

THE SONGLAB: MUSIC BUSINESS DEJARGONISED

WHAT IS MUSIC PUBLISHING?



Simplifying The Mechanics of Copyright

WHAT IS MUSIC PUBLISHING

- There are two copyrights associated with the audio aspect of a song's identity. One is Master Rights (See What Are Master Rights? Doc) which relates to the ownership of a song's recording. The other is the copyright of the songwriting and it is defined by the underlying melodies, harmonies and lyrics to a song. It is this and only this which traditionally relates to the music publishing sector.
- Copyright is the right to copy and music publishers administrate, exploit and collect on behalf of copyrights owners in exchange for their services. Think of a music publisher as a songwriter's friend. In fact, many music publishers are indeed songwriters themselves.
- Music publishers sign songs and songwriters that they see commercial potential in. It is a music publisher's prerogative to create opportunities which are monetised through the solicitation of their actions. This could be in the form of pitching songs for recording artists, synchronising songs into film and television spots, plugging songs to video game creators, advertisement agencies or through other various media outlets which look to use songs when aiding visual sources.
- Music publishers also specialise in the administration of copyrights and the collection of royalties on song copyrights through their membership with collection societies (broadly referred to as PRO's or Performing Rights Organisations) such as PRS For Music and MCPS. Further collection and administration can be achieved through partnership work with an additional music publisher in a foreign territory. This is referred to as sub-publishing.
- Enhanced collection methods through blockchain metadata are perhaps the future of the collection sector which offers a much more rugged approach to digital collection.
- Whilst record companies traditionally hunt for "hits", it could be argued that many music publishers are more commonly associated with industrialising a song's copyright in order to enhance its uses.

SO MUSIC PUBLISHING IS NOT ACTUALLY ABOUT PUBLISHING MUSIC?

- To publish something is to prepare, issue and distribute for public consumption. Like a book for instance. However, music publishing is not actually about publishing music at all. So why is the sector called music publishing?
- The origins of music publishing can be traced back to the late 19th century to a neighbourhood known as Tin Pan Alley in New York City. It was a cohesive community of lyricists and music creators who collectively released music outside of the typically religious and classical realms. Music in that time period was not recorded by means of audio recording but through the documentation of lyrics and notation. More commonly referred to as “sheet music”, songs were made available through print.
- The above approach became the way in which songwriters and music publishers documented their copyrights and industrialised their work with commercial aim and the name has stuck ever since.
- Music publishing can be often be confused with music distribution but now that you have read this you will hopefully never be confused again.

WHAT INCOME STREAMS ARE AVAILABLE TO SONGWRITERS?

- Performance income is created when a song is played or performed. This covers a wide variety of public performances and broadcasting. This relates to audio streams (more on that later), live performance, radio, television and various other multimedia and internet uses.
- Mechanical income is created when a song is mechanically reproduced in physical form. The typical formats are CD, Cassette Tape, DVD or Vinyl but this can also stretch to children's toys or anything else that is physically reproduced and plays a song.
- Ghost Writing / Producing / Work For Hire. Whilst not a traditional income stream in the music publishing sector, work for hire is becoming more wide spread with the emergence of e-commerce and the global gig economy. This typically involves a songwriter and / or producer being hired to compose a song or track and being "bought out" either without any copyright ownership attached or with only partial copyright attachment.
- Print royalties relate to the income generated through physical or online sheet music and printed guitar tablature.
- Sync Licensing income relates to one off payments for the use of a song when used in synchronicity with film and television soundtracks, video games, trailers, adverts and online applications. The license typically covers the upfront cost in order to obtain the license for the use of the song. This is not to be confused with a master sync license which covers the license of the recording which can typically earn a little more. Any multimedia use of this kind will also generate back end royalties which would fall under performance income.

SO WHERE DOES AUDIO STREAMING SIT WITH ALL OF THIS?

- When a song is played for longer than 30 seconds, it is officially considered to be streamed in the digital sphere.
- Each stream will generate a micro royalty to the songwriter/s.
- However, the lion's share of that streaming royalty is distributed to the master rights owner (see WHAT ARE MASTER RIGHTS? doc).
- To simplify, let's imagine that each song is 100%.
- 80% of that 100% goes to the master rights owner.
- The remaining 20% is to be distributed to the songwriters and music publishers.
- Out of the 20%, 10% is considered to be a performance royalty with the remaining 10% being considered to be a mechanical royalty. The latter is due to consumers listening to the song on their own mechanically reproduced playback equipment such as a laptop, smart phone or tablet.
- To summarise the audio stream breakdown:
- 80% goes to the master rights holder.
- 20% to songwriters / music publishers.
- Of that 20%, 10% is collected by PRS For Music and 10% is collected by MCPS.

TYPES OF MUSIC PUBLISHING CONTRACTS

- **Single Song Assignments** relate to contracts between a songwriter and a music publisher for only one song. Typically royalty rates are split 50/50 between both parties although this can and does vary dependent upon negotiation, although not hugely. There is a set term and retention to this contact which does not usually surpass 20 years in the modern era. Single song assignments or “one song deals” are a great entry point for songwriters that are either starting their careers or for those who are looking to split their risk by not putting “all of their eggs in one basket” whilst they navigate their way through their career.
- **Exclusive Songwriter Deals** signify a stronger partnership between a songwriter and a music publisher as they cover an exclusive assignment of a writer’s catalogue to a music publisher. Deals can and do vary enormously. For instance, a back catalogue deal often covers everything a writer has ever composed. This would earn the writer the right to ask for an advance which would be recoupable but not returnable. It could be that a publisher signs a writer’s future catalogue instead. It could be both. Regardless of the hugely negotiable variables, this contract would be binding for at least 5 years in most cases although rolling one year contracts are a more flexible and modern alternative for many. Royalty rates typically vary from 70/30 (in writer’s favour) to 50/50.
- **Admin Deals** tend to be quite popular for, but not limited to, songwriters with a previous back catalogue of successful copyrights. Admin agreements don’t involve the songwriter needing to assign their copyrights to a music publisher but instead licensing the publisher to carry out specific tasks such as sync or collection. Typically a much more favourable royalty rate is agreed and typically sits between 70/30 and 90/10.
- **Purchase Agreements** cover the purchase of an entire catalogue of song copyrights. EG. Michael Jackson purchased the rights to a large proportion of the Lennon/McCartney catalogue in 1985 for \$47 million.

KEY TERMS OF A CONTRACT SIMPLIFIED

- **TERM** relates to how long the music publisher and songwriter are committing to working together in relationship to the song or songs that are contracting to. Each contract must always state a term.
- **RETENTION** relates to how long after that **TERM** the copyrights can still be exploited and collected by the music publisher.
- **DATE** is the fixed point in time that the contract is executed. This is hugely relevant in the years that follow.
- **JURISDICTION** relates to laws of the territory that the contract is bound to. Copyright law is actually quite similar in most western countries but it can be quite different in the far east, especially China where song copyright is not recognised in the same way. Every contract should always state the jurisdiction so that any legal action can conform to a recognised set of domestic principles and law.
- **AUDIT** relates to the right to an audit if a writer wishes to gain clarification on the accounting methods of a music publisher. This is typically at the cost of the writer as they would hire an accountant but it is a right that needs acknowledging in a contract.
- **ROYALTIES** relates to how the income streams are split between the music publisher and writer. This term should cover how income is split in relation to performance, mechanical, print and synchronisation. Many contracts will refer to “any other income” or “catch all income” which typically refers to income streams which are yet to be defined or created in technology but relate to the use of the copyright.
- **TERRITORY** relates to which countries and / or continents are covered in the agreement. One of the more modern words used in relation to territories is the word “universe” which would cover territories outside of the planet earth.
- **ADVANCES** relate to up front contractual payments which are agreed from the publisher to the writer. Typically these payments are spread over the course of the contract’s term in the modern era.
- **ACCOUNTING PERIOD** relates to when royalties are typically distributed. Traditionally this was twice per year in June and December but most publishers and performing rights organisations now pay on a quarterly basis. Some are now even moving towards a monthly basis.
- **RIGHTS** are either assigned or licensed to a music publisher. When rights are assigned, a music publisher has control over how copyrights are used. When rights are licensed, the writer retains control.

SUMMARY

- A songwriter signing to a music publisher is not a gateway to success. It could even be argued that it is not as necessary as it once was.
- Songwriters now have many self publishing options with a host of inbuilt analytical tools through organisations such as Sentric Music and Songtrust.
- It could be argued that songwriters that are efficient with their paperwork, song splits, administration and collection methods may be best placed retaining their copyrights themselves.
- There is of course the advantages of plugging a song or a catalogue of songs into the network of a music publisher's exploitation and collection protocol especially if the music publisher is proactive in finding placements for songs.
- It is always recommended to research any music publisher before signing a contract.