

Problems in the music industry

[Art & Culture](#), [Music](#)



The music industry is traditionally split between recorded and live music ticketing, each with their unique and inefficient practices nullified with the advent of the internet. SoundEon's novel approach to resolving the hurdles faced by artists and fans on and offline requires the blockchain platform to natively address these market frictions layer-by-layer. Hence below, we set forth to discuss the most pressing problems in recorded rights management and distribution, followed by, live event ticketing (otherwise known as touring). This section concludes with an explanation of the massive disconnect that exists between recorded and live music and the enormous value potential from using blockchain to integrate these traditionally segregated aspects of music industry.

Recorded music dates back to the early 20th century with the advent of disruptive sound recording technologies. The industry as we know it today was formed in the 1960s as breakthrough communication technologies developed in World War II came to mass market. As music became big business, artist's record and publishing contracts grew more convoluted. To this day in the United States, royalty contracts fall into two categories: income/profit sharing model is used in publishing agreements governing authorship rights and the per-unit royalty model adopted by record companies. After a decade in decline the \$15.7 billion music market is undergoing a resurgence. However, much of this success has foregone the actual artists, as the Research Institute of the Finnish Economy put it: "royalty payments have moved from pennies-per-purchase to micro-pennies-per-stream."

Contemporary music publishing agreements contribute 65 to 85 percent of the aggregated net publishing income to the songwriter. Seemingly straight forward at first glance, and an improvement since the burdensome 50/50 profit split agreements that were common pre-1980. However, to this day the “cost deduction” clauses remain the favorite trade trick of publishing royalty sharks. Such clauses are infested with inflated or purely arbitrary terms which govern advances, administrative costs, and restrictions.

Publishing is further complicated by jurisdiction. For instance, in the U. S., the world’s largest music industry market, the 1909 Copyright Act of Congress formed what is known in the music trade as “compulsory licenses” for mechanical rights that are set by the Copyright Royalty Board for song reproduction. As of 2017, this license fee was set at 9.1 cents (or 1.75 cents per minute for songs exceeding 5 minutes) for each reproduction. Yet in practice, compulsory licenses are only used as pricing benchmarks for mechanical rights. Due to burdensome administrative provisions publishers find it easier (and often cheaper) to license their copyrights directly.

26 January, 2018, Copyright Royalty Board has issued increases for mechanical and performance royalties to publishers and songwriters. Historically PROS (responsible for performance royalty collections received circa 50% of royalty pool, remainder going to publishers and so.

Labels often try to reduce publishing royalty obligations with various techniques, such as paying for mechanical licenses only on product sold rather than shipped (often with generous spoilage rates) or avoiding paying mechanical licenses altogether by for music sold through record clubs. Such

techniques not only reduce the optimally intended paychecks to songwriters but also stall payments for many months.

Having shown in this brief overview how clustered with loopholes complicated publishing contracts are, this complication is compounded as we expand to other jurisdictions. For instance, United Kingdom has no compulsory licensing and only the first mechanical license is required (rightfully obtained with copyright owner's permission). In the U. K., mechanical rights rates are a percentage of a records price (unlike in the U. S.) and are negotiated by the Mechanical Copyright Protection Society. MCPS collects 8.5% of the highest price paid by retailer for the record or 6.5% of retail excluding VAT. MCPS also categorizes licenses as AP1 or AP2 based on the creditworthiness of the licensee and this is where things get even more convoluted.

Across Europe, the Bureau International de l'Edition Mecanique (BIEM) negotiates rates on behalf of 55 societies across 59 countries (including EU members), charging 9.009% of published price to dealer (PPD) [rather than the sticker price] for mechanical rights. These jurisdictional variations are the bread and butter of mechanical rights collectors whose administrative fees vary from 5% to 20% of collections. Once the publisher collects their approximate 50% stake in mechanical royalties, and administrative fee is paid, the songwriter is left with peanuts.

Delays in rightful payments by public rights organizations (PROs) to songwriters is a longstanding fact. Payments may be made regularly, however, these disbursements may reflect uses years previously. Unclaimed

royalties are placed in escrow, pooled and ultimately divided arbitrarily by those who claim their royalties. Within the music business this appropriation and distribution is simply called the “black box.” Beyond registering with every mechanical rights organization in the world or going through an intermediary administrator who often charges up to 20% in collection fees, the rights owner needs to undergo through a separate and burdensome process to collect royalties from interactive players.

Interactive players constitute those which play songs on-demand, the likes of Spotify and Deezer (excludes Pandora and radio) which pay royalties based on the geographic location of the stream occurring. In the U. S., this figure stands at \$0. 0008 per stream. However, the artist will not receive this additional income stream unless he or she registers directly with the interactive streaming platform since no complete publishing rights platform exists in the world – as Spotify found out in 2017.

In 2017, Spotify reached a \$43. 45 million class-action settlement in *Ferrick v. Spotify USA Inc.* to compensate songwriters and publishers for streaming unlicensed compositions. In 2016, a similar situation occurred when Spotify agreed to a private settlement with The National Music Publishers’ Association for \$30 million. This situation exemplifies the broken system of mechanical rights management in the U. S. Whereas performing rights are managed by the PROs (BMI, ASCAP, SECAC and GMR) – mechanical rights are governed by the statutory licenses. The lack of a single comprehensive database of rightful mechanical rights owners means that the streaming

platform need to identify each owner manually. An incomprehensible feat for a purveyor of 30 million tracks.

Having been sued over the years for \$1.6 billion dollars, Spotify is turning to blockchain for the solution. In 2017, the streaming service acquired Mediachain, a Brooklyn-based startup developing a decentralized rights management system. So far Spotify has been under fire as the posterchild representing the booming streaming industry. According to IFPI, digital streaming revenues in 2016 alone surged by 60.4%, the trailblazer behind a 5.9% global recorded music market growth, – the highest rate in history. The National Music Publishers' Association estimates that as much as 25% of U. S. streams are unlicensed. Unpaid publishing rights remains a broken system and as physical sales fall and online streaming takes center stage, songwriters and publishers are shortchanged. In late January 2018, the Copyright Royalty Board has increased the mandatory publishing payment for interactive streamers to 15.1% (from 10.5%) of revenue. An achievement for the songwriter. However, that makes proper and swift mechanical royalty administration ever more important.

There are hundreds of copyright collection societies and companies worldwide that focus on publishing rights, not to mention hundreds more that cover public performances and neighboring rights (our next discussion). Industry pioneers are turning to blockchain for the solutions to problems barring industry's growth, namely rights administration. In this low trust environment, a decentralized immutable ledger presents a real use case in this environment deprived of trust.

Over the past two decades, the mass adoption of the internet has transformed both, the way media is recorded and distributed. Not all media industries have embraced new opportunities arising from novel technologies to their fullest potential. Case in point, the \$15.7 billion recorded music industry stumbles to shed their archaic, inefficient and convoluted practices and evolve into modernity. Over a decade in market decline, consolidation and monopolization has aggravated the music industry's competitiveness. Today the so called "major labels" or "Big Three" (Universal, Sony, Warner Brothers) control 68.7% of the industry. In turn, each of the "big three" own their distributor jointly known as "major distributors." As with record labels, consolidation left only three "major distributors" one for each "major label." This points to the extremely immense degree of supply chain control these incumbents can and do exert. Major distributors distribute on behalf of their in-house labels, as well as major-distributed independent labels. Even independent distributors are owned by major labels (RED by Sony, ADA by Warner, etc.). Marketing strategies intended to portray uniqueness and appeal to specific music genre fans coat the degree of to which the recorded music industry, by in large, constitutes a mass market factory line, controlled by an oligopoly.

In part, this oligopoly was formed due to the high administrative and legal costs associated with running a label or distributor with global ambitions. More accurately these high costs are the consequence of market frictions within recorded music industry as a whole. The lack of transparency, trust and accountable data (as we've previously shown with publishing rights)

within recorded music rights management not only allows but promotes for this extraordinary concentration of power in the hands of few.

Universal, Sony, Warner Brothers not only control nearly 70 percent of the label market, their oligopoly permeates the entire recorded music market. Let's look at how harmful the status quo is.

Oligopolistic behavior – archaic market frictions exacerbated by industry's inability to keep up in the digital age has led to a de facto oligopoly where true independent artists face difficulties in staying independent. Signing to a major label, often on disadvantageous terms, remains the right of passage for up and coming and discovered artists. Those that were able to remain independent are faced with the challenge of outmaneuvering majors, their distributors and other related entities on a daily basis. Case in point, placing their albums on storefronts, both digital and offline. This is because the most discoverable shelves are presold to major distributors.

Another favorite trick of the “Big Three” is the concept of “breakage”, dubbed the “black box” (there is more than one in the music business). Namely, the labels sign contracts with streaming and digital storefronts (including Spotify, Google Play) that oblige up-front payment to the label. At the end of the contract there is a difference between the advance and actual use. Labels tend to pocket this difference as they renegotiate new agreements.

Aside from demanding huge-prepayments and ultimately pocketing the unearned revenues, the sheer scale of “Big Three” publishing houses gives

Universal, Sony, and Warner Brothers, according to Forbes, \$300 million in revenue from “unattributable” publishing royalties (though the arbitrary process previously described).

Simply put, it is nearly impossible for an artist to reach their fan and generate sales, on a global scale, without entering the labyrinth of middlemen paying dividends to the “Big Three.”

Such behavior is manifested in both, demanding equity for use of services as well as buying startups at inflated (hence usually undisclosed) valuations. Whatever the strategy is, the startup’s threat of disrupting the industry is prematurely neutralized; whether done so intentionally or due to misaligned incentives.