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Shake, Rattle, and Please Buy My Product

Madison Avenue pays big bucks for tunes

By John Marks
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Record company boss Miles Copeland recently invited nearly 100 songwriters to his chateau in the South of France for two weeks of music, foie gras, and fellowship. When songwriter Pat MacDonald showed up for the annual event, he was asked the same old question: Why in the name of Elvis Presley won't he let his songs be used in television commercials?

In 1986, Bausch & Lomb offered MacDonald \$150,000 for the rights to use his Top 40 hit "The Future's So Bright I Gotta Wear Shades" to advertise its Ray-Ban line of sunglasses. But the singer-songwriter, then fronting a band called Timbuk 3, said no deal. A few years later, Clairol upped the ante to \$450,000 for another of his songs, "Hairstyles and Attitudes." MacDonald turned that down, too. And last year, the artist rejected a \$500,000 offer from fast-food giant McDonald's, once again for "The Future's So Bright." The company hinted that it might go as high as a million, but MacDonald still wouldn't budge--even though his only permanent address is a rented motel room in Austin, Texas. "I'm constantly feeling like somehow I have to justify my choice to people," says the scruffy, soft-spoken MacDonald.

As anyone who owns a TV set can surmise, few musicians today seem to share MacDonald's disdain for "selling out." With in-house jingles like Burger King's "Hold the pickles, hold the lettuce" considered passe, advertising agencies increasingly are paying astronomical sums for pop songs, and rock stars from David Bowie to Mick Jagger are cashing in. By building their ad campaigns around real songs, companies believe they can create an instant emotional connection between their product and millions of music-loving TV viewers.

The average hit now costs Madison Avenue \$250,000. But for the right tune, firms are

willing to pay much more. Online company Excite recently spent \$7 million on an ad campaign featuring Jimi Hendrix's "Are You Experienced?" Microsoft is reported to have spent as much as \$12 million on the Rolling Stones' "Start Me Up." And Nike paid \$700,000 for the rights to the Verve's recent hit "Bitter Sweet Symphony."

Once an ad agency has chosen a song to fit its campaign, the tricky business of licensing begins. To broker the deal, most agencies work with one of a few major firms, like the Harry Fox Agency, which represents around 18,000 publishers. If a song is likely to become identified with the product (one famous example: Carly Simon's "Anticipation" and ketchup), the publisher will want more money. The broadcast area and the stature of the product can also affect the licensing fee.

Often, the owner of the rights to the song can block its use. The family of Hendrix, for example, closely monitors the licensing of his music, frequently refusing the rights when requests are deemed inappropriate. Some, like MacDonald, deny use altogether. This was so important to the songwriter that the last time he negotiated his contract with the Copeland Group, he had a clause inserted granting himself the right of refusal--a move that cost him other points in the contract, including money. Other artists are similarly stubborn: Neither Bruce Springsteen nor Paul Simon allows his music to be used in TV commercials.

Many artists don't have much control over what happens to their music. Often, a music publisher owns the rights and can sell them over the objections of the artist. This can get messy, as it did recently for the Verve, a British band. The Verve does not own the rights to its own "Bitter Sweet Symphony" because the song contains a sample from a classical rendition of a Rolling Stones song, "The Last Time," which belongs to publisher ABKCO. In an attempt to keep ABKCO from selling the song indiscriminately to the highest bidder, the Verve sold its master recording to Nike for \$700,000; of this, ABKCO received \$350,000, and the Verve \$175,000. There was a silver lining: After the commercial's debut, the Verve's album shot up the charts.

That, says Copeland, should be a lesson to MacDonald. "He needs \$100 for groceries," says the executive, "and I tell him, do one commercial, and you could buy a damn house and live happily ever after." But the songwriter won't compromise because he feels that his

own songs would be ruined for him, as Lou Reed's "Walk on the Wild Side" was for MacDonald, by its use in a Honda commercial.

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