



Soundcheck

Volume V Number 4

May 2005

HFA's Bulk Digital Download Licensing Program Growing

*A few words from Gary Churgin,
HFA President & CEO*

Last month, HFA announced that we have already signed up over 100 licensees to our bulk digital download licensing program this year – this is a four-fold increase over the same period in 2004. The licensees include Hollywood Records, Oxygen Cable, LLC, Univision Music Group, and Walt Disney Records, a division of ABC, Inc. HFA now licenses over 300 companies for permanent digital download distribution.

Attention is often focused on a few large companies that offer music, but these large services and retailers are fueled by content from many, many smaller licensees. HFA's bulk licensing program for permanent, full-length digital downloads (also known as DPDs) allows companies to apply for licenses for thousands of songs at a time to get businesses up and running quickly, with the proper mechanical licenses in place.

But we also need our affiliate publishers' assistance to get these licenses issued as quickly as possible. One of the ways to speed up processing time is to use the Online License Approval tool in the POLI+ system, which is available through HFA Online. We've included a brief guide to this tool on page 7 to help get you up and running.

Also in this issue of HFA Soundcheck, we have an overview on podcasting, which has been a hot topic in the news lately. It will be interesting to see how this technology develops and the direction it will take.

A handwritten signature in purple ink, appearing to be 'G. Churgin', is written in a cursive style.

NMPA Members:

**Annual Meeting & Board
Elections Scheduled for
June 13, 2005
Four Seasons Hotel, Los Angeles CA
Discount Room Rates Available**

NMPA members will be receiving the official notice of the Annual Meeting and their ballots for the biennial Board elections this month. This year's meeting and election will take place at the Four Seasons Hotel in Los Angeles, CA, on Monday, June 13, 2005. Discounted room rates at the Four Seasons are available to NMPA members; call reservations at 310-273-2222, ext. 2100, and mention that you are attending the NMPA meeting.

Except reprinted with permission from the May/June 2005 issue of American Songwriter:

Alternative Avenues

By Lauren Apolito, Vice President, Business Development, The Harry Fox Agency, Inc.

With the advent of digital distribution of music over the Internet in the late 90's, there has been an explosion of new ways for music fans to obtain music. As additional physical and digital music formats and distribution channels enter the marketplace, there are also more opportunities to license and collect mechanical royalties for music publishers. . .

While we at HFA are very excited about the opportunities that this represents, how much songwriters and publishers can expect to gain in revenue from these licenses is still an open question. While there is much excitement about announcements of millions of permanent downloads such as those sold through Apple iTunes, that needs to be tempered by the realization that ten million songs downloaded is roughly the equivalent of 1 million albums sold (presuming 10 songs per album), or one RIAA-certified platinum record. Under a 2001 agreement between HFA and the RIAA, online music subscription services can obtain licenses for on-demand streaming and limited downloads, but the rate is still under negotiation.

Ringtones can offer a particularly interesting revenue proposition for songwriters. HFA offers ringtone licensing arrangements to its affiliated publishers for monophonic, polyphonic and "masterclip" ringtones, usually with one rate for the initial server copy of the song that is used to generate the individual downloads, and a separate rate for each subsequent ringtone distributed. . .

While we have focused on the mechanical side of the licensing equation, for songwriters and music publishers there is also the potential of increased royalty income from performance and synchronization licenses that are also part of many of these new formats. If the writer is also an artist, there are additional possible revenue streams from the licensing of the master recording, depending, of course, on the structure of the artist's recording contract.

The world of music licensing does not stand still – the music industry evolved to embrace new technology throughout its history. But the basic right of the copyright holder – the songwriter, the music publisher, or the record company – remains. By working together, the technology and music industries will continue to create great ways for the fans to get access to the music they love, and those that create it will share in the revenue generated by demand for their compositions.

See the full story in the May/June issue of American Songwriter.

Special 25% Discount on New Subscriptions to American Songwriter Magazine

HFA has arranged for its affiliate publishers and licensees to receive a 25% discount on new subscriptions to American Songwriter magazine. The "Voice of the Songwriting Community," American Songwriter covers all aspects of the craft and business of songwriting, from how and why writers give birth to their songs, to informative assessments of the songwriting industry. This discount offer is available by visiting: www.americansongwriter.com/discount/subscription. The magazine can also be ordered by phone (615) 321-6096, or by mail: American Songwriter, 50 Music Sq. West, Ste. 604, Nashville, TN 37203. When placing a phone or mail order, request the Harry Fox Agency 25% Discount.

Please be aware that HFA cannot take any responsibility for these third-party products and services. Please address any inquiries or concerns you may have about the products and services directly to the relevant vendor. Also, please note that in some cases, HFA may receive a referral fee from the vendor for making the goods and services available to you. By taking advantage of the offer made available through HFA, you are agreeing to any such fee arrangement.

Technology News: Podcasting

Podcasting is direct-to-portable device audio programming created on a small scale that can be distributed broadly via the Internet – a grassroots form of digital syndicated programming that is distinct from “traditional” streaming audio or an individual song download. A podcaster assembles audio content (often targeted at niche markets as an alternative to mainstream music and talk radio broadcasts), posts it to a server, and makes it available for others to download. Listeners can download the podcast to play back at their leisure.

Podcasts are typically distributed in the MP3 format and, though generally designed to be downloaded directly to portable devices, can be accessed on most computers as well.

While a relatively new phenomenon, the number of regular podcasts is well over 800 and growing daily. A typical podcast audience ranges from a few hundred to 50,000. Although podcasts are most often created by individuals in their home, radio stations such as NPR and Air America are also offering their shows in the podcast format.

Currently, the software necessary to receive podcasts is generally available to listeners without charge. However, podcasters have suggested that they could begin to collect revenue via paid subscriptions or advertising in the near future. Recently, ASCAP announced two new “experimental” Internet license agreements governing non-interactive and interactive podcasting. Although podcasting is in an audio-only format now, it is likely that it soon will include audiovisual content.

Since users download podcasts, it seems that music distributed through this platform – assuming it is not altered (e.g. fragmented or interspersed with other audio content), accompanied by visual content, or used for commercial purposes – would appropriately be licensed as DPDs. HFA will continue to monitor the development of podcasting and associated licensing opportunities.

Upcoming AIMP New York Chapter Event

The Association of Independent Music Publishers (AIMP) is hosting the following event:

“Whose Ringtone Is It Anyway?” – May 11, 5:30-7:30pm – BMI, New York City
Master ringtones are fast becoming the first choice of consumers and a very important way for recording artists to be marketed. Securing licenses for these has become a veritable minefield. Who does the licensing? How will royalty rates be determined? How will payments be distributed? Scheduled to speak are Jacqueline Charlesworth, Senior Vice President & General Counsel, HFA; Sean Melia, Director, Legal & Business Affairs/New Media, BMG Music Publishing; Steven Masur, Partner, Masur & Associates LLC; and an additional panelist TBA. Please RSVP by May 9 through the AIMP website at www.aimp.org. Free for AIMP members; \$15 for non-members.

Music Alive! Editor-In-Chief Caroline Horn

Some people never forget their roots. In 1981, after former public school music teacher Milt Okun founded the Cherry Lane Music Group, he launched Music Alive! to improve the teaching materials that were available and energize music education. Music Alive! is an integrated educational tool aimed at fifth- to tenth-grade music students, consisting of a package with a monthly student magazine, teacher's guide with lesson plans, and a classroom CD of licensed music to accompany the magazine articles.

Current Editor-in-Chief Caroline Horn has been on board since June 2003. She has written about music for a number of publications, including Billboard, Relix and Martha Stewart Living, and was the development editor for the music appreciation textbook *Listen* (4th edition). She is also an award-winning songwriter and musician in her own right, with one of her recent songs, "Surfacing," included on HBO's series *Sex and the City*. She has served on the governing board of NARAS, representing the songwriter membership, and is currently on the Board of Directors of the Songwriters Guild of America and on the Advisory Board of Women in Music, Inc.



Caroline Horn

"Milt Okun wanted to create something exciting, that brought the breadth, energy, and pizzazz of music into the classroom," says Caroline. "Music Alive! acknowledges the music students are listening to, and meets them where they are to teach them something about that music. As we say in our advertising, we offer 'the music that students love with the pedagogy that teachers trust' – we give teachers something legitimate to do with popular music, and we meet national standards for music education."

Music Alive! keys its content to Music Educators National Conference standards, and also uses a Teacher's Advisory Board to help set its priorities and get feedback on what is working best in the classroom. It is focused on what is roughly the middle school age group because that generally marks the transition from "active" style music classes, where the children sing or play along, for example, to a more analytical style, as it requires kids to read and discuss articles on music. "It helps teachers cultivate how to listen with discernment and awareness," says Caroline. "It ties in with what middle schoolers are asked to do in their other classes. I think when kids are excited and inspired, it transforms learning. I think Music Alive! is a way to light a fire in them."

Due in part to Caroline's music industry background, she is also keen to give kids a real-life view of the music industry. "I want to expose them to careers beyond performing. The 'Cool Careers' column is one way to do this. In artist profiles, I stress to my writers not to make the story glossy and about 'overnight success' – I ask them to cover what a hard road it can be, the rejections, difficulties, decision process, pressure, and how the artist handled that. For example, in our recent cover story on Jesse McCartney, we focused on how he juggles performing, acting, and school work. I want to expose them to the realities of the industry, not to intimidate students, but to inform and inspire them."

The 2004/2005 Music Alive! curriculum included stories on "Copyrights and Wrongs," a two-part series on copyright; "The Math of Making Music," a story on how the cost of a CD is

divided, and a series on keyboard-based music styles, and the regular features “Song of the Month,” “Cool Careers,” “Music & Technology,” and “Students Like You”.

Caroline seeks to include a broad range of genres when she is putting together the editorial calendar for the magazine, which is published monthly from October through May. “Technically, all follows the magazine, but when planning for the next season, the constant question is what music can I get permission from labels to use on our accompanying CD. In the two years I’ve been at the magazine, I’m becoming more confident in knowing what I can or can’t cover – unfortunately, I can’t get the Beatles, for example. For the October 2005 issue, though, I’ll be seeking out music for a guitar music series, Mexican mariachi music, and music from early films; I’m sure I’ll be able to license great stuff in each of these areas.”

She accepts pitches for story ideas for all genres of music, but cautions, “the lyric content has to be classroom-appropriate: no curses, explicit references to alcohol, drugs, violence, or sex, and not nihilistic or even jokingly suicidal. The lead time is also longer than for traditional magazines – we close each issue four months before cover date, because the package needs to make it to teachers a month early so they have time to work on their lesson plan.”

Both within and outside her job as Editor in Chief, Caroline wears many hats. “This pulls together every different type of professional involvement I’ve had. I actually started my career as a textbook editor, and later was a freelance writer and editor for many years. I don’t perform anymore, but my own music is close to my heart and I still take time to write and pitch songs – I take my music very seriously.” What this means for the magazine is that she’s “very song-oriented. The song of the month has to be a well-written song – if it’s a huge hit, but it’s not a fundamentally good song, it won’t make it to our center spread.”

Music Alive! is put together by a three-person staff, and is published by the Cherry Lane Music Foundation, a 501(c)(3) not-for-profit corporation. Caroline notes, “We never run ads. Teachers are sensitive to commercialism so we also never run advertorial, product reviews or CD reviews. Every piece of the magazine’s real estate is educational.

“To quote Elvis Costello, ‘my aim is true’ in what we try to do at Music Alive! We’re not here to make a profit. I want record companies and music publishers to be aware of the incredible opportunity that Music Alive! represents to expose important catalog and new material to half a million teens who we want to develop a broad, sophisticated love of music, of all kinds of music. These are current and future music fans, buyers, and music industry employees. I want to turn more and more companies on to what we are doing.”

She goes on to say, “So much music gets forgotten about or not taught. Unfortunately, I can’t always afford to cover the music I’d like to cover – I want labels and publishers to partner with us to make sure students hear all music, not just a narrow slice.”

For more information about Music Alive!, see their website at www.musicalive.com, or contact Caroline at 212-561-3018 or CHorn@CherryLane.com.



Word on the Street . . . HFA Affiliate Publisher News

Boosey & Hawkes announced that it will publish the music of Canadian composer **Claude Vivier**. Virtually his entire catalog is covered by this agreement with the Fondation Viver, including his masterworks *Lonely Child*, *Kopernikus*, and *Siddartha*.



L to r: Adolfo Valenzuela, Twiins House of Music; Yvonne Gomez, Latin Creative Manager for Peermusic; Omar Valenzuela Twiins House of Music; and Kathy Spanberger, President/ COO Peermusic

peermusic has signed an exclusive worldwide publishing deal with the critically acclaimed producers and songwriters **Omar & Adolfo Valenzuela** and their publishing company **Twiins House of Music**.

Latin Grammy® Award-winning songwriter/producer **Cruz Martinez**, who is also a member of the internationally popular multi-platinum group **Kumbia Kings**, has signed an exclusive global administration agreement with **Famous Music**. The wide-ranging agreement between Martinez's CKJointz Music and Famous Music covers back catalogue, as well as current and future projects. It is the first publishing agreement ever made by Martinez.

EMI Music Publishing has licensed the complete catalogue of songs written by **Cat Stevens**, now known as **Yusuf Islam**. This is a long-term global deal which comes into effect immediately. The deal includes his entire repertoire from the 1960s and 1970s, numbering approximately 200 songs. The songs in the catalogue include, amongst many, "Morning Has Broken," "Wild World," "The First Cut Is The Deepest," "Peace Train," "Moon Shadow," "Lady D'Arbanville," and "Father and Son," and have been covered by artists as diverse as Sheryl Crow, Johnny Cash, Elton John, Rod Stewart, Richie Havens, Neil Diamond, P.P. Arnold, Kenny Rogers, Dolly Parton, Maxi Priest and Boyzone, selling millions of copies around the world.

In Other News. . .

The arbitration tribunal of the German Patents and Trademarks Office has ruled on behalf of **GEMA**, the German authors rights society, to maintain the mechanical royalty rate at 9.009% of PPD (published price to dealer). The German affiliate of IFPI had wanted to reduce the royalty rate to 5.6%, and has been withholding the difference between the two royalty rates in escrow since early 2004. Those monies will continue to be held in escrow until IFPI decides if they will appeal the decision. GEMA also announced a 1% fall in its 2004 collections, which is partly attributed to this dispute. HFA has a reciprocal agreement with GEMA.

"Word on the Street" is taken from press release material.

HFA Licensing 201 – Online License Approvals Through POLI+

By Dan Susla, Manager of Label Relations and Licensing Technology, HFA

HFA's POLI+ (Publishers' Online License Inquiry) system is one of the important systems that is available to HFA's affiliated publishers through HFA Online. One POLI+ option is *Online License Request Approval* for requests that require publisher song or royalty rate verification. By using this option, a publisher can sort through their pending license requests, view request details, and approve them online. Requests that require verification have a status of "P-Verifying".

Publishers with an HFA Online account who have been authorized to access POLI+ by their Organization Administrator will find POLI+ under the License Management area of the password-protected area of the website. Once logged on to POLI+, there are two ways to access the *Online License Request Approval* from the main menu. The first is option 03, the License Request Inquiry (Mechanical). The second is option 05, the Online License Request Approval queue. To begin, type either "03" or "05" on the line next to Option, and then press the Enter key. The main menu will close and the selected screen will appear.

From the License Request Inquiry (Mechanical) screen (Option 03), searches can be conducted on pending license requests using a variety of search criteria. From the *Online License Request Approval* screen (Option 05), a queue of the publisher's pending license requests can be viewed.

In both Option 03 and Option 05, search results can be further narrowed by using the filtering criteria License Type, TRX Status (to use *Online License Request Approval* the TRX Status must be P-Verifying),

Configuration Code, License Request Date Range, or Pub Response Status. Using these filters can help manage workload; for example, if handling digital licenses is a priority, filter by that license type, and work on those first. There is more information about how to search the data starting on page 64 in the user manual that is available for download on the HFA Online website.

After finding the pending license request, full request details can be viewed on the License Request Inquiry Detail screen. Press the F8 key to view the request's verification "Activity," which includes the publishers from which HFA needs a verification response, the initial verification request date, and the publisher response date (if applicable). Access the request's "Mail Details" by pressing the F4 key, which displays the reason why the verification was required, and what may need to be done for that license request – for example, verify rate.

Once the complete details on the license request have been reviewed, and the publisher is ready to approve the license, press the F12 key to open the Online License Approval window. Place the cursor in the "Publisher Status" field, and press the F4 key. A list of possible responses will appear. Place an "X" next to the desired status to submit and press the F5 key.

Using Online License Approvals through POLI+ can result in licenses being issued more quickly, and royalties can begin to be collected on that license sooner. If you have any questions on POLI+, contact HFA Client Relations at 212-834-0100 or email client_relations@harryfox.com.

***“Return to Sender, Address Unknown”
Publishers MIA: Can You Help Us Find Them?***

If you are a music publisher (or the assign, successor in interest, heir or beneficiary of a music publisher) that has been affiliated with HFA, and you're not sure whether HFA has your current contact information, it is possible that HFA is holding royalties due to the lack of a valid mailing address.

To find out if HFA is looking for you and provide current information so we can pay you any royalties we may be holding, visit “Help Us Find Publishers” at www.HarryFox.com, or call HFA’s Client Relations Department at 212-834-0100. And please remember to update your contact information with HFA if it should change in the future.

If you have any comments regarding HFA Soundcheck, please contact Laurie Jakobsen, Senior Director, Communications, at 212-834-0133 or ljakobsen@harryfox.com.

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