

DDEX white paper: **Music in podcasts**



1 Introduction

DDEX is a standard-setting organisation focusing on the data exchange requirements of the music industry. As such DDEX has started to consider the data and communication requirements to support the processes of obtaining licences for music used in podcasts and the subsequent reporting of the use of such music.

While DDEX has a number of companies amongst its membership that are part of the podcast value chain, it recognises that the podcasts industry is much bigger than just music. Therefore, DDEX needs to take into consideration the requirements of the entire podcast value chain in order to validate any data and communication requirements when defining how to support the processes associated with the use of music in podcasts.

This white paper documents possible data and communication processes for the various business transactions associated with the use of music in podcasts.

The content of this white paper has been discussed both within DDEX as well as with companies that are operating in the podcast value chain. As a consequence of this process, DDEX is confident that this white paper accurately describes the data and communication requirements of the podcast community¹ as well as those from the music industry².

2 Definitions

This document uses the following core definitions. They will be introduced and contextualised in in Section 3.

- A **podcast series** (or just “podcast”) is a potentially open-ended series of audio or video recordings (also called podcast episodes) that consumers can subscribe to.
Podcast series (as well as podcast seasons) can be described as “playlists” comprising podcast episodes.

¹ In this context it is worth mentioning that there are, to our knowledge, no commonly agreed approaches to how podcasts should be described and how that information should be distributed throughout the podcast value chain. As a consequence, different parties within the podcast value chain may exchange different data in different formats using different processes.

² For those not familiar with the music industry, some of the principles of how the music industry works are documented in Annex A on page 19.

- **Podcast episodes** are audio or video recordings that may contain other sound recordings, videos and/or other creative content.
A podcast episode or any creative content that appears in it, may also embody musical or other works (for example, graphic works).
A podcast episode may exist in different “versions” where the podcast creator (see below for a definition) might create an episode’s “core” which might then be enriched by, for example, adding adverts or music, depending on the target audience, territory or distribution channel.
A podcast episode may be further grouped into a podcast season within a podcast series.

A podcast episode might, like a podcast series, be described as a playlist because they may allow some level of consumer interactivity. However, this white paper will consider them to be recordings.

- A **podcast creator** is a party that produces a podcast.

A podcast creator focuses on the creative part of the “core” of the podcast, mainly recording the content of the podcast episode and defining its structure. In some cases, they may also perform tasks characteristic of a podcast editor (see below).

- A **podcast editor** is responsible for producing the final version of the podcast episode, season or series that will, eventually, be listened to by a consumer. This is done, for example, by mixing different pre-recorded creative content other than the core content created by the podcast creator (which may be localised or customised to a specific audience) with the podcast creator's self-recorded material.

A podcast editor is also responsible for fulfilling legal requirements relating to the distribution of the podcast episode, which includes making sure that all creative content owned or administered by third parties (the licensors) is properly licensed.

- A **podcast aggregator** is a party that is responsible for the aggregation and distribution of completed (and licensed) podcasts via the podcast DSP to consumers.

In many cases the podcast aggregator hosts the podcast recordings on behalf of the podcast creator. A podcast aggregator is sometimes also called a podcast distributor.

- A **podcast DSP** (Digital Service Provider) is a distribution platform that makes available podcast episodes, seasons or series, to consumers. Some podcast DSP may host the actual podcast recordings whilst others do not. Those that do not, index and play to consumers the podcast recordings that are usually hosted by the podcast aggregator. A podcast DSP can, sometimes, be simple a consumer app. Some of these platforms may offer analytics and reporting, but not all do. This is quite different from music DSPs, which host the music files and always provide reporting back to rights holders. Some podcast DSPs, however, also serve as music DSPs (and vice versa).
- The licensors for any content embodied into podcasts fall into three categories:
 - Providers and licensors of non-musical content, which are out of scope for this document;
 - **Record companies**, which provide sound recordings that can be embodied in podcasts and which they own or administer. Some of these recordings may be commercially available whereas others may be, what is sometimes known as library or production music. Record companies may be represented by collective rights management organisations known as music licensing companies, or agents; and
 - **Music publishers**, which own or administer the rights in the musical works that can be embodied in podcasts, either as part of a recording of the musical work made by the podcast creator as part of the podcast or as a consequence of a sound recording in which the musical work is embodied being used in the podcast. Music publishers may be represented by collective rights management organisations known as authors rights societies, or agents.

3 Describing Podcasts

Although podcasts may contain a wide range of third-party creative content, for the purposes of this document, the focus is on the use of sound recordings (usually owned or administered by a record company or music licensing companies) and musical works (usually owned or administered by music publishers or authors' rights societies) in podcasts.

3.1 Podcasts without third-party music

Podcast episodes are audio or video recordings created by a podcast creator. Some of these contain only material that is owned or controlled by the podcast creator.

Creators of podcasts that do not contain third-party sound recordings and/or third-party musical works (or any other third-party creative content) often employ a podcast DSP to reach their audience in a similar way to companies that make available commercial music to consumers.

In many cases, the distribution of the podcast data and podcast audio or video recording to a podcast DSP is handled by a podcast aggregator. The podcast DSP and/or podcast aggregator might, at the appropriate point in time, inform the podcast creator about consumer usage figures and provide royalties derived from the podcast to the podcast creator.

This is depicted in Figure 1 with solid lines showing the data flow preceding the usage of the podcast by a consumer, and dotted lines showing the data flow for reporting such usages (the colours have no special meaning at this stage). Part of this data flow from podcast creator via podcast aggregator to podcast DSP will need to include data about the podcast: this might include the description of the podcast, tags to aid the consumers to find the podcast, the description of the parties involved in creating the podcast, as well as any identifiers for the podcast and, ideally, for the parties involved in creating the podcast.

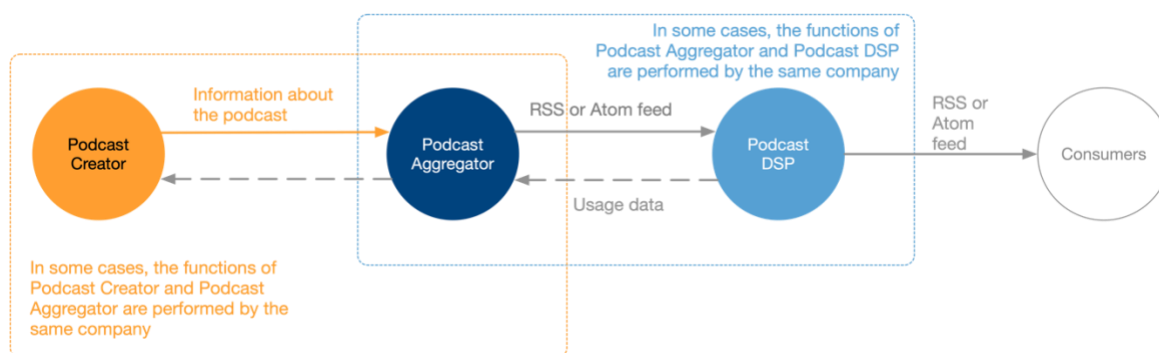


Figure 1: Data flow for podcasts without embedded third-party music/creative content

3.2 Podcasts with third-party music

Many podcasts contain sound recordings and/or musical works as well as the “original” part of the podcast produced by the podcast creator. In most cases, the sound recording and/or musical work embodied in the podcast is not the complete sound recording or musical work, but only a portion thereof, for example, a ten-second excerpt of pre-recorded music as an introduction.

Such a podcast episode could, by way of example, be made up of five segments: (1) a pre-recorded musical introduction, (2) an interview about some subject matter associated with the podcast (not recorded by the podcaster him/herself), (3) a piece of music to separate the interview from the analysis, (4) an analysis of the interview made by the podcaster and, finally, (5) a pre-recorded musical ending. This is shown in Figure 2:

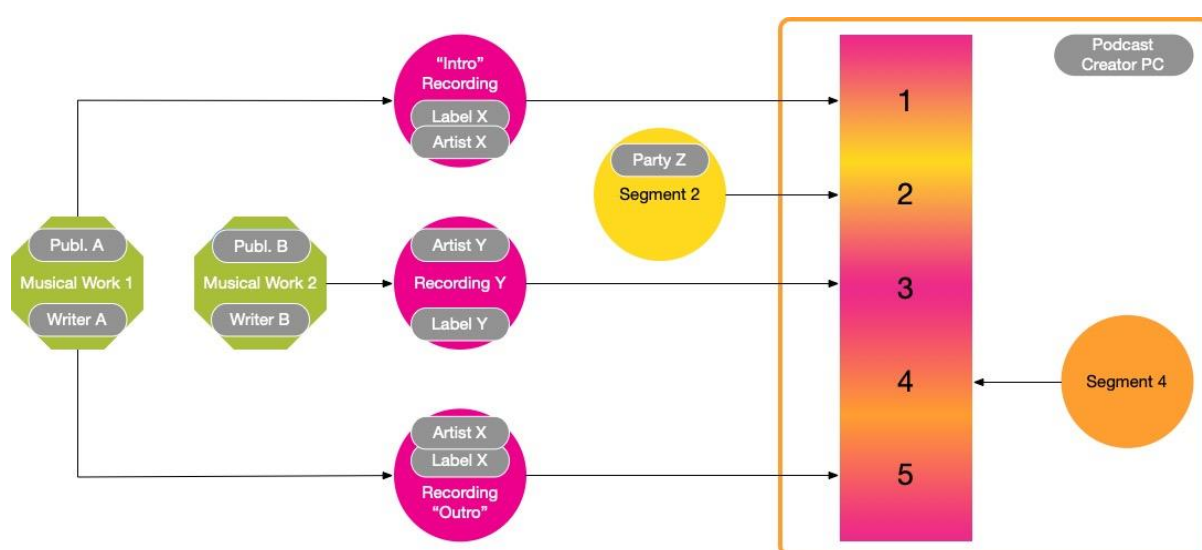


Figure 2: Podcasts with embedded third-party music

In order to create and distribute such podcasts, a number of additional parties may need to be involved. This might include the music creators and/or licensors of the sound recordings and/or musical works. In addition, it might include a party that ensures that all sound recordings and/or musical works embodied in the podcast for which a licence is needed are duly licensed to ensure payment of royalties to the licensors.

Today, these royalty payments are usually made upfront as a single payment in return for a licence that authorises the podcast creator to use the sound recording(s) and/or musical work(s) for a pre-defined period of time with no requirement to report back to the licensors of the sound recording(s) and/or musical work(s).

This practice does not require any of the parties in the value chain to inform the sound recording and/or musical work licensors about the level of usage of the podcast and/or any revenue generated from that usage. This approach is sometimes seen as a barrier to the use of sound recording(s) and/or musical work(s) because some music licensors would prefer licence agreements to involve royalty payments based in some way on the level of usage and/or revenue, which would obviously involve usage data reporting. Whilst such licences are not in place there is thought to be a reluctance to licence sound recordings and/or musical works for use in podcasts. It has been suggested that transitioning to a model where a podcast creator could get a licence with royalties determined by the level of usage of the podcast and/or any revenue generated from that usage, may offer significant growth potential for record companies, music publishers and podcast creators alike.

As discussed in Section 3.1, providing data describing and tagging a podcast is important for consumers to help them to discover the podcasts they like. In some instances, it may also be beneficial to include data about the sound recordings and/or musical work and their creators that are embodied in the podcast.

The business models under which podcasts are offered to consumers are independent from how podcasts are described between the parties involved in creating and distributing the podcasts. Therefore, the business models can be ignored for the purposes of this document.

4 Data flows

4.1 Roles in disseminating podcasts

This white paper defines flows of data between different parties that work together in creating and disseminating podcasts. These parties are defined herein by the role they undertake.

In some cases, a party may play one or more of the roles in creating and disseminating podcasts. This is, for example, the case for large media companies such as terrestrial broadcasters, who perform the roles of podcast creator and podcast aggregator, while in other cases a podcast DSP might offer podcast aggregator services to smaller podcast creators as well making available the podcasts to consumers.

In addition, there may be collective rights management organisations for the music publishers and composers, and/or the performers and the record companies. As such organisations, in the context of podcast dissemination, may carry out much the same licensing role as the music publishers or the record companies. Therefore, for the purpose of this document, they are subsumed into the roles of music publisher and record company.

4.2 Communication of podcast data

Figure 3 depicts the likely communication between all the parties in respect of podcasts containing sound recordings and/or musical works, as described in Section 3.2. In this example, the communication is with only one music publisher and one record company in order to keep the diagram simple. The arrows in grey are of no relevance to the types of standards that DDEX develops and are therefore not addressed in any detail in this white paper.

The figure focuses on the data describing the podcasts and any sound recordings and/or musical works embodied in the podcast. The direction of the arrows depicts the main data flow. It may be, however, that there is also an auxiliary data flow in the opposite direction. Arrows 1, 2 and 3 may, for example, include a licence request from the podcast creator to the three licensors in addition to the licence itself (assuming a licence will be granted).

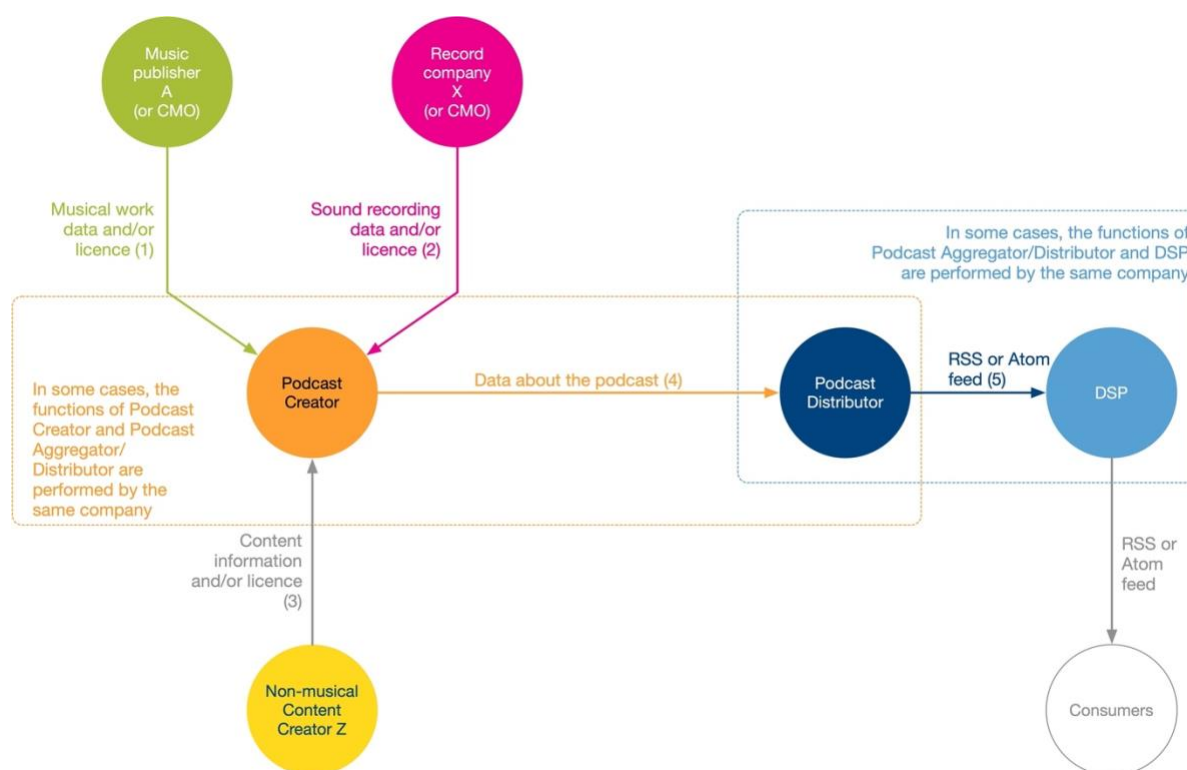


Figure 3: Data flow for licensing music and podcast product feeds

Looking at these numbered communications for a podcast containing sound recordings and/or musical works (as described in Section 3.2) in turn:

1. The podcast creator needs to have data about the musical works it wishes to include into its podcast episodes.
This applies to musical works embodied in the sound recordings that the podcast creator is including in the podcast as well as to musical works that the podcast creator is using directly (e.g. by singing or playing them). The podcast creator will also need to obtain all necessary licences for the use of the musical works³;

³ DDEX has already developed a series of standards for the licensing of musical works. These standards might potentially also be suitable for assisting the process of licensing musical works for podcasts.

These standards are: (i) the Musical Work Right Share Notification Choreography Standard (MWN) that could enable a podcast creator to confirm who the parties are that control the relevant rights in the musical works that a podcast creator may wish to use, (ii) the US Musical Work Licensing Choreography Standard (MWL) that could enable a podcast creator to obtain licences for musical works; and (iii) the US Letters of Direction Choreography Standard (LoD) that enables licences to be maintained in those cases where the rights for the musical work are transferred to a new licensor.

2. The same needs to happen with respect to any sound recordings included in the podcast;
3. The podcast creator may need to have similar data exchanges (and obtain licences) with other content providers from outside the music industry, if other content such as graphic images are included in the podcast;
4. The podcast creator then needs to send the fully-licensed podcast to a podcast aggregator, who is responsible for the technical delivery of the podcast to the podcast DSP, who will then make the podcast available to consumers.
5. This communication will need to enable the podcast aggregator (and subsequently, the podcast DSP) to market the podcast and is expected to contain sufficient data to enable the podcast DSP and the podcast aggregator to report appropriate usage data back to the podcast creator and/or any licensors;
6. The podcast aggregator then sends data about the podcast to the podcast DSP to make available to consumers.

Communications 4, 5 and 6 may also require the delivery of the podcast (i.e. the file containing the audio or video recording) in addition to the delivery of the data. This may or may not happen simultaneously.

4.3 Communication involving a podcast editor

The data flow discussed above assumes that the podcast creator is also responsible for obtaining licences for all the content embodied in the podcast and for making sure the finalised podcast complies with these licences.

These standards were developed to meet a specific requirement in the US market but would be suitable, either “as is” or after being adapted, for the process of licensing musical works for podcasts.

As discussed in Annex A, licences for music contained in a podcast fall into two categories:

- (a) If a podcast includes a musical work where the podcast creator sings or plays the musical work, a licence must usually be obtained from the relevant music publisher or author's rights society; and
- (b) If a podcast includes a sound recording in which is embodied a musical work, a licence must usually be obtained from the relevant record company and/or music licensing company **and** a licence must usually be obtained from the relevant music publisher or author's rights society in respect of the use of the musical work embodied in the sound recording⁴.

The podcast creator would also be responsible for providing usage reports to the licensors of any sound recordings and/or musical works, if required to do so by the terms of the licence. This may be something a creator of podcasts is not able to do. In such circumstances, a podcast creator may choose to focus activities on creating the "core" of a podcast, which may then need to be finalised by the addition of adverts or channel-specific material by a podcast editor. In these circumstances the responsibility for obtaining licences and providing usage reports to licensors might be with the podcast editor.

This means that the role of a podcast editor is separated out from the role of the podcast creator. This will lead to a separation of the data flows shown in Figure 3 with the podcast creator only responsible for the data about the podcast and the podcast editor responsible for data to support the licensing process. This results in a slight change of the reporting data flow.

Data flows 1, 2 and 3 in Figure 3 need to be split into 1(a), 2(a) and 3(a) where the podcast creator collates all the data about the sound recordings and/or musical works and 1(b), 2(b) and 3(b) with the podcast editor licensing the sound recordings and/or musical works. A new feed, 4(a), needs to be added to enable the podcast creator to provide the podcast editor with all the data the latter needs to finalise the podcast and to meet its licensing obligations. These changes are depicted in Figure 4.

⁴ There are some exceptions to the requirement for licences. Examples include the case where a musical work is out of copyright in all territories the podcast is to be distributed to and another example is, within certain limitations, where music is quoted or where "fair dealing" or "fair use" rules apply.

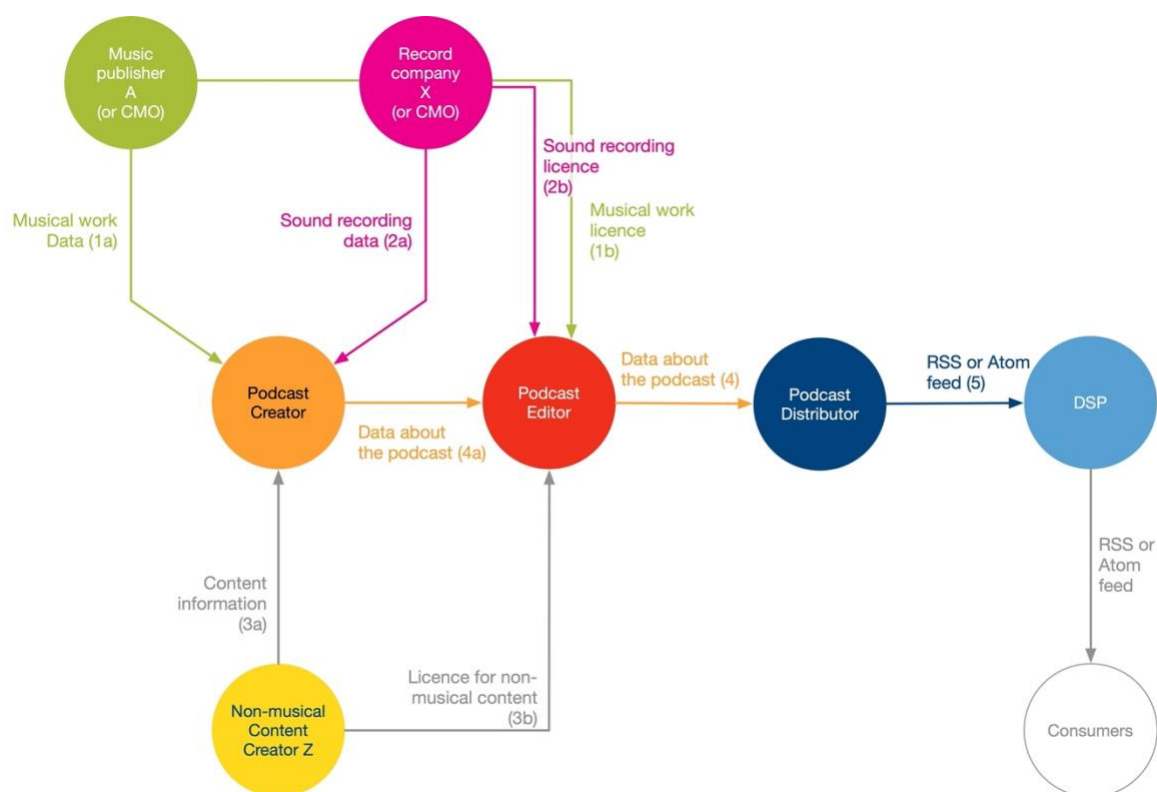


Figure 4: Data flow for licensing music and podcast product feeds (with podcast editor)

4.4 Reporting of podcast usage

4.4.1 Introduction

Licensing sound recordings and/or musical works usually comes with the obligation to report back usage data about those sound recordings and/or musical works (notwithstanding the current practices for podcasts described in Section 3.2 where licences are paid upfront). Similarly, the podcast creators will want to receive usage data about their podcasts in order for them to receive their share of any revenue generated by the podcast DSP from making the podcast available to consumers.

There are, however, different paths that these usage data reports can follow. Which of these is most appropriate in any given case will depend on the commercial and contractual relationship between the parties.

These possible paths are shown in Figure 5.

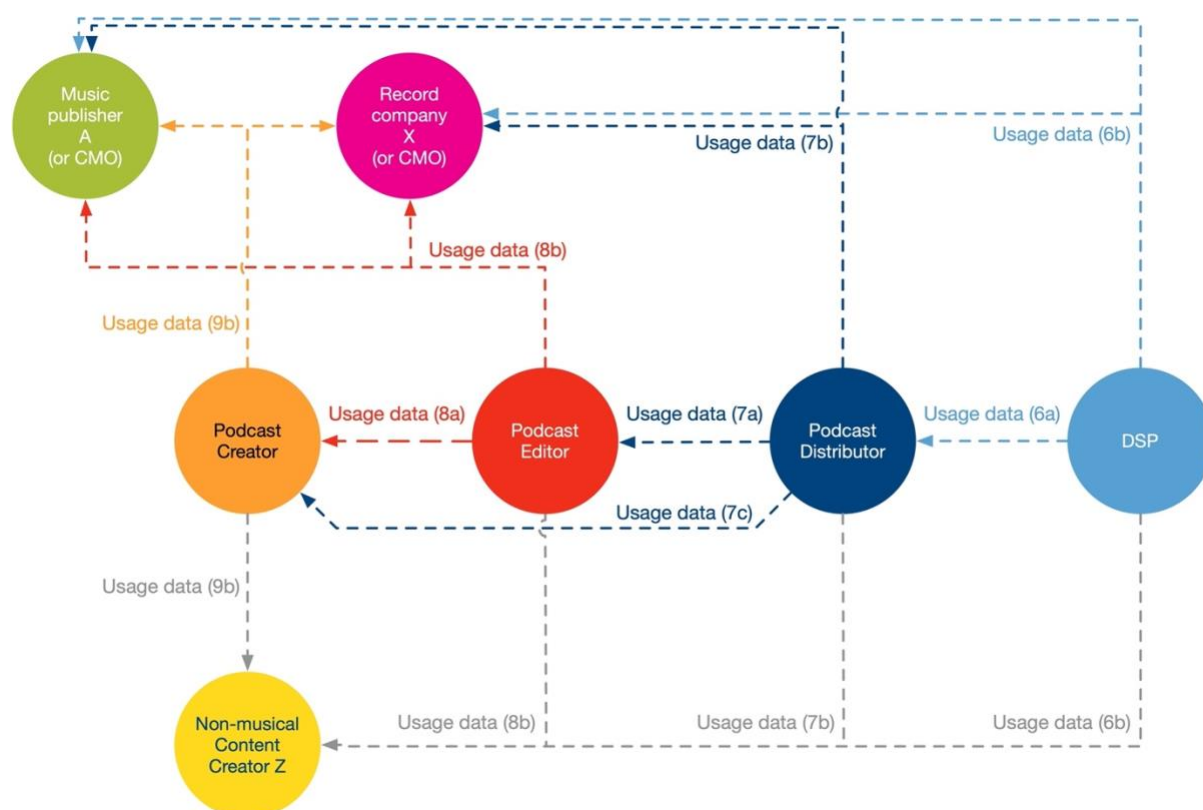


Figure 5: Data flow for reporting music in podcasts

This shows that:

- Usage data can be reported by the **podcast DSP** directly to licensors (6(b)⁵).
In this case, the podcast DSP will need to have been provided with data about the podcast itself, data about any sound recordings and/or musical works embodied in the podcast and the identity of any licensors to whom usage data needs to be reported.
- Usage data can be reported by the **podcast aggregator** to licensors, 7(b), after receipt of that data from the **podcast DSP**, 6(a).
In this case there is no need for the podcast DSP to be provided with data about any sound recordings and/or musical works embodied in the

⁵ The usage data reports to the rights holders of the podcast itself, are not discussed herein. This white paper also omits any communication regarding non-musical content that is embodied in a podcast.

DDEX has already developed a standard for the reporting of usages: The Digital Sales Reporting Message Suite (DSR). This standard was developed to allow music DSPs to report usages and/or any revenue generated from usages to music licensors but it may be possible to adapt DSR to also address the requirements of the podcast value chain.

podcast or the identity of any licensors. This data will have been made available to the relevant podcast aggregator.

- Usage data can be reported by the **podcast editor** to licensors, 8(b), after flow of that data from the **podcast DSP** and/or the **podcast aggregator**, 6(a) and 7(b).
In this case there is no need for the podcast DSP or the podcast aggregator to be provided with data about any sound recordings and/or musical works embodied in the podcast or the identity of any licensors. This data will have been made available to the relevant podcast editor.
- Usage data can be reported by the **podcast creator** to licensors, 9(b), after flow of that data from the **podcast DSP**, 6(a), and/or **the podcast aggregator**, 7(c).
In this case, which only applies if there is no separate podcast editor in charge of the licensing process and responsible for the communication with the licensors, there is no need for anyone in the value chain to receive data about any sound recordings and/or musical works embodied in the podcast or the identity of any licensors because the **podcast creator** is carrying out the usage reporting to the licensors.

Details relating to these cases are discussed below from the viewpoint of the various parties in the podcast value chain.

4.4.2 Podcast DSP

For the podcast DSP there are two data flow cases to be differentiated. Either the podcast DSP is responsible for reporting usage data to licensors or this task is carried out by someone else in the value chain.

4.4.2.1 Podcast DSP reports usage data directly to licensors

If the podcast DSP is responsible for reporting usage data directly to the licensors (likely to be a consequence of a licence agreement between the podcast DSP and the licensors), a usage data report is likely to contain data about:

1. The **identity of the podcast** in the form of:
 - (a) A unique identifier for the podcast series and podcast episode;
 - (b) Any title(s) of the podcast series and/or podcast episode;
 - (c) The name(s) under which the podcast series and podcast episode has been published (which is likely to be the podcast creator);

2. The **identity of the sound recordings and/or musical works embodied in the podcast** in the form of:
- (a) A unique identifier for any sound recordings and/or musical works (usually an ISRC and/or an ISWC respectively);
 - (b) Any title(s) of any sound recordings and/or musical works;
 - (c) Any known writer(s) (primarily composers and/or lyricists) for any musical works;
 - (d) Any known display artist data for any sound recording;
 - (e) Cue data about any sound recordings and/or musical works. That is, the duration of the music in the podcast as well as data about the nature of the use of the music (e.g. background music, opening theme, etc.)

If a podcast contains any sound recordings it is likely that two reports will be necessary. One to the party that licensed the use of the sound recording itself and one to the party that licensed the use of the musical work embodied in the sound recording; and

3. The **number of usages** including, for example, the territory of use, the type of use and/or the revenue generated.

This, in turn, necessitates that the data from the podcast creator via the podcast editor and the podcast aggregator to the podcast DSP (data flows 4, 4(a) and 5 in Figure 3 and Figure 4) contain data about the identity of the podcast and the identity of any sound recordings and/or musical works embodied in the podcast.

There is also a requirement for the podcast DSP to receive data as to the identity of the licensor of any sound recordings and/or musical works embodied in the podcast (unless this data is already available to the podcast DSP as part of any licence agreement).

4.4.2.2 Podcast DSP reports usage data to the podcast aggregator

If the podcast DSP is not responsible for reporting usage data directly to the licensors, the only report to be made to the podcast aggregator by the podcast DSP would need to contain the items 1(a)-(c) and 3 listed in Section 4.4.2.1. If not, the complete report needs to be sent to the podcast aggregator.

4.4.3 Podcast aggregator

The same distinction as for the podcast DSP needs to be made for the podcast aggregator in terms of data flows. Either they are responsible for reporting usage data to licensors or this task is carried out by someone else in the value chain.

4.4.3.1 Podcast aggregator reports usage data to licensors

In this case the report to be made by the podcast aggregator to the licensors would need to contain all the items listed Section 4.4.2.1.

This, again, necessitates that the data flow from the podcast creator via the podcast editor to the podcast aggregator (data flows 4 and/or 4(a) in Figure 3 and Figure 4) contains data about the identity of the podcast and the identity of any sound recordings and/or musical works embodied in the podcast.

There is also a requirement for the podcast aggregator to receive data as to the identity of the licensor of any sound recordings and/or musical works embodied in the podcast (unless this data is already available to the podcast aggregator as part of any licence agreement). And, of course, the podcast aggregator will need to receive usage data from the podcast DSP (data flow 6(a) in Figure 5).

4.4.3.2 Podcast aggregator reports usage data to podcast editor or podcast creator

If the podcast aggregator is responsible for reporting usage data to the licensors, the only report to be made to the podcast editor or podcast creator would need to contain the items listed as 1(a)-(c) and 3 in Section 4.4.2.1. If not, the complete report needs to be sent to the podcast editor or podcast creator.

4.4.4 Podcast editor

If a podcast editor is involved in the process, then it will have the responsibility to report any usage data to the licensors, unless this task has already been fulfilled by either a podcast DSP or a podcast aggregator.

The podcast editor's usage report to the licensors would need to contain all the items listed in Section 4.4.2.1.

The podcast editor's usage report to the podcast creator would only need to contain the items listed as 1(a)-(c) and 3 in Section 4.4.2.1.

If the podcast editor is also responsible for licensing any sound recordings and/or musical works embodied in the podcast, the podcast editor will need to receive data

about the sound recordings and/or musical works that need to be licensed from the podcast creator (containing the items listed as 2(a)-(e) Section 4.4.2.1) in Figure 4's data flow 4. The podcast editor may also need information about the podcast itself (items 1(a)-(c) in Section 4.4.2.1) and where/how the podcast editor wishes to make their podcast available to consumers. And, of course, the podcast editor will need to receive usage data from the podcast aggregator, who in turn would have received such figures from the podcast DSP (data flows 6(a) and 7(a) in Figure 5).

The podcast editor then needs to engage with the licensors using data flows 1(b) and 2(b) containing the data listed in the previous paragraph.

4.4.5 Podcast creator

Unless a podcast editor is involved in the process, and unless this task as already been fulfilled by either a podcast DSP or podcast aggregator, it will be the podcast creator's responsibility to report any usage data to the licensors. (Although one could imagine that a podcast creator does some of the licensing even if a podcast editor is involved, e.g. by choosing to use music that is available with a creative commons licence.)

The podcast creator's usage report would need to contain all the data listed in Section 4.4.2.1.

The podcast creator will need to obtain information about any sound recordings and/or musical works embodied in the podcast. This may involve communicating with the owners or administrators of any sound recordings and/or musical works embodied in the podcast as shown as data flows 1 and 2 in Figure 3 or data flows 1(a) and 2(a) in Figure 4. Alternatively, the podcast creator may wish to use other data sources.

And, of course, the podcast creator will need to receive usage data from the podcast editor or podcast aggregator, who in turn would have received such figures from the podcast DSP (data flows 6(a), 7(a), 7(c) and 8(a) in Figure 5).

If no podcast editor is involved, the same licensing process as discussed in Section 4.4.4 will need to take place. It is part of data flows 1 and 2 in Figure 4.

Annex A: Music industry data flows

As indicated above, this document contains the current thinking of DDEX members about how to handle the communication of data relating to the use of music in podcasts. This thinking is based on the processes that the music industry has established over several decades. Some of this, of course, has its roots in copyright law but some exists to support the processes needed to manage the rights in music bestowed by virtue of copyright law.

Across most media industries, including the music industry, the processes involved in the management of media content and the rights associated with them can be boiled down to four elements as shown in Figure 6.

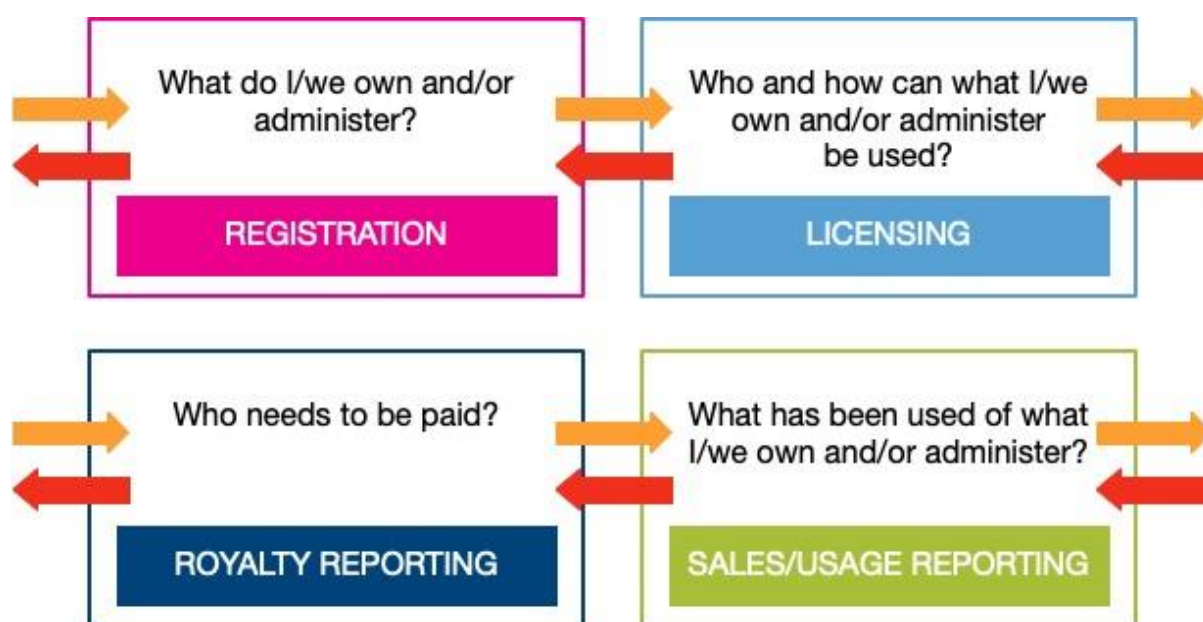


Figure 6: Basic processes required to manage media content and rights

Obviously, when it comes to the music industry there are immense complexities within each of these elements, but essentially the interaction of processes between these elements provides the infrastructure needed to manage music content and the rights associated with them.

Others may use different terms from those used in Figure 6 but the activity, as explained by the question in each box, is fundamentally the same:

1. **Registration:** this is the process of annotating data about a sound recording and/or musical work, its name (title), the contributors to the

content, the roles of those contributors and the identity of any parties that have a legal or financial interest in the sound recording and/or musical work. Once this data has been annotated, which can occur in a number of places within the industry, it may be communicated to other parties within the operational infrastructure of the industry;

2. **Licensing:** this is the process whereby an owner or administrator of rights in sound recording and/or musical work authorises another party to use the sound recording and/or musical work. It also covers the process whereby a party may authorise another party to carry out licensing on their behalf. This is one of the processes whereby the data that makes up registration may be communicated to the party obtaining the right to use the sound recording and/or musical work;
3. **Sales/Usage Reporting:** this is the process whereby the party authorised to use a sound recording and/or musical work, reports back to the party giving the authority, what has actually been used. This will usually include some sort of financial information, which will be used to determine what royalties are due from the party authorised to use the sound recording and/or musical work to the party giving the authority;
4. **Royalty Reporting:** this is the process whereby a party that gave authority to a user of a sound recording and/or musical work accounts to those further down the chain any royalties due to those parties as a result of the royalties paid by the user of the sound recording and/or musical work.

These processes may or may not always happen in the order they have been described. They may also happen more than once in different places, particularly across territories, given the global market that currently exists.

To make these explanations more music specific, Figure 7 identifies the main parties within the music industry and shows where the different processes described above occur. For these purposes the term Studio refers to the place in which a composer/lyricist creates a musical work or an artist makes a recording of a musical work.

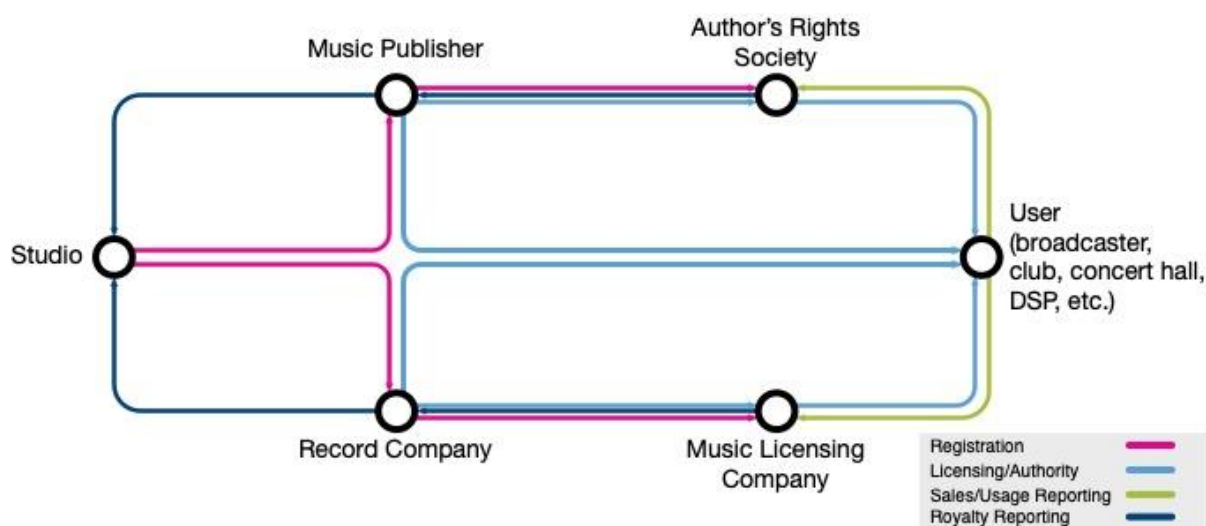


Figure 7: Basic data flow between the main parties within the music industry

For the purposes of Figure 7, there is one particular piece of copyright law that needs to be explained in order to gain a full understanding of the diagram. Again, simplified, copyright law bestows a bundle of rights to each of, the musical work and the sound recording.

This is best explained by a couple of examples, although no attempt is made to describe the actual rights involved in each case:

- An artist sings an acoustic guitar version of the song “My Way” at a music festival attended by the public.

Here, only the musical work is being used and either the artist or the music festival will need a licence to use that musical work from the relevant owner or administrator of My Way, usually either a music publisher or an authors’ right society;
- An artist in a studio sings the song “My Way” and in the studio a recording is made of that performance.

Here, even though a sound recording is being made, only the musical work is being used for the purpose of copyright law and either the artist, the studio or whoever is financing the activity will need a licence to use that musical work from the relevant owner or administrator of My Way, usually from either a music publisher or authors’ right society;
- A DJ plays that studio recording of “My Way” on a radio station, broadcasting it to the public.

Here both the sound recording, which is being played, and the musical work which is what has been recorded onto the sound recording are being used and either the DJ or the radio station will need a licence to use both the sound recording of the artist singing My Way usually from either a record company or a music licensing company and the musical work, My Way, usually from either a music publisher or authors' right society.

As consequence of the rights in both musical works and sound recordings, an infrastructure has developed to support the administration of rights in both.

- **Musical Works:** the rights in a musical work usually apply at the moment one or more composer/lyricist(s) create a musical work. The composer/lyricist(s) are sometimes the recording artist(s) as well. The composer/lyricist(s) will usually assign⁶ some or all of their rights to one or more music publishers and/or assign some or all of their rights to an authors' rights society. The music publisher will usually also assign some or all of their rights to an authors' rights society. Depending where the rights have been placed, the music publisher or the authors' right society will then license users to use some or all of the rights in some or all of the musical works they own or administer. In return, the user usually provides reports on the sales and usage of the relevant musical works, which will usually result in the payment of a royalty. Whoever collects this royalty will usually have obligations to pay some or all of that royalty to someone else, usually the composer/lyricist(s);
- **Sound Recordings:** the rights in a sound recording are usually created by one or more artists. The artist(s) are sometimes the composer/lyricist(s) as well. The artist(s) will usually assign some or all of their rights to one or more record company and/or assign some or all of their rights to a music licensing company. The record company will usually also assign some or all of their rights to a music licensing company. Depending where the rights have been placed, the record company or the music licensing company will then license users to use some or all of the rights in some or all of the sound recordings they own or administer. In return, the user

⁶ The word assign is used here to mean both a legal assignment of rights to the different types of entities described and a contractual grant of authority for the entity to act on behalf of the entity granting the authority.

usually provides reports on the sales and usage of the relevant sound recordings which will usually result in the payment of a royalty. Whoever collects this royalty will usually have obligations to pay some or all of that royalty to someone else, usually the artist(s).