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Research on Music Copyright Licensing and Payment Models in the Internet Era: Focusing on Multiple Subjects and Feasible Paths from an International Perspective

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Abstract: With the continuous development of modern society, the music industry has been constantly evolving, but issues regarding copyright payment have emerged one after another. The study mainly analyses the present state of copyright distribution in the Internet music platform enterprises and collective management organizations. By detailed and specific research, it seeks to understand the current allocation and potential threats to the price setting. Then, it offers improvement suggestions to boost fairness, efficiency and transparency in order to improve the current price system. The study found that for Internet music platform enterprises, refining refund policy and strengthening supervision and monitoring will help regulate the music market industry. At the same time, raising the public about music copyright awareness is also necessary for improving the payment of copyright. For collective management organizations, referring to mature organizations' experience with payment policy can not only help improve the management system and distribute responsibility efficiently but also avoid the organizations falling into legal controversy.

Keywords: music copyright payment, collusive oligopoly, China audio-video copyright association, ASCAP

1. Introduction

With today's trend of rapid development of digital technology, the digital music domain has witnessed a quite significant transformation. The rise of plenty of Internet music platform enterprises and collective management organizations has indeed been remarkable all over the world especially in some developed countries. Nevertheless, this growth has also shown plenty of issues about the payment systems.

In a fiercely competitive Internet music market, some large enterprises might unwittingly form collusive oligopolies. They tend to benchmark the prices set by their main competitors to attract more potential customers and gain more market share to cement their place, which consequently perturbs the rational market order. This practice can be a threat to some small music platforms and they are easy to fail as they face fierce competition and cannot get economy of scale. Moreover, it curtails the overall diversity and innovation in the industry.

Regarding collective management organizations, they frequently meet problems about disordered management systems and ambiguous rights and responsibilities allocation especially for some organizations that are immature or has been founded not long ago. These internal dysfunctions often precipitate price legal disputes like the precise distribution of price monopoly, thereby weakening the trust of music creators and stakeholders in the copyright management framework. In addition, plenty of enterprises are even accused of violating anti - monopoly laws.

Therefore, in this research, the main aim is to discuss the possible problems for both the Internet music platform and the collective management organizations so that payment controls for music rights would be more efficient. The research will first analyse Internet music platform enterprises with typical examples, and then analyze the current situation and problems of collective management organizations Subsequently, explore measures to refine the music copyright model, ensuring fairness and innovation.

2. Firms

In the music market, a number of large firms have taken the lead. They attract consumers to become members by obtaining copyrights, thereby making profits. Among them, exclusive copyrights are the most profitable model. However, under the combination of the exclusive licensing model and the sub-licensing model, the downstream copyright owners are often in a passive position, thus creating an exclusionary effect of the "sub- licensing model" which is favourable to competitors in general [1]. Moreover, the barriers to entry are much higher especially for some small firms who are desirable to capture the market share. What's more, it crates independence that decisions taken by one firm affect other firms in the industry. Therefore, collusive oligopoly infiltrates the music market at a subconscious level.

2.1. The Creation of Oligopoly

For example, both Spotify and Apple Music have established oligopolistic dominance. In 2023, Spotify's total revenue is €13,247 millions, increase€1520 compared to 202 [2]. For apple music, the Company posted quarterly revenue of $89.5 billion, down 1 percent year over year, and quarterly earnings per diluted share of $1.46, up 13 percent year over year [3]. Therefore, the two brands grab most of the music market, causing there to be only small numbers of large firms and has high barriers to entry. Therefore, they may communicate with each other or reference others' price settings to keep the price is reasonable to achieve a win-win situation. A collusive oligopoly is a common method.

Collusive oligopoly refers to situations where firms agree to collude, which means they form an agreement between themselves to limit competition, increase market power and increase profits [4]. Spotify and Apple Music, as the two giants of the music streaming market, may have joint bargaining behavior when negotiating rights with record companies. The base subscription price has been stable for a long time at around $9.99 per month, although there will be some promotions in different regions and different time periods, but the overall price range is relatively fixed. Figure 1 explains the problem of collusive oligopoly.

The demand curve and marginal revenue curve shown are for the music industry as a whole.

The MC curve refers to the sum of all the marginal cost curves of all the possible firms in the cartel. The cartel intersects MR with MC to find the cartel's profit-maximizing level of output that is at Qπ max, and the price is Pe. It then involves the problems of distributing output Qπ max between all the Internet music platform enterprises, or deciding how much of the total quantity will be produced by each firm. One way this can be done is to agree on what share of the market each music firm will have based on limited market shares to realize profit maximization. Another way is that firms may agree to compete with each other for market shares using non-price competition like promotion [4]. The study only discusses the first way that relates to price for the possible phenomenon that occurs in the music industry.

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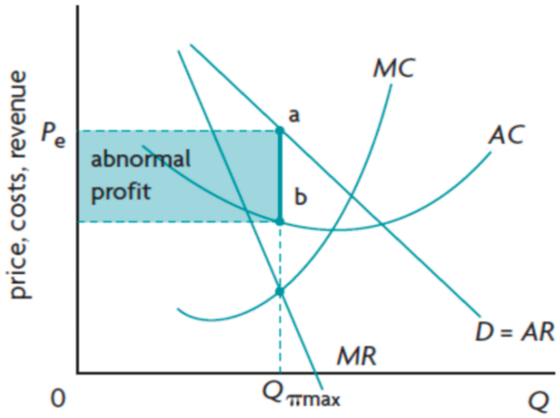

Figure 1: Profit maximization by a price-fixing cartel

2.2. Influence of Collusive Oligopoly

Firstly, for consumers, they are willing to become members of Spotify and Apple Music or other large firms as they have a relatively large music library at a relatively low price to meet their needs and wants. On the other hand, in the long term, consumers have fewer options because many users will opt for an annual or monthly subscription. If there's any option that is more cheap for them, they can't easily switch to other substitutes. The refund system cannot be guaranteed to be implemented as nowadays there is no clear policy, preferring to rely on the company's own membership regulations. Due to the large number of customers, the platform may not have the time to respond to every customer's specific requirements and feedback. For producers, synergy can be achieved if Spotify and Apple Music work collectively to behave like a monopoly. Therefore, they can have price control in order to gain more profit margins. However, the producers may lack of incentive to cut their price down as they have few competitors to fight against them. Thirdly, the government can gain more tax revenue if the music market is growing bigger, so they will have more money to invest in education and healthcare. Nevertheless, because of their important position in the economy and society, oligopoly enterprises often have a greater influence on government policies, and may seek special treatment and support from the government in various ways, resulting in rent-seeking behavior. The government has huge political pressure. For instance, Spotify has yet to show a profit. So far, its losses have tended to grow faster than its turnover, so the survival of the service depends on ever-larger injections of venture capital. This situation, typical for today's technology start-ups, tends to limit the opportunities for independent research [5]. They need government support or subsequent loans but the government budget is limited. Fourthly, for society, it creates more job opportunities so that the average income increases. In addition, unemployment decreases and economic growth can be improved. Nonetheless, the gap between the poor and the rich becomes bigger as most of the sales revenue are gained by the head company. Therefore, it is hard for some people with low incomes to start up a business to capture the market share.

In addition, the effectiveness of the policy is also highly questionable from the following aspects. Under the oligopoly market structure, the number of businesses is small but each of the power is strong. In the Music streaming market, giants such as Spotify and Apple Music may use their resources and market position to resist or circumvent regulation. When the government formulates and implements anti-monopoly policies, copyright policies and other related policies, these enterprises may respond through complex legal means or industry alliances, making it difficult to effectively implement regulatory policies. Moreover, as the open music format of MP3 took hold,

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P2P networks grew quickly to allow consumers access to recorded music without payment in return for exposure to adverts and, in some cases, malware [6]. It brings threats to platforms especially for Spotify and Apple Music as they have a large market share in the market and are the most likely company to lose customers who are willing to pay for the MP3 that costs money.

2.3. Methods to Improve

The collusive oligopoly can be improved if more government intervention can be involved. The refund policy can be clearly defined to protect the rights and interests of consumers. Although in the short term, extra monitoring costs and technical difficulties cannot be avoided, a more efficient market order can be formed in the long term. In addition, when disseminated in the form of P2P instead of MP3 creators need to pay attention to the infringement issues regarding secondary creations.

In practice, "whether it is profitable" serves as the boundary for judging infringement. The core basis for determining whether a content product has infringed upon the copyright owner is whether the user has made a profit from the copyright. When individuals privately share their favorite songs online, it probably doesn't reach the standard of infringement yet [7]. However, using others' composed songs to market one's own content products already constitutes an infringing act. Nevertheless, there isn't a clear regulation to measure how to grasp the boundary in this regard.

3. Copyright Collective Management Organization

Copyright collective management organizations originated in Europe in the 18th century, aiming to protect all kinds of legitimate rights of right holders and build connections with users. Moreover, almost every country has its own unique copyright collective management organizations, such as the American Society of Composers, Authors and Publishers (ASCAP) established in the United States, the Japanese Society for Rights of Authors, Composers and Publishers (JASRAC) which is prevalent in Japan, and the China Audio-Video Copyright Association founded in China.

3.1. Taking the China Audio-Video Copyright Association (CVCA) As an Entry Point to Discuss Its Current Situation

The CVCA is a non-profit organization established in 2008 and is currently the only audio-visual collective management organization approved by the National Copyright Administration of China. It is involved in businesses such as regulating the regional implementation price of karaoke copyright usage fees, integrating the information of karaoke copyright licensing business offices across the country, and announcing the list of program versions involved in lawsuits. However, it is currently in an awkward position. Most people are not familiar with this organization, and the platform case traffic is usually around two thousand or so. This has led to the fact that most musicians, copyright companies, and music platforms have no intention of joining the CVCA, and many even directly skip the CVCA to conduct copyright authorization, and the position of the CVCA has gradually become marginalized. As a result, problems such as low management systems and unclear duty positioning have emerged, and it is unable to protect the legitimate rights and interests of musicians or companies. In terms of the game of interests among the main bodies, its administrative monopoly color has been frequently questioned. In the case where 8 KTV companies in Guangdong sued the CVCA, many KTV companies sued the CVCA for violating Article 17, Paragraph 1, Item 3 of the Anti-Monopoly Law by implementing the act of "refusing to trade without justifiable reasons", and the CVCA claimed that it signed a contract with the third-party Tianhe Group. The CVCA stated that its charging behavior complies with the requirements of Announcement No. 1 of the National Copyright Administration in 2006, and the basic standard for charging is 12 yuan per karaoke room per day, and it is recognized as a collectively managed organization permitted by the state. Although the plaintiffs'

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claim that the CVCA constituted a monopoly behavior of abusing market dominance was dismissed due to insufficient evidence, it defined the nature of the CVCA as a non-civil subject. Its collection of relevant fees means that it also has a dominant position in the market and is subject to the control of the Anti-Monopoly Law. Later, there was also a contract dispute between the CVCA and the Tianhe Group, focusing on issues such as the amount of fees received and whether the copyright fees entered the public account. When the Tianhe Group filed an appeal request, it pointed out that the CVCA had problems such as multiple authorizations and self-charging. Many VOD equipment manufacturers began to promote to seek profits, resulting in karaoke venues purchasing "legal" VOD equipment on their own and resisting payment, which greatly increased the difficulty for Tianhe Group to collect music copyright fees [8]. It can be seen that its internal management is chaotic and it is difficult to effectively divide rights and responsibilities in copyright distribution, with problems such as multiple authorizations, low system management, and abuse of power. Although after four years, the Beijing High People's Court finally dismissed the appeal of the Tianhe Group due to lack of factual and legal basis and upheld the original judgment of the final judgment, the Tianhe Group and its subsidiaries paid the copyright usage fees, interest for delayed payment, compensation for losses, and other amounts to the CVCA. However, the CVCA should more clearly regulate the distribution of rights and responsibilities, refine the charging standards, avoid getting itself into legal disputes, and at the same time improve management efficiency to make more people recognize this organization and strengthen the effective supervision of a series of infringement issues.

3.2. Feasible Path According to ASCAP

ASCAP is the first non-profit performing rights management organization in the United States. ASCAP’s main role is to make sure our members are fairly compensated when their music is performed in public [9]. The platform divides music creators and music users to help customers identify their personal needs. Moreover, ASCAP collaborates with BMI and SESAC in order to improve the market structure of the music market, prompting some niche markets like rock or country music. For a long time, ASCAP, BMI and SESAC have been constantly endeavoring to conduct scientific statistics on performance royalties by means of random sampling surveys, dispatching monitors to performance venues, using BDS to track radio and television stations and other various ways. They have made every effort to provide royalty collection services for songwriters and composers, offering detailed calculation plans and comprehensive billing details, and have been adhering to excellent and complete services to win the trust of both new and old members [10]. Seen from this, ASCAP has a very clear system for royalty statistics, with a series of scientific and objective financial calculation methods. It has a wide influence and can be differentiated from the sectors that BMI and SESAC are in charge of. For example, BMI mainly added music genres that had been overlooked by ASCAP before, such as country music or blues music, to better protect the rights and interests of different musicians, thus realizing mutual benefit and win-win results. At the same time, with the entry of the for-profit organization SESAC, it has demonstrated its operational advantages in the non-exclusive licensing sector and protected the performance rights of American songwriters and composers. The achievement of this well-distributed business system is inseparable from the implementation and allocation of reasonable policies such as the clarity of copyright distribution, the transparency of data information and the improvement of the platform's operating mechanism.

For both ASCAP and BMI entered into exclusive dealing agreements with copyright holders of musical compositions, forbade their members from separately reaching agreements with licensees, and only offered blanket licenses [11]. It proves that their rights and responsibilities system is very clear, this belongs to anti-competitive behavior.

Therefore, when CVCA cooperates with other organizations or companies, it should clarify the allocation of rights and responsibilities. Meanwhile, the refinement of the "Regulations on Collective

Management of Copyright" in China can also assist the CVCA in more systematically collecting copyright fees and making a reasonable distribution of profits, avoiding legal disputes and other issues. In ASCAP and BMI, they allocate the majority of copyrights to music right holders, which is popular among many small and medium-sized musicians. In the CVCA, it can refine the distribution of the copyright usage fees of audio-visual programs collected from members and clarify the forms of right holders, such as music right holders or investors, so as to provide different distribution systems according to the right holders. In terms of institutional construction, the minimum charging standard model set by the United States Copyright Royalty Board (CRB) for Sound Exchange will simplify the charging procedures and operating costs of collective management organizations to a great extent [10]. If China can imitate this form, it will save regulatory costs, effectively solve the problem of management chaos, make the charging system more transparent and specific, and ensure that each charging system is based on laws.

4. Conclusion

This article starts from two perspectives, namely firms and copyright collective management organizations. In the research on the music copyright payment license of firms, it dialectically analyzes the impact on various stakeholders and the effectiveness of this economic phenomenon regarding the easily emerging problem of collusive oligopoly, and then proposes solutions to regulate the music market. When analyzing copyright collective management organizations, it first points out the disputes existing in the payment system of the China Audio-Video Copyright Association in recent years, and then explores its improvement methods through the mature management experience of ASCAP.

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