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Chapter 11 Notes

Record Producer responsibilities:

1. Maximizing the creative process. The producer is responsible for the finished product.
2. Administration – This means scheduling, studios, musicians, and finance.

Production Coordinator – This person takes care of administration for a producer.

Snuff Garrett became first record producer in the 1950's. Snuff asked for 1 point or cent per record from artists he produced.

All-in royalty includes the artist and producer points.

Royalties are a share of profits earned by an artist, producer or writer from records sold.

Producer's royalties tend to be more favorable than artists royalties.

Record-One royalties - This means that after recouping the producer's advance, a producer is paid royalties on all records sold. Record-One royalties allow the producer to earn royalties without having to recoup recording costs. This is a big advantage over an artist's contract.

Differences in Producer Contracts and Status

A Superstar Producer is paid for all records sold without recoupment of anything except their advances. These kinds of producer deals are strictly for heavyweight producers such as Quincy Jones, David Foster, Phil Ramone, etc.

Hot Producers earn a royalty that is retroactive to record one (includes all records sold) only after recoupment of the recording cost at the combined royalty rate of the artist and producer. This means that: a. before recoupment, the producer gets no royalties; b. Once the recording costs are recouped, the producer gets paid royalties from record one retroactively; c. The recording costs are recouped at the all-in royalty rate. That means that if the artist gets a 50c royalty and the producer gets a 10c royalty, the producer will recoup costs based on a 60c royalty. This is a faster way to recoup than at the artist or net rate.

Most Producers are paid retroactively to record one after recoupment of recording costs at the net rate. The net rate is also known as the artist rate.

In all cases, if the artist sells records, the producer makes money. In all cases, once the money is recouped, the producer earns the same amount of money. The difference between the deals is the speed at which the producer earns royalties.

Producer rates on home video are generally half of their applicable rate.

Advances for producers:

1. New producers earn from \$0 to between \$2,500 and \$3,500 per track/master
2. Midlevel producers earn from between \$3,500 to \$5,000 per track/master.
3. Superstar producers earn from between \$10,000 to \$15,000 per track/master.

There exist producers who are considered as important or more important than the artist himself or herself. These producers can earn as much as \$75,000 to \$150,000 per track and even more. These artists are often given a fund. The fund is a large amount of cash used by the producer to record the tracks. Since most heavy and even mid-line producers own their own studios and can keep recording costs relatively low, they end up pocketing most of the cash.

Either an artist or a record company usually hires a record producer. It is best for an individual (artist) to make the record company hire the producer because record companies have large pockets.

Due to the nature of producer and artist contracts, it is possible for a producer to be owed royalties before the artist. In such a case, it is best for both the producer and artist that the record company hires the producer. Simply stated, the record company is much more likely to have the funds to pay the producer.

Since producer's royalties are a recording expense, the record company will recoup money in the traditional way and also by:

1. Holding back part of this album's budget.
2. Holding your mechanical royalties.
3. Holding money from your next album budget.

Chapter 12 Notes

When making a demo deal, the company paying for the demo attaches the following strings:

1. The company requires a certain number of days (30 to 60) to decide if they are interested in signing you.
2. The company has the right of first refusal.

LENGTH OF TIME:

Calendar days are all days of the week including weekends and holidays.

Workdays are Monday through Friday with the exception of holidays.

Be careful about this language because there is a large discrepancy in actual time between these two types of dates.

The company fronting the money for the demo is guaranteed both exclusivity for a designated period of time and the right of first refusal. First refusal means that the company paying for the demo may let you entertain bids from competitors but maintains the right to match the highest offer.

Often, the demo deal spells out the terms for a "real" record contract from that said company stemming from your demo. In other words, they will pay for a demo but once you accept it, the artist will be offered a recording deal written completely in the company's favor. As they say, beggars can't be choosy.

Cost reimbursement of a demo deal

The costs incurred by the record company in the recording of your demo are either passed on to you as advances against royalties or passed on to the highest competitive bidding record company who in turn passes them onto you as advances against royalties. Nothing is free.

Exclusivity – When you sign with a record company, your recordings become their exclusive property. In most cases, you will feel as if your entire being is their property.

Re-recording restrictions – Most record contracts require that the artist does not re-record a song for a certain period of time after the expiration of the contract.

Motion Picture and Television Soundtracks

Some record companies will simply not allow you to record on a soundtrack and that's all there is to it.

If you have clout, you may be able to record on a soundtrack given the following conditions:

1. You can't perform more than two selections on the soundtrack album.
2. You can't do more than one soundtrack per year.
3. You must not be late with delivery of your required recording.
4. All royalties and advances must be paid to your record company. The record company will use this money to pay off your advances and will also take their share off the top.
5. Your company must receive a special credit. "Appears courtesy of..."
6. You must try to get the right to use the recording on one of your records and maybe a greatest hit record. BASICALLY, your company wants a free license and probably deserves it.

One of the problems with recording on a soundtrack without permission is that movies are almost always converted into home video products. Because records are defined as audio or audio visual devices on most record contracts, once the conversion is made to home video, the artist would be in violation of the contract.

Websites and Webcasting are still fairly new issues. These will become more important as broadband technology allowing faster streaming video becomes available and affordable.

Sideman performances:

This clause is very important to instrumentalists and background singers. Be careful about giving away your right to earn a living.

Independent promoter is a person who "works" radio in order for an artist to receive airplay. Normally 50% to 100% is recoupable. Try to limit it to \$50,000 to \$75,000 per album. You can only be charged \$50,000 per single. The company can recoup \$50,000 for the first single, but there is no cap after that.

Merchandising rights:

Record companies are demanding these rights as standard on record contracts. This is due to their losses.

Record companies will have the right to match any offer you receive for merchandising rights.

Do not allow cross-collateralization of merchandising earnings with your record deal. You can usually knock out that clause by asking.

Tour Support

Though now more rare, tour support is promotional money spent and always recoupable from your royalties.

Chapter 13 Notes

Distributors:

1. Wholesale Distribution Entities – They buy from manufacturers and sell to retail stores.
2. One-Stops – These entities buy from major distributors and sell to Mom & Pop stores.
3. Rack Jobbers – Lease floor space in a store and put in racks of records. A store will lease this space because of a rack jobber's expertise.
4. Licensees – They will sign a license agreement with a record company allowing the licensee to manufacture records with other company's titles. These include:
 - a. Foreign distributors
 - b. Record Clubs – Columbia, BMG, etc.
 - c. Television packages such as K-Tel.
5. USNRC – United States Normal Retail Sales
6. The royalty rate for USNRC sales is defined as the *U.S. basic rate*.
7. Canadian royalty rates are 85% of the U.S. rate.
8. Major Markets where American products sell well are known as territories and include: UK (England), Australia, Italy, Japan, Holland, Germany and France. The remaining EEC countries (Western Europe) and Scandinavia can be treated as "majors." The royalty rate for these territories is between 60% and 75% of the U.S. basic rate.
9. R.O.W. = Rest of the World. Rate here is 50% to 60% of the U.S. basic rate.
10. PPD – Published Price to Dealers or Published Dealer Price. BPD – Base Price to Dealers. These are the terms used for wholesale in foreign territories.
11. CD sales make up 85% of the market. The other 15% come from DAT (Digital Audio Tape), MD (Mini Disc), DCC (Digital Compact Cassettes), Audiophile Records and New Technologies.
12. The standard royalty rate for new technologies is 75% to 80% of the analog cassette rate.
13. Uplift – A confusing technique used by record companies that uplifts the wholesale price to 130% of itself. Companies that do not compute free goods into their royalty formulas use the uplift technique. This works out because contracts that do not include free goods pay on 80% to 85% of the royalty rate used to compute contracts including a free goods deduction.