

IMMF STATEMENT

Music videos and money

Following the great press response of the IMMF statement "Transparency and Fairness in the digital music value chain", the IMMF now releases a second statement, which goes more into detail. This time the focus is on the investment of record companies and publishing companies into various music platforms. Following the IMMF's directives of Transparency and Fairness it will be discussed if these actions have an impact on the interests of artists by considering if those deals are monetized to the benefit of the artists, too.

1. Introduction

Artists use videos to promote and engage. The managers of the IMMF like music videos, even if they always end up as a cost on the artists balance sheet, and we are not always clear on the terms under which they have been monetised. We welcome digital services, but we can all recall a time when there were considerable issues with the functionality and purpose of many, many services. Today we sanguinely foresee great chances for the tech companies, creative industries and fans - if the artist won't be forgotten. It's our job as managers to seek better terms for the artists.

2014 has been a mile stone in the evolution of the digital music market: We have seen significant moves that suggest that we are reaching a new stabilised era for music business models and for how consumers access music. A lot of music in the digital space is monetised these days, and as consumer numbers (eyeballs as well as ears) stabilise we now get into the next phase of the development of the market. We are now at a point where services like SoundCloud are broadly seen as participants in the same ecosystem that fully licensed services like iTunes operate in. Streaming exists somewhere between traditional record stores, and traditional broadcast media, and it disrupts both. Major players like Amazon, Apple, Facebook and Google have made moves in the streaming music space.

Subscribers also want access to the artists. Advertisers want to reach the artists audience, that audience congregates around music content. Artists and their music have a value.

2. Deals between artist, rights holders and digital services

The deals between artists and labels, and the deals between artists and publishers are at their core an agreement to monetise music. Each "music rights holder" signs a contract with the artist that specifies what share of the money generated from the exploitation of the music rights that the rights holder needs to pay to the music creator. **Clearly any monetisation that a label or publisher creates which is based on exploiting the music, should be shared (under the terms of the signed agreement for exploiting music) with the artist who created the music.**

The music rights holders again make agreements with music service providers who deliver the music to the consumer. We assume that ALL aspects of the deal are about the various elements and technicalities of exploiting the music. Is ALL the value won in the negotiations by the rights holders shared with the artist?

Artists tend not to see the deals that are being done between the services and rights holders who represent the artist's music. The artist relies either on trust or on expensive auditors and lawyers to ensure that they (the artist) are getting their fair share of the value that the music rights generate.

Instead of mystery deals there must be an obligation, a responsibility for absolute transparency when rights are assigned. It's impossible to prove a fair remuneration without transparency.

3. Music buyers and sellers, who owns who?

Let's take Vevo as an example to illustrate how right holders invest in digital platforms. Vevo's audience has been built by built by music videos, so it is 100% a music service. Clearly the audience watching Vevo gathers there for the artists and the music, and not for the labels, the publishers, or for the Vevo brand. If at a future date Vevo focuses less on music and more on reality shows, or Vevo allows the world greater access to funny videos of cats, its core audience will still have been built by the artists and the artist's audiences. The production of music videos and the music in them is usually created at a cost to the artist.

Here are the owners of Vevo¹:

- Universal Music Group
- Sony Music Entertainment
- Google
- Abu Dhabi Media

We think that Google and Abu Dhabi Media do not have exclusive recording agreements with the artists whose videos are licensed to Vevo, we know that Universal and Sony often do. We also know that a lot of videos by artists signed to independent labels are available on Vevo.

Are the independents boosting Sony and Universals share prices by licensing music and videos to Vevo? Does Vevo pay higher shares of ad revenue to rights holders than YouTube? What are the deals that have been done that see independents licensing to a Sony, Universal, YouTube platform?

If Vevo is sold, the equity that belongs to music rights holders Universal and Sony will probably be converted to cash. Will a share of that cash be distributed to artists on a pro-rata basis depending on which videos have been viewed the most? If Vevo is not sold, then the value that the asset (Vevo equity) adds to the labels bottom line is hard to convert into value for the artists, and artists don't always stay in contracts with labels for ever.

What about other music services, is this equity thing only something that some majors do? According to Forbes: "Spotify granted equity stakes to the largest music labels Warner, Universal, [EMI] and Sony and Merlin. Industry sources put their collective cut at nearly 20%." Merlin is the worldwide *independent* record labels network.

Why did Spotify grant these equity stakes? Do labels and publishers have a commercial value outside of the music they exploit? Are Spotify going to sell T-Shirts featuring Merlin and Warner's logos? Of the hundreds of thousands of labels and music publishers that trade, how many have a strong enough

¹ A. Sherman, J. Erlichman (2014), <http://www.bloomberg.com/news/2014-04-29/vevo-owners-said-close-to-hiring-goldman-to-explore-sale.html> (accessed Sep 16th 2014)

brand that they can sell T-Shirts based on their own identity, without reference to the music, or the artists? We think that examples of labels as brands like Deutsche Gramophon or Motown are rare, they are the exceptions.

We wonder if sometimes music services are offered two deals for the value a music rights holder can deliver to a music service. According to some sources it would sometimes appear that one payment from the service is a royalty attributed to the music, and a second "payment" from the service to the rights holder is a general payment, it is for "marketing support" or for "technical assistance"; or some other exchange of value occurs such as the rights holder being granted an equity stake in the service!

Why do the music rights holders strike deals with services where the value is not attributable to the music? Either the services value the labels and publishers for something that is not covered in a deal for "the music", or else... We can't figure it out. It's a mystery to us.

Where the rights holder has signed agreements to **share all monetisation of that music** with the artists and where a rights holder (label/publisher) is **valued entirely by the music that they have the rights to**, then the artist would obviously have a vested interest in seeing the rights holders secure better terms from music services.

Some unsubstantiated rumours about SoundCloud are that they will trade legal covenants not to be sued by the labels in return for equity. If labels were thinking of suing SoundCloud would that hypothetical action be over uncleared uses of the labels own brands and logos, or would it be over uncleared use of music? It's Music that the labels have agreed to exploit for their "partners" the artists. If a label can sue a service for using unlicensed music, can an artist also sue a label for exploiting music in a way that the label does not have the right to do?

It is often suggested to artists and managers that we should always side with music rights holders against outsiders like the music services who are not a part of the traditional music industry. It is said that if there is a dispute the traditional music industry should stick together. When Universal, Sony, Warner, and even Merlin appear to be part owners of music services and have an investment in the success of some of those services we get confused about who has what role, and whose interests are being served in the new music industry. As managers our job is to seek fairer terms for our artists. Do the labels and publishers support our position on transparency and fairness?

If the "music industry" wants to stand up collectively for artists, then the artists and their representatives need to know if issues that arise between rights holders and services over the terms for servicing music to consumers are also relevant where other stakeholders are concerned, we need to know if the standards called for will be widely applied.

4. Final word

We really feel 2014 is a good year and see amazing opportunities for music fans and for artists ahead as the digital ecosystem matures. We hope that all stakeholders in the music industry, be they music services like Spotify or YouTube, or music rights holders like Universal or Merlin make equitable deals, and that all stakeholders in the music industry can operate at all times with fairness and transparency towards the artists and the consumers.

We still have a lot of questions.

With kind regards,

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The following regional associations of artist managers co-developed and approved this IMMF statement:

AAM (Australia)

AMA (France)

IMUC (Germany)

MMaF (Belgium)

MMF Australia

MMF Canada

MMF Denmark

MMF Estonia

MMF Finland

MMF Ireland

MMF Italy

MMF Latin America

MMF Luxembourg

MMF Netherlands

MMF New Zealand

MMF Norway

MMF Portugal

MMF South Africa

MMF Spain

MMF Sweden

MMF UK

MMF US

MMF West Africa

About the IMMF:

The International Music Managers Forum (IMMF) is a non-profit organisation, which represents music managers and through them the artists (performers and authors) they manage. The core mission of the IMMF is to defend the economic and legal interests of artists on an international scale. The IMMF's vision is to create better international trade conditions for all artists across the world. The IMMF comprises regional music managers associations from North and South America, Europe, Africa and Australasia, representing +1.200 artist managers from +30 countries.

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