

>> COVID-19 ALERT

Bands and Brands Come Together for Livestream Shows during COVID-19

THE BOTTOM LINE

- >> Although a livestreamed performance is not the same as an in-person concert experience, there are benefits to be gained by brands and bands coming together to offer content during these times when other forms of personal engagement are so hard to come by.
- >> In doing so, marketers will still need to ensure that, as always, the appropriate licenses and consents will need to be secured.

With much of the United States and the rest of the world staying at home as a result of COVID-10, the live music industry has come to a standstill.

Already a number of entertainers — from A-list acts to independent local bands — have begun to provide content via livestreaming. In turn, marketers have begun to pivot from sponsoring in-person concerts to partnering with musical acts for livestreaming events. As these types of partnerships grow, there are some key points for brands to consider.

LICENSES AND PERMISSIONS

For marketers, it's important to be aware that several types of licenses and permissions may be needed in order to sponsor a livestream performance. First and foremost, the permission and participation of the performers will need to be secured. As part of the agreement between the brand and the band, the parties will need to align on the terms governing the extent and scope of the sponsorship. The agreement may be limited to a one-off performance, or may include an over-arching deal with several components, such as original music to be created by the artist for the brand, extensive social media promotion and even options for tour sponsorships once touring resumes.

Marketers should also be aware that the artist may be signed to an exclusive agreement with a record label. The brand should always ensure that:

- >> Permission from the label is obtained (which could require an additional fee); or
- >> The artist provides a representation that no such consent is required.

PUBLIC PERFORMANCE RIGHTS

Livestreams of musical performances will also implicate public performance rights relating to the underlying musical compositions. For most established artists, these rights will have been assigned to performance rights organizations (PROs), such as ASCAP and BMI. The brand will need to determine if the livestreaming platform has appropriate licenses in place to cover the livestream performance or if additional consents are required.

Marketers will also need to be careful if they wish to record the livestreamed performance and use it, either in its entirety or as shorter clips, to promote the relationship with the artist once the livestream is over. Should they wish to do so, additional licenses from the relevant song publishers may be required. These publishing licenses are in addition to the public performance licenses noted above.

A DIFFERING PERFORMANCE

From an artistic and quality standpoint, marketers should also be prepared that, with the current circumstances, musicians may be working with limited resources. As a fundamental matter, due to social distancing measures, many acts will be unable to perform using their full complement of personnel ordinarily used for live shows. While 'family bands' and bands who co-habitate together may be able to continue to perform together, many acts will be pared down to just one or two members. Additionally, most

musicians may be limited by both equipment and location in terms of audio and visual quality.

Brands need to be mindful that they may be getting a different type of performance than they might otherwise receive during normal times. However, what may be sacrificed in the way of energy and a full sound may be made up for with intimacy and a more personal presentation.

FOR MORE INFORMATION

Howard R. Weingrad
Partner
212.468.4829
hweingrad@dglaw.com

Darren Fried
Counsel
212.468.4947
dfried@dglaw.com

or the D&G attorney with whom you have regular contact.

Davis & Gilbert LLP
212.468.4800
1740 Broadway, New York, NY 10019
www.dglaw.com

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