

AN ARTISTE CARE PACKAGE: UNDERSTANDING THE ESSENTIAL TERMS OF A RECORD LABEL CONTRACT

An Artiste Care Package: Understanding the Essential Terms of a Record Label Contract

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Introduction

The Nigerian music industry is laced with stories of exploitation and conflict between artists and record labels. It has now become expedient for artistes and entertainers to take a holistic view of what legal protections are available to them and save themselves from countless disputes. The point is that the array of misinformation and lack of appreciation for professional advice has led many artistes to make ludicrous compromises, thereby executing seemingly innocuous agreements that end up detrimental to their artistic careers.

In the entertainment industry, achieving success goes beyond talent and skill. It entails having a deep understanding of the industry, as well as a proficient management team that can offer support and oversee day-to-day activities. Equally important is the presence of a legal advisory team to navigate the complex legal landscape of the entertainment world.

This article will examine the likely causes of the dispute between artists and their record labels by demystifying essential clauses in a record label

contract. This article will also provide explicitly the legal protection or as I would call it legal care package available to a Nigerian music artiste to avoid exploitation and disenchantment.

Artiste Interests Vs. Label Interests

While the protections in recording contracts often favour labels, it is important to recognise the implications for artistes. To protect the interests of an artiste, the document evidencing the relationship between the artiste and the record label called a “recording contract or record label contract” must be prepared with extreme caution.

A recording contract (commonly called a record contract or record deal) is a legal agreement between a record label and a recording act (artist or group), where the act makes an audio recording (or series of recordings) for the label to sell and promote. Artistes under contract are normally only allowed to record for that label exclusively; guest appearances on other artistes’ records will carry a notice “By courtesy of (the name of the label)”, and that label in question may receive a percentage of sales through publishing¹. Examples of record labels in Nigeria include Mavin Records founded by Mr Michael Collins Ajereh popularly known as Don Jazzy, YBNL founded by Olamide Gbenga Adedeji, Chocolate City founded by lawyers Audu Maikori, Paul Okeugo, and Yahaya Maikori, DMW founded by David Adedeji Adeleke popular known as Davido, Penthouze Music and many more. There are basic elements that every recording contract should have. Although this varies from country to country.

Forms Of A Record Label Contract

Recording contracts may take several forms, with

¹ Recording Contract

https://en.wikipedia.org/wiki/Recording_contract accessed 7 November 2024

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their unique features and implications. They include

- 1. The Traditional Recording Contracts:** Recording contracts may be exclusive or non-exclusive. Exclusive contracts restrict an artiste from recording with or moving to another Label during the term of the contract without the express consent of the Label (more on this later on). Artistes who wish to make guest appearances must ensure the recording contract contains a sideman Provision.² A sideman provision allows an artiste, subject to the notice of his/her record label to appear on other artistes' tracks even if they are signed to a different record label.
- 2. The 360 deal:** In addition to recording rights, the label takes a share of the artiste's earnings from other revenue streams such as touring, merchandise, and endorsements.³ Under this deal, the record label typically takes a certain percentage (ranging from 30% to 50%) that depends on the contact. It is a controversial deal that may take advantage of an artiste, and an artiste should trade with caution.
- 3. Profit-Split Contract:** A profit-split recording contract is a contract in which the artiste and the label agree to evenly split the profits from the sale of the recording. This type of contract is less common than a traditional recording contract, but it can be beneficial for both parties if the recording is successful.⁴ The contract must state how the profits will be calculated vis a vis cost of production and when the profit will be made to the artist.
- 4. Single Deal:** This is mostly popular amongst upcoming artistes as a way of trial. The contract is

only for the release of a single hit track and not for an entire album.

- 5. Distribution Contract:** In this type of contract, the artiste only partners with the distributor for the distribution and marketing of the recording but retains creative control of the records.

Important Clauses in a Record Label Contract

When drafting recording contracts, it is important to ensure that they include the essential elements required to create a legally binding agreement. These elements consist of offer, acceptance, consideration, and intention to enter into legal relations. The Nigerian Courts will only enforce the terms of a contract on the cardinal principle that the parties were or should have been aware of its terms. The essential clauses to pay close attention to are as follows:

1. Initial Term/Contract Period:

While recording contracts typically span one year, it is customary for the involved parties to incorporate an option for extension based on a range of factors including, but not limited to, the artiste's performance, age, appeal, and genre. This provision is essential to allow the artist to cultivate their artistic abilities across diverse pursuits.

It is crucial to understand that different parties often have conflicting interests. Some contracts may lock artistes into unfavourable agreements by offering two years or more with minimal changes, aiming to maximize their investment and profit from the artiste for as long as possible. Long contracts, ranging from five to ten years, can significantly restrict creative

² Damilola Amore Esq Analysis on "IP Lawyers: 5 important Clauses in the Record Label Contract" [IP Lawyers: 5 Important Clauses in the Record Label Contract - The Loyal Nigerian Lawyer](#) accessed 7 November 2024.

³ Understanding Recording Contracts: A comprehensive Guide [Recording Contract Guide: Everything Musicians Need to Know](#) accessed 7 November 2024.

⁴ 4 Types of Recording Label Contracts & Tips For creating Your own [4 Types Of Record Label Contracts & Creating Your Own](#) accessed 7 November 2024

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freedom and financial opportunities.⁵ On the other hand, artistes generally prefer a shorter term to provide a quick and smooth exit where more favourable gigs present themselves. Considering the passive income that record labels generate from artistes' live performances, promotions and advertisements, a term/ contract period clause must be drafted to balance the conflicting interests of both parties and not unfairly favour one party and enslave another. This can be remedied by inserting an option to renew the term based on the mutual agreement of the label and the artiste.

2. Advance Fees:

Advance fees represent the upfront payments extended by a record label to an artiste in anticipation of future royalties. This initial sum is disbursed upon the artiste's contractual agreement with the label. It is important to clarify that these payments do not constitute cash advances; rather, they are intended to cover expenses related to management, band members, recording, and other costs incurred by the artiste or management. Typically, these fees are recoverable from future royalties, allowing the label to recoup the advanced sum from the artiste's forthcoming earnings. An artiste must employ the service of a legal counsel to scrutinise and address any provision that categorises an advance as a personal debt owed by the artist, as this may unduly burden the artiste financially. To mitigate this risk, advances can be structured against record sales, thereby shifting the potential loss to the label in the event of underperformance.

3. Royalties:

The Royalties clause is to be critically examined due to the lifespan of copyright in musical works⁶ and sound recordings⁷ under the Nigerian Copyright Act 2022 (the Act). Royalties are principally payments made by the record label to artistes for the use of the artiste's works eligible for copyright protection. This encompasses all profits generated from performances, licenses, streaming, merchandise, record sales and other sources of revenue. Typically, most record labels disburse payments post-expense deductions. Nonetheless, a well-structured royalties clause should explicitly outline the parties' contributions, permissible expenses, and mutually agreed-upon thresholds.

4. Exclusivity:

An exclusivity clause within a contract restricts an artiste's engagement to the label for the duration of the agreement. This provision is commonplace in most contracts, with record labels asserting that it facilitates the effective promotion of the artist and their musical works, thereby ensuring a return on their investment. Nevertheless, it is important for an artiste to effectively manage such an exclusive commitment by imposing limitations on the duration of the contract, limiting the deal to a particular album for the possibility of recording other songs with another label and incorporating an exit clause. This exit clause would be invoked if the record label fails to adequately promote the artiste and their works within a specified timeframe.

5. Branding, Merchandise and Promotions:

Artistes leverage on the goodwill with fans and followers to sell more than just music to the public.

⁵ *ibid*

⁶ Under Section 19(1)(a) of the Act, the duration of copyright for musical works is 70 years after the end of the year in which the author dies

⁷ Under Section 19(1)(d) of the Act, the duration of copyright for sound recordings is fifty years after the end of the year in which the work was first made available to the public with the consent of the author or fifty years after the work was created, if not made available to the public within that time

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From luxury brands to retail products, musicians influence and inspire consumers to buy merchandise and embrace social and cultural causes. Record labels looking to take a piece of the pie will include clauses that anticipate income from non-recording revenue streams such as merch, touring, and publishing. These “360 Deals” now represent the new normal in the label-artist dynamic. Balanced clauses should ensure that income streams are fair and represent a quid pro quo for the Artist to justify relinquishing control or title of these significant additional streams of income.⁸

6. Territorial Jurisdiction:

One of the essential rights of copyright protection is the right to control the usage of works in various geographical locations. Due to the advent of technology where musical works are mostly promoted online to various locations, most record labels request a worldwide deal. One way to balance the so-called worldwide deal is to insert a Reversionary Clause which provides that if the label fails to release the artiste’s music in specified jurisdictions, the rights will automatically revert to the artiste, granting the artiste more control and power over the decision to self-release or sign up with a better positioned record label in the target jurisdictions.⁹

7. Rights and Ownership:

The contract must state specifically to whom the ownership rights rest. Typically, the record label owns the master recordings, however, such ownership should be based on specific conditions and within a period of time. An exception is where an artiste makes a distribution deal with the label

which is an agreement that the label only handles the distribution of the music and nothing more.

Conclusion

With the significant impact the Nigerian music industry is making worldwide, it would not be an overstatement to restate the importance of engaging an intellectual property lawyer in the operation of record label activities. The evolving landscape of the Nigerian music industry demands that artistes possess a thorough understanding of the legal intricacies embedded in record label contracts. While these agreements serve as a gateway to artistic opportunities and financial support, they can also become sources of conflict and exploitation when drafted without due consideration of the artiste’s rights and long-term interests.

Artistes are encouraged to approach contracts with discernment and engage competent legal advisors to negotiate fair and balanced terms. Key clauses—such as those governing term duration, royalties, exclusivity, and ownership rights—must be carefully reviewed to ensure they do not compromise the artiste’s creative freedom, financial potential, or career trajectory.

Ultimately, a well-negotiated and drafted recording contract is the lifeline for a successful musical career and a critical tool for fostering productive relationships between artistes and record labels, enabling both parties to thrive in an industry rich with opportunities for mutual success.

⁸ ibid

⁹ ibid

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