



Soundcheck

Issue 8

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Out with the old year, Ring in the new

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

2003 is coming to a close on an indeterminate note for our industry: as much as there is still cause for concern, there is reason for optimism.

You can't open a newspaper without some breaking news about another pending major music company merger. Music sales do appear to be inching up this fall, perhaps in part the result of RIAA's legal actions and the rise in legal, content-rich online music services.

It may be premature to say the music industry is out of the woods – HFA is budgeting itself cautiously for the future year – but I'll side with the optimists and say that I think we're turning a corner. To paraphrase Sandy Linzer, who's featured inside this issue, it's all about the songs.

Here's to a prosperous 2004!



Clive Fox, the son of The Harry Fox Agency founder Harry Fox, stopped by the HFA offices in New York in early December. From left to right: Michele Olton, HFA Sr. VP of Human Resources and Administration; Ed Hunt, HFA Sr. VP of Client Relations and Index; Clive Fox; Al Pedecine, HFA CFO; Frank Wander, HFA CIO; Michael Simon, HFA Sr. VP of Licensing and Chief of Strategic Development and Marketing.

Reminder: Statutory Rate Change

Effective January 1, 2004, the statutory rate will increase to 8.5¢ for songs up to five minutes, and to 1.65¢ per minute or fraction of a minute if the composition is longer than five minutes. The rate for 2002 and 2003 was 8¢ and 1.55¢, respectively. The new rate will be in effect until December 31, 2005.

The new rate applies to all physical audio recordings and permanent downloads (or "full DPDs") that are made and distributed between January 1, 2004 and December 31, 2005, regardless of the date the license was issued or the initial release date of the recording. Of course, this change does not apply to compositions licensed at a non-statutory rate.

HFA Digital Royalty Statements

As reported in these pages, HFA began mailing digital royalty statements in October. We wanted to take a moment to try to clarify some of the questions surrounding this reporting.

The new Internet services offer one or more of the following kinds of services: On-Demand Streams, Limited Downloads (tracks that are limited either by period of time or number of uses) and Permanent Downloads (tracks to which the user has permanent access).

Because the rates for On-Demand Streams and Limited Downloads are still in negotiation with the RIAA, the statements will reflect \$0 balances for these usages. The statements are intended to inform you of the activity. When the rate is determined, royalties are to be paid and distributed retroactively. The online subscription services have paid an advance against these future payments, which HFA is holding until the rate is decided.

For Permanent Downloads (also referred to as “full” or Digital Phonorecord Deliveries “DPDs”), the current statutory rate applies and you will receive both a statement and payment. One example of this would be DPDs distributed by The Apple Music Store. Please note that Apple did not license through HFA and so does not report directly to us. Rather, Apple acquired its license authority to make and distribute DPDs through the record labels. Under the Copyright Act, the record labels are able to pass along to third parties the DPD license authority that they have obtained from publishers through HFA.

The labels then need to account to HFA for the third parties’ DPD usage.

Despite the number of sales Apple has announced to the media, the numbers reported to HFA by the record companies appear to be lagging behind those announcements as the record companies develop their capacity to accurately track and report the DPDs. HFA is tracking this situation and emphasizing the need for full and accurate reporting to the labels.

Some publishers have called us with questions when they note that a song has been licensed, but they have not received a royalty report. There could be a few reasons for this, one being that the online services have licensed hundreds of thousands of songs but may not actually have them up on their services for consumer sale yet. For DPDs, royalties are generated when the service actually offers the song and consumers make full downloads.

Licensee Corner

Larry Linietsky
Napster



One word that keeps coming up in conversation with Larry Linietsky, Napster’s Senior Vice President of Business Development and Business Analysis: legal. Napster, once synonymous with everything the music industry feared about the Internet, has become perhaps its best ally: a legal service that provides music both “a la carte”

and through subscription, with the largest repertoire of songs available on the Internet.

Napster 2.0's story began a year ago, when Roxio, a company better known for its CD-burning technology, purchased the Napster name and website address from Bertelsmann. In May 2003, Roxio then purchased pressplay, one of the first legal online subscription music services, from its joint venture partners Sony Music Entertainment and the Universal Music Group. The intention was to use pressplay's framework to build a better Napster brand.

Six months later, in October, the new version of Napster launched with over half a million songs available both for permanent single song and full album downloads, as well as through the Napster Premium subscription service. Simultaneously, Samsung introduced a special co-branded Napster portable device, adding to the over 40 Windows Media-compatible devices that can accept Napster's permanent downloads. Perhaps the most famous kitty since the Cat in the Hat was back in action.

Larry is responsible for evaluating and negotiating strategic arrangements and partnerships formed by Napster. He is behind the creation of the innovative Napster Pre-Paid Card, the first of its kind to be available nationally. The card solves the problem of how people without credit cards can use the service. The cards can be purchased for \$14.85 (equivalent to 15 downloads) at a number of retail locations, including Radio Shack, Best Buy, RiteAid, CompUSA, Kroger, Safeway, and ExxonMobil.

Larry also developed the groundbreaking site license deal with Penn State University, which will begin roll-out in January 2004. Penn State has purchased the Napster Premium service for every student on campus, giving the students a legal online music experience as an alternative to peer-to-peer networks, such as KaZaa. Usage by

Penn State students will be included in Napster's regular quarterly reports to HFA.

Larry is particularly excited about this deal, as he says that the company has discovered that Napster Premium subscribers are very big buyers of downloads – it appears that being able to listen to the whole song prior to purchase is more persuasive than a 30-second clip. This is the reason it is so important to him to see publishers and labels make more music available at street date, not just for permanent downloads, but also for limited downloads and streaming.



Larry Linietsky

Generally, Napster first seeks clearance for material about two weeks prior to the street date, as that is when they get the data from the content providers. Napster tracks every stream and download, and reports usage to HFA 45 business days after quarter end.

Larry has worked with pressplay since its first days, and a number of other pioneer music services and record labels prior to that. He believes Napster will succeed in the long haul because its hybrid approach provides what the consumer wants: both full-length streams and downloads, with permanent ownership options. And in a LEGAL way that the music industry can support.

Affiliate Profile

Sandy Linzer

Featherbed Music

Linz Music

Linzer Music

Stebojen Music

Sandy Linzer has been a songwriter for more years than he cares to count, but it all started as a fluke: his high school friend Sal Russo started strumming on a guitar at a party, and words and music popped into Sandy's head so quickly he thought he was remembering a song he had already heard.

Sandy has collaborated with a number of other songwriters since then, writing songs that have become hits for artists as varied as the Backstreet Boys, the Four Seasons, Whitney Houston, and Smashmouth, including "Can't Get Enough of You Baby," "Working My Way Back to You," "Spanish Eyes," "I Believe in You and Me," and many more. N'Sync's version of his "I Don't Wanna Spend One More Christmas Without You" is on the *Now That's What I Call Christmas, The Signature Collection* CD, which is currently on the Billboard charts.

With such a catalog, sampling has also come as a boon to Sandy. Sampling "thrills me to death – I hope they sample every song I have!" Two notable examples are "Easy Come, Easy Go", which was sampled in P. Diddy and Busta Rhymes' "Pass the Courvoisier," and "Bon Bon Vie," a hit for T.S. Monk, which was sampled by Blackstreet. Remembering the initial controversy surrounding sampling, Sandy is confident that problems in the digital realm will be ironed out in short order. "Everything I've seen has been administered well. Things are moving in the right direction now."

But he is amused by the rallying cry that digital markets will bring the return of the single. "It's never been anything *but* a singles market – it's always about the hit single. That's never changed. It's great that songwriters such as Linda Perry and The

Matrix are in the press: Back in the 80's, I was told I was a dying breed -- it was all about bands. Songwriters had a tough time getting cuts. The Jive/Zomba artists really made a difference in turning that around."

And yet even if it were all about bands, Sandy remarks, outside songwriters can still be a big help. "Bands don't realize that when they have their first hit, it's often the culmination of many years' work – but six months later, the record company needs them to do another album. That's when they should be reaching out to professional songwriters. The Four Seasons were ahead of their time that way; Frankie Valli was very inclusive."

Currently, Sandy is collaborating with three production teams, in RI (Francois Aiche), NJ (Ed Kessel), and NY (Ali Dee). "They all work in ProTools. I listen to the work of the day, I make comments and suggestions -- and if a key song is needed, I try to write it!" On the side, Sandy has his own burgeoning career as a producer, including projects by three new female acts: Scarlett, whose rock and roll-flavored album will be released through Image Entertainment; Jacklynne, who recently was picked for Star Search; and Chrissie Wacker, an 11-year-old opera singer whom Sandy is steering toward a 2005/06 release. Next on his schedule is a Christian/Spiritual recording with Billy Gilman.

In addition to his production work (which also involves a live concert DVD series) and writing nearly every day, Sandy continues to administer his own publishing companies with the help of HFA, BMI and ASCAP. "If you keep your overhead down," he says, "everything else takes care of itself. I don't find that administration infringes on my creative time at all – it just creates more energy."

- Want to get news about your company in HFA Soundcheck? Contact Laurie Jakobsen, Senior Director, Communications, at 212-834-0133 or ljakobsen@harryfox.com.

Electronic Funds Transfer: A faster way to receive royalty payments

We want to remind you that HFA offers Electronic Funds Transfer (EFT) as a service to its affiliate publishers. EFT is essentially direct deposit for mechanical royalties. By using EFT, publishers will get payments into their accounts faster (within three business days from processing), and there's no check that can be lost in the mail. Publishers who use EFT continue to receive paper statements from HFA detailing their royalty payments.

To sign up for EFT, publishers need to fill out a basic form that authorizes the direct deposit, and provide a voided check. If the deposit account does not have checks, you will need to provide a letter from your bank with the account and ABA numbers. At this time, this service is only available to U.S. accounts. The form, and instructions on filling it out, are available on our website at www.harryfox.com/eft/html.

Licensing for Multisession Releases

While HFA is excited about the proliferation of the digital distribution market for music, we are also optimistic about the growth of the new, multi-session physical formats, such as DVD-Audio and SACD. It is of paramount importance to us that our publishers' works are properly licensed for these new configurations. Please be aware that HFA sent a letter to its licensees in early December to confirm our licensing policy and procedures for the making and distribution of multisession physical products (those that include more than one mechanical reproduction of the same recording). The notice indicates that the licensee must obtain specific licensing authority for any additional sessions of the same song included on physical product at a rate to be approved by the individual publisher (or publishers) concerned. It also asks licensees that have previously obtained a CD, SACD and/or DVD-Audio license from HFA to review their license to ensure that it reflects the actual number of sessions included on the product.

Manufacturers that wish to license for a multisession product should contact Maurice Russell of HFA's Licensing Department at 212-834-0159.

HFA Technology Update: Mi3P

Last month, Soundcheck gave you a basic overview about one of the new standard data formats we are working on integrating into our systems, CWR. We also wanted to make sure you were aware of another standards project, Mi3P, which many of our publishers and licensees have indicated to us as being crucial to future operations.

The Music Industry Integrated Identifier Project (Mi3P) is a consortium of record companies and rights societies, including HFA, CISAC, BIEM, RIAA, and IFPI, formed to develop a global identification scheme for communicating music usage and making rights management easier across digital delivery formats.

Mi3P will establish an XML messaging standard between rights societies and record companies to better enable electronic licensing across all companies' systems. Part of Mi3P is the GRID initiative: to create a numeric system that uniquely identifies a song, the individuals and companies that are attached to it, and the associated rights. This number would be embedded into each sound recording as a permanent identification.

We will update you on the progress of Mi3P through Soundcheck.

“Do You Hear What I Hear?”

By this time of year, the HFA Licensing Department have more than sugarplums dancing in their heads: they know by heart the writers and publishers of some of the most popular holiday songs. While the names of the songs are familiar the world over, how many of you know the writers and publishers for these perennial favorites?

<i>Song Title</i>	<i>Writer(s)</i>	<i>Publisher(s)</i>
Santa Claus is Coming to Town	J. Fred Coots, Haven Gillespie	EMI Feist Catalog Inc. and Haven Gillespie
White Christmas	Irving Berlin	Irving Berlin Music Co.
Do You Hear What I Hear?	Noel Regney, Gloria Shayne	Jewel Music Publishing Co, Inc.
Let It Snow, Let It Snow, Let It Snow	Jule Styne, Sammy Cahn	Producers Music Publishing Co. and Cahn Music
Frosty the Snowman	S. Nelson, J. Rollins	Chappel & Co.
Rudolf the Red-Nosed Reindeer	Johnny Marks	St. Nicholas Music, Inc.
I'll be Home for Christmas	Walter Kent, Kim Gannon, Buck Ram	Gannon & Kent Music Co.
Feliz Navidad	Jose Feliciano	Jose Feliciano
Winter Wonderland	Felix Bernard, Dick Smith	WB Music Corp.
Have Yourself a Merry Little Christmas	M. Martin, R. Blaine	EMI Feist Catalog, Inc.

Employee Profiles

This month, we are highlighting two of our first REACH (Recognition of Extraordinary Activities, Capabilities, and Happenings) Award winners. REACH Awards are presented quarterly to HFA employees that have made outstanding contributions to HFA.

Daniel Susla

As a Label Specialist in HFA's Licensing Department, Daniel is the principal licensing liaison for a number of companies including Sony Music Entertainment, TVT, Matador, and SubPop. Daniel has assisted with the development of numerous strategies and tactics to improve the Licensing Department's processes, including re-engineering the procedures for tracking and closing transactions, training HFA staff in licensing, and designing the upcoming Label Specialists database. He also works to develop and implement HFA's technology systems with an eye towards the licensing side of the company. Daniel is intimately familiar with the label side: he ran the indie label Anechoic Recordings three years, which released six records with national distribution. He began his career as a Polygram and Universal label rep at Indiana University.

Liliana Tapai

Liliana was promoted in June to the position of Analyst-Processor in the Distribution Department. Her responsibilities include the distribution, tracking, and formatting of all HFA digital accounts, as well as handling the quarterly distribution of several Universal Music Group labels. Liliana is heavily involved in the development, testing, and implementation of both digital and mechanical royalty systems and in the training of staff members on numerous departmental processes and procedures. These include the Automatic Distribution Process (ADP), data formatting, scanning, and OCR. She spearheaded the work to ensure that our publisher members will receive informational statements detailing the use of their music by the digital music services. Producing the initial group of statements required formatting of over 30 complex data files, representing over 600,000 lines of information. Liliana is proud to hail from Transylvania - yes, the same as Dracula. She enjoys listening to Sting, Andrea Bocelli, and Celine Dion. Prior to joining HFA, Liliana was an analyst-programmer for BCR, the largest commercial bank in Romania. She received a BA in Cybernetics from the Academy of Economics, Bucharest and an Accounting Certificate from Brooklyn College, NY.



International Reciprocal Agreements Update

HFA has reciprocal agreements with over 30 mechanical rights societies representing more than 95 territories around the world. Below is the current list of societies with which HFA has agreements. Societies whose agreements were renewed or added in 2003 are indicated in bold. If you opted out of representation for any one of these societies, and would like to now be included, please contact Rich Kesser in Client Relations at 212-834-0196.

<i>Rights Society</i>	<i>Territory(ies)</i>
ACUM	Israel
AEPI	Greece
AMCOS	Australia, Fiji, New Zealand, Pacific Island Territories, Papua New Guinea
ARTISJUS	Hungary
AUSTROMECHANA	Austria
CASH	Hong Kong, Macau
COMPASS	Rep. of Singapore
COSCAP	Barbados
COTT	Trinidad and Tobago
FILSCAP	Rep. of the Philippines
GEMA	Bulgaria, Germany, Poland
HDS	Croatia
ICS	Rep. of Liberia
JACAP	Jamaica
JASRAC	Japan
KCI	Rep. of Indonesia
KOMCA	Rep. of Korea
MACP	Malaysia
MCPS	Bahamas, Bermuda, British Virgin Islands, India, Ireland (Eire), Kenya, Nigeria, Uganda, United Kingdom, Northern Ireland, Zimbabwe
MCSC	People's Rep. of China
MESAM	Turkey
NCB	Denmark, Estonia, Finland, Iceland, Lithuania, Latvia, Norway, Sweden
OSA	Czech Rep.
SABAM	Belgium
SADAIC	Argentina
SARRAL	South Africa, Botswana, Lesotho, Swaziland
SDRM/SACEM	Algeria, Andorra, Benin, Brazzaville, Burkina Faso, Cameroon, Central African Rep., Chad, Congo, Cote d'Ivoire, Dahomey, Djibouti, Egypt, Rep. of France, Gabon, Gambia, Guinea, Lebanon, Luxembourg, Madagascar, Mali, Mauritania, Monaco, Morocco, Niger, Senegal, Togo, Tunisia, Votaique Rep., Zaire
SGAE	Spain
SIAE	Italy, San Marino, Vatican City
SOZA	Slovak Rep.
SPA	Azores, Madeira, Portugal
STEMRA	Aruba, Dutch Antilles, Irian Barat, Netherlands, Surinam
SUISA	Liechtenstein, Switzerland



*Happy Holidays
from all of us at
HFA*

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

Established in 1927 by the National Music Publishers Association, the Harry Fox Agency represents over 27,000 U.S. music publishers for their mechanical and digital licensing needs, and the collection and distribution of royalties. HFA also provides collection and monitoring services to its U.S. publisher clients for music distributed and sold in over 75 territories around the world. For more information about HFA, or to become an affiliate publisher or a licensee, see www.harryfox.com.