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MUSIC & ENTERTAINMENT INDUSTRY
EDUCATORS ASSOCIATION

Journal of the
Music & Entertainment Industry
Educators Association

Volume 10, Number 1
(2010)

Bruce Ronkin, Editor
Northeastern University

Published with Support
from



Reviews

Monica A. Coates. *The Beginner's Guide to the Gospel Music Industry: A Handbook for Aspiring Artists and Industry Executives.* Franklin, Tenn.: Paul Marchell Publishing, 2009. www.monicoates.com.

As a veteran of the Gospel music industry—including stints at EMI Gospel and Verity, and experience in artist management, publicity, radio promotions, and A&R—Monica Coates is well positioned to enlighten the reader about the workings of the Gospel music industry, as well as comment on the mindset and motivation within the Gospel music genre. Through her explanations and examples, any student of the music industry will recognize that many business practices of the genre are common to other genres. For those who have had little exposure to the Gospel music industry, Coates supplies insight to its unique aspects such as viewing one's job more as a calling, or encouraging artists to define not only their sound, but their ministry. Those readers more steeped in the genre will appreciate the real-world examples using contemporary Gospel artists, as well as the application of scripture. Throughout the 216 pages of the book, her tone is inspirational and the content accessible, applicable, and informative. The book is divided into four parts: Part I: The Basics; Part II: For the Aspiring Artist; Part III: For the Aspiring Industry Executive; and Part IV: Changing Times.

To begin her book, Coates' preface succinctly introduces and defines key terms and concepts encountered throughout the work. The materials in the subsequent pages are impacted by these concepts. She even states that in her experience, these concepts are "...rarely discussed when people are thinking about making a career in Gospel music" (p. 3). Those terms and concepts being: a person's *calling*, his or her *gifts and talents*, and *tools* intended to support one's journey.

With the terms and concepts defined and highlighted, Part I explains the constituency of the Gospel music industry. In this section, Coates identifies the three "sectors" of the Gospel music industry, which include: the creative community (artistry), the business community (industry), and unique to the Gospel music genre, the church community (ministry). The first two sectors receive further explanation in Parts II and III. The third

sector, though it does not have a separate part in the book, is evident in every part, chapter, and page reflecting the influence, motivation, and importance of the church community. Coates explains that the "...Church Community is often the source for the talent, the inspiration for the music, the showcase for Gospel music product, and the primary forum for Gospel artists. Functionally speaking, therefore, it would be quite difficult to have a successful Gospel music industry without the Church Community" (p. 28).

Part II presents information for the aspiring artist. Regardless of the genre, the public is most familiar with the creative community. This includes artists, songwriters, producers, etc. As Coates explains, these people are the driving force in the music industry. They not only create the product, they *are* the product. She encourages those who aspire to do these things to, among others, develop a unique sound, learn to communicate with the audience, and learn how to assemble a show. She further suggests that aspiring artists should distinguish themselves by developing world-class talent, creating a unique image, and becoming business savvy, as well as practicing patience and persistence. These observations would also apply to a secular artist. However, Gospel artists have additional necessary concerns that secular artists may not, and that is the need to develop a distinct message and nurture their level of spirituality. Referring back to Coates' preface, an artist's calling, and the utilization of gifts and talents, are unique features of this genre.

Part III includes observations and advice for the aspiring industry executive. The largest sector of the music business, but also, suggests Coates, the least visible, is the business community. This community consists of record companies, managers and booking agents, radio, media, promoters, and retail. She efficiently and effectively explains many business roles and informs the reader how the link between art and commerce is what propels and maintains an artist's career.

In the final section of the book Coates discusses very relevant and timely topics regarding select shifts and changes within the overall music industry. These topics include the death of traditional retail, the end of the specialty music retailer, the impact of the mega-retailers, and the challenges faced by developing artists. These topics may paint a bleak picture, but Coates is confident that solutions will be found, writing, "Difficult times call for higher forms of innovation" (p. 191).

I found Ms. Coates' book to be most helpful in understanding the

practices, concerns, and motivating factors found within the Gospel music industry. I would encourage others to think about referencing this book as a primer to understanding this genre and industry. Perhaps those in more secular genres will think the Gospel music genre somehow operates on the periphery of the music industry, but Coates establishes that this is not the case. After all, it is called the music *business* for a reason and if a person is to make a living with music—whether sinner or saint—he or she must know the business.

Mark Crawford

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Crawford's completed degrees include the Master of Music from Austin Peay State University, the Doctorate of Education and Master of Education degrees from Vanderbilt University, and the Bachelor of Science in Instrumental Music Education (K-12) and Associate of Science degrees from Freed-Hardeman University. He also has undergraduate minors in music theory, business administration, and psychology. Crawford is a member of MEIEA, NARAS, and CMA.



Allen Bargfrede and Cecily Mak. *Music Law in the Digital Age*. Boston: Berklee Press, 2009. www.berkleeypress.com.

The English poet Alexander Pope once wrote that a “little learning is a dangerous thing.” The fallacy of that statement lies in the belief that one would cut short an intellectual pursuit just as his interest is piqued. Similarly, *Music Law in the Digital Age*, by Allen Bargfrede and Cecily Mak, may not make its readers experts in the labyrinthine U.S. Copyright Act, but it is an excellent place to start for those getting acquainted with copyright and its complex interaction with digital music distribution. Perhaps the greatest accomplishment of the authors is to take a complex topic and make it not only interesting, but immediately applicable to the musician reader as well.

The book is presented in two parts. The first part, “Introduction to Music Law,” provides just that, a brief overview of copyright basics for musicians. While no text, save perhaps a multivolume treatise such as *Nimmer on Copyright*, can accurately cover all copyright law as it applies to music, *Music Law in the Digital Age* successfully lays out the most common copyright issues faced by musicians. The second part, borrowing its name from the title, “Music Law in the Digital Age,” examines the functionality and licensing structure of various digital music distribution models. In addition, the authors go on to discuss both perceived gaps in the law that were made apparent by the advent of digital music and several hot-button issues being discussed today in industry and copyright circles.

The first section begins with a short history of the music industry and copyright law. This is often an afterthought in books on music copyright; however, Bargfrede and Mak inject life into the topic by drawing analogies between the advent of radio and illegal digital distribution. Ultimately, the authors distinguish the two phenomena by arguing that radio has a complementary effect to recorded music sales, while illegal digital distribution is substitutional. Interestingly, though there is a brief discussion of the drop in record sales between 1929 and 1938 during the advent of radio and how some of those drops were likely related to the Great Depression, there is little mention of the global economic downturn beginning in 1999, coinciding with the rise of free music services like Napster. However, the authors fortunately do not correlate falling recorded music sales since 1999 solely to illegal downloading; rather, they note the impact caused by the end of the CD conversion era of the nineties, in which consumers

replaced their tape and record collections with CDs.

The discussion on copyright basics that follows gives a useful overview. Right out of the gate, the authors do an outstanding job of differentiating the two copyrights applicable to recorded music, those of the musical composition and the sound recording. Too often, musicians are unaware of the difference, but here it is laid out clearly and concisely. What follows is a discussion of the basic rights granted to authors in a copyright, using large amounts of text taken directly from the Copyright Act. While some of that text is dry and perhaps confusing, it was intelligent to include, as all musicians should be at least somewhat familiar with the actual text of the Act. However, it should be noted that there is one mistake. In the authors' discussion of sound recordings as works made for hire (which determines who is the author of a work and whether an artist can retrieve his masters from his record label after a thirty-five year period), the statute that is cited was repealed in 2000, after only one year as valid law.

Throughout the text, dialog boxes that contain questions and answers are used to apply copyright law to specific situations faced by, or of interest to, musicians. These inclusions alone justify reading this book. The Q&As run the gamut from the simple, "Can You Borrow a Riff?" to the more complex, "How To Set Up an Internet Radio Station." However, it is fair to say that any musician will find at least some of these dialogs helpful. In fact, as an attorney, I was pleasantly surprised by how many of the questions that I receive on a regular basis were covered by the authors.

However, these dialog boxes also point out one of the problems that a book like this faces. That is, the extent to which it provides information not that a musician could use, but the extent to which it provides information that a musician should use. Bargfrede and Mak rightly include an authors' note explaining that the book is not a substitute for legal advice, but often fail to relay the complexity and unpredictability of many copyright issues, particularly in the context of litigation.

For instance, in their discussion of fair use (a defense to copyright infringement in which the use of another's copyrighted work does not constitute infringement), the authors include a list of the four statutory factors that courts use in determining whether a use is fair and include a sample analysis of those factors taken from the landmark Supreme Court decision *Campbell v. Acuff-Rose*. While the analysis is certainly correct, it is a simplification. The outcome of fair use cases are notoriously unpredictable and the analyses use many words recognizable to the layperson but which

are terms of art in the legal profession. These terms often have differing or far more precise meanings in the context of fair use. It is often folly, for musician or attorney alike, to predict whether a use of copyrighted material is a fair use. Furthermore, because fair use is a defense to copyright infringement, it is an expensive argument to raise, since those using it are likely already being sued.

Let me make it plain that the above should not be read as a criticism of the dialog boxes, or the inclusion of a fair use discussion; quite the contrary. The real value comes not from giving readers an absolute course of action should these issues arise, but rather to make them aware that these legal principles exist. By being able to spot these issues before they become a problem, a musician is in the more desirable position of knowing that she may face a problem. That knowledge allows a musician to engage in a cost-benefit analysis, weighing potential exposure to liability for copyright infringement against the benefit of making entirely unencumbered artistic decisions.

Another area in which *Music Law in the Digital Age* excels is the discussion of digital music delivery formats. The authors break the digital music market into six formats: "Permanent Downloads," "Conditional Downloads," "On-Demand Streams," "Internet Radio," "Ad Supported," and "Free/Promotional/Upsell Offerings." In turn, the first four (and most commonly used) of these models are each given separate analyses, broken down into three categories: "Functionality," which discusses the basic end-user experience, "Business Model," which discusses how the online distributors generate revenue, and "Licensing," which discusses each of the licenses that a distributor must obtain from labels, publishers, and performing rights organizations. This sort of side-by-side analysis makes easy work of understanding how the various rights associated with recorded music, such as master use rights, mechanical royalties, and public performance licenses interact.

Following this discussion of the various formats for digital music delivery, the authors focus on a more philosophical look at the difficulties, particularly early on, of applying the existing Copyright Act to the new reality of digital distribution, and how the industry and others affected by it may adapt to the changes created by it. It is safe to assume that technological innovation will always outpace changes in the law. The process of amending copyright law is slow, and Congress is, unfortunately, ill equipped to anticipate changes like the advent of free music on the

internet. Furthermore, the role of courts on these matters tends to be reactionary. That is, a new piece of technology (e.g., Napster) enters the marketplace, and the courts can't really do anything to shut it down until a lawsuit is filed, the parties make initial appearances, interrogatories are exchanged, the discovery process begins, etc. Needless to say, the process is slow. Therefore, it really is no wonder that Congress and the courts cannot keep pace.

This seems to be Bargfrede and Mak's take on the matter. It is not that the law should move faster, but by using legislative and judicial examples, they illustrate why that is not possible. However, the authors do take an opportunity to suggest a possible change to the law. Section 115 of the U. S. Copyright Act creates the framework for the compulsory licensing of music publishing rights for use in distributing sound recordings (known as mechanical licenses). Currently, the Harry Fox Agency acts as a clearinghouse for many of these rights, but far from all. This means that digital distribution services must contact hundreds, and perhaps thousands, of publishers individually to obtain a license. Bargfrede and Mak argue that the Copyright Act should be amended to create a single clearinghouse through which all mechanical licenses could be obtained.

That suggestion is an excellent and intelligent idea that would be relatively easy to incorporate into the Copyright Act. It is also an idea that many people would benefit from, and that seems to be at the heart of *Music Law in the Digital Age*. Unlike earlier books that focused on either putting a stop to free music on the internet or on declaring a new "wild west" in which the record industry is obsolete, Allen Bargfrede and Cecily Mak describe a changing industry and how all parties may find a way to benefit from it. Furthermore, it does so in a way that will give its readers a better understanding of copyright law and the legal issues facing musicians. Finally, the clarity and ease with which even a novice can read through this material is sure to spawn new questions, and in turn encourage further study into an interesting and ever-changing area of law.

Caz McChrystal

CAZ McCHRYSTAL received his undergraduate degree in Music Business/Management from Berklee College of Music in Boston, Massachusetts. In 2004, he returned to Milwaukee, where he grew up, to attend Marquette University Law School. As a student, McChrystal was an editor of the *Marquette Intellectual Property Law Review* and a recipient of the American Bar Association Award for Excellence in the Study of Intellectual Property. He won an international legal writing competition sponsored by the GRAMMY Foundation for his article, "The Dissonant Tune of International Harmonization," focusing on the international comparative law of copyright duration for sound recordings.



McChrystal graduated from Marquette University Law School in 2007 and established a law practice focusing on entertainment, intellectual property, and small business law. His entertainment and intellectual property law practice has focused on all areas of the arts. McChrystal has represented both musical artists and record labels in matters related to recording contracts and music licensing for film and television and has negotiated music publishing agreements on four continents. In addition, he has represented visual artists and galleries, and conducted pro bono workshops for artists through the Milwaukee Artists' Resource Network. McChrystal has worked to negotiate movie distribution and financing agreements and has worked as general counsel for a film production company.

He has published articles on entertainment and technology law in *Billboard*, *Berklee Today*, *Musico Pro*, and the *Shepherd Express*. McChrystal continues to consult with clients while teaching at the University of Wisconsin - Stevens Point.

Peter Spellman. *Indie Business Power: A Step-by-Step Guide for 21st Century Music Entrepreneurs*. Boston: Music Business Solutions, 2009. www.mbsolutions.com.

"I have dinner with big record executives every night, Rich. All these guys care about is selling a piece of plastic to a fourteen year old."

record business lawyer, speaking to me in 1979

My attorney's words vaporized my youthful idealism about the world of pop music I loved so much. But by 2010, big record execs like this had suffered their comeuppance. Though the days of major label dominance are not over, there aren't many pages left in that calendar. Big labels were one thing in the past; they will become something quite different tomorrow, if they survive at all. Yet, most popular textbooks about the music business (and quite a few college music industry programs) teach the music business like it is *still* 1979.

Peter Spellman is too insightful and forward thinking for that. He understands that music entrepreneurs are grabbing the reins today. He has written a handbook for the new era: *Indie Business Power: A Step-by-Step Guide for 21st Century Music Entrepreneurs*. In *IBP* we witness the old business model being rebuilt, brick by brick. Social media replaces professional publicists. Home studios replace million dollar rooms. Long Tail niche music markets replace the hyped-up mainstream star system. *It is a hopeful time* in which we can envision that eventually thousands of highly creative musicians will be able to earn a decent middle-class living for decades—musicians who will no longer be pursuing a bankrupt fantasy of superstardom that, in reality, usually ended in indentured servitude to a big label. Or worse.

Several years ago, when putting together a college course in music entrepreneurship, I could not find any suitable textbooks at all. Spellman's book would have been the ideal solution.

Zooming Out

IBP is organized into three major sections. Ten chapters on "Business Arrangement" cover startup concerns such as market research, niche creation, resources, equipment, and initial funding. Spellman also takes

five of these chapters to walk through the creation of an effective business plan. The six “Business Conducting” chapters cover management of time, money and people, marketing, and business growth. Finally, a “Resource Directory” documents what seems to be every useful music business resource on the planet, plus a solid group of general business resources. What I especially appreciate about the directory is that Spellman tags it to the chapter readings, so the reader can find the related resource subjects with ease.

Zooming In

Examining a typical chapter also provides a good feel for the book. Chapter Three deals with finding your musical market niche. It starts with broad definitions and explanations of several types of music marketplaces (consumer, B-to-B, etc.). Spellman then provides intriguing real-world examples followed by a self-inquiry based niche-creation exercise. He then lays out several business strategies, such as pursuing an area of the business that seems to be growing. Then he suggests an alternate way to zero in on a niche: graphing a matrix of your desires, resources, and opportunities. He concludes with suggestions for testing your niche model, including twelve questions to ask of every business idea. Most other chapters have a similar mix of explanations and tools.

IBP straddles the fence between theory and workbook well. The reader is always urged into action, but only after key concepts are thoroughly examined and memorable real-world examples are provided. Along the axis of depth vs. breadth, Spellman very much favors the latter. Although covering so much territory is a daunting task, this approach makes the book extremely useful as a music entrepreneur’s comprehensive primer. As I mentioned, Spellman simultaneously points to hundreds of resources where the reader can go much, much deeper. This strongly mitigates the challenge of covering so many subjects. *IBP* is also as user-friendly a business book as you will ever encounter. The author’s style is equally inviting to college students and practicing entrepreneurs. I owned two entrepreneurial music businesses in Manhattan, specializing in producing commissioned original music for national clients and broadcasters. If I had read this book, I surely would have run a better business.

I teach my students that one principal benefit of entrepreneurship is that you can choose to manage your business based on your own personal values. This choice can be extremely motivating—especially if you have

ever worked for an organization where corporate values were negative. For this reason, I deeply appreciate that Spellman's writing has an unobtrusive but genuine values-driven quality to it—a subtle infusion of his character. This is *not* a distraction from business matters; such personal values burn brightly at the core of most successful entrepreneurial businesses I have known.

With this release, Spellman also practices what he preaches: he found a particular niche in the marketplace for a very useful music business book, and filled it. What better example could one ask from a veteran music entrepreneur?

Rich Meitin



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Bar Biszick-Lockwood. *Restless Giant: The Life and Times of Jean Aberbach & Hill and Range Songs*. Urbana: University of Illinois Press, 2010. www.press.uillinois.edu.

The two university presses that have concentrated heavily on American music in their offerings are the University of Illinois and the University of Mississippi. In recent years the University of Illinois has published an increasing number of books that spill over from popular music history to ones that examine the music industry.

Jean and Julian Aberbach were Austrian refugees who made their mark on the music publishing world by establishing Hill and Range Songs. This book is a biography of Jean Aberbach. The Aberbachs particular ploy, adapted from Jean's mentor Max Dreyfus of Chappell Music, was to develop co-publishing deals with songwriters and artists. The most famous of these deals was with Elvis Presley and his manager, the colorful "Colonel" Tom Parker. Hill and Range attracted numerous writers because they were sharing the ownership of popular music publishing companies with the artist or writer. Instead of fifty percent of the income, a songwriter could enjoy a seventy-five percent piece of the pie. Major artists like Elvis did not always write songs, but they were able to bring in other songwriters and thereby reap income from the publishing end.

Aberbach was a shrewd businessman, and part of his financing came from his discovering various performing rights dollars that other publishers had not noticed. Before coming to the United States, Aberbach discovered that in France performance money was available from the use of film dialogue. In the United States Aberbach pursued a similar revenue source from the performing rights from radio transcriptions (recordings of radio programs).

The book includes many interesting details about the early days of BMI, and the various wars between it and ASCAP.

My only reservation about this fascinating work is that the author writes almost as a fan of the Aberbachs, rather than taking a more objective view. For example, she portrays them as the "good guys," in terms of paying royalties to writers. In fact, she asserts that they paid writers even when absorbing publishing companies that had never paid any royalties. However, among the companies that the Aberbachs acquired were those run by Chicago blues entrepreneur Lester Melrose. Blues scholar and author Richard Waterman tells another story in his book *Between Midnight*

And Day: The Last Unpublished Blues Archive, claiming that the Aberbachs refused to pay Arthur “Big Boy” Crudup his royalties on Elvis’ recording of “That’s All Right Mama.” In fact, he relates that Crudup drove all the way from Macon, Georgia in a Model A Ford to New York, where Aberbach refused to sign a \$50,000 buyout to Crudup for the song, asserting that it would be less costly to fight the claim in court. (Incidentally, Crudup died in 1974, but when the Aberbachs sold their company to Chappell, they discovered that Waterman’s lawyer had placed a lien against the sale. Instead of a \$50,000 buyout, Crudup’s estate received a payoff that ultimately exceeded a million dollars, and the estate continues to receive payments today.)

If you want to know more about how music publishing and the whole notion of co-publishing evolved in the early days of rock and roll, this book is well worth a look.

Tommy James with Martin Fitzpatrick. *Me, The Mob and the Music: One Helluva Ride with Tommy James and the Shondells*. New York: Scribner, 2010. www.simonandschuster.com

There are very few books that detail the role of the Mafia in the music industry, outside William Knoedelseder’s book about MCA. This book details the career of Tommy James, who was signed by the notorious Morris Levy, at Roulette Records. He offers details of how Morris grabbed songwriting credits, including some he gave to his son, a kindergarten student at the time. Levy’s idea of paying royalties was that when James needed money, the artist would come in and ask for royalties, whereupon Morris would ask him what he needed, and write out a ten thousand dollar check. When Aaron Schechter, James’ accountant, tried to collect the thirty to forty million dollars that he claimed was owed his client, Levy threw him out of the office, and told him that any attempts to collect the money would result in his being “fished out of the river.”

This is a breezy, entertaining book that details what we all hope is a lost era in American popular music, at least in terms of its business practices.

John Broven. Record Makers and Breakers: Voices of the Independent Rock 'n' Roll Pioneers. Urbana: University of Illinois Press, 2010. www.press.uillinois.edu.

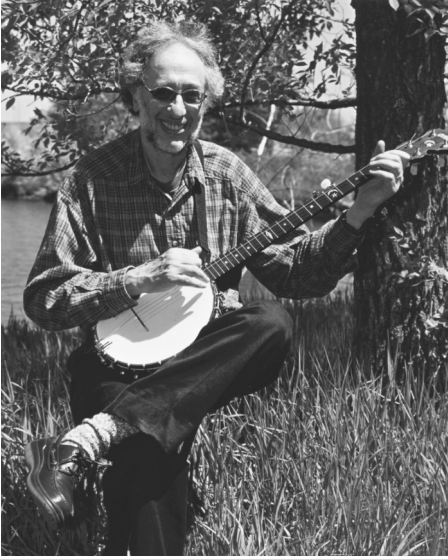
If you have ever wanted to know more about the various independent labels that were a major factor in American pop music in the early days of rock and roll, then this book is for you. The book is a product of a tremendous amount of research, including oral histories obtained from the early pioneers of independent record distribution and early independent label owners. In one of the appendixes is a sort of code of conduct manual compiled by Art Rupe for his Specialty Records company. Included in the code is a description of how to deal with union and non-union contracts. This is a remarkable document, because most labels with national distribution were signatories to union agreements that specified they would file union contracts on all recording sessions.

Along the way we learn about the rise and fall of Chess, Sun, Specialty, Old Town, RPM, Excello, Mercury, and dozens of other independent labels.

Among the colorful characters in the book are the Erteguns, Hy Weiss of Old Town Records, Fred Foster of Monument Records, and a fistful of record distributors. Broven doesn't shy away from discussions of payola; he also details the activities of various disc jockeys, and offers comparisons of *Billboard* and *Cash Box*, the prevailing trade papers of the time.

This is a lengthy book, and will prove a valuable resource to students and faculty who want to learn about the history of independent record labels in the 1950s and 1960s.

Dick Weissman



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