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Seth Warshaw

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Peloton Is Climbing The Music Streaming Service Leaderboard After 2020 Settlement with NMPA

BY [SETH WARSHAW](#) / ON NOVEMBER 10, 2021



Picture by Tony Webster on Flickr

In a 2019 statement, Peloton's co-founders stated their desire to have the company serve as "a discovery resource for new artists and songs while also providing the opportunity for [their] Members to re-discover music they love."¹ However, this statement came at a time when many artists and publishers weren't feeling the love back. In April 2018, the National Music Publishers Association (NMPA) sent Peloton a cease and desist letter in response to Peloton's alleged use of particular songs without adequate licensing.² At issue was Peloton's alleged failure to obtain "sync" licenses, which are required when "music is synchronized with [a] visual media output," for certain songs that were being used in Peloton classes.³ Subsequently, Peloton took down nearly 6,000 classes that featured the songs in dispute,⁴ and NMPA brought a lawsuit against Peloton requesting \$150 million in damages,⁵ which eventually grew to \$300 million.⁶ Following the removal of these classes, Peloton was sued by many of its customers for its alleged failure to supply an "ever-growing" library of classes,⁷ and the company left a group of its customers "pissed about bad music."⁸ As this lawsuit between NMPA and Peloton progressed, you may have wondered if Peloton, artists, and music publishers would be long-term adversaries in a battle over licensing rights and costs.

Fortunately for the artists, publishers, Peloton and Peloton Members, this has not been the case.

In February 2020, Peloton settled its lawsuit with NMPA.⁹ The actual settlement details were not disclosed, but Peloton reported \$49.3 million in legal fees in its quarterly filing overlapping with the settlement.¹⁰ While that figure may seem low considering the \$300 million in damages asserted by NMPA, the key to the settlement was, in the words of the President of the NMPA, how it “compensates creators properly and sets forth the environment for a positive relationship *going forward*.”¹¹

One crucial factor to consider when discussing the Peloton-NMPA settlement is that, on a per-stream basis, Peloton continues to be one of the highest-paying music streaming platforms.¹² According to Trichordist, as of March 2020, Peloton is only second to Facebook in what it pays artists per-stream, towering over Apple Music and Spotify.¹³ One of the main reasons for this is that, unlike Apple and Spotify who only have to pay “mechanical” royalties for streaming a song, Peloton must pay a “performance” royalty when they use a particular song in a class, which drives up the fee paid to artists and publishers.¹⁴ While the total revenue that music publishers receive from Peloton is dwarfed by major streaming sites like Spotify and Apple Music, Peloton and other at-home fitness companies are only continuing to grow.¹⁵ Due to this growth, it may become increasingly important for artists to prioritize getting their music included not only on Spotify and Apple Music, but also on Peloton and other at-home fitness platforms.

Following its settlement with NMPA, Peloton has gone beyond just including particular artists in their classes, and has begun producing classes where a specific artist is the primary focus. For example, the October 2021 “Peloton X Beyoncé” series included 17 individual Peloton classes filled with songs by Beyoncé.¹⁶ This comes following a slew of “Artist Series” classes which have centered on artists from multiple genres, such as Alicia Keys, the Spice Girls, Sam Smith, Prince, and a band that is notorious for their hardline stance on copyright infringement, Metallica.¹⁷ Beyond just including music from these artists, the classes, at times, also serve as brief history lessons of the artists’ careers. These Artist Series classes are examples of how increasingly important Peloton is becoming in the music industry, and artists are clearly recognizing that.

From the outside looking in, it seems like the Peloton-NMPA settlement has been a smashing success. When considering the rates that Peloton pays to stream music and Peloton’s focus on elevating certain artists, it seems like the opportunities for growth in this space are boundless. However, it is important to remember what may have happened if the two sides weren’t able to come to a settlement. In this case, it could have led to the maker of some of the most popular exercise products in the United States being greatly restricted in their ability to choose songs, or having to raise their prices. If this were to happen, the consumer would certainly suffer, and artists could lose access to a vehicle for exposure. While everything

seemingly worked out for the best in this instance, future situations with other parties might not. Going forward, it will be important for policymakers, artists, publishers, and companies to come to innovative agreements that benefit all parties in a changing landscape. The Peloton-NMPA settlement is a good example of what success looks like.

Seth Warshaw is a Second Year Law Student at the Benjamin N. Cardozo School of Law and a Staff Editor at the Cardozo Arts & Entertainment Law Journal. Seth is interested in litigation, regulatory law, and sports law.

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