

Audio Rights – And Wrongs

Should You Sell Your Rights?

Independent authors keen to reach new audiences and capitalize on their intellectual property (IP) have branched out into audiobooks more and more. Authors face two choices: work directly with narrators to produce audiobooks, or sell their rights to an audiobook publishing company.

Two deciding factors are time and money. Producing an audiobook can be a big upfront investment costing authors thousands of dollars. Hire a well-known narrator with a substantial following and the costs are even higher. An author's time is also valuable. Every minute spent doing something other than writing means fewer books published. That time spent impacts author income down the road.

Audiobooks usually cost much more to produce than ebooks, yet audio royalties are much lower. Much of this is caused by the stranglehold Audible has over the market and the control they wield over decisions like price point. Marketing and promotion of audiobooks is difficult since ACX, the indie publishing platform operated by Audible, offers no facility for authors to set their own prices or use price promotions to market their audiobooks.

Authors venturing into audio face tough decisions.

Should you keep your rights, and assume all risk in producing your own audiobooks?

Or, should you assign your audiobook rights to an audiobook publisher?

Publishers are buying up audiobooks like crazy right now. Companies like Tantor, Podium, and others, will take care of the time-consuming tasks, and even pay you an advance. In return for the right to produce, they'll sell your audiobooks for an agreed term. Possibly they'll market and promote them, though this isn't certain or even likely, unless you're a bestselling author. You lose a percentage of the earnings for a guaranteed payment, plus the possibility of earning beyond your initial advance.

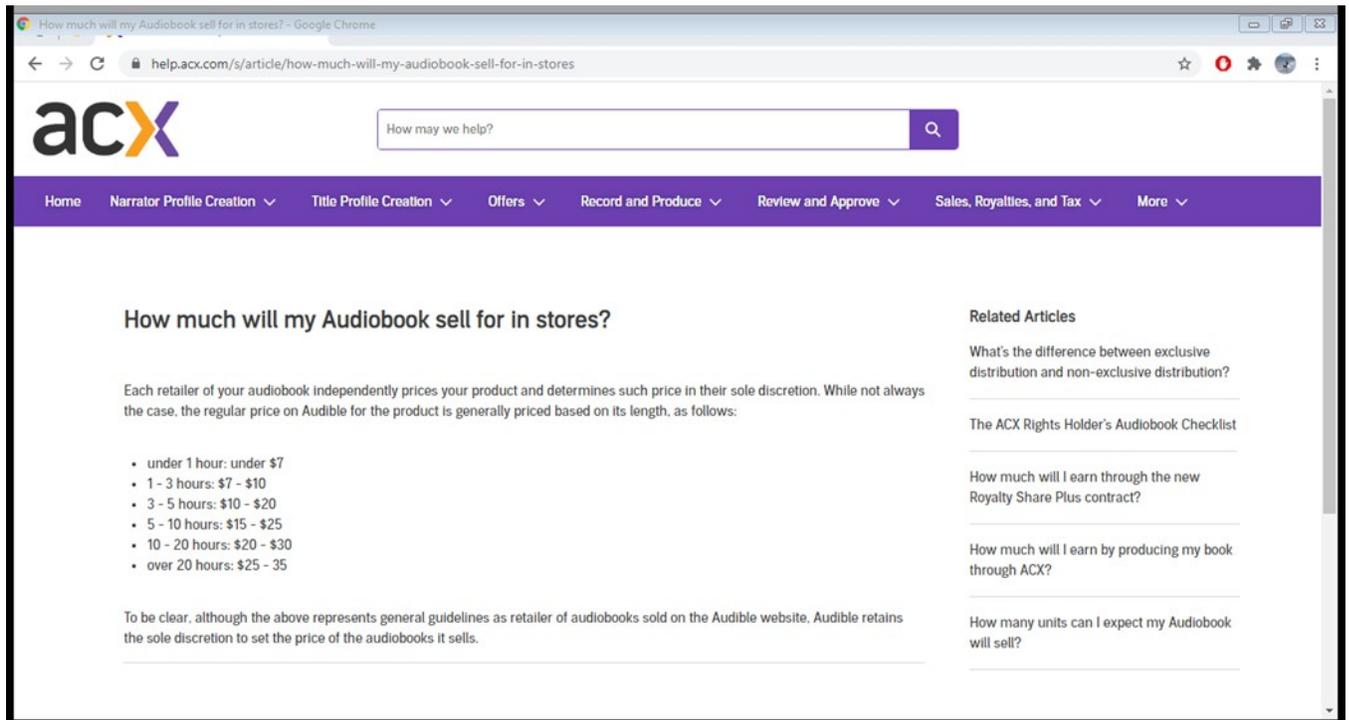
Show Me the Money

Perhaps you've decided to take the "sure thing" and sell audiobook rights to your 6-book series. Aside from the time saved by not doing it yourself, you got an advance, say \$1,000 per audiobook. You agreed to 30% royalties for a 7-year term. Even if you never earn out the advance, you are cash-flow positive and only invested whatever time it took to negotiate and sign the contract. If you're a math geek, you probably did some calculations to justify your decision, like figuring out the breakeven cost of taking the advance vs. doing the audio yourself.

DIY Publishing via ACX

You made assumptions on total audiobook sales, which were really just a guess. Let's say you assumed you would sell 1,000 audiobooks of each title, which seems totally doable over a 7-year term. You

further assumed a \$19.95 selling price for each audiobook, with a 40% royalty (ACX exclusive terms), based on ACX's guide:



Using that \$19.95 selling price x a 40% royalty rate results in a \$7.98 royalty. However, ACX only pays you \$4.15. If you haven't yet read my [blog post on royalties](#), read it right after this post, because it explains why the math is wrong. Let's look at the numbers using the actual, proven amounts paid by ACX for a 5-10 hour audiobook, which is a per unit royalty of \$4.15. We will further assume audiobook sales of 1,000 units. Which, by the way, is much higher than most audiobooks will ever earn. But your books are good enough to attract the attention of an audiobook publisher, so let's be optimistic!

Your math will look like this for your audiobook (9 hours in length), assuming you sell 1,000 audiobooks:

Do it Yourself

Cost: \$200 Per finished hour (PFH) x 9 hr. audiobook = \$1,800 cost per audiobook

Expected earnings: \$4.15 x 1,000 books = \$4,150

Net return: \$2,350

Contract with Audiobook Publisher

Cost: \$0

Expected earnings: \$1,000 advance + 30% of all sales after the advance earn-out

Net return: \$1,000

Notice I didn't add any sales earnings beyond the initial advance. You'll see why in a minute.

Risk vs. Reward

There is no guarantee you will sell anything close to 1,000 audiobooks, of course. You could even lose your \$1,800 investment under the DIY option if your books don't sell. For a 6-book series, that's almost \$11,000 out of pocket, and possibly a risk you can't afford to take.

If you sign with a publisher and your audiobooks don't sell, you won't lose anything, and the advance seems decent enough. If you do sell a lot, then your upside is also unlimited because once you earn out the advance, you will continue to get 30% royalties.

The question is, **30% of what?** If your contract specifies net proceeds, then that 30% isn't calculated on the audiobook selling price. It is calculated on the net payment your audiobook publisher receives. That includes only the net proceeds of audiobooks not clawed back by ACX/Audible as returns.

Why does that matter?

Because 30% of an already small number results in an even smaller earnings allocation against your \$1,000 advance. It will take a lot longer to earn out. Like maybe even never. Some authors are content to never receive earnings beyond the advance, rationalizing that they never would have done audio otherwise. But the devil is in the details.

Do audiobook publishers receive the same \$4.15 ACX/Audible royalty for a 9-hour audiobook? Do they have the same ACX contract that DIY indie authors do? Based on anecdotal evidence, it seems that most or all audiobook publishers have the same ACX arrangement as a DIY indie author.

That means that an author receives just 30% of \$4.15 from the publisher, which equals \$1.25. It could be even less, if that book is sold for a price lower than \$19.95. Of course, that's only if the audiobook publisher is exclusive to ACX. Most publishers are non-exclusive and pay the author 30% of \$2.59, which equals \$0.78. What extras do publishers offer for taking 70% of an already small net royalty?

If your deal was through an agent, that \$0.78 is further reduced by their percentage commission. This isn't looking like such a great deal anymore, is it?

You would assume that an audiobook publisher would publish to all sales channels, and not just exclusive to ACX/Audible. Apparently, at least one major audiobook publisher only publishes through ACX. I'm sure if you ask around, you can find out which one. This critical information dramatically impacts your income, so be sure and ask before signing any deals where the publisher distributes. In fact, be sure to have it written into your contract.

Let's assume your audiobook will be published to all sales channels. You would have to sell 1,282 audiobooks (on Audible) to earn out your \$1,000 advance at \$0.78 per unit. That's a lot of audiobooks! Suffice it to say that, aside from your initial advance, you might never see another penny for the remainder of your 7-year term.

Are they promoting your book? Investing in your career? Organizing tours for you?

Probably not.

Are you okay with that when producing the audiobook yourself gives you complete control and future ongoing higher profits? We indies love our control. That's why we're indies in the first place. Yet many of us hand over ownership of valuable intellectual property without a second thought.

7-Year Term is still a 7-Year Term

That 7-year term is such an odd number. Why not 5 years, or 10 years? Because until Fair Deal for Rights Holders (FDRH), ALLi, and other author organizations fought, and Audible conceded, a 7-year lock-in term applied to everyone using the ACX platform, including publishers and distributors. That 7-year term recently changed to a 90-day lock-in, effective February 2021. But, if you signed with a publisher, your term remains at 7 years, or whatever your contract term is.

The Sure Thing

Perhaps you've considered all these factors and decide to sign with a publisher anyway. Publishers still pay advances, so you decide to go for it. A bird in the hand, so to speak?

Hold on...

You are still writing the series. What if they don't want to buy future books in the series? That could mean different covers, narrators, etc. You also can't market the first audiobook in a series if you don't own it.

Those miniscule royalties mean you probably won't get anything beyond that initial advance. Unless of course, your audiobooks are overall bestsellers in each audiobook store.

There is another even bigger "but". It's going to sound a little crazy...

The Devil is in the Details

Back to those royalties of \$4.15 (ACX exclusive) and \$2.59 (ACX non-exclusive). Before the truth was exposed about ACX/Audible earnings, Indie authors assumed 40% (exclusive) and 25% (non-exclusive) earnings, based on retail selling price. **We now know that we are only paid 21% (exclusive) and 13% (non-exclusive). Audiobook publishers using the same ACX platform are subject to the same rates.** Are audiobook publishers even aware of ACX/Audible's creative use of percentages?

A distributor like Findaway won't care since they just take a cut of the proceeds. But these misstated royalty rates significantly impact publishers. **The effective royalty rate is only half of ACX/Audible stated rates. Did the publishers base their rights acquisitions, and royalty payments, on 25% or on 13%? A mistaken assumption has an even greater impact to audiobook publishers than it does indie authors.** A publisher on a rights-buying spree could have already spent hundreds of thousands, or even millions of dollars, based on erroneous information. It's a matter of scale.

It's also a matter of cash flow. Audiobook publishers make significant upfront investments with the expectation of large, but gradual, returns on investment months and years later. Erroneous assumptions

will dramatically impact publisher profitability. It will take them twice as long to break even on their investment. That in turn impacts their decisions on advance amounts, royalties to authors, the number of titles they sign, and other deal terms. In short, it impacts their future cash flow and future payments to authors. That's without even factoring in ACX/Audible earnings claw backs for returns, which was unknown to both indie authors and publishers until ACX/Audible's bulk returns adjustment that clawed back sales in October 2020.

What if audiobook publishers got it wrong? Publishers won't notice their ever-worsening cash flow at first. Only when their cash on hand balance shrinks will they realize that those expected 40% or 25% royalties never materialized. Once they realize and recalculate, it's going to change their acquisition strategy. It has to, since they are only getting half the earnings they expected.

When their bottom line suffers, so does yours. Once you sign with a publisher, you are locked in and lose any flexibility to explore alternatives.

The Unknown Risk

What does all this mean for you? It means that even if you get a nice advance and earn out, somewhere down the road, your publisher may end up in a cash crunch. Will they remain solvent long enough to pay out your earnings? Seven years is a really long time to pay for mistakes and miscalculations, even under the best financial circumstances. Just because a publisher is owned by a big conglomerate doesn't mean that their parent company will bail them out. You'll never get any more money from a bankrupt publisher, and good luck getting back your audiobook rights.

At least you got an advance. Just don't count on anything else. That's not so terrible, except for one thing. What if your book is a phenomenal one in ten-thousand mega bestseller? What if the audiobook market explodes? It is on track to surpass the eBook market within a year. It's not looking so good anymore, is it?

Alter Your Perspective

There are critically important questions that need answers, both for authors who have already sold their rights, and for authors considering it. Ask your current or future publisher these questions. Make sure specifics are spelled out in your contract. Better yet, structure your contract so that you are paid a percentage of retail list price, with those prices specified in your contract.

After all, nobody has a crystal ball, although you are now better informed. Selling your audiobook rights isn't about grabbing money you're leaving on the table; it's about making good business decisions for your future. Maybe you should wait and produce your own audiobook. Right now, you don't have the time or money, but it's not that difficult or time-consuming to make an audiobook. In fact, it's fun to become a producer. You're an indie filled with a sense of adventure, aren't you?

You might not have the money right now. But when you sell your rights for a small amount, it's akin to borrowing at an extremely high interest rate, with a debt you live with for seven years. Why not save for the production costs? Each time you sell an eBook, deposit a percentage of it into a separate bank

account. Maybe it'll take you a while to save enough, but it can't possibly take as long as seven years, where you'll only earn \$1,000.

It's crazy to settle for anything less than owning all the rights for your own book. Isn't that worth a little time and money?

Please share this #Audiblegate post with other rights holders. Knowledge is power.

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