MANAGEMENT COMMISSIONS

What are they, and how do they work?

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Let's take a look at what management commissions are, the common practices in terms of calculating commissions and things to consider when entering into a management agreement regarding management commissions from an artist or management perspective.

What is a management agreement?

A management agreement is a contract between a manager and an artist which sets out how the manager will look after the business, career development and promotion of an artist. Management agreements will usually cover things like management and artist obligations, the manager's authority and how the manager gets paid for their services, i.e. the manager's commission. Management agreements can have a long-term impact on both the artist's career and the manager's business, so it's important that the agreement is fair and reasonable.

What are management commissions?

Managers usually get paid for their management services by taking a commission on what the artist earns. Usually, this is calculated as a percentage of what the artist earns while working together with the manager across all activities in the entertainment industry. The most common management commission percentage is 20%. However, some managers will take slightly more or slightly less than 20%. Where commission differs from the standard industry percentage, it's important to know why and, if necessary, seek advice on whether this is reasonable.

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What type of income is commissionable?

Generally, all income that the artist earns while working with the manager across all activities they undertake in the entertainment industry is commissionable. For a musician or a band this will generally include income earned from all recordings, live performances, merchandise, songwriting/publishing (including APRA AMCOS income), sponsorship/endorsement, online activities, and can include grant income/prize money. It can also include payment in goods or services in lieu of payment of money. For example, if an artist gets paid for a gig by products rather than money, the manager is generally entitled to commission the value of those products.

How are management commissions usually calculated?

The starting point is usually that management commissions are calculated on the gross income that the artist makes during the management agreement. Gross income means the amount the artist earns and receives before any deductions are made, with the exception of GST.

That being said, there are some common types of expenses that may be deductible from particular income sources prior to the calculation of the manager's commission, depending on what the management agreement says. These can include -

- Live performance/touring income – sometimes commission is calculated on gross income. However, it is more common for managers to allow for the deduction of some specific types of expenses before the calculation of their commission. Common deductions are things like booking agent fees, sound/lighting and venue hire/APRA fees.

- Merchandise income – this will generally depend on whether the artist is producing and selling their own merchandise or if they are using a third-party merchandise company to do this. If the artist makes and sells their own merchandise, usually the management commission will be calculated on gross income after the deduction of costs incurred by the artist in designing, manufacturing and selling the merchandise. If the artist uses a merch company, the management committee is usually calculated on the gross income received by the artist (i.e. after the merch company has taken their cut and covered their costs). Sometimes in this instance, the artist can also deduct any legal fees they incur in connection with the merchandise agreement.

- Recording income – calculation of the management commission will usually depend on whether the artist has paid for the recordings themselves (independent release through a distributor or licence deal through a label) – in which case, usually the commission is calculated on gross income after the deduction on third party recording costs (and sometimes related costs like manufacturing/promo/videos etc). If the artist is signed to a traditional recording agreement, usually the manager will commission the signing advance (if there is one) and then any royalties that are received by the artist once any advances/costs incurred by the label have been recouped. Sometimes under a licensing or recording agreement, the artist will receive what is commonly referred to as an 'all in advance' which is intended to cover recordings/asset costs as well as a signing advance to the artist. The manager may commission the full amount of an 'all in advance', or they may allow for the artist to deduct the actual or agreed recording costs and only commission on the amount remaining which is considered the artist's personal advance.

- Grant income – this can be a bit of a grey area as grants are often to be spent on specific expenses and they may not have a line item in the budget for management commission. Sometimes this means that the manager doesn't commission unless there is a specific line item in the grant budget, or the manager will take a reduced commission on grant income or commission after the deduction of the grant writer's fees.

There are also some items that typically are not commissionable by the manager at all, including:

- Contributions from labels or publishers towards third-party costs – if a record label or publisher pays for specific third party costs directly to those third parties, such as recording costs or video or other assets cost, legal fee etc, these amounts usually are not commissionable by a manager as they are not income actually received by the artist.
- Tour Support – where a label or publisher offers an artist tour support, often this isn't commissionable up front when it's paid by the label but will often be added to the gross income for that particular show or tour so that it's ultimately commissioned as live performance income.
- GST is not commissionable.

What are post-term commissions, and how do they work?

Post term commissions are sometimes referred to as sunset clauses and are common in management agreements. These are commissions which are payable to the manager after the artist and manager finish working together. They usually include –

-Full commission on income for activities that the artist undertakes during the management agreement but where the money is received after the end of the management agreement;
-Full commission on income for activities that were contracted for or substantially negotiated by the manager during the management agreement but undertaken by the artist after the end of the management agreement; and
-A cascading commission on income earned relating to recordings and songs which are written and released prior to, during the term of the agreement and within a period of time after the end of the agreement. The timeframes and percentages can vary and will depend on what is negotiated between the manager and the artist.

Key Takeaways

As you can see, there are quite a few considerations relating to the calculation of management commissions when entering into a management agreement. Whether you're an artist or manager, it's always a good idea to have a think about how the commissions will work in practice. You should have a lawyer assist you to understand your rights and obligations and help negotiate a fair deal that works for both parties.

**** Please be aware this is general information and not legal advice. You should always seek legal advice from an experienced entertainment lawyer before entering into a management agreement.**