

A COMPLETELY REVISED AND UPDATED EDITION
OF THE DEFINITIVE GUIDE TO 'MUSIC BUSINESS'

3RD
EDITION

MUSIC BUSINESS

A MUSICIAN'S GUIDE TO THE AUSTRALIAN MUSIC INDUSTRY
BY TOP AUSTRALIAN LAWYER AND DEALMAKER

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This chapter is taken from the book *Music Business* by Shane Simpson

More information can be found at
<http://www.simpsons.com.au/musicbusinessinfo.htm>

ANATOMY OF A MUSIC PUBLISHER

IF YOU ARE DEALING WITH MUSIC PUBLISHERS IT IS IMPORTANT TO UNDERSTAND WHO DOES WHAT IN THE COMPANY. THIS CHAPTER INTRODUCES YOU TO THE DRAMATIS PERSONAE: WHO THEY ARE AND WHAT THEY DO.

Music publishing does its business differently from the record business. Each deals in different rights and activities. At its core, publishing is about three things - controlling and protecting copyrights, exploiting (i.e. licensing commercial and other uses) those copyrights and administering the flow of income to the copyright owners. Without these basic activities the whole industry would grind to a halt, paralysed by lack of repertoire (i.e. the works controlled by a particular publisher or written by a particular composer) and inability to distribute royalties.

Most music publishing deals tend to be a bit like courtship - lots of action in the early days until the formalities are done, then things quieten down to a routine. This is unlike in the record industry where the real business only starts after the deal is signed and planning the recording starts. However, publishing is not just about music and songs, it is also about relationships, so good publishers and sensible writers actively work on developing that professional relationship.

Following is a brief guided tour through the main positions in any music publishing company. In smaller operations, one person will usually perform several (perhaps all) functions, but the functions themselves are fairly standard.

THE MANAGING DIRECTOR

Publishers are very much influenced by the character of their managing directors (MDs). Different MDs have different strengths. Some are great at picking songs and writers and happily become the company's main talent scout. Others claim no musical sense but are terrific administrators and are happy to leave the talent scouting to their professional manager. Some exhibit both qualities.

MDs of the multi-national publishers all report to regional managers based overseas. This means that their actions must be within corporate policies, but most still enjoy considerable freedom. MDs of independent publishers can be more maverick if they wish but, in the long run, they face the same financial pressures and industry structures as the multinationals.

When looking at any publishing company, make sure you can get along with its MD. Get to know his or her management style. You will have no trouble finding out those who support their writers and those who seem to be otherwise engaged whenever their writers need advice or a royalty advance. A supportive and patient MD can help a writer get through tough times. Remember though - a lot depends upon personalities. Some writers get on fine with MDs who others think of as fiends. MDs, like most people, respond badly to gratuitous unpleasantness. Who can blame them? If you don't like the MD before you sign a deal, don't expect to like him or her afterwards (when it's too late to change).

THE CREATIVE SERVICES MANAGER

Creative Services Managers (also known as Professional Managers) are the publishers' equivalent of the record companies' A&R managers. They generally answer directly to the MD and work closely with whoever looks after Business Affairs and Accounting.

Their primary role is to look for songs, writers and catalogues for the company to acquire. They have to be able to recognise songs and writers with potential and to evaluate what is a commercially realistic price when acquiring established catalogues and works.

Professional managers also liaise with record companies and artists. They are responsible for finding ways to exploit the musical works the company controls. This means keeping in touch with A&R departments, to stay aware of who is recording and who might need songs. If John Farnham, Jimmy Barnes or an Australian Idol is recording, the publishers are aware that their records will be largely made up of songs written by other writers. They audition literally hundreds of songs, before deciding on a track listing. (The story goes that 'You're the Voice' was only auditioned and included on

‘Whispering Jack’ at the last minute, after someone checked to make sure the demo had arrived safely. Such is life, and luck, in this business.)

LICENSING MANAGER

Licensing managers put the songs to work. They deal with the multitude of ways music can be commercially exploited. (In some companies, the Business Affairs manager’s job includes Licensing but this is now unusual given the importance placed on licensing.)

Licensing managers usually receive the initial requests from third parties for permission to use particular works. In the past, they tended to be reactive rather than pro-active, but there are now some notable licensing managers who are active out in the marketplace and seeking opportunities, rather than waiting for potential customers (e.g. advertising agencies and film producers) to approach them.

They have to:

- Determine whether the work is actually controlled by the publisher. This is not always an easy thing to determine, especially when dealing with old works. Computerised databases help, but a work’s ownership may be riddled with uncertainties.
- Ensure all the contractual obligations are met. This can range from getting written permission (from whoever owns or controls the copyrights) for a particular use, through to establishing any obligations regarding the kind of credits the writer and publisher require.
- Ensure there are no conflicting licences already granted or pending. This is especially important when considering advertising campaigns. A careless licence could be hugely embarrassing and costly if it fouls a pre-existing licence for a competing product or campaign.

Assuming everything is clear, the licensing manager will negotiate the licence.

TRANSCRIBERS

The largest publishers often employ or hire specialists to transcribe music (and to decipher lyrics) from recorded versions. This is often needed, as few modern pop songs are written before being recorded. So, to create a printed edition, someone (usually whoever owns the publishing rights) has to transcribe the song. Sometimes this is quite simple. Sometimes songs do not lend themselves to easy transcription. Pity the transcriber who had to convert songs by The Vines or You Am I, into a beginner-grade score for solo piano.

Transcribers have to be skilled musicians, able to convert a recording of a

work into printed notation. Often the same work will be issued in numerous grades - from ham-fisted to finger-knotting.

Computer programs now make it simple to digitise a recording, analyse it and produce printed scores for any nominated instrument. The end result may need only cosmetic surgery to make it suitable for release as parts or sheet music. The same program can produce a computer disc suitable for direct transfer to the printing works (or laser printer) to produce hard copies with hardly any intermediate steps.

Publishers who do not have their own transcribers generally license transcriptions from the owner. Many writer agreements specify that each song must be delivered to the publisher in written notation as well as on CD, so the good old writer may end up doing it (or paying for it to be done) anyway. The alternative is for the publisher to commission a transcription.

PRINT MUSIC

Until mechanical copyright royalties took over as the main source of income for publishers, sheet music used to be the backbone of the industry. Most publishers now find it uneconomic to operate their own print divisions, though the advances in desktop publishing and computer-assisted transcription mentioned earlier might see that trend reversed to some extent.

Most publishers used to have whole departments devoted to transcribing music into printed notation and having them typeset and printed. Only a few do it now. Most still produce sheet music, but the work is often subcontracted.

Printed music does not only mean sheet music. It includes lyric sheets, magazines that reproduce lyrics and notation as a part of their usual content and special publications having particular themes or featuring a particular artist. These are increasingly valuable as income earners, though producing them can be more complicated than simply printing sheet music, e.g. there may be other rights to be cleared before photographs or biographical information can be reproduced, or there may be several publishers each controlling a portion of the copyright. Where things get complicated, the Business Affairs department will certainly be involved.

PRINT MUSIC SALES

Publishers, like record companies, have to promote and sell their product to retailers. This involves producing catalogues, advertising the current and back catalogues, and (if the publisher does its own distribution) sending sales representatives out to retail outlets to take orders and generally sell the product.

Retail outlets for printed music are quite diverse but specialist music

shops who sell musical instruments, local record/music shops and some large bookshops are the main areas. Educational use is a major area too, and publishers are well aware of the needs of educational institutions for variously graded sheet music.

PLUGGERS

The unfortunate name given to this role may have something to do with its demise. From the earliest days of the business, right up to the 1950s, pluggers were very active, going from record company to record company with the sole purpose of getting the plugger's songs recorded, if possible by 'name' artists.

Getting a performer of the stature of an Al Jolson or Frank Sinatra to record one of your works was almost a solid gold money-maker for the writer and the publisher. Remember - if someone like this records even one of your songs you will make a mint, because the song has a chance of being an industry 'standard' - the most desirable song a publisher can control. Irving Berlin wrote a lot of standards. So did Leiber and Stoller ('You Ain't Nothin' But A Houndog' for starters). All got rich from others performing songs they wrote.

This was before the singer-songwriter became the dominant species in the music jungle. It's a pity, but pluggers don't seem to exist as a distinct species any more, though several of the major publishers are consciously promoting their catalogues to advertisers and other companies for use in commercials and the like. Once you call someone a licensing manager you lose that mental picture of a pushy, hustler salesman with a bag of songs and a smile that is just a bit too wide.

BUSINESS AFFAIRS

This is the department in charge of deal-making and contract administration. The business affairs manager is one of the most influential people in most publishing companies, because he or she is the custodian of the copyrights upon which the publisher's business depends.

Often the commercial shape of the deal is negotiated with the Managing Director or General Manager and given to Business Affairs to do the paperwork. In other companies the negotiation is with Business Affairs. They draft and issue contracts, check licensing policy and liaise with the accounts department to make sure they comply with royalty obligations both to and from owners and writers. If disputes arise, they are usually the first people to be called. Do not put business affairs managers off-side. They will usually be very helpful if you have a contract problem or a dispute with a third party. After all, the company's writers are its primary source of income, so its

writers' problems are likely to be the company's problems too. They can often give helpful commercial advice, or put the company's weight behind you in third party negotiations.

COPYRIGHT AND ACCOUNTS

Although often two separate departments, it is convenient to consider them together because they have a symbiotic relationship - each depends upon the other to be able to operate.

The Copyright Department or Manager is responsible for maintaining the company's most valuable resource - its copyright files. These list all the works the company controls or in which it has an interest, the writers, the owners, the rights controlled by the company, the term, the territory and so on. Without this data, the publisher cannot identify the works it controls nor collect or distribute the appropriate licence and royalty income. Publishers have had a long time to perfect bureaucracies for processing royalties.

The Copyright Departments in the international publishing companies (and all but the smallest Independents now) have sophisticated computer databases, linked to the Accounts Department. These assist them to identify their works in APRA Returns and in the hundreds of inquiry notices submitted by record companies who intend to make records of musical works.

The Copyright Department has to update its files constantly. Rights ebb into and flow out of the company's control all the time: at the end of a contract term the writer might sign with another publisher; catalogues are won and lost and eventually, the copyright period expires and the works go into the public domain. Similarly, each time a new work is delivered by writers, the files have to be updated and the relevant performing rights society advised. All these steps are routine and comparatively simple but if they are not done, the works cannot generate royalties for either the publisher or the writer.

The Accounts Department is the immediate user of the Copyright Department's labours. The data is the basis for all royalty accounting. The Accounts Department has to match income with the relevant works, check that it is correct, apportion the income according to the contract, deduct the publisher's share and remit the balance (or credit it to the writer's account, depending on whether the writer has any unrecouped advances), within the time allowed under the contract.

It is worth noting that in some companies, Accounts is split into two different departments: the Financial Department (which handles all the general accounting for the organisation) and the Royalty Department.

WAREHOUSE

Only a few publishers have warehouses now, since so few distribute their own sheet music. Most contract with other publishers for warehouse and distribution services.

The warehouse fulfils orders placed with the publisher from the retail outlets, and deals with any returned stock. To that extent, its functions are much the same as in any other industry, though the task of keeping track of the literally hundreds of different titles is by no means simple.

Publishers with warehouse facilities usually also offer distribution services to other parties as this helps them keep the facilities fully used and the income earned from distributing other publishers' sheet music can help offset the warehouse costs which would otherwise be entirely paid by the warehouse operator.