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Table of Contents

1.0 Introduction	3
2.0 Music Streaming Revenue	3
2.1 Revenue Streams	3
2.2 Calculating Royalties	4
2.3 YouTube vs Other Platforms	5
3.0 Monetisation Challenges: The Value Gap, Safe Harbour and Article 17	6
4.0 Possible Outcomes	7
4.1 Fair Split	7
4.2 Creators, Fair Use and Artist Choice	8
4.3 User-Centric Royalties	9
5.0 Power Dynamics	10
5.1 Labels and Streaming Services	10
5.2 Major Labels, Publishers and Songwriters	11
5.3 YouTube and Artists	12
6.0 Conclusion	13
7.0 References	14

1.0 Introduction

Music streaming revenue have gone up every year, up to \$13.4B worldwide in 2020 (IFPI, 2021, p.13). Along with the rise of streaming came numerous issues, many of which are concentrated around YouTube, which has been in dispute with the music industry for years.

In this essay, I will explore the different revenue streams available through YouTube, the way that royalties are calculated and how YouTube compares to other streaming platforms. Additionally, I will provide an analysis of the main monetisation challenges that rights-holders face, including safe harbour and the implications of Article 17. Finally, I will analyse some possible outcomes of these issues and examine the power dynamics between stakeholders.

2.0 Music Streaming Revenue

2.1 Revenue Streams

There are three types of payout under YouTube's model. The first is generated by a stream on YouTube Music, Google's replacement for Google Play, and generates \$0.00753 (Kormoczi, 2020). The second most profitable revenue stream comes from videos monetised through Content ID. Rights-holders who "own exclusive rights to a substantial body of original material that is frequently uploaded by the YouTube creator community" (Google, 2021a) can choose to block or monetise a video containing their material uploaded by a third party. If the rights holder chooses to monetise the video, they

will usually receive \$0.00087 per stream. Finally, YouTube's per-video stream will make the channel owner earn \$0.00069 (Kormoczi, 2020).

These payouts are calculated based on the income generated by Google's AdSense and the type of subscription – free or premium – of the individuals streaming a video or song. According to Geyser (2021), "Google pays out 68% of their AdSense revenue" and advertisers usually pay an average of \$0.18 per view, which makes \$18 per thousand ad views and generates between \$3 and \$5 per thousand views.

2.2 Calculating Royalties

Two copyrights come into play with music streaming: the master recording and the composition. In the case of independent singer-songwriters, all of the royalties go to them. However, if they are signed to a record label, royalty splits are involved.

Streaming revenue is distributed to labels, distributors, publishers and collection societies on a pro-rata basis rather than per-stream. The income generated from all listeners is divided based on the listening time that each artist has accumulated (Meyers, 2020). Those allocations are then split between the rights-holders and the streaming platform according to the terms of their licensing deals. Labels and distributors generally receive between 50% and 60% while publishers and collection societies usually obtain between 10% and 15%. This also depends on the listeners' subscription types – free, premium, etc. – and territories (MMF, 2019, p.15).

Generally, the master rights owner, usually the label, receives 80% of the income generated by music streaming after the split with streaming services. The remaining 20% are publishing income, split evenly between performance and mechanical royalties (Sentric Music, 2019). After collection societies have taken an administration fee, 10% for

PRS and around 10% for MCPS (PRS for Music, 2021), the royalties are split between the publisher and the songwriter. The most common publishing deals today are co-publishing agreements, which are usually a 75/25 split in favour of the songwriter (Dahl, 2014). This means that the songwriter will usually receive 13.5% of the overall revenue generated by their song.

2.3 YouTube vs Other Platforms

YouTube is notorious for having the lowest royalty payout among streaming services. The highest paying platform is Napster with \$0.019 per stream, while Apple Music pays \$0.01 and Spotify, \$0.004. In comparison, one YouTube video stream will earn rights-holders \$0.00069 (Sanchez, 2021). While these numbers cannot be exact as streaming royalties are calculated on a pro-rata basis, they are a close approximation.

However, YouTube and YouTube Music are separate entities with different royalty rates. Since Google Play became YouTube Music, the platform's payout went from \$0.00676 per stream to \$0.00753, making it higher than Spotify, Deezer or Amazon Music and just lower than Apple Music (Sanchez, 2021; Kormoczi, 2020). Nevertheless, YouTube Music only has 50M subscribers, while Spotify has 172M and Apple Music has 60M (Cohen, 2021; Spotify, 2021b; Apple, 2021), meaning that the majority of people using streaming services are using one of the lowest-paying ones.

3.0 Monetisation Challenges: The Value Gap, Safe Harbour and Article 17

The value gap, which has been referred to as “the biggest threat to the future sustainability of the music community” (IFPI, 2017, p.25), is the discrepancy between the revenue generated by platforms hosting user-generated content, such as YouTube, and the revenue going to the rights-holders.

When user-uploaded content is monetised, it generates revenue that should, in part, be distributed to rights-holders. However, YouTube has been utilising safe harbour, a liability exemption in legislation for user-uploaded copyrighted content. With the safe harbour provision, YouTube is not legally bound to pursue payment from users (Kempton, 2019).

The European Union implemented the Copyright Directive in 2019. Article 17 states that “digital platforms like YouTube would face legal repercussions for the use of unlicensed music on their platforms, even if that music had been uploaded via user-generated content” (Music Business Worldwide, 2018). All EU countries had to amend their copyright rules by June 2021 and Article 17 is believed to be “just the starting point in a rising tide of regulatory changes worldwide”, with Canada and Australia looking into digital copyright and the US reworking the Digital Millennium Copyright Act (Music Business Worldwide, 2021a). While the UK music industry heavily lobbied for digital copyright reform in the EU, UK Government decided against implementing the EU Copyright Directive after Brexit.

In October 2020, UK Parliament launched an inquiry into the economics of music streaming. This followed a rise in outrage from top UK songwriters being forced to take up temporary jobs (Savage, 2020). Topics such as safe harbour, user-centric royalty distribution and royalty splits have been discussed in hopes for an outcome similar to the EU Copyright Directive in addition to fairer remuneration for songwriters. The inquiry is

ongoing and agreements are yet to be reached, but “the music industry argues, because it claims safe harbour protection, YouTube has a much stronger negotiating hand in licensing conversations than other digital services” (Cooke, 2021c).

4.0 Possible Outcomes

4.1 Fair Split

The current royalty splits in music streaming are unfair: while songwriters’ income dropped during the 2020 lockdowns (Savage, 2020), the streaming industry rose by 20% (Topham, 2021). While hit songwriters were struggling, YouTube earned over \$19B in advertising revenue alone and Spotify generated \$9.5B in total (Statista, 2021; Spotify, 2021a). While a Parliament inquiry into streaming is ongoing in the UK, digital platforms including Google and Spotify, propose the “lowest royalty rates in history” to the US Copyright Royalty Board (Stassen, 2021).

The US National Music Publishers’ Association (NMPA) proposed possible splits: “20% of revenue; or 40% of what record labels and artists receive; or \$1.50 per subscriber; or \$0.0015 per play” (Stassen, 2021c). YouTube has been paying out 20% of its annual revenue to the music industry (Stassen, 2021a), however, as explained in section 2.2, 80% of those have been distributed to record labels and only 20% to publishers, meaning that the publishing sector has been receiving approximately 4% of YouTube’s total revenue.

While the NMPA proposes a model that would make for fairer remuneration for publishers and songwriters, it might be unsustainable for streaming platforms. Spotify reported its first profitable quarter with a net profit of €2M in the third quarter of 2021 (Spotify, 2021b). It would therefore not be viable for Spotify to increase royalty payouts,

especially as streaming services insist that they require a 30% cut to stay afloat (Cooke, 2021a). For YouTube, paying out 20% of the company's annual revenue to publishers would double the total payout to the music industry. Alphabet, Google's parent company, made a net profit of \$40B in 2020 out of \$182.5B in revenue (Fortune, 2021), making a 22% profit margin, which is considered high (Zin, 2021). Alphabet is ranked eleventh in the "Fortune 500" list as of December 2021 and may be able to afford an increase in publishing royalties. However, Alphabet has multiple subsidiaries and Google, or even YouTube, may not be as profitable as Alphabet's overall operations. Nevertheless, David Israelite (Music Business Worldwide, 2021b), president of the NMPA, still argues that "the idea that these digital services can't afford to pay songwriters more is just ridiculous."

4.2 Creators, Fair Use and Artist Choice

American attorney Lawrence Lessig (2014) calls YouTube culture a "read-write culture" where "people participate in the creation and the re-creation of their culture", in opposition with what he calls a "read-only culture" where "creativity [is] consumed but the consumer is not a creator". Lessig emphasises the importance of "amateur culture", insisting that current copyright laws are too strict and kill creativity.

Copyright claims on YouTube have indeed been an issue for content creators. While the use of copyrighted work is allowed under fair use when it is "transformative" (Google, 2021b), the fair use doctrine is limited and unclear: what constitutes copyright infringement is open to interpretation. With YouTube's Content ID, the use of copyrighted work has been monitored, but "even musical covers and a cappella performances are still protected by various forms of copyright" (Alexander, 2019), making things very difficult for creators. For several years, YouTube has been caught in the middle of a fight between creators and

rights-holders. According to an executive at a major label, YouTube has different deals with the separate major labels and some are “more aggressive when it comes to claiming videos” (Alexander, 2019).

Lessig (2014) proposes a system where artists have the final word on how their copyrighted work is used by creators. He argues that “artist choice is the key for new technology having an opportunity to be open for business” and adds that artists “can say their work is available freely for non-commercial... use, but not freely for any commercial use”. This idea rests on the fact that amateur work on YouTube is non-commercial, however both creators and YouTube generate income from monetised videos, making them commercial. This would mean that creators would have to refrain from monetising any videos containing copyrighted work, which is virtually what they are currently doing.

4.3 User-Centric Royalties

As mentioned in section 2.2, streaming revenue is distributed on a pro-rata basis. One of the alternatives to this system discussed in the UK Parliament’s streaming inquiry is user-centric royalty distribution. While monetised videos on YouTube generate per-view royalties, songs on YouTube Music do not. Many, including Hipgnosis Songs Fund and BMG, argue that user-centric royalties would make for fairer payouts and an increase in transparency, especially considering that most consumers believe that royalties are paid out this way (Cooke, 2021b).

However, some concerns have been raised: switching to a user-centric royalty system would increase “administrative and operation costs for the numerous intermediaries” and worsen the royalty chain that songwriters already find trouble with (Page, 2020). The Association Of Independent Music (2021) insisted that user-centric

royalties would mostly benefit established artists, saying that “[user-centric] prejudices new artists and independent artists and would create a market in which discovery is devalued with a knock-on negative impact on the democratisation of the market”. They add that research conducted on the implications of user-centric royalties has shown these outcomes. Trials run in France have shown that the user-centric system would indeed see more money distributed to some independent artists, however it would be “a few euros extra a year” (Cooke, 2021b).

5.0 Power Dynamics

5.1 Labels and Streaming Services

Record labels and streaming services are codependent. As of 2020, major labels have been generating over \$1M from streaming every hour (Ingham, 2020a). Revenue generated by ad-supported, on-demand services like YouTube grew 54% to \$741M in the first half of 2021 in the US alone (Stassen, 2021b). Record labels need streaming platforms, as 46% of global recorded music revenue were generated by subscription audio streaming and 16.2% were generated by ad-supported video and audio streams, meaning 62.1% of all recorded music revenue came from streaming (IFPI, 2021, p.11).

However, streaming services need record labels as they could not function relying solely on independent artists; “record companies could, if they so chose, put the Services out of business entirely” (Copyright Royalty Board, 2019, p.1934). Platforms like YouTube do not rely entirely on videos containing music, however “music continues to dominate as YouTube’s most essential form of content” (Turek, 2020, quoted in Ingham, 2020b).

Record labels and streaming services therefore have enormous power over each other. Consequentially, unless both are equally satisfied, nothing can change.

5.2 Major Labels, Publishers and Songwriters

When it comes to sync, royalties are split equally between the label and the publisher. The main reason why streaming royalties have never been split that way is “essentially a hangover from the music industry’s previous practices” (Sentric Music, 2019). When the first digital models appeared, streaming platforms made their initial deals with labels and distributors as they were the only deals needed to upload the songs to their platforms. Licensing the song rights was secondary. The deals with record labels were based on the CD business model, where labels had more overhead costs and took more risks in developing artists. Since the CD model split benefited record labels, they had no reason to involve publishers in the discussion (Cooke, 2021a).

Major labels claim that while CD manufacturing, storage and distribution costs have gone down, the Artist & Repertoire (A&R) and marketing costs have increased. According to BPI (2019), 23% of record labels’ revenue was spent on A&R in 2019 (Jones, 2021). Taylor (2021, quoted in Jones, 2021) argues that “publishers do not take the same level of risk, and the market has effectively allocated shares of revenue that reflect their respective investment and risk.” This is however debatable as it is common industry knowledge that record labels now usually expect significant independent development from artists before they consider offering them a contract, therefore considerably diminishing the risks.

The main issue in reviewing the split is that the most powerful publishers are owned by the most powerful record labels, which represents a conflict of interest. This way, major labels have more power in negotiations than independent publishers. Cooke (2021a)

argues that “if the major music publishers really wanted significant change here, they could make it happen.”

5.3 YouTube and Artists

The relationship between YouTube and artists is vastly dependent on the artist’s status. When it comes to established artists, the general sentiment is that YouTube needs to change its ways. In 2015, Adele and her record label chose to boycott several streaming platforms, including YouTube, by not publishing her album “25” on those services (Resnikoff, 2015). Several years later, when the 2018 EU Parliament agreed to update copyright laws in favour of rights-holders, many felt that it was “righting a wrong” (Mills, 2018, quoted in Sweney, 2018).

Most independent artists, on the other hand, are happy to use the platform as a means of building an audience: “according to research by Oxford Economics, 83% of the British media and music companies surveyed who use YouTube agreed that the platform shines a light on undiscovered talent” (YouTube, 2021). The platform has also launched numerous initiatives dedicated to up-and-coming artists, including Foundry, a global independent artist development programme that included artists such as Dua Lipa in 2015. Additionally, at the beginning of the Covid-19 pandemic, YouTube began hosting live streams and exclusive online shows funded via third-party ticket-sellers. The platform argues that artists strongly benefit from YouTube’s promotions, specifying that “70% of the 2020 BRIT Award nominees were featured in YouTube programmatic packages” (YouTube, 2021).

6.0 Conclusion

YouTube has had many issues with the music industry concerning royalty payouts in the past several years. However, it seems to be redeeming itself with YouTube Music. It appears unfeasible for streaming platforms to distribute more royalties to rights-holders unless they raise the price of subscriptions.

The most problematic entities could be the major labels that refuse to modernise the standard 80/20 split between mechanical and performance royalties and adapt it to the current climate. The dynamic between streaming platforms, labels and artists needs to change and labels need to give up some of their rights for this issue to move forward.

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