



Future of Music Coalition

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PRINCIPLES for MUSICIAN COMPENSATION in NEW BUSINESS MODELS

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Legitimate digital business models and legitimate digital music marketplaces are critical to musicians' ability to promote, distribute and earn compensation for their music.

Since 2000, FMC has been carefully tracking – and sometimes facilitating -- the ongoing conversations about potentially rewarding new business models. Recently, a number of new models have been proposed that would compensate copyright owners through indirect means: shares of ad revenue, fees on physical devices or broadband access, or equity stakes in a company, for example. We encourage such talks and experimentation. However, the needs of those who actually create the music – the performers and songwriters -- cannot be overlooked in any discussions between corporate content owners and the businesses that use the music.

FMC believes that any new business models should embrace the following principles:

Licensing, Collection and Distribution of Revenues

- **Revenue sharing:** Revenues must be equitably shared between copyright owner and original creator(s).
- **Unattributable income:** Some deals generate revenue that cannot be attributed to specific musicians at the time the initial deal is executed. Unattributable income, such as advertising revenue, advances, delivery charges for online content, bulk catalogue licensing, revenues from covenants not to sue on your catalogue, and the value of non-monetary items such as free advertising or equity stakes, must be fairly apportioned between the copyright owners and the creators of the music that is being licensed in the deal.
- **Complete and accurate reporting:** Reporting is essential to enable a distribution of receipts. Because sample and survey reporting shortchange smaller and niche musicians, revenues must be paid based on the actual use of a work and tracked using census data/reporting to the greatest extent possible.

- **Direct payment:** The creators' share of the revenue must be paid directly to the creator or its collective agent, not to the copyright owner for redistribution. Except where otherwise prohibited, musicians can assign the right to receive this income provided that the musician receives an accounting statement directly from the third party user or collective agent to ensure that the assignee appropriately accounted for this revenue. Any assignments to copyright owners, when permitted, must be limited to a period of 3 years from the date the licensed work is published.
- **Equal access to new models:** All musicians and copyright owners must have equal access to these new models. An indie or unaffiliated musician must be able to license music to new services. While services should be able to experiment with variable pricing and offer different marketing opportunities depending on the level of the artist or based on the size of catalogue, for items on the same service and with the same retail price, indie and unaffiliated musicians should receive the same per download or per stream payment as major label musicians.
- **Lawsuit or settlement monies:** All monies received as a result of copyright infringement claims brought by copyright owners, or resulting from their covenants not to bring claims, must be shared with the musicians who created the underlying works.
- **Best effort to pay creators:** The agency or organization designated to collect revenue shall make every reasonable effort to locate and identify creators who are entitled to receive a portion of the revenue collected.

Transparency

- **Accurate accounting:** Tracking/accounting figures and calculations must be detailed and transparent, and the license terms must be clearly defined.
- **Right to audit:** All revenue recipients, including creators, shall have audit rights.

Governance

- **Equal representation on governing board:** Creators must have the same level of representation as copyright owners on any entity that collects licensing revenues for music, such as licensing and collection societies. To the extent decisions on licensing, distribution of revenues,

other expenditures of collected funds, or resolution of disputes are made by committees rather than the full board of such entities, creators must have equal representation on those committees as well.

International

- **Collection of International Royalties:** Musician shares of statutory or other royalties collected overseas by musician organizations for the use of US works must be paid directly to the musician or its collective agent. If any taxes are withheld from foreign royalties, the artist should be the beneficiary of any foreign tax credits arising from such tax withholdings.

Definitions: As used herein, “musicians” and “creators” include performers (both vocalists and instrumentalists) and songwriters. “Music,” as used herein, includes both the composition and recording.