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1. Introduction

This case study will critically analyse and discuss business strategies and challenges related to the music and entertainment content on YouTube. It will look at the controversial topic of Article 13/17, discussing its history and what it means for Britain's future concerning YouTube, as an example of a social media platform. Using appropriate resources to support all of this, it will finally look at the differing opinions concerning Article 13/17 and YouTube licensing.

2. Article 13

2.1 - What is Article 13?

When discussing YouTube concerning music licensing and copyright, it is interesting to consider the controversial topic of Article 13, an example from past years. Article 13 was passed into law by the European Parliament on September 12, 2018. It was created to 'make the likes of YouTube and Facebook liable for copyright-infringing material on their platforms, thus challenging the 'safe harbour' protections such companies enjoy in the European Union' (Stassen, M., 2020). Article 13 was then renamed to Article 17 after negotiations in Europe about the 'wording of text', in 2018. However, the basic principles of article 13 were still included and carried to 17. Those concerned with this Article included: 'the global recorded music industry body IFPI and various associations representing creators, songwriters, composers, publishers and labels, including the UK's Music Managers Forum, CISAC, and the UK's Association of Independent Music', demonstrating its widespread impact on the music industry (Stassen, M, 2019). The vote was counted on the 26th March 2019, with '348 votes in favour, 274 against and 36 abstentions', and it was approved by the copyright directive. The official Article 17 vote was carried out and then approved by the EU Council on the 15th April 2019.

Below is a timeline of Article 13/17 and the key events which occurred, all sourced from the website 'Article 13' (TimelineArticle13., 2020):

1. 12.09.19: Article 13 was passed into law by the European Parliament
2. 26.03.19: The government counted the vote, and Article 13 was officially approved by the copyright directive.
3. 15.03.19: The official Article 17 vote was counted and then approved by the EU Council.
4. 18-24 months: Known as the 'transposition' period - this is where the European countries then had to create legislation which had to work with and be approved by their Directive.
5. Unspecified period: Business negotiations started to take place once the transposition period was over, and the laws were approved and in place. The negotiations were between the creatives (right holders) and the platforms (YouTube, Snapchat, Facebook).
6. 2021: An estimation that creatives will start to see the benefits of Article 17 by the year 2021 was made.

2.2 - Brexit impact

The controversy surrounding this subject is a result of Britain's decision to leave the European Union via Brexit as this, therefore, results in the UK's lack of obligation to comply with the EU Copyright Directive. The declaration, made in 2019, from British Conservative MP Chris Skidmore and Minister of State, stating that the UK in fact 'won't be implementing the law after all', supports the previous point. The government released information that all EU states have until the '7th June 2021 to implement the new reforms'; however, the UK will no longer be part of the EU by then. The controversy surrounding this topic stems from this. As the UK was part of the group of 19 nations who supported the law initially, the UK now does not have to comply, due to Brexit (BBC, 2020).

2.3 - Differing opinions

There are powerful and influential figures in the music industry, such as Annabella Coldrick who fully support Article 13/17. As head of the Music Managers forum, she claimed that the article would 'empower artists and creators, ensuring they have greater transparency and leverage in their licensing and contractual partnerships', furthermore stating it was 'really positive news' for the article to progress the way it did. Geoff Taylor, chief executive of BPI and the BRIT awards, also came forward to state that 'there needs to be a better balance in

the relationship between user-upload platforms and the creative community' and that the article is the way to make this achievable.

Another opinion in support of Article 13/17 was the collection society PRS. In support of its creatives, it stated 'It is time that YouTube takes steps to ensure transparency, accountability and responsibility on its platform once and for all. And it will never do so without clear and fair rules in place' (2019). YouTube's connection with copyright infringement puts companies like PRS at risk as if it is possible to watch and download music for free, then PRS's income decreases. PRS collects royalties for artists, so if an artists' music is being used and covered for free (YouTube), then PRS will arguably have a problem with this. If radios have to pay to play a song, then arguably, why does this not apply to a site like YouTube? Article 13/17 would have benefitted PRS, which is why CEO Andrea. C Martin commented on the government's plan. A year after the original statement (above), Martin voiced her concerns surrounding the government's plan to reject Article 13/17 when the UK leaves the EU. She stated 'in some areas the UK's current copyright framework is failing to protect creators. This lack of clarity will stifle the UK's creative sector – one of our engines for growth'. She continued, 'If our creator community is not going to benefit from the same level of protection as those in Europe, we urge the government to set out clearly and quickly how it will ensure the UK remains an attractive home for creative businesses and their rights' (Martin, A, 2020). Andrea Martin's opinion is a strong and common one when concerning other companies like hers in the music industry, as Article 13/17 (previously mentioned) would significantly benefit their organisations.

On the other hand, some disagree with the article. Matt Koval from YouTube's official channel 'YouTube Creators' released a video explaining what Article 13/17 would mean for YouTube creators. He also voiced his opinions on the matter, questioning whether the Article will be beneficial in the long run. He explained that 'while there have been improvements, we believe the final Article 13 will still hurt not help the European creators'. His reasoning behind this was due to unclear and ambiguous sections apparently left out in the final text; for example, what happens to content before YouTube received notice from right holders. He continued by stating that it is 'unclear what kind of content platforms like YouTube need to have licences for images, paintings, photos, what else?' and 'it's unclear if there are any new legal responsibilities for creators' (Koval, M, 2019). He ended the video by encouraging the viewers - mostly YouTube creators themselves - to reach out to members of parliament to voice concerns surrounding Article 13, doing so in advance of

the March vote in 2019. The consensus of the video was that Article 13 would hurt creatives, not help them, which is concerning considering the article was created in the first place to protect and aid creatives and their work.

Looking at other opinions concerning the article, it is important to discuss the artists themselves. Sir Paul McCartney has spoken openly about his views concerning Article 13/17 in the past, even going to the extreme of conducting a letter to send to MEPS to “uphold the mandate on Copyright and Article 13”. In his letter, submitted on the 4th July 2018, he stated, *“Today some User Upload Content platforms refuse to compensate artists and all music creators fairly for their work, while they exploit it for their own profit.”* He then continued by stating *“You hold in your hands the future of music here in Europe”*. Coming from such a well known and successful artist like Sir Paul McCartney, it shook the industry, referring to McCartney’s actions in Music Business Worldwide as ‘bringing out the big guns’ (MusicBusinessWorldwide., 2018).

Whilst it is clear that established artists have strong opinions on Article 13/17, it is essential to consider the positions of ‘unestablished’ artists as well. Whilst the likes of Sir Paul McCartney have their music effectively ‘stolen’, what about unsigned artists who are not on the scene of the music industry yet. YouTube is known, in the past, to be the place where many significant artists have been discovered. Being a platform for talent, millions of young artists use YouTube to release covers in the hope that one day a talent agent, manager, label etc., will ‘discover’ them - and for many, this does happen. Justin Bieber was found on YouTube and has now sold over 75 million records in his lifetime. He is one of the most prominent artists in the industry currently, being a huge asset and an inspiring artist for many others. Without YouTube, however, his managers may have never discovered him.

Another artist discovered was Shawn Mendes. He posted a cover on YouTube and shortly after signed to Island Records (2016). Both these artists are just examples of those who have used YouTube’s ability to release covers for free and are now huge names in the industry. Due to many different complications like financial or locational, there are many established artists who cannot afford to travel to audition for a label, for example. Or who cannot afford their own recording equipment to then release music on to Spotify? This is why for many unestablished artists, YouTube is an essential part of them being able to get their names out into the Industry. It, therefore, asks the question of how many artists will

never be able to fulfil their dreams due to Article 13/17. Whilst the Article benefits those of higher status in the Industry; it does not help those who are unsigned and independent.

3. Youtube stakeholders

Created in 2005 by 'three former PayPal employees-Chad Hurley, Steve Chen, and Jawed Karim', YouTube went on to be bought by Google in 2006 for \$1.65 billion. YouTube has managed to grow in viewership and popularity still since 2006, having an estimated value of '\$168 billion' currently (Boyka, M, 2020). Youtube has a variety of stakeholders: their creators, users, advertisers and right holders of the copyright content and music videos. Looking at the evaluation of YouTube on 'Business Model Navigator', it discusses the importance of the stakeholders, it's business model patterns and how YouTube is still very successful (Navigator, BM).

Advertisers - YouTube is free for anyone to use, and with an average of '5 billion videos' being watched every day it is important to discuss the advertisers, an important stakeholder. Before a popular video, there are usually several adverts which play either beforehand or mid-video. This is a part of where YouTube makes its money to keep running, from companies who advertise with a short clip to all those watching that specific YouTube video.

Creators and Users - In 2018, it was calculated that a total of '300 hours of video were uploaded to YouTube every minute'. This significant statistic shows how, for so many, YouTube is a crucial platform which allows creators to upload their content for free, therefore giving them an opportunity. Whilst it is imperative that creators upload lots of content, it is equally important that it is being watched. The biggest amount of viewership recorded in YouTube's history was when 10,113 videos amounted to over 1 billion views. It is clear that due to YouTube's vast demographic, there are videos uploaded every day, which arguably appeals to everyone - therefore meaning users are certainly watching enough.

4. Money and licensing

As previously looked at, Article 13/17's aim is to 'make the likes of YouTube and Facebook liable for copyright-infringing material on their platforms'. When considering the other

platforms - Instagram, Spotify, Apple Music, for example - they all pay the artists in order to use their creations, unlike YouTube. Looking at the picture below, it shows which copyrights and controls which can be exploited (Cooke, C., 2018, pp5-7)



Looking at this image, it shows the many different ways exploitation can happen concerning music. That is why radios, streaming platforms, live performance venues, clubs etc., all pay a license fee to prevent exploitation from happening. That is why it is crucial to consider and potentially challenge why this is inapplicable to YouTube. The image shows the importance of licensing. Due to 'new licensing models' it has meant that 'record companies, music publishers and collective management organisations have had to navigate copyright laws and other music industry conventions which were not specifically developed with the digital distribution of recorded content in mind'. However, YouTube has not been affected by this change - asking the question, why not? This is a significant factor in support of Article 13/17.

It is equally important to discuss YouTube's use of their Content ID - the unique software system that 'scans videos and compares them to material provided by copyright owners' (Cain, Miller, C., 2010, pp1-3). This system gives rights holders the choice of what to do if they feel copyright infringement is taking place. Either: take down the specified video, monetise the video or track the analytics behind the video for personal use (for example, where the video is most popular). Due to the mass amount of content being uploaded daily and that fact that it is a user-generated content platform, YouTube has cleverly been able to remove themselves from the responsibility of catching all copyright infringement cases and giving responsibility to the rights holders. This cleverly allows rights holders to keep up the copyrighted videos for their personal benefit - for example, if a successful YouTuber covered a song, most likely the original video's views would also increase at the same time as clearing YouTube from any infringement cases. Whilst this is still seen to benefit rights holders, it is still not enough as it should arguably be. In my opinion, just like the other platforms, YouTube should be paying its artists directly for their creations.

5. Summary

In conclusion, there is a clear divide between those for and against Article 13/17, depending on the angle or motive the party values most. Whilst it is fair that creators should be paid for their music being used, with previously mentioned Sir Paul McCartney fighting for this, it is important to consider the consequences for many other creators if an article like 13/17 was put in place. In my opinion, there needs to be a fairer way the government can allow YouTube to acknowledge and pay the artists for their works, but also encourage young creators and musicians to showcase their talents. Whilst both sides argue for completely different outcomes, it is arguable that there is one thing both sides agree on: that the worth of creators (established, or not) is not as appreciated as it should be in the music industry.

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