



2021 Study of the economic impacts of music streaming on the Canadian music industry

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2021 Study of the economic impacts of music streaming on the Canadian music industry

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Wall Communications Inc.

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List of acronyms and abbreviations

ACTRA	Alliance of canadian cinema, television and radio artists
APEM	Association des professionnels de l'édition musicale
AV	Audio-visual
BMG	Bertelsmann Music Group
CISAC	International confederation of authors and composers
CMO	Collective management organization
CMRRA	Canadian musical reproduction rights agency
DAW	Digital audio workstation
DIY	Do it yourself
IFPI	International federation of the phonographic industry
IP	Intellectual property
IPO	Initial public offering
MPC	Music publishers of Canada
MROC	Musicians rights organization of Canada
PR	Performance rights
PRO	Performance rights organizations
RACS	Recording artists' collecting society
RR	Reproduction rights
SOCAN	Society of composers, authors and music publishers of Canada
StatCan	Statistics Canada
UMG	Universal Music Group

Executive summary

This Study examines the impact of music streaming services on Canadian music creators. This issue was examined previously in a Study conducted by Wall Communications Inc. two years ago.¹ In essence, the mandate of the 2021 Study hasn't changed substantially – just the time period. The last two years have seen a number of industry developments pertinent to understanding the impact of streaming.

While we investigate several issues,² the fundamental questions of this Study begin with straightforward enquiries: How much is being earned in the recorded music business in Canada? How much in streaming? And who is earning it?

Four categories of rights-holders

We examine the status of four categories of rights-holders: songwriters, publishers, performers and record labels (producers). The “music creation” role of each of these rights-holder categories is first explained. In brief, songwriters are those parties who write lyrics, compose music or both. Publishers can be seen as the business partners of songwriters, seeking out ways to monetize the songs they represent. Performers (also referred to as artists) are the parties that perform songs in a sound recording. Record labels (also known as producers) typically fund sound recordings and own the rights to the master recording, among other functions.

Songwriters own the copyright for a composition and are entitled to payment for the public performance of a song as well as for the reproduction of a song that has been recorded. Publishers typically have a similar status, sharing in the songwriters' rights payments, or receiving a percentage of rights payment for administering the use of the

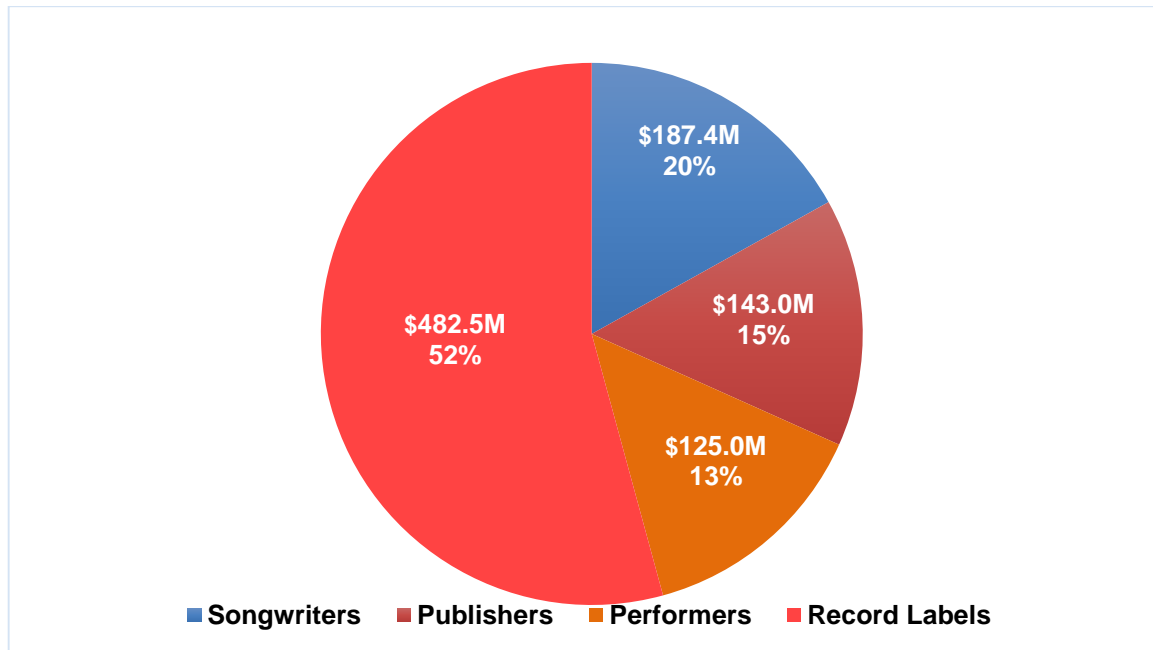
musical works. Performers (featured and non-featured) are entitled to certain “neighbouring” rights for the recording of their performance. The neighbouring rights obtain when a sound recording is performed publicly. These royalty payments are referred to in the Canadian Copyright Act as “equitable remuneration”.³ There is also a right for reproduction for purposes of enabling certain types of public performance of a sound recording. Record labels have their own “neighbouring” rights for the public performance of a sound recording as well as a reproduction right for purposes of enabling a public performance.

We estimate the amount and share of earnings of each rights-holder category in the Canadian recorded music industry. We then estimate the share of earnings of each category with respect to music streaming (primarily subscription) services.⁴

Earnings by rights-holder category in overall industry

Regarding the share of earnings in the overall Canadian recorded music industry, we find that record labels earn over half of industry earnings with writers, publishers and performers earning between 13% and 20% of the total.

Figure 1 - Canadian sound recording earnings by rights-holders, 2019



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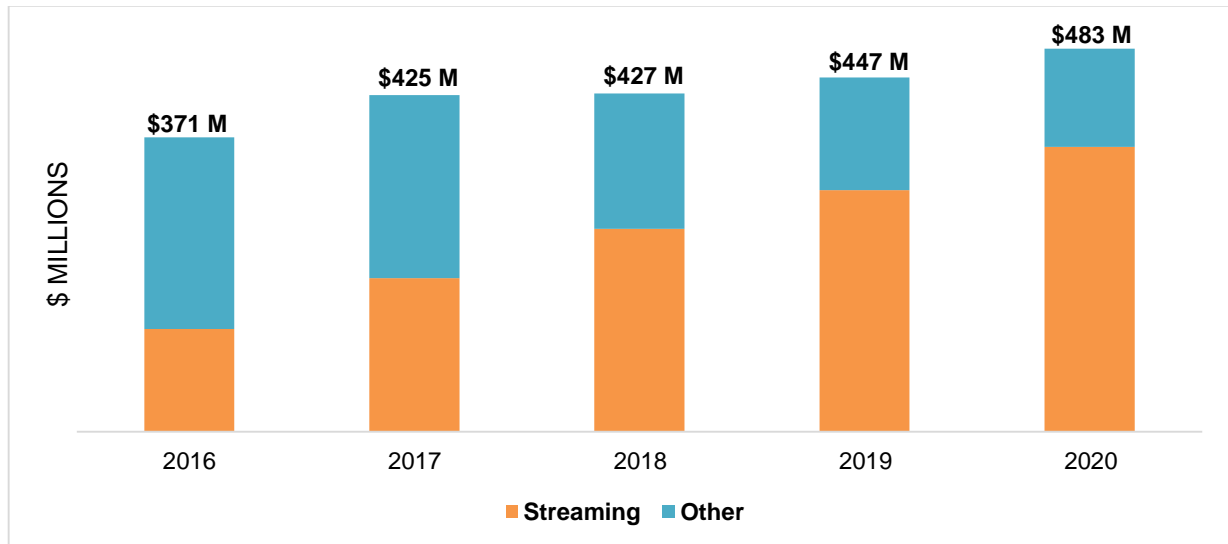
Figure 1 - Canadian sound recording earnings by rights-holders, 2019

Rights-holder	\$\$	Share
Songwriters	\$187.4M	20%
Publishers	\$143.0M	15%
Performers	\$125.0M	13%
Record labels	\$482.5M	52%

Earnings by rights-holder category in the streaming market

Streaming has become the most prevalent means of music consumption in Canada and elsewhere. The International Federation of the Phonographic Industry (IFPI) reported Canadian streaming revenues (for record labels) of \$129.0M US in 2016 (or 35% of total revenues) but that had risen to \$359.0M US (or 74% of total revenues) in 2020.

Figure 2 - Recorded music revenues by format (IFPI Global Music Report: Canada) 2016 to 2020 (\$US)



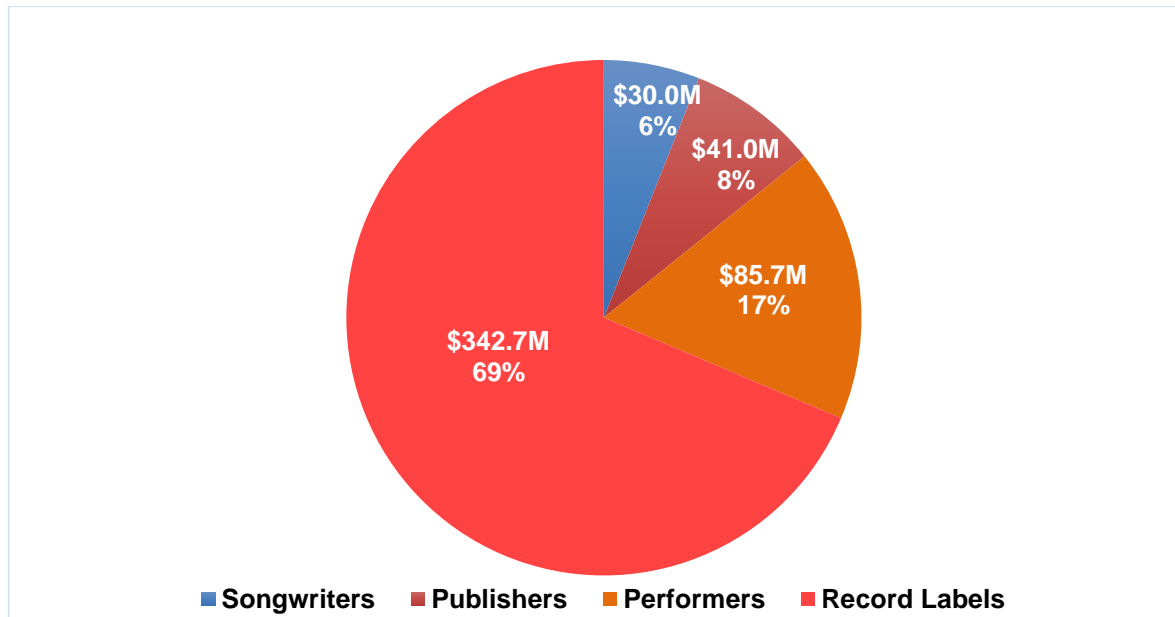
IFPI Global Music Report 2021 (Canada) and Wall Communications Inc. 2021

Figure 3 - Recorded music revenues by format (IFPI Global Music Report: Canada) 2016 to 2020 (\$US)

Year	Streaming	Other	Total
2016	129,200,000	241,900,000	\$371M
2017	194,000,000	230,500,000	\$425M
2018	255,900,000	170,600,000	\$427M
2019	304,800,000	142,000,000	\$447M
2020	359,000,000	124,000,000	\$483M

With respect to earnings from music streaming services, the percentage earned by record labels is significantly larger, increasing from 52% (of overall recorded music earnings) to 69% specifically from streaming services 2019. Songwriters earned only 6% of the total with publishers earning 8%. Performers earned 17%.

Figure 4 - Canadian streaming earnings by rights-holders, 2019



Wall Communications Inc. 2021

Figure 5 - Canadian streaming earnings by rights-holders, 2019

	\$	Share
Songwriters	\$30.0M	6%
Publishers	\$41.0M	8%
Performers	\$85.7M	17%
Record Labels	\$342.7M	69%

Major labels vs. indie labels

The major record labels (Sony, Universal Music Group and Warner) dominate the recorded music industry globally and domestically. This also extends to the streaming segment where they occupy an estimated 72% of the Canadian market. The major labels represent virtually all of the most successful Canadian performers (such as The Weeknd, Justin Bieber, Shawn Mendes and Drake). Other large record labels (for example, Bertelsmann Music Group, Kobalt/AWAL and other non-Canadian Indies) make up much of the remainder of Canadian streaming revenues.

Of the top 50 streamed songs in Canada (by both domestic and foreign artists) in 2020, there were no featured performers represented by an independent or Indie label

(Canadian or international) – all songs featured performers who are represented by a major label. We take this as an indication of the significant role that the majors play in the Canadian market.

Canadian artists

Examining the share of streams by Canadian artists, out of a total 2.42 billion streams by the top 50 songs in Canada in 2020 (Canadian and non-Canadian performers), songs featuring Canadians garnered 372.9 million streams – or 15.4% of streams. Almost 90% of the 372.9 million streams were by The Weeknd, Justin Bieber, Shawn Mendes and Drake. There were no performers represented by a Canadian Indie record label in the Top 50 steamed songs.

Of the total 1.15 billion streams in the top 50 songs featuring Canadian performers, 700 million streams (more than 60%) were by just 4 artists: Drake, The Weeknd, Justin Bieber and Shawn Mendes. Given the extreme success in the streaming market by a handful of Canadian artists, the implication for other Canadian artists (for example, Indie artists but also less popular artists on major labels) is that there is less – much less – earned by them: the streaming market is largely captured by non-Canadian performers and a handful of uber-successful Canadian performers.

The Quebec francophone market

The Canadian francophone music market (which is primarily based in Quebec) has several differences from the rest of the Canadian market.⁵ Because language created a partial barrier in cultural products with the rest of Canada (and most of the US and other countries), Quebec Francophone music creators have had a separate music ecosystem that has allowed them to develop and achieve relative success: careers in all industry segments were both possible and sustainable.

The close-knit Quebec Francophone music community has seen significant change recently, including the exit of established distributors, the entry of new multi-national distributors (including a major label), and the growing presence of Quebecor in several areas of the Quebec music industry.

Moreover, the move to music consumption on streaming services at the expense of terrestrial radio (in particular) has led to diminished royalty incomes from traditional broadcast media, relatively lower earnings from streaming, lower marketplace exposure and diminished physical sales.⁶ Streaming has also made discoverability of provincial artists more difficult.

The ecosystem that served Quebec Francophone music creators so well in the era of traditional media is not able to perform the same role in the streaming era.

The impact of COVID-19

The impact of COVID-19 on the Canadian music industry, and the industry outside of Canada, has been well documented by several recent studies.⁷ Rather than attempting to redo the research in these studies, we provide some of the key conclusions and our own observations respecting the intersection of streaming growth and the COVID-19 pandemic.

The impact appears to be most pronounced for artists that haven't yet built up a large audience for their music (that is, non-major label artists).

Key among the impacts of COVID-19 has been the loss of live performance income from local venue, touring and festival work for most musicians.⁸ Performers generate an estimated 75% of their income from live events and touring (compared to less than a

third in the 1990's).⁹ Touring is a key element in having music discovered – a benefit no longer available to assist with physical product sales and digital services revenues. Royalty income derived from the playing of recorded music in restaurants, gyms, bars, and other venues where people gathered has also suffered.¹⁰ Musicians that score for TV, film and advertisements are seeing their incomes fall as companies curtail their activities. Non-streaming platforms (like radio) have suffered and accordingly will result in lower royalty payments.¹¹

Streaming services and payouts

The proliferation of digital streaming services that use music is extremely large and growing. The options for consumers to access streamed music are therefore equally expansive and growing. So too are licensing opportunities from new types of social media services that utilize recorded music.

We note that estimated rights-holder earnings from 1 million streams vary by streaming service provider but appear to average in the \$4,000 to \$5,000 range. These payments for 1 million streams are typically divided amongst several rights-holders. We further note that the majority of Canadian artists on streaming services do not achieve 1 million streams in a year.

**Table 1 - Estimated earnings (DIY) from various streaming services
(1 million streams)**

Streaming Service	Streams	Earnings (\$US)
Spotify	1 Million	\$4,000
Apple	1 Million	\$5,000
Tidal	1 Million	\$12,000

Deezer	1 Million	\$4,700
Amazon	1 Million	\$5,000
Pandora	1 Million	\$1,400
YouTube	1 Million	\$1,750
SoundCloud	1 Million	\$1,300

Source: Music Gateway and Wall Communications Inc. 2021

Spotify reported in 2020 that there are about 551,000 songs with cumulative streaming totals of 1 million (over the life of the service) which would have each generated roughly \$4,000 US in earnings.¹² 13,400 artists generated \$50,000 US or more in royalty payments in 2020.¹³ Only 7,800 artists generated \$100,000 US or more in that year; 1,820 artists generated \$500,000 US or more and 870 artists generated \$1M US or more.

While there is some substantial success for top artists, there is a fast drop-off below them. With roughly 7 million artists on Spotify¹⁴, only 0.11% generated earnings of \$100,000 US or more in 2020 and that does not account for how those earnings were divided amongst rights-holders (for example, band members, co-writers).

Technological disruption and industry changes

Technology has been a major force behind the advent of streaming. Technological advances enabling streaming include digitization of content, digital transmission, Internet ubiquity and algorithmic decision-making. Technology has also caused several fundamental changes in industry structure.

While the proliferation of streaming services (services dedicated to music or services that incorporate music) has provided many more outlets for creators, technology has also enabled new entry into every part of the music supply chain.

Songwriters/performers can now create (that is, write, record and produce) music without leaving their homes. The necessity of using a sophisticated studio, of using an arranger and/or producer, even of using professional session musicians, is gone.

All aspects of the recording process – such as engineering, mixing and mastering – can now be accomplished within personal digital audio workstation (DAW) software or by using an online third party. Creators can now carry out every part of producing a master recording by themselves or use third parties for certain functions – all without the involvement of a record label.

At every juncture in the music supply chain, technology has enabled a growing number of third party players to take on virtually all of the functions that once were the purview of record labels. In addition, the distinction between the roles that any party performs is also blurring with companies expanding vertically into adjacent industry segments.

A “third party” industry structure built upon new technology has fomented an enormous rise in the number of Do It Yourself (DIY) artists. In lockstep, the number of songs (and their recordings) created every year has also risen astronomically. Estimates of the number of songs uploaded onto streaming platforms every day varies from 40,000 to 60,000.¹⁵

The breaking down of technological and infrastructure barriers (that once heavily challenged music creators) has allowed them to now make higher quality music less expensively and to get that music to consumers more easily. On its surface, these developments should have improved the lot of all music creators. However the monetary benefits up to now have flowed primarily to large record labels more so than other rights-holders.

Record labels (particularly the majors and other large labels) have been able to gain in a relative sense while other rights-holders have not. The simple reality of master recording ownership by record labels provides them with a key negotiating advantage. A song in its most rudimentary form is a set of lyrics and/or music. However, until the song is “fixed” or embodied in a sound recording, it can’t be readily monetized. That monetization capability gives the owner of the recording significant negotiating power over the terms of use (including payments) for the song.

Songwriters and publishers (and performers to some extent) rely on sound recording owners to advance their cause – the sound recording is the primary vehicle by which rights-holders monetize their rights. While other non-recorded uses of music (for example, live performance) pay royalties, the vast majority of royalty earnings are generated from the use of sound recordings.

There has been a “hollowing out” of the middle class of music creators. The Parliamentary Committee Reviewing the Copyright Act recently noted the “difficult realities” facing the declining artistic middle class; namely, significant decreases in earnings since the 1990s and a growing number of artists living below the poverty line. While significant success has been found by relatively few at the very top, the bulk of artists have been hard hit. In particular, independent and DIY rights-holders have suffered as streaming has come to dominate the music consumption landscape.

However, there are signs that the landscape – and potentially the welfare of middle-class creators – is changing.

From 2017 to 2020 the percentage of streams on Spotify represented by the major labels has declined from 87% to 78%.¹⁶ Merlin, the association of independent artists, labels and distributors, reported that their members now account for more than 15% of the global digital music market.¹⁷ Of the 40,000 to 60,000 tracks uploaded to Spotify per day, eight times more music by volume was uploaded by DIY artists than was released

by the three major labels. DIY artists earned an estimated \$960M globally in 2019 with an estimated 27% growth to \$1.22B in 2020.¹⁸

While the future remains unpredictable and to this point only the most successful music creators have enjoyed significant prosperity from streaming, there are positive signs that Indie artists – and those in the bottom and middle classes of writers and performers – may see better days ahead.

Changing industry ownership structure

While the dominance of the majors still prevails in 2021, several factors (for example, technology, third party service companies) are changing the industry. In addition, the corporate landscape is also changing. The inter-corporate relationships amongst key parties are complex and ever-changing. First off, we note the cross ownership of major labels (Sony and Universal) in Spotify; the ownership of Tencent in Spotify and Universal and Warner; and the involvement of common institutional investors in Apple, Amazon and Spotify.

Major labels have not only become significant players in the “independent” distribution business (for example, Sony ownership of The Orchard which offers distribution services to Indie artists and labels), but continue to buy other independent operators (for example, 2021 Sony purchase of AWAL/Kobalt).

The entry of the majors into the Indie sector has been accompanied by their entry into a very important part of the streaming sector (and particularly in the discoverability of music): playlisting. The majors each have a playlist brand Filtr by Sony, Topsify by Warner, and Digster by Universal. While Spotify creates the majority of the playlists appearing on its streaming service, the playlists of the majors are second to Spotify, with Indie label playlists rarely appearing on the service.

While the foray of Sony and the other majors into the Indie space has created a major structural change, the publishing world has been equally jarred by several high profile, high priced acquisitions. While the past decade has been dotted with purchases of publishing catalogues (or other publishing companies), the activity in the past year has been of an entirely different magnitude.

The industry has seen prominent songwriters sell their publishing rights in the last year: Bob Dylan, Paul Simon, Neil Young and many others – purchases in the hundreds of millions of dollars. The landscape now includes several music rights related Initial Public Offerings (IPOs) – including by Warner Music Group (2020) and Universal Music Group (UMG) (announced) – as well as Hipgnosis. Private equity firms are also becoming significantly involved in the industry.

Data

One of the key issues hampering competition in the music industry has been the lack of availability, transparency and comprehensiveness of data. Technology is changing that.

To a large extent, the advent of Collective Management Organizations (CMOs), third party distributors and streaming services that publish (and otherwise make artist specific data available) have greatly improved structural transparency issues. Clearly defined and understood terms of service have replaced vague contractual language that offered artists little opportunity to dig deeper into matters of personal business concern. CMOs (we note those in Canada) were some of the first music business agencies to provide for greater transparency and have often made the commitment to transparency a prime sales point for their services.

Many of the new entrants that provide third party services to DIY and Indie artists have built their businesses on the collection, formatting and analysis of data. Understanding

the technology that powers the data collection, storage and analysis has often been the doorway into the industry for many modern music entrepreneurs.

In an industry where success has traditionally been built on factors such as live touring, marketing, promotion and pure luck, data is taking its place as a king/queen maker.¹⁹ Being able to track who and where a song is being streamed, in what frequency, over what period, etc. provides a toolset that just did not exist prior to streaming.

Streaming services themselves rely heavily on data and its application to customize playlists for individual users (for example, Spotify), record labels feed data into machine learning algorithms to help predict the success probabilities of artists, and similar tools are now available for all aspects of music creation and marketing.

The role of data and its analysis within the industry goes deeper. Some artists are concerned that instead of data being used to assist an artist build a career, it will instead begin to drive how the content is created – an outcome that is anathema to many artists' sensibility. But given the opportunity for financial reward based on song popularity, there is no doubt it is already happening.

Algorithms, using “big data”, provide tools to help shape more popular music, but also to offer greater discoverability of musical works and artists for listeners. The metadata (that is so readily created and utilized in digital music) is the electricity that enables the streaming industry to develop new applications and better serve both listeners and rights-holders.

Data has an intrinsic value in music creation and consumption and its value and applications are increasing. Who owns it, how it is exploited and who exploits its value is very much a work in progress.

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Introduction

This Study examines the impact of music streaming services on Canadian music creators. This issue was examined previously in a Study conducted by Wall Communications Inc. two years ago.²⁰ In essence, the mandate of the 2021 Study hasn't changed substantially – just the time period. The last two years have seen a number of industry developments pertinent to understanding the impact of streaming.

The previous Study began with an apparent conundrum:

“The streaming of music has been a somewhat controversial development for music creators at the same time it is generally perceived as highly beneficial to music listeners. For many creators, music streaming via commercial providers has reportedly led to severely diminished incomes and by some accounts streaming has had a devastating impact on music creators’ ability to simply make a living pursuing a career built around making music.”

“In seemingly contrarian observations, the business of recorded music (and streaming specifically) seems to be booming (globally, in the US and in Canada) according to numerous reports.”²¹

This apparent conundrum remains in 2021. To the extent it is necessary to state the obvious, the consumption of music today is largely driven by audio and audio-visual (AV) streaming services. Moreover, streaming has propelled the sound recording business on an upward trajectory where, as recently as six years ago, it was still in a period of negative growth.²² The industry is flush with renewed consumer spending on and (business licensing of) recorded music.²³

At the same time, reports of music creators earning de minimis sums on the use of their works on streaming services – or certainly not enough for a living wage – fill trade journals, blogs, policy reports and mainstream media.

This Study seeks to understand how these seemingly contradictory events can occur simultaneously – if in fact they do reflect reality. While we investigate several issues,²⁴ the fundamental questions of this Study begin with straightforward enquiries: How much is being earned in the recorded music business in Canada? How much in streaming? And who is earning it?

In order to examine this issue, we need to categorize those persons who create music in Canada. Given that we are concerned with the monetization characteristics of streamed musical works, we categorize industry segments into various rights-holder groups.

“Music creators” are often casually identified as the people and agencies that create songs in the most basic form – that is, lyric writers (words) and composers (music).²⁵ The perception relates to the fact that these people impart the first – and arguably the most significant “creative effort” in constructing a musical work.²⁶ Of course, when a song is recorded, the featured performer of the song will also add considerable creative content.²⁷

Other parties that are involved with the creation of a music sound recording include publishers (who seek out performance and other monetization opportunities for the songs they represent), record labels (typically responsible for arranging for and financing the actual recording session and producing a master recording of the performance of a musical work), the non-featured performers on a recording session (the session musicians) and other people involved in a recording session and the subsequent processing of the recording (such as sound engineers, mix engineers, and mastering engineers).²⁸

As a side note, record labels typically wear several hats including artist development, distribution of product (including negotiating with music delivery services (such as streaming services) for payment for the use of a song and the collection of those monies) and marketing and promotion of the sound recording.²⁹

With no slight intended towards writers, composers or featured performers, we will use the term Canadian “music creators” in its broadest form to refer to the entire supply chain of Canadian recorded music creation and delivery to consumers.³⁰

We should also make special note of CMOs – the organizations who collect and distribute royalty payments to their rights-holding members (variously songwriters, publishers, performers and record labels). CMOs perform a key role in the industry with their involvement in each sector. While they are involved as a major intermediary for each of the four sectors, other commercial arrangements occur without the participation of the CMOs. Record labels in particular conduct a significant amount of business outside of the CMOs (for example, negotiating and collecting payments from streaming services on behalf of their own master recording rights but also on behalf of the performing artist and sometimes other rights-owning parties).³¹

The main body of this Study begins with a relatively detailed description (Section 2) of various rights-holders and the activities of each. While guaranteed to induce somnolence in all but the most dedicated readers, it is nonetheless essential to for later discussions. To anyone outside the industry (and many who work within the industry) the complexity of rights-holder activities, rights, contractual arrangements and terminology is conspicuously confusing. Section 2 hopefully reduces some of that.

Section 3 compiles relevant data on earnings within the music industry and estimates those earnings for various rights-holder groups in Canada for the year 2019. Due to confidentiality constraints and other limitations on data, we estimate earnings using a variety of tools, including extrapolation, comparative analysis and proxy analysis among others.³² Ultimately, we arrive at earnings estimates for four rights-holder categories: songwriters, publishers, performers (artists) and producers (record labels).

Section 4 carries the analysis one step further, focusing on earnings specific to the music streaming part of the industry. Again a variety of tools are used to estimate earnings by rights-holder category.

Section 5 provides a deeper dive into several characteristics of streaming sector, including the relative roles of major vs. Indie labels, domestic vs. foreign royalty earnings, the unique challenges of the Quebec Francophone market and the impact of COVID-19.

Section 6 examines the current state and trajectory of the streaming sector, significant industry developments and implications for competition in the industry.

Section 7 provides some brief observations.

The Appendices include a description of Methodology, a list of parties providing input into the study and a list of References.

Identifying the supply chain elements and the parties involved

We intend to generally follow the categorization provided by different rights-holders as this essentially accords with the different activities undertaken by various parties in the music creation industry. More importantly, we are focused in this Study on how various rights holders have been economically impacted by music streaming services.

There are four broad supply input categories: 1) lyric writers and music composers (“songwriters”); 2) publishers (agents acting on behalf of songwriters to have songs placed in different media); 3) performers (featured and non-featured); and 4) producers (usually record labels but including all those other than performers involved in the actual sound recording process). There is a further input supply function that is performed by streaming services such as Spotify, Apple Music and others in delivering songs to consumers.³³ Streaming services³⁴ are not examined per se in this Study (except to the extent that they pay rights holders for the use of musical works and are the prime “agent of change” impacting music creators).

The parties associated with each of these four supply stages of music creation will have certain rights engaged when a sound recording is used by third parties (such as a streaming service, or radio or television or film or in a physical or digital format sold to consumers). The rights of each category are discussed below along with a description of their functions.

We would also note that in the past (that is, prior to the widespread development and adoption of the Internet and related technological advances), each supply chain category had its own relatively distinct industry infrastructure – with discrete parties

performing the functions. Today, a single person (or small group of individuals) may perform all or many of the functions in the supply chain. This technology led ability to perform many music creation functions is disrupting and redefining the industry – although the vast majority of industry commerce still relies on the traditional supply chain parties (with the exception of music delivery to consumers, which is now primarily provided by streaming services).

2.1 Songwriters

We use the term songwriters to describe those who create the musical composition and/or lyrics to a musical work. This would include those who create popular songs and all other genres of music as well as composers of music for film and television.

The more traditional model for songwriting in popular music (prior to the 1960's) was to have a stable of persons dedicated to the writing of songs (for example, the Tin Pan Alley and the Brill Building songwriting models).³⁵ These songs were often created by a duo – a lyricist and a music composer. The songs would then be marketed by publishers (discussed in the next section) to performers (think of performers like Frank Sinatra who were dedicated singers or performers, not writers). The model changed in the 1960's as popular artists began to both write and perform their own songs.

That model has endured up to today although it has further evolved to a point where multiple persons may be involved in the writing of a song (where several co-writers may contribute just few lyrical or musical lines to a song) as well as blurring the line between the actual writing of the song and the production and recording of the song.³⁶

As a side note, we re-emphasize the difficulty in defining the relative value creation in a song regarding contributions provided by various parties. For example, the song “Take It Easy” was primarily written – both the lyrics and the music - by Jackson Browne.³⁷

However, Glen Frey provided two lyric lines in a verse (as well as creating the ultimate song arrangement) and received co-writer status. As it turns out, the two lines provided by Frey are often the most quoted and referenced lines from the song.³⁸

In addition to the relative value creation issue, the number of writers on a song has increased over time, creating further complications related to the division of intellectual property (IP) rights. The 2018 song “Sicko Mode” has more than 30 credited writers.³⁹

In the older model of a few dedicated writers for a song, writers were provided with certain copyrights to both protect and allow for monetization of their work. Those protections and IP rights endure today. There are two rights at issue for songwriters: mechanical rights (also called reproduction rights or RR) and public performance rights (PR).

A songwriter’s mechanical right provides for compensation to a writer when a song is reproduced on any medium.⁴⁰

“Mechanical royalties are royalties paid to a songwriter . . . whenever a physical or digital copy of one of their songs or compositions is made. They’re the royalties earned from the right to mechanically re-produce your recorded song in almost any format. For example, when a record label presses a CD or vinyl album of your song, or songs on an album, you’re owed mechanical royalties. The same holds true if your music is reproduced for a digital download, or an interactive stream.”⁴¹

“Mechanical royalties are paid by whoever obtains a license to reproduce and distribute your song or composition. Mechanical rights are broadly based on the act of mechanically reproducing your music, and as such, are one type of what are called “reproduction rights.”⁴²

A songwriter's performance right provides for compensation to a writer whenever a song is used in a performance to the public. "The performing right is the right to perform a song or composition in public – such as in a live concert, background music, a radio or TV broadcast, a streaming playlist at a bar, or any other type of public performance. The performing right gives copyright owners of songs the sole right to perform, or authorize the performance in public, of their songs."⁴³

In Canada, the royalty rates for mechanical and PR (and the type of medium a royalty rate applies to) are generally set by the Copyright Board of Canada.⁴⁴ The royalties are paid by whoever licenses the song for delivery on their media platform (for example, radio, satellite radio, streaming service). CMOs that collect and distribute royalty payments on behalf of songwriters are discussed in the next section.⁴⁵ However, we note at this point that the Society of Composers, Authors and Music Publishers of Canada (SOCAN) is the Canadian CMO for collecting and distributing songwriter public PR royalties. The Canadian Musical Reproduction Rights Agency (CMRRA) collects and distributes mechanical royalties for publishers and self-publishing songwriters while a division of SOCAN (formerly called SODRAC but renamed as SOCAN RR) collects and distributes songwriter mechanical royalties (mostly in Quebec and for foreign writers).

2.2 Publishers

Once a song has been created by a lyricist and/or music composer, it can progress to its use in either a live performance or in a sound recording. The role of the publisher is to act as an agent on behalf of the song to advance its usage. In a more traditional role, the publisher would actually print the lyrics and music in a song-sheet and publish and sell the sheet to the public. That function is not prominent today. However, the role of getting a song placed with a performing artist (particularly for sound recordings) is still

extremely important. It is useful to think of the publisher as the party most oriented to monetizing the value of a song – a business partner to the songwriter if you will.

A music publisher is in the business of acquiring, licensing, administering, marketing and promoting songs. “A music publisher is the business partner in a musical composition. A good music publisher has the knowledge and contacts to promote a composition.

Typically a publisher enters into a songwriter/publisher agreement with the songwriter, whereby the songwriter assigns ownership and control of the copyright protected musical works to the publisher in exchange for a percentage of the income derived from the exploitation of the musical works. A music publisher cannot collect more than 50% of the performing right.”⁴⁶

Every songwriter may assign a portion of their PR to a publisher (as noted above, not more than 50% to the publisher). The rights that a songwriter assigns to a publisher are distinct and separate from the author’s portion of the PR.⁴⁷

There are many types of publishing business arrangements between a songwriter and a publisher. A “single song” agreement refers to an arrangement for a single song with a royalty percentage split between the writer and publisher for the life of the copyright for an individual work. An “exclusive agreement” refers to a split between the writer and the publisher for the life of the copyright for all works within a specified period of time.

A “co-publishing agreement” occurs when two or more publishing companies co-own the copyright. In today’s market, this is often an arrangement between the publishing company and the artist’s “self-publishing” entity (de facto or de jure), such that the actual split between the songwriter and the publishing company approaches more like a 75/25 split in favor of the songwriter versus the traditional split of 50/50.

Another popular arrangement in today's market is an administration agreement whereby a copyright owner contracts a publisher to administer the copyrights for a percentage of the revenue for a specified period of time. The administrator does not own the copyright but takes a fee (typically 10 to 15%) for the administration of the copyright.

A sub-publishing agreement is an agreement between a domestic publisher and a publisher in a foreign territory to represent a songwriter's catalogue in that territory.⁴⁸ A sub-publisher will collect and distribute royalties to the original publisher for a percentage of the revenue. An important aspect of this arrangement is that sub-publishing arrangements often result in faster payments to copyright owners than would occur when a domestic CMO is involved in collecting and distributing royalties remitted from a foreign territory CMO. For this reason, Canadian publishers usually make direct arrangements with foreign publishers and/or foreign collective rights organizations.

In the same way that publishers own a portion of the PR, they usually also own the right to collect mechanical (or reproduction) royalties for a song and retain their share of the songwriting mechanical copyright. Publishers are often the collector of the entire songwriter rights payments from licensees, and in turn will remit the songwriter's portion to the songwriter.

For various broadcast and streaming services, Canadian publishers receive mechanical rights (or reproduction royalty) payments from the CMOs CMRRA and SOCAN RR, who collect royalties on their behalf. For physical products (such as CDs and vinyl), mechanical rights payments will be directly received from record labels (who are the makers and distributors of the product). And as noted, publisher will often negotiated and directly receive payments from foreign publishers and collectives.

It is worth noting that the many functions that a publisher can perform will, in practice, be frequently shared amongst several publishers and/or other parties. For example, an independent publisher may own or control a song catalogue but still use a major publishing company to administer (that is, collect) the royalties.⁴⁹

On a final note regarding publishing, the terminology of publishing (and song rights more generally) is rife with inconsistency, fuzziness and outright error. “Publishing” is sometimes used to describe the entirety of authors’ and publishers’ rights; sometimes “songwriter rights” is used to describe the entirety of both the authors’ and the publishers’ rights. Sometimes the two terms are used to separately describe the distinct control or ownership rights associated with each of the parties. This lack of consistent terminology can be a considerable impediment to understanding the industry.

2.3 Performers (artists)

Also referred to as “artists”, performers are the people that give a performance of a musical work, either in a live setting or in a sound recording. While not (necessarily) involved in the writing of a song, a performer’s interpretation of a song can elevate the musical work to a higher emotional, intellectual or spiritual plane.

Most often we associate a song with its featured performer.⁵⁰ In popular music this is usually the lead singer, the lead instrumentalist or the person(s) commonly seen as the “face” of a band. The lead performer is generally the person who has signed a recording contract with a record label. The recording contract, negotiated between the featured performer and the record label, gives rise to a sharing of rights between the parties.

The public PR of a performer in a sound recording are known as “neighbouring rights” (as opposed to the “copyrights” of the songwriter and publisher, who own the underlying musical work). Although these rights are not precisely the same, they are

both forms of IP rights and generally provide for remuneration when the rights are licensed for use.

We refer to a recorded performance of a musical work as its own IP creation where the rights associated with the performance relate to the actual sound recording of a musical work performance, not the underlying musical work itself. Also note that the actual live performance of a song (outside of a recording studio) does not garner any “neighbouring rights” except to the extent that the live performance is recorded and then made available on other media (such as radio, a non-interactive streaming service, a CD, etc.). The sound recording of a performance forms the basis of a performer’s neighbouring rights and RR.

The Canadian Copyright Act mandates that neighbouring rights be split 50/50 between performers and owners of the master. However, performers and record labels often negotiate “all in” deals where revenues from all sources are shared on a negotiated basis. In general, a performer is due compensation every time the sound recording is presented to the public in a radio broadcast, satellite radio broadcast or non-interactive streaming service.⁵¹

Non-featured performers, such as session musicians and background singers, typically do not negotiate recording contracts with the record label but are hired by the producer on a fee-for-performance basis (that is, they are paid a set fee for their performance contributions in a recording session). Nonetheless, non-featured performers are still entitled to compensation when a sound recording that includes their performance is transmitted to the public.

As is the case with writers and publishers, the job of collecting and distributing royalties to performers is most often assigned to a CMO. In Canada, the role of collecting and distributing performer royalties falls to the Musicians Rights Organization of Canada

(MROC), Alliance of Canadian Cinema, Television and Radio Artists (ACTRA), Recording Artists' Collecting Society (RACS) and Artisti.⁵² Each of these CMOs provides the same essential service. ACTRA RACS and Artisti are associated with unions (ACTRA and Union des Artistes respectively) while MROC is an independent organization.⁵³

All three of these CMOs are members of a third party organization (Re:Sound) for the actual collection of public performance royalties from licensed users. Re:Sound is in many ways the counterpart to SOCAN but represents performers (and makers) instead of songwriters and publishers.⁵⁴ Re:Sound began life as the Neighbouring Rights Collective of Canada and is also responsible for filing tariff applications and appearing before the Copyright Board. While Re:Sound collects royalties on behalf of the above noted CMOs, it also acts itself as a CMO – performers can register directly with Re:Sound if they so choose.⁵⁵ As this Study will focus on streaming, we note at this point that Re:Sound does not collect royalties for interactive streaming – those royalties flow from the streaming service to the record label, and from the label to the performer.

As noted earlier, a featured performer will typically negotiate a contract with a record label, which usually includes all rights available to the performer (although all terms can be negotiable). The performer's share of earnings from all business activities (including those activities triggering rights payments) will depend on the negotiating power of each side. A well established performer will have greater negotiating power and may command a share that is greater (sometimes much greater) than 50% while a new act may have limited negotiating power and will consequently only get less (sometimes much less) than a 50% share from the label.⁵⁶ Neighbouring rights, collected by CMO's such as Re:Sound and its member organizations, are mandated to pay performers and "makers" on a 50/50 basis (although interactive streaming services royalties are not covered by the statute).

Featured performers of a certain stature will also retain managers, touring or booking agents, lawyers and other personnel to assist them in their careers (including the sound

recording aspects of their careers). These secondary or tertiary personnel may be vital to a performer's career and may or may not share in the performer's rights.⁵⁷ The earnings of secondary personnel are made by way of a separate contract between the performer and the secondary service provider.

2.4 Producers (record labels)

It is useful to think of the relationship between featured performers and record labels as similar to the relationship between songwriters and publishers: one tends to provide more of the creative content while the other has more of a business focus.

The term "producer" also has a specific technical meaning in the music world – a person who oversees all aspects of making a sound recording. This person will typically operate as an independent contractor hired by the record label to work with a team of others (for example, sound engineer, arranger, session musicians) to ensure the recording results in a product that the artist is satisfied with and that the recording meets the needs of the record label. When we use the term "producer" in the rights world, we are usually speaking of the record label who has hired the record producer for a session, funds the recording process and most importantly for our purposes, will retain the rights to the master recording.

In the sense that the label has funded the recording and will own the master recording (and its associated rights), the record label is the "producer" of the recording. We will use the term "record label" and "producer" synonymously (while referring when necessary to the technical session producer as the "recording session producer").

In the past, a record label may have kept one or more "in-house" recording session producers on staff and may also have operated its own recording studio or studios. Today most recording session producers are independent contractors who are hired by

record labels and most recording studios operate independent of a record label (but are frequently booked by the label or the recording session producer).

What does a record label do? Record labels are involved in the financing, manufacture, production, marketing, promotion and distribution of music. These functions have evolved over time but still describe the primary functions of a record label, even though the methods of carrying out the functions has changed.⁵⁸

It is useful to divide record labels into three broad categories: major labels, independent labels, and DIY artists (artists who essentially act as their own labels). We also note below that Merlin, an umbrella organization of independent labels, offers independent labels (including Canadian Indie labels) a means of gaining negotiating power. In addition, major labels may offer a variety of services (for example, distribution, marketing, promotion) to independent labels – and even to DIY artists.

In the global music industry (including Canada), there are a handful of “major” record labels that dominate the landscape: Universal, Warner and Sony.⁵⁹ Two other record labels are sometimes considered “majors” (although they are significantly smaller than the Big 3): Bertelsmann Music Group (BMG) and Kobalt. All other labels are called “independent labels” (or Indies). For reasons to be discussed later, we will use “majors” to mean the big three labels.

“Merlin” is a global digital music rights licensing member-based organization composed of independent record labels (as well as independent distributors and other rights-holders).⁶⁰ Merlin negotiates rights licensing for its members with streaming services such as Spotify, TikTok, Facebook, Deezer, etc. It essentially provides more negotiating power for independent labels. Merlin’s membership consists of about 20,000 independent record labels, distributors and other parties in 63 countries and includes

most of the larger independent record labels. There are some Canadian members (for example, Secret City Records) but most Canadian independent labels are not members.

Indie labels are in many ways analogous to farm teams or minor league teams. Indie labels may stay within a narrower musical niche or operate for many years at a smallish scale but success is usually defined in relatively modest terms. It is generally acknowledged in the industry that taking an artist to the highest levels of popular success requires the resources and negotiating heft of a major label. In fact, virtually every top act in Canada is signed to a major label or is with a smaller label that itself has some type of distribution or other agreement with a major label.

Finally, DIY artists while not record labels strictly speaking perform the functions of a record label themselves or contract with third parties to perform some of those functions. By most accounts the growth in DIY is the fastest growing segment of the recorded music industry.⁶¹ In Canada, DIY artists appear to comprise the bulk of music creators by body count.

As noted earlier, a record label can wear many hats and perform many functions. One of the key functions performed by record labels in the pre-streaming world was “distribution”. The pre-streaming distribution function primarily involved arranging for and transporting physical products (such as vinyl records and CDs) from a manufacturing facility to a local distribution warehouse or directly to retail outlets. This physical distribution function still exists, although the diminishing role of retail physical sales has concomitantly lessened the role of physical distribution.

In its place, the distribution of digital content has largely supplanted physical product distribution. “Digital distribution” has come to largely refer to delivering digital copies of songs to streaming services but also entails the negotiating and collecting of monies from those streaming services. Record labels (particularly major labels) dominate the

physical distribution space and now largely dominate the digital distribution space. However, just as many of the other business activities of major record labels now face competition, so too does digital distribution. In particular, dedicated digital distribution companies such as CD Baby, DistroKid and others have developed to provide DIY artists and even smaller independent record labels with an alternative means of getting their music on streaming services.

Record labels utilize CMOs, but perhaps to a lesser extent than the other three industry segments. Record labels generally own the rights to the master recording. The licensing of the master recording right occurs directly between the label and streaming services and also for synchronization (sync rights) when a musical work is used in an AV production (such as a TV show or a film). The CMO Re:Sound collects and distributes royalty payments to record labels (including the majors in Canada) for their neighbouring rights for certain sound recording uses (for example, terrestrial radio, satellite radio, background music – but not interactive streaming services such as Spotify, Apple Music and Amazon).

Earnings in the Canadian music (sound recording) industry by rights-holder segment

3.1 Introduction

Building on the previous section describing the four key categories of creators/rights-holders, this section addresses the economic (specifically earnings) parameters of those creators. We focus on earnings before expenses (other than royalty payments to other rights-holders) since revenue information is widely available but expense and profitability data is very limited.

While we have used the best available data to estimate the earnings of rights-holders, we note several “data” caveats. We use annual sums in our calculations, but there is sometimes a difference in the reporting period (for example, calendar year versus fiscal year). CMOs may distribute funds on different schedules such that a CMO may be reporting distributions from an earlier period relative to other CMOs. Some data has been provided in confidence such that a detailed reference for some calculations is not possible. As certain data are not publicly available and could not be obtained from the relevant parties, we use percentages derived from industry averages and industry advice and for some calculations. Such instances are noted where appropriate.

One of the major drawbacks of existing industry research has been the lack of referenced and consistent data on earnings by rights-holder categories. In the interest of providing a more fulsome representation of the industry and its rights-holder categories, we have used all available means to derive estimates of industry earnings.⁶²

3.2 Industry overview

The earnings of each category of stakeholder are directly tied to the rights of each category and how those rights get monetized. The rights of each party in the music supply chain are relatively well defined in law, allowing them the opportunity to monetize those rights by licensing or otherwise selling the use of their music rights.

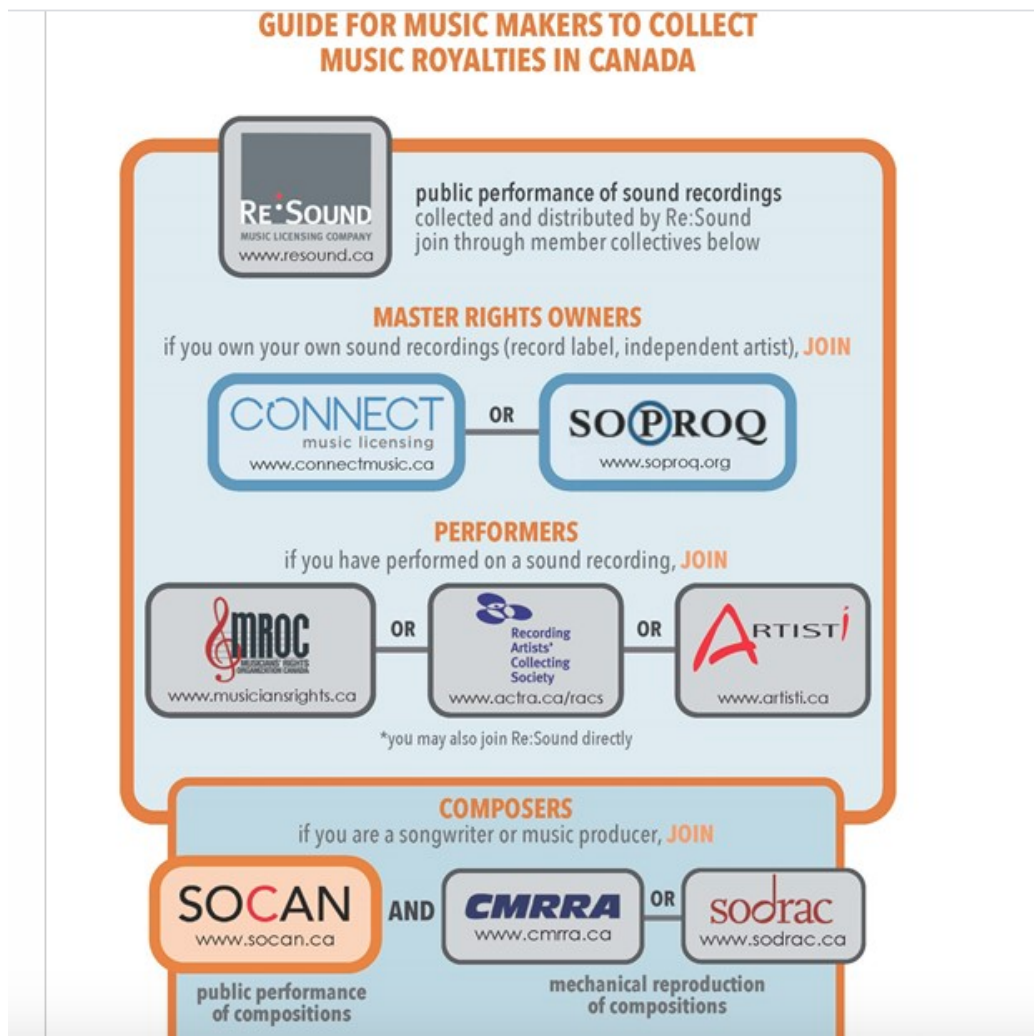
A large portion of music creator earnings is administered through a CMO.⁶³ It should be noted that CMOs can (and do) perform overlapping functions such that a rights-holder may have a choice between which CMO to use for the administration of a given right.⁶⁴ Figure 4 displays the key CMOs in Canada. The bottom part of Figure 4 (titled “Composers”) actually represents the CMOs for “songwriters” (or “authors” including both lyric writers and music composers) as well as for publishers. Two types of copyrights are noted: public performances (or public PR) and mechanical reproduction (or RR).

For PR of authors and publishers, the primary CMO in Canada is SOCAN. RR are largely handled by CMRRA (representing publishers and self published songwriters) but RR are also administered by SOCAN RR primarily representing Quebec and foreign authors and publishers.

A different type of IP right (a “neighbouring right”, also commonly termed the “equitable remuneration” right) is depicted in the upper portion of the diagram. These public PR apply to performers and to owners of the master recording rights (who are typically record labels). The rights of master recording owners are administered by either CONNECT or SOPROQ while performers use MROC, ACTRA RACS or Artisti. All five of these CMOs actually use an umbrella CMO (Re:Sound) to collect royalties on their behalf for many services (although not all – interactive streaming services are subject to direct negotiated rates).

Similar to the two distinct rights of authors and publishers (that is, a public performance right and a mechanical right), master recording owners and performers are each entitled to a payment when their music is publicly performed (neighbouring right) as well as whenever a recording or reproduction of the work is made for purposes of enabling delivery of the music to users.

Figure 6 - Guide for music makers to collect music royalties in Canada



Source: Connect Music

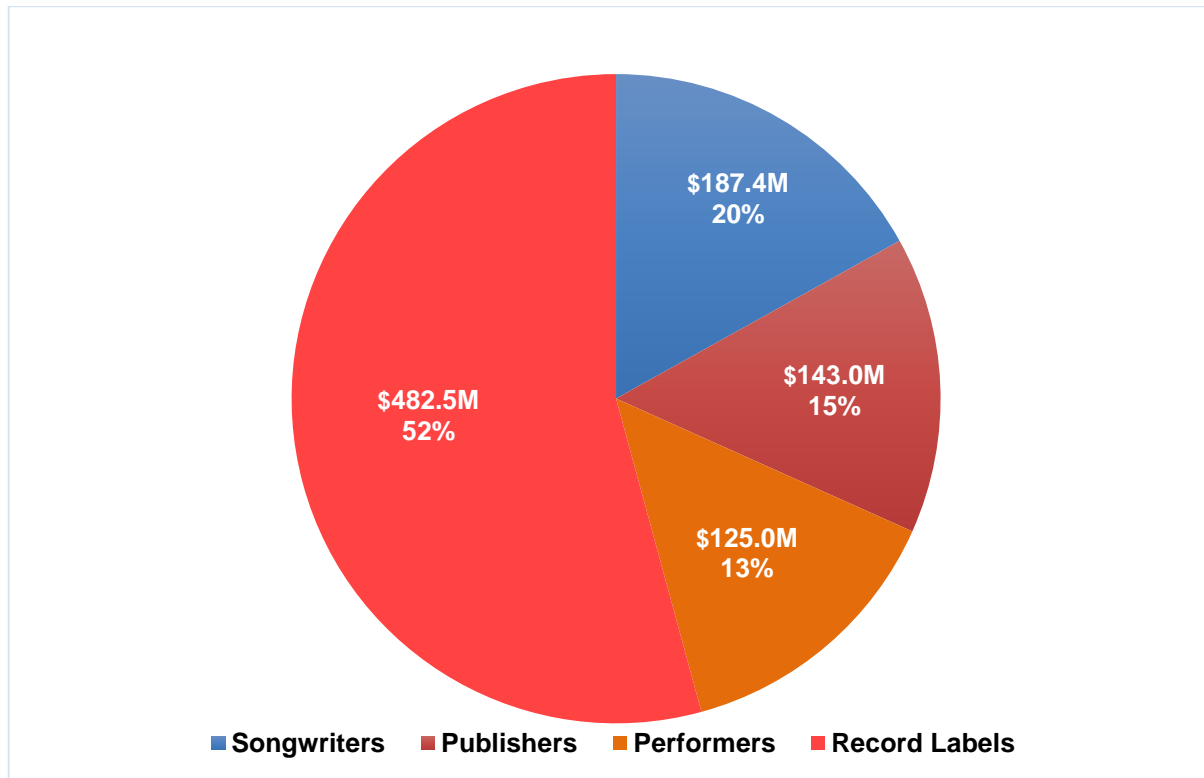
It is important to note that the CMOs collect and distribute royalties to their members for a specific set of rights, each of which is also associated with a particular kind of use or uses. For example, the royalty rate for a songwriter will be different when the music is used in a commercial terrestrial radio broadcast versus a satellite radio broadcast.⁶⁵

3.3 Who earns what in Canadian recorded music: the big picture

This Section boldly jumps to one of the Study's "Big Picture" findings – specifically the finding on how Canadian sound recording dollars are shared amongst rights-holders categories. We recognize that stating our results at this juncture somewhat puts the horse before the cart (or closer to home metaphorically, it presents the recording before the recording performance has occurred). However, proceeding in this way creates less narrative confusion and puts an immediate focus on a key topic of this Study: who is getting what? The derivation and detail on how estimates were generated follows in Sections 3.4, 3.5, 3.6 and 3.7.

Data for the year 2019 was used. While some data for 2020 is now available it is not a complete set. From what is available for 2020, we do not expect the picture to differ materially from the 2019 Figure 5 provided below (in terms of percentage shares).

Figure 7 - Canadian sound recording earnings by rights-holders, 2019



Wall Communications Inc. 2021

Figure 8 - Canadian sound recording earnings by rights-holders, 2019

	\$	Share
Songwriters	\$187.4M	20%
Publishers	\$143.0M	15%
Performers	\$125.0M	13%
Record Labels	\$482.5M	52%

Having provided a graphic overview of our findings, the next sections provide the details underlying Figure 5.

3.4 Songwriter sound recording earnings

As noted the key songwriter CMOs in Canada are SOCAN (PR), SOCAN RR (RR) and CMRRA (via co-publisher agreements or directly from CMRRA for self-publishers).⁶⁶ SOCAN reports that payments (or “distributions”) to songwriters for PR in 2019 were \$96.2M to \$33.8M from Canadian sources and \$62.4M from foreign sources). In

addition, “co-publishing” arrangements between songwriters and publishers have resulted in a portion of publisher PR payments being shared with songwriters.⁶⁷ We estimate that \$34.9M of domestic publisher PR earnings flow back to songwriters.

Payments collected by SOCAN RR for songwriter/publishers for RR were \$12.0M. Of this, we estimate songwriters earned about half, or \$6.6M.⁶⁸

While SOCAN and SOCAN RR pay songwriters directly, writers also receive a portion of the royalties paid to publishers for RR. The publisher and the songwriter share the RR payments on a negotiated basis.⁶⁹ We estimate the RR royalties going to songwriters from earnings flowing through publishers is estimated at \$26.0M in 2019.⁷⁰

In total, songwriters earned an estimated \$163.7M in total royalties administered by Canadian CMOs.

This is not the complete tally of earnings by songwriters from their sound recorded music creations. An additional source of revenue comes from the synchronization of a musical work to an AV work (such as a TV show or film). Songwriters are entitled to a payment for the use of their music in an AV production.⁷¹ However, the payments for this use are negotiated directly between the user of the work (for example, the company producing the show or film) and the representative of the songwriter (usually the publisher).⁷²

In 2019, record labels earned \$6.8M US (or \$9.0M CDN) in sync payments.⁷³

Writers/publishers typically receive the same payment as record labels.⁷⁴ Of the \$9.0M, songwriters would have earned an estimated \$4.5M in 2019 from sync licensing using a 50/50 split between writers and publishers.

In addition, songwriters also receive a payment for the use of their work when the music is contained in a physical product – such as a vinyl record or a CD. The rate for this type of use is 8.1 cents per song (for songs that are 5 minutes or less in length). A useful rule of thumb is that songwriters/publishers earn about 10% of the trade value of physical products.⁷⁵ Record labels, which generally manufacture and distribute physical music products, will generally pay SOCAN and SOCAN RR their royalties (although sometimes the publisher is paid directly by the label).

The reported trade value of physical products in 2019 was \$55.8M US – or \$74.2M CDN.⁷⁶ Using the 10% of retail value rule of thumb for songwriter earnings, songwriters/publishers would have earned roughly \$7.4M in rights payments. However, this would include payments to songwriters/publishers outside of Canada. Assuming that the Canadians purchased Canadian versus non-Canadian records in the same proportion as the SOCAN distributions to Canadian versus non-Canadian rights-holders⁷⁷ (that is, 64% to Canadians), then Canadian songwriters/publishers would have earned roughly \$4.7M. The songwriters' share (using a 50/50 songwriter/publisher split) would be about \$2.4M in 2019.

Finally we note that publishers receive royalty payments from international performance rights organizations (PROs) and individual foreign sub-publishers. This amount is estimated in the "Publisher" section below. Songwriters share in these royalty payments. We estimate that songwriters earned an additional \$16.8M in 2019 from direct international royalty payments received by publishers.⁷⁸

If songwriters have signed with a foreign publisher, they would receive payments directly from the foreign publisher. Such payments would not be show up in any of the records that are available for this Study and so are not estimated.

To summarize, songwriters in Canada earned an estimated \$163.7M in 2019 from CMO royalty payments, an additional \$6.9M in sync and other payments, and a further \$16.8M from direct international publisher payments for a total of \$187.4M in 2019 for the use of their works.

3.5 Publisher sound recording earnings

According to SOCAN, publishers earned \$99.8M in public PR payments in 2019.⁷⁹ As noted, we estimate that a significant part of those publisher PR payments are returned to songwriters as part of “co-publishing” agreements that have become standard in the English language industry.⁸⁰ We estimate that publishers retained PR royalties of \$64.9M in 2019.

In addition, we estimate that RR royalties were somewhere between 50% and 75% of total PR earnings.⁸¹ Given our information on current industry songwriter/publisher splits for RR, the earnings by publishers would be in the order of \$40.0M.

Using a similar estimation methodology as was used for songwriters (above), we estimate that publishers earned an additional \$4.5M from sync licensing as well as an additional \$2.4M from sales of physical products.

Canadian publishers may directly deal with agencies outside of Canada for rights collections or Canadian publishers may use a foreign sub-publisher or administrator. These earnings are paid directly to the publisher and do not flow through a Canadian CMO. Industry sources estimate that these payments could be significant. These are estimated below in the discussion on CIRCUM data.

Publishers are estimated to have earned \$111.8M in 2019 from CMO payments and other licensing fees using a “ground up” calculation.

By way of cross check, the survey report by CIRCUM reported gross publisher revenues (before payments to songwriters and other expenses) of \$255.0M for 2019.⁸² According to CIRCUM findings, the \$255.0M total earnings are made up of PR payments (58% or \$147.9M), RR payments (21% or \$53.6M) and sync and other (21% or \$53.6M). We note that the CIRCUM PR revenue of \$147.9M is considerably higher than the PR payments made to publishers in 2019 from SOCAN – roughly \$48.0M higher.

There are a few factors that help explain the earnings gap for PR as reported by CIRCUM versus SOCAN. Reporting protocols may differ, definitions may differ depending on the responder and other aspects of the data gathering may vary between SOCAN and CIRCUM. However, the primary reason for the difference in the reported PR payments for publishers is most likely the sizeable payments that are made directly to Canadian publishers from foreign PROs foreign sub-publishers. As one key example of how important these direct international payments can be, it is our understanding that the three majors (and in fact many if not most Indie publishers) are direct members of foreign collecting societies or use a sub-publisher who is a member of a foreign PRO. These royalty payments would not flow through SOCAN.⁸³

The direct international payments to Canadian publishers will be shared between songwriters and publishers. We estimate publishers retain \$31.2M of these direct international payments.

Using our estimated splits between songwriters and publishers for various rights, we estimate that publishers in total received net (that is, after paying out other rights-holders) royalty payments of about \$143.0M in 2019.⁸⁴

3.6 Performer sound recording earnings

As noted earlier, a featured performer will negotiate with a record label for a percentage of the revenue the label earns from the performer's recordings. The type of sharing agreement can take many forms, but it appears that the "all in" model is most common. In this arrangement, the label and the performer agree on a percentage split of all revenues earned from a recording.⁸⁵

This revenue-sharing arrangement is not usually available to non-featured performers (such as session musicians). Non-featured performers are paid for their session work on a per job (or per hour) basis. They are, however, entitled to royalty payments when they appear on recorded works that are transmitted to the public. Such payments are relatively low (for example, there is no payment for interactive streaming revenues) and are collected by Re:Sound (see below).

There are three dedicated CMOs that collect royalties for performers: MROC, Artisti and ACTRA RACS. All three are members of Re:Sound, an umbrella organization used to collect equitable remuneration royalties on their behalf (although they also each collect certain royalties directly from third parties). Re:Sound then remits these payments to the member CMOs, who then distribute them to their members. As noted earlier, Re:Sound does not collect royalties from interactive streaming services (like Spotify and Apple Music). Those royalties flow from the streaming service to the record label, who then pays the performer as per their contractual arrangements.

MROC handles equitable remuneration (performance) rights royalties, while the two Quebec based CMOs handle both **ER royalties** and RR royalties (with the largest percentage of collections from **ER**). In total, the three CMOs received \$28.2M for performers in 2019.

The standard arrangement for the performer/label split for physical products was typically 10% – 15% although newer types of sharing arrangements have developed.⁸⁶

(Note that the performer must pay back the advance money provided by the record label before earning net income).⁸⁷ Alternative sharing arrangements between performers and labels can lead to higher shares for a performer. Because these shares are directly negotiated between a performer and a record label, the negotiating power of each side – based on several factors – will largely determine the split outcome.⁸⁸ Even where a “net-profit” contract is negotiated (where the performer and the label may share net profit, for example, on a 50/50 basis), the recoupable costs (such as recording expenses and promotion/marketing costs) are first paid to the label before any revenue is shared. Given that most recordings do not end up covering their recoupable costs, an average share for performers of 10% to 20% on average can be used for estimation purposes.

As noted, data on performer industry earnings (other than CMO provided data) is not directly available. However, revenue data for recording labels is available (which can be used to derive an estimate of performer earnings in 2019). The IFPI has reported industry (that is, record label) revenue of \$465.8M US (or \$607.5M CDN) for 2019.⁸⁹ The actual amount of shareable revenue would be considerably less as certain costs are removed (for example, distribution expenses, typically in the neighbourhood of 10% of gross revenues, would reduce the monies available to share). Based on industry input, we will use 80% of gross revenue for the base earnings available to share between the label and performers.

Available revenue for sharing is therefore \$486.0M in 2019. Using a 15/85 split, performers earned an estimated \$73.0M. At the upper range, if a 25/75 split is used, performers earned an estimated \$121.5M.⁹⁰ CMO performer earnings must also be added to reach a total for the industry (that is, \$28.2M is added).

We therefore estimate total performer earnings from sound recordings in 2019 to be in the range of \$100.0M to \$150.0M.

3.7 Record label sound recording earnings

Labels earned a gross \$607.5M in 2019.⁹¹ To avoid double counting, we remove the payments to performers (estimated at between \$100.0M and \$150.0M, or \$125M using the average of the estimated range). Record label earnings (net of payments to performers) for 2019 are therefore between \$457.5M and \$507.5M.⁹²

3.8 Industry earnings by all rights-holder categories

Summary: Industry earnings by rights-holder category

Songwriters = \$187.4M

Publishers = \$143.0M

Performers = \$100.0M to \$150.0M (mid point \$125.0M)

Record Labels = \$457.5M to \$507.5M (mid point \$482.5M)

Table 2 - Earnings by rights-holder category 2019 – overall industry

	Songwriters	Publishers	Performers	Record Labels
Earnings	\$187.4M	\$143.0M	\$125M	\$482.5M
Percentage	20%	15%	13%	52%

Wall Communications Inc. 2021

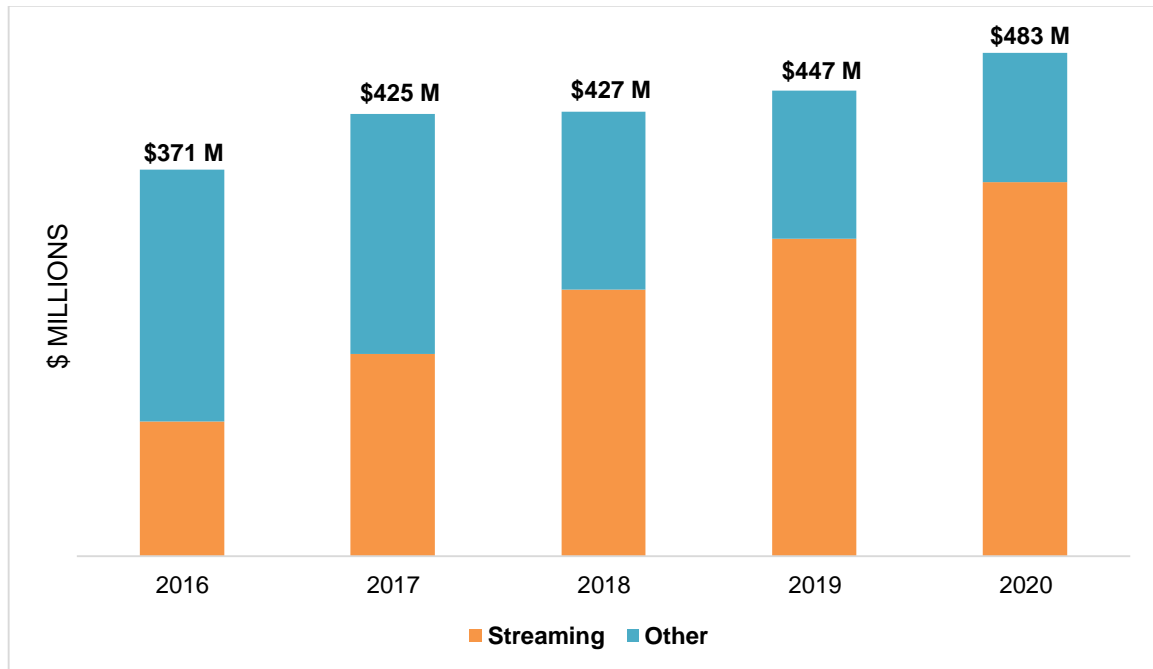
Streaming earnings in the Canadian music industry by rights-holder category

4.1 Overview of streaming in the Canadian sound recording industry

By all public accounts, streaming has become the most important source of music consumption in Canada and other parts of the world. Statistics Canada (StatCan) reported no streaming income for the industry in either 2013 or 2015, but it had become the largest contributor at 43% of sales (over any physical or digital sale category) in 2017 and was 69% of sales revenues by 2019.⁹³ The IFPI reported streaming revenues (for record labels) of \$129.0M US in 2016 (or 35% of total revenues) but that had risen to \$359.0M US (or 74% of total revenues) in 2020. MRC/Nielsen data indicates on-demand audio streaming grew from 22.9 billion streams in 2016 to 75.6 billion streams in 2019 while other digital download and physical sales categories fell, confirming the growth (and now prominence) of streaming as the largest means of music consumption.⁹⁴

The following Figure 6 and Table 3 illustrate the growth of streaming in the Canadian market.

Figure 9 - Recorded music revenues by format (IFPI Global Music Report: Canada) 2016 to 2020 (\$US)



IFPI Global Music Report 2021 (Canada) and Wall Communications Inc. 2021

Figure 10 - Recorded music revenues by format (IFPI Global Music Report: Canada) 2016 to 2020 (\$US)

Year	Streaming	Other	Total
2016	129,200,000	241,900,000	\$371M
2017	194,000,000	230,500,000	\$425M
2018	255,900,000	170,600,000	\$427M
2019	304,800,000	142,000,000	\$447M
2020	359,000,000	124,000,000	\$483M

Table 3 - Recorded music revenues by format (IFPI global music report: Canada) 2016 to 2020 (\$US)

	2016	2017	2018	2019	2020
Streaming	\$129.2M	\$194.0M	\$255.9M	\$304.8M	\$359.0M

Total RM Revenues	\$371.1M	\$424.5M	\$426.5M	\$446.8M	\$483.0M
Streaming Share	34.8%	45.7%	60.0%	68.2%	74.4%

IFPI Global Music Report 2021 (Canada) and Wall Communications Inc. 2021

While the growth of streaming has propelled the industry, earnings from streaming, however, have not accrued to the various industry segments in the same proportions.

As was done in Section 4, we present our findings (in Figure 7 – values in \$ CDN) at the outset. Details on how shares were estimated for streaming earnings by rights-holder category are provided in Sections 4.2, 4.3, 4.4 and 4.5.

Figure 11 - Canadian streaming earnings by rights-holders, 2019

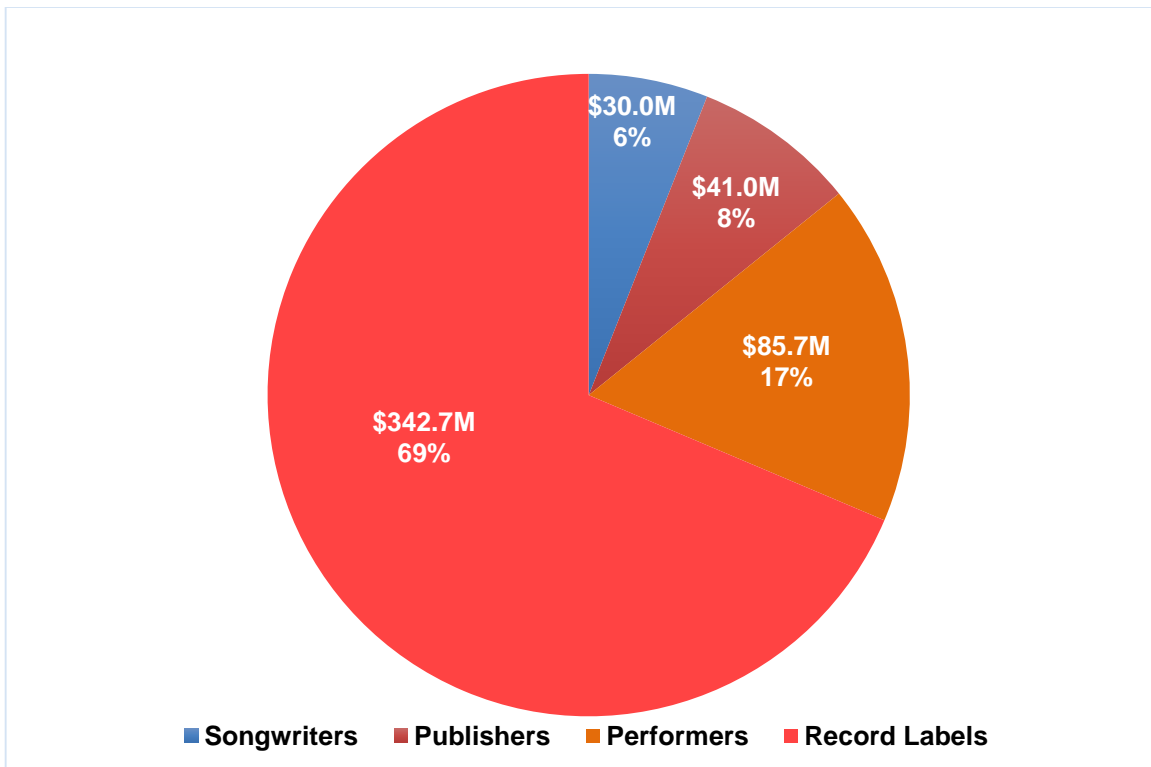


Figure 12 - Canadian streaming earnings by rights-holders, 2019

	\$\$	Share
Songwriters	\$30.0M	6%
Publishers	\$41.0M	8%
Performers	\$85.7M	17%
Record Labels	\$342.7M	69%

4.2 Songwriter streaming earnings

As noted, the bulk of Canadian songwriter royalty earnings come from CMO payments. In the case of streaming, the entire royalty income for songwriters flows through a CMO (that is, SOCAN, CMRRA or international CMOs). Of the total estimated songwriter SOCAN domestic-sourced payments to songwriters of \$33.8M, only \$3.0M came from audio and AV streaming (that is, 9%). Assuming the foreign versus domestic-sourced distribution ratio is the same,⁹⁵ Canadian songwriters would have earned an estimated \$5.6M related to streaming (that is, 9% of foreign revenues of \$62.4M).

Songwriters may also get a share of publisher earnings (by way of commonly practiced “co-publisher” agreements). These royalty payments are estimated at \$7.8M for 2019.⁹⁶

Songwriter royalty payments for streaming in 2019 are therefore about \$8.6M from SOCAN. In addition, songwriters would earn revenues RR (from the SOCAN RR division of SOCAN). Total SOCAN RR revenues for 2019 were \$12.0M. RR royalties from streaming are the major source of payments. We estimate that streaming makes up between 50% and 60% (or 55% as a midpoint) of reproduction royalties (in 2019). We therefore estimate SOCAN RR streaming related payments to songwriters of \$6.6M for 2019.

Publishers collect royalties for RR through CMRRA but must pay a portion of those royalties to songwriters, depending on the contractual terms. We estimate 2019

streaming RR payments going to songwriters (by way of a share of publisher earnings) of \$14.8M.

Total songwriter 2019 royalties for streaming are therefore estimated at \$30.0M.

4.3 Publisher earnings from streaming services

As is the case for songwriters, all publisher streaming royalty payments in Canada are first collected by a CMO before distribution to publishing rights-holders. SOCAN reports publisher distributions from streaming of \$22.3M from domestic sources in 2019 (on total domestic revenues of \$93.1M). Of this total, publishers retain an estimated 65% (or \$14.5M) with the remainder going to songwriters.

They also earned an estimated additional \$4.0M from SOCAN RR payments. Finally all other RR payments to publishers are estimated at \$22.2M for 2019 (net of redistributions to songwriters).

In total, publishers earned an estimated \$41.0M from CMO net payments related to streaming services in 2019.⁹⁷

4.4 Performer earnings from streaming services

As noted, performer earnings from sound recordings are generally the product of negotiations between the performer and the record label. Terms can vary considerably – from as low as a 15/85 split to higher ratios (performer/label). However, the industry average tends to be more in the range of a 20/80 split (performer to label).⁹⁸ At the ongoing United Kingdom inquiry into music streaming, a major label representative reported that most artist/label deals are 20/80.⁹⁹ We note that while non-interactive streaming service royalties are shared 50/50 between performers and labels, the

majority of streaming revenue is earned on interactive streaming services like Spotify and Apple Music (and therefore not subject to the 50/50 split).

Using the IFPI data for Canada, labels earned a gross \$322.1M US (or \$428.4M CDN) from streaming in 2019. Using a 20/80 split, performers earned an estimated \$85.7M CDN.

4.5 Record label earnings from streaming services

Using an 80% share of reported streaming revenues for labels indicates that the labels earned in the range of \$342.7M in 2019. By way of comparison, StatCan reports streaming revenues of \$312.9M for record producers/distributors.¹⁰⁰

4.6 Industry streaming earnings by all rights-holder categories

Our estimates of the earnings by each category of rights-holder are provided below.

Songwriters = \$30.0M (6%)

Publishers = \$41.0M (8%)

Performers = \$85.7M (17%)

Record Labels = \$342.7M (69%)

Table 4 - Earnings by rights-holder category 2019 – streaming services

	Songwriters	Publishers	Performers	Record Labels
Earnings	\$30.0M	\$41.0M	\$85.7M	\$342.7M
Percentage	6%	8%	17%	69%

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Streaming industry deeper dive: majors vs. indies; domestic vs. foreign; Quebec francophone market; COVID-19

5.1 Majors vs. indies

As noted earlier, it is useful to divide record labels into three categories: major labels, independent labels and DIY artists (artists who essentially act as their own labels).

The major labels are widely considered to be Sony, UMG and Warner. BMG was considered the fourth major label until its purchase by Sony in 2008 (with BMG retaining the master recording rights to works by about 200 artists). BMG has since re-formed, focusing primarily on publishing but it has also grown the record label part of its business, achieving revenues (both label and publishing) of \$674.0M US in 2019.¹⁰¹

While large in size by comparison to the vast majority of labels/publishers, the size of BMG is significantly smaller than Sony Music (\$4.2B US),¹⁰² Warner (\$4.5B US)¹⁰³ or UMG (\$8.0B US).¹⁰⁴

Another company that has been called a “major label” is AWAL. In 2019, Kobalt (including AWAL) reported revenues of \$543M US (with roughly 75% of earnings from Kobalt publishing).¹⁰⁵ Sony recently purchased AWAL (the record label part of Kobalt) as well as the neighboring rights division, leaving Kobalt as primarily a publishing company.

For purposes of this Study, we will refer to Sony, UMG and Warner as the “major” labels while indicating the role of BMG and other large non-major labels where appropriate.

According to Music and Copyright,¹⁰⁶ the three major labels had a 68% share of the global recorded music market: UMG (32% market share), Sony Music Entertainment (20%), and Warner Music Group (16%). In addition, the publishing divisions of the majors had a 58% global market share in publishing: Sony (25%), Universal Music Publishing (21%), and Warner Chappell Music (12%). Midia Research estimated the global market share of the majors in 2019 at 66.5%.¹⁰⁷

It is worthwhile noting the role of Merlin amongst Indie record labels. Merlin is not a conventional record label – in fact it is a digital licensing umbrella organization that is comprised of thousands of Indie record labels and distributors. It functions much like a record label in negotiating (on behalf of its members) with digital music services, using the combined strength of its members to increase its negotiating power. Merlin has a reported 20,000 label and distributor members worldwide.¹⁰⁸ Merlin paid out about \$715M US in royalty payments to its members in fiscal 2019.

Table 5 - Number of label participants by category: major, independent labels and DIY

	Global	Canada
Majors + BMG	3 + 1	3 + 1
Independent labels	A very large number	144 (in CIMA) and likely many more outside of CIMA
DIY	A number larger than very large	A very large number

Sources; Merlin, CIMA and Wall Communications Inc. 2021

The market share of record label categories is less well-informed, particularly for the Canadian market and with specific reference to streaming.¹⁰⁹

Table 6 - Market shares of label categories: global, Canada and Canada streaming

	Global market share (total sound recording)	Canada (total Sound recording)	Canada streaming
Majors	66% (includes BMG)	75%	72%
Independent labels	29%	N/A	N/A
DIY	5%	N/A	N/A

Sources: Midia Research 2020; Merlin; WINTEL; and Wall Communications Inc. 2021

By way of additional information, we note that of the top 10 Canadian Indie labels, two are members of Merlin.¹¹⁰

Table 7 - Top 10 Canadian indie labels (IFPA 2019)

Arts & Crafts
 Music Bonsound
 Dare to Care (now Bravo Music)
 Dine Alone
 Audiogramme
 Analekta
 Last Gang
 Netzwerk
 Secret City
 Six Shooter

As a means of partially assessing the relative roles of Indies and the majors in Canadian streaming, we examine data on the streaming performance of various artists and songs represented by each type of label.¹¹¹

Of the top 50 streamed songs in Canada (by both domestic and foreign artists) in 2020, there were no featured performers represented by an Indie label (Canadian or international) – all songs featured performers who are represented by a major label. We take this as an indication of the significant role that the majors play in the Canadian market.

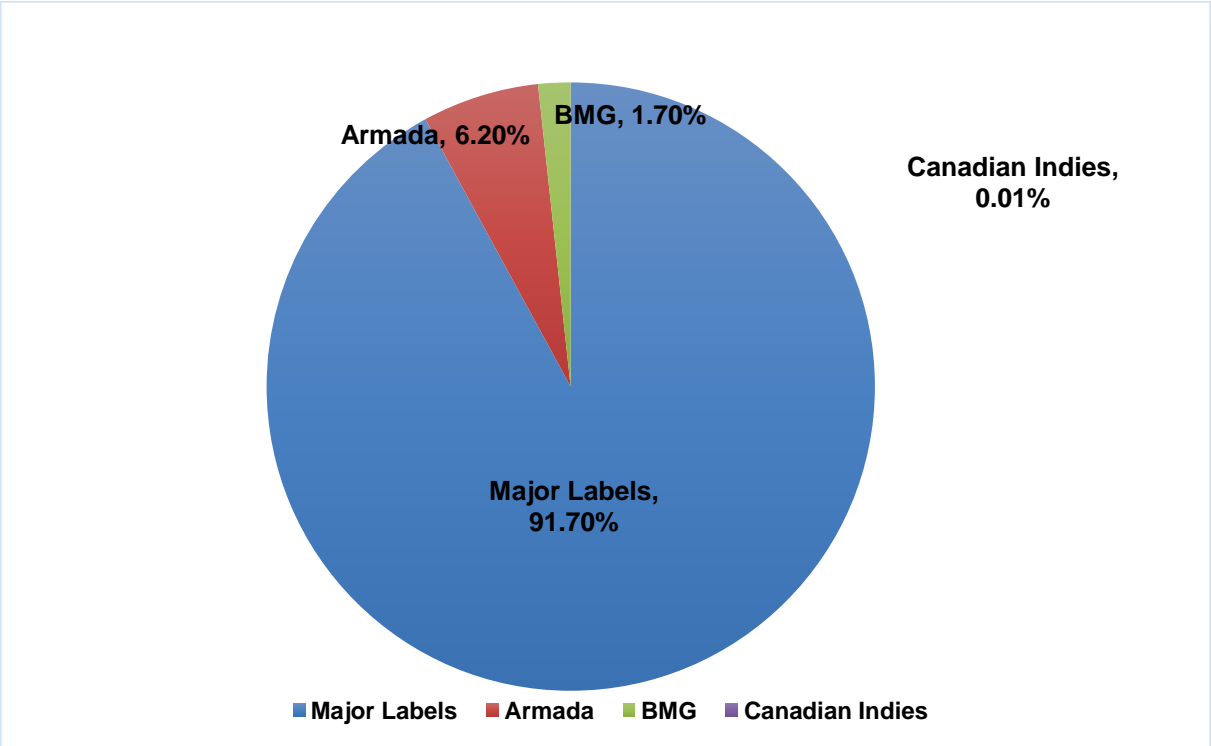
Examining the streaming performance of majors versus Indies when only Canadian artists are examined, the results are virtually repeated. Of the top 50 streamed songs in Canada in 2020 by Canadian artists (or which included a Canadian featured performer in a duet or ensemble), 44 songs had featured performers that were represented by a major label (that is, UMG, Sony or Warner) or used a major label for distribution.¹¹² Four songs had an artist represented by a non-Canadian Indie label (Armada) and BMG represented one song. One song had a featured artist represented by a Canadian Indie label (Daniel Caesar’s “Best Part”).

“Best Part” was 47th in the top 50 list and garnered 0.01% of total streams by the top 50 songs. By comparison, the majors had 91.7% of the total streams of the top 50 streamed songs in Canada. In terms of global market streaming, there were no Canadian Indie-represented performers in the top 50 worldwide songs.

Examining the performance of the top 50 streamed songs in Canada (either by all artists or just by Canadian artists) is by no means a comprehensive market assessment, but it

does provide a clear indication of the different industry roles of Indie labels vs. major labels.

Figure 13 - Share of streams in top 50 songs by Canadian artists in Canada, 2020



Wall Communications Inc. 2021

Figure 14 - Share of streams in top 50 songs by Canadian artists in Canada, 2020

Major Labels	91.70%
Armada	6.20%
BMG	1.70%
Canadian Indies	0.01%

While the majors dominate the overall Canadian streaming market in the top 50 streamed songs of all types, they also dominate individual genres – virtually all genres (that is, Rap, R&B, Country, Pop, Dance or Rock) are dominated by the majors in terms of top 50 most streamed songs. There is no Canadian performer represented by a Canadian Indie label with a top 50 song listing in any individual genre.

The top 10 Canadian Indie Labels represent collectively about 400 performers.¹¹³ The top 10 Indie labels range from a few artists (Last Gang - six artists, Bonsound - eight artists) to dozens of artists (Arts & Crafts - 65 artists, Dine Alone - 104 artists, Nettwerk - 104 active artists). The other Indie artist rosters range between 14 and 38 featured artists.

The top 10 Indie Labels (as reported by the IFPI) have relatively limited streaming on the Spotify platform.¹¹⁴ Using the works released in the last 3 years (2018 – 2020) by the top 10 labels, we tabulate the label’s number of song streams by all artists on their roster.¹¹⁵

Table 8 - Top 10 Canadian indie labels: total streams by all artists (2018 to 2020 Releases)

	Total streams by all artists on the label
Arts & Crafts	64 million
Music Bonsound	5 million
Dare to Care (now Bravo Music)	<1 million
Dine Alone	31 million
Audiogramme	<1 million
Analekta	<2 million
Last Gang	128 million
Nettwerk	>100 million
Secret City	148 million
Six Shooter	52 million
TOTAL	431 million (exc. Nettwerk); 581 million (inc. Nettwerk with est.150 million streams)

Record label websites, Spotify and Wall Communications Inc. 2021

It is instructive to examine the streaming performance on Spotify of Canadian artists represented by majors versus a Canadian Indie label. By way of comparison, the majors had 1.05 billion streams in the top 50 streamed songs in Canada (by some 35 individual Canadian artists)¹¹⁶ in a single year while the top 10 Canadian Indie labels had between 431 million and 581 million estimated song streams by works released in the last three years by all their artists (about 400 artists) on their rosters.

On average, the 35 Canadian artists represented by majors each had 30 million streams from just the songs in the top 50 (note: their total streams for all songs available on Spotify would be much, much larger). For the top 10 Canadian Indie labels, each artist had on average between 1.1 million and 1.5 million streams over a period of three years (for works released in that period).

The streams of Indie label artists also have an extremely lop-sided distribution. Of the 431 million estimated total streams by Indie artists on the top nine Canadian Indie labels (excluding Nettwerk), the top eight artists (across all nine top labels) combined for 314 million streams – or 73% of the 431 million total streams by the Indie labels we examined. The concentration of streams by relatively few artists is widely known to occur throughout the music world – the data above confirms it is also true in the Canadian Indie sector.

5.2 Domestic vs. foreign participation in streaming

The enormous presence of the major labels in the Canadian streaming market (discussed in the section above) is also reflective of the domestic vs. foreign situation for producers. The major labels, while each having a substantial presence in Canada with offices and staff, are foreign owned entities. As such the majors' dominance in the Canadian streaming market also indicates the dominance of foreign firms in the

Canadian streaming market. As noted, the market share of the majors has been estimated at 72% in the Canadian streaming market.

For songwriters, SOCAN reports that of the \$34.9M paid to songwriters and publishers for streaming (excluding AV Online) in 2019, \$20.9M (53.3%) went outside of Canada.

Regarding the role of Canadian featured performers, there is a clear increase in Canadian performance in the streaming market. In particular, we note several Canadian performers that enjoy significant streaming success in both Canada and other countries: Drake, The Weeknd, Justin Bieber and Shawn Mendes. According to Spotify, two of the top five “most streamed” artists globally in 2020 were Drake and The Weeknd.¹¹⁷ Drake reportedly enjoyed over 5 billion streams globally on Spotify and Apple in 2020.¹¹⁸ He was also the most streamed artist of the decade on Spotify.¹¹⁹

Of the top 50 most streamed artists globally in 2020, three artists were Canadian: Drake (5.6 billion streams), The Weeknd (3.5 billion streams) and Justin Bieber (1.9 billion streams).¹²⁰

As expected, Canadian artists also performed well in the Canadian streaming market. Of the top 50 most streamed songs in Canada in 2020, eight songs featured Canadians as solo or duet artists. Out of a total 2.42 billion streams by the top 50 songs in Canada, songs featuring Canadians garnered 372.9 million streams – or 15.4% of streams.

Table 9 - Canadian performer song streams in top 50 (Canada 2020)

Song	Performer	Number of streams
Blinding Lights	The Weeknd	87,741,052
Intentions	Justin Bieber	55,669,999

Toosie Slide	Drake	47,649,361
If The World Was Ending	JP Saxe	43,754,708
Laugh Now Cry Later	Drake	35,516,919
Senorita	Shawn Mendes & Camila Cabello	35,407,686
10,000 Hours	Dan + Shay & Justin Bieber	34,638,772
I Don't Care	Ed Sheeran & Justin Bieber	32,550,367
		372,928,864

Source: MRC Data and Wall Communications Inc.

Given the extreme success in the streaming market by a handful of Canadian artists, the implication for other Canadian artists (for example, Indie artists but also less popular artists on major labels) is that there is less – much less – earned by them. Of the total 1.15 billion streams by Canadian artists in the top 50 songs streamed in Canada (2020), 700.2 million streams (more than 60%) were by just 4 artists: Drake, The Weeknd, Justin Bieber and Shawn Mendes.

Table 10 - Top streamed songs in Canada featuring Drake, The Weeknd, Bieber or Mendes, 2020

One Dance	Drake	11,928,522
The Hills	The Weeknd	11,991,199
Yes Indeed	Lil Baby & Drake	12,381,209
Girls Need Love	Summer Walker & Drake	12,409,594
Starboy	The Weeknd	12,572,550
Nonstop	Drake	13,444,968
Forever	Justin Bieber	16,039,924
If I Can't Have You	Shawn Mendes	15,481,270

God's Plan	Drake	15,132,744
Wonder	Shawn Mendes	14,880,776
Smile	Juice WRLD & The Weeknd	16,896,641
Lonely	Justin Bieber	17,441,152
After Hours	The Weeknd	19,591,729
In Your Eyes	The Weeknd	28,022,561
Stuck With U	Ariana Grande & Justin Bieber	25,702,530
Money In The Grave	Drake	24,911,292
HOLY	Justin Bieber	24,363,247
Heartless	The Weeknd	23,253,782
Chicago Freestyle	Drake	23,063,901
Laugh Now Cry Later	Drake	35,516,919
Senorita	Shawn Mendes & Camila Cabello	35,407,686
10,000 Hours	Dan + Shay & Justin Bieber	34,638,772
I Don't Care	Ed Sheeran & Justin Bieber	32,550,367
Yummy	Justin Bieber	31,537,954
Blinding Lights	The Weeknd	87,741,052
Intentions	Justin Bieber	55,669,999
Toosie Slide	Drake	47,649,361
		700,221,701

Source: MRC Data 2020 and Wall Communications Inc. 2021

The implications for most Canadian performers (other than those in the upper echelon) regarding earnings is that the streaming market is largely captured by non-Canadian performers and a handful of uber-successful Canadian performers.

This “left-skewed” (that is, a long tail in the left of the distribution with the peak at the far right) outcome for performers in number of streams implies a similar skewing in earnings. That is because royalty payments in streaming are dependent on the number of streams. This skewing of performer earnings is also most likely reproduced in the songwriter and publisher segments. To the extent that a relatively few successful Canadian artists dominate streaming performance earnings in Canada, they will also dominate songwriter and publishing earnings. Drake is credited as the writer or co-writer on most of his songs¹²¹; the same is true for The Weeknd, Justin Bieber and Shawn Mendes.¹²²

Foreign artists, producers, songwriters and publishers still dominate the Canadian streaming market, but it is important to note that success certainly success at the highest level for Canadian rights-holders is enjoyed by relatively few Canadian rights-holders.

There is an additional streaming market characteristic worth noting regarding Canadian vs. foreign songwriters. In 2019, distributions to Canadian songwriters via SOCAN in traditional media (like radio) were 34.1% of the total distributions (with 65.9% going to foreign society writers).¹²³ For digital services (of which streaming is the most important), distributions to Canadian songwriters were only 10.6% of the total. As earnings from traditional media have fallen over the past several years and continue to fall, there is a much lower percentage of streaming distributions going to Canadian songwriters.

5.3 The Quebec francophone market

The Canadian Francophone music market (which is primarily based in Quebec) has several differences from the rest of the Canadian market.¹²⁴ Because language created a partial barrier in cultural products with the rest of Canada (and most of the US and other countries), Quebec Francophone music creators have had a separate music ecosystem that has allowed them to develop and achieve relative success: careers in all industry segments were both possible and sustainable. This can be attributed to factors such as:

- French language radio stations allowing for greater exposure to and discoverability of francophone music;
- Retail presence (particularly in the “physical products” era);
- An established development system for musical artists that encouraged artist support and related talent development;
- A successful Indie label sector (without a significant presence of the majors);
- Provincial “cultural protection” laws; and
- A lesser presence of non-Quebec music in movies and television.

Government regulatory support for French language music is also prevalent:

“Right now, a musical project must contain 70% French content in order to be subsidized by the majority of granting institutions. The Canadian Radio-television and Telecommunications Commission, an independent body that regulates broadcasting in the country, has created special rules for Francophone media: 65% of radio content must be French language, while 35% must contain Canadian content.”¹²⁵

The dramatic drop in physical sales in Quebec coupled with the listening public’s move away from radio to streaming has disrupted the Quebec Francophone market.

“I’m not sure it’s healthy to tie ourselves to the past or to think about how we’re doing in offsetting what once was,” says West. “There has been, and continues to be, a paradigm shift in the way music is made available and consumed. Creative destruction always triggers a ton of difficult challenges, but it also creates new opportunities. I could ask about how many streams, on average, it takes to replace the revenue associated with an album download, and there’s validity in asking that question.

“The issue, though, is that it doesn’t tell the whole story. Is there a difference in the cost associated with generating these revenues? Which type of consumption provides for more discoverability, generated more fan engagement, or drove more ancillary income from areas like touring, merchandise and even physical CD and vinyl purchases? We need to think differently, because the ecosystem and all of the associated fundamentals have changed.”¹²⁶

While some parties in the Quebec Francophone market contend that streaming has created new opportunities, streaming has by most accounts led to more challenges than new opportunities. Specifically, the move to music consumption on streaming services at the expense of terrestrial radio has led to diminished royalty incomes from broadcast media, lower marketplace exposure and diminished physical sales.¹²⁷ Streaming has also made discoverability of provincial artists more difficult, even though francophone playlists exist on the major streaming platforms.

Other factors have also significantly impacted the Quebec Francophone market. Where as in previous years, the major labels paid little attention to Quebec Francophone artists, labels like Sony have recently entered the Quebec market with “The Orchard”, their digital music distribution business that offers a variety of administrative and negotiating services to Independent labels and artists.¹²⁸ The Quebec Francophone market has in the past relied on a well-established group of Quebec-centric distributors

but is now facing competition from major players (like The Orchard) but also new entrants like Merlin, CD Baby, DistroKid and Tune Core – raising concern among regional independent distributors.

The close-knit Quebec Francophone music community has seen significant change recently. Audiogram – a 40 year old iconic Quebec independent record label was sold to Quebecor in February 2021. The record label and its publishing arm (Editorial Avenue) represent a “who’s who” of Quebec Francophone artists and their songs. The sale was prompted, in part, by the impact of COVID-19, but also by the difficulties of operating an independent record label in 2021.¹²⁹ Quebecor, for its part, expands its music businesses along with other record labels and live music venues.

Believe Digital – a distributor based out of France – had entered the Quebec market in a significant way in 2012. Believe formed an alliance (Believe Digital Canada) with Quebec-based DEP Distribution, creating a more powerful regional and international presence.¹³⁰ In 2017, DEP declared bankruptcy, leaving the French repertoire of UMG without representation in Canada (UMG subsequently took on its own distribution of that catalogue). Believe Digital Canada continues to operate and has become a prominent distributor within Quebec.

Distribution Select, the Quebecor-owned largest distributor in Quebec (primarily CD and vinyl) has announced that it will cease operations as of July 2021.¹³¹ In tandem, Amplitude, a non-profit distributor co-founded by individuals with strong backgrounds in the Quebec distribution business (including both Believe and Distribution Select), began operations in February of this year.

Amplitude is seen by some as key to turning around a flagging Quebec Francophone music sector. “Historically, the Quebec Francophone musical ecosystem has been quite independent, until around 2005, with the arrival of the major platforms, Spotify and

others.” “Amplitude will be able to restore the independence of the sector, partly lost in recent years.”¹³²

“We are facing a market that does not really offer local service, and players who do not have this desire to give a presence to Quebec music, which will get lost in the flood of 200 songs uploadées per day on Tune Core, for example. It is difficult in these conditions to work on the discoverability of artists, and to attract the attention of online music services.”¹³³

Amplitude will also focus on the management and monetization of metadata: “The recording industry is no longer making money on music products . . . (t)he majors of this world make money thanks to metadata and data associated with users: listening data, geolocation of these eavesdropping, duration, very small data associated with musical content, carried by users.”¹³⁴ (The role of metadata is further discussed in Section 6.2.2).

It is a particularly challenging time in the Quebec Francophone music industry: the list of competitors that Amplitude – and all other Quebec digital distributors – face is long and growing. The ecosystem that served Quebec music creators so well in the era of traditional media is not able to perform the same role in the streaming era.

Quebecor, as already noted, has been active in the Quebec Francophone music industry during the last few years. The company launched QUB Musique, a music streaming platform designed and produced in Quebec to feature Quebec talent for a stand-alone monthly price of \$11.99. “The platform was launched earlier than planned as part of Quebecor’s ‘buy local’ program of supporting Quebec culture and businesses that have been hard hit by COVID-19.”¹³⁵

The success of QUB is likely to largely depend on the support it gets from Quebecers. However, given the head start of Spotify, Apple and others in terms of already gaining

customers and offering advanced user features, QUB will have to play catch up. As such, they will need to provide a level of service and features above and beyond what is already available – all at a competitive price point. We note that a QUB price of \$11.99 does not seem aggressively competitive.

The impact of streaming, combined with other factors discussed above, have led to significant challenges for Quebec-based distributors, performers, labels and writers/publishers. As noted in Section 5.3, songwriter earnings from traditional media (like terrestrial radio) were substantially higher than the earnings generated by digital media (like streaming services). This fall in earnings has been more pronounced for French-language writers where they only earn in the order of 1% in SOCAN digital media distributions versus roughly 7% in traditional media distributions.¹³⁶

Given the recent disruption in the Quebec Francophone market and related challenges, Quebec Francophone music creators have arguably suffered relatively more than creators in other regions in Canada.

5.4 COVID-19

The impact of COVID-19 on the Canadian music industry, and the industry outside of Canada, has been well documented by several recent studies.¹³⁷ Rather than attempting to redo the research in these studies, we provide some of the key conclusions and our own observations respecting the intersection of streaming growth and the COVID-19 pandemic.

Key among the impacts of COVID-19 has been the loss of live performance income from local venue, touring and festival work for most musicians.¹³⁸ Performers generate 75% of their income from live events and touring (compared to less than a third in the 1990's).¹³⁹ Touring is a key element in having music discovered – a benefit no longer available to assist with physical product sales and digital services revenues. Royalty

income derived from the playing of recorded music in restaurants, gyms, bars, and other venues where people gathered has also suffered.¹⁴⁰ Musicians that score for TV, film and advertisements are seeing their incomes fall as companies curtail their activities. Other than streaming, other listening platforms (like radio) have suffered and accordingly will likely have lower royalty payments.¹⁴¹

The impact appears to be most pronounced for artists that haven't yet built up a large audience for their music. Since such artists don't enjoy the streaming royalties that come to an established artist with a large audience, touring is an important means to build a fan base (in addition to being the primary source of direct income). One study estimates a 79% decline in touring income in 2020 relative to 2019.¹⁴²

In terms of the impact on rights-holder segments, Sound Recording and Distribution (that is, record labels and recording artists) will have an estimated 32% revenue decline in 2020 over 2019 while publishing companies are estimated to feel a 44% decline in revenues. The International Confederation of Authors and Composers (CISAC) estimates a 20% to 35% drop in collections.¹⁴³

At this point, COVID-19 has not dampened the overall level of music consumption on streaming services – if anything, streaming revenue continues to grow.¹⁴⁴ However, consumption patterns have changed. One observer describes the change this way:

“What is most interesting, however, is that the main difference in post-COVID streaming lies in what is actually being streamed. Spotify noted that daily listening habits are more reflective of typical weekend consumption, with relaxing music genres rising in popularity. Additionally, the pandemic has caused an increase in music video streams. These are all likely due to the amount of time individuals are spending at home during these months. While relaxing, background music has seen a steady increase in streams since the pandemic

began, it still doesn't dethrone the dominant genre in music streaming: Hip-Hop. According to the Nielsen midyear report, nine of the 10 most-consumed artists come from Hip-Hop and R&B, including A-listers such as Drake, The Weeknd, and Lil Uzi Vert."¹⁴⁵

In summary, COVID-19 has had a devastating effect on live music in Canada, with consequential negative impacts on their live performance income and the many other sources of income that creators rely on (including royalty income related to non-streaming uses). COVID-19 has not had a negative impact on the volume of streaming – but given the skewed distribution of earnings from streaming, the majority of music creators in Canada have not benefited from the increased volume.

In short, COVID-19 has ruptured the earnings of most Canadian music creators.

Industry changes and competition

6.1 Industry changes

We have noted several changes that have disrupted and contributed to the reconfiguration of the Canadian music industry. Most prominently, the rise of streaming as the dominant platform for recorded music consumption has altered the entire production and consumption chain. We examine those industry changes in more detail and discuss their implications below.

6.1.1 Streaming services: variety, service business models and payouts

Spotify and Apple Music are perhaps the most recognized subscription music streaming services available today. But the market is filled (and growing) with other well-established subscription (and quasi-subscription and/or ad-supported) music services: Deezer, Amazon Music, Amazon Music HD, Pandora, Tidal, Napster and YouTube Music.

There are numerous music streaming services that are less well-known but focus on a specific genre or niche. These include Qobuz (hi-res), Primephonic (classical), Epidemicsound (royalty free use), Anghami (Middle Eastern), Jazzed (jazz) and Beatport (EDM). Other services (for example, Bandcamp and SoundCloud) are fundamentally artist-driven and offer an alternative to the larger streaming services.

To provide an indication of how many audio streaming services are now available, Sonos (the wireless home sound system) lists 130 music streaming audio services that are compatible with its online connected speakers.¹⁴⁶ Moreover, numerous AV streaming services are accessed for their musical content. The list of social media, AV services or Apps that feature or license music includes Facebook, Instagram, Twitch and YouTube as well as many smaller services.

Given that the proliferation of digital streaming services that use music is extremely large and growing, the options for consumers to access streamed music are therefore equally expansive and growing. So too are licensing opportunities from new types of social media services, as indicated in the following observation:

“There are new licensing opportunities for music IP owners that are just starting to emerge. Short-form videos (for example, TikTok and Triller), e-fitness (for example, Peloton), and other platforms (for example, Facebook) are just starting to license music IP from rights-holders, creating new sources of future monetization.”¹⁴⁷

The business models for streaming services can generally be classified into non-interactive, semi-interactive and interactive offerings with either a subscription or ad-supported business model – or both.¹⁴⁸ Interactive subscription services have generally settled into a relatively narrow retail price range, typically charging about \$10 per month.¹⁴⁹

Examining the retail service price relative to royalty payouts is instructive. While Spotify wasn't the first subscription-based music streaming service, it firmly established the \$10 per month retail price as the industry standard. The \$10 per month retail pricing model (along with the ad-supported version) has attracted a massive number of users. As such, it has been overwhelmingly successful at building a user-base – and helping to bring music into the lives of millions of people.

But the \$10 price has also created enduring problems on both sides of the pricing equation: Spotify hasn't yet turned a profit and by numerous accounts most rights-holders (generally songwriters, publishers, performers) are dissatisfied with their payouts.¹⁵⁰ The UK currently is holding an inquiry into the economics of music streaming where streaming payouts to rights-holders have been widely criticized (other than by large record labels).¹⁵¹

Several analysts have attempted to quantify the division of payments from the streaming service to various rights-holders. Most analysts suggest that the streaming service retains about 30% to 35% of its revenue, while copyright owners (that is, songwriters and publishers) receive 12% to 15% and record labels/performers receive 50% to 55%.

According to the Digital Media Association, payments from \$100 in streaming revenue can be divided according to recipient as follows:¹⁵²

The digital music service receives \$31 leaving \$69 for rights-holders. Songwriters and publishers receive \$13.31 (gross) while the record label and artist receive \$55.21 (gross). More specifically, songwriters net \$7.11 while publishers net \$3.16 (after paying various other parties such as managers, lawyers and

collective admin costs). Record labels net \$43.54 while artists net \$6.63 (after other payments to managers, lawyers, producers and others).

Another estimate puts the streaming service (such as Spotify or Apple) at about 29%, the label/artist at about 58% and songwriters/publishers at about 13%.¹⁵³ We note that labels reportedly have recently reduced their share to closer to 52% from 58%.¹⁵⁴

Removing the streaming service earnings and using a label share of 52% of total dollars, percentages would be about 73% for labels/artists and 13% for songwriters/publishers.

Another approach to understanding how much rights-holders are paid by streaming services is to estimate how much rights-holders could earn on different services at various streaming volumes.¹⁵⁵ In the Table 11 below, the reference source uses a DIY artist who is paid for all rights but the example also represents total royalty payments when rights-holders are different parties.

Table 11 - Estimated earnings (DIY) from various streaming services

(1 million streams)

Streaming service	Streams	Earnings (\$US)
Spotify	1 million	\$4,000
Apple	1 million	\$5,000
Tidal	1 million	\$12,000
Deezer	1 million	\$4,700
Amazon	1 million	\$5,000
Pandora	1 million	\$1,400
YouTube	1 million	\$1,750
SoundCloud	1 million	\$1,300

Source: Music Gateway and Wall Communications Inc. 2021

Spotify reported in 2020 that there are about 551,000 songs with cumulative streaming totals of 1 million (over the life of the service) which presumably would have each generated about \$4,000 US in earnings.¹⁵⁶ 13,400 artists generated \$50,000 US or more in royalty payments in 2020.¹⁵⁷ Only 7,800 artists generated \$100,000 US or more in that year; 1,820 artists generated \$500,000 US or more and 870 artists generated \$1M US or more.

While there is some substantial success for top artists, there is a fast drop-off below them. With roughly 7 million artists on Spotify¹⁵⁸, only 0.11% generated earnings of \$100,000 US or more in 2020 – and that does not account for how those earnings were divided amongst rights-holders (for example, band members, co-writers).

6.1.2 Technological disruption and industry changes

Technology has been a major force behind the advent of streaming. Technological advances impacting streaming include digitization of content, digital transmission, Internet ubiquity and algorithmic decision-making. Technology has also enabled several fundamental changes in industry structure.

We noted earlier the proliferation of streaming services (services dedicated to music or services that incorporate music) providing many more outlets for creators. But we would also note that technology has enabled new entry into every part of the music supply chain. Songwriters/performers can now create (that is, write, record and produce) music without leaving their homes. The necessity of a using sophisticated studio, of using an arranger and/or producer, even of using professional session musicians, is gone.¹⁵⁹

Songwriting itself has benefitted from an array of new tools and aids related to algorithmic music composition, sampled and synthesized sounds, chord progression

software, recording software that enables trialing of different musical concepts and many more helpful tools.¹⁶⁰ There are even “songwriter” software programs that provide immediate access to resources such as rhymes, word families, synonyms and phrases and can also assist in crafting the song structure.¹⁶¹

The self-recording process has benefitted from dozens of DAW software programs and apps that allow enormous flexibility to create, modify and produce sound recordings of the highest audio quality.¹⁶² Moreover, writers and performers that want to learn how to use the latest recording technologies can easily access thousands of “how to” videos online. The level of sophistication of today’s DAWs (and the Virtual Studio Technology or VST plugins that allow users to shape sounds and access virtually any instrument or sound) has reached and in some cases surpassed – the quality of past generations of the best analogue (and earlier digital) professional recording facilities.¹⁶³

Other aspects of the recording process – such as mixing and mastering – can now be accomplished within DAW software or by using an online third party. Creators can now carry out every part of producing a master recording by themselves or use third parties for certain functions – all without the involvement of a record label.

The technology of data base storage, manipulation and analytics underlies the growth of intermediaries to distribute music to a wide variety of platforms – where once a record label was needed. While some DIY artists now carry out all the functions in the music supply chain (except for streaming delivery to consumers), they can also outsource several tasks to third party companies that specialize in distribution, tracking and collecting various royalty payments and providing administration for self-publishers.

For example, record labels are no longer the only source for distribution service. TuneCore, an independent digital music distribution, publishing, and licensing company which pioneered such services in 2005, has been joined by a raft of similar and

alternative distribution services such as CD Baby, DistroKid, Amuse, AWAL, Ditto Music, FreshTunes, Horus Music, LANDR, ONErpm, RouteNote, Songtradr, Soundrop, Stem, Symphonic Distribution and UnitedMasters.¹⁶⁴

Other third party services focus on publishing and its administration. These include Songtrust, Sentic, CD Baby Publishing and TuneCore Publishing.

The power of labels – especially major labels – has traditionally been important to negotiating the best terms for licensing. That negotiating power has been in part replicated by Merlin, an association of artists, labels and third party distributors with some 20,000 members. Merlin has been able to perform this “umbrella” negotiating function in large part due to the technological advances in data collection, compilation and analytics.

At every juncture in the music supply chain, technology has enabled a growing number of third party players to take on virtually all of the functions that once were the purview of record labels. In addition, the distinction between the roles that any party performs is also blurring with companies expanding vertically into adjacent industry segments. One industry CEO who is part of that transformation describes it this way:

“What we’re seeing now is an industry maturing and evolving. The convergence of technology, global scale, and a greater demand for a service mentality is blurring the increasingly faint lines between label and artist, between executive and creator, and between major and independent.”¹⁶⁵

While we have focused in this section on the technology-enabled industry changes, we address the growth of corporate changes (such as vertical integration and cross-company ownership ties) in Section 6.2.

6.1.3 Impact of disruptive technologies on music creators

A “third party” industry structure built upon new technology has fomented an enormous rise in the number of DIY artists. In lockstep, the number of songs (and their recordings) created every year has also risen astronomically. Estimates of the number of songs uploaded onto streaming platforms every day varies from 40,000 to 60,000.¹⁶⁶

The breaking down of technological and infrastructure barriers (that once heavily challenged music creators) has allowed them to now make higher quality music less expensively and to get that music to consumers more easily. On its surface, these developments should have improved the lot of all music creators. However as we have demonstrated in earlier sections, the benefits up to now have flowed primarily to large record labels more so than other rights-holders.¹⁶⁷

Record labels (particularly the majors and other large labels) have been able to gain in a relative sense while other rights-holders have not. The simple reality of master recording ownership by record labels provides them with a key negotiating advantage. A song in its most rudimentary form is a set of lyrics and/or music. The song in of itself has value but is difficult to monetize until it is fixed or embodied in a sound recording. That monetization capability provided by a sound recording gives the owner of the recording significant negotiating power over the terms of use (including payments) for the song.

Songwriters and publishers (and performers to some extent) rely on sound recording owners to advance their cause – the sound recording is the primary vehicle by which those parties monetize their rights. While other non-recorded uses of music (for example, live performance) pay royalties, the vast majority of royalty earnings are generated from the licensing of sound recordings.

While we note that the financial risk of making a sound recording has diminished due to the lower costs of recording and distributing, it is also true that relatively few songs achieve substantial financial success. There is considerable financial risk associated with the sound recording business.¹⁶⁸ “Most record labels have no profits to speak of, as 95% of artists do not generate royalty checks, according to Berklee College of Music Professor Maggie Lane”.¹⁶⁹ Record labels, particularly major labels, are able to diversify the risk, to put substantial resources into marketing and promotion (and other artist development activities) as well as use their market size in exploiting the ownership of sound recordings to the best of their abilities. This issue is discussed further in Section 6.2.

It is important to acknowledge that in commercial activities the party that is willing to assume the largest financial penalty if failure occurs by risking their own capital generally receives the greatest reward. There is nothing necessarily untoward about benefits flowing in greater proportion to those who take those risks.¹⁷⁰

At this point we simply note that the disparity in streaming benefits going to rights-holders has added to a hollowing out of the “middle class” of rights-holders. The Parliamentary Committee Reviewing the Copyright Act recently identified this phenomenon:

“Witnesses painted a vivid picture of the “difficult realities” facing the declining artistic middle class; namely, significant decreases in earnings since the 1990s and a growing number of artists living below the poverty line.”¹⁷¹

One witness stated: “I wish I could use the term “middle class,” but the middle class of creators has been eviscerated at this point. I know only one musician in Toronto who has bought a house in the last 10 years; most cannot pay their rent, let alone go to the dentist.”¹⁷²

We note that this “hollowing out” of the middle class of music creators has been exacerbated by the COVID-19 pandemic.¹⁷³ One journalist describes it this way:

“It's an issue familiar to creators around the world. As streaming continued to supplant record sales and other traditional sources of income over the past decade, musicians have been forced to rely more and more on unending touring schedules.

But then COVID-19 supercharged the problem. The death of live music left many artists with little or no way to support themselves, while threatening the existence of the “middle class musician” itself.”¹⁷⁴

As was demonstrated by the minimal number of streams by independent artists in the top 50 songs by Canadian artists (section 5.1), the relatively meager streaming revenue from 1 million streams (Section 6.1.1), and the work of the Standing Committee on Canadian Heritage (this Section), independent and DIY rights-holders have suffered as streaming has come to dominate the music consumption landscape. However, there are signs that the landscape – and potentially the welfare of middle class creators – is changing.

From 2017 to 2020 the percentage of streams on Spotify represented by the major labels has declined from 87% to 78%.¹⁷⁵ Merlin, the association of independent artists, labels and distributors, reported that their members now account for more than 15% of the global digital music market.¹⁷⁶ Of the 40,000 to 60,000 tracks uploaded to Spotify per day, eight times more music by volume was uploaded by DIY artists than was released by the three major labels. “As lockdown took hold, major labels released 1.2m songs in 2020; DIY artists released a staggering 9.5m. That’s an 8 to 1 ratio of artists doing it themselves to labels doing it for them.”¹⁷⁷ DIY artists earned an estimated \$960 million globally in 2019 with an estimated 27% growth to \$1.22 billion in 2020.¹⁷⁸

The Raine Group (a US-based merchant bank) has prepared a report on the growing stature of the independent artist (that is, those not signed to a record label) estimating a 32% growth in Indie artist earnings between 2019 and 2020.¹⁷⁹ They attribute most of the growth to three factors: more Indie artists creating, uploading and streaming their music; growth in international markets and more success stories. Raine predicts that Indie artists will see their cumulative revenues grow faster than any other sector of the record industry in the years ahead.

While the future remains unpredictable and to this point only the most successful music creators have enjoyed significant prosperity from streaming, there are positive signs that Indie artists – and those in the bottom and middle classes of writers and performers – may see better days ahead.

It is also imperative to note that while we have examined the earnings shares of rights-holders from streaming, relative earnings are only one part of the benefits division puzzle. It isn't just the relative shares that matter to a rights-holder – the size of the pie is just as important. Specifically, the retail price of streaming subscription services must also be considered when examining the welfare of various stakeholders.

At the outset of this Study, we noted a conundrum: the recorded music business has enjoyed extreme growth (driven by streaming) while at the same time large portions of creators are earning less. Understanding this phenomenon should involve examining the role of streaming subscription service retail pricing.¹⁸⁰

The retail price for a basic subscription service has become standardized at \$10 per month.¹⁸¹ That price has served to maximize subscribership not short term profit. The pricing model has been remarkably successful at achieving mass consumer penetration of music streaming services. However, it was never predicated on how much music creators would ultimately earn. It is, in fact, unclear whether rights-holders welfare was considered in setting the retail price.

Given a retail price determination divorced from rights-holders' welfare, the gross amount available for sharing between rights-holders and DSPs is limited by the retail price (that is, \$10 per subscriber per month over all subscribers).¹⁸² The retail price of subscription streaming services puts a real hard cap on the earnings available for sharing by rights-holders.¹⁸³

In summary, we have identified the role of retail price in music streaming services as an adjacent and extremely relevant consideration along with the many technological changes that have transformed the industry and impacted the relative earnings shares of music creators. We now examine how these and other industry dynamics have altered the competitive landscape.

6.2 Competition issues

This Study has, among other findings, demonstrated the disparity in earnings of various rights-holders. We now examine (in broad terms) some competitive characteristics of the market such as corporate structure, cross-ownership and vertical/horizontal integration.

As a starting point, we note that the industry has been characterized as being dominated by the major labels.

“The music industry is concentrated and dominated by three main players. According to Music & Copyright, the three largest record labels - UMG (32% market share), Sony Music Entertainment (20%), and Warner Music Group (16%) hold a 68% share of the music recording market. Similarly, the three largest music publishers Sony (25%), Universal Music Publishing (21%), and Warner Chappell Music (12%) maintain a 58% share of the music publishing market.”¹⁸⁴

While the dominance of the majors still prevails in 2021, we have noted several factors (for example, technology, third party service companies) that are changing the industry. In the following sub-sections, we examine additional factors that are also shaping the competitive landscape.

6.2.1 Cross-ownership, acquisitions and other inter-corporate relationships

To provide context for our discussion of ownership, we first note the estimated market shares of the top streaming services: Spotify has the largest (global) share of subscribers at 32%, followed by Apple (18%), Amazon (14%) and Tencent (11%).¹⁸⁵

Figure 15 - Global music subscriber market share, Q1 2020

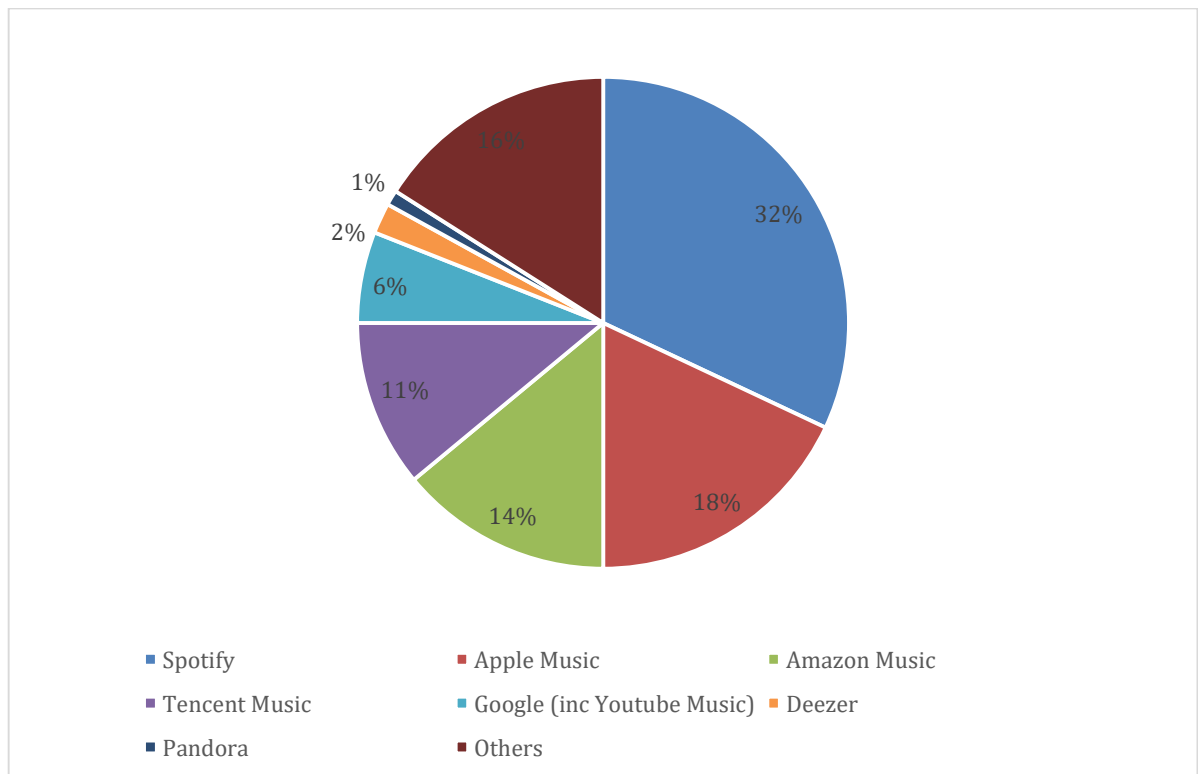


Figure 16 - Global music subscriber market share, Q1 2020

Spotify	32%
Apple Music	18%
Amazon Music	14%
Tencent Music	11%
Google (inc Youtube Music)	6%
Deezer	2%
Pandora	1%
Others	16%

Spotify has a fairly diverse ownership – with two of the majors having an ownership share. We note that “65 percent of Spotify is owned by six parties: the firm’s co-founders, Daniel Ek and Martin Lorentzon (30.6 percent of ordinary shares between them); Tencent Holdings Ltd. (9.1 percent); and a run of three asset-management specialists: Baillie Gifford (11.8 percent), Morgan Stanley (7.3 percent), and T. Rowe Price Associates (6.2 percent).”¹⁸⁶ Meanwhile Sony Music and owns about 2.35% of Spotify while Universal owns about 3.5%.

Inter-corporate ownership ties amongst these parties are however more complex – leading to issues of mixed allegiances and incentives. “Incentives are intertwined on multiple fronts. Tencent Holdings owns 10 percent of Universal, which in turns owns around 3.5 percent in Spotify, which in turn owns around nine percent in Tencent Music Entertainment, which in turn is part-owned by Universal’s two main rivals (Warner and Sony), but remains majority owned by Tencent Holdings, which in turn owns 9.1 percent of Spotify.”¹⁸⁷ Tencent recently purchased another 10% of Universal, bringing its total holdings to 20%.¹⁸⁸

Apple Inc. (Apple Music is a division) is a publicly traded and widely-held stock. It has some significant institutional investors (for example, Vanguard, Berkshire-Hathaway and BlackRock) as well as T. Rowe (also investors in Spotify). Amazon Inc. (Amazon Music is a sub-division of Amazon Media) is also a publicly traded company with institutional

investors including Vanguard and BlackRock. Tencent Holdings is an investment holding company (with mostly Chinese operations) that includes Vanguard, BlackRock and T. Rowe among its shareholders.¹⁸⁹

UMG is owned 80% by Vivendi with a 20% ownership by Tencent. Access Industries is the key shareholder of Warner Music Group – Tencent also has a shareholding of 5.2% in Warner.¹⁹⁰ Access also has investments in Amazon and Square. Sony Corp (Sony Music Group is a division of Sony Entertainment, which is in turn a subsidiary of Sony Corp) is a widely held public company.

We would note that each of the major labels own, control or are otherwise partnered with numerous other record labels (or sub labels). Also, as noted, the major labels have a dominant presence in publishing with their publishing divisions.

A significant market development has been the entry of the major labels into the Indie market. Each of the three majors has a division that provides distribution and other services to independent labels and artists: The Orchard (Sony)¹⁹¹, INgrooves (Universal)¹⁹² and ADA (Warner).¹⁹³ Sony's "The Orchard" has been especially aggressive in entering the Indie market with the provision of a wide variety of "label" services. It is one of three "preferred" distributors (along with CD Baby and DistroKid) on Spotify – making the placement of songs using The Orchard that much more attractive to DIY and Indies. As noted in Section 5.3, the recent entry of The Orchard into the Quebec Francophone market is considered a significant market-altering event. Globally, Indie labels were already seeing 22.4% of revenue flowing through their major label distribution channels in 2017.¹⁹⁴

Sony has also moved further into the Indie space by recently purchasing AWAL (a leading – perhaps the largest global independent third party provider of marketing, promotion, distribution, playlisting and other independent artist services) and affiliated

division Kobalt Neighbouring Rights (PR collections targeted at independents).¹⁹⁵ Both enterprises will operate in conjunction with The Orchard.

According to one analyst:

“Sony Music just became one of, if not the, leading global companies for independent music. With a major now being one of the biggest Indies, the obvious question is: what does being independent even mean anymore?”¹⁹⁶
(Emphasis added)

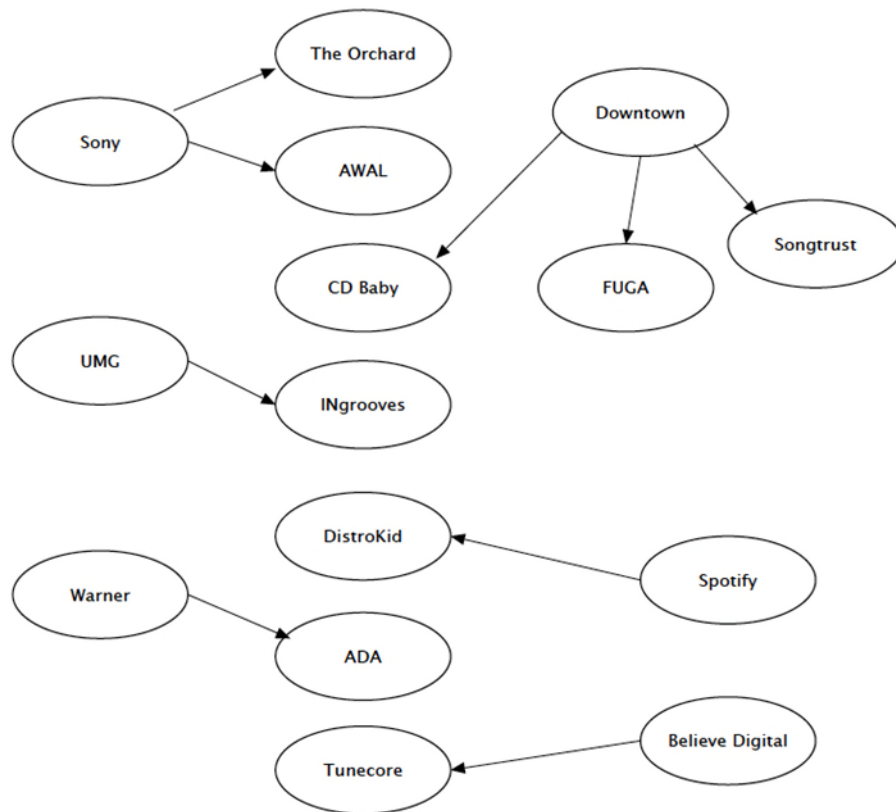
Kobalt had established itself as a major third party Indie service provider “seen by much of the independent artist community as their natural home”.¹⁹⁷ Kobalt has retained ownership of its music publishing division and its global royalty collections agency but its presence in the independent sector is much diminished.

The following quote encapsulates an interesting “rights-holder” consideration of what the purchase means in a broader context:

“Nevertheless there was, and is, a crucial, company-defining, independent principle: artist ownership of rights. This remains what makes the average AWAL artist different from the average Sony Music artist. But, of course, all of the majors have been betting big on label services too. Which brings us back to the original question: what does being independent actually mean? Is it about not being part of a big corporate structure? Does it mean an artist retaining ownership of their rights? Is it commercial and creative freedom for artists? Is it an ideology of music first, business second?”¹⁹⁸ (Emphasis added)

The key music distributors to streaming services are shown in Figure 10 below (Indies in middle column, majors on the left) along with ownership ties. Note that ownership ties are all 100% except for Spotify (which owns a small percentage of DistroKid).

Figure 17 - Key Digital Distributors and their Ownership Ties



Wall Communications Inc. 2021

The entry of the majors into the Indie sector has been accompanied by their entry into a very important part of the streaming sector and particularly in the discoverability of music: playlisting. The majors each have a playlist brand Filtr by Sony, Topsify by Warner, and Digster by Universal. While Spotify creates the majority of the playlists

appearing on its streaming service, the playlists of the majors are second to Spotify, with Indie label playlists rarely appearing on the service.¹⁹⁹

While the foray of Sony and the other majors into the Indie space has created a major structural change, the publishing world has been equally jarred by several high profile, high priced acquisitions. While the past decade has been dotted with purchases of publishing catalogues (or other publishing companies), the activity in the past year has been an entirely different magnitude.

The acquisition flurry in 2020 was kicked off by the Hipgnosis purchase of Big Deal Music (a US company) in September. Hipgnosis Song Fund, a publicly traded British-based company, began life in 2018 as a buyer and manager of music IP rights. Big Deal Music was the first US acquisition of Hipgnosis – but not the last. Since then the company has acquired publishing rights to several songwriter and publisher catalogues, including those of Neil Young, Lindsey Buckingham, Shakira and Kobalt Music Group. Hipgnosis reportedly has spent \$670M US purchasing rights between March and September in 2020.²⁰⁰

As Hipgnosis set the market pace, other private equity, pension funds and public companies either entered or re-upped their presence in the market. In the past year, Primary Wave has acquired rights for songs by K. J. Tunstall, Leo Sayer and Stevie Nicks (valued at \$100M US) while Round Hill, Concord and other publishing companies have also made significant rights purchases.²⁰¹

But the new entrants are not the only ones making a mark in the purchase of publishing rights: Universal purchased Bob Dylan's catalogue (both songwriter and publishing right) for a reported \$300 to \$400M.²⁰²

KKR (investment fund) and BMG has recently announced an agreement to jointly pool existing and acquire new music rights.²⁰³

One industry observer has stated the “boom in streaming has caused a boom in the valuations of music, both recorded music and publishing.”²⁰⁴

The landscape now includes several music-rights related IPO – including by Warner Music Group (2020) and UMG (announced) – as well as the aforementioned Hipgnosis IPO. Private equity firms are also involved (for example, Providence Equity with Tempo Music Investments, Shamrock Capital with Content IP Fund).²⁰⁵

Mergers and acquisitions have also occurred vertically. Downtown Music Publishing has transformed into a vertically integrated entity with acquisitions of CD Baby (distribution), Songtrust royalty collection and tech) and FUGA (music accounting software) to go along with its recording studio operations. It is increasingly common to see companies that have built a business in one music business sphere and expand into adjacent business lines.²⁰⁶

Canadian CMOs have also seen some recent consolidation. SOCAN acquired SODRAC (now known as SOCAN RR) in 2018 while SoundExchange acquired CMRRA in 2017.²⁰⁷

We would note one final acquisition that moves the industry in a slightly different direction. Square, the financial technology company used by many independent artists and businesses, acquired Tidal, the artist-based music streaming service.²⁰⁸ In terms of what this might mean for music creators, it could better enable artist payment systems and artist financing/funding by fan bases – advances which would further increase the opportunities and monetization capabilities of DIY and Indie artists. Such benefits will depend in part on how readily the transactional systems of Square can be adapted for specific music creator purposes.

6.2.2 Data, discoverability and asset value

One of the key issues hampering competition in the music industry has been the lack of availability, transparency and comprehensiveness of data. Technology is changing that.

Transparency per se in the music business has long been a source of artist concern. A Berklee study has described transparency concerns of three types: structural, rate and revenue, and repertoire.²⁰⁹ Structural transparency issues arise when rights-holders are not readily able to see the sources from which they do (or may) earn revenue, the amounts of those revenues or what it costs them to have another party perform services on their behalf.

To a large extent, the advent of CMOs, third party distributors and streaming services that publish (and otherwise make artist-specific data available) have greatly improved structural transparency issues. Clearly defined and understood terms of service have replaced vague contractual language that offered artists little opportunity to dig deeper into matters of personal business concern. CMOs (we note those in Canada) were some of the first music business agencies to provide for greater transparency and have often made the commitment to transparency a prime sales point for their services.

Third party services have also made transparency a fundamental part of differentiating themselves from traditional record label practices. Accessing record label accounting data has traditionally been difficult if not impossible for an artist. The new distributors typically have comprehensive and regular reporting of an artist's accounts. In response to competitive pressures and artist needs, most record labels (both major and Indie) have adopted greater transparency practices.

Rate and revenue transparency relates not only to a clear understanding of what a rights-holder is earning, but what rate is paid for a specific service or product, how earnings are distributed and unbundling of services into discrete parts, if so desired. Regulatory authorities (for example, the Copyright Board of Canada) determine and publish many of the royalty rates of rights-holders in the music industry.

Repertoire transparency deals with the accuracy and availability of information regarding who owns the rights to works in the music industry. This area is being rapidly improved through the accessible databases of many CMOs and collection bodies. But repertoire transparency is not just a CMO (or distributor, or record label) issue – it is also the responsibility of a rights-holder to help provide the data that is needed.

Many of the new entrants described earlier that provide third party services to DIY and Indie artists have built their businesses on the collection, formatting and analysis of data. Understanding the technology that powers the data collection, storage and analysis has often been the doorway into the industry for many modern music entrepreneurs.

In an industry where success has traditionally been built on factors such as live touring, marketing, promotion and pure luck, data is taking its place as a king/queen maker.²¹⁰ Being able to track who and where a song is being streamed, in what frequency, over what period, etc. provides a toolset that just did not exist prior to streaming.

Metadata enhances playlist inclusion, discoverability and royalty payments and recovery: “If you’re an independent artist, the better your data, the better your chance for competing in the marketplace.”²¹¹

Streaming services themselves rely heavily on data and its application to customize playlists for individual users (for example, Spotify), record labels feed data into machine

learning algorithms to help predict the success probabilities of artists, and similar tools are now available for all aspects of music creation and marketing:

“Hitlab, a Canadian digital media and AI company, aims to be the major tool for AI-driven A&R. Music Digital Nuance Analysis is a patented tool that helps break down any song into 83 attributes. The tool can analyze the most popular songs in any region and then compare their attributes to any newly released song to identify the ‘hit’ potential. This can become a secret weapon of modern-day producers, songwriters, labels, and publishers as now they can tailor their sound to appeal to a specific target audience.”

The role of data and its analysis within the industry goes deeper. Some artists are concerned that instead of data being used to assist an artist build a career, it will instead begin to drive how the content is created – an outcome that is anathema to many artists’ sensibility. But given the opportunity for financial reward based on song popularity, there is no doubt it is already happening.

In fact, what is AI as applied in music creation? It is the use of algorithms applied to data. It can both lead to entirely new musical forms and constructs, but also move creation to a level of mediocrity built around the most popular elements in successful songs.²¹² Once the tools are available (and they already do exist), the direction of use cannot be controlled. The legal implications (for rights attribution and ownership) are equally daunting.²¹³

Discovery in the streaming world is closely tied to playlists that are regularly transmitted to users and are part of an artist’s profile on services. As noted earlier, the majority of playlists appearing in Spotify, besides those of Spotify, are created by brands owned by the major labels – making music discovery that much more likely for major label artists.

Algorithms, using “big data”, provide tools to help shape more popular music, but also to offer greater discoverability of musical works and artists for listeners. The metadata (that is so readily created and utilized in digital music) is the electricity that enables the streaming industry to develop new applications and better serve both listeners and rights-holders.

There are three types of metadata: descriptive, rights/ownership and recommendation. Descriptive metadata describes various characteristics of a sound recording: title, artist, release date, etc. Rights ownership metadata is critical to the correct parties being identified and ultimately paid for the use of their rights. Recommendation metadata, unlike the first two forms, is subjective. Metadata tags of this type reflect less-factual characteristics such as mood, genre, attitude, etc.

“Discovery is a huge differentiator between the streaming services. That's why recommendation metadata tags are usually proprietary data that doesn't travel the industry as descriptive and ownership meta does. Instead, each platform will have its own approach to recommendation metadata generation and its own database behind the recommendation algorithm. So, if description and ownership metadata is created on the artist's end, the recommendation meta is produced by the DSPs (or their affiliates).”²¹⁴

This type of metadata is critical for applications such as “smart speakers” (for example, Alexa driven Sonos speakers). When a listener asks the speaker to play something like “a morning song” or “a cross between Jason Isbell and Groove Armada” or “the music I listened to last Tuesday”, recommendation metadata will be deployed.

As is always the case in input-output mechanisms, what goes in influences (or determines) what comes out. So poor input makes for poor output. The human factor (generally involved to some degree in the input stage) is therefore still relevant. Often

metadata that is attached to a particular work or database will need to be linked to other databases to ensure proper identification. Database linking creates its own set of challenges.

CMOs depend on the accuracy and comprehensiveness of their databases – many of them have extremely extensive databases with advanced analytical capability. We are aware of Canadian CMOs that have brought new data expertise in house or are outsourcing data analytics to third parties as a means of better serving their members and to remain competitive within the industry. It has been identified as a key to future growth and opportunity.

Finally we note that the need for accurate data on music sound recording credits (songwriters, featured and non-featured performers, technical producers, recording engineers, mix engineers, mastering engineers, etc.) has created a new business opportunity. ProMusicDB was one of the first companies to enter this business but has been joined by JAXSTA and Auddly among others. Building accurate databases of those who contribute to sound recordings is necessary not only to ensure that the appropriate parties get compensated, but also to assist discoverability.

Data integrity has implications not only for the determination of economic rights but also for moral rights.

“The two principal moral rights are the right of integrity and the right of attribution (which conversely includes protection from misattribution).”

“When it comes to attribution, or what we might think of as credit, there is a form of imperfect social contract between record companies, film studios and television produces with the creative community.”

“The place where we have problems, of course, is with the New Boss companies like YouTube, Google and Facebook. These companies don’t just trade on your name, they SELL your name as an advertising keyword thus associating the artist’s name with products, works or services without the artist’s knowledge, albeit somewhat in the background.” ²¹⁵

Data is intrinsically valuable in both an economic and in a moral rights sense. And it is becoming more so. Who owns it, how it is exploited and who exploits its value is very much a work in progress.

If Music is the emotional engine that attracts listeners and embodies creative expression, then Data is the fuel that now powers the music business and has become its own monetizable product.

Final observations

This Study began with posing three questions: How much is being earned in the recorded music business in Canada? How much in streaming? And who is earning it?

In the course of this Study, we have answered those questions and gone further to investigate the factors that are shaping the industry and thus impacting earnings in the future. We have used data on gross earnings for the most part – the costs incurred by different rights-holder categories have not been examined.²¹⁶

While we have provided estimates of key industry metrics – in particular, gross earnings by various rights-holders from streaming – we have left open the question of whether those relative payments are appropriate in either a “subjective” fairness sense or in a somewhat more “objective” sense according to economic principles.

The issue of whether relative earnings by rights-holder categories are appropriate is front of mind when we turn our gaze to the elephant in the room: the vast discrepancy between the earnings of record labels – primarily the majors – and other categories of rights-holders. The earnings discrepancy also appears within the category of featured performers where a handful of superstars make a very large portion of total earnings (due to much higher stream counts).

These questions go well beyond the mandate of this Study. But we offer a few observations and considerations on the economic issues.

A standard economic principle states that agents should be paid in accordance with the marginal revenue they produce. While fairly straight forward a concept in theory, it is much harder to apply in practice. The problem is especially acute when the product is a recorded musical work. Recorded music is a severely complex product with several

parties contributing to the end result. The contribution of any given element (for example, song lyrics, melody, harmony, production, engineering, mixing, algorithmic placement, risk capital, ease of access, etc.) as perceived by an end user (for example, a listener) may well be unique to that user. That is, the marginal revenue product varies according to an individual listener.²¹⁷

The standard approach is to examine the competitive characteristics of the market and their sub-markets. Is the market workably competitive? If so, perhaps there is no problem. We note that “no problem” in the streaming market can’t be strictly true since the retail price of streaming subscription services has not taken into account the marginal revenue product of various contributors from the get go – that is, the sum of marginal revenue products from all contributors may well sum to greater than the retail price multiplied by all subscribers.²¹⁸ Put bluntly, the revenue generated by streaming services is likely insufficient to pay all music creators for the value they have created.²¹⁹

We have concluded that competition is increasing in virtually all parts of the recorded music supply chain. For an individual – say a DIY artist – that is promising for a creator’s ability to gain better terms in most areas of music creation and delivery BUT it is also a challenge since music creators now face more competition from others like themselves. Nonetheless the current status of (as well as future prospect for) competition is an obvious next step in understanding the streaming business and its impact on rights-holders.

Appendices

A1. Methodology description

This Study at its most fundamental level involves the collection and analysis of economic data. We can divide the process of data collection into:

- Identifying and utilizing publicly available documents, particularly regarding the revenues earned by various industry sectors and the parties operating in those sectors;
- Surveying organizations and individual companies; and
- Accessing data from third party organizations such as those that collect data as a part of their primary business functions.

In addition, we have surveyed individual companies, trade organizations, CMOs and other industry representatives to provide insight and interpretation of data and events concerning the industry.

A listing of all parties that have contributed to this Study is provided in Appendix A2.

The data collection is intended to provide a detailed and comprehensive understanding of a key economic characteristic of the industry: where is revenue being generated and who is receiving it? The data also provides the necessary basis for examining the trends, the new developments and the likely directions of the industry.

Public, semi-public and non-public reports containing data

There are several data reports on the Canadian music industry, or where the music industry is examined more widely but Canadian data is provided as a subset. The key publications used in this Study are noted below.

Statistics Canada publishes a bi-annual data set entitled “Sound Recording and Music Publishing” based primarily on a survey conducted by StatCan.²²⁰ At the time this Study was being conducted, the 2019 issued data for 2017 was available. In late March 2021, data for the year 2019 was released and is simply used as a reasonableness check on the estimates reported in the Study.

The target population for the survey consists of all statistical establishments classified to the Sound Recording industry (NAICS 5122) according to the North American Industry Classification System during the reference year.

The observed population consists of all statistical establishments classified to the Sound Recording industry (NAICS 5122) according to the North American Industry Classification System found on Statistics Canada Business Register as of the last day of the reference year (including establishments active for a part of the reference year).

The IFPI produces a bi-annual report entitled IFPI Global Music Report (recently issued with data up to 2020). While the standard report only has global statistics, individual country reports are available in the premium report. Music Canada generously made available the Canada-specific data.

The International Music Publishers Federation publishes a Global Market View with primarily aggregated global data.

The Worldwide Independent Network published a 2018 report (WINTTEL Worldwide Independent Market) on independent record labels and some Study participants made available specific Canadian data. A 2020 report is scheduled for later this year.

MRC Data Billboard published a 2020 Canada year-end report on number of Canadian streams by various artists, genres and other characteristics. MRC Data (MRC Entertainment) generously made additional data available for this Study.

Two Canadian CMOs publish public annual reports: SOCAN and Re:Sound. Both contain relevant statistics used in this Study.

CISAC published a 2020 Global Collections Report, primarily reporting global results but with some limited regional data.

CIRCUM prepared a report for the Music Publishers of Canada (MPC) and the Association des professionnels de l'édition musicale (APEM) containing Canadian publisher survey results from members for 2020. This useful report was provided by MPC and APEM.

Data from participants in the study

Questionnaires were provided to a wide sample of industry participants requesting data on earnings from streaming and other activities as well as input on the impacts of streaming. CMOs that participated include ACTRA RACS, Artisti, CMRRA, CONNECT, MROC, Re:Sound, SOCAN and SOPROQ. Trade organizations that provided data and other information include ADISQ, APACQ, APEM, CIMA, MMF, MPC, Music Canada, SAC and SPACQ. Several individual companies representatives also provided data, information and generously participated in one-on-one conversations to gather

additional detail and fill information gaps. Larry Leblanc (along with others who have requested anonymity) also provided a variety of insights and useful information.

Using data from the afore-mentioned sources, estimates were derived of right-holders earnings for songwriters, publishers, performers and record labels in Sections 3 and 4. These estimates were cross-checked across different points of reference, including industry representatives.

A variety of sources from trade journals, newspapers, consulting reports, and other publications were used to provide the bulk of Sections 5 and 6. The description of rights-holders and rights in Section 2 was primarily sourced from trade, CMO and other websites. Additional input and clarification was provided by several industry representatives. Of special note, representatives from MPC, CMRRA and MROC generously participated in several supplemental conversations and email exchanges.

A2. Participants list

The following organizations provided input to this Study:

CMOs: ACTRA RACS, Artisti, CMRRA, CONNECT, MROC, Re: Sound, SOCAN and SOPROQ.

Trade organizations: ADISQ, APACQ, APEM, CIMA, MMF, MPC, Music Canada, SAC and SPACQ.

Individual companies: MDM, Peer Music, Red Brick, Editorial and Alma.

Individuals: Larry Leblanc and Stephane Gilker.

Special acknowledgement should be made regarding the several contributions by Margaret McGuffin, Paul Shaver, Diana Barry and Paul Tuch.

Marc Seguin coordinated the collection of the Quebec Francophone industry information.

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End notes

¹ Wall Communications Inc. *Study on the Economic Impacts of Music Streaming Platforms on Canadian Creators* (conducted for Canadian Heritage). March 20th 2019.

² These issues include the impact of COVID-19, aspects unique to the Quebec market, the key changes characterizing the industry and competition issues respecting the streaming sector.

³ Section 19.1 of the Copyright act states “If a sound recording has been published, the performer and maker are entitled, subject to subsection 20(1), to be paid equitable remuneration for its performance in public or its communication to the public by telecommunication”.

⁴ We note that there are some streaming services that do not currently pay rights-holders for the use of their musical works. This *Study* focuses on those streaming services that do pay rights-holders.

⁵ See <https://www.thefader.com/2017/01/12/english-bilingual-music-quebec>; <https://www.macleans.ca/culture/arts/quebecois-music-isnt-marginalized-its-english-canadians-who-are-missing-out>. We are also grateful to representatives from ADISQ, Artisti and SOPROQ as well as advocate Stephane Gilker for providing several details and insights about the Quebec market.

⁶ See Marsha Silva, Oct. 3, 2019. <https://www.digitalmusicnews.com/2019/10/03/quebec-musicians-streaming-music-royalties>.

⁷ See “The Impact of COVID-19 on Canadian Independent Music”, Nordicity (commissioned by CIMA), Dec. 7, 2020; “COVID-19: Crisis, Resilience, Recovery” (CISAC 2020)

⁸ “85% (of Canadian professional musicians) agree that if they can’t perform live, they will have a difficult time making a living as a professional musician.” David Coletto, Abacus Data, July 16, 2020. <https://abacusdata.ca/crowded-out-musicians-live-performances-covid19-pandemic>

⁹ See Oisin Lunny, March 15, 2019, Forbes. <https://www.forbes.com/sites/oisinlunny/2019/05/15/record-breaking-revenues-in-the-music-business-but-are-musicians-getting-a-raw-deal/?sh=786350407ab4>

¹⁰ Durant, Montgomery and Veras Dec. 7, 2020 <https://edm.com/industry/covid-19-impact-publishers-songwriters>

¹¹ J. Stone, “The State of the Music Industry in 2020”. <https://www.toptal.com/finance/market-research-analysts/state-of-music-industry>.

¹² See <https://www.musicbusinessworldwide.com/how-many-artists-are-generating-more-than-50k-a-year-on-spotify-over-13000>.

¹³ T. Ingham March 19, 2021 in *Music Business Worldwide* [https://www.musicbusinessworldwide.com/artists-have-a-0-2-chance-of-generating-50k-a-year-on-spotify-lets-kick-this-stat-around/#:~:text=Yesterday%20\(March%2018\)%2C%20MBW,equivalent%20number%20seen%20in%202017](https://www.musicbusinessworldwide.com/artists-have-a-0-2-chance-of-generating-50k-a-year-on-spotify-lets-kick-this-stat-around/#:~:text=Yesterday%20(March%2018)%2C%20MBW,equivalent%20number%20seen%20in%202017).

¹⁴ *Ibid.*

¹⁵ Will Page, Nov. 20, 2020. Submission to Economics of Music Streaming Inquiry; and T. Ingham Feb. 24, 2021 *op. cit.* – note Ingham reports 60,000 new daily uploads just for Spotify alone.

¹⁶ Tim Ingham, “Slowly but Surely the Major Labels’ dominance of Spotify is Declining”, March 1, 2021. See <https://www.musicbusinessworldwide.com/slowly-but-surely-the-major-labels-dominance-of-spotify-is-declining>.

¹⁷ *Ibid.*

¹⁸ See <https://www.rollingstone.com/pro/features/raine-group-independent-artists-2-billion-in-2020-967138>.

¹⁹ S. Setaro Sept. 5, 2019 “How Data is Making Hits and Changing the Music Industry”. See <https://www.complex.com/music/2019/09/data-changing-music-industry>.

²⁰ Wall Communications Inc. *Study on the Economic Impacts of Music Streaming Platforms on Canadian Creators* (conducted for Canadian Heritage). March 20th 2019.

²¹ *Ibid.* Pgs. 2-3.

²² The IFPI 2021 Global Music Report indicates that global recorded music revenue declined from 2001 to 2014 but has been growing since – almost entirely due to streaming. See <https://gmr2021.ifpi.org/report>.

²³ Subject to the countervailing effect of COVID-19 (discussed later in this *Study*).

²⁴ These issues include the impact of COVID-19, aspects unique to the Quebec Francophone market, the key changes characterizing the industry and competition issues respecting the streaming sector.

²⁵ Note: we refer throughout the *Study* to those who either writer lyrics, compose music or both as “songwriters” or “authors” or sometimes simply as “writers”. The terms are interchangeable.

²⁶ For the record, this *Study* is not “arguing” that songwriters (lyricists and composers) universally impart the most important creative effort in sound recordings – although that may be the case in some instances.

²⁷ At this point, we are referring primarily to the activities of various parties and will therefore treat them separately. In practice, the same person(s) may be carrying out many of the described activities. For example, an independent artist may well write a song (both lyrics and music), be the featured performer when the song is recorded and actually record (that is, engineer and produce) the song in their own studio (even playing some or all of the recorded instruments, whether actual physical instruments or sounds that are sampled or synthesized in a computer).

²⁸ Others, such as managers, lawyers and public relations persons may also play a role in monetizing sound recordings but typically do not directly enjoy any IP rights.

²⁹ Record labels are often involved in several aspects of an artist's professional life including live touring, event booking, marketing and promotion, merchandising and other career-related activities.

³⁰ While we don't intend to enter into a debate on the creative or artistic merits of any given party in the supply chain, we are aware that writers, composers and featured performers are typically considered to be the creative core of music making. We believe that other parties - such as session musicians and other non-featured performers, sound engineers, record producers – can add important (even defining) creative elements to a final sound recording. In any event, since this study is focused on economic characteristics, we want to isolate the individual activities carried out along the supply chain, as these activities give rise to "rights" that ultimately determine how revenues are shared amongst parties.

³¹ Performers will generally have a contractual arrangement with a record label separate from CMO involvement (for example, payments from streaming services to the record label will typically be shared directly between the performer and the label). Publishers may also have their own direct contractual arrangements with publishers in other countries.

³² We readily acknowledge that due to data limitations we need to make a series of estimation assumptions (some more heroic than others).

³³ In the pre-digital world, this retail function was primarily provided by record and CD stores or departments – and still is, but on a much more limited scale. Streaming services have become the primary retail presence for music delivery.

³⁴ Streaming services are termed “online intermediaries” in the *Canadian Copyright Act*.

³⁵ See <https://www.britannica.com/topic/The-Brill-Building-Assembly-Line-Pop-1688332>.

³⁶ Finneas, a contemporary writer, discusses how his songwriting encompasses lyric writing, music composition, sound design, sound recording and production techniques simultaneously. See <https://www.youtube.com/watch?v=FsSkRigiFvU>. In 2018, the Top 100 UK hits had an average of 5.34 co-writers per song. See <https://www.gq-magazine.co.uk/culture/article/long-songwriting-credits>.

³⁷ See https://en.wikipedia.org/wiki/Take_It_Easy.

³⁸ Browne: “Well I’m standing on a corner in Winslow Arizona”; Frey: “Such a fine sight to see. It’s a girl my Lord in a flat bed Ford, slowing down to take a look at me”.

³⁹ See <https://www.gq-magazine.co.uk/culture/article/long-songwriting-credits>.

⁴⁰ The term “mechanical right” arose when music had to be implanted in a physical medium (such as a piano scroll or a vinyl record) – essentially allowing for the “mechanical” capture of a song (that is, by “song” we mean the lyrics and/or the music specifically, separate and aside from the sound recording of a song). The term now allows for the capture of a song on any medium – either physical or digital – that ultimately permits consumers to hear a song.

⁴¹ SOCAN, “The Breakdown: Mechanical Royalties”, June 4, 2019. See <https://www.socanmagazine.ca/sound-advice/the-breakdown-mechanical-royalties/>.

Please be aware that although the SOCAN quote refers to “the right to mechanically reproduce your sound recording”, this right for songwriters refers to the actual song, not specifically the sound recording. We assume that SOCAN has referred to “sound recording” rather than “song” as a practical matter, since there must be a sound recording of a song prior to its use on various types of media.

⁴² *Ibid.* The terminology of the industry is often imprecise and confusing. Mechanical royalties, as noted, have come to be called one type of “reproduction right”, but the term “reproduction” can have different meanings in different contexts.

⁴³ SOCAN n.d. <https://www.socan.com/what-socan-does/rights-management/>.

⁴⁴ The Copyright Board does not set every mechanical royalty rate – for example, mechanical rates for physical products such as CDs and vinyl are not set by the Board but are negotiated between record labels and publishers. CMRRA has also taken a lead role in directly negotiating rates with streaming services but may also apply and represent rights-holders in the setting of other rates for certain types of music use before the Copyright Board.

⁴⁵ Canadian CMOs are listed in full (along with their acronyms) in the Appendix A1.

⁴⁶ SOCAN n.d. <https://www.socan.com/wp-content/uploads/2017/05/socan-publishing-101-en.pdf>.

⁴⁷ Recent instances of song catalogues being sold by artists to private (or even public) equity funds or to large publishing firms usually refer only to the publishing portion of the rights. In a few instances the songwriter has actually sold the writer’s portion as well as the publisher portion (for example, Dylan catalogue sale to UMG <https://www.nytimes.com/2020/12/07/arts/music/bob-dylan-universal-music.html>). A further discussion is provided in the section on Industry developments and trends (Section 6).

⁴⁸ Sub-publishing arrangements can also occur between two domestic publishers.

⁴⁹ “It’s common for catalogs to be owned by one publisher, but administratively controlled by another, competing publisher (for example, Concord recently acquired the back catalog of Imagine Dragons, but Universal Music Publishing still controls the administration).” Cherie Hu, Sept. 11, 2020 <https://www.patreon.com/posts/41508083>

⁵⁰ For ease of exposition, we will refer to a featured performer as a single person but it could well be a group of individuals, such as a band like The Beatles, Sloan, New Order or Dream Theater.

⁵¹ The case of neighbouring rights on streaming services is somewhat complex and is addressed more fully later in this *Study*. Neighbouring rights rules associated with various types of exploitation will also vary between countries.

⁵² Artisti, a primarily French-language organization, also collects and distributes reproduction rights royalties.

⁵³ Other differences between the CMOs are discussed in <https://indepth.canadianmusician.com/actra-racs-artisti-mroc-which-is-the-right-choice-for-you>.

⁵⁴ SOCAN and Re:Sound have formed a joint licensing organization (Entandem) to streamline the issuing of licenses to music users (for example, retail locations, fitness clubs, restaurants) where clearance is needed for both authors' and performers' rights.

⁵⁵ In addition to representing the three performer CMOs, Re:Sound also represents two "maker" organizations: AVLA (now CONNECT) and SOPROQ (primarily for French-language producers). These organizations represent "makers" of sound recordings such as record labels and collect for both public performance and reproduction rights.

⁵⁶ See <https://www.awal.com/blog/signing-a-record-deal-decoded>.

⁵⁷ Managers typically receive a percentage fee of the performer's earnings, which may well include payments associated with royalties.

⁵⁸ See <https://powering-the-music-ecosystem.ifpi.org> for a more detailed description and

⁵⁹ The "3 majors" each have separate publishing divisions that are also dominant in the publishing sector.

⁶⁰ See <https://merlinnetwork.org>.

⁶¹ See <https://www.midiaresearch.com/blog/smaller-independents-and-artists-direct-grew-fastest-in-2020>.

⁶² At the least, these estimates will serve as a benchmark for future research work. Given our referenced sources and industry input, we believe the estimates in this *Study* provide a credible indicator of the relative industry status of rights-holder segments.

⁶³ Some monetization of rights does not go through a CMO – instead the payments are negotiated directly between a rights-holder and a user/licensee. Those arrangements are described at various points in the *Study*.

⁶⁴ By “administration” we mean the act of licensing (and authority to license) the rights to use a musical work for a given purpose and the authority to and act of collecting payment on behalf of the primary rights holder (and distributing all due payments to the primary rights-holder).

⁶⁵ In Canada, and in other countries, many (but not all) rates for the use of music are set by a regulatory body. In Canada the Copyright Board sets tariffs for a broad range of music uses on behalf of various rights-holders. See <https://cb-cda.gc.ca/en/cases-tariffs>.

⁶⁶ We are addressing only songwriters in this section – publishers are examined next. However, we note that CMRRA is also a significant source of royalties for “self-published” songwriters and through co-publishing agreements.

⁶⁷ Splits between songwriters and publishers for PR royalties can be as high as 75/25 in English language Canada - but lower splits also exist. Splits in Quebec are typically closer to 50/50. “Administrative-only” agreements must also be considered. On average, we will use a 65/35 split across Canada for PR royalties as between songwriters and publishers.

⁶⁸ We note that often there is a gap between what a CMO collects in any given year and what they pay out or distribute to rights-holders. The estimate of \$6.6M to songwriters is based on collections, not distributions, and may therefore be on the high side. We also note that SOCAN RR pays songwriters and publishers their respective shares directly, such that no additional revenues usually flow through a publisher to a songwriter.

⁶⁹ Negotiated between SOCAN and CMRRA

⁷⁰ Wall Communications Inc. estimation based on industry data and industry correspondence.

⁷¹ A “sync” right payment is owed to both the songwriter/publisher as well as the owner of the master recording (that is, the record label). The industry norm is a 50/50 split of

the total sync fee between the owner of the master recording (that is, record label) and the songwriter/publisher. Performers also will typically share in the sync right payment via a negotiated rate with the record label.

⁷² The use of a musical work in an AV production also requires payment to the owner of the master recording – typically the record label. This payment is also negotiated directly between the label and the AV production company.

⁷³ IFPI Global Music Report 2020, Canada Page.

⁷⁴ In practice, there is usually just a single sync payment that is split equally between master recording owners and writers/publishers.

⁷⁵ See J. Kilhefer <https://work.chron.com/much-money-paid-songwriter-performance-royalties-23011.html>

⁷⁶ IFPI Global Music Report 2020, Canada Page.

⁷⁷ SOCAN 2019 Annual Report, Pg. 9.

⁷⁸ SOCAN receives payments from international PROs for songwriters – most publishers have direct relations with foreign PROs. The songwriter share will be whatever has been negotiated in the “co-publishing” deal.

⁷⁹ *Ibid.* This amount is very similar to the amount paid to songwriters for SOCAN collected public PR in 2019 (that is, \$96.2M).

⁸⁰ The Quebec market (primarily French language) does not have the same “co-publishing” arrangement as a common practice. For the industry on average, we use a 65/35 split in publisher PR revenues shared by publishers and songwriters.

⁸¹ Based on information provided by CMRRA, MPC, individual publishers and additional research by Wall Communications Inc. Again, there is typically a difference between collections and distributions by a CMO in any given year, but ultimately all earnings will flow through over time to the appropriate rights-holder (minus expenses incurred by the CMO).

⁸² CIRCUM (conducted for MPC and APEM) Statistical Report 2020. The 2020 total of \$277M was reduced by annual growth of 8.6% to derive the 2019 total (that is, \$255M).

⁸³ As such, these royalty payments would be recorded by the CIRCUM survey but not in SOCAN records.

⁸⁴ StatsCan (March 31, 2021, Table 21-10-0055-01) reports gross earnings (before payments to songwriters) for publishers in 2019 of \$375.2M. Using our split of 65/35 for songwriters versus publishers, publishers would have retained \$131.5M using the StatCan data compared to our estimate of \$143M using a ground up estimation approach.

⁸⁵ With the exception of certain regulated tariff payments accorded to each party.

⁸⁶ See <https://soundcharts.com/blog/splits-and-profits-record-deals-analysis>.

⁸⁷ The recoupment practice in Quebec is generally less onerous than in the rest of Canada, but in both cases the performer is liable for the repayment of advance monies.

⁸⁸ Industry developments and competitive factors are discussed in Section 6.

⁸⁹ IFPI Global Music Report, Canada Page. *Op. cit.*

⁹⁰ We note that StatCan has reported that royalty payments (that is, essentially payments to performers) are in the range of 30% of total expenses over the last several years. StatCan 2019 *op. cit.* While we recognize that some performers – superstars – may earn considerably higher shares, the industry average must take into account all contracts – many of which, as noted, do not cover recoupments.

⁹¹ Using the IFPI (*op. cit.*) 2019 estimate of \$465.8M US converted to CDN dollars (\$607.5M) at an exchange rate of 1.33. By way of comparison, StatCan reported 2019 gross earnings at \$614.0M. StatsCan Table: 21-10-0055-01, reported March 31, 2021.

⁹² By way of a further comparative data point, StatsCan (*op.cit.*) reported earning from production and distribution of sound recordings (that is, for record labels) of \$413.2M in 2017.

⁹³ StatCan *op. cit.* Table 21-10-0084-01 reports streaming revenue of \$312M in 2019.

⁹⁴ *Nielsen 2017 Year End Music Report Canada* and *MRC Billboard Year End 2020 Canada*.

⁹⁵ Industry spokespersons could not suggest a reason why the distribution ratio would be different.

⁹⁶ Songwriters are estimated to take (for this purpose) a 35% share of the publisher side of PR royalties.

⁹⁷ We use net payments for publishers after they redistribute royalties to songwriters.

⁹⁸ For major label deals, performers (or artists) will obviously vary depending on the popularity of the performer but typical performer percentages are reported at 18% (<https://aristake.com/producer-splits>), 15% (<https://www.awal.com/blog/history-of-record-deals>) and 10% to 20% (<https://sites.psu.edu/entrepreneurshiplaw/2018/09/10/royalties-recording-contracts-how-to-make-money-and-keep-artists-happy>). For Indie deals, performer splits tend to be higher - in the range of 20% and up.

⁹⁹ David Joseph, UMG as quoted in “Major Labels Give Evidence” January 19, 2021. See <https://musically.com/2021/01/19/major-labels-gave-evidence-to-the-uks-music-streaming-economics-inquiry-so-what-did-we-learn>.

¹⁰⁰ There is an 8.6% difference between our ground up estimation and the StatCan reported revenue. StatCan notes that their data only includes information from surveyed firms and therefore underestimates the total revenue by a slight amount. In any event, the recently released StatCan statistics do not alter our overall conclusions about the extreme earnings differential between record labels and other rights-holders. StatCan Table 21-10-0084-01, March 31, 2019.

¹⁰¹ See <https://variety.com/2020/biz/news/bmg-revenues-up-earnings-report-well-prepared-coronavirus-1203543404>.

¹⁰² See <https://musically.com/2020/02/05/sony-music-revenues-grew-to-4bn-in-2019-fuelled-by-streaming>.

¹⁰³ See <https://variety.com/2019/biz/news/warner-music-2019-earnings-streaming-revenue-up-1203418308>.

¹⁰⁴ See <https://www.musicbusinessworldwide.com/universal-is-now-an-8bn-a-year-company-as-stream>.

¹⁰⁵ See <https://www.musicbusinessworldwide.com/kobalt-forecasts-profitability-next-year-after-firms-gross-collections-in-fy2019-hit-616m>.

¹⁰⁶ See <https://musicandcopyright.wordpress.com/tag/market-share>.

¹⁰⁷ See <https://musicindustryblog.wordpress.com/category/independent-labels>.

¹⁰⁸ See <https://www.musicbusinessworldwide.com/indie-label-annual-revenues-hit-845m-via-merlin-showing-strong-growth>.

¹⁰⁹ WINTEL estimates that in 2018 the major labels earned 75% total market share (25% for Indies) and a 72% share of streaming in Canada. See WINTEL 2018 https://cimamusic.ca/uploads/ck/files/wintel_2018.pdf

¹¹⁰ The top ten Canadian Indie label list is provided by IFPI 2019 *op. cit.* We are advised by an industry source that the top ten list is based on revenues.

¹¹¹ We are extremely grateful to MRC Data and Paul Tuch for providing the data underlying this portion of the analysis.

¹¹² The top 50 streamed songs by Canadian artists garnered 1.15 billion streams – an impressive number. The overall Canadian market, however, had a total of 88 billion song streams in 2020 (MRC Data, 2020).

¹¹³ Sourced from record label websites. Analekta, a classical music label, is not included since it lists hundreds of performers many of whom perform as part of larger orchestras. Some Indie labels list non-Canadian artists (for example, Dine Alone) as part of their roster. Nettwerk lists 104 “active” artists but it isn’t possible to differentiate Canadian and foreign artists. In the absence of more specific information, we use an estimate of 150,000 streams by Canadian artists Nettwerk.

¹¹⁴ Spotify makes its streaming numbers by song and artist available (unlike other streaming services) and is also the largest (by subscriptions) streaming service in Canada/North America.

¹¹⁵ The labels will have older works that received streams during the period 2018 – 2020 but those cannot be determined by the available data.

¹¹⁶ Drake (9), Justin Bieber (8), Weeknd (6) were on several songs either as a featured solo artist or performing with another featured artist.

¹¹⁷ See <https://newsroom.spotify.com/2020-12-01/the-trends-that-shaped-streaming-in-2020>.

¹¹⁸ See <https://www.revolt.tv/news/2021/1/3/22211646/drake-most-streamed-artists-2020>.

¹¹⁹ See <https://newsroom.spotify.com/2019-12-03/the-top-songs-artists-playlists-and-podcasts-of-2019-and-the-last-decade>. Shawn Mendes also appears in the top twenty most streamed in the decade on Spotify.

¹²⁰ *Revolt.tv op. cit.*

¹²¹ See <https://www.distractify.com/p/does-drake-write-his-own-lyrics>.

¹²² See https://en.wikipedia.org/wiki/Category:Songs_written_by_the_Weeknd, <https://secondhandsongs.com/artist/81665/works>, and https://en.wikipedia.org/wiki/Category:Songs_written_by_Justin_Bieber.

¹²³ Data provided by SAC, MPC, SOCAN and others. The 2019 percentages are very similar for 2020.

¹²⁴ See <https://www.thefader.com/2017/01/12/english-bilingual-music-quebec>; <https://www.macleans.ca/culture/arts/quebecois-music-isnt-marginalized-its-english-canadians-who-are-missing-out>; We are also grateful to representatives from ADISQ, Artisti and SOPROQ as well as advocate Stephane Gilker for providing several details and insights about the Quebec market.

¹²⁵ Aisha C. Vertus, Jan.12, 2017. <https://www.thefader.com/2017/01/12/english-bilingual-music-quebec>.

¹²⁶ Justin West of Secret City Records quoted in Erik Leijon, “Busking in the Streaming Age”, *The Montreal Gazette*, Oct. 21, 2016.

¹²⁷ See Marsha Silva, Oct. 3, 2019. <https://www.digitalmusicnews.com/2019/10/03/quebec-musicians-streaming-music-royalties>.

¹²⁸ The role and impact of The Orchard is discussed more fully in Section 6.

¹²⁹ J. Lapointe, *La Presse* Feb.11, 2021. See <https://www.lapresse.ca/arts/musique/2021-02-11/la-vente-d-audiogram-a-quebecor-une-question-de-perennite.php>.

¹³⁰ A. Brunet in *La Presse* March 14, 2017. https://plus.lapresse.ca/screens/c76bea5a-b817-4c31-93c5-1ecd454b8f01__7C__0.html.

¹³¹ D. Farrell, FYIMusicNews March 17, 2021.

<https://www.fyimusicnews.ca/articles/2021/03/17/distribution-select-closing-effective-july-2>.

¹³² Prof. R. Jamet quoted in “Amplitude, New independent Distributor of Digital Music” in Today 24 News. Feb. 10, 2021. <https://www.today24.news/en/2021/02/amplitude-new-independent-distributor-of-digital-music.html>.

¹³³ *Ibid.* Quoting D. Parent-Roy, co-founder of Amplitude.

¹³⁴ *Ibid.* Quoting Prof. Jamet.

¹³⁵ P. Summerfield May 7 2020 MediainCanada See

<https://mediaincanada.com/2020/05/07/why-quebecor-spaced-up-its-music-streamer-launch-during-covid>.

¹³⁶ Based on information and data from SOCAN, SAC, MPC and other industry representatives.

¹³⁷ See “The Impact of COVID-19 on Canadian Independent Music”, Nordicity (commissioned by CIMA), Dec. 7, 2020; “COVID-19: Crisis, Resilience, Recovery” (CISAC 2020)

¹³⁸ “85% (of Canadian professional musicians) agree that if they can’t perform live, they will have a difficult time making a living as a professional musician.” David Coletto, Abacus Data, July 16, 2020. <https://abacusdata.ca/crowded-out-musicians-live-performances-covid19-pandemic>

¹³⁹ See Oisin Lunny, March 15, 2019, Forbes.

<https://www.forbes.com/sites/oisinlunny/2019/05/15/record-breaking-revenues-in-the-music-business-but-are-musicians-getting-a-raw-deal/?sh=786350407ab4>

¹⁴⁰ Durant, Montgomery and Veras Dec. 7, 2020 <https://edm.com/industry/covid-19-impact-publishers-songwriters>

¹⁴¹ J. Stone, “The State of the Music Industry in 2020”.

<https://www.toptal.com/finance/market-research-analysts/state-of-music-industry>.

¹⁴² Nordicity (CIMA) 2020. *Op cit.*

¹⁴³ Durant *et. al. op. cit.*

¹⁴⁴ Perkins Coie, May 19,2020. <https://www.idsupra.com/legalnews/stormy-weather-the-coronavirus-pandemic-95025>.

¹⁴⁵ Caylen David, August 6,2020. <https://wqhsradio.org/?p=6831> See also Perkins Coie *op. cit.*

¹⁴⁶ See https://support.sonos.com/s/article/3459?language=en_US. Some services are available only in specific countries.

¹⁴⁷ J. Stone.2020. *Op. cit.*

¹⁴⁸ Wall Communications Inc. 2019. *op.cit.* has a more detailed description of music streaming services and their business models. The Copyright Board of Canada uses these definitions. See K. Ward Music Canada <https://musiccanada.com/news/background-the-copyright-boards-tariff-8-decision>.

¹⁴⁹ See <https://www.finder.com/music-streaming> for a price listing and comparison. Hi-res versions are typically priced higher. Prices quoted are in US dollars but Canadian \$ prices are the same.

¹⁵⁰ See <https://stratechery.com/2018/lessons-from-spotify>, <https://www.lovemoney.com/gallerylist/82445/spotify-conquered-music-industry-no-profit-streaming>, <https://9to5mac.com/2021/02/03/spotify-paid-subscribers-hit-155m>, and <https://www.musictimes.com/articles/82222/20200905/artists-against-spotify-why-dont-streaming-service.htm>.

¹⁵¹ While many rights-holders have been critical of royalty payouts, major labels have defended the current arrangements. See <https://musically.com/2021/01/19/major-labels-gave-evidence-to-the-uks-music-streaming-economics-inquiry-so-what-did-we-learn> and <https://themusicnetwork.com/artists-respond-uk-streaming-inquiry>.

¹⁵² DIMA “Who Gets Paid and How Much?” https://dima.org/wp-content/uploads/2020/08/DiMA_Who-Gets-Paid_Infographic.pdf. The members of DIMA are Amazon, Apple, Google, Pandora, Spotify and YouTube.

¹⁵³ Manatt, Phelps & Philips 2016.

<https://www.manatt.com/Manatt/media/Media/PDF/US-Streaming-Royalties-Explained.pdf>. Splits depend on status of the artist: major label, Indie label or DIY. 132

¹⁵⁴ Poppy Reid, June 22, 2017. <https://theindustryobserver.thebrag.com/apple-wants-to-pay-less-to-record-labels>.

¹⁵⁵ Streaming royalty calculator https://dima.org/wp-content/uploads/2020/08/DiMA_Who-Gets-Paid_Infographic.pdf

¹⁵⁶ See <https://www.musicbusinessworldwide.com/how-many-artists-are-generating-more-than-50k-a-year-on-spotify-over-13000>.

¹⁵⁷ T. Ingham March 19, 2021 in *Music Business Worldwide* [https://www.musicbusinessworldwide.com/artists-have-a-0-2-chance-of-generating-50k-a-year-on-spotify-lets-kick-this-stat-around/#:~:text=Yesterday%20\(March%2018\)%2C%20MBW,equivalent%20number%20seen%20in%202017](https://www.musicbusinessworldwide.com/artists-have-a-0-2-chance-of-generating-50k-a-year-on-spotify-lets-kick-this-stat-around/#:~:text=Yesterday%20(March%2018)%2C%20MBW,equivalent%20number%20seen%20in%202017).

¹⁵⁸ *Ibid.*

¹⁵⁹ Not all music today is created in a DIY manner – or without using a professional engineer, or a separate producer or a high-end studio facility. Some artists – especially major label artists – still use these tools. However, a growing number of artists are doing some or even all of the functions that in the past were separate pieces of the music creation infrastructure. See <https://brokenstereo.medium.com/bedroom-pop-and-the-rise-of-the-diy-artist-1946e83bc7e0>; <https://ktswblog.net/2019/03/27/the-rise-of-diy-music> and <https://www.midiaresearch.com/blog/independent-artists-the-age-of-empowerment>.

¹⁶⁰ See <http://www.mixedbyrecio.com/blog/2018/12/3/how-technology-is-changing-how-we-approach-songwriting-part-two>.

¹⁶¹ See https://masterwriter.com/songwriters/?gclid=EAlaIQobChMIvoqD5_vG7wIV2TizAB0HNgDSEAMYASAAEgIBWvD_BwE.

¹⁶² See <https://www.musicradar.com/news/early-daws-the-software-that-changed-music-production-forever>.

¹⁶³ Subject to the user having the necessary skill level to produce recordings of the highest quality. Great tools require great skills to achieve great results.

¹⁶⁴ See Ari Herstand, <https://aristake.com/digital-distribution-comparison>.

¹⁶⁵ See <https://www.musicbusinessworldwide.com/the-services-sector-is-transforming-the-future-of-the-music-industry>. Justin Kalifowitz March 1, 2021.

¹⁶⁶ Will Page, Nov. 20, 2020. Submission to Economics of Music Streaming Inquiry; and T. Ingham Feb. 24, 2021 *op. cit.* – note Ingham reports 60,000 new daily uploads just for Spotify alone.

¹⁶⁷ We note that while some categories of rights-holders have not particularly benefited monetarily from the advent of streaming and industry infrastructure changes, more and better opportunities to create music exist for artists, more songs have been created and consumers have benefited.

¹⁶⁸ Chuck Philips, May 31, 2001 “Record Label Chorus: High risk, Low Margin” in LA Times. <https://www.latimes.com/archives/la-xpm-2001-may-31-mn-4713-story.html>

¹⁶⁹ <https://smallbusiness.chron.com/divide-percentages-record-label-39258.html>.

¹⁷⁰ There is a relevant adage: “ideas are plentiful, risk capital is not”.

¹⁷¹ Standing Committee Report: The Standing Committee on Canadian Heritage (“CHPC”) Statutory Review of the Act: “*Shifting Paradigms*”. We also note that the Committee and some of their witnesses attribute the declining artistic middle class to the so-called “Value Gap” between the intrinsic worth of music and what licensors and consumers pay for it. We echo the finding of a “diminishing middle class” but not necessarily the reasons given in the Report.

¹⁷² *Ibid.* Damhnait Doyle, quoted in the Report.

¹⁷³ See <https://www.cbc.ca/news/entertainment/middle-class-musician-1.5941796>.

¹⁷⁴ *Ibid.*

¹⁷⁵ Tim Ingham, “Slowly but Surely the Major Labels’ dominance of Spotify is Declining”, March 1, 2021. See <https://www.musicbusinessworldwide.com/slowly-but-surely-the-major-labels-dominance-of-spotify-is-declining>.

¹⁷⁶ *Ibid.*

¹⁷⁷ Will Page, Feb. 19, 2021 in the *Financial Times*.

<https://www.ft.com/content/77768846-a751-45ec-9a12-20fff27ddefb>.

¹⁷⁸ See <https://www.rollingstone.com/pro/features/raine-group-independent-artists-2-billion-in-2020-967138>.

¹⁷⁹ See T. Ingham March 16, 2020 <https://www.musicbusinessworldwide.com/raine-group-forecasts-that-independent-artist-sector-will-earn-over-2bn-this-year>.

¹⁸⁰ Music streaming service subscriptions are only one (although dominant) means by which music is monetized in those services. Ad-supported revenues also play a role, but we focus here on subscription revenues and pricing. 91% of Spotify's revenues come from its subscription services. See

<https://www.investopedia.com/articles/investing/120314/spotify-makes-internet-music-make-money.asp>.

¹⁸¹ See <https://www.consumerreports.org/streaming-music-services/best-music-streaming-service-for-you>.

¹⁸² As noted, ad-supported revenues and other types of monetization play a role, but we focus on subscription revenues to simplify the discussion.

¹⁸³ We are simplifying the issue: price elasticity is a factor in sales volume – if the price is raised, less purchases will be made. But the point remains that while a low retail price has served to achieve mass penetration, it has also limited the earnings available for sharing by rights-holders.

¹⁸⁴ J. Stone *op. cit.* <https://www.toptal.com/finance/market-research-analysts/state-of-music-industry>

¹⁸⁵ Country specific estimates of music streaming market shares are not readily available.

¹⁸⁶ D. J. Song, "Spotify – More Than a Music Streaming Platform" March 24, 2020.

<https://digital.hbs.edu/platform-digit/submission/spotify-more-than-a-music-streaming-platform>. A similar, but slightly different estimate of ownership is provided in <https://www.investopedia.com/news/top-3-spotify-shareholders>.

¹⁸⁷ D. J. Song. *Ibid.*

¹⁸⁸ See T. Ingham Jan.29, 2021. <https://www.musicbusinessworldwide.com/universal-music-group-ipo-coming-early-2022-at-the-latest-tencent-completes-acquisition-of-further-10-in-umg>.

¹⁸⁹ <https://www.marketscreener.com/quote/stock/TENCENT-HOLDINGS-LIMITED-3045861/company>.

¹⁹⁰ J. Aswad and R. Davis, in *Variety*, <https://variety.com/2020/biz/news/tencent-acquires-100-million-stake-in-warner-music-1234632894>.

¹⁹¹ <https://www.theorchard.com>.

¹⁹² <https://www.ingrooves.com>.

¹⁹³ <https://www.ada-music.com>.

¹⁹⁴ WINTEL 2018 *op. cit.*

¹⁹⁵ T. Ingham Feb.1, 2021 Music Business Worldwide.

<https://www.musicbusinessworldwide.com/sony-music-buys-awal-and-kobalt-neighbouring-rights-from-kobalt-music-group>. The transaction is valued at \$430 million (US).

¹⁹⁶ Mark Mulligan Feb. 1, 2021. See <https://musicindustryblog.wordpress.com/tag/sony-music>.

¹⁹⁷ *Ibid.* Earlier in the *Study*, we noted that some parties considered Kobalt to be a “major” record label.

¹⁹⁸ Mulligan, *op. cit.*

¹⁹⁹ L. Pelly <https://watt.cashmusic.org/writing/theseconlivesofplaylists>.

²⁰⁰ B. Sisario, *New York Times* Dec. 7, 2020.

²⁰¹ N. Pesce, Market Watch, Jan. 6, 2021. <https://www.marketwatch.com/story/5-reasons-why-musicians-like-bob-dylan-and-stevie-nicks-are-selling-their-song-catalogs-right-now-2020-12-15>.

²⁰² Sisario, *op. cit.*

²⁰³ See <https://www.billboard.com/amp/articles/business/9545274/bmg-kkr-partnership-music-rights-acquisitions-publishing>.

²⁰⁴ Pesce, *op.cit.* quoting Richard Levine of Billboard.

²⁰⁵ Stone, *op. cit.*

²⁰⁶ Kalfowitz, *op. cit.*

²⁰⁷ See <https://sodrac.ca/en/socan-and-sodrac-announce-integration-of-music-rights-management-in-canada/> and <https://www.cmrra.ca/soundexchange-acquires-canadian-musical-reproduction-rights-agency-cmrra/>

²⁰⁸ B. Schafer, March 8, 2021 *The Motley Fool*.

²⁰⁹ Re:Think Music for Berklee ICE, 2015.

²¹⁰ S. Setaro Sept. 5, 2019 “How Data is Making Hits and Changing the Music Industry”. See <https://www.complex.com/music/2019/09/data-changing-music-industry>.

²¹¹ Casey Taylor quoted in “As Streaming Takes Over, Music Metadata is Becoming More Critical for Musicians” by P. Resnikoff in *Digital Music News* March 22, 2021.

²¹² D. Deahl, Aug. 31, 2018 *The Verge* “How AI-Generated Music is Changing the Way Hits are Made”. <https://www.theverge.com/2018/8/31/17777008/artificial-intelligence-taryn-southern-amper-music>.

²¹³ See <https://www.theverge.com/2019/4/17/18299563/ai-algorithm-music-law-copyright-human>.

²¹⁴ D. Pastukhov, July 15, 2019. <https://soundcharts.com/blog/music-metadata>. DSP refers to a Digital Service Provider – such as a music streaming service.

²¹⁵ C. Castle in *Music Technology Policy Blog* August 20, 2017. <https://musictechpolicy.com/2017/08/20/youtube-facebook-and-moral-rights>.

²¹⁶ A more complete understanding of the economic well-being of various stakeholders requires a deeper understanding of net earnings. This consideration would be particularly relevant for record labels.

²¹⁷ We are speaking here of the marginal revenue related to the individual listener’s purchase. The sum of all marginal valuations to a streaming service provider may or may not be easier to calculate. We suspect it is more difficult.

²¹⁸ Again, for simplicity we focus on the subscription price and the revenues thus generated but ad-supported revenues and any other economic benefits properly need to be included.

²¹⁹ Again, the economic problem is not straight forward as demand elasticity needs to be considered. If streaming services were to raise retail prices that would impact the demand for those services and therefore cause a reduction in revenue from lower sales.

²²⁰ <https://www150.statcan.gc.ca/n1/daily-quotidien/190329/dq190329d-eng.htm>.

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