

ELECTRONIC MEDIA DISTRIBUTION DURING COVID-19 CRISIS

League Conference 2020

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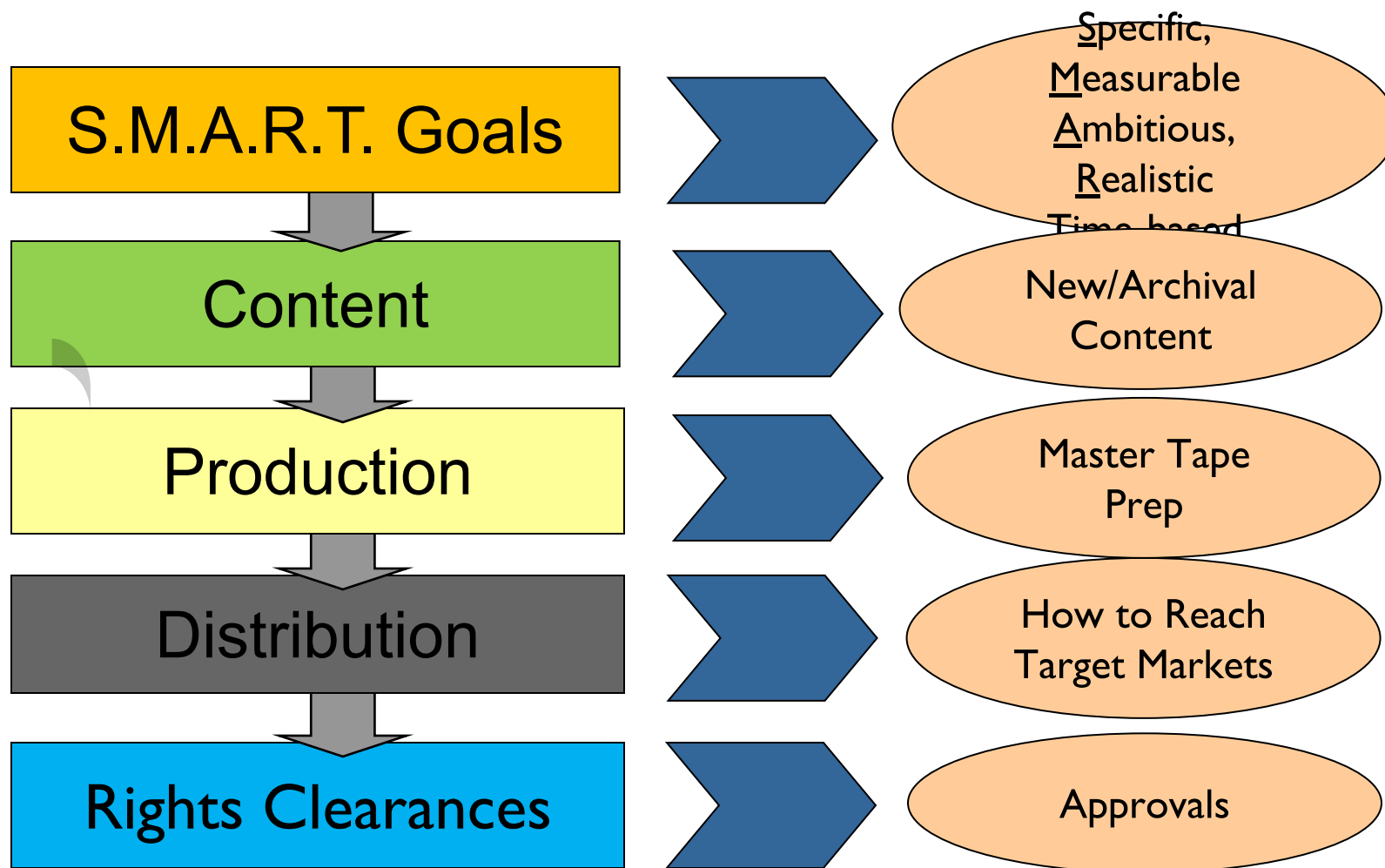
COVID-19 Electronic Media Agenda

- Introduction and Welcome
- Project Planning and Implementation
 - Strategic Overview
 - Production and Distribution
 - Rights Clearances Overview
 - Project Results Measurement
- Music Copyright Licensing
- Musicians/AFM Approvals
 - EMA Orchestras
 - Other Orchestras
- Q&A

Situation Analysis

- Historical Orchestral Mission:
 - Primary: Live music performances “in person” in concert halls
 - Capture/distribution of music via electronic media: secondary role for some (but not part of core mission)
- Today:
 - Live performances suspended
 - Digital distribution should be core strategy for bringing music to audiences for all orchestras:
 - During current COVID-19 shutdown of live performances
 - During “reopening” phases with social distancing restrictions
 - Long-term under new “normal” conditions to expand audience

Project Planning Steps



Production & Distribution Issues

- New Material:
 - Identify audio and video capture systems (e.g. Zoom)
 - Choose video and audio editing software
 - Engage technician to create master tape
- Archival Material:
 - Identify source material (original, if possible)
 - Audio and video quality
 - Format for digital distribution
- Distribution:
 - Partner platforms (e.g. local broadcaster, venues, producers)
 - Radio and Television
 - Streaming
 - EMA Employer controlled platforms:
 - Institution Website
 - Facebook
 - Instagram
 - YouTube

Rights Clearance Overview

- Obtain agreements with:
 - Musicians
 - Conductor
 - Soloists
 - Chorus (Professional or Amateur)
 - Opera:
 - Dancers, Stage Managers, Stage Directors, Supers, Children
 - Designers, Wardrobe, Make-up/Hair
 - Stagehands
 - Performance Venues
 - Composers/Publishers
 - “Small Rights” (ASCAP/BMI or Copyright Holder)
 - “Grand Rights” (Copyright Holder)
- Process:
 - Shared Goals + Collaborative Decisions =
 - Consensus Agreements

Project Results Measurement

- Keep records of:
 - Content released
 - Platforms distributed
- If possible, measure:
 - Numbers of people reached
 - Contact info (if possible) for people reached
 - Any resulting direct or indirect contributions received

Music Copyright Digital Licensing

Type of Copyright Work/ Type of Use	Copyright Clearance Mechanism:				Notes
	Reproduction	Distribution	Public Performance	Digital Performance	
Non-Dramatic Music Works:					
Live Performance	Sale/Rental: Publisher Contract	N.A.	PRO Blanket License	N.A.	PROs: ASCAP, BMI, SESAC, GMR
Terrestrial (Analog) Radio	Publisher Contract*	N.A.	PRO Blanket License	N.A.	*Subject to negotiation; not a copyright
Audio Recording:					
Physical (CD)	Publisher Contract*	Mechanical License: HFA	N.A.	N.A.	HFA: Harry Fox Agency
Digital Download	Publisher Contract*	Mechanical License: MLC	N.A.	N.A.	MLC: Mechanical License Collective
Digital Interactive Stream	Publisher Contract*	Mechanical License: MLC	N.A.	PRO Blanket License	
Digital Non-Interactive Stream	Publisher Contract*	N.A.	N.A.	PRO Blanket License	
Audio-Visual Recording:					
PBS	Copyright Owner	Sync License: HFA/Statutory	PRO Blanket License	PRO Blanket License	Sync of audio with visual images
Digital Stream	Copyright Owner	Copyright Owner	N.A.	PRO or Copyright Owner	PRO Blanket Lic: YouTube, Facebook
Film/TV & Other Audio Sync	Copyright Owner	Copyright Owner	PRO Blanket License	PRO Blanket License	TV, Film, etc.
Dramatic Music Works:					
Live Performance	Copyright Owner	Copyright Owner	Copyright Owner	Copyright Owner	"Grand Rights" for use of music in opera, ballet, theater
Terrestrial (Analog) Radio	Copyright Owner	Copyright Owner	Copyright Owner	Copyright Owner	
Audio Recording	Copyright Owner	Copyright Owner	Copyright Owner	Copyright Owner	
Audio-Visual Recording	Copyright Owner	Copyright Owner	Copyright Owner	Copyright Owner	

- In 2020, works copyrighted 1925 or later require copyright license (Not needed in US for “public domain” works after 95 years; check foreign copyrights that may vary)
- For Non-Dramatic works (“Small Rights”):
 - ASCAP/BMI Digital License needed for audio content hosted on your website
 - Sync rights needed from publisher for audio synced to video EXCEPT
 - YouTube, Facebook, Instagram, etc. have ASCAP/BMI blanket licenses (embed web links)
 - Publisher rental contracts define whether add'l fees due for electronic distribution; subject to business negotiation, not required by copyright law
- Dramatic Works (“Grand Rights”) must always be licensed directly from publisher

Musicians/AFM Approvals

- Orchestra EMA Members:
 - Use terms of basic IMA
 - Use terms of COVID-19 IMA Side Letter/MOU
 - Negotiate special IMA Side Letter with musicians and AFM
- Non-EMA Orchestras:
 - CBA with AFM Local and “Individual” AFM-IMA
 - CBA with AFM Local, but no electronic media agreement
 - No CBA, but musicians hired through AFM Local
 - Non-union orchestra (no CBA)

The logo consists of a blue oval with the letters "EMA" in white, bold, sans-serif font.

EMA

EMA – AFM Integrated Media Agreement

June 15, 2019 – June 30, 2022

Basic IMA – Free Distribution

			Limits	Approval	Reporting
			On Use	Required	Required
News and Promotion					
VIII.B.	Up to 10 minutes for news or "magazine programs"		-	-	-
VIII.C.	Promotional Excepts:				
VIII.C.1.	-Up to 5 minutes by Employer		-	-	-
VIII.C.1.a.	-Up to 5 minutes by Third Party (Direct Promotion)		-	-	-
VIII.C.1.b.	-Up to 5 minutes by Third Party (Indirect Promotion)		-	OC	AFM
VIII.C.2.	-Up to 15 minutes by Employer		6 per year	N.A.	AFM
VIII.C.3.	-National Anthem (except at "Premium Game" sports events)		-	-	-
VIII.C.5.	Full Performance Streaming by Employer:				
	-Free Concert		1 per year	-	-
	-Nominal Ticket Price		1 per year	OC	-
	-Full Ticket Price		1 per year	Orchestra	-
VIII.C.8.	Commercial Announcements:				
	-By Employer		-	-	-
	-By Co-Commission/Co-Production Partners		-	All OCs	-
VIII.C.9.	Up to 5 minutes by Individuals:				
	-Outdoor performances		-	-	-
	-Outdoor venue organizations		-	OC	-
	-Indoor full orchestra performances		2 per year	OC	-
	-Indoor informal events (400 seat max)		4 per year	OC	-
VIII.C.10.	30 second television clip promoting institution		-	-	-

Basic IMA – Free Distribution

		Limits	Approval	Reporting
		On Use	Required	Required
<u>Volunteer Promotional Recordings</u>				
VIII.D.	Up to 15 minutes by Individual Musicians/Small Ensembles	-	Musicians	AFM
VIII.D.5.a.	More than 15 minutes by Individual Musicians/Ensembles	-	Musicians +	AFM
	(if musicians paid for time)		OC + AFM	
<u>Gifts to Donors, Corporate Sponsors and Subscribers</u>				
IX.1.a.	Donor CD, DVD, Audio Download or A-V Download	1 per year	OC	-
IX.1.b.	Donor Portal on the Orchestra Website (alternate to 1.a. above)	Seasonal access	OC	-
IX.2.	CD or DVD Gift to Major Corporate Sponsors or Underwriters	1 per year	AFM	-
IX.3.	Download or Portal Access for Subscribers/Multi-Ticket Buyers	2 per year	OC	-
<u>Streaming of Local Radio Broadcasts</u>				
XI.D.	Simultaneous streaming of local radio broadcasts	-	-	-
XI.D.	On-demand streaming of local radio broadcasts for 30 days	-	-	-
<u>Audio-Visual Educational Releases</u>				
XVI.C.d.	45 minute educational programs (Pre-K to 12 classroom uses)	2 per IMA term	-	-
<u>Documentaries, Clip Programs, Compilations</u>				
XVII.A.	Up to 5 minutes for audio-visual clip, compilation	-	-	-
	or documentary programs			

EMA COVID-19 IMA Side Letter

3/12/2020

- Additional content released without musician fees during crisis
- Both full orchestra & individual use require no compensation/ benefit reduction for any musician for 30-days after each stream (Paragraph 5)
- Full orchestra content:
 - One release per week
 - New (physical or virtual) or archival content
 - Available for on-demand streaming for 45 days
 - Access to donors, ticket buyers via private link or password protected website and/or anyone who provides contact info (e.g. Vimeo)
 - Requires one-time approval of orchestra to use Side Letter
 - Orchestra Committee must approve content to be released
 - Any revenue generated need not be shared with musicians

EMA COVID-19 IMA Side Letter

3/18/2020 MOU Modifications

- Individual/small ensemble content:
 - 10 or fewer musicians physically together
 - No limit on # of musicians through remote performances (Zoom)
 - Volunteer Promotional Recording limit increased from 15 to 45 minutes
 - May include complete works
 - Musician participation must be voluntary
 - Three recordings of new content allowed per 7 days
 - Available for on-demand streaming for 45 days
 - Employer's website or social media outlets (e.g. Facebook Page, YouTube)

Special COVID-19 IMA Side Letter

- If 30-day compensation guarantee not possible, AFM will consider negotiating a separate institution Side Letter
- Steps to follow:
 - Negotiate maximum salary continuation with AFM Local and musicians
 - Prepare list of desired new/archived content to release during crisis
 - Review list of content with Orchestra Committee/AFM Local
 - Ask OC/AFM Local to contact AFM for approval of media distribution and compensation plan (which they will evaluate relative to resources)
 - If approved, AFM will prepare written Side Letter for employer approval
 - Orchestra must also ratify
- If problems arise:
 - Make salary continuation contingent on getting media flexibility
 - Contact EMA consultants for help resolving AFM resistance

Q&A

- For advice or additional questions, please contact League and EMA consultants:
 - Michael Bronson: mconbrio@mindspring.com
 - Joe Kluger: jkluger@artsEmedia.com