Music & Copyright Newsletter 1 March 2017

Contents

Pay-monthly bundle opportunities for recorded music are expanding

Ovum view

Summary

Offering customers who buy one product a discount on another is a practice the retail sector has engaged in for decades. “Buy one, get one free” and “three for the price of two” are just two retail discounting terms most people are familiar with. Bricks-and-mortar sellers of music and other entertainment products have for a long time happily grouped together hard formats into multimedia bundles in an effort to boost sales, and this practice has been a central feature of most online retail sites. More recently, the rise of the fixed regular fee for access to music has given streaming services and communications providers, both of which charge for their services on a monthly basis, the opportunity to combine their offerings. However, consumers also pay monthly for many other financial necessities and household utilities. Although there might seem to be little connection between the likes of Deezer and Spotify and energy or water suppliers, the willingness of some services and suppliers to experiment suggests that the distribution of recorded music is set to experience another major evolution.

The modern-day music bundle

Partnerships between digital-music services and communications providers are now commonplace, with metrics from the partnerships largely positive. It is a regular feature for most telecoms operators in developed markets to provide access to a music subscription service or wider entertainment bundle alongside or as part of their traditional offerings.

After a few years of experimentation, most telcos, with the odd exception, have realized that they couldn’t make a go of supplying an own-branded music service and have partnered with one of the bigger international streamers. The stickiness of all-you-can-eat music services – the more they are used, the more users become hooked – has made them one of the top choices for telco bundles of all over-the-top (OTT) content services.

A recap on how the music bundle works

Last year Ovum published some research on differences by global region in operator attitudes to bundling. Included in that research was an explanation of how telco/music subscription service bundles work. Before detailing the possibilities beyond these kinds of deals, it is worth a quick recap on how those deals work.

For a telco bundle to work, there needs to be agreement between the operator and participating music subscription service as well as the record companies. The mechanics of the bundle offer are usually worked out between the operator and subscription service, but the record companies’ involvement is key, as they need to agree on any royalty payment discounts. The streaming provider and operator usually have to offer minimum-revenue guarantees to secure record-company discounts. There can also be a demand from record companies for a share of any advance that the operator might have committed to pay to the streaming provider for bundling the music service in question. The bigger the royalty discount, the higher the upfront revenue demands.

Mitigating revenue guarantees

There are several factors that can mitigate the level of revenue guarantees to which bundle partners have to commit, which essentially boil down to two elements: the amount of marketing support the bundle partners (primarily the operator) are prepared to put in to make a success of the bundle; and the market circumstances of the country in which the bundle is being deployed.

Generally speaking, the greater the amount of marketing money and resources the bundle partners are prepared to provide, the greater the chance that the labels will reduce the minimum-revenue guarantees they expect. In some cases, the former can replace the latter.

Wholesale and revenue share

With regards to deals struck between streaming providers and operators, there are essentially two types – wholesale and revenue-share. On top of that, the deals sometimes include minimum-revenue guarantees and/or advances paid by the operator to the streaming provider.

Wholesale deals are struck in the case of hard bundles, where a music service is incorporated free into a telecoms tariff, with no clearly attributable revenue to it. The streaming provider charges a wholesale music-subscription price to the operator for every bundle sold. However, the level of discount offered by the wholesale price has to be approved by the record companies and is largely tied to any royalty concessions the labels are able to make.

Revenue-share deals are struck in the case of soft bundles or stand-alone bolt-ons, where the music service is included in a tariff or offered as an extra, either at a discount or full price, normally following a free introductory period.

Going beyond the already established

Telcos and music streaming services are an ideal match for bundle deals. Recorded music is increasingly becoming a digital access product rather that something a consumer buys to own. Moreover, the only way of gaining access is through a fixed or mobile internet connection. The mobile element is particularly important, given that so much music is consumed away from the home. Equally, mobile operators have made subscribing to a music streaming service a simple process. The kind of bundle varies: Some include the music service with a mobile subscription tier at no extra cost for a fixed period, and others offer a simple promotion whereby the operator pushes a particular service. In most cases, the cost of the music service is added to the monthly mobile bill, so a user has one invoice for everything rather than a series of separate charges.

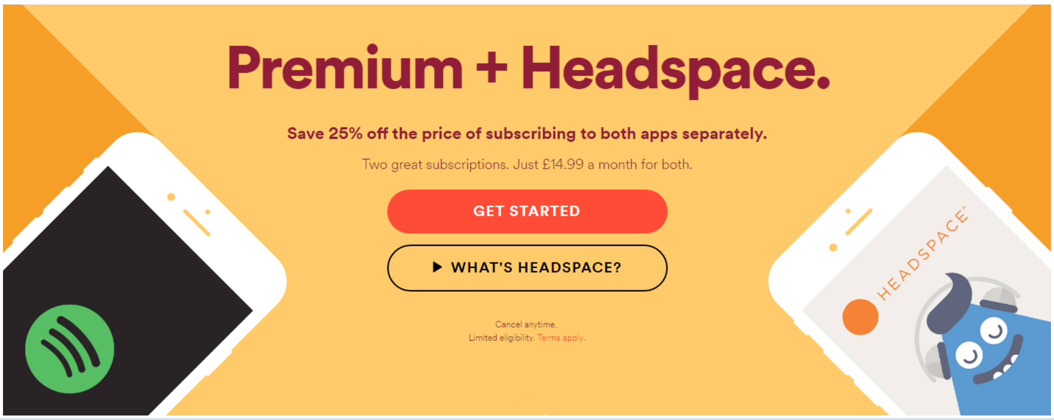
The more unusual music bundles

Making music available with a non-music product is nothing new. Prince, who sadly died last year and whose music has just been added to music subscription services after years of abstention while he was alive, famously gave away his album *Planet Earth* in the UK in July 2007 as a free cover-mounted CD with newspaper *The Mail on Sunday*. Few financial details of the deal were released, nor was the precise motivation behind the bundle. But despite criticism from UK music retailers, Prince went on to sell out 21 shows at London's O2 Arena six weeks later.

The advent of digital music distribution almost 20 years ago ushered in new opportunities to bundle recorded music with all manner of products. For example, prior to the rollout of Apple's iTunes store in the UK in June 2004, Mycokemusic from Coca-Cola was briefly the country's download leader. The soft-drink brand had used the site in part to sell music but also to push the Coca-Cola name. The plan was for consumers to either buy downloads directly from the store or gain credits through Coke promotions and then exchange the credits for downloads. Although the store was initially successful, competition from iTunes and a wealth of unlicensed sites and services saw Mycokemusic closed just two years after it was launched.

Fast-forward to today, and there are numerous examples of non-music services rolling out a music subscription offer in an effort to boost sales. In November, Spotify partnered with “mindfulness app” Headspace to offer a joint subscription to both services in Sweden, Norway, Denmark, and Finland priced at SEK/NOK/DKK149 ($16.69/21.27/17.82) and €14.99 ($15.91) a month, respectively. The joint subscription is now available in the Netherlands for €14.99 and in the UK for £14.99 ($18.60) (see Figure 1). Also, in February *The New York Times* introduced a service offer whereby new digital subscribers who sign up for a one-year All Access subscription receive unlimited access to Spotify Premium. According to the paper, the offer requires a one-year commitment and is available for a limited time to US residents who are not current subscribers to *The New York Times* or Spotify Premium. The subscription costs $5 per week.

Figure 1: Spotify and Headspace UK joint subscription promotion



Source: Headspace

Recorded music evolving into a utility

One of perhaps the most obvious, if largely untested, partnership possibilities between a music subscription service and a non-music paid-for monthly product is with household utilities. For anyone with a history of involvement in the evolution of recorded-music distribution technology, the mention of the word “music” in the same sentence as “utility” will immediately bring to mind comments by the late David Bowie in a June 2002 interview published in *The New York Times*. Commenting on the likely future of recorded-music distribution, Bowie said: “The absolute transformation of everything that we ever thought about music will take place within 10 years, and nothing is going to be able to stop it… Music itself is going to become like running water or electricity.”

Subscription services and utilities need to come together

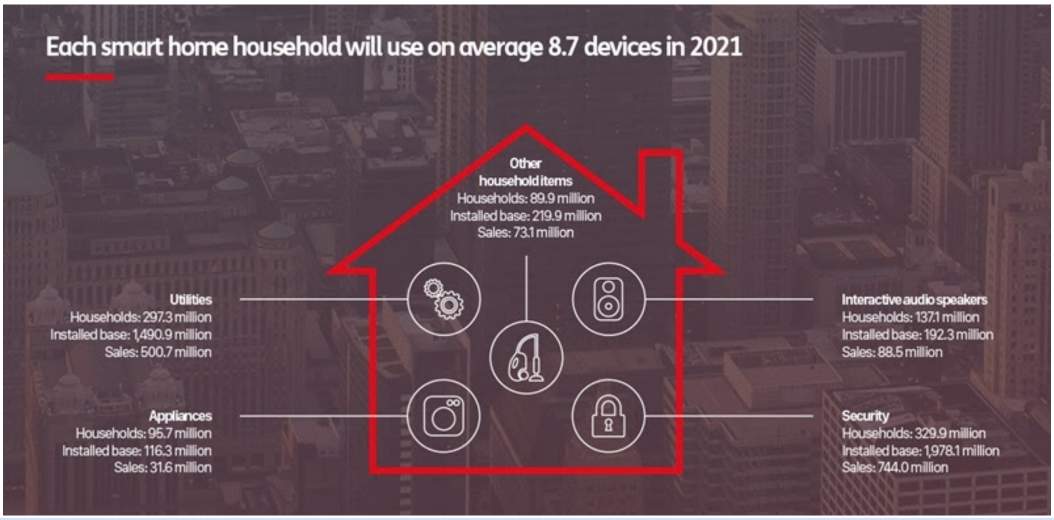
At the time Bowie made his comments, subscriptions to home entertainment products were largely confined to pay-TV services. Moreover, none of the current crop of music subscription services was in business and so the idea of accessing music was just that, an idea. Some in the recorded-music sector took a while to warm to the change in terminology brought on by digital distribution, particularly the labeling of music tracks as “files,” and so the concept of recorded-music becoming a “utility” probably didn’t go down too well. However, given that the supply of music to households is far more aligned with many of the features of the more traditional household utilities, the term can be considered much more favorably.

It almost seems amiss that music subscription services are not already partnering with gas or electricity suppliers. These utilities have an established gateway into the home and a billing arrangement, and so joining up with one of the many suppliers seems like a logical step. Moreover, despite their obvious differences, music subscription services and energy companies could easily become complementary, with music increasing the quality and personal nature of energy supply, and utility companies providing a way for a music service to gain access to every household.

Utility companies making the most of new technology

It is worth noting that utility companies are already starting to get to grips with different technologies to make the user experience easier for their customers, and this sector is set to experience growth over the next five years or so. In January, Ovum published a series of smart-home device forecasts which estimated that device sales will rise, to more than 1.4 billion units by 2021, from 224 million in 2016. Sales of security devices such as cameras, door locks, and sensors will be the main drivers of growth, but greater consumer interest in utilities devices, such as connected light bulbs and smart thermostats, will also boost overall sales. Ovum has estimated that each smart-home household will use on average 8.7 devices in 2021 (see Figure 2), taking the total smart-home active installed base to 4 billion devices.

Figure 2: Global smart-home device and installed base details, 2021



Source: Ovum

Examples of energy companies adding music to their service provision are in short supply. However, Polish pay TV operator Cyfrowy Polsat (CP) and cable service Multimedia Polska (MP) are providing some insights into the benefits of combined service offerings.

Cyfrowy Polsat and SmartDOM

At the beginning of 2014, CP and local mobile company Plus introduced the SmartDOM joint offer, allowing customers to combine TV, internet, and telephony subscriptions. SmartDOM now includes a variety of services. In February, CP announced that it was extending its SmartDOM offering to include gas supply, adding to previous service additions including electricity, home security, and banking. Customers are able to subscribe to domestic gas supply at a guaranteed fixed price for the length of their contract, with invoices based on meter readings only.

In November 2016, CP said the SmartDOM program was popular among its customers and was having a positive effect on the level of revenue-generating-unit (RGU) saturation per customer, ARPU per contract customer, and churn. At end-September 2016, 1,233,768 customers were part of the program, with 334,200 customer additions over the previous 12 months. CP said this group of customers had a total of 3,645,993 RGUs.

Multimedia Polska top line boosted by utilities

In January, MP posted revenue of PLN550m ($135m) for the first nine months of 2016, up 4.4% year-on-year. The number of services provided by the operator in the form of RGUs increased 5.2% year-on-year, to 1.74 million, while the number of services per customer grew, to 2.08, from 2.06 at end-June. ARPU for the third quarter increased, to PLN70, up from PLN67.1 in the prior-year quarter. MP commented that overall sales were boosted by noncore products. Revenue growth from "other" services (electricity, gas, monitoring services, and insurance) was up 84% year-on-year in the first nine months of 2016, to PLN38.9m, and accounted for 7.1% of total earnings.

Accelerating subscriber uptake

It seems only a matter of time before the likes of Deezer and Spotify become part of a Polish pay-TV style bundle. Given that utility companies are already using technology to improve their service offering and, in some cases, are forging closer ties with entertainment services, music must be somewhere close to the top of the likely partnership list. The benefits for both sides are fairly clear. But for music services particularly, consumer interest in switching from ownership to access has never been so strong, and if services can partner with utilities that have an already established gateway to the home, there is a real possibility of accelerating subscriber uptake and boosting service use far beyond current levels.

French recorded-music sales have an encouraging year, but medium-term concerns remain

Ovum view

Summary

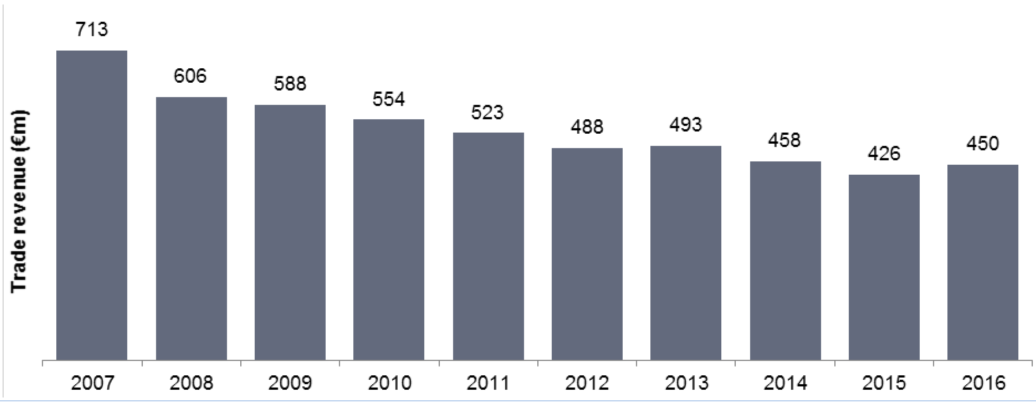
French music trade association SNEP has reported a rise in trade earnings from recorded-music sales. Total trade income increased year-on-year, marking only the second time in the last 10 years that sales registered an uptick. Subscriptions and ad-supported streaming were the two growth sectors, with sales of single track and album downloads down sharply. The overall performance was buoyed by a modest dip in trade earnings from physical format sales, with digital more than offsetting the physical losses. However, physical formats still accounted for the majority of trade revenue, and there remains concerns over the medium-term prospects for the French recorded-music sector should the rate of decline in CD album sales begin to accelerate.

Return to growth for the French recorded-music sector

While France has not been the worst-performing of the world's top recorded-music markets, the country has experienced a sizable contraction in trade earnings this century. From a rising billion-euro business 16 years ago, record-company income has suffered from online piracy and competition from other entertainment services. The latest results published by trade association SNEP show earnings are around one-third what they used to be in the early 2000s. However, the difference now from 12 months ago is that income figures are positive, with sales benefiting from the rise in the popularity of access services.

According to SNEP, total revenue from the sales of physical and digital formats and music access services increased 5.4% last year, to €449.6m ($497.6m), from €426.5m in 2015 (see Figure 1). Trade income from sales of physical formats in the year edged down just 2.5%, to €267m, from €273.7m, while digital income was up 19.5%, to €182.6m, from €152.8m.

Figure 1: France, recorded-music trade revenue by source, 2007–16



Source: SNEP

As is now customary, SNEP did not break out earnings from physical music formats, despite still generating the majority of French record companies' income. The trade body did comment that vinyl sales were up 72% in volume last year, to 1.7 million units. Performance-rights earnings grew 2.6%, to

€120m, from €117m, taking the total recorded-music revenue for last year to €569.6m, from €543.5m in 2015.

Audio subscriptions and streaming the big positives

Apart from increased sales of mobile single tracks, video downloads, and other minor mobile formats, all the revenue growth last year came from subscriptions and advertising-supported streaming. According to SNEP, income from audio subscription services jumped 42.3%, to €116.6m, from €82m in 2015 (see Figure 2). Audio streaming revenue was up 25.9%, to €14.5m, from €11.5m. Video subscription and streaming earnings registered more modest growth.

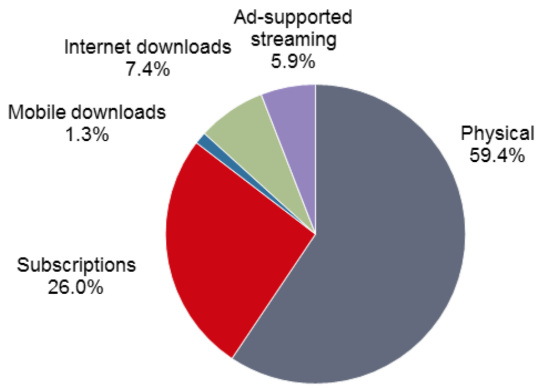
Figure 2: France, recorded-music trade revenue by format, 2015 and 2016

	2015	2016		Change
	(€m)	(€m)	($m)	(%)
Physical	273.7	267.0	295.5	-2.5
Digital				
Internet downloads				
Singles	17.8	14.4	16.0	-18.8
Albums	23.5	17.7	19.6	-24.7
Music video	0.21	0.18	0.20	-16.0
Other	1.2	0.9	1.0	-28.2
Total Internet downloads	**42.7**	**33.2**	**36.7**	**-22.3**
Mobile downloads				
Ring tones	1.4	0.9	1.0	-34.7
Singles	0.3	0.3	0.4	3.2
Music video	0.03	0.03	0.04	13.8
Other	3.6	4.6	5.1	28.6
Total mobile downloads	**5.3**	**5.8**	**6.5**	**10.3**
Total downloads	**48.0**	**39.0**	**43.2**	**-18.7**
Subscriptions				
Audio	82.0	116.6	129.1	42.3
Video	0.41	0.44	0.49	7.1
Total subscriptions	**82.4**	**117.1**	**129.6**	**42.1**
Ad-supported streaming				
Audio	11.5	14.5	16.1	25.9
Video	10.9	11.9	13.2	9.6
Total ad-supported streaming	**22.4**	**26.5**	**29.3**	**18.0**
Total subscriptions and streaming	**104.8**	**143.6**	**158.9**	**37.0**
Total digital	**152.8**	**182.6**	**202.1**	**19.5**
Total recorded-music sales	**426.5**	**449.6**	**497.6**	**5.4**
Performance rights	117.0	120.0	132.8	2.6
Grand total	**543.5**	**569.6**	**630.5**	**4.8**

Source: SNEP

Audio subscriptions accounted for 25.9% of last year's total trade revenue from the sale of physical and digital recorded music, compared with 19.2% in 2015. Including video subscription income, the overall subscription share of trade earnings was marginally higher, at 26% (see Figure 3). Physical formats still accounted for the biggest share of trade earnings. According to SNEP, the physical share last year stood at 59.4%, down from 64.2%. The slump in download sales in France meant combined sales of single tracks, digital albums, and all other minor download formats accounted for just 8.7% of total trade income, compared with 11.2% in 2015.

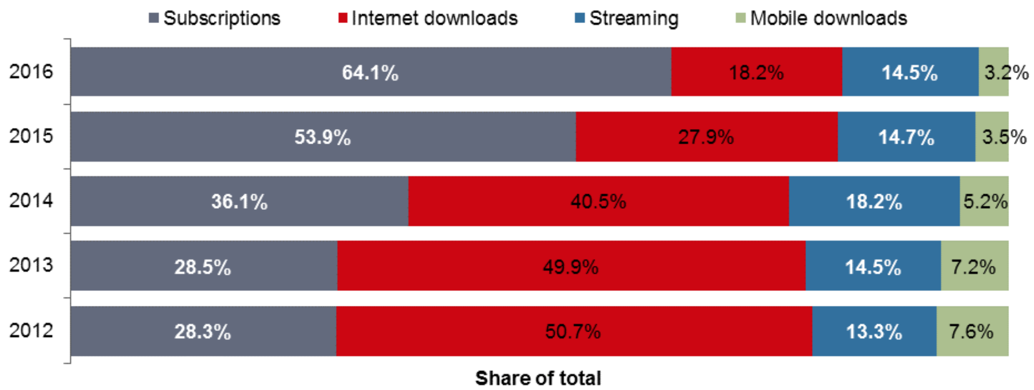
Figure 3: France, share of recorded music trade revenue by source, 2016



Source: SNEP

Setting aside physical formats, the speed of change in consumer uptake of access services is evident when assessing digital trade revenue over the last five years. Such has been the rise in paid subscriptions, combined audio and video subscription revenue accounted for 64.1% of the digital trade earnings total in 2016, compared with 53.9% in 2015 and just 28.3% in 2012 (see Figure 4). Interestingly, with the exception of 2014, the share for adverting income has been fairly constant, at around 14%. Internet downloads accounted for just over half the digital total in 2012. However, the share for single tracks and albums slipped, to just 18.2% in 2016.

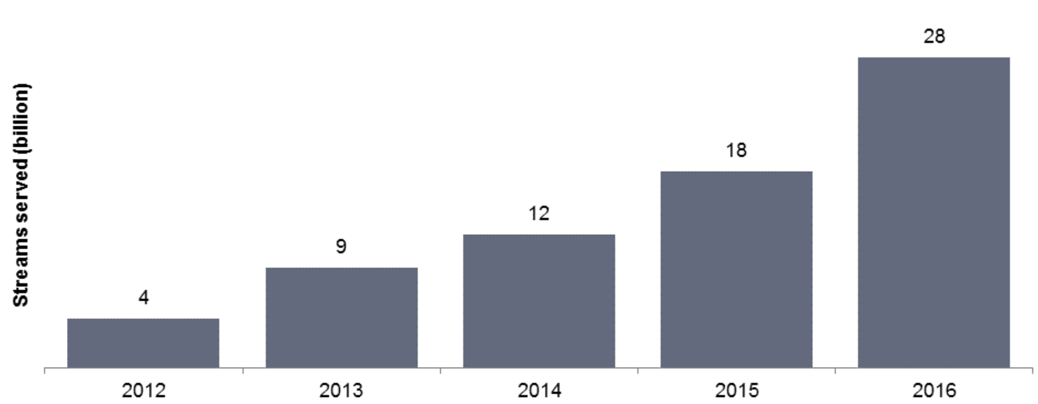
Figure 4: France, share of digital music sales by source, 2012–16



Source: SNEP

SNEP noted that the number of paying users to subscription services now stands at 3.9 million. This time last year, the trade body said the subscriber total stood at 3 million, up from 2 million at end-2014 and 1.4 million at end-2013. The number of audio streams served grew 55% year-on-year, to 28 billion, from 18 billion (see Figure 5).

Figure 5: France, total audio streams served, 2012–16



Source: SNEP

Short-term optimism, medium-term concerns

The full-year trade figures from SNEP echo the performance in the first nine months of last year, in that the pattern of digital transition in France closely resembles most other developed markets. Rising revenue from subscriptions and advertising-supported services is more than offsetting losses from downloads and lower sales of physical formats. It is, however, worth repeating that the overall positive performance last year was exaggerated by a 10.1% rise in earnings from physical formats in the third quarter. In the crucial final three months of the year, trade earnings from physical formats were down 4.6%, almost double the overall annual rate.

Tempered celebrations

The French recorded-music sector has suffered an almost unbroken procession of annual contractions this century, so growth should be a cause for celebration. Moreover, even if sales of physical formats had not increased in the third quarter, the rise in subscription sales and advertising income would still have fully offset the decline. The number of subscribers to the likes of Apple Music, Deezer, and Spotify is continuing to rise, and as subscriptions account for a greater share of overall trade earnings, the prospects for longer-term growth become less about the fate of the CD album and more about maintaining the momentum of subscription services.

That said, there could well be a period of two or three years when sales of physical formats will fall away at higher rates than experienced in 2016. Despite the headlines surrounding access services, combined sales of CDs, vinyl, and music videos still made up more than half the trade revenue total. Until roles are reversed and subscriptions and streaming account for the majority share, French record companies would be wise to consider the market on the mend, but keep the champagne reserved for a full recovery on ice for a little longer.

Annual streaming earnings top physical for the first time for UMG

Ovum view

Summary

French media company Vivendi has reported positive full-year results for UMG. In a couple of firsts, annual earnings from music subscriptions and streaming overtook income from the sale of physical formats, and digital accounted for just over half of the recorded-music total. Vivendi noted that music publishing income also benefited from the rise in subscriptions and streaming as well as synchronization and performance revenue. Merchandizing income was also up year-on-year, largely because of stronger touring activity. UMG's higher income from operations was down to revenue growth and overhead cost savings, as well as a timing-related decline in expenses.

Across-the-board growth for UMG

Vivendi, the parent company of the world's biggest music company, UMG, has published financial details for its 2016 financial year. Revenue at current exchange rates increased 3.1%, to €5.267bn ($5.830bn), from €5.108bn in 2015 (see Figure 1). At both constant-currency rates and constant rates/perimeter (constant rates), revenue was up 4.4%.

Figure 1: UMG, financial details, 2015 and 2016

	2015	2016		Change (%)	
	(€m)	(€m)	($m)	Current rates	Constant rates and comparable basis
Revenue					
Physical	1,410	1,225	1,356	-13.1	-14.9
Digital	1,975	2,238	2,477	13.3	14.7
of which streaming and subscriptions	954	1,483	1,642	55.5	57.9
License and other	728	725	803	-0.4	6.0
Total recorded music	**4,113**	**4,188**	**4,636**	**1.8**	**2.9**
Music publishing	756	792	877	4.7	6.7
Merchandising and other	276	313	346	13.4	16.1
Intercompany elimination	-37	-26	-29	–	–
Total revenue	**5,108**	**5,267**	**5,830**	**3.1**	**4.4**
EBITA	593	644	713	8.4	9.1
EBITA margin (%)	11.6	12.2	12.2	–	–
Operating income	626	687	760	9.8	10.7
Operating income margin (%)	12.3	13.0	13.0	–	–
Cash flow from operations	567	663	734	16.9	–
Assets	9,242	9,310	10,305	0.7	–
Liabilities	3,552	3,701	4,097	4.2	–

Source: Vivendi

UMG's operating income grew 9.8% at current rates last year, to €687m, from €626m, and 10.7% at constant rates. Vivendi said the favorable income performance was the result of revenue growth and overhead cost savings. Overall operating income also benefited from the settlement of litigations accounted for in the third quarter as well as a one-time catchup in accounting for certain streaming revenue in the quarter.

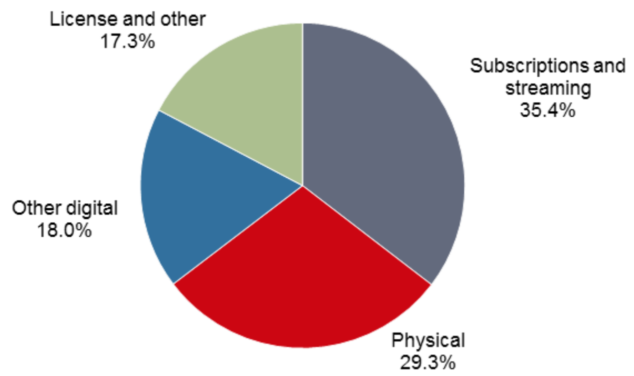
EBITA was also up in 2016, rising 8.4% at current rates, to €644m, from €593m in 2015. At constant rates EBITA grew 9.1%. Vivendi noted that EBITA included legal settlement income and restructuring charges in 2016 and 2015. A bigger rise in UMG's liabilities than its assets meant the company's assets-to-liabilities ratio edged up, to 39.8% at end-December, from 38.4% at end-June.

Subscriptions and streaming takes the recorded-music lead

Recorded-music sales for UMG were up 1.8% (2.9% at constant rates) last year, to €4.188bn, from €4.113bn in 2015. Digital revenue increased 13.3% (14.7%), to €2.238bn, from €1.975bn, while income from the sale of physical formats fell 13.1% (-14.9%), to €1.225bn, from €1.410bn. For the first time on an annual basis, earnings from digital accounted for more than half the total recorded-music income.

Vivendi is now posting regular earnings details for subscriptions and streaming. According to the company, income from access services was up 55.7% in 2016 (57.9%), to €1.483bn, from €954m. Subscriptions and streaming accounted for 66.3% of digital sales last year, compared with 48.3% in 2015. For total recorded-music revenue, the streaming and subscription share increased, to 35.6% (see Figure 2), from 23.2%.

Figure 2: UMG, share of recorded-music trade revenue by source, 2016



Source: Vivendi

In its results statement, Vivendi noted that UMG has entered into several agreements with the estate of late artist Prince and NPG Records, becoming the "home for Prince's music publishing, merchandise and much of his recorded music." UMG is now the exclusive worldwide publishing administrator for all of the artist's released and unreleased songs and the exclusive worldwide branding and licensing partner. It also holds the exclusive licensing rights to certain of his NPG recordings as well as the right to compile and release albums from his unreleased recordings. In the previous financial release, covering the first nine months of 2016, Vivendi said UMG had signed licensing agreements with Pandora, iHeartMedia, and Amazon for the launch of their new on-demand music subscription services. The deals meant UMG has now licensed more than 400 digital services around the world.

Differing regional results

North America is UMG's biggest recorded-music region. The company registered a 4% (3.7%) rise in revenue last year, to €1.806bn, from €1.736bn in 2015 (see Figure 3). The region accounted for 43%

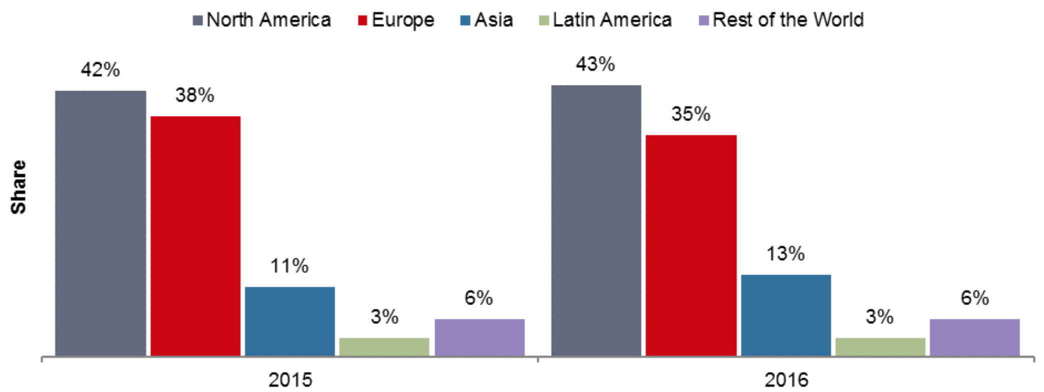
of total recorded-music revenue, up from 42% in 2015 (see Figure 4). European revenue was down, to €1.481bn, from €1.538bn, with the region's share falling to 35%, from 38%.

Figure 3: UMG, recorded-music revenue by region, 2015 and 2016

	2015	2016		Change (%)	
	(€m)	(€m)	($m)	Current rates	Constant rates
North America	1,736	1,806	1,999	4.0	3.7
Europe	1,538	1,481	1,639	-3.7	–
Asia	468	542	600	15.7	7.2
Latin America	129	135	149	4.3	23.1
Rest of the world	242	224	248	-7.2	-4.4
Total	**4,113**	**4,188**	**4,636**	**1.8**	**2.9**

Source: Vivendi

Figure 4: UMG, recorded-music revenue shares by region, Jan–Sep



Source: Vivendi

Bestsellers for UMG last year included new releases from Drake, Rihanna, Ariana Grande, and The Rolling Stones, as well as carryover sales from Justin Bieber. Notable releases already out or expected in 2017 include the *La La Land*, *50 Shades Darker,* and *Beauty and The Beast* soundtracks; the 50th anniversary of The Beatles album *Sgt. Pepper's Lonely Hearts Club Band;* and artist titles from Lana Del Rey, Drake, and Maroon 5.

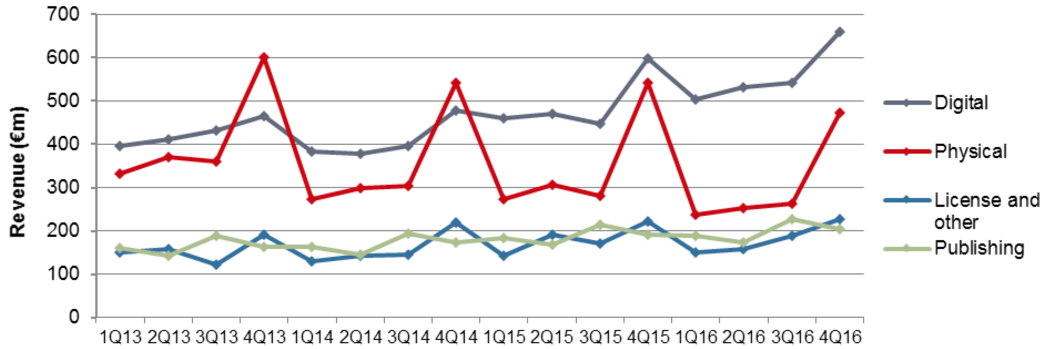
As well as providing a boost to recorded-music earnings, subscription and streaming gains were behind an improved year for UMPG, UMG's music publishing division. Publishing revenue was up 4.7% at current exchange rates (6.7%), to €792m, from €756m in 2015. Vivendi said publishing earnings benefited from increased subscription and streaming revenue, as well as growth in synchronization and performance income. Income for Bravado, UMG's merchandise company, grew 13.4% (16.1%), to €313m, from €276m. Vivendi commented that the rise was the result of stronger touring activity.

Quarterly comparisons

For UMG's nine-month financials, Ovum noted some interesting differences in the performance of the different revenue streams in each of the three quarters. The publication of the year's final quarter has also produced disparate results.

All three recorded-music streams registered quarterly growth in the final three quarters of the year and a decline in the first. In contrast, publishing only showed a quarterly rise in the year's third quarter. In a year-on-year comparison, digital and publishing were the only sectors to see increased revenue across all four quarters. The growth rate for each quarter for publishing edged up through the year, while for digital, the third quarter was the biggest gainer.

Figure 5: UMG, quarterly recorded music and publishing revenue, 1Q13–2Q16

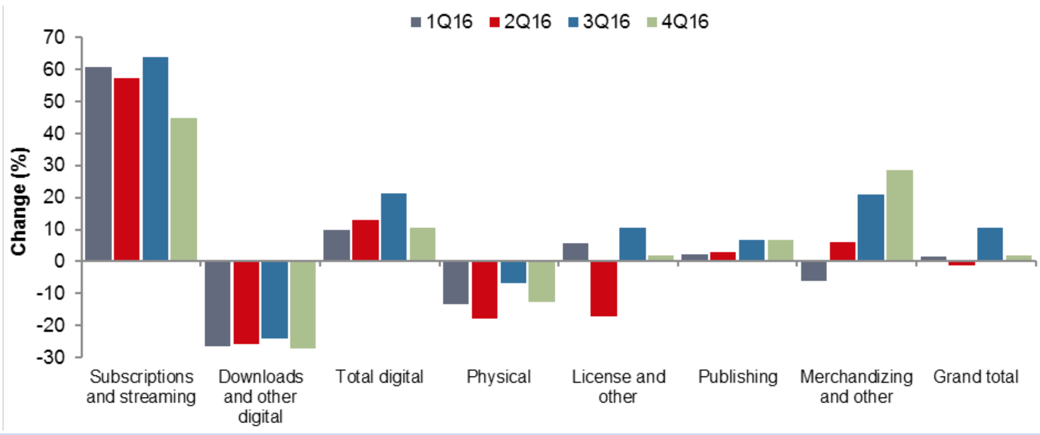


Note: Physical, digital, license and other are classified as recorded music.

Source: Vivendi

Digging into the quarters a little deeper shows that the third quarter was significantly better for UMG than the other three. Income from subscription and streaming in the first three quarters grew at roughly the same rate year-on-year but was notably lower in the final three months (see Figure 6). Given that the decline in earnings from downloads and other digital sources fell at about the same rate across each quarter, the overall growth rate in digital revenue in the final quarter was less than half the rate in the third quarter.

Figure 6: UMG, year-on-year change in revenue by source, 1Q16, 2Q16, 3Q16, and 4Q16



Source: Vivendi

There was little surprise that earnings from physical formats fell in all four quarters. License/other registered the most erratic year, while merchandizing/other saw the growth rate accelerate from the second quarter onwards after a dip in the first three months.

Graduated response and litigation not enough in the ongoing battle against music piracy

Ovum view

Summary

Graduated-response mechanisms appeared to have had their day, as evidenced by the recent closure of a number of programs, most notably in the US. However, content owners and ISPs have now joined forces to roll out a warning-notice project in the UK, with a view to steering primarily young demographics away from illegal file-sharing websites and toward legitimate sources. The efficacy of graduated response in deterring music piracy – as well as in promoting the use of rights-protected content – has always been contested. As pirates turn to innovative ways of illicitly disseminating music, the industry needs to come up with new responses to the threat.

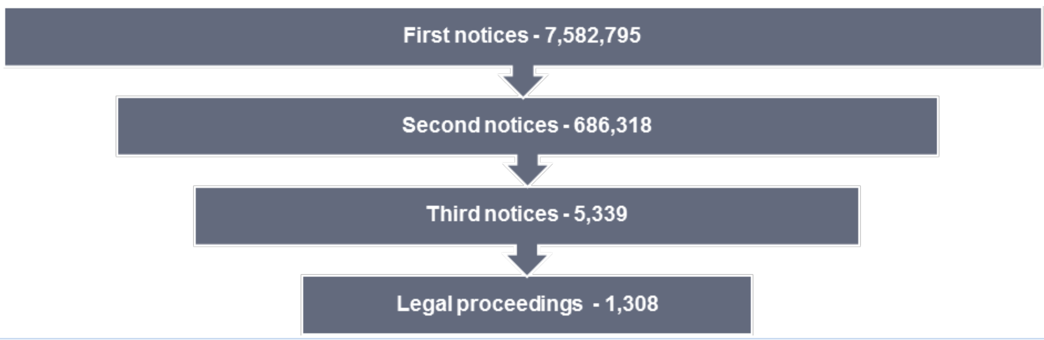
The French graduated-response experience

France became one of the first countries to institute a graduated-response program to combat copyright-infringing behavior, with legislation enacted in 2009. The HADOPI regime has a checkered history, and initially had at its heart a tough three-strikes mechanism with a warnings process that culminated in the loss of internet connection for persistent offenders. However, strong opposition to that final measure meant that only one French subscriber was ever disconnected by an ISP, and the three-strikes system was eventually replaced by a softer warnings-plus-fines practice. That put the HADOPI initiative under fire for being largely ineffective in deterring rights infringement, with some lawmakers looking to shut down the initiative altogether to save around €9m ($9.5m) a year in operating costs.

HADOPI performance metrics

Ever on the defensive, the authority responsible for running the program published a report in January that was heavy on metrics, pointing out that the agency had handled more than 120 million infringement referrals since its launch and sent out a total of 7.5 million first-warning notices (see Figure 1). That was the bureaucratic defense, and the body did boost its numbers game last year, sharply increasing the number of warning notices it issued.

Figure 1: HADOPI graduated-response notices issued, Oct-10 to Oct-16



Source: HADOPI

While it is unable to point to the effectiveness of its initiatives in curbing rights-infringing activities, HADOPI argues that its actions have served to educate the public on copyright abuse. However, critics such as French industry-backed antipiracy organization Alpa argue that the graduated-response program has actually done little to alter behavior. It says many young consumers remain unaware of the fact that they are even breaking the law when engaging with pirated content.

Changing attitudes

HADOPI might not be able to survive for too much longer, if the experiences of other markets are anything to go by. Last year, plans to launch a graduated-response program in Australia were left to wither on the vine. As in France, ISPs were left to send notices to subscribers on behalf of rights holders if their accounts were identified as engaging in the illegal downloading or sharing of files. The Copyright Notice Scheme Code was originally scheduled for rollout in September 2015 but was delayed after ISPs and content owners failed to agree on who should bear the cost of the program. In February 2016, negotiations between the parties ended, with both sides agreeing that the cost of the initiative was too high to bear. Neighboring New Zealand introduced its own graduated-response scheme in 2011, though music companies eventually balked at the cost of sending out warning letters. The issuance of infringement notices has become a rarity in that market.

Different approaches in the US and UK

Significantly, in early 2017, the US also bailed out of its graduated-response program, which was run by the Center for Copyright Information (CCI), an alliance of copyright holder organizations. Five of the market’s leading ISPs (AT&T, Cablevision, Comcast, Time Warner Cable, and Verizon) had been participating in the Copyright Alert System (CAS), sending subscribers copyright alert notices on behalf of rights holders. Infringing customers were subject to measures ranging from the review of educational materials to – and this is rare for such schemes – temporary slowdowns of online access speeds. However, there was no provision in the CAS program for the full suspension of a subscriber’s internet service.

The CCI announced abruptly in January that it was “concluding its work” and closing down the CAS. As with HADOPI in France, the CCI claimed the initiative had succeeded in educating the public on the availability of legal content, as well as about issues relating to online infringement. The CCI added that all parties remained committed to voluntary and cooperative efforts to address piracy, though it gave no indication as to what those efforts might be.

Educating internet users

Surprisingly, perhaps, these experiences did not deter the UK from its recent launch of a piracy alert campaign comprising a similar notification program. The project, which is concentrating on file-sharing activities, is part of the Creative Content UK (CCUK) initiative, with leading ISPs BT, Sky, TalkTalk, and Virgin Media already on board and with other providers set to follow. Copyright holders and ISPs are capping the volume of warnings at 2.5 million over a three-year period, most likely for cost reasons. The notices are designed solely to educate users on piracy, and there is no mechanism for disconnecting accounts or slowing down access speeds. The CCUK program will concentrate its “Get it right from a genuine site” messaging on the classroom, and its emails attempt to explain the nature of unlawful filesharing, offer advice on securing a Wi-Fi network, and provide links to legal sources of entertainment content. Rights holders and ISPs say the tone of the emails will escalate if multiple alerts are sent to the same subscriber.

The failings of the carrot-and-stick approach

The Achilles heel of the graduated-response program has always been its lack of an ultimate sanction in the form of broadband disconnections. While content owners have long backed such a penalty, there has naturally been resistance from ISPs, unenthusiastic both about playing the enforcer role and about cutting off their own paying customers. They have generally been brought into the game through legislation that has sought to place some degree of responsibility on their shoulders. There has also been mixed messaging when it comes to defining the intentions of graduated-response initiatives, which have over time have shifted in bias from primarily aiming to reduce actual copyright infringement toward an objective of increasing legitimate consumption. That clearly is the aim of the industry's newest program launched in the UK.

Unlicensed access has evolved

The efficacy of graduated response remains contested both in terms of its ability to reduce infringing activity and to generate higher sales of rights-protected content. There is evidence from parts of Scandinavia that piracy levels have seen a greater impact from the introduction of attractive music-streaming services such as Spotify than from content owners' efforts to educate consumers.

In addition, graduated-response programs are primarily aimed at deterring file-sharing behavior, and the piracy market appears to have moved on. Streamripping, which involves creating unlicensed files from rights-protected content on streaming platforms, has become a major threat, with leading site Youtube-mp3.org boasting an estimated 60-million-strong monthly user base. Research suggests that it has become the most prevalent form of online music piracy, involving around half of all 16- to 24-year-olds. At present, record companies' sole response to a threat they describe as "enormous" is that old standby – litigation.

Time to be more creative

Graduated response might have its place, but the music industry needs to think more creatively. The UK's new voluntary code of practice aimed at relegating search results for websites offering copyright-infringing content is an example of that, and of tackling the issue much closer to the source. On board are music industry organization the BPI, the Motion Picture Association, and the Alliance for Intellectual Property, plus Google and Bing. A core objective of the initiative is ensuring that users looking for legitimate services are less likely to be presented with search results links to infringing content, while making the latter sources more difficult to find. All parties are also working on improving autocomplete suggestions that can lead consumers to infringing results. And although the new program won't halt copyright abuse, it is another antipiracy tool for the armory. Plus, it's good to see search engines – long criticized for their inaction by the music industry – actively participating in an initiative.

Copyright issues in audio streaming stem from complicated digital royalty structures

Ovum view

Summary

The traditional recorded-music industry, dominated by major labels and collective management organizations (CMOs), was created for the analog and physical distribution of music and since its inception has been driven by technological innovation. Today's digital methods of distribution, such as streaming, represent another age of technological innovation allowing music to be licensed, sold, downloaded, and exploited easily through portable devices and online. The statutory rights that a songwriter holds in musical and literary works distributed digitally enable such works to generate revenue from a number of sources. However, with the method of reporting and collection still oriented toward the traditional analog and physical distribution of music, digital revenue – which is a fraction of historical recording-industry revenue – is not reaching the correct parties. With this in mind, Nigel Dewar Gibb, of law firm Lewis Silkin, has kindly provided Ovum with his thoughts on the main copyright issues inherent in the business of audio streaming:

Rights and royalty issues

Taking account of the recorded-music industry's significantly reduced global turnover, there are a number of reasons why the digital revenue pipelines get blocked. These reasons include the source and receipt structure deployed with performing and related rights, differing territorial laws at each point of sale (POS) of the work, fees taken by territorial CMOs, and significant data issues.

Members of performing-rights organizations (PROs) assign the "performing right" and "synchronization right" in musical works via deed of assignment and have done so since the inception of PROs, effectively making these CMOs the owner of the performing right and synchronization right in musical works. PROs also created an "online right," and the PROs regard streaming as being an "online right," i.e. a making-available right.

In the European Union, PROs have agreed that the "online right" is a separate right not covered in the definition of "performing right." The "online right" was acquired by the PROs by the amendment of their own Articles. Members were not approached to license such rights to the PROs, and in the UK, for example, PRS for Music has to date made no rules or regulations regarding the "online right."

Problems in collecting digital royalties

As a result of the complex web of laws and statutory rates in a number of territories, commercially negotiated rates at POS, individual licenses, and the involvement of different PROs across the world, there are problems in collecting digital royalties.

Some entities generate different royalty streams, compounding the complexity of reporting and collection. For example, Spotify features a free service and a premium subscription service and may negotiate different rates per stream depending on their own POS rates.

In the two main categories of rights, there are different types of royalties:

i) Reproduction rights

- mechanical royalties

- synchronization royalties

ii) Performing rights

- broadcast royalties
- live-performance royalties
- communication-to-the-public royalties

However, we will review the specific rights within UK and US streaming to illustrate the problems in collecting revenue from the digital market.

In the UK, a performing right is needed to stream music. Spotify previously reported a combined label/publishing per-stream rate of £0.70 ($0.87). This reflects a premium rate, with the average premium/freemium rate standing at £0.0035. Performing-right income is collected by PRS, and after deduction of the authors' society's costs, the balance is paid to a songwriter.

In the US, there are two rights involved in streaming: the reproduction right and the performing right. The reproduction-right royalty paid for each stream is sometimes referred as "streaming mechanical royalties."

The Copyright Royalty Board (CRB) set US streaming-music rates for 2016 at $0.17 per 100 plays on a free service ($0.0017 per stream) and $0.22 per 100 plays ($0.0022 per stream) on subscription platforms. This reflects SoundExchange rates. The blended rate is also higher, increasing from $0.153 per 100 plays ($0.00153 per stream) to $0.176 cents ($0.00176 per stream).

Multiple formulas are run and compared, and the highest one is picked to determine an applicable monthly "streaming mechanical royalty" rate.

For interactive services, the CRB sets an "all-in royalty pool" of 10.5% of the relevant music service revenue. This rate is due for renewal, with a proposed hike to 12% in 2018.

No statutory rate exists for the performing-right royalty of each stream. The royalty rate is negotiated between the music service and the entity representing the songwriter's performing-right income share. This is never the songwriter, and in the US it is usually one of the three established PROs. Publishers and songwriters customarily receive a smaller share.

In the US, "streaming mechanical royalties" must be paid directly to the songwriter. In practice, performing-right royalties pass via a CMO, which forwards the songwriter's share on at the relevant accounting date after deduction of the CMO's costs.

The issue with CMOs

Problems also arise when the CMOs have different rights, namely reproduction rights (which are licensed) and performing rights (which are assigned) in different territories.

If a songwriter does not belong to a CMO, both royalty streams are due to the songwriter. In practice, if the digital music service "cannot identify" that songwriter, the whole royalty may be paid to the local CMO in the country where the exploitation occurred. That CMO will (arbitrarily, as there is no underlying data) split the royalty payment to make one amount represent the reproduction right royalty and another amount the performing right royalty. The CMO will first deduct its costs from each before remitting the performing right royalty and retaining the reproduction royalty within the CMO.

If the reproduction right royalty is not paid out, it gets combined with all other uncollected CMO reproduction royalties and distributed to the CMO membership subject to their market share.

If a songwriter does belong to a CMO, the royalty streams go to the CMO of the country in which the exploitation took place. The CMO arbitrarily splits the royalty payment to represent the reproduction right royalty and the performing right royalty. The local CMO deducts its costs before passing on the balance in the form of performing right royalties to the relevant US CMO for payment to the songwriter in the US. The US agency takes its cut and pays through a reduced final amount.

If the reproduction right royalty amount does not get collected, it gets combined with other uncollected CMO royalties and is distributed to the CMO membership according to market share.

Streaming, revenue, and royalty rates

There are three main factors obstructing the flow of royalty revenue. Firstly, copyright legislation does not appear to work for worldwide digital revenue. There are multiple rights (at PRS, for example) within a stream that are artificial – e.g. the online right – as well as constructs of CMO rules and regulations that are arguably included only to force existing rights to fit the digital framework as technology has advanced and the law has not kept pace. Mr. Justice Arnold, a High Court judge in England and Wales, argued that the UK Copyright, Designs and Patents Act 1988 is "rooted in the analogue world" and that "technological change in relation to copyright has accelerated and become more transformative." The inadequacy of copyright law has created considerable complexity within the market, which has been compounded by the lack of transparency in the royalty flows. CMOs and major publishers, which are also CMO members, make matters worse by concealing the identity and nature and mechanics of royalty flows.

Secondly, cross-border CMOs erode revenue. Different rights exist in different countries for the same download or streaming service. Download revenue from a download in one country has a long route from POS to the songwriter in a different country. Potentially, two CMOs will take a cut, and the songwriter might never receive an accurate share or indeed anything at all.

Thirdly, the advent of the digital market provides a myriad of commercial deals that include digital music as a commodity. Music streaming is variously offered for free, on a pay-per-use or monthly subscription, as an individual song or album bundle, as an incentive to take out a mobile phone contract, and as part of a multiservice bundled ISP deal. This increases the complexity of tracking revenue streams and so makes the process of ensuring that the correct amount reaches the songwriter from the point-of-sale price particularly convoluted.

The flow of revenue is also affected by poor authorship and ownership data. If that data is not accurate, any accounting statement or report derived from it will not be accurate. In essence, bad data means that usage cannot be matched to reporting and that therefore one cannot account directly or, importantly, pay royalties accurately.

Conclusion: The problem extends beyond copyright

As we have seen, the revenue issues related to music streaming extend beyond copyright. Though copyright legislation is arguably inadequate for the digital market, it is superseded by other factors blocking the flow of revenue streams to the original songwriter. Complicated UK and US royalty structures, intervening CMOs that arbitrarily split revenue while taking their own cut of royalties, and poor data stock, combined with the rise of the digital marketplace, are the basis of the problems inherent in audio streaming.

Nigel Dewar Gibb works in the Media & Entertainment team at Lewis Silkin LLP

Music statistics

First roundup for March

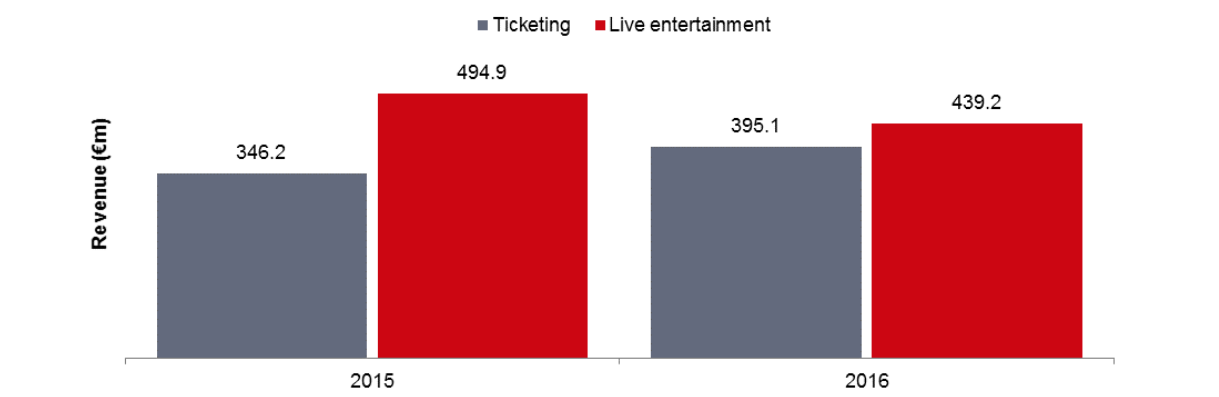
CTS Eventim financials, Japan digital sales, live forecasts, Austria music sales, Live Nation results

CTS Eventim sees ticketing gains and drop in live sales

German events company CTS Eventim has published preliminary details for the 2016 financial year. According to the company, total revenue edged down 0.5%, to €829.9m ($918.6m), from €834.2m in 2015. Normalized EBITDA was up 7.4%, to €194.5m, from €181m, while the normalized EBITDA margin for the company increased, to 23.4%, from 21.7%.

The two main sectors of ticketing and live entertainment registered very different performances. Ticketing revenue last year grew 14.1%, to €395.1m, from €346.2m (see Figure 1), with normalized EBITDA up 17.1%, to €167.3m, from €142.9m. CTS commented that the volume of online ticket sales registered organic growth of 15%, to around 40.8 million tickets. Owing to expansion in South America and Scandinavia, the total number of tickets sold online rose 23.1%, to 43.7 million.

Figure 1: CTS Eventim preliminary revenue by sector, 2015 and 2016



Source: CTS Eventim

For live entertainment, CTS said the financial performance was lower than expected because of fewer major tours. Revenue slipped 11.3%, to €439.2m, from €494.9m, while EBITDA was down 28.7%, to €27.2m, from €38.1m.

Subscriptions take the digital lead in Japan

New figures published by the Japanese recorded-music trade association, the RIAJ, show that the trade value of digital music sales increased 12.3% last year, to JPY52.886bn ($487.6m), from JPY47.073bn in 2015 (see Figure 2). Digital trade revenue is split between internet and mobile, with internet earnings including trade sales of music via a PC or smartphones and with mobile income made up of sales via feature phones.

Figure 2: Japan, digital music trade sales, 2015 and 2016

		2015	2016		Change
		(JPYm)	(JPYm)	($m)	(%)
Internet downloads	Single tracks	17,438	16,538	152.5	-5.2
	Albums	9,229	9,554	88.1	3.5
	Total audio downloads	**26,667**	**26,092**	**240.6**	**-2.2**
	Music videos	496	406	3.7	-18.1
	Total Internet	**27,163**	**26,498**	**244.3**	**-2.4**
Mobile downloads	Ring tones	786	591	5.4	-24.8
	Ring-back tones	2,981	2,519	23.2	-15.5
	Single tracks	1,554	919	8.5	-40.9
	Music videos	74	42	0.4	-43.2
	Total mobile	**5,395**	**4,071**	**37.5**	**-24.5**
Other	Subscriptions (Internet)	12,388	19,998	184.4	61.4
	Subscriptions (mobile)	4	5	0.05	25.0
	Other	2,123	2,314	21.3	9.0
	Total other	**14,515**	**22,317**	**205.8**	**53.8**
Grand total		**47,073**	**52,886**	**487.6**	**12.3**

Source: RIAJ

According to the RIAJ, trade income from internet downloads edged down 2.4% in 2016, to JPY26.498bn, from JPY27.63bn in 2015. Mobile downloads were down 24.5%, to JPY4.071bn, from JPY5.395bn. Combined unit sales of singles and albums online slipped 5.8%, to 110.7 million, from 119.1 million (see Figure 3). Mobile unit sales fell 20.3%, to 47.1 million, from 59.1 million.

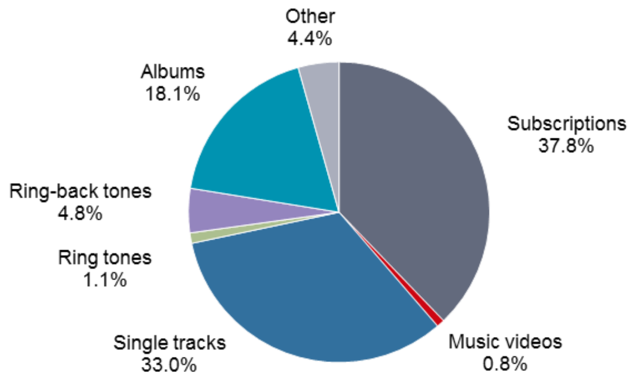
Figure 3: Japan, digital music unit sales, 2015 and 2016

		2015	2016	Change
		(000s)	(000s)	(%)
Internet downloads	Single tracks	108,848	102,296	-6.0
	Albums	8,437	8,367	-0.8
	Total audio downloads	**117,285**	**110,663**	**-5.6**
	Music videos	1,776	1,440	-18.9
	Total Internet	**119,061**	**112,103**	**-5.8**
Mobile downloads	Ring tones	8,808	6,180	-29.8
	Ring-back tones	43,994	37,226	-15.4
	Single tracks	6,021	3,535	-41.3
	Music videos	228	126	-44.7
	Total mobile	**59,051**	**47,067**	**-20.3**
Grand total		**178,113**	**159,169**	**-10.6**

Source: RIAJ

Although the combined total of single tracks and albums still accounted for the biggest share of digital revenue, in terms of separate digital income streams, subscriptions took the lead last year. Trade earnings from subscriptions (internet and mobile combined) jumped 61.4%, to JPY20.003bn, from JPY12.392bn in 2015. Subscriptions accounted for 37.8% of the digital income total, ahead of single tracks, with a 33% share, and albums, with 18.1% (see Figure 4).

Figure 4: Japan, share of digital sales value by format, 2016



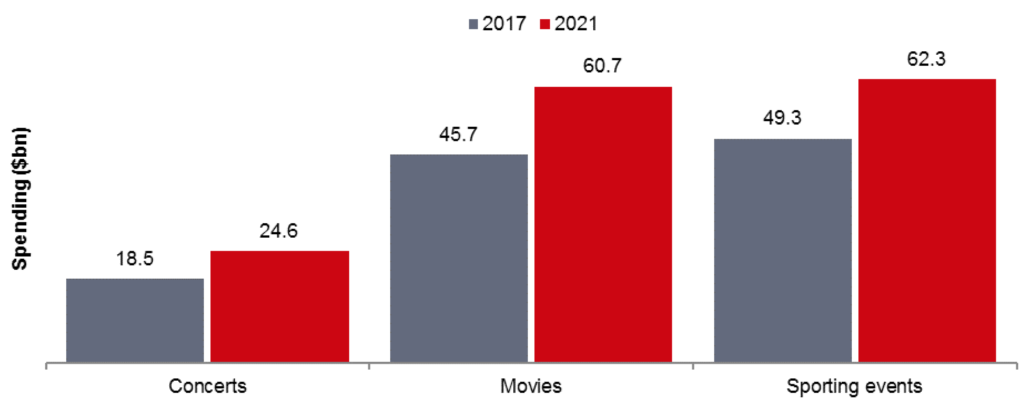
Source: RIAJ

In January the RIAJ published production figures for physical recorded-music formats. Unlike most national music associations that publish trade figures, the RIAJ reports production details for physical audio and video formats. Although not as accurate as trade details, production figures can still provide a good indication of the direction of the market. Taking physical production and digital trade income together, the music total was down 1% last year, to JPY298.543bn, from JPY301.522bn in 2015. Precise trade details for Japan will be published by the IFPI in April.

Growth forecast for global concert sales

A new report from research firm Technavio has forecast that global ticket sales to live music concerts will end this year at $18.5bn and will increase to $24.6bn in 2021 (see Figure 5). Sporting events will be the biggest sector, with sales estimated to grow from $49.3bn to $62.3bn. However, concert tickets will register the highest overall growth over the five years, rising 32.9%, compared with 32.7% for sporting events.

Figure 5: Global, spending on ticket sales by sector, 2017–21



Source: Technavio

Technavio commented that the global ticket market (concerts, movies, sporting events, and theater) will grow at a CAGR of more than 6% during the forecast period. Geographically, Asia-Pacific is expected to be the highest revenue-generating region in the global ticket market. Factors such as the growing box office market and the rising number of concerts and live events are likely to boost ticket sales in the region.

Austrian streaming and vinyl gains fail to offset physical decline

IFPI Austria has reported a fall in retail sales in 2016, with the rate of decline higher than the previous couple of years. According to the trade group, combined spending on physical and digital formats and services fell 4.5%, to €107m ($124m), from €112m in 2015 (see Figure 6). Spending fell 2.2% year-on-year in 2015 and 3.6% in 2014. Including income from performance rights and synchronization, ticketing, and merchandizing, Austrian recorded-music revenue stood at €137m last year, down from €143.3m.

Figure 6: Austria, recorded-music retail sales by source, 2015 and 2016

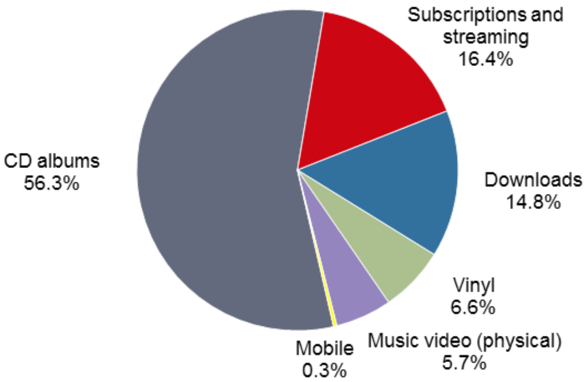
	2015	2016		Change
	(€m)	(€m)	($m)	(%)
Physical				
CD	68.5	60.2	75.8	-12.1
Music video	6.5	6.1	7.2	-6.9
Vinyl	5.2	7.1	5.8	34.5
Total physical	**80.6**	**73.3**	**89.2**	**-9.1**
Digital				
Single tracks	7.8	6.5	8.6	-16.2
Albums	11.9	9.3	13.2	-21.8
Subscriptions and streaming	11.2	17.5	12.4	56.3
Mobile	0.5	0.4	0.6	-30.0
Total digital	**31.4**	**33.7**	**34.8**	**7.3**
Total recorded-music	**112.0**	**107.0**	**124.0**	**-4.5**
Performance rights	23.3	23.0	25.8	-1.3
Synchronization/merchandising/ticketing	8.0	7.0	8.9	-12.5
Grand total	**143.3**	**137.0**	**158.6**	**-4.4**

Source: Ovum from IFPI Austria

On the plus side, spending on music subscriptions combined with advertising revenue grew 56.3% last year, to €17.5m, from €11.2m in 2015. Moreover, the rate of growth was more than double the 25.8% rise in 2015. Although spending on downloads and mobile formats were down sharply, the subscription and streaming gains boosted overall digital sales 7.3%, to €33.7m, from €31.4m.

Combined spending on CD albums, music videos, and vinyl fell 9.1%, to €73.3m, from €80.6m. The rate of decline was tempered slightly by a jump in spending on vinyl, with sales rising to €7.1m, from €5.2m. Physical formats accounted for 68.5% of spending on recorded music last year, compared with 72% in 2015. CD albums were the most popular format overall, accounting for 56.3% of the total spend, ahead of subscriptions and streaming, with a 16.4% share (see Figure 7).

Figure 7: Austria, share of recorded-music retail sales by source, 2016



Source: IFPI Austria

Austria's digital sector is making rapid progress in the transition from ownership to access. Spending on subscriptions combined with advertising revenue from streaming accounted for just over one-half of the digital total last year, compared with slightly more than one-third in 2015. However, with the CD album still easily the most popular format, the country's recorded-music sector could be in for a couple more years of overall contraction before spending on access services fully offset declines elsewhere.

Live Nation sees sixth consecutive record year

Global events company Live Nation Entertainment (LNE) has reported another record financial year, with revenue topping $8bn for the first time, operating income up sharply, and higher ticket sales. According to the company, total earnings grew 15.3% last year, to $8.35bn, from $7.25bn in 2015 (see Figure 8). LNE said that at constant currency rates, earnings grew 17%, to $8.48bn. Adjusted operating income for the company was up at both currency measures, rising 10.7% at current rates, to $640.1m, from $578m, and 11.7% at constant rates, to $645.8m. Actual operating income increased 48.3%, to $194.9m, from just $131.4m. At constant rates, operating income was up 46.8%, to $192.9m. Net income attributable to the company's shareholders in the year stood at $2.9m, compared with a $32.5m net loss in 2015.

Figure 8: Live Nation Entertainment, revenue breakdown, 2014 and 2015

($m)	2015	2016	Change (%)
Concerts	4,965.0	5,874.1	18.3
Ticketing	1,639.6	1,827.9	11.5
Artist Nation	434.2	421.7	-2.9
Sponsorship and advertising	333.7	377.6	13.2
Other and eliminations	-126.8	-146.4	15.5
Total	**7,245.7**	**8,354.9**	**15.3**

Source: Live Nation

Income from concerts in 2016 increased 18.3%, to $5.8741bn, from $4.965bn in 2015. At constant currency rates, concert revenue grew 20.1%, to $5.9619bn. Concerts accounted for 69.1% of the revenue total before eliminations. Adjusted operating income for the concerts sector more than doubled, to $138.9m and $138.4m, from $61.5m at current and constant rates, respectively. The Artist Nation sector was the only division to register a dip in earnings.

The number of events staged by LNE last year was up 2.9%, to 26,262, from 25,519 in 2015 (see Figure 9). North America accounted for two-thirds of the total. Total attendance grew 12.1%, to 71.1 million, from 63.5 million, with North America accounting for twice the international total.

Figure 9: Live Nation Entertainment, events and tickets sold, 2014 and 2015

	2015	2016	Change (%)
Events			
North America	16,854	17,554	4.2
International	8,665	8,708	0.5
Total events	**25,519**	**26,262**	**2.9**
Attendance			
North America	43,753,000	48,813,000	11.6
International	19,704,000	22,330,000	13.3
Total attendance	**63,457,000**	**71,143,000**	**12.1**
Ticketing			
Fee-bearing tickets	173,871,000	185,543,000	6.7
Non-fee bearing tickets	298,549,000	298,157,000	-0.1
Total tickets	**472,420,000**	**483,700,000**	**2.4**

Source: Live Nation

LNE commented that North America stadium and amphitheater attendance were each up by about 2 million fans last year compared with 2015, while growth in international attendance was driven by an increase of 2 million in stadium attendees. Globally, the company added 11 festivals in 2016, taking the global portfolio to 85 festivals in 12 countries. Festival attendance was up 15%, to more than 7 million, with 23 festivals attracting more than 100,000 fans.

Ticketing details were split between fee-bearing (primary and secondary tickets that are sold using Ticketmaster systems or issued through affiliates) and non-fee-bearing (primary tickets sold using Ticketmaster systems through season seat packages and its venue clients' box offices, along with tickets sold on the "do it yourself" platform). Total ticket sales were up 2.4%, to 483.7 million, from 472.4 million.

India music industry report, March 2017

Summary

India's music industry is regularly grouped together with those of a small number of countries that for years have underperformed but that offer great potential to become major markets of the future. With the country accounting for almost one-fifth of the world's population (Figure 1) and with an economy that is growing steadily, tapping into what is a market ripe for exploitation is high on the recorded-music industry's list of priorities. However, India has yet to live up to the promise of its "emerging" label, with favorable results one year followed by poor sales the next. Arguably the biggest problem for the country is piracy. Retailers have always struggled to compete in a market flooded with illegal copies. Moreover, rising internet penetration has brought with it increased access to unauthorized music distribution sites and services. There is some hope that streaming will be the way out of the piracy problem, but the road to greater sales and meaningful returns is likely to be a long one.

Figure 1: India, social and economic indicators

Indicator	Statistic
Population (end-2016)	1,327 million
Language	Hindi
Currency	Indian Rupee (INR)
Households (end-2016)	261.9 million
GDP quarterly growth rate (3Q16)	1.8%
GDP annual growth rate (3Q16)	7.3%
GDP per capita (Dec-16)	$1,845
Unemployment rate (Dec-16)	4.9%
Inflation (Dec-16)	3.4%
Interest rate (Dec-16)	6.3%

Source: IMF, World Bank, Ovum

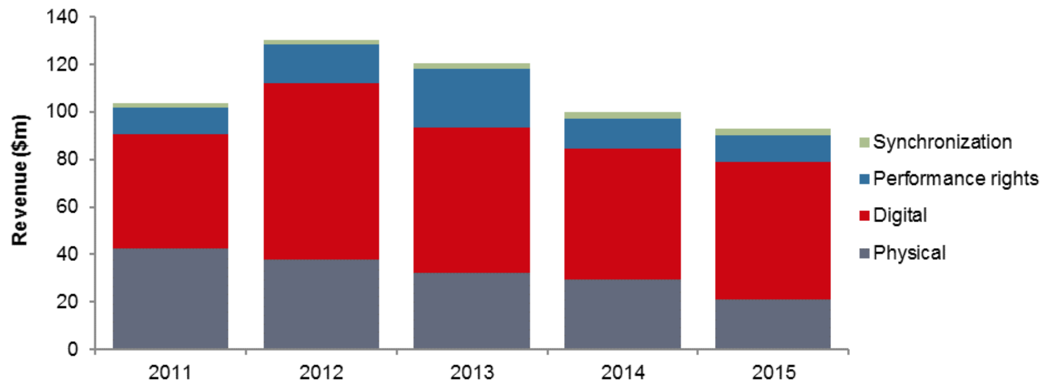
Recorded music

India ended 2015 as the world's 22nd-largest recorded-music market in the world. According to the most recent figures published by the IFPI, the country was 22nd in terms of trade revenue from sales of physical formats, 17th for digital earnings, 31st for performance rights, and 10th for income from synchronization.

Potential and patience in equal measures

Total recorded-music trade revenue in India fell for the third consecutive year in 2015, following a big rise 2012. According to the IFPI, combined income from physical and digital sales and services, as well as performance rights and synchronization revenue, slipped 7%, to $92.7m, from $99.7m in 2014 (see Figure 2). The rate of decline compared with a 17.4% year-on-year dip in 2014. For just physical and digital sales, trade earnings were also down 7%, to $78.7m, from $84.6m.

Figure 2: India, recorded-music trade revenues by source, 2011–15



Source: IFPI

To witness the full potential of India's recorded-music industry, industry watchers are going to need extreme patience. India is unique in many ways, but unfortunately its inimitable recorded-music-market status has often exhibited more negatives than positives. For example, in 2013 and 2014, earnings from physical and digital sales and services both fell. Most developed markets have seen digital growth compensate for lower spending on physical formats. Although digital revenue rose in 2015, the size of the physical format decline pulled down the overall market. Trade revenue from physical sales slumped 28.1%, to $21.2m, from $29.5m in 2014. In unit-shipment terms, physical formats experienced a similarly big decline. CD shipments were down 28.4%, to 21.4 million, from 29.9 million in 2014 (see Figure 3). Total physical-unit shipments, which included music videos, singles, vinyl LPs, and audiocassettes, fell 28.6%, to 21.7 million, from 30.4 million.

Figure 3: India, physical recorded-music shipments, 2011–15

Units (million)	2011	2012	2013	2014	2015	Change 2014/15
CD	34.5	41.6	35.5	29.9	21.4	-28.4%
Other*	1.5	0.8	0.5	0.5	0.3	-40.0%
Total physical	**36.0**	**42.4**	**36.0**	**30.4**	**21.7**	**-28.6%**

*Includes music video, singles, vinyl and cassette.

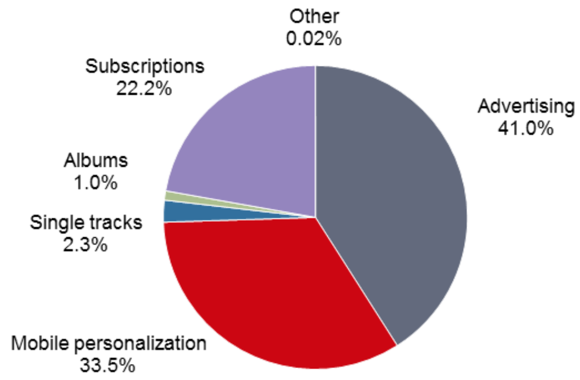
Source: IFPI

Hope for access service growth with buy-to-own formats set to fade

Digital trade earnings returned to growth in 2015, but only at a modest rate. According to the IFPI, income grew just 4.4%, to $57.5m, from $55.1m in 2014. Although the rise was welcome after the previous two years' decline, digital revenue was still almost $20m lower than just three years earlier. It is, though, worth noting that the makeup of the digital sector is transitioning, from one based on mobile personalization and buy-to-own formats, and so, inevitably, total earnings will be affected by the shift.

Until 2013, mobile personalization accounted for the biggest share of digital-revenue source, ahead of subscriptions. However, earnings from advertising led in the two subsequent years. According to the IFPI, advertising income from music streaming services accounted for 41% of the digital total, with mobile personalization second, with a 33.5% share (see Figure 4).

Figure 4: India, digital music sales by format, 2015



Source: IFPI

The reasons for the switch in digital revenue stream dominance has had as much to do with falling spend on mobile personalization services as it has rising advertising income. In developed countries, the evolution of mobile handsets and mobile music applications meant ring tones and ring-back tones were quickly superseded by far more sophisticated music offerings. The same is now happening in India. According to the IFPI, trade earnings from mobile personalization were down 3.9% in 2015, to $19.3m, from $20.1m in 2014. In contrast, income from advertising increased 9%, to $23.6m, from $21.6m.

As has been the case with previous India music industry studies, it is worth noting the difficulties involved in determining a precise figure for recorded-music earnings in India. Reliable sales data is not always forthcoming, with Indian music companies often underreporting sales figures. But despite questions over actual sales levels along with the recent contraction in the market, the longer-term future of India's recorded-music market still looks favorable.

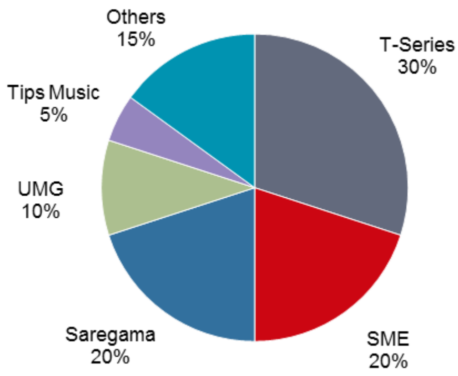
No trade figures have yet been published for 2016, but if the revenue trends of the last few years were maintained, India might well have edged into its first annual recorded-music earnings growth since 2012. Earnings from sales of physical formats are expected to have fallen, and income from ring tones and ring-back tones are likely to have fallen again. The difference between another year of contraction and growth will have been determined by music service advertising sales and, to a lesser extent, take-up of subscriptions.

Music companies

India's recorded-music sector resembles those of developed markets, in that a small number of companies dominate music sales and distribution. The big difference, however, is that the international majors account for a minority of sales. Moreover, the music company leaders are part of larger corporations.

India's leading company is T-Series, a subsidiary of Super Cassettes Industries. T-Series' close ties to Bollywood movie production and the massive popularity of soundtrack sales in India have helped the company maintain its leading position. Ovum estimates the company had an approximate 30% distributor market share in 2016 (see Figure 5). In September, T-Series signed a long-term content licensing partnership with Amazon India for upcoming film releases. The deal was the biggest of a number of deals signed by Amazon and part of the online retail giant's rollout of its Prime Video service in the country at the end of last year, six months after the entry of the wider Prime subscription service.

Figure 5: India, record company market shares, 2016



Source: Music & Copyright

The second-biggest local music company, with an estimated 20% market share, is Saregama. Previously the Indian branch of EMI's Gramophone, Saregama is publicly listed and at end-2016 was majority-owned (59.14%) by Rainbow Investments Ltd. In its financial report for the final nine months of 2016 (its financial year runs through March) the company said total revenue from music stood at INR1.0176bn, up from INR953.8m in the prior-year period. Pretax profits, however, were down, at INR285.3m, from INR344.7m

Tips Music is the third-largest local independent, with an estimated market share of 5% in 2016. In contrast to Saregama, Tips registered a dip in music sales in the final nine months of 2016. According to the company, audio revenue stood at INR217.8m, down from INR275.7m in the prior-year period. The company said pretax profits from audio sales also slipped, to INR184.5m, from INR243.3m.

SME is the largest of the international majors in India and the second-biggest company overall, with a 20% market share. In addition to its own music, SME distributes WMG's catalog in India, having signed a deal with the smaller major in 2013. Previously, WMG releases in the country had been handled by EMI.

Music retail

India's retail industry has emerged as one of the most dynamic and fast-paced sectors, due to the entry of several new players, according to the India Brand Equity Foundation (IBEF). Retail accounts for around 10% of the country's GDP and 8% of employment. Citing a Boston Consulting Group report, IBEF said India's retail market is expected to nearly double to $1tn by 2020, from $600bn in 2015, driven largely by income growth, urbanization, and attitudinal shifts. IBEF commented that although the overall retail market is expected to grow 12% per annum, modern trade would expand at 20% per annum and traditional trade at 10%.

Access presents real potential to monetize music

In spite of the wider prospects for retailing in India, the selling of recorded music in the country is a difficult proposition. Piracy of hard formats has always been a major problem, and consumers have become accustomed to paying very little for recorded-music. This means the retailing of full-price music is something that appeals to only a small number of consumers. More recently, pirate sellers have turned their attention to unlicensed digital distribution. In addition to the rapid disappearance of traditional bricks-and-mortar music stores from the Indian retail landscape, downloads have also struggled to take hold.

Given the high levels of music piracy in the country, it is no coincidence that the most popular digital-music formats and services are the ones that cannot be copied or easily replicated. Moreover, services that are starting to generate wider consumer interest are also those that are free to use.

Saavn the leading streaming service

The biggest streaming service in terms of users is Saavn. The service began as B2B provider BODVOD Networks, primarily offering new release and classic Bollywood films to North American TV audiences. By early 2009, the company had refocused its offering on Bollywood and other Indian music and rolled out the Saavn.com service directly targeting consumers. Non-South-Asian music was added to the mix in 2012, largely via licensing deals with the three majors.

Few precise user numbers for the service have been published. In November last year the company said it had “over 20 million users in all parts of the world.” The announcement came as part of a company blog post detailing how the service was “transitioning to a paid model in many countries.” Previously, Saavn had offered globally an advertising-supported tier and the paid-for offerings Saavn Pro and Pro Lite. In developed markets, Saavn is now offering just the Pro tier. After a 30-day free trial, the service costs $4.99 per month (or equivalent local-currency price). In India, the Pro tier costs INR220 per month (unlimited downloads to five devices), with the Lite tier priced at INR110 per month (maximum 3GB of downloads to just one device). Currently, Saavn serves more than 300 million streams per month.

Gaana the main rival

Gaana, which is owned by Times Internet, the digital venture of media and entertainment group Times of India Group, is the second-largest service, with around 20 million users. Like Saavn, Gaana offers an advertising-supported tier and paid-for options. Pricing of the Gaana+ tier is advertised in US dollars: Access for three months currently costs $9.99, while discounted access for six months is priced at $17.99 (the usual price is $23.94), and one year’s subscription costs $33.99 ($47.88).

Toward the end of 2015, Indian smartphone manufacturer Micromax took an undisclosed stake in Gaana. As part of the deal, the music service’s app is preloaded on Micromax devices with certain handsets, such as the Canvas Fire 5, sold with a six-month Gaana subscription.

Wynk service from Airtel

India’s largest telecoms operator, Bharti Airtel, is in the market with its Wynk Music app, which features the Wynk Plus subscription service, which provides both downloads and streaming options. The headline Wynk Plus service costs INR99 a month for Android devices and INR120 for iOS users. Select Airtel 3G and 4G subscribers have free access to the service, but in all cases data charges apply. Unlimited in-app downloads come with the service. Airtel also offers Wynk via its Wynk Freedom pack. Unlimited streaming and downloads cost INR129 per month, but this offering has no iOS option and is only available for Airtel users. There are no data charges with Wynk Freedom. Wynk is also free to use via a web browser. Currently the service does not have a paid-for web browser option.

Hungama concentrates on local content

In contrast to Saavn, Gaana, and Wynk, the focus of Hungama is on local content. The service offers an advertising-supported tier as well as a paid option costing INR110 per month. The service offers around 2.5 million tracks as well as movies, music videos, ringtones, and mobile wallpapers. The service claims to have more than 20 million users and serves “over 1.5 billion South Asians across the world.” Hungama is part of Hungama Digital Media Entertainment, which is a distributor of Bollywood and South Asian entertainment content.

International competition

There are a number of international services that are competing with the home-grown offerings for users. Rdio was the first overseas service to set up shop in India, following its acquisition of local service Dhinghana. However, Rdio closed last year after the service was declared bankrupt. Troubled Australian service Guvera is available in India, although the company has been beset by financial problems and so the company’s future is in doubt.

Apple Music also launched in India in the summer of 2015 as part of a major international rollout. The service has more of a focus on international content than the Indian competition. After a three-month free trial, monthly subscription costs INR120, with a six-device family option priced at INR190 per month.

India’s mobile recorded-music future

The makeup of India’s communications infrastructure gives a pretty good indication where the country’s recorded-music industry is headed. All of the leading streaming services have reported high mobile use, with upwards of 90% of streams served going through service apps. Moreover, mobile is the key communication device, and the number of subscribers to one of the many mobile networks has now passed the 1.1 billion mark (see Figure 6).

Figure 6: India, mobile subscription details, 2014–16

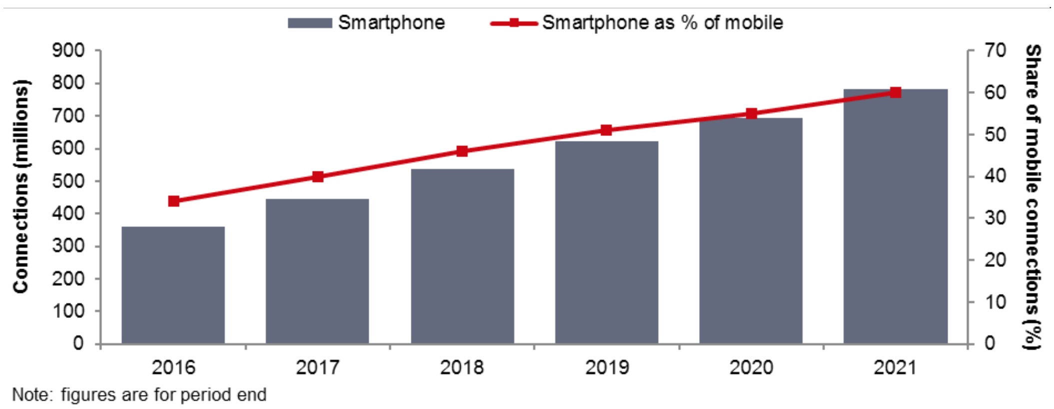
	2014	2015	2016	Share of total (%)
Aircel	78,683,995	85,632,249	91,876,380	8.3
Bharti AirTel India	217,467,904	243,289,404	265,852,605	24.0
BSNL	79,775,761	81,707,640	91,940,000	8.3
Idea Cellular	150,500,000	171,900,000	181,850,000	16.4
Reliance Communications	100,979,723	100,047,996	87,441,525	7.9
Reliance Jio Infocomm	–	–	54,166,667	4.9
Tata Teleservices	60,667,946	60,217,857	60,677,118	5.5
Telenor India	43,630,934	50,702,396	54,126,067	4.9
Vodafone India	178,676,000	193,600,083	204,687,000	18.5
Other	20,983,977	21,308,956	14,243,188	1.3
Total	**931,366,240**	**1,008,406,581**	**1,106,860,550**	**100.0**
Population penetration (%)	71.9	76.9	83.4	–
3G/4G	87,577,454	139,584,419	243,805,088	22.0
3G/4G mobile subscription penetration (%)	9.4	13.8		–

Note: figures are for period end

Source: Ovum

Although the high number of mobile subscribers has, until fairly recently, provided a big market for sales of simple mobile music formats, such as ring tones and ring-back tones, record company earnings from these services are on the decline. The rise in the availability of more sophisticated mobile music services has gone hand-in-hand with the growing number of smartphones and the increase in high-speed mobile access. According to Ovum, the number of smartphones in use ended last year at 359.2 million, equivalent to 34% of total mobile subscriptions (see Figure 7). Ovum has forecast that the number of smartphones in use will end 2021 at 780.6 million and account for 60% of the mobile subscription total.

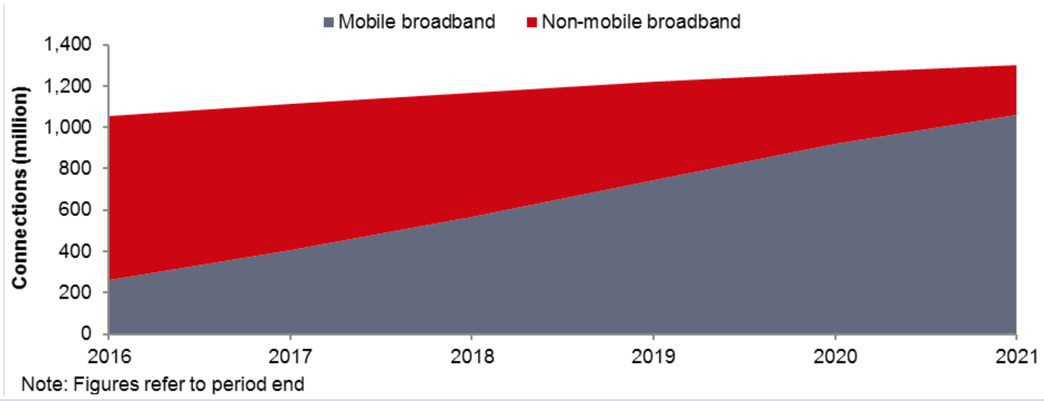
Figure 7: India, smartphone ownership and penetration, 2016–21



Source: Ovum

The number of mobile broadband subscriptions is thought to have ended 2016 at 261.1 million, equivalent to 24.7% of the mobile subscription total (excluding machine-to-machine SIM cards). By end-2021, just over 1 billion of mobile handsets (81.4%) will be able to access broadband services (see Figure 8).

Figure 8: India, mobile broadband details, 2016–21



Source: Ovum

Operator music bundles

In addition to Airtel's Wynk music service, several other mobile operators have increased their focus on music provision. India's second-biggest mobile provider, Vodafone, offers its own music streaming and download service. After 30 days of free access, users can subscribe to Vodafone Music Plus, which costs INR5/29/99 for daily/weekly/monthly access. The service is available to Vodafone customers over Wi-Fi or the mobile network (data charges apply). Vodafone also offers the Vodafone Play app in partnership with Hungama and movie service Eros Now. All subscribers to Vodafone's 4G services are offered three free months of access to Vodafone Play and the partner apps.

Third operator Idea Cellular offers a number of simple music services, ranging from release alerts and radio to streaming through the Idea Music Station. Each of the services are priced on a daily, weekly, and monthly basis. Idea Cellular also offers unlimited music streaming via the Hungama music app at INR29 per month. The offer is bundled with Idea's 4G postpaid plans.

JioMusic the leading operator app

The newest operator entrant and music service provider is Reliance Industries subsidiary Reliance Jio (RJio). The greenfield nationwide LTE operator launched its service in September 2016, after a long wait of six years since the award of 4G spectrum in the 2.3GHz band. The launch accompanied the screening of mobile tariff plans that were built around mobile data usage, offering voice free with all prepaid and postpaid offers.

At the beginning of December RJio said it crossed the 50 million subscriber milestone “in just 83 days from commencement of services.” RJio added that the average rate of subscriber adds was 600,000 per day, “the fastest achieved by any technology company in the world including the likes of Facebook, WhatsApp, and Skype.” RJio noted that its subscribers were using 25 times more data than the average Indian broadband user, and the operator was delivering four times more data than all other Indian telecoms operators combined. RJio offers a range of digital life apps, one of which is music-streaming app JioMusic. All the apps (others are JioTV, JioCinema, JioMags, JioNewspaper, JioXpressNews, JioCloud, and JioSecurity) are included free with the various subscription plans until the end of this year, after which subscribers must pay to keep using them. The music app will cost INR99 per month.

JioMusic is certainly proving popular with mobile users so far. According to mobile analytics service App Annie, JioMusic was the top ranked free music and audio app download at the Google Play store in mid-February, ahead of Wynk Music, Saavn, and Gaana (see Figure 9). With the Android operating system in more than three-quarters of smartphones in India, the App Annie ranking gives a good indication of overall music app popularity in the country.

Figure 9: India, Google Play top music and audio apps, 15-Feb 17

#	Free	Paid	Grossing
1	JioMusic - HD Music & Radio Reliance Jio	Poweramp Full Version Unlo... Max MP	Sing! Karaoke by Smule Smule
2	Wynk Music: MP3 & Hindi so... Bharti Airtel	Ultimate Guitar Tabs & Chor... Ultimate Guitar	Gaana: Bollywood Music & R... Times Internet
3	Saavn Music & Radio Saavn	Rocket Player Premium Audio JRT Studio	Poweramp Full Version Unlo... Max MP
4	Gaana: Bollywood Music & R... Times Internet	BlackPlayer EX KodarKooperativet	Saavn Music & Radio Saavn
5	MP3 Cutter and Ringtone M... Atomic Infoapps	Rhythm with Tabla and Tanp... ▲2 PSS Labs	TuneIn Radio - Radio & Music TuneIn

Source: App Annie

Low fixed broadband take-up

In contrast to the high mobile penetration rates, fixed broadband penetration is low. India ended last year with 18.6 million household subscriptions, equivalent to just 7.1% of total households (see Figure 10). The low rate has much to do with the fact that fixed broadband is largely restricted to major cities and towns, limiting overall demand.

Figure 10: India, broadband subscription details, 2014–16

	2014	2015	2016	Share of total (%)
Bharti	1,488,977	1,729,408	2,008,359	10.8
BSNL	10,008,496	9,958,000	9,853,750	52.9
Hathway	504,600	645,200	990,050	5.3
MTNL	1,130,000	1,120,000	1,042,500	5.6
Reliance Communications	366,829	446,000	542,375	2.9
Sify	27,620	40,200	53,600	0.3
Tata Communications	102,174	143,500	196,600	1.1
Tata Teleservices	57,720	83,000	100,500	0.5
YOU Telecom	412,000	510,000	599,000	3.2
Other	1,786,584	2,578,100	3,225,162	17.3
Total	**15,885,000**	**17,253,408**	**18,611,896**	**100.0**
Household penetration (%)	6.2	6.7	7.1	–

Note: figures are for period end

Source: Ovum

In terms of access technologies, DSL is the leader, accounting for just under three-quarters of total household subscriptions. Growth in DSL subscriptions has been slowing, making room for other fixed technologies, such as cable and fixed wireless. However, despite the slowdown, DSL will still serve two-thirds of households by end-2021.

Copyright protection and rights administration

All of the excitement over the prospects for digital-music growth in India is inevitably shadowed by the ever-present problems of piracy. In February, the International Intellectual Property Alliance (IIPA) published a report on the status of India’s copyright protection and enforcement efforts and commented that the country remained a market with significant concerns for the copyright industries, but one with great potential given the large number of people using digital devices and creative content.

Legal reforms and better copyright enforcement

The IIPA said that for India to reach its potential, the government must undertake legal reforms. India has neither acceded to, or implemented, the 1996 WIPO Digital Treaties – the WIPO Copyright Treaty and WIPO Performances and Phonograms Treaty. The IIPA added that the country also lags behind other countries in adopting basic online enforcement tools and measures to encourage cooperation and meaningful engagement between rights holders and users of materials (including ISPs, payment processors, advertisers, and domain registrars), such as clear third-party liability for inducing infringement, and more effective notice and takedown procedures. Moreover, the IIPA said much more needed to be done to coordinate and improve India’s fractured system of state-level enforcement to address online copyright piracy as well as the hard-copy piracy that still plagues some copyright sectors.

National IPR policy an important step

India took one important step to improve its intellectual property rights (IPR) regime in 2016, with the May release by the government of its long-awaited National Intellectual Property Rights Policy. Included in the policy is an outline of the government's long-term plans to improve IPR protection. The IIPA commented that if the plan was implemented properly, the legal regime in the country will improve, enforcement will be strengthened, and the government's administration, management, and services related to IPR will be brought up to date. The IIPA noted that one potentially significant development in the National IPR Policy is the decision to relocate copyright jurisdiction in the Ministry of Industry and Commerce's Department of Industrial Policy and Promotion (DIPP). According to the IIPA, this change offers the possibility of greatly improving both the visibility of, and resources available for, better copyright protection and enforcement if the DIPP delivers on its promised IPR reforms.

Stiff and unfair competition

In spite of the potential progress, the IIPA also reported that India's legal online marketplace faces stiff and unfair competition from plenty of unlicensed sites and services. For example, in a single month, the movie industry has estimated that around 60 million visitors accessed the top five piracy websites (mostly torrent sites) in India for film and TV content. The most successful antipiracy event of 2016 was not an action taken by the Indian government, but was the arrest in Poland of one of the key operators of the popular website Kickasstorrents and the resulting cessation of activities of that site in all countries, including India.

Currently, torrent sites, such as Torrentz2.eu (the 47th-most-popular site in India as of mid-February, according to the web-monitoring service), Extra.to (91st), Yts.ag (92nd) and Torrentproject.se (96th) are the leading sites in India for accessing unlicensed content. However, the IIPA noted that stream-ripping is becoming a major problem, with more than three-quarters of internet users admitting to having used a stream-ripping service in the previous six months. In mid-February, Alexa ranked stream-ripping site Savefrom.net as India's 52nd-most-popular website. YouTube is the main source of content to rip, with 40% of Savefrom.net users visiting the online video site immediately prior to Savefrom.net.

Poor financial year for IPRS

At the end of last year, Indian authors' society IPRS reported a second consecutive financial year of falling collections. According to the collection society's annual report for the business year ending March 2016, total income fell 17.3%, to INR349.5m, from INR422.6m in the previous 12-month period (see Figure 11). Not only did the results mark two straight years of lower collections, the rate of decline increased, from 10.3% in the previous financial year. As a consequence of lower collections, IPRS said royalties due to its members after legal and administrative expenses dipped 27.2%, to INR245.6m, from INR337.4m.

Echoing the previous year's annual report, IPRS said in its latest business review that revenue in the 12 months to end-March 2016 was affected by High Court judgments in Bombay, Kerala, and Delhi in 2011. In the three separate cases, FM-radio broadcasters were told they did not have to pay royalties to IPRS for the use of its members' content. For many years the use of music by FM-radio broadcasters in India has involved the payment of royalties to IPRS and PPL. However, the courts decided that FM broadcasters had to secure a license only from PPL to broadcast music, effectively bypassing IPRS altogether. IPRS commented that it has "taken legal steps to protect the rights," adding that it believed that amendments to the country's copyright act and appeals will "ensure that FM Radio Operators start obtaining license[s] and pay royalties for broadcasting songs."

Figure 11: IPRS, collections by source, 12 months to end-March 2015 and 2016

	2014	2015		Change
	(INR)	(INR)	($)	(%)
Domestic				
Radio	11,382,568	5,050,715	77,276	-55.6
TV	3,835,917	3,905,200	59,750	1.8
Webcasting	1,350,000	–	–	–
Public performance	364,138,047	329,216,121	5,037,007	-9.6
Total domestic	**380,706,532**	**338,172,036**	**5,174,032**	**-11.2**
Overseas				
Webcasting	5,634,891	782,140	11,967	-86.1
Affiliated societies	36,238,795	10,528,521	161,086	-70.9
Synchronization	–	16,591	254	–
Total overseas	**41,873,686**	**11,327,252**	**173,307**	**-72.9**
Grand total	**422,580,218**	**349,499,288**	**5,347,339**	**-17.3**

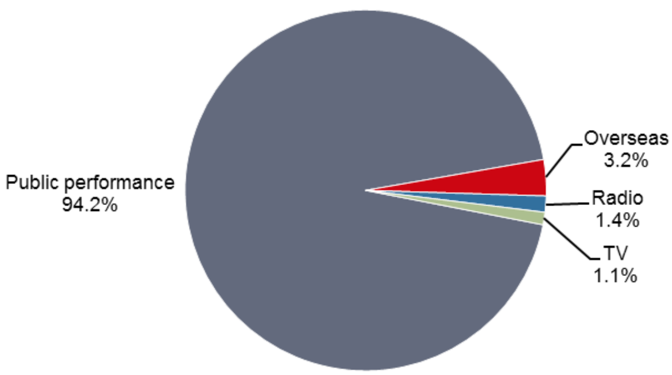
Note: figures are for 12 months to end-March 2015 and 2016

Source: IPRS

Radio and public performance income declines

The legal dispute dented radio collections in the 12 months to end-March 2016. IRPS said income from FM broadcasters slumped 55.6%, to INR5.1m, from INR11.4m in the preceding 12 months. General public performance is the largest income source for IPRS, accounting for 94.2% of total income (see Figure 12).

Figure 12: IPRS, share of collections by source, 12 months to end-Mar 2015



Source: IPRS

Overseas income is the second-largest revenue source for IPRS. However, collections from affiliated societies slumped 72.9%, to INR10.5m, from INR36.2m. IPRS said in its annual report that it would increase its efforts to increase income from overseas territories given the rise in popularity of Indian music abroad as well as tapping into new countries where Indian music has made inroads.

The ups and downs of India's Copyright Act amendments

After many years of lobbying by the creative industries in India, the bill for amendments to the Copyright Act 1957, was passed by the country's upper and lower houses of parliament in May 2012, with the *Gazette of India* publishing a notification from the government that with effect from June 2012, the provisions of the Copyright (Amendment) Act 2012 were in force. The final wording of the act was issued in March 2013, making the act effective.

The amendments made India's Copyright Act compliant with most international conventions and treaties in the field of copyrights. India is a member of the Berne Convention of 1886 (as modified at Paris in 1971), the Universal Copyright Convention of 1951, and the Agreement on Trade Related Aspects of Intellectual Property Rights Agreement of 1995. Though India is not a member of the Rome Convention of 1961, the Copyright Act 1957 is fully compliant with the Rome Convention provisions.

Reminder of the upsides

Changes to the act have had a big impact on the way film and record producers operate. For several years film and record producers had exploited musical works contained in movies through blanket buyouts that did not allow authors to control further uses of these works or collect royalties. The act put an end to that practice. In several sections of the act, the wording "owners of rights" was replaced by "authors and other owners of rights." The act also forbids authors' ownership of a piece of music to be transferred if that music is used in a movie. Moreover, authors receive 50% of any royalties for their music used in a movie that is subsequently used separately and independently through radio broadcasts or played in restaurants or public functions. Previously, the movie producer, not the author, received the royalties.

The issue of statutory licensing had proved controversial during the buildup to the parliamentary debates on the act, but the statutory-licensing provision was retained. Any broadcasting organization can broadcast a piece of music that has been published. But the act says broadcasters must pay royalties to rights holders at a rate fixed by the Copyright Board. In addition to the insistence on royalty payments, the act stipulates that broadcasters maintain records and accounts of music broadcast and must allow rights holders to inspect the records on request.

Collection society reregistration

The act also tightened up the workings of collection societies, all of which are now required to have a governing body made up of members of the society. Moreover, all societies are required to reregister with the India Copyright Office after incorporating certain changes in their Articles of Association to bring them in line with the amended act's provisions.

Collection societies were given one year to complete the reregistration, but after filing its details with the copyright office in 2012, IPRS withdrew them. PPL did the same. Both societies were subsequently deregistered in June 2013, deciding to continue as private limited companies, registered under the Companies Act.

Court to rule on PROs' legal standing

Although Section 33 of the act states that the business of issuing or granting licenses can only be carried out by a registered collection society, IPRS and PPL have both said they can still function and issue licenses as a copyright owner on the basis of rights assigned. In its annual report, IPRS said that it was not a “copyright society” as determined by the act, but commented that it “continues to enforce copyrights as assigned and in the process, issue/grant licenses to the users of music for utilization of works under Section 30 of the Copyright Act as an Owner by virtue of the assignment of copyrights in the literary and musical works from its owner members.” IPRS added that through rights assignments, it believed it is the owner of its members’ rights and so can collect and distribute royalties.

Despite the self-considered standing of IPRS with regards to its legal position, a ruling at the Delhi High Court in December left IPRS in limbo. The court was responding to a petition lodged by the Event and Entertainment Management Association of India (EEMA) as part of an ongoing push to regularize and streamline the music licensing regulatory framework.

EEMA argued at the hearing that as IPRS, PPL, and a third PRO, Novex Communications, had all accepted they were operating under Section 30 of the Copyright Act, which EEMA said is “reserved for owners of the copyright with the clear provision that when called upon to do so they need to prove their ownership.” The presiding judge at the Delhi court, Justice Sanjeev Sachdeva, backed EEMA’s position and introduced a number of new processes for dealing with licensing claims until the next hearing on the standing of the PROs, which is scheduled for April 24.

Interim licensing measures

EEMA members, which include a variety of event organizers and hospitality providers, are required to deliver a list of songs to IPRS, PPL, and Novex prior to any event. The three PROs will then confirm in writing if they are the owners, assignees, or authorized agents of the works. Once confirmed, the event organizers will pay the license fees before the event takes place.

Separately, the three PROs were ordered to add to their websites a detailed list of all the works they own, including the names of the authors and producers they have acquired them from. The PROs must upload the legal agreements by which they claim ownership of the works. The court also instructed the PROs to set up an online payment gateway before the end of January to speed up the process of licensing, and issued an order restraining the three PROs from granting any new licenses until the next hearing.

In a statement, EEMA said it believed that copyright fees should be “paid to the rightful owners and creators and artists in a transparent and reasonable manner so that the rightful owners should receive their due and the rates being charged are logical and reasonable.” EEMA added that the orders of the court were “a big step in this direction.”

Broadcasting

India’s broadcast advertising sector has been particularly buoyant in the last few years. Almost unaffected by the global financial crisis, advertising spending in the country has risen annually since 2012, with annual growth likely for the foreseeable future.

According to research service GroupM, advertising spending increased 11.8% last year, to INR557bn, from INR498bn in 2015 (see Figure 13). GroupM is estimating the total will rise a further 10% in 2017, to INR612bn. The research service said that the first quarter of this year is expected to be slow, with advertising spending forecast to pick up from the second quarter onwards. TV spending increased 10.1% in 2016, to INR253.5bn, from INR230.2bn in 2015, and is forecast to rise 8% this year, to

INR273.8bn. Radio spending last year grew 12.2%, to INR22.4bn, from INR20bn and is expected to rise a further 10% in 2017, to INR24.6bn.

Figure 13: India, advertising spending by media, 2015–17

	2015	2016	2017
Spending (INRbn)			
TV	230.2	253.5	273.8
Print	168.0	174.7	182.6
Digital	49.5	73.0	94.9
Out-of-home	25.8	27.5	29.4
Radio	20.0	22.4	24.6
Cinema	4.1	5.6	6.7
Total	**497.6**	**556.7**	**612.0**
Share of total (%)			
TV	46.3	45.5	44.7
Print	33.8	31.4	29.8
Digital	9.9	13.1	15.5
Out-of-home	5.2	4.9	4.8
Radio	4.0	4.0	4.0
Cinema	0.8	1.0	1.1

Source: GroupM

Radio developments

Despite strong growth in radio advertising spend, radio revenue per capita in India remains one of the lowest in the world. However, deregulation and privatization are set to boost growth in the coming years. Prior to 2000, radio broadcasting was dominated by the state. But in an effort to improve the variety of content and quality, the government introduced a number of changes, and since 2000 there have been several phases, with FM licensing to commercial players. The first phase in 2000 saw the introduction of 21 stations. Another 222 stations were set up five years later, in Phase II, resulting in a total of 243 FM channels across 86 cities. The first batch of Phase III auctions began in August 2015, comprising 135 channels. The second batch, with 226 additional stations, came roughly one year later, in June 2016. Phase III licenses will be operative for 15 years.

Having witnessed more than 580 new stations licensed since 2005, the Indian radio landscape has changed rapidly. With the completion of Phase III, the number of people listening to the radio is expected to grow further. Privatization of the radio sector has also opened up new platforms where brands can advertise. This, coupled with greater radio audience, will boost the Indian radio market. Moreover, radio advertising is considerably cheaper than TV and can be an attractive alternative for small and medium-sized businesses with limited advertising budgets. Extended FM coverage to new cities will further boost the local advertising market, spurring more growth in local businesses.

Questions over accuracy of radio audience measurement

Having a reliable audience-measurement body will be a main factor driving growth in the Indian market. Advertisers' willingness to pay for radio slots depends largely on the audience reach and demographic profile of a particular station. Today, radio ratings in India are conducted by public service broadcaster All India Radio (AIR) and TAM Media Research. In May 2016, the Telecom Regulatory Authority of India (TRAI) called for a new, credible radio-audience-measurement framework that will foster growth in radio advertising and protect the interest of the stakeholders.

Inadequate methodology, in particular coverage and panel size, were some of the concerns raised by TRAI with respect to the current system. The recommendations from TRAI will lay the foundations for the new framework, and the guidelines for radio rating agencies will be announced by the Ministry of Information and Broadcasting. These will be very similar to the existing policy guidelines for TV rating agencies, and there will be no limit on the number of rating agencies.

Looking further ahead, the potential switch-off of FM in favor of DAB would have an impact on the development of India's radio market. AIR has experimented with DAB since the late 1990s, but because of regulatory issues the initiative did not get the opportunity to extend beyond trial status. AIR does have government approval to upgrade its entire radio network to the DAB standard Digital Radio Mondiale. However, it's likely that any attempt to move away from FM broadcasting will progress anytime soon.

TV developments

TV broadcasting has made much bigger strides toward the conversion to digital than radio. According to Ovum, the number of TV households taking a digital service ended last year at 124.7 million (see Figure 14), equivalent to 73.8% of the total TV households. By 2021, the digital total is forecast to rise to 191.7 million, or virtually all households.

Figure 14: India, TV households by platform, 2016–21

	2016	2017	2018	2019	2020	2021
TV households	168,942	173,588	176,713	181,572	186,565	191,696
Digital	124,707	138,958	151,964	168,870	185,779	191,653
Analog	44,235	34,630	24,749	12,702	786	43
Pay TV	154,298	157,707	160,700	163,466	165,444	166,899
Digital cable	52,407	62,059	71,428	82,917	93,813	92,388
Analog cable	42,878	33,416	23,809	11,845	0	0
Total cable	95,285	95,475	95,238	94,763	93,813	92,388
IPTV	472	618	768	937	1,153	1,390
Pay digital satellite	58,540	61,614	64,694	67,767	70,478	73,121
Free digital satellite	13,262	14,581	14,932	15,252	16,045	16,869
Analog satellite	133	106	85	68	54	43
Total satellite	71,935	76,301	79,711	83,087	86,577	90,034
Digital terrestrial	101	521	1,025	2,905	5,224	5,224
Analog terrestrial	1,225	1,107	854	789	732	0

Note: figures are for period end

Source: Ovum

Strong economic growth and a buoyant advertising sector are boosting the Indian TV market. Cable is the dominant TV platform, accounting for close to 56.4% of the end-2016 TV household total. However, the cable sector has peaked and is losing subscribers to the pay satellite sector.

Satellite-TV broadcasting received a major boost six years ago from the entry of mobile operators Reliance and Bharti Airtel. Competition between satellite services was enhanced by a decision by the TRAI to ban satellite operators from carrying exclusive channels, forcing all operators to make their content available to all platforms. The ruling took away leverage from the broadcaster-backed operators, such as Dish TV, Tata Sky, and Sun Direct TV. With the content aspect of satellite-TV competition neutralized, the battle has centered on price and distribution.

Leveling off of pay-TV subscriber growth

Pay-TV subscriber growth is expected to level off against emerging competition. At end-2016, there were 154.3 million pay-TV subscribers in India, the second-highest subscriber base in the Asia-Pacific region. Pay-TV penetration is high, at 91.3%. While the subscriber total will continue to grow, pay-TV penetration will fall to 87.1% by 2021, as alternate entertainment forms emerge.

OTT is becoming a key part of pay-TV strategy. Cable operators are offering their own OTT services in order to fight competition from OTT content producers and aggregators, such as Eros, Hotstar, and Netflix. Asianet Satellite Communications, for instance, has launched an OTT service called Asianet Mobile TV+ for streaming regional TV content.

India has more than 700 TV channels, 150 of which are available only through a pay-TV service. Public broadcaster Doordarshan has a terrestrial-broadcasting monopoly and is one of the world’s largest broadcast organizations. Competition comes from cable and satellite programmers, including Star Plus, Zee TV, Sony/MSM, and Colors.

Live

India’s live-music sector in revenue terms is small compared with some of its Asian counterparts. According to last year’s PWC forecasts, ticket sales to live music events in 2016 increased 14%, to $67.5m, from $59.2m in 2015. Similar growth is forecast for this year, with ticket sales expected to top $77m.

Not a main international artist stop-off point

Although the country attracts some major international acts as part of their world tours, the number of international acts performing is much lower in India than in other countries in the region. For example, the highest-grossing world tours in the last three years, according to the trade magazine *Pollstar*, played no dates in India. Bruce Springsteen’s “The River Tour 2016,” last year’s highest-grossing tour, played no dates in Asia-Pacific at all. Toward the end of the year, 14 Oceana dates were added for 2017 for the renamed “Summer ’17” tour, but they were only for Australia (12) and New Zealand (2). Taylor Swift’s “1989 World Tour,” the biggest in 2015, visited Australia, Japan, and Singapore, while One Direction’s “On the Road Again” tour stopped off in Australia, Japan, Singapore, Thailand, Hong Kong, the Philippines, and Indonesia in 2014.

Infrastructure shortcomings

Why a country of more than 1.3 billion people cannot attract big-name artists is something of a mystery. One reason often cited by promoters is the poor organizational skills of local services, essential for putting on a major event. Also, the number of well-equipped venues in the major cities is low. Unlike neighboring countries, India has few facilities that enable performers to simply “plug and play.” Moreover, the amount of red tape involved in putting on a major performance in India is reportedly off-putting. Also, high fees charged by some international artists can make staging a performance not financially viable.

Modest festival sector

In line with India's lack of international artist tours, the festival sector is relatively small given the size of the country's population. There are, though, a number of festivals that manage to attract overseas performers. The most notable festivals are Sunburn, VH1 Supersonic, Electric Daisy Carnival, and the NH7 Weekender.

Goa state government forces festival relocation

The 10th edition of the Sunburn festival was held over four days at the end of December in Kesnand, in the Pune district. Artists performing included Afrojack, Armin van Buuren, Axwell & Ingrosso, Dimitri Vegas & Like Mike, and KSHMR. The previous nine editions had been staged at the end of December in Goa. However, disagreements with the Goa state government and the designation of Goa as a festival-free area between mid-December and mid-January prompted the move. Although the festival managed to relocate, attendance at the latest edition was reportedly lower than in previous years, and local reports said many festival-goers suffered problems getting to the site and collecting their entry passes. Moreover, a number of residents in Kesnand staged protests at the staging of the event near to their village.

The VH1 Supersonic was also hit by the Goa state government's change of attitude to the timing of festivals. The event switched from Goa to Laxmi Lawns in Pune and was held over three days in early February. The organizers of the festival, LIVE Viacom18, downplayed the reasons for the relocation and said in a statement prior to this year's event that Pune is a "seamless blend of local culture and global influences, thereby making it an apt destination for the upcoming edition of VH1 Supersonic." Headline acts were Eric Prydz, Macklemore, and Zedd.

EDC new to India

The Electric Daisy Carnival (EDC) travelled to India for the first time in 2016. US versions of the dance music festival have been held in California since 2008, with other countries (Brazil, Japan, Mexico, Puerto Rico, and the UK) hosting national versions. The India edition was staged over two days at the Buddh International Circuit in New Delhi in November. Acts performing included Afrojack, Alesso, Ferry Corsten, and Steve Aoki.

Multi-date Weekender

The NH7 Weekender festival is sponsored by beverage firm Bacardi and is organized by multiplatform service NH7. Traditionally, the festival is staged at a number of different locations in the last few months of the year. In 2016 the festival was held in Kolkata (Sept. 24), Puducherry (Oct. 15), Shillong (Oct. 21 and 22), Mysore (Oct. 29), Hyderabad (Nov. 5 and 6), Nagpur (Nov. 20), Jaipur (Nov. 26), and Pune (Dec. 2–4).

News in brief

Rights management, administration and licensing

SOCAN and Audiam to collect unpaid US YouTube royalties

SOCAN and wholly owned licensing-technology service Audiam are working together to collect unpaid YouTube royalties generated in the US. From the beginning of March to the end of May, YouTube is opening a claim process whereby eligible entities can participate in a "liquidation agreement." These entities can identify compositions that have earned synchronization royalties in YouTube from US views between August 2012 and December 2015, and add missing information triggering the release and payment of the royalties. Currently, the royalties are being held by YouTube in an escrow account. The process is open to all songwriters and music publishers who control the administration of the synchronization right in the US. Music rights holders can either affiliate with Audiam, which will do the collection work for them in exchange for a 25% administrative fee (SOCAN members are charged a 20% rate), or directly opt in to the YouTube liquidation agreement. Claims must be completed by the end of February. From June, any unclaimed royalties from the pool will be distributed by YouTube to participants based on market share data.

PPL and JAMMS sign landmark international agreement

UK performance rights society PPL has signed an international performer agreement with its Jamaican equivalent, the Jamaican Music Society (JAMMS). In doing so, PPL has become the first collective management organization to sign an international performer agreement with JAMMS. According to a statement from PPL, the deal marks a "significant leap forward for the Jamaican music industry, addressing a longstanding gap that has seen performers miss out on revenue where their music is used overseas." Under Jamaican law, performers do not have a right to equitable remuneration for the broadcast and public performance of recordings of their performances. Via PPL, Jamaican performers will now financially benefit from such use of their music recordings in the UK. PPL and JAMMS have worked together for a number of years under a reciprocal agreement relating to the rights of independent record companies represented by both organizations. PPL noted that revenue from public performance and broadcast rights can be a significant income stream for performers. With this deal, Jamaican performers for whom royalties have accrued at PPL and who are represented by JAMMS, will now be able to benefit from this stream of revenue. PPL's director of international, Laurence Oxenbury, said of the deal: "Revenue is currently being collected around the world on behalf of Jamaican performers but only a small proportion is making its way back to Jamaican performers who performed on the recordings. We, at PPL, have embarked on this agreement with JAMMS to enable more Jamaican artists and musicians to earn from recordings on which they have performed, when such works are played in our territory."

High Court rejects ITV licensing claim

The High Court in the UK has rejected commercial broadcaster ITV's appeal of the Copyright Tribunal's decision in June 2016 that it must increase its licensing payments to PRS for Music and MCPS. The decision brings to an end the long-running dispute between the authors' societies and ITV, which began in 2014 when negotiations broke down over the terms of the license covering 2014 to 2017. ITV had wanted its payment capped at the 2013 rate of £23.5m ($29.3m) per year, but PRS and MCPS successfully argued for an increase. The Tribunal agreed, setting the new base royalty for 2014 at £24.1m, plus a figure to be determined by the change in ITV's viewing figures and retail price index figures. It also approved a formula for increases in subsequent years. Commenting on the decision, Paul Clements, commercial director at PRS said: "The Tribunal decision set down clear and compelling reasons for an increase in the licence fee, reflecting the right value for our members' music. While ITV chose to appeal this decision, I am pleased that the High Court has now rejected their arguments and upheld the original Tribunal decision. This result is very real evidence of our commitment to secure the right value for our members' work."

KECOBO declines to renew MCSK license

The board of directors at the Kenya Copyright Board (KECOBO) has declined to renew the operating license for local authors' society MCSK for 2017. According to a number of local reports, the decision was made after MCSK failed to provide KECOBO with a members list and full audited financial details for the year ending June 2016. According to KECOBO, these details are essential for determining whether a collection society in Kenya is eligible for an operating license. In a statement to *The Star* newspaper, KECOBO's executive director, Edward Sigei, said: "In the absence of [an] audited financial statement and a list of members who were paid royalties in the last one year, the Board found that the society did not qualify for renewal since an assessment of the society's performance for the past year was not possible. As such the application for renewal was rejected." He added that MCSK had failed to produce audited accounts after being asked to do so twice since last October. No license renewal means MCSK must stop collecting royalties until the necessary documents are forwarded to KECOBO and the license has been reissued. KECOBO said it has renewed operating licenses for the Kenya Association of Music Producers and the Performers Rights Society of Kenya after both societies "fulfilled all the set requirements."

APRA AMCOS and ORiGiN Music sign pan-Asia digital licensing deal

APRA AMCOS and Sydney-based independent music publisher ORiGiN Music have signed a pan-Asian digital and online rights licensing and administration agreement. Under the deal, APRA AMCOS will represent ORiGiN and its represented publishing catalog, including the recently signed Bucks Music catalog, on a multi-territory basis throughout Asia in licensing its repertoire to mobile and online digital music and media services. The ORiGiN publishing catalog includes works from authors including James Morrison, Peter Dasent, Diana Anaid, Garry Frost, and Wally de Backer (aka Gotye). ORiGiN co-founder Philip Walker said of the deal, "Asia is a key region in our global expansion strategy and we are excited to join the APRA AMCOS Pan-Asian licensing hub, a proven multi-territory digital regional hub that will ensure our songwriters get paid fairly and efficiently in this notoriously difficult market." ORiGiN is the fifth global publisher to work with APRA AMCOS on its pan-Asian digital licensing and administration initiative launched in July 2013. ORiGiN joins UMPG, Peermusic, Imagem, and Hillsong Music as part of the initiative, which covers the Asian region including India and China.

CISAC and ARIPO join to champion African creators' rights

CISAC and ARIPO, the African intergovernmental organization established to promote the use of intellectual property in the region, are stepping up cooperation to help boost the growth of the creative sector in the region. CISAC has signed a memorandum of understanding with ARIPO that paves the way for a number of joint projects on strengthening copyright, technical exchange, education, and training of organizations collecting revenue for creators. The two bodies said in a joint statement that the African region has enormous growth potential in the creative sector. Royalty collections for creators in the region, by CISAC member societies and across multiple repertoires, grew 14.9% in 2015 to $68.6m, according to CISAC's *2016 Global Collections Report*. However, this represents less than 1% of global collections, totaling $9.5bn. "Creative and cultural industries have the potential to be a major engine of economic growth in Africa," commented the statement. According to an economic study commissioned by CISAC and prepared by EY in 2015, Africa's creative and cultural industries are worth $58bn, employing 2.4 million people. With relatively low levels of internet penetration and challenging conditions for the rights of creators in some countries, there is huge potential for further growth. Signing the agreement at a ceremony in Harare, Zimbabwe at the ARIPO headquarters, CISAC director general Gadi Oron said: "In today's economy, creators and creative industries are a huge driver of growth and jobs, and this is only going to escalate in the future. African governments, like their counterparts globally, are realizing that to nurture this potential, more actions are needed to promote and protect creators' rights. We look forward to a close collaboration with ARIPO, including opportunities for research that can demonstrate the huge economic benefits of creative industries in Africa."

Music Reports publishes performance metrics

US rights administration service Music Reports has announced its royalty, licensing, and data processing results for 2016. The company said it administered over $500m in royalty payments for uses via a range of services including TV broadcast and OTT, background/foreground, digital music services, and social-networking applications. During the 12 months, Music Reports processed more than 600 billion performances of audio and audiovisual content and administered over 250 million licenses, encompassing mechanical, public performance, and synchronization rights. In a statement, Music Reports noted a number of developments that enhanced its service offering. The company rolled out new online tools for its Publisher Web Portal that make it easier for music publishers to obtain a free account and register their catalogs in the Songdex database. A new dashboard feature was also added so that publishers can more easily access their own song catalog, as well as full archives of their licensing, royalty reporting, and payment histories. Music Reports debuted its Claiming System, which enables publishers to claim unmatched tracks, as well as find new releases and cover recordings of their works as soon as they are released. The company also rolled out the License Offers feature of the Publisher Portal, providing a neutral platform for rights owners and licensees to come together and transact directly. The License Offers platform was launched in June, with Pandora featuring its new interactive service tiers, and was later taken up by Amazon, which used the platform to enter into direct agreements with publishers for its Music Unlimited service. Music Reports said it will soon be featuring new license opportunities for publishers involving both mechanical and synchronization rights from other prominent music services.

IMPEL distributions see big jump

Online royalties paid out by the likes of Apple Music, iTunes, Spotify, and YouTube to Independent Music Publishers e-Licensing (IMPEL) increased 60% last year. No actual distribution figure was published. In a statement, IMPEL said the growth rate referred to distributions made by the licensing body, which collectively administers Anglo-American mechanical digital rights in Europe for a number of publishers including Beggars Music, Imagem, Peermusic, and SONGS Music Publishing. In total, IMPEL counts 46 members, representing repertoire by artists such as Elvis, The Rolling Stones, David Bowie, Drake, The Weeknd, Ed Sheeran, Bruno Mars, and Mark Ronson. Despite a market-wide decline in physical downloads, IMPEL's online royalties grew sharply due to a huge rise in streaming. Commenting on the growth, IMPEL CEO Jane Dyball said the licensing body was "a major player now in the digital space" and added that by uniting their repertoire and proactively engaging with the digital community, the independent publishers are "operating on a par with the majors."

BMI withdraws RMLC interim fee petition

BMI has confirmed that it has withdrawn its fee petition against the Radio Music Licensing Committee (RMLC). At the beginning of January, BMI filed an action at its New York rate court to set interim fees for radio stations represented by the RMLC after several months of negotiations had failed to result in any agreement. In a statement, BMI said the RMLC proposed an interim rate well below BMI's previous deal, which would have a significant impact on the royalties BMI paid to its author members. BMI added that the RMLC justified its proposed rate based upon incomplete and incorrect information regarding BMI's radio performances. BMI asked the court to maintain rates at the current level while new terms are negotiated. However, at a preliminary hearing on Feb. 17 before BMI's rate court judge, Louis Stanton, the RMLC agreed that the 7,000 stations it represents would pay the interim rate proposed by BMI. The payments will cover fees starting from the beginning of this year until a final fee is set. In a statement, the RMLC said its stations will pay the same 1.7% of net revenue that applied under the BMI license that expired at the end of 2016. RMLC noted that it had taken the position with BMI that the fees should be reduced from the existing rate because BMI's share of performances on radio is less than ASCAP's and so warrants a rate below 1.7%. "Rather than engage in costly litigation to try to lower the interim rate, however, the RMLC determined that its efforts were better directed at proceeding as soon as possible to demonstrate that BMI's market share calls for a lower final fee, which will be retroactive to January 1, 2017 (and, thus, result in a fee credit to stations assuming the RMLC prevails in establishing a lower rate)," the radio licensing body said.

BNR and Musicautor resolve licensing dispute

Bulgaria's public radio service, Bulgaria National Radio (BNR), is set to begin broadcasting music administered by local authors' society Musicautor from the beginning of March. So far this year, BNR has only broadcast classical music, jazz, and folklore music due to a dispute over royalty payments. Musicautor had pushed BNR to pay increased royalties for the use of its members' and authors' society-affiliated music and bring royalty payments in line with its closest neighbors. Until the end of 2016, BNR paid 1% of its state budget as well as 4.55% of revenue from advertising. Musicautor had pushed for a steady increase in royalty rates paid by BNR over the next three years, to bring payments in line with commercial broadcasters in the country. According to the Bulgarian News Agency (BNA), BNR and Musicautor will sign an agreement after making concessions. BNA said the decision of BNR management is prompted by a desire to secure adequate payment for Bulgarian musicians as well as a commitment as a public service broadcaster to offer a wide range of content.

Copyright protection and legal

Cox ordered to pay $8.3m BMG legal fees

A district court in Virginia has ordered Cox Communications to pay $8.3m in legal fees to BMG as part of a copyright case brought by the rights management company against the US ISP. At the end of 2015, the court ruled Cox was guilty of willful contributory copyright infringement and awarded BMG $25m in damages. The ISP appealed the decision, but the court dismissed the claim in August 2016. Although Cox filed a new appeal with the Fourth Circuit Court of Appeals, the Virginia district court has decided to Press on with BMG's fee claim. Judge Liam O'Grady commented in the latest ruling that not awarding fees would deter other potential plaintiffs from seeking to enforce their rights. "Cox is a massive company with $18 billion in annual revenue…it fought this lawsuit with vigor every step of the way, and it spared no expense in doing so," he said. "In fighting back, BMG took huge risk and ultimately expended more than $10 million [in] attorney's fees," the judge noted. Although Judge O'Grady added that BMG should be rewarded for facing up against copyright infringers, he declined to award the full $13m the company was claiming.

Indigenous Australian artists reject copyright law changes

A number of Aboriginal and Torres Strait Islander creative artists and art and performer groups have put their names to an open letter to the Australian government's Productivity Commission rejecting proposed copyright law changes. The Commission, which advises the government on a variety of economic, social, and environmental issues, published a report in December 2016 that recommended a series of changes to Australia's intellectual property rights laws. These changes included the reduction in copyright term and the introduction of a fair use exception for copyright infringement. The letter, drafted by the creative artist lobbying group Copyright Agency, rejected the recommendations, claiming that they would harm the ability of Aboriginal and Torres Strait Islander film and TV makers, writers, artists, musicians, and journalists to tell indigenous stories and make a living. "Aboriginal and Torres Strait Islander artists and creators have a right to receive fair payment for their work. The changes to Australian copyright laws being pushed by the Productivity Commission, large organizations, and big technology companies will greatly diminish these protections," the letter read. "Our kids should be able to grow up inspired by artists like Albert Namatjira and Emily Kame Kngwarreye, listening to music from artists like Dan Sultan and Jessica Mauboy and watching movies like Bran Nue Dae and Samson and Delilah and TV shows like Black Comedy and Basically Black and reading books like Shake a Leg and My Place." The letter called on the government and parliament to reject the proposed changes.

Court ends Flo & Eddie New York pre-1972 royalties claim

The New York Second Circuit Court of Appeals has brought to an end the pre-1972 recordings royalties claim by former Turtles members Flo & Eddie (Mark Volman and Howard Kaylan) against satellite radio service SiriusXM. In December, the court ruled that SiriusXM did not have to pay royalties for the broadcast of pre-1972 recordings, overturning a 2014 district court ruling in favor of the two musicians. The appeal court has instructed the district court to grant SiriusXM's motion for summary judgment and dismiss with prejudice the putative class-action lawsuit. The ruling will reduce the level of previously agreed damages payable by SiriusXM to Flo & Eddie.In November, the artists and the broadcaster filed a joint settlement notice at a California federal court that detailed a deal to resolve the dispute in California, as well as the appeal cases in New York and Florida. The filing stated that SiriusXM had agreed to pay $25m to Flo & Eddie and the class members involved in the California case upon final court approval of the deal, and an additional payment of between $5m and $15m for each appeal in which Flo & Eddie prevailed on the performance rights issue in California, New York, and Florida.

Google and Bing step up in copyright fight

Various UK rights associations have partnered with search engines Google and Bing in a government-backed attempt to crack down on internet piracy. The UK initiative will see sites dedicated to copyright-infringing content demoted in internet search results, while sites offering legal content will be easily accessible. The new voluntary code of practice was agreed between the two leading search engines and music body the BPI, the Motion Picture Association, and the Alliance for Intellectual Property, which represents a range of rights holders. The agreement was reached following a government-chaired series of round-table discussions. The Intellectual Property Office led the discussions, with assistance from the Department for Culture, Media and Sport. Media regulator OFCOM also supported the talks by examining the way that search results are presented to internet users. Commenting on the code, BPI chief executive Geoff Taylor said: “Successful and dynamic online innovation requires an ecosystem that works for everyone – users, technology companies, and artists and creators. BPI has long campaigned for search engines to do more to ensure fans are directed to legal sources for music or other entertainment. There is much work still to do to achieve this. The Code will not be a silver bullet fix, but it will mean that illegal sites are demoted more quickly from search results and that fans searching for music are more likely to find a fair site.” The agreement will run in parallel with existing antipiracy measures aimed at reducing online infringement. These include court-ordered site blocking, work with brands to reducing advertising on illegal sites, and the “Get it Right from a Genuine Site” consumer education campaign, which encourages fans to value the creative process and directs them to legal sources of content.

US music organizations decry DMCA failings

A coalition of organizations representing virtually the entire music community has filed new comments with the US Copyright Office decrying a "broken and antiquated" Digital Millennium Copyright Act (DMCA) as part of the Office's ongoing study of the law. The filing was made in response to the House Judiciary Committee's announcement late last year that it was looking into a music-licensing reform as part of its effort to update the country's copyright laws. In the filing, the organizations detailed why the DMCA required a major overhaul. For instance, the filing said that the DMCA safe harbors suffer from numerous key failings that have resulted in a "heavily skewed playing field where service providers can either comply with their minimal safe harbor obligations—and thereby obtain immunity from damages liability and avoid obtaining licenses from rights holders—or use the safe harbors strategically in licensing negotiations with rights holders to extract rates far below fair market value." In addition, the filing complained that the notice and takedown process suffered from "several flaws that need to be remedied," adding that the process cannot be considered a remedy for infringement in any literal sense because it provides "no compensation for past infringements made under the shelter of the safe harbor, and is essentially ineffective in preventing future infringements due to the constricted interpretations of the safe harbor."

Google files new notice-and-takedown comments

Google has submitted additional comments to those made to the US Copyright Office in April 2016 as part of the Office’s ongoing review of the workings of the Digital Millennium Copyright Act (DMCA). According to the search giant, the current notice-and-takedown regime has facilitated the “robust development and world-wide expansion of electronic commerce, communications, research, development, and education,” and has provided copyright owners with “a useful tool to protect their works at scale without having to hire a lawyer or register works.” Google noted that the DMCA alone has not eliminated unlicensed online sites and services from exploiting the copyrighted work of others, but claimed that it has “succeeded in fostering collaboration and economic growth, and in driving many rogue actors from the marketplace.” Google added that rogue sites have “successfully been driven out of the United States,” and added that the vast majority of the remaining rogue sites “have moved offshore, out of the reach of the DMCA.” As such, the search giant said that altering the current US copyright regime is “unlikely to impact their behavior.” Google also praised the DMCA, claiming that it has “proven successful at fostering ongoing collaboration between rightsholders and online service providers, a collaboration that continues to pay dividends both in the US and in international contexts.” The search giant said that the best way to measure whether Congress’s DMCA goals have been met is to consider the state of the online industry and the state of the content industries. “Streaming services are displacing piracy. Music consumption is exploding worldwide and traditional-music-industry revenues are growing. The Internet is thriving. Television is in a second Golden Age. These trends show that the DMCA has been effective in meeting both of Congress’s goals,” Google said.

EFF claims that safe harbors work

The Electronic Frontier Foundation (EFF) has added its weight to supporters of the Digital Millennium Copyright Act (DMCA). Adding to comments first submitted in April 2016, the EFF said that the notice-and-takedown process for addressing online copyright infringement was not perfect and had often been used to remove lawful speech from the internet. However, the lobby group commented that in many cases the process “works pretty well—particularly because of the safe harbors that protect Internet services that comply with the law.” The EFF commented that it is “frustrating that major media and entertainment companies are still pushing the Copyright Office to recommend throwing away the safe harbors and instead order Internet platforms to filter users’ communications.” The EFF reiterated its earlier comments that any tweaks to the DMCA take-down process should focus on “protecting Internet speech and creativity for all of us,” adding that the safe harbors “help protect the Internet as a viable and accessible platform for free expression and innovation, ensuring that online platforms are encouraged to experiment with new forms of communication and connection without threat of costly legal action.” The group said many rights holders would prefer to “sacrifice your voice or the next fun social media product you might like to use in exchange for even more dangerous private policing of the Internet.”

Live music

SIAE steps up action against secondary ticketing

Italian authors society SIAE has filed a legal complaint with a Milan court regarding tickets to a Lady Gaga concert at the Mediolanum forum in Milan that were listed for sale on secondary ticketing sites shortly after they were made available on presale. According to SIAE, almost immediately after the tickets to the concert were listed on official presale channels, the tickets appeared on a number of reseller sites priced higher than face value. In a statement, SIAE's director general, Gaetano Blandini, urged fans not to buy the tickets from secondary sites and asked consumers instead to notify the authors' society when they see tickets listed on resale sites so it can take further action. The latest legal complaint follows previous action in January 2017 when SIAE filed a petition with a Rome civil court about the resale of tickets to U2 concerts at the city's Olympic Stadium in July. Also in January, SIAE announced that it was suing the reseller Viagogo for listing tickets to a Vasco Rossi concert at Modena Park in July before they were available to the general public.

Ticketmaster acquires Czech service Ticketpro

Live Nation Entertainment subsidiary Ticketmaster has acquired Czech ticketing service Ticketpro. The deal extends the global ticketing giant’s presence to 30 countries. Ticketpro was launched in the Czech Republic in 1992 and currently sells more than 2 million tickets annually, to a range of events. According to a statement announcing the deal, Ticketmaster said Ticketpro has “developed its software and business across Central Europe and licensed its TicketSoft software in other international markets.” In total, Ticketpro has a presence in nine countries (Belarus, Bulgaria, Canada, Chile, Czech Republic, Greece, Hungary, Malaysia, and Poland). Ticketmaster commented that the acquisition offers up an opportunity to “extend its international ticketing business activities into another key Central European market within the Czech Republic, as well as complement the development of its existing business in neighboring Poland.”

Venue wins Spanish direct licensing case

A court in Spain has ruled that a venue can sign a direct licensing deal with a performer and does not have to pay royalties to local authors’ society SGAE. According to *IQ* magazine, Judge Pedro Macias at the commercial court of Badajoz in Extremadura decided that venue Sala Mercantil did not have to pay licensing fees to SGAE for separate concerts by Spanish rock group Asfalto and comedian Pablo Carbonell, because the venue had signed a direct deal. SGAE took legal action against Sala Mercantil, but the court ruled in favor of the venue. A spokesperson for SGAE commented to *IQ* that the judge in the case displayed a “clear misunderstanding” of copyright law by failing to distinguish among the rights of performers, composers, and publishers. “The performers said to the court that they’d received their royalties, and the court understood that to mean the composers had, too,” said the SGAE representative. “It was a clear misunderstanding of Spanish copyright law, which distinguishes between the rights of composers and artists,” the spokesperson added. SGAE noted that creators are able to leave the collective licensing system if they want to, but they are not able to benefit from both direct licensing of rights and the use of SGAE to collect royalties.

Broadcasting and video

EU TV plan risks "damaging investment and growth"

Europe's commercial broadcasters have said that proposed changes to the main directive covering content and distribution risk stunting growth in the sector, reducing consumer choice, and putting a brake on investment in local programming. Europe is in the throes of revising the Audiovisual Media Services Directive (AVMS) Directive with a view to fostering the digital economy in the region. A host of associations representing broadcasters in the European Union (EU) have aligned their lobbying effort with a joint statement in which they warn of the dangers to the industry if the suggested changes are implemented. A statement outlining objections counts industry groups ACT, COBA, CRT, EGTA, VPRT, and UTECA among its signatories. Its specific complaints relate to proposed new rules on advertising, which the group says will limit the ability of commercial networks to invest in content and are out of sync with the rules for online video platforms. They also take issue with the idea that broadcasters will face levies on their linear and on-demand services, which they say will restrict their ability to fund programming "and prevent channels from taking an innovative approach to funding content in response to changing audience demand." The other area of concern is that the "country of origin" principle, which means channels are beholden to local country-specific rules, will be eroded as the EU seeks uniformity across the region. The group said reworking AVMS is a once-in-a-decade opportunity to boost commercial TV in the EU region, but that the proposals in their current form "represent a step backwards."

BBCWW takes Bowie film global

HBO has bought *David Bowie: The Last Five Years*, a BBC feature documentary about the iconic rock star who died last year. In the wake of the US deal, BBC Worldwide has lined up a raft of sales for the film. BBC Films made *David Bowie: The Last Five Years*, which was produced by Francis Whatley as a follow-up to his earlier Bowie film, *David Bowie: Five Years*. It has exclusive footage of the star as he works on his final albums and the Lazarus stage show. "Looking at Bowie's extraordinary creativity during the last five years of his life has allowed me to reexamine his life's work and move beyond the simplistic view that his career was simply predicated on change," Whately said. "HBO, whose global output the world admires, is a great channel to get this incredible documentary out to the US fans." Other sales for the music documentary include to ABC in Australia, VRT in Belgium, Arte Germany and France, NPO in Holland, RUV in Iceland, and Yes in Israel. NRK in Norway, Viacom in Italy, Telefonica in Spain, YLE in Finland, and SVT in Sweden have also picked it up.

Bobbles Indian OTT service launches in Europe

A new entertainment streaming service for fans of Indian entertainment programming has launched in Europe. Bobbles.tv has rolled out over-the-top (OTT) and via satellite, focusing on reaching Indian expats in Europe with a package of well-known Indian channels from Sony, Star, and Viacom, among others. Bobbles is run by Hamburg-based niche channels and SVOD specialist Bubbles Media, which launched OTT channel bouquets for Chinese and Indonesian expats in August last year. The programming on Bobbles is carried in Hindi and English across 16 themed channels. These include B4U Movies, B4U Music, Star Gold, Sony Max, NDTV, and Viacom's Colors. The service is priced at €19.95 ($21.08) for the satellite option and €12.95 for the streaming service. Bobbles estimates there are 14 million Indian expats globally, over 1 million of whom are in Europe, and claims its new service is the biggest and most affordable Indian TV package in the region.

Apple preps international launches for originals

Apple's first originals – *Carpool Karaoke* and *Planet of the Apps* – will launch on Apple Music in the "next few months," according to Apple's Eddy Cue. Speaking at the Code Media conference in California in February, Cue, SVP of internet software and services, showed a clip of *Planet of the Apps* and revealed details of the Ben Silverman-produced show, which will see app developers pitch for financial backing and then promotion through the App Store. The series will be available "in most countries in the world" as part of Apple's 18-month-old subscription music offering, as will *Carpool Karaoke* – Apple's previously announced *Late Late Show with James Corden* spin-off. Appearing on-stage alongside Ben Silverman to discuss *Planet of the Apps*, Cue said that the shows will be exclusive to Apple Music, won't appear on traditional television, and will be available across Apple TV, Mac, and iOS devices. "We think that video can be a very important part of Apple Music. It's one of the differentiating factors that we can add," said Cue, asked about the reasons for Apple's move into this space. "We're just starting out and we're excited. We think these shows bring something to customers that haven't been seen before, so there's something unique, special that we're bringing to the table. I think there are more ideas like that that we have, so we hope to continue doing more – and we'll see." Cue said that Apple has a "real opportunity in the TV space" but is interested in doing programs that aren't being done by anyone else – ones that take advantage of its platforms. For this reason, he played down the logic of Apple merely buying a large producer and distributer of content – such as a Netflix or a Time Warner – or signing up to make a big-budget drama series like *Game of Thrones*. "We're not taking the traditional route. This [*Planet of the Apps*] is a show that's unlike anything that we see out there that we are able to add value to," said Cue. " *Carpool Karaoke* is in a same vein, so the idea is that we do things that we add a certain value to. It's not just going off the shelf and buying shows." Cue said that Apple Music currently has "well past 20 million" subscribers, and claimed there is still huge room to expand. "There's billions of people listening to music, so we still think the potential for growth is exponential."

YouTube adds kids content to Red SVOD

YouTube is adding four new original series to its YouTube Red subscription offering, created with its YouTube Kids app in mind. The children's series mark the first YouTube Red series produced specifically for family audiences and are due to debut starting from this spring. YouTube announced the new series in mid-February, at the same time as it revealed engagement stats for the YouTube Kids app. YouTube claimed that since launching two years ago, its Kids app has clocked up more than 30 billion views, with more than 8 million active viewers tuning in each week. It also said that the YouTube Kids app will be available "soon" to download on internet-connected TVs from LG and Samsung. The four new original series are *Hyperlinked*, a tween story about five girls who create a website for other girls; *DanTDM Creates A Big Scene*, about a group of animated friends who are touring "an epic show"; *The King of Atlantis*, an animated series about two young monarchs in the underwater city of Atlantis; and *Fruit Ninja: Frenzy Force*, about four fruit ninjas who set up a juice stand as a front for "the messiest secret service in the world."

Facebook to launch video app for TV

Facebook has confirmed it will launch a video app for TV, as part of a raft of new updates designed to improve the video experience on the social network. The Facebook TV app will launch “soon” on Apple TV, Amazon Fire TV, and Samsung Smart TVs, with more platforms to follow. “Last year we rolled out the ability for you to stream videos from Facebook to your TV, and today’s announcement expands this capability,” said Facebook in a blog post confirming the launch. Facebook users can currently watch Facebook videos on TV via Chromecast and Apple Airplay support, though the rollout marks its first dedicated big-screen video app. Facebook commented that the launch is one of several updates designed to make watching video on Facebook “richer, more engaging and more flexible.” One update will see Facebook turn the sound up on videos that appear in users’ Facebook news feeds. Previously news feed videos played silently, unless a viewer clicked on a clip. However, Facebook said that as people watch more video on their phones, they expect to hear sound when the volume on their device is turned up. “After testing sound-on in news feed and hearing positive feedback, we’re slowly bringing it to more people. With this update, sound fades in and out as you scroll through videos in news feed, bringing those videos to life,” said Facebook. Another update relates to how the social network handles vertically filmed videos, in a bid to make these “look better on mobile devices.” Facebook said it will now test a larger preview of vertical videos in news feed on mobile, with this available to all iOS and Android users. Finally, the social network is now making it possible for users to minimize a video to a “picture-in-picture view” so that it keeps playing in the corner of the screen while they browse other stories in their news feed.

Netflix, Amazon face Thai regulation

Netflix and other OTT operators will be subject to much of the same regulation as traditional broadcasters in Thailand if recommendations from a new report are implemented. Thailand’s National Broadcasting and Telecommunications Commission commissioned Time Consulting to examine the regulation of free and paid-for TV streaming services. Thai newspaper *The Nation* quotes from the resulting report and says it calls for the registration and licensing of OTT operators and that they should face a similar regime to linear broadcasters. There should also be stipulations about local content, it added, noting the regulation of VOD platforms would not hinder their operation. Netflix has launched in Thailand as part of its global rollout, and more recently Amazon followed suit, but like other local OTT services it does not face the same level of regulatory scrutiny as its TV counterparts. The US company is more likely to welcome the element of the report to regulators that suggests net neutrality rules are enforced, ensuring equal access to the Internet for all services.

Other news

UMG signs up to MQA encoding

UMG and the audio technology provider Master Quality Authenticated (MQA) have agreed a multi-year deal to encode UMG’s catalog of master recordings in the MQA hi-resolution format. The partnership follows the launch of the cross-industry marketing campaign Stream the Studio, launched at the Consumer Electronics Show in Las Vegas in January. Spearheaded by the Digital Entertainment Group, the campaign is aimed at raising awareness of the advantages of hi-resolution audio. Commenting on the deal, Michael Nash, executive vice president of digital strategy at UMG, said: “The promise of hi-res audio streaming is becoming a reality, with one service already in the market and several more committed to launching this year.” In its own words, MQA is “a revolutionary end-to-end technology that delivers master quality audio in a file that’s small enough to stream or download.” MQA claims that the file format is backwards compatible and so can be played on any device. However, without an MQA-enabled product, the sound will be better than CD quality, but to fully benefit from MQA, users need a device or software with an MQA decoder.

IFPI gives its backing to the EU–Canada trade agreement

The European Parliament has approved the Comprehensive Economic and Trade Agreement (CETA) between the European Union (EU) and Canada. The agreement will mean that recorded music in Canada and the EU will be protected to a high standard when used online, in broadcasting, or in public performance. Commenting on the agreement, Frances Moore, chief executive IFPI, said: “The European Parliament’s approval of CETA is positive news for the music industry. Together, the EU and Canada account for around 35% of the global music market. As such, the standards of copyright protection for music in these two territories are extremely important to our global industry.” Moore added that CETA includes commitments by the EU and Canada to “comply with the WIPO Internet Treaties as well as grant comprehensive protection to recorded music when used in broadcasting and public performance.” The next step is for the Canadian Parliament to vote on the agreement. If approved, the obligations relating to music rights protection will provisionally enter into force.

SoundCloud introduces midprice subscription tier

Audio streaming service SoundCloud has rolled out a new midprice tier. Costing $4.99 per month after a 30-day free trial, the new tier takes the already established title SoundCloud Go and offers ad-free access to 120 million tracks as well as offline listening. Not included in the tier is access to the 30 million tracks added after SoundCloud secured licensing deals with record companies. Those tracks are now part of the SoundCloud Go+ tier, which costs $9.99 per month. In a statement, SoundCloud said the introduction of the lower-priced SoundCloud Go tier “enables us to increase revenue to further expand our revenue sharing program for creators. As shared last year, we streamlined and further automated the process to get creators into our SoundCloud Premier program. We continue to grow the SoundCloud Premier program in line with the growth of our revenue streams, inviting more and more creators every month.” SoundCloud Go and SoundCloud Go+ are available through the service’s existing mobile apps, though access via an iOS app costs $5.99 and $12.99, respectively, to cover Apple’s additional surcharge.

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