

# Digital Disruption: Modernizing the Income of Canadian Music Creators

December 2020

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Prepared for

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Songwriters Association of Canada (S.A.C.); and,

Société professionnelle des auteurs et des compositeurs du Québec (SPACQ)



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## Executive Summary

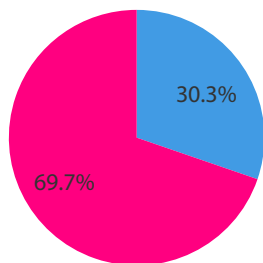
Digital platforms are increasingly shaping how creative content is created, distributed, and consumed. This resulting shift away from the traditional media sources for content consumption is, in turn, impacting the way in which many in the creative industries earn a living. In particular, the music sector is experiencing a substantial impact.

In Canada (and globally) digital sales have surpassed physical sales of music. Within the digital distribution, streaming has replaced digital downloads as the primary source of music distribution. Similarly, digital streaming of audio-visual content is moving fast to grab a large market share of traditional TV broadcasting. The shift towards digital platforms in music and television have fundamentally changed how – and how much – revenue flows to music creators for the use of their work.

Two specific groups of music creators that are being affected by the rise of digital streaming are (i) songwriters and (ii) screen composers. Both groups rely heavily on royalty payments from the licensing and use of their copyrighted works, as this revenue constitutes an important part of their income. Collection societies such as SOCAN (which collects performance rights royalties in Canada for Canadian and foreign rights holders) are experiencing increases in the total amount of royalties they are collecting from internet-based services. However, different practices have evolved for this digital streaming segment vs. the traditional broadcasting sources, and they are limiting the share of these internet-based royalties making their way to Canadian creators.

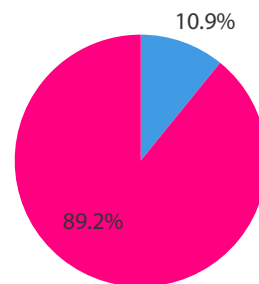
SOCAN – whose members include songwriters, composers, and music publishers – reports that the songwriter and composer royalties (SOCAN refers to these non-publisher members collectively as “writers”) collected for music played on a traditional audio platform (i.e., radio) are higher than those collected from internet streaming services. As visualized in the charts below, for 2018, SOCAN reports that 30% of writers’ royalties collected from traditional audio platforms were paid to Canadian SOCAN writers, and the remaining 70% were paid to international writers. In contrast, in 2018 the percentage of royalties paid out to Canadian SOCAN writers for music played on an audio internet platform (i.e., music streaming services), was just 11% of the total writer royalties. This discrepancy illustrates that international content is being consumed much more on music streaming platforms by Canadians than Canadian content.

Total Writer Distributions From **Traditional Audio** Sources



■ Canadian Writers  
■ International Writers

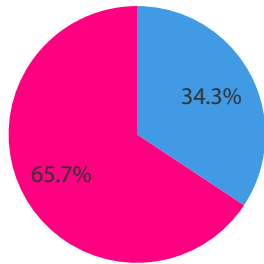
Total Writer Distributions From **Digital Audio** Sources



■ Canadian Writers  
■ International Writers

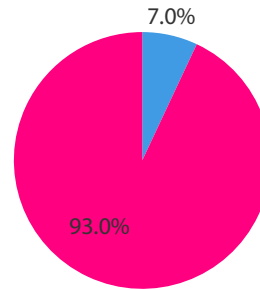
The same result in terms of royalty retention by Canadian songwriters and composers occurs in SOCAN payouts to their Canadian writers from audio-visual (AV) platforms (i.e., television streaming services). As seen in the charts below, in 2018 just 7% of all SOCAN's distributions collected from digital Audio-Visual (AV) platforms went to SOCAN's Canadian songwriters or composers, as compared to 34% of royalties distributed to Canadian SOCAN writers from a traditional AV media source (e.g., a broadcaster).

Total Writer Distributions From  
**Traditional AV Sources**



■ Canadian Writers  
■ International Writers

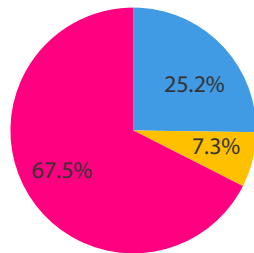
Total Writer Distributions From **Digital AV Sources**



■ Canadian Writers  
■ International Writers

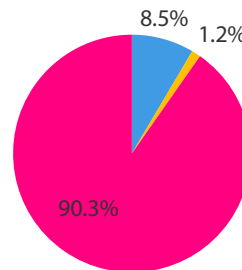
The amount of royalties retained by Canadian French-language songwriters and composers from digital-based sources is even less – as the charts below illustrate, just 1% of all writer royalties that SOCAN paid out for songs played on an online platform (either audio or AV) went to French-language songwriters/composers in 2018 (compared to 8.5% for English-language songwriters in Canada, and the 7% French-language writers retain from traditional media sources) – the remaining percentage went to songwriters/composers in the rest of the world.

Total Writer Distributions From  
**Traditional Media (Audio & AV)**



■ English Writer (Canadian)  
■ French Writer (Canadian)  
■ International Writers

Total Writer Distributions From  
**Digital Media (Audio & AV)**



■ English Writer (Canadian)  
■ French Writer (Canadian)  
■ International Writers

The reason is not because French-language speakers in Canada consume music on streaming services much less than English speakers – it is only slightly less than English speakers in Canada (31% to 33%).

Nor is there a substantial difference in consumption when it comes to AV streaming content either. 41% of Francophone Canadians report accessing AV content through a streaming service, as compared to 58% of Anglophone Canadians (2017). Thus, the gap in retention of royalties is significant, and indicates that French-language content is not being heavily consumed by Canadians, regardless of their primary language.

On both music and AV streaming platforms, Canadian music creators are facing real challenges in terms of their content being discovered and consumed. But royalty retention and discoverability impediments on these platforms, while significant, are not the only challenges.

For songwriters, their revenues are being impacted by:

- **Consumers who are increasingly paying for music via streaming subscriptions:** The shift in consumer purchases away from physical copies, along with a growing preference to consume music via monthly subscription or via “free” (i.e., ad-based) platforms, has increased songwriters’ reliance on revenues from royalties paid to them from these digital platforms.
- **New business models of music streaming platforms:** Increased consumption of music via platforms that are populated with user generated content, coupled with the low rates that these platforms pay by stream has reduced the total payouts to Canadian creators, and thus royalties returned to a songwriter. Music streaming platforms operate in a highly competitive market, and thus charge low subscription fees to gain market share. As well, in the global market of streaming services, Canadian content struggles for exposure on streaming playlists.

And for screen composers, the key factors impacting their revenues are:

- **Lower performance rights revenues from internet-based platforms:** Streaming platforms operate outside of the Canadian regulatory framework and, consequently, no Canadian content quotas, nor discoverability rules, apply to them. As a result, the AV productions for which Canadian screen composers make music are underrepresented on the streaming services and are not in any way protected as they are in the Canadian broadcasting system. Subsequently, the share of performance rights royalties which flow to Canadian screen composers from these AV streaming services are much lower than the share received under the traditional, regulated, broadcast model.
- **Disruption of back-end performance royalty model:** AV streaming platforms are increasingly exerting pressure on screen composers to forgo performance royalties altogether in exchange for a one-time, upfront payment (commonly referred to as a “buyout”) of performance rights. Where a screen composer accepts such a buyout, the potential for any downstream performance revenues disappear entirely. Such downstream revenues have historically been an important part of the screen composers’ income.

As streaming music and AV content consumption continues to rise, these challenges will only be exacerbated. There are potential avenues for action by the music sector and governments - including increased creator and digital rights literacy, harnessing technology, and regulatory changes and copyright updates to bring streaming models into alignment with the dominant broadcast models. All have the potential to help songwriters and screen composers benefit from the increasing consumption and proven revenue impacts of digital platforms.

## 1. Introduction

### 1.1 Purpose and Objectives of Report

The **purpose** of this research is to identify the challenges that specific segments of Canadian music creators -- screen composers and songwriters -- are facing with the rise of digital platforms, and in particular streaming platforms. Despite a marked increase in the consumption of music, the rise of digital platforms has typically resulted in a decline in revenue for music creators.

Some music industry stakeholders call this decline the “value gap.” It should be noted, however, that the concept of the value gap can be misunderstood and may have different nuances depending on the specific type of music stakeholder. This report aims to identify the causes of revenue disruption for songwriters and screen composers and to propose measures to address the adverse impacts on “middle-class” songwriters and screen composers’ income, and to protect it from further decline.

For **songwriters**, a decline in digital based revenues began several years ago, especially due to the increase in consumers acquiring musical works via the internet. For **screen composers**, the decline became evident following the rise of streamed audio-visual content services, and as performance royalties began to be collected from these platforms. Over the past several years, it has become clear that the performance royalties from content delivered via music and AV streaming services are not equal to the performance royalties derived from content exhibited on conventional audio or multichannel television providers (in Canada the cable and satellite distributors are called Broadcasting Distribution Undertakings - BDUs).

The **objectives** of this report are:

- To articulate how songwriters and screen composers traditionally have earned an income;
- To identify the areas where screen composers and songwriters are experiencing income disruption because of the changes in music/AV content distribution;
- To project the future impact of this income disruption on songwriters and screen composers;
- To inform policy makers about the implications of these impacts on the music ecosystem and the creative industries in Canada; and,
- To explore potential ways to increase the share of revenue retained by Canadian music creators when their works are consumed via digital streaming platforms.

### 1.2 Overview of Report

This report begins with a profile of the overall music industry, and how revenues are earned for songwriters and screen composers. This profile is then followed by an overview of the new digital environment and its impact on the creative industries in general. A more in-depth description of the forces that are shaping the value of music since the rise of digital platforms, and the impact that these forces have had on screen composers and songwriters follows next. Future impacts are then discussed, as income deterioration of screen composers and songwriters will likely worsen if current trends persist. The report closes with a discussion of some potential areas of action to mitigate these challenges.

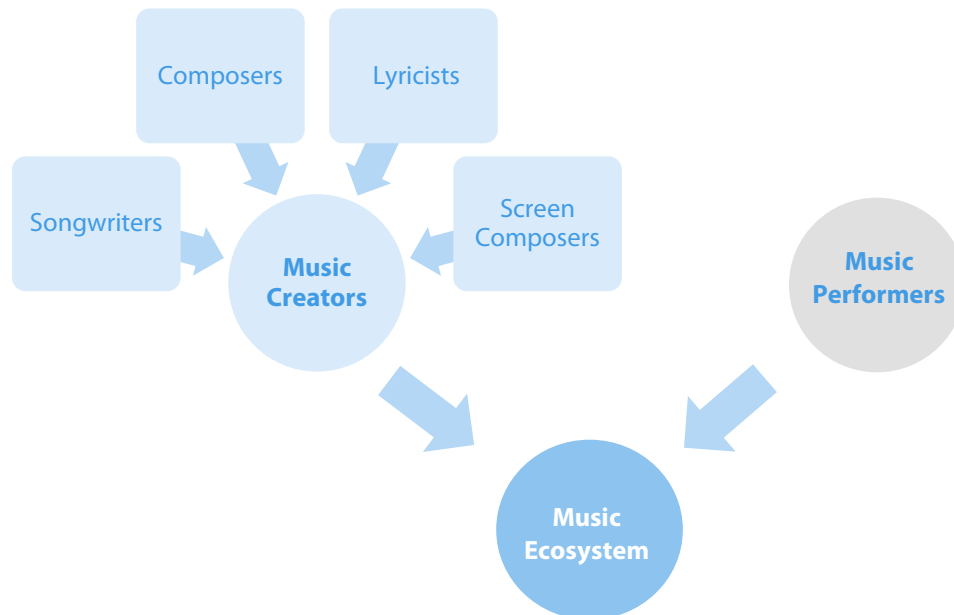
### 1.3 Identifying the Relevant Stakeholders

The music industry has many stakeholders. While songwriters and screen composers are the centerpiece of this report, there are a few that have particular relevance to this discussion and are thus important to identify at the outset. Music publishers are key stakeholders, as are collection societies, who are fundamental to the livelihood of the music creators.

## 1.3.1 Music Creators

For the purposes of this report, the music creator will be defined separately from the music performer. The recording/performing side of the industry will not be discussed in this report. The focus will be on the writing side – specifically songwriters and screen composers. There is often overlap between these categories – for example, a songwriter can also be a performer – and many of these terms are often used interchangeably. However, to ensure clarity throughout this report, each of these different roles are defined below. The following figure visualizes the different creators that fall under each of these categories.

**Figure 1: Visualizing Music Creators and Performers**



### Music Creators

For the purposes of this report, music creators are defined as those that create a musical work (e.g., a song or a musical score). This includes the people who write the lyrics for a song – **lyricists** – and those that compose the music – **composers**. A **songwriter** is a creator who both composes musical compositions and writes lyrics for songs. Songwriters and lyricists are represented by the Songwriters Association of Canada (S.A.C.) and Société professionnelle des auteurs et des compositeurs du Québec (SPACQ) for French language songwriters (more information on the relevant trade organizations can be found in Appendix A).

There is also a group of composers that compose music specifically for the screen – **screen composers**, or sometimes called **audio-visual (AV) composers**. These creators compose music for film, television, video games, mobile and all other screen-based media. The Screen Composers Guild of Canada (SCGC) represents these music creators.

### Music Performers

A music performer, or a “performing artist” (or just “artist”) are those who perform music live or to be captured in recording. The people who **perform** (i.e., sing or play) a musical work are not analyzed in this report (although many performers do write and compose their own songs).

## 1.3.2 Music Publishers

Retained publishing rights and earnings are an important component of songwriters' and composers' overall revenue. Publishers enable the licensing of songs that generate income for the songwriters who created the musical work in the first place.

Publishers work directly with songwriters to ensure their work is used and licensed properly and help the songwriter develop creative opportunities (e.g., song camps, co-writing opportunities). For their work, publishers share in a portion of royalties earned from a musical work.

In Canada, there are many music publishing companies, and these companies are supported by the membership organization Music Publishers Canada (MPC) and The Professional Music Publishers' Association/Association des professionnels de l'édition musicale (APEM), who represents francophone music publishers in Canada.

### 1.3.3 Collection Societies

Collection societies are the most common form of what are internationally known as collective management organizations or CMOs. Fundamentally, they provide collective licensing, administration of copyright and related rights, and collect royalties earned from these copyrights on behalf of their members. The most relevant types of rights for music creators will be discussed in more detail later in this report. The main Canadian collection societies include (more on these collection societies can be found in Appendix B):

- **SOCAN - The Society of Composers, Authors and Music Publishers of Canada** - one of the largest CMOs in Canada, representing over 160,000 right holders, primarily songwriters, composers, and music publishers. SOCAN has traditionally collected performance rights only but has recently merged with the Montreal-based Society for Reproduction Rights of Authors, Composers and Publishers in Canada (SODRAC) and, under the name SOCAN RR, now collects reproduction rights as well.
- **CMRRA<sup>1</sup> - Canadian Musical Reproduction Rights Agency Ltd** - a 45-year-old collecting society which administers the range of mechanical rights uses on behalf of songwriters, composers, and music publishers.
- **CPCC - The Canadian Private Copying Collective<sup>2</sup>** - an umbrella organization established to enforce licensing and collect royalties on blank audio recording media for the personal use of music. The CPCC represents the collecting societies and rights holders of both musical works and recordings. These royalties are distributed through CMRRA and SOCAN.

The collection organization that plays the largest role for a music creator in Canada is generally SOCAN, as it collects the performing rights royalties that are associated with television, radio and streaming services, live performances and more.

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<sup>1</sup> <http://www.cmrra.ca/>

<sup>2</sup> <https://www.cpcc.ca/en/>



## 2. The Canadian Music Industry and How Revenues are Earned

All the individual stakeholders outlined in the introduction of this report work together to create a functioning and interconnected music sector, of which songwriters and screen composers are an integral part. This section will provide an overview of the whole industry – its size and economic value – and then discuss how revenues are earned for music creators (songwriters and screen composers).

There are also two unique broadcasting institutions in Canada that are important to the functioning of the sector, and impact music creators and how they earn income – the Canadian Media Fund (CMF) and the Canadian Radio-television and Telecommunications Commission (CRTC). How these two institutions are relevant for songwriters and screen composers will also be discussed.

### 2.1 Overview of the Music Business in Canada

The Canadian music industry is a dynamic ecosystem that is made up of performers, writers, collectives, labels, and associations (among others) that all work together towards a healthy and strong sector. The 2016 census reported there were 35,000 musicians and singers working in Canada. While there are quite a few high-profile Canadian music performers and music creators who are world renowned, there are a great many more who are “working”, or often called “middle-class”, artists and creators. These people make a living creating music, but do not have “star” status, nor the earnings which accompany it.

The business structure for the creation and management of musical works is highly fragmented. It is characterized by many independent/freelance creators, numerous small and medium-sized Canadian-based enterprises, and outposts of the three major multinational music groups and large international “indie” publishers. In contrast, musical works supply the entertainment and cultural segment of the music ecosystem which is highly consolidated: radio and television broadcasting, film, sound recording and Internet-based Digital Service Providers (DSPs, i.e., the streaming services).

As a music market, Canada is 9<sup>th</sup> out of the top ten music markets in the world (2018) - after the United States, Japan, the United Kingdom, Germany, France, South Korea, China and Australia.<sup>3</sup> As illustrated in Figure 2 below, as of 2018 in Canada sales of recorded music had a value of \$510 million - predominantly digital (\$427M) revenues, as opposed to physical revenues (\$83M).<sup>4</sup> These figures represent trade sale at the retail level, of course, and not net revenues for music creators and performers.

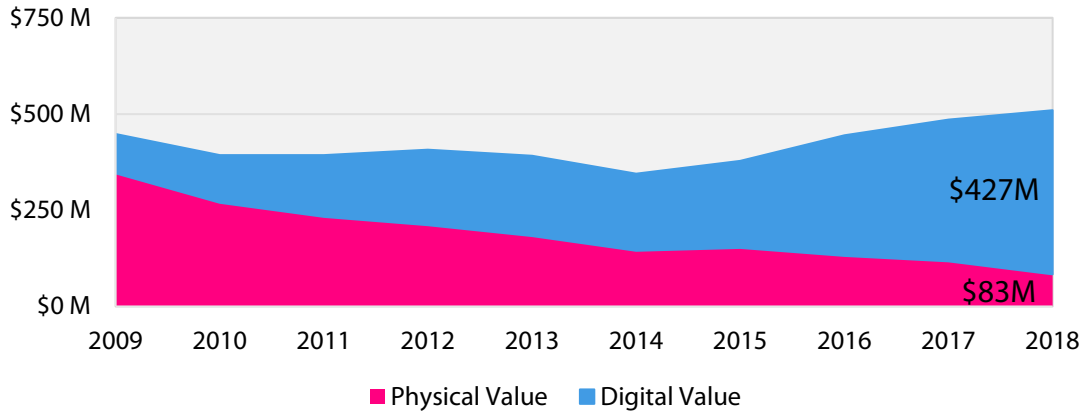
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[http://www.ontariocreates.ca/collaboration/research\\_and\\_industry\\_information/industry\\_profiles/Music\\_Industry\\_Profile.htm](http://www.ontariocreates.ca/collaboration/research_and_industry_information/industry_profiles/Music_Industry_Profile.htm)

<sup>4</sup> Music Canada Statistics, Statista; Statista Digital Market Outlook

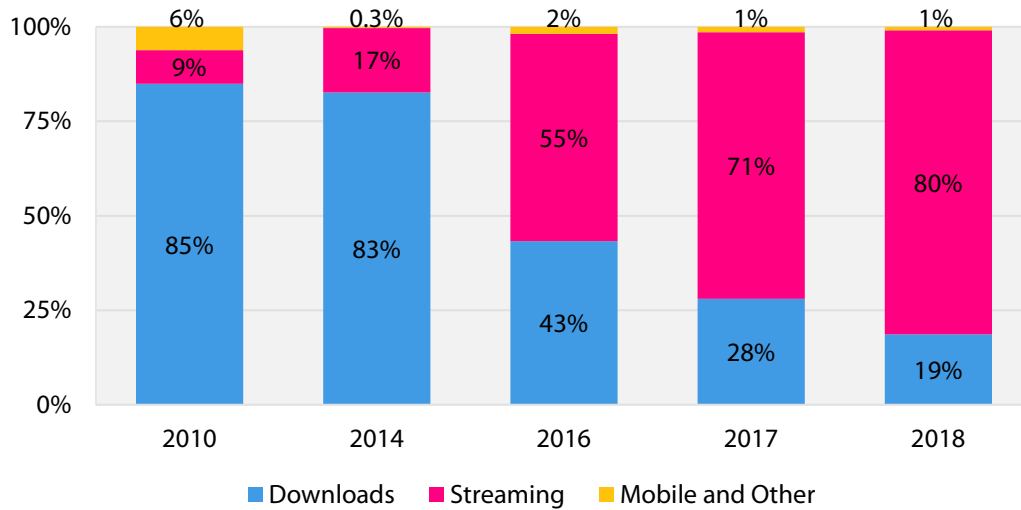
Figure 2: Trade value of the music sector in Canada 2009-2018 (\$ million)<sup>5</sup>



While the overall retail value of the industry has been rising since 2014, its composition has completely reversed in the last 10 years. The proportion of retail that is digital is now 84% vs 16% from physical sales (in 2018).

To be more precise, *streaming services* are driving most of digital revenues, not only in Canada, but globally. While this shift is occurring somewhat belatedly in Canada, after several years where *downloads* prevailed as the favourite source of digital music, streaming contributed to 67% of *total* music revenues in Canada in 2018. As seen in the chart below, 80% of *digital* music value in Canada in 2018 was from streaming.

Figure 3: Digital Music Trade Value in Canada, by format (2010-2018)



<sup>5</sup> Music Canada Statistics, Statista; Statista Digital Market Outlook

## 2.2 Radio and Television Institutions Supporting Canadian Music

When speaking to the Canadian music industry, there are also two unique **broadcasting** institutions which are relevant to understand how this industry functions. These have specific impacts on songwriters and screen composers, as well.

- **Canadian Media Fund (CMF)** -- The CMF contributes funding to eligible Canadian television programming in four genres: drama, documentary, children's & youth, and variety & performing arts). The CMF also supports the development of interactive digital media content and software applications that are innovative and leading-edge. The source of the funds is a combination of mandated contributions from Canadian Broadcasting Distribution Undertakings (BDUs) (e.g., cable and satellite) and funds contributed by the federal government by way of a contribution agreement with the CMF.
  - Since screen composers earn revenues from their participation in the production of audio-visual products – which include feature films and TV programming – the CMF has an in-direct impact on the livelihood of this segment of Canadian music creators.
- **Canadian Radio-television and Telecommunications Commission (CRTC)** -- CRTC regulations ensure that a minimum percentage of Canadian music is played on terrestrial (i.e., traditional) radio, as well as a minimum percentage of Canadian television shows broadcast on licensed Canadian stations, pay and specialty television services. There are several ways in which the CRTC has regulated its licensed broadcasting entities to achieve the Canadian content requirements set out in the Broadcasting Act. However, under its “Digital Media Exemption Order” (DMEO)<sup>6</sup>, foreign (and domestic) TV services reaching Canadians via streaming or downloaded over the internet (called “over-the-top” – OTT) have not been regulated.
  - CRTC regulations around Canadian Content (often called “Cancon”) for radio have been critical to the exposure and revenues of Canadian music in English and French Canada (for French language radio, the imposition of restrictions on the amount of English language lyrics has been even more important). Such regulations have contributed to the discoverability of Canadian artists by audiences and supported their paths to success.
  - CRTC regulation of Canada’s broadcasters has required them (but, importantly, not the unregulated streaming services) to contribute defined amounts of money toward the production of Canadian programming and to devote defined percentages of their broadcast schedules – including prime time quotas, to Canadian AV content. While eroded over the last decade through deregulation of various forms, the CRTC has been instrumental to the support of Canadian TV and music programming, production, and distribution.

Beyond the regulatory and funding support institutions, the federal and provincial governments have established specific funding support programs to aid the music sector – although not always including screen composers. Not-for-profit support of the creation of music through FACTOR and Musicaction are two effective measures supporting the development of Canadian music performers and songwriters. Provincial agencies like Société de développement des entreprises culturelles (SODEC), Ontario Creates, and Creative BC also provide important financial support programs for the music sector.

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<sup>6</sup> <https://crtc.gc.ca/eng/archive/2012/2012-409.htm>

The Canadian music sector is an essential creative industry, one that continues to be served in a positive way by the funding programs and cultural policy measures outlined above. However, as the unregulated digital services have risen -- with their increasing hold on Canadian consumers' eyes and ears -- the effectiveness of these well-established and longstanding policies has diminished, fundamentally changing the music industry and how music creators earn a living in Canada. It is widely recognized that the unfettered rise of non-contributing, unregulated streaming services provides an existential challenge to the ongoing financial health and well-being of the average, "middle-class" Canadian music creator.

## 2.3 How Revenues are Earned in the Music Industry

Historically, royalties have been an important source of revenue for music creators. Royalties, or payment for the licensing of rights for the use of music, are (ideally) to be paid to music creators for any use of their music. To understand how the rise of digital platforms has disrupted this traditional revenue model, it is important to understand how music creators have traditionally received royalties.

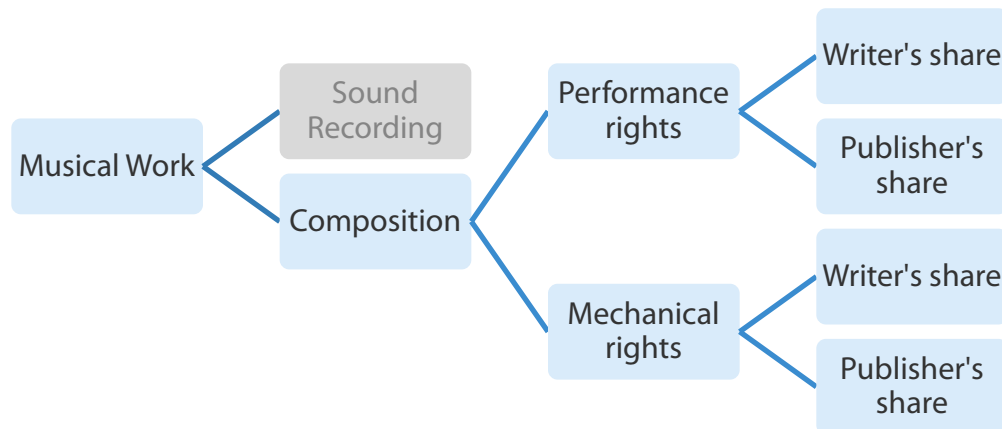
### 2.3.1 Copyright and Royalties

The songwriter or composer of a musical composition is the "author" of that work under the Canadian Copyright Act and is, therefore, legally the first owner of copyright in the work. Royalty payments are due to songwriters, composers, and publishers when their works are publicly performed or reproduced. Users of copyrighted musical works such as broadcasters, record companies and digital service providers must obtain permission from the rights owner(s) of the work, or a collection society such as SOCAN or CMRRA, to lawfully perform or reproduce those works.

It should be noted that the composition (or, in the case of a song, the words and/or music) is distinct and separate from the recording (i.e., the sound recording/performance) when it comes to copyright. In fact, a musical work can be recorded multiple times by different artists. In such a case, several different copyrights would exist: the copyright in the composition, as well as the copyrights in the various recordings of that composition. For this report we will focus on the copyrights that stem from the composition side – focusing on performance rights and mechanical (reproduction) rights. Neighbouring rights and synchronization rights are two other types for which music creators are eligible but are outside of the scope of this report (although they are defined in more detail in Appendix C).

The graphic below visualizes the general division of copyrights from a single musical work. Royalty payments due for performance and mechanical rights are split between the publisher and the writer of the composition (which could be either a songwriter or a composer).

Figure 4: Rights that flow from a single musical work



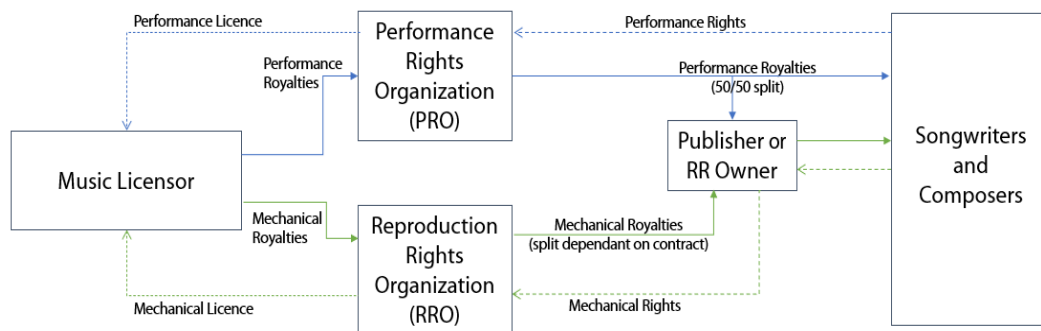
**Performance rights** – generally, performance rights are those that are paid to rights holders to publicly perform or telecommunicate (e.g., play on television) a musical work. Generally, performance royalties are split on a 50/50 basis between the writer’s share (which goes to the songwriter or (screen) composer) and the publisher’s share (which goes to the music publisher). In Canada, administration of the right of public performance is generally assigned to SOCAN, which track performances and enforces payments to the rights holders it represents. Tariffs for performing rights royalties are set by the Copyright Board of Canada or by private agreement.<sup>7</sup>

**Mechanical rights** – mechanical rights are the right to make a physical or digital reproduction of a musical work (often called “reproduction rights”, or “RR”). This reproduction could be in hardcopy form (e.g., CD or Vinyl) but also when music is digitally downloaded or streamed (“streaming mechanicals,” e.g., Spotify). Today the primary source of mechanical royalties is music streaming, as the prominence of CDs or other hardcopy reproductions has declined.

The rate at which songwriters, composers and music publishers are paid mechanical royalties is generally determined by negotiations between collection societies and the end user (e.g., streaming services) or by tariffs set by the Copyright Board of Canada. Unlike performance royalties, there is no pre-determined 50/50 split of mechanical royalties as between a writer’s share and a publisher’s share. Rather, the split of mechanical royalties is determined through an agreement with the songwriter/composer. The Canadian Musical Reproduction Rights Agency (CMRRA) and SOCAN RR collect and distribute mechanical rights royalties in Canada.

There are several stakeholders in performance and mechanical rights and their related royalty payments. The below graphic visualizes how these rights and royalties flow between a songwriter or composer and the end user (music licensor).

**Figure 5: General Flow of Rights and Royalties between Licensor to Creator**



There are a few distinctions in this flow for songwriters and screen composers which will be discussed in more detail below.

<sup>7</sup> <https://www.socan.com/faqs/>

### 2.3.2 Revenues for Songwriters in Canada

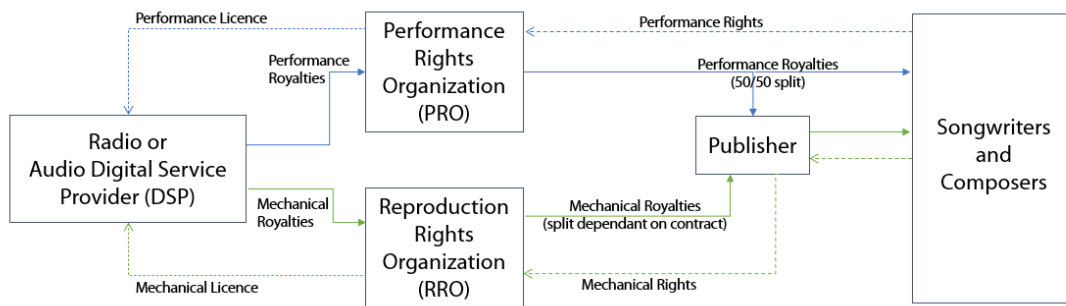
Songwriters earn their living from composing music and/or writing lyrics for musical works (i.e., songs). Royalties flow:

- When their musical work is *performed live* (e.g., concerts)
- When their musical work is played in a *commercial venue* (e.g., restaurant)
- When a recorded version of their musical work is *telecommunicated publicly* (e.g., played on the radio, or television), streamed, downloaded, or synched with audio-visual content
- When their musical work is sold in a *physical or digital format*

The general flow of mechanical and performing rights discussed in the section above remains essentially the same for a songwriter. As such, the following Figure 6 is very similar to Figure 5 above. The below graphic illustrates that the songwriter, as the author of the song, assigns the management of their rights to a Performing Rights Organization (PRO) such as SOCAN and/or a Reproduction Rights Organization (RRO) such as SOCAN RR, which then collects royalties on their behalf (the dotted line from right to left).

When their musical work is either played or copied by an end user (e.g., radio or an audio digital service provider - DSP), they would receive royalties in return (the solid lines from left to right).

**Figure 6: Flow of Songwriters Royalties and Rights**



The music publisher plays a large role in the flow of royalties for a songwriter. Songwriters formalize their relationship with music publishers through publishing deals to manage the use of their music. Publishers in turn also collect licensing revenues through collection societies such as SOCAN and CMRRA. Songwriters and publishers share 50/50 in all performance royalties earned from SOCAN, or according to a different split where a songwriter shares in the publisher’s half of royalties (often referred to as a ‘co-publishing’ agreement). Co-publishing deals are becoming increasingly common, as are other types of partial publishing deals such as “administration agreements” in which the publisher would administer (rather than own) the musical copyright.

Some songwriters might choose to self-publish their songs. While self-publishing does allow them to retain the “publisher’s share” of the revenues from licensing, the tracking of the licensing and revenues on an international basis required can be very complex. The value of a publisher is that they are working on behalf of the songwriter to manage the use of their music; having a publishing deal is commonly viewed as a sign of advancement in a songwriter’s career.

### 2.3.3 Revenues for Screen Composers in Canada

The average screen composer earns income from one (or a combination of) writing (i.e., composing), performing, or producing original musical works to be used in AV productions.<sup>8</sup> The Screen Composers Guild of Canada (SCGC), which represents these music creators in Canada, completed a survey of its members in 2014. The survey provided detailed insights into the work in which Canadian screen composers are engaged. While the study is several years old, it still provides useful details about the types of work SCGC members typically take on. Some of the highlights include:

- The majority of SCGC members work primarily in television (76% in 2014);
- Just under half (49%) work on long-form (over 75 minutes) theatrical (film) productions, another 54% work on theatrical projects less than 75 minutes – although many work on both long and short form; and,
- Many work on projects in advertising (39% in 2014), production music (34%) online projects such as audio books (26%), and the games sector (18%).<sup>9</sup>

For screen composers, the revenues they earn from their work can largely be divided into two types – front-end and back-end. *Front-end* revenues are usually comprised of the “composer fee” - i.e., the upfront payment(s) made to a composer in compensation for the composition and/or production of an original musical work or works comprising a score.<sup>10</sup> *Back-end* revenues are comprised of the royalty payments screen composers receive when their compositions are used in AV content. These back-end royalties typically come from two streams – performance rights (the right to publicly perform musical works synchronized in AV content) and mechanical rights (the right to make reproductions of musical works embedded in AV content).<sup>11</sup> These back-end royalties can make up a substantial portion of a screen composers’ annual income, often becoming their sole source of income when the composer is between projects. This is especially the case for more established screen composers (who have amassed a substantial body of existing work).

The general flow of screen composer royalties and rights is outlined in Figure 7 below. This diagram shows the rights flow (the dotted line from right to left) from the screen composer to the end licensor (e.g., a broadcaster or Digital AV platform). The royalties that are paid to the screen composer for use of their musical composition are shown flowing from the broadcaster or digital AV platform to the screen composer (the solid lines from left to right).

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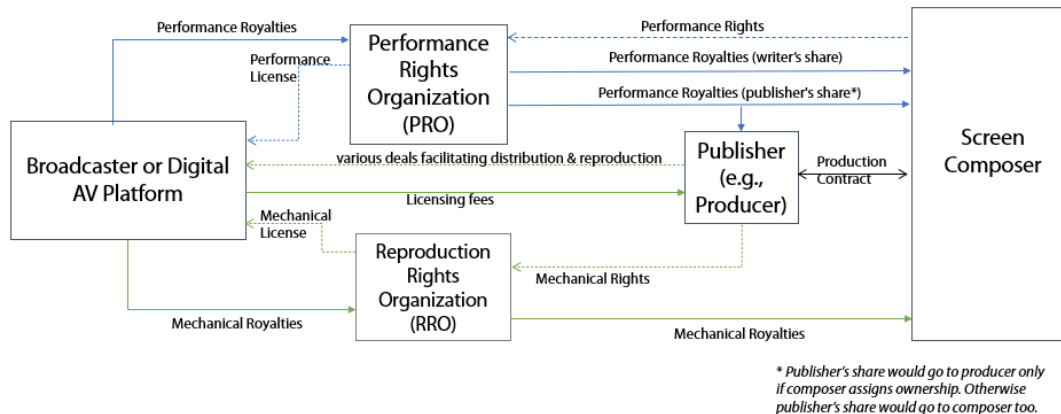
[www.ontariocreates.ca/Assets/Research/Research+Reports/Screen+Composers+Guild+of+Canada/Screen+Composers+Guild+of+Canada+Study.pdf](http://www.ontariocreates.ca/Assets/Research/Research+Reports/Screen+Composers+Guild+of+Canada/Screen+Composers+Guild+of+Canada+Study.pdf)

<sup>9</sup> Ibid.

<sup>10</sup> Note: A “score” is collectively all of the music in an AV production (e.g., a film) – a score is largely comprised of separate compositions that a screen composer has composed for that production but may sometimes also include songs that have been licensed to the production.

<sup>11</sup> Screen composers can also be the performer for their compositions, making them entitled to back-end neighbouring rights royalties. While the performing/recording side is out of the scope of this report, neighbouring rights are also a potential royalty stream for composers as performers and for the owner of the score’s master recordings (the composer or producer, or both).

**Figure 7: The flow of rights and royalties for a screen composer**



While there is little difference between songwriters and screen composers in terms of how licensing/royalties work, there are a few unique dynamics to highlight when it comes to screen composers.

For one, rather than contracting with a music publishing company to manage the use of their musical work, a screen composer will often seek to retain ownership of their works and administer them themselves. Alternatively, the composer may be asked (or even required as a condition of the engagement) to assign ownership of their compositions (or full score), including the publishing rights therein, to a producer of AV content (through a “production contract”) for the use of their work in a specific project. In such cases, the producer (or production company) becomes the music publisher of the compositions in that instance.

Where the producer acquires ownership of compositions for specific AV content, they may administer the publishing rights themselves or enter an administration deal with a professional music publisher which would then administer these rights and collect publishing revenues on the producer’s behalf.

Producers then license out the use of AV content to end users, such as broadcasters or AV streaming platforms. Producers may also enter into distribution deals with a distributor (which would then represent the content for international licensing). As shown in the above graphic, broadcasters pay their license fees directly to the producer (or its distributor). It should be noted that screen composers do not participate in this licensing revenue.

When the AV content is subsequently publicly performed (e.g., broadcast on television or streamed), a performance royalty becomes due to the screen composer. Broadcasters pay performance royalties (via tariffs on their advertising and/or subscription revenue) to the relevant collection societies in exchange for permission to publicly perform or reproduce the musical work. The collection society then, in turn, makes royalty payments to the screen composer (and potentially the producer, if they have been assigned the publishing rights). Where a show is successful (i.e., more performances of a film or television show and/or more streaming views), more royalties will be due to the composer and publisher of the compositions/score. Alternatively, where a production is less successful in the marketplace, fewer performance royalties accumulate, and downstream revenue is diminished.

For mechanical/reproduction royalties, producers of AV content in English Canada often require screen composers to assign ownership of most or all of the reproduction rights in the compositions/score as part of their contract. In such cases, the production (and its financial partners) will become the sole beneficiary of any reproduction revenue generated by the compositions/score unless the producer agrees to pay the composer a share of this revenue directly.



Mechanical royalties come from a variety of sources for screen composers and publishers depending on how a work is being reproduced: broadcasting mechanicals, streaming mechanicals, download mechanicals, rental/lending, and physical reproductions (e.g., DVDs, toys, greeting cards, etc.). To note, broadcast mechanical rights are not uniformly collected in Canada. These rights are currently licensed and paid for by the CBC, as well as specific Quebec-based broadcasters to SODRAC members (which is now subsumed within SOCAN RR), but they are a part of ongoing legal and regulatory negotiations regarding their wider application in Canada. Similarly, the international licensing and collection of broadcast mechanicals is a patchwork - they are collected in some but not all territories.

### 3. The Digital Environment and the Impacts on Creators

The growth of digital platforms is having an impact across the creative industries. This section briefly outlines how the digital environment has shaped – and keeps shaping – the creation, distribution, and consumption of creative products, from books to films and television, visual arts to video games.

This shift is impacting how music creators earn revenue. As mentioned, in Canada (and globally) digital has taken over physical sales. Streaming has also been rapidly outpacing digital downloads for music. Similarly, digital streaming is moving fast to grab a large market share of traditional TV broadcasting. These downstream effects are impacting how (and how much) revenue screen composers and songwriters are earning, the specific impacts of which will be discussed in the latter half of this section.

#### 3.1 The Creative Industries and the Digital Environment

Almost every segment of the creative industries has adopted streaming as a key distribution channel. Of course, the first example that comes to mind is the film and TV industry, with its overwhelming streaming offer (more than 270 platforms available in the US). It is also the case for live performances, for instance with services like Met Opera On Demand or Broadway HD, for audiobooks (e.g., Audible), podcasts and, more recently, for video games, with the deployment of cloud gaming (e.g., Google Stadia). Even for segments such as news and publishing, digital distribution for physical and e-books has become a critical challenge for content creators.

Between 2014 and 2018, Canadian broadcasters' profit margins dropped from 20% to 15% in Canada. TV advertising revenue has decreased by 12% since 2013.<sup>12</sup> Streaming services have built attractive and exclusive libraries, competing with private broadcasters in English Canada to buy top US shows that historically cross-subsidized Canadian programming. As streaming services reinforce the premium status of their content, an increasing number of Canadians decide to cut the cord and replace cable with two or three subscriptions to streaming platforms, posing an even greater threat to Canadian broadcasters.

- Television streaming has also introduced **new dynamics between producers and over-the-top (OTT) platforms**. Producers are strongly incentivized – if not forced – to license all rights for AV content at once. This dynamic has motivated producers to resort to the practice of “buyouts” (a one-time payment for all rights associated with a certain work), whose implications for music creators is treated below.

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<sup>12</sup> CRTC - [Financial Summaries for Broadcasting Sector](#)

More broadly, the transition towards digital distribution has resulted in increased pressure on the livelihood of content creators in other cultural sectors as well:

- The income of Canadian **book writers** has declined by 78% over the last 20 years (1998-2017, taking inflation into account), largely due to the disruption of the book publishing sector brought on by Amazon which created a platform to bypass physical retailers.<sup>13</sup>
- As a result of television streaming, the total hours Writers Guild of Canada **screen writer** members were commissioned to work on scripted Canadian shows has plummeted since 2014, by between 61 and 82 per cent, depending on the broadcaster, while production by services such as Netflix and Apple TV Plus has increased 299% since 2014.<sup>14</sup> In addition, contributions to the CMF from BDUs are also softening, adding more strain on the CMF to fund Canadian producers and content creators.
- In the newspaper business, the collapse of print circulation and the subsequent decrease in advertising revenue compelled newspapers to strengthen their online presence and rethink their business models. This ongoing transition has had a considerable impact on the workforce: in 2013, Canada counted 13,000 **journalism jobs**, this number reduced to 10,200 in 2018, a 22% drop.<sup>15</sup>
- For visual artists, the decline in income may be less evident and less documented but the emergence of an all-encompassing digital environment raises new challenges. For instance, artists still fight for the protection of their works in a digital universe where the reproduction and use of their work is facilitated by aggregators and search engines. The compensation, or even the simple attribution, of **visual artists** remains marginal (and despite systems like Creative Commons<sup>16</sup>) and deprive creators of additional revenue.
- In the overall **music industry**, tech companies continue to be the winners as well. The rise of streaming services such as Spotify and Apple Music can obscure the fact that the music business has become increasingly more complex to navigate, with more parties to track (e.g., social media platforms) or with which to share royalties. More stakeholders also mean more challenges with tracking and reporting, and the potential for a loss of the value returned to creators.

The widespread adoption of streaming as the main delivery channel has also led to the growing importance of algorithms in the production, distribution, and promotion of creative products. In fact, the proliferation of niche services reflects the importance of personalization enabled by the digital environment. Powerful recommendation algorithms are key to the success of streaming services and producers, distributors and creators try to decipher the secret behind these algorithms. In fact, appearing in a popular playlist of Spotify, being recommended on YouTube, or suggested as a 'next watch' on Netflix can make or break the success of a musical or AV work. In the likely case where curation remains predominantly algorithm derived, Canadian producers, services, and creators, as

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<sup>13</sup> The Writers' Union of Canada - [Diminishing Returns: Creative Culture at Risk](#)

<sup>14</sup> CBC News - [Writers, producers warn streaming content boom is squeezing out Canadian creators](#) – Jan 26, 2020

<sup>15</sup> CMCRRP - Growth and Upheaval in the Network Media Economy, 1984-2018

<sup>16</sup> An internationally active organization that provides free licenses for creators to use when making their work available to the public (<https://creativecommons.org/>)

well as regulators, will need to manage this challenge (e.g., setting the requirements to promote Canadian content on platforms that already have a tendency for promoting popular, global artists).

Tech companies are poised to capture most of the revenue potential within this digital environment and that there will be more of a blurring between the lines demarcating specific industries. The issue is whether creators will accept terms with these platforms that result in less revenue than the terms governing traditional distribution channels – and if so, what can be done about it.

With tech companies and giant legacy companies dominating the race (e.g., Apple, Amazon, Google, Facebook, Disney, NBCUniversal), and investing billions in their technology and programming, smaller stakeholders will need to find the right strategy to stay in business. For the creators, the emergence of streaming has, to some extent, allowed for more creative freedom. But the growing power of these global platforms, and the eventual need for creators to show evidence-based success, will put pressure on creators and local stakeholders (from local distributors to broadcasters, to policymakers).

What is at stake is the place of writers, actors, directors, musicians, visual artists, and all Canadian creators in the negotiations. As attractive as these platforms can be, the coming years will be decisive to design frameworks in which they can operate while protecting creators, along with all aspects of the value chain.

### **3.2 Impacts of the Digital Environment on Music Creators**

The dynamics of the digital environment discussed above are adversely affecting the value of music, or more simply, how music creators are earning a living. As the work of a songwriter and a screen composer also intersects with a number of other creative industries, these music creators are facing similar but compounded challenges compared with other musicians within the emerging digital context -- screen composers work in television, and a good many also work in films, TV commercials, online projects, and some in the games sector; songwriters have their music played on radio, streaming services, and satellite radio. The main forces shaping songwriters and screen composers can be summarized as:

- For **songwriters**, new business models of music streaming platforms and changes in consumption of music are impacting how they earn revenues.
- For **screen composers**, power dynamics around streaming platform giants and discoverability challenges brought on by shift from traditional broadcast to AV streaming are affecting how they earn revenue.

These factors and the specific impacts they are having on screen composers and songwriters will be discussed in the sections below.

#### **3.2.1 Impacts of the Digital Environment for Songwriters**

There are two main aspects of digital music that are impacting songwriters' revenues:

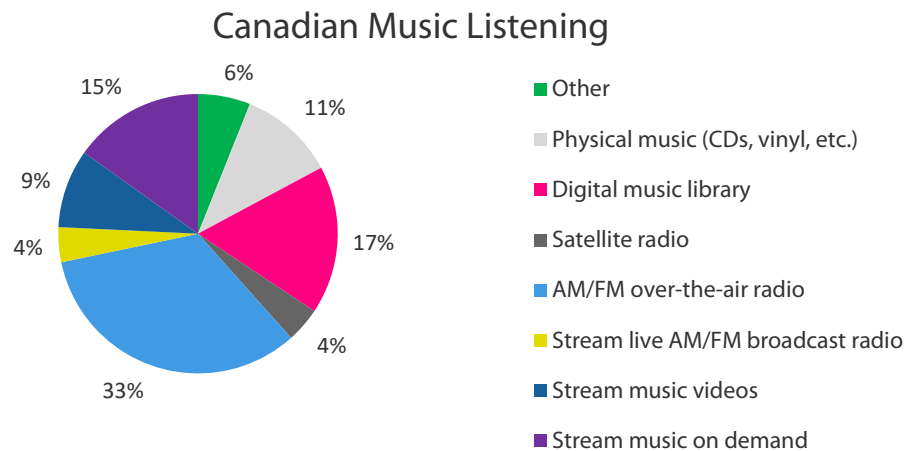
- **Consumers who are increasingly paying for music via streaming subscriptions:** The shift in consumer purchases away from physical copies, along with a growing preference to consume music via monthly subscription or via "free" (i.e., ad-based) platforms, has increased songwriters' reliance on revenues from royalties paid to them from these digital platforms.
- **New business models of music streaming platforms:** Increased consumption of music via platforms that are populated with user generated content, coupled with the low rates that these platforms pay by stream has reduced the total payouts to Canadian creators, and thus royalties returned to a songwriter. Music streaming platforms operate in a highly competitive market, and thus charge low subscription fees to gain market share. As well, in the global

market of streaming services, Canadian content struggles for exposure on streaming playlists.

This trend towards streaming shows a fundamental shift in **how consumers are purchasing and consuming music**. It appears that consumers expect music to be free, or really convenient (convenience they will pay for), and they do not want to buy a whole album when they really want to listen to a few tracks only.

As outlined in Figure 8 below, while radio remains strong (33%) as a platform for music listening, digital music consumption, either libraries (i.e., downloaded/digitally purchased music) or streaming music in some way (both music videos and on-demand) exceeds traditional radio (41%).

**Figure 8: Platform on which Canadians Listen to Music (2018)**<sup>17</sup>



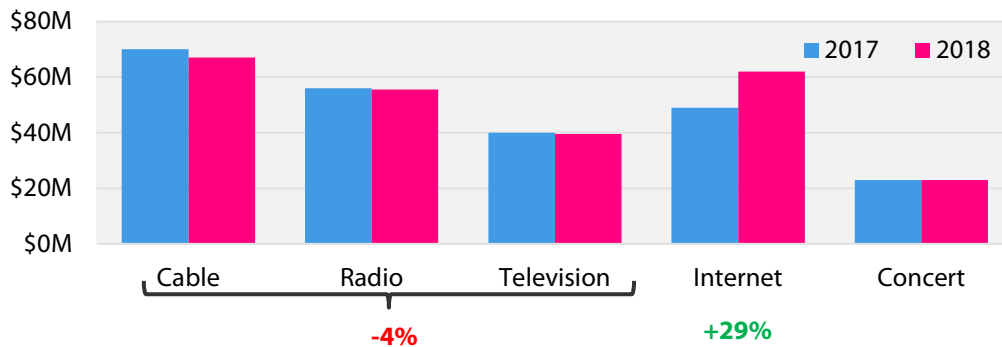
The ability to stream music, essentially for free, has fundamentally shifted the *value that consumers put on music* – as evidenced by the popularity of YouTube and the large percentage of users that continue to listen to music on ad-based platforms. While streaming music platforms such as Spotify certainly have ad-free subscription-based options, globally, just 23% of streaming platform accounts are subscriptions. As subscription-based streaming is increasingly becoming the dominant way in which music is consumed, streaming platforms are increasingly dominant source of revenue for music creators. According to Music Canada, “35% of respondents to a 2018 IFPI survey cited the availability on YouTube of the music they want as a major reason for not using paid audio subscription services.”<sup>18</sup>

Where consumers are consuming music is made evident by what sources SOCAN is collecting performance rights royalties from. Figure 9 below shows radio, cable (pay-tv and specialty-TV services), and TV broadcasting services still represent the mainstay of revenues for SOCAN members, However, internet (streaming/downloading) revenues are the fastest growing (between 2017 and 2018).

<sup>17</sup> Nielsen Music; Canada Music 360: 2018 – Report Highlights, 2018 pg. 7.

<sup>18</sup> <https://musically.com/2020/03/02/canada-now-has-around-7-8m-music-subscribers-says-socan-boss/>

Figure 9: SOCAN domestic performing rights revenues, top 5 sources, 2018<sup>19</sup>



The figure above shows that SOCAN recorded a 29% increase from 2017 to 2018 in its total (performance rights) collections from internet-based licenses. While songwriters have opportunities to earn revenues from other sources (e.g., physical sales at concerts), the internet is rapidly becoming the fastest growing source of performance rights revenues for music creators (as collected by the largest PRO in Canada).

There are generational and language trends in terms of consumption that are also interesting to note. Statista reported that Millennials in Canada spend 31% of their music-listening time-consuming music from streaming sources, compared to 14% from radio (2017). 33% of English-speakers in Canada accesses online streaming music, with French-speakers listening to music in this manner to nearly the same degree (31%).<sup>20</sup>

Consumers' preference for digital downloads and streaming music is also affecting songwriters' mechanical royalties. Prior to the rise of digital platforms, the mechanical rights formed a steady second stream of revenue, as music *needed* to be physically reproduced (e.g., on a CD) to enable the retailer to sell the music, always triggering a mechanical royalty.

But now, the shift to digital sales/subscription streaming has diminished traditional mechanical revenues. Mechanical royalty rates are dependent on several factors: which streaming platform, the country that stream is listened to in, and who the user is that is streaming it. While mechanical royalty rates have always had variation to them (e.g., by country), the consistent triggering by the creation of physical products added reliability to mechanical royalty revenues that is no longer there.

Within existing copyright legislation, private copying (physical copy of a musical work made for individual/private use<sup>21</sup>) have also been declining rapidly. While there is a private copy levy established by the Copyright Board of Canada, it is "*applied to the kinds of media that are ordinarily used for private copying*"<sup>22</sup>. The levy is not placed on digital peer-to-peer file sharing over the internet, or on streamed music. Music stored on cell phones or tablets is also not under the levy. The value of the royalties returned to songwriters (along with publishers, performing artists and labels) is

<sup>19</sup> SOCAN 2018 Annual Report

<sup>20</sup> Statista – Streaming in Canada – July 2019 report

<sup>21</sup> <http://www.cpcc.ca/en/frequently-asked-questions>

<sup>22</sup> <http://www.cpcc.ca/en/frequently-asked-questions>

determined strictly through (i) the value of recorded music that is sold both in retail outlets and online in Canada and (ii) the recorded music that is broadcast by commercial radio stations and the CBC Radio.<sup>23</sup>

With the decline in both retail and online sale of music, and the rise of digital streaming as the dominant form of music consumption over radio, the value of this royalty will only continue to decrease. The Canadian Private Copying Collective reports a decline in levies from \$38 million in 2004 to just \$2 million in 2017.<sup>24</sup> In France, they have combated this problem by adding a surcharge onto the sale of cell phones, which then is paid back to music creators.<sup>25</sup>

The rise of streaming music has also opened up the playing field to **a number of different business models**, each of which impacts how music creators are paid for the use of their music. Generally, the three business models for streaming content are: (i) non-Interactive (e.g., streaming radio); (ii) on-demand or interactive, and (iii) UGC (User Generated Content). In recent years, most online music consumption has centred around either on (i) UGC platforms—including standard YouTube, SoundCloud, Bandcamp, Mixcloud - or on (ii) On-demand services such as Spotify, Apple Music, Amazon Music, YouTube Music, Deezer and Tidal.

The International Federation of the Phonographic Industry (IFPI) reported in 2018 on the listening usage of the main business models, as follows:

- YouTube attracted 46% of all music streaming listening time around the world (excluding China).
- Paid (subscription) audio services accounted for another 23% of total time spent listening.
- Free audio streaming services represented another 22%.
- Other music video streaming providers (besides YouTube) made up the remaining 9%.
- Of on-demand music streaming services, Spotify is the leader in terms of users, with 36% of global subscriptions, and 40% of global streaming revenue.

For all these digital platforms, regardless of their business model, payments are made to the music creator based on how often the musical work is played. While bulk licensing deals can be made with different platforms, it is the actual playing of a song that triggers a payment to the music creator. And how much is paid back to the creator differs from platform to platform.

The popularity of YouTube creates a challenge for music creators. Much of what is often called the “Value Gap”<sup>26</sup>, or the gap between revenues that are earned by the platforms and the amount of those revenues that make their way back to the music creators themselves in revenues from digital music, can be linked to UGC content services like YouTube. One proxy for the discrepancies which occur between consumption and remuneration was illustrated as such: *consumers are almost five*

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<sup>23</sup> Canadian Private Copying Collective, who collects these royalties reports that “Airplay and sales data are weighted equally in the distribution process and provide the best available indication of the tracks that Canadians typically copy for private use.” <http://www.cpcc.ca/en/frequently-asked-questions>

<sup>24</sup> <http://www.cpcc.ca/en/wp-content/uploads/2020/06/CPCC-for-Website-Slants-04-04-2020-compressed-1.pdf>

<sup>25</sup> <http://www.cpcc.ca/en/wp-content/uploads/2020/06/CPCC-for-Website-Slants-04-04-2020-compressed-1.pdf>

<sup>26</sup> Music Canada’s report *Closing the Value Gap: How to Fix Safe Harbours and Save the Creative Middle Class* defines the value gap as “the gulf between the revenues derived by online platforms, broadcasters and other third parties from the commercial use of creative content (such as music, books, news, TV shows and movies).” <https://musiccanada.com/wp-content/uploads/2019/06/Closing-the-Value-Gap-Music-Canada-2019.pdf>

times more plentiful on free UGC platforms, and yet those platforms generate less than one-sixth the revenues from audio Digital Service Providers (DSPs).

Most of the problems that impact revenues from UGC content platforms stem from the following factors:

- Given that most of the content is self-uploaded by individual users at a stunning rate, identifying and remunerating the correct rights holders remains a constant challenge; and,
- ‘Safe harbours’ in the legislative framework allow platforms such as YouTube exemption from being held accountable for copyright infringement by internet service providers.

Additionally, YouTube offers the lowest rates per stream among major music streaming platforms. Royalty rates for on-demand music streaming services are also low, so numerous plays are required for a songwriter to see significant revenue from any of these streaming platforms.<sup>27</sup> These services are operating in an extremely competitive market, and with the catalogue of music essentially the same for every platform, low subscription fees are how they attract customers. This ultimately results in lower revenues for the company (big players such as Spotify are yet to make a profit<sup>28</sup>), and in turn less money available to make its way back to music creators.

Some insight can be gained into how much money is making its way back to songwriters when you look at SOCAN collections. For context, it is important to note that SOCAN also collects performance royalties for international artists on behalf of their partner collection societies around the world (e.g., PRS in the United Kingdom). As seen in Figure 9 earlier in this section (*SOCAN domestic performing rights revenues, top 5 sources, 2018*), SOCAN is seeing growth overall in its overall performance rights collections from internet services. But, when you break these numbers down, there is a clear misalignment between SOCAN collections growth and those paid to *Canadian* SOCAN members, and in particular songwriters and composers (who SOCAN refers to collectively as “writers”).

As outlined in Table 1 below, in 2018, Canadian SOCAN writers received 30% of all writer royalties (i.e., all the royalties paid to writers, excluding those paid to publishers) that SOCAN paid out for a performance of a song on a traditional media platform. Compare this percentage to that paid out to writers for songs played on an audio internet platform, where Canadian SOCAN writers received just 11% of the total writer royalties in 2018.<sup>29</sup>

**Table 1: SOCAN Writer Distributions (2018) – Audio - Domestic and International**

	Traditional Media - Audio	Internet - Audio
Canadian SOCAN writers	30.3%	10.9%
International SOCAN writers	69.7%	89.1%
Total	100%	100%

The amount of royalties retained for Canadian French-language songwriters is even less – just 1% of all writer royalties that SOCAN paid out for songs played on an online platform went to French-

<sup>27</sup> <https://thetricordist.com/2019/01/29/2018-streaming-price-bible-per-stream-rates-drop-as-streaming-volume-grows-youtubes-value-gap-is-very-real/>

<sup>28</sup> [www.musicbusinessworldwide.com/loss-making-spotify-will-continue-to-focus-on-growth-over-profit-for-next-few-years/](http://www.musicbusinessworldwide.com/loss-making-spotify-will-continue-to-focus-on-growth-over-profit-for-next-few-years/)

<sup>29</sup> SOCAN

language writers in Canada in 2018 (compared to 8.5% for English-language writers in Canada) – the remaining percentage went to writers in the rest of the world.<sup>30</sup>

French-language speakers consume music on streaming services only slightly less than English speakers in Canada (the percentage consumption of 31% - French - to 33% - English<sup>31</sup>). Nor is there a substantial difference in consumption when it comes to AV streaming content - 41% of Francophone Canadians report accessing AV content through a streaming service, compared to 58% of Anglophone Canadians (2017)<sup>32</sup>. So, the gap here in retention of royalties is significant and indicates that French-language content is not being consumed highly by Canadians, regardless of their first language.

**Table 2: SOCAN Writer Distributions (2018) - Audio - French and English Writers**

	Traditional Media (audio and AV)	Online Media (audio and AV)
Canadian SOCAN writer (French language)	7.3%	1.2%
Canadian SOCAN writer (English language)	25.2%	8.5%
International SOCAN writer	67.5%	90.3%
Total	100%	100%

Essentially, what this issue of “retention” of performance royalties by Canadian songwriters boils down to is a discoverability challenge presented by streaming services. If Canadian songwriters’ music is not being played often on these services, consumers do not know about this music. If not played often, the music creators are not receiving much in the way of royalties.

The rise in digital music consumption is severely affecting songwriters as the slice of performance royalties that they can capture is significantly less than on traditional media – they have a better chance of their work being played (thus triggering a royalty payment) on traditional media sources than on streaming services. Currently, traditional media royalties are remaining relatively steady, but the digital media is all upside. These trends are concerning indicators of the future for Canadian songwriters (and particularly French-language songwriters).

### 3.2.2 Impacts of the Digital Environment for Screen Composers

There are two main impacts that the rise in AV streaming is having on screen composers:

- **Lower performance rights revenues from internet-based platforms:** Streaming platforms operate outside of the Canadian regulatory framework and, consequently, no Canadian content quotas, nor discoverability rules, apply to them. As a result, the AV productions for which Canadian screen composers make music are less frequent on the streaming services as they are not in any way protected as they are in the Canadian broadcasting system. Subsequently, the share of performance rights royalties which flow to Canadian screen

<sup>30</sup> SOCAN

<sup>31</sup> Statista – Streaming in Canada – July 2019 report

<sup>32</sup> Statista – Streaming in Canada – July 2019 report



composers from these AV streaming services are much lower than the share received under the traditional, regulated, broadcast model.

- **Disruption of back-end performance royalty model:** AV streaming platforms are increasingly exerting pressure on screen composers to forgo performance royalties altogether in exchange for a one-time, upfront payment (commonly referred to as a “buyout”) of performance rights. Where a screen composer accepts such a buyout, the potential for any downstream performance revenues disappear entirely. Such downstream revenues have been historically an important part of the screen composers’ income.

Digital streaming services are not just growing as the most popular way to consume music – they are also rapidly becoming the dominant way that AV content is distributed and consumed. Digital is disrupting the traditional broadcast model in Canada as more streaming services serve the country’s on-demand AV appetites through OTT platforms. It is reported there are 7.26 million Netflix subscribers in Canada in 2019, up from 6.78 million in 2018.<sup>33</sup>

There are still 6 million subscribers to Broadcasting Distribution Undertakings (BDUs) in Canada, but that figure has been on a gradual decline as a % of TV households over the last several years, falling 18% since 2013. Canadian conventional television revenues have fallen 4% between 2018-2019, whereas streaming services’ revenues have grown by 164%. Streaming services revenues are projected to surpass regulated TV broadcasting revenues by 2022.<sup>34</sup>

US behemoths, led by Netflix, Amazon, and Disney+, dominate the streaming AV platform space. While there are Canadian offerings in CBC Gem and Crave, the consumption, and production of new AV content, world-wide is led by multi-national streamers. With the growth of revenue potential dependent on digital platforms, broadcasting groups in Canada are increasingly distributing their programming via the streaming model. However, they operate at a disadvantage versus the foreign streaming services entering Canada.

Canadian streaming services must abide by Canadian content regulations, and they must charge subscribers to their streaming services HST/PST. Foreign streaming services face neither requirement. The regulatory exemptions for streaming services means, for example, that AV streaming services (e.g., Amazon Prime, Disney+ and Netflix) do not have any of the contribution, promotion, or exhibition obligations vis-a-vis Canadian content that licensed Canadian broadcasters do.<sup>35</sup>

To gain market share in this increasingly crowded space, streamers (both foreign and domestic) are commissioning original content in unprecedented numbers -- 495 scripted original series in 2018 (+85% in 7 yrs.).<sup>36</sup> This shift towards streaming platforms becoming not only the distribution channel but a dominant force in the creation of content has fundamentally shifted how the industry works for all of those that produce content, including screen composers, destined to be included in AV content. Even though work might be created in Canada, there are no regulations around hiring Canadian

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<sup>33</sup> Statista – Streaming in Canada – July 2019 report

<sup>34</sup> CMPA, *Profile*; CRTC, *Financial Summaries, Communication Monitoring Report 2019*

<sup>35</sup> Bill C-10 “An Act to amend the Broadcasting Act and to make related and consequential amendments to other Acts” was introduced in House of Commons November 2020. If passed, this bill will, among other amendments, clarify that “online undertakings are within the scope of the broadcasting regulatory system.”  
<https://www.canada.ca/en/canadian-heritage/news/2020/11/supporting-a-stronger-more-inclusive-and-more-competitive-broadcasting-system.html>

<sup>36</sup> <https://www.adweek.com/tv-video/495-scripted-shows-aired-in-2018-as-streamings-output-surpassed-basic-cable-and-broadcast/>

composers. While the Canadian film or video production tax credit (CPTC) does encourage Canadian and foreign-based producers to employ the services of Canadians, the requirements do not mandate a screen composer (productions are accorded 1 point out of 10 Cancon points for screen composers - a minimum of 6 points is needed for the tax credit. So, the use of a Canadian screen composer has value to a TV producer, but these requirements could be met by another type of Canadian creator, as well).

As discussed, screen composers earn performance royalties when AV productions containing their works are publicly performed. This “pay-per-view” back-end payment trigger system has not changed with the rise of digital streaming. However, new dynamics introduced with streaming significantly affect the value of the performance right when AV content is played on a streaming service vs. traditional broadcast:

- **Broadcast/BDUs:** As there is only a set number of hours in a day, there is a set amount of programming that will be on the air. So, the total amount of AV content which is broadcast on a channel is limited. Additionally, requirements from the CRTC mandate that certain amounts of Canadian content must be shown on any given channel each day. Under this model, performance royalties result from making content available to the public via broadcast. Therefore, a healthy share of performance royalties for Canadian composers is assured.
- **Streaming platform:** On streaming services, this model has totally shifted. Content is presented to the viewer on-demand. Even when Canadian content is made available on a streaming platform there is no guarantee that it will be consumed. Since performance royalties are only triggered when AV content is “clicked” (viewed) on the platform, there is no guarantee that the corresponding performance royalties will flow to Canadian composers from these platforms.

The change in market dynamics as described above, coupled with the lack of regulation on foreign (and domestic) TV services (whether broadcasting or BDU services) are generating **lower performance rights revenues** for screen composers in the digital space.

The lack of content requirements and promotional measures produce a major impact, which is clear from the stark differences in performance royalties allocated to SOCAN writers<sup>37</sup> in Canada from traditional broadcast versus AV streaming sources.

As with SOCAN’s distributions to songwriters from audio platforms, much of SOCAN’s AV streaming collections are being paid to international writers. The table below shows that in 2018 just 7% of SOCAN writer distributions went to Canadian writers from digital AV platforms, compared to 34% distributed to Canadian writers from a traditional AV media source (and compared to 10.85% retention from online audio).<sup>38</sup>

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<sup>37</sup> Note: SOCAN represents songwriters, composers, and publishers. They use the term “writer” to refer to both songwriters and (screen) composers (their non-publisher members).

<sup>38</sup> Ibid.

**Table 3: SOCAN Writer Distributions (2018) – AV - Domestic and International**

	Traditional Media - AV	Digital - AV
Canadian SOCAN writers (French and English language)	34.3%	7.0%
International SOCAN writers	65.7%	93.0%
Total	100%	100%

To note, the French-English breakdown was not available for online AV platforms as it was for online audio. While these figures include the royalties returned to both songwriters and screen composers (any SOCAN writer who had royalties generated from an AV streaming service), this trend is particularly concerning for screen composers, as their revenue streams are much more dependent on AV streaming platforms. It highlights how the challenge of discoverability of content is also an issue for screen composers, if not more so.

Besides screen composers experiencing a reduction in the amount of performing rights revenues coming from streaming platforms, there is also a trend towards **limiting back-end royalties** altogether from the buyout practices. (See Section 3.1 (*The Creative Industries and the New Digital Environment*)).

As discussed, streaming services are increasingly becoming producers of content in and of themselves. When developing original programming, online streaming services are able to have a direct part in the production's management and therefore play a critical role in setting terms and establishing agreements with screen composers.

Producers are strongly incentivized by these big tech giants to license all the rights associated with an AV work, which would include back-end performing rights for a screen composer. These streaming services also in turn are buying out all the international licensing rights from producers, so the streaming platform would become the de facto distributor of that content. In this case, the producer (and by extension the screen composer) will no longer benefit from revenue from foreign license deals.<sup>39</sup>

Buyouts are certainly a cleaner arrangement for streaming platforms, since as global platforms, these services do not need to manage relationships with collection societies in jurisdictions around the world. While advantageous to the streaming service, there are unfortunate side effects for the creators themselves, as historically these back-end revenues have been an important part of screen composers' revenues. Buyouts are effectively "*changing the bargaining relationship between creators and the users of their works.*"<sup>40</sup> While such up front buyouts occur with online gaming platforms as well, as content is increasingly produced by streaming services, this trend will only increase. **This tendency to opt for the buyout formula is particularly concerning, as traditionally, back-end royalties "have been the things that have sustained the creator."**<sup>41</sup>

<sup>39</sup> <https://www.hollywoodreporter.com/news/tv-film-composers-say-netflix-streaming-services-insist-buying-music-rights-1261940>

<sup>40</sup> CISAC 2020 annual report <https://www.cisac.org/Cisac-Home/Newsroom/News-Releases/CISAC-publishes-2020-annual-report>

<sup>41</sup> <https://www.broadcastnow.co.uk/tech/music-industry-anxious-over-discoverys-buyout-proposals/5146095.article>

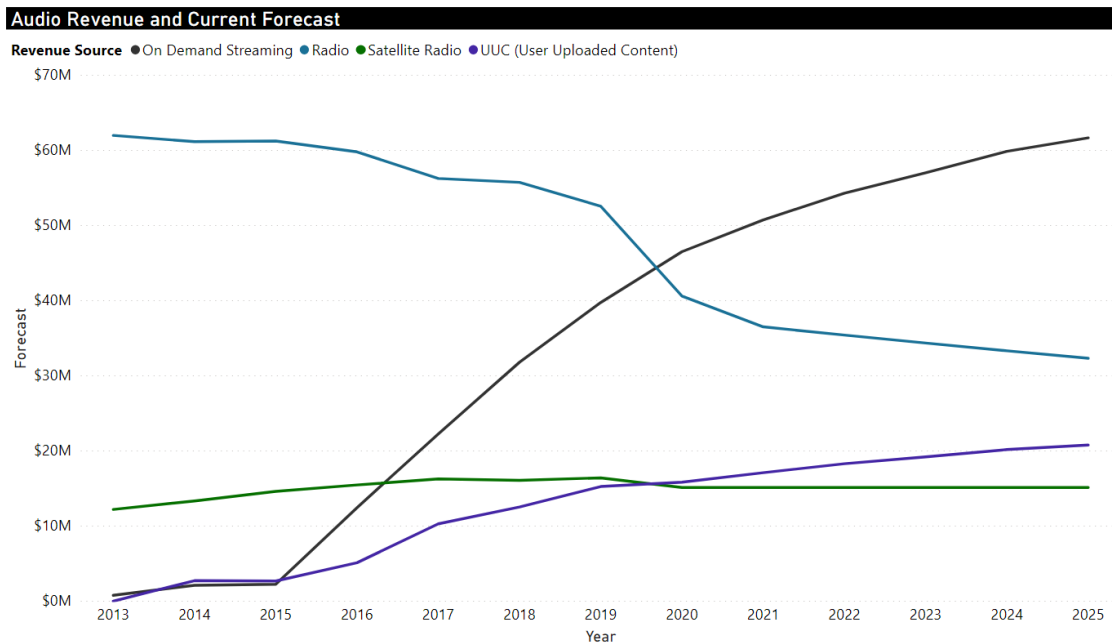
## 4. Future Revenue Impacts for Songwriters and Screen Composers

The previous section outlined the factors currently impacting the revenues returned to songwriters and screen composers. But as the dominance of digital platforms continues to grow, these impacts will only increase. This section will outline projected future impacts for songwriters and screen composers.

SOCAN has developed future scenarios involving the revenue trends derived from traditional (radio, tv, cable) for the AV market and similar scenarios for the audio market (showing traditional – radio, satellite radio – vs. streaming services). In both cases there is a pronounced uptick in streaming and a consequent decline in revenues for Canadian screen composers and songwriters from the proportion they receive for traditional broadcasting sources. While more robust quantitative analysis could lead to specific figures, it is clear that there will be further decline of revenues for Canadian music creators for all the reasons cited in Section 3.

As evidenced in Figure 10 below, audio revenues are forecasted to be generated increasingly by streaming platforms, as opposed to radio, which in turn is projected to see a fairly sharp decline.

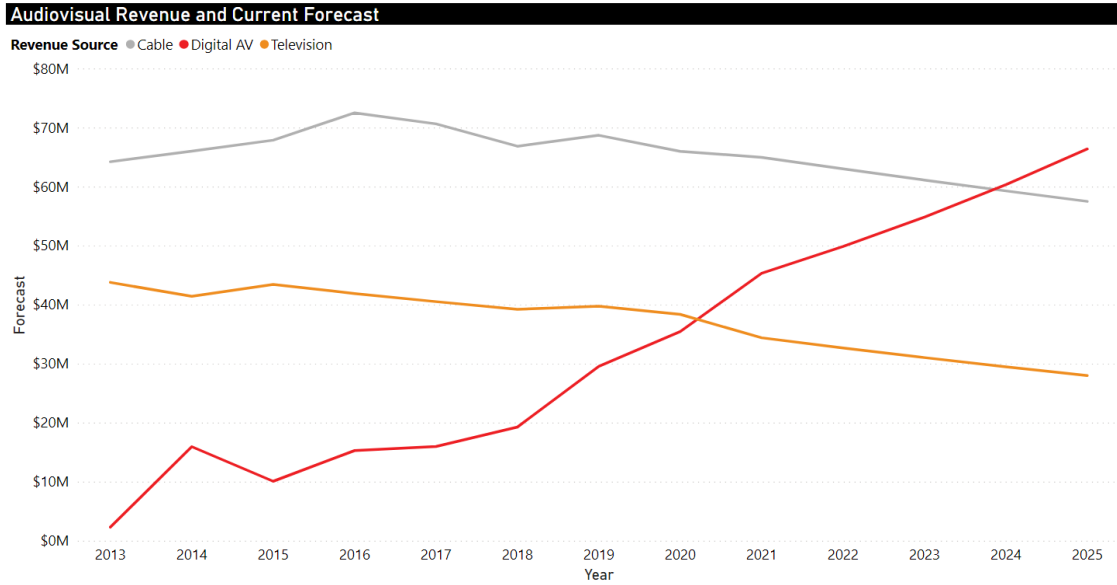
**Figure 10: Audio Revenue SOCAN Forecasts<sup>42</sup>**



<sup>42</sup> SOCAN, October 2020

For audio-visual, while conventional revenues are holding up for now, it is predicted that broadcasters and cable services will face increasing competition from the streaming services,<sup>43</sup> as outlined in Figure 11 below.

**Figure 11: Audio-Visual Revenues - SOCAN Forecasts<sup>44</sup>**



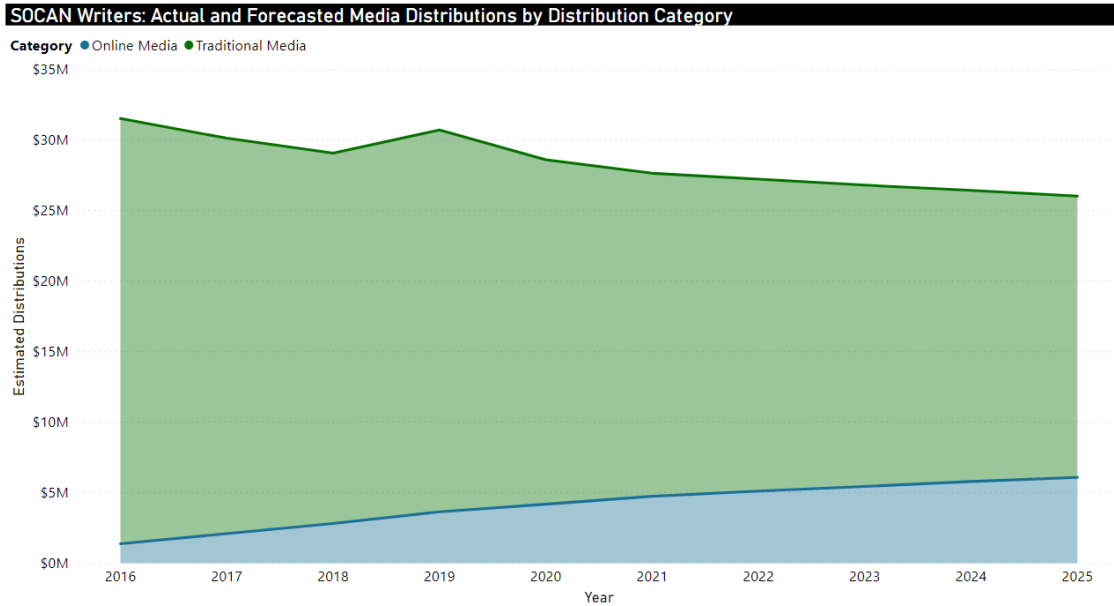
<sup>43</sup>

[http://www.ontariocreates.ca/collaboration/research\\_and\\_industry\\_information/industry\\_profiles/Music\\_Industry\\_Profile.htm](http://www.ontariocreates.ca/collaboration/research_and_industry_information/industry_profiles/Music_Industry_Profile.htm)

<sup>44</sup> SOCAN, October 2020

This reduction in revenues on traditional platforms will translate to a reduction in performance rights to music creators. As seen in Figure 12 below, SOCAN forecasts that their total performance rights payouts from traditional media will continue to make up the bulk of the royalty distributions to rights holders. However, traditional revenues are also forecasted to decline, while online is projected to grow proportionately as the source of royalty distributions.

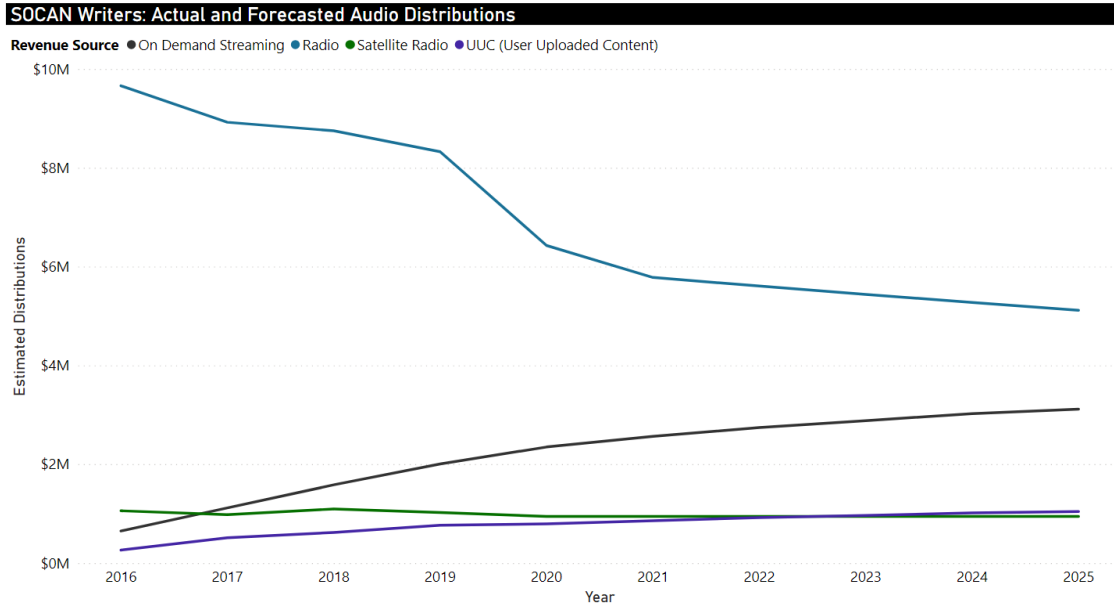
**Figure 12: SOCAN Forecasted Revenue Distributions (online vs. traditional)<sup>45</sup>**



<sup>45</sup> SOCAN, October 2020

When total distributions are split out into audio and AV, the same trend holds. As seen in Figure 13 below, audio distributions from radio are forecasted to drop, as the bulk of the growth comes from on-demand streaming services.

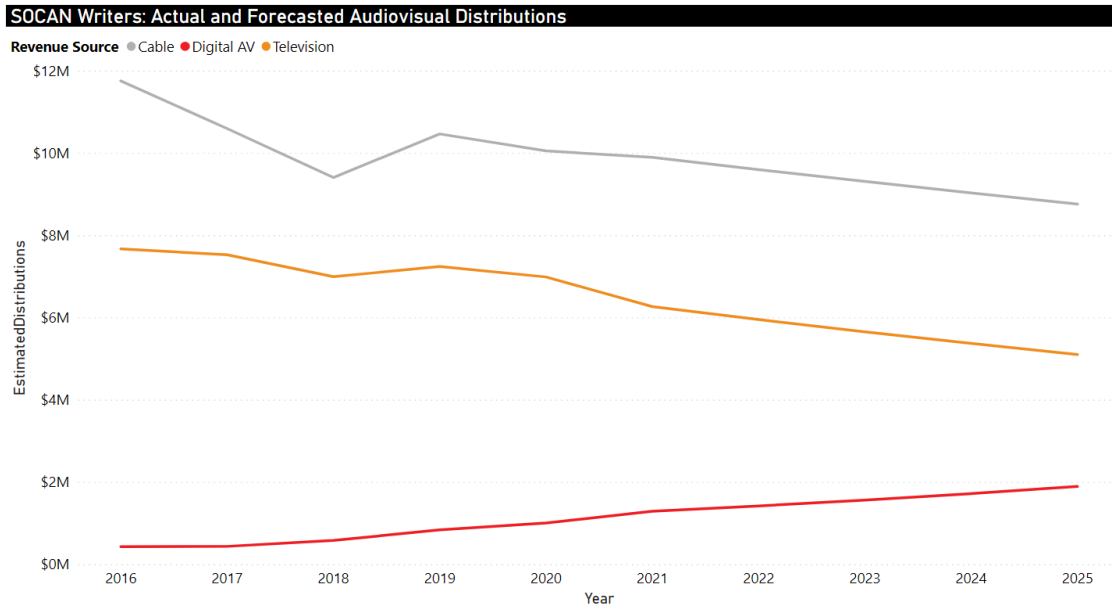
**Figure 13: Forecasted Audio Distributions to SOCAN Writers<sup>46</sup>**



<sup>46</sup> SOCAN, October 2020

Similarly, for audio-visual distributions, they are largely predicted to be increasingly derived from digital AV platforms, as seen in the Figure 14 below.

**Figure 14: Forecasted AV SOCAN Distributions<sup>47</sup>**



The dominance of streaming services for audio and AV will only exacerbate the challenges that were outlined throughout this report. For songwriters, they will need to find a way to capture more revenue from streaming platforms, where discoverability is key, and their payouts are already small. For screen composers, this same difficulty will be seen in terms of discoverability on digital services.

Additionally, the rise of digital media will result in a gradual reduction of the total performance royalties realized from traditional broadcast. As advertising spending increasingly shifts from traditional to digital media, the advertising revenue from which television and cable performance royalties are derived will dwindle.<sup>48</sup> And as consumers increasingly “cut the cord” on cable and satellite, the pool of revenues from BDUs will be reduced, again translating to a reduction in the overall amount of performance royalties collected.

In summary, creators such as screen composers and songwriters have major challenges to retain their revenues from sources for which their share is small. Whether conservative or dire, these forecasts are troublesome for Canadian music creators.

<sup>47</sup> SOCAN, October 2020

<sup>48</sup> CRTC, *Communication Monitoring Report 2019*



## 5. Potential Solutions to Mitigate Impacts

Potential solutions to the challenges discussed throughout this report lie in several areas - policy, broadcasting regulation, copyright revision, technology applications, and business/marketing, and training/education. *Discoverability* tools and knowhow can be used by the music industry that will further the popularity of music and generate greater revenues. Greater *digital literacy* among music creators in negotiating contracts in the thorny digital world could help attenuate the impact of “buyouts”. Improving bargaining power vis-à-vis AV producers and streaming platforms could be sought through the collective bargaining process, which is described.

There is also an opportunity in *regulatory change* as the result of the 2019 Broadcasting and Telecommunications Legislative Review (BTLR) recommendations for both music and tv programming – regulations affecting how streaming services help market Canadian content and attract further investment into Canadian content – directly or via new/existing funds. However, there are also barriers to the use of new regulatory regimes emerging from action further to the BTLRP’s recommendations – which are aimed to support the independent production sector rather than its component creators directly. Additionally, *copyright revisions* regarding safe harbour and private copying provisions remain goals of the music industry.

The aftermath of the focus on the cultural sector by governments in Canada puts a focus on the precarious existence of the creators in Canada – which may stir copyright reform, or an alternative *direct payment* increase for Canadian creators. Finally, blockchain, AI-powered recommendation engines, and data-based marketing tools represent the potential for *technology* to play a role in enabling creators to increase their income.

### 5.1 Digital literacy improvements

While the trend-line prognosis is unfavourable, there are potential measures for capturing more revenue for music creators as music consumption trends digital. In a completely on-demand online environment **discoverability** is critical to audience success. That can be improved in two ways, basically (i) via clever social media and other digital marketing campaigns or (ii) greater sophistication in *search engine optimization (SEO)* that will enable the website showing the music work to be indexed higher in visibility terms by the operation of the Google and other search engine algorithms.

Fundamental to improving discoverability is digital literacy and knowhow on the part of the music creator or publisher. With the increasing complexity of the digital marketplace, it is ever more important that creators fully understand contracts and the rights business. Thus, better **training and professional development** would equip them to deal with the larger streaming services and AV producers for the screen composers.

- Such training could focus on rights management and understanding the downstream revenue potential by retaining these rights.
- For screen composers, particular areas of educational need include Music Rights & Composer Rights, Royalties (PR, RR and NR) and Other Revenue Streams, Negotiation 101, and Digital Disruption.
- There is similar potential regarding acquiring better knowledge about how to get on audio streaming playlists for music creators who depend on being discovered through exposure and payments via streaming services.

The digital landscape is a very complex world, with new applications such as games or other apps (e.g., TikTok) increasingly a part of the buying ecosystem. Collective education can lead to positive action.

## 5.2 Regulation of streaming services

As mentioned throughout this report, Canadian broadcasting regulations are impacting revenues for music creators. Regulation of the broadcasting system have never addressed the specific concerns of the music creators, except in a general way by Canadian content requirements in the **Broadcasting Act**.

The Broadcasting and Telecommunications Legislative Review (BTLR) was mandated in 2019 by the federal government to review ways to update Canada's communications system primarily in response to the growing international streaming services becoming available to Canadian audiences. The BTLR released its report in February 2020, entitled *Canada's communications future: Time to act* (colloquially referred to as the Yale Report).

### **BTLR Recommendations**<sup>49</sup>

This report speaks broadly to Canada's communications system, but it is aimed mostly at television via OTT streaming service providers. Of relevance to screen composers, BTLRP report recommended putting foreign streaming services under the Broadcasting Act, subject to regulation by the CRTC (or by a new Canadian Communications Commission as recommended by the BTLRP).

There are several recommendations that could also have specific impacts for music creators. First, recommendation #60 states in part: *"We recommend that all media content undertakings that benefit from the Canadian media communications sector contribute to it in an equitable manner..."*. This recommendation was guided by consideration such as "providing opportunities for Canadian creators." It would generate more funding for Canadian TV content.

The problem is that although screen composers account for 1 point in the CAVCO Canadian content point system, the creative components are not individually reviewed or singled out for individual treatment. They all still depend on the negotiating power of the music composers vis-à-vis the content producers. Other creative elements enter into collective agreements with the independent Canadian producers, but music composers are not part of any collective bargaining process. Hence, the BTLRP recommendations only help indirectly to the extent that Canadian producers may see their business improve, especially if "terms of trade" are re-instated as a way of improving their bargaining leverage vis-a-vis the broadcasters.

Recommendation #61 talks about bestowing the power of stipulating spending requirements for streaming services, which are called generically "audio or audio-visual media curation undertakings". This recommendation also suggests levy obligations or other forms of mandatory contributions as an alternative for AV media curation. Levies are the preferred route for what they call "media aggregation undertakings" (e.g., Spotify) and "sharing undertakings" (e.g., YouTube). Such levies would flow into funding entities like FACTOR and Musicaction. That would boost the amount of funding that could be provided to musicians and, thus songwriters by these mandated agencies. Perhaps music creators could gain independent standing in accessing funding as a result of these arrangements, but that was not recommended per se by the Yale Report.

It should be noted that the music streaming services like Spotify would fall under the aegis of the new regulatory powers if these recommendations were legislated or implemented via Governor-in-Council direction. Again, unless specifically singled out the beneficiaries would likely be the labels rather than artists or music creators.

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<sup>49</sup> <http://www.ic.gc.ca/eic/site/110.nsf/eng/00012.html>

This recommendation also lists the ability to impose discoverability requirements and to regulate economic relationships between media content service providers and content producers. All that would be quite helpful *indirectly* to screen composers since it would increase the market demand for Canadian TV programming.

Again, to the extent that Canadian television programming benefits from such obligations, Canadian music composers should benefit – but only indirectly.

Nevertheless, recommendation #63 about discoverability would have implications for creators who are dependent on the number of times the selection is streamed by the consumer. It proposes that the CRTC impose discoverability obligations audio or AV services, including:

- *Catalogue or exhibition requirements.*
- *Prominence obligations.*
- *The obligation to offer Canadian media content choices; and,*
- *Transparency requirements, notably that companies be transparent with the CRTC regarding how their algorithms operate, including audit requirements.*

Recommendation #64 refers to the CRTC using its power to obtain consumer data regarding online consumption and publish it in aggregate form. That would help artists and labels (and therefore songwriters) to market more directly to their fans or potential fans.

Recommendation #67 in the BTLRP Report proposes that a reasonable proportion of the Canadian dramas and long-form docs on “media curation undertakings” (i.e., CBC, CTV, Global, Crave, Netflix, Disney+) be 10-out-of-10 productions. This recommendation would start out as an expectation but could harden into a requirement. Since the music composer counts as 1 of the 10 points, this would certainly benefit SCGC members. If this recommendation is added to #60, there should be more funding overall for Canadian production.

### **Increased negotiating power**

There is also a possibility for screen composers to obtain some form of “terms of trade” leverage with independent TV program producers outside of the CRTC regulatory process. For example, there is the concept of a new “composer right” which could be discussed with the Department of Canadian Heritage. Its Minister could instruct CAVCO not to certify a production unless the producers enabled the composers to keep their copyright. However, that would be tantamount to the department imposing terms of trade on the production sector - which the federal government presumably would resist doing so.

Independent of regulations flowing from the Yale Report, there is the option of SCGC joining with a union already under collective agreement. Any union that is already under collective agreement could be a useful ally (e.g., the Directors Guild of Canada (DGC) or even the Writers Guild of Canada - WGC). The WGC protects the copyright and a fee structures for its creator writer members because of its agreements with the Canadian Media Producers Association (CMPA). The DGC is another potential ally, as it too has a collective agreement with the CMPA. The WGC-CMPA agreement recognizes the retention of copyright by screen writers and could be used as a precedent in negotiations.

While the successful striking of an agreement with the CMPA could eventually lead to a better fee structure and the retention of the music creator’s rights, it would be a long process. It would require substantial negotiation and that would entail significant legal and other costs.

### **5.3 Copyright changes and direct income supplements**

With respect to copyright legislative reform as a remedy to increase negotiating leverage, it would not appear to have any impact on transaction terms such as fee rates or downstream benefits. The

current Copyright Act provides basic protection – the issue of rates is determined by the Copyright, notably the Online Music Services Tariff.

While not a specific focus here, further revisions to the Copyright Act that could be considered include (i) the safe harbour provision which lessens the possibility for rights holders to go after copyright evaders, and (ii) the extension of the private copying tariff to include devices that access and display online AV content.

Beyond changes in regulation, there may be increasing **recognition that creators have a precarious existence**, and their income has suffered even more because of technology - not just music creators, but also writers, performers, artists, etc. The COVID-19 pandemic is only exacerbating the situation for music creators. New production and TV series are at a standstill in the short term. Live in-person performance of songwriters' works has equally ground to a halt, while digital live streaming has accelerated massively, largely without proper licensing and/or royalty administration.

Accordingly, if measures are implemented in the short term, they would supply badly needed incremental income for middle-class music creators – among all arts and culture creators. More innovation in the use of online tools would be part of the response in a social distancing era – to sustain or develop new fans and patrons, and over time add to the revenue stream for creators.

The direct recognition of the arts community in response to the COVID crisis may provide a cross-sector opportunity to fully understand the precarious status of the artist. Beyond dealing with the pandemic, one could possibly consider a better shot at Universal Basic Income (UBI)-like government support directly for artists across all disciplines. As pointed out above, the decline in the income of creative artists exists across the board in other sectors. That would point to a pan-creator solution for the independent contractors who form the bulk of the arts world.

#### **5.4 Use of technology for mining the long tail**

Finally, it is important to *harness digital technology* where that is possible. Managing the incessant and explosive flow of media consumption and the rights and metadata attached to it will require more efficient and effective tools. While these tools might not be accessible for individual creators, necessarily there is potential for associations or other overarching industry organizations to harness these for the collective benefit of their members/Canadian music creators.

**AI and blockchain technology** are already being explored extensively and started to be used; for digital music and merchandise sales, logging, and monetizing streaming usage, managing payments and financial or file assets, and providing more complete and accurate data about consumption, creator credits and rights holders. Collectives and publishers are investing in researching new solutions. Many of the larger companies provide apps to their writers for real time reporting. There are existing solutions that could be useful for screen composers and songwriters – although adaptation to the differing needs of artists may require exploration and investment.

## **6. Conclusion**

The rise of digital platforms has fundamentally altered the creative industries in Canada. Digital streaming has changed how consumers purchase and consume content. Music creators are just one of many creatives who are experiencing significant impacts as a result of this digital disruption of traditional media models.

Songwriters and screen composers are being impacted in particular ways – namely in how and how much they are receiving in royalties. Royalties are a key component of a music creators' income, and while collection societies such as SOCAN are seeing increases in the total amount of royalties they can collect from internet-based services, these are new dynamics at play that are limiting how much of these internet-based royalties make their way to creators.

For **songwriters**, as Canadians are largely consuming music on streaming platforms rather than purchasing physical copies, mechanical and private copying revenue streams are severely diminished. Performing royalties are also affected, largely due to that fact that these streaming platforms operate outside of the Canadian regulatory framework, and as such there is an increasing reliance on independent discoverability of Canadian content in order to trigger a performing rights payment. Plus, the rates paid by streaming services are low and vary by business model and company.

For **screen composers**, as AV content is increasingly being consumed on streaming platforms, the inherent parameters set by the traditional television lineup, which would allow Canadian content to be viewed in a predictable manner, has been completely shattered. As such, the discoverability challenge is also significant for these music creators. The major streaming giants are commissioning their own content on a massive scale. Thus, the individual Canadian screen composer holds diminishing negotiating power to negotiate favourable front-end and back-end deals, and the retention of their rights.

Digital literacy, regulatory changes, copyright updates and harnessing technology all have potential to help songwriters and screen composers mitigate (or at the very least slow down) the dire future projections related to these impacts. But a more radical, creative-industry wide shift may be necessary to move beyond mitigation and lead to more effective responses.

A response to these concerns could be seen in the emergence of independence in the creative industries and solutions to “bypass” traditional distribution. Self-publishing has been particularly popular in the recent years, as well as more direct models of monetization or donation systems. In parallel to the million-dollar productions distributed through streaming platforms, the digital environment has seen the rapid growth of user-generated content.

Paradoxically, this “independence” is also offered by platforms controlled by giant tech companies that positioned themselves as simple “receptacles” for user-generated content. If the digital environment has opened horizons and created opportunities, it is the intermediaries who have taken most – or all – of the additional income it may have brought into the creative economy, not the creators.

In conclusion, the rise of streaming is presenting a critical challenge in the digital transition for the creative industries. As it is the case for every technology revolution, the policy framework is spangled with grey areas. Usage and consumption cannot be the only guiding principle in the approach towards the leaders of streaming and digital distribution. The music industry particularly embodies these opportunities and challenges that every creative industry is now facing. Certainly, songwriters and screen composers have been neglected when it comes to the benefits of many existing support programs for the music industry. They have not been central to the conversation about helping the music sector, so now is the time to bring them into the wider discussion.

## 7. Appendices

### 7.1 Appendix A: Trade Organizations

There are four main trade organizations in Canada which represent the creators and publishers of musical works. Broadly, they aim to resource and advocate on behalf of their members and bring wider recognition and status to their collective concerns and activities.

- **SCGC—the Screen Composers Guild of Canada**—is “a national association of professional music composers and producers for film, television and media.” Since 1980, it has promoted Canadian talent, composition and recording for scoring audio-visual productions, raising awareness for, and expanding the domestic market. It is dedicated to improving the quality, status, rights, and interests of its members, particularly through education, advocacy, professional development and establishing contracting standards. SCGC particularly engages with producers, broadcasters, government bodies and other parties involved with screen-based media, and in May 2003, was certified under the Federal Status of the Artist Act. SCGC has 370 members in English-Canada. In Quebec, both songwriters and screen composers are represented by the organization Société professionnelle des auteurs et des compositeurs du Québec (SPACQ), which has 416 members (207 of which are screen composers).
- **SPACQ—La Société professionnelle des auteurs et des compositeurs du Québec**—represents the interests of authors of French-language songs across Canada and of all music composers in Quebec. Its main mission is to research, promote, protect, and develop the economic, social, and professional welfare of its almost 600 members. SPACQ fulfills its mission through collective action, opportunities for professional development, and voicing its members’ interests at various decision-making levels in government and industry, as well as the negotiation, conclusion and administration of framework agreements and collective agreements.
- **S.A.C. - Songwriters Association of Canada** - a nationwide community of professional and amateur music creators. With an emphasis on program delivery, it supports the creative, business, and legal concerns of its members and of songwriters and composers in general. It provides opportunities for networking, musical work registration, commercial and artistic development, and a collective voice to advocate for the rights, compensation, and business and regulatory environment of its constituents. S.A.C represents professional songwriters in Canada.
- **MPC - Music Publishers Canada** - formerly known as the Canadian Music Publishers Association, MPC has acted for over 70 years as the unified voice for the diverse set of professionals and organizations which manage publishing catalogs of musical works and whose principal place of business is Canada. MPC’s mission is to advance the business opportunities of its members and to advocate and educate around the interests and value of the industry as a whole. The understanding and advancement of copyright is a key concern, along with the cultural, legal, regulatory, economic, remuneration and export factors which underpin the importance of music publishers, music publishing and music creation.
- **APEM - L’Association des professionnels de l’édition musicale** - an alliance of some 830 Quebec-based and French-speaking music publishers. Similar to Music Publishers Canada but much younger, APEM was formed less than two decades ago to respond to ongoing structural and economic issues, including safeguarding copyrights for musical works. APEM brings together nearly all francophone musical publishers in Canada to address the needs and profile of their members, particularly as distinct from, or in relation to, other components of the music, media, and arts industries.

Some trade associations in Quebec assume different roles than those based in the rest of Canada. This largely reflects the unique regulatory structures and recognitions within the province. SPACQ was originally founded by and for francophone songwriters in 1981 but expanded its mandate after the first provincial act regarding the Status of the Artist was passed in 1987. This legislation, which governed performing, recording and film artists, allowed professional associations to be recognized as official representatives for the specific works of members. If an initial bargaining process is unsuccessful within a certain time frame, a provision sets up a process for arbitration.

In light of this opportunity, Quebec screen composers were invited to join SPACQ rather than form a separate organization. SPACQ then applied, and was recognized in 1990, as the sole collective representing creators of musical works in all fields of artistic production in Quebec. It can negotiate with other authorized trade organizations representing an industry, or with individual companies if they do not have collective representation and the terms are not more generous than that with the relevant trade organization (assuming one exists). Given its authority to negotiate collective agreements on behalf of all songwriters and composers—members of SPACQ or not—the association has eight such agreements with the following organizations:

- Association québécoise de la production médiatique (AQPM) - Film department
- Association québécoise de la production médiatique (AQPM) - Television department
- Cirque du Soleil
- Groupe TVA
- Official national du film (ONF)
- Société Radio-Canada
- Télé-Québec
- Théâtres associés (TAI)

SPACQ-negotiated agreements set the contractual standards and minimum remuneration for all commissions for musical works made by these organizations. SPACQ notably does not have standard agreements with other parties in the music and recording industries because songs are pitched to artists and their representatives, rather than being commissioned. Moreover, PROs and RROs are still in place to collect and distribute royalties when musical works are used in most contexts. Hence, there is no agreement between SPACQ and the UDA (Union des artistes) which represents performers—similarly to ACTRA or Actors' Equity Association in English Canada—or ADISQ which supports the independent Quebec music industry. SPACQ was given further recognition under the federal Status of the Artist legislation through the Canadian Artists and Producers Professional Relations Tribunal in 1996 and 2003.<sup>50</sup>

## 7.2 Appendix B: Collection Societies

- **SOCAN - The Society of Composers, Authors and Music Publishers of Canada** - is one of the largest CMOs in Canada, representing over 160,000 right holders, primarily songwriters, composers, and music publishers. Along with its predecessors—CAPAC and PROCAN—which merged in 1990, it has long been responsible for managing the performing rights of musical works in Canada. More recently, SOCAN entered into reproduction rights with its 2016 acquisition of U.S.-based Audiam, a collecting agency for mechanical rights in

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<sup>50</sup> Decisions No. 013, No. 042 and No. 045. The predecessor to SCGC was also recognized in Decision No. 045 but not the others.

interactive streaming. In 2018, it moved further into reproduction rights management with the acquisition of Quebec-based SODRAQ—the Society for reproduction rights of authors, composers, and publishers in Canada—which also has a division for managing reproduction on behalf of visual artists. Currently, the divisions of SOCAN for Reproduction Rights (SOCAN RR) and SODRAQ both offer reproduction rights services to rights holders signed to them.

- **CMRRA<sup>51</sup> - Canadian Musical Reproduction Rights Agency Ltd** - a 45-year-old collecting society which administers the range of mechanical rights uses on behalf of songwriters, composers, and music publishers. It licenses and collects royalties for the reproduction of songs for physical and digital copies and online streaming, for broadcast mechanicals, private copying and music which has been synchronized to existing audiovisual media. In 2002, a joint venture between CMRRA and SODRAC—called CSI Music Services—began with a mandate for one-stop mechanical licensing for online music services in Canada and, in 2003, for commercial radio. In 2017, CMRRA was acquired by the U.S.-based **SoundExchange**, the sole CMO designated for administering digital performance royalties for sound recordings on behalf of artists and labels. As of January 2020, CSI has been disbanded and both SOCAN and CMRRA license and administer reproduction rights for the music creators and publishers which have assigned these rights to them.
- **CPC - The Canadian Private Copying Collective<sup>52</sup>** - an umbrella organization established to enforce licensing and collect royalties on blank audio recording media for the personal use of music. The CPC represents the collecting societies and rights holders of both musical works and recordings, with its members including the CMRRA, SOCAN, and Re:Sound.

### 7.3 Appendix C: Other Related Rights for Music Creators

**Neighbouring rights** – neighbouring rights are only relevant to songwriters and screen composers if they are also the performer of the song. These are collected issued for the public performance or broadcast of the sound recording. The difference is who receives payments for these rights. Neighbouring rights are paid to the owner of the performer's performance and owner of the sound recording (typically the recording artist and/or the label) for that same public performance. Any time a sound recording is broadcast on the radio or TV, or played live in a bar or a concert, the recording artist and label are due neighbouring rights.

**Synchronization** –synchronization (or “sync”) rights are paid to the songwriter/publisher and the performer/label to synchronize a pre-existing recording of a musical work with audio-visual images on film, video, etc. In some situations, a new recording is produced, and the only payment is for the song. For example, synch rights are involved in the use a song in a television show or movie.

Each synchronization license is individually negotiated between the user (e.g., the film producer) and the music publisher. Both mechanical and synchronization rights -- while different in their end use of the musical work -- are “instances of the exercise of the reproduction right”. The terms of these negotiations for synchronization vary by deal.

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<sup>51</sup> <http://www.cmrra.ca/>

<sup>52</sup> <https://www.cpc.ca/en/>