Music Business for Musicians Report

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This report will talk about the use and the laws of copyright and how it occurs, including the four moral rights granted by copyright and the concept of copyright infringement. It will also explain the difference between an author and an owner of music with regards to copyright along with the lifespan of copyright. It will also cover the 4 different types of contracts: record contracts, music publishing contracts, live performance contracts and artist management contacts.

Copyright is applied when a form of work is both original and created. This work must be recorded in some way like written on paper or digitally and be original in content. The ownership of copyright is immediate which means that the right goes straight to the creator and there is not a in need for any processing. Copyright doesn’t only apply to music, it can also apply to other expressive arts such as photography, poetry and other types of writing. It can also protect the work of non-literary texts like advertisements and newspaper articles. Computer programmes and websites also fall under the laws of copyright.

The copyright, designs and patents act of 1988 is the law that our copyright is protected by. This law gives us as the creator the choice of how we use what we’ve written such as performing it or letting others use it for advertisement. Again, this act protects more than just music. It also defends the work of the expressive art forms and non-literary works that I’ve spoken about already.

There are four moral rights that come under the copyright designs and patents act 1988. These are: the right to attribution, objection to derogatory treatment, objection to false attribution and right to privacy. The right to attribution is to be considered the creator of your material for when it is out for the public to listen to or if you release an image on to the internet. This means that you are understood by the consumer as the creator of your piece of material that has been made public. The second right is known as the right of integrity, the creator is allowed to object to derogatory treatment of their work or any part of it. To show that someone has mistreated your work you would most likely have to show evidence of your reputation as an artist has been impacted in some way. The right to false attribution is when an artist is given credit for a piece that they did not create. This becomes important if you are declared as a creator in a statement that has nothing to do with you. The right to privacy is when anyone who’s requested an artist to create a copyright work has the right to choose when to release it to the viewing public and how to promote it etc.

Copyright infringement is when a piece of work that is copyrighted is used without permission. There are two types of copyright infringement, direct and indirect. Direct is when someone uses your piece in any way they choose to without consent. This could be burning CDs or playing the song live or in a store without having the correct licenses. But indirect is when someone takes part in the copyright infringement, but they don’t steal the content first-hand and they get it off someone else, maybe off a website or from a store.

In most cases, the author the person who creates the work is the owner when it comes to copyright, but this is not always the case. Maybe someone could be working for someone and could be under a contract of some kind to create a piece of work that would be owned by the employer. In other cases, maybe a record company has given an artist some money to make a record for them so the artist would get a share, but the company would own it and can choose how to use it.

The lifespan of copyright is seventy years after the creators death. This lifespan comes under literary, dramatic, musical and artistic pieces. Once the lifespan has been met and there is no owner, it then becomes freely available to the public.

The function of a record contract is so that the artist can pass along the rights for their recorded pieces to a record company. It’s a way for an artist to be paid for their work and to receive support/money from the record company. Arguably not as necessary these days as they once were, due to social media etc. There are different types of deals. There are: license deals, development deals, production deals and 360 degree deals.

The five clauses to a record contract are term, territory, advances, royalties and formats. The term of a record contract is the length of the deal that you have with the company. This could be number of albums or tracks. The number of tracks created under the contract in some cases will not be the amount agreed at the start of the term. After each release, the company will have options on what do. Like to extend the contract or to drop the artist, but the artist can’t do the same. This could be because if the artist drops them, they may not get the money back that they invested in the artist. Record companies also have the chance to pull out of the deal if they do not receive money back from their advances given to artists. But an artist that is of good value would have the chance to discuss a “two album” firm deal. This means that the label has given a definite two albums to the artist. However, the label still has the right to drop the artist after just one of those albums.

The territory of a record contract is whether the record company is big enough to promote and sell the artist’s music in one nation or across the globe. If the deal is not negotiated as worldwide, this could mean the artist could have another type of deal somewhere else in the world which can be challenging to deal with. An advance is the money that the artist gets to fund their recordings and their lifestyle. This is something that must be paid back, and the artists won’t receive any royalties for the songs until this is paid back. But it is usually automatically taken out by the label through the record sales. The period that you have the advance to live off is usually 18-24 months long. If the advance isn’t pay back from the royalties made, the artist will for sure be let go. If an artist gets dropped by their label, it has been proved to be difficult to achieve much attention from other big labels due to it being noticed that you have failed in your previous experience. Royalties is the money that you receive from the music that’s been sold. When it comes to being offered royalties by record labels, there are a few options. In some cases, the label can offer a share of what the record is sold for in stores, however this has been proved to be hard since the prices vary a lot these days. The most common way to earn royalties would be through a Published Price to Dealer (PPD). The regular percentage for the artist would be 18% but it can be discussed as the artist goes through each record. As the numbers go up, it would be likely for the advances and royalties to go up as more albums get released. But if the artist gets another advance and hasn’t paid back the previous advance, all the debt adds up and don’t go away. The format of a record contract is all the areas that the deal considers. It is important that all formats are agreed and that both the artist and label are happy.

Another type of contract is a music publishing contract. A music publishing contract allows a publisher to distribute an artist’s music. This means giving businesses licenses to use the artists songs and even letting companies use their songs for advertisement, for example on television. Publishers also collect royalties from the companies that are using the songs and they collect royalties from copyright collections, like Public Performance of Songs (PRS) and Mechanical Copyright Protection Society (MCPS). The types of deals you get are administration deal, sub publishing deal and single song assignment.

The clauses in this contract are term, territory, minimum commitment, advances and royalties. The term of this contract is commonly complete after a few years. But the contracts are similar in the way that the publisher can decide whether to stick with the artist or to drop them unless it’s a fixed term deal which means they can’t get out of the deal until the number of years is complete. The territory for this contract is the same as the record deals which is that it shows what territories this contract applies for. Big publishers will most likely make it a worldwide contract which is basically due to the size of the publishing company, so they’ll have people around the world to collect your royalties. When it comes to smaller publishers, you need to have knowledge on if they have the capability to deal with a worldwide deal. If they are unable to handle that, then they can try sub publishing which is when smaller publishers team up with other publishers around the world. Minimum commitment is when the publisher and the artist agree on the expectations for both involved in the contract. The obvious one would be the number of songs that must be produced by the artist. But this can get complicated if it’s a band that co writes songs and if you’ve created a load of songs that don’t get commercially released. The publisher will only give an advance to the artist if they’re under an exclusive deal. The advance must be paid back from the first royalties received from the artist the amount that you get in an advance is decided by the publisher and they do this by choosing how valuable and important the deal is. When it comes to the royalties, the publishers average percentage that is taken is usually about 20-25% which means the artist will be left with 75-80% but the first amount of royalties will go towards the advance that needs paid back. There are two ways of calculating royalties, at source and receipts. At source is when the artist is paid directly from the source minus all the tax reductions. “receipts” is similar in getting paid directly but you get your money until the sub publishers get their cut. At source is the deal the artist wants but it’s not always available so they would have to try and negotiate a good deal with the sub publishers.

The function of a live performance contract is to make sure that everyone involved, artist and promoter, knows their obligations and to behave accordingly to the contract so that everything runs regular as clockwork. The contract will include set times and the duration of soundcheck and the actual performance.

The clauses for this contract are obligations (promoter and artist), fee, payment, cancellation, other income opportunities, restrictions, liability and rider. The two types of obligations are promoter and artist obligations. The promoter obligations are the very important small agreements. Like ticket sales, venue and all it’s facilities (backstage and PA, maybe even backline.) The artist obligations are the performance date, the length of the set and all the details necessary for the performance. The fee is the amount of money the artist will receive for the performance. The ways to calculate the fee are flat fee, a guaranteed fee vs a percentage of profit and a percentage of ticket sales. A flat flee is just a straight up amount that you get for playing the gig, ticket sales are not taken into consideration. A guaranteed fee vs a percentage of profit is when you have a guaranteed amount for playing it, but you will also get a percentage if the profit is higher. A percentage of ticket sales is when you get a cut of every ticket that you sell for the gig. The payment part of the contract is describing the entire process of being paid. Like if you get the full cut on the night of the gig or if it’s in cash or bank transfer. All the members of the bands and the associates should be able to look at all the costs and receipts when they are getting a percentage. The cancellation part is for if either must cancel or pull out of the event, this part will state what the party that’s pulling out must do. This part of the contract doesn’t go in to too much depth, but it is a vital part of the contract. Other income opportunities could be things like merchandise. At a small level, an artist should be able to set up a merch stall without having to give the promoters a cut but as the levels get higher the promoters will most of the time always have a cut from the artists merchandise. Other sources of income could be a promoter earning money for letting a company have their product be sold at the event like an alcoholic beverage. An artist could also maybe get a cut for this since their product is going to their fans. Restrictions is the things that all parties don’t have a right to do. This could be filming the performance or when the artist can load in, soundcheck and when the gig is over. The merchandise can also be discussed in this clause. Another thing that can be discussed is if the artist can play a gig a few weeks before or after the event. Liability is to show who is responsible for all the legalities like insurance. Public Liability Insurance protects the promoter and the artist if anyone attending the gig gets injured or even dies. When it comes to public liability insurance, this seems to fall on the promoter more than the artist. The rider is what the artist requests to have backstage, such as drinks, hot or cold food and showers and other facilities. It can also come under the accommodation for the artist. It should be known to the promoter that they should try to grant every request from the artists performing as it is a good gesture and is greatly appreciated.

The function of an artist management contract is that if the artist can’t find the time or is inexperienced in this area, they will appoint a manager to deal with those parts. There are 3 things implied in an artist management contracts, the trust between artist and manager, the managers word to help the artist as much as they can and that both artist and manager should always try to do the best for each other.

The five clauses of an artist management contract are term, exclusivity, commission, post term commission and territory. Some of these agreements have targets set instead of a term. If the targets are unsuccessful in a “set term” then the manager could be let, go and vice versa. A set term usually lasts about 2-5 years and targets are still usually set along with the term agreement. Some targets could get a record or publishing deal, or it could just be to achieve a good amount of cash. Exclusivity is when the manager does his job in the parts of the world decided in the contract. This tells the manager that he will be only working certain things to do with the artists career and not unrelated matters. The usual rate that the manager takes is 20% of the gross profits the artist makes but a successful artist could be able to wiggle the percentage down to 15%. It is important to make sure that it is agreed on what the manager takes 20% of, this could be part of the advances that artists get from record and publishing companies. This can then be seen as unfair because of all the overheads of recording costs and other expenses. Post term commission tells both parties all the commission the manager can receive if they decide to leave the contract and for how long will they receive commission. The simple is that the manager receives commission from all the artist’s work that he was involved with at the time. This is the “standard”. The percentage could maybe drop-down overtime and that could last for up to 10 years. When it comes to territory, the manager usually wants a contract that’s worldwide, the artist must consider and if they are able to travel to satisfy the artists needs. It should also be considered that who pays for all the accommodation if the manager needs to move around the world. In some cases, artists will have co-managers which help the artist if the manager isn’t capable of this. There could be specific managers for specific areas.

In this report, I have spoken about how copyright comes about and how it is used. We’ve also spoke about the concept of copyright infringement and the four moral rights. The duration of copyright and the difference between the author and an owner of copyright. We discussed record contracts, music publishing contracts, live performance contracts and artist management contracts, talking about their function and all their clauses. This report has helped me understand a lot more on how copyright and contracts work and how important it is that artists are knowledgeable enough to ensure they are getting a fair deal for their work.

References

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