CAN'T GET NO SATISFACTION: A MUSIC INDUSTRY CRISIS

Background Guide

Director: Sofia Policelli

ABSTRACT: Hey, who's that hot new artist climbing to the top of the charts? Well, whoever it is, it's your job to nab them! Artists are notoriously contemptuous of labels, and streaming services are encroaching on the industry but not necessarily offering artists a better pay rate. So, what to do? Duke it out in Can't Get No Satisfaction, a dynamic crisis of the music industry spanning genres, contracts, and all facets of the business, from marketing to manufacturing [those hipsters (we're record execs, we're not cool) sure do love their vinyl].

SSICSIM 2020
SECONDARY SCHOOL
INTERACTIVE CRISIS SIMULATION

CAN T GET NO SATISFACTION

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Director's Letter

Hello Delegates!

Welcome to SSICsim 2020, and to *Can't Get No Satisfaction: A Music Industry Crisis*. The Dais is so delighted to have you in this committee. I hope you enjoy debating it as much as I enjoyed devising it: a glimpse into the duality of plasticky appearances and gritty realities at the heart of the music industry. It's amazing that so many people have enough passion for music that they dive into the difficult business of it at any angle they can find, without whom we wouldn't have an industry to speak of. Far from perfect, but endlessly surprising, the music industry is an important crossroads for law, privacy, technology, politics, social change, art, commerce…really anything that characterizes human society. This committee should challenge you to see those intersections and find creative solutions that will boost the financial and creative strength of the industry and secure long-term sustainability.

Delegates will represent industry players from record label and streaming service bosses to trade organization heads to lawyers and journalists. Conspicuously absent are the recording artists, whom you will treat as monetary assets. Though the Mechanics for this committee are not exceedingly complex, I hope you take advantage of interactions with 'artists' and try to nurture some of the seeds of sneakiness that this background guide attempts to plant. I encourage you to find a unique footing in the material and run with it. I can't wait to see your ideas come to life!

As a bit of background, I am a first-year student at the University of Toronto. Although I'm not in a specific program yet, I hope to double major in Philosophy and Buddhist Studies and minor in Writing and Rhetoric. This is my first time directing a committee, and I haven't ever staffed a Model UN that didn't take place in a high school History class. But I've been enthusiastic about Model UN for a long time, and this will be my fifth year participating.

To borrow from Leonard Bernstein, "Music can name the unnameable and communicate the unknowable." As these characters, it is indeed your job to voraciously chew through what's in your way to get what you want, and to do so confidently; but it's also your job to connect people with music. And maybe that end, for a moment, can vindicate every deceitful thing you do to reach it (it can't, but we can pretend).

I greatly look forward to seeing you at the conference!

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Introduction

Music is perhaps the most essential, most immediately emotional human art form. And the music industry is perhaps the most soulless, corporate, subterfuge-ridden counterpart such an art form could possibly have.

Prince famously compared recording contracts to "slavery".[1] As such outspoken artists publicly espouse the evils of labels, streaming services, and just about anyone they deem unfair, you — a music industry insider — have cause for concern when it comes to your reputation.

The advent of the internet has completely changed the face of the music industry. Not only has the audience for music increased with free-tier streaming access and YouTube, but the ease of DIYing music means that every teenager in their bedroom could be the next big thing. The industry is nearing an all-time high: revenue for recorded music totalled $20.2 billion USD in 2019, an 8.2% growth over the previous year. For the first time, streaming revenue accounted for more than half of that total, at 56 percent.[2]

We've had about fifteen years since the death of CDs and the rise of streaming for half-deep think-pieces and business-minded ruminations about how the record industry is, or is not, dead. But it's not Schrödinger's Multi-billion-dollar Industry: it's decidedly alive and it's being pulled in new directions every day. We will try to explore a few of its contemporary issues and these new directions throughout this committee.

The committee takes place in the present day, in New York City. While everything in this guide is factual, we will be latching onto real-world facts only loosely in committee. And since there's no accounting for developments in the industry between the writing of this background guide and the conference, we'll be starting with no regard for that gap.

History

Key Terms

Since these are technical terms and concepts in the industry which we'll be using a lot going forward, we'll just take the time to define them here.

[1] Kreps, Daniel. "Prince Warns Young Artists: Record Contracts are 'Slavery'". *Rolling Stone*, 9 August 2015, https://www.rollingstone.com/music/music-news/prince-warns-young-artists-record-contracts-are-slavery-32645/.
[2] Aswad, Jem. "Global Recorded-Music Revenues Topped $20 Billion in 2019, but Streaming Growth Is Slowing". *Variety*, 4 May 2020, https://variety.com/2020/music/news/global-music-revenues-20-billion-streaming-slowing-1234596953/#!.

Two copyrights to every song: Every time a song is created, two copyrights are as well. They may have different owners and will be subject to different royalty rates. The first is the Songwriting Copyright, which goes to the writer(s) of the composition — what can be transcribed on a sheet as music and lyrics. The second is the Sound Recording Copyright, which is owned by the performers of an audio recording of a composition. These copyrights are often given up in part or in full, though, if the writers and performers have deals with publishers and record labels, respectively.

Licensing: To license is to grant the right for a person or entity to broadcast, recreate, or perform a copyrighted work. Contracts need to be made which stipulate the permissions given to the licensee and terms of compensation for the licensor, usually a flat fee or royalty payments, with increased payment if their work is financially successful beyond a certain threshold. Public performance licensing is usually managed by performance rights organizations (PROs), most notably ASCAP and BMI. They offer blanket licenses for their catalogues of songs and monitor all public performances to collect appropriate royalties and hand them back to rightsholders.

Distribution: Distribution, whether physical or digital, refers to directing music into appropriate sales channels (i.e. streaming platforms, music retailers) and administering royalties made from those outlets back to sound recording rightsholders.

Publishing: Music publishing refers to the protection of songwriting copyright and administration of royalties to the owner when music is sold, licensed, or publicly performed. Publishers may also work to get their clients' music into television, film, video games and other media by seeking 'synchronization licenses'.

A Brief History of Record Labels

Recorded music playback was first made possible in 1877 by Thomas Edison. The gramophone — likely what comes to mind when we think of old-fashioned recordings — was invented in 1887 by Emile Berliner.

Interestingly, Berliner's gramophone company began contracting and developing talent to record for it in 1893. Fred Gaisburg, a recruiter and producer, said that as expensive as getting well-known names was, it was worth it because they sold more records. The company offset the cost of famous names by recruiting local talent, often musicians whom Gaisburg found in bars. The name etched on these first records, Berliner Gramophone, is considered the first — and was, for a decade, the only — record label in the world.

Early battles for market dominance were between Victor and Columbia, both originally just disc and player manufacturers that began to operate labels out of necessity. Victor was purchased in 1929 by Radio Corporation of America to form RCA Victor.

The merger of Columbia's and Berliner's UK labels created Electrical and Musical Industries (EMI) in 1931. CBS purchased American Record Corporation — formed from the merger of several labels and owner of Columbia Records since 1934 — in 1938.

In 1941, the industry established the standard of a million-selling record being 'gold', and began to monitor sales to certify this information. Several well-known labels were founded in the 1940s, such as Mercury, Capitol and Atlantic.

The rising ubiquity of television and the breakthrough of rock and roll influenced music in the 1950s. When ABC launched its record label in 1955, its show *American Bandstand*, with 'starmaker' host Dick Clark, was a tie-in to promote its artists. Several key independent labels were founded this decade: Sun in 1952 (the label Elvis Presley was first signed to), and Island and Motown in 1959.

In 1962, Grammophon-Philips Group was born from the joint investment of the Dutch company Philips, and German Siemens. By the end of the 1960s there were bigger and fewer music companies due to consolidation. CBS, Warner Bros., RCA Victor, Capitol-EMI (merged in 1955), Grammophon-Philips and MCA (created in a buyout in 1962) were the giants of the time.

In 1972, Philips and Siemens folded more acquisitions into their music venture to create PolyGram. The dream was to be the biggest music company in the world, which briefly came true in the late '70s when its market share jumped dramatically because it released a lot of disco. At the end of the decade, the top labels were CBS, EMI, Warner, MCA and PolyGram.

Bertelsmann Music Group (BMG) bought RCA Victor in 1986; Sony acquired Columbia the next year, and then MCA bought Motown. Time Inc. and Warner completed a merger in 1990. These decisions further shrunk the number of major labels and secured Sony, Time-Warner, BMG, EMI, PolyGram, and MCA the top spots. Cult-classic labels Def Jam (1984), Sub Pop (1986) and Matador (1989) were also created this decade.

After six years of ownership by Panasonic, an 80 percent stake in MCA Inc. — which included Universal Pictures and MCA Records — was sold to Seagram in 1996. This move created Universal Music Group (UMG). UMG acquired rising label Interscope, then became the world's largest music company when it bought PolyGram in 1999.

In December 2000, Vivendi Universal was created by the merger of French media companies Vivendi and Canal+, and their acquisition of Seagram's Universal Pictures and UMG. This massive unification was rivaled the next year by the merger of AOL and Time-Warner. Shrinking the five major labels to four, Sony and BMG merged in 2004. In 2008, Sony bought out BMG's half of the company to form Sony Music Entertainment (SME).

EMI, the last of the Big Four, was struggling with debt and came under Citigroup's ownership in February 2011. By November, EMI was de-formed: UMG got its recorded music operations for $1.9 billion, and Sony/ATV Music Publishing got its music publishing operations for $2.2 billion. With the sale, the European Commission stipulated that UMG divest one-third of its total operations to other reputable companies in the music industry. It packaged several key assets, including the Parlophone record label, and sold them to Warner for $765 million in February 2013. Thus, the Big Five record companies became the Big Three: Universal in first, followed by Sony and Warner.

The 2000s famously presented the record industry with the crisis of free online peer-to-peer file sharing, primarily through Napster. Label after label filed lawsuits against Napster for violation of the Digital Millennium Copyright Act (DMCA) of 1998. While found guilty in 2000, the site was shut down in mid-2001 after failing to comply with the court's demand that Napster remove copyright-infringing material as it appeared. BMG announced its intention to purchase Napster in 2002, but a bankruptcy judge blocked the sale — to the relief of the other labels.

Afterwards, the major music companies tried to embrace the internet on their terms, and failed spectacularly. UMG and Sony collaborated on PressPlay; Warner, EMI and BMG signed on to MusicNet. Both were online-based subscription services that charged $10-15 per month for a bizarre and limited combination of streams, downloads, and permissions to burn tracks onto CDs. Their low pay-per-stream rates of $0.0023 angered artists, who broadly demanded to have their music removed unless they were better paid. The services were shuttered in 2003, just as Apple revolutionized the online music model by introducing the iTunes Store. The $0.99 download per song became the norm in music for the rest of the decade, with iTunes becoming the US' largest music retailer in 2008.

Through the late 2000s and early 2010s, Spotify and Apple Music — and lesser competitors TIDAL, Amazon Music, YouTube Music and Deezer — would grow to become the dominant mode of music consumption. But more on that later.

The Big Three

<u>Universal Music Group (UMG):</u>

UMG is the rightsholder to the largest collection of recorded music on the planet. In 2019 its market share in recorded music sales was about 30 percent. As of March 2020, UMG is 10 percent owned by Chinese media company Tencent. In 2019, its added revenue over the previous year — $729 million — significantly outpaced the $650 million added by Sony and Warner combined. Its substantial lead can be attributed to its aforementioned absorption of past giants like Decca and EMI, but also ostensibly to its corporate strategy. Universal was awarded 'Most innovative music company' and a place among the 'Top 50 most innovative companies' by American business magazine *Fast Company* in 2019. Several industry sources, such as the SAG-AFTRA union, have praised UMG for its strategic expansions, diversity of artists and staff, and unique partnerships.

Taylor Swift signed a historic record deal with UMG's Republic Records imprint in November 2018. Uniquely, UMG agreed to Swift's stipulation that any money the label makes in cashing out its Spotify shares (Spotify went public earlier that year and UMG had a 3.5% stake, worth about $1 billion) must be distributed to all its artists, non-recoupable, even if the artist still owes the label on uncovered advances. Swift said UMG CEO Lucian Grainge's personal interest in this contract inspired her confidence in the company.

UMG has operations focussed across the entertainment industry, from merchandising to film to music publishing, with its proprietary companies. UMG's scope and volume of artists translates to chart domination. It set records when, in September 2013, all of the top ten songs on the *Billboard* Hot 100 singles chart were from UMG artists.

However, UMG also has a reputation for litigiousness. It has been militant about copyright infringement, especially on YouTube. It is well-documented that YouTube and UMG cut a private deal sometime in the late 2000s that allows the former "the right to block or remove" videos "based on a number of contractually specified criteria."[3] UMG allegedly has access to YouTube's Content ID system, which scans for the replication of certain material. It can then take down whatever it finds to be in violation of a copyrighted work without manually going through YouTube. UMG's watchful eye has taken thousands of videos down and sparked fierce opposition in creators, who know well, after years of excessive copyright strikes, the terms of the difficult legal concept of fair use. Labels, most egregiously UMG, have taken advantage of some of the ambiguities of fair use — reportedly, videos containing even a few seconds of copyrighted music have been removed. This is exemplified in two notable lawsuits: one where UMG sued Stephanie Lentz, over a thirty-second clip of a child dancing to a Prince song; and another where Megaupload sued UMG for improperly removing their celebrity-filled ad campaign video, "The Mega Song".

UMG is, depending on one's perspective, a hero or a tyrant of the music industry. It is home to some of today's most popular artists, including Ariana Grande, Drake, Lady Gaga, and legends of music including Dolly Parton and Queen.

<u>Sony Music Entertainment (SME or Sony Music):</u>

Sony Music Entertainment is the second-largest of the Big Three, with a 21 percent market share in 2018 and steadily growing revenue. In August 2019, it merged with a sister company, Sony/ATV Music Publishing, to form Sony Music Group (SMG). SMG is a true powerhouse because Sony/ATV has the largest music publishing catalogue in the world, owning and administering over 4.8 million songs. SME also owns 50 percent of SYCO Entertainment, a joint venture with music magnate Simon Cowell, which is responsible for the *Got Talent* and *X Factor* television franchises. Sony's flagship labels are Columbia, RCA and Epic Records.

In 2010, Sony Music and the estate of Michael Jackson made history by signing the highest-valued record contract ever, at $250 million, to create new projects with Jackson's most famous music and videos and some unreleased work.

SME is as aggressive on the legal action front as UMG. In 2016, it sued Vivendi-

[3] Lee, Timothy. "UMG claims 'right to block or remove' YouTube videos it doesn't own". *Ars Technica*, 16 December 2011, https://arstechnica.com/tech-policy/2011/12/umg-we-have-the-right-to-block-or-remove-youtube-videos/?comments=1.

controlled Radionomy for maximum damages eligible for a copyright infringement case in the US: $150,000 per infringed work. Although SME made a host of dramatic accusations against the company, the case was settled out of court shortly thereafter. Notorious for copyright striking on YouTube as well, some creators have reported Sony Music taking down content which contained no Sony-owned music, or sometimes no music at all.

Sony Music does not have much in the way of a 'brand story' (or similarly buzzword-y self-congratulatory blurb). It seems to focus on serving behind-the-scenes needs and interests of the industry effectively. For example, it has a widely-used subsidiary called RED, which is a distributor of indie-label or independent music. As well, Columbia Records, its main imprint, has won the A&R award at the Musicweek Awards a majority of times over the last decade. SME is home to such legendary artists as Beyoncé, Bruce Springsteen, Pink Floyd, and OutKast.

<u>Warner Music Group (WMG):</u>

Warner Music Group is the third-largest of the majors, occupying an 18 percent market share in 2018. Its primary labels are Atlantic, Elektra, and Warner Records. WMG has been separate from its eponymous parent WarnerMedia since 2004; it was purchased by Access Industries in 2011. In June 2020, Tencent bought a host of WMG shares, translating to a 1.6 percent stake in the company.

In 2010, Atlantic Records became the first label from a major music company to earn more than half its revenue from digital music sales. Atlantic has also won the Promotions Team award at the Musicweek Awards nearly every year in recent memory. Its success early into the digital music age was significant compared to its competitors, something its chief executive throughout the late 2000s, Lyor Cohen, takes credit for. The concept of the 360 deal, a new kind of record contract, is attributed to Cohen during this time. In 2006, WMG became the first of the Big Three to sign a licensing deal with YouTube. The deal let WMG handle ad sales for its artists' music videos on the site, and monetize user-created videos which contained WMG-owned recordings, revenue-sharing with YouTube in both cases. However, a disagreement over royalty payments resulted in WMG music videos being taken down in December 2008 — an agreement was only reached, and the videos republished, in September 2009. In 2017, that agreement was extended under "very difficult circumstances,"[4] said WMG CEO Stephen Cooper. It's also made some interesting investment decisions in digital media, having purchased social media firm IMGN and music data analytics company Sodatone, among others, recently.

In 2013, WMG signed a landmark deal with Clear Channel (now iHeartMedia), putting pressure on the other majors. Under the deal, artists would be paid for terrestrial radio play, a long-time wish come true for labels. The companies agreed to enter into a revenue-sharing scheme and show preference to each other via lower usage fees for Clear Channel and greater airplay and promotional time for WMG.

WMG, while the smallest of the major labels, has emerged as a formidable player. It has

Aswad, Jem. "Warner Music Extends Deal With YouTube After 'Months of Tough Negotiations'". *Variety*, 5 May 2017, https://variety.com/2017/biz/news/warner-music-extends-youtube-1202410931/#article-comments.

an eye for strategic partnerships, a penchant for digital innovation, and the tools to develop artists into stars. Some notable Warner artists include Bruno Mars, Cardi B, Johnny Cash, Led Zeppelin and Aretha Franklin.

What is a Record Label? What are Record Deals?

A record label is a company that owns the brand name (trademarked logo) that marks music and music videos. It oversees the production, manufacture, distribution, marketing, promotion and copyright enforcement of music. Labels add artists to their roster when the two parties, often including a manager on the artist's side, sign a contract. In past decades, artists could often secure a contract on the strength of a few demos or live shows. Today this is uncommon. Usually, artists will have to demonstrate potential through some successful releases and a self-made fanbase; this is because it's easier to self-release and self-promote thanks to the internet, so labels want to see if artists have taken the necessary steps — and see if they're worth the risk.

As a brief note, the corporate organization of a record label is complicated; this effect goes further for the Big Three, as they each oversee many imprints. For the purposes of this committee, each CEO of a music group will assume responsibility for their non-music-related departments like legal and finance, and label imprints, even though in reality these labels have Presidents with considerable autonomy.

Perhaps despite popular opinion, the principles of record labels cannot simply be judged as 'indies good, majors evil'. On both labels' and artists' part, a record contract is about finding the best fit. Next, a look at what broad kinds of record deals there are.

<u>The Single deal:</u> This deal applies for only one song, and is usually made to test a new artist in the market and determine their risk factor. Sometimes, the contract will state that if the single does well, the artist will be signed for another few years — since they have no leverage going in with only one single to offer, the terms of the signing are not often favourable to the artist. Most of the promotional responsibilities will fall to the artist, and if the single fails they are usually dropped from the label. While not suggested for a new artist, this deal may work for established artists who see more success from singles than albums.

<u>The Artist deal:</u> Once the standard deal, it's become less common over the last 20 years. The contract usually lasts for three to seven years with options to extend, and requires a certain number of albums. The record label pays the artist a cash advance, which is essentially their recording budget. It will also pay to cover music video production, marketing, touring and other similar costs post-recording. The label will recoup their advance and front-end costs from the artist's royalties on album sales/streams before they can make money. Royalty rates are usually 12-20% depending on the status of the artist, but they don't take home all their royalties because they have to pay for non-label services — such as managers, producers and lawyers — out of pocket. Since the label is trying to make the artist as profitable as possible, they may make

decisions about their brand and music; for example, which tracks should be singles. This model is usually a formula for success if sufficient label attention is given to the artist.

The 360° deal: Though popularized in the 2000s amid plummeting CD sales, 360° models had previously been common at resource-strapped indies. Also called a multiple rights deal, it allows labels to share every possible revenue stream for an artist; terms are usually five to seven years. The artist receives an above-average cash advance to record and the label pays upfront for marketing and promotion. In exchange, labels not only recoup this spending on album sales, but make additional income through touring, merchandise, endorsements and promotional appearances, licensing and more. Labels can take as much as 50% from these revenue streams; up to 70% with touring. They justify this by claiming that 360° artists get more investment, pouring more resources into securing success across these fronts so that profits are substantial for both parties. This model is controversial: while some say it's the best way to develop an artist and the only way to survive when streaming values music so low; others say it's giving labels too much control over artists' careers and eating into their earnings.

Joint Venture deal: A joint venture deal could occur between two record labels, or an artist and a label. If an independent label has a successful roster, they may be attracted to a deal with a major label to advance those artists further. These deals result in indies and larger labels pooling their expertise and resources — both put up funding — to best support the indie's signed artists. The revenue split between parties typically varies from 18-82% to 50-50% indie to major. Joint venture deals between artists and labels can occur if the artist has an investor or enough personal wealth to provide their share of funding, and some existing assets and success.

Artists don't necessarily have to take a record deal, though. They may sign a distribution deal, which affords an 80-20% revenue split between artist and distributor, and remain otherwise independent. If they compose their own songs, they will need a publishing deal too.

The Sometimes-Shady Business of Music Promotion and Sales

Music promotion is about plugging music into the ears of the public. This section is to highlight a few methods of music promotion and how they can be manipulated.

Payola: Payola is the illegal practice of paying or offering favours to a radio station or DJ to play a song without disclosing it as sponsored airtime. It boomed in the 1950s, but was illegalized in 1959 following an investigation by US Congress that implicated famous names like Dick Clark and Alan Freed. Record labels then found a loophole for payola in hiring third-party record 'promoters' to bribe radio stations on their behalf, and this was rampant for decades. In 2005-06, the industry was rudely awakened when then-New York Attorney General Eliot Spitzer settled suits against Sony-BMG, UMG and WMG following payola investigations. The FCC declared the loophole a violation of the law; it settled with four major radio companies on the same charge. No companies admitted wrongdoing.

Today, pay-for-play serves the same function as payola, but legally. The difference is that radio stations disclose sponsored airplay (this is how Limp Bizkit's career started, if you want to know who to blame). A strange mutation of this is iHeartRadio's *On the Verge* program.

Program directors at their stations would vote on a few songs sent down to them from higher-ups, to determine which they thought listeners would like best. The winner became the *On the Verge* song, which would have to be played by each station at least 150 times in six weeks. The program picked up Iggy Azalea's "Fancy" in 2014, boosting the track to be a *Billboard* number-one hit. Spotify added a 'Sponsored Songs' option in 2017, allowing content providers to pay for tracks to appear at the top of playlists for free-tier users.

TikTok: An increasingly important part of major-label marketing strategies, the popular app has become a hotbed for hits and the linchpin of digital marketers. The most popular influencers can charge tens of thousands per sponsored post, so it may be wiser to spread budgets across smaller creators, or encourage recording artists to make their own TikToks for free self-promotion. Although companies are jumping to sponsor influencers right now, they have to be wary of accepting and posting too much sponsored content, because it makes their page look 'inauthentic' and hurts engagement. TikTok, for their part, is interested in fostering relationships with labels and influencer-to-artist relationships. Its music partnerships team sets up meetings between artists and creators to strategize on how to make content that best utilizes their songs. It's also become an essential tool for talent discovery: both the TikTok music content team and A&R reps have noted that they scour the app daily for new, interesting artists to recruit to partnerships or label rosters.

TikTok, however, is dominated by ephemeral trends. Max Bernstein, head of social media marketing firm Muuser, declared in April 2020 that "There will be no more major dance trends to break on TikTok. You are either in already or the gates are shut."[5] Labels and marketers have to be conscious of this, and of what genres of videos on TikTok their music is most suited to.

In the olden days, you could fix the price of CDs, overcharging by as much as $5. Today, you can amass fake streams, followers, and views with bots and click farms. In fact, when YouTube cracked down on fake views in 2012, two billion views were lost on music videos — over one billion of those were from UMG. Spotify's total stream numbers and chart-eligible stream numbers for songs often differ by a few million, not necessarily because of fake streams but because of limits on how many streams from one IP address can count for a song's chart position in 24 hours (this has most recently been the case with BTS' smash hit, "Dynamite"). While the streaming manipulation is hard to eradicate, in 2019 industry players including Spotify, Amazon and the Big Three signed on to a 'Code of Best Practices' to combat the issue. The accuracy of the *Billboard* charts has greatly improved since the introduction of Soundscan in the early '90s, but that doesn't mean they're impervious to manipulation. Remember: if you want to get ahead — and you want your company's music to get ahead — you have to make that happen.

Leight, Elias. "Dance Challenges Are Dead? Why the Music Industry Is Investing in 'Emo' TikToks". *Rolling Stone*, 5 June 2020, https://www.rollingstone.com/music/music-features/tiktok-dance-challenge-emo-videos-1008266/.

A Note on Music Streaming Services

Streaming rose out of the desolate music landscape of the late 2000's and early 2010's, where at only $6.9 billion in 2015, recorded music revenue had fallen over $15 billion since its peak in 2000.[6] Gradually, Deezer, Spotify, Amazon Music, Apple Music, and YouTube Music (which will supplant Google Play Music at the end of 2020, explaining its omission here) emerged and expanded into global markets.

For Amazon, Apple and Google, the profitability of their music streaming service is of little consequence. But for their main competitor Spotify, profit has been shirked due to the demands of growth and royalty payouts. Spotify has reported two quarterly profits over the last two years, but never an annual one, despite taking in $7.4 billion in 2019.

Let's next outline how streaming services work. They license music from labels and distributors, agreed on through contracts — being out-of-contract with the majors has happened to Spotify before, and the renegotiations are a big deal. Spotify pays about 55 percent of its revenue in royalties to sound recording rightsholders — primarily, back to the labels. About another 15 percent is paid in songwriters' royalties, so that means it goes to publishers.

Spotify pays artists, on average, $0.0032 per stream. But it determines exact rates on a 'pro-rata' basis, meaning payouts on a particular song are calculated by how much that song is streamed compared against the most popular songs for that same time period. So, rates vary unpredictably and the smallest payouts will always go to the smallest independent artists. Apple Music, which pays $0.0056 per stream on average, also uses the pro-rata model. TIDAL has the highest pay rate of about one cent per stream, and YouTube Music's rate is $0.00802. These rates only go into the artists pocket in full, though, if they completely own their recording copyright. This is next-to-impossible if the artist is signed to a label; in fact, 73% of every $/€9.99 monthly subscription fee to Spotify winds up in the hands of labels.[7]

As more listeners choose mood- or genre-defined playlists over specific albums, getting your music onto the most popular ones is key. Streaming services insist playlist spots cannot be bought, but are curated exclusively for quality. Artists or their representatives can upload their music with descriptions and tags for playlist consideration, and streaming service-employed curators listen to and sort through it from there. Brands can pay for official accounts on Spotify, which they use to create playlists in line with their 'identity'. Previously, a corporation's use of a song in what is, effectively, an advertisement, would have required a licensing deal. But today, artists often have no idea they've been added to these playlists and receive no compensation from these companies. Labels can pay to push their music onto users with targeted 'Music for You' pop-up ads, introduced by Spotify in 2019.

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[6] Routley, Nick. "Visualizing 40 Years of Music Industry Sales". *Visual Capitalist*, 6 October 2018, https://www.visualcapitalist.com/music-industry-sales/.
[7] Ingham, Tim. "Major labels keep 73% of Spotify premium payouts - report." *Music Business Worldwide*, 3 February 2015, https://www.musicbusinessworldwide.com/artists-get-7-of-streaming-cash-labels-take-46/

The Current Situation

Streaming in Hot Water

Streaming services, especially Spotify, can hardly take two steps without getting into trouble.

To use a recent example, this August, Spotify, Amazon and YouTube secured a "procedural victory" in their suit to overturn the US Copyright Royalty Board's 2018 decision that would increase streaming royalty rates paid to songwriters by 44% over five years. It's a wonder these giants of the industry have poured so much money into legal action against the songwriters they not only rely on but claim to care about, when it could have been used to compensate them fairly. Spotify also announced they believe they *overpaid* songwriters and publishers in 2018, according to a technicality in CRB policy, and intended to get their money back. Several lawsuits have been launched against Spotify by songwriters and publishers for what they felt were unduly missed or meager royalties, the most notable being the one from Wixen Publishing for $1.6 billion.

Spotify CEO Daniel Ek shocked and insulted many when he said, "Some artists that used to do well in the past may not do well in this future landscape, where you can't record music once every three to four years and think that's going to be enough."[9] The comment is indicative of the new demands for success in streaming: short, easily consumable music and artists that have to fight to stand out with distinct brands, gimmicks, or publicity stunts.

There's an endless list of grievances with streaming services, varying in type but not in number depending on your status as artist, label rep, or user. Exclusive new releases, pre-adding albums granting creepy permissions into your account data, authorizing 'fake artists' to avoid paying full royalties…these are just a few examples. And Spotify has, for the last couple of years, quietly been paying artists advances to record their music and signing licensing deals with them. "We are not acting like a record label," said Daniel Ek, as his company acted exactly like a record label.[10]

Devastatingly low payouts and the game-iness and lack of transparency of the algorithms that govern these streaming services have always been points of contention for artists. Relationships between streaming services and major labels are far more mutually beneficial than those they share with independent labels, who get the short end of the stick. This unsustainable model can't go on forever. But what will replace it?

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[9] Darville, Jordan. "Spotify CEO Daniel Ek says working musicians may no longer be able to release music only 'once every three to four years'". *The Fader*, 30 July 2020, https://www.thefader.com/2020/07/30/spotify-ceo-daniel-ek-says-working-musicians-can-no-longer-release-music-only-once-every-three-to-four-years.

[10] Wang, Amy X.. "Spotify Is In Trouble With Record Labels (Again)". *Rolling Stone*, 10 September 2018, https://www.rollingstone.com/pro/news/spotify-record-labels-dispute-720512/.

Delegates should consider the merits and drawbacks of the streaming model and how they would approach changing it, or resisting that change. Anything that could throw streaming's viability and credibility into question — or increase its power — is on the table.

Guiding Questions:

- Will you fight to raise, lower, or keep steady, the current streaming payout rates? If so, how? Are you concerned with sound or songwriting copyright holders?
- What tools or regulations can be used to ensure streaming services don't become too powerful or anti-competitive? If you represent a streaming service, will you resist or accept these regulations?
- What is the future of music consumption? Should streaming platforms replace record labels? What new features can be added to engage more customers?

The Race to Sign Artists

Data from the last decade demonstrates that record labels are spending increasingly larger portions of their money on artist development, even as it eats into their profits. A&R spending at major labels is a higher percentage of earnings, at 15.6 percent, than for R&D in the pharmaceutical industry. In 2017, artist expenditure via A&R and marketing/promotion topped $5.8 billion.

The advent of streaming and social media has perhaps made it easier for artists to go independent — without the old-school problems of needing CD manufacturing or terrestrial radio play. Several huge names, like Frank Ocean and Chance the Rapper, refuse to sign to major labels. With the right team, there's little reason why an independent artist can't succeed in the streaming marketplace.

But record contracts still offer alluring connections and resources that many artists dream of. In a way, record labels capitalize on dreams — this isn't as evil as it sounds: many people who are passionate about music work at labels and put years of care into shaping artists. Labels, acknowledging the archaic and sometimes oppressive nature of contracts that give 10-20% royalty rates and rob artists of master copyrights, are now proliferating deals that boast up to 50% royalty entitlement and shorter-term licensing agreements for masters. Striking a balance between attracting and satisfying artists, and their own interests and those of their partners, will be key for labels going forward.

In this committee, artists will be treated as assets, with monetary value, to certain characters and will be largely fictional (though if a delegate wants to 'work with' a real-world artist, that's fine). Delegates representing labels and streaming platforms will be able to strike deals with artists through Crisis. Other characters can contact artists, and potentially make deals, just not record deals. Signing artists will influence labels' and streaming services' financial position, and what artists do — be it speak out about an issue publicly or pull their catalogue from an app — will influence the whole committee.

Guiding Questions:

- If you represent a label or streaming platform, what makes you attractive to artists? What kind of artists are you looking to work with and what kind of deals do you want to make?
- If you don't, what are you looking for from artists? A performance, an exclusive interview? Be creative!
- What kind of control will you exert over artists, if any, if you're working with them?

Music as it Intersects with Labour, Digital Media, and Law

Creative and corporate interests often seem diametrically opposed in the music industry. The money and passion flowing through the industry can get the better of companies and people, driving conflict. And music is not an isolated product: it interacts with other entertainment, journalism, law, politics, labour issues, social change — every aspect of society.

Music on social media is an important source of exposure and revenue, and improves users' experience, but there are a host of issues. YouTube's agreements with the Big Three elicit mass copyright claims that fly in the face of fair use. Many people get their music for free on YouTube, which compensates artists far less — only $0.00087-0.00164 per video view — and drains revenues from streaming and radio. Threats to the fate of TikTok in the US and oddities like Facebook's foray into music video sharing with Facebook Watch could be losses, or pull the industry in a different direction. Capitalizing on celebrity culture, social media influencers have become recording artists with just as much baffling seamlessness as artists have become brands. In an effort to grab out increasingly commodified attention, only a predetermined 15 seconds of a song are available for use in TikToks; and average song length, especially the length of intros, has shortened to discourage skips while streaming. As tough times make people retreat further into nostalgia for the past, new content and the tools to discover it — what streaming platforms are good at — are becoming less relevant.

A plethora of voices in this committee will mean a vast array of opinions on the intersections of art and business in legal, commercial, legislative, data collection, media, and music production realms. Delegates should bring forward their character's perspective to the issue of how music fits into society today.

Guiding Questions:

- Should social media platforms integrate music, video, photos and messaging to form one-stop destinations for users' needs? What can you make of the sometimes-indistinguishable blend of advertising and authentic content on these platforms?
- What legislative, legal, or ethical issues are relevant to your character's interests in the music industry? How can you pursue addressing these issues?
- Do you want to bring social media, television, or other entertainment properties into your brand? Do you want to involve your brand in conversations on culture and politics?

Characters

Sir Lucian Grainge, Chairman and CEO of UMG: Grainge has been at the helm of UMG since 2011. He's made some bold moves — like the EMI buyout amid opposition and uncertainty — that have tripled UMG's valuation over his tenure and land him the number-one spot on *Billboard*'s 'Power 100' list nearly every year. Laid-back and gregarious, but a shrewd businessman, he's not afraid to shake things up or act unilaterally.

Rob Stringer, CEO of SME: Stringer has headed Sony Music since 2017, sparking positive growth for the company. His years in the industry, love for live shows, and close artist relationships show his dedication to both the craft and business. He doesn't "want to be seen as some kind of corporate tw*t," and is unpretentious and committed to well-roundedness and good judgement over flashiness.

Stephen F. Cooper, CEO of WMG: Cooper has run WMG since 2011, though his background is not in music but in business and accounting. Warner's market share has expanded under his tenure; being the smallest of the Big Three, it has been more progressive and experimental. Cooper values fun, creativity and modernization, coupled with smart financial decisions. He's no-nonsense and wants to maintain a respectable reputation for his label.

Daniel Ek, CEO of Spotify: With a personal net worth of $3.8 billion and 37% voting control at Spotify, Ek is a powerful and busy man. "I'm an inventor. I just want to make things better," Ek has said, and while 'better' is debatable, he's certainly an innovator. Ek is trying to lay low and project a professional, approachable air, as past mishaps have left the impression that he's not the most likeable. Spotify, with its recent acquisitions of podcast deals, has made its new strategy to become the largest audio platform in the world. Ek is relentless in his pursuit of growth for the company, and wants Spotify to be as self-sustaining as possible.

Oliver Schusser, Global Head of Operations for Apple Music: Schusser has worked for Apple for over fifteen years, and came to lead Apple Music in 2018. He has tried to lead the platform in new directions, revitalizing both the internal employee culture and the app, with new features and an emphasis on artist relationships. A people person and great listener and collaborator, he values trust but can sometimes be a pushover.

Lyor Cohen, Global Head of Music at YouTube: Lyor Cohen is legendary, but extremely controversial, having led Def Jam and been involved in hip-hop for decades. YouTube considers him a big get and they don't neglect to flaunt it. He has to manage the needs both of YouTube Music and of hosting music videos and content that contains music on YouTube. Label relations, copyright protection, and the concerns of creators must be handled delicately, and he'll want to bring YouTube Music into more prominence. Cohen is prone to arrogance and hotheadedness, but he is truly visionary and determined.

Paul Redding, CEO of Beggars Group: Beggars Group carries the iconic independent labels 4AD, Matador, Rough Trade, Young Turks and XL Recordings. Representing the indies, Redding will want to illuminate independent-label concerns and will need to make smart use of his diverse resources to stand out from the majors. Redding is generous and energetic, and a fierce defender of the indie strategy.

Jay-Z (Shawn Carter), founder of Roc Nation and TIDAL: Jay-Z is among the most legendary figures in hip-hop, and he's a successful entrepreneur. Roc Nation, an entertainment management company with an in-house label, has been wildly successful in representing talent. TIDAL offers lossless sound quality, exclusive releases and artist-curated playlists with a standout payout rate for artists. Carter brings the experience of a recording artist to the committee, and advocates for fair compensation — both for artists and for users, by delivering a premium product. He is level-headed, motivated, and never content to settle.

Melanie Williams, *Billboard* Magazine Reporter (fictional)**:** Williams follows the record industry, especially relationships between players, so she'll be watching deals made in committee closely. She'll use any means to grab a great story and prioritizes her career above all. *Billboard* treats itself as a serious music business and culture magazine, and of course publishes the industry standard charts, but it has been affected by ethical issues in the past. Williams has the unique ability to release chart standings and articles publicly in committee.

David Israelite, President and CEO of National Music Publishing Association: Israelite has headed the NMPA since 2005, and has a background in intellectual property law. The NMPA is a trade association representing music publishers and songwriters. It lobbies for regulation and represents its members, and all creatives in the industry, in negotiations to advance positive change. Israelite is highly committed and believes in firm copyright regulation and heightened royalties for songwriters; but he sometimes overstates his role, acting sanctimonious and arrogant.

Russell Gardner, High-profile Entertainment Lawyer (fictional)**:** Gardner established Packham & Gardner Law with his partner in the mid-'90s, and has provided representation for both artists and music companies throughout his career. Entertainment lawyers deal with transactions (drafting/reviewing contracts) and litigation. Gardner has been involved in some key copyright protection and contract dispute cases, and is a trusted commentator on legal issues in the music business in the media. He usually doesn't care who he's arguing for, so long as he's winning and basking in the glory.

Harvey Mason Jr., Interim President and CEO of The Recording Academy: Mason is known primarily as a music producer, but has taken on a variety of roles. The Recording Academy is a learned academy for musicians, producers, recording engineers and other professionals, which is famous for its Grammy Awards. He'll be charged with representing some of these behind-the-scenes contributors, and proliferating the educational, charitable, and advocacy projects the Academy undertakes. Mason is a well-respected, reliable, charismatic guy with a devotion to the craft of music above all.

Mitch Glazier, Chairman and CEO of the Recording Industry Association of America: Glazier has been involved with the RIAA for 20 years, and has advised on all relevant intellectual property legislation in government in recent memory. The RIAA is a trade organization representing record labels, working to protect their rights; they also conduct consumer and industry research, and certify Gold, Platinum, Multi-Platinum and Diamond records. For the purposes of this committee, Glazier will control these statistics as well as report on industry revenue, consumer habits, and any other data of interest. Glazier is a dedicated, straight-laced family man on the surface, but he has a more ruthless side.

Mechanics

The Mechanics of this committee are quite standard, but also quite free-form. A general rule is that if you think a well-connected figure in the music industry — like all of your characters are — could feasibly do it (i.e. curry favour with a judge, but not summon aliens), you can do it.

Finances and Contracts

Delegates will receive character sheets detailing their specific assets, but know that each character has an out-of-pocket budget, and a budget to use for their organization. Assume that spending from the personal budget is private, but spending from the organization's budget can be easily made transparent.

Your organization's financial position can fluctuate based on your decisions. If a new streaming payout rate is decided on, for example, that will affect streaming services' profits.

Artists seeking recordings contracts will have an estimated value attached to them, which will be announced in committee. The artists can sign different deals for different things, say, a publishing deal with one company, and licensing with another. They are controlled by Crisis, so the likelihood of securing deals depends on your notes and vision. Out-of-contract artists and any dissolved contracts that need to be re-negotiated will be announced in committee. Delegates can collaborate on contracts they want to make with Crisis-represented figures, even if traditionally the type of deal they're after would only be made between two parties. The contracts do not need to use any kind of legal language or be verified against US law.

Artist and Brand Partnerships, Media

Since delegates can communicate with artists, you may want to utilize their celebrity or success in interviews or media commentary, promotional appearances, and performances. You may communicate with artists and out-of-room characters through Crisis to secure these things, though you may have to provide specific questions, scripts, or parameters to be successful. These appearances by artists, if they are feasible for Crisis, may be publicly released to the committee.

Every character is free to put out press releases, keeping in mind that these aren't actually journalism and wouldn't usually be seen by the broader public, but are more for announcements for industry insiders. The statistics that Melanie Williams at *Billboard* and Mitch Glazier at the RIAA collect can be periodically released to the committee.

Characters are also free to pursue relationships with companies outside the committee, even those not related to music. A clothing company might be useful if you want to make a merchandise line, for example.

Selected Resources

This is by no means an extensive bibliography, but only some sources you may stand to benefit from reading to flesh out some more information. They are not required reading.

For general news on the industry, *Music Business Worldwide* is an excellent publication: https://www.musicbusinessworldwide.com/.

MIDiA Research is a research firm whose reports and blog offer significant insight into the industry: https://www.midiaresearch.com/.

Pastukhov, Dmitry. "What Music Streaming Services Pay Per Stream (And Why It Actually Doesn't Matter)". *Soundcharts Blog*, published 26 June 2019, https://soundcharts.com/blog/music-streaming-rates-payouts#.

Pelly, Liz. "The Problem with Muzak". *The Baffler*, December 2017, https://thebaffler.com/salvos/the-problem-with-muzak-pelly.

Rys, Dan. "Why YouTube and the Music Biz Are Getting Along Better than Ever". *Billboard*, 13 February 2020, https://www.billboard.com/articles/business/8550838/lyor-cohen-youtube music-billboard-cover-story-interview-2020.

Singleton, Micah. "This was Sony Music's contract with Spotify". *The Verge*, 19 May 2015, https://www.theverge.com/2015/5/19/8621581/sony-music-spotify-contract.

Sisario, Ben. "A New Spotify Initiative Makes the Big Record Labels Nervous". *The New York Times*, 6 September 2018, https://www.nytimes.com/2018/09/06/business/media/spotif-musicindustry-record-labels.html