BREAKING DOWN BARRIERS FOR MUSICIANS OF COLOR

INSIGHTS FROM MODERN MUSICIANS NAVIGATING A NEW DIGITAL MUSIC INDUSTRY
TAKE CREATIVE CONTROL

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The year 2020 was supposed to be Quetzal Guerrero's year. As a formally trained violinist and musician, Quetzal—stage name: QVLN—had a West Coast tour lined up. Later, he was supposed to perform in Europe and northern Africa. But when the coronavirus hit the United States, QVLN's travel plans were put on hold.

Not long after the cancellations, he started receiving emails from friends and festival organizers asking him to put together a “virtual show.” Like so many of us, musicians and artists have had to figure out how to carry on within a virtual and digital world.

CHALLENGES OF INDEPENDENT ARTISTS IN THE DIGITAL AGE

The advancement of technology, as it relates to the arts, has always been a double-edged sword. On the one hand, technology has offered new ways for artists to share their talents with the world. But on the other hand, it has also led to new forms of exploitation and discrimination.

When the digital age was beginning, there was a boom of pirated music; music sales decreased and new copyright challenges began to pop up. For some artists and musicians, there was a real concern that they might see their work being used or replicated without their permission. This threat was relatively new to the world of copyright law, and policymakers and artists have had to trudge through with little guidance.

A decade later and amidst a global pandemic, the usage of and reliance on digital platforms has only increased. Today, to engage in the music industry, it has become a requisite to know how to record, upload, and share your music online. This transition to a digital music world has presented challenges for older musicians not familiar with online platforms and those who lack adequate internet access. The costs of sharing music online is relatively low, but the ability to profit from their digital presence is less straightforward and can be rife with exploitation by digital platforms.

MUSIC MODERNIZATION ACT

Prior to the emergence of streaming, copyright owners received music royalties for their public performances and album sales. When streaming became popular, music sales declined and record labels turned to licensing fees for their primary profit. These licensing fees permit digital platforms to stream music online. But many times those royalties were never collected by the artists, and the laws that covered royalties did not apply to streaming.

In the last decade, music streaming has only continued to grow. Streaming platforms like YouTube and Spotify have been monumental in expanding an artist's listener base but have failed to properly compensate them for their works. Streaming is huge for artists of color, as year after year, R&B and hip-hop music leads all other music genres, accounting for 30 percent of all music streams in 2019. Pop, rock and Latin artists follow, accounting for 37.6 percent of streaming.

FIGURE 1: SHARE OF STREAMED MUSIC, BY GENRE (2019)

SOURCE: NIELSEN

To address this new reality and shift from album sales to online streaming, Congress passed the Music Modernization Act (MMA), which created the Mechanical Licensing Collective (MLC). The MLC grants a blanket license to music services, collects mechanical royalties from the streaming services, and then distributes them to the copyright owners. This new law requires music services to still...
pay royalties to the MLC, even if they cannot initially identify the copyright holder of a given song. While artists will still have to register with the MLC, the promise of the MLC is huge. Many new artists of color are the most vulnerable to tactics that continually undermine their contributions to the arts. This policy will ensure that the streaming platforms are paying artists for their work.

The MMA is an unprecedented first step toward fairness and transparency in the streaming industry. This is especially important to artists of color who now lead in streaming. This once vertical industry continues to flatten under the pressure of decreased production costs, opening up more opportunities for reaching fans and new economic models. This democratization has already disrupted several facets of the industry; from how music is funded and monetized, to the dynamics of copyright ownership, and the relationships between artists and traditional intermediaries to the market. Streaming has forever changed how we consume, find, and share music. The influx of streamed independent artists who have pushed the sound of pop music from the margins.

SUPPRESSION OF DIVERSE VOICES

For new artists, there are multiple platforms to push out content, Facebook, Instagram, YouTube, and most recently TikTok. All of these platforms use algorithms that drive viewers to suggested content. The amount of data that these platforms possess is unimaginable. Yet, the more we learn about how these algorithms are set up (mostly by white men), the more we question: Are these algorithms racist?

Take Creative Control has heard from dozens of musicians and creators, claiming that they are unfairly targeted by “takedown notices.” In other words, their content is pulled from the platforms—sometimes with no warnings and no explanations—depriving them of an income stream critical to their survival as an artist. In a recent lawsuit, a group of African American creators allege that YouTube is rife with “digital racism” and that YouTube’s operations are “intentional and systematic, regardless of whether Defendants are motivated by ideological animus towards black and members of other protected racial classifications under the law.”

What are takedown notices and where did they come from? In 1998, Congress passed the Digital Millennium Copyright Act (DMCA), which absolved internet service providers (ISPs) and content providers that host infringing material, so long as the provider had a policy in place to remove such content. The DMCA went a step further by authorizing copyright owners to send “good-faith takedown notices” to ISPs and others if they believed that their works were being posted without their permission.
However, within the new digital era of algorithms and machine learning, many artists and musicians of color have noticed that their content is more likely to be flagged. And that, in some cases, the sender of these takedown notices is not even the copyright owner. Platforms, without vetting these notices, typically will take the content down out of fear of litigation or fines. While the DMCA was passed to prevent exploitation and regulate content usage, it is important that lawmakers revisit these laws regularly to ensure they are relevant within an ever-evolving digital environment. And within a moment of national reckoning, these unfair practices are silencing the very voices that should be front and center.

Sources
Copyright Alliance, (accessed 2020). How to Send a DMCA Takedown Notice


Madden, M. Pew Research Center (2004). Artists, Musicians and the Internet: Findings from the Artist Callback Survey

McCluskey, M., TIME (2020, July). These TikTok Creators Say They're Still Being Suppressed for Posting Black Lives Matter Content


The United States Copyright Office, The Music Modernization Act

About The Series:
Take Creative Control Launched “The Series” to highlight the unique challenges that black and minority creators, artists and entrepreneurs faced during the COVID-19 pandemic. We received dozens of stories from entrepreneurs, artists, and shop owners about how they have had to adapt during the crisis, what support they received, if any, and what assistance they will need in the future. The video series can be found on our website at https://takecreativecontrol.org/take-creative-control-the-series/

Meet Quetzal “QVLN” Guerrero
QVLN’s signature, modern roots sound is a musical extension of his American, Mexican, and Brazilian heritage. As a gifted multi-instrumentalist and performer, QVLN (pronounced Q-Violin) expresses his passions for love, life, and dance with his voice, violin, guitar, and percussion.

QVLN is dedicated to bringing live music to often-neglected communities – a mission that remains a priority despite the challenges of the pandemic. In 2015, QVLN had the honor of representing the United States as part of the State Department’s American Music Abroad program, in conjunction with long-time collaborator Oveous and a talented group of musicians who reside in Los Angeles.

To support his mission and music visit https://www.qviolin.com.

About Take Creative Control:
Take Creative Control (TCC) is an initiative of the Institute for Intellectual Property & Social Justice, a nonprofit organization that works to ensure creators of color are empowered to protect, share, and monetize their creative works.

To learn more about the MMA and the MLC and how to register for the MLC, visit www.takecreativecontrol.org/advocacy.