

Australia's performing rights organisation: Incentives, the agency problem and MetaGen

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Abstract

This article uses theories relating to incentives in the music industries to examine the role the Performing Rights Organisation (PRO) in Australia plays in remunerating the different types of music artists and other music industry stakeholders within the Australian music industries. It explores this in terms of understandings of which stakeholders are 'insiders' (agents such as song publishers and the PRO) and 'outsiders' (principals such as music artists) and in terms of capital – labour relations. The agency problem arises when agents have different incentives and objectives than the principals. This is a problem because processes, actions and decisions made by agents may not align with the best interests of the principals. Within this framework, this article starts by specifically focusing on the role collecting societies play in the Australian music ecosystem. It then provides a case study of startup metadata generator app – MetaGen – and argues that this app could provide a front-end solution to the backend problem of unattributable revenue by helping to better incentivise the principals. This could help to address the issue of the 'black box' of revenue to help establish a more diverse and sustainable music ecosystem in this country and around the world.

Keywords

Metadata, copyright, incentives, collecting societies, agency problem

Introduction

This article examines a pressing issue: parts of the music industry in Australia are incredibly complex, to the point of being overwhelming. This is not just an Australian problem

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—it's tied to a broader, and arguably dysfunctional, global system. Take music licensing, for example: it is notoriously intricate, and whether by design or default, the opacity largely benefits major record labels, song publishers, and collecting societies like the PRO, who control most of the commercial content. As a result, the biggest winners in Australia's popular music scene are not the artists but these powerful stakeholders.

The MetaGen app, designed to streamline metadata creation and management in the music industry, offers a promising tool to address systemic challenges and reduce the dominance of powerful stakeholders. While MetaGen is not a quick fix for the complex metadata issues that plague the industry, it provides a gradual, practical solution. Its strength lies in its compatibility with existing structures, processes, and power dynamics, avoiding the need for radical top-down reforms that are politically challenging to implement. MetaGen, alongside similar initiatives like Paperchain (currently available to music makers in the United States) and Songtrust, has the potential to disrupt entrenched systems by tackling the critical 'lack of information' problem—an issue that perpetuates dysfunctionality within the industry.

MetaGen has the potential to shift the balance of power between artists and larger stakeholders in relation to the black box of unattributable revenue that is distributed to the incumbent entities by market share; better quality metadata generated by music artists will mean that more revenue will become attributable to such motivated artists. The service attempts to answer the question 'How do you get artists to care about metadata?' by collecting data in a light touch, visually engaging and user-friendly way. MetaGen's solution therefore has the incentivization of music artists at its core. By motivating artists in this way, the service has the potential to combat the incentivised dysfunctionality within the Australian and global system.

This article addresses the research questions: Which stakeholders in the Australian music industries are remunerated by collecting societies and which ones are not? When it comes to collecting societies such as the PRO, are incentives in relation to the overall health of the Australian music ecosystem being considered strategically in the current historical context? If so, by whom? If not, why not? The article draws from secondary data as well as primary data. The secondary data is used to describe and map the situation with collecting societies in Australia. The primary data is drawn from an interview with the founder of MetaGen, Merida Sussex, conducted as part of a research project commissioned by the Association of Artist Managers in Australia that involved a survey, semi-structured interviews and two focus groups (see Morrow, 2024, p. 3–4). The Sussex interview is therefore located within a broader body of work that concerns music artist management (Morrow, 2018, 2024) and music artist advocacy within creative labour markets (Giblin and Doctorow, 2022; Giblin, 2018; Giblin and Weatherall, 2017).

Implementing the shifts in thinking, processes and dealmaking that are outlined in this article will require a substantial rethinking of how the industry operates. The research method used for this project was therefore explicitly designed to explore bottom up and front-end solutions to problems with metadata in the music business by exploring what music artist managers and music artists themselves can do about the problem of the lack of information. It is when the ideas contained in this article are strategically used by associations such as the Association of Artist Managers in Australia, the Music Managers Forum in the UK, the European Music Managers Alliance along with

artist-led associations such as the Featured Artists Coalition in the UK – and ultimately by music creators themselves – that the impact of this research will be realised. The scope of this research is therefore such that the Australian music industries are located within the music industries of the global north generally. Research into similar issues in other parts of the world is an area for further research.

This research is significant because major record labels traditionally, and nowadays also entities like Spotify, YouTube and Live Nation etc., build monopolies (where sellers have power over buyers) and monopsonies (where buyers have power over sellers). These monopolies and monopsonies syphon away much of the value that artists create (Giblin and Doctorow, 2022). The question concerning the role that the Australian PRO plays in this is an important one because of the way in which power has historically worked in the music business, as veteran Australian/Canadian artist manager Michael McMartin noted:

“There’s an inverse pyramid. Right at the bottom is the creator. Without the creator, there isn’t anything to build on. But all of the power, all of the rules, everything starts up here. When you hear the phrase trickle-down economics, that defines how creative arts money flows, the pennies trickle down to the creators. And it’s just so obscenely unfair”. (Morrow, 2024, p. 2)

To expand upon McMartin’s analogy within the context of this article, Giblin (2018) and Giblin and Weatherall’s (2017) work is useful. This is because the problem is twofold; there are problems with metadata and music artist motivation to learn how to produce high quality data from the outset, and, from a music artist perspective, there are also arguably problems with copyright law. Regarding the latter, Giblin and Weatherall (2017) addressed the question ‘If we redesigned copyright from scratch, what might it look like?’ and ultimately argued that copyright, if it were to be reimagined and developed again from scratch, could serve the broader public and music markers far better than it currently does. In a thought experiment that involved reimagining copyright’s duration, Giblin (2017, 2018) chose a 25-year initial term for all types of works for the sake of illustration. This would involve a radical change in current copyright law given that, for example, the full period of copyright in the US and Australia is for the life of the author plus 70 years, and in Canada and New Zealand it is life of the author plus 50 years (Giblin and Doctorow, 2022, p. 193).

By juxtaposing the metadata problem with the copyright law issue, it becomes clear that helping music artists produce better quality metadata from the outset is a more achievable proposition than changing copyright law. Therefore, by exploring the role metadata generator app MetaGen could play in contributing to solutions to this problem in the Australian music industries, this research has the potential to help more pennies ‘trickle down’ to the creators; it is not an impossible idea to realise.

The role collecting societies play in the Australian music ecosystem

Regarding copyright and the ‘rights’ that are managed by collecting societies, there are two sides to a recorded piece of music: the copyright in the song and the copyright in

the recording of it. When it comes to the copyright in the song, the Australasian Performing Right Association (APRA) and the Australasian Mechanical Copyright Owners Society (AMCOS), collectively known as APRA AMCOS, look after the public performance right that songwriters and song publishers have, as well as the mechanical reproduction right that songwriters and publishers also have. In Australia, the other ‘side’ – the copyright in the recording – is managed by the Phonographic Performance Company of Australia Limited (PPCA).

APRA AMCOS is a non-profit organisation with APRA administering the public performance income that is generated by the right to communicate to the public. All situations whereby music is communicated publicly, rather than privately, are covered by this public performance right, including live performance, radio and television broadcast, and streaming. In Australasia, APRA grants licenses and collects fees from public users such as live performers, radio and television broadcasters, and streaming services.

Interestingly, as the recorded music industry became increasingly digitised, music downloads exercised both the public communication right and the mechanical reproduction right. Alongside APRA, AMCOS administers the income payable to songwriters and song publishers generated when a mechanical copy is made. According to Loren (2019, p. 2523), “the idea of a ‘mechanical copy’ began as a way to address copying of musical works in player piano rolls and evolved to include vinyl, cassettes, CDs, and eventually digital copies”. Mechanical copyright generates a royalty that is paid to the music publisher and songwriter by anyone who makes a mechanical copy of a song, such as a record label (Loren, 2019).

Differentiating when use of music is a ‘performance’ and when it is a ‘mechanical copy’ has become more complicated in the digital age. With music downloads, songwriters received both public performance and mechanical royalties. In contrast to downloads however, initially, according to Loren (2019, p. 2523), “digital streaming of music generally was not considered a reproduction but rather a public performance”. Nowadays however, non-interactive streaming still only generates public performance royalties while interactive streaming also generates a mechanical royalty.

Alongside APRA AMCOS, the Phonographic Performance Company of Australia Limited (PPCA) is a national, non-profit and non-government organisation that was established in 1969 to represent the interests of record companies and Australian recording artists. On their website, they state that “while PPCA enables businesses to thrive by playing a repertoire of quality music, we also safeguard the rights of thousands of Australian recording artists and labels, ensuring that they receive a fair return for their music” (PPCA, n.d.). The PPCA works with its licensors – record labels and recording artists – to licence use of the copyright in sound recordings.

Obviously, the copyright in a sound recording or a music video is infringed if someone uses the recording without the authorisation of the copyright owner directly, or PPCA on their behalf. PPCA enables its stakeholders to authorise such use by issuing licences in advance of any public performance, broadcast or communication of protected sound recordings or music video clips. In some circumstances, PPCA can take legal action on behalf of its licensors for the infringement of copyright if the use is not covered by the fair dealing provisions in the Copyright Act 1968. Sections 103A – 106 of the Act

state that fair dealing with an audiovisual item does not constitute an infringement of the copyright for the purpose of such activities as criticism or review, parody or satire, reporting news, research or study (Copyright Act 1968, n.d., p. 84).

The board of PPCA features the CEOs/Presidents of all three major labels (Vanessa Picken – Sony Music Entertainment Australia and New Zealand, Dan Rosen – Warner Music Australasia and Sean Warner – Universal Music Australia & New Zealand), a music artist manager (Bill Cullen – One Louder Entertainment), two artist representative board members (Josh Pyke and Jen Cloher), two licensor representative board members who represent independent labels (Kristy Gostelow and Duncan Collins) along with several board observers and PPCA Chief Operating Officer Annabelle Herd.

In 2019, OneMusic was established as an APRA AMCOS and PPCA joint music licensing initiative. OneMusic issues music licences for business and commercial use and they claim that they “are fine-tuned to your actual music use – featured music, live music or background music – or a combination of all three” and the context-specific licences range from ‘adult entertainment’ and ‘caravan and tourist parks’ through to ‘transport’ and ‘workplace music and telephone on hold music’ (One Licence. OneMusic, n.d.).

Which stakeholders are remunerated by Australian collecting societies?

Not all music-makers are remunerated by the collecting societies in Australia. For example, APRA AMCOS provides this definition of a songwriter: “Someone who composes lyrics and/or melodies and chord progressions for songs to be performed by themselves or other performing artists” (APRA AMCOS Music Licensing & Royalties, n.d.). By this definition, many music-makers are not defined as being songwriters; bands often have members who are songwriters and others who are not. For example, stereotypically, a band may have a guitarist and lead singer who is a songwriter, another guitarist or keyboard player who is a songwriter and a rhythm section consisting of a bass player and a drummer who are non-composing members. Alternatively, another example is that the music-maker who performs on the recording may be a session musician who is employed by the songwriter. This causes tension in relation to capital – labour relations within bands through the way in which some members are remunerated from copyright as a capital asset, and others only from their labour. Discussing the origins of such a definition of a songwriter and how this relates to copyright law, Suisman (2009) noted:

Since the eighteenth century, philosophical, legal, and political copyright debates have been structured by the tension between two opposing positions. On one side is the belief in a strong or absolute right to control the reproduction of creations of one’s mind. This view is derived from John Locke’s philosophy of natural rights ... On the other side is a concept of copyright grounded in social utility. A leading exponent of this perspective was Condorcet, who critiqued the idea of knowledge based on the Romantic ideal of individuality and instead posited the theory that all knowledge is produced socially. (pp. 154–155)

This philosophical tug-of-war between the social utility stance and the argument concerning the protection of natural rights, and its associated romantic ideal of individuality, often plays out in bands when it comes to registering songwriters with APRA AMCOS. To incentivise all members of a band, it is often agreed that composing and non-composing members will be registered as songwriters with APRA AMCOS. For example, according to Osborne (2016), “the equal songwriting split has generally received good press. It has been posited as one of the reasons for the staying power of some of the longest lived and most harmonious groups, including U2, REM, Coldplay and Elbow” (p. 8). However, this practise can cause problems later for the members who are songwriters, as per the definition above, because non-composing members may leave the band and then either not be contactable, or block use of the compositions when it comes to synchronisation opportunities and the like because part of the intellectual property vests with them according to the PRO.

One way around this issue is for bands to agree to only register with the PRO those who are songwriters – by the definition provided – but then agree to share the royalties generated by the songs through a band partnership agreement or a shareholders’ agreement while the non-composing members are giving their life to the band. This is to incentivise non-composing members to stay in the band and to perform the songs on tour etc., and to contribute by arranging the compositions. But then when the non-composing member leaves the band, they no longer participate in the royalties and their permission is not required regarding how the intellectual property is subsequently used (Amos, 2024, p. 11). This relatively complicated solution exists because the band’s output is viewed by the members as a form of common property. Further discussing the philosophical tug-of-war, Suisman (2009) continued:

For Condorcet, knowledge might be a kind of property, but if so, it belongs to the realm of common property, in which everyone in a society has an equal claim, not private property, which is exclusive and individual ... As the cult of the individual Romantic genius grew in the eighteenth and nineteenth century, it came to serve as the keystone for arguments in favor of more restrictive laws protecting individual creation, notwithstanding the fact that it has most often been publishers ... who have pushed hardest for stronger statutory protections. (pp. 155–156)

Suisman noted that in the US, music was included explicitly for the first time in the revised copyright law of 1831, and that:

At that time, it was not yet clear, as it would be later, how inherently problematic it was to make traditional literary authorship the basis for a property right in music or other kinds of cultural production. Above and beyond thorny questions about the creative autonomy of a writer of poetry or novels or essays, the notion of autonomy was even more complex when applied to areas such as theater or music-making. (p. 156)

Music-making came to reinforce the author-centered literary model of copyright despite the poor fit between the literary model and musical groups such as bands. The

simplicity of the author-centered literary model of copyright arguably suited the publishers who initially (see Suisman, 2009), and still in the case of the Music Modernization Act in the US for example (see Morrow and Nordgård, 2022), pushed the hardest for stronger statutory protections. Even though publishers pay lip service to artists and songwriters by saying that their interests are at the forefront of their lobbying efforts, the interests of music artists and the question of how best to incentive those who contribute to their work are arguably not at the forefront of their minds; the simplicity of the author-centered literary model of copyright simplifies their work and that of collecting societies such as PROs. They are therefore incentivised to perpetuate this model.

Further, if the social utility stance was used as a basis for a property right in music instead, which stakeholders should be included in terms of ownership of this property? Alongside songwriters, many people contribute to the production and dissemination of music, including non-composing members of bands, session musicians, visual creatives, music artist managers, business managers, accountants, lawyers, publicists, tour managers, live crew, live booking agents, merchandisers, record producers, extended reality producers, as well as other contributors such as generative artificial intelligence. In my work concerning music artist managers and the ways in which they are remunerated and incentivised (Morrow, 2024), I argued that early-stage financing for music artists could follow the tech startup approach that involves the provision of funding in exchange for equity (shares) in the company or trust that is established. Band members could form:

a company for each album or collection of songs released, with the band members being the founders and initial shareholders in the project. Then instead of licensing the copyright or assigning it to another entity, the band could sell equity (shares in the company) to others who would then be incentivised to increase the value of the project. (p. 93)

This model for remunerating and incentivising multiple stakeholders would not involve changing the definition of a songwriter nor changing the way in which the PRO operates. It would however be more in line with the social utility stance through the way in which it would incentivise more contributors than individual songwriters to continue contributing.

While changing the culture concerning the acceptable ways in which music artists' businesses can be established is one potential solution, changing legislation relating to intellectual property in Australia could also help. In Australia, when it comes to the master copyright in recordings, the argument concerning the protection of natural rights, and the associated romantic ideal of individuality, causes a brain drain. This is an argument put by Davies (2022). While this argument does not concern a performance right that songwriters have, it does concern the performance of a session musician on a recording. He noted that: "In 1996 the World Intellectual Property Organisation (WIPO) drafted the WIPO Performances and Phonograms Treaty, which granted performers economic rights for their recorded performances and "equitable remuneration" when these performances were monetized" (Davies, 2022, p. 2). However, following this, during the establishment of a free trade agreement between the US and Australia

in 2007, the then Foreign Affairs Minister Alexander Downer “deliberately excluded Article 15.1 from the agreement, leaving Australian musicians without the same rights as those enjoyed by musicians in other parts of the world” (Davies, 2022, p. 2). In contrast, in the UK, US, most of Europe, as well as Mexico, Brazil, Canada and Japan, performers such as session musicians are assigned a percentage of the licence revenue.

Phonographic Performance Limited (PPL) in the UK for example split the royalties 50/50 with the labels and performers and while featured performers get a larger share, session musicians also participate. This means that if session players perform on many commercially successful recordings, then these royalties can add up for them (Davies, 2022). The lack of these royalties in Australia causes a brain drain with Australian session musicians recording outside of Australia to qualify for such royalties. However, consideration of the complexities of implementing the reforms required for Australia to align with the other countries mentioned above by granting performers economic rights for their recorded performances, particularly considering Australia’s global trade agreements and longstanding industry practices, is beyond the scope of this article and is an area for further research.

The agency problem

Incentives in relation to the overall health of the Australian music ecosystem are not being considered strategically due to the agency problem, which is also known as the principal-agent problem. The agency problem occurs when there is a conflict of interest between different parties within an organisation or industry. In the case of music, Rennie, Potts and Sussex (2024) noted that in the music industries:

The principals are the artists, songwriters, or rights holders, while the agents could be music publishers, record labels, or digital streaming platforms. The agency problem arises when the agents have different incentives and objectives than the principals, leading to decisions that may not align with the best interests of the principals. The agents will often be in the position of ‘insiders’ with respect to business dealings and commercial contracts, and have an information advantage compared to the artists and other creative producers, who are ‘outsiders’ when it comes to many aspects of business operations. (p. 334)

The structures and systems for collecting money here are influenced by the context and culture in which they are implemented and the power relations that exist between the agents/insiders and the principals/outside. And because the principals are outsiders, they simply must trust their agents. The principals are in a weaker position of power within the system for collecting money owed for the use of music. Interestingly, in this context, in addition to the ‘information advantage’, there is also a ‘lack of information advantage’. This is because, as Rennie, Potts and Sussex articulated, metadata intermediates the relationship between the principals and the agents and “incomplete or missing metadata generally works in favor of the agent (the labels and platforms) rather than the principals (the artist or music creators)” (Rennie et al., 2024, p. 334). Indeed, there

is incentivised dysfunctionality within the global music rights management and distribution system because the ‘insiders’ generally tend to benefit from incomplete or missing metadata.

When considering the different types of incentives: economic, social, and moral, opacity within the system generates different incentives and objectives for the agents than the principals. First, regarding economic incentives, agents are economically incentivised to maintain their position as ‘insiders’ with respect to business dealings and commercial contracts by maintaining their information advantage/lack of information advantage. Incomplete or missing metadata incentivises dysfunctionality and therefore Rennie et al. (2024) noted that “new technology that lowers the cost of adding and using metadata, as blockchain technology does, can rebalance the power of ‘outsiders’ with respect to ‘insiders’, and limit the ability of intermediaries and platforms to exploit artists and creative producers due to their historical institutional control of metadata” (p. 334). However, others have noted that:

If you’re going to have a ledger of all music that’s been recorded ever, obviously you need the main participants—the most commercially viable participants—participating in that ledger. And we all know that the major record companies who own the majority of the commercial content benefit from opacity. So why would they want to create a transparent model which is detrimental to them? ... The theory of blockchain, it’s absolutely perfect. There’s a fantastic solution for this problem. However the execution and the implementation of it is impossible. Therefore, it’s not actually a good solution. (Meharry in Morrow, 2020, p. 195–196).

This quote is interesting because it suggests that the other types of incentives, moral and social, are at play here too. Big content companies such as song publishers and major record labels are ‘insiders’ and benefit from opacity, so any social incentive to change is mitigated because the system is intentionally kept secret/made complicated and therefore such agents are not seen by others, such as principals, as doing something wrong. The question of moral incentives is interesting here too. While big content companies may say that they do not want to continue supporting an opaque system that they consider wrong, the fact that the known solution has not been realised suggests that this moral incentive is not strong enough. For example, Giblin and Doctorow (2022) noted that:

Everyone knows the solution: to transition to a global, multi-language database with high quality metadata about who owns what sound recordings and songs in which countries. However, repeated attempts to create such a system have failed. That’s not because we lack the technology; but because we lack the right incentives ... Individual collecting societies don’t want to transition to a centralized database because it means losing money and power. The dominant streaming platforms can live with it too – it’s costly and complex, but that keeps competitors out, thus solidifying their chokepoints. It even works for the biggest labels and publishers. (p. 225)

Incomplete data and the non-existence of a worldwide database mean that a lot of money goes into the so-called ‘black box’ of unattributable revenue, which is then usually distributed by market share, thus perpetuating the status quo.

Solutions

There are both top down and bottom-up solutions to this problem. An example of a top-down solution includes the UK parliamentary inquiry into the economics of music streaming. This inquiry:

demanded regulatory action on three urgent matters: requiring labels to provide accurate metadata whenever they license recordings to streaming services; forcing industry to finally adopt viable data standards; and ending the practice of pro-rata distribution of black box revenues. (Giblin and Doctorow, 2022, p. 226)

Discussion of the need for a new global system that could replace the patchwork of hundreds of flawed databases needs to be accompanied with an outline of which incentives are needed to achieve this. For Giblin and Doctorow, the incentive for changing how unattributable royalties are managed could involve mandating that the unattributable money be paid “straight to artist and songwriter-hardship funds instead of bolstering corporate bottom lines” (Giblin and Doctorow, 2022, p. 226). For them, this would mean that big content companies “would immediately find new enthusiasm for ensuring royalties were correctly matched” (Giblin and Doctorow, 2022, p. 226). While these would be worthwhile top-down solutions, achieving the meaningful reforms that Giblin and Doctorow presented would be fiendishly difficult; entrenched interests would be unlikely to embrace changes that could undermine their power. A more achievable bottom-up solution is contained in the following case study.

MetaGen app case study

The MetaGen app promises to be a front-end solution to the back-end problem of unattributable ‘black box’ revenue. At the time of writing, the ‘MetaGen Lite’ version was available via Google Play, along with the following description of the service:

MetaGen makes the creation of metadata quick and easy. The Metadata Generator App guides people through the process of generating data about music by asking straight forward questions, with helpful tips and learn more links. This data helps protect and verify the copyright of music and ensures that all the people involved are credited and paid for their contribution. Once it has been created, the data can then be saved or shared in any way. (MetaGen Lite, n.d.)

MetaGen makes the process of registering with collecting societies and managing rights easier – and even enjoyable – for music-makers by gamifying the processes of

metadata creation through the app. It thus has the potential to bring “completeness, accuracy and verification to music data ... Reconnecting creators with their work and supplying industry with thorough, high quality, industry standard, verified data” (Envoke, n.d.). The MetaGen app can be described as a ‘wizard’, a term commonly used in the tech startup world to refer to a guide or tool that takes users through, step-by-step, the process of completing a complex task without necessarily having to understand the reasons why the different components of the complex task exist. As MetaGen founder, Merida Sussex noted:

you achieve things and complete things, and you get colours and stars. It’s like a wizard. It makes it easy ... no one had bothered making it easy so that’s what I wanted to do. (Interview)

Merida Sussex was the lead singer of independent Australian rock band The Paradise Motel, a band that released two albums on Mushroom Records in 1996 and 1998 before relocating to the UK and releasing an album there in 1999. The band reformed in 2008 and while still in the UK, Merida founded a record label, Stolen Recordings, and a publishing company, Stolen Publishing, before returning to Melbourne, Australia to complete an MBA. She is now the Co-Founder and CEO of Envoke Network, the company behind the design and development of the MetaGen app.

As outlined above, that music-making came to reinforce the author-centered literary model of copyright means that there is a philosophical tug-of-war within bands when it comes to registering with the PRO. This is because of the poor fit between the literary model and bands and the way the songs they collectively produce come about in the first instance and then evolve and change over time. MetaGen helps to address this tug-of-war between the social utility stance and the argument concerning the protection of natural rights, and its associated romantic ideal of individuality, through the way in which it enables the process of registering works to work more like songs do, as Sussex noted:

it works the way songs work, and it works the way people work. So instead of the way the industry sees things – along rights lines – that is the record label side, and the publishing side wait till the point of commercial recording. It’s not how songs work. They get demoed with people and things change. I hadn’t even realized that so many industry people I spoke to have not realized that they think of a song as existing at the point it’s assigned an ISRC [International Standard Recording Code], and that’s where the disconnect happens – even in the language, between the industry and the artist – because it’s all retrospective and patched together, and that’s where a lot of that error happens ... and it’s also to do with the difficulty of composition splits. (Interview)

MetaGen focuses on the artist and the origin of their songs and, according to Sussex, it collects information:

from a flow basis rather than a right basis ... so instead of going ‘question, answer, question, answer’: as one of the artists said, ‘it’s a never ending, anti-rewarding, horizontal Scroll of doom’ ... you make it vertical, and you concertina it. So rather than go ‘who wrote this bit?’ – Answer, ‘who wrote that bit?’ – Answer. ‘Who wrote the lyrics?’ Answer. You go, ‘who are you and what did you do?’ ‘I did this, this, this’ so it populates ... it’s the person who does something on the song who enters the data. (Interview)

According to Sussex, making it easier to generate metadata in a more fluid way that decentralises the data entry and empowers more music makers from the outset is better for group creativity:

Mark Seymour [frontman and songwriter of rock band Hunters & Collectors from 1981–1998] became so congested by the politics of bringing a song to the band because they were all trying to mark it as their own because of the songwriting credit splits. But sometimes he had strong ideas about what the song should look like. So, in the end, it just destroyed the relationship. So, he just would stop bringing songs to the band. With such a complicated emotional relationship, aside from the definitions of what a song is [there is a question of] ‘how does a singer change a song?’ ‘How does bass player change a song?’ ... I always think you shouldn’t record the album till after the tour, because the songs completely change in the interaction. (Interview)

By making it easy for contributors to the song to create and manage the metadata pertaining to it, MetaGen has the potential to make the process more fluid and agile. This in turn is more reflective of how song writing creativity works. It also has the potential to incentivise more contributors to the song, especially those whose contributions do not meet the strict definition of ‘songwriting’: “everyone’s still giving their life for the band, and they know they didn’t write the song, but they’re still living the songs ... Coldplay’s 25% split for example” (Interview). The need for fluidity and agility is also why MetaGen does not use blockchain technology, because songs: “get demoed with people and things change ... song-writing isn’t immutable until one at some point it is, but then it’s also not when it’s remixed ... you need to be flexible and early, but you need to have real power behind it, to anchor it” (Interview). The challenge with pursuing a blockchain based solution is also political. As outlined above, for a ledger to exist that has all music that has ever been recorded on it, the most commercially viable participants would need to participate in it. However, because many of the ‘insiders’ such as major record labels benefit from opacity and a ‘lack of information’ advantage, implementation of a global blockchain solution is arguably not possible. Discussing such politics, Sussex posited:

The whole corruption of the black box, like the whole corrupt model, and different countries are more corrupt than others ... It’s just completely lawless. But there seems to be a shift now. When I was first doing this, people got really defensive and angry ... I would only talk to certain people, because people go, ‘you need to speak to that person’. And I’d think, ‘Oh, really, that person who sabotaged the last three efforts to fix this?’ (Interview)

While the collecting societies in Australia do appear to be well governed and efficient, Giblin and Doctorow (2022) noted that they could write an entire book about problematic collecting societies around the world, and if they did, they would tell readers about: “Spain’s SGAE [Spanish Society of Authors and Publishers (Sociedad General de Autores y Editores)], which stole up to €87 million from its members, and about the Bahamian CRO that didn’t pay out a cent in royalties for over eleven years, and the 60 per cent tariff skimmed off the top by one in Romania” (p. 247). The information advantage that insiders such as collecting societies have, has in the past, in some instances, incentivised the wrong people. MetaGen provides a relatively simple solution that has the potential to incentivise the right people:

in terms of artists being empowered or able to, through ease of use and user experience, nail it from the outset, which will help at the back end, and as opposed to trying to do a global rights database, yet again, ... the starting point is incentivizing, through the app, the right people, arguably (Interview).

The UK’s Intellectual Property Office (IPO) partnered with Phonographic Performance Limited (PPL) and Performing Right Society (PRS) for Music to produce an updated version of their Get Paid Guide for music creators. While their original resource was aimed at songwriters and composers, their new 2024 version provides performers, managers and representatives with a step-by-step guide on registering and managing music metadata. MetaGen is providing a technological solution that takes these efforts further; the lack of information advantage is being addressed.

Incentivising artists and those who represent them to get paid is a way to grow the pie. It will help to address waste in the system; the self-interest of artists in this regard will help all stakeholders. Giblin and Doctorow (2022) argued that it is the sheer wastefulness of the global system that hurts artists the most. Regarding the size of the global ‘black box’ of unattributable revenue, Sussex noted:

Everyone used to say 2.5 billion US dollars. That’s what they say in the streaming inquiry. But the deep clean companies I now work with say it’s between 20 and 30% under earning revenue per song catalogue. That’s remarkably consistent. So that number is 4 billion pounds [approx. 5.1 billion USD] per year based on the streaming market now. (Interview)

According to Sussex, there are plenty of technologies that exist now that can make a lot of music metadata simple. By empowering music-makers in this way MetaGen will help to address some of this wastefulness over time. It will also help to educate music-makers: “half the problem is that artists think if they join PRS [Performing Right Society], they don’t have to join PPL [Phonographic Performance Limited] because they don’t think of the song as being divided” (Interview).

Conclusion

This article addressed the research questions: Which stakeholders in the Australian music industries are remunerated by collecting societies and which ones are not? When it comes to collecting societies such as the PRO, are incentives in relation to the overall health of the Australian music ecosystem being considered strategically in the current historical context? In answer to the first question, not all music-makers are remunerated by the collecting societies in Australia. When it comes to the PRO, APRA, music-making reinforces the author-centered literary model of copyright, despite the poor fit between this literary model and musical groups such as bands. This leads to awkwardness and tension concerning the harmonious motivation of some musical groups. The MetaGen app has the potential to help change this by making rights registration and management more reflective of the social utility stance. In response to the second question, when it comes to the society that licences the use of the copyright in sound recordings, PPCA, incentives in relation to the overall health of the Australian music ecosystem are arguably not being considered strategically in the current historical context because session musicians are not assigned a percentage of licence revenue like equivalent musicians in other countries are.

There are both top-down and bottom-up solutions to the problems outlined in this article. When it comes to session musicians, Australian legislation could be brought into line with the WIPO Performances and Phonograms Treaty. Further, in terms of both sides – the songs and the recordings of them – the recommendations put forth by the UK parliamentary inquiry into the economics of music streaming could also be followed in Australia. While questions do arise concerning the feasibility of realising these top-down solutions, addressing them lies beyond the scope of this article and they are therefore an area for further research.

Regarding bottom-up solutions, the MetaGen app promises to be a front-end solution not only to the back-end problem of unattributable ‘black box’ revenue, but in relation to the question of how to better incentivise all music-makers through making the process of registering and managing music metadata fun by gamifying it. MetaGen works more like songs do. It has the potential to give, for example, all members of a band control of their contributions and an ability to generate metadata. By helping music artists better understand their rights and the associated royalties, and ultimately by incentivising the principals (song writers and music makers) in an effort to better align their interests with those of the agents (song publishers, PROs, steaming services etc.), MetaGen has the potential to help address the agency problem and reduce the size of the ‘black box’ of unattributable revenue over time. MetaGen does have the potential to provide an achievable, albeit a slow-moving, solution to the problems relating to metadata discussed in this article.

The argument was put in this article that opacity benefits dominant players, thus impeding the adoption of technologies such as blockchain, and this raises important questions about the future of the industry. The situation is complex and there is a risk that achieving meaningful reform may be more challenging than this article implies, as entrenched interests are unlikely to embrace changes that could undermine their power. However, one reason for optimism here is that, according to research participant Merida Sussex,

“Spotify value high quality data because of legal risk ... they’re in courts all the time due to bad data ... high standard data in more technologically advanced countries in particular, is recognized as having more value than bad data, even with the unattributable revenue beneficiaries” (Interview).


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