

# american popular music and its business in the digital age

1985–2020



**Rick Sanjek**

# American Popular Music and Its Business in the Digital Age

*American Popular Music and Its Business - The First 400 Years*  
*Volume I - The Beginning to 1790*  
*Volume II - From 1790 to 1900*  
*Volume III - From 1900 to 1984*  
By Russell Sanjek

*American Popular Music and Its Business In The Digital Age*  
*1985 to 2020*  
By Rick Sanjek

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Rick Sanjek

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# Preface

This book is a sequel to the three-volume *American Popular Music and Its Business: The First 400 Years* written by my father, Russell Sanjek, and published by Oxford University Press in 1988. He had never before written a book but his compelling monograph *The War on Rock* published in *DownBeat* magazine in 1971 led him to Oxford editor Sheldon Meyer. In 1975 he started on what would become his life's most ambitious undertaking and final achievement.

The prologue to his first volume, *The Beginning to 1790*, opened with British privateer Sir Francis Drake's 1579 landing just north of San Francisco Bay to repair his ship, the *Golden Hind*, after raiding Spanish colonies along the Pacific Coast and before beginning its global circumnavigation. Drake was a fervent patron of the arts and a countertenor vocalist himself. His crew included performers who entertained at nightly dinners during his stop, whose audience often included Native American guests. This was the first-known performance of English-language music in North America.

The remainder of this volume then traced the development of the embryonic music business from England's Tudor dynasty forward through the colonization of the New World until the establishment of the American nation.

*Volume II: From 1790 to 1900* further chronicled the evolution of the business of music in America through the events, people, and technology that defined, managed, and transformed it through to the turn of the twentieth century.

*Volume III: From 1900 to 1984* picked up the narrative from that point and included discussion of the Copyright Act of 1909, which applied federal statute to the commercial use of music in the impending electronic age. It concluded in 1984, not due to any cultural allegory or historical event, but because the narrative had finally intersected with the present.

My father passed away in June 1986, though he did live long enough to read the first copyedited version of volume 1. My older brother, Roger, an urban anthropology PhD and professor/writer/editor of considerable renown, finished the editing for a 1988 publication. It was well received, winning among other accolades a Deems Taylor Award from ASCAP as one of the best music books of the year.

My younger brother, David, an English PhD and then the archives director at BMI, edited a 1992 condensed hardback version of volume 3 for Oxford University Press titled *American Popular Music Business in the Twentieth Century*. He added a brief update taking the narrative through 1991 and received a cowriter credit. He then expanded the update through 1995 for a Da Capo Press paperback version titled *Pennies from Heaven*, which contained the complete volume 3. This led him to a prodigious career as a writer on popular culture, culminating with a professorship in music at the University of Salford in Manchester, Great Britain. David was in conversation with Oxford about doing this book when he passed away in November 2011.

With encouragement from my brother Roger and the editors at Oxford University Press, I came to the realization that with my own then-over-forty year career in the music business, the experience I had within virtually all segments, and my academic degree in history, I was the person to pick up the torch and signed on in 2016 to author this volume.

The dust jacket of my father's original publication described his books as "telling the story of America's popular songs, the people who wrote them, and the business they created and sustained." This book expands upon that theme by adding the performers of those songs to the people who wrote them, as the modern music business involves well-defined streams of revenue for each category of creators. Even though often payable to the same person or group, these royalty sources remain distinctly separate as designated by copyright law and further delineated by negotiated agreements.

All revenue, whether from records, live performance, printed music, or artist merchandise emanates from consumer spending or from music licensed to movies, television, commercials, games, or other businesses that want to attract consumers to their products or services through brand association with music, whether subliminal or overt. This book compares the music business to a conduit through which this revenue flows until it reaches the creators after costs related to financing, managing, and marketing are deducted each step along the way.

Once into the project, I quickly discerned how great a role digital technology played in shaping the music business from 1985 forward. I used that realization to help structure the narrative, dividing the time frame into three parts.

The years 1985 through 1995 were dominated by the rise of the CD to almost triple consumer spending on music. Concurrently, digital technology displaced analog in recording studios and home audio systems. Administration and accounting were adapted to the ongoing advances in

computer technology. In October 1994 use of the internet was extended to commercial exploitation.

From 1996 through 2006 the utilization of the MP3 by Napster for a massive wave of illicit file-sharing combined with the post-9/11 recession to reverse the consumer spending trend. Falling revenue was somewhat tempered by the 2003 debut of iTunes, which made legal downloading a viable alternative. Meanwhile Ticketmaster consolidated digital ticketing and Live Nation emerged out of the Clear Channel separation of its radio and concert divisions.

The years 2007 through 2019 saw the further decline of record industry revenue until Spotify introduced at-will on-demand legal availability to almost all the music ever recorded, leading to a rebound in consumer spending. The convenience of immediate access at a minimal cost transcended the constraints of time, place, and past industry-imposed limitations on content availability.

Eliminating the cost of accumulating a CD collection freed upper-income consumers to spend more on live music, allowing those willing to pay exorbitant prices for the best seats, and often for any seats at all, to contribute to increasing industry profits. The concert promotion behemoth created by the merger of Ticketmaster with Live Nation enabled *Pollstar*-tabulated revenue to catch up with the revitalized record business as both the recorded music and live performance sectors topped \$11 billion in 2019.

Each of the book's three parts has five chapters. The first chapter outlines "The Game of Musical Thrones," tracing the growth, power structure, and leadership of the record business. Next, the "Records, Retail, Radio, and the Charts that Bind Them" chapter follows the relationship between these sectors as they set the pace for the entire industry. The third chapter examines the interrelated "Publishing, Copyright, Legislation, and Litigation" segments of the business.

Next, the fourth chapter, "The Creators of Music: Getting Paid," covers how and how much "the creators" of music get paid, and the people, companies, and developments integral to that process. The fifth chapter, "The Consumer: From Whom, How, and Where the Money Flows," focuses on "the consumers" who generate the money that fuels the music industry engine and the evolution of the technology that supports their music habit.

Over these three time periods digital innovation affected and altered the dynamics of the music business in ways never imagined. With the introduction of the internet, fans identified and interacted with artists through websites that became digital extensions of fan clubs. Social media platforms first led by

Facebook, MySpace, and YouTube; followed by SoundCloud, Bandcamp, and ReverbNation; then Twitter, Twitch, Pinterest, Instagram, Snapchat, and most recently TikTok, with undoubtedly more to come, have taken the relationship between creator and consumer to new levels of innovative synergism.

Artists were now able to produce new music and present it to the public independent of the industry's timetable. Digital technology has given consumers a greater opportunity than ever before, both passively and interactively, to influence and drive the market through data analysis of their buying habits, streaming selections, and concert attendance.

For those who haven't read my father's three volumes, I have included a prologue summarizing how the American music business developed through 1984, then continuing on to the trajectory, participants, and events of the unfurling digital age. The narrative ends in an epilogue covering 2020, a year dominated by the COVID-19 pandemic.

During one week in March the entire concert business was put on hold through the end of 2020 and beyond. The majority of the workers in the other sectors finished the year operating remotely. Even with this unexpected interruption, the consumer-creator relationship was still the economic engine that drove the music business through streaming subscriptions services; direct purchasing of physical, digital, or printed copies; buying artist merchandise online; or watching livestreamed or drive-in concerts that served as substitutes until the live performance sector returned to normal.

As of the end of the narrative, both the consumer base and creative community continue to expand as advances in technology generate new opportunities. Music is now an even greater part of people's lives, with ubiquitous access through mobile devices. The burgeoning global middle class drives the live performance industry, which is now poised to take it even higher now that we seem to be past the worst of the COVID-19 disruption. For creators, consumers, and the music business that connects them, the world grows bigger and smaller at the same time. The business has been altered, but still survives to facilitate access for consumers and maximize financial returns for creators.

Despite the transformations wrought by the digital age, the major labels remain the most effective and well-funded path for achieving universal marketing saturation. This does not, however, guarantee a hit, much less longevity, for seldom is a career built on and then sustained by one record.

This doesn't mean, however, that artists can't achieve success and enjoy a career without a major label as more than one-third of record industry revenue goes through independent or artist-owned labels, or direct to artists and songwriters through digital revenue collection agencies. There is also a vibrant live performance market that supports thousands of artists who never

make the top chart listings but nonetheless make a living through their music. As always, the scope of each artist's success is based upon a unique blend of talent, luck, perseverance, aspiration, and circumstance in the ever-shifting, multidimensional matrix we have come to know as the music business.

As the world turns and as time advances without pause, the beat goes on as music remains the ever-evolving emotional tie that unites us and provides the underlying rhythm track to the lives of people around the globe.



# Acknowledgments

My thirst for knowledge and infatuation with history began while still in grade school. After exhausting the Landmark series of children's history books, I discovered my father's copies of Will and Ariel Durant's *The Story of Civilization* and the Year's *Pictorial History of the World*. At the same time I was surrounded by the latest jazz, blues, Broadway show, R&B, folk, jazz, country, and rock-'n'-roll record releases my father would bring home to share with his three sons.

My immersion in history continued throughout secondary school and then at Yale, where I was particularly inspired by Professor Howard Lamar's courses on American history. As far as music, I was the guy with a stereo system in his dorm room sharing the music of Bob Dylan, The Beatles, Joan Baez, The Rolling Stones, Thelonious Monk, John Coltrane, Big Bill Broonzy, Ramblin' Jack Elliott, and so many others with anyone who would listen.

In 1971 I moved to Nashville. For the next fifteen years I worked directly with a series of five mentors, all inductees into at least one hall of fame, from whom I learned the intricacies of the relationship between the art and the business of the music industry.

First was Frances Preston at BMI, who schooled me in the rudiments of music licensing and the social etiquette of the music business. Next came Jerry Wexler, who entrusted me with opening a country music division for Atlantic Records. Our first artist was Willie Nelson, with whom I shared in the breakout of the outlaw country genre. Then three years with Sun Records legend Cowboy Jack Clement reignited my belief in the magic of music, after which Pete Drake, the "King of the Talking Steel Guitar," recruited me to manage his businesses for four years, which included securing international distribution, expanding his publishing companies, initiating a television co-production with Dick Clark, and experiencing multiple trips up the charts.

From 1986 through 1992 I rejoined Frances Preston at BMI but this time in New York as vice president of writer/publisher relations. I also served the Recording Academy as a trustee, president of the New York chapter, and member of both the awards and nominations and the New York Grammy host committees.

From 1992 forward I applied the knowledge and experience I had accumulated to work as an independent producer, publisher, artist manager, and

licensing consultant. Finally, I combined all these experiences with my academic training to begin researching and writing this book in 2016.

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This book is dedicated to all of the above and the thousands of others I have encountered over the course of my life for whom the love of music—from the first memory to the latest stream—has never waned.

Rick Sanjek  
Nashville, TN  
September 2023  
[AmericanPopularMusicBusiness.com](http://AmericanPopularMusicBusiness.com)



# Prologue

## Part One: The Roots of the Music Business

### In the Beginning

Since the dawn of history, music has been a part of human society. Our voices were our first instruments. Our ancestors created music by singing, humming, whistling, clicking, and any other sound the mouth and vocal cords could create and the brain could organize into patterns of cadence and melody. Every voice is singular in its qualities of tone, timbre, pitch, and resonance, just as unique as every face and every set of fingerprints.

While some voices might sound alike, digital analysis of various vocal metrics as well as some people's ears can distinguish the difference between even the most similar voices. Some voices evoke a deeper level of passion than most others can elicit. An intense degree of both emotional and cognitive stimulation can occur when those singularly distinctive voices are coupled with unique melodies and lyrics set to a specific combination of rhythm and tempo that can result in a universally acclaimed performance.

As societies evolved, instruments were hand-crafted out of organic materials creating drums, shakers, flutes, whistles, mouth harps, and stringed instruments both bowed and plucked. With the rise of civilization, voices and instruments were utilized for both religious and secular rituals. When metal work was developed as a craft for tools, weapons, and household goods, it was adapted to musical instruments as well, creating horns, cymbals, and bells. Both state and church sponsored and supported those vocalists and musicians who could best sway the masses whether at work, war, worship, recreation, ritual, or revelry.

### Music First Becomes a Business

As Western Europe advanced through the Renaissance, Reformation, and Age of Enlightenment, private commerce emerged from under the thumbs of both church and state. The recently invented movable-type printing press was taken out of exclusive church and state control and made available for the

printing of secular music and verse. These first music publishers sold sheets of new lyrics called broadsides that were sung to the most popular melodies. After the typesetting of musical tablature was perfected, the sale of sheet music for both vocal and musical arrangements developed as another consumer product with music printed either alone or coupled with lyrics.

Listening to music, however, was unlike the consumption of physical goods or delivery of professional services, as music could deliver an emotional experience. Soon the commercial exploitation of music shifted into the hands of entrepreneurs who could cater to both the ruling class and the masses. Following the rise in disposable income for the wealthier members of the new mercantile society where commerce was encouraged, publishers and promoters applied a rudimentary understanding of supply and demand to the marketing of music.

The progenitors of today's concert industry built enclosed performance spaces like Shakespeare's Globe Theatre in London to control access by managing the supply of tickets, and thus monitor the flow of revenue. They calculated both the cost of presentation and the optimal price of admission to maximize both consumer demand and monetary return. Theaters emerged in other major cities including Milan's La Scala, the Walnut Street Theatre in Philadelphia, the Hôtel de Bourgogne in Paris, and the Theater an der Wien in Vienna.

Music publishing and live performance formed the foundation for the commercialization of music over the next several hundred years, led by a cadre of people willing and able to fund, promote, and manage segments of the fledgling entertainment industry. As most performers, musicians, lyricists, and composers had neither the inclination, expertise, nor resources to do so themselves, they depended on the competency, honesty, and instincts of these entertainment entrepreneurs in whom they entrusted their careers. The ability to gauge the public's interest in and its willingness to pay for tickets and printed copies became the barometer for how much, for what, in whom, and when to speculate in this high-risk but potentially high-reward industry.

This relationship is now over four hundred years old and has always been a complex one. As the music industry grew and became increasingly profitable, the need for contracts also evolved to assure exclusivity over the services of creators in order to maximize the return on investment. These contracts also defined how the money spent by consumers was divided. The music entrepreneurs initially had the upper hand as they had more experience, greater monetary resources, and multiple artists available to them. With growing popularity artists strengthened their negotiating position.

Relationships between the creators and their business partners were almost always the most successful when the initial terms were fair and respectful.

During the nineteenth century, industrial age engineering transformed the manufacture of musical instruments from a craft to a business targeting the rapidly expanding American population for whom music was the primary form of entertainment, whether at home, in social settings, or in performance venues. Just before the turn of the twentieth century, music publishers began to coalesce around what became known as Tin Pan Alley, located on Manhattan's West 28th Street between 5th and 6th Avenues. These publishers offered songs to musical theater, vaudeville, burlesque, minstrel, and other shows through employees known as song pluggers. Placement in successful shows turned into touring troupes, motivating consumers to buy sheet music and musical instruments. Song pluggers often offered financial and other incentives to the top entertainers to perform their songs, sometimes including coauthorship with a share of the resulting songwriter royalties. This practice triggered the bribery scandals of the early 1900s, the forerunner of the radio payola or pay-to-play scandals of ensuing generations.

New technology expanded the business opportunities between industry segments. The first player piano, known as an organette, debuted in the late 1860s, but widespread consumer interest in player pianos accelerated in the 1890s with a mass-produced pianola by the Aeolian Company that contained a playing mechanism with two interactive elements. A bellows blew a steady stream of air against a continuous paper roll on a spool that was propelled at an even speed through the playing device over a set of levered hammers, one for each key on the piano, onto a take-up spool. Each roll contained the musical arrangement of one song precisely notched into the paper so that as the roll passed under the air stream, the size and placement of the holes controlled the strike of the hammers to depress the appropriate piano keys to replicate what a pianist's fingers would have played. The Aeolian's bellows were manually operated by a pneumatic mechanism with foot pedals akin to an organ. The songs that would be played through this roll-playing device had to be licensed from their publishers.

## **Adapting to Electronic Technology**

Beginning in the 1880s a determined and competitive cadre of innovative entrepreneurs inspired by the success of the telegraph in 1837, and the telephone in 1876, experimented with electronic devices that would record and transmit audio signals. Thomas Edison and Emile Berliner each filed patents

for recording devices while Guglielmo Marconi, Nikola Tesla, and Lee de Forest each developed patents for radio signal technology.

In 1900 a nascent record business that sold 2.75 million units was dominated by three companies: Edison's National Phonograph Company, selling only wax cylinders; the Victor Talking Machine Company, selling only Berliner's discs; and the Columbia Phonograph Company, selling their own versions of both formats. Sales reached 27.5 million units by 1909. In 1915 Edison added his own disc to counter the declining cylinder market as the first battle of the formats was won by Berliner's shellac, flat disc and gramophone over Edison's wax cylinder and phonograph, although the term "phonograph" outlasted gramophone in the public vernacular.

Meanwhile electric motors had replaced the manual operation of pianolas. Coin-operated versions were also introduced. By 1904 the Welte-Mignon company had perfected the self-playing process so precisely that master-quality rolls were created to use for mass reproduction. Ampico, Duo-Art, and Hupfeld's Triphonola soon joined Welte-Mignon in what was to become a thriving business. The most famous pianists of the age were recruited and paid to record and often autograph the master rolls for verification as the closest possible facsimile of live performance.

In 1907 Giacomo Puccini proclaimed, "The reproducing piano renders the characteristics of the artist in the most perfect manner!"<sup>1</sup> Arthur Rubenstein added, "As the reproducing piano plays it, it seems that I am performing myself."<sup>2</sup> Other artists whose works were featured as part of this new technology included Gershwin, Stravinsky, Rachmaninoff, Saint-Saëns, Ravel, Debussy, Landowska, and Paderewski. Thousands of songs were licensed to be reproduced on rolls with millions sold to owners of reproducing pianos. By 1920 over two hundred thousand player pianos were sold annually, more than half of the total number of pianos sold.

The commercialization of electronic technology, led by the pianola and the competing phonograph and gramophone, expanded publishing revenue. Retail supply chains were established. Compensation for creators and rightsholders, however, had to be determined, including how and how much to collect, and then how to allocate the proceeds. If negotiation or application of existing statute failed to accomplish an equitable equation, the claimants could lobby for new legislation or pursue litigation. New technology could also shift power and market share, which attracted high-risk investors eager to capture market share in a business that offered glamour and the potential for high returns.

Congress passed the Copyright Act of 1909 to keep statutes governing intellectual property in step with the technological advances of the electronic

age, as well as in harmony with the terms of the 1886 Berne Convention, an international intellectual property compact that granted equal protection to songs originating in other signatory nations. Most of Western Europe already conformed to the Berne standards, but the US did not. The 1909 act did not contain all of the provisions of Berne necessary to become a signatory, but it did further expand US copyright protection through several provisions that did conform to Berne standards.

The act created a statutory compulsory license rate of 2¢ per track to be paid to publishers for the mechanical reproduction of musical compositions, first applied to the thriving piano roll business and subsequently to sound recordings. Unlike Berne, however, the 1909 act did not include governmental copyright protection for the sound recordings themselves, and hence no federally legislated recourse to combat copyright infringement, which was defined as use of music for profit without a license in the recording itself. There was, however, protection in the act against infringement on the copyright in the song embedded within the recording. Recourse for infringement on recordings remained under the jurisdiction of individual state statute.

The act also established the performing right for copyright owners of musical compositions, whereby a business needed a license to use the performance of a musical composition, whether live or recorded, to make or enhance its profit. This right was a part of the bundle of rights afforded protection in Berne territories. Although the act did not set US rates for performing rights, leaving them open to negotiation between licensor and licensee, it did make infringement subject to adjudication in federal court, with statutory and punitive damages set at a high level. There were no provisions, however, for governmental prosecution of copyright infringement, leaving the burden of litigation up to those making the claim.

In 1914 a small group of composers and music publishers formed the American Society of Composers, Authors and Publishers (ASCAP), the first American performing right organization (PRO). ASCAP was modeled after European PROs such as Société des Auteurs, Compositeurs et Éditeurs de Musique (SACEM), founded in France in 1851; and Società Italiana degli Autori ed Editori (SIAE), founded in Italy in 1882. The British Performing Right Society (PRS) was also founded in 1914 under the auspices of the United Kingdom's Copyright Act 1911.

ASCAP's mission was to collect performing rights revenues and distribute the net after administration costs to its members. ASCAP also lobbied and litigated for protection and expansion of its members' rights. Famed ASCAP composer Victor Herbert had to go all the way to the US Supreme Court to validate the Copyright Act of 1909's performing rights provisions. In the

1917 ruling in *Herbert et al. v. The Shanley Company* regarding the necessity for an ASCAP license for restaurants playing music, Justice Oliver Wendell Holmes Jr. wrote, “Music is part of the total for which the public pays. . . . If music did not pay, it would be given up. If it pays, it pays out of the public’s pocket. Whether it pays or not, the purpose of employing it is profit and that is enough.”<sup>3</sup> After the ruling, ASCAP began in earnest to license theaters, dance halls, restaurants, and other entities that were using live music to enhance their business.

## The Post–World War I Business Boom

During the post–World War I economic boom, the electronic technology developed during the war dramatically expanded both the public’s options for consuming music and business opportunities to profit from them. After federal radio licenses were established in 1920, ASCAP added the fledgling radio industry to the other businesses from which it sought revenue.

The broadcast of music over radio not only provided a potential new source of performing rights revenue for music publishers and songwriters but also created fees for artists for their live performances negotiated by the American Federation of Musicians (AFM). It was also a new medium for stimulating sheet music, piano roll, and theater ticket sales. Almost all music on radio was performed live and remained so well into the 1930s as the radio industry continued to consider sound recordings inferior to live performance in audio fidelity, while the sound recording manufacturers maintained that playing records on radio was detrimental to sales and a violation of copyright.

By 1919 Berliner’s original disc patents had expired, allowing the industry to shift almost exclusively to shellac discs. Unable to successfully compete, Edison’s National Phonograph Company folded in 1929. Victor, with its iconic His Master’s Voice logo featuring a terrier named Nipper listening to the horn of a gramophone, and Columbia became the original set of major labels. The entire industry surpassed \$100 million in retail sales in 1920.

At first, the labels focused on artists who had become popular in Broadway theaters and national vaudeville tours, but soon they were also recording artists from the American hinterland who were unknown to urban audiences. Atlanta-based Bessie Smith was signed to Columbia by talent scout Frank Warner. New Orleans–born Louis Armstrong recorded on OKeh Records, an independent label acquired by Columbia in 1926. In 1927 in Bristol, Tennessee, Victor producer Ralph Peer and founder of the peermusic publishing company recorded both the local Carter Family and a former railroad

brakeman from Meridian, Mississippi, named Jimmie Rodgers. These now legendary performers emerged from middle America to rival the established stars of vaudeville and Broadway.

In 1925, recording into recently invented condenser microphones replaced performing into audio horns, which had been standard equipment up to that point. These new electrical recordings were a monumental improvement in audio quality and frequency range over the earlier acoustic recordings. The larger electronics companies manufactured both records, as the discs were now called, and record players. Recording and playing speeds were standardized at 78.26 rpm, and the records sold to the public became known as 78s. The conformity in speed allowed for any disc to be played on a machine from any manufacturer for both home and coin-operated devices, opening the door for independent record companies not owned by player manufacturers to compete for record sales.

The 1920s were also a period of expansion for the radio industry, beginning with the issuing of federally regulated radio licenses in 1920, and the establishment of the Federal Radio Commission (FRC) in 1927, succeeded by the Federal Communications Commission (FCC) in 1934. Radio stations generated revenue by selling program sponsorships, and eventually spot advertisements, to manufacturers and service providers wanting to introduce their wares to radio's expanding audience. In 1926, NBC launched the first national radio network, and live programs were transmitted over telephone wires to local stations, who in turn broadcast them over the air. Reception benefited from the use of vacuum tube technology based on de Forest's Grid Audion triode tube, the first vacuum tube to amplify electrical signals.

In 1927 Broadway star Al Jolson performed in *The Jazz Singer* with his audio track synchronized to the film's moving images. The movie industry was quickly transformed by replacing silent movies that had been accompanied by local musicians playing the background score with sound-on-disc technology played in sync with the movie. Within a few years the more efficient sound-on-film technology, with sound and film playing through the same projector, became the industry standard. The success of talking pictures added a new stream of publishing revenue with both new songs and music scores written specifically for the movie soundtracks.

Movie studios bought Tin Pan Alley publishing firms and made it worthwhile for many successful composers, lyricists, musicians, arrangers, and conductors to move to Hollywood. Nationwide movie releases joined network radio as national platforms for the most popular entertainers. Al Jolson, Fred Astaire, Eddie Cantor, Bing Crosby, and Mae West led the transition

from live performances and record success to talking pictures and network radio. Shirley Temple, Alice Faye, Gene Autry, and Judy Garland established themselves as major stars on radio and in movies before going on to recording success.

A multi-disc music player with a selector mechanism debuted in 1927 that could alternately choose a different 78 rpm disc off of one of eight spindles. A year later player piano manufacturer Seeburg introduced this device as the coin-operated Audiophone, then soon replaced it with the ten-disc Selectophone. These new machines used the same amplification technology that had improved home radio receivers and record players.

## **The Great Depression Slows the Tempo**

With the advent of the Great Depression in late 1929, the music industry—including the record, print, musical instrument, and live performances segments—along with so many others dependent upon disposable consumer income, financially contracted. The player piano industry switched to the coin-operated, disc-playing machines that enabled speakeasies and clubs to replace the cost of live performers with revenue-generating, fully orchestrated performances with vocals rather than the solo instrumental performances offered by coin-operated pianolas. Supplying a stream of new discs sustained the record business during this time, especially the companies that distributed the favorites of the working-class listeners who patronized local clubs. By 1940 they were commonly known as jukeboxes after the juke joint drinking and dancing establishments popular throughout the South, with the term “juke” believed to have been derived from a rural African American term for rowdy or bawdy.

By 1930, the number of federally licensed radio stations had increased to over five hundred from fewer than fifty in 1920. By 1935, after fifteen years of negotiations, litigation, and legislation, ASCAP had established that radio stations were subject to the performing rights provision of the 1909 Copyright Act and entered into an agreement with the National Association of Broadcasters (NAB), acting on behalf of the radio industry. This agreement resulted in a five-year blanket license for a performing rights royalty of 5 percent of advertising revenue. ASCAP collected these fees directly from the stations and three major networks, then distributed them, after deduction for overhead, using the network programming to determine the division of royalties. This system established the use of a sample, or reduced percentage, rather

than a census, or total count, method as the basis for royalty determination for radio play.

The NBC Network show *Your Hit Parade* ran on radio from 1935 through 1955, and on television from 1950 to 1959. It featured the first chart listing the relative popularity of the week's top songs. Their weekly rankings presented "an accurate, authentic tabulation of America's taste in popular music."<sup>4</sup> The selected songs were performed live by an in-house ensemble with the week's top song as the finale, indelibly imprinting the concept of a weekly #1 record in the rubric of the record business and, consequently, in the minds of the public. *Billboard*, the trade magazine of the entertainment business launched in 1894 and known as the "bible of the music business," introduced its own printed version of a *Hit Parade* in 1936, changing its name in 1940 to the national "Music Popularity Chart."

The music-consuming American public had become two distinct audiences. A mostly urban, middle- to upper-class segment listened to the songs featured in nationally distributed movies and network radio programs, primarily Tin Pan Alley, Broadway, and Hollywood movie compositions performed by major movie stars, network radio personalities, or big band ensembles. The big band bandleaders became well-known personalities throughout the 1920s and 1930s with top billing over their featured vocalists both on records and in live performance.

The other segment was mostly a rural or small-town, working-class audience listening to what then was termed race and hillbilly music played on jukeboxes in clubs and on local non-network radio programs, or in live performance on weekends. A few race and hillbilly artists achieved national success in movies or on network radio, but most performed on a regional basis with their records and live appearances co-promoting each other to establish, sustain, and extend their fan bases.

## **The ASCAP Boycott and Birth of BMI**

By 1940, over 80 percent of American households had radios. Advertising on 618 FCC-licensed stations generated \$215.6 million in advertising revenue. In 1939 the ASCAP agreement with radio was set to expire in eighteen months, and ASCAP proposed a raise in their rate of 5 percent of radio's advertising revenues. The NAB rejected the offer, ASCAP didn't budge, and the radio industry prepared to stay on air without ASCAP music. In anticipation of this ASCAP boycott, CBS attorney Sydney Kaye convinced the stations to organize an alternative PRO, which Kaye named Broadcast Music, Inc. (BMI),

to represent the music not written or published by ASCAP members and thus available to the stations as legally licensed. Kaye then moved to BMI full time as both in-house attorney and head of operations. ASCAP, then and still a membership association, had fewer than a thousand songwriter and publisher members, primarily based in New York or Los Angeles, supplying songs for Broadway, movie, and network radio performers. Only these members received royalties from the licensing fees ASCAP collected from radio and other sources.

During the eighteen months preceding the January 1, 1941, start of the boycott, BMI assembled music from non-ASCAP publishers as well as signed a few catalogs that moved over from ASCAP. Many of them represented Latin, hillbilly, race, and other indigenous music genres as well as copyrighted arrangements of public domain songs, including Stephen Foster compositions. BMI distributed sheet music to stations for performance on live music programs once the boycott began.

ASCAP members' sheet music and record sales declined and their songs from films could not be performed on radio to coincide with their theatrical releases. In October 1941, ASCAP finally agreed to a license at a lower rate, but its repertoire was still limited to its members' catalogs. The stations maintained their licenses with BMI at a lower rate than the new ASCAP agreement to retain the music they had played during the boycott and to serve as a hedge against ASCAP boycotting at the next contract negotiation. Shortly thereafter *Billboard* established the *Harlem Hit Parade* chart, which soon became the *Race Records* chart and subsequently the *Rhythm & Blues* chart. Rural American music created by what would later be termed country performers was tracked in the new "Hillbilly Hits" record chart.

## Records and Radio: Contention Turns to Cooperation

Prior to 1940, record companies had included the notice "unlicensed for public broadcasting" on record labels, still maintaining that playing records on radio damaged sales. Many stations, however, started playing records as they deemed the electronically recorded 78s, unlike their acoustically recorded predecessors, suitable for broadcast. Moreover, the discs were far cheaper than live musicians and they could be played multiple times. In 1935 New York's WNEW launched its subsequently long-running *Make Believe Ballroom*, with announcer Martin Block simulating a live theater performance. Block himself bought the records and secured the initial advertisers.

Famed columnist and radio commentator Walter Winchell coined the term “disc jockey” to categorize Block’s approach to radio programming.

By 1940, playing records had become widespread enough for the record companies to file a lawsuit claiming copyright infringement, but a federal circuit court ruled against them. Then in August 1942 the AFM went on strike against the record companies, with the union refusing to allow members to play on new recordings unless the labels agreed to keep the records off the radio in an attempt to preserve member jobs playing live on radio. The stations, however, now felt legally free to play records and continued to do so. With the major labels now unable to use musicians on new recordings, they met the increased listener demand by servicing stations with older material.

This also opened the door for independent labels like Capitol Records, newly formed by songwriter/producer/vocalist Johnny Mercer; former Tin Pan Alley lyricist-turned-Paramount Pictures producer Buddy De Sylva; and Hollywood-based record store-chain owner Glenn Wallichs. Before the strike commenced, Mercer quickly stockpiled enough masters to last for over a year. Along with other independents, Capitol focused on vocalists with smaller combos rather than big bands, shipped free records to radio stations, and employed other methods of promotion to help shape the mutually beneficial relationship between radio and record companies that would last for decades.

Star billing on radio shifted away from bandleaders like Paul Whiteman, Fred Waring, Harry James, and the Dorsey Brothers to their former lead vocalists. Bing Crosby, Dick Haymes, Perry Como, Kitty Kallen, Rosemary Clooney, Peggy Lee, Kay Starr, Georgia Gibbs, Margaret Whiting, and Jo Stafford increased in popularity and would go on to dominate the charts for the next decade.

Perhaps the epitome of this shift to vocalists was the remarkable rise of former Harry James and Jimmy Dorsey vocalist Frank Sinatra, first to teen idol and then to movie star and cultural icon. The bobbysoxer craze of the early 1940s that propelled Sinatra’s career wasn’t that much unlike the earlier fan reaction to Al Jolson, Eddie Cantor, and other stars of vaudeville and Broadway, but was intensified by the presence of network radio and talking pictures that had not existed in that earlier era.

Without new material to sell, the major labels sought to settle with the union in September 1943. When Columbia and the renamed RCA Victor capitulated in November 1944 the strike was effectively over. With this last hurdle cleared, the end to what now seems to be an illogical animosity between radio and records was put to rest. The next year World War II ended and just as after World War I, mercantile emphasis shifted to a peacetime

economy. Consumers moved from rural to urban areas, and then urban to suburban communities as a part of the postwar revitalization. For the music industry, new relationships and opportunities emerged from the ashes of five years of conflict from three different legal confrontations affecting virtually all segments of the business.

Independent labels, which had initially produced their records for jukeboxes, started to get radio play and increased sales. Records from the race and hillbilly charts began to also appear on the national popularity charts. The mingling of people from all parts of the country during World War II further exposed rural musical styles to urban and suburban audiences. Radio airplay of regional and minority musicians, singing primarily BMI-represented songs, had increased on a national scale. Music was not just a business, but also a trendsetter for social change and multicultural awareness.

The copy in a BMI ad in the January 25, 1964, issue of *Billboard* accompanying coverage of BMI's shift in leadership from retiring president Carl Haverlin to his senior vice president Robert J. Burton stated, "The expanded opportunity for new writers and publishers created by BMI has sparked a continuing process of diversification, growth and democratization of American Music since 1940, the year BMI was formed. . . .In 1939, before BMI, there were only 137 active music publishers in the United States. Today, there are many thousands of publishers in all sections of the country and more than half are affiliated with BMI. In 1939, before BMI, the music of some 1,000 American authors and composers was licensed for performance. Today many thousands of writers and composers from every state of the union share in the performance rights of their music."<sup>5</sup> That ad copy was written by Russell Sanjek, then BMI's director of public relations.

# Prologue

## Part Two: The Rise of the Modern Music Business

### **New Technology Drives Post–World War II Music Consumption**

The postwar economic boom brought even more change to the music business as the technological innovations developed during the war years were ready for commercial exploitation. In the late 1940s, vinyl replaced shellac as the material for manufacturing records, creating a more durable product of higher fidelity. Audio tape recorders developed in wartime Germany reached the hands of American engineers, including guitar maestro Les Paul who experimented with multitrack recording. Transistor components reduced the size and cost of car radios, introduced pocket-size portable models, and delivered a greater degree of mobility and convenience to music listening.

In 1949 *Billboard* changed the names of their “Race” and “Hillbilly Music” charts, respectively, to “Rhythm & Blues” or “R&B” and eventually to “Soul,” or “Urban,” or “Black”; and to “Country & Western” or “C&W,” and eventually to just “Country.” This new and more respectful brand identification both reflected and impacted the societal changes that would sweep across both the music business and country as a whole.

The hits on the *Billboard* charts rotated in and out of hundreds of thousands of jukeboxes, which were now in family-oriented restaurants and soda shops as well as their established locations in clubs and bars. The newer jukeboxes were designed to hold forty two-sided 45 rpm seven-inch vinyl discs, known as 45s, introduced in 1949 by RCA as an improvement over the 10-inch 78 rpm shellac discs. The 12-inch 33½ rpm long-playing vinyl disc or LP or 33 with five to six tracks on each side had been introduced by Columbia the year before. LPs generally featured music genres that appealed to older-age demographics including classical, jazz, Broadway musicals, movie soundtracks, and the older stars of network radio who were now the stars of network television variety shows.

While 45s were directed at jukeboxes and teenagers’ portable record players, LPs were manufactured for use on home record players. The higher end models were referred to as turntables, often built with the capability of

changing rotation speed to play all three record formats, 78s, 45s, and 33s. Combining these turntables with power amplifiers and loudspeaker cabinets using theater-quality low-range, mid-range, and high-range horns, consumers could achieve high-fidelity sound reproduction in their home listening experience, adding the abbreviation “hi-fi” to the home audio vernacular.

Professional recording equipment also improved in quality and functionality as well as expanded availability. New independent record companies like Atlantic and Roulette in New York, Imperial and Specialty in Los Angeles, Chess in Chicago, Sun in Memphis, Hickory in Nashville, and King in Cincinnati sprang up across the country. They recorded the indigenous American music genres that were then mostly ignored by the major labels but fed the demands of local consumers and non-network radio programming.

Local and regional record distributors, known as one-stops, and vinyl pressing plants sprang up across the nation to keep the record departments in variety stores and retail record shops stocked with both 45s and LPs. They also supplied discs to the growing number of the new Top 40 jukeboxes, with product from both the major labels and rising independents alike. The ad hoc network of independents became the foundation of a national distribution system that could quickly and simultaneously supply markets across the country in response to consumer demand created by national radio play, live performance, and/or network television appearances.

In 1950 there were 2,144 licensed radio stations, of which 627 were affiliates of the three major radio networks: the American Broadcasting Company (ABC), the Columbia Broadcasting System (CBS), and the National Broadcasting Company (NBC). Collectively the radio industry generated \$453 million in revenue. The fledgling television industry was already threatening radio’s consumer base and advertising income. Within a decade TVs were everywhere, expanding from 9 percent of American households in 1950 having them to 64.5 percent in 1955 and 87.3 percent in 1960. The three television networks were also owned by ABC, CBS, and NBC. Most of network radio’s top-rated programs—including variety shows, soap operas, dramatic presentations, and comedy features—switched to broadcasting on television. These already established consumer favorites were augmented by old movie shorts and serials. Meanwhile, their radio affiliates turned to news and talk formats, with more recorded music added to lower expenses as advertising revenue had been impacted by the expanding television industry.

Industrialization after World War II had created a wave of new manufacturing jobs, attracting rural Americans to urban areas and bringing their musical preferences along with them. By the early 1950s, R&B and country songs were invading the pop charts. The major labels scoured R&B

and country releases to create mainstream versions of the music favored by young audiences. Pee Wee King's "Tennessee Waltz" was covered by Patti Page and the Chords' "Sh-Boom" was replicated by the Crew Cuts. Pat Boone built a teen idol career covering Fats Domino and Little Richard hits. Peggy Lee created a pop classic with Little Willie John's R&B hit "Fever" while a myriad of pop artists from Tony Bennett to Jo Stafford to Ray Charles covered Hank Williams's country songs. These alternative music styles invigorated pop music and widened its audience base.

The growing economy expanded middle-class spending on many leisure items. New single-home developments were built in the suburbs to accommodate the segment of the urban population raising young families. Suburban sock hops and drag races joined soda shops and the weekend movie matinee on the teenage social calendar. Having survived the sacrifices and limitations of the Great Depression and World War II, this generation was determined to create a better life for their children. They bought their children what had been luxury items in their own youth now made affordable by ever-improving technology.

## **Top 40 Radio, Records, and Rock-'n'-roll**

In the mid-1950s, local radio needed programming to appeal to the newly mobile and economically empowered teenage and young adult age groups highly sought after by advertisers. Radio pioneers Todd Storz, Bill Stewart, Gordon McLendon, and Bill Gavin were all involved in the development of the Top 40 format in the mid-1950s that mirrored the most popular selections on the now ubiquitous forty-disc 45 rpm jukeboxes. Almost instantly the format swept across the nation and generating huge ratings, often with two or more competing stations in the larger markets. The announcers were universally designated as disc jockeys, or abbreviated to DJs, with many achieving local fame and audience appeal equal to the artists they were playing. National Radio Hall of Fame DJs "Cousin Brucie" Morrow on WABC and "Murray the K" Kaufman on WINS provided the evening competition in the New York area during the 1960s. Los Angeles Top 40 included fellow hall of famers KRLA's Casey Kasem and KHJ's the Real Don Steele competing with KFWB's Seven Swingin' Gentlemen including Bill Ballance, B. Mitchel Reid, and Ted Quillin under the direction of legendary program director Chuck Blore.

In 1958 *Billboard* consolidated its popular sales, airplay, and jukebox charts into one entity called the Hot 100. The relationship between the radio and record businesses intensified, as the Hot 100 guided record companies in

manufacturing and distributing 45s for purchase by both teenage consumers and jukebox distributors. The record companies also supplied these 45s to the stations. Soon highly competitive promotion men were mired in accusations of payola activities with influential DJs.

With a strong boost from national exposure on network television, a teen idol craze of an even larger magnitude than the 1940s obsession with Frank Sinatra swept the teenage culture. It reached a tumultuous crescendo when Elvis Presley emerged as the most popular practitioner of a fusion of R&B and country that had been dubbed rock-'n'-roll. The term was first introduced to teen audiences in 1952 by Cleveland-based Rock and Roll Hall of Fame DJ Alan Freed. Freed appropriated the sobriquet from the lexicon of blues and R&B recordings, first appearing on Trixie Smith's 1922 recording *My Man Rocks Me (With One Steady Roll)*, and reoccurred in many paraphrased incarnations over the ensuing thirty years.

Presley's dramatic emergence upon the American music scene in 1956 utilized a network television campaign to augment his live performance schedule, cross-promoted with Top 40 radio play. In the spring of 1956 he appeared on six episodes of the *Dorsey Brothers' Stage Show* on CBS, then on NBC's June 5 *The Milton Berle Show* and July 1st's *Steve Allen Show*. His September 9 appearance on CBS's *The Ed Sullivan Show* captured 82.6 percent of the national television audience. He finished the year as a national celebrity with five #1 singles, two #1 albums, and starred in his first movie. He had become the face of rock-'n'-roll and Top 40 radio. He also ended the year with the William Morris Agency (WMA) as his exclusive agent.

The teenagers of the 1950s and the not-yet-teenaged baby boomer generation the world over were influenced by his style, clothes, mannerisms, and most important his music. Most of the rock stars to emerge over the next twenty-five years followed Presley to his blues, country, gospel, and rockabilly roots on a voyage of discovery that would shape their own music. Marketing Elvis became the industry prototype for building a brand that would sustain a fan base throughout a career, and in his case, after it. Fan loyalty to Elvis was so strong that his Memphis home, Graceland, became a leading tourist attraction after his untimely death in 1977, and the vast cadre of Elvis imitators became an entertainment phenomenon in their own right.

Presley, along with other rock-'n'-roll teen idols including Jerry Lee Lewis, Buddy Holly, Ricky Nelson, the Everly Brothers, Bobby Rydell, Bobby Darin, and Frankie Avalon sparked a cultural catharsis throughout the 50s Teens generation, born 1938 through 1945, that extended into fashion, film, and other lifestyle trends. As they moved out of their teens and into college or the workforce, the baby boomers, born 1946 through

1964, extended their rebellious attitude and yearning for social liberation into the 1960s. They embraced the addition of R&B and the British Invasion into Top 40 playlists, strengthening the position of the independent labels that were now releasing albums to compete with the majors in the burgeoning rock market.

## **The Major Labels and FM Radio**

There were five major labels in the early 1960s. The Columbia/CBS Record Group (CBS), (owned by the CBS broadcast group) and RCA Victor (which manufactured radios, televisions, and other electronic devices and owned both the NBC television and radio networks) still led the field. Capitol-EMI was owned by British electronics giant EMI, which had acquired the Los Angeles-based Capitol Records label in 1955. PolyGram was the result of a 1962 merger of the recording interests of Dutch Koninklijke Philips N.V. (Philips) and German Siemens AG (Siemens) electronics companies with the names of their Polydor and Phonogram label group brands consolidated to create a unified identity. MCA had been formed in 1962 by the merger of the MCA and Universal record companies, movie studios, and television production companies.

These five had deep pockets, bolstered by the profits from their extensive catalogs of pop hits and adult-oriented genres. Initially they weathered the loss of significant market share in both radio play and record sales captured by the twin phenomena of Top 40 and rock-'n'-roll, but finally they decided to invest in the teen-oriented market themselves. Their deep pockets and large staffs allowed them to finance, manufacture, and distribute records more quickly and on a national scale, and thus advance local or regional hits onto the Hot 100 national chart. They began to acquire independent labels or outbid them for young talent. In 1955, RCA Victor bought Presley's contract from Sun Records. In 1958, Johnny Cash signed with Columbia when his Sun contract expired. Sam Cooke left Keen Records for RCA, and Ray Charles departed Atlantic for ABC-Paramount.

The 50s Teens who had driven their parents' cars in high school were now moving through college into jobs and buying their own cars. The auto industry, Lear Jet Corporation, and RCA invested in the development of the stereo 8-track tape player and accompanying cartridge, which they launched in 1965. The player was easily integrated into car sound systems giving consumers the same on-demand listening options in the car that they enjoyed with LPs at home. With this change in consumption habits the record companies began

to view 45s as a marketing vehicle for the vastly more profitable albums on which the singles were included, whether on vinyl for home listening or 8-track for mobile consumption.

In the early 1960s many broadcasters set up affiliated stations on the newly created FM radio band, which had stereo broadcast capability. At first, they just simulcasted their AM signal in stereo. Then in the late 1960s, many switched their FM signal to the new album-oriented radio (AOR) format, playing longer album cuts if not entire albums. This delighted the major labels looking for an outlet to promote their growing rosters of AOR rock artists, including The Beatles and other artists from the 1960s psychedelic era. These artists created albums from which singles were released, instead of releasing an album when there were enough radio hits to fill it. They gave free promotional copies to AOR stations just as they gave 45s to the Top 40 stations. The promotional albums used for airplay were supposed to be stamped with a “not for re-sale” notification, but a new form of payola emerged as a box of cleans, that is, albums not cut or stamped, were given to DJs to resell as an alternative or supplement to the longtime practice of unmarked envelopes containing several hundred dollars in small bills.

## **ASCAP and BMI Battle for Radio Market Share**

Radio advertising revenue in the 1960s continued its robust growth pattern reflecting the ascendancy of the teenage and young adult demographic in the consumer marketplace. While radio revenue had grown less than 50 percent from \$454 million in 1950 to \$655 million in 1960, it nearly doubled over the course of the 1960s to \$1.26 billion in 1970. In turn, stations paid proportionately higher license fees to the songwriters and publishers through the PROs. BMI's chart share increased due to the country and R&B-influenced rock artists who dominated Top 40 radio. The ASCAP Broadway and Hollywood members who were not supplying songs to these new artists lobbied Congress in the late 1950s for laws to ban rock-'n'-roll records from radio broadcasts, claiming it caused juvenile delinquency. Their efforts failed, but nonetheless gained much publicity.

In 1967 BMI songwriters had 78 percent of the year-end *Billboard* Hot 100 chart, 92 percent of the Top Country Hits, 100 percent of the Top R&B Hits, and even 48 percent of the Top Easy Listening Singles. BMI negotiated a 12.5 percent increase from radio while ASCAP begrudgingly accepted a 6.25 percent rate reduction, though its revenue was still ahead of BMI's. In 1972 ASCAP collected 63.4 percent of combined PRO revenue, leading \$69.5 million to

\$40 million. With a larger pot of broadcast revenue and fewer songs to divide it amongst, ASCAP initiated a concerted push to solicit R&B, country, and rock songwriters—the people who had created the music they had sought to have banned from radio a decade earlier. Two of its major acquisitions were the rights to Motown Records’ Jobete Music publishing catalog and the future Rock and Roll Hall of Fame songwriting team of Jerry Leiber and Mike Stoller. ASCAP’s new inclusive membership policy and its deeper pockets gradually shifted the pop and rock chart pendulum back in its favor, but BMI was able to maintain its ground on the country and R&B charts.

## **By the Time They Got to Woodstock . . .**

FM stations’ ratings and advertising revenues still lagged behind their sister AM frequencies, which were bolstered by the dominance of the Top 40 format. To increase their listener base, the FM stations co-sponsored popular bands with local clubs and concert promoters. These live shows incorporated the newest loudspeaker, multi-channel mixing boards, sound processing, and stage lighting technology. A national network of young promoters and concert sound companies extended the fan frenzy phenomenon of the teen idol era to long-haired rock bands on an even grander scale as shows expanded to larger concert venues. Record company promotions were supplemented by youth-oriented periodicals led by *Rolling Stone*, which extolled a countercultural message of “Sex, Drugs and Rock & Roll,” a phrase adapted from an October 17, 1969, article in *Life* magazine that stated, “The counterculture has its sacraments in sex, drugs and rock.”<sup>1</sup>

The zenith of this social movement occurred in August 1969 at the Woodstock Music and Art Fair in Bethel, New York, where over four hundred thousand people gathered for what was publicized as ‘3 Days of Peace & Music’ with performances by thirty-two rock, pop, and folk acts. Although preceded by the Monterrey International Pop Festival in California in 1967 and the Isle of Wight Festival in the UK in 1968, Woodstock was on a grand scale featuring the latest audio technology in its massive speaker system custom designed to accommodate the assembled multitude. The event was forever preserved in a movie and album box set that stamped Woodstock as the apex of a golden era of love and harmony. It also demonstrated to the music business how new technology could help capitalize on the baby boomer infatuation with rock music.

New music-intensive shows on television in the 1960s that accommodated Top 40 artists included *Shindig*, *Hullabaloo*, *Where the Action Is*, *Hootenanny*,

*The Monkees*, and others that came and went. However, the Dick Clark–hosted *American Bandstand*, which had originated in 1953 on local television in Philadelphia before moving to the ABC network, outlasted them all with its final broadcast in 1989. Other shows appealed to an older demographic, including programs hosted by Perry Como, Andy Williams, Liberace, and Lawrence Welk. Johnny Cash, Glen Campbell, and Roger Miller successfully capitalized on a growing crossover appeal for country music. In 1968, the Country Music Association (CMA) annual awards were broadcast for the first time.

The social upheavals of the 1960s affected the music industry, much as it did the rest of society, as youth culture became a larger, more vocal, and even more economically empowered demographic. Seeing opportunities for increased revenues, entertainment and electronics conglomerates entered an era of acquisitions, mergers, and consolidations that would last for more than four decades. National market share of airplay and sales as chronicled by *Billboard* and other trade periodicals became the industry measuring stick for success.

By 1970, the Big Five had grown to six with the addition of the Kinney Record Group, which would become Warner-Elektra-Atlantic (WEA) in 1971, and then the Warner Music Group (WMG) after the 1989 Time Warner merger. Except for Kinney's absence from country music, all of the Big Six catalogs corresponded to the top radio formats. All aggressively competed for new acts to plug into the limited playlist spots on radio and vied for the front slots in record bins at retail outlets.

Acting independently of its partnership in PolyGram, in 1971 Philips introduced the compact cassette tape cartridge and accompanying hardware for both home and auto. Designed as an upgrade in audio quality over the 8-track, the cassette combined Dolby B-type noise reduction, an adaptation of the Dolby A-type technology used in recording studios, with a commercial-grade player mechanism from the 3M Corporation featuring two-sided storage capacity and fast-forward search. Philips licensed the technology to the entire record industry to maintain industrywide compatibility between sound carrier format and playing devices. Cassettes replaced 8-tracks in most cars over the ensuing decade to improve the listening experience in both quality and functionality. Battery-operated portable cassette boom boxes and the debut of the Sony Walkman in 1979 expanded the consumers' mobile listening options even further.

While the cassette sparked a steady rise that would double sales by the end of the 1970s, it also was perceived by the record industry as a home duplication threat. Tape companies sold the public blank cassettes of a much higher audio quality and at a lower cost than the tape used in the record labels' prerecorded

cassettes. The Recording Industry Association of America (RIAA), the record industry's trade association, began a lobbying campaign for blank tape levy legislation, as they claimed to annually lose hundreds of millions, if not over a billion, dollars to what they termed illegal home duplication.

## **The Copyright Act of 1976**

The Copyright Act of 1976 was implemented on January 1, 1978, as the first major copyright revision since 1909. The act was designed to resolve various intellectual property issues involving media created since 1909, including radio, motion pictures, jukeboxes, and television. The law was also a step toward conforming with the copyright laws of the Universal Copyright Coalition (UCC), in anticipation of the US eventually joining Berne. The act did, however, adhere to Berne standards in extending federal copyright protection to sound recordings, strengthening the record companies' legal rights in piracy infringement litigation, which, in their thinking, included home duplication.

The act also extended the copyright term for new musical compositions through the life of the last surviving creator plus fifty years, which twenty years later would be extended to seventy years. The provision with the greatest economic impact, however, was the increase in the statutory rate paid to music publishers for the mechanical reproduction of sound recordings. This rate had been set and had remained at 2¢ per track per unit sold since 1909. The new act raised the rate to 2.75¢ in 1978, and then scheduled increases every two years to 4.5¢ by 1984 and eventually to 9.1¢ in 2006, where it still remained in 2019.

Radio advertising revenues almost tripled to \$3.5 billion during the 1970s. The Top 40 format of the 1960s splintered into ever more well-defined age and genre groupings for more specifically targeted audiences. In 1984, radio revenues reached \$5.5 billion. That year's radio market share for the top formats were adult contemporary (AC) with 22.9 percent, contemporary hit radio (CHR) with 17.4 percent, country with 14.1 percent, beautiful music/easy listening with 11.3 percent, AOR with 10.7 percent, black/urban with 8 percent, and news/talk/sports with 6.3 percent. The remaining 8.5 percent was divided among big band, Spanish-language, golden oldies, religious, classical, jazz, and other miscellaneous formats. While CHR radio, like its Top 40 predecessor, directly pursued the teenage and young adult demographics, the then 20 through 38-year-old baby boomers were the top target of radio

advertisers, as well as the top record consumers, with their listening spread across CHR, AOR, AC, black/urban, and the more niche genres.

## Music in Television and Film

The Grammy Awards presented by the Recording Academy, then officially named the National Academy of Recording Arts and Sciences (NARAS), made its live television debut on ABC in March 1971 with its 13th Annual Awards Celebration. Forty-four awards were presented in fourteen different categories, spanning the entire record industry. Simon & Garfunkel dominated the proceedings with five awards for *Bridge over Troubled Water*.

In 1973 the telecast moved to CBS, and the Dick Clark-produced *American Music Awards* replaced it on ABC. Other shows followed but along more genre-specific lines. *Soul Train* launched its thirty-five-year run in August 1971 as a syndicated program. *In Concert* on ABC, *Midnight Special* on NBC, and *Don Kirshner's Rock Concert* in syndication were directed toward listeners of the AOR and Top 40 formats. Public television first aired *Great Performances* in 1972 from WNET New York, *Sound Stage* in 1974 from WTTW Chicago, and the still-running *Austin City Limits* in 1976 from KLRU in Austin, Texas. There were also artist-hosted variety shows from Sonny & Cher, Sha Na Na, Donny and Marie, and many not-as-successful others.

The motion picture industry had long co-promoted their films with soundtrack albums, and those albums often yielded radio hits. With the success of the *Woodstock* movie, the film industry began to alter its music usage to appeal to a wider demographic range. *Shaft*, *Grease*, *Saturday Night Fever*, *The Blues Brothers*, *Honeysuckle Rose*, *Footloose*, *Urban Cowboy*, *The Jazz Singer* (Neil Diamond's new version), and *Purple Rain* were some of the most successful films to co-promote between movie, soundtrack, and singles released for radio airplay. Others like *American Graffiti*, *Car Wash*, and *Risky Business* used fairly recent pop hits as background music with the entire recording of each on the soundtrack album. Commissioned movie themes continued to help promote major movies, especially within the spectacularly produced opening credits for the James Bond films.

The 1948 *Alden-Rochelle, Inc. v. ASCAP* Supreme Court decision had long exempted motion picture exhibitors from paying performing rights royalties through ASCAP. The court ruled that since almost all film music at the time was published by ASCAP-affiliated companies owned by the movie studios, and since the exhibitors already paid 50 percent of the ticket price to those studios, then the ASCAP fee was an exorbitant surcharge in violation

of anti-trust laws. The performing rights for theatrical exhibit thereafter were instead attached to the license for the right to synchronize music to moving images, commonly referred to as a sync license. BMI publishers at the time had very few film music usages, but as use of BMI repertoire in movies grew, the publishers also attached the performing rights to the sync license. All three US PROs, however, received and distributed theatrical exhibit performing rights royalties from foreign territories for their respective rightsholders, as well as for when movies initially produced for theatrical exhibit were aired on television and cable.

ASCAP, still a membership association, negotiated with all licensees under a 1941 Justice Department consent decree—mandated rate court. BMI, a C corporation still owned by its broadcaster shareholders operating on a not-for-profit basis, was also under its own 1941 consent decree, but had no rate court and had to resolve issues through arbitration, with litigation as a last recourse. The privately held SESAC had no consent decree and routinely litigated over infringement when it could not resolve licensing rates. Considering the legal cost of copyright infringement litigation, if SESAC had clear-cut evidence of infringement, even if non-willful, it was much cheaper for a station or other user to get a license than risk losing the case in court and incur legal expenses, penalties, and damages.

The cable television industry began in 1948 as an alternative for television signals to areas when over-the-air broadcast was difficult or impossible. In the 1970s, the FCC allowed expansion of cable systems to areas that had broadcast television on the condition that those with more than thirty-five hundred subscribers also carried public, educational, and government TV channels. Channels were divided into basic cable, which were part of the base subscription package fee and generated revenue from advertising; and pay cable, which charged consumers an additional fee on top of the base subscription cost but carried no advertising. Pay cable services Home Box Office (HBO) and Showtime debuted in 1972 and 1976, respectively. Ted Turner launched the first basic cable network in 1976 when he turned his Atlanta station WTBS, which carried Atlanta Braves baseball and Atlanta Hawks basketball games, into what was termed a superstation for syndicating simultaneous broadcast to cable systems across the country.

In August 1981 cable became a major media outlet for the music business with the launch of Music Television (MTV), co-owned by Warner Communications, Inc. (WCI), parent company of WEA, and American Express (AMEX). MTV was a basic cable video clip channel with a format mirroring pop radio. Its well-publicized debut featured the Buggles' "Video Killed the Radio Star." Other channels soon jumped in with video-clip

programs including *Video Jukebox* on HBO in December 1981, *Night Tracks* on WTBS in June 1983, and NBC's *Friday Night Videos* in July 1983. Ted Turner launched another all-music basic cable channel with his Cable Music Channel (CMC) in 1984 but quickly sold it to MTV where it became VH1. Black Entertainment Television (BET) had been part of the programming on WCI/Amex's Nickelodeon, but then became its own basic cable channel in 1983. Both The Nashville Network (TNN) and Country Music Television (CMT) debuted in March 1983.

The pay cable industry employed a new strategy with the PROs for performing rights licenses in a per-subscriber fee rather than a percentage-of-advertising revenue model. Under this system, PRO revenue grew only with additional subscribers, with no proportional raise for increased subscription rates. The PROs then paid cable royalties quarterly on a census rather than sample basis compiling all music usages from the cue sheets of all programs listed on television channels' schedules. The then-available pool of money was divided on a pro rata basis between those listed songs and score segments and the number of airings for a particular program.

## **The Big Six Labels in 1984**

In 1984, the Big Six major label groups were the same as they had been in 1970. CBS and WEA each had twenty-six of the top Hot 100 singles for 1984, PolyGram had fifteen, RCA and MCA both had thirteen, and EMI trailed with seven. Record sales almost doubled in dollar volume throughout the 1970s, surpassing 500 million units. Sales then contracted in the mini-recessions of the first half of the 1980s, but income stayed steady with price increases. Nonetheless, parent corporations were concerned. The sale of music videos to consumers hadn't developed as hoped, despite their exposure on cable music channels. The market for cassette sales of back catalog albums to replace 8-track copies seemed exhausted.

Furthermore, the labels were still frustrated that customers could use blank cassettes to copy their product. In addition to consumers borrowing albums from friends to copy, they were now renting LPs from record stores on a short-term basis. The RIAA claimed that this rental practice enabled home piracy of their recordings, now claiming losses of over a billion dollars in annual sales to this illegal copying. The RIAA successfully championed the Record Rental Amendment of 1984, which outlawed the commercial rental of records, but

the issue of whether home copying constituted infringement would persist for the next twenty-five years.

Digital technology was already transforming the recording process. Solid-state circuitry had been integrated into recording consoles in the early 1970s. 3M's first digital audio tape recorder debuted in 1978 in the Sound 80 studio in Minneapolis, used in creating the first digitally recorded Grammy-winning album, Aaron Copland's *Appalachian Spring* by the St. Paul Chamber Orchestra. In 1979 the new 3M Digital Audio Mastering System was employed to record the first all-digital rock album, Ry Cooder's *Bop Till You Drop*, at the Warner Brothers Studio in California. In 1980 3M, Mitsubishi, Sony, and EMT Studer followed with multitrack digital recorders utilizing hard drives rather than digital tape.

In 1981 Philips unveiled a 4.724" digital data storage optical disc dubbed the Compact Disc (CD) as the first commercial digital sound carrier. Looking like a miniature LP, the shiny disc was more consumer friendly than the cassette in both appearance and functionality with claims of greater durability. Philips enlisted Sony as a partner for the final design. The first CDs were commercially released in late 1982 in Japan with a limited number of catalog items. Billy Joel's 1978 album *52nd Street* was the first pop release on CD. CD technology was subsequently licensed to the entire industry for a royalty of 1.8¢ per unit sold to Philips and 1.2¢ to Sony along with a 2.5 percent of retail sales license fee on CD players divided in the same ratio.

There were US sales of eight hundred thousand imported CD units in 1983. In September 1984, the first US CD plant was opened in Terre Haute, Indiana, by Columbia with Bruce Springsteen's *Born in the USA* the first product off the presses. The year 1984 ended with 5.8 million US sales in a blend of imports and Terre Haute pressings. Terre Haute and the plants that followed enabled digital technology to expand rapidly in both recording studios and home entertainment centers for upper-end music consumers. The digital age was off and running.

The music industry envisioned the CD as the solution to reverse the stagnant sales they were experiencing. They justified the CD's higher price with claims of greater durability, improved audio fidelity, and capacity for a little over seventy-four minutes of music allowing for more tracks than what could be included in an LP's forty-four-plus minutes at optimal sound fidelity. The CD was also dual-purposed as it could be played both at home and in the car replacing both LP and cassette with just one sound carrier. CD components could easily be integrated into home stereo systems and in-auto CD players

were designed to replace the cassette players in car dashboards. The labels expected the CD to rejuvenate back catalog sales just as cassettes had done in replacing 8-tracks. Additionally, as CDs were not then recordable, the industry viewed the new disc as a further barrier to home duplication.

## **WEA and CBS Lead the Big Six Pack**

In 1984 all metrics, including the *Billboard* singles charts, platinum certification for over one million sales, and gold certification for over five hundred thousand sales indicated that WEA was leading the pack in market share. It was fifteen years after the publicly traded Kinney National Company, led by its president Steve Ross, purchased the recently merged Warner Bros.-Seven Arts entertainment holdings for \$400 million. Kinney's previous core businesses had been funeral homes, cleaning services, car rentals, and parking lots, but had now added movie studios, record labels, and publishing companies to the corporate portfolio. Included in the purchase were Warner Bros. Records, which had started in 1958 to release soundtrack albums from its associated film division; and Atlantic Records, which was acquired in 1967 in a \$17.5 million cash plus stock transaction from cofounder Ahmet Ertegun, his brother Nesuhi, and partner Jerry Wexler, who all remained in executive roles.

Warner Bros. was headed by Mo Ostin who had been label manager of Reprise Records, originally a co-venture with Frank Sinatra. Although an accountant by training, Ostin had already begun updating the roster by signing The Grateful Dead, Jimi Hendrix, Joni Mitchell, and Van Morrison. He would continue to helm the label for the next twenty-five years. In 1970 Ross added Elektra Records, opened in 1950 and still led by cofounder Jac Holzman. With Warner Bros.' rock and folk-rock roster, Atlantic's R&B and British rock, and Elektra's 1960s folk and folk-rock along with its Nonesuch Records classical and world music division, Ross was building a strong contemporary catalog to compete with his more established RCA and CBS rivals.

As a manager, Ross believed in granting autonomy to the successful record men who came along with the labels, allowing them to operate autonomously with their respective CEOs serving on the Warner/Seven Arts company board. In 1972, Kinney transferred its entertainment interests into the newly formed Warner Communications, Inc. (WCI), leaving the non-music divisions in the Kinney National Corporation. WCI next established the WEA Distribution division, acquiring or displacing the independents they had been using. Nesuhi Ertegun then set up WEA International as an integrated global distribution system with either WEA subsidiaries or established independent

partners in major territories. In 1972 WEA acquired David Geffen's Asylum Records, retained Geffen at the helm, and subsequently merged Asylum with Elektra under Geffen's leadership through 1975. Jac Holzman moved up to other duties within WEA where he remained until 1986. He later returned in 2004 as a senior technology advisor.

WEA established Warner Special Products in 1973 to market and license their back catalog for all usages other than retail sales. WEA also acquired Seymour Stein's Sire Records and made distribution deals with Chris Blackwell's Island Records, Led Zeppelin's Swan Song Records, and Rolling Stones Records. WCI's other holdings included the Warner movie studios, various music publishing companies both proprietary and administrated, the Atari computer company, the Panavision film equipment company, and the Franklin Mint. In 1981, WCI cofounded MTV Networks as part of its cable television co-venture with American Express.

The record division of CBS, which in 1984 also owned both the CBS radio and television networks, originally debuted as Columbia Records in 1889 as a rival to Edison and Victor. Columbia then went through several ownership changes before being reacquired in 1938 by CBS, then and still as of 1984 under the leadership of William S. Paley. The shared Columbia name was due to a short term of common ownership before Paley acquired the radio network in 1928. The Columbia/CBS label group had a strong catalog in pop, classical, musical theater, jazz, folk, and country with two label group divisions, Columbia Records and Epic/Portrait/Associated Labels.

The record group had been headed since 1975 by Walter Yetnikoff, an in-house attorney since 1962 under then-general counsel Clive Davis. Yetnikoff had also served as president of CBS Records International from 1971 to 1975, where he had supervised the creation of the CBS/Sony Records joint venture to distribute CBS product in Japan. He was in his early forties when he assumed the top spot. Like Davis, whom he succeeded, Yetnikoff transitioned from corporate attorney to record man to best compete with the rest of the Big Six. He soon signed Michael Jackson away from then-independent Motown, enticed Paul McCartney to switch from Capitol-EMI, and brought in the Rolling Stones from Atlantic.

The two CBS record divisions also handled subsidiary imprints and distributed labels, and like the WEA labels, each had its own Artist and Repertoire (A&R), promotion, marketing, publicity, and press departments. If the two CBS labels and the three major WEA labels had stood each on its own as they did in the marketplace with their separate but parallel structures, then Columbia was actually the top individual label with seventy-eight

*Billboard*-charted albums in 1985. WB Records was in second place with fifty-one charted albums, including albums from Reprise and Sire.

Non-retail sales and third-party licensing were managed by the two separate Columbia House and Columbia Special Products divisions. Columbia House originated in the mid-1970s to fulfill all mail order sales of both back and current catalog, absorbing the two-decade-old Columbia Record Club. It also pressed and sold new product orders in the older formats of vinyl, 8-track, and cassette that had been discontinued at retail, as well as creating new box sets and commemorative collections. Columbia House expanded the Record Club's multimillion consumer base with ongoing subscription campaigns soliciting new members with deeply discounted multiple-album offers through monthly flyers, advertisements, and commercials. According to former Columbia House executive Marshall Wilcoxon, in some calendar quarters, the clubs could account for more than 10 percent of total industry sales.

The other division, Columbia Special Products, under the leadership of thirty-year veteran Al Shulman, developed budget line product from back catalog for retail distribution and third-party licensing. They also manufactured custom record packages for televised infomercial sales campaigns, specialty mail order fulfillment businesses, and what were called premium albums created for customers as corporate giveaways or discounted albums to be co-branded with non-music products.

## **RCA, MCA, EMI, and PolyGram Round Out the Big Six**

In 1929, the Radio Corporation of America (RCA), then a subsidiary of General Electric, created RCA Victor Records after purchasing the Victor Talking Machine Company, then the world's largest manufacturer of phonograph records and players including the Victrola. RCA also formed the NBC radio network in 1926 and the NBC television network after World War II. By the mid-1950s, RCA and CBS were the two major competitors in the US record industry. Their affiliated radio and television divisions led their industries as well.

In 1984, RCA had four autonomous divisions within its distribution network. The flagship was the historic RCA catalog, together with the new artists signed to the RCA imprint. Arista Records was a co-venture with RCA's European distribution partner, the Bertelsmann Group of Germany, and former Columbia Records chief Clive Davis, with US distribution through RCA. Arista also controlled US distribution for Clive Calder's dance and

hip hop-oriented Jive Records. Los Angeles-based A&M Records, formed in 1962 by Herb Alpert and Jerry Moss, functioned as RCA's third pop division but was actually a distribution deal that included A&M's co-venture with Miles Copeland's I.R.S. Records, home to The Police, The Go-Go's, and R.E.M.

The fourth RCA branch was the RCA Nashville country music division, which also operated with its own staff, as did all the other major label country divisions. In 1973 Jerry Bradley, the son of Hall of Fame producer/MCA executive Owen Bradley, replaced legendary guitarist/producer Chet Atkins who had headed the division since 1957. Atkins and the elder Bradley were widely credited as the developers of the crossover, cosmopolitan style of country music dubbed the Nashville Sound. In 1982, thirty-two-year-old head of marketing Joe Galante replaced Bradley to continue RCA's long run at the top of the country music record market. RCA also had its own RCA Record Club to compete with Columbia House, and RCA Special Products to do the same third-party licensing and custom manufacturing as its CBS and WEA counterparts.

MCA Records had been formed in 1962 when publicly held talent agency and television production company Music Corporation of America (MCA), then headed by Lew Wasserman with founder and majority owner Dr. Jules Stein serving as chairman of the board, merged with Universal Pictures, which also owned the long-established American Decca Records. American Decca had been created by British Decca owner Sir Edward Lewis and American Jack Kapp in 1934, but they severed their relationship in 1939. To avoid restraint of trade issues, MCA exited their original talent agency business with the 1962 merger and established Universal as a top film studio while also building the MCA Records group. During the next ten years, they augmented their Decca, Coral, and Brunswick labels with the addition of Kapp Records and other smaller labels.

In 1972 the record group was reorganized into MCA Records for the labels from the Decca merger, and Uni Records for the Kapp and other more recent acquisitions, all under the leadership of former WEA executive Mike Maitland. In 1979 MCA promoted vice president of marketing and executive vice president Bob Siner to succeed Maitland. Siner led the acquisition of the ABC Records group, which included Paramount, Dot, Brunswick, and Shelter Records. After falling behind the other label groups in market share, in 1983 Siner was replaced by artist manager Irving Azoff to steer a turnaround. Azoff's connections throughout the industry helped him make key acquisitions, including a distribution agreement with Berry Gordy's Motown

Records. He also demonstrated a firm hand in trimming staff and roster quickly leading MCA back to a competitive level.

UK-based EMI Music had roots going back to 1931 with the formation of Electric and Music Industries Limited, hence the EMI acronym. In 1971, all its historic labels, other than US-based Capitol Records, were consolidated into EMI Records Ltd. In 1978, Indian-born, longtime UK-based EMI executive Bhaskar Menon became chairman of EMI Music Worldwide, supervising operations in over forty-six countries. In 1979, EMI acquired the United Artists, Liberty, and Imperial labels, and subsequently merged with fellow British electronics conglomerate Thorn Electrical Industries to form Thorn-EMI. Its crown jewel was The Beatles catalog, including the Apple Records co-venture. Further catalog strength came from their longstanding practice of acquiring the US rights for EMI and independent product originating in other territories.

In 1972, Polydor Records, the pop division of Siemens' Deutsche Grammophon label, merged with Philips's Phonogram division, which a year earlier had itself been formed by consolidating the Philips, Fontana, Mercury, and Vertigo labels. Philips was the developer of the compact cassette and was about to co-develop the CD with Sony. The merged entity was dubbed PolyGram, a consolidation of the two names, and immediately went on an acquisition binge purchasing the MGM, Verve, British Decca, RSO, Casablanca, and Pickwick labels, as well as United Distribution Corporation, which it renamed PhonoDisc, Inc., to handle retail distribution.

By 1980, the disco wave had lifted PolyGram to a 20 percent market share, but poor supply chain management had created a huge problem with returned product. Coupled with marketing budgets based on unrealistic sales projections, the company was saddled with losses exceeding \$220 million. In 1983 Philips executive Jan Timmer took over as president/CFO of the newly formed PolyGram International Ltd. After a failed 1983 merger attempt with WEA, Philips bought out 40 percent of the Siemens share, leaving their German partner with a 10 percent interest.

## **The Pop Concert Business Gets a Little Help from Its Friends**

The bedrock of the music business has always been the performance of musical works that the public wanted to hear again whether in a live show, through electronic duplication or transmission, or performed themselves in a group setting. Since the creation of recording technology in the late 1880s and

the emergence of radio in the 1920s, the artists chosen to make records and to appear live on radio, as well as the songs selected for them, were based on the popularity of their live performance of those songs.

The advances in electronic technology that boosted the broadcast and record industries also benefited the live performance sector. Before the newly developed condenser microphones and electromagnetic driven coil-cone speakers were combined in the 1920s to create public address (PA) systems, room acoustics were the major factor in determining attendance capacity. Single instrument electric amplifiers followed in the 1930s. Further advancements were made in both microphone and speaker technology over the next three decades along with the introduction of multi-input sound-mixing boards. By the mid-1960s the 50s Teen and baby boomer generations had become an economic force due to leisure dollars supplied by their parents. Their spending on music had extended beyond jukeboxes, portable 45 players, and albums by their favorite artists to the live performance industry, pushing it past \$100 million in 1965.

That summer two now legendary performances dramatically exposed the need for an acoustic upgrade for large gatherings. On July 24, Bob Dylan played his controversial three-song electric set at the Newport Folk Festival accompanied by members of the Paul Butterfield Blues Band to the displeasure of several of the organizers and many of the traditional folk aficionados in attendance. Three weeks later, on August 15, the Beatles played their epic Shea Stadium concert to 55,000 screaming fans, who drowned out the stadium PA system that was normally used for announcers and organ riffs between baseball innings, but was totally inadequate for a rock-'n'-roll audience.

These incidents underscored the need for more powerful PA systems to accommodate larger facilities to fill the growing demand for rock concert tickets while providing the requisite audio quality and clarity. This drive for the ultimate auditory experience culminated in the stacked cabinet sound system with multiple theater speaker horns deployed at the Woodstock music festival, a system so substantial it could sonically envelop over four hundred thousand people. Smaller versions of this system, but still far larger and more powerful than those of the preceding decades, would allow the concert industry to expand from theaters and clubs into larger arenas, coliseums, and eventually into sports stadiums by 1984.

Since the turn of the twentieth century, *Billboard's* sister publication *Amusement Business* (AB) had served as the preeminent weekly trade magazine for the business of live performance. It provided information for the bookers and promoters of performance dates for amusement parks, fairs,

and theme parks, including attendance receipts organized in comparative charts, artist information and profiles, contact information for both buyers and sellers, and the latest live performance industry news. *AB* printed weekly from 1894 to 2001, and then monthly until 2006. After it ceased publishing, its reports were incorporated within *Billboard*. Competitor *Performance Magazine* published from the early 1970s until 1999 with a primary focus on artists. *Pollstar* debuted in 1981 and continues to this day as the now-leading resource for live concert and performance industry inside information.

## 1984 Sees Surge in Box Office Receipts

Major venue concert ticket revenues as tracked by *AB/Billboard* and *Pollstar* had more than tripled over the course of the 1970s to over \$450 million in 1980 and reached a record-setting \$700 million in 1984 highlighted by the Jacksons *Victory Tour*. Even though it was billed as a tour by the Jackson brothers, formerly known as the Jackson 5, the demand was created by Michael Jackson's *Thriller* album with its 25 million unit sales and saturated MTV video-clip play. Accordingly, *Thriller* repertoire dominated the tour set list. As a result, the promoters pursued a new ticketing and venue strategy. Unlike any previous concert tour, almost all of the twenty-one *Victory Tour* venues were sports stadiums, except for New York's Madison Square Garden, utilizing the greater seating capacity and doing multiple performances in all but one of the cities. Even with these larger venues and multiple dates, demand for the average availability of fifty thousand tickets per show exceeded supply.

The ticket price of \$30 was almost twice as much as most of the previous superstar tours of the 1980s. The Rolling Stones *American Tour 1981* with an average ticket price of \$17 played fifty dates to about 3 million fans in a blend of stadiums and arenas for a box office total of \$52 million. The *Victory Tour* drew over 2.5 million attendees and generated over \$75 million, setting the record as the top grossing tour up to that time. Bruce Springsteen's *Born in the USA Tour* was 1984's second-highest grossing tour with eighty dates at \$16 average ticket prices in arenas and concert halls. The other major concert headliners that year included Neil Diamond, Kenny Rogers, Billy Joel, Willie Nelson, Luciano Pavarotti, Luther Vandross, and The Grateful Dead.

## **The Future's So Bright You Gotta Wear Shades**

By 1984, not only were 50s Teens and baby boomers topping the charts across all genres but they were also entering the music business work force as record company staffers for sales, promotion, publicity, and A&R positions; radio DJs, engineers, and sales reps; retail sales personnel; and concert promoters, booking agents, artist managers, and their support staffs. On the creative side they became backing vocalists and musicians known as sidemen; songwriters, producers, and audio engineers; and touring personnel commonly referred to as roadies, which included drivers, security, guitar techs, stage crew, and merchandise sales personnel.

The major label groups had hedged their bets by acquiring and consolidating labels and catalogs so the profits from the hits could counter the losses from the misses on their corporate balance sheet. From their perspective, the primary industry modus operandi between radio, records, and retail was working better than ever. As a result, successful artists auctioned their services for larger cash advances and higher royalty rates. The customized tour buses that had become the favored mode of transportation gave way to private jets for the top headliners. The music video explosion on cable television not only expanded creative opportunities but also facilitated a more intimate relationship for fans with performers via the small screen long before they saw their favorite artists in live performance venues.

By the end of 1984, the American music business was poised for even greater expansion anchored by a mutually beneficial synchronicity profiting from the public's consumption of music in recorded, transmitted, printed, and live performance form. The labels, however, still stood alone in taking the lion's share of the risk on new talent. Consequentially, they also retained a greater share of the generated revenue compared to the publishers or concert promoters, but all benefited as overall consumer spending almost tripled between 1974 and 1984. With industrywide cooperation in adopting and then adapting to the advent of the digital age, the future ahead looked bright indeed.



**PART ONE**  
**1985 TO 1995**



# 1

## The Game of Musical Thrones

### The CD Drives Industry Growth

Introduced in Europe and Japan in 1983, the shiny new compact digital disc (CD) had sparked an industrywide optimism that accelerated with the opening of the first domestic plant by CBS in Terre Haute, Indiana, in late 1984. CDs sold as quickly as they could be manufactured or imported while waiting for additional plant openings. Record labels expected a boost in revenue from both the CD's higher price point and an anticipated increase in back catalog sales as CDs replaced LPs and cassettes in consumer album collections. Electronic hardware manufacturers cross-promoted CD players with the labels' new discs, proclaiming superior audio quality and product durability while replacing both LPs and cassettes with just one sound carrier. The CD had a potential of seventy-four-plus minutes compared to forty-four to forty-eight minutes on an LP, allowing artists to add around thirty more minutes, resulting in both more and longer songs.

The Recording Industry Association of America (RIAA) had long kept statistics on unit shipments as supplied by its member labels to determine gold and platinum certifications. In 1973 they issued the retail value and unit amounts of industrywide shipments in what would become an annual Excel spreadsheet. The 1985 CD sales of 22.6 million units grew to 53 million in 1986 and then 102.1 million in 1987. In 1995 772.9 CDs accounted for 72.5 percent of the 997.2 million shipped album units, more than meeting the optimism expressed at the CD's launch. RIAA-reported retail revenue had almost tripled from 1985's \$4.36 billion to \$12.32 billion for 1995. Unit shipments, however, only grew by 88.7 percent. The higher percentage increase in value relative to unit sales was a result of the higher retail price of CDs compared to cassettes and vinyl.

Vinyl album sales dropped from 167 million to 2.2 million over the same period. CDs averaged over \$17 at retail in the 1985 RIAA tally, but dropped to \$15.61 by 1987, and then to \$12.97 in 1995 as manufacturing became more efficient. In comparison, vinyl and cassettes together averaged \$7.70 in 1985 and but rose to \$8.41 in 1995 as their numbers dwindled. The record

industry ascribed the increase in mechanical royalty rates paid to music publishers effectuated by the Copyright Act of 1976, the higher cost of CD manufacturing, and artists taking advantage of the increase in total time available on CDs to add more songs as justifications for the higher price for CDs.

The statutory mechanical rate, the same for all three formats, had climbed from 2¢ per song per record sold in 1977 to 4.5¢ in 1984 and was scheduled to incrementally increase to 6.6¢ by 1995, and then in 2006 to 9.1¢, where it still stood in 2019. Although just a matter of pennies, on a macro scale it became significant. On the approximately 542 million albums shipped in 1984 the labels were already paying \$125 million more in mechanical royalties than they would have paid at the 1977 rate.

The Big Six label group heads were compelled to generate as much profit as possible, not just for their shareholders, but for their own remuneration and job security as well. All new artist signings, however, involved an upfront financial commitment with no guarantee of a positive return, much less profit. The people at the top of the music business pyramid were the ones who had consistently selected the artists who had produced the best returns through the steady consolidation and conglomeration of the entertainment world over the past two decades, including the acquisition of their companies by multimedia and electronics behemoths. They had led their industry through the advent of rock-'n'-roll, the transformation of hillbilly and race records into country and soul, the British invasion, Woodstock, disco, the proliferation of genre-specific radio formats, and most recently the seemingly instant omnipresence of music video.

These “record men” were from the Greatest Generation, who had served in World War II or lived through it on the home front, and the Silent Generation, also referred to as 1950s Teens, who as children had experienced the birth of both television and rock-'n'-roll. Now in their fifties or older, they had steered the industry through the development of radio formats and retail distribution, keeping the growing juggernaut on course. They referred to the marketplace as “the street” and were judged by the “street cred” they had established in balancing airplay and product flow to create both career longevity and shareholder profits. They often derisively referred to the corporate executives who were assigned to monitor them as meddling “suits” or “bean counters,” but who were necessary for achieving their goals. On the other hand, the suits themselves often regarded their record men as secondary to the artists, just another but necessary asset they had to manage, to reward when successful, discard when not.

The longest tenured record men still standing in 1985 were Ahmet Ertegun of Atlantic; Mo Ostin at WB Records; Jac Holzman of Elektra; Clive Davis,

who had helmed both CBS and Arista; Bhaskar Menon of EMI; and Joe Smith, who moved from WB Records to Elektra/Asylum, and then to Capitol, along with indie label owners Chris Blackwell of Island, Berry Gordy at Motown, Jerry Moss of A&M, Seymour Stein from Sire, and Chris Wright of Chrysalis. They had perfected the balance between corporate and creative, equally comfortable on the street or in the boardroom. By doing so they had established their companies and themselves at the top of the record industry. A new generation of baby boomers, shaped by the social upheaval of the 1960s, were working their way up the executive pecking order, poised to guide the industry into the digital age. Their ability to successfully emulate or possibly even exceed their record men role models would shape the industry over the decades to come.

The same six major label groups dominated the industry in 1985 as they had for the past decade. The Columbia/CBS Records Group (CBS) with the Columbia, CBS, and Epic/Portrait/Associated labels; Warner Elektra Atlantic (WEA) with the WB Records, Reprise, Elektra/Asylum, Atlantic, and Sire labels; RCA Victor (RCA) with the RCA, Ariola, and Arista imprints; and the MCA Records Group (MCA) were all domestically owned. Capitol/EMI and the PolyGram Record Group (PolyGram) were British and Dutch/German, respectively. They competed against one another for market share, retail shelf space, radio play, and ultimately consumer dollars in the music genres that corresponded to the major radio formats. In 1985 this included AC (adult contemporary), CHR (contemporary hit radio), AOR (album-oriented radio), country, and R&B/black/urban. Weekly charts in *Billboard* and other industry trade publications tracked and reported the shifting sales and airplay in these formats to present a weekly snapshot of the state of current national and regional market share.

## **The Inner Workings of the Artist Royalty System**

While their parent companies had different motivations and goals tied to larger corporate strategies, record labels all operated on similarly designed business models. Their relative success and the job security of top management depended on income from already-received sales receipts, anticipated revenue from product still circulating in the distribution system, and market share on trade charts and industry analyses, but most important, on profit. The best-selling albums were not always the most profitable as profits were the difference between sales revenue and the expenses incurred in generating that revenue. A more extensive promotion campaign cost more dollars and

often a larger quantity of free goods, lowering net receipts. Every album had its own unique balance between cost and profit. The most successful record executives were the ones who achieved the larger ratios of profit over cost throughout the span of their careers.

The major label groups all used similarly structured accounting systems. Each label's ledger had three distinct but interrelated sections. First were the accounts for each artist detailing expenses, and then royalty revenue. The second detailed the flow of product and cash between the labels and each of their various wholesale customers for each album. The third combined the first two into record division line items in the year-end financial statement of the overall corporate parent. Both the fixed and variable income and expense categories for both artists and customers were consolidated into single line entries summarizing the collective profit or loss but no financial pro forma on individual artists or accounts.

On each artist's ledger, the labels recouped the artist's recording costs, mutually approved marketing expenses, and cash advances against otherwise payable royalties, which in effect made artists repay the funding of their careers out of future earnings if they sold enough records to do so. If they didn't, the unrecouped share became a part of the loss column on the parent company ledger. Determining artists' precise share of revenue was complicated by varying royalty rates for different usages and multiple levels of retail prices with a myriad of conditional deductions. Between 30 and 50 percent of otherwise payable royalties were usually held in accrual as a reserve against the return of product shipped, to be liquidated over subsequent biannual accounting periods. Artists' royalties from different albums and third-party licenses were cross-collateralized against each other to maximize recoupment on each project. Essentially, the profits from artists' hits absorbed the costs from their less successful releases. For successful artists, this accounting process usually led to periodic audits of the label's books to assure that the liquidation of held-back reserves was properly administrated.

From the late 1970s forward, almost all recording contracts contained a controlled composition clause with a royalty ceiling set at ten times 75 percent of the statutory rate at the time of first release. This clause then transferred the mechanical license costs paid to publishers in excess of the controlled rate to the artist as another cost recoupable from royalties. In 1985 the statutory mechanical rate was 4.5¢, ten times that was 45¢, and 75 percent of that was 33.75¢. Artists were contractually responsible for getting publishers to agree to this rate for all tracks on the album. Any failure to do so was applied as a recoupable expense against the artist's royalties, whether emanating from additional songs or from any publishers not granting the reduced rate.

Controlled composition clauses originated prior to the introduction of the CD. Since vinyl albums could hold only twenty-two to twenty-four minutes of music on each side, ten tracks with five per side allowed for an average of around 4.5 minutes per track. At first, additional tracks on the CD version were referred to as bonus tracks, but as the LP was phased out, it became standard practice for artists to include the additional tracks. More tracks were also used to justify the higher price to the consumer. Nonetheless, the additional mechanical license costs for any amount over ten tracks or tracks over five minutes were still subject to the controlled composition clause.

If an album had twelve songs, and assuming all publishers granted the reduced rate and none of the tracks were over five minutes, the total mechanical cost at the reduced rate was 40.5¢. With the label only responsible for 33.75¢ under the controlled composition clause, the difference of 6.75¢ was applied to the artist's royalties. On a million albums, this amounted to \$67,500. With the mechanical rate rising 46.7 percent to 6.6¢ per track in 1995, everything rose proportionally with the \$67,500 rising to \$99,000. In 1995, publishing chargebacks against artist royalties would be even higher if there were more than twelve songs on the album; if any tracks exceeded five minutes, causing an additional cost of 85¢ per minute per unit; or if any of the publishers with songs or shares of songs on the album did not comply with the controlled rate.

While some of this system may seem byzantine, draconian, and/or biased in favor of the record companies, it was the price artists were willing to pay in exchange for a record company's investment in their careers. If artists did indeed achieve the sales success needed to recoup advances and expenses, they could negotiate more favorable terms, or leave that label for another at the end of the contract.

While in today's business, labels and artists in the US collect a sizable amount of performance rights royalties through SoundExchange for digital transmissions, in 1985 the performance right was not yet included in US copyright law. This issue was rectified in 1998 for digital but not terrestrial transmissions, that is, radio, with passage of the Digital Millennium Copyright Act (DMCA). In 1985, however, this right was a tenet of international copyright law via the Berne Convention and was enjoyed by labels and artists in Berne-compliant territories. Consequentially, unlike the songwriters and their publishers who collectively received about 4 percent of radio's advertising revenue through ASCAP, BMI, and SESAC, the record companies and their artists did not receive anything from US radio despite supplying records free of cost to the over nine thousand stations that programmed music. Their consolation, of which radio was quick to remind them, was that radio

exposing their music to the public was the primary stimulation for record sales, at no charge from the stations to the labels.

## **The Retail Shipment, Sales, and Returns Supply Chain**

The product and sales ledger between the labels and their wholesale accounts tracked a constant two-way flow of shipments and then payment or return of product. Records went out on net 60-day terms, often extended with the release of additional singles anticipated to re-stimulate album sales. Return rights were 100 percent on individual albums, but by 1985 the labels had come to a general understanding with their accounts for a quarterly limit of 20 percent returns on a catalog basis accepted as credit on the next shipment. Remedies for exceeding the 20 percent limit differed from label to label. Proper management of shipping was economically beneficial to both sides, so both usually worked to adhere to this guideline. Initial shipments of hit albums generally sold out in the quarter of first release and were reordered, so seldom were they included in the 20 percent returns limit. On the other hand, albums that did not meet up to initial sales expectations could have returns that vastly surpassed the 20 percent allowance, which were balanced against the absence of returns on successful albums. Even albums that shipped gold but in industry parlance had been over-hyped could yield returns of 20 percent or more.

In 1996 Tommy Boy Records founder and chairman Tom Silverman prepared an analysis of 1995 sales data provided by SoundScan, the retail barcode scanning system introduced in 1991 (more on SoundScan in the next chapter) for the May 1996 National Association of Independent Record Distributors and Manufacturers (NAIRD) Convention. He found that only 148 out of the 26,629 albums that were released in 1995 and had their bar codes scanned at retail outlets registered over 250,000 unit sales during that year. Of these, 48 were certified as platinum or multiplatinum by the RIAA over the next two years and another twenty-five eventually certified as well. There was a total of 5,850 major label releases that sold at least one units each, while the independents released another 11,274 units exceeding that number. That left 9,505 albums that didn't break the one hundred-unit sales barrier.

Retail outlets accounted for most of the annual RIAA shipment summary, but also included within the summary were the shipment totals by the Columbia and RCA (later BMG) record clubs, divisions of CBS and

## ANALYSIS OF 1995 ALBUM RELEASES & SALES

This analysis was originally created by Tom Silverman, chairman of independent Tommy Boy Records, utilizing SoundScan data in a 1996 Billboard Commentary advocating for the musical diversity that independent labels bring to the industry.

The diagram reveals that only 148 releases in 1995 sold over 250,000 copies, accounting for 116.2 million units, 56.5% of sales for 1995 releases.

The bottom row shows that, 90.5% of the year's releases sold fewer than 5,000 copies each for 6.9% of total albums scanned.

Silverman also noted that of the 17,124 albums that sold over 100 units, just over one-third were released by the Big Six but accounted for 79% of all sales. The two-thirds released by independents sold only 21% of the scanned total.

CURRENT ALBUM RELEASES TO REACH SALES LEVEL % OF ALL RELEASES	PER ALBUM SALES LEVEL	COMBINED UNIT SALES IN MILLIONS % OF ALL UNIT SALES
<b>148</b> albums released <b>.5%</b> of all releases	<b>250,000+</b> units	<b>116.2 M</b> units <b>56.5%</b> of all units sold
<b>733</b> albums released <b>2.5%</b> of all releases	between <b>249,999</b> and <b>25,000</b> units each	<b>54.5 M</b> units <b>26.5%</b> of all units sold
<b>1919</b> albums released <b>6.5%</b> of all releases	between <b>24,999</b> and <b>5,000</b> units each	<b>20.8 M</b> units <b>10.1%</b> of all units sold
<b>26,629</b> albums released <b>90.5%</b> of all releases	between <b>4,999</b> and <b>1</b> units each	<b>12.2 M</b> units <b>5.9%</b> of all units sold

Source: Tom Silverman/Billboard/SoundScan

Illustration 1.1 Analysis of 1995 Album Releases and Sales

RCA/BMG, respectively, although operating independently of their parent labels. These clubs offered discounts and giveaways to entice consumers into monthly continuity plans for purchase of mail-order product. In some years, club shipments could approach and even exceed 20 percent of the RIAA-listed shipment total, with 50 percent or more of the clubs' total consisting of giveaways, all of which were included in the total shipments listed in the RIAA annual report. Despite being included in the totals that determined gold and platinum sales status, artists did not receive royalties on the giveaways. These club sales, giveaways, discounted sales on front line product, and lower prices on midline and budget line releases combined to create a difference between the labels' published suggested retail list price (SRLP) and the average retail value calculated by dividing the RIAA sales totals by the number of units cited in the report.

## **The Label Financial Statement**

Consistent with the objectives of most corporate entities, the main concern was the monetary return to shareholders and the effect of EBITDA (earnings before interest, taxes, depreciation, and amortization) on share price and dividends. The music division's financial statements were consolidated into collective line-item categories within the income and expense columns of the overall entertainment divisions. There was no itemization of individual artists' accounts or delineation of revenue items by separate identified sources. Income and expenses were divided between recorded music and publishing divisions, with revenue further subdivided between sales and licensing. Expense categories included artist and repertoire (A&R), which included recording and advances, product manufacturing, licensing, general/administrative, sales and marketing, and distribution. Further information pertaining to artist roster, gold and platinum sales certifications, Grammy awards, market share, personnel, operations, and a general industry overview were summarized elsewhere in the annual report.

The totals in the annual RIAA revenue report, however, differed from what was entered in the label financial statements as the RIAA reported the overall industry retail revenue value as what the consumers paid, not the wholesale amount the labels actually received from the distributors as income in the range of 60 percent to 70 percent of the retail price paid by consumers. Other label revenue sources absent from the RIAA reports included licensing income from sale of US product by foreign affiliates and revenue from sync licenses for use of master recordings in film, television, or other visual media.

Synch license revenue was finally added to the RIAA report as a line item in 2009.

From the standpoint of corporate profitability, a label's misses often had more impact than their successes. For new albums designated for a full radio and videoclip marketing campaign, a label had probably invested \$1.3 million or more through signing advances, recording budgets, and other marketing costs, all of which were recouped by the label from the artist's otherwise payable royalties. This \$1.3 million comprised actual cash spent by the label, whether the artist ultimately sold enough records to recoup that amount against royalties or not.

The average album cost to consumers on the 1995 RIAA retail revenue summary calculated to \$11.73 on 722.9 million CDs, 272.6 million cassettes, and 2.2 million vinyl albums. This netted an average wholesale price to the labels of about \$8 per unit. For an album that sold a million units, the \$1.3 million in upfront artist-associated costs was put on the artist ledger as recoupable against royalties, and on the company ledger as an A&R expense. There was about another \$1.5 million in non-recoupable manufacturing, shipping, and product handling costs; another \$495,500 in publishing royalties; and some other miscellaneous items including musicians' and vocalists' union pension fund contributions. After these costs, the label netted about \$4.5 million to contribute to fixed overhead and profit. On the artist ledger, however, there was only about \$900,000 in accrued royalties to apply against the \$1.3 million in recoupable expenses, leaving around \$400,000 unrecouped. It would take sales of about another half million units for the artist to reach a positive royalty flow whether from this album or from other albums in the artist's catalog as royalties from all albums were cross-collateralized against one another.

An album by a new artist receiving a full promotional campaign that reached the 250,000-unit level with no returns took in at best about \$2 million in wholesale revenue. After adding up product manufacturing cost of about \$375,000, publishing royalties of \$61,875, and the \$1.3 million front-end cost, there was about \$264,000 left to apply to fixed overhead. At this sales plateau, however, the artist ledger recouped only about 10 percent of the front-end expenses, leaving over \$1 million still in recoupable expenses before seeing any royalties. A similarly financed and promoted artist that only netted fifty thousand units sold generated about \$400,000 in revenue, leaving over \$1 million as losses on the company books. Too many failed albums on new artists that received a full marketing campaign quickly ate into the label profits from the successful artists as well as the revenue on catalog and niche genre sales.

New artists' initial contracts usually covered the first five to seven albums with a typical royalty rate of about 12 percent of SRLP. Veteran Los Angeles