



Bindu De Knock

Bindu De Knock specializes in copyright, music copyright, trademark law, design law, trade name law, unfair competition, advertising law, and commercial contracts. She represents clients in sectors such as the music and entertainment industry, the art world, the creative industries, and consumer goods. Bindu provides advice and litigates in the fields of intellectual property and contract law, including negotiating and drafting agreements for professionals in the creative industry such as artists, DJs, songwriters, and producers. She is also the author of several books on topics including music law.

COLUMN

Bifurcation in the music industry

The music industry is a whirlwind moving at breakneck speed, with fundamental technological developments, each in rapid succession, reinforcing major changes in its ecosystem. For example, the steady continuation in catalogue sales is driving the interests of creators and exploiters further apart, while AI developments are causing creators headaches, and the consolidation of industry behemoths with essential infrastructure service providers is leading to a vertical concentration of the exploitation chain. In short: the music industry is constantly changing.

It is striking that the industry is now heading into an inevitable bifurcation: the traditional mainstream commercial industry offering music as content is moving away from independent artists offering music as an art form. On the one hand, AI playlists and AI artists seem to be eagerly embraced by streaming platforms, yet on the other hand, independent artists are increasingly struggling with Spotify's changing algorithms, forcing them to seek alternative platforms to diversify and build a viable career.

This dichotomy is caused by a number of factors, including:

1. AI music representing a third of the available catalogue on streaming platforms while also being promoted through playlists.
2. Spotify, as the dominant platform, strategically focusing on content distribution: quantity over quality. Eventually, even royalty payments to creators may be considered an undesirable cost, merely a detriment to profitability.
3. Major market players engaging in a frenzy of acquisitions, making truly independent parties increasingly scarce.
4. More money being available in the industry, but financial distribution between exploiters and creators is becoming more disproportionate.
5. The high yield transactions in music rights shifting the industry's focus to managing estates and legacy artists rather than investing in new talent.

Nowadays, music consumption is lightning fast. The toll of this trend is gradually becoming clear as rapid successive releases are cannibalising artists' streaming revenues, meaning that even major releases no longer reach the heights of hundreds of millions of streams. After a few weeks without having peaked, a newly-released track fades back into background noise, quite literally. Without a solid social media strategy, public visibility and live performances, new music releases – even for artists in the top market segment – are insufficient as leverage for a long-term career. Streaming is, incidentally, a problem that will need to be addressed if it is to remain a reasonable source of income for any artist.

Subgenres and new genres are often born at the fringes of the music landscape. There is clearly a demand among consumers for a different sound, and emerging talent and independent artists often do not fit the mould of the content industry when the focus is on short-term profits. So how do independent artists build an income-generating career outside the global infrastructure of a large market player?

Bifurcation in the music industry offers opportunities for independent artists: those who want to release quality music on their own terms. They can turn to platforms such as YouTube, Patreon or their own websites, driven by a considered strategy to cultivate fan connections. Social media remains crucial for building robust artist profiles, with fans wanting to see both the artist and the human to see the total package and feel more connected to them. Certain forms of co-creation are also easier to achieve independently, like collaborations across music genres or art disciplines, joint tours with artists who could share a fan base, and behind-the-scenes content, etc.

There is a future for an independent artist who dares to take up space in the music industry landscape and is creative and innovative. Service providers such as PR and marketing teams, distributors, and A&Rs also need to step it up and serve that independent market. By splitting from the mainstream, artists who succeed in setting up their own independent ecosystem can build a successful long-term career on their own terms.