

# meiea<sup>®</sup>

MUSIC & ENTERTAINMENT INDUSTRY  
EDUCATORS ASSOCIATION

Journal of the  
Music & Entertainment Industry  
Educators Association

Volume 7, Number 1  
(2007)

Bruce Ronkin, Editor  
Northeastern University

Published with Support  
from



# **The Revolution in Licensing Music for Television Has Arrived: Confronting the Challenges and Profiting From the Opportunities**

Ava Lawrence  
*Northeastern University*

One might think copyright holders would be willing to negotiate lower synchronization fees with television production companies in return for increased exposure from broadcasts and extensive marketing of the music on television show web sites. Conversely, one might presume that television production companies would seek lower synchronization fees for the same reasons. However, quite the opposite is happening. According to Gay DiFusco, Vice President of Music Clearance at Warner Bros. Television, copyright holders are responding to requests for broader rights with higher licensing fees. Negotiating the proper fee is tricky in the current market. Copyright holders are charging increasingly higher fees while the licensees are generally not questioning whether those higher fees are justified.

Radio was once the premier way to introduce new music to the consumer. Prior to the most recent payola settlements, it was very difficult and very expensive to get new music added to a radio station's playlist. According to Jacob Slichter, drummer from the band Semisonic and author of the book *So You Wanna Be A Rock & Roll Star*, it cost over \$700,000 to get the band's hit song *Closing Time* on the radio. One has yet to see how the recent payola settlements will affect the ability to get a song played on the radio; changes are happening. Deep pockets may not be the only way to gain access to an add on a radio playlist. According to a press release from the American Association of Independent Music (A2IM), an agreement has been reached regarding airplay and independent music companies. There has been a voluntary arrangement between CBS, Citadel, Clear Channel, Entercom, and A2IM dubbed the Radio Rules of Engagement. These rules include "an Independent Music Content Commitment that equates to 8,400 half-hour blocks of airtime dedicated to Independent music."<sup>1</sup> Even though on the surface this seems positive, there is nothing establishing when these blocks of time will occur. It could be at a time when listenership is at its

<https://doi.org/10.25101/7.4>

lowest. The Radio Rules of Engagement cover many common sense topics including the creation and publicizing of fair music submission procedures, access to programmers, agreement that radio should not form inappropriate relationships with independent promotion companies or act in a coercive manner, a statement that radio will not barter for airplay with music companies, and a commitment that contest winners will be identified publicly. “A2IM seeks to serve the indie music community as a unified voice representing a sector that comprises over 30% of the music industry’s market share in the U.S. The organization represents the Independents’ interests in the marketplace, in the media, on Capitol Hill, and as part of the global music community. A2IM is headquartered in New York, and seeks to establish a legislative presence in Washington, D.C. The organization’s board of directors is comprised of the following: Concord Music Group President Glen Barros; The Beggars Group CEO Lesley Bleakley; Thirsty Ear President Peter Gordon; TVT Records president Steve Gottlieb; Roadrunner Records Executive Vice President Douglas Keogh; Bar/None owner Glenn Morrow; Lookout Records co-owner Molly Neuman; Tommy Boy Records Entertainment founder and CEO Tom Silverman; Amaechi Uzoigwe A2IM Board Chair and co-founder Definitive Jux.”<sup>2</sup>

The independent music community is doing its best to take advantage of the changing radio climate. However, in addition to the uncertainty, expense, and difficulty of getting a song on the radio, one has to ask whether it is even worth the trouble. According to an Edison Media Research study, radio listenership is experiencing a sharp decline. In fact, a significantly increasing number of people report that they do not even listen to the radio.

Although a television placement was once considered selling out, it is now considered the new radio. *Hide and Seek*, a song written by Imogen Heap, was catapulted to the top of the iTunes electronic download chart within hours of its use on the television show *The OC*. The song also ended up on the British iTunes Top 10 chart due to its placement on the same show. Although this is just one example, there are a growing number of bands licensing music for use in television shows and advertisements. Not only is television a significant vehicle for introducing new music to the consumer, it is an important way for bands to increase revenue in a climate of lackluster CD sales. The Salads, a band from Canada, licenses its music so bandmates can pay their bills and continue to make music. The band can make up to \$5,000 for the use of a song in a television show, up to \$20,000 for a film use and up to \$50,000 for a song used in an advertisement.<sup>3</sup>

With the advent of new technologies and a shift in the importance of licensing music, licensing professionals are now forced to reexamine what standard rights specifically encompass and how much these rights are worth for each song in each situation. The wider distribution of television shows has resulted in increasingly higher music licensing fees. Along with broadcasts into the home and presentation on airline flights, new distribution channels include \$1.99 downloads on iTunes.com and streaming video to mobile phones.

Negotiating a license to use music in a television show used to be a straightforward process. The basic deal points initially included use, timing, territory, term, an option for home video, name and likeness, rights including all forms of TV, and possibly language addressing future technologies, if the clearance people were forward thinkers. There might also have been a request for a quote for an in-context or out-of-context use of the song in a promo or for rights for inclusion in a soundtrack. These were industry-standard deal points that the licensing community clearly understood. All of these rights are still included in a license request, but the scope of some of the terms has expanded.

In addition to all forms of television including free broadcast TV, cable, satellite, subscription TV, and video on demand, television shows are now available by streaming to mobile devices and by download for viewing on a computer or mobile device. According to David Sibley, current music supervisor of the television show *Desperate Housewives*, a standard deal memo requesting the rights to license music now includes the language, "all media now known or hereafter devised worldwide in perpetuity excluding theatrical." Sometimes the territory is listed as "universe." Each company has its own standards.

According to Tom Rowland, Senior Vice President of Film and Television for Universal Music Group, there is constant struggle between the professionals in a record label's film and TV department and those in the marketing department. The marketing professionals are not concerned with how much money an artist earns from licensing music. They want the music out there for as many people to hear as possible. Marketing professionals would consider sacrificing the licensing fee in exchange for a placement that generates the most exposure. The licensing professionals negotiate fees based on a band's status, the use of the song, and the rights requested by the licensee. It is the responsibility of the licensing professional to maximize licensing revenue; it is a bonus if a third-party placement in-

creases earnings by stimulating additional sales. There are many examples of increased recording sales after a band's music is heard in a television show. However, according to Rowland, it's not enough of an argument to forego the licensing fee. Since it is very difficult for an up-and-coming band to get radio airplay, labels are now turning to television for marketing opportunities. Although Rowland believes a licensing fee is generally more important than marketing opportunities, he does concede that television has its benefits. Placing music by a newly-signed band in a television show is now an important form of marketing. All of the 2006 Grammy nominees for Best New Artist have had music licensed into a TV show or have appeared in front of the television camera. This group includes James Blunt, Imogen Heap, Corinne Bailey Rae, Chris Brown, and Carrie Underwood. Their music was featured in shows including *Grey's Anatomy*, *CSI*, *The OC*, *ER*, *Smallville*, *Six Degrees*, and *CSI Miami*.

Warner Bros., a major television company, does not seek reduced licensing fees in exchange for highlighting music on a television show's web site, according to DiFusco. Featuring music on a program's web site is considered an added bonus for placing music in shows that focus on musical content.

Networks that broadcast first-run programming market music online in different ways. Music tends to be displayed more prominently when it plays a significant role in a television series. On NBC.com music is listed in a section of the web site labeled "For Fans." After clicking the link, and then clicking on the word "Music," one arrives at the "NBC Featured Music" page. NBC only lists some artist's music and series' soundtracks—the list is not exhaustive. One can listen to the music on the site or buy music from Amazon.com, iTunes.com, or the NBC store.

On ABC.com only a few of the network's shows provide information about the music. When this information is available, it is listed by episode. If the music is available for purchase, a link to iTunes.com is provided. Although ABC.com does not have an abundance of music listed, on a show such as *Six Degrees*, when a specific artist has made a significant contribution, an extra effort is typically made to announce this. For example, Jakob Dylan wrote the theme song (along with other music used in the show). A page on *Six Degrees*' web site contains a brief biography of the composer and a description of his musical contribution to the show. ABC works with the company Wetpaint to develop fan information for its web site. Just like ABC, CBS works with Wetpaint to offer fan information about some of its

shows on a Wiki site. Music is listed on the Wiki web site if it is considered a significant part of the show.

Fox has a link to Music Central, a site that lists a show's main theme and composer. Additional music is listed where appropriate. FX only lists music for some of its shows. On this network's web site, like most others, one must hunt through each show's page to locate information about music. Showtime allows people to listen to music as well as to purchase soundtracks from the network's original programming. There are also links to band web sites.

Music for HBO's original programming is listed on its web site. This is one of the easiest sites to navigate and locate music. The CW's web site is also easy to navigate; if music is a significant part of a show, by just clicking on the show's title visitors can locate music information. Fans are prompted to buy music from Amazon.com or are referred to an artist's web site.

Given the relentless leaps in technology, and the increasing prevalence of licensed music in television shows, it is difficult to predict the future. An indication of things to come may be the new business model of CBS Records. With the resurrection of CBS Records as a source of music for television placement, the CBS network is cutting licensing fees by acting as its own source of music for its shows. According to Cindy Badell-Slaughter, Director, Music Operations West Coast CBS Broadcasting, music publishing rights will remain with the composer. Even though artists are primarily signed to CBS Records to supply music for television shows, the music will be available to buy via iTunes.com and, on a case-by-case basis, some of the music will be available as physical product. Besides cutting licensing costs, the strategic placement of a CBS recording artist's song emphasizes CBS Records' model to promote its artists directly to consumers by including CBS music in primetime shows on CBS and other media platforms within the CBS family.

Another company trying to focus on its own reservoir of content is ABC. According to Sibley, ABC strongly suggests to music supervisors that they review music in the ABC music library before approaching an outside library such as Killer Tracks.

A music library is a company that offers music for many different uses at a reasonable cost. Usually a music library represents both the sound recording and the music publishing. However, music libraries also hire musicians to record covers of songs. In this case the music publisher would

need to be contacted for a mechanical license. Music libraries often create several versions of a song. In addition to the original song, shorter, edited versions for various uses are also made available. Using a music library simplifies the licensing procedure and also provides an economical alternative for those on a limited budget.

Although Leo Burnett and Electronic Arts (EA) do not produce television shows, they are also following this trend by producing music specifically for their own projects. Leo Burnett, one of the largest advertising agencies in the world, has a music program called artist-in-residence in which they work directly with artists. Working with artists and song writers in this manner allows the agency to save on licensing fees and to avoid much of the complicated negotiation and paperwork common to the music industry.

EA, a video game publisher, in a joint venture with Nettwerk One Music, has created Artwerk, a full-service music company with a publishing arm that is an option for artists who compose their own music. Electronic Arts' licensing costs will decrease because it can now use music created by its own artists. They will also benefit financially as artists signed to Artwerk, and featured in EA video games, gain popularity in other media.

Companies like CBS Broadcasting, Leo Burnett, and Electronic Arts are in a unique position to cross-promote music and save on licensing fees. Although it might seem beneficial to an artist, signing with one of these labels may not be the best choice. This is a relatively new business model and questions remain. Will artists find themselves earning less under this new model than if they had signed with traditional labels and publishers and negotiated licenses with television production companies? Under the old model, if a licensing fee is \$10,000 (\$5,000 paid to the music publisher and \$5,000 to the record label) the performer and songwriter generally earn \$2,500 each from this deal. Under the new model, there is a good chance that popular performers and writers might earn more because they are now negotiating directly with the licensor; there are no longer separate publishers and record labels trying to maximize their own revenue. The revenue that used to go to publishers and labels can now be shared by television production companies, performers, and composers. However, this new model may not always work to the artist's advantage. A licensor, such as a television production company or video game producer, working with its own performer and composer may not see the need to pay a significant licensing

fee. Perhaps an unknown, unsigned artist or songwriter would be happy simply for the exposure. Does signing with a company like CBS Records or Electronic Arts limit opportunities for songwriters and performers? Perhaps an artist would not want to be limited to perform only on games released by EA if he or she knew there were other highly anticipated projects in the pipeline at other companies. Additionally, most performer/songwriters want to be able to explore all third-party licensing opportunities. Signing with one of these new companies, say, CBS Records, might reduce the ability to license music to other television production companies such as Fox or NBC.

Signing with the artist-in-residence program at Leo Burnett can link a performer/songwriter to one or more commercial products. Fans might wonder if the products associated with the music (perhaps fast food, a gas-guzzling SUV, or a political candidate) are in line with the band's philosophy or are the musicians just compromising in order to secure a reliable source of income? The performer/songwriter is earning money from the advertising agency while at the same time promoting his or her music; but artists would need to accept the fact that their music is helping to promote a product. Will consumers regard a band signed to one of these companies as committing the ultimate sellout? If the ultimate goal is to attract the attention of music-buying and concert-going fans, one needs to consider how music fans will feel about discovering new music by watching television shows and commercials. Widespread acceptance of new music introduced through television shows was demonstrated earlier in this paper; it remains to be seen whether music introduced through commercials will be as successful in breaking through to fans.

Changes in attitude towards the way in which people learn about new music will drive songwriters and songwriter/performers to experiment with these and other new promotion and distribution methods. As long as music fans react positively to new promotional ideas, there is little reason not to take advantage of these opportunities.



## Endnotes

---

<sup>1</sup> “A2IM Announces Historic Agreement with Commercial radio to Institute ‘Rules of Engagement’ & an ‘Indie Music Content Commitment’,” press release, (American Association of Independent Music, March 7, 2007).

<sup>2</sup> Ibid.

<sup>3</sup> Raina Delisle, “The merchants of Rock: ‘Sellout stigma’ is fading as more bands sell their songs for use in movies, video games, TV shows and ads,” *Ottawa Citizen* 6 (Oct. 2005, final ed.) : E1.

## References

---

- Badell-Slaughter, Cindy. Telephone interview. May 16, 2007.
- Barnes, Brooks and Ethan Smith. "CBS Records is Revived for TV-Music Venture." *The Wall Street Journal*, December 15, 2006, B3.
- Bruno, Antony. "Ahead of the Game." *Billboard.com* (March 31, 2007) <<http://www.billboard.com>>.
- Byrne, Ciar. "Soundtracks that Made Pop Careers: How to Get Ahead in Music: Make an Ad!" *The Independent* 23 (November, 2005, first ed.): News:18, 19.
- "CBS Corporation Launches CBS Records." press release. CBS, Dec. 15, 2006.
- DiFusco, Gay. Telephone interview. March 5, 2007.
- Freni, Josh. Telephone interview. March 5, 2007.
- Miller, Jeff. "TV Fine-Tunes Disc Sales." *Daily Variety*, February 10, 2005, A1.
- Newman, Melinda. "Mobile: I Want My Mobile TV." *Billboard.com* (July 8, 2006) <[www.billboard.com](http://www.billboard.com)>. Accessed March 6, 2007.
- Paoletta, Michael. "Inside Pitch." *Billboard.com* (May 6, 2006) <[www.billboard.com](http://www.billboard.com)>. Accessed Feb. 5, 2007.
- Paoletta, Michael. "TV: Play My Songs, Please." *Billboard.com* (May 13, 2006) <[www.billboard.com](http://www.billboard.com)>. Accessed February 5, 2007.
- Perera, Priya. "Feedback: TV Licensing Revisited." *Billboard.com* (July 22, 2006) <[www.billboard.com](http://www.billboard.com)>. Accessed February 5, 2007.
- Restuccia, Paul. "Punk Days to Paydays." *The Boston Herald*, Nov. 20, 2005, all ed.: Finance: 29.
- Ricketts, Camille. "The 'Best New Artist' nominees point to the power of the TV soundtrack." *The Wall Street Journal*, Feb. 3, 2007, P2.
- Rosenberger, Brad. Telephone interview. March 8, 2007.
- Rowland, Tom. Telephone interview. March 8, 2007.
- "US Airplay Victory A Breakthrough For Independent Music." press release. AIM (UK's Association of Independent Music), March 8, 2007.
- Webster, Tom. "Follow-Up Edison Media Research Study on 12-24 Radio Listening Shows Sharp Decreases in TSL and Usage." *Edison Media Research* (September 29, 2006) <[www.edisonresearch.com](http://www.edisonresearch.com)>. Accessed February 12, 2007.

**AVA LAWRENCE** has worked, specializing in licensing, for a number of entertainment companies in Los Angeles and New York including Virgin Records, GRP Records, Modern Records, New World Entertainment, and TVT Records/TVT Music, Inc. Professor Lawrence received her B.S. in Music with a concentration in Music Industry from Northeastern University, and her M.A. in Music Entertainment Professions from New York University. Her main areas of research focus on business trends and significant figures in the music industry. Professor Lawrence serves on the board of directors of MEIEA and is the faculty advisor for the Northeastern University chapter of the Music and Entertainment Industry Students Association.

The *MEIEA Journal* is published annually by the Music & Entertainment Industry Educators Association (MEIEA) in order to increase public awareness of the music industry and to foster music business education.

The *MEIEA Journal* provides a scholarly analysis of technological, legal, historical, educational, and business trends within the music industry and is designed as a resource for anyone currently involved or interested in the music industry. Topics include issues that affect music industry education and the music industry such as curriculum design, pedagogy, technological innovation, intellectual property matters, industry-related legislation, arts administration, industry analysis, and historical perspectives. The *MEIEA Journal* is distributed to members of MEIEA, universities, libraries, and individuals concerned with the music industry and music business education.

Ideas and opinions expressed in the *MEIEA Journal* do not necessarily reflect those of MEIEA. MEIEA disclaims responsibility for statements of fact or opinions expressed in individual contributions.

Permission for reprint or reproduction must be obtained in writing and the proper credit line given.

---

Music & Entertainment Industry Educators Association  
1900 Belmont Boulevard  
Nashville, TN 37212 U.S.A.  
office@meiea.org  
www.meiea.org

The *MEIEA Journal* (ISSN: 1559-7334)  
© Copyright 2007  
Music & Entertainment Industry Educators Association  
All rights reserved