



LAW ADVOCATE GROUP, LLP

9701 Wilshire Blvd. Suite 1000 Beverly Hills, CA 90212

Phone: 310-651-3065 Fax: 310-601-7110

www.LawAdvocateGroup.com

Doron F. Eghbali Entertainment Law

[What Are Some Basics of Music Publishing Income?](#)

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With the advent of wholly newfound media and the ease to pirate songs, any meaningful tangible income from music publishing has drastically diminished. Consequently, it is incumbent upon music participants including but not limited to publishers, singers and songwriters to ascertain the fundamentals of music publishing income to some extent to monetize their hard earned commodity. In this article, we explore some of the salient types of music publishing income namely mechanical royalties, performance income, and synchronization income, to some extent.

SOME BACKGROUND ON MUSIC PUBLISHING

Undoubtedly, music publishers possess an inextricable indispensable role in music publishing. Music publishers select how, when, where or even if particular songs are to be published. Such music publication could be distributed over the internet digitally, physically sold, played on radio, TV, ringtones, concerts, printed media, musicals, Broadway, video games, etc.

It is salient to remember song has a distinct separate bundle of rights attached to it. Such distinct legal characteristic sets apart the song if it is performed on the stage or it is the soundtrack to a film.

Publishers, invariably, monetize a song through FOUR main sources:

1. MECHANICAL ROYALTIES

Mechanical royalties are derived from mechanical licenses. Mechanical licensing is the licensing of copyrighted musical compositions for use on CDs, records, tapes, etc. In other words, publisher by permitting others to use what the publisher owns through copyright perhaps partly, earns income. Such income, customarily, is split evenly among publisher(s) and songwriter(s). Consequently, "mechanicals" are monies derived from reproducing the song mechanically on discs.



A) DIGITAL PHONOGRAM DELIVERY (DPD) LICENSES

Digital performance Right in Sound Recording Act ("Statute"), enacted in 1995, sought to provide a vehicle for digital delivery and reproduction of sound recordings. The Statute created Digital Phonogram Delivery ("DPD") license as a counterpart to mechanical royalties with the same rate, terms and conditions. Nonetheless, despite many similarities between DPD and Mechanical Licenses, each applies to its own method of delivery. Technically, Mechanical Licenses DO NOT apply to digital media, unless the license states otherwise. Nonetheless, for the purposes of this article and simplicity, we use DPD and Mechanical Licenses interchangeably.

It is customary for publishers to license records to record companies under a "compulsory" mechanical license. After publisher allows release of a record embodying the composition, the record becomes available to any user under the Copyright law. Congress rationale was since a song enters public consciousness and becomes popular, publisher should not have a music monopoly on that particular song. Accordingly, Congress mandated Mechanical Licensing rates or Mechanical Royalty Rates for publisher to receive for physical recordings (such as CDs) and digital downloads. Such rates currently are 9.1 cents for recording of a song 5 minutes or less and 1.75 cents per minute or fraction thereof for songs over 5 minutes.

It is salient to note, despite, the statutory rates set out above, subject to change every couple years or so, publishers and record companies still negotiate mechanical royalty rates due to the rigorous requirements under the Copyright Law for compulsory licensing and their applicable accounting. In fact, compulsory licenses are required to be issued and verified by user for accuracy and many artists record previously unrecorded works thus compulsory licensing is not available.

B) CONTROLLED COMPOSITIONS

Often, mechanical royalty rates, set out above either statutorily or by negotiation, do not account for the fact one or more of the songs are controlled compositions. Controlled compositions are songs the artist records and the artist is the writer, publisher of the song or producer of the record. Record companies in the US as a condition of signing an artist, often dictate paying much lower mechanical rates for controlled composition. The rates for controlled composition would be approximately 75% of the applicable MINIMUM statutory rate.

C) FURTHER LIMITATIONS ON PAYMENTS OF *AGGREGATE* ROYALTY PAYMENTS

In addition to the controlled compositions as a means by record companies to increase their own share and proportionately reduce that of the singer/songwriter, they also limit the mechanical royalty participation they pay regardless of playing time or the number of songs on the record.

In other words, record companies, regardless of how many songs a record has or each songs' playing time, often pay an aggregate royalty payment based on the following formula:



- The Record Companies pay 10 times 75% of the applicable minimum statutory rate on an album.
- The Record Companies pay 2 times 75% of the applicable minimum statutory rate on single records.
- The Record Companies pay 3 times 75% of the applicable minimum statutory rate on long play singles.

Mechanical Royalties are usually split equally between publisher and writer.

2. PERFORMANCE INCOME

Performance income is the money collected from performing a song either at a bar, or radio, TV or in a movie. Accordingly, there are two kinds of performance income, "Grand" and "Small". Grand Performances would refer to use of a song in a dramatic or theatrical performances. Small performances would refer to the use of a song at a bar, restaurant, store, on radio or TV.

A) PERFORMING RIGHTS ORGANIZATIONS

As opposed to Mechanical Royalties, writer and publisher directly receive their performance income through performing rights organizations. In the US, there are three major performing rights organization that had been set up to handle such licenses and the ensuing income. BMI (Broadcast Music, Inc.), ASCAP (American Society of Composers, Authors and Publishers), and SESAC (formerly known as Society of European Stage Authors and Composers) are the major performing rights organizations.

The salient rationale for existence of such performing rights organizations is the myriad of music performances on a daily basis and related music users.

BMI and ASCAP are larger than ASCAP. All three, generally, collect a royalty or commission as a percentage of the ADVERTISING revenue they collect by giving radio TV stations a "blanket" license to use all the songs in their repertoire.

Publisher and Writer MUST be affiliated with and members of such performing rights organization to effectively receive mechanical royalties. In addition, for practical purposes, both publisher and writer MUST belong to the same performing rights association.

3. SYNCHRONIZATION INCOME

Synchronization in such context refers to the RIGHT to control the use of songs with visual images in a film or TV production or in a TV radio commercial or video game. Such right under the Copyright law belongs to publisher.



Synchronization income is generally collected by publisher and divided EQUALLY between publisher and writer. As such, to use a particular song, TV or radio must obtain license from publisher before they could legally exploit it.

Accordingly, film producers seek to obtain licensing of a song in perpetuity to foreclose any attempts by publisher to frustrate the wide distribution and monetization of their motion picture in the long term in disparate media. Consequently, such fees may range from \$10,000 to \$1,000,000 all depending upon the strength of composers and their stature in music and motion picture industries. Such fees include all synchronization fees paid to the composer.

If a song is composed specifically for a film, such composer would obtain as much as \$100,000 or even more if the motion picture is based on the title of the song. The composer might be able to reserve some portion of publishing in the composition.

SALIENT CAVEAT

This article NEITHER supplements NOR supplants the breadth or depth of such esoteric topic. In fact, this article only provides a rather rudimentary synopsis of such expansive esoteric subject matter.

***DORON EGHBALI** is a Partner at the Beverly Hills Offices of Law Advocate Group, LLP. Doron Primarily Practices Business, Real Estate and Entertainment Law. Doron Can Be Reached at: 310-651-3065. For More information, Please, Visit: HERE.*