

Performance Royalties: Shows, songs & settlements

Chair: Jon Webster, MMF (UK)



This proved a panel that pulled no punches in regard to one of the most contentious issues facing payments from international collecting societies and the controversy around discounts that are applied.

Jon Webster opened by asking if performance royalties should be seen as a tax. “It’s equitable remuneration,” he said. “It is part of the show.”

Paul Crockford (Paul Crockford Management) explained how he first became aware of the issue in 2010 when one of his acts, Mark Knopfler, was touring in the Netherlands and their tour accountant spotted some serious issues going through the receipts. “In his follow up work he noticed there was a massive discrepancy between the amount that [Dutch collecting society] Buma had received and passed onto PRS versus what was in the settlement that Mojo Concerts had deducted on the settlement itself,” he said. Despite raising this with PRS in the UK, he felt that nothing was actually achieved when it contacted Buma.

“There was a discount, rebate, kickback or however you want to define it that Buma had agreed with Mojo Concerts,” he says. “When we fronted it up with Buma, the argument presented was that in an effort to increase the live rate, which Mojo had refused to go along with, they gave Mojo a discount based on the fact that they do a vast number of shows in Holland. It was on the basis that, hopefully, they would

generate more income across the board from other promoters who work in that same semi-monopolistic position.”

Crockford claimed that very few people knew that any of this was happening. “Also Mojo wasn’t declaring that discount as part of the show income. Their argument was that it was money they got back from Buma and it doesn’t matter to them where it comes from, as it’s not part of the show’s settlement. My argument, of course, was that it was exactly the opposite. Buma should not be discounting my artist’s income. If they are, that money should go into the show instead of making its way into Mojo’s already stuffed pockets.”

Webster stated that when the MMF was informed about this they arranged a meeting “with a very nice man working in international at the PRS” who said Mojo was not allowed to deduct rebates. “I never saw him after that,” said Webster. “He disappeared the next week.”

Anthony Addis (of Brontone) said he asked for a “bible” in 2009 explaining which markets did discounts and at what rates. “Discounts or rebates - they are both the same to me as an artist manager,” he said. “Every collecting society only has to pay out to the PRS exactly what it receives. When you are talking about discounts or whatever, if the collection society receives the full amount, then that money should fall through the PRS, less its administration charge for that collection society in that country.”



John Sweeney (of SESAC, but formerly of the PRS) revealed this has a much longer history. “20 years ago, U2 tried to do a cradle-to-grave royalty account for a European tour and found that the figures didn’t quite add up,” he explained. “We looked to see what we could do to make the sums add up but we never managed to achieve it or even get close. This discount or rebate was probably always going on but not known about. To make it a bit more complicated, the collecting society agreements are blanket licensed. Even though you can see what came from the box office and what you should be paid, there are always adjustments from past performances paid.”

Martin Vierrath (of GEMA) moved to explain how the system in Germany worked, something that appeared far more complex than anyone presumed. He says there are different rates depending on the size of the venue. For mega acts (playing to 15k+), it’s a 7.65% deduction on the box office; for venues between 2k and 15k, it’s 7.2%; and for venues under 2k, it’s 5%. He then said there were moves to standardise that, which initially met with approval. When he revealed that the rate they were looking at was 10%, there were loud gasps from the audience.

Webster added that in the UK the PRS tariff is 3% but they are currently undertaking a consultation to revise it. “They haven’t said they are going to increase it but I can’t imagine they are doing to decrease it,” he said.

Crockford revealed that for Knopfler’s most recent tour in Germany he invoked clause 7G to withdraw from the PRS and collect direct from GEMA (a situation made simple by the fact that Knopfler only plays his own songs and there is no support act). “I collected direct this time,” he said. “I didn’t use GEMA. I took my artist out and we collected direct. We got it on the night and we got it all.”

Maria Forte (Maria Forte Music Services) explained how complex it can be for acts of a certain size, saying she was brought in by Iron Maiden’s management as they felt they weren’t getting what they should. They knew what they were paying out on their settlements but they were sure they were not getting enough money back but were not sure why or where. In order to make sense of it all, she got access to their accounts and she logged six years (covering three tours) of accounts (by tour, territory, show, setlist and writer). She then logged that all through the PRS statements that came in. “I discovered that there had been discounts that had been applied but that hadn’t come through. I could see there were big variances with certain territories.”

She added, “There were big territorial variances. We found there were discounts that were applied but not at the settlement point. We also found the box office amounts were under-declared and that would naturally reduce the percentage.”

This was all done so the band could get things in order ahead of their current tour this year. “There were some territories that had never paid through,” she said, naming Costa Rica as one in particular. “The money has never left the country for the last two tours. I can’t tell the band where not to play. ‘Don’t play Costa Rica!’

From a rights perspective, it's very complicated. It's done my head in and I've been doing this for 36 years."

Webster ended by saying this was now a huge issue for the live industry and, because people are pushing to clear it up, progress is finally being made.

"This is going to run and run but we are moving in the right direction," he said. "Everyone -managers, agents - is learning what is possible and where we are all going with this. I'd like to see us end up with a simpler system and a much more transparent system. Because of what has happened over the past three or four years, people are beginning to shine a light on this area and it will end up in everyone's better interest."

Guest speakers:

Anthony Addis, Brontone Ltd (UK)

Paul Crockford, Paul Crockford Management (UK)

Maria Forte, Maria Forte Music Services Ltd (UK)

Martin Vierrath, GEMA (DE)

John Sweeney, SESAC (US)

<http://28.ilmc.com/report/meetings>