

Spotify and the New Music Platform

By Michael Benson

It has been ten years since Napster fundamentally changed the way people get their music, and the recording industry continues to suffer in the battle against its newest archenemy, file-sharing. The public now expects to get its music easily, on demand, all-you-can-eat, and all for free. File-sharing is now purported to amount to around 93% of all music consumption in the U.S.⁽¹⁾ Physical sales continue to freefall, and it seems record companies are finally beginning to loosen their grip on the stranglehold they have on recorded music.

Today most companies are re-aligning their sights on new models for distribution utilizing the digital medium. It seems the devaluation of sound recordings has forced the hand of the industry to work alongside all kinds of new music service companies, while working to monetize their artists in new and inventive ways. Most startups have aimed to lure users away from peer-to-peer networks by making free music offerings, but many have failed to turn a profit reasonably enough to cover the high cost of licensing music from labels, songwriters, and performing rights organizations.

Some, such as Rhapsody and Napster, have turned to subscription-based models that offer unlimited access and a number of downloads per month for subscribers. Other startups like imeem and Last.fm have utilized the popularity of social networking tools, as revenues are mainly based on selling advertising. Internet radio sites like Pandora and Slacker have all benefited from ad-based revenues and recommendation technology for user-taste generated content. As Internet radio popularity grows, sites like Pandora have been able to re-negotiate their deals with labels in order to help make their business models more profitable.

The most successful models have been able to offer up enough free features to make themselves a viable competitor in the market, while giving users the opportunity to subscribe to avoid advertisements and receive access to other member oriented benefits. These “freemium” type models face the reality that free continues to be a major value factor in the digital marketplace. Any startup hoping to compete for users today must combine the best of what has worked for others with a unique vision into the future. For this reason, Spotify remains as one of the most talked-about startups today.

Founded by Daniel Ek, a 26-year-old entrepreneur from Sweden with experience in other digital startups, Spotify is Ek’s vision for the future of how music will be accessed. “Basically we were trying to create an alternative to piracy... the only way to beat piracy is with a better product.” In an interview with All Things Digital, Ek adds “we have been focusing on managing peoples music... just being able to play music and share it with their friends.”⁽²⁾ Launched in Sweden in October 2008, Spotify has become quite popular, having grown to 6,000,000 users (2,000,000 in the U.K.) in under a year’s time. Now with over a million users in Sweden (just over 10% of the population), Spotify accounted for 35% of digital music revenues in July in that country, and continues to double their revenue every two months⁽³⁾.

So why is it so popular? What makes it different from other subscription or ad-based revenue music services like Rhapsody, Pandora, or Last.fm? For now Spotify operates as a client for streaming music on a user’s PC and mobile device. On your computer, Spotify’s interface operates very much like iTunes; the difference being you can stream any song without restriction from the enormous on-demand library. An ad will play at the end of a song around three times per hour. Users and critics alike have heaps of praise for Spotify’s lightweight and intuitive interface, a main selling point to users of other (illegal) peer-to-peer downloading programs and torrent clients. As of October 1st, Spotify premium users also have access to their music (3,333 tracks worth) while offline, great news for frequent travelers or those who have spotty Wi-Fi connections at home.

Spotify falls short in making recommendations as well as Pandora or Last.fm, but this is expected to change as the product develops. Most significantly, Ek hopes that Spotify will emerge as a platform for other companies. “What were trying to do with Spotify is build a platform. Ultimately, ... the best compliment would be if companies such as Pandora and Last.fm build stuff on top of the Spotify platform.”⁽⁴⁾

From the onset, Spotify has expressed great interest in utilizing the power of today’s smartphones to deliver access to their music library over mobile broadband connections.

MISSION STATEMENT

The Music Business Journal (of the Berklee College of Music) is a student publication that serves as a forum for intellectual discussion and research into the various aspects of the music business. The goal is to inform and educate aspiring music professionals, connect them with the industry, and raise the academic level and interest inside and outside the Berklee Community.

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EDITOR'S NOTE

With great pleasure, I would like to introduce you to this October 2009 edition of The Music Business Journal. It is tremendously exciting to be surrounded by students and faculty alike who are as passionate about the music industry as I am, and such passion shines throughout the content of this issue. In the pages that follow you will read about a plethora of topics--including a new music company that hopes to neutralize digital piracy, a battle in Washington DC over potential radio performance royalties, some examples of effective direct-to-fan marketing campaigns, and how to get your music in Rockband!

The issue is notable as well for an interview with Berklee's Music Business/Management Chair Don Gorder that we publish in full. Gorder histories the emergence of music business programs in the US and their struggle to adapt. As this year marks the 150th anniversary of Charles Darwin's The Origins of Species, a related essay suggests that higher learning at music school can also teach you much about survival.

As the fall ushers in a new landscape, The MBJ is also undergoing a transition. Not only have we just contracted for a new and more engaging website, but we are also energized over the reception of our first podcast over the summer, something we will continue on a per-issue basis. We also intend to extend the reach of our voice beyond the Berklee community with an aggressive marketing program. Always with our mission statement in mind, our goal continues to be to inform and educate aspiring music professionals, connect them with the industry, and raise awareness inside and outside the Berklee community.

I would like to thank my fellow writers and colleagues for their time and effort in putting this issue together. A selfless spirit of volunteerism has been at the core of every MBJ since its inception in 2005. Please visit us at www.thembj.org for digital access to our latest issue, archives of past issues, and our new podcasts!

Thanks for reading,
Michael L. Benson

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MANAGEMENT

Editors-in-Chief Michael Benson, Ryan Driscoll
 Webmaster..... Brenda Segna
 Finance Peter Alhadeff
 Layout Editor Ryan Driscoll
 Director of Marketing Nicholas Adam Owens
 Faculty Advisor..... Dr. Peter Alhadeff

CONTRIBUTORS

Writer (Editor's Note) Michael Benson
 Writers (Business Articles) Nicholas Adams-Owens, Michael Benson, Kathryn Eggleton
 Writers (Business Articles) Michael King, Alex Mitchell, Silvina Moreno
 Writers (Music Law)..... Sawyer Stoltz, Brian Orlando
 Interview Christina Fabi
 Model Work Michael Benson
 Staff Personnel/Writers.....Emily Ahrens, Jamie Anderson, Kerry Fee, Merrily Scruggs-James, Michael Skauge
 Podcast..... Alex Mitchell, Michael Benson, Nicholas Adam Owens

BUSINESS ARTICLES

Spotify and the New Music Platform (contd.)

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Indeed, a major selling point of the Premium subscription is access to Spotify's catalogue on the go. There was some concern that Apple would not approve an app that could potentially compete so directly with iTunes, but in August Apple approved Spotify's iPhone app without complaint.

The ubiquity of access Spotify provides to its vast music library is not limited to the iPhone: Spotify can be used on phones equipped with Google's Android mobile operating system, and will soon be available on most Nokia and Samsung phones. This is another major selling point for the platform, as mobile access is imperative for Spotify if it is to have a shot at success in the U.S. market. The quality of streaming in their app is much better than the recently released Rhapsody iPhone app, which struggles in stream quality, loading time, and ease of scrubbing. Additionally, and unlike the current version of Rhapsody's app, Spotify caches playlists on your phone's memory as well, so you can listen to your music in places outside coverage zones, such as in the subway or on an airplane.

Ek's forward-thinking philosophy is also applied in the development of LibSpotify, an Application Programming Interface toolset, or API, enabling third-party software developers to write applications that utilize the Spotify music streaming service. "This is the first step towards becoming more of a platform," Ek said in an interview for the English newspaper *The Guardian*. "If somebody wants to build it into media center PCs, or... integrate Spotify into TV screens, they can. ... There are lots of areas where we don't have the resources to do our own development. This takes the workload off our backs, and we don't know every way that people will want to use the service."⁽⁵⁾ Eventually, you may be listening to music on your TV, home audio receiver, or gaming system using the Spotify platform.

Netflix embarked on a similar venture recently to step up competition against Blockbuster. To avoid the high cost of mailing DVD's, they developed their own API and paired it with hardware— including DVD players and flat screen TVs. Amazon has followed suit with their Video on Demand service, as it is now accessible through some higher-end models of Panasonic HDTVs.

While there is a lot of excitement over Spotify's model, many questions still remain about the viability of Ek's vision. Many novel startups have failed, and subscription models have yet to make a significant dent into the pay-per-download paradigm dominated by

iTunes. This was evidenced by Rhapsody's recent layoffs and the early demise of online startups Spiralfrog and Seeqpod last year. As of yet, the company has yet to turn a profit. Currently valued at around \$317 Million⁽⁶⁾ and growing, Spotify has been able to raise plenty of capital— including investments made by major labels⁽⁷⁾. However, it remains to be seen if subscriptions and ads will amass enough receipts to cover the high operating costs of licensing deals, which will rise in tandem with Spotify's popularity.

Since the summer, the company has been in negotiations with the major U.S. labels and rights holders regarding just that. While details of their deals with U.K. labels, publishers, and performing rights organizations are secret, it seems that Spotify is gaining traction. It took two and half years for the deals to be negotiated, but the quality and quantity of content that Spotify has acquired in Europe is significant. It remains to be seen if the US labels will become signatories as well, although their investment in the company is a good sign.

Sheer scale is definitely going to be key, and so far Spotify has had no trouble with that. They have been holding their tongues regarding just how many of their users are becoming premium members, but they expect a majority will only use the free version. It is estimated that in Europe, around 9% of Spotify users have signed up for the Premium version⁽⁸⁾. The cost of a subscription is around \$16 per month — about the cost of buying one CD. For those conditioned to pay for music, this may not seem like much. But the younger generation is used to accessing a near endless amount of music on demand without paying for it.

The company states that they expect 60% of their revenue to come from subscriptions, while only 40% to come from advertising.⁽⁹⁾ The emphasis on subscriptions, however, could possibly hurt their image with advertisers, who don't have access to the eyes and ears of premium users. Founder Daniel Ek remains positive about the model, noting that "What's interesting about the platform is that we have both audio and display advertisements ... [Those advertisers that] have been creative about the audio format have been getting really good click through rates...[some] between three and five percent."⁽¹⁰⁾

Aimed for a US launch date in the first quarter of 2010 at the latest, the response of the American public will be a great litmus test for Spotify and the viability of its freemium-access model. There, Spotify could potentially face a bid from the majors. Ek is adamant, as he tells

Kara Swisher of All Things Digital, in maintaining that he does not want to sell and forsake the independence of the company. Part of this has to do with Spotify's own image of trend-setting and iconoclastic branding.

Spotify, at its core, is a company based on a vision for how music should be accessed. It was started as a reaction to what has become a wildfire of copyright infringement on a global scale. It is hard to deny the ubiquitous nature of free music today, and the challenge the music industry has faced trying to figure out the best way to compete. Ek understands that ultimately, people already have access to music that they can get without any cost other than their Internet connection. In order to convince the public to use a service with ads, you have to make it easier and more enjoyable for them to use your product than to download music illegally. Indeed, 80% of Spotify users report that they have stopped file-sharing.⁽¹¹⁾ By embracing an open-source ideology while simultaneously offering numerous possibilities for monetizing access, Spotify may be positioned as a forerunner in the quest to re-work the way the world quenches its thirst for music.

If Daniel Ek is not the first person to come up with these ideas, he may well be the first to make them work in the marketplace. "Everyone told me that we would go and bang our head against the wall..." he concedes; "the problem with me is that I am probably naïve enough to believe that I can make a difference."⁽¹²⁾

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MUSIC LAW

Terrestrial Radio To Pay Sound Recording Royalties

By: Sawyer Stoltz

In February of this year the House of Representatives Judiciary Committee approved a bill that would implement a new royalty fee on terrestrial radio broadcasters (AM/FM) for the public performance of sound recordings⁽¹⁾. This is a separate royalty from the one paid to performance rights organizations like ASCAP, BMI, and SESAC, who compensate composers and publishers of the underlying compositions. The new performance royalty will require broadcasters to pay for use of the actual sound recordings during their broadcasts, compensating the performing artists, producers, and record companies in addition to the royalties they already pay. This marks the first time the recording industry has demanded such fees from broadcasters, which has since has spiraled into a series of heated debates that are still being disputed.

Sponsors of the new bill, known as the Performance Rights Act, state many reasons for implementing the new royalties. House Judiciary Committee Chairman John Conyers relays that legislation has "Introduced the Performance Rights Act to ensure fairness so that any service that plays music pays those who create and own the recordings - just as satellite, cable and internet radio stations currently do. Working with the Senate, I hope that Congress may act quickly to pass this important legislation to level the playing field between different technologies and ensure rightful compensation to performers."⁽²⁾ To counter this statement, David Rehr, CEO of the NAB (National Association of Broadcasters), argued that the new "performance tax" would be detrimental to local radio stations and new artists trying to break into the business. Rehr also states that the majority or "at least half" of the collected fees will be paid directly to major record labels, and not benefit the artists as much as the bill proposes.⁽³⁾

Furthering controversy over the new performance royalty, organizations have begun to speak out for their cause via radio and Capitol Hill rallies. The Free Radio Alliance opposes the "performance tax," while the MusicFirst Coalition is trying to persuade congress to adopt the performance royalty.

More recently, the MusicFirst Coalition has asked the FCC (Federal Communications Commission) to investigate broadcast stations that have allegedly boycotted, or cut back on playing, artists that support the performance royalty and run spots on their opposition to the Performance Rights Act. A petition, the First

Amendment rights of broadcasters, has since been circulated, arguing that the rights of artists and record companies to collect royalties from broadcasters is so essential that the broadcasters First Amendment rights should be abridged, not allowing them to speak against the new policies.

The National Association of Broadcasters have successfully gained the support of about 240 Congressional Representatives to sign a resolution opposing the adoption of the performance royalty for the use of sound recordings. However, the efforts to enact the regarded legislation have only intensified as a result.

The senate has yet to reach a final decision regarding this movement and is encouraging both parties to negotiate for an appropriate royalty prior to the imposition of one by the government. Newly appointed NAB president, Gordon Smith, will have an interesting term with the inherited controversies broadcasters are facing from the FCC and Congress.

¹ <http://www.broadcastlawblog.com/>

² <http://judiciary.house.gov/news/090204.html>

³ http://www.nab.org/xert/corpcomm/pressrel/releases/020409_DKR_PTax_House.pdf

Due Diligence Under the DMCA

By: Brian Orlando

On September 14th, 2009, a Federal Judge in Los Angeles, CA threw out a Universal Music Group (UMG) lawsuit against Veoh Networks when they were found to be compliant with the Digital Millennium Copyright Act. The lawsuit began three years ago, when Universal Music Group alleged that Veoh Networks had committed copyright infringement by pointing to UMG owned material on their website. For those of you unfamiliar with Veoh Networks, they are essentially a much smaller version of YouTube. Users have the ability to upload their own amateur or even professional video content as long as they own the copyright to the media involved. However, as is the case with most sites utilizing user content, illegal postings soon made their way to Veoh Networks.

When put before US District Court Judge Howard Matz, he concluded that Veoh was compliant with the "safe harbor" premise outlined in the Digital Millennium Act. He stated, "Veoh has shown that when it did acquire knowledge of allegedly infringing material, whether from Digital Millennium Copyright Act notices, informal notices, or other means, it expeditiously removed such material, and Universal Music Group has failed to rebut that showing."

This ruling has bigger implications on the music industry as a whole. The decision

clears up some ambiguities held in the Digital Millennium Copyright Act. A major factor in the decision of this case had to do with the way Veoh Networks removed such infringing material from their site. Essentially, when notified by the rights owners of the infringing posting(s), Veoh Networks complied and removed the videos in a timely manner. The Judge also noted a statement made at a previous court hearing between Universal and Veoh, citing: "the record presented demonstrates that Veoh has a strong DMCA policy, takes active steps to limit incidents of infringement on its website, and works diligently to keep unauthorized works off its website. In sum, Veoh has met its burden in establishing its entitlement to safe harbor for the alleged infringements here." Such a ruling helps to establish precedence for the rapidly growing online video sharing industry.

Additionally, this case may help sway the decision on pending lawsuits. For example, the lawsuit currently involving Viacom Inc. suing Google-owned YouTube for over a billion dollars in infringement damages now has a different twist to it. Viacom alleges that YouTube is responsible for copyright infringement based on their having infringing material on their site. Following the logic of the previous case between Veoh Networks and Universal Music Group, the question now becomes whether or not YouTube has done its due diligence in taking down illegal content in a timely manner. YouTube strives to take down infringing material, but it is unknown whether the time taken to remove these infringing videos falls under the "safe harbor" premise of the Digital Millennium Copyright Act.

More importantly, is it practical for a website like YouTube to use valuable resources to monitor its content on their site? Such website monitoring requires an extensive use of resources and manpower to implement successfully, and it's possible that the company could never keep up with all the infringing content being posted. However, is it fair for the rights owners to have to track down their material all over the web and then be responsible for notifying the proper authorities? I believe the answer lies somewhere in between, however it is clear that the case involving Veoh Networks' defeating Universal Music Group settles some questions, while raising others in the battle over copyright infringement on the ever popular online video sharing websites.

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BUSINESS ARTICLES

Getting In The Game with Rock Band

By: Alex Mitchell

By now, you've probably played Rock Band, the music based video game in which you and three friends can play and sing along to licensed songs by using instrument and microphone controllers sold alongside the game. Developed in Cambridge, Massachusetts by Harmonix studios and published by MTV Games, Rock Band has become a worldwide phenomenon, with sales across all platforms grossing well over 1 billion dollars.⁽¹⁾ In the two weeks following the release of Harmonix's newest game, The Beatles: Rock Band, over 1 million units⁽²⁾ were sold across the major platforms (Nintendo Wii, Microsoft Xbox 360, Sony Playstation 3). With the least expensive SKU being \$60 for the stand alone game disc, and up to \$160 for the game with peripherals, that represents a considerable amount of revenue, and sales of the game promise to continue unabated as we head toward the holiday season.

With the potential to make so much money, there are many products on the market similar to Rock Band, but what helps distinguish it from competitors like Guitar Hero is the developer's commitment to producing downloadable song expansions. Purchased via an in-game store, players can download new songs to play directly from their game systems, expanding their experience beyond what is included on the disc. Since the inception of this service, Harmonix has published over 700 songs to purchase online, selling a combined number of over 50 million downloads⁽³⁾, usually at \$2 a piece.

One shortcoming of the system however, is that due to track production times and the complicated nature of licensing music, the variety of songs in the game are mostly limited to mainstream rock bands like Metallica and Queen. That's all about to change, however, when Harmonix and MTV launch the Rock Band Network in November. This new service will allow artists to upload their own music into the game for users to purchase and play along with, providing them with a unique new way to interact with their audience, as well as a new revenue stream. When describing the new service, Harmonix CEO and Co-Founder Alex Rigopulos said:

"Our goal with Rock Band has always been to go beyond making music games and create a true music platform. With the Rock Band Network, we've evolved the platform to its next logical step, giving players access to an incredible amount of new music by putting the professional tools we use in the hands of the art-

ists themselves."⁽⁴⁾ -Alex Rigopulos, CEO Harmonix

Uploading your band's track into Rock Band looks to be about as complicated as mixing and uploading a track to MySpace, but you'll need an understanding of modern recording techniques, and \$160. Most of the work when creating a new track will be done in a customized Rock Band version of Cockos' digital audio workstation called Reaper, which will cost \$60 for the non-commercial licensed version. Reaper will allow creators to record or import their master tracks and create corresponding midi information (to determine which notes players have to hit on their controller and when), as well as giving the option to customize in-game animations and camera movements, to make the game visuals more exciting.

Next, the file is then exported to your computer via a program called Magma. In this step, artists will be able to test their creations using the peripheral controllers, as well as add additional content like lyrics and album cover art. Finally, when the track is done, it is submitted on the Rock Band Networks creators website, to be vigorously play tested and checked for copyright infringement. Cockos is working to identify rights holders with the help of Gracenote and Audible Magic, and Microsoft's XNA Creators Club will handle play testing to ensure that the game-play content is of a high caliber. Membership to the XNA Creators Club costs a \$99 annual fee. The Rock Band Network (RBN) will initially be available only on the Xbox 360, as track publication relies on the XNA game development platform. Harmonix has said that it will make standout tracks available for purchase on other platforms, as well.

Once a track has been created and passed play testing, it will be available for download in a new in-game store. Artists will choose to sell the song for \$1, \$2, or \$3, and will earn 30% of the revenue generated by sales of the song, with royalties paid on a quarterly basis. In the new store, players will be able to download demo versions of the songs to play, which give access to the first minute of the track. Players will then be able to rate the track on a scale of 1 to 5 'lighters'. Harmonix has said that they will help promote the best content, by offering a list of 'Harmonix Picks' and 'Top 10' in the shop in addition to the standard browse by artist function.

Obviously, the marketing power of the Rock Band Network is immense. Not only

is it a new delivery service for your music, it's also an interactive way to publish your music. By requiring audience participation, such as learning a guitar solo, the consumer will be more likely to develop a meaningful connection to the music, which in turn could spur on further sales. The service is not just aimed towards independent musicians, as many smaller labels will now be able to upload their catalog. Tony Kiewel, head of A&R at Sub Pop, has already stated that they intend to submit songs from their upcoming releases, as well as parts of their back catalog, including artists like Nirvana and Sonic Youth. In interviews with Billboard and Rolling Stone, Kiewel has said;

"[The Rock Band Network is] very exciting news to us. It's important to participate in every possible revenue stream available. Whatever gets your music heard helps your overall awareness and ability to sell records and downloads."⁽⁵⁾ "This'll be a 'release' as far as I'm concerned. This'll be another format alongside vinyl and CD."⁽⁶⁾ -Tony Kiewel, Head of A&R, Sub Pop Records

Not only does it seem that there's real potential to promote bands through the Rock Band Network, but the service could also help break bands into more mainstream channels. MTV Games senior VP of electronic games and music Paul DeGooyer says:

"I can envision a song coming into the Rock Band Network first, getting traction, picking up customers through online play and then being picked up by MTV's programming and showing up there. We've shown we can sell millions of songs in the 'Rock Band' store. So it really does tie into a larger picture."⁽⁷⁾ -Paul DeGooyer, MTV games senior VP

With all the high profile interest, and the ability for anyone to partake, it's possible that the Rock Band Network could turn into a viable platform for artists to deliver their music in a meaningful and profitable way. One thing is for sure, as the popularity of music videogames continues to grow, so too will their market share and their influence in the world of music. With the Rock Band Network, you and your band finally have a chance to get in the game.

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7 Ibid. Footnote 2

BUSINESS ARTICLES

The Future of Music Business Programs

An Interview with Berklee's Don Gorder

Interview by: Christina Fabi

The old paradigm of the music trade is being discarded too in music business programs across the country. Read on for an update on what is happening at a premier music school.

Tell me about your career in music before coming to Berklee in 1991.

I went into the area of music business education in 1983 when I took a job at the University of Colorado at Denver which was the second Music Business Program. U. of Miami was the first and that was my first exposure to the discipline of music business in academia when I was a graduate student there. I took a couple of classes and my next step was to go to law school. After that I got an invitation to teach at University of Colorado-Denver. That was the program that David Baskerville started who wrote the Music Business Handbook. I was there for 6 years and then I took a job at the University of the Pacific. It was a small Music Business program but at the time it was an interesting place to go and try to build a program. I was there only two years before I got the notice of the job at Berklee. It's kind of a funny story—I got a letter from Berklee in my second year there saying they were looking for a Chair for their Music Business department. But the letter didn't really say what I found out later—that there was no department and that they actually wanted somebody to come in and build it. But, the more I thought about it, it sounded like a great opportunity to move into something where they're essentially looking to me, saying 'Tell us what it's supposed to be' as opposed to 'Here's what we do and make it better.' So I applied and got the job.

It was 1991 when I came to Berklee. I taught a class similar to the intro class and at the same time I was basically structuring the program and coming forward with proposals.

There are still some similarities between what a music business program was or needed to be in 1991 versus today, but there are some obvious differences. I think all students in the music business program need to have an understanding of the fundamentals of business, which means they need to have some exposure to accounting, economics, statistics, concepts of management, and those kinds of things that I plugged into the program way back then. And there's another interesting little side story—I came to Berklee and my background was on

campuses where they have a school of business, which by the way is still primarily the case with music business programs. They're on campuses where they have a school of business so the Music Business students go over there to take their accounting, economics and management and all of that and that's all well and good. They probably don't see much application to the music industry in those courses, but still those disciplines are important and they all need to know that. But when I got to Berklee, and I was ready



to start assembling the program and putting my thoughts together, I said to President Lee Berk, "Is there a particular school of business that you'd like to align with and partner with, so our students could go over there to take their marketing and accounting?" He said, "Ah no, that's not what we do at Berklee. We don't go outside—we run our own programs."

You once said: "I like the environment at Berklee, it's a fast paced music industry microcosm." Do you think that schools like Berklee that combine music and business rather than separating it have an advantage and make for a more successful transfer into the macrocosm of the industry?

I think there are pluses on both sides. The real plus for us in that we are a pure music college is that we can teach the music industry application in those really traditional business disciplines. The challenge was finding people who

could do that. But that's what I tried to do. You take accounting and as I'm sitting there talking to Marty Dennehy, way back then, saying, "Can you make this relevant to our music students?" It is the same thing with Peter Alhadeff when he's teaching economics and statistics. Making this relevant to our environment here, knowing that Berklee is a very applied environment. People play their instruments and they are vocalists and it's an immediate application. One of my early thoughts about this program at Berklee was that it's a rather left brained discipline in a very right brained environment and that the creative arts tend to be very right brained and that's not a criticism, it's just a fact. It's intuitive, spatial, whereas the business tends to be linear. You have to apply logic, and sometimes you don't find that in people who are attuned to the arts, so you have to make it relevant. So the challenge was to show the application. For example if you teach accounting and you can show the application and you can show students this is how it is applied and this is why you need to know it. I think that those are the most important factors that allowed us to be successful in delivering the program together with finding the right people.

And this ties in with the belief that if you can teach a musician the business side, they can be very powerful players in the industry.

Yes, definitely. But looking at the other side or at other schools, we can't provide as much depth to the discipline of accounting, for example, that you would get in a four credit course at a school of business. I don't mean to say that we, for lack of a better term, dumb it down. We don't do that, but at the same time, we've only got 30 credits to run this major and that's not a lot compared to what a student might get in a bachelor of business administration. But we do what we do and try to cover the basics and we can do it because of our music industry focus, which is something most other programs are less able to do.

Speaking of the limitation of 30 credits, do you believe that Berklee will offer a master in music business in the future?

We are going to have a master's program in Valencia. The relationship is set. They haven't broken ground yet, but all the documents are signed to my knowledge and everything is moving forward. I have submitted a program and it is called Global Music and Entertainment Management and that school is to open at the earliest

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in the Fall of 2012. It will be a master's. I believe it won't be an MBA but probably an MA.

Will we have a master's program here in Boston?

Probably not in the near future, because we want Valencia to work before we walk too much into that direction here. I know that BerkleeMusic, the online school, was considering having a master's in Music Business, but I believe they have put those plans on hold for now. But we do have the Suffolk relationship and the Suffolk International MBA was ranked in the Top 10 this past year. So I think that's great and they have been very cooperative with us in working out the equivalencies for our students to enter that program and save a lot of time and tuition.

Let's talk about the music business in relation to our program for a bit. As of now, students can choose between the three tracks: Entrepreneurial, Management and Music Products. With the products track changing to Marketing, how do you think the program in general has to change to prepare students for a successful career within the modern music business?

Well, you have to look at the realities of the market place. Where are the career paths these days and how can we best prepare students and help them so they are preparing for the rest of their lives? We have removed the music products track. It was an area that we did not see a lot of interest in. We always had students who wanted to go to the NAMM show and we had a few that have actually done quite well in music products, but we did not think that we needed a dedicated track for it anymore. We've had one course in marketing all these years, and back in 1991, when I conceived this program, the one thing I did was make marketing a three credit class while most everything else is two because at least I recognized they needed a little bit more. Now of course in this new age of the music business where everything has gone digital, marketing has just taken a whole new life. It's sort of redefining itself as a discipline in the business. Our students are finding that there's a whole realm of career paths that involve having an expertise in marketing because more and more of the music companies now are outsourcing their marketing as supposed to big staffs of in-house people. What they need is that expertise in the online areas. Knowing how to use the technology and social media is huge now.

Do you think that consumer orientation is increasingly critical?

Yes. Everything is direct to consumer and about establishing your customer base and fan base. We know that we have to put more emphasis into marketing. But what drove this process in this first major overhaul of the major since 1993, was the new core of studies in liberal arts. We were directed by the accrediting body to devote one third of the total degree credits to liberal arts. We took our statistics and economics and moved them into the liberal arts core. So we looked at the whole again and said, lets redo the tracks and add some more courses. But we also looked really philosophically at it, knowing that the next generation of managers will have to know something about all of the elements of the artist's career. It's no longer the person who helps them negotiate their record contract. They have to know something about publishing, marketing, branding, endorsements, merchandise and all of that and so we kind of pulled all of that into the new management track. To the entrepreneurial track we added some courses like business start-ups, Creative Promotion in New Media, and the Entrepreneurial Practicum. For the marketing track, we took the existing marketing course which is a 400 level and dropped it to a 300 level with fewer prerequisites and it's still required of all majors and then we're adding an advanced marketing course in the new marketing track. So you see we'll have two levels of marketing now.

Today's students have to have both specialization as well a solid knowledge of the overall picture. It seems that while it is a big goal to preserve a well-rounded program we are heading towards more in depth and specialized tracks and education.

Yes, we are, and our thinking is, in general, what do students need to address this changing landscape in the music industry? They need entrepreneurial skills. Any music program that isn't giving that a strong emphasis, I think is going to lose out. Everything is becoming less 'corporatized'—people are starting businesses now, they are developing businesses because the technology is allowing that more so. So they need those skills and going along with that they need technology skills. We've been offering a class called Managing Technology-Driven Business that is going to be a required course. I'll sound that alarm right now. We discussed this and thought they are going out into a world of business, and no matter what they do, to have some knowledge of how technology is used in business is critically important. That's one students may have to get used to. But it's a balance and I think a well-conceived music program has that balance of the busi-

ness basics or fundamentals, along with the more specific practical skills in the various areas of the industry that they may be interested in, the technology that is applied in business, and hands on experience. I believe you have to offer students hands on opportunities. We have the entrepreneurial practicum, senior practicum and of course internships. That'll never change and I really like what the Office of Experiential Learning is doing building up the range of offerings for internships which is also adding to the students' range of things to have on their resume. The balance also includes communication skills. We have not made Business Communication a required class yet but we can only hope that students recognize that it's so important.

Another subject I want to quickly mention is the touring aspect of the business. The touring industry is still very healthy and growing overall. Do you think that our program should focus more on this part of the business?

I do. We have seen a number of students who have gone into booking, touring, and tour management. The live business is always going to be there. The one question mark about it as you look on to the future, are we going see stadium acts once the current roster is gone? You have to wonder if there are going to be acts continuing to develop that can fill stadiums. But regardless, there are going to be live performances of different sizes. My sense is that there will always be acts that can fill venues like the House of Blues, the Orpheum, and that kind of thing. Gillette stadium—who knows. But there will always be a need for an infrastructure that supports the live music industry. We brought Jeff Dorenfeld's two courses into the management track. Intermediaries and Concert Promotion will be a part of that track because that is the new generation manager who understands the importance of getting his or her artist out on tour. We are certainly not giving touring any less emphasis.

When will these new tracks come into effect?

You know, I'm giving you advance information and I am comfortable talking about it because I am confident that it has gone through the process. I have submitted these changes just in June.

So would 2010 be a good guess?

Well, yes, the proposals were to take effect for the most part in spring 2010, which means that as soon as that grid is published, that becomes the new contract for the students who come in. But we're going to be phasing this in over the

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next two or three years because there are still students here who are under the old contract and we have to allow them to continue that way if they choose to but they will have the option to move to the new contract.

You have mentioned earlier that there have not been many or any changes in the program since its launch in 1991. Looking at the ever-changing and increasingly fast-paced music industry today, do you believe that it will become a bigger and bigger challenge to educate students in this field?

I think what we have to do is really keep an eye on the direction of the changes, so that we understand where the jobs are and where the career tracks are developing. We cannot hit a moving target directly but we can at least get a sense and know the basics we have to prepare the students with so that they can adapt to it. We're not going to have a course called 'these are today's jobs and this is what you have to know,' but we can have courses that help students think creatively about their future and how they can continue to adapt to this changing environment.

The business mode that is going to save this business, especially the recorded music business, isn't there yet because it's a combination of cultures—and the technology hasn't come about yet, nor has the willingness to accept some new ways of thinking about it. The one that's constantly being argued about is if the internet service providers would pick up the licensing for music, and just build it into the service—so when you subscribe to Verizon for your internet service, your bill includes music and it feels free but it isn't. But in order to do that, you have to have the technology that supports it so that the rights holders get their share out of that. It's a major undertaking for the ISPs to go that route. And of course the other thing is as some European countries are now starting to do is the so called 'three strikes and you're out' legislation. France is that close to making it a law.

You're going to have something like that going on to draw people back into the mindset that music has value. I have said this probably too much, but it's been 10 years since Napster started all of this, it set the industry on its ear, and they've been reeling ever since. But the challenge has been monetizing all of that digital consumption. How do you do that to a scale of operation that provides meaningful revenue and allows these businesses to be profitable? And by these businesses I'm talking about the ad-supported and subscription services. They're not profitable yet, and the reason is that they have not been able to build to a scale of opera-

tion where they can be profitable. There are not enough advertising dollars, and enough people are paying for the services.

And that is probably one of the biggest challenges today's music business students have to figure out.

That's absolutely right and to me that sounds like a fascinating challenge. How do you help this industry bring itself back to profitability. What is that business model that you can present to the consumer and they're going to say: 'Good, that's what I want and I am willing to pay what you say I need to pay.'

It really seems to be not only an economical but a social experiment.

It is, and it's been a real challenge because as long as it's out there for free you have to offer something that makes people say I'd sooner do this than get it free.

What do you think are the most important qualities a graduating student from any music business program needs to have and the most crucial steps he/she has to take?

Number one has to be passion. I always think of one of our earliest graduates here at Berklee. His name is Joe Kara, he's been back here many times. He's VP of marketing at New Line Records and I always think of Joe as the kind of person who can't wait to get up in the morning and go to work. Because he's just got that passion. So you have to do your own self-assessment, and if you have that burning desire, the fire in the belly to work in the business, that's number one. And then think about the broad-based level of skills, experiences and thinking that you can bring to a business environment. When they're going to take you on, they're going to want to know—What do you bring to us? How are we better off by having you here? Your resume shows the academic or professional experience you have. But communication is also important and of course, technology skills. Be tech savvy and certainly internet savvy. My generation will never understand social media as yours does and that's OK, but yours needs to understand it really well. If I were sitting here interviewing you for a job that's what I'd be thinking about. Can you bring that to my business because we need that and you are much better equipped.

So graduates should be able to assess situations, know where to find information, and adapt quickly accordingly?

That's right. Flexibility, adaptability and out of

the box thinking. It sounds like a cliché but every business needs that. They need people who bring new well thought out ideas with some notion of how they can be implemented. That's the right combination of the right and the left brain. The right brain, you have the idea, the left brain, you figure out how you're going to implement it. The successful people have a measure of both.

How many students are in the major right now?

I just got the count, as of right now there are 424 students in MB.

And you started with how many?

Oh, in the fall of 1992 when we opened the doors we had 46. We saw a dramatic growth from 2002 to 2007 and it's slowed down a little bit since then.

How do you explain the decrease in growth?

A few things have changed at Berklee, and now that we are auditioning students, we're not sure whether that has changed the profile a little bit of the student who not only gets into Berklee, maybe even who applies to Berklee.

How do you feel about that and what do you think should or might change?

When the college embarked on this new plan of auditioning all students, it was really made clear, and this came from the president, too, that it couldn't be all about the audition and that we still needed to view the so called 'x-factor,' which is everything else. What else is it about this student that's applying to Berklee that says this is somebody that we should consider separate and apart from how well they do on the audition. Now of course they have to have basic musical skills—it's a music college, there's no argument with that. But at the same time, all of us in the non-performance majors want good students to fill up our classes and we are preparing industry leaders, people who are less interested in the performance aspects of the education and more interested in what we're doing here in the major. So you know, we need good students and we can only hope that the interview is getting those students for us and is allowing those students to come forward to be accepted. We don't think that there is any unfairness going on, but it is possible that there are prospective students out there who would love to come here to study music business, and could perhaps do quite well in it, but don't apply.

And there are many examples that prove

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that you do not have to be a musician to succeed in the music business.

Yes that's true, you can, but we still have that tension point that it's still a music degree and a music college and having said that, I would be so bold as to throw out to you what I think could be a solution. I don't say this because there is any definite movement toward it, but perhaps at some point we can consider a Bachelor of Arts degree that has some different admission criteria attached to it for those students. I am absolutely sure that there are many students out there who would love to come to Berklee to study music business but are so intimidated by the audition that they don't apply. And so perhaps we can offer them a different program of study, slightly different. You know if the college were to say, OK, you can have a hundred students for your BA in music business we'd get them in a heartbeat. That's a maverick thing to say perhaps, and if you're asking me about my vision for the future, that's one I really like looking at—the day that we can do that, because I believe that would afford the best chance of considering how we can continue to produce real industry leaders. It's not to say that there aren't great musicians who can come into this program and do well and really make us proud because I'm sure there are. But I think we allow ourselves a whole other pool of really good prospects if we can perhaps refine the admissions criteria in a little different direction.

It's been a great ride for me in the last 18 years, and it's the students that have propelled us forward. We hope that we keep getting those students who have that burning desire and who push us and nudge us.

Darwin At Music School

By: *Nicolas Adam Owens*

For most of us, life is not served on a silver platter. At a music or arts school, like in most educational establishments, you have to find your way and discover your own strengths. There you are, one step away from the real Darwinian challenge of making it in the real world and wondering if you could not be better served, after all, by having skills that you see yourself using.

You realize, of course, that school may be there so that we can learn to teach ourselves for the rest of our lives, and that eventually everything you learn is recycled anyway, one way or another. However it takes patience

to accept this, and a bit of faith, as gradually life after college crescendos its deathly gaze. Meanwhile, you question if all that learning is really going to make a difference for you.

Sure, it is easy to blame the system. Colleges need to be accredited to sustain their enrollment. They have to serve an obligatory diet of mandatory classes that you ingest but don't always digest. Regardless you tow the line, believe in the greater good, and hope that your will lifts yourself over the competition.

The good news is that, if you are like me, you may have already experienced your fair share of self-discovery, creative implosions, and many, many, trials and tribulations. You can tell yourself that this may be the crooked path that a well-examined life recognizes as its own—not the predictable existence of your other distinguished peers in the ivory tower. Good music schools can really make one confront life and ask tough questions to oneself. As the self becomes vulnerable, it struggles, among other things, over the curriculum. Why have someone prepare you for certainty, when uncertainty in the end rules all our lives?

I also remind myself that a college education has never been the final answer—at least in the modern marketplace. Many of the so-called “people skills” are learned early on and become an intangible but determinant factor in our future employment. College may have little to do with this particular set of skills, and arty environments can be snobbish. In my freshman year, I remember not knowing about “Giant Steps” or The Rite of Spring and this was positively embarrassing. Later, I realized that I was mirroring much insecurity and posturing elsewhere.

But the flexibility and malleability of character that you develop in a creative environment is very much of an asset as we step out of college. A priori knowledge can get you far when a problem seems new. In most cases, there are no easy solutions, obvious sound-edits to make, or quick fixes to fall back upon. Today, it is even difficult to read clear-cut charts in Billboard and therefore keep track of the music the public buys! Even a record label has to start from the premise that every artist is a unique product. In the end, old-fashioned ingenuity and talent of all sorts are always at a premium in the arts because the continuum of emotion does not lend itself easily to the measurement or application of the scientific method. Bob Dylan's voice may not have passed audition at an established music school today, which suggests that there is still confusion over those who deserve their place in musical heaven and those who are

rightly placed in the dustbins of musical oblivion.

Again, no one can teach how to be passionate or artistic. Therefore, it may be sufficient if the purpose of a music school is merely to help you learn how to embrace failure. Naturally, its environment would have to be conducive to alternative choices where success is forthcoming, and a new “real learning” can take off. But if “real learning” depends on your previous experiences, then everything learned is in some way useful.

This is the catch-22 that the top music schools in the land have to confront as they move away from only teaching music. It is not the fault of the accrediting institutions that ask for higher doses of liberal arts credits. Today at Berklee and other music institutions there is a smorgasbord of music and non-music class offerings. Depth of choice allows for a fluid trial-and-error educational experience, and learning, as long as it provides relief towards an eventual port-of-call, does soar.

This depends, naturally, on an abundance of study programs that help students reassess where they are best suited to succeed. Some performers go into business. Technology buffs can consider the practice of healing through sound. Such stretches of the self are fostered by an open-ended curriculum that considers musical and non-musical offerings as indispensable for success. Naturally, for this to work, many resources have to be in place, and student management must be geared towards the right channeling of individual needs. I have chosen the Music Business/Management program, and it is interesting that the tension there now is figuring just how far away from music a curriculum needs to shift, while maximizing the education of musicians.

Darwinism, in short, is alive and well in the best music schools today. They are forced to adapt to an increasingly complex non-musical environment, as this recognition is key to the survival of their students beyond the college campus.

MODEL WORK

A Decade to Remember

Changes in the Music Industry, 1999 - 2009

*Model work features the best paper of a major assignment from an MB/M class. The candidates are chosen by the professors(s) of the course, then The MBJ chooses from blind submissions. The following piece was written for Peter Alhadef's Economics class. *Note: all essays are edited for placement in the MBJ.*

By Michael Benson

The digital music revolution started with peer-to-peer file sharing late in 1999 and changed forever the terms of recorded music transactions. Consumers suddenly could enjoy unprecedented access to near limitless amounts of music and media. Record companies and some artists decried the wide spread abuse of intellectual property, and lawsuits from the Recording Industry Association of America (RIAA) eventually started in earnest. The RIAA sought to protect not only the integrity of copyright law, but also the revenues of the rights holders (artists and record companies).

The Value of Musicians' Rights and Retail Prices.

Evidence suggests, however, that the devaluation of music started back in the 1990's, even before file sharing begun. Two instances of this will be given below.

In the United States, the Copyright Royalty Board (CRB) is responsible for setting royalty rates for both the manufacturing of records, the digital transmission of music over the internet, and a number of other transactions concerning the ownership of intellectual property. However, since 1976 the mechanical rate for sound recordings (SR) in the U.S. has not been keeping up with inflation, thanks in part to RIAA lobbying in congress. After accounting for inflation, today's rate of 9.1 cents per song per album as set by the CRB is around 10% less than the rate set in 1976.⁽¹⁾

Today, artists and record companies find themselves scrambling to make up for lost revenues, which has finally translated to the arduous-and-ongoing adaptation of the digital medium- as it was not more than a decade ago completely uncharted and un-monetized territory to the recording industry. Some would argue the reluctance on the part of record companies in paying more attention to the potential stored in the digital medium and in the Internet is a culprit in the huge decline of industry revenues since the late 90's. It has been said that as much as 95% of music that is digitally consumed today is

done so without proper compensation to rights holders.

One of the drawbacks of selling music as a physical good is an obvious one: if it is tangible, it takes up space. Retailers need a lot of it in order to have a diverse enough catalogue of music in their store that can appeal to the widest possible audience. By nature, this is one of the many strong points of a digital medium- all of a sudden you have unlimited shelf space, and 'rent' instantly became a negligible expense for online retailers. This, along with not having to buy or hire trucks to distribute the physical good, led to the advent of the digital download marketplace. Apple's iTunes music store was among the first to capitalize in junction with their newly released portable mp3 player, the iPod.

"Digital sales" include all downloaded singles, albums, kiosk and music video purchases, mobile downloads, subscription-based-model revenues, and digital performance royalties from internet radio and streaming sites. Since the introduction of the digital music marketplace, much has changed. Wal-Mart, America's leading music retailer, opened its online music store in March 2004⁽²⁾ while undercutting iTunes by 11 cents per song download. Amazon.com opened its own online music marketplace in September 2007. In early 2009, the leading online music retailer (Apple iTunes) began to incorporate a variable pricing strategy poised at \$1.29 for major label hits, the standard \$.99, and the bottom bin \$.69 price level.

One main improvement for the industry in this respect is that labels now have control over pricing, NOT the retailers, which had historically been the case because of the costs involved in distributing and storing/displaying physical media. This makes room for extra pricing strategies on the side of the labels—giving them, in effect, more control than they ever had.

In 2008, digital downloads in the U.S. accounted for 32% of all music purchases, a 28% increase over 2007 (in units sold)⁽³⁾, and that number continues to grow as consumers become increasingly comfortable with making digital purchases of music online and through handheld devices. As many new gadgets are in continuous development and evolution, such as the next generation of smart phones like Apple's iPhone 3GS, R.I.M's Blackberry lines, and the Palm Pre, music will continue to play a key role in the utility of these and subsequent devices.

Gaming and Full Access To All Recordings

Video games account for 35% of total digital revenues worldwide.⁽⁴⁾ It is no surprise then that the music industry would eventually come to share a greater common interest with the gaming industry. In 2005, the first of the Guitar Hero™ franchise games was released with great success. Since then, competing franchise Rock Band has formed, and both titles have enjoyed continual popularity.

Apart from sales numbers, this speaks volumes to the importance of listener interaction with music. Gamers today strap on a guitar-controller or drum pad or a microphone and play along to their favorite songs, feeling as though they are directly in control of the music being played. This has been a new and profitable outlet for artists and record companies whose songs are requested for licensing into these games. Even acts such as Aerosmith and The Beatles now have their own music-video-game titles, while content expansion has been made possible through download from the gaming systems' Internet connection.

Through this multi-faceted process of re-monetization, a new model has emerged: the 'full music access' model. In this model, Internet users are offered music and content bundled with their Internet access, including a subscription option for an added fee. Nokia is one of the leaders in the field, and its "Comes With Music" program offers unlimited music access for a year (once a year is up, users have the option to download files permanently; eligibility for the program is granted when a consumer purchases a Nokia phone, specially priced to incorporate CWM). Sony Ericsson has developed a model similar to Nokia's via its "PlayNow" Plus service on special edition Walkman phones. TDC, a mobile and broadband service provider based in Denmark, introduced PLAY in April 2008- a bundled music service that offers unlimited access to 2.2 million songs for mobile and broadband customers without additional charge. This has helped TDC capture a large share of the Danish market. Other service providers in the UK, Ireland, and France have followed suit with the knowledge that music enhances the utility of Internet and mobile access. That added utility has demonstrated the ability to help providers retain their existing customers, while expanding their market share.

ISPs then, have begun to play an ever increasingly important role as the conduit between content providers and consumers. While

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most have steered away from policing their networks for file sharers, it has become clear that in order to have the consent and access to the world's top sound recordings rights holders (the major labels), ISPs must participate in the process of discouraging illegal downloads.

More Controversy on Artists' Rights

Internationally, it is common practice for broadcast performance royalties to be paid out to record companies and artists for the use of their original sound recordings in over-the-air radio broadcasts. Not so in the U.S. as lobbyists and the National Association of Broadcasters have up to now had success in preventing such a measure from being introduced into legislation. This has two negative effects. First, internet radio and streaming sites have historically found it difficult to compete with terrestrial radio because of the relative high cost of streaming royalties charged against stations like Pandora and Last.fm. Second, this is a huge loss of revenue for artists not only by preventing performance royalties pouring in from US terrestrial radio stations, but also internationally. U.S. artists cannot collect performance royalties from international stations unless the US reciprocates with Europe.

This may change. In May 2009, a House of Representatives Judiciary Committee approved the Performance Royalties Act. If passed by the House and the Senate, and signed by President Obama, terrestrial radio stations would at last have to pay record labels for the right to play sound recordings (in addition to the fees they already pay songwriters via BMI, ASCAP, and SESAC, which conforms to international standards). The bill is still a work in progress, and it was approved despite the lack of completion of any directed study concerning the impact of such a bill on radio stations nationwide. Much to the chagrin of the National Association of Broadcasters (NAB), the issue is finally being addressed after it was tabled in order to pass an updated Copyright Act in 1976. Some inequalities still have yet to be addressed however, as small broadcasters in radio will likely pay 20 times less than what small webcasters have to pay for broadcast performance rights for stations with revenues less than 100,000 annually- while the small broadcaster with revenues up to 1.25 million would pay 5000 dollars per year, about 1/30th of what webcasters of similar revenue numbers would have to pay.⁽⁵⁾ The NAB maintains that payouts of these royalties will do serious harm to the revenues of terrestrial broadcasters. However, Congressman Rick Boucher has urged broadcasters to begin negotiating with the RIAA for the implementation of a fair rate, as the CRB is likely to set one for them if they don't (see an update in our Music Law section, p. 4)

Multiple Rights Deals and Partnerships

These days truly are the Wild West for record label business models, and multiple rights deals (commonly referred to as 360 deals) are all the rage. Instead of only earning a return on records sold by a given artist, record contracts are increasingly stipulating the importance of secondary streams of income to labels- merchandising, tour revenues, and other earnings. This has been perceived as a coping mechanism for the sharp decline in record sales revenues over the last decade. Record labels insist that they now have an ever-greater vested interest in the long-term success of their artists, one that requires that a label develop a strong branding strategy for their artists.

Labels make the argument that such a branding strategy requires a larger investment in their artists including greater tour investment, and as such deserve a percentage of the various revenues they generate.⁽⁶⁾ They also point out that a larger initial investment would also be justified if the label were guaranteed sources of ancillary income, potentially provoking a more patient response if an artist or band doesn't sell well from the onset.

However, in times of vastly declining record sales, some artists have turned away from relying on record sales and have embraced giving their music away for free as an investment in the potential for greater tour revenues. To those managers and artists, Multiple Rights Deals are anathema, as the last thing they could wish for is their label to take a cut out of such a valuable asset.

Time will better tell the triumph or failure of the 360 models, but it should be taken as a good sign that labels are ready and willing to change the way they do business if it means greater profits in the long run. Let's just hope these and future models refrain from doing any more damage to artists at a time when many young talents turn away from a career in music due to its substandard livelihood potential.

1 Peter Alhadeff, "Mechanical Royalties and the CPI" - Berklee Econ Class Handout, 6/09

2 "Wal-Mart Opens Online Music Store, Undercutting Rivals - WSJ.com." Business News & Financial News - The Wall Street Journal - WSJ.com. 17 July 2009 <<http://online.wsj.com/article/SB108005221392062867.html?mod=article-outset-box>>.

3 RIAA 2008 year end shipment pdf handout

4 DMR 2009 pg4

5 Broadcast Performance Royalty : Broadcast Law Blog." Broadcast Law Blog : Broadcast Lawyer & Attorney : Davis Wright Tremaine Law Firm : Broadcast Law Blog : Seattle, Los Angeles, Washington D.C., New York, San Francisco, Shanghai. 15 July 2009 <<http://www.broadcastlawblog.com/articles/broadcast-performance-royalty/>>.

6 "The New Deal, Band as Brand." The New York Times - Breaking News, World News & Multimedia. 18 July 2009 <<http://www.nytimes.com/2007/11/11/arts/music/11lead.html>>.

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BUSINESS ARTICLES

Direct To Fan: Offer - Focus - Acquisition

By Michael King

Anyone that has been following music business trends for the past few years is likely familiar with the high profile direct-to-fan campaigns (those that focus on the monetization of an artist's fan base directly) that Nine Inch Nails, Radiohead, Imogen Heap, and others have been involved with recently. As Mike Masnick put it in his 2009 NARM Keynote, the recipe for effective direct-to-fan campaigns (hereon DTF) can be boiled down to: Connecting with Fans (CwF) + Providing a Reason to Buy (RtB) = \$\$\$.

This makes sense, right? The difficulties arise when you consider that there are five million bands on MySpace, all of which are vying for the consumer's attention. It's easy for NIN and Radiohead to connect with fans, the skeptics note, as they have had years of major label support and hundreds of thousands of existing followers to work with. How can a developing artist in this climate differentiate oneself from all the other bands out there?

The answer can be slightly more nuanced than Masnick's formula above, and to me, is based on four key elements:

- 1) Setting up an effective offer page on your site that is tailored to your marketing goals while judging where you are in your marketing cycle
- 2) Expanding your digital touch points through creative fan-acquisition techniques
- 3) Integrating your online and offline marketing toward the same goal, and lastly-
- 4) Once you've created your groundswell of support, integrating effective third-party digital and physical marketing, sales, and distribution (such as Tunecore) outlets into the mix. Let's illustrate these elements with two examples.

Example 1: Fanfarlo

Creating an Effective Offer Page Tailored to Acquisition

Although they were supported by NME in their hometown of London (who have called their release "a carefully orchestrated treat"), and have some high profile fans in the members of Sigur Rós, Fanfarlo found that they were having a tough time breaking into the US market. Fanfarlo's music is undeniably great (aside: the first step, of course, in any marketing campaign is to have great music; without this, any DTF marketing campaign will fail) and as such, the plan for breaking Fanfarlo relied a lot on getting as many folks to experience their music as possible, with the end goal of gaining

enough interest to pack the Mercury Lounge in NYC (capacity: 300).

The band initiated their acquisition-based campaign by looking at what assets and connections they could leverage. Fanfarlo shot a low-cost video, dug up some unreleased tracks, and recorded new acoustic versions of existing songs. Of particular note, the band's management reached out to Sigur Rós, who agreed to mention Fanfarlo in one of their emails to their fans.

Prior to any outreach from Sigur Rós, the band knew it was crucial for them to create an offer on their site that would make their music as accessible as possible, while simultaneously creating a sense of urgency. Again, as monetization was not the driving force behind their campaign at this stage in their marketing process, Fanfarlo decided the best course of action for building up their base was to provide curious potential fans with the opportunity to purchase their record for \$1.00 (for a limited time), in exchange for an email address (which provided the band with permission to engage with these fans directly at a later date). The band adjusted their site accordingly, employing best practices with SEO and Web IA, and created an offer page dedicated to highlighting their music while making it easy to purchase via one click from the offer page. The result was simple and engaging, while pleasing to the eye.

Along with their redesigned offer page, the band adjusted all of their social media pages (visibility on MySpace, Wikipedia, Facebook, Last.fm, iLike, YouTube) with appropriate offer copy/images, and links to the offer on their proper site. Once all the back-end was done and Fanfarlo was ready for the traffic, Sigur Rós hyped the band in an email to their fans saying Fanfarlo essentially had an "offer

you can't refuse" waiting for them. In exchange, the band built up their email list, created a viral buzz on their new record, and not only had enough interest to pack the Mercury Lounge in NYC, they had to upgrade to the larger Bowery Ballroom!

Example 2: The Lights Out

Expanding Your Digital Touch Points through Social Media & Integrating Your Online and Offline Marketing

All marketing campaigns are different, and not everyone has the luxury of having support from major bands like Sigur Rós. But no matter where you are in your career, core-marketing principals hold true, particularly when it comes to effectively using social media to engage your fans and building up your base. The best example of social media campaigns are creative ideas that leverage the viral nature of social media to engage fans and effect change in not only the digital world, but in a band's physical campaign as well (which of course is still incredibly important to any all-inclusive marketing campaign).

The Lights Out is a Boston-based band working to raise their hometown visibility and acquire new fans to positively impact their touring base throughout the Northeast. On the heels of an oppressive heat wave in Boston in mid August, the band initiated a Slush Puppie "flash mob" online marketing campaign. The band found the appropriate location for the event by polling their Twitter followers.

Once the location was chosen, the band set up a Facebook event, which allowed them to update the status of the Slush Mob, get an idea of who was coming, and communicate directly with those that expressed interest.

The band then set up a Twitter hashtag (#), which organized all messaging around the event into a single live channel on Twitter search. The use of a hashtag also had the added benefit of becoming a "viral generator" for the

BUSINESS ARTICLES

The Live Nation Club Passport

event, piquing the interest of the band's followers' fans, and influencing activity at a level outside of what the band could do with their fanbase directly.

Once the existing fans were engaged in the event, Boston-based bloggers picked up on it, the market's *Alternative Weekly* featured info on the event, and popular Boston-based event and social media Twitterers did the same. The band continued Tweeting from the event and after, and shared photos of the turnout using Twitpic.

So, what did all this mean to the band's stated goal of raising their visibility and acquiring new fans?

The data:

- 20% increase in unique web site visitors
- 2400% increase in daily twitter followers
- 3,352 impressions from media coverage
- 66,160 impressions from Tweets and Retweets
- 195 impressions from Twitpics
- Approximate Total: 70,000 impressions

New fans also directly messaged the band, telling them how much they enjoyed the idea, their music, and expressed interest in attending future gigs. And, since this social media campaign included an offline component, new fans were able to bond with the band in a more personal way.

Again, all marketing campaigns are different, and should be employed in a way that focuses on the strengths and opportunities of the respective band. The specific tools will certainly continue to change as we move forward, but the principle of determining your core goal and engaging / developing your fan base to reach this goal will not. What's particularly exciting to me is that artists have the option to market and distribute their music directly, with less gatekeeper involvement, than ever before. We're in the early stages of direct-to-fan campaigns, but I think it is undeniable that there is a tremendous amount of growth potential in the segment – and is an area that artists, managers, and others (forward thinking, artist-service based companies, for example) have to look at very closely.

By: *Kathryn Eggleton*

Although Live Nation has been promoting new ticketing deals for concert goers during this summer, annual sales have so far disappointed. Customer deal turned sour in the summer when, for instance, the company offered \$5 lawn seats with the purchase of a five dollar foot-long sandwich at Subway. The offer seemed too good to be true and it was. It was "subject to availability" and, indeed, stocks of sandwiches were quickly exhausted! A later campaign, a "no-ticket-fee on Wednesdays" promotion, failed to catch on.

Within the context of Live Nation's likely merger with Ticketmaster, another "package" is on offer. Beginning late September, membership subscriptions are on sale for \$49.99 "all-in", allowing buyers access to "unlimited" events at the participating Live Nation clubs in selected geographic regions through the end of the year. The pass is good for one person and is valid exclusively at Live Nation owned and/or operated clubs (listed in their website by area).

On the surface, the deal looks promising. It provides more opportunities for artists and audiences alike, possibly increasing the frequency of performance and the cycle of attendance. However, given the current prices of concert tickets, going to a number of shows just doesn't seem to be an option for most people (as Live Nation's meager financial results suggest). Parking fees, for instance, will always be an issue—but for certain market less than others (Boston and New York use public transport and have the right venues, such as the House of Blues in Boston, and the Gramercy Theatre and The Fillmore in New York).

The so-called Club Passport might be a worthy buy for those who don't necessarily want to attend the big-name acts—which appear to be off-limit to Club Passport. A pass holder would have to go to about three shows of lesser-known artists to pay for the cost of the membership, and with the Club Passport good until January 1, chances are many concert-goers will be able to find one show a month they are willing to attend. The list of shows offered is updated every Monday on Live Nation's website, and a ticket can be reserved right from home, or wherever there is access to the Internet. As long as a subscriber has Club Passport and a valid photo ID, he/she just can turn up at the show. Live Nation's Facebook and/or Twitter pages give concert updates frequently.

Yet the Club Passport may not be much of a golden pass. The subscription is only good for participating shows at Live Nation's discretion. The decision is left up to the bookers. For instance, The Mars Volta, coming to the House of Blues Boston on October 7th, still has tickets for sale, but is not on the roster for the Club Passport. It is possible that Live Nation might include a few good acts—but if the show looks like being sold out it is anybody's guess whether or not a passport holder will benefit.

In addition, a reservation is not guaranteed. A passport holder must wait until 4:00 p.m. the day of the show to know if it is accepted, even for participating show. Moreover, the venue list in the passport area is subject to change. The Club Passport is only refundable within 72 hours of purchasing, so the buyer has to make a quick commitment to the purchase. One has to be willing to risk disbursement, and then wait and see if the rewards of membership yield positive concert-going experiences. The Club Passport in some ways resembles a standby airline ticket. Expending the time to get to the airport, may lead to a ticket—or not.

The problem is that Club Passport has too many exceptions and the fine print could really make a difference and spoil the user experience. The transaction is not straightforward, or at least does not seem so. More should be on the table, perhaps, including the possibility of joining a fan club, allowing advanced ticket purchases, encouraging merchandise specials and access to select audio and video. Buyers have to see something more tangible than what is currently available.

Live Nation's motto is "Artist Powered – Fan Driven". Their 1,600 artists have not been helped yet by the fuzzy logic of the Passport subscription. It could even pit talent against itself. If, purportedly, the company wants to maximize the live concert experience, it will have to simplify the promotion and give it an integrity it currently lacks.

BUSINESS ARTICLES

Twitter: A Day In The Life?

By: *Silvina Moreno*

Online social networking is quickly becoming a historic phenomenon. Sites like Facebook, LiveJournal, YouTube, Last.fm and MySpace are wildly popular. As the music industry tries to dig itself out of its hole, musicians have had to become more self-reliant in steering a path to their own success. New avenues for promotion become standard, such as a personal MySpace Music page—and a website, where you post your photos, tour dates, bio, contact, and other information. But to build up a following or feed a growing fan base, more is needed: a blog, a Facebook page, a Last.fm account, and use of a YouTube channel for uploading music videos. These are all part of a multi-pronged approach to creating a musical identity online. If fans are spending much of their time online, artists will be given exposure there.

Most recently, and since its inception in 2006, we have witnessed the explosion of Twitter. Twitter is a free social networking and micro-blogging service that enables users to send and read each other's updates, known as "tweets". Tweets are text-based posts of up to 140 characters, displayed on the author's profile page and delivered to other users - known as followers - who subscribe to them.

Twitter.com continues to grow in popularity and importance in both the consumer and corporate worlds. No longer just a platform for friends to stay connected in real time, it has evolved into an important component of brand marketing. Unique visitors to Twitter increased by a factor of fourteen in a one year span, from 475,000 unique visitors in February 2008 to 7 million in February 2009. In that month, Twitter became the fastest growing "Member Community Site". Zimbio and Facebook, followed way behind, each only duplicating members in that period.

According to a recent report from NPD Market Research, one-third of all Twitter users bought a CD in the last three months, compared to 23 percent for all Internet users. Moreover, one-third of all 'Twitterers' purchased a digital download—considerably more than the 16 percent of overall Web users who bought music online. The view that Twitter users are also more likely to buy music online than non-users is supported independently by another article published at www.beatcrave.com.⁽¹⁾

Could Twitter really contribute to saving the record labels from bankruptcy? The four major labels, EMI Music, Warner Music, Sony BMG and Universal Music, all have Twitter accounts, and they use them because it is a form of easy distribution, where they can expose the mu-

sic to millions of fans and stay in touch with them through a medium that "seems" more personal. In addition to this, every day more bands and artists also use Twitter to keep their fans updated and informed about tour dates and album releases.

There could be, however, an important difference between the Twitter pages set up by the labels and the artists themselves. Many fans argue that many of the 'corporate' twitter profiles from the majors are set up as feeds or bots and do not seem to have a real human behind them. This could be missing the point of Twitter altogether. Twitter can only present a new level of online interaction, if the users can maintain a more intimate contact (direct or indirect) with their favorite artists—not their label reps.

Twitter also does well with music referrals. When a friend or follower suggests a song on Twitter, people are more likely to receive the message and listen to it than if it were to be announced by e-mail spam, or even on an official site. Not to mention the fact that people who are used to using the Internet many hours a day, and using the several social networking sites, are also very likely to listen to music more frequently online, be it on social networking sites, online radio or music videos. This could also be a great advantage for self-promoting musicians, since mainstream music listening is already transitioning quickly from radio and records to online downloads and streaming.

The instantaneous nature of Twitter also encourages musicians to release music quickly. Singles, music videos, and remixes can be immediately distributed, keeping followers interested. A new habit for fans is to follow artist updates on Twitter rather than official website. A blog post from Grooveshark.com (a streaming radio site), gives starter tips for bands/artists who are looking to promote themselves through Twitter. "The best way to start is with a smaller circle of good friends, while your band is either touring or recording. Your own friends are a good starting point just because those friends can then recommend you to their Twitter friends by twittering your name, and you'd grow much more quickly from there." Grooveshark suggests a 30/30/40 'strategy'. "About 30 percent of your tweets should be conversational about everyday things the bands is doing, another 30 percent should be band business-oriented things like your CD release, and the remaining 40 percent should be you engaging your community."

There are many updates that artists can post on Twitter in order to increase their fan base and keep fans engaged. Some examples: updates from the recording studio; updates on the manufacturing process (announce when artwork is finished, when the master has been approved, when finished copies are delivered, etc); reminders about release dates; shows and other news; up-

dates from the road; news about different deals for fans; and also day-to-day work news. The latter post is one that especially makes many fans feel special.

It is good to remember too that an artist is not just sharing text but links to share audio, photographs, video, and even live video streaming off a cell phone. In this way, Twitter may open yet another door for fan-and-artist interaction. An example of this could be being backstage at a gig, warming up, and being able to suddenly give the fans a little sneak preview into what that looks like. As this can also be done from a mobile base, artists can seek contact while in motion.

Meanwhile, the list of acclaimed artists that have Twitter accounts continues to grow. They include Dave Matthews, Counting Crows, Moby, John Mayer, Jason Mraz, Trent Reznor, P Diddy, Katy Perry, Britney Spears, Justin Timberlake, Lenny Kravitz, Jamie Cullum, MC Hammer, Sonic Youth, Pearl Jam, among others. All of them have thousands of followers, some of them millions, and update their pages with posts of daily reports about their personal and professional lives.

However, Twitter is not for all. Some artists are uninterested, and/or afraid of identity fraud. Imposters can tarnish artist and professional reputations. Another issue is the "traffic jam" of useless information. About.com Music Careers' Heather McDonald writes that while "[Twitter] can be a great way to ... keep fans informed about your news; [the] trick is not to go too far and overload people."

It has also been said that twittering encourages bad social practices, including exhibitionism and damaging gossip. Elinor Mills, Senior Writer of CNETNews.com, asks, "[What] is up with this obsession the Twitter generation has with expressing itself and monitoring each others' lives? [In the past]...if you wanted to impress your friends with your clever thoughts or funny anecdotes you passed notes in class or gathered together to share the juicy details. That's not easy to do in 140 characters or less."

Still, the success of the Twitter website is undeniable. However, it should not be forgotten that an immediate online connection between an artist and a music fan offers only a partial glimpse into the life of an artist, and perceptions can still be manipulated. There may be nothing innocent about a Twitter feed. Access, moreover, is not everything. Where the message is really the music, and the best, and edited work of the artist is the final product, abusing Twitter could erode the singularity of an artist's output.

¹ Morelli, Miguel. "Twitter Is Helping the Music Industry." Music Blog, Music News Free MP3 Downloads - BeatCrave.com. Web. 28 Sept. 2009. <<http://beatcrave.com/2009-06-23/twitter-is-helping-the-music-industry/>>.

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- Discovering Music Through Recommendation Services
- And More...

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