this function.

The author will need a website as a shop window for their achievements and for new works created, which should be regularly updated. They may feel confident being the webmaster themselves, or they may engage someone who is competent in website management. Either way, the website needs to be well designed and look professional. The webmaster can ensure the author's online presence is regularly updated on social networking sites and other platforms, thus providing a global profile. If the author is gregarious and tech-savvy, they may be able to handle the social media function themselves or have a dedicated social media person do it for them, in addition to the webmaster. Pure authors should be prepared to attend meetings and networking events in person, in harmony with their manager and/or publisher, as this can be effective in getting results. In practice, pure authors are usually also performers to some extent, often writing while accompanying themselves on piano or guitar, even if they have no intention of performing in the recording studio or live on stage. It is important the author organizes a professional-sounding recording of each of their works. Artists and film, television and video games people looking for songs expect to be presented with a good, well mixed recording for them to consider. In the past, these have sometimes been referred to as demos, which were basic, quickly put together recordings of works. In the modern music business, with the sweeping advances in low-cost home digital recording hardware, artists, phonogram producers and sync agents expect to be presented with a more sophisticated recording.

Performers

For the performer who records in the studio and performs live, the team can be considerably larger than for a pure author, especially as they start to become successful. The performing artist's team could include all or some of the functions shown in figure 5. To begin with, the performer will probably have to fulfil all of the functions that are relevant themselves.

Figure 5 Featured performer team

Source: Author

The first person to engage is usually the manager who will manage and administer the business side of the artist's career (see chapter 8). Next in importance is usually a digital distributor, followed by a booking agent and the webmaster. It may be that the manager acts as booking agent in the early days and they may provide webmaster services if they have the skills. Sometimes the artist or a member of the band has the ability to be the webmaster, which can work well in the early stages. The artist should always remember that even if they have a separate webmaster, they must themselves create regular Instagram and Facebook posts, X posts and videos for YouTube or TikTok (if appropriate). A constant stream of content is required to keep fans engaged

and to grow the fan base. The artist and the fans are the two most important elements in all new music business models. Fans should be encouraged to interact directly with the artist via meet and greets at live shows, the artist's website, email and socials. If the artist signs to a third-party phonogram producer, they will usually provide many of the services shown in the diagram. These could include publicist, photographer, graphic designer, marketing director and the plugger who is the person who tries to get the artist's music on radio and television. An artist should try to get as much artistic control as possible in a third-party phonogram producer agreement such as approval of photographs, artwork, studio producers and synchronization uses. If they sign to a third-party phonogram producer the artist will normally be expected, if possible, to terminate any agreement they may have with a digital distributor, as the phonogram producer will have their own arrangements for digital distribution.

When the artist starts to draw larger audiences, it will be necessary to engage a tour manager who will, with the manager and the artist, organize all aspects of live work on the road. Sometimes a manager and an artist will take on a tour manager on a tour-by-tour basis or for specific dates, or it may be that the tour manager is employed full-time or held on a retainer between tours (a guaranteed minimum amount that is paid every month regardless of whether the artist is working or not). The tour manager role is an important one as they have to deal with situations effectively and diplomatically so the tour functions as well as possible. If the artist and manager decide to establish their own record label and become their own phonogram producer rather than sign to a third-party phonogram producer, then the digital distributor will be vital (see chapter 10).

If the artist and/or manager decide to become their own phonogram producer, they may also need to outsource graphic design, pluggers, digital marketing, CD and DVD manufacturing and so on. A choreographer might be required if the artist incorporates dance routines as part of their live performances. A roadie is a stage technician who manages the onstage equipment before, during and after a live show, including loading, unloading and tuning instruments.

3 A short history of the music industry

The following is a snapshot of the major events in the music industry over the past 4,000 years, incorporating many of the landmark developments in law and technology described in this book.

The first evidence of musical notation was discovered in the Republic of Iraq on a cuneiform tablet that is believed to have been written around 2000 BC, ironic given that with Amazon's Kindle, Samsung's Galaxy and Apple's iPad, tablets are very much back in fashion. Musical notation as we know it today was first conceived in Italy by Guido d'Arezzo, a Benedictine monk who lived from 991 to 1033 AD. The Italian Benedictine monks continued to develop the concept of modern musical notation until around 1350, when it took on the form that is known today. Writing musical notation at that time was a laborious, time-consuming process, each copy having to be individually handwritten. The first evidence of printing being used for music was in 1457 in Mainz, Germany, where the basic staves were printed but the musical notation still needed to be added by hand. The first full single-impression sheet music was printed in England in 1520, by John Rastell. The printing of sheet music was revolutionary and opened up the playing of music to the masses. The next major transformation came via Thomas Edison, Alexander Graham Bell and Emile Berliner, who between them developed the ability to record live performances. It was Berliner's invention of the gramophone in 1887 that gave birth to the concept of performer's rights. The third revolution came in the 1990s, when the internet and MP3 compressed digital files were developed.

The first copyright law was the Statute of Anne in England in 1710 (see chapter 4). Over the next 300 years, international treaties including the Berne Convention, the Rome Convention, the TRIPS Agreement, the WIPO Internet Treaties (WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty), and most recently the Beijing Treaty on Audiovisual Performances (BTAP) were adopted.

Art has always been heavily influenced by technology and that will continue in the future. For example, in the vinyl era an album was restricted to a playing time of 43 minutes as that was the maximum amount of music that could be played on a 12-inch disc. When the CD came along it was possible to include up to 73 minutes on an album. In the streaming era, streaming services pay for a stream if the consumer engages for 30 seconds or more. If the end user listens/watches for only 25 seconds then no money is paid to the rights holders. If the track is 31 seconds long, or 15 minutes long, the rights holders (authors, publishers, performers, phonogram producers and CMOs) receive the same payment for one track. This has resulted in tracks becoming shorter. From 2013 to 2018, the average song on the Billboard Hot 100 in the United States fell from 3 minutes 50 seconds to about 3 minutes 30 seconds. In 2018, 6 percent of hit songs were 2 minutes 30 seconds or shorter, up from just 1 percent five years earlier.

The reader is advised to refer to the glossary at the end of this book if some of the following needs more clarification.

Timeline of major milestones in the music industry

- 2000 BC** First musical notation discovered on a cuneiform tablet in Iraq
- 1020 AD** First modern musical notation conceptualized in Italy by Guido d'Arezzo, a Benedictine monk
- 1350** Italian Benedictine monks fully develop modern musical notation
- 1457** First printing of musical staves in Mainz, Germany, though musical notation still had to be added by hand
- 1520** First single-impression prints of sheet music by John Rastell in England
- 1710** First copyright law, the Statute of Anne in England
- 1847** Ernest Bourget, who sought payment for each performance of his works, wins *Les Ambassadeurs* copyright case in France
- 1851** SACEM (Society of Authors, Composers and Publishers of Music) formed in France as the world's first CMO for authors
- 1877** Thomas Edison records musical sounds on a phonograph wax cylinder in the United States

- 1886** Berne Convention adopted, the first international treaty for the protection of copyright in author's works
- 1887** Emile Berliner invents the gramophone with flat discs as the sound carrier (phonograms) in the United States
- 1893** Berliner forms the US Gramophone Company, the world's first phonogram producer
- 1897** Brittle shellac discs introduced as sound carriers
- 1898** The William Morris Agency booking agency founded in Hollywood California
- 1901** Engineer Guglielmo Marconi from Bologna, Italy, invents radio
- 1907** US inventor Lee de Forest commences regular radio transmissions using voice and music
- 1908** The Gramophone Company incorporates HMV (His Master's Voice) painting as its trademark
- 1926** CISAC, based in Paris, formed as the international umbrella organization for author's performing rights societies
- 1926** Scottish inventor John Baird demonstrates the first television transmission system in London
- 1927** The Harry Fox Agency founded in the United States to license and collect mechanical royalties for publishers
- 1928** 78 rpm (revolutions per minute) becomes international standard for flat disc records
- 1929** BIEM formed as the international umbrella organization representing mechanical rights societies
- 1934** PPL (Phonographic Performance Ltd) launches in the the United Kingdom as the world's first CMO for related rights broadcast and public performance licensing and collection
- 1936** The BBC commences broadcasting the world's first public television service in London
- 1948** FIM (International Federation of Musicians) formed as the international umbrella organization representing musicians' unions
- 33.33 rpm long-play 12-inch vinyl albums introduced
- 1949** 45 rpm 7-inch vinyl records introduced
- 1957** Stereo recordings introduced
- 1961** The Rome Convention, the first international treaty securing protection for performers, phonogram producers and broadcasters, is adopted
- 1963** 8-track cartridge cassettes introduced
- Compact cassettes introduced
- 1967** MIDEM international music conference takes place in Cannes France for the first time
- 1970** World Intellectual Property Organization (WIPO) formed

- 1975** Creative Artists Agency (CAA) booking agency founded in Los Angeles USA
- 1976** Ticketmaster ticket agency founded in Phoenix USA
Apple computers founded by Steve Jobs and Steve Wozniak
- 1981** MTV music video channel launched in the United States
- 1982** CDs (digital compact discs) introduced
Modern internet launched by ARPANET (Advanced Research Projects Agency Network)
- 1983** Illinois Bell launch first public mobile phone cellular service in the United States
- 1984** Betamax copyright judgment in the United States (the Supreme Court ruling that copying television shows and watching them later did not constitute copyright infringement)
- 1987** MP3, a coding format for digital audio, developed in Germany
- 1990** British scientist Tim Berners-Lee invents the worldwide web while working at CERN in Geneva, Switzerland
- 1991** MP3 developed by the Motion Pictures Expert Group to be part of the MPEG format
- 1992** AOL (America Online) online service provider launches in the United States
- 1994** TRIPS (Agreement on Trade-Related Aspects of Intellectual Property Rights) adopted at the WTO (World Trade Organization)
Amazon launches in Seattle USA
eBay launched in the United States
Yahoo! launches as a web services provider in the United States
- 1996** WIPO Internet Treaties, comprising the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT), adopted in Geneva Switzerland
Live Nation live event promotion company founded as SFX Entertainment in the United States
- 1997** First successful MP3 player, the AMP MP3 Playback Engine, launched by Advanced Multimedia Products
- 1998** Netflix launched in California as a DVD purchase and rental company
The Digital Millennium Copyright Act (DMCA) comes into force in the United States, establishing the principle of safe harbor for online service providers against claims of copyright infringement
- 1999** Napster launched in the United States as the first peer-to-peer (P2P) digital file-sharing service
Sub Pop in Seattle becomes the first phonogram producer to use MP3s as a promotional tool
- 2000** Google search engine launched
Pandora launched in the United States by Savage Beast Technologies

as a business-to-business company licensing the Music Genome Project to retailers as a recommendation platform. Later to become the Pandora streaming platform

- 2001** SCAPR formed as the international umbrella organization for performers' related rights CMOs
 Apple launches iPod
 Apple launches iTunes
 Palm launches first smartphone in the United States
 BitTorrent peer-to-peer file-sharing program launched
 Napster closes after being successfully sued by the recording industry Association of America (RIAA)
- 2002** Shazam app launched in the United Kingdom under the name 2580 as a dial-up music recognition service
- 2003** Apple launches iTunes store
 Pirate Bay launched using the BitTorrent protocol
 Myspace social network launched
 LinkedIn founded in the United States
 Sound Exchange launched in the United States as a CMO to license webcasters and satellite radio broadcasters, and to collect public performance income from them for phonogram producers and performers
 Sony Music Entertainment and BMG merge to form Sony BMG reducing the number of major phonogram producers to four
- 2005** Facebook launched
 YouTube launched
 Amazon Prime launched in the United States
 Live Nation launched after being sold off by Clear Channel
- 2006** Apple allows interoperability by facilitating MP3 conversion from its AAC files
 Google buys YouTube
 Secondary ticketing site Viagogo launched in the United Kingdom
- 2007** Apple launches the iPhone
 eBay buys secondary ticketing site StubHub
 Twitter launched
 Amazon launches Kindle tablet
 Amazon MP3 music download service launched
 Deezer music streaming service launched in France
 Apple's chief executive Steve Jobs writes an open letter to the music industry suggesting that Digital Rights Management TPMs (Technical Protection Measures) be abandoned
 Merlin launched in France as international digital licensing hub for independent phonogram producers

- 2008** Spotify launched in Sweden
 Apple allows third-party apps for iPhone
 Android operating system launched for mobiles
 Amazon Music is first music service to sell MP3s from the four major phonogram producers without digital rights management (DRM) and technological protection measures (TPMs)
 Soundcloud online audio distribution platform, music sharing and streaming service launches in Berlin
 Sony Corporation of America acquires the 50 percent of shares owned by BMG changing its name from Sony BMG back to Sony Music Entertainment
- 2009** DRM TPMs abandoned by major phonogram producers
 Kickstarter crowdfunding platform launched in the United States
 PledgeMusic direct-to-fan artist crowdfunding platform launched in the United Kingdom
 Microsoft launch Bing search engine
 Epidemic Sound launched in Sweden as the first royalty free soundtrack providing service
 Samsung launch Galaxy smartphone
 Facebook introduces the “like” button
- 2010** iPad launched by Apple
 Netflix launches audiovisual streaming service
 Instagram launched as an iPhone app
 Ticketmaster ticket agency merges with promoters Live Nation to form Live Nation Entertainment
- 2011** Amazon launch music streaming app Cloud Player and Cloud Drive digital locker
 Apple launch iCloud and iTunes Match cloud storage services
 Snapchat multimedia instant messaging app launched
 Spotify launch in the United States
 Twitch launch in the United States
- 2012** Beijing Treaty on Audiovisual Performances (BTAP) adopted in China
 Instagram launch Android app
 Facebook buys Instagram
 EMI sold off to Universal although some elements sold to Warner and some independents thus reducing the number of major phonogram producers to three—Universal, Sony and Warner
 Web-blocking injunctions successfully introduced in the United Kingdom by British Phonographic Industry obliging internet service providers (ISPs) to block music pirate sites, including The Pirate Bay
 Booking agency William Morris Agency merges with Endeavor and is renamed William Morris Endeavor (WME)

- 2013** Snapchat launch Stories, visual posts that can be replayed for 24 hours
- 2014** Patreon crowdfunding site for content creators launched
 Chinese app Musical.ly launched in China and the United States
 Facebook buys mobile application WhatsApp
 Amazon buys video game streaming site Twitch
 Amazon launches Amazon Echo smart speaker with voice-activated Alexa virtual assistant
- 2015** Apple launch Apple Music streaming service
 The Fair Play Fair Pay Bill introduced in the United States but not adopted
 X (Twitter) launch Periscope live video streaming app
 Facebook launch Facebook Live live video streaming
 SESAC acquires the Harry Fox Agency
- 2016** TikTok launched in China
 Microsoft buys LinkedIn
- 2017** Chinese TikTok owner ByteDance buys Musical.ly
 Facebook launch Facebook Stories in the main Facebook app
 Spotify launch Spotify for Artists
- 2018** ByteDance combine Musical.ly and TikTok, and launch under the name TikTok
 Facebook agrees music licensing deals with the three major record companies so that users who use copyright protected music by Sony, Universal and Warner will not have their posts taken down
 Apple buys music discovery app Shazam
 Ticketmaster closes its European secondary ticketing sites Seatwave and Get Me In
- 2019** Music Modernization Act passed in the United States
 Apple launches OS Catalina with three separate music apps: Apple Music, Apple Podcasts and Apple TV, with iTunes no longer a stand-alone app
 European Union approves Directive on copyright and related rights in the Digital Single Market
 Deezer announces intention to switch to user-centric payment system for digital streaming royalties
 Secondary ticketing platform Viagogo buys eBay's secondary ticketing platform StubHub
- 2020** IFPI, Worldwide Independent Network (WIN) and PPL launch the centralized industry data exchange service RDX
 Digital music licensing hub Merlin concludes first recording licensing deal with TikTok

- 2021** Apple announce Spatial Audio in partnership with Dolby Atmos
- 2023** Elon Musk buys Twitter and renames it X
Universal Music Group and Deezer announce 'Artist Centric' method for distributing streaming revenue
Spotify announce new streaming monetisation structure
AI becomes a major concern for the music industry with demands for government regulation where AI companies use copyright protected works and recordings to train generative AI models.
French Government announce a levy on music streaming services to benefit creators.
- 2024** Apple Music announce they will pay up to 10 per cent more for tracks delivered for streaming using Spatial Audio
EU announce a fine of \$1.8billion to Apple for breaking EU competition law after a complaint from Spotify

The main message from this short history is the exponential rate of change from 2000 onwards. With every month that passes, some digital services will disappear and new innovative services will emerge to disrupt and change the digital music ecosystem.

4 Copyright and related rights

Copyright means exactly what it says, it is the right to copy, although it was originally defined as the right in the copy. If an author writes a work or a performer makes a recording, no one else has the right to make copies of it without the author or performer's permission. With the parallel evolution of technology and law, copyright has evolved to also cover control by the author or performer of other uses of a work or recording, such as communication to the public (public performance, broadcasting, making available), rental and distribution. Traditionally, the term "copyright" refers to authors' works, whereas rights of performers, phonogram producers and broadcasting organizations are usually referred to as related rights or neighboring rights. In some countries, including the United Kingdom and the United States, related rights are regarded as another form of copyright, but for the purposes of this book the rights of performers, phonogram producers and broadcasting organizations will be defined as related rights.

One has to go back to the invention and evolution of the printing press in the 15th century to find the first regulations concerning copyright. The right to print books was limited to certain holders of printing privileges. The first copyright legislation was the 1710 Statute of Anne in England, which was followed by French legislation in 1791 and 1793, but it was not until the mid-19th century in France that modern copyright law in relation to music began to take shape.

It is important to understand that there are two primary law systems. The system applied in countries following

the European tradition, which has its roots in Roman law but which was mainly developed in France, is referred to as civil law, whereas the English legal system is referred to as common law. Civil law jurisdictions place greater emphasis on the rights of the author and moral rights, often referred to as *droit d'auteur*, whereas common law systems give prominence to the concept of copyright ownership. The civil law system treats the rights of authors almost in the same way as human rights, whilst the common law system is more focused on economic issues and regards copyright and related rights as property rights. The term copyright is generally used as a global term in both civil law and common law regimes.

As Britain established the legal systems in its colonies, the English common law system is also to be found in those territories (and their successors) such as Australia, New Zealand, Singapore and United States. Within the United Kingdom, Scotland, with its historic connections to France, operates under a civil law-influenced system, while England, Wales and Northern Ireland operate under the common law system. Similarly in Canada, the French-speaking region of Quebec operates under civil law whereas the rest of the country, with its British roots, operates under the common law system. National copyright laws operate across all territories in the United Kingdom and Canada although there are civil law procedural differences in Scotland and Quebec.

In both cases, one thing holds true: the legislation for authors' rights had a head start of at least 75 years on those for performers. As a result, the rights of authors tend to be more developed and of greater duration than those for performers. For example, one of the most important income streams for performers in the 21st century is that from public performance communication to the public licenses on radio. Under this right, every time a radio station plays a record it must pay the phonogram producer and the performers on the recording, in addition to the publisher and/or the author of the work. Most countries have incorporated this right, as harmonized in the 1961 Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations and later by the 1996 WIPO Performances and Phonograms Treaty (WPPT). However, under Article 6 of the Rome Convention and Article 15 of the WPPT, member states have the right to make a reservation on these rights and opt out or partially opt out of the equitable remuneration public performance provision.

The United States, which is not a signatory to the Rome Convention but is to the WPPT, decided to make this reservation, and at the time of publication it has no public performance right for performers or phonogram producers when records

are played on terrestrial (free-to-air) radio. The United States which is the largest music market in the world does, however, have a digital public performance right if a recording is played on satellite radio, or webcast or simulcast online. For free-to-air radio broadcasts (the biggest sector in the United States), the author and author's publisher receive public performance payments via authors' CMOs ASCAP, BMI, SESAC and GMR but the performers who performed on the recording and the phonogram producers who own the copyright in the recording do not.

Despite the public performance in sound recordings in the United States being limited to digital satellite, webcasting and simulcasting online, Sound Exchange, who collect on behalf of performers and phonogram producers, is still the biggest CMO of its type in the world. If a performance right were to be introduced in the United States for recordings on terrestrial radio, Sound Exchange's income would increase dramatically. Furthermore, US performers would qualify for international income, which would provide a major increase to their earnings from public performance in recordings, provided they had been successful outside the United States. Performers and phonogram producers worldwide are hoping the proposed American Music Fairness Act will become law in the United States, which will correct this imbalance.

In 2020, following a complaint by the Irish performer's CMO RAAP, the European Court of Justice ruled that national treatment should take precedence over reciprocal arrangements, which means that US performers should get paid in the future when their fixed performances are played in the European Union.

Even though the United Kingdom has left the European Union, it may yet have to pay performers from the United States, as this will probably be a stipulation in any UK/US free trade agreement. If this comes to pass, it will still leave performers and phonogram producers worldwide (including US performers and phonogram producers) with no public performance right when their recordings are played on terrestrial radio in the United States.

The duration of copy protection tends to be considerably shorter for performers and recordings than for authors' works. In the European Union, for example, the duration of rights protection for performers and recordings is harmonized from 2013 onwards at 70 years after first release of a phonogram, whereas the duration of rights for authors is 70 years after the death of the author. This could mean authors have copyright protection for as long as 150 years, if the author wrote a work at age 15 and died at 95, more than double the 70 years protection enjoyed by a performer. The reason is mainly historical. Authors' works have been fixed for hundreds of years as their works could be written or printed in

musical notation form, whereas it was 1877 before the first recording device was invented which allowed the fixation of performances for the first time. The rights for performers and phonogram producers clearly have a considerable amount of catching up to do. The first international treaty for authors' rights came into force in 1886 following the adoption of the Berne Convention for the Protection of Literary and Artistic Works, whereas performers, phonogram producers and broadcasters had to wait 75 years for their first international treaty, the 1961 Rome Convention.

The exception is the United States, where both authors and performers enjoy equal time periods of copyright protection, which is 70 years after the death of the author or 70 years after the death of the last surviving performer on the recording. In the performer's case, this only applies to recordings first released after February 15, 1972. However, if a performer's fixed performance can be proved to be a work made for hire (that is, the performer was effectively an employee of the phonogram producer), the term of protection is 95 years after first release of the recording.

The Berne Convention has been updated seven times since 1886, most recently in 1971. In 2021, 179 countries were signatories of the Berne Convention. The World Trade Organization's (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), which came into effect in 1995, has also had an effect on authors' global rights in that it includes most of the conditions of the Berne Convention (except moral rights). As a majority of countries in the world are members of WTO, this effectively brought the laws of those that were not Berne Convention signatories more into harmony with those that were. As the WTO is a global trade organization, the TRIPS Agreement also included provisions for copyright enforcement and dispute settlement mechanisms between countries. The 1996 WCT further extended the rights of authors, particularly in the context of the internet and at the time of publication had 115 contracting parties.

The Rome Convention was the first international treaty to recognize related rights. Such rights were also included in the TRIPS Agreement and in the 1996 WPPT. At the time of publication, 97 countries were contracting parties to the Rome Convention, 164 countries were parties to the TRIPS agreement and 112 countries were contracting parties to the WPPT. Related rights were further extended in the 2012 Beijing Treaty on Audiovisual Performances (BTAP). Thirty WIPO member states were required to ratify or accede for the BTAP to come into force. On January 28, 2020, Indonesia became the 30th WIPO member state to ratify the BTAP. This set the stage for the treaty to become effective, and it officially came into force on 28 April 2020.

As outlined in the definitions section, there are essentially two sets of rights to consider when making commercial music:

1. The copyright in the work (songwriting, composition, musical arrangement and/or lyrics).
2. The related rights in performances and recordings (phonograms).

However music is used, these two separate rights must be kept in mind at all times. All parties involved need to be clear on how they are dealt with in all music business transactions. For example, if an artist wanted to use a small section of someone else's recording and incorporate it in their recording, as is often done in modern recording (referred to as a sample or sampling), they would need to obtain permission from at least two different rights holders. Permission would be necessary from whoever owns or administers the rights in the recording (usually a phonogram producer) and also from whoever owns or administers the rights in the work (usually a music publisher or CMO). There may be several authors on the original work and they may have different publishers, in which case each publisher involved will need to give permission. It may also be that the phonogram producer has to clear the use with the performers on the original recording and the music publisher may have to clear the use with the original authors. Further, the rights may be owned by different entities in different countries, requiring multiple permissions for international clearance. Not until an artist has received all these permissions can they legally use the sample.

As of 2023, WIPO had 193 member states and managed 26 international treaties, including the Berne Convention, the Rome Convention, the WCT, the WPPT and the BTAP. WIPO and the international treaties are important in how the rules of copyright and related rights are formulated to provide certain minimum rights, which each member state is obliged to incorporate in its national laws. In this way, reciprocal arrangements between CMOs in different countries are more easily achieved, giving music greater value in terms of international trade. For example, if an author is a Singapore national and their work is broadcast on French radio, the author should still get paid via COMPASS, the Singapore CMO, which will receive the income from the French CMO, SACEM. The two organizations have reciprocal agreements, with each other and with most other authors' CMOs around the world. With appropriate reciprocal international agreements and laws, it is possible to earn money far beyond the borders of an author or performer's country. The 1996 WIPO Internet Treaties and 2012 BTAP are particularly valuable in bringing copyright law up to date. With rapid technological change, WIPO's role will become increasingly important, particularly with reference to global harmonization of copyright law and copyright structures.

The principal rights provided by these and previous international treaties and agreements will now be considered. The European Union's directives on copyright and related rights often provide higher protection than that provided in the international treaties and agreements. For analysis of international, regional and national copyright and related rights laws, see J.A.L. Sterling's *World Copyright Law* in the further reading section. Throughout, this text does not claim to give legal advice.

Rights for authors

According to the Berne Convention and the WCT, authors have the following exclusive rights, described in general terms:

1. The right of reproduction (the right to copy the work).
2. The right of distribution (the right to issue and distribute copies of the work to the public).
3. The right of rental (the right to authorize commercial rental to the public of copies of the work). In exceptional cases a different system may apply.
4. The right of communication to the public (the right to authorize any communication, by wire or wireless means, including the making available to the public of works in a way that they can access the work from a place and time individually chosen by them). Making available refers to on-demand, interactive communication through the internet, such as downloads and interactive streaming, and is considered a subset of communication to the public.
5. The right of broadcasting. Broadcasting is considered to be a subset of communication to the public.
6. The right to translate.
7. The right to make adaptations and arrangements of the work.
8. The right to perform the work in public. The public performance right is considered to be another subset of communication to the public.
9. The moral rights (the right of attribution and the right of integrity).

Rights for performers

Under the WPPT, performers have the following exclusive rights (with the exception of point 5, which refers to equitable remuneration) in their recordings if the nationality/location requirements of Article 3 are fulfilled.

The treaty term phonogram is here used to mean sound recording or fixed audio performance:

1. The right of reproduction (the right to make copies of the phonogram).
2. The right of distribution (the right to issue and distribute copies of the phonogram to the public).
3. The right of rental (the right to authorize commercial rental to the public of the original and copies of the phonogram as determined in the national law of the contracting parties). In exceptional cases a different system may apply.
4. The right of making available (the right to authorize the making available to the public by wire or wireless means of any performance fixed in a phonogram, in such a way that the public may access the fixed performance from a place and at a time individually chosen by them). The term making available refers to on-demand, interactive communication via the internet, such as downloads and interactive streaming.
5. The right to equitable remuneration for broadcasting and non-interactive communication to the public. This is the public performance right for sound recordings. Under Article 15 of the WPPT, countries can opt out of this right.
6. The moral rights (the right of integrity and the right of attribution). Again, countries can opt out.

The WPPT also addresses a performer's unfixed live performances and grants performers, as follows:

1. The right of broadcasting (except in the case of rebroadcasting).
2. The right of communication to the public (except where the performance is a broadcast performance).
3. The right of fixation.

By definition, a performer's live performance (for example, in front of an audience) is unfixed. Protection was therefore necessary for the performers to have the right to authorize or prohibit the simultaneous broadcast of their live performance, as well as the right of communication to the public of their live unfixed performance. They were also granted the right to authorize or prohibit the fixation (recording) of their live performance.

Rights for phonogram producers

Phonogram producers have the following exclusive rights (with the exception of point 5, which is a right of equitable remuneration) in their recordings if the nationality/location requirements of the WPPT are fulfilled:

1. The right of reproduction (the right to authorize direct or indirect reproduction of the phonogram in any manner or form).
2. The right of distribution (the right to authorize the distribution to the public of the original and copies of the phonogram through sale or other transfer of ownership).
3. The right of rental (the right to authorize the commercial rental to the public of the original and copies of the phonogram as determined in the national law of the contracting parties). In exceptional cases a different system may apply.
4. The right of making available (the right to authorize the making available of a phonogram, by wire or wireless means, in such a way that members of the public may access the phonogram from a place and at a time individually chosen by them). This right refers to on-demand, interactive making available via the internet, such as downloads and interactive streaming.
5. The right to equitable remuneration for broadcasting and communication to the public (this is the public performance right for sound recordings). The WPPT allows member states to opt out of granting this right if they wish.

Rights for music publishers

It is important to understand that music publishers do not generally have separate rights in copyright law. Publishers rely on licensing, receiving an assignment or entering into an administration agreement with authors to represent the author's rights.

Licensing and assignment

It is important to understand the difference between licensing and assignment. If an author or performer licenses their rights, they retain ownership of their copyright or related rights and allow third parties, such as publishers or phonogram producers, to exploit those rights under certain contractual conditions. If an author or performer assigns their rights, they are transferring ownership of those rights to the contracting party. A useful analogy is that assigning is like selling a car. The original owner would no longer have any

interest in the car as it now belongs to the person they sold it to. If, on the other hand, they rented the car to someone, that would be like licensing. They still retain ownership of the car but allow someone else to use the car under certain conditions. It is always preferable from the author or performer's point of view to license their rights rather than assign them. Even if the license is for life of copyright or life of the related rights, the author or performer retains ownership of the rights. In such a case, if the publisher or phonogram producer went out of business, or was in material breach of the agreement, the rights would revert to the author or performer (subject to the conditions in the license). If, on the other hand, the rights had been assigned, a liquidator would usually sell the rights of the bankrupt publisher or phonogram producer to the highest bidder.

Exclusive rights and rights of remuneration

Exclusive rights are the right to authorize or prohibit a particular action, such as making copies of a work or a recording. They provide complete control for the rights holder, except for certain limitations and exceptions as described below. In most countries exclusive rights are transferable by assignment or by license, the exception being in Germany, where an author's rights can be transferred only by license. If an author signs a publishing agreement with a publisher, or a performer signs a recording agreement with a phonogram producer, the publisher or phonogram producer will usually require the author or performer to assign or license most of the exclusive rights for the term of the agreement. An exception would be if the agreement were an administration-only agreement, in which case the exclusive rights would remain with the author or performer, and the publisher or phonogram producer would only administer the rights on their behalf.

A right to remuneration provides less control over a work or recording, as the use can take place without the explicit authorization of the right owner. However, remuneration rights provide for payment at a specified rate, or formula, to be made to the author, performer, publisher or phonogram producer each time the work or recording is used in public. In copyright law, an exclusive right is regarded as a higher and more valuable right than a remuneration right, but the latter can be far more valuable in real terms, particularly if it is unwaivable in contract.

The Berne Convention grants exclusive rights to authors except where a particular country has legislated that a compulsory license will apply that would restrict an author's exclusive right. It is in related rights, and particularly the public performance of sound recordings, where equitable remuneration is the norm, as stated in Article 12 of the Rome Convention and Article 15 of the WPPT.

If the right of remuneration is not transferable in contract, a performer who has signed an exclusive recording agreement will still continue to receive their share of the income from the remuneration right for the public performance of their recordings, no matter what is stated in the contract.

Making available

When WIPO member states created a new making available right in the 1996 WCT and WPPT, no one envisaged it would shape the entire global music industry in the 21st century, but that is exactly what it has done.

The making available right is not capitalized in the treaties as it is a subset of the communication to the public right. However, unlike the linear communication to the public right, which was deemed to be a right of remuneration in most jurisdictions, the making available right was made an exclusive right for performers, authors and phonogram producers. As stated previously, publishers were not granted the making available right. As a result, they have had to seek an assignment or license from the authors they represent in order to exercise the right.

Linear communication to the public is when a member of the public has no control over the specific piece of music they are listening to. This is referred to as non-interactive. An example would be terrestrial radio or television broadcasts or simulcasts of the same broadcasts online. Non-linear communication to the public is when the making available right applies and a member of the public chooses a specific piece of music at a time and place of their choosing. This is often referred to as interactive; for instance, when a member of the public clicks a specific track on YouTube, Deezer, Spotify or Apple Music, or uses a voice command to select a specific piece of music using a smart speaker service such as Amazon's Alexa.

Under the WPPT, the making available right for phonogram producers is defined as "the exclusive right to authorize the making available of a phonogram, by wire or wireless means, in such a way that members of the public may access the phonogram from a place and at a time individually chosen by them". For performers, it states, "performers shall enjoy the exclusive right of authorizing the making available to the public of their performances fixed in phonograms, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them". Similarly in the WCT, the author's making available right is defined as "the right to authorize the making available of works, by wire or wireless means, in such a

way that members of the public may access the work from a place and at a time individually chosen by them”.

Thus, the making available right applies when a member of the public accesses a piece of music in an interactive way. They can choose exactly what they want to listen to at any time and from anywhere. If they are listening to radio or an online simulcast then the making available right does not apply, as they have no control over what they are listening to, other than switching off the radio or moving to another station. The radio station may play a particular genre of music but the consumer will have no say in the specific tracks broadcast. The making available right is highly significant for authors, publishers, performers, phonogram producers and CMOs.

Some of the stakeholders at the inception of the making available right also thought it would be helpful as an additional anti-piracy measure. It was perceived as an extra tool for rights holders to prosecute those who used their copyrights illegally in the digital environment. Rather than defining the making available right as a remuneration right it was made an exclusive right, which is considered to be of higher value than a remuneration right. Exclusive rights can usually be transferred either by license or assignment. So a phonogram producer will require a performer to transfer their exclusive making available right to them in the recording contract as without it, they would not be able to license the streaming and download services such as Spotify, Apple, Amazon or Deezer and place the performer’s recordings on those services. Similarly, a publisher will also require a transfer of the author’s making available right in the publishing agreement.

For performers and phonogram producers, in many jurisdictions the linear communication to the public right covering radio, television and public performance in public places has been legislated as an unwaivable equitable remuneration right. As discussed, if a right is unwaivable, it cannot be transferred in contract, so the right will always remain with the performer, regardless of whether they enter into a recording agreement or not. Although a remuneration right is seen as being of lower value than an exclusive right and providing less overall control, performers have found that if it is unwaivable in contract, it is far more valuable to them than an exclusive right.

Because the making available right is an exclusive right, phonogram producers usually license download digital services such as iTunes, Beatport, AmazonMP3 and SoundCloud, and streaming digital services such as Spotify, Apple Music, Amazon Music Unlimited or Deezer’s streaming service directly whereas equitable remuneration rights are almost always administered by a CMO.

It is reasonable to assume that equitable remuneration means equal remuneration but in fact it means fair remuneration so the percentages are not usually stated in a country's copyright law unless phonogram producers and performers cannot come to an industry agreement. Most countries, however, have come to industry agreements whereby equitable remuneration for recordings is set at 50 percent to the phonogram producer and 50 percent to the performers who performed on the recording. The performers' share is then usually divided between featured performers and non-featured performers.

Equitable remuneration has proved of great value to featured performers, who will continue to receive regular payments from the related rights CMO they have joined, regardless of whether they are recouped with the phonogram producer they are contracted to. This also applies to non-featured performers who receive income every time a recording on which they played is broadcast or played in a public place. With unwaivable equitable remuneration, featured and non-featured performers will, therefore, have a regular income on which to live. Recoupment in a recording or publishing agreement is the point at which the royalties earned under the agreement equal the advances and other recoupable costs already incurred as set out in the contract.

The concept of equitable remuneration does not exist in the WCT for authors and publishers (except in the context of compulsory licenses). It appears in the WPPT for performers and phonogram producers. However, most author and publisher CMOs operate a similar system under the rules of the CMO, where linear communication to the public is split 50 percent to the author and 50 percent to the publisher, unless the author directs the CMO to pay out otherwise. This payment is generally made directly to the author, regardless of whether the author is recouped under the publishing agreement.

In jurisdictions where non-featured performers receive a share of linear communication to the public income, the making available right has resulted in them generally receiving nothing if access to music is interactive. If the piece of music on which they performed as a non-featured musician is played on the radio or in a public place, they are paid every time that piece of music is broadcast or played. If the same piece of music is accessed via Apple Music or Spotify, they will generally not get paid, other than the original buy-out session fee they received at the time of the original recording.

For featured performers, if the interactive making available right applies, all the money will go to the phonogram producer, who will credit the featured performer's royalty account according to the rate in the recording contract. If the featured performer's royalty account is unrecouped, and most are in

the early to middle stages of an artist's career, they will not receive anything until recoupment has been reached. Non-featured performers will usually get nothing anyway for interactive delivery.

Thus, an unwaivable right to equitable remuneration can be far more valuable to a performer than a transferrable exclusive right. Under European legislation, it is possible for EU member states to link the making available right to the right to receive a fair/equitable remuneration. This has been considered by several countries but only Spain has passed it into law and made it work in practice. Whilst the making available right is an exclusive right in Spain, it has a remuneration right running in parallel that provides for a minority percentage of interactive income to go to performers which is collected and distributed by the Spanish CMO AIE. Performers on phonograms (and audiovisual recordings) are, therefore, granted an exclusive right of making available together with an unwaivable right to receive equitable remuneration when the exclusive right is transferred to the phonogram producer (or the audiovisual producer). Under Spanish law this right has to be administered by a CMO.

There is a great deal of debate about the making available right and when it should apply. It has generally been viewed that if there is any control available to the consumer, the making available right is thought to apply. For example, if the service is linear but provides the facility to skip a track (move on to the next track) or scrub a track (move the cursor to any point in a track) should the making available right apply? Tastemaker personal radio streaming services such as Pandora in the United States have been ruled as linear rather than interactive, although this is a grey area. Whilst the consumer cannot listen to a specific track, they can skip tracks if they do not like them, and the tracks that are chosen for them are specifically chosen around that particular listener's taste in music. If a member of the public selects a video on YouTube or a track on Spotify, or by voice command on Alexa's smart speaker, the making available right clearly applies, but what happens if YouTube or Spotify then plays the consumer a track they have not asked for, but which the service's algorithm thinks the consumer will like based on the track they did select? This is what normally happens with such services wherein multiple tracks are automatically streamed following the initial selection. The first track proactively requested is termed a pull action by the user, whereas the second and subsequent tracks that the user did not ask for are referred to as a push action by the service. The question is: Did the consumer access the phonogram from a place and at a time individually chosen by them in the push example?

The answer to this question will have a significant effect on the income of an author or performer. If the push tracks are deemed to be linear income, money

will flow through to the performer or author via a CMO, regardless of whether they are recouped with their phonogram producer or publisher. If on the other hand, the push tracks are deemed non-linear, a phonogram producer or publisher will usually license the service directly and apply the relevant royalty rate to the author or performer's royalty account, which may be unrecouped. The issue is proving highly controversial and it may be some time before it is clarified.

Limitations, exceptions and the three-step test

The copyright and related rights treaties all contain provisions on limitations and exceptions to the rights specified. For example, if a work is used for reporting news, critical review, education or research purposes, then copyright or related rights permission may not be required by the user. Each WIPO member state has its own list of exceptions in their national copyright law which often vary from country to country.

One of the guiding rules applied to justify such limitations and exceptions was first established in the Berne Convention in relation to the right of reproduction and later generalized to cover all rights by TRIPS, the WCT, the WPPT and the BTAP. Known as the three-step test, it allows the following limitations:

1. It can only apply in certain special cases.
2. It cannot conflict with the normal exploitation of the work.
3. It cannot unreasonably prejudice the legitimate interests of the author/ rights holder.

In the digital age some governments are looking to introduce new exceptions and limitations; for example, it is common practice for users to transfer the music on a CD to a computer, or to transfer music on their computer to their MP3 player or mobile phone (often referred to as format shifting). This transfer process is illegal in some member states but is often ignored by enforcement authorities for being too difficult to police.

Some member states have introduced an exception for such copying, thus making format shifting legal for users who do this at home for non-commercial purposes. To comply with the three-step test, it is important governments provide some form of compensation for rights holders when an exception is introduced. As discussed in the chapter on collective management, one such compensation scheme is to introduce private copying levies on recordable media and/or recording and digital storage devices. The money collected

from such levies is distributed to authors, performers, publishers, phonogram producers and other entities usually by CMOs.

Fair use and fair dealing

Fair use is a term developed in US copyright law to describe a limitation or exception to copyright, wherein the user would not need to seek permission from the copyright owner for certain uses. The doctrine of fair use is broader and more flexible than fair dealing which is the equivalent term found in the copyright law of other common law countries such as Australia, Canada, New Zealand, Singapore, South Africa and United Kingdom. US law places great weight on the right to free speech, which is why fair use is a broader right than that of fair dealing. Whether or not a use qualifies as fair use in the United States can be complicated and is often subjective. In deciding whether the claim of fair use is valid, a court will look at factors such as the purpose and character of the use, type of copyright-protected material used, duration and substantiality of the portion used, and any detrimental economic effect on the copyright owner. Because the interpretation of fair use is complex, disputes often end up in court. Fair dealing in other common law countries tends to be narrower and more defined, which results in less litigation.

For example, in 2008 the producers of the film *Expelled* used 15 seconds of audio from John Lennon's "Imagine", using the work and the original recording claiming it was fair use. Yoko Ono, the owner of Lennon's estate, took the film company to court to challenge that assumption. The US courts ruled that this did qualify as fair use. Another famous dispute was *Lenz v Universal Music*, known as the dancing baby case, where Stephanie Lenz posted a 29-second video clip on YouTube of her 13-month-old son dancing to Prince's "Let's Go Crazy". Universal issued a takedown notice to YouTube on the basis of copyright infringement. Lenz, assisted by the Electronic Frontier Foundation, argued that the use of this music in this context was fair use. The dispute rumbled on for 11 years, even reaching the US Supreme Court, before being settled out of court in 2018. It established some clarity, in that one court decision in the case obliged copyright owners to consider whether a use came under the fair use doctrine in good faith, before issuing a takedown notice.

In the United Kingdom in 2008, several commercial companies found a loophole in the laws on fair dealing. They ripped existing audiovisual copyright-protected material from bands such as Pink Floyd and Genesis and put them together on DVDs. Interspersed with each clip were interviews with music journalists, who would give a critique of each clip. Although these were released commercially,

the companies claimed the DVDs were works of review and criticism, and therefore qualified under the United Kingdom's regulations on fair dealing and that no permissions were required. This resulted in record stores selling a range of such DVDs by famous artists without any payment to the copyright holders.

As the world becomes increasingly digital it is important that countries agree some international norms on exceptions and limitations. The difficulty is that each country has its own exceptions and limitations, which are territorial and often different. This is the case even within the European Union. This makes concepts such as legal cross-border distance learning complex, and in some cases impossible. While the creator of a learning course may comply with the exceptions and limitations in their own country, the course may well be illegal in another country if regulations are different. It will be necessary for governments to work towards international norms across the whole field of copyright law if there is to be any certainty in our global internet-based future.

Moral rights

Moral rights are essentially in two parts as follows:

1. The right of attribution. This provides the author or performer with the right to be named or credited if their work or recording is used or played in public.
2. The right of integrity. This provides the author or performer with the right to oppose any change to their work or fixed performances that would prejudice their reputation or the author/performer's honor.

Moral rights are exclusive rights and not transferable in contract. They can stay with the right owner even after any transfer of economic rights. In a few countries, however, they can be waived in contract, which means the author or performer may agree in the publishing or recording agreement that they will not assert their moral rights. Whilst nearly every publisher and phonogram producer will insist on the inclusion of this waiver if the law allows, it may be possible to insert other wording in the contract that goes some way towards obliging the publisher or phonogram producer to provide some of the aspects of moral rights, such as being credited where possible.

In the digital era there is some tension between moral rights and rights of remuneration. The creative process of mash-ups has become an art form in itself, wherein an artist puts together several existing recordings and manipulates and blends them with perhaps some new parts. Sometimes mash-ups and remixes are created live, either for a performance in front of an

audience or as a live broadcast. In such circumstances, it is impossible to obtain the appropriate permissions in advance. Some authors and performers are relaxed about this whilst others feel strongly that their moral rights are being violated. As new remuneration structures develop, this tension could become more of an issue. Ultimately, it will be for authors and performers to decide whether they want control over their works and recordings, or would prefer to relinquish their moral rights (at least the right of integrity) and settle for being paid. One approach is to establish a system where the “switches are always on” unless an author or performer dislikes the use, in which case they have the right to turn the switch off; that is, third parties can incorporate the works and recordings of other authors and performers into a mash-up but if one of the original authors or performers takes exception to such use, they have the right to issue a takedown notice. As discussed in the chapter on the value gap and safe harbor, this is how services such as YouTube function. Users can upload audiovisual content to YouTube but if the copyright owners notify YouTube that the use is illegal, YouTube is obliged to take it down.

National treatment, term of protection and the public domain

Copyright or related right protection between treaty signatories is governed by what is known as national treatment. Signatories are obliged to grant the same protection (same rights, with the same exceptions and under the same conditions) to the nationals of other countries who are party to the same treaty as they do to their own nationals. By way of illustration, if the term of protection for sound recordings in country A is 70 years and in country B 50 years, nationals of country A will enjoy 70 years protection in their own country but only 50 years in country B. Similarly, nationals of country B will enjoy 50 years of protection in their own country but 70 years in country A. In this instance, national treatment between countries can be governed by a treaty option called the rule of the shorter term (ROST), sometimes called the comparison of terms. If country A had elected to apply this provision, the copyright protection for country B nationals in country A would be only 50 years, even though the national copyright protection for residents of country A is 70 years.

An example is the earliest recordings by Elvis Presley, released in 1957. In 2007, 50 years later, those recordings entered the public domain in countries where the term of protection for sound recordings was/is 50 years. In the public domain means the work or recording is no longer protected by copyright or related rights. From 2007, anyone was able to release the early Elvis recordings in those countries where the term of protection for sound recordings was/

is 50 years, without requiring authorization or having to pay royalties to the owners of the original recording. In the United States, however, the term of protection would be 95 years (if the recording was deemed a work made for hire under US law), or the lifetime of the last surviving performer on the recording plus 70 years if it was not a work made for hire. The recordings will be protected until 2052, which is 95 years from first release in the United States or longer if they are not regarded as works made for hire. In this case, a company called Memphis Recording Service (MRS) managed quite legally to get an early Elvis recording, “My Baby Left Me”, into the Official UK Top 40 chart in 2007, with no permissions or authorizations required with regard to the recording.

It must be remembered that even though the recording may be in the public domain, the work and the artwork might not be. If the work was written in the previous 100 years, chances are it will still be protected by copyright, so royalties will be payable to the author, the author’s publisher and/or the author’s CMO, even if the recording no longer has protection. The same is true of any photographs and/or artwork used on the packaging of the original recording. In this Elvis Presley example, while the recording was in the public domain in the United Kingdom, as the duration of protection at the time was 50 years, the work and the original artwork still had copyright protection. The company issuing the public domain recording would still have to obtain a mechanical license and pay mechanical royalties to the author via the author’s publisher, either directly or via a mechanical rights CMO. They would also have to obtain permission from whoever owns the artwork/photographs on the original packaging if they wished to use them. The alternative would be to create new artwork that would have its own copyright protection and be separate and unrelated to the original. The creation of an artwork would trigger its own new period of copyright protection.

Copyright registration

Under the Berne Convention and subsequent treaties it is unnecessary to formally register an author’s works with a government, a government institution or with a private entity in a particular country in order to benefit from copyright protection. Copyright exists automatically as soon as the work is created and fixed in a tangible form, such as by writing down the musical notation with the associated lyrics, or by making a recording that contains the work.

Similarly, when a performance has been fixed as a recording, the right in the performance and recording exists and under the WPPT does not need to be formally registered with a government or deposited with a government institution

to be protected by the related rights that exist. Some countries, such as the United States, have a voluntary registration system intended to make a public record of a particular copyright. Copyrighted works may be registered with the US Copyright Office, and although it is not necessary to register a work or a sound recording to enjoy copyright protection, there are certain advantages to doing so, particularly in a case of copyright infringement (visit www.copyright.gov). That said, it is important to join the appropriate CMOs as soon as possible and register the works and/or recordings with them (see chapter 7 on collective management).

Trademarks

Another aspect of copy protection is trademarks. This is particularly important in the context of a band or artist's name. It is always advisable to pick an unusual name that is unlikely to have been used before. Once the name has been chosen and some moderate success achieved, it is important to register it, along with any logo or artwork designed around the name, with the artist's local or regional trademark office. There are always fees associated with this registration, but the expenditure is well worthwhile as soon as finances allow. The next step is to obtain international trademark registration. This is a service offered by WIPO to all countries that have signed the Madrid Agreement that governs the Madrid System for the International Registration of Marks and the Madrid Protocol. A person who has a link with a country that is a party to one or both of these treaties may, on the basis of a registration or application with the trademark office of that country, obtain an international title allowing them to seek registration in some or all of the other countries of the Madrid Union. In 2023 there were 114 members of the Madrid Union covering 130 countries, which together represent more than 80 percent of world trade.

For further information on copyright and related rights, as well as trademarks, visit the WIPO website.

Two copyright laws that support authors and performers

There are two distinct copyright laws that particularly support and help musical authors and performers. One is enshrined in German law, the other in the laws of the United States and Indonesia.

In German law, copyright in authors' works cannot be assigned but only licensed. This provides fundamental protection for German authors. The

copyright in their works will always be owned by them (or their successors) and any transfer, other than license, is invalid (see the previous section on Licensing and Assignment to see why it is always better for an author or performer to license their rights rather than to assign them).

In US law, copyright and related rights can be reclaimed by the creator 35 years after they were originally transferred to a third party, provided the author(s) or performer(s) follow certain procedures. This provision was designed to protect authors and performers who assigned or licensed their rights before their true commercial value was known. Referred to as the termination right, it first became effective under section 203 of the 1976 Copyright Act. It applies to all copyright and related rights that were registered after January 1, 1978 thus enabling the first terminations to be possible from 2013 onwards. The exception to this is if works or performances that are deemed works made for hire; that is, the publisher or phonogram producer acted like an employer of the author or performer. Whether particular works or recordings are deemed by a court to fall under the doctrine of work made for hire remains to be seen, though there was a test case in May 2012 concerning author Victor Willis, a co-writer for the Village People on hits such as “YMCA”, “Go West” and “In the Navy”. The good news for authors is that Willis won the case.

On the recording side, different factors are at play and it is not yet certain whether the work made for hire doctrine will apply. Performers argue, how can a recording agreement be a work made for hire agreement if the performer has to pay for 100 percent of the recording costs from their royalties, which is the case in most recording agreements. In the United States, authors and performers who achieve a reversion of their rights after 35 years will be able to renegotiate better terms and advances with their existing publishers or phonogram producers, make a new agreement with other publishers and phonogram producers or manage the rights themselves. It is unclear whether authors and performers based outside the United States can claim reversion only from within the US. British band Duran Duran has taken legal action on this which initially failed. Assuming average life expectancy, most authors and performers who qualify could look forward to getting reversion at least once in their lifetime. Visit Brian Caplan’s article on the WIPO website for further information.

In Indonesia, a similar reversion right exists, allowing authors and performers to reclaim their rights after 25 years. Both of the above laws are designed to protect creators’ rights, and they perform that function elegantly.

Creative Commons

Creative Commons, a nonprofit organization founded in 2001 by Lawrence Lessig, Hal Abelson and Eric Aldred, provides creators with licenses that permit others to use and share their works and recordings legally for certain uses at no cost. Creative Commons licenses are based on copyright law but supplies authors and performers with a legal document that effectively provides users with a free license for specific uses, or if they wish, all uses. This gives users legal certainty, provided they do not use the content for commercial purposes if such uses are reserved in the license. For the author and performer, use of their works and recordings may help them become better known and build their career. The user may be obligated to uphold the author or performer's moral right of paternity, but may waive the moral right of integrity, which would allow the user to modify the work or recording if they choose. The right of attribution obligates the user to give the author or performer a credit when their work or recording is used. As of 2018, there were over 1.4 billion works licensed under the various Creative Commons licenses with Flickr alone hosting over 415 million Creative Commons licensed photos. Wikipedia also uses a Creative Commons license. They can be useful to increase exposure, but authors and performers are advised to reserve commercial uses. If a piece of music is picked up by a major brand and used in a worldwide advertisement, the author or performer would get nothing if they had issued an "all uses" Creative Commons license (visit www.creativecommons.org).

Creative Heritage Project

WIPO is doing substantial work in providing information, including intellectual property (IP) related protocols, policies, best practices and guidelines, to less developed countries and indigenous people, concerning control of their cultural heritage. For example, the artist project Deep Forest used the United Nations Educational, Scientific and Cultural Organization (UNESCO) field recordings from the Solomon Islands as samples in their highly successful albums, which have sold millions of copies worldwide. As far as this author is aware, no money from the sales found its way back to the Solomon Islands. It is this type of issue the Creative Heritage Project seeks to address. Visit the [WIPO website](http://www.wipo.int) for further information.

5 Piracy and how to stop it

One of the biggest issues facing the music industry is digital and physical copyright infringement, often referred to as piracy, where members of the public or businesses access or use copyright-protected music illegally. This chapter explains how stakeholders and governments have tried to stop piracy and what can be done to reduce it further.

Copyright infringement is nothing new. Throughout the history of recorded music there has always been someone prepared to make counterfeit copies or to bypass copyright law and sell or deliver music to the public without permission from the copyright owners.

Prior to the mid-1980s, piracy was mainly confined to counterfeit copies of sound carriers, such as vinyl and cassettes being sold at street markets and under-the-radar outlets. Before the CD format became widely available, counterfeit vinyl and cassettes were often cheaply made and of poor quality. Most fans preferred to purchase the real thing, manufactured directly from the original high-quality studio master recording. When the digital CD came along in the 1980s and reached mass popularity in the early 1990s (after anti skip technology was applied) all that changed. Suddenly, it was possible to make near perfect clones of the original master recording with very little loss of quality. This made it easier for quality counterfeit copies to be manufactured and sold illegally, but this was nothing compared with what was to come next.

When the MP3 came along it rocked the international recorded music business. It was the result of decades

of research by various audio-acoustic pioneers using a psychoacoustic codec that removed and masked information in a recording that was inaudible to the human ear. It was perfected as a format in the early 1990s in Germany by Karlheinz Brandenburg, who used the song “Tom’s Diner” by Suzanne Vega as a test recording. He played it again and again, making adjustments to ensure the MP3 did not adversely affect the subtleties of the track, particularly the voice. As a result Suzanne Vega is sometimes referred to as the Mother of MP3.

In the 1990s, if a CD version of a track was shared on the internet, it took a long time to upload and download as the digital file was so large, especially as bandwidth was narrow and computers were limited in processing power and storage. The file size of a compressed MP3 version of the same track was far smaller and more manageable than the full-size digital CD version. For example, a digital MP3 encoded at a bitrate of 128 kbit/s was 9 percent the size of the original full-size digital CD version. Even so, it was still a fairly time-consuming process to upload and download.

When higher-speed broadband came along everything changed. Suddenly, it was possible to upload and download music and film in a fraction of the time it would have taken with an old dial-up connection. Consumers, instead of being obliged to play by the rules of the music industry and the national copyright legislation of the country in which they lived, quickly realized this new technology gave them the power to take the initiative, albeit illegal and unauthorized. People all over the world, particularly students, raced ahead with the new technology, keen to explore all its possibilities.

In America, one such student was 18-year-old Shawn Fanning, who together with his friend Sean Parker developed a software program in 1999 that allowed simple online file-sharing of MP3 music files. It was called Napster after Sean’s school nickname. They thought it would be fun to find a way of sharing files with their friends. What began as an idea in the head of a teenager proceeded to redefine the internet, the music industry and the way the world thinks about intellectual property. Napster was the first system of its kind that became known as peer-to-peer (P2P). It allowed one consumer to remotely access another consumer’s hard drive and share files. Napster had a central index server that linked users to other users’ computers so that file-sharing could take place.

The Napster program and those that followed, such as LimeWire, iMesh, Grokster, Kazaa, Morpheus and The Pirate Bay, were enthusiastically embraced by consumers and advertisers. Many consumers either ignored the rules of copyright or were unaware of them and exchanged copyright-protected music files in their millions, which resulted in no royalties flowing to performers,

authors, phonogram producers, publishers or CMOs. The quality of MP3 files, although not as good as that found on a CD, was sufficient for most people, many of whom couldn't tell the difference.

The major phonogram producers at the time were quite understandably hostile to the Napster model and took legal action against them which resulted in the closure of the service in 2001. In the same way railroad owners in the United States tried to stop the building of airports when commercial air travel first became viable, the major phonogram producers defended themselves by prosecuting individual consumers for copyright infringement rather than working to roll out attractive legal digital alternatives.

In some countries, phonogram producers were unable to identify the infringers until they sued them, which resulted in them taking children and grandmothers to court, which was not well received in the mainstream media. From a public relations point of view, this litigation did more harm than good. These legal challenges and the enormous publicity generated fed even more interest in file-sharing among consumers.

In 2003, The Pirate Bay launched, which allowed users to locate and download torrent files distributed over BitTorrent peer-to-peer networks. Unlike other file-sharing methods, the BitTorrent protocol maximizes transfer speed by gathering pieces of a file and uploading these pieces simultaneously from many of their subscribers. It is ingenious and totally legal, and was designed to efficiently move files around the internet. It just so happens that this was perfectly suited for illegal music file-sharing. The Pirate Bay quickly became one of the biggest peer-to-peer file-sharing sites on the planet.

In the early 2000s illegal file-sharing became almost part of the culture, particularly among young people, who increasingly regarded music as free in the way music via the radio is, or at least feels like, free. It was not until 2003 that a legitimate digital download market started to emerge.

Steve Jobs, the CEO of Apple, convinced the major phonogram producers to license their recordings to his new iTunes download service. This proved popular, particularly among law-abiding fans who felt uncomfortable about illegally downloading copyright-protected music even if the chances of being caught were remote. Most people would prefer not to break the law. iTunes offered the first legitimate service at scale with an extensive catalogue of recordings. It also offered marketing possibilities, emailing its customers with news of upcoming releases of a similar genre to previous purchases. In the early years, sales of downloads on iTunes increased exponentially. Other

legal download services such as AmazonMP3, 7digital, PlayDigital, Beatport, Rhapsody, eMusic and Deezer were also launched. Despite these services entering the market, Apple's iTunes continued to dominate, accounting for between 80 percent and 90 percent of the world's legal music download sales. Although these legal services offered the music industry hope and encouragement, illegal downloads continued to dominate, particularly in developing countries where few, if any, legal services were available.

By 2011, global legal download sales were starting to flatten as fans moved away from the download model to streaming services such as YouTube, Pandora and Spotify. For a decade, gross global legal sales of physical and digital recordings in financial terms fell year on year. In 2015, however, the rising popularity of Spotify and other streaming services resulted in a well-received turn in the market. The industry finally pivoted through the disruption and fully embraced digital delivery of recorded music. It had taken 15 years of decline to reach that point but now the future was looking bright. According to the IFPI, there was a small but significant increase in worldwide sales of recorded music (physical and digital combined) in 2015 (see figure 1).

Digital rights management and technical protection measures

Before the internet came into popular use, the rules of copyright were developing and working quite well for authors, performers, phonogram producers, publishers and retailers, among others. There was still work to do filling the gaps in international copyright law, such as introducing a public performance right in sound recordings for performers and phonogram producers worldwide and a treaty that would provide international rights for audiovisual performers, which was finally agreed in Beijing in 2012.

In 1996, WIPO member states, in a visionary way, introduced the so-called WIPO internet treaties, the WIPO Performances and Phonograms Treaty (WPPT) and the WIPO Copyright Treaty (WCT). At the time they were introduced, however, it was impossible to predict how fast new technology was moving, where it was going and how it would develop; iTunes, YouTube and Spotify had not been invented when the provisions of the WCT and WPPT were incorporated into the national legislation of most member states.

In 1996 it was generally thought (quite reasonably) that the way to protect copyright in the digital era was to incorporate copy protection technology that would restrict or prevent users from copying digital sound carriers (such as

CDs) and digital music files (such as MP3s or Apple's AAC files). These technical protection measures (TPMs) would be a subset of digital rights management (DRM). DRM also includes metadata information, such as identifying numbers and other information that is used for functionality, accumulating data and marketing.

Such TPMs were seen as an essential part of the WIPO Internet Treaties, which also included appropriate enforcement language. The treaties required participating member states to introduce legislation to make it a criminal offence for individuals to circumvent such copy protection measures if they had been applied by the right owners to recordings issued for sale to the public. This was believed to be the perfect solution for protecting copyright and related rights in the digital era. These TPM copy-protection applications however, were disliked by consumers, who were used to buying a CD and then doing whatever they liked with it. They might want to play it in their computer's CD drive or copy it to a cassette for use in the car. When TPMs were first applied to CDs, they provided an immediate downgrade to the value of a CD. One restriction was that a CD could not be played in a computer's CD drive. With computer CD drives increasingly common, consumers were even more annoyed.

Things came to a head in 2005, when Sony BMG introduced their Rootkit TPM CD software. It was discovered that Rootkit had infected 8 million CDs (comprising 51 titles) with copy-restriction technologies that covertly installed themselves in the users' computer and made them vulnerable to hackers and viruses. An estimated 500,000 networks were infected, including many government and military networks. Sony BMG destroyed millions of their CDs and removed all copy protection TPMs from their future physical sound carriers, a policy that was quickly followed by other phonogram producers.

In the world of legal digital downloads, the application of TPMs restricted development. A consumer could access a recording via one of the illegal file-sharing networks for free with no copy protection. Alternatively, the consumer could pay for a legal download that had copy protection applied to it. Given this choice, even some of the most law-abiding consumers elected to take their chances with the free illegal download.

On February 6, 2007, Steve Jobs famously wrote an open letter to the music industry entitled Thoughts on Music. It was a game changer. In it he pointed out that on average less than 3 percent of music files on fans' iPods were downloaded legally via the iTunes store. At the time, the iPod was by far the most successful digital file music player and could play unprotected MP3 and AAC files, as well as Apple's TPM-protected AAC files. In fact it was the only mobile device that would play TPM-protected AAC files, so if a fan purchased a

TPM-protected recording from the Apple Store, the only portable music player on which it could be played was the iPod. In 2007, Universal, Warner, Sony BMG and EMI, the four major phonogram producers, insisted that if a music service wished to license music from them, one key condition was that copy-protection TPMs must be applied to every file. Another condition was that the purchased files could only be played on a fan's registered devices. The other 97 percent of music on fan's iPods were unprotected files sourced from illegal sites or from fans' existing unprotected CDs. Most iPods at the time could accommodate 1,000 recordings. Apple research showed that on average only 22 files per iPod were DRM-protected AAC files purchased legally from the Apple Store. Following the Sony BMG Rootkit scandal, all CDs were TPM free so it was easy for a fan to convert a CD into an MP3 or unprotected AAC format on their computer. This could then be easily transferred to their iPod or Windows player.

Jobs went on to argue that all TPMs should be removed from digital music files immediately if there was to be any chance of the global legal music market developing. He said the TPM approach had not stopped piracy and never would. In fact it was doing the opposite. It was driving fans to illegal sites, where the unprotected MP3s were totally unrestricted.

Two months after the letter, EMI came to a landmark agreement with iTunes to provide EMI downloads to consumers using Apple's AAC format with no copy protection, but at a slightly higher price than for an equivalent download with copy protection. This was a major breakthrough for consumers and the music industry. The other three majors quickly followed suit and TPMs were soon removed from all downloadable music files.

This was the moment when the digital music revolution took off. Once more, Jobs was pivotal in the development of the 21st century music industry. Legal digital music download sales on iTunes, Deezer, AmazonMP3 and others increased rapidly. Removing TPMs at last allowed new services to compete on a level playing field, though iTunes continued to be far and away the biggest music store, accounting for more than 80 percent of the world download market.

Interestingly, TPMs continue to exist today on the recordings streamed by Spotify, Deezer and Apple Music among other streaming services, but no one notices them. Originally it was necessary for a fan to be online to access music, either on their computer or mobile device. That meant they would eat up their internet service provider (ISP) or mobile data allowance. If they were in an area with no network coverage, they could not listen to streamed music. The streaming services realized they would somehow have to allow subscribers to download tracks for offline listening. They came up with tethering technology

that allowed subscribers with a premium subscription to download selected tracks they had streamed to a registered computer or mobile device. A fan could then play these tethered tracks offline, but only within the streaming service app. If they leave the streaming service or fail to meet the subscription requirements, whatever they have downloaded within the service disappears.

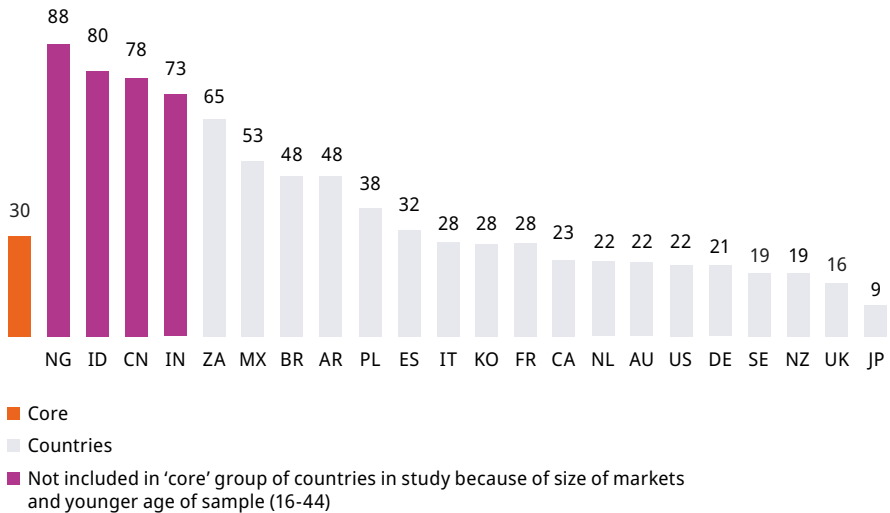
Legislation

The music industry in conjunction with governments and the courts has been trying to reduce copyright infringement. It has been a long and tortuous path, but thanks to attractive legal services, legislation, education and enforcement the global music industry is showing strong growth after a tumultuous 15 years at the start of the 21st century.

The three pillars countries should adopt to reduce piracy and create a sustainable national music industry are as follows:

1. Encourage and support great, attractive legal services that fans like.
2. Support copyright education online and in schools.
3. Pass copyright legislation and facilitate enforcement.

Figure 6 Piracy levels across the world (%), 2022



Source: IFPI

As can be seen in figure 6, in 2021 the average piracy rate across the 19 countries shown was 30 percent, meaning that nearly a third of all music sound carriers and digital music files are still being sourced illegally. Several of the countries with lower rates have music industries that have successfully lobbied governments to bring in laws and regulations that assist in reducing piracy. Politicians often do not understand the intricacies of copyright, so the industry must educate them on the value of creative industries for culture and trade. This will always be balanced by the consumer lobby, who champion consumer rights and consumers are voters. If possible, the music industry in each country should endeavor to create a trade body that comprises all music stakeholders. It can then speak to the government with one voice, which is likely to be far more effective. If parts of the industry lobby individually, politicians and officials often get confused and are therefore unlikely to legislate for effective anti-piracy measures.

The IFPI publishes The Global Music Report annually which is an excellent overview of the way the global recorded music industry is changing and developing. (Visit www.ifpi.org.)

Attractive legal services

The most effective measure to reduce piracy is the roll-out of attractive legal music services. One of the most effective has been Spotify. Founder Daniel Ek claimed he learned a lot from pirate services, particularly The Pirate Bay. He wanted to create a legal service that was better than anything the pirates could offer. Consumers would be able to access the Spotify advertising-funded service for free and access all the music they could possibly think of. It provided a great legal service that was virus free. Although consumers would have to pay to upgrade to the premium Spotify monthly subscription service, they may well elect to do that, as they would get no advertisements and be able to download their favorite tracks, which could be played whenever they liked, even if they had no broadband or network connection. Ek predicted that the combination of the service being legal and appealing would be a winning formula and he was right. Many used to say that it was impossible to compete with what is free (piracy), but Spotify has shown that it can be done, and successfully.

It would have been interesting to be in the boardroom when someone suggested they put water in plastic bottles and sell it to the public. Why would anyone buy water in plastic bottles when they can get water free from the tap? Research has shown that in many more developed countries water is actually healthier from the tap compared to water sold in bottles. Bottled water has

been shown to contain many microparticles of plastic that are then consumed. Despite this, a multibillion dollar global industry based on bottled water has developed and flourished and continues to do so.

Attractive legal services across the globe include the following:

- In 2021 the three biggest global download platforms were iTunes, Beatport and AmazonMP3.
- The three biggest ad-funded global streaming platforms (free to the consumer) are YouTube, Spotify (ad-funded version) and SoundCloud.
- The biggest subscription global streaming services are Spotify, Apple Music and Amazon Music Unlimited, followed by Deezer, YouTube Music, Tidal and Napster.
- Regional streaming services include Tencent and NetEase Cloud Music (China), Yandex and VK (Russian Federation), Gaana and JioSaavn (India), Melon (Republic of Korea), Resso (India, Indonesia), Joox (Hong Kong China, Indonesia, Malaysia, Myanmar, South Africa, Thailand, KKBox (Hong Kong China, Malaysia, Japan, Singapore, Taiwan, Anghami, Middle East and North Africa), Boomplay (Africa) and Line Music (Japan).
- YouTube ad-funded video platform with its 2 billion-plus subscribers is the biggest global player. YouTube is also the biggest platform for music discovery.

It can be difficult getting the major legal services to launch in less developed countries as they may not consider it a viable business case. With Spotify launching in an additional 85 countries in 2021 (184 markets overall), and Apple Music already in 167 markets, global accessibility is rapidly improving. Governments should be encouraging international legal music services to launch as well as domestic start-ups. This will help create a sustainable domestic creative music industry that will encourage local culture and generate trade.

Education

Many music fans use illegal services unaware they are doing so and what the implications might be. If basic copyright education was introduced in schools and across society in general, it would go a long way in nurturing a country's creative industries and providing an incentive for musicians to make a living from music.

A country can only properly develop its culture, and the associated trade benefits, if the infrastructure is present, such as good venues for live performances, efficient CMOs, radio, television, phonogram producers,

publishers, musicians' unions and other trade bodies, in parallel with education in musical skills and the business side of the creative industries. A functioning legal framework, including copyright law, competition law, consumer protection, judiciary capacity, enforcement structures and effective data protection law, is also important.

Organizations such as the British Phonographic Industry (BPI), the principal trade body for phonogram producers in the United Kingdom, have, with government and industry financial aid, created an online campaign Get it Right from a Genuine Site. It guides fans to legal services, provides education on the music industry (including how students should consider it as a professional career) and seeks to change perceptions that piracy is socially acceptable and safe. It is also working with ISPs, sending out educational emails to identified infringers. Music and film rights holders monitor illegal peer-to-peer networks to identify infringement and report it to the ISPs, who send educational emails to the associated customer accounts. Results have been impressive, with one in four subscribers ceasing to use the illegal sites and one in five changing their perception of piracy. This is one of the reasons the United Kingdom has one of the lowest piracy rates globally.

If a country's legal system and laws allow website-blocking, it is helpful if, when a fan reaches an illegal site that has been blocked, rather than say, "this site is no longer available", the page reads "this service is no longer available in your country, but here are some legal services that you might like to try".

Copyright enforcement

Even if new and attractive legal services have launched in a country, and an educational program is in place, it is still necessary to have some degree of enforcement. In the 21st century, the industry has lobbied for laws and regulations to reduce piracy and ensure all stakeholders in the value chain are properly compensated, including the author and performer originators.

Such laws often have a bumpy ride through the legislative process, with resistance from consumer organizations, open rights groups, ISPs, telecoms and digital services to any further internet restrictions or regulation. Open rights groups believe everyone should have as much internet access and access to knowledge as possible, at no cost. Any further restrictions would be counterproductive to that goal. The creative industries community argue that without new government regulation they are on a slippery slope to disaster, with all music effectively being regarded as free and having no real value. The

music industry would also say this will undermine the entire creative process and remove the incentive for authors and performers to create new works and recordings, the very bedrock of national culture.

In addition to lobbying government for new laws, there have been many cases where the industry has sued digital music services and individual file-sharers, bringing a claim based on existing law and precedent.

One of the first precedential decisions that had influence in the digital era was the 1984 Betamax case in the United States. The Sony Betamax was a home video recorder that people were using to copy television programs. In this case, it was Sony Corporation as the electronics manufacturer being sued by the film industry on the basis that this was contributory copyright infringement. In other words, it was not implied Sony itself was making illegal copies, but that by putting the video recorder on sale it was facilitating copyright infringement. The case went to the US Supreme Court, which ruled that Sony was not liable for copyright infringement as the recorder could be used for a legitimate purpose, such as copying a homemade family video. A similar case was brought in the United Kingdom in 1988 against the twin-deck Amstrad cassette recorder. This device had two audio cassette decks which enabled high-speed copying from one cassette to another. Like Sony, Amstrad argued it had legitimate uses, and the House of Lords decided in favor of Amstrad.

This “it could be used for legal purposes” approach has been repeated in every case of contributory copyright infringement in the digital era, the first being Napster in 2001. Launched in June 1999, Napster experienced rapid growth. After just six months, the Recording Industry Association of America (RIAA) sued Napster for contributory infringement. As Sony and Amstrad had done, Napster’s lawyers argued its software could be used for legitimate uses, if the uploader owned the copyright in the file being shared, and cited the Betamax decision as a precedent. The court upheld the Betamax principle but said Napster was different in that it had a central database that listed all subscribers and the files they had shared. The Napster central database did not contain the MP3s but did show their identity so the service could clearly see that copyright infringement was taking place. The judgment instructed Napster to introduce filters to eliminate copyright-infringing activity from its platform. Shawn Fanning attempted to do this but today’s audio identification technology did not exist in 2001. In the end, despite investment from BMG, which was one of the five major phonogram producers at the time, Napster turned off its servers in July 2001. The brand name Napster was subsequently sold to Roxio, and Napster became a legitimate download and streaming service that is still operating.

In referring to the major phonogram producers some explanation of their evolution will provide clarification. In the early 2000s there were five majors, Universal, Sony, BMG, EMI and Warner. In 2004 Sony and BMG merged to become Sony BMG which reduced the majors to four. In 2008 Sony bought out the BMG share and returned to the name Sony Music Entertainment. In 2012 EMI was sold to Universal with some elements being sold to Warner and a few independent phonogram producers. Since 2012 there have been only three major phonogram producers Universal, Sony and Warner.

Following the Napster case, further prosecutions took place with other illegal file-sharing services, including Grokster (2005), Kazaa (2005), The Pirate Bay (2009), LimeWire (2010), and cyberlocker Megaupload (2012). Though none of these later platforms had a central database like Napster, all the judgments were in favor of the copyright owners.

In addition to acting against the file-sharing services facilitating copyright infringement, the major phonogram producers and their trade bodies chose to sue individual members of the public participating in illegal file-sharing. It was possible to identify the internet protocol (IP) addresses but not the exact identity of the infringers. This usually meant having to go to court twice; once to compel the ISP to hand over the name and address associated with a particular IP address and a second time, to sue the individual. The logic was the same as in prosecuting someone who steals from a store; by demonstrating that getting caught will result in a heavy fine, others will be discouraged from doing the same. It soon became apparent, however, that the negative publicity was far worse than any potential deterrence value. As a result, suing individuals was abandoned in favor of a graduated response, or using baseball terminology, a three strikes and you're out approach.

The graduated response involved identifying individual infringers, informing them they were guilty of copyright infringement, and politely suggesting they use available legal services instead. If the individual was caught a second time, a stronger letter was sent out, warning them further action would be taken if they persisted, including the possibility the ISP would reduce their bandwidth or even suspend their internet connection. The third step, if they continued to illegally file-share, would be for the ISP to suspend their internet service and for fines to be potentially issued.

For this to work, the recording industry required the cooperation of the ISPs. The ISPs were immediately hostile to the approach, preferring not to police their paying customers. The phonogram producers therefore looked to government to bring in legislation that would force the ISPs to

participate. The first country to do this was France in 2009, the government passing the creation and internet law, often referred to as the HADOPI law. HADOPI is actually the name of the French government agency charged with administering the law (Haute Autorité pour la diffusion des oeuvres et la protection des droits sur internet). The agency dispatched its first letters in October 2010, and by the end of 2012, 1.15 million first warning letters had been sent and 100,000 second letters. Only 340 third letters were sent, of which 14 cases were passed to local prosecutors. According to IFPI/Nielson data, it reduced peer-to-peer activities in France by 26 percent, with about 2 million users moving away from such networks.

Republic of Korea, one of the most technologically advanced nations in the world, also introduced a graduated response law in 2009, but combined it with a softer approach to illegal digital services. Each illegal service was approached and an effort made to persuade them to become legal services. As a result, the country experienced strong growth in legal services. Only nine people had their internet account suspended for 29 days in the first year of operation. Republic of Korea also launched a national education initiative on the importance of intellectual property rights.

While several countries introduced a graduated response mechanism, there was concern internationally that to cut off an individual's internet connection was a violation of their human rights. Further, it was not always clear in a household who was illegally file-sharing. It could be a mother, father, one of the children or perhaps the cleaner or babysitter, who all had access to the same broadband connection. In the United States, the government encouraged a voluntary arrangement between the phonogram producers and the ISPs, with the threat of legislation if they refused to put this in place. There were no penalties for persistent infringers but the ISPs agreed to notify users by email if they detected unauthorized activity. While this did not change the behavior of hard-core infringers, it had a huge effect on the large percentage of US citizens who felt uncomfortable participating in unlawful activities.

Generally, suing individuals and operating a graduated response had only limited success in stopping piracy. Suing the illegal services had been successful, but it was an expensive and lengthy process. Further, the pirate services would often register in remote international locations in jurisdictions where it was difficult to bring a prosecution.

Website blocking

One of the most successful anti-piracy procedures has been website blocking. This involves copyright owners seeking a court order to oblige ISPs to block infringing sites so the ISP subscribers can no longer access them. This may need government legislation or it may be achievable using existing laws.

One of the first pieces of legislation that allowed website blocking was Spain's Ley Sinde law, a provision in the 2011 Sustainable Economy Act. Since then, many countries have introduced similar provisions that allow copyright owners to seek an injunction obliging ISPs to block an infringing website.

There was a landmark case in 2010, when the MPA (Motion Picture Association) successfully sued BitTorrent site Newzbin in the United Kingdom for facilitating copyright infringement (file-sharing). The court ordered Newzbin to cease operation, after which it soon went out of business. However, Newzbin reappeared in Sweden on the basis it was outside UK jurisdiction, which meant that people in the United Kingdom could continue to access the site even though it had been deemed illegal by the UK courts. In 2011, the MPA went back to court, seeking an injunction against British Telecom (BT), the biggest ISP in the United Kingdom, that would oblige BT to block Newzbin on its service. This was successful, opening the door for the music industry to seek further website blocking injunctions, the most significant of which was the BPI's blocking of The Pirate Bay in 2012.

Prior to the website blocking injunction, The Pirate Bay was rated the 43rd most popular site in the United Kingdom according to Alexa analytics; 18 months later it was placed 412th. By the end of 2013, 15 countries had blocked The Pirate Bay. An ongoing problem is that some illegal sites develop proxy, or mirror, sites by simply changing the URL. Despite being blocked for years, The Pirate Bay is still going and has up to 100 such proxies at any one time. To seek an injunction every time a new proxy site is discovered is not practical or financially justifiable. The music industry has therefore applied to the courts for dynamic website blocking, in which ISPs are not only obliged to block the original site, but also any proxy or mirror sites when notified of them by the music industry.

One country where website blocking has yet to become available as an anti-piracy enforcement option is the United States. In 2011, Congress attempted to get through two pieces of legislation, the Stop Online Piracy Act (SOPA) and the Protect IP Act (PIPA). Both were met with strong opposition by the tech lobby, including Google, Wikipedia, Facebook and Yahoo. This

culminated in Wikipedia raising massive awareness by taking its platform offline for a day, which resulted in both SOPA and PIPA being abandoned.

Advertising

Another critical issue is how illegal music sites make money. The answer is from brand advertising. Many established advertising agencies have placed ads on illegal sites as they get the best results for the dollar spend for the brands they represent. Often well-respected global brands have had ads on these sites without being fully aware of it. The most effective way of bringing illegal sites down is to starve them of their advertising. The music industry is increasingly pushing a name-and-shame public campaign to make global brands aware of how they are being associated with illegal activity, which, while effective, can tarnish the brand's image.

Search

There has been great pressure from legitimate rights holders for search engines such as Google and Yahoo to traffic-shape their services, giving legal sites priority by demoting or removing illegal sites. In the past, if a fan entered the name of a track and/or artist in a search engine, chances were the illegal sites would come top of the list, especially if MP3 was put in. In many countries, the search engine services are responding positively to this traffic-shaping initiative and placing legal services at the top of search, which is a major improvement. In the United Kingdom, a code of practice was agreed in 2017 between the government, search engines and the BPI to demote or remove infringing sites, which has resulted in new infringing sites being virtually impossible to find using search. The ultimate goal of copyright owners is to oblige search engines to globally delist copyright-infringing services altogether.

Currently the biggest piracy issues are stream rippers and cyberlockers but also MP3 aggregators and social media embedded mobile applications. There is also highly sophisticated pre-release piracy, where a service gets hold of an album or track before it has been officially released and distributes it commercially to fans.

Illegal stream-ripping services provide the consumer with the ability to capture a permanent copy of music that is streamed online, particularly from services such as YouTube. The process can be carried out on audio or audiovisual content, and in either case, an illegal audio-only copy of the track can be permanently downloaded.

Cyberlockers (also known as file-hosting services) are driven by advertising and subscriptions. They provide password-protected hard drive space online. The consumer has the option of sharing the cyberlocker password with friends, who can privately download contents the consumer has put in their folders. Legal action has already been taken against cyberlockers such as Zippyshare, Nitroflare, Rapidgator and Uploaded.

Delisting or demoting stream-ripping software, access to cyberlockers and BitTorrent and MP3 aggregator sites is a priority. In the physical sound carrier world, following pressure from copyright owners, progress is also being made, with retailers such as Amazon and eBay delisting suppliers who have been shown to be selling counterfeit CDs, DVDs and vinyl.

Governments need to work with the domestic music industry, search engine providers and ISPs in each country to establish codes of practice to reduce piracy and promote legitimate creative enterprises.

6 The value gap and safe harbor

One of the industry's major campaigns since the last edition of this book has been fixing what is referred to as the value gap. The effort centers around online content-sharing services, such as YouTube, which are operating under the protection of what is termed safe harbor. Safe harbor law shields internet technology companies from liability when customers use their networks or servers to distribute copyright-protected material without license.

Safe harbor protection was introduced in the 1998 Digital Millennium Copyright Act in the United States, the 2000 e-Commerce Directive in the European Union, and in similar laws throughout the world. It protects service providers from being put under any general obligation to monitor content moving through their platforms. The argument was that online internet services were mere conduits; that like a country's postal system, a mail delivery service cannot be responsible for the content of letters it delivers.

The music industry argued that safe harbor protection was never intended for a service such as YouTube, which launched in 2005, seven years after the DCMA became law. For an online content-sharing service to qualify for safe harbor, it is obliged to build an effective takedown system to facilitate the removing of any unlicensed content if requested by the copyright owner. YouTube (which was acquired by Google in 2006) developed a system called Content ID to facilitate such takedowns.

The problem for the industry is that while YouTube has entered into licensing agreements with phonogram

producers, publishers and CMOs, those stakeholders have a far weaker negotiating position because of safe harbor, which results in legitimate licensed content being undervalued compared with its true market value. This is why it is referred to as the value gap. Unlike negotiations with audio services such as Spotify, copyright owners cannot say no if safe harbor protection exists. The content-sharing platform can simply say, “we will still allow your content to be uploaded by our users to our platform, but just tell us to remove it and we will do so”. Spotify, on the other hand, has to get to a yes from the copyright owner, or it opens itself to litigation for copyright infringement.

As a result, YouTube and other content-sharing services protected by safe harbor have been served with many millions of takedown notices. The problem is that a recording can be taken down one day and uploaded again the next, so it all feels like the children’s game whack-a-mole, with infringing content being uploaded again and again and again. The industry has long argued for a take down and stay down policy, wherein once a recording is notified and removed, it is automatically taken down on subsequent uploads.

According to the IFPI, the average income on Spotify in 2017 was \$20 per user. This contrasts with YouTube, where the income was less than \$1 per user. Phonogram producers argue this situation creates unfair competition. Services such as Amazon Music Unlimited, Deezer and Apple Music are forced to compete with music platforms that do not play by the same rules. The BPI calculated that the British music industry received more income from vinyl sales in 2018 than it did from YouTube.

YouTube would argue it offers an amazing free service for fans and still pays the music industry by paying out the majority share of its income from ads that appear in or alongside the music videos on the service. YouTube has become the no.1 music discovery service in the world, which is of great benefit to the music industry for breaking new artists. It is also an essential music marketing platform. YouTube not only pays out on official videos but also on user-generated content (UGC), which includes copyright-protected music if the copyright owners of the music agree.

There are other issues around takedown systems such as YouTube’s Content ID, including exceptions to copyright. If a recording/work qualifies as an exception to copyright under national law it should not be taken down. In the United States, a recording/work may be classified under the broad exception doctrine of fair use. Safe harbor requires that content-sharing services maintain a repeat infringer policy for users who repeatedly upload copyright-infringing material,

which the music industry argues is often inadequate. There are also issues about how long it takes to remove unlicensed material.

After years of international campaigning by the music industry, the European Commission proposed a draft Directive on copyright and related rights in the Digital Single Market. It included stricter conditions if a user-upload platform wanted to qualify for safe harbor. This was the most intensely lobbied piece of legislation ever put forward by the European Commission. The directive was finally agreed by the European Parliament in April 2019, with EU member states given until July 2021 to transpose it into their national laws.

Article 17 of the directive states:

“An online content-sharing service provider shall therefore obtain an authorization from the right holders referred to in Article 3(1) and (2) of Directive 2001/29/EC, for instance by concluding a licensing agreement, in order to communicate to the public or make available to the public works or other subject matter.”

Although there is some flexibility, YouTube and other online content-sharing service providers relying on safe harbor protection will be obliged to operate in much the same way as audio streaming services such as Apple Music, Deezer and Spotify. Rather than being reactive to takedown notices, they will have to be proactive in monitoring copyright-protected content uploaded on their service. Google, and web pioneers such as Tim Berners-Lee, believe this ground-breaking EU legislation could break the internet. At the time of writing, France had applied the directive in national law in a way the music industry found acceptable, whereas in Germany it was more favorable to technology companies. It will be interesting to see how things develop when other EU member states implement the directive, and whether countries outside the EU introduce similar laws.

One issue that would negate the ability of an online content-sharing platform to qualify for safe harbor is if the platform created a central music library where users could quickly add music to videos. This would be a desirable feature for platforms but would result in them having to license every recording/work in the same way as the audio-only streaming platforms. One way a user could ensure their video would not be taken down would be to use copyright-cleared music supplied by services such as Epidemic Sound or Soundstripe.

7 Collective management and collective management organizations

As the music industry moves further into the digital age collective management will become more important to authors and performers wishing to make a living from music. It is crucial, therefore, that authors and performers, and their managers, understand the importance of correct registration and membership of the appropriate CMOs. Poor or incorrect registration of works and performances with CMOs, or no registration at all, has resulted in millions of dollars in income going to the wrong person or business, or not being paid at all. It has been estimated that between 20 percent and 30 percent of all money in the global music industry does not reach the correct person or business. The industry is awash with money that may end up being returned to phonogram producers, publishers or CMOs because for some reason the identity of the correct performer or author cannot be found. A good artist manager will focus on collective management, and do everything possible to ensure registrations are correct and the artist is receiving the income they are due.

The history of collective management and why it is necessary

Each time an entity such as a radio or television station, a shop, a club or a website wants to use or play a piece of music, they must obtain permission from the copyright owners. If an author or performer had to give individual permission each time their music was used, they may be overwhelmed with requests and have no time to negotiate payment and issue a license for each use. It would also be

likely that their music would often be used without their permission and without them knowing. This is the service a CMO can provide. A CMO will negotiate a payment with users (except where a compulsory license exists) for each time the music is used and issue them with an appropriate license. The CMO will invoice the user and collect the money. It will then deduct the CMO's administration fees and pay out the net to the appropriate author, publisher, phonogram producer or performer. The CMO should be able to perform the same service when its members' works or performances are used in other countries, as it will probably have reciprocal agreements with most foreign CMOs. Under the reciprocal agreement, it will also collect the foreign CMO members' income if used domestically in the home country and pay this through to the foreign CMO.

As can be seen in the chapter on copyright, legal rights for authors were the first to be established. The initial attempt at collective management was the establishment in 1777 of the Bureau de Législation Dramatique in France. The organization later became the Société des Auteurs et Compositeurs Dramatiques (SACD), which still functions today. The first music CMO was created in 1851, again in France. The Société des Auteurs, Compositeurs et Éditeurs de Musique (SACEM) came about as a result of a court decision.

Composer Ernest Bourget together with Paul Henrion and Victor Parizot were having dinner in the Les Ambassadeurs cafe on the Champs-Elysees in Paris. Whilst there they heard one of Bourget's musical works being performed by the cafe orchestra which resulted in Bourget refusing to pay the bill on the basis that the cafe proprietor had not paid him for the public performance of his composition. Bourget applied for and successfully obtained an injunction against the proprietor for the unauthorized public performance of his work. Despite this, the proprietor ignored the injunction and continued playing Bourget's work in his cafe. Bourget then filed a second suit with the same court and this time claimed compensation. On 3 August 1848 the court awarded him compensation and on 26 April 1849 the judgment was confirmed by the Paris Court of Appeal. The music industry owes a debt of gratitude to Bourget as this established the principle that authors' works cannot be used without their permission, which changed authors' rights forever and led directly to the formation of SACEM in 1851 and the Berne Convention in 1886.

Prior to the founding of SACEM, authors had (in theory) to give individual permission for one of their works to be performed by somebody else. By joining SACEM, French authors could delegate the task of licensing those who wanted to use their music. After deducting costs, SACEM was able to distribute payments to author members whose music had been used.

By the early 20th century, societies similar to SACEM, often referred to as performing rights societies (PRSs), were formed in most European countries and some other countries around the world. In 1926, delegates from 18 societies formed an international umbrella organization, the Confederation of Societies of Authors and Composers (CISAC), which continues to play a global role in the collective management of music authors and publishers' rights today. In 1990, Groupement Européen des Sociétés d'Auteurs et Compositeurs (GESAC) was formed to represent the CMOs of European music authors regarding European copyright issues.

The situation for performers before the introduction of the gramophone and radio was straightforward. A performer was in complete control of their rights, as a live performance was the only one possible. They would perform live if the conditions and payment for a performance were agreeable. If they were not, they simply refused to perform. When the first recordings, or fixed performances came along, the whole landscape changed. Suddenly, copies of a performer's performance could be made and distributed. It became impractical for a performer to give permission every time someone wished to play a recording in public, so a system was devised where an organization would monitor and collect such payments on behalf of the performer and/or whoever owned the recording. Such organizations are sometimes referred to as neighboring rights CMOs, or more accurately related rights CMOs.

The first such CMO was Phonographic Performance Ltd (PPL) in the United Kingdom, which was established in May 1934. Like SACEM 83 years earlier, PPL was formed following a successful court case. It was instigated by the Gramophone Company (later renamed EMI) and Decca Records against a coffee shop in the city of Bristol in the West of England called Stephen Carwardine & Co. The owners of the coffee shop had been entertaining customers by playing records. The Gramophone Company and Decca argued it was against the law to play a record in public without first receiving the permission of the copyright owners. The judge agreed, thus establishing this as a legal principle. Subsequently the Gramophone Company and Decca Records formed PPL to carry out this licensing role and opened an office in London. PPL still operates today, representing both phonogram producers and performers. It is the second largest related rights CMO in the world, the largest being Sound Exchange in the United States.

Authors and performers can retain the right to authorize or prohibit the use of their works or performances by not signing to a CMO and authorizing specific uses on a one-off basis. Most, however, want their works and performances to be used as widely as possible so they become well known, thus enhancing their

reputation and creating maximum income. To achieve this, they will sign an agreement with the appropriate CMO so it has the right to license their creations and collect income on their behalf.

It is sometimes possible in collective management agreements to retain a degree of control over certain uses. In advertisements, for example, the CMO might be obliged to seek specific permission from the author and/or the performer for the use. An author or performer may have strong moral views on certain topics. For instance, an author or performer (or both) may not wish their creations to be used in conjunction with a political party with which they do not agree. An author who is a vegan may well object to their work being used in a meat, fish or dairy advertisement. It is quite common for such approvals to be excluded altogether from CMO agreements, with such approvals being in the hands of the publisher or phonogram producer. In publishing and recording agreements, the publisher and phonogram producer may be obliged to seek approval from the author or performer as well for such specific uses. For this reason, it is in the author or performer's interest to have as much control as possible regarding the use of their works and performances in publishing or recording agreements so that no inappropriate uses take place.

CMOs can operate in different ways. Some author CMOs insist on a complete assignment of the right of public performance for the authors' performer rights. With this type of agreement, the author or performer transfers his or her ownership of the right to the CMO. Other CMOs operate as agents for an author or performer, with the author or performer retaining the right but agreeing that the CMO can administer it on their behalf. In the United Kingdom, for example, the Performing Right Society (PRS), an authors society collecting public performance income, insists on a complete assignment, whereas the Mechanical Copyright Protection Society (MCPS), which collects mechanical royalties on behalf of authors and publishers, operates under an agency agreement.

The importance of correct registration of works, performances and recordings

It is crucial that all works (for authors) and recordings (for performers and phonogram producers) are registered correctly with the appropriate CMO. If registration is not made or is incorrect, no income will flow through. In some countries, if just one of the title words is capitalized or misspelled the CMO may not pay through income, instead designating the payment as unattributable

and paying it into an unattributable income account, sometimes called a black box account. This income may eventually be paid out to local publishers or phonogram producers, depending on the respective practices of the CMO. Some use the income for other purposes, including good causes, or projects that help new artists develop their careers. During the COVID-19 pandemic, many CMOs used it to directly help author or performer members suffering financial hardship and mental ill health. Another approach is to pay out unattributable income pro rata across all authors or performers, dependent on how much they were paid in previous years.

In an example of the importance of correct registration, one artist represented by this author has had great success with a song entitled “What Is Love?” If the song is registered as “What Is Love” (without the question mark), some CMOs might refuse to pay through on “What Is Love?” (with a question mark). To help overcome this, some authors and performers register several titles of songs and guess at possible misspellings and punctuation mistakes. Thus, it would be sensible to register “What Is Love?” and “What Is Love” by the same author. Whichever CMO the author or performer joins, it is good practice to regularly request a list of works or performances to check for accuracy. Increasingly CMOs are making this information available online.

Functions and governance of collective management organizations

CMOs around the world vary considerably regarding their remit from governments and members. Some are purely administrative, others have an obligation to represent and lobby on behalf of their members to uphold and protect their rights. CMOs seem to function well as a monopoly in a country, provided they have democratic governance. One of the most authoritative books on collective management is Dr. Mihaly Ficsor’s *Collective Management of Copyright and Related Rights*, the third edition of which was published in 2022 and which is available as a free download from the WIPO website:

<https://www.wipo.int/publications/en/details.jsp?id=4645&plang=EN>

It is also available in printed form. In the first edition he uses the term joint management as another term for collective management, stating:

“Government supervision of the establishment and operation of joint management organizations seems desirable. Such supervision may guarantee (inter alia) that only those organizations which can provide the legal, professional and material conditions necessary for an appropriate

and efficient management of rights may operate; that the joint management system be made available to all rights owners who need it; that the terms of membership of the organizations be reasonable and, in general, that the basic principles of an adequate joint management (for example, the principle of equal treatment of rights owners), be fully respected.”

also

“. . . usually, there should be only one organization for the same category of rights and for the same category of rights owners in each country. The existence of two or more organizations in the same field may diminish or even eliminate the advantages of joint management of rights.”

One of the most important issues for CMOs is that they have democratic governance. It is highly desirable, if not essential, to have a board structure that accurately reflects the rights they administer. If a CMO collects income for the public performance of works and distributes this income to authors and publishers, the governing board should be made up of 50 percent authors and 50 percent publishers. Similarly, if a CMO represents performers and phonogram producers and collects income for the public performance of sound recordings, the governing board should be made up of 50 percent performers and 50 percent phonogram producers. Such a democratic board structure is particularly important if the CMO has a monopoly in a country.

PRS for Music is one CMO that functions well with this democratic structure. This authors and publishers’ CMO has a monopoly in the United Kingdom with the board consisting of four author directors and four publisher directors (plus four non-executive directors and one executive director). Similarly, the related rights CMO Sound Exchange in the United States, another monopoly, has nine phonogram producer board members (four representing the majors, three the independent phonogram producers and two from the phonogram producer trade body RIAA) and nine performer board members (seven representing performers, one from the musicians’ union AFM and one from the singers’ union AFTRA). Both are excellent examples of democratic, fair and balanced governance.

For an analysis of the functions of CMOs and best practices, WIPO has produced the [WIPO Good Practice Toolkit for CMOs](#).

Collective management databases and the concept of an international database

The way national CMOs have evolved means each one has its own database, usually built up over many years, which requires constant updating. This is their most valuable asset; without it, they would be unable to license the correct licensees or pay out to the correct rights holders. Inevitably, CMOs have developed their databases using different systems and software, which are often incompatible with CMOs in other countries, making accurate reciprocal cross-border payments difficult. With the technological advances of database software systems, greater efficiency could be achieved if a global repertoire database were created that each CMO could access. Such a database would contain accurate information about each recording, the copyright owners in each territory, the author(s) who wrote the underlying musical work, publisher information, featured and non-featured performer identification, the International Standard Recording Code (ISRC), International Standard Musical Work Code (ISWC), country and studio of the recording, studio producer details, the duration of the recording and when it was first released, among other fields. Digital service providers (DSPs), in particular, lobbied hard for a global database as they needed simpler licensing structures and certainty of rights ownership, so they would know who to pay.

In 2009, a Global Repertoire Database (GRD) Working Group was established, to create a database for authors, publishers and authors' CMOs. It consisted of EMI Music Publishing, Universal Music Publishing, Apple, Amazon, Nokia, PRS for Music, Swedish CMO STIM and SACEM. Following a recommendations document in 2010, the group was expanded to include CISAC, the European Composer and Songwriter Alliance (ECSA), the International Confederation of Music Publishers (ICMP), Google and Omnifone. In 2013, it was announced that GRD would be managed by Deloitte Touche Tohmatsu, and would be headquartered in London with its operations center in Berlin with a launch date of 2015. Unfortunately, the project failed in 2014 when a number of CMOs withdrew participation and funding. There have been various initiatives since, around creating data standards and identification, so that information can at least be easily transferred internationally between rights holders and CMOs.

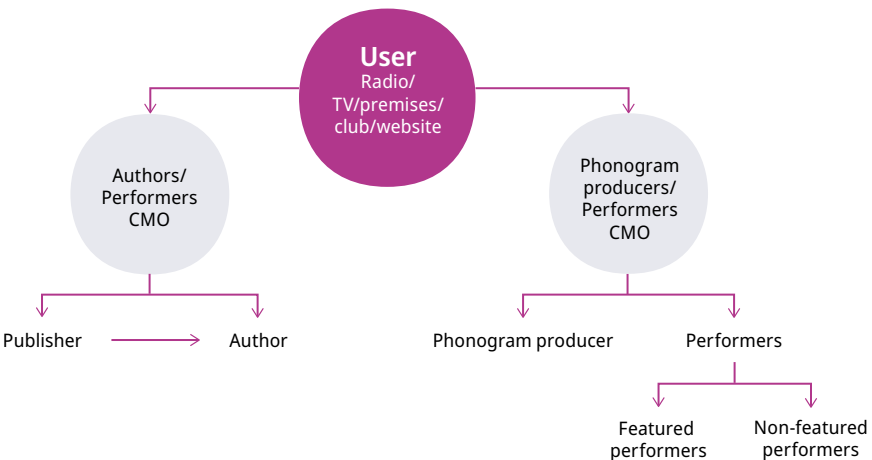
Since 2009, the European Commission has encouraged the creation of a pan-European database for music author rights in an attempt to help digital services obtain licenses more easily. This resulted in the establishment of two European authors and publishers collective management hubs, ICE (International Copyright Enterprise) and Armonia. ICE was formed using the combined databases and

functionality of PRS (United Kingdom), STIM (Sweden) and GEMA (Germany). Armonia combined the databases of SACEM (France), SIAE (Italy), SGAE (Spain), ARTISJUS (Hungary), SUISA (Switzerland), SPAUTORES (Portugal) and AKM (Austria).

On the performer and recording copyright owner side, the global organization for performer CMOs SCAPR is creating the centralized system VRDB2 to provide a global database for performers and recordings. PPL in the United Kingdom has been mandated by the IFPI and the Worldwide Independent Network (WIN), which represents independent phonogram producers national trade bodies, to create RDx, a global portal where CMOs can exchange recording and performer data accurately and more easily match and resolve conflicts. RDx uses Digital Data Exchange (DDEX) standards and will create greater efficiency and more accurate cross-border distribution.

The ideal future scenario would be for a combined authors, performers, publishers and phonogram producers' global database with harmonized software that would lead to more efficient, cost effective and accurate cross-border payments.

Figure 7 Roadmap for collective management



Source: Author

Figure 7 shows the basic roadmap for collective management when delivery is linear or non-interactive. If a user intends to use music, they will usually need to contact two CMOs, one representing author's rights and one representing the rights of performers and phonogram producers. In some countries there

are separate CMOs for phonogram producers and performers and in some countries, there are separate CMOs for featured and non-featured performers. In the United Kingdom the authors' CMO (PRS for Music) and the phonogram producer and performer CMO (PPL) have formed a joint venture for public performance licensing (excluding broadcasting) so that the user only has to get one public performance music license. The income for such combined licenses is then divided at the back end according to the various tariffs of each CMO.

Collective management organizations for authors

If an artist is a songwriter, composer, arranger or lyricist, it is important for them or their manager to research the best CMOs to join. Most authors, quite sensibly, join the appropriate CMO in their own country. In this way, they will be able to get together with the CMO for meetings and speak the same language, making misunderstandings less likely. A country's CMO will probably have reciprocal agreements with similar CMOs in other countries. For example, an Argentine author will probably register their works with SADAIC, the country's author public performance CMO. If the author's works are played on the radio in Germany, GEMA will pay through the public performance royalty to SADAIC, who will in turn pass it to the author's publisher and/or the author themselves.

Generally, there are two CMOs a music author will need to join:

1. A public performance and communication to the public CMO.
2. A mechanical copyright CMO.

Authors' public performance collective management organizations

The authors' public performance CMO, often referred to as a performing rights organization (PRO), will collect royalties whenever an author's work is played in public. This could be on radio or television, in stores and hairdressing salons, doctors' surgeries, restaurants, bars and clubs, at live events or from an online service; indeed, any place where members of the public can hear the music. Previously, most of the money collected came from radio and television, but that is shifting to income from streaming and other public performances; karaoke, for example, where members of the public are encouraged to sing lead vocals to backing tracks of well-known songs in clubs and bars, is increasingly important as a source of revenue.

With radio plays, authors' public performance CMOs monitor, as best they can, which works a station has broadcast. Large and national radio stations are often monitored comprehensively so every work they broadcast is logged and this information is passed on to the appropriate CMO. There are digital services such as Soundmouse and BMAT that a radio or television station may engage to gather accurate data. Occasionally, the CMO may carry out a separate independent audit, possibly using the same type of services, to ensure the information they are receiving is correct. Smaller radio stations may also be required to log and report all the works they broadcast, but sometimes it will be the CMO who has to do such monitoring and logging. For economic reasons, a CMO might only be able to monitor a small radio station for perhaps one day per month. The results are then extrapolated, assuming the works played on that day were played on all other days that month. If an author were lucky enough to have had their work played on the one day that was monitored by the CMO, they will then receive income as if the work were played on every day that month. If, however, the work was played on 20 days of that month but not on the particular day the CMO monitored, the author would receive nothing. It is hoped, with the advances in audio recognition technology and digital fingerprinting, that systems can be introduced in every country so that every work broadcast can be logged using electronic identifiers. The data can then automatically be sent to the appropriate CMO.

It is crucial an author and/or an author's manager ensure all the author's works are registered correctly with the appropriate CMO as soon as they are created. Traditionally, the musical composition for a song qualifies for 50 percent of the author's share and the lyrics for the remaining 50 percent. This is still relevant, though in many cases the musical elements are agreed to total more than 50 percent and the lyrics less. In modern songwriting, many authors might contribute to the final version of a particular work. Increased author collaboration is an upward trend, particularly on hit songs. In 2018, the top 25 most streamed works had an average 6.48 authors, with works such as Drake's "In My Feelings" having 16. The tendency is to include anyone who was in the room when the track was created on a small percentage, even engineers and studio producers. That way, if the record is a hit, it is less likely there will be litigation from those involved.

In all cases where there is more than one author, it is essential to draw up a simple one-page agreement, signed by each participant, verifying the percentage of the work attributed to each author. Such writing splits can be subjective and difficult to assess, but it is wise to be as accurate as possible. If not, and the work is successful, one of the writers may later decide to sue the others and that could prove costly. For example, the British band Procol Harum

released a recording in 1966 of "A Whiter Shade of Pale", which was hugely successful worldwide and still receives considerable radio play and public performance. In 2006, 40 years after the record was released, band member Matthew Fisher brought a legal action against Gary Brooker, another member of Procol Harum, claiming he had co-written the song but had never received any income due to not being included on the original registrations. The court decided Fisher had been one of the authors and awarded him appropriate compensation and costs. This is why accurate and honest author splits must be agreed as soon as possible after a work has been created. It would be prudent for the principal author to be inclusive and generous with such splits to avoid any future legal action. It is good practice for an author or their manager to seek perhaps annually, from the author's public performance CMO, a list of all the works currently on its database that are attributed to the author. This should show the percentages and publisher details of all the author's works. The author or manager should go over this carefully to make sure everything is correct and no works are missing.

This author cites a case of a CMO attributing the wrong percentage to one of his artist's works, a mistake that took more than five years to correct. Since the work in question was a hit across the world, it was also registered incorrectly in all the CMOs that had reciprocal agreements with the artist's national CMO. This resulted in confusion, probable reduced income for the author and years of work to correct.

In most countries, live performances by an artist also give rise to a public performance payment by the promoter or venue owner to the author/publisher, based on a percentage of box office ticket sales for the event. The promoter or venue owner is also obliged to obtain a list of the works performed by the artist or artists, together with publisher information (if known), the length of each work and the names of the author/s on a standard form or spreadsheet. This spreadsheet and the appropriate percentage of ticket sales payment is sent to the CMO, and distributed to the publishers and authors listed after the CMO has deducted its administration fee. If the performer is also the author of some or all of the works performed at a live performance, it is important they, or the manager, ensure the forms are completed correctly and either returned to the venue on the night or directly to the CMO, preferably both. The easiest way to do this is for the artist or manager to have all the works listed on a spreadsheet, together with information on the authors and publishers, and the approximate length of each work performed. This can be emailed to the venue and the CMO so the correct authors get paid. If this is not done, the artist (if they are also the author of some or all of the works) will lose out on a valuable income stream. Surprisingly, many performers and/or their

managers forget to do this. The larger the audience, the greater the income stream. If, for example, an artist or band were to support a popular artist or band at a large arena, and they wrote most of the works performed, the income could be many thousands of dollars per show.

The percentage of box office for live performances payable to the author's CMO varies considerably between countries. Generally, those with civil law jurisdictions tend to have higher percentages of box office ticket sales, which again emphasizes that the author is generally valued more highly in countries following a civil law system than a common law system. For example, in 2018 France and Argentina had the highest rates, with 12 percent of box office ticket sales going to the author's CMO for each live event, while the United States, with common law jurisdiction, has a variable rate of under 1 percent of box office going to the author/s of works played at live events.

Many author public performance CMOs will usually pay out 50 percent of the income direct to the author, and the remainder to the author's publisher. If the author has no publisher, the CMO will pay the entire sum to the author, after deducting its administration fees. This payment structure is beneficial to the author, as they will continue to receive income from the CMO even if they are unrecouped with the publisher (that is, the royalties payable from the publisher to the author have not exceeded the advances the author received from the publisher). In many countries there is only one author public performance CMO (GEMA in Germany, for instance) but in others there are two or more. In the United States, for example, there are four such CMOs: the American Association of Composers, Authors and Publishers (ASCAP), Broadcast Music, Incorporated (BMI), the Society of European Stage Authors and Composers (SESAC) and Global Music Rights (GMR). SESAC's name may have been appropriate in 1930 when it was set up to represent European authors but it is now a US-based author CMO. Be sure not to confuse SESAC with CISAC as they are both pronounced similarly. As already stated, CISAC is the global umbrella organization for music publisher and music author public performance CMOs (or PROs) based in Paris. CISAC also issues ISWCs as identifiers of works globally.

If the country where the author lives does not have an appropriate CMO, it may be possible to join a CMO in another territory.

Authors' mechanical income and mechanical copyright collective management organizations

Mechanicals are royalties payable to an author or the author's publisher when a work is used in a recording. The mechanical right is sometimes referred to as the reproduction right. For a phonogram producer to legally release a record they will need a mechanical license from each of the authors who wrote the underlying work in the recording. For physical products, such as vinyl and CDs the phonogram producer needs to obtain a mechanical license usually via the mechanical copyright CMO and pay this CMO for every record or download sold. The mechanical copyright CMO will then pay through to the relevant publisher/author.

When digital downloads came along the phonogram producers, rather than being distributors in their own right, suddenly became licensing companies licensing their rights to third-party download DSPs such as Amazon MP3 and iTunes. Rather than license the phonogram producer, who was now effectively a go-between between the publisher and the download service, publishers decided to license the download services directly via their CMOs, although in some countries (for example India and the United States) the licensing continued via the phonogram producer as it had done for physical sales. A download exploits both the public performance communication to the public right and the mechanical reproduction right in different proportions in different jurisdictions. For example, in some countries it is 75 percent mechanical and 25 percent public performance. The exception is the United States where a download is regarded as 100 percent mechanical with no public performance element. Later some European publishers started licensing digital service platforms directly (bypassing the CMOs) for Anglo-American repertoire. Anglo-American repertoire is usually defined as author repertoire that originates from Australia, Canada, Ireland, South Africa, United Kingdom and United States, the public performance of which is administered by the CMOs APRA (Australia), SOCAN (Canada), IMRO (Ireland), SAMRO (South Africa), PRS for Music (United Kingdom) and ASCAP, BMI, SESAC or GMR (United States).

For digital streaming (such as Apple Music or Spotify), the arrangements are similar although the splits between mechanicals and public performance are often different. Because a stream is again both a public performance and a reproduction, many jurisdictions split the rights in a stream as 50 percent public performance right and 50 percent mechanical right although some countries have different percentages. In France it is 75 percent mechanicals and 25 percent public performance, in Germany it is 33 percent mechanicals and 66 percent public performance, in the United Kingdom 50/50 and in the United

States in the region of 50/50. The DSP needs to obtain mechanical licenses either from the mechanical copyright CMO or directly from the publisher or author. This is why the mechanical CMO, Mechanical Licensing Collective (MLC), was formed in the United States. The streaming services knew who to pay on the recording side but, through no fault of their own, did not always have the necessary data about who all the authors and publishers were. They put the money in escrow (the use of a third party, which holds assets/funds before they are transferred from one party to another), ready to pay the authors, but in many cases simply didn't know who to pay. This resulted in several authors and publishers suing the streaming services for copyright infringement. With the statutory damages regime in the United States, services such as Spotify often had judgments issued against them for millions of dollars, which could eventually have put them out of business.

In some countries, one CMO collects both income from public performance licenses and income from mechanical licenses on behalf of authors. For example, JASRAC in Japan and GEMA in Germany collect both. In other countries, there are separate CMOs whose sole purpose is to issue mechanical licenses and collect mechanical income. In France, for example, SDRM is the CMO for mechanical rights and in the United Kingdom the MCPS. In the United States, some authors and publishers issue mechanical licenses and collect mechanical income directly from phonogram producers for physical product, without the involvement of a CMO, although mechanical CMO The Harry Fox Agency is used by many authors and publishers as an administrator.

In some countries, there is a compulsory license providing a fixed mechanical rate for physical sales and downloads that has to be paid and is not negotiable. For example, in the United Kingdom the rate is 8.25 percent of the published price to dealer (PPD), while in the United States and Canada it is fixed as a statutory rate or minimum statutory rate per track, which in 2021 in the United States was \$0.091 (9.1 cents) per track for works of up to 5 minutes and \$0.0175 (1.75 cents) per minute for tracks longer than 5 minutes (long song rate). So, if a track ran for 4 minutes 30 seconds, the mechanical statutory rate payable by the phonogram producer would be 9.1 cents per track for each record sold. If it ran for 6 minutes, the mechanical rate would be 10.5 cents (6 x 1.75 cents). Unfortunately for artists, this US rate is negotiable, and many phonogram producers arrange a statutory rate of 75 percent for any works written by the artist when they offer an artist a recording agreement. This author can cite one instance where he could obtain only 50 percent of statutory for a track to be included in a compilation album in the United States for one of his artists; if he did not accept this, the track would not be included.

This negotiable approach in the United States and Canada leads to so-called controlled composition clauses in recording and publishing agreements. Under such clauses, the artist will frequently have to accept that only 75 percent of the statutory mechanical rate will be received for works written or under the control of the artist. In publishing agreements, there will be a similar clause indemnifying the publisher if only a percentage lower than 100 percent of statutory is obtainable from the phonogram producer. Again, this author had an experience in the United States where two phonogram producers were competing to sign one of his artists. The negotiating strategy included asking whether either would pay 100 percent of the statutory rate on mechanicals from the first recording sold in the United States. In the end, one did agree to this, which, because the artist wrote most of his songs, resulted in far higher publishing income.

Phonogram producers will also try to fix the mechanical rate in the United States at the rate prevailing at the time of release. It is to the artist's advantage to get a floating rate (that is, an arrangement where the mechanical rate increases as and when the national minimum statutory rate increases). Another negotiating tactic used by phonogram producers in the United States is to try to limit the mechanicals payable on an album to no more than 10 or 11 tracks. If this clause is included in the agreement with the phonogram producer, the artist should give careful consideration before including more tracks. The international umbrella organization for mechanical rights CMOs is BIEM which is based in France and represents 61 CMOs in 58 countries.

In Europe and some other countries, most music publishers have bypassed the mechanical copyright CMOs, and license the streaming digital services directly for Anglo-American repertoire. In this way, they are not restricted by CMO regulations and may be able to achieve a better revenue split. The DSPs favor this approach, which is often quicker and easier. That said, publishers still have to involve the relevant performing rights CMO (or PRO), as they do not usually control the performing rights.

Related rights public performance in sound recordings collective management organizations

Under the 1961 Rome Convention and the 1996 WPPT, a single equitable remuneration should be paid by the user to the performers and phonogram producers when a phonogram is used for broadcasting or any communication to the public. This means performers and phonogram producers do not have an exclusive right, but rather, a right to remuneration when a phonogram is

broadcast or played in public. The term single is included to indicate users should have to pay only once for the right to use a sound recording, instead of having to pay the performers on the record and the phonogram producer separately. While most countries have interpreted equitable remuneration to mean that 50 percent of the income should go to the phonogram producer and 50 percent to the performer/s on the recording, it is up to individual WIPO member states in this instance to interpret equitable remuneration as they see fit.

In other words, national governments (or government approval of an industry agreement within the country) are free to establish that the single payment made by users can be shared in proportions other than 50/50 between the performers and phonogram producers. The word equitable is interpreted as fair rather than equal. As we have seen in the section on copyright and related rights, both the Rome Convention and the WPPT also contain provisions for member states to opt out of this right altogether by making a reservation. It is unfortunate for performers and phonogram producers that certain governments, including in some of the major markets such as Australia, China, India and United States, have decided to make use of this flexibility. It means that in countries where a full reservation is made, there is no remuneration right for performers and phonogram producers for the public performance of sound recordings. With the United States accounting for some 35 percent of the world music market, this represents a significant loss of compensation for performers and phonogram producers worldwide who have their recordings broadcast on terrestrial AM or FM radio there. As the related right in the public performance of sound recordings is usually a reciprocal right between countries, and based on criteria set by the Rome Convention and the WPPT, performers in the United States are sometimes unable to receive income when their recordings are broadcast in countries that do have the appropriate related right for the public performance of sound recordings, as they are deemed to be non-qualifying.

The United States has produced many performers who are exceptionally successful worldwide. For some radio stations in countries outside the United States, US performers account for up to 50 percent of all recordings broadcast. This means these performers are severely disadvantaged compared with their foreign counterparts. Performers based abroad who have success within the United States also suffer, but US performers are the biggest losers as they receive nothing when their recordings are broadcast on terrestrial radio at home, and nothing when they are played in some countries outside the United States, either terrestrially or digitally, if they are deemed to be non-qualifying.

The United States did introduce a related right in the public performance of sound recordings for digital satellite broadcasts and webcasting over the internet when it passed the Digital Performance Right in Sound Recordings Act of 1995 (DPRA). However, this did not cover analogue or digital broadcasts on free-to-air terrestrial radio, the largest music broadcasting sector. The CMO that collects digital webcasting and satellite income on behalf of performers and phonogram producers in the United States is Sound Exchange. It also distributes this digital income to foreign performers and phonogram producers. If a performer has a recording released or played on a webcast or satellite radio based in the United States, it is important they join Sound Exchange or instruct their national related rights CMO or related rights agent to collect from Sound Exchange on their behalf.

The 2017 Fair Play Fair Pay act, the 2019 AM-FM act and the 2021 American Music Fairness act all campaigned to establish a public performance right for terrestrial radio in the United States. The first two were not successful although some elements of the Fair Play Fair Pay act were incorporated into the successful Music Modernization act which became law in the United States in 2018. The American Music Fairness act, which addressed some of the criticisms levelled at the Fair Play Fair Pay act and the AM-FM act, was re-introduced to the Senate in 2023.

If such an act was to pass in the United States it would substantially benefit performers and phonogram producers worldwide, and create a level playing field at home for competition between free-to-air radio broadcasters and satellite broadcasters and webcasters. With the powerful US broadcasting lobby unenthusiastic this is proving difficult. It is to be hoped those countries that do not have a public performance right in sound recordings will establish such a right, and that effective CMOs are set up worldwide, to enable the free flow of income across international borders to the appropriate right holders.

Some countries have a joint related rights CMO that collects income for both phonogram producers and performers, including LSG (Austria), Gramex (Denmark), GVL (Germany), SOCINPRO (Brazil), PPL (United Kingdom) and SENA (Netherlands). Others have related rights collection societies that collect exclusively for phonogram producers (such as PPCA in Australia, PPM in Malaysia, SCPP and SPPF in France) and others exclusively for performers (Adami and SPEDIDAM in France, GEIDANKYO in Japan for example). In some countries there is one CMO for phonogram producers, one for performers and a joint third CMO which handles the licensing and collection of income for both. Although reciprocal agreements should exist between countries, there have been challenges in achieving this, due partly to the different ways CMOs have developed and to the fact that, while author CMOs have had CISAC as their

international body since 1926, the equivalent for performers, SCAPR, was only formalized in 2001.

For example, some performer-only CMOs have refused to pay out to foreign performers where there are several related rights CMOs within their country, resulting in the income reverting to domestic performers. In the United Kingdom, remuneration is allocated to all performers, irrespective of whether they or the recordings on which they perform qualify for equitable remuneration. The income allocated to non-qualifying performers (mostly US and Australian performers) is then paid to the UK phonogram producer copyright owner. US (and other non-qualifying) performers should try to get a provision in their recording agreements whereby their share of UK equitable remuneration is paid through to them in the United States by their phonogram producer. If something like the American Music Fairness act succeeds US performers and recordings would qualify automatically for the allocated share of equitable remuneration in the United Kingdom and elsewhere, and non-US performers whose records are played on US terrestrial radio would receive a share of income generated there. So performers everywhere should support such US legislation.

US performers can become qualifying performers by recording in a qualifying territory. For example, if such a performer were to record in Canada or Sweden, or any country that has incorporated the Rome Convention and/or the WPPT (with no reservations), they would become qualifying performers and receive public performance income globally. By recording in a qualifying country outside the United States, many US managers and artists have opened a substantial new income stream.

There is clearly some way to go in streamlining and harmonizing related rights CMOs and providing performers and phonogram producers with an efficient reciprocal transfer of income across borders. For example, neither the United States nor Japan, the two largest music markets in the world, has a public performance right for sound recordings when music is played in public places such as stores, clubs and shopping malls, while authors do have this right in those countries.

The issues concerning related rights in the public performance of sound recordings for performers start in the recording studio process. Registering exactly who performed on a recording is essential, as well as accurately reporting this to the phonogram producer and the appropriate related rights CMO. It has been difficult establishing who the performers were on old recordings that are still receiving airplay. Performers on recordings created

before performer public performance rights were established had no incentive to log who played on what. Many phonogram producers make it a provision in the studio producer contract that the producer must submit accurate data of who played or sang on a recording. Some, such as Universal Music, make a provision in the producer agreement that the producer will not get paid until this information is provided.

Exciting technical developments are solving the problem of gathering accurate data. For example, the Session (formerly Auddly) and Avid partnership has developed a system based on a Wi-Fi connection between an app on a performer's mobile phone and the Avid software that automatically identifies the performer when they walk into a recording studio.

It is also crucial that a performer informs the CMO if their address or bank details change. Some CMOs will only pay by wire transfer directly into a bank account. All related rights CMOs experience problems paying out to performers they cannot trace.

There are essentially three types of related rights income for the public performance of sound recordings, as follows:

1. Income when a recording is broadcast or communicated to the public by cable, satellite or the internet.
2. Income from other public performances.
3. Income from private copying levies.

The first category is the income paid out by broadcasters, cablecasters, satellite broadcasters and webcasters when a recording is played on their station or network. The second is all other uses, such as when a recording is played, among other places, in a hairdressing salon, shop, restaurant, factory, discotheque, club or at a sports event. The third category is from levies covering the public's copying of music in the domestic environment for personal use as discussed in the section on home-copying levies below.

If an artist has their own record label or co-owns the label with their manager, they can collect the performer's public performance in sound recordings income and the phonogram producer's income. In this case, it is important for all the artist's recordings to be registered correctly with the related rights CMO, both as a performer and as a phonogram producer.

Featured and non-featured performers

There are two distinct types of performers on a recording. The principal performers are known as featured performers or featured artists. They are the artists credited as being the main performer(s) on a recording who are contracted to a phonogram producer or who have their own label. Justin Bieber, Ed Sheeran, Taylor Swift, Andrea Bocelli, BTS, Beyoncé, Radiohead and Drake are all featured performers. If a featured performer brings in extra musicians or singers to augment a recording, these session performers are referred to as non-featured performers.

If equitable remuneration in a country is defined as a percentage to the phonogram producer and a percentage to the performers who played on a recording (often 50/50 but different percentages apply in some countries), it raises questions about how the performers' percentage is shared between the featured and non-featured performers. This varies from country to country.

In the United States, 95 percent of the performer money collected by Sound Exchange goes to the featured performers, and only 5 percent to non-featured performers via the musicians' unions AFofM (2.5 percent to musicians) and AFTRA (2.5 percent to singers). In the United Kingdom, between 65 percent and 100 percent of the performer share goes to featured performers and up to 35 percent to non-featured, depending on how many non-featured performers (if any) performed on the recording. If there were no non-featured performers on a recording, then the featured performer(s) would receive 100 percent. In France, related rights performer income is split at source, 50 percent to featured performers (which goes to Adami, the featured performer CMO) and 50 percent to non-featured performers (which goes to SPEDIDAM, the mainly non-featured performer CMO). Other countries operate on a points system, where points are awarded to a performance rather than dividing the revenue at track level, and there is not an exact split between featured and non-featured performers; for instance, one point might be awarded to each non-featured player but eight points to a featured performer. The total number of points is then calculated over a year. This system often favors non-featured performers, particularly if there is a large number of non-featured performers on a track, such as would be the case with an orchestra. If it was a 90-piece orchestra, each member of the orchestra might be given one point and the featured artist perhaps eight.

In some countries, studio producers can also qualify as non-featured performers, if they directed the recording in the recording studio in the way a conductor would direct an orchestra. A conductor of an orchestra may qualify as a non-featured performer or even a featured performer in some countries,

even though they are making no audible sound. Rather, they are directing how the musicians play, which has a direct effect on a sound recording. If a studio producer directs a band or an artist in the studio, they may qualify in the same way as a conductor in some countries, although they will not receive income from countries who do not recognize the right. If a studio producer makes any audible sound on a recording, then they would qualify as a non-featured performer in the same way as any other musician or singer would.

Identifiers

The international identifier for an author's work is the International Standard Work Code (ISWC). ISWC identifiers are issued by CISAC, the international umbrella organization for author CMOs. Each work must have an ISWC code so it can be identified by all parties in the music value chain. It should be noted that CISAC will issue an ISWC only when all the authors on a work have been identified and the splits agreed and confirmed, with the percentages adding up to 100 percent. Similarly, the international identifier for a recording or a music video is the International Standard Recording Code (ISRC). These identifiers are issued by national ISRC agencies in each country. Due to works often being covered by more than one artist and there often being more than one recorded version, each with its own ISRC, one ISWC could be linked to multiple ISRCs.

In the Digital Age, identifiers have never been more important. With an estimated 60,000 recordings and works created every day the industry risks being drowned in a sea of data. That is why clear identification of every work and every recording is so important. The goal is to link the ISRC and ISWC for every recording so that both the recording and the underlying musical work can be clearly connected. Several CMOs, hubs and businesses are working towards this, including SACEM, ICE (owned by GEMA, PRS and STIM), NMP (owned by PRS and the Nordic CMOs), Dataclef (owned by SOCAN) and MINT (owned by SUIISA and SESAC).

In the United Kingdom, both PPL and PRS have added facilities to their registration portals to allow access to the other's database and for the links to be made. In the United States, the Harry Fox Agency and MRI (Music Reports) also do matching, while in Latin America, music outsourcing service BackOffice is working on the problem. BackOffice provides administration services in more than 75 countries for some 30 author CMOs, many major and independent publishers, and over 30 DSPs.

There are other important music identifiers. Authors (composers, lyricists, arrangers, songwriters) and publishers have the Interested Party Information (IPI) identifier, where they are assigned a unique identifying number. The IPI system contains the names of all owners or holders of rights in copyright-protected works and those in the public domain.

On the performer side, it is important each performer can be clearly identified. The most widely used identifier is the IPN (International Performer Number). IPNs are registered and held in the International Performer Database (IPD), which is operated by SCAPR, the global body for performer CMOs. IPNs are used by most CMOs globally to uniquely identify performers and can only be assigned by a CMO that requires evidence and undertakes de-duplication processes before assigning a new IPN. At the time of writing, the ability to search and verify a performer's IPN is being opened up beyond the community of SCAPR CMOs. In the United States Sound Exchange and The Fund (AFofM and SAG-AFTRA Intellectual Property Rights Distribution Fund) pulled out of SCAPR in 2018 and favor switching to the International Standard Name Identifier (ISNI), which is also preferred by several DSPs, including YouTube. Only time will tell which of these will prevail.

The ISNI system has a complication in that many performers have the same name, which could lead to royalties being attributed to the wrong person. Also, many performers use a pseudonym rather than their real name, so in effect have two names. The ISNI system has more of a focus on providing credit type information, in contrast with the IPN, which, because of its necessary focus on making payments, assigns one unique identifier to each distinct human being and tracks their aliases within that.

One of the biggest issues for performer CMOs is creating accurate and clean data on which performers played on a specific recording. Data creation apps such as Session, Sound Credit and The Creative Passport are working with CMOs to embed the IPN number of each performer at the point of recording in the recording studio. This information can then be sent directly to the relevant phonogram producer or CMO. A Recording Information Notification (RIN) message format has been developed by DDEX that can be used to send information captured in the recording studio directly to the relevant phonogram producer. DDEX is dedicated to standardizing music metadata, and much of the exchange of information between CMOs, phonogram producers and DSPs is done using DDEX standards. This also ties in with IFPI and WIN's Repertoire Data Exchange (RDx) service that provides an easy, accurate way for phonogram producers to get the data about their recordings out to CMOs worldwide, again using DDEX message standards.

The ultimate goal is to link ISRC and ISWC codes and to develop a global set of standards and identifiers that drive efficiency, clean data and accurate distribution of payments. Many national CMOs have developed their own identifiers that are not compatible with data systems in other countries. With digital music being international it is essential that CMOs and the wider music industry work together to harmonize identifiers and data standards.

Private copying levies

Private copying levies, sometimes called home copying levies, are a further income stream for authors, performers, publishers and phonogram producers in some countries. These are levies applied to blank recording media such as recordable CDs (CDRs) and recordable DVDs, and also to hardware and storage devices such as DVD recorders, external hard drives, flash (USB) drives, game consoles, personal computers, tablets, smartphones, smartwatches and even cloud storage. They are intended to compensate the right holders for consumers reproducing copy-protected material in their homes. The levies collected can flow to a CMO which could be a stand-alone private copying levy CMO, or an existing authors or related rights CMO, after which the income is distributed to the various right holders.

Private copying is usually defined as an exception to the author, performer or phonogram producer's exclusive right of authorizing the reproduction of their works or recordings, which allows a person to make a copy of a work/recording for personal use. Copying for commercial purposes is normally prohibited. To comply with the three-step test for exceptions, countries usually stipulate that if consumers are to enjoy this exception, the rights holders must be fairly compensated for their loss of income due to private copying. Countries can be grouped into four categories. In the first are countries without a private copying exception in their copyright law, which means it would be illegal for a member of the public to copy a track from a CD to their personal computer, for example, which could result in prosecution for copyright infringement. The second category do have the exception in their law but not a remuneration system. Countries in the third category have the exception in law and a remuneration system but no collection and distribution mechanisms. In the fourth category, countries have the exception in law with remuneration and functioning collection and distribution systems.

Income from private copying levies can be split several ways, which vary from country to country. Some allocate all the money to the various stakeholders under certain percentages, others use a percentage of all money collected for

social or cultural purposes and distribute the remainder to the stakeholders. These social or cultural percentages may include welfare provisions for musicians, or facilities and cultural schemes to foster developing authors and performers. Social and cultural percentages can range from 10 percent to 100 percent. For example, in Paraguay and Malawi the allocation is 10 percent, Japan, Spain and Russian Federation 20 percent, France 25 percent, Denmark 33 percent, Burkina Faso 50 percent and Turkey 100 percent.

The levies themselves can be a portion of the wholesale/import price or the retail price for a certain category of recording media or hardware, or a fixed tariff per unit sold, which is reviewed from time to time. Where there are percentages, these can be anywhere between 0.1 percent and 10 percent.

CISAC has produced a [private copying global report](#) covering 194 countries, available as a free download at the CISAC website. It found the following:

- Countries with no private copying exception	40
- Africa	6
- North and South America (including the Caribbean)	12
- Asia	14
- Europe	2
- Oceania (including Australasia and islands in the Pacific)	6
- Countries with private copying exception but no remuneration system	75
- Africa	22
- North and South America	18
- Asia	24
- Europe	3
- Oceania	8
- Countries with private copying exception and a remuneration system but no collection or distribution mechanisms	35
- Africa	17
- North and South America	1
- Asia	6
- Europe	11
- Oceania	0

– Countries with private copying exception, remuneration, collection and distribution mechanisms	44
– Africa	9
– North and South America	4
– Asia	2
– Europe	29
– Oceania	0

The first country to introduce a private copying exception was Germany, in 1966. By 2021, 29 European countries, including 21 EU member states, had a fully functioning private copying system that generated more than \$1.2 billion, accounting for some 95 percent of global private copying revenue. It is notable the United Kingdom, which despite being the third largest music market in the world has no such exception in its copyright law.

The second biggest continent for private copying revenues is Africa, with more than \$24 million collected in 2020, most of which came from Algeria. Collective management and CMOs are still at an early stage of development across most of Africa, though many countries are seeing that private copying levies can be an effective driver of creative economy growth.

Nine African countries (Algeria, Botswana, Burkina Faso, Cabo Verde, Ghana, Kenya, Malawi, Morocco and Tunisia) have functioning collection and distribution systems. Malawi, which started effectively collecting private copy remuneration in 2019, is an example of how a coordinated campaign can bring about legislative change and sharply increased income for creators. An initiative to expand and harmonize implementation of private copying remuneration has been proposed by the West African Economic and Monetary Union (UEMOA) and the Economic Community of West African States (ECOWAS). Nigeria is a member of ECOWAS and with its strong audiovisual sector, has enormous potential if it can establish a functioning private copying regime.

Using Algeria as an example, the levy revenues split is 30 percent for social and cultural purposes, 30 percent for authors, 20 percent for performers and 20 percent for phonogram producers (audio and audiovisual). Levies are collected and distributed by the CMO ONDA.

Authors and performers in countries where there is no collection or distribution of private copying levies may still be able to receive income from countries where levies are being distributed, via reciprocal agreements between each country's CMOs and the concept of national treatment.

There is a school of thought critical of the concept of private copying levies. For example, if someone purchased a blank CDR and used it to store personal holiday photographs, why should they pay a levy, the proceeds of which go to music authors, performers, publishers and phonogram producers? Many in the music industry would counter this by saying that private copying levies are rough justice, but it is far better to have that than no justice at all.

WIPO produced the International Survey on Private Copying – Law and Practice, which can be downloaded at the [WIPO website](https://www.wipo.int/publications/en/details.jsp?id=4183).

<https://www.wipo.int/publications/en/details.jsp?id=4183>

8 Artist development and artist management

Choosing a name

One of the first decisions an artist must make is the name by which they wish to be known. If the artist is a solo performer, or one who wants to hire other musicians to accompany them, they may choose to use their own real name. Alternatively, they may wish to make up a new stage name; for example, Elton John's real name is Reginald Dwight.

If the artist is a band, the name needs to be carefully chosen. It is best to opt for an unusual name to avoid any confusion with existing artists and bands.

An online search is a good place to start. There have been many cases where bands have had to change their name or contest it in court after another band with the same name came to light. For example, in the 1980s successful British band Yazoo discovered there was already a band with the same name in the United States. It swapped its name to Yaz, but only for the United States, which served to avoid any legal action against the band in that territory, though it did lead to considerable confusion globally.

If finances allow, it is a good idea to trademark the artist or band name as soon as possible, at least in the country of residence. This name can then be trademark-registered in other countries, and perhaps worldwide, as the artist or band becomes more successful (see section on trademarks in chapter 4).

Artist management

As soon as an author or performer, or an artist who is both author and performer, starts to become popular, they will probably need to engage a manager. A manager is someone who will look after the business side of the artist's career and liaise with all other parties involved in contributing to their commercial success.

Commerce and art do not always sit happily together, and it is the manager's job to develop and monitor that difficult interface and make it work. Managers are the only group of people in the music business who have to know every aspect of the industry and who does what and why. They are the ones who have to make the rules of copyright function on a daily basis, grapple with rapid developments in technology and make sure, as far as possible, the artist is paid correctly.

Artists seeking management

The artist will usually have to manage themselves in the early days, until they reach a point where they need outside help. Alternatively, it may be that a friend or relative takes on the management role at this early stage. From the beginning, an artist needs to create a fan base. A fan base is a database of people who are interested in the artist and wish to find out more about them such as where and when they are performing and when they are releasing recordings. If a phonogram producer comes to see an artist play live and the venue is full, the artist stands a much better chance of being offered a recording contract, if that is their aim. Phonogram producers want to sell as many records as possible. If they see an artist already has a substantial and enthusiastic fan base, they will be reassured there is a market for the artist's recordings. At the first shows in small venues, it's important that someone with communication skills needs to be out in the audience with a clipboard, or better still, a computer tablet, talking to people and gathering email addresses (see chapter 20).

When things start building, the artist should consider engaging a manager, but where do they find the right one? Having no manager is preferable to having a bad one, but a good, honest, hard-working and connected manager can make the difference between success and failure. A good place to start for the artist is to find out who manages their own favorite artists, searching online or looking at credits on their recordings. There are also lists of managers and their contact details in publications such as *Pollstar* and *Billboard*. It would also be advisable to contact music managers' forums (MMFs) around the world who usually have

lists of managers. If an artist already has a music lawyer or accountant, these professionals can sometimes recommend a suitable manager, although it is important to meet several candidates if possible. Another approach is to ask a family member or friend who has good entrepreneurial and administrative skills to be the manager. If this route is taken, the relative or friend should be prepared to learn the complexities of the business, and never take their position for granted.

In building a career, more and more artists are doing everything themselves and will wait for managers to come calling. Social media statistics and other metrics are available for anyone to see. Good managers look at the metrics and will contact artists if they notice genuine spikes, rapid fan base expansion or good attendance at live shows.

A good manager should be:

- honest and trustworthy
- an enabler (able to create opportunities the artist may not be able to achieve on their own)
- a good administrator (keeping accurate, up-to-date financial records and effective in ensuring income streams are maximized and the artist is paid correctly)
- a good communicator (relate well to other people and be good at networking)
- a good negotiator
- a problem-solver
- a lover of the artist's music.

Problem-solving is one of the biggest challenges. When there is an issue that needs solving a manager should never give up until perhaps all possibilities have been exhausted. For example, in his capacity as manager, the author of this book was in 2012 faced with a seemingly impossible problem when an artist's work visa for the United States had been refused some two weeks prior to a major US tour. It is impossible to insure against a visa application being rejected, so both manager and artist were staring at a huge financial loss if they were forced to cancel, not to mention the losses that would be suffered by the US promoters. The paperwork from the US embassy said the visa would be considered again at some point within the next 90 days. The artist had been granted US visas many times in the past and had no criminal record. The situation had possibly arisen due to someone with a similar name being on the Department of Homeland Security's watchlist. Faced with this potentially disastrous situation, the manager found a number from a Google search and cold called a senior US senator in

Washington DC. Fortuitously, everyone in the senator's office seemed to be fans which was a great first step. The senator made a call to the then US Secretary of State, Hillary Clinton, who fixed the problem within a few hours. The passport with visa arrived the morning the artist and crew were due to fly out. A seemingly impossible problem had been solved by calmly taking the situation one step at a time and having a good amount of luck too.

Managers seeking artists

If someone wants to become a manager and they have good communication, administrative, networking, business and negotiating skills, how do they find an artist to work with? The potential manager must first understand how the music industry works, by reading publications and books, or taking educational courses. No matter how experienced the manager becomes, it is essential to update and improve their knowledge by participating in training courses, keeping up to date with publications or obtaining information online.

Successful networking is the next important step. This entails getting to know as many people in the industry as possible, and maintaining these professional or social contacts, including with phonogram producers, publishers, booking agents, promoters, journalists, film and advertising people, digital marketing people and CMOs.

Knowing the right people will help a manager open doors further down the road. Such relationships can often result in recommendations from a phonogram producer, publisher, lawyer or accountant to an artist on the manager's behalf. In the modern era, many managers put too much emphasis on email and text. The best advice for an up-and-coming manager is to get on the phone, or better still, meet in person or communicate using video conferencing—maybe the one good thing that developed during the COVID-19 pandemic. With video conferencing now the norm, services such as Zoom, Google Meet and Microsoft Teams, all of which have a high-quality free version, have transformed communication.

Another way to find an artist is for the manager to visit clubs and small venues and to trust their own judgment. Probably the most important thing is that the manager loves the artist's music and gets on well with the artist or band on a personal level. Genuine enthusiasm is infectious and effective in moving an artist forward.

One way for a manager to learn more about artist management is to join one of the MMFs. These organizations are mainly concerned with artist rights but

also offer workshops and information for self-managed artists and managers. There are MMFs in Australia, Belgium, Canada, Chile, Denmark, Finland, France, Germany, Ireland, Netherlands, New Zealand, Norway, Poland, South Africa, Sweden, United Kingdom and United States. There are two international umbrella organizations for managers: the European Music Managers Alliance (EMMA), which also has associate manager organizations outside Europe, and the International Music Managers Forum (IMMF).

Short-term letter of agreement

If a manager or would-be manager has found an artist they wish to manage and the artist wishes to engage the manager, it is important to mutually agree the way the management relationship will work. After the initial meetings and discussions, it is sensible for the artist and the manager to put something down in writing to cover a temporary trial period. This will help gauge whether the two sides work well together (see annex A for an example of a simple temporary letter of engagement). It is usual for such a short-term agreement to have a maximum term of six months, but it could be as little as three months. When the term of this temporary agreement expires, if artist and manager wish to continue with the relationship, the manager or the manager's lawyer will need to present the artist with a long-form agreement (see annex B).

Long-form artist management agreements

A long-form artist management agreement contains more detail as to how the relationship will work in the longer term. The manager and artist could also consider alternative ways of working together, such as forming a company or partnership, wherein they are directors or partners.

It is best to think of the longer-term contract as a kind of marriage; both sides getting on is essential. The long-form artist management agreement should be the only time in the artist's career in which the artist and the manager sit on opposite sides of the table. Thereafter, they should work together as a team, success being the common goal. When an agreement is reached, both sides should feel reasonably comfortable with it. If one side is happy and the other unhappy, it will not have achieved the balance needed for a good working arrangement.

The artist/manager relationship must be based on trust and regular discussion on all the issues. It is important the artist is told as much as possible, both

the good news and bad, at the appropriate time (for instance, it is not a good idea for a manager to deliver bad news just before the artist goes on stage). The agreement itself should clearly lay down the ground rules, though there will always be unusual situations that need discussion and should be resolved within a spirit of common sense and compromise by all concerned. If there are any special arrangements made, they should preferably be made in writing and signed by both parties. From the manager's point of view, it is important the conditions in the agreement fall broadly in line with industry norms in the country of residence and are not unreasonable. If the contract as a whole is too harsh, a court may take the view it is in restraint of trade; in other words, the contract is unduly restrictive from the artist's point of view.

Both manager and artist should understand that time is valuable. The manager's expert advice, while not charged at an hourly rate as with lawyers and accountants, clearly has substantial value. If the manager is investing large amounts of time and/or money, they need to be compensated for taking this risk in a way that is reflected in the commission structures. Ultimately, the most contentious issues in these agreements are likely to be the post-term commission arrangements and touring income commission arrangements. It is important for both manager and artist that a fair workable agreement is achieved in these areas.

A manager must try to provide high-quality services to the artist. It is a better idea for managers to focus on one or two artists rather than represent too many and spread themselves too thin, unless their business has sufficient full-time staff to adequately administer a larger number of artists. Before drafting a long-form artist management agreement, it is a good idea to draw up a one-page heads of agreement to establish the main points. Some of the factors that have to be decided are as follows:

1. Term (how long will the agreement last).
2. Territory (will it be worldwide or for one/several countries).
3. Commission rate (usually from 15 percent to 20 percent but can be between 10 percent and 50 percent).
4. Commission rate for touring income (lower than commission rate).
5. Commission term (term plus a post-term period).
6. Commissionable income (what income is commissionable and what is not).
7. Scope of the agreement (entertainment industry as a whole or just music).
8. Manager's duties.
9. Artist's duties.
10. Manager's allowable expenses.

The manager and the artist should follow the standard industry practice in the country in which they are based. For example, in many countries the following types of income are not generally commissionable by the manager:

- Recording costs (sums provided by phonogram producer for making recordings).
- Video costs (sums provided by phonogram producer for making promotional videos).
- Tour support (sums provided by phonogram producer to cover losses on a tour).

The importance of independent legal advice

With all these agreements, the artist and the manager must have separate independent legal advice, preferably from a lawyer specializing in the music business or one who has experience of music contracts. If the artist does not receive independent advice, the contract will be considerably weakened, with the manager open to a charge of undue influence. In some countries, such specialized lawyers do not exist and in these instances, any independent advice is better than none.

If it is financially viable, the artist and the manager could consider using separate lawyers in a country where such specialization does exist. In such a case, it may well be that the contract would be governed by the law of the country in which the specialist lawyers work. Another advantage is that the foreign specialist lawyers may be able to assist the manager and the artist with opportunities in the country in which the lawyers are based. In making this decision, both manager and artist should decide where they think the music will find the biggest audience, and consider engaging lawyers there. By searching music business lawyer plus the country of interest online, it should be easy to find the right specialists.

When an artist is starting out, there is usually little money available, and the prospect of incurring substantial legal fees can be daunting. Most lawyers are aware of this and will often either charge a low fee or postpone payment until a recording or publishing advance is secured, in the hope that work will be forthcoming in the future. Sometimes, the manager will be prepared to pay the artist's legal fees on the basis that reimbursement will be forthcoming when income starts to flow. In either case, it is important the artist and the manager obtain a quote from their respective lawyers before work commences. Using different lawyers is essential. If the artist is a member of a musicians' union,

it can sometimes provide legal advice free of charge or for a comparatively low fee. Visit the [Fédération Internationale des Musiciens website](#) for further information on musicians' unions worldwide.

The process of an initial verbal agreement, followed by a short-term trial period agreement and then a long-form agreement is a fair and reasonable way to proceed. Many agreements have failed due to a manager being too demanding in the initial stages, perhaps by insisting a full long-form management agreement is signed before starting work. An artist's lawyer may well advise the artist against this hasty and perhaps heavy-handed approach, which could create doubts about the suitability and possibly the commitment of the manager. Negotiations need to be handled sensitively and diplomatically so both artist and manager maintain their enthusiasm for moving forward. It can be traumatic for the artist to have just met a manager only to be thrown into hard negotiations right at the beginning.

Verbal agreements

Some high-level managers operate using verbal or handshake agreements and seem to make them work. They may be so confident in their own abilities, they feel secure the artist will not be tempted to go elsewhere. In the United Kingdom and some other countries, verbal agreements for services such as an artist management agreement are enforceable by law, whereas in the United States they have to be in writing.

The problem with a verbal agreement is that while it may work when things are going well, it can prove problematic if there is a dispute. Then, it can be one person's word against another's, especially if there were no witnesses to the verbal agreement. It is advisable, if possible, to have reliable witnesses and to try to cover as many of the issues as clearly and precisely as possible, such as term, commission rates, what is commissionable, post-term commission arrangements, touring commission rates and reimbursable expenses.

Another advantage of a verbal agreement is that it is more likely to be acceptable to the artist, at least in the initial stages, as they will not feel quite so committed. In general, even if the agreement is verbal at the beginning, it is better to have a short-term letter of agreement or a long-form agreement in writing as soon as is practicable. This allows both sides to know, as clearly as possible, their rights and obligations in a way that does not damage the spirit of the relationship.

Legal limitations and implied terms for verbal contracts

A court may impose certain legal limitations on a relationship between an artist and a manager if there is a dispute and where there is no written agreement. Some of the implied terms a court might impose are as follows:

1. The manager will not allow a conflict of interest to arise with the artist.
2. The manager will represent the artist with fiduciary care (that is, the manager will diligently and honestly represent the artist and not misuse confidential information regarding them or misrepresent them in such a way as to cause them damage).
3. The manager will keep accurate books of account regarding an artist's income and expenditure, together with all bank statements, invoices and receipts, among other things.

Alternative agreements

The problem with traditional artist management agreements from the manager's point of view is that they are service agreements or agency agreements, with no intellectual property owned by the manager. They are therefore fairly weak, with the manager vulnerable to being dismissed. If the relationship breaks down, the only recourse the manager has is either to come to a settlement with the artist or to sue for damages. No court will ever force an artist to continue working with a manager if the relationship has broken down. Rather they will award the aggrieved party damages based on the situation and evidence presented. There is therefore a tendency for managers to look to other forms of agreements with the artist that involve some intellectual property rights, such as production agreements and publishing agreements.

Production and publishing agreements as alternatives to management agreements

There are two ways in which a manager can become a licensee or co-owner of the copyright or related rights created by the artist, as follows:

1. Production agreements (where the manager pays for and licenses or co-owns the artist's recordings for a period of years).
2. Publishing agreements (where the manager acts as publisher and licenses or co-owns the copyright in the artist's songwriting/compositions for a number of years).

The manager may agree with the artist to fill both roles and enter two separate agreements: as a production company and as a publisher. If the manager becomes the production company and/or publisher it is essential they do not double-dip and apply management commission in both areas. The manager could, however, have a third management agreement limited to live work and other income such as merchandising, sponsorship and branding. Provided the other work was not recording (making, distributing, selling or streaming recordings) or publishing (exploiting works), management commission could be taken. In some countries, such an agreement may be considered a conflict of interest and be illegal, so it is essential that proper legal advice is taken before proceeding down this route.

Other business models are being developed where the manager and the artist form a corporation and the manager is appointed managing director and/or chief executive officer (CEO). The artist and the manager will be directors and shareholders. In this model, all copyrights are owned by the corporation and income is split according to the shareholders' agreement. Another possibility is that the manager and the artist could form a partnership, administered by the manager, where the copyrights are owned by the partnership.

In the production agreement business model, the manager may cease to be the manager of the artist's recording career in title but provide management services without commission. The manager becomes the production company. The difficulty is that the manager has to find the money to make an album, which can be a high-risk investment. Production agreements are typically 50/50 to 70/30 in the artist's favor. The production company makes the album and then licenses it to phonogram producers or distributors around the world. The recording costs are first deducted from any incoming advances and sales or streaming income, together with any other allowable expenses, and the net is split between the production company and the artist, according to the production agreement.

The advantage to the artist of a production company agreement is that copyright in the recording will often be owned for a shorter period than would be the case with a direct signing to a third-party phonogram producer. A phonogram producer will often insist it owns the rights in the recording for life of copyright, which currently varies from 50 to as much as 150 years from first release, depending on the country in which it was recorded. The term in a production company agreement might be for 10 years. On termination, the rights in the recordings would revert to the artist (provided perhaps that the album costs have been recouped), which is attractive for the artist. In this way the production company can only license the recordings for 10 years to another phonogram

producer or distributor, as those are the only rights it owns. This works to the artist's advantage. Also, although the artist must split the royalties with the production company, the licensee phonogram producer, because it does not have to pay recording costs, will generally pay a higher royalty to a production company than to an artist signing directly. The licensee phonogram producer knows exactly what it is getting, as the first album at least is usually finished when it is licensed, minimizing the risk and saving A&R (artist and repertoire) costs. The other significant advantage for the artist who signs to a production company is that it can protect the artist from unreasonable demands from the licensee phonogram producer and provide another tier of support in every area. In some cases, this could be the difference between success and failure (see chapter 12). If the manager takes this route (as a production company and/or publisher) they may also provide management services, albeit without charging the artist any commission. The artist would then be free to engage another manager under a traditional management agreement if they so wish.

If the artist enters into a publishing agreement with the manager, it may be possible for the term of the publishing agreement to be for the duration of the management agreement plus, for example, 10 years. If the publishing splits were 75/25 at source in the country of residence and 80/20 on receipts outside the country of residence, with no management commission payable, this could give the artist a net financial gain in percentage terms over traditional management arrangements and the manager greater security (that is, if an artist were to enter into a traditional 75 percent at source deal with a major publisher, a manager would expect to receive commission at perhaps 20 percent, leaving in effect the artist with 60 percent).

If the manager sets up a publishing company, the net pay-through to the artist would need to be higher than 60 percent at source for the artist to receive a higher overall percentage. Also, advances from third parties can be paid through to the artist if received by the manager's publishing company, provided they are identifiable as advances for the artist's works. Another advantage for the artist of this arrangement is that royalties are likely to be paid through more quickly than would be the case with an outside publisher (see chapter 14).

In all cases, it is important the artist try to retain ultimate ownership of their copyrights and related rights, which can be achieved by licensing them for a limited term, rather than assigning them for life of copyright to a production or publishing company or partnership that the manager may set up. Again, from an author or performer's point of view, it is always better to license rights than to assign them.

9 Band agreements

If the artist is a band or group of two or more performers operating under a band name, a clear understanding of the rules under which the band will operate and the rights of members is necessary. It helps avoid arguments and misunderstandings within the band and is particularly important with regard to who owns the name and what happens if a band member leaves or a new one joins. If there is no band agreement and a band member leaves with no clear written agreement about who owns the name, it could be that the departee goes on to form a new group with the same name, resulting in two bands operating under the same name, which can cause legal difficulties and public confusion. These agreements can also cover the way different income streams are split among members and what happens if the band ceases to exist.

Legal status

The first thing to decide is the legal status of the band. It could be a partnership or it could be the members form a corporation. Another possibility is for one member to employ the other musicians/singers. The members should take advice from their lawyer, accountant and manager as to which structure best suits them. If they choose a partnership, the band agreement will be the partnership agreement. If they decide on a corporation or limited company, the band agreement will be the shareholders' agreement. Band agreements can be difficult and sensitive, so it is best to finalize one as soon as possible once the

band starts to become known. It is far easier to conclude such an agreement while everyone is on good terms, rather than waiting until a dispute arises.

Issues covered by band agreements

The main issues that can be covered by a band agreement include the following:

- How will recording income be split?
- How will public performance income in sound recordings be split?
- How will the publishing income be split?
- How will touring income be split?
- How will merchandising income be split?
- How will income from sponsorship or endorsements be split?
- Who owns the band name and how can it be used if the band splits?
- What happens if one member leaves, and how will this affect third-party agreements?
- What are the audit rights of the leaving member?
- What are the liabilities of the leaving member?
- What notice must a leaving member give?
- What is the expected conduct of each band member?
- Under what circumstances can band members be hired and fired?
- What is the voting system for decision-making on behalf of the band?
- On what issues must there be unanimous agreement from band members for a decision to be made?
- How many band members need to attend third-party meetings before a decision can be taken on behalf of the band?
- Who will be the signatories to the band bank account and what will be the payment limit for any single member?
- What happens if a band member dies or is incapacitated?
- Will there be a trial period for a new member joining the band?
- Will the new member be indemnified for liabilities that occurred before they joined?
- When an individual member buys equipment with band money, is the equipment owned by the band or by the individual?
- Will the individual have the right to buy any band equipment they used if they leave, and if so, for how much?
- How will band expenses be defined?
- Will there be a basic wage for each band member?
- Will members be able to work on outside projects if third-party agreements such as the band's recording and publishing agreements allow?

- If outside projects are allowed, who keeps the income and what happens if the individual's absence adversely affects the band?
- If there is a dispute, what will be the mechanism for its resolution (mediation, arbitration or an alternative dispute resolution arrangement)?
- Will the band agreement be confidential?
- What will be the law that governs the agreement?
- How must notices concerning the agreement be given?
- Will there be an obligation for each individual to sign any agreement that has been agreed with a third party under the band's voting system?

When the artist is a band, there will often be only one or two authors, with the other members purely performers. This can result in the author/s receiving far higher income than the performers, which can lead to bad feeling within the band. In extreme cases, this can result in a situation where the author is driving around in a Mercedes and the other band members are still having to catch buses. This author has managed a band that found a way around this. The band's sole author agreed that as long as a band member stayed in the band, they would receive a percentage of the publishing income, even though they did not write any of the band's songs. He generously agreed to split the publishing income four ways, with each band member getting 25 percent of the publishing income from the sole author, after the author had received it from the publisher and the public performance CMO. He took the view the band was a vehicle for his works and that without the band his writing would stand little chance of success.

It is important in such a situation for all registrations with CMOs and publishers to be correct. The works should be registered with the publisher and appropriate CMO, noting who actually wrote them, not how the income is to be distributed. Once the author has received the income, they can distribute it according to any band agreement. In this particular case, it was agreed that if a band member who was not the author left the band or was dismissed, they would cease to receive publishing income from that point on.

Dispute resolution

In the event of a dispute between band members or the band/artist and a third party, the parties should attempt to resolve this by mediation. This is the least expensive and least stressful way of achieving a settlement. The mediator will examine the evidence, listen to both sides and endeavor to facilitate a negotiated settlement between the parties that, if agreed, will be binding in law. The parties will normally provide the mediator with a short position statement in advance of the mediation meeting, together with any supporting documents.

If the mediation process fails, the more expensive and stressful options of arbitration or litigation can be considered. With mediation, the dispute can normally be resolved (or not) in one day, whereas litigation through the courts can sometimes take months or even years to reach a final judgment, and at a far greater cost. Even then, a court's decision is normally open to an appeal process.

Some artist lawyers are not enthusiastic about mediation, as they can make a lot of money from legal disputes. Those that are more enlightened, however, understand the value of mediation, which is making the procedure a more popular and efficient method of settling disputes. It is advisable to include a clause in all contracts that in the case of a dispute the parties agree to enter good faith discussions to settle by mediation.

10 Becoming an independent phonogram producer and engaging a distributor

It may be that an artist, or an artist manager (or both, working together) decide to set themselves up to be a self-administered phonogram producer. This provides several advantages. First, it allows the artist/manager to engage a digital distributor, who will place the artist's recordings on all the digital platforms. If there is enough money to create physical copies, these can also be distributed and also sold at live performances, helping to build the fan base. By becoming a phonogram producer, the artist/manager retain the flexibility to sign to another third-party phonogram producer when and if the time is right.

Another benefit is that the income per unit will be higher for a physical sale, digital download or stream than it would be if the artist signed to a conventional phonogram producer. Instead of receiving a royalty of perhaps 12 percent to 30 percent of income, as is usually the case with third-party phonogram producer agreements, the artist would receive 100 percent less any distribution, manufacturing, packaging and marketing costs. The other major advantage is that the artist will have complete control over their recording rights. A third-party phonogram producer will often require the copyright be assigned to it for life of copyright, which can vary between 50 and 150 years, depending on the country in which the contract was signed.

The disadvantage is that the artist will not be able to benefit from the financial resources a third-party phonogram producer may have, particularly regarding advances, recording costs, marketing, distribution and tour

support. Even though the third-party phonogram producer will usually keep most of the money, it is far better to have 20 percent of \$500,000 (\$100,000) than perhaps 80 percent of \$50,000 (\$40,000). If the third-party phonogram producer can achieve higher sales and streaming income, the more mechanical royalties will be payable for the underlying musical composition to the author and their publisher. If the artist is also the author, this can mean far greater income. If sales are higher, there may be more radio play, so public performance income is also considerably increased on both the author and the performer's side. The most significant benefit of signing to an established phonogram producer is that the artist may increase their fan base and social networking engagement, which will mean playing larger shows and generating greater income from live work.

The main points to consider when becoming a phonogram producer are as follows:

- Choose a business structure. This could be as a corporation/limited company, partnership or sole trader. The artist and/or manager need to obtain advice from an accountant or lawyer.
- Choose an original name for the record label. Do an online search to make sure the name has not been used previously.
- Create a business plan:
 - prepare a business timetable
 - prepare a cash-flow forecast
 - estimate digital/physical distribution costs, research the options
 - estimate the cost of artwork, get several quotes
 - estimate advertising and marketing costs, research the options
 - estimate physical sound carrier manufacture if appropriate, get quotes
 - estimate mechanical royalty payments
 - estimate artist advances, if any, and artist royalty payments.
- Build a team. The artist and/or artist manager/record label will need a:
 - business bank account
 - music business accountant
 - music business lawyer
 - digital distributor.

Other things to think about include obtaining a mechanical license for each track released. The artist/manager/phonogram producer business will need to apply for a license from the CMO that licenses and collects mechanical royalties on behalf of publishers and authors (or directly with the author/publisher if there is no such CMO) in the country of residence. Mechanical licenses must be obtained from the mechanical rights CMO for the works contained in the recordings, after

which mechanical royalties will have to be paid to that CMO for every stream, download or physical sound carrier sold. The mechanical rights CMO may insist on a mechanical royalty payment for every physical sound carrier manufactured rather than each one sold. These royalties will be passed on by the CMO, who will in turn pay through to the publisher, who will in turn pay through to the author(s) of the work. In some territories (the United States, for instance), it may be possible to obtain a mechanical license for physical product directly from the author's publisher, although for digital downloads and streaming this must go through the Mechanical Licensing Collective (MLC), which began distribution in 2021.

A final issue to consider is joining the appropriate related rights CMO that collects the public performance and broadcasting income for sound recordings, in addition to the artist joining the appropriate CMO for performers. These CMOs collect income from radio and television stations and other public performance uses when a recording is broadcast or played in public (if this right exists in the country). In some countries, a joint CMO distributes to both performers and phonogram producers, in others there are separate CMOs. If the artist/manager has started their own phonogram producer business they will need to register as a phonogram producer with the CMO that licenses, collects and distributes public performance income on behalf of phonogram producers. Separately, the artist will need to join the CMO that provides these functions for featured performers. For example, in France this would be SPPF or SCCP for phonogram producers, and Adami or SPEDIDAM for featured performers. Traditionally SPPF was more for independent phonogram producers and SCCP more for the major phonogram producers but both accept independent phonogram producers. Similarly, Adami was more for featured performers and SPEDIDAM was more for non-featured performers but SPEDIDAM now also represents some featured performers. It is important phonogram producers and/or performers supply the related rights CMO with information about performers who played on a recording, and whether they were featured or non-featured. A phonogram producer receives income from these related rights CMOs, whereas with mechanical rights, they have to make payments to the mechanical rights CMO at least on physical product.

Where the artist has written 100 percent of the work in a recording and has no publisher, the mechanical rights CMO may allow the artist to bypass the collective mechanical royalties process and self-administer the mechanical royalties. For example, in this 100 percent case, if the artist paid the mechanical royalty CMO \$100 and the CMO's administrative costs were 15 percent, the CMO would pay back to the artist/author \$85. If the artist can self-administer the mechanical royalty process, they would be \$15 better off.

It may be beneficial to join the trade organization representing phonogram producers in the country of residence. In some countries there are two such organizations, one mainly representing the interests of the major phonogram producers, the other the interests of independent phonogram producers. The international umbrella organizations for these two types of trade associations are IFPI which represents the major phonogram producers globally excluding the United States and WIN (Worldwide Independent Network), which represents independent phonogram producers. In the United States, the trade body is the Recording Industry Association of America (RIAA) which is a sister organization to IFPI. In Europe there is IMPALA which is a trade body representing European independent phonogram producers. Impala is itself a member of WIN.

Digital distributors

As soon as an artist has established themselves as an independent phonogram producer and is ready to release their first recording or EP, they will need to engage a digital distributor, sometimes referred to as an aggregator. The distributor will get the artist's music on all the relevant global digital services, such as YouTube, Apple Music, Spotify, Amazon Music, Beatport, Tidal, Deezer, Napster, Melon, Yandex and Line. Most have up to 150 digital service provider licensees in up to 100 countries. There are many digital distributors who will distribute recordings. It is worth spending some time researching the different distributor services which include AWAL, CD Baby, DistroKid, TuneCore, Ditto, Believe, ReverbNation and LANDR amongst many others. Some, such as AWAL and Believe, will also distribute physical product.

Digital distributors vary considerably in what they charge and the services they offer. Some, like DistroKid and Ditto, allow an artist to upload as many tracks as they like for a low annual fee of about \$20. However, these services will not usually assist with marketing or playlist submission. TuneCore has the same annual fee approach but charges \$30 for the first year, and \$50 per year thereafter and provides excellent revenue and analytics reports. More sophisticated services include Sony's AWAL, which offers a wider range of services and has no annual fee but commissions all income at 15 percent. AWAL also has an approval process and will only take on distribution for artists it thinks have potential. It offers a full suite of label services under the name AWAL Recordings for artists who start to gain traction.

LANDR is a web-based mastering service that uses AI assistance, and provides distribution as an add-on if required. Generally, artists get what they pay for so it may be a mistake to pick the cheapest. Whichever digital distributor is chosen,

if an artist's music is electronic dance music (EDM) or a related genre, and they wish to get on Beatport, the no.1 specialist EDM platform, Beatport will need to approve their music via the distributor before including it in its service.

It is important to accurately complete the metadata templates for these services. Metadata is data about data. In music, it is the description of an audio file and is used to name, identify and provide information about a recording. Particular attention must be paid to spelling. It is also important to upload recordings in high-quality WAV files. Standard WAV files at 16 bit 44.1 kHz are ideal but even better are 24 bit WAV files at 96 kHz. An MP3 or any compressed file should never be uploaded. Services such as Spotify, Apple Music and YouTube will compress the audio they are given at their end, and what they receive should be of the highest quality so that when they compress the file it sounds as good as possible.

It is important also to check that the distributor registers each track with Shazam, Gracenote, Jaxsta and other relevant services. They should also be able to generate the essential ISRC identifier for the recording if it does not already have one.

The 20 essential questions to ask when deciding on a digital distributor should comprise the following:

1. Annual fee or a percentage of income?
2. Is there an approval process before the digital distribution service will accept recordings?
3. Does the service supply analytics and revenue reports?
4. How often can these reports be seen?
5. How often are payments made?
6. Does the service have a portal that logs sales on a daily basis that can be viewed?
7. Do the analytics include location, gender and age demographics?
8. How many global digital stores and streaming services will the recording be available on? (usually 100-plus)
9. Is the arrangement exclusive, or can other tracks be placed with other services?
10. How much notice is required to withdraw a track from the service?
11. Will the service generate an ISRC for each track if the recording does not have one?
12. Will the service generate a universal product code (UPC) for each recording?
13. Will the service place tracks on services like Shazam, Gracenote and Jaxsta?
14. Will the service put tracks forward for master uses such as video games, television productions, films and advertising?

15. Will the service include marketing services?
16. Will the service put music forward for streaming playlists?
17. Is the service a YouTube Certified company?
18. Will the service collect income from YouTube for user-generated content (UGC) that includes the recordings?
19. Most digital stores and streaming platforms pay author's public performance and mechanical royalties for the underlying work directly to publishers and CMOs. Will the service indicate which services have not made these payments?
20. Does the service also provide distribution of physical formats such as CD and vinyl?

Any digital distributor should be able to collect income from YouTube via its Content ID system for official videos on an artist's YouTube channel as well as UGC videos using the artist's music. It may be that the artist has become a YouTube partner, in which case YouTube will pay directly and this income will need to be excluded from the digital distribution agreement.

It is essential to spend time on a recording and have it properly mixed and mastered. In the mastering process it is better to maximize the dynamic range rather than loudness. It was previously thought the mastering process should provide a track that was distortion free but as loud as possible. In the digital world, however, this is counterproductive. The streaming services will compress the track anyway, so it is on the same level as the other tracks on the service. If the track is mastered too loud, the final version will sound squashed and synthetic. Any good digital audio workstation (DAW) will have this mastering capability.

This is the procedure for an artist and/or artist manager setting up as a phonogram producer, even if only on a small scale. Many artists will release only in digital format to start with, in conjunction with their digital distributors. If the artist is playing live it is a good idea to manufacture perhaps 500 CDs to sell at shows with a simple one-page printed insert. In either case, it will be essential to keep good accounting records and join the appropriate CMOs, especially if the author of any of the works recorded and released is someone other than the artist.

11 Artist and label financing: crowdfunding

How does an artist, or an artist and manager working together, find the money to start as an independent phonogram producer and release recordings? For that matter, how do they finance the whole artist/management process? If money is scarce (and it usually is), it is best to release recordings for digital download or streaming only, at least to start with. After the recording, this is an inexpensive process. The online environment offers a host of free tools that can be used to bring music to the world. Once an artist/manager has a computer and broadband connection, they are in business. The main investment is time. Facebook, Instagram, X (Twitter), YouTube, Snapchat and TikTok, for instance, are essentially free, as are most of the digital marketing and storage services, at least at basic entry level. Provided an artist has a bank account (or even PayPal), it is easy to get a digital distributor on board. Once a fan base has been created, it may be possible to raise finance by crowdfunding.

The first artist to do this was five-piece band Marillion. They signed to EMI Records in 1982 and released their first album, *Script For A Jester's Tear*, in 1983. They built up a loyal fan base around the world and continue to grow their fan base to the present day. In 1993, US fans were disappointed Marillion was not touring the United States. The band simply could not afford it. A US fan came up with an idea; they would raise money so the band could tour. In 1996 several fans got together, opened an escrow account and invited donations. They quickly raised \$12,000. At this point the band got involved, calculating that \$65,000 was required to cover all costs. This was achieved and the tour

went ahead in 1997. Every fan who had donated more than \$10 was sent a free CD of live recordings. They still had to buy tickets but were delighted just to have helped make the tour happen. This was the point that Marillion realized the immense importance of building a database of fans, not only for disseminating information, but also as a possible source of funding for future projects.

In 2000, Marillion wanted to make a new album but was unwilling to enter into another recording contract with a third-party phonogram producer that would take most of the profit from sales. To fund the album, it asked fans for help. By now, the band had 6,000 email addresses on their database. They wrote to every fan asking whether they would be prepared to purchase the album in advance; 5,800 fans said yes. This was the tipping point. Marillion realized fans could fund the whole project, even though it could be a year before the album would be released. It decided the first 7,000 advance orders would have the fan's name printed on the album packaging, which the fans loved. It would also produce a limited deluxe packaging edition only for those who had paid in advance. Fans who had made an advance purchase were also entered in a prize draw where they could win backstage passes, tickets to stand at the side of the stage during a show, or passes to see the sound check. In the end, 12,500 deluxe packages were sold in advance. This not only funded the recording and manufacture of the album, but also extensive marketing.

Marillion repeated the process in 2004 for the album *Marbles*, this time receiving 15,000 advance orders at \$35 per album thus raising \$525,000. They reinvested heavily in public relations, marketing and expanding the fan base still further, offering new fans a free CD entitled *Crash Course* in return for their email address. For their next album, *Somewhere Else*, which was released in 2007, the band decided it could not keep going back to fans and took the conventional route, financing and releasing the album themselves. To the band's surprise, fans were massively disappointed the advance purchase for premium product approach had been dropped. Fans also preferred buying directly from the band as the product felt more authentic. It made them feel like a partner to the band and part of the creative process. Throughout, Marillion used conventional distributors to sell their physical albums in stores in standard packaging, but they pioneered priority high-value high-price packaging for core fans (though it was made clear that fans had no creative control or influence over musical direction).

Many online services have been launched over the years that will help and facilitate artists raising finance by crowdfunding. These include Kickstarter, ArtistShare and Indiegogo, among others. One of the standouts was PledgeMusic, which had an excellent preorder music-based crowdfunding

business model but went out of operation in 2019. As with all online services, some disappear and others emerge. Alternatively, it is possible to use the Marillion model and create a campaign based on preorder within an artist's own website and merchandise store. For this, an artist must have an enthusiastic and preferably large fan base in place.

Kickstarter is one of the most widely used platforms, accommodating all creative start-ups and business projects. Most artists ask for \$5,000 to \$10,000 to make an album or to fulfil a musical project which they often achieve if they are known and have a growing fan base. In 2012, US singer Amanda Palmer sought \$100,000 through Kickstarter to make a new album; 24,883 fans responded, donating a staggering \$1.2 million, which she used to make and market the album and tour. Those who pledge money on Kickstarter do not invest in the project but rather back it in return for tangible items or experiences, such as an album download, ticket for the album launch, CD with their name printed in the accompanying booklet, signed poster, a day in the recording studio or an album T-shirt, very much along the lines of the Marillion model.

In October 2016, this author and his wife Sue launched a 40-day Kickstarter campaign to raise funds for the world's first statue of David Bowie, following his death earlier that year (see figure 8). The statue would be erected in Aylesbury, England, where the artist had performed the world premieres of two of the most iconic albums of the 20th century, *Hunky Dory* and *The Rise and Fall of Ziggy Stardust and the Spiders from Mars*. Under the Kickstarter model, the organizer must set a financial target prior to the campaign. If that is not reached in the specified number of days, the campaign collapses and no one pays anything. Each funder is asked to provide their debit or credit card details at the time of the commitment. If the campaign is successful the amount pledged is taken on the final day of the campaign.

Figure 8 Kickstarter and the David Bowie statue crowdfunding project



By David Stopps for
Friars Aylesbury

First created

David Bowie Statue - Aylesbury Market Square UK

Bowie's world debuts of Hunky Dory & Ziggy Stardust were at Friars Aylesbury. We are creating a stunning statue in the Market Square.



£115,199

pledged of £100,000 goal

747

backers

0

seconds to go

All or nothing. This project will only be funded if it reaches its goal by Tue, Dec 6 2016 11:38 AM GMT.

Source: Kickstarter

The budget for the statue was estimated at \$250,000 and the Kickstarter campaign target was set at \$130,000 (about £100,000), which would be enough to go ahead with the project, the difference being made up by other fundraising activities. After 31 days of the prescribed 40-day campaign, 398 people had backed the project with pledges of just \$65,000, but at the 11th hour Bowie fans from all over the world stepped in, pledging anything from \$13 to \$8,000 each. When the clock stopped, 747 fans had pledged a total of around \$148,000 (£115,199). Over 35 percent of the backers came from Bowie fans outside the UK. From this total, sales/value added taxes, Kickstarter's fee of 5 percent and the cost of manufacturing and shipping the rewards had to be deducted. After a two-year project, the statue, Earthly Messenger, was unveiled on March 18, 2018, receiving worldwide coverage on social media, television, radio and in the press. Visit the [Kickstarter website](#) for more information.

Other artists have taken the fan-funding concept a stage further, and put a price list on their website where fans can buy direct contact experiences with the artist, such as dinner with the artist, a weekend skiing, 30 minutes playing their instruments together or a song written by the artist which includes the fan's name. Other artists offer to write a song and record it customized to a fan's request for a set fee. These are all ways of making a living from music, or at least getting started.

There are schemes by government culture departments or CMOs in many countries to assist artists with funding in the early stages. The French Government, in particular, is proactive in assisting emerging artists. In the United Kingdom, the author/publisher CMO PRS and the performer/phonogram producer CMO PPL fund the PRS Foundation scheme and the PPL Momentum for Music fund that provide grants of between \$6,500 and \$20,000 to help selected artists reach the next level.

Another potential source of financing is that of venture capitalists buying into a management company or artist via the manager. The money made available is used to develop the artist by covering costs such as recording, live work, marketing, and artist salaries. In return, the investor will want a percentage of the profits or a percentage of the gross income from some or all income streams. Such investment can give the investor tax advantages in some countries.

Patreon, fan clubs and mentoring financing

Many artists find that making a living from streaming alone is tough. One such musician was multi-instrumentalist Jack Conte who was spending thousands of dollars making music videos that received hundreds of thousands of streams on YouTube, yet the income generated did not provide him with a sustainable business. Historically, great artists, such as Leonardo da Vinci and Michelangelo, were only able to survive and do their best work, if a wealthy sponsor or patron provided them with money. With this in mind, Conte and flat-mate Sam Yam launched Patreon in 2013. He invited his most passionate fans to make donations, in return providing them with exclusive content that no others could access.

Patreon, which Conte and Yam opened up to other artists, has been growing exponentially ever since. In 2020, some \$1 billion was paid out to more than 200,000 creators worldwide, a large proportion of which were music creators. Patreon is available in English, French, German, Italian and Spanish, and operates in four currencies, US dollars, Canadian dollars, euros and British pounds. The platform takes commission varying from 5 percent for a basic Patreon page to 12 percent for the full service, which includes direct contact with the Patreon team. Most artists start with the 8 percent level that includes full analytics. A similar fan club service Fan Circles is also worth checking out.

Patreon, FanCircles and similar services only work when the artist wants to engage with fans. It is all about direct contact with highly engaged fans who want as much access to the artist as possible. It can be at one membership level

or with several levels of monthly subscription, with each level providing greater benefits as the cost goes up. There are three basic approaches:

1. Fan club membership.
2. Artist mentoring membership.
3. Hybrid of the fan club and mentoring.

Most artists use the fan club model, where subscribers get a variety of benefits, including the following:

- exclusive access to live streamed performances
- exclusive access to live Q&A sessions with the artist
- exclusive access to artist podcasts
- exclusive backstage videos
- exclusive merchandise or a discount on general merchandise
- entry to competitions for a sought-after prize
- signed lyric sheets
- meet and greets at live shows
- exclusive access to unreleased tracks
- sharing of recording stems
- signed photographs
- recipes
- artwork.

What must be appreciated about Patreon and similar services is that the artist must be prepared to provide benefits and engage with subscribing fans on a continuous basis; artists who are not willing to put in the necessary time and effort should not launch a Patreon page. Similarly, Patreon and similar services are not for artists and creators who are shy or reclusive, and find it difficult to converse with fans.

For example, the band While She Sleeps took an original approach when launching their Patreon. In 2020 they suddenly disappeared from all socials, for three months. Fans couldn't understand why, many fearing that their favorite band had split up. Then, just as suddenly, the band posted it would be making a major announcement about their future. Everyone was expecting the band to announce that they were finished, but instead they announced a launch on Patreon with a page title of Sleeps Society, with the statement: "Our goal is to create a sustainable model for artists and creatives, to break from the traditional industry mold by building and developing a true interdependence between the band and fans."

Within one day of the Patreon launch, the band had more than 1,000 subscribers paying between \$7 and \$80 per month. At the time of writing, the band had 1,521 patrons, which if the average payment was \$15 would provide the band with more than \$22,000 per month, less commission to Patreon. The huge advantage of such services is that provided the artist/band is prepared to keep patrons happy by providing exclusive content, they can rely on a steady level of income in addition to any recording, publishing and live income. Further, the process grows the fan base.

Others have taken a mentoring approach, wherein an experienced artist can give advice to up-and-coming artists for a monthly fee. For example, during the COVID-19 lockdown in 2020, Dutch DJ Martyn, who works in house/techno, decided to launch a Patreon mentoring page after his tour was cancelled due to government restrictions. Using the name Martyn 3024, he created four Patreon mentoring levels at \$15, \$42, \$52 and \$84 per month. The \$15 tier is for question and answer (Q&A) sessions only, the top tier includes one-to-one mentoring and group sessions. At the time of writing, the \$42 tier and the \$84 tier were sold out as DJ Martyn, very sensibly, wants to keep them to a manageable size.

Some artists have developed their Patreon offerings as a hybrid of fan club and mentoring. For example, New Zealand artist Jordan Rakei began his Patreon by asking fans what they would like, posting: "I'm going to start a Patreon soon. I'll be doing exclusive content like how to approach a remix, early versions of back catalogue, exclusive concerts, monthly cover songs, merch discounts, stems to older songs and 'song from nothing' vids. What would you like to see?" With the information he received, Rakei offered a fan level of \$7 per month, a creator mentoring tier at \$16.44, and a super creator mentoring tier at \$41.

The great advantage of services such as Patreon or FanCircles is that the artist and artist management are in total control. There are no algorithms or other influences to worry about, which gives the platform authenticity.

Non-fungible tokens, cryptocurrencies and the blockchain

Non-fungible tokens (NFTs) are opening a new possible income stream for music artists. Where Bitcoin was the digital answer to currency, NFTs are being talked about as the digital answer to collectables and a new way that fans can interact with their favorite artists.

Unlike standard digital tokens and cryptocurrencies such as Bitcoin, Ethereum and Litecoin, NFTs represent something unique and are not mutually interchangeable. They are one-off assets, usually digital, that can be bought and sold like any piece of property. A euro or a dollar is fungible, as they are not unique and are infinitely interchangeable. As with cryptocurrency, a record of who owns what is stored on an immutable shared ledger known as the blockchain.

All this makes NFTs particularly suited for digital media and art pieces. It could be a track that was not intended for official release or original album artwork that was changed. NFTs can fluctuate in value depending on the market price people decide to put on them. They are sold as collectibles, usually on auction sites, similar to how physical art or artist memorabilia is sold. Like art pieces, NFTs are in limited supply and could be 1/1 or 1/1000, for example. They can be auctioned or set-priced. They allow rights holders to create value from their content instead of relying on centralized distributors to issue and price that content. They open opportunities for a fan to own something special from their favorite artist that no one else has. An NFT will usually be governed by a smart contract, clearly stating what it is and what can be done with it. For example, the NFT may provide ownership of a collectible version of a track but it may not allow the owner to put it on a streaming service. Services such as Ditto's Opulous can help structure NFTs to enable artists to access funds that are separate from the traditional music industry advances.

There have been some notable high-end NFT music successes. Electronic music producer Deadmau5 partnered with digital artist Mad Dog Jones to release two NFT art collections on the Nifty Gateway, which raised \$400,000. Linkin Park's Mike Shinoda auctioned an NFT, a piece of digital media titled One Hundredth Stream, and raised \$30,000. It featured a 37-second animation accompanied by music written by Shinoda and was uploaded on the exchange site Zora, which specializes in the buying, selling and trading of limited-edition art and goods. Music producer Gramatik generated \$1.5 million selling as NFTs songs he did not intend to release. Quincy Jones has created a new platform dedicated to music NFTs named "One of", which notably sold an unreleased Whitney Houston song as an NFT which fetched just under \$1Million dollars at auction.

Cryptocurrencies and the blockchain have sparked debate and controversy over the scale of their environmental impact. In order to function they consume a vast amount of energy, which is regarded as detrimental by environmentalists, particularly if that energy is generated from fossil fuels. Traditional central banks are now developing their own cryptocurrencies Central Bank Digital Currency (CBDC). Seeing how this develops will be interesting.

12 Signing to a phonogram producer

Let us now consider the situation where a phonogram producer wishes to sign an artist with the intention of selling as many copies of the artist's recordings as possible. Traditionally, this was the way for an artist to be successful, but as phonogram producers become more selective, crowdsourcing is rapidly becoming the alternative financing model for many artists, at least in the early stages. It also allows artists to control their own recordings, and destiny.

In the past, major phonogram producers (which at the time of writing were Universal, Sony and Warner) would invest in an artist by providing advances, recording costs, marketing costs, tour support and distribution. They would generally commit to making and releasing one album with the artist but would want options on as many as eight further albums. The other feature of these investment-type recording agreements is that the phonogram producer will usually demand all recordings made under the agreement be assigned to them for the life of copyright (that is, assignment will be sought for the full period of related right copy protection for sound recordings in each territory covered by the agreement). This means the artist will earn royalties from any sales during the period the recordings enjoy copyright protection, but they will never own their recordings. The major phonogram producers would argue that they need this assignment to justify their investment in the artist, which is highly speculative. From the artist's perspective, this may appear unreasonable, as in many countries the artist invariably pays all the audio recording costs and usually 50 percent or even 100 percent of any

video production costs from their audio royalty account. The concept of the artist having to pay all the recording costs but never owning the recordings is one that is often questioned in the industry.

The way for an artist to avoid this dilemma is to enter into a limited assignment of perhaps 10–25 years rather than for life of copy protection or, better still, to license their recordings to the phonogram producer for a limited term. The licensing approach is far better from the artist's point of view and is becoming more common, particularly in the case of the smaller independent phonogram producers, who will often enter into an agreement wherein the artist receives a higher royalty or percentage of net receipts than would be possible with a major. Net receipts are usually defined as the balance left after all identifiable costs in the recording, manufacturing and marketing of an album have been deducted from the gross income. It is important to remember that if the artist licenses their recordings to a phonogram producer, they retain ownership of the related rights in the recordings.

The advantage of signing to a major phonogram producer is that they may be willing to pay out larger sums of money on marketing campaigns for the artist, such as digital marketing, television and radio advertising. They are usually also prepared to spend more on recording costs (though these will generally be recouped from the artist's royalty account), possibly tour support (providing money to cover any loss on a tour, again recoupable from the artist's royalty account) and video production (also recoupable but sometimes 50 percent is recouped from the artist's audio royalty account and 50 percent from the artist's video account). While the artist may receive lower royalties per unit sold than can be paid by an independent phonogram producer, and certainly less than if the artist remained as their own phonogram producer, they could be better off due to the greater sales a major phonogram producer might achieve. It may be better to receive a smaller percentage of a large sum rather than a large percentage of a smaller one, something the artist and manager will have to consider before committing to a recording agreement.

As streaming has replaced physical sales, the new digital royalty structures offered by major phonogram producers to performers have become controversial. With digital downloads and streaming, the phonogram producer has no manufacturing costs, no physical distribution costs such as shipping by road, rail or air, no faulty returns and no packaging costs. Despite this, the major producers have continued to set performers' royalty rates at the same or only slightly higher levels as that for physical product. This has given independent phonogram producers a competitive edge.

An advantage of signing to a smaller independent phonogram producer is that they are frequently more open to entering into a licensing agreement rather than an assignment agreement. The recording agreements can also be considerably more favorable than those negotiated with a major company. For example, it might be possible to negotiate a licensing deal with an independent for anything between three and 15 years, after which the rights in the recordings will revert to the artist and they will be free to either negotiate a further term with the same phonogram producer, negotiate a new agreement with another phonogram producer or release the recordings themselves. The disadvantage with a licensing agreement is that often the artist has to pay for the audio recording costs (the artist has to supply the phonogram producer with finished recordings). This can be financed from the advances an independent phonogram producer pays or the artist's own crowdfunding initiatives. In any case, it is now less expensive to record an album due to the developments in home recording technology.

It is important to consider the royalty structure of a recording agreement. In the past, major phonogram producers used complicated royalty payment structures for physical sales of recordings. These would usually be calculated on a royalty base rate that might increase at certain sales figures and with future albums if the options on them were taken up. These royalty rates could be based on the published price to dealer (PPD) or on the recommended retail price (RRP), which is sometimes also called suggested retail list price (SRLP). This often resulted in misunderstandings between artists when, say, one was paid on a royalty rate based on PPD, and the other, signed to a different company, on RRP. The PPD royalty would always be higher than the RRP royalty for the same amount of income per unit sold. All sorts of deductions were applicable to this base royalty rate, including a packaging deduction of typically 25 percent for CDs. This meant the royalty was instantly reduced by 25 percent. For digital downloads and streaming (where there is no packaging), some phonogram producers substituted the packaging deduction with new technology deductions, though most have phased this out. There will typically be reductions for sales to libraries, the armed forces, record clubs, mail order, sales at budget and mid-price (rather than full price), sales that involve special packaging, and sales when a recording is included in a compilation album.

In 2002, before they merged with Sony, BMG attempted to reform the royalty structures into one simple payment, which it set at 15 percent of PPD for every record sold. This royalty rate had no packaging or any other deductions, making for a more streamlined accounting system for the phonogram producer, and one that was easier to understand for the artist and manager. This was a sensible move for both parties, though the majority of major phonogram

producers still use the old complex royalty contracts, which can run to more than 100 pages.

Before a long-form recording agreement is negotiated, the phonogram producer will usually put forward a suggested heads of agreement—a brief summary of the main points in the agreement—to start negotiations. An experienced manager will negotiate these points directly with the phonogram producer and then bring in a lawyer for the long-form agreement, which will include the so-called boilerplate legal text. An inexperienced manager or an artist without a manager would be advised to enlist the services of a lawyer as soon as the heads of agreement are received. An experienced manager may approach it the opposite way, issuing the phonogram producer with a suggested heads of agreement. The main issues to negotiate at this point are as follows:

- Type of agreement: license or assignment.
- Territory: could be one country, a group of countries, continent, several continents or worldwide. Sometimes the world is extended to include the solar system or even the universe, the rationale being that if sales are via satellite they would not actually be on earth.
- Term: length of time the phonogram producer will have to exploit the recordings covered by the agreement. This could be anything from three years to life of copy protection available in law in each part of the territory.
- Albums: number of albums in the agreement. Usually one or two, with options for more. Sometimes guaranteed releases on the first two albums can be negotiated. It is in the artist's interest to have as few phonogram producer options in the agreement as possible.
- Advances: amount of money the phonogram producer will pay to the artist in advance of an album being made. This could be in addition to recording costs or it may include them. Advances are generally fully recoupable from royalties. The phonogram producer will usually be obliged to pay additional increasing advances at each option point if each option is taken up. Sometimes the advance payable on option albums is linked to sales of the previous album. How the advances are to be paid could be included here; for example, 50 percent on signature of recording agreement and 50 percent on delivery of the album.
- Recording costs: sum of money for recording the first album, recoupable against royalties, which is usually increased for successive albums if the options are taken up. This is sometimes included in the album advance. In some countries such as France, recording costs are not recoupable from royalties, but royalty rates are lower to compensate the phonogram producer.

- **Royalties:** royalty rates payable by the phonogram producer for streams, downloads, telephone ring tones, real tones and ring-back tones, sales of full price physical albums, double albums, mid-price albums, budget price albums, singles, extended play singles, albums sold as part of a television or radio advertising campaign, through a record club, by mail order, as sales to libraries or to the armed forces, for export, as sales in certain foreign countries included in the territory, and so on. As a first negotiating position, the manager/artist should pitch the download and streaming digital royalty rates much higher than the physical royalty rates. The income split between the phonogram producer and the artist for master re-uses where a recording is synchronized with visual images in a film, television program, video game or advertisement should also be negotiated here.
- **Artistic control:** uses of the recordings where the phonogram producer needs approval from the artist, and also whether a recording delivered by the artist can be rejected as technically or commercially unacceptable by the phonogram producer. Other controls include whether the phonogram producer or the artist has final approval over artwork, biographies, photographs, videos, choice of singles, song sequence on albums, branding, and so on.
- **Accounting:** how often the phonogram producer is obliged to send royalty statements to the artist and when royalties (if any) are payable.
- **Audit:** how often, under what circumstances and in what parts of the territory the artist can send an auditor to the phonogram producer's business or that of the phonogram producer's licensees to check whether royalties have been accounted and paid correctly. With audit rights, the artist needs to be able to audit the phonogram producer in the country of residence, and also their foreign licensees or sister corporations in other countries if these are included in the territory. This is difficult, but it leaves a large area of unaccountability in the agreement if not achieved.
- **360 degrees:** whether there is participation by the phonogram producer in the recording agreement for other artist income streams apart from recordings, such as live income, merchandising, branding or even publishing.

Another approach is to sign a different recording licensing agreement in each part of the world. This makes for more work, but some artists have done it very successfully. A typical arrangement might be one agreement for Europe, and others for North American Free Trade Association members (Canada, Mexico and United States) and another for Japan, the Far East, and Australasia.

Advances and recoupment

It is essential that the concept of recoupment is understood. If an advance payment and other costs are recoupable, it means that as royalties come in, they are first offset against royalties payable. For example, if the advance and other recoupable costs are \$50,000 and after the first accounting period the royalties payable to the artist are \$60,000, the phonogram producer will pay \$10,000 to the artist. Here, the advance and other recoupable costs have been fully recouped in the first accounting period. If the royalties payable are \$35,000, then \$15,000 of the advance/other recoupable costs would remain unrecouped and nothing would be payable to the artist for that period. Importantly, unless the agreement states anything to the contrary, the \$15,000 does not have to be paid back by the artist to the phonogram producer. The advance and other recoupable costs are paid out by the phonogram producer at their own risk, and are not repayable by the artist except from royalties earned. In this example, the \$15,000 unrecouped would be carried forward to the next accounting period.

Recoupment of all recoupable costs generally comes out of the artist's royalty percentage only. It would seem logical that recording costs, tour support and video costs, should first be deducted from the gross income received by the phonogram producer rather than the 15 percent to 25 percent of that income allocated to the artist royalty. The royalty could then be applied to the resulting net figure. Unfortunately for artists, this is not generally how it works, which can result in the phonogram producer being in profit with an artist long before the artist has recouped (if they ever achieve recoupment).

Some independent phonogram producers are writing off any unrecouped balances 10 or 15 years after the release of the final album in the contract, which is commendable. With this arrangement, the artist can receive royalties again after this period. Without it, artists can remain unrecouped for decades, if not forever.

360-degree agreements

As the turnover and profits of phonogram producers declined in the first 15 years of the 21st century, due to problems with unauthorized file-sharing, many looked to participate in some of the other income streams available to artists. These are sometimes referred to as 360-degree agreements. In addition to recording income, phonogram producers often try to negotiate participation in other income, such as income from live work, merchandising (or more informally, merch), branding, sponsorship, and even publishing income. The

attraction for the artist is if they already have a history of substantial sales, phonogram producers are usually prepared to pay much higher advances for this type of agreement. In geographical areas where piracy is still a major problem, such as Africa, Asia and Latin America, this type of agreement is more common. Artists and their managers should think carefully before entering into this type of agreement, as it may be more advantageous to manage the other income streams themselves.

Website and fan database ownership

Some phonogram producers will want to own the artist's official website and/or have access to the fan database. If this is the case, the phonogram producer, artist and artist manager should work together to make sure that from the start the fan grants permission for both the phonogram producer and the artist to communicate with them. It should be made clear in the original recording agreement that if the phonogram producer owns the official artist website and they decide to end the contract, the official website should be transferred to the artist. Similarly that the artist retains access to the fan database. If the artist loses access to their fan database, this will be a disaster for the artist; that data is the most valuable asset the artist will ever have.

13 Studio producer agreements: recording, sampling and mastering

The person whose job it is to supervise the studio recording is often referred to as a producer. To distinguish this role from the phonogram producer, we will use the term studio producer.

A typical arrangement for a studio producer agreement is for an advance to be paid to them for each track to be recorded, against a studio producer royalty of around 1 percent to 6 percent of income, depending on the status of the studio producer. In most recording agreements, the phonogram producer will pay the advances directly to the studio producer. Advances paid to the studio producer, and any subsequent studio producer royalties paid out by the phonogram producer, will be regarded as recording costs, which will normally be recoupable against the artist's royalties. It is therefore important for an artist or manager to monitor these deals carefully, as they will directly affect the income the artist eventually receives. For example, if the artist is receiving a royalty from the phonogram producer of 20 percent of published price to dealer (PPD) for physical sales and 24 percent for digital income (downloads and streaming) and the studio producer's royalty is 4 percent, the artist will actually end up with a royalty of 16 percent for physical and 20 percent for digital. Sometimes, the studio producer will be paid a royalty from the first record sold, and sometimes, under other agreements, they will only start to earn royalties after recoupment of recording costs associated with the tracks they produced. It will usually be necessary for extracts from the artist's recording agreement that govern the basis on which royalties are payable to the artist to be annexed

to the studio producer agreement, as these clauses will also govern the basis on which the studio producer will be paid.

The choice of a studio producer is important. How a track is recorded, mixed and edited can make a considerable difference to the success the track achieves. Some producers will be more focused on the creative recording process, and will insist on a separate engineer to supervise the technical side of the recording. Others prefer to both produce and engineer the tracks themselves. It is also common to engage a specialist mixing engineer to do the final mix of the track. One of the most famous is Bob Clearmountain. Los Angeles-based, he has mixed many of the top recording artists such as Madonna, David Bowie, Chic, Bruce Springsteen, Rufus Wainwright, Ziggy Marley and Ricky Martin. An experienced mixing engineer will also justify their own royalty, usually in the region of 1 percent of PPD/streaming income (or one point, as it is often called).

Studio producer agreements often oblige the studio producer to complete the appropriate forms confirming who played what instruments, who sang and who made any audible sound on a particular recording. This is particularly significant for the performers who participated, as it will (in many countries) entitle them to public performance income if the recording is later played on the radio, television or anywhere in public. Universal Music has a policy that it will only pay a studio producer when such accurate performer information is received. Apps such as Session, Sound Credit and The Creative Passport are making gathering this information easier and more efficient.

Another aspect of studio producer agreements is that the studio producer is obliged to declare to the phonogram producer if any samples have been used in the recording, a sample being when a section or part of an existing recording is used as part of a new one. This obligation is nearly always found in the main artist recording agreement with the phonogram producer, so both artist and studio producer have a legal obligation to declare and possibly clear, or remove, any samples. Permission must be received from the rights holder in the original recording that has been sampled and the author/publisher of the original work contained in the sample. A middle way is to make a new recording of the sample, which means that permission is only required from the author/publisher. Specialist companies such as Replay Heaven will, for a fee, recreate a recording that is astonishingly close to the original. The sample clearance process can be an expensive and time-consuming procedure. It is therefore advisable not to use samples of other recordings or works if possible.

Recording equipment is becoming less expensive, with the result that many artists are setting up their own studios rather than hiring one. There are

examples of phenomenal recordings produced in artists' bedrooms using fairly inexpensive recording equipment and computer software. It also gives the artist or band an advantage in that several albums can be recorded once the initial equipment has been purchased, providing substantial savings on recording costs. It may also be worthwhile for several artists or bands to get together and buy recording equipment they can share, providing further savings.

The final stage in producing a recording is known as mastering. It is the process of taking the finished and mixed recording, and enhancing the sound prior to digital release and/or manufacture. There are specialist mastering engineers who can provide this service, or mastering software can be purchased, allowing an artist or a studio producer to do it themselves. The world's most famous mastering engineer is probably Bob Ludwig of Gateway Mastering in the United States. If an artist wants the very best, he is the man to contact, though good mastering studios can be found in almost every country in the world.

In some jurisdictions, such as the United Kingdom, a studio producer may qualify as a non-featured performer if they have directed proceedings in the recording studio in the same way a conductor will while an orchestra is performing. In many countries an orchestra conductor qualifies as a non-featured performer even though they make no audible sound on a recording. If the studio producer fulfils a similar role in the recording studio they may similarly qualify. If a studio producer plays an instrument, sings or makes an audible sound, it is better for them to be registered as a non-featured performer on that recording, rather than as a conducting studio producer, as the performer role qualifies for payment in more countries.

14 Music publishing

An artist who is an author will need to consider finding a publisher at some point. In the early stages of an artist's career, publishing income can be generated by joining the appropriate author's mechanical and public performance CMO and registering the works accurately with them. Other than in exceptional circumstances, the CMOs will not pay advances but will simply pay royalties to the author as they are collected. The CMO will collect the identifiable gross income for the works written by the author, deduct their administration fees and pay the balance to the author. They tend to be passive in that they will try to collect all income due, but will not actively promote or create new uses for the author's works.

A publisher will often pay a lump sum advance to the author, in return for an agreement that ties the author to the publisher for a period of years, or for a number of works or albums, or both. Usually, everything the author writes within the term of the publishing agreement will be administered exclusively by the publisher, who will also usually agree to try on the author's behalf to create new uses and opportunities for the author's works, such as co-writes with other authors, covers, audiovisual uses, and publishing sheet music. A cover is when another artist records the work written by the author. The publisher may also be able to help the artist and the artist manager obtain a recording contract if that is the goal. Hence, if the author signs to a publisher, they can expect to receive mechanical and public performance royalties (payable to the publisher by CMOs), as well as a service whereby the publisher seeks new uses for their works to generate more income. In

return for an advance and these services, the publisher will want to take a larger share than is the case if the author receives all income directly from CMOs. In the early days, there is usually little money available, so a publishing advance can really help the artist get started.

The main deal points of a publishing agreement are as follows:

- Term: period wherein the agreement is effective. This could be a specified period of time, a number of works or albums, or a combination of both. The agreement might state that all works written by the author during the term, and sometimes prior to the start of the term, are controlled by the publisher for the rights period.
- Options: points in time in the agreement when the publisher has the right to decide whether to continue with the agreement and pay a further advance, or terminate the term of the agreement.
- The rights period: period of time in which the publisher has the right to collect publishing income for works controlled during the term.
- Royalties: the different royalty rates for mechanical income, public performance income, covers, synchronization licenses, sheet music sales, and so on, payable to the author.
- Royalty basis (receipts or at source): on a receipts basis means the amount received by the publisher after certain costs, often limited to the foreign sub-publishers' commissions. An at source basis is the gross amount paid on behalf of the author's works from the CMO or phonogram producer in each part of the territory. For the author, it is always better to be paid at source.
- Minimum commitment: minimum number of works the author is required to release or write within each option period. If this is based on an album release, there may be a provision that a minimum percentage of works on the album are written by the author. This is often between 70 percent and 90 percent. If the author does not achieve that, the publisher may be able to reduce the advance on the next option period pro rata or extend the current period.
- Advances: lump sums payable to the author on signing the agreement and at the points any options are taken up by the publisher. These sums are generally recoupable from royalties.
- Territory: geographical area in which the publisher is entitled to collect publishing income. This is usually the world but could be limited to certain countries or continents.

With royalties, it was once the case and still is in some countries, that the publisher would take 50 percent of all income received on a receipts basis and pass on the remaining 50 percent to the author. The publisher would often

demand the term was for the life of copyright, which could be up to 150 years for authors. Since the 1980s, thanks to some high-profile court cases, changes have been made that favor authors. In the 21st century, a typical deal might be 75/25 at source for mechanicals and public performance with other rates for synchronization and other income; in this split, 75 percent of the at-source income goes to the author and 25 percent is retained by the publisher, from which the publisher has to pay any sub-publisher's commission. A typical term might be for one album cycle (perhaps 18 months) and thereafter, one, two or three options that will extend the term if taken up. Each option period could cover another album or a minimum number of new works and would attract a further advance. The rights period could be anything from 5 to 20 years but should not extend beyond that.

Some publishers will offer an author a mini-max advance structure on options. This will state a minimum guaranteed advance if the publisher picks up the option for the next album or the next writing period. There will, however, be a formula based on income or sales for the previous period (sometimes referred to as pipeline income) that could result in a larger advance being paid. No matter the figure the formula produces, the larger advance can never exceed the maximum advance stated in the contract.

Another legal mechanism in publishing agreements is a first and last matching right clause. This is normally where there is an obligation for the author and publisher to have a good faith negotiation about an option for the publisher to continue publishing the author's works for a further album or period. If the negotiation fails, the author will be free to try to secure a publishing agreement with another publisher. When the best offer is received from another publisher, the author will be obliged to declare this offer to the original publisher. If they wish, the original publisher will have the right to match this external offer and continue publishing the author.

Top global music publishers are currently Sony Music Publishing, Universal Music Publishing, Warner Chappell Music, Kobalt Music and BMG Rights Management, although acquisitions and ownership are fluid. Kobalt Music arrived on the scene in 2000 with a slightly different business model, offering lower or no advances but a higher royalty of 85 percent to 90 percent of income received at source. Founder Willard Ahdriz was passionate in his belief that the company would only do administration (licensing) deals; that is, that Kobalt would act as an agent rather than an owner, with the author always retaining ownership of their works. Ahdriz also insisted that artist accounting would be every three months instead of every six, the norm at the time. This arrangement was attractive to established artists looking for a new publishing deal, but

more difficult for new authors in need of a substantial advance to get started. Kobalt launched the Kobalt Portal, wherein authors could see exactly what income was being credited to their account in real time. The company is now the third largest music publisher in the world, behind Sony Music Publishing and Universal Music Publishing.

The main duties of a music publisher are as follows:

- Negotiate, organize and issue licenses for the author's works and ensure the author receives as much remuneration as possible for a particular use.
- Issue or authorize (usually through a mechanicals CMO) mechanical licenses to phonogram producers who want to use the author's work on a recording.
- Acquire and issue synchronization licenses where the author's works are used with visual images (that is, in films, television advertisements and video games).
- Obtain covers for the author (that is, persuade and suggest that other performers make recordings using the author's work).
- Encourage and facilitate co-writes with other authors.
- Register correctly all the author's works with the appropriate author public performance and mechanical CMOs.
- Administer printed music sales and online digital sheet music of the author's works or license third parties to do this.
- Collect income on the author's behalf throughout the territory. If the territory is the world, the publisher will have offices or sub-publishers, or they may collect directly from the local CMO in a particular country or part of the territory.
- Provide accurate accounts to the author at least every six months, including detailed statements and payment (if recouped).

Publishing income is crucial for an all-round artist, who writes and performs their own material. It can be the only income stream they have in the early days. It is generally easier to recoup publishing advances than recording advances, as normally there are no deductions other than advances and the publisher's share of the income; in recording agreements there are often many deductions in addition to advances, such as video costs, recording costs and tour support. Many author public performance CMOs (PROs) will only pay 50 percent of the income to the publisher, the other 50 percent going straight to the author's bank account. If the royalty rate for public performance in the publishing agreement is 75/25 at source, the publisher will actually be entitled to keep 50 percent of the publisher's share; that is, 25 percent of the amount received from the CMO. To arrive at the 25 percent at source payable to the publisher, the publisher will credit 50 percent of the 50 percent received from the CMO

by the publisher to the author's royalty account, resulting in 75 percent being paid to the author overall. The system benefits the author, as in addition to the publisher's advance, the author knows 50 percent of public performance income will be received even if their account with the publisher is unrecouped which helps the author's cash flow. It is also important to understand that in many countries, income is collected from the promoter of live events (or the venue) by the author public performance CMO. This could be anything from 1 percent to 17 percent of the gross income from box office ticket sales, depending on the country. Some author public performance CMOs are sophisticated enough to ask the promoter or venue for details of every work performed at a particular concert/event. If this form is completed correctly, the money collected will eventually be paid to the authors of the works performed, even if they were performed by other artists. The artist or the artist's manager should make sure these forms are completed accurately because if the artist is the author this will provide a further publishing income stream that can be substantial. Much artist money has been lost due to managers and artists not submitting set lists of live performances to promoters and CMOs after a show or a tour.

15 Streaming licensing and royalties

Many authors and performers are unhappy with the income they receive from streaming, but with a proper understanding of the way the streaming world works and an enlightened approach to social media and digital marketing, far more can be gained from streaming than was possible with physical sales and digital downloads.

With physical CDs, each track on an album is valued equally and receives the same (or similar) income for every album sold. In the streaming world, there are usually only one or two tracks on an album that receive most of the streams. With CDs, there was only one transaction when the CD was purchased. The CD was maybe only played once, or it could have been played 1,000 times by the fan who bought it. Either way, the income to the authors, performers, phonogram producer and publisher was the same. With streaming, a payment is received every time a track is streamed, and the goal is to encourage fans to listen to tracks on the album time and time again. Although the income each time a track is streamed is tiny, if the number of streams is maximized, they can add up to substantial income, both on the recording side and on the author's side.

Unlike Apple Music, many other streaming platforms such as Spotify and Deezer have a free tier funded by advertising in addition to a paid premium tier. The free tier does not usually allow the capability for a user to download tracks to their devices while the premium tier usually does allow tethered downloads, provided the monthly premium is paid. Income paid per stream from the premium tier is much higher than from the free tier. Until 2023 the

premium tier in the United States typically cost a subscriber \$9.99 per month. This figure was applied across different countries and currencies, so in the United Kingdom it was £9.99 and in Europe €9.99. Because the currencies had different valuations this effectively meant that British subscribers were paying more than fans in Europe and much more than fans in the United States. In 2022 Apple increased their monthly individual subscription from 9.99 to 10.99 in many countries. Spotify also moved to 10.99 in 2023. In India and some other countries, the premium monthly subscription is far less due to their lower income per capita.

Further, the way revenue is distributed from the streaming platforms such as Apple Music and Spotify is different to previous payment models. Whereas a CD or a download from services such as iTunes would be paid to the copyright owner as a rate per unit, in the streaming world payments are made on the basis of revenue share based on consumption share.

Recordings

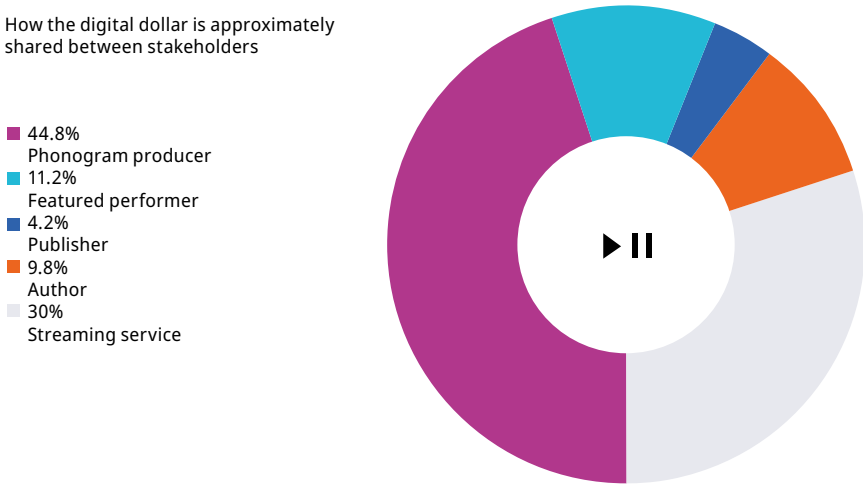
If a phonogram producer or a digital distributor licenses its recording catalogue to a streaming platform, it can expect income from the platform to be paid through on a monthly basis in each country, dependent on the number of streams from the phonogram producer or distributor's catalogue listened to by the platform's subscribers that month.

For example, Spotify will log how many streams each recording had in a particular country in a particular month. It will work out how many streams were owned by each phonogram producer or digital distributor and what percentage of the total number of streams should be allocated to them. Spotify will send a single payment to the phonogram producer or digital distributor based on the licensing agreement the phonogram producer or digital distributor has with Spotify, along with data on how many streams each individual track received. It is the phonogram producer or digital distributor's job to analyze the data and credit each artist's royalty account with the appropriate amount according to the artist's recording agreement or the digital distribution agreement.

Figure 9 is a rough representation of how the digital streaming pie is divided, assuming the digital service provider is allocated 30 percent of total income, the recording 56 percent and the work 14 percent. It presupposes the artist is on a digital royalty from the phonogram producer of 20 percent and that the publishing agreement is 70/30 at source in the author's favor. Every agreement is different and percentages will vary from artist to artist and country to country.

Figure 9 Sharing the digital dollar

How the digital dollar is approximately shared between stakeholders



Source: Reproduced by permission of Chris Cooke and UK Music Manager's Forum

Works

Things are more complicated on the author and publishing side. As discussed in Chapter 7, the author's streaming split is divided differently in different countries; in France it is 75 percent mechanicals and 25 percent public performance, in Germany it is 33 percent mechanicals and 66 percent public performance, in the United Kingdom it is 50/50 and in the United States in the region of 50/50. For the mechanical right (the reproduction right), Anglo-American repertoire tends to be licensed directly to the digital service providers by European publishers but it can only be done in partnership with the CMO in each country that owns or administers the author's public performance rights. This is because in Europe and some other countries, an author usually assigns the public performance right to the CMO, which means the CMO exclusively owns the right, not the author. Anglo-American repertoire is usually defined as author repertoire that originates from Australia, Canada, Ireland, South Africa, United Kingdom and United States. Repertoire that is not regarded as Anglo-American repertoire is usually licensed by the mechanical CMOs in each country either directly or via a digital licensing hub, such as ICE or Armonia in Europe, Polaris in Scandinavia, the digital one-stop shop LatinAutor in Latin America (administered by BackOffice Music Services) or the CAPASSO led Pan-African Licensing Hub in Africa.

In Europe, it may be via a special purpose vehicle (SPV) formed as a joint venture between publishers and CMOs, such as SOLAR (Sony Music Publishing, PRS for Music and GEMA), DEAL (Universal Music Publishing and French CMO SACEM) and PEDL (Warner Chappell Music and PRS for Music and others).

All this results in a process that may have many stages between the platform streaming a track containing an author's work in a particular country and the author receiving payment. In some cases, there can be three parties involved, but there can be as many as five, elaborated as follows:

- streaming platform→CMO→author
- streaming platform→publisher→author
- streaming platform→CMO→publisher→author
- streaming platform→hub→CMO→author
- streaming platform→SPV→publisher→author
- streaming platform→CMO (in country where streamed)→sub-publisher (in country where streamed)→publisher→author
- streaming platform→hub→SPV→CMO→author.

Other permutations of the chain can occur. If a work has more than one author it is complicated further, as each author may be a member of different CMOs and have different publishers and sub-publishers. Many hit records have five or more authors collaborating. At each stage, the organization the money passes through will usually take an administration fee and there can also be processing delays. These procedures clearly need to be simplified and streamlined so a higher percentage of at source income is paid to authors. It will be interesting to see how this plays out.

For further analysis of how streaming income works, visit the MMF's *Dissecting the Digital Dollar* (Third Edition) by Chris Cooke. This includes The Song Royalties Guide which is available as a free download.

User-centric revenue sharing

An alternative, some would say fairer, streaming royalty payment system is the user-centric payment system pioneered by Deezer and SoundCloud which, if adopted, would result in better payments to smaller local and niche artists, and slightly less to bigger, successful ones. It would ensure income goes to the actual artists a streaming subscriber is choosing to listen to.

Under the current system, streaming services pay out based on market share in each country, so most of a subscriber's monthly payment goes to famous artists such as The Weeknd, Taylor Swift, Post Malone, David Guetta, BTS, Ed Sheeran or Drake, even if a particular subscriber never listens to those artists. If a streaming service subscriber listened exclusively to Bassekou Kouyate, a Malian ngoni player who frequently features in the Transglobal World Music Chart's top 10 (visit www.transglobalwmc.com), he would get only a tiny fraction of the monthly subscription fee paid by the subscriber. If royalty payments were made using a user-centric revenue share system, all the subscriber's monthly fee would be allocated to Kouyate.

There is strong support for this shift to a user-centric system, particularly from authors, performers and some independent phonogram producers.

In 2023 Deezer in collaboration with Universal Music Group put forward a new streaming model which they call artist-centric. This model is not user-centric but has other functionality that aims to reward professional artists with established fan bases, deprioritize non-musical "noise" content and tackle streaming fraud.

Time will tell if all stakeholders will adopt this approach.

Streaming manipulation

The practice of stream manipulation or streaming fraud is a hot topic in the global music industry. This occurs when artists or businesses create, or pay a third party to create, streams thus artificially influencing monthly streaming numbers and income for a particular track. This is often achieved by using automated systems which are specifically prohibited in the Terms and Conditions of most streaming platforms. The Centre National de le Musique in France, a French government organization, produced a study of stream manipulation in France which they published in 2023. The data analyzed came from Deezer, Spotify and Qobuz. The report highlighted four ways that stream manipulation was taking place:

1. Established artists who may seek to artificially boost plays to maintain a chart position or reach a certain stream threshold in the first week of release.
2. Emerging artists who may seek to artificially boost plays in a bid to positively impact search engine optimization, influence streaming service algorithms or playlists, or to generally appear more popular with fans and potential business partners.

3. “Bad actors” who deliver their own music or “noise” content to the streaming services, and then automatically generate streams for that content, so that they are allocated a portion of streaming service revenues at the end of the month. (Noise content is tracks such as birdsong, waves on a beach or just white noise.)
4. Artists, phonogram producers or other entities who seek to harm competitors by artificially boosting plays of other people’s music in the hope that the manipulation is detected, and a track is therefore removed from a service, or demoted in terms of publicly visible data or chart position.

The report concluded that up to 3 percent of all streams were manipulated in 2021 although they did say that this was probably an underestimate. Deezer have said that they suspect up to 7 percent of all streams are fraudulent which has consequences for the entire music industry. Because streaming services pay out on a revenue share basis, it means that legitimate streams receive a lower monthly royalty from the streaming platforms.

Spotify, amongst others, is developing sophisticated AI programs that can detect fake streams after which the artist’s account may be penalized or even disabled. This would be a disaster for an artist’s career as it would, amongst other things, damage the trust in the artist-fan relationship. Artists are therefore advised not to participate in stream manipulation as the downside could be far greater than the upside.

Organizations such as the Music Fights Fraud Alliance are trying to reduce the practice but it will take a global joined-up music industry approach involving the streaming platforms, artists, phonogram producers, publishers and distributors to solve the problem.

16 Music in film, television, advertising and video games

The audiovisual use of music in film, television productions, advertising and video games can form an important income stream for performers, authors, phonogram producers and publishers. Unless the goal is to become a composer specifically for such uses, it is best to view synchronization of music as the icing on the cake rather than the cake itself. An artist should try to create great works and recordings that stand on their own, and which can be released and played live. If a synchronization opportunity comes along for that recording, it should be regarded as a bonus. That said, a synchronization use could result in the work/recording becoming a hit and boosting the artist's career. A work that had been a hit in the past can come back to life with a new synchronization use, sometimes with considerable income attached.

The following is an example of how this author secured the use of one of his artists' songs in an automobile manufacturer advertisement in Japan. The artist was the sole author of the work and the recording had been a hit in Japan 15 years earlier. Because it was well known in Japan, the artist's Japanese sub-publisher and this author were able to negotiate a substantial one-off synchronization fee of \$70,000 for the use of the work in the advertisement. The automobile company wanted to save money and/ or put its own creative style to the work so wanted to make its own new recording of it. By doing this, the company would not have to pay the artist's phonogram producer or the artist for the recording rights. It paid local musicians a one-off session fee to make the new recording, thus creating a recording with its own separate

copyright protection. In such a case, the rights in the original recording do not apply. The new recording was owned by the automobile manufacturer and so no related rights income flowed back to the original phonogram producer or the performers who played on the original recording. The automobile manufacturer did, however, need to get permission from the author's publisher (and the author) for the use of the work, which was what the one-time synchronization fee of \$70,000 covered.

As the artist manager I tried to persuade the automobile manufacturer to use the original recording, as this would have meant another substantial payment to the artist for the master use license fee that would have been required. The automobile manufacturer could not do the re-record without the permission of the artist's publisher (and the author) so the artist could have stopped the entire use. Ultimately, it was a case of take it or leave it. It was decided to allow the company to make the new recording. At least the artist would receive the \$70,000 (less the publisher's percentage).

But that was only a part of the income this use generated. There was also the right of public performance/broadcasting in the work that was collected by JASRAC, the Japanese author CMO, based on the amount of public exposure the ad received. The advertisement was shown on every major Japanese commercial television station several times a day for a year, generating a substantial amount of public performance income. The result was a pay through to the author, after CMO deductions and the publisher's share, of more than \$450,000. The publisher share was 15 percent so the net pay through to the artist on the original synchronization fee of \$70,000 was \$59,500 (\$70,000 less \$10,500) so the total income payable to the author was \$509,500, more than half a million dollars. A further bonus was that the song title appeared on the ad so viewers could easily find it to stream, download or buy on CD if they wished.

If the automobile manufacturer had used the original recording as well as the work, there would have been a one-off payment for the master use fee although there would have been no public performance income on the recording side as that right does not apply for television ads in Japan at the time of writing. The artist was signed to one of the three major record companies, who generally insist on a 50/50 split with the artist on master use license fees. If the work and master use license had been subject to a most favored nation (MFN) clause, the master use fee would also have been \$70,000, of which \$35,000 would have been payable to the artist. The other thing to note is that Japan, like the United States, does not have copyright legislation in place to give phonogram producers and performers a public performance right when recorded music is

played in public places, such as clubs, stadiums, stores, shopping malls or places of work. Hopefully, this will be implemented in the coming years.

It should be remembered that management commission would need to be paid to the manager from the total amount received by the artist, and that if the artist is unrecouped with their publisher and/or phonogram producer, the amounts due to the artist will be credited to the artist's royalty account rather than being paid out.

Many audiovisual uses of music generate very small amounts of income, but it is important the publisher and manager devote time trying to put the artist's music into audiovisual media. In addition to the financial rewards, any audiovisual use of the artist's music, whether they are the author or not, can help their career development. It provides mass exposure, which can often lead to increased record sales and elevate or, in the case of an unknown performer, launch a career.

The audiovisual use of music is one of the only areas where the copyright in the work and the related rights in the sound recording are usually regarded as equal in value. When a fee is agreed with the user—either the synchronization fee for the work, or for the master use fee for the sound recording—it is best to try to agree the fee on an MFN basis. This means that if the other copyright/related rights fee is greater than that agreed, it is automatically increased to the same figure as the other copyright or related rights fee. For example, if a publisher agrees a synchronization fee of \$10,000 and the phonogram producer agrees a master use fee of \$8,000 on an MFN basis, the master use fee would automatically increase to \$10,000. Similarly, if the publisher had agreed a fee of \$8,000 and the phonogram producer a fee of \$10,000, the publisher's synchronization fee would automatically rise to \$10,000 if an MFN clause were in place. The MFN arrangement always equalizes fees at the higher figure, not the lowest.

Music in films

Since the dawn of audiovisual films in the 1920s, when sound was first successfully synchronized to moving images, music has been an essential ingredient in their production. Its ability to enhance a mood or a piece of drama on the screen heightens the desired effect on the viewer. There are several ways a film producer will approach this in conjunction with the director. It usually involves engaging an author to compose an entire score for the film, but often this will be interspersed with existing recordings and/or works that are

recognizable, or which have enhancing lyrics thus heightening the emotional effect of a scene. A moviegoer, staying in their seat at the end of the film, will see a long list of credits, including details of all the works and recordings used in the film. Typically, such credits show who wrote the work, who performed it, who the publisher is and who owns the rights in the recording. Credits also state who the music supervisor was and the score composer. (This author has often felt pressured to leave by cinema cleaners, as he stayed right to the end of the credits, taking notes.)

If a phonogram producer, publisher or manager can get an artist's existing recordings used, it opens up several income streams. In the case of a major movie these are as follows:

- A synchronization fee payable by the film company to the author's publisher, or the author if they do not have a publisher, who will in due course credit the author's royalty account according to the publishing agreement. If the author has no publisher but is using a sync agent then this would go through the sync agent, who will take their agreed share and pass on the balance to the author.
- A master use fee payable from the film company to the artist's phonogram producer, who will in due course credit the artist's royalty account according to the artist's recording agreement. If the artist has no phonogram producer but is using a sync/master use agent then this would go through the sync/master use agent, who would take their agreed share and pass on the balance to the artist.
- Mechanical royalty income to the author's publisher/author if the song appears on a soundtrack album of the film. Mechanical income is payable when the film soundtrack is streamed, downloaded or released in physical form (CD/vinyl) or when the film is released as a DVD, unless mechanical income is agreed as a buyout in the synchronization license agreement.
- Recording royalty income for the artist and the artist's phonogram producer if the song appears on a soundtrack album of the film and the soundtrack is streamed, downloaded, released in physical form or the film is released as a DVD.
- Public performance income for the author and the author's publisher in countries where such rights exist, when the film is shown in public cinemas.

So how do artists get their music into a major film? The best method for a manager is to be on good terms with the artist's publisher's film and television music coordinator. This is the publisher's representative who will meet with film music supervisors and suggest suitable works for inclusion in a film. The problem here is that if the author is with one of the major international

publishers, this publisher's music coordinator will approach the film's music supervisor, often representing more than a million works; in this situation the chances of any real representation for the author are low. It is therefore essential the manager and the artist are proactive in seeking audiovisual placements. This can also be to the financial advantage of the artist and manager, especially if the manager has insisted on different rates in the publishing and recording agreements when a synchronization or master use license is obtained by the artist and manager, as opposed to when it is obtained by the publisher or phonogram producer. For example, if the publisher obtains the synchronization, the income split in the agreement might be 65 percent to the artist and 35 percent to the publisher. If the manager and artist obtain the synchronization, the income split may be increased in the artist's favor to perhaps 75/25. The same increase is often negotiated in recording agreements where the split could be 50 percent to each party on master use fees, rising to perhaps 60 percent to the artist if the artist/manager procures the master use.

The first step for the manager or artist is to research exactly who are the independent music supervisors and major film company music department representatives. All such information for Canada, United States, and some for Europe, can be found in the monthly *Film and Television Music Guide*, available from Music Business Registry in Los Angeles (visit www.musicregistry.com). Another source is *The Sync Report* (visit www.thesyncreport.com), for real-time reports for Australia, Canada, United Kingdom and United States, covering television shows and networks, brands and advertising agencies, films and studios, video games companies, music supervisors and trailer houses, including all contact information.

Another way to keep abreast of films in production and the music supervisors appointed for them is to look at *The Hollywood Reporter*, a weekly publication carrying all the latest news and information on the industry (visit www.hollywoodreporter.com). It is also possible to subscribe to the [IMDbPro](http://www.imdb.com) database, which carries details of films being made and the stage they are at in the film cycle. IMDbPro usually offers a free 30 day trial.

One thing is certain: unless the artist or the artist's manager is standing at the bus stop, they are never going to get on the bus. Unless the music supervisors are aware of an artist's music, nothing is ever going to happen. This author found that going to Los Angeles and meeting as many people as possible involved with music in films has always paid off; if an artist or their manager can afford to do this, it is strongly recommended.

If that is not possible, the next best thing is to alert music supervisors to an artist's music via email (see tips section at the end of this chapter). It might be that a music supervisor has an emergency where they have to replace a piece of music quickly because the original piece cannot be cleared. If they have recently listened to a piece of submitted music it may just be just what is needed. While the majority of global film releases come from Hollywood, there are active film industries elsewhere, including India (Bollywood), Nigeria (Nollywood), Australia, Canada, France, Germany, New Zealand and United Kingdom, all of which could be targeted for possible sync/master use if it is felt the artist's music might be suitable. In Latin America, film industries in Argentina, Brazil, Chile, Colombia and Mexico are booming and offer many sync/master use opportunities.

When negotiating synchronization licenses it is important to note that they are often based on a buyout of mechanical rights when the film is later sold to the public as a DVD, download or stream. If this is not the case, the film company will need to acquire mechanical licenses for every work in the film if they want to sell copies of the film to the public. In practice, there are often a series of options in a synchronization license so that an additional payment is made by the film production company if the film is to be sold as a DVD, stream or download. There may also be territorial options. For example, the synchronization license may be for the United States only, and if the film company wants to extend this to other territories, or worldwide, a further payment will need to be made. While mechanicals can be included as a buyout in these synchronization agreements, public performance is generally not included. So in addition to the synchronization fee, an author/publisher can look forward to further income when the film is shown in cinemas and later on television and online. The exception to this is the United States, where no public performance payments are made when a film is shown in a movie theatre. Public performance payments are made, however, if the film is shown on US television.

Music in television

Music in television productions can be a possible income stream for authors and performers, although the synchronization/master use fees payable are usually considerably lower than those for films. In many countries, there are industry agreements based on blanket licenses that allow television stations to use music for certain set fees based on a rate card. The amount payable may depend on the time of a broadcast, number of minutes used, and other criteria. CMOs will also have agreements in place regarding their rates for the public performance of the music. In the United States, the system for music

in television is much the same as that for films; that is, a synchronization fee and a master use fee are negotiated in each case. The major difference is that whereas there is no public performance right for films shown in movie theatres, that right exists when music is used for television. So when the Rembrandts song "I'll Be There for You" was chosen by the television network NBC as the signature tune for hit series *Friends*, the synchronization fee would have been insignificant compared with the public performance income generated over the years. It is prudent to stay in contact with the film/television department of the artist's publisher, but the artist's manager should also be proactive wherever possible.

Music in advertising

Placing music in advertisements can also be financially rewarding as was demonstrated by the example at the beginning of this chapter. Japan is particularly strong in this regard, and it is a good way to break into the Japanese market. Unfortunately, many Japanese corporations are aware of this and may ask an up-and-coming artist to waive the public performance income if their song is to be used on national television for a product. It can be a difficult decision to make. This is again a function of the artist's publisher and phonogram producer's film/television coordinator, but it may be they have a staff member specializing on advertising uses only.

Some major advertising agencies have their own music departments. Unless the agencies are aware of an artist's music, they are never going to place it, so the manager should ensure as many agencies as possible are familiar with the artist's recordings. There are also music houses who specialize in providing brands and advertising agencies with suitable music. In the United States, they include MusicForAds, PureSync, Music Gateway and ThinkSync Music. The music houses will be briefed by the advertising agency on the type of music they are looking for. They will know a range of authors and will often invite several to compose, record and submit demos that may be suitable. The advertising agency or brand may prefer to use an existing work/recording, which would need editing to fit the length of ad, usually 15 to 60 seconds.

Brands are frequently on the lookout for music that conveys a sense of well-being, and themes such as togetherness, sunshine, bright new day, optimism and positivity are always in demand. If an ad makes the viewer feel better, they may go out and buy the product; songs such as "Walking on Sunshine" by Katrina and the Waves, or the Boo Radleys' "Wake Up Boo!" are good examples. Platforms such as Songtradr (visit www.songtradr.com) based in Asia-Pacific,

Europe and United States, act as a conduit between artists wishing to find sync uses and businesses wishing to sync music.

Artists such as Groove Armada, whose track “I See You Baby (Shakin That Ass)” was used extensively on the Renault Megane television commercials, have reaped enormous rewards from this use. It was estimated that Sting’s “Desert Rose”, used in a television ad for Jaguar cars, resulted in him selling more than 2 million extra albums. Uses in advertising can be extremely beneficial.

Music in video games

Music in video games is becoming increasingly significant, not so much for the income generated, but for the marketing and career opportunities they can create. The biggest video game software companies are Sony Interactive Entertainment (SIE), Electronic Arts, Microsoft Studios and Activision Blizzard (United States), Nintendo, SEGA, Konami, Square Enix and Bandai Namco (Japan) and Ubisoft (France). All have international distribution. Electronic Arts, for example, is responsible for successes such as *The Sims* and *SimCity*, *FIFA World Cup*, *Dead Space*, *Need for Speed*, *NFL Live*, *NBA Live*, *Medal of Honor*, *Battlefield*, *Star Wars*, *Lord of the Rings* and *Harry Potter*. Sometimes the games are adapted for each country, at least in the packaging, but the entire game can also be adapted to the local language. Games are designed for specific platforms such as PC, Mac, Xbox, PlayStation Wii, Nintendo, iPhone, iPad, Android and Facebook. Music included in games has enabled previously unknown artists to obtain recording and publishing contracts, sell large quantities of physical product and downloads and achieve millions of streams.

The fees are usually fixed buyout synchronization and master use fees in the \$2,000 to \$15,000 range “per side”, with no royalties payable. The term per side means there would be in the region of \$2,000–\$15,000 payable to the author(s), either directly or through their publisher, and the same fee payable to whoever owns the copyright in the sound recording, who will then pay through to the performers according to the recording agreement. An MFN arrangement usually operates where the fee payable for the work will be the same as that paid for the use of the recording. Most of the large video game companies work on this buyout-only basis, but some smaller companies, and those producing music-based video games such as *Guitar Hero*, will pay an advance against royalties.

Music is often secondary in the context of video games; a player is focused on the action on screen and the music is there to support whatever is going on.

Many artists and managers overlook this use and do so at their peril. Some industry insiders regard music in video games as the new radio, especially as in many countries it seems to be increasingly difficult to get new music broadcast on traditional radio. Many young people spend countless hours playing video games and hear more music there than they do in any other way.

Commissioned music

When a film or television company, or advertising agency require a new piece of music for a particular use, they will often commission an author specifically to write something. In the case of a major film or television production, an author might be asked to write the entire score.

There are relatively few renowned film composers. Hans Zimmer, Howard Shore and David Arnold are three that are regularly commissioned so it is difficult for a new composer to break into this field at the higher levels. Film companies tend to play safe and use tried and tested composers who they know will deliver. Authors should hone their skills on homemade or small independent films, and try to work their way up. If this is an area an author wishes to explore, they should create a showreel and attempt to engage a specialist composer agent such as Gorfaine/Schwarz (visit www.gsamusic.com) or Soundtrack Music Associates (visit www.soundtrk.com), both based in Los Angeles, or Air-Edel (visit www.air-edel.co.uk), who are in London and Los Angeles. These companies also represent music supervisors and music editors. Full lists of music composer agents, and other categories of music in the film business, are available in the *Film and Television Music Guide* and *The Sync Report* outlined above.

Library or production music

Library or production music is usually owned by specialist companies that are often linked to a major publisher. An author supplies music for specific audiovisual moods or types of use, such as high drama, or tranquility, or travel music. The library music company will generally pay the author a lump sum buyout for the composition and recording of a track and will own the copyright in the recording as well as the mechanical rights in the work. The author typically supplies a demo or finished recording, often recorded in a home recording studio. If the recording is good enough, the company may accept it as it is, though it may want to make a better recording to make it more attractive to a licensee. The author will usually retain the public performance rights in the work so will continue to receive an income stream via their membership

of an authors' public performance CMO. This makes licensing easy for music supervisors of a film, television or video game company, advertising agency or website designer, as they can use the music knowing all rights are cleared (apart from public performance) in return for payment at certain set rates.

An alternative arrangement is for the library music company to pay through 50 percent of licensing income received that the author has written and recorded and 50 percent of any public performance income. The rates for library music are sometimes set and administered by a CMO that collects mechanical royalties on behalf of publishers and authors. The license such a CMO issues will cover both the clearance of the rights in the recording and the mechanical rights in the work. Rates will vary depending on the number of minutes used and type of use. It should be noted that library music recordings are not generally commercially released, so in most countries would not qualify for public performance on the recording side.

In Europe, an author generally assigns their public performance right to their public performance CMO. This means the author is not able to grant a complete one-stop shop buyout for an audiovisual use as while the CMO will pay through any income to the author, the CMO owns the right, not the author. Outside Europe this is not necessarily the case, and some author public performance CMOs act for the author on an agency basis. In the United States, big audiovisual production entities such as the Discovery Channel and Netflix have been pressuring authors to sign a complete buyout for library and commissioned music, including recording rights, mechanicals and public performance income, thus cutting off any future income for the author. This is being resisted by several authors' CMOs and trade bodies.

In Europe, library music company Epidemic Sound (visit www.epidemicsound.com) has developed a business model that does deliver a complete buyout of all rights to a licensee. It will only take compositions/recordings from authors who are not members of a public performance CMO.

If an author has not assigned their public performance right to a CMO, they own the right and are in a position to do a complete buyout with the library company for a lump sum. This would not be successful for an author who is also an artist and seeking a career releasing recordings and playing live; they would miss out on any public performance income from broadcasting and when their music is played in public places. Epidemic Sound is a big provider for YouTubers. YouTube video creators can use Epidemic's music knowing that all rights are cleared, including public performance.

Tips for placing music in film, television, advertising and video games include the following:

- Make a quality recording. Never send in a demo. Music supervisors expect a great sounding, well produced, mixed and mastered recording.
- Always accompany the recording with an instrumental version of the same track. This should be mixed and mastered to the same standard as the vocal track.
- Some music supervisors expect recording stems in order to remix and edit the track for their needs. It is not necessary to provide these with the pitch, but have them ready to go if requested. Audio stems are the elements of a recording (sometimes mixed elements) that can be used to change, modify or edit a final mix.
- Do your homework. Find out as much as possible and only submit music suitable for a particular production. If it is a series, check the credits of previous episodes/games and see what music was used.
- Try to build personal relationships with key music supervisors. Do not try to squeeze more money than is on offer. It is more important to build a relationship as a trusted source of suitable music that can be licensed at a fair price. The music supervisor will then come back to you again.
- Encourage music supervisors to send you briefs when they are looking for music for projects. When sending music for a brief, only send relevant music.
- When submitting music, never use email attachments (which clog email boxes) unless specifically requested. Use a link to an MP3 via streaming services such as SoundCloud, YouSendIt or DropBox. Enable a track to be downloaded with one click. Do not use services where recipients have to give feedback to download the track.
- Including relevant contact details and information on the track in the music file metadata is key. Metadata is the title/description of the file containing the recording. Providing MP3 or other digital files from a link means data quality can be controlled. Be sure email addresses are visible when the MP3 is downloaded. Include an email address after the artist's name and track title. Also include name(s) of authors, publishing information and the recording owner(s). If you own the author's rights (i.e. there is no publisher) and/or the recording, make that clear.
- If you control both the recording and author's rights, use words such as: "one stop shop, all rights cleared and ready to go". This appeals to supervisors, who can license the track quickly and probably for less than a track signed to a publisher or phonogram producer. Independent artists are often favored, especially in the United States, where it can be expensive to use music from major phonogram producers and publishers. Music supervisors will often seek an indie cover replacement for a work/recording

they cannot afford from a major publisher or phonogram producer. A high-end television show will often have a budget for one or two big songs that could cost them \$15,000 per side, and will look for additional songs for a fraction of this fee to fill the show.

- Never send music supervisors any music that contains a sample, unless it is totally cleared. This is fundamental. If they push a track through with a director and it transpires there is an uncleared sample in it, they will never take you seriously again.
- Do not expect instant reactions. Supervisors are busy people, and are sent hundreds of hours of music every week. Never send links to more than two tracks with any communication unless requested to do so.
- Do not contact music supervisors too often or you will be designated to their junk folder.
- Keep tabs on blogs and radio stations; for example, music supervisors tend to listen to the eclectic KCRW in Los Angeles. Some are also KCRW presenters.
- Consider creating interesting covers of known songs with unusual arrangements which are always in demand. The music supervisor will have to clear the work with the original authors but if approved they will save money on the master recording. For example, Lily Allen's "Somewhere Only We Know" was a cover of the 2004 original by Keane and reached no.1 in the United Kingdom after being included in a television ad, or Adele's "Hello" covered as a fabulous reggae version by Conkarah and Rosie Delmah (check out the [video](#)).

Numerous agencies will represent an author or author/artist's music if they do not have a publisher. As with everything, some are better than others. It is advisable to use only one agent; if a supervisor is presented with music from several different reps at once, it will be confusing and this could be detrimental.

An agent's fee of 20 percent to 25 percent of income they source is common, and justifiable if they get results. Most sync agents will only take on an artist if they believe they can deliver results. It is helpful to question how a deal signed to a sync agent could affect the artist's ability to sign a better publishing or recording deal in the future. Decent agents are usually based where the media is created such as Los Angeles, New York and London where they live the scene. The artist should try to get a clause in the agent's agreement that if they fail to get a placement within (for example) six months, they are free to go elsewhere.

To get noticed by a music supervisor an author or artist's music should be available on services such as Spotify, Soundcloud and YouTube. Many music supervisors spend a lot of time on YouTube, so a decent video is always a plus.

They are frequently looking for interesting cover versions particularly on Spotify and YouTube.

When a sync is achieved, all the performers on the recording and all authors that contributed to the work need to give their consent for the use to take place. If eight authors contributed to the work, each author or their publisher needs to give permission. Similarly all the performers, including any non-featured performers, need to give their permission. In the case of non-featured performers, this is often achieved in the session contract at the time the recording took place. Payment can also be agreed for non-featured performers via their musicians' union, which may have industry agreements in place for such uses.

17 Sponsorship and branding

Sponsorship is increasingly an important source of income, and tie-ins with established brands that want to increase sales by associating themselves with music and artists. Not surprisingly, they are usually attracted to high-profile artists rather than those in the early stages of their career, so the more successful an artist or band becomes, the more interest there will be. Brands such as Apple, Coca-Cola, Pepsi, Starbucks, Bacardi, Diesel, Budweiser and Red Bull have long been connected with music because they see it as a marketing opportunity to reach customers and increase sales.

Telecom companies such as O2 in the United Kingdom have become involved with music by investing heavily in the sponsorship of live music venues. The most high-profile is the O2 Arena in London owned by AEG, which grosses more income in ticket sales than any other venue in the world. It has worked so well, O2 sponsored Academy Music Group venues in 2009 across the country, rebranding them O2 Academy venues. The sponsorship enabled O2 customers to purchase tickets for events at these venues two days before anyone else. Fifty-one percent of the venues currently sponsored by O2 are owned by Live Nation. In 2017, O2, Live Nation and Academy Music Group renewed the agreement for a further ten years.

Some brands provide opportunities for unsigned bands (those without a recording agreement with a phonogram producer) or bands who release their own recordings. These often take the form of competitions to take part in

a brand-sponsored compilation album or a live event. When starting out, it is important artists seize any opportunity that could result in a higher profile. A sponsored unsigned band competition is one of the ways to do that.

One way for an artist to save money is to approach instrument and equipment manufacturers and suppliers to see if they would be interested in sponsorship (sometimes referred to as endorsement). In the early stages, this might mean artists are able to purchase instruments and equipment at wholesale rather than retail price. As they become better known, it may be extended to the loan of equipment free of charge. It may also be that manufacturers or suppliers wish to publish photographs of the artist using their equipment or instruments in their magazines or in advertisements. They may also expect the artist to provide feedback and reviews of their latest products. Some brands may require the artist to sign a sponsorship agreement for two or three years, or it could be just a one-off arrangement for a tour or some specific event.

There are entertainment consulting agencies that represent brands and provide ideas and connections that will help sell the brand through music. The agency will navigate the brand through any copyright issues or ticket acquisition procedures to make the experience as pain-free as possible. It is worth artists finding out who these agencies are in their home country and making the agencies aware of the artist's music as well as any career progress being made.

One of the largest music branding agencies is Havas who own Cake which represents the National Basketball Association (NBA), National Football League (NFL), Captain Morgan, Coors Light, PayPal, Puma, Aston Martin and the English Premier League. Other branding agencies include Amplify FRUKT and WMA, whose clients include Spotify, Netflix, Nike, Reebok and Martini.

The three major phonogram producers each have their own brand partnership operation; Universal has Globe (visit www.globe-umusic.co.uk), Sony the 4th Floor Creative and Warner does brand work via its WMX venture. Globe has connected Universal artists with many brands; Celeste with American Airlines, and the Chemical Brothers with Formula 1, for instance.

Some of the bigger booking agencies such as Creative Artists Agency (CAA) have their own brand partnership teams, as do promoters such as Live Nation, with branding targeted at the live music sector including tours, venues and festivals.

Tour sponsorship can be lucrative for successful artists; for example, US band Maroon 5, which has long been associated with brands, was sponsored on one tour by Honda Cars. The band has also participated in a Coca-Cola Music initiative, composing and recording an original song, "Is Anybody Out There" in just 24 hours. Opening up the session to global fans via Facebook and X (Twitter), fans could post ideas for the lyrics, recording production and musical arrangement during the 24 hour period. It gave fans a unique insight into how the writing and recording process works at the top level. Coca-Cola made 100,000 free downloads of the track available from their website, and for every one downloaded donated to the Coca-Cola Foundation's Replenish Africa Initiative (RAIN), providing access to clean water for communities across Africa. Everyone was happy; Maroon 5 recorded a new track paid for by Coca-Cola, the fans loved the experience and were able (if they were quick) to get a free download, African communities benefited, and Coca-Cola came out as the good guys, with enhanced brand association and recognition.

Established artists have to think carefully before associating with a brand that may not fit with their style or ethical views. Maroon 5, again, were criticized when, unbeknown to the band, a promoter for a show in Jakarta, Indonesia received sponsorship for his concert series from cigarette company Gudang Garum and their Surya Professional Mild cigarettes. When the band realized this, they demanded the tobacco association with its name be removed from all advertising or it would not perform. This is an example of how careful managers must be with live work. The band had no direct sponsorship with the tobacco company, but the promoter's concert series did, giving rise to an unwelcome association on posters and advertising. An artist manager should understand the moral views and particular dislikes of an artist or band and incorporate them in every contract the artist signs, including live event contracts, recording agreements and publishing agreements.

Neil Young, for example, was booked to play a live show in London's Hyde Park in July 2019. The Canadian is passionate about climate change and environmental sustainability. On discovering Barclays Bank, who invest in fossil fuel industries, was sponsoring the show he refused to play. In the end, the sponsorship was withdrawn and Young played the festival.

Previously, brands would associate themselves with music by badging live events, whereby a brand would have its logo on all advertising for the event, and usually a banner at the back or sides of the stage. It would often provide fans with a free download and/or tickets. As the music branding space gets more crowded, however, brands are having to be more innovative with their campaigns, often partnering with digital services, phonogram producers and

artists to achieve integrated, engaging and wide-reaching market penetration. A good example was the Budweiser campaign, Bud Light Music First, which aimed to increase sales of its light beer in the United States. In collaboration with concert promoter Live Nation, phonogram producer Universal Music and social media, Budweiser staged 50 concerts, one in each of the 50 states, all on the same day. It created iOS and Android apps that allowed fans to scan the QR codes on bottles of Bud Light from which they could win headphones, concert tickets, Universal Music downloads and even cash. A hub was created where fans could stream all 50 shows, and access band information and interviews. A highly engaging music experience, it also helped developing artists taking part in the concerts to reach a much wider audience. Because fans had to download a free app to their smartphone or tablet, they were in effect taking the campaign around with them, which allowed the brand to keep in touch with them and further develop the campaign. Streaming allowed not only ticket holders but also many millions of fans around the world to watch the concerts, enabling the brand to connect on a global level.

Energy drink company Red Bull took a different approach with its Amplifier Accelerator scheme, which targeted innovative start-up services rather than the artists themselves. Their aim was to make music experiences better and to redefine the idea of accelerating a start-up. Other brands, such as Coca-Cola, have provided free Spotify subscriptions, and Spotify itself has launched brand apps for companies such as Intel and McDonalds. Beer company Tuborg launched a campaign to open access to different music from around the world via tastemaker service Pitchfork and its own Tuborg Music Hunter website. It sought creative social media reporters—the music hunters—to send to festivals accompanied by Pitchfork production staff, and to document and share their experiences as they travelled to and from music festivals around the world.

Some brands are turning their attention (and money) to social media influencers rather than music artists. A post or a post from someone who has millions of followers is extremely valuable to a brand. In the same way, an influencer who posts about an artist or an album is massively valuable to an artist, which is why an artist should always be contacting influencers and sending them music. Influencers would generally prefer to be associated with music than with baked beans and will usually push an artist's music for a lower rate than a regular brand. If they really like the music, they may even recommend it for free.

The golden rules for artists who are prepared to be associated with brands are as follows:

- Make sure the product is compatible with the band's image and beliefs.
- Do not just go with the brand that is offering the most money.
- Fans usually dislike artists engaging with brands, so try to manage this situation. Bring them onboard, explaining the money will create better shows and recordings.
- Engage with the digital services the brand intends to use.
- Try to get the brand to share information if data protection laws allow (particularly email addresses) to expand the artist's fan base.

18 Live work and touring

Prior to 2020, live work was on a steady upward path often becoming the most valuable income stream for many artists. The COVID-19 pandemic resulted in a sudden halt to live performances in most countries, with immediate and serious financial difficulties for featured and non-featured performers, stage and road crews, managers, promoters, venue owners, booking agents, ticketing companies, sound and light production companies, festival organizers, live event security companies, and all businesses that support the sector. Some governments, CMOs, Musicians' unions, businesses and music charities, in more enlightened countries, provided grants to keep the culture and entertainment sectors going. It wasn't until 2022 that live music started to properly resume again.

Live performances will always be unique and hold a special value for fans. It is impossible to experience the effect of a live performance unless one is physically present at the time and venue where the performance takes place. While there are always YouTube videos, DVDs and audio recordings of live performances, they will never compare with actually being there. If an artist becomes popular from just one or two hit recordings, they can continue to earn a good living as a live performer for the rest of their life because of the public awareness of those recordings. For example, The Searchers, a British band who had several big hits in the 1960s were able to tour extensively for over 50 years after their final hit single in 1965. Some years they would play up to 100 shows worldwide. In the 2020s they were still playing live and earning a good living. In the 1960s their audiences were mostly in the 10-25

demographic. In the 2020s they are in the 70-85 age range but have stayed loyal to the band they loved when they were young. The band and the audience have grown old together, allowing the band to continue making a living from live work alone.

One of the best illustrations of this is the Rolling Stones who, like the Searchers, had their first hits in the early 1960s. In their later years the band still write and record but only rarely release singles and albums of new material. In the first quarter of the 21st century they released just three new albums 'A Bigger Bang', 'Blue and Lonesome' and 'Hackney Diamonds' although all three topped the album charts in many countries.

Their touring career, however, is another matter entirely. The 2017–2021 No Filter world tour grossed \$546.5 million, with 2,867,799 ticket sales from just 58 shows. Mick Jagger, Keith Richards and Charlie Watts, the three original members, were in their 70s for this tour and as with every Rolling Stones tour, a worldwide audience wonders, "will this be the last?". The Stones were due to conclude dates on the No Filter tour in 2020 but this was delayed due to the pandemic. The rescheduled dates continued in September 2021 despite the untimely death of founding member Charlie Watts in August 2021. Many other artists who had hits many years ago including Crowded House, The Zombies, Paul McCartney, Van Halen and the Eagles, among others, dusted off their guitars and went back out on tour with great success.

In 2023 touring records again tumbled. Taylor Swift's Eras tour sold over 4.35 million tickets across 60 shows in a 12-month period, generating over USD1billion in gross ticket sales, the first tour to ever surpass that milestone. In addition, Taylor Swift's merchandising sales over those dates were estimated to be in excess of \$200 million.

One of the most successful touring artists of all time was British singer-songwriter Ed Sheeran, who grossed a staggering \$775.6 million, selling 8,796,567 tickets from 255 shows, for his 2017–2019 Divide tour. Sheeran insisted that ticket prices were considerably lower than for comparable tours by other artists. He has no band and does the whole show with an acoustic guitar/vocals and live loops generated by foot pedals on an effects board at his feet. He creates and records loops live on stage and then plays and sings on top of them. Impressive.

Getting started as a live artist

No matter what kind of music an artist plays, it is hugely important to work on live performances, both in terms of improving musical skills and visual presentation. The live performance has to impress, whether by sheer spectacle, musical excitement, musical brilliance, moving the audience emotionally, or by making them dance. If an artist can impress an audience and make the live experience a good one, the fan base will grow which will enhance all income streams.

The best way for artists to establish themselves as impressive live performers is to spend time practicing and rehearsing. It is said that every great musician or singer has to put in 10,000 hours of practice to become truly proficient. A performer who plays a musical instrument should learn from others, study videos of favorite players, take lessons, and practice as much as possible. Even the most accomplished musicians need to play extensively every day if they are to remain at their best. If the performer is a singer, no matter how good or successful, it is important to take regular voice coaching lessons.

The other important aspect of performing live is stage presentation. An excellent way to perfect this is to rehearse in a room that has a wall of mirrors so the artist can see what they look like while performing. In this way, it is possible to try new things and develop moves that add to the overall live experience. If the artist is a band, they can see how the members of the band interact with each other on stage for maximum effect. Clothes, hair and makeup can be important in creating the right look. Never underestimate the importance of presentation. Whether it is outrageous, cool, sexy or ultra-smart, image can greatly affect how an artist's performance is received by their audience. No matter how successful an artist becomes they should always be thinking about new ways to present the music so their style constantly evolves.

Sound and lighting

Even at the earliest small shows, it is essential that the PA (public address) sound system and the lighting at the venue are adequate. This author has often been at small live performances where there was no direct lighting, which is very frustrating for both artist and audience. Try to persuade venue owners to invest in stage lighting, no matter how basic. Alternatively, the artist can invest in two or three LED (light emitting diode) lamps on stands that they can take around with them. As soon as feasible, find someone who is interested in lighting to come to shows and direct the lighting. If the venue already has built-in stage

lighting, it will be important to set and focus the lights during the sound check if possible.

Sound is of great importance and can make the difference between a successful show and a disastrous one. First, it is essential the band are able to hear what each member is playing and singing. A good monitor system (sometimes called fold-back) is fundamental to the band playing well together. Most small venues use conventional wedge monitors, but increasingly, bands are using IEMs (in-ear monitors). IEM systems are radio wireless systems where each musician/singer has a small belt pack receiver connected to in-ear headphones, with the monitor feed coming from a transmitter at the side of the stage. The monitor mix will be a separate mix from a mixing console usually positioned at the side of the stage, or it can be from a combined front of house mixing desk and monitor desk. If a radio system is being used for either radio mics or IEM systems, or both, it is essential to ensure the venue (or the artist if it is their own system) has the appropriate local radio frequency licenses cleared in advance. There is nothing worse than a taxi driver suddenly speaking through the PA system in the middle of a song because they are using the same frequency out on the street as the band inside the venue. (This author has experienced that.)

The artist should try to find someone who is interested in mixing sound as soon as possible, and ask them to mix the band's front of house sound (and monitors if appropriate) at each show. If a sound check is possible, always make sure that everyone arrives at the venue in good time to have a proper sound check. At festivals this is often not possible, with only a short line check permitted immediately before the artist goes on stage, but at normal indoor venues a sound check should always be possible.

How to get live work

In the early stages, an artist should try to get as many live shows as they can, no matter how small the potential audience. The artist should play live at parties, bars, malls and clubs; in fact, anywhere there is an audience. When The Police played their first show in the United States, it was at a small club called The Last Chance in Poughkeepsie in upstate New York. There were three people in the audience, but the band performed with complete conviction, as if the venue was full. The Police went on to become one of the most successful bands in the world in the 1980s. After they split in 1984, lead singer Sting went on to have another huge career as a solo artist. Similarly, U2 played more than 250 small shows in their first year, perfecting their songs and stagecraft. The important thing for artists is to play every show as if their lives depend on it, no matter how big the

audience. With regular rehearsals and hard work, an artist's live performance will hopefully become something that audiences want to see. Everything can be built from there.

Live performances are usually central to building an artist's fan base. If the plan is to invite managers, publishers or phonogram producers to a show with a view to signing a management, publishing or recording agreement, it is advisable to pick a really good venue with a good sound and lighting system, where the conditions for performing will be at their best. Fans on the database should then be informed that this is a special show and it would be helpful to the artist if they attended. With any luck, the place will be packed, which always impresses.

To get bookings, it will be important to write an interesting and lively biography of no more than two pages. This should include a brief history of the artist's career to date, including any notable achievements in the media, live performances and any other standout events. It should also make clear the genre and type of music played. Do not be reticent about using humor, as it always attracts attention, especially if it is genuinely funny. Good photographs and artwork are important, especially the main image on the artist's website landing page. In the beginning, try a photographer who is a fan, or a local photographer who is enthusiastic about the project. Most amateur photographers are only too pleased to take photographs of an artist at little or no cost. If that does not work, it is worth investing in a professional photographer.

With an entertaining biography, photographs and links to the artist's best recordings, the manager or artist will have created the artist's first digital press kit (DPK), also sometimes referred to as an electronic press kit (EPK). An EPK must be accessible from the artist's website or other online platform by sending any potential recipients the appropriate link. An EPK could feature a video interview, as well as links to downloadable high-resolution photographs (including live photographs), a text biography, live video of performances and any other relevant audio or audiovisual information.

Sonicbids

As soon as an artist or band is ready to play further afield, it is a good idea to consider signing up to Sonicbids (visit www.sonicbids.com), at least on the free tier. Sonicbids claims to have invented the EPK and specializes in helping artists create the ideal package. This comes from asking promoters and booking agents exactly what information they need on artists before deciding whether

to offer them a show. Included in an artist Sonicbids EPK are their social statistics, including from Facebook, Instagram, X (Twitter), SoundCloud and YouTube. If engagement on these platforms is high, this will tell promoters that the artist has an extensive fan base and may well sell tickets.

Sonicbids has a promoter and booking agent database of over 20,000 worldwide. Their Band Search tool provides bookers with a variety of ways to narrow down a search, by genre, location or statistics. It also has an integrated messaging system for artists to connect directly with promoters and booking agents. There are three tiers, as follows:

1. Free service: Sonicbids will help create a great EPK and offer limited Sonicbids features; for example, a five-message limit to contacts and talent buyers, maximum of two videos and photos, and two audio tracks. It is good to start here to establish a presence on the platform and create the EPK that event promoters are looking for.
2. EPK Pro: this service costs about \$5 per month, gives unlimited features and ranks the artist higher in band search.
3. Gig Seeker Pro: costs about \$20 per month and is the service for bands who are ready to be booked. Offers all the features of EPK Pro but also allows the artist to apply directly to promoters for shows.

However, an artist secures a booking for a live performance, when the booking is confirmed, it is best to get the agreement in writing and signed by the promoter. As soon as fees start to reach a substantial level, it is a good idea to insist on a non-returnable deposit, normally 50 percent of the agreed fee payable in advance. The artist or artist manager should ensure a link to their EPK is sent to local radio and television stations, as well as newspapers, magazines and online listing and review media in the geographical area of the live performance. This should be followed up by calls to persuade the media to conduct phone interviews or an in-studio interview or performance to boost ticket sales. As an artist becomes more successful, a publicist could be engaged to handle this media interaction on the artist's behalf but in the early stages either the manager or artist or both will have to do it themselves.

Street performances and busking

Busking in the 21st century



Photo: Maaria Lohiya Unsplash

Some artists start off by playing on the street, which can be an excellent way of perfecting the art of performing live. It also gives direct contact with a general audience; the artist will see what causes a person to stop and listen rather than just pass by. The income is usually received in a hat, bowl or instrument case, where those listening can throw coins, or even banknotes if they are particularly impressed. Feedback is immediate. If people like it, they may donate, if they do not, they will walk on by. It should also give an artist confidence in their ability to perform; if they can play on the street, they can play anywhere. For best results, it is best to pick a spot where an audience can gather without causing traffic jams. In many cities, there are specific sites in underground stations and other places designated by city authorities as places performers can play. It is often necessary to obtain a license in order to perform at one of these sites.

One of the biggest events for buskers is the Ferrara Buskers Festival, which takes place in the beautiful city of Ferrara, Italy, every August. This wonderful festival is organized by Stefano Bottoni and is by invitation only for performing artists. Anyone wishing to participate must apply before April 30 for that year (visit www.ferrarabuskers.com). Street performers from around the world participate in this global celebration of music.

The income from busking can be substantial. The following is an account by this author of such a case, from Florence, Italy:

I noticed a street performer in Piazza dell'Indipendenza who had a small battery-operated portable PA system, a mic and mic stand and a pedal board for guitar effects. He played guitar and sang completely live. There were no backing tracks or drum loops. He was very good and played familiar songs like Pink Floyd's "Wish You Were Here" and U2's "Where the Streets Have No Name". He also played a few of his own songs that he had written. I was impressed and threw a few euros into his guitar case. It was then I noticed a stack of CDs with a notice saying, *Serve yourself*—€10 each. I listened for a while and decided I was sufficiently impressed to buy one of his CDs. I put €10 into the guitar case and took one. Over the next 15 minutes, I counted 10 other people who bought a CD and several others who threw money into his guitar case as I had originally done. The CD was a blank recordable CDR with nothing printed on the CD itself and a simple black and white one-page paper insert with a picture of the artist. It was presented in a basic plastic jewel case. Now let us do the math. The CDs would have cost no more than €1 to manufacture.

If he sold 10 in 15 minutes that would be 40 in one hour. If he makes €9 on each, that is €360 in one hour. Let us suppose he busks for two hours every afternoon and two hours every evening, six days per week. He takes four weeks holiday, so works for 48 weeks per year. That is: €9 per CD at 40 per hour x 4 hours x 6 days x 48 weeks = €414,720 (roughly \$470,000).

That is more than three times the salary that the prime minister of Italy earns. OK, maybe that is a little extreme. Maybe in the hour after I left, he did not sell that many CDs. But even if it was 25 percent of the figures given, he would still earn \$117,500, which is not a bad annual income for a young musician. It should be noted I ignored the income he received from people throwing money into his guitar case which would have been substantial. As we have seen in the copyright chapter, my street performer should have a mechanical license and be paying mechanical royalties to Pink Floyd, U2 and any other authors whose songs he covered on the CD. He would also need an author's public performance license for street performers' performing works in public, which in Italy is available from the author's CMO SIAE and costs €40 per year or €24 for six months. I have to emphasize that this guy was good-looking, a very good musician and singer and he performed very well. How to make a living from music?

The next stage

When things are building and an artist is attracting good-sized audiences at live shows, this is the time they should consider finding a manager (if this has not already been done).

Booking agents

Unless they feel capable of taking on this role themselves, the manager and artist will need to find a booking agent. They are the interface between the manager/artist and the promoters who are interested in presenting live shows. A well-connected booking agent who is prepared to work hard can be a very important part of the team. Interestingly, finding the right booking agent is one of the most difficult things for a manager. They tend to be particular about who they represent, and will need to be convinced that it will be worth their while.

A booking agent will typically take 10 percent of the gross fee (less any sales or VAT tax) negotiated for an artist to play a particular date. It may be the case that the booking agent initially asks for more than 10 percent for low-paid gigs with perhaps the commission going back to 10 percent when a pre-agreed level of show fee is achieved.

In return for the commission agreed, the booking agent will find live opportunities, negotiate fees and issue contracts on behalf of the artist. The fee for a performance could be a straight guaranteed fee or it could be a guaranteed fee against a percentage of box office ticket sales. For example, the fee might be \$1,000 guaranteed, or 70 percent of the gross ticket sales (less any sales tax or VAT), whichever is the higher. If after tax, gross ticket sales were \$1,400, the artist would receive the \$1,000 guarantee only (70 percent of \$1,400 is \$980, which is less than the \$1,000 guarantee). On the other hand, if the gross ticket sales were \$3,000, the artist would receive a fee of \$2,100, as 70 percent of \$3,000 is \$2,100, which is higher than the \$1,000 guarantee. The difference between the guarantee and the percentage is often referred to as the overage; in this example, the overage was \$1,100.

Another percentage arrangement is to have a guaranteed sum to the artist or a percentage of net profit from the show, whichever is the higher. Under this frequently used arrangement, the promoter's projected costs will be stated in the contract for the date at the time this is originally agreed. The percentage of net profit payable to the artist will also be stated, which could be anywhere between 60 percent and 90 percent of the net profit after costs. The promoter

will declare the actual costs to the artist on the night of the show, deduct them from the gross ticket sales (after any VAT or sales tax is taken off) and calculate the percentage. If it is higher than the guarantee, this is the amount payable to the artist (rather than the guarantee). For example, say the agreement to do the show was \$3,000 guarantee or 80 percent of the net profit, whichever is the higher. If the gross ticket sales were \$8,000 and the promoter's costs \$3,500, that would leave \$4,500 as the net profit for the show. 80 percent of \$4,500 is \$3,600, which is higher than the guarantee of \$3,000. The promoter will be obliged to pay the artist \$3,600 and will retain \$900 (20 percent of \$4,500) as the promoter profit. If the booking agent commission is 10 percent, \$360 will be payable to the booking agent by the artist from the artist's fee. Deposits negotiated by the booking agent are generally paid directly by the promoter to the booking agent when the show is contracted. There will usually be a specific date in the contract before which the promoter is obliged to pay the deposit to the booking agent. The booking agent will retain the deposit and pay it through to the artist/artist manager, less the booking agent commission, after the show has taken place.

There will often be different booking agents in different territories, though the larger booking agencies, such as William Morris Endeavor, CAA or United Talent Agency, can operate worldwide. Sometimes an artist will have one booking agent in Europe and another in the United States. The rest of the world might then be divided between these two agents, depending on who has the best contacts. The US agent may also want to book the other North and South American territories, including Canada, Mexico and Latin America.

As the industry has evolved, it is unusual for there to be a booking agency agreement with the artist. In some countries it is illegal. This means the booking agent has to work hard to retain successful artists, as they are always free to move on to another agent if they wish.

So-called 360-degree recording agreements typically state that a percentage of the gross income on live work (usually 5 percent to 10 percent) goes to the phonogram producer. Some managers have therefore insisted that booking agents take a 9 percent commission rather than the normal 10 percent in situations where the phonogram producer is taking 10 percent of the gross; that is, the booking agent is obliged to take 10 percent of 90 percent, which equates to 9 percent of the gross.

There are several custom-built touring software packages that can be used, including the following:

- Eventric Master Tour (visit www.eventric.com/master-tour-3/)
- WhereTheGig (visit www.wheresthegig.com)
- Gigwell (visit www.gigwell.com)
- Artist Growth (visit www.artistgrowth.com)
- Tourmanagement.com (visit www.tourmanagement.com).

For bigger tours, a specialist tour accountant may be engaged who will be on the road with the artist. They will check that the correct amounts are being paid by the promoter for each show and that all outgoings are kept within budget. It is particularly important that the manager, tour manager or tour accountant monitor any shows where a percentage of the gross ticket sales and/or promoter costs are a factor in the fee payable. These deals can often be quite complex and will include evidence and verification of all the promoter's expenditure, including advertising, security costs, public performance fees, venue hire, PA and lighting hire, ticketing costs and insurance.

If the manager and tour manager are also responsible for managing the artist's merchandising, all new stock received must be counted to verify the number of items matches any paperwork. All stock should be counted before selling commences at each show and again afterwards. A spreadsheet should be updated on a daily basis, showing new stock received, sales of each item and any items given away on a complimentary basis.

Building a touring team

In addition to the tour manager, the manager may need to engage additional road crew as the artist becomes more popular and is able to do bigger shows. This could include the following:

- Front of house sound engineer who will mix the sound the audience will hear (usually positioned at the back of the venue—the end opposite to that of the stage).
- Monitor engineer (usually positioned at the side of the stage) who mixes the sound on stage so performers can hear each other and play in time and in tune. IEM systems are available (by Roland or Allen and Heath, for example) where the monitor system is also operated from the front of house desk, eliminating the need for a separate monitor engineer.

- Lighting engineer who sets the lights and directs the stage lighting and visual special effects.
- Onstage roadies and technicians who supervise, set up and pack away the equipment.
- Drivers for buses and/or trucks for equipment.
- Production manager who supervises all aspects of the onstage equipment, and the PA and lighting systems, especially if they are being transported with the artist.
- Travel agent.
- Visa/work permit agent.
- Freight/shipping agent.
- Wardrobe assistant.
- Choreographer.

Visas and work permits

For any live work outside the artist's country of residence, a visa or work permit is usually required. The process involved in obtaining these can take up to four months in some cases, so it is imperative the manager or the artist deals with this as soon as foreign dates are confirmed. There have been numerous foreign tours that have been cancelled due to insufficient paperwork or visa denial, a disaster for the artist and embarrassing for the manager. Visas and work permits should be a top priority for any good manager, with progress monitored on a daily basis. If an artist or any member of a band has a criminal record, for drug possession for instance, this can present a major problem. It is worth checking this out before engaging any new band member, backing musician or road crew. If an artist or one of the artist's team enters a foreign country and performs without the appropriate visa and is caught, they may be deported and may never be allowed to play in that country again.

Visas to perform in the United States are some of the most difficult and expensive to obtain. There are substantial government immigration fees attached to a successful US work visa. There is a scheme where, for an extra fee, an artist's visa can be fast-tracked through the system, but even this can take up to two months to complete. An artist will have to prove they have an extraordinary and unique artistic talent, and will need to produce press features and reviews, as well as social media metrics, to justify why they should be granted a work visa. If the manager feels uncomfortable interfacing with consulates and embassies, there are several specialist visa agencies that obtain visas on behalf of foreign artists. Agencies based in the United States specializing in work visas include Wiskoff Law (visit www.wiskofflaw.com) and

Traffic Control Group (visit www.tcgworld.com). It may also be necessary to engage a second agency in the artist's home country to help the artist interface with the US embassy there.

An online search will throw up many examples of agencies around the world that specialize in obtaining visas. It should be noted that no visas or work permits are required if the artist is resident in the European Union and wishes to perform in another EU member country.

Freight agents, shipping and carnets

If equipment is being shipped from one country to another, temporary import documentation is often required, which is known as a carnet. If an artist is based within the European Union and wishes to perform in another EU member country, carnets are not required. If, however, the artist is based in Italy and wishes to perform in Norway (which is not a member of the European Union), a carnet would be required. Similarly, if the artist is based outside the United States and wishes to perform there, a carnet for the equipment is necessary. A manifest listing all the equipment being temporarily exported and imported will usually be required to accompany a carnet or to provide evidence of what is being shipped. In some countries such as Russian Federation, and in Latin America, customs officials will carefully check the manifest. Carnets are not used in some countries with only a shipping manifest or a commercial invoice being required. The manifest should list the following:

- description of each item
- quantity of each item
- serial numbers of each item (if they can be found)
- value of each item
- country of origin of each item
- number of cases, boxes, pallets or crates and the overall weight of each case
- dimension or volume of cases, boxes, pallets or crates.

Specialist freight agents such as Rock-It Global (visit: <https://rockit.global>) will for a fee, do all the necessary paperwork, including obtaining carnets and customs clearance. They and other freight agents will ship the equipment to destinations worldwide for delivery on time. Rock-It Global have offices in Australia, Belgium, China France, Germany Japan, Netherlands, United Kingdom and United States. Another agent operating in Asia and the Pacific is Showfreight (visit www.showgroup.com.au). These companies, and many more, can ship anywhere worldwide, by air, sea, train or road.

All equipment should be transported in strong but lightweight road cases. If it arrives damaged, it may be that the first show has to be cancelled, so it is worth making sure everything is properly protected, preferably in custom made flight cases, from companies such as Road Cases USA (visit www.roadcasesusa.com/music-cases) or Trifibre (visit www.trifibre.co.uk).

It is a good idea to ship merchandise separately, or have it produced in the country where shows are taking place, as merch can sometimes hold up a shipment in customs. Country of origin of T-shirt material, for example, is sometimes an issue.

Airfreight rates are fixed based on weight and volume. If time is not an issue, it may be possible to ship by sea, which is much less expensive. If equipment is moved by road, it should be noted that some countries have restrictions on vehicles over a certain weight travelling on Sundays and national holidays. A permit can usually be obtained if travel is essential, but this needs to be organized well in advance.

Travel and hotel arrangements

The manager will need to coordinate travel and hotel arrangements, usually with the tour manager and a travel agent. The manager will sometimes delegate everything to the tour manager but should still monitor the cost and logistics of all the arrangements. It is always a good idea to start early when leaving for the next show to allow for unexpected factors, such as vehicle breakdown, heavy traffic or bad weather. Two hours can make the difference between being able to perform or not, or having to do the show without a sound check (never a good idea).

Similarly, it is always better to take an early flight, so that if cancelled there is time to catch a later flight and still reach the destination in time. Before flying, it is important the tour manager checks in advance the check-in luggage allowances and cost of any excess baggage. It may be more economical to ship excess baggage or equipment separately. Each member travelling should be informed of luggage weight and size restrictions so they can pack accordingly. The tour manager should always be the last to go through passport control and airport security in order to manage any problems that might be ahead for a band or crew member. If the manager is booking airfares, it is worth looking at sites such as Skyscanner (visit www.skyscanner.net), KAYAK (visit www.kayak.co.uk), Expedia (visit www.expedia.com), Tripadvisor (visit www.tripadvisor.com) and Momondo (visit www.momondo.com), which are useful for finding the best

deal. The cheapest option may not be the best. Factors such as how many stops, and the wait time between flights need to be considered. Luggage allowances are also important.

If the artist or manager is booking the hotels, there are several excellent comparison booking sites such as Trivago (visit www.trivago.com), or any of the airfare comparison sites mentioned above which will provide hotel options in a particular city and advise which booking operator is offering the best rate. In the United States, HotelPlanner (www.hotelplanner.com) specializes in low rates for group bookings, inviting hotels to bid for the booking after hotel requirements have been submitted. A manager should also check whether discount sites such as TopCashback (visit www.topcashback.com) or Quidco (visit www.quidco.com) have offers on anything booked through them; for example, TopCashback often offers 5 percent to 10 percent off hotels and 1 percent off flights from Expedia if booked through TopCashback rather than directly through Expedia.

One form of transport in the early stages of a career is the splitter bus, a medium-sized vehicle that has seating at the front for the artist's entourage and a separate area at the back for stage equipment and luggage. Another option is a seated bus, which tows a trailer containing the artist's stage equipment. When the artist becomes better known, the use of a full-sized tour bus may be feasible. These are custom-made luxury vehicles incorporating one or two lounges, toilet, kitchen and sleeping facilities. The artist's entourage can sleep through the night while the bus is travelling from one city to the next, which is convenient and saves on hotel costs. In some cases, these buses can also tow a trailer, eliminating the cost of a separate vehicle and driver to transport stage equipment.

It may be that the artist needs to do radio and television promotion on show days. Unless they are some kind of super-being it is best to pace this carefully. If an artist has not had much sleep and does too much promotion, that night's show could be adversely affected, nor is it a good idea for the artist to have to sing early in the morning. The human voice does not warm up until about midday. Singing live on radio or television before then can do the artist more harm than good.

Insurance

The artist manager will need to make sure adequate insurance has been taken out, generally and prior to the start of every tour or live date. Some insurance needs to be taken out on an annual basis, such as travel insurance, public liability insurance and equipment insurance, and some on a tour-by-tour or

live-date basis, such as cancellation insurance. The types of insurance it is wise (and in some cases legally necessary) to take out are as follows.

Equipment insurance

The artist's equipment should be insured on a long-term basis when located at the home base and also when transported away from the home base. Do not assume domestic home contents insurance automatically covers specialized music equipment and home studio equipment. The manager or tour manager must inform the insurance agent when the equipment is taken outside the artist's home country to ensure adequate cover is in place. If extra hired equipment is being used, it should be insured in addition to the artist's own equipment.

Travel insurance

This includes emergency medical expenses and cover for personal luggage and possessions while travelling. It should be in place for any overseas travel. The manager must establish who will be provided with cover and who should arrange their own. An increasing number of countries require proof of such insurance when applying for visas.

Employer's liability or worker's compensation insurance

In most countries, employer's liability insurance is a legal requirement and protects the artist if a band/crew member is injured and the artist is legally liable. Some countries have special insurance and employment requirements, which must be checked prior to a tour; for example, to work in the United States, a worker's compensation certificate is necessary for any US workers employed on the tour.

Public liability or general liability insurance

This insurance provides cover for up to \$5 million or more for defense of legal action, or damages if a member of the audience is injured or dies at a concert, or if there is damage to the venue/equipment and the artist is brought into the legal action, whether or not it is eventually found to be the artist's fault. Promoters and venues will have their own public liability insurance but this will

not cover the artist's risks. Although the amount insured is high, the cost of the insurance is a tiny fraction of the risk cover. While in some countries public liability insurance is not always a legal requirement, venues, festivals, promoters and recording/rehearsal facilities will often insist in the contract that the artist take out cover and provide proof of it.

Cancellation insurance

Cancellation insurance is possible, and advisable for tours and live work, though it is not a legal requirement. The cost is a small percentage (usually between 2 percent and 4 percent of the fee for each show), which is payable to the insurer. With cancellation insurance, if an essential member of the artist's entourage falls ill and is unable to perform, or if the show has to be cancelled or rescheduled for reasons outside the control of the artist and the manager (transport failure or delay, equipment failure, adverse weather, terrorism, civil commotion and national mourning, for instance), the insurer will compensate the artist for the full show fee or show costs, whichever is higher. It can also cover the artist having to return home in the event of a family member falling ill or dying, thus causing the show or shows to be cancelled or postponed. To make a claim when the artist/close family member falling ill results in a cancellation, it is vital the manager or tour manager obtain a medical certificate. It may be that the insurance company also requires a medical certificate confirming that each band member is in good health at the beginning of the tour and any recurring medical issues are declared. If any band member is aged over 60, an additional premium may be required.

Cancellation insurance can be extended to cover the booking agent's commission and loss of income from merchandising sales, sponsorship or other kinds of income. If the booking agent's commission is insured, there should be an arrangement that they will pay 10 percent (or the appropriate percentage) of the insurance costs. That way, if a date is cancelled due to reasons beyond the control of the artist, both the artist and the booking agent will receive their full fees.

There are sometimes situations where a key member of the band feels unwell on the day of a show, say with a sore throat, which makes singing difficult. A decision has to be made as to whether to cancel or postpone the show. In such cases, it is essential a doctor is seen that day. If the doctor advises cancellation or postponement, it will be necessary to get a doctor's certificate to that effect and to inform the artist's insurance agent immediately. In some cases, the doctor will be able to administer a steroid injection that will allow the band

member to get through the show. This author has arranged this on several occasions, thus avoiding the need to cancel. However, if performing will be very difficult, or damage the artist's vocal cords, it is better to cancel than to deliver a poor show, or worse, suffer permanent harm.

Another factor is the so-called force majeure clause in a show agreement, which means superior force and defines under what circumstances the promoter would be excused from paying the artist. This might include such reasons as an act of God which could be a hurricane, flooding, earthquake, or a volcanic eruption for example. The artist should always try to get the following wording at the end of the force majeure clause: "Notwithstanding the above if the artist is ready and willing to perform, the promoter shall pay to the artist the full contracted fee." If a force majeure situation arises resulting in cancellation, it may be that the promoter and artist agree the date will be postponed. Cancellation insurance can often cover and pay the rescheduling costs.

Understanding this is vital, as an insurance policy will be governed by the contract terms of the live engagement between the artist and the promoter. If a force majeure clause states the promoter must pay the fee, this must happen, regardless of any insurance an artist has in place, as the promoter's failure to do so would be deemed a breach of contract. Sincere thanks to Caroline Giddings for the following definition, which provides the ideal wording for both promoter and artist regarding cancellation and force majeure in a contract:

Cancellation

"In the event of the engagement being cancelled due to the fault or negligence of the promoter, the promoter will pay the guarantee in full to the artist. In the event of cancellation of the engagement through the fault or negligence of the artist, the promoter shall have no liability to pay the guarantee, and any monies already paid shall be refunded to the promoter.

"The artist shall have the right to cancel the engagement in the event of ill health or incapacity, or death or serious illness or injury to the artist's family members and/or band members. A doctor's note will be produced if requested. Any monies already paid by the promoter to the artist will be refunded. For the avoidance of doubt, the artist will not be responsible for any show costs and/or out-of-pocket expenses incurred by the promoter as a result of the cancellation."

Force majeure

“In the event that the engagement is cancelled due to an event of force majeure to include, but not limited to, strike, lock out, act of terrorism, war, fire, adverse weather, swine flu, avian flu, and/or any directly or indirectly related condition, act of God then neither party shall be entitled to make any claim against the other and the artist shall refund any monies already paid by the promoter. The artist shall be entitled to be paid pro rata for any performance rendered prior to an event of force majeure occurring.

“The promoter will insure their costs for cancellation of the engagement (not including the cost of insuring promoter profit, the responsibility for which shall rest with the promoter). The premium for this insurance shall be charged as a show cost. Any bona fide cancellation will therefore result in no claim being brought against the artist unless such cancellation is as a result of breach of this agreement by the artist. Documentary evidence supplied by the promoter’s insurance company shall be provided to the artist upon request.”

There are certain situations that cannot be insured, such as visa failure, lack of ticket sales resulting in cancellation, any financial cause, breach of contract, or for reasons within the control of the artist. If a promoter cancels a show for commercial reasons, such as lack of ticket sales, it is down to the manager and the booking agent to insist that the promoter still pays the full fee for the show. If payment is not forthcoming, it may be necessary to take legal action against the promoter. It is important to make sure the promoter has signed the show agreement and paid the appropriate deposit as soon as possible after the date has been confirmed. It is quite usual for the promoter to have to pay the deposit (perhaps 50 percent of the contracted fee) some months prior to the show date and the balance a few weeks prior to the show date, particularly for international festivals.

The COVID-19 pandemic resulted in insurance companies removing the disease from any insurance cover, which made tour planning very difficult and very high risk. If a country launched a snap lockdown just before a tour, this would put the artist and the promoter at great financial risk. Playing a date or a tour that is cancelled with no cancellation insurance would result in substantial losses. The music industry asked governments to step in and provide insurance in such cases, with varying results. It has been generally accepted that if a tour had to be cancelled or postponed due to a lockdown or prohibition of live events, the promoter would be responsible for their own costs (such as advertising, venue hire, ticket refunds) and the artist for theirs (sound and lights, crew, musicians and transport), though this may not apply in every case.

Insurance is an important part of any business and to maximize the benefits, insurance agents should be treated as part of the team, in the same way as an accountant or lawyer. They work for the artist, not against them. A good broker, experienced in dealing with the music industry, will make things a lot easier.

There are several international specialist music insurance agents who can simplify the process and explain the cover and exclusions. Examples include Miller (visit <http://www.miller-insurance.com>), Tysers (visit www.tysers.com) and Aon (visit www.aon.com/industry-expertise/entertainment.jsp), who have offices in most countries.

Security

Where an artist has a fanatical following, which is often the case with young pop bands and artists, security could be a major issue. This could also be the situation if the artist sings songs with a strong religious or political message. It is the manager's job to ensure the artist and their possessions are secure at all times, and special arrangements may need to be made, particularly in getting to and from the venue, or to television and radio stations. The venues can often assist but it may be necessary to employ a security person to accompany the artist at all times. With political unrest or some other security risk, it may be that further security measures are required. If there are a large number of fans at the stage door, festival entrance or artist's hotel, the artist may need to check in under a pseudonym and enter using an unusual entrance in the building.

Stage security may also be required with security positioned at each side of the stage and possibly in the center to protect the artist if any members of the audience try to get on stage during the performance. If an artist's fans are lively, as is the case with many punk bands, it will be necessary to ensure a sturdy crash barrier is positioned in front of the stage, behind which security staff can move safely. Mojo Barriers (www.mojobarriers.com) is one of the leading companies manufacturing such barriers.

Similarly, dressing room security is important, especially if valuable equipment or personal possessions are left there whilst the artist is on stage. This could simply be a matter of the tour manager making sure each dressing room is lockable and that he has the appropriate keys, or that a dedicated security person is positioned to guard the rooms. In any case, it is important to have easily identified backstage passes, which should be issued before the audience enters the venue. Most successful bands have a variety of such passes, including the following:

- AAA passes: access all areas passes allow the bearer to get backstage, on stage and anywhere else in the venue. Only the band, crew, manager and promoter should be issued with these.
- Aftershow passes: allow the bearer to come backstage after the show to meet the artist.
- Photo passes: allow official photographers to take photographs of the band from the audience area. Most artists restrict this to the first three songs of the set, and with no flash. Many ask security personnel not to allow people to bring in professional cameras unless they have a photo pass. With the advances in smartphone cameras it is difficult to stop people using them, though some artists do try, particularly for video recordings.

In extreme cases, an artist could come off stage, jump into a car and be away from the venue before the audience has stopped applauding so as to avoid any problems. Ringo Starr, who still tours from time to time, continues to follow this procedure, which The Beatles perfected in the 1960s. He and his band come off stage, go straight to a waiting limousine, drive to the airport, often accompanied by police outriders, and board a private jet. They check into a hotel in the next city on the tour that same night. That is as expensive as it gets.

Per diems

When touring, it is industry practice to pay each member of the band and crew a PD, or per diem, which is Latin for per day. This is a daily allowance for food and other expenses they will need when on tour. This PD allowance is usually paid in cash in addition to the agreed daily or weekly fee for any member of the band or road crew, although some managers and tour managers ask band members and crew to add the PDs to their fee invoice. The rate varies depending on the country being toured; for example, the PD in Japan or Singapore will be considerably higher than that for Europe or the United States, as food and other daily costs tend to be higher there. The tour manager must get a signed receipt or a signature on a touring envelope every time PDs are paid. Sometimes they are paid every two or three days, other times a tour manager will pay them all in cash at the beginning of the tour. The danger here is that some band members or crew may overspend, running out of money halfway through the tour, which could require them to seek a loan or an advance.

Festivals and conferences

One of the best routes to international recognition is to play music festivals. Some stick rigidly to a specific musical genre, such as heavy metal (for example, Sweden Rock Festival, Unify in Australia or Hellfest in France), reggae (Reggae Sumfest in Jamaica or Ottawa Reggae Festival, Canada), 80s pop (Rewind Festival in the United Kingdom, Cruel World and Darker Waves in USA), folk (Newport Folk Festival in the United States, or the Dhaka International FolkFest in Bangladesh) or electronic music (Tomorrowland in Belgium, Ultra in the United States, Fusion in Germany, Day Zero in Mexico or Les Plages Electroniques in France). Others pride themselves on being as eclectic as possible, booking a wide range of artists and bands from different genres (Coachella in the United States or Primavera Sound in Spain). Both types are important for gaining an international profile. One of the most diverse and successful is the Glastonbury Festival in England, which takes place in June most years. With a 210,000-capacity, it is the largest greenfield music and performing arts festival in the world. Best known for its contemporary music, Glastonbury also features dance, comedy, theatre, circus, cabaret and many other performing arts. Typically, it features some 400 different live performances on more than 80 stages over five days. Tickets go on sale about nine months prior to the festival. The demand is so high that all the tickets sell in the first hour of them going on sale, regardless of who is performing. Glastonbury is a trusted brand and those that are lucky enough to buy tickets know they will be getting an amazing five-day musical experience, even if they have no idea who will be appearing when they purchase the tickets. Glastonbury has presented a diverse range of artists including U2, Jay-Z, Tony Bennett, Fatboy Slim, Stormzy, Lee Scratch Perry, Dolly Parton, David Guetta, The Rolling Stones, Nile Rogers, Mumford & Sons, Muse, Ed Sheeran, Adele, Elton John, Paul McCartney and Paul Simon. It also features artists from every corner of the world, thus creating a successful festival with no musical barriers or limits. In November 2022, 2.5 million people applied for Glastonbury 2023 tickets. The tickets available, each costing about \$430, were all sold within the first hour of them going on sale. Sadly, the 2020 and 2021 Glastonbury Festivals were unable to take place due to the COVID-19 pandemic.

One opportunity for artists to perform in other countries, no matter how remote, is to try for a booking at one of the WOMAD (World of Music, Arts and Dance) festivals. Peter Gabriel established WOMAD in 1980. Gabriel, who had a successful career as lead singer of Genesis and later as a solo artist, had a particular interest in African music and wanted to set up an organization that would promote music from all around the world. With Thomas Brooman and Bob Hooten, he presented the first WOMAD festival in England in 1982. Since then, 170 festivals have been held in 30 countries, including Australia, Chile,

Mexico, New Zealand and Spain, with the main WOMAD festival taking place every July at Charlton Park in England. The festivals feature live performances, and workshops for instrument players, singers and dancers. Artists seeking a booking should send an email with a brief biography and links to their music (for example, on SoundCloud or YouTube) to the [WOMAD team](#). Details should include the number of band members, previous performances and artist and/or manager contact details (for more information, visit [Womad here](#)).

Another useful organization for artists worldwide is WOMEX. The Berlin-based Worldwide Music Expo organizes showcase and networking events in Europe every October. It books most of its artists via Sonicbids, so it is important to have a presence there. Events cover a diverse range of genres and are frequented by booking agents, phonogram producers, artist managers, music journalists, and media and technology representatives. WOMEX is a mixture of trade fair, conference, networking opportunity and artist showcases. Artists have to pay their own expenses but it may be possible to receive financial help from the government or from a national arts organization in the country where the artist is resident. WOMEX also partners the excellent Transglobal World Music Chart, which is published monthly and features the best music from all over the world (for further information on WOMEX or to subscribe to its free e-newsletter, visit www.womex.com).

Artist managers may benefit from attending WOMEX, not just for networking, but also to find opportunities for their artists even if their artists are not performing. They may also consider attending SXSW (South by Southwest) in Austin, Texas, which takes place in March, circumstances permitting.

SXSW is more geared to showcasing artists but also has excellent conference sessions, networking events, exhibitions and mentor sessions. It is essential to plan any participation as early as possible, particularly if participating with a showcase. If an artist is based outside the United States or Canada, they should not consider performing without a visa, though it may be possible to do an official showcase with a B1/B2 visa, provided no shows are played outside SXSW, whether paid or not paid. SXSW offers advice on US work visas on its official website. Be careful to get this right. There have been horror stories of bands investing thousands of dollars in air fares and accommodation only to find their visas have not come through in time, forcing cancellation of the show (and trip). Managers attending SXSW do not need a work visa but can travel under the US Visa Waiver Program. They will need an Electronic System for Travel Authorization (ESTA) and can apply online for a fee of approximately \$15 (visit esta.cbp.dhs.gov). An ESTA must be obtained well in advance of travel. SXSW Music Badges grant the best access to the conference, and cost between \$300

and \$1,300, depending on the type of pass and how early it is booked. Students can get discounts.

One big international conference that used to take place in Cannes in the South of France every year was Midem. Sadly, the Midem organizers announced in 2021 that Midem would be no more. However, very informative videos of past Midem panels are still available on YouTube and are well worth watching (visit www.youtube.com/user/midem/videos).

If the artist's music is in any of the EDM (electronic dance music) genres, one of the best conferences to attend is the annual Amsterdam Dance Event (ADE), which takes place in October, conditions permitting. It features some 300 events in 75 venues, including more than 500 DJ sets, and attracts up to 200,000 people (visit <https://www.amsterdam-dance-event.nl/en/>). The other big event in the dance music scene is the Winter Music Conference (visit wintermusicconference.com) in Miami every March in normal years, which ties in to Miami Music Week and the Ultra Music Festival (visit ultramusicfestival.com/news). As they follow on from each other and are relatively close geographically, many managers, artists, licensors, licensees, and other industry people, attend both SXSW and the Winter Music Conference.

The International Live Music Conference (ILMC), which takes place in London every March, is also worth considering. It attracts major promoters, booking agents, ticketing services and venue owners from all over the world, and often sells out in advance (visit www.ilmc.com). Another highly recommended UK-based international showcase and conference is The Great Escape in Brighton every May (visit greatescapefestival.com) which includes Chris Cooke's highly informative CMU Insights conference.

For further information Pollstar publishes directories on booking agents, promoters, artist managers, concert venues and festivals. (Visit the [Pollstar website](#).)

Ticketing

What is a ticket? It used to be assumed that a ticket to a live event was a tangible item, which, once purchased, was owned by the ticket holder, who could give or sell it to someone else if they wished. After extensive legal action and legislation, it is clear a ticket is, in fact, a contract between the ticketing company and the fan and is subject to the ticketing company's terms and conditions. What those terms and conditions say is crucial to how a ticket can be transferred. It is also of

huge importance to artists, artist managers, promoters, phonogram producers and venues as to who has access to the ticket-buyer's data (information such as email address, postal address and phone number).

Knowing who actually used the ticket to enter the event would also be of value, as this could well be a different person to the one who made the initial purchase. If one person bought four tickets, what was the identity of the other three? If an artist or artist manager can have access to this information (provided the ticket-buyer agrees) they can be contacted to inform them of new releases, future live appearances, merchandise and other information. The artist can thus sell to the buyer in the future. When purchasing a ticket, it is usually the case that a box must be ticked that says something along the lines of, "Tick if you agree to our terms and conditions". Failure to do this almost certainly means that tickets cannot be purchased. The ticketing company needs the ticket-buyer's data to complete the transaction and communicate delivery details, but can they pass this data on to the artist? Data protection laws in most countries say the purchaser has to explicitly agree to their data being passed on to a third party, so while the ticketing company's terms and conditions may say that by ticking the first box, they agree to this, it may be that a second box has to be ticked to actually allow it.

Primary ticketing has come a long way since the last edition of this book. It is now often the case that if a well-known band is selling tickets for a tour, it will usually be announced at 10 a.m. on a Monday, including how many tickets can be bought (often a maximum of four) and when and how they will go on sale. There is generally a pre-sale opportunity for fans subscribed to the artist's newsletter or members of the fan club or perhaps customers of the venue sponsor. This usually takes place on a Wednesday or Thursday at 10 a.m., in the same week as the tour announcement. Tickets on general sale will often be available at 10 a.m. on the Friday of the same week. For shows in high demand, it is usual to hold back at least 25 percent of tickets for general sale.

While paper tickets mailed to the ticket-buyer are still the normal way of ticket delivery, there is a big move towards paperless tickets whereby the ticket barcode is sent digitally to a fan's smartphone which will be scanned on entry to the venue. Technology is being developed and used as an extra security feature where the electronic barcode is a dynamic barcode that changes every 59 seconds. Facial recognition technology is also being developed to ensure the ticket holder is the person who purchased the ticket. This paperless approach will create more efficiency and certainty, will reduce the chance of printed forgeries and have environmental benefits.

Secondary ticketing

The practice of people purchasing tickets and then reselling them for a higher price has been around for decades. Traditionally, this has centered around individuals—known as scalpers in the United States and ticket touts in Europe—buying and selling tickets outside venues as the doors open for sold-out shows. A street entrepreneur, the scalper may have purchased a number of tickets at face value when they went on sale, in the hope that demand would be such, they would sell for a higher price on show day. Of course, it could transpire that the show does not sell out, and the scalper ends up having to sell the tickets for less than face value, incurring a financial loss. The scalper may also try to buy tickets from people coming to the sold-out show who have spare tickets. None of this was much of a problem; the promoter and the artist (if they were on a percentage arrangement) had already received the money from the primary ticket sale, fans with spare tickets could often recover the money they spent, and fans who were desperate might be able to get in, albeit at a higher price.

When tickets began to be sold online, that all changed. Fans could easily resell unwanted tickets online, which was fine, but big business saw an opportunity. Secondary ticketing companies were set up, purchasing as many tickets as possible on the first day of sale for a high-demand show and then immediately advertising them at higher prices. For big shows, this could be as much as 10 times the face value of the ticket. Promoters and artists received payment at the primary ticket price but were not participating in the upsell price, and fans were paying far more than they should. This was compounded when the secondary ticketing businesses developed software with bots that would continually refresh the primary ticketing page and automatically purchase all the tickets it was possible to buy. This could result in half or more of the tickets available for a show being purchased by the secondary ticketing sites (STs), which meant they were making more than the artist, promoter, venue and primary ticketing company put together.

Online secondary ticketing also opened up the possibility of fraud, where people who did not actually have tickets persuaded fans to part with their money and then either sent them nothing or mailed forgeries. For an expensive festival ticket, this could prove a disaster for fans. Branded STs such as StubHub, Viagogo, GetMeIn and Seatwave emerged, which would guarantee genuine tickets; if it turned out they were not, the money was returned. The largest primary ticket site in the world, Ticketmaster (owned by Live Nation) decided to join the secondary ticketing market, purchasing TicketsNow in the United States, and later Seatwave and GetMeIn in Europe. After bad publicity, including complaints from artists and fans, and pressure from lobbying groups such as the FanFair Alliance, Ticketmaster closed down Seatwave and GetMeIn in 2018.

It replaced them with a more ethical service called Fan-to-Fan Ticket Exchange, wherein fans can resell any unwanted tickets to other fans via Ticketmaster, with Ticketmaster making no charge to the seller and charging the buyer 15 percent. This more ethical service was already provided by independent operations, such as Twickets. AEG Presents also moved in this direction, ending their arrangement with StubHub and launching the AXS Marketplace platform.

Despite political pressure, governments have been slow to tackle secondary ticket resale. Several countries have now introduced stronger laws regulating secondary ticketing and consumer protection laws, which are slowly improving the situation. Many countries have made the practice of STSs using bots to buy tickets illegal. Australia, France, Germany, Italy, New Zealand and United Kingdom are among those that have or are in the process of introducing regulation. In the United States, there is a federal law banning the use of bots, and other regulations exist at state level, but secondary ticketing is still big business, with Ticketmaster still a major player.

Governments are introducing some of the following regulations:

1. Secondary ticketing sites must publish the face value of the ticket, the seat or ticket number, booking fee and any VAT or sales tax on every ticket offered for sale.
2. Secondary ticketing sites must not state that they are the official site.
3. Tickets can only be sold for a certain percentage above face value (25 percent, for example).
4. Search engines must clearly state that a secondary ticketing site is a secondary ticketing site, not a primary ticketing site (Google have already voluntarily introduced this in their advertising rules).

Some artists have taken the initiative, insisting on wording in a primary ticketing company's terms and conditions that if it is discovered the ticket was purchased through a secondary ticketing site, it will be cancelled. Iron Maiden were the first to enforce this, but Adele, and particularly Ed Sheeran, in conjunction with promoters Kilimanjaro Live (visit www.kilimanjarolive.co.uk) were proactive in cancelling secondary ticketing site tickets. When a fan arrived at the venue, they were informed the ticket purchased through the secondary ticketing site had been cancelled but were offered the same ticket at face value price. They were also advised to go back to the secondary ticketing site and ask for their money back. Because most secondary ticketing sites offered a money-back guarantee, they were obliged to do just that. This quickly resulted in the removal of Iron Maiden, Sheeran and Adele tickets from the secondary ticketing sites which was a great victory for the artists.

In 2019, Viagogo agreed to buy StubHub from eBay. This was finally agreed by competition authorities in 2021 and leaves Viagogo as by far the biggest secondary ticketing site in the world.

Touring and the environment

Since the last edition of this book, discussions on climate change have increasingly taken center stage, around the use of single-use plastics and what can be done to make touring more ecologically friendly. In 2019 Coldplay decided not to do their usual world tour but instead to investigate how they could tour in the future in a way that would be more sustainable with the ultimate goal of being carbon positive; that is, to make touring actually reduce carbon in the atmosphere. In 2021 Coldplay announced that they would return to touring in 2022 but will be making it as low carbon as possible by using a dancefloor that generates electricity when fans jump up and down on it and bicycles for fans which will also generate electricity among other measures. They will also make their stage set out of bamboo and plant a tree for every ticket sold. Similarly, Massive Attack announced they would take an environmental specialist from Manchester University on tour to advise how the band could lower its touring carbon footprint. One idea being proposed is to hire equipment, sound and lights locally rather than transport them around the world and also to reduce international freighting of elaborate stage sets, which could be replaced with a more basic stage presentation.

The biggest issue is air travel, which is considered particularly damaging to the environment. There is an argument that bands should not fly, but instead play only in their home country. The problem with that is that if a band had a huge worldwide fan base, fans living in other countries would take flights to see the band play in the band's home country, which would be more damaging than if the band took flights around the world themselves. The other way to go would be for the band to carbon-offset, paying for trees to be planted for every flight taken or contributing to other carbon-offset schemes.

Similarly, a move away from fossil fuel-based vehicles, such as diesel trucks and petrol cars, to electric vehicles could be facilitated. Bands could encourage fans to travel to shows by public transport rather than by car. Educating fans to replace single-use plastic bottles with refillable water and hot drink bottles would be another step. Many music festivals, including Glastonbury put a great deal of resources into making the event as environmentally friendly as possible, using solar power and recycling wherever possible. A move away from paper tickets, flyers and posters to digital smartphone tickets and advertising will also reduce the number of trees that need to be cut down.

Another idea that is starting to gain traction is that instead of playing world tours with perhaps 150 concerts, bands would play only one concert in each country with that concert being live streamed nationally. Tickets to attend the concert itself would be at a premium but tickets to watch the live stream elsewhere in the country would be a nominal \$10 to \$15 or so. This would make a huge difference in lowering a tour's carbon footprint. Taking this further, the artist could not tour at all and play one spectacular show in their home country. This would be live-streamed around the world, either online or in cinemas, or made into a virtual reality tour that fans watch in local venues. This would be far more environmentally acceptable but only time will tell whether it will satisfy the demand of fans to see the artists they love live.

Holograms and virtual reality

Creating shows around holograms of artists is a development that is gaining traction, particularly with regard to famous artists such as Roy Orbison, Buddy Holly, Frank Sinatra, Elvis Presley and Whitney Houston who are no longer with us. Shows with moving holograms using video graphics of artists, often fronting a real band with musicians playing live, have toured successfully. The technology is developing rapidly and getting better, with highly realistic experiences being created for audiences.

In 2021 Abba announced they would be presenting a year of shows under the name Abba Voyage in 2022 at a custom built 3,000 capacity venue called the Abba Arena in the Queen Elizabeth Olympic Park in London, with avatars of themselves in the seventies and a 10-piece live band. Ticket sales have been phenomenal with the concept being hailed as the most ambitious of its kind yet.

With artificial intelligence becoming ever more sophisticated virtual reality shows will become an increasingly important part of the live music industry going forward.

Live streaming

When live performances were banned in many countries in March 2020 due to the COVID-19 pandemic, many artists experimented with streaming live performances online. To begin with, these were basic low-budget (or no-budget) performances streamed from artist's homes, usually for free, so that artists could keep in touch with their fans at this difficult time.

One of the best examples of this was the BBC Live Lounge production of various current artists performing the Foo Fighters song “Times Like These” from their own homes. Artists filmed themselves at home after which the BBC edited their performances together and put it on YouTube in April 2020, when many countries were in early lockdown. The lyrics of the song were particularly poignant. At the last moment Dave Grohl who co-wrote the song, added his contribution. Under the name The Live Lounge Allstars it also featured 5 Seconds of Summer, AJ Tracey, Anne-Marie, Bastille, Biffy Clyro, Celeste, Chris Martin, Dermot Kennedy, Dua Lipa, Ellie Goulding, Grace Carter, Hailee Steinfeld, Jess Glynne, Mabel, Paloma Faith, Rag’n’Bone Man, Rita Ora, Royal Blood, Sam Fender, Sean Paul (on the roof of his house in Kingston Jamaica), Sigrid, Yungblud and Zara Larsson and is still viewable on YouTube. The version of the song went to number one in the UK singles chart in May 2020 with all proceeds going to charities Comic Relief and Children in Need. It marked the first time a Foo Fighters’ song had reached number one in the United Kingdom. [Visit the YouTube video here.](#)

Artists and managers soon started putting together more ambitious live-streamed performances with professional sound and lighting in studios and music venues, selling tickets for online access but without audiences in the venue itself. Laura Marling was one of the first artists to do this, performing several sets in the same venue to accommodate different time zones, with tickets \$15 each. Many other artists organized similar live streams with more sophisticated (and expensive) production.

The biggest and most successful was the Dua Lipa live stream, which went out in November 2020. It was five months in the planning and cost more than \$1.5 million to produce. Entitled Studio 2054, it was filmed in London’s Printworks with guests Elton John, Angèle, Bad Bunny, FKA Twigs, the Blessed Madonna, J Balvin, Betty Belle, Kylie Minogue and Miley Cyrus, and was sponsored by American Express, Puma and Evian. It went out as part of the American Express Unstaged series via streaming platform LIVENow. Tickets were in the \$10 to \$15 region, depending on where and when they were purchased, but in countries where ticket sales were not practical, deals with local digital service providers such as GAANA in India and Tencent in China, meant fans could watch the show for free, with sponsorship income coming directly from the digital service provider to the artist. Over 284,000 tickets were sold worldwide with an estimated 8 million people watching the live stream, 2 million of them in China. In addition to being a success in its own right, it gave a huge boost to Dua Lipa’s second album *Future Nostalgia* and increased ticket sales for her 2021 tour by 70 percent.

It is hoped that live streaming of live performances will become an additional income stream for authors and performers in their own right post-pandemic, provided intellectual property issues can be agreed. When budgeting for a live-streamed performance the following should be taken into account:

- A license and payment will need to be made to the public performance for authors' CMO in the country of the performance, if an audience is in the venue. This is the case for any live performance in a venue where there is an audience, whether it is streamed or not.
- A license and payment will need to be made for the public performance and mechanical element of the stream by the appropriate authors' CMOs in the country of the performance. This will need to be extended to all other countries where the stream can be accessed.
- If the stream involves the playing of commercially released recordings (DJ set, for example) an additional license and payment will need to be made to the phonogram producer and performers' public performance CMOs in the country of the performance. As with the above, this will need to be extended to all other countries where the stream can be accessed.
- If there is any recording of the live stream and the artist has an exclusive recording agreement, the phonogram producer may also demand a slice of the income. This could be the case if the live stream is time-shifted to accommodate different time zones, or is offered as pay per stream, or a DVD after the live stream has taken place (Dua Lipa's Studio 2054 stream went out at four different times on the same day to accommodate time zones).

It is to be hoped the rates for the above uses set by CMOs are not so excessive that they make live-streamed concerts commercially unviable. If the artist is also the author of the works performed, they will eventually get some of the author CMOs payments back, less the CMO's administration fees and any percentages due to the artist's publisher.

If the artist has an exclusive booking agent or promoter, the booking agent and/or promoter may also want to take a commission on any live-stream ticketed performance, but this only makes sense if the booking agent and/or promoter bring added value to the event (brand sponsorship, for example). It is worth pursuing brand partnerships (as was the case with the Dua Lipa live stream, where most of the clothes and shoes in the performance were provided by Puma) as this can make all the difference in making the live stream commercially viable. It will also be important to allow for any costs associated with ticketing and streaming platforms. There are many live streaming platforms, including YouTube Studio, Twitch (Amazon), Facebook Live and Instagram Live, and X (Twitter) (Media Studio).

19 Merchandising

Merchandising can be an important source of income for an artist. An astute artist manager will spend time researching the kind of merchandise the artists' fans will want to buy. This can include T-shirts, sweatshirts and hoodies, CDs, DVDs, memory sticks, hats, mouse mats, jewelry, bumper stickers, tour books, mugs, posters, framed signed photographs, canvas prints, drumskins, light sticks and numbered limited editions. It is always a good idea to have at least one high-priced piece of premium product for the most enthusiastic fans, the so-called uberfans. If the artist is playing smaller venues, perhaps up to 700 capacity, it is important they sign CDs, DVDs or photographs in advance which can be sold at a premium. Personally signed merchandise is always in demand and is highly valued by fans. A developing band should always come out and meet fans by the merchandising stand as soon as they have come off stage, to sign items and even sell merchandising themselves.

Fans expect direct contact with the artist much more in the modern era and may well buy items if they can get them personally signed. The artist should also talk with fans and be prepared to do a selfie or have their photo taken with fans if requested. If a fan has a good direct-to-artist experience, they are likely to become a fan for life.

The merchandising stand should be in a well-lit area so everything can be clearly seen. This will also allow the artist to request fan photos be taken without flash. It is OK to have a few flash photos but anything more can result in a headache for the artist or even a migraine, such is

the intensity of flash on the latest digital cameras and smartphones. Carrying spot-lamps is a good idea so the merchandising stand looks professionally lit. It is also very important to position the stand at the point of maximum audience traffic. This is usually in the foyer near the entrance, or near the entrance point to the main venue space. If the stand is poorly lit or tucked away around a corner, or on another level where no one sees it, sales will inevitably be low.

It is a good idea for the manager or tour manager to talk on stage about key pieces of merchandising prior to the band being announced. This can double merchandising sales. The merchandise stand should be set up and fully operational before the doors open at the beginning of the evening. It is also important the person in charge of the stand has a good knowledge of the artist's career and the merch on offer. A trusted fan is ideal, but in any case, this salesperson needs to be well briefed prior to engaging with the audience. If this person is supplied by the venue, and is therefore someone different every night, the artist or manager should have a printed two-page description of the band's history and the merchandise on offer that the sales person can read and refer to. It is also a good idea to have information about each piece of merchandise clearly visible for members of the audience, together with the price of each item. One artist represented by this author played a concert in Perth, Australia, to 700 people. Two of the CDs available were pre-signed, there was a good all-round level of stock, and a piece-by-piece presentation of key pieces of merchandise on stage prior to the artist performing. In addition the artist came out to meet the audience afterwards. Sales were approximately A\$10,000, which equated to more than A\$14 per person, a very good per-head figure for a pop artist.

As the concept of fandom increases, particularly with the explosion of K-pop (Republic of Korea), C-pop (China) and J-pop (Japan), merch has taken on a more central role. Fan culture creates a regime wherein a true fan has to have the latest T-shirt, merch item or CD package. CD sales are increasing in places like Republic of Korea as they come with posters, photographs, stickers and other physical extras. They are regarded as a must-have merch item rather than a sound carrier. Many fans will never listen to the CD as they can get the music from their streaming service. They are buying it for photos, posters and stickers of the bands they love. Bands such as BTS from Republic of Korea have merch items such as BTS light sticks on sale at their concerts for about \$40 each. A true fan just has to have one. That is big business.

If the artist becomes very popular and regularly sells 700-plus tickets for a show, it may be impractical to come out and meet the audience after the show as there simply will not be time to meet all those that want to meet the artist. If fans have waited for some time, it can be counterproductive; they may lose interest

in the artist altogether. In this case, it may be better for the artist not to come out at all. However, if the artist is a developing artist, or an older heritage artist who is still touring successfully but who had hits years ago, merchandising sales and direct after-show contact with the audience are paramount. The US singer/songwriter and guitarist Richie Havens was a case in point. Popular in the late 1960s, particularly as a result of his appearances at the Woodstock and Isle of Wight festivals, he would sit at a table, talk and sign items for as many members of the audience as possible after a show, sometimes until 3 a.m. if the venue allowed. Havens sadly passed away in April 2013 but his legacy lives on.

Some top-end heritage artists may also agree to a VIP fan experience. This will usually involve premium seating, possibly a pre-signed piece of merchandise such as a poster and a personal meet and greet and photograph with the artist/band either prior to the show or afterwards. Fans will be charged considerably more than the face value of the ticket for this package. The artist should restrict VIP package tickets involving a meet and greet to a reasonable number so that those who have purchased them get a good experience, and the artist does not become exhausted. In the COVID-19 era, it is preferable the artist has no physical contact with fans. Even in normal times, it is better to avoid shaking hands and kissing. Inevitably some members of the audience will have a cold or even the flu. If the artist contracts an illness as a result, and half the tour is subsequently cancelled, that will not be a good outcome.

On a tour, merchandise stock must be carefully controlled. If the right stock is not at the venue, income will obviously suffer. There is nothing worse than having an audience clamoring for merchandise and there being little to sell. If an artist becomes popular, selling perhaps 1,000 tickets per show, it is worth considering bringing in specialist merchandisers. These are companies who can organize everything, including design, manufacture and stock control. They will also transport and sell the merchandise at each venue. For this service, they will take a percentage of sales. They may also be prepared to pay an advance to the artist prior to the tour, which can help cash flow. At some venues, particularly larger ones, the venue itself will require a percentage of sales, which can be anything from nothing to two T-shirts, to 5 percent, or as much as 30 percent at larger venues where the venue itself will usually sell the merch for the artist. This may be negotiable, but sometimes it will be a case of take it or leave it. It is important the manager works closely with the merchandiser, the promoter, the booking agent and the venue to ensure the pricing structure of the merchandise is affordable for the consumer yet still allows a reasonable margin for the artist. It is essential the artist manager instructs the booking agent to negotiate the venue's merchandising percentage at the time of the booking. This is the only point in the process where the artist has leverage.

There are many specialist merchandising companies. It is worth researching the big players to see the latest ideas for merch design. Examples of some of the world's largest are as follows:

- Bravado (visit www.bravado.com), which is owned by Universal Music and has more than 40 offices around the world. It handles merchandise for some of the biggest artists on the planet, including Billie Eilish, Blackpink, Elton John, Justin Bieber, Khalid, The Weeknd, Shawn Mendes, The 1975 and Post Malone.
- Global Merch Services (visit www.globalmerchservices.com), has offices in London and Los Angeles, and its clients include Little Mix, George Ezra, Iron Maiden, Roger Waters, Kings of Leon, Lionel Richie and Ghost.
- BSI Merch (visit www.bsimerch.com), based in New York and London which is mainly online e-commerce and fulfillment.
- The Thread Shop (visit www.thethreadshop.com), owned by Sony, clients include Camila Cabello, Pink, Lil Nas X, Maluma and Bob Dylan.
- EMP (visit www.emp.co.uk/band-merch), owned by Warner Music, mainly online with clients including AC/DC, Metallica, Rammstein and Slipknot.
- Sandbag (visit www.sandbagheadquarters.com), whose clients include Radiohead, Blink-182 and Rag'n'Bone Man. Won a Grammy Award for its pioneering campaign for Radiohead's *In Rainbows*, where fans paid whatever they thought was reasonable to download the album.

The artist may elect to set up their own web store as part of their website to sell physical merchandising—and even tickets—directly to fans (see section on building a website in chapter 20).

An online merchandiser, such as CD Baby, Backstreetmerch or Sandbag, will distribute CDs and DVDs for an artist via its online web store, or via a web store created for the artist. A typical arrangement is for the online web store provider to take approximately 20 percent of sales, depending on the volume shipped. This assumes the artist provides the online merchandiser with manufactured finished product. If the merchandiser manufactures the merchandise and/or CDs at its own cost, and ships any orders, the percentage taken can increase to between 65 percent and 70 percent, leaving the artist with a net 30 percent to 35 percent of sales. The processing of physical merchandising and recorded product sales online, including credit card payments and shipping, is sometimes referred to as fulfillment.

Credit card, debit card or PayPal charges, as well as postage and packing, are usually added to the price of the merchandise and paid by the purchaser as an extra charge.

Another merchandising issue is that of bootlegging, when rogue sellers of illegal merchandise set up outside venues, particularly common outside large venues for popular artists. Many countries have laws that allow such illegal sellers to be prosecuted. It is, however, essential that the artist has registered trademarks for their name and artwork in that country. There was a case in Aylesbury, in the United Kingdom, where trading standards officers wanted to prosecute the sellers of illegal merchandise outside the Milton Keynes Bowl, a large local venue that was hosting a successful US band. Unfortunately, the band did not have valid trademark registration in the United Kingdom for its name and artwork, so trading standards officers were unable to take action against the bootleggers. There are specialist trademark lawyers and agents who can assist in securing national and international trademark registration for artists (see section on trademarks in chapter 4).

With climate change and environmental sustainability a hot topic, many artists are looking at how they can manufacture merchandise that is more carbon neutral. Some are also concerned to know how their products are produced, and whether workers involved in the process are well treated. If merch qualifies as Fair Trade, this should reassure artists that no exploitation is taking place. Whether cloth is made using organic materials is another concern. Organizations that set standards, such as Global Organic Textile Standard, or GOTS (visit www.global-standard.org), Fair Wear Foundation (visit www.fairwear.org) or Cotton made in Africa (visit www.soliver.eu/cotton-made-in-africa), award manufacturers with compliance status.

Continental Clothing, with a state-of-the-art facility in Tamil Nadu, southern India, is one such manufacturer, another is Stanley/Stella (visit www.continentalclothing.com/about/earthpositive and www.stanleystella.com). T-shirts and other merchandise will be more expensive from these ethical manufacturers but artists can make it clear at the merch stand that the items are made in an environmentally friendly way.

20 Building a fan base: digital marketing and social media

Digital infrastructure

Over the first 20 years of the 21st century, the way music is marketed has completely changed. Back in 2000, no one could have dreamed that free tools would come along to help artists get their music to a global audience. Formerly, an artist had to build their career a country at a time, playing live, doing countless interviews and seeking appearances on radio and television. When an artist had achieved success in their own country, with thousands coming to shows, they often had to go back to playing small clubs in other countries if they wanted to make it big there, too. In the 1970s, artists such as Genesis, U2, David Bowie, Bob Marley and many others, became worldwide superstars by playing hundreds of gigs; slowly building a fan base by creating great music and touring, touring, touring.

In doing so, the artists became skilled at knowing how to get the strongest reaction from an audience. They developed the way in which they presented themselves through trial and error. Ideas that did not work were discarded, those that did were developed further. In many ways, those old principles—spending a long time writing, rehearsing and playing live has not changed. They remain the bedrock of success.

What has changed is that, provided an artist has a computer or even a smartphone with a broadband connection, they are in business on a global scale. These basic elements are still not always available outside major

cities in many countries, particularly Africa, but things are getting better, with more countries developing network access and digital infrastructure. Access to a bank account or PayPal account is also of fundamental importance, a difficult thing to obtain in some countries, but things are improving rapidly.

With a table, chair, computer and broadband connection anyone can be in business worldwide



Photo: Good Faces Unsplash

Artist names and search engine optimization

In the Digital Age, it is a big advantage for an artist name to come at the top of page 1 in search engine results. The best way of achieving that is by choosing a name or spelling of a name that is unique. Perhaps the best example of this is the Canadian rapper and songwriter, Abel Makkonen Tesfaye. He wanted to call himself The Weekend but changed the name to The Weeknd to avoid confusion with a Canadian band already called The Weekend. It was a fortuitous choice. Using this stage name, Tesfaye has had massive worldwide success. Try putting Weeknd into a search engine. There is no competition. Not only is The Weeknd no.1 on page 1 of search, he also occupies every entry for the first 100 pages. This just goes to show how important it is, from the start, to find a distinctive name, possibly with an unusual spelling. For example, if a band was to call itself The Forks, it would be competing with a Canadian city, cutlery businesses, road junctions, and so on. If, on the other hand, it picked The Forcs, it would have no problem living at to the top of page 1 in search.

The biggest search engines globally are Google, Bing, Yahoo, Ask.com, the Russian Federation's Yandex, China's Baidu and Shenma (mobile search by Alibaba). They work by sending crawlers, sometimes called spiders or bots (short for robots), across the web, constantly copying the content of web pages and any changes to them. This information is sent back to the search engines' servers for indexing after which algorithms are applied to prioritize search results based on the wording of the search. The majority of results are organic but search will also list sponsored advertising results that usually sit at the top of the page. Research has shown that 70 percent of website traffic comes from the first five results on page 1 of search.

Google has more than 85 percent of the global search market share so is the one to focus on (unless one lives in China, where it would be Baidu and Shenma). There are companies that will improve search engine optimization (SEO) for a fee. It is a multimillion-dollar business but there are many things an artist can do themselves, using simple techniques and free web tools. Useful tips for improving SEO include the following:

- Choose an unusual and unique artist name.
- Regularly update the website. Crawlers will detect this and move the site towards the top of the results page. They also monitor how many visitors a site has. The greater the number of visitors, the better the SEO.
- Ensure there is plain text on the website. If there is designed text, ensure the image file or logo is correctly tagged in normal text, particularly on the landing page. Crawlers cannot read graphic design lettering unless the image file is tagged with the same lettering in regular text.
- Include keywords, such as name of the artist/band, genre of music and possibly the country where the artist is based. The word music helps. Download the free Google Keyword Planner or Keyword Tool for the most effective words.
- Make sure the URL (uniform resource locator) is short and descriptive. A URL is the identifier for a specific page on a website. The crawlers look at the URL first; so try to keep them relative to the artist's name and genre.
- Links on the website to trusted third-party sites such as CNN, BBC, *The New York Times*, *Le Monde*, *El Pais*, *The Guardian* and *Huffington Post* raise the search profile. Ensure any links are correct and functioning (the crawlers will detect dead links and lower the SEO). Get the free Broken Link Checker plugin. SEOquake is another free plug-in that provides organic research data and other useful metrics.

Building a website

The most important tool for modern artists is a well-designed, fully functioning website that acts as a gateway to all their activities. Once created, the website will be the online focal point and will need to be regularly updated and managed.

The internet is empowering in that it provides rapid access to information. With fast search engines, information on almost anything is just a click away. The other remarkable aspect of the internet and the web is that it is geographically neutral. It does not matter if an artist is based in Barbados, Chile, China, India, Mongolia, Russian Federation, Sudan or Viet Nam, once the website exists, the whole world can access it instantly. The tools for building and monitoring basic websites are mostly free, as is communication with fans. All it takes is dedication and time.

It is essential to create a website as soon as possible in an artist's career, and find a webmaster. If a fan is tech-savvy, they might be ideal as webmaster, or it could be a member of the band, or the band or artist's manager. An enthusiastic fan will often be happy to be the webmaster for free, at least in the early stages.

Anyone with basic computer skills can build and design a website with the help of one of the inexpensive or free website-building template services. As an artist becomes more popular, it might be a good idea to engage the services of a professional website designer, but there is no reason why an artist—or one of their fans—cannot do it themselves, at least in the beginning, and at very little cost.

The first thing is to choose a domain name, which should be as descriptive, simple and short as possible. Domain names have to be unique, so it is mandatory to pick one that no one else in the world is using. There may be an annual charge for a domain name, although some web-hosting services such as iPage, Bluehost, DreamHost or GoDaddy will provide the domain name for free, provided their commercial web-hosting service is used. If an artist's first choice is already taken, it is worth considering adding the word music, live, band or beats. Another idea is to add the musical genre; for example, if the artist is a reggae artist named Martin Black, the domain name "www.martinblackreggae.com" could be chosen if the domain name <https://martinblack.com/> has already been taken (which it has). Alternatively, if the domain name ending is changed, the name may be available. The top-level international domain name endings are .com, .net and .org, and these are recommended. However, an artist might

consider using one of the national domain name endings such as .br (Brazil), .hk (Hong Kong China), .cl (Chile), .au (Australia) or .ru (Russia Federation). If our fictitious reggae artist Martin Black lived in Jamaica, he might want to consider the domain name ending .jm. This would immediately tell visitors to the site that this reggae artist is the real thing and comes from Jamaica, the home of reggae. Generally, for an artist with international ambition .com would be the most professional, prestigious and easy to remember domain name ending.

There are several free social media tools available, such as Bitly or TinyURL, which will digitally shorten a domain name so that it effectively shortens links. Some domain/URL shorteners also include analytics.

The next step is to engage a web-hosting service provider. The web-hosting service will host an artist's website on a server wherever the hosting service is based. It does not matter where the service is based geographically or where the artist is based, so an artist has the whole world's web-hosting services to choose from. There will be a monthly charge for web hosting, but this can be as little as \$2 per month including a free domain name for a basic service. Web-hosting services vary with different levels of support and upload/download speeds so it is wise to have a good look at what is on offer before choosing. For the latest reviews and prices, visit <http://www.top10bestwebsitehosting.com>.

The third step is to design and manage the website. Downloading one of the many available website templates is the easiest way to do this. One of the most widely used for artists is WordPress (visit www.wordpress.com), which provides templates at no cost. Also worth considering are Wix, Squarespace and Site123. There are many more, including complete solution platforms such as Bandzoogle and ReverbNation, which offer website building and other services specifically designed for music artists. Some of these web-building sites will also provide domain names and hosting. It may be that low-cost services include third-party advertisements that may be undesirable or inappropriate. Check before deciding. To have a site without third-party advertisements may cost more, but may be worth it, as the fan will have a much better experience.

The first page on a website is the home page, or landing page, which introduces the artist and the artist's music. This is the shop window and it is essential it is well designed, uncluttered and has impact. It should reflect the genre of music and entice the viewer to delve deeper into the site. Avoid animation on the landing page, particularly Flash animation, which does not work on Apple devices. Animation and video may also slow the site down.

- Keep the artwork and color scheme simple throughout the site. Colors and artwork should tie in with the artist's logo and genre of music.
- Choose the best photograph or artwork to make an impact on the landing page.
- Ensure images are sharp but as low-res as possible to help with site loading speed. Generally low-res 72 dpi (dots per inch) is considered the optimum resolution.
- Make the genre of music clear by stating it or by design.
- Look at favorite artist websites and learn from them.
- Have a Sign-up or Subscribe button on the landing page, or if there is an Enter site button, make sure the Sign-up button/box is clearly visible after the Enter site button is clicked. Repeat the Sign-up button/box on other pages of the site. The landing page should have a menu of destinations, the first being Sign up.
- Consider changing the landing page temporarily for an important record release or tour, and adding an Enter site button to take the viewer to all options.
- Do not use small font that is difficult to read. Consider clean, modern fonts such as Arial or Calibri. Try to stick to one font throughout the site or a maximum of two.
- Use a responsive design plug-in to ensure the site looks good and functions well on iOS and Android mobile phones and tablets. Do not launch the site until this has been thoroughly checked on both Apple and Android devices using different browsers such as Chrome, Safari and Firefox. Many web-building services will automatically include responsive design for mobile and tablets within the service. Ensure all buttons and links work before launching.
- When listing tour dates and events, be sure to provide a one-click ticket purchase link next to each date.
- Ensure contact information is clear, particularly booking information and/or management contact information. A telephone number should be included. If an artist or artist manager does not want to give their personal numbers, get a dedicated Google Voice phone number.
- Have an About page, a short summary including where you are from, genre of music, who is in the band, what is happening, and the story so far. More detailed info can be included in the EPK, which should also be accessible on the website if a fan or journalist wants to dig deeper.
- Take advantage of the free Google Analytics. All it requires is registration with Google.

Figure 11 Artist website as a hub for all activities



Source: Author

The site should enable the viewer to easily and quickly reach the following with one or two clicks:

- Email sign-up: include a data protection tick box so the fan agrees to be contacted.
- Music: include links to download and audio streaming services such as Spotify, Deezer, Amazon Music, Soundcloud and Apple Music.
- Video: include links to YouTube.
- Social: include links to Instagram, Facebook and X (Twitter), possibly TikTok, Snapchat and Discord.
- Tour and live events: include ticket information, live photos, flyers and poster artwork that fans can download and print for distribution to friends.
- Press: provide downloadable EPK, including high-res black and white and color photographs (at least 300 dpi), low-res photographs for easy sharing, artist logo in different resolutions, biography, quotes from third parties and anything else a journalist might need. Make it clear who should get a photo credit if a photo is downloaded and used.

- About page: short biography.
- News: the latest developments.
- Store: purchasable online merchandising and physical sound carriers.
- Booking contact details: include a name, email address and telephone number. Also stage plan and technical requirements including a plan showing the ideal positioning of instruments on stage and any other technical requirements.
- Management contact details: preferably including a telephone number/ Google Voice number.
- Podcast: link to artist's podcast (if created).
- Games: link to any artist games (if created).

When building the first website it will only be necessary to have a few of the above features, but email capture and contact details for bookings are essential. At this stage of a career, artists need as much contact with fans and live music promoters as possible. Other features such as a podcast or a video game based around the band can be added at a later date.

Quick page loading is key. Most people will only wait a few seconds. If the site does not load quickly, they will move elsewhere. This is why it is important to strike a balance; where images are low res but still look sharp and professional on a smartphone or desktop computer. Always use .jpg, .png or .gif formats. Crawlers also measure site-loading speeds. The faster the site, the higher the SEO.

It is imperative to keep the website up to date, removing old news quickly and constantly posting fresh information, to encourage fans to return regularly. It is better to have no website than one that is dormant or out of date. Regular updates to the site will improve the SEO. In the press section, keep the EPK relevant and include quotes from fans and third parties, as well as up-to-date press releases and a good video of the band being interviewed. In the bookings section, it would be beneficial to include live photographs and information, such as whether or not the band are carrying their own PA system and lights, together with power requirements for potential promoters. For improved SEO, ensure the artist's name is included in text on every page on the site; for the earlier example of fictional band The Forcs, it could be theforcspress rather than just press. Remember the crawlers can only read text, unless a piece of artwork is tagged.

Once the website is fully functioning and the fan base growing, it is important to monitor the analytics of who is viewing the site, how often, and so on. It is worth signing up to one of the website analytics tools, such as Google Analytics, which will provide a vast amount of valuable information on who is looking at the site, for how long, which page, their gender, age and location.

It is important that the artist owns their own website where possible. They will then have complete control. It is also important to have a presence on all the relevant social media networks in addition to the artist's website. If an artist only depends on one of the social media networks, the rules governing that site are in the hands of the network itself and could be changed. The social media network could even disappear, at any time. In some recording agreements, particularly 360-degree agreements, it may say the phonogram producer owns the artist website. If this is unavoidable, it is important the artist has full approval over all content on the website and that when the recording agreement expires, website ownership is returned to the artist.

Creating a store and selling direct from the artist website

Another function of the website can be to make the artist's physical music and merchandising product available for purchase, including CDs, Vinyl, T-shirts, hats and other items. If the artist is signed to a phonogram producer, all the music (including streaming, downloads, CDs and vinyl) will be handled by the phonogram producer, although it may be possible to come to an arrangement to sell CDs and vinyl through the artist's website and at live shows by buying them from the phonogram producer at a low price (see chapter 19).

In the absence of a third-party phonogram producer, the artist will need to engage a digital distributor, some of which will also distribute physical product. In this case, the artist manager should come to an agreement with the distributor that CDs and perhaps vinyl will also be sold via the artist's website and on the merchandising stand at live shows.

Some of the ways of selling physical product via the artist's website are as follows:

- Build a web store and open a merchant account with a bank that can process credit card transactions via a secure encryption service such as Protx or VeriSign and sell directly from the artist website. Fulfillment (processing and dispatching orders) will be by the artist or artist's management.
- Build a web store and use a transaction company such as PayPal. Customers can sign up to PayPal before they purchase from the store, paying through PayPal or by credit or debit card via PayPal. Organizations such as PayPal take a higher commission from the seller than is the case with a merchant account but are convenient and easy to use. Some website builders such as Wix have a built-in store option in their template.

Fulfillment will be by the artist or the artist's management. BandZoogole has a merch store template built into its website-building subscription (visit: <https://bandzoogole.com>).

- Outsource physical web sales to a merchandising company such as BSI Merch or Sandbag. All that is required is a link from the artist's website to the third-party merchandiser who will, for a percentage, look after all the financial transactions, which may include fulfillment. For CDs and DVDs only, CD Baby or Bandcamp could be considered.
- Apply for a non-exclusive online e-commerce account with services such as Amazon or eBay. They will facilitate the sale and financial transactions for physical product but the artist or manager will be expected to expedite and dispatch the physical product. If fulfillment does not take place promptly, the online retail service may close the account. The service will take a percentage but many artists find it is worth having an Amazon and eBay account in addition to any in-house or other third-party web store structures as they seem to generate additional sales.

One method of maximizing purchases of physical product is to create a limited edition, where the first 500 or 1,000 CDs or vinyl are numbered and/or signed by the artist. This makes them collectable and the personalization is something fans value highly.

In some less developed parts of the world, it may be difficult to sell music directly from the website due to a lack of financial infrastructure, such as difficulties in being able to open a bank account. One solution may be to form an artist group, which can collectively open a bank account from which several artists can access income. Such a cooperative may also be able to facilitate a broadband connection in a central location or via a satellite dish if this is not easily available or affordable for individuals. It may be that national or local government can help set up or provide such a facility as part of their arts, music and culture program.

The crucial element of online purchasing is that the consumer must feel secure parting with credit or debit card information, which should be the case with any good e-retail payment processing system. The credit card or PayPal information is encrypted and cannot be read by anyone except the purchaser and the financial organization that receives the money. Credit and debit card details cannot be seen by the artist, webmaster, internet service provider (ISP), or anyone else in the processing chain.

Mailing lists

Never underestimate the power of email. Research has shown that despite the rise of socials, reading emails is a still very much a priority for most people. Establishing a mailing list is one of the first things an aspiring artist should set up. Social media platforms are constantly changing their rules and altering algorithms that only they control. Most people look at their emails every day and keep an email address for years, if not for their lifetime, so once a fan has agreed they want the artist to keep them informed, there is a valuable long-term direct link between fan and artist. An emailed newsletter is totally in the artist's control. As *Wired* editor Kevin Kelly pointed out, if an artist has 1,000 true fans and looks after them, the artist can live from those 1,000 fans for the rest of their life.

At the outset, one of the best ways to start an email list is for a friend of the band to go among the audience after a gig and ask if anyone would be interested in signing up to the artist's mailing list, offering them an unreleased MP3 recording if they do. This could be done with a clipboard, pen and paper form, where the audience member can enter their email address and name. There should also be a box to tick that confirms they give permission for the artist to send them information by email. Better still would be to use an iOS or Android tablet. If the audience member types in their details, they are more likely to be understandable and spelt correctly than if written down. There are also services by platforms such as Bandcamp, who will offer a free MP3 of the artist in return for an email address.

Most ISPs and mailing platforms put a limit on the number of emails that can be sent using their service, to cut down on spam emails. This may be a maximum of 50 or 100. If an artist has 1,000 email addresses, they need to send the newsletter out 10 or 20 times to different groups of addresses to make sure every fan receives it.

The solution is to use an email service provider (ESP) that will help an artist organize their mailing list and send out to as many fans as required, in one go and at a specific time. There are many ESPs, most charging a monthly subscription for their service, with upgrades available for bigger mailing lists and features. The more subscribers an artist has, the more they will be charged. An ESP will also provide email design templates as well as analytics showing how many fans opened the email, how long they were engaged with it, subscribe and unsubscribe data and click-through rates on links, among other metrics. It is essential every email on the artist's list is genuine and that the fan has proactively agreed they want the artist to send them information. An ESP will

monitor the artist's account to make sure that it is not spam. If it has reason to believe the email addresses are not genuine, or do not comply with data protection laws, it may cancel the account. Most ESPs can create geographical email subgroups for targeting touring information and will supply sign-up forms for the artist website with code built in for analytics.

One of the most widely used ESPs in the industry is Mailchimp, which has an entry-level free service that allows emails to be sent to up to 2,000 subscribers. There are various paid-for upgrades for extra features and larger subscriber numbers. FanBridge is another service used by many artists, and BandZoogoo has an ESP built into their 360-degree website builder monthly subscription. ReverbNation also includes an ESP offering as part of its 360-degree one-stop shop fan-building and career-building service. ESPs can provide great-looking templates for email letters and clean the list of any emails that do not work. They usually insist that each email includes the email address of the sender and some insist on including the sender's postal address and telephone number too. If an artist is uncomfortable about putting in their personal number, they can create a Google Voice number. An unsubscribe button on every email is also essential, so a fan can easily leave the list if they wish.

The first thing to get right is the email capture sign-up box on the artist website. The less information a fan has to enter in the box, the more likely they are to sign up. As the absolute minimum, it will need the fan's email address and first name. It would also be useful for the fan to add their surname, city and country, but this may reduce the number of sign-ups. If the sign-up box just says Name, the fan can enter their first name, or with any luck, their first and second name. The fan's first name is important as newsletters and email subject lines can then be personalized; for example, "Hi Louisa, news from the Forcs". Research has shown a recipient is more likely to open an email if it is personalized. ESPs can provide code that can be dropped into the website to create the sign-up box and to personalize emails. When a fan completes the information in the box, it will automatically be added to the artist email list that can automatically trigger a generic welcome email to the fan. As the fan base develops it is useful to have sub-lists based on location so that only fans in a certain country or area receive emails about a show.

The subject line of the email is critical. It should be short and accurately descriptive. If the title is misleading it will create distrust, and the ESP and the fan will not be happy. The subject line should have impact and be personalized if possible. It should include the first name of the fan and the name of the artist. Research has shown the email opening rate is more than 50 percent more if a first name is included.

When starting out it would be good to send out emails perhaps monthly, unless there is breaking news about a gig, chart position, tour or radio interview. Keep newsletters to the point and brief. People do not have time to read long emails. Always add links to social media and other information, and subtly include a call to action. Add photographs or images (like a flyer or poster) if possible. Only send out an email if there is a distinct reason to do so unless it is a monthly email update.

If highlighting an upcoming live performance make sure the following is made clear:

- date of the show, including day of the week
- venue and city with address, telephone number and transport links
- other bands on the bill
- time the doors open
- time the artist will be on stage
- advance ticket information, with links to purchase tickets.

It is amazing how many artists and bands (even big ones) do not include all this information, which is incredibly frustrating for the fan. They should not have to work to find these things out. If it is an important show, then several short emails could be sent out in the lead-up to the show to fans living in the vicinity, but give each email a different subject line and content.

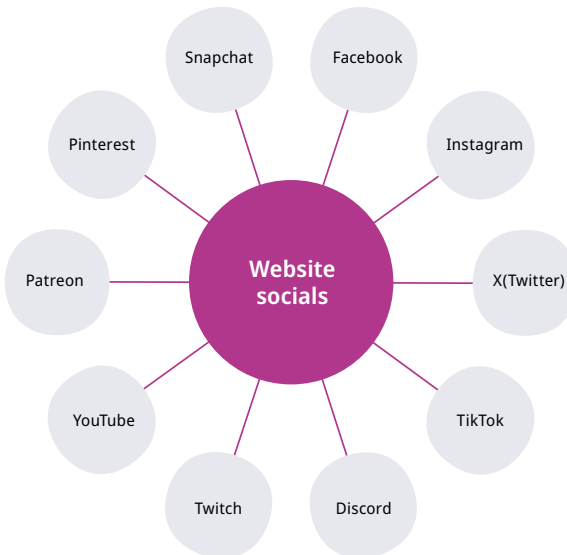
There are many theories about what is the best day of the week and the best time to send out emails. Mornings between 9.00 and 12.00 seem to be better than later in the day. Monday to Thursdays are considered to be the best days but some find that Sundays can be very good. Research shows that emails sent after 9 p.m. and before 6 a.m. do not do so well. It is a matter of trying it out, and seeing what generates the best results. If an artist has an international fan base, time zones will have to be considered. The ESP may be able to post emails at specific times for each geographic location sub-list if instructed.

Social media

There is an ancient Chinese proverb that says: "Tell me and I'll forget, show me and I may remember, involve me and I'll understand." This is the basic philosophy of social media and social networking, which is all about fan involvement and engagement. It is essential to engage with fans via the social networks to further expand and build an artist fan base (see figure 12). At the time of writing, the most widely used services for music were Instagram,

Facebook, TikTok, X (Twitter) and Snapchat. That said, YouTube, SoundCloud, Spotify, Apple Music, Amazon Music, and the other streaming services, all have social media functionality. Artists need to be clear that their website and email mailing list are the two central fan base elements that they own, and where they are in control. An email list will enable a 100 percent communication with everyone on the list whereas an unpaid for post on say Facebook might only reach 3–5 percent of fans who engaged with the page. The business models, rules and functionality of social media services can change at any time and an artist should never lose sight of that. Using social media is a powerful way to expand the fan base and aid promotion but the goal should always be to encourage fans to join the artist mailing list. Always break news about live dates, a record release or any other new event by email first, even if only by one or two hours. That will encourage serious fans to join the email list even if they do follow the artist or band on Instagram, Facebook or X (Twitter). The artist website should provide links to all the social platforms where the artist has a presence.

Figure 12 Social media links from artist website



Source: Author

Social media platforms are constantly changing and developing. Facebook, for example, continues to increase its monthly users but the teenage demographic has tended to switch to Instagram and TikTok. Most young people have a

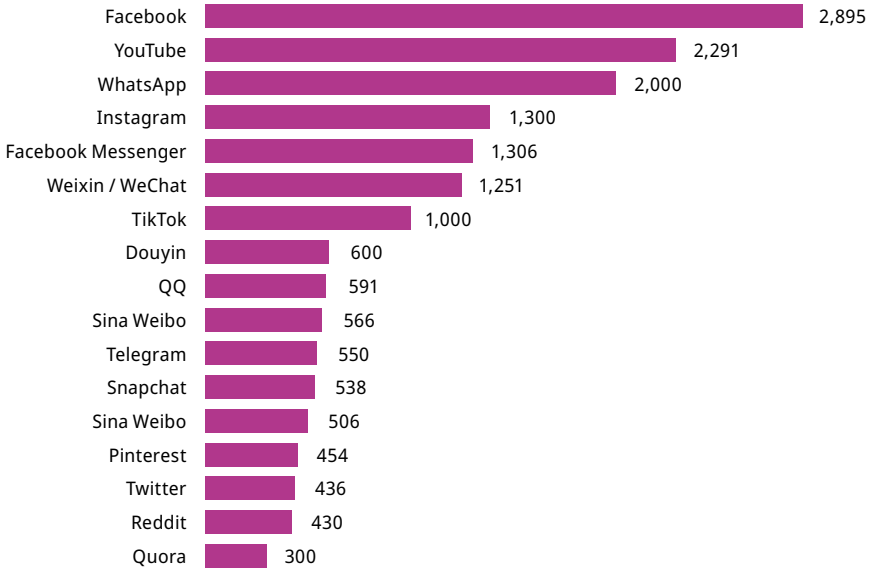
Facebook personal page but rarely post on it. They look at their news feed and click links from Facebook posts of interest. The younger demographic favor Facebook Messenger but need a Facebook personal account and page in order to use it. Many use Facebook Messenger and WhatsApp more than they do email. At the same time, the slightly older demographic (25 years-plus) are using the main Facebook platform more and more, so it is becoming a generational split. This is echoed in the younger generation's viewing/listening of conventional television and radio, which is reducing in favor of online audio and audiovisual streaming services. As time goes by, some social networks may become less important and new ones may emerge, so an artist and an artist manager must always keep up-to-date with the latest developments (see figure 13).

Facebook

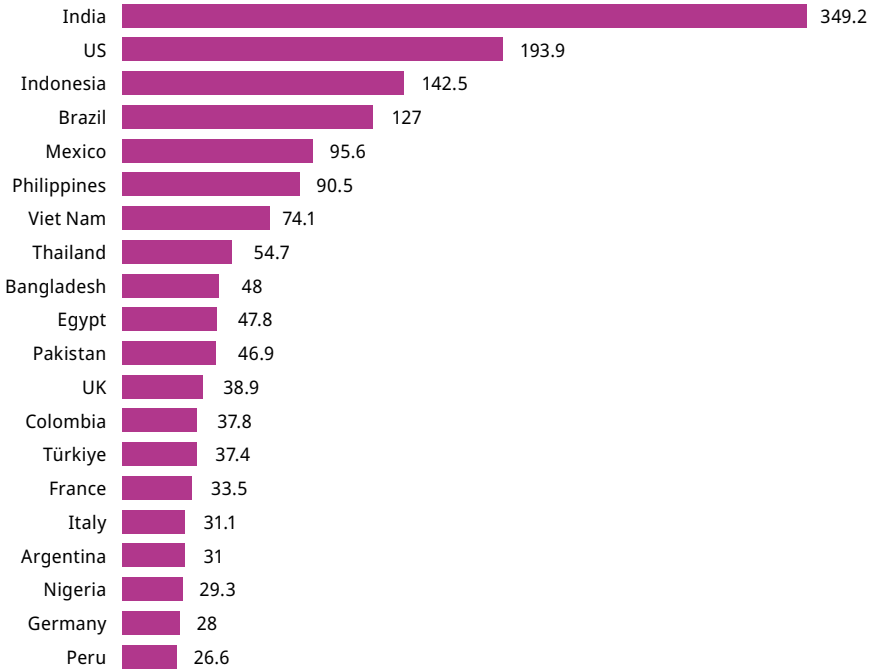
When Mark Zuckerberg and his Harvard friends came up with the idea of The Facebook in 2004, they could never have guessed just how big it would be. There have been several periods since 2004 where Facebook has been embroiled in controversy and many thought it would follow the path of Myspace and be replaced with new social media platforms, but that simply has not happened. Facebook is by far the biggest social media platform in the world and continues to grow every year, though the global statistics are constantly changing (see figures 13-15).

As can be seen, Facebook is a truly global phenomenon. It is a US company, but only one in 10 users are resident in the United States. Facebook (along with YouTube, X (Twitter) and Snapchat) is not available in mainland China but has more than 3 million users in Hong Kong China, Macau China, and Taiwan. At the time of writing Facebook had more than 3 billion monthly users, and more than 2 billion daily users globally.

Figure 13 Most popular social networks worldwide as of October 2021, ranked by number of active users (in millions)

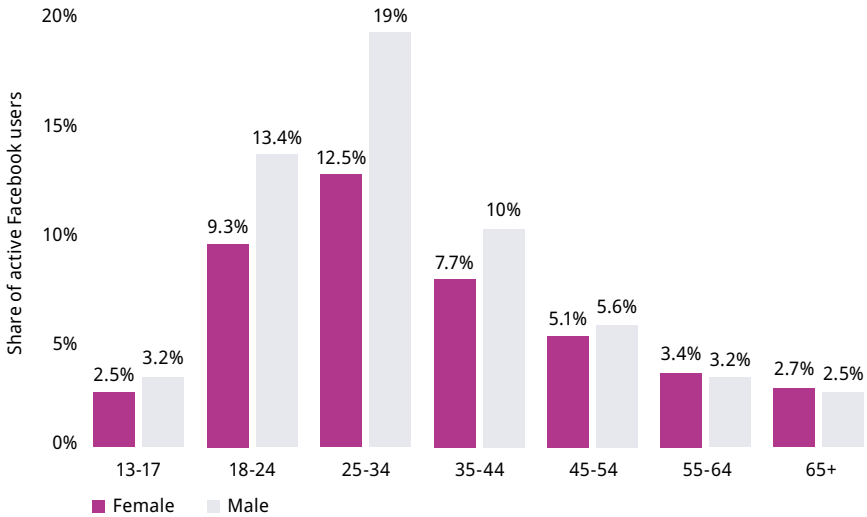


Source: Statista.

Figure 14 Facebook users by country, 2021, in millions

Source: Statista.

Figure 15 Distribution of Facebook users worldwide as of October 2021, by age and gender



Source: Statista

When an artist starts out, they will probably have a personal Facebook page, as will each member of a band. As soon as a band is formed it is important to announce it to friends on the personal pages but then to create a dedicated fan page. Those interested on the personal pages should be asked to like the fan page. That way the personal pages can continue to be used for friends and family, while the fan page will focus on the artist's music activities, news, announcements and events. If an artist is using their real name, it would be a good idea to use a pseudonym for their personal page; for example, David Bowie used the name Milton Keynes. Alternatively, it is possible to use Lists or Smart lists in Facebook to limit and categorize friends on personal pages.

It may be that one or two members of a band are authorized to be Facebook fan page administrators, as well as the manager or webmaster (if there is one). Either way, if there is more than one administrator, it is important to establish a policy for who, why and when each administrator can post.

Personal Facebook pages and a fan or business page have different restrictions and features. A personal page has a limit of 5,000 friends whereas a fan page is unlimited. Most importantly, a fan page gives an administrator access to Facebook Insights, its comprehensive free analytics tool. It is also possible for an

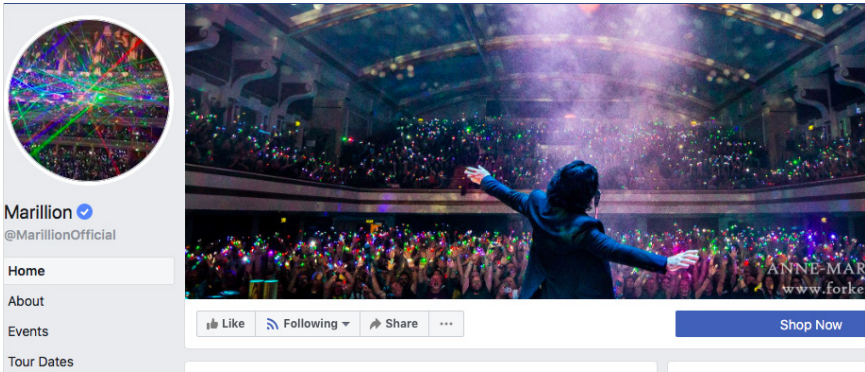
administrator of a fan page to pin an important post at the top of the page so it is the first post a fan will see. This pinned post can be changed at any time.

Designing a Facebook fan page

The first thing to do is name the page. This should be the name of the artist or band. Never use a pseudonym. Fans must be able to find the artist/band as easily and quickly as possible. It is vitally important the page is named correctly, as it is very difficult to change the name once the page is active. Check no other artist with the same name or a similar one already has a fan page. If they have, it is worth considering changing the artist name, as this will cause problems down the line. It is much easier to change the name at the start than it will be once there is an established fan base. With an artist's social media presence, the most important thing is to establish a relationship of trust with the fans, so always be genuine and honest. It may be worth adding the word official to a fan page name so fans know this is the genuine artist page and not a page created by a fan.

Step two is to create a profile or cover graphic for the fan page. This should be based around the artist's logo and reflect the colors of the logo, or it could be a great photograph. Whatever is chosen, it should make a bold statement about the artist/band and the music genre. The profile image can be changed at any time but it is best not to change it too often so that the artist brand is consistent and memorable. The Marillion Facebook page profile image (see figure 16) is clever as it features lead singer Steve Hogarth engaging with the fans at a live show. Notice that Marillion has a Shop now button, so right from the off, a new fan can purchase merchandise and possibly recordings with one click. A band logo could be positioned in the circle on the left. In this example, Marillion has chosen to use a laser image.

Figure 16 Marillion's Steve Hogarth on the Marillion Facebook page



Source: Marillion

Facebook prohibits any wording such as a price point, an offer or a call to action text such as “share this now” on the main profile image, although it is perfectly fine to include the artist name and/or logo.

The third thing to do is fill in the About section. This should include as much information as possible, including names and instruments of band members, genre, city and country where based, website address and booking contact details such as email address and telephone number (at least in the early stages). A longer biography should be added or a link provided to the EPK on the artist’s website. As with everything, always include links to the website as the email sign-up is always a possibility. In many ways the Facebook fan page is like a second website, so all the information, including upcoming live dates and events, track or album releases, should be easily findable. As stated earlier, the fan page should never replace the artist website but most of the website features should be duplicated or linked on the fan page. Again, the general design should be clean and easy to navigate. As with the website, it is essential to keep all information up to date, particularly live dates, events and record releases.

Likes

The main goal with a Facebook fan page is to get as many genuine likes as possible. Anyone can see exactly how many likes an artist has on their Facebook page. Promoters, journalists, phonogram producers, publishers, radio and television people all look at this to get an idea of how big an artist's fan base is, and whether or not it is worth investing time and perhaps money in them. As soon as a fan has liked the fan page, they are eligible to receive the artists' posts which will appear on their news feed, so their friends will also see them.

There is often confusion about likes and followers. When a person likes a page, they are showing support for the page, and that they want to see content from it. The page will show up as being liked in the About section of that person's profile. When a person follows a page, it means they have chosen to receive updates about the page in their news feed. When a new fan likes the page, the default setting is that they also automatically follow it. Followers have the option to unfollow the page.

Always add Facebook social plug-ins to the website and blogs so new fans can like the fan page with one click straight from the website or blog. Add similar plug-ins in the About section of the fan page for X (Twitter), YouTube and Instagram to cross-promote on all platforms. If someone likes any post related to the artist invite them to like the fan page. It is also possible to invite the personal friends of all fan page administrators to like the fan page. Activate the drop-down menu under the fan page profile image and select Invite friends. This will show all the administrator's friends who have or have not liked the page. Tick all those that have not liked it, which will invite them to do so.

The artist should seek out admired artists in the same genre and like their fan pages. Contact them and ask them to help out, creating a post suggesting their fans like the artist's page. If their fans like the artist page, reciprocate by asking the artist's fans to like the other artist's fan page.

There are services that will sell an artist thousands of likes so that it appears they have many more fans than they genuinely have. This practice is to be avoided. It is easy for media, the industry and genuine fans to see through fake likes, as there are generally no comments or shares. When this becomes evident, an artist will lose the trust of the media and genuine fans, which would be disastrous. Once an industry tastemaker believes a band is basically cheating, they are unlikely to ever support them going forward. Trust is the basis of fandom.

Posting on Facebook and the Facebook algorithm

A fan's personal page will have the basic news feed or home page, which will show what personal friends are up to. It will also show posts from the Facebook pages the fan likes. The news feed is private to the fan. Only when they share, comment or like something, do others get to see what they see. The fan's timeline is what is happening in the fan's life according to Facebook. If the fan scrolls to the bottom of their timeline, they will see the date they were born and above that everything they have ever posted on Facebook in chronological order. The fan's timeline is also where their friends can write them a public post. The artist's fan page will have its own timeline. Each fan will get a different experience from an artist's fan page. If a fan visits an artist's fan page, they will see what their friends are posting about the artist, in addition to the main content.

A fan page can be set up so that the page's administrators are the only ones who can post, but fans can like, comment or share each post. This is what most artists do. Alternatively, the page can be set up as a forum, where any fan can post as well as the administrators. If choosing the latter, the administrators must check fan posts to make sure they are on topic and to delete any third-party posts that are selling or campaigning for something not related to the artist.

The Facebook algorithm will determine that each post only reaches a small percentage of those fans who have liked the fan page. Analysis has shown this could be anything between 2 percent and 7 percent of fans who have liked the page depending on the post. If an artist had 1,000 fans who liked the fan page, this means only 20 to 70 of them would even see a particular post in their news feed (known as organic reach), unless money has been paid to Facebook to increase the reach. Research by the social media management platform Hootsuite revealed that in 2021 the average organic reach for a branded post was 5.2 percent, with an average engagement rate of 0.25 percent, which fell to 0.08 percent if a page had more than 100,000 followers. Compare this to the mailing list, wherein 100 percent of those who have signed up will receive an email newsletter. That is why a fan's email address is so valuable. Do not be put off by these low percentages, however. Facebook is still a powerful platform to increase an artist's fan base and to create income.

The Facebook algorithm uses analytics to prioritize those fans it thinks would be most interested in receiving a particular post in their news feed. The algorithm is secret and Facebook is constantly adapting it. Fans who have commented or shared previous posts are automatically prioritized, particularly if they comment

or share regularly. Facebook will send a post to more fans depending on many factors. The main ones are as follows:

- Type of post. Is there a status announcement photo, video or link attached?
- Time of posting.
- Which administrator posted the post? Has this person had many likes, comments and shares in the past?
- How many people are engaging with the post by commenting and sharing?
- What type of post a fan likes. If the post has a video attached, and the fan never watches posts with videos, then it is unlikely the fan will receive it.

In 2018, Facebook changed its news feed algorithm. It increased the visibility of posts with high engagement rates on users' news feeds, and reduced visibility for branded promotional content to encourage businesses (and an artist is a business) to create better and more interesting content and to encourage them to pay for extended reach. Posts from friends, family and Facebook groups were given new weight over organic content from organizations and businesses. To get noticed, brands would now need to get more genuine engagement, such as shares, comments, comment replies, reactions and whether the post was shared over Messenger.

Facebook sees its main competition as YouTube, so encourages posts that involve video. A live video via Facebook Live scores the highest reach, followed by a native video post (a video directly embedded into a Facebook post rather than through a link to a third-party platform such as YouTube). A YouTube link will still work but Facebook will downgrade the organic reach.

Facebook has created a Facebook ID identification system similar to YouTube's Content ID so that authors, performers, CMOs, publishers and phonogram producers will get paid. It is accessible via Facebook's Rights Manager. A phonogram producer or distributor will usually set that up. For maximum promotional value and income, allow fans to share a Facebook embed. Learn how to create a good thumbnail and make sure the video has a short attention-grabbing title. Download Facebook video editor, which can rotate, shorten, split, crop and join videos. Facebook developed a system wherein videos play automatically when a fan views the video post, an engaging and powerful feature.

Keep up to date with Facebook's latest rules and policies regarding organic reach algorithms. For example, at the time of writing, Facebook gives more organic reach to native videos that are more than three minutes long, so it is important to bear that in mind when posting.

When writing posts, the key is to make them as interesting as possible in order to get maximum interaction with fans. It is well worth spending some time making sure a post has the right content to achieve that.

A like is valuable, but a comment is more valuable and a share is more valuable again. At the time of writing, Facebook allows requests to like a post, photo, video or fan page but may penalize a post that asks fans to share. The following is a list of tips for artists on creating successful posts:

- Always post with a call to action in mind; for example, increasing fan base, buying tickets, announcing a release or an event.
- Never hard sell by saying buy this now. Instead, point out that something is available now and/or check it out here (link). It is more effective to let fans do the marketing on your behalf by posting positive comments. Provide regular information, such as your favorite track on an album, who played on it and where it was recorded. Let fans know any success it is having, such as radio play or where it is in the hip-hop chart. Be a friend, a trusted source of information, rather than a salesperson.
- Ask fans questions. They love this. It gets strong interaction if the question is good and can result in 100 percent more comments. Starting with a question first approach gets the best results:
 - Who is coming to the show on Friday in Santiago?
 - Would you travel more than 30 miles/50 kilometers to see one of our shows?
 - Which is your favorite track on our new EP?
- For every news event make sure the post includes all information. A live show announcement should include the date/day of week, venue with address, transport links, time doors open, time on stage and the other artists appearing. Think who, what, why, where and how. Fans like artists to take a stand on social issues but try not to alienate fans.
- Add a photo and a post will get 100 percent more comments and 50 percent more likes. According to commentator Fred Parotta: "Not all images are equal on Facebook. The best images are funny, evoke an emotional response, are shocking, or make the person sharing it look good, funny, smart or in-the-know." Doug Barash, at Verve/Universal Music, said: "Any time an artist does any kind of status update, include a photo, because a photo speaks volumes." Posting photographs with fans is effective. Try to name fans in photos with the artist.
- Add a native video, not via a link to YouTube or other video platforms, for greater reach. Most users access Facebook on mobile phones holding the phone vertically, so when making a video hold the camera/smartphone in a vertical (portrait) position to maximize effectiveness for mobile viewing.

- Schedule a live stream using Facebook Live.
- Keep most posts short. They get more engagement.
- Like and comment on comments. If you post something and it receives lots of comments, engage with these comments on your own post. Form a sense of companionship and access among the fans. The Facebook algorithm will like this. Like and respond to every positive comment made by fans.
- Post at the right time. Each fan base is different but research shows posting between 11 p.m. and 6 a.m. is not good, but weekday mornings are, and posts on the hour seem to do best. Use Facebook scheduler to post at the chosen time, and use Facebook Insights to determine when that is. Services such as Hootsuite or Buffer will also schedule a post, over multiple platforms if required.
- Contact artists you admire and ask them to post about your tour, record release or event, and offer to reciprocate. Mutual promotion between artists is very powerful. Engage with other artists' fan pages. Studies show the best way to promote anything is by recommendation, which is particularly true in music. Fans look up to bands as tastemakers, and follow their musical recommendations. If an artist comments on other artists they like or who have influenced their music, they may return the favor.
- Ask fans for input and help, and mention fans by name in posts.
- Identify uberfans (super fans) and look after them. They bring in hundreds of new fans if properly motivated. Put them on guest lists at shows and give them backstage passes. They are your ambassadors.
- Run competitions with backstage passes or other special access privileges as prizes.
- Target every post before it is posted by selecting such categories as area, city/town, age, gender and names of other big artists in the same genre.
- Post no more than once per day unless there is breaking news.
- Use emoticons (typographic display : -) for instance) and emojis (picture symbols) as they get more engagement.
- Be a role model. Fans who relate to an artist's music may also aspire to their fashion, politics and loves in life. Artists should share things they find interesting like something on television on their Facebook page.
- Post Facebook Stories.
- Never post anything offensive, such as nudity, violence, and abusive or racist remarks. Facebook may put a stop on the account. It is worth reading Facebook Community Standards every now and again as Facebook constantly updates them.
- Use @ and # where appropriate.
- Acknowledge fans' birthdays.
- Share good user-generated posts and content.
- Use humor wherever possible. Fans want to be entertained.
- Reward fans with giveaways and exclusive content.

- Feature inspirational quotes and images.
- Like Facebook music influencers' pages and message them about your music, encourage them to like your fan page and engage with their posts.
- Make purchasing easy.

Facebook Stories

Facebook Stories are effectively another news feed and designed for mainly visual content (photos and video) rather than text. Stories add extra functionality via the camera, such as filters and special effects, and require an administrator to select Stories rather than posting in the usual way. Facebook Stories disappear 24 hours after posting. They can, however, be archived by a Facebook page administrator by going to Publishing tools and selecting Stories archive. In 2018 Mark Zuckerberg said: "We expect Stories are on track to overtake posts in feeds as the most common way people share across all social apps. That's because Stories is a better format for sharing multiple quick video clips throughout your day."

Facebook events

For special shows or events, it is a good idea for an artist to set up a dedicated Facebook event page via their fan page. It is not a good idea to do this for every show, but for special ones it is well worth it; for example, where an artist wants to impress industry people, launch a new EP/album or celebrate the band being together for a year, or five years. The first thing to do is give the event a name. It is usually more appealing to fans to call it a party rather than a music event. Another good idea is to create a package admission price, so rather than charge \$8 for a ticket, charge \$13 for the ticket and maybe include a free CD, downloads, tracks on a memory stick, or even a 7-inch vinyl single. The artist should tell fans why this event is important and how much fun it will be. Describe it in a compelling way, and include good photos, video and artwork. Stories about what happened at the last show in the same venue (if there was one) always appeal to fans, and what unusual clothes the band intends to wear and so on are also engaging. Once the event page is set up and fully functional, an artist will need to invite all their friends, including band members and other people associated with the band. Make it clear they need to click the RSVP button and point out exactly where it is. The artist should then write personal invitations to the artist's uberfans explaining the show's importance and asking them to invite all their friends. Do not bombard fans with too many reminders. After the initial invite, one more invite, maybe two days before the event, is OK, but no more. The strategy of releasing an album track by track rather than as a whole allows an artist to create an event for the release of each track. The album can then be released at the end of the process.

To set up an event, Facebook will need to differentiate between an online event and a physical location event. An online event would need a link if it were to something like Zoom, though a Facebook Live stream, just requires a click on the appropriate box.

Facebook Live

Facebook Live is an effective way of increasing audience engagement. It reaches more fans than anything else. Facebook will push it out to more fans, and further up their news feeds. A live video stream on Facebook can be up to eight hours (depending on what device it is streamed on) so it could be that an entire set at a live show is streamed. Once the live stream has finished, Facebook place it on your page like any other native video, so fans will be able to view it later. Live streams are often a bit shaky in terms of visuals and sound, so it may be that an artist will remove a video soon after it has gone out live. A professional video camera with a tripod is best, but a good quality smartphone, if used carefully, can give great results for a live video stream. Expect comments to be up to 10 times higher with live video than for a video post.

Facebook wants live streams to be social interactive events rather than a listening experience. It does not wish to compete with Spotify, YouTube Music or a podcast. Facebook wants watching, commenting and sharing rather than something fans switch on while they clean the house. It prohibits the use of copyright-protected recordings so it does not work for DJs. Starting a Facebook Live post and playing pre-existing videos or music with a piece of static artwork such as an album cover will not work either. The stream will be blocked. It is important to keep movement going on the live stream, talk between songs and ask questions of the fans. By doing this, the Facebook algorithm will tick all the right boxes and confirm that it is an interactive live stream rather than a listening experience.

It is essential to have a good internet connection for a live video stream. A Wi-Fi connection is best but if that is not available make sure the telecom signal is at least 4G. It is worth checking the network speed before starting a live stream using one of several free data speed apps that are available, such as Speedtest by Ookla. The COVID-19 lockdowns around the world in 2020 resulted in more live streams on Facebook Live and other streaming platforms than ever before.

Facebook has also introduced Facebook Stars, where fans can donate to the artist while the stream is taking place.

Facebook advertising

Advertising on Facebook is generally good value if finance allows. Initially, it is easiest to simply boost (that is, put money behind a post) and carefully target an important post. This will result in Facebook placing the post in more targeted news feeds than an organic post, and the post will therefore reach many more fans and potential fans. Facebook will direct you to a page where a credit or debit card number or PayPal details can be entered. The number of days the boost is required should also be selected. Always make sure the boosted post is targeted before activating. When targeting, remember to include the name of the genre, other popular bands in the genre, the town if it is a live show, and any other category that is relevant. It is best to start with just \$2, or maybe between \$5 and \$10, to see how the boosted post is working and what difference the money has made. For this, check Ad Center in Facebook Insights. Do not boost straight away, unless the post is time-sensitive. See how a post is doing organically first. If after a few hours or even a day it is doing well, it may then be worth putting money behind it.

An experienced Facebook marketer will always say it is not a good idea to use the Boost button, that it is much better value to use Meta Business Suite, which allows more accurate targeting and a host of other advertising features, such as adding a Facebook pixel and remarketing. A Facebook pixel is a piece of code placed on your website that helps track conversions from Facebook ads, optimize ads based on collected data and build targeted audiences for future ads. Facebook remarketing (also known as Facebook retargeting) is a way of reconnecting with Facebook users who have already visited your website. Whole books have been written on Facebook marketing, and if finance allows, it is worth delving deeper into the subject to keep up with the latest developments. Meta Business Suite is also be used for Instagram advertising.

Facebook Messenger and chatbots

While many young people are posting less, they are still likely to be using Facebook Messenger, which is available as a separate app to Facebook on smartphones. As with Facebook, Facebook Messenger, often referred to as just Messenger, is a powerful channel for communication with fans. Fans have to give an artist permission to contact them via Messenger, but once they have, the fan will see every message the artist sends as (unlike Facebook) there is no filtering algorithm. But as Messenger is a one-to-one messaging service, if the fan replies, they will also expect their message to receive a reply.

Third-party Messenger integration has been developed using chatbots that can help an artist communicate with fans. Chatbots using artificial intelligence (AI) have extremely high open and click-through rates compared with any other form of fan communication. For example, if a fan's message includes the word *tour*, the chatbot picks this up and sends an automatic reply with all the artist's upcoming dates and ticket information. Dutch DJ and producer Hardwell amassed more than 250,000 fans using his Facebook Messenger chatbot. Fans were able to vote for Track of the Week or leave audio messages for a chance to be featured on Hardwell's Fan Shout-Out of the Week. He later launched a Hardwell-branded picture book and his chatbot drove more sales than Google, Facebook and X (Twitter) combined. It should be made clear that a fan is talking to a chatbot and not a human being by giving the chatbot a fun name, such as Freddie the Forcs Robot or Chatbot Alice. At the time of writing, Facebook Messenger was the fourth biggest social media app globally.

X (Twitter)

Many artists use X (Twitter) as their main communication channel with fans while others rarely use it. Social media experts have said fan communication is stronger on X (Twitter) than on any other social media platform. Posts provide an artist with a digital news broadcast. Whether an artist is filming a music video, in the recording studio, on tour, or between shows, X (Twitter) provides a multifaceted canvas for sharing experiences and bringing fans along for the journey.

X (Twitter) is a microblogging tool that can be used conversationally or to follow trending topics. A trending topic is one that is most posted about by name, city or country, or globally. At the time of writing, X (Twitter) had approximately 13 percent the number of users as Facebook. Understanding how to navigate and use X (Twitter) is essential, so it is a good idea to sign up and use it for a while to appreciate how it works. The difference between X (Twitter) and Facebook is that whereas a Facebook post can be quite long and detailed, and contain lots of information, a post is limited to a maximum number of characters. Since the last edition of this book, X (Twitter) has increased the limit from 140 to 280 characters (including spaces). X (Twitter) replies, media attachments, links and screen names do not count towards the character limit. While Facebook friends have to be approved using a Facebook friend request, there is no such process with X (Twitter). Anyone can follow anybody they choose to follow, to a limit of 5,000.

X (Twitter) is interactive and the purpose is to have a two-way conversation. Some artists put out news and messages and never interact with fans who reply, which defeats the object. X (Twitter) message content is different to Facebook and other social media so try to adapt messages to suit the platform. Fans do not want to see the exact same post/message on both platforms. As with Facebook, the X (Twitter) logo with the name of the X (Twitter) feed should be clearly shown on all artwork.

It is important for an artist to get as many genuine X (Twitter) followers as possible and to post regularly. Many of the points made in the section on Facebook also apply to X (Twitter) and other social media, but the following are some specific X (Twitter) guidelines.

Create an artist X (Twitter) account

The name should be chosen carefully so potential followers can find the artist easily. The artist account can provide access for the band using the we approach, or individual band members from time to time. In the latter case, it would be good to start with something like, "Chris here". Posts can be posted by managers or webmasters on behalf of the artist and with their permission but it should always be obvious who is posting; it should never appear to be a post from the artist when it is not. For example, Lady Gaga's manager occasionally posts on her behalf but always makes it clear who is posting. When creating a X (Twitter) profile, an artist should match the artwork with the artwork and artist logo used on the artist's website and Facebook page.

Accumulate X (Twitter) followers

The artist should make it clear though their website and other platforms that they are active on X (Twitter). Start to follow other artists and people connected with the same genre to pick up their followers, too. Most people choose to be notified when a new person is following them. When they see an artist is following them, they may want to follow the artist and receive their updates. Repost famous artists, influencers and music executives and add a comment.

Follow some of the biggest and most successful X (Twitter) music artists such as Khaled, Mariah Carey, Cher, Camila Cabello, Miley Cyrus, Lil Nas X and Kacey Musgraves, and learn from them. If the artist gets it right, fans will spread the news for them. Lisa Kasha from Epic Records saw lots of posts coming in from fans of one of Epic's artists saying they did not like the artwork on the new album cover. After two weeks of this, the artist and Epic decided to change the artwork, a perfect example of the positive power of fandom.

Post regularly

Each artist is different. Some artists post once per day, others several times. As with Facebook, an artist should try to make the posts as short and interesting as possible. Each post will only be read by a small fraction of the artist's fans, so an artist should not be shy about posting often. Several artists are on record as saying, "Write each post as if it were your last". That is a bit extreme, but there is some truth in the sentiment.

Post at the right time

For maximum effect, an artist should post at peak X (Twitter) hours. Research has shown that the best time to post is on weekdays (excluding Mondays) at noon, or from 1 p.m. to 4 p.m. Another good time is 5 p.m. to 6 p.m. when people are returning from work. For some reason, Thursdays at 9 a.m. and 8 p.m. also seem to give good results. Avoid posting between 9 p.m. and 9 a.m. on any day as this shows the lowest engagement. Saturdays are also to be avoided, as engagement is low.

Using @ and

Always remember to add the at sign @ before named people, artists or organizations in a post; for example, *@justinbieber*. If someone has commented on a post, users can type the @ symbol to directly message other users. It is useful to create and continue conversations between users and to pass on links.

The hashtag or # symbol is used before a relevant keyword or phrase in a post to categorize the post and help them show up more easily in X (Twitter) search. By hashtagging a keyword, it helps create trending topics; for example, #Sofia would be a hashtag and could be used in a post to talk about shows going on in Sofia in Bulgaria. Users can click on the hashtag to find all the posts that discuss this topic. Clicking or tapping on a hashtagged word in any message shows a user other posts that include that hashtag.

It is a good idea for an artist to create a special hashtag to promote a new record or a live event; for example, #phonatlive for live shows by the artist Phonat. Some artists are even including the hashtag as part of the track or album title to get trending activity. Jennifer Lopez, for instance, titled her single #liveitup. Use of the #liveitup hashtag on X (Twitter) caused the number of engagements to rise from 500 to 22,000 per day. It is good to keep the hashtag as short as possible and to only use one or two in each post. Use the

hashtag everywhere, including daily posts, press releases, the artist's website and on all marketing materials. If done consistently, a hashtag promotion can effectively encourage other people to promote an artist's work. Their followers will see the hashtag and may choose to follow the artist or the promotion as it unfolds.

Encourage reposting

An artist should write posts that encourage reposting and replying to help spread the word. There is nothing wrong with openly saying "Please repost" within a post if an artist is trying to reach the maximum number of people for, say, a record release or a special live performance. This should only be done for important posts and not too often, as it may come across as desperate.

Don't oversell

As with Facebook, avoid "buy now" posts. By all means provide information about new releases and add a link to where they can be purchased but keep the posts informative and engaging rather than direct advertising.

Use X (Twitter) as a search engine

Many people do not realize this but X (Twitter) can be used very effectively for search, especially in conjunction with LinkedIn. If an artist manager wants to get in touch with an industry person, they should find out about the person on LinkedIn and then search for them on X (Twitter), see what the person is posting and join the conversation. That is the amazing thing about X (Twitter). It provides conversational access to anyone on the platform, even top executives, celebrities, tastemakers and influencers. If an artist manager cannot afford to attend a music conference but wants to get in touch with one of the panelists or find out more about the subject under discussion, search the name and see what they are posting in real time, just after the conference panel has concluded.

Questions and answers

Once an artist has more than 500 or so X (Twitter) followers, consider scheduling a X (Twitter) video Q&A session. It is best to announce this on all platforms where the artist is active, as well as by email. Create a hashtag such as #AskTheFords and choose a time when most of the fans are likely to be off work. If an artist has a following in other time zones, make sure that the time zone of the Q&A is clearly shown.

Good X (Twitter) content and meme culture

Fans always like details, so post about how the band formed and how things are developing. Use video wherever possible and repost any posts that are complimentary. Post when certain targets are reached, for instance, 1,000 X (Twitter), Instagram or Facebook followers, or 10,000 streams or followers on Spotify. Fans love memes (short, funny videos or screenshots) of an artist caught doing something unexpected or pulling a funny face in reaction to something happening. Meme videos repeat every few seconds.

X (Twitter) Explore tab

Since the second edition of this book X (Twitter) Moments has been replaced by the Explore tab which is similar to Moments but adds discovery and search. It enables users to stitch together multiple posts into slideshow-like stories. In the same way as Snapchat and Facebook Stories, Explore follows the same principle but applied to X (Twitter).

Include links

When posting links in a post, be aware that X (Twitter) automatically shortens a URL to 20 characters using its t.co service. To create even shorter URLs and allow tracking, use a third-party URL shortener such as Bitly, TinyURL, Ow.ly (integrated in Hootsuite) or Buffer. If an artist includes a link, there will be 260 characters left in which to write the message. Research has shown that links are more effective if placed near the beginning of the post rather than at the end.

Promoted posts

In the same way it is possible to pay for a promoted Facebook post to give information a higher profile, it is also possible to pay for a promoted post on X (Twitter). Promoted posts (sometimes called sponsored posts) are ordinary posts that can be used to reach a wider group of users, and increase engagement with existing followers. Sponsored posts are labelled Promoted, but other than that, they behave exactly as a normal post. The cost to promote a post is around \$1.35 each time a X (Twitter) user clicks, replies, favorites or reposts the post.

The steps an artist should take to create a promoted post are as follows:

1. Choose the target audience.
2. Reach that audience by targeting based on interests, geography, gender or device, or on users similar to the artist's followers. In addition, maximize the

relevancy of the message by targeting keywords in people's posts.

3. Set a budget and pay for what works.
4. Only pay when users follow your account or repost, like, reply, or click on the promoted post. There is no minimum spend and the promotion can start or stop at any time.

Elon Musk acquired Twitter in October 2022 and officially changed the name of the Twitter platform to 'X' in July 2023. In the same month Meta Platforms (Facebook, Instagram, WhatsApp) announced the launch of Threads which was set up in direct competition with X (Twitter).

YouTube

At the time of writing the four biggest platforms for music discovery were, in order:

1. YouTube
2. Radio
3. Music in television productions
4. Audio streaming platforms such as Deezer, Apple Music, Spotify.

Most people assume the audio streaming services are where everyone goes to discover new music, but to date, that is not the case. YouTube is by far the biggest music discovery platform. Although listener numbers are generally falling, radio is still important for music discovery. One reason for this is radio DJs give music a context; they frequently talk about a piece of music before or after it is played. A radio station will often play a track several times a day so it becomes familiar. YouTube also has context provided by the visual element of a video, which is why it is fundamental to all music artists, especially in the early stages. Radio people, music supervisors, managers, phonogram producers, publishers, promoters, booking agents and publicists usually go to YouTube first to find out about an artist and about new music in general.

A video-sharing website created in 2005, YouTube allows users to upload, view and share videos. Google bought it in November 2006. YouTube uses HTML5 technology to display a wide variety of audiovisual content, including music videos, movie clips, television clips and educational videos, as well as vlogs and other amateur user generated content (UGC). Although free to the viewer, it makes money by placing video ads around a video (usually at the beginning) or static and banner ads around the video viewing area.

It is essential for an artist to have a good presence on YouTube. Even if there is no video, it is worth posting audio tracks with a slide show of photographs and artwork, or even one static piece of artwork. Getting good quality video of live performances on YouTube as soon as possible is important as well as promotional videos if money allows. This may be difficult but try to pick a section of live video where the audio is in tune and there is good audience participation. It is better to have no video than a bad one, so make sure each one is either informative, intriguing, exciting, appealing or any combination of these.

A promotional video is a specially directed video based on a storyboard and usually features the artist acting or performing in situations that complement the song and the lyrics. If investing time and money in a promotional video, create a second version where the lyrics for each line appear at the bottom of the screen. Fans also love entertaining or funny non-musical audiovisual dressing room conversations and antics. Video interviews with fans are also easy to create at live performances and work well on YouTube. Any of this non-musical video can go viral, particularly if it is funny/entertaining. In some countries comedy has become hugely popular with home grown comedians selling out multiple nights in arenas. Never underestimate the appeal of humor, even if the music is serious.

To get started buy or borrow a high-definition video camera or top-end smartphone. The cameras on the latest smartphones are astonishing. With the constant movement from audio to audiovisual it is advisable to always have a camera or smartphone ready to record the artist's world. Invest in a tripod or a monopod to get the best results. Practice holding the camera/smartphone steady and avoid quick movement. There is a technique to making good videos and it is worth putting in the time to develop the right skills. Become familiar with the camera or smartphone, and experiment with all the settings to get optimum results in all conditions. Bear in mind that for smartphones and tablets, a vertical (portrait mode) video is ideal but for laptops a landscape proportioned video is best. Learning the basics of video editing is important for YouTube optimization and will also be useful for Facebook, Instagram, X (Twitter), TikTok and other audiovisual platforms.

To create a situation video that has viral potential, keep it short and try to evoke emotion. It could be laughter, shock or a gasp. Find out the big YouTube influencers and get the video to them. There are companies who do this for a fee but there is much authors and performers can achieve themselves.

Create a YouTube brand account channel

Most people have a personal YouTube account for personal videos. The YouTube brand account gives artists a YouTube presence of their own, though it is accessed through a personal YouTube account. It will be necessary to have or open a Google account. If someone has Gmail or Google Maps, they will already have one. To create a brand account, go to the personal account and select the small round photo or icon in the top right-hand corner. Select Settings from the drop-down menu, select Create new account and then Account for a business.

Brand business accounts allow the creation of owners and managers. Owners are the fundamental administrators and can add and remove managers, manage videos, remove and edit posts and listings. Managers can also perform these actions but cannot add or remove managers. Communication managers have a more restricted set of actions, such as responding to reviews. Go to the Manage permissions section in settings to set up owners, managers and communication managers.

Channel name and channel art

The first thing to organize is the name of the brand account and the channel art. It is a good idea to use the artist name and then Official YouTube Channel, which will differentiate it from YouTube channels that fans might create. By using “official”, fans will recognize it is the primary authentic artist YouTube channel. The channel art is a banner at the top of the page, and should be a great photo or graphic that ties in with the band’s logo and musical genre. The recommended size is 2560 x 1440 pixels with a maximum file size of 2 MB. The channel art banner will automatically scale to anywhere between 640 x 175 pixels (narrowest) to 1060 x 175 pixels (widest). It is therefore sensible to get the core visual graphic information within these dimensions as some of the graphic at the edges of the main banner may be lost on some screens. See YouTube’s own video tutorial, “How to create channel art”.

Channel description, icon and social links

Make sure the channel description is short, concise and engaging. Include basic information about the artist/band and the kind of videos likely to be posted. YouTube looks at the channel’s description as part of its SEO and recommendation algorithm, so it is important to spend some time getting the description right. Add the website link and active social links. The description and links can be accessed from the About button. A link to how fans can

purchase or access the artist's music should also be included. The YouTube icon is the small round image under the left-hand side of the Channel Art. This should be the artist's logo and can be up to 800 x 800 pixels.

YouTube playlists

Fans love YouTube playlists so spend time creating them. In addition to their own videos, artists should include videos from other artists in the same genre and say why they like them. Other developing artists may well reciprocate. YouTube allows an artist to create as many playlists as required. Keep them interesting by changing the order of videos and regularly creating new playlists.

Artist YouTube trailer and gaining subscribers

Another good idea is to create a short impactful video explaining what the band are all about with clips of live footage and place it at the top of the channel page. First impressions are important, and this trailer will hopefully win over unsubscribed viewers. The goal is to get as many genuine subscribers as possible.

YouTube SEO

YouTube is the second biggest search engine in the world (after Google) so it is important to maximize search engine optimization when creating a channel. Use keywords the crawlers can pick up, which will direct potential fans to the artist's channel; for example, genre, country, name of artist/band, most popular video and album title. In settings, click the option "Allow my channel to appear in other channels recommendations". And double-check everything is spelled correctly.

Make sure the metadata (description) on each video is clear and concise so the bots can pick it up. Include the name of the artist/band, the genre, where the video was made, artist's website and social links, and any other relevant information for each video. For example, if the video was made in a known film studio, include its name. The bots will pick that up and include the video with others made in the same studio.

Always add a website link and contact information at the end of a video. Having seen the video, someone may want to offer a live show. If they are unable to find the contact information quickly and easily, they may move on to another artist. Videos from YouTube can be shared and embedded on an artist website. It is also possible to share the video on the artist's social sites, but as was stated in the Facebook section, it is more productive to upload the video directly to socials rather than link from YouTube.

Thumbnail images

When a video is uploaded, YouTube will automatically select a still image from the video, which will be the thumbnail. The thumbnail image will be the image a fan or potential fan will see. It should be appealing and draw the fan in, to watch the video and hopefully become a subscriber. The image chosen by YouTube may be far from ideal, so the artist should create an image they feel comfortable with. Go through the original video and choose an ideal still shot, which should be saved. In settings, click on Custom thumbnail and upload the image.

Design and orientation of videos

Desktop/laptop screens are landscape (horizontal) and mobile devices are portrait (vertical), and therein lies the problem. Is it best to make situation videos by holding the camera or smartphone vertically (9:16 aspect ratio) or horizontally (16:9)? In the past, anyone shooting a video with a smartphone held vertically was believed to be making a mistake, but not anymore.

With the rise of Stories on Instagram, Facebook and Snapchat, vertical is the way to go. Research has shown that most fans are more engaged with social media and YouTube on mobile devices than on desktop/laptop screens, and that they view their mobile devices vertically 94 percent of the time. Of course, they could turn their smartphones round by 90 degrees, which would allow them to view in full screen landscape, but most cannot be bothered to do that. If your fans or potential fans are mostly on mobiles, it is better to video vertically. It is predicted that social stories will exceed news feed in the near future, a further reason to make situation videos vertical.

Promo (promotional) videos, where much effort goes into making a polished video linked to a complete track, are still made in landscape to reflect the orientation of a cinema screen in the hope the viewer will rotate their mobile device to watch something special. When creating a situation video, try to include close-ups and avoid small text, which just does not work on mobile devices where it will usually be watched. Before posting, always test the video on your mobile to ensure it contains nothing that will breach YouTube's guidelines, such as nudity, offensive images or language.

Monetization on YouTube

An artist's videos can be monetized on YouTube via the artist's digital distributor or phonogram producer, who will arrange for an allocation of YouTube's Content ID to each track. With Content ID an artist can not only earn when their own

videos are viewed, but also whenever the track is used in user-generated content videos. For example, a member of the public might upload a video of their cat and add the artist's music to the video. At this point the copyright owner in the video has the following three choices:

1. Ask YouTube to take the cat video down as it infringes the copyright in the recording.
2. Allow the video to stay up without ads.
3. Allow the video to stay up and monetize the cat video by using Content ID and authorizing YouTube to place ads in or around it.

With Content ID, the copyright owner of the music (a phonogram producer if the artist has signed a contract with them or the artist themselves if they are using a digital distributor) will get paid for advertising around the cat video as if it were their own video. Content ID is highly sophisticated audio and video identification technology that can identify if music is uploaded to YouTube illegally. It is possible to apply for Content ID independently if an artist owns their own recordings and videos but at the time of writing it was not easy and it is quicker and more straightforward to obtain via a digital distributor or a third-party phonogram producer. The amount YouTube pays out to the copyright owner varies considerably, depending on, for instance, how long the video (and therefore ads) are viewed, the type of ad, the time of year and how much the advertiser is paying. Of the qualifying ad income, YouTube keeps approximately 45 percent, and pays out around 55 percent to the copyright owners.

For an independent artist or phonogram producer it is possible to become a YouTube partner using Google AdSense. The first thing to do is to apply for a Google AdSense account. To qualify as a YouTube partner a channel will need to have at least 1,000 subscribers and a minimum of 4,000 watch hours for videos on their channel in the previous 12-month period. Go to YouTube Analytics to check watch hours over the previous 365 days. YouTube will share income generated from advertising placed in or around an artist's video with the channel owner. It usually takes a month or so for YouTube to decide whether an artist qualifies to be a YouTube partner.

Advantages of becoming a YouTube partner include:

- Advertising: Advertising revenue from display, overlay and video ads
- Channel membership: Members make recurring payments in exchange for special content
- Merch Shelf: Fans can browse and buy official branded merchandise that's showcased on the channel's watch pages

- Super Chat and Super Stickers: Fans can get their messages highlighted in chat streams
- YouTube Premium Revenue: Part of the income from a YouTube Premium subscriber subscription fee when they watch the artist's videos.

How much content and how does an artist attract more subscribers

If an artist's goal is to become a YouTube artist, they will need to regularly upload videos that, if engaging, should attract more subscribers. One way to do this is for the artist to upload videos playing interesting or unusual cover versions of well-known works. If done well, this can pull in many new subscribers and may also lead to synchronization/master use as music supervisors are always on the lookout for good cover versions to place in audiovisual productions. Always remember that shorter videos get viewed and shared more often than long ones. As with socials, the timing of a post is important. Monitor this in analytics to work out when is the best time to post.

Schedule the premiere of a new video

If an official video for a new release is being launched, schedule a YouTube premiere. YouTube has many tools to help maximize the audience, including a timed countdown. Put out teaser videos/photographs across all socials for at least two weeks before the premiere is scheduled. This could be outtakes/photographs made while the video was being made or the artist talking to camera. Let the fans know if the artist is attending the premiere and respond to comments while the premiere is in progress. If an artist gets this right, it can sharply increase streams, the fan base and ticket sales.

Monitor YouTube Analytics

Always keep a close eye on YouTube Analytics. Useful engagement metrics include location of viewers, gender, age, number of minutes viewed, number of subscribers, number of likes and comments and estimated earnings (if qualifying).

YouTube Shorts

In 2021, in response to the exponential rise of TikTok, YouTube launched YouTube Shorts wherein vertical videos up to 60 seconds in duration can be posted. At the launch YouTube said "Shorts is a new short-form video experience for anyone who wants to create short catchy videos using nothing but their mobile phones." They also announced several new creation tools including a multi-segment

camera to string multiple video clips together, an option to record with music, speed controls and a timer countdown. At launch YouTube announced a \$100 million YouTube Shorts Fund wherein shorts creators would receive financial rewards if their videos received strong engagement and views via the YouTube Partnership programme. Qualifying channels can earn between \$100 and \$10,000 per month depending on number of views. If an artist's short video has already appeared on TikTok it is important to remove the TikTok watermark on the video in order to get full support from YouTube Shorts.

YouTube information and tutorials

For further information on making the most of YouTube, see the videos on the YouTube Creator Academy series, the YouTube Creators channel and the YouTube Playbook for Creative Advertising.

Instagram

Facebook bought Instagram (IG) in 2012 and since then there has been integration between the two platforms regarding advertising and analytics.

Instagram is a photo and video sharing app that allows users to upload media that can be edited with filters and organized by hashtags and geographical tagging. Posts can be shared publicly or with pre-approved followers. Users can browse other users' content by tags and locations and view trending content. They can like photos and follow other users to add their content to a personal feed. It differs from Facebook and X (Twitter) in that it is primarily aimed for use on mobile devices (though there are various tools, such as Deskgram or Uplet that facilitate posting on Instagram from a desktop).

There was a time when Instagram looked to be in decline, with Snapchat dominating photo social, but in 2015 it gained new momentum and is now the no. 1 social media communication platform for most music fans. Instagram users spend 40 percent more money on music than the average person, and 30 percent more time listening to music. Because of this, an artist should use Instagram as a primary tool to grow their fan base. Like any social platform, an artist must be prepared to fully engage with the platform in order to see tangible results.

Instagram was created in 2010 as an iPhone iOS app but also launched as an Android app in 2012. It originally only accepted images in square format. These days it also accepts landscape and portrait images but still crops them to square in its album feature. It copied the stories feature from Snapchat in 2016,

allowing vertical photos or videos (up to 15 seconds) that disappear 24 hours after posting. These are not displayed in the feed but at the top of the user's app when they are logged in and are tapped through to view. Instagram Stories are rapidly becoming more popular than feed posts. According to the statistics portal Statista, Instagram has more than 2 billion monthly users, of which half are Instagram Stories users.

An artist should first set up an Instagram business or creator account. Sign in to Instagram using Facebook or by inserting an email address or phone number. The next thing is to create a username. The name is important and should be the artist's name, which hopefully is not already in use. If it is, add a prefix such as "the official", which will also help distinguish it as the authentic artist Instagram account.

Upload an avatar, the small round image that will identify the artist. This should be the artist logo or a face image, and because it is small, it must be easily recognizable or close up. The avatar should be 110 x 110 pixels. Make sure it fits neatly in the Instagram avatar circle. As with Facebook and YouTube, add a precise description that states the music genre, country where based, and so on. The description/bio, which is limited to 150 characters, should include keywords that will hook search engines. Instagram allows one hashtag, so think about the best one for you. For example, if the artist is a smooth jazz player living in Cape Town, South Africa, they might choose #smoothjazzcapetown or #smoothjazzsouthafrica. One link is also permitted, so be sure to include the artist's website address. A viewer will decide within a few seconds whether or not to click the Follow button, so make sure the description/bio is concise and impactful.

If an artist already has a personal Instagram account and wants to switch it to a business professional account, go to the three horizontal bars in the top right-hand side of the screen and scroll down to settings. Scroll down to Switch to business profile. In 2019 Instagram introduced its creator account, with extra features aimed at influencers but which are also useful to music creators. Visit help.instagram.com/2358103564437429 for more information. A business account can also be switched to a creator account. Both business and creator accounts give an artist many useful features and analytics, including data on posts and followers. This includes how many users visited the profile in the past week, how many shares and when followers are typically online, which gives valuable insight into the best time and day to post.

Instagram is all about gaining as many genuine and engaged followers as possible. There are businesses out there where it is possible to buy Instagram followers but don't even think about doing that. The Instagram algorithm can

easily identify fake followers, as there will be no comments or interaction from them. An artist needs fans who are interested in them and their music, and will give an artist some of their time. We live in an attention economy, where everyone fights for our attention. If an artist gets a fan's attention, they are giving the artist that time, which is valuable. The fan will want something in return, and the thing they want most is to be contacted directly by the artist. That is why responding to every comment and direct message is important if possible, to make the fan feel they are a part of the artist's community.

It is also productive for artists to interact with other artists, and let people on other social platforms know they are active on Instagram. Here is how an artist/artists can use Instagram to grow a following, build relationships and make sales:

- Instagram is all about engaging images. Expensive cameras and graphic designers are not necessary. A smartphone is perfectly adequate if used creatively. Spend time understanding how to get the best from a smartphone camera and frame effective photos. It is best to create images in portrait (vertical) mode. For full body shots, make sure the feet and hair are in the frame. Consider cropping the photo and add a fun or interesting caption. For templates that can overlay text, try Canva, a free tool that helps create great text and image designs, as well as templates for album covers and posters. Instagram has a 2,200-character limit for captions.
- Videos are the second most popular posts on Instagram. Again, a good smartphone is usually more than adequate. Make sure the smartphone/camera is held steadily with the subject matter well framed and pan slowly. Create Instagram videos in portrait mode (vertical), though landscape can be used. For stories, the video must be vertical. Many users watch videos with the audio off, so add short captions, too. Edit the most striking three seconds of the video at the front to grab attention possibly followed by the whole video. For videos with music, check the music starts in the first second. If an artist is associated with a specific genre consider captioning it, "If you like . . . you might like this", for a famous artist in the same genre.
- Post regularly, ask questions, and be consistent. For the Instagram feed, try to post at least three times a week but no more than once a day. For stories, try to post every day. The secret is to get as many comments as possible and to always respond. If the Instagram algorithm picks up you are posting regularly, and getting good engagement, it will push your posts out to more people. If there is a negative comment reply to that, too. The algorithm does not differentiate between positive and negative comments; it just wants to see engagement.
- Instagram users tend to scroll through feed posts and stories, so a post or story must grab attention.

- Use hashtags on every post. Instagram allows up to 30 hashtags per post so consider using at least 15. Look at artists in your genre with strong fan engagement, make a note of their hashtags and try using them yourself. The free tool Display Purposes recommends hashtags and filters out banned and spam hashtags. Add a phrase and it will suggest legitimate hashtags; for example, if K-pop is inserted it will provide hashtags #bts and #blackpink. Also use hashtags on Instagram stories.
- When starting out, it is difficult to get the first 100 followers, so ask friends and family members to follow you and to comment on posts. A potential follower will be able to see how many followers an artist has, and how much engagement there is. For this reason, a new artist has to work very hard to get the number of genuine followers up to a credible figure.
- One of Instagram's best features is that it is possible to direct message (DM) anyone, including famous artists. Direct message fans who have posted comments and thank them. Direct message other similar artists and compliment a particular track of theirs. Chances are they will reciprocate and say good things about your music that fans may pick up on. Direct message followers to tell them about new shows or releases.
- Instagram advertising is considered one of the best ways to spend a marketing budget. Better to spend less on an official video for a track, for example, and put the money saved into Instagram advertising. Go to Meta Ads Manager, where ads can be placed on Facebook and/or Instagram. The best approach with an Instagram advertising campaign is to start by creating awareness. Do not include any calls to action, such as a link to Apple Music, Spotify or your website. A third-party link in an ad will be more expensive as it will take people away from the Instagram platform. The next stage is to hook the viewer by re-targeting the awareness ad in a different form. All those who watched the first ad will receive another ad that will remind and familiarize them with the track. The third wave of ads should include the call to action, such as a Spotify link. When paying for advertising, remember to target by group, such as genre, location, age and language. Look at Instagram Insights for analytics on what was successful and unsuccessful in the campaign.
- One way to get music out there in the early stages is for an artist to offer a free track to high-profile Instagram creators to use under one of their tutorials or videos. Make sure they tag you if they do use your music.
- Artists should find Instagram influencers with 100,000-plus followers and engage with them. Direct message them, saying they can use your music for free if they mention you and hashtag the artist name. It is also possible to pay influencers to promote an artist's music, which can rapidly increase genuine followers. Invite an influencer to a show, or ask them if they would like to appear in your next video. If they accept, they are almost sure to post their experiences on socials, which could be career changing.

- Brands are always looking for artists who have a big Instagram following, which could lead to sponsorship or brand tie-ins. Artists should interact with brands, particularly if they like them, and send them music. For example, if you play a Roland keyboard, contact Roland and tell them how great it is and maybe offer suggestions for design improvements.
- If using someone else's photograph, always remember to get their permission and give them a photo credit.
- As with other socials, avoid nudity, rudeness, racial remarks or anything that could cause serious offense. Instagram may remove an artist from the platform, which would be disastrous if they have spent months building a following.
- An artist can use Instagram Stories to tell the viewer about their day-to-day life in a fascinating or perhaps humorous way. Because stories are viewable for just 24 hours, they are suited to more spontaneous, raw and authentic content than is usually put up on the feed. Feed posts need to be more considered as they are permanent.
- Even though stories are more spontaneous, it is important to establish themes. If a fan likes a story, they will expect to see the next story follow the same theme. It could be in a documentary style, such as a blog about going to a gig, what happens on the way, during the performance and on the journey home. Alternatively, it might be educational, such as how equipment in the home recording studio works, or the best guitars or keyboards. If the artist is genuinely funny, it could be humorous. Scottish singer Lewis Capaldi, for example, has so endeared himself to fans in this way he has more than five million Instagram followers and tens of millions of streams.
- As an artist ask yourself what the important things are in your life. What do you feel strongly about? What are your values? What sports or other interests do you have? Chances are there are millions of people out there who share your concerns, values and interests. If, for example, an artist feels strongly about reducing carbon emissions, that could be a theme. It may be that you feel strongly about gender and race equality, or take a keen interest in sport, in which case it would be good to talk about that, maybe show video and sync it with your music.
- Instagram has free tools within the Instagram app to enhance results, and an artist should be familiar with them. The main ones are Q&A, polls, sliders, countdowns and effects. Use these to enhance images and engage interactively with fans and casual viewers. Effects can make an average image stand out. Polls are great but keep them to a single question and do not use them too often; for example, which is your favorite track on the new album?
- Make a video occasionally where you, or you and other members of the band, talk straight to camera to get a message across.

- A color theme and recurring fonts and filters are useful, so users can quickly identify you as they scroll through. If they liked your last feed post or story they will probably stop and look at the next one. Keep the same theme and look going so they come back time and again.

In summary, Instagram is where fans who want to engage with an artist usually live. The secret is to post regularly, be yourself and create a genuine friendship with followers.

Snapchat

Snapchat was conceived in 2011 as a multimedia messaging app and quickly gained momentum, particularly among teenagers. It pioneered the concept of messages and pictures only being available for a short period after which they were inaccessible to their recipients. The platform developed the idea of stories, since copied by Facebook and Instagram, wherein 24 hours of chronological content can be posted after which the content is deleted. In 2015, Snapchat launched Discover, which allows brands to show ad-supported short-form content.

Early on, the emphasis was on mobile and Snapchat introduced the concept of users interacting with filters, virtual stickers and augmented reality. It has always appealed to a younger demographic in the 12–25 age range. In 2019, Snapchat reached an agreement with Spotify for Snapchat-Spotify integration that allows users to share music and playlists. Music can be shared in Snapchat Stories and supplemented with text and stickers. When the story is live, a viewer can swipe up from the bottom of the screen and start playing the tracks on Spotify, which provides an artist with a great opportunity to boost their streams and fan base.

Artists can promote their music on Snapchat as follows:

- Create a Snapchat profile and promote it on other social platforms. Ask your Facebook and Instagram followers to follow you on Snapchat.
- Share your music in Snapchat Stories and augment with text, such as musical inspiration and lyrics.
- Create a Snapchat group with fans and share podcasts and music with them. Connect with and mention individual fans in stories.
- Send music to Snapchat influencers and get a dialogue going with them. If they include you in a story it is worth its weight in gold.
- Include similar artists in your Spotify playlists. Connect with them and let them know they are featured in your playlist and ask them to mention it in their stories. Photo playlists and post them on Snapchat.

Many Snapchat users have moved over to Instagram, but some artists still have a strong community on the platform.

TikTok

At the time of writing, TikTok was the fastest growing social media network, with year-on-year growth of more than 500 percent. A video-sharing service, it is owned by ByteDance, a Beijing-based company founded in 2012 by Zhang Yiming. The app was launched in 2017 for iOS and Android for markets outside China. ByteDance had launched Douyin for the Chinese market in 2016. TikTok and Douyin are similar but run on separate servers to comply with Chinese censorship restrictions. TikTok is not available in China, and its servers are based in countries where the app is available. It allows users to create and share short music and lip-sync videos of 3–15 seconds and short looping videos of 3–60 seconds.

In November 2017, ByteDance purchased Musical.ly, a start-up based in Shanghai with an office in Santa Monica, California. TikTok merged with Musical.ly in August 2018 to create a larger video community, with existing accounts and data consolidated into one app under the name TikTok. It is available in more than 150 markets and in 75 languages, and was the seventh most downloaded mobile app of the decade (2010 to 2019) globally.

Its main appeal is to the teen market but with its swift development and viral capability, that is changing. Those aged 20 and over are starting to come into the TikTok community. Artists are finding that TikTok is a great platform for music discovery with huge potential for building a fan base. Phonogram producers and managers watch carefully what is going viral on TikTok, with a view to signing any artist who starts to gain traction.

To make their music discoverable on TikTok, an artist must first load audio tracks into the TikTok soundbank. Make sure the metadata is as short and concise as possible. At the least, it should include the artist's name and name of the track. That way, anyone wanting to hear the whole track can easily look for it on platforms such as YouTube, Amazon, Deezer or Spotify. As of 2021 all three major phonogram producers had concluded licensing deals with TikTok as had independent phonogram producer digital licensing body Merlin. If an artist has a digital distributor or is signed to an independent label that licenses through Merlin, they can upload an artist's music directly to TikTok and receive payment.

Once in the TikTok soundbank, anyone with a TikTok profile can sync an artist's music in a video and post it on the platform. The way to get noticed is to launch

a TikTok challenge around the track. The goal is to be included in the TikTok trending page, at which point the track will be going viral. It is possible to launch the challenge with a homemade lip-sync video (where you pretend to sing) but it must have cool, humorous or unusual elements. Once the video is posted, let fans on Instagram, X (Twitter) and Snapchat know so they can check out the challenge. The meme should be unique to TikTok so that it is the only place fans can see it.

As with other social media, TikTok hashtags are important. Pick a snappy hashtag relevant to the track, the challenge and whatever is trending at that moment.

Research TikTok influencers and contact them. The trending page will feature many of these influencers, who are often also YouTube and Instagram influencers. It is not possible to message them directly through the TikTok app (unless the artist is TikTok friends with them) so contact will have to be made outside the app, through Instagram, Facebook Messenger or LinkedIn, or by email from their bio, for instance. If an influencer loves the audio, they may be prepared to create a challenge using the track and just post it, which will get the track to all the influencer's fans—which could run to millions. Alternatively, if the budget is available, it is possible to pay the influencer. Costs are considerably less for TikTok than for YouTube, Instagram or Snapchat.

Consider getting fans to start the challenge themselves or to run a meme competition where a special prize goes to the winner of the best video posted using the track. The prize should be something no other fan can get, such as a video conversation with the artist that is posted on YouTube, a live performance in the fan's house or a TikTok duet.

The TikTok duet is another trend, performing with someone else, such as an artist in the same genre or an uberfan. This feature allows two screens to be displayed at once, side by side. If another artist is prepared to participate the video will get to all their fans as well as the artist's fans. This mutual collaboration is proving effective across all social media.

Music streaming services and algorithms

Streaming platforms are increasingly incorporating social aspects in their services to encourage users to stream more music which also helps artists to build their fan bases. Spotify, Apple Music, Deezer, Amazon Music, NetEase Cloud Music, Tencent, Yandex, Melon, Boomplay, GAANA and others are trying to create more streams on their services by providing users with exciting new ways to access music.

Playlists

A key way to achieve this is to make playlists that appeal to a fan's taste and which introduces them to new music they may like. The services already know the type of music that appeals to a particular fan from data they have collected on what music they have listened to in the past. Using algorithmic processing, they can then tailor playlists for that fan to encourage them to listen to more music. For example, Spotify creates the playlist Discover Weekly, which is available every Monday and is customized differently by the Spotify algorithm for each subscriber. Similarly, it provides a Release Radar playlist that is a customized playlist for each Spotify user updated every Friday with new releases from artists they have listened to and follow on the service.

Algorithmic processing means that the playlists are computer generated rather than curated by people. There will be other customized algorithm-generated playlists available, such as Daily Mix, which will feature tracks it thinks a particular fan will like based on past streams and Your Top Songs, which will be a playlist of the most streamed tracks by a particular subscriber.

In addition to the customized algorithm-generated playlist, there will be official playlists curated by people on the service. In the early stages of development, streaming services such as Deezer made a big thing about their official playlists being created by people. NetEase and Spotify had a policy that all playlists should be put together by their subscribers, which they could share with other users or make publicly available on the service. In 2014, Spotify decided to move away from user-curated playlists to organizing its own, in the way Deezer had done from the start, though NetEase has continued with the user-created model. Spotify hired a team of curators (mostly from radio) and prioritized its in-house playlists to users. Some general playlists were still algorithm generated, such as Global Top 50, a chart playlist showing the most streamed Spotify tracks in the world that week. Some were a hybrid of algorithm and people curated. Many playlists were based on genre or mood. For example, Classical meets Electronica, Rap Caviar, African Heat, New Music K-pop, Chilled Reggae, Viva Latino, Baila Reggaeton, Classical Essentials and Songs to sing in the Shower. Apple Music, Amazon Music and other streaming services also curate their own playlists and prioritize them to users.

Spotify for Artists, launched in 2017, provides artists and their management team with data analytics including number of streams, territory, gender, age, number of followers and playlist inclusion, which is invaluable in understanding geographical hotspots for touring and generally building the artist's fan base. At the time of writing, Apple has launched and is developing Apple Music for Artists

and Amazon has launched and is developing Amazon Music for Artists with other services developing similar artist services. Apple Music is able to include data from Shazam (which it owns) and Amazon Music is able to include data from Alexa.

Taking Spotify for Artists as an example, an artist should do the following to gain the most from the service. Here it is assumed the artist has a new track they want to place on Spotify, and which they hope will be added to one or more of Spotify's created playlists.

- Arrange for the artist's distributor or phonogram producer to put the music up on the Spotify platform. Spotify only accepts music from a recognized distributor or phonogram producer. Music will not be accepted directly from the artist.
- Go to [Spotify for Artists](#) to obtain verified status. Once Spotify establishes you are who you say you are, it will create an artist page and add a blue checkmark to the artist name, which signifies the artist is verified and genuine.
- Claim and create an artist profile. This is like a Facebook artist page. Include artist information such as artwork, biography, photographs, tour dates, links to socials, wiki link (if the artist has one), discography and latest release information. Spotify allows up to 125 images on the profile.
- For upcoming live dates, Spotify partners with SongKick, Ticketmaster, Eventbrite, Resident Advisor, AXS, eplus (Japan only), and others, who will send the artist's live dates to Spotify, provided the artist is on one of those platforms. It is therefore very important to be active on one of those live event platforms and to regularly supply them with an up-to-date schedule of the artist's forthcoming live dates. Spotify sends emails to the artist's Spotify followers and other listeners when a live date is happening near where they live, which is helpful for selling tickets. This also applies to virtual live streaming events, where Spotify partners with SongKick, Ticketmaster, StageIt, Mandolin and NoCap, among others.
- As with social media, it is important an artist gets as many genuine followers on Spotify as possible. Invite fans to follow you on Spotify on all socials and newsletters with a link to your Spotify profile. Followers will receive your new releases, which will automatically arrive in a fan's Discover Weekly and Release Radar personalized playlists. To incentivize a fan, add something on artist socials such as: "Follow us on Spotify for news on latest releases, exclusive playlists and exclusive merchandising."
- Artist merch and tickets can be sold straight from the artist's Spotify profile page using the Spotify Merchbar tool, which links to Spotify's merch and ticket partners around the world.

- Create your own artist playlist, which could include your own tracks and tracks by other artists you like or who inspired you. Fans love this, and it can be an effective tool for expanding the fan base.
- Artist Pick gives an artist control over an area at the top of the artist profile. Use it to highlight a track, album, upcoming show, playlist or podcast. This stays up for only 14 days so remember to renew or change as appropriate.
- At least seven days before the release of a track, someone in the artist team needs to submit Spotify's playlist pitching form. This is hugely important and it is worth spending time getting it right. The Spotify editorial team will usually read the pitching form before listening to the music, so make sure it attracts attention. Check the genre and mood of the track is indicated correctly and mark only categories that apply to the track. In the description box, briefly mention how and why the song was written and the inspiration behind it. Add any important information, such as "Touring in Republic of Korea in May this year", or details of a sync if the track has been placed in an audiovisual production. Spotify only allows the track to be pitched to its editorial team through the form so it is super important to get it right. The artist should also check the form before submission to make sure it truly reflects how they feel about it. The big distributors and phonogram producers will have direct contact with the Spotify editorial team in most countries so encourage them to pitch your track directly, in addition to the form.
- Third-party playlists are also important. These are created outside Spotify but made public on the Spotify platform. If multiple streams are taking place on one or more of these third-party playlists, the Spotify algorithm will pick this up and get the track out to more users. Third-party playlists can be created by individuals, brands, phonogram producers, artists, radio stations, publishers, influencers and other entities. It is worth researching who is responsible for creating them and trying to contact them directly via socials and LinkedIn. There are services such as MICCO that, for a fee or a subscription, will send an artist team a list of third-party playlists to contact.
- Another Spotify artist tool is Canvas, a short looping visual that can be added to each artist track on Spotify. It can be used on a new release and on older tracks that could benefit from a refresh. Adding a high-quality Canvas to a track increases streams and saves of an artist's music as well as creating a lift in artist profile visits and shares.
- Promo cards are a feature provided by Spotify to mark a milestone, such as reaching 1,000 Spotify followers or being added to a Spotify playlist or a new release. These can be designed within Spotify for Artists and posted on all socials.
- Soundtrap is for collaborating with other authors/artists in real time and it's

free to use. It's like a global virtual recording studio. Spotify also provides a library of beats and loops.

- Greenroom is a social audio app from Spotify that lets groups of people host and participate in live discussions. Provided everyone agrees, it can be recorded for a podcast.
- It is difficult to create a podcast that contains music as it takes effort and time to clear each piece of music with authors/publishers and recording copyright owners. That's why most podcasts are spoken-word only. In a major breakthrough, Podcast creation tool Anchor facilitates podcasts to use music on the Spotify platform.
- Spotify is developing paid-for promotional tools that may be worth considering if finances allow, including Marquee which provides a full-screen recommendation ad for your track. Another promotional tool is Discovery Mode which is a contentious Spotify program that gives artists the chance to gain more algorithmic exposure on the platform through Spotify Radio and autoplay in exchange for a lower royalty rate. On the author/publishing side, Spotify has launched Noteable, which centers around opportunities and resources for authors and publishers in the streaming world. It includes author-centric podcasts and educational videos.
- Finally, in response to much criticism from artists complaining that they were not earning enough money from streaming, Spotify launched the Loud and Clear website, which explains how streaming is structured, particularly from a financial point of view. This varies enormously from artist to artist. An older artist with a heritage recording contract might only be receiving 5 percent to 10 percent of streaming income on the recording side, while a new artist using one of the low-cost or free distributors might get 95 percent or even 100 percent.

LinkedIn

It is important for artists and their managers to register with LinkedIn as many professionals have a presence there and nowhere else. LinkedIn is a professional networking and career development social network site owned by Microsoft and is active in over 200 countries. It is particularly useful for making contact with influencers and music business people as it allows direct messaging.

21 Music cities, education, therapy and tourism

Music towns and cities

Since the last edition of this book there have been exciting developments across the globe in branding towns and cities as exciting music locations. A music city (or town) is a place with a vibrant music economy and is created by linking local government with local music associations, festival and club promoters, phonogram producers, publishers, venue owners and property developers, to coordinate a structured plan to boost musical activities and to encourage a flourishing music scene. Cities such as Adelaide in Australia, and Memphis and Williamsburg in the United States, have focused on run-down areas of the city where real estate is inexpensive. By encouraging and facilitating the conversion of old buildings into rehearsal studios, recording studios, venues and low-cost accommodation for musicians, they have created a buzzing creative area where everyone wants to visit and live. In Williamsburg New York, the plan was so successful it transformed the area into an upmarket and cool place to live, eventually squeezing out musicians who could no longer afford it.

Local governments with vision are realizing that music can be the engine of cultural, social and economic development and are adjusting policies accordingly. Often this policy involves investing in music infrastructure but it can also include low-cost actions, such as deregulating restrictive laws governing music events and introducing new ones that help the city's music industry to thrive.

Seattle, in the Pacific Northwest of the United States, is a good example. Until 2002, citizens had to be aged 21 or over to legally attend a music event. With that law replaced, many legal multigenerational music events have been staged with great success. This was just the start. In 2010, Seattle set a goal to become a music city by 2020, based on the following three pillars:

1. A City of Musicians.
2. A City of Live Music.
3. A City of Music Business.

Seattle opened up public places for live events and developed a strategy that encouraged music authors and performers to develop their skills and be successful. At Seattle airport, facilities have been created where local musicians can play live seven days a week, music recorded by local artists is played on an overhead audio system, videos featuring clips of the city's music scene and history appear on terminal and baggage claim monitors, multi-genre web radio is available through the airport's free WiFi network and music-themed art exhibits are on display. As soon as anyone touches down, they get the message that this is a music city. Of course, Seattle has always produced great artists and bands, including Jimi Hendrix, Quincy Jones, Nirvana, Heart, Judy Collins, Soundgarden, Ray Charles, Kenny G, Pearl Jam and the Foo Fighters, but with a coordinated music structure it was able to join the dots and bring the city's whole music scene together. It announced to the world that this was a cool place to live and work—which it most certainly is. As a result, all kinds of businesses are moving there, which is boosting the local economy and providing jobs.

In 2015 the IFPI and Music Canada produced a report, *Mastering a Music City*, a road map for any town or city that wanted to brand itself as a music town or city with all the social and economic benefits that transformation would bring. The report identified the following as being necessary to create a music town or city:

- creating multilevel government support for music
- creating a broader city infrastructure
- providing more music education
- publicizing the city's music history and identity
- providing access to spaces and places for music events
- developing a receptive and engaged audience
- developing and marketing music tourism
- educating politicians and decision-makers to recognize music as an economic driver
- combining a thriving music scene with artists, bands, venues and education, and support from the public, media, government and business.

The organization pioneering town and city music branding is Sound Diplomacy, which has offices in Los Angeles, New Orleans, New York, Berlin and London. Founded by Shain Shapiro in 2013, it organizes Music City Conventions around the world, including in China. It has produced The Music Cities Manual that can be downloaded at the [Sound Diplomacy website](#).

If a group of musicians and music business people wish to create better opportunities and facilities for musicians and create city branding for their town or city, they should get together and form a local music association. They should then embark on explaining to local politicians and government decision-makers how the promotion of music would benefit the town/city by providing jobs, income for the city and a sense of well-being among residents. Local politicians often have little idea of the economic and social benefits of music. Providing data from other towns and cities is a good way to bring them on board. As with everything to do with the creative industries, it is essential to measure the impact and benefits in each town, city and country. Only then does the way forward become clear.

Night mayors

Many cities, including Amsterdam, Berlin, Kazan, London, Paris, San Francisco, Shibuya (a city ward of Tokyo), Sydney and Zurich, have introduced night mayors, who focus on developing a city's night-time economy. Not only does the night mayor manage and promote the expansion of live music, restaurants and festivals but they also manage and suggest changes to deal with social problems. The role was pioneered in Amsterdam in 2012 by Mirik Milan. He realized that one of the main problems was that the city's music clubs all closed at the same time. This resulted in thousands of people spilling out on to the streets at the same time which often caused excessive noise and disruption. Milan convinced local government to relax licensing laws and provide 24-hour licenses for clubs. It made a huge difference as everyone left the clubs at different times thus minimizing any problems.

Another area where night mayors have exerted influence, making a vital economic and cultural argument for a thriving nightlife, is when property developers seek planning permission to build near music venues. They are being made to incorporate soundproofing and double glazing so the venue can survive. It is not the venue's responsibility to make less noise but rather the property developers to insulate new buildings from that noise. This has saved many music venues from closure.

Music tourism

If a city, or town, can establish itself with a strong branding for music, particularly through festivals or unique music events, it will attract tourists who want to participate in those experiences. The tourists will spend money in the city, boosting the local economy and providing funding for events. Any big festival will bring in music tourists if it is advertised internationally.

The David Bowie statue in Aylesbury (population 88,000) discussed in chapter 11 was a world first. Unveiled in 2018 following a successful crowdfunding campaign by this author, it immediately became the no.1 tourist attraction in the town, and continues to attract music tourists from across the globe.

Umeå in northern Sweden (population 89,000) has arguably the best guitar museum in the world with more than 500 rare and vintage guitars on show, many of which have had famous owners. People from all over the world who are guitar enthusiasts or who are guitar collectors visit Umea to see this amazing collection, which is housed in a refurbished school.

A small town called Merritt in British Columbia (population 7,000) has branded itself the country music capital of Canada. It hosts country music events, including the four-day Rockin' River Country Music Festival. The Merritt Murals, a collection of country music murals adorning buildings, attract people from around the world, as does a walk of stars, which is similar to Hollywood Boulevard but with handprints from country stars such as Glen Campbell and Randy Travis.

Music education and music therapy

Any country wishing to develop and grow its creative industries has to start with music education in schools. It is essential schools give as much access to musical instruments and music lessons as possible, particularly to students whose families cannot afford to provide them. When education budgets are cut, unfortunately music lessons are often one of the first to be reduced or stopped altogether. We must all work hard to prioritize music tuition as it can have a far-reaching and long-term impact on students' education and lives.

Research has shown that playing an instrument and singing or attending music events can also have significant health benefits, particularly for mental well-being. Doctors in the United Kingdom are recommending dementia patients go to concerts and music events, a strategy that is having remarkable

results. They are also suggesting that if a patient played a musical instrument when they were younger, they should take it up again. Global charities such as Nordoff Robbins are pioneering the use of music for children with psychological, physical and developmental disabilities. Its approach is that anyone can respond to music no matter how ill and that music therapy can enhance communication, support change and enable people to live more resourcefully and creatively.

One of the countries with the best music education is Germany. Once someone learns to play the basics on an instrument at school, they often continue to play at home for the rest of their lives. The number of cases of Alzheimer's disease, is 30 percent lower in Germany than other European countries, with many believing there is a link between this and good musical education.

The United Nations Sustainable Development Goals

In 2015, the United Nations General Assembly agreed the 2030 Agenda for Sustainable Development, with its 17 sustainable development goals (SDGs), a blueprint to achieve a better and more sustainable future for all. Many of these SDGs directly apply to the creative industries, including the achievement of gender equality, cultural diversity, education and environmental sustainability.

Sound Diplomacy has been actively promoting the SDGs in the global music industry with particular emphasis on:

- SDG 5 Gender equality
- SDG 8 Decent work and economic growth
- SDG 11 Sustainable cities and communities

The Center for Music Ecosystems has produced the following guide https://playfair.act4sdgs.org/wp-content/uploads/2021/06/SDG_Music_Guide.pdf

The United Nations has introduced SDG awards for outstanding achievements in the field of music. One of the winners was an organization in Nigeria, Accountability Lab, which produced a television talent show for young Nigerian musicians along the lines of *American Idol*. They gave support to participating artists to write songs about peace, justice and good governance.

UNESCO Cities of Music

If a city or town puts together a structured, funded plan it can apply to be a City of Music under the UNESCO Creative Cities Network (UCCN). Created in 2004, the UCCN fosters international cooperation across cities of the world that invest in culture and creativity as accelerators of sustainable development. Music is one of seven creative fields covered. UNESCO has a broad criterion for granting status. A unique musical heritage would be considered useful as one of the pillars on which to build a progressive action plan application. There are, however, many famous music cities not yet included, such as Austin, Cannes, Melbourne, Nashville, Ottawa and Toronto.

The UNESCO criteria are that a city should have the following:

- recognized centers of musical creation and activity
- experience in hosting music festivals and events at national/international level
- promotion of the music industry in all its forms
- music schools, conservatories, academies and higher education institutions specializing in music
- informal structures for music education, including amateur choirs and orchestras
- domestic or international platforms dedicated to particular genres of music and/or music from other countries
- cultural spaces suited for practicing and listening to music, such as open-air auditoriums.

With its Flamenco tradition, the first city to be granted the status was Seville, Spain, in 2006. Two months later Bologna in Italy received the award. Since then, 47 cities have been designated Cities of Music. These are Adelaide (Australia), Almaty (Kazakhstan), Amarante (Portugal), Ambon (Indonesia), Auckland (New Zealand), Bogotá (Colombia), Brazzaville (Republic of the Congo), Brno (Croatia), Chennai (India), Daegu (Republic of Korea), Essaouira (Morocco), Frutillar (Chile), Ghent (Belgium), Glasgow (United Kingdom), Hamamatsu (Japan), Hanover (Germany), Havana (Cuba), Idanha-a-Nova (Portugal), Kansas City (United States), Katowice (Poland), Kazan (Russian Federation), Kingston (Jamaica), Kinshasa (Democratic Republic of the Congo), Kirsehir (Turkey), Leiria (Portugal), Llíria (Spain), Liverpool (United Kingdom), Mannheim (Germany), Medellín (Colombia), Metz (France), Morelia (Mexico), Norrköping (Sweden), Pesaro (Italy), Port of Spain (Trinidad and Tobago), Praia (Cape Verde), Ramallah (State of Palestine), Salvador (Brazil), Sanandaj (Islamic Republic of Iran), Santo Domingo (Dominican Republic), Tongyeong (Republic of Korea), Valledupar (Colombia), Valparaíso (Chile), Varanasai (India), Veszprém (Hungary) and Vranje (Serbia).

22 Artificial intelligence

Generative AI and AI tools

Technology companies have been developing artificial intelligence (AI) for many decades including robotics and AI-assisted processes but it has only been in the 2020s that AI development in music has become sophisticated enough to cause real concern among authors, performers, phonogram producers and publishers.

This came to a head in April 2023 when an anonymous producer who went under the name of Ghostwriter977 used generative AI to produce a track titled “Heart on my Sleeve” which appeared to be a collaboration between Drake and The Weeknd.

TikTok user Ghostwriter977 self-released the track and placed it on Spotify, Apple Music, Amazon, YouTube, Soundcloud, Deezer and Tidal. Both Drake and The Weeknd are signed to phonogram producer UMG (Universal Music Group) who immediately filed a takedown notice of the track on multiple platforms. Drake and The Weeknd knew nothing about the track. It reportedly had 600,000 streams on Spotify and over 15 million views on TikTok before it was taken down. UMG also requested that Spotify and Apple Music block any tracks from generative AI companies that have trained their AI models using UMG-owned recordings.

Other examples include AI-generated tracks of Rhianna covering Beyoncé’s “Cuff It” and Freddie Mercury covering Michael Jackson’s “Thriller”.

In order to train AI music models, AI companies need to input music data so the model can learn how to generate new music compositions and recordings. This can be done in three ways:

1. Commission new compositions and recordings
2. License production (library) music
3. Input existing commercially released music

If the AI company inputs music data using one or both of the first two methods this would appear to be legal and fairly straightforward. If, however, the third option is employed a whole raft of questions emerge.

The music industry has so far been united in insisting that permission has to be given before existing copyright protected, commercially released works and recordings are used to train generative AI models. Organizations representing authors and performers also insist that not only do the rightsholders need to give permission but the authors and performers need to as well. Some phonogram producers and publishers are already negotiating licensing deals with generative AI companies for the copyrights they control. Authors and performers should check existing recording and publishing contracts to see if the phonogram producer or publisher has the right to do this without their permission. If negotiating new recording and publishing contracts creators and their representatives should be careful to negotiate very clear and precise wording about the use of their works and recordings for use in the training of AI models.

Whilst the global music industry insists that copyright protected works and recordings must be licensed before an AI company can use them for AI training purposes, most of the AI technology companies are equally insistent that they do not have to license such uses as they fall under copyright exceptions such as the United States doctrine of 'Fair Use'. Copyright exceptions vary from country to country so this will be a complex issue to resolve. Some countries have specifically included a data mining exception which is relevant to this issue. This will no doubt be tested in court but if confirmed will be a major challenge for the whole creative sector. The world's most developed generative AI models, MusicLM (Alphabet), MusicGen (Meta), MuseNet (Open AI) and Stable Audio (Stability AI) are all US companies and all say that using commercially released works and recordings to train AI models is Fair Use and that no permissions are required.

If the music industry wins this battle, it will then be a question of how licensing and remuneration to copyright owners is structured. Will there be a one-off licensing fee, an annual fee or will remuneration be based on revenue generated? How will the money generated be split among stakeholders? Whatever the structure there is no doubt that new music generated by AI will be in competition with existing copyrights, with the possibility of AI generated tracks swamping the whole market. Another concern for the music industry is that, as with other industries, AI will replace jobs performed by human beings including musicians, sound engineers, studio producers and marketeers amongst many others.

The issue of copyright also needs clarification. Will the output from generative AI models be protected by copyright? In many countries copyright is only granted where there is “originality of expression” and that a work can only be subject to copyright if it is created by a ‘natural or legal person’. If a work was entirely created by AI this would appear not to be the case. In this instance the work/recording would immediately go into the public domain. Some countries such as New Zealand and the United Kingdom anticipated this years ago, stipulating that the copyright owner of a computer-generated work would be ‘the person by whom the arrangements necessary for the creation of the work were undertaken’. This would mean that the person(s) who created or owned the software program could be designated the author of any works/recordings the program may produce. If there is any human input to the creation of a specific work it could be considered to be AI assisted rather than AI generated in which case the person providing the input could claim authorship and therefore copyright, depending on the copyright laws in a particular country.

The issue of transparency is also being demanded by the music industry. If a work/recording has been created by AI it must be clearly stated in the metadata that this is the case so as not to cause any confusion with existing artists.

There are other laws outside of copyright which may also be helpful. Some countries have laws which grant image or personality rights which allow individuals to control the commercial use of their image/personality and voice. In most recording contracts the phonogram producer will be granted the right to use the artist’s images for marketing purposes but would not normally be involved in any other commercial use of the images. These publicity rights would come into play if AI generated a soundalike voice of a recognisable artist such as was the case with the fake Drake and The Weeknd track “Heart on my Sleeve”.

At the 2023 South by Southwest (SXSW) conference in Austin USA, the Human Artistry Campaign was launched which was based on the following principles:

1. Technology has long empowered human expression, and AI will be no different.
2. Human-created works will continue to play an essential role in our lives.
3. Use of copyrighted works, and the use of voices and likenesses of professional performers, requires authorization and free-market licensing from all rights holders.
4. Governments should not create new copyright or other IP exemptions that allow AI developers to exploit creators without permission or compensation.
5. Copyright should only protect the unique value of human intellectual creativity.

6. Trustworthiness and transparency are essential to the success of AI and protection of creators.
7. Creators' interests must be represented in policymaking.

Many national and international trade bodies and CMOs have signed up to this campaign (visit <https://www.humanartistrycampaign.com>)

AI does have its positives. Many helpful AI software programs are being used successfully across the whole of the music industry including ChatGPT for marketing copy, Bard (developed by Google) for text generation from prompts and Kaiber which uses AI to generate videos and images from prompts. There are also many AI tools that are used in the writing process including Amper, AIVA, and ORB Composer. On the recording side, mixing and mastering tools such as Landr, iZotope Neutron, Unchained Music and Cryo Mix are being widely used.

AI can also be used to create new personalised music experiences and fan experiences. The greatest possible benefit of AI is that it could be used to sort out all the data issues that the music industry is experiencing. That would be of huge benefit to all concerned.

Case study 1: Lil Nas X and “Old Town Road”

Lil Nas X and Billy Ray Cyrus at the 2019 CMA Awards



Photo: Derrek Kupish Shutterstock

Montero Hill was born in 1999 in Lithia Springs, a city outside Atlanta in the United States. This makes him a member of the so-called Gen Z, which is generally defined as anyone born between 1995 and 2012. Before that we had Gen Y, who were often referred to as the Millennials. He was a child of the internet. By his early teens, he was active on Facebook, Instagram and Vine (which ceased operating in 2017), making short comedy videos, but it was on X (Twitter) that he really found his home when he started to see the potential of his memes going viral. He worked out how to understand trends and how to use them to make viral moments. He changed his name to Lil Nas and later Lil Nas X. In June 2018 he started rapping and recording, converting his grandmother’s closet to a home

recording studio. In July 2018, he released his first EP, *Nasarati*, creating memes for the music that he posted on X (Twitter).

On Halloween night in 2018 he was looking for beats on YouTube and came across an unusual sequence by 19-year-old Dutch producer YoungKio, who created beats and leased them from his website. The sequence was based on the 2008 Nine Inch Nails track "34 Ghosts IV". YoungKio looped the original intro and added claps, snares, hi-hats, percussion and a Roland TR808 sequence. Lil Nas X bought the use of the sequence via BeatStars for \$30.

Lil Nas X wrote the lyrics and recorded "Old Town Road", which he released on X (Twitter), SoundCloud and iTunes on December 3, 2018. His incessant memes on X (Twitter) had taught him what his audience was looking for. As a result, he included funny, catchy lines in the song's lyrics. The track's length was only 1 minute 53 seconds. Although the track is clearly a fusion of country and rap, in a stroke of genius he marked the SoundCloud track's genre as country rather than rap. The rap genre would have given the track a sea of competition but by marking it country it had a much better chance of standing out. The track, mostly categorized as Country Trap, immediately started to create interest and was shared widely on socials.

Lil Nas X would cleverly anonymously post on Reddit, "What's the name of the song that goes, 'Take my horse to the Old Town Road'?", to improve its search engine optimization. He spent days promoting it on X (Twitter) with different memes. Then influencer and dancer NiceMichael heard it and created a meme dancing to it that he posted on TikTok. This became part of the Yeehaw challenge, where TikTok users created their own videos using the track, featuring them transforming into cowboys in the video. The TikTok hashtag was #yeehaw. This is when the track started to go viral. It tied in nicely with the video game Red Dead Redemption 2 by Rockstar Games, which featured 19th century cowboy culture and was popular in the hip-hop community. Another theme was TikTokers making videos of themselves pretending to drink E-juice, realizing it was actually Yee Juice, which then transformed them into cowgirls or cowboys.

Throughout January and February 2019, "Old Town Road" continued to be shared globally. Of course, while he had permission from YoungKio for the beats, the original Nine Inch Nails sample had to be cleared with its authors, Trent Reznor and Atticus Ross, who are credited as co-writers on "Old Town Road". YoungKio and several others are also credited as co-writers. During this period there was much interest from phonogram producers, and in March, Lil Nas X signed to Columbia Records. By this time the track was flying and was being played on six different US radio formats, including the country stations. In

the March 16 edition of Billboard's Hot Country Songs chart, "Old Town Road" debuted at no.19. It would almost certainly have been at no.1 the following week but Billboard made the curious decision to remove the song from the chart because it was not "country enough". This caused major controversy across America, which only served to fuel even more interest in the track.

Right at the beginning on 4 December 2018, one day after the initial release, Lil Nas X had the idea of getting country legend Billy Ray Cyrus involved. He had posted, "Please help me get Billy Ray Cyrus on this". Cyrus eventually heard the track on March 16, 2019 and loved it. A week later he was in the studio with Lil Nas X, recording vocals and helping to create a remix that was released on April 8, with a special 7-inch vinyl version released on May 1.

Lil Nas X cleverly exploited a Billboard rule that remixes can be included in total sales of a single provided it is by the same artist and has the same title. The Billy Ray Cyrus version, and the accompanying video, exploded not only in the United States but across the world. After five weeks on the US Billboard's Hot 100 chart, the original version of the song finally went to no.1 on April 13, 2019. One week later, the Billy Ray Cyrus remix was released. The combined total of the original version and the Cyrus remix had an unprecedented 143 million streams in the United States in one week. The nearest any other single had come to that was in 2018, when Drake's "In My Feelings" had 116 million streams. "Old Town Road" was now comfortably sitting at no. 1. On May 11, another remix by Diplo helped maintain the record's position.

On May 17, 2019 a new video was released featuring Diplo, Chris Rock, Vince Staples and Rico Nasty alongside Billy Ray Cyrus and Lil Nas X. The video was hugely popular and gave streaming numbers a major boost, resulting in 130 million streams, its largest number of weekly streams since its first week with Billy Ray. This was a great example of how video and YouTube can be so important in the success of a record. "Old Town Road" remained at no.1 throughout June. On June 30, at the height of the record's success, Lil Nas X announced he was gay, which sparked another huge round of publicity worldwide but did not seem to affect the success of the record. On July 6, he released an EP titled 7 that included both big versions, as well as new tracks with Cardi B and Travis Barker. Then, on August 3, Lil Nas X released a new remix, "Seoul Town Road (Old Town Road Remix)" featuring K-pop superstar RM from BTS. This opened the track to the K-pop market and gave the record a final boost. Billie Eilish's "Bad Guy", which had been sitting at no.2 for weeks, finally toppled "Old Town Road" on August 24.

“Old Town Road” smashed the record for being at no.1 in the Billboard Hot 100 by being at no.1 for 19 consecutive weeks. The previous record of 16 weeks had been jointly held by Mariah Carey’s collaboration with Boyz II Men on their 1995 hit “One Sweet Day” and “Despacito” by Luis Fonsi and Daddy Yankee featuring Justin Bieber in 2017.

This is only part of the story. Internationally it reached no.1 in Australia (13 weeks), Austria (6), Belgium, Brazil and Canada (19), China and Denmark (4), France (8), Germany (4), Hungary and Ireland (4), Netherlands, New Zealand, Norway (8), Portugal (3), Switzerland (5) and the United Kingdom (2), as well as reaching the top 5 in many more countries. “Old Town Road” also won many awards, including an American Music Award (favorite song rap/hip-hop), Apple Music Award (song of the year), Country Music Association Award (musical event of the year), MTV Music Video Awards (song of the year and best directed video) and two Grammy Awards (best pop duo/group performance and best music video). In October 2019, Nas X’s label Columbia Records/Sony Music Entertainment won the music and sound recordings award from US musicians’ union SAG-AFTRA for “Old Town Road (Remix)” featuring Cyrus; the award was presented for work that exemplifies equal access of “diverse backgrounds, people with disabilities, women, seniors and people who identify as lesbian, gay, bisexual and/or transgender, as well as other misrepresented or underrepresented groups”.

This is an extreme example. Lil Nas X only started rapping in June 2018, and 14 months later, with his internet-savvy approach and a lot of hard work, he had the biggest single recording ever recorded. He claims to have made more than 100 memes for “Old Town Road” with relentless posts on social media, mainly X (Twitter) and later TikTok. It shows what can be done with social media, video, trend awareness, collaboration and, never forget, humor.

Case study 2: The Sabir-Tooth Tigers

So let us look at how to set about building a fan base using a fictitious band, The Sabir-Tooth Tigers. The band deliberately misspell the name Saber-Tooth or Sabre-Tooth to Sabir-Tooth in order to increase search engine optimization (SEO). Some of the digital services mentioned here will inevitably fall by the wayside and new services will emerge so, as emphasized earlier, it is important to keep up to date with the latest developments.

The Sabir-Tooth Tigers meet at college and form a band making electronic indie-crossover music. The members are Charlotte on keyboards, electric cello, programming, triggering and vocals, Miguel on drums, Alice on bass/vocals, Katsu on guitar/vocals and Jean-Paul on lead vocals. After a long period of practicing, rehearsing and writing, they are ready to do as many live shows as possible. They realize there is nothing more important than getting on the road, performing in front of people and developing their onstage presence.

The band records four songs at home using GarageBand on their laptop computers and create their first EP, *Man Overboard*. All four tracks are written and recorded by the band. They manufacture 500 CDs of the EP to sell at live shows and online. They then engage a digital distributor (such as DistroKid, CD Baby, TuneCore or Believe), which puts the four EP tracks on all the relevant digital services (Spotify, Beatport, Apple Music, Pandora, Amazon, Tidal, iHeartRadio, YouTube, Deezer and up to 100 other digital stores and streaming services across the world). The band opens a band bank account and a PayPal account

so they can receive payments from the digital distributor, bank live show and merchandising money and make payments.

Alice, the bass player, is good with computers and graphics. She uses the free GIMP GNU image editor but later gets a student discount on Adobe Illustrator and Photoshop. She designs a distinct logo for the band that is used consistently on everything they do, including the website, newsletters, socials and merchandising. Alice creates the band's website using a WordPress or WIX template which includes responsive design that automatically resizes and optimizes the website for iPhone, iPad and Android mobile and tablet devices. The band sign up to a website hosting service (such as HostGator, DreamHost, SiteGround, Bluehost or iPage.com, some of which include a free domain name and only charge a few dollars each month). The band members choose a .com domain name as this is the most widely used in the commercial world. They plan to make the band's website the hub and gateway portal for everything they do.

At live shows they organize a close friend of the band, with good communication skills, to go into the audience with a pen and clipboard or, better still, a tablet such as an iPad or Android tablet, inviting people to sign up to the band's email list. If people sign up they will receive news about future shows, releases and events. Fans are also asked for their home postcodes so that the band can contact them if playing in their area in the future. To comply with data protection laws, the band makes sure the signee ticks a box when signing up, to agree that the band can communicate with them. They understand that email is king when it comes to long-term fan engagement. The band also sign up to Bandcamp, using its email address for a download function.

Postcards are also given out, printed with a good photo of the band and some basic information, such as how fans can get their *Man Overboard* EP, the names of band members, the instruments they play and the band's website address. The postcard asks recipients to email in what they thought of the show and ideas for improvement. In return for signing up to the email list, the new fan is sent two free unreleased downloads of the band's music, via a link to SoundCloud. This is always done within 24 hours of the fan signing up. The band collect these email addresses and use a mailing list program such as Mailchimp's free service or FanBridge. The basic SoundCloud account and the entry-level Mailchimp mailing list cost nothing, so all the band needs to invest at this stage is time. They carefully organize email data so that email addresses and geographical location can be used to alert fans the next time it plays a show in their area.

At each show, the band sells their debut EP CD and T-shirts, and try to meet and talk with as many fans as possible. The band members take four small clip-on spot lamps and a four-way power extension cable to each show so that the merch stand is always well lit and noticeable. They try to position the merch table near the entrance to the room they are playing, and have a price list and cash float ready. After they finish their set, they immediately go to the merch table to meet fans and sell their CDs and T-shirts. To catch the moment before the audience leave the venue, they have to be quick. As sales pick up, they invest in an on-the road card reader (such as Square, iZettle, SumUp or PayPal Here) so they can take payments from fans' debit and credit cards at the merch stand (provided there is a decent internet connection).

As the band have very little money and cannot afford hotels, they invest in \$15 inflatable beds and ask to sleep on fans' floors. This creates a bond with fans, wherein the fans/hosts become lifelong friends and supporters. The band create an Instagram business account, Facebook artist page, X (Twitter) account and SongKick account. They also establish their own YouTube channel for vlogs and videos. They encourage as many people as possible to follow the band on Instagram and to like their Facebook page. Using Instagram and Facebook, the band post interesting updates, anecdotes, funny stories and observations about being on the road. The band do not hard sell or bombard fans with "Buy our EP" messages, and maintain a careful balance between friendly engagement and calls to action. The band notice that if they embed a photograph or a video with their Facebook posts they get far more likes and comments, so they do that as often as possible. The band do the same with X (Twitter). Every night, the singer Jean-Paul encourages the audience, from on stage, to follow the band on Instagram and X (Twitter) and to like their Facebook page.

The band are noticing that more and more people are coming to shows, and band members are finding it difficult to cope with the social networking and business side of the operation. They would much rather focus on songwriting, recording and playing live, and so start looking for a manager. They talk to several of their uberfans about management and one very enthusiastic and well-organized fan, Amy, who has some business and social media experience, steps forward. They know that the most important qualifications for an artist manager are that they should love the band's music, and be well organized and trustworthy. After extensive conversations, the band are convinced that Amy will do a great job for them. Amy and the band decide to do a simple one-page agreement for a four-month trial period, where either side can walk away if they do not think it is working.

Amy immediately sets about learning as much as possible about the music business by reading books (like this one) and watching free webinars and conference panels on YouTube. Any good manager knows they will need to regularly read articles, listen to music business podcasts and where possible, attend seminars and conferences throughout their professional career, if they are to keep up to date with the latest developments, particularly in digital marketing and fan base building. Amy has an outgoing and confident personality that will stand her in good stead for networking at music conferences and other industry events.

Within the first few weeks, she discovers the members of the band have not registered with the relevant authors, performers and phonogram producer CMOs (at this point in their career they qualify for all three), so she puts that right as soon as possible. She drafts a simple one-page agreement that shows the author songwriting splits and asks each member of the band who contributed to each work to sign. She makes five copies of this agreement and gets all the writers who contribute to the works to sign each one. She puts together a similar one-page agreement that confirms what instruments each person on each recording played. For one track, the band brought in a session musician who played trumpet, so that particular non-featured performer is also included in the agreement that all performers on each track sign. She then makes sure each contributor has an original signed copy. One of the first things she learns is that not only is she in the music business, but also the clean data business. She makes sure all the tracks have ISRC recording identifiers and ISWC author identifiers. On the live side, Amy focuses on getting bigger and better shows for the band and developing The Sabir-Tooth Tigers fan base. She begins to review stats using the free analytic tools on socials and the streaming services to understand who the audience are (gender and demographic) to aid future posts and to spot the best touring locations.

Amy registers the band to Sonicbids and creates a Sonicbids EPK that includes a biography of the band, high-resolution press photographs, an engaging and funny video interview with the band, video of the band playing live, social media links and links to streaming sites where the music can be accessed. A list of upcoming live shows is also included, which Amy makes sure is updated regularly. She embeds the EPK on the band's website, which is downloadable by journalists and media personnel.

She uses social media tools (such as Bitly and TinyURL) that shorten the band's domain name and links. Together with the band, she creates banners and T-shirts that show just a graphic with the band's logo and a QR code. Members

of the audience can then scan or take a picture of the QR code with their smartphones, which will link them directly to The Sabir-Tooth Tigers website.

The band uses SongKick to list their live gigs and embed this in the website. They embed their SoundCloud player on the website and a link to their Facebook page. The band also use SoundCloud to build their fan base, sharing their tunes with other users and developing respect among peers. Amy and the band create their own Spotify and Apple Music playlists and send their music to blogs and influencers worldwide. Amy also signs up to Spotify for Artists, Apple Music for Artists and Amazon Music for Artists and sets about getting as many followers as possible. They ask one fan, Leroy, who is big on photography and film, if he will interview other fans before and after shows, as well as videoing the band's after-gig antics in the dressing room. This is then edited and posted on YouTube and Instagram. Leroy also creates short video clips, and in conjunction with Amy and the band, posts them on Instagram, YouTube Shorts, Tiktok and X (Twitter). They experiment with Snapchat and TikTok but realize that most of their fans are on Instagram, YouTube, and X (Twitter). Leroy is a student at the local art college and is studying television production. He knows the importance of great video content and lighting. He persuades his college to make a studio promo video around the lead track on the *Man Overboard* EP as part of the course. Amy and the band happily agree to this, provided they can own, use and monetize the video and put it up on YouTube and socials.

With Leroy's help the band also start live streaming (on YouTube or YouNow, Twitch, Facebook Live or Instagram). The live streams cover pre- and post-show segments, which gives those watching a sense of what they are missing at a live gig. As part of these streams, Amy encourages the band to host a quick Q&A session, play an acoustic version of a song and say "Hey" to fans. Using a small portable LED lamp, Leroy can shoot the band in even the darkest corners of the backstage area.

Everything so far has been done on a shoestring, as money is tight. Amy and the band decide that to fund *Dancefloor Days*, their next EP, they will launch a crowdfunding campaign using Kickstarter to create a more ambitious and professional looking video. They email everyone on their fan mailing list, and post on Instagram, Facebook and X (Twitter), sending everyone the link to the Kickstarter campaign. They sign up to fan club platforms (Patreon or FanCircles) where fans can pledge various amounts each month to support the band's ongoing creative career in return for fun rewards and privileges. After an intense period encouraging fans to participate, the Kickstarter goal is reached. The band record their second EP in a small recording studio. They post sneaky peaks from the studio for additional content for fans, including several live

streams. They embark on creating a far more professional video for their first focus track. Amy and the band commission this video via Radar Music Creatives, who connect the band with up-and-coming creative video directors worldwide. Amy makes sure their digital distributor has put their music up on Shazam and Gracenote, which can only provide audio identification services to the public if they have The Sabir-Tooth Tigers music in their database. She also makes sure that the all-important Spotify pitching form and other streaming platform pitching forms are filled in correctly and that they reach Spotify and the other platforms more than seven days before the release date. Amy takes out a subscription with Music Ally so she can keep abreast of the latest digital music services and trends. She continues to use the analytics tools in Spotify, Apple Music, YouTube and Amazon Music to track who is streaming the band's music, their demographic and where they live. Later, Amy subscribes to the free version of Chartmetric, and later to one of the premium versions, which shows not only The Sabir-Tooth Tigers' analytics on socials and streaming, but also analytics for other artists across the entire music industry.

Having done all these things, the band continue to share links and engage with blogs. More fans are discovering the band through these blogs, so they begin presenting their music to specialist radio stations. Links and info are sent to DJs in their genre who are known to break new artists. The band find that some of the most influential specialist radio stations for their type of music are KCRW in Los Angeles, Fip in France, Couleur3 in Switzerland, TripleJ in Australia and BBC 6 Music and BBC Radio 1Xtra in the United Kingdom. Amy ensures these and other tastemaker stations have links to The Sabir-Tooth Tigers EP.

Being an electronic crossover band, they offer to remix other artists' tracks on a reciprocal basis (the band will create a remix for another band if that band creates a remix of a Sabir-Tooth Tigers track). No money changes hands, but this cross-pollination process spreads awareness and can create many new fans for both artists. Band members develop their skills as DJs as well as playing live, and record DJ mixes that they share with fans and send to small online radio stations and specialist radio programs. The band post their own artist chart on Beatport every month. They record monthly podcasts that are made available on their website and the major streaming services. All the time the band are creating as much interesting content as possible to support their music and engage and inspire loyalty among their fans. They set up competitions to win backstage passes and keep some content in reserve to engage fans in weeks where little is happening. They find places to play acoustic gigs with a beatbox in unexpected locations and unannounced, which they video. They always keep their website updated on a daily basis. Band members realize that if they can set up an environment where fans come back and stream their tracks again and

again, they will generate more income than was ever possible in the physical album era.

The band write a song where fans contribute to the lyrics. They mobilize fans in each town they visit to help advertise the show in that area. The Sabir-Tooth Tigers understand that to grow a loyal fan base they must create a fan community. They pay particular attention to their 30 or so uberfans, who act as ambassadors for the band. They give them free tickets for every show and ensure they have backstage passes wherever possible. They use social community building tools such as Facebook groups and Instagram DM Groups to keep these fans engaged in a chat group. They create an exclusive street team sign-up on their website, where fans can sign in to a street team portal. They use Discord as a communication tool to update uberfans in a fun way. By doing this, fans get to know each other, which strengthens their bond with the band.

Creating a fan base is fundamentally the same as it was 40 years ago. To be successful, the Sabir-Tooth Tigers use old-fashioned techniques, such as getting on the road, gigging hard and collecting fans' contact details at each show, but they have also fully embraced the modern digital technology available. Combining all this and provided the Sabir-Tooth Tigers continue to make great music, they will build a loyal and enduring fan base. Once they have achieved tens of thousands of genuine likes on Facebook and Instagram, thousands of followers on X (Twitter), hundreds of thousands of YouTube views and drawn good attendances at gigs, the Sabir-Tooth Tigers and the band's manager soon find publishers, booking agents and phonogram producers knocking on their door, ready to propel them to the next level. Knowing the band has a genuine and enthusiastic fan base will mean radio and the media will regard them as serious contenders. They are on their way.

Glossary

AAC file

Advanced Audio Coding is an audio compression technology and part of the MPEG-2 and MPEG-4 standards. AAC—especially MPEG-4 AAC—provides greater compression and better sound quality than MP3, which also came out of the MPEG standard. Apple's iTunes and iPod use AAC as their default encoding method for music files.

A&R

Artist and repertoire. An A&R person in a phonogram producer's business is responsible for finding new artists and supervising the recordings on behalf of the phonogram producer.

acoustic fingerprinting

Condensed digital summary identification technology used to quickly identify works and performances in recordings, radio, television, streaming media and peer-to-peer networks. Can also identify third-party audio samples in a recording.

advance

Amount of money paid to an author, performer or business before royalties are earned. Usually recoupable against future royalties.

advertising agency

Business that provides ideas and manages an advertisement or an advertising campaign on behalf of a product, brand, business or service.

aggregator

See digital distributor.

album

Collection of recorded tracks on one recording medium, such as a CD or vinyl, but also as the same collection of tracks in digital formats. Typically comprises 10 to 14 tracks.

alpha testing

Initial testing of a newly developed software product, where employees and friends test for bugs, glitches and functionality. (See beta testing.)

Amazon Music

Music streaming platform and online music store operated by Amazon.

Android

Mobile operating system developed by Google, based on modified version of the Linux kernel and other open-source software. Designed primarily for touchscreen mobile devices, such as smartphones and tablets.

Anglo-American repertoire

Usually repertoire that originates from Australia, Canada, Ireland, South Africa, United Kingdom and United States, the public performance of which is administered by the collective management organizations ASCAP, BMI, SESAC and GMR (United States), PRS (United Kingdom), IMRO (Ireland), APRA (Australia), SOCAN (Canada) and SAMRO (South Africa).

API

Application programming interface. A set of tools, protocols and routines for building software applications. An API makes it easier to develop programs by providing the building blocks for a program/developer. (See Open API.)

app

Abbreviation of application. Computer software designed to help the user perform specific tasks.

Apple Music

Paid subscription music and video streaming service. Unlike many other services, it does not have an ad-funded free tier. Includes internet radio stations Apple Music 1 (formerly Beats 1), Apple Music Hits and Apple Music Country broadcasting round-the-clock to more than 100 countries.

arbitration

The hearing and determination of a dispute by an impartial referee selected or agreed to by the parties concerned. Unlike mediation (see below), an arbitrator will issue a binding judgment in the same way as a court.

Armonia

One of two pan-European licensing hubs licensing musical works to music services worldwide. The other is ICE.

artist

Music performer who may or may not also be an author.

ASCAP

American Society of Composers, Authors and Publishers. One of several public performance rights CMOs in the United States that license and collect royalties on behalf of their author and publisher members.

at source basis

Payments made as a percentage of the gross income (rather than net income) received, less any sales or value added taxes (VAT).

audit rights

The right to examine a contracting party's financial accounting records to ensure correct accounting has been implemented.

author

Person or entity who creates a work. Can be the creator of the musical composition, musical arrangement or lyrics, or any combination of them. In some countries, interpreters of lyrics may also qualify as authors.

AWAL

International digital distributor and artist development company originally owned by Kobalt Music. Purchased by Sony Music Entertainment in 2021.

back-end income

Income based on results rather than from an initial advance. Opposite of front-loaded.

Bandcamp

US-based promotion and distribution service for artists and phonogram producers allowing artists to promote, communicate and sell to fans.

Bandsintown

International online concert discovery platform that allows fans to track live appearances of their favorite artists and discover new artists. It allows artists to connect with fans and promote live appearances.

Beatport

US electronic music-oriented online music store based in Denver, Los Angeles and Berlin. Streaming, download and subscription service for DJs with resources that can be used for remixes.

beta testing

Final stage of testing for a newly developed software product before it is released to the public. Involves allowing a limited number of users to try the software and provide feedback on any problems/ideas for improvement.

BIEM

International Bureau of Companies Managing Registration and Mechanical Reproduction Rights. The international umbrella organization representing mechanical rights CMOs on behalf of publishers and authors.

Bitcoin

Decentralized digital currency that can be bought, sold and exchanged directly without an intermediary such as a bank.

BitTorrent

Communication protocol for peer-to-peer file-sharing used to distribute data and electronic files efficiently and quickly over the internet without a central server.

blanket license

License issued by a CMO that allows a music user (radio or television station, or premises where music is played in public) to use all the music controlled by the CMO without the need for individual licenses.

blockchain

Decentralized, distributed and usually public digital ledger consisting of records called blocks that are used to record transactions across many computers so any involved block cannot be altered retroactively without the alteration of all subsequent blocks. Often linked to cryptocurrencies such as Bitcoin or Ethereum.

blog

Website where an individual or group of users record opinions, information, and so on, on a regular basis. A contraction of the word weblog.

BMI

Broadcast Music Incorporated. One of several public performance rights CMOs in the United States that license and collect royalties on behalf of their author and publisher members.

boilerplate

Legal detail and standard provisions to be found in a legal agreement.

booking agent

Someone who interfaces with promoters and venues on behalf of an artist and/or artist manager to secure live performance bookings.

Boomplay

Music streaming and download service operating in Africa, including Cameroon, Côte d'Ivoire, Ghana, Kenya, Nigeria, Rwanda, Uganda, the United Republic of Tanzania and Zambia. Owned by Chinese tech companies Transsion and NetEase.

bootlegger

Person who illegally manufactures and/or sells copyright and related right-protected recordings and works, or copyright-protected merchandise without a license, and who makes no payment to legitimate copyright or related rights holders.

broadband

High-speed internet connection capable of supporting a range of electromagnetic frequencies, typically from audio up to video frequencies. Can carry multiple signals by dividing the capacity of the medium into multiple, independent bandwidth channels, where each channel operates only on a specific range of frequencies.

busking

Playing music in a public place in the hope that members of the public who pass by will voluntarily pay money into a hat or instrument case placed near the performer(s).

carnet

Customs document allowing the holder to temporarily import and export equipment and/or merchandise to a foreign country for a live performance or tour without having to pay duties or posting bonds.

CD

Optical digital audio compact disc capable of storing up to 700 MB of information/74 minutes of high-fidelity stereo music. A CD is 120 mm in diameter, recorded on one side, with individual tracks playable in any sequence.

choreographer

Person responsible for creating and arranging the movements of a dance routine.

CISAC

International Confederation of Societies of Authors and Composers. The international umbrella organization representing author and publisher public performance CMOs (who in turn represent their author and publisher members). Sole international organization authorized to issue ISWCs.

cleared

When the rights in a work/recording have been authorized for use by the legitimate rights holders.

cloud computing

Practice of using a network of remote servers hosted on the internet rather than a local server to store, manage and process data. Allows businesses to reduce the cost of information management, as they do not need to own their own servers but instead use capacity leased from third parties.

cloud storage

Networked online storage where data is stored on remote servers, generally hosted by third parties. Businesses and individuals who require data to be hosted can buy or lease storage capacity. (See cyberlockers.)

CMO

Collective management organization.

compilation album

Album comprising a collection of recorded tracks usually by different artists.

compulsory license

License that allows an exception to an exclusive right under certain conditions; for example, may allow cover recording of a previously recorded work without the permission of the original copyright owner, under certain conditions, provided a certain compensation is paid to that owner.

contract period

Each option period in an agreement.

copyright

Right to authorize or prohibit the making of copies of a work. Also used in reference to the copying of recordings in some countries with common law systems.

cover

Performance or recording by a performer who is not the author of the musical work.

cover record

Recording by a performer who is not the author of the musical work in the recording.

Creative Passport

Verified digital ID for music creators where they can access, update and manage information.

Creator Studio

Allows creators and publishers to manage and design Facebook and Instagram posts in one place.

cure period

Provision in a contract that allows a defaulting party to correct the default within a defined time period after being notified by the other party.

cyberlocker

Third-party online data hosting service that provides secure file-storing and file-sharing services for media files and other data.

DDEX

Digital Data Exchange. Consortium of media companies, music licensing organizations, digital music service providers and technical intermediaries focused on creating standards for use by businesses in the digital music value chain.

Deezer

International French online music streaming service with three subscription tiers: basic free ad-funded tier, higher quality ad-free tier and premium tier that allows downloads on desktop/mobile devices. In 2019, Deezer announced it intended to be the first major streaming service to introduce user-centric royalty payments.

dial-up

Low-speed internet connection accessed by a telephone line via a modem operating on internet connection speeds below 100 Kbps. A 56 Kbps modem and basic rate integrated services digital network (ISDN) are examples.

digital distributor

Entity that provides digital distribution of sound recordings and audiovisual recordings on behalf of artists and phonogram producers to digital services such as Deezer, YouTube, Boomplay, Amazon, QQ Music, Apple Music and Spotify. Some also provide marketing and other services. Sometimes referred to as an aggregator.

Discord

VoIP instant messaging and digital distribution platform designed for creating communities. Users communicate via voice and video calls, text messages, media and files, in private chats or as part of communities called “servers”.

distributor

Business that distributes sound recordings and/or audiovisual recordings on behalf of owners or licensees.

DJ Monitor

Music recognition service to CMOs, recording, analyzing and reporting the music played on radio, television, in clubs, at live events or online in order to optimize accurate and fair royalty distribution.

domain name

String of letters, numbers and hyphens used to define location of a website. Domain names are used as pointers to IP addresses; for example, <http://www.wipo.int>.

download

Any digital file such as an MP3 file or an app that can be transferred from an online server to a local computer and stored on that computer.

DPI

Dots per inch. Used in the context of visual image resolution quality. The higher the DPI, the higher the resolution/quality of the image.

DRM

Digital rights management. Any digital technology used to protect the interests of copyright owners and service providers, including TPM (technical protection measures) and identification technologies that can be used for marketing and operating purposes.

ECSA

European Composer and Songwriter Alliance. The umbrella organization representing professional music authors in 22 European countries.

EDM

Electronic dance music.

embed

Process of incorporating a media player or video into a website or blog.

EMMA

European Music Managers Alliance, the umbrella body for music managers forums, with affiliations worldwide.

emoji

Similar to emoticons but pictures instead of typographic characters.

emoticon

Emotion icon, sometimes shortened to emote. A representation of a facial expression using characters as a time-saving method, usually punctuation marks, numbers and letters.

encryption

The conversion of data into ciphertext that cannot be understood by unauthorized people. Decryption is the process of converting encrypted data back to its original form.

encryption service

Business that provides encryption, usually in the context of financial or confidential transactions to avoid fraud.

EP

See extended play single.

EPK

Electronic press kit. This usually includes a biography, still photographs and a video interview with an artist. Sometimes called a DPK (digital press kit).

equitable remuneration

Fair (usually equal but not necessarily) remuneration between two rights holders who are entitled to share a single payment.

escrow account

Account created in which funds deposited are safeguarded and put in the custody of a third person. Money can only be accessed and paid out under certain specified conditions.

ESP

Email service provider.

Ethereum

Decentralized, open-source blockchain with smart contract functionality. Ether is the native cryptocurrency of the platform and the second-largest cryptocurrency by market capitalization after Bitcoin. Ethereum is the most actively used blockchain.

exclusive

Not divided or shared with others.

exclusive right

The holder of an exclusive right has the power to authorize or prohibit certain actions or use of that right.

extended play single

Single with extra tracks so that it falls between a single and an album in length. Sometimes called an EP.

Facebook

Free social networking service owned by Meta Platforms, available in more than 100 languages, that allows registered users to create profiles, upload photos and video, send messages and keep in touch with friends, family and colleagues. In the case of music, it is a key tool for digital marketing and communication with fans.

Facebook Messenger

Messaging app and platform developed by Facebook.

Fanbridge

Fan management ESP and marketing platform for email and social media. Acquired by ConvertKit in 2021.

FIA

International Federation of Actors.

FIM

International Federation of Musicians (Fédération Internationale des Musiciens). International umbrella organization for national musicians' unions.

fixation

When a performance is recorded or fixed on to a magnetic tape or digital disc, or any recording medium. The WPPT defines it as "the embodiment of sounds or of the representations thereof, from which they can be perceived, reproduced or communicated through a device". Also known as a fixed performance.

force majeure

Common clause in contracts that essentially frees both parties from liability or obligation when an extraordinary event or circumstance beyond their control such as war, strike, riot, crime or event described by the legal term act of God, prevents one or both parties from fulfilling their obligations under the contract.

front-loaded agreement

Agreement where there is a substantial initial financial advance rather than one where most of the income is based on results (back-ended).

front of house engineer

Audio engineer responsible for mixing the sound the audience will hear through the public address (PA) system at a live performance.

fulfillment

Process of managing financial transactions, handling and shipping customer orders.

GEMA

Gesellschaft für musikalische Aufführungs- und mechanische Vervielfältigungsrechte. The sole CMO in Germany responsible for both public performance and mechanical licensing, collection and distribution to authors and publishers.

genre

Type or style of music; for example, chill out, soul, classical, heavy metal, folk, reggae or electronic dance.

Gen Y

Generation born from 1980 to 1994. Sometimes referred to as Millennials.

Gen Z

Generation born between 1995 and 2012. Colloquially known as zoomers, or the children of the internet.

geolocation

Detection of the physical location of an internet-connected computing device.

GESAC

Groupement Européen des Sociétés d'Auteurs et Compositeurs. Umbrella organization representing the largest European authors and publishers' CMOs.

gig

Slang for a show, concert, event or performance.

GMR

Global Music Rights. One of several US public performance rights CMOs that license and collect royalties on behalf of their author and publisher members.

Gracenote

Commercial internet-accessible database service containing information about sound recordings. Provides software, metadata and automatic content recognition technologies to music services that enable customers to manage and search digital media.

Harry Fox Agency

HFA is a commercial US CMO responsible for mechanical licensing, collection and US distribution for many music publishers. In 2019, HFA became one of the two primary vendors (the other being technology company Consensus) for the Mechanical Licensing Collective (MLC) responsible for managing the matching of digital uses to musical works, distributing mechanical royalties and onboarding authors and music publishers and their catalogs to the portal.

hashtag

The # symbol is used as a metadata tag, originally on X (Twitter), to mark keywords or topics on social networks and other services. A hashtag allows user-generated keyword tagging that enables other users to easily find messages with a specific theme/content.

heads of agreement

Brief summary of the main points of an agreement without the legal detail (boilerplate).

hub

Term used to describe an international digital licensing hub, such as the authors' works hubs ICE and Armonia.

ICE

One of two European digital licensing hubs. UK-based and owned by CMOs GEMA (Germany), STIM (Sweden) and PRS for Music (United Kingdom).

ICMP

International Confederation of Music Publishers. Umbrella trade organization representing music publishers worldwide.

ICT

Information and communications technology.

IEM

In-ear monitor. Onstage, usually wireless, monitoring system used for live performances by artists where the signal is transmitted from the side of the stage to a receiver fixed to the performer's clothing (usually a belt pack), then wired to in-ear monitor molded earbuds. Sophisticated IEMs allow ambient crowd noise to be mixed with the signals from the on-stage instruments and vocals so the performer can hear how the audience is reacting.

IFPI

International Federation of the Phonographic Industry. The international umbrella trade body representing phonogram producers and affiliated industry organizations worldwide, excluding the United States. United States has its own sister organization, the RIAA.

IMMF

International Music Managers Forum. One of several international umbrella trade bodies representing music managers forums (MMFs). (See also EMMA.)

IMPALA

Independent Music Companies Association. The umbrella trade body representing European independent phonogram producers.

IMPEL

An international collective of independent music publishers who, together, license their mechanical rights to a wide range of digital service providers via SACEM.

in perpetuity

Something that lasts for life or forever. In copyright terms, it refers to the full length of copyright protection permitted by law (that is, life of copyright).

Instagram

Online photo and video-sharing social networking platform owned by Meta Platforms. A key tool for digital music marketing.

intellectual property (IP)

Non-tangible product of the intellect that has commercial value, including copyrighted property such as literary, musical or artistic works, and ideational property such as patents, business methods and industrial processes.

interactive streaming

Streaming wherein a member of the public can access a specific recording/work at a time and place of their choosing, sometimes referred to as non-linear streaming. (See webcasting, simulcasting, linear streaming and making available.)

internet

Interconnected system of networks that link computers worldwide via the TCP/IP, a suite of communication protocols.

iOS

iPhone Operating System developed by Apple for its mobile devices. Products that use iOS include the iPhone, iPod touch and the iPad. In 2019 the iPad system was renamed iPadOS. iOS is the second largest mobile operating system in the world after Android. Specifically excludes the Mac.

IPI

Interested Party Information. A unique universal identifier allocated to every musical author and music publisher. The IPI system and database are administered by Swiss CMO SUISA in accordance with CIS guidelines and standards established by CISAC and BIEM.

IPN

International Performer Number. A unique universal identifier allocated to every performer who belongs to a CMO that is a member of SCAPR. Used to identify a performer in data exchanges between CMOs around the world.

ISNI

International Standard Name Identifier. An ISO standard for the identification of public identities of contributors to media content, including music authors and performers.

ISP

Internet service provider. Business that gives individuals and businesses access to the internet and other related services. Has the equipment and telecommunication line access required to have a point-of-presence on the internet for the geographic area served. Larger ISPs have their own high-speed leased lines, so are less dependent on telecom providers and can give a better service.

ISRC

International Standard Recording Code. The system for identifying sound recordings and music video recordings. Each ISRC is a unique identifier that can be permanently encoded into a product as a digital fingerprint.

ISWC

International Standard Musical Work Code. A unique, permanent and internationally recognized reference number for identifying musical works. (See CISAC.)

iTunes

Digital music service owned, operated and developed by Apple that incorporates a media player and a media library application. Used to play, download and organize digital audio and video on personal computers running the MacOS and Microsoft Windows operating systems.

JASRAC

Japanese Society for Rights of Authors, Composers and Publishers. The sole CMO in Japan responsible for authors' and publishers' public performance rights income and mechanical income.

karaoke

Musical sound system providing pre-recorded accompaniment to popular songs that a performer (usually a member of the public in a bar or club) sings live by following the words on a video screen. Means "empty orchestra" in Japanese.

Kickstarter

The world's largest international crowdfunding platform. Offers an alternative form of financing for creative projects by helping fans make financial pledges in return for rewards. Project creators set a deadline and a minimum funding goal. If the goal is not met by the deadline no funds are collected.

KPI

Key performance indicator. A type of performance measurement that evaluates the success of an organization, or of a particular activity in which it engages.

license/licensing

When rights owners authorize the use of their rights to third parties under certain conditions, while retaining ownership of the right.

licensee

Person or business that licenses a right from a right owner (the licensor) under certain conditions.

licensor

Right owner who licenses the use of the right under certain conditions to another person or business (a licensee).

linear streaming

Streaming where a member of the public has no control as to which recording/work is being streamed, as with a radio broadcast. (See interactive streaming, webcasting and simulcasting.)

LinkedIn

Social networking site for professional networking and career development.

lyrics

The words of a work.

Mailchimp

One of many platforms that offer email list management and marketing.

mailing list

List of email addresses with one title used to send out information to multiple recipients.

making available

The exclusive right for authors, performers and phonogram producers to authorize or prohibit the interactive use of their works/recordings by wire or wireless means via the internet, such that members of the public may access a work/recording from a place and at a time individually chosen by them.

manager

An artist manager is a person who manages an artist's business affairs and career.

manifest

Descriptive list required for cross-border movement of an artist's live performance equipment often linked to a carnet. A manifest should include serial numbers, quantities and sizes for each piece of equipment being shipped.

manufacturer

Business that produces physical copies of recordings such as CDs, vinyl and cassettes for distribution and sale to the public.

master license

License issued by a phonogram producer, performer, or whoever holds the related rights in a particular sound recording, for the right to use that recording in conjunction with visual images in a film, television production, video game, audiovisual advertisement or any third-party use such as would be required for a sample.

master recording

The finished mixed and mastered version of a recording.

mastering

Final stage of the recording process, in which a mixed recording is processed by a mastering engineer or mastering software using equalization and dynamic enhancement, to make the recording sound as good as possible prior to manufacture, downloading, streaming and broadcasting.

MCPS

Mechanical Copyright Protection Society. The sole UK CMO issuing mechanical licenses and collecting mechanical royalties and other income on behalf of authors and publishers.

MEAD

Media Enrichment and Description. The DDEX standard for communication of more extensive metadata of recordings and works required by digital service providers for marketing and information purposes.

mechanical license

License issued by the copyright owner of a musical work (or a CMO representing the copyright owner for mechanical rights) to a phonogram producer that permits the phonogram producer to exploit the recording containing the work.

mechanical rate

The rate set or negotiated in a country as a percentage of published price to dealer (PPD), as a rate per track, or as a percentage of revenue, payable by phonogram producers to copyright holders of works (or a CMO representing the copyright owner for mechanical rights) for each recording downloaded, streamed or sold as a physical sound carrier.

mechanical royalties

Royalties paid by phonogram producers to the copyright owners of musical works (or a CMO representing the copyright owner for mechanical rights) for the right to record, copy and distribute works in such recordings.

mediation

A voluntary and confidential dispute resolution process in which the parties appoint a mediator to facilitate a settlement that the parties decide works for them. (See arbitration.)

Melon

Online music store, music streaming service and custom ringtone provider in Republic of Korea. Also operates in Indonesia. Melon is a short form of the phrase “melody on”.

meme

Cultural information, often using humor and parody, which spreads through a culture and has the ability to go viral. Many X (Twitter), Snapchat and TikTok short videos can be regarded as memes.

merchandise

Person or business that sells an artist’s merchandising products at live shows and/or online (such as T-shirts, books, hats and CDs) to the public on behalf of the artist.

merchandising

Sale of T-shirts, books, hats CDs and other artefacts relating to an artist at the venue where the artist is playing live, or through a website or retail outlet.

Meta

Formerly Facebook Inc, Meta Platforms Inc is the new company name for the Facebook empire including Facebook, WhatsApp and Instagram.

metadata

Data about data. The title, format and other information embedded in a digital music file such as an MP3.

metaverse

The metaverse is a hypothetical iteration of the internet as a single universal and immersive virtual world that is facilitated by the use of virtual reality (VR) and augmented reality (AR) headsets.

MFN

Most favored nation. In a situation where there is more than one licensor, such as with an audiovisual synchronization license where there are usually two separate copyright holders (publisher and phonogram producer), the licensee agrees to give all parties the most favorable terms negotiated by any one of the licensors.

minimum commitment

Minimum number of works or recordings required to be submitted or released during each contract period of a publishing or recording agreement.

Mixcloud

Online British music streaming service that allows for the listening and distribution of radio shows, DJ mixes and podcasts that are crowdsourced by its registered users.

mixing engineer

Engineer responsible for mixing the separate tracks of a recording, resulting in a master recording.

MLC

Music Licensing Collective. CMO created as a result of the 2019 Music Modernization Act for issuing digital mechanical licenses and collecting and distributing digital mechanical royalties in the United States. Operated by the Harry Fox Agency and technology company Consensus.

monitor

Loudspeaker or in-ear radio system that provides an audio feed to artists on stage (independent of the house PA system), so they hear what they and the other musicians on stage are playing and singing, which helps them play and sing in tune and in time.

monitor engineer

Engineer who provides a separate mix to the house PA system that ensures performing artists can hear their stage performance and that of others playing with them, by way of onstage monitor loudspeakers or in-ear radio monitoring systems. The monitor engineer usually operates using a separate mixing desk located at the side of the stage although with some systems the front of house engineer can provide a separate monitor mix from the front of house mixing desk.

MP3 file

Computer file created with compression technology commonly used to make digital audio computer files relatively small while maintaining high audio quality. MP3 stands for MPEG-1 Audio Layer-3 and is an audio-specific format. Compression takes off certain sounds that cannot be heard by the listener (outside normal human hearing range).

MPEG

Moving Picture Experts Group, which sets international standards for compressing digital video. MPEG (pronounced em-peg) is also the name for the standards published by the group. MPEG is also the name given to a video file format that uses either MPEG-1 or MPEG-2 file compression depending on how it will be used.

MusicBrainz

Publicly accessible Wiki-style collaborative music database project collecting metadata on recordings, performers, release dates, cover art and other information. Important, as some radio stations will only play recordings that have full data.

musicFIRST Coalition

US pressure group that includes the AFM, Sound Exchange, US Music Managers Forum, the Grammy Foundation and the RIAA. Campaigns for a fair deal for music creators, focusing on the introduction of a public performance right in sound recordings for free-to-air radio in the United States.

music supervisor

Person who has the responsibility to find, manage and clear suitable music for a film, television production, video game or advertisement.

national treatment

Principle in international law wherein a state grants the same equal treatment and rights to foreigners as it does to its own citizens, provided the two countries are both parties to the relevant international agreement or treaty.

NDA

Non-disclosure agreement. A confidentiality clause in a contract wherein one or all the contracting parties is/are prohibited from disclosing the conditions of the agreement to third parties.

net income

Gross income less any sales or value added taxes and less all or certain specified expenses and costs.

NetEase Cloud Music

One of the big two Chinese music streaming services (competing with Tencent's music streaming services).

NFT

Non-fungible token. A unit of data stored on a blockchain digital ledger that certifies a digital asset to be unique and therefore not interchangeable.

non-linear streaming

Interactive streaming wherein a member of the public can access a specific recording/work at a time and place of their choosing. (See linear streaming.)

online

Via the internet.

OpenAPI

Open application programming interface. Where a service provider makes its API openly available to third-party developers so new apps can be created using its service.

option

The contractual right of a phonogram producer or publisher to future recordings or works at their discretion (usually accompanied by a further advance to the performer or author).

The Orchard

US music distribution and label services company owned by Sony specializing in digital licensing, distribution, marketing and sales for independent phonogram producers and artists.

overage

Any additional sums payable over and above the guaranteed sum in an agreement.

PA system

Public address sound system. Consists of amplifiers, speakers and related equipment used to amplify an artist's performance so an audience can hear it clearly.

Pandora

Also known as Pandora Media or Pandora Radio. US music streaming and automated music recommendation internet radio service owned and operated by SiriusXM. Like most streaming services, Pandora has a paid-for premium streaming tier.

Patreon

Crowdfunding membership platform based in the United States that provides business tools for creators to run a subscription content service, with ways for artists to build relationships and provide exclusive experiences to their subscribers, or patrons.

PD

Per diem. Daily financial allowance for each member of a band and touring crew to cover food and other incidental costs while working away from home.

peer-to-peer (P2P)

Network computing system in which all computers are treated as equals on the network and have the capability to share files with each other. Napster was the first mainstream P2P software that enabled large-scale music file-sharing.

performer

Entertainer who plays musical instruments and/or sings and/or dances or performs a dramatic work.

phonogram

Audio only fixation of a performance or other sounds.

phonogram producer

Entity that holds the related rights in a recording and exploits that recording by way of advertising, promotion and distribution for sale or access to the public. Sometimes referred to as a record company or record label.

Pinterest

Pinboard-style photo-sharing website that allows users to create and manage theme-based image collections such as events, interests and hobbies. Users can browse other users' pinboards for images, re-pin images to their own pinboards, or like photos.

piracy

When related right-protected recordings, possibly containing copyright-protected works, are manufactured and sold or made available to the public for download or streaming without the permission of the legitimate rights holders. The term piracy, or bootlegging, is also sometimes used when illegal copyright-protected merchandise is sold.

playlist

List of recordings in sequential order. Playlists are often genre specific and can be compiled by streaming services, influencers, brands, members of the public or other entities. For example, Spotify's RapCaviar playlist or Chill Out on Apple Music.

plug-in

Or plugin. Add-on software component bringing a specific feature to an existing software application that allows customization.

plugger

Person paid to try to persuade a radio or television station to play a record.

podcast

A digital audio or video file, usually part of a themed series, that can be downloaded or streamed from a website to a media player or computer. Often free to subscribers but paid-for podcasts are becoming more common.

point

A percentage point; for example, 3 percent of the published price to dealers is sometimes referred to as 3 points.

PPD

Published price to dealers of a recording as published by a phonogram producer or distributor. Sometimes referred to as the wholesale price. There is no PPD for streams, as income is based on revenue share.

PPL

Public Performance Limited. The sole UK CMO that collects public performance income on behalf of performers and phonogram producers.

private copying levies

Levy or tax placed by governments on recordable media (CDRs, DVDs and tape) and/or recordable hardware (computer hard drives, smartphones, and other analogue and digital recording devices and storage) to compensate rights holders for music copied by consumers within the domestic environment. The income is usually distributed to the rights holders (authors, performers, publishers and phonogram producers) via CMOs.

production company

Business that offers a recording agreement to an artist, makes and pays for recordings, and licenses them to other phonogram producers or distributors.

production manager

Person who supervises the provision of all the equipment, including stage, equipment, sound and lighting and special effects, associated with a concert or tour.

promoter

Person or business that engages an artist to appear live at a venue and is responsible for organizing, advertising and selling tickets for the event and paying the artist. A promoter is a risk-taker hoping that income from ticket sales will exceed costs.

promotion

Anything that assists an artist to become better known to the public, including press and website interviews and radio and television appearances.

PRS

Performing Right Society. The sole UK CMO that collects public performance income on behalf of authors and publishers, latterly rebranded PRS for Music.

public domain

Period of time after copyright or related rights protection in a work or recording has expired. For a work or a recording to be in the public domain, it is no longer protected by copyright or related rights and any member of the public can use or sell it without permission or authorization.

publisher

Person or business that commercially exploits the works created by authors.

publishing agreement

Agreement whereby an author licenses or assigns the works they create to a music publisher for commercial exploitation of those works.

QQ Music

One of the three Chinese freemium music streaming services owned by Tencent Music, a joint venture between Tencent and Spotify. Also presents the annual QQ Music Awards.

QR code

Two-dimensional barcode scannable by smartphones or QR scanners to access information such as contact details, website links or informative audio or audiovisual streams.

Radar Music Creatives

Agency that connects artists and phonogram producers with creatives for video production, photography and design.

RDx

Repertoire Data Exchange. Global gateway joint venture between IFPI and WIN, operated by PPL, to supply recording data in support of accurate and efficient payments of public performance and broadcast revenues to recording right holders by CMOs.

real tones

Actual clips of recorded music and sounds that can be downloaded to a mobile phone and will play when the phone receives an incoming call.

receipts basis

Payments made on the net income (after deduction of specific costs) rather than the gross income.

reciprocal agreement

When one organization in a country has an agreement with an organization in another country to pay through royalties to authors or performers resident in that country and vice versa.

recoupable cost

Cost that can be offset against royalties earned by a performer or author, by a phonogram producer or publisher.

recoupment

Point at which the royalties earned under an agreement equal the advances already paid and other recoupable costs.

related rights

Intellectual property rights granted to performers, broadcasters and phonogram producers.

remuneration right

The right to receive a payment every time a work or a recording is used without the ability to authorize or prohibit such use.

restraint of trade

Common law doctrine relating to the enforceability of contractual restrictions on the freedom to conduct business.

retainer

Minimum monthly sum of money that is guaranteed whether or not work is required in that month in order to retain first call on a person's services.

retention period

Period after the term of a publishing agreement has expired whereby the works covered in the agreement continue to be exercised by the publisher.

RIAA

Recording Industry Association of America. Trade association that represents most US phonogram producers. Sister organization to the IFPI that represents phonogram producers for the world, excluding the United States.

ring tone

The sound, usually polyphonic, made by a mobile phone to indicate an incoming call.

ringback tone

Music offered by a mobile network operator that becomes the audible sound heard by the caller while the phone they are ringing is being rung.

roadie

A technician who sets up/takes down an artist or band's equipment on stage and supervises the equipment during the performance.

royalties

Compensation payments made to an author, performer, studio producer, sound mixing engineer or other entity for each use or sale of a work, recording or merchandise item by a publisher, phonogram producer, computer game manufacturer, CMO or merchandiser. A royalty is expressed as a percentage of income.

royalty rate

Percentage at which royalties are paid.

RSS feed

Short for really simple syndication or rich site summary, an RSS feed is a digital delivery vehicle for news or other web content such as that contained in a podcast or blog.

SACEM

Société des Auteurs, Compositeurs et Editeurs de Musique. The sole CMO in France responsible for public performance licensing, collection and distribution to authors and publishers. Also owns 90 percent of SDRM which is the sole CMO for mechanical rights in France.

sample

Use of a portion or part of an existing recording or work (or both) and its integration into a new recording or work (or both). A third-party sample can only be legally used if it is cleared by the phonogram producer and the publisher/author who own the rights in the recording/work being sampled.

SCAPR

Societies' Council for the Collective Management of Performers' Rights. The international umbrella body for CMOs responsible for collecting income from broadcast and public performance licenses on behalf of performers.

score

Musical composition in printed or written form. Also used to describe the musical work in a film.

SDRM

Sole CMO in France for mechanical licensing and collection on behalf of authors and publishers. SDRM is 90 percent owned by SACEM.

search engine

Software code designed to search for information on the internet using web crawlers (sometimes known as spiders or bots).

SEO

Search engine optimization. The process of increasing the visibility of a website or web page in a search engine's search results and thus moving it higher up the search list.

serial number

Number in a series that is marked on a piece of equipment by the manufacturer to give that equipment a unique identifying number.

SESAC

Originally the Society of European Stage Authors and Composers and now one of several US public performance rights CMOs that license and collect royalties on behalf of their author and publisher members. In 2015 SESAC bought the Harry Fox Agency whereafter it could also collect mechanical income for its clients.

Session

Formerly known as Auddly, Session is a free platform that helps independent authors and performers in the early stages of their careers create accurate metadata. In 2021 they launched the Session Studio app which allows authors and performers to agree splits, collaborate with others, synchronize information, share verified data, manage data, and capture identifiers.

Shazam

One of the largest music identification services. Allows mobile users to identify commercially released tracks from any device that is playing music via a loudspeaker (television, radio, PA system). By holding the phone to the music for several seconds, a sample is sent to the Shazam datacenter, which identifies the piece of music. Bought by Apple in 2018.

sheet music

Musical notation of a work printed, written down or digitally represented that usually shows the notes, chords, lyrics and other musical information for the performance of the work using voice, piano, guitar and/or other musical instruments.

Signal

Cross-platform centralized encrypted messaging service. Uses the internet to send one-to-one and group messages, which can include files, voice notes, images and videos.

simulcast

Simultaneous webcast of a radio or television broadcast, or cable broadcast. (See interactive streaming, linear streaming and webcast.)

smart TV

Televisions with built-in applications that can be connected to the internet to provide an interactive experience for users.

smartphone

Cellular mobile phone with built-in applications that has the capability for internet access.

Snapchat

Global social media service for sending photos, messages and videos that are available for a limited time. Content is referred to as snaps, and can consist of a photo or short video that can be edited to include filters and effects, text captions and drawings.

Sonicbids

Online platform that connects performers and music industry professionals with booking agents, promoters and journalists so that live appearances can be secured. Also acts as a conduit for licensing and publicity opportunities.

sound carrier

Any physical medium including CDs, tapes, vinyl discs, cassettes and memory sticks that contain recorded music or sounds.

sound check

The process of performers and audio engineers testing and balancing the front of house sound mix and the onstage monitor mix in a venue prior to a performance.

SoundCloud

Online audio distribution platform and music sharing website that enables its users to upload, promote and share audio. Also offers listeners Soundcloud Go and Go+ subscription streaming service.

Sound Credit

Music credits platform with computer software for Windows, macOS, iOS and Android. Includes the Sound Credit Publisher cross-platform desktop application, Tracker cross-platform digital audio workstation (DAW) plug-in, physical kiosks, smart card check-in system and online database.

Sound Exchange

Sole US related rights CMO responsible for licensing and collecting digital income on behalf of performers and phonogram producers for the digital public performance of sound recordings in the United States.

soundtrack album

Collection of tracks put together to create an album which are taken from or associated with a film or other audio-visual productions.

spam

Indiscriminate and unsolicited bulk email (UBE). Usually associated with unrequested commercial advertising and sometimes referred to as junk mail.

splitter bus

Vehicle that provides seating in the front of the vehicle for the touring entourage and a separate compartment at the back for stage equipment.

sponsorship

Financial payment or payment in kind by a third party to the artist or other entity in return for promotion of the third-party's products or brand.

Spotify

International commercial music streaming service providing content licensed from phonogram producers, artists, publishers, CMOs and podcasters available to users on a free limited ad-supported subscription basis or premium ad-free paid subscription.

SPV

Special purpose vehicle. When a publisher sets up a joint venture with an author's CMO to manage direct licensing agreements with digital service providers. DEAL (Universal), PEDL (Warner) and SOLAR (Sony) are examples of SPVs.

stem

Audio file that contains a track split into isolated musical elements; for example, bassline stem, keyboard stem, drums stem and lead vocal stem. The stem file usually includes the original stereo master of the track. Used extensively by DJs to expand mixing possibilities.

STIM

Svenska Tonsättarens Internationella Musikbyrå. Sole CMO for authors and publishers in Sweden.

streaming

Data that can be accessed via a local computer from an online server but cannot be downloaded or stored on that computer unless specifically permitted by the streaming service. (See linear streaming and interactive streaming.)

studio producer

Person responsible for supervising the creation of a sound recording in a recording studio. Sometimes referred to as a record producer.

sub-publisher

Publisher in a foreign territory who represents the interests and collects income on behalf of the domestic main publisher and pays through that income to the main publisher after taking an agreed commission.

synchronization license

License issued by a publisher or an author when the author's work is synchronized with visual images, usually moving images.

telecoms

Businesses in the field of telecommunications and data networking. Also includes mobile phone companies.

Telegram

Cross platform, cloud-based instant messaging (IM) software. The service provides end-to-end encrypted video calling, VoIP and file-sharing.

Tencent

Tencent Music Entertainment Group (TME) operates music streaming services for the Chinese market in a joint venture with Spotify. Streaming apps include QQ music, Kugou, and Kuwo. In 2021 Tencent acquired 20 percent of Universal Music Group worldwide from Vivendi.

term

Period of time for which an agreement is effective.

The Creative Passport

(See Creative Passport.)

The Fund

AFM and SAG-AFTRA Intellectual Property Rights Distribution Fund.

A not-for-profit organization that collects and distributes royalties for non-featured performers for linear communication to the public in the United States.

Threads

An online social media and social networking service owned and operated by Meta Platforms closely linked to Instagram. Launched in July 2023 as a competitor to X (Twitter).

TikTok

Video-sharing social network service owned by Chinese company Bytedance, used to create short lip-sync, comedy and talent videos. In 2017 Bytedance purchased Musical.ly and incorporated it into TikTok. Available in more than 150 countries and 75 languages.

tour bus

Bus used for touring that usually has kitchen, lounge, sleeping and bathroom facilities on board. The bus will often travel to the next city or town on a tour overnight while the artist and crew are sleeping.

tour manager

Person who manages an artist's live performance work on behalf of the artist's manager and/or the artist.

tour support

Payment made to an artist, usually by the artist's phonogram producer to cover the financial shortfall of a tour. Usually recoupable from artist's royalties.

TPM

Technical protection measures. A subset of digital rights management (DRM), TPM are digital technology applications designed to prevent or limit unauthorized copying.

track

A single recording of a performance of a work. There are typically 10 to 14 tracks on an album. Each track often comprises many subtracks or stems that are recorded individually then mixed and mastered to create the finished master track.

trademark

Registered name or symbol identifiable with goods, services or an artist to ensure exclusivity and protection from others using the same name or symbol for commercial benefit.

X (Twitter)

Free social networking microblogging service that allows registered users to broadcast short messages known as posts. Users can create posts of no more than 280 characters and follow other users' posts on multiple platforms and devices. Twitter was rebranded as "X" in July 2023.

uberfan

Hard-core fan who is a loyal and passionate supporter of an artist.

UGC

User-generated content. Content created by members of the public (for example, homemade videos) that are then posted on sites such as YouTube for non-commercial social sharing.

umbrella solution

Concept created for the WPPT and the WCT wherein the act of digital transmission was drafted as being free from specific legal characterization.

underscore

Background music in a film.

UNESCO

United Nations Educational Scientific and Cultural Organization. Encourages international peace and universal respect by promoting collaboration among nations. UNESCO has a City of Music program that is part of its Creative Cities Network.

VAT

Value added tax. A sales tax used in many countries, particularly Europe.

venue

Place or building where a live performance takes place.

Vimeo

Ad-free video platform based in New York providing free video-viewing services as a competitor to YouTube. Vimeo also specializes in high-quality video services for video/filmmakers and businesses.

viral

Process whereby a track or video becomes exponentially popular by fan-to-fan recommendation rather than marketing.

visa

A work visa is the appropriate immigration document, usually stamped or attached to an artist or crew member's passport, which permits that person to work in a foreign country for a defined period of time.

vlog

Video blog or video log is a form of web television used extensively on video-sharing sites, particularly YouTube. Vlog entries often combine embedded video (or a video link) with supporting text, images and other metadata.

VoIP

Voice over Internet Protocol. Phone calls made through the internet, rather than a regular landline or mobile network.

WAV

Waveform Audio File Format. A raw uncompressed lossless high-quality audio format created by tech companies Microsoft and IBM. Because they are raw, WAV files are large at around 10 MB per minute with a maximum file size of 4 GB.

webcast

Online equivalent of broadcasting, but by streaming via the internet.

webmaster

Person who builds and/or supervises an artist's website.

website

Collection of web pages, which are documents coded in HTML (HyperText Markup Language) that are linked to each other and often to pages on other websites. For music artists, it is usually their primary portal on the internet.

WhatsApp

Free cross-platform centralized messaging and VoIP service owned by Meta Platforms. Allows users to send text and voice messages, make voice and video calls, and share images, documents, user locations and other content.

widget

Short for window gadget, a widget is a standardized on-screen representation of a control that may be manipulated by the user. Scroll bars, buttons and text boxes are all widgets.

Wikipedia

A multilingual online encyclopedia created and maintained as an open collaboration project by a community of volunteer editors. Features free content, no commercial advertising and is owned by the Wikipedia Foundation, a not-for-profit organization funded primarily through donations.

WIN

Worldwide Independent Network. Global network connecting and supporting independent phonogram producers' national trade associations.

WIPO

World Intellectual Property Organization. An agency of the United Nations, based in Geneva, dedicated to developing a balanced and accessible international intellectual property (IP) system that rewards creativity, stimulates innovation and contributes to economic development while also safeguarding the public interest.

WOMAD

World of Music, Arts and Dance. International arts festival organization founded by Peter Gabriel that celebrates and promotes the world's many forms of music, arts and dance.

WOMEX

Worldwide Music Expo. International world music support and development project whose main event is an exposition held annually in different locations in Europe. Includes a trade fair, showcases, conferences, film screenings, networking sessions and awards, and provides artists, artist managers, phonogram producers and other music professionals with opportunities to make contacts for international touring and album distribution.

work

Any author's musical creation, including the musical composition and/or lyrics, and/or the musical arrangement. In some countries, those that translate lyrics may also have rights in a work.

X

Formerly Twitter. Rebranded as "X" in July 2023.

YouTube

Social networking video-sharing service that allows users to watch videos posted by other users and upload videos of their own. Owned by Google, it is the world's no.1 music discovery website and a key tool in digital music marketing.

YouTube Music

Google's music streaming service with a free ad-funded tier and a premium paid-for ad-free tier. Also available to YouTube Premium subscribers.

YouTube Premium

A subscription service which provides ad-free access to all content across the YouTube service, downloading videos and background playback of videos on mobile devices and access to YouTube Music.

Annex A Example of short-term management letter of engagement

This example includes the letter, and an example of an expenses schedule. The letter is in normal font, with the expenses schedule and notes in italics.

To (*artist/s, name/s and address/es*) (hereinafter referred to as 'Artist' or 'You')

Date (. . .)

Dear (. . .)

Further to our recent meetings and discussions, please accept this letter as confirmation that (. . .) (hereinafter referred to as 'Manager', 'Us' or 'We') will act as your exclusive manager throughout the world for a trial period of (. . .) months from the above date, after which either You or Us must give 30 days' notice to the other to effect termination.

During this trial period you agree to pay us commission of (. . .) percent on any income received by You in the entertainment industry, except for any income specifically intended as recording costs, video production costs or as tour support. You further agree to reimburse reasonable expenses incurred by Us on your behalf as per the attached schedule section headed Artist's Expenses. In regard to live performances, the commission payable to us will be reduced to (. . .) percent of the gross income received.

We agree to inform you of any single reimbursable expense over a cost of (. . .) prior to it being incurred.

At the end of the trial period, You or We may decide to terminate the management relationship or move forward with negotiations for a long-form artist management agreement. In either case, payment of commission and

expenses must be made to Us within 60 days of receipt of the invoice that We shall submit.

In signing this letter, You are entering into a legally binding agreement. If the above is a correct reflection of the agreement we have reached, please confirm this by your signature/s below.

Yours sincerely

Signature (manager . . .)

Date (. .)

Confirmation of agreement by (name and address of artist/s . . .)

Signature (. .)

Date (. .)

Expenses as per the example that follows should be attached to this short-term letter of engagement. The manager's expenses are paid by the manager from their own resources, whereas the artist's expenses are repayable to the manager from the artist's gross income, in addition to any commission payable.

Example of an expenses schedule

1. Manager's expenses

Manager's general office and business costs, including the following:

- *office rent*
- *local property tax on office*
- *management staff salaries and wages*
- *management staff social security payments*
- *manager's office equipment, including:*
 - *computers, photocopiers, mobile phones etc.*
 - *office telephone systems*
 - *office audio and audiovisual equipment*
- *manager's car and associated costs*
- *manager's legal fees*
- *national telephone and email costs*
- *miscellaneous office expenses.*

2. Artist's expenses

Any expenses reasonably incurred specifically in connection with the artist's career, whether incurred by the manager or the artist, other than the manager's expenses, including but not limited to the following:

- *commission payable to a booking agent or other agents*
- *costs/wages payable to a tour manager, roadies, band members etc.*
- *social media costs*
- *advertising*
- *artwork*
- *management international phone charges if specifically on behalf of the artist*
- *accommodation costs if away from home or office on artist's behalf*
- *air, rail and sea fares*
- *courier charges*
- *Manager's reasonable subsistence (food etc.) when on tour or away on business on the artist's behalf*
- *(. . .) per mile for the manager's car journeys*
- *car hire, taxis and other travel costs when business being carried out on behalf of the artist by the manager or the manager's personal assistant*
- *legal costs incurred when the artist contracts with third parties*
- *third-party accounting costs*
- *visa costs*
- *expenses incurred by the manager prior to the commencement of this agreement in the sum of (. . .).*

The above to be pro rata if work for other artists is also being carried out.

Mileage rate charged for the manager's car journeys will vary according to the car's engine capacity. The local tax authority or automobile association should be able to supply acceptable current mileage rates. This mileage rate not only covers fuel but also road tax, maintenance, servicing, and depreciation etc.

Annex B Example of a long-form management agreement

Every artist management situation is different and will present its own set of circumstances. Some countries follow industry practices that might not be the same as the following example. It is intended as a guide to understanding long-form artist management contracts, hopefully providing an appropriate means of reaching a fair agreement for both parties.

This example is in two parts: the Contract and the Schedule. Example clauses are shown in normal font with notes in italics.

The contract

1. The Artist hereby appoints the Manager, who agrees to carry out the Manager's duties in relation to the Artist's career throughout the Territory during the Term.
2. The Artist shall pay commission to the Manager at the Commission Rate during the Commission Term on all commissionable income earned by the Artist from the Artist's career.
3. The Manager shall pay the Manager's expenses as defined in the Schedule.
4. The Artist shall pay the Artist's expenses as defined in the Schedule.
5. The Artist and the Manager shall each have the right to audit the other's accounts, although not more than once in any (. . .) month period. Such audit shall require 30 days' written notice and must take place within normal office hours. If no objection is raised to an

accounting statement rendered by either party within (. .) years of its date, such statement will be deemed correct and binding.

With audit rights, it is common to agree that if the party being audited is shown to have underpaid by more than 10 percent, then in addition to reimbursing the shortfall (plus interest), that party is obliged to pay the cost of the audit. The right to audit is usually limited to no more than once in any six- or twelve-month period. The period when an objection may be raised is typically two to three years.

Then either:

6. The Manager shall, during the Term, collect all income on behalf of the Artist and shall pay it into a separate client bank account exclusively dedicated to the Artist. The Manager shall only use funds deposited in such account for purposes directly connected to the Artist's career.

Or the following:

7. The Artist shall be responsible for all accounting concerning the Artist's career, including all bookkeeping, tax returns, invoicing, receipts and payments, etc. From time to time, the Manager will invoice the Artist for commission, which shall be paid within (. .) days of receipt.

If adopting the first approach under point 6 it is important the manager keeps a separate bank account for each artist. If adopting the second approach ignore 10.5 and 10.6 in The Schedule. The period by which the invoice should be paid in the second approach could be anything from 10 to 30 days.

8. After the expiry of the term, the Artist shall every (. .) months produce statements to the Manager showing all income and commission due, and shall on receipt of an invoice from the Manager pay the commission due within (. .) days of receipt of such invoice.

It is normal for the artist to be obliged to produce statements every three months. The period by which the invoice should be paid could be anything from 10 to 30 days.

- 8.1 The Artist and the Manager shall each have the right to terminate the term by written notice if the other is:
 - 8.1.1 declared bankrupt or enters into a composition or agreement with their creditors
 - 8.1.2 convicted of an offense involving dishonesty

- 8.1.3 in material breach of this agreement and shall not have remedied that breach within 30 days of written notice requiring them to do so
- 8.1.4 incapacitated due to illness or accident for a period exceeding (. . .) days.

The normal period of incapacity is three to four months, but it could be anything from six weeks to 12 months. A contract might also provide for a temporary replacement manager in such circumstances. Anyone can have an accident or fall ill, and it seems unreasonable that managers, having suffered one misfortune, have to suffer another by losing their artists. A period of at least three months would therefore seem reasonable. The 30-day period to correct a breach of contract is often referred to as a cure period.

- 8.2 If either party terminates the term, this shall not affect either party's rights or obligations that are intended to continue in force beyond the term.
9. No variation of this agreement shall be binding unless made in writing and signed by both parties.
10. Any notice or consent to be given under this agreement shall be effective if sent by registered post or recorded delivery to the other party at the address given in the Schedule. Service shall be deemed to take place on the day after the postmark.

In some jurisdictions it is acceptable to give notices or consents by email provided certain conditions are met such as sending the email to at least two senior people in the recipient's business.

11. Nothing herein shall constitute a partnership between the Artist and the Manager.
12. The Artist and the Manager hereby acknowledge that they are advised to seek independent specialist legal advice from a qualified music business lawyer before signing this agreement.
13. The Manager has the right and authority to negotiate with third parties on the Artist's behalf.
14. This agreement shall be governed by (. . .) law and both parties agree to submit to the jurisdiction of the courts in (. . .).

A manager dealing with an artist who is based in another country and who insists on dealing according to the laws of that country must be careful to research the legislation concerning contracts. For example, in California contracts for personal services are restricted to seven years.

15. Terms used in this agreement shall have the meanings described in the Schedule that is incorporated into this agreement.

The schedule

1. The Artist: (. . .).

The artist could be an individual, partnership or corporation/limited company. The artist's real name should appear here, together with their stage name (if any) and current address. If the artist is a band, each member's real name together with their stage name (if any) and their current address, and the current name of the band should be shown. If the artist is a band, there could be provision here for changes in the band's personnel with an obligation for new members to be party to this agreement, or this provision could be included in a separate band agreement. If the artist is contracted as a limited company, it will be necessary to prepare an inducement letter in which the artist is held personally responsible for the provisions of the agreement.

2. The Manager: (. . .).

The manager could be an individual, partnership or corporation/limited company. If contracted as a partnership or a corporation, the artist may wish to have a key man clause inserted in the agreement obliging the manager's personal services to be available, failure of which would be a breach.

3. Territory: (. . .).

If a manager is not managing the artist worldwide, they would need to ensure it is clear who the managers in other territories are, and their roles in the international context. If the manager is the principal manager, then they should have the right to approve third-party managers in foreign territories. In this case, it is important for the manager to ensure that the commission arrangements are clear and that the artist is not paying double commission. Sometimes the principal manager will take half the commission rate in those territories where there is a separate manager; for example, if the commission rate was 20 percent, the principal manager might take 10 percent and the foreign manager 10 percent.

4. Term: (. . .) years/months commencing (. . .). Thereafter, the term continues until either party gives (. . .) months' notice of termination.

The term could be anything from six months to seven years although it is important for the manager and the artist to make sure the term does not exceed the industry norm in a particular country. Some managers prefer to opt for a comparatively short term, perhaps 12 months, and to have a three-month notice of termination from either side after that period, so that the term continues indefinitely after

12 months until one party gives notice to the other that it will end three months after the notice is served. The advantage for the manager is that they may be in a stronger negotiating position with regard to the other terms of the contract as the Artist will be reassured that if things do not work out, they are not tied to the manager for a long period of time.

On the other hand, some managers feel they will need to invest a great deal of work (and sometimes money) in an artist's career in the early stages, probably with little commission, and that they therefore need a longer term in order to feel secure about investing their time, effort and possibly money.

Another common arrangement is to have a term of perhaps two or three years with options for a further one or two years. The options can only be taken up by the manager if certain income levels for the artist have been achieved.

*Yet another approach is to define the term in albums rather than years. In the 1970s, an artist would typically release one or more albums per year. For example, David Bowie released three of his best albums, *The Man Who Sold the World*, *Hunky Dory* and *The Rise and Fall of Ziggy Stardust and the Spiders from Mars*, within a 12-month period from July 1971 to June 1972. These days, however, an artist may be lucky to have two albums released in four years. For example, Peter Gabriel releases only one album every eight years or so. It may therefore be better to define the term as two or three albums in the same way that it is defined in recording and publishing contracts. If this approach is adopted, it is essential a long-stop term be included, as a contract cannot be open-ended. For example, two years from a certain date or until six months after the release of the third album, whichever is the longer, provided that in no circumstances will the basic term exceed six years.*

In some cases, the manager may reach an arrangement with the artist whereby, if the manager is unsuccessful in obtaining a recording or publishing agreement offer within, say, 12 to 18 months, then the artist has the right to terminate the agreement.

5. Commission rate: (. . .) percent.

Notwithstanding anything to the contrary in this agreement, the commission payable to the Manager by the Artist in respect of touring and live performance income shall be (. . .) percent of the gross fees in respect of touring and live performances or (. . .) percent of the net profit from touring and live performances, whichever is the greater.

The generally accepted commission rate for managers in the music industry is 15 percent to 20 percent. In practice, however, this can range from 10 percent to 50 percent. For example, for a manager investing substantial money in a new band and expending a tremendous amount of time and energy, it might be reasonable for that manager to take 25 percent or more. It may also be appropriate for a manager to take 25 percent if they agree to manage the artist exclusively. In such a situation, it is commonly agreed the commission rate reduces to 20 percent if the manager manages more than one or two other artists.

When an established artist seeks a new manager, the manager will know there is little or no risk involved and that the artist already enjoys a high level of income. In such a case, the manager might be willing to agree a commission of 10 percent to 15 percent, or even operate on a flat-fee basis.

*At the other extreme, there have been cases where a high-profile manager has created a band by holding auditions or by taking on a band via a television talent competition, such as *The X Factor*, *The Voice* or *La France a un incroyable talent* in France. With the manager virtually guaranteeing the artist massive television exposure or, in the case of the manager creating the band and investing large sums of money, commissions as high as 50 percent have been known. Whether a court would find this level of commission acceptable in such circumstances remains to be tested, but in such a case it may be better for the manager to enter into some kind of joint venture with the artist such as forming a corporation wherein the manager and the artist(s) are shareholders or a partnership agreement. (See chapter 8.)*

Touring income

In practice, there are many different arrangements in place for touring income, from a straight 15 percent to 20 percent of the gross, to 15 percent to 20 percent of the net profits. Many tours lose money, or maybe break even, and often need record company tour support to be feasible. If the manager receives only 20 percent of the net profits, this means they cannot take any commission on the tour if it fails to make a profit. Further, the manager has to pay the management staff and office costs, among other things, connected with the tour. In such a case, the manager has done a tremendous amount of work (usually far more than the booking agent) and ends up with a considerable financial loss. In addition, if there is tour support from a record company, this represents a further loss to the manager, as it is usually fully recoupable from royalties that would otherwise have been commissionable. Thus, 20 percent of the net profit only is unreasonable from the manager's perspective unless the tour is making a substantial profit. A possible compromise might be that the manager takes 10 percent to 15 percent of the gross touring income (less VAT/ other taxes) or 20 percent to 30 percent of the net profits, whichever is the greater.

Another approach is for the manager to take a fixed fee for managing the tour, or for an arrangement to be worked out on a tour-by-tour basis with reference to the budgeted costs and income. Another arrangement might be that the manager could be paid at least the same as the highest paid person on the tour. The level of an appropriate touring commission rate can be influenced by several other factors, such as: is the manager also the tour manager or the booking agent, or both; is the artist a solo performer or a band; and who is in charge of touring costs? For example, if the manager also provides and pays for the services of a tour manager, or is the tour manager, it might be reasonable to fix an all-in touring commission rate of perhaps 17.5 percent to 20 percent of the gross income.

If an agreement is reached for a percentage of the gross income and the artist is unable to pay the manager due to cash flow difficulties, then the amount should be put aside as an I.O.U. with interest, and paid when the artist is in a position to do so. This process applies to commission generally.

Merchandising and sponsorship income associated with a tour or a retail merchandising agreement should be treated separately and commissioned at the normal commission rate rather than be included in the calculation of touring losses and profits. This commission is usually based on net merchandising profit after deducting manufacturing, shipping and selling costs. Some phonogram producers may insist that merchandising income forms a part of the overall tour budget and will only pay tour support after such income is included.

When negotiating tour support with a phonogram producer, the manager should insist management commission is an acceptable tour cost. Merchandising income should not be included as tour income in the tour accounts if possible. Some phonogram producers accept booking agency commission as a bona fide expense but refuse to accept management commission. Apart from being illogical, this is also unfair on managers and artists. It is important to raise these issues with the phonogram producer as early as possible and preferably when the recording agreement is first negotiated. That may be the only point at which the manager and artist have leverage over the phonogram producer. It may also be possible to negotiate with the phonogram producer that they pay a fixed weekly fee to the manager when on tour, plus travel expenses in the early stages of the artist's career when touring will need support.

A tour might be defined as a series of more than six dates in any four-week period. If several one-off dates occur in a month, these can be grouped and the commission calculated on a monthly basis.

Many artists with a strong fan base are finding that touring is their main income. This also applies to older artists who have ceased to produce hit albums and singles. It is therefore imperative to carefully consider the above and arrive at fair and workable percentages for both parties.

6. Commission term: (. . .).

An accepted principle of artist management agreements is that the manager should continue to receive commission after the term has expired for achievements during the term. In many countries this is known as post-term commission. In the United States it is referred to as the sunset clause.

Some managers believe commission should be payable in perpetuity on income resulting from work carried out during the term. If an album is successful, it is generally so because of the combined efforts of the artist, the manager and the phonogram producer. Many recording contracts are for the life of the related rights protection, which for sound recordings in most countries is currently 50 to 70 years from first release, though in some countries it is longer. In the United States, for example, it is 95 years if it is deemed to be a work made for hire or 70 years after the last surviving performer on the recording if it is not deemed to be a work made for hire. In Mexico it is 100 years. The artist and the phonogram producer will receive income in perpetuity (or the life of the related rights protection) and some managers argue they should, too. They would argue that the manager is usually a key component in the success of an album, and that expertise and hard work deserve to be rewarded if quality managers are to be attracted to the industry. Similarly, the life of copyright for authors often lasts for 70 years after the death of the last person who participated in the work, which in practice could be 150 years if the song was written when the author was 15 and they died at the age of 95. Post-term commission in perpetuity is something that is likely to be challenged by artists' lawyers and it may be the case that a compromise is reached whereby the manager's commission is payable at full rate for a period after the term, which is then followed by one or two periods in which the commission reduces. For example, full rate for the first three to five years following the end of the term of the management agreement and half rate for a number of years or in perpetuity thereafter.

If commission does reduce, a second manager may be able to negotiate with the artist for the difference between the commission being paid to the first manager and the commission rate. If the previous works and/or recordings were commissionable at the full rate in perpetuity by the first manager, it may be a good idea for the new manager to approach their predecessor (with the artist's approval) to negotiate a commission split on previous works and/or recordings. If a

new manager invests a tremendous amount of effort on current and future works and recordings, and they are successful, this could well stimulate back catalogue sales, which would benefit the original manager. It may therefore be in the original manager's interest to encourage their replacement to try hard in this respect by agreeing to a split commission that would provide a further incentive.

In any case, except in unusual circumstances, the aggregate of the commissions of the old manager and the new would not normally exceed the commission rate. It is also important to define which works will be commissionable on a post-term basis. It could be any of the following: works or recordings created during the term; everything recorded during the term (either demo recordings or masters); or everything released during the term of the management agreement.

7. Artist's career: all activities in the (. . .) industry including, without limitation, the creation of works or recordings as defined in point 12 of this Schedule.

Either music or entertainment should be inserted here. Entertainment has broader scope and would include such things as literary and dramatic works, if appropriate.

8. Artist's bank account:

- (a) Bank address: (. . .).
- (b) Bank account no.: (. . .).
- (c) Signatories: (. . .)(. . .).

9. Interest if either party owes money to the other: (. . .) percent over the (. . .) base rate.

This clause allows either the manager or the artist to charge interest if the other party owes them money beyond the normal trading term arrangements. An invoice is usually payable within 30 days. If a payment of income or corporation tax is late, the tax authority will normally charge interest automatically, and the situation should be the same in the music industry.

10. Manager's duties:

- 10.1 To use reasonable endeavors to advance and promote the Artist's career.
- 10.2 To advise and consult with the Artist regarding collection of income and the incurring of expenditure and to use reasonable endeavors to ensure the Artist receives payment.

It is important the manager and the artist regularly consult to discuss the development of the artist's career, both in terms of assessing its successes and its future direction.

- 10.3 To consult regularly with the Artist and keep the Artist informed of all substantial activity undertaken by the Manager on the Artist's behalf, and to discuss the Artist's career development generally, and to periodically offer constructive criticism.
- 10.4 To keep the Artist informed of the Manager's location if travelling abroad.
- 10.5 To maintain records of all transactions affecting the Artist's career and to send the Artist a statement within (. . .) days of the end of each calendar quarter disclosing all income, the source of income, expenses, commission and other debts and liabilities arising during the preceding three months.

Point 10.5 would apply if the manager is managing income and expenditure as in the first approach in point 6 of the Contract, although a statement of expenses and commission due would still be required. The period between the end of the quarter and the statement can be anything from 30 to 120 days. It often takes time to document and account the financial activity of a particular quarter, especially if the artist is on tour. If the accounts are late for any reason, an artist may feel they have a reasonable claim for breach of contract. Supplying the accounts 120 days after the quarter end is not unreasonable, and for those cases where a tour straddles two accounting periods it may be necessary to have a one-off agreement signed to the effect that accounting will be deferred to the end of the period following the tour. In such a case, it is important to have a clear written agreement signed to this effect before the start of the tour.

- 10.6 To obtain the Artist's approval for any expenditure over (. . .) for a single check or (. . .) over a period of one calendar month.

This is sometimes seen in artist management agreements and provides the artist with some protection against the manager misusing their money. In practice, it is vital there is trust between the artist and the manager. This clause 10.6 would not apply if using the second approach to accounting in 6 in the Contract.

- 10.7 To advise the Artist on appointing booking agents, accountants, lawyers, sponsors, merchandisers and other agents, with due consideration to the Artist's moral views.

It is important that both the artist and the manager feel comfortable and are able to work with third-party professionals. It is also important that the manager is aware of the artist's political and moral views and does not commit the artist to anything inappropriate.

11. Artist's duties:

- (a) To carry out to the best of their ability and in punctual and sober fashion all reasonable agreements, engagements, performances and promotional activities agreed with the Manager.
- (b) To attend punctually all appointments and to keep the Manager reasonably informed of their whereabouts and availability at all times.
- (c) To reveal to the Manager all income, including but not limited to income from CMOs, touring overages and radio and television appearance monies paid directly to the Artist, together with appropriate paperwork.
- (d) To refer promptly to the Manager all approaches and offers from third parties concerning the Artist's career.
- (e) Not to engage any other person to act as the Artist's manager or representative in connection with any aspect of the Artist's career during the term.
- (f) To consult regularly with the Manager concerning the development of the Artist's career and to accept that it is part of the Manager's job to offer constructive criticism from time to time.
- (g) To keep the Manager informed and to consult regularly concerning all anticipated expenditure to be incurred by the Artist, and to obtain the Manager's agreement in regard to recording costs, video costs, equipment costs and touring costs.

12. Definitions:

- (i) Works and Recordings shall include:
 - (a) sound recordings, including demo recordings
 - (b) visual and audiovisual recordings, including film and video
 - (c) literary, dramatic and musical works
 - (d) recordings of other artists written, produced, engineered, programmed or arranged by the Artist
 - (e) income from Artist's works and recordings received from CMOs.

In each case in 12(a) to 12(e) above, created or substantially created during the term, 12c will depend on point 7 in the Schedule.

- (ii) Live Work shall include;
- (a) merchandising, branding and sponsorship using any name, logo, artwork or trademark owned by or associated with the Artist
 - (b) performances and appearances by the Artist in concert, on radio, television or film or anywhere where income is received from the Artist performing live.
- (ii) Income shall mean both (a) and (b) below:
- (a) Commissionable Income: all gross fees and sums of money payable and accruing to the Artist in respect of exploitation of the Works and Recordings, Live Work or other income arising from activities in the Artist's career, subject to 7 above, excluding Non-Commissionable Income.
 - (b) Non-Commissionable Income: sums paid by or on behalf of the Artist as budgeted, recoupable recording or video costs; royalties, advances or fees paid or credited by or on behalf of the Artist to any third-party producers, mixers, programmers or engineers to an agreed budget; and monies paid or credited to the Artist as recoupable tour support to an agreed budget. In the event of the Artist entering into a separate production and/or publishing agreement with the Manager, income from such agreements shall be non-commissionable income.

The word budgeted has been included to allow for the commissionable income to be calculated in a fair and reasonable way. The responsibility for budgeting should rest jointly with the artist and the manager but if, for example, the recording costs for an album go heavily over budget, it may be necessary for them to reach agreement on how much commission should be taken.

The modern tendency is for recording contract advances (sometimes called recording funds) to be inclusive of recording costs. If this is the case, the manager and the artist must decide how much of the advance should be set aside for recording (which is non-commissionable income) and how much should be regarded as commissionable income. It is a good idea to come to a separate written agreement with the artist every time a new album recording advance is received so an agreed level of the advance is deemed to be commissionable income; for instance, it could be that the entire advance is spent on recording costs, in which case the manager would earn nothing.

It may also be possible to insert a reassessment clause, whereby both parties agree on an adjusted level of commissionable income when the recording of the album has

been finished. Also, if the artist buys recording or other equipment with the advance, this should be regarded as commissionable income, as the artist is acquiring an asset. Alternatively, an agreement could be reached for the cost of this equipment to be regarded as non-commissionable income at the time of purchase, but that if and when it is sold, the manager is entitled to the commission rate applied on the sale price.

13. Manager's expenses: (. . .).

14. Artist's expenses: (. . .).

See Annex A for an example of manager's expenses and artist's expenses.

Further reading

Books

Anderson, C. (2009). *The Longer Long Tail: How Endless Choice is Creating Unlimited Demand*. Random House Business.

Anderson, C. (2010). *Free: How Today's Smartest Businesses Profit by Giving Something for Nothing*. Random House Business.

Arthur, C. (2014). *Digital Wars: Apple, Google, Microsoft and the Battle for the Internet*, Second Edition. Kogan Page.

Ball, P. (2012). *The Music Instinct: How Music Works and Why We Can't Do Without It*. Oxford, United Kingdom: Oxford University Press.

Bhargava, R. (2012). *Likeonomics: The Unexpected Truth Behind Earning Trust, Influencing Behavior, and Inspiring Action*. Wiley.

Brabec, J., and T. Brabec (2018). *Music, Money and Success: The Insider's Guide to Making Money in the Music Business*, Eighth Edition. Schirmer Trade Books.

Cooke, C. (2020). *Dissecting the Digital Dollar*, Third Edition. CreateSpace Independent Publishing Platform.

Cooke, C. (2023) *The Music Managers Interim Guide to AI*. Music Managers Forum.

Ficsor, M. (2022). *Collective Management of Copyright and Related Rights*, Third Edition. World Intellectual Property Organization. (free download)

Gammons, H. (2013). *The Art of Music Publishing: An Entrepreneurial Guide to Publishing and Copyright for the Music, Film, and Media Industries*. Focal Press.

Harrison, A. (2021) *Music: The Business*, Eighth Edition. Ebury.

Isaacson, W. (2015). *Steve Jobs*. Little, Brown.

King, R. (2012). *How Soon Is Now? The Madmen and Mavericks who Made Independent Music 1975–2005*. Faber and Faber.

Milner, G. (2011). *Perfecting Sound Forever: The Story of Recorded Music*. Granta Books.

Music Managers Forum (2023). *Essentials of Music Management*, Second Edition. Amazon.

Page, W. (2021). *Tarzan Economics: Eight Principles for Pivoting Through Disruption*. United Kingdom: Simon and Schuster.

Seabrook, J. (2015). *The Song Machine: Inside the Hit Factory*. Vintage.

Solis, B. (2011). *The End of Business as Usual: Rewire the Way You Work to Succeed in the Consumer Revolution*, First Edition. Wiley.

Sterling, J.A.L. (2022). *World Copyright Law*, Sixth Edition. Sweet and Maxwell.

Tapscott, D., and A.D. Williams (2007). *Wikinomics: How Mass Collaboration Changes Everything*, First Edition. Portfolio.

Tschmuck, P. (2021). *The Economics of Music*, Second Edition. Agenda.

Information and networking

Bob Lefsetz. "The Lefsetz Letter". Free email newsletter and blog.
<http://www.lefsetz.com/lists/?p=subscribe&id=1>

Complete Music Update. "CMU Daily". Free newsletter.
<https://completemusicupdate.com/signup/>

Complete Music Update. "Setlist". Free music business podcast.
<https://completemusicupdate.com/podcast/>

Darren Hemmings. "Motive Unknown Digest". Free newsletter.
<https://www.motiveunknown.com/digest>

LinkedIn. "Professional Musician Network", "Music Industry Network Group", "Music Industry Forum", "MusicBiz", "MusicBiz Music Producers", "Music Industry Networking", "Brands and Music", "Music Promoters Network", "Music and Marketing Group", "Music Industry: Worldwide", "World Music Network", "Music Publishing and Licensing", "Sync Music Professionals", "Connect with Music Industry A&R Executives". LinkedIn free groups.

Mark Mulligan, MIDiA. *Music Industry Blog*. Free blog.
<https://musicindustryblog.wordpress.com/author/musicindustryblog/>

Music Ally. "News, Insights and Data". Daily news and weekly insight briefings. Subscription. <https://musically.com>

Seth Godin. *Seth's Blog*. Free blog. Subscription.
<https://app.feedblitz.com/f/f.fbz?Sub=1081591>

Wired. Monthly magazine. Subscription, some articles free.
<https://www.wired.co.uk>

Conferences

Eurosonic Noorderslag (ESNS). Groningen, Netherlands. January.
<https://esns.nl>

The Great Escape Festival. Brighton, United Kingdom. May.
<https://greatescapefestival.com>

International Live Music Conference (ILMC). London, United Kingdom. March.
<http://www.ilmc.com>

South By Southwest (SXSW) Conference and Festivals. Austin, Texas, United States. March. <https://www.sxsw.com>

Sync Summit. Various locations/dates. <https://syncsummit.com/>

Winter Music Conference. Miami, Florida, United States. March.
www.wintermusicconference.com

WOMEX—Worldwide Music Expo. Various locations, Europe. October.
<https://www.womex.com/about/womex>

Building a successful career in music includes managing intellectual property (IP) rights. WIPO supports authors and performers in enhancing their knowledge of the intellectual property aspects involved in their professional work. Copyright and related rights can help musical authors and performers generate additional income from their talent.

