

Structuring the Resolution

From a platform mindset, our approach to not only licensing but also providing music on networks might dramatically change. In the following section I will briefly describe a simple three-tier structure for music licensing that could be considered.

Importantly, the structure described below does not involve a fundamental shift in how we approach and design music licenses. Licensing music rights by way of collectives and blanket terms is a premise that is more than 100 years old. The intent of the platform structure is to recognize music rights as a commons environment, rather than try to enact technical or legal measures that might somehow attempt to treat these rights as truly, privately controlled property. The intent of the tiered structure is to make plausible the licensing of a range of consumer-facing services. Essentially these services would operate “on top of” a licensed platform. This three-stage structure is an intentional modification of what might otherwise be seen as a two-part tariff. As the reader will see, I have broken up the enactment of the tiers so as to weaken the concerns for monopoly control.

Three-Tiered License

I am proposing a three-tier license structure for establishing music as a platform underlying the infrastructure of internet service provision. Tier One licenses would be granted directly to Internet Service Providers (ISPs), while Tier Two licenses would be granted by ISPs to Music Service Providers (MSPs) in exchange for the latter party's reliance upon the primary platform for the development of consumer-facing products, services and experiences. Tier Three licenses involve the relationships between FANS, and their associated ISPs and/or MSPs. This third tier involves the business models through which music is ultimately experienced by FANS.

Tier One

The *Tier One* license is provided directly to ISPs for the provision of music on their networks. This primary tier of service license essentially establishes the music platform. Music files are made available to ISPs, who then can resolve requests for these files on behalf of end users. This licensed platform for music might even inherit its own informal URL space (e.g., music://), and a request made for some location within this space would be resolved by ISPs and fulfilled (i.e., served from some recognizable location) by the assigned representative of a music rights holder.

An immediate benefit of such a platform structure can be seen in the phenomena that are URL linking and bookmarking – the simple act of sharing the location of a web page (http://www.website.com/really_cool_webpage). Given linking to a web page is so easy – merely a function of copy-paste – and generally reliable, the average web user does not choose to download and pass along the raw HTML file of interest with all of the associated media. Instead, we simply copy a link, paste it into an email, and share with friends some online experience we find compelling.

The objective of music:// as a URL space is to make sharing and experiencing licensed music files just plain easier and more reliable than transmitting these files through alternative venues. Any end user wishing to share a file simply needs to share the music:// URL associated with that file. This URL, when selected, transmits the file to the end user by the preferred method (e.g., streaming or download). In the results as presented within the file sharing applications or search engines, these verified and reliable files would likely be granted higher priority given their greater likelihood of satisfying user requests.

Furthermore, by converting music to a URL space mediated by ISPs we can introduce not only the ability to gather data relevant to the distribution of royalties, but also the capacity to gather these data anonymously. ISPs release to the rights representatives the usage of files that have been served, while user-specific data would be gathered separately and used independently. These user-specific data would only be associated with usage upon the user's permission, in order to provide services of added value.

Tier Two

A *Tier Two* license would be provided by ISPs to MSPs for the reliance of these commercial operators upon the hosted music platform in the development of consumer-facing products, services and experiences. Essentially, copyright holders would invite ISPs to become relevant and relied upon actors in the music value chain, with the capacity to develop licenses and fee structures for downstream MSPs. A portion of these downstream license fees might pass through to MRPs, the assigned representatives of music rights holders. As a result, a sort of secondary marketplace forms for the provision of music to end users – this secondary market providing a means for informing the negotiated price for the Tier One license.

Quite truthfully, the availability of tens of millions of music files presents end consumers not only with a clear opportunity, but also with a very clear problem – navigating and organizing such a vast catalog of music. The purpose of the Tier Two license is to empower MSPs with not only the rights but also the infrastructure through which the problems of end consumers might be reasonably solved.

For example, search providers such as Google and even file sharing applications such as Limewire, rather than being populated by links to unqualified files and transitory IP addresses, would instead be populated by URLs resolving upon qualified and reliable music files. Music services such as Rhapsody, iLike or Project Playlist would be supported by a platform of consistently available media.

Tier Three

A *Tier Three* license is the final bridge between FANs, ISPs and MSPs. The third tier involves the innovations and associated business models, through which music is ultimately experienced by FANs. By separating this tier from direct influence by MRPs, the goal is to empower innovation, while permitting the financial gains from these innovations to filter through the system to music rights holders. The price paid by FANs and MSPs for the provision of music filters through to the license paid by and through ISPs for the right to provide music openly on networks.

The layers and tiers of the music value chain

