

The Eastman **Case Studies**

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Composer Marc Mellits



INSTITUTE FOR
MUSIC LEADERSHIP



EASTMAN
SCHOOL OF MUSIC
UNIVERSITY of ROCHESTER

Composer Marc Mellits

Marc Mellits is among the leading composers of music on the contemporary arts scene today. His works are widely performed in Europe and North America and are also found on numerous recordings. The composer's early success came in the year 2000 when the composer was selected to write a piece for the Bang on a Can All-Stars. Commissions followed and increased through the years. With his copyediting experience at New York music publishing houses, Mellits launched his own self-publishing operation and developed a website for his music to be sold. As an established professional composer, he now enjoys several revenue streams related to—but also beyond—his compositional output. Royalties are one of the income streams, collected by performing rights organizations of which he is a member. This case centers on the question of a territorial release for licensing his work in France and French territories, where his music is doing exceptionally well.



This case study was prepared by Michael Alan Anderson, Associate Professor of Musicology at the Eastman School of Music. *The Eastman Case Studies* are developed solely as the basis for class discussion. Cases are not intended to serve as endorsements or sources of primary data nor are they to serve as illustrations of effective or ineffective leadership or decision making.

Composing as a Profession

Marc Mellits is among the leading composers in today's contemporary art music landscape. Hundreds of performances of Mellits' compositions take place worldwide each year. His works can be heard at major festivals in Europe and in the United States and at impressive venues like Carnegie Hall and the Kennedy Center. Some of the world's leading ensembles, small and large, have commissioned Mellits' work, from the Kronos Quartet to the Royal Concertgebouw Orchestra. Thousands of performances of his music have led to recordings, of which there are over fifty, on labels such as Black Box Music, Innova Recordings, Endeavour Classics, Evidence Music, and Cantaloupe Music. The composer has further made a name for himself in film, composing numerous scores, including one for the PBS mini-series "Beyond the Light Switch," which won the prestigious Alfred I. duPont–Columbia University Award for documentaries in 2012.

The intuitive and primal nature of Mellits' compositions, whether presented with sparing instrumentation or with rich orchestral color, connects with audiences of all types. The *New York Press* raved about a performance of Mellits' music: "This was music as sensual as it was intelligent; I saw audience members swaying, nodding, making little motions with their hands."¹ His works have approached celebrity status online. The first movement of Mellits' "Five Chanukah Etudes for the Frascas" for solo 10-string amplified acoustic guitar, entitled "Dometude," garnered more than 40 million views on YouTube before it had to be removed because of copyright infringement against the composer.

Making a living as a composer is not for the faint of heart. Talent for churning out original music and developing a large network of receptive performers does not always ensure success for a composer. As

Mellits completed graduate studies, he consulted with composer Steve Reich and made the decision to try to "make it" as a composer while living in New York City. This career move stood in contrast to many graduates in composition programs who would settle in academia and teach composition and music theory. Mellits' pursuit of composition as a profession was the single most important decision of his life and revealed his self-confidence in the face of a competitive field.

Predictably, the young composer was not receiving commissions in his first few years in New York. Mellits had to survive, however. As his day job, he worked for publishers as a copyist of scores. Mellits began at Boosey & Hawkes and also did work for other major publishers like Broude Brothers and Carl Fischer Music, copying works of composers such as Steve Reich and Martin Bresnick. Although no one was asking for the music he composed, Mellits was learning the publishing industry and getting paid for it.

The definitive "big break" for Marc Mellits came in the year 2000 when the composer was selected to write a piece for the Bang on a Can All-Stars, a contemporary music stalwart. He was chosen as part of the organization's generous People's Commissioning Fund, which supports adventurous composers. The adage "success breeds success" was true for Mellits, as this single commission (entitled "5 Machines") brought more commissions soon thereafter. As requests for compositions increased, there was less time for copyediting at the publishing houses. Working without a publisher and using typesetting software that was revolutionizing the industry, Mellits was unwittingly drawn into the business of self-publishing. Eventually, all of the copying work had come to a halt as commissions demanded the composer's full attention. Mellits emphasizes that commissions alone are not enough for him as a composer: performances of his music

¹ Eva Neuberger, Review of "Bang on a Can All-Stars & Toby Twining Music," *New York Press*, June 13, 2000, <http://www.nypress.com/mark-arm-brings-the-monkeywrench-to-london/>

are what drives his brand to the heights it enjoys. It is insufficient to have music in the hands of musicians; his success rests on their performances of his works. When musicians play one of Mellits' compositions, other musicians want to take part in it

"Performers are doing for me exactly what a publisher would do."

– Marc Mellits

too. Audiences exposed to his music likewise want to seek it out further. "Performers are doing for me exactly what a publisher would do," Mellits quipped. The enthusiasm coming from performances drives both commissions and sales for the composer.

Process Consolidation

As a self-publisher with great promise, Mellits developed a website for his music to be sold. The composer was careful not to give anything away for free, never posting Portable Document Format (PDF) files on his site because of the risk of piracy. Nonetheless, his music was being shared illegally, not much differently than the online file-sharing service Napster, which jolted the recording industry hitherto built on physical commodity. One server in Australia was found with over 200 PDFs of Mellits' music in circulation, unlawfully scanned and distributed still to an unknown extent. Instead of offering scores for viewing, the composer provides sound clips to the buying public. Professional musicians, music directors, and amateurs could now hear samples of Mellits' scores and make decisions for themselves about purchasing. The printed and bound product achieved a standard of excellence, and rightly so—Mellits was well prepared with a set of best practices from the leading New York publishing houses. He used high quality paper, ensured logical page turns for performers, and paid close attention to the dimensions of the score, aware of how it would sit on a music stand.

Following a relocation to Chicago in 2011, Mellits

continued to be busy as a self-publisher. He received orders for his music nearly every day using the e-commerce capacity of his website. In 2017, Mellits sold nearly 700 pieces through his store on www.marcmellits.com. Each "piece" might consist of ten or twelve individual parts, demanding precision in the printing and shipping process. For each order, he prepared scores to be printed at a local copy store that had the printing materials and equipment he needed to produce high-quality parts and scores. Looking to consolidate the repetitive process, Mellits would print a number of scores at once to save trips to the printing store. He also began to gather up his print and shipping jobs into batches, making trips to the post office only twice per week instead of several times per week.

The process was significantly condensed when Mellits found a company that could print, bind, and ship his scores. The Colorado-based printer Black Ribbon was a boon for Mellits' expanding music sales operation. The company specializes in handling the tasks associated with printing and delivering scores on behalf of independent composers. Mellits has full confidence in Black Ribbon to carry out the "dirty" work that was weighing on the composer's time. The company stresses that it takes special care with its clients because its employees are professional musicians and therefore "understand exactly what it takes to create printed music," according to Black Ribbon CEO Matt Franko. Mellits still oversees the part of his self-publishing business at which he is most skilled—composing and scoring. His website is now fully automated to accept payment and has the capacity to communicate directly with Black Ribbon when orders are taken. A cloud drive allows the composer and printer to exchange material. The company has advantageously distanced the composer from the daily transactions that consumed his day. Mellits is not shy about the effect of outsourcing of this burdensome part of his work to Black Ribbon: "it

changed my life completely!”

Income Streams for the Self-Publisher

From the picture that has been painted of Marc Mellits, one would be led to believe that this self-publisher’s income consists of commissions and music sales through his website. However, professional composers like Mellits can expect revenue streams beyond their compositional output. These streams are derivative in nature, offshoots of the composer’s corpus of published works. He benefits from royalties, including grand licenses (such as dance and theater performances of a composer’s work), mechanical licenses (for sales of recordings), and synchronization (“synch”) licenses for his music in films. He also engages in ancillary activities that a professional composer might expect.

An important source of revenue for Mellits comes from royalties reaped from live concert performances of his music. As mentioned, Mellits’ works are heard in major venues around the world. The American Society of Composers, Authors and Publishers (ASCAP) and Broadcast Music, Inc. (BMI) Corporation are performing rights organizations (PROs) that collect payments from institutions offering music of a given composer whose work is registered with those organizations. Public performances of the composer’s music must be licensed by a performance venue or presenter, which will give the composer an income stream from the PRO. Various formulas are used to determine licensing fees collected by PROs; industry rates are set and are calculated based on the size of audience of the performance venue in question or based on the revenue they typically generate. In addition to live concert performances, PROs also monitor performances on broadcast and many unexpected venues where their members’ music might appear, from bars and hotels to airlines and even online. By no means can PROs account for every

performance of a composer’s works. It is estimated that organizations like ASCAP and BMI track between one-quarter and one-third of a given piece’s actual performances. But the technology used to collect performance data is improving, ultimately ensuring larger payments to rights holders who have registered their music with these organizations.

Not infrequently, Mellits’ music is taken up by modern dance or theater companies. These companies do not fall under the purview of traditional PROs; instead, their use of published music requires what is called a “grand rights license.” For a self-published composer, grand rights agreements are struck between the parties in question—the composer (who is the sole owner of a composition’s copyright) and the producer of the dramatic work that seeks to use the music. There is neither a formula nor a set rate for compensation that can guide negotiations. Rather, the parties simply have to settle on a reasonable payment to the composer for permission to be given.

Mellits has learned that dance companies tend to be less aware of grand rights licensing than theater organizations. More than a few times, the composer has learned that dance companies used his music after their shows were completed. Upon discovering use of his music, Mellits contacts these organizations, which sometimes plead ignorance of the rights laws. Whether he determines fair charges before or after the fact, the composer does not aim to bankrupt

The technology used to collect performance data is improving, ultimately ensuring larger payments to rights holders who have registered their music with performing rights organizations.

performing arts companies for grand rights licenses. He only asks to be compensated fairly for the use of his works. His rates vary: “Sometimes, I just ask them what they can afford.” For a small, financially-strapped dance company, he might ask for a payment as low as \$25, or he may grant usage for free. Compensation may also run into the hundreds or thousands, based on the number of performances, the size of company, and the venue involved.

Payments for mechanical licensing of Mellits’ compositions constitute another source of income for the self-publisher. Mechanical licenses grant the rights to reproduce and distribute musical compositions under copyright. Until the digital revolution, this kind of licensing applied to physical formats such as CDs, records, and tapes. The advent of the digital technology transformed the recording industry, and “mechanicals” are now tracked with digital downloads, streaming media, and other digital configurations such as ringtones. The Harry Fox Agency is the leading provider of mechanical licenses in the United States, providing royalties to composers whose music is under copyright. Unlike the grand rights licenses, mechanicals have pre-determined rates to be paid out to rights holders when purchases are made. At present, a permanent digital download, for example, earns 9.1 cents for a work under five minutes, and 1.75 cents for each additional minute over five minutes. Other formats earn different rates. Like many composers, Mellits has found that payouts from digital streams and downloads are miniscule from the microtransactions that take place among providers. In the United States, there is legislation afoot that could allow licensing frameworks to better respond to the realities of the dynamic music marketplace.

Mellits’ decision to pursue a “pure” composition career and to self-publish differed from many of his classmates from graduate school who never left

academia. It is with some irony then that Mellits was invited to be an Assistant Professor of Music in 2011 at the University of Illinois at Chicago’s School of Theater & Music, where he teaches composition and related courses. University teaching is a source of income of course but one that materialized as a result of the positive trajectory of his career. On his return to academia as part of his career, Mellits remarked: “I always knew that I wanted to teach composition to young composers, but I also felt that I needed to learn first how to be a ‘composer’ in the real world. That way, I would have something tangible to teach and give back to students.”

Mellits stresses that there are academic-like activities that he is offered, even if he were not teaching at the university level. He

is invited to music festivals to discuss his works with students. He may also participate in a more substantive way as a composer-in-residence, such as in Vermont’s Bennington Chamber Music Conference in the summer of 2017, where Mellits served in this role with three other composers. As composers-in-residence, faculty members write a chamber work specifically for a participant group to prepare for performance. This kind of work is compensated, as one can guess, underwritten by participants who pay substantial tuition for a few weeks of intense instruction and performance. Mellits also gives other lectures about new music and his career path. These income

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streams are usually inconsistent for composers at the outset, but over time reach a level of predictability.

Dacia Music

Mellits' works are monitored by the performing rights organization ASCAP, which gathers payments from institutions presenting his music, whether live in concert or on broadcast and digital media. Shortly after moving to New York City in 1997, Mellits received a call from ASCAP. The company was aware of the increasing number of performances of his music in concert and wanted to be in contact with him. They notified the composer that because he did not have a publisher for his music, he was missing out on half of the royalties that were earned from performances of his works.

Mellits was admittedly unfamiliar with the ASCAP's collection and disbursement system, so his representative explained the process in more detail. Once a work is registered with ASCAP, it becomes part of the ASCAP repertory. The company then collects performance royalties on these works, negotiated with a host of television and radio networks and local stations, digital service providers (Spotify, Apple Music, Pandora, etc.), and concert presenters—more than 700,000 businesses in all. When a work is registered, ASCAP gathers information about the writer and publisher, as well as the royalty percentages allocated to each. The process is described in detail in **Appendix 1**. By not having a publisher, Mellits was not entitled to the full royalty disbursement from ASCAP. This payout was capped at 50% of the money collected, and the publisher's share of Mellits' royalties was pooled at ASCAP. The performing rights organization recommended that the composer simply launch his own publishing company; he would therefore qualify for the additional 50% that was held for the publisher. Mellits indeed registered his own publishing company, called Dacia Music, and has claimed the payments ASCAP had redistributed to its publisher pool. Aside

from the nominal startup fees to establish and sustain Dacia Music, Mellits essentially doubled his collections from PROs.

Collecting Rights: Near and Far

Marc Mellits received a call recently from a friend who is a violinist and lives in France. His friend mentioned that a 2017 recording of Mellits' third, fourth, and fifth string quartets by the group Quatuor Debussy had reached No. 3 on the French classical music charts. The same recording fared well in the United States as well, reaching No. 17 on the iTunes Classical chart for several weeks following its release. The success in France was of particular interest to Mellits because the label Evidence was eager to nominate the recording for a major prize in France—the Diapason d'Or, the French equivalent of a GRAMMY® award. Mellits was not eligible to be nominated for the Diapason d'Or, however, because he was not a member of France's chief performing rights organization—the Société des Auteurs, Compositeurs et Editeurs de Musique (SACEM).

SACEM is a company that collects royalties in France and around the world similar to ASCAP, which is based in the United States. As mentioned, Marc Mellits is a member of ASCAP, which spans the world with its licensing coverage of venues that feature live performances of his music. Despite its international reach and reciprocal agreements between international PROs, ASCAP is unable to achieve the kind of coverage of venues that SACEM would offer in France. Perhaps as important, the company that oversees mechanical royalties in France (the Society for the Administration of Mechanical Reproduction Rights of authors, composers, publishers, dubbing and subtitles authors, or SDRM) is a partner with SACEM, effectively making the rights for both venues and mechanicals more of a “full-service” or “one-stop” shop. Mellits' music has done extraordinarily well in France, and

more live performances are expected of his work, given the success on the classical music charts. This has the composer thinking of a solution to ensure fair compensation for performances of his music that are happening around the world.

Territorial Release

Mellits called ASCAP to learn more about his options. They counseled him that while his membership in ASCAP entitled him to royalties from around the world, there was a way to release his work to SACEM for licensing in France and French territories. The application for SACEM membership that Mellits received, however, was for worldwide coverage, which would be in violation of his agreement with ASCAP. His work could not be licensed worldwide by both PROs. This could have been an attempt by SACEM to “poach” a successful composer from ASCAP’s roster.

*

Mellits has a difficult decision to make, and he needs to determine a course of action quickly as his music nears the top of the classical charts in France. Most urgently, he would like to be eligible for the Diapason d’Or. This is a reason to sign with SACEM immediately. SACEM has offered a worldwide licensing of Mellits’ work, however. This is attractive insofar as the connection between SDRM and SACEM, which consolidates mechanical licenses under the single PRO. Adding SDRM would allow Mellits to collect mechanical royalties from CD purchases and downloads in France, where his music is doing well. Indeed, it is rare for a composer to be earning significant revenue from CD sales in the digital age. This is something on which the composer could capitalize. SACEM will also gather royalties for performances of Mellits’ music by dance companies, another area in which the composer’s music is faring strongly in France. Instead of seeking worldwide coverage, Mellits will certainly counter

with a proposal to be released from ASCAP just for France. Release of a composer’s work from ASCAP for a specified territory is usually designed for a limited amount of time. What period of time would be appropriate given the circumstances?

Mellits would certainly collect more revenue from France and French territories by signing with SACEM than he would by allowing ASCAP to continue overseeing licenses and royalties for his music worldwide. Registering with SACEM would also ensure his eligibility for the prestigious Diapason d’Or. Ever since he was a student however, the composer has been represented by ASCAP. “ASCAP has been incredible to me and very supportive for many years,” he added. Under ASCAP rules, Mellits has a right to enter into an agreement with SACEM for a territorial release. A nominal fee of 150 Euros is required for registering with SACEM, but the composer guesses it would quickly be made back with what is expected. Royalties from sales of recordings could net him around \$1,000 (USD), but dance licenses could net a few thousand dollars or more. How should Mellits structure his agreement with SACEM?

APPENDIX 1

ASCAP's Payment System

ASCAP's main role is to make sure its members are fairly compensated when their music is performed in public. They license over 10 million songs and scores to the businesses that play them, then send the money to their members as royalties. They use cutting edge technology to track, match, process and pay on a trillion performances each year, making them one of the most effective and innovative PROs in the world.

While the payment system is complex, it is based on a few simple principles, described on the company's website, along with frequently asked questions about the collection and disbursement system.

Fairness and accuracy

ASCAP is committed to paying members as fairly and efficiently as possible. We've invested in technologies that increase the accuracy and quantity of the performances we process, all while saving on operating costs, so we can put more money in our members' pockets.

Follow the dollar

Our members deserve to know where their royalties are coming from, and our licensees deserve to know where their money goes. That's why we operate on a "Follow the Dollar" principle: the fees we get from TV networks goes to TV music creators, the fees we get from streaming services compensates performances on streaming services, and so on.

ASCAP operates on a not-for-profit basis

About 88 cents of every dollar we collect is distributed back to our members as royalties, giving us the lowest operating expense ratio in the US. We seek out new tools to maximize our efficiency so we can deliver more money to our members, where it belongs.

Registering Your Music with ASCAP

The first step to getting paid is making sure your music is registered at ASCAP. After all, we can't pay you for the performance of a work if we don't know you are the writer or publisher! Once we identify a work that has been performed, we then have to determine the correct writer and publisher members to pay, and the percentages of royalties that should go to each entitled party. To do that, we rely on information supplied to us by our members.

In the case of most musical works, you will let us know the writer, publisher and royalty percentage through our Title Registration system, available in your ASCAP Member Access account. Writers who publish their own works should register their music themselves; if you have signed a publishing deal, your publisher may do it on your behalf. Either way, registering your titles gives ASCAP the information we need to get you paid properly.

APPENDIX 1 cont'd

Cue Sheets

In order to credit members for performances of their works on television and cable, ASCAP must have a cue sheet on file. Cue sheets list detailed information on all of the writers and publishers who have music in a show. Cue sheets are usually submitted to ASCAP by the producer of a film or television program.

WHO DOES ASCAP COLLECT FROM?

Once you've registered your works with ASCAP, they become part of the ASCAP repertory for which we collect performance royalties. We do this by negotiating with and collecting license fees from the **users of music**—our **customers**—who perform the works in our repertory.

Most customers pay ASCAP an annual **blanket** license fee for the right to use any music in the ASCAP repertory. Some local radio and television stations opt for a **per program** license, under which they only pay ASCAP for programs containing ASCAP music not otherwise licensed. Every penny we collect, less operating expenses, is distributed to our members whose works were performed.

ASCAP Customers:

- The three major television networks: ABC, CBS and NBC
- The Univision and Telefutura networks and their stations
- Over 1,300 local commercial television stations, including affiliates of the three licensed networks as well as affiliates of Fox, CW, My Network, and Ion
- The majority of 11,000 cable systems and virtually all national and regional cable program services
- Close to 11,500 local commercial radio stations
- XM/Sirius Satellite Radio
- Close to 2,500 local non-commercial radio stations, not affiliated with NPR
- The PBS Public Television network, and its approximately 390 local television affiliates and the National Public Radio system and its approximately 1,000 local radio stations
- Pandora, Spotify, YouTube, Rhapsody, Netflix, Amazon, Apple Music and thousands of websites and mobile apps
- Hundreds of background music services (such as MUZAK, airlines)
- About 2,300 colleges and universities
- About 5,700 concert presenters
- Over 1,000 symphony orchestras
- Hundreds of thousands of “general” licensees: bars, restaurants, hotels, ice and roller skating rinks, circuses, theme parks, veterans and fraternal organizations and more

APPENDIX 1 cont'd

KEEPING TRACK OF PERFORMANCES

Each year, ASCAP processes hundreds of billions of performances of ASCAP music in the 700,000+ broadcast and live venues we license, throughout the country. Whenever it is economically sensible, ASCAP will conduct a census survey, or complete count, of performances in a medium. We're able to count all performances in a medium when the cost of collecting and processing accurate data is a low enough percentage of the licensing revenue that the medium generates.



APPENDIX 1 cont'd

Where a census survey is impractical, we conduct a **sample survey** designed to be a statistically accurate representation of performances in a medium. All times of the day, all days of the year, every region of the country and all types and sizes of stations are represented in the ASCAP sample surveys. The greater the fee a licensee pays us, the more often that licensee is sampled. For example, a radio station that pays ASCAP \$20,000 in license fees is sampled twice as often as a station that pays us \$10,000.

Both our census and sample surveys are conducted using state-of-the-art technology to collect performance data. As technology becomes more sophisticated and economical, we expand our complete count of performances, and put more money in the pockets of ASCAP members.

THE ASCAP SURVEYS

The chart below outlines which media are on an ASCAP census survey and which are on a sample.

Our survey methods depend on the medium we're surveying. Whether census or sample, our surveys are conducted using state-of-the-art technology to collect performance data. As technology becomes more sophisticated and economical, we expand our complete count of performances, and put more money in the pockets of ASCAP members.

The digital data we get from radio and streaming services gets processed by our award-winning Audio Performance Management (APM) platform, which matches performance data to the works registered in ASCAP's databases. APM is capable of matching six times more performances per hour than our previous system. In the first year we used APM, we doubled the number of performances we processed annually, from 250 billion to 500 billion. Coupled with our expanded streaming surveys, APM also helped identify 30 times more streaming works than the previous year, resulting in nine times more ASCAP writers getting paid for streaming music.

APPENDIX 1 cont'd

MEDIUM	THE CENSUS SURVEY (Complete Count of Performances)	THE SAMPLE SURVEY
Network Television	ABC, NBC, CBS - all performances, including music in commercials, promotional and public service announcements	
	- Fox and CW - all programs, commercials and promotional announcements - Univision - all programs and promotional announcements	
Local TV	- All syndicated programs and movies - All commercials on stations monitored by Competitrack - Locally produced programs for which ASCAP is paid on a per-program license basis	All other programs
		Music in commercials, promotional and public service announcements
Cable TV	- All general entertainment cable networks, premium movie services and selected sports services - All series and movies on MTV and VH1 - All commercials on stations monitored by Competitrack	All other programs and uses on these major cable services
		All uses on other licensed cable services
Cable TV – Local Cable Systems		All programs and music commercials, promotional, and public service announcements
Music Choice	Census of titles that exceed credit threshold	Sample of other titles on all channels
PBS	PBS programs, syndicated programs and movies on more than 50 of the largest PBS stations	All other programs and uses
Live Concerts	- All songs written and submitted by members via ASCAP OnStage - All songs performed in the 300 top-grossing concert tours - All songs performed in other selected major venues - Live symphonic and recital concerts	Other performances in educational institutions
Radio		All radio including commercial stations, National Public Radio, college radio stations, satellite radio
Internet	ASCAP-licensed websites and ringback tone licensees that provide us with complete data on music use	Other ASCAP-licensed internet sites
Background and Foreground Music Services	- The Environmental Channel and FMI satellite services of MUZAK - Titles on DMX Satellite channels that automatically match to work IDs or are above a threshold number of plays	All other titles on DMX
Other Media	- Ringling Brothers Circus - Disney on Ice - Radio City Music Hall holiday shows, including tour - Disney, Universal, and Busch Gardens theme parks - Banco Popular - Digital Jukebox (e.g. Touchtunes & AM) titles that exceed credit threshold 50 monthly programs on airlines	All other Digital Jukebox titles

APPENDIX 1 cont'd

ASCAP ONSTAGE, ASCAP PLUS AWARDS, PERFORMANCE NOTIFICATION AND OUR TOP 300 TOURS SURVEY

ASCAP strives to identify public performances in every one of the 700,000+ businesses we license. It is not cost effective for ASCAP to survey all performances in bars, clubs, and other “general licensees” due to the lack of availability of accurate performance data and the relatively small license fees paid by these establishments. To address this challenge and compensate you for your hard work, we have a number of programs funded by fees from licensees like these.



ASCAP OnStage

Each quarter, our writer members can submit an ASCAP OnStage claim to notify us of each individual performance of their music in ASCAP-licensed venues. We distribute royalties to the writers and publishers of the songs based upon the license fee paid by the venue. OnStage is another example of our commitment to “Follow the Dollar” - it’s a direct connection between our members and the licensees that perform ASCAP music.

Performance Notification (for Concert Music composers)

ASCAP composers of symphonic and concert music can get paid for live performances of their works at ASCAP-licensed concert halls, universities and other ASCAP-licensed presenters and venues, by submitting programs via our Performance Notification form. We encourage composers to fill out the form every time there is a licensable live performance of your music, throughout the world.



ASCAP Plus Awards

Through the ASCAP Plus Awards program, we reward writers of symphonic & concert music, jazz and musical theatre with a value beyond the scope of performance surveys. All award decisions are made by distinguished members of the music community who are neither members nor employees of ASCAP. ASCAP is the only performing rights organization with an awards program of this kind.

While ASCAP concert music composers may apply for Plus Awards and submit programs via the Performance Notification Form, the two programs are distinct. Performance Notification is part of our regular survey, and the royalties are based on licensing fees from ASCAP-licensed venues. The Plus Awards are designed to compensate composers for activity outside of our surveys - applications may list performances in non-traditional or unlicensed venues, as well as significant career activity (e.g. recording releases, commissions and premieres, honors).

APPENDIX 1 cont'd

Top 300 Tours Survey

ASCAP surveys and distributes royalties for the ASCAP songs performed during the 300 top-grossing tours each year, as reported by Pollstar. This includes both headlining and opening acts. ASCAP requests setlists directly from managers, promoters and venues where available.

IDENTIFYING PERFORMANCES

Every year, we get data on hundreds of billions of performances of ASCAP music. The way we collect all that data depends on the medium. We harness state-of-the-art digital technology to maximize the number of performances we track, and the number of ASCAP members we pay.

In every case, we design our surveys for efficiency in order to maximize the payments to our members.

Film & Television

For music written specifically for film or TV, we get all the information we need from cue sheets. Cue sheets list detailed information on all of the music in a particular film or program, including the writers and publishers, their respective royalty percentages, the length of the particular performance, and also the way the music is used (e.g., feature, theme, background). Cue sheets are typically submitted to ASCAP by the producer or music editor of the film or program in question.

Radio

ASCAP radio sample surveys involve sophisticated digital fingerprinting data, augmented by station logs provided by the radio stations and tapes of actual broadcasts. For most performances on our radio surveys, we get data from Media Monitors and Mediabase, an advanced audio fingerprinting service that monitors the terrestrial radio stations we license.

ASCAP radio surveys cover all types and sizes of stations in every region of the country. We conduct separate surveys of country, Latin, jazz, urban contemporary, religious, classical, ethnic and pop stations. The revenues we collect from genre-specific stations are paid to the writers and publishers of music with performances on those stations.

Live Concerts

To compensate ASCAP writers and publishers for live performances of their music, we use set lists provided by our writer members via OnStage. We also survey all songs performed in the 300 top-grossing concert tours and selected major venues. For symphony, recital and educational concerts, we rely on printed programs submitted via Performance Notification.

Other Media

For performances on the internet, background music services and other media, ASCAP relies on electronic logs, playlists, program guides and cue sheets for the necessary performance information.

TURNING PERFORMANCES INTO DOLLARS

After we get all that performance data, it's time to convert it into royalties. For performances on most audio-

APPENDIX 1 cont'd

only media—our award-winning Audio Performance Management (APM) system—automatically matches digital data with the music that ASCAP members have registered with us. The first year ASCAP used APM, we doubled the number of performances we processed annually, from 250 billion to 500 billion. It's a great example of how we're harnessing the power of digital tech to get more ASCAP members paid.

Every performance picked that's picked up in an ASCAP survey generates a certain number of credits. Each credit is worth a certain dollar value. The number of credits for each performance depends upon several factors, among them:

- HOW the music is used (feature, theme, background, etc.)
- WHERE the music is performed (network or local television, radio, cable, etc.)
- HOW much the licensee pays us
- The time of day of the performance (with respect to television and cable)

ASCAP has two special bonus programs to recognize the increased value that frequently-performed songs bring to our repertory. If a song earns a certain threshold of feature performance credits in a quarter, additional credits are added to that song's total credits as Audio Feature Premium (AFP) payments. Songs that have earned over 300,000 feature performance credits since they were first surveyed, and haven't earned an AFP in the past four quarters, are eligible for our Classic Song Bonus when they reach a certain performance benchmark in a single quarter. Both AFPs and the Classic Song Bonus apply to performances on audio-only platforms, including streaming services, satellite radio and terrestrial radio.

Theme, underscore and feature performances in highly rated network, syndicated and local TV and cable series earn additional credits as TV Premium payments. These payments recognize the importance of these highly rated programs to the value of the repertory.

In the case of music used as underscoring in films and television programs, the length, or duration, of the work will affect the number of credits generated. In the case of live symphony and concert performances, the length, or duration, and the instrumentation will also affect the number of credits a particular performance will generate (full orchestra, chamber work, etc.)

Monies to writers and publishers are paid out in separate distributions covering the same performance periods. The dollar value of a performance credit is determined annually, taking into account the estimated total number of ASCAP credits being processed for writers or publishers and the total number of dollars available for distribution. A writer's or publisher's royalty check is determined by multiplying the number of credits they earned for performances of their works during a quarter by the dollar value of a credit for that quarter. For example, if a writer earned 10,000 credits for performances of her works on radio and television in a three-month period and the value of one writer credit was \$8.95, the writer's royalty check would be \$89,500 (10,000 X \$8.95).

$$\begin{array}{r} 10,000 \text{ credits} \\ \times \quad \$8.95 \text{ credit value} \\ \hline \end{array}$$

\$89,500 Royalty

HOW ASCAP CALCULATES ROYALTIES

Generally, royalties for a single musical work, in any surveyed medium, are the product of this calculation:

Use Weight X Licensee Weight X “Follow the Dollar Factor” X Time of Day Weight + Premium Credits = Credits

USE WEIGHT

The factor, or value, attached to each type of performance (theme, background, promotional, etc.)

LICENSEE WEIGHT

This factor reflects the license fee paid by a station (or group of stations) and the number of hours included in the appropriate survey. The licensee weight is also referred to as the “hook-up” weight with respect to network television, reflecting the number of stations carrying a broadcast. Other surveyed media - such as the 300 highest-grossing live concerts, symphonic and chamber concerts, websites, background music services, airlines, circuses and ice shows - are also assigned “weights” based on license fees paid to ASCAP.

“FOLLOW THE DOLLAR” FACTOR

This factor ensures that the license fees that ASCAP receives from any medium are paid to writers and publishers for performances on that medium. The money we receive from radio stations is paid out for radio performances, the money we receive from TV networks is paid out for TV performances, etc.

TIME OF DAY WEIGHT (if applicable)

On television, the value of a performance can vary depending on the time of day; for example, whether it takes place in prime time or in the middle of the night.

PREMIUM CREDITS

Audio Feature Premium Credits (AFP - for audio performances only, where applicable): Songs that earn certain threshold numbers of audio feature credits in a quarter receive additional credits in that quarter. These credits are applied to performances on radio, satellite and audio streaming services.

Classic Song Bonus Credits (for audio performances only, where applicable): Songs that have earned over 300,000 feature performance credits since entering the ASCAP survey, and haven’t earned an AFP in the past four quarters, will receive additional credits if they hit a certain performance benchmark in a single quarter. These credits are applied to performances on radio, satellite and audio streaming services.

TV Premium Credits (for TV performances only, where applicable): Theme, underscore and feature performances in highly rated network and local TV series earn additional credits as TV Premium payments.

$$\text{CREDITS} \times \text{SHARE} \times \text{CREDIT VALUE} = \$ \text{ROYALTY}$$

When all of these factors are computed, we arrive at the number of total performance CREDITS. After establishing the number of credits generated by a performance, the next step is to allocate these credits among all of the writers and publishers of the work based on the SHARE each should receive. ASCAP is advised of the correct shares to be paid when members submit Title Registrations. For example, if two co-writers of a song share royalties equally, each will receive 50% of the total credits. The final step is to multiply credits by the appropriate CREDIT VALUE to arrive at the ROYALTY payment.

COLLECTING INTERNATIONAL ROYALTIES

Performance royalties earned in foreign countries are an important source of income for many ASCAP members. We have agreements with foreign societies representing virtually every country that has laws protecting copyright. We cooperate with these societies in a number of ways to ensure our members receive royalties from performances of their works in foreign territories.

When ASCAP works are performed in a foreign country, that country's performing rights society tracks the performances, collects the license fees from the local music users and then forwards the royalties earned to ASCAP for distribution. Our agreements are reciprocal, meaning that we also license the works of foreign societies' members in the US and send the data and fees on to the appropriate society.

Royalties earned from foreign territories vary depending on each country's use of ASCAP music, local copyright laws, the fees collected from local music users, etc. Each foreign society pays ASCAP on a different schedule, depending on its own distribution policies. Every ASCAP international statement is accompanied by a list of the territories and performance periods included in that distribution.



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