Digital Media
ASSOCIATION

2021 Music Business Economics:
CRB Rate Proceedings & Today's Music Industry Landscape

Copyright Royalty Board (CRB) proceedings determine the royalty rates that digital streaming services and record labels must pay to music publishers for the rights to reproduce and distribute musical works. DiMA members yesterday filed various papers as part of the process to determine those rates for 2023-2027.

Comment from Garrett Levin, President and CEO: "The headlines each and every day demonstrate how much streaming and streaming services continue to drive ever-growing revenues for publishers and performing rights organizations, massive investments in publishing catalogs, and innovative tools and features that connect songwriters to fans in ways never possible before.

This CRB proceeding, like any other, does not happen in a vacuum. 'Mechanical' licensing is just one of the multiple, necessary licenses for streaming services within a single segment of publisher and songwriter revenue streams. And that itself is one segment of the complete digital music economy. The current proceeding comes at a time of sky-high valuations for all forms of music rights, more creators delivering more music to fans at the push of a button, and an increasingly vocal conversation throughout the world about the most equitable allocation of streaming royalties between recordings and songs. That is the broader lens through which this proceeding – and the interconnected nature of today's music industry -- should be considered."

Essential additional context: the relationship and dynamic economics between creators, rightsholders and streaming services is affected by several factors, including:

Streaming is the reason that the music business is growing. Music fans now generate well over $10 billion for the music industry annually through their embrace of the "everyday miracle" of streaming, with the bulk of that money being paid out to rights holders and administrators. That's why publishers reported a nearly 10% increase in member revenues in 2020, reaching $4.1 billion for the year. And in the first half of 2021 alone, recorded music revenues grew 27% to $7.1 billion from the same period in 2020, with streaming accounting for 84% of total revenues. One analysis has found that the three majors are generating over $2.5 million in combined recorded music and publishing revenues every hour of every day. As analysts noted over the last year: "music has been able to prove itself out this year as being uncorrelated to the overall marketplace" and "music industry revenues [are holding up] relatively well compared to other industries during the COVID-10 pandemic." We proudly credit -- first and foremost -- talented artists and songwriters for that feat, but it is also the result of significant investment by the streaming services in consumer-friendly experiences that attract and retain fans in a hyper-competitive digital landscape.

Streaming-led growth is driving major IPOs, headline-grabbing catalog sales, and bullish investments throughout the industry. From UMG's recent blockbuster IPO, to the deluge of catalog acquisitions by hedge funds and private equity firms that continue to pour capital into the music industry, the value of music and music rights as an asset has never been more significant than it is today. That is undeniably attributable to the value proposition of streaming and digital music services: the convenience, ease and value to consumers all yielding expectations of stable, predictable, and growing revenues. And the effect is significant, spanning the musical works of both current and older songwriters as ease of discovery allows fans to expand their music listening. Billboard captured the dynamic well, noting that streaming had ignited a renaissance for a music industry that less than two decades ago had been decimated by piracy. "Now as other music companies consider going public they'll have UMG's head-turning debut to point to before testing the waters. That'll fund future acquisitions and give existing shareholders an exit plan -- meaning more big paydays for executives and lucrative deals for rights holders."

Digital music services pay rights holders and administrators, who in turn pay songwriters and recording artists according to their own agreements. The rates determined by the CRB govern royalty payments to a publisher. The publisher then pays a songwriter according to its own agreements, just as royalties on the sound recording side are to a record label, which is then responsible for paying artists according to their own agreements. For a better understanding of how money flows through the music system from a streaming service, see here.

What is the proper allocation of the money that digital music services pay out to rightsholders? The balance of payouts between recorded music and publishing is increasingly noted by various colleagues and industry observers -- Hipgnosis, Billboard, MBW, just to name a few -- and is relevant to the larger question of fair return for *all* participants in the music community. As Billboard recently wrote, "Two decades ago, the music business turned into a series of conflicts about whether recorded music would continue to generate significant revenue in a digital marketplace. For years it has been clear that it will, and optimism about how much keeps on rising. What still hasn't been settled entirely is how that revenue will be divided — among labels and distribution startups, but also between labels and publishers and labels and artists."

Ratesetting proceedings are common occurrences. A CRB proceeding is one of many similar proceedings that help ensure that the music distribution system works efficiently and effectively. Licensees and rightsholders, including radio broadcasters, satellite radio companies, non-interactive streaming services, music publishers, songwriters, record labels, recording artists, and their associated representatives, present their legal and economic arguments in various such proceedings, and the CRB applies the relevant law. The participants differ depending on the rights at issue, but these proceedings are a well-established feature of modern music licensing. For years before streaming began (and still to this day) music publishers and record labels argued on opposite sides of the same ratesetting process for the same rights that are at issue in this proceeding. In fact, earlier this year, the publishers and labels filed a proposed settlement of the proceeding, agreeing to keep unchanged the royalty rates that labels pay to publishers for digital downloads and physical products such as resurgently popular vinyl albums.

Music is a singles-driven business with multiple songwriters on each hit track. The digital unpacking of the album is not a dynamic unique to streaming nor is the distracted attention span of fans unique to music. That reality is undoubtedly connected to the larger digital media landscape, where we constantly scroll on our phones through short-form content. For songwriters, it has meant that instead of writers of all the songs on an album sharing in the royalties generated by a CD sale or download, royalties are only payable for those songs that are streamed. Additionally, the number of songwriters contributing to hit songs has grown astronomically. According to a recent analysis by Rolling Stone: “over the last decade, only 4% of the year-end Top 50 songs have come from an individual” and “it takes, on average, five writers to write a hit song.” That is a significant change from the CD era of 20 or 30 years ago and affects the ultimate payouts to our creator partners.

Streaming and other technological innovations enable an avalanche of new music and bring new creators into the music economy. Thanks to innovations in recording technology and the unlimited shelf space of streaming services, tens of thousands of songs are uploaded daily and made available to fans. The membership rolls of creator organizations are exploding and competition for fans’ attention is fiercer than ever. As the economist Will Page put it in a recent submission to the UK parliament, “There is more money available but also so many more mouths to feed.”

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