

“Music Licensing in Today’s World”  
By Jeff Brabec and Todd Brabec

In the Music Business, rates, fees and values are determined in a number of different ways as well as in a number of different venues- these include Negotiation between individuals, entities and industry organizations, Rate Courts, Copyright Royalty Boards and Tribunals, Statutory licenses, legislation, anti-trust and civil litigation, industry practice, government intervention, mandatory arbitration, mediation, organization governing documents, payment schedules and internal policies, competition, foreign country laws and practices, among other factors and considerations. Regardless of how royalties and rates are negotiated and/or set and by whom, the end result is a royalty or fee paid to the music publisher, the songwriter, the composer, the label and the artist. The following Income Chart illustrates many of the types of income that can be generated from specific types of music uses.

**Potential Songwriter/Publisher/Recording Artist Gross Income**

\$	U.S. single sales (100,000 downloads)
	U.S. album sales (200,000 copies)
	Interactive streaming mechanicals
	U.S. radio and TV performances and
	Streaming Royalties
	Foreign single sales
	Foreign album sales
	Foreign radio and TV performances
	Sheet music, folios and print
	Commercial
	Television series all media excl. theatrical license
	Motion picture use
	Foreign theatrical film performances
	Broadway show
	Video game synch fee
	Video game royalties plus advance
	Ringtones and Ringbacks
	Lyric reprint in a novel
	Toys, dolls and greeting e-cards
	Karaoke
	Motion picture scoring fee
	Foreign theatrical score royalties
	U.S. television score royalties
	Internet and miscellaneous
\$	<b>Total writer and publisher royalties</b>

		Motion picture sound recording master use
		Recording artist royalties (digital/physical sales)
		Interactive Streaming royalties
		SoundExchange artist royalties
		<u>SoundExchange producer royalties</u>
\$	4,115,375	<b>Total gross income</b>

If you're a songwriter, writer/artist, music publisher, or record company it is essential that you know the type of email or call that you will receive from a music supervisor or licensing clearance person representing an audio visual production that is considering using your song or master. As a starting point, following are a few examples of what the request may contain and some of the issues involved.

#### **Television :**

- Identity of Production Company
- Identity and Nature of Program (dramatic, music/dance centric, late night, morning, etc.)
- Episode Number
- Synopsis of Series
- Identity of Composition
- Scene Description
- Use of the Composition in the scene or scenes (visual vocal, background vocal, instrumental, theme, change of lyrics, etc.)
- Duration of the Use (30 seconds, full usage, 20 seconds plus 15 seconds in multiple uses, etc.)
- Territory (world or universe, U.S. and Canada, Internet, additional territories to be added on an option basis, etc.)
- Term (life of copyright, 2 years with options to extend for longer periods, etc.)
- Media Rights Requested (worldwide all media including downloads and streaming, U.S. and Canada television with options to extend into additional media, out-of-context, etc.)
- Fee (\$500, \$5,000, \$12,000, \$25,000, \$50,000, etc.)

### **Motion Pictures:**

- Identity of Production Company
- Identity of the Film
- Synopsis of the Film
- Identity of Composition
- Scene Description (what is actually occurring in the scene where the song is being used)
- Use of the Composition in the scene or scenes (visual vocal, background vocal, background instrumental, visual instrumental, theme, change of lyrics, etc.)
- Duration of the Use (30 seconds, full usage, 20 seconds plus 15 seconds in multiple uses, etc.)
- Territory (world or universe in most cases other than film festival or step deal licenses)
- Term (life of copyright of the song in virtually all cases other than in film festival or step deal licenses)
- Rights Requested (worldwide all media is the norm/sometimes known as “broad rights” which includes home and personal video, out-of-context trailers, etc.)
- Fee (\$500, \$5,000, \$12,000, \$25,000, \$75,000, \$100,000, \$250,000, etc. The fees depend upon bargaining power, the music budget, the importance of the song to the project, and the use, among other factors.)
- Opening Credit Use
- Closing Credit Use
- Whether It is a Major Film Company, Indie Company or Documentary

### **Video Games:**

- Identity of production company
- Identity of the video game
- Synopsis of the video game
- Identity of composition

- Use of the composition in the scene or scenes (visual vocal, background vocal, instrumental, theme, etc.)
- Duration of the use (up to full usage, multiple uses, etc.)
- Territory (world or universe)
- Term (life of copyright, 7 years, 10 years, etc.)
- Effective date of term (many times with a tentative date)
- Rights requested (all gaming platforms, operating systems, devices or methods of distribution with options to edit, cut, loop or otherwise excerpt portions of the composition as required for gameplay features, downloadable content (“DLC”), etc.)
- One-time fee (\$500, \$5,000, \$12,000, \$25,000, etc.)
- Royalty based games (music and dance centric games) 1¢, 2¢, 3¢, etc. per unit
- Advance where applicable (on 500,000 units, 1,000,000 units, etc.)

#### Sources of Income:

As you can see from the Income Chart at the start of this article, there are many areas where songwriters, composers, music publishers, artists and record companies generate income. Three of the primary ones are “synch” licenses, the basics of which we have covered above, performances and the various configurations of mechanicals. As to the areas of performances and mechanicals, both are experiencing changes which we will now address.

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Additional information on all areas set forth in this article can be found in “Music, Money and Success: the Insiders Guide to Making Money in the Music Business” (Jeff and Todd Brabec/ 8th edition/ Schirmer Books/ Music Sales/ Wise Music).