

EXPLAINER OF MUSIC INDUSTRY TERMS

Administration—In publishing, the registration, collection, and exploitation of Copyrights.

Administration Deals—Frequently used to refer to publishing deals that are shorter than the life of the Copyright.

Album Cap—Writer/performer receives 3/4 of the minimum statutory mechanical rate payable on a maximum of 10 songs per LP.

ASCAP—American Society of Composers, Authors, and Publishers. One of the three main performance rights organizations (PROs) in the United States of America.

BMI—Broadcast Music Incorporated. One of the three main performance rights organizations in the United States of America.

Harry Fox Agency—Issues mechanical licenses for publishers. Collects mechanical income from users for publishers in the United States of America.

CMRRA—Canadian Mechanical Rights Reproduction Agency. Canadian counterpart to the Harry Fox Agency.

Co-Publishing Deals—Publishing deals between two or more publishers.

Compulsory Mechanical License—If certain criteria are met, this license allows for any song to be re-recorded (covered).

Current Statutory Rate 9.1c for a song that is less than 5 minutes

Current Statutory Rate 1.75 per minute or fraction for over 5 minutes

Royalties receivable only on records made and distributed

Notice of Intent (NOI) has to be served to the owner before or within 30 days after the making / distributing of record

Copyright—Protects "original works of authorship" and grants the holder the right to reproduce, sell, perform, and make a derivative work.

© —This denotes the time when the songs on the record were originally Copyrighted. As Copyright notices are not required by law unless what is being Copyrighted is "visibly perceptible," this notice is not strictly necessary unless lyrics—which are visibly perceptible—are included in the package. Typically found on records, followed by a year and the owner. (© 2020 Universal Publishing, Inc.)

Cover Recording—A new performance of an existing composition.

Cue-sheets—Lists kept by TV stations, which track every musical composition, timings, and how they are used in the program ex: Visual Vocal :30. These are submitted to the PROs who use them to calculate TV performance royalties for the writers and publishers.

First Use—The owner of the Copyright of the song determines who uses the song first. Once it's been used (recorded and commercially distributed), it can then be "covered" by anyone.

Interpolation — the insertion of one item in another. In the context of musical Copyright, this term may be used in regards to the insertion of a (potentially Copyright-protected) sample within a track or other Copyrightable work.

Mechanical—The license fee paid by the record label to the publisher / writer of the song for the right to "mechanically" reproduce the writer's copyrighted material as a performance on the record.

© **notice**—On a record, this represents a sound recording Copyright. It is the Copyright of the actual recording—not the individual songs. Ex: © 2020 Universal Records, Inc.

Public Domain (PD)—Songs whose Copyright has lapsed. These songs can be recorded and performed by anyone with no royalties due to the writer. Typically the life of the copyright is:

Authors life + 70 years
95 years from year of publication
120 years from date of creation

Recoupment—In the case of record labels, it is the recovery of all recording expenses + advance from the artist's income which is paid back to the label before issuing artist royalties. In the case of publishers, it is the recovery of expenses + advances from the writer's income which is paid back to the publisher before issuing writer royalties.

It is important to clarify what is recoupable by labels or publishers in your contract.

Ex of recording label expenses: marketing, promotion, tour support, recording costs, legal fees, etc. from the sale of each record, not the gross income of your entire catalog.

Ex of publishing expenses: advance, printing costs, distribution costs etc.

Royalties—Moneys paid from labels or publishers to artists and/or songwriters.

Artist Royalties - Payment that artist makes for performance on a record. Typically makes 10-25% of Suggested Retail Price (USA) of a recorded product after deductions. E.g. \$0.99 iTunes download x 10% Artist Royalty = \$0.099 Artist Royalty (Gross). In the rest of the world, Artist Royalties are paid on PPD (Purchase Price of Dealer) or wholesale price and is typically 2x the USA rate.

- E.g. USA rate is 10% of SRLP 10% of \$10.00 SRLP = \$1.00
European rate would be 20% of PPD 20% of \$5.00 (PPD) = \$1.00

Compulsory Mechanical Royalty— The label pays the publisher the current statutory rate for the use of a composition in a recording. The rate is set by the copyright royalty board and is typically increased every two years according to the increase in the Consumer Price Index. Typically used to make a “cover” of an established song, and allows the label to pay the federally mandated rate by sending a Notice of Intention to Use (NOI) to the publisher.

Master use license— needed in order to use a sound recording in conjunction with a visual work. This deal is between the producer of the visual work and the © holder of the master recording. This license grants the right to synchronize the master recording with their visual work and then reproduce/distribute this composition as a part of that visual work.

Master Use Royalty— In the USA, a one-time fee is paid to record labels and shared 50/50 with artists for use of a song master recording placed (synchronized) with a picture in a movie, TV show, or commercial.

Negotiated Mechanical Royalty—The label pays the publisher a lower rate than the statutory rate per song for the use of a composition on a recording.
E.g. 75% of \$0.091 = \$0.06825

Public Performance Royalties— Royalties earned by publishers and writers from broadcasting their music (e.g. radio / TV stations, live venues, restaurants). These distributors pay Performing Rights Organizations ASCAP, BMI, and SESAC in the United States through a blanket license which allows these businesses to use and transmit any song in the publisher’s catalog.

Synchronization License— needed to use a composition in conjunction with a visual work. This deal is between the producer of the visual work and the © holder of the composition. This license grants the right to synchronize the composition with their visual work and then reproduce/distribute this composition as a part of that visual work.

Synchronization Royalties—In the USA, a one-time fee paid to publishers and shared 50/50 with songwriters for use of a composition placed (integrated) with a moving picture for a movie, TV show, or commercial.

Sample— the reused portion of a sound recording in another recording. The reused portion may consist of elements such as rhythm, melody, speech, sounds, or entire bars of music, and may be layered, equalized, sped up or slowed down, repitched, looped, or otherwise manipulated.

SESAC—One of the three main performance rights organizations in the United States.

Sonny Bono Law—Passed in 1998, this law—officially called the Sonny Bono Copyright Extension act— extends the life of a Copyright to seventy years after the last remaining writer of a song dies.

Statutory Rate—The federally mandated rate, set by the Copyright Royalty Board, that a record label or other entity must pay to a publisher, per song, to use a Copyrighted composition in a recording. See current rates at: <https://www.copyright.gov/licensing/m200a.pdf>

Synchronization—In publishing, typically abbreviated as "sync,"; this refers to placing or integrating a Copyrighted composition and recording with a moving picture for a movie, TV show, or advertisement.

Works For Hire—If you get paid to write a song as a "work for hire," when you deliver that song, you have no further claim over it. In fact, the person who commissioned you becomes the legal "author" of the song.