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# MUSIC WITHOUT BORDERS:

Hot Legal Topics in the Music Business After the  
First Quarter of the 21st Century

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Since Music Got  
Digital – What's the  
Role of a Record  
Label Today?

Dirk Spacek



# Since Music Got Digital - What's the Role of a Record Label Today?



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The music industry has undergone a seismic shift over the past decade, fundamentally altering the role of record labels. Historically, securing a deal with a major label was viewed as the pinnacle of success for aspiring artists. It provided them with resources for development, marketing, and distribution. Nonetheless, this perception has today evolved significantly. The following is an attempt to critically examine what record labels actually offer in today's dynamic music landscape.[1]

## » The Decline of Major Labels

Just two decades ago, major labels wielded immense power, acting as gatekeepers to the music industry. They were comprehensively responsible for the development of artists, from nurturing their talent to promoting their music on a large scale.

For many emerging musicians, navigating the complexities of the music business was an insurmountable challenge without the backing of a major label. Today, however, the music landscape has shifted dramatically. With the rise of home recording software, digital platforms and social media, artists can more or less independently manage their own careers.[3] This transition has been backed by the emergence of managers who can oversee business operations without the need for a large label infrastructure. Artists can e.g. outsource production, negotiate distribution deals, and leverage social media to build a target audience, thereby reducing the reliance on traditional record labels.[3]

## » The Evolving Role of Record Labels

Despite the diminished necessity for major labels, they still hold a significant place in the industry.[4] Their role has merely transformed, aligning more closely with that of “patrons of the arts”. In this context, they are often compared to historical patrons from the Italian renaissance, such as the Catholic Church and wealthy families like the Medicis, who funded artists and their works. For instance, many artists struggle to find their niche or monetize their music effectively, and record labels can offer guidance and resources that are essential for long-term success[5]. The ability to provide data-driven insights and a structured approach to commercialization remains a valuable asset for record labels. Just as the ancient patrons commissioned art that appealed to the masses, major record labels can now help artists to propel commercial success, albeit often at the expense of the artist’s creative control.[6]

## » The Rise of Independent and Boutique Labels

While major labels have lost some of their grip on the music industry, independent and niche boutique labels have gained some prominence. These smaller entities are often more agile and more apted to attract smaller niche markets. Many contemporary artists today prioritize retaining creative control over their music and brand. Independent labels are well-positioned to meet this demand. They can foster a more collaborative and supportive environment which aligns more with the artist’s vision. Niche labels can also invest in a broader spectrum of musical sub-styles and themes, reflecting the diverse preferences of sub-audiences and -communities, offering artists the artistic freedom that was often constrained by major labels.[7]

## » The Dual Ecosystem of Record Labels

The current music ecosystem reflects a duality: Major labels and independent labels serve different functions but they can coexist symbiotically. Major labels often focus on

artists who are already poised for significant commercial success, prioritizing immediate returns over long-term career development. This contrasts with the “nurturing” approach of independent labels, which often invest in artists with potential for growth, allowing them to develop their craft over time. While major labels may have an established audience and marketing infrastructure, independent labels provide a more intimate connection with artists, recognizing their unique needs and aspirations.[8]

### » Conclusion: A Musical Renaissance

We are indeed witnessing a musical renaissance, characterized by unprecedented artistic experimentation and a more democratized approach to music production, marketing, and distribution. The current landscape offers artists greater control over their work and allows for diverse expressions, enabling them to build and monetize their own audiences independently. As the industry continues to evolve, both major and independent labels can still coexist, each fulfilling distinct roles.

The lesson from the Italian Renaissance is clear: There is ample room for both large and small entities in a thriving creative environment, provided there is a continuous influx of talent capable of capturing the hearts and minds of listeners. While major record labels are not disappearing, their role is changing. They must adapt to the new reality of a music industry which increasingly values independence, artistic integrity, and the power of direct audience engagement.

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This transformation offers exciting possibilities for artists and record labels while the latter must start to focus more on their “patronage”-skills, namely Artwork, Creative Visions, Music Videos, Social Media Campaigns and Partnerships to build a loyal fanbase, Tour Management and Merchandizing as well as optimized distribution.

While artists can today attempt to distribute their music by their own through so called “aggregators” (like e.g. CD Baby, Distrokid and TuneCore[9]), these aggregators are paid a flat fee and are not obliged to market/promote your content. They will just ensure your content is available on every digital platform of your choice. The upside of a partnership with a record label operating as distribution company is that the latter are provided a dedicated

account manager who can assist with playlisting, marketing strategy and general administrative tasks.[10]

## » Outlook: Legal Implications

While record labels continue to offer value as patrons of the arts, the legal dimensions of their relationships with artists remain important. Both artists and labels must formulate clear expectations and ensure legal compliance to thrive. In the new musical renaissance, legal advisors continue to play an essential role in guiding artists and labels through the intricacies of their contracts and rights. The following issues should be considered:[11]

**Recording Contracts:** When artists sign with a record label, they typically enter into a recording contract, which outlines the terms of their relationship. While earlier recording contracts assigned almost all artist management activities to a record label (so called 360-degree contracts), the recording activity is now much less a topic since many artists handle this by themselves in their own recording environment. Furthermore, in today's landscape, artists are attempting to negotiate for more favorable terms that allow them to retain ownership of their work and have greater control over their creative output.

**Management Agreements:** Artists often work with managers who help navigate the complexities of the music business. Management agreements must clearly delineate the manager's responsibilities, the duration of the agreement (the duration is often very long and can make an exit difficult for artists), and especially transparent compensation structures[12]. It is the latter aspect that probably breeds most potential for disputes between artists and managers.

**Intellectual Property Rights:** Copyright: Copyright law protects the original works of artists, meaning that songwriters and musicians must ensure their rights are secured when entering contracts with labels. This involves understanding who owns the copyright to the music and how royalties will be distributed[13]. While record labels used to acquire these rights, modern artists today attempt to retain them and have them administered by collective societies whereas contracting is e.g. limited to management contracts (to promote music or organize a tour).

**Licensing Terms:** Record Labels often handle licensing terms for the use of music in various media, such as films, commercials, and streaming services. Clear terms around licensing should be sought, in particular with regard to new, future forms of using music as technology develops and a license for streaming might e.g. not suffice

as a basis for using it in a new technical reproduction form. Clear terms can prevent disputes and ensure that artists are compensated fairly for the use of their work.

**Royalty Structures:** The distribution of royalties can become a contentious issue. Artists should be aware of how royalties are calculated and distributed, including mechanical royalties, performance royalties, and digital streaming revenues. Great importance should also be attributed to the definition of “net revenues” (i.e. the deduction a contract partner can execute from “gross revenues”). Most back-end-participation forms in music agreements are based on percentages of “net revenues”. Many artists are not aware that costs required for touring, travelling, hotel stays, promotion events etc. are mostly deducted from the artists' gross revenues, thus, the artists factually often bears these costs by himself. Transparency in these calculations is vital to maintain trust between artists and labels.

**Rights Management:** Moral Rights: Artists have moral rights that protect their personal and reputational interests in their works. These rights can include the

right to attribution and the right to object to defamatory treatment of their work. Record labels should to respect these rights, especially when making decisions about marketing, distribution, and alterations to the music.<sup>[14]</sup>

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**Distribution Agreements:** As many artists choose to self-distribute or work with independent labels, the legal framework around distribution agreements becomes increasingly important. These agreements

need to be drafted in sufficient detail to avoid disputes over revenue shares, territories, and duration of the distribution rights.

**Dispute Resolution:** Given the complexities of the music industry, disputes may arise between artists and labels regarding contracts, royalties, or creative control. Including clear dispute resolution mechanisms in contracts – such as clear jurisdiction and applicable law as well as possibly mediation or arbitration clauses – can help resolve issues without resorting to lengthy and complicated litigation.<sup>[15]</sup>

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