

The Ultimate Guide To

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# MUSIC PUBLISHING

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*for*

## Electronic Music Artists

— *Part 1* —



# WELCOME TO THE GLORIOUS WORLD OF MUSIC PUBLISHING!

It really is glorious—music publishing is the business of songwriters and composers, and there is money to be made here as a songwriter/composer.

The problem in the electronic music world is that most electronic music producers don't consider themselves "songwriters." Of all the genres in music, electronic dance music producers are unfortunately the least likely of the bunch to register themselves and their songs in collection societies. It's a part of the music business that often gets thrown under the table when releasing and getting featured on Beatport are foremost on your mind. If you are composing your own tracks, there is money sitting out there in royalty collection societies that could be YOURS. When many labels and artists first begin releasing music on Beatport, iTunes and the works, the business of publishing is often forgotten. Moving forward, we want music publishing to be right on the forefront along with your digital distribution needs.

However, it's not as straightforward as it sounds. For starters, the "lingo" and vocabulary of the publishing world can get confusing, not to mention... what does music publishing even refer to?

In this Part 1 of our publishing guide, we explain the very basic essential definitions and knowledge foundation that is important

to understand before delving into the more intricate matters of music publishing. The ensuing parts of our publishing guide will delve into the more detailed and intricate matters such as performance rights vs. mechanical rights, ASCAP vs. BMI vs. SESAC, contrasting international copyright laws, and much more. We want these guides to give you all the knowledge you need to move forward with your music business needs, whether you are an established record label owner or a novice producer.

**All of this knowledge will be crucial as Symphonic launches its publishing administration service and its full licensing program in the coming months.**



# WHAT DOES PUBLISHING EXACTLY MEAN?

*Publishing is a vague word. In general, when someone uses the word “publishing” in the music world, they are referring to the ownership and control of the underlying composition in a song.*

## THERE ARE TWO SEPARATE PARTS TO EVERY SONG RELEASED:

### SOUND RECORDING

The musical sounds you hear in your ear played by instruments or electronic sounds in the form of a CD, vinyl, or digital wav/mp3 etc.

### UNDERLYING COMPOSITION

The musical work embedded in the song represented by notes, melodies, chords, rhythms on sheet music paper or a musical score.

#### 1. The sound recording / master recording

**A.** In the licensing world, most often referred to as the “masters” or the “masters side.”

**B.** Who owns it?

- i. The performing artist(s) on a track.
- ii. Can also be owned by the record label, depending on the contract the label signs with the artists.
- iii. Can also be owned by a producer if a producer is involved in the enhancement of a track.

#### 2. The underlying composition, or “musical work embedded in the sound recording.” (If you were to write out all the notes — notes, melodies, chords, rhythms and all — on sheet music paper, that is the underlying composition. Every song has an underlying composition... even if the songwriter has never physically written it down)

**A.** In the licensing world, it is most often referred to vaguely as the “publishing” or “publishing side.”

**B.** Who owns it?

- i. The underlying composition is, by law, automatically owned and controlled and protected under copyright by the songwriter(s)/composer(s)/lyricist(s) upon the moment of creation. (But to legally file for copyright infringement the copyright must be registered with the copyright office.)
- ii. If a songwriter signs a publishing deal with a publisher, the underlying composition may then be owned in part by the publisher, depending on the contract the songwriter signs with the publisher.
  - If the songwriter has never signed a publishing contract with a publishing company, then that songwriter does NOT have a publisher. He/she is unpublished. The songwriter then owns 100% of the underlying composition (if there were no other songwriting collaborators writing the song with him!). Not every writer needs or wants a publisher. It only comes into play when registering the works in PROs & mechanical rights societies. Or if you become a big and reputable enough songwriter.

*\*NOTE: In today’s world, the vocabulary between the sound recording world and the publishing world can be confusing since so many musicians releasing music out there are both the songwriter and the performer. For ultimate clarity, whenever discussing the “publishing” world or anything related to the underlying composition, we use the terms “songwriter” or “writer.”*

**The words in the boxes below go together (in no specific order). Each box represents a separate ownership and a separate business.**

SOUND RECORDING  
MASTER RECORDING  
MASTERS  
PERFORMING ARTIST  
ARTIST  
RECORD LABEL  
MASTER SIDE

UNDERLYING COMPOSITION  
MUSICAL WORK EMBEDDED IN  
SOUND RECORDING  
SONGWRITER  
WRITER  
PUBLISHING  
PUBLISHER  
PUBLISHING SIDE

# A QUICK HISTORY LESSON

The concept of “publishing” started back in the day when publishing meant printing something out in tangible form and releasing it to the public for example, publishing a book, publishing a song on a piece of printed sheet music that you buy in a store, or publishing an article in a newspaper.

The clear separation of **sound recording** and **underlying composition** back in the old days of the music business arose because the people who were writing the lyrics and the music to the songs were 99.9999% of the time NOT the performers as well. Frank Sinatra didn't write most of his songs. He just performed them with that fabulous voice of his.

Why did publishers arise? Publishers arose as a lucrative business. These people said why don't we invest in these talented composers and songwriters, give them some money upfront to write some great hit songs for me, I'll own 50% of the underlying composition songs, and then with all my fancy connections I'm going to go sell these songs to the best record labels and singers out there, get Frank Sinatra to sing these songs, then get the songs put in that new musical movie out and make some money off of these songwriters/composers! The publishers were the outlet for songwriters to get people to actually perform their songs and bring them to the public.

If you were a songwriter back in those days actually getting your music released on record labels to the general public, you HAD to have a publisher. Publishers were the route to success and the only way you'd ever have a chance at getting your music out there.

*Alright guys, come out of the digital 2000s and into the early 1900s.*

Publishers therefore had the responsibility to register songs with all the necessary royalty organizations to collect all royalties from performances and sales of the song earned.

Fast forward to the digital age of the 2000s... Today you have singer/songwriters who perform and write their own songs. (Take Regina Spektor and the like.) You have big vocalist pop stars who collaborate with 1 or 2 hired professional songwriters (who can't sing) to write a big hit song (Taylor Swift for the ever dreadful “I Knew You Were Trouble”). You have a big hit pop star who can't write and just sings the song that other professional songwriters write for him/her (Rihanna). And then, here we have the explosion of electronic dance music / “EDM” in underground and mainstream culture - electronic music “producers” who “produce” music on computers...the ultimate digital music writing. If you're an electronic music producer, you aren't writing music on sheet music paper with a pencil in one hand and a guitar in the other. You're inputting sounds on electronic computers and instruments. You call your songs “tracks.” You're releasing “tracks” via digital music distributors and record labels. You call yourself a DJ/producer, an artist.



# WHAT EXACTLY IS A PUBLISHER?

But guess what... *You're a songwriter, too.* You are composing a song with melodies, chords, rhythms, crazy sounds and all. Though you never actually write anything down with a pencil on a piece of sheet music paper with treble clefs and sharps and flats and A flat major chords, the music you are creating on your electronic equipment has a musical composition embedded in that sound recording. And if you write that, you are the owner of that underlying composition. If your music is being played by other DJs (or performed by you) in live clubs and arenas and venues, played on internet radio like Pandora, streamed on Spotify and Deezer and the like, digitally downloaded in certain nations worldwide, and much more, you as the songwriter are owed various kinds of royalties for the public performances and digital downloads of your track.

In the electronic dance music world, publishing – rather, ownership of the underlying composition – is a topic that has been largely ignored. (See <http://bit.ly/10Dac33>). It's probably because most electronic dance music producers don't consider themselves "songwriters." The word "songwriting" conjures up images of a lonely creative soul armed with whiskey, a ciggy and a guitar, writing lyrics and melodies and minor and major and augmented chords onto a piece of crumpled up sheet music paper. **Digital Music News** reported: "DJs are less likely than performing acts to submit set lists [to PROs]. Only 35% of set lists were completed at UK dance festival Creamfields 2011, and 15% at Glade. Compare this to the predominantly guitar-based Reading Festival, for which 90% of set lists were completed." **Point taken!**

*The important thing for all electronic music producers to realize is that they, too, are songwriters. Most are both the songwriter and the performing artist for each track they write.*

So, you know now that "publishing" is a vague word that most often in the music business refers to the ownership of the underlying composition in a song. A publisher is more specific but can mean a variety of different things in today's world, depending on the context. The word publisher most often refers to a "publishing company," a company that partakes in publishing business for its songwriter clients. Publishers are the ones who deal with songwriters.

However, it is extremely important to note that in today's world, "publishing" does not always involve a legitimate publishing company because contemporary songwriters don't always have a publishing contract with a publisher. As a matter of fact, the majority of songwriters out there do not have a publishing deal. A songwriter may have a publisher, or a songwriter doesn't have a publisher. Not all songwriters have publishers.

Historically and still existent today (but usually only with pretty major songwriters), a legitimate publishing company is a company that selects a writer for his/her merit, gives an advance (could be \$15,000, could be \$150,000), takes over ownership and control of about 50% of the writer's underlying composition copyrights, registers writers' works in all PROs and mechanical societies necessary worldwide, and has a responsibility to exploit those songs for licensing opportunities. A true publisher owns a stake in a songwriter's compositions. They want to exploit the songwriter's compositions so as to generate as much revenue as possible from them via getting licensing placement deals for the song, etc.

Today, however, a “publisher” can mean many things other than a legitimate publishing company. A “publisher” can refer to:

- A legitimate publishing company as described above. Roles include:
  - » Usually gives songwriter an advance
  - » Takes over ownership of a % of the underlying composition (standard is 50% but depends on the deal) and by default usually takes the same percentage of any royalties
  - » Registers writer with member account with ASCAP/BMI
  - » Registering all writer’s songs (or selected songs) with ASCAP/BMI
  - » Taking over mechanical rights administration or working with HFA to issue mechanical licenses
  - » Exploiting the songs by trying to get licensing placements – these types of companies usually have licensing departments that handle the pitching of the music
  - » Collecting and distributing the royalty payments
  - » Giving any other third-party approval to use the songs in any media
- A record label or a distributor sets up a “publishing division” or “publishing administration” division to simply do administrative work. No ownership of underlying composition copyrights is involved; to earn a return on the administrative work, they take a % of the publishing royalty revenue. Roles might include:
  - » If the songwriter doesn’t already have an account with various PROs, this entity would do it on their behalf or at least aid in the process.
  - » Register all songs on the releases (or selected ones per mutual agreement) with ASCAP/BMI and any other PROs worldwide and mechanical societies.
  - » Collects and distributes publishing royalties to the writers of the songs.
- A songwriter sets up his/her own “publishing company” in order to be able to collect the publisher’s share of the performance royalties at ASCAP or BMI. That songwriter named Joe Smith registers a publisher account with ASCAP as “Joe Smith Publishing” and collects the publisher’s share of royalties.

***If you are a songwriter and have never signed a contract with a publisher, you own 100% of the underlying composition.***

## IF I AM A LABEL, AM I THE PUBLISHER?

***No, you are not the publisher.*** If you claim yourself as the publisher to a licensing house, music supervisor or music store, you can get yourself into big trouble.

Some labels dive into the publishing business because they want to earn more revenue from the songs they release. The major labels have major publishing divisions (Warner Music Group has Warner Chappell Publishing)... You are only the publisher if you set up a publishing company on/with/DBA as your label to register the songs on your releases with the performance rights societies.

## WHAT EXACTLY DOES THE COPYRIGHT REFER TO THEN?

Copyright is a vague word. In music, you can have the sound recording copyright, and then you can have the underlying composition copyright. In law, copyright law refers to intellectual property law. Copyright can mean ownership of anything! A sound recording, the underlying composition, a painting, a poem, a novel, any piece of intellectual property!

# PUBLISHING IN REGARDS TO LICENSING

Licensing, again, is a vague word and can refer to many situations; in the most general sense, music licensing refers to a copyright owner granting an entity a license to use their music in some way. For our purposes, licensing refers to a) the public performance of music in background music services; b) the placement of music synchronized to a form of visual media, known as sync licensing. Sync licensing is the business of placing music in film, television, commercials, trailers, video games, etc.

The world of publishing and the world of licensing, though somewhat separate, are often intertwined because legitimate publishers often control and have a say in whether or not the songs they own a percentage of get licensed. An integral part of legitimate music publishing companies is to pitch their songwriters' music for sync placement in film, TV, commercials, etc. — these companies typically have licensing departments. However, licensing is not a matter left completely up to publishers.

In the licensing world, people who want to use the music with visual media (music supervisors, licensing houses, production companies, etc.) need to know who the owners of a given song are. They want to know who the owners are because those music supervisors need to gain approval from ALL owners of a given song in order to use that song in their film, TV show, trailer, commercial, or whatever. They want to know and will usually ask:

1. *Who owns the masters?*
2. *Who owns the publishing?*

You should know now that these questions also mean:

1. *Who owns the sound recording?*
2. *Who owns the underlying composition?*

So, if you want to get into the licensing world and get your songs placed in film, TV, commercials, etc., you have to have the answers to these questions at all times. And your licensing agents/representatives pitching your music on your behalf will need the detailed answers to these questions.

When licensing houses, music supervisors etc. ask if the song or songwriter has a publisher, they don't care who is simply administering the publishing and doing the paperwork — they want to know if the songwriter has a publisher who owns a % share of the underlying composition copyrights. Why? Because in order to get a license to place that music in any film or TV show or commercial, they have to obtain approval and get a license from all owners of a song — on both the masters side and the publishing side.

In order to place your music in a film, TV show, or any other visual media, those music supervisors and related personnel need:

1. A master use license to have the right to use the master/sound recording in the visual media
2. A synchronization license to have the right to synchronize the underlying composition with the visual media

**So in order to get both of these licenses, they have to scramble to find who the owners are of the sound recording and the underlying composition.**

**AND THAT IS JUST  
THE BEGINNING...**

**We know this was dense, but once you understand the information above, you have the core foundation you need to begin collecting royalties and getting your music placed in film, TV and the works.**

In Part 1, we've discussed the very basic vocabulary of music publishing, and led right into how music publishing and licensing are thoroughly intertwined. These two sides of the music business are exciting and extremely lucrative. We hope you're excited after reading this — stay tuned for Part 2 and all the updates at Symphonic coming up!

**PART #2  
COMING SOON!**