



# **RECORDING LAW & LICENSING FOR COMPOSERS**

CO-PRESENTED BY THE AMERICAN COMPOSERS ORCHESTRA AND THE AMERICAN COMPOSERS FORUM

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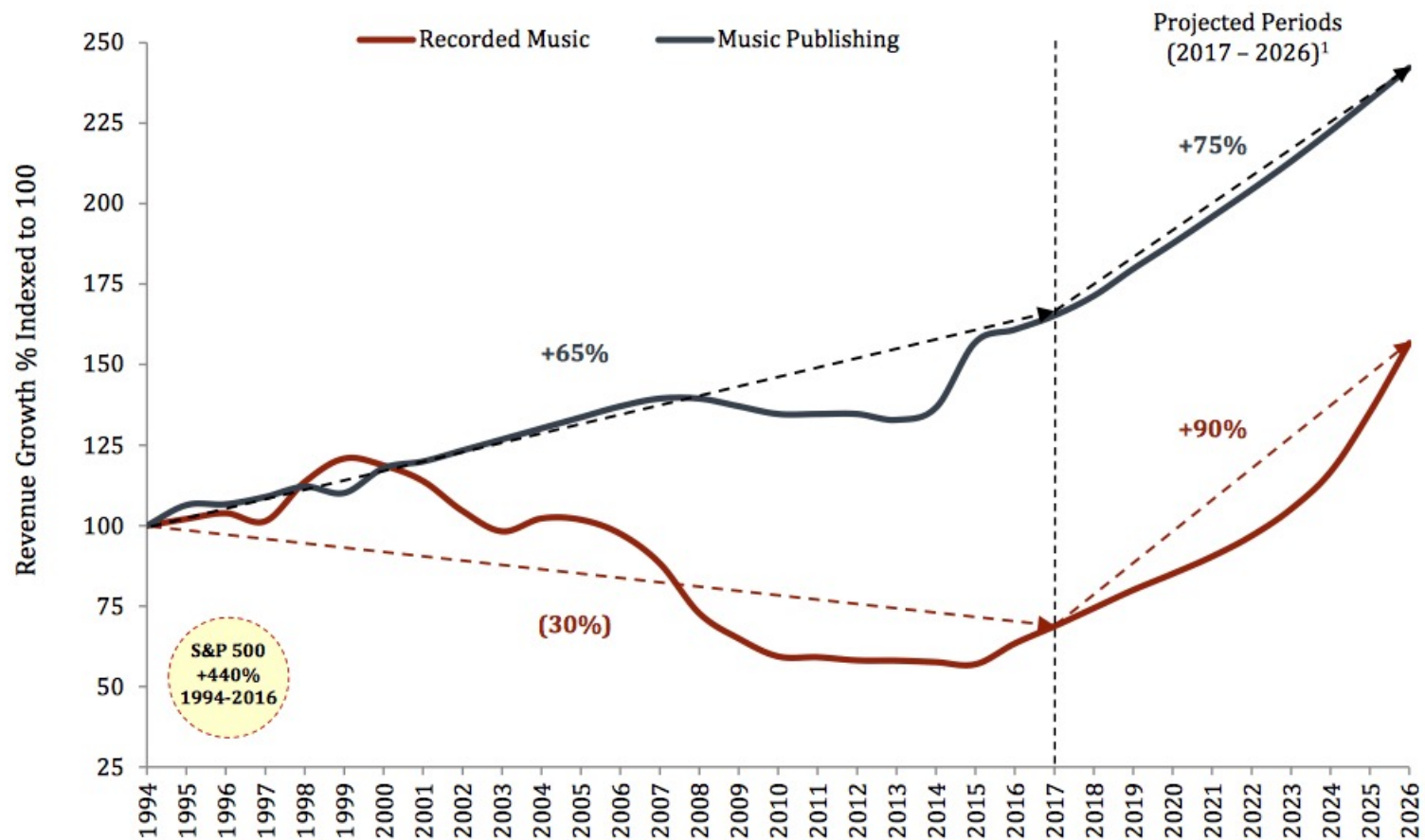
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# MUSIC INDUSTRY: CURRENT TRENDS

## RELATIVE U.S. MUSIC INDUSTRY REVENUE GROWTH (1994 – 2026)



Source: [Round Hill Music](#), Last Accessed (6.3.19)

## DEFINING “PRODUCT” / VOLUME BY FORMAT AND GENRE

	2019	2020	% Change
Global On-Demand Audio Song Streams	1.8T	2.2T	22.6%
Global Digital Song Sales	518.8M	419.4M	-19.2%
U.S. On-Demand Audio Song Streams	745.9B	872.6B	17%
U.S. Digital Album Sales	39.2M	34.4M	-12.5%
U.S. Physical Album Sales	73.5M	68.0M	-7.4%
U.S. Vinyl LP Sales	18.8M	27.5M	46.2%
U.S. Digital Song Sales	301.1M	233.8M	-22.3%

Source: [MRC Data / Billboard Year-End Report U.S. 2020](#)

## DEFINING “PRODUCT” / VOLUME BY FORMAT AND GENRE

	Total Volume	On-Demand Audio Streams	On-Demand Video Streams
R&B/Hip-Hop	28.2%	30.7%	33.9%
Rock	19.5%	16.3%	11.4%
Pop	12.9%	13.1%	13.5%
Country	7.9%	7.5%	4.6%
Latin	4.7%	5.3%	10.5%
Dance/EDM	3.2%	3.4%	2.9%
Christian/Gospel	1.9%	1.7%	1.8%
World	1.8%	1.5%	2.5%
Children	1.3%	1.2%	1.3%
Jazz	1.1%	0.8%	0.3%
Classical	1.0%	0.8%	0.4%

Source: [MRC Data / Billboard Year-End Report U.S. 2020](#)

# THE TWO "SIDES" OF A MUSIC COPYRIGHT

- *There are two separate copyrights in every recorded piece of music:*
  - *The composition itself – including a song’s music and lyrics, apart from any recording of the song. The copyright in the composition is owned by the songwriter and/or publisher.*
  - *The sound recording – a particular recorded version of a musical composition. The copyright is owned by the recording artist and/or label.*

Composition



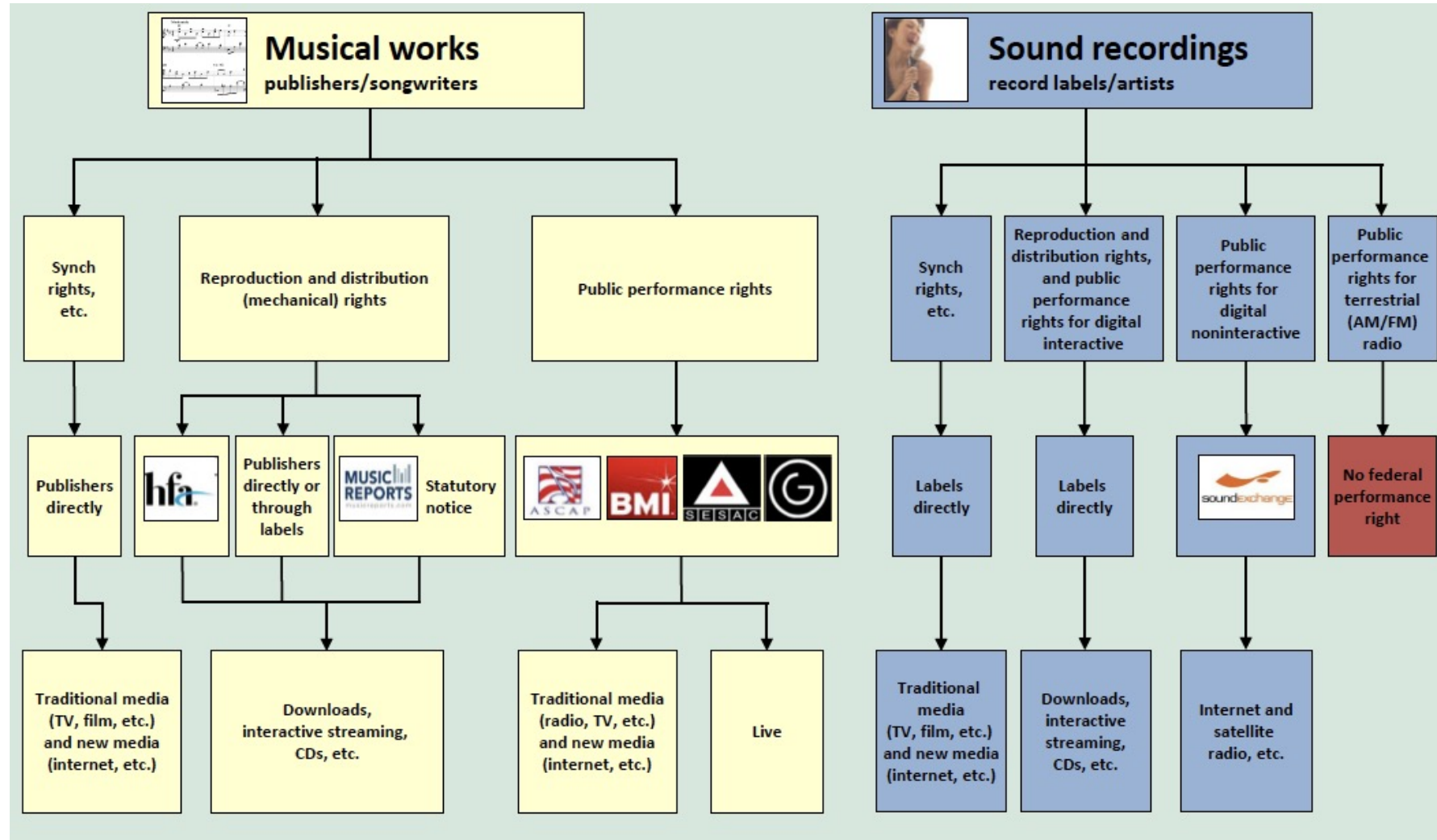
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Sound Recording



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# MUSIC LICENSING LANDSCAPE



Source: [Copyright and the Music Marketplace \(2016\)](#)

# RECORDING DISTRIBUTION MODELS

Deal Type	Features
360 Deal	Artist sells equity in all sources of income, albums, publishing, merchandise, sponsorships, touring etc.
Standard Royalty Deal	Label owns the copyright; Artist earns 15-20% royalty after label recoups from artists royalties, less deductions
License Deal	Artist owns the copyright and provides label with an exclusive license to the recording. Income is split.
Profit Share Deal	50/50 ownership of the master and split profits
Production and Distribution Deal	Artist pays for everything and pays a fixed fee or a small percentage in commission for sales.
Self-Distribution	Artist owns copyright and pays a fee for digital distribution

# WHAT RECORD COMPANIES DO

- Fund recording sessions
- Manufacture product
- Distribute product
- Market product
- Advance money for expenses (concert tours, videos, promotional events, hair and makeup)
- Advise and guide artists on their careers and recordings
- Handle the accounting of all of the above

*Byrne, David, How Music Works, 233 (Three Rivers Press 2017).*



## SOURCES OF MUSIC PUBLISHING INCOME

Major Sources	Secondary Sources
Performance Income	Print Income
Mechanical Income	Background music services
Digital Audio Mechanicals*	Videogames and new media
Synchronization Income	Karaoke
	Digital samples
	Live theatrical

## SECTION 115 / MECHANICAL LICENSING & “FIRST USE”

In the case of nondramatic musical works, the exclusive rights provided by clauses (1) and (3) of section 106, to make and to distribute phonorecords of such works, are subject to compulsory licensing under the conditions specified by this section.

(a)(1)(A) A person may by complying with the provisions of this section obtain a compulsory license to **make and distribute phonorecords of a nondramatic musical work**, including by means of digital phonorecord delivery.

- A person may obtain a compulsory license **only if the primary purpose in making phonorecords of the musical work is to distribute them to the public for private use**, including by means of digital phonorecord delivery, and—
- **phonorecords of such musical work have previously been distributed to the public in the United States under the authority of the copyright owner of the work**, including by means of digital phonorecord delivery

# THE IMPORTANCE OF METADATA

- “When practitioners seeking transparency in rights administration and royalty accounting speak of “metadata,” they mean data describing intellectual property such as a sound recording or a musical composition. (*Metadata for Rights Management* by Bill Colitre, V.P & General Counsel, Music Reports)
- **Sound Recording Metadata or “track” metadata row:**
  - Title | ISRC | Artist | Label | Distributor | Album | UPC | Catalog Number | Duration
- **Musical Composition Metadata “song” row:**
  - Title | ISWC | Composer | Composer’s PRO | Publisher | Publisher’s PRO | Share | Administrator
- [ISRC v. ISWC – What’s the Difference?](#)

# NEW! U.S. COPYRIGHT OFFICE ANNOUNCES GROUP REGISTRATION FOR WORKS ON AN ALBUM OF MUSIC (GRAM)

- The Copyright Office is creating a [new process for registering musical works that are published on the same album](#).
- In addition, the Office is creating a separate process for registering sound recordings, photographs, artwork, or liner notes that are published on the same album.
- Under this option, applicants may register up to twenty musical works or up to twenty sound recordings with one application and one filing fee.

*Source: U.S. Copyright Office*



# THANK YOU

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