



# The Little Black Book Of **ENTERTAINMENT LAW**

Hummingbird Lawyers LLP

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## ***Note From The Author***

*While the complexities and concepts of Entertainment Law cannot be explained fully in this book, this “Little Black Book of Entertainment Law” is designed to be a general guide to help provide you with a better understanding of entertainment law, key players and concepts and the importance of safeguarding rights. An aspect of entertainment law that I always emphasize to my clients is the protection, ownership and retention of rights. In entertainment law, the copyright owners are always the key players and therefore you should always attempt to hold onto them in perpetuity, whenever possible.*

*If you have an entertainment law matter, the best advice I can give is not only to find a lawyer whose practice focuses in this area, but one who can resonate with the subject matter and appreciate the art. It is advisable to book a one-hour consultation with a lawyer prior to signing a long-term retainer, to determine whether there is a good fit between lawyer and client. The legal advice you receive can be invaluable.*

*“Music is what tells us that the human race is greater than we realize.”*

*-Napoleon Bonaparte*

**Question:**

What is Entertainment Law?

**Answer:**

Entertainment Law is the protection of artistic creations and is unique in that it intersects with a variety of other legal topics including intellectual property law, contract law, tax law, insurance law and international law. The core concepts include contracts, negotiations, intellectual property, publishing, copyright, distribution, regulations and policies.

**Question:**

How can an Entertainment Lawyer assist with an Entertainment Law matter?

**Answer:**

Given that Entertainment Law matters can arise from a variety of issues, each matter needs to be assessed independently. Lawyers can assist with Insurance, Drafting/Reviewing, Negotiations, Contacting Labels/Corporations, Taxes, Immigration, Protecting Intellectual Property Rights, Connecting Parties, and Litigation are some of the areas of assistance.

**Question:**

What is Music Publishing?

**Answer:**

Music Publishing is the exploitation, promotion and monetization of musical compositions. It ensures that songwriters receive royalties for their works, as well as creating chances for those works to be performed and reproduced.

**Question:**

What is Literature Publishing?

**Answer:**

Literature Publishing rights grant the rights of a book to a Publisher. There are 2 types of rights in a Publishing Agreement; (1) The Major Rights include the ability to Publish the book in print and on the internet. (2) Subsidiary Rights include the ability to adapt the book, translate the book, grant others permission to publish passages, publish audio books and produce films based on the book. As a rule, the author should only give the publisher these rights if the publisher is a valued strategic partner and long-term fit.

**Question:**

What is Music Copyright?

**Answer:**

There are 2 types of Copyright in Musical Works:

1. Composition Rights – a musical work with or without lyrics = Harmony or a Melody.
2. Sound Recording Rights – a particular expression of the composition, produced and recorded by the artist = The Master Recording.

**Question:**

How do I get Copyright Protection?

**Answer:**

Copyright is granted by statute only and does not exist in common law. It is applied to every original literary, dramatic, musical, and artistic work once it is created. Copyright is the exclusive right to produce or reproduce a work or a part of a work. For Musical Works, copyright applies for the life of the author plus 50 years.

**Question:**

What are Music Royalties?

**Answer:**

There are 3 types of Music Royalties:

1. Mechanical Royalties – A payment to the rights owner when a user chooses to play a specific song on a streaming service or DSP.
2. Public Performance Royalties – Each time a composition is publicly performed, the rights owners receive payment..
3. Synchronization License Fees – If someone wants to use the composition as a part of another type of content (TV, Movie, Radio), they must first obtain permission from the rights owners.

**Question:**

What are the key provisions for a Recording Agreement?

**Answer:**

There are many important terms within an Agreement. The main considerations however, are; Creative and Marketing Control, Mechanical Royalties, Accounting, Term, Territory, Advance, Recording Budget and Royalties.

**Question:**

What are the main Record Label Deal Structures?

**Answer:**

There are 3 main Deal Structures:

1. Exclusive Artist Recording Agreement – The label pays for recording, marketing, distribution, and owns the copyright in all recordings in perpetuity. The Artist is paid an advance and royalties, and is exclusive to the label for the term of the Agreement.
2. Exclusive License Agreement – The label pays for marketing and distribution. The Artist is exclusive to the label for the term, pays for their own recording, retains ownership of copyright, and receives an Advance and Royalties. All rights in the record are exclusively licensed to the label for the term of the Agreement.
3. Distribution & Pressing Agreement (P&D) – The label is granted exclusive distribution rights for a specified term and retains distribution fee. The label pays the balance of net proceeds to the Artist. The Artist produces their own record, retains ownership of copyright and is responsible for marketing, promotion and manufacturing.

**Question:**

What are the types of Music Licenses?

**Answer:**

There are 3 main Music Licenses:

1. Synchronization License
2. Mechanical License
3. Master License

**Question:**

What is Intellectual Property and what are Intellectual Property Rights (IP Rights)?

**Answer:**

In simple terms, Intellectual Property forms the creations we cannot touch or feel, and the rights attached to those creations are the IP rights. IP rights allow us to protect our ideas, creations, and artistic works. According to the WIPO, IP is a creation of the mind, and the most common types are copyrights, patents, trademarks and trade secrets.



**Question:**

How can a Manager assist you?

**Answer:**

The key role a Manager should play in an artist's life is allowing an Artist to be an Artist! They are generally engaged by the Artist and responsible for guiding an Artist throughout their career, financial aspects of business, establishing, managing and creating key relationships, representing the artist at events, engaging with required personnel (Lawyers, Promoters, Accountants), and controlling the artists day-to-day affairs.

**Question:**

What are the key elements for a Film/TV production?

**Answer:**

There are many elements that come into play with a production, but some key terms to understand are E&O Insurance, Unions and Guilds, Chain of Title, Interim Financing, Publishing, Distribution, License and Pre-License, Shopping Agreements, Credits, Delivery, Talent, Producer, and Location Agreements.

**Question:**

What are the types of Distribution Deals in Film and Television production?

**Answer:**

There are 3 main Distribution Deals:

1. Standard Deal – Distributor provides an Advance to purchase the rights, distributor gets full fees (25%) and a % of overages.
2. Straight Deal – No advance from the Distributor to buy rights, no backend, and producer gets most overages.
3. Service Deal – No advance from Distributor and the Producer/Licenser puts up P&A expense, Distributor gets lower fees and Producer gets all overages.

**Question:**

Who are the Key Players for releasing a film or television series?

**Answer:**

Majors – Disney, Warner, Sony = Worldwide Distro  
Mini-Majors – Lionsgate, STX = Domestic Distro  
Independents – A24, Neon = Domestic Distro

**Question:**

What role does a Film or Television Producer Play?

**Answer:**

As a Key Stakeholder in a production, a Producer must wear many hats such as securing the content, finalizing the script, retaining talent, pursuing buyers/distributors/broadcasters, start pre-production, satisfy escrow requirements for talent, find lenders, satisfy lending conditions, pursue financing sources and finalize a budget and production schedule, to name a few.

**Question:**

What should you include in your checklist or closing agenda?

**Answer:**

The closing agenda should at least confirm the following:

1. Loan Documents
2. Corporate Documents and Opinions
3. Completion Guarantees and Arrangements
4. Insurance Certificates
5. Lab Pledge Holder's Agreements
6. Perfection of Security Interests
7. Copies of Production Documents

**Question:**

What are the Key Factors for all Talent Deals?

**Answer:**

There are many things to consider in a Talent Agreement. Key concepts include but are not limited to:

1. Guild and Union Applicability
2. Quotes in relation to Experience
3. Notoriety of the Talent
4. Heat of the Project
5. Budget of the Production
6. Genre of the Production
7. Platforms and Tiers

**Question:**

How can Film and TV Producers get a refundable tax credit?

**Answer:**

This greatly varies on the type of production, location and citizenship of the talent and associated parties.

There are 2 programs offering this:

1. CPTC – Canadian Film or Video Production Tax Credit Program
2. PSTC – Film or Video Production Services Tax Credit Program

**Question:**

Do you need to sign with a Record Label?

**Answer:**

This option can help take your career to new heights quickly, however you will need to give up some control and ownership. Given technological advances and access to social media, Artists don't need to give up their rights and ownership as heavily as they once had to. With independent digital distribution platforms on the rise who take no stake in your royalties, such as TuneCore, and the ability to produce a hit record from the confines of your home with a laptop and microphone, if you invest wisely, build a team, and push out a high volume of quality music, there's no reason why you can't get recognized at a global level independently.

## About The Author



Karan Chahal

### **Corporate & Entertainment Lawyer**

Karan leads Hummingbird Lawyers LLP's Entertainment practice and offers Corporate/Commercial services. Karan is Hummingbird's go-to for Entertainment Law matters. With over 13 years of industry experience and having been an Artist, Music Producer, Video Producer, A&R, Sound Engineer, and Record Label Manager, there's many situations his clients are faced with which he's personally experienced. He represents actors, artists, producers, record labels, athletes, and distributors. He also represents corporations and international brands to negotiate deals and draft a variety of contracts and agreements, including co-publishing agreements. Karan's practice covers various deals from capital and asset acquisitions to complex publishing and copyright issues. Karan's corporate practice includes incorporations, mergers, shareholder agreements, and other commercial agreements.



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