



The New Hit Factory: Podcasts and Audiobooks

Recorded at RightsTech Summit

with

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For podcast release
Monday, December 5, 2022

KENNEALLY: Horror and true crime. Uplifting family-oriented tales worthy of Disney. And journalism digging up dirt on the rich and famous. Such stories are not just pitch-perfect for podcasting – once they become hits, the shows are fit and ready to make the journey to film and TV when Hollywood calls.

Welcome to Copyright Clearance Center’s podcast series. I’m Christopher Kenneally for Velocity of Content

The digital gold rush has many podcasters giddy with dreams of making it big in Hollywood. But as book authors have discovered over a century of adaptations, the appetite for content in La-La Land is voracious, leading to business terms that require absolute control of intellectual property.

For the RightsTech Summit in September, I moderated a panel discussion laying out what creators, performers, and rights owners should know when it comes to developing content for audiobooks and podcasts.

Joining me were **Alexia Bedat** of New York City-based Klaris Law; **Suemyra A. Shah** Senior Corporate Counsel for Audible, a wholly-owned subsidiary of Amazon; and **Michele Cobb**, who is Executive Director of the US-based Audio Publishers Association as well as executive director of The Podcast Academy.

Michele, I’d like to open the discussion by asking you to help us understand a little bit about the real differences between podcasts and audiobooks. For the listener, for the audience, they have begun to merge. I think it’s a great listening experience, whatever you call it. But for the creators and the producers, there are important differences. Tell us about that.



COBB: As you say, the listener, if they're given two audio files, one of which is technically an audiobook and one of which is technically a podcast, they probably couldn't tell you what the difference is. The difference we find is in the business models. Most podcasts are ad-supported model, and most audiobooks are purchased in a single-purchase model, whether it be a credit subscription or an a la carte subscription, with some unlimited subscriptions coming into the market now.

KENNEALLY: That makes a big difference, of course, in how these are produced. But what's also important, I think, to sort out for the audience today at RightsTech Summit is about the rights that carry through on all of this. There are audiobook rights. There's podcasting rights. Can you help us understand better the fine lines between those?

COBB: Well, audiobook rights – generally, if it's coming from a book, that is considered a sub-right of the original print right. So you're buying the right from an author, from an agent, from the print publisher, and you have the right generally to do either an unabridged production – a recording of the whole thing – or to do a dramatization of the title where you change the text and kind of rewrite it for the audio format.

What's new in the world is that we're seeing a lot of what we would call a new, only on audio or an audio original that was developed only for the audiobook format, and it's sold within that audiobook universe. And the rights for that, because they're not coming from an original print book – it's a totally different type of contract that's very different from when someone is developing a podcast and maybe selling off sub-rights of that. You see books developed out of podcasts. You see television shows developed out of podcasts. You see movies developed out of podcasts. It's a totally different way of approaching what is essentially the same type of product.

KENNEALLY: So I would imagine that because copyright is that infinitely divisible kind of intellectual property, the way we can slice it in those different ways you've just been describing, there's potential for confusion, even problems that can arise. There could be competing companies who are trying to put out products that are very similar or appear to be the same.

COBB: Yes. When audiobooks first started out, you would have the abridgment and the unabridgment, so it's two companies maybe doing a different narrator, different iteration of that. That seems simplistic compared to what we have today, where you're going to get the unabridged rights, the dramatization rights. You might have public performance rights. You might have the right to serialize it as a podcast. Everything gets sliced and diced. So you have to be very, very careful and mindful of what rights you are acquiring and what rights, if you are the IP holder, you are allowing people to acquire.



KENNEALLY: That all sounds very exciting, but there is a downside to this, which is that rights get acquired, but then nothing happens. That's a real problem for creators, right?

COBB: It's certainly something that we've seen in audiobooks, where a big publisher might acquire all of the rights to that book – print, audio, all of this – and then they themselves do not either produce the audiobook, nor are they able to sell the audiobook rights off. So I'm seeing more and more authors going back to the publisher and saying this hasn't been produced as an audiobook. I would like those rights back. And once they get those rights back, they can produce it themselves. They can work with a producer. They can sell it to someone. It just gives them a little bit more flexibility. The real goal is to ensure that that intellectual property is expanded and exposed to all the different formats available, audiobooks being one of the strong ones – and growing.

KENNEALLY: Michele Cobb, executive director of the Audio Publishers Association as well as the Podcast Academy, thank you very much indeed.

I want to turn now to Suemyra Shah. Suemyra, welcome!

SHAH: Thank you. Thanks for having me.

KENNEALLY: Suemyra, we'll just remind people, you are the senior corporate counsel for Audible, and that puts you in a really interesting position here on this panel. Tell us about how Audible has become not only just the place to go for audiobooks, but it's a real destination for original stories, too.

SHAH: Audible is the home of storytelling, and we have a very diverse and wide offering of audio storytelling in our service that's available to our listeners. That consists, as you mentioned, not only of audiobooks, but many different forms of audio original content. That's across a wide variety of different genres and formats – so scripted, unscripted, true crime, drama, comedy, investigative journalist work, including theater content.

We have a theater initiative at Audible. We operate a theater in the West Village called the Minetta Lane Theatre where we produce live stage plays and record them simultaneously to make them available on our service, in line with our mission of really making audio as a mechanism to make content available just more broadly to a wide variety of listeners. We've invested heavily in the theater community to really be able to work with emerging and established playwrights to make plays and that kind of content available on our service, in addition to some of the live stage plays that we do in the theater.

Then we have words and music content, which blends musical performances by musicians with memoir-style stories that they've kind of woven together in narratives that they've



created which are on the shorter side. But really, the bottom line is we just have something for everyone, I'd say. There's just a big mix of what's available. And we're constantly also pushing ourselves to innovate and think about what we can do differently to push forward the medium of audio storytelling and kind of create in new formats and give creators the space to do that as well.

KENNEALLY: Indeed, one of the more recent high-profile production deals that you signed was with the Academy Award-winning, Emmy Award-winning production house called Higher Ground, which just happens to be the company founded by Barack Obama and Michelle Obama. They've obviously done very well with audiobooks and with podcasts, too. What does it mean to really have someone of the stature of a former president involved in this business?

SHAH: Well, we're honored to be in business with the Obamas and Higher Ground. That deal that you mentioned – it's an exclusive first-look deal that we recently entered into and announced, and we're really excited to support Higher Ground's mission of uplifting up-and-coming voices and really creating the ability for them to tell stories in audio that reflect a diverse mix of people, backgrounds, cultures, and experiences, very much in line with, I think, maybe what people would expect from the Obamas.

We've really worked hard to establish Audible as being friendly to the creative community and really creator-friendly in all that we do, starting from the stage of dealmaking and really looking at what we could potentially do in a deal and how to craft that to meet the needs that we're hearing from the creator that we might be entering into business with, all the way through development and production, and then ultimately how we distribute and market the stories that are on our service

KENNEALLY: And as far as who gets in the door here, it's really not just the A-listers, because Audible has a piece of the platform, the ACX program, which is for self-published authors to begin to participate. That's been a source of emerging stars as well.

SHAH: Yes, absolutely. We operate a service that you mentioned – it's a marketplace called ACX. It stands for Audiobook Creation Exchange. Really, what it is is a tool and a community for authors, agents, narrators as well to be able to self-publish on the author side, and narrators to be able to find work as voice performers and build their reels, and also agents to be able to scout for talent. We were actually able to partner with Neil Gaiman, who is really excited about ACX and has kind of created his own banner, I should say, under ACX where he himself is looking for creative talent there. It's such a prolific community. And yes, we do pay attention very closely to what's happening there and have invested significantly in improving that community in the same way that we do across the



board with all of the creators that we work with, providing tools that can really help grow the creators and the stories that they're telling there.

KENNEALLY: Let's talk about the deals, then, and what they look like. I suppose the thing to say is that there really isn't any single deal. But you're working with individual creators, with producers, with production houses. You've got exclusive deals and so forth and so on. Are there particular models that people favor over others? Tell us about the distribution side of things and how Audible looks at that.

SHAH: Sure. One thing that I think is really interesting that Michele alluded to is there's no consistent line that connects the audio industry together in terms of how all the companies in the space do business. I think we all have very different business models.

At Audible, because of our creator-first focus and also one of our principles which we hold very dearly called customer obsession, we really try to tailor our deals in a way that makes the most sense for the creator that we're working with and the story itself. So there really is no one approach. We've entered into deals with authors and creators for one-off productions. We've entered into multi-project exclusive overall development deals.

KENNEALLY: Suemyra Shah, senior corporate counsel with Audible, thank you very much.

I want to turn finally for our panel discussion to Alexia Bedat. She's a partner with New York City-based Klaris Law. Alexia, welcome and good to see you.

Alexia Bedat, you are working with producers of content for podcasts only, but sort of with an eye towards the film and TV industry, and you've written recently about the really interesting place that the podcast industry is in right now. It has an opportunity to not turn into the film and TV industry, where everyone tells you how it's done.

BEDAT: To that point, what you just heard Suemyra say, that we look at deals differently depending on what the creator's goals are and what makes sense and the IP there, that is something you're very unlikely to hear somebody from a more film and TV traditional platform say. That's not because the film and TV traditional platforms are bad. It's just they have grown from decades and decades of Hollywood precedent – and I use Hollywood to mean the film and TV industry generally, where things are done a certain way, and it's very, very rare to see a creator, be it a director, an actor, a producer, somebody, even, who wrote the story that the film is based on, retain any rights either in the original work or in their performance.

Pivot to the podcast industry, where you have exactly people saying what Suemyra just said, where we're trying to make bespoke deals, and that's a very big difference. It's just a



totally different playing field. There are reasons for it. Again, it's not because it's bad actors in the film/TV space.

But I think one thing that's really interesting, touching on the distribution point that was mentioned, is in the film/TV space, traditionally, because of the distribution model, from the moment that a piece of content is conceived to when it gets to the audience, there are many, many parties involved in between. You have studios, networks, distributors, platforms. So for a piece of content to go from one hand to the next, if the original person who's making the deal doesn't hold all the rights, it can be difficult to enter into all of those successive transactions. Whereas in the podcast industry, which has to date largely been RSS-distributed – there's more podcasts going behind paywalls now – where literally the producer can just get to the audience in one click, for lack of a better word, that rights chain is a little bit easier

KENNEALLY: I'm not sure if it was John Steinbeck or Ernest Hemingway, but an author of that type back in the '40s said his relationship with Hollywood was he drove up to the studio, threw his novel over the gate, and then they threw a suitcase full of money back. That was the relationship. But what you're describing here is a very different kind of relationship. It's obviously a different medium. And it's interesting to see how things have evolved that way.

The people that are coming to you with ideas for podcasts – are they already thinking ahead to various other rights for television and film, or are they really focused first on the podcast piece?

BEDAT: It's definitely a mix of the two. You have some production companies that pride themselves as being audio-first, and you have others that very openly their mission statement is to create great narrative stories that can be adapted to film/TV. So I don't think there's a right or wrong, and a lot of different production companies are asserting their mission statements differently.

But you definitely see a lot of content creators thinking what rights do I need to have to be able to enter into a film/TV deal, and it gets really interesting especially when you have a podcast that's based on a book, because at that point, and going to Michele's point of what rights do publishers have or not, when you have a podcast that's based on a book, you have on the one hand potentially the author of the book who still holds the rights to make film/TV adaptations of their book, which typically the publisher has not acquired – traditional publishers. And then you have the podcast, and potentially the podcast production company also wants to make film/TV adaptations of their podcast. Suddenly, you have these potentially competing derivative productions that could be made in the market.



So that's a question you have to think about with your client who's making a podcast based on preexisting IP. Where do the rights to the preexisting IP sit? Do you have more than just the podcast rights? If you do, what do they still have? And how are you all working together to make sure that everybody benefits from each other's derivatives? Because once the podcast is out, the profile of the book goes up and vice versa. That's where it gets really interesting.

KENNEALLY: Alexia Bedat of the Klaris Law Firm – thank you, Alexia.

BEDAT: Thank you.

KENNEALLY: Michele Cobb, executive director of the Audio Publishers Association and the Podcast Academy – thank you, Michele.

COBB: Thank you.

KENNEALLY: And Suemyra Shah, senior corporate counsel for Audible, thank you as well.

SHAH: Thank you.

KENNEALLY: I want to thank, too, Paul Sweeting, Digital Media Wire, and all the organizers of the RightsTech Summit for organizing the program today and inviting me to moderate this panel. I'm Christopher Kenneally with CCC's Velocity of Content podcast. Thanks for listening.

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