

Billboard Offices:

New York
1515 Broadway
N.Y., N.Y. 10036
212-764-7300
telex 710 581-6279

Los Angeles
9107 Wilshire Blvd.
Beverly Hills, Calif. 90210
213-273-7040
telex 66-4969

Nashville
49 Music Square W.
Nash., Tenn. 37203
615-321-4290

Washington, D.C.
806 15th St. N.W.
Wash., D.C. 20005
202-783-3282

London
71 Beak St.
W1R 3LF
London
01-439-9411
telex 262100

Tokyo
Hersey-Shiga International
Izumi Mansion, Suite 802
1-44-1 Tomigaya
Shibuya-ku, Tokyo 150
011-81-3-460-8874

Publisher & Editor-in-Chief:

SAM HOLDSWORTH

Associate Publisher/Director of Research:

MARTY FEELY

Associate Publisher/Director of Marketing & Sales:

GENE SMITH

General Manager/Directories Publisher:

JOHN BABCOCK JR.

International Editorial Director:

MIKE HENNESSEY

General Manager/Nashville:

GERRY WOOD

Editorial

Managing Editor: **KEN SCHLAGER**

Deputy Editor: **Irv Lichtman**

Senior News Editor: **Ken Terry**

News Editor: **Jean Rosenbluth**

Technology Editor: **Steven Dupler**

Art Director: **Jeff Nisbet**

Copy Editors: **David Bushman,**

Janine Coveney McAdams

Special Issues:

Editor: **Ed Ochs (Los Angeles)**

Assistant Editor: **Robyn Wells (N.Y.)**

Bureau Chiefs:

Dave DiMartino (Los Angeles)

Bill Holland (Washington)

Editors:

Radio: **Sean Ross (N.Y.)**

Yvonne Olson (L.A.), Peter Ludwig (N.Y.)

Talent: **Steve Gett (N.Y.)**

Black Music: **Nelson George (N.Y.)**

Dance Music: **Bill Coleman (N.Y.)**

Retailing: **Geoff Mayfield (N.Y.), Ed Morris (Nashville)**

Marketing: **Earl Paige (L.A.)**

Home Entertainment: **Jim McCullough (L.A.)**

Home Video: **Al Stewart (N.Y.)**

Music Video, Pro Audio/Video: **Steven Dupler (N.Y.)**

International News: **Peter Jones (London)**

Reporters: **Chris Morris (L.A.), Bruce Haring (N.Y.)**

Music Research/Analysis: **Paul Grein (L.A.)**

Album Reviews: **Jean Rosenbluth (N.Y.),**

Chris Morris (L.A.), Ed Morris (Nashville)

Singles Reviews: **Bill Coleman (N.Y.)**

Editorial Assistants: **Debbie Holley (Nashville),**

Drew Wheeler (N.Y.), Debbie Richard (L.A.)

Contributors: **Bob Darden (Gospel),**

Peter Keepnews (Jazz), Is Horowitz (Classical),

Kirk LaPointe (Canada), Moira McCormick (Chicago),

Mark Mehler (Financial)

Charts & Research

Associate Publisher/Director of Charts:

THOMAS NOONAN

Asst. Dir. of Charts/Mgr., Hot 100: **Michael Ellis**

Chart Managers:

Carlos Agudelo (Latin), Marie Ratliff (Country),

Terri Rossi (Black, Jazz, and Crossover),

Sharon Russell (Dance), Marc Zubatkin (Video)

Systems Manager: **JoDean Adams**

New York: **Harry Michel (retail supervisor),**

Ron Cerrito (radio supervisor), Marisol Camacho,

Ed Coakley, Anthony Colombo, Eleanor Greenberg,

Robert Hoffman, Cathy Kaslow, Rosemary Perez

Marketing & Sales

Director of Sales, Video/Sound: **Ron Willman**

Promotion Manager: **Sumya Djakli**

Advertising Services Mgr.: **Karan O'Callaghan**

N.Y.: **Norm Berkowitz, Ken Karp, Melissa Subatch,**

Peggy Dold, Bev Rold, Jeff Serrette (classified)

L.A.: **Christine Matuchek, Arty Simon,**

Anne Rehman, Mary Fisher, Emily Vaughn

Nashville: **Lynda Emon, Carole Edwards**

London: **Tony Evans**

Tokyo: **Bill Hersey, Tsukasa Shiga**

Amsterdam: **Ron Betist, 011-31-20-662-8483**

Milan: **Lidia Bonguardo, 011-39-2-612-2582**

Sydney: **Mike Lewis, 011-61-2-417-7577**

Production

Director: **MARIE R. GOMBERT**

Advertising Production Mgr.: **John Wallace**

Adv't. Production Coordinator: **Michael D. Small**

Systems Manager: **James B. Dellert**

Edit. Production Manager: **Terrence C. Sanders**

Asst. Edit. Production Mgr.: **Renate L. Foster**

Directories Production Mgr.: **Len Durham**

Administration

V.P. & Executive Editorial Director: **Lee Zhitto**

Divisional Controller: **Peter Phillips**

Director of Database Services: **Raymond H. Heitzman**

Distribution Manager: **Edward Skiba**

Circulation Director: **Carole Ireland**

Circulation Manager: **Eileen Bell**

Dealer Copy Sales: **Brad Lee**

License & Permissions Mgr.: **Georgina Challis**

Credit: **Nick Caligiuri**

Asst. to Publisher & Gen. Mgr.: **Nadine Reis**

Billboard Publications Inc.

President & Chief Executive Officer:

GERALD S. HOBBS

Executive Vice President: **Sam Holdsworth**

Senior Vice Presidents: **Ann Haire, Paul Curran**

Vice Presidents: **Rosaloe Lovett**

Martin R. Feely, Lee Zhitto, John Babcock Jr.,

Glenn Heffernan, Howard Lander

Managing Director, Billboard Ltd.: **Mike Hennessey**

Publisher, Billboard Operations Europe: **Theo Roos**

Chairman Emeritus: **W.D. Littleford**

COMMENTARY**Editorial****GIVE 'NEW' MUSIC A CHANCE**

AS THE NINTH ANNUAL New Music Seminar opens in New York, it seems appropriate to ponder the direction—or the lack thereof—of popular music.

Although plenty of bands, mostly unknown, have invented exciting new sounds, rap is the only new musical form that has attracted a wide following since the early '80s. Certain heavy metal groups, such as Metallica and Guns N' Roses, have enlarged that hoary genre to some extent, but not so much that anyone except a fan would notice.

The creative situation looked very different nine years ago, when the first NMS was held. Attended by only a couple of hundred industryites, that wild and woolly trial run focused on "new" music on the cutting edge of popular tastes. For a brief moment, it seemed possible to break through the conservatism of radio and the

red tape of corporate record companies and bring some innovative talent to a public hungry for good, intelligent songs.

In the long term, breakthroughs were achieved by a number of truly original artists, ranging from U2 and Prince to Midnight Oil, Run-D.M.C., Suzanne Vega, and Tracy Chapman. During the same period, a few established acts, like Talking Heads and Joe Jackson, continued to break new ground while scoring commercial successes.

But these acts all followed completely different drummers. No movement of cutting-edge artists arose to challenge the corporate hegemony—although in the country field, the failure of "countrypolitan" records forced the major labels to move toward "new traditionalism," exemplified by such artists as Ricky Skaggs, Rosanne Cash, and the Desert Rose Band.

Ironically, the stasis in musical development

has not prevented new artists from rising to the top. In fact, it has facilitated their ascent, since an immature act can copy a musical formula and have a hit with the aid of an experienced producer. In the first half of 1988, nine debut albums were certified platinum by the Recording Industry Assn. of America, compared with only three in the first six months of 1987. None of them deviated very much from established commercial formulas; none carried the craft of songwriting forward.

So what's wrong with that? Nothing, insofar as most of the public is concerned. Nothing, from the viewpoint of the artists, labels, producers, and others who benefited from these deserved successes.

But the conformity of many new acts carries some disturbing portents for the future. Regardless of the growth in CD sales, the health

(Continued on page 77)

CONTRACTS MUST PROTECT LABELS, TOO**An Open Letter To Jeff Berke**

Dear Mr. Berke:

Your Commentary, titled "The Problem With Record Contracts" (Billboard, June 4), was a real downer. From the title, one could have hoped for an insightful analysis intended to educate Billboard readers in an objective fashion. Instead, you delivered a diatribe full of exaggerations, inaccuracies, and provisions taken out of context. In other words, your viewpoint was more inciting than insightful.

Before discussing any specifics, you should know my views regarding the respective roles of artist and record company lawyers in the negotiation of exclusive recording agreements. Astute artist attorneys recognize that having key record company executives excited by an artist's music and committed to breaking the artist in the marketplace is far more important than specific contractual guarantees, particularly if the guarantees being requested are of dubious practical value.

They further realize that the artist is looking forward to a successful long-term relationship with the record company and is anxious to start off the new association on the right foot. Thus, although they attempt to maximize the benefits, rights, and protections for their clients, they put the negotiation of the specific contractual language into perspective; they do not lose sight of the forest for the trees and they do their part to

make sure that a hostile environment does not develop.

The responsibilities of a record company attorney go beyond making sure that the documentation accurately reflects the financial terms negotiated and adequately protects the record company's interests. The attorney is part of an overall team ef-

fort to strengthen the bond and relationship between the artist and the record company, and he or she must also do his or her part to make sure that a hostile environment does not develop.

The successful record company attorney not only understands the overall philosophical principles behind business-policy decisions and the rationale for particular contractual provisions, but is able to communicate the same to the artist's attorney in a clear and effective manner so

that neither the record company nor the attorney is perceived as arbitrary or rigid.

Now that I have set out my philosophical view of the roles of lawyers in the negotiation of exclusive recording agreements, I will discuss some of the specifics of your Commentary.

To horrify readers, you list "a host

of grossly oppressive provisions in recording contracts" that you claim most artists must agree to due to their lack of bargaining power. Your examples include royalty payments on less than 100% of sales, free goods provisions, packaging deductions, advance recoupment provisions, and payment of mechanical royalties at less than the statutory rates. (For the record, these types of provisions, to the extent that they appear in record company contracts, are likely attrib-

utable to industry or particular record company practices and creative negotiation techniques developed through the years.)

The reality, Mr. Berke, is that the economic effects of these types of provisions are taken into account by knowledgeable artist and label representatives when the financial terms of the artist deal are negotiated. In other words, what economic difference does it make if an artist is paid a royalty of \$1 for each record sold or \$2 in respect to half of the records sold?

You devote several paragraphs to the topic of unfairness and "how grossly one-sided record contracts are," but all you offer are unsupported assertions and misstatements.

If you truly believe (as your words seem to indicate) that record companies are no more than passive investors taking a minimal risk, you are badly misinformed. If it is so easy to make money in this business, why are such formerly great and successful companies as RSO, Casablanca, ABC Records, and Liberty Records no longer active participants in the industry? Recording agreements, particularly for new artists without a track record, involve substantial financial risks at the time the contracts are executed and commitments are made. As in any other business, the degree of risk affects the projected return on investment and the rights

(Continued on page 77)

'Your description of future royalties as a faint hope is baseless bluster'

Michael J. Pollack is vice president and general counsel of Arista Records



before we all nod out together. More records like "Beds Are Burning" and fewer like "Foolish Beat" would be a nice start.

Steven Kerry
Los Angeles, Calif.

SHEEP-BRAIN FODDER

Radio is playing music to work by—unchallenging, stupid fodder for sheep-brains. At this point, it's hard to believe the most lamebrained teen mall girl buys this stuff that is listed as top 10. I can count two singles on the top 100 for which I would pay \$1.98!

Let's pray for a pop renaissance

DON'T COUNT OUT THE LP

While browsing in the Encino, Calif., Warehouse store recently, I remarked to the clerk that the folk section, which at one time had been extensive, now consists of only two albums. He told me with absolute authority that the Warehouse is phasing out its LPs entirely because

the record companies will soon discontinue manufacture of LPs, probably in August.

I told him that I work for a major record label, and while we are emphasizing CDs and cassettes, we have no plans to halt production of LPs. He said, "Well, maybe not all the record companies, but most of them."

I have reluctantly accepted the probable ultimate demise of the LP. However, I cannot accept rumors from supposedly knowledgeable sources that either stem from complete ignorance or are designed to

get consumers to throw out their turntables.

The LP is still alive. Let's not nail down the coffin prematurely.

Joan Manners
Encino, Calif.

Articles and letters appearing on this page serve as a forum for the expression of views of general interest. Contributions should be submitted to Ken Terry, Commentary Editor, Billboard, 1515 Broadway, New York, N.Y. 10036.