

# Is Google Bad For The Music Industry?

A complex network of legal statutes and organizations has evolved over the past century to ensure that musicians are fairly compensated for their labors. The Copyright act of 1909 expanded the definition of a copyright, enabling composers to secure compensation when their works were recorded. A 1916 suit filed by composer Victor Herbert established similar rights for performers and led to the formation of performance rights organizations like ASCAP that currently pay out close to \$1.0 billion in royalties annually to its 625,000 members. These landmark statutes and judgements have subsequently been amended and updated but have consistently been responsible for a major source of income for musicians—not just the high-profile stars, but the legions of anonymous backup players.

Most in the music products industry don't pay much attention to the intricacies of copyright law and the workings of performance rights organizations, but perhaps we should. These structures have underwritten a large share of the industry's customer base, providing professional musicians with the means to buy gear, and offering a career path that has prompted an untold number to aspire to a musical career. Unfortunately, this established system is in grave danger of unraveling.

The general source of the problem is changing technology in the form of the internet. In 1909, copyright laws were amended to account for new technologies such as the player piano and the talking machine. Today, a comparable update is needed to address online access and music streaming. More specifically, the damage can be traced to a single entity: Google. Through its YouTube service, Google has become the primary source for recorded music for an estimated 53% of the populace. Unlike radio or television stations or other forms of recorded music, YouTube pays artists little or nothing for the use of their music.

YouTube doesn't publicly disclose how it pays composers and performers, hiding behind "non-disclosure agreements" with record labels, and the fact that the contracts are often hundreds of pages of complex "legalese." However, Andre Lindall, author of the chart-topping Justin Bieber hit "As Long As You Love Me" provided some detail by revealing his royalty statements in the October 3 issue of *Digital Music News*. Over the three years between 2010 and 2013, "As Long As You Love Me," was played 347,800 times on terrestrial radio, generating \$149,000 in royalties for Lindall. 1,509 plays on Sirius radio netted him another \$765. However, the 34.2 million views of the song on

YouTube produced a pathetic \$218 in compensation. The paltry payout is even worse when you consider the havoc streaming and YouTube have had on the sale of recorded music. According to the Recording Industry Association of America (RIAA), after peaking at \$21 billion in 1999, sales of recorded music, including downloads, streaming services, CDs, and vinyl plummeted to \$7.1 billion in 2016.

In his landmark 1916 suit, Victor Herbert argued that Shanley's restaurant owed him compensation because it had profited by performing his music for patrons on a player piano. Herbert reasoned that just as suppliers of linens, liquor, and foodstuffs deserved to be paid, so did the purveyors of music. Chief Justice Oliver Wendall Holmes agreed, writing "If music did not pay, it would be given up [by establishments like Shanley's]."

A similar logic surely applies to Google and YouTube. The availability of vast quantities of music unquestionably drives traffic to their site, enhancing revenue and profits. If it didn't, why would they waste the memory space? And



Alphabet, Google's parent company, can hardly plead poverty. It's on track to generate a \$27.9 billion net profit in 2017 on revenues of \$106 billion, and with a current market capitalization of \$645 billion, it is the world's second most valuable company, trailing only Apple. To sum up, one of the biggest, richest companies in the world is profit-

ing from the works of thousands of struggling musicians, offering them a pittance for their creative effort.

What's surprising about this state of affairs is that no one seems to care. The U.S. citizenry has a deep-seated wariness of concentration of power that dates back at least to Thomas Jefferson's opposition to a National Bank. This sentiment has given rise to legislation like the Sherman Anti-Trust act of 1890, designed to break up large companies; strict regulation of monopolistic railroads; and a pervasive distrust of anything that's too big, whether its the oil or pharma industries or a retailer like Wal-Mart. For some inexplicable reason, Google, which is a near monopoly with 85% of the search engine market, has managed to avoid incurring similar distrust. What's even more surprising is that musicians, who have never been shy about using the stage to lobby for causes, have been silent on the issue. Suffice it to say, we are baffled.

There is a commercial issue involved here. When a major music delivery platform profits without paying a fair rate for musical content, it hurts musicians, and by extension the music products industry. However, it also devalues a cherished art form. If music is as important and valuable as we like to say it is, then those who create it deserve to be paid for their labors.

**Brian T. Majeski**

**Editor**

[brian@musictrades.com](mailto:brian@musictrades.com)