

# NEWSLETTER (Special Edition)

March 7th, 2022

## We are Not Prisoners!

### An Open Letter to My Fellow Artists and Musicians



My wife (Liz, aka Colorado) gets upset when I passionately say "artists are slaves, because slaves had to work for free" (and I do not mean to offend anyone with that statement . . . this is not directed towards anyone community or an ethnicity), but on topic, Colorado goes on to say "No! Artists are more like incarcerated prisoners." And while pondering this thought, I realize she has a valid point.

As per google, typical inmate "wages range from \$0.14 to \$2.00/hour for prison maintenance labor, depending on the state where the inmate is incarcerated. The national average hovers around \$0.63 cents per hour for this type of labor. In some states, prisoners work for free".

Let's shed some light on this perspective and how it relates to the average musician trying to make a living from original composition royalties. If the average wage for a prisoner is \$0.63/hour and the inmate works 40 hours a week, per quarter this equates to \$302.40. Based upon these numbers, the streaming royalties paid to most musicians for their original compositions is even less than what an inmate makes in prison. Take a minute . . .



. . . let that sink in.

With that sunken thought well in place, I need to tell you that I have been dissecting the several page [article](#) Robby Roberson sent over to me (Thank You Robby!) written by Rachael Hurley and shared on Facebook this February. Ms. Hurley, is a long time music industry professional and writer. She currently runs her own publicity firm, Sweetheart Pub and is affiliated with Baby Robot Media, both who provide services to a great many artists. I will discuss a few of Ms Hurley's opinions a little later in this piece. However, in the process of doing some of my own research, I have come to realize that even the most experienced music professionals are caught up in the old music business distribution model as it relates to revenue sharing. Long time music labels and PR firms are still drinking the same old kool aid. After all, they are one of the many institutions in the music business with their fingers in this multi-billion dollar revenue pie.



---

The concept behind IAMG is overwhelming. Everyday I try to digest the research while contemplating your input and feedback. We are dealing with a multi-billion dollar industry. There is a lot going on out there. Active members need to believe in the reset of the model being proposed. I do not expect any of you to take the time to absorb, read and analyze all the details of this effort, but wherever possible, I will provide you with embedded links to the material so you can look more closely at information discussed. I have been passionate about "fair artists compensation" for more than 20-years! We need to band together (no pun intended!). At this point I would like to review some past historical examples:

A few of us may remember Napster (1999) as a peer-to-peer music file sharing platform. Napster was entangled in a long-lasting legal battle with the Recording Industry Association of America (RIAA) which led to it's temporary shutdown in 2001. Music streaming is not new, in 2000 I had several of my musical works up on MP3.com and was working with two European artists, the late UK musician [Colin Kennaugh](#) and Widzy (Ireland). As a group, we were managing several of our own MP3.com radio stations (play lists) in support of hundreds of other world-wide Independent artists who joined our group. We streamed these playlist everyday. What is important to realize is that a single-threaded business model between a (Digital Service Provider) DSP and artists is not new! However it is and has always been a threat to the music industry. Why?

After losing a wave of lawsuits, [Napster](#) filed for bankruptcy in June 2002. Its assets were acquired by Roxio, and it re-emerged as an online music store. Best Buy later purchased the service and merged it with its Rhapsody branding on December 1, 2011.

In April of 2000, the RIAA won its [lawsuit](#) against MP3.com, with Warner Music and BMG settling for \$100 million apiece. A month later, UMG won it's own [lawsuit](#) resulting in litigation

and judgments totaling more than \$53 million. This last action forced MP3.com into a severe financial predicament which was then averted when they merged with Vivendi Universal.



CartoonStock.com

The merits associated with each lawsuit were warranted. MP3.com allowed music subscribers to store personal CD content on their servers. As artists on the platform we became concerned and the topic was heatedly discussed and talked about for months on artist back-channels forums way before MP3.com was sued and then sold. These are two classic examples of how hard the music industry protects and monitors any threat to the existing distribution model. They will protect their revenue and the billions of dollars they make on the backs of the Independent artists The distribution model used by Napster and MP3.com was single threaded and designed to cut out the

middle men. Any shift in the established distribution model would have been a disaster for the music industry and the Big 5. They did everything they could to shut it down. And they did!

---

I need everyone to understand that we are not trying to change the current royalty structure. And I anticipate that artists will still have their content up on their own website or continue to keep their musical works on the same DSPs they are familiar with. These facts will not impact what IAMG is or will be purporting to do.

Commentaries like Ms. Hurley's only helps in making my point. As such, I would like to dissect and address some of her comments in this open letter to my fellow artists.

Hurley: "*Here goes nothing. Spotify and streaming are not the problem. Too much music is*". I can agree with this point of view. We've probably have had too much music since humankind began writing and composing music (i.e., based upon the population during each epoch). She addresses this more later on in her article, but I digress. Ms. Hurley goes on to say:

*With Neil Young vs. Joe Rogan battle coming to a head this week and Neil Young losing . . . I've seen a renewed battle cry about Spotify being some demon corporation that devalues music and keeps musicians from making a living. It's hard to take seriously anyone who thinks that quitting Spotify will have any impact on anything. It feels performative and hollow. It doesn't present any viable solution. And it tells me that they obviously have not looked at the numbers.*

### Spotify's Numbers

Examining Spotify's 2021 Annual Report Ms. Hurley should have noticed several things: (1) Major risks discussed by Spotify involve users (listeners/subscribers) and **advertising revenue**. Amazingly in Spotify's risk assessments, "content" from artists and royalties are not seen as a major "risk concern". In fact, Spotify presents only one (1) bullet point out of the forty (40) listed as a content concern. Why is this? (Spotify's 2021 [Annual Report](#)).

When we Look at the various risk assessments pointed out by Spotify, we see that their accounting figures only remunerate the argument about the importance of "media advertising revenue" and the impact Ad revenue has on Digital Streaming. When we examine the specific bullet points in Spotify's Business and Operations Summary of Risk Factors several bulleted items stand out: Items 5 and 6, both which underscore the importance of Ad-Revenue:

(Excerpt from Spotify's Business and Operations Summary Risk Factors)

- 5 *Failure to convince advertisers of the benefits of (Spotify's) **advertising** offerings could harm (Spotify's) business, operating results, and financial condition.*
- 6 *Emerging industry trends in digital **advertising** may pose challenges for (Spotify's) ability to forecast or optimize (Spotify's) **advertising** inventory, which may adversely impact (Spotify's) **Ad-Supported revenue**.*

On page 48 of their annual report Spotify states "**Ad-Supported revenues** comprised 12% and 9% of our total revenue in 2021 and 2020". The report is in Euro, but based on their figures, this is \$1.32B and \$814M of US currency for years ended December 2021 and 2020. Premium subscriptions revenue comprised 88% and 91% of Spotify's total revenue and equated to \$77.8B and \$92.4B.

Spotify's mission statement originally focused on the artists and stated that they would strive "*to unlock the potential of human creativity by giving a million creative artists the opportunity to live off their art and billions of fans the opportunity to enjoy and be inspired by these creators*". Their heart is/was in the right place. But since their formation in April, 2006 their focus has shifted to support the traditional music distribution model and vered away from the individual artist.

---

This shift is clearly noted in their 2021 Annual Report, (pp. 14-15), where they state that the music industry is highly concentrated and that *"with respect to sound recordings, the music licensed to us under our agreements with **Universal Music Group, Sony Music Entertainment, Warner Music Group, and Music and Entertainment Rights Licensing Independent Network ("Merlin")**, makes up the majority of music consumed on our Service. For the year ended December 31, 2021, this content accounted for approximately 77% of music streams"*.

As we see, Spotify is no longer mainly focused on independent artists. They have found it much easier and more profitable to work with the Big 3 (Warner, Sony and Universal), and [MERLIN](#). The latter is intriguing because this organization has a ".org" domain name and states that it is an "independent network". But what are they? When we dig deeper into this we find that Merlin is a digital rights music licensing partner for independent record labels, distributors, and other music rights holders around the world. Although music rights holders are mentioned, the independent artist is once more the smallest fish swimming in this very large ocean . . . being consumed by the larger fishes.



As mentioned earlier, Ms. Hurley is a successful professional music publicist, and she works with record labels and distributors. It is in her best interest to protect this territory. Items 10, 19, and 37 of Spotify's annual report discusses artists' content and copyright protections.

*10. (Spotify's) major content providers have the ability to unilaterally affect our access to music and other content.*

This is critical to what the Independent Artist Music Group (IAMG) is trying to accomplish. "Content Providers" means us, owners of the musical works uploaded to Spotify's technology platform. The key word "unilaterally" is meant to mean something is done by one person or group involved in a situation without the agreement of others, i.e., "others" meaning those business entities involved in slicing up the individual pieces of the revenue pie.



There is power in numbers!

---

Other bullet points in the annual report concern copyright law and jurisdiction:

19. (Spotify's) *business is subject to complex and evolving laws and regulations, including those related to copyright, privacy and data security, which may increase compliance costs.*

Artist works are protected by the current Digital Millennium Copyright Act (DMCA) laws, but what else does this legislation deal with? The reference to "*complex and evolving laws and regulations*" is related to the concern Spotify would have regarding artist compensation, which is currently capped.

37. (Spotify is) *organized under the laws of Luxembourg and a substantial amount of our assets are not located in the United States. It may be difficult for you to obtain or enforce judgments or bring original actions against us or the members of our board of directors in the United States.*

Safe Harbor Copyright Laws even further protect Spotify.

Rachel Hurley's commentary makes a very strong and strategic point saying that "*Streaming isn't keeping musicians from making a living. The real issue is that music is an oversaturated market. There are too many musicians and too much music*". She then goes on to tell us that because the market is oversaturated the price of compensation to the artists is in direct proportion to a "*devalued product*" and "*If diamonds grew on trees we could get a basket of them at the corner market for \$3.99*".

Believe it or not, I have no issue with this assessment. Why is this? Because MS Hurley is correct, the value of music is less because there is so much of it. But this is also an economic sleight-of-hand, meant to distract Artists from the real prize! The DSP community makes money from Artist content because of Advertising!!! Good music will always attract listeners if it's heard. As an organization IAMG may one day be able to rise up in advocacy as it relates to the DCMA, but this is a battle we do not need to focus on at this time. I am not concerned with fighting Congress or the "royalty" battle. DMCA sets the digital streaming "value" of content and currently the major DSPs pay each artist on average between \$0.0032 to \$0.0056 per stream.

In Rachael Hurley's article she makes some excellent points that directly relates to what we should be and can be within our own Independent Artist Music Group mission statement. She says:

*I don't think the modern day music business is solely about music. I think it's about the people behind the music. It's a total package game. You've got to be a good musician, a good performer, a good storyteller, a good marketer, and basically be good at having people buy into you.*

This is why collaboration is critical. We need to share and mentor one another within this community, creating, performing and marketing the best independent music and entertainment that most people have never seen or heard. She also understated the fact that "*streaming has been around for over a decade*". I have already pointed out it has been more than 20 years, but I digress. She continues by saying that over this time period, artists have had "*plenty of time for musicians to unite and form a union or advocacy group that could study Spotify's extremely transparent numbers and come up with a more fair payment plan*". I could not find this transparency as it relates to the license fees Spotify paid out. And lastly Ms. Hurley is right! It is time for artists to come together, united as an Independent Artist Music Group.