

# **BASICS OF MUSIC PUBLISHING**

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Music publishing is different from sales of recordings, even though these two are closely related. In this article we explore music-publishing system through rudimentary analysis of how music publishing works and how publishing and songwriting income is split.

## **DEFINITIONS OF SOME BASIC TERMS**

### **Mechanical Royalties**

Any time a song is reproduced on a recording, whether on a CD or as a digital download, the song owner is entitled to a payment from the company doing the reproduction. Digital downloads are officially referred to as Digital Permanent Downloads (DPDs). This payment is called mechanical royalty because it is paid each time the song is mechanically reproduced as opposed to being performed. Federal law has established a uniform mechanical royalty rate, which is now 9.1 cents per copy of the song.

### **Music Publisher**

A music publisher is a company that owns song copyrights. A music publisher controls how a song is used and collects money from people who sell, perform or modify the song. A songwriter either sells the songs to a music publishing company or sets up his or her own music publishing company.

### **Performance Royalties**

Any time a song is played on the radio, in live concert, on an internet radio station, in a business establishment, on television, or on a website, the party playing the song must pay for the performance.

### **Performance Rights Organization**

It is an organization that monitors radio and television stations, nightclubs, websites and other entities that play music, collects royalties from these places and pays the collected royalties (not all of them) to music publishers. The three Performance Rights Organizations are: ASCAP, BMI and SESAC. All music publishers must register with performance rights organizations so that the performance rights organization knows which songs are published by its affiliated music publishers to pay the appropriate royalties.

## Sync Licenses

A song earns money if it is used in a movie or television commercial. Copyright laws provide for a special payment when songs are synchronized or linked with a moving image. There are no fixed fees for this synchronization right.

## RUDIMENTARY ANALYSIS OF PERFORMANCE ROYALTIES

Unsurprisingly, radio and television stations must pay for the songs they play. As a general rule, FM or AM radio performances result in between 5 cents and 15 cents per play per song, depending upon the stations' signal power, advertising revenues and audience size.

Music publisher does not collect this money directly. Performing Rights Organizations collect the money, i.e. the royalties, and pass it onto the music publisher and songwriter. Therefore, it behooves songwriters and music publishers to register with Performing Rights Societies.

## DETERMINATION OF THE NEED FOR A MUSIC PUBLISHER

Your band needs a music publisher, either internal or external, only when all or some of the band members are writing songs that you want to publish. Then, your next inquiry would be whether you need your band's own music publishing company or to go with an outside music publishing company. You still need to create your own music publishing company; however, you may need the outside music publishing company for "large" advances, marketing and publicity prowess.

Let us look at the following situations and determine whether an outside music publishing company should be considered:

- **Band Unsigned and No Recording:** If there is no song income, i.e. your band is not signed with a record company and your songs are not being recorded for distribution, then there is no need now to create your own music publishing company.
- **Band Releasing Its Own Recordings:** If your band is releasing its own recordings or is signed to an independent record label, your band needs to create its own music publishing company to get full share of your song income. However, if you need an outside publishing company, is a more complicated question depending partially upon whether you receive any advances from the outside publishing company or provide you significant help promoting your band.
- **Band Signing a Management:** You should be leery of giving up your music publishing rights if a manager is pressuring you to sign a management agreement with him/her, in this case you may need your own music publishing company.

## HOW MUSIC PUBLISHING DISTRIBUTION OF INCOME WORKS, IN A NUTSHELL

There is a fundamental agreed principle, though seemingly illogical, that any song income should be roughly divided between music publisher and songwriter. For instance, if a song earns \$100,000, \$50,000 should go to the music publisher and \$50,000 to songwriter. This means if the band has its own music publishing company, the 50% music publishing income is divided between the band's music publishing income and the outside music publishing company the band has signed a music publishing agreement.

For instance, let us assume your band signs a publishing deal with Superb Publishing, and a song earns \$100,000. The share of the songwriter is \$50,000. The other \$50,000 is divided in half between your band publishing company and Superb Publishing. Your band's publishing company receives \$25,000 and Superb Publishing receives \$25,000.

## DIVIDING UP SONG INCOME WITH YOUR BAND

After the music publisher has received the share, as explained above, the income that songwriters receive must be divided up among band members. Dividing up song income has a long-lasting effect on band members even after the band breaks up.

The following provides some rudimentary mechanisms to divide up song income among band members:

- Songwriters Take all the Song Income
- Band Splits Songwriting Income Equally
- Songwriters Split Songwriting Income Proportionately and Band Divides Up Publishing Income Equally
- One Credit for Performing on a song, two credits for writing and performing on a song.

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