CIAM14-1172
International Council of Creators of Music
Nashville, 22/10/2014 - 23/10/2014
Source language: English

Executive Summary

STUDY CONCERNING FAIR COMPENSATION FOR MUSIC CREATORS IN THE DIGITAL AGE

Pierre-É. Lalonde

This study uses financial and economic data to explore the current structure of the digital streaming market for music, comparing it to other sectors that distribute creative content to determine an appropriate valuation of musical works as well as an equitable split of revenues.

The findings reveal that, as they are currently structured, digital streaming services are built on an exploitative value chain that undervalues the musical works which drive their business. Furthermore, regulatory constraints, market imbalances and labels negotiating with services for all types of rights holders has led to the preferential treatment of major record labels at the expense of individual creators and performers.

Our study determines that the market rate for use of music by streaming services should be 80% of gross revenue, paid to all rights holders, with a 50/50 split between record labels/performing artists on the one hand and music publishers/songwriters on the other. Currently, services are paying 60-70% of gross revenue to rights holders with an average 94/6 split in favor of record labels.

To combat these obstacles to the long-term sustainability of these services and encourage the equitable distribution of revenues, a 'fair trade' approach based on a transparent, easy-to-understand set of ethical business standards that gives consumers a choice at the point of purchase is worth considering.

Although digital streaming services currently make up less than 15% of the global music market share, they are poised to become the predominant model for distribution of music in the future. By providing access to nearly the entire global repertoire of musical works on multiple devices and platforms, digital streaming is a boon for increasingly mobile consumers and has enormous potential for creators.

Yet so far, the market for streaming is still in a developmental stage where subscription prices and advertising revenues are lower than those that would prevail in a mature market. Furthermore, performers, songwriters and composers have been vocal in their criticism of the low payments they receive from these services for the use of their works. In the US, popular services like Pandora, Spotify and iTunes Radio pay per stream fees to performers of between $0.001 and $0.005, with most hovering around $0.0012. For composers and songwriters, those amounts are even less. In Europe the figures are very similar. Yet even the astonishingly petty amounts doled out don't always make it to the creators and performers due to a number of highly questionable practices during both negotiations of rates and distribution of collected monies, compounding the already inequitable division of revenues.

Without sufficiently supporting the very group of people who provide them with the creative content that drives their business, these streaming services may be undermining their future sustainability. Considering the economic power of the entertainment and cultural industries, we all have a vested interest in seeing these services succeed.

This study, titled "Fair Compensation for Music Creators in the Digital Age," uses financial and economic data to answer questions that have arisen around music streaming models, including:

- **Is the overall amount of compensation to rights holders for the music consumed through these services sufficient?**
- **Is the share distributed by the services to creators, performers and other rights holders appropriate when compared with other music platforms?**
- **How is the share distributed to rights holders divided between the songwriters and music publishers vested in the composition of the underlying work, and performers and record producers involved in the master recording?**

In addition to bringing the complexities of the current music landscape into focus, our analysis has yielded **four important conclusions:**

1/ Music is currently undervalued by digital streaming services.

Our study finds that the market rate for use of music should be about 80% of gross revenue, distributed to all rights holders. Current levels are 60—70%.

The current level of streaming services' revenues paid out for the use of music is between 60 and 70%. The study has demonstrates this level of remuneration undervalues music, and concludes that no less than 80% of gross revenue from all sources would offer compensation at fair market value for the overall use of music by streaming services.

Very low per subscriber revenues complicate the economic picture. "Free" (advertising based) or low subscription rates increase listenership, which in turn drives share prices higher. Shareholders benefit, but performing artists and songwriters essentially subsidize these increases in shareholder value while receiving only a very small fraction of revenue, which are currently quite low.

2/ The revenue split within the music industry is grossly inequitable and lacks transparency.

Our study finds that monies distributed to rights holders by streaming services should be split 50/50 between the two main rights holder groups: record labels/performing artists vs. publishers/songwriters. The current split is closer to 94/6, in favor of labels.

Currently, major record labels receive up to 97% of revenues that flow to all music rights holders, leaving as little as 3% to be shared among songwriters, music publishers, and other rights holders and administrators. A combination of regulatory constraints, market imbalances and major record labels negotiating with services for all types of rights holders has led to this disparity.

The average 94/6 split skews the relative value of the two principle components in a musical recording: the recorded performance of a song and the underlying composition. This study's analysis of music licensed for use in film, television and commercials provides a fair market metric that supports a 50/50 split in revenue between the songwriter's share (which includes the music publisher's interests), and the artist's performance (which includes the record label's interests).

3/ A severe lack of transparency makes it difficult for rights holders to evaluate the compensation they receive or take action to change it.

The story is further muddled by a lack of transparency with regards to the distribution of large non-recoupable advances paid to record labels by music streaming services. According to a report by the Phéline Commission in France, there is no evidence that these advances have been shared with artists, songwriters or other rights holders. This lack of transparency, and the opaqueness of many other aspects of the current value chain, including the conflict of interest that arises when record labels are also shareholders of the streaming services, leaves artists and songwriters in the dark about much of their current situation.

4/ 'Fair Trade' models may prove more effective in creating a 'virtuous' value chain than government regulation.

The creative and economic environment is changing rapidly, yet the revision of copyright legislation is inherently lengthy and complex. The regulatory framework seems similarly challenged. (The antiquated Consent Decree in the United States is a prime example.) While global efforts to reform copyright policies are certainly important and should by no means be abandoned, laws and regulations simply cannot and do not keep pace.

Other industries have made notable progress towards a fair value chain without government intervention by adopting ethical rules and practices. The "Fair Trade" movement, for example, effectively communicates a clear choice to the consumer at the point of purchase: she can be the last link in a "virtuous" value chain by choosing a clearly marked "Fair Trade" product, or choose a similar product that is not certified "Fair Trade", and thereby become the final link in an exploitive value chain that largely excludes workers in favor of distributors.

The success of the "Fair Trade" movement has demonstrated consumers' willingness to make ethical choices when given a simple, understandable option to do so. A more equitable future may lie in the application and acceptance by all who inhabit the music landscape – from creators to consumers, and all those in between – of simple ethical practices, the power of which can be seen in the fair trade movement.