

HAVE SOME

CMU

INSIGHTS

INTRODUCING COPYRIGHT

Copyright is ultimately about providing creators with certain controls over that which they create.

Either as a point of principle.

And/or to encourage and enable creativity by allowing creators and their business partners to exploit these controls for profit.

MAKING MONEY FROM COPYRIGHT

Copyright makes money when third parties wish to exploit the copyright owner's controls - the rights owner sells their permission.

Permission giving = licensing.

How licensing works and how everyone gets paid varies. The starting point to tracking the money is to ask five questions...

THE FIVE QUESTIONS

1. Which copyright?
2. Which controls?
3. Direct or collective licensing?
4. Who pays the artist/songwriter?
5. Who touches the money as it flows through the system.

QUESTION ONE: WHICH COPYRIGHT?

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COPYRIGHT WORKS

Literary
works

Dramatic
works

Musical
works

Artistic
works

Sound
recordings

Films

Broadcasts

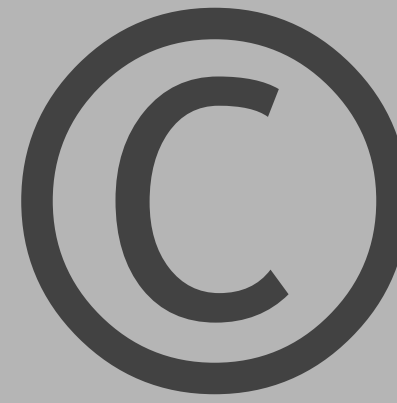
Typographical
arrangements

THE CORE MUSIC RIGHTS

RECORDING RIGHTS



PUBLISHING RIGHTS



THE CORE MUSIC RIGHTS

RECORDING RIGHTS

The copyright in sound recordings
aka master rights

Created and/or controlled by:
RECORDING ARTISTS
RECORD COMPANIES
RECORD INDUSTRY CMOs

PUBLISHING RIGHTS

The copyright in lyrics + compositions
aka song rights

Created and/or controlled by:
SONGWRITERS
MUSIC PUBLISHERS
PUBLISHING SECTOR CMOs

QUESTION TWO: WHICH CONTROLS?

COPYRIGHT CONTROLS

REPRODUCTION

DISTRIBUTION

RENTAL

ADAPTATION

PERFORMANCE

COMMUNICATION

COPYRIGHT CONTROLS

REPRODUCTION

DISTRIBUTION

RENTAL

ADAPTATION

PERFORMANCE

COMMUNICATION

MAKING AVAILABLE

COPYRIGHT CONTROLS

REPRODUCTION OR MECHANICAL RIGHTS

REPRODUCTION

DISTRIBUTION

RENTAL

ADAPTATION

PERFORMANCE

COMMUNICATION

PERFORMING OR NEIGHBOURING RIGHTS

QUESTION THREE: DIRECT OR COLLECTIVE?

COLLECTIVE LICENSING

- Sometimes music rights owners license 'direct', and sometimes music rights owners license 'collectively'.
- Why collective licensing?
 - Copyright law may force it, usually via compulsory licence.
 - Reduces legal and admin costs where usage high and royalties relatively low.
 - Simplifies process for high-level music users, especially with co-owned works.
- When collective licensing?
 - Depends - varies from songs v recordings, and country to country.
 - Commonly live performance, public performance, radio, TV, some digital.

COLLECTING SOCIETIES (aka CMO / PRO)

- Where collective licensing applies, rights owners and/or creators join a collecting society (or societies) - aka CMO or PRO.
- Usually collecting societies focus on just one set of rights ie publishing rights or recording rights.
- With songs, societies may also focus on granting licences for just one 'element' of the copyright - ie reproduction v performing rights.
- Collective licensing can provide benefits for all, though it also creates competition law concerns - which might result in regulation.
- Power, ownership and governance of CMOs varies a great deal.
- Other issues can include distribution policies, database standards, transparency - and the fact some CMOs are just shit/inept/corrupt...

QUESTION FOUR: WHO PAYS?

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TRANSFERRING RIGHTS

- Artists and songwriters commonly transfer control and/or ownership of the copyright in their work to third parties - eg:
 - A record company
 - A music distributor
 - A music publisher
 - A rights administrator
 - A collecting society

- Why?
 - To access investment / marketing.
 - To access distribution and rights management services.
 - To reach licensees who wouldn't do a direct deal.

TRANSFERRING RIGHTS

- Artists/songwriters and their business partners/service providers/societies agree to share any money generated by their copyrights subject to a rate card or bespoke deal.
- How the money is split can vary greatly, depending on the nature of the relationship, the risks the business partner takes, the services it provides, and the specific terms of the deal.
- The way the money is split may be simple - eg everything 50/50 - or it may be complex, eg different royalty rates, discounts, deductions.
- The key question to always ask: “50% of what?”

PERFORMER RIGHTS

- Copyright usually provides certain rights to performers over their sound recordings, even when they are NOT the copyright owner.
- Key performer rights under UK law: approvals and Performer ER.
- The Performer ER rule says that any artist involved in the creation of a sound recording is due 'equitable remuneration' when income is generated by specific uses of that recording (usually performing rights).
- This applies to featured artists, session musicians and sometimes the record producer, and exists oblivious of any contracts between those people and the label (and cannot be assigned or waived by contract).
- This royalty is usually paid direct to artists (ie not via the copyright owner). Performers may have their own CMO to administer this, though in the UK it is handled by the record labels' society, ie PPL.

PERFORMER ER

ARTIST PAID ROYALTY ACCORDING TO RECORD DEAL

REPRODUCTION

DISTRIBUTION

RENTAL

ADAPTATION

PERFORMANCE

COMMUNICATION

ALL PERFORMERS DUE ER VIA INDUSTRY STANDARD ER SYSTEM

QUESTION FIVE: WHO TOUCHES THE MONEY?

MIDDLE MEN (AND WOMEN)

- Money generated by music rights will flow from user through business partners to artist and songwriter.
- But are there any middle men?
- Not all labels have their own distribution infrastructure, so there may be a distributor between the retailer/service and the label.
- Not all labels and publishers operate globally, so they may sub-license rights to a local label or publisher in some territories.
- Even where labels and publishers are global, there will likely be a network of regional divisions/subsidiaries, who may act as if middle men.
- CMOs traditionally focused on licensing/collecting monies in home territory, and then had reciprocal agreements with other CMOs worldwide.

MONEY FLOW

- SERVICE > LABEL > ARTIST
- SERVICE > CMO > SONGWRITER
- SERVICE > DISTRIBUTOR > LABEL > ARTIST
- SERVICE > LABEL'S US DIVISION > LABEL'S UK DIVISION > ARTIST
- SERVICE > CMO > PUBLISHER > SONGWRITER
- SERVICE > CMO > SUB-PUBLISHER > PUBLISHER > SONGWRITER
- SERVICE > CMO LOCAL TO LICENSEE > WRITER'S CMO > SONGWRITER

PASS-THROUGH LICENSING

- Where recorded music is involved, publishers might license the label, or the end-user.
- Former approach the norm in physical product, in digital publishers and CMOs have generally sought to deal with platforms direct.
- But songwriter's money may pass through a label before being passed through to the music publishing sector and onto the writer.

So...WHERE'S MY
FUCKING MONEY?
ASK THE FIVE QUESTIONS

THE FIVE QUESTIONS

1. Which copyright?
2. Which controls?
3. Direct or collective licensing?
4. Who pays the artist/songwriter?
5. Who touches the money as it flows through the system.

LET'S APPLY THE QUESTIONS TO SIX KEY REVENUE STREAMS

PHYSICAL
PRODUCT

BROADCAST/
PUBLIC
PERFORMANCE

DOWNLOADS

STREAMS

LIVE
PERFORMANCE

SYNC

PHYSICAL PRODUCT

1	RECORDING RIGHTS	SONG RIGHTS
2	REPRODUCTION & DISTRIBUTION	REPRODUCTION & DISTRIBUTION
3	DIRECT LICENSING	COLLECTIVE LICENSING
4	LABEL OR DISTRIBUTOR	DEPENDS ON COUNTRY COULD BE PUBLISHER OR CMO
5	RETAILER > DISTRIBUTOR > LABEL > ARTIST	RETAILER > DISTRIBUTOR/LABEL > CMO [> PUBLISHER] > SONGWRITER

BROADCAST/PUBLIC PERFORMANCE

1	RECORDING RIGHTS	SONG RIGHTS
2	COMMUNICATION or PERFORMANCE	COMMUNICATION or PERFORMANCE
3	COLLECTIVE LICENSING	COLLECTIVE LICENSING
4	PERFORMERS ARE DUE ER SO PAID VIA PERFORMER ER SYSTEM	CMO WILL PAY AT LEAST 50% TO SONGWRITER DIRECT
5	LICENSEE > LOCAL CMO [> ARTIST'S CMO] > ARTIST	LICENSEE > LOCAL CMO [> WRITER'S CMO] > SONGWRITER

DOWNLOADS

1	RECORDING RIGHTS	SONG RIGHTS
2	REPRODUCTION & COMMUNICATION (technically MAKING AVAILABLE)	REPRODUCTION & COMMUNICATION (technically MAKING AVAILABLE)
3	DIRECT LICENSING	IT DEPENDS ON COUNTRY / PUBLISHER
4	LABEL OR DISTRIBUTOR	DEPENDS ON COUNTRY COULD BE PUBLISHER OR CMO COULD BE TWO CMOs INVOLVED ie THE PRO AND MECHANICALS SOCIETY
5	DOWNLOAD STORE > DISTRIBUTOR > LABEL > ARTIST	IT GETS COMPLICATED...

STREAMS

1	RECORDING RIGHTS	SONG RIGHTS
2	REPRODUCTION & COMMUNICATION (technically MAKING AVAILABLE?)	REPRODUCTION & COMMUNICATION (technically MAKING AVAILABLE?)
3	DIRECT LICENSING	IT DEPENDS ON COUNTRY / PUBLISHER
4	LABEL OR DISTRIBUTOR	DEPENDS ON COUNTRY COULD BE PUBLISHER OR CMO COULD BE TWO CMOs INVOLVED ie THE PRO AND MECHANICALS SOCIETY
5	STREAMING SERVICE > DISTRIBUTOR > LABEL > ARTIST	IT GETS COMPLICATED...

SONG RIGHTS IN STREAMS

- Some differences in the US...
 - Pass through licensing on downloads.
 - Downloads considered just a reproduction.
 - Personalised radio considered just a performance.
- Meanwhile in Europe...
 - All digital income split between mechanical and performing rights.
 - In some countries that means two societies involved.
 - Big five publishers increasingly license Anglo-American repertoire directly through JVs with the collecting societies - JV partnership needed because the publishers control the mechanicals, the CMOs the performing rights.

RECORDING RIGHTS IN STREAMS

- Should Performer ER be paid on streams?

PERFORMER ER

ARTIST PAID ROYALTY ACCORDING TO RECORD DEAL

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ALL PERFORMERS DUE ER VIA INDUSTRY STANDARD ER SYSTEM

COPYRIGHT CONTROLS

REPRODUCTION

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COMMUNICATION

MAKING AVAILABLE

RECORDING RIGHTS IN STREAMS

- Should Performer ER be paid on streams?
- Should Performer ER apply to ‘making available’ as well as ‘communication’?
- Is a stream ‘communication’ or ‘making available’?
- This is very much of debate!

LIVE PERFORMANCE

1		SONG RIGHTS
2		PERFORMANCE
3		COLLECTIVE LICENSING
4		CMO WILL PAY AT LEAST 50% TO SONGWRITER DIRECT
5		LICENSEE > LOCAL CMO [> WRITER'S CMO] > SONGWRITER

SYNC

1	RECORDING RIGHTS	SONG RIGHTS
2	REPRODUCTION & DISTRIBUTION or PERFORMANCE or COMMUNICATION	REPRODUCTION & DISTRIBUTION or PERFORMANCE or COMMUNICATION
3	TV USUALLY COLLECTIVE OTHERS USUALLY DIRECT	TV USUALLY COLLECTIVE OTHERS USUALLY DIRECT & COLLECTIVE
4	TV VIA CMO OTHERS VIA THE LABEL	WITH ADS & FILMS INITIAL SYNC INCOME COMES VIA THE PUBLISHER BUT SUBSEQUENT PERFORMANCE OR COMMUNICATION INCOME VIA CMO
5

DOWNLOAD THE
CMU INSIGHTS SLIDES AT
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