

# British Council

Botswana

Music Industry Workshops

April 2007

[www.thesundayclub.com/botswana](http://www.thesundayclub.com/botswana)

# Content

- Your Rights and Music Copyrights
- The International Record Industry
- Introduction to Marketing
- Expand Your Horizons
- Introduction to Contract Law

# Part 1

## ***“Your Rights and Music Copyrights”***

# Where's the money?

- As an artist in the recorded music industry, you earn from the exploitation (selling) of Copyrights according to your part in the creation of those Copyrights.
- The purpose of this section is to help understand what your role or roles are and how you might make money from that.

# What am I?

- You are one or more of three things:
  - Songwriter/Composer
  - Recording Artist
  - Performer

# What is Copyright?

- Is a legal concept (idea), enacted by most governments, giving the creator of an original work exclusive rights to it, usually for a limited time.



# Music Copyrights

- There are two key Music Copyrights
  - Master (“The Recording”)
  - Publishing (“The Composition”)

# Music Copyrights

- Copyright also exists in an artists
  - Artwork
  - Logos
  - Photographs

# Who owns what?

- Most Copyright constitutions (laws) state that it is the original creator that owns the Copyright in that work, at least for a period of time.
- Very often, this Copyright is licensed or assigned to a 3rd Party (e.g. Master Recordings to a Record Company)

# Original Creators

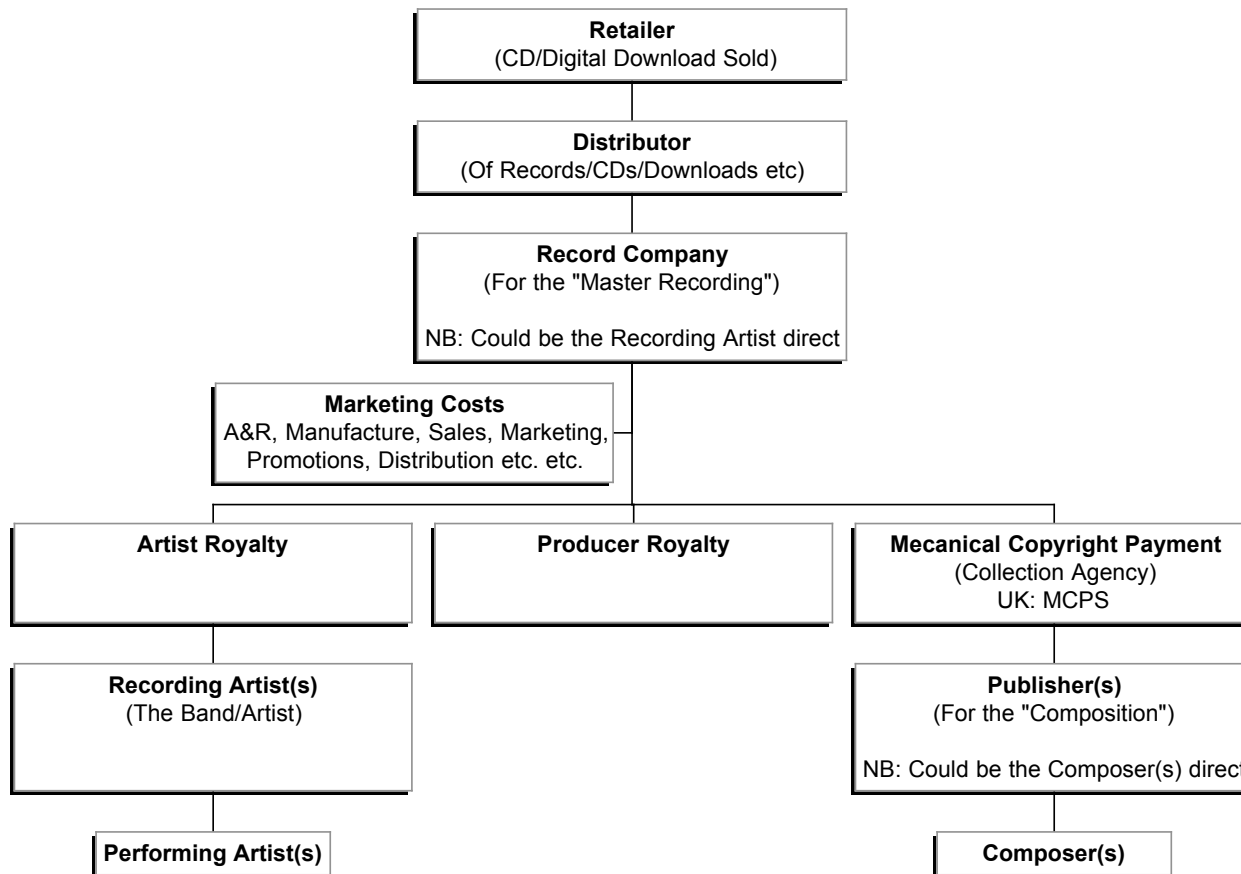
- Composers (of “songs”)
  - Publishing
- Producers (of “recordings”)
  - Master Recordings

# Exploiting Copyrights

- Revenue (\$) is generated from:
  - Sale of Records/CDs/Digital Downloads
  - Broadcast (Radio/TV/Internet)
  - Public Performance (Bars/Clubs/Shops etc)
  - Live Performance

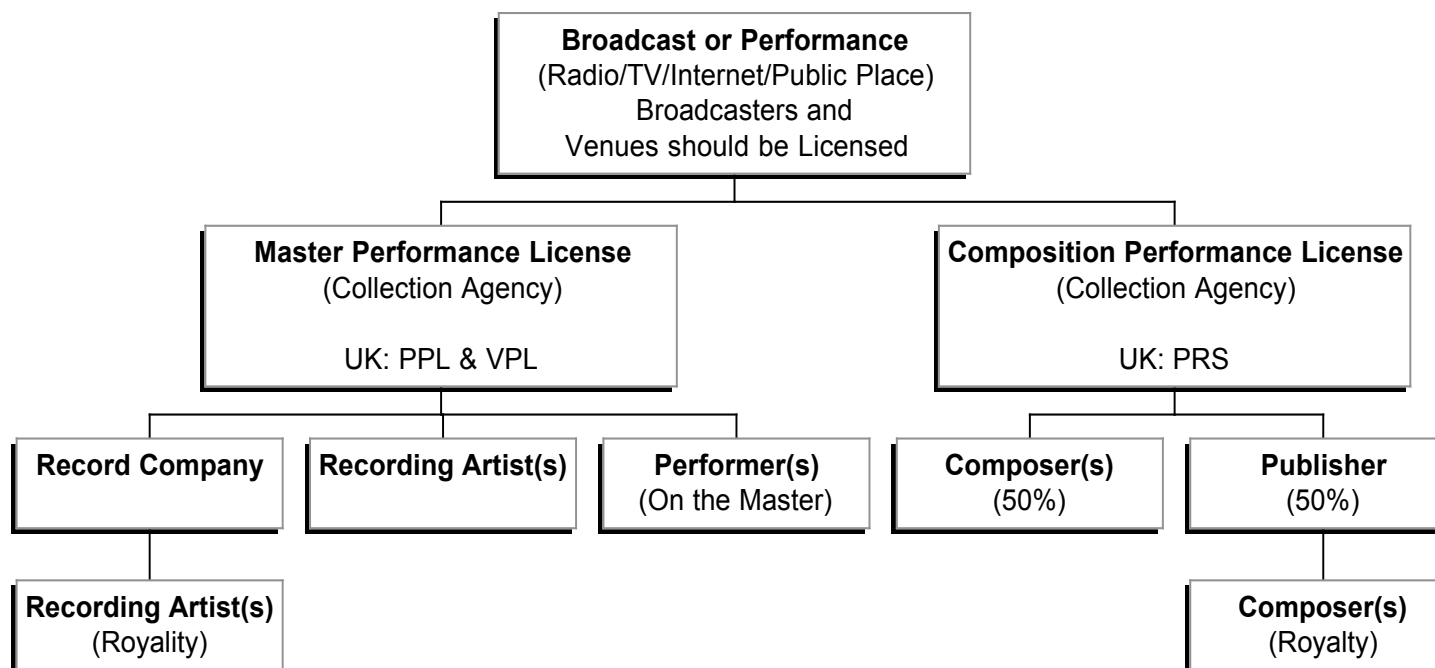
# Sale of Records

(CD/LP/Downloads etc.)



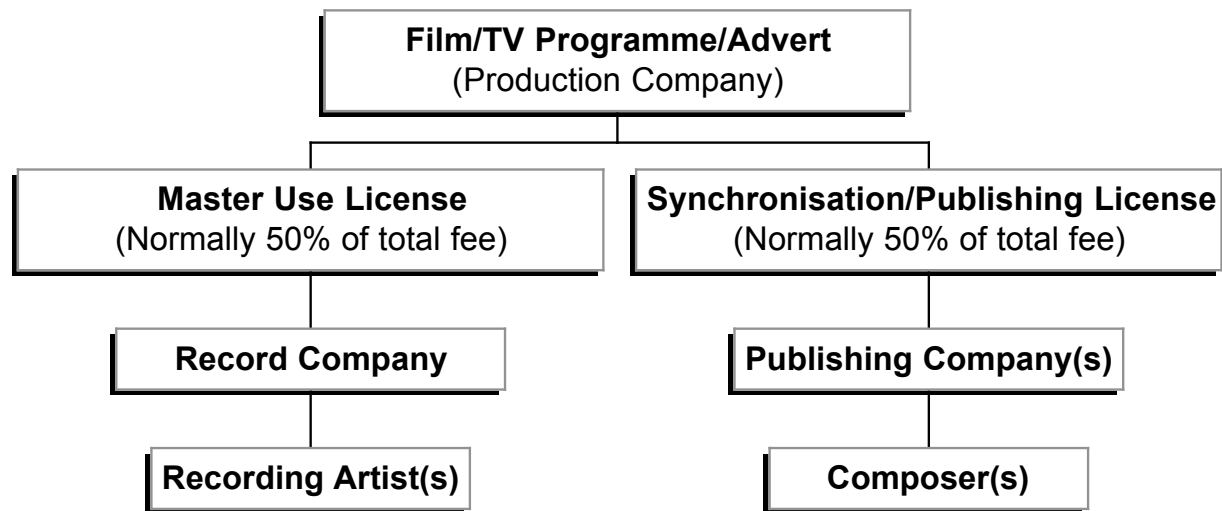
# Broadcast & Performance

On Radio/TV/Internet  
Or in Public Places (Bars, Clubs, Concert Halls etc)



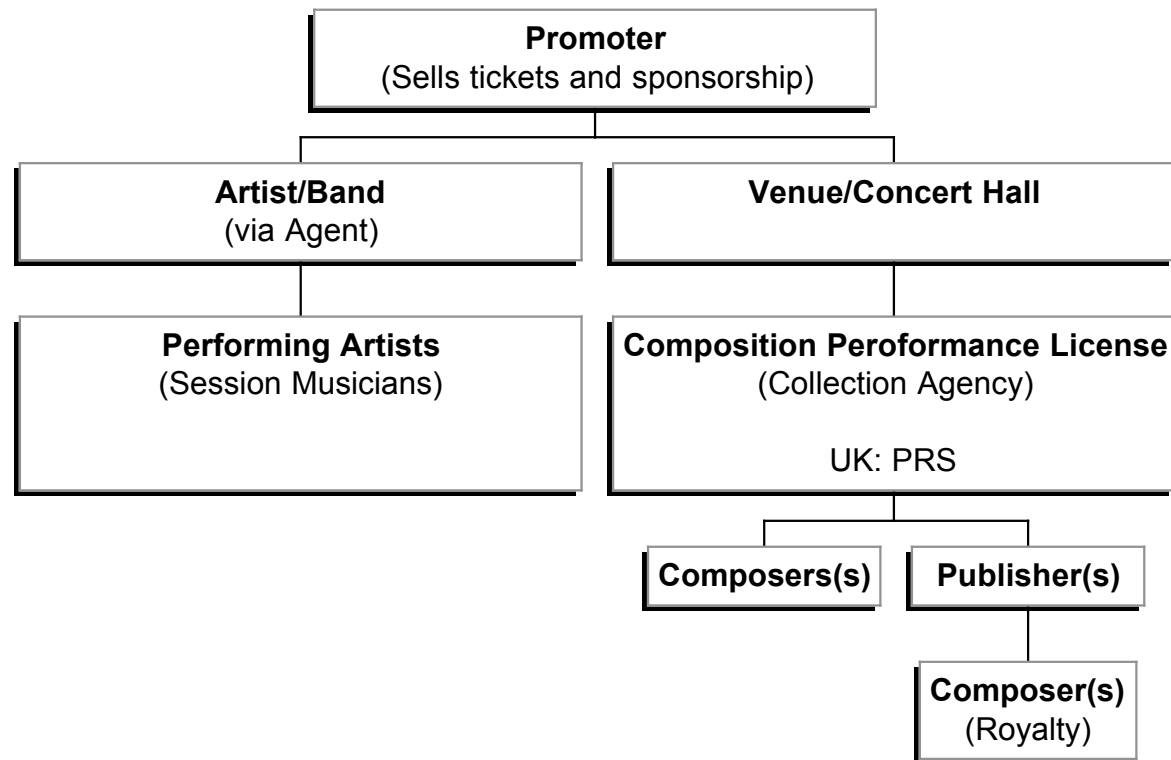
# Licensing

Film, TV and Advertising



# Live Performances

(by an Artist or Band)



# Collection Societies

- Serve to collect residual income arising from secondary exploitation of music copyrights
  - Broadcast, Public Performance etc.
  - See “The Music Universe”
  - COSBOTS

# Musicians Unions

- “I’m a small fish in a big Sea”!
- Musicians Unions are an important and valuable addition to any musicians resources providing a collective lobbying, representation and negotiation platform.

# Musicians Unions

- Negotiate on behalf of musicians major employers in the industry.
  - Copyright protection
  - Employment terms
  - Fee structures and precedents
  - Collective representation within Societies and Labels etc
- Promote the rights and interests of musicians.
  - Within the media (and therefore to the consumer)
  - Within the business
  - Networking opportunities

# Musicians Unions

- Provide musicians with a source of business and legal advice.
  - Contractual advice
  - Financial advice
  - Insurance advice
  - Tax advice
  - Career advice
  - Training opportunities

# Strength in Numbers

- As an independent artist or label in the music industry, Societies, Associations and Unions can really make a difference.
- In a Global Industry so dominated by Major corporations, Independents must pool their resources to form powerful collective voices to represent them all.

# Part 2

***“The International Record  
Industry”***

# Basic Structure

- The key areas of business are:
  - Record Labels
  - Music Retailers
  - Music Publishers
  - Live Agents
  - Concert & Event Promoters and Venues
  - The Media (Radio, TV, Online, Press etc)
  - Collection Societies

# All Change

- A long time ago, when dinosaurs roamed the Earth....
  - Major Record Companies controlled the International Music Market
    - To reach the International Market, you needed a Major Label
    - The age of the Internet has changed everything

# The Worldwide Web

- The most significant contribution the Internet has made to the Record Industry is that it has shrunk the world!
- You can now market yourself on a worldwide scale without signing your life away to a Major Label.

# WWW: Opportunities

- Global:
  - Online Media (Radio, TV, Press)
  - Social Networking (Find & interact with Fans)
  - Distribution (Online and Physical)
- Allows artists to explore, interact with and develop International markets quickly, cheaply and effectively.

# WWW: Threats

- Don't be put-off, be aware!
  - Piracy
  - Dominance of “super-portals” (eg Google, iTunes etc.)
  - Increasingly complex and fragmented
  - You're on your own
- Like anything, it's not all great!

# Major vs Independent Labels

- Major Label Advantages:
  - Global structure
  - Well funded (apparently!)
  - Economies of Scale
    - Manufacturing
    - Sales, Marketing & Distribution
  - Experience
  - Access to Retail and Media

# Major vs Independent Labels

- Major Label Disadvantages:
  - Can be hard to get focus outside of your domestic market
  - Marketing by numbers
  - Lack of creativity
  - Small fish in a big Sea
  - 360° model?

# Major vs Independent Labels

- Independent Label Advantages:
  - Strong local focus
  - Creative Marketing
  - Genre focused
  - Credibility
  - Pick the best for you

# Major vs Independent Labels

- Independent Label Disadvantages:
  - Can be poorly funded
  - Lack of resources
  - Competition with Majors
  - Getting paid

# Major vs Independent Labels

- So what's right for me?
  - Everyone is different, and has different needs
  - Spend some time understanding your potential, market and needs
  - Do as much as you can yourself to establish your brand and increase your negotiating position

# Publishing around the World

- Publishing is very complex and time consuming.
- Generally, better to work with a publisher who has global reach.
- Similar Advantages and Disadvantages between Majors and Independents as with Labels.
- Most Independent publishers would have a network of sub-publishers allowing them to operate Internationally

# Collection Societies

- Most major markets have local Collection Societies to deal with the collection of Mechanical Copyright Payments, and Broadcast & Performance etc. that would be due to Composers, Performing and Recording Artists.
- Treaties and agreements between related Societies internationally allow revenue to flow back to the correct (home) territory.
- See “The Music Universe”

# International Live Market

- See “Live Performance” slide (Part 1)
  - Same basic commercial structure in every market
- Agents are Expensive but Important
  - Typically take 10% Gross Fees
  - Protection and coordination

# International Live Market

- Look out for:
  - Agents Commission (usual = 10% of gross)
  - Withholding Taxes (varies)
  - What's not included in the contract
  - Freight costs (change daily)
  - Work Permits & Visas
  - Getting paid!

# Part 3

***“Introduction to Marketing”***

# What is Marketing?

- Anticipating, identifying and satisfying consumer needs profitably.
  - Understand the trends and needs in your market.
  - Focus the presentation of your product on those trends and needs.
  - Attempt to draw consumers to your product generating sales and income.

# WARNING!!!!

Trying to manufacture your music  
to fit a particular market can  
seriously damage your health!

# Marketing Essentials

- Identify Markets that are likely to be receptive to your “sound”
  - Within your territory
  - Internationally
- Learn as much about the consumers in these markets as possible
  - Where they shop, what radio they listen to, what magazines/news papers they listen to etc.

# Marketing Essentials

- Promotion (getting heard/seen)
  - Radio
  - TV
  - Press
  - Mobile/Internet/Online
  - Live Performance/Concerts

# Marketing Essentials

- Reinforcing your Promotional efforts
  - Advertising (Press, online, posters, flyers)
  - Retail Profile (Racking in-store etc.)
  - Premium Promotions (with other brands)
  - Sponsorship & Endorsement

# Marketing Essentials

- Retail availability
  - All this work and effort is only any use if people can buy your music!
  - Physical Distribution
    - Expensive and High Risk
    - High profile
    - Localised
  - Digital Distribution
    - Global reach
    - Low risk and low cost

# Part 4

***“Expand Your Horizons”***

# International Marketing

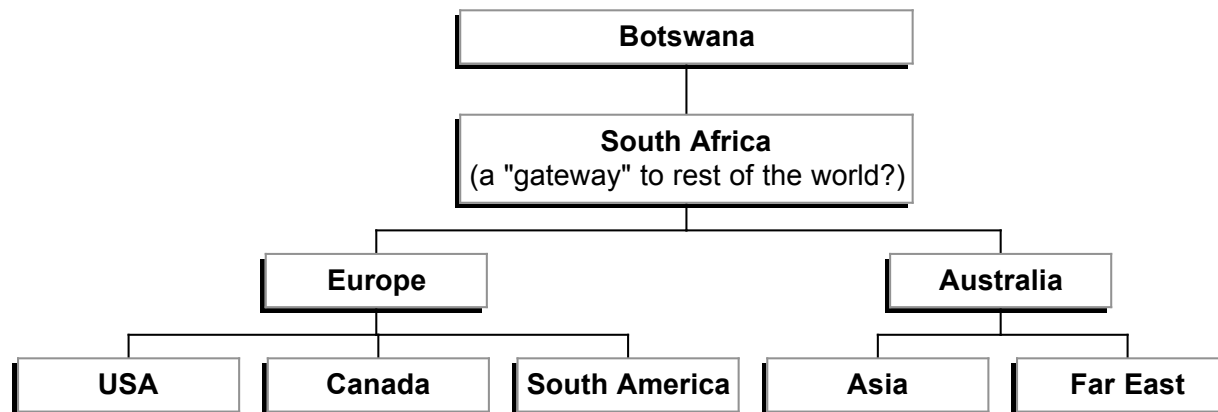
- Start close to home:
  - Inexpensive and accessible
  - Local knowledge
  - Media and Consumers “responsive”
- Start to establish your brand
- Learn about your fans

# International Marketing

- News travels fast in the Digital Age!
  - A review today can be online for the world tomorrow.
  - Profile generated at home can have an international reach.
  - Combined with Social Networking sites like MySpace, and you start to learn where the pockets of support are around the world.

# International Marketing

How it could work from Botswana



This is for illustration purposes only - I don't pretend to know anything about your potential markets!

# International Distribution

- Global Digital Distribution Deals
  - Via “aggregators” like Tunecore or The Orchard (see links).
  - Low cost route to market.

# International Distribution

- Global “traditional” Record Deals
  - The domain of the Major labels
    - Sony/BMG
    - Warners
    - EMI
    - Universal
  - And a few Independents (via network of deals)
    - PIAS (Belgium-based)
    - Cooking Vinyl (UK-based)

# International Distribution

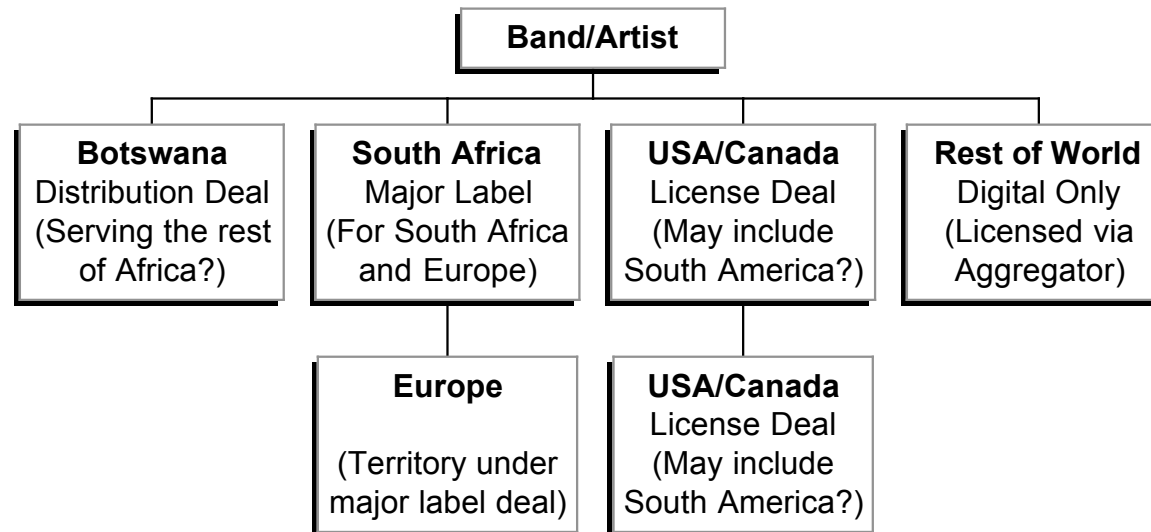
- Territory-by-Territory Licensing
  - Find the right partners in each territory or by groups of territories.
  - Limited and short-term deals.
  - High maintenance.
  - Can be expensive to maintain.

# International Distribution

- Distribution only deals.
  - Expensive.
  - High risk.
  - Potentially higher returns.
  - Resource intensive (people).

# International Distribution

Example "Hybrid" Structure



# Expanding your horizons

- Use the Internet to reach the world
  - Yourwebsite.bw
    - Your digital home
  - Social Networking (e.g. MySpace)
    - Create fan-base
    - Learn about your markets
  - Peer-to-Peer (e.g. YouTube)
    - Share content with fans

# Expanding your horizons

- Use the Internet to sell to the world
  - Online media (press/radio/TV)
    - Drive traffic to your sites
    - Drive traffic to commerce platforms
  - Data Collection (email address etc)
    - From yoursite.bw, MySpace etc.
    - Alert fans to new material, links to buy
  - eCommerce
    - Solutions that allow you to sell direct (eg Snocap)
    - Digital distribution via DSPs (eg iTunes)

# Part 5

***“Introduction to Contract Law”***

# A Contract

- Should at the very least contain:
  - Contracting Parties
  - Term
  - Territory(s)
  - Type of Agreement
  - Scope

# Contract Components

- Contracting Parties
  - Who the contract is “From”
  - Who the contract is “To”
  - Full Names of Contracting Companies or Individuals
  - Registered trading addresses

# Contract Components

- Term
  - Describes the period of time that the contract remains valid
  - Exclusivity and Option Periods are linked to the term of the agreement
  - Generally, you want the term to be as short as possible

# Contract Components

- Territory(s)
  - Precise geographical description of the “jurisdiction” of the contract
  - Could be anything from “Botswana” to “The Universe” and everything in between.

# Contract Components

- Type of Agreement
  - There are many different types of agreement, but the main ones you need to be aware of are:
    - License Agreement (granting a 3rd party the right to sell your copyrights on your behalf).
    - Assignment of Rights (assigning a 3rd party all or a share of the Copyright - avoid!).
    - Live Engagement (for a live performance or concert by the artist).

# Contract Components

- Scope
  - The contract should clearly describe exactly what it covers in terms of:
    - Product or Service
    - Artist obligations
    - Label/Publisher/Promoter obligations
    - Deliverables
    - Financial remuneration (fees, advances, royalties)

# Points to Fight For!

- In a Record or Publishing deal:
  - Short Term
  - Limited future options
  - License (i.e. you own your Copyrights)

# Points to Fight For!

- In a Live Engagement deal
  - Billing description
  - Deposit and Guarantee
  - Fee and Percentage (inc. Payment terms)
  - Technical Description (“Rider”)
  - No Broadcast Rights (separate license)
  - Sponsorship/Marketing approvals

# Management Agreements

- If you have a manager, have a contract with your manager. It serves you both.
  - Clearly describe on what basis the manager may commission artist money/income (for example, on net profit of live income, but gross fees on publishing)
  - Post Term clause (that describes what happens in the event of the deal being terminated with regard how the manager earns in the future)
  - Clearly describe to what extent your manager may act on your behalf.

# Remember

"The music business is a cruel and shallow money trench, a long plastic hallway where thieves and pimps run free, and good men die like dogs."

***Hunter S Thomson***