

“HOW TO DRAFT AND NEGOTIATE AN ENTERTAINMENT AGREEMENT”



- This panel has been set under the title of:

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- My first advice to the audience would be to invert the terms of the title:

**FIRST NEGOTIATE AND AFTERWARDS,
DRAFT**



- In my experience, negotiating by -consciously or unconsciously- interchanging drafts is one of the most common mistakes that all of us usually make.
- First piece of advice: we shouldn't start drafting until the key terms of the negotiations have been agreed. Only minor details that usually appear when you start writing should be agreed during the drafts exchange.




- Second piece of advice: try to be involved in the negotiations from scratch or the earliest you can.
- Third piece of advice: if you are not the negotiator and you're just the drafter, make that crystal clear to your client. You need to receive extensive and accurate information about what you are going to write or discuss with your counterpart.

NEGOTIATION TIPS:


- To properly negotiate, not only should you know what you want and what you're afraid of, but you need to know the business as well.
- You can be the best lawyer in town, but if you don't know the business you are dealing with, your client's success in the negotiation would be in peril.



NEGOTIATION TIPS:

- Businesses are changing every day, especially in the entertainment field and particularly, in the music industry.
 - Being permanently updated is an absolutely key factor.
 - If you're sure about what your client wants and is afraid of and you know the business, then it is a matter of your personal approach to each negotiation (a tougher or softer one depending on what your client's bargaining position is and your own personal style) and of applying the drafting skills that I assume all of you have.
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- If you want to know the particular details about the different kinds of music agreements, I would be more than happy to answer your questions at the end of the panel.

 - Just to trigger the discussion and your questions, these are some of the key points in each negotiation:
 - Services to be rendered.
 - Grant of rights
 - Materials ownership
 - Payment form (fixed amounts, royalties, royalty base, advance payments, etc.)
 - Term and territory
 - Exclusivity
 - Governing law and jurisdiction
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Thank you

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