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MUSIC AND MONEY

Join members of the music, legal and financial communities March 4 at the St. Regis in New York to explore challenges and key opportunities shaping the future of the music business. More: billboard musicandmoney.com.

LATIN MUSIC

The Billboard Latin Music Conference & Awards will take place April 26-29 in Puerto Rico at the Conrad San Juan, Condado Plaza. Don't miss this important Latin music industry event. More at billboard latinconference.com.

Preparing For Battle

Publishers, Songwriters Get Ready To Fight For A Share Of Unmatched Funds

BY WALLACE COLLINS

The stage is set for a brutal tug of war among major music publishing companies, indie publishers and individual songwriters over millions of dollars that are available under the National Music Publishers' Assn.'s late-fee settlement with the RIAA.

Under the settlement, the RIAA offered to turn over these funds to the NMPA in order to pre-emptively settle any claims against the four major labels for late fees on certain monies that had been held in what are known as "pending and unmatched accounts" for the years 2000-06 (Billboard, Oct. 17, 2009).

Most of these monies were related to cases where labels released albums before contractual agreements and splits among songwriters had been finalized, sometimes prompting the labels to withhold payment of royalties on all compositions on an album, even when only one song's splits were under dispute. The settlement establishes a fund of up to approximately $285 million to be distributed among music publishers based on market share, rather than based on the actual amounts owed to publishers.

As a lawyer who represents songwriters as well as independent music publishers, I have serious concerns about the hurdles they will face in getting their fair share of the funds. For starters, all interested parties need to know that this is an "opt in" arrangement: If you want your share, you must make a claim within the next few weeks or face the prospect of losing it.

The NMPA has designated Kenneth R. Feinberg as "special master" to administer the distribution of the settlement funds. Feinberg, who administered the Sept. 11 Victim Compensation Fund and the TARP bailout for the U.S. Department of the Treasury, has been notifying publishers and songwriters who own a share of their publishing about applying for their respective share of the settlement.

Feinberg will make a market-share determination in order to calculate the amount due each claimant and, if the respective claimant accepts the amount offered, then that publisher is precluded from pursuing the record companies on the claim. No doubt, there will be a feeding frenzy among major music publishers and the various parties vying for a piece of the pie.

Many of my indie publishing clients are concerned that, as is often the case, major publishers may try to game the system by laying claim to more than they are entitled to. The NMPA/RIAA arrangement requires that any such disputes must be resolved between the parties, and the leverage in such a situation will surely favor the big guy.

This is an 'opt in' arrangement: If you want your share, you must make a claim within the next few weeks or face the prospect of losing it.

Another looming pitfall of the settlement for indie publishers: Because the $285 million is being allocated by market share, many major publishers that in some cases have already collected what they were owed during the relevant years may be paid twice, while indie publishers and songwriters who were never paid before and thus can't claim any market share could be short-changed again. Also under dispute is who gets paid if a song's ownership or administration has changed since it was first published.

Most of the unpaid funds originated in R&B and hip-hop, where there's often a multitude of writers and publishers claiming not only a share of writing credits but credits for samples as well. Songwriting credit disputes are much less common in pop and country music where one or two writers usually compose a song. Urban artists and publishers will need to be especially vigilant to assure that they get their fair share of the settlement monies from their respective publishers.

Each songwriter will need to pursue his or her publisher for a share of what the publisher collects from the NMPA settlement. Otherwise, there's a strong likelihood that publishers will simply hold the monies they collect in their "pending and unmatched accounts" indefinitely, just as the labels had done previously.

If a songwriter isn't satisfied with what his or her publisher offers, the songwriter is free to pursue further claims against a label—but such a process would be overwhelmingly costly and time-consuming for most songwriters. The best alternative for many of them is to contact their publishers now and let them know they're aware of the NMPA settlement and keep making noise so that the publishers will be motivated to calculate and pay each songwriter his or her share.

The late-fee settlement isn't perfect by any means, but it does make available $285 million for songwriters and publishers that wasn't accessible before. In some respects, it will be a classic David-and-Goliath battle pitting indie publishers against the majors and songwriters against publishers. Through it all, songwriters need to be especially vigilant, even if it means pestering their publishers to get their fair share of the pie as the feeding frenzy begins.

Wallace Collins is an attorney in New York specializing in entertainment and intellectual property law.

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DIGITAL | BY ANTONY BRUNO

A BIGGER BANG?

Apple's iPad Offers Larger Mobile Platform For Music And Media

In the end, it was a bit of a letdown.

After weeks of overinflated expectations, it was hard to see the "magical and revolutionary" qualities that Apple CEO Steve Jobs attributed to the company's new iPad.

To be fair, that's mostly because many of the potential uses for the slick, tablet-sized device have yet to be seen. The multimedia iPad featured little media and entertainment content at launch because only a handful of developers had the chance to see it before its unveiling, and even then for only two weeks.

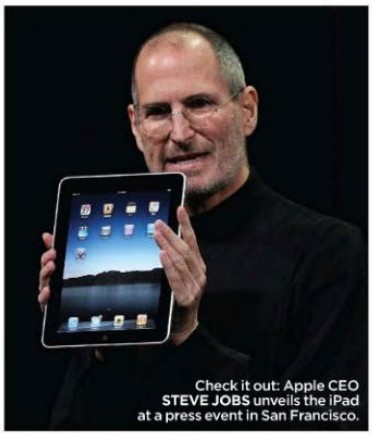
But considering the dramatic impact that the iPhone has had on the mobile music market, developers are eager to see whether the iPad can provide a similar boost through a larger, more flexible platform.

"You cannot ignore when Apple launches a new product," says Gerrit Meier, COO of Clear Channel Radio's digital unit, whose iheartradio streaming music iPhone application has been downloaded more than 5 million times. "There have been just so many products in the past that have provided inspiration for so much new innovation. You don't have to be an Apple fan to recognize that Apple really is in tune with changing consumer behavior."

App developers are immersing themselves in the technical specifications and software development kit of the new device, trying to figure out what they can do to enhance their existing iPhone apps as well as determine the opportunities for new apps created specifically for the iPad.

But that process relies on more than just screen size and software. It also requires an understanding of how people will use the iPad, which is difficult considering it's an entirely new category of device that won't be available for another two months.

"That's a discussion we're literally having right now," says Tim Westergren, founder/chief strategy officer of Pandora, whose iPhone app dramatically expanded the streaming music service's user base. "We have more real estate, so what do we do with it and what's the use case? This will be driven by how people use it."



Check it out: Apple CEO **STEVE JOBS** unveils the iPad at a press event in San Francisco.

From a media consumption perspective, content owners are curious to see how iPad users interact with media compared with how they do so on an iPhone or a computer. Clear Channel's iheartradio, for example, is available online and on smart phones through its downloadable app. While the company has added new features like video, Meier says few iPhone users access the video features due to the device's size.

Meanwhile, a sizable portion of iheartradio listeners use the service only through the mobile app and not on their home computers. So Meier is hoping iPhone users will upgrade to the iPad and in doing so access the many features they aren't yet using.

"As some of those folks graduate upward, I think we'll see a higher usage of the video content we're now providing," he says.

Gartner analyst Mike McGuire says the music industry should keep an eye on what kind of iPhone-to-iPad conversion rates Apple can generate and how that affects iTunes traffic.

"It's an interesting new platform that will obviously extend the iTunes library, thereby underscoring its value to the consumer and the transaction capabilities inherent with it," McGuire says. "It's another place where I might look something up and discover new music. It could be a new and interesting way to see if people buy media. They're incremental things."

Piper Jaffray analyst Gene Munster expects Apple to sell between 3 million and 4 million iPads in the next 12 months, with even more sold next year. That will come at the expense of iPod Touch sales, with Munster lowering his projections from 22.4 million to 20.6 million for the year.

To meet these figures, Apple needs media companies and app developers to innovate around the new device in the same way they did for the iPhone. Access to the 140,000 apps in the App Store is a major reason why consumers have purchased 75 million iPhones and iPod Touches combined.

If media apps didn't play a large role in the iPad's launch, they will certainly play a greater role in its future.

GLOBAL | BY RICHARD SMIRKE

Rocking The Slopes

New European Festivals Mix Ski Vacations With Live Music

LONDON—The rustic Austrian ski resort of Mayrhofen makes an unlikely setting for a five-day feast of alternative rock and dance.

In April, however, the Tyrolean town's snowy streets will be hit by an avalanche of music fans attending Snowbombing, the annual music/winter sports event anchoring Europe's burgeoning "snowfest" scene.

This winter brings new rival events into the market, including the Little World Festival (March 13-19) in Meribel, France, and the Big Snow Festival in Arinsal, Andorra (March 14-21).

"There's still big potential for growth," says Ian Kaye, GM at Big Snow promoter Big Events Group. "If you compare the winter market to the summer festival market, it's still very much in its infancy."

Launched in 2000 in Risoul, France, Snowbombing was the first notable winter sports-linked music festival, initially drawing 250 customers with an accommodation/entertainment package from U.K. holiday firm Outgoing Limited. Outgoing founder Gareth Cooper conceived Snowbombing to add a new slant to its skiing holidays, advertising it in U.K. lifestyle and music publications.

The event moved to Mayrhofen in 2005. This year's bill (April 5-10) features Fatboy Slim, Editors, Doves and De La Soul playing at a range of venues. Prices range from £279 to £379 ($454-$617), with various travel options available at additional cost. Ticket sales, Cooper says, are expected to total 4,500—up from 3,500 in 2009.

Cooper expresses skepticism about the emergence of rival events mixing ski holidays with live music, warning that "it's bloody hard to get the recipe right so that it satisfies the customers, the resort and yourself financially."

Kaye says that Snowbombing's success "made other people think, 'Maybe we can do something similar,' " although he acknowledges that Big Snow likely won't make money in its first year. Big Events Group hopes to grow the festival "organically year-on-year" by targeting 18- to 34-year-old Brits through advertising in music, skiing and snowboarding media, Kaye says. Headlining the inaugural Big Snow is Scottish dance artist Calvin Harris, with ticket prices starting at £399 ($649), including travel and accommodations.

Let it snow: **2 MANY DJs** performs on the final night of Snowbombing 2009; inset: **CALVIN HARRIS** will headline the inaugural Big Snow Festival in March.

Another new arrival is the Little World Festival, organized by Universal Island U.K. pop act the Feeling, which spent its formative years playing the après-ski circuit and staged a free "homecoming" show at Meribel to 6,000 people in 2008. "We had such a laugh that we just thought, 'If we can bring all of our mates with us and get them to play as well, then that would be great,' " Feeling drummer Paul Stewart says.

Those "mates" include pop vocalist Sophie Ellis-Bextor and singer/songwriter Ed Harcourt, among some 15 acts playing venues that range in capacity from 300 to 1,800. A pass to all the shows costs €90 ($127), while the Feeling will also play a free outdoor show for an expected audience of 8,000.

This year's other newcomer is the 500-capacity dance-oriented Yeti Festival (April 5-10) in Nassfeld-Hermagor, Austria. The final lineup isn't yet confirmed, but combined accommodation and skiing/festival passes cost £399 ($649).

Agents and promoters declined to disclose artist fees, but Cooper says Snowbombing increased its artists' budget by 50% this year to maintain an edge over its new competitors. The event relies on high ticket prices, sponsorships (2010 sponsors include Volvo and the local tourist board) and alcohol sales to cover what Cooper calls "massive" production costs like shipping in sound/lighting equipment and crew.

James Whitting, a booking agent with Coda Whitting in London, booked U.K. rock band the Enemy for this year's Snowbombing. He notes that Snowbombing can provide substantial broadcast exposure through the event's various media partners, such as MTV, U.K. TV network Channel 4 and BBC Radio 1.

"You will see more travel operators getting involved with winter festivals in the years to come," Whitting says. "It's something that—when executed well [with] the money invested in the talent—can be good for all parties."

JOBS: JUSTIN SULLIVAN/GETTY IMAGES; HARRIS, SPIROS POLITIS; SNOWBOMBING: CARL SJONNA