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Streaming Services Insist on Buying Out Composers' Music Rights

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Streaming Services Insist on Buying Out Composers' Music Rights

By Kendra Sananikone

N.B. This essay is an analysis of an article: "The Fight for Their Rights" by Kathryn Kranhold published by Billboard, December 21, 2019

Summary

Music composers from around the world attended the International Council of Music Creators General Assembly in Hungary to discuss streaming services and their efforts to change the conventional way composers are compensated for their work. Composers are usually paid royalties whenever their music is performed in a public setting. These royalties include instances where their music is used in a television show or played on streaming services. However, Netflix wants to buy out public performance rights, meaning they want to pay a one-time fee to composers for all or most of the rights to their work. These buyouts prevent composers from earning any future royalties from that work and allows for the rights owners to make that money instead. Composers are especially angry because BMO Capital Markets estimates that in 2019, Netflix could have spent around \$15.1 billion to license audiovisual content as well as fund content creation. Award-winning composer Jeff Beal explained that typically, the monetary amount a composer earns from royalties equals or exceeds the amount you get from a buyout. He added that streaming royalties are already much lower than royalties from network shows.

Netflix calls purchasing the rights to these compositions "direct license deals." These deals differ from common practice because these deals do not allow for the composer to earn money from royalties paid to use or listen to their music, which is how composers make most of their money. Performing rights organizations are typically responsible for licensing music for public performances, collecting the money and then paying composers. Avoiding a performance rights

organization, Netflix and the production studio directly negotiate with the composers. Composers and their lawyers say that these work for hire deals go beyond standard contracts as Netflix says that they want to be able to use the compositions, lyrics, performances, and recordings “without limitation” and “throughout the universe in perpetuity.” Countries, such as France, that have stronger copyright protections than the United States prohibit Netflix producers from directly negotiating these deals with composers.

Composers typically make most of their money from royalties over time. Repeated plays or viewings of their music contributes greatly to these royalties. Usually a major production company owns the copyright to their work, but the composers still have a share in the royalties through public performance payments. Royalty fees range from \$300 a minute on a network show to 6 cents a minute for a show streaming on Netflix. Composers are coming together to create the “Your Music, Your Future” education initiative to educate their peers about their music rights as a result of all this. Other streaming platforms, such as Apple TV+ and Disney+, are also seeking buyouts for their platforms.

Composers royalties are calculated based on the length of a work and how much the work is featured in the broadcast or stream. Streaming platforms like Hulu and Amazon self-report how many times a show is streamed but Netflix does not. This lack of transparency is an issue because it is difficult to determine a fair buyout price if there is no idea how much a show is streamed.

Analysis

This article is relevant to today’s music industry because the issue of paying composers fairly for the use of their work in streaming is becoming more prevalent. Streaming is extremely popular right now and according to the article Netflix alone has 158 million subscribers globally. With more streaming platforms gaining popularity, the concern is that these buyouts will become the

new standard for acquiring rights to composers' works. This will greatly affect composers and their livelihoods because they will not be making as much as they could, especially considering how much revenue these platforms generate.

The author reported the facts and also provided the opinions and statements of various composers and their lawyers as well as spokespeople for these streaming platforms. These sources provide perspective as well as context of the way things work in this industry for the reader. It seems like the author was slightly biased towards the composers because of the language used to describe the big companies. The author made sure to point out how much money these companies have and could be paying composers and also how much money composers have made in the past from work with network television.

Network television can pay between \$10,000 to \$50,000 for synchronization licenses, depending on how well known the song is or how much it is used. Television stations use cue sheets to keep track of how long a composition is played and how it was used during a broadcast so that it can be filed with the performing rights organizations. Keeping track of specific usage over time allows for more fair compensation than the one-time payment from Netflix. The information in this article presents the threat that composers are facing from buyouts. This practice of buying out work from composers instead of paying them royalties over time will lead to them making less money in general in the future.

Suggestions

Composers should collectively decline these buyout deals. Bigger name composers already do not agree to these buyouts from these big companies. However, smaller composers accept these buyouts because it might be the biggest opportunity they have. If more composers begin to decline these deals, then the companies will be forced to create a new type of deal in order to keep getting

the music they want for their shows. However, getting every single composer out there to decline these deals is a stretch.

Another possible solution to this issue could be getting composers and their lawyers to work out agreements with the streaming services that are more beneficial to the composers than they are now. A deal that allows the composer to maintain the rights, even partially, will produce more income for them than just a one-time payment up front. For example, the composer could work out a deal where they keep a small percentage of the rights to their music so that the company still owns the majority of the rights but allows the composer to earn partial royalties. Another idea that could help composers is lowering the price of a synchronization license because it could still generate a good amount of income over time.

Streaming services should disclose their viewing analytics to performing rights organizations who can then keep track of how a composition is used and how many times it is viewed. Tracking the use of a composition will allow for more reasonable pay to composers. Composers deserve to make more money than what is being offered to them at the moment. Considering how much the content on the streaming services gets viewed and how many subscribers they have, they should be able to afford to pay composers fairly.