

Preface

Introduction

This book began an initial study of the skewness in royalty income data after I joined ASCAP as their Senior Economist for Licensing Distribution and Member Services Analysis. We were trying to determine if Chris Anderson's *Long Tail* actually applied to the income distribution of members in a Performing Rights Organization. Many economists in arts administration were intrigued by Anderson's theory on niche markets which at the time appeared to turn on its head, the conventional wisdom that the vast majority of royalty income is earned by a few songwriters, the so-called 'superstar effect.' The first question that came to mind was not so much the niche markets, given the many radio formats, but how to measure the skewness in the apparent data. This monograph handles the measurement of skewness and heavy tails in income data in the performing rights music industry.

In addition to recorded music revenue—with declining CD sales and digital media that failed to meet income and future cash flow expectations—music publishing has other more diverse revenue sources such as royalty payments from performance licensing and publishing. Performance royalties are a steady income stream that could be collected from a wide variety of established music users such as radio and broadcast stations through ASCAP, BMI, and SESAC and are not subject to the problems associated with mechanical royalties such as declining CD sales and online piracy.

Anderson began his 'Long Tail' analysis in an article that first appeared in *Wired* magazine in October 2004. His book on the same topic was released in 2008. Anderson's work came out just as the wave of mergers and acquisitions in music publishing and radio were sweeping the industry; the number of radio formats and genres increased dramatically while the number of publishers and radio station owners was consolidated under a growing mountain of debt that would soon have other economic implications; and many potential investors were interested in maximizing the 'economic value' of the copyright assets in music publishing catalogs.

In Anderson's theory, hidden gems, long forgotten and dormant musical works in publishers' catalogs that were not part of their 'Top 25' best-known hits would soon invigorate the music industry struggling with falling retail sales and

shrinking advertising budgets, as digital technology expanded the way in which consumers bought and listened to music. Music industry executives began looking for Anderson's 'Long Tail' effect and with it the implied redistribution of income, and the ability of music publishers to maximize the value of their copyright assets (lyrics and melody) in their existing music catalogs. The competition for music publishing catalogs by investors, the exploitation of the copyright in musical compositions and the income they generate from radio, television, Internet, advertising, and movies made existing music catalogs of old hits more valuable as the demand for digital music in the Internet age increased dramatically.

Many older recording artists made 'comebacks' as their previous works were met with some renewed commercial success when used by new recording artists in what *Billboard* magazine called a 'multi-formant cross-generational' appeal. Hip and Hop and Rap artists were credited with refocusing attention on older hits and songwriters by use of the popular music composition technique called 'sampling' in which recognizable snippets of older songs were used in current recordings. With renewed interest in some older hits, performing artists soon began touring and giving live performances again.

ASCAP, BMI, and SESAC are the major performing rights organizations (PROs), sometimes called performing rights societies, which control the non-exclusive licensing rights to millions of musical compositions, the lyrics, melody and musical notation, in the United States. These organizations grant a blanket or per-program license to music users for the public performance use of copyrighted music in their catalogs. As it stands today, recording artists (as distinct from the songwriter/composer) are paid performance royalties through SoundExchange, another PRO, for their digital sound recording use on a limited basis on the Internet, satellite, digital cable, and other subscription services. Recording artists (vocalists and background musicians) are paid only for the audio transmission of the sound recording, including voice, sound, and audio effects, and not the underlying music copyright in the music composition, the melody and lyrics, which would still be handled by ASCAP, BMI, or SESAC.

This important distinction between the performance licensing of music compositions—the melody and lyrics—by ASCAP, BMI, and SESAC, and the licensing of—the audio sound recording—by SoundExchange should be kept in mind by the reader for many reasons, including the fact that a single song title may have more than one copyright attached to it, and there is important pending legislation such as *The Performance Rights Act* that will have an impact on audio performance rights for terrestrial broadcasters and others. Both types of licenses by these agencies could be required now or in the future depending on whether the musical works are used on terrestrial or on digital and satellite broadcasts.

PROs then track musical performances or airplay use on television, radio, the Internet, live venues, and other media, determine which music has been performed, and pay the appropriate copyright holders a royalty income when their musical compositions, called performances, are performed in those licensed media. There are different types of performances such as features, themes, jingles, background/foreground music, and promos that are weighted differently and each earn

different royalty amounts. This performance royalty is distinct, and it is collected and paid out separately from other types of income agreements such as mechanical royalties as spelled out in recording contracts.

Songwriters, composers, and publishers, the copyright holders of the musical compositions, may have other sources of royalty income (both domestic and international) such as from mechanical and synchronization sources, and we do not model the returns from those income sources. Songwriters and composers, unlike other salaried workers who are engaged in making a tangible product or providing a business service and may receive a regular paycheck each week, are producers of what is known as *intellectual property*. There are several types of intellectual property such as a copyright, a trademark, or a patent. For example, the music copyright in terms of intellectual property is the protection from infringement given to original musical compositions or songs. A trademark protection is granted for a name or symbol used to identify products and services. Patent protection is given to new inventions and designs.

This book continues the study of art and culture from a royalty income perspective, an area in royalty income analysis that has received very little academic attention for various reasons. The main reason is that most of the data on royalty income at the individual member or affiliate level is proprietary and generally not made available for analysis by the various performing rights agencies or the industry group, CISAC. The focus of this book is limited to the economic analysis of domestic members—songwriters and composers (as distinct from the recording artist), the publishers—and the income they earn from performance copyrights from one of those societies, ASCAP.

This study is based on limited ASCAP internal and licensed external proprietary data, we do not identify any of the individual members, radio station owners, nor do we analyze individual royalty statements from an accounting perspective. Individual songwriters, publishers, and radio station owners are only mentioned if there is publicly available information in popular magazines and newspapers such as *Billboard*, *Playback*, and the *Wall Street Journal* to further illustrate a complex topic that otherwise would be confusing to the reader. The reader should keep in mind that there are considerable differences in the way PROs handle members, affiliation, survey data collection, royalty payment methods, procedures, and policies. These are factors that should be considered if any comparisons are made to other PROs. Some performing rights organizations are more transparent than others and periodically report some of their financial and membership data, while others do not follow this practice.

It would be impossible to conduct a study of popular culture without relying on popular music magazines since few academic studies have been conducted on songwriters and composers in a PRO and those magazines contain a slew of rich data that could augment other studies. In the review sections on songwriters, composers, publishers, media, and skew theory of the monograph, each chapter in itself could easily fill an entire volume.

The aim of this monograph is to cover the basic essentials of skew theory and music copyright from a performance right perspective in a brief and constructive fashion. In the interest of brevity every topic could not be covered, and I am sure that

some topics that others would find important may have been omitted. I am entirely responsible for that omission and I apologize in advance. A reference section at the end of each chapter provides a list for further reading for anyone who wants to learn more.

Intended Audience

The scope of this monograph has been designed to meet the needs of three groups of readers. For general readers and professionals in the music publishing industry, this monograph provides a general introduction into the economics of music copyright from the perspective of performing rights organizations. For undergraduate students in media and cultural economics, the monograph can serve as a principal undergraduate text on the economics of the arts and culture or on arts administration with a focus on music copyright in performance rights organizations or as a supplementary text on a broader economic survey of the musical arts. Statisticians, graduate students, and academics interested in statistical theory and data modeling applied to music copyright would benefit from this study because it bridges the empirical gap between the theoretical and practical analysis of songwriters and music copyright.

Chapters Organization

This book is divided into two parts. The first part is a general introduction to the many supply and demand economic factors that are related to music performance royalty payments. The second part is an applied econometrics section that provides modeling and in-depth analysis of songwriter, publishers, and blanket licensing income data using utilizing skew theory.

Part I: Economics of Music Copyright (Chapters 1 through 4)

In Chapter 1, we introduce the reader to the factors that would motivate one to undertake an in-depth economic analysis of non-dramatic performance copyright in the performing arts from the perspectives of performing rights organizations. From the perspectives of performing rights organizations such as ASCAP, BMI, and SESAC, we provide a basic economic model of supply and demand to illustrate the dynamic economic interplay of music creators—the copyright holders such as composers, authors, songwriters, and publishers—who create and supply the music, and music users—the media companies in television, the Internet, and other venues—who use copyrighted music in a variety of performance (airplay) types such as features, jingles, promos, or background music.

Chapter 2 explores the media segments such as radio, cable, television, and the Internet in the US music industry from a revenue perspective as one source of licens-

ing fees and royalty income for songwriters, composers, authors, and publishers from music performances.

Chapter 3 is devoted to the economics of music copyright such as performance rights licensing from the perspective of music publishers, one of the suppliers of copyrighted music.

In Chapter 4, the songwriter/composer/lyricist, as distinct from the recording artist or vocalist, is analyzed from a creative perspective.

Part II: Econometric Analysis (Chapters 5 through 9)

Chapter 5 reviews the skew-Normal and skew- t statistical distribution theory and presents a model that can be used to estimate regression models when the distribution is highly skewed and asymmetrical.

In Chapter 6, the first of three econometric case studies is presented. The effects of member type (writer or publisher), license type (blanket or per-program), type of medium (broadcast TV, local TV, radio, etc.), performance type (features, themes, etc.), tenure (length of membership in years), and tail segment variables on performance royalty income are estimated using the skew-Normal and skew- t distributions in a parametric approach.

The second of the three econometric case studies is presented in Chapter 7. This chapter looks at the dynamics of ‘superstar’ effects of age, length in membership in a PRO, and the number of song titles registered on songwriter’s income when publishers are excluded.

Chapter 8 is the third case study, an econometric model has been developed that looks at the licensing fee structure involved in the radio blanket license, and explains the variation of the blanket fees in terms of radio format, station owners, region, market size, and recorded plays.

Chapter 9 concludes our study and suggests a few areas for research.