

BMI, ASCAP SESAC

must change their business model because
Artists are no longer free to be artists.



**“If art is to nourish the roots of our culture,
society must set the artist free.”**

John F. Kennedy

ONCE UPON A TIME, music was everywhere. It wasn't just entertainment. It was community, family, friends, fun and a sense of humanity. But what happened?

Music went from the Front Porch into stores and bins. Now the "bins" are gone, and so is the sense of community. Part of the loss has been the closing of thousands of music venues ... stages for artists to meet their audience.

Part of the destruction of the music business has been the over-use, the over-reach of licensing music. This is a delicate subject, easily misunderstood. So let's start with this thought:

**"A bird doesn't sing because it has an answer,
it sings because it has a song."**

Maya Angelou

You have a song ... but you are not free to sing it anymore.

In the early days, before corporate America figured out how to sell vibrating air on round vinyl discs, people were free to sing wherever they wanted. Cafes and street corners, sidewalks and theatres, schools and bars ... anywhere.

This was the musical garden that gave birth to great art. Music "birds" like Bob Dylan, Woody Guthrie, Pete Seeger, Joan Baez, Judy Collins all began their careers by meeting their audience on simple, common stages.

Maya Angelou's little birds are not so free to sing anymore. Those birds are only allowed to sing on government approved stages licensed by BMI, ASCAP or SESAC.



**Woody Guthrie singing on a city sidewalk in 1943;
today illegal without a license**



**Woody Guthrie singing in a small bar for tips;
today illegal without a license**



Music in a small town General store ... today illegal without a license

Any fee that prevents an artist from reaching the audience has no value.

The world of the arts has changed, my friends. America has become a venue starved nation. The business model of music has changed. Arts venues can thrive, flourish and make a living for many good folks ... when it's done right.

But the world of arts needs to stop focusing on money because the audience, the source of the money, could care less. They want heart, passion and spirit. Whenever an arts endeavor launches as a "money enterprise" it is doomed for failure.

That sounds anti-capitalistic and I don't mean it that way. My point is the business plans most are using are outdated, poorly executed and all wrong.



Many great venues across America have closed the past couple years because of poor business plans, an over focus on money ... or because of outdated licensing practices.

In my area alone venues like the Rudyard Kipling, Jim Porters and several others have shuttered their doors leaving the music public and the artist community in their wake. I bet you know of many in your area that have disappeared as well.

One thing that most groups can change for the better is the size of their Pig. Remember the Pig?

Another change that is needed *desperately* is regarding BMI, ASCAP and SESAC, called "**Performing Rights Organizations**" or "**PROs.**" These agencies do wonderful work to collect royalties for artists from radio airplay, live performance of songs and more

The PROs have a great history of being a huge help to artists, big and small, new and established. I remember when I was just starting out, Clay Bradley at BMI in Nashville went through a great effort to explain how things worked in the music world when I knew absolutely nothing. Clay was very kind, helpful and spent all the time that was needed until I was able to get things through my thick little noggin'.

Let me make this clear: I like BMI, ASCAP and SESAC

I just want them to change the way they are licensing music venues. It is outdated and no longer helpful to the artists they claim to be helping. The system they are using now began in the 1940's and worked ok for awhile. Then about 1995 the music business began its slide downward. The internet and free downloads reared its head and the financial structure of the music world collapsed with it.

Everyone is changing with the times ... except the PROs. They continue to use the antiquated formulas of music licensing, once a great help to artists. Today it acts like a gun to their head.

It works like this:

PROs charge the venue a licensing fee to present music in their establishments and, in turn, pay royalties to the artists who have their songs performed in those clubs

In theory, anyway.

Fact: Most artists who play 1,000 seat-or-less venues don't see a penny from the PROs. I'm not picking on the PROs here, just stating a brutal truth.

Fact: Venues are the gateways between artists and the audience, the venue operators are the soldiers in the war to find that audience ... and the current business model is killing them off.

Fact: unless a venue has a license it is illegal for them to let any artist perform in their room.



A small concert in a private home with an artist playing their own songs ... illegal without a license

How Hard Can It Be?

Artists are no longer free to be artists so BMI, ASCAP and SESAC should either help them or get out of their way.

Little clubs, farmer's markets, schools and coffeehouses are like the farm system of a sports team. The smaller clubs and venues are where an artist learns to perform, gather their fans, sell their CDs and T-Shirts and struggle to make a living.

Small stages are where small artists meet small audiences.

Eventually, small audiences turn into big ones. As I said, very few of the artists who perform in places 1,000 seats or less see a nickel royalties from the PROs. So why interfere? Why charge a small venue anything at all? Even tiny 30-40 seat living room concerts are charged hefty fees by BMI and ASCAP just to let artists pass the hat to play their own ding-dang songs.

Fact: For the venues, these fees are often too high when weighed against the income potential of the room, so they shut down or cancel their music presentations.

Here's another reality check: it is hard enough to compete with TV, Netflix and the internet. Getting people to come to small concerts is a huge job. The presenters get tired, frustrated and, in many cases, go broke.

Here's where it gets really sticky:

As the market changes, as the music business declines, BMI, ASCAP and SESAC have to struggle to feed the pig. Remember the Pig? Instead of cultivating the fertile garden of music, they start squeezing the little venues for every dime they can get.

The licensing model makes presenting music cumbersome, expensive, unprofitable and, in many cases, scary. Who on earth wants to go to jail because you let a folksinger play the banjo at a farmers market? They feel at risk, so they shut down.

**"When I hear music, I fear no danger.
I am invulnerable. I see no foe."**

Henry David Thoreau

By interfering with the possibility of artists to meet their own audience, the PRO's have become foes of the very community of musicians and songwriters they are charged to help.

This leaves the artists, the very ones BMI and ASCAP are trying to help, with no place to work. No place to test new music. No place to sell their CDs. No place to earn a living. No way to meet the audience ... the ultimate underwriter of all the arts.



Musician singing at a farmers market ... you guessed it: illegal

BMI and ASCAP should change their business model

Here's our reality: Only until an artist can find their audience and draw 1000 people into a theatre can they register on the royalty richter scale.

BMI and ASCAP are using an old, antiquated business model that no longer works. As that model fails, they try harder to enforce and collect fees from venues, forcing even more clubs to shut down or stop presenting live music.

We need both the PROs and music venues to be healthy and productive. We need to change the business model they are using so everyone ... and especially the artists ... can make more money.

My PROPOSAL:

I urge everyone consider a new business model, one that will not only keep venues open but encourage *more* venues to open, *more* stages to open, *more* producers to start presenting music, giving *more* artists a place to play and find their audiences.

The current model is nothing short of ridiculous. Did you know for an artist to collect royalties one of the things required is for the venue to report the songs the artist played? You know how many venues do that? Try none. The pro's are collecting fees for songs not even being reported, for pete's sake.

I think it's unreasonable to charge the venue for the songs an artist chooses to play, anyway.

So, I propose changing from VENUE licensing to ARTIST licensing. No more harassing small venues for fees just because they are willing to create a stage for musicians to play on.

The ARTIST PERFORMING LICENSE:

With an *Artist Performing License* all songwriters, musicians and performers are clear to perform anywhere they want. *Just show your card and jump onstage.* Done.

It's like a drivers license: I can drive on any highway in America so long as I have a valid drivers license. Same with music, I should be able to perform anywhere I want if I have a valid performing license.

If an artist plays mostly small rooms, coffeehouses or non-ticketed events like farmer's markets, they pay \$55 a year for a performance license. Done.

When applying for the license, they list all their original songs plus up to seven cover tunes (*the PROs now have an accurate list of who to send royalties to.*) Most artists play their own material, however if an artist plays mostly cover songs, then it's \$95 a year.

The ONLINE LICENSE EXCHANGE

To get the license, the artist goes to an online exchange, kinda like getting insurance. Here BMI, ASCAP and SESAC receive the accurate song list the artist is playing and their license fee is now prorated among the pro's as needed. This also gives our songwriters a

fighting chance to get a check from the PRO's for their songs that are getting performed ... something that is *not* happening now.

No more VENUE LICENSE:

If a non-alcohol venue of 600 seats or less, or a farmers market, school, house concert, or benefit wants to present music ... no fee. NO FEE. Done. That's it. Artists simply need to show their current license to play and that venue is in the clear. The venue simply goes to the online exchange, register the venue and what kind of music they present and that's it.

If the venue serves beer and wine: \$200 a year.

Full bar: \$350.

Done.

Here's why ARTIST LICENSING works:

Where there is an audience, there is money.

End of story.

Any artist would gladly, *gladly without hesitation* pay the fee knowing that - instead of three clubs in town - there are now 25 or 30 places to play. They have increased their business 10 fold.

Because the business model works for the venue, more operators would register. More stages will open.

You want to play a stage somewhere?

Show your license and *boom*, no problem.

Artists will have more places to perform and find their audience. And the venue will be more likely to actually PAY the ding-dang artists.

And, if you do simple math, the PRO's would be rolling in cash. A revamping of the current model based on the realities of the new business environment will work in their favor. For every one venue there are 200-400 artists in that region that would stand in line ready to get their performing license.



**Where there's an audience,
there is money.**

If the PROs do this they will be encouraging and stimulating the farm system nature of small venues. They need to do this. How on earth can any artist find their audience and play bigger, better paying venues when you are part of the reason so many of the venues they need to find that audience shut down?

The "ANTI" Argument

A common objection to this idea is:

"... *you really want the artists to in effect pay their own royalties?*"

To which I say:

"*WHAT royalties???*"

Remember, most artists don't see a penny in royalties. They *want* to work. They *want* to play. They *want* to grow their audience. They *want* to sell their CDs and T-shirts. They don't want to sit around waiting 14 months for their next 22 cent royalty check. So, for the love of Pete, get the heck out of their way.

To be clear, BMI and ASCAP are *not* the reason most clubs shut down. But they are, unintentionally, part of the old system that is discouraging so many venues from letting artists meet their own audience.

We need venues.

We need BMI, SESAC and ASCAP.

We need them to do well.

We need the audience to be served.

Even more, we need artists to thrive in this harsh, two dimensional digital age. *Artist Licensing* opens up the floodgates for performers to meet their audience, increases the number of stages to perform on, in turn creates long term careers for performers and develop a genuine royalty stream for songwriters.

To be clear: Converting to artist licensing will create an explosion of clubs, coffeehouses and other stages, generating an audience big enough to employ thousands of performing artists.

So ... take THAT to the bank, peeps.

Organic SongFarmer

That's really what "folksingers" are.



A SongFarmer knows the value of the heart over a chart, that music is best used for community good and family entertainment, the front porch is the most important stage in the world, that music should be more a part of your life than your livelihood.

If you play an acoustic instrument like a banjo or cello, then, well ... you're an *organic* SongFarmer.