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Before the
UNITED STATES COPYRIGHT ROYALTY JUDGES
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Washington, D.C.

In the Matter of: **DETERMINATION OF ROYALTY RATES AND TERMS FOR MAKING AND DISTRIBUTING PHONORECORDS (*Phonorecords IV*)**	**Docket No. 21-CRB-0001-PR (2023-2027)**

WRITTEN REBUTTAL STATEMENT OF SPOTIFY USA INC.

Volume 4C
Designated Phonorecords III Exhibits - Part 2

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April 22, 2022

UNITED STATES COPYRIGHT ROYALTY JUDGES
The Library of Congress

In the Matter of **DETERMINATION OF RATES AND TERMS FOR MAKING AND DISTRIBUTING PHONORECORDS (PHONORECORDS III)**	))))))))	**Docket No. 16–CRB–0003–PR (2018–2022)**

INDEX OF SPOTIFY USA INC.'S EXHIBITS

Exhibit No.	Witness	Description
Spotify Ex. 1	Barry McCarthy	International Federation of the Phonographic Industry, Global Music Report: Music Consumption Exploding Worldwide, 2016
Spotify Ex. 2	Barry McCarthy	Facebook, Inc. Annual Report, Form 10-K, at 41, April 27, 2016, available at https://s21.q4cdn.com/399680738/files/doc_financials/annual_reports/2015-Annual-Report.pdf
Spotify Ex. 3	Barry McCarthy	Alphabet Inc. Annual Report, Form 10-K, February 11, 2016, available at https://abc.xyz/investor/pdf/20151231_alphabet_10K.pdf
Spotify Ex. 4	Barry McCarthy	Netflix, Inc. Annual Report, Form 10-K, January 28, 2016, *available at* http://files.shareholder.com/downloads/NFLX/3134691943x0xS1065280-16-47/1065280/filing.pdf.
Spotify Ex. 5	Barry McCarthy	Pandora Media, Inc. Annual Report, Form 10-K, February 18, 2016, available at http://investor.pandora.com/Cache/33003946.pdf
Spotify Ex. 6	Barry McCarthy	*Amazon's Music-Streaming Service Completes on Price and Robotic Assistance*, published on October 12, 2016, available at http://www.wsj.com/articles/new-amazon-music-streaming-service-costs-echo-speaker-owners-4-a-month-1476255600
Spotify Ex. 7	Will Page	*Daniel Ek Interview* (video), available at http://www.hypebot.com/hypebot/2011/07/spotifys-daniel-ek-if-we-create-the-right-product-better-than-piracy-people-will-come-video.html
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Spotify Ex. 11	Will Page	*Sweden: A Market Transformed*, available at http://ifpi.org/sweden.php
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Spotify Ex. 13	Will Page	Music Sweden File Sharing and Download 2011 Q2, Certified Translation
Spotify Ex. 14	Will Page	*Music Piracy Continues to Decline Thanks to Spotify*, September 28, 2011, available at https://torrentfreak.com/music-piracy-continues-to-decline-thanks-to-spotify-110928/
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Spotify Ex. 16	Will Page	*Legal Streaming Services Put A Halt to Internet Piracy*, April 25, 2013, Certified Translation
Spotify Ex. 17	Will Page	Arild Faeraas, *Internet Piracy Plummeting in Norway*, July 15, 2013, available at http://www.aftenposten.no/kultur/Piratkopieringen-i-Norge-stuper-114335b.html#.UeU2Co0Q4lo
Spotify Ex. 18	Will Page	Arild Faeraas, *Internet Piracy Plummeting in Norway*, July 15, 2013, Certified Translation
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Spotify Ex. 21	Will Page	Will Page, *Adventures in the Netherlands*, available at https://spotify.box.com/shared/static/nbktls3leeb0rcyh41sr.pdf
Spotify Ex. 22	Will Page	*Dutch Piracy Levy Ruled Unlawful, Downloading Pirated Materials Now Illegal in the Netherlands*, available at http://cimamusic.ca/dutch-piracy-levy-ruled-unlawful-downloading-pirated-materials-now-illegal-in-the-netherlands
Spotify Ex. 23	Will Page	*Adventures in the Netherlands: New Spotify Study Sees Encouraging Downwards Trend in Music Piracy in the Netherlands*, July 17, 2013, available at https://press.spotify.com/us/2013/07/17/adventures-in-netherlands
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Spotify Ex. 42	Will Page	*How Is Spotify Contributing to The Music Business?* available at https://www.spotifyartists.com/spotify-explained/#how-is-spotify-contributing-to-the-music-business
Spotify Ex. 43	Will Page	Spotify USA Inc. Spring 2015 Research Agenda: Part 1 (RESTRICTED)
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Spotify Ex. 45	Will Page	Mark Mulligan, State of the YouTube Music Economy, MIDiA, July 2016 (RESTRICTED)
Spotify Ex. 46	Will Page	Ben Sisario, *Apple, in Seeming Jab at Spotify, Proposes Simpler Songwriting Royalties*, July 15, 2016, available at http://www.nytimes.com/2016/07/16/business/media/apple-in-seeming-jab-at-spotify-proposes-simpler-songwriting-royalties.html
Spotify Ex. 47	Will Page	Apple, Inc., Annual Report (Form 10-K), October 26, 2016, available at http://files.shareholder.com/downloads/AAPL/3102245415x0x913905/66363059-7FB6-4710-B4A5-7ABFA14CF5E6/10-K_2016_9.24.2016_-_as_filed.pdf
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Spotify Ex. 60	Will Page	Mark Mulligan, Cross Border Listening: Borderless Hits and Curated Playlists, MIDiA, June 2016

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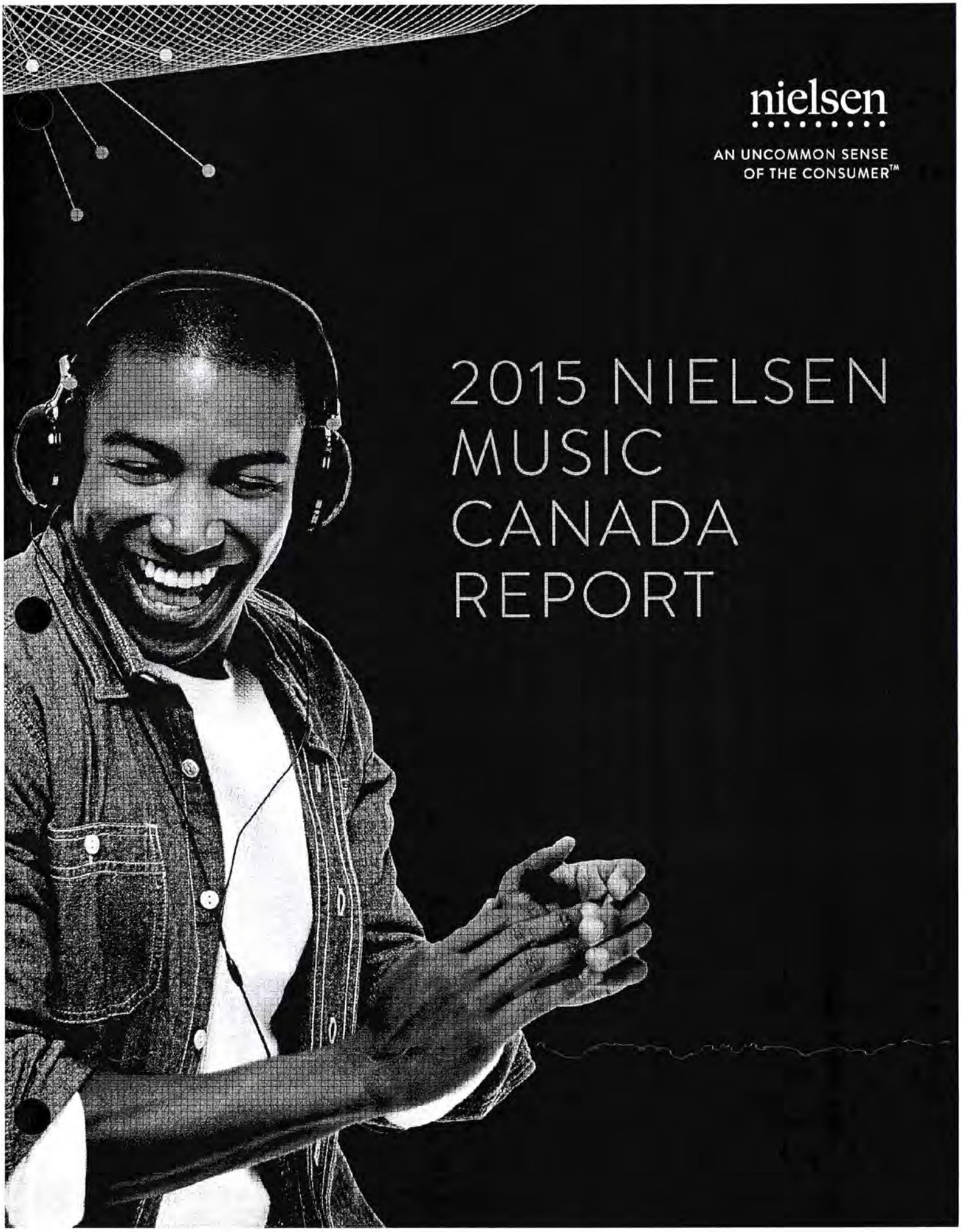
RESTRICTED – Subject to Protective Order in Docket No. 16-CRB-0003-PR(2018-2022)

nielsen

AN UNCOMMON SENSE
OF THE CONSUMER™

2015 NIELSEN MUSIC CANADA REPORT



WELCOME

ERIN CRAWFORD

SVP ENTERTAINMENT
& GM MUSIC

Welcome to Nielsen's year-end Canadian Music Report, a summary of consumption trends in Canada and Canadian consumer insights for 2015.

In 2015 we modernized the Canadian Albums chart to include track downloads and streaming songs in addition to traditional album sales. The new chart reflects how fans now consume music, and in 2015 they were consuming more than ever. Total consumption, including sales, streams and track downloads, was up 15% compared to last year.

Canadians are spending more hours per week listening to music (and listening more on their phones), going to more live music events and streaming more music than ever.

And yet the biggest music consumption story of the year was not even available on streaming services. We were awed by Adele's record-crushing *25*. We monitored daily activity across sales, streaming, airplay and social, and were thrilled to report on every new milestone she achieved, incredible by any measuring stick.

As advocates for the business of music, we are passionate about delivering the most valuable, actionable, insights into music fans - and believe that smart data can inform creativity. We hope you enjoy these 2015 highlights, and look forward to measuring your amazing 2016 successes.

Sincerely,

erin crawford

ERIN CRAWFORD

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NIELSEN MUSIC 2015 CANADIAN YEAR-END HIGHLIGHTS AND ANALYSIS

- Five albums from Canadian artists sold over 100,000 copies in 2015, compared with just one in 2014. Justin Bieber's *Purpose* led the way with 227,000 copies making it the No. 2 album of the year. The Weeknd, Drake, Yoan and Jean Leloup also sold over 100,000 in 2015.
- Total Album sales declined for the fourth straight year, down 3% compared to 2014.
- Ten albums sold over 100,000 units in 2015, compared to 7 albums in 2014. Adele's *25* led the way with 860,000 units in only six weeks of release. It set the record for the biggest one week sales week in the Canada SoundScan era. It is the most sales in one calendar year for a release since 2011 when her last album, *21*, sold 936,000 units.
- With five Canadian artists in the top 10 best selling albums of the year, 2015 had the most number of Canadian releases in a year-end top ten since 2006, when five homegrown artists also finished in the top 10 (Nelly Furtado, Gregory Charles, Michael Buble, Nickelback, Sarah McLachlan).
- After suffering declines of over 23% in 2014 versus the previous year, the R&B and Rap genres posted the two biggest sales increases in 2015 over 2014. Rap was up 23% and R&B was up 9%.
- After having its first year-over-year sales decrease in 2014, Digital Album sales rebounded, up 2% in 2015 over 2014. Adele's *25* was the year's highest selling digital album.
- After having their first year-over-year decrease in 2014, Digital Track sales continued their decline, down 5% in 2015 over 2014.
- The top 200 Digital Songs accounted for 22.4% of all song purchases in 2015, compared with 22.7% in 2014.
- Vinyl Album sales in Canada in 2015 posted its biggest overall sales total in the SoundScan era, with a sales increase of 30% over 2014.

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TOTAL CONSUMPTION

Nielsen started to track streaming in Canada at the end of July 2014. Comparing data from week-ending July 30, 2015 through December 31,2015 over the same time period in 2014, total music consumption is up 15% in Canada.

WEEKS 30 - 52	2015	2014	% CHG.
TOTAL VOLUME (ALBUMS + TEA + SEA)	25,831,480	22,465,506	15%
TOTAL ALBUMS	13,177,400	13,999,200	-6%
TOTAL TRACKS	37,938,900	42,624,500	-11%
TOTAL TRACK EQUIVALENT ALBUMS (10:1)	3,793,890	4,262,450	-11%
TOTAL ON-DEMAND STREAMS (AUDIO + VIDEO)	13,169,463,647	6,150,369,652	114%
ON-DEMAND STREAMING EQUIVALENT ALBUMS (1500:1)	8,779,642	4,100,246	114%

FULL YEAR STREAMING: 12/29/14-12/31/15	2015
TOTAL 2015 STREAMS	25.66 BILLION
TOTAL VIDEO STREAMS	17.84 BILLION
TOTAL ON-DEMAND AUDIO STREAMS	7.52 BILLION

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		2015	2014	% CHG.
TOTAL ALBUM SALES INCLUDES CDS, CASSETTES, VINYL LPS, DIGITAL ALBUMS IN MILLIONS	TOTAL UNITS	26.9M	27.8M	-3%
	CD	15.2M	16.5M	-8%
	DIGITAL	11.2M	10.9M	+2%
OVERALL ALBUM SALES WITH TEA TRACK EQUIVALENT ALBUMS RATIO OF 10 TRACKS TO 1 ALBUM IN MILLIONS	TOTAL ALBUM + TEA	36.5	37.9	-4%
DIGITAL TRACK SALES IN MILLIONS	TOTAL UNITS	96.1	101.7	-5%
HOLIDAY SEASON ALBUM SALES PHYSICAL ALBUMS + DIGITAL ALBUM SALES DURING HOLIDAY SEASON (11/06/15- 12/31/15) IN MILLIONS	TOTAL UNITS	6.5	6.8	-4%

SOURCE: NIELSEN MUSIC 12/29/14-12/31/15

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CURRENT AND CATALOGUE SALES

(CATALOGUE IS DEFINED AS OVER 18 MONTHS SINCE RELEASE IN MILLIONS)

		2015	2014	% CHG.
OVERALL ALBUMS	CURRENT	14.6	16.1	-9%
	CATALOGUE	12.3	11.7	+6%
DIGITAL ALBUMS	CURRENT	6.0	6.3	-4%
	CATALOGUE	5.1	4.6	+11%
PHYSICAL ALBUMS	CURRENT	8.3	9.6	-14%
	CATALOGUE	7.0	6.9	+1%

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2015 GENRE ALBUM SALES REPORT
(IN THOUSANDS)
NOTE: TITLES MAY APPEAR IN MORE THAN ONE GENRE

	2015	2014	% CHANGE
ALTERNATIVE	3,966	4,267	-7%
CLASSICAL	587	616	-5%
JAZZ	564	561	+1%
METAL	2,320	2,616	-11%
R&B	2,338	2,137	+9%
RAP	2,081	1,698	+23%

OVERALL STREAMING CORE GENRE BREAKDOWN

	2015
ROCK	25.7%
POP	24.6%
R&B/HIP-HOP	21.5%
DANCE/ELECTRONIC	8.9%
COUNTRY	5.6%

ON-DEMAND STREAMING CORE GENRE BREAKDOWN

	2015
ROCK	25.6%
POP	24.7%
R&B/HIP-HOP	21.6%
DANCE/ELECTRONIC	8.9%
COUNTRY	5.4%

VIDEO ON-DEMAND STREAMING CORE GENRE BREAKDOWN

	2015
ROCK	25.8%
POP	24.4%
R&B/HIP-HOP	20.3%
DANCE/ELECTRONIC	8.8%
COUNTRY	5.0%

AUDIO ON-DEMAND STREAMING CORE GENRE BREAKDOWN

	2015
ROCK	27.9%
POP	24.1%
R&B/HIP-HOP	22.7%
DANCE/ELECTRONIC	9.2%
COUNTRY	6.2%

SOURCE: NIELSEN MUSIC 12/29/14-12/31/15

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2015 RECORD COMPANY MARKET SHARE

REFLECTS THE MARKET SHARE FOR THE ENTIRE ENTITY INCLUDING SUB-DISTRIBUTED COMPANIES FOR THE 52 WEEK YEAR

TOTAL ALBUMS
(CATALOGUE & CURRENT TITLES)

	2015	2014
UMG	44.06%	44.01%
SME	21.37%	22.90%
WMG	13.58%	14.48%
OTHERS	20.99%	18.61%

CURRENT ALBUMS

	2015	2014
UMG	46.43%	46.39%
SME	19.77%	22.46%
WMG	11.68%	12.34%
OTHERS	22.12%	18.81%

CATALOGUE ALBUMS

	2015	2014
UMG	41.27%	40.74%
SME	23.25%	23.52%
WMG	15.82%	17.42%
OTHERS	19.66%	18.32%

DIGITAL ALBUMS
(CATALOGUE & CURRENT TITLES)

	2015	2014
UMG	44.66%	42.95%
SME	22.04%	23.01%
WMG	14.62%	15.57%
OTHERS	18.68%	18.47%

DIGITAL TRACKS

	2015	2014
UMG	38.59%	39.04%
SME	24.44%	24.86%
WMG	15.64%	14.19%
OTHERS	19.27%	18.95%

TRACK-EQUIVALENT ALBUMS

	2015	2014
UMG	42.78%	42.80%
SME	22.21%	23.34%
WMG	14.03%	14.26%
OTHERS	20.46%	18.82%

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billboard

BILLBOARD'S TOP CHARTS FOR YEAR-END 2015 COMPILED BY NIELSEN MUSIC

2015 TOP SELLING ARTISTS

	ARTIST	SALES
1	ADELE	929,000
2	JUSTIN BIEBER	240,000
3	TAYLOR SWIFT	220,000
4	ED SHEERAN	217,000
5	LUKE BRYAN	149,000
6	DRAKE	148,000
7	ONE DIRECTION	142,000
8	MUMFORD & SONS	137,000
9	SAM SMITH	136,000
10	THE WEEKND	134,000

2015 TOP SELLING ALBUMS

	ARTIST	ALBUM	SALES
1	ADELE	25	860,000
2	JUSTIN BIEBER	PURPOSE	227,000
3	ED SHEERAN	X	187,000
4	TAYLOR SWIFT	1989	181,000
5	SAM SMITH	IN THE LONELY HOUR	135,000
6	THE WEEKND	BEAUTY BEHIND THE MADNESS	130,000
7	DRAKE	IF YOU'RE READING THIS, YOU'RE TOO LATE	121,000
8	YOAN	YOAN	110,000
9	JEAN LELOUP	PARADIS CITY	109,000
10	MUMFORD & SONS	WILDER MIND	107,000

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2015 TOP CD ALBUMS (YTD SALES)

RANK	ARTIST	TITLE	SALES
1	ADELE	25	622,000
2	JUSTIN BIEBER	PURPOSE	109,000
3	YOAN	YOAN	104,000
4	ED SHEERAN	X	99,000
5	TAYLOR SWIFT	1989	94,000
6	SAM SMITH	IN THE LONELY HOUR	80,000
7	JEAN LELOUP	PARADIS CITY	79,000
8	ARTISTES VARIES	FOREVER GENTLEMEN	58,000
9	THE WEEKND	BEAUTY BEHIND THE MADNESS	58,000
10	ONE DIRECTION	MADE IN THE A.M.	56,000

2015 TOP DIGITAL ALBUMS (YTD SALES)

RANK	ARTIST	TITLE	SALES
1	ADELE	25	238,000
2	JUSTIN BIEBER	PURPOSE	118,000
3	DRAKE	IF YOU'RE READING THIS...	96,000
4	ED SHEERAN	X	88,000
5	TAYLOR SWIFT	1989	88,000
6	THE WEEKND	BEAUTY BEHIND THE MADNESS	72,000
7	MUMFORD & SONS	WILDER MIND	63,000
8	SOUNDTRACK	FIFTY SHADES OF GREY	57,000
9	SAM SMITH	IN THE LONELY HOUR	55,000
10	HOZIER	HOZIER	54,000

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2015 TOP LP VINYL ALBUMS (YTD SALES)

RANK	ARTIST	TITLE	SALES
1	ADELE	25	6,200
2	TAYLOR SWIFT	1989	6,000
3	ED SHEERAN	X	4,800
4	ARCTIC MONKEYS	AM	3,800
5	SAM SMITH	IN THE LONELY HOUR	3,700
6	THE BEATLES	ABBEY ROAD	3,300
7	HOZIER	HOZIER	3,200
8	PINK FLOYD	DARK SIDE OF THE MOON	3,200
9	MUMFORD & SONS	WILDER MIND	3,000
10	LED ZEPPELIN	LED ZEPPELIN IV	2,600

2015 TOP DIGITAL SONGS (YTD SALES)

RANK	ARTIST	SONG	SALES
1	MARK RONSON FEAT BRUNO MARS	UPTOWN FUNK	605,000
2	OMI	CHEERLEADER	483,000
3	ADELE	HELLO	441,000
4	WIZ KHALIFA FEAT CHARLIE PUTH	SEE YOU AGAIN	419,000
5	ED SHEERAN	THINKING OUT LOUD	409,000
6	ANDY GRAMMER	HONEY, I'M GOOD	347,000
7	MAROON 5	SUGAR	340,000
8	WALK THE MOON	SHUT UP AND DANCE	321,000
9	HOZIER	TAKE ME TO CHURCH	313,000
10	RIHANNA & KANYE WEST & PAUL MCCARTNEY	FOURFIVESECONDS	310,000

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2015 TOP DIGITAL TRACKS (YTD SALES)

RANK	ARTIST	SONG	SALES
1	MARK RONSON FEAT BRUNO MARS	UPTOWN FUNK	603,000
2	ADELE	HELLO	441,000
3	OMI	CHEERLEADER	427,000
4	WIZ KHALIFA FEAT CHARLIE PUTH	SEE YOU AGAIN	418,000
5	ED SHEERAN	THINKING OUT LOUD	401,000
6	ANDY GRAMMER	HONEY, I'M GOOD	340,000
7	WALK THE MOON	SHUT UP AND DANCE	320,000
8	HOZIER	TAKE ME TO CHURCH	313,000
9	RIHANNA & KANYE WEST & PAUL MCCARTNEY	FOURFIVESECONDS	310,000
10	MAJOR LAZER & DJ SNAKE	LEAN ON	301,000

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2015 TOP STREAMING SONGS

RANK	ARTIST	SONG	STREAMS (MILLIONS)
1	MARK RONSON FEAT. BRUNO MARS	UPTOWN FUNK	60.6
2	WIZ KHALIFA FEAT. CHARLIE PUTH	SEE YOU AGAIN	48.2
3	OMI	CHEERLEADER	45
4	MAJOR LAZER & DJ SNAKE FEAT. M0	LEAN ON	43.2
5	ED SHEERAN	THINKING OUT LOUD	41.6
6	JUSTIN BIEBER	WHAT DO YOU MEAN?	38.4
7	ADELE	HELLO	38.1
8	FETTY WAP	TRAP QUEEN	36.8
9	THE WEEKND	CAN'T FEEL MY FACE	36.4
10	THE WEEKND	THE HILLS	35.7

2015 TOP STREAMING SONGS BY CANADIAN ARTISTS

RANK	ARTIST	SONG	STREAMS (MILLIONS)
1	JUSTIN BIEBER	WHAT DO YOU MEAN?	38.4
2	THE WEEKND	CAN'T FEEL MY FACE	36.4
3	THE WEEKND	THE HILLS	35.7
4	JUSTIN BIEBER	SORRY	34.8
5	DRAKE	HOTLINE BLING	27
6	SHAWN MENDES	STITCHES	20
7	THE WEEKND	EARNED IT	19.5
8	JUSTIN BIEBER	LOVE YOURSELF	15
9	THE WEEKND	OFTEN	13.9
10	MAGIC!	RUDE	12.9

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TOP VIDEO ON-DEMAND STREAMS

RANK	ARTIST	SONG	STREAMS (MILLIONS)
1	MARK RONSON FEAT. BRUNO MARS	UPTOWN FUNK	50.9
2	WIZ KHALIFA FEAT. CHARLIE PUTH	SEE YOU AGAIN	37.6
3	ED SHEERAN	THINKING OUT LOUD	31.7
4	OMI	CHEERLEADER	30.4
5	TAYLOR SWIFT	SHAKE IT OFF	27.1
6	ADELE	HELLO	26.4
7	MAJOR LAZER & DJ SNAKE	LEAN ON	26.2
8	TAYLOR SWIFT	BLANK SPACE	25.6
9	FETTY WAP	TRAP QUEEN	25.4
10	MAROON 5	SUGAR	24.9

TOP AUDIO ON-DEMAND STREAMS

RANK	ARTIST	SONG	STREAMS (MILLIONS)
1	MAJOR LAZER & DJ SNAKE	LEAN ON	16.7
2	JUSTIN BIEBER	WHAT DO YOU MEAN?	15.8
3	THE WEEKND	CAN'T FEEL MY FACE	15.7
4	DRAKE	HOTLINE BLING	14.2
5	OMI	CHEERLEADER	14.1
6	THE WEEKND	THE HILLS	14.1
7	JUSTIN BIEBER	SORRY	13
8	SKRILLEX & DIPLO FEAT. JUSTIN BIEBER	WHERE ARE U NOW	12.8
9	ADELE	HELLO	11.6
10	FETTY WAP	TRAP QUEEN	11.2

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TOP 10 ALBUMS BY CANADIAN ARTISTS

RANK	ARTIST	ALBUM	SALES
1	JUSTIN BIEBER	PURPOSE	227,000
2	THE WEEKND	BEAUTY BEHIND THE MADNESS	130,000
3	DRAKE	IF YOU'RE READING THIS...	121,000
4	YOAN	YOAN	110,000
5	JEAN LELOUP	PARADIS CITY	109,000
6	MICHAEL BUBLE	CHRISTMAS	66,000
7	DIANA KRALL	WALLFLOWER	66,000
8	ARTISTES VARIES	FOREVER GENTLEMEN	62,000
9	JANN ARDEN	JANN ARDEN CHRISTMAS	58,000
10	COEUR DE PIRATE	ROSES	52,000

TOP DIGITAL SONGS BY CANADIAN ARTISTS

RANK	ARTIST	SONG	SALES
1	THE WEEKND	CAN'T FEEL MY FACE	295,000
2	THE WEEKND	THE HILLS	231,000
3	JUSTIN BIEBER	WHAT DO YOU MEAN?	229,000
4	JUSTIN BIEBER	SORRY	213,000
5	DRAKE	HOTLINE BLING	199,000
6	THE WEEKND	EARNED IT	197,000
7	SHAWN MENDES	STITCHES	182,000
8	COLEMAN HELL	2 HEADS	161,000
9	SHAWN MENDES	SOMETHING BIG	132,000
10	JUSTIN BIEBER	LOVE YOURSELF	112,000

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TOP ALBUMS DURING HOLIDAY SEASON - SALES 11/12/15 - 12/24/15

RANK	ARTIST	ALBUM	SALES
1	ADELE	25	809,000
2	JUSTIN BIEBER	PURPOSE	209,000
3	ONE DIRECTION	MADE IN THE A.M.	86,000
4	MICHAEL BUBLE	CHRISTMAS	61,000
5	COLDPLAY	A HEAD FULL OF DREAMS	59,000
6	JANN ARDEN	JANN ARDEN CHRISTMAS	55,000
7	JOHNNY REID	WHAT LOVE IS ALL ABOUT	50,000
8	PENTATONIX	THAT'S CHRISTMAS TO ME	45,000
9	FRANCOIS PERUSSE	L'ALBUM DU PEUPLE TOME 10	42,000
10	ARTISTES VARIES	FOREVER GENTLEMEN	36,000

TOP DIGITAL SONGS DURING HOLIDAY SEASON - SALES 11/12/15 - 12/24/15

RANK	ARTIST	SONG	SALES
1	ADELE	HELLO	194,000
2	JUSTIN BIEBER	SORRY	117,000
3	JUSTIN BIEBER	LOVE YOURSELF	84,000
4	DRAKE	HOTLINE BLING	64,000
5	COLEMAN HELL	2 HEADS	60,000
6	SELENA GOMEZ	SAME OLD LOVE	51,000
7	MEGHAN TRAINOR FEAT. JOHN LEGEND	LIKE I'M GONNA LOSE YOU	44,000
8	THE WEEKND	THE HILLS	44,000
9	ELLE KING	EX'S & OH'S	43,000
10	TAYLOR SWIFT	WILDEST DREAMS	37,000

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RADIO

MOST PLAYED SONGS

RANK	ARTIST	SONG	PLAYS
1	WALK THE MOON	SHUT UP AND DANCE	101,000
2	MARK RONSON FEAT BRUNO MARS	UPTOWN FUNK	97,000
3	MAROON 5	SUGAR	88,000
4	JASON DERULO	WANT TO WANT ME	83,000
5	ED SHEERAN	THINKING OUT LOUD	82,000
6	TAYLOR SWIFT	STYLE	81,000
7	ELLIE GOULDING	LOVE ME LIKE YOU DO	77,000
8	OMI	CHEERLEADER	77,000
9	THE WEEKND	CAN'T FEEL MY FACE	72,000
10	ED SHEERAN	PHOTOGRAPH	70,000

TOP 10 ARTIST AIRPLAY

RANK	ARTIST	PLAYS
1	TAYLOR SWIFT	315,000
2	MAROON 5	199,000
3	ED SHEERAN	197,000
4	THE WEEKND	180,000
5	SHAWN MENDES	167,000
6	HEDLEY	166,000
7	MAGIC!	146,000
8	ELLIE GOULDING	123,000
9	JASON DERULO	114,000
10	RIHANNA	108,000

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TOP HOLIDAY SONGS AIRPLAY

RANK	ARTIST	SONG	PLAYS
1	JOSE FELICIANO	FELIZ NAVIDAD	5,000
2	BRENDA LEE	ROCKIN' AROUND THE CHRISTMAS TREE	4,900
3	MARIAH CAREY	ALL I WANT FOR CHRISTMAS IS YOU	4,700
4	BAND AID	DO THEY KNOW IT'S CHRISTMAS	4,400
5	JOHN LENNON	HAPPY X-MAS (WAR IS OVER)	4,400
6	BURL IVES	A HOLLY JOLLY CHRISTMAS	4,200
7	WHAM!	LAST CHRISTMAS	4,100
8	PAUL MCCARTNEY	WONDERFUL CHRISTMAS TIME	4,000
9	BOBBY HELMS	JINGLE BELL ROCK	4,000
10	ANDY WILLIAMS	IT'S THE MOST WONDERFUL TIME	3,800

EXHIBIT 32

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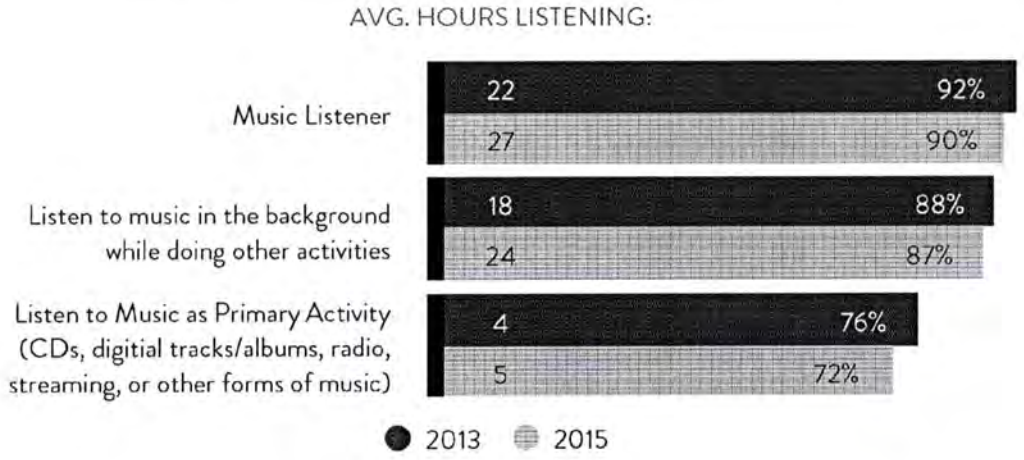
MUSIC LISTENING

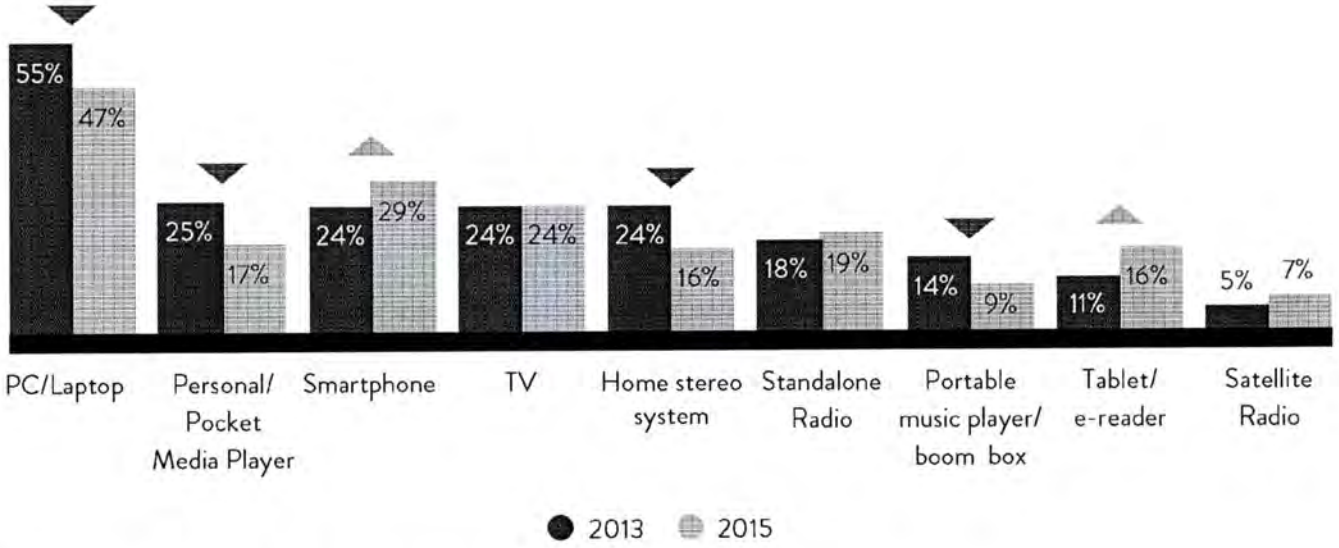
90% of Canadians report that they listen to music, for an average of 27 hours a week.



Primary activities during leisure time past 12 months
Q: How much time spent with music in the background?
Base: Total 2015 (2518) 2013 (3031)

MUSIC LISTENING BY DEVICE – TYPICAL WEEK

Mobile devices, such as smartphones and tablets, are on the rise. However, fewer people are listening to music on their personal media players, home stereo systems, and portable music players.



Note: Relevant devices that were also asked in 2013 are shown.
Q: Thinking about a typical week, which of the following physical devices do you use to listen to music?
Base: Music Listeners & Device Owners: 2013 (2791), 2015 (2193)

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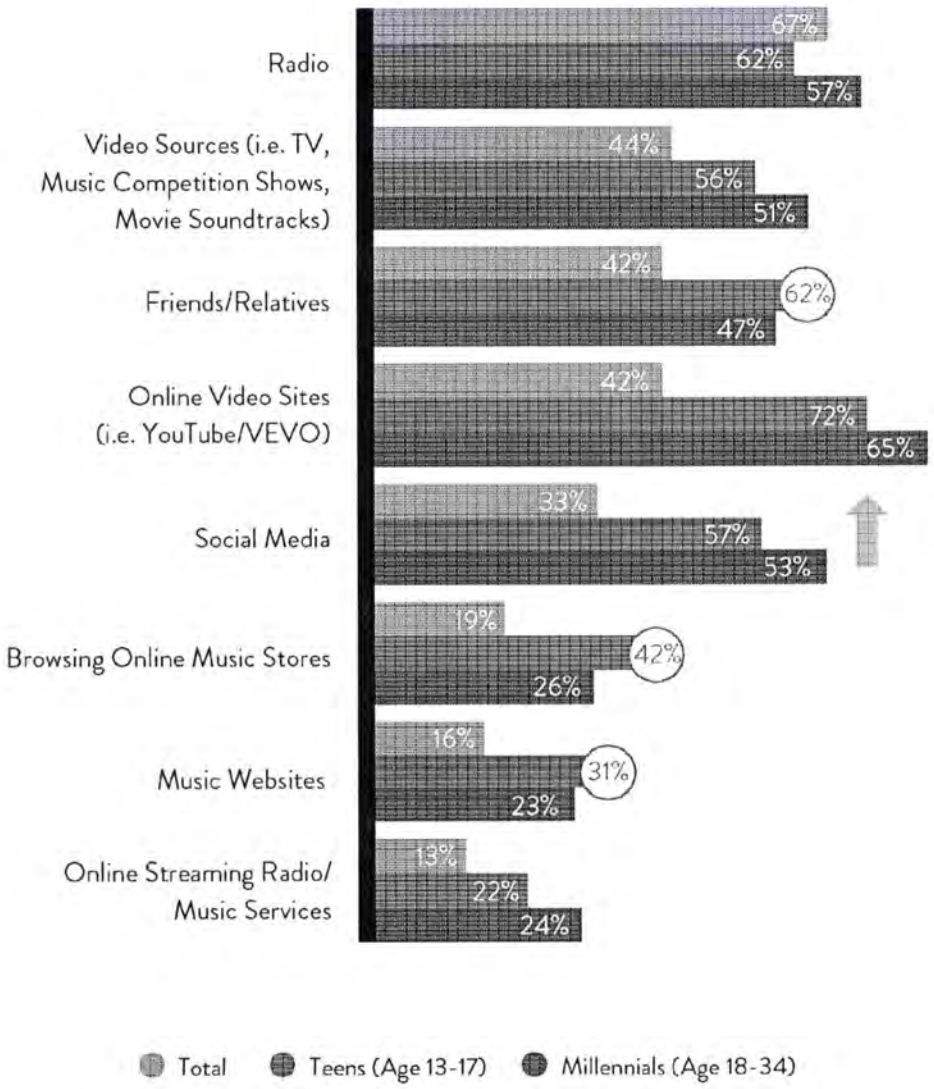
MUSIC DISCOVERY

About two-thirds of Canadians say they discover new music from the radio. Teens and Millennials are more likely to discover music on social media and on YouTube/VEVO.

Teens more commonly discover music through friends/relatives, browsing online music stores, and from music websites.



Q: Which of the following are ways you discover new music?
Base: Total (2518), Teens (391), Millennials (1028)

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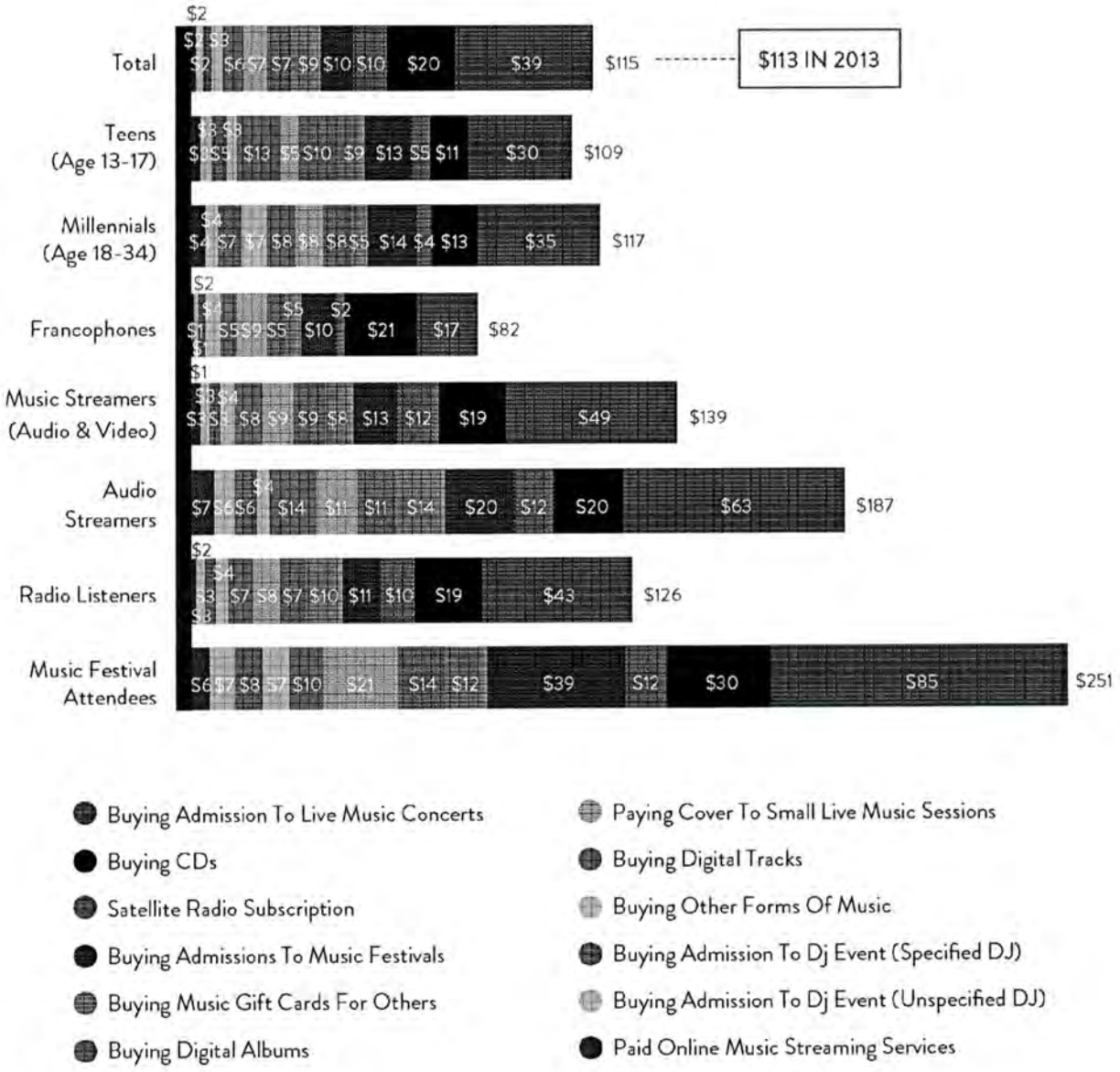
ANNUAL MUSIC SPENDING – ALL CONSUMERS

Canadians spend about $115 on average per year on music activities, consistent with previous results

Not surprisingly, over half of Music Festival Attendees' yearly music spend is on concerts and live events.



Q: In a typical year, about how much money do you spend on the following entertainment activities?
Base: Total (2518), Teens (391), Millennials (1028), Francophones (894), Music Streamers (Audio & Video) (1799), Radio Listeners (1989), Music Festival Attendees (430)

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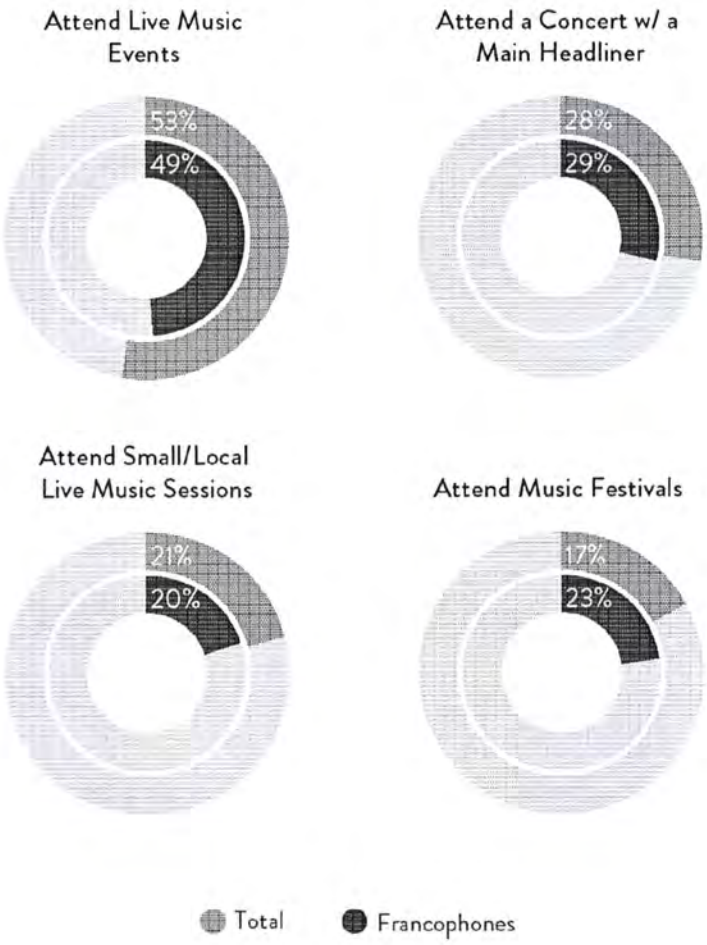
LIVE MUSIC ATTENDANCE

About half of Francophones say they attend live music events, and about one-quarter mention they attend music festivals (higher than Total).



Q: About how many of the following types of live events, if any, do you attend per year?
Base: Total (2518), Francophones (894)

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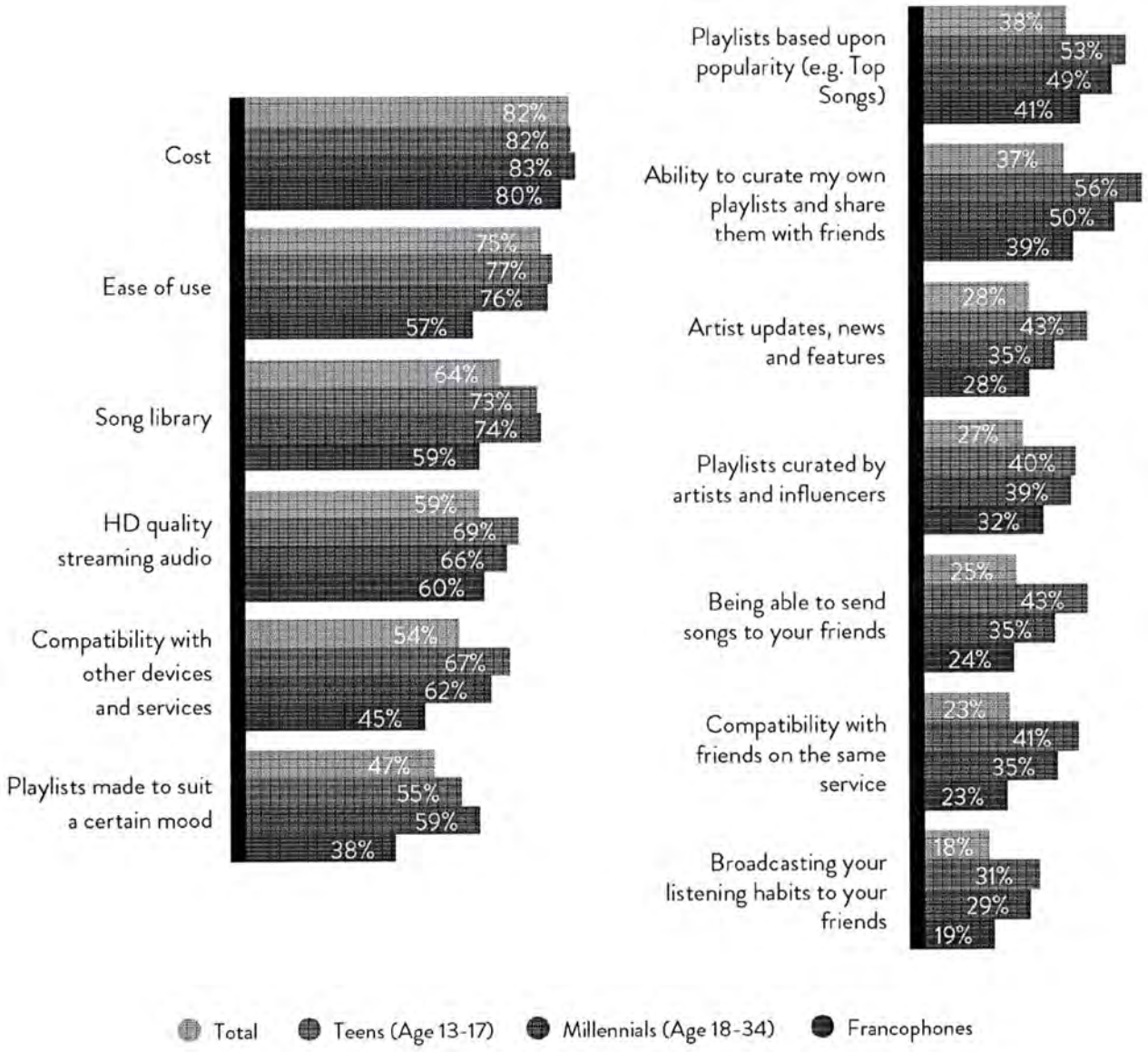
STREAMING FEATURES (IMPORTANCE)

At least three-quarters of music listeners and streamers say cost and ease of use are important when choosing a streaming service. Notably, only 57% Francophones place importance on a service being easy to use.

Teens and Millennials generally trend higher on most features, especially for those that promote compatibility, playlist customization, and sharing/social activity.



Q: How important are each of the following features to you, when choosing a music streaming service to use ?
Base: Music Listeners & Streamers - Total (1799), Teens (341), Millennials (878), Francophones (605)

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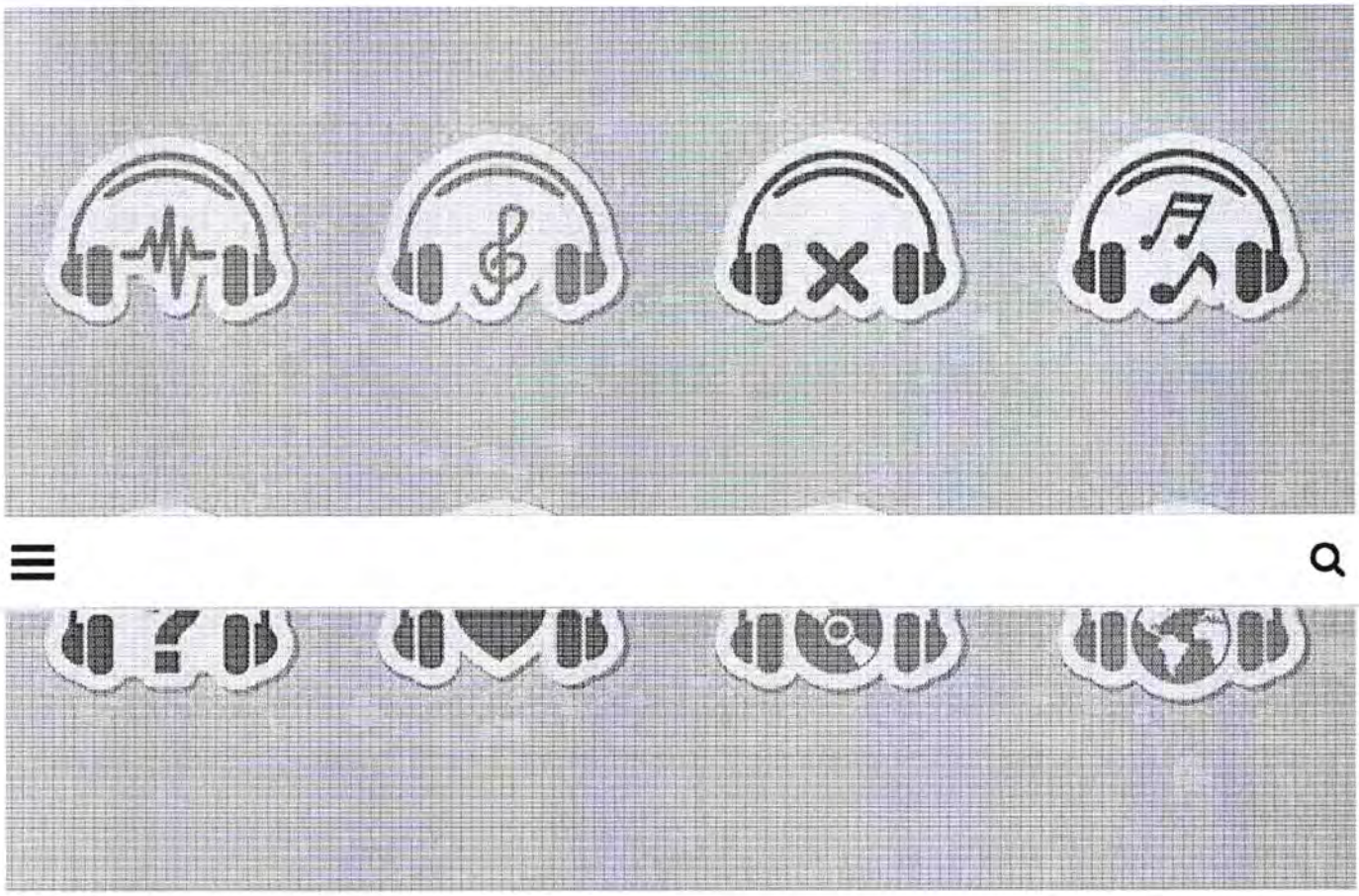
AN UNCOMMON SENSE OF THE CONSUMER™

Streaming Helps Drive 8.1 Percent Growth in Revenue for U.S. Recording Industry

9/20/2016 by Ed Christman



Getty Images

What labels hoped would happen seems to be happening.

The U.S. music industry experienced an 8.1 percent growth in overall revenue during the first half of this year, the Recording Industry Assn. of America (RIAA) has reported today (Sep. 20). The overall market is estimated to be worth $3.43 billion, up from $3.17 billion in the first half of 2015.

Digital revenue overall, including still-dwindling download sales and the inexorably rising streaming segment, totaled $2.66 billion, or 77.5 percent of total revenue, up from 72.1 percent over the same period in 2015. Physical sales generated $671.9 million, or 19.6 percent of the total, down noticeably from 24.7 percent last year. Synchronization revenue stood at $100.3 million, 2.9 percent of the total.

Streaming revenue has exploded, growing 57.4 percent overall to total $1.61 billion, up from $1.02 billion in the first half of 2015. The biggest growth, which will no doubt receive cheers from labels, was in paid subscriptions which saw the overall subscriber count rise to 18.3 million -- double the 9.1 million subscribers counted in the middle of 2015. Looking at subscription services by revenue, the segment more than doubled their value as well, generating $1.013 billion from 2015's $478.6 million.

Ad-supported streaming revenue also saw a sharp increase, rising 23.6 percent to $195.4 million. SoundExchange distributions for performance royalties from digital radio broadcasters -- paid to labels and artists for master recording plays -- grew slightly, by 4.2 percent, to $403.4 million.

Some more good news for labels and artists: per-stream rates for streaming services are rising. When we take RIAA's half-year revenue numbers for on-demand streams with Nielsen Music's on-demand streaming count (which saw total audio and video streams grow to 208.86 billion, up

subscription service) has risen to $0.005786 per stream in the first half of 2016, up from from $0.004838 in the first half of 2015. (Note: This doesn't include publishing royalties.)

Within digital download sales, album and single sales both fell with digital album downloads totaling $500.1 million from 48.2 million albums, while track sales totaled $519.5 million from 432 million track downloads. That totals $1.012 billion, which is down 17.1 percent from the prior year total of $1.23 billion, when 56.4 million copies of albums generated $564.7 million and 554.5 million track downloads garnered $665.2 million. That means that as album download sales fell, the labels have been raising list prices, with the average list price coming in at $10.38 for a download album versus an average list price of $10.01 in the first half of last year. Download single tracks held stead at a $1.20 list price. More niche digital download configurations, like ringtones and kiosks, saw revenues fall to $27.2 million from $34.9 million.

Physical revenue totaled $671.9 million, down 14.3 percent from the $783.9 million that retailers -- both brick-and-mortar and online -- generated in the first half of 2015. CD album sales fell to 38.9 million units, accounting for $443.9 million ($11.41 average list price), down from 43.8 million and $531 million ($12.12 average list price).

Vinyl, the darling of indie retailers and indie labels, might finally be peaking. While Nielsen Music data -- which measures scans at the cash register for sales to consumers - shows vinyl album units up this year, the RIAA's count -- which tracks album *shipments* to retailers -- sees the format backsliding, to 8.4 million units from 9.2 million in the prior year. (Vinyl's $207.1 million in revenue is still more than the $195.4 million in revenue generated by ad-supported on-demand streaming.)

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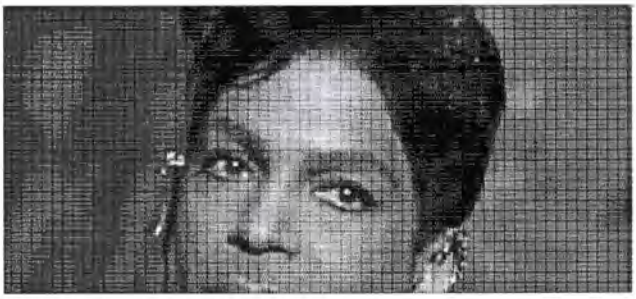

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MARKETS | HEARD ON THE STREET

Music Labels Finally Hear the Sweet Sound of Success

Global music sales grew 3.2% last year, the biggest increase since 1998

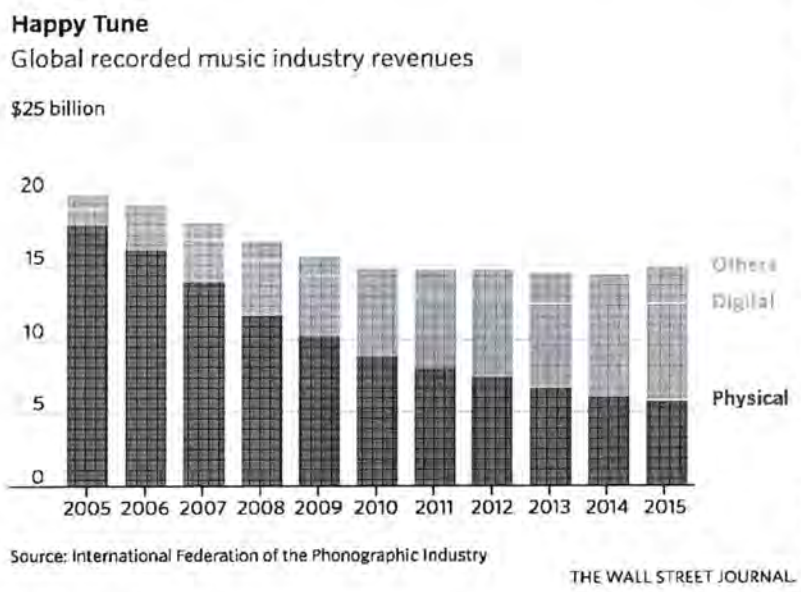
Singer Adele performing during her North American tour Aug. 5 at Staples Center in Los Angeles. *PHOTO: GETTY IMAGES*

By **JACKY WONG**
Updated Oct. 20, 2016 11:34 p.m. ET

The nearly 20-year depression in the music business is finally over. And while the likes of streaming services such as Spotify may have disrupted the industry, it is the long-suffering record labels who are eating their lunch.

Global music sales grew 3.2% last year, the biggest increase since 1998, when people were listening to Britney Spears on CDs, according to the International Federation of the Phonographic Industry. The music industry shrank almost every year in between. CD sales and digital downloads continue to decline. But the savior on the industry's horizon: streaming services like Spotify or Apple Music. Revenue from streaming grew 45% last year.

And the growth continues. Retail revenue in the U.S., the world's biggest music market, increased 8.1% in the first half as streaming sales rose 57%, according to the Recording Industry Association of America. The music market is still around half what it was nearly two decades ago, but at least the industry seems to have found a way to get people paying for music. Spotify had 40 million paid subscribers as of September, doubling from June last year. Apple Music has racked up 17 million paying subscribers over the period.



That is a happy tune to the record labels, which take nearly 60% of the streaming platforms' revenue. Another roughly 15% of the streaming revenue goes to songwriters and music publishers, the biggest of which are also owned by the top record labels.

And the record labels hold the upper hand in negotiations as the streaming field gets crowded. Apple Music, which only joined the fray last year, shares 58% of its revenue with the labels, compared with 55% for the unprofitable Spotify. Other tech giants are also in the race. Amazon and Google are going head-to-head in connected speakers, potentially broadening the streaming market from smartphones to homes.

Compared with the crowded platform market, record labels are more concentrated, with the "big three" labels—Universal Music, Sony Music and Warner Music—controlling 73% of the market. They also stand to earn better margins than selling CDs since the cost to stream one more song is zero.

Since Warner Music is privately owned, this leaves France's Vivendi, which owns Universal Music, and Sony as the only choices for investors to bet on the trend. Music accounts for around half of Vivendi's operating profit, a higher percentage than it is for Sony. Vivendi's television business, however, is a drag. The company's operating profit in the first half fell 12%, even though its music business grew by a quarter.

On the other hand, Sony's game business, the company's biggest segment by revenue, is doing well and has garnered the spotlight of most investors. But Sony's music segment, anchored by the likes of Adele and Beyoncé, could make up around a quarter of Sony's operating profit this year. Goldman Sachs said it expects Sony's recording business to grow an average 7% annually over the next five years, while the operating margin for Sony's broader music business, which includes publishing, is likely to improve 3.5 percentage points.

For Sony, it is time to sing a new song.

Write to Jacky Wong at JACKY.WONG@wsj.com

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News and Notes on 2016 Mid-Year RIAA Music Shipment and Revenue Statistics

Joshua P. Friedlander | Senior Vice President, Strategic Data Analysis, RIAA

For the first half of 2016, strong growth in revenues from subscription streaming services more than offset declines in unit based sales of physical and digital music download products. Overall revenues at retail increased 8.1% on a year-over-year basis to $3.4 billion, the strongest industry growth since the late 1990's. At wholesale, value increased 5.7% to $2.4 billion.

Figure 1

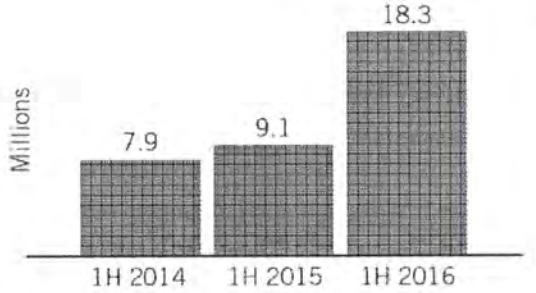
U.S. Music Industry Mid-Year Revenues
Source: RIAA

Revenues from streaming services continued to grow strongly both in dollars and share of total revenues. First half (1H) 2016 streaming music revenues totaled $1.6 billion, up 57% year-over-year, and accounted for 47% of industry revenues compared with 32% in 1H 2015. This category includes revenues from subscription services (such as Apple Music, TIDAL and paid versions of Spotify, among others), streaming radio service revenues that are distributed by SoundExchange (like Pandora, SiriusXM, and other Internet radio), and other non-subscription on-demand streaming services (such as YouTube, Vevo, and ad-supported Spotify).

Paid subscriptions experienced massive growth in the first half of 2016. The entrance of new services like Apple Music and TIDAL, and growth from services like Spotify Premium, helped both revenues and the number of paid subscriptions more than double versus the prior year. First half revenues from subscription music streaming services surpassed $1 billion for the first time, growing 112% to $1.01 billion.

Figure 2

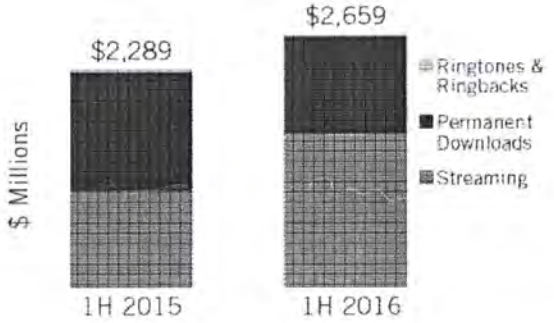
U.S. Paid Subscriptions, 1H Average
Source: RIAA



Subscriptions alone accounted for 30% of industry revenues for the first half of 2016, and the number of paid subscriptions grew 101% to average 18.3 million for the same period. The revenue growth from subscriptions alone more than offset the declines from physical sales and permanent digital downloads.

Figure 3

U.S. Digital Music Revenues Mid-Year
Source: RIAA

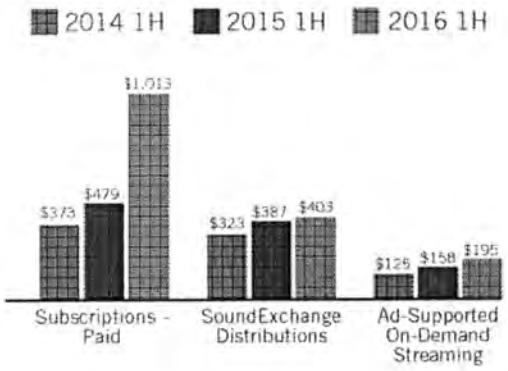


All three formats of streaming music had revenue growth in the first half of 2016. SoundExchange distributions grew 4% to $403 million, an all-time high for the first half of the year. On-demand ad-supported streaming grew 24% y-o-y to $195 million.

Figure 4

U.S. Streaming Music Revenue, Mid-Year

Source: RIAA



The total value of digitally distributed formats was $2.7 billion – up 16% compared to the 1H of 2015. Digital accounted for 80% of the overall market by value, compared with 74% for 1H 2015 (note Synchronization excluded from this figure).

Revenues from permanent digital downloads (including albums, single tracks, videos, and kiosk sales) declined 17% to $1.0 billion for the first half of 2016. Digital albums continued the trend of outperforming individual tracks. The total value of digital albums was $500 million, down 11% versus the same period the prior year, and digital album units were down 15% to 48.2 million. Digital track sales declined by value 22% to $520 million, with sales volume down 22% to 432 million units.

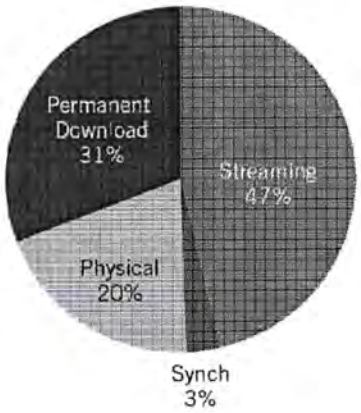
The total value of shipments in physical formats was $672 million, down 14% versus 1H 2015. CDs made up 66% of total physical shipments by value. Vinyl albums were down 6% by value for the first half of the year, and accounted for 31% of physical shipments by value. Synchronization royalties were $100 million for the first half of the year, virtually flat versus 1H 2015.

These first half 2016 results illustrate the emergence of paid subscriptions as a primary revenue driver for the United States music industry. For the first time, paid subscriptions were virtually on-par with paid downloads as the biggest single format revenue source. Streaming became the overall largest revenue contributor by a wide margin.

Figure 5

U.S. Recorded Music Revenues 1H 2016

Source: RIAA



Note – 2015 data has been updated.

Please note that the RIAA presents the most up-to-date information available in its industry revenue reports and online statistics database: https://www.riaa.com/u-s-sales-database.

For news media inquiries, please contact:
Jonathan Lamy
Cara Duckworth Weiblinger
Liz Kennedy
202-775-0101

2016 Mid-Year Industry Shipment and Revenue Statistics

202-775-0101

United States Unit Shipments and Estimated Retail Dollar Value (In Millions, net after returns)

DIGITAL PERMANENT DOWNLOAD

		1H 2015	1H 2016	% CHANGE 2015-2016
(Units Shipped) (Dollar Value)	**Download Single**	554.5 $665.2	432.0 $519.5	-22.1% -21.9%
	Download Album	56.4 $564.7	48.2 $500.1	-14.5% -11.4%
	Kiosk[1]	1.2 $2.0	1.0 $1.7	-19.2% -18.1%
	Music Video	1.8 $3.6	1.4 $2.8	-23.0% -23.0%
	Ringtones & Ringbacks	11.8 $29.3	9.1 $22.7	-22.6% -22.6%

DIGITAL SUBSCRIPTION & STREAMING

SoundExchange Distributions[2]	$387.2	$403.4	4.2%
Paid Subscription[3]	9.1 $478.6	18.3 $1,013.1	100.7% 111.7%
On-Demand Streaming (Ad-Supported)[4]	$158.2	$195.4	23.6%
TOTAL DIGITAL VALUE	$2,288.9	$2,658.7	16.2%
Synchronization Royalties[5]	$101.0	$100.4	-0.6%

PHYSICAL

(Units Shipped) (Dollar Value)	**CD**	43.8 $531.0	38.9 $443.9	-11.2% -16.4%
	CD Single	0.3 $0.8	0.0 -$0.1	-109.1% -118.4%
	LP/EP	9.2 $221.1	8.4 $207.1	-9.1% -6.3%
	Vinyl Single	0.4 $4.2	0.3 $3.2	-28.2% -23.9%
	Music Video	1.2 $23.9	0.8 $15.8	-32.8% -34.0%
	DVD Audio	0.1 $2.4	0.0 $1.5	-47.1% -39.6%
	SACD	0.0 $0.4	0.0 $0.5	13.8% 39.5%
	Total Physical Units **Total Physical Value**	55.0 $783.9	48.4 $671.9	-12.0% -14.3%
	Total Retail Units **Total Retail Value**	47.4 $727.4	41.0 $631.5	-13.5% -13.2%

TOTAL DIGITAL AND PHYSICAL

Total Units[6] **Total Value**	680.6 $3,173.8	540.0 $3,431.0	-20.7% 8.1%
% of Shipments[7]	**1H 2015**	**1H 2016**	
Physical	26%	20%	
Digital	74%	80%	

Retail Value is the value of shipments at recommended or estimated list price
Formats with no retail value equivalent included at wholesale value

Historical data updated for 2015
[1] Includes Singles and Albums
[2] Estimated payments in dollars to performers and copyright holders for digital radio services under statutory licenses
[3] Streaming, tethered, and other paid subscription services not operating under statutory licenses
Subscription volume is average number of subscriptions for subscription services

[4] Ad-supported audio and music video services not operating under statutory licenses
[5] Includes fees and royalties from synchronization of sound recordings with other media
[6] Units total includes both albums and singles, and does not include subscriptions or royalties
[7] Synchronization Royalties excluded from calculation

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For a list of authorized services see **www.whymusicmatters.com**

RIAA

NMPA Puts U.S. Publishing Revenues at $2.2 Billion Annually

By Ed Christman, New York | June 11, 2014 4:30 PM EDT

The National Music Publishers' Assn. has estimated that annual U.S. publishing revenues stand at $2.2 billion -- it's the first year the group has measured the market. The downside, however, to that large sum is that the trade group has also estimated publishers miss out on roughly $2.3 billion in revenue, owing to outdated copyright law and government regulations.

The NMPA apparently calculated the money the industry is missing out on by making an estimate based on direct deals cut by its members with the iTunes Radio service and the direct deals done with Pandora, before the PRO rate court judges ruled that publishes can't pull digital rights unless it pulls out completely from the PROs for all licensing.

Related

- NMPA Launches Suits Against Infringing Lyric Sites
- Executive Grammy Picks: NMPA's David Israelite
- RIAA, NMPA Laud White House's New Intellectual Property Enforcement Plan

"We are finally able to capture what the industry is worth and, more importantly, what our industry is losing," NMPA president and CEO David Israelite said in a statement. "The new digital marketplace is changing how songwriters and their music publishing partners can thrive. As the marketplace evolves, it is essential our industry no longer be hamstrung by outdated laws and government regulation."

With a change in its dues structure, NMPA can quantify the total industry revenue and value through information collected from its membership. The group's modernization program requires music publishing members to provide revenue data and captures market share information. The total industry revenue is based on numbers reported to NMPA by its members for 2013.

Based on reports from its members, NMPA estimates that performance licensing accounts for 52% of the U.S. publishing revenue; mechanical licensing 23%; synch licensing 20%; and other 5%.

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$25 billion: The best number to happen to the global music business in a very long time.

musicbusinessworldwide.com

By Tim Ingham 12/10/2015

The global music business is generating billions more dollars every year than most people appreciate.

And today MBW, with the help of leading industry economist **Will Page**, can reveal why and how.

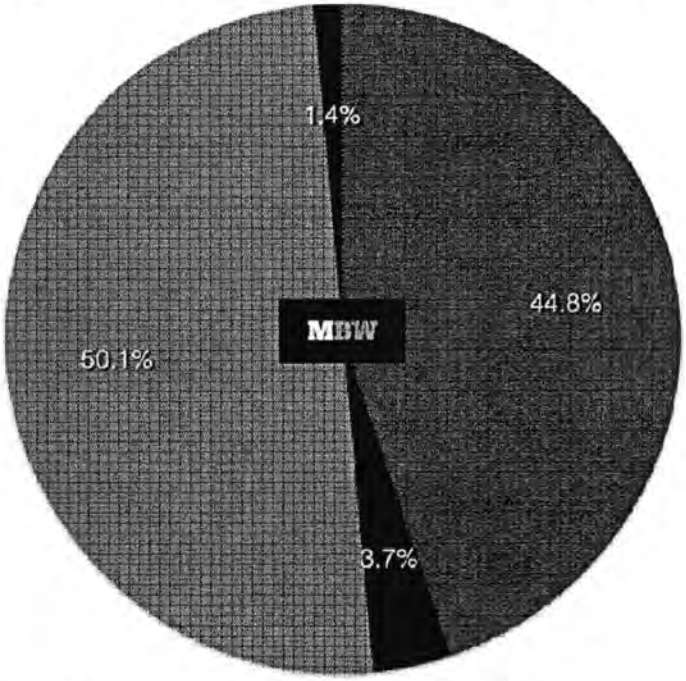
The headline news: across 2014, the worldwide music *copyright* industry – that's recorded music income plus publishing and songwriting ('musical works') – generated a grand total of **$25.28 billion**.

That's $10bn bigger than the **$15bn** generated by the recorded music industry last year – the IFPI stat by which the music business regularly measures its commercial strength.

Finally, for the first time, the music industry can now rely on an accurate analysis of the entire global value of its copyrights.

Big news.

2014 total global revenue of music copyright = $25.28bn



- Global Musical Works - $11.338bn
- IFPI Performance Rights - $945m
- IFPI Physical & Digital Music Revenues (minus mechanicals) - $12.654bn
- IFPI Sync - $343m

As he explains in an in-depth Q&A with MBW below, Will Page – Spotify's Director of Economics – has determined

that the global value of musical works last year stood at **$11.338bn**.

Importantly, that figure includes mechanical copyright royalties *passed through to publishers from labels*.

To get to our all-important **$25.28bn** sum, therefore, this number must be removed from the recorded music industry's **$15bn** 2014 revenue figure so we're not 'double counting'.

The total worth of this mechanical royalty sum last year: **$1.072bn**.

(Page worked out this mechanical figure by calculating the value of physical music in the IFPI's essential tome, Recording Industry in Numbers (RIN), then deducting out the publisher's share. He then did the same for digital downloads in the US, which also produce a mechanical pass-through revenue from labels.)

In other words, after mechanical royalties had been paid out by labels to publishers, **the income of recorded music rightsholders in 2014 was not the oft-cited $15bn, but actually $13.9bn.**

The publishing/songwriting segment of the worldwide music business in the same 12 months generated $11.338bn.

When you dig further into Page's analysis, you find plenty of questions about how the music industry sees itself, and how it should be shaped in future.

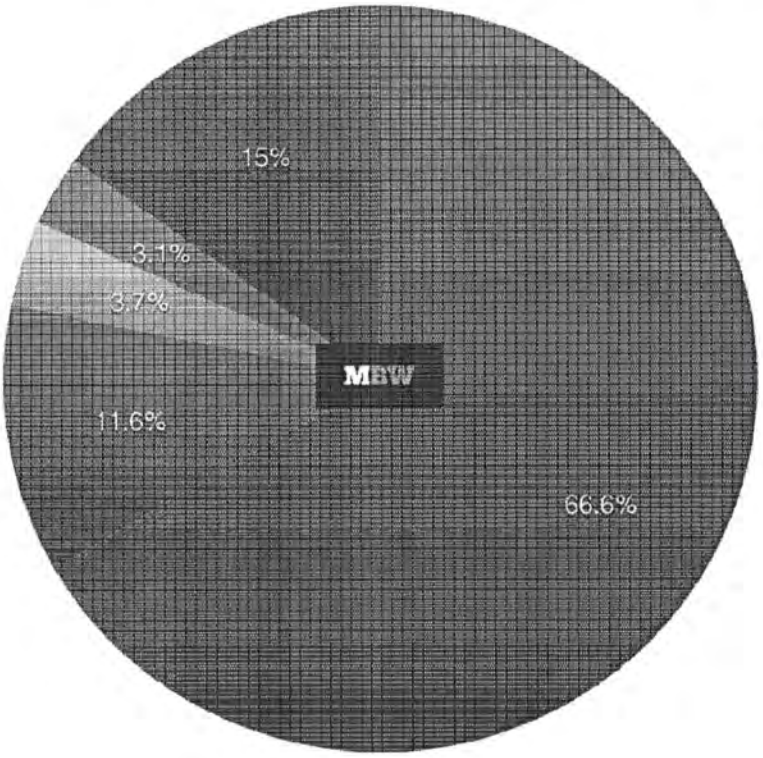
Before we get there, though, let's briefly examine how Page has placed a figure on the global annual revenues generated by musical works in 2014 – a real milestone for the worldwide publishing business.

Page has deduced that the publishing/songwriting segment of the worldwide music business generated **$11.338bn** last year across five separate income streams:

Global Value of Musical Works ($m)

Source	2014	Notes
CISAC Performing Collections	$7,553	CISAC, Music's Share
CISAC Mechanical Collections	$1,319	CISAC, Music's Share
CISAC Private Copying Collections	$346	CISAC, Music's Share
Publisher Directly Licensed Revenues	$1,698	MIDIA Model
Non-CISAC Mechanical Collections	$423	e.g. Harry Fox Agency
Total Value of Musical Works	$11,338	

2014 global value of musical works = $11.34bn



- Performing Collections - $7.55bn
- Mechanical Collections - $1.32bn
- Non-CISAC Mechanical - $423m
- Private Copying - $346m
- Directly Licensed - $1.7bn

Sources: CISAC, MIDIA, IFPI, Media Insight Consulting and Will Page

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MBW sat down with **Will Page** (pictured inset) to delve deeper into how he came up with such revelatory numbers – using sources for his data including the IFPI, CISAC, Mark Mulligan's MIDIA, Media Insight Consulting and more…

You've managed to put a figure on the global value of musical works. Has this been done before, and why did you set about doing it?

Whereas the IFPI publishes the Recording Industry in Numbers [annual report], the music publishing and songwriter

side of the industry has not had a similar document to serve the industry and its analysts.

"I wanted to plug the knowledge gap for the publishing and songwriter side of the industry."

I wanted to plug the knowledge gap, as industry analysts and professionals often don't appreciate the sheer value of musical works that songwriters and publishers create.

What's more, few folks seemed to know the 'snakes and ladders' process of how to calculate it.

What are those snakes and ladders you refer to in arriving at the $11.338bn figure?

The first one is 'double counting', which has bugged me for some time.

Songwriter value is captured in the IFPI RIN, as there is a mechanical copyright that is passed-through from the label to the publishers.

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Spotify Explained

spotifyartists.com spotify-explained/

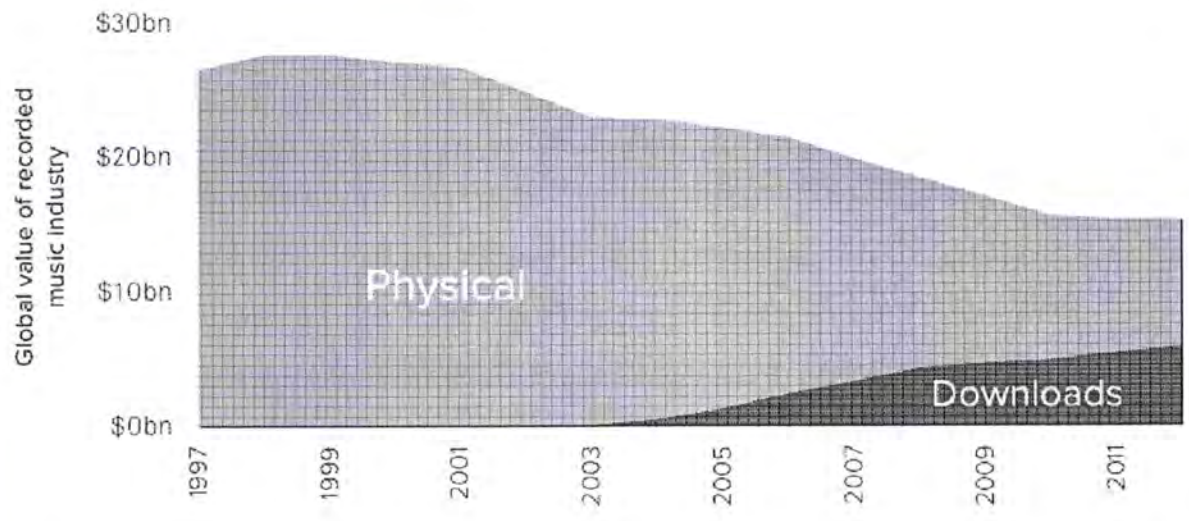
How is Spotify contributing to the music business?

It all used to be so simple. People would hear a tune they liked on the radio, then go to a shop and buy the physical recording of it. Over the past few decades, this simple standard has fragmented into a diversity of consumption activities, from piracy and iTunes downloading to on-demand streaming from YouTube and others. Unfortunately, the majority of music consumption today generates little to no money for artists. We are working hard to fix this, and are proud to offer music fans a legal and paid service capable of generating for artists the royalties that they deserve.

By bringing listeners into our free, ad-supported tier, we migrate them away from piracy and less monetised platforms and allow them to generate far greater royalties than they were before. Once they are using our free tier, we drive users to our premium subscription tier, at least doubling the amount that they spend on music, from less than $5 per month (the average spent by download consumers in The US) to $9.99 per month for Spotify.

We have succeeded in growing revenues for artists and labels in every country where we operate, and have now paid out more than $3 Billion USD in royalties to-date (more than $300m of which was paid out in the first three months of 2015 alone). We have proudly achieved these payouts despite having relatively few users compared to radio, iTunes or Pandora, and as we continue to grow we expect that we will generate many billions more in royalties!

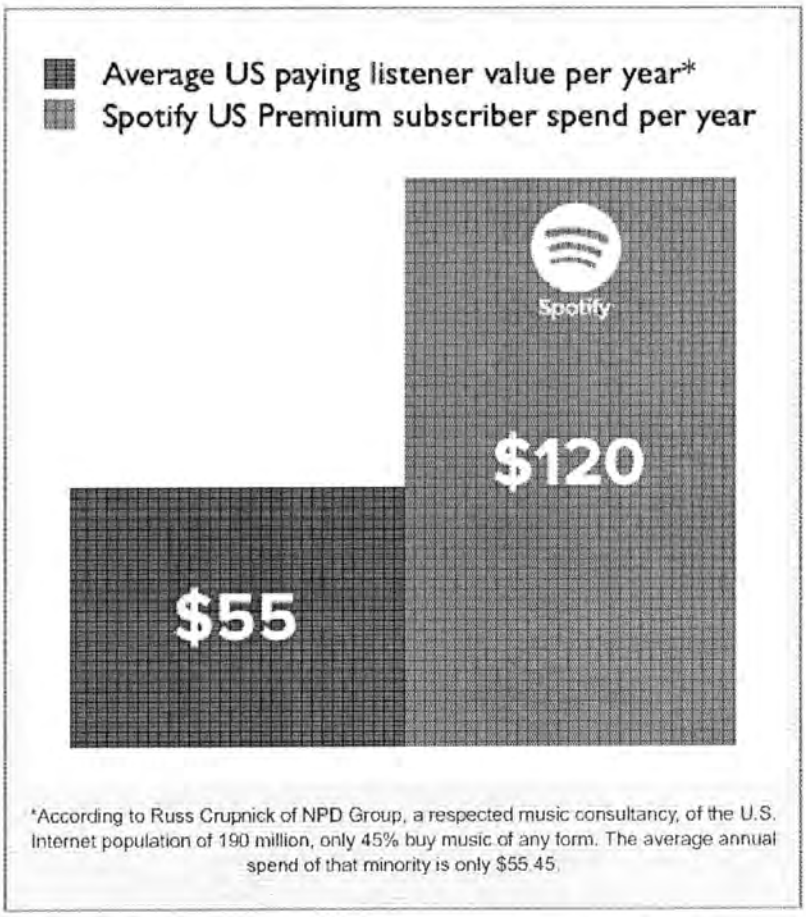
The chart below shows the decline in the recorded music industry since 1997. Whilst the growth of digital downloads has replaced some of this value, the majority of revenue in the industry has evaporated. This rapid decline is not due to a fall in music consumption but to a shift in music listening behavior towards formats that do not generate significant income for artists.



The decline in the recorded music industry over the last 15 years. Digital downloads have not been able to make up for the decrease in physical sales. Spotify is attempting to restore much of the lost value by convincing music fans to pay for music once again.

Spotify's model aims to regenerate this lost value by converting music fans from these poorly monetized formats to our paid streaming format, which produces far more value per listener. The chart below shows the money a Spotify

Premium customer spends per year compared to the average spend of a US music consumer who buys music (not including those who spend $0 on music).

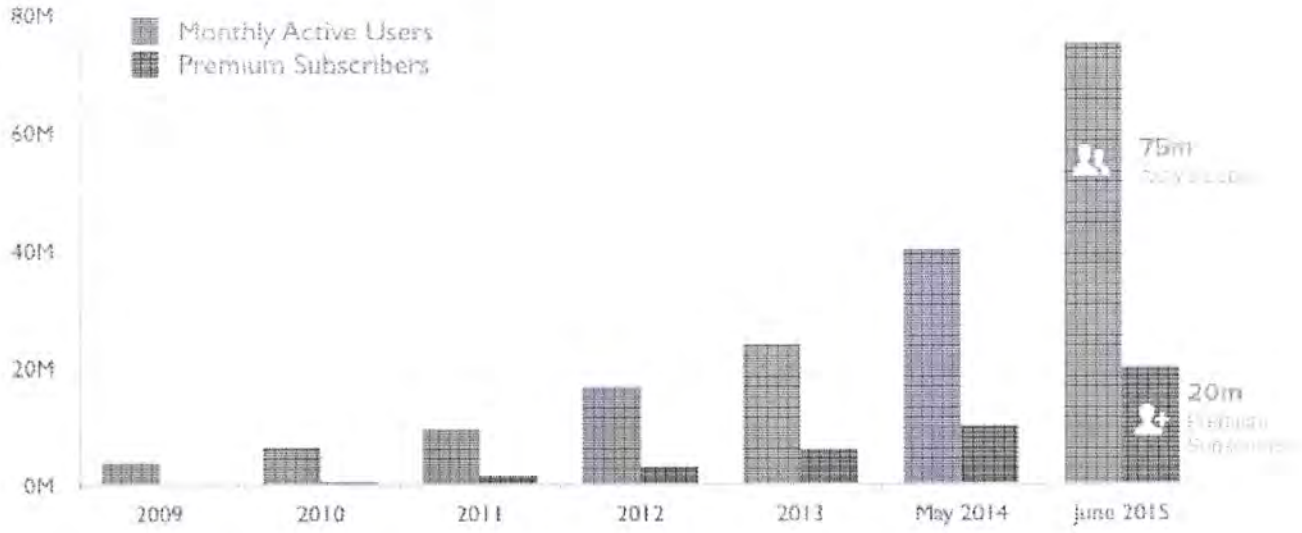


A Spotify Premium user delivers more than 2 x the amount of revenue to the industry (per year) as the average US music consumer currently does. Spotify's goal is to convince millions of people around the world to become Premium subscribers and by doing so to re-grow the music industry. The next section shows Spotify's progress in achieving this so far.

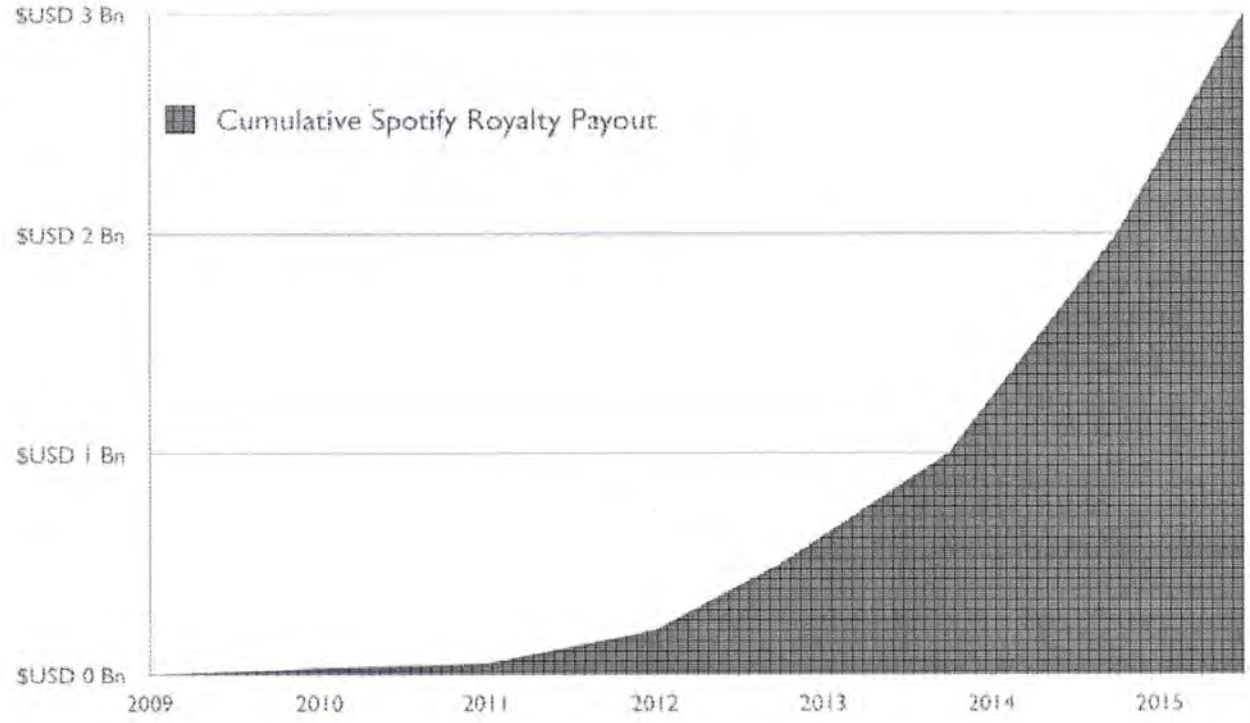
Spotify's progress so far

Spotify has already made considerable progress towards restoring the value lost to piracy and other less well monetized forms of music consumption. As of November 2015, Spotify had over 75 million monthly active users with more than 20 million people paying a monthly subscription to use Spotify's Premium tier.

The chart below shows Spotify's rapid user growth over the past few years:

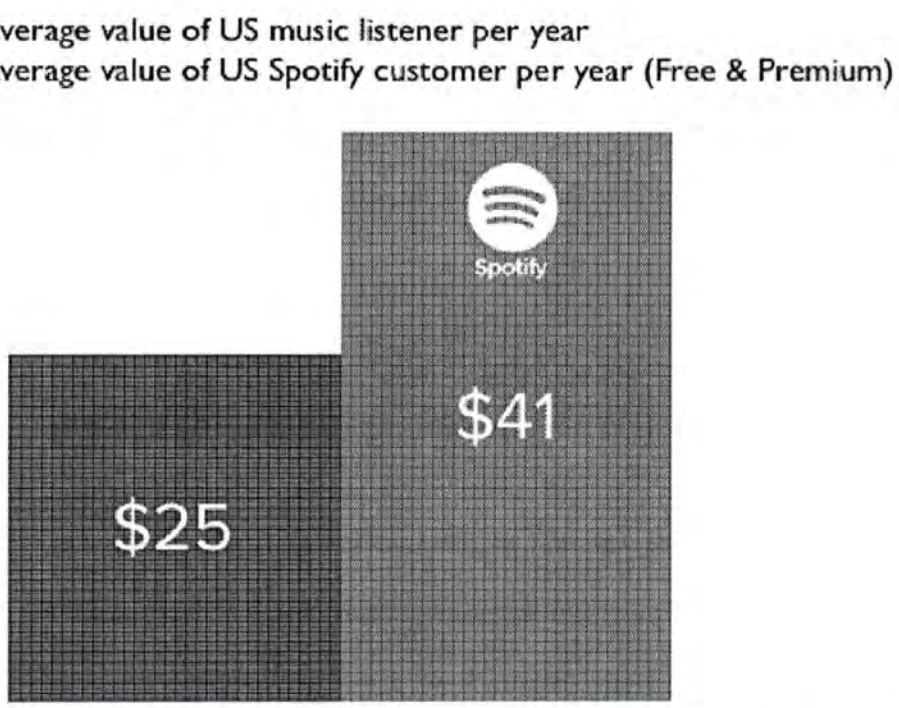


The important fact to note is that for every new Spotify user, we increase the amount of revenue we receive and, in turn, the amount of royalties we pay out to the industry (see section below on how Spotify's royalties relate to revenues). The chart below shows how our user growth has resulted in rapid year-on-year growth in the amount of money Spotify pays out in royalties. In June 2015, Spotify's CEO Daniel Ek announced that we have now paid out over $3 billion in royalties with $300m of that coming in the first 3 months of 2015 alone.



In addition to increasing the royalties Spotify contributes to the industry, we've also successfully grown the amount of money each of our users is worth. By 2013, the amount of money we earn per user (average revenue per user) has grown to $41 per year. This is an average between our premium users who spend $120 per year and our free tier users who pay for their consumption by viewing and listening to advertising.

The average amount of money spent by US adults on music is $25, whereas the average Spotify user is worth $41 (our total revenue divided by our total # of users). Simply put, a Spotify customer is 1.6x more financially valuable than the average adult non-Spotify US music consumer.



The green bar on this chart shows the amount of revenue generated per Spotify user, including our free users. The dark bar shows the revenue generated by an average US internet adult taking into account that 1 in 3 adults spend $0 per year on music.

All this being said, Spotify still has tremendous room to grow. By the end of 2014 Spotify was live in 58 countries around the world. In 2015, we plan to continue this to roll out to new markets around the world and this will help us add millions more users quickly and in turn enable us to pay even more out in royalties. This international growth will

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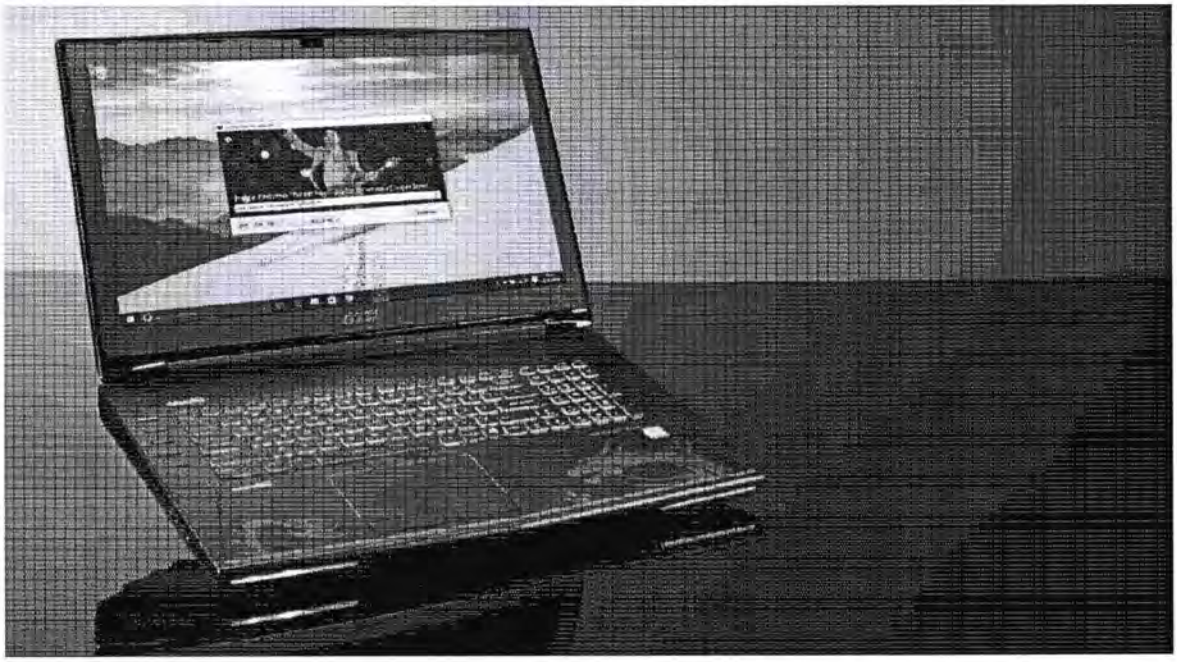
The best free YouTube downloader 2016

techradar.com/news/software/applications/top-5-best-youtube-downloaders-1260778

Gary Marshall



Download YouTube videos free

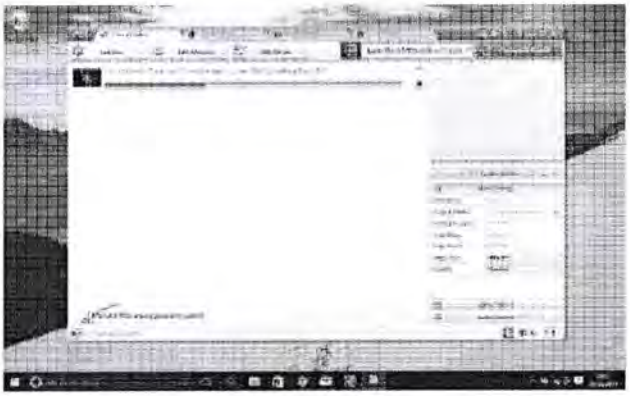
YouTube's streaming is superb, offering the best quality for your current connection. But what happens if you're going somewhere where connectivity is weak or non-existent? Have no fear; with the right YouTube video downloader you can save streams for offline viewing.

Before we proceed it's important to note that you should only download videos when you have the copyright owner's permission to do so. YouTube's terms of service explicitly prohibit unauthorised downloading.

ADVERTISING

It's also important to note that many of these programs will install bundled software toolbars, default search engines and so on if you're not careful with their installers' 'Next' and 'Accept' buttons. None of these apps currently include malware or non-removable adware, but many of their rivals do. Be careful out there.

Have we missed any of your favourite YouTube video downloader? Let us know in the comments below.



Download YouTube videos, record video, convert media and much more with Any Video Converter

1. Any Video Converter

A speedy free downloader with format conversion and special effects

Any Video Converter claims to be a kind of Swiss Army Knife for video: not only does it download YouTube videos, but it can burn DVDs and record video, convert audio and video to and from more than 60 different file formats and even add effects.

It's not the fastest converter around (the free version isn't optimized for multi-core processors) but it downloads videos quickly.

If you don't pony up £37 (about US$50, AU$70) for the Pro version you're limited to one download at a time, but that's a minor drawback and it's a particularly useful program for getting YouTube clips onto devices such as PSPs and smartphones.

Use aTube Catcher to download and convert videos from YouTube

2. aTube Catcher

Download, convert, merge and even record videos as they're playing

Like Any Video Converter, aTube Catcher can do lots of things: in addition to video downloading it can create and convert all kinds of video, find clips you've watched from your internet history and merge multiple files together.

There's even a screen recorder which can grab video as it's playing, which is handy for making screencasts.

It's very quick and offers a huge range of output options, and it's nice to have parallel downloading and multi-core processing in a freeware program. Not only that, but its requirements are modest: it works with operating systems as old as Windows 98.

Download multiple videos at once with Free YouTube Download

3. Free YouTube Download

Download multiple videos at once, in resolutions up to 8K

The installer is a little too keen on adding bundled software, but Free YouTube Download is very good and completely free. Its focus is on the downloading rather than converting files from one format to another, so you get a good multi-stream download manager for grabbing several clips simultaneously.

It can download files of up to 8K resolution (in MKV) and convert to AVI and MP4. If you're in a hurry, there's also an online YouTube to MP3/MP4 converter on the developer's website.

Ummy Video Downloader isn't as flashy as some of the alternatives, but it's convenient and has modest system requirements

4. Ummy Video Downloader

A simple, slimline downloader that won't stress your PC

Ummy Video Downloader is designed to do just one thing, and that's download YouTube videos and save them as video or audio files. There are no fancy bells or whistles, making it a slim package that puts minimal demands on your PC.

The interface is clean and good-looking, and in a nice touch it grabs the video's main image to use as a backdrop while the clip downloads. It can save as FLV, MKV, MOV, AVI, MP3 and MPG, it doesn't gobble up system resources and it's completely free.

Ummy doesn't have the extensive file conversion options of some other YouTube download apps, but it covers the basics perfectly well.

YTD Video Downloader can grab video from over 60 video sites

5. YTD Video Downloader

Download videos from more than 60 sites, including YouTube and Vimeo

YTD Video Downloader comes in two flavors: Basic, which is free, and Pro, which costs £18.90 (about AU$40,

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The New York Times | http://nyti.ms/2a4lMQi

MEDIA

Apple, in Seeming Jab at Spotify, Proposes Simpler Songwriting Royalties

By BEN SISARIO JULY 15, 2016

In the music industry's streaming battles, the fight extends to even the minutiae of copyright.

Apple, in a government filing on Friday, proposed simplifying the highly complex way that songwriting royalties are paid when it comes to on-demand streaming services like Apple Music, Spotify and Tidal.

According to Apple's proposal, made with the Copyright Royalty Board, a panel of federal judges who oversee rates in the United States, streaming services should pay 9.1 cents in songwriting royalties for every 100 times a song is played. This formula would replace the long passages of federal rules for streaming rates, which often leave musicians bewildered about just how the money flows in streaming music.

But even in this seemingly innocuous proposal, which was not made public but was obtained by The New York Times, Apple's target is clear: Spotify, its archenemy in streaming music. The proposal would significantly raise the rates that Spotify pays, and the filing includes lines that are clearly directed at Spotify and its so-called freemium model.

"An interactive stream has an inherent value," Apple wrote, "regardless of the business model a service provider chooses."

A spokeswoman for Apple confirmed the filing but declined to comment further.

SPOTIFY EXHIBIT 46

Apple's streaming service, Apple Music, was introduced a year ago, and it has earned the support of many power players in the music industry — including Taylor Swift — because it does not offer a free version, but instead charges about $10 a month. Spotify, begun in Europe in 2008, has both free and paid versions. This has led to a tense relationship with record companies and music publishers, who say the service's free tier does not pay enough in royalties and devalues their music across the board.

The battle over free music has extended to YouTube, which the music industry has been campaigning against for months, arguing that the service does not pay enough in royalties and that the availability of so much free music on the site has hampered the growth of paid services. Both Spotify and YouTube counter that they have paid billions of dollars to the music industry.

Last month, Apple said that Apple Music had 15 million subscribers, and Spotify reported that it had 30 million paid users and another 70 million who listen free, with ads.

Although Apple Music has a three-month free trial period, the company has stood staunchly by its model of paid music. "We agree 100 percent with artists that they should have the right to decide where their content is available — whether it's free or when it's free, when it should be paid or how much it should cost," Eddy Cue, Apple's senior vice president of internet software and services, said in an interview this week with The Hollywood Reporter.

Apple's filing was made as part of a proceeding by the Copyright Royalty Board to set statutory rates for downloads and interactive streaming services from 2018 to 2022. Spotify, Google, Pandora, Amazon and the Recording Industry Association of America were all expected to file their proposals by Friday, but the panel has not yet made the filings public.

Although the bulk of Apple's proposal with the Copyright Royalty Board is confined to three brief paragraphs, it would have wide implications if it were adopted. Songwriting rates paid by interactive streaming services like Spotify are now governed by a byzantine system that includes a division between what are known as mechanical and performance royalties for the same songs. Apple's

SPOTIFY EXHIBIT 46

proposal would cover all songwriting royalties with the same rate. (Royalties for recordings are accounted separately.)

What Apple does not say in its filing, however, is that the statutory rates it proposes would not apply to its own services. When the company introduced Apple Music last year, it struck direct deals with music publishers at rates that are slightly higher than usual.

A version of this article appears in print on July 16, 2016, on page B6 of the New York edition with the headline: Apple, in Seeming Jab at Spotify, Proposes Songwriting Royalties.

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SPOTIFY EXHIBIT 46

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

Form 10-K

(Mark One)

☒ **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the fiscal year ended September 24, 2016

or

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from _____ to _____

Commission File Number: 001-36743

Apple Inc.

(Exact name of Registrant as specified in its charter)

California	**94-2404110**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)
1 Infinite Loop Cupertino, California	**95014**
(Address of principal executive offices)	(Zip Code)

(408) 996-1010

(Registrant's telephone number, including area code)

Securities registered pursuant to Section 12(b) of the Act:

Common Stock, $0.00001 par value per share	**The NASDAQ Stock Market LLC**
1.000% Notes due 2022	**New York Stock Exchange LLC**
1.375% Notes due 2024	**New York Stock Exchange LLC**
1.625% Notes due 2026	**New York Stock Exchange LLC**
2.000% Notes due 2027	**New York Stock Exchange LLC**
3.050% Notes due 2029	**New York Stock Exchange LLC**
3.600% Notes due 2042	**New York Stock Exchange LLC**
(Title of class)	(Name of exchange on which registered)

Securities registered pursuant to Section 12(g) of the Act: None

Indicate by check mark if the Registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.

Yes ☒ No ☐

Indicate by check mark if the Registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act.

Yes ☐ No ☒

Indicate by check mark whether the Registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the Registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes ☒ No ☐

Indicate by check mark whether the Registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the Registrant was required to submit and post such files).

Yes ☒ No ☐

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§229.405 of this chapter) is not contained herein, and will not be contained, to the best of the Registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ☐

Indicate by check mark whether the Registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer ☒		Accelerated filer	☐
Non-accelerated filer ☐	(Do not check if a smaller reporting company)	Smaller reporting company	☐

Indicate by check mark whether the Registrant is a shell company (as defined in Rule 12b-2 of the Act).

Yes ☐ No ☒

The aggregate market value of the voting and non-voting stock held by non-affiliates of the Registrant, as of March 25, 2016, the last business day of the Registrant's most recently completed second fiscal quarter, was approximately $578,807,000,000. Solely for purposes of this disclosure, shares of common stock held by executive officers and directors of the Registrant as of such date have been excluded because such persons may be deemed to be affiliates. This determination of executive officers and directors as affiliates is not necessarily a conclusive determination for any other purposes.

5,332,313,000 shares of common stock were issued and outstanding as of October 14, 2016.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the Registrant's definitive proxy statement relating to its 2017 annual meeting of shareholders (the "2017 Proxy Statement") are incorporated by reference into Part III of this Annual Report on Form 10-K where indicated. The 2017 Proxy Statement will be filed with the U.S. Securities and Exchange Commission within 120 days after the end of the fiscal year to which this report relates.

Apple Inc.
Form 10-K

For the Fiscal Year Ended September 24, 2016

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This Annual Report on Form 10-K ("Form 10-K") contains forward-looking statements, within the meaning of the Private Securities Litigation Reform Act of 1995, that involve risks and uncertainties. Many of the forward-looking statements are located in Part II, Item 7 of this Form 10-K under the heading "Management's Discussion and Analysis of Financial Condition and Results of Operations." Forward-looking statements provide current expectations of future events based on certain assumptions and include any statement that does not directly relate to any historical or current fact. Forward-looking statements can also be identified by words such as "future," "anticipates," "believes," "estimates," "expects," "intends," "plans," "predicts," "will," "would," "could," "can," "may," and similar terms. Forward-looking statements are not guarantees of future performance and the Company's actual results may differ significantly from the results discussed in the forward-looking statements. Factors that might cause such differences include, but are not limited to, those discussed in Part I, Item 1A of this Form 10-K under the heading "Risk Factors," which are incorporated herein by reference. All information presented herein is based on the Company's fiscal calendar. Unless otherwise stated, references to particular years, quarters, months or periods refer to the Company's fiscal years ended in September and the associated quarters, months and periods of those fiscal years. Each of the terms the "Company" and "Apple" as used herein refers collectively to Apple Inc. and its wholly-owned subsidiaries, unless otherwise stated. The Company assumes no obligation to revise or update any forward-looking statements for any reason, except as required by law.

PART I

Item 1. Business

Company Background

The Company designs, manufactures and markets mobile communication and media devices, personal computers and portable digital music players, and sells a variety of related software, services, accessories, networking solutions and third-party digital content and applications. The Company's products and services include iPhone®, iPad®, Mac®, iPod®, Apple Watch®, Apple TV®, a portfolio of consumer and professional software applications, iOS, macOS™, watchOS® and tvOS™ operating systems, iCloud®, Apple Pay® and a variety of accessory, service and support offerings. The Company sells and delivers digital content and applications through the iTunes Store®, App Store®, Mac App Store, TV App Store, iBooks Store™ and Apple Music® (collectively "Internet Services"). The Company sells its products worldwide through its retail stores, online stores and direct sales force, as well as through third-party cellular network carriers, wholesalers, retailers and value-added resellers. In addition, the Company sells a variety of third-party Apple compatible products, including application software and various accessories through its retail and online stores. The Company sells to consumers, small and mid-sized businesses and education, enterprise and government customers. The Company's fiscal year is the 52 or 53-week period that ends on the last Saturday of September. The Company is a California corporation established in 1977.

Business Strategy

The Company is committed to bringing the best user experience to its customers through its innovative hardware, software and services. The Company's business strategy leverages its unique ability to design and develop its own operating systems, hardware, application software and services to provide its customers products and solutions with innovative design, superior ease-of-use and seamless integration. As part of its strategy, the Company continues to expand its platform for the discovery and delivery of digital content and applications through its Internet Services, which allows customers to discover and download digital content, iOS, Mac, Apple Watch and Apple TV applications, and books through either a Mac or Windows personal computer or through iPhone, iPad and iPod touch® devices ("iOS devices"), Apple TV and Apple Watch. The Company also supports a community for the development of third-party software and hardware products and digital content that complement the Company's offerings. The Company believes a high-quality buying experience with knowledgeable salespersons who can convey the value of the Company's products and services greatly enhances its ability to attract and retain customers. Therefore, the Company's strategy also includes building and expanding its own retail and online stores and its third-party distribution network to effectively reach more customers and provide them with a high-quality sales and post-sales support experience. The Company believes ongoing investment in research and development ("R&D"), marketing and advertising is critical to the development and sale of innovative products and technologies.

Business Organization

The Company manages its business primarily on a geographic basis. The Company's reportable operating segments consist of the Americas, Europe, Greater China, Japan and Rest of Asia Pacific. The Americas segment includes both North and South America. The Europe segment includes European countries, as well as India, the Middle East and Africa. The Greater China segment includes China, Hong Kong and Taiwan. The Rest of Asia Pacific segment includes Australia and those Asian countries not included in the Company's other reportable operating segments. Although the reportable operating segments provide similar hardware and software products and similar services, each one is managed separately to better align with the location of the Company's customers and distribution partners and the unique market dynamics of each geographic region. Further information regarding the Company's reportable operating segments may be found in Part II, Item 7 of this Form 10-K under the subheading "Segment Operating Performance," and in Part II, Item 8 of this Form 10-K in the Notes to Consolidated Financial Statements in Note 11, "Segment Information and Geographic Data."

SPOTIFY EXHIBIT 47

Products

iPhone

iPhone is the Company's line of smartphones based on its iOS operating system. iPhone includes Siri®, a voice activated intelligent assistant, and Apple Pay and Touch ID® on qualifying devices. In September 2016, the Company introduced iPhone 7 and 7 Plus, featuring new camera systems, immersive stereo speakers and water and dust resistance. During the third quarter of 2016, the Company also began selling iPhone SE, which has a 4-inch Retina® display. iPhone works with the iTunes Store, App Store, iBooks Store and Apple Music for purchasing, organizing and playing digital content and apps.

iPad

iPad is the Company's line of multi-purpose tablets based on its iOS operating system, which includes iPad Pro™, iPad Air® and iPad mini™. iPad includes Siri and also includes Touch ID on qualifying devices. iPad works with the iTunes Store, App Store, iBooks Store and Apple Music for purchasing, organizing and playing digital content and apps.

Mac

Mac is the Company's line of desktop and portable personal computers based on its macOS operating system. The Company's desktop computers include iMac®, 21.5" iMac with Retina 4K display, 27" iMac with Retina 5K display, Mac Pro® and Mac mini®. The Company's portable computers include MacBook®, MacBook Air®, MacBook Pro® and MacBook Pro with Retina display.

Operating System Software

iOS

iOS is the Company's Multi-Touch™ operating system that serves as the foundation for iOS devices. Devices running iOS are compatible with both Mac and Windows personal computers and Apple's iCloud services. In September 2016, the Company released iOS 10, which introduces the ability for Siri to do more by working with apps, updates Messages, includes redesigned Maps, Photos, Apple Music and News apps, and the Home app, which provides a way to manage home automation products in one place.

macOS

macOS is the Company's Mac operating system and is built on an open-source UNIX-based foundation and provides an intuitive and integrated computer experience. Support for iCloud is built into macOS so users can access content and information from Mac, iOS devices and other supported devices and access downloaded content and apps from the iTunes Store. macOS Sierra, released in September 2016, is the 13th major release of macOS and incorporates Siri and Apple Pay on the Mac, improves continuity and document access across Apple devices and includes the new Memories feature in Photos.

watchOS

watchOS is the Company's operating system for Apple Watch. Released in September 2016, watchOS 3 provides improved performance with the ability to launch favorite apps instantly, enhanced navigation with the new Dock and new fitness and health capabilities for Apple Watch, including the Breathe app designed to promote exercises for relaxation and stress reduction.

tvOS

tvOS is the Company's operating system for Apple TV. The tvOS operating system is based on the Company's iOS platform and enables developers to create new apps and games specifically for Apple TV and deliver them to customers through the Apple TV App Store. The new tvOS, released in September 2016, incorporates new Siri capabilities that allow searching across more apps and services.

Application Software

The Company's application software includes iLife®, iWork® and various other software, including Final Cut Pro®, Logic® Pro X and FileMaker® Pro. iLife is the Company's consumer-oriented digital lifestyle software application suite included with all Mac computers and features iMovie®, a digital video editing application, and GarageBand®, a music creation application that allows users to play, record and create music. iWork is the Company's integrated productivity suite included with all Mac computers and is designed to help users create, present and publish documents through Pages®, presentations through Keynote® and spreadsheets through Numbers®. The Company also has Multi-Touch versions of iLife and iWork applications designed specifically for use on iOS devices, which are available as free downloads for all new iOS devices.

SPOTIFY EXHIBIT 47

Services

Internet Services

The iTunes Store, available for iOS devices, Mac and Windows personal computers and Apple TV, allows customers to purchase and download music and TV shows, rent or purchase movies and download free podcasts. The App Store, available for iOS devices, allows customers to discover and download apps and purchase in-app content. The Mac App Store, available for Mac computers, allows customers to discover, download and install Mac applications. The TV App Store allows customers access to apps and games specifically for the Apple TV. The iBooks Store, available for iOS devices and Mac computers, features e-books from major and independent publishers. Apple Music offers users a curated listening experience with on-demand radio stations that evolve based on a user's play or download activity and a subscription-based internet streaming service that also provides unlimited access to the Apple Music library.

iCloud

iCloud is the Company's cloud service which stores music, photos, contacts, calendars, mail, documents and more, keeping them up-to-date and available across multiple iOS devices, Mac and Windows personal computers and Apple TV. iCloud services include iCloud Drive®, iCloud Photo Library, Family Sharing, Find My iPhone, iPad or Mac, Find My Friends, Notes, iCloud Keychain® and iCloud Backup for iOS devices.

AppleCare

AppleCare® offers a range of support options for the Company's customers. These include assistance that is built into software products, printed and electronic product manuals, online support including comprehensive product information as well as technical assistance, the AppleCare Protection Plan ("APP") and the AppleCare+ Protection Plan ("AC+"). APP is a fee-based service that typically extends the service coverage of phone support, hardware repairs and dedicated web-based support resources for Mac, Apple TV and display products. AC+ is a fee-based service offering additional coverage under some circumstances for instances of accidental damage in addition to the services offered by APP and is available in certain countries for iPhone, iPad, Apple Watch and iPod.

Apple Pay

Apple Pay is the Company's mobile payment service available in certain countries that offers an easy, secure and private way to pay. Apple Pay allows users to pay for purchases in stores accepting contactless payments and to pay for purchases within participating apps on qualifying devices. Apple Pay accepts credit and debit cards across major card networks and also supports reward programs and store-issued credit and debit cards.

Other Products

Accessories

The Company sells a variety of Apple-branded and third-party Mac-compatible and iOS-compatible accessories, including Apple TV, Apple Watch, Beats products, iPod, headphones, displays, storage devices, and various other connectivity and computing products and supplies. In September 2016, the Company introduced AirPods™, new wireless headphones that interact with Siri.

Apple TV

Apple TV connects to consumers' TVs and enables them to access digital content directly for streaming high definition video, playing music and games, and viewing photos. Content from Apple Music and other media services are also available on Apple TV. Apple TV allows streaming digital content from Mac and Windows personal computers through Home Share and from compatible Mac and iOS devices through AirPlay®. The Company's Apple TV runs on its tvOS operating system and is based on apps built for the television. Additionally, the Apple TV remote features Siri, allowing users to search and access content with their voice.

Apple Watch

Apple Watch is a personal electronic device that combines the watchOS user interface and technologies created specifically for a smaller device, including the Digital Crown™, a unique navigation tool that allows users to seamlessly scroll, zoom and navigate, and Force Touch, a technology that senses the difference between a tap and a press and allows users to access controls within apps. Apple Watch enables users to communicate in new ways from their wrist, track their health and fitness through activity and workout apps, and includes Siri and Apple Pay. In September 2016, the Company introduced Apple Watch Series 2, featuring new fitness and health capabilities, built-in GPS and a 50-meter water resistance rating for swimming.

SPOTIFY EXHIBIT 47

iPod

iPod is the Company's line of portable digital music and media players, which includes iPod touch, iPod nano® and iPod shuffle®. All iPods work with iTunes to purchase and synchronize content. iPod touch, based on the Company's iOS operating system, is a flash-memory-based iPod that works with the iTunes Store, App Store and iBooks Store for purchasing and playing digital content and apps.

Developer Programs

The Company's developer programs support app developers with building, testing and distributing apps for iOS, macOS, watchOS and tvOS. Developer program membership provides access to beta software and advanced app capabilities (e.g., CloudKit®, HealthKit™ and Apple Pay), the ability to test apps using TestFlight®, distribution on the App Store, access to App Analytics and code-level technical support. Developer programs also exist for businesses creating apps for internal use (the Apple Developer Enterprise Program) and developers creating accessories for Apple devices (the MFi Program). All developers, even those who are not developer program members, can sign in with their Apple ID to post on the Apple Developer Forums and use Xcode®, the Company's integrated development environment for creating apps for Apple platforms. Xcode includes project management tools; analysis tools to collect, display and compare app performance data; simulation tools to locally run, test and debug apps; and tools to simplify the design and development of user interfaces. All developers also have access to extensive technical documentation and sample code.

Markets and Distribution

The Company's customers are primarily in the consumer, small and mid-sized business, education, enterprise and government markets. The Company sells its products and resells third-party products in most of its major markets directly to consumers and small and mid-sized businesses through its retail and online stores and its direct sales force. The Company also employs a variety of indirect distribution channels, such as third-party cellular network carriers, wholesalers, retailers and value-added resellers. During 2016, the Company's net sales through its direct and indirect distribution channels accounted for 25% and 75%, respectively, of total net sales.

The Company believes that sales of its innovative and differentiated products are enhanced by knowledgeable salespersons who can convey the value of the hardware and software integration and demonstrate the unique solutions that are available on its products. The Company further believes providing direct contact with its targeted customers is an effective way to demonstrate the advantages of its products over those of its competitors and providing a high-quality sales and after-sales support experience is critical to attracting new and retaining existing customers.

To ensure a high-quality buying experience for its products in which service and education are emphasized, the Company continues to build and improve its distribution capabilities by expanding the number of its own retail stores worldwide. The Company's retail stores are typically located at high-traffic locations in quality shopping malls and urban shopping districts. By operating its own stores and locating them in desirable high-traffic locations the Company is better positioned to ensure a high quality customer buying experience and attract new customers. The stores are designed to simplify and enhance the presentation and marketing of the Company's products and related solutions. The retail stores employ experienced and knowledgeable personnel who provide product advice, service and training and offer a wide selection of third-party hardware, software and other accessories that complement the Company's products.

The Company has also invested in programs to enhance reseller sales by placing high-quality Apple fixtures, merchandising materials and other resources within selected third-party reseller locations. Through the Apple Premium Reseller Program, certain third-party resellers focus on the Apple platform by providing a high level of product expertise, integration and support services.

The Company is committed to delivering solutions to help educators teach and students learn. The Company believes effective integration of technology into classroom instruction can result in higher levels of student achievement and has designed a range of products, services and programs to address the needs of education customers. The Company also supports mobile learning and real-time distribution of, and access to, education related materials through iTunes U, a platform that allows students and teachers to share and distribute educational media online. The Company sells its products to the education market through its direct sales force, select third-party resellers and its retail and online stores.

The Company also sells its hardware and software products to enterprise and government customers in each of its reportable operating segments. The Company's products are deployed in these markets because of their performance, productivity, ease of use and seamless integration into information technology environments. The Company's products are compatible with thousands of third-party business applications and services, and its tools enable the development and secure deployment of custom applications as well as remote device administration.

No single customer accounted for more than 10% of net sales in 2016, 2015 and 2014.

SPOTIFY EXHIBIT 47

Competition

The markets for the Company's products and services are highly competitive and the Company is confronted by aggressive competition in all areas of its business. These markets are characterized by frequent product introductions and rapid technological advances that have substantially increased the capabilities and use of mobile communication and media devices, personal computers and other digital electronic devices. The Company's competitors that sell mobile devices and personal computers based on other operating systems have aggressively cut prices and lowered their product margins to gain or maintain market share. The Company's financial condition and operating results can be adversely affected by these and other industry-wide downward pressures on gross margins. Principal competitive factors important to the Company include price, product features (including security features), relative price and performance, product quality and reliability, design innovation, a strong third-party software and accessories ecosystem, marketing and distribution capability, service and support and corporate reputation.

The Company is focused on expanding its market opportunities related to personal computers and mobile communication and media devices. These markets are highly competitive and include many large, well-funded and experienced participants. The Company expects competition in these markets to intensify significantly as competitors attempt to imitate some of the features of the Company's products and applications within their own products or, alternatively, collaborate with each other to offer solutions that are more competitive than those they currently offer. These markets are characterized by aggressive pricing practices, frequent product introductions, evolving design approaches and technologies, rapid adoption of technological and product advancements by competitors and price sensitivity on the part of consumers and businesses.

The Company's digital content services have faced significant competition from other companies promoting their own digital music and content products and services, including those offering free peer-to-peer music and video services.

The Company's future financial condition and operating results depend on the Company's ability to continue to develop and offer new innovative products and services in each of the markets in which it competes. The Company believes it offers superior innovation and integration of the entire solution including the hardware (iOS devices, Mac, Apple Watch and Apple TV), software (iOS, macOS, watchOS and tvOS), online services and distribution of digital content and applications (Internet Services). Some of the Company's current and potential competitors have substantial resources and may be able to provide such products and services at little or no profit or even at a loss to compete with the Company's offerings.

Supply of Components

Although most components essential to the Company's business are generally available from multiple sources, a number of components are currently obtained from single or limited sources. In addition, the Company competes for various components with other participants in the markets for mobile communication and media devices and personal computers. Therefore, many components used by the Company, including those that are available from multiple sources, are at times subject to industry-wide shortage and significant pricing fluctuations that could materially adversely affect the Company's financial condition and operating results.

The Company uses some custom components that are not commonly used by its competitors, and the Company often utilizes custom components available from only one source. When a component or product uses new technologies, initial capacity constraints may exist until the suppliers' yields have matured or manufacturing capacity has increased. If the Company's supply of components were delayed or constrained, or if an outsourcing partner delayed shipments of completed products to the Company, the Company's financial condition and operating results could be materially adversely affected. The Company's business and financial performance could also be materially adversely affected depending on the time required to obtain sufficient quantities from the original source, or to identify and obtain sufficient quantities from an alternative source. Continued availability of these components at acceptable prices, or at all, may be affected if those suppliers concentrated on the production of common components instead of components customized to meet the Company's requirements.

The Company has entered into agreements for the supply of many components; however, there can be no guarantee that the Company will be able to extend or renew these agreements on similar terms, or at all. Therefore, the Company remains subject to significant risks of supply shortages and price increases that could materially adversely affect its financial condition and operating results.

While some Mac computers are manufactured in the U.S. and Ireland, substantially all of the Company's hardware products are currently manufactured by outsourcing partners that are located primarily in Asia. A significant concentration of this manufacturing is currently performed by a small number of outsourcing partners, often in single locations. Certain of these outsourcing partners are the sole-sourced suppliers of components and manufacturers for many of the Company's products. Although the Company works closely with its outsourcing partners on manufacturing schedules, the Company's operating results could be adversely affected if its outsourcing partners were unable to meet their production commitments. The Company's manufacturing purchase obligations typically cover its requirements for periods up to 150 days.

SPOTIFY EXHIBIT 47

Research and Development

Because the industries in which the Company competes are characterized by rapid technological advances, the Company's ability to compete successfully depends heavily upon its ability to ensure a continual and timely flow of competitive products, services and technologies to the marketplace. The Company continues to develop new technologies to enhance existing products and to expand the range of its product offerings through R&D, licensing of intellectual property and acquisition of third-party businesses and technology. Total R&D expense was $10.0 billion, $8.1 billion and $6.0 billion in 2016, 2015 and 2014, respectively.

Patents, Trademarks, Copyrights and Licenses

The Company currently holds rights to patents and copyrights relating to certain aspects of its hardware devices, accessories, software and services. The Company has registered or has applied for trademarks and service marks in the U.S. and a number of foreign countries. Although the Company believes the ownership of such patents, copyrights, trademarks and service marks is an important factor in its business and that its success does depend in part on such ownership, the Company relies primarily on the innovative skills, technical competence and marketing abilities of its personnel.

The Company regularly files patent applications to protect innovations arising from its research, development and design, and is currently pursuing thousands of patent applications around the world. Over time, the Company has accumulated a large portfolio of issued patents around the world. The Company holds copyrights relating to certain aspects of its products and services. No single patent or copyright is solely responsible for protecting the Company's products. The Company believes the duration of its patents is adequate relative to the expected lives of its products.

Many of the Company's products are designed to include intellectual property obtained from third parties. It may be necessary in the future to seek or renew licenses relating to various aspects of its products, processes and services. While the Company has generally been able to obtain such licenses on commercially reasonable terms in the past, there is no guarantee that such licenses could be obtained in the future on reasonable terms or at all. Because of technological changes in the industries in which the Company competes, current extensive patent coverage and the rapid rate of issuance of new patents, it is possible that certain components of the Company's products, processes and services may unknowingly infringe existing patents or intellectual property rights of others. From time to time, the Company has been notified that it may be infringing certain patents or other intellectual property rights of third parties.

Foreign and Domestic Operations and Geographic Data

During 2016, the Company's domestic and international net sales accounted for 35% and 65%, respectively, of total net sales. Information regarding financial data by geographic segment is set forth in Part II, Item 7 of this Form 10-K under the subheading "Segment Operating Performance," and in Part II, Item 8 of this Form 10-K in the Notes to Consolidated Financial Statements in Note 11, "Segment Information and Geographic Data."

While some Mac computers are manufactured in the U.S. and Ireland, substantially all of the Company's hardware products are currently manufactured by outsourcing partners that are located primarily in Asia. The supply and manufacture of a number of components is performed by sole-sourced outsourcing partners in the U.S., Asia and Europe. Margins on sales of the Company's products in foreign countries and on sales of products that include components obtained from foreign suppliers, can be adversely affected by foreign currency exchange rate fluctuations and by international trade regulations, including tariffs and antidumping penalties. Information regarding concentration in the available sources of supply of materials and products is set forth in Part II, Item 8 of this Form 10-K in the Notes to Consolidated Financial Statements in Note 10, "Commitments and Contingencies."

Business Seasonality and Product Introductions

The Company has historically experienced higher net sales in its first quarter compared to other quarters in its fiscal year due in part to seasonal holiday demand. Additionally, new product introductions can significantly impact net sales, product costs and operating expenses. Product introductions can also impact the Company's net sales to its indirect distribution channels as these channels are filled with new product inventory following a product introduction, and often, channel inventory of a particular product declines as the next related major product launch approaches. Net sales can also be affected when consumers and distributors anticipate a product introduction. However, neither historical seasonal patterns nor historical patterns of product introductions should be considered reliable indicators of the Company's future pattern of product introductions, future net sales or financial performance.

Warranty

The Company offers a limited parts and labor warranty on most of its hardware products. The basic warranty period is typically one year from the date of purchase by the original-end-user. The Company also offers a 90-day basic warranty for its service parts used to repair the Company's hardware products. In certain jurisdictions, local law requires that manufacturers guarantee their products for a period prescribed by statute, typically at least two years. In addition, where available, consumers may purchase APP or AC+, which extends service coverage on many of the Company's hardware products.

SPOTIFY EXHIBIT 47

Backlog

In the Company's experience, the actual amount of product backlog at any particular time is not a meaningful indication of its future business prospects. In particular, backlog often increases immediately following new product introductions as customers anticipate shortages. Backlog is often reduced once customers believe they can obtain sufficient supply. Because of the foregoing, backlog should not be considered a reliable indicator of the Company's ability to achieve any particular level of revenue or financial performance.

Employees

As of September 24, 2016, the Company had approximately 116,000 full-time equivalent employees.

Available Information

The Company's Annual Report on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K, and amendments to reports filed pursuant to Sections 13(a) and 15(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), are filed with the Securities and Exchange Commission (the "SEC"). The Company is subject to the informational requirements of the Exchange Act and files or furnishes reports, proxy statements and other information with the SEC. Such reports and other information filed by the Company with the SEC are available free of charge on the Company's website at investor.apple.com/sec.cfm when such reports are available on the SEC's website. The public may read and copy any materials filed by the Company with the SEC at the SEC's Public Reference Room at 100 F Street, NE, Room 1580, Washington, DC 20549. The public may obtain information on the operation of the Public Reference Room by calling the SEC at 1-800-SEC-0330. The SEC maintains an internet site that contains reports, proxy and information statements and other information regarding issuers that file electronically with the SEC at www.sec.gov. The contents of these websites are not incorporated into this filing. Further, the Company's references to website URLs are intended to be inactive textual references only.

SPOTIFY EXHIBIT 47

Item 1A. Risk Factors

The following discussion of risk factors contains forward-looking statements. These risk factors may be important to understanding other statements in this Form 10-K. The following information should be read in conjunction with Part II, Item 7, "Management's Discussion and Analysis of Financial Condition and Results of Operations" and the consolidated financial statements and related notes in Part II, Item 8, "Financial Statements and Supplementary Data" of this Form 10-K.

The business, financial condition and operating results of the Company can be affected by a number of factors, whether currently known or unknown, including but not limited to those described below, any one or more of which could, directly or indirectly, cause the Company's actual financial condition and operating results to vary materially from past, or from anticipated future, financial condition and operating results. Any of these factors, in whole or in part, could materially and adversely affect the Company's business, financial condition, operating results and stock price.

Because of the following factors, as well as other factors affecting the Company's financial condition and operating results, past financial performance should not be considered to be a reliable indicator of future performance, and investors should not use historical trends to anticipate results or trends in future periods.

Global and regional economic conditions could materially adversely affect the Company.

The Company's operations and performance depend significantly on global and regional economic conditions. Uncertainty about global and regional economic conditions poses a risk as consumers and businesses may postpone spending in response to tighter credit, higher unemployment, financial market volatility, government austerity programs, negative financial news, declines in income or asset values and/or other factors. These worldwide and regional economic conditions could have a material adverse effect on demand for the Company's products and services. Demand also could differ materially from the Company's expectations as a result of currency fluctuations because the Company generally raises prices on goods and services sold outside the U.S. to correspond with the effect of a strengthening of the U.S. dollar. Other factors that could influence worldwide or regional demand include changes in fuel and other energy costs, conditions in the real estate and mortgage markets, unemployment, labor and healthcare costs, access to credit, consumer confidence and other macroeconomic factors affecting consumer spending behavior. These and other economic factors could materially adversely affect demand for the Company's products and services.

In the event of financial turmoil affecting the banking system and financial markets, additional consolidation of the financial services industry, or significant financial service institution failures, there could be tightening in the credit markets, low liquidity and extreme volatility in fixed income, credit, currency and equity markets. This could have a number of effects on the Company's business, including the insolvency or financial instability of outsourcing partners or suppliers or their inability to obtain credit to finance development and/or manufacture products resulting in product delays; inability of customers, including channel partners, to obtain credit to finance purchases of the Company's products; failure of derivative counterparties and other financial institutions; and restrictions on the Company's ability to issue new debt. Other income and expense also could vary materially from expectations depending on gains or losses realized on the sale or exchange of financial instruments; impairment charges resulting from revaluations of debt and equity securities and other investments; changes in interest rates; increases or decreases in cash balances; volatility in foreign exchange rates; and changes in fair value of derivative instruments. Increased volatility in the financial markets and overall economic uncertainty would increase the risk of the actual amounts realized in the future on the Company's financial instruments differing significantly from the fair values currently assigned to them.

Global markets for the Company's products and services are highly competitive and subject to rapid technological change, and the Company may be unable to compete effectively in these markets.

The Company's products and services compete in highly competitive global markets characterized by aggressive price cutting and resulting downward pressure on gross margins, frequent introduction of new products, short product life cycles, evolving industry standards, continual improvement in product price/performance characteristics, rapid adoption of technological and product advancements by competitors and price sensitivity on the part of consumers.

The Company's ability to compete successfully depends heavily on its ability to ensure a continuing and timely introduction of innovative new products, services and technologies to the marketplace. The Company believes it is unique in that it designs and develops nearly the entire solution for its products, including the hardware, operating system, numerous software applications and related services. As a result, the Company must make significant investments in R&D. The Company currently holds a significant number of patents and copyrights and has registered and/or has applied to register numerous patents, trademarks and service marks. In contrast, many of the Company's competitors seek to compete primarily through aggressive pricing and very low cost structures, and emulating the Company's products and infringing on its intellectual property. If the Company is unable to continue to develop and sell innovative new products with attractive margins or if competitors infringe on the Company's intellectual property, the Company's ability to maintain a competitive advantage could be adversely affected.

SPOTIFY EXHIBIT 47

The Company markets certain mobile communication and media devices based on the iOS mobile operating system and also markets related services, including third-party digital content and applications. The Company faces substantial competition in these markets from companies that have significant technical, marketing, distribution and other resources, as well as established hardware, software and digital content supplier relationships; and the Company has a minority market share in the global smartphone market. Additionally, the Company faces significant price competition as competitors reduce their selling prices and attempt to imitate the Company's product features and applications within their own products or, alternatively, collaborate with each other to offer solutions that are more competitive than those they currently offer. The Company competes with business models that provide content to users for free. The Company also competes with illegitimate means to obtain third-party digital content and applications. Some of the Company's competitors have greater experience, product breadth and distribution channels than the Company. Because some current and potential competitors have substantial resources and/or experience and a lower cost structure, they may be able to provide products and services at little or no profit or even at a loss. The Company also expects competition to intensify as competitors attempt to imitate the Company's approach to providing components seamlessly within their individual offerings or work collaboratively to offer integrated solutions. The Company's financial condition and operating results depend substantially on the Company's ability to continually improve iOS and iOS devices in order to maintain their functional and design advantages.

The Company is the only authorized maker of hardware using macOS, which has a minority market share in the personal computer market. This market has been contracting and is dominated by computer makers using competing operating systems, most notably Windows. In the market for personal computers and accessories, the Company faces a significant number of competitors, many of which have broader product lines, lower priced products and a larger installed customer base. Historically, consolidation in this market has resulted in larger competitors. Price competition has been particularly intense as competitors have aggressively cut prices and lowered product margins. An increasing number of internet-enabled devices that include software applications and are smaller and simpler than traditional personal computers compete for market share with the Company's existing products. The Company's financial condition and operating results also depend on its ability to continually improve the Mac platform to maintain its functional and design advantages.

There can be no assurance the Company will be able to continue to provide products and services that compete effectively.

To remain competitive and stimulate customer demand, the Company must successfully manage frequent product introductions and transitions.

Due to the highly volatile and competitive nature of the industries in which the Company competes, the Company must continually introduce new products, services and technologies, enhance existing products and services, effectively stimulate customer demand for new and upgraded products and successfully manage the transition to these new and upgraded products. The success of new product introductions depends on a number of factors including, but not limited to, timely and successful product development, market acceptance, the Company's ability to manage the risks associated with new product production ramp-up issues, the availability of application software for new products, the effective management of purchase commitments and inventory levels in line with anticipated product demand, the availability of products in appropriate quantities and at expected costs to meet anticipated demand and the risk that new products may have quality or other defects or deficiencies in the early stages of introduction. Accordingly, the Company cannot determine in advance the ultimate effect of new product introductions and transitions.

The Company depends on the performance of distributors, carriers and other resellers.

The Company distributes its products through cellular network carriers, wholesalers, national and regional retailers and value-added resellers, many of whom distribute products from competing manufacturers. The Company also sells its products and third-party products in most of its major markets directly to education, enterprise and government customers and consumers and small and mid-sized businesses through its online and retail stores.

Some carriers providing cellular network service for iPhone subsidize users' purchases of the device. There is no assurance that such subsidies will be continued at all or in the same amounts upon renewal of the Company's agreements with these carriers or in agreements the Company enters into with new carriers.

Many resellers have been adversely affected in the past by weak economic conditions. The Company has invested and will continue to invest in programs to enhance reseller sales, including staffing selected resellers' stores with Company employees and contractors, and improving product placement displays. These programs could require a substantial investment while providing no assurance of return or incremental revenue. The financial condition of these resellers could weaken, these resellers could stop distributing the Company's products, or uncertainty regarding demand for some or all of the Company's products could cause resellers to reduce their ordering and marketing of the Company's products.

SPOTIFY EXHIBIT 47

The Company faces substantial inventory and other asset risk in addition to purchase commitment cancellation risk.

The Company records a write-down for product and component inventories that have become obsolete or exceed anticipated demand or net realizable value and accrues necessary cancellation fee reserves for orders of excess products and components. The Company also reviews its long-lived assets, including capital assets held at its suppliers' facilities and inventory prepayments, for impairment whenever events or circumstances indicate the carrying amount of an asset may not be recoverable. If the Company determines that impairment has occurred, it records a write-down equal to the amount by which the carrying value of the assets exceeds its fair value. Although the Company believes its provisions related to inventory, capital assets, inventory prepayments and other assets and purchase commitments are currently adequate, no assurance can be given that the Company will not incur additional related charges given the rapid and unpredictable pace of product obsolescence in the industries in which the Company competes.

The Company must order components for its products and build inventory in advance of product announcements and shipments. Consistent with industry practice, components are normally acquired through a combination of purchase orders, supplier contracts and open orders, in each case based on projected demand. Manufacturing purchase obligations typically cover forecasted component and manufacturing requirements for periods up to 150 days. Because the Company's markets are volatile, competitive and subject to rapid technology and price changes, there is a risk the Company will forecast incorrectly and order or produce excess or insufficient amounts of components or products, or not fully utilize firm purchase commitments.

Future operating results depend upon the Company's ability to obtain components in sufficient quantities on commercially reasonable terms.

Because the Company currently obtains components from single or limited sources, the Company is subject to significant supply and pricing risks. Many components, including those that are available from multiple sources, are at times subject to industry-wide shortages and significant commodity pricing fluctuations. While the Company has entered into agreements for the supply of many components, there can be no assurance that the Company will be able to extend or renew these agreements on similar terms, or at all. A number of suppliers of components may suffer from poor financial conditions, which can lead to business failure for the supplier or consolidation within a particular industry, further limiting the Company's ability to obtain sufficient quantities of components on commercially reasonable terms. The effects of global or regional economic conditions on the Company's suppliers, described in *"Global and regional economic conditions could materially adversely affect the Company"* above, also could affect the Company's ability to obtain components. Therefore, the Company remains subject to significant risks of supply shortages and price increases.

The Company's new products often utilize custom components available from only one source. When a component or product uses new technologies, initial capacity constraints may exist until the suppliers' yields have matured or manufacturing capacity has increased. Continued availability of these components at acceptable prices, or at all, may be affected for any number of reasons, including if those suppliers decide to concentrate on the production of common components instead of components customized to meet the Company's requirements. The supply of components for a new or existing product could be delayed or constrained, or a key manufacturing vendor could delay shipments of completed products to the Company.

The Company depends on component and product manufacturing and logistical services provided by outsourcing partners, many of which are located outside of the U.S.

Substantially all of the Company's manufacturing is performed in whole or in part by a few outsourcing partners located primarily in Asia. The Company has also outsourced much of its transportation and logistics management. While these arrangements may lower operating costs, they also reduce the Company's direct control over production and distribution. It is uncertain what effect such diminished control will have on the quality or quantity of products or services, or the Company's flexibility to respond to changing conditions. Although arrangements with these partners may contain provisions for warranty expense reimbursement, the Company may remain responsible to the consumer for warranty service in the event of product defects and could experience an unanticipated product defect or warranty liability. While the Company relies on its partners to adhere to its supplier code of conduct, material violations of the supplier code of conduct could occur.

The Company relies on sole-sourced outsourcing partners in the U.S., Asia and Europe to supply and manufacture many critical components, and on outsourcing partners primarily located in Asia, for final assembly of substantially all of the Company's hardware products. Any failure of these partners to perform may have a negative impact on the Company's cost or supply of components or finished goods. In addition, manufacturing or logistics in these locations or transit to final destinations may be disrupted for a variety of reasons including, but not limited to, natural and man-made disasters, information technology system failures, commercial disputes, military actions or economic, business, labor, environmental, public health, or political issues.

The Company has invested in manufacturing process equipment, much of which is held at certain of its outsourcing partners, and has made prepayments to certain of its suppliers associated with long-term supply agreements. While these arrangements help ensure the supply of components and finished goods, if these outsourcing partners or suppliers experience severe financial problems or other disruptions in their business, such continued supply could be reduced or terminated and the net realizable value of these assets could be negatively impacted.

SPOTIFY EXHIBIT 47

The Company's products and services may experience quality problems from time to time that can result in decreased sales and operating margin and harm to the Company's reputation.

The Company sells complex hardware and software products and services that can contain design and manufacturing defects. Sophisticated operating system software and applications, such as those sold by the Company, often contain "bugs" that can unexpectedly interfere with the software's intended operation. The Company's online services may from time to time experience outages, service slowdowns, or errors. Defects may also occur in components and products the Company purchases from third parties. There can be no assurance the Company will be able to detect and fix all defects in the hardware, software and services it sells. Failure to do so could result in lost revenue, significant warranty and other expenses and harm to the Company's reputation.

The Company relies on access to third-party digital content, which may not be available to the Company on commercially reasonable terms or at all.

The Company contracts with numerous third parties to offer their digital content to customers. This includes the right to sell currently available music, movies, TV shows and books. The licensing or other distribution arrangements with these third parties are for relatively short terms and do not guarantee the continuation or renewal of these arrangements on reasonable terms, if at all. Some third-party content providers and distributors currently or in the future may offer competing products and services, and could take action to make it more difficult or impossible for the Company to license or otherwise distribute their content in the future. Other content owners, providers or distributors may seek to limit the Company's access to, or increase the cost of, such content. The Company may be unable to continue to offer a wide variety of content at reasonable prices with acceptable usage rules, or continue to expand its geographic reach. Failure to obtain the right to make available third-party digital content, or to make available such content on commercially reasonable terms, could have a material adverse impact on the Company's financial condition and operating results.

Some third-party digital content providers require the Company to provide digital rights management and other security solutions. If requirements change, the Company may have to develop or license new technology to provide these solutions. There is no assurance the Company will be able to develop or license such solutions at a reasonable cost and in a timely manner. In addition, certain countries have passed or may propose and adopt legislation that would force the Company to license its digital rights management, which could lessen the protection of content and subject it to piracy and also could negatively affect arrangements with the Company's content providers.

The Company's future performance depends in part on support from third-party software developers.

The Company believes decisions by customers to purchase its hardware products depend in part on the availability of third-party software applications and services. There is no assurance that third-party developers will continue to develop and maintain software applications and services for the Company's products. If third-party software applications and services cease to be developed and maintained for the Company's products, customers may choose not to buy the Company's products.

With respect to its Mac products, the Company believes the availability of third-party software applications and services depends in part on the developers' perception and analysis of the relative benefits of developing, maintaining and upgrading such software for the Company's products compared to Windows-based products. This analysis may be based on factors such as the market position of the Company and its products, the anticipated revenue that may be generated, expected future growth of Mac sales and the costs of developing such applications and services. If the Company's minority share of the global personal computer market causes developers to question the Mac's prospects, developers could be less inclined to develop or upgrade software for the Company's Mac products and more inclined to devote their resources to developing and upgrading software for the larger Windows market.

With respect to iOS devices, the Company relies on the continued availability and development of compelling and innovative software applications, which are distributed through a single distribution channel, the App Store. iOS devices are subject to rapid technological change, and, if third-party developers are unable to or choose not to keep up with this pace of change, third-party applications might not successfully operate and may result in dissatisfied customers. As with applications for the Company's Mac products, the availability and development of these applications also depend on developers' perceptions and analysis of the relative benefits of developing, maintaining or upgrading software for the Company's iOS devices rather than its competitors' platforms, such as Android. If developers focus their efforts on these competing platforms, the availability and quality of applications for the Company's iOS devices may suffer.

SPOTIFY EXHIBIT 47

The Company relies on access to third-party intellectual property, which may not be available to the Company on commercially reasonable terms or at all.

Many of the Company's products include third-party intellectual property, which requires licenses from those third parties. Based on past experience and industry practice, the Company believes such licenses generally can be obtained on reasonable terms. There is, however, no assurance that the necessary licenses can be obtained on acceptable terms or at all. Failure to obtain the right to use third-party intellectual property, or to use such intellectual property on commercially reasonable terms, could preclude the Company from selling certain products or otherwise have a material adverse impact on the Company's financial condition and operating results.

The Company could be impacted by unfavorable results of legal proceedings, such as being found to have infringed on intellectual property rights.

The Company is subject to various legal proceedings and claims that have not yet been fully resolved and that have arisen in the ordinary course of business, and additional claims may arise in the future.

For example, technology companies, including many of the Company's competitors, frequently enter into litigation based on allegations of patent infringement or other violations of intellectual property rights. In addition, patent holding companies seek to monetize patents they have purchased or otherwise obtained. The intellectual property rights claims against the Company have generally increased over time and may continue to increase. In particular, the Company's cellular enabled products compete with products from mobile communication and media device companies that hold significant patent portfolios, and the Company has faced a significant number of patent claims against it. The Company is vigorously defending infringement actions in courts in a number of U.S. jurisdictions and before the U.S. International Trade Commission, as well as internationally in various countries. The plaintiffs in these actions frequently seek injunctions and substantial damages.

Regardless of the scope or validity of such patents or other intellectual property rights, or the merits of any claims by potential or actual litigants, the Company may have to engage in protracted litigation. If the Company is found to infringe one or more patents or other intellectual property rights, regardless of whether it can develop non-infringing technology, it may be required to pay substantial damages or royalties to a third-party, or it may be subject to a temporary or permanent injunction prohibiting the Company from marketing or selling certain products.

In certain cases, the Company may consider the desirability of entering into licensing agreements, although no assurance can be given that such licenses can be obtained on acceptable terms or that litigation will not occur. These licenses may also significantly increase the Company's operating expenses.

Regardless of the merit of particular claims, litigation may be expensive, time-consuming, disruptive to the Company's operations and distracting to management. In recognition of these considerations, the Company may enter into arrangements to settle litigation.

In management's opinion, there is not at least a reasonable possibility the Company may have incurred a material loss, or a material loss in excess of a recorded accrual, with respect to loss contingencies, including matters related to infringement of intellectual property rights. However, the outcome of litigation is inherently uncertain.

Although management considers the likelihood of such an outcome to be remote, if one or more legal matters were resolved against the Company in a reporting period for amounts in excess of management's expectations, the Company's consolidated financial statements for that reporting period could be materially adversely affected. Further, such an outcome could result in significant compensatory, punitive or trebled monetary damages, disgorgement of revenue or profits, remedial corporate measures or injunctive relief against the Company that could materially adversely affect its financial condition and operating results.

The Company is subject to laws and regulations worldwide, changes to which could increase the Company's costs and individually or in the aggregate adversely affect the Company's business.

The Company is subject to laws and regulations affecting its domestic and international operations in a number of areas. These U.S. and foreign laws and regulations affect the Company's activities including, but not limited to, in areas of labor, advertising, digital content, consumer protection, real estate, billing, e-commerce, promotions, quality of services, telecommunications, mobile communications and media, television, intellectual property ownership and infringement, tax, import and export requirements, anti-corruption, foreign exchange controls and cash repatriation restrictions, data privacy requirements, anti-competition, environmental, health and safety.

By way of example, laws and regulations related to mobile communications and media devices in the many jurisdictions in which the Company operates are extensive and subject to change. Such changes could include, among others, restrictions on the production, manufacture, distribution and use of devices, locking devices to a carrier's network, or mandating the use of devices on more than one carrier's network. These devices are also subject to certification and regulation by governmental and standardization bodies, as well as by cellular network carriers for use on their networks. These certification processes are extensive and time consuming, and could result in additional testing requirements, product modifications, or delays in product shipment dates, or could preclude the Company from selling certain products.

SPOTIFY EXHIBIT 47

Compliance with these laws, regulations and similar requirements may be onerous and expensive, and they may be inconsistent from jurisdiction to jurisdiction, further increasing the cost of compliance and doing business. Any such costs, which may rise in the future as a result of changes in these laws and regulations or in their interpretation, could individually or in the aggregate make the Company's products and services less attractive to the Company's customers, delay the introduction of new products in one or more regions, or cause the Company to change or limit its business practices. The Company has implemented policies and procedures designed to ensure compliance with applicable laws and regulations, but there can be no assurance that the Company's employees, contractors, or agents will not violate such laws and regulations or the Company's policies and procedures.

The Company's business is subject to the risks of international operations.

The Company derives a significant portion of its revenue and earnings from its international operations. Compliance with applicable U.S. and foreign laws and regulations, such as import and export requirements, anti-corruption laws, tax laws, foreign exchange controls and cash repatriation restrictions, data privacy requirements, environmental laws, labor laws and anti-competition regulations, increases the costs of doing business in foreign jurisdictions. Although the Company has implemented policies and procedures to comply with these laws and regulations, a violation by the Company's employees, contractors, or agents could nevertheless occur. In some cases, compliance with the laws and regulations of one country could violate the laws and regulations of another country. Violations of these laws and regulations could materially adversely affect the Company's brand, international growth efforts and business.

The Company also could be significantly affected by other risks associated with international activities including, but not limited to, economic and labor conditions, increased duties, taxes and other costs and political instability. Margins on sales of the Company's products in foreign countries, and on sales of products that include components obtained from foreign suppliers, could be materially adversely affected by international trade regulations, including duties, tariffs and antidumping penalties. The Company is also exposed to credit and collectability risk on its trade receivables with customers in certain international markets. There can be no assurance the Company can effectively limit its credit risk and avoid losses.

The Company's retail stores have required and will continue to require a substantial investment and commitment of resources and are subject to numerous risks and uncertainties.

The Company's retail stores have required substantial investment in equipment and leasehold improvements, information systems, inventory and personnel. The Company also has entered into substantial operating lease commitments for retail space. Certain stores have been designed and built to serve as high-profile venues to promote brand awareness and serve as vehicles for corporate sales and marketing activities. Because of their unique design elements, locations and size, these stores require substantially more investment than the Company's more typical retail stores. Due to the high cost structure associated with the Company's retail stores, a decline in sales or the closure or poor performance of individual or multiple stores could result in significant lease termination costs, write-offs of equipment and leasehold improvements and severance costs.

Many factors unique to retail operations, some of which are beyond the Company's control, pose risks and uncertainties. These risks and uncertainties include, but are not limited to, macro-economic factors that could have an adverse effect on general retail activity, as well as the Company's inability to manage costs associated with store construction and operation, the Company's failure to manage relationships with its existing retail partners, more challenging environments in managing retail operations outside the U.S., costs associated with unanticipated fluctuations in the value of retail inventory, and the Company's inability to obtain and renew leases in quality retail locations at a reasonable cost.

Investment in new business strategies and acquisitions could disrupt the Company's ongoing business and present risks not originally contemplated.

The Company has invested, and in the future may invest, in new business strategies or acquisitions. Such endeavors may involve significant risks and uncertainties, including distraction of management from current operations, greater than expected liabilities and expenses, inadequate return of capital and unidentified issues not discovered in the Company's due diligence. These new ventures are inherently risky and may not be successful.

The Company's business and reputation may be impacted by information technology system failures or network disruptions.

The Company may be subject to information technology system failures and network disruptions. These may be caused by natural disasters, accidents, power disruptions, telecommunications failures, acts of terrorism or war, computer viruses, physical or electronic break-ins, or other events or disruptions. System redundancy may be ineffective or inadequate, and the Company's disaster recovery planning may not be sufficient for all eventualities. Such failures or disruptions could, among other things, prevent access to the Company's online stores and services, preclude retail store transactions, compromise Company or customer data, and result in delayed or cancelled orders. System failures and disruptions could also impede the manufacturing and shipping of products, delivery of online services, transactions processing and financial reporting.

SPOTIFY EXHIBIT 47

There may be breaches of the Company's information technology systems that materially damage business partner and customer relationships, curtail or otherwise adversely impact access to online stores and services, or subject the Company to significant reputational, financial, legal and operational consequences.

The Company's business requires it to use and store customer, employee and business partner personally identifiable information ("PII"). This may include, among other information, names, addresses, phone numbers, email addresses, contact preferences, tax identification numbers and payment account information. Although malicious attacks to gain access to PII affect many companies across various industries, the Company is at a relatively greater risk of being targeted because of its high profile and the amount of PII it manages.

The Company requires user names and passwords in order to access its information technology systems. The Company also uses encryption and authentication technologies designed to secure the transmission and storage of data and prevent access to Company data or accounts. As with all companies, these security measures are subject to third-party security breaches, employee error, malfeasance, faulty password management, or other irregularities. For example, third parties may attempt to fraudulently induce employees or customers into disclosing user names, passwords or other sensitive information, which may in turn be used to access the Company's information technology systems. To help protect customers and the Company, the Company monitors accounts and systems for unusual activity and may freeze accounts under suspicious circumstances, which may result in the delay or loss of customer orders.

The Company devotes significant resources to network security, data encryption and other security measures to protect its systems and data, but these security measures cannot provide absolute security. To the extent the Company was to experience a breach of its systems and was unable to protect sensitive data, such a breach could materially damage business partner and customer relationships, and curtail or otherwise adversely impact access to online stores and services. Moreover, if a computer security breach affects the Company's systems or results in the unauthorized release of PII, the Company's reputation and brand could be materially damaged, use of the Company's products and services could decrease, and the Company could be exposed to a risk of loss or litigation and possible liability. While the Company maintains insurance coverage that, subject to policy terms and conditions and subject to a significant self-insured retention, is designed to address certain aspects of cyber risks, such insurance coverage may be insufficient to cover all losses or all types of claims that may arise in the continually evolving area of cyber risk.

The Company is also subject to payment card association rules and obligations under its contracts with payment card processors. Under these rules and obligations, if information is compromised, the Company could be liable to payment card issuers for associated expenses and penalties. In addition, if the Company fails to follow payment card industry security standards, even if no customer information is compromised, the Company could incur significant fines or experience a significant increase in payment card transaction costs.

The Company's business is subject to a variety of U.S. and international laws, rules, policies and other obligations regarding data protection.

The Company is subject to federal, state and international laws relating to the collection, use, retention, security and transfer of PII. In many cases, these laws apply not only to third-party transactions, but also may restrict transfers of PII among the Company and its international subsidiaries. Several jurisdictions have passed laws in this area, and other jurisdictions are considering imposing additional restrictions. These laws continue to develop and may be inconsistent from jurisdiction to jurisdiction. Complying with emerging and changing international requirements may cause the Company to incur substantial costs or require the Company to change its business practices. Noncompliance could result in significant penalties or legal liability.

The Company makes statements about its use and disclosure of PII through its privacy policy, information provided on its website and press statements. Any failure by the Company to comply with these public statements or with other federal, state or international privacy-related or data protection laws and regulations could result in proceedings against the Company by governmental entities or others. Penalties could include ongoing audit requirements or significant legal liability.

The Company's success depends largely on the continued service and availability of key personnel.

Much of the Company's future success depends on the continued availability and service of key personnel, including its Chief Executive Officer, executive team and other highly skilled employees. Experienced personnel in the technology industry are in high demand and competition for their talents is intense, especially in Silicon Valley, where most of the Company's key personnel are located.

SPOTIFY EXHIBIT 47

The Company's business may be impacted by political events, war, terrorism, public health issues, natural disasters and other business interruptions.

War, terrorism, geopolitical uncertainties, public health issues and other business interruptions have caused and could cause damage or disruption to international commerce and the global economy, and thus could have a material adverse effect on the Company, its suppliers, logistics providers, manufacturing vendors and customers, including channel partners. The Company's business operations are subject to interruption by, among others, natural disasters, whether as a result of climate change or otherwise, fire, power shortages, nuclear power plant accidents and other industrial accidents, terrorist attacks and other hostile acts, labor disputes, public health issues and other events beyond its control. Such events could decrease demand for the Company's products, make it difficult or impossible for the Company to make and deliver products to its customers, including channel partners, or to receive components from its suppliers, and create delays and inefficiencies in the Company's supply chain. While the Company's suppliers are required to maintain safe working environments and operations, an industrial accident could occur and could result in disruption to the Company's business and harm to the Company's reputation. Should major public health issues, including pandemics, arise, the Company could be adversely affected by more stringent employee travel restrictions, additional limitations in freight services, governmental actions limiting the movement of products between regions, delays in production ramps of new products and disruptions in the operations of the Company's manufacturing vendors and component suppliers. The majority of the Company's R&D activities, its corporate headquarters, information technology systems and other critical business operations, including certain component suppliers and manufacturing vendors, are in locations that could be affected by natural disasters. In the event of a natural disaster, the Company could incur significant losses, require substantial recovery time and experience significant expenditures in order to resume operations.

The Company expects its quarterly revenue and operating results to fluctuate.

The Company's profit margins vary across its products and distribution channels. The Company's software, accessories, and service and support contracts generally have higher gross margins than certain of the Company's other products. Gross margins on the Company's hardware products vary across product lines and can change over time as a result of product transitions, pricing and configuration changes, and component, warranty, and other cost fluctuations. The Company's direct sales generally have higher associated gross margins than its indirect sales through its channel partners. In addition, the Company's gross margin and operating margin percentages, as well as overall profitability, may be materially adversely impacted as a result of a shift in product, geographic or channel mix, component cost increases, the strengthening U.S. dollar, price competition, or the introduction of new products, including those that have higher cost structures with flat or reduced pricing.

The Company has typically experienced higher net sales in its first quarter compared to other quarters due in part to seasonal holiday demand. Additionally, new product introductions can significantly impact net sales, product costs and operating expenses. Further, the Company generates a majority of its net sales from a single product and a decline in demand for that product could significantly impact quarterly net sales. The Company could also be subject to unexpected developments late in a quarter, such as lower-than-anticipated demand for the Company's products, issues with new product introductions, an internal systems failure, or failure of one of the Company's logistics, components supply, or manufacturing partners.

The Company's stock price is subject to volatility.

The Company's stock price has experienced substantial price volatility in the past and may continue to do so in the future. Additionally, the Company, the technology industry and the stock market as a whole have experienced extreme stock price and volume fluctuations that have affected stock prices in ways that may have been unrelated to these companies' operating performance. Price volatility over a given period may cause the average price at which the Company repurchases its own stock to exceed the stock's price at a given point in time. The Company believes its stock price should reflect expectations of future growth and profitability. The Company also believes its stock price should reflect expectations that its cash dividend will continue at current levels or grow and that its current share repurchase program will be fully consummated. Future dividends are subject to declaration by the Company's Board of Directors, and the Company's share repurchase program does not obligate it to acquire any specific number of shares. If the Company fails to meet expectations related to future growth, profitability, dividends, share repurchases or other market expectations, its stock price may decline significantly, which could have a material adverse impact on investor confidence and employee retention.

SPOTIFY EXHIBIT 47

The Company's financial performance is subject to risks associated with changes in the value of the U.S. dollar versus local currencies.

The Company's primary exposure to movements in foreign currency exchange rates relates to non-U.S. dollar-denominated sales and operating expenses worldwide. Weakening of foreign currencies relative to the U.S. dollar adversely affects the U.S. dollar value of the Company's foreign currency-denominated sales and earnings, and generally leads the Company to raise international pricing, potentially reducing demand for the Company's products. Margins on sales of the Company's products in foreign countries and on sales of products that include components obtained from foreign suppliers, could be materially adversely affected by foreign currency exchange rate fluctuations. In some circumstances, for competitive or other reasons, the Company may decide not to raise local prices to fully offset the dollar's strengthening, or at all, which would adversely affect the U.S. dollar value of the Company's foreign currency-denominated sales and earnings. Conversely, a strengthening of foreign currencies relative to the U.S. dollar, while generally beneficial to the Company's foreign currency-denominated sales and earnings, could cause the Company to reduce international pricing and incur losses on its foreign currency derivative instruments, thereby limiting the benefit. Additionally, strengthening of foreign currencies may also increase the Company's cost of product components denominated in those currencies, thus adversely affecting gross margins.

The Company uses derivative instruments, such as foreign currency forward and option contracts, to hedge certain exposures to fluctuations in foreign currency exchange rates. The use of such hedging activities may not offset any, or more than a portion, of the adverse financial effects of unfavorable movements in foreign exchange rates over the limited time the hedges are in place.

The Company is exposed to credit risk and fluctuations in the market values of its investment portfolio.

Given the global nature of its business, the Company has both domestic and international investments. Credit ratings and pricing of the Company's investments can be negatively affected by liquidity, credit deterioration, financial results, economic risk, political risk, sovereign risk or other factors. As a result, the value and liquidity of the Company's cash, cash equivalents and marketable securities may fluctuate substantially. Therefore, although the Company has not realized any significant losses on its cash, cash equivalents and marketable securities, future fluctuations in their value could result in a significant realized loss.

The Company is exposed to credit risk on its trade accounts receivable, vendor non-trade receivables and prepayments related to long-term supply agreements, and this risk is heightened during periods when economic conditions worsen.

The Company distributes its products through third-party cellular network carriers, wholesalers, retailers and value-added resellers. The Company also sells its products directly to small and mid-sized businesses and education, enterprise and government customers. A substantial majority of the Company's outstanding trade receivables are not covered by collateral, third-party financing arrangements or credit insurance. The Company's exposure to credit and collectability risk on its trade receivables is higher in certain international markets and its ability to mitigate such risks may be limited. The Company also has unsecured vendor non-trade receivables resulting from purchases of components by outsourcing partners and other vendors that manufacture sub-assemblies or assemble final products for the Company. In addition, the Company has made prepayments associated with long-term supply agreements to secure supply of inventory components. As of September 24, 2016, a significant portion of the Company's trade receivables was concentrated within cellular network carriers, and its vendor non-trade receivables and prepayments related to long-term supply agreements were concentrated among a few individual vendors located primarily in Asia. While the Company has procedures to monitor and limit exposure to credit risk on its trade and vendor non-trade receivables, as well as long-term prepayments, there can be no assurance such procedures will effectively limit its credit risk and avoid losses.

The Company could be subject to changes in its tax rates, the adoption of new U.S. or international tax legislation or exposure to additional tax liabilities.

The Company is subject to taxes in the U.S. and numerous foreign jurisdictions, including Ireland, where a number of the Company's subsidiaries are organized. Due to economic and political conditions, tax rates in various jurisdictions may be subject to significant change. The Company's effective tax rates could be affected by changes in the mix of earnings in countries with differing statutory tax rates, changes in the valuation of deferred tax assets and liabilities, or changes in tax laws or their interpretation, including in the U.S. and Ireland.

The Company is also subject to the examination of its tax returns and other tax matters by the U.S. Internal Revenue Service (the "IRS") and other tax authorities and governmental bodies. The Company regularly assesses the likelihood of an adverse outcome resulting from these examinations to determine the adequacy of its provision for taxes. There can be no assurance as to the outcome of these examinations. If the Company's effective tax rates were to increase, particularly in the U.S. or Ireland, or if the ultimate determination of the Company's taxes owed is for an amount in excess of amounts previously accrued, the Company's financial condition, operating results and cash flows could be adversely affected.

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Item 1B. Unresolved Staff Comments

None.

Item 2. Properties

The Company's headquarters are located in Cupertino, California. As of September 24, 2016, the Company owned 7.1 million square feet and leased 22.3 million square feet of building space, primarily in the U.S. Additionally, the Company owned a total of 2,583 acres of land primarily in the U.S.

As of September 24, 2016, the Company owned facilities and land for R&D, corporate functions and data centers at various locations throughout the U.S., including land in California that is being developed for the Company's second corporate campus. Outside the U.S., the Company owned additional facilities and land for various purposes.

The Company believes its existing facilities and equipment, which are used by all operating segments, are in good operating condition and are suitable for the conduct of its business. The Company has invested in internal capacity and strategic relationships with outside manufacturing vendors and continues to make investments in capital equipment as needed to meet anticipated demand for its products.

Item 3. Legal Proceedings

The Company is subject to legal proceedings and claims that have not been fully resolved and that have arisen in the ordinary course of business. In the opinion of management, there was not at least a reasonable possibility the Company may have incurred a material loss, or a material loss in excess of a recorded accrual, with respect to loss contingencies for asserted legal and other claims. However, the outcome of legal proceedings and claims brought against the Company is subject to significant uncertainty. Therefore, although management considers the likelihood of such an outcome to be remote, if one or more of these legal matters were resolved against the Company in a reporting period for amounts in excess of management's expectations, the Company's consolidated financial statements for that reporting period could be materially adversely affected. See the risk factor "*The Company could be impacted by unfavorable results of legal proceedings, such as being found to have infringed on intellectual property rights*" in Part I, Item 1A of this Form 10-K under the heading "Risk Factors." The Company settled certain matters during the fourth quarter of 2016 that did not individually or in the aggregate have a material impact on the Company's financial condition or operating results.

Item 4. Mine Safety Disclosures

Not applicable.

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PART II

Item 5. Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities

The Company's common stock is traded on the NASDAQ Stock Market LLC ("NASDAQ") under the symbol AAPL.

Price Range of Common Stock

The price range per share of common stock presented below represents the highest and lowest intraday sales prices for the Company's common stock on the NASDAQ during each quarter of the two most recent years.

	Fourth Quarter	Third Quarter	Second Quarter	First Quarter
2016 price range per share	$116.18 - $91.50	$112.39 - $89.47	$109.43 - $92.39	$123.82 - $105.57
2015 price range per share	$132.97 - $92.00	$134.54 - $123.10	$133.60 - $104.63	$119.75 - $95.18

Holders

As of October 14, 2016, there were 25,641 shareholders of record.

Dividends

The Company paid a total of $12.0 billion and $11.4 billion in dividends during 2016 and 2015, respectively, and expects to pay quarterly dividends of $0.57 per common share each quarter, subject to declaration by the Board of Directors. The Company also plans to increase its dividend on an annual basis, subject to declaration by the Board of Directors.

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Purchases of Equity Securities by the Issuer and Affiliated Purchasers

Share repurchase activity during the three months ended September 24, 2016 was as follows (in millions, except number of shares, which are reflected in thousands, and per share amounts):

Periods	Total Number of Shares Purchased	Average Price Paid Per Share	Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs	Approximate Dollar Value of Shares That May Yet Be Purchased Under the Plans or Programs [1]
June 26, 2016 to July 30, 2016:				
Open market and privately negotiated purchases	9,036	$ 96.83	9,036	
July 31, 2016 to August 27, 2016:				
May 2016 ASR	12,269	[2]	12,269	
Open market and privately negotiated purchases	11,919	$ 108.11	11,919	
August 28, 2016 to September 24, 2016:				
August 2016 ASR	22,468 [3]	[3]	22,468 [3]	
Open market and privately negotiated purchases	7,624	$ 109.71	7,624	
Total	63,316			$ 42,024

(1) In April 2016, the Company's Board of Directors increased the Company's share repurchase program authorization from $140 billion to $175 billion of the Company's common stock. As of September 24, 2016, $133 billion of the $175 billion had been utilized. The remaining $42 billion in the table represents the amount available to repurchase shares under the authorized repurchase program as of September 24, 2016. The Company's share repurchase program does not obligate it to acquire any specific number of shares. Under the program, shares may be repurchased in privately negotiated and/or open market transactions, including under plans complying with Rule 10b5-1 under the Exchange Act.

(2) In May 2016, the Company entered into an accelerated share repurchase arrangement ("ASR") to purchase up to $6.0 billion of the Company's common stock. In August 2016, the purchase period for this ASR ended and an additional 12.3 million shares were delivered and retired. In total, 60.5 million shares were delivered under this ASR at an average repurchase price of $99.25.

(3) In August 2016, the Company entered into a new ASR to purchase up to $3.0 billion of the Company's common stock. In exchange for an up-front payment of $3.0 billion, the financial institution party to the arrangement committed to deliver shares to the Company during the ASR's purchase period, which will end in or before November 2016. The total number of shares ultimately delivered, and therefore the average price paid per share, will be determined at the end of the applicable purchase period based on the volume weighted-average price of the Company's common stock during that period.

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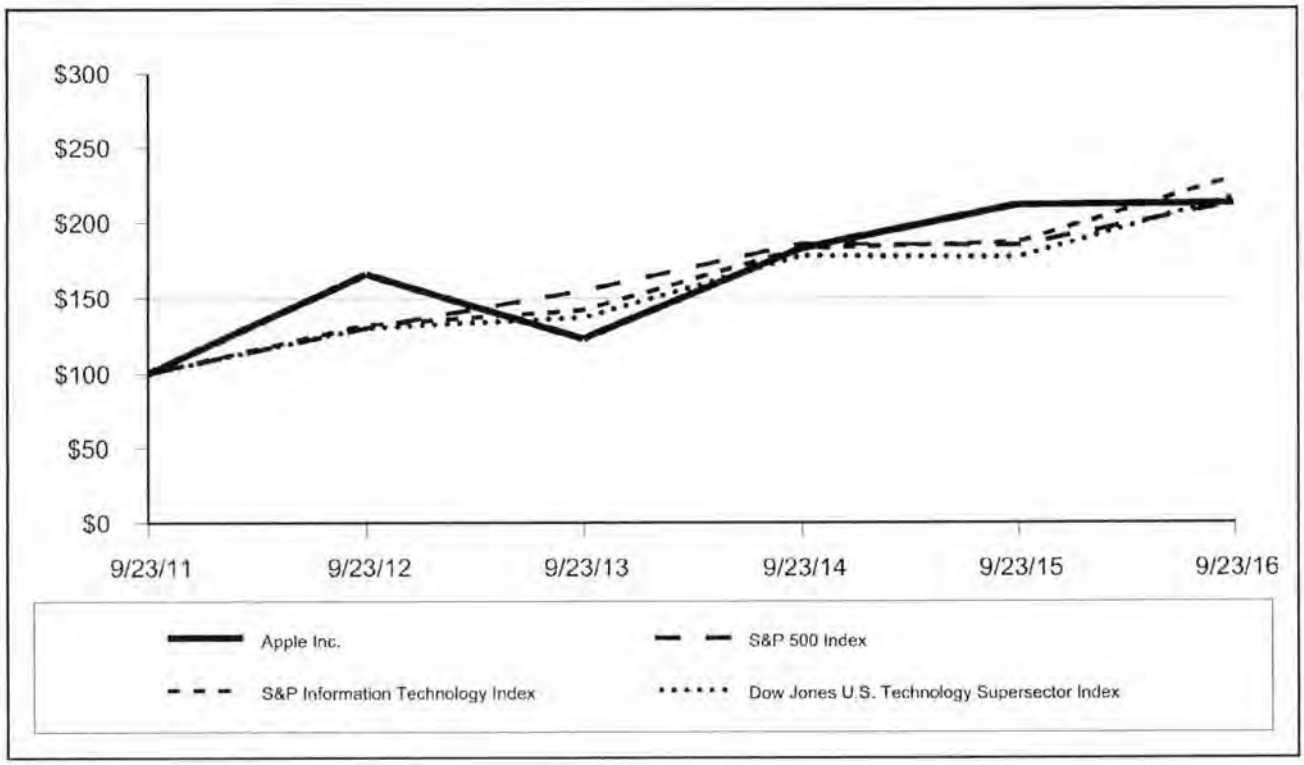
Company Stock Performance

The following graph shows a comparison of cumulative total shareholder return, calculated on a dividend reinvested basis, for the Company, the S&P 500 Index, the S&P Information Technology Index and the Dow Jones U.S. Technology Supersector Index for the five years ended September 24, 2016. The graph assumes $100 was invested in each of the Company's common stock, the S&P 500 Index, the S&P Information Technology Index and the Dow Jones U.S. Technology Supersector Index as of the market close on September 23, 2011. Note that historic stock price performance is not necessarily indicative of future stock price performance.



* $100 invested on 9/23/11 in stock or index, including reinvestment of dividends. Data points are the last day of each fiscal year for the Company's common stock and September 30th for indexes.

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	September 2011	September 2012	September 2013	September 2014	September 2015	September 2016
Apple Inc.	$ 100	$ 166	$ 123	$ 183	$ 212	$ 213
S&P 500 Index	$ 100	$ 130	$ 155	$ 186	$ 185	$ 213
S&P Information Technology Index	$ 100	$ 132	$ 142	$ 183	$ 187	$ 230
Dow Jones U.S. Technology Supersector Index	$ 100	$ 130	$ 137	$ 178	$ 177	$ 217

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Item 6. Selected Financial Data

The information set forth below for the five years ended September 24, 2016, is not necessarily indicative of results of future operations, and should be read in conjunction with Part II, Item 7, "Management's Discussion and Analysis of Financial Condition and Results of Operations" and the consolidated financial statements and related notes thereto included in Part II, Item 8 of this Form 10-K to fully understand factors that may affect the comparability of the information presented below (in millions, except number of shares, which are reflected in thousands, and per share amounts).

	2016	2015	2014	2013	2012
Net sales	$ 215,639	$ 233,715	$ 182,795	$ 170,910	$ 156,508
Net income	$ 45,687	$ 53,394	$ 39,510	$ 37,037	$ 41,733
Earnings per share:					
Basic	$ 8.35	$ 9.28	$ 6.49	$ 5.72	$ 6.38
Diluted	$ 8.31	$ 9.22	$ 6.45	$ 5.68	$ 6.31
Cash dividends declared per share	$ 2.18	$ 1.98	$ 1.82	$ 1.64	$ 0.38
Shares used in computing earnings per share:					
Basic	5,470,820	5,753,421	6,085,572	6,477,320	6,543,726
Diluted	5,500,281	5,793,069	6,122,663	6,521,634	6,617,483
Total cash, cash equivalents and marketable securities	$ 237,585	$ 205,666	$ 155,239	$ 146,761	$ 121,251
Total assets	$ 321,686	$ 290,345	$ 231,839	$ 207,000	$ 176,064
Commercial paper	$ 8,105	$ 8,499	$ 6,308	$ —	$ —
Total term debt [1]	$ 78,927	$ 55,829	$ 28,987	$ 16,960	$ —
Other long-term obligations [2]	$ 36,074	$ 33,427	$ 24,826	$ 20,208	$ 16,664
Total liabilities	$ 193,437	$ 170,990	$ 120,292	$ 83,451	$ 57,854
Total shareholders' equity	$ 128,249	$ 119,355	$ 111,547	$ 123,549	$ 118,210

(1) Includes current and long-term portion of term debt.

(2) Other long-term obligations excludes non-current deferred revenue.

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Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations

This section and other parts of this Annual Report on Form 10-K ("Form 10-K") contain forward-looking statements, within the meaning of the Private Securities Litigation Reform Act of 1995, that involve risks and uncertainties. Forward-looking statements provide current expectations of future events based on certain assumptions and include any statement that does not directly relate to any historical or current fact. Forward-looking statements can also be identified by words such as "future," "anticipates," "believes," "estimates," "expects," "intends," "plans," "predicts," "will," "would," "could," "can," "may," and similar terms. Forward-looking statements are not guarantees of future performance and the Company's actual results may differ significantly from the results discussed in the forward-looking statements. Factors that might cause such differences include, but are not limited to, those discussed in Part I, Item 1A of this Form 10-K under the heading "Risk Factors," which are incorporated herein by reference. The following discussion should be read in conjunction with the consolidated financial statements and notes thereto included in Part II, Item 8 of this Form 10-K. All information presented herein is based on the Company's fiscal calendar. Unless otherwise stated, references to particular years, quarters, months or periods refer to the Company's fiscal years ended in September and the associated quarters, months and periods of those fiscal years. Each of the terms the "Company" and "Apple" as used herein refers collectively to Apple Inc. and its wholly-owned subsidiaries, unless otherwise stated. The Company assumes no obligation to revise or update any forward-looking statements for any reason, except as required by law.

Overview and Highlights

The Company designs, manufactures and markets mobile communication and media devices, personal computers and portable digital music players, and sells a variety of related software, services, accessories, networking solutions and third-party digital content and applications. The Company's products and services include iPhone®, iPad®, Mac®, iPod®, Apple Watch®, Apple TV®, a portfolio of consumer and professional software applications, iOS, macOS™, watchOS® and tvOS™ operating systems, iCloud®, Apple Pay® and a variety of accessory, service and support offerings. The Company sells and delivers digital content and applications through the iTunes Store®, App Store®, Mac App Store, TV App Store, iBooks Store™ and Apple Music® (collectively "Internet Services"). The Company sells its products worldwide through its retail stores, online stores and direct sales force, as well as through third-party cellular network carriers, wholesalers, retailers and value-added resellers. In addition, the Company sells a variety of third-party Apple compatible products, including application software and various accessories through its retail and online stores. The Company sells to consumers, small and mid-sized businesses and education, enterprise and government customers.

Fiscal 2016 Highlights

Net sales declined 8% or $18.1 billion during 2016 compared to 2015, primarily driven by a year-over-year decrease in iPhone net sales and the effect of weakness in most foreign currencies relative to the U.S. dollar, partially offset by an increase in Services. In April 2016, the Company announced a significant increase to its capital return program by raising the expected total size of the program from $200 billion to $250 billion through March 2018. This included increasing its share repurchase authorization from $140 billion to $175 billion and raising its quarterly dividend from $0.52 to $0.57 per share beginning in May 2016. During 2016, the Company spent $29.0 billion to repurchase shares of its common stock and paid dividends and dividend equivalents of $12.2 billion. Additionally, the Company issued $23.9 billion of U.S. dollar-denominated term debt and A$1.4 billion of Australian dollar-denominated term debt during 2016.

Fiscal 2015 Highlights

Net sales rose 28% or $50.9 billion during 2015 compared to 2014, driven by a year-over-year increase in iPhone net sales. iPhone net sales and unit sales in 2015 increased in all of the Company's reportable operating segments. The Company also experienced year-over-year net sales increases in Mac, Services and Other Products. Apple Watch, which launched during the third quarter of 2015, accounted for more than 100% of the year-over-year growth in net sales of Other Products. Net sales growth during 2015 was partially offset by the effect of weakness in most foreign currencies relative to the U.S. dollar and lower iPad net sales. Total net sales increased in each of the Company's reportable operating segments, with particularly strong growth in Greater China where year-over-year net sales increased 84%.

In April 2015, the Company announced a significant increase to its capital return program by raising the expected total size of the program to $200 billion through March 2017. This included increasing its share repurchase authorization to $140 billion and raising its quarterly dividend to $0.52 per share beginning in May 2015. During 2015, the Company spent $36.0 billion to repurchase shares of its common stock and paid dividends and dividend equivalents of $11.6 billion. Additionally, the Company issued $14.5 billion of U.S. dollar-denominated, €4.8 billion of euro-denominated, SFr1.3 billion of Swiss franc-denominated, £1.3 billion of British pound-denominated, A$2.3 billion of Australian dollar-denominated and ¥250.0 billion of Japanese yen-denominated term debt during 2015.

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Sales Data

The following table shows net sales by operating segment and net sales and unit sales by product during 2016, 2015 and 2014 (dollars in millions and units in thousands):

	2016	Change	2015	Change	2014
Net Sales by Operating Segment:					
Americas	$ 86,613	(8)%	$ 93,864	17 %	$ 80,095
Europe	49,952	(1)%	50,337	14 %	44,285
Greater China	48,492	(17)%	58,715	84 %	31,853
Japan	16,928	8 %	15,706	3 %	15,314
Rest of Asia Pacific	13,654	(10)%	15,093	34 %	11,248
Total net sales	$ 215,639	(8)%	$ 233,715	28 %	$ 182,795
Net Sales by Product:					
iPhone [1]	$ 136,700	(12)%	$ 155,041	52 %	$ 101,991
iPad [1]	20,628	(11)%	23,227	(23)%	30,283
Mac [1]	22,831	(10)%	25,471	6 %	24,079
Services [2]	24,348	22 %	19,909	10 %	18,063
Other Products [1][3]	11,132	11 %	10,067	20 %	8,379
Total net sales	$ 215,639	(8)%	$ 233,715	28 %	$ 182,795
Unit Sales by Product:					
iPhone	211,884	(8)%	231,218	37 %	169,219
iPad	45,590	(17)%	54,856	(19)%	67,977
Mac	18,484	(10)%	20,587	9 %	18,906

(1) Includes deferrals and amortization of related software upgrade rights and non-software services.

(2) Includes revenue from Internet Services, AppleCare®, Apple Pay, licensing and other services.

(3) Includes sales of Apple TV, Apple Watch, Beats® products, iPod and Apple-branded and third-party accessories.

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Product Performance

iPhone

The following table presents iPhone net sales and unit sales information for 2016, 2015 and 2014 (dollars in millions and units in thousands):

	2016	Change	2015	Change	2014
Net sales	$ 136,700	(12)%	$ 155,041	52%	$ 101,991
Percentage of total net sales	63%		66%		56%
Unit sales	211,884	(8)%	231,218	37%	169,219

iPhone net sales and unit sales decreased during 2016 compared to 2015. The Company believes the sales decline is due primarily to a lower rate of iPhone upgrades during 2016 compared to 2015 and challenging macroeconomic conditions in a number of major markets in 2016. Average selling prices ("ASPs") for iPhone were lower year-over-year during 2016 due primarily to a different mix of iPhones, including the iPhone SE introduced in 2016, and the effect of weakness in most foreign currencies relative to the U.S. dollar.

The year-over-year growth in iPhone net sales and unit sales during 2015 primarily resulted from strong demand for iPhone 6 and 6 Plus during 2015. Overall ASPs for iPhone increased during 2015 compared to 2014, due primarily to the introduction of iPhone 6 and 6 Plus in September 2014, partially offset by the effect of weakness in most foreign currencies relative to the U.S. dollar.

iPad

The following table presents iPad net sales and unit sales information for 2016, 2015 and 2014 (dollars in millions and units in thousands):

	2016	Change	2015	Change	2014
Net sales	$ 20,628	(11)%	$ 23,227	(23)%	$ 30,283
Percentage of total net sales	10%		10%		17%
Unit sales	45,590	(17)%	54,856	(19)%	67,977

iPad net sales decreased during 2016 compared to 2015 primarily due to lower unit sales and the effect of weakness in most foreign currencies relative to the U.S. dollar, partially offset by higher ASPs due to a shift in mix to higher-priced iPads. The Company believes the decline in iPad sales is due in part to a longer repurchase cycle for iPads and some level of cannibalization from the Company's other products.

Net sales and unit sales for iPad declined during 2015 compared to 2014. The Company believes the decline in iPad sales is due in part to a longer repurchase cycle for iPads and some level of cannibalization from the Company's other products. iPad ASPs declined during 2015 compared to 2014, primarily as a result of the effect of weakness in most foreign currencies relative to the U.S. dollar and a shift in mix to lower-priced iPads.

Mac

The following table presents Mac net sales and unit sales information for 2016, 2015 and 2014 (dollars in millions and units in thousands):

	2016	Change	2015	Change	2014
Net sales	$ 22,831	(10)%	$ 25,471	6%	$ 24,079
Percentage of total net sales	11%		11%		13%
Unit sales	18,484	(10)%	20,587	9%	18,906

Mac net sales and unit sales decreased during 2016 compared to 2015. The year-over-year decline in Mac unit sales during 2016 was at rates similar to the overall market. The effect of weakness in most foreign currencies relative to the U.S. dollar also negatively impacted Mac net sales.

The year-over-year growth in Mac net sales and unit sales during 2015 was driven by strong demand for Mac portables. Mac ASPs declined during 2015 compared to 2014 largely due to the effect of weakness in most foreign currencies relative to the U.S. dollar.

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Services

The following table presents net sales information of Services for 2016, 2015 and 2014 (dollars in millions):

	2016	Change	2015	Change	2014
Net sales	$ 24,348	22%	$ 19,909	10%	$ 18,063
Percentage of total net sales	11%		9%		10%

The year-over-year increase in net sales of Services in 2016 was due primarily to growth from the App Store, licensing and AppleCare sales, partially offset by the effect of weakness in most foreign currencies relative to the U.S. dollar. During the first quarter of 2016, the Company received $548 million from Samsung Electronics Co., Ltd. related to its patent infringement lawsuit, which was recorded as licensing net sales within Services.

The increase in net sales of Services during 2015 compared to 2014 was primarily due to growth from the App Store and licensing.

Segment Operating Performance

The Company manages its business primarily on a geographic basis. The Company's reportable operating segments consist of the Americas, Europe, Greater China, Japan and Rest of Asia Pacific. The Americas segment includes both North and South America. The Europe segment includes European countries, as well as India, the Middle East and Africa. The Greater China segment includes China, Hong Kong and Taiwan. The Rest of Asia Pacific segment includes Australia and those Asian countries not included in the Company's other reportable operating segments. Although the reportable operating segments provide similar hardware and software products and similar services, each one is managed separately to better align with the location of the Company's customers and distribution partners and the unique market dynamics of each geographic region. Further information regarding the Company's reportable operating segments can be found in Part II, Item 8 of this Form 10-K in the Notes to Consolidated Financial Statements in Note 11, "Segment Information and Geographic Data."

Americas

The following table presents Americas net sales information for 2016, 2015 and 2014 (dollars in millions):

	2016	Change	2015	Change	2014
Net sales	$ 86,613	(8)%	$ 93,864	17%	$ 80,095
Percentage of total net sales	40%		40%		44%

Americas net sales decreased during 2016 compared to 2015 due primarily to lower net sales and unit sales of iPhone.

The year-over-year growth in Americas net sales during 2015 was driven primarily by growth in net sales and unit sales of iPhone, partially offset by a decline in net sales and unit sales of iPad.

Europe

The following table presents Europe net sales information for 2016, 2015 and 2014 (dollars in millions):

	2016	Change	2015	Change	2014
Net sales	$ 49,952	(1)%	$ 50,337	14%	$ 44,285
Percentage of total net sales	23%		22%		24%

Europe net sales decreased during 2016 compared to 2015 driven primarily by the effect of weakness in foreign currencies relative to the U.S. dollar and a decrease in unit sales of Mac, largely offset by an increase in iPhone unit sales and Services.

The year-over-year increase in Europe net sales during 2015 was driven primarily by growth in net sales and unit sales of iPhone, partially offset by the effect of weakness in foreign currencies relative to the U.S. dollar and a decline in net sales and unit sales of iPad.

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Greater China

The following table presents Greater China net sales information for 2016, 2015 and 2014 (dollars in millions):

	2016	Change	2015	Change	2014
Net sales	$ 48,492	(17)%	$ 58,715	84%	$ 31,853
Percentage of total net sales	22%		25%		17%

Greater China net sales decreased during 2016 compared to 2015 due primarily to lower net sales and unit sales of iPhone and the effect of weakness in foreign currencies relative to the U.S. dollar.

Greater China experienced strong year-over-year increases in net sales during 2015 driven primarily by iPhone sales.

Japan

The following table presents Japan net sales information for 2016, 2015 and 2014 (dollars in millions):

	2016	Change	2015	Change	2014
Net sales	$ 16,928	8%	$ 15,706	3%	$ 15,314
Percentage of total net sales	8%		7%		8%

Japan net sales increased during 2016 compared to 2015 due primarily to higher net sales of Services and the strength in the Japanese yen relative to the U.S. dollar.

The year-over-year increase in Japan net sales during 2015 was driven primarily by growth in Services largely associated with strong App Store sales, partially offset by the effect of weakness in the Japanese yen relative to the U.S. dollar.

Rest of Asia Pacific

The following table presents Rest of Asia Pacific net sales information for 2016, 2015 and 2014 (dollars in millions):

	2016	Change	2015	Change	2014
Net sales	$ 13,654	(10)%	$ 15,093	34%	$ 11,248
Percentage of total net sales	6%		6%		6%

Rest of Asia Pacific net sales decreased during 2016 compared to 2015 due primarily to lower net sales and unit sales of iPhone and the effect of weakness in foreign currencies relative to the U.S. dollar.

The year-over-year increase in Rest of Asia Pacific net sales during 2015 primarily reflects strong growth in net sales and unit sales of iPhone, partially offset by the effect of weakness in foreign currencies relative to the U.S. dollar and a decline in net sales and unit sales of iPad.

Gross Margin

Gross margin for 2016, 2015 and 2014 is as follows (dollars in millions):

	2016	2015	2014
Net sales	$ 215,639	$ 233,715	$ 182,795
Cost of sales	131,376	140,089	112,258
Gross margin	$ 84,263	$ 93,626	$ 70,537
Gross margin percentage	39.1%	40.1%	38.6%

Gross margin decreased in 2016 compared to 2015 due primarily to the effect of weakness in most foreign currencies relative to the U.S. dollar and, to a lesser extent, unfavorable leverage on fixed costs from lower net sales, partially offset by a favorable shift in mix to Services.

The year-over-year increase in the gross margin percentage in 2015 was driven primarily by a favorable shift in mix to products with higher margins and, to a lesser extent, by improved leverage on fixed costs from higher net sales. These positive factors were partially offset primarily by higher product cost structures and, to a lesser extent, by the effect of weakness in most foreign currencies relative to the U.S. dollar.

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The Company anticipates gross margin during the first quarter of 2017 to be between 38% and 38.5%. The foregoing statement regarding the Company's expected gross margin percentage in the first quarter of 2017 is forward-looking and could differ from actual results. The Company's future gross margins can be impacted by multiple factors including, but not limited to, those set forth in Part I, Item 1A of this Form 10-K under the heading "Risk Factors" and those described in this paragraph. In general, the Company believes gross margins will remain under downward pressure due to a variety of factors, including continued industry wide global product pricing pressures, increased competition, compressed product life cycles, product transitions, potential increases in the cost of components, and potential strengthening of the U.S. dollar, as well as potential increases in the costs of outside manufacturing services and a potential shift in the Company's sales mix towards products with lower gross margins. In response to competitive pressures, the Company expects it will continue to take product pricing actions, which would adversely affect gross margins. Gross margins could also be affected by the Company's ability to manage product quality and warranty costs effectively and to stimulate demand for certain of its products. Due to the Company's significant international operations, its financial condition and operating results, including gross margins, could be significantly affected by fluctuations in exchange rates.

Operating Expenses

Operating expenses for 2016, 2015 and 2014 are as follows (dollars in millions):

	2016	Change	2015	Change	2014
Research and development	$ 10,045	25 %	$ 8,067	34%	$ 6,041
Percentage of total net sales	5%		3%		3%
Selling, general and administrative	$ 14,194	(1)%	$ 14,329	19%	$ 11,993
Percentage of total net sales	7%		6%		7%
Total operating expenses	$ 24,239	8 %	$ 22,396	24%	$ 18,034
Percentage of total net sales	11%		10%		10%

Research and Development

The year-over-year growth in R&D expense in 2016 and 2015 was driven primarily by an increase in headcount and related expenses, and material costs to support expanded R&D activities. The Company continues to believe that focused investments in R&D are critical to its future growth and competitive position in the marketplace, and to the development of new and updated products that are central to the Company's core business strategy.

Selling, General and Administrative

The decrease in selling, general and administrative expense in 2016 compared to 2015 was due primarily to lower discretionary expenditures and advertising costs, partially offset by an increase in headcount and related expenses. The year-over-year growth in selling, general and administrative expense in 2015 was primarily due to increased headcount and related expenses, and higher spending on marketing and advertising.

Other Income/(Expense), Net

Other income/(expense), net for 2016, 2015 and 2014 are as follows (dollars in millions):

	2016	Change	2015	Change	2014
Interest and dividend income	$ 3,999		$ 2,921		$ 1,795
Interest expense	(1,456)		(733)		(384)
Other expense, net	(1,195)		(903)		(431)
Total other income/(expense), net	$ 1,348	5%	$ 1,285	31%	$ 980

The year-over-year increase in other income/(expense), net during 2016 and 2015 was due primarily to higher interest income, partially offset by higher interest expense on debt and higher expenses associated with foreign exchange activity. The weighted-average interest rate earned by the Company on its cash, cash equivalents and marketable securities was 1.73%, 1.49% and 1.11% in 2016, 2015 and 2014, respectively.

SPOTIFY EXHIBIT 47

Provision for Income Taxes

Provision for income taxes and effective tax rates for 2016, 2015 and 2014 are as follows (dollars in millions):

	2016	2015	2014
Provision for income taxes	15,685	$ 19,121	$ 13,973
Effective tax rate	25.6%	26.4%	26.1%

The Company's effective tax rates for 2016, 2015 and 2014 differ from the statutory federal income tax rate of 35% due primarily to certain undistributed foreign earnings, a substantial portion of which was generated by subsidiaries organized in Ireland, for which no U.S. taxes are provided when such earnings are intended to be indefinitely reinvested outside the U.S. The lower effective tax rate in 2016 compared to 2015 was due primarily to greater R&D tax credits. The higher effective tax rate during 2015 compared to 2014 was due primarily to higher foreign taxes.

As of September 24, 2016, the Company had deferred tax assets arising from deductible temporary differences, tax losses and tax credits of $4.1 billion and deferred tax liabilities of $26.0 billion. Management believes it is more likely than not that forecasted income, including income that may be generated as a result of certain tax planning strategies, together with future reversals of existing taxable temporary differences, will be sufficient to fully recover the deferred tax assets. The Company will continue to evaluate the realizability of deferred tax assets quarterly by assessing the need for and the amount of a valuation allowance.

During the fourth quarter of 2016, the Company reached a partial settlement with the IRS on its examination of the years 2010 through 2012. In connection with this settlement, the Company recognized a tax benefit in the fourth quarter of 2016 that was not significant to its consolidated financial statements. All years prior to 2013 are closed, except for the years 2010 through 2012 relating to R&D tax credits. In addition, the Company is subject to audits by state, local and foreign tax authorities. In major states and major foreign jurisdictions, the years subsequent to 2003 generally remain open and could be subject to examination by the taxing authorities. Management believes that adequate provisions have been made for any adjustments that may result from tax examinations. However, the outcome of tax audits cannot be predicted with certainty. If any issues addressed in the Company's tax audits are resolved in a manner not consistent with management's expectations, the Company could be required to adjust its provision for income taxes in the period such resolution occurs.

On August 30, 2016, the European Commission announced its decision that Ireland granted state aid to the Company by providing tax opinions in 1991 and 2007 concerning the tax allocation of profits of the Irish branches of two subsidiaries of the Company (the "State Aid Decision"). The State Aid Decision orders Ireland to calculate and recover additional taxes from the Company for the period June 2003 through September 2014. Irish legislative changes, effective as of the beginning of 2015, eliminated the application of the tax opinions from that date forward. The Company believes the State Aid Decision to be without merit and intends to appeal to the General Court of the Court of Justice of the European Union. Ireland has also announced its intention to appeal the State Aid Decision. While the European Commission announced a recovery amount of up to €13 billion, plus interest, the actual amount of additional taxes subject to recovery is to be calculated by Ireland in accordance with the European Commission's guidance. Once the recovery amount is computed by Ireland, the Company anticipates funding it, including interest, out of foreign cash into escrow, pending conclusion of all appeals. The Company believes that any incremental Irish corporate income taxes potentially due would be creditable against U.S. taxes.

Recent Accounting Pronouncements

Income Taxes

In October 2016, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") 2016-16, Income Taxes (Topic 740): Intra-Entity Transfer of Assets Other than Inventory ("ASU 2016-16"), which requires the recognition of the income tax consequences of an intra-entity transfer of an asset, other than inventory, when the transfer occurs. ASU 2016-06 will be effective for the Company in its first quarter of 2019. The Company is currently evaluating the impact of adopting ASU 2016-16 on its consolidated financial statements.

Stock Compensation

In March 2016, the FASB issued ASU No. 2016-09, Compensation – Stock Compensation (Topic 718): Improvements to Employee Share-Based Payment Accounting ("ASU 2016-09"), which simplified certain aspects of the accounting for share-based payment transactions, including income taxes, classification of awards and classification on the statement of cash flows. ASU 2016-09 will be effective for the Company beginning in its first quarter of 2018. The Company is currently evaluating the impact of adopting ASU 2016-09 on its consolidated financial statements.

SPOTIFY EXHIBIT 47

Leases

In February 2016, the FASB issued ASU No. 2016-02, Leases (Topic 842) ("ASU 2016-02"), which modified lease accounting for both lessees and lessors to increase transparency and comparability by recognizing lease assets and lease liabilities by lessees for those leases classified as operating leases under previous accounting standards and disclosing key information about leasing arrangements. ASU 2016-02 will be effective for the Company beginning in its first quarter of 2020, and early adoption is permitted. The Company is currently evaluating the timing of its adoption and the impact of adopting ASU 2016-02 on its consolidated financial statements.

Financial Instruments

In January 2016, the FASB issued ASU No. 2016-01, Financial Instruments – Overall (Subtopic 825-10): Recognition and Measurement of Financial Assets and Financial Liabilities ("ASU 2016-01"), which updates certain aspects of recognition, measurement, presentation and disclosure of financial instruments. ASU 2016-01 will be effective for the Company beginning in its first quarter of 2019. The Company does not believe the adoption of ASU 2016-01 will have a material impact on its consolidated financial statements.

In June 2016, the FASB issued ASU No. 2016-13, Financial Instruments – Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments ("ASU 2016-13"), which modifies the measurement of expected credit losses of certain financial instruments. ASU 2016-13 will be effective for the Company beginning in its first quarter of 2021 and early adoption is permitted. The Company does not believe the adoption of ASU 2016-13 will have a material impact on its consolidated financial statements.

Revenue Recognition

In May 2014, the FASB issued ASU No. 2014-09, Revenue from Contracts with Customers (Topic 606) ("ASU 2014-09"), which amends the existing accounting standards for revenue recognition. ASU 2014-09 is based on principles that govern the recognition of revenue at an amount an entity expects to be entitled when products are transferred to customers. ASU 2014-09 will be effective for the Company beginning in its first quarter of 2019, and early adoption is permitted.

Subsequently, the FASB has issued the following standards related to ASU 2014-09: ASU No. 2016-08, Revenue from Contracts with Customers (Topic 606): Principal versus Agent Considerations ("ASU 2016-08"); ASU No. 2016-10, Revenue from Contracts with Customers (Topic 606): Identifying Performance Obligations and Licensing ("ASU 2016-10"); and ASU No. 2016-12, Revenue from Contracts with Customers (Topic 606): Narrow-Scope Improvements and Practical Expedients ("ASU 2016-12"). The Company must adopt ASU 2016-08, ASU 2016-10 and ASU 2016-12 with ASU 2014-09 (collectively, the "new revenue standards").

The new revenue standards may be applied retrospectively to each prior period presented or retrospectively with the cumulative effect recognized as of the date of adoption. The Company currently expects to adopt the new revenue standards in its first quarter of 2018 utilizing the full retrospective transition method. The Company does not expect adoption of the new revenue standards to have a material impact on its consolidated financial statements.

Liquidity and Capital Resources

The following table presents selected financial information and statistics as of and for the years ended September 24, 2016, September 26, 2015 and September 27, 2014 (in millions):

	2016	2015	2014
Cash, cash equivalents and marketable securities	$ 237,585	$ 205,666	$ 155,239
Property, plant and equipment, net	$ 27,010	$ 22,471	$ 20,624
Commercial paper	$ 8,105	$ 8,499	$ 6,308
Total term debt	$ 78,927	$ 55,829	$ 28,987
Working capital	$ 27,863	$ 8,768	$ 5,083
Cash generated by operating activities	$ 65,824	$ 81,266	$ 59,713
Cash used in investing activities	$ (45,977)	$ (56,274)	$ (22,579)
Cash used in financing activities	$ (20,483)	$ (17,716)	$ (37,549)

The Company believes its existing balances of cash, cash equivalents and marketable securities will be sufficient to satisfy its working capital needs, capital asset purchases, outstanding commitments and other liquidity requirements associated with its existing operations over the next 12 months. The Company currently anticipates the cash used for future dividends, the share repurchase program and debt repayments will come from its current domestic cash, cash generated from on-going U.S. operating activities and from borrowings.

SPOTIFY EXHIBIT 47

As of September 24, 2016 and September 26, 2015, the Company's cash, cash equivalents and marketable securities held by foreign subsidiaries were $216.0 billion and $186.9 billion, respectively, and are generally based in U.S. dollar-denominated holdings. Amounts held by foreign subsidiaries are generally subject to U.S. income taxation on repatriation to the U.S. In connection with the State Aid Decision, the European Commission announced a recovery amount of up to €13 billion, plus interest. The actual amount of additional taxes subject to recovery is to be calculated by Ireland in accordance with the European Commission's guidance. Once the recovery amount is computed by Ireland, the Company anticipates funding it, including interest, out of foreign cash into escrow, pending conclusion of all appeals.

The Company's marketable securities investment portfolio is invested primarily in highly-rated securities and its investment policy generally limits the amount of credit exposure to any one issuer. The policy requires investments generally to be investment grade with the objective of minimizing the potential risk of principal loss.

During 2016, cash generated from operating activities of $65.8 billion was a result of $45.7 billion of net income, non-cash adjustments to net income of $19.7 billion and an increase in the net change in operating assets and liabilities of $484 million. Cash used in investing activities of $46.0 billion during 2016 consisted primarily of cash used for purchases of marketable securities, net of sales and maturities, of $30.6 billion and cash used to acquire property, plant and equipment of $12.7 billion. Cash used in financing activities of $20.5 billion during 2016 consisted primarily of cash used to repurchase common stock of $29.7 billion, cash used to pay dividends and dividend equivalents of $12.2 billion and cash used to repay term debt of $2.5 billion, partially offset by net proceeds from the issuance of term debt of $25.0 billion.

During 2015, cash generated from operating activities of $81.3 billion was a result of $53.4 billion of net income, non-cash adjustments to net income of $16.2 billion and an increase in the net change in operating assets and liabilities of $11.6 billion. Cash used in investing activities of $56.3 billion during 2015 consisted primarily of cash used for purchases of marketable securities, net of sales and maturities, of $44.4 billion and cash used to acquire property, plant and equipment of $11.2 billion. Cash used in financing activities of $17.7 billion during 2015 consisted primarily of cash used to repurchase common stock of $35.3 billion and cash used to pay dividends and dividend equivalents of $11.6 billion, partially offset by net proceeds from the issuance of term debt of $27.1 billion.

Capital Assets

The Company's capital expenditures were $12.8 billion during 2016. The Company anticipates utilizing approximately $16.0 billion for capital expenditures during 2017, which includes product tooling and manufacturing process equipment; data centers; corporate facilities and infrastructure, including information systems hardware, software and enhancements; and retail store facilities.

Debt

The Company issues unsecured short-term promissory notes ("Commercial Paper") pursuant to a commercial paper program. The Company uses the net proceeds from the commercial paper program for general corporate purposes, including dividends and share repurchases. As of September 24, 2016, the Company had $8.1 billion of Commercial Paper outstanding, with a weighted-average interest rate of 0.45% and maturities generally less than nine months.

As of September 24, 2016, the Company has outstanding floating- and fixed-rate notes with varying maturities for an aggregate principal amount of $78.4 billion (collectively the "Notes"). During 2016, the Company repaid $2.5 billion of its Notes upon maturity. The Company has entered, and in the future may enter, into interest rate swaps to manage interest rate risk on the Notes. In addition, the Company has entered, and in the future may enter, into currency swaps to manage foreign currency risk on the Notes. The future principal payments for the Company's Notes as of September 24, 2016 are as follows (in millions):

2017	$ 3,500
2018	6,500
2019	6,834
2020	6,454
2021	7,750
Thereafter	47,346
Total term debt	$ 78,384

Further information regarding the Company's debt issuances and related hedging activity can be found in Part II, Item 8 of this Form 10-K in the Notes to the Consolidated Financial Statements in Note 2, "Financial Instruments" and Note 6, "Debt."

SPOTIFY EXHIBIT 47

Capital Return Program

In April 2016, the Company's Board of Directors increased the share repurchase program authorization from $140 billion to $175 billion of the Company's common stock, increasing the expected total size of the capital return program from $200 billion to $250 billion. Additionally in April 2016, the Company announced that the Board of Directors raised the rate of the Company's quarterly cash dividend by 10% from $0.52 to $0.57 per share, beginning with the dividend paid during the third quarter of 2016. The Company intends to increase its dividend on an annual basis subject to declaration by the Board of Directors.

As of September 24, 2016, $133 billion of the share repurchase program has been utilized. The Company's share repurchase program does not obligate it to acquire any specific number of shares. Under the program, shares may be repurchased in privately negotiated or open market transactions, including under plans complying with Rule 10b5-1 under the Exchange Act.

The following table presents the Company's dividends, dividend equivalents, share repurchases and net share settlement activity from the start of the capital return program in August 2012 through September 24, 2016 (in millions):

	Dividends and Dividend Equivalents Paid	Accelerated Share Repurchases	Open Market Share Repurchases	Taxes Related to Settlement of Equity Awards	Total
2016	$ 12,150	$ 12,000	$ 17,000	$ 1,570	$ 42,720
2015	11,561	6,000	30,026	1,499	49,086
2014	11,126	21,000	24,000	1,158	57,284
2013	10,564	13,950	9,000	1,082	34,596
2012	2,488	—	—	56	2,544
Total	$ 47,889	$ 52,950	$ 80,026	$ 5,365	$ 186,230

The Company expects to execute its capital return program by the end of March 2018 by paying dividends and dividend equivalents, repurchasing shares and remitting withheld taxes related to net share settlement of restricted stock units. The Company plans to continue to access the domestic and international debt markets to assist in funding its capital return program.

Off-Balance Sheet Arrangements and Contractual Obligations

The Company has not entered into any transactions with unconsolidated entities whereby the Company has financial guarantees, subordinated retained interests, derivative instruments, or other contingent arrangements that expose the Company to material continuing risks, contingent liabilities, or any other obligation under a variable interest in an unconsolidated entity that provides financing, liquidity, market risk, or credit risk support to the Company, or engages in leasing, hedging, or R&D services with the Company.

The following table presents certain payments due by the Company under contractual obligations with minimum firm commitments as of September 24, 2016, and excludes amounts already recorded on the Consolidated Balance Sheet, except for term debt (in millions):

	Payments Due in Less Than 1 Year	Payments Due in 1-3 Years	Payments Due in 4-5 Years	Payments Due in More Than 5 Years	Total
Term debt	$ 3,500	$ 13,334	$ 14,204	$ 47,346	$ 78,384
Operating leases	929	1,834	1,725	3,139	7,627
Manufacturing purchase obligations	24,695	939	1,830	1,127	28,591
Other purchase obligations	3,503	1,732	653	732	6,620
Total	$ 32,627	$ 17,839	$ 18,412	$ 52,344	$ 121,222

Operating Leases

As of September 24, 2016, the Company's total future minimum lease payments under noncancelable operating leases were $7.6 billion. The Company's retail store and other facility leases are typically for terms not exceeding 10 years and generally contain multi-year renewal options.

SPOTIFY EXHIBIT 47

Manufacturing Purchase Obligations

The Company utilizes several outsourcing partners to manufacture sub-assemblies for the Company's products and to perform final assembly and testing of finished products. These outsourcing partners acquire components and build product based on demand information supplied by the Company, which typically covers periods up to 150 days. The Company also obtains individual components for its products from a wide variety of individual suppliers. Consistent with industry practice, the Company acquires components through a combination of purchase orders, supplier contracts, and open orders based on projected demand information. As of September 24, 2016, the Company had manufacturing purchase obligations of $28.6 billion.

Other Purchase Obligations

The Company's other purchase obligations were comprised of commitments to acquire capital assets, including product tooling and manufacturing process equipment, and commitments related to advertising, licensing, R&D, internet and telecommunications services, energy and other obligations. As of September 24, 2016, the Company had other purchase obligations of $6.6 billion.

The Company's other non-current liabilities in the Consolidated Balance Sheets consist primarily of deferred tax liabilities, gross unrecognized tax benefits and the related gross interest and penalties. As of September 24, 2016, the Company had non-current deferred tax liabilities of $26.0 billion. Additionally, as of September 24, 2016, the Company had gross unrecognized tax benefits of $7.7 billion and an additional $1.0 billion for gross interest and penalties classified as non-current liabilities. At this time, the Company is unable to make a reasonably reliable estimate of the timing of payments due to uncertainties in the timing of tax audit outcomes; therefore, such amounts are not included in the above contractual obligation table.

Indemnification

The Company generally does not indemnify end-users of its operating system and application software against legal claims that the software infringes third-party intellectual property rights. Other agreements entered into by the Company sometimes include indemnification provisions under which the Company could be subject to costs and/or damages in the event of an infringement claim against the Company or an indemnified third-party. In the opinion of management, there was not at least a reasonable possibility the Company may have incurred a material loss with respect to indemnification of end-users of its operating system or application software for infringement of third-party intellectual property rights.

The Company offers an iPhone Upgrade Program, which is available to customers who purchase a qualifying iPhone in the U.S., the U.K. and mainland China. The iPhone Upgrade Program provides customers the right to trade in that iPhone for a specified amount when purchasing a new iPhone, provided certain conditions are met. The Company accounts for the trade-in right as a guarantee liability and recognizes arrangement revenue net of the fair value of such right with subsequent changes to the guarantee liability recognized within revenue.

The Company has entered into indemnification agreements with its directors and executive officers. Under these agreements, the Company has agreed to indemnify such individuals to the fullest extent permitted by law against liabilities that arise by reason of their status as directors or officers and to advance expenses incurred by such individuals in connection with related legal proceedings. It is not possible to determine the maximum potential amount of payments the Company could be required to make under these agreements due to the limited history of prior indemnification claims and the unique facts and circumstances involved in each claim. However, the Company maintains directors and officers liability insurance coverage to reduce its exposure to such obligations.

Critical Accounting Policies and Estimates

The preparation of financial statements and related disclosures in conformity with U.S. generally accepted accounting principles ("GAAP") and the Company's discussion and analysis of its financial condition and operating results require the Company's management to make judgments, assumptions and estimates that affect the amounts reported in its consolidated financial statements and accompanying notes. Note 1, "Summary of Significant Accounting Policies," of the Notes to Consolidated Financial Statements in Part II, Item 8 of this Form 10-K describes the significant accounting policies and methods used in the preparation of the Company's consolidated financial statements. Management bases its estimates on historical experience and on various other assumptions it believes to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities. Actual results may differ from these estimates, and such differences may be material.

Management believes the Company's critical accounting policies and estimates are those related to revenue recognition, valuation and impairment of marketable securities, inventory valuation, valuation of manufacturing-related assets and estimation of purchase commitment cancellation fees, warranty costs, income taxes, and legal and other contingencies. Management considers these policies critical because they are both important to the portrayal of the Company's financial condition and operating results, and they require management to make judgments and estimates about inherently uncertain matters. The Company's senior management has reviewed these critical accounting policies and related disclosures with the Audit and Finance Committee of the Company's Board of Directors.

SPOTIFY EXHIBIT 47

Revenue Recognition

Net sales consist primarily of revenue from the sale of hardware, software, digital content and applications, accessories, and service and support contracts. The Company recognizes revenue when persuasive evidence of an arrangement exists, delivery has occurred, the sales price is fixed or determinable and collection is probable. Product is considered delivered to the customer once it has been shipped and title, risk of loss and rewards of ownership have been transferred. For most of the Company's product sales, these criteria are met at the time the product is shipped. For online sales to individuals, for some sales to education customers in the U.S., and for certain other sales, the Company defers revenue until the customer receives the product because the Company retains a portion of the risk of loss on these sales during transit. For payment terms in excess of the Company's standard payment terms, revenue is recognized as payments become due unless the Company has positive evidence that the sales price is fixed or determinable, such as a successful history of collection, without concession, on comparable arrangements. The Company recognizes revenue from the sale of hardware products, software bundled with hardware that is essential to the functionality of the hardware and third-party digital content sold on the iTunes Store in accordance with general revenue recognition accounting guidance. The Company recognizes revenue in accordance with industry-specific software accounting guidance for the following types of sales transactions: (i) standalone sales of software products, (ii) sales of software upgrades and (iii) sales of software bundled with hardware not essential to the functionality of the hardware.

For multi-element arrangements that include hardware products containing software essential to the hardware product's functionality, undelivered software elements that relate to the hardware product's essential software and/or undelivered non-software services, the Company allocates revenue to all deliverables based on their relative selling prices. In such circumstances, the Company uses a hierarchy to determine the selling price to be used for allocating revenue to deliverables: (i) vendor-specific objective evidence of fair value ("VSOE"), (ii) third-party evidence of selling price ("TPE") and (iii) best estimate of selling price ("ESP"). VSOE generally exists only when the Company sells the deliverable separately and is the price actually charged by the Company for that deliverable. ESPs reflect the Company's best estimates of what the selling prices of elements would be if they were sold regularly on a stand-alone basis.

For sales of qualifying versions of iOS devices, Mac, Apple Watch and Apple TV, the Company has indicated it may from time to time provide future unspecified software upgrades to the device's essential software and/or non-software services free of charge. Because the Company has neither VSOE nor TPE for the unspecified software upgrade rights or the non-software services, revenue is allocated to these rights and services based on the Company's ESPs. Revenue allocated to the unspecified software upgrade rights and non-software services based on the Company's ESPs is deferred and recognized on a straight-line basis over the estimated period the software upgrades and non-software services are expected to be provided.

The Company's process for determining ESPs involves management's judgment and considers multiple factors that may vary over time depending upon the unique facts and circumstances related to each deliverable. Should future facts and circumstances change, the Company's ESPs and the future rate of related amortization for unspecified software upgrades and non-software services related to future sales of these devices could change. Factors subject to change include the unspecified software upgrade rights and non-software services offered, the estimated value of unspecified software upgrade rights and non-software services and the estimated period unspecified software upgrades and non-software services are expected to be provided.

The Company records reductions to revenue for estimated commitments related to price protection and other customer incentive programs. For transactions involving price protection, the Company recognizes revenue net of the estimated amount to be refunded, provided the refund amount can be reasonably and reliably estimated and the other conditions for revenue recognition have been met. The Company's policy requires that, if refunds cannot be reliably estimated, revenue is not recognized until reliable estimates can be made or the price protection lapses. For the Company's other customer incentive programs, the estimated cost is recognized at the later of the date at which the Company has sold the product or the date at which the program is offered. The Company also records reductions to revenue for expected future product returns based on the Company's historical experience. Future market conditions and product transitions may require the Company to increase customer incentive programs that could result in reductions to future revenue. Additionally, certain customer incentive programs require management to estimate the number of customers who will actually redeem the incentive. Management's estimates are based on historical experience and the specific terms and conditions of particular incentive programs. If a greater than estimated proportion of customers redeems such incentives, the Company would be required to record additional reductions to revenue, which would have an adverse impact on the Company's operating results.

SPOTIFY EXHIBIT 47

Valuation and Impairment of Marketable Securities

The Company's investments in available-for-sale securities are reported at fair value. Unrealized gains and losses related to changes in the fair value of securities are recognized in accumulated other comprehensive income, net of tax, in the Company's Consolidated Balance Sheets. Changes in the fair value of available-for-sale securities impact the Company's net income only when such securities are sold or an other-than-temporary impairment is recognized. Realized gains and losses on the sale of securities are determined by specific identification of each security's cost basis. The Company regularly reviews its investment portfolio to determine if any security is other-than-temporarily impaired, which would require the Company to record an impairment charge in the period any such determination is made. In making this determination, the Company evaluates, among other things, the duration and extent to which the fair value of a security is less than its cost; the financial condition of the issuer and any changes thereto; and the Company's intent to sell, or whether it will more likely than not be required to sell, the security before recovery of its amortized cost basis. The Company's assessment of whether a security is other-than-temporarily impaired could change in the future due to new developments or changes in assumptions related to any particular security, which would have an adverse impact on the Company's operating results.

Inventory Valuation, Valuation of Manufacturing-Related Assets and Estimation of Purchase Commitment Cancellation Fees

The Company must purchase components and build inventory in advance of product shipments and has invested in manufacturing-related assets, including capital assets held at its suppliers' facilities. In addition, the Company has made prepayments to certain of its suppliers associated with long-term supply agreements to secure supply of inventory components. The Company records a write-down for inventories of components and products, including third-party products held for resale, which have become obsolete or are in excess of anticipated demand or net realizable value. The Company performs a detailed review of inventory that considers multiple factors including demand forecasts, product life cycle status, product development plans, current sales levels and component cost trends. The Company also reviews its manufacturing-related capital assets and inventory prepayments for impairment whenever events or circumstances indicate the carrying amount of such assets may not be recoverable. If the Company determines that an asset is not recoverable, it records an impairment loss equal to the amount by which the carrying value of such an asset exceeds its fair value.

The industries in which the Company competes are subject to a rapid and unpredictable pace of product and component obsolescence and demand changes. In certain circumstances the Company may be required to record additional write-downs of inventory and/or impairments of manufacturing-related assets or inventory prepayments. These circumstances include future demand or market conditions for the Company's products being less favorable than forecasted, unforeseen technological changes or changes to the Company's product development plans that negatively impact the utility of any of these assets, or significant deterioration in the financial condition of one or more of the Company's suppliers that hold any of the Company's manufacturing-related assets or to whom the Company has made an inventory prepayment. Such write-downs would adversely affect the Company's financial condition and operating results in the period when the additional write-downs were recorded.

The Company accrues for estimated purchase commitment cancellation fees related to inventory orders that have been cancelled or are expected to be cancelled. Consistent with industry practice, the Company acquires components through a combination of purchase orders, supplier contracts, and open orders in each case based on projected demand. Manufacturing purchase obligations typically cover the Company's forecasted component and manufacturing requirements for periods up to 150 days. If there is an abrupt and substantial decline in demand for one or more of the Company's products, a change in the Company's product development plans, or an unanticipated change in technological requirements for any of the Company's products, the Company may be required to record additional accruals for cancellation fees that would adversely affect its results of operations in the period when the cancellation fees were identified and recorded.

Warranty Costs

The Company accrues for the estimated cost of warranties in the period the related revenue is recognized based on historical and projected warranty claim rates, historical and projected cost-per-claim and knowledge of specific product failures that are outside of the Company's typical experience. The Company regularly reviews these estimates and the current installed base of products subject to warranty protection to assess the appropriateness of its recorded warranty liabilities and adjusts the amounts as necessary. If actual product failure rates or repair costs differ from estimates, revisions to the estimated warranty liabilities would be required and could materially affect the Company's financial condition and operating results.

SPOTIFY EXHIBIT 47

Income Taxes

The Company records a tax provision for the anticipated tax consequences of its reported operating results. The provision for income taxes is computed using the asset and liability method, under which deferred tax assets and liabilities are recognized for the expected future tax consequences of temporary differences between the financial reporting and tax bases of assets and liabilities, and for operating losses and tax credit carryforwards. Deferred tax assets and liabilities are measured using the currently enacted tax rates that apply to taxable income in effect for the years in which those tax assets and liabilities are expected to be realized or settled. The Company records a valuation allowance to reduce deferred tax assets to the amount that is believed more likely than not to be realized.

The Company recognizes tax benefits from uncertain tax positions only if it is more likely than not that the tax position will be sustained on examination by the taxing authorities, based on the technical merits of the position. The tax benefits recognized in the financial statements from such positions are then measured based on the largest benefit that has a greater than 50% likelihood of being realized upon ultimate settlement.

Management believes it is more likely than not that forecasted income, including income that may be generated as a result of certain tax planning strategies, together with future reversals of existing taxable temporary differences, will be sufficient to fully recover the deferred tax assets. In the event that the Company determines all or part of the net deferred tax assets are not realizable in the future, the Company will record an adjustment to the valuation allowance that would be charged to earnings in the period such determination is made. In addition, the calculation of tax liabilities involves significant judgment in estimating the impact of uncertainties in the application of GAAP and complex tax laws. Resolution of these uncertainties in a manner inconsistent with management's expectations could have a material impact on the Company's financial condition and operating results.

Legal and Other Contingencies

As discussed in Part I, Item 3 of this Form 10-K under the heading "Legal Proceedings" and in Part II, Item 8 of this Form 10-K in the Notes to Consolidated Financial Statements in Note 10, "Commitments and Contingencies," the Company is subject to various legal proceedings and claims that arise in the ordinary course of business. The Company records a liability when it is probable that a loss has been incurred and the amount is reasonably estimable, the determination of which requires significant judgment. In the opinion of management, there was not at least a reasonable possibility the Company may have incurred a material loss, or a material loss in excess of a recorded accrual, with respect to loss contingencies for asserted legal and other claims. However, the outcome of legal proceedings and claims brought against the Company is subject to significant uncertainty. Therefore, although management considers the likelihood of such an outcome to be remote, if one or more of these legal matters were resolved against the Company in a reporting period for amounts in excess of management's expectations, the Company's consolidated financial statements for that reporting period could be materially adversely affected.

SPOTIFY EXHIBIT 47

Item 7A. Quantitative and Qualitative Disclosures About Market Risk

Interest Rate and Foreign Currency Risk Management

The Company regularly reviews its foreign exchange forward and option positions and interest rate swaps, both on a stand-alone basis and in conjunction with its underlying foreign currency and interest rate related exposures. Given the effective horizons of the Company's risk management activities and the anticipatory nature of the exposures, there can be no assurance these positions will offset more than a portion of the financial impact resulting from movements in either foreign exchange or interest rates. Further, the recognition of the gains and losses related to these instruments may not coincide with the timing of gains and losses related to the underlying economic exposures and, therefore, may adversely affect the Company's financial condition and operating results.

Interest Rate Risk

The Company's exposure to changes in interest rates relates primarily to the Company's investment portfolio and outstanding debt. While the Company is exposed to global interest rate fluctuations, the Company's interest income and expense are most sensitive to fluctuations in U.S. interest rates. Changes in U.S. interest rates affect the interest earned on the Company's cash, cash equivalents and marketable securities and the fair value of those securities, as well as costs associated with hedging and interest paid on the Company's debt.

The Company's investment policy and strategy are focused on preservation of capital and supporting the Company's liquidity requirements. The Company uses a combination of internal and external management to execute its investment strategy and achieve its investment objectives. The Company typically invests in highly-rated securities, and its investment policy generally limits the amount of credit exposure to any one issuer. The policy requires investments generally to be investment grade, with the primary objective of minimizing the potential risk of principal loss. To provide a meaningful assessment of the interest rate risk associated with the Company's investment portfolio, the Company performed a sensitivity analysis to determine the impact a change in interest rates would have on the value of the investment portfolio assuming a 100 basis point parallel shift in the yield curve. Based on investment positions as of September 24, 2016 and September 26, 2015, a hypothetical 100 basis point increase in interest rates across all maturities would result in a $4.9 billion and $4.3 billion incremental decline in the fair market value of the portfolio, respectively. Such losses would only be realized if the Company sold the investments prior to maturity.

As of September 24, 2016 and September 26, 2015, the Company had outstanding floating- and fixed-rate notes with varying maturities for an aggregate carrying amount of $78.9 billion and $55.8 billion, respectively. The Company has entered, and may enter in the future, into interest rate swaps to manage interest rate risk on its outstanding term debt. Interest rate swaps allow the Company to effectively convert fixed-rate payments into floating-rate payments or floating-rate payments into fixed-rate payments. Gains and losses on these instruments are generally offset by the corresponding losses and gains on the related hedging instrument. A 100 basis point increase in market interest rates would cause interest expense on the Company's debt as of September 24, 2016 and September 26, 2015 to increase by $271 million and $200 million on an annualized basis, respectively.

Further details regarding the Company's debt is provided in Part II, Item 8 of this Form 10-K in the Notes to Consolidated Financial Statements in Note 6, "Debt."

Foreign Currency Risk

In general, the Company is a net receiver of currencies other than the U.S. dollar. Accordingly, changes in exchange rates, and in particular a strengthening of the U.S. dollar, will negatively affect the Company's net sales and gross margins as expressed in U.S. dollars. There is a risk that the Company will have to adjust local currency product pricing due to competitive pressures when there has been significant volatility in foreign currency exchange rates.

The Company may enter into foreign currency forward and option contracts with financial institutions to protect against foreign exchange risks associated with certain existing assets and liabilities, certain firmly committed transactions, forecasted future cash flows and net investments in foreign subsidiaries. In addition, the Company has entered, and may enter in the future, into non-designated foreign currency contracts to partially offset the foreign currency exchange gains and losses on its foreign-denominated debt issuances. The Company's practice is to hedge a portion of its material foreign exchange exposures, typically for up to 12 months. However, the Company may choose not to hedge certain foreign exchange exposures for a variety of reasons, including but not limited to accounting considerations and the prohibitive economic cost of hedging particular exposures.

SPOTIFY EXHIBIT 47

To provide a meaningful assessment of the foreign currency risk associated with certain of the Company's foreign currency derivative positions, the Company performed a sensitivity analysis using a value-at-risk ("VAR") model to assess the potential impact of fluctuations in exchange rates. The VAR model consisted of using a Monte Carlo simulation to generate thousands of random market price paths assuming normal market conditions. The VAR is the maximum expected loss in fair value, for a given confidence interval, to the Company's foreign currency derivative positions due to adverse movements in rates. The VAR model is not intended to represent actual losses but is used as a risk estimation and management tool. The model assumes normal market conditions. Forecasted transactions, firm commitments and assets and liabilities denominated in foreign currencies were excluded from the model. Based on the results of the model, the Company estimates with 95% confidence, a maximum one-day loss in fair value of $434 million as of September 24, 2016 compared to a maximum one-day loss in fair value of $342 million as of September 26, 2015. Because the Company uses foreign currency instruments for hedging purposes, the loss in fair value incurred on those instruments are generally offset by increases in the fair value of the underlying exposures.

Actual future gains and losses associated with the Company's investment portfolio and derivative positions may differ materially from the sensitivity analyses performed as of September 24, 2016 due to the inherent limitations associated with predicting the timing and amount of changes in interest rates, foreign currency exchanges rates and the Company's actual exposures and positions.

SPOTIFY EXHIBIT 47

Item 8. Financial Statements and Supplementary Data

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All financial statement schedules have been omitted, since the required information is not applicable or is not present in amounts sufficient to require submission of the schedule, or because the information required is included in the consolidated financial statements and notes thereto.

SPOTIFY EXHIBIT 47

CONSOLIDATED STATEMENTS OF OPERATIONS

(In millions, except number of shares which are reflected in thousands and per share amounts)

	Years ended		
	September 24, 2016	September 26, 2015	September 27, 2014
Net sales	$ 215,639	$ 233,715	$ 182,795
Cost of sales	131,376	140,089	112,258
Gross margin	84,263	93,626	70,537
Operating expenses:			
Research and development	10,045	8,067	6,041
Selling, general and administrative	14,194	14,329	11,993
Total operating expenses	24,239	22,396	18,034
Operating income	60,024	71,230	52,503
Other income/(expense), net	1,348	1,285	980
Income before provision for income taxes	61,372	72,515	53,483
Provision for income taxes	15,685	19,121	13,973
Net income	$ 45,687	$ 53,394	$ 39,510
Earnings per share:			
Basic	$ 8.35	$ 9.28	$ 6.49
Diluted	$ 8.31	$ 9.22	$ 6.45
Shares used in computing earnings per share:			
Basic	5,470,820	5,753,421	6,085,572
Diluted	5,500,281	5,793,069	6,122,663
Cash dividends declared per share	$ 2.18	$ 1.98	$ 1.82

See accompanying Notes to Consolidated Financial Statements.

SPOTIFY EXHIBIT 47

CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME

(In millions)

	Years ended		
	September 24, 2016	September 26, 2015	September 27, 2014
Net income	$ 45,687	$ 53,394	$ 39,510
Other comprehensive income/(loss):			
Change in foreign currency translation, net of tax effects of $8, $201 and $50, respectively	75	(411)	(137)
Change in unrealized gains/losses on derivative instruments:			
Change in fair value of derivatives, net of tax benefit/(expense) of $(7), $(441) and $(297), respectively	7	2,905	1,390
Adjustment for net (gains)/losses realized and included in net income, net of tax expense/(benefit) of $131, $630 and $(36), respectively	(741)	(3,497)	149
Total change in unrealized gains/losses on derivative instruments, net of tax	(734)	(592)	1,539
Change in unrealized gains/losses on marketable securities:			
Change in fair value of marketable securities, net of tax benefit/(expense) of $(863), $264 and $(153), respectively	1,582	(483)	285
Adjustment for net (gains)/losses realized and included in net income, net of tax expense/(benefit) of $(31), $(32) and $71, respectively	56	59	(134)
Total change in unrealized gains/losses on marketable securities, net of tax	1,638	(424)	151
Total other comprehensive income/(loss)	979	(1,427)	1,553
Total comprehensive income	$ 46,666	$ 51,967	$ 41,063

See accompanying Notes to Consolidated Financial Statements.

SPOTIFY EXHIBIT 47

CONSOLIDATED BALANCE SHEETS

(In millions, except number of shares which are reflected in thousands and par value)

	September 24, 2016	September 26, 2015
ASSETS:		
Current assets:		
Cash and cash equivalents	$ 20,484	$ 21,120
Short-term marketable securities	46,671	20,481
Accounts receivable, less allowances of $53 and $63, respectively	15,754	16,849
Inventories	2,132	2,349
Vendor non-trade receivables	13,545	13,494
Other current assets	8,283	15,085
Total current assets	106,869	89,378
Long-term marketable securities	170,430	164,065
Property, plant and equipment, net	27,010	22,471
Goodwill	5,414	5,116
Acquired intangible assets, net	3,206	3,893
Other non-current assets	8,757	5,422
Total assets	$ 321,686	$ 290,345
LIABILITIES AND SHAREHOLDERS' EQUITY:		
Current liabilities:		
Accounts payable	$ 37,294	$ 35,490
Accrued expenses	22,027	25,181
Deferred revenue	8,080	8,940
Commercial paper	8,105	8,499
Current portion of long-term debt	3,500	2,500
Total current liabilities	79,006	80,610
Deferred revenue, non-current	2,930	3,624
Long-term debt	75,427	53,329
Other non-current liabilities	36,074	33,427
Total liabilities	193,437	170,990
Commitments and contingencies		
Shareholders' equity:		
Common stock and additional paid-in capital, $0.00001 par value: 12,600,000 shares authorized; 5,336,166 and 5,578,753 shares issued and outstanding, respectively	31,251	27,416
Retained earnings	96,364	92,284
Accumulated other comprehensive income/(loss)	634	(345)
Total shareholders' equity	128,249	119,355
Total liabilities and shareholders' equity	$ 321,686	$ 290,345

See accompanying Notes to Consolidated Financial Statements.

SPOTIFY EXHIBIT 47

CONSOLIDATED STATEMENTS OF SHAREHOLDERS' EQUITY

(In millions, except number of shares which are reflected in thousands)

	Common Stock and Additional Paid-In Capital		Retained Earnings	Accumulated Other Comprehensive Income/(Loss)	Total Shareholders' Equity
	Shares	Amount			
Balances as of September 28, 2013	6,294,494	$ 19,764	$ 104,256	$ (471)	$ 123,549
Net income	—	—	39,510	—	39,510
Other comprehensive income/(loss)	—	—	—	1,553	1,553
Dividends and dividend equivalents declared	—	—	(11,215)	—	(11,215)
Repurchase of common stock	(488,677)	—	(45,000)	—	(45,000)
Share-based compensation	—	2,863	—	—	2,863
Common stock issued, net of shares withheld for employee taxes	60,344	(49)	(399)	—	(448)
Tax benefit from equity awards, including transfer pricing adjustments	—	735	—	—	735
Balances as of September 27, 2014	5,866,161	23,313	87,152	1,082	111,547
Net income	—	—	53,394	—	53,394
Other comprehensive income/(loss)	—	—	—	(1,427)	(1,427)
Dividends and dividend equivalents declared	—	—	(11,627)	—	(11,627)
Repurchase of common stock	(325,032)	—	(36,026)	—	(36,026)
Share-based compensation	—	3,586	—	—	3,586
Common stock issued, net of shares withheld for employee taxes	37,624	(231)	(609)	—	(840)
Tax benefit from equity awards, including transfer pricing adjustments	—	748	—	—	748
Balances as of September 26, 2015	5,578,753	27,416	92,284	(345)	119,355
Net income	—	—	45,687	—	45,687
Other comprehensive income/(loss)	—	—	—	979	979
Dividends and dividend equivalents declared	—	—	(12,188)	—	(12,188)
Repurchase of common stock	(279,609)	—	(29,000)	—	(29,000)
Share-based compensation	—	4,262	—	—	4,262
Common stock issued, net of shares withheld for employee taxes	37,022	(806)	(419)	—	(1,225)
Tax benefit from equity awards, including transfer pricing adjustments	—	379	—	—	379
Balances as of September 24, 2016	5,336,166	$ 31,251	$ 96,364	$ 634	$ 128,249

See accompanying Notes to Consolidated Financial Statements.

SPOTIFY EXHIBIT 47

CONSOLIDATED STATEMENTS OF CASH FLOWS
(In millions)

	Years ended		
	September 24, 2016	September 26, 2015	September 27, 2014
Cash and cash equivalents, beginning of the year	$ 21,120	$ 13,844	$ 14,259
Operating activities:			
Net income	45,687	53,394	39,510
Adjustments to reconcile net income to cash generated by operating activities:			
Depreciation and amortization	10,505	11,257	7,946
Share-based compensation expense	4,210	3,586	2,863
Deferred income tax expense	4,938	1,382	2,347
Changes in operating assets and liabilities:			
Accounts receivable, net	1,095	611	(4,232)
Inventories	217	(238)	(76)
Vendor non-trade receivables	(51)	(3,735)	(2,220)
Other current and non-current assets	1,090	(179)	167
Accounts payable	1,791	5,400	5,938
Deferred revenue	(1,554)	1,042	1,460
Other current and non-current liabilities	(2,104)	8,746	6,010
Cash generated by operating activities	65,824	81,266	59,713
Investing activities:			
Purchases of marketable securities	(142,428)	(166,402)	(217,128)
Proceeds from maturities of marketable securities	21,258	14,538	18,810
Proceeds from sales of marketable securities	90,536	107,447	189,301
Payments made in connection with business acquisitions, net	(297)	(343)	(3,765)
Payments for acquisition of property, plant and equipment	(12,734)	(11,247)	(9,571)
Payments for acquisition of intangible assets	(814)	(241)	(242)
Payments for strategic investments	(1,388)	—	(10)
Other	(110)	(26)	26
Cash used in investing activities	(45,977)	(56,274)	(22,579)
Financing activities:			
Proceeds from issuance of common stock	495	543	730
Excess tax benefits from equity awards	407	749	739
Payments for taxes related to net share settlement of equity awards	(1,570)	(1,499)	(1,158)
Payments for dividends and dividend equivalents	(12,150)	(11,561)	(11,126)
Repurchases of common stock	(29,722)	(35,253)	(45,000)
Proceeds from issuance of term debt, net	24,954	27,114	11,960
Repayments of term debt	(2,500)	—	—
Change in commercial paper, net	(397)	2,191	6,306
Cash used in financing activities	(20,483)	(17,716)	(37,549)
Increase/(Decrease) in cash and cash equivalents	(636)	7,276	(415)
Cash and cash equivalents, end of the year	$ 20,484	$ 21,120	$ 13,844
Supplemental cash flow disclosure:			
Cash paid for income taxes, net	$ 10,444	$ 13,252	$ 10,026
Cash paid for interest	$ 1,316	$ 514	$ 339

See accompanying Notes to Consolidated Financial Statements.

SPOTIFY EXHIBIT 47

Notes to Consolidated Financial Statements

Note 1 – Summary of Significant Accounting Policies

Apple Inc. and its wholly-owned subsidiaries (collectively "Apple" or the "Company") designs, manufactures and markets mobile communication and media devices, personal computers and portable digital music players, and sells a variety of related software, services, accessories, networking solutions and third-party digital content and applications. The Company sells its products worldwide through its retail stores, online stores and direct sales force, as well as through third-party cellular network carriers, wholesalers, retailers and value-added resellers. In addition, the Company sells a variety of third-party Apple-compatible products, including application software and various accessories through its retail and online stores. The Company sells to consumers, small and mid-sized businesses and education, enterprise and government customers.

Basis of Presentation and Preparation

The accompanying consolidated financial statements include the accounts of the Company. Intercompany accounts and transactions have been eliminated. In the opinion of the Company's management, the consolidated financial statements reflect all adjustments, which are normal and recurring in nature, necessary for fair financial statement presentation. The preparation of these consolidated financial statements in conformity with U.S. generally accepted accounting principles ("GAAP") requires management to make estimates and assumptions that affect the amounts reported in these consolidated financial statements and accompanying notes. Actual results could differ materially from those estimates. Certain prior period amounts in the consolidated financial statements have been reclassified to conform to the current period's presentation.

The Company's fiscal year is the 52 or 53-week period that ends on the last Saturday of September. The Company's fiscal years 2016, 2015 and 2014 ended on September 24, 2016, September 26, 2015 and September 27, 2014, respectively, and each spanned 52 weeks. An additional week is included in the first fiscal quarter approximately every five or six years to realign fiscal quarters with calendar quarters, which will next occur in the first quarter of the Company's fiscal year ending September 30, 2017. Unless otherwise stated, references to particular years, quarters, months and periods refer to the Company's fiscal years ended in September and the associated quarters, months and periods of those fiscal years.

During 2016, the Company adopted an accounting standard that simplified the presentation of deferred income taxes by requiring deferred tax assets and liabilities be classified as noncurrent in a classified statement of financial position. The Company has adopted this accounting standard prospectively; accordingly, the prior period amounts in the Company's Consolidated Balance Sheets within this Annual Report on Form 10-K were not adjusted to conform to the new accounting standard. The adoption of this accounting standard was not material to the Company's consolidated financial statements.

Revenue Recognition

Net sales consist primarily of revenue from the sale of hardware, software, digital content and applications, accessories, and service and support contracts. The Company recognizes revenue when persuasive evidence of an arrangement exists, delivery has occurred, the sales price is fixed or determinable and collection is probable. Product is considered delivered to the customer once it has been shipped and title, risk of loss and rewards of ownership have been transferred. For most of the Company's product sales, these criteria are met at the time the product is shipped. For online sales to individuals, for some sales to education customers in the U.S., and for certain other sales, the Company defers revenue until the customer receives the product because the Company retains a portion of the risk of loss on these sales during transit. For payment terms in excess of the Company's standard payment terms, revenue is recognized as payments become due unless the Company has positive evidence that the sales price is fixed or determinable, such as a successful history of collection, without concession, on comparable arrangements. The Company recognizes revenue from the sale of hardware products, software bundled with hardware that is essential to the functionality of the hardware and third-party digital content sold on the iTunes Store in accordance with general revenue recognition accounting guidance. The Company recognizes revenue in accordance with industry specific software accounting guidance for the following types of sales transactions: (i) standalone sales of software products, (ii) sales of software upgrades and (iii) sales of software bundled with hardware not essential to the functionality of the hardware.

For the sale of most third-party products, the Company recognizes revenue based on the gross amount billed to customers because the Company establishes its own pricing for such products, retains related inventory risk for physical products, is the primary obligor to the customer and assumes the credit risk for amounts billed to its customers. For third-party applications sold through the App Store and Mac App Store and certain digital content sold through the iTunes Store, the Company does not determine the selling price of the products and is not the primary obligor to the customer. Therefore, the Company accounts for such sales on a net basis by recognizing in net sales only the commission it retains from each sale. The portion of the gross amount billed to customers that is remitted by the Company to third-party app developers and certain digital content owners is not reflected in the Company's Consolidated Statements of Operations.

SPOTIFY EXHIBIT 47

The Company records deferred revenue when it receives payments in advance of the delivery of products or the performance of services. This includes amounts that have been deferred for unspecified and specified software upgrade rights and non-software services that are attached to hardware and software products. The Company sells gift cards redeemable at its retail and online stores, and also sells gift cards redeemable on iTunes Store, App Store, Mac App Store, TV App Store and iBooks Store for the purchase of digital content and software. The Company records deferred revenue upon the sale of the card, which is relieved upon redemption of the card by the customer. Revenue from AppleCare service and support contracts is deferred and recognized over the service coverage periods. AppleCare service and support contracts typically include extended phone support, repair services, web-based support resources and diagnostic tools offered under the Company's standard limited warranty.

The Company records reductions to revenue for estimated commitments related to price protection and other customer incentive programs. For transactions involving price protection, the Company recognizes revenue net of the estimated amount to be refunded. For the Company's other customer incentive programs, the estimated cost of these programs is recognized at the later of the date at which the Company has sold the product or the date at which the program is offered. The Company also records reductions to revenue for expected future product returns based on the Company's historical experience. Revenue is recorded net of taxes collected from customers that are remitted to governmental authorities, with the collected taxes recorded as current liabilities until remitted to the relevant government authority.

Revenue Recognition for Arrangements with Multiple Deliverables

For multi-element arrangements that include hardware products containing software essential to the hardware product's functionality, undelivered software elements that relate to the hardware product's essential software, and undelivered non-software services, the Company allocates revenue to all deliverables based on their relative selling prices. In such circumstances, the Company uses a hierarchy to determine the selling price to be used for allocating revenue to deliverables: (i) vendor-specific objective evidence of fair value ("VSOE"), (ii) third-party evidence of selling price ("TPE") and (iii) best estimate of selling price ("ESP"). VSOE generally exists only when the Company sells the deliverable separately and is the price actually charged by the Company for that deliverable. ESPs reflect the Company's best estimates of what the selling prices of elements would be if they were sold regularly on a stand-alone basis. For multi-element arrangements accounted for in accordance with industry specific software accounting guidance, the Company allocates revenue to all deliverables based on the VSOE of each element, and if VSOE does not exist revenue is recognized when elements lacking VSOE are delivered.

For sales of qualifying versions of iPhone, iPad, iPod touch, Mac, Apple Watch and Apple TV, the Company has indicated it may from time to time provide future unspecified software upgrades to the device's essential software and/or non-software services free of charge. The Company has identified up to three deliverables regularly included in arrangements involving the sale of these devices. The first deliverable, which represents the substantial portion of the allocated sales price, is the hardware and software essential to the functionality of the hardware device delivered at the time of sale. The second deliverable is the embedded right included with qualifying devices to receive on a when-and-if-available basis, future unspecified software upgrades relating to the product's essential software. The third deliverable is the non-software services to be provided to qualifying devices. The Company allocates revenue between these deliverables using the relative selling price method. Because the Company has neither VSOE nor TPE for these deliverables, the allocation of revenue is based on the Company's ESPs. Revenue allocated to the delivered hardware and the related essential software is recognized at the time of sale provided the other conditions for revenue recognition have been met. Revenue allocated to the embedded unspecified software upgrade rights and the non-software services is deferred and recognized on a straight-line basis over the estimated period the software upgrades and non-software services are expected to be provided. Cost of sales related to delivered hardware and related essential software, including estimated warranty costs, are recognized at the time of sale. Costs incurred to provide non-software services are recognized as cost of sales as incurred, and engineering and sales and marketing costs are recognized as operating expenses as incurred.

The Company's process for determining its ESP for deliverables without VSOE or TPE considers multiple factors that may vary depending upon the unique facts and circumstances related to each deliverable including, where applicable, prices charged by the Company and market trends in the pricing for similar offerings, product specific business objectives, length of time a particular version of a device has been available, estimated cost to provide the non-software services and the relative ESP of the upgrade rights and non-software services as compared to the total selling price of the product.

Shipping Costs

Amounts billed to customers related to shipping and handling are classified as revenue, and the Company's shipping and handling costs are classified as cost of sales.

Warranty Costs

The Company generally provides for the estimated cost of hardware and software warranties in the period the related revenue is recognized. The Company assesses the adequacy of its accrued warranty liabilities and adjusts the amounts as necessary based on actual experience and changes in future estimates.

SPOTIFY EXHIBIT 47

Software Development Costs

Research and development ("R&D") costs are expensed as incurred. Development costs of computer software to be sold, leased, or otherwise marketed are subject to capitalization beginning when a product's technological feasibility has been established and ending when a product is available for general release to customers. In most instances, the Company's products are released soon after technological feasibility has been established and as a result software development costs were expensed as incurred.

Advertising Costs

Advertising costs are expensed as incurred and included in selling, general and administrative expenses.

Share-based Compensation

The Company recognizes expense related to share-based payment transactions in which it receives employee services in exchange for (a) equity instruments of the Company or (b) liabilities that are based on the fair value of the Company's equity instruments or that may be settled by the issuance of such equity instruments. Share-based compensation cost for restricted stock and restricted stock units ("RSUs") is measured based on the closing fair market value of the Company's common stock on the date of grant. The Company recognizes share-based compensation cost over the award's requisite service period on a straight-line basis for time-based RSUs and on a graded basis for RSUs that are contingent on the achievement of performance conditions. The Company recognizes a benefit from share-based compensation in the Consolidated Statements of Shareholders' Equity if an excess tax benefit is realized. In addition, the Company recognizes the indirect effects of share-based compensation on R&D tax credits, foreign tax credits and domestic manufacturing deductions in the Consolidated Statements of Operations. Further information regarding share-based compensation can be found in Note 9, "Benefit Plans."

Income Taxes

The provision for income taxes is computed using the asset and liability method, under which deferred tax assets and liabilities are recognized for the expected future tax consequences of temporary differences between the financial reporting and tax bases of assets and liabilities and for operating losses and tax credit carryforwards. Deferred tax assets and liabilities are measured using the currently enacted tax rates that apply to taxable income in effect for the years in which those tax assets and liabilities are expected to be realized or settled. The Company records a valuation allowance to reduce deferred tax assets to the amount that is believed more likely than not to be realized.

The Company recognizes the tax benefit from an uncertain tax position only if it is more likely than not the tax position will be sustained on examination by the taxing authorities, based on the technical merits of the position. The tax benefits recognized in the financial statements from such positions are then measured based on the largest benefit that has a greater than 50% likelihood of being realized upon settlement. See Note 5, "Income Taxes" for additional information.

Earnings Per Share

Basic earnings per share is computed by dividing income available to common shareholders by the weighted-average number of shares of common stock outstanding during the period. Diluted earnings per share is computed by dividing income available to common shareholders by the weighted-average number of shares of common stock outstanding during the period increased to include the number of additional shares of common stock that would have been outstanding if the potentially dilutive securities had been issued. Potentially dilutive securities include outstanding stock options, shares to be purchased by employees under the Company's employee stock purchase plan, unvested restricted stock and unvested RSUs. The dilutive effect of potentially dilutive securities is reflected in diluted earnings per share by application of the treasury stock method. Under the treasury stock method, an increase in the fair market value of the Company's common stock can result in a greater dilutive effect from potentially dilutive securities.

SPOTIFY EXHIBIT 47

The following table shows the computation of basic and diluted earnings per share for 2016, 2015 and 2014 (net income in millions and shares in thousands):

	2016	2015	2014
Numerator:			
Net income	$ 45,687	$ 53,394	$ 39,510
Denominator:			
Weighted-average shares outstanding	5,470,820	5,753,421	6,085,572
Effect of dilutive securities	29,461	39,648	37,091
Weighted-average diluted shares	5,500,281	5,793,069	6,122,663
Basic earnings per share	$ 8.35	$ 9.28	$ 6.49
Diluted earnings per share	$ 8.31	$ 9.22	$ 6.45

Potentially dilutive securities whose effect would have been antidilutive are excluded from the computation of diluted earnings per share.

Financial Instruments

Cash Equivalents and Marketable Securities

All highly liquid investments with maturities of three months or less at the date of purchase are classified as cash equivalents. The Company's marketable debt and equity securities have been classified and accounted for as available-for-sale. Management determines the appropriate classification of its investments at the time of purchase and reevaluates the classifications at each balance sheet date. The Company classifies its marketable debt securities as either short-term or long-term based on each instrument's underlying contractual maturity date. Marketable debt securities with maturities of 12 months or less are classified as short-term and marketable debt securities with maturities greater than 12 months are classified as long-term. Marketable equity securities, including mutual funds, are classified as either short-term or long-term based on the nature of each security and its availability for use in current operations. The Company's marketable debt and equity securities are carried at fair value, with unrealized gains and losses, net of taxes, reported as a component of accumulated other comprehensive income ("AOCI") in shareholders' equity, with the exception of unrealized losses believed to be other-than-temporary which are reported in earnings in the current period. The cost of securities sold is based upon the specific identification method.

Derivative Financial Instruments

The Company accounts for its derivative instruments as either assets or liabilities and carries them at fair value.

For derivative instruments that hedge the exposure to variability in expected future cash flows that are designated as cash flow hedges, the effective portion of the gain or loss on the derivative instrument is reported as a component of AOCI in shareholders' equity and reclassified into earnings in the same period or periods during which the hedged transaction affects earnings. The ineffective portion of the gain or loss on the derivative instrument, if any, is recognized in earnings in the current period. To receive hedge accounting treatment, cash flow hedges must be highly effective in offsetting changes to expected future cash flows on hedged transactions. For options designated as cash flow hedges, changes in the time value are excluded from the assessment of hedge effectiveness and are recognized in earnings.

For derivative instruments that hedge the exposure to changes in the fair value of an asset or a liability and that are designated as fair value hedges, both the net gain or loss on the derivative instrument as well as the offsetting gain or loss on the hedged item are recognized in earnings in the current period.

For derivative instruments and foreign currency debt that hedge the exposure to changes in foreign currency exchange rates used for translation of the net investment in a foreign operation and that are designated as a net investment hedge, the net gain or loss on the effective portion of the derivative instrument is reported in the same manner as a foreign currency translation adjustment. For forward exchange contracts designated as net investment hedges, the Company excludes changes in fair value relating to changes in the forward carry component from its definition of effectiveness. Accordingly, any gains or losses related to this forward carry component are recognized in earnings in the current period.

Derivatives that do not qualify as hedges are adjusted to fair value through earnings in the current period.

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Allowance for Doubtful Accounts

The Company records its allowance for doubtful accounts based upon its assessment of various factors, including historical experience, age of the accounts receivable balances, credit quality of the Company's customers, current economic conditions and other factors that may affect the customers' abilities to pay.

Inventories

Inventories are stated at the lower of cost, computed using the first-in, first-out method and net realizable value. Any adjustments to reduce the cost of inventories to their net realizable value are recognized in earnings in the current period. As of September 24, 2016 and September 26, 2015, the Company's inventories consist primarily of finished goods.

Property, Plant and Equipment

Property, plant and equipment are stated at cost. Depreciation is computed by use of the straight-line method over the estimated useful lives of the assets, which for buildings is the lesser of 30 years or the remaining life of the underlying building; between one to five years for machinery and equipment, including product tooling and manufacturing process equipment; and the shorter of lease terms or useful life for leasehold improvements. The Company capitalizes eligible costs to acquire or develop internal-use software that are incurred subsequent to the preliminary project stage. Capitalized costs related to internal-use software are amortized using the straight-line method over the estimated useful lives of the assets, which range from three to five years. Depreciation and amortization expense on property and equipment was $8.3 billion, $9.2 billion and $6.9 billion during 2016, 2015 and 2014, respectively.

Long-Lived Assets Including Goodwill and Other Acquired Intangible Assets

The Company reviews property, plant and equipment, inventory component prepayments and identifiable intangibles, excluding goodwill and intangible assets with indefinite useful lives, for impairment. Long-lived assets are reviewed for impairment whenever events or changes in circumstances indicate the carrying amount of an asset may not be recoverable. Recoverability of these assets is measured by comparison of their carrying amounts to future undiscounted cash flows the assets are expected to generate. If property, plant and equipment, inventory component prepayments and certain identifiable intangibles are considered to be impaired, the impairment to be recognized equals the amount by which the carrying value of the assets exceeds its fair value.

The Company does not amortize goodwill and intangible assets with indefinite useful lives, rather such assets are required to be tested for impairment at least annually or sooner whenever events or changes in circumstances indicate that the assets may be impaired. The Company performs its goodwill and intangible asset impairment tests in the fourth quarter of each year. The Company did not recognize any impairment charges related to goodwill or indefinite lived intangible assets during 2016, 2015 and 2014. For purposes of testing goodwill for impairment, the Company established reporting units based on its current reporting structure. Goodwill has been allocated to these reporting units to the extent it relates to each reporting unit. In 2016 and 2015, the Company's goodwill was primarily allocated to the Americas and Europe reporting units.

The Company amortizes its intangible assets with definite useful lives over their estimated useful lives and reviews these assets for impairment. The Company typically amortizes its acquired intangible assets with definite useful lives over periods from three to seven years.

Fair Value Measurements

The Company applies fair value accounting for all financial assets and liabilities and non-financial assets and liabilities that are recognized or disclosed at fair value in the financial statements on a recurring basis. The Company defines fair value as the price that would be received from selling an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. When determining the fair value measurements for assets and liabilities, which are required to be recorded at fair value, the Company considers the principal or most advantageous market in which the Company would transact and the market-based risk measurements or assumptions that market participants would use to price the asset or liability, such as risks inherent in valuation techniques, transfer restrictions and credit risk. Fair value is estimated by applying the following hierarchy, which prioritizes the inputs used to measure fair value into three levels and bases the categorization within the hierarchy upon the lowest level of input that is available and significant to the fair value measurement:

Level 1 – Quoted prices in active markets for identical assets or liabilities.

Level 2 – Observable inputs other than quoted prices in active markets for identical assets and liabilities, quoted prices for identical or similar assets or liabilities in inactive markets, or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the assets or liabilities.

Level 3 – Inputs that are generally unobservable and typically reflect management's estimate of assumptions that market participants would use in pricing the asset or liability.

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The Company's valuation techniques used to measure the fair value of money market funds and certain marketable equity securities were derived from quoted prices in active markets for identical assets or liabilities. The valuation techniques used to measure the fair value of the Company's debt instruments and all other financial instruments, all of which have counterparties with high credit ratings, were valued based on quoted market prices or model-driven valuations using significant inputs derived from or corroborated by observable market data.

In accordance with the fair value accounting requirements, companies may choose to measure eligible financial instruments and certain other items at fair value. The Company has not elected the fair value option for any eligible financial instruments.

Foreign Currency Translation and Remeasurement

The Company translates the assets and liabilities of its non-U.S. dollar functional currency subsidiaries into U.S. dollars using exchange rates in effect at the end of each period. Revenue and expenses for these subsidiaries are translated using rates that approximate those in effect during the period. Gains and losses from these translations are recognized in foreign currency translation included in AOCI in shareholders' equity. The Company's subsidiaries that use the U.S. dollar as their functional currency remeasure monetary assets and liabilities at exchange rates in effect at the end of each period, and inventories, property and nonmonetary assets and liabilities at historical rates.

Note 2 – Financial Instruments

Cash, Cash Equivalents and Marketable Securities

The following tables show the Company's cash and available-for-sale securities' adjusted cost, gross unrealized gains, gross unrealized losses and fair value by significant investment category recorded as cash and cash equivalents or short- or long-term marketable securities as of September 24, 2016 and September 26, 2015 (in millions):

	2016						
	Adjusted Cost	Unrealized Gains	Unrealized Losses	Fair Value	Cash and Cash Equivalents	Short-Term Marketable Securities	Long-Term Marketable Securities
Cash	$ 8,601	$ —	$ —	$ 8,601	$ 8,601	$ —	$ —
Level 1:							
Money market funds	3,666	—	—	3,666	3,666	—	—
Mutual funds	1,407	—	(146)	1,261	—	1,261	—
Subtotal	5,073	—	(146)	4,927	3,666	1,261	—
Level 2:							
U.S. Treasury securities	41,697	319	(4)	42,012	1,527	13,492	26,993
U.S. agency securities	7,543	16	—	7,559	2,762	2,441	2,356
Non-U.S. government securities	7,609	259	(27)	7,841	110	818	6,913
Certificates of deposit and time deposits	6,598	—	—	6,598	1,108	3,897	1,593
Commercial paper	7,433	—	—	7,433	2,468	4,965	—
Corporate securities	131,166	1,409	(206)	132,369	242	19,599	112,528
Municipal securities	956	5	—	961	—	167	794
Mortgage- and asset-backed securities	19,134	178	(28)	19,284	—	31	19,253
Subtotal	222,136	2,186	(265)	224,057	8,217	45,410	170,430
Total	$ 235,810	$ 2,186	$ (411)	$ 237,585	$ 20,484	$ 46,671	$ 170,430

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	2015						
	Adjusted Cost	Unrealized Gains	Unrealized Losses	Fair Value	Cash and Cash Equivalents	Short-Term Marketable Securities	Long-Term Marketable Securities
Cash	$ 11,389	$ —	$ —	$ 11,389	$ 11,389	$ —	$ —
Level 1:							
Money market funds	1,798	—	—	1,798	1,798	—	—
Mutual funds	1,772	—	(144)	1,628	—	1,628	—
Subtotal	3,570	—	(144)	3,426	1,798	1,628	—
Level 2:							
U.S. Treasury securities	34,902	181	(1)	35,082	—	3,498	31,584
U.S. agency securities	5,864	14	—	5,878	841	767	4,270
Non-U.S. government securities	6,356	45	(167)	6,234	43	135	6,056
Certificates of deposit and time deposits	4,347	—	—	4,347	2,065	1,405	877
Commercial paper	6,016	—	—	6,016	4,981	1,035	—
Corporate securities	116,908	242	(985)	116,165	3	11,948	104,214
Municipal securities	947	5	—	952	—	48	904
Mortgage- and asset-backed securities	16,121	87	(31)	16,177	—	17	16,160
Subtotal	191,461	574	(1,184)	190,851	7,933	18,853	164,065
Total	$ 206,420	$ 574	$ (1,328)	$ 205,666	$ 21,120	$ 20,481	$ 164,065

The Company may sell certain of its marketable securities prior to their stated maturities for strategic reasons including, but not limited to, anticipation of credit deterioration and duration management. The maturities of the Company's long-term marketable securities generally range from one to five years.

The Company considers the declines in market value of its marketable securities investment portfolio to be temporary in nature. The Company typically invests in highly-rated securities, and its investment policy generally limits the amount of credit exposure to any one issuer. The policy generally requires investments to be investment grade, with the primary objective of minimizing the potential risk of principal loss. Fair values were determined for each individual security in the investment portfolio. When evaluating an investment for other-than-temporary impairment the Company reviews factors such as the length of time and extent to which fair value has been below its cost basis, the financial condition of the issuer and any changes thereto, changes in market interest rates and the Company's intent to sell, or whether it is more likely than not it will be required to sell the investment before recovery of the investment's cost basis. As of September 24, 2016, the Company does not consider any of its investments to be other-than-temporarily impaired.

Derivative Financial Instruments

The Company may use derivatives to partially offset its business exposure to foreign currency and interest rate risk on expected future cash flows, on net investments in certain foreign subsidiaries and on certain existing assets and liabilities. However, the Company may choose not to hedge certain exposures for a variety of reasons including, but not limited to, accounting considerations and the prohibitive economic cost of hedging particular exposures. There can be no assurance the hedges will offset more than a portion of the financial impact resulting from movements in foreign currency exchange or interest rates.

To help protect gross margins from fluctuations in foreign currency exchange rates, certain of the Company's subsidiaries whose functional currency is the U.S. dollar may hedge a portion of forecasted foreign currency revenue, and subsidiaries whose functional currency is not the U.S. dollar and who sell in local currencies may hedge a portion of forecasted inventory purchases not denominated in the subsidiaries' functional currencies. The Company may enter into forward contracts, option contracts or other instruments to manage this risk and may designate these instruments as cash flow hedges. The Company typically hedges portions of its forecasted foreign currency exposure associated with revenue and inventory purchases, typically for up to 12 months.

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To help protect the net investment in a foreign operation from adverse changes in foreign currency exchange rates, the Company may enter into foreign currency forward and option contracts to offset the changes in the carrying amounts of these investments due to fluctuations in foreign currency exchange rates. In addition, the Company may use non-derivative financial instruments, such as its foreign currency-denominated debt, as economic hedges of its net investments in certain foreign subsidiaries. In both of these cases, the Company designates these instruments as net investment hedges.

The Company may also enter into non-designated foreign currency contracts to partially offset the foreign currency exchange gains and losses generated by the re-measurement of certain assets and liabilities denominated in non-functional currencies.

The Company may enter into interest rate swaps, options, or other instruments to manage interest rate risk. These instruments may offset a portion of changes in income or expense, or changes in fair value of the Company's term debt or investments. The Company designates these instruments as either cash flow or fair value hedges. The Company's hedged interest rate transactions as of September 24, 2016 are expected to be recognized within 10 years.

Cash Flow Hedges

The effective portions of cash flow hedges are recorded in AOCI until the hedged item is recognized in earnings. Deferred gains and losses associated with cash flow hedges of foreign currency revenue are recognized as a component of net sales in the same period as the related revenue is recognized, and deferred gains and losses related to cash flow hedges of inventory purchases are recognized as a component of cost of sales in the same period as the related costs are recognized. Deferred gains and losses associated with cash flow hedges of interest income or expense are recognized in other income/(expense), net in the same period as the related income or expense is recognized. The ineffective portions and amounts excluded from the effectiveness testing of cash flow hedges are recognized in other income/(expense), net.

Derivative instruments designated as cash flow hedges must be de-designated as hedges when it is probable the forecasted hedged transaction will not occur in the initially identified time period or within a subsequent two-month time period. Deferred gains and losses in AOCI associated with such derivative instruments are reclassified immediately into other income/(expense), net. Any subsequent changes in fair value of such derivative instruments are reflected in other income/(expense), net unless they are re-designated as hedges of other transactions.

Net Investment Hedges

The effective portions of net investment hedges are recorded in other comprehensive income ("OCI") as a part of the cumulative translation adjustment. The ineffective portions and amounts excluded from the effectiveness testing of net investment hedges are recognized in other income/(expense), net.

Fair Value Hedges

Gains and losses related to changes in fair value hedges are recognized in earnings along with a corresponding loss or gain related to the change in value of the underlying hedged item.

Non-Designated Derivatives

Derivatives that are not designated as hedging instruments are adjusted to fair value through earnings in the financial statement line item to which the derivative relates.

The Company records all derivatives in the Consolidated Balance Sheets at fair value. The Company's accounting treatment for these derivative instruments is based on its hedge designation. The following tables show the Company's derivative instruments at gross fair value as of September 24, 2016 and September 26, 2015 (in millions):

	2016		
	Fair Value of Derivatives Designated as Hedge Instruments	Fair Value of Derivatives Not Designated as Hedge Instruments	Total Fair Value
Derivative assets [1]:			
Foreign exchange contracts	$ 518	$ 153	$ 671
Interest rate contracts	$ 728	$ —	$ 728
Derivative liabilities [2]:			
Foreign exchange contracts	$ 935	$ 134	$ 1,069
Interest rate contracts	$ 7	$ —	$ 7

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	2015		
	Fair Value of Derivatives Designated as Hedge Instruments	Fair Value of Derivatives Not Designated as Hedge Instruments	Total Fair Value
Derivative assets [1]:			
Foreign exchange contracts	$ 1,442	$ 109	$ 1,551
Interest rate contracts	$ 394	$ —	$ 394
Derivative liabilities [2]:			
Foreign exchange contracts	$ 905	$ 94	$ 999
Interest rate contracts	$ 13	$ —	$ 13

(1) The fair value of derivative assets is measured using Level 2 fair value inputs and is recorded as other current assets in the Consolidated Balance Sheets.

(2) The fair value of derivative liabilities is measured using Level 2 fair value inputs and is recorded as accrued expenses in the Consolidated Balance Sheets.

The following table shows the pre-tax gains and losses of the Company's derivative and non-derivative instruments designated as cash flow, net investment and fair value hedges on OCI and the Consolidated Statements of Operations for 2016, 2015 and 2014 (in millions):

	2016	2015	2014
Gains/(Losses) recognized in OCI – effective portion:			
Cash flow hedges:			
Foreign exchange contracts	$ 109	$ 3,592	$ 1,750
Interest rate contracts	(57)	(111)	(15)
Total	$ 52	$ 3,481	$ 1,735
Net investment hedges:			
Foreign exchange contracts	$ —	$ 167	$ 53
Foreign currency debt	(258)	(71)	—
Total	$ (258)	$ 96	$ 53
Gains/(Losses) reclassified from AOCI into net income – effective portion:			
Cash flow hedges:			
Foreign exchange contracts	$ 885	$ 4,092	$ (154)
Interest rate contracts	(11)	(17)	(16)
Total	$ 874	$ 4,075	$ (170)
Gains/(Losses) on derivative instruments:			
Fair value hedges:			
Interest rate contracts	$ 341	$ 337	$ 39
Gains/(Losses) related to hedged items:			
Fair value hedges:			
Interest rate contracts	$ (341)	$ (337)	$ (39)

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The following table shows the notional amounts of the Company's outstanding derivative instruments and credit risk amounts associated with outstanding or unsettled derivative instruments as of September 24, 2016 and September 26, 2015 (in millions):

	2016		2015	
	Notional Amount	Credit Risk Amount	Notional Amount	Credit Risk Amount
Instruments designated as accounting hedges:				
Foreign exchange contracts	$ 44,678	$ 518	$ 70,054	$ 1,385
Interest rate contracts	$ 24,500	$ 728	$ 18,750	$ 394
Instruments not designated as accounting hedges:				
Foreign exchange contracts	$ 54,305	$ 153	$ 49,190	$ 109

The notional amounts for outstanding derivative instruments provide one measure of the transaction volume outstanding and do not represent the amount of the Company's exposure to credit or market loss. The credit risk amounts represent the Company's gross exposure to potential accounting loss on derivative instruments that are outstanding or unsettled if all counterparties failed to perform according to the terms of the contract, based on then-current currency or interest rates at each respective date. The Company's exposure to credit loss and market risk will vary over time as currency and interest rates change. Although the table above reflects the notional and credit risk amounts of the Company's derivative instruments, it does not reflect the gains or losses associated with the exposures and transactions that the instruments are intended to hedge. The amounts ultimately realized upon settlement of these financial instruments, together with the gains and losses on the underlying exposures, will depend on actual market conditions during the remaining life of the instruments.

The Company generally enters into master netting arrangements, which are designed to reduce credit risk by permitting net settlement of transactions with the same counterparty. To further limit credit risk, the Company generally enters into collateral security arrangements that provide for collateral to be received or posted when the net fair value of certain financial instruments fluctuates from contractually established thresholds. The Company presents its derivative assets and derivative liabilities at their gross fair values in its Consolidated Balance Sheets. The net cash collateral received by the Company related to derivative instruments under its collateral security arrangements was $163 million as of September 24, 2016 and $1.0 billion as of September 26, 2015, which were recorded as accrued expenses in the Consolidated Balance Sheets.

Under master netting arrangements with the respective counterparties to the Company's derivative contracts, the Company is allowed to net settle transactions with a single net amount payable by one party to the other. As of September 24, 2016 and September 26, 2015, the potential effects of these rights of set-off associated with the Company's derivative contracts, including the effects of collateral, would be a reduction to both derivative assets and derivative liabilities of $1.5 billion and $2.2 billion, respectively, resulting in a net derivative asset of $160 million and a net derivative liability of $78 million, respectively.

Accounts Receivable

Trade Receivables

The Company has considerable trade receivables outstanding with its third-party cellular network carriers, wholesalers, retailers, value-added resellers, small and mid-sized businesses and education, enterprise and government customers. The Company generally does not require collateral from its customers; however, the Company will require collateral in certain instances to limit credit risk. In addition, when possible, the Company attempts to limit credit risk on trade receivables with credit insurance for certain customers or by requiring third-party financing, loans or leases to support credit exposure. These credit-financing arrangements are directly between the third-party financing company and the end customer. As such, the Company generally does not assume any recourse or credit risk sharing related to any of these arrangements.

As of September 24, 2016 and September 26, 2015, the Company had one customer that represented 10% or more of total trade receivables, which accounted for 10% and 12%, respectively. The Company's cellular network carriers accounted for 63% and 71% of trade receivables as of September 24, 2016 and September 26, 2015, respectively.

Vendor Non-Trade Receivables

The Company has non-trade receivables from certain of its manufacturing vendors resulting from the sale of components to these vendors who manufacture sub-assemblies or assemble final products for the Company. The Company purchases these components directly from suppliers. Vendor non-trade receivables from two of the Company's vendors accounted for 47% and 21% of total vendor non-trade receivables as of September 24, 2016 and three of the Company's vendors accounted for 38%, 18% and 14% of total vendor non-trade receivables as of September 26, 2015.

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Note 3 – Consolidated Financial Statement Details

The following tables show the Company's consolidated financial statement details as of September 24, 2016 and September 26, 2015 (in millions):

Property, Plant and Equipment, Net

	2016	2015
Land and buildings	$ 10,185	$ 6,956
Machinery, equipment and internal-use software	44,543	37,038
Leasehold improvements	6,517	5,263
Gross property, plant and equipment	61,245	49,257
Accumulated depreciation and amortization	(34,235)	(26,786)
Total property, plant and equipment, net	$ 27,010	$ 22,471

Other Non-Current Liabilities

	2016	2015
Deferred tax liabilities	$ 26,019	$ 24,062
Other non-current liabilities	10,055	9,365
Total other non-current liabilities	$ 36,074	$ 33,427

Other Income/(Expense), Net

The following table shows the detail of other income/(expense), net for 2016, 2015 and 2014 (in millions):

	2016	2015	2014
Interest and dividend income	$ 3,999	$ 2,921	$ 1,795
Interest expense	(1,456)	(733)	(384)
Other expense, net	(1,195)	(903)	(431)
Total other income/(expense), net	$ 1,348	$ 1,285	$ 980

Note 4 – Acquired Intangible Assets

The Company's acquired intangible assets with definite useful lives primarily consist of patents and licenses. The following table summarizes the components of gross and net acquired intangible asset balances as of September 24, 2016 and September 26, 2015 (in millions):

	2016			2015		
	Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount	Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount
Definite-lived and amortizable acquired intangible assets	$ 8,912	$ (5,806)	$ 3,106	$ 8,125	$ (4,332)	$ 3,793
Indefinite-lived and non-amortizable acquired intangible assets	100	—	100	100	—	100
Total acquired intangible assets	$ 9,012	$ (5,806)	$ 3,206	$ 8,225	$ (4,332)	$ 3,893

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Amortization expense related to acquired intangible assets was $1.5 billion, $1.3 billion and $1.1 billion in 2016, 2015 and 2014, respectively. As of September 24, 2016, the remaining weighted-average amortization period for acquired intangible assets is 3.4 years. The expected annual amortization expense related to acquired intangible assets as of September 24, 2016, is as follows (in millions):

2017	$ 1,197
2018	902
2019	449
2020	255
2021	175
Thereafter	128
Total	$ 3,106

Note 5 – Income Taxes

The provision for income taxes for 2016, 2015 and 2014, consisted of the following (in millions):

	2016	2015	2014
Federal:			
Current	$ 7,652	$ 11,730	$ 8,624
Deferred	5,043	3,408	3,183
	12,695	15,138	11,807
State:			
Current	990	1,265	855
Deferred	(138)	(220)	(178)
	852	1,045	677
Foreign:			
Current	2,105	4,744	2,147
Deferred	33	(1,806)	(658)
	2,138	2,938	1,489
Provision for income taxes	$ 15,685	$ 19,121	$ 13,973

The foreign provision for income taxes is based on foreign pre-tax earnings of $41.1 billion, $47.6 billion and $33.6 billion in 2016, 2015 and 2014, respectively. The Company's consolidated financial statements provide for any related tax liability on undistributed earnings that the Company does not intend to be indefinitely reinvested outside the U.S. Substantially all of the Company's undistributed international earnings intended to be indefinitely reinvested in operations outside the U.S. were generated by subsidiaries organized in Ireland, which has a statutory tax rate of 12.5%. As of September 24, 2016, U.S. income taxes have not been provided on a cumulative total of $109.8 billion of such earnings. The amount of unrecognized deferred tax liability related to these temporary differences is estimated to be $35.9 billion.

As of September 24, 2016 and September 26, 2015, $216.0 billion and $186.9 billion, respectively, of the Company's cash, cash equivalents and marketable securities were held by foreign subsidiaries and are generally based in U.S. dollar-denominated holdings. Amounts held by foreign subsidiaries are generally subject to U.S. income taxation on repatriation to the U.S.

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A reconciliation of the provision for income taxes, with the amount computed by applying the statutory federal income tax rate (35% in 2016, 2015 and 2014) to income before provision for income taxes for 2016, 2015 and 2014, is as follows (dollars in millions):

	2016	2015	2014
Computed expected tax	$ 21,480	$ 25,380	$ 18,719
State taxes, net of federal effect	553	680	469
Indefinitely invested earnings of foreign subsidiaries	(5,582)	(6,470)	(4,744)
Domestic production activities deduction	(382)	(426)	(495)
Research and development credit, net	(371)	(171)	(88)
Other	(13)	128	112
Provision for income taxes	$ 15,685	$ 19,121	$ 13,973
Effective tax rate	25.6%	26.4%	26.1%

The Company's income taxes payable have been reduced by the tax benefits from employee stock plan awards. For RSUs, the Company receives an income tax benefit upon the award's vesting equal to the tax effect of the underlying stock's fair market value. The Company had net excess tax benefits from equity awards of $379 million, $748 million and $706 million in 2016, 2015 and 2014, respectively, which were reflected as increases to common stock.

As of September 24, 2016 and September 26, 2015, the significant components of the Company's deferred tax assets and liabilities were (in millions):

	2016	2015
Deferred tax assets:		
Accrued liabilities and other reserves	$ 4,135	$ 4,205
Basis of capital assets	2,107	2,238
Deferred revenue	1,717	1,941
Deferred cost sharing	667	667
Share-based compensation	601	575
Unrealized losses	—	564
Other	788	721
Total deferred tax assets, net of valuation allowance of $0	10,015	10,911
Deferred tax liabilities:		
Unremitted earnings of foreign subsidiaries	31,436	26,868
Other	485	303
Total deferred tax liabilities	31,921	27,171
Net deferred tax liabilities	$ (21,906)	$ (16,260)

Deferred tax assets and liabilities reflect the effects of tax losses, credits and the future income tax effects of temporary differences between the consolidated financial statement carrying amounts of existing assets and liabilities and their respective tax bases and are measured using enacted tax rates that apply to taxable income in the years in which those temporary differences are expected to be recovered or settled.

Uncertain Tax Positions

Tax positions are evaluated in a two-step process. The Company first determines whether it is more likely than not that a tax position will be sustained upon examination. If a tax position meets the more-likely-than-not recognition threshold it is then measured to determine the amount of benefit to recognize in the financial statements. The tax position is measured as the largest amount of benefit that is greater than 50% likely of being realized upon ultimate settlement. The Company classifies gross interest and penalties and unrecognized tax benefits that are not expected to result in payment or receipt of cash within one year as non-current liabilities in the Consolidated Balance Sheets.

As of September 24, 2016, the total amount of gross unrecognized tax benefits was $7.7 billion, of which $2.8 billion, if recognized, would affect the Company's effective tax rate. As of September 26, 2015, the total amount of gross unrecognized tax benefits was $6.9 billion, of which $2.5 billion, if recognized, would affect the Company's effective tax rate.

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The aggregate changes in the balance of gross unrecognized tax benefits, which excludes interest and penalties, for 2016, 2015 and 2014, is as follows (in millions):

	2016	2015	2014
Beginning Balance	$ 6,900	$ 4,033	$ 2,714
Increases related to tax positions taken during a prior year	1,121	2,056	1,295
Decreases related to tax positions taken during a prior year	(257)	(345)	(280)
Increases related to tax positions taken during the current year	1,578	1,278	882
Decreases related to settlements with taxing authorities	(1,618)	(109)	(574)
Decreases related to expiration of statute of limitations	—	(13)	(4)
Ending Balance	$ 7,724	$ 6,900	$ 4,033

The Company includes interest and penalties related to unrecognized tax benefits within the provision for income taxes. As of September 24, 2016 and September 26, 2015, the total amount of gross interest and penalties accrued was $1.0 billion and $1.3 billion, respectively, which is classified as non-current liabilities in the Consolidated Balance Sheets. In connection with tax matters, the Company recognized interest and penalty expense in 2016, 2015 and 2014 of $295 million, $709 million and $40 million, respectively.

The Company is subject to taxation and files income tax returns in the U.S. federal jurisdiction and in many state and foreign jurisdictions. During the fourth quarter of 2016, the Company reached a partial settlement with the U.S. Internal Revenue Service (the "IRS") on its examination of the years 2010 through 2012. In connection with this settlement, the Company recognized a tax benefit in the fourth quarter of 2016 that was not significant to its consolidated financial statements. All years prior to 2013 are closed, except for the years 2010 through 2012 relating to R&D tax credits. In addition, the Company is subject to audits by state, local and foreign tax authorities. In major states and major foreign jurisdictions, the years subsequent to 2003 generally remain open and could be subject to examination by the taxing authorities.

The Company believes that an adequate provision has been made for any adjustments that may result from tax examinations. However, the outcome of tax audits cannot be predicted with certainty. If any issues addressed in the Company's tax audits are resolved in a manner not consistent with its expectations, the Company could be required to adjust its provision for income taxes in the period such resolution occurs. Although timing of the resolution and/or closure of audits is not certain, the Company believes it is reasonably possible that its gross unrecognized tax benefits could decrease (whether by payment, release or a combination of both) in the next 12 months by up to $850 million.

On August 30, 2016, the European Commission announced its decision that Ireland granted state aid to the Company by providing tax opinions in 1991 and 2007 concerning the tax allocation of profits of the Irish branches of two subsidiaries of the Company (the "State Aid Decision"). The State Aid Decision orders Ireland to calculate and recover additional taxes from the Company for the period June 2003 through September 2014. Irish legislative changes, effective as of the beginning of 2015, eliminated the application of the tax opinions from that date forward. The Company believes the State Aid Decision to be without merit and intends to appeal to the General Court of the Court of Justice of the European Union. Ireland has also announced its intention to appeal the State Aid Decision. While the European Commission announced a recovery amount of up to €13 billion, plus interest, the actual amount of additional taxes subject to recovery is to be calculated by Ireland in accordance with the European Commission's guidance. Once the recovery amount is computed by Ireland, the Company anticipates funding it, including interest, out of foreign cash into escrow, pending conclusion of all appeals. The Company believes that any incremental Irish corporate income taxes potentially due would be creditable against U.S. taxes.

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Note 6 – Debt

Commercial Paper

The Company issues unsecured short-term promissory notes ("Commercial Paper") pursuant to a commercial paper program. The Company uses net proceeds from the commercial paper program for general corporate purposes, including dividends and share repurchases. As of September 24, 2016 and September 26, 2015, the Company had $8.1 billion and $8.5 billion of Commercial Paper outstanding, respectively, with maturities generally less than nine months. The weighted-average interest rate of the Company's Commercial Paper was 0.45% as of September 24, 2016 and 0.14% as of September 26, 2015.

The following table provides a summary of cash flows associated with the issuance and maturities of Commercial Paper for 2016 and 2015 (in millions):

	2016	2015
Maturities less than 90 days:		
Proceeds from (repayments of) commercial paper, net	$ (869)	$ 5,293
Maturities greater than 90 days:		
Proceeds from commercial paper	3,632	3,851
Repayments of commercial paper	(3,160)	(6,953)
Maturities greater than 90 days, net	472	(3,102)
Total change in commercial paper, net	$ (397)	$ 2,191

Long-Term Debt

As of September 24, 2016, the Company had outstanding floating- and fixed-rate notes with varying maturities for an aggregate principal amount of $78.4 billion (collectively the "Notes"). The Notes are senior unsecured obligations, and interest is payable in arrears, quarterly for the U.S. dollar-denominated and Australian dollar-denominated floating-rate notes, semi-annually for the U.S. dollar-denominated, Australian dollar-denominated, British pound-denominated and Japanese yen-denominated fixed-rate notes and annually for the euro-denominated and Swiss franc-denominated fixed-rate notes.

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The following table provides a summary of the Company's term debt as of September 24, 2016 and September 26, 2015:

	Maturities	2016 Amount (in millions)	2016 Effective Interest Rate	2015 Amount (in millions)	2015 Effective Interest Rate
2013 debt issuance of $17.0 billion:					
Floating-rate notes	2018	$ 2,000	1.10%	$ 3,000	0.51% - 1.10%
Fixed-rate 1.000% - 3.850% notes	2018 - 2043	12,500	1.08% - 3.91%	14,000	0.51% - 3.91%
2014 debt issuance of $12.0 billion:					
Floating-rate notes	2017 - 2019	2,000	0.86% - 1.09%	2,000	0.37% - 0.60%
Fixed-rate 1.050% - 4.450% notes	2017 - 2044	10,000	0.85% - 4.48%	10,000	0.37% - 4.48%
2015 debt issuances of $27.3 billion:					
Floating-rate notes	2017 - 2020	1,781	0.87% - 1.87%	1,743	0.36% - 1.87%
Fixed-rate 0.350% - 4.375% notes	2017 - 2045	25,144	0.28% - 4.51%	24,958	0.28% - 4.51%
Second quarter 2016 debt issuance of $15.5 billion:					
Floating-rate notes	2019	500	1.64%	—	—
Floating-rate notes	2021	500	1.95%	—	—
Fixed-rate 1.300% notes	2018	500	1.32%	—	—
Fixed-rate 1.700% notes	2019	1,000	1.71%	—	—
Fixed-rate 2.250% notes	2021	3,000	1.91%	—	—
Fixed-rate 2.850% notes	2023	1,500	2.58%	—	—
Fixed-rate 3.250% notes	2026	3,250	2.51%	—	—
Fixed-rate 4.500% notes	2036	1,250	4.54%	—	—
Fixed-rate 4.650% notes	2046	4,000	4.58%	—	—
Third quarter 2016 Australian dollar-denominated debt issuance of A$1.4 billion:					
Fixed-rate 2.650% notes	2020	493	1.92%	—	—
Fixed-rate 3.350% notes	2024	342	2.61%	—	—
Fixed-rate 3.600% notes	2026	247	2.84%	—	—
Third quarter 2016 debt issuance of $1.4 billion:					
Fixed-rate 4.150% notes	2046	1,377	4.15%	—	—
Fourth quarter 2016 debt issuance of $7.0 billion:					
Floating-rate notes	2019	350	0.91%	—	—
Fixed-rate 1.100% notes	2019	1,150	1.13%	—	—
Fixed-rate 1.550% notes	2021	1,250	1.40%	—	—
Fixed-rate 2.450% notes	2026	2,250	2.15%	—	—
Fixed-rate 3.850% notes	2046	2,000	3.86%	—	—
Total term debt		78,384		55,701	
Unamortized premium/(discount) and issuance costs, net		(174)		(248)	
Hedge accounting fair value adjustments		717		376	
Less: Current portion of long-term debt, net		(3,500)		(2,500)	
Total long-term debt		$ 75,427		$ 53,329	

To manage foreign currency risk associated with the Australian dollar-denominated notes issued in the third quarter of 2016, the Company entered into currency swaps with an aggregate notional amount of $1.0 billion, which effectively converted these notes to U.S. dollar-denominated notes.

To manage interest rate risk on the U.S. dollar-denominated fixed-rate notes issued in the second quarter of 2016 and maturing in 2021, 2023 and 2026, the Company entered into interest rate swaps with an aggregate notional amount of $5.0 billion. To manage interest rate risk on the U.S. dollar-denominated fixed-rate notes issued in the fourth quarter of 2016 and maturing in 2021 and 2026, the Company entered into interest rate swaps with an aggregate notional amount of $1.8 billion. These interest rate swaps effectively converted a portion of the U.S. dollar-denominated fixed-rate notes to floating interest rate notes.

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As of September 24, 2016, ¥195.5 billion of the Japanese yen-denominated notes was designated as a hedge of the foreign currency exposure of its net investment in a foreign operation. The foreign currency transaction gain or loss on the Japanese yen-denominated debt designated as a hedge is recorded in OCI as a part of the cumulative translation adjustment. As of September 24, 2016, the carrying value of the debt designated as a net investment hedge was $1.9 billion. For further discussion regarding the Company's use of derivative instruments see the Derivative Financial Instruments section of Note 2, "Financial Instruments."

The effective interest rates for the Notes include the interest on the Notes, amortization of the discount and, if applicable, adjustments related to hedging. The Company recognized $1.4 billion, $722 million and $381 million of interest expense on its term debt for 2016, 2015 and 2014, respectively.

The future principal payments for the Company's Notes as of September 24, 2016 are as follows (in millions):

2017	$	3,500
2018		6,500
2019		6,834
2020		6,454
2021		7,750
Thereafter		47,346
Total term debt	$	78,384

As of September 24, 2016 and September 26, 2015, the fair value of the Company's Notes, based on Level 2 inputs, was $81.7 billion and $54.9 billion, respectively.

Note 7 – Shareholders' Equity

Dividends

The Company declared and paid cash dividends per share during the periods presented as follows:

	Dividends Per Share	Amount (in millions)
2016:		
Fourth quarter	$ 0.57	$ 3,071
Third quarter	0.57	3,117
Second quarter	0.52	2,879
First quarter	0.52	2,898
Total cash dividends declared and paid	$ 2.18	$ 11,965
2015:		
Fourth quarter	$ 0.52	$ 2,950
Third quarter	0.52	2,997
Second quarter	0.47	2,734
First quarter	0.47	2,750
Total cash dividends declared and paid	$ 1.98	$ 11,431

Future dividends are subject to declaration by the Board of Directors.

Share Repurchase Program

In April 2016, the Company's Board of Directors increased the share repurchase authorization from $140 billion to $175 billion of the Company's common stock, of which $133 billion had been utilized as of September 24, 2016. The Company's share repurchase program does not obligate it to acquire any specific number of shares. Under the program, shares may be repurchased in privately negotiated and/or open market transactions, including under plans complying with Rule 10b5-1 under the Securities Exchange Act of 1934, as amended (the "Exchange Act").

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The Company has entered, and in the future may enter, into accelerated share repurchase arrangements ("ASRs") with financial institutions. In exchange for up-front payments, the financial institutions deliver shares of the Company's common stock during the purchase periods of each ASR. The total number of shares ultimately delivered, and therefore the average repurchase price paid per share, is determined at the end of the applicable purchase period of each ASR based on the volume weighted-average price of the Company's common stock during that period. The shares received are retired in the periods they are delivered, and the up-front payments are accounted for as a reduction to shareholders' equity in the Company's Consolidated Balance Sheets in the periods the payments are made. The Company reflects the ASRs as a repurchase of common stock in the period delivered for purposes of calculating earnings per share and as forward contracts indexed to its own common stock. The ASRs met all of the applicable criteria for equity classification, and therefore were not accounted for as derivative instruments.

The following table shows the Company's ASR activity and related information during the years ended September 24, 2016 and September 26, 2015:

	Purchase Period End Date	Number of Shares (in thousands)	Average Repurchase Price Per Share	ASR Amount (in millions)
August 2016 ASR	November 2016	22,468 (1)	(1)	$ 3,000
May 2016 ASR	August 2016	60,452 (2)	$ 99.25	$ 6,000
November 2015 ASR	April 2016	29,122	$ 103.02	$ 3,000
May 2015 ASR	July 2015	48,293	$ 124.24	$ 6,000
August 2014 ASR	February 2015	81,525	$ 110.40	$ 9,000
January 2014 ASR	December 2014	134,247	$ 89.39	$ 12,000

(1) "Number of Shares" represents those shares delivered in the beginning of the purchase period and does not represent the final number of shares to be delivered under the ASR. The total number of shares ultimately delivered, and therefore the average repurchase price paid per share, will be determined at the end of the purchase period based on the volume-weighted average price of the Company's common stock during that period. The August 2016 ASR purchase period will end in or before November 2016.

(2) Includes 48.2 million shares delivered and retired at the beginning of the purchase period, which began in the third quarter of 2016, and 12.3 million shares delivered and retired at the end of the purchase period, which concluded in the fourth quarter of 2016.

Additionally, the Company repurchased shares of its common stock in the open market, which were retired upon repurchase, during the periods presented as follows:

	Number of Shares (in thousands)	Average Repurchase Price Per Share	Amount (in millions)
2016:			
Fourth quarter	28,579	$ 104.97	$ 3,000
Third quarter	41,238	$ 97.00	4,000
Second quarter	71,766	$ 97.54	7,000
First quarter	25,984	$ 115.45	3,000
Total open market common stock repurchases	167,567		$ 17,000
2015:			
Fourth quarter	121,802	$ 115.15	$ 14,026
Third quarter	31,231	$ 128.08	4,000
Second quarter	56,400	$ 124.11	7,000
First quarter	45,704	$ 109.40	5,000
Total open market common stock repurchases	255,137		$ 30,026

Note 8 – Comprehensive Income

Comprehensive income consists of two components, net income and OCI. OCI refers to revenue, expenses, and gains and losses that under GAAP are recorded as an element of shareholders' equity but are excluded from net income. The Company's OCI consists of foreign currency translation adjustments from those subsidiaries not using the U.S. dollar as their functional currency, net deferred gains and losses on certain derivative instruments accounted for as cash flow hedges and unrealized gains and losses on marketable securities classified as available-for-sale.

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The following table shows the pre-tax amounts reclassified from AOCI into the Consolidated Statements of Operations, and the associated financial statement line item, for 2016 and 2015 (in millions):

Comprehensive Income Components	Financial Statement Line Item	2016	2015
Unrealized (gains)/losses on derivative instruments:			
Foreign exchange contracts	Revenue	$ (865)	$ (2,432)
	Cost of sales	(130)	(2,168)
	Other income/(expense), net	111	456
Interest rate contracts	Other income/(expense), net	12	17
		(872)	(4,127)
Unrealized (gains)/losses on marketable securities	Other income/(expense), net	87	91
Total amounts reclassified from AOCI		$ (785)	$ (4,036)

The following table shows the changes in AOCI by component for 2016 and 2015 (in millions):

	Cumulative Foreign Currency Translation	Unrealized Gains/Losses on Derivative Instruments	Unrealized Gains/Losses on Marketable Securities	Total
Balance at September 27, 2014	$ (242)	$ 1,364	$ (40)	$ 1,082
Other comprehensive income/(loss) before reclassifications	(612)	3,346	(747)	1,987
Amounts reclassified from AOCI	—	(4,127)	91	(4,036)
Tax effect	201	189	232	622
Other comprehensive income/(loss)	(411)	(592)	(424)	(1,427)
Balance at September 26, 2015	(653)	772	(464)	(345)
Other comprehensive income/(loss) before reclassifications	67	14	2,445	2,526
Amounts reclassified from AOCI	—	(872)	87	(785)
Tax effect	8	124	(894)	(762)
Other comprehensive income/(loss)	75	(734)	1,638	979
Balance at September 24, 2016	$ (578)	$ 38	$ 1,174	$ 634

Note 9 – Benefit Plans

2014 Employee Stock Plan

In the second quarter of 2014, shareholders approved the 2014 Employee Stock Plan (the "2014 Plan") and terminated the Company's authority to grant new awards under the 2003 Employee Stock Plan (the "2003 Plan"). The 2014 Plan provides for broad-based equity grants to employees, including executive officers, and permits the granting of RSUs, stock grants, performance-based awards, stock options and stock appreciation rights, as well as cash bonus awards. RSUs granted under the 2014 Plan generally vest over four years, based on continued employment, and are settled upon vesting in shares of the Company's common stock on a one-for-one basis. Each share issued with respect to RSUs granted under the 2014 Plan reduces the number of shares available for grant under the plan by two shares. RSUs cancelled and shares withheld to satisfy tax withholding obligations increase the number of shares available for grant under the 2014 Plan utilizing a factor of two times the number of RSUs cancelled or shares withheld. Currently, all RSUs granted under the 2014 Plan have dividend equivalent rights ("DERs"), which entitle holders of RSUs to the same dividend value per share as holders of common stock. DERs are subject to the same vesting and other terms and conditions as the corresponding unvested RSUs. DERs are accumulated and paid when the underlying shares vest. Upon approval of the 2014 Plan, the Company reserved 385 million shares plus the number of shares remaining that were reserved but not issued under the 2003 Plan. Shares subject to outstanding awards under the 2003 Plan that expire, are cancelled or otherwise terminate, or are withheld to satisfy tax withholding obligations with respect to RSUs, will also be available for awards under the 2014 Plan. As of September 24, 2016, approximately 386.4 million shares were reserved for future issuance under the 2014 Plan.

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2003 Employee Stock Plan

The 2003 Plan is a shareholder approved plan that provided for broad-based equity grants to employees, including executive officers. The 2003 Plan permitted the granting of incentive stock options, nonstatutory stock options, RSUs, stock appreciation rights, stock purchase rights and performance-based awards. Options granted under the 2003 Plan generally expire seven to ten years after the grant date and generally become exercisable over a period of four years, based on continued employment, with either annual, semi-annual or quarterly vesting. RSUs granted under the 2003 Plan generally vest over two to four years, based on continued employment and are settled upon vesting in shares of the Company's common stock on a one-for-one basis. All RSUs, other than RSUs held by the Chief Executive Officer, granted under the 2003 Plan have DERs. DERs are subject to the same vesting and other terms and conditions as the corresponding unvested RSUs. DERs are accumulated and paid when the underlying shares vest. In the second quarter of 2014, the Company terminated the authority to grant new awards under the 2003 Plan.

1997 Director Stock Plan

The 1997 Director Stock Plan (the "Director Plan") is a shareholder approved plan that (i) permits the Company to grant awards of RSUs or stock options to the Company's non-employee directors, (ii) provides for automatic initial grants of RSUs upon a non-employee director joining the Board of Directors and automatic annual grants of RSUs at each annual meeting of shareholders, and (iii) permits the Board of Directors to prospectively change the relative mixture of stock options and RSUs for the initial and annual award grants and the methodology for determining the number of shares of the Company's common stock subject to these grants without shareholder approval. Each share issued with respect to RSUs granted under the Director Plan reduces the number of shares available for grant under the plan by two shares. The Director Plan expires November 9, 2019. All RSUs granted under the Director Plan are entitled to DERs. DERs are subject to the same vesting and other terms and conditions as the corresponding unvested RSUs. DERs are accumulated and paid when the underlying shares vest. As of September 24, 2016, approximately 1.1 million shares were reserved for future issuance under the Director Plan.

Rule 10b5-1 Trading Plans

During the three months ended September 24, 2016, Section 16 officers Timothy D. Cook, Angela Ahrendts, Luca Maestri, Daniel Riccio, Philip Schiller and Jeffrey Williams had equity trading plans in place in accordance with Rule 10b5-1(c)(1) under the Exchange Act. An equity trading plan is a written document that pre-establishes the amounts, prices and dates (or formula for determining the amounts, prices and dates) of future purchases or sales of the Company's stock, including shares acquired pursuant to the Company's employee and director equity plans.

Employee Stock Purchase Plan

The Employee Stock Purchase Plan (the "Purchase Plan") is a shareholder approved plan under which substantially all employees may purchase the Company's common stock through payroll deductions at a price equal to 85% of the lower of the fair market values of the stock as of the beginning or the end of six-month offering periods. An employee's payroll deductions under the Purchase Plan are limited to 10% of the employee's compensation and employees may not purchase more than $25,000 of stock during any calendar year. As of September 24, 2016, approximately 47.0 million shares were reserved for future issuance under the Purchase Plan.

401(k) Plan

The Company's 401(k) Plan is a deferred salary arrangement under Section 401(k) of the Internal Revenue Code. Under the 401(k) Plan, participating U.S. employees may defer a portion of their pre-tax earnings, up to the IRS annual contribution limit ($18,000 for calendar year 2016). The Company matches 50% to 100% of each employee's contributions, depending on length of service, up to a maximum 6% of the employee's eligible earnings.

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Restricted Stock Units

A summary of the Company's RSU activity and related information for 2016, 2015 and 2014, is as follows:

	Number of RSUs (in thousands)	Weighted-Average Grant Date Fair Value Per Share	Aggregate Intrinsic Value (in millions)
Balance at September 28, 2013	93,284	$ 62.24	
RSUs granted	59,269	$ 74.54	
RSUs vested	(43,111)	$ 57.29	
RSUs cancelled	(5,620)	$ 68.47	
Balance at September 27, 2014	103,822	$ 70.98	
RSUs granted	45,587	$ 105.51	
RSUs vested	(41,684)	$ 71.32	
RSUs cancelled	(6,258)	$ 80.34	
Balance at September 26, 2015	101,467	$ 85.77	
RSUs granted	49,468	$ 109.28	
RSUs vested	(46,313)	$ 84.44	
RSUs cancelled	(5,533)	$ 96.48	
Balance at September 24, 2016	99,089	$ 97.54	$ 11,168

The fair value as of the respective vesting dates of RSUs was $5.1 billion, $4.8 billion and $3.4 billion for 2016, 2015 and 2014, respectively. The majority of RSUs that vested in 2016, 2015 and 2014 were net-share settled such that the Company withheld shares with value equivalent to the employees' minimum statutory obligation for the applicable income and other employment taxes, and remitted the cash to the appropriate taxing authorities. The total shares withheld were approximately 15.9 million, 14.1 million and 15.6 million for 2016, 2015 and 2014, respectively, and were based on the value of the RSUs on their respective vesting dates as determined by the Company's closing stock price. Total payments for the employees' tax obligations to taxing authorities were $1.7 billion, $1.6 billion and $1.2 billion in 2016, 2015 and 2014, respectively, and are reflected as a financing activity within the Consolidated Statements of Cash Flows. These net-share settlements had the effect of share repurchases by the Company as they reduced the number of shares that would have otherwise been issued as a result of the vesting and did not represent an expense to the Company.

Share-based Compensation

The following table shows a summary of the share-based compensation expense included in the Consolidated Statements of Operations for 2016, 2015 and 2014 (in millions):

	2016	2015	2014
Cost of sales	$ 769	$ 575	$ 450
Research and development	1,889	1,536	1,216
Selling, general and administrative	1,552	1,475	1,197
Total share-based compensation expense	$ 4,210	$ 3,586	$ 2,863

The income tax benefit related to share-based compensation expense was $1.4 billion, $1.2 billion and $1.0 billion for 2016, 2015 and 2014, respectively. As of September 24, 2016, the total unrecognized compensation cost related to outstanding stock options, RSUs and restricted stock was $7.5 billion, which the Company expects to recognize over a weighted-average period of 2.6 years.

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Note 10 – Commitments and Contingencies

Accrued Warranty and Indemnification

The following table shows changes in the Company's accrued warranties and related costs for 2016, 2015 and 2014 (in millions):

	2016	2015	2014
Beginning accrued warranty and related costs	$ 4,780	$ 4,159	$ 2,967
Cost of warranty claims	(4,663)	(4,401)	(3,760)
Accruals for product warranty	3,585	5,022	4,952
Ending accrued warranty and related costs	$ 3,702	$ 4,780	$ 4,159

The Company generally does not indemnify end-users of its operating system and application software against legal claims that the software infringes third-party intellectual property rights. Other agreements entered into by the Company sometimes include indemnification provisions under which the Company could be subject to costs and/or damages in the event of an infringement claim against the Company or an indemnified third-party. In the opinion of management, there was not at least a reasonable possibility the Company may have incurred a material loss with respect to indemnification of end-users of its operating system or application software for infringement of third-party intellectual property rights.

The Company offers an iPhone Upgrade Program, which is available to customers who purchase a qualifying iPhone in the U.S., the U.K. and mainland China. The iPhone Upgrade Program provides customers the right to trade in that iPhone for a specified amount when purchasing a new iPhone, provided certain conditions are met. The Company accounts for the trade-in right as a guarantee liability and recognizes arrangement revenue net of the fair value of such right with subsequent changes to the guarantee liability recognized within revenue.

The Company has entered into indemnification agreements with its directors and executive officers. Under these agreements, the Company has agreed to indemnify such individuals to the fullest extent permitted by law against liabilities that arise by reason of their status as directors or officers and to advance expenses incurred by such individuals in connection with related legal proceedings. It is not possible to determine the maximum potential amount of payments the Company could be required to make under these agreements due to the limited history of prior indemnification claims and the unique facts and circumstances involved in each claim. However, the Company maintains directors and officers liability insurance coverage to reduce its exposure to such obligations.

Concentrations in the Available Sources of Supply of Materials and Product

Although most components essential to the Company's business are generally available from multiple sources, a number of components are currently obtained from single or limited sources. In addition, the Company competes for various components with other participants in the markets for mobile communication and media devices and personal computers. Therefore, many components used by the Company, including those that are available from multiple sources, are at times subject to industry-wide shortage and significant pricing fluctuations that could materially adversely affect the Company's financial condition and operating results.

The Company uses some custom components that are not commonly used by its competitors, and new products introduced by the Company often utilize custom components available from only one source. When a component or product uses new technologies, initial capacity constraints may exist until the suppliers' yields have matured or manufacturing capacity has increased. If the Company's supply of components for a new or existing product were delayed or constrained, or if an outsourcing partner delayed shipments of completed products to the Company, the Company's financial condition and operating results could be materially adversely affected. The Company's business and financial performance could also be materially adversely affected depending on the time required to obtain sufficient quantities from the original source, or to identify and obtain sufficient quantities from an alternative source. Continued availability of these components at acceptable prices, or at all, may be affected if those suppliers concentrated on the production of common components instead of components customized to meet the Company's requirements.

The Company has entered into agreements for the supply of many components; however, there can be no guarantee that the Company will be able to extend or renew these agreements on similar terms, or at all. Therefore, the Company remains subject to significant risks of supply shortages and price increases that could materially adversely affect its financial condition and operating results.

Substantially all of the Company's hardware products are manufactured by outsourcing partners that are located primarily in Asia. A significant concentration of this manufacturing is currently performed by a small number of outsourcing partners, often in single locations. Certain of these outsourcing partners are the sole-sourced suppliers of components and manufacturers for many of the Company's products. Although the Company works closely with its outsourcing partners on manufacturing schedules, the Company's operating results could be adversely affected if its outsourcing partners were unable to meet their production commitments. The Company's manufacturing purchase obligations typically cover its requirements for periods up to 150 days.

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Other Off-Balance Sheet Commitments

Operating Leases

The Company leases various equipment and facilities, including retail space, under noncancelable operating lease arrangements. The Company does not currently utilize any other off-balance sheet financing arrangements. As of September 24, 2016, the Company's total future minimum lease payments under noncancelable operating leases were $7.6 billion. The Company's retail store and other facility leases are typically for terms not exceeding 10 years and generally contain multi-year renewal options.

Rent expense under all operating leases, including both cancelable and noncancelable leases, was $939 million, $794 million and $717 million in 2016, 2015 and 2014, respectively. Future minimum lease payments under noncancelable operating leases having remaining terms in excess of one year as of September 24, 2016, are as follows (in millions):

2017	$	929
2018		919
2019		915
2020		889
2021		836
Thereafter		3,139
Total	$	7,627

Contingencies

The Company is subject to various legal proceedings and claims that have arisen in the ordinary course of business and that have not been fully adjudicated, as further discussed in Part I, Item 1A of this Form 10-K under the heading "Risk Factors" and in Part I, Item 3 of this Form 10-K under the heading "Legal Proceedings." In the opinion of management, there was not at least a reasonable possibility the Company may have incurred a material loss, or a material loss in excess of a recorded accrual, with respect to loss contingencies for asserted legal and other claims. However, the outcome of litigation is inherently uncertain. Therefore, although management considers the likelihood of such an outcome to be remote, if one or more of these legal matters were resolved against the Company in a reporting period for amounts in excess of management's expectations, the Company's consolidated financial statements for that reporting period could be materially adversely affected.

Apple Inc. v. Samsung Electronics Co., Ltd., et al.

On August 24, 2012, a jury returned a verdict awarding the Company $1.05 billion in its lawsuit against Samsung Electronics Co., Ltd. and affiliated parties in the United States District Court, Northern District of California, San Jose Division. On March 6, 2014, the District Court entered final judgment in favor of the Company in the amount of approximately $930 million. On May 18, 2015, the U.S. Court of Appeals for the Federal Circuit affirmed in part, and reversed in part, the decision of the District Court. As a result, the Court of Appeals ordered entry of final judgment on damages in the amount of approximately $548 million, with the District Court to determine supplemental damages and interest, as well as damages owed for products subject to the reversal in part. Samsung paid $548 million to the Company in December 2015, which was included in net sales in the Condensed Consolidated Statement of Operations. Because the case remains subject to further proceedings, the Company has not recognized any further amounts in its results of operations. On October 11, 2016, the United States Supreme Court heard arguments in Samsung's request for appeal related to the $548 million in damages.

Note 11 – Segment Information and Geographic Data

The Company reports segment information based on the "management" approach. The management approach designates the internal reporting used by management for making decisions and assessing performance as the source of the Company's reportable operating segments.

The Company manages its business primarily on a geographic basis. The Company's reportable operating segments consist of the Americas, Europe, Greater China, Japan and Rest of Asia Pacific. The Americas segment includes both North and South America. The Europe segment includes European countries, as well as India, the Middle East and Africa. The Greater China segment includes China, Hong Kong and Taiwan. The Rest of Asia Pacific segment includes Australia and those Asian countries not included in the Company's other reportable operating segments. Although the reportable operating segments provide similar hardware and software products and similar services, each one is managed separately to better align with the location of the Company's customers and distribution partners and the unique market dynamics of each geographic region. The accounting policies of the various segments are the same as those described in Note 1, "Summary of Significant Accounting Policies."

SPOTIFY EXHIBIT 47

The Company evaluates the performance of its reportable operating segments based on net sales and operating income. Net sales for geographic segments are generally based on the location of customers and sales through the Company's retail stores located in those geographic locations. Operating income for each segment includes net sales to third parties, related cost of sales and operating expenses directly attributable to the segment. Advertising expenses are generally included in the geographic segment in which the expenditures are incurred. Operating income for each segment excludes other income and expense and certain expenses managed outside the reportable operating segments. Costs excluded from segment operating income include various corporate expenses such as R&D, corporate marketing expenses, certain share-based compensation expenses, income taxes, various nonrecurring charges and other separately managed general and administrative costs. The Company does not include intercompany transfers between segments for management reporting purposes.

The following table shows information by reportable operating segment for 2016, 2015 and 2014 (in millions):

	2016	2015	2014
Americas:			
Net sales	$ 86,613	$ 93,864	$ 80,095
Operating income	$ 28,172	$ 31,186	$ 26,158
Europe:			
Net sales	$ 49,952	$ 50,337	$ 44,285
Operating income	$ 15,348	$ 16,527	$ 14,434
Greater China:			
Net sales	$ 48,492	$ 58,715	$ 31,853
Operating income	$ 18,835	$ 23,002	$ 11,039
Japan:			
Net sales	$ 16,928	$ 15,706	$ 15,314
Operating income	$ 7,165	$ 7,617	$ 6,904
Rest of Asia Pacific:			
Net sales	$ 13,654	$ 15,093	$ 11,248
Operating income	$ 4,781	$ 5,518	$ 3,674

A reconciliation of the Company's segment operating income to the Consolidated Statements of Operations for 2016, 2015 and 2014 is as follows (in millions):

	2016	2015	2014
Segment operating income	$ 74,301	$ 83,850	$ 62,209
Research and development expense	(10,045)	(8,067)	(6,041)
Other corporate expenses, net	(4,232)	(4,553)	(3,665)
Total operating income	$ 60,024	$ 71,230	$ 52,503

SPOTIFY EXHIBIT 47

The U.S. and China were the only countries that accounted for more than 10% of the Company's net sales in 2016, 2015 and 2014. There was no single customer that accounted for more than 10% of net sales in 2016, 2015 or 2014. Net sales for 2016, 2015 and 2014 and long-lived assets as of September 24, 2016 and September 26, 2015 are as follows (in millions):

	2016	2015	2014
Net sales:			
U.S.	$ 75,667	$ 81,732	$ 68,909
China [1]	46,349	56,547	30,638
Other countries	93,623	95,436	83,248
Total net sales	$ 215,639	$ 233,715	$ 182,795

	2016	2015
Long-lived assets:		
U.S.	$ 16,364	$ 12,022
China [1]	7,807	8,722
Other countries	2,839	3,040
Total long-lived assets	$ 27,010	$ 23,784

(1) China includes Hong Kong. Long-lived assets located in China consist primarily of product tooling and manufacturing process equipment and assets related to retail stores and related infrastructure.

Net sales by product for 2016, 2015 and 2014 are as follows (in millions):

	2016	2015	2014
iPhone [1]	$ 136,700	$ 155,041	$ 101,991
iPad [1]	20,628	23,227	30,283
Mac [1]	22,831	25,471	24,079
Services [2]	24,348	19,909	18,063
Other Products [1][3]	11,132	10,067	8,379
Total net sales	$ 215,639	$ 233,715	$ 182,795

(1) Includes deferrals and amortization of related software upgrade rights and non-software services.

(2) Includes revenue from iTunes Store, App Store, Mac App Store, TV App Store, iBooks Store, Apple Music, AppleCare, Apple Pay, licensing and other services.

(3) Includes sales of Apple TV, Apple Watch, Beats products, iPod and Apple-branded and third-party accessories.

SPOTIFY EXHIBIT 47

Note 12 – Selected Quarterly Financial Information (Unaudited)

The following tables show a summary of the Company's quarterly financial information for each of the four quarters of 2016 and 2015 (in millions, except per share amounts):

	Fourth Quarter	Third Quarter	Second Quarter	First Quarter
2016:				
Net sales	$ 46,852	$ 42,358	$ 50,557	$ 75,872
Gross margin	$ 17,813	$ 16,106	$ 19,921	$ 30,423
Net income	$ 9,014	$ 7,796	$ 10,516	$ 18,361
Earnings per share [1]:				
Basic	$ 1.68	$ 1.43	$ 1.91	$ 3.30
Diluted	$ 1.67	$ 1.42	$ 1.90	$ 3.28

	Fourth Quarter	Third Quarter	Second Quarter	First Quarter
2015:				
Net sales	$ 51,501	$ 49,605	$ 58,010	$ 74,599
Gross margin	$ 20,548	$ 19,681	$ 23,656	$ 29,741
Net income	$ 11,124	$ 10,677	$ 13,569	$ 18,024
Earnings per share [1]:				
Basic	$ 1.97	$ 1.86	$ 2.34	$ 3.08
Diluted	$ 1.96	$ 1.85	$ 2.33	$ 3.06

(1) Basic and diluted earnings per share are computed independently for each of the quarters presented. Therefore, the sum of quarterly basic and diluted per share information may not equal annual basic and diluted earnings per share.

SPOTIFY EXHIBIT 47

Report of Ernst & Young LLP, Independent Registered Public Accounting Firm

The Board of Directors and Shareholders of Apple Inc.

We have audited the accompanying consolidated balance sheets of Apple Inc. as of September 24, 2016 and September 26, 2015, and the related consolidated statements of operations, comprehensive income, shareholders' equity and cash flows for each of the three years in the period ended September 24, 2016. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the consolidated financial position of Apple Inc. at September 24, 2016 and September 26, 2015, and the consolidated results of its operations and its cash flows for each of the three years in the period ended September 24, 2016, in conformity with U.S. generally accepted accounting principles.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), Apple Inc.'s internal control over financial reporting as of September 24, 2016, based on criteria established in *Internal Control – Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013 framework) and our report dated October 26, 2016 expressed an unqualified opinion thereon.

/s/ Ernst & Young LLP

San Jose, California
October 26, 2016

SPOTIFY EXHIBIT 47

Report of Ernst & Young LLP, Independent Registered Public Accounting Firm

The Board of Directors and Shareholders of Apple Inc.

We have audited Apple Inc.'s internal control over financial reporting as of September 24, 2016, based on criteria established in *Internal Control – Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013 framework) ("the COSO criteria"). Apple Inc.'s management is responsible for maintaining effective internal control over financial reporting, and for its assessment of the effectiveness of internal control over financial reporting included in the accompanying Management's Annual Report on Internal Control Over Financial Reporting. Our responsibility is to express an opinion on the Company's internal control over financial reporting based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

In our opinion, Apple Inc. maintained, in all material respects, effective internal control over financial reporting as of September 24, 2016, based on the COSO criteria.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the 2016 consolidated financial statements of Apple Inc. and our report dated October 26, 2016 expressed an unqualified opinion thereon.

/s/ Ernst & Young LLP

San Jose, California
October 26, 2016

SPOTIFY EXHIBIT 47

Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure

None.

Item 9A. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

Based on an evaluation under the supervision and with the participation of the Company's management, the Company's principal executive officer and principal financial officer have concluded that the Company's disclosure controls and procedures as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act were effective as of September 24, 2016 to provide reasonable assurance that information required to be disclosed by the Company in reports that it files or submits under the Exchange Act is (i) recorded, processed, summarized and reported within the time periods specified in the SEC rules and forms and (ii) accumulated and communicated to the Company's management, including its principal executive officer and principal financial officer, as appropriate to allow timely decisions regarding required disclosure.

Inherent Limitations Over Internal Controls

The Company's internal control over financial reporting is designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with U.S. generally accepted accounting principles ("GAAP"). The Company's internal control over financial reporting includes those policies and procedures that:

(i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the Company's assets;

(ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with GAAP, and that the Company's receipts and expenditures are being made only in accordance with authorizations of the Company's management and directors; and

(iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the Company's assets that could have a material effect on the financial statements.

Management, including the Company's Chief Executive Officer and Chief Financial Officer, does not expect that the Company's internal controls will prevent or detect all errors and all fraud. A control system, no matter how well designed and operated, can provide only reasonable, not absolute, assurance that the objectives of the control system are met. Further, the design of a control system must reflect the fact that there are resource constraints, and the benefits of controls must be considered relative to their costs. Because of the inherent limitations in all control systems, no evaluation of internal controls can provide absolute assurance that all control issues and instances of fraud, if any, have been detected. Also, any evaluation of the effectiveness of controls in future periods are subject to the risk that those internal controls may become inadequate because of changes in business conditions, or that the degree of compliance with the policies or procedures may deteriorate.

Management's Annual Report on Internal Control Over Financial Reporting

The Company's management is responsible for establishing and maintaining adequate internal control over financial reporting (as defined in Rule 13a-15(f) under the Exchange Act). Management conducted an assessment of the effectiveness of the Company's internal control over financial reporting based on the criteria set forth in Internal Control – Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013 framework). Based on the Company's assessment, management has concluded that its internal control over financial reporting was effective as of September 24, 2016 to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements in accordance with GAAP. The Company's independent registered public accounting firm, Ernst & Young LLP, has issued an audit report on the Company's internal control over financial reporting, which appears in Part II, Item 8 of this Form 10-K.

Changes in Internal Control Over Financial Reporting

There were no changes in the Company's internal control over financial reporting during the fourth quarter of 2016, which were identified in connection with management's evaluation required by paragraph (d) of rules 13a-15 and 15d-15 under the Exchange Act, that have materially affected, or are reasonably likely to materially affect, the Company's internal control over financial reporting.

Item 9B. Other Information

Not applicable.

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PART III

Item 10. Directors, Executive Officers and Corporate Governance

The information required by this Item is set forth under the headings "Directors, Corporate Governance and Executive Officers" in the Company's 2017 Proxy Statement to be filed with the SEC within 120 days after September 24, 2016 in connection with the solicitation of proxies for the Company's 2017 annual meeting of shareholders and is incorporated herein by reference.

The Company has a code of ethics, "Business Conduct: The way we do business worldwide," that applies to all employees, including the Company's principal executive officer, principal financial officer, and principal accounting officer, as well as to the members of the Board of Directors of the Company. The code is available at investor.apple.com/corporate-governance.cfm. The Company intends to disclose any changes in, or waivers from, this code by posting such information on the same website or by filing a Form 8-K, in each case to the extent such disclosure is required by rules of the SEC or NASDAQ.

Item 11. Executive Compensation

The information required by this Item is set forth under the heading "Executive Compensation" and under the subheadings "Board Oversight of Risk Management," "Compensation Committee Interlocks and Insider Participation," "Compensation of Directors" and "Director Compensation-2016" under the heading "Directors, Corporate Governance and Executive Officers" in the Company's 2017 Proxy Statement to be filed with the SEC within 120 days after September 24, 2016 and is incorporated herein by reference.

Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters

The information required by this Item is set forth under the headings "Security Ownership of Certain Beneficial Owners and Management" and "Equity Compensation Plan Information" in the Company's 2017 Proxy Statement to be filed with the SEC within 120 days after September 24, 2016 and is incorporated herein by reference.

Item 13. Certain Relationships and Related Transactions, and Director Independence

The information required by this Item is set forth under the subheadings "Board Committees," "Review, Approval or Ratification of Transactions with Related Persons" and "Transactions with Related Persons" under the heading "Directors, Corporate Governance and Executive Officers" in the Company's 2017 Proxy Statement to be filed with the SEC within 120 days after September 24, 2016 and is incorporated herein by reference.

Item 14. Principal Accounting Fees and Services

The information required by this Item is set forth under the subheadings "Fees Paid to Auditors" and "Policy on Audit Committee Pre-Approval of Audit and Non-Audit Services Performed by the Independent Registered Public Accounting Firm" under the proposal "Ratification of Appointment of Independent Registered Public Accounting Firm" in the Company's 2017 Proxy Statement to be filed with the SEC within 120 days after September 24, 2016 and is incorporated herein by reference.

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PART IV

Item 15. Exhibits, Financial Statement Schedules

(a) Documents filed as part of this report

(1) All financial statements

Index to Consolidated Financial Statements	Page
Consolidated Statements of Operations for the years ended September 24, 2016, September 26, 2015 and September 27, 2014	39
Consolidated Statements of Comprehensive Income for the years ended September 24, 2016, September 26, 2015 and September 27, 2014	40
Consolidated Balance Sheets as of September 24, 2016 and September 26, 2015	41
Consolidated Statements of Shareholders' Equity for the years ended September 24, 2016, September 26, 2015 and September 27, 2014	42
Consolidated Statements of Cash Flows for the years ended September 24, 2016, September 26, 2015 and September 27, 2014	43
Notes to Consolidated Financial Statements	44
Selected Quarterly Financial Information (Unaudited)	69
Reports of Ernst & Young LLP, Independent Registered Public Accounting Firm	70

(2) Financial Statement Schedules

All financial statement schedules have been omitted, since the required information is not applicable or is not present in amounts sufficient to require submission of the schedule, or because the information required is included in the consolidated financial statements and notes thereto included in this Form 10-K.

(3) Exhibits required by Item 601 of Regulation S-K

The information required by this Section (a)(3) of Item 15 is set forth on the exhibit index that follows the Signatures page of this Form 10-K.

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SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

Date: October 26, 2016

Apple Inc.

By: /s/ Luca Maestri
Luca Maestri
Senior Vice President,
Chief Financial Officer

Power of Attorney

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Timothy D. Cook and Luca Maestri, jointly and severally, his or her attorneys-in-fact, each with the power of substitution, for him or her in any and all capacities, to sign any amendments to this Annual Report on Form 10-K, and to file the same, with exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, hereby ratifying and confirming all that each of said attorneys-in-fact, or his substitute or substitutes, may do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the Registrant and in the capacities and on the dates indicated:

Name	Title	Date
/s/ Timothy D. Cook TIMOTHY D. COOK	Chief Executive Officer and Director (Principal Executive Officer)	October 26, 2016
/s/ Luca Maestri LUCA MAESTRI	Senior Vice President, Chief Financial Officer (Principal Financial Officer)	October 26, 2016
/s/ Chris Kondo CHRIS KONDO	Senior Director of Corporate Accounting (Principal Accounting Officer)	October 26, 2016
/s/ James A. Bell JAMES A. BELL	Director	October 26, 2016
/s/ Al Gore AL GORE	Director	October 26, 2016
/s/ Robert A. Iger ROBERT A. IGER	Director	October 26, 2016
/s/ Andrea Jung ANDREA JUNG	Director	October 26, 2016
/s/ Arthur D. Levinson ARTHUR D. LEVINSON	Director	October 26, 2016
/s/ Ronald D. Sugar RONALD D. SUGAR	Director	October 26, 2016
/s/ Susan L. Wagner SUSAN L. WAGNER	Director	October 26, 2016

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EXHIBIT INDEX [1]

Exhibit Number	Exhibit Description	Incorporated by Reference		
		Form	Exhibit	Filing Date/ Period End Date
3.1	Restated Articles of Incorporation of the Registrant effective as of June 6, 2014.	8-K	3.1	6/6/14
3.2	Amended and Restated Bylaws of the Registrant effective as of December 21, 2015.	8-K	3.2	12/22/15
4.1	Form of Common Stock Certificate of the Registrant.	10-Q	4.1	12/30/06
4.2	Indenture, dated as of April 29, 2013, between the Registrant and The Bank of New York Mellon Trust Company, N.A., as Trustee.	S-3	4.1	4/29/13
4.3	Officer's Certificate of the Registrant, dated as of May 3, 2013, including forms of global notes representing the Floating Rate Notes due 2016, Floating Rate Notes due 2018, 0.45% Notes due 2016, 1.00% Notes due 2018, 2.40% Notes due 2023 and 3.85% Notes due 2043.	8-K	4.1	5/3/13
4.4	Officer's Certificate of the Registrant, dated as of May 6, 2014, including forms of global notes representing the Floating Rate Notes due 2017, Floating Rate Notes due 2019, 1.05% Notes due 2017, 2.10% Notes due 2019, 2.85% Notes due 2021, 3.45% Notes due 2024 and 4.45% Notes due 2044.	8-K	4.1	5/6/14
4.5	Officer's Certificate of the Registrant, dated as of November 10, 2014, including forms of global notes representing the 1.000% Notes due 2022 and 1.625% Notes due 2026.	8-K	4.1	11/10/14
4.6	Officer's Certificate of the Registrant, dated as of February 9, 2015, including forms of global notes representing the Floating Rate Notes due 2020, 1.55% Notes due 2020, 2.15% Notes due 2022, 2.50% Notes due 2025 and 3.45% Notes due 2045.	8-K	4.1	2/9/15
4.7	Officer's Certificate of the Registrant, dated as of May 13, 2015, including forms of global notes representing the Floating Rate Notes due 2017, Floating Rate Notes due 2020, 0.900% Notes due 2017, 2.000% Notes due 2020, 2.700% Notes due 2022, 3.200% Notes due 2025, and 4.375% Notes due 2045.	8-K	4.1	5/13/15
4.8	Officer's Certificate of the Registrant, dated as of June 10, 2015, including forms of global notes representing the 0.35% Notes due 2020.	8-K	4.1	6/10/15
4.9	Officer's Certificate of the Registrant, dated as of July 31, 2015, including forms of global notes representing the 3.05% Notes due 2029 and 3.60% Notes due 2042.	8-K	4.1	7/31/15
4.10	Officer's Certificate of the Registrant, dated as of September 17, 2015, including forms of global notes representing the 1.375% Notes due 2024 and 2.000% Notes due 2027.	8-K	4.1	9/17/15
4.11	Officer's Certificate of the Registrant, dated as of February 23, 2016, including forms of global notes representing the Floating Rate Notes due 2019, Floating Rate Notes due 2021, 1.300% Notes due 2018, 1.700% Notes due 2019, 2.250% Notes due 2021, 2.850% Notes due 2023, 3.250% Notes due 2026, 4.500% Notes due 2036 and 4.650% Notes due 2046.	8-K	4.1	2/23/16
4.12	Supplement No. 1 to the Officer's Certificate of the Registrant, dated as of March 24, 2016.	8-K	4.1	3/24/16
4.13	Officer's Certificate of the Registrant, dated as of June 22, 2016, including form of global note representing 4.150% Notes due 2046.	10-Q	4.1	6/22/16
4.14	Officer's Certificate of the Registrant, dated as of August 4, 2016, including forms of global notes representing the Floating Rate Notes due 2019, 1.100% Notes due 2019, 1.550% Notes due 2021, 2.450% Notes due 2026 and 3.850% Notes due 2046.	8-K	4.1	8/4/16
10.1*	Employee Stock Purchase Plan, as amended and restated as of March 10, 2015.	8-K	10.1	3/13/15
10.2*	Form of Indemnification Agreement between the Registrant and each director and executive officer of the Registrant.	10-Q	10.2	6/27/09
10.3*	1997 Director Stock Plan, as amended through August 23, 2012.	10-Q	10.3	12/28/13
10.4*	2003 Employee Stock Plan, as amended through February 25, 2010.	8-K	10.1	3/1/10
10.5*	Form of Restricted Stock Unit Award Agreement under 2003 Employee Stock Plan effective as of November 16, 2010.	10-Q	10.10	12/25/10
10.6*	Form of Restricted Stock Unit Award Agreement under 2003 Employee Stock Plan effective as of April 6, 2012.	10-Q	10.8	3/31/12

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Exhibit Number	Exhibit Description	Incorporated by Reference		
		Form	Exhibit	Filing Date/ Period End Date
10.7*	Summary Description of Amendment, effective as of May 24, 2012, to certain Restricted Stock Unit Award Agreements outstanding as of April 5, 2012.	10-Q	10.8	6/30/12
10.8*	2014 Employee Stock Plan, as amended and restated as of February 26, 2016.	8-K	10.1	3/1/16
10.9*	Form of Restricted Stock Unit Award Agreement under 2014 Employee Stock Plan as of February 28, 2014.	8-K	10.2	3/5/14
10.10*	Form of Performance Award Agreement under 2014 Employee Stock Plan effective as of February 28, 2014.	8-K	10.3	3/5/14
10.11*	Form of Restricted Stock Unit Award Agreement under 2014 Employee Stock Plan effective as of August 26, 2014.	10-K	10.1	9/27/14
10.12*	Form of Performance Award Agreement under 2014 Employee Stock Plan effective as of August 26, 2014.	10-K	10.1	9/27/14
10.13*	Form of Amendment, effective as of August 26, 2014, to Restricted Stock Unit Award Agreements and Performance Award Agreements outstanding as of August 26, 2014.	10-K	10.1	9/27/14
10.14*	Offer Letter, dated August 1, 2013, from the Registrant to Angela Ahrendts.	10-Q	10.1	12/27/14
10.15*	Form of Restricted Stock Unit Award Agreement under the 1997 Director Stock Plan as of November 17, 2015.	10-Q	10.15	12/26/15
10.16*	Form of Restricted Stock Unit Award Agreement under 2014 Employee Stock Plan effective as of October 5, 2015.	10-Q	10.16	3/26/16
10.17*	Form of Performance Award Agreement under 2014 Employee Stock Plan effective as of October 5, 2015.	10-Q	10.17	3/26/16
10.18*, **	Form of Restricted Stock Unit Award Agreement under 2014 Employee Stock Plan effective as of October 14, 2016.			
10.19*, **	Form of Performance Award Agreement under 2014 Employee Stock Plan effective as of October 14, 2016.			
12.1**	Computation of Ratio of Earnings to Fixed Charges.			
21.1**	Subsidiaries of the Registrant.			
23.1**	Consent of Ernst & Young LLP, Independent Registered Public Accounting Firm.			
24.1**	Power of Attorney (included on the Signatures page of this Annual Report on Form 10-K).			
31.1**	Rule 13a-14(a) / 15d-14(a) Certification of Chief Executive Officer.			
31.2**	Rule 13a-14(a) / 15d-14(a) Certification of Chief Financial Officer.			
32.1***	Section 1350 Certifications of Chief Executive Officer and Chief Financial Officer.			
101.INS**	XBRL Instance Document.			
101.SCH**	XBRL Taxonomy Extension Schema Document.			
101.CAL**	XBRL Taxonomy Extension Calculation Linkbase Document.			
101.DEF**	XBRL Taxonomy Extension Definition Linkbase Document.			
101.LAB**	XBRL Taxonomy Extension Label Linkbase Document.			
101.PRE**	XBRL Taxonomy Extension Presentation Linkbase Document.			

* Indicates management contract or compensatory plan or arrangement.

** Filed herewith.

*** Furnished herewith.

(1) Certain instruments defining the rights of holders of long-term debt securities of the Registrant are omitted pursuant to Item 601 (b)(4)(iii) of Regulation S-K. The Registrant hereby undertakes to furnish to the SEC, upon request, copies of any such instruments.

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Exhibit 10.18

APPLE INC.
2014 EMPLOYEE STOCK PLAN
RESTRICTED STOCK UNIT AWARD AGREEMENT

NOTICE OF GRANT

Name: (the "Participant")

Employee ID:

Grant Number:

No. of Units Subject to Award:

Award Date: (the "Award Date")

Vesting Commencement Date: (the "Vesting Commencement Date")

Vesting Schedule:

This restricted stock unit award (the "Award") is granted under and governed by the terms and conditions of the Apple Inc. 2014 Employee Stock Plan and the Terms and Conditions of Restricted Stock Unit Award, which are incorporated herein by reference.

You do not have to accept the Award. If you wish to decline your Award, you should promptly notify Apple Inc.'s Stock Plan Group of your decision at stock@apple.com. If you do not provide such notification within thirty (30) days after the Award Date, you will be deemed to have accepted your Award on the terms and conditions set forth herein.

APPLE INC.
2014 EMPLOYEE STOCK PLAN
RESTRICTED STOCK UNIT AWARD AGREEMENT

TERMS AND CONDITIONS OF RESTRICTED STOCK UNIT AWARD

1. General. These Terms and Conditions of Restricted Stock Unit Award (these "**Terms**") apply to a particular restricted stock unit award (the "**Award**") granted by Apple Inc., a California corporation (the "**Company**"), and are incorporated by reference in the Notice of Grant (the "**Grant Notice**") corresponding to that particular grant. The recipient of the Award identified in the Grant Notice is referred to as the "**Participant**." The effective date of grant of the Award as set forth in the Grant Notice is referred to as the "**Award Date**." The Award was granted under and is subject to the provisions of the Apple Inc. 2014 Employee Stock Plan (the "**Plan**"). Capitalized terms are defined in the Plan if not defined herein. The Award has been granted to the Participant in addition to, and not in lieu of, any other form of compensation otherwise payable or to be paid to the Participant. The Grant Notice and these Terms are collectively referred to as the "**Award Agreement**" applicable to the Award.

2. Stock Units. As used herein, the term "**Stock Unit**" shall mean a non-voting unit of measurement which is deemed for bookkeeping purposes to be equivalent to one outstanding share of the Company's Common Stock ("**Share**") solely for purposes of the Plan and this Award Agreement. The Stock Units shall be used solely as a device for the determination of the payment to eventually be made to the Participant if such Stock Units vest pursuant to this Award Agreement. The Stock Units shall not be treated as property or as a trust fund of any kind.

3. Vesting. Subject to Section 8 below, the Award shall vest and become nonforfeitable as set forth in the Grant Notice. (Each vesting date set forth in the Grant Notice is referred to herein as a "**Vesting Date**").

4. Continuance of Employment. The vesting schedule requires continued employment or service through each applicable Vesting Date as a condition to the vesting of the applicable installment of the Award and the rights and benefits under this Award Agreement. Employment or service for only a portion of the vesting period, even if a substantial portion, will not entitle the Participant to any proportionate vesting or avoid or mitigate a termination of rights and benefits upon or following a Termination of Service as provided in Section 8 below and in the Plan.

Nothing contained in this Award Agreement or the Plan constitutes an employment or service commitment by the Company, affects the Participant's status as an employee at will who is subject to termination with or without cause, confers upon the Participant any right to remain employed by or in service to the Company or any Subsidiary, interferes in any way with the right of the Company or any Subsidiary at any time to terminate such employment or services, or affects the right of the Company or any Subsidiary to increase or decrease the Participant's other compensation or benefits. Nothing in this paragraph, however, is intended to adversely affect any independent contractual right of the Participant without his or her consent thereto.

5. Dividend and Voting Rights.

(a) Limitations on Rights Associated with Stock Units. The Participant shall have no rights as a shareholder of the Company, no dividend rights (except as expressly provided in Section 5(b) with respect to Dividend Equivalent Rights) and no voting rights, with respect to the Stock Units or any Shares underlying or issuable in respect of such Stock Units until such Shares are actually issued to and held of record by the Participant. No adjustments will be made for dividends or other rights of a holder for which the record date is prior to the date of issuance of the stock certificate or book entry evidencing such Shares.

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(b) Dividend Equivalent Rights Distributions. As of any date that the Company pays an ordinary cash dividend on its Common Stock, the Company shall credit the Participant with a dollar amount equal to (i) the per share cash dividend paid by the Company on its Common Stock on such date, multiplied by (ii) the total number of Stock Units (with such total number adjusted pursuant to Section 11 of the Plan) subject to the Award that are outstanding immediately prior to the record date for that dividend (a "**Dividend Equivalent Right**"). Any Dividend Equivalent Rights credited pursuant to the foregoing provisions of this Section 5(b) shall be subject to the same vesting, payment and other terms, conditions and restrictions as the original Stock Units to which they relate; provided, however, that the amount of any vested Dividend Equivalent Rights shall be paid in cash. No crediting of Dividend Equivalent Rights shall be made pursuant to this Section 5(b) with respect to any Stock Units which, immediately prior to the record date for that dividend, have either been paid pursuant to Section 7 or terminated pursuant to Section 8.

6. Restrictions on Transfer. Except as provided in Section 4(c) of the Plan, neither the Award, nor any interest therein or amount or Shares payable in respect thereof may be sold, assigned, transferred, pledged or otherwise disposed of, alienated or encumbered, either voluntarily or involuntarily.

7. Timing and Manner of Payment of Stock Units. On or as soon as administratively practical following each vesting of the applicable portion of the total Award pursuant to Section 3 or Section 8 (and in all events not later than two and one-half (2 ½) months after such vesting event), the Company shall deliver to the Participant a number of Shares (either by delivering one or more certificates for such Shares or by entering such Shares in book entry form, as determined by the Company in its discretion) equal to the number of Stock Units subject to the Award that vest on the applicable Vesting Date, less Tax-Related Items (as defined in Section 11 below), unless such Stock Units terminate prior to the given Vesting Date pursuant to Section 8. The Company's obligation to deliver Shares or otherwise make payment with respect to vested Stock Units is subject to the condition precedent that the Participant or other person entitled under the Plan to receive any Shares with respect to the vested Stock Units deliver to the Company any representations or other documents or assurances required pursuant to Section 13(c) of the Plan. The Participant shall have no further rights with respect to any Stock Units that are paid or that terminate pursuant to Section 8.

8. Effect of Termination of Service. Except as expressly provided below in this Section 8, the Participant's Stock Units (as well as the related Dividend Equivalent Rights) shall terminate to the extent such Stock Units have not become vested prior to the Participant's Termination of Service, meaning the first date the Participant is no longer employed by or providing services to the Company or one of its Subsidiaries (the "**Severance Date**"), regardless of the reason for the Participant's Termination of Service, whether with or without cause, voluntarily or involuntarily. Notwithstanding the foregoing, in the event the Participant's Termination of Service is due to the Participant's Disability at a time when Stock Units remain outstanding and unvested under the Award, (a) the Award shall vest with respect to the number of Stock Units determined by multiplying (i) the number of then-outstanding and unvested Stock Units subject to the Award that would have otherwise vested pursuant to Section 3 on the next Vesting Date following the Severance Date but for such Termination of Service, by (ii) a fraction, the numerator of which shall be the number of days that have elapsed between the Vesting Date that immediately preceded the Severance Date (or, in the case of a Termination of Service prior to the initial Vesting Date, the Vesting Commencement Date) and the Severance Date, and the denominator of which shall be the number of days between the Vesting Date that immediately preceded the Severance Date (or, in the case of a Termination of Service prior to the initial Vesting Date, the Vesting Commencement Date) and the next Vesting Date following the Severance Date that would have occurred but for such Termination of Service; and (b) any Stock Units (as well as the related Dividend Equivalent Rights) that are not vested after giving effect to the foregoing clause (a) shall terminate on the Severance Date. Further, in the event the Participant's Termination of Service is due to the Participant's death, any then-outstanding and unvested Stock Units subject to the Award shall be fully vested as of the Severance Date, and any Dividend Equivalent Rights credited to the Participant shall be paid. If any unvested Stock Units are terminated hereunder, such Stock Units (as well as the related Dividend Equivalent Rights) shall automatically terminate and be cancelled as of the applicable Severance Date without payment of any consideration by the Company and without any other action by the Participant or the Participant's personal representative, as the case may be.

9. Recoupment. Notwithstanding any other provision herein, the Award and any Shares or other amount or property that may be issued, delivered or paid in respect of the Award, as well as any consideration that may be received in respect of a sale or other disposition of any such Shares or property, shall be subject to any recoupment, "clawback" or similar provisions of applicable law, as well as any recoupment or "clawback" policies of the Company that may be in effect from time to time. In addition, the Company may require the Participant to deliver or otherwise repay to the Company the Award and any Shares or other amount or property that may be issued, delivered or paid in respect of the Award, as well as any consideration that may be received in respect of a sale or other disposition of any such Shares or property, if the Company reasonably determines that one or more of the following has occurred:

(a) during the period of the Participant's employment or service with the Company or any of its Subsidiaries (the "**Employment Period**"), the Participant has committed a felony (under the laws of the United States or any relevant state, or a similar crime or offense under the applicable laws of any relevant foreign jurisdiction);

(b) during the Employment Period or at any time thereafter, the Participant has committed or engaged in a breach of confidentiality, or an unauthorized disclosure or use of inside information, customer lists, trade secrets or other confidential information of the Company or any of its Subsidiaries;

(c) during the Employment Period or at any time thereafter, the Participant has committed or engaged in an act of theft, embezzlement or fraud, or materially breached any agreement to which the Participant is a party with the Company or any of its Subsidiaries.

10. Adjustments Upon Specified Events. Upon the occurrence of certain events relating to the Company's stock contemplated by Section 11 of the Plan (including, without limitation, an extraordinary cash dividend on such stock), the Committee shall make adjustments in accordance with such section in the number of Stock Units then outstanding and the number and kind of securities that may be issued in respect of the Award. No such adjustment shall be made with respect to any ordinary cash dividend for which Dividend Equivalent Rights are credited pursuant to Section 5(b).

11. Responsibility for Taxes. The Participant acknowledges that, regardless of any action the Company and/or the Participant's employer (the "**Employer**") take with respect to any or all income tax (including U.S. federal, state and local tax and/or non-U.S. tax), social insurance, payroll tax, payment on account or other tax-related items related to the Participant's participation in the Plan and legally applicable to the Participant or deemed by the Company or the Employer to be an appropriate charge to the Participant even if technically due by the Company or the Employer ("**Tax-Related Items**"), the ultimate liability for all Tax-Related Items is and remains the Participant's responsibility and may exceed the amount actually withheld by the Company or the Employer. The Participant further acknowledges that the Company and/or the Employer (i) make no representations or undertakings regarding the treatment of any Tax-Related Items in connection with any aspect of the Award, including the grant of the Stock Units, the vesting of the Stock Units, the delivery of Shares, the subsequent sale of any Shares acquired at vesting and the receipt of any dividends and/or Dividend Equivalent Rights; and (ii) do not commit to and are under no obligation to structure the terms of the grant or any aspect of the Award to reduce or eliminate the Participant's liability for Tax-Related Items or achieve any particular tax result. Further, if the Participant is or becomes subject to tax in more than one jurisdiction, the Participant acknowledges that the Company and/or the Employer (or former employer, as applicable) may be required to withhold or account for Tax-Related Items in more than one jurisdiction.

Prior to the relevant taxable or tax withholding event, as applicable, the Participant shall pay or make arrangements satisfactory to the Company and/or the Employer to satisfy all Tax-Related Items. In this regard, the Participant authorizes the Company and/or the Employer, or their respective agents, at their discretion and pursuant to such procedures as they may specify from time to time, to satisfy any applicable withholding obligations with regard to all Tax-Related Items by one or a combination of the following:

(a) withholding from any wages or other cash compensation payable to the Participant by the Company and/or the Employer;

(b) withholding otherwise deliverable Shares and/or from otherwise payable Dividend Equivalent Rights to be issued or paid upon vesting/settlement of the Award;

(c) arranging for the sale of Shares otherwise deliverable to the Participant (on the Participant's behalf and at the Participant's direction pursuant to this authorization), including selling Shares as part of a block trade with other Participants in the Plan; or

(d) withholding from the proceeds of the sale of Shares acquired upon vesting/ settlement of the Award.

Notwithstanding the foregoing, if the Participant is an officer of the Company who is subject to Section 16 of the Exchange Act, then the Company must satisfy any withholding obligations arising upon the occurrence of a taxable or tax withholding event, as applicable, by withholding Shares otherwise deliverable or an amount otherwise payable upon settlement of Dividend Equivalent Rights pursuant to method (b), unless the Board or the Committee determines in its discretion to satisfy the obligation for Tax-Related Items by one or a combination of methods (a), (b), (c), and (d) above.

Depending on the withholding method, the Company may withhold or account for Tax-Related Items by considering applicable minimum statutory withholding amounts or other applicable withholding rates, including maximum applicable rates. If the maximum rate is used, any over-withheld amount will be refunded to the Participant in cash by the Company or Employer (with no entitlement to the Common Stock equivalent) or if not refunded, the Participant may seek a refund from the local tax authorities. If the obligation for Tax-Related Items is satisfied by withholding a number of Shares as described herein, for tax purposes, the Participant is deemed to have been issued the full number of Shares subject to the vested Stock Units, notwithstanding that a number of the Shares are held back solely for the purpose of paying the Tax-Related Items. The Participant shall pay to the Company and/or the Employer any amount of Tax-Related Items that the Company and/or the Employer may be required to withhold or account for as a result of the Participant's participation in the Plan that cannot be satisfied by the means previously described. The Company may refuse to issue or deliver to the Participant any Shares or the proceeds of the sale of Shares if the Participant fails to comply with the Participant's obligations in connection with the Tax-Related Items.

12. Electronic Delivery and Acceptance. The Company may, in its sole discretion, deliver any documents related to the Award by electronic means or request the Participant's consent to participate in the Plan by electronic means. The Participant hereby consents to receive all applicable documentation by electronic delivery and to participate in the Plan through an on-line (and/or voice activated) system established and maintained by the Company or a third party vendor designated by the Company.

13. Data Privacy. The Participant acknowledges and consents to the collection, use, processing and transfer of personal data as described in this Section 13. The Company, its related entities, and the Employer hold certain personal information about the Participant, including the Participant's name, home address and telephone number, date of birth, social security number or other employee identification number, salary, nationality, job title, any Shares or directorships held in the Company, details of all options or any other entitlement to Shares awarded, canceled, purchased, vested, unvested or outstanding in the Participant's favor, for the purpose of managing and administering the Plan ("**Data**"). The Company and its related entities may transfer Data amongst themselves as necessary for the purpose of implementation, administration and management of the Participant's participation in the Plan, and the Company and its related entities may each further transfer Data to any third parties assisting the Company or any such related entity in the implementation, administration and management of the Plan. The Participant acknowledges that the transferors and transferees of such Data may be located anywhere in the world and hereby authorizes each of them to receive, possess, use, retain and transfer the Data, in electronic or other form, for the purposes of implementing, administering and managing the Participant's participation in the Plan, including any transfer

of such Data as may be required for the administration of the Plan and/or the subsequent holding of Shares on the Participant's behalf to a broker or to other third party with whom the Participant may elect to deposit any Shares acquired under the Plan (whether pursuant to the Award or otherwise).

14. Notices. Any notice to be given under the terms of this Award Agreement shall be in writing and addressed to the Company at its principal office to the attention of the Secretary, and to the Participant at the Participant's last address reflected on the Company's records, or at such other address as either party may hereafter designate in writing to the other. Any such notice shall be given only when received, but if the Participant is no longer an employee of the Company, shall be deemed to have been duly given by the Company when enclosed in a properly sealed envelope addressed as aforesaid, registered or certified, and deposited (postage and registry or certification fee prepaid) in a post office or branch post office regularly maintained by the United States Government.

15. Plan. The Award and all rights of the Participant under this Award Agreement are subject to the terms and conditions of the provisions of the Plan, incorporated herein by reference. The Participant agrees to be bound by the terms of the Plan and this Award Agreement. The Participant acknowledges having read and understood the Plan, the Prospectus for the Plan, and this Award Agreement. Unless otherwise expressly provided in other sections of this Award Agreement, provisions of the Plan that confer discretionary authority on the Board or the Committee do not (and shall not be deemed to) create any rights in the Participant unless such rights are expressly set forth herein or are otherwise in the sole discretion of the Board or the Committee so conferred by appropriate action of the Board or the Committee under the Plan after the date hereof.

16. Entire Agreement. This Award Agreement and the Plan together constitute the entire agreement and supersede all prior understandings and agreements, written or oral, of the parties hereto with respect to the subject matter hereof. The Plan and this Award Agreement may be amended pursuant to Section 15 of the Plan. Such amendment must be in writing and signed by the Company. The Company may, however, unilaterally waive any provision hereof in writing to the extent such waiver does not adversely affect the interests of the Participant hereunder, but no such waiver shall operate as or be construed to be a subsequent waiver of the same provision or a waiver of any other provision hereof.

17. Limitation on the Participant's Rights. Participation in the Plan confers no rights or interests other than as herein provided. This Award Agreement creates only a contractual obligation on the part of the Company as to amounts payable and shall not be construed as creating a trust. Neither the Plan nor any underlying program, in and of itself, has any assets. The Participant shall have only the rights of a general unsecured creditor of the Company with respect to amounts credited and benefits payable, if any, with respect to the Stock Units, and rights no greater than the right to receive the Common Stock as a general unsecured creditor with respect to Stock Units, as and when payable hereunder.

18. Counterparts. This Award Agreement may be executed simultaneously in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

19. Section Headings. The section headings of this Award Agreement are for convenience of reference only and shall not be deemed to alter or affect any provision hereof.

20. Governing Law. This Award Agreement shall be governed by and construed and enforced in accordance with the laws of the State of California without regard to conflict of law principles thereunder.

21. Choice of Venue. For purposes of litigating any dispute that arises directly or indirectly from the relationship of the parties evidenced by this grant or this Award Agreement, the parties hereby submit to the exclusive jurisdiction of the State of California and agree that such litigation shall be conducted only in the courts of Santa Clara County, California, or the federal courts for the Northern District of California, and no other courts, where this grant is made and/or to be performed.

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22. Construction. It is intended that the terms of the Award will not result in the imposition of any tax liability pursuant to Section 409A of the Code. This Award Agreement shall be construed and interpreted consistent with that intent.

23. Severability. The provisions of this Award Agreement are severable and if any one of more provisions are determined to be illegal or otherwise unenforceable, in whole or in part, the remaining provisions shall nevertheless be binding and enforceable.

24. Imposition of Other Requirements. The Company reserves the right to impose other requirements on the Participant's participation in the Plan, on the Stock Units and on any Shares acquired under the Plan, to the extent the Company determines it is necessary or advisable for legal or administrative reasons, and to require the Participant to sign any additional agreements or undertakings that may be necessary to accomplish the foregoing.

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Exhibit 10.19

APPLE INC.
2014 EMPLOYEE STOCK PLAN
RESTRICTED STOCK UNIT AWARD AGREEMENT

PERFORMANCE AWARD

NOTICE OF GRANT

Name: (the "Participant")

Employee ID:

Grant Number:

Target No. of Units
Subject to Award:

Award Date: (the "Award Date")

Vesting Schedule:

Performance Period:

This restricted stock unit award (the "Award") is granted under and governed by the terms and conditions of the Apple Inc. 2014 Employee Stock Plan and the Terms and Conditions of Restricted Stock Unit Award - Performance Award (including Exhibit A thereto), which are incorporated herein by reference.

You do not have to accept the Award. If you wish to decline your Award, you should promptly notify Apple Inc.'s Stock Plan Group of your decision at stock@apple.com. If you do not provide such notification within thirty (30) days after the Award Date, you will be deemed to have accepted your Award on the terms and conditions set forth herein.

APPLE INC.
2014 EMPLOYEE STOCK PLAN
RESTRICTED STOCK UNIT AWARD AGREEMENT

TERMS AND CONDITIONS OF RESTRICTED STOCK UNIT AWARD

PERFORMANCE AWARD

1. General. These Terms and Conditions of Restricted Stock Unit Award - Performance Award (these "**Terms**") apply to a particular restricted stock unit award (the "**Award**") granted by Apple Inc., a California corporation (the "**Company**"), and are incorporated by reference in the Notice of Grant (the "**Grant Notice**") corresponding to that particular grant. The recipient of the Award identified in the Grant Notice is referred to as the "**Participant**." The effective date of grant of the Award as set forth in the Grant Notice is referred to as the "**Award Date**." The Award was granted under and is subject to the provisions of the Apple Inc. 2014 Employee Stock Plan (the "**Plan**"). Capitalized terms are defined in the Plan if not defined herein. The Award has been granted to the Participant in addition to, and not in lieu of, any other form of compensation otherwise payable or to be paid to the Participant. The Grant Notice and these Terms (including Exhibit A hereto, incorporated herein by this reference) are collectively referred to as the "**Award Agreement**" applicable to the Award.

2. Stock Units. As used herein, the term "**Stock Unit**" shall mean a non-voting unit of measurement which is deemed for bookkeeping purposes to be equivalent to one outstanding share of the Company's Common Stock ("**Share**") solely for purposes of the Plan and this Award Agreement. The Stock Units shall be used solely as a device for the determination of the payment to eventually be made to the Participant if such Stock Units vest pursuant to this Award Agreement. The Stock Units shall not be treated as property or as a trust fund of any kind.

3. Vesting. Subject to Section 8 below, the Award shall vest and become nonforfeitable as set forth in the Grant Notice and Exhibit A hereto. (The vesting date set forth in the Grant Notice is referred to herein as a "**Vesting Date**").

4. Continuance of Employment. The vesting schedule requires continued employment or service through the Vesting Date as a condition to the vesting of the Award and the rights and benefits under this Award Agreement. Employment or service for only a portion of the vesting period, even if a substantial portion, will not entitle the Participant to any proportionate vesting or avoid or mitigate a termination of rights and benefits upon or following a Termination of Service as provided in Section 8 below and in the Plan.

Nothing contained in this Award Agreement or the Plan constitutes an employment or service commitment by the Company, affects the Participant's status as an employee at will who is subject to termination with or without cause, confers upon the Participant any right to remain employed by or in service to the Company or any Subsidiary, interferes in any way with the right of the Company or any Subsidiary at any time to terminate such employment or services, or affects the right of the Company or any Subsidiary to increase or decrease the Participant's other compensation or benefits. Nothing in this paragraph, however, is intended to adversely affect any independent contractual right of the Participant without his or her consent thereto.

5. Dividend and Voting Rights.

(a) Limitations on Rights Associated with Stock Units. The Participant shall have no rights as a shareholder of the Company, no dividend rights (except as expressly provided in Section 5(b) with respect to Dividend Equivalent Rights) and no voting rights, with respect to the Stock Units or any Shares underlying or issuable in respect of such Stock Units until such Shares are actually issued to and held of

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record by the Participant. No adjustments will be made for dividends or other rights of a holder for which the record date is prior to the date of issuance of the stock certificate or book entry evidencing such Shares.

(b) Dividend Equivalent Rights Distributions. As of any date that the Company pays an ordinary cash dividend on its Common Stock, the Company shall credit the Participant with a dollar amount equal to (i) the per share cash dividend paid by the Company on its Common Stock on such date, multiplied by (ii) the total target number of Stock Units (with such total number adjusted pursuant to Section 11 of the Plan) subject to the Award that are outstanding immediately prior to the record date for that dividend (a "**Dividend Equivalent Right**"). Any Dividend Equivalent Rights credited pursuant to the foregoing provisions of this Section 5(b) shall be subject to the same vesting, payment and other terms, conditions and restrictions as the original Stock Units to which they relate; provided, however, that the amount of any vested Dividend Equivalent Rights shall be paid in cash. For purposes of clarity, the percentage of the Dividend Equivalent Rights that are paid will correspond to the percentage of the total target number of Stock Units that vest on the Vesting Date, after giving effect to Exhibit A. No crediting of Dividend Equivalent Rights shall be made pursuant to this Section 5(b) with respect to any Stock Units which, immediately prior to the record date for that dividend, have either been paid pursuant to Section 7 or terminated pursuant to Section 8 or Exhibit A.

6. Restrictions on Transfer. Except as provided in Section 4(c) of the Plan, neither the Award, nor any interest therein or amount or Shares payable in respect thereof may be sold, assigned, transferred, pledged or otherwise disposed of, alienated or encumbered, either voluntarily or involuntarily.

7. Timing and Manner of Payment of Stock Units. On or as soon as administratively practical following the vesting of the Award pursuant to Section 3 or Section 8 (and in all events not later than two and one-half (2 ½) months after such vesting event), the Company shall deliver to the Participant a number of Shares (either by delivering one or more certificates for such Shares or by entering such Shares in book entry form, as determined by the Company in its discretion) equal to the number of Stock Units subject to the Award that vest on the Vesting Date, less Tax-Related Items (as defined in Section 11 below), unless such Stock Units terminate prior to the Vesting Date pursuant to Section 8. The Company's obligation to deliver Shares or otherwise make payment with respect to vested Stock Units is subject to the condition precedent that the Participant or other person entitled under the Plan to receive any Shares with respect to the vested Stock Units deliver to the Company any representations or other documents or assurances required pursuant to Section 13(c) of the Plan. The Participant shall have no further rights with respect to any Stock Units that are paid or that terminate pursuant to Section 8.

8. Effect of Termination of Service. Except as provided in the next sentence, the Participant's Stock Units (as well as the related Dividend Equivalent Rights) shall terminate to the extent such Stock Units have not become vested prior to the Participant's Termination of Service, meaning the first date the Participant is no longer employed by or providing services to the Company or one of its Subsidiaries (the "**Severance Date**"), regardless of the reason for the Participant's Termination of Service, whether with or without cause, voluntarily or involuntarily. In the event the Participant's Severance Date is the result of the Participant's Termination of Service due to the Participant's death or Disability, and the Severance Date occurs prior to the Vesting Date, on the Vesting Date the Award shall vest with respect to a number of Stock Units determined by multiplying (i) the Stock Units subject to the Award that would have otherwise vested pursuant to the Award on such Vesting Date but for the Termination of Service and to the extent the applicable performance-based vesting requirement is satisfied, by (ii) the Severance Fraction (determined as set forth below). Any Stock Units that are unvested on the Severance Date and that are not eligible to vest on the Vesting Date following the Severance Date pursuant to the preceding sentence shall terminate as of the Severance Date, and any Stock Units that remain outstanding and unvested after giving effect to the preceding sentence shall terminate as of the Vesting Date. The "**Severance Fraction**" means a fraction, the numerator of which shall be determined by subtracting the number of days remaining in the Performance Period on the Severance Date from the total number of days in the Performance Period, and the denominator of which shall be the total number of days in the Performance Period. If any unvested Stock Units are terminated pursuant to this Award Agreement, such Stock Units (as well as the related Dividend Equivalent Rights) shall automatically terminate and be cancelled as of the applicable Severance Date (or, to the extent the applicable performance-based

vesting conditions are not satisfied, the Vesting Date, as provided in Exhibit A) without payment of any consideration by the Company and without any other action by the Participant, or the Participant's beneficiary or personal representative, as the case may be.

9. Recoupment. Notwithstanding any other provision herein, the Award and any Shares or other amount or property that may be issued, delivered or paid in respect of the Award, as well as any consideration that may be received in respect of a sale or other disposition of any such Shares or property, shall be subject to any recoupment, "clawback" or similar provisions of applicable law, as well as any recoupment or "clawback" policies of the Company that may be in effect from time to time. In addition, the Company may require the Participant to deliver or otherwise repay to the Company the Award and any Shares or other amount or property that may be issued, delivered or paid in respect of the Award, as well as any consideration that may be received in respect of a sale or other disposition of any such Shares or property, if the Company reasonably determines that one or more of the following has occurred:

(a) during the period of the Participant's employment or service with the Company or any of its Subsidiaries (the "**Employment Period**"), the Participant has committed a felony (under the laws of the United States or any relevant state, or a similar crime or offense under the applicable laws of any relevant foreign jurisdiction);

(b) during the Employment Period or at any time thereafter, the Participant has committed or engaged in a breach of confidentiality, or an unauthorized disclosure or use of inside information, customer lists, trade secrets or other confidential information of the Company or any of its Subsidiaries;

(c) during the Employment Period or at any time thereafter, the Participant has committed or engaged in an act of theft, embezzlement or fraud, or materially breached any agreement to which the Participant is a party with the Company or any of its Subsidiaries.

10. Adjustments Upon Specified Events. Upon the occurrence of certain events relating to the Company's stock contemplated by Section 11 of the Plan (including, without limitation, an extraordinary cash dividend on such stock), the Committee shall make adjustments in accordance with such section in the number of Stock Units then outstanding and the number and kind of securities that may be issued in respect of the Award. No such adjustment shall be made with respect to any ordinary cash dividend for which Dividend Equivalent Rights are credited pursuant to Section 5(b).

11. Responsibility for Taxes. The Participant acknowledges that, regardless of any action the Company and/or the Participant's employer (the "**Employer**") take with respect to any or all income tax (including U.S. federal, state and local tax and/or non-U.S. tax), social insurance, payroll tax, payment on account or other tax-related items related to the Participant's participation in the Plan and legally applicable to the Participant or deemed by the Company or the Employer to be an appropriate charge to the Participant even if technically due by the Company or the Employer ("**Tax-Related Items**"), the ultimate liability for all Tax-Related Items is and remains the Participant's responsibility and may exceed the amount actually withheld by the Company or the Employer. The Participant further acknowledges that the Company and/or the Employer (i) make no representations or undertakings regarding the treatment of any Tax-Related Items in connection with any aspect of the Award, including the grant of the Stock Units, the vesting of the Stock Units, the delivery of Shares, the subsequent sale of any Shares acquired at vesting and the receipt of any dividends and/or Dividend Equivalent Rights; and (ii) do not commit to and are under no obligation to structure the terms of the grant or any aspect of the Award to reduce or eliminate the Participant's liability for Tax-Related Items or achieve any particular tax result. Further, if the Participant is or becomes subject to tax in more than one jurisdiction, the Participant acknowledges that the Company and/or the Employer (or former employer, as applicable) may be required to withhold or account for Tax-Related Items in more than one jurisdiction.

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Prior to the relevant taxable or tax withholding event, as applicable, the Participant shall pay or make arrangements satisfactory to the Company and/or the Employer to satisfy all Tax-Related Items. In this regard, the Participant authorizes the Company and/or the Employer, or their respective agents, at their discretion and pursuant to such procedures as they may specify from time to time, to satisfy any applicable withholding obligations with regard to all Tax-Related Items by one or a combination of the following:

(a) withholding from any wages or other cash compensation payable to the Participant by the Company and/or the Employer;

(b) withholding otherwise deliverable Shares and/or from otherwise payable Dividend Equivalent Rights to be issued or paid upon vesting/settlement of the Award;

(c) arranging for the sale of Shares otherwise deliverable to the Participant (on the Participant's behalf and at the Participant's direction pursuant to this authorization), including selling Shares as part of a block trade with other Participants in the Plan; or

(d) withholding from the proceeds of the sale of Shares acquired upon vesting/ settlement of the Award.

Notwithstanding the foregoing, if the Participant is an officer of the Company who is subject to Section 16 of the Exchange Act, then the Company must satisfy any withholding obligations arising upon the occurrence of a taxable or tax withholding event, as applicable, by withholding Shares otherwise deliverable or an amount otherwise payable upon settlement of Dividend Equivalent Rights pursuant to method (b), unless the Board or the Committee determines in its discretion to satisfy the obligation for Tax-Related Items by one or a combination of methods (a), (b), (c), and (d) above.

Depending on the withholding method, the Company may withhold or account for Tax-Related Items by considering applicable minimum statutory withholding amounts or other applicable withholding rates, including maximum applicable rates. If the maximum rate is used, any over-withheld amount will be refunded to the Participant in cash by the Company or Employer (with no entitlement to the Common Stock equivalent) or if not refunded, the Participant may seek a refund from the local tax authorities. If the obligation for Tax-Related Items is satisfied by withholding a number of Shares as described herein, for tax purposes, the Participant is deemed to have been issued the full number of Shares subject to the vested Stock Units, notwithstanding that a number of the Shares are held back solely for the purpose of paying the Tax-Related Items. The Participant shall pay to the Company and/or the Employer any amount of Tax-Related Items that the Company and/or the Employer may be required to withhold or account for as a result of the Participant's participation in the Plan that cannot be satisfied by the means previously described. The Company may refuse to issue or deliver to the Participant any Shares or the proceeds of the sale of Shares if the Participant fails to comply with the Participant's obligations in connection with the Tax-Related Items.

12. Electronic Delivery and Acceptance. The Company may, in its sole discretion, deliver any documents related to the Award by electronic means or request the Participant's consent to participate in the Plan by electronic means. The Participant hereby consents to receive all applicable documentation by electronic delivery and to participate in the Plan through an on-line (and/or voice activated) system established and maintained by the Company or a third party vendor designated by the Company.

13. Data Privacy. The Participant acknowledges and consents to the collection, use, processing and transfer of personal data as described in this Section 13. The Company, its related entities, and the Employer hold certain personal information about the Participant, including the Participant's name, home address and telephone number, date of birth, social security number or other employee identification number, salary, nationality, job title, any Shares or directorships held in the Company, details of all options or any other entitlement to Shares awarded, canceled, purchased, vested, unvested or outstanding in the Participant's favor, for the purpose of managing and administering the Plan ("**Data**"). The Company and its related entities may transfer Data amongst themselves as necessary for the purpose of implementation,

administration and management of the Participant's participation in the Plan, and the Company and its related entities may each further transfer Data to any third parties assisting the Company or any such related entity in the implementation, administration and management of the Plan. The Participant acknowledges that the transferors and transferees of such Data may be located anywhere in the world and hereby authorizes each of them to receive, possess, use, retain and transfer the Data, in electronic or other form, for the purposes of implementing, administering and managing the Participant's participation in the Plan, including any transfer of such Data as may be required for the administration of the Plan and/or the subsequent holding of Shares on the Participant's behalf to a broker or to other third party with whom the Participant may elect to deposit any Shares acquired under the Plan (whether pursuant to the Award or otherwise).

14. Notices. Any notice to be given under the terms of this Award Agreement shall be in writing and addressed to the Company at its principal office to the attention of the Secretary, and to the Participant at the Participant's last address reflected on the Company's records, or at such other address as either party may hereafter designate in writing to the other. Any such notice shall be given only when received, but if the Participant is no longer an employee of the Company, shall be deemed to have been duly given by the Company when enclosed in a properly sealed envelope addressed as aforesaid, registered or certified, and deposited (postage and registry or certification fee prepaid) in a post office or branch post office regularly maintained by the United States Government.

15. Plan. The Award and all rights of the Participant under this Award Agreement are subject to the terms and conditions of the provisions of the Plan, incorporated herein by reference. The Participant agrees to be bound by the terms of the Plan and this Award Agreement. The Participant acknowledges having read and understood the Plan, the Prospectus for the Plan, and this Award Agreement. Unless otherwise expressly provided in other sections of this Award Agreement, provisions of the Plan that confer discretionary authority on the Board or the Committee do not (and shall not be deemed to) create any rights in the Participant unless such rights are expressly set forth herein or are otherwise in the sole discretion of the Board or the Committee so conferred by appropriate action of the Board or the Committee under the Plan after the date hereof.

16. Entire Agreement. This Award Agreement and the Plan together constitute the entire agreement and supersede all prior understandings and agreements, written or oral, of the parties hereto with respect to the subject matter hereof. The Plan and this Award Agreement may be amended pursuant to Section 15 of the Plan. Such amendment must be in writing and signed by the Company. The Company may, however, unilaterally waive any provision hereof in writing to the extent such waiver does not adversely affect the interests of the Participant hereunder, but no such waiver shall operate as or be construed to be a subsequent waiver of the same provision or a waiver of any other provision hereof.

17. Limitation on the Participant's Rights. Participation in the Plan confers no rights or interests other than as herein provided. This Award Agreement creates only a contractual obligation on the part of the Company as to amounts payable and shall not be construed as creating a trust. Neither the Plan nor any underlying program, in and of itself, has any assets. The Participant shall have only the rights of a general unsecured creditor of the Company with respect to amounts credited and benefits payable, if any, with respect to the Stock Units, and rights no greater than the right to receive the Common Stock as a general unsecured creditor with respect to Stock Units, as and when payable hereunder.

18. Counterparts. This Award Agreement may be executed simultaneously in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

19. Section Headings. The section headings of this Award Agreement are for convenience of reference only and shall not be deemed to alter or affect any provision hereof.

20. Governing Law. This Award Agreement shall be governed by and construed and enforced in accordance with the laws of the State of California without regard to conflict of law principles thereunder.

SPOTIFY EXHIBIT 47

21. Choice of Venue. For purposes of litigating any dispute that arises directly or indirectly from the relationship of the parties evidenced by this grant or this Award Agreement, the parties hereby submit to the exclusive jurisdiction of the State of California and agree that such litigation shall be conducted only in the courts of Santa Clara County, California, or the federal courts for the Northern District of California, and no other courts, where this grant is made and/or to be performed.

22. Construction. It is intended that the terms of the Award will not result in the imposition of any tax liability pursuant to Section 409A of the Code. This Award Agreement shall be construed and interpreted consistent with that intent.

23. Severability. The provisions of this Award Agreement are severable and if any one of more provisions are determined to be illegal or otherwise unenforceable, in whole or in part, the remaining provisions shall nevertheless be binding and enforceable.

24. Imposition of Other Requirements. The Company reserves the right to impose other requirements on the Participant's participation in the Plan, on the Stock Units and on any Shares acquired under the Plan, to the extent the Company determines it is necessary or advisable for legal or administrative reasons, and to require the Participant to sign any additional agreements or undertakings that may be necessary to accomplish the foregoing.

* * * * *

SPOTIFY EXHIBIT 47

PERFORMANCE AWARD

EXHIBIT A

PERFORMANCE VESTING REQUIREMENTS

The Stock Units (and related Dividend Equivalent Rights) subject to the Award that will vest on the Vesting Date will be determined based on the Company's relative total shareholder return ("**TSR**") Percentile for the Performance Period.

The percentage of the Stock Units (and related Dividend Equivalent Rights) that vest on the Vesting Date will be determined as follows:

- If the Company's TSR Percentile for the Performance Period is at the [ ] ([ ]) percentile or greater, [ ] ([ ]%) of the target Stock Units will vest on the Vesting Date.
- If the Company's TSR Percentile for the Performance Period is at the [ ] ([ ]) percentile, [ ] ([ ]%) of the target Stock Units will vest on the Vesting Date.
- If the Company's TSR Percentile for the Performance Period is at the [ ] ([ ]) percentile, [ ] ([ ]%) of the target Stock Units will vest on the Vesting Date.
- If the Company's TSR Percentile for the Performance Period is below the [ ] ([ ]) percentile, [ ] ([ ]%) of the Stock Units will vest on the Vesting Date.

For TSR Percentile performance for the Performance Period between the levels indicated above, the portion of the Stock Units that will vest on the Vesting Date will be determined on a straight-line basis (*i.e.*, linearly interpolated) between the two nearest vesting percentages indicated above.

Notwithstanding the foregoing, if the Company's TSR for the Performance Period is negative, in no event shall more than one hundred percent (100%) of the target Stock Units vest.

The number of Stock Units that vest on the Vesting Date will be rounded to the nearest whole unit, and the balance of the Stock Units will not vest and will terminate on that Vesting Date.

For purposes of the Award, the following definitions will apply:

- "**TSR Percentile**" means the percentile ranking of the Company's TSR among the TSRs for the Comparison Group members for the Performance Period. In determining the Company's TSR Percentile for the Performance Period, in the event that the Company's TSR for the Performance Period is equal to the TSR(s) of one or more other Comparison Group members for that same period, the Company's TSR Percentile ranking will be determined by ranking the Company's TSR for that period as being greater than such other Comparison Group members.
- "**Comparison Group**" means the Company and each other company included in the Standard & Poor's 500 index on the first day of the Performance Period and, except as provided below, the common stock (or similar equity security) of which continues to be listed or traded on a national securities exchange through the last trading day of the Performance Period. In the event a member of the Comparison Group files for bankruptcy or liquidates due to an insolvency, such company shall continue to be treated as a Comparison Group member, and such company's Ending Price will be treated as $0 if the common stock (or similar equity security) of such company is no longer listed or traded on a national securities

SPOTIFY EXHIBIT 47

exchange on the last trading day of the Performance Period. In the event of a formation of a new parent company by a Comparison Group member, substantially all of the assets and liabilities of which consist immediately after the transaction of the equity interests in the original Comparison Group member or the assets and liabilities of such Comparison Group member immediately prior to the transaction, such new parent company shall be substituted for the Comparison Group member to the extent (and for such period of time) as its common stock (or similar equity securities) are listed or traded on a national securities exchange but the common stock (or similar equity securities) of the original Comparison Group member are not. In the event of a merger or other business combination of two Comparison Group members (including, without limitation, the acquisition of one Comparison Group member, or all or substantially all of its assets, by another Comparison Group member), the surviving, resulting or successor entity, as the case may be, shall continue to be treated as a member of the Comparison Group, provided that the common stock (or similar equity security) of such entity is listed or traded on a national securities exchange through the last trading day of the Performance Period. With respect to the preceding two sentences, the applicable stock prices shall be equitably and proportionately adjusted to the extent (if any) necessary to preserve the intended incentives of the awards and mitigate the impact of the transaction.

- "**TSR**" shall be determined with respect to the Company and any other Comparison Group member by dividing: (a) the sum of (i) the difference obtained by subtracting the applicable Beginning Price from the applicable Ending Price plus (ii) all dividends and other distributions during the Performance Period by (b) the applicable Beginning Price. Any non-cash distributions shall be valued at fair market value. For the purpose of determining TSR, the value of dividends and other distributions shall be determined by treating them as reinvested in additional shares of stock at the closing market price on the date of distribution.

- "**Beginning Price**" means, with respect to the Company and any other Comparison Group member, the average of the closing market prices of such company's common stock on the principal exchange on which such stock is traded for the twenty (20) consecutive trading days ending with the last trading day before the beginning of the Performance Period. For the purpose of determining Beginning Price, the value of dividends and other distributions shall be determined by treating them as reinvested in additional shares of stock at the closing market price on the date of distribution.

- "**Ending Price**" means, with respect to the Company and any other Comparison Group member, the average of the closing market prices of such company's common stock on the principal exchange on which such stock is traded for the twenty (20) consecutive trading days ending on the last trading day of the Performance Period. For the purpose of determining Ending Price, the value of dividends and other distributions shall be determined by treating them as reinvested in additional shares of stock at the closing market price on the date of distribution.

With respect to the computation of TSR, Beginning Price, and Ending Price, there shall also be an equitable and proportionate adjustment to the extent (if any) necessary to preserve the intended incentives of the awards and mitigate the impact of any stock split, stock dividend or reverse stock split occurring during the Performance Period (or during the applicable 20-day period in determining Beginning Price or Ending Price, as the case may be).

SPOTIFY EXHIBIT 47

In the event of any ambiguity or discrepancy, the determination of the Committee shall be final and binding.

* * * * *

SPOTIFY EXHIBIT 47

Exhibit 12.1

Apple Inc.
Computation of Ratio of Earnings to Fixed Charges
(In millions, except ratios)

	Years ended				
	September 24, 2016	September 26, 2015	September 27, 2014	September 28, 2013	September 29, 2012
Earnings:					
Earnings before provision for income taxes	$ 61,372	$ 72,515	$ 53,483	$ 50,155	$ 55,763
Add: Fixed Charges	1,644	892	527	265	98
Total Earnings	$ 63,016	$ 73,407	$ 54,010	$ 50,420	$ 55,861
Fixed Charges [1]:					
Interest Expense	$ 1,456	$ 733	$ 384	$ 136	$ —
Interest component of rental expense	188	159	143	129	98
Total Fixed Charges	$ 1,644	$ 892	$ 527	$ 265	$ 98
Ratio of Earnings to Fixed Charges [2]	38	82	102	190	570

(1) Fixed charges include the portion of rental expense that management believes is representative of the interest component.

(2) The ratio of earnings to fixed charges is computed by dividing Total Earnings by Total Fixed Charges.

Exhibit 21.1

Subsidiaries of
Apple Inc.*

	Jurisdiction of Incorporation
Apple Sales International	Ireland
Apple Operations International	Ireland
Apple Operations Europe	Ireland
Braeburn Capital, Inc.	Nevada, U.S.

* Pursuant to Item 601(b)(21)(ii) of Regulation S-K, the names of other subsidiaries of Apple Inc. are omitted because, considered in the aggregate, they would not constitute a significant subsidiary as of the end of the year covered by this report.

Exhibit 23.1

Consent of Ernst & Young LLP, Independent Registered Public Accounting Firm

We consent to the incorporation by reference in the following Registration Statements:

(1) Registration Statement (Form S-8 No. 333-203698) pertaining to Apple Inc. Employee Stock Purchase Plan,

(2) Registration Statement (Form S-8 No. 333-195509) pertaining to Apple Inc. 2014 Employee Stock Plan,

(3) Registration Statement (Form S-8 No. 333-193709) pertaining to Topsy Labs, Inc. 2007 Stock Plan,

(4) Registration Statement (Form S-3 ASR No. 333-210983) of Apple Inc.,

(5) Registration Statement (Form S-8 No. 333-184706) pertaining to AuthenTec, Inc. 2007 Stock Incentive Plan and AuthenTec, Inc. 2010 Incentive Plan, as amended,

(6) Registration Statement (Form S-8 No. 333-180981) pertaining to Chomp Inc. 2009 Equity Incentive Plan,

(7) Registration Statement (Form S-8 No. 333-179189) pertaining to Anobit Technologies Ltd. Global Share Incentive Plan (2006),

(8) Registration Statement (Form S-8 No. 333-165214) pertaining to Apple Inc. 2003 Employee Stock Plan, la la media, inc. 2005 Stock Plan and Quattro Wireless, Inc. 2006 Stock Option and Grant Plan,

(9) Registration Statement (Form S-8 No. 333-146026) pertaining to Apple Inc. 2003 Employee Stock Plan and Apple Inc. Amended Employee Stock Purchase Plan,

(10) Registration Statement (Form S-8 No. 333-125148) pertaining to Employee Stock Purchase Plan and 2003 Employee Stock Plan, and

(11) Registration Statement (Form S-8 No. 333-60455) pertaining to 1997 Director Stock Option Plan;

of our reports dated October 26, 2016 with respect to the consolidated financial statements of Apple Inc., and the effectiveness of internal control over financial reporting of Apple Inc., included in this Annual Report on Form 10-K for the year ended September 24, 2016.

/s/ Ernst & Young LLP

San Jose, California
October 26, 2016

Exhibit 31.1

CERTIFICATION

I, Timothy D. Cook, certify that:

1. I have reviewed this annual report on Form 10-K of Apple Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the Registrant as of, and for, the periods presented in this report;

4. The Registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the Registrant and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the Registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the Registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) Disclosed in this report any change in the Registrant's internal control over financial reporting that occurred during the Registrant's most recent fiscal quarter (the Registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the Registrant's internal control over financial reporting; and

5. The Registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the Registrant's auditors and the audit committee of the Registrant's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Registrant's ability to record, process, summarize, and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the Registrant's internal control over financial reporting.

Date: October 26, 2016

By: /s/ Timothy D. Cook
Timothy D. Cook
Chief Executive Officer

Exhibit 31.2

CERTIFICATION

I, Luca Maestri, certify that:

1. I have reviewed this annual report on Form 10-K of Apple Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the Registrant as of, and for, the periods presented in this report;

4. The Registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the Registrant and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the Registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the Registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) Disclosed in this report any change in the Registrant's internal control over financial reporting that occurred during the Registrant's most recent fiscal quarter (the Registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the Registrant's internal control over financial reporting; and

5. The Registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the Registrant's auditors and the audit committee of the Registrant's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Registrant's ability to record, process, summarize, and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the Registrant's internal control over financial reporting.

Date: October 26, 2016

By: /s/ Luca Maestri

Luca Maestri
Senior Vice President,
Chief Financial Officer

Exhibit 32.1

CERTIFICATIONS OF CHIEF EXECUTIVE OFFICER AND CHIEF FINANCIAL OFFICER
PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

I, Timothy D. Cook, certify, as of the date hereof, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that the Annual Report of Apple Inc. on Form 10-K for the fiscal year ended September 24, 2016 fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 and that information contained in such Form 10-K fairly presents in all material respects the financial condition and results of operations of Apple Inc. at the dates and for the periods indicated.

Date: October 26, 2016

By: /s/ Timothy D. Cook
Timothy D. Cook
Chief Executive Officer

I, Luca Maestri, certify, as of the date hereof, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that the Annual Report of Apple Inc. on Form 10-K for the fiscal year ended September 24, 2016 fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 and that information contained in such Form 10-K fairly presents in all material respects the financial condition and results of operations of Apple Inc. at the dates and for the periods indicated.

Date: October 26, 2016

By: /s/ Luca Maestri
Luca Maestri
Senior Vice President,
Chief Financial Officer

A signed original of this written statement required by Section 906 has been provided to Apple Inc. and will be retained by Apple Inc. and furnished to the Securities and Exchange Commission or its staff upon request.

Apple Music's Goal: Some Subscribers Now, Lots of Hardware Sales Later

6/30/2015 by Glenn Peoples

Will Apple Music turn around the record business? Will Apple Music help Apple sell more iPhones and laptops? There are some guesses but little certainty to both questions.

While the music industry and tech blogs gave Apple Music their attention Tuesday, the business world seemed to take brief notice and go about its business. Many analysts had already given

big change to Apple's bottom line.

Apple Music Reviews: What Tech Critics Are Saying

One certainly can't gauge expectations only looking at Apple's share price. Apple shares' 0.7-percent increase Tuesday barely outpaced the NASDAQ's 0.6-percent gain. That may be because any expectations of Apple Music's impact were likely already priced into the share price, but also Apple Music alone isn't likely to move the needle. The tech giant isn't launching Apple Music just for the revenue – because, really, it won't provide much of the company's revenue.

Consider Apple's enormous size. Analysts predict Apple's revenue at $232 billion this fiscal year, according to the Financial Times. If Apple had Spotify's 20 million subscribers, revenue per 12 months would be just $1.92 billion, or 0.8 percent of Apple's annual revenue. To put that in comparison, if Apple weighed 195 pounds -- the average weight of an American male -- Apple Music would weigh just 1.6 pounds, or about the same weight as the original iPad.

But there could be a financial payoff down the road. Apple is investing in the iTunes brand and trying to stay relevant in digital media. The iTunes Music Store is losing steam and streaming is both the present and future of entertainment. Moreover, what Apple does now influences the company's performance down the road. iTunes is a "key ingredient" to Apple's continued success, as Daniel Ives, managing director and senior analyst at FBR Capital Markets, told CNBC.

A Look Back at Spotify's U.S. Launch for Clues to Apple Music's Future

Hardware, not software, is Apple's ultimate goal, and music has always been a successful complement to Apple's mobile devices and laptops. "Apple Music matters because music broadly is fundamental to the mobile phone experience," Piper Jaffray analyst Gene Munster told CNBC after the service was introduced June 9.

One positive note came from Cantor Fitzgerald analyst Brian White. Looking at Apple Music, the momentum of the iPhone 6 models and an "expanding digital ecosystem," White said Apple's future has never been brighter. He reiterated a $195 price target that's 55.5 percent above Tuesday's closing price.

Perhaps the most excitement about Apple Music came from Futuresource Consulting, although it doesn't involve Apple's share price. Futuresource predicted the service "will lead to a significant increase in streaming music subscriptions" and projected subscription services would account for "at least one third" of consumer spending on recorded music by 2016. That would be a feat. Assuming global revenues remain flat the next two years -- a likely scenario -- subscription revenues would need to grow 212 percent over two years in order to account for a

Subscription growth in excess of 100 percent per year would excite the music industry. It would prove Apple had been able to reach mainstream consumers previously untapped by competitors. And it would signal Apple had done well enough to stimulate interest in its hardware. In that way, the ultimate goals of the record industry and Apple are in good alignment.

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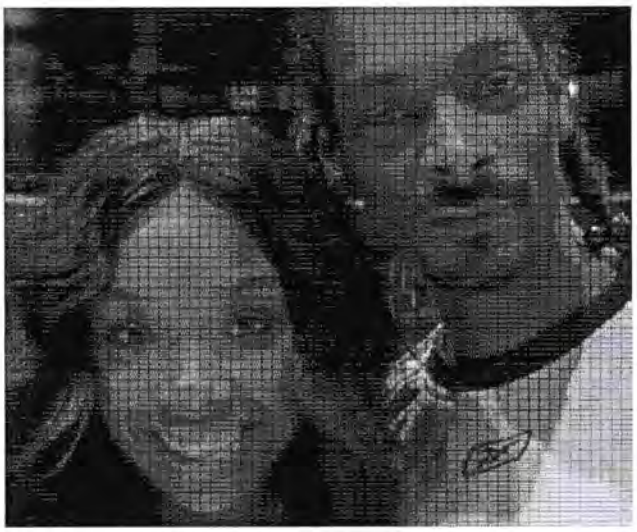

Stars You Didn't Know Were Related

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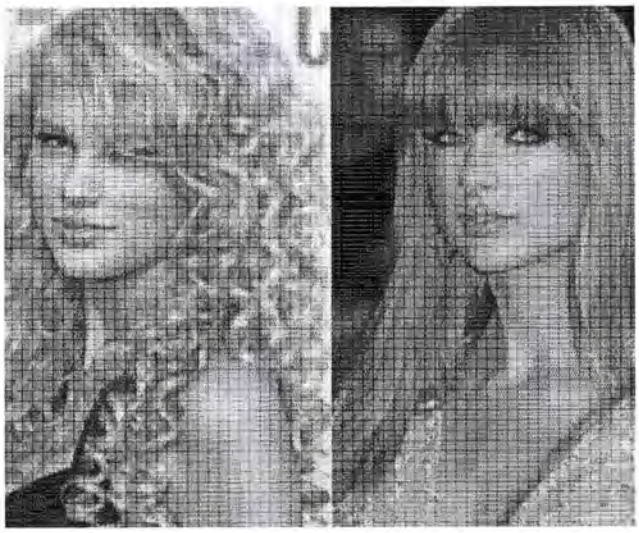

10 Ways Taylor Swift Has Changed On The 10th Anniversary

Huffingtonpost.com

Pandora To 'Unveil' On Demand Streaming Music Service On Dec. 6th

hypebot.com/hypebot/2016/10/pandora-to-unveil-on-demand-streaming-music-service-on-dec-6th.html

Wall Street was not kind to Pandora this week after the music streamer announced its third straight **quarterly loss** and a second straight quarter of **falling active listenership**. Turnaround hopes center on the launch of an **on demand music streaming service**.

Pandora will unveil its promised $9.99-a-month on-demand music service December 6th at an event in New York. The announcement was made by CEO Tim Westergren during an earnings call.

But Pandora Premium will not launch until early in 2017.

> *"It will have all the features of Plus, so the rewinding, skipping, offline etc. But it will now include the ability to search and play, the ability to build and share playlists, taking everything offline and many, many more Pandora features that we can't reveal now for competitive purposes," said Westergren during the call.*

Related articles

Amazon Launches Three-Tiered Music Unlimited Streaming Service

10/12/2016 by Dan Rys , Andrew Flanagan

David McNew/Getty Images

Four months after Billboard first reported that Amazon was set to debut a new, full-featured streaming service oriented directly towards its Echo smart speaker and the personal assistant

Amazon already had a music streaming service, Prime Music, which launched two years ago with a relatively small catalog -- around two million songs compared to the 35-million-plus available on Spotify, for example. Unlimited, however, will expand that catalog to the level of Spotify and its other competitors -- and presents a significant uphill battle for "Big Green" and the others when trying to woo Echo owners.

If you already say "Hey, Alexa" on a regular basis, you'll pay $3.99 per month to connect your Echo device to Music Unlimited (this price point excludes use of the service on any other device). Prime members will be able to subscribe to Unlimited for an additional $7.99 per month, or $79.99 per year. Those without either can pay $9.99 per year for the service, equivalent to Spotify, Apple Music and Tidal's ad-free tiers. (And, presumably, Pandora's upcoming service as well.)

READ MORE
Amazon Prime (Finally) Signs Deal for Universal Music Artists

Music Unlimited arrives at an auspicious time for the streaming market. Just two weeks ago, it was validated stateside by a report from the RIAA, which attributed an 8.1 percent growth for the overall recording industry to the sector. As well, competition between its major players has gone from a simmer to a boil over both exclusives -- now outlawed by Universal Music -- and helping casual listeners with new music discovery, a perennial problem when your catalog would take at least 171 years to listen to (if you listened non-stop).

Boom knows.

"Music has always been central to the experience on Echo, and given its success, we really wanted to invest more heavily and further extend the lead we had established [with Echo]," Amazon's head of music Steve Boom tells Billboard. "We've worked very hard to make [Unlimited] more fun and easier to use than the other services in the market."

A big part of that is the work Amazon put into Alexa. In addition to asking for specific songs or albums, Alexa will also be able to respond to queries like "Play the new **Green Day** song" and come up with the band's latest single. ("You're not asking for their newest song, but rather the one being newly promoted to radio, for example," Boom says. "The simpler it is for the consumer, usually the more complicated it is on the back end," Boom explains. "We had to invest a lot in both metadata and machine learning, which means computer science to understand various attributes about music. The way people describe music is information that isn't readily available.").

Alexa can also can match lyric snippets to hit songs, and can pull up playlists by request based on decades, eras, moods or specific situations based on a user's listening history ("Play pop

OneRepublic, the Chainsmokers, Jason Aldean and **Lindsey Sterling**, for example, will explain the backstory of their work alongside their songs.

"There's a reason we're focused on the voice experience -- we believe music streaming is entering a new phase," Boom says. "Historically, it's been driven mostly by smartphones, but we believe quite strongly that there's a new phase of growth coming for the music industry, and that's connected smart devices. We wanted to really double down on our investment in voice and extend Amazon's lead in the home."

The pricing plan is also significant, particularly in a music industry that has insisted on keeping the bar for unlimited listening at $9.99 for streaming services.

READ MORE
Amazon and Pandora Gear Up to Challenge the Streaming Landscape

"From our perspective, with Prime we helped push the music industry away from the one-size-fits all approach to music streaming, and to go after different customer segments," Boom says when asked about negotiations around that $3.99 price point. "But more important than that, [the industry] sees the importance and the promise of the voice interface in the home.

"We're going to grow the market [and add] new customers to streaming with a great way to get into streaming with really low friction, and at some point those customers may say, 'I also want this.'"

For Unlimited, Amazon has deals in place with all three major labels as well as hundreds of indies, according to Boom, and the service is expected to expand into the U.K., Germany and Australia before the end of the year. But there's still the issue of cost; Spotify, Pandora and other full-service streaming services have all failed to turn a profit to date.

"Amazon has always been in the music business, and has focused on making music a profitable business on its own two feet," Boom says. "Obviously, the investment required to build a compelling streaming service, with machine learning, all the new frontiers around voice -- it's very expensive. That being said, we are running a music service. And we want to make music profitable inside Amazon."

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RADIOWORLD
The News Source for Radio Managers and Engineers

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U.S. Radio Revenue: $17.4 Billion, Down 1% Last Year

Paul McLane,03/03/2016

U.S. commercial radio revenue declined slightly in 2015, off 1%, continuing a trend of the year prior, according to the RAB. Our industry's sales from traditional spot and network ads have slowed enough in recent years to approximately offset growth in its web/mobile and off-air efforts.

The Radio Advertising Bureau issued its year-end wrap-up. It started its announcement not with numbers but with a reminder of the industry's value proposition: "Radio boasts the broadest mass reach among all media while simultaneously affording narrow targeting capabilities through numerous program formats and networks. These powerful attributes combine to make broadcast radio the most efficient, effective vehicle for advertising — and radio's unparalleled consumer reach through broadcast is increasingly being enhanced by stations' ability to provide additional reach through both digital platforms and 'off-air,' or non-traditional, extensions like events, sponsorships and ticket sales," it stated.

Revenue Comparisons - 2015 vs. 2014
(In Millions)

Revenue	$FY '15	% Chg
Spot	13,231	-3%
Network	1,086	1%
Digital	1,018	+5%
Off-Air	2,037	+11%
Grand Total	17,373	-1%

Source: Miller Kaplan Arase LLP*

RAB said U.S. commercial radio last year "held its own in attracting ad dollars within the highly competitive media environment." The organization highlighted growth in the digital sector, which surpassed $1 billion for the first time; and it said off-air sales grew 11% to exceed the $2 billion mark. "Combined, digital and off-air sectors comprise nearly 1/5 of radio's total bottom line for the full year 2015," RAB reported. The off-air piece alone is about 12% of total revenue. (See definitions in last paragraph.)

Growth in those areas didn't keep radio from posting an overall 1% decline, dragged by the spot segment, down 3%, and network, down 1%. Spot revenue remains the biggest piece of the industry's sales stream at $13.2 billion.

Total revenue then was $17.37 billion, compared $17.509 billion the prior year. By comparison, in 2005 the industry's revenue was $21.5 billion, according to RW's reporting of RAB data at the time. The industry saw big drops in the difficult period at the end of the previous decade; since then the overall revenue meter has generally moved only in a narrow range up or down in recent years even as the individual digital and off-air components have grown, and spot and network have fluctuated.

RAB bases its numbers on analysis from Miller Kaplan Arase LLP.

RAB also said the top five advertiser categories held steady last year, with four adding dollars to radio. See second graphic.

Radio's Top 5 Categories
FY 2014 vs. FY 2015
Spot Radio

Category	FY '14 % Chg	FY '14 Rank	FY '15 % Chg	FY '15 Rank
Auto Dealers/Dealer Groups/Manufacturers	-2%	1	+4%	1
Communications/Cellular/Public Utilities	-1%	2	-6%	2
Financial Services	-9%	3	+4%	3
Health Care	-4%	4	+6%	4
Professional Services	-4%	5	+9%	5

Source: [illegible]

Bureau President Erica Farber sees the 2015 report as evidence that advertiser commitment to radio remains consistent. She was quoted in the announcement saying clients "will find money to try out shiny new vehicles, but they continue to rely on radio's core ability to reach huge numbers of consumers and motivate them to buy products and services."

("Digital" is revenue from websites such as banner ads, tile ads, pop-up ads, streaming advertising, social media derived revenue and search engine marketing; revenue from digital multicast channels is no longer part of that segment but is now under the spot category. "Off-air" is related to gate receipts, signage, concessions, sponsorships, merchandising and print activities.)

The Long Tail

Updated music data

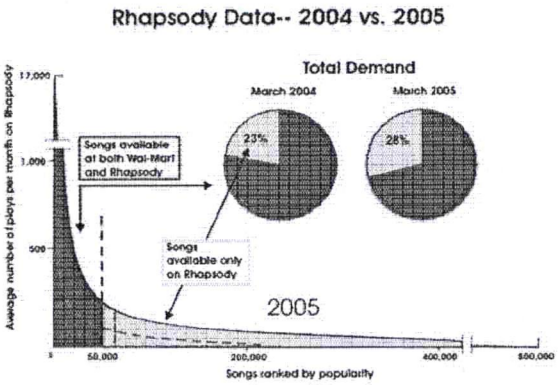
I thought it would be interesting to go back to Rhapsody, the commercial music service that had been my canonical Long Tail example, and see how its statistics had changed in the year since I last looked at the data. It was. All the trends we saw a year ago are now even more pronounced.

Rhapsody's usage has nearly tripled over that period and its inventory has grown from 700,000 to 1m tracks. At the same time, its Short Tail (offline) counterpart, Wal-Mart, which accounts for a quarter of US music sales (by far the largest source) has reduced the shelf space it gives to CDs to make more room for DVDs. **So the Short Tail has gotten shorter, and the Long Tail has gotten longer.**

A year ago we estimated that the average Wal-Mart carried 5,000 CDs, for a total of around 60,000 tracks. Now our latest count shows just 4,200 CDs, for a total of about 50,000 tracks (nearly a third of them Latina music), compared to Rhapsody's 1m. Note that Amazon lists at least 800,000 CDs, so Wal-Mart carries just 0.5% of the music inventory available, a figure that continues to shrink.

The result of these two trends--online expanding, offline contracting--is that the market is shifting even more towards niches. Last year music that *wasn't* available at Wal-Mart accounted for 23% of Rhapsody's business. Now that's 28%. Some of this is due to the statistical effect of Wal-Mart carrying fewer CDs and the vertical line below shifting to the left, but even at last year's level Rhapsody is seeing demand shift gradually towards the niches (its 50% line, where half the demand is ahead and half is below, has shifted from rank 12,000 to 12,500). Last year's demand curve is shown as the dotted blue line inside the current demand curve.

The data, in somewhat prettied-up form, follows:



Tailgrowth2_1

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Chopping the Long Tail down to size

theregister.co.uk

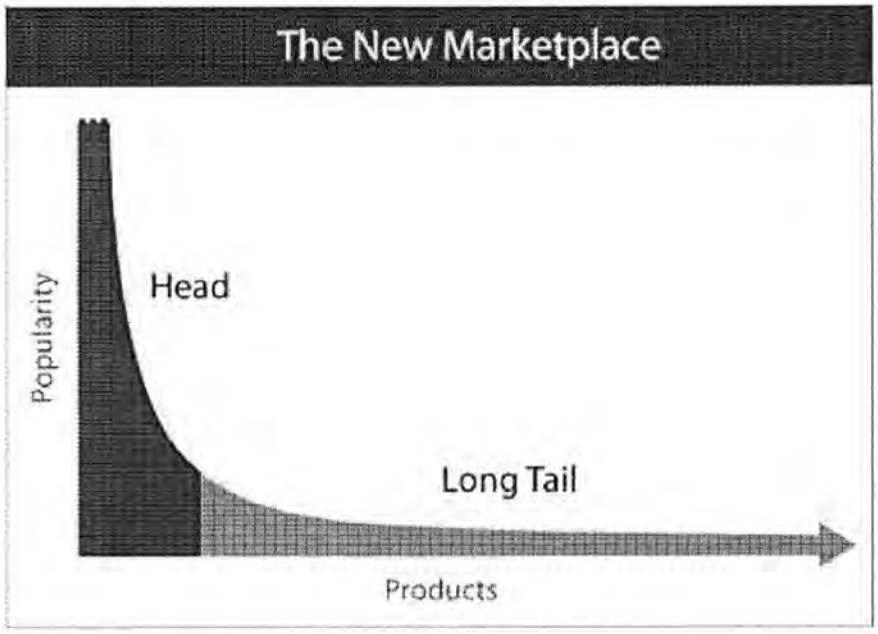
7 Nov 2008 at 13:07, Andrew Orlowski

Exclusive The most comprehensive empirical study of digital music sales ever conducted has some bad news for Californian technology utopians. Since 2004, *WiReD* magazine editor Chris Anderson has been hawking his "Long Tail" proposition around the world: blockbusters will matter less, and businesses will "sell less of more". The graph has become iconic - a kind of 'Hockey Stick' for Web 2.0 - with the author applying his message to many different business sectors. Alas, following the *WiReD* Way of Business as a matter of faith could be catastrophic for your business and investment decisions.

Examining tens of millions of transactions from a large digital music provider, economist Will Page with Mblox founder Andrew Bud and Page's colleague Gary Eggleton, looked to see how large and valuable the "Tail" of digital music may be. They produced a spreadsheet with 1.5 million rows - so large, in fact, that it required a special upgrade to their Excel software (and more RAM) - and the three revealed their work at the Telco 2.0 conference this week.

They discovered that instead of following a Pareto or "power law" curve, as Anderson suggested, digital song sales follow a classic Log Normal distribution. 80 per cent of the digital inventory sold no copies at all - and the 'head' was far more concentrated than the economists expected.

"Is the 'future of business' really selling more of less?" asks Page. "Absolutely not. If you had *Top of the Pops* now, you'd feature the Top 14, not Top 40."



Anderson bet that the orange portion - the "Tail" - has more value than the red portion - the "Head". But it doesn't.

As Andrew Bud explains:

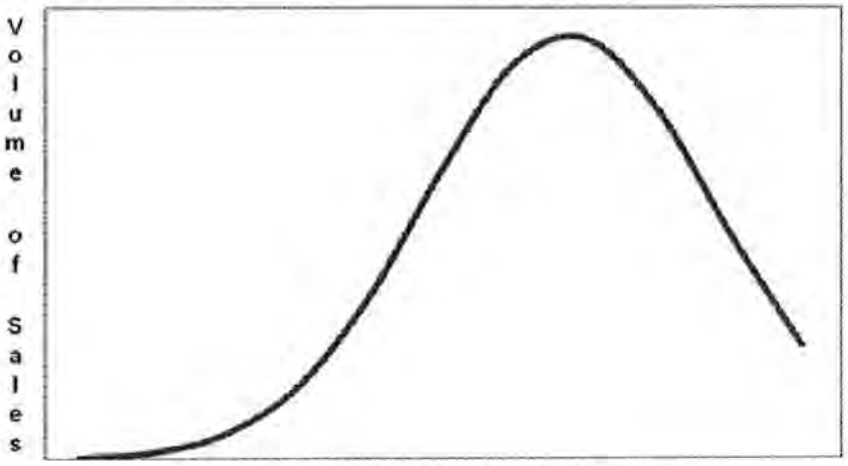
"The Long Tail's argument is that the pattern of consumption for media is bent out of shape by the limits of the shops selling them. Digital media lets the nature of people's demand flow free. Well, we now know what the shape of that demand curve looks like."

Bud told the conference that the basic shape of consumer demand for digital music clearly fits the Log Normal distribution, "with eye-watering accuracy". That's no surprise, he says, because so many sales curves he's seen over the past ten years follow this distribution.

"Now we've seen what happens when tens of millions of choices are thrown in the air and people can go pick them up. What was astounding was the degree of inequality between the head and the tail - by a factor of three. It's specifically the Log Normal shape that leads to a rather poverty stricken Tail.

"There are Tails where the Tail lives as a kind of welfare state. Not this one. You starve in this Tail."

Fifty Years Ahead of its Time? Brown's '56 Log Normal Fit



Sales Groups Based on Log Normal Intervals

Brown's 1956 lognormal curve fits digital sales data much better than "The Long Tail"

This really isn't the upbeat fairy tale message Anderson has spent four years selling on the conference circuit. However, as he took his "message" to Davos and beyond, the Long Tail has gradually developed into a 'Policy Based Evidence Making'. Having convinced himself of the truth of his hypothesis by looking at one US music service, Anderson widened his search for facts that might fit his theory. But he didn't examine the numbers closely or critically enough, say the economists.

> *"Now we've seen what happens when tens of millions of choices are thrown in the air and land on the floor."*

"You need to consider much more than just some flimsy volume-based Rhapsody data if you're going to say the world's changed," says Page. "For instance, understanding value both in terms of retail spend and then marginal profitability to the artist and songwriter would have been a logical extension"

In another surprise, 80 per cent of the revenue came from 52,000 songs. What's eye-catching about the number? Well, the typical inventory of a conventional high street record store was around 4,000 CDs. Or ... around 52,000 songs.

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Economic Insight

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Prepared by Will Page,
Chief Economist *PRS for Music*
and Eric Garland, CEO BigChampagne

About Eric Garland
Eric Garland is co-founder and Chief Executive Officer of BigChampagne Media Measurement, a privately-held technology and metrics company specialising in online media. At present, BigChampagne's available metrics include online retailers (iTunes), social networks (MySpace, YouTube), portals Yahoo and AOL, Clear Channel, MTV and through strategic partner Mediabase, traditional broadcast. Garland is recognised as one of the industry's leading authorities on the intersection of popular entertainment and technology.

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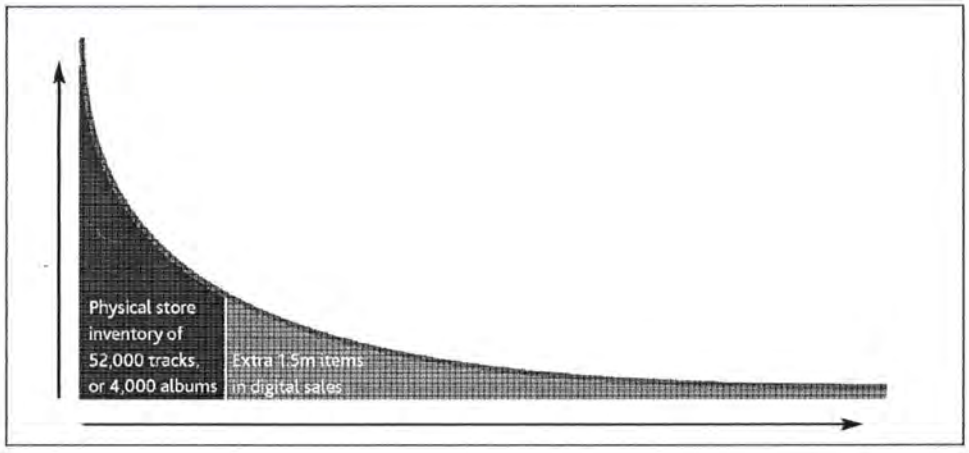
The long tail of P2P

The theory of the Long Tail first came to light in *Wired Magazine* in October 2004, as legal digital music services like iTunes and eMusic were taking off. However, illegal music services like Napster, Grokster or Kazaa had been around, providing digital music fans with a massive choice of music catalogue long before such choice was legally provided. As a result, the well-known anomaly of the digital music world was reinforced - legal services constantly play catch-up with illegal services, and the enforcement of copyright persistently lags advances in technology. With these issues in mind, and the infamous Pirate Bay still very much in the news (and still on folks' desktops), what does the Long Tail distribution profile of hits and niches look like in the world of massive choice that is P2P? Will Page teamed up with BigChampagne's Eric Garland to figure it all out.

The following Insight paper is a bit longer than those previously released by *PRS for Music*. As such, we thought it best to give the reader, upfront, a sense of where we are headed. In the first section of this Insight paper, we will be releasing the results of a critical inquiry into the music usage patterns within file-sharing networks. Particularly, would a so-called long tail or a pinhead pattern describe the relative popularity of music files within these networks? In the second section of this paper, we will dig into the 'Wherefores' - particularly issues of supply and demand - underlying the usage pattern we found. In the final section, we will consider long-term trends in P2P activity alongside some new behaviours that seem to be emerging. We will then wrap this discussion up with a few final thoughts on the *'paradox of choice'*.

The Long Tail, a brief introduction

The original Long Tail concept, as laid out by Chris Anderson in a famous *Wired Magazine* article in October 2004, goes like this: if you offer people more choice, and help them make that choice, they will take that choice. It proposed that in a world of widespread Internet access, it no longer makes sense to cater to the public appetite for the most popular CDs, DVDs and books. Instead, even the interests of the smallest niche might now be served. The lower cost of reaching customers online enables thousands of otherwise unprofitable niches to be profitable. From an economic perspective, this shift in costs would change the 'distribution profile' of transactions in any market to that of "*selling less of more*." The tail of available niche products would lengthen (supply-side effect) and then fatten with sales (demand-side effect). And so the "Long Tail" emerged.



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The theory of the Long Tail took the marketing world by storm, with examples of the theory at work flagged from anywhere and everywhere. Importantly, PRS for Music has been in the Long Tail business since 1921, offering blanket licensing for the entire world's musical repertoire so that both hits and niches might be treated equitably in their supply. Yet, there are demand-side examples of the Long Tail theory not at work in this established Long Tail market. The 1998 Monopolies and Mergers Report on the PRS, for example, described a hit-heavy distribution of blanket licensee revenues. Consequently, doubts have been raised as to how generalisable the examples Anderson had chosen to demonstrate the Long Tail at work would be. These doubts persist given the examples of Long Tail outcomes have often (i) involved unprofitable companies, (ii) referred to volume as opposed to value, and (iii) not recognised the costs of either distributing digital music or processing its granular payments.

Enter Andrew Bud, the Executive Chairman of mBlox and engineering graduate of Cambridge, whose family firm has spent decades understanding the distribution profile of commerce data. Andrew directed the team at the PRS to an influential book by MIT Professor Robert Brown, dating back to 1956, titled *Statistical Forecasting for Inventory Control*. With Mr Bud's help and Brown's methodology, analysts at PRS for Music were able to estimate the demand curve for digital music - of the millions of tracks on the digital shelf, which are moving quickly and which are collecting dust. To recall, Anderson's theory relies on a change in the nature of the supply curve given barriers to entry fall and a great many new products can now get to the market. However, it takes two curves to tango in economics, and consideration of the demand curve completes the picture.

What we uncovered from that analysis was a shock to some and no surprise to others: a *'hit-heavy, skinny-tail,'* log-normal distribution for legal online music consumption; a distribution not that dissimilar from what one might expect from a more traditional, bricks & mortar store. The Long Tail of digital music commerce had an incredibly lengthy yet dormant tail - more than seventy-five percent of the total inventory of tracks hadn't found a single buyer. Furthermore, a pin-sized head dominated real purchase behaviour. This dormant tail, pinhead pattern appeared across a number of digital music providers, in the markets for singles, albums, as well as streams - the three markets for legally consuming music online.

Intuitively, we were inclined to press pause on our conclusions and ask about illegal music consumption – the black market for music that not only has been with us for years, but also is much larger than its legal equivalent, in terms of numbers of users and available inventory of music (See Box). This is where BigChampagne, with over a decade of experience analysing the data from P2P, stepped in to help produce the following insights.

What the Earliest Pirate Markets Taught Us

The Internet market for music began as a pure pirate venue: acquiring the top songs of the day online in 1999 predominantly involved violating copyright laws. Liquid Audio, Rioport, and the eventual arrival of iTunes made the online markets more black and white: pay for the music, or break the law. Today, online music venues tend toward shades of grey. MySpace is legal, but Project Playlist is not quite so legal. Google is legal but SeeqPod is not. QTrax is a 'licensed P2P,' but YouTube features unauthorized music videos. From a consumer perspective, the market is confused and confusing.

The earliest pirate markets (Usenet, IRC, and later Napster) provided the first direct observations of the behaviour of music consumers online. The music industry learned to watch and learn. Today, real-time data and business intelligence are music industry obsessions. The 'band to fan' approach embraced by everyone from MySpace to TopSpin is a product of this shift in thinking, courtesy a new set of available tools.

Recorded music businesses are struggling financially, however, and in an 'Attention Economy' (Davenport & Beck, 2001), the future of these businesses remains uncertain. But as WIRED writer Eliot van Buskirk observed just last month: *'[File sharing networks] taught - and continue to teach - valuable lessons to the content industry. Even as music labels and movie studios try to sue peer-to-peer networks out of existence, these same networks have been preparing music labels and movie studios for the emerging social-media world, in which sales form only a small slice of the revenue pie, and what really matters is who likes what, and who pays attention to them.'*

Deriving a demand curve of P2P

For this research, we collaborated with the folks at BigChampagne to derive some critical understanding of the files swapped on P2P networks. One of the biggest challenges we faced in trying to "pin the tail on P2P" was our need to quantify the universe of music available on file sharing networks. Remember, we were moving from a filtered and controlled legal market, where licenses limit the available tracks, to an uncontrolled market, where few if any constraints are placed upon what music is made available! Put more bluntly, legal music markets offer only what publishers willingly put up for sale, whereas illegal markets swap any file offered by anyone.

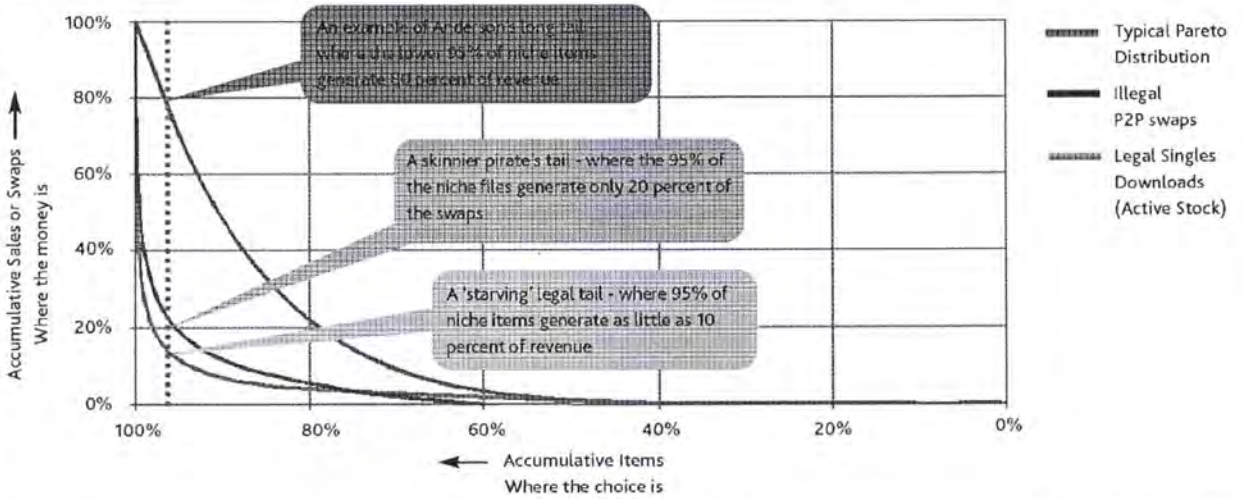
At the outset of this research, we did not expect the 'dormant tracks' observation of the legal market to dominate P2P. Instead the data were expected to throw up a tail-biased profile - *a la* the Long Tail theory - due to the unlimited and uninhibited supply of music files. What we found was not what we expected. We will describe the analysis briefly below, while a more detailed description can be found in the Appendix to this paper. A simple strap line that captures the overarching message of this work might be: *"everyone gets at least a swap, but the hits are still scooping the pot"*.

Of interest to our analysis was the skew of the distribution for music consumption: does it skew towards the tail, where business is selling *'less of more'*; or does it skew towards the head, where the business of *'more of less'* prevails? To investigate this difference in skew, we opted for a variation on a Lorenz curve, a classic tool in economics for illustrating the proportion of items that drive sales volume. In order to present the data in a manner akin to that of Long Tail aficionados, we have simply flipped the traditional Lorenz curve, to present the cumulative proportion of available tracks across the horizontal axis and the cumulative volume of tracks sold or swapped across the vertical axis. The curves below illustrate (i) what a Pareto-like, 'Long Tail' distribution (red) would be expected to look like, as well as what distributions we observed in (ii) the legal (grey) and (iii) the illegal (burgundy) markets for music online.

SPOTIFY EXHIBIT 54

Lorenz curves for legal and illegal music consumption

Source: BigChampagne



Getting your head around the curves

First, put yourself in the mindset of bottom up, not top down. You are ranking the proportion of total consumption from the least to the most - from right to left. Second, bear in mind that every point on any curve tells you something about consumption in the market described. Each market gets a curve.

For example: On the Long tail curve, your highlighted point tells you that the lower 95% of the inventory would be expected to account for 80% of consumption (swaps or sales). Conversely, the top 5% of inventory would account for 20% of the consumption.

Sliding down that same curve, and therefore within that same hypothetical Long Tail market, the lower 80% of inventory accounts for 20% of sales - the opposite outlook of the old 80/20 rule. In the P2P market observed by BigChampagne, 95% of the inventory accounted for only 20% of the swaps. Conversely, 5% of inventory accounted for 80% of the swaps. That's not a long tail expectation.

Interestingly and importantly, both legal and illegal music consumption patterns are tucked up against the bottom left axis, contrary to Long Tail-like expectations, suggesting that much of the volume (sales or swaps) is concentrated amongst a small proportion of the available tracks. (Note, if dormant stock is plotted too, the grey line would be more tucked-up.) For economists, the distance between the curve and the bottom-left axis illustrates how fat or skinny the tail of the distribution is. A curve that's tucked up next to the bottom-left border of the chart suggests a skinny tail, or a greater inequality in the distribution of downloads. The closer the curve is to the southwest corner the greater the proportion of volume that is derived from a smaller proportion of the top-ranking items. As the curve moves away from the corner, a lesser proportion of demand is driven by the top-ranking items while a greater proportion is being met by the lower-ranking items. The similarity across both the legal and illegal curves might suggest there's a link, and we'll come to that link in the next section.

Pondering the Wherefores underlying P2P usage

In the following section, we will offer some of the plausible explanations for this hit-heavy, pin-headed distribution of music-download behaviour we observed on P2P networks. Perhaps it's no surprise that we, being economists, will centre this part of the discussion upon the characteristics of supply, demand and search costs in pirate networks.

Uninhibited supply

Perhaps the most obvious difference between the pirate and legal markets lay in the nature of supply. In a legal venue (e.g. iTunes, eMusic or Spotify), the supply of music is often the limiting factor. Let's take the tried-and-true case of The Beatles, the world's most enduring pop group. The Beatles have yet to appear on the iTunes sales chart quite simply because their music is not available at iTunes at all.

Now consider a pirate venue (P2P file-sharing networks): The Beatles, perennially popular, have been bouncing around the top of the P2P charts for years. And there is no shortage of supply. In fact, every last scrap the Fab Four ever committed to tape is readily available in pirate venues. On some sites, one can download with a single click literally gigabytes of The Beatles' unreleased songs, live recordings, alternate mixes and in-studio chatter.

Within pirate venues for music, supply seems to be virtually limitless. If there were a meaningful audience, however small, for a piece of recorded music, that music is likely to be in supply in the grey market. On P2P networks, however, demand is a very real limiting factor.

The cost of music search

There is a hidden cost to finding music, what economists would call search costs, and these costs influence demand for music online. In short, people will experiment less when there is a high marginal cost to experimentation. Some of this cost would be in the time we spend searching for music, time that might be better spent elsewhere (like reading this research). Another portion of this cost lay in the risk of buying a dissatisfying song thanks to a poorly informed decision (like a

SPOTIFY EXHIBIT 54

recommendation from a mate with bad taste in music). If a venue creates (any) marginal search cost (whatsoever), raw demand is inhibited and the tail starts to lose weight.

The very definition of demand is changed when the cost of sampling is nil. In a venue where sampling unknown or little known music has no marginal cost to the customer the Long (Skinny) Tail is more likely to be in full effect. In fact, in the case of some music subscriptions (e.g. eMusic), there is a cost to *not* experimenting. Essentially, a less adventurous subscriber pays a higher, effective per unit price if she does not download the maximum allowable number of tracks in any month.

Searching through millions of music tracks on P2P networks takes time, however - time that not everyone has. As such, behaviour on these networks can still be a function of both online and offline forms of music marketing and recommendation - radio, television, live performances, word of mouth, viral videos, etc. Therefore, after taking into account some geographic differences, the top of the many music charts, from licensed and unlicensed venues, are markedly similar (commercial radio, music television, P2P, iTunes, YouTube, MySpace, even Twitter).

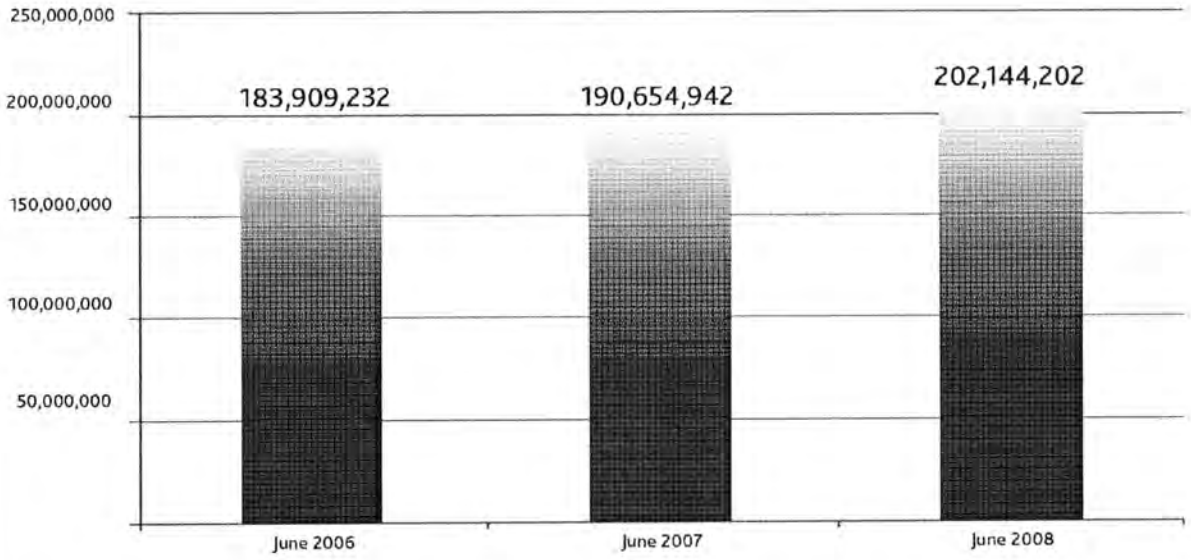
Popular music is popular

Since the dawn of the original Napster, the music industry has been particularly concerned with the Top of the Pirate Pops. More often than not, interest in the pirate market has been focused on the difference between 'what sells' and 'what's stolen.' There are a number of very good reasons for keeping an eye on pirate markets, given these venues mirror and even lead the traditional music market, providing a glimpse of the near-future.

There are many broad and pronounced differences between file-sharing networks and the local record shop, or the iTunes store. But the most popular artists, albums and songs tend to dominate the charts everywhere. In other words: popular is popular. BigChampagne's analysis of the Billboard Top 100 Albums for the last week of April, 2009 reveals that virtually all were available on The Pirate Bay, and most were very popular. These free, unauthorized albums averaged roughly 58,000 weekly downloads each. Lady GaGa's 'The Fame' alone was downloaded 388,000 times in this seven-day period[1].

Undeniably, the pirate market is a quantifiable expression of the same demand we see at iTunes, or anywhere else. BitTorrent or Limewire popularity of individual titles correlates very highly to sales and therefore (somewhat counter-intuitively) topping the file-sharing charts is generally a harbinger of success in legitimate markets, and has been since the 1990s. In nearly ten years of studying online music, BigChampagne has yet to see a 'big hit,' or wildly popular release in the pirate market that was not also a top seller in the licensed market.

Global number of PCs with one or more P2P applications
Source: BigChampagne



File-sharing activity, whether measured as the number of simultaneous users on P2P networks, or the number of PCs with P2P applications installed, has been making year-on-year gains for nearly a decade now, despite legal, legislative and 'educational' efforts by the entertainment industries. When considered on a day-to-day and even a month-to-month basis, file-sharing usage has long ebbed and flowed slightly, as it does today. There are peak times of day for swapping files, peak days of the week, even peak seasons of the year (December holidays). BigChampagne has not seen evidence of a link between the high-profile legal efforts of music companies (and some decisive victories) and a decrease in file-sharing trends.

[1] Note that this is just one pirate venue, among many, and that here we are tallying full album downloads only, and excluding individual song downloads.

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The Implications of Pirates and our Principles

In the next section, we will first consider the effect of lawsuits aimed at stemming P2P activity in the context of long-term trends in P2P usage. Second, we will look beyond the Pirate Bay trials and highlight two types of behaviour emerging in both pirate and legal market for music. Finally, we will wrap up this discussion with a few final thoughts.

Sharpening the stick?

Of course music companies are disappointed to see their greatest sales prospects climbing the pirate charts. There appears to be a devastating effect of file sharing on the music market. What we observe is a music marketplace that once supported first-week sales of as many as two million copies of a number one album (in USA alone) and now serves up albums that top out at considerably less than half that figure.

Ironically, the stubborn popularity of pirate venues has created a cottage industry in anti-piracy efforts - what we might call the business of sharpening the stick in the 'carrot and stick' approach to piracy. Many of these efforts are ongoing, and controversial. However, do we see clear evidence that changes (increases or decreases) in global file-sharing activity can be linked to periods of litigation or legislation? The answer would appear to be, "No."

After Pirate Bay, what's next?

The last two years brought another rapid transformation in the online music market - a revolution as profound and immediate in some sense as the original onset of MP3 file swapping. What we are seeing is a growth in the nature of music consumption along two seemingly competitive dimensions. These trends lead to a peculiar irony: widespread listening to music that is never stored coincident with vast stores of music to which no downloader ever listens.

The first dimension would involve the *primacy of listening*. In both legal and pirate markets, free streaming of songs, albums and playlists has risen sharply. For example, the most popular songs on MySpace or YouTube now receive hundreds of millions of plays. Similarly, users in file-sharing settings are streaming tracks, particularly within more localised networks. The proportional shift toward streaming presages an ultimate move into 'the cloud' and a de-emphasis on music collection building

Simultaneously, we've noted a spike in a dimension we call *music hoarding*. BitTorrent and one-click hosting sites such as Rapidshare and Megaupload have become increasingly popular as means to acquire music. Both technologies emerged as a function of ever-increasing bandwidth and ever-decreasing storage costs, and both are optimized for large file distribution such as one-click album even 'discography' downloading. Using a Google search for a pirate link, it can be faster and easier to download a full album than to download a single song using Limewire or iTunes. However, a good proportion of music downloaded through these means is *never* listened to, and the files may be ultimately deleted or lost. As such, a sort of hoarding of music files is taking place.

As an activity, only free streaming seems to truly rival MP3 swapping – and taken together, P2P and free streaming now meaningfully compete with traditional broadcast (radio airplay, television) in terms of impressions. Free streaming might be viewed as being in competition (or tension) with music downloading, or it can be considered the perfect complement. Regardless, the tandem rise of music hording and listening primacy signal an ugly potential economic consequence for the recorded music business: the further erosion of legitimate music sales.

A paradox of choice

Stepping back from this unprecedented study into the shape of demand for music within P2P networks, it's well worth returning to the original driver of this Long Tail debate: the consequences of increased choice. Rigorous analyses of large digital music data sets alongside anecdotal observations are suggesting, contrary to expectations, that in markets offering more choice, the gap between hits and niches appears to be widening. To recall, *PRS for Music* have found hit-heavy, skinny tail distributions in legal digital albums, singles and streams whilst BigChampagne has uncovered a similar distribution for illegal P2P.

Furthermore, there exists evidence that this hit-heavy pattern is strengthening in the booming live music industry. Music promoters comment openly that bands that are four or five down on the bill are relatively worse off than they would have been ten years prior, in real terms. Similarly, pinhead patterns are emerging in TV and film demand, which goes against the original Long Tail logic. According to BigChampagne, torrent downloads of television and film content display an even more concentrated demand for a select few hits than that displayed by music demand. So, while we do see a tail that is long, it is also extremely skinny. The bulk of the business is not in this tail, but instead up near the head, perhaps focused upon an increasingly small bundle of hits. So, if the tail ain't fattening like it should've given so much choice, what's going on?

Resuscitating established research on choice, we find some answers. Anita Elberse from Harvard University pointed to McPhee's "Theory of Exposure," to understand the hit-heavy demand for films from Netflix. According to McPhee's theory, positive feedback effects reinforce the popularity of hits, while dooming items in the tail to perpetual obscurity. In a recent TED lecture, psychologist Barry Schwartz summarizes the arguments within his excellent book, *The Paradox of Choice: "There is no question that some choice is better than none, but it does not follow that more choice is better than some. There's some magical amount, I don't know what it is but I'm pretty confident that we're long since passed the point where options improve our welfare".*

Perhaps however, we're using the wrong language to describe the markets we're trying to understand. References to hits and niches, or heads and tails, might be taking the analysis into an unnecessary corner. There's a temptation to take the anatomy metaphors further, and get hung up on potbellies as well. Andrew Bud, who was responsible for pioneering much of this work, offers another interpretation: focus instead on the gap between rich and poor. Importantly, the relationship between rich and poor can be dynamic. For example, the rich might increase their wealth without the poor getting any less poor, relatively speaking. Ironically, the response to piracy we are avoiding might make some of the richest artists in the world, even richer.

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Alternatively, if we economists relax our assumption that humans are rational, self-interested, wealth-maximizing agents we might see ourselves more socially dynamic-humans are also oriented towards social experience. From this sociological perspective there has long existed this concept called "culture" and in its most basic conception, culture would be those things that we share-music, fashion, language and even mindsets. If culture matters, then the widespread popularity of particular music seems less of a paradox. We are innately driven to have some things in common with each other. Furthermore, as David Touve of Vanderbilt University recently suggested, *"P2P networks are such powerful venues for music demand for reasons beyond the economic argument that we can get stuff for free - these networks offer an ideal landscape for sharing the stuff of which culture is comprised."*

Understanding the markets for music remains the core objective of our research, and P2P networks are now, for better or for worse, part of the music market. But understanding these networks solely as places where opportunities are foregone until these networks are shut down may be clouding our ability not only to rationally assess what is really happening, but also to effectively construct a response. In essence, we may face a certain paradox of choice of our own as we consider our response to these networks. Such a reassessment of the marketplace and our response is an important direction for subsequent research.

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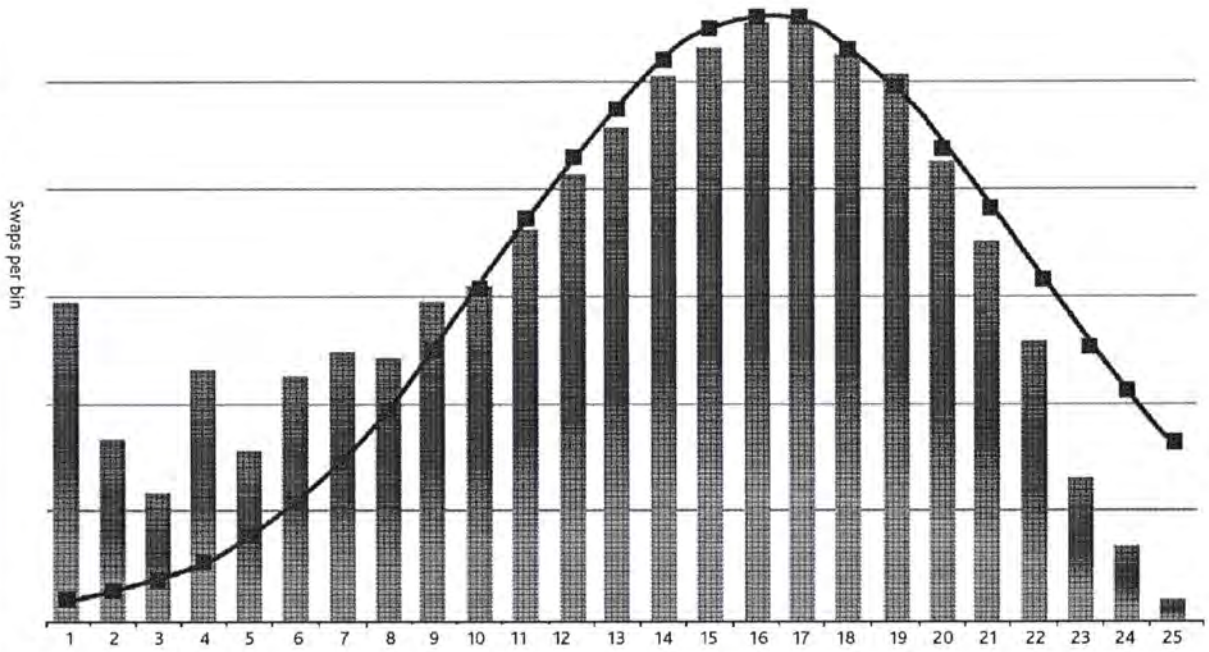
Appendix

Appendix: Summarising the Statistical Methodology

The biggest task facing the two teams in this analysis of P2P usage data was devising an appropriate structure of log-normal bins, or sales groups, so we could follow Brown's methodology and populate the data set. From the outset, the number of swaps we were dealing with was far greater and more randomly distributed than we had seen in data sets reported from legal music services. Unlike previous analyses of the supply of legal music, the P2P profile gave us no clear indication of the total 'size of the market'. Lacking awareness of those files that were never shared, it would be expected that the number of swaps would be spread more evenly across available tracks, resulting in a more tail-centric profile. Once a suitable analytical structure had been put in place, it was then possible to assign the number of swaps reported to each bin and plot the distribution.

The first chart is a histogram, with the logarithmic bin sizes anonomysed. The histogram bars in red represent the number of occurrences of swaps per logarithmic bin structure. What the reader needs to understand is that the groups grow in log-normal intervals, showing how many distinct tracks were swapped 1-to-2 times, then 3-to-6, and 6-to-10 and so on. To clarify, this distribution stretches (left to right) from a bar in the tail with 7 million tracks swapped 1-to-2 times, to the top of the head, a bar with only seven tracks swapped, on average, 13 million times each. The black line is derived from Brown's 1956 methodology, highlighting the expected log-normal distribution given the data we have.

Every track gets a swap but the head still scoops the pot
Source: BigChampagne



Going back to Brown's 1956 book, history has shown us that when the sales items are plotted logarithmically, a 'Normal' bell-curve distribution often ensues. For any given data set, we would expect some items to sell very little, some to sell an awful lot and the majority to converge around a mean/median.

The second chart is derived from the first, and illustrates, more clearly, how the market performs against Brown's 1956 model. Again, this presentation is akin to asking if the head (or tail) punched above (or below) its expected weight. Recall, Brown's black line is telling us that this is how a market should behave, or the profile of demand should be distributed in a log-normal world. What this chart suggests, however, is the tail outperformed the model, while the head underperformed.

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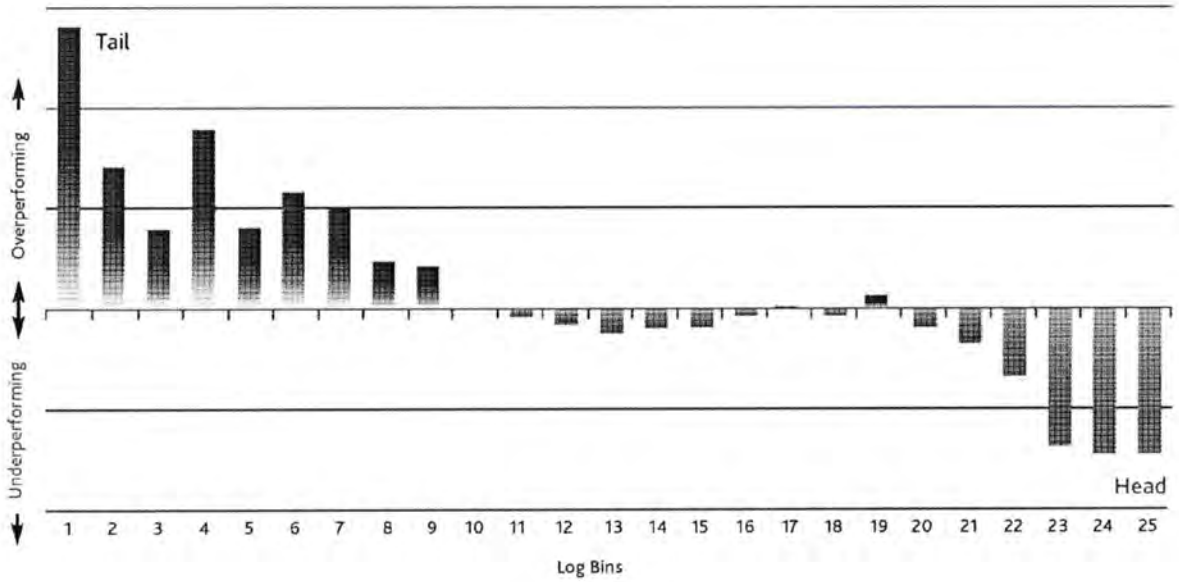
Evidence of the tail outperforming the head, and the model



As has been seen in every digital music data set that's been plotted to date, the fit of the red line in the first chart is eerily accurate, but with a twist highlighted in the second graph - a clubbed tail and a kick to the head. By that we mean the shape of the demand curve for illegal P2P swaps appears to be that of a log-normal hit-heavy, skinny-tail distribution, with an additional power-law effect in the form of a greater number of tracks are being swapped at least once. In contrast to the legal market, one might view the otherwise dormant tails as being resuscitated on P2P. Put more bluntly, the 10 million tracks that failed to find a buyer on the legal digital shelf have found (at least) a swapper in this illegal market. Many conclusions could be drawn from these observations, but here's our preferred choice: *If the sellers sell it, it might never be bought; but if the swappers offer it, at least one person will likely take it.* It goes without saying however, that for the creator and artists watching their niche offerings being swapped a single time on P2P, this form of 'freemium' activity may not be paying for lunch.

SPOTIFY EXHIBIT 54

We've turned 5 – here's our story so far!

Posted on 2013/10/07 by Diego Planas Rego (https://news.spotify.com/us/author/diegoat/)

Today is our 5th birthday and we want to celebrate with you. We have made this image highlighting some of our best memories.

You can enjoy it while listening to the Top 10 most streamed songs from our first 5 years.

It's Spotify's 5th birthday today!

Here are some of the highlights of our journey so far.

Happy Birthday to us

Spotify was created in Sweden, and first launched to the public on October 7th 2008, in Sweden, France, Great Britain, Spain, Finland and Norway.

Music for a million years

In the last five years over one million years' worth of music has been streamed on Spotify.

1,000,000

24,000,000

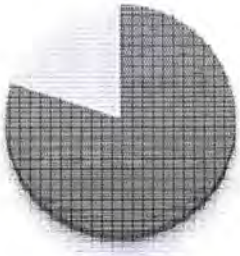
Spotify has more than 6 million* paying subscribers and well over 24 million* active monthly users.

*latest released figures as at March 2013.

Taking over the world

Spotify is available in 32 markets around the world

80%



There are over 20 million songs on Spotify – 80% of these have been streamed at least once.

Most played

The most-streamed song in the world in the last five years is Thrift Shop by Macklemore & Ryan Lewis with over 150 million streams.

The most-streamed song in 24 hours is Daft Punk's Get Lucky (with 1.5m streams).

Most popular

Female Artist
Rihanna

Male Artist
David Guetta

Band
Coldplay

There are over 1 billion playlists on Spotify

Music moments

On average across the world, the busiest time of day for playing music on Spotify is 4-5pm on Thursday afternoons.

Friends in high places

Current world leaders on Spotify include President Barack Obama and British Prime Minister David Cameron.

Thank you for joining us on our journey
The Spotify Press Team
press@spotify.com

(https://spotifyblogcom.files.wordpress.com/2013/10/5th-birthday-news-letter.jpg)

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Discover Weekly reaches nearly 5 billion tracks streamed since launch

Posted on May 25, 2016

(https://spotifypresscom.files.wordpress.com/2016/05/discoverweekly-1.jpg)

You heard that right. Thanks to over 40 million listeners who love Discover Weekly, nearly 5 billion tracks have been streamed since it launched in July of 2015. Updated every Monday morning, Discover Weekly gives you the best-ever music recommendations (https://press.spotify.com/us/2015/07/20/introducing-discover-weekly-your-ultimate-personalised-playlist/), tailored specifically to you and delivered as a weekly mixtape of awesome, completely personalized music. You now officially have a reason to look forward to Mondays!

Here's a look at how Spotify users are keeping their listening fresh with Discover Weekly:

- More than half of all Discover Weekly listeners come back the following week.
- More than half of all Discover Weekly listeners stream at least 10 tracks from it each week.
- More than half of Discover Weekly listeners go on to save at least one song to their own playlist.
- Discover Weekly is most popular with the 25-34 age group, closely followed by the 55+ age group.
- The top three genres streamed from Discover Weekly since its launch are 1) pop 2) indietronica 3) indie pop.
- Sweden, Switzerland and Germany are the countries most engaged with Discover Weekly.
- The peak streaming on Mondays occurs at 8:00-9:00 am local time in the U.S. and the U.K., but in Sweden and Germany the peak occurs after work at 5:00 pm local time.

Discover Weekly isn't just about giving listeners personalized music; it's also benefiting artists and helping them to be, well, discovered. There are over 8,000 artists for whom more than half of their listeners in the last month were from Discover Weekly alone.

Several artists like BØRNS (https://open.spotify.com/artist/1KP6TWI40m7p3Q8TU6u2xo) and Halsey (https://open.spotify.com/artist/26VFTg2z8YR0cCuwLzESi2) have been discovered by over a million new listeners through Discover Weekly. And other artists like Transviolet (https://open.spotify.com/artist/7ixzNQXQ64I2ayrtyhIF7i), TastyTreat (https://open.spotify.com/artist/5blFoLWc5SYueRS8wX8mMi), and Safakash (https://open.spotify.com/artist/4hcacKtQRVIDecmw4m1hWz) — all of whom have over half their monthly listeners coming from Discover Weekly — have used that bump to meaningfully grow their fanbase.

A billion thank yous to the fans who have made Discover Weekly a phenomenon. The entire Discover Weekly team couldn't be more excited about all of the music you discover, listen to and share every day through Discover Weekly.

Here's to Mondays and even more music discovery. Remember, the more you listen, the better your Discover Weekly gets!

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Anatomy of a Hit: How Mr Probz Came To America

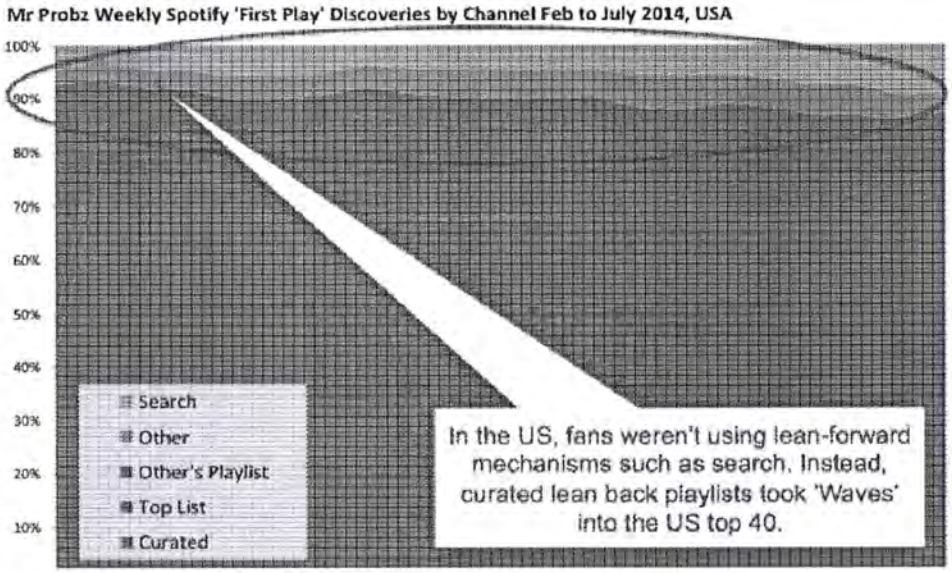
Posted on September 30, 2014 by Will Page, Jomar Perez, and Chris Tynan (https://insights.spotify.com/us/author/blogalias1/)

(https://spotifyinsights.files.wordpress.com/2014/09/probz_from_api.jpeg)Dutch rapper Mr Probz self-released his song 'Waves (http://open.spotify.com/track/2gGIhNmn8NaUr3LNofUIBZ)' late last year. Soon afterwards, German house producer Robin Schulz remixed the song on Soundcloud. Ultra Music and Sony Music Entertainment (SME) co-signed the track and it immediately topped charts in all major EU markets.

To date, the track's had 2.4 million downloads globally, and Mr Probz (http://open.spotify.com/artist/33W1pnW9zScZtYTnAoWnOT) was streamed a million times a day on Spotify throughout summer, and has kept good momentum since. 'Waves' received considerable support from club DJs in Europe. But how did it break America, travelling across the Atlantic and straight into the US Spotify top 40 chart by early April?

Careful interpretation of data from the months when 'Waves' first started to break out can explain. The below chart looks at discoveries of Mr Probz in the US from February to July, broken out by source. Note that discoveries are first listens, not total streams. What's clear is that the 'lean back' mechanism of curated playlists (as opposed to the 'lean forward' method of search which drove European streams) led to the early success of Mr Probz in the US.

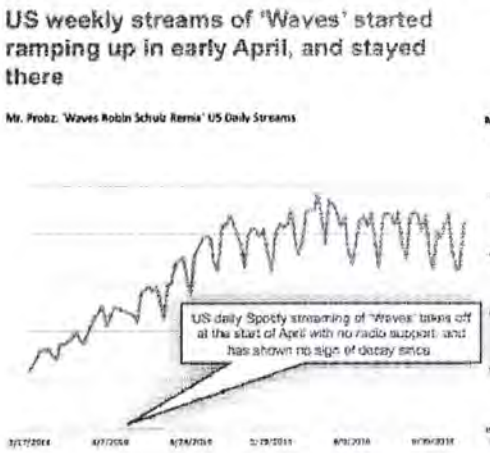
Put simply, the lean-back mechanism of curated playlists carried Mr Probz across borders that he otherwise would not have crossed.

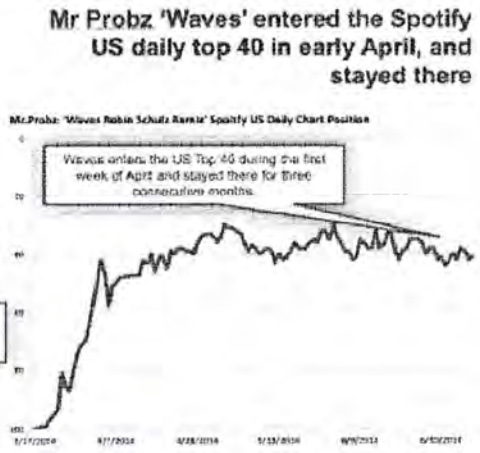


- *Search: Finding Mr. Probz through the search box*
- *Other: Our catch-all term for a variety of immaterial discovery methods*
- *Other's Playlist: These people discovered the track on another user's playlist*
- *Top list: Here, they found it on our popularity chart*
- *Curated: This section, the largest, refers to users hearing the track for the first time on a playlist created by Spotify*

Now, let's see how those first-play discoveries line up with total streams and the U.S. charts over the same time period.

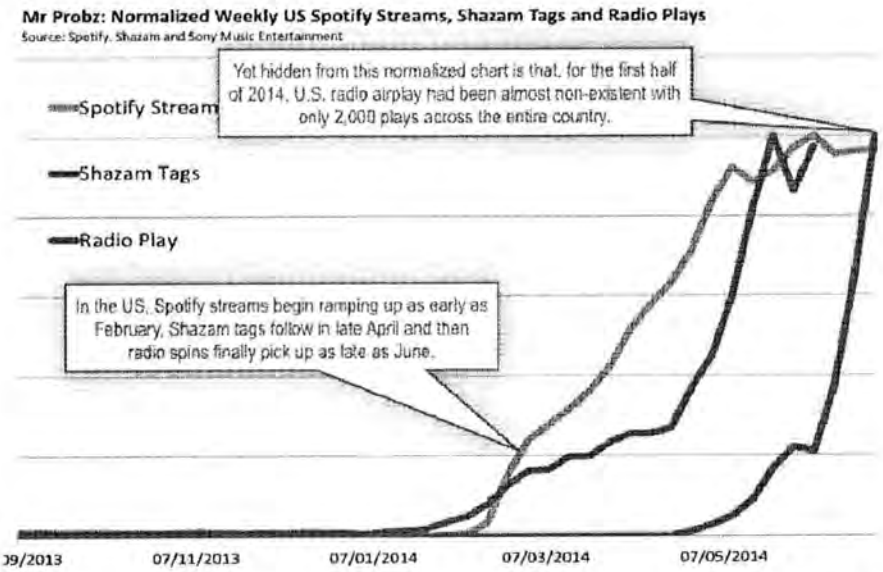
The chart on the left lays out the growth in U.S. daily streaming of the track 'Waves (http://open.spotify.com/track/2gGIhNmn8NaUr3LNofUIBZ),' and the chart on the right shows its daily US chart position. Clearly, the chart action started in early April, and importantly, showed a lot of staying power.





We can show how, thanks to Spotify's curated playlists, a big hit in Europe made its way across the Atlantic with next to no conventional support, by overlaying Spotify streams, Shazam tags and radio plays onto the same chart.

Mr Probz's 'Waves' (http://open.spotify.com/track/2gGIhNmn8NaUr3LNofUIBZ) started gaining traction on Spotify in the U.S. as early as February. Strikingly, Shazam tagging didn't really hit the radar until late April. However, what is really telling is that radio is seen to be lagging a full three months behind, and its actual number of its radio spins was barely noticeable, with around 2,000 in the first half of the year.



This is the anatomy of a hit in an age of streaming and sharing – an age in which consumers can become broadcasters. Conventional logic might have it that Spotify should follow radio, yet the way the track has taken off in the second half of the year in America suggests that radio might want to follow Spotify.

Special thanks to Patrick Moxey, David Waxman and Doug Christman (Ultra Music), Adam Granite, Rick van Shooten and Daan Grasveld (Sony Music Entertainment), Cait O'Riodran and Daniel Danker (Shazam), Aisha Thorn (Musicmetric), David Bakula (Nielsen Entertainment), Amy Gould, and Eliot Van Buskirk @ Spotify.

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SPOTIFY EXHIBIT 57

Anatomy of a Hit: How Meghan Trainor Made the UK Chart without Selling Downloads

spotifyartists.com/anatomy-of-a-hit-how-meghan-trainor-made-the-uk-chart-without-selling-downloads/

Meghan Trainor made history when her single "All About That Bass" splashed onto the Official Singles Chart in the UK a couple of months ago. This was even before her single went on sale, so she charted solely on the strength of her streaming numbers. Nobody had ever done that before.

Should we be surprised? Perhaps, but as streaming figures get integrated into singles and album charts around the world, this had to happen sooner or later. In this case, it was sooner. The UK charts began including streams in July 2014 – just when Meghan's track was beginning to make waves in the States.

How it happened is what's really interesting, so here's the real story of "All About That Bass".

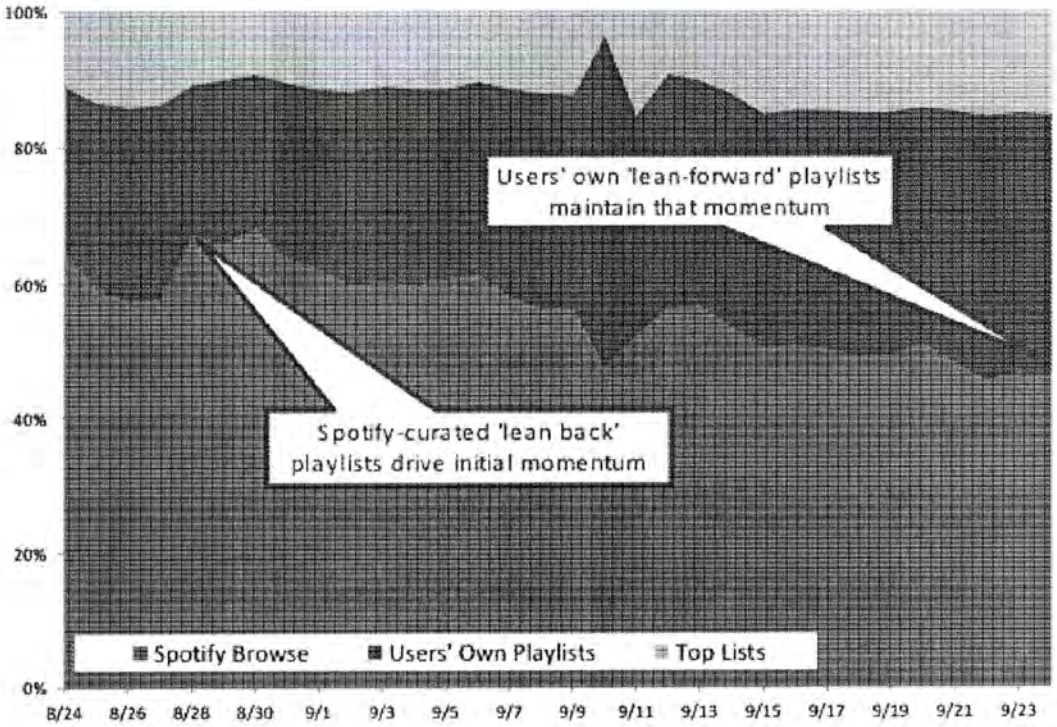
Spotify Drives "All About That Bass" onto the UK Charts

In a sense, Meghan Trainor's story is the reverse of our Mr Probz "Anatomy of a Hit" story; because Spotify carried her song across the pond from the US to the UK, whereas it carried Mr Probz in the other direction. Also, whereas Mr Probz has now surpassed an incredible 3m downloads, the ascendance of "All About That Bass" was due entirely to streaming as the song was windowed from appearing in UK downloads stores.

Trainor's transatlantic journey began in the US with a free video and free download for "All About That Bass," with streams and sales starting on June 30. The track made the top ten on the Billboard Hot 100 in the US two weeks later; in the UK, the song appeared on Spotify on August 16 [updated]. It was withheld from UK download stores until September 27, eventually becoming the number one hit as it had in the US, albeit in a completely different way.

Let's first look how UK fans streamed the song during those build-up months of August and September, by comparing listens in Spotify's Browse section (curated by Spotify), Top Lists (based on popularity), and Users' Own Playlists (created by fans). During the early period, the Spotify-curated Browse section accounts for around two-thirds of the action; later, we can see fans actively collecting and playing the song in their own Spotify playlists:

All About That Bass - UK Daily Source of Streams, August to September 2014

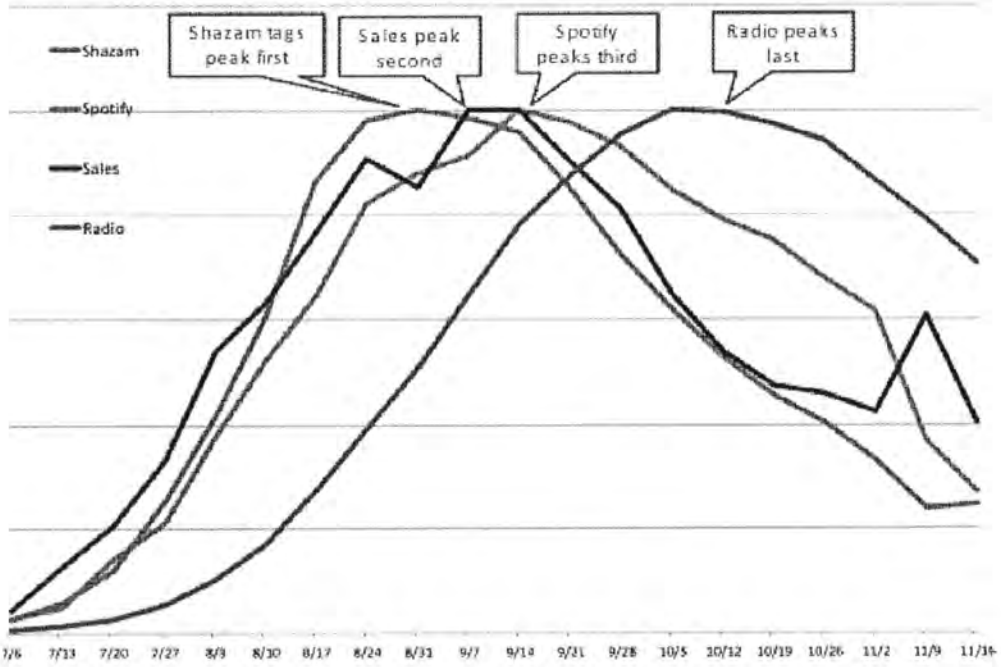


"All About That Bass" gathered significant momentum on Spotify, propelling it 20 spots up the charts to number 33 by September 28, with 1.17 million eligible streams – making UK chart history. Spotify can proudly claim over 90 percent of the credit for this historical achievement, and our curated Browse playlists were the biggest factor. Now, let's look at the anatomy of this hit the same way we did last time, by overlaying sales, streams, Shazams and radio plays. We'll do this in the US, where the track was released "normally," i.e. across all channels, and in the UK, where the track was not initially available as a downloadable purchase. This should allow us to see the effect of the song's UK sales windowing.

In The US, A Normal – and Perfect – Bell Curve

For Shazams, sales, and streams, the US graph shows what you might call a perfect bell curve: all three rise-and-fall together, with radio's peak lagging noticeably behind the curve:

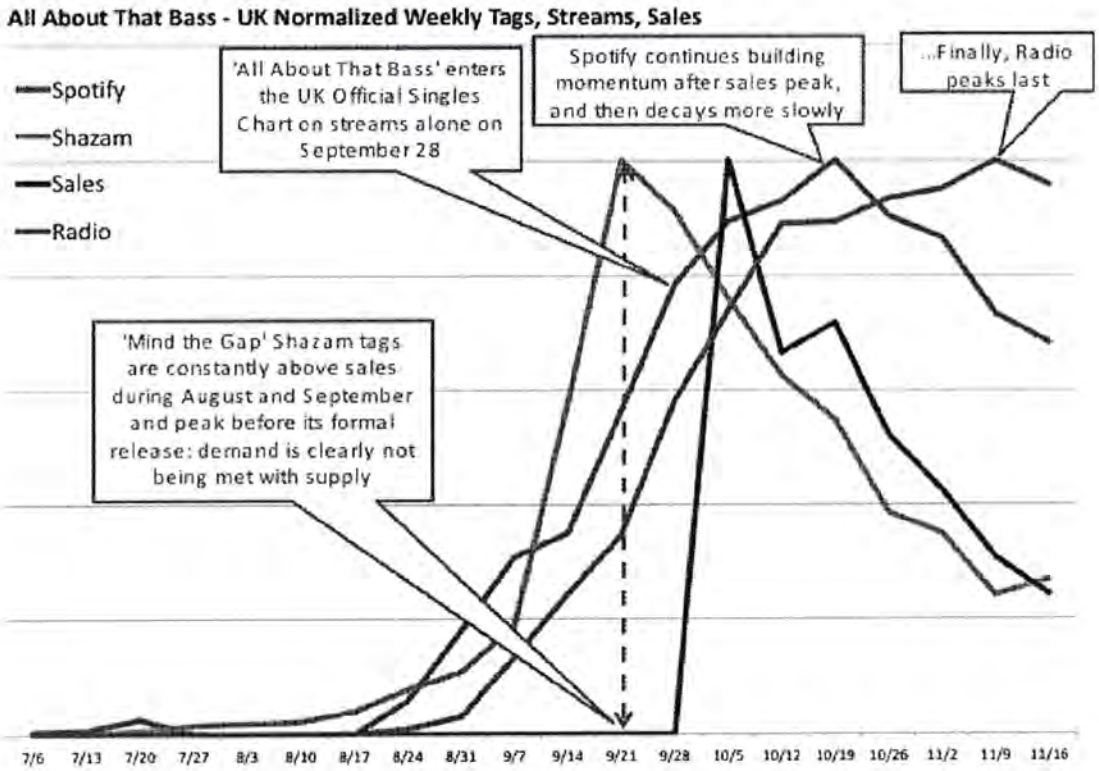
All About That Bass: US Normalized Weekly Tags, Streams, Sales, Radio



Sitting beneath this perfect 'bell curve' is a remarkable 4 million downloads and over 50 million audio streams, the vast majority of which were on Spotify.

The UK Risks Leaving Engagement Behind the Curve

In the UK, the track was available on Spotify a month and a half before it went on sale as a download. You won't find the perfect US 'bell curve' here, although we can tease some order out from the chaos:



Tagging and streaming gathered momentum starting in mid-August when the song was C-Listed on BBC Radio One. An original and captivating video also contributed to the momentum (but not the chart) with a million UK views, still with no download for sale.

Highlighted in the above chart is the week ending September 28, when the song entered the UK's Official Singles Chart on the strength of its streaming performance alone. When the track finally was released on download stores the following week, its popularity as a stream doesn't appear to have dented its popularity for ownership, judging from the chart. The song then rocketed to number one in sales and streams.

So, did windowing work? Comparing the Shazam data to the sales data reveals a discrepancy between supply and demand. During the month and a half when the track was windowed from download stores, there was lots of

Meghan Trainor enters charts on streaming alone

bbc.com/news/entertainment-arts-29404084

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Image copyright Getty Images
Image caption Meghan Trainor's single is not released for purchase until Monday

US singer Meghan Trainor has become the first act to enter the UK top 40 based purely on streams of her music.

She entered the singles chart at number 33 with All About The Bass, three months after rules changed to count streamed songs towards chart positions.

The track racked up 1.17 million streams over the past week. The song is not available for download or physical sale until Monday.

Meanwhile Jessie J landed her third UK number one single with Bang Bang.

The collaboration with Nicki Minaj and Ariana Grande, went straight into the top spot.

It was announced in June that songs played on streaming services would count towards the UK's singles chart - with 100 streams equalling one single purchased. Before that only sales and downloads counted towards chart positions.

Martin Talbot, chief executive of the Official Charts Company, said Trainor had "broken new ground".

The catchy "body positivity" anthem has already been a chart-topper in the US and is expected to be a strong challenger for the UK's number one spot next week.

But for now that honour belongs to Jessie J's Bang Bang, the first track from the singer's new album Sweet Talker.

Bang Bang knocked Sigma and Paloma Faith's collaboration Changing off the top spot.

"I'm going to celebrate every minute of it, I might even go bowling," said Jessie J.

Image copyright PA
Image caption Bang Bang is the first release from Jessie J's album Sweet Talker

Cilla Black just missed out on the top 40 after the re-release of her 1964 number one hit Anyone Who Had A Heart finished at number 47.

The song had re-entered the midweek chart at number 40 in the wake of the success of Sheridan Smith's ITV three-part drama Cilla, which will conclude on Monday.

In the album chart, British indie band Alt-J went to number one with This Is All Yours.

The album is the band's follow-up to their Mercury Music Prize-winning debut, An Awesome Wave.

Cross Border Listening

Borderless Hits And Curated Playlists

Music

Mark Mulligan
April 2016

Media Insight &
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SPOTIFY EXHIBIT 60

The 20,000 Foot View

The US and the UK have long dominated the global music industry, thanks in no small part to the benefit of having that most exportable of languages English as their mother tongue. A heritage of decade after decade of stellar artists and music scenes of course also helps, but the first signs are emerging of smaller music markets being able to make their mark on the global arena in a way previously unimaginable. The catalyst? What else could it be other than that omnipotent change agent streaming. But while the old world establishment may have been the glass ceiling for international breakout in the analogue era, a new set of gatekeepers now determines just how far your song can travel.

Key Findings

- Globalization and internationalization are twin and opposing forces that are defining global culture in the digital era
- 24% of consumer are listening to more artists from other countries than they used to, up to 32% of 16-24 year olds
- Streaming music services are not a neutral observer in cross border listening but instead an active participant
- 47% of streaming music users say that streaming services help them discover more international artists
- On Spotify, streaming has helped continental European music find global audiences
- Curated playlists are driving cross border listening
- Strategic use of local curated playlists transformed French act Feder's 'Goodbye' become an international hit
- Streaming services are becoming *full stack,* end-to-end marketing and distribution channels
- The opportunity is however finite as fundamentally most foreign language music does not export at scale
- If you want a global streaming hit, you need to sing it in English

Companies and services mentioned in this report: Anghami, Apple Music, BPI, Digster, Dubsmash, Filtr, Rhapsody, Spotify, Tidal, Topsify, Vevo, Warner Music, YouTube

Thanks to David Erlandsson at Spotify who provided the data analysis underpinning Figure 5 in this report.

About MIDiA Research

MIDiA Research is a unique analysis and data service focused on the intersection of technology and content.

MIDiA Research leverages multi-country consumer data, market forecasts and other proprietary data tools to provide unrivalled insight into the rapidly changing global digital content markets. Our coverage includes music, online video, mobile content and paid content strategy.

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SPOTIFY EXHIBIT 60

Globalization Versus Internationalization

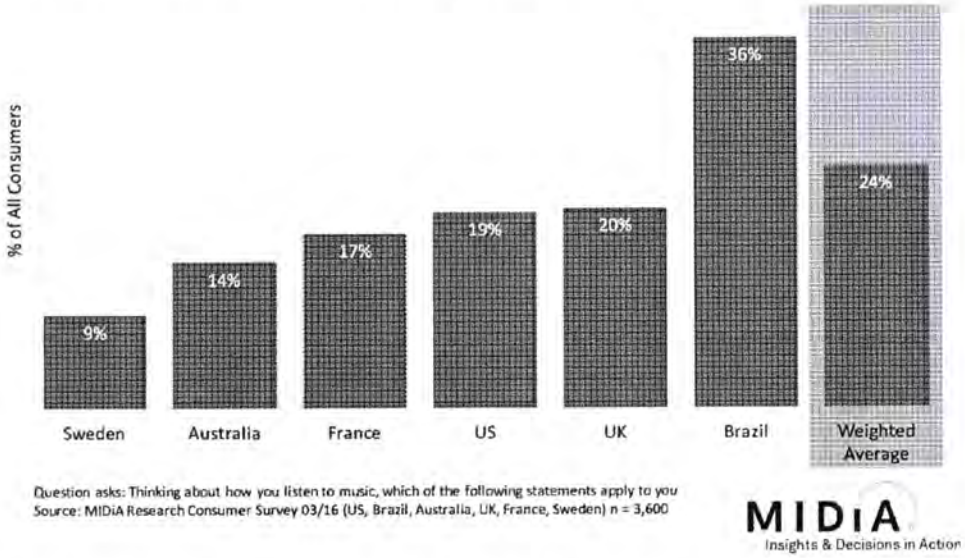
Globalization and internationalization are the twin forces that history will likely judge as defining the late 20th and early 21st centuries. Different sides of the same equation, with one representing the increasing homogenization of global culture, language and enterprise, and the other augmenting diversification through exposure to ideas, content and peoples from across the globe. Though they may be integral parts of the same process, globalization and internationalization are opposing forces, pulling in opposite directions. The internet has created an ever more global *lingua franca*, one that has a heavy American accent. It is aided by new global licensing practices in music, TV and film, that turn US shows like 'Game Of Thrones' and brands like 'The Avengers' into international cultural reference points. Superstar US artists like Taylor Swift and Drake are global superstars. Music services Apple Music and Tidal issue streaming exclusives from US stars like Beyoncé and Kanye West, clearly expecting interest to be as keen in Belgium and it is Brooklyn. The momentum is irresistible with the net result a standardized set of central tenets for global culture.

With music, TV and film it has in many respects always been thus, with the US dominating the global conversation and talent from other English speaking markets at least getting a supporting role. For a brief while in the 1960s it looked as if the 'British invasion' of music led by the Beatles was a permanent realignment but the US soon reassumed its dominance. Now though, there are signs that the internet is as much a force for internationalization as it is globalization. Netflix is learning the hard way that it needs local original shows in major new markets, having commissioned 'Club De Cuervos' to break into Mexico and 'Marseille' for France. Meanwhile Danish singer MØ featured on the most streamed track ever on Spotify in 2015, albeit on a track by US act Major Lazer. In doing so she had surpassed the previous streaming record set by another European: the UK's Ed Sheeran.

2015 was in fact a vintage year for UK acts, with the BPI reporting that UK acts represented 17.1% of global album sales in 2015, up from 13.7% in 2014. It was the first year since 2010 that there had been any major change. With 'album equivalent streams' an ever large part of the mix it is clear that streaming is beginning to change how the global music works. What is less clear is how that change will manifest. To date the US, UK and Sweden are the only music markets globally that have a music trade surplus (i.e. they make more money from music revenue outside of their borders than other countries make within their borders). Streaming might just be about to create the conditions in which other countries could start to break into that exclusive club.

Figure 1: Music Consumption Is Becoming Increasingly Globalized

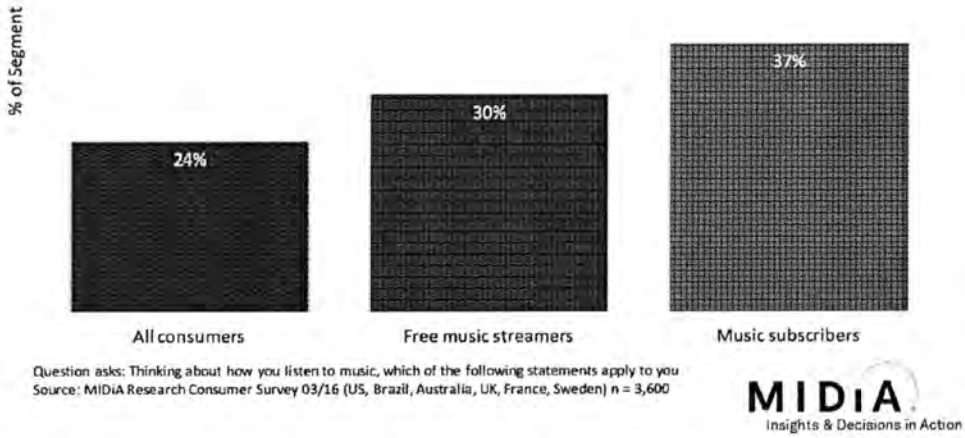
Consumers That Are Listening To More Bands, Singers And DJs From Other Countries Than They Used To



Nearly a quarter of consumers state that they are listening to more artists from other countries than they used to, with the rate in most countries below a fifth. The UK, US and Australia are all English language markets, natural exporters of music, most used to sating most of their listening appetite on homegrown talent. Though there is virtually no difference between genders, age does play a key role with penetration peaking at 32% among 16-24 year olds and falling to 8% of 50+ consumers. Though overall diminishing interest in music listening among older age groups plays a role, it is only a contributory factor. While over 50s are three times less likely to listen to overseas acts, they are only 9% less likely to be weekly music listeners. Cross border listening is thus a reflection less of music listening as a whole and instead more an extension of engagement and sophistication.

Figure 2: Streaming Music Users Are Not Only Music Super Fans, They Are Global Music Fans

Consumers That Are Listening To More Bands, Singers And DJs From Other Countries By Streaming Activity



Streaming music users are some of the most engaged and sophisticated music fans and are significantly more likely than overall music fans to listen to international artists, with penetration peaking at 37% among music subscribers. Indeed, music subscribers are among the most engaged of music fans, over indexing for virtually every music behaviour from going to gigs (36% compared to 26% for overall consumers), through following artists on social media (36% compared to 23%) to listening to 10+ hours of music weekly (37% compared to 22%).

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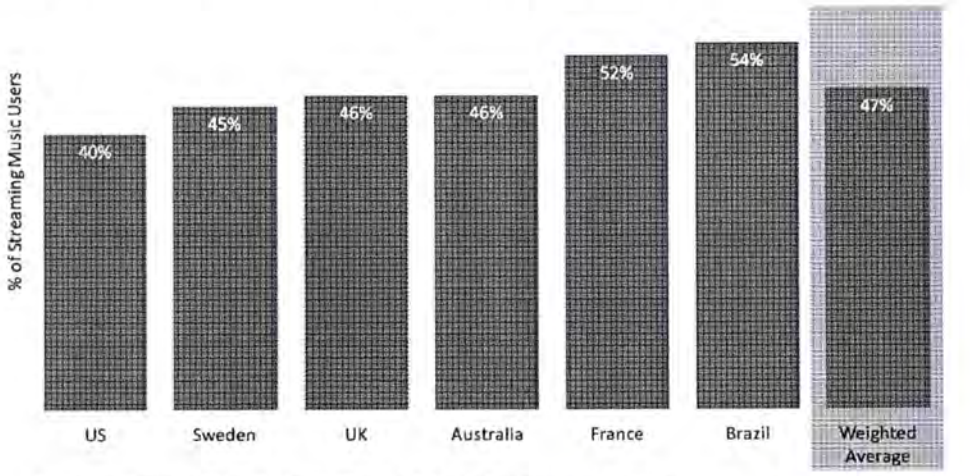
Figure 3: International Repertoire Consumption Is Widespread Among Streaming Users

Streaming Music Users That Consider That Streaming Services Help Them Discover More International Artists



Question asks: Thinking about how you listen to music, which of the following statements apply to you
Source: MIDiA Research Consumer Survey 03/16 (US, Brazil, Australia, UK, France, Sweden) n = 3,600
Base = Streaming Music Users

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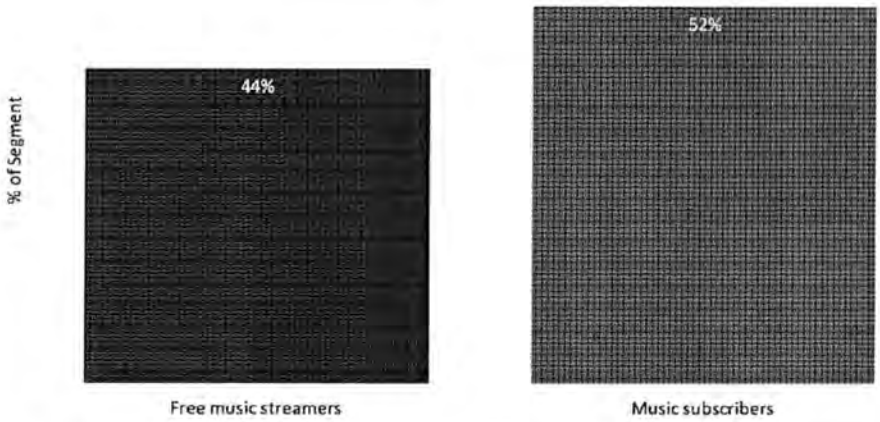
Music sophistication is a key part of the cross border listening story but it is only a part. In fact, it distracts from an increasingly circular relationship between the sophistication of music's super fans and their use of streaming services. 47% of music streamers state that streaming music services help them discover more international artists. Unlike overall penetration of cross border listening, adoption rates are more closely aligned across all markets. So although streaming music users are already more likely to be cross border listeners, streaming services act as an accelerant, accentuating this behaviour. Streaming music services are not a neutral observer in cross border listening but instead an active participant.

Figure 4: Music Subscribers Have The Most International Music Tastes

Streaming Users That Say Streaming Services Help Them Discover More International Artists, By Segment



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Source: MIDiA Research Consumer Survey 03/16 (US, Brazil, Australia, UK, France, Sweden) n = 3,600

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It should come as no surprise that music subscribers are significantly more likely than free streamers to use streaming services to help them discover more international artists. This underscores the role of subscribers as super fans. It may also be evidence for the freemium model, suggesting a clear progression path for music behavior from free-to-paid.

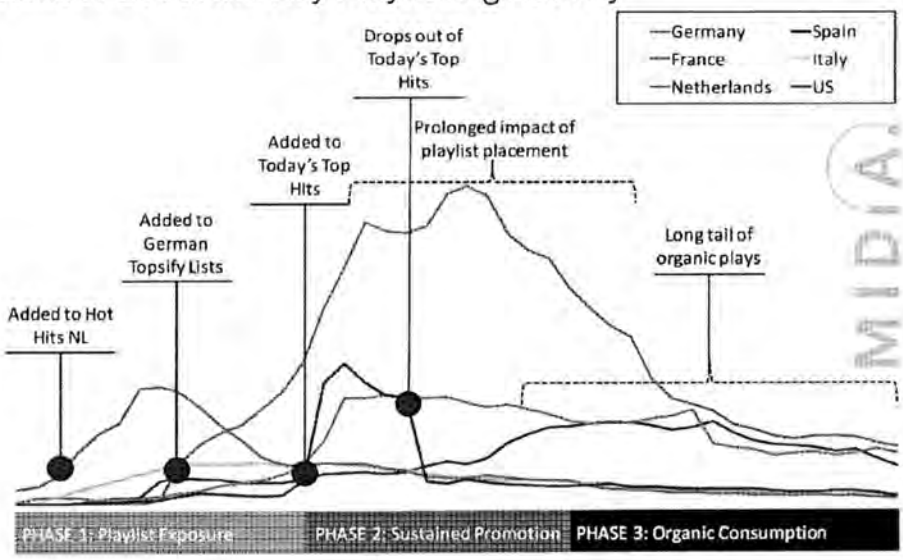
But beyond the freemium tier distinctions the impact of streaming on cross border listening is clear. Country case studies from Spotify further build the case:

- **Trans-Atlantic travels for Norwegian music:** Norwegian music is being streamed less in the Nordics but overall streams of Norwegian music is up, due to overseas listening, with Mexico and the US two of the key 'export' markets. In fact, Mexico is the 6th largest market globally for Norwegian music on Spotify.

- **Streaming helps Dutch rappers find their tongue:** In the Netherlands streaming is acting as an enabler for Dutch language rappers. Prior to streaming Dutch rappers typically rapped in English in order to widen their appeal. Now though Dutch rappers are increasingly rapping in their native tongue and reaching native audiences in their millions via Spotify. Prior to streaming music services, download stores only had a small Dutch footprint, so there was no effective route to

digital audiences at scale that could also be a meaningful revenue driver. (YouTube could of course deliver scale but not revenue). The story does not stop there though, now those Dutch rappers are additionally reaching cross border audiences with their Dutch language tracks. To be clear, we are not suggesting that streaming is going to convert the world into a marketplace for Dutch language rap, but it does tap niche cross border audiences that previously might not have even been imagined to exist.

Figure 5: Border Breaker: Curated Playlists Transformed Feder From Local French Success To International Success
Spotify Streams Of Feder 'Goodbye (feat. Lyse)' March 2015 To December 2015 And Key Playlisting Activity



Source: Spotify

In the earlier days of streaming it was possible to talk about it as an almost autonomous force propelled by its own momentum. Change wrought by streaming was the manifestation of user behaviour and technology, with business practices racing to keep up. Now though the picture is changing. The rapidly growing power base of curated playlists means that many behavioural and market shifts are now being actively shaped and influenced by the playlist curators. Cross border discovery is one such example.

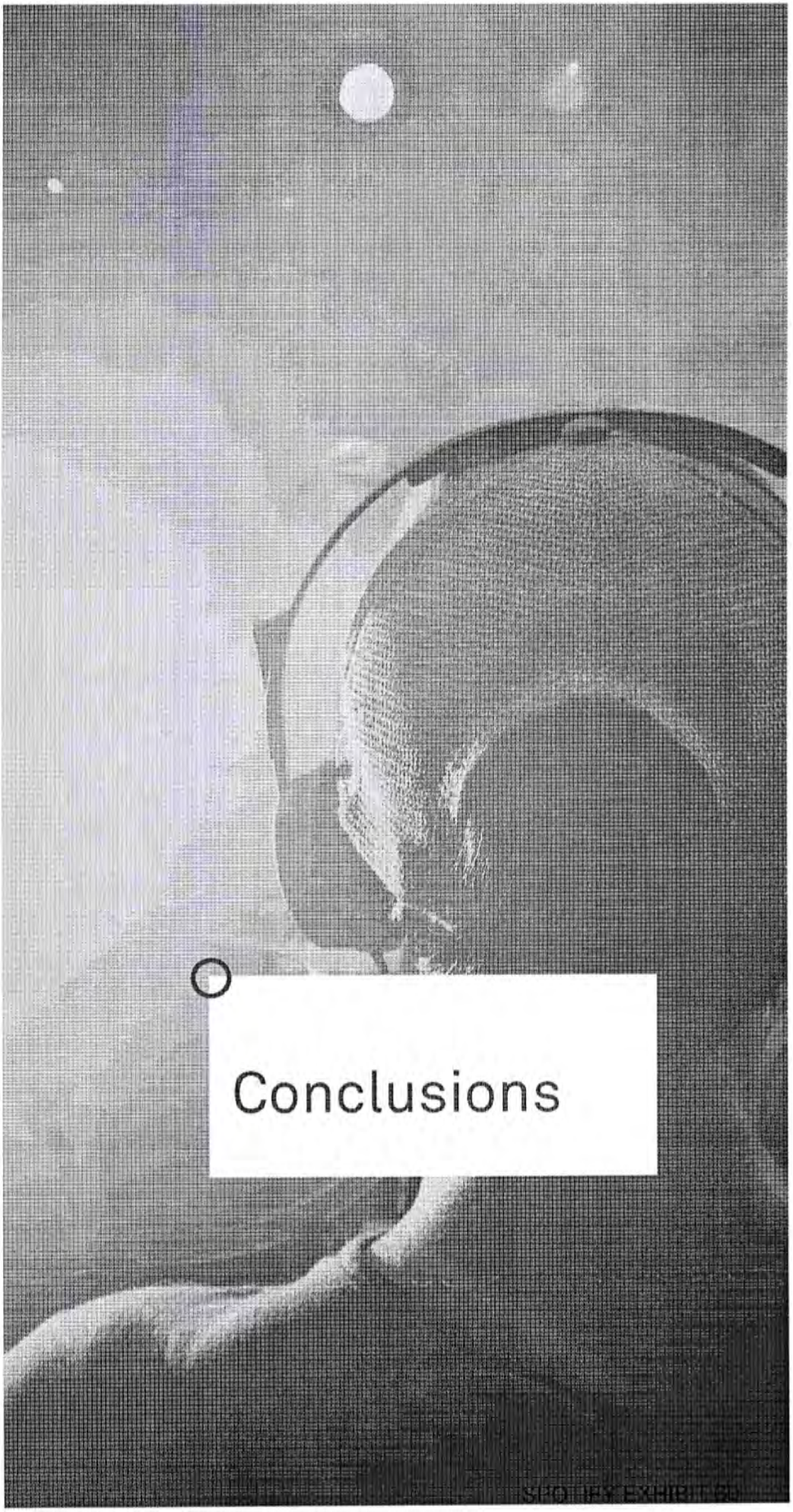
For the express purposes of this report Spotify shared with us streaming data to demonstrate how a French electronic music artist Feder broke through to international success with his deep house vocal track 'Goodbye (feat. Lyse)'. The data simultaneously illustrates the appetite for international repertoire among Spotify's user base and the pivotal role of curated playlists:

- **Three phases of breakthrough:** Spotify identified 'Goodbye' early on as a track to promote and devised a strategy aimed at driving exposure across multiple territories, not just in its native France. This followed 3 key phases: 1 Playlist Exposure, 2 Sustained Promotion, 3 Organic consumption

- **Local playlist support was crucial to success:** Though French, 'Goodbye's growth story started in the Netherlands, where following its addition to the Hot Hits NL playlist, plays quickly spike and paved the way for a succession of other country specific spikes. Next came a steady accession in Germany via Topsify lists, which became the single largest component of Feder's success and ultimately saw Germany deliver 41% of all streams during the period. During the prolonged Germany peak 'Googbye' was also featured on the global playlist 'Today's Top Hits' which drove an immediate spike in US streams which in turn dropped off just as quickly once it dropped out of the playlist. US streams were thus driven by a global playlist while Germany and Netherlands were driven by local lists.

- **Label playlists shape listening and revenue:** The longer term, bell curve streaming spike in German listening is the single biggest part of 'Goodbye's streaming success. It was driven by prolonged placement in a number of Topsify playlists. Topsify is run by Warner Music, which just happens to be Feder's record label. What took place is a 'full stack' A&R/promotion/monetization label strategy. One that set out to make a French act a global breakout.

- **Playlists create international long tails:** Before playlist promotion 'Goodbye' streams barely registered. By the time the promotion had finished (Phase 3) organic stream counts were markedly higher except in 2 markets (US and Netherlands). Intriguingly these were the same 2 markets were Spotify curated playlists had driven strong listening spikes. What may have happened is that these playlists had concentrated an inherent base level of demand into a short period. Thus by the time this artificial stimulus had subsided, demand had been exhausted, like a nutrient stripped field that has been over-fertilized to support genetically modified crops.



Conclusions

SPO_IRY EXHIBIT 80

Conclusions

Streaming music services are equally well equipped to be a catalyst for globalization as they are internationalization. They both fuel the Anglicization of global culture via the dominance of major label superstar artists and also provide tools that aid cultural diversity:

- **The curators determine the impact of playlists:** Countless start ups tried to 'fix' discovery in the early 2010's. Now curated playlists have provided the 'fix' as an integral component of streaming services. In doing so they are making on demand services increasingly lean back experiences which cedes ever more power into the hands of the curators. So much we already know. But this also means that it is they that will ultimately shape whether streaming services become a tool for globalization or or internationalization. For example, while a streaming service may strive to drive cross border listening of smaller continental European acts, a major label might put all its playlisting power behind saturating every market with its latest bubble gum pop songstress.

- **English still travels furthest and fastest:** Albums are a dying force on streaming services, with playlists and singles rising to the fore. This tilts the market towards the hit making marketing machines of the major record labels, amplified by their networks of playlist brands such as Digster, Filtr and Topsify. And these big labels unsurprisingly emphasize English language hits due to their greater ability to travel globally. Little wonder then that international artists such as MØ and Lukas Graham (both Danish) are realizing that singing in English is the surest route to reaching global streaming audiences.

Streaming music services are rapidly emerging as both retail and radio successors rolled into a single whole. This is *full stack music*, not in terms of an integrated ecosystem of different revenue sources, but instead as an end-to-end marketing and distribution channel. The act of breaking an artist on a playlist is the very same act of monetizing an artist. Discovery and consumption have fused into one, giving the playlist curators – be they labels, the music services or third parties – are acquiring an unprecedented degree of control. This gives them an equally unprecedented ability to drive cross border listening

and help tilt the balance from cultural globalization to internationalization.

However, a final and crucial word of caution: however much the playlist curators may, or may not, attempt to drive cross border listening, fundamentally most foreign language music does not export at scale. The harsh realities of global music listening is that people like to listen to music that is accessible, which most often means being sung to in their own language or in English. If you want a global hit you need to sing it in English. There are exceptions, such as in the Middle East where Anghami's Arabic music service can straddle borders due to shared culture and language and in Latin America where Vevo has established a strong foothold for similar reasons. But they are just that, exceptions. Streaming services have an opportunity to increase cross border listening but do not expect the world to change.

Thanks for reading
http://midiaresearch.com
Mark Mulligan
April 2016
Media Insight &
Decisions In Action
MIDIA

Before the
UNITED STATES COPYRIGHT ROYALTY JUDGES
The Library of Congress

In the Matter of **DETERMINATION OF RATES AND TERMS FOR MAKING AND DISTRIBUTING PHONORECORDS (PHONORECORDS III)**	))))))))	**Docket No. 16–CRB–0003–PR (2018–2022)**

INDEX OF SPOTIFY USA INC.'S EXHIBITS

Exhibit No.	Witness	Description	Designation
Spotify Exhibit 1	Barry McCarthy	Leena Rao, *YouTube CEO Says There's 'No Timetable' For Profitability*, FORTUNE (Oct. 18, 2016), available at http://fortune.com/2016/10/18/youtube-profits-ceo-susan-wojcicki	Public
Spotify Exhibit 2	Will Page	Kristin Thomson, *Music and How the Money Flows*, FUTURE OF MUSIC COALITION (Mar. 10, 2015), available at http://futureofmusic.org/article/article/music-and-how-money-flows	Public
Spotify Exhibit 3	Will Page	[redacted]	Restricted
Spotify Exhibit 4	Will Page	Steven Johnson, *The Creative Apocalypse That Wasn't*, N.Y. TIMES (Aug. 19, 2015), available at http://www.nytimes.com/2015/08/23/magazine/the-creative-apocalypse-that-wasnt.html?_r=0	Public
Spotify Exhibit 5	Will Page	ASCAP 2014 Annual Report, available at https://www.ascap.com/~/media/files/pdf/about/annual-reports/ascap_annual_report_2014.pdf	Public
Spotify Exhibit 6	Will Page	BMI 2014-2015 Annual Review, available at https://www.bmi.com/pdfs/publications/2015/BMI_Annual_Review_2015.pdf	Public
Spotify Exhibit 7	Will Page	Response of Broadcast Music, Inc. to the Petition of WPIX, Inc., et al., Dkt. 9, *WPIX, Inc., et al. v. Broadcast Music, Inc.*, C.A. No. 09-cv-10366	Public

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Spotify Exhibit 8	Will Page	Verified Complaint, Dkt. 2, *Broadcast Music, Inc., et al. v. Flatiron Room Operations LLC, et al.*, C.A. No. 14-cv-1970	Public
Spotify Exhibit 9	Will Page	Response of Broadcast Music, Inc. to the Petition of ESPN, Inc. for the Determination of Reasonable Final License Fees, Dkt. 10, *ESPN, Inc. v. Broadcast Music, Inc.*, C.A. No. 16-cv-1067	Public
Spotify Exhibit 10	Will Page	Petition of Broadcast Music, Inc. for the Determination of Reasonable Interim License Fees, Dkt. 1, *Broadcast Music, Inc.v. Radio Music License Committee, Inc.*, C.A. No. 17-cv-00004	Public
Spotify Exhibit 11	Will Page	[redacted]	Restricted
Spotify Exhibit 12	Will Page	Glenn Peoples, *Recording Industry 2015: More Music Consumption and Less Money, That's Digital Deflation*, BILLBOARD (Jan. 7, 2016), available at http://www.billboard.com/articles/business/6835350/recorded-industry-2015-consumption-grew-revenues-digital-deflation	Public
Spotify Exhibit 13	Will Page	Tim Ingham, *The Global Music Copyright Business is Worth More Than You Think—And Grew By Nearly $1Bn Last* Year, MUSIC BUSINESS WORLDWIDE (Dec. 13, 2016), available at http://www.musicbusinessworldwide.com/the-global-music-copyright-business-is-worth-more-grew-nearly-1bn-last-year/	Public
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Spotify Exhibit 19	Will Page	Helienne Lindvall, *Behind the Music: Publishing Deals Explained,* THE GUARDIAN (Oct. 23, 2008), available at https://www.theguardian.com/music/musicblog/2008/oct/23/behind-the-music-publishing-deal	Public

Exhibit No.	Witness	Description	Designation
Spotify Exhibit 20	Will Page	Zack O'Malely Greenburg, *Golden Oldies: How To Become a Music Publishing Mogul,* FORBES (Feb. 12, 2014), available at http://www.forbes.com/sites/zackomalleygreenburg/2014/02/12/golden-oldies-how-to-become-a-music-publishing-mogul/#2f9e0eb2786a	Public
Spotify Exhibit 21	Will Page	Alexander Scott Alberti, *Kobalt Music Group: Redefining Music Publishing,* MUSIC BUSINESS JOURNAL (Dec. 2011), available at http://www.thembj.org/2011/12/kobalt-music-group-redefining-the-role-of-a-music-publisher/	Public
Spotify Exhibit 22	Will Page	Kevin Gray, *Kobalt Changed the Rules of the Music Industry Using Data – and Saved It,* WIRED UK (May 1, 2015), available at http://www.wired.co.uk/article/kobalt-how-data-saved-music	Public
Spotify Exhibit 23	Will Page	[redacted]	Restricted

Most Powerful Women

YouTube CEO Says There's 'No Timetable' For Profitability

Leena Rao
Oct 18, 2016

YouTube has one billion monthly users—almost one-third of all people on the internet—and millions of hours of video are watched every day on the video platform. But the Google-owned video site is still in the investment stage, according to Susan Wojcicki, CEO of YouTube.

"We are still in investment mode," Wojcicki said at the *Fortune* Most Powerful Women summit in Laguna Niguel, Calif. on Tuesday. She explained further that the declining TV viewership of people in the 18 to 34-year-old segment represents a massive opportunity for her team, which Google (GOOGL, +0.43%) bought for $1.6 billion in 2006. Areas where they are investing, she added, include virtual reality. "There's no timetable," she said, referring to a question on profitability.

That doesn't necessarily mean YouTube isn't profitable, but it just means it's not a focus at the moment. YouTube, which primarily makes money from advertising within its videos, doesn't release revenue numbers (it is not separated in financial statements by parent company Alphabet). But some reports put revenue in the billions.

Another focus for the viral video platform has been supporting the many creators who have flocked there to create videos. Actress and comedian Grace Helbig, whose channel has 3 million subscribers, joined the site three years ago to start her show because of the creative freedom. "There are no gatekeepers," said Helbig, who appeared onstage with Wojcicki.

"For years, we were trying to figure out how to get in the living room, but now we are everywhere with mobile phones," Wojcicki said.

SPOTIFY EXHIBIT 1

Music and How the Money Flows

2015 updated version

Kristin Thomson Tuesday, March 10, 2015

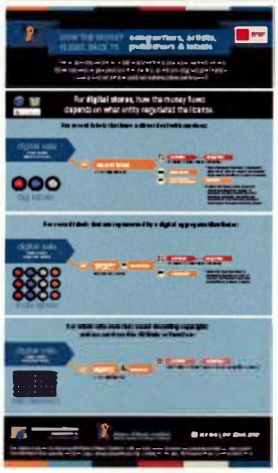
How are musicians and songwriters compensated when their music is played on the radio, sold on digital platforms, webcast or streamed on interactive services? Click through any of the infographics below to see how the money flows for on US-based sales, performances and streams.

The information in this infographic is subject to change based on ongoing litigation, business model development and federal policymaking. FMC does its best to keep up with these changes and update the infographics accordingly.

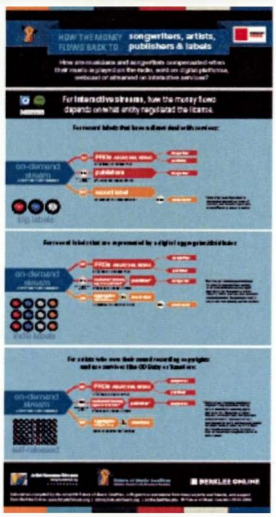
By type of service/use. Click for bigger version.

Broadcast radio and webcasting

Digital sales



Interactive streams



By type of label/rightsholder. Click for bigger version.

Big labels **Indie labels** **Self released**

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Obamacare is in Trouble, but Musicians Should Sign Up Anyway
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Dec 8, 2016

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Revenue streams, access to markets, and how musicians, labels and songwriters are compensated
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SPOTIFY EXHIBIT 2

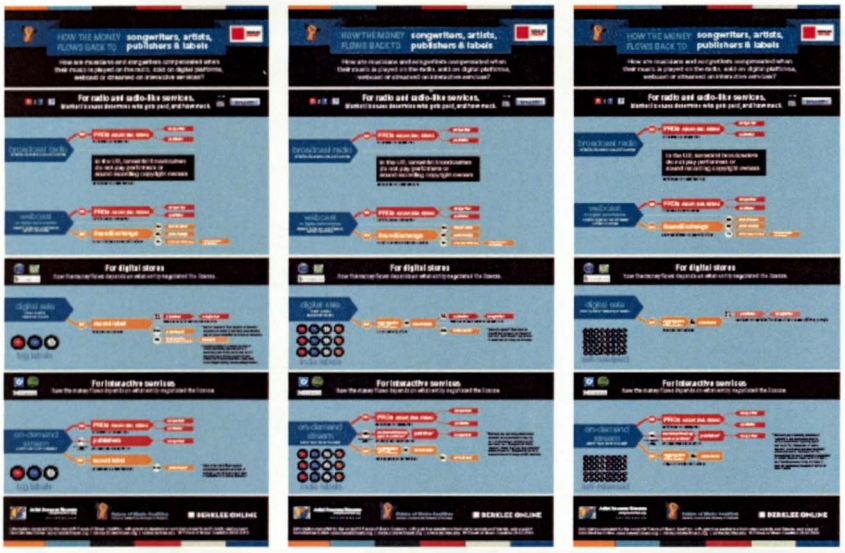
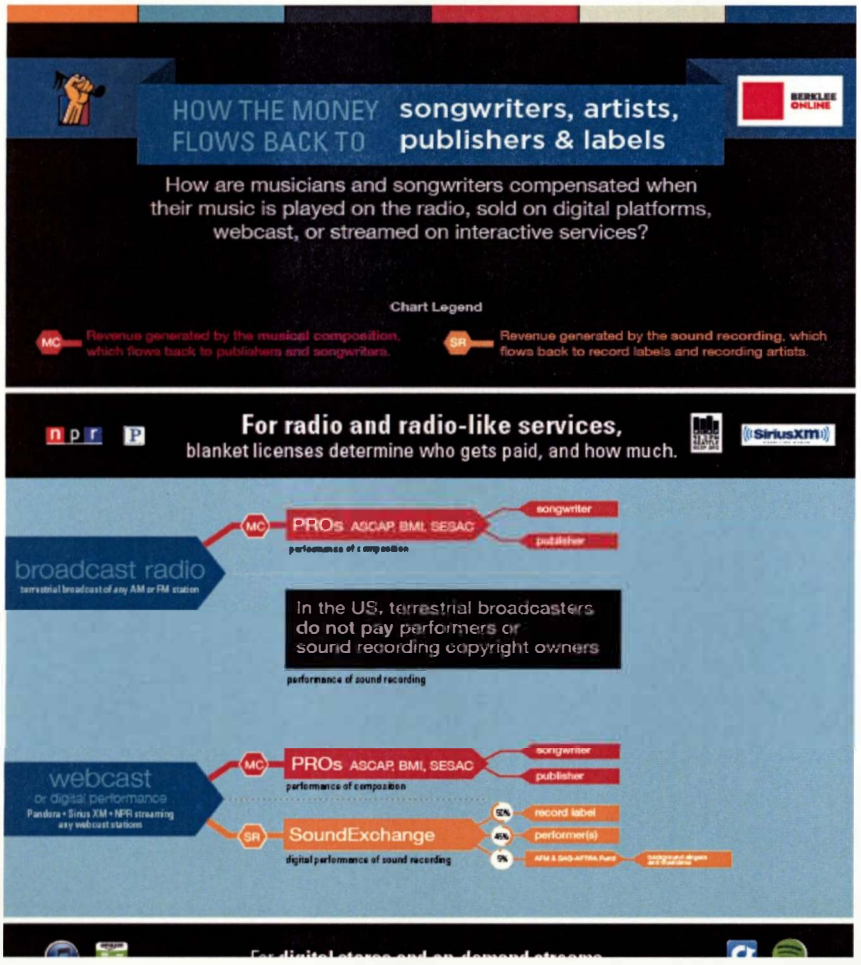


Chart Legend

MC: the revenue generated by the musical composition, which flows back to publishers and songwriters.

SR: the revenue generated by the sound recording, which flows back to the sound recording copyright owner (usually a record label) and the recording artists and performers.

The whole thing on one enormous infographic. Click for bigger version. See this as a PDF.



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- AT&T + T-Mobile Merger
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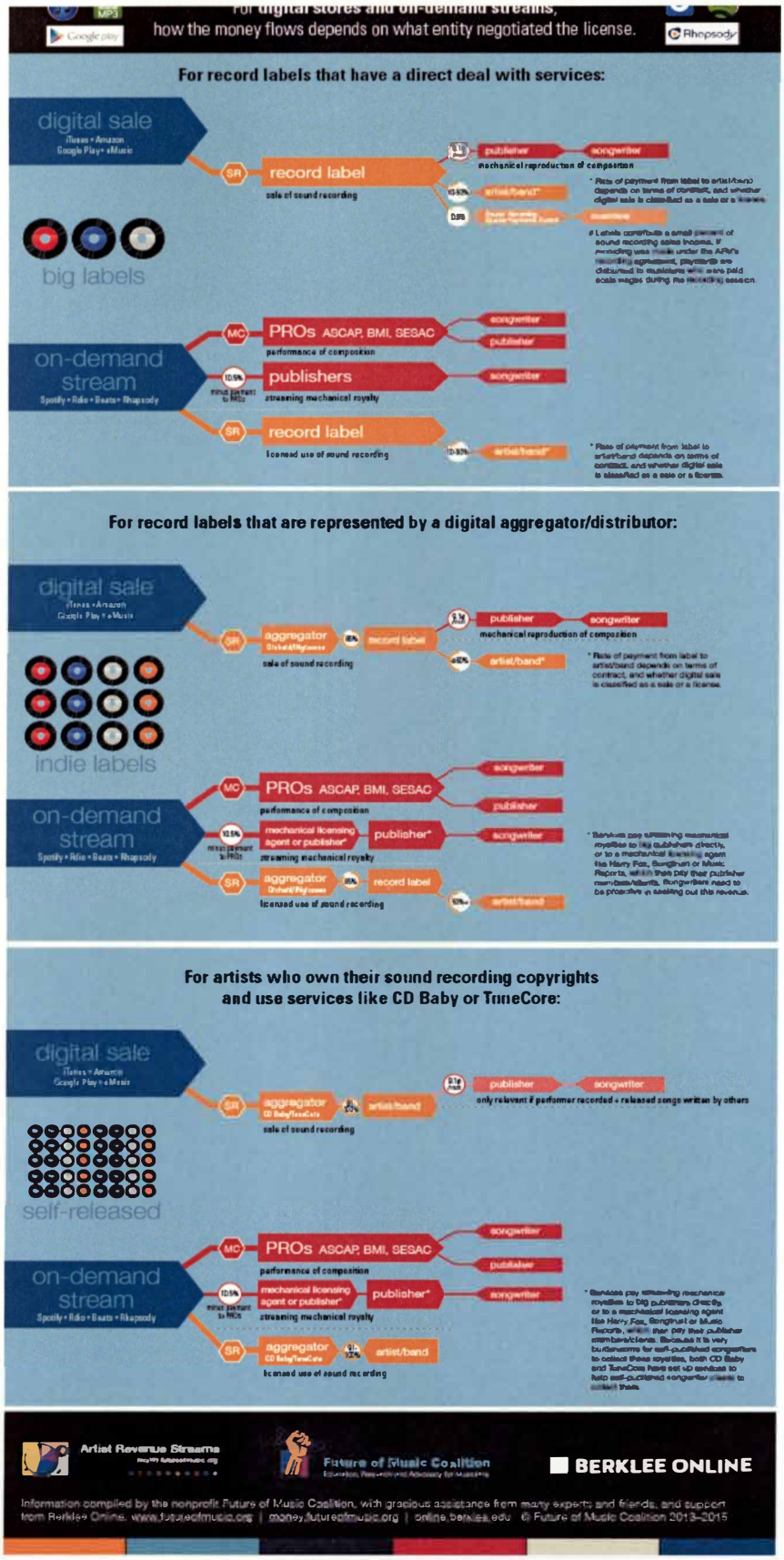

See this as a PDF. To see the 2013 version of this infographic, click here.

SPOTIFY EXHIBIT 2

Want a full-color, 33" tall poster version of this image? Order one on our merchandise page for only $15.

We'd like to thank our copyright expert friends who helped us put this together. As with all of these efforts, we want to ensure that the information is accurate and complete. If you have suggestions or corrections, contact us!

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New Business Models and How Stakeholders are Compensated

Music and Money Quizzes

Artist Revenue Stream Research Project

42 Revenue Streams

Revenue Streams: Existing, Expanded and New

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Tags: Article, Artist Compensation, copyright, digital distribution, New business models, royalties

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SPOTIFY EXHIBIT 2

SPOTIFY EX. 3

RESTRICTED – Subject to Protective Order in Docket No. 16-CRB-0003-PR(2018-2022)

The New York Times Magazine https://nyti.ms/1NEoXbn

The Creative Apocalypse That Wasn't

In the digital economy, it was supposed to be impossible to make money by making art. Instead, creative careers are thriving — but in complicated and unexpected ways.

By STEVEN JOHNSON AUG. 19, 2015

On July 11, 2000, in one of the more unlikely moments in the history of the Senate Judiciary Committee, Senator Orrin Hatch handed the microphone to Metallica's drummer, Lars Ulrich, to hear his thoughts on art in the age of digital reproduction. Ulrich's primary concern was a new online service called Napster, which had debuted a little more than a year before. As Ulrich explained in his statement, the band began investigating Napster after unreleased versions of one of their songs began playing on radio stations around the country. They discovered that their entire catalog of music was available there for free.

Ulrich's trip to Washington coincided with a lawsuit that Metallica had just filed against Napster — a suit that would ultimately play a role in the company's bankruptcy filing. But in retrospect, we can also see Ulrich's appearance as an intellectual milestone of sorts, in that he articulated a critique of the Internet-era creative economy that became increasingly commonplace over time. "We typically employ a record producer, recording engineers, programmers, assistants and, occasionally, other musicians," Ulrich told the Senate committee. "We rent time for months at recording studios, which are owned by small-business men who have risked their own capital to buy, maintain and constantly upgrade very expensive equipment and facilities. Our record releases are supported by hundreds of record companies' employees and provide programming for numerous radio and television stations. ... It's clear, then, that if music is free for downloading, the music industry

is not viable. All the jobs I just talked about will be lost, and the diverse voices of the artists will disappear."

The intersection between commerce, technology and culture has long been a place of anxiety and foreboding. Marxist critics in the 1940s denounced the assembly-line approach to filmmaking that Hollywood had pioneered; in the '60s, we feared the rise of television's "vast wasteland"; the '80s demonized the record executives who were making money off violent rap lyrics and "Darling Nikki"; in the '90s, critics accused bookstore chains and Walmart of undermining the subtle curations of independent bookshops and record stores.

But starting with Ulrich's testimony, a new complaint has taken center stage, one that flips those older objections on their heads. The problem with the culture industry is no longer its rapacious pursuit of consumer dollars. The problem with the culture industry is that it's *not profitable enough*. Thanks to its legal troubles, Napster itself ended up being much less important as a business than as an omen, a preview of coming destructions. Its short, troubled life signaled a fundamental rearrangement in the way we discover, consume and (most importantly) pay for creative work. In the 15 years since, many artists and commentators have come to believe that Ulrich's promised apocalypse is now upon us — that the digital economy, in which information not only wants to be free but for all practical purposes is free, ultimately means that "the diverse voices of the artists will disappear," because musicians and writers and filmmakers can no longer make a living.

Take a look at your own media consumption, and you can most likely see the logic of the argument. Just calculate for a second how many things you used to pay for that now arrive free of charge: all those Spotify playlists that were once $15 CDs; the countless hours of YouTube videos your kids watch each week; online articles that once required a magazine subscription or a few bucks at the newsstand. And even when you do manage to pull out a credit card, the amounts are shrinking: $9 for an e-book that used to be a $20 hardcover. If the prices of traditional media keep falling, then it seems logical to critics that we will end up in a world in which no one has an economic incentive to follow creative passions. The thrust of this argument is simple and bleak: that the digital economy creates a kind of *structural*

that art will make money in the future. The world of professional creativity, the critics fear, will soon be swallowed by the profusion of amateurs, or the collapse of prices in an age of infinite and instant reproduction will cheapen art so that no one will be able to quit their day jobs to make it — or both.

The trouble with this argument is that it has been based largely on anecdote, on depressing stories about moderately successful bands that are still sharing an apartment or filmmakers who can't get their pictures made because they refuse to pander to a teenage sensibility. When we do see hard data about the state of the culture business, it usually tracks broad industry trends or the successes and failures of individual entertainment companies. That data isn't entirely irrelevant, of course; it's useful to know whether the music industry is making more or less money than it did before Ulrich delivered his anti-Napster testimony. But ultimately, those statistics only hint at the most important question. The dystopian scenario, after all, isn't about the death of the record business or Hollywood; it's about the death of music or movies. As a society, what we most want to ensure is that the artists can prosper — not the record labels or studios or publishing conglomerates, but the writers, musicians, directors and actors themselves.

Their financial fate turns out to be much harder to measure, but I endeavored to try. Taking 1999 as my starting point — the year both Napster and Google took off — I plumbed as many data sources as I could to answer this one question: How is today's creative class faring compared with its predecessor a decade and a half ago? The answer isn't simple, and the data provides ammunition for conflicting points of view. It turns out that Ulrich was incontrovertibly correct on one point: Napster did pose a grave threat to the economic value that consumers placed on recorded music. And yet the creative apocalypse he warned of has failed to arrive. Writers, performers, directors and even musicians report their economic fortunes to be similar to those of their counterparts 15 years ago, and in many cases they have improved. Against all odds, the voices of the artists seem to be louder than ever.

The closest data set we have to a bird's-eye view of the culture industry can be found in the Occupational Employment Statistics, an enormous compendium of data assembled by the Labor Department that provides employment and income estimates. Broken down by general sector and by specific professions, the O.E.S. lets

you see both the forest and the trees: You can track employment data for the Farming, Fishing and Forestry Occupations (Group 45-0000), or you can zoom in all the way to the Fallers (Group 45-4021) who are actually cutting down the trees. The O.E.S. data goes back to the 1980s, though some of the category definitions have changed over time. This, and the way the agency collects its data, can make specific year-to-year comparisons less reliable. The best approximation of the creative-class group as a whole is Group 27-0000, or Arts, Design, Entertainment, Sports and Media Occupations. It's a broader definition than we're looking for — I think we can all agree that professional athletes are doing just fine, thank you very much — but it gives us a place to start.

The first thing that jumps out at you, looking at Group 27-0000, is how stable it has been over the past decade and a half. In 1999, the national economy supported 1.5 million jobs in that category; by 2014, the number had grown to nearly 1.8 million. This means the creative class modestly outperformed the rest of the economy, making up 1.2 percent of the job market in 2001 compared with 1.3 percent in 2014. Annual income for Group 27-0000 grew by 40 percent, slightly more than the O.E.S. average of 38 percent. From that macro viewpoint, it hardly seems as though the creative economy is in dust-bowl territory. If anything, the market looks as if it is rewarding creative work, not undermining it, compared with the pre-Napster era.

The problem with the O.E.S. data is that it doesn't track self-employed workers, who are obviously a large part of the world of creative production. For that section of the culture industry, the best data sources are the United States Economic Census, which is conducted every five years, and a firm called Economic Modeling Specialists International, which tracks detailed job numbers for self-employed people in specific professions. If anything, the numbers from the self-employed world are even more promising. From 2002 to 2012, the number of businesses that identify as or employ "independent artists, writers and performers" (which also includes some athletes) grew by almost 40 percent, while the total revenue generated by this group grew by 60 percent, far exceeding the rate of inflation.

What do these data sets have to tell us about musicians in particular? According to the O.E.S., in 1999 there were nearly 53,000 Americans who considered their

primary occupation to be that of a musician, a music director or a composer; in 2014, more than 60,000 people were employed writing, singing or playing music. That's a rise of 15 percent, compared with overall job-market growth during that period of about 6 percent. The number of self-employed musicians grew at an even faster rate: There were 45 percent more independent musicians in 2014 than in 2001. (Self-employed writers, by contrast, grew by 20 percent over that period.)

Of course, Baudelaire would have filed his tax forms as self-employed, too; that doesn't mean he wasn't also destitute. Could the surge in musicians be accompanied by a parallel expansion in the number of broke musicians? The income data suggests that this just isn't true. According to the O.E.S., songwriters and music directors saw their average income rise by nearly 60 percent since 1999. The census version of the story, which includes self-employed musicians, is less stellar: In 2012, musical groups and artists reported only 25 percent more in revenue than they did in 2002, which is basically treading water when you factor in inflation. And yet collectively, the figures seem to suggest that music, the creative field that has been most threatened by technological change, has become more profitable in the post-Napster era — not for the *music* industry, of course, but for musicians themselves. Somehow the turbulence of the last 15 years seems to have created an economy in which more people than ever are writing and performing songs for a living.

How can this be? The record industry's collapse is real and well documented. Even after Napster shut down in 2002, music piracy continued to grow: According to the Recording Industry Association of America, 30 billion songs were illegally downloaded from 2004 to 2009. American consumers paid for only 37 percent of the music they acquired in 2009. Artists report that royalties from streaming services like Spotify or Pandora are a tiny fraction of what they used to see from traditional album sales. The global music industry peaked just before Napster's debut, during the heyday of CD sales, when it reaped what would amount today to almost $60 billion in revenue. Now the industry worldwide reports roughly $15 billion in revenue from recorded music, a financial Armageddon even if you consider that CDs are much more expensive to produce and distribute than digital tracks. With such a steep decline, how can the average songwriter or musician be doing better in the post-Napster era? And why does there seem to be more musicians than ever?

Part of the answer is that the decline in recorded-music revenue has been accompanied by an increase in revenues from *live* music. In 1999, when Britney Spears ruled the airwaves, the music business took in around $10 billion in live--music revenue internationally; in 2014, live music generated almost $30 billion in revenue, according to data assembled from multiple sources by the live-music service Songkick. Starting in the early 1980s, average ticket prices for concerts closely followed the rise in overall consumer prices until the mid-1990s, when ticket prices suddenly took off: From 1997 to 2012, average ticket prices rose 150 percent, while consumer prices grew less than 100 percent. It's elemental economics: As one good — recorded music — becomes ubiquitous, its price plummets, while another good that is by definition scarce (seeing a musician play a live performance) grows in value. Moreover, as file-sharing and iTunes and Spotify have driven down the price of music, they have also made it far easier to envelop your life with a kind of permanent soundtrack, all of which drives awareness of the musicians and encourages fans to check them out in concert. Recorded music, then, becomes a kind of marketing expense for the main event of live shows.

It's true that most of that live-music revenue is captured by superstar acts like Taylor Swift or the Rolling Stones. In 1982, the musical 1-percenters took in only 26 percent of the total revenues generated by live music; in 2003, they captured 56 percent of the market, with the top 5 percent of musicians capturing almost 90 percent of live revenues. But this winner-takes-all trend seems to have preceded the digital revolution; most 1-percenters achieved their gains in the '80s and early '90s, as the concert business matured into a promotional machine oriented around marquee world tours. In the post-Napster era, there seems to have been a swing back in a more egalitarian direction. According to one source, the top 100 tours of 2000 captured 90 percent of all revenue, while today the top 100 capture only 43 percent.

The growth of live music isn't great news for the Brian Wilsons of the world, artists who would prefer to cloister themselves in the studio, endlessly tinkering with the recording process in pursuit of a masterpiece. The new economics of the post--Napster era are certainly skewed toward artists who like to perform in public. But we should remember one other factor here that is often forgotten. The same technological forces that have driven down the price of recorded music have had a

similar effect on the cost of making an album in the first place. We easily forget how expensive it was to produce and distribute albums in the pre-Napster era. In a 2014 keynote speech at an Australian music conference, the indie producer and musician Steve Albini observed: "When I started playing in bands in the '70s and '80s, most bands went through their entire life cycle without so much as a note of their music ever being recorded." Today, musicians can have software that emulates the sound of Abbey Road Studios on their laptops for a few thousand dollars. Distributing music around the world — a process that once required an immense global corporation or complex regional distribution deals — can now be performed by the artist herself while sitting in a Starbucks, simply through the act of uploading a file.

The vast machinery of promoters and shippers and manufacturers and A&R executives that sprouted in the middle of the 20th century, fueled by the profits of those high-margin vinyl records and CDs, has largely withered away. What remains is a more direct relationship between the musicians and their fans. That new relationship has its own demands: the constant touring and self-promotion, the Kickstarter campaigns that have raised $153 million dollars to date for music-related projects, the drudgery that inevitably accompanies a life without handlers. But the economic trends suggest that the benefits are outweighing the costs. More people are choosing to make a career as a musician or a songwriter than they did in the glory days of Tower Records.

Of the big four creative industries (music, television, movies and books), music turns out to be the business that has seen the most conspicuous turmoil: None of the other three has seen anywhere near the cratering of recorded-music revenues. The O.E.S. numbers show that writers and actors each saw their income increase by about 50 percent, well above the national average. According to the Association of American Publishers, total revenues in the fiction and nonfiction book industry were up 17 percent from 2008 to 2014, following the introduction of the Kindle in late 2007. Global television revenues have been projected to grow by 24 percent from 2012 to 2017. For actors and directors and screenwriters, the explosion of long-form television narratives has created a huge number of job opportunities. (Economic Modeling Specialists International reports that the number of self-employed actors has grown by 45 percent since 2001.) If you were a television actor looking for work on a multiseason drama or comedy in 2001, there were only a handful of potential

employers: the big four networks and HBO and Showtime. Today there are Netflix, Amazon, AMC, Syfy, FX and many others.

What about the economics of quality? Perhaps there are more musicians than ever, and the writers have collectively gotten a raise, but if the market is only rewarding bubble-gum pop and "50 Shades Of Grey" sequels, there's a problem. I think we can take it as a given that television is exempt from this concern: Shows like "Game Of Thrones," "Orange Is The New Black," "Breaking Bad" and so on confirm that we are living through a golden age of TV narrative. But are the other forms thriving artistically to the same degree?

Look at Hollywood, and at first blush the picture is deeply depressing. More than half of the highest grossing movies of 2014 were either superhero films or sequels; it's clearly much harder to make a major-studio movie today that doesn't involve vampires, wizards or Marvel characters. This has led a number of commentators and filmmakers to publish eulogies for the classic midbudget picture. "Back in the 1980s and 1990s," Jason Bailey wrote on Flavorwire, "it was possible to finance — either independently or via the studio system — midbudget films (anywhere from $5 million to $60 million) with an adult sensibility. But slowly, quietly, over roughly the decade and a half since the turn of the century, the paradigm shifted." Movies like "Blue Velvet," "Do the Right Thing" or "Pulp Fiction" that succeeded two or three decades ago, the story goes, would have had a much harder time in the current climate. Steven Soderbergh apparently felt so strongly about the shifting environment that he abandoned theatrical moviemaking altogether last year.

Is Bailey's criticism really correct? If you make a great midbudget film in 2015, is the marketplace less likely to reward your efforts than it was 15 years ago? And has it become harder to make such a film? Cinematic quality is obviously more difficult to measure than profits or employment levels, but we can attempt an estimate of artistic achievement through the Rotten Tomatoes rankings, which aggregate critics' reviews for movies. Based on my analysis, using data on box-office receipts and budgets from IMDB, I looked at films from 1999 and 2013 that met three categories. First, they were original creations or adaptations, not based on existing franchises, and were intended largely for an adult audience; second, they had a budget below

$80 million; and third, they were highly praised by the critics, as defined by their Rotten Tomatoes score — in other words, the best of the cinematic midlist. In 1999, the most highly rated films in these categories combined included "Three Kings," "Being John Malkovich," "American Beauty" and "Election." The 2013 list included "12 Years a Slave," "Her," "Zero Dark Thirty," "American Hustle" and "Nebraska." In adjusted dollars, the class of 1999 brought in roughly $430 million at the box office. But the 2013 group took in about $20 million more. True, individual years can be misleading: All it takes is one monster hit to skew the numbers. But if you look at the blended average over a three-year window, there is still no evidence of decline. The 30 most highly rated midbudget films of 1999 to 2001 took in $1.5 billion at the domestic box office, adjusted for inflation; the class of 2011 to 2013 took in the exact same amount. Then as now, if you make a small or midsize movie that rates on the Top 10 lists of most critics, you'll average roughly $50 million at the box office.

The critics are right that big Hollywood studios have abandoned the production of artistically challenging films, part of a broader trend since the 1990s of producing fewer films over all. (From 2006 to 2011, the combined output of major Hollywood studios declined by 25 percent.) And yet the total number of pictures released in the United States — nearly 600 in 2011 — remains high. A recent entertainment research report, The Sky Is Rising, notes that most of that growth has come from independent production companies, often financed by wealthy individuals from outside the traditional studio system. "Her," "12 Years a Slave," "Dallas Buyers Club," "American Hustle" and "The Wolf of Wall Street" were all funded by major indies, though they usually relied on distribution deals with Hollywood studios. At the same time, of course, some of the slack in adventurous filmmaking has been taken up by the television networks. If Francis Ford Coppola were making his "Godfather" trilogy today, he might well end up at HBO or AMC, with a hundred hours of narrative at his disposal, instead of 10.

How have high-quality books fared in the digital economy? If you write an exceptional novel or biography today, are you more or less likely to hit the best-seller list than you might have in the pre-Kindle age? Here the pessimists might have a case, based on my analysis. Every year, editors at The New York Times Book Review select the 100 notable books of the year. In 2004 and 2005, the years before the first

Kindles were released, those books spent a combined 2,781 weeks on The Times's best-seller list and the American Booksellers Association's IndieBound list, which tracks sales in independent bookstores. In 2013 and 2014, the notable books spent 2,531 weeks on the best-seller lists — a decline of 9 percent. When you look at the two lists separately, the story becomes more complicated still. The critical successes of 2013 and 2014 actually spent 6 percent *more* weeks on the A.B.A. list, but 30 percent *fewer* weeks on the broader Times list. The numbers seem to suggest that the market for books may be evolving into two distinct systems. Critically successful works seem to be finding their audience more easily among indie-bookstore shoppers, even as the mainstream market has been trending toward a winner--takes-all sweepstakes.

This would be even more troubling if independent bookstores — traditional champions of the literary novel and thoughtful nonfiction — were on life support. But contrary to all expectations, these stores have been thriving. After hitting a low in 2007, decimated not only by the Internet but also by the rise of big-box chains like Borders and Barnes & Noble, indie bookstores have been growing at a steady clip, with their number up 35 percent (from 1,651 in 2009 to 2,227 in 2015); by many reports, 2014 was their most financially successful year in recent memory. Indie bookstores account for only about 10 percent of overall book sales, but they have a vastly disproportionate impact on the sale of the creative midlist books that are so vital to the health of the culture.

How do we explain the evolutionary niche that indie bookstores seem to have found in recent years? It may be as simple as the tactile appeal of books and bookstores themselves. After several years of huge growth, e-book sales have plateaued over the past two years at 25 to 30 percent of the market, telegraphing that a healthy consumer appetite for print remains. To many of us, buying music in physical form is now simply an inconvenience: schlepping those CDs home and burning them and downloading the tracks to our mobile devices. But many of the most ardent Kindle converts — and I count myself among them — still enjoy browsing shelves of physical books, picking them up and sitting back on the couch with them. The trend might also reflect the social dimension of book culture: If you're looking for literary community, you head out to the weekly reading series at the indie bookstore and buy something while you're there. (Arguably, it's the same

phenomenon that happened with music, only with a twist. If you're looking for musical community, you don't go out on a CD-buying binge. You go to a show instead.)

All these numbers, of course, only hint at whether our digital economy rewards quality. Or — even better than that milquetoast word "quality" — at whether it rewards experimentation, boundary-pushing, satire, the real drivers of new creative work. It could be that our smartphone distractions and Kardashian celebrity culture have slowly but steadily lowered our critical standards, the aesthetic version of inflation: The critics might like certain films and books today because they're surrounded by such a vast wasteland of mediocrity, but if you had released them 15 years ago, they would have paled beside the masterpieces of that era. But if you scan the titles, it is hard to see an obvious decline. A marketplace that rewarded "American Beauty," "The Corrections" or "In the Heart of the Sea" doesn't seem glaringly more sophisticated than one that rewards "12 Years a Slave," "The Flamethrowers" or "The Sixth Extinction."

If you believe the data, then one question remains. Why have the more pessimistic predictions not come to pass? One incontrovertible reason is that — contrary to the justifiable fears of a decade ago — people *will* still pay for creative works. The Napsterization of culture turned out to be less of a threat to prices than it initially appeared. Consumers spend less for recorded music, but more for live. Most American households pay for television content, a revenue stream that for all practical purposes didn't exist 40 years ago. Average movie-ticket prices continue to rise. For interesting reasons, book piracy hasn't taken off the way it did with music. And a whole new creative industry — video games — has arisen to become as lucrative as Hollywood. American households in 2013 spent 4.9 percent of their income on entertainment, the exact same percentage they spent in 2000.

At the same time, there are now more ways to buy creative work, thanks to the proliferation of content-delivery platforms. Practically every device consumers own is tempting them at all hours with new films or songs or shows to purchase. Virtually no one bought *anything* on their computer just 20 years ago; the idea of using a phone to buy and read a 700-page book about a blind girl in occupied France would have sounded like a joke even 10 years ago. But today, our phones sell us every form

of media imaginable; our TVs charge us for video-on-demand products; our car stereos urge us to sign up for SiriusXM.

And just as there are more avenues for consumers to pay for creative work, there are more ways to be compensated for *making* that work. Think of that signature flourish of 2000s-era television artistry: the exquisitely curated (and usually obscure) song that signals the transition from final shot to the rolling credits. Having a track featured during the credits of "Girls" or "Breaking Bad" or "True Blood" can be worth hundreds of thousands of dollars to a songwriter. (Before that point, the idea of licensing a popular song for the credits of a television series was almost unheard-of.) Video-game budgets pay for actors, composers, writers and song licenses. There are YouTube videos generating ad revenue and Amazon Kindle Singles earning royalties, not to mention those emerging studios (like Netflix and Yahoo) that are spending significant dollars on high-quality video. Filmmakers alone have raised more than $290 million on Kickstarter for their creations. Musicians are supplementing their income with instrument lessons on YouTube. All of these outlets are potential sources of revenue for the creative class, and all of them are creatures of the post-Napster era. The Future of Music Coalition recently published a list of all the revenue streams available to musicians today, everything from sheet--music sales at concerts to vinyl-album sales. They came up with 46 distinct sources, 13 of which — including YouTube partner revenue and ringtone royalties — were nonexistent 15 years ago, and six of which, including film and television licensing, have greatly expanded in the digital age.

The biggest change of all, perhaps, is the ease with which art can be made and distributed. The cost of consuming culture may have declined, though not as much as we feared. But the cost of producing it has dropped far more drastically. Authors are writing and publishing novels to a global audience without ever requiring the service of a printing press or an international distributor. For indie filmmakers, a helicopter aerial shot that could cost tens of thousands of dollars a few years ago can now be filmed with a GoPro and a drone for under $1,000; some directors are shooting entire HD-quality films on their iPhones. Apple's editing software, Final Cut Pro X, costs $299 and has been used to edit Oscar-winning films. A musician running software from Native Instruments can recreate, with astonishing fidelity, the sound of a Steinway grand piano played in a Vienna concert hall, or hundreds of

different guitar-amplifier sounds, or the Mellotron proto-synthesizer that the Beatles used on "Strawberry Fields Forever." These sounds could have cost millions to assemble 15 years ago; today, you can have all of them for a few thousand dollars.

From the bird's-eye perspective, it may not look as though all that much has changed in terms of the livelihoods of the creative class. On the whole, creators seem to be making slightly more money, while growing in number at a steady but not fast pace. I suspect the profound change lies at the boundaries of professionalism. It has never been easier to *start* making money from creative work, for your passion to undertake that critical leap from pure hobby to part-time income source. Write a novel or record an album, and you can get it online and available for purchase right away, without persuading an editor or an A&R executive that your work is commercially viable. From the consumer's perspective, blurring the boundaries has an obvious benefit: It widens the pool of potential talent. But it also has an important social merit. Widening the pool means that more people are earning income by doing what they love.

These new careers — collaborating on an indie-movie soundtrack with a musician across the Atlantic, uploading a music video to YouTube that you shot yourself on a smartphone — require a kind of entrepreneurial energy that some creators may lack. The new environment may well select for artists who are particularly adept at inventing new career paths rather than single-mindedly focusing on their craft. There are certainly pockets of the creative world, like those critically acclaimed books dropping off the mainstream best-seller lists, where the story is discouraging. And even the positive trends shouldn't be interpreted as a mindless defense of the status quo. Most full-time artists barely make enough money to pay the bills, and so if we have levers to pull that will send more income their way — whether these take the form of government grants, Kickstarter campaigns or higher fees for the music we stream — by all means we should pull those levers.

But just because creative workers deserve to make more money, it doesn't mean that the economic or technological trends are undermining their livelihoods. If anything, the trends are making creative livelihoods more achievable. Contrary to Lars Ulrich's fear in 2000, the "diverse voices of the artists" are still with us, and

they seem to be multiplying. The song remains the same, and there are more of us singing it for a living.

Steven Johnson is the author of nine books, most recently "How We Got to Now: Six Innovations That Made the Modern World."

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2014 ANNUAL REPORT

ASCAP

WE CREATE MUSIC

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ASCAP

Our Mission

ASCAP is the world leader in performance royalties, advocacy and service for songwriters, composers and music publishers. Our mission is to ensure that our music creator members can thrive alongside the businesses who use our music so that, together, we can continue to touch the lives of billions.

Attendees at the 2014 ASCAP "I Create Music" EXPO show their enthusiasm

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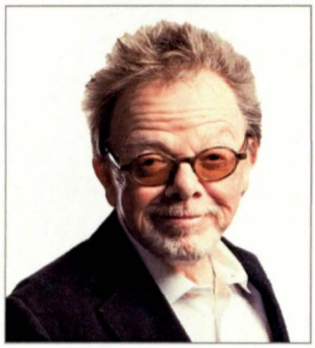

ASCAP President and Chairman Paul Williams

ASCAP CEO Beth Matthews

"**Our songwriter and composer members depend on ASCAP to earn a living and it is our job to advocate and protect their rights across all media.** We maintain a strong presence in Washington, DC to ensure they are fairly compensated for their creative work, which is the engine driving the entire industry. I am very gratified that we were able to deliver such strong financial results for the talented women and men who call ASCAP home. From our point of view, if we can ensure fair market rates for our members by working with the Department of Justice to modernize our outdated Consent Decree, then everyone wins – music creators, licensees and fans – because the value of collective licensing is that strong."

"**ASCAP had an incredibly successful 2014.** We worked extremely hard and continually innovated in order to maximize the financial opportunities for our members in the face of an evolving and increasingly competitive global landscape. We implemented new revenue growth strategies and productivity improvement initiatives in order to deliver the best collective licensing value proposition at the lowest possible cost for all stakeholders. Our 2014 financial results clearly demonstrate that collective licensing is the most efficient licensing model available to creators and music licensees alike. The collective can accommodate big data growth of extreme scale at the lowest cost while also providing access to a broad, diverse and high quality repertory of music."

SPOTIFY EXHIBIT 5

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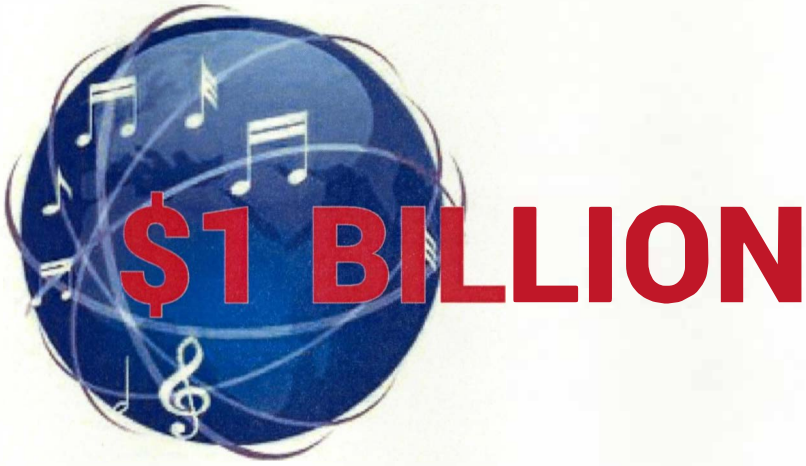


ASCAP Is the First PRO in the World to Report $1.0 Billion in Public Performance Revenue

We became the first PRO in the world to announce record-breaking public performance revenues of more than $1.0 billion for 2014. We also delivered historic high royalty distributions of over $883.5 million to our songwriter, composer and music publisher members, up $32.5 million, a 3.8% increase from 2013.

In addition to historical revenues and record breaking distributions to our members, the number of musical performances we captured, identified, matched and processed for payment doubled from 250 billion in 2013 to 500 billion in 2014. Unlike our competitors, ASCAP is an unincorporated membership association and operates on a not-for-profit basis, distributing all revenues after deducting its operating expenses, currently at one of the lowest overhead rates in the world at 12.7%.

SPOTIFY EXHIBIT 5

ASCAP

ASCAP by the Numbers

When you harness innovative technology, an expansive vision and the creative power of more than 540,000 songwriter, composer and music publisher members, the benefits of ASCAP's collective licensing model begin to add up.

1st PRO
in the United States, effectively creating the market for performance rights

10 of Top 10
songs on the 2014 Billboard year-end charts for Hot 100 Airplay, Hot Adult Top 40, Mainstream Top 40, Hot 100 Songs + Hot R&B/Hip Hop Airplay

101 YEARS
as the world leader in performance royalties, advocacy and service to music creators

SINCE 1914

10+ MILLION
works in the ASCAP repertory, representing every possible music genre

47
Grammy-winning members across 39 categories at the 57th Annual Grammy Awards, who created the past year's most-loved music

$883+ MILLION
distributed to ASCAP members in 2014 – a record high

700,000+
businesses that boost their bottom line with the value of an ASCAP license

500,000,000,000
performances processed by ASCAP in 2014, double the year before

NEARLY $6 BILLION
delivered into ASCAP members' pockets in the last 7 years

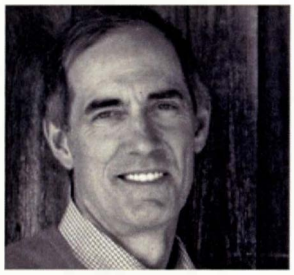
SPOTIFY EXHIBIT 5

ASCAP

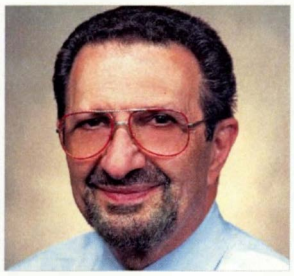
The ASCAP Board of Directors

The ASCAP Board of Directors, made up of 12 writers and 12 publishers, elected from and by our membership every two years, combines experience and foresight to best guide the Society into the future. ASCAP is the only performing rights organization in the US owned by composers, songwriters and music publishers. Writer members elect 12 writers to sit on the Board, and publisher members elect 12 publishers. ASCAP Board members know the needs of the members first-hand and they represent no other outside interest group. The Board has a clear agenda – to provide the fairest and highest level of payments, the best service and the best copyright protection for the membership. It does this by meeting regularly to set policy and by creating various Board committees which provide oversight and direction to a professional management team in all areas of ASCAP's operation.

Paul Williams
President & Chairman
Songwriter



Doug Wood
Writer Vice Chairman
Composer



Irwin Z. Robinson
Publisher Vice Chairman
Cromwell Music

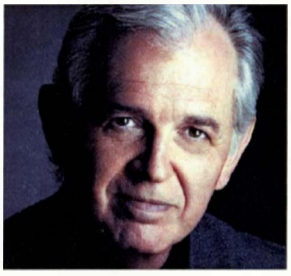
James M. Kendrick
Treasurer
Schott Music

Martin Bandier
Sony/ATV Music Publishing

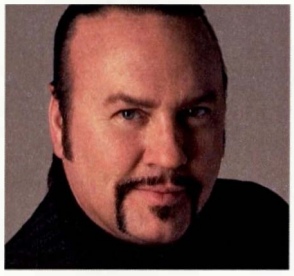
Richard Bellis
Composer

Marilyn Bergman
Songwriter

Caroline Bienstock
Carlin America

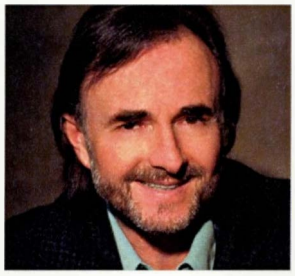


Bruce Broughton
Composer



Desmond Child
Songwriter

Alf Clausen
Composer



Barry Coburn
Ten Ten Music Group

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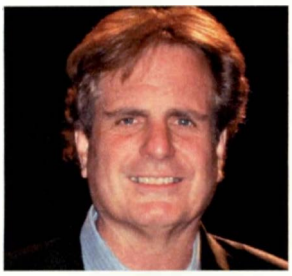
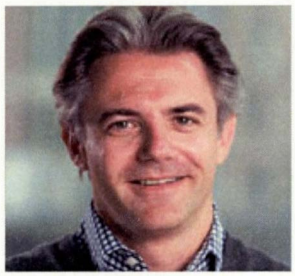
The ASCAP Board of Directors

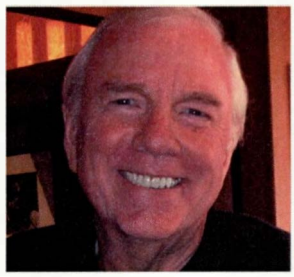


Dan Foliart
Composer

Jody Gerson
Universal Music Publishing Group



Laurent Hubert
BMG Rights Management



Dean Kay
Lichelle Music

Leeds Levy
Leeds Music

Marcus Miller
Composer

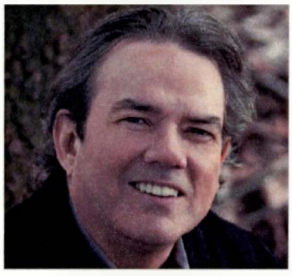
Mary Megan Peer
peermusic

Matt Pincus
SONGS Music Publishing

Alex Shapiro
Composer

Valerie Simpson
Songwriter

Cameron Strang
Warner/Chappell Music



Jimmy Webb
Songwriter

Pictured is the ASCAP Board of Directors as of June 30, 2015

John Lofrumento Retires On A High Note

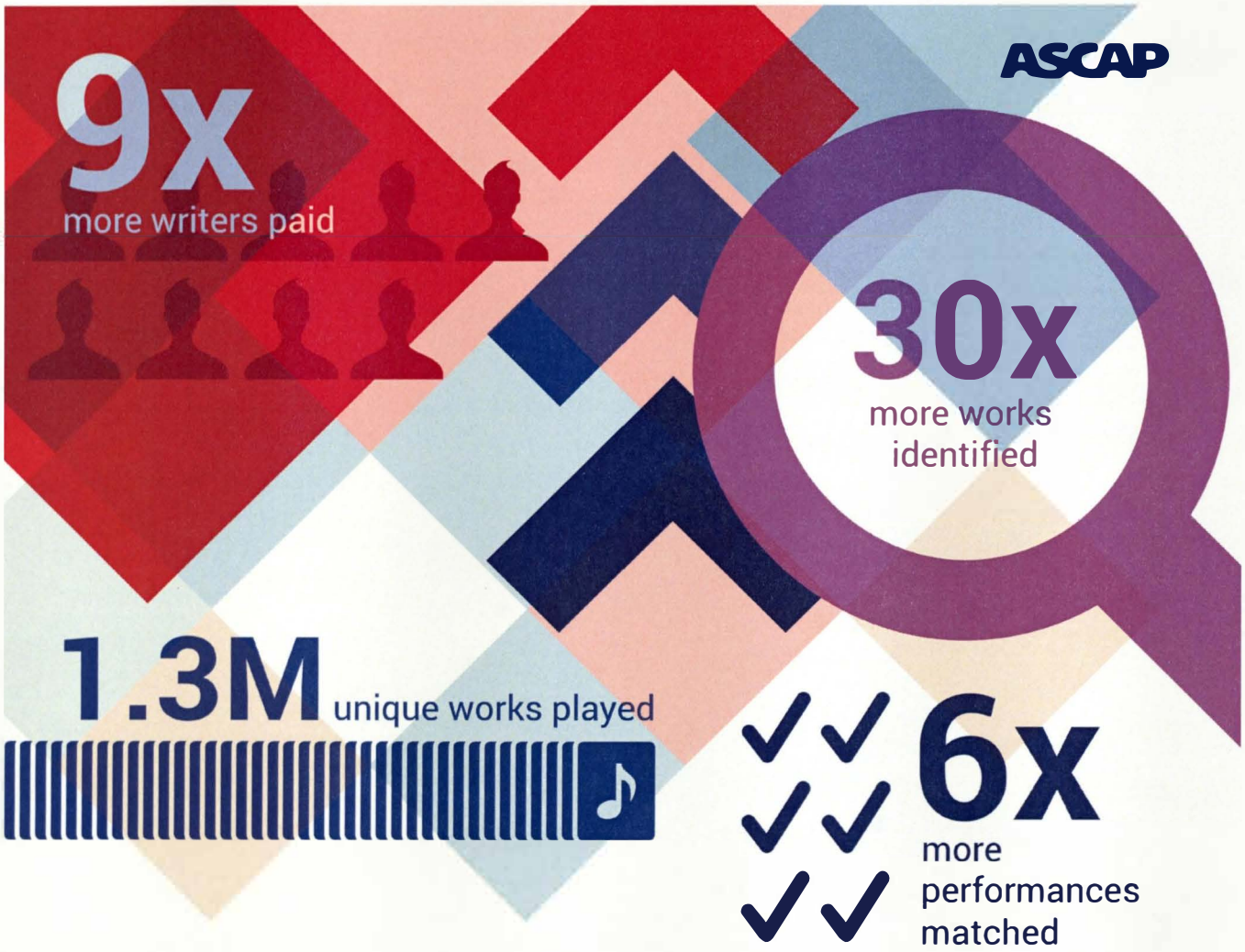
John LoFrumento, Chief Executive Officer of ASCAP for 17 years, retired at the end of 2014. He had served the members of ASCAP since 1981, when he first joined the executive team as Controller. He then served as CFO, COO and EVP, and was named CEO in 1997.

As CEO, LoFrumento helped ASCAP develop one of the most sophisticated technology platforms for performance tracking and royalty distributions across all media. At the same time, ASCAP's membership and distributions grew exponentially from 70,000 members in 1997 with distributions totaling $416.6 million to more than 520,000 members in 2014 with distributions exceeding $833.5 million.

LoFrumento's tenure at the helm of ASCAP also includes many "firsts" within the music industry, among them the creation and growth of MusicPro Insurance, the first and only affordable insurance agency for music professionals; the ASCAP "I Create Music" EXPO, the first and only national conference with a 100% focus on music creation; and the first internet license for music performances online issued in 1995. LoFrumento was also instrumental in ASCAP's efforts to update ASCAP's decades-old Consent Decree with the US Department of Justice to better reflect the way people consume music in the digital age, ensuring that the nation's songwriters are compensated for the true value of their work in the marketplace.

Everyone at ASCAP salutes John for his accomplishments, his vision and his leadership, which will have a lasting impact on the music industry for years to come.

SPOTIFY EXHIBIT 5



Technological Innovation

ASCAP dramatically expanded its surveys of the most significant digital streaming services in 2014, including Apple iRadio, Pandora, Rhapsody and Spotify. The number of writers paid for performances on these services increased nine times over from 2013. ASCAP identified more than 1.3 million unique works played on those services, 30 times more than in 2013.

CIO Magazine recognized ASCAP with a CIO 100 Award for technological innovation for our proprietary Audio Performance Management (APM) system, which receives information about music played on the radio and via internet services and processes this data to determine royalty distributions to ASCAP members. APM is capable of matching six times more performances per hour than our previous system.

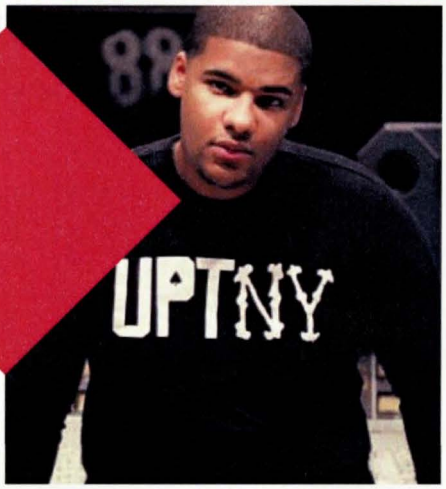
SPOTIFY EXHIBIT 5

ASCAP

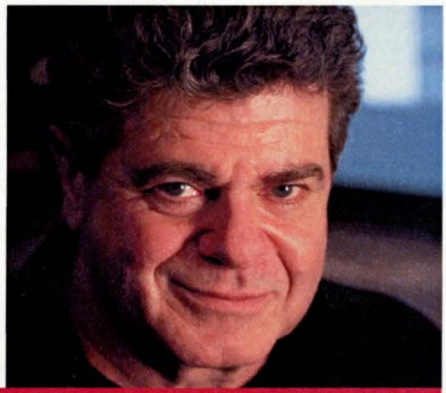
A Strong and Growing Membership

ASCAP continues to attract and retain the most successful and sought-after songwriters and composers. We invest in discovering, recruiting and retaining the most talented music creators, and providing them with the resources and support they need to ensure fans everywhere can enjoy their music. The landscape in performing rights is highly competitive. Marquis talent increases the quality of our repertory and increases the value of an ASCAP license to music users. That's good news for all of our members, because it means higher licensing revenues and larger distributions for everyone's creative work.

More than 40,000 music creators joined ASCAP in 2014, including hip-hop stars **Lecrae**, **Vinylz** and **Bobby Shmurda**; EDM favorite **Dillon Francis**, indie folk violinist-songwriter **Andrew Bird** and pop/hip-hop sensation **Becky G**; **Lorenzo Mendez** of regional Mexican superstars Original Banda El Limón, and Latin songwriter-artists **Yotuel**, **Brika** and **J Alvarez**; celebrated film composers **Jóhann Jóhannsson** (*The Theory of Everything*) and **Gustavo Santaolalla** (*Brokeback Mountain, Babel*); and renowned conductor-composer **Gustavo Dudamel**.



Pictured, top to bottom, left to right: Becky G, J Alvarez, Yotuel, Andrew Bird, Vinylz, Brika, Gustavo Dudamel, and Gustavo Santaolalla



SPOTIFY EXHIBIT 5

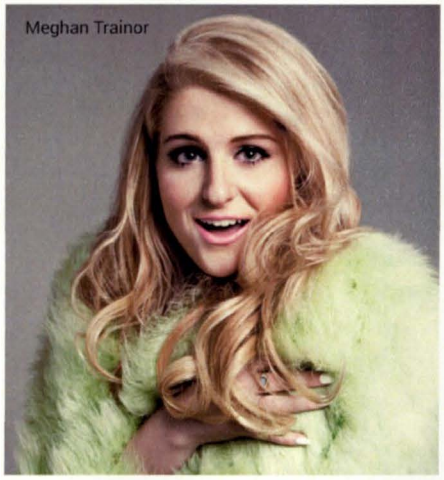
ASCAP

ASCAP Hitmakers

In total, ASCAP songwriters wrote #1 songs on 26 of Billboard's year-end songs charts.

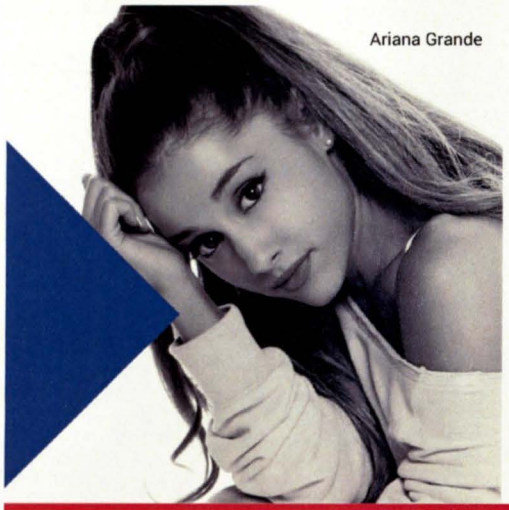
David Bratton, Calvin Harris, Joel Houston, Romeo Santos, Bobby Shmurda and Bastille's Dan Smith took the #1 spots on year-end songwriter charts in six separate genres.

Many ASCAP members had career breakthroughs in 2014, including chart-topping women Meghan Trainor, Iggy Azalea, Ariana Grande, Jessie J, and Lorde. Aloe Blacc and rock bands Kongos, Echosmith and 5 Seconds of Summer enjoyed worldwide success, and country fans fell in love with Sam Hunt and his #1 single "Leave the Night On." Gospel/R&B singer-songwriter Mali Music made waves with his Grammy-nominated major label debut, *Mali Is...* Maddie & Tae's single "Girl in a Country Song" became the second-ever #1 country debut from a female duo. New signing Lecrae became the first artist to occupy the #1 spot on both the Gospel Albums and Billboard Top 200 charts.


Meghan Trainor

Iggy Azalea

Lorde


Ariana Grande

Kongos

SPOTIFY EXHIBIT 5

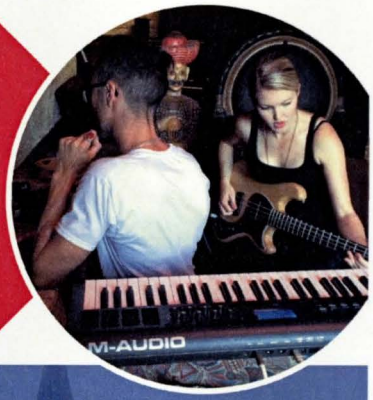
ASCAP

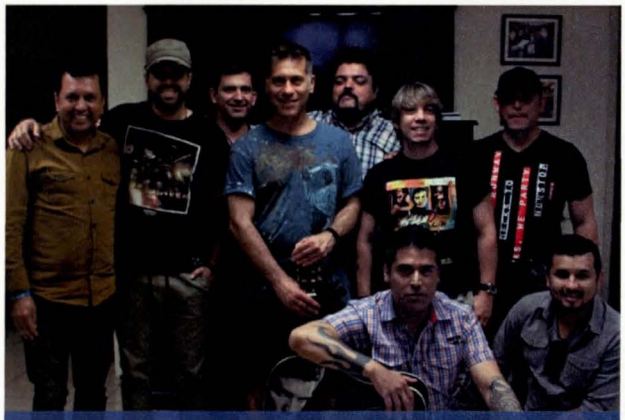
Fostering Collaboration

In 2014, ASCAP's commitment to fostering the music stars of tomorrow yielded major successes. ASCAP Song Camps were the birthplace for the Miranda Lambert ft. Carrie Underwood single "Something Bad," by Chris DeStefano, Brett James and Priscilla Renea, which hit #1 on the country charts; Jacob Latimore's first single "Heartbreak Heard Round the World," written by Johntá Austin, Shea Taylor and Martin Johnson; and five songs recorded by La Original Banda El Limón, written at the ASCAP Song Camp in Mazatlán, Mexico. Meanwhile, ASCAP Nashville's innovative GPS (Guidance from Publishers for Songwriters) Project resulted in publishing deals for three 2014 participants.

In April, 2014, ASCAP presented its ninth "I Create Music" EXPO, the only conference dedicated to songwriting and composing. The EXPO is a valuable experience that educates and motivates music creators from around the world. But it's much more than that. It has become a trusted community-building event that leaves every attendee enriched and inspired, including ASCAP's top panelists. That's why so many successful members participate each year. Over its history, tens of thousands of EXPO participants have benefited from the unique experience the EXPO provides year after year.

UNITED WE JAM: (l-r) Beth Orton, Shane McAnally, Julie Frost, Crystal Nicole and ASCAP Board member Desmond Child prepare to take a bow after their stunning Writers Jam panel





SONG CAMP IN MEXICO
(l-r) Songwriters Tavo Lara, Daniel Santacruz, Juan Diego Sandoval, Ferra, Manu Moreno, Juan Jose Hernandez, Fred Huerta, Bruno Danzza y Jerry Demara in the stuio at Luz Record in Mexico

SONG CAMP IN FRANCE
(l-r) Back row: Chris DeStefano, Oren Yoel, Mike Daly, Emmy Palmer, John Fortis, Brian Kennedy, Brett James, Peter Wade, Giovanni James, ASCAP's Jason Silberman, Ashley Campbell, Amir "Azeem" Salem; middle row: Autumn Rowe, Anjulie, Sharon Vaughn, JT Harding; kneeling: Elyar Fox, ASCAP's David Ryan Jordan, Martin Brammer, Dia Frampton and Gali Firstenberg. *In circle above:* Amir "Azeem" Salem and Ashley Campbell

SPOTIFY EXHIBIT 5

Award Winning Artists

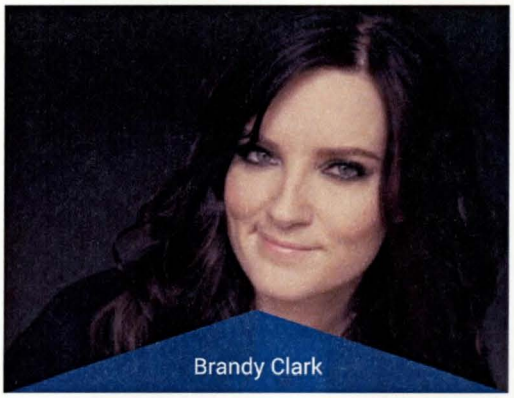
ASCAP members took home many of the industry's most prestigious accolades in 2014.

At the 57th Grammy Awards, honoring the top music of 2014, Beyoncé took home three awards and Beck, Tom Elmhirst (PRS), David Greenbaum, Jay Z and Kendrick Lamar each took home two. Additionally, seven-time ASCAP Pop Music Songwriter of the Year Max Martin won the coveted Producer of the Year Award. Brandy Clark wrote the Country Music Association's 2014 Song of the Year "Follow Your Arrow." Steven Price earned an Oscar, BAFTA and Critics' Choice Award for his score to *Gravity*, and at the recent Golden Globe Awards, Jóhann Jóhannsson won Best Original Score for the 2014 film *The Theory of Everything*.

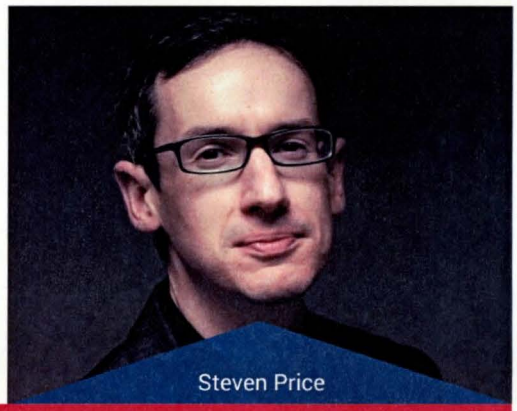
Primetime Emmys went to Michael Price for his score to *Sherlock*, and musical theatre writer Lin-Manuel Miranda for "Bigger!" from the 2013 Tony Awards broadcast. At the 2014 Tonys, ASCAP writers Steven Lutvak and Robert L. Freedman won Best Musical for *A Gentleman's Guide to Love and Murder* (Freedman also earned Best Book of a Musical), while Jason Robert Brown was honored twice for *Bridges of Madison County*. ASCAP composer Stephen Trask's *Hedwig and the Angry Inch* was named Best Revival of a Musical.

ASCAP members won more than half of the 2014 Latin Grammy categories, including Enrique Iglesias and Descemer Bueno's Song of the Year victory for "Bailando," and a major milestone for Calle 13, who became the most awarded act in Latin Grammy history.

Lin-Manuel Miranda


Brandy Clark

Enrique Iglesias


Steven Price

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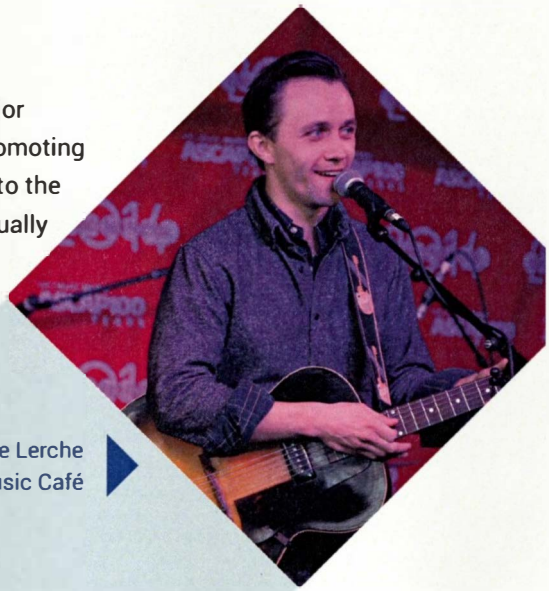
ASCAP

Spotlighting Members

ASCAP's member support continues to grow with showcases at major festivals and conferences throughout the country, geared toward promoting and highlighting the importance of our songwriters and composers to the greater music industry. ASCAP's influential showcases are held annually at the Sundance Film Festival, CMJ, SXSW, Culture Collide and the Folk Alliance, just to name a few, and hundreds of deserving members benefit each year from the exposure.



Singer-songwriter-composer Sondre Lerche at the 2014 Sundance ASCAP Music Café

Alex Lu conducts the orchestra at the ASCAP Film Scoring Workshop with Richard Bellis

Nurturing Craft

ASCAP's outreach to members also includes educational workshops throughout the year, around the country and across the genre spectrum. Anyone can apply for these highly successful workshops, including the Lester Sill Songwriting Workshop, the ASCAP Foundation/DreamWorks Musical Theatre Workshop with acclaimed composer Stephen Schwartz, multiple TV and film scoring workshops in LA and New York, country, pop and Christian songwriting workshops in Nashville and many more.

Social Media Strength

ASCAP communicates with its members across a variety of social media channels, where our engagement with our followers continues to significantly increase.

YOUTUBE	TWITTER	FACEBOOK	INSTAGRAM
5M+ Views	89K+ Followers*	88K+ Likes*	9K+ Followers

*Combined ASCAP and ASCAP EXPO profiles

SPOTIFY EXHIBIT 5

ASCAP Advocacy

Sweeping changes in the music industry continued to create challenges for music creators in 2014. And as the leading advocate for the rights of songwriters, composers and music publishers, ASCAP was committed to working together with other stakeholders throughout the music industry to make meaningful changes to the music licensing system so that it works better for songwriters, composers, publishers as well as licensees and music fans. This led to a series of initiatives in Washington DC of critical importance to ASCAP members, including:

- The Department of Justice's review of ASCAP's Consent Decree
- The introduction of the Songwriter Equity Act
- The US Copyright Office's study of current music licensing
- A hearing before the US House of Representatives Judiciary Subcommittee on Courts, Intellectual Property and the Internet as part of a comprehensive review of the copyright law

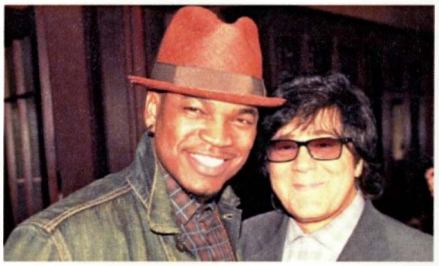
On May 7th, several award-winning songwriters and composers from different genres spent the day meeting with elected officials to press for music licensing reform as part ASCAP's "Stand with Songwriters" Advocacy Day on Capitol Hill.

On June 25th, ASCAP President and Chairman Paul Williams testified at a Congressional hearing. He emphasized the benefits of voluntary collective licensing through PROs for music creators, licensees and listeners, but warned that outdated federal regulations increasingly threaten to undermine the entire system. To prevent that, Williams outlined three specific updates to the 73-year-old Consent Decree, which ASCAP is asking the DOJ to consider: 1. Allowing ASCAP to accept a partial grant of rights from its members, meaning ASCAP is able to license certain uses while the rights holders handle others directly; 2. Replacing rate court with a faster, more efficient and less expensive dispute resolution process and; 3. Permitting ASCAP to offer other rights in a music composition a licensee needs to operate their business – something that ASCAP's competitors are free to do.

Throughout the year, a growing number of ASCAP members joined the call for music licensing reform by either participating at ASCAP advocacy events, submitting recommendations to the US Copyright Office Study or by writing op-eds voicing the need for change.

In Washington DC, ASCAP President Paul Williams testifies at a congressional hearing on music licensing.

At the 2014 ASCAP "I Create Music" EXPO in LA are (l-r) ASCAP President Paul Williams, US Representative Judy Chu (D-CA), Congressman Tom Marino (R-PA) and ASCAP CEO Beth Matthews backstage prior to their panel: "Congressional Review of the Copyright Act: An Opportunity to Secure Equitable Treatment for Songwriters and Composers."



ASCAP songwriter NE-YO is pictured with ASCAP EVP of Membership John Titta in Atlanta, where NE-YO hosted a #StandWithSongwriters forum with other Atlanta-based songwriters at The Capital Grille.

Pictured (l-r) are songwriter Josh Kear, original Songwriter Equity Act co-sponsor Rep. Hakeem Jeffries (D-NY) and ASCAP Board members Dan Foliart and Leeds Levy during ASCAP's "Stand with Songwriters" Advocacy Day on Capitol Hill on May 7th.

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ASCAP

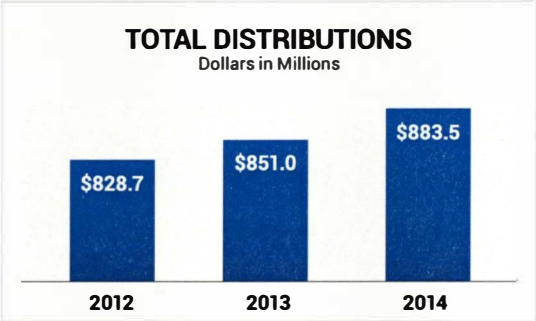
Financial Overview

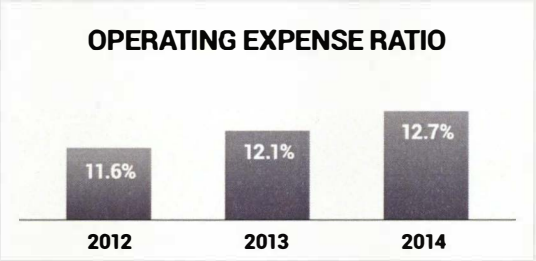
ASCAP'S FINANCIAL RESULTS were discussed at the general membership meeting in Los Angeles. In addition, our independent public accountants, Ernst & Young LLP, presented our audited financial statements for the years ended December 31, 2014 and 2013 at the June board meeting. Pages 16 through 21 include selected portions of the audited financial statements.

ASCAP's total distributions were $883.5 million in 2014 compared to $851.0 million in 2013, an increase of $32.5 million or 3.8%. Distributions to members and foreign societies for domestic performances were $539.8 million, an increase of $11.9 million or 2.2%. Distributions for foreign performances were $343.8 million up $20.7 million or 6.4%. The Total Distributions chart highlights the trend of distributions over the past three years.

Total receipts were a record high of $1.0 billion in 2014, up $57.2 million. Domestic receipts were $655.8 million, up $41.0 million. New Media fees were up $17.5 million primarily due to higher revenue from various licensees, new licensees and settlement payments. Cable, Broadcast & Local TV fees were up $11.1 million or 3.6% primarily due to higher license fees and timing in various categories. General and Background fees were up $10.2 million mainly due to new business. Fees from Terrestrial & Satellite Radio licensees increased $1.1 million. Foreign receipts were $346.8 million, up $16.2 million or 4.9% primarily due to one-time settlement payments received and a net increase in actual performances partially offset by the timing of payments from various foreign societies and a net decrease due to exchange rates.

Operating expenses were $127.5 million, up $12.7 million or 11.1% from 2013. This increase in expenses was tempered by record high receipts which resulted in an operating ratio of 12.7%. Expenses for 2014 include investments made for strategic consulting and support of the Department of Justice's review of ASCAP's Consent Decree. In addition, ASCAP continues to invest in technology and ongoing operational efficiencies. The Annual Receipts and Operating Expense Ratio charts provide a three-year trend of related information. We continue our commitment to continuously strengthen operations to enhance service to our members and our licensees.





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ASCAP

Report of Independent Auditors

To the Board of Directors of the American Society of Composers, Authors and Publishers:

We have audited the accompanying Consolidated Statements of Receipts, Expenses, and Changes in Net Assets (modified cash basis) of the American Society of Composers, Authors and Publishers, and subsidiaries (the Society), as of December 31, 2014 and 2013, and the related notes to the consolidated financial statements.

Management's Responsibility for the Financial Statements
Management is responsible for the preparation and fair presentation of these financial statements in conformity with the modified cash basis of accounting described in Note 2; this includes determining that the modified cash basis of accounting described in Note 2 is an acceptable basis for the preparation of the financial statements in the circumstances. Management is also responsible for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free of material misstatement, whether due to fraud or error.

Auditor's Responsibility
Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion
In our opinion, the financial statements referred to above present fairly, in all material respects, the Consolidated Statements of Receipts, Expenses and Changes in Net Assets of the American Society of Composers, Authors, and Publishers and subsidiaries at December 31, 2014 and 2013, on the basis of accounting described in Note 2.

Modified Cash Basis of Accounting
As described in Note 2 to the consolidated financial statements, these consolidated financial statements have been prepared on the modified cash basis of accounting, which is a basis of accounting other than U.S. generally accepted accounting principles. Our opinion is not modified with respect to this matter.

Ernst + Young LLP

June 30, 2015
New York, NY

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ASCAP

AMERICAN SOCIETY OF COMPOSERS, AUTHORS AND PUBLISHERS AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF RECEIPTS, EXPENSES, AND CHANGES IN NET ASSETS (MODIFIED CASH BASIS)

YEAR ENDED DECEMBER 31,

DOMESTIC RECEIPTS: (In Thousands)	**2014**	**2013**
License fees:		
Cable, Broadcast & Local TV	**$318,940**	$307,825
Terrestrial & Satellite Radio	**167,357**	166,291
General and background	**119,836**	109,664
New media	**41,150**	23,676
Symphonic and concert	**6,294**	6,041
Membership Application Fees	**1,590**	1,257
Interest and other income	**650**	25
Total domestic receipts	**655,817**	614,779
ROYALTIES FROM FOREIGN SOCIETIES:	**346,779**	330,606
Total receipts	**1,002,596**	945,385
EXPENSES:		
Licensing services	**18,729**	16,402
Performing rights	**43,927**	41,897
Membership services	**14,227**	16,857
Headquarters	**33,993**	24,005
Legal	**16,609**	15,632
Total expenses	**127,485**	114,793
Excess of receipts over expenses	**875, 111**	830,592
DISTRIBUTION TO MEMBERS:		
Domestic distributions	**478,248**	461,854
Foreign distributions	**343,757**	323,054
Foreign societies	**61,538**	66,076
Total distributions to members	**883,543**	850,984
(Decrease) Increase in net assets	**(8,432)**	(20,392)
NET ASSETS, beginning of year	**218,080**	238,472
NET ASSETS, end of year	**$209,648**	$218,080

See accompanying notes.

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ASCAP

Notes To Consolidated Financial Statements
(Modified Cash Basis) December 31, 2014

1. ORGANIZATION AND NATURE OF BUSINESS

The American Society of Composers, Authors and Publishers, and its Subsidiaries (the Society or ASCAP) is an unincorporated membership society of composers, songwriters, lyricists, and music publishers. As a performing rights society, ASCAP represents its members by licensing copyrighted music and collecting and distributing royalties for the non-dramatic performances of their copyrighted works. These royalties are paid to members based on surveys of performances of the works in ASCAP's repertory that they wrote or published. Founded in New York in 1914, ASCAP is the oldest performing rights licensing society in the United States.

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Basis of Presentation

The consolidated financial statements contain the financial information of the American Society of Composers, Authors, and Publishers, and its 100% owned subsidiaries, ASCAP Joint Venture LLC, and ASCAP Enterprises LLC (Enterprises). All significant intercompany transactions have been eliminated in consolidation. Entities that are less than 50% owned or are not controlled by ASCAP are accounted for under the equity method of accounting.

Reclassifications

Certain reclassifications have been made to the prior year financial statements to conform to the December 31, 2014 presentation.

Basis of Accounting

The Society maintains its consolidated financial statements on a modified cash basis of accounting, which is a basis of accounting other than U.S. generally accepted accounting principles, and is detailed as follows:

Revenue Recognition

Revenue, consisting of license fees, membership application fees, and interest income, is recorded at the time that cash is received. Revenues due to ASCAP, but not received, such as amounts due from licensees and foreign societies, are not accrued rather they are recognized only when cash is received.

Expenses

Operating costs are expensed when cash is paid with the exception of certain costs that may be accrued so that the Consolidated Statements of Receipts, Expenses, and Changes in Net Assets reflect a full year of operating costs. There were no material accruals in 2014 and 2013.

The Society does not account for contingencies in accordance with Accounting Standards Codification (ASC) 450, *Contingencies*. Under this guidance, a loss contingency is required to be recognized based on the probability of future events outcome. The Society does not recognize a loss contingency assessed as probable as may be required by the contingency accounting guidance.

Royalty Payables

Royalty and other payables related to such revenues, which are significant, are recognized when distributed. Amounts due to members for distributions for members who cannot be located or distributions held pending legal resolution are accrued.

Income Taxes

The Society does not account for income taxes in accordance with the Financial Accounting Standards Board (FASB) ASC740, *Income Taxes*. Under this guidance, the liability method is used to account for income taxes. The Society recognizes income tax expense or benefit as payments are made or received from the appropriate taxing authorities and does not recognize related tax liabilities, deferred tax assets, or deferred tax liabilities as may be required by the income tax accounting guidance.

Income taxes paid and expensed amounted to approximately $14 thousand and $21 thousand for the years ended December 31, 2014 and 2013, respectively. The income tax expense is reflected in the Headquarters line item in the accompanying Consolidated Statements of Receipts, Expenses, and Changes in Net Assets.

Defined Benefit Pension Plans

The Society does not account for its defined benefit pension plans in accordance with FASB ASC 715, *Compensation – Retirement Benefits*. Under this guidance, accrual accounting is applied to defined benefit pension plans sponsored by an employer and, to the extent that an employer has an underfunded or overfunded pension obligation, a liability or an asset would be recognized. In addition, an employer is required to recognize changes in the funded status in the year in which the change occurs through net assets. The Society recognizes pension expense as the plan is funded, and does not recognize pension assets or liabilities as may be required by the retirement benefits accounting guidance. The Society does not recognize the changes in the funded status during the year through net assets as may be required by the defined benefit plan guidance. Changes in the funded status are disclosed in Note 3.

Fixed Assets

Fixed assets, including leasehold improvements, are capitalized at cost. Depreciation of fixed assets is calculated using the straight-line

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method based on estimated useful lives as follows:

Automobiles	3 years
Building and building improvements	40 years
Equipment	3-5 years
Furniture and fixtures	10 years
Software Development (hardware)	3-5 years
Software Development (software)	10-15 years

Leasehold improvements are amortized on a straight-line basis over the shorter of the useful life of the assets or the terms of the related leases. Building improvements are amortized on a straight-line basis over the remainder of 40 years since the purchase of the building in 1992. Repair and maintenance costs are expensed as paid.

Costs incurred for the development of software for internal use have been capitalized in accordance with ASC 350-40, *Internal-Use Software*.

Use of Estimates

The preparation of these consolidated financial statements requires the use of certain estimates and assumptions by management in determining the Society's assets and liabilities, as well as disclosure of benefit plan obligations and contingencies at the date of the consolidated financial statements. Actual results could differ from those estimates.

3. BENEFIT PLANS

The Society has a defined benefit pension plan (the Pension Plan) and a defined contribution savings plan (the Savings Plan). These plans cover all employees who meet the eligibility requirements as defined by each plan.

Under the Society's Pension Plan, benefits are based on years of service and an employee's highest three consecutive year compensation average from the last ten years of employment.

The Society's policy is to fund amounts as necessary on an actuarial basis to provide assets sufficient to meet the benefits to be paid to plan members in accordance with the requirements specified by the Employee Retirement Income Security Act of 1974 (ERISA). The Society's expense for contributions to the Pension Plan was approximately $7.0 million and $7.5 million during 2014 and 2013, respectively, and is reflected in the Headquarters line item in the accompanying Consolidated Statements of Receipts, Expenses, and Changes in Net Assets. The Society paid benefits of approximately $3.0 million and $7.0 million during 2014 and 2013, respectively to participants in the Pension Plan.

In September 2005, the Board of Directors passed a resolution electing to freeze all future participation in the Pension Plan to new participants as of January 1, 2006. All eligible employees hired prior to January 1, 2006, are grandfathered in the Pension Plan and will continue to accrue benefits.

The following table sets forth the Pension Plan's funded status:

	December 31	
	2014	2013
	(in thousands)	
Actuarial present value of:		
Vested benefit obligation	$78,303	$66,345
Nonvested benefit obligation	384	323
Accumulated benefit obligation	$78,687	$66,668
Actuarial present value of projected benefit obligation	$91,748	$78,395
Plan assets at fair value	$49,474	$48,101
Unfunded status of the Plan	($42,274)	($30,294)

The weighted-average discount rate in determining the actuarial present value of the projected benefit obligation was 3.80% and 4.63% in 2014 and 2013, respectively. The rate of increase in future compensation levels used in determining the actuarial present value of the projected benefit obligation was 3.50% in 2014 and 2013, respectively. The expected long-term rate of return on Plan assets was 7.50% and 7.75% in 2014 and 2013, respectively. The weighted-average expected long-term rate of return on Plan assets is based upon historical financial market relationships that have existed over time with the presumption that this trend will generally remain constant in the future.

The Society's pension plan assets, by asset category, are as follows:

	2014	2013
Equity Securities	59%	60%
Debt Securities	41	40
Total	100%	100%

The target investment allocations for the plan assets are 60% equity securities and 40% debt securities. Asset allocations are rebalanced on a regular basis throughout the year to bring assets to within a range of target levels. Target allocations take into account analyses performed by the Society's pension consultant to optimize long-term risk/return relationships. All assets are liquid and may be readily adjusted to provide liquidity for current benefit payment requirements.

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The following table provides the fair value hierarchy of the funded Pension Plan's financial assets as of December 31, 2014 and 2013:

	December 31, 2014			
Investment Type	**Level 1**	**Level 2**	**Level 3**	**Total**
Equities	$ 29,424	$ –	$ –	$29,424
Corp/Gov Securities	$ 7,986	$ 4,196	$ –	$12,182
Mutual funds	$ 5,978	$ –	$ –	$ 5,978
Money market funds	$ –	$ 1,859	$ –	$ 1,859
Cash	$ 31	$ –	$ –	$ 31
Total	$ 43,419	$ 6,055	$ –	$49,474

	December 31, 2013			
Investment Type	**Level 1**	**Level 2**	**Level 3**	**Total**
Equities	$ 28,941	$ –	$ –	$28,941
Corp/Gov Securities	$ 7,890	$ 4,190	$ –	$12,080
Mutual funds	$ 5,846	$ –	$ –	$ 5,846
Money market funds	$ –	$ 1,229	$ –	$ 1,229
Cash	$ 5	$ –	$ –	$ 5
Total	$ 42,682	$ 5,419	$ –	$48,101

Mutual fund shares are valued daily, with the NAV per fund share published at the close of each business day, consisted of registered mutual fund investments whose diversified holdings primarily include common stock securities issued by U.S. and non-U.S. corporations, corporate bonds, and mortgage backed securities. Money market funds are valued at quoted market values on the last business day of the year. Equities are valued daily at quoted marked values. Corporate and Government Securities are valued as a percentage of the underlying par value at the close of each business day.

ASCAP also has a nonqualified retirement equalization benefit plan (the Equalization Plan) that provides certain employees with defined pension benefits in excess of limits imposed by federal tax law and a non-qualified supplemental executive retirement plan (the SERP) which is offered to certain members of management to provide additional benefits at retirement.

The following table sets forth the Equalization Plan and SERP's funded status:

	December 31	
	2014	2013
	(in thousands)	
Actuarial present value of:		
Vested benefit obligation	$3,800	$14,531
Nonvested benefit obligation	47	38
Accumulated benefit obligation	$3,847	$14,569
Actuarial present value of projected benefit obligation	$4,594	$15,764
Plan assets at fair value	$19,937	$14,168
Funded/(Unfunded) status of the Equalization Plan and SERP	$15,343	($1,596)

Plan assets related to the Equalization Plan and SERP consisted of equities and mutual funds tmeasured at Level 1 as of December 31, 2014 and 2013.

The Society expects to contribute approximately $6.0 million to the Pension Plan, Equalization Plan and SERP in 2015.

Estimated future pension benefit payments for the Pension Plan, Equalization Plan, and SERP, which reflect expected future service, are as follows (in thousands):

Year ending December 31:	
2015	$ 7,053
2016	2,265
2017	4,994
2018	4,389
2019	7,651
2020-2024	32,607
Total	$ 58,959

Under the Society's Savings Plan, effective November 1, 2005, new employees are automatically enrolled in the Savings Plan after 60 days of service at a contribution rate of 3% of their salary, pretax, unless they opt out. All employees may then elect to contribute from 1% through 25% of their salary, pretax, as limited by the Internal Revenue Service. The Society's matching contribution, which is discretionary, was equal to 100% of the first 2% and 25% of each additional percent up to 6% contributed by the employee during the current year, resulting in a maximum contribution by the Society of 3% of the employee's allowable salary. Employees' contributions are immediately vested, and the Society's matching contributions are vested after the first year of service. During 2014, the maximum annual employee contribution of pretax dollars was limited by Internal Revenue Service regulations to $17,500, and ASCAP's matching contribution was limited to $7,800 per employee. The amounts contributed by ASCAP to the Savings Plan for 2014 and 2013, were approximately $1.2 million and $1.2 million, respectively.

ASCAP also has a nonqualified deferred compensation plan, whereby eligible employees may elect to defer a portion of their compensation each year. Compensation expense, equal to amounts deferred by employees, is recorded currently.

4. DISTRIBUTIONS TO MEMBERS

Receipts of the Society, less expenses of operations and amounts payable to foreign societies, are distributed to members in accordance with the Society's survey and distribution system, originally mandated by the 1960 amendments to the ASCAP Consent Decree and now embodied in the Society's rules and regulations.

The Society includes taxes withheld by affiliated foreign societies as receipts. These taxes withheld are reflected in Royalties from foreign societies in the accompanying Consolidated Statements of Receipts, Expenses, and Changes in Net Assets.

The Society also includes foreign taxes withheld in the summary of distributions reported to members at year-end, thereby enabling members to report them appropriately on their tax returns. These taxes are reflected in foreign distributions in the accompanying Consolidated Statements of Receipts, Expenses, and Changes in Net Assets.

At December 31, 2014 and 2013, approximately $6.0 million and $6.2 million, respectively, represented the foreign taxes withheld on receipts that will be reported in the year when the related distributions are paid.

SPOTIFY EXHIBIT 5

5. COMMITMENTS AND CONTINGENCIES

Litigation

From time to time, the Society is involved in court proceedings with its licensees to determine license fees to be paid to the Society for the performance of musical works in the ASCAP repertory. The only current such proceeding, with the Pandora internet music service, was tried early in 2014, resulting in the federal district court's decision determining the fees to be paid by Pandora to ASCAP for the period 2011–2015. ASCAP appealed the decision and on May 6, 2015, a panel of the Second Circuit Court of Appeals affirmed the trial court's decision. ASCAP has filed a petition for rehearing before the Second Circuit panel. If the trial court's decision is reversed by the Court of Appeals, it is possible that Pandora may ultimately pay additional license fees for the period 2013-2015.

In 2013, the Society began discussions with the staff of the Antitrust Division of the U.S. Department of Justice (DOJ) concerning potential modifications of the ASCAP consent decree. The decree largely governs ASCAP's licensing activities, and provides for the procedure by which license fees are determined by the New York federal court if ASCAP and music users are unable to reach agreement on the fees to be paid for the right to perform music in the ASCAP repertory. The process by which the consent decree may be modified is ongoing. As part of this process, ASCAP has received from the DOJ, and responded to, requests for information both as to proposed modifications of the consent decree and compliance with certain provisions of the current decree. It is anticipated that the entire process will conclude either late in 2015 or early in 2016, so that there will be no material effect on ASCAP's business in 2015.

The Society is routinely involved in other litigation, often as a stakeholder participating in disputes between its members and others pertaining to royalties and copyright ownership issues. This litigation has no material effect on the Society's assets and liabilities, its receipts, and expenses, or total royalty distribution to its members.

Lease Commitments

Equipment rental and office lease expense, including escalations and utilities, aggregated approximately $5.6 million and $5.3 million for the years ended December 31, 2014 and 2013, respectively, and is recognized as an expense when paid in the accompanying Consolidated Statements of Receipts, Expenses, and Changes in Net Assets based on the amount of cash paid.

The minimum rental commitments under existing non-cancellable office and equipment leases at December 31, 2014, are as follows (in thousands):

2015	$ 4,638
2016	4,500
2017	4,512
2018	4,528
2019	609
Thereafter	1,119
Total minimum lease payments	$19,906

Member Guarantees

The Society has provided guarantees of payment to financial institutions for personal loans provided to certain of its members. Royalty earnings attributable to each of these members are being distributed directly to the financial institutions as part of the loan repayment terms. To the extent that the cash flows of the future royalty earnings are not sufficient to the financial institutions, payment of each respective member loan may be accelerated by the financial institutions and payment would be guaranteed by the Society. The Society would collect any amounts paid as a result of the guarantee through future royalty earnings of the respective member. As of December 31, 2014, the Society authorized up to $40.0 million in guarantees to be made, of which approximately $25.0 million is outstanding. The fair value of the guarantees is not considered to be material.

6. RELATED PARTY BY TRANSACTIONS

The ASCAP Foundation (the Foundation), a not-for-profit organization, was incorporated in 1975 to promote and support charitable/educational programs in the field of music. Contributions, bequests, and grants from members of ASCAP, other foundations, and the general public provide support to the Foundation. The Foundation is a related-party to ASCAP.

The Foundation is located in the offices of ASCAP and receives the use of ASCAP's office space at no charge. In addition, ASCAP personnel assisted in the administration of the Foundation's activities as needed. The value of these services and support provided to the Foundation was approximately $157 thousand and $125 thousand in 2014 and 2013, respectively.

The Foundation has approximately $61 thousand due to ASCAP for payroll related and other expense reimbursement as of December 31, 2014.

The Foundation receives royalty contributions through ASCAP from ASCAP members who have allocated a portion of their ASCAP royalties to the Foundation. This is done completely and solely at the request of the ASCAP member or as a bequest by the ASCAP member or their heirs to the Foundation. The Foundation recognized income based on cash received from ASCAP related to such royalty contributions of $290 thousand and $249 thousand in 2014 and 2013, respectively. In addition, the Foundation received contribution income from ASCAP for program support in amounts of $290 thousand and $241 thousand in 2014 and 2013, respectively.

7. SUBSEQUENT EVENTS

Subsequent events were evaluated through June 30, 2015, the date these consolidated financial statements were available to be issued.

SPOTIFY EXHIBIT 5

ASCAP

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Connect with ASCAP

ascap.com @ascap @ascap /ascap

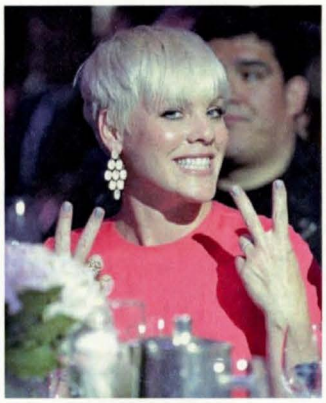
SPOTIFY EXHIBIT 5

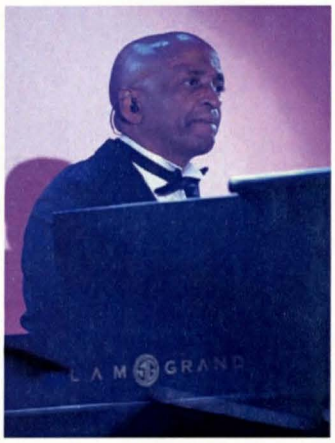
2014-2015

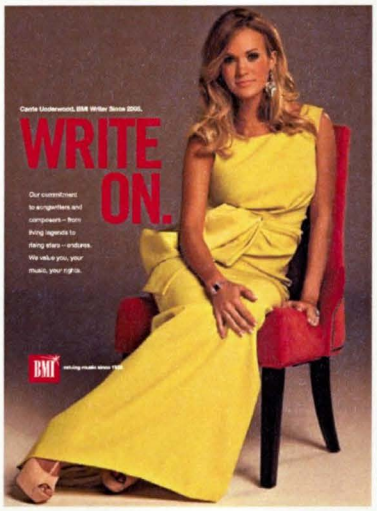
ANNUAL REVIEW

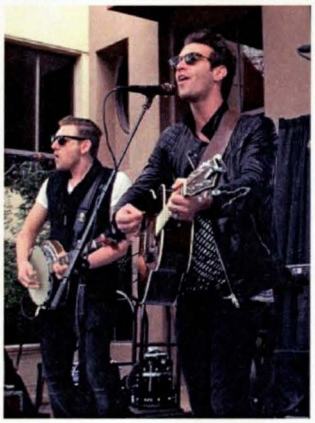
BMI

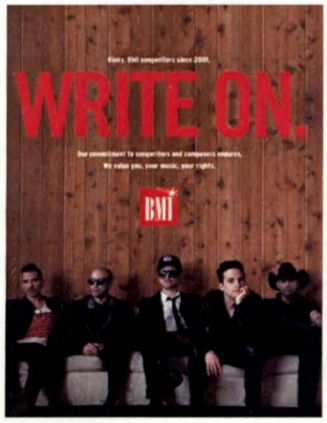
SPOTIFY EXHIBIT 6

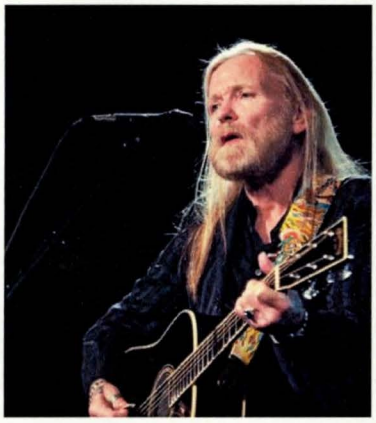












SPOTIFY EXHIBIT 6

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SPOTIFY EXHIBIT 6

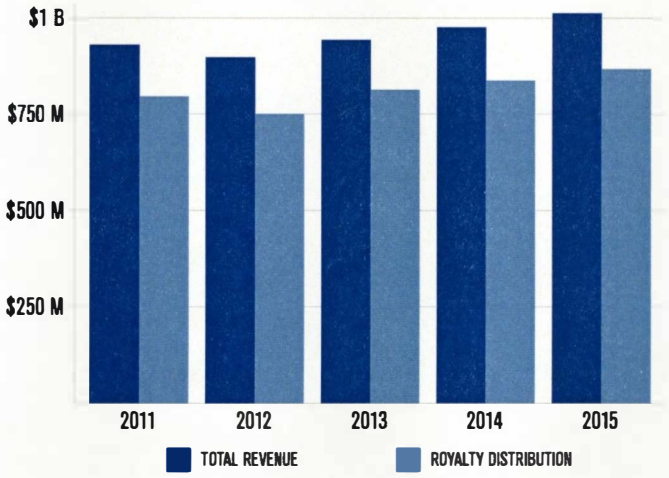
PRESIDENT & CEO'S REPORT

I am thrilled to share this report which provides the details of BMI's record-setting performance for the fiscal year ended June 30, 2015. BMI reported unprecedented revenues of $1.013 billion, an increase of $36 million or 3.7% over the prior year. This represents the highest revenues in the Company's history and the most public performance revenue generated for songwriters, composers and publishers by any music rights organization in the world. These results are even more impressive when factoring in that the Company had to overcome a $28 million negative impact to foreign revenues caused by the strengthening dollar. BMI distributed and administered a record-breaking high of $877 million in royalties to its songwriters, composers and publishers, a nearly 4.5% increase over last year.

BMI's continuous drive to diversify revenue streams led to several new benchmarks this year. For the first time in the history of a U.S. performing rights organization, revenue from digital sources, including Amazon, Hulu, Netflix, Pandora, Spotify and YouTube, among others, exceeded $100 million, up 65% over last year. For the second consecutive year, cable and satellite-delivered entertainment represented the single largest source of domestic and international revenue, underscoring the significance of BMI's growing audio-visual portfolio. General Licensing also posted considerable gains, and the steady growth from this revenue stream remains a key differentiator in BMI's ongoing success. Due to economic headwinds overseas, which resulted in a lower foreign exchange rate, international revenues declined 5% compared to last year, but the extraordinary strength of the BMI repertoire resulted in a solid showing of $292 million.

The Company's exceptionally strong performance is a direct result of the creativity and global popularity of the songwriters and composers that BMI represents. BMI luminaries continued to dominate the charts this year, with Taylor Swift, Avicii, Ed Sheeran (PRS), Luke Bryan, Prince Royce and Lil Wayne contributing some of the most-performed songs of the year. Electrifying acts including Maroon 5, Foo Fighters and One Direction continued to entertain audiences around the world. In film and television music, BMI's outstanding composers contributed themes or scores for more than 80% of all primetime network TV shows and thrilled movie audiences in

TOTAL REVENUE & ROYALTY DISTRIBUTION



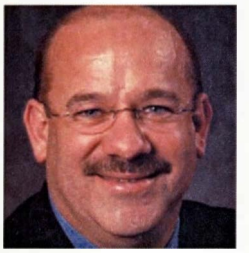
several of the year's top blockbusters and acclaimed productions, including *Avengers: Age of Ultron, Furious 7, American Sniper, Transformers: Age of Extinction, Guardians of the Galaxy, Hunger Games: Mockingjay – Part 1* and *The Grand Budapest Hotel,* among others.

Throughout the year, the streaming revolution continued to impact the industry. BMI processed 600 billion copyright transactions, more than 500 billion of which were digital performances, an increase of over 25% compared to last year. These figures not only highlight the scope, ability, accuracy and efficiency of BMI's operations engine, but also demonstrate the vigorous growth of content distribution via streaming and the extremely heavy reliance on the 10.5 million works within BMI's repertoire. The trend toward digital content highlighted the need for music licensing reform to better serve songwriters, composers, publishers and music users in the modern marketplace. While digital companies continue to grow their stock value and bottom lines through their exponential increase in the use of music, outdated rules that prohibit free-market rates remain, preventing creators and copyright owners from seeing comparable growth in the value of their work. In response, BMI has been steadfast in our commitment to secure full and fair value for the use of songwriters', composers' and publishers' creative work in the digital space, and we made great strides this year with success in the Pandora rate-setting proceedings.

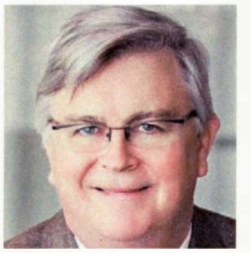
After a lengthy legal battle over the value of the BMI repertoire to the digital music giant, the Court concluded that BMI's proposed rate of 2.5% was reasonable and more appropriate than Pandora's significantly lower proposal. The Court took into account industry deals made in the free market and determined that these were "the best benchmarks because they are the most recent indices of competitive market rates," a factor that will have significant impact in future rate court actions. The decision also sets the stage for differentiating Internet and digital licenses from traditional media licenses going forward.

On the public policy front, BMI was actively engaged in various initiatives on Capitol Hill this year, urging copyright and regulatory reform to modernize the rules that govern BMI's business operations. We continued to have productive conversations with the U.S. Department of Justice with regards to modifying BMI's decades-old consent decree and have seen promising Congressional interest to that end. Multiple BMI songwriters shared with lawmakers their struggles as, essentially, small business owners trying to earn a living in the digital age. In certain cases, it can take one million spins on a digital service for a songwriter to break $100. We remain optimistic that these poignant accounts, along with increased attention from Capitol

SENIOR MANAGEMENT



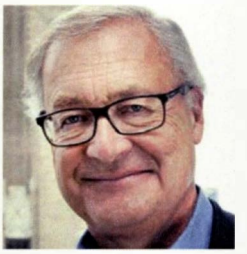
BRUCE A. ESWORTHY
SENIOR VICE PRESIDENT
FINANCE & ADMINISTRATION,
CHIEF FINANCIAL OFFICER



PHILLIP R. GRAHAM
SENIOR VICE PRESIDENT
WRITER/PUBLISHER RELATIONS

STUART ROSEN
SENIOR VICE PRESIDENT &
GENERAL COUNSEL

ALISON SMITH
SENIOR VICE PRESIDENT
OPERATIONS, DISTRIBUTION
& ADMINISTRATION SERVICES



RON SOLLEVELD
SENIOR VICE PRESIDENT
INTERNATIONAL

MICHAEL G. STEINBERG
SENIOR VICE PRESIDENT
LICENSING

ANN SWEENEY
SENIOR VICE PRESIDENT
GLOBAL POLICY

PRESIDENT & CEO'S REPORT

Hill and the industry, will drive momentum toward copyright and consent decree reform to modernize the music licensing system to better serve all stakeholders. Our "Protecting Copyright" section of this report contains additional important detail on all of this activity.

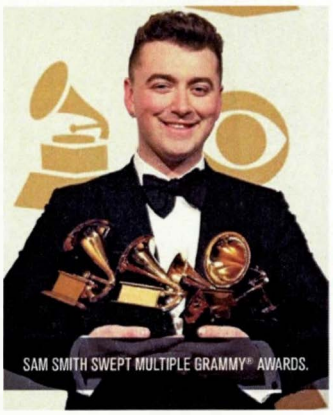
I would like to thank the BMI Board of Directors, the Senior Management team and all of our team members for their exceptional work this year. BMI's record-setting performance demonstrates the value of our service to songwriters, composers, publishers and licensees alike, and, as we move forward, our resolve to meet the evolving needs of the marketplace is stronger than ever. The many efforts that contributed to this historic year reflect BMI's continuous investment in our future, and we anticipate great reward ahead.

I invite you to read the report that follows. It provides a detailed overview of BMI's business operations during the past fiscal year, as well as a look towards a new era of music rights management.

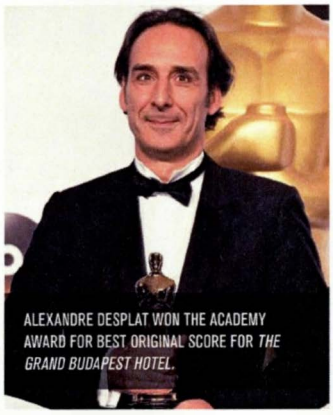
Sincerely,

During a dynamic year in the industry, the shift from music ownership via downloads and CD sales to music access via streaming resulted in a renewed focus on the increasing value of the public performing right. As BMI continued its ongoing efforts to secure fair compensation for the use of creators' and copyright owners' work across all platforms, BMI songwriters, composers and publishers took creativity to new heights, delivering a record-breaking year of in-demand, innovative and influential music. From global megastars to rising hitmakers to legendary icons, BMI's roster of exceptional talent emphasizes the Company's role as home to the most artistically vibrant and commercially successful repertoire in the world.

BMI powerhouses including Taylor Swift, Avicii, Ed Sheeran (PRS), Luke Bryan, John Legend, Future and Juanes wrote some of the most-performed songs of the year, while electrifying acts such as Maroon 5, Foo Fighters, Little Big Town and One Direction topped the charts. Brilliant BMI composers created the music for many of the year's most acclaimed films and television series, including Brian Tyler, Joseph DeBeasi, James Newton Howard and Mark Isham. BMI welcomed many talented writers to its creative family this year, including British sensation Sam Smith (PRS) and soulful chart-topper Hozier. Exciting voices to watch include Taylor Berrett, Tiffany Gia, Grace Sewell, Justine Skye, Diana Fuentes, Sofia Carson, Haley Georgia, Tucker Beathard, Rachel Platten, Shawn Mendes, Banks, X Ambassadors, BORNS, Charlie Puth, and composers Fil Eisler and Rob Simonsen, all of whom create groundbreaking music that defines them as emerging new leaders in the industry.



SAM SMITH SWEPT MULTIPLE GRAMMY® AWARDS.



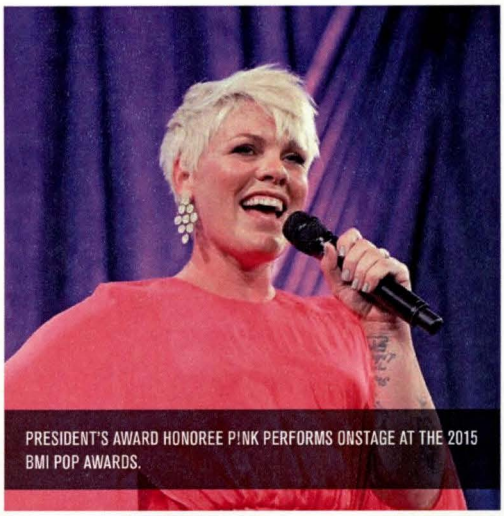
ALEXANDRE DESPLAT WON THE ACADEMY AWARD FOR BEST ORIGINAL SCORE FOR *THE GRAND BUDAPEST HOTEL*.

INDUSTRY AWARDS

BMI songwriters and composers took home the majority of the industry's most distinguished awards this year. Prestigious GRAMMY® wins included multiple trophies for Sam Smith (PRS), who swept Record of the Year, Song of the Year and Best New Artist; as well as Rosanne Cash, Jack White and Eminem. Other BMI affiliates who earned GRAMMY® gold included Lady Gaga, Carrie Underwood, The Band Perry, Miranda Lambert, and Kristen Anderson-Lopez and Robert Lopez. Composer Alexandre Desplat (SACEM) won the Academy Award for Best Original Score for *The Grand Budapest Hotel*, while John Legend and Common took the Oscar for Best Original Song for "Glory" from *Selma*. BMI songwriters were also honored with 77% of the Country Music Association (CMA) Awards. Additionally, the majority of honorees inducted into the Songwriters Hall of Fame this year were BMI affiliates, as were all the composers named 2015 Jazz Masters by the National Endowment for the Arts.

COMMON AND JOHN LEGEND TOOK HOME THE OSCAR FOR BEST ORIGINAL SONG FOR "GLORY" FROM *SELMA*.

ROSTER & REPERTOIRE



PRESIDENT'S AWARD HONOREE P!NK PERFORMS ONSTAGE AT THE 2015 BMI POP AWARDS.

FILM & TELEVISION HIGHLIGHTS

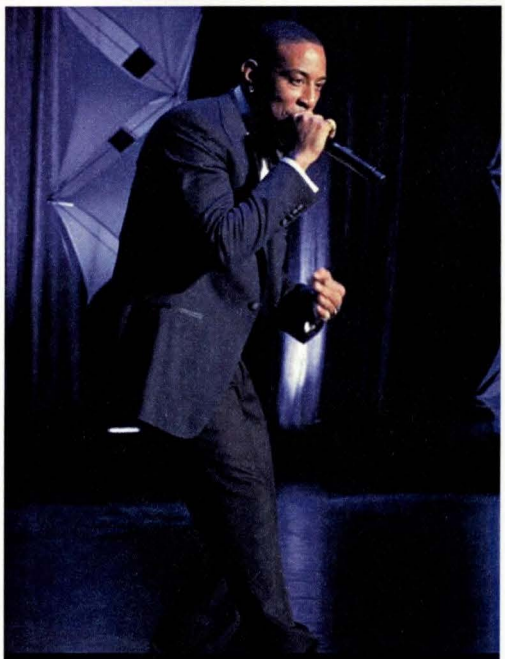
For the second consecutive year, cable and satellite-delivered entertainment proved to be the single greatest contributor to BMI's domestic revenue. The music created by BMI's family of illustrious composers was featured in many of the year's blockbuster films and most popular television series, serving to strengthen BMI's market share of audio-visual revenue streams.

BMI composers scored four out of the top five films released this year. The total from such box-office hits as *Avengers: Age of Ultron* (Brian Tyler), *Furious 7* (Brian Tyler), *American Sniper* (Joseph DeBeasi), *The Hunger Games: Mockingjay – Part 1* (James Newton Howard) and *Guardians of the Galaxy* (Tyler Bates) accounted for over $1.8 billion dollars in ticket sales alone.

On the small screen, over 80% of this season's primetime network TV shows featured themes and/or scores written by BMI composers. Hits included *NCIS: New Orleans* (Brian Kirk, John Lee Hooker), *Madam Secretary* (Mike Fratantuno, Terence Yoshiaki), *Empire* (Fil Eisler, Jim Beanz), *Scorpion* (Tony Morales, Brian Tyler) and *CSI: Cyber* (Ben Decter), all building on BMI's track record of success in this space.

INDUSTRY TRENDS

BMI's role as an early career counselor and supporter has grown increasingly more important in the transforming music landscape. This year BMI augmented its function as a creative partner to songwriters and music publishers, providing an array of networking and career opportunities for creators and directing promising writing talent to publishers. As a result,



PRESIDENT'S AWARD HONOREE CHRIS 'LUDACRIS' BRIDGES PERFORMS ONSTAGE AT THE 2014 BMI R&B/HIP-HOP AWARDS.

2015 BMI FILM & TELEVISION AWARD RECIPIENTS.

SPOTIFY EXHIBIT 6

BMI bolstered its unique position as a vital early ally in building music careers and identifying the next generation of hitmakers.

Social media continued to resonate as a powerful tool within the music industry, with a dramatic cascade of effects: Creators used social media to connect with fans and build awareness of their projects, while listeners prolifically shared their music preferences on social channels. BMI affiliates once again seized the opportunities social media presents, with explosive results. R&B songstress Rihanna recently took to Instagram to promote her new music, garnering nearly 1.2 million Instagram likes to date with just four posts. And it's not only established hitmakers who are benefiting from social media. With a new LP that recently hit #2 on the Billboard charts, indie-pop singer-songwriter Halsey's star is rapidly rising, thanks in large part to social media. To date, she has already amassed close to 950,000 followers across Facebook, Twitter and Instagram, an impressive presence that has helped jumpstart her career. Halsey has appeared on Billboard's Twitter Top Tracks chart and Twitter Emerging Artists chart, described as a compilation of "the most shared songs from up-and-coming artists on Twitter over the last 24 hours."

BMI SOCIAL MEDIA GROWTH

INSTAGRAM

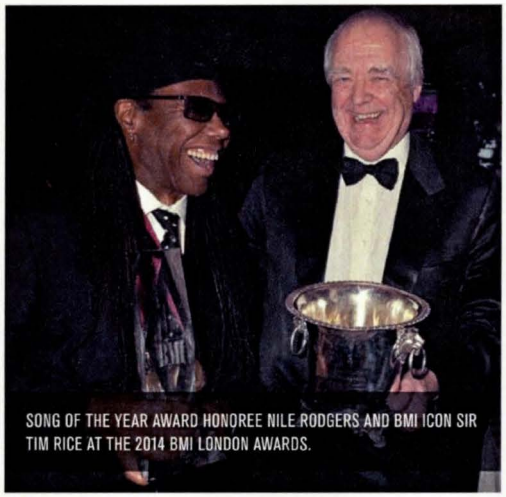
↑94%

YOUTUBE

↑48%

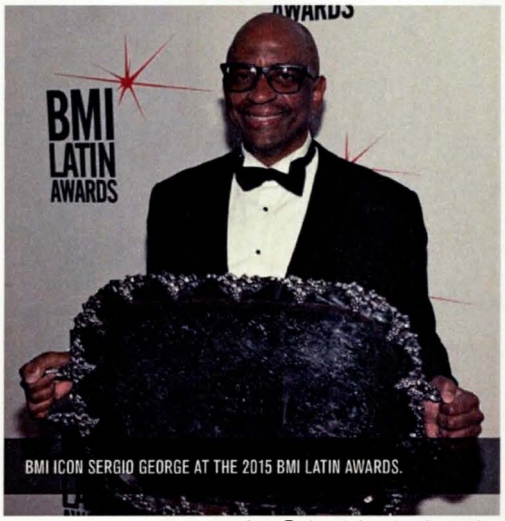
BMI continued to leverage social media as a strategic means of communication with our actively engaged creative community. Our social media presence and reach expanded this year, particularly on Instagram, up 94% since last year, and YouTube, which saw a 48% increase in views, due in part to several exclusive video projects featuring BMI affiliates Martina McBride, Robert Lopez and Kristen Anderson-Lopez, and Alexandre Desplat.

This year megastar Taylor Swift (who joined BMI at the dawn of her career at age 15) spoke out on behalf of all songwriters struggling in the digital environment. In November of 2014, Swift removed her catalog from Spotify, stating that the service doesn't fairly compensate those involved in the making of music, and that she "does not agree with perpetuating the perception that music has no value and should be free." In June, Apple launched its new streaming service, Apple Music, with a free, three-month trial period during which it would not pay out royalties to writers, producers or artists. Swift took to Tumblr and



SONG OF THE YEAR AWARD HONOREE NILE RODGERS AND BMI ICON SIR TIM RICE AT THE 2014 BMI LONDON AWARDS.

BMI ICON VINCE GILL, SONGWRITER KETCH SECOR AND SONGWRITER OF THE YEAR RHETT AKINS AT THE BMI 2014 COUNTRY AWARDS.



BMI ICON SERGIO GEORGE AT THE 2015 BMI LATIN AWARDS.

SPOTIFY EXHIBIT 6

once again spoke out on behalf of creators in an open letter to Apple. She declared she would hold back her album *1989* from the service, saying it was unfair that those who create music were being asked to work for nothing and asked Apple to change its policy. Within 24 hours, Apple reversed course, fittingly replying to Swift via Twitter, and agreeing to pay out royalties. This result shows both the influence of social media and the influence that Swift wields in the industry.

CAREER SUPPORT & OPPORTUNITIES

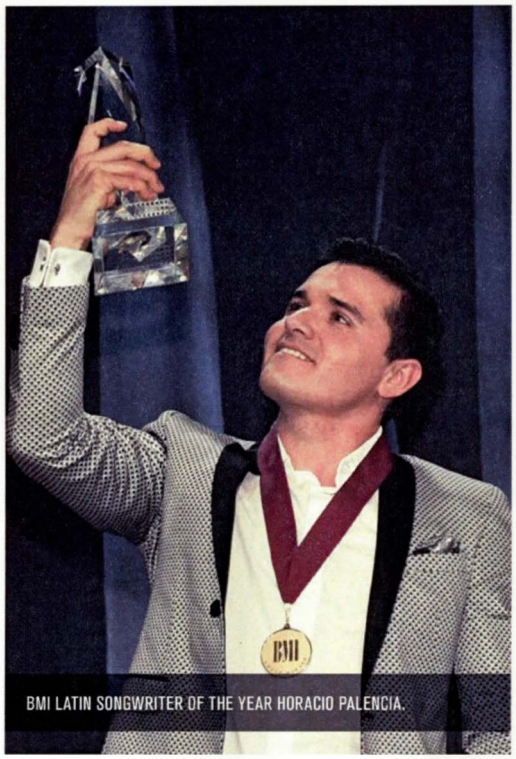
BMI continued its longstanding tradition of bringing the creative community together with industry decision makers. This year we featured new talent on stages at premier festivals including Lollapalooza, South by Southwest, the Sundance Film Festival, Austin City Limits and the CMA Music Festival, among others. BMI also orchestrated seminars and workshops to educate and inspire the next generation of songwriters, while providing beneficial career advice. Events included the annual Sundance Composer's Lab Workshop, informative Gamechangers Music Seminar, and the BMI mentor program for USC's Thornton School of Music Undergraduate Popular Music Degree program, among many others.

BMI also facilitated several fruitful songwriting camps this year, including the Aspen Songwriting Retreat held at the home of songwriter Denise Rich in September of 2014. This camp resulted in the current song "Daisy" and upcoming tracks to be recorded by Britney Spears and Ariana Grande. Other songwriting camps during the year included the BMI and Warner/Chappell Fontanel Winter Retreat, and the Write Onl Song Camp, also in partnership with Warner/Chappell Music, all opportunities for writers to cultivate new collaborations, hone their skills and create new songs.

INTERNATIONAL

Although financial conditions abroad were unfavorable this year, the unmatched popularity of the BMI repertoire generated massive performances around the globe. Dynamic creators such as Lady Gaga, Taylor Swift, P!nk, Will.i.am and RedOne were among the stellar BMI songwriters who contributed some of the most popular international hits. Other active songs on the global charts included the ubiquitous "Uptown Funk," "Maps," "All of Me," and "See You Again."

On the big screen, exciting music by BMI composers including Brian Tyler, John Williams, Danny Elfman, Alan Silvestri, Thomas Newman and Steve Jablonsky drew audiences to movie theaters around the world. Hit television shows, such as *Person of Interest*, *Mentalist* and *Sportscenter*,



BMI LATIN SONGWRITER OF THE YEAR HORACIO PALENCIA.

among others, featured music by BMI composers that enriched the global viewing experience. Notably, the body of work from BMI composers has longevity beyond cinema or television series with repeated performances on worldwide digital audio-visual services, such as Netflix, HBO GO and Amazon Instant Video, plus cable and satellite broadcasts.

BMI's classic catalog also maintained its strong performance, with enduring songs by Michael Jackson, John Fogerty and Paul Simon remaining on some of the most-performed international playlists of the past year. Other timeless BMI jewels such as "It's a Small World" and "Daydream Believer" delighted crowds far and wide.

BMI's extraordinarily talented roster of songwriters, composers and publishers continues to deliver the industry's most acclaimed and profitable music across all genres and around the globe.

SPOTIFY EXHIBIT 6

The music industry's continued digital transformation has given rise to a new era in advocacy and rights management, and, as a result, copyright protection has come to the forefront of legal and policy discussions. Throughout the year, BMI was deeply engaged in its ongoing efforts in Washington, D.C. to modernize the rules governing our business, update copyright law and secure full and fair value for the use of music creators' and copyright owners' work in today's marketplace.

BMI Senior Vice President of Global Policy, Ann Sweeney, whose newly created position focuses on the Company's advocacy initiatives, led the charge on Capitol Hill. On another front, BMI Senior Vice President and General Counsel Stuart Rosen led the BMI Legal team to victory in the Pandora rate-court litigation, marking a critical step forward in realizing fair compensation for songwriters and publishers in the digital age. Several other strides were made this year on the legislative front, as BMI continued its leadership role in the public policy arena surrounding copyright reform.

VICTORY AGAINST PANDORA

After a two-year legal battle over the value of the BMI repertoire to Pandora, in May, BMI prevailed on all issues in the Company's rate-setting proceedings against the digital music giant. The ruling concluded that BMI's proposed rate of 2.5% was reasonable; in fact, was on the low side of reasonable. The Court took into account recent industry deals made in the free market and determined that BMI's rate proposal was a more appropriate reflection of the value of BMI music than Pandora's significantly lower proposal. The ruling stated that these direct licenses "are the best benchmarks because they are the most recent indices of competitive market rates."

This is a key factor for BMI, and the industry, one that will have a far-reaching impact in future rate court actions. In addition, the Court ruled in BMI's favor for a four-year license term (two years retroactive and two years going forward), which will allow both parties the opportunity to reevaluate the licensing relationship sooner, a critical win for BMI given the rapidly-changing nature of the online music industry. Pandora was seeking a longer-term agreement. The decision also sets the stage for differentiating Internet and digital licenses from traditional media licenses going forward.

In July of 2015, the rate court rejected a motion by Pandora to re-open the ruling. Pandora argued that its purchase of a South Dakota terrestrial radio station should entitle the digital service to the Radio Music License Committee rate of 1.7%. While the Court struck down the motion without explanation, it is worth noting that Pandora recently stated that it has more than 250 million users, including 79.2 million "active" users, who listen to 1.77 billion hours of music each month - data that takes the streaming service far beyond the realm of traditional radio music usage. The Court's ruling was consistent with its finding at trial that Pandora's business and music use was not comparable to terrestrial radio's.

Pandora has filed its appeal of the decision, and BMI is well prepared to defend this matter in the Court of Appeals for the Second Circuit.

BMI SONGWRITER AND NSAI PRESIDENT LEE THOMAS MILLER TESTIFIES AT THE SENATE HEARING "HOW MUCH FOR A SONG?"

BMI PRESIDENT AND CEO MICHAEL O'NEILL, BMI SONGWRITER MAC DAVIS, REPRESENTATIVE DOUG COLLINS (R-GA), REPRESENTATIVE RANDY NEUGEBAUER (R-TX) AND NSAI PRESIDENT AND BMI SONGWRITER LEE THOMAS MILLER IN REP. COLLINS' D.C. OFFICE IN APRIL.

CONSENT DECREE REVIEW

As noted in last year's Annual Report, in August of 2014 BMI submitted comments to the U.S. Department of Justice proposing modifications to the decades-old BMI consent decree that would modernize the music licensing landscape, creating a model that would better serve songwriters, composers, publishers and music users in the digital marketplace. The U.S. Department of Justice began an extensive examination, with many BMI songwriters and publishers, as well as industry organizations, submitting their comments in support of BMI's position. At this time, the comprehensive review is still ongoing.

BMI's three immediate proposed updates to its consent decree are:

- **Digital Rights Withdrawal:** Permit publishers to give BMI the right to license works for certain uses, while allowing publishers to retain the exclusive right to license works for other specifically defined digital uses. This would enable publishers and music users to negotiate their own free-market digital deals, while granting BMI the ability to continue to offer easy, efficient access to its diverse repertoire for many traditional music uses.

- **Bundling Rights:** Clarify the decree to allow BMI to license not just the public performing right, but any rights relating to the musical work that a music user needs to bring its product or service to the public and which a publisher elects BMI to administer. This would create a one-stop licensing source to meet the needs and match the pace of the digital marketplace.

- **Arbitration:** Move the rate-setting forum from federal court to a binding arbitration model, a quicker and less expensive option for all parties.

Promising interest was evidenced in March, when the U.S. Senate Judiciary Committee's Antitrust Subcommittee held a hearing led by Senator Mike Lee (R-UT) on the consent decrees that govern the music licensing operations of BMI and ASCAP. Titled "How Much for a Song?: The Antitrust Decrees That Govern the Market for Music," the Subcommittee, in an open forum, engaged with stakeholders who would be impacted by proposed changes to the BMI and ASCAP consent decrees. The hearing included testimony from Lee Thomas Miller, BMI songwriter and President of the Nashville Songwriters Association International (NSAI), who presented a powerful firsthand account of his journey as a music creator and his ardent support for consent decree reform to protect the livelihood of the American songwriter.

BMI is continuing its ongoing productive dialogue with the Department of Justice and is optimistic that the many positive developments in Washington, along with the Pandora ruling, will shed necessary light on the critical need to reform the rules that govern BMI's business and rate-setting proceedings.

SONGWRITER EQUITY ACT OF 2015

This year, BMI took a leadership position within a coalition of performing rights organizations and songwriter collectives in seeking bipartisan Congressional sponsorship to move forward the Songwriter Equity Act (SEA). As a result,

SPOTIFY EXHIBIT 6

significant steps were taken on the road to equity for music creators and copyright owners. In March, Congress reintroduced the Songwriter Equity Act in both the House and Senate; its passage would update provisions in the copyright law to level the playing field for songwriters, composers and music publishers to receive fair compensation for use of their intellectual property.

Specifically, the Songwriter Equity Act of 2015 would:

- Amend Section 114(i) to allow BMI's rate court to consider all relevant evidence, including payments to artists and record labels, when determining digital performance rates for songwriters, composers and publishers.
- Update Section 115, which regulates the rate paid to publishers under a compulsory license for reproduction of recorded music, to a rate that reflects free market conditions.

BMI strongly supports the SEA, which would shift the rate standard to a willing buyer/willing seller fair market standard.

U.S. COPYRIGHT OFFICE MUSIC LICENSING STUDY

In February of 2015, after almost a year of research, interviews and analysis into whether the current copyright law is in sync with the current digital economy, the U.S. Copyright Office released its findings in a comprehensive study entitled "Copyright and the Music Marketplace." The Office determined that the current music marketplace structure undervalues musical works in the digital space and is in need of reform.

A number of recommendations were made that align with BMI's proposals for its consent decree modifications, including a form of digital rights withdrawal, bundling of mechanical and performance rights, and fair compensation at market value for creators. Additional recommendations called for more transparency and the like treatment of all uses of music within a modernized framework of collective licensing.

In April, Maria Pallante, the U.S. Register of Copyrights, testified before the House Judiciary Committee on the copyright issues it will address in the coming years. This concluded a two-year Congressional review of copyright issues, led by Chairman Bob Goodlatte (R-VA), many of which greatly impact the music industry. Register Pallante pointed to the "Copyright and the Music Marketplace" study, calling for more equity for music makers and a shift towards market-oriented approaches. In June, Register Pallante stated that the Copyright Office itself needs modernization in order to efficiently address the needs of the 21st century U.S. copyright industry. BMI continues its conversations with the Register and other members of the Copyright Office in our efforts to modernize the copyright regime under which BMI operates.

REVENUE & ROYALTY DISTRIBUTION

During the fiscal year ending June 30, 2015, BMI generated unprecedented revenues of $1.013 billion, an increase of $36 million, or 3.7% over the prior year, and distributed and administered more than $877 million in royalties to the songwriters, composers and publishers it represents, a historic high. These successes underscore the enormous value of the BMI repertoire and the undiminished relevance of BMI's license offerings in a transforming marketplace.

BMI's continuous drive to diversify revenue sources resulted in several new benchmarks. For the first time in the history of a U.S. performing rights organization, revenue from digital sources, including Amazon, Hulu, Netflix, Pandora, Spotify and YouTube, exceeded $100 million, up a staggering 65% since last year. For the second consecutive year, cable and satellite-delivered entertainment generated the largest portion of BMI's domestic revenue. General Licensing experienced steady growth and including other income achieved a record high of $137 million. Revenue from media licensing totaled $484 million. Due to a downturn in the value of many foreign currencies, we concluded fiscal year 2015 with international royalties totaling $292 million, a decline of 5% compared to last year. Excluding the foreign exchange rate impact, BMI's international revenues would have reached a record high.

DIGITAL LICENSING

BMI's Digital Licensing team had a record-setting year exceeding $100 million as a result of more than 500 billion digital copyright transactions. Ongoing contributors included Apple, Hulu, Netflix, Pandora, Rhapsody, Spotify and YouTube, among others. This year BMI signed its first audiovisual agreement with Amazon, including Amazon Prime Instant Video, the Internet giant's growing service for award-winning original content. This impressive achievement in digital licensing is attributable to BMI's ability to identify, capture and maximize new growth opportunities across a growing variety of digital platforms.

GENERAL LICENSING

BMI's General Licensing team hit several new milestones this year and again achieved record revenues across categories, including bars, restaurants and a multitude of retail and other business establishments. In addition, the team added more than 14,000 new licensed businesses to the hundreds of thousands of businesses in the Company's portfolio. This continued growth in General Licensing establishes BMI's strength in the marketplace and remains a key differentiating factor in our ongoing success.

REVENUES FROM DIGITAL LICENSING SOURCES EXCEEDED **$100 MILLION** ↑**65%** OVER 2014

GLOBAL PERFORMANCE

BMI music continued its consistently strong performance around the world this year, despite economic challenges overseas. The phenomenal, enduring appeal of the BMI repertoire and our diverse sources of international income balanced the decline in the value of local currencies, resulting in an overall strong showing of $292 million.

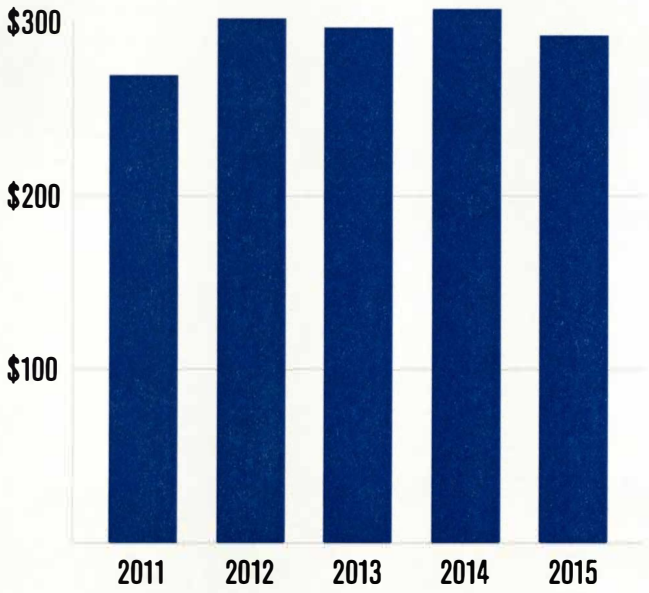
International revenue continues to play a substantial role in BMI's ability to compensate affiliates who have entrusted their creative work with us for worldwide representation. To that end, BMI's international efforts are evolving to match the needs and pace of a dynamic global marketplace.

GENERAL LICENSING ADDED MORE THAN

↑14,000

NEW LICENSED BUSINESSES TO THE HUNDREDS OF THOUSANDS OF BUSINESSES IN BMI'S PORTFOLIO

TOTAL INTERNATIONAL REVENUE
(MILLIONS)



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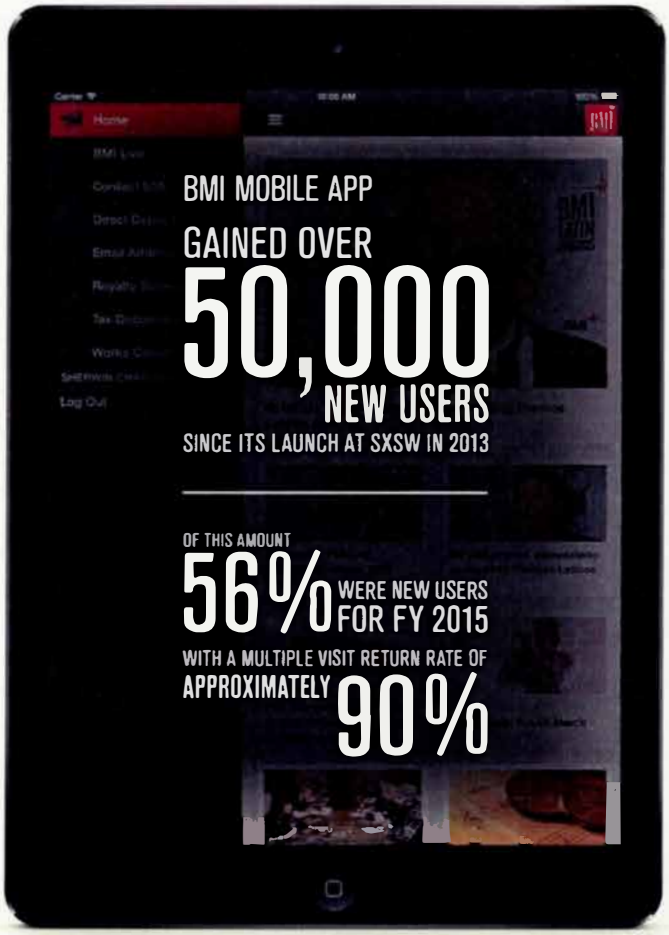
TECHNOLOGY

BMI's leadership in music rights administration centers on the Company's commitment to implementing technology solutions to strengthen its core business and align with future industry opportunity. In a year where more copyright transactions were processed than ever before, BMI's Technology and Operations teams effectively translated vast quantities of data into high-value and actionable information at a phenomenal rate.

Copyright transactions hit the 600 billion horizon this year, more than 500 billion of which were digital performances. Since 2011, the trend for streaming music has increased greater than fivefold, and BMI's cumulative digital transactions during this five-year period continued to surpass the trillion mark for performances, demonstrating the Company's ability to accurately and efficiently manage big data.

The growing trend of on-the-go, self-serve mobile activity was reflected this year, as BMI's mobile app version 2.0 gained over 50,000 new users since its launch at SXSW in 2013. Of this amount, 56% represent new users for the fiscal year of 2015, with a multiple visit return rate of approximately 90%. For fiscal year 2015 in total, BMI mobile users viewed 1.5 million screen sessions, representing a broad consumption of a comprehensive set of online services. BMI Live also surpassed an important milestone this year, achieving more than 300,000 performances since inception in 2011. Within this performance count, more than 25,000 songwriters, composers and publishers have been represented.



COPYRIGHT TRANSACTIONS HIT THE 600 BILLION HORIZON THIS YEAR, MORE THAN 500 BILLION OF WHICH WERE DIGITAL PERFORMANCES

DISTRIBUTION & ADMINISTRATION HIGHLIGHTS

BMI's Distribution & Administration team processed an impressive 56,000 new songwriter, composer and publisher applications, bringing fiscal year 2015's total number of affiliates to more than 700,000. Additionally, the total number of creative works now registered and licensed by BMI has grown to more than 10.5 million.

This year also marked the completion of BMI's highly anticipated "green" transition to 100% paperless royalty statements, facilitating an environmentally friendly business process while delivering efficiencies for multiple BMI departments. Keeping pace with BMI affiliates' preference to conduct business electronically, royalty recipients are now receiving direct deposit for nearly 70% of all distributions.

INTERNATIONAL DEVELOPMENTS

During the year, BMI spearheaded several collaborative initiatives involving music creators, publishers, FastTrack, and CISAC (International Confederation of Societies of Authors and Composers), the global association of copyright and authors' rights societies and collective management organizations, of which BMI is an active member. The goal of these efforts is to maximize efficiency and transparency in delivering foreign royalties to their rightful recipients as we look towards improved data in a global future.

IN FY15

56,000

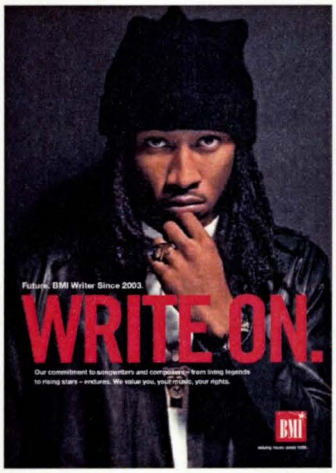
NEW SONGWRITERS, COMPOSERS AND PUBLISHERS JOINED BMI

TOTAL NUMBER OF AFFILIATES NOW EXCEEDS

700,000

TOTAL NUMBER OF CREATIVE WORKS NOW REGISTERED AND LICENSED BY BMI MORE THAN

10.5 MILLION



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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

WPIX, Inc., *et al.*, Applicants,	09 Civ. 10366 (LLS)
-against-	Related to *United States v. Broadcast Music, Inc.*, 64 Civ. 3787 (LLS)
BROADCAST MUSIC, INC., Respondent.	

RESPONSE OF BROADCAST MUSIC, INC.
TO PETITION OF WPIX, INC., ET AL.

Broadcast Music. Inc. ("BMI") submits this response to the Petition of WPIX, Inc., *et al.* ("the Local TV Stations") for Determination of Reasonable License Fees for Local Television Stations, dated December 21, 2009 (the "Petition").

Scope of This Proceeding

1. BMI agrees with the Local TV Stations that the parties have engaged in negotiations regarding the final rates and terms of blanket and per program licenses for the performances of BMI-repertoire music transmitted by and through the Local TV Stations in

the United States for the period beginning January 1, 2005, streamed on the Local TV Stations' affiliated websites, or delivered in association with the Local TV Stations' mobile, wireless and other digital platforms. BMI has negotiated for five years with the Local TV Stations' joint negotiating agent, the Television Music License Committee ("TMLC"), to determine final blanket and per program rates and terms, but the parties have not been able to reach an agreement. BMI also agrees with the Local TV Stations that it is now timely, under Section XIV of the BMI Consent Decree,[1] for this Court to determine reasonable rates and terms for those licenses, and that this Court has jurisdiction to do so.

2. BMI also agrees that upon expiration of the parties' previous license agreements on December 31, 2004, and continuing to the present date, the Local TV Stations have been paying BMI blanket license fee payments on an interim basis, at the same rate they paid to BMI in December 2004, under the prior final license agreements.[2]

3. BMI further agrees that the licenses in issue should cover all the broadcast programming of the Local TV Stations, except for the network programming they carry from the ABC Television Network, the CBS Television Network, the NBC Television Network and the Univision Television Network. Thus, the licenses at issue include not only programming originated by the Local TV Stations, but also the network programming of the Fox Television Network, the CW Television Network (as successor to the WB Television

1. *United States v. Broad. Music, Inc.*, 1966 Trade Cases (CCH) ¶ 71,941 (S.D.N.Y. 1966), *amended by* 1996-1 Trade Cases ¶ 71,378 (S.D.N.Y. 1994).

2. The Court entered an Order on consent dated August 1, 2005 for interim fees for the period January 1, 2005 through June 30, 2006 and an Order on consent dated October 16, 2006 for interim fees for the period July 1, 2006 until voluntary agreement of the parties or final determination by the Court of a reasonable final fee. *Broadcast Music, Inc. v. WPIX, Inc., et al.*, 05 Civ. 6501 (LLS), Interim Fee Order on Consent (S.D.N.Y. Aug. 1, 2005); *Broadcast Music, Inc. v. WPIX, Inc., et al.*, 05 Civ. 6501 (LLS), Interim Fee Order No. 2 on Consent (S.D.N.Y. Oct. 16, 2006).

Network and the UPN Television Network), MyNetwork TV, and other networks carried by the Local TV Stations affiliated with (or owned in common with) those networks.

4. However, BMI disagrees with the Local TV Stations' asserted entitlement to "a significant reduction in annual blanket license fees" and their assertion that the form of per program license the Local TV Stations agreed to in 1999 has become "unreasonably expensive." To the contrary, BMI is entitled to an increase over rates that were set in 1999. Further, BMI disagrees with the Local TV Stations' demand for Court-ordered access to BMI's proprietary cue sheet database.

The Parties

5. BMI is a music performing rights licensing organization that operates on a non-profit-making basis. BMI issues non-exclusive licenses to users of copyrighted music, collects license fees from them, and distributes royalties to its affiliated songwriters, composers, and music publishers. BMI's more than 400,000 affiliated songwriters, composers, and music publishers have granted BMI the non-exclusive right to license the non-dramatic public performing right (Section 106(4) of the Copyright Act, 17 U.S.C. § 106(4)) in their more than 6.5 million copyrighted musical works.

6. The Local TV Stations include WPIX, Inc. and about 1,200 other local commercial broadcast television stations operating in the United States. This group comprises virtually the entire local commercial television industry within the United States, except for certain Univision-owned and Entravision-owned Spanish language stations. The industry's total revenue, in the recession year of 2009, is estimated at over $20 billion.[3] The

3. SNL Kagan, *Media Trends 2009* at p. 24 (2009), available by subscription at http://www.snl.com/sectors/Media-Communications/Datasets/Media-Trends.aspx; SNL Kagan, *Peer Analysis – Kagan's On-Line Application*, available by subscription at http://www.snl.com/interactivex/templatebrowser.aspx (data pulled on 2/12/2010).

TMLC has its own professional, full-time staff, and the Local TV Stations negotiate with BMI solely through the TMLC and its counsel. As a result, the TMLC has bargaining power and resources greater than BMI's.

History of Negotiations Between BMI and the Local TV Stations

7. Over the decades, BMI has periodically negotiated multi-year blanket license forms of agreements with the TMLC and license fees under those agreements were calculated historically as a percentage of revenue. Starting in the mid-1990s, at the insistence of the TMLC, BMI agreed to calculate fees as industry-wide lump-sum, or "flat", dollar amounts, paid in monthly installments by the individual stations based on an allocation devised by the TMLC.

8. The most recent agreement between TMLC and BMI covered the period April 1, 1999 through December 31, 2004 (the "1999 License"). Under the 1999 License, the Local TV Stations and BMI agreed to both an industry-wide, $85 million per-year blanket license fee and a per program license form of agreement that the Local TV Stations could elect at their option.

9. Before the 1999 License expired at the end of 2004, BMI and the TMLC began corresponding, meeting, and negotiating for a new license agreement to take effect in 2005. Commencing January 1, 2005 and continuing to the present date, the Local TV Stations have made monthly license fee payments on an interim basis, at the same blanket license rate as they paid to BMI in December 2004, under the 1999 License.[4] Negotiations continued up until the time the Local TV Stations filed the present Petition.

4. Pursuant to Section XIV(B) of the BMI Consent Decree, the interim fees paid are subject to retroactive adjustment back to January 1, 2005 when this Court makes final fee determinations in this proceeding.

Reasonable License Fees and Terms

The Blanket License

10. BMI expects the evidence to show that BMI is entitled to a substantial increase in the annual blanket license fee that the Local TV Stations should pay for the years 2005 through 2014, and that the "significant reduction" in fees sought by the Local TV Stations – both for the blanket license and per program license – is not warranted. BMI is entitled to the fee increase for at least these reasons, described in more detail below: (1) benchmarks suggested by license fees the Local TV Stations have been paying ASCAP and SESAC for the 2004-2009 period; (2) the Local TV Stations' newly significant sources of revenues from "retransmission consent" payments; (3) the increased importance of music in the Local TV Stations' programming – and their increased reliance upon BMI-repertoire music; (4) the TMLC's desire for an expanded scope of the license that would permit Local TV Stations to use BMI music through Internet, wireless and digital transmissions; (5) the Local TV Stations' addition of broadcasts through High Definition ("HDTV") and/or digital broadcasting, further increasing the number of BMI music performances; and (6) inflation.

11. The final license agreement the Local TV Stations entered into with ASCAP for the period from 2004 through the end of 2009, and the license fees the Local TV Stations have been paying SESAC, suggest benchmarks that justify blanket license rates considerably higher than the interim fees they have been paying BMI. First, the Local TV Stations' ASCAP blanket license fee has risen from $85 million per year in 2004 to $94.7 million per year in 2009 – as compared to the static $85 million per year BMI blanket license fee – despite the fact that BMI's music is more widely used by Local TV Stations than ASCAP's music. In November 2008, the Local TV Stations reconfirmed their agreement to pay

ASCAP at the $94.7 million level in 2009 by electing not to exercise their option to terminate their agreement at the end of 2008. Just recently, the Local TV Stations agreed with ASCAP to continue the agreement for 2010 on an interim basis. Second, a 2006 award rendered by a panel of distinguished arbitrators set the SESAC annual blanket license fee for Local TV Stations at $19.3 million for 2007. Proportionately, based on BMI's share of music used by Local TV Stations compared to ASCAP and SESAC, these license fee levels suggest a reasonable BMI annual fee in excess of $100 million per year.

12. The Petition also fails to note the Local TV Stations' increasing revenues from "retransmission consent" payments made to them by cable system operators under the Communications Act. This source of revenue has increased markedly in recent years and is expected to continue growing in the near future.

13. Further, the intensity of Local TV Stations' music usage in their broadcast programming and, in particular, their reliance upon BMI-repertoire music have increased since 2004. One of the most important trends in television programming in recent years has been the revival of the variety show format, with an emphasis on feature musical performances. For the past several years, for instance, the most highly-rated broadcast television series, which is carried on the Fox Television Network, has been "American Idol," whose format focuses on live feature performances of popular songs, including many BMI songs. Similarly, another highly-rated broadcast television series, also carried on the Fox Television Network, has been "So You Think You Can Dance," a live dance program, where popular songs – including BMI works – are featured.

14. Another way the Local TV Stations have increased their use of BMI music since 2004 is through their associated Internet, wireless and digital transmissions. There are

now over 1,000 Local TV Stations broadcasting via a website. The Petition requests a BMI license with an expanded scope of rights as compared to the 1999 License.[5] The request to expand the scope of the license to include Internet broadcasts or transmissions, including video-on-demand broadcasts, streaming on websites, and delivery via mobile, wireless and other digital platforms, has resulted, and will result, in a substantial increase in music usage under the license. This request apparently includes not only the right to transmit performances of music from the Local TV Stations' own websites but to transmit on a through-to-the-viewer basis by means of websites and other digital platforms operated by third parties. The Petition does not specify the mobile, wireless and other digital platforms for which it seeks a license, nor the specific types of programming or means by which the Local TV Stations would access those platforms. BMI reserves its rights on that subject, including whether it is appropriate for Petitioners, rather than the owners of those platforms, to obtain performing rights licenses.

15. Additionally, most, if not all, of the Local Stations multicast their signals now that they broadcast by means of HDTV and/or digital broadcasting. There are currently over 775 new digital Local TV Stations. Just a few years ago, a Local TV Station could only broadcast a single schedule of programming on its assigned FCC channel. Now, however, multicasting allows that Local TV Station to offer several channels of digital programming at the same time. So, for example, in 2004 a Local TV Station that broadcast on Channel 4 was only able to offer viewers one program at a time, but today that same Local TV Station broadcasting in digital on Channel 4 can offer its viewers one digital program on Channel 4-1, a second – and completely different – program on Channel 4-2, a third digital program on

5. The 1999 License granted the Local TV Stations the non-exclusive right to publicly perform by means of a television broadcast and as part of a single website owned or controlled by a licensed station.

Channel 4-3, and so on. This means more programming choices broadcast on multiple channels rather than a single channel, which also increases the number of BMI music performances. Digital broadcasting and HDTV create a higher quality audience experience, increasing the value of the BMI license to the Local TV Stations.

16. Lastly, even merely adjusting for inflation alone entitles BMI to a significant increase in license fees.

17. Thus, BMI expects the evidence to show that, the reasonable license fee for the Local TV Stations to pay to BMI should be considerably higher than the level paid for 2004.

18. An important additional issue to be determined in this proceeding is whether there should be a new and different formula for allocating industry-wide fees among the Local TV Stations, and who should be responsible for administering it.

The Per Program License

19. BMI expects the evidence to show that the per program license under which the Local TV Stations have been operating on an interim basis is reasonably available to them, and that savings from BMI fees under the per program license have resulted in net BMI collections from the industry that are considerably lower than the blanket fee level. In fact, the per program license is underpriced and not, as the Local TV Stations claim, "unreasonably expensive" relative to the blanket license. As the Local TV Stations concede, hundreds of stations have been operating under the per program license, resulting in a "lowering of net fees paid" by them to BMI, and the per program license continues to offer the Local TV Stations a practical alternative to the blanket license.

20. However, BMI asks that the per program license be adjusted by the Court to eliminate certain anomalies in the 1999 License. One is the inadequate and unfair treatment of "split works" (that is, works having multiple authors, at least one of whom is affiliated with BMI and others of whom are affiliated with ASCAP or SESAC). Under the 1999 per program license, a station can rely on an ASCAP blanket license to clear *all* the rights in a split work, including the interest of the BMI-affiliated author, even though the station does not pay BMI for the performance under the BMI per program license and the BMI-affiliated author is not compensated for his interest in the performance by anyone.

21. Another adjustment in the per program license concerns Fox and other networks that do not hold BMI network licenses. When the affiliate (or wholly-owned) station of such a network holds a BMI per program license, the substantial national advertising revenues earned by the network from its programming have not been taken into account by that station when it has calculated its monthly fees payable under the 1999 License. Therefore, fees paid under that per program license did not fairly value the BMI music included in programming on such a network's affiliate station selecting that license.

22. In light of the Local TV Stations' entitlement to a per program license, it also remains a question as to whether they are also entitled to an adjustable fee blanket license as they have requested, rather than the traditional blanket license.

Access to the BMI Data Base

23. Finally, BMI opposes the Local TV Stations' demand for "access to information about the presence of BMI repertory music in programming broadcast on local television that is maintained by BMI in the ordinary course of its business but currently withheld from [the Local TV Stations], their agents, and their representatives." BMI is under

no obligation under the Consent Decree or otherwise to provide the Local TV Stations with access to its database of music cue sheets. This is proprietary information, collected over many years and kept current on a daily basis by BMI at great expense. The Local TV Stations have their own sources of cue sheets and have access to vendors, including the per-program license administrator used by the TMLC, Music Reports, Inc. ("MRI"), from which they can obtain similar data.

Conclusion

Accordingly, BMI requests that the Court:

(a) determine that the rates and other terms that BMI will propose for a blanket license for the Local TV Stations for the years 2005 through 2014 are reasonable and order the Local TV Stations to pay them, retroactively to January 1, 2005, with interest;

(b) determine that BMI's proposed rates and other terms for a per program license for the Local TV Stations for the years 2005 through 2014 are reasonable and order the Local TV Stations to pay them, retroactively to January 1, 2005, with interest;

(c) deny the Local TV Stations' request for mandatory access to BMI's proprietary music cue sheet database; and

(d) grant BMI such other and further relief as this Court may deem just and proper.

Dated: New York, New York
February 24, 2010

Respectfully submitted,

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JUDGE STEIN

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RECEIVED
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U.S.D.C. S.D. N.Y.

BROADCAST MUSIC, INC.; T/Q MUSIC INC. d/b/a TRIO MUSIC COMPANY; FORT KNOX MUSIC, INC.; SONGS OF UNIVERSAL, INC.; NEW THUNDER MUSIC CO.; EMI BLACKWOOD MUSIC, INC.,	14 CV 1970
Plaintiffs,	CIVIL ACTION NO.:
v.	
FLATIRON ROOM OPERATIONS LLC d/b/a THE FLATIRON ROOM; THOMAS TARDIE; PAUL WEISSMAN; STEVEN BECK; KENNETH J. TEDALDI; DENIS LANGEVIN; GLORIANA TARDIE; and ROBERT GOLDSTEIN,	
Defendants.	

VERIFIED COMPLAINT

Plaintiffs, by their undersigned attorneys, for their Complaint against Defendants, allege as follows:

JURISDICTION AND VENUE

1. This is an action for copyright infringement under the United States Copyright Act of 1976, as amended, 17 U.S.C. Sections 101 et seq. (the "Copyright Act"). This Court has jurisdiction pursuant to 28 U.S.C. Section 1338(a).

2. Venue is proper in this judicial district pursuant to 28 U.S.C. Section 1400(a).

THE PARTIES

3. Plaintiff Broadcast Music, Inc. ("BMI"), is a corporation organized and existing under the laws of the State of New York. BMI's principal place of business is 7 World Trade Center. 250 Greenwich Street, New York, New York 10007. BMI has been granted the right to

SPOTIFY EXHIBIT 8

license the public performance rights in approximately 7.5 million copyrighted musical compositions (the "BMI Repertoire"), including those which are alleged herein to have been infringed.

4. The Plaintiffs other than BMI are the owners of the copyrights in the musical compositions, which are the subject of this lawsuit. All Plaintiffs are joined pursuant to Fed. R. Civ. P. 17(a) and 19(a).

5. Plaintiff T/Q Music Inc. is a corporation d/b/a Trio Music Company. This Plaintiff is the copyright owner of at least one of the songs in this matter.

6. Plaintiff Fort Knox Music, Inc. is a corporation. This Plaintiff is the copyright owner of at least one of the songs in this matter.

7. Plaintiff Songs of Universal, Inc. is a corporation. This Plaintiff is the copyright owner of at least one of the songs in this matter.

8. Plaintiff New Thunder Music Co. is a sole proprietorship owned by Norman Gimbel. This Plaintiff is the copyright owner of at least one of the songs in this matter.

9. Plaintiff EMI Blackwood Music, Inc. is a corporation. This Plaintiff is the copyright owner of at least one of the songs in this matter.

10. Defendant Flatiron Room Operations LLC is a limited liability company organized and existing under the laws of the state of New York, which operates, maintains and controls an establishment known as The Flatiron Room, located at 37 West 26th Street, New York, New York 10010-1025, in this district (the "Establishment").

11. In connection with the operation of the Establishment, Defendant Flatiron Room Operations LLC publicly performs musical compositions and/or causes musical compositions to be publicly performed.

12. Defendant Flatiron Room Operations LLC has a direct financial interest in the Establishment.

13. Defendant Thomas Tardie is a member of Defendant Flatiron Room Operations LLC with primary responsibility for the operation and management of that limited liability company and the Establishment.

14. Defendant Thomas Tardie has the right and ability to supervise the activities of Defendant Flatiron Room Operations LLC and a direct financial interest in that limited liability company.

15. Defendant Paul Weissman is a member of Defendant Flatiron Room Operations LLC with primary responsibility for the operation and management of that limited liability company and the Establishment.

16. Defendant Paul Weissman has the right and ability to supervise the activities of Defendant Flatiron Room Operations LLC and a direct financial interest in that limited liability company.

17. Defendant Steven Beck is a member of Defendant Flatiron Room Operations LLC with primary responsibility for the operation and management of that limited liability company and the Establishment.

18. Defendant Steven Beck has the right and ability to supervise the activities of Defendant Flatiron Room Operations LLC and a direct financial interest in that limited liability company.

19. Defendant Kenneth J. Tedaldi is a member of Defendant Flatiron Room Operations LLC with primary responsibility for the operation and management of that limited liability company and the Establishment.

20. Defendant Kenneth J. Tedaldi has the right and ability to supervise the activities of Defendant Flatiron Room Operations LLC and a direct financial interest in that limited liability company.

21. Defendant Denis Langevin is a member of Defendant Flatiron Room Operations LLC with primary responsibility for the operation and management of that limited liability company and the Establishment.

22. Defendant Denis Langevin has the right and ability to supervise the activities of Defendant Flatiron Room Operations LLC and a direct financial interest in that limited liability company.

23. Defendant Gloriana Tardie is a member of Defendant Flatiron Room Operations LLC with primary responsibility for the operation and management of that limited liability company and the Establishment.

24. Defendant Gloriana Tardie has the right and ability to supervise the activities of Defendant Flatiron Room Operations LLC and a direct financial interest in that limited liability company.

25. Defendant Robert Goldstein is a member of Defendant Flatiron Room Operations LLC with primary responsibility for the operation and management of that limited liability company and the Establishment.

26. Defendant Robert Goldstein has the right and ability to supervise the activities of Defendant Flatiron Room Operations LLC and a direct financial interest in that limited liability company.

CLAIMS OF COPYRIGHT INFRINGEMENT

27. Plaintiffs repeat and reallege each of the allegations contained in paragraphs 1 through 26.

28. Plaintiffs allege four (4) claims of willful copyright infringement, based upon Defendants' unauthorized public performance of musical compositions from the BMI Repertoire. All of the claims for copyright infringement joined in this Complaint are governed by the same legal rules and involve similar facts. Joinder of these claims will promote the convenient administration of justice and will avoid a multiplicity of separate, similar actions against Defendants.

29. Annexed to this Complaint as a schedule (the "Schedule") and incorporated herein is a list identifying some of the many musical compositions whose copyrights were infringed by Defendants. The Schedule contains information on the four (4) claims of copyright infringement at issue in this action. Each numbered claim has the following eight lines of information (all references to "Lines" are lines on the Schedule): Line 1 providing the claim number; Line 2 listing the title of the musical composition related to that claim; Line 3 identifying the writer(s) of the musical composition; Line 4 identifying the publisher(s) of the musical composition and the plaintiff(s) in this action pursuing the claim at issue; Line 5 providing the date on which the copyright registration was issued for the musical composition; Line 6 indicating the copyright registration number(s) for the musical composition; Line 7 showing the date(s) of infringement; and Line 8 identifying the Establishment where the infringement occurred.

30. For each musical composition identified on the Schedule, the person(s) named on Line 3 was the creator of that musical composition.

31. For each work identified on the Schedule, on or about the date(s) indicated on Line 5, the publisher(s) named on Line 4 (including any predecessors in interest), complied in all respects with the requirements of the Copyright Act and received from the Register of Copyrights Certificates of Registration bearing the number(s) listed on Line 6.

32. For each work identified on the Schedule, on the date(s) listed on Line 7, Plaintiff

BMI was (and still is) the licensor of the public performance rights in the musical composition identified on Line 2. For each work identified on the Schedule, on the date(s) listed on Line 7, the Plaintiff(s) listed on Line 4 was (and still is) the owner of the copyright in the respective musical composition listed on Line 2.

33. For each work identified on the Schedule, on the date(s) listed on Line 7, Defendants publicly performed and/or caused to be publicly performed at the Establishment the musical composition identified on Line 2 without a license or permission to do so. Thus, Defendants have committed copyright infringement.

34. The specific acts of copyright infringement alleged in the Complaint, as well as Defendants' entire course of conduct, have caused and are causing Plaintiffs great and incalculable damage. By continuing to provide unauthorized public performances of works in the BMI Repertoire at the Establishment, Defendants threaten to continue committing copyright infringement. Unless this Court restrains Defendants from committing further acts of copyright infringement, Plaintiffs will suffer irreparable injury for which they have no adequate remedy at law.

WHEREFORE, Plaintiffs pray that:

(I) Defendants, their agents, servants, employees, and all persons acting under their permission and authority, be enjoined and restrained from infringing, in any manner, the copyrighted musical compositions licensed by BMI, pursuant to 17 U.S.C. Section 502;

(II) Defendants be ordered to pay statutory damages, pursuant to 17 U.S.C. Section 504(c);

(III) Defendants be ordered to pay costs, including a reasonable attorney's fee, pursuant to 17 U.S.C. Section 505; and

(IV) Plaintiffs be granted such other and further relief as is just and equitable.

Dated: March 20, 2014

Respectfully submitted,

GIBBONS, P.C.

By: _____
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Attorneys for Plaintiffs

Schedule

Line 1	Claim No.	1
Line 2	Musical Composition	Don't Worry, Be Happy
Line 3	Writer(s)	Robert Keith McFerrin, Jr
Line 4	Publisher Plaintiff(s)	Robert Keith McFerrin, Jr. d/b/a Probnoblem Music
Line 5	Date(s) of Registration	1/22/88
Line 6	Registration No(s).	PAu 1-053-089
Line 7	Date(s) of Infringement	07/11/2013
Line 8	Place of Infringement	The Lamp Post Inn

Line 1	Claim No.	2
Line 2	Musical Composition	Folsom Prison a/k/a Folsom Prison Blues
Line 3	Writer(s)	John R. Cash a/k/a Johnny Cash
Line 4	Publisher Plaintiff(s)	House of Cash, Inc.
Line 5	Date(s) of Registration	2/13/84 1/13/83 9/14/56 EU 418371
Line 6	Registration No(s).	RE 196-295 RE 153-380 Ep 102326 11/30/55
Line 7	Date(s) of Infringement	07/11/2013
Line 8	Place of Infringement	The Lamp Post Inn

Line 1	Claim No.	3
Line 2	Musical Composition	Margaritaville
Line 3	Writer(s)	James William Buffett a/k/a Jimmy Buffett
Line 4	Publisher Plaintiff(s)	James W. Buffett, an individual d/b/a Coral Reefer Music
Line 5	Date(s) of Registration	2/14/77 2/22/80
Line 6	Registration No(s).	Eu 763463 PA 59-700
Line 7	Date(s) of Infringement	07/11/2013
Line 8	Place of Infringement	The Lamp Post Inn

Line 1	Claim No.	4
Line 2	Musical Composition	Rocket Man
Line 3	Writer(s)	Elton John; Bernie Taupin
Line 4	Publisher Plaintiff(s)	Universal - Songs of Polygram International, Inc.
Line 5	Date(s) of Registration	5/8/72
Line 6	Registration No(s).	Efo 156255
Line 7	Date(s) of Infringement	07/11/2013
Line 8	Place of Infringement	The Lamp Post Inn

Line 1	Claim No.	5
Line 2	Musical Composition	Summer Breeze
Line 3	Writer(s)	James Seals a/k/a Jimmy Seals; Darrell Crofts a/k/a Dash Crofts
Line 4	Publisher Plaintiff(s)	Songs of Universal, Inc.; Billie Lee Crofts, an individual d/b/a Faizilu Publishing; Jimmy Seals and Ruby Jean Seals, a partnership d/b/a Sutjujo Music
Line 5	Date(s) of Registration	5/17/71 11/3/72
Line 6	Registration No(s).	Eu 273644 Ep 305838
Line 7	Date(s) of Infringement	07/11/2013
Line 8	Place of Infringement	The Lamp Post Inn

Line 1	Claim No.	6	
Line 2	Musical Composition	Ring Of Fire	
Line 3	Writer(s)	June Carter; Merle Kilgore	
Line 4	Publisher Plaintiff(s)	Painted Desert Music Corporation	
Line 5	Date(s) of Registration	11/23/90	9/17/62
Line 6	Registration No(s).	RE 498-587	Ep 167400
Line 7	Date(s) of Infringement	07/11/2013	
Line 8	Place of Infringement	The Lamp Post Inn	

VERIFICATION

STATE OF TENNESSEE)
) ss.:
COUNTY OF DAVIDSON)

Lawrence E. Stevens, being duly sworn, deposes and says:

I am an Assistant Vice President, Licensing, for Plaintiff Broadcast Music, Inc. I have read the foregoing Verified Complaint and know the contents thereof; the same is true to my knowledge, except as to matters therein stated to be alleged upon information and belief, and as to those matters, I believe them to be true.

Lawrence E. Stevens

Sworn to before me this
19th day of March 2014.

Notary Public

DIANA L. JOHNSTON
STATE OF TENNESSEE NOTARY PUBLIC
DAVIDSON COUNTY, TENN.
My Commission Expires AUG. 23, 2016

SPOTIFY EXHIBIT 8

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ESPN, Inc., Petitioner, v. Broadcast Music, Inc., Respondent.	16 Civ. 1067 (LLS) Related to *United States v. Broadcast Music, Inc.*, 64 Civ. 3787 (LLS)

RESPONSE OF BROADCAST MUSIC, INC. TO THE PETITION OF ESPN, INC. FOR THE DETERMINATION OF REASONABLE FINAL LICENSE FEES

Broadcast Music, Inc. ("BMI") hereby submits this response to the Petition of ESPN, Inc. ("ESPN") for the Determination of Reasonable Final License Fees (ECF No. 1) (the "Petition").[1]

INTRODUCTORY STATEMENT

1. ESPN has requested a through-to-the-viewer adjustable fee blanket license ("AFBL") from BMI for the period from 2010 through 2020 for each of its eight sports cable networks. The through-to-the-viewer license requested by ESPN will cover all of ESPN's thousands of cable system operator affiliates, satellite carrier distributors, and myriad new internet and mobile delivery platforms.

2. As required by the terms of its consent decree,[2] BMI quoted a reasonable rate for the license requested that is in line with the prevailing market rates, including the last

[1] Although ESPN's Petition is not a "complaint" under the Federal Rules of Civil Procedure (the "Rules") and thus responsive pleadings are not required under Rule 12, BMI believes that a response would be helpful to the Court for the purposes of framing the parties' dispute. As BMI's response is not an "answer" under Rule 12, it does not address the allegations in ESPN's Petition on a paragraph-by-paragraph basis. For the avoidance of doubt, however, BMI denies the substantive allegations contained in paragraphs 3, 4, and 8 of the Petition.

[2] Final Judgment, Article XIV(A), *United States v. Broad. Music, Inc.*, 1966 Trade Cas. (CCH) ¶ 71,941 (S.D.N.Y. 1966), as amended by 1996-1 Trade Cas. ¶ 71,378 (S.D.N.Y. 1994) (the "Consent Decree").

final ESPN-BMI license. BMI's proposed license includes a rate that is consistent with licenses BMI has entered into (and, on multiple occasions, renewed) with more than 50 sports and news cable television networks over the past 15 years, including BMI's most recent license agreement with ESPN. ESPN challenges the reasonableness of the rate quoted by BMI, but offers no compelling reason why it should pay only a fraction of the rate it agreed to pay for the previous decade, and the same rate paid by many other news and sports networks. The market and ESPN's music licensing activities have remained essentially unchanged over the last twenty years.

3. ESPN was previously licensed by BMI under a final agreement that expired in 2009. Under that license, ESPN could elect a per program license ("PPL") or traditional blanket license for each network. The PPL fee was calculated based on each network's music use. ESPN engaged in significant source and direct licensing and elected a PPL for all but one of its networks, ESPN Classic. Since 2009, ESPN has been operating under an interim agreement with BMI on the same terms as the parties' last final license. Throughout the interim period, all of the ESPN networks other than ESPN Classic have continued to operate under a PPL.

4. ESPN claims it has "distinguished itself with respect to, among other things, its programming and its music clearance practices" (Petition ¶ 4), such that it is fundamentally different from all other cable networks. It is not. ESPN is similarly situated to the myriad other sports and news cable networks licensed by BMI, each of which has virtually the same business model, programming mix, and overall music use. There is simply no support for ESPN's faulty premise that source and direct licensing somehow changes those facts. In addition, there have been no material changes to ESPN's music use, reliance on source and direct

licenses, or the economic circumstances it faces since 2006, when BMI and ESPN entered into their last final license agreement. Thus, BMI has quoted a rate consistent with the historical rates and terms BMI negotiated with ESPN and its competitors.

5. The multitude of benchmark agreements with other similarly situated cable networks confirms the reasonableness of BMI's base rate proposal. The AFBL formula offered by BMI tracks closely the AFBL rates and terms previously approved by this Court, in particular the AFBL applicable to local television stations, and is similarly reasonable. Nonetheless, despite virtually no change to its economic circumstances or music licensing practices, ESPN seeks a dramatic reduction in its BMI rate and fees. ESPN alleges that the blanket license rate on which the AFBL formula is based should be reduced to align with the value purportedly indicated by the source and direct licenses ("SDLs")[3] ESPN has negotiated with various songwriters, composers and publishers. Even assuming the extent of ESPN's claimed reliance on SDLs were true, something BMI has been unable to independently verify due to ESPN's continued failure to provide BMI with copies of its SDLs as required by the last final and current interim license agreements,[4] ESPN's argument is demonstrably flawed.

6. First, unlike SDLs previously considered by this Court in *BMI v. Pandora* and *BMI v. DMX*, which were akin to "mini-blanket licenses" allowing unlimited use of a catalog of compositions, the SDLs ESPN purports to rely on are extremely narrow and grant only limited rights for certain audiovisual uses. They cannot be used as a proxy for the value of the expansive rights conferred by the BMI blanket license. They are simply a different product.

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[3] In the television industry, a direct license is a license entered into directly between the broadcaster and the songwriter, composer, or publisher. With a source license, the broadcaster obtains the performance rights to the BMI music in a television program from the producer of the program who has obtained those rights from the songwriter, composer or publisher.

[4] What little information ESPN has provided to BMI has been either inaccurate or incomplete such that BMI was unable to verify the existence or scope of many of ESPN's claimed SDLs. ESPN last provided BMI with an SDL in 2013.

7. Second, ESPN's SDLs are not an appropriate indicator of value for the BMI license because the SDLs ESPN obtains exclusively cover music in programming controlled by ESPN or programming that ESPN can readily substitute. In contrast, ESPN relies on its BMI blanket license for music that it cannot easily substitute, where ESPN's leverage in a free market negotiation with songwriters, composers and publishers would be materially different. This music is more similar to music in ESPN Classic programming for which ESPN has not adopted a direct licensing strategy. ESPN has instead always elected a traditional blanket license for ESPN Classic and paid the standard industry rate.

8. Finally, the value of music, which is the only value reflected in ESPN's SDLs, is only one of many components of the value of the blanket license offered by BMI. Critically for ESPN—which broadcasts many commercials and live sporting events in which it does not control its use of music—these additional benefits include insurance against copyright infringement, relief from the need to separately identify each and every composition inserted into its programming, greatly reduced transaction costs, streamlined collection and payment of royalties, and immediate access to the more than 10.5 million works in BMI's repertoire. Any rate must reasonably compensate BMI for the added value of the blanket license.

THE PARTIES

9. Founded in 1939, BMI is a music performing rights licensing organization (a "PRO") that operates on a non-profit-making basis. BMI obtains the non-exclusive right to license the public performing right in musical compositions from songwriters, composers, and music publishers (collectively, BMI's "Affiliates"). BMI's repertoire presently consists of approximately 10.5 million musical works from the catalogs of approximately 700,000 Affiliates and covers the entire range of musical genres.

10. BMI issues performing right licenses to music users, collects license fees from them, tracks musical performances, and distributes royalties to its Affiliates. BMI licenses a broad range of music users across a wide array of industries including, *inter alia*, hundreds of broadcast and cable television networks.

11. Through BMI, licensees obtain the right to publicly perform any and all of the works in BMI's repertoire. In this way, BMI increases the availability of music to users, reduces transaction costs, and ensures that composers and music publishers are fairly compensated for the use of their works.

12. ESPN is a "multimedia sports entertainment company that operates eight 24-hour domestic television sports networks[.]" (The Walt Disney Co., Annual Report (Form 10-K) (Nov. 25, 2015) ("Disney 10-K") at 2.) The ESPN networks are ESPN, ESPN2, ESPN Classic, ESPNews, ESPN Deportes, ESPN Today, ESPNU, and ESPN360.

13. ESPN broadcasts live professional and college sports and sports-related news programs and documentaries. ESPN's flagship network has 92 million subscribers. (*Id.*) Upon information and belief, in 2014 ESPN generated approximately $11 billion in revenue.

14. ESPN also operates ESPN.com, "which delivers comprehensive sports news, information and video" on computers and mobile devices, and WatchESPN, "which delivers live streams of most of ESPN's domestic networks" on computers and mobile devices to ESPN subscribers. (*Id.* at 2-3.)

15. ESPN controls the vast majority of the programming it broadcasts. For two decades, ESPN has claimed to have entered into direct licenses with music publishers and composers, or required program producers to secure the music performing rights for the programming broadcast by ESPN. Notwithstanding its purported extensive direct licensing

activities, ESPN has demanded and relied on access to a compulsory blanket license from BMI for music that is not otherwise licensed and for protection against infringement claims.

16. ESPN relies on its BMI license for music that is more expensive or less efficient to license directly and music that ESPN is unable or unwilling to identify. ESPN also relies on its BMI blanket license to provide the right to perform music included in broadcasts of live sporting events and music embedded in commercials. Such uses, generally referred to in the industry as "incidental and ambient uses" ("IAU"), are particularly important for sports networks like ESPN that focus heavily on live sporting events. Advertisers place a premium on live sporting events—there is no opportunity to skip advertisements during a live broadcast and it is therefore far more likely viewers will pay attention to commercials—and ambient stadium music is a critical component of the broadcast that allows ESPN to attract viewers by making them feel like they are sitting in the stadium cheering on their favorite team. ESPN has consistently obtained a license to cover its use of IAU music and paid a portion of its PPL fee for this purpose.

THE DETERMINATION OF A "REASONABLE" RATE

17. When considering whether a rate quoted by BMI is reasonable, the rate court must attempt to approximate the "fair market value" of the license requested, *i.e.* the price that a willing buyer and a willing seller would agree to in an arm's-length transaction.

18. In so doing, rate courts look to other license agreements entered into by parties in comparable circumstances with comparable negotiating positions, for the same scope of rights. This so-called "benchmark" methodology is suggested by the BMI Consent Decree itself, which "enjoins disparate treatment of similarly situated licensees." (Consent Decree § VIII(A).)

19. Courts have held that music licensees are similarly situated if they are in the same industry, operate similar businesses, and use music in similar ways with similar frequencies. Television stations and cable networks can be similarly situated even if they vary greatly in audience size and/or revenue.

20. As a general rule, individual choices regarding the use of SDLs should not be a factor in determining whether two entities are similarly situated. For example, local television stations have adopted a wide range of direct licensing strategies but have been deemed to be "similarly situated" to, and therefore subject to the same license terms and fees as, stations that do not use any SDLs. Entities can therefore be similarly situated irrespective of whether they both take a BMI license or find other ways in which to clear their music licensing permissions.

21. Rate courts thus rely frequently on license agreements reached by the parties themselves or by other parties in comparable circumstances and for comparable rights. The output of this analysis is typically a "range of reasonableness" informed by the rates found in a competitive market.

22. Critical to the benchmark analysis is determining whether the proposed benchmark covers the same scope of rights as the license requested from BMI. ESPN ignores this requirement entirely when it asserts that its blanket license fee should "bear some proportional relationship" to the fees it pays for direct licenses to songwriters, composers and publishers. (Petition ¶ 8.) As discussed below, the scope of the SDLs used by ESPN is so fundamentally different from that of the AFBL requested from BMI that the SDLs are simply not comparable products. A reasonable rate must reflect the total value of BMI's blanket license, which is, and has been consistently recognized to be, materially greater than the sum of its parts.

THE BMI ADJUSTABLE FEE BLANKET LICENSE

23. BMI traditionally issues blanket licenses which permit music users to perform any and all of the works in the BMI repertoire, without constraint, for the term of the license. The blanket license confers benefits beyond the value of the music being licensed which must also be reflected in the rate proposed. In particular, the BMI blanket license:

a. Provides insurance against copyright infringement, allowing ESPN to perform publicly millions of works in the BMI repertoire whenever and however it wishes;

b. Gives ESPN immediate access to works in the BMI repertoire, including new works the moment they are added;

c. Allows ESPN to avoid the tremendous cost associated with identifying the music and finding the copyright owners of every song or composition performed;

d. Decreases transaction costs, since the blanket license avoids the need to engage in individual negotiations for each composition performed;

e. Creates a *de facto* ceiling on the cost of music for ESPN by allowing ESPN to decline to enter into a direct license if the fee demanded is above the proportional cost of the BMI blanket license; and

f. Facilitates the collection and distribution of royalties to affiliated songwriters, composers, and publishers.

24. ESPN has requested an AFBL. An AFBL is a blanket license that provides the licensee with credits for performances of compositions in the BMI repertoire that are directly licensed by BMI Affiliates. BMI has offered such a license with a standard formula for crediting ESPN for performances it directly licenses.[5] Thus, ESPN will receive all of the

[5] BMI has proposed calculating ESPN's AFBL fee based on the following formula: ESPN AFBL Fee = Incremental Administrative Fee + Floor Fee + (Fee Subject to Credit x MUR). The Incremental Administrative Fee accounts for the additional costs to BMI in administering the ESPN license. The Floor Fee would compensate BMI for its traditional overhead costs as well as the "incidental and ambient" use of BMI-affiliated compositions on ESPN's programming. The "MUR," or music use ratio, represents the percentage of all performances of BMI music that are licensed through BMI. The MUR is applied to ESPN's Fee Subject to Credit, *i.e.* ESPN's base fee less the

benefits of the blanket license described above, with the added flexibility that will enable it to continue to implement its source and direct licensing strategy and reduce the fees it pays to BMI.

ESPN'S SOURCE AND DIRECT LICENSES

25. In stark contrast to the BMI blanket license, the SDLs that cover public performances of music by ESPN are narrow and tailored in scope. Upon information and belief, in general, the SDLs relied on by ESPN convey the public performance right for a specific set of compositions or catalogs, for use in particular programs, to be aired at specific times and often for a limited period of time or number of performances. They require advance identification of the music to be used. They do not allow immediate and unlimited use of millions of compositions without prior notification or accounting, and are not appropriate benchmarks for the BMI blanket license.

26. ESPN's suggestion that "the reasonable value of the performance of BMI-licensed music works by ESPN should bear some proportional relationship to ESPN's direct payments to publishers and songwriters" (Petition ¶ 8), ignores these fundamental differences. ESPN's SDLs include ***only*** the value of the specific compositions to which they apply, and only within the particular context and under the conditions specified in the SDLs. In contrast, the BMI blanket license provides access to any, some, or all of the more than 10.5 million songs in BMI's repertoire for any purpose without any identification (advance or otherwise) and for any duration ***and*** confers upon licensees the protections and benefits described above.

27. Thus, ESPN's SDLs are far from, as ESPN alleges, "the best available evidence of the value of public performances of music on ESPN" (Petition ¶ 8). This argument is belied by the prior agreement between ESPN and BMI wherein the value of the music was

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Incremental Administrative Fee and Floor Fee, as a means of crediting ESPN for its valid, executed, and verified SDLs.

negotiated for years without this argument being raised. A reasonable license fee for a BMI license must consider and value all of the components of a BMI blanket license as it has with ESPN and others for decades.

LICENSES WITH ESPN'S COMPETITORS SUPPORT THE REASONABLENESS OF BMI'S FEE PROPOSAL

28. BMI's licensing of the cable television industry over the past thirty years stems from a series of agreements between the American Society of Composers, Authors and Publishers ("ASCAP"), a competing U.S. PRO, and cable television networks that settled a protracted rate court proceeding in *U.S. v. ASCAP (In re Application of Turner Broadcasting)*, referred to as the *Turner* litigation. The "post-*Turner*" licenses set a three-tiered rate structure depending on the music intensity of the programming offered by the network. Specifically, "music intensive" programming networks were assigned a rate of 0.9% of gross revenue, "general entertainment" programming networks were assigned a rate of 0.375% of gross revenue, and "news and sports" programming networks were assigned the lowest rate, or 0.1375% of gross revenue.

29. Over the last decade, BMI has licensed ***over 300 cable networks*** at the established post-*Turner* rates, including 30 sports networks and 20 news networks, which have agreed to the standard rate applicable to news and sports programming. Over the course of the last year, BMI has entered into or extended similar agreements with nearly all of ESPN's competitors through 2019. Many of BMI's licenses with cable networks have been renewed multiple times.

30. BMI's more than 300 post-*Turner* licenses are the best benchmark for the blanket license component of a new AFBL with ESPN. ESPN argues that it "has distinguished itself" from its competitors because of, among other things, "its music clearance practices."

(Petition ¶ 3.) These practices include ESPN's allegedly "unique" ability to "control its music usage and the degree to which [ESPN] is able to secure direct licenses for the public performance of the musical compositions embedded in its content." (*Id.* ¶ 4.) ESPN's music clearance practices are appropriately credited through the AFBL formula. They should not form the basis of an overall license which has many more components than that which is being credited, and they do not justify deviating from the post-*Turner* standard blanket license rate or terms.

31. Differences in source and direct licensing by similarly situated licensees does not bear on the reasonableness of the base blanket rate payable under a BMI blanket license. Indeed, even if ESPN does differ in some respects from other cable networks,[6] ESPN's SDLs provide no basis to radically slash the BMI blanket rate as ESPN proposes. By way of example, all local commercial television stations are licensed under the same negotiated fee structure despite the fact that some make extensive use of SDLs while others do not use them at all. Stations that use SDLs elect more flexible license forms such as the PPL or the AFBL. These alternative license forms maintain the base blanket rate, but allow a music user to reduce the actual fees it pays to BMI based on its use of SDLs. ESPN has requested an AFBL for just that reason.

THE PRIOR BMI-ESPN LICENSE SUPPORTS THE REASONABLENESS OF BMI'S RATE PROPOSAL

32. On May 1, 2006, BMI and ESPN entered into a license agreement covering the period from February 28, 1995 through December 31, 2009 (the "2006 BMI-ESPN License" or the "License").

33. ESPN had previously refused to license with BMI, and BMI was compelled to demonstrate to ESPN that, without a BMI license, each performance by ESPN of

[6] Upon information and belief, ESPN's music use remains substantially similar to that of other sports cable networks that have agreed to the post-*Turner* rate.

BMI-affiliated compositions was an act of copyright infringement. In 1996, ESPN (i) agreed to a flat fee settlement agreement with BMI to settle its past infringements and (ii) applied for and received from BMI an interim license as of February 28, 1995 at 0.2% of gross revenue, the then-prevailing industry wide interim rate for sports and news networks. At or around that time, BMI negotiated the post-*Turner* interim rates with the basic cable television industry.

34. A decade later, the 2006 BMI-ESPN License settled the interim license fees on a final basis for the period 1995 through 2005 at the new industry-wide blanket rate of 0.1375% and applied that same rate to a new final agreement going forward. Because ESPN had been paying BMI at a higher rate on an interim basis, the 2006 BMI-ESPN License required BMI to refund to ESPN the difference between the higher interim rate and the final negotiated rate for the interim period (1995-2005). Thus, the 2006 BMI-ESPN License covered the whole period from 1995 through 2009 at a final base fee blanket rate consistent with the post-*Turner* news and sports rate paid by ESPN's competitors.

35. Long before the 2006 BMI-ESPN License, ESPN developed and implemented an extensive SDL strategy that it claims has remained unchanged to this day. Although BMI has been unable to verify the extent of ESPN's use of SDLs, upon information and belief ESPN licenses through SDLs as much music as possible in its programming. Accordingly, ESPN requested and received in the 2006 BMI-ESPN License a PPL option for any or all of its networks, as an alternative to the traditional blanket license. The base fee under both the blanket license option and the PPL option was based on the post-*Turner* news and sports rate. For each network as to which ESPN elected a PPL, the base blanket fee was adjusted according to a formula set out in the License.[7]

[7] The License provided the following formula for calculating the per program fee: ESPN PPL Fee = IAU Fee + Program Fee. The Program Fee for a given year was calculated by multiplying (i) 155% of 77.5% of a given year's

36. The PPL fee formula consisted of a "Program Fee" and an "IAU Fee." The Program Fee component was structured in a manner that allowed ESPN to decrease its blanket license fee to BMI as ESPN entered into SDLs covering more of its music, particularly music in programs that earned more advertising revenue. For this reason, the License required ESPN to report its SDLs to BMI for verification. ESPN flouted its reporting obligation and, despite BMI's objections and numerous attempts to work with ESPN to resolve the deficiencies, ESPN routinely failed to provide BMI with its SDLs or any other necessary data. As a result, ESPN drastically reduced the fees it paid to BMI without providing all of the documentation required by the terms of the 2006 BMI-ESPN License necessary to prove that ESPN was indeed entitled to the credits it claimed under its PPL license against its BMI blanket license fee.[8]

37. In addition, the Program Fee was calculated with reference to ESPN's gross revenues during the calendar year 2004. BMI applied a fixed annual growth rate to ESPN's 2004 revenues as a means of the parties approximating ESPN's then-unknown 2006-2009 revenues. Unexpectedly to BMI, ESPN's actual revenue growth far outstripped that estimate, resulting in ESPN paying below market fees to BMI.

38. The IAU Fee component of the PPL called for the payment by ESPN of a set percentage of the network's blanket license fee irrespective of the amount of source and direct licensing being done by ESPN. There was no link between the value of obtaining SDLs for non-IAU music and the IAU Fee ESPN paid. Thus, even if ESPN had successfully licensed every second of non-IAU music in its programming, it still would have paid the entire IAU Fee.

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base fee by (ii) the ratio of advertising revenue generated by ESPN programs that contained music licensed through BMI as compared to total advertising revenue.

[8] Because ESPN has requested an AFBL, which will provide it with a credit for every performance of a BMI work that is otherwise licensed, BMI expects ESPN's final AFBL to include more comprehensive reporting requirements than the 2006 BMI-ESPN License. Such requirements would be similar to those included in AFBLs that have been previously approved by this Court.

39. The IAU Fee compensates BMI for its general overhead costs as well as the "incidental and ambient" use of BMI-affiliated compositions in ESPN's programming. Such incidental and ambient uses included ESPN's performance of BMI-affiliated works in, among other things, commercials and promotional announcements, and music in live sporting events or news programming. The parties recognized that ESPN would not seek to undertake the very difficult and costly effort to directly license IAU music. It had never done so before. As such, the IAU Fee was not subject to reduction, and thus acted as a floor fee in the overall license formula. ESPN now asks the Court to ignore its agreement to pay for its use of IAU music for 20 years by using SDLs for unrelated music as a proxy for the overall value of its blanket license.

40. ESPN's core business has not materially changed since the 2006 BMI-ESPN License was negotiated. Upon information and belief, ESPN uses at least as much BMI music in its television programming today, and uses such music in a similar manner, as it did during the entire term of the 2006 BMI-ESPN License, and relies on its BMI blanket license to cover at least as much, if not more, of the BMI music performed.

41. In addition, upon information and belief, ESPN's total performances of BMI-affiliated music have increased since the 2006 BMI-ESPN License expired as a result of ESPN's growing digital presence. Millions of daily unique visitors to ESPN.com can now watch scores of video clips from ESPN's newscasts or the live sporting events it broadcasts or covers, and ESPN's millions more mobile app users can stream clips and full-length broadcasts on a daily basis. Many of the clips themselves contain music and nearly all are embedded with commercials that include music. If anything, this would support an increase in fees to BMI, further underscoring the reasonableness of BMI's proposal. Instead, ESPN, one of the world's

largest and most successful cable networks, seeks to drastically slash the already modest rate it pays to BMI.

42. The 2006 BMI-ESPN License represents an arm's-length transaction between a willing buyer (ESPN) and a willing seller (BMI). It was negotiated and agreed to by the same parties contesting the current license under equivalent economic circumstances. It also covers similar rights as the license at issue, although ESPN's use of BMI music on digital platforms has increased materially since 2006. There is no compelling reason for the parties to deviate in any material way from the prevailing industry license rates and terms, many of which were affirmed by ESPN as reasonable by its negotiation and acceptance of the 2006 BMI-ESPN License.[9]

ESPN MUST PAY BMI FOR INCIDENTAL AND AMBIENT USES OF MUSIC AND COMPENSATE BMI FOR THE COST OF ADMINSTERING THE LICENSE

43. As discussed above, ESPN has requested an alternative rate structure—the AFBL—that allows ESPN the flexibility to enter into SDLs and reduce its fee to BMI while also permitting ESPN to reap the benefits and protections of the blanket license. It is vital that BMI is compensated for these benefits regardless of the extent of ESPN's use of SDLs.

44. BMI has proposed an AFBL fee formula that mirrors the formulas approved by this Court in *DMX, WPIX*, and *Pandora* and is reasonable.[10] Like the AFBL in those cases, the proposed formula would credit ESPN for its reduced use of works licensed

[9] Indeed, BMI has offered, at ESPN's request, an AFBL that will allow ESPN to reduce its fee to BMI to account for its SDLs, assuming ESPN complies with the proposed AFBL's reporting requirements.

[10] *See Broad. Music, Inc. v. DMX, Inc.*, 726 F. Supp. 2d 355, 364 (S.D.N.Y. 2010); Final Order at Ex. 3, *WPIX, Inc. v. Broad. Music Inc.*, 09 Civ. 10366 (LLS) (S.D.N.Y. Dec. 12, 2014), ECF No. 86; *Broad. Music, Inc. v. Pandora Media, Inc.*, No. 13 Civ. 4037 (LLS), 2015 WL 3526105, at **24-25 (S.D.N.Y. May 28, 2015).

through BMI[11] and account for the considerable resources BMI must expend to administer the license. Consistent with the AFBL offered to the local commercial television broadcasters in *WPIX*, the proposed formula would also account for the different types of music uses on television, including IAU music.

45. The inclusion of a fee to account for ESPN's IAU of music is consistent with the 2006 BMI-ESPN License. It is also consistent with the PPL agreed to by the local television industry—on which ESPN's PPL was based—and the local television industry's AFBL, which was approved by this court in December of 2015. The IAU portion of the license fee is designed to cover, among other things, the value of music in commercials, music in short clips captured in news broadcasts, and ambient music in sports event programs not inserted by the program producer (including the vast amounts of music played loudly and prominently in stadiums and arenas).

46. The 2006 BMI-ESPN License affirms the reasonableness of an IAU fee, which is reflected in the AFBL formula as part of the floor fee. As it has since the mid-1990s, despite its purported extensive use of SDLs, ESPN continues to rely on its license with BMI to cover its use of IAU music which, by its very nature, is difficult for ESPN to identify and directly license. Upon information and belief, there is no evidence that ESPN's IAU music has decreased at all since 2006. In fact, upon information and belief, ESPN has increased the number of commercials it broadcasts since that time and, as noted above, ESPN has greatly increased its use of IAU music as the result of the distribution of its programming on its website and other mobile platforms.

[11] As rate courts have recognized, a license with a crediting mechanism necessitates the identification of music used by the licensee to determine what is and is not compensable to BMI's Affiliates. BMI's proposed AFBL therefore requires the timely receipt and verification of ESPN's SDLs.

RELIEF REQUESTED

WHEREFORE, BMI respectfully requests that the Court enter an Order:

A. Confirming as reasonable the rates and terms proposed by BMI for a license covering performances of music in the BMI repertoire by ESPN and directing ESPN to pay such license fees, effective as of January 1, 2010 and continuing through December 31, 2020; and

B. For such other and further relief as this Court deems just and proper.

[*Remainder of page intentionally left blank*]

Dated: March 8, 2016
New York, New York

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BROADCAST MUSIC, INC., Petitioner, v. RADIO MUSIC LICENSE COMMITTEE, INC.,[1] Respondent.	17 Civ. _____ (LLS) Related to *United States v. Broadcast Music, Inc.*, 64 Civ. 3787 (LLS)

PETITION OF BROADCAST MUSIC, INC. FOR THE DETERMINATION OF REASONABLE INTERIM LICENSE FEES

Pursuant to Section XIV(B) of its Consent Decree,[2] Broadcast Music, Inc. ("BMI") hereby submits this Petition[3] seeking a determination of reasonable interim license fees for all BMI-affiliated musical compositions performed publicly by the thousands of commercial radio broadcast stations represented by the Radio Music License Committee (the "RMLC Stations"). In support thereof, BMI respectfully submits as follows:

Introductory Statement

1. BMI's licensing relationship with the RMLC and the radio industry is longstanding. The most recent final blanket and per program licenses expired as of December

[1] BMI has named the Radio Music Licensee Committee, Inc. (the "RMLC") as Respondent in this Proceeding solely in its capacity as representative of the FCC-licensed broadcast radio stations operating in the United States represented by the RMLC, effective as of January 1, 2017. A list of those stations can be found in Exhibit 1 attached hereto.

[2] "Consent Decree" refers to the Final Judgment entered in *United States v. Broad. Music, Inc.*, 1966 Trade Cas. (CCH) ¶ 71,941 (S.D.N.Y. 1966), as amended by 1996-1 Trade Cas. ¶ 71,378 (S.D.N.Y. 1994). A copy of the Consent Decree is attached hereto as Exhibit 2.

[3] Pursuant to the Order of Judge Louis L. Stanton, dated April 25, 2001, in *United States v. Broadcast Music, Inc.*, 64 Civ. 3787, BMI brings this proceeding by separate petition and notes that this proceeding is related to 64 Civ. 3787.

31, 2016. Despite negotiations during 2016, the parties have yet to reach an agreement on interim or final fees to commence on January 1, 2017.

2. BMI requests that the Court extend the terms of the previous final agreement between BMI and RMLC Stations, which included a rate of 1.7% of each licensee's gross revenue and a corresponding reduced rate applicable to talk format stations that have elected the Per Program License,[4] on an interim basis pending an agreement on, or determination of, final license fees for the RMLC Stations. As explained in detail below, BMI's interim rate proposal is reasonable. Indeed, BMI believes that the market developments will support a *final* rate of greater than 1.7% of gross revenue payable to BMI.

3. The interim rate proposed by the RMLC represents a drastic reduction in the rate payable to BMI based on the parties' previous final agreement—from 1.7% of gross revenue to 1.4% of gross revenue—and is unreasonable. The RMLC can point to no changed circumstances that warrant a reduction in BMI's interim or final rate. Indeed, since entering into the last license, RMLC Station music use, particularly via new media, has exploded, warranting an increase, not decrease in rates. Moreover, the RMLC's interim rate proposal is inconsistent with the RMLC's recently announced final license agreement with the American Society of Composers, Authors & Publishers ("ASCAP"), which increased the rates payable to ASCAP as of January 1, 2017.

4. BMI therefore brings this Petition, pursuant to Section XIV(B) of the Consent Decree, to ensure that its affiliated songwriters, composers, and music publishers are appropriately compensated for RMLC Stations' use of their musical works during this interim

[4] Under the recently expired license, stations with limited music use (*i.e.* talk radio format stations) could elect a Per Program License with a base fee of 0.2958% of gross revenue plus a supplemental fee calculated based on the number of weighted program periods containing at least one feature performance of music in the BMI repertoire.

period while BMI and the RMLC negotiate a binding final license agreement, or a final license fee is set by the Court.[5]

The Parties

5. Founded in 1939, BMI is a music performing rights licensing organization ("PRO") that operates on a non-profit making basis. BMI obtains the non-exclusive right to license the public performing right in musical compositions from songwriters, composers, and music publishers (collectively, BMI's "Affiliates"). BMI's repertoire presently consists of the public performing right in approximately 12 million musical works from the catalogs of approximately 750,000 Affiliates and covers the entire range of musical genres.

6. BMI issues performing right licenses to music users, collects license fees from them, tracks musical performances, and distributes royalties to its Affiliates. BMI licenses a broad range of music users across a wide array of industries including, *inter alia*, approximately 10,000 commercial radio stations, hundreds of broadcast and cable television networks, thousands of internet digital services and websites, concert halls, concert promoters, universities, and hundreds of thousands of restaurants, nightclubs, retail stores, and hotels.

7. Through BMI, licensees obtain public performance rights in any and all of the works in BMI's repertoire. In this way, BMI increases the availability of music to users, reduces transaction costs, and ensures that songwriters, composers and music publishers are fairly compensated for the performance of their works.

8. The RMLC is a non-profit organization that negotiates licenses on behalf of approximately 7,000 of the 10,000 total domestic commercial broadcast radio stations. In addition, owners of the approximately 3,000 commercial radio stations who are not part of the

[5] The interim fee set by the Court pursuant to Section XIV(B) will be subject to retroactive adjustment once a final fee is determined.

RMLC have agreed with BMI to be bound by the outcome of negotiations or rate court proceedings between BMI and the RMLC concerning interim and final license fees.

Jurisdiction

9. BMI commences this proceeding pursuant to Section XIV(B) of the Consent Decree, which provides that "[w]hen an applicant has the right to perform any compositions in [BMI's] repertory pending the completion of any negotiations or proceedings provided for in Subsection (A) hereof, either the applicant or [BMI] may apply to this Court to fix an interim fee pending final determination of what constitutes a reasonable fee."

10. Jurisdiction is therefore proper in this Court, pursuant to this Court's rate-setting authority under Section XIV(B) of the Consent Decree, because: (i) the RMLC made a written application for a license pursuant to Section XIV(A) of the Consent Decree on December 22, 2016; and (ii) BMI and the RMLC have not completed their negotiation of final license fees and terms. Accordingly, BMI seeks this Court's determination of a reasonable interim license fee with respect to the RMLC, under Section XIV of the Consent Decree.[6]

11. Venue is proper in this District as a result of the express consent of the RMLC in applying for a license pursuant to the Consent Decree.

History of Negotiations Between BMI and the RMLC

12. In August 2012, this Court approved an industry-wide settlement between BMI and the RMLC covering the seven-year license period January 1, 2010 through December 31, 2016 (the "BMI 2010 License"). The BMI 2010 License provides for a blanket license rate of 1.7% of each licensee's gross revenue for all broadcast and new media offerings.

[6] As a result of the parties' failed interim fee negotiations, BMI will be forced to delay payment to its Affiliates for performances of their works by RMLC Stations beginning as of the first quarter of 2017.

13. In March 2016, BMI and the RMLC began negotiating the fees and terms of a new agreement covering the period from January 1, 2017 forward. In July 2016, BMI sent the RMLC proposed terms for a final fee agreement. BMI received no response to its proposal from the RMLC for over five months. To date, the parties have failed to reach an agreement.

14. In November 2016, after reviewing its proposed license extension agreement with the RMLC, BMI sent the approximately 3,000 commercial radio stations not represented by the RMLC license extension agreements, extending the terms of the BMI 2010 License with an interim rate of 1.7% of each licensee's gross revenue, along with an explanation of the options available to those stations for the period beginning January 1, 2017. Over 1,100 stations have already signed the license extension agreements, and are currently paying BMI at the same final rate on an interim basis as of January 1, 2017. Although the license extension agreements provide for the adjustment of interim fees payable based on the outcome of negotiations with the RMLC or the Court's interim fee order, they demonstrate that a significant number of stations believe it is reasonable to continue paying BMI at an interim rate of 1.7% of gross revenue.

15. On December 22, 2016, the RMLC requested a license from BMI, pursuant to Section XIV(A) of the Consent Decree, to cover specified public performances by RMLC Stations of BMI-affiliated musical works for the period January 1, 2017 through December 31, 2021. *See* Exhibit 1 attached hereto.

16. In its December 22, 2016 letter, the RMLC first raised the issue of a reduced interim license fee, and proposed paying BMI a rate of 1.4% of gross revenue on an interim basis, rather than continuing to pay the prevailing rate of 1.7% of gross revenue under the BMI 2010 License. The RMLC's proposed rate of 1.4% would also extend to commercial radio

stations' digital offerings, although the scope of those offerings has greatly expanded over the course of the BMI 2010 License term. The RMLC claimed this reduction is appropriate "in light of the RMLC's understanding of BMI's market share of public performances on radio relative to ASCAP and the new costs associated with the emergence of Global Music Rights." *Id.* at 1-2. The RMLC has not disclosed the support for its assertions which, as discussed below, are inconsistent with BMI's internal analyses, the RMLC's recent final license with ASCAP, and the interim rates the RMLC Stations are paying to SESAC Holdings ("SESAC") and Global Music Rights, LLC ("GMR"), the two unregulated domestic PROs.

The Rate of 1.7% of Gross Revenues Paid by RMLC Stations Under the BMI 2010 License is a Reasonable Interim Rate

17. It is reasonable to maintain, as an interim rate, the same rate paid to BMI under the BMI 2010 License until such time as the parties negotiate a binding final license agreement, or the Court makes a final fee determination. There has been no significant change in circumstance in the radio industry that would warrant a reduction in fees, and overall music use by radio stations, including of music in the BMI repertoire, has increased dramatically, and is expected to continue to increase going forward. Accordingly, BMI requests that the Court extend the terms of the BMI 2010 License, including the rate of 1.7% of each licensee's gross revenue, on an interim basis pending an agreement on, or determination of, final license fees for the RMLC Stations.

18. Although a PRO's market share on radio tends to fluctuate over time due to the variation in popularity of certain songwriters and songs from year to year, BMI's internal analyses of the most recent performance data from 2016 show that BMI has a significantly greater market share than any other domestic PRO, including ASCAP. Despite this, and despite

recently agreeing to *increase* ASCAP's rate on a final basis, the RMLC seeks to lower BMI's rate. The RMLC's proposed interim rate is unreasonable.

19. The RMLC's proposed reduction in the rate payable to BMI is ostensibly based on the RMLC's new agreement with ASCAP, which was announced publicly on December 15, 2016 and covers the five-year period 2017 to 2021. *See* "ASCAP and the Radio Music License Committee Announce New Agreement," dated Dec. 15, 2016, available at http://www.radiomlc.org/pages/4795848.php. RMLC Stations previously paid ASCAP the same rate of 1.7% of gross revenue and corresponding Per Program License rate called for in the BMI 2010 License. As of the date of this Petition, the rates and terms of the new agreement have not been disclosed publicly by either ASCAP or the RMLC. However, the parties have publicly stated that their new agreement provides for "***increases*** in the rates paid by radio stations to perform music by ASCAP." *Id.*

20. The RMLC contends that ASCAP's increased percentage-of-revenue rate is reflective of an increase in ASCAP's percentage share of radio performances as compared to BMI's. However, BMI's own analyses indicate precisely the opposite: BMI had significantly more performances on radio than ASCAP in 2016, the most relevant year to consider given that the license at issue is effective January 1, 2017. Indeed, the RMLC reached its agreement with ASCAP without reliable information regarding BMI's market share. In view of the recent increase in ASCAP's rate, BMI's requested interim rate of 1.7% of gross revenue is therefore *more than* reasonable—and the RMLC's requested rate of 1.4% is exceptionally unreasonable.

21. The RMLC also cites the emergence of a new unregulated PRO, GMR, as support for a decreased interim license rate for BMI. *See* Exhibit 1 at 2. GMR was founded in 2013 to represent a select group of rights holders who felt that the rates paid by the regulated

PROs were below market. GMR has quickly amassed an estimated 20,000 works, including those written or performed by popular artists such as Adele, Aerosmith, the Beatles, Bruno Mars, Jay-Z, Madonna, Pharrell Williams, and U2. Although both BMI and ASCAP have lost affiliates or members to GMR as of January 1, 2017,[7] by the RMLC's own admission, those losses disproportionately impact ASCAP. *See* Compl., *Radio Music License Committee, Inc. v. Global Music Rights, LLC*, 16 Civ. 6076 (E.D.P.A. Nov. 18, 2016) ("Before joining GMR, all or virtually all of GMR's affiliates were members of ASCAP or BMI. In fact, the vast majority were affiliates of . . . ASCAP.").[8] Upon information and belief, ASCAP has lost five times as many affiliates to GMR as BMI. However, as discussed above, the RMLC and ASCAP have agreed to *increase* the rate payable to ASCAP by RMLC Stations. Having agreed to pay ASCAP a higher rate, despite the disproportionately large number of ASCAP members who have moved to GMR, the RMLC cannot use the emergence of GMR as a basis to reduce fees payable to BMI.

22. Finally, the rates paid by the RMLC Stations to the unregulated PROs, SESAC and GMR, also support an increase in the rate paid to BMI. BMI believes that the RMLC Stations are currently paying SESAC, and will likely pay GMR, interim rates that indicate BMI should be paid at a rate higher than 1.7% of gross revenue. Moreover, BMI expects that the final benchmark agreements between RMLC Stations and GMR will support an increase in final rates to BMI. Upon information and belief, the free market deals currently in

[7] GMR has emphasized January 1, 2017 as the deadline for obtaining a license because, as of that date, the stations' "licenses in effect" with ASCAP and BMI will cease to cover songs that have moved to the GMR's repertory during the term of the ASCAP and BMI licenses.

[8] The RMLC has filed an antitrust complaint against GMR, which is currently pending in the Eastern District of Pennsylvania. *See Radio Music License Committee, Inc. v. Global Music Rights, LLC*, 16 Civ. 7076 (E.D.P.A.). GMR has also filed an antitrust complaint against the RMLC, which is currently pending in the Central District of California, alleging that the RMLC Stations act in concert in violation of the Sherman Act to artificially suppress the music license fees paid. *See Global Music Rights, LLC v. Radio Music License Committee, Inc.*, 16 Civ. 9051 (C.D.Cal.).

place between GMR and some of the largest RMLC Station groups, such as iHeart Radio and Townsquare, compel this conclusion. BMI also expects the benchmark license agreement that will result from the binding arbitration currently underway between SESAC and the RMLC, to support an increase in final rates to BMI.

23. BMI's proposed extension of the terms of the BMI 2010 License, including the rate of 1.7% of each licensee's gross revenue, on an interim basis, is reasonable.[9] It would be unreasonable to reduce the interim rate payable to BMI based on conclusory assertions by the RMLC about market share that are necessarily based on inaccurate information about BMI's market share and are contrary to BMI's internal analyses. It would also be unreasonable to reduce the interim rate payable to BMI when other market benchmark rates, including the final rate being paid to ASCAP and, upon information and belief, the interim rates being paid to SESAC and GMR indicate significantly higher rates for BMI. To the extent the RMLC's overall music license fees have increased as a result of those free market negotiations, it does not compel a reduction in fees paid to BMI. On the contrary, an increase in rates would reflect the free market value of music on commercial radio. Such an increase would be wholly consistent with market developments since the last license negotiation, including the growth of new media and the concurrent explosive increase in performances of music by RMLC Stations, and the reduced promotional value that radio stations provide to BMI Affiliates. For those reasons, BMI's proposal to maintain the *status quo*, and continue the current prevailing rate on an interim basis while a final agreement is negotiated or litigated, is reasonable.

[9] Although BMI asks the Court to set an interim rate equal to the BMI 2010 License rate, BMI intends to demonstrate the reasonableness of a higher rate during any final rate proceeding before the Court.

Relief Requested

WHEREFORE, BMI respectfully requests that the Court enter an Order:

A. Setting interim license fees at a rate of 1.7% of gross revenue for public performances of BMI music by the RMLC Stations, and a corresponding rate as set forth in paragraph 4(D) of the BMI 2010 License, for stations that elect a Per Program License, pending final negotiation or judicial determination of reasonable license fees, and directing those RMLC Stations to pay such license fees, effective as of January 1, 2017, and continuing until a final license fee is set; and

B. For such other and further relief as the Court deems just and proper.

Dated: January 3, 2017
New York, New York

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SPOTIFY EX. 11

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GRAMMYS 2017

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Recording Industry 2015: More Music Consumption and Less Money, That's Digital Deflation

1/7/2016 by Glenn Peoples

SPOTIFY EXHIBIT 12

Getty Images

People are consuming more and more music yet less money finds its way to record labels and artists.

The U.S. record industry was the same, but different, in 2015. You may or may not have noticed great change, as old ways of doing business continued to change -- but if you saw industry revenues at the mid-year point, you might have also noticed revenue fell about 5 percent (though a boost from Adele might improve the final year-end tally).

In 2015, overall music consumption tracked by Nielsen Music grew 15.2 percent to 549.4 million track equivalent albums and streaming equivalent albums. These are metrics that convert digital purchases and streaming activity into albums for purposes of comparing consumer activity over time.

Why doesn't the record business feel more successful? A similar question was asked here in May. Presentations at the 2015 Music Biz Association conference by the RIAA Josh Friedlander

and Nielsen Music's David Bakula showed a strong increase in U.S. streaming activity corresponding with flat recorded music revenues. A partial explanation came from MusicWatch's Russ Crupnick -- about 50 million of the 120 million people using music audio and video streaming sites won't pay to stream. The remainder will be difficult to reach. So that's one explanation.

U.S. Recording Industry 2015: Streams Double, Adele Dominates

Another explanation is digital deflation, a term that explains how content loses value when consumption switches from physical to digital formats. (In economics the term refers to the idea that digital technologies lead to greater productivity and cheaper prices.) In advertising, digital deflation explains a loss in advertising revenue because digital advertising is less expensive than traditional advertising on a cost-per-thousand impressions basis.

The newspaper business is a good example of digital deflation. According to the Newspaper Association of America, newspaper ad revenue has shrunk roughly 60 percent to $19.9 billion in 2014 from $49.5 billion in 2006 as advertising dollars have chased readers migrating to digital outlets. The same effect could also be happening to television advertising in the United States.

The music industry has also suffered from digital deflation. Money spent on physical purchases were only partially replaced by money spent on downloads. Consumers were able to spend less when previously bundled tracks became unbundled and a la carte shopping was made possible. Many people opted to buy a few tracks (or obtain illegally, although piracy is a separate issue) rather than the entire digital album. Physical formats didn't offer that choice.

Streaming presents different challenges. It's too early to say if streaming will further the digital deflation in music, but it doesn't appear to be reversing the effect. But streaming revenue is more complicated than download revenue. Royalties paid to rights holders can depend on a number of factors: streaming activity, label market share, advertising rates, the number of subscribers to premium services and the amounts paid to those services.

U.K. Recording Industry Totals $1.6 Billion in 2015

In addition to how people are listening, what people are listening to could also impact how the record business perceives itself. To generalize, consumers tend to buy newer music and stream older music. Catalog accounted for nearly 70 percent of streaming volume, according to Nielsen Music. Since that percentage hasn't change over the last year or two, it can assumed catalog enjoyed 70 percent of streaming gains in 2015. At the same time, sales of current albums, which have historically accounted for roughly half of all music sales, fell by 9 percent. Current digital tracks, which are also split almost evenly between current and catalog, fell 10 percent.

The upshot should be clear. What was roughly a 50/50 split between current and catalog music is now a 30/70 split. Put another way, as purchases fall and streaming activity increases, current music is losing market share to catalog music. Using Nielsen's numbers, it's clear catalog music is getting twice the streaming gains as current music.

These trends could have real world consequences. Breaking a new artist or recouping on a new album isn't easy. With streaming playing a larger role, and with catalog now so dominant in streaming, new music will get shoved aside in favor of older, more familiar music. It can be seen in the playlists created by subscription services. While many playlists feature either entirely or mostly new music, many other playlists are dominated by catalog tracks.

Things were about the same, perhaps a bit better, in the United Kingdom. The world's fourth-largest music market experienced a 4 percent increase in revenue, to £1.1 billion (US $1.61 billion). Audio streams grew 82 percent to 26.8 billion while total consumption, measured as a combination of purchases and streaming, rose 3.8 percent. What would have otherwise been either more modest or flat growth was moderated by a 3.9 percent decline in CD sales, which accounted for 66 percent of all albums purchased in the U.K. (In the U.S. CD purchases declined 10.9 percent decline and accounted for 52.3 percent of all album purchases.)

The Canadian market went in a similar direction. Total purchases, including tracks, fell 4 percent. But total consumption, when streaming is included, almost certain increased. It's not possible to know the consumption gain because Nielsen didn't start tracking audio streaming in Canada until the second half of 2015. But it's safe to say Canada also had an uptick in consumption. It would take only a 50.2 percent increase in streaming for consumption to have risen in 2015. A streaming gain equal to the United States, 98.2 percent, would mean music consumption in Canada rose 1.7 percent. Of course, these numbers don't say whether or not recorded music revenue grew in 2015.

The takeaway is gains seen in Nielsen's metrics don't necessarily reflect what's going on in the record business. It's not that gains in metrics don't matter. In fact, it's easy to find a person in the music with optimism who feels the industry is turning a corner. And it's easy to find people in areas separate but tangential to the record business, like live events or sponsorships, positive about their corner of the market. But it can be difficult to find somebody who feels the record industry, as a whole, is growing.

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SPOTIFY EXHIBIT 12

THE GLOBAL MUSIC COPYRIGHT BUSINESS IS WORTH MORE THAN YOU THINK – AND GREW BY NEARLY $1BN LAST YEAR

979

(https://www.facebook.com/sharer.php?u=http://www.musicbusinessworldwide.com/the-global-music-copyright-business-is-worth-more-grew-nearly-1bn-last-year/) (https://www.twitter.com/intent/tweet?text=http://www.musicbusinessworldwide.com/the-global-music-copyright-business-is-worth-more-grew-nearly-1bn-last-year/) (https://plus.google.com/share?url=http://www.musicbusinessworldwide.com/the-global-music-copyright-business-is-worth-more-grew-nearly-1bn-last-year/) (http://www.linkedin.com/shareArticle?mini=true&url=http://www.musicbusinessworld global-music-copyright-business-is-worth-more-grew-nearly-1bn-last-year/)

DECEMBER 13, 2016

BY TIM INGHAM (HTTP://WWW.MUSICBUSINESSWORLDWIDE.COM/AUTHOR/TIM/)

How much is the global music business really worth?

The regularly-cited answer to that question: $15bn.

That's the (approximate) figure the IFPI has placed on the recorded music business's annual revenues for the past few years.

In 2016, according to early estimates, that figure looks likely to rise up towards $16bn. (http://www.musicbusinessworldwide.com/why-2016-will-go-down-as-a-giant-year-for-the-global-recorded-music-business/)

But in truth, it still only conveys one part of the music copyright landscape.

Last year, Spotify Director of Economics Will Page helped MBW put the first ever figure on the entire music copyright industry (http://www.musicbusinessworldwide.com/25-billion-the-best-number-to-happen-to-the-music-business/) – that's recorded music, plus revenues generated by publishing/authors rights.

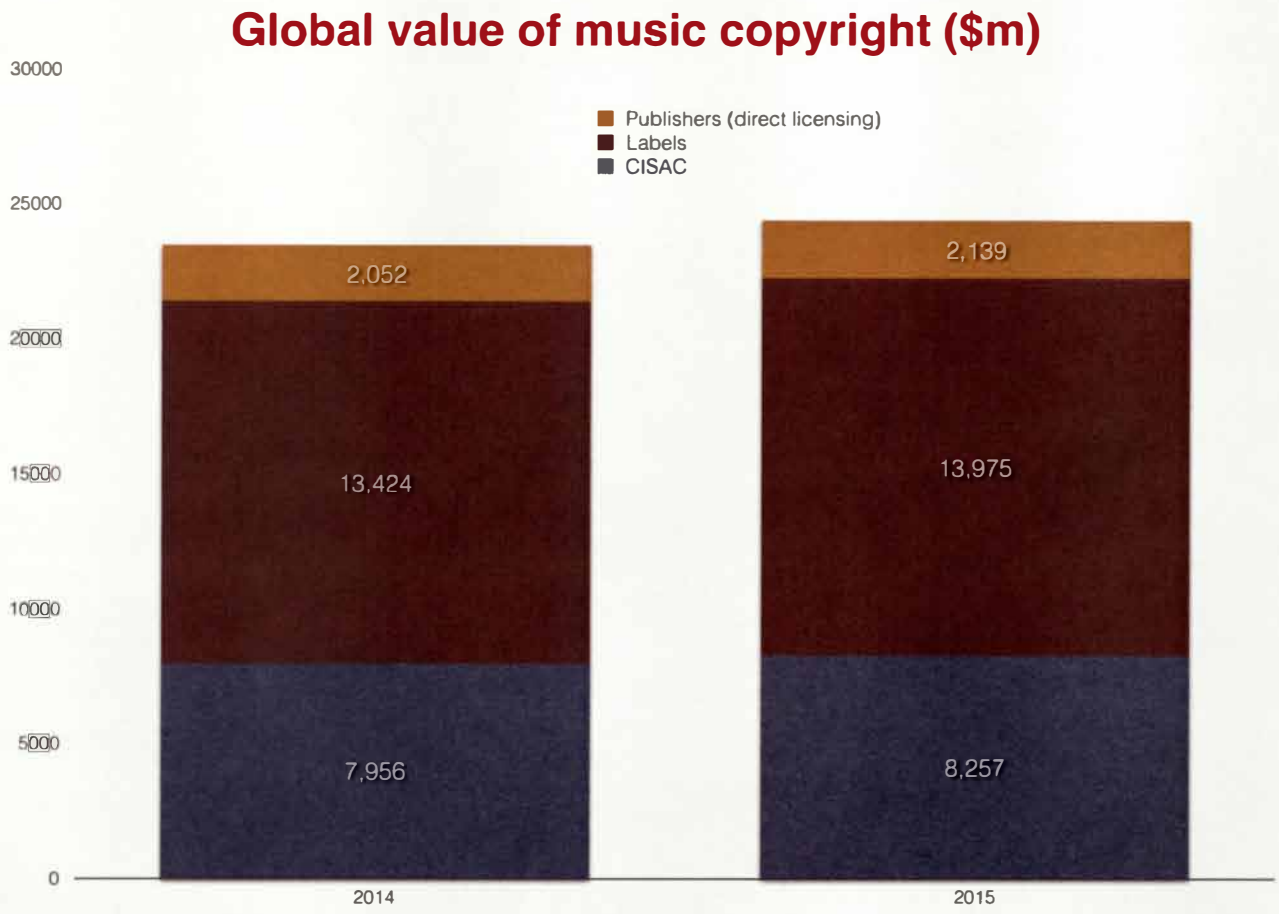
He's just done it again.

And today, MBW can exclusively present his latest findings.

The headline figure: According to Page, global revenues generated by music copyright in 2015 stood at **$24.37bn.**

Based on a US$ constant currency method, Page now estimates that the equivalent figure from 2014 was **$23.43bn**.

That's a year-on-year rise of **$941m** or **4%**.



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(http://cdn.mbw.44bytes.net/files/2016/11/Valuestack.png)

Page's figures take into account IFPI's findings, in addition to global publishing/composer collection revenue stats from CISAC.

The foundation for his conclusion is created by adding these two data sets, then removing 'double counting' on mechanical royalties – an overlap created by the fact that record companies traditionally pay through mechanicals to publishers after collecting cash from retailers (on physical formats, and download in the US market).

In addition, Page referred to MIDIA Consulting's model covering directly licensed publishing revenues not captured by CISAC's annual report (such as sync).

There are added complexities – including the calculation of Pan-European Licensing (PEL) revenues, plus SESAC's recent purchase of US mechanicals house the Harry Fox Agency, which has created more transparency on that income stream.

Page worked out USD$ revenues in constant currency, converted from the 'root' currency of each market's original income.

Below, Page explains exactly how he reached his headline figure. But first, let's delve into the most notable numbers.

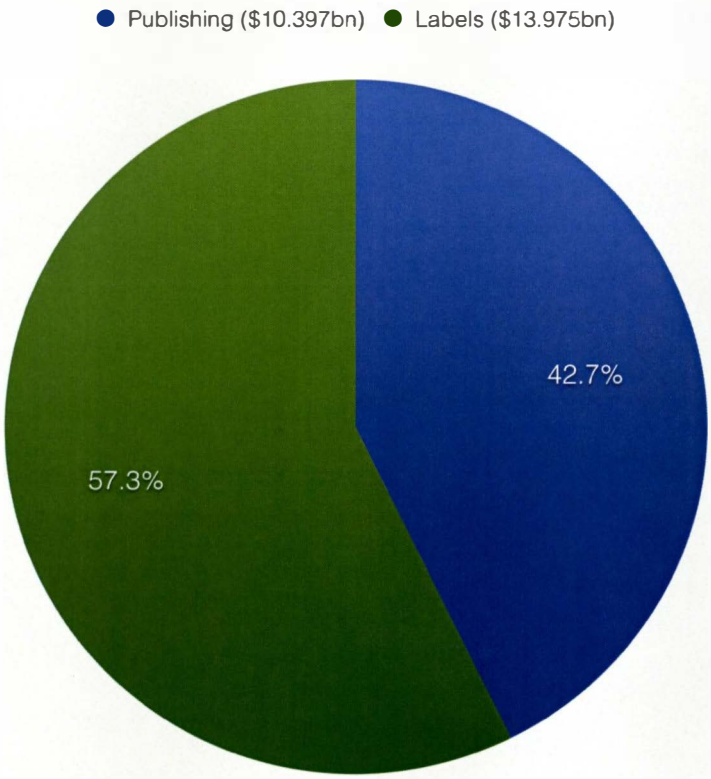
Once mechanical royalties pay-through is subtracted from IFPI data for 2015, says Page, wholesale global recorded music revenues in the year stood at **$13.98bn** (+4.1% YoY).

Meanwhile, CISAC societies paid out **$8.26bn** (+3.8%) in the year, while publishers generated **$2.14bn** (+4.3%) outside of society income.

Overall, that means 'publishing' (inc CISAC authors' money) generated **$10.4bn** (rounded up) in 2015, with 'labels' (inc artist money) generating **$13.98bn**.

'Publishing' therefore contributed **42.7%** to music copyright's bottom line in 2015, with 'labels' on **57.3%** – the same percentage split, says Page, seen in 2014.

Global value of music copyright in 2015: Publishing vs Labels



(http://cdn.mbw.44bytes.net/files/2016/11/Pubsvslabels.png)

SPOTIFY EXHIBIT 13

MBW: The Global Value of Music Copyright	2015 ($m)	Change %
CISAC Performing Right Collections	$6,828	3.5%
CISAC Mechanical Right Collections	$1,207	6.5%
CISAC Private Copying Income	$222	-0.7%
Non-CISAC Publishing Mechanicals	$471	-12.9%
Publishing Synchronization	$849	5.8%
Publishing Other	$820	15.6%
IFPI Physical (Adjusted)	$5,056	-4.5%
IFPI Digital (Adjusted)	$6,496	11.5%
IFPI Performance	$2,068	5.0%
IFPI Sync	$355	6.6%
Grand Total	$24,372	4.0%

(http://cdn.mbw.44bytes.net/files/2016/11/Screen-Shot-2016-12-13-at-21.19.38.jpg)

Page also drills down further to examine which areas of both sides of the music copyright business contributed the most in 2015.

He discovered that only three areas of the business fell last year: CISAC Private Copying income (-0.7%), Non-CISAC publishing mechanicals (-12.9%) and adjusted IFPI income from physical music sales (-4.5%).

Every other area of both the master and publishing worlds increased in value – not least recorded music (IFPI) digital revenues, which rose 11.5%, or by $668m, to $5.83bn.

The biggest contributor to 2015's overall music copyright figure (when recorded revenue is split between physical and digital) was CISAC's performing rights collections ($6.6bn, +3.5%) – claiming 28% of the total.

IFPI physical sales ($5.29bn, -4.5%) contributed 21%, while IFPI digital brought in 27%.

One interesting bit of trivia: the amount of money generated by publisher sync departments (**$849m**) trounced that generated by recorded music sync departments (**$355m**) – although the latter was up 6.6% in 2015 while the former grew more slowly at 5.8%.

Other gains were made in areas such as CISAC mechanical collections (+6.5%), 'Publishing Other' (non-sync, non-collection revenues – +15.6%) and IFPI performance collections (+5%).

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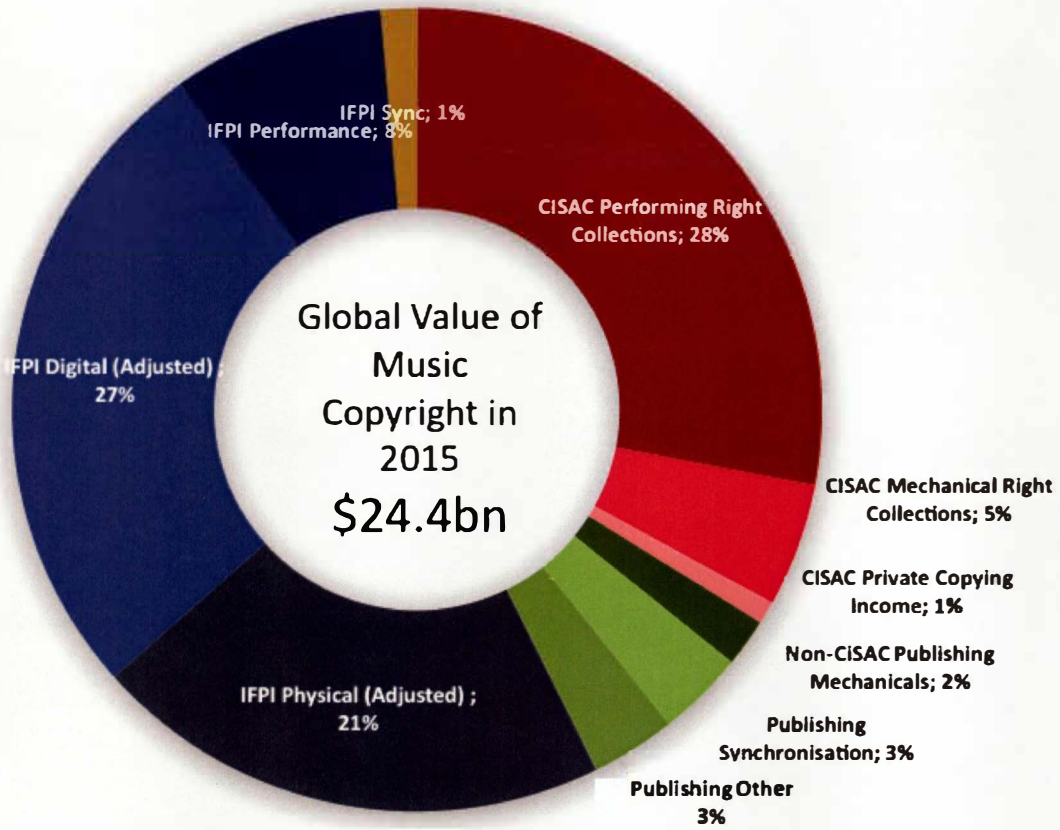


(http://cdn.mbw.44bytes.net/files/2016/12/Will2.jpg)

Kind of self-explanatory, but Will Page's figures only take into account music copyright.

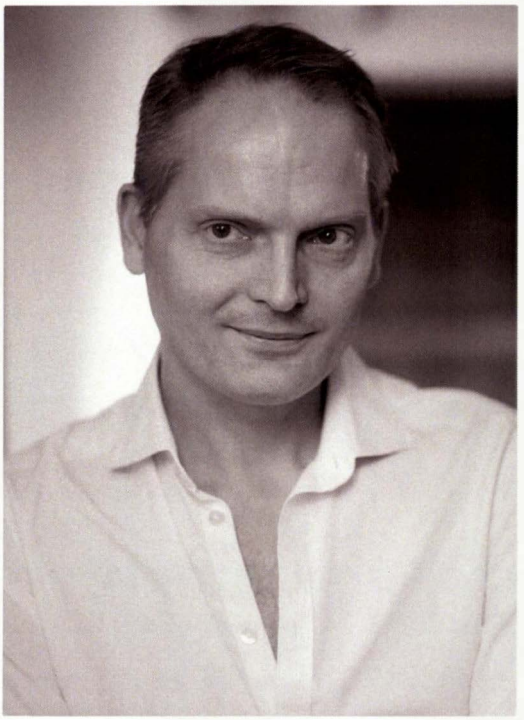
Another giant area of the business, one especially of interest to artists and managers – live music – is left untouched.

For any brave soul wishing to work out the music industry's true value, then, a couple of starting points:

- In calendar 2015, Live Nation's concert promotion business turned over $5.23bn (http://investors.livenationentertainment.com/news-center/news-center-details/2016/Live-Nation-Entertainment-Reports-Fourth-Quarter-And-Full-Year-2015-Results/default.aspx), up 11% YoY. In the same period, the company's ticketing business (across all events) generated $1.71bn. Even with just one (market leading) live music player factored in, then, 2015 annual music business revenue is already headed well north of $30bn.
- IbisWorld (http://www.ibisworld.com/industry/default.aspx?indid=1960) analysts calculate that the total live music promotion market in 2015 turned over $25bn in the US alone – which goes to show how lucrative any holistic music business figure is likely to end up being.

But for now, we're here to talk about music copyright: how much it's making, and, crucially, how much it's growing.

Over to Will Page.



(HTTP://CDN.MBW.44BYTES.NET/FILES/2015/12/WILLPAGE.JPG)THE HEADLINE FIGURE: $24.4BN. THE GRAND TOTAL IS LOWER THAN THE $25BN FIGURE WE REPORTED LAST YEAR – BUT IT'S UP $941M. EXPLAIN?

Firstly, the lower absolute figure shouldn't be a surprise. As already mentioned, we've diluted a lot of non-Dollar revenues with the weaker exchange rate.

Secondly, many of the third-party data points were updated and there are more adjustments this time round as the methodology has been improved.

Third, there were revisions to many of the third-party data points, like music publishing, which fed into the total.

HOW DID YOU TACKLE THE ISSUE OF EXCHANGE RATES ACROSS A GLOBAL ANALYSIS OF MUSIC COPYRIGHT?

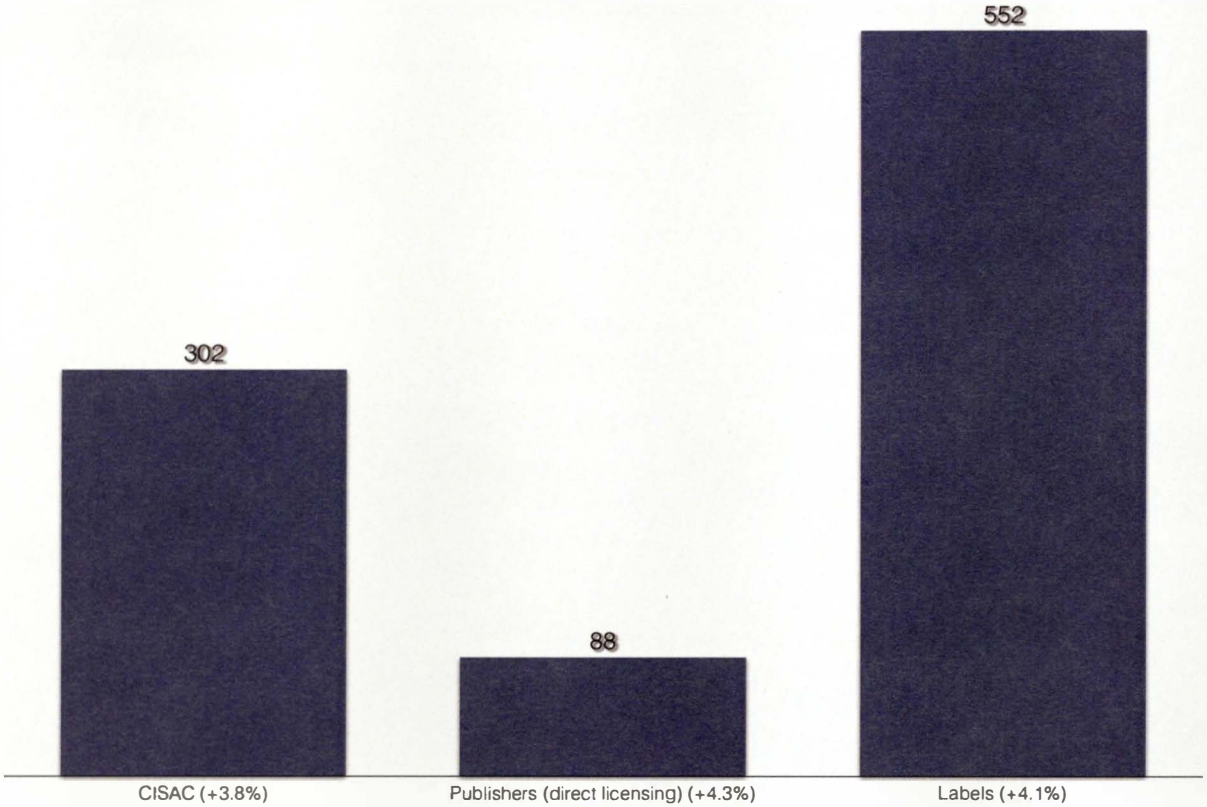
There is no perfect solution to dealing with this issue but what we've done is consistent, and that's important. Three points:

- Think what's happened – the USD has strengthened from 2014 to 2015, so if I measure all these international monies in USD 2015 constant currency, then I am making all those non-USD monies in the previous year worth less than before. We saw this with the IFPI headline in April, which essentially said 'the industry is worth the same as we reported in 2014, but it's actually grown';
- We need to keep in mind that CISAC reports their international composite figures in Euros, and you can't transfer JASRAC (Japan's PRO) Yen monies into Euros and then flip that into Dollars as it wouldn't be correct. CISAC were incredibly helpful in converting their granular figures in USD$ constant currency, so it would be consistent with the IFPI;
- Let's be clear – the USD exchange rate is currently favourable to growth stories as it dilutes the value of the previous year's wealth. But recall UMG is reported is in Euros and SME is in Yen – confusing matters more. Therefore, an accountancy view of 'profits' might differ from an economist's view of turnover, and counter-argue 'you are worth what you reported in each stated year'.

BASED ON CONSTANT CURRENCY, THE BIG TAKE-AWAY HERE IS THAT THE GLOBAL VALUE OF MUSIC COPYRIGHT GREW BY ALMOST A BILLION DOLLARS IN ONE CALENDAR YEAR, RIGHT?

Right. Everything is up.

2015's $941m growth in music copyright revenues ($m)



(http://cdn.mbw.44bytes.net/files/2016/11/Growth.png)

HOW DID YOU WORK OUT YOUR PUBLISHING FIGURES – BOTH CISAC AND NON-CISAC (DIRECTLY LICENSED)?

Working with CISAC and Chris Carey's Media Insight Consulting, we were able to 'shave off' the non-music part of their collections to make it reflective of music-specific copyright, and then convert into dollars from the root currencies.

As for non-CISAC revenue, MIDIA are the clear leaders in the space of measuring music publishing. Before adjusting, MIDIA reported that publishing revenues grew double digit in 2015, up 10.3% or $465m.

FX explains half that story (variable FX growth was only 5.3%) but it underlines the strength of music publishing. Of just under $5bn in gross revenues, $2.1bn flowed through to our total.

FINALLY, THE IFPI FIGURE OF $14.9BN – THAT GETS LOWERED AS A RESULT OF ALL THIS RIGHT?

Same as last year, where labels pass through mechanicals, you need to reduce the IFPI figure as you've already captured it on the publishing side – this is a one-sided adjustment.

In this case, we reviewed and improved the measure of trade income which was passed through from label to publisher and the countries where it existed for physical and download format.

The net effect is to take over $800m from the label side, improving the ratio between them.

As a result, the label side of the fence is worth $13bn, but interestingly as we're removing the part of the original IFPI figures that is falling [mechanicals], growth accelerates to 4.1%.

HOW DO YOU INTERPRET THE $941M GROWTH?

Over the past 15 years, the gains of publishing would have been off-set by the pains of labels, but this time around labels are complimenting the growth as opposed to taking it away.

So, a $941m growth story is remarkable, but like I said earlier it becomes possible when everything is up (...including the US dollar!).

CAN YOU COMMENT ON THE SPLIT BETWEEN LABELS AND PUBLISHING?

When MBW helped me explain the work last year, what was clear was that there was a misconception about the David-Goliath relationship between labels and publishing.

When you factored in all the monies that flow to PROs, publishers and songwriters, they were much more neck-and-neck in true value than often perceived.

However, how that money then flows from firms (labels, publishers and collectives) to individuals (artists and songwriters) is an entirely different conversation.

FINALLY, WHAT DOES THIS MEAN FOR SPOTIFY?

The figure itself. The simple fact is we pay both sides of the fence.

Far too often, analysts boil the music industry down to just the recorded sector – without considering PROs and publisher collections.

It's important that people view the contribution Spotify is making to all rights holders, not just some.

Working out the value of all musical copyright helps us do just that.

IFPI (/TAG/IFPI/) SPOTIFY (/TAG/SPOTIFY/) WILL PAGE (/TAG/WILL-PAGE/) GLOBAL (/REGION/GLOBAL/)

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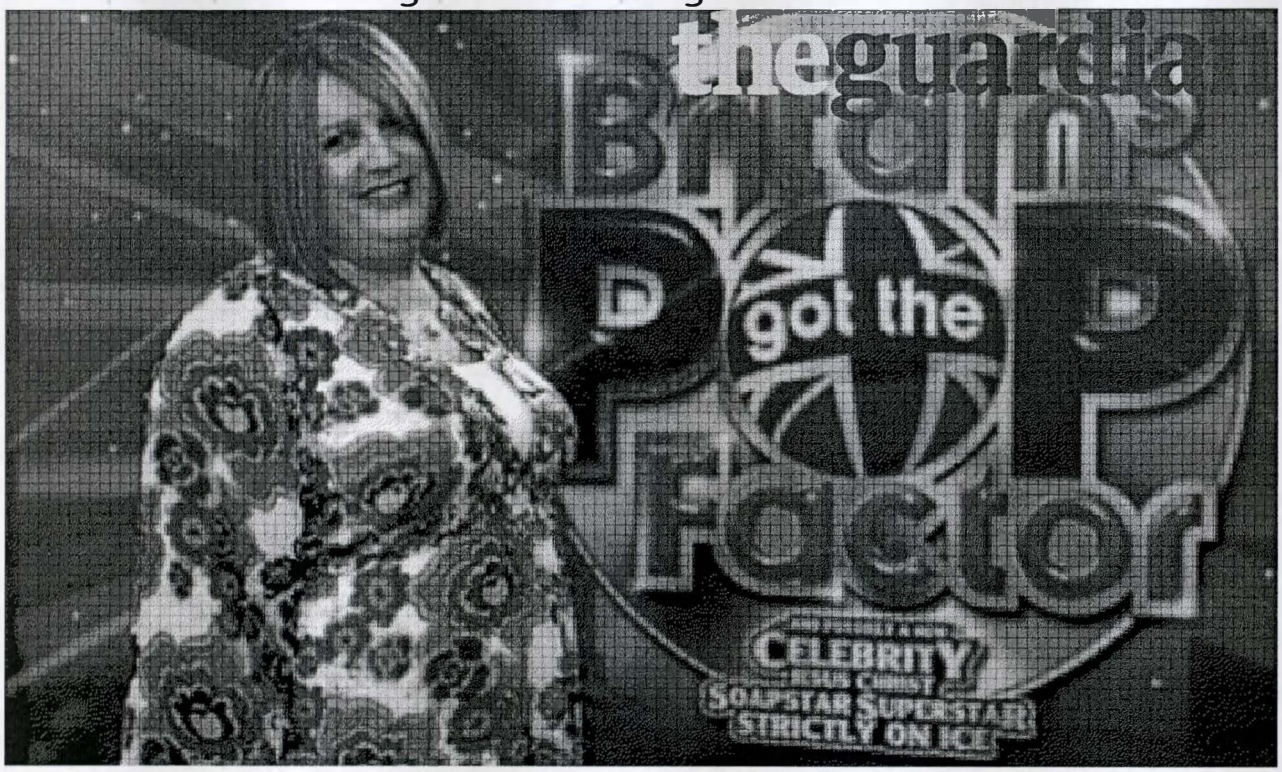

Behind the music: Publishing deals explained

Peter Kay has won a publishing deal in the guise of his new character Geraldine. But unless publishers do more to encourage new songwriters, the joke will be on us

Helienne Lindvall

Thursday 23 October 2008 07.48 EDT

This week, MusicWeek reported that Sony/ATV Music Publishing has signed the Peter Kay character Geraldine to a worldwide music publishing deal for his The Winner Song, co-written by Gary Barlow (also signed to Sony/ATV). It's less a case of art imitating life imitating art than the lines being blurred between the two, I'd say.

Major publishing deals - ie deals that look after your songwriting rights, rather than the recorded versions of your songs (which record labels own) - are hard to come by these days. Publishers tend to blame this on the forced tightening of belts following the fall in physical sales and the low profits from legal downloads. Like the major record companies, they say the margins are slimmer so they prefer to sign writers that are more or less sure bets. But signing a fictional TV character is surely taking it a bit too far.

Since the days of the legendary Brill Building songwriting hothouse, publishers have signed and developed songwriters who were not performers. Many of them, like Burt Bacharach and Hal David, went on to have amazing careers writing for other people.

Publishers have always operated in a different way from record companies. The major labels all have a publishing side and often the publishing side has "propped up" the record side by being more profitable. One of the reasons for this is that it's less costly to sign a writer, so if they don't succeed the loss is lower.

Generally, as you sign a publishing deal, the publisher agrees to pay you a yearly advance in return for owning the copyright for everything you write during the time you're signed. The publisher then takes 100% of the royalties coming in until they've recouped the advance, after which they'll split it with you according to what you've agreed (anything from 50-50 to 80-20 in favour of the writer).

As opposed to record labels who have to spend money on recording albums, marketing, promotion and touring, all the publisher has to pay out is the advance and throw in some travel expenses. An added bonus for the publishers is that they get royalties from airplay all over the world. Performers (and so their labels) don't get any royalties for airplay in the US, as radio over there says it works as a promotional tool for the performing artist and so they shouldn't have to pay them.

Of course, the publisher is also supposed to help get the writer cuts (placing the songs with a recording artist). This, however, has become increasingly difficult, as most recording artists want to be involved in the writing of their material. So, to decrease the risk even more, publishers now almost solely sign producers or recording artists who write (basically, people who can get in on projects through other means). All of which means a pure songwriter like Hal David may struggle to get a publishing deal if he started out today.

Many songwriters now say that publishers are more like banks with a very high interest rate. But if we view the publisher as a bank, it would be a bank that, once you've paid off your mortgage, would still own your house.

Still, I'm grateful that my publisher took a chance on me by giving me the opportunity to focus on songwriting full-time, as they paid me an advance. I couldn't have foreseen that they would get bought by the biggest "bank" in the business and now my "house" is standing somewhere gathering dust without anyone looking after it.

But, hey, Geraldine, the winner of Britain's Got the Pop Factor and Possibly a New Celebrity Jesus Christ Soapstar Superstar Strictly on Ice, just got a publishing deal. She's number two in the singles chart, just above last year's X Factor winner Leon Jackson, and I'm not sure if the joke is on the music business or on us. But unless they spend some of the money that they make from it on developing new songwriters and artists, the losers will be the people who wish we had more artists coming through with the longevity of artists like David Bowie and Led Zeppelin.

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Royalty King: Josh Gruss controls nearly 8,000 songs, including 6 early Be[illegible] [illegible]an get in on the action, too.

Zack O'Malley Greenburg, FORBES STAFF

I cover the business of music, media & entertainment. FULL BIO

This story appears in the March 3, 2014 issue of Forbes. ***Subscribe***

In a sunny conference room high above midtown Manhattan Josh Gruss is explaining how to buy a song. Seems simple enough--$1.29 for an iTunes download. But Gruss is talking about the purchase of a much more complicated item: the copyright for the music itself.

"Let's just say you really love the band Tesla," he begins, looking at the website for ASCAP, the performing rights organization, and guiding the cursor to the search bar. "And you say to yourself, 'I want to buy their '80s ballad, "Love Song." ' You'd just simply type in the performer Tesla."

A few clicks later a menu appears, showing that the tune was written by the hair metal group's front man, Jeff Keith, and its guitarist, Frank Hannon. There's other information, too, including contact details for the firm overseeing the song rights. For someone interested in buying the group's publishing catalog, or even a single song, that would be the most direct route.

"If you went to Tesla and said, 'I really love your song, I really want to own it,' and if you wanted to offer a trophy price," says Gruss, "they might be willing to do that."

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TRENDING

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He should know. Gruss, 39, is the chief of Round Hill Music, which controls nearly 8,000 copyrights, including songs by the Rolling Stones, Frank Sinatra, Aerosmith, Bruno Mars and Katy Perry, as well as six of the Beatles' early hits. An ex-Wall Streeter, he started the company three years ago not only because of his passion for music--he still occasionally plays guitar in a rock band called Rubikon--but also for the profits.

The music publishing business generates $6 billion in royalty income per year and attracts some savvy investors. In 2009 a Dutch pension fund bought the Rodgers & Hammerstein catalog. In 2012 Sony /ATV led a consortium that included David Geffen, Blackstone's GSO Capital Partners and Michael Jackson's estate in the $2.2 billion purchase of EMI Music Publishing and its 1.3 million songs.

"Publishing is a great asset," says billionaire Ron Burkle, a frequent investor in entertainment securities. "People obviously went through a moment in time when they thought these assets weren't going to be worth very much because everybody was going to get it for free."

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They were mistaken. The Napsters of the world have mostly been shut down or transformed. Harsh penalties for illegal downloading have certainly contributed, but the real change comes from services like YouTube and Spotify, which offer a relatively painless way to listen to free music on demand. That's a boon to the copyright owners, who have long been more insulated from industry turmoil than record labels have.

The explanation traces back to the two main financial components to any song: the master recording, typically owned by a record label, and the rights to the underlying composition, owned by the composer and usually a music publishing company.

The rights holders split a mechanical royalty of 9.1 cents per track sold on iTunes or CD, and they earn a royalty every time one of their creations is licensed for a television ad or radio commercial. Same goes for spins in bars, stadiums and shopping malls and plays on Spotify. Licensing fees for films and TV shows can result in six-figure payouts. Songwriters, unlike recording artists, also get paid for all U.S. radio plays. "Happy Birthday to You" still generates about $2 million per year in publishing royalties.

For every dollar a music publisher collects, it typically pays out half to the songwriter and keeps the rest for itself--while maintaining the copyright, collecting passive royalties and seeking out new licensing deals to generate more cash. A well-managed song can yield the publisher and writer each a payout of 10% to 15% a year of the song's current market value--a ratio that has stayed fairly consistent over the past decade.

TRENDING

Think of it as an income play with the potential for capital gain or loss. Michael Jackson famously bought a catalog housing the Beatles' biggest hits for $47.5 million in 1985; he later merged it with Sony's catalog, and his estate's share of the joint venture is worth about $1 billion today.

"It's very stable; it's also uncorrelated [with equities]," Gruss says of the business, adding that global music publishing revenues dipped less than 4% from 2008-10. "That's a big, attractive factor for a lot of our investors."

So what's the catch? The biggest is that opportunities for retail investors, while growing, are still very limited. One is Round Hill, which Gruss started after working at Bear Stearns, Warner Music Group and his family's hedge fund. Round Hill has spent about $50 million buying publishing catalogs and last year launched a private-equity-style fund that allows outsiders to invest in its copyrights.

There's a minimum investment of $1 million and hefty (albeit standard for private equity) fees of 2% of assets plus 20% of profits. FORBES estimates that Round Hill's annual return is about 15%. In that case, investors would get a 10% payout. For a similar minimum and fee, investors can buy in through other outfits too, including Kobalt Music Group and Bicycle Music.

You can also bid on individual royalty rights (often going for $10,000 or less) through the startup Royalty Exchange. (You still have to be what the SEC calls an accredited investor--for example, with an investable net worth of $1 million plus.)

Most of what's for sale here, says Royalty Exchange cofounder Wilson Owens, is the writer's share--producing passive income, with no management or licensing responsibilities. Songwriters sometimes sell just part of their royalties; a 25% cut of the writers' share of the song "U Remind Me," performed by Usher, recently fetched a cool $113,000.

Buying individual songs associated with unknown acts is cheaper and comparable to speculating in penny stocks. In the unlikely event such a song gets discovered and licensed in a TV ad, you could make a killing.

For the catalogs and songs that do generate steady royalty income, payouts offer the added benefit of favorable tax treatment. In the U.S. the purchase price of a song can be amortized (written down) over a ten-year period, making most of the payout tax free for the first decade.

If you sell, however, what you've previously amortized is recaptured and taxed at ordinary income rates of up to 39.6%; any gain above recapture is taxed at the lower long-term gain rate that tops out at 20%. If you're not actively managing song copyrights as a business, payouts and gains are also subject to the new 3.8% net investment income tax, says Anthony Nitti, a CPA in Aspen, Colo. and a Forbes.com contributor.

So what about that second big catch? Under U.S. law, written works (including songs) copyrighted on Jan. 1, 1978 and later revert to the public domain 70 years after the last writer's death. But writers (or their heirs) can reclaim U.S. rights they've sold to publishers after 35 years. This can lead to expensive legal battles, although as a practical matter it's mostly used by writers to quietly negotiate a better deal with their publishing companies.

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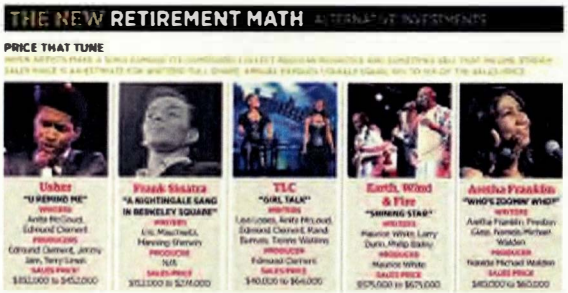
This can reduce both the publisher's income from a song and the composition's market value--another reason to invest in a catalog and not a single song.

Back in his conference room, Gruss continues to explain how an individual investor could buy copyrights directly from a band. Still using Tesla as an example, he scrolls down his screen and points to an entity listed as City Kidd Music--the name the members of Tesla picked for their copyrights, which they still owned at that moment.

Interested? Too late. Round Hill has since bought the whole catalog.

Want to learn more about the business of music? Follow me on Twitter and see my Jay Z biography, Empire State of Mind. Pre-order my next one, Michael Jackson, Inc, right here.



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Berklee College of Music

MUSIC BUSINESS JOURNAL

by Alexander Scott Alberti : Business, Dec. '11

Kobalt Music Group: Redefining Music Publishing

Music publishers have long played an integral role in the careers of songwriters. Regardless of whether or not a songwriter is a developing talent or an established name, or if full or administrative services are provided, music publishers can be invaluable to songwriters through the protection and exploitation of their songs as commercial assets. In some cases, a music publisher may even be able to perpetuate commercial success and facilitate large-scale earning opportunities for singer-songwriters whose recording careers are no longer lucrative. Whereas most recording artists have little to no ownership stake in the master recordings of their songs, a key component in the songwriter/music publisher relationship is the division of copyright ownership of the songs written. Typically, the more services the music publisher provides (i.e., developmental, creative or synch licensing), the more ownership the songwriter must give up.

Certain publishing deal models have come to be recognized as industry standards over time. In scenario A, a 50/50 publishing deal, a music publisher signs a new, prospectively successful songwriter to an exclusive publishing deal. This includes provision of career development services (i.e., arranging of co-writing opportunities); song demo recording; creative and synch licensing services and a cash advance recoupable against future earnings. The songwriter assigns one-hundred percent copyright ownership of all songs written during the term of the agreement to the music publisher, who pays the songwriter royalties based on earnings from various commercial uses of these songs (for example, fifty percent of the gross income received from mechanical and synchronization licenses). In scenario B, a co publishing deal, a successful songwriter who has established his own publishing entity signs a full service publishing deal similar to the one mentioned in scenario A, but retains fifty percent copyright ownership of any songs written given the increased leveraging power his track record affords him. Since the publisher's share of income generated from licensed usages of these songs is split between the music publisher and the songwriter's publishing entity, this songwriter stands to earn substantially more than does the songwriter in scenario A. Finally, in scenario C, an administrative publishing deal, an extremely successful singer songwriter does not require exploitative services because his song catalog has consistently proven to be highly profitable throughout his career. At this stage, the singer-songwriter enlists a music publisher simply to register his song copyrights with collection societies worldwide, as well as manage the collection of performance royalties and licensing income for a percentage of the catalog's gross earnings during the term of the agreement (with full copyright ownership of the catalog remaining with the singer-songwriter).

In each of these scenarios, the provisions of the aforementioned publishing deals may be mutually beneficial to both the songwriters and music publishers represented. For the songwriter, however, there are certain instances where additional considerations must be made in the interest of financial stability. Despite the fact that record companies account quarterly to music publishers for any mechanical royalties due, music publishers account to their songwriters semi-annually. As a result, pipeline publishing income may not be immediately accessible to a songwriter in times of financial hardship, and he may require a supplemental advance. Also, as music commerce has evolved in the digital age, it has become increasingly difficult to accurately (and definitively) track every usage of every song represented by a music publisher throughout the world. As a result, a songwriter with an extensive catalog may, in the best case, not be paid in a timely manner relative to the usage of his song in a foreign territory. In the worst case, that same songwriter may not be paid at all due to the reporting and collection limitations of his publisher. For these reasons, Kobalt

Music Group's rise to prominence as one of the most successful independent music publishers in the world is especially notable. With a technologically advanced collections system and conformable service offerings, Kobalt's innovation has led to the implementation of a new business model and redefined the role of a music publisher in the 21st century[1].

Kobalt Music Group is unique in that it operates primarily as an administrative publishing company (it does not own any copyrights), but has incorporated a fusion of creative elements into the services it offers its clients[2]. The increased efficiency and accuracy of its electronic royalty collections and reporting system, however, is at the core of its administrative services. This system – designed, owned and operated solely by Kobalt – automatically communicates with and collects directly from the majority of its international content users; the data from these transactions being managed by a singular database[3]. Given the lag time inherent in foreign sub publisher reporting and remittance of licensing and royalty monies owed, Kobalt's ability to bypass these entities allows it to pay its clients more quickly (an estimated 50% faster) and more accurately than publishers doing so by more traditional means[4]. Perhaps even more impressive is that Kobalt's clients can track the registration, licensing and digital usage processes in real-time via an online portal linked to the system at large (dubbed "Digital 3.0"). As payment transparency is essential to Kobalt's mission, this capability allows its clients to take a line item approach and break down the exact amount of monies owed for licensed usage by song, territory, or type of license[5].

Also unique to Kobalt's business model is its offering of royalty advances. Generally speaking, administrative publishers do not offer songwriters advances against future royalties and Kobalt's doing so is only one example of how it has successfully infused provisions of the full-service publishing deal into its capacity as a primarily administrative music publisher. Given the accuracy of its collections and reporting system, Kobalt is able to deliver royalty balances to its clients weekly, as opposed to quarterly or semi-annually as per the traditional music publishing model. Coupled with the fact that the advance application process is available via the Digital 3.0 portal, Kobalt's clients may be paid advances immediately rather than be required to wait for pipeline income to hit their publisher's accounts and be paid through in the next statement period[6]. While there are fees associated with this benefit (2% for next statement advances; 5% for pipeline income advances and 7% for projected revenue advances), clients do not have to sacrifice any song ownership rights because Kobalt does not own any copyrights to begin with[7].

Since its inception in 2001, Kobalt has consistently broadened the scope of the services it offers its clients. As recently as this year, Kobalt has ventured into the realm of master recording administration and neighboring rights royalty collection (outside of the U.S.) for non-featured performers and producers whose contributions on publicly performed, broadcast and digitally transmitted works are payable in some territories[8]. In keeping with the concept of an administrative/creative publisher hybrid, Kobalt has also assembled a creative and synch licensing team whose primary goal is to cultivate international songwriter relationships amongst its clients and create worldwide synch license opportunities to increase the appeal of its administrative services[9].

With a forward thinking approach to music publishing and a top-line technological mechanism in place to consistently deliver faster and more accurate results to its clients, it is no surprise that Kobalt Music Group placed fifth (behind only Sony/ATV Music Publishing, EMI Music Publishing, Universal Music Publishing and Warner Chappell Music) for the seventh straight quarter in *Billboard Magazine's* Top 10 Publisher Airplay Chart, making it the top independent music publisher in the U.S[10]. With an expanding roster of high-profile songwriters and writer-producers including Gwen Stefani (No Doubt), Ryan Tedder (OneRepublic), Joss Stone, Kelly Clarkson, Dr. Luke and Max Martin, all of whose songs represent a considerable portion of any given week's Billboard Hot 100 charts, Kobalt Music Group is poised to remain at the active forefront of music publishing and a trendsetter in modern song commerce.

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[1] Ed Christman, "The Billboard Q & A: Willard Ahdritz," *Billboard* (July 5, 2008), 25.

[2] Ed Christman, "The Publisher's Quarterly Q1 '09 – Big Idea: Creative Connections," *Billboard* (May 16, 2009), 28.

[3] Lars Brandle, "Upfront: Exclusive – Kobalt Takes 8 Mile Road: British Indie Will Administer Hits By Resto, King," *Billboard* (August 7, 2004), 7 and 69.

[4] Christman, "The Billboard Q & A: Willard Ahdritz," 25.

[5] Ed Christman, "Publisher's Place: Out In The Open – Kobalt Rolls Out Online Royalty Accounting Portal," *Billboard* (July 3, 2010), 13.

[6] Ed Christman, "Publisher's Place: Accounts Payable – Kobalt's Rollout Of Weekly Balance Updates Ups The Ante On Client Services," *Billboard* (December 11, 2010), 13.

[7] Christman, "The Billboard Q & A: Willard Ahdritz," 25.

[8] Ed Christman, "Publishing Briefs: Kobalt, Harry Fox, Cooking Vinyl, Imagem, Fig, Eastbeach, BMG, Notable, Jimmy Webb, Primary Wave: Kobalt Grows Its Business," *Billboard.biz*, http://www.billboard.biz/bbbiz/others/publishing-briefs-kobalt-harry-fox-cooking-1005009862.story (accessed November 5, 2011).

[9] Christman, "The Publisher's Quarterly Q1 '09 – Big Idea: Creative Connections," 28.

[10] Ed Christman, "Publisher's Place: Sony/ATV Prevails," *Billboard* (February 27, 2010).

By Alexander Scott Alberti

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7 Comments

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1. *Dacey* says:
at

Nice article and i think they are using the best method for music publishing and this is gonna be a perfect music release

reply

2. *lionelmoorman.tblog.com* says:
at

Have you ever considered writing an ebook or guest authoring on other blogs?
I have a blog based on the same subjects you
discuss and would love to have you share some stories/information.

I know my readers would appreciate your work. If you're even remotely interested, feel free to send me an email.

reply

3. *Oliver* says:
at

I believe this is among the such a lot important information for me.
And i'm satisfied reading your article. However want to remark on some basic issues, The web site style is great, the articles is in reality excellent : D. Just right job, cheers

reply

4. *ungeschnittene filme kaufen* says:
at

Hey there! Quick question that's entirely off
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My site looks weird when viewing from my iphone4. I'm
trying to find a theme or plugin that might be able to resolve this problem.
If you have any suggestions, please share. Thank you!

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5. *Lindsay* says:
at

I'm not that much of a internet reader to be honest but your blogs really nice, keep it up!
I'll go ahead and bookmark your website to come back later on.
Many thanks

reply

6. *shopping* says:
at

Hi, the whole thing is going perfectly here and ofcourse every one
is sharing information, that's genuinely fine, keep up writing.

Here is my weblog shopping

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7. *verivox versicherungsvergleich motorrad* says:
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SPOTIFY EXHIBIT 21

Kobalt

Kobalt changed the rules of the music industry using data -- and saved it

—

By **KEVIN GRAY**

01 May 2015

Sonny Moore, AKA Skrillex, music producer, DJ and songwriter

SPOTIFY EXHIBIT 22

Credit F **Scott Schafer**

Gallery: Kobalt changed the rules of the music industry using data -- and saved it

+ 5

This article was taken from the May 2015 issue of WIRED magazine. Be the first to read WIRED's articles in *print before they're posted online, and get your hands on loads of additional content by subscribing online.*

On a winter's afternoon, in a 23rd-floor office overlooking midtown Manhattan, Willard Ahdritz flops on a low leather sofa and opens his Dell laptop. Ahdritz is a tall, pale fellow with ice-blue eyes -- a Scandinavian phenotype befitting his native Sweden. He keeps a metal Viking helmet and a sheathed sword on his window sill. "Musicians say there is no money in streaming," says Ahdritz, the founder and CEO of Kobalt Music Group, the most important music company you've never heard of. Squatting mantis-like, arms between his knees, he reaches over to the coffee table and taps on his laptop. "That's what you know, isn't it?" he says. "Well, that's wrong." He pauses, staring out from his frameless glasses. "You see, someone has lied to them." With that, Ahdritz brings up the most remarkable web portal in music-business history. It allows songwriters to view every single instance when their work is streamed on Deezer or Spotify, broadcast on radio, sold as a CD, featured in a film, played in a pub, pirated by a fan in a YouTube video, sampled in a TV show or included in a Champions League ad. That's just

about everywhere on the planet -- totalling 700,000 separate revenue streams for a single song. Ahdritz believes that such "transparency and accountability" will empower artists. This dashboard grants artists access to the notorious "black box" of record label revenues and shows them where their music is played, who is paying -- and how much. "The portal is insane," says Sonny Moore, the 27-year-old DJ and producer better known as Skrillex. "The activity feed gives me awesome feedback -- I can see that in Scandinavia they love a hardcore sound of mine. Or 'Raise Your Weapon', a song I wrote with deadmau5 five years ago, is suddenly huge in Australia."

The portal also acts as a clearing house for synchronisation rights, a piece of music's use in films, TV shows or ads. "The other day, there was a request for my song 'Bangerang' from a French movie producer," says Moore, who approved the usage in the time it takes to download a song. "It shows the money offered and I just okayed it right there. It's happening in real time. You used to get this ugly PDF and it took months to okay."

Kobalt, founded in 2001 is the music industry's back office. Its publishing arm collects royalties -- sometimes in micro-payments of less than a fraction of a penny -- for 8,000 artists around the world, generating revenues from 600,000 songs and collecting in 100 territories. Its clients include Kelly Clarkson, Grimes, Nick Cave, Gwen Stefani and songwriter/producer Dr Luke. It does the same for other music publishers -- those holding copyrights to music and lyrics. Today, the company is the top independent music publisher in the UK and the second overall (to Sony/ATV) in the US.

Its spectacular track record and growth, plus Ahdritz's infectious passion and belief, have attracted the attention of some of the world's leading VCs. In February, Google Ventures' London office made Kobalt its first investment, leading a $60 million (£39m) series C round. "We like investing in companies that transform traditional industries for the better," says Google Ventures president and founder Bill Maris. "Nest, Uber and Foundation Medicine are good examples of other companies we have invested in that are similarly disruptive in that they are tackling problems or inefficiencies which are not otherwise addressed. Kobalt and Willard are changing the way artists are treated in the music business, particularly when it comes to providing trust and transparency and compensating creators for their work."

Since launching the company, Ahdritz has been Viking-like in his assault on the big music labels, publishers and collection societies whose job -- after each taking its cut, of course -- is to gather and distribute royalties. He cheerfully tells songwriters how these entities have been ripping them off for decades. "The music industry is historically opaque. And it still is. There is a lot of fear among artists that they're not getting paid. I tell them, 'You are right. You're getting screwed.'"

Here's why: songwriters signed to big music publishers often wait up to two years to get their money after it's been collected. They end up paying out half their gross royalties to the middle men – collection societies. And if they ask to see the books, they're handed computer printouts that list a bulk number and little else. It's not the kind of thing that can easily be understood -- or even audited. "They are told, 'Don't worry about it,'" says Ahdritz. "'You keep making music. We'll handle this.'"

Ahdritz says all this is not because the labels and publishers are devious -- it's because they are inept. Since its heyday in the early 2000s, when the music industry enjoyed $45 billion in sales, profits have plunged to a third of that. Initially, Napster took its huge, pirate bite. Then iTunes cannibalised the CD by selling individual tracks. Now, who needs to buy anything when it's free on Spotify?

A generation of artists like Moore embrace the streaming model and, oddly, even the sharing of pirated downloads. "My philosophy is get the music out to as many people as possible," Moore says. "I spend a big part of

my career onstage. That's why I make records, to get people to shows, because I DJ. When people hear me, they want to be there."

In November 2014, Taylor Swift lashed out at the streaming model. She yanked her entire catalogue, including her newly released album *1989*, from Spotify because of the platform's razor-thin payments. (It pays about £0.005 per stream.) "I'm not willing to contribute my life's work to an experiment," Swift said.

A few days later, Ahdritz put out a press release saying Kobalt's Spotify revenue in Europe had overtaken income from iTunes downloads. Spotify's royalty payments to artists had outpaced the digital download service by 13 per cent in the first quarter last year -- suggesting there's real money in streaming. "Of course there's money in streaming," says Mark Beaven, founder and CEO of Advanced Alternative Media. His clients include Dr Luke and songwriter Noel Zancanella, who co-produced Swift's 1989 song "Welcome to New York". "The problem, is we don't have an economy with transparency."

The way Ahdritz sees it, the music industry needs an entirely new structure, not merely to survive, but also to thrive. "The industry is suffering a slow death and in order to live it must change," he says. Kobalt's technology and logic are airtight, and he has nothing less than world domination in his sights. "If you are going to track those billions of transactions on a global scale, with efficiency, you need new pipes," he says. "And right now, the pipes are broken."

Ahdritz's mission, since way before he started his company, way before iTunes and streaming, and way before YouTube, has been to fix these broken pipes. It started back in the 80s, when he helped midwife a very Swedish phenomenon: a dance-pop music craze that ended up conquering Europe.

In 1987, he launched Telegram Records, a Stockholm-based music label. His background as an accomplished jazz saxophonist and his previous work as a coder for the Swedish army made him a good fit for signing creative types and navigating the music industry's back rooms. By the early 90s, his discoveries -- including Rob'n'Raz feat. Leila K ("Got To Get") -- were helping to propel the Swedish pop/dance movement. But the good times didn't trickle down to the artists. Or, rather, the proceeds were merely a trickle. "You waited two or three years for your money," Ahdritz says. "And you could not understand the financial statements they sent. You were screwed." Eventually Clive Davis, founder of Arista, signed every one of Ahdritz's bands and took their music global.

Fed up, Ahdritz quit the business in 1993 and sold his label to Warner Music Sweden. He swapped Scandinavia and the music industry for graduate school, at New York University's Stern School of Business. After earning an MBA, he worked for seven years at LEK Consulting, a mergers and acquisitions giant. But it was while working on its British Airways account, drawing up the business plan for its low-cost carrier Go, that his own mental turntable began to spin again. "I saw how BA used tiered pricing, selling different seats for different prices, using an enormous database, and I said 'A-ha',: says Ahdritz. "We should do this with music.'"

This was at the height of Napster's peer-to-peer filesharing popularity, and although Napster did not charge for its service, Ahdritz could see a day when it, or something similar to it, would. But rather than launch his own version, Ahdritz went after the back office space. He wanted to fix the industry problems he had seen at Telegram to prevent artists having to wait years to get their money, and to let them know who was paying what.

From the start, his mantra was "accountability and transparency", a phrase he repeats often, and one that can ring hollow unless you understand the complexity of the music industry's vast ecosystem.

Let's start with a global hit -- Taylor Swift's "Shake It Off": Swift and her co-writer on the track, Max Martin, make most of their money not when she performs the song, but through publishing royalties. A major source of publishing revenues is mechanicals: CD sales, iTunes downloads or streaming (Spotify payments vary depending on whether a song is streamed on its paid version or its ad-funded free service).

Now take into account the outfits that collect these fees, and take their cuts, both domestically and internationally. Collection societies -- such as PRS for Music in the UK and BMI and Ascap in the US -- collect licensing fees for songwriters, composers and music publishers whenever their material is publicly performed or broadcast. That means on TV, radio, in pubs (there are 60,000 alone in the UK, each paying a monthly licensing fee), on podcasts, ringtones, and most recently on music and video players including Vevo, YouTube and Spotify.

After deducting their operating costs, they distribute the remaining money as royalties to the big publishing houses and the record companies, such as Universal, that have publishing arms.

Back to "Shake It Off". That song was heavily rotated on radio and in pubs. It's been covered in YouTube fan videos and parodies and played over the PA at Wembley Stadium. It's carried by more than 200 digital service providers around the globe and has been streamed on Vevo 568 million times. Vevo's streams then appear as a single revenue line in the collection society's accounting report. There are more 700,000 distinct revenue sources today. Vevo's total comprises just one single line.

When Kobalt collects royalties for an artist, it tracks thousands of data points. For a single global hit that pulled in £4.8 million in sales last year (Kobalt's confidentiality agreements prevent us naming the song), it uses up to 60 pieces of metadata -- crucial identifiers to make sure the right people get paid. These include industry codes for the song's five writers, five publishers, nine lead musicians and session musicians, 11 officially recorded versions of the song and eight official remixes. Royalties flowed in from 100 territories worldwide.

Spotify streamed it 170 million times to 3.2 million listeners before it was pulled. Kobalt collected micro-payments on each of these uses directly from these platforms, putting it up on its portal line by line in real-time. With the traditional model, the collection societies and territorial publishers gather these royalties and then pay it to the labels or artists' publishers. When they in turn pass on the artist's share, the digital heap may only appear as a single revenue line. It's not that the labels or publishers are acting dishonestly; it's that they don't possess the tools to track it and break the usage down. Money can fall through the gaps. "What would you do if you had a company putting money in the bank for you and then the bank won't tell you have much you have, or the names of the people who deposited it?" Mark Beaven says. "They only give you a bunch of accounting codes and say, 'Don't worry about it.'"

Transparency is something that the music industry has tried to dodge throughout the digital upheaval. It wasn't until September 3, 2010 -- when Eminem forced a US federal court to deal with it -- that the big labels and their artists gained some clarity. That day an appeals court decision launched dozens of artist-versus-label lawsuits seeking fairness. Eminem's production team, Mark and Jeff Bass, had sued Universal Music Group for failing to pay appropriate royalties on digital downloads of his songs. The appeals court ruled that digital downloads, on sites like iTunes, counted as licences of songs, which carry higher royalty payments than sales. Eminem's contract supplied him with 50 per cent for licence royalties versus 12 per cent for sales. Universal Music Group settled with the producers for an undisclosed sum. (One of the producers has estimated the rights to be worth up to £13.3 million, but has said they could increase over the next ten years to as much as £33.3 million.) "Historically, when you have a royalty problem with labels, you negotiate and settle," says Ahdritz. "Very few people can write that cheque to cover legal expenses. But our platform is directly integrated to the data. There are no secrets."

Kobalt collects royalty money directly from services such as Spotify, iTunes, YouTube and dozens of collection societies, cutting out the middlemen in many cases, and claiming to earn clients, on average, some 30 per cent more than they would have normally received. As a result, the portal has attracted so many of pop music's reigning royalty and hitmakers, that it can often lay claim to shares in up to half of the songs in the US and UK's weekly singles charts. "Kobalt took the position nobody wanted to take -- showing what's behind the door," says Beaven. "That's why they've gone from nowhere to number one in administration and publishing."

Nothing illustrates kobalt's power better than an experiment set up by Joel Martin. He is the manager of Eminem's former production team, FBT Productions, the company behind the Universal lawsuit. In 2002 Eminem had just released "Lose Yourself", from his movie 8 Mile, that would go on to win an Oscar. The song's writers included Eminem, Jeff Bass and Luis Resto.

Martin split collection among three outfits: Eminem stayed with his publisher, Famous Music; Bass was represented by Universal; and Resto by Kobalt. With three accounts collecting on the same song in every territory, Martin sat back and watched. "We saw in real time what was going on," he says. "When we collected money in Greece, say, we expected to see the same shares show up at the same time. That didn't happen."

What did happen was that the big publishers took twice as long to report money they collected and pay the artist, in every territory. "We would get money a full year ahead of all the major publishers through Kobalt because they

were
collecting and reporting it immediately," Martin says. "The others were sitting on it. We're talking millions of dollars here. What were they doing with it? Why were they sitting on it? They wouldn't say."

Multiply those millions across hundreds of artist deals and it starts to add up. But the damning part is that the uncollected royalties give the labels unfair leverage over artists. "If an artist needs money, he goes to the publisher for an advance," Martin says. "And the publisher says, 'OK, we'll give you an advance, but you have to re-sign with us for another three years or whatever.' But the artist's own money is sitting there in the pipeline. And the publishers are playing this game. It happens all the time. No exception."

With Kobalt, artists see money gathered in real time at the point at which it's collected -- and their account is immediately credited. Ahdritz has set it up like a cashpoint machine. "You go into the pipeline yourself, this thing you were never even allowed to see before," he says, "and deduct your money, no strings attached."

Embracing the streaming model takes a certain amount of blind faith for songwriters, not only in the ability of Kobalt to collect billions of micro-payments worth a fraction of a penny, but also in the listening habits of fans. And that may come down to a generational understanding of how the internet changes markets. "Some 12-year-old kid listening on YouTube or SoundCloud is not going to buy my records," Moore says. "If I took my stuff off, it's going to alienate my fans. They're not going to say, 'Oh crap, he's not on Spotify, I'd better go somewhere else.' They will say, 'There's other stuff on here. I'll just grab that instead.' An artist such as Swift, however, is different. Her fanbase consists of CD buyers and iTunes downloaders. "I don't look at it as missing out on record sales," Moore
says. "I look at it as a different marketplace."

In such a marketplace, the customer will decide where and how they listen to music. "Some kid does a piano cover of one my songs and gets a million views, or puts some baby lip-syncing to it, or a fan uploads my music to his *Call of Duty* video," Moore says. "Taking their shit down is just a dinosaur way of thinking. You can monetise with ads. It's good money and it promotes my music."

The only glitch with that model is that artists tend not to see their full earnings. That's because the major labels long ago demanded huge upfront fees from the streaming services -- and took equity stakes -- in exchange for access to their catalogues. "The major labels are not concerned about point of sales or access to music," says Casey Hunter, a professor at Georgetown University's Communications Culture and Technology graduate school. "They want to make money from distribution. They want cash advances or equity stakes. There are all kinds of ways to make money before music ever gets played. The problem with non-play-related income is that money is never itemised." In fact, the big three -- Sony Music, Universal Music and Warner Music -- collectively own 18 per cent of Spotify. So when it goes public, it will give a huge payday to the labels, not artists.

In December 2011, Ahdritz bought Sheffield-based startup Artists Without a Label (AWAL), a digital distribution and label services company founded in 1997. This put Kobalt in direct competition with the major labels: AWAL offers artists not only direct distribution through outlets such as iTunes, Rhapsody and Spotify, but also provides them with advanced data analytics. Clients including Beck, Moby and Karen O use the data to learn where and when their songs are playing, and plan marketing and tours around the results. It's yet another level of transparency that can boost income and allow artists to drill deeper into data that's never been accessible. Even if an artist doesn't use it, the point is it's there for all to see, and that creates deep trust. "It's not just about the portal," Beaven says. "It's about the openness and sharing and integrity of the data everywhere. You can look at this and say, 'I had five radio plays on the BBC last night,' or, 'My goodness, they played the movie I have that song in in Latvia.' You can get as specific and detailed as you want. The point is you have a trusted third party that manages the flow of the business and the payments that go along with it."

It's a model that has attracted some heavy-hitting converts, including Dave Grohl and Paul McCartney, whose near-life-size images on Kobalt marketing posters adorn the otherwise plain walls of Ahdritz's office. The business has also lured a host of savvy investors, including Michael Dell, founder and CEO of Dell computers. But Kobalt attracts criticism from its rivals for undercutting their commissions. The establishment players gripe that Ahdritz lands his clients by acting as a music-industry equivalent of Lidl or Aldi, charging a thin five per cent administration fee, far below the normal market rates of 20 to 30 per cent.

Ahdritz is a believer in the high-volume, low-price approach. Consider the success of Spotify in its home country of Sweden. It has managed to convert pirates to payers (cheap payers, to be sure: premium listeners pay just £6 a month for the privilege of hearing music without ads). So much so that piracy there has plummeted by 80 per cent since the service launched in 2009.

Of course, it's an uphill battle: the big record labels remain addicted to the wider income margins offered by the pressing, distribution and selling of CDs, the sales of which remain robust in some territories. The problem, though, is the generational shift in consuming music, particularly via mobile. "My kids don't want to buy CDs," says Ahdritz, who has three sons between the ages of seven and 16. "So many people dream that it was better before with CD sales. But kids will not buy a CD. And if people hide from that fact, and musicians withdraw their music from Spotify, you will just drive people back to a dark place again, back to piracy. Is that really good for our business?"

Ahdritz will tell anyone who will listen that he thinks the industry can bounce back from its current low of £7.8 billion a year in global sales revenue and double that figure within a few years. But it will only work, he says, by tracking down and retrieving every penny in the system, and then using "transparency and accountability" in dealing with the artists.

One of Kobalt's secret weapons in the streaming war is the proprietary software that runs ProKlaim, an online music-detection technology that sniffs out unclaimed songs in the wild west of user-generated videos on YouTube. Kobalt's program now identifies -- and monetises -- up to 1.5 billion video plays per month on the platform. Every day, data identifiers for 400,000 copyrights are programmed into ProKlaim. The algorithm then searches YouTube's database for matches. If it detects any commercial matches -- an advertising agency using a tune without permission, for example -- Kobalt goes after those responsible. If it's a fan video, YouTube often pays up. The software is so effective that it tags up to 1.5 million new videos every month.

As a result, Kobalt makes money from 400 million people. "We think in three years we can monetise one billion," says Ahdritz. "And by doing that we can double the size of the music industry: all thanks to transparency."

Kevin Gray wrote about General Stanley McChrystal in 10.14

This article was first published in the May 2015 issue of WIRED magazine

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I hereby certify that on Tuesday, April 26, 2022, I provided a true and correct copy of the Written Rebuttal Statement of Spotify USA Inc. (Vol. 4C of 4) [Public] to the following:

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Pandora Media, LLC, represented by Benjamin E. Marks, served via E-Service at benjamin.marks@weil.com

UMG Recordings, Inc., represented by Steven R. Englund, served via E-Service at senglund@jenner.com

Apple Inc., represented by Mary C Mazzello, served via E-Service at mary.mazzello@kirkland.com

Johnson, George, represented by George D Johnson, served via E-Service at george@georgejohnson.com

Copyright Owners, represented by Benjamin K Semel, served via E-Service at Bsemel@pryorcashman.com

Joint Record Company Participants, represented by Susan Chertkof, served via E-Service at susan.chertkof@riaa.com

Warner Music Group Corp., represented by Steven R. Englund, served via E-Service at senglund@jenner.com

Amazon.com Services LLC, represented by Joshua D Branson, served via E-Service at jbranson@kellogghansen.com

Zisk, Brian, represented by Brian Zisk, served via E-Service at brianzisk@gmail.com

Google LLC, represented by Gary R Greenstein, served via E-Service at ggreenstein@wsgr.com

Sony Music Entertainment, represented by Steven R. Englund, served via E-Service at

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Signed: /s/ Joseph Wetzel