

A Case Study into the Commercialisation of



By James Gamble (1905863)

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

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Ian Penman

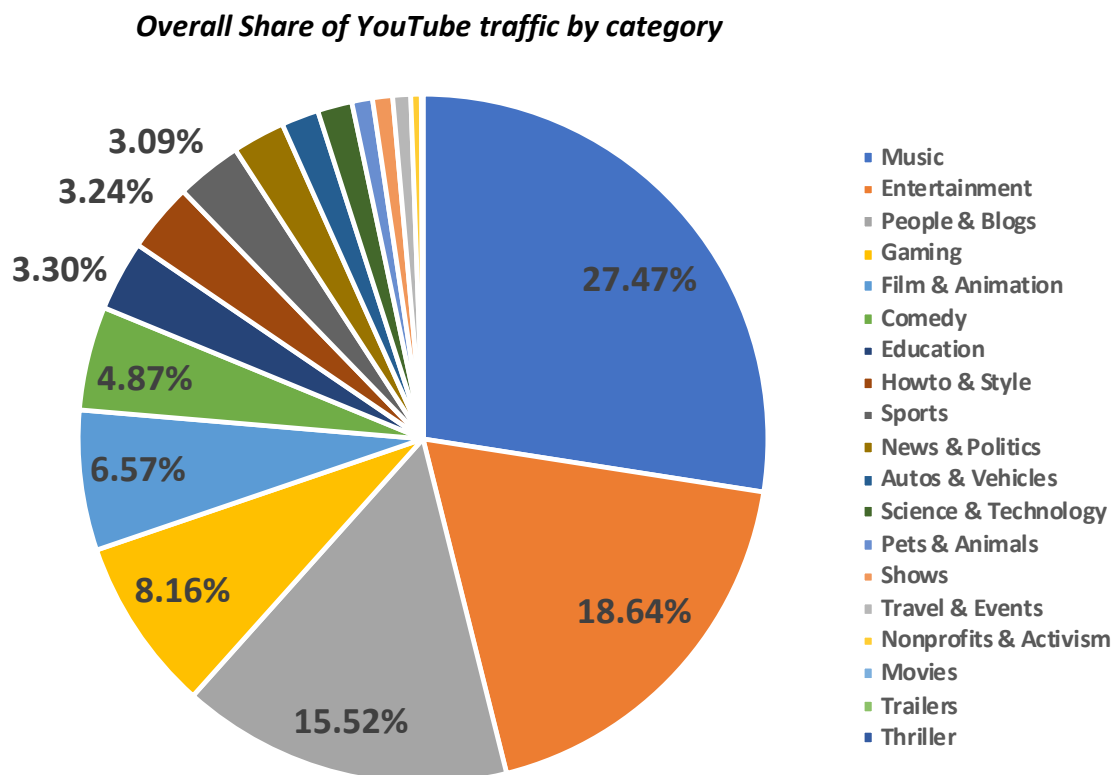
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1. Introduction

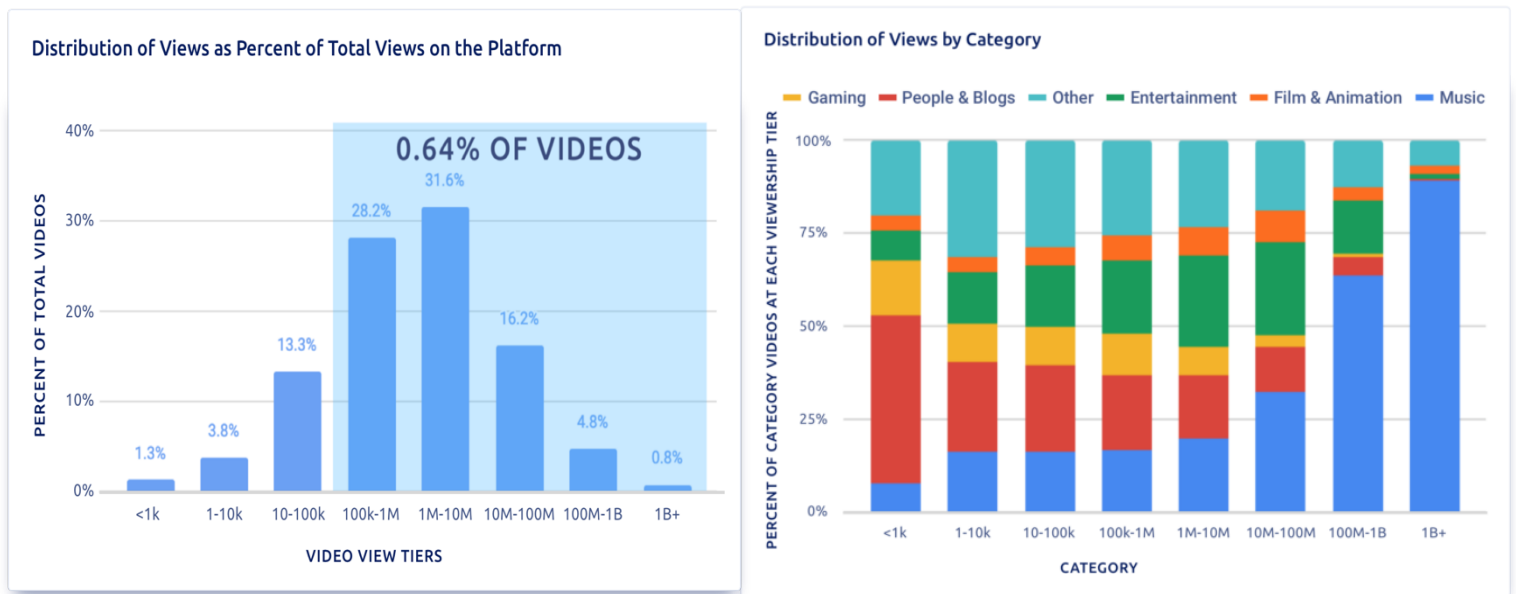
YouTube is a video sharing platform created in February 2005. Within 18 months, and less than a year after officially launching, YouTube had been acquired by Google for \$1.65 billion (Jackson, 2011). Today, YouTube places second on the Alexa Rank of most popular websites, boasting 2 billion worldwide users who watch over a billion hours (114,000 years) of video content every day (Spangler, 2019) (YouTube Official Blog, 2017).

As a video sharing platform encouraging users to easily upload their own videos, the range of content on YouTube is vast, featuring everything from 'How-To' guides to funny cat clips. However, it is music and entertainment videos which dominate YouTube viewing traffic. According to Pex, an independent video and music analytics firm, music and entertainment videos have received 27.47% and 18.64% respectively of all YouTube traffic (Turek, 2017).¹



This combined 46% of viewing traffic comes from only 20% of YouTube content. Incredibly, 0.64% of all videos on YouTube account for 81.6% of total views, and as the graph (below, right) shows, this 0.64% of videos is dominated by music and entertainment content.

¹ As of 22nd August 2017. See Appendix One for the data table used to calculate these figures.



These figures were obtained from Pex: <https://blog.pex.com/what-content-dominates-on-youtube-390811c0932d>

Looking at the music industry in particular, these numbers prove the close and hugely important relationship between music and YouTube. Not only has YouTube replaced MTV as the home of the music video, it also outcompetes all major Digital Service Providers (DSP), such as Spotify and Apple Music, in the consumption of music streaming. The IFPI Music Consumer Insight Report in 2017 found that 46% of all on-demand music streaming occurred on YouTube, with both paid (23%) and free (22%) audio streaming services sharing 45% of streaming time (IFPI, 2017). In other words, consumers spend more time listening/watching music on YouTube than on all competing DSPs combined.

YouTube's dominance of modern music and entertainment content consumption poses two big questions. Firstly, why is YouTube so popular with consumers? Simply put, because it is free. YouTube boasts a huge range of copyrighted content which is available to anyone, worldwide, and at no cost to the consumer. Users can like and comment among fellow fans, creating a community feel, while YouTube's algorithm suggests similar videos users may be interested in, making the platform a great medium for music discovery. All things considered, YouTube is very good platform for consuming music and entertainment content and is completely free; its popularity is understandable.

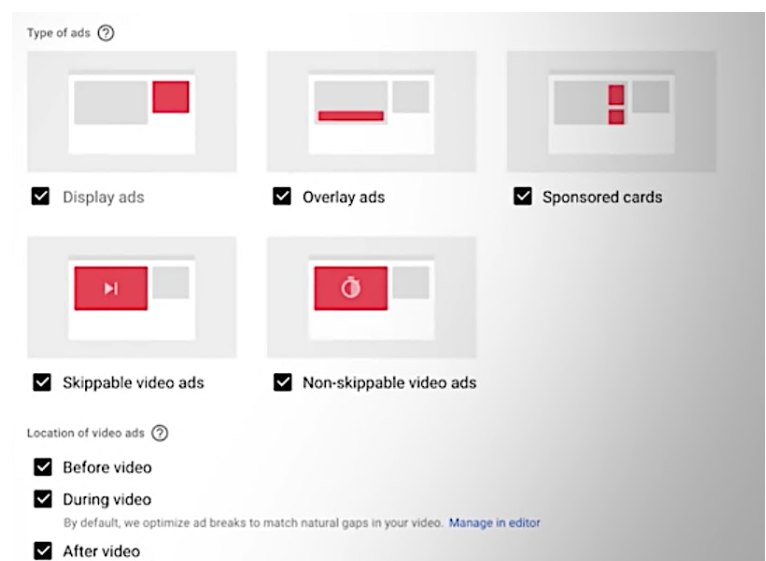
This prompts a second, more difficult question: how do YouTube successfully, legally and profitably commercialise this content while retaining market share? This case study will endeavour to analyse what business strategies and revenue mechanisms YouTube employ to commercialise this content while considering the multitude of business and legal issues facing them, in particular with regards to intellectual property and copyrighted material.

2. Ad-based Business Model

YouTube has commercialised its content since August 2007 when the company first introduced InVideo Ads and Partner Programs (Jackson, 2011). These tools generate a revenue stream from third-party advertising which is split between YouTube and the uploading 'partner' user at a ratio of 45:55. This not only commercialises uploaded videos but also rewards quality, popular content: the more views a video gets, the more attractive it is to advertisers and the greater the revenue for both YouTube and the uploader. Popular, high-quality content also attracts more viewers, which in turn attracts more advertisers, and thus the business grows. By using the viewing data and search histories of their ever-increasing user-base, YouTube can offer advertisers accurate consumer market data enabling them to create targeted adverts. Fundamentally, this has been YouTube's business model since 2007 and it has been extremely successful.

There are question marks around the actual level of financial success this business model has brought Google (YouTube's parent company) because the company does not publish YouTube's revenue or profit figures, instead merging them with the parent company's total revenue (Alphabet, 2019). However, New York Times technology reporter Daisuke Wakabayashi estimated in a 2019 article that 'YouTube probably generates \$16 billion to \$25 billion in annual revenue, making the video service big enough to crack the top half of the Fortune 500' (Wakabayashi, 2019).

Today YouTube offer content creators a variety of advertising options, as pictured (right), which they can opt in or out of allowing on their videos. Likewise, third-party advertisers select what type of ad they want to purchase and what form of YouTube content they want their advert linked to. This flexibility of choice is designed to make advertising on YouTube as appealing as possible to both advertisers and users, who can choose to what extent they want their adverts, or the adverts attached to their videos, to be visible and potentially disruptive (Image, right – YouTube Creators, 2019).

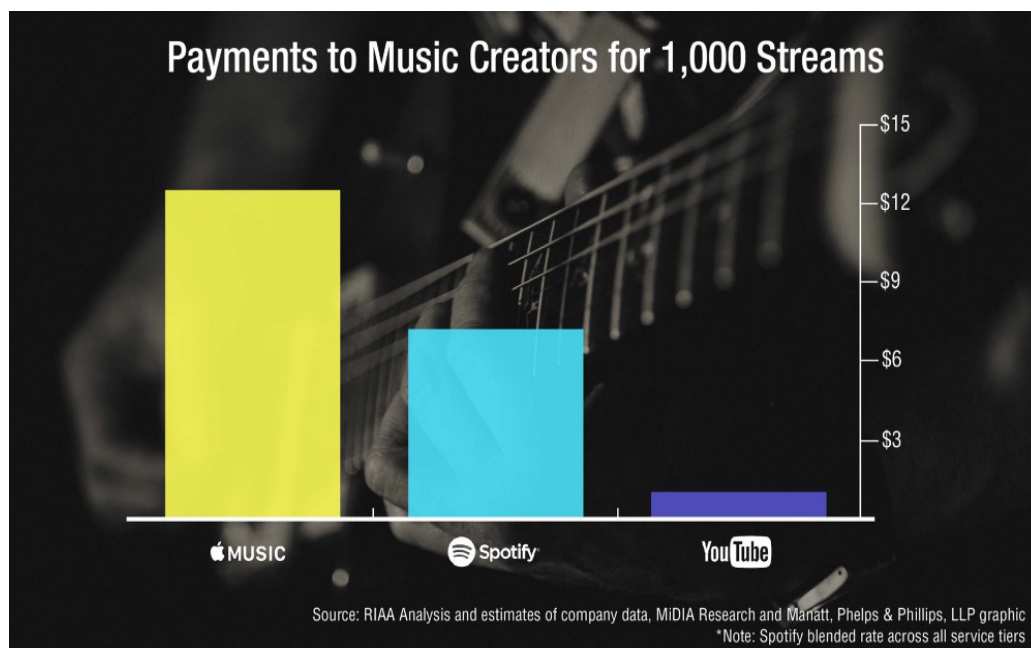


Music and entertainment content on YouTube is, on the whole, commercialised in this exact same way. However, issues surrounding copyright infringement create more complications than standard, user-created content. It is crucial for the copyright owners of music/entertainment content (record labels, distributors, film/TV production companies etc.), and increasingly so for YouTube too, that the owners of copyrighted material receive any advertising revenue, and not a copyright infringing user who uploads it. With 500 hours of video uploaded to YouTube every minute this is an immeasurably large task (Clement, 2019).

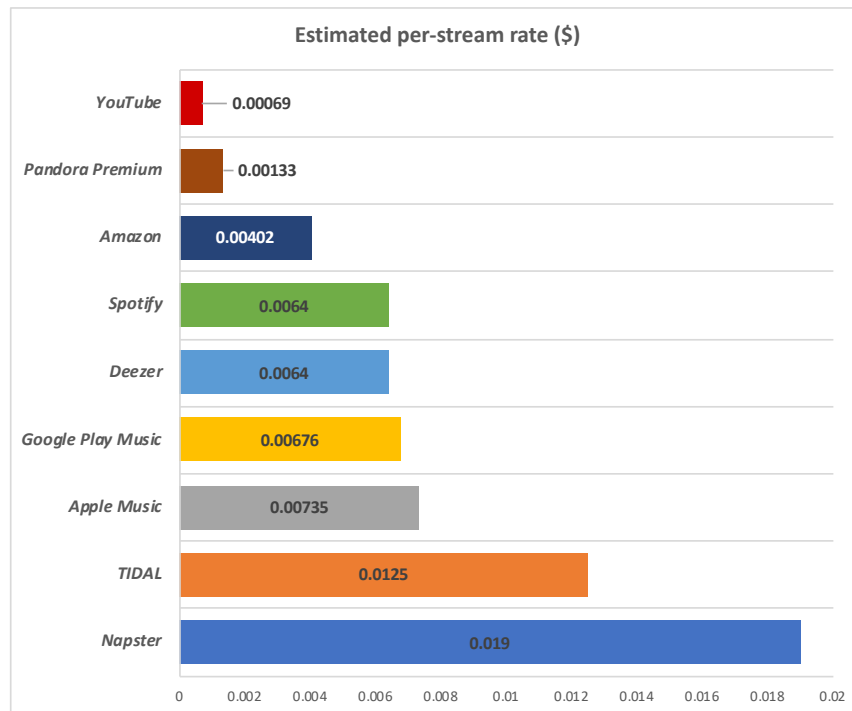
The process of controlling copyright infringement is automated by YouTube's Content ID software which creates a 'fingerprint' of copyrighted audio or video files as supplied by the owner. Using this database of copyright 'fingerprints', Content ID scans YouTube videos to check for any matches. Any matches indicate copyright infringement upon which the copyright owner is notified and offered three options: to block the video, to monetise the video (whereby the copyright owner earns any advertising revenue), or to track the video's viewer data (YouTube Creators, 2010).

While YouTube's Content ID software does much to avoid clear and obvious copyright infringements, it is not flawless. Lyor Cohen, YouTube's Global Head of Music, claimed that "as of 2016, 99.5% of music claims on YouTube are matched automatically by Content ID and are either removed or monetized", however this is disputed by Pex who argue that as much as 65% of music on YouTube is never claimed by the copyright owner (Cohen, 2017) (Turek, 2017). Furthermore, the Content ID system is biased against the copyright owner as it puts the onus on them to submit 'fingerprints' to YouTube, while YouTube themselves escape liability for any infringements. YouTube and copyright holding companies work in close partnership to try and reduce copyright infringement, but these companies should not be wholly responsible for policing infringements that occur on another company's (YouTube's) platform.

Even if YouTube could successfully eradicate all copyright infringement on their platform, there would still remain controversy about the commercialisation of music/entertainment content on YouTube, particularly from the music industry. The reason for this is the *value gap*. The music industry argue that YouTube do not pay musicians anywhere near enough, both on a per-user and per-stream basis. The IFPI Music Consumer Insight Report from 2017 calculated that while Spotify pay an estimated annual revenue of \$20 per user, YouTube pay less than \$1 per user (IFPI, 2017). Similarly, the Recording Industry Association of America (RIAA) argue that in 2016 YouTube paid close to \$1 per thousand streams, significantly lower than both Spotify (\$7) and Apply Music (\$12) (Sherman, 2017).



Admittedly these sources both have vested interests in supporting the argument for the music industry, but the evidence that YouTube pay the worst out of all streaming services is overwhelming. The chart below created with third-party data by Digital Music News, clearly shows the huge disparity in pay-out between YouTube and similar music streaming services, with Spotify paying over nine times the amount YouTube do.



It is important to note that none of this data is official because DSPs and YouTube do not publish their average pay to artists per stream. Similarly, it should be noted that the numbers displayed above are what the artist earns and therefore do not represent the cut which labels and publishers will take. Having said this, ultimately it is clear that the ad-only business model does not pay music and entertainment content creators anywhere near as well as subscription services, effectively devaluing their work.

3. Subscription-based Business Model

YouTube's solution to the value gap has been to introduce YouTube Music, a free advert-based music streaming service with a 'Premium' paid subscription tier. This combination of advert- and subscription-based strategies is a business model akin to Spotify's, who pay the music industry significantly better than YouTube. YouTube Music was launched in November 2015 and is comparable in many ways to Spotify.

YouTube Music Free is the basic service and, like YouTube's main platform, is funded by advertising revenue. Music cannot be downloaded offline and background play is not featured. This service operates much like YouTube's main platform but is accessible on a separate website or by downloading the specific app. However, the fundamental difference between YouTube and YouTube Music is that the latter isolates all copyrighted music content: standard users cannot upload content to YouTube Music. Instead, all content is provided by distributors/record labels, thus giving significant control back to the music industry and the copyright holder.

YouTube Music Premium costs £9.99 per month, the same as Spotify and Apple Music. The premium service is ad-free and allows both background and offline playback. Despite YouTube Music being launched in 2015, these features were only announced in May 2018 as YouTube attempt to bring their subscription service more in line with their competitors, Spotify and Apple Music (Savov, 2018).

Subscription	Ads	Skipping and Scrubbing	Offline Mode	Background playback	Audio quality
Free	Ad-Supported	Unlimited	YouTube Go only	Unavailable	128 kbit/s
Premium	None	Unlimited	Available	Available	256 kbit/s

Because YouTube Music is very similar to these competitors, attracting a large number of users, who most likely already use these competitor services, will be difficult. However, YouTube has the benefit of being able to offer customers easy access to view music videos, which may be attractive to some consumers. While Spotify and Apple Music do feature music videos, they are not the fundamental product offered and it can be a convoluted process trying to access them. YouTube on the other hand is a video sharing platform and has long been *the* destination to watch music videos.

Crucially for the music industry, as well as giving back more control to the copyright holder, YouTube Music also seems to have reduced the *value gap*. The platform certainly pays artists significantly better than the standard YouTube platform and its 'royalties are strongly competitive with Apple Music and Spotify' (Resnikoff, 2016). The evidence shows that subscription-based models are able to pay artists more, demonstrated by the pay-gap

between Spotify, both ad- and subscription-based, and Apple Music, who only offer a subscription service (see charts on page 6).

Having said this, the money paid to artists is dependent on the ratio of subscribing (paying) users to ad-watching (free) users. In May 2019, Bloomberg reported that 'Google's paid music services have eclipsed 15 million subscribers' (Shaw, 2019).² Although this figure is impressive considering YouTube's history of using an ad-based model and YouTube Music's relative infancy, this figure makes up only 0.75% of YouTube's total users. Despite the benefits of the premium product, most customers consider YouTube as a free-to-use service and seem reluctant to pay for it; and those who are willing to pay for a subscription streaming service are most likely already paying users of Spotify or Apple Music.

² Note that this figure also includes paying subscribers of Google's other music subscription service, Google Play. Google will in the near future merge Google Play with YouTube Music to create one service and therefore for the sake of calculating the number of paying users it makes sense to combine the figures.

4. Legal Challenges to YouTube

YouTube has been plagued by intellectual property and copyright infringement issues ever since it was launched. YouTube has always argued that the site is merely a neutral hosting *service provider* on which users upload content, and that therefore it is the users' responsibility to avoid copyright infringement. The legal basis for this argument is the Digital Millennium Copyright Act (DMCA), passed in the USA in 1998; specifically Section 512, the Online Copyright Infringement Liability Limitation Act (OCILLA). This states:

'A service provider shall not be liable for monetary relief, or, except as provided in subsection (j), for injunctive or other equitable relief, for infringement of copyright by reason of the storage at the direction of a user of material that resides on a system or network controlled or operated by or for the service provider' (Digital Millennium Copyright Act, 1998)

This is known as the *safe harbour* argument and allows YouTube to evade all liability for copyright infringement, passing it onto the individual uploader. Although much responsibility should lie with the user illegally uploading copyrighted content, the *safe harbour* argument creates a situation whereby YouTube escape all liability and the infringing user, although accepting liability for the infringement, on the whole escapes any serious legal action as copyright holders tend to simply request the video be blocked. As such copyright infringement on YouTube has very few serious repercussions while still being an expensive issue for the victims of the infringement: the copyright holders.

These arguments first got attention in the *Viacom International Inc. v. YouTube, Inc.* case in 2007, when Viacom sued YouTube for being 'liable for the international infringement of thousands of Viacom's copyrighted works' (*Viacom International Inc. v. YouTube, Inc.*, 2010). Viacom argued that:

- (1) Defendants had 'actual knowledge' and were 'aware of facts and circumstances from which infringing activity [was] apparent,' but failed to 'act expeditiously' to stop it;
- (2) Defendants 'receive[d] a financial benefit directly attributable to the infringing activity' and 'had the right and ability to control such activity;' and
- (3) Defendants' infringement does not result solely from providing 'storage at the direction of a user' or any other Internet function specified in section 512." (*Viacom International Inc. v. YouTube, Inc.*, 2010)

However, the judge granted YouTube's motion for summary judgement 'that they are entitled to the Digital Millennium Copyright Act's... "safe harbor" protection against all of plaintiffs' direct and secondary infringement claims' (*Viacom International Inc. v. YouTube, Inc.*, 2010). This result proved the strength of YouTube's *safe harbour* argument, but major music and entertainment industry figures have continued to feel aggrieved.

The CEO of the IFPI, Frances Moore, rebuked the *safe harbour* laws in 2015 when she described them as a 'fundamental flaw in our industry's landscape' (Ingham, 2015).

"Laws that were designed to exempt passive hosting companies from liability in the early days of the internet – so-called 'safe harbours' – should never be allowed to

exempt active digital music services from having to fairly negotiate licences with rights holders” (Ingham, 2015).

Ultimately copyright holders are the owners of their respective intellectual property and therefore the platform on which an infringement occurs, regardless of whether the platform has any knowledge of the infringement, should be subject to at least some liability for the infringement. Up until recently YouTube have been able to completely wash their hands of all responsibility.

However, the controversial draft Article 13 in the EU’s Directive on Copyright in the Digital Single Market indicated a shift in thinking and became law in 2019 in the EU.³ This states that ‘online content-sharing service providers shall be liable for unauthorised acts of communication to the public, including making available to the public, of copyright-protected works’, unless they can demonstrate that they have followed a number of conditions (*Directive (EU) 2019/790 of the European Parliament and of the Council*, 2019). Although these ‘conditions’ create some grey areas, the passing of this directive should certainly be considered a step in the right direction for the music and entertainment industries, who strongly lobbied for Article 13 to remain.

There is no question that YouTube holds great power over the music and entertainment industries: it is the most popular destination for customers to consume this content. With YouTube’s power should come a responsibility to ensure that content is not infringing any copyright laws. This becomes increasingly imperative when YouTube commercialise this content, earning themselves revenue from the content. The EU’s Article 13 appears to be the first step towards holding YouTube more accountable for infringements on their platform. This shifting legal standpoint and the apparent fading strength of the *safe harbour* argument may be the main reason for YouTube moving towards a subscription-based model for this type of content; the risk of infringement liability, coupled with the controversial *value gap*, proving enough motivation to introduce a new business strategy.

Ultimately it is the music and entertainment industries which lose out when copyright infringement occurs. Their content is hugely important for YouTube, both commercially and for its reputation as the leading video-sharing platform, and therefore YouTube should do whatever is necessary to appease these two content-creating industries which drive so much viewing traffic, and therefore revenue, towards the site.

2727 words

³ It was Draft Article 13 which was controversial during the legislative process – this became Article 17 in the directive: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019L0790&from=EN> (Page 28).

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6. Appendix

Appendix One

YouTube viewing data obtained from Pex: <https://blog.pex.com/how-big-is-music-on-youtube-5fb7cc5d3f77>

category	count	views	comments	likes	dislikes	average view	overall share
Music	330,743,387	4,606,319,572,345	2,117,643,059	21,244,747,740	1,098,473,552	13,927	27.47%
Entertainment	310,651,389	3,125,165,259,141	3,020,420,750	20,743,594,674	1,443,394,302	10,060	18.64%
People & Blogs	1,326,442,277	2,601,761,421,368	3,395,894,131	18,130,008,585	1,355,211,494	1,961	15.52%
Gaming	414,910,303	1,368,411,464,737	4,446,394,772	25,329,842,427	1,073,706,089	3,298	8.16%
Film & Animation	137,451,405	1,102,103,941,703	661,859,147	4,030,941,899	357,955,266	8,018	6.57%
Comedy	126,809,057	815,826,371,747	1,012,762,156	8,110,300,323	463,237,579	6,434	4.87%
Education	104,175,551	553,265,333,216	399,037,584	2,258,902,317	240,058,220	5,311	3.30%
Howto & Style	61,465,594	542,941,201,843	830,178,505	5,583,369,051	291,475,990	8,833	3.24%
Sports	115,275,531	517,814,030,945	451,374,732	2,606,856,977	167,720,140	4,492	3.09%
News & Politics	117,591,674	413,889,129,927	628,511,979	1,784,615,732	253,459,895	3,520	2.47%
Autos & Vehicles	77,727,569	293,268,406,863	214,145,147	1,028,919,916	97,949,502	3,773	1.75%
Science & Technology	54,405,981	271,142,009,339	362,916,220	1,744,181,079	147,883,628	4,984	1.62%
Pets & Animals	37,480,557	162,507,337,030	118,551,627	579,090,879	49,120,048	4,336	0.97%
Shows	1,670,725	157,587,022,976	124,808,461	640,412,970	61,441,530	94,323	0.94%
Travel & Events	60,124,934	141,232,522,167	116,963,225	607,022,701	43,417,667	2,349	0.84%
Nonprofits & Activism	31,679,021	81,472,883,507	102,843,824	513,919,139	43,844,164	2,572	0.49%
Movies	138,649	7,278,337,693	1,748,899	19,653,617	4,702,786	52,495	0.04%
Trailers	117,950	5,051,420,375	842,656	4,951,385	570,864	42,827	0.03%
Thriller	169,154	1,451,406,410	507,034	4,961,950	457,451	8,580	0.01%
Sum	3,309,030,708	16,768,489,073,332	18,007,403,908	114,966,293,361	7,194,080,167	14,847	100.00%