

UNDERSTANDING THE DIGITAL MUSIC DEBATES



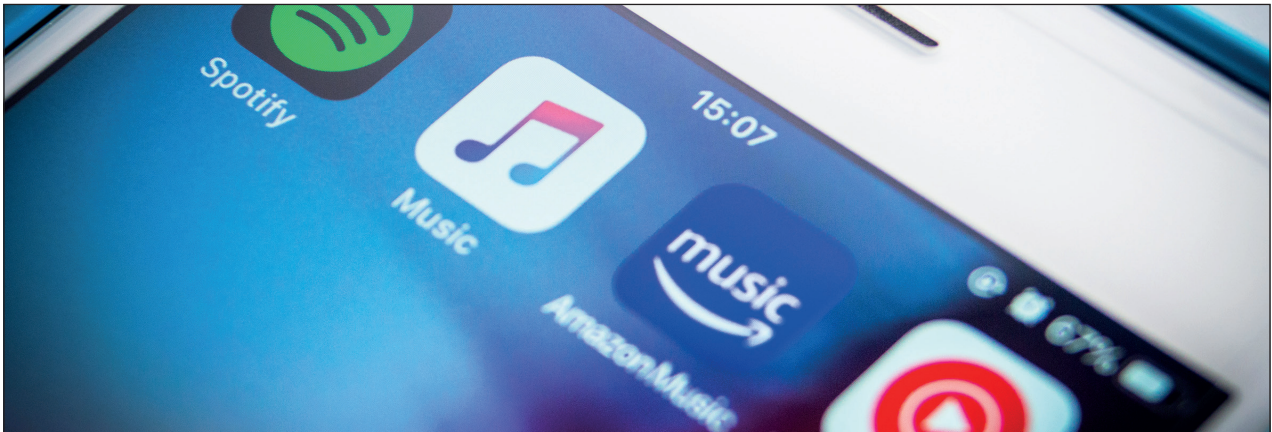
IMPALA – the pan-European organisation promoting and supporting the independent music sector – has teamed up with CMU Insights to deliver One Step Ahead, a new digital intelligence facility to enable independent music companies across Europe to navigate and identify trends, developments, challenges and opportunities in the digital music market.

In this fourth report we investigate the key digital music debates in 2021. Expanding on IMPALA's Ten Point Plan to reform streaming models – and revisiting some of the newer issues raised in past One Step Ahead reports – we put the spotlight on seven different digital music debates. In this executive summary we run through the key facts and talking points around each of those debates, while the full report digs deeper and discusses the proposals that have been made to address each issue.

ONE STEP AHEAD: UNDERSTANDING THE DIGITAL MUSIC DEBATES

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EXECUTIVE SUMMARY



Ever since digital music first began to emerge in the late 1990s and early 2000s, there have been numerous debates within the wider music community about the different business models being employed; the deals being negotiated with the different digital platforms; and the impact the shift to digital has had on how music is marketed and consumed, and on the relationships between the different stakeholders in the music business.

The independent music community has played a key role in these debates throughout that time, often prompting specific initiatives to address head on some of the challenges and issues that have arisen as the digital music market has grown and evolved.

That includes the creation of Merlin in 2008, the launch of the Worldwide Independent Network Fair Deals Declaration in 2014, and extensive lobbying work by IMPALA and others – usually in partnership with other strands of the music

industry – including around the 2019 European Copyright Directive.

And that work continues. In March 2021, IMPALA published a Ten Point Plan that focused on the most timely digital music debates. It set out the independent community's current position on those specific debates and made a number of proposals for how various issues that have been raised by different stakeholders in the music industry can be addressed.

It's important that everyone across the independent music sector has an opportunity to participate in these ongoing debates. With the sector made up of such a diverse mix of businesses – pursuing so many different approaches to making and releasing so many different kinds of music – a diversity of voices is needed whenever current business practices are being assessed and the future direction of the industry is being set in motion.

However, the digital music business is complex, much more so than the traditional business of selling vinyl records and CDs. And the record industry – like the music publishing sector before it – now primarily generates revenue through often complicated licensing deals, rather than directly exploiting its copyrights through the pressing and sale of physical discs,

which requires a more solid understanding of the intricacies of contracts and copyright law.

Taking part in the digital music debates requires an understanding of how the business models work today, how the digital music services are evolving, and what kinds of new services are likely to become significant players in the digital music market of the future.

Expanding on the Ten Step Plan, this latest report from One Step Ahead digs deeper on the key digital music debates and summarises the solutions that have been proposed by the independent music community. It provides the information people in the independent music sector need to navigate and understand the different issues, solutions and discussions.

Based on the previous One Step Ahead reports on playlisting, marketing and the diversifying digital market, it also looks ahead to the digital music debates that are likely to become big talking points in the years ahead – such as the challenges around fan data and the role of the label in direct-to-fan activities.

The digital market is constantly evolving – and as the market evolves, the big debates evolve too. Anticipating and considering those future debates is important for the independent community to stay one step ahead.

01: ROYALTY DISTRIBUTION

WHAT YOU NEED TO KNOW

■ Streaming services operate a revenue share based on consumption share model. Each month a portion of a service's total revenues are allocated to each track based on what percentage of overall consumption it accounted for, and then a share of that allocation is paid to the label/distributor and publisher/collecting society. This is sometimes referred to as the 'pro-rata' or 'market share' model.

■ Some people argue that it would be better if track allocation was done on a user-by-user basis, so each subscriber's payment is allocated to each specific track they listened to, based on what percentage of that subscriber's consumption it accounted for. There are both pros and cons in shifting to a user-centric approach.

■ One argument in favour of user-centric is that it would redistribute some monies from the most streamed tracks and artists to lesser streamed tracks and artists. This might be the outcome, but it's not assured. Another option is something called the artist growth model which would explicitly redistribute some monies in this way.

■ A 'play' is currently counted by a streaming service if a subscriber listens to at least 30

FURTHER READING

This report makes reference to the following resources...

IMPALA'S Ten Step Plan To Reform Streaming Models impalamusic.org/10-steps-to-reform-streaming-models

Artist Revenue And "Equitable Remuneration" impalamusic.org/artist-revenue-and-equitable-remuneration

WIN Fair Deals Declaration winformusic.org/fair-digital-deals

AIM Artist Growth Model Study aim.org.uk/#/resources/how-to-fix-streaming-debate-recording

seconds of a track. This system, however, penalises longer tracks, and genres where tracks tend to be longer. Some argue that the system should be amended so that longer tracks earn more or are counted as more than one play.

■ A final proposal around royalty distribution is that how a subscriber came to listen to a track should be factored in – so that a track would be allocated more if a subscriber specifically selected it, rather than it being pushed to the subscriber by an algorithm.

■ To date the highest profile debate around royalty distribution has been contrasting the current approach with the user-centric approach. However, IMPALA's view is that this debate should consider and assess all the proposed alternatives – which is why the Ten Point Plan offers several proposals. Some of these proposals address different concerns and could actually co-exist.

KEY TALKING POINTS

■ Should alternative approaches to royalty distribution be employed – and if so which ones? Do the benefits of those alternative approaches outweigh any possible increased costs and complexities caused by their implementation?

■ Given a service would have to apply any new approaches to its entire catalogue – at least within any one market – what would need to happen to allow any new approaches to be adopted? What is the industry's role in making this happen?

02: DIRECT-TO-FAN REVENUE STREAMS

WHAT YOU NEED TO KNOW

■ Direct-to-fan services are likely to become

key in the next phase of growth in the digital music market. These are D2F services that sell access to premium content and experiences, often monetised by the membership, donation and digital gifting tools offered by streaming, social media and bespoke D2F platforms.

■ Most digital music debates to date have centred on download stores and streaming platforms. Some may have to be revisited in the context of D2F.

■ As D2F becomes about digital content, the label obviously has a much bigger role to play. Labels need to assess when their rights are being exploited by D2F projects, and what other value they can bring to this activity.

■ New deals should cover future D2F projects, while labels might need to speak to artists and managers on existing deals about what possible D2F opportunities are worth pursuing, and how the label and its rights will be involved in that.

KEY TALKING POINTS

■ What direct-to-fan services are likely to be the biggest revenue generators in the next decade – and what is the role of the label in each of those services?

■ How can labels future-proof record deals to ensure future direct-to-fan opportunities are anticipated and covered by record contracts?

03: FAIR REMUNERATION

WHAT YOU NEED TO KNOW

■ After a streaming service has allocated monies to a track and paid a share of that allocation to a label or distributor, said label or distributor in turn pays a share of that money to the artist. What share depends on the specific deal that has been negotiated between

the label or distributor and the artist.

■ Deal types and terms vary hugely across the industry, though as a general rule the more services and investment a label or distributor provides the artist, the bigger cut of any subsequent revenues it is going to receive.

■ There has been much debate over the years as to what level of artist remuneration is 'fair' – both in terms of new deals that specifically set out royalty rates or revenue share terms for streaming, and also when interpreting old record deals that don't specifically talk about digital income.

■ With the shift to streams, some labels have voluntarily adjusted old contracts, uplifted royalty rates and written off unrecouped advances. At the same time, from the label perspective, record deals vary so much, it is impossible for there to be an industry-wide consensus on what is 'fair'.

■ Some people have proposed legislative measures that would impact on and/or set artist remuneration rates, for example extending the equitable remuneration system that currently applies to broadcast and public performance revenues to streaming revenues. Most labels argue that such a solution is counter-productive.

■ There are clearly best practices labels can employ to ensure that each record deal is fair in terms of how revenues are shared, in the context of the wider partnership between artist and label. And also in how labels interpret pre-digital deals when it comes to paying royalties on streaming revenues.

■ Both IMPALA and the Worldwide Independent Network – as well as some national trade groups for the independent sector – have made statements regarding this best practice and have also put forward their own proposals

to reform streaming, pointing out that one of their members' key priorities is to maximise revenues.

KEY TALKING POINTS

■ Can there be an industry-wide consensus on what is fair remuneration for artists in terms of how streaming monies are shared? Given most labels would argue that there can't be, what processes and policies can labels implement to ensure each specific deal is negotiated and then interpreted in a fair way?

■ How can labels better communicate to artists and managers how streaming monies are being processed and royalties calculated, especially when new kinds of streaming services launch that make payments in different ways? How can distributors help their label clients with that communication task?

04: STREAM MANIPULATION

WHAT YOU NEED TO KNOW

■ Agencies exist that artificially boost streams of certain tracks – usually by setting up multiple accounts and playlists on the streaming services and setting them to play either their own tracks or the tracks of their clients.

■ This allows the artificial boosting of the stats linked to an artist or track for marketing reasons.

■ These tactics can also be used to exploit the royalty distribution model employed by the services, sufficiently boosting a track's streams so that an agency can pull more money out in royalties than it puts in by buying premium accounts

■ This conduct is, of course, unethical. And from a marketing perspective results in long-

term damage to an artist, by rendering their all-important fan data useless.

■ The streaming services are best positioned to counter this activity, although the music industry has a role to play too. Both the services and representatives of the music industry signed up to a code of conduct on this issue in 2019.

KEY TALKING POINTS

■ How big an impact is stream manipulation having on official stats and royalty distributions? It is hard to assess in tangible terms, but some people argue that the impact is actually very significant indeed. Some have estimated that the number of streams generated from manipulation practices on a platform like Spotify could represent about 3-5% of the total number of streams serviced.

■ Are the services doing enough to combat stream manipulation, given that they aren't really in themselves harmed by this conduct? What can the music industry do to ensure the services are as prolific as possible in this domain?

■ What can you do as a label – in terms of contracts and communications – to ensure no one in your company, among your suppliers, and among the wider teams of your artists is involved in any stream manipulation activity?

05: ALGORITHMS

WHAT YOU NEED TO KNOW

■ The streaming service algorithms are becoming ever more important in the way that services recommend music to their users. But these algorithms are complicated, constantly evolving and not entirely transparent.

■ It is felt that the services need to get better at communicating how their algorithms work,

reassuring the music industry that there are no deliberate or unintended biases skewing recommendations in favour of certain kinds of music, and educating artists and labels on how to organically influence the system.

■ Spotify has launched a commercial paid-for service that allows artists and labels to formally influence its algorithm, but many labels, artists and managers have criticised this approach, equating it to payola. Allowing the industry to inform the algorithm is a good idea, but most argue that it should not be a paid-for system.

KEY TALKING POINTS

■ How can artists and labels organically influence the streaming service algorithms? The One Step Ahead report 'Playlists And Curation In The Streaming Music Market' provides some tips.

■ How can the industry – and possibly law-makers – put pressure on the streaming services to be more transparent about their algorithms?

06: LOCAL CATALOGUE AND CULTURAL DIVERSITY

WHAT YOU NEED TO KNOW

■ Because streaming is dominated by a small number of global players, artists and labels in smaller markets are often at a disadvantage. Services are less likely to have on-the-ground playlist or editorial activity in those markets, and are less likely to have day-to-day relationships with the local music community.

■ There is also a disparity between markets in terms of average revenue per user – or ARPU – in part based on the ratio of paying subscribers to users on free services. In markets where there are many more free users, the ARPU will be lower, meaning a smaller royalties pot to

share across the sector each month.

■ Although the streaming services need to take the lead in addressing these challenges, they should also utilise the expertise of the independent music community in markets where they do not have a prolific on-the-ground presence.

■ There are also some simple practical measures the services could implement, such as allowing tracks to have multiple titles in multilingual countries, and allowing users to navigate a platform by label.

KEY TALKING POINTS

■ What measures and initiatives should the streaming services prioritise to help music communities in smaller markets and to ensure maximum cultural diversity across their services?

■ What role does the independent music community have in meeting those challenges – and how can governments help ensure that services recognise how important these challenges really are?

07: FAN DATA

WHAT YOU NEED TO KNOW

■ Fan data is now crucial for building successful artist business and running effective music marketing campaigns. Given artists work with multiple business partners – each of which will be gathering data – a key challenge is

ensuring that everyone has access to the data they need.

■ Aside from any commercial sensitivities, the sharing of fan data is also regulated by data protection law.

■ As a result, data considerations should be included in all deal negotiations and record contracts, so all parties are clear on what data will be gathered, what data will be shared, and what needs to happen to allow such data sharing. Labels should also consider putting together data policy statements, especially in relation to existing artists whose old contracts don't talk about fan data.

■ Given the kinds and role of fan data is constantly evolving – as are the data policies of the big digital platforms and data protection law – the music community increasingly needs to discuss best practice on a regular basis.

KEY TALKING POINTS

■ Are you currently getting access to all the fan data you need to run effective music marketing campaigns? Are your artists getting all the fan data they need to successfully grow their individual artist businesses?

■ What data protection laws do you need to consider when gathering and sharing data about your artists' fanbases?

■ What fan data terms should be included in record contracts – and what does a label fan data policy look like?
