

Rights and Revenue Streams:

Music Copyright Basics

SIX EXCLUSIVE RIGHTS OF COPYRIGHTHOLDERS 17 USC SECTION 106

1. reproduce the work in copies or phonorecords
2. prepare derivative works based upon the work
3. distribute copies or phonorecords
4. perform the work publicly (applies to live music, the composition if contained in a recording and played on radio, broadcast or streaming of television or films but not theatrical play, streaming music if non-interactive service)
5. display the work publicly
6. perform the work publicly by means of digital audio transmission (only applies to the sound recording)

Music Rights

- Synchronization right – perform the music in synchronization with a moving image, as in a feature film or television program
- Master Use right – use a sound recording (typically paired with the sync right to permit use in a film or television program)
- Mechanical right – record the music and distribute the recording
- Performance right – perform or broadcast the music in public
- Derivative right – make an arrangement or "derivative work"
- Grand right – perform the work dramatically (i.e., musical theater or ballet) AKA dramatic right
- Print right – reproduce copies of the printed music

Performing Rights Organizations

- Performing Rights Organizations (PRO)
- In the US there are 4:
 - ASCAP: American Society of Composers Authors and Publishers
 - BMI: Broadcast Music Inc.
 - SESAC (doesn't stand for anything)
 - GMR: Global Music Rights
- Collect performance royalties on behalf of songwriters and publishers
 - Examples: music performed on radio, music used in a television show, music used in a commercial, music played on a concert, music streaming
 - Every time there is a qualifying usage of music, a royalty is generated. By law, half of that goes to the publisher and half of it goes to the songwriter (although the % are sometimes negotiated by contract to be different)

- Writers can only belong to one PRO at a time, which means each has a unique repertoire of music
- To join as a writer, you must have a commercially released recording or a qualifying public performance
 - ASCAP or BMI; SESAC is by invite only
- If you are self-published, you also join as a publisher (ASCAP has you make a separate account for this, while BMI does not)
- 50% of the royalty goes to the "publisher side" and 50% goes to the "writer side"
 - If there's more than one writer, they split the 50% between themselves
 - If there's more than one publisher, they split the 50% between themselves
 - ASCAP expresses each side as a total of 50% adding up to 100%
 - BMI expresses each side as 100% adding up to 200%

Where does the money come from?

- The music users (eg the venue where the music is performed, the television network, the streaming service, the radio station) pay license fees to the PRO to allow them to use music
 - Usually they are buying a blanket license, which gives them full access to the PROs entire repertoire
- This creates a pool of money, and the PROs then track (approximately) what songs are actually played and pay the appropriate songwriters and publishers
 - The tracking methods are slightly different between ASCAP and BMI

Special Mention About YouTube

- Normally, sync licenses are not available from the PROs;
 - Generally a music user who wants to use music in their film or video needs to contact the publisher directly and negotiate a license. The PRO only collects royalties generated when the film or video is broadcast or streamed.
- There is an exception with YouTube;
 - Because many musicians perform what would otherwise be considered covers (for which there is compulsory mechanical license for audio recordings) in videos that merely show them performing the song, YouTube has negotiated blanket licenses with the PROs and several of the large publishers to allow this practice.
 - You will normally get a copyright claim on your video (not a strike) and any ad-revenue will instead go to the publisher/songwriter

The internet and the new performance right

- Originally no performance royalties going to the record label
 - They had lobbied that sound recordings didn't qualify for public performance royalties because they saw radio as a great marketing opportunity to promote the sale of records
- 1990's internet launches
- 1995 amendment to the Copyright Act adds section 106(6): the digital performance right for sound recordings
- Along with the new right came a new PRO, called Sound Exchange
 - Collects royalties on behalf of sound recording owners and recording artists (split 50% to record label, 45% to recording artist and 5% to AFM/SAG-AFTRA to pay session players and backup singers)



For radio and radio-like services, blanket licenses determine who gets paid, and how much.



broadcast radio
terrestrial broadcast of any AM or FM station

MC

PROs ASCAP, BMI, SESAC

performance of composition

songwriter

publisher

In the US, terrestrial broadcasters do not pay performers or sound recording copyright owners

performance of sound recording

webcast
or digital performance

Pandora • Sirius XM • NPR streaming
any webcast stations

MC

PROs ASCAP, BMI, SESAC

performance of composition

songwriter

publisher

SR

SoundExchange

digital performance of sound recording

50%

record label

45%

performer(s)

5%

AFM & SAG-AFTRA Fund

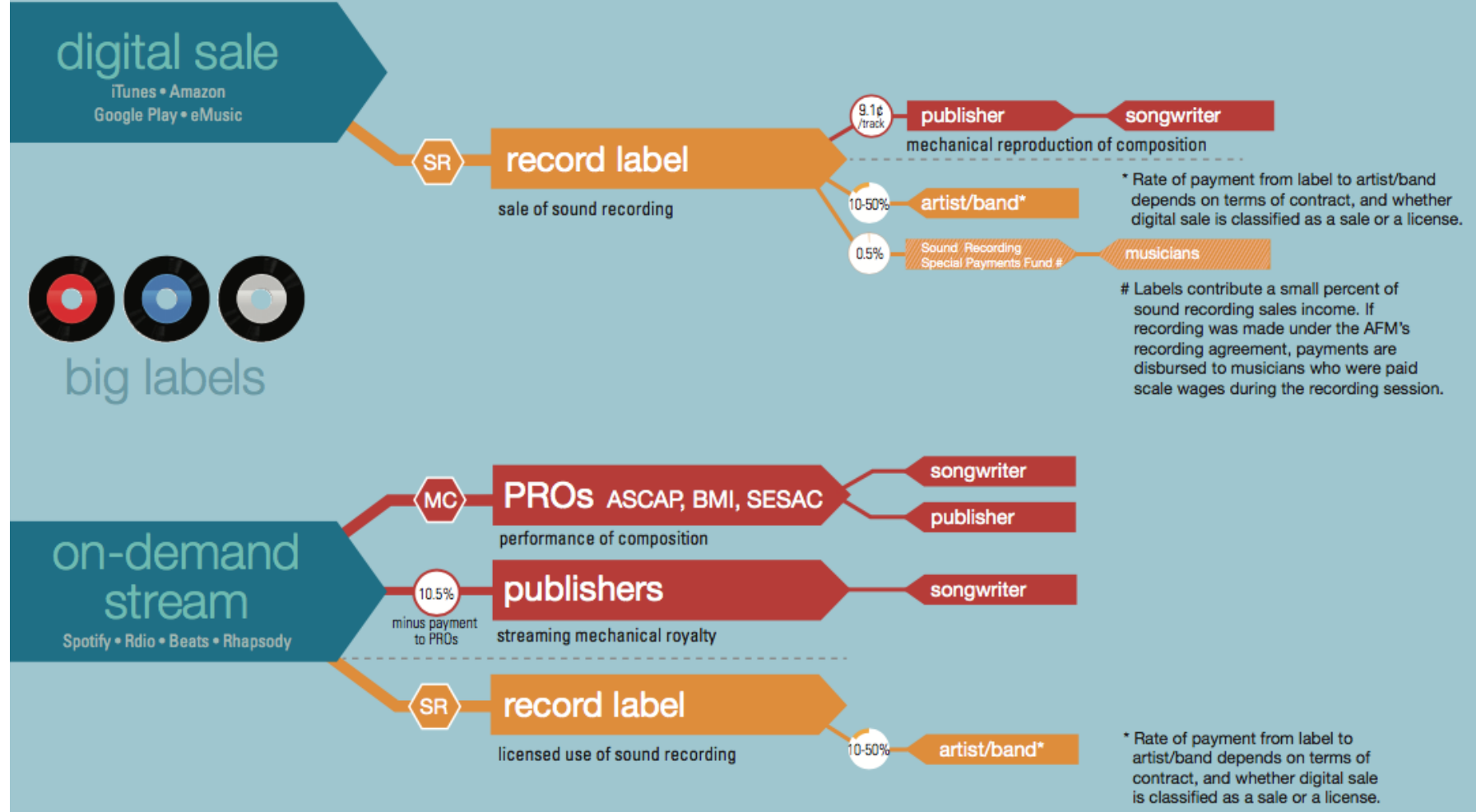
background singers
and musicians



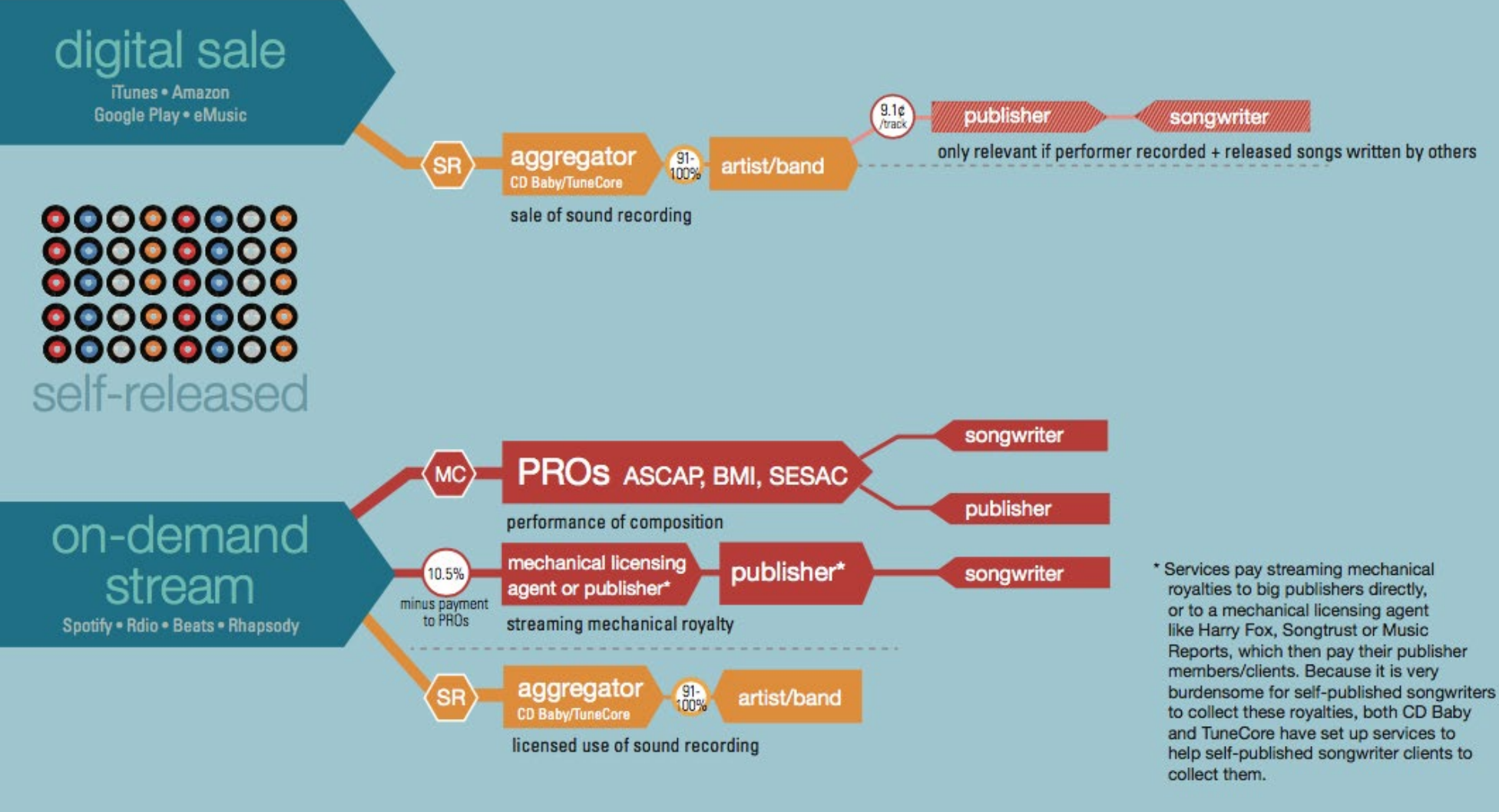
For **digital stores and on-demand streams**,
how the money flows depends on what entity negotiated the license.



For record labels that have a direct deal with services:



For artists who own their sound recording copyrights and use services like CD Baby or TuneCore:



The Music Modernization Act

Before the Music Modernization Act

- Mechanical licensing for most activities was a direct system
- Compulsory licensing (generally for creation of cover recordings)
- Both ways required researching each individual musical work to identify the copyright owners
- System wasn't scalable for digital service providers
 - Millions of NOI (notice of intent)
 - Many rights holders went unpaid

Secure a
VOLUNTARY LICENSE
directly from the
owner or administrator of
the musical work

If available, secure a
COMPULSORY LICENSE
by adhering to
the procedures set out in
Section 115 of the U.S. copyright law

Music Modernization Act

- Passed in 2018
- Modified Copyright Act
- The MMA has three titles
 - Title I called the Musical Works Modernization Act (deals with MLC)
 - Title II called Classics Protection and Access Act
 - Title III called Allocation for Music Producers Act
 - [Read more](#)
- Musical Works Modernization Act
 - Changed the eligibility for a compulsory license and created a blanket license (one license that includes all eligible works, instead of a work by work owner by owner license)
 - Created a mechanical licensing collective to administer the blanket license
 - DSP's pay for it
 - Collect mechanical royalties and distributes to publishers, self-administered songwriters and foreign CMO's
 - Create and maintain a publicly available database of musical works information

Mechanical Licensing Collective

- The MLC is:
 - nonprofit organization designated by the U.S. Copyright Office
 - [Board of Directors](#) has 14 members
 - 10 must be representatives of music publishers
 - 4 must be professional songwriters who retain and license mechanical rights for songs they have written
- The MLC will:
 - Establish and maintain a public database of musical works ownership information
 - Administer a new blanket license for US mechanical rights available to eligible digital audio services
 - Receive and match sound recording usage reporting data from digital audio services with the MLC's musical works ownership data
 - Collect and distribute US digital audio mechanical royalties to music publishers, administrators, foreign CMOs, and self-administered songwriters

The MLC and the Blanket License



**MECHANICAL
LICENSING
COLLECTIVE**

Starting in **January 2021**, a brand-new blanket mechanical license covering all eligible musical works will be available

The MLC will be the **exclusive** administrator of this new blanket license

Any DSP that secures this blanket license will be required to pay the mechanical royalties due under that license to The MLC

The MLC will distribute 100% of these mechanical royalties to music publishers, administrators, and self-administered songwriters, composers, and lyricists

The Blanket License

- The blanket license is granted to digital service providers
- Rates set by the Copyright Royalty Board
- Limited to digital mechanicals in the US (mechanical royalties for the musical work)

Included:

- ✓ Interactive streams
- ✓ Limited downloads
- ✓ Permanent downloads

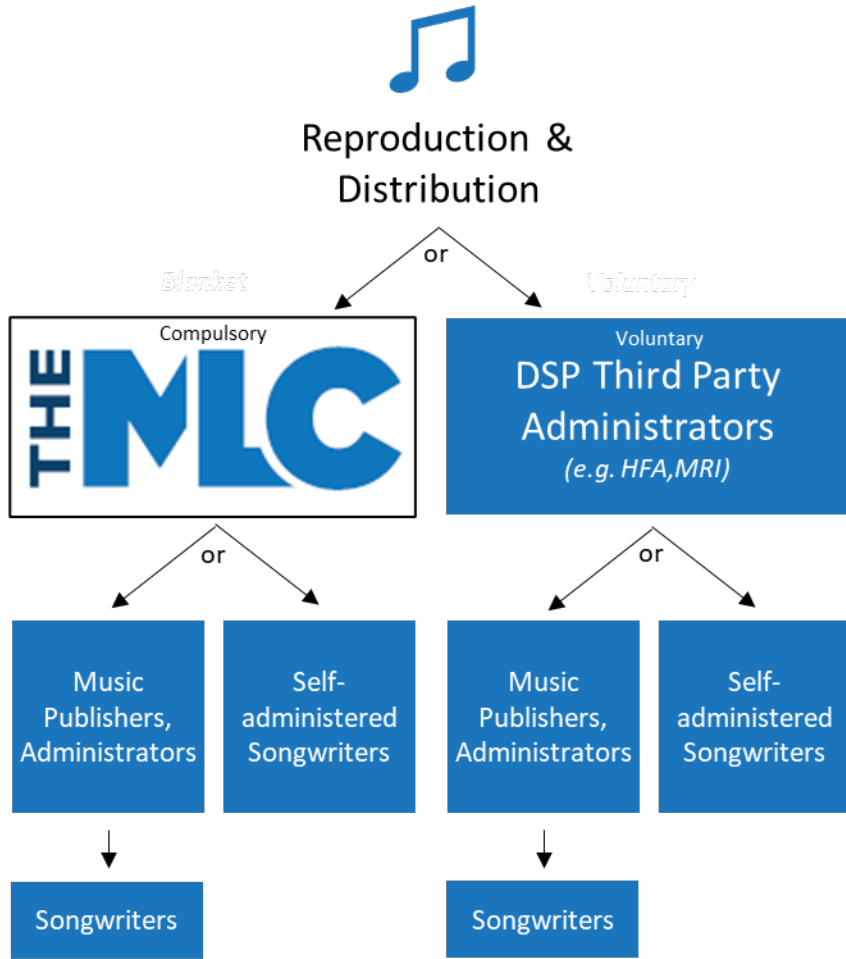
Not Included:

- × Physical products (CDs, vinyl records)
- × Video streaming or downloads
- × Public performances or non-interactive streams (FM Radio, Satellite Radio, Internet Radio)
- × Sound recording digital performance
- × Blanket license will not apply if there's a direct deal with a publisher (some large publishers will collect directly)

Digital Music Royalties

Interactive Streams, Limited Downloads	Blue	Grey	Red	White
Permanent Downloads	Blue	White	Red	White
Non-Interactive Streams	White	Grey	White	Orange

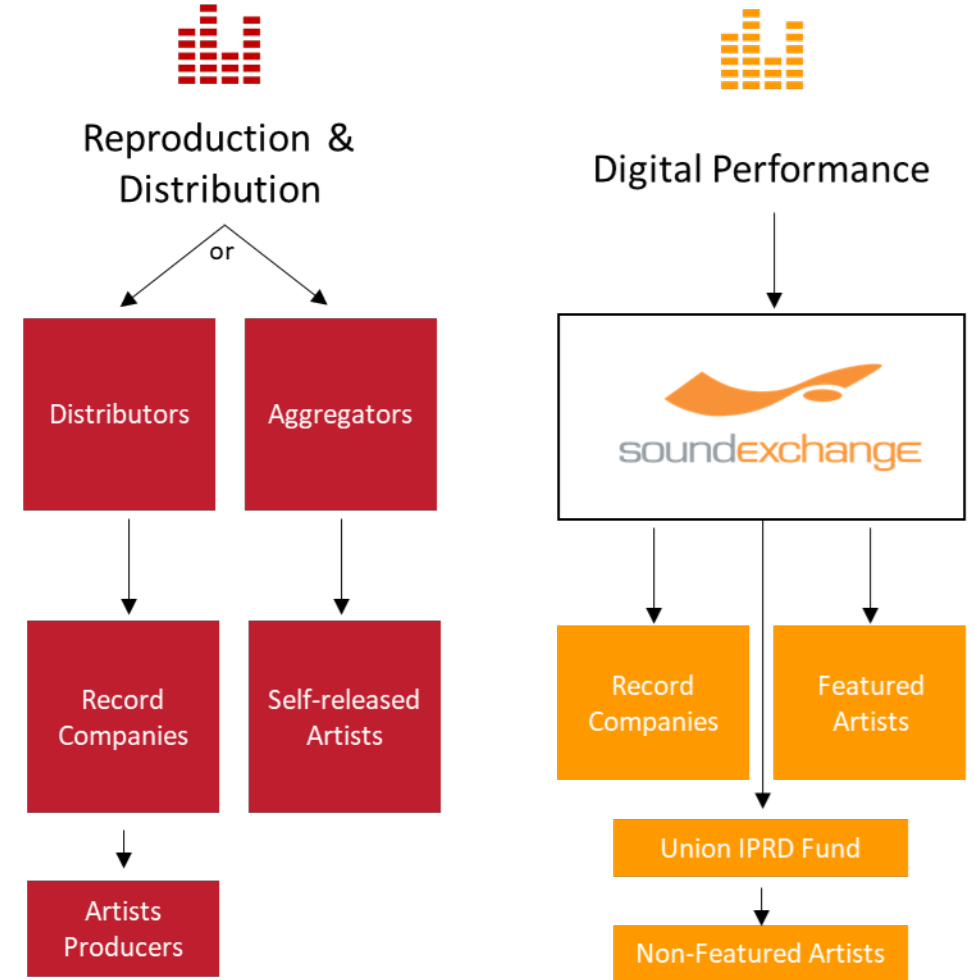
Musical Works



Public Performance



Sound Recordings



The Process

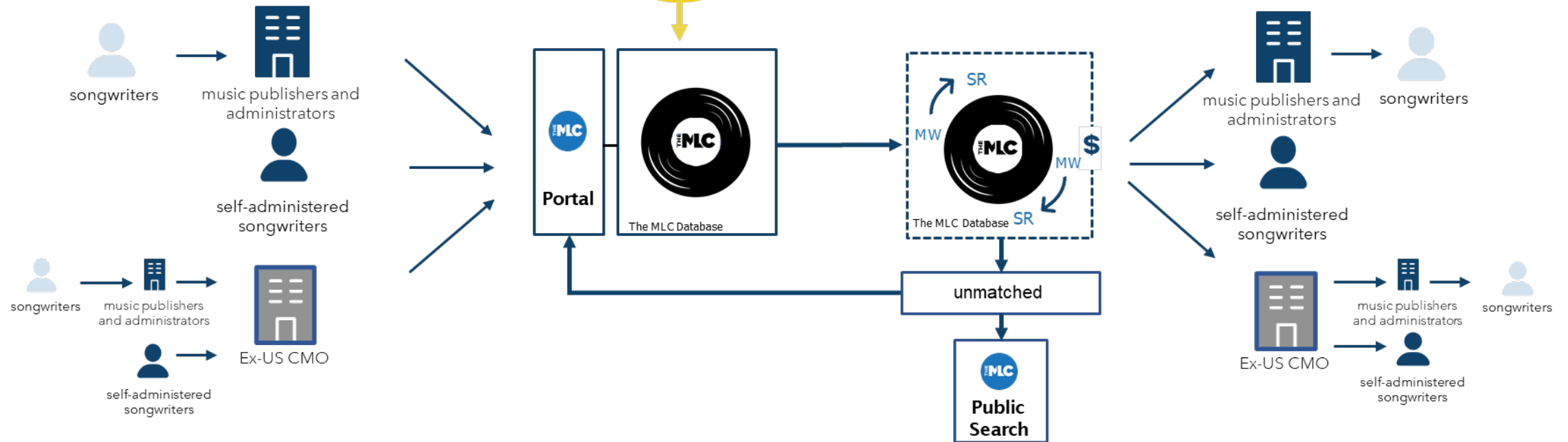
1. CONNECT TO COLLECT™
Become a Member of The MLC

2. PLAY YOUR PART™
Register your works with us

3. DIGITAL SERVICES
STREAM OR SELL DOWNLOADS OF
RECORDINGS OF YOUR SONG
usage data and \$

4. MAKING THE MIX

5. THE PAY OUT



LEGEND	
MW	musical works (identifier = ISWC)
SR	sound recording (identifier = ISRC)
CMO	collective management organization

Should You Join the MLC?

- Self-Administered songwriters should all join
 - [Read more who should join](#)
- Are you a self administered songwriter?
 - Are you signed to a music publishing deal?
 - Are you working with a publishing rights administrator?
 - If no to both, you are self-administered
 - [Read more](#)
- **You might be both represented and self-administered!**
 - If you have some songs with a publisher, but others you control, you should join the MLC in order to collect on the ones you self-administer. The publisher will collect on the ones it represents and then pay you

To-Do List

Musical Work:

- ✓ Join a performing rights organization ([ASCAP](#), [BMI](#), GMR or SESAC) and register works
- ✓ [Join the MLC](#) (coming soon)
- ✓ [Register the copyrights](#)* (Make an eCO account and file [Form PA](#))

Sound Recording:

- ✓ [Join SoundExchange](#) and register recordings
- ✓ [Register the copyrights](#)* (Make an eCO account and file [Form SR](#))

*If you own both the musical work and the sound recording you can file the copyright registration for both together on one form

- [Learn How](#) (Copyright Circular 56A)
- **IMPORTANT:** do not duplicate data entry of another link in the chain. If for example, your record distributor is doing publishing admin for you, don't join MLC and register those same works. DO register your other works that are not being administered by anyone but you