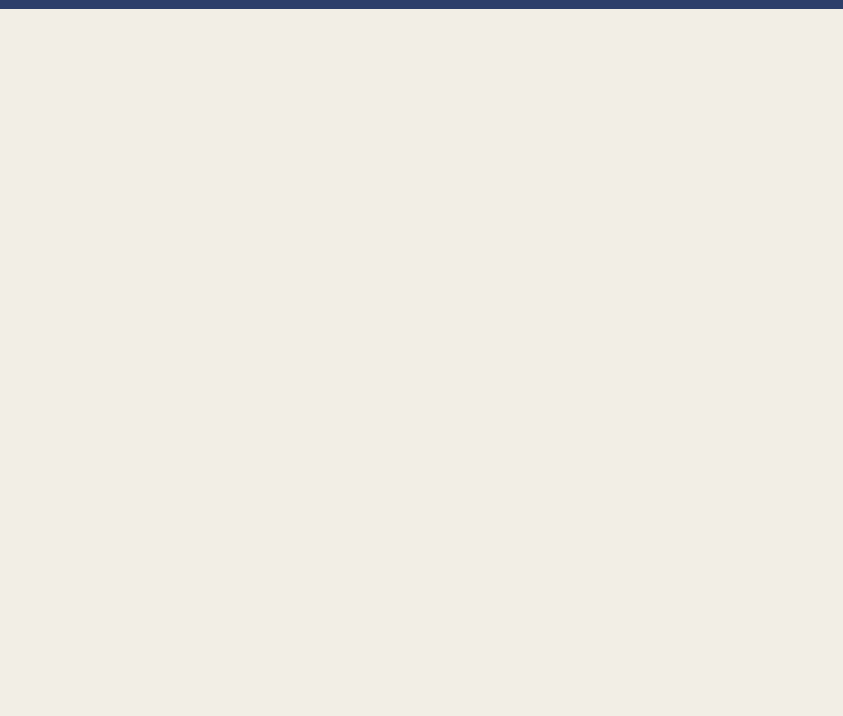


MAPPING ROYALTY FREE MUSIC



DEFINING ROYALTY FREE MUSIC

In the last few years, an increase of “royalty free music” repertoire has been taking place, mostly in the field of audiovisual and media composing. We speak about royalty free music when music authors sell their works and related rights to a platform which in turn sells it to commercial companies, like video-on-demand platforms or TV stations. The platforms to which the author sells the rights of its music to often work with buy-out contracts. This means that they buy the right of a piece of music in exchange for a lump sum payment to the author. These transactions take place completely outside of the collective licensing system, meaning that they take place outside of a system of remuneration through royalties. As a result, the author will not be paid in accordance with the success of the work or in relation to how many times the work gets played, streamed, or broadcasted, depriving the music author from receiving fair and proportionate remuneration. Thus, the long-term profit from successful musical works shifts 100% to companies, whereas composers remain on the level of their one-time payment. This situation severely impacts the economical balance between companies and authors.

After acquiring the rights of the work, the platform makes the music available to use in exchange for a once-off payment or a recurring subscription fee, giving users of the platform permission to use all available music on a royalty free basis.

Particularly in the online domain, for example in online advertising or edited content on YouTube, TikTok, or Instagram, royalty free music repertoire has been more and more present in recent years. Various new actors in the market, from which Epidemic Sound is the most prominent example, have grown extensively by selling royalty free music to various commercial companies. Various new actors in the market, from which Epidemic Sound is the most prominent example, have grown extensively by selling royalty free music to various commercial companies. Whereas Epidemic Sound has gained momentum during the “YouTube boom”, during which video creators sought simpler ways to access music, more traditional programme makers have also been using the platform more and more in recent years.[1]

This report aims to further examine what royalty free music practices entail and in what way they affect music authors. Furthermore, the report looks into possible solutions and alternative models to the usage of royalty free music.

[1] Chris Cooke (2020). Ivors and MU hit out at the Epidemic Sound model to licensing music for video. Complete Music Update. <https://completemusicupdate.com/article/ivors-and-mu-hit-out-at-the-epidemic-sound-model-to-licensing-music-for-video/>

MAPPING ROYALTY FREE MUSIC

In May 2023, ECSA has spread a questionnaire among its members with several open questions about royalty free music. The goal of the questionnaire was to gain insights in how royalty free music practices impact audiovisual composers.

Why can royalty free music be attractive for composers?

As mentioned above, royalty free music practices result in a situation in which the music author will not be paid any royalties, but instead is only offered a lump sum payment. Although this deprives music authors from fair remuneration for the ongoing exploitation of their works, music authors can have reasons to work with companies like Epidemic Sound, and to accept a one-off payment as such. From the outcomes of our questionnaire, it appears that selling the rights of a musical work as royalty free music can result in quick and easy ways to earn money. "Some publishers I worked with for many years started to offer buy-out deals for tracks. It was a good way to make money quicker than with the PRO (Publishing Rights Organisation, responsible for collecting performing rights income on behalf of songwriters and music publishers when a song is publicly broadcasted or performed) system", a composer states. Another composer mentions that some companies offer one off payments of as much as 1.000€ per track. Thus, an advantage royalty free music has over working within the regular collecting society system is that composers can quickly receive a relatively high one-off payment without much administrative barriers.

However, from our questionnaire, it appears that as soon as composers zoom out from this short-term perspective and look at the bigger picture, many of them see royalty free music as highly damaging to composers and music authors. Next to the fact that a composer needs royalties to build a long-term income, while one-off fees cannot sustain a career in music, many composers fear that the concept and normalisation of royalty free music slowly devalues music.

All value of music has been lost in my view", a composer states. Other composers mention that royalty free music practices "destroy the market", and two of them fear a "race to the bottom" because of an endorsement of free music, and the potential that there will always be some composers who will be willing to give away their rights to receive royalties for an upfront fee. "Little by little, this practice will be deemed to become the norm", a composer writes.

Indeed, another practice that contributes to what composers call a “race to the bottom” is that Epidemic Sound and similar companies do not allow the composers they work with to be member of a collecting society. Next to the fact that this deprives the composer of getting any royalties, it shuts the door to many of the composer’s potential career opportunities for which they need to be member of a collecting society.

Finally, on the issue of royalty payouts to composers, Epidemic Sound has responded to criticism from various organisations, including ECSA [2], by stating that if extra revenues are created by music in its library, for example on generic playlists on music streaming platforms, it shares 50% of the income (in this case of the streaming royalties) with the composer. [3] However, these amounts are negligible compared to the main business model of Epidemic Sound and do usually not lead to considerable sources of income for the composer.

What is the scope of royalty free music?

Several composers who filled in our questionnaire state that royalty free music practices have been increasing over the last few years in the country in which they work in. For instance, a composer based in Germany tells us that in German TV, there has been a strong tendency among broadcasters to use Epidemic Sound for online only productions, and sometimes also in linear TV. Other commercial parties, such as advertising agencies and audiovisual production companies, also make deals with Epidemic Sound, and with various smaller companies who work with the same business model as Epidemic Sound, according to the composer. Another composer based in Germany confirms that royalty free music platforms have been more and more present recently, especially in the last five years. Similar testimonies came from composers based in the United Kingdom and The Netherlands. A composer based in Ireland mentions that Epidemic Sound has “not become that major yet” in Ireland as “the majority of the broadcasters will use MCPS (Mechanical Copyright Protection Society) libraries, which include all the majors”. Another composer states that indeed, “in Ireland, the blanket music licensing agreement means that there’s not much demand for royalty free music in broadcast TV”. Though, the composer adds that royalty free music is frequently used in corporate and online work: “clients expect free royalty free music to be inserted almost every time”.

[2] ECSA (2019). ECSA strongly condemns the malpractices of Epidemic Sound.

<https://composeralliance.org/news/2019/12/ecsa-strongly-condemns-the-malpractices-of-epidemic-sound/>

[3] Chris Cooke (2020). Ivors and MU hit out at the Epidemic Sound model to licensing music for video. Complete Music Update. <https://completemusicupdate.com/article/ivors-and-mu-hit-out-at-the-epidemic-sound-model-to-licensing-music-for-video/>

TOWARDS A SUSTAINABLE WAY FORWARD

Although it is not easy to find solutions to the issue of royalty free music, some new proposals are in place in some countries, notably in Germany.

In Germany, the Collective Management Organisation (CMO) GEMA has reached an agreement with its members in the spring of 2023 to negotiate blanket deals including online only licensing. This makes it possible for them to negotiate with the German TV broadcasters (public as well as commercial) regarding a “one stop shop” for online only licensing. GVL, the German organisation for the management of neighbouring rights, has reached a similar agreement on neighbouring rights on the basis of a mandate agreement, allowing them to negotiate with public broadcasters as well.



“'One stop shop' solutions should help to decrease the frequency of royalty free music practices, which are so damageable to the livelihoods of audiovisual composers and to the value of music in general.”

Anselm Kreuzer, composer, Composers' Club President, ECSA Board Member

After this one stop licensing solution is in place, it should be possible to consider music available on recordings with an LC number (a code that enables the identification of a track and allows the collecting societies to know when the track was played to remunerate accurately) as pre-cleared. Broadcasters can then acquire the music, without further payments and without further licensing obligations to the label, publisher, author, CMO and neighbouring rights society. Thus, this mechanism results in a quick and easy process of both selling and acquiring music – which is, according to the composers we consulted in our questionnaire, currently the biggest advantage of royalty free music platforms. However, right now, the process would operate fully within the CMO system, and thus not deprive music authors from fair remuneration through future royalties. The only remaining obligation for the broadcasters would be to report usages to the CMO and neighbouring rights society. Similar “one stop shop” regulations could eventually also reduce the influence of platforms like Epidemic Sound in other countries.

However, it is important to note that, as mentioned above, these deals solely include public and commercial broadcasters. Since this new mechanism is in place in Germany, advertising agencies and other audiovisual production companies still hold deals with Epidemic Sound or similar companies.

When we asked composers to think of potential solutions in our questionnaire, many indeed think that similar mechanisms should be put into place in other countries. Several composers mention that a simplification of the process of selling and buying music contracts is the most important step into that direction.

Next to these new licensing agreements, composers also mention other potential solutions, such as the need to educate young composers in the beginning of their careers about the importance of thinking about the long-term perspective of receiving royalties, and to not “devalue their work by selling their music to libraries”, as one composer writes. At the same time, several composers write that it will be important to convince clients, such as production companies and agencies, of the importance of original music or scores, made by professional composers who would be paid properly for their education and experience.

CONCLUSION

In recent years, there has been an increase in royalty free music repertoire, with companies such as Epidemic Sound growing extensively by offering composers one-off fees outside the collective licensing system. From a questionnaire conducted by ECSA, it appears that the main reason for composers to engage with such parties is to quickly earn a sum of money without the barriers they have to comply with when operating within the collective licensing system. However, we have seen that as a composer, selling your music as royalty free music comes at the expense of fair remuneration through royalties. The long-term profit from successful musical works then shifts 100% to companies. Moreover, composers who work with such companies are not allowed to be member of a CMO, implying that they miss out on potential important career opportunities.

As such, composers have expressed their worries about a devaluation of music, and about the severe impact that such deals have on the economical balance between companies and authors.

However, potential alternative models are in place in several countries in order to make such practices less frequent. In Germany, a new “one stop shop” for online only licensing can potentially make companies like Epidemic Sound less attractive and powerful. In this model, broadcasters can acquire pre-cleared music, without further payments and without further licensing obligations to the label, but within the collective licensing. Next to these new agreements, composers have mentioned the need to educate young composers about their rights and the importance of receiving future royalties. ECSA continues to support such alternative models and encourages ways to explore how such models can be put into place in the various countries ECSA represents. Moreover, ECSA strives to resume its mission to make composers aware of their rights in order to ensure fair remuneration for music authors.

The European Composer and Songwriter Alliance ([ECSA](https://composeralliance.org/)) represents over 30,000 professional composers and songwriters in 27 European countries. With 56 member organisations across Europe and beyond, the Alliance speaks for the creators of art and classical music (contemporary), film and audiovisual music, as well as popular music. ECSA's core mission is to defend and promote the rights and interests of composers and songwriters with the aim of improving their social and economic conditions, as well as enhancing their artistic freedom.

For more information about our organisation, please visit: <https://composeralliance.org/>.

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