

Critically analyse and review business strategies, challenges and revenue mechanisms related to the commercialisation of music and entertainment content on YouTube

Index

1.	Introduction.....	2
2.	YouTube Business model.....	2
3.	Copyright.....	3
4.	Safe harbor.....	3
5.	Multi-Channel Networks.....	4
6.	Licensing and payment.....	4
7.	Value to independent artists.....	5
8.	Conclusion.....	5

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Introduction

YouTube is a video upload streaming platform launched in 2005 by former Paypal employees Chad Hurley, Steve Chen and Jawed Karim. The website was initially intended to be a video platform for users to upload video dating profiles, however this proved unsuccessful, as users instead began uploading different types of content to the platform (Leskin, 2020). As a result, the company pivoted to open up the platform wider to allow other forms of user-generated content (UGC). The founders of YouTube enjoyed an astronomical rise and the company was bought by technology giant Google a year later for £883 million. This was the “*culmination of a new wave digital land grab*”, which marked a huge growth period for online technology platforms such as YouTube, as well as Myspace, who were also bought for £310 million by News Corporation a year before. (Sweeney & Johnson, 2006).

Major labels and artists have long used YouTube as a valued promotional tool for music, and in return have directed a huge number of fans to the platform and contributed immensely to their monthly active users (MAU). The large revenue brought in from advertising on the platform can be attributed to these content creators and rights owners, with music reportedly bringing in 22% of all views on YouTube in 2019 (Ingham, 2020b).

With this in mind, and due to the fact that YouTube licenses this music directly from the rights holders such as the artists and labels, this case study will examine the business model employed by YouTube and how that has resulted in conflicts with rightsholders in the music and entertainment space. It will also explore the revenue mechanisms of the rightsholders within the platform, discussing whether remuneration for artists is proportionate to the revenue it generates for YouTube, or whether copyright laws need to be amended to better represent the music industry in the digital age.

YouTube business model

YouTube is described as a “*platform business*” by Burgess and Green (2018) and since the start has been an open platform encouraging UGC, rather than producing their own. Their launch coincided with other technological platforms, who were utilising the openness of the internet, with music services including Apple’s iTunes store acting as aggregators and profiting from music purchases of other artists and labels work by making music “*more searchable, more findable, and more usable*” (Weinberger, 2008). YouTube quickly rose to prominence as the video equivalent, allowing users to upload their own content for free.

YouTube initially generated the majority of its revenue from advertising, launching InVideo Ads in 2007, which allowed advertisers to place adverts at the bottom of videos and pay YouTube each time the video was streamed, with a share of the revenue being paid to the video creator via YouTube’s Partner Programme (YPP). This led to a rise in YouTube stars, or YouTubers, who often used other people’s audio and video content within their videos and there are a number who became very wealthy with this new model. YouTuber PewDiePie reported earned around \$13 million from his YouTube channel alone in 2019 (Leskin, 2020). There have also been a number of stories of artists building their own careers from their successes on YouTube, with Justin Bieber launched into the spotlight following him being introduced by Usher.

YouTube launched YouTube Red in 2015, providing an ad-free on demand service for its users, priced at \$9.99 for Android users and \$12.99 for Apple consumers (Constine, 2015). They then split this into two new services in 2018: YouTube Music and YouTube Premium. The launch of YouTube Music saw a complete launch into the music streaming service market for YouTube, utilising a freemium model split between a free subscription, and a paid ad free tier, while YouTube Premium offered all that plus ad-free video streaming across the whole of YouTube, at a cost of \$11.99 (Savov, 2018). As a result, YouTube now pays out to rightsholders via two tiers of payments, ad-supported video payments and paid subscriptions.

Copyright

For a long time, YouTube has been a component of an artist's revenue model. UK copyright law is set out in the Copyright Designs and Patents Act (1988). Due to the audio-video nature of the content uploaded to YouTube, there are two relevant copyrights related to music uploaded to the platform, the master rights relating to the sound recording, and the composition rights pertaining to the music and lyrics. (Lindvall, 2012a). Record labels will usually own the master rights, and the composition rights are handled by Collection Management Organisations (CMO's) such as PRS for Music for registered works and will be handled by a publisher if the artist or song is assigned to one. As a result, the two copyrights are exploited by independent artists, labels and publishers, through syncing those songs to film, TV, games, and other mediums. Section 20 of the CDPA (1998) prohibits copyright infringement by "communication to the public", including "the making available to the public of the work by electronic transmission in such a way that members of the public may access it from a place and at a time individually chosen by them". It is at this point that YouTube's business model often conflicts with copyright law, presenting YouTube with a number of ongoing issues regarding the core service they provide.

YouTube has a suite of copyright management tools to help identify and monetise rights owners' content. YouTube's Content ID gives copyright owners the ability to claim ownership of content that is already live on YouTube. This system gives allows rights holders to either block the content or monetise it by adding advertising to the video, directing any revenue earned as a result directly to the rights holder. They also have a takedown request form to request single songs are taken down, and copyright match for multiple copyright infringements of the same song. Many have argued that these aren't sufficient to combat the copyright infringement that regularly occurs on the platform, and with that, and the safe harbor provisions, it is often argued that YouTube attempts to diminish responsibility for content on the platform. It is an ongoing battle, with labels launching copyright claims on things such as lyrics spoken in a video. One such example is Jimmy "MrBeast" Donaldson, who said he lost more than five figures on a video in which he said the words "Living On A Prayer". (Alexander, 2019)

Safe harbor

The DMCA was introduced in 1998 and includes a safe harbor provision that protects online service providers (OSP's) from copyright infringement liability if they meet a number of conditions (Thomson Reuters, 2021). Organisations such as the British Phonographic Institute (BPI) have argued that YouTube has regularly hidden behind these safe harbor provisions in order to pay less royalties to rights holders (Plunkett, 2016), widening the perceived value gap, a term coined to describe the alleged unproportionate royalties paid in relation to the revenue music generates on the platform (Sutherland, 2018). It was claimed that the US recorded music industry alone could be losing up to \$1 billion per year as a result of safe harbor protections (Awbi, 2017)

This dispute culminated in a campaign that included stars such as Taylor Swift and Paul McCartney, who claimed that *"the tech companies who benefit from the DMCA today were not the intended protectorate when it was signed into law nearly two decades ago"* (Dredge, 2016). This prolonged pressure resulted in the introduction of The European Directive on Copyright in the Digital Single Market (CDSM), and Article 13 within that aims to tackle UGC services using safe harbor provisions to protect them from their questionable efforts at tackling copyright infringement. Article 13 signals a move away from YouTube's previously protected position of zero liability for copyright violations providing they issue a takedown procedure if highlighted by the content owners, instead requiring YouTube to filter out copyrighted content themselves (Reynolds, 2019).

CEO of YouTube, Sarah Wojcicki, argued that the new legislation would cost thousands of jobs, and force YouTube to "prioritize content from a small number of large companies" (Alexander, 2018). The major labels and artists that operated in the traditional music industry argue that only the rights owners have the right to distribute and earn

money from their rights, however there are arguments that the copyright law needs to be adapted to more align with the modern music industry.

Lessig (2007) argues that every use of culture is a copy, and commons sense renders it impossible for every copyright infringement to be avoided, especially given the democratisation in the technology needed to create a channel and content. He believed that the only forward was for artists and rights owners embrace the free use of their content if it isn't being commercialised. On the other hand, there has been an increase in song management companies such as Hipgnosis, who treat songs into tangible assets like gold. The company's prime focus is on exploiting recordings and has allegedly spent \$1.7 billion in two years (Sisario, 2020) on songs, and with this approach and huge investment they are only focused on return on investment so will no doubt continue to pressure YouTube.

Multi-Channel Networks

A number of multi-channel network (MCN) businesses have risen to prominence in the music industry, facilitating labels and artist's music with a network of channels to use as a promotional tool, with agreements usually allowing an equal split of monetisation for a limited period. According to interviewee Roxanne Maritz, International Exploitation manager at Sony Music, (Personal communication, 17th March 2021) working with MCN's "depends on whether the artist is a developing artist or an established artist", arguing that uploads of an established artist's music may "cannibalize from the official music video because people will be searching for that song actively." She does, however, see the value in working with MCN's with a developing artist, utilizing things such as lyric videos away from the main focus of the campaign "in order to utilize their strong audiences", describing the relationship as "symbiotic". This is an interesting model that gives value to both rights owners such as artists and labels, and the channels, and signifies a shifting willingness to work together for the benefit of both parties.

Licensing and payment

YouTube has argued that the introduction of Article 13 (now Article 17) of CDSM is damaging to content creators that earn money from the platform, although it has been suggested that YouTube's major concerns with the new legislation is the strengthening of negotiating power of the record labels (Malt, 2019a). The power struggle over licensing deals has been ongoing, with Warner Music Group (WMG) ordering YouTube to remove all content including music from its catalogue in 2008, stating "We simply cannot accept terms that fail to appropriately and fairly compensate recording artists, songwriters, labels and publishers for the value they provide" (Edgcliffe-Johnson, 2008). WMG agreed to license its catalogue to YouTube a year later, but this conflict has continued, with WMG CEO Steve Cooper reportedly informing colleagues that a 2017 licensing agreement "secured the best possible deals under very difficult circumstances", going on to say "Nevertheless, our fight to further improve compensation and control for our songwriters and artists continues to be hindered by the leverage that 'safe harbor' laws provide YouTube and other user-uploaded services." (Aswad, 2017)

Under the terms of Brexit, the UK are under no obligation to implicate the terms set out in the Directive. However, there has been renewed pressure on YouTube to increase royalty rates, as a result of a huge number of artists losing the majority of their revenue through lack of touring. Tom Gray, member of the band Gomez and a director of PRS for Music, launched the #BrokenRecord campaign, aimed at lobbying the UK government to regulate the music industry and introduce legislation forcing the streaming platforms to fairer remunerate artists on their platforms (Peirson-Hagger, 2021). As a result, there is currently a Commons Inquiry into the Economics Of Streaming taking place, which aims to establish whether streaming services, such as YouTube, should pay a better royalty rate than they currently are. (UK Parliament, 2020)

A study in 2017 reported that the average payment for a stream to rightsholders was \$0.008 per play, while YouTube was significantly lower at \$0.001 per play (Beard, Ford & Stern, 2017). It's difficult to pinpoint a single figure due to

YouTube's multi-channel payout system, although it is thought that a YouTube stream equates to about \$0.0008 per play, while a video stream on the official artists' channels paying \$0.00164 and videos monetised through Content ID paying \$0.00087 per stream. (Pastukhov, 2019). At these rates, it would take 46,851,250 YouTube Music streams to make the mean average UK full-time salary of £37,481 in 2019, according to the Office of National Statistics (Smith, 2020). At this figure, it would limit the number of artists making a considerable amount of money solely from YouTube streams, but artists and rights holders naturally rely on multiple revenue streams, from other Digital Service Providers (DSP's), merchandise sales, music synced to film and TV and in normal times, touring.

Value to Independent artists

While YouTube's model may conflict with higher-tier artists at times, and labels who may have a large financial investment in a project, it is an undoubtedly useful tool for independent artists or labels looking to break a developing artist. Chance The Rapper released his 'Coloring Book' album for free via YouTube, which enabled him to build an arguably stronger connection with his fans and as a result make a career out of touring and merchandising sales (Robinson, 2017). It also allows for merchandise and album sales directly in YouTube, and often offers great value. The exposure and penetration with markets and audiences that extend beyond the artist's own fanbase can often lead to intellectual property and musical works being exploited in other areas, via syncs to film and TV, and other areas for sales such as reissues, events booking, and other avenues that are more profitable than YouTube.

Conclusion

The main challenges faced by YouTube stem from a shifting dynamic within the music industry as a result of technological advancements. While it is argued that much content on YouTube is technically infringing on copyright law, the legislation regarding copyright were passed at a time when music was sold predominantly in physical form, and perhaps a more updated approach needs to take into account the value that these platforms bring to artists.

While labels working with the largest artists have argued that they are losing out on large amounts of revenue due to copied content on the platform, for independent artists and even major labels looking to break developing artists, the value the network of channels and exposure to extremely targeted potential new fans leaves YouTube in a strong position. With the rise in collaboration between channels, MCN's and rights owners on the platform, the larger companies in the music businesses seem to slowly be shifting to recognising the value YouTube brings. The democratisation of music has led to a struggle with major labels, as well as an older generation of artists who were raised in a physical music market. However, a new generation of talent, both artists, labels and other music related companies, have managed to exploit the new technology, and the labels will inevitably look to follow suit and utilise the opportunities afforded by the vast network on YouTube.

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