

This Business *of* MUSIC

A Practical Guide to the Music Industry for Publishers, Writers,
Record Companies, Producers, Artists, Agents

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This Business of Music

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edited by Paul Ackerman

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*To our wives, Shirley and Phyllis,
for their constant encouragement*

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PREFACE

THIS book has been written with a view towards assisting participants in the music and recording industries to understand the workings of the business and their rights and obligations. It is meant to present the economic facts for day-to-day decisions and actions and to act as a simplified guide to common legal concepts underlying business determinations. It is not designed to take the place of legal and accounting counsel; it is intended to alert the reader to recognizing problems for which expert advice will be sought.

Generally speaking, it is hoped that the participants in the music business may use this volume to increase their understanding of its practices both here and overseas. Reference to particular chapters should assist in negotiating better and more comprehensive recording and publishing agreements. It should help the new as well as experienced record artist or composer to understand the organization and structure of the business and to protect his rights in contractual arrangements. The domestic publisher or record company will obtain guidance in dealing with its overseas counterparts, and in understanding the mysteries of the foreign music business.

The authors acknowledge with thanks the generous and valuable assistance of numerous business associates and industry leaders in the preparation of this book. The Copyright Bar is fortunate in having so many knowledgeable attorneys who have shared experiences and thoughts with each other as well as with newcomers to the field. Over the years the authors have been beneficiaries as well as occa-

sional participants in this exchange, and it is hoped that the book reflects some of the lessons learned.

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S.S.

M.W.K.

INTRODUCTION

THE business of music is an ever-changing and dynamic field with definite growth characteristics. Its consumers include both players and listeners. The number of adult players in 1963 has been estimated at over 23 million in the United States alone, while young musicians in the same year totalled over 10½ million. The category of "listener" encompasses practically the entire population. Many listeners are involuntary, such as those who hear background music in restaurants, hotel lobbies, elevators, and factories. But the average American listens to over 17½ hours of radio programs per week. And it is a striking fact that Americans spend more money for the purchase of high-fidelity equipment and concert-music recordings than they do for all spectator sports combined.

MUSIC INDUSTRY SALES

The American public has a larger capital stake in the music industry than do all the phonograph and record companies, jukebox owners, and music publishers. The public has invested in over 210 million radio sets and more than 60 million television sets, and in 1963 over 75 per cent of electrically-wired American homes had record players. Sales of new phonographs in the United States in 1963 alone were estimated at five million, of which 72 per cent were stereophonic. Aggregate sales of musical instruments, accessories, and printed music passed the \$650 million mark in 1963.

Record retail sales boomed from \$48 million in 1940 to nearly \$200 million in 1946, \$400 million in 1957, and \$658 million in 1963. It has been estimated that retail sales will reach \$800 million by 1966 and \$1 billion by 1970. In 1963, dollar sales of LP records represented 74 per cent of the total United States sales of records, with the balance being made up substantially of 45 r.p.m. singles and a minor amount of extended play or 78 r.p.m. records.

PERFORMING-RIGHT ORGANIZATIONS

Collections by performing-right organizations have climbed notably. In 1963, the American Society of Composers, Authors and Publishers, familiarly known as ASCAP, received almost \$38 million in behalf of a membership of approximately 7,100 writers and 2,300 publishers, as compared to 1957 collections of almost \$27 million. Broadcast Music, Inc., which is commonly referred to as BMI, had 1963 receipts of around \$13 million, approximately one-third the ASCAP collections, and represented 7,700 writers and 3,000 publishers. In 1957, BMI collections amounted to \$10½ million.

GROWTH OF INDUSTRY

The growth of the music industry in the past decade has far outstripped the increase in the gross national product of the country as a whole. In part it is due to new technology, ranging from the introduction of LP records in 1948 to electric organs. It is also accounted for by new marketing methods such as rack jobbing, mail order record clubs, and discount record stores and departments. Rack jobbing, introduced in the drug and grocery stores in the mid 1950's, services supermarkets, variety stores, drug stores, and other retail outlets with records. Locations serviced by rack jobbers had sales of records which surged from \$62 million in 1959 to over \$210 million in 1963; they represent the most rapidly growing retail portion of the record industry and handled close to a third of all record dollar sales in 1963. Columbia Records entered the record club field in 1955 and RCA Victor and Capitol Records began record club operations in 1958. Record club sales have expanded tremendously since 1954, when the volume was in excess of \$6 million; it has been estimated that record club and the relatively minor mail order sales in 1963 totalled \$100 million. As an example of the phenomenal growth of discount house sales, it may be noted that the sales of records by Korvette increased from about \$3 million in 1958 to almost \$14 million in 1962.

DISTRIBUTION

As is implicit in all marketing and merchandising revolutions there are growing pains as well as growth. The record industry has been characterized by chaotic distribution and intensive competition which in many instances result in minimal or no profits.

Presented at the close of this introductory chapter is a series of charts setting forth phases of development of record and sheet-music distribution. Chart I presents the normal record distribution pattern existing in the 1930's and into the 1940's. Chart II shows a change in the pattern caused by the introduction of one-stops. Chart III depicts the distribution niche attained by record clubs, while Chart IV demonstrates the place in the distribution pattern accorded to rack jobbers. The basic methods of distributing popular music in sheet music and folio form are shown in Chart V. Although the sale of printed music is often pronounced a minor segment of the popular music publishing industry, certain aspects continue to merit consideration. New demands for printed music have been noted for use with guitars and electronic organs.

LEISURE AND TEENAGERS

Of great long-range importance to the music industry is the recognition that music benefits from the expansion of leisure time for the nation as a whole. Teenagers delay longer their entry into the work force. Older persons retire earlier and on higher retirement incomes, and those in the current work force have shorter hours and larger entertainment budgets. Teenagers largely dominate the popular music market of today, and Bureau of Census reports tend to support the thesis that this will continue. From 1950 to 1960 elementary school enrollments rose 51 per cent to over thirty-two million and high school enrollments grew 50 per cent to over ten million. Estimates are that by 1970 high school-age population, as compared with 1960, will increase 43 per cent, although the elementary-age population will rise by only 16 per cent.

PHONOGRAPH RECORDS

The surging music market has not gone unnoticed by potential suppliers of music. According to an estimate, there are approximately 6,500 singles and 4,000 LP's released per year, which is a large

increase over production in the past. The fierce competition to place these records before the public has resulted in the average radio station being deluged with free records in the hope that they will be played. According to a *Billboard* survey of 1963, the average station had average weekly receipts of seventy free singles and nine free LP's. The risks in the record business are indicated by the same survey, which shows that only 23.7 per cent of the free singles were played more than once, and a full 61.6 per cent were never played at all. The LP's fared better, with only 21.7 per cent never having been played and 66 per cent having been exposed more than once.

SONGWRITERS AND ENTERTAINERS

Songwriters offered an innumerable number of songs for publication in 1963, with 72,583 actually reaching the point of copyright registration. In this same period, hundreds of thousands of persons considered themselves professional entertainers, with the membership of the American Federation of Musicians alone being about 275,000; and millions were on the sidelines as amateurs. In fact, it was reported in 1964 that there were more than 71,000 school bands and orchestras in the United States, with all indications pointing to increased expansion as the school-age population grows.

MUSIC AND ADVERTISING

Music has become an essential part of the advertising industry. Interwoven with commercial jingles which no longer merely introduce but also contain the commercial message, the music contributes immeasurably to the success of the advertising. Who can deny the importance of the jingles for such products as Pepsi-Cola, Winston and Newport cigarettes, and Rheingold beer? License fees of as much as \$30,000 may be commanded for a license to use a standard song in a commercial jingle. Advertising agencies have also learned the value of employing music for trade and industrial shows and many recognized composers have been commissioned to fashion musical settings for the display of a line of automobiles or other products.

INTERNATIONAL MUSIC TASTES

Music has long been identified as an international language, but with increased methods of communication, transportation, and trade

music tastes have advanced the One World concept. Tunes and artists become popular worldwide. The arrival of the Beatles in the United States seems only fair justice after the years of blind devotion of the rest of the world to such artists as Elvis Presley, Paul Anka, and Connie Francis. The United States has acclaimed imports such as "Tie Me Kangaroo Down Sport," "Al Di La," "Volare," "Never on Sunday," and "Dominique." With the increase abroad of the popularity of local language versions, there has been a commensurate decrease in the acceptance of the American-made recordings. However, some recording companies have overcome the nationalistic language problem by recording their stars such as Connie Francis in different foreign language versions which have achieved local acceptance abroad.

OFFICE AUTOMATION

The growth of the music market and of the means for utilizing music has necessarily added new complications to the administration of the industry. ASCAP and BMI spend substantial sums to maintain indexes and logging systems. Only through adjustment to modern office computers, tabulators, and other equipment can they keep abreast of the phenomenal number of songs and performances thereof. Major publishers and record companies have also resorted to IBM and other systems for royalty computations.

NEW VENTURES

The expansion of the music industry has not barred the door to new entrants. The industry still remains a highly viable one where fortunes can be rapidly built and lost. Even a series of top single records is no assurance of success with future records. There are many annual dropouts from the ranks of publishers, record companies, and managers, but also many replacements who are attracted by the modest initial investment required to enter the field and by the possibilities of large financial rewards.

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