Fund Raising and Venture Capital: 
An Interview with Jason Mendelson

By Peter Alhadeff and Aaron Gottlieb

Jason Mendelson, co-founder of the venture capital firm Foundry Group, recently co-authored “Venture Deals: Be Smarter Than Your Lawyer and Venture Capitalist” (John Wiley, 2011) with his partner Brad Feld. Mendelson is intimately familiar with the music and tech industries. Before joining Foundry in 2006, he was both a merger and acquisitions lawyer and a software engineer. Mendelson, a former professional drummer, confounds any stereotypes and offers a unique perspective on music enterprises and the entrepreneur-investor relation.

MBJ: Can you explain what the Foundry’s Group role is in the industry?

JM: Foundry Group, of which I’m one of the cofounders, is a venture firm based in Boulder Colorado. We have two funds – each have $225 million – and we’ll be raising our third fund some time in the near future. We invest in software and IT companies all over the United States. About a third of our companies are in California, a third are in Colorado, and a third are everywhere else, including New York, Seattle, Boston, Portland, and Austin. We’re four guys who are equal partners. We started the fund in 2006. We’re known for investing in Zynga (Farmville). Admeld is another one of our successes. Most venture firms will say, “We invest in SaaS (Software as a Service), or we invest in storage, or whatever.” Instead, we diversify our investments horizontally using a thematic approach with a horizon of ten to twenty years.

We work as a team and don’t look at music companies as being just about the music. The two that we’ve invested in – Topspin and Next Big Sound – utilize a technology infrastructure that people don’t necessarily know about, but affect how things work. Topspin is a direct-to-fan marketing and merchandise-selling platform for bands, and Next Big Sound is a service that mines the Internet for all sorts of music data that enables artists and managers to make informed business decisions. What these companies do doesn’t necessarily have to apply to music. The tools that they’ve created can be used in other industries, and we’ve found that particularly interesting.

MBJ: You recently returned from SXSW. Did you see anything there that interested you?

JM: I started going to that festival about five years ago after we had made the Topspin investment. At the time, all of the music companies were targeted toward the consumer, i.e., find your favorite band, make a fan page, and have an app that you can take to concerts and upload photos. They were all about the fan, and I’ve always been weary of targeting fans. As everybody knows, the music business has changed dramatically. It’s gone from selling music to selling other things and using music a vehicle for those sales. Bands are going straight to fans with no intermediation. “Fans” are sort of a fragmented market. We decided to invest in companies that target the bands and the record labels as clients. Many of the new companies at SXSW are now targeting the business of music itself – the makers and not the end user.

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EDITOR’S NOTE

With the often talked about changes that are being seen in the music industry, there is one important factor that is ironically overlooked – people find enjoyment in listening to music. This will always be the case, and as such it would seem that those who own content would be interested in having their music heard by as many people as possible. Yet, there is noticeable friction between newer music discovery methods and those who control something that is inherently made to be listened to. This issue of the MBJ examines such friction.

Frederic Choquette’s re-evaluation of Spotify highlights the growing pains that are associated with new subscription-based models. Megan Graney’s article discusses the lawsuit between SiriusXM and the government appointed SoundExchange, which is significant in that it examines direct licensing versus standardized licensing. Emilie Bogrand’s piece looks at how Internet Service Providers might do more to limit piracy. Luiz Augusto Buff, continuing our discussion on global rights, examines the World Intellectual Property Organization’s most recent effort in its push for music to be traded with less difficulty.

The cover of this issue is an interview with Jason Mendelson, a venture capitalist with experience in both the music and technology industries. In the interview, Jason offers an honest insight into the world of music startups. Other articles include an overview of the South by Southwest festival, a critique of the changes made to the Grammy Awards, and an expose on the marketing tactics of a Finnish metal band—this submission volunteered by professor Toni-Matti Karjalainen.

This is the last issue of the Music Business Journal that I will contribute to as Editor in Chief, and I am proud to be able to have worked with all of its collaborators. I’m certain that the MBJ will continue to provide much food for thought.

From all of us at the MBJ, we hope you enjoy this issue.

Aaron Gottlieb, Editor-in-Chief
MBJ: Why the B2B focus now?

JM: People are realizing that going after consumers is risky. Many startups have this consumer-targeted mentality, but are now out of business. They brought fire to the natives, and the natives were like “What do we do with the fire?” The music industry is, in a way, late to the game. It’s not that much different than the story of Billy Beane and baseball—the bigger attention paid to stats and metrics led to a lot of resistance from the sport’s old guard. The mindset “we’re baseball guys and we just know how it should be done” is the same as the old refrain “we’re music guys.” After the industry declined, this changed and a B2B focus is now helping.

MBJ: Are you perhaps seeing a new breed of music entrepreneurs who are succeeding with the help of venture capital?

JM: I think that the early digital music entrepreneurs, from 1999 to 2003, were fans of music who were passionate about it, but didn’t understand the business of music. They were able to raise venture money because everybody did back then. But coming out of the dotcom bust, music was mud. If you were running a music startup, all of the venture capitalists turned you away because they didn’t believe that digital music would make money. My partner, Ryan McIntyre, and I have always been interested in music. By 2003, we noticed that Napster and Pro Tools were changing the business forever. For instance, making a record, which used to cost up to millions of dollars, could now be done at home. We talked to entrepreneurs like Ian Rogers of Topspin and Alex White of Next Big Sound, and wanted them in our camp. Now, there are a lot more entrepreneurs like them. Today, the successful entrepreneur typically has a business background and is a super-fan of music, not a former musician who started a business.

MBJ: You have tried to educate the public about venture capital deals. Why did you do this?

JM: A traditional venture capitalist was an old American white guy. An entrepreneur would bow and beg to get money from him. If it were tendered, the venture capitalist would show up once a month at a board meeting and tell the entrepreneur what to do (even though that was the only exchange in a month). At the end of the day, he was mostly interested in walking away with his cut. There was no level playing field or information sharing. Neither was the Internet there. Whatever deals a venture capitalist offered were dependent on who the entrepreneur knew or not; there was no uniformity at all. In my opinion, it was kind of a dirty business.

When the Internet came about, it attracted more entrepreneurs. Some of them eventually sold their businesses at a profit and became venture capitalists. Before the Internet, there were maybe three hundred venture firms. Later, there would be as many as fifteen hundred we’re talking about massive growth. As a result, there were a lot more investors coming into the venture capital market who were inexperienced and greedy. Both the returns of the venture industry and its reputation hit a rock bottom.

MBJ: So, how did you go about it?

JM: Sometime in early 2004, my partner Brad Feld came to me with an idea. He said we should start a blog that uncovered many of the trading secrets of venture capitalists. Brad felt we would be performing a service and doing the right thing. I was hesitant at first, and he told me to sleep on it. The next day I had made up my mind; the subversion was brilliant. Why not? We started writing about term sheets, i.e. the final contract between a VC and an entrepreneur. We exposed the motivations of venture capitalists and contrasted them to the motivations of entrepreneurs. We showed what a good deal might look like for an entrepreneur. Instantly, we had a big audience. I remember we would get calls from professors at Harvard, Yale, and Stanford thanking us for finally providing them with teaching materials on venture capital. Entrepreneurs would thank us too. And, of course, we got angry e-mails from other fellow VC’s!

With the benefit of time, what we did appeared to make a lot of sense. The startup ecosystem is really the only true bright spot that we have in the economy right now and the US job economy needs it badly. Getting the right information out for business innovators and explaining how the funding process should work better for all the parties, both investors and business founders, is now a priority.

MBJ: What’s the size of the venture market now?

JM: We’re almost getting back to where we were in the late nineties. I would say there are about five hundred dedicated venture firms now. Music is really a small part of the venture market. But I’d have no problem doing a dozen music deals provided that their business fits into one of our chose investment themes. [Authors’ Note: Currently, venture deals are worth about twenty billion dollars a year, of which likely less than three percent is for music enterprises; a typical first round of music financing is in the single digit millions.]
Reassessing Spotify

By Frederic Choquette

Meagre Payouts

The most prevalent problem being debated about online streaming services has to do with their current payout structures. Although the numbers vary from one site to another, and apparently from one artist/label to the next, many individuals have publicly released their royalty statements in order to help educate their fellow artists. This is the case with a group called Uniform Motion, which recently announced that they made only 4 cents per time their entire album was streamed on Spotify. This amount seemed especially small when compared with the $8.59 obtained from a sale of the same album on iTunes. Another website called www.informationisbeautiful.com created a chart showcasing how much money artists earned from various streaming websites. Last.fm was paying out artists .075 cents per play, while Spotify only .029 cents for the same play per song. Such numbers make it extremely hard for any musician to earn a significant amount of money from these streaming services alone, no matter how famous they may be. A case in point is Lady Gaga: a 2010 article in the Guardian claimed that the hit Poker Face earned a little over $167 for the 1 million plays it received on Spotify in 2009.

Streams vs. Downloads

At first glance, the meager amounts paid out to artists by streaming services may cause many to believe that subscription based websites are really no better for artists than illegal downloads. However, it is important to analyze what exactly constitutes a “stream” and how this differs from actually owning the music, whether in physical or digital form. Services like Spotify allow premium users to stream songs as many times as they want, so long as they are connected to the Internet. The user, in fact, simply pays for the right to play it and never actually owns the song. As soon as payment is stopped, the user is forced to temporarily listen to advertisements in order to retain access to the streaming service. Following this logic, it would only make sense that royalties from streams be lower than royalties received from physical/digital sales, as in the former case, users never become proprietors of the music.

Threat vs. Opportunity

The problem with the reduced royalty rate is that many artists claim it may not be sustainable for the industry as a whole, and that if streaming were to ever replace physical/digital sales, many musicians would lose a significant proportion of their income. The main flaw with the aforementioned claim is that it takes for granted that streaming music online is likely to ever replace the more conventional ways of selling music, when no evidence indicates as much.

In fact, many Spotify users would argue that the service is used as a cost-effective music discovery tool, which continues to complement physical/digital sales. While they enjoy the ability to have access to the millions of songs in an online catalog, many customers may continue to desire to own music. Accordingly, Spotify could act as a supplement to traditional music consumption (digital/physical sales) rather than as a substitute, meaning that it may not actually threaten physical sales of music, and by inference, overall artist income. Moreover, streaming services could be seen as promotional tools, allowing consumers to discover new artists, which could eventually lead to sales that would have never occurred in the absence of the streaming website.

Crossing the Mark

This strict differentiation between true ownership (a digital/physical sale) and temporary right to use recorded music (a stream) becomes blurred with Spotify’s implementation of the “locker.” Premium users have the right to create musical libraries, store them on their electronic devices, and access these same songs offline, so long as the device is connected to the Internet at least once a month in order to verify that the monthly subscription is still being paid. This means that songs no longer need to be streamed, as they can be accessed from users’ electronic devices offline, and can be listened to anywhere. Although extremely convenient for users, the “locker” service no longer fits within the traditional definition of an online stream, and therefore should be treated differently in terms of royalty calculations. One of the basic reasons why people continue to purchase both physical and digital works.
I’ve noticed that more VC firms have been started in Japan and, especially, in emerging markets like China, India, and Brazil. Europe doesn’t seem to have as many. It is not such a friendly environment for startups, because their stricter employment laws, which prevent quick hiring and firing, run against investors’ interest in getting the best people aboard.

MBJ: Tell us about some of the changes you see in the financing of music.

JM: There is a shift from corporate to venture funding, which some entrepreneurs might find liberating. Today, regardless of whether you do-it-yourself or seek some kind of investment, the significant factor is that the cost of creating new business and new technology has dropped a hundred fold. I remember when I started in the venture capital business in the late nineties. It cost maybe five million to launch a website. Now you can do it for thirty dollars! There are companies today that have done extremely well on just half a million, but back in the nineties it would have taken thirty times that. Since a lot less money is needed now to get a business off the ground, the entrepreneur is able to retain much more control and still be successful. Apple was able to make a killing with iTunes and still give away seventy percent of all revenues for a set amount of time. When they bow out, the band gets to keep everything they make afterwards. These are successful.  Apple has not done that well since going public. Licensing terms are pretty draconian right now, but I think they’ll come down over time. I’m not opposed to investing in a license-based model, but it would definitely require some extra consideration.

When we started looking into music investments, we had businesses come up to us whose main selling point was the fact that they had agreements with all four major labels. Given the way technology was going, I never thought that a licensing deal was a long-term asset. It’s hard for me to get my head around license-based models like Spotify and Pandora. Pandora has not done that well since going public. Licensing terms are pretty draconian right now, but I think they’ll come down over time. I’m not opposed to investing in a license-based model, but it would definitely require some extra consideration.

I won’t touch a business that should have licenses, but doesn’t. I think it is theft. Unfortunately there are firms who have funded such businesses, and we all know who those businesses are because they keep getting sued. I was a lawyer for a company that invested in Napster early on and I advised them against it. There’s this sentiment amongst a lot of people in the tech industry that they don’t need to pay attention to intellectual property laws. Personally, as a former musician and lawyer, I think it’s stealing.

MBJ: Young entrepreneurs wish to protect their original business idea. What is your take on non-disclosure agreements?

JM: If you ask me for a non-disclosure agreement, you show you really know little about my business and it is a disincentive for me to invest in you. I get a thousand business plans a year, and maybe thirty of them will look just like yours. If I sign a non-disclosure agreement for you, I would be setting myself up to get sued after I invest in a similar business (you could assume I entered into that business after stealing your idea).

Our reputation is important and we don’t trade information.

MBJ: How should music entrepreneurs think about approaching investors like you?

JM: Most entrepreneurs think a lot about business strategy, which is good. Ironically, they spend little time thinking about fundraising. They’ll send bulk email pitches, or they’ll go to events hoping to meet their knight in shining armor. What they don’t realize is that targeting the right money guys for their company would probably help them more. Do some research. Maybe it would be a good idea to look into who has invested in similar companies. We’re all online. As a venture capitalist, I don’t want to see something that everybody else has seen. This is because everybody has taken a look and passed on it either because it’s a lemon, or they’ve all seen it, liked it, and now there’s a term sheet war and an unrealistic valuation. I don’t want to be a part of that. In order for me to have a successful business, I need to be able to find proprietary deals and cultivate relationships that are close to me and captivate me.

If you’re an entrepreneur, send letters to a few venture capitalists who you’re really excited about and want to know. Craft materials specifically for them. I answer every email that says, “Dear Jason, I’m a former drummer and I’ve started this company.” A guy sent me a picture of his DW drum set the other day after he saw a picture of mine that I posted on twitter. How am I not going to send this guy a reply?

MBJ: How does a Fund look at licensing issues in music?

JM: When you deal with music companies, there are businesses that don’t need licenses, businesses that do need licenses and have them, and businesses that need licenses but are operating illegally. I’ve seen all three types get venture funding. As a venture capitalist, I love businesses that don’t need licenses, because you’re not beholden to anybody taxing your business.

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MBJ: What about musicians?

JM: On the musician’s side it’s changing, too. In the old days, you got a record contract, you got an advance, you had to pay back that advance, and you may or may not have seen any money depending on how much your record sold and how your deal was structured. Digital tools, and Pro Tools, allowed bands to handle more of their own business. They have had some success.

There’s a new model that has emerged within the last twelve months. It’s the idea of a venture fund focused solely on bands. The concept is similar to a 360-deal. There are at least two venture funds that I’m aware of that offer seed money to bands. Investors pay for recording, marketing, and other costs and get a certain percentage of all revenues for a set amount of time. When they bow out, the band gets to keep everything they make afterwards. These venture funds have been started by old A&R guys who go out and scout their own talent.

I don’t know how this model will work out, but I find it fascinating. There’s been a lot of study on what makes a successful venture firm, and this new music-space could turn up some interesting research. For instance, one school of thought suggests venture investments in a few reliable businesses; another argues for smaller investments in a whole slew of companies in the hope that a few will make it. There is an optimal portfolio of companies for the right sized venture fund.

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IMR’s Scoping Report

By Luiz Augusto Buff

At the end of February, WIPO and its International Music Registry group (IMR) released a long-awaited “Study on the Role and Functions of the International Music Registry.” The MBJ has been covering the subject since December 2011, and last month we reported on a parallel initiative—the EU’s Global Repertoire Database.

The study’s author is Nicholas Garnett, now principal consultant with Interight.com. Garnett is an intellectual property and information technology specialist with extensive international experience in the management and protection of intellectual property rights. He worked extensively with research and development of digital rights management (DRM) systems, as well as serving as Director General and CEO of the International Federation of Phonographic Industries (IFPI) from 1992 to 1999.

In this article we will report on the main points of IMR’s study. Its coverage includes (i) a comprehensive explanation of the various current and planned global initiatives in the field of music rights databases; (ii) a description of the necessities of rights management infrastructure in the current digital environment; and (iii) a proposal of functions and roles for WIPO and the IMR to support infrastructure developments to match the music industry needs on a global basis.

Rationale

The Internet is widening the global access to entertainment services and products, but an intricate system of rights, complex licensing models, and constantly changing and fragmented ownerships of rights make it extremely burdensome for rights users, who want to create services and products that require the authorization of a vast list of copyright owners. According to the study “there exists at this time no globally integrated system of rights management information for any of the three subject matters of copyright or neighboring rights protection in music: musical works, performances and sound recordings.” In a world where access for music is ubiquitous, illegal services prospered offering and circulating music for free because they did not have to bother with licensing the content. For legal alternatives to prosper, it is paramount that rights users have access to information on who owns what and where in order to obtain proper licenses.

In the traditional structure of the music industry, an RMO is a rights management organization: “an entity which has a role in administering rights in copyright work, whether as the owner of such rights or in some other capacity, such as the agent for the rights owner.” RMO’s typically enjoyed a monopoly power in local markets, offering licenses on behalf of the rights holders. The system offered standardized business models and licensing practices and the RMOs could decide which sorts of data were irrelevant for collection and processing. However, with the shift in the industry came a shift in the paradigm of rights management. With new non-linear and complex structures—and sizeable global markets at stake—the RMO’s standard data-collection procedures seem to be less practical.

If on one hand technology is presenting challenges for the industry, on the other it is also offering new opportunities to support the increase in the overall demand for licensing. Metadata systems, fingerprinting and watermarking technologies, DRM systems, messaging protocol standards, and cloud-based systems are all examples of technological improvements that are essential to promote effective licensing structures and a global rationalization of rights management systems.

Interactions and Formalities

Understanding the core functions of rights management organizations in a manner that isolates the common denominators found among different kinds of licensing systems is an essential step to narrow the scope for the international registry initiative.

The nine core functions of the RMO’s were separated into three interactions called “rights holders,” “rights users,” and “internal.” All interconnect. For rights holders, the study illustrates issues involving the registration of works and participants, as well as the distribution of revenue. For rights users, the study examines the look up, licensing, and reporting operations. At an internal level, the study isolates dispute resolution and international reconciliation of music data.

Analyzing how these functions are performed across the globe, the study observes that for the most part there is a lot of repetition in the process: standardization and automation would be very helpful. Also, the way these functions are performed differently across territories has a direct impact on how music services are developed: some markets are excluded from accessing music services because the threat of statutory damages for unauthorized use is high and makes the development of a new service prohibitive. Better access to the relevant rights management information, i.e., easier look up terms for rights users, have a direct effect on revenue generation and the promotion of licensed services. In this regard, the identification with current technology of all the rights holders of a musical work would bring, it is argued, public awareness and access to that work and stop it from being the purvey of a few.

One important point noted in the scoping study is the prohibition of formalities for copyright protection. The Berne Convention established that no formal process should be required to guarantee copyright protection of a work. For instance, to secure a copyright in the US it is just necessary for a creative work to be original and fixed in a tangible form. Many countries have established voluntary registration systems for copyright in order to clearly establish authorship and ownership of rights. Garnett points out that the impact of digital technology and the Internet are challenging the status quo, suggesting the need for revision of the legal position of registration, as copyright may become meaningless without it.

Other Initiatives

When analyzing the ongoing and planned initiatives around the world, the WIPO study highlights that there is no single initiative that focuses on all the rights related to music at once, i.e. the copyright of the musical work, the separate right to its sound recording, and the claim over performance and neighboring rights.

As for the copyright of the musical work, it focuses extensively on the EU Global Repertoire Database (GRD) initiative, as it seems it is the one with most reach and potential so far. The study also lists the WIPO COS and the West African Network Project as an example of a regional effort for a database and data exchange system, similar to others already in place in Latin America and Asia.

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Regarding sound recording rights, the study refers to the ISRC identifier system, from the IFPI and currently the standard for sound recording registration that will soon need to be revised and updated. In neighboring rights the VRDB+ appears to be the reference application used for the identification of participating artists in sound recordings and audio-visual works.

Mr. Garrett carefully wrote the study to emphasize that the proposed IMR is not an initiative that is meant to overlap the efforts of these other initiatives, but to collaborate and serve as a registry of registries, in order to unify in a single place all the information necessary of a music work, ensuring interoperability and integration of the various systems.

The Context

WIPO sees a role as something similar to what was already created for patents and trademarks. As the music industry, especially in developed countries, is not yet convinced and even hostile of any direct involvement in the development of rights management information systems, the study emphasizes that WIPO’s involvement should avoid interfering with other industry initiatives. Instead it aims to support and enhance the potential of globalization by facilitating interaction between all the different stakeholders. One point of main concern for WIPO is to offer support for emerging countries such as the BRICS (Brazil, Russia, India, China, and South Africa). Also, WIPO sees its role as offering support for dispute resolution over intellectual property as one of its most distinctive and proven skills.

The need for globally integrated rights management systems may be clear for many who would argue that benefits would accrue to rights holders, rights users, and many other music intermediaries. Still, it is not evident at this point that there is complete industry buy-in. The declining fortunes of traditional revenues, such as royalties for sound recordings, together with the emergence of media and buying power in countries peripheral to the metropolitan economies, should at least encourage forward thinking and possibly compromise across stakeholders’ lines.

Footnotes


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Peregrination, defined as travel from one place to another especially on foot, is often associated with a religious experience. Not so the South by Southwest festival (SXSW). Yet there is a peregrination of sorts to SXSW by musicians, managers, filmmakers, brands, investors, startups, and music entrepreneurs in their many guises. This year, twenty thousand individuals attended.

Austin has becomes the mecca of independent artists – although over the years other participants have clearly joined the march. Moreover, SXSW started in 1987 as a local music festival but it has recently become a truly international event. This year’s SXSW lasted from March 9th to March 18th and offered a new and different approach, supplementing music-related themes with film and interactive media.

When thinking about SXSW, the general view is that it is a place where independent artists can pitch their music to A&R executives, managers, and record labels. Indeed, artists and bands such as Hanson, John Mayer and James Blunt were discovered at SXSW.

It’s all about branding

Hip-hop is becoming a larger and larger presence at SXSW every year. Several hip-hop artists have attended SXSW in the past and succeeded in getting major record deals. This year, many questioned why there was such a strong hip-hop presence, especially by an established artist like Eminem. One of the hypotheses is that there is a direct relationship between hip-hop and brand sponsorship. Brands are getting more involved with SXSW, and are funding all the big showcases for existing stars. Corporations like American Express, Doritos, Mountain Dew, Taco Bell, and Nike want to associate their image with the high-energy type of act that hip-hop music provides.

SXSW seems to embrace this type of marketing, even though it has nothing to do with discovering new talent, film, or interactive media. SXSW might reconsider going back to their initial mission of breaking new artists. Otherwise, it is in danger of appearing as merely a platform where brands use certain established acts to garner attention. There are other types of conventions for that purpose, and branding showcases might arguably distract attention from emerging talent.

Buzz and Noise

There were new ways of measuring the buzz that each event generated and keeping track of trending social media. Discovery apps were featured too. Some events generated more social media noise than others according to Radian6, a media monitoring company. Sessions featuring Google+ were mentioned the most. For parties, the most popular was AT&T’s Mobile App Hackathon–showing how apps are becoming a product in high demand.

An (app)ulated world

One of the most popular new apps was Highlights, an application that notifies users about the presence of others nearby with similar connections and interests. More applications that were presented with that same function were Glancee, Sonar, Kismet and Uberlife—hardly reassuring and even creepy in the opinion of your correspondent.

Giving SXSW Interactive a break after featuring so many social media discovery apps, Marvel Comics presented its own application. By pointing a camera at a programmed image printed on a comic book, the app allowed the comic to come to life by showing the characters in motion. Other featured apps were Zaaaty, a Craigslist look-alike app; Instagram for Android, a photo sharing app --which Facebook would purchase a few weeks later for a staggering $1 billion-- and Kinoma, a compendium of apps, such as Google+, all easily accessible from different dashboards.

Start It Up and Play

Not surprisingly, there were many music tech startups present at the show and an abundance of new company exhibits. SXSW is also as a place for the music industry to gather and discuss the future of the marketplace, so it was encouraging to see all time record number of venture capitalists mentoring music entrepreneurs. It is a testimony to the enduring power of SXSW that its early artist showcases ultimately triggered the success of the conference and brought in new industry players.

Indeed, when Smashing Pumpkins’ front man Billy Corgan suggested that performing income and its ancillary revenues, not recorded music sales, were key to the future, he was playing on the same theme. SXSW continues to reminds us that musicians, not the recording labels, will likely spearhead the necessary changes for an industry renewal.
Business Articles

Starbucks or Pennies: A Musician’s Dilemma

By Jodi Beggs

A good pricing strategy is critical for any industry, from automobiles to music. Even though economists and psychologists have plenty to say about prices beyond Economics 101, it is unfortunate that there is as yet no blueprint for recording artists. Also, a proper discussion and understanding of the tradeoffs involved between low and high priced alternatives is missing.

In 2010, musician Sufjan Stevens sent a letter to his fans via his record label, Asthmatic Kitty. There, he outlined his concern regarding the possibility that Amazon might sell the digital version of his album, The Age of Adz, at a low price point—as it had done with several other bands such as Arcade Fire, who benefited immensely in terms of promotion and chart placement. Stevens was especially concerned about the effect that a low price would have on consumers’ perceptions of the value of recorded music. For him, an album was “worth more than the cost of a latte” and should have been priced so. At the time, Amazon’s general policy had been to pay the artists and label the full wholesale price of the album and then, as a marketing tactic, sell the product at a loss.

It’s tempting to dismiss Stevens’ comments as simply being the manifestation of an artist being himself. From an economic and psychological standpoint, however, his view may have academic merit. To evaluate Stevens’ reasoning, in fact, the landscape of pricing research has to be considered as it applies both to recorded music and the music industry in general.

Exposure

There are a number of potential reasons to set a low price for a product. The first is basic economics—a lower price means that more people are willing and able to buy the product. Depending on how responsive consumers are to changes in price (how elastic demand is, in economic terms), it may be more directly profitable to charge a low price than to charge a high price, especially for digital products that have marginal production costs of virtually zero. For example, it’s more profitable to sell 10,000 digital downloads for $1 each than it is to sell 3,000 digital downloads for $2 each, since each additional download doesn’t cost anything to produce.

In addition, the benefits of increased sales volume potentially extend past direct profit. Psychologically, the mere-exposure effect suggests that people simply tend to view things that are familiar more positively than things that are unfamiliar. Therefore, musicians benefit indirectly when people buy and listen to their music because, to some degree, those consumers are increasing the familiarity of the music not only for themselves but also for others around them who hear it as well. This familiarity could result in sales of additional products such as concert tickets and merchandise to existing consumers as well as sales to new consumers.

The Power of Zero

In addition to the potential benefits from setting a low price, there is a specific psychological appeal to a price of zero. The attractiveness of a zero price goes above and beyond objective economic considerations, and free products appear to have an irrationally strong draw on consumers. For example, research by Kristina Shampanier, Nina Mazur, and Dan Ariely suggests that consumer preferences shift dramatically by simply reducing a cheaply priced product from one cent to zero cents. By this logic, if a musician is looking to use musical recordings as a way to gain exposure and to sell other products, and steal market share from other musicians, it may not make sense to set a high price or even a small nominal price. Instead, an overall profitable strategy would be to exploit consumers’ irrational desire for free stuff.

So far, it would appear that there are significant potential benefits to setting a low price or even a zero price for recorded music. Not surprisingly, however, the issue isn’t that simple, and there are a number of potential long-term drawbacks to low prices.

Buyer Beware

A low price will probably get more customers to purchase a product, but a low price may also cause people to not use the product as much. Psychologists Hal Arkes and Catherine Blumer, for example, provide experimental evidence for this “sunk-cost effect” by randomizing the price that consumers pay for a season series of theater tickets. What they find is that, despite the fact that the discounts were given after the purchase decisions were made (thus ruling out the possibility that the consumers who paid higher prices simply valued the tickets more), those consumers who paid a higher price for the tickets had a significantly higher rate of attendance over the course of the season. This phenomenon can roughly be thought of as people being determined to “get their money’s worth,” even when it’s not rational from an economic standpoint. Given that a musician’s goal is to get consumers to actually listen to and become familiar with his music (and thus be more likely to purchase additional products, suggest the music to others, etc.), setting a low price may actually be counterproductive to a degree if the low price lowers the amount that the consumer interacts with the product.

While economists generally presume that the perceived quality of an item affects the price charged and paid for it rather than the other way around, there is evidence that prices can actually affect both the perceived quality and the actual effectiveness of a product as well. For example, economists Baba Shiv, Ziv Carmon, and Dan Ariely conducted a series of experiments to determine the effect of pricing on the perceived and actual efficacy of a popular brand of energy drink. What they found was that the sticker price of the beverage affected not only how well people expected the drink to work, but also how well the drink actually worked to improve cognitive performance. Interestingly, this effect persisted even though subjects in the low-price group were informed of the actual retail price of the drink and told that they simply got the drink at a discount.

If this monetary placebo effect carries over into the music space, it could very well be the case that musicians are hurting their album sales via low prices, since a musician could be inadvertently lowering the perceived quality (and hence sales) of his music simply by offering it to the consumer cheaply. This effect is particularly important to consider if a musician’s goal in selling recorded music is not only to make money from the music itself but also to build a reputation for other products such as concerts, licensing deals, and merchandise.

First Impressions

Psychological anchoring may play a significant role in consumers’ willingness to pay for music, particularly digital music. An anchor, in this context, is simply an initial value—most times arbitrary—that imprints on a consumer and biases her future valuations of an item. Experimentally, the

(CONTINUED ON PAGE 11)
Copyright Infringement and Takedown Notices

By Emilie Bogrand

“Graduated response plans,” geared towards fighting illegal online file sharing, have been implemented over the past two and a half years in France, New Zealand and South Korea. The United Kingdom and Ireland are currently in the process of locking down similar programs. These plans involve systems by which Internet service providers (ISPs) link illegal activity to an IP address and account and send the identified user a series of alerts leading to varying consequences.

Abroad, these programs take the form of laws or legal procedures. As yet, in the U.S. they have not. In fact, there has been a strong and negative reaction to the SOPA and PIPA bills that content providers supported and this has put lawmakers on the defensive. Content providers are now seeking informal agreements to protect their interests.

The Center for Copyright Information

Recently, they obtained approval from AT&T, Cablevision, Comcast, Time Warner Cable and Verizon to consider building a Center for Copyright Information (CCI). On March 14th, Cary Sherman, CEO of the Recording Industry Association of America, and Fritz Attaway, EVP of the Motion Pictures Association of America, told the annual meeting of the Association of American Publishers that U.S. ISPs are now poised to initiate, by early July, a “Copyright Alert System.” The program had been penned a year earlier and, given the progress now made with the CCI, Sherman presented the initiative as potentially the most effective online anti-piracy effort to date.

Here’s how it would work. ISPs will issue approximately six warnings to users who download pirated media. Each ISP will have the flexibility to design their own plan under the following guidelines:

- When copyright holders discover that their content has been illegally downloaded, they will report it to the participating ISPs. By referencing IP addresses, the ISPs will identify the account linked to the infringement and send out a first alert. According to the CCI’s website, the nature of these alert will be both educational and deterring.

- The first and second alerts will likely come via email and will state that the user’s current account “may have been misused for the distribution of copyrighted content”. It will recommend legal options for obtaining media and offer advice on appropriate computer protection.

- The third and fourth alerts will make use of a more conspicuous format such as a landing page or pop-up window. The user will be forced to clearly acknowledge that they have seen the alert and the message will reiterate the consequences of illegal file sharing.

- For the fifth and sixth alerts, there would be “mitigation measures”.

The ISPs will have options to implement penalties. After Sherman’s announcement in March, rumors circulated that the ISPs would take the user offline by strike six. But the CCI website clearly states that the “alert system does not, in any circumstance, require the ISP to terminate a subscriber account.” It also does not say that the ISPs cannot terminate a subscriber account. The ambiguity is intentional, for ISPs don’t want to commit to taking subscribers off if they can avoid it; they don’t, however, wish to spell out what they might do, partly because they don’t have a full answer right now.

The ISP will have the power to decide what to do after issuing four alerts. Options include slowing Internet speed and redirecting users to a landing page until he or she either contacts the service to discuss the matter or reviews and responds to some educational information about copyright. The ISP also has the choice to notify the copyright holder who can then file a lawsuit.

The CCI designated its key members on April 2, 2012, including an executive director, an advisory board, and use of the American Arbitration Association to oversee what the CCI calls the Independent Consumer Review Process.

Jill Lesser will serve as Executive Director and is the managing director of The Glover Park Group, a public policy and lobbying firm. Lesser is also a member of the board at the Center for Democracy and Technology, a nonprofit group that advocates for free speech on the Web. She was Director of the Civic Media Project at People for the American Way and Senior VP for Domestic Public Policy at AOL Time Warner, Inc. Lesser was appointed by Thomas Dailey, Chairman of the CCI’s Executive Board and Vice President and Deputy General Counsel of Verizon Communications, Inc.

CCI’s board consists of top executives from RIAA, MPAA, Comcast, Viacom and AT&T. The newly formed Advisory Board will consult with the board about the Copyright Alert System’s design and implementation. Its member make-up could suggest a precautionary gesture to minimize the type of aggressive opposition that flared up in response to SOPA and PIPA. It includes an internationally recognized communications attorney and leaders from the following organizations: Public Knowledge, Internet Education Foundation, iKeepSafe.org, and Future of Privacy Forum. These voices, it could be argued, will also help protect the interests of the ISPs.

In addition, the American Arbitration Association, a conflict management organization, will review disputes that arise between the CCI and Internet users who believe they are being wrongly accused. This is important because under the Copyright Alert System, suspects are considered guilty until proven innocent.

The CCI claims that there is data predicting that most users will never go far enough in the alert system for mitigation measures to become necessary. The team expects subscribers to stop illegal file sharing after a few alerts.

(Continued on Page 11)
### The French Case

This is supported by international practice. France’s President Sarkozy recently made an official statement hailing the success of his graduated response regime. In 2009, the French government passed a law called HADOPI. It outlines a three-strike procedure that is similar to the CCI’s Copyright Alert System but different in that, in France, the third strike requires ISPs to suspend subscriptions between two months and one year while still collecting fees. The account holder’s name is also blacklisted and other ISPs are prohibited from providing Internet to the user.

The HADOPI office recently released a report spanning from October 2010 to December 2011 showing a significant decrease in online piracy and “a clear downward trend in illegal P2P (peer to peer) downloads.” The study shows that 95% of users who receive a first notice never received a second. 92% of those who received two notices never received a third. 98% of users who received a third notice were not reported thereafter for illegal behavior within the time frame set out by the law. The data was collected by the French Rights Protection Commission’s Information System and is based on about 750,000 records of subscribers that received at least one notice.

While the report in France reflects a substantial decline in illegal file sharing, legal media sales did not pick up. There was another factor to consider: the shutdown of Megaupload could have had negative effects on file sharing. Still, illegal online file sharing seems to be declining in France.

### Overview

Over the past year, some bloggers and journalists have exaggerated the nature of the U.S. plan, branding the ISPs as “copyright cops” or “big brother”. Some compared them to telephone networks and questioned what would happen if phone companies policed their subscribers’ conversations for illegal activity. The truth is that the ISPs are really just babysitting content. They are not responsible for policing their users’ downloading habits; this would go directly against the laws in the Digital Millennium Copyright Act. No legislation is being re-written. The content providers who own media rights are in charge of catching infringers. After years of trying, they found the right pressure points and finally convinced the ISPs to back them up.

Those pressure points probably sit on Capitol Hill. When the deal was first announced last July, U.S. Intellectual Property Enforcement Coordinator Victoria Espinel publicized the Administration’s support for the program on the official White House blog. Her expectation is that the CCI will consult regularly with “privacy and freedom of expression advocates,” evidently a condition to appease the ISPs and opponents of the plan.

Crucial details still need to be worked out. The ISPs are not empowered to implement penalties similar to HADOPI. It is unclear that they will suspend service after strike six. Moreover, ISPs have little incentive to act in the best long-run interest of the creative community. In France, for instance, the government became a feared arbiter in the service of content owners and creators; by contrast, the Federal Government has stayed out of the fray after the failure of the SOPA and PIPA bills.

Users of content will continue taking risks with file sharing sites. As long as ISPs are perceived to be docile caretakers of copyrighted materials and the U.S. government is unprepared to enforce tougher measures against infringers, the only hope for content providers will be the possibility of pursuing their own cases in court with better cooperation from the ISPs.

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**Footnotes**


ii) Ibid.


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**Conclusion**

While there are certainly both benefits and costs to setting a low price for recorded music, the points made above suggest that Sufjan Stevens’ concerns about price and the perception of value are on the mark. Based on the available evidence, it is likely and possible that setting what is considered a low price point for an album decreases listening and engagement, lowers the perceived quality of the work, and conditions consumers to not pay what artists would consider a “fair” price for their output.
Sirius XM vs. SoundExchange

By Megan Graney

On March 27th, 2012 PRNewswire reported that Sirius XM Radio filed a complaint against SoundExchange, Inc. and American Association of Independent Music (A2IM). The complaint was filed in the United States District Court for the Southern District of New York. According to Sirius’ complaint, SoundExchange and ‘the industry’ had used tactics that illegally prevented free market competition, and made Sirius’ efforts to acquire its own direct licenses with rightsholders nearly impossible.

SoundExchange is an independent, non-profit performance rights organization that collects statutory royalties from satellite radio, including Sirius XM, Internet radio, cable TV, music channels, and similar platforms for streaming sound recordings. The PRO was appointed by the Copyright Royalty Board, and ultimately the U.S. Library of Congress, as the collector and distributor of the above monies on behalf of recording artists, master rightsholders (record labels), and independent artists who record and own their own masters.

Sirius XM Satellite Radio provides over 140 channels of commercial-free music, sports, exclusive talk and entertainment, in addition to comedy, news, traffic, weather and more. Programming is available on more than 800 devices, including pre-installed and after-market radios in cars, trucks, boats and aircraft, smartphones and mobile devices, and consumer electronics products for homes and offices. They currently have over 21 million subscribers.

The Complaint

Sirius XM is charging these two organizations with illegal interference in its efforts to secure copyrights critical to its business in a competitive market. It alleges that SoundExchange and other industry trade associations, including the RIAA, NARAS, and the Future of Music Coalition, NARAS, have eliminated price competition in the market for digital transmissions of sound recordings licensable under the statutory licensing provisions of Section 114 of the Copyright Act of 1976. The conduct, it is said, violates federal antitrust law, as well as New York state law.

Specifically, the complaint states “artists and music labels [fear] that if they agreed to a direct license with Sirius XM, SoundExchange would withhold or otherwise diminish the royalties otherwise due from SoundExchange for performances of their music by companies other than Sirius XM”. In addition, taking on SoundExchange may ostracize such artists and music labels from the music industry, and force them to abandon cherished leadership roles.

Sirius XM maintains that it has been forced to work solely with SoundExchange and is paying higher prices for fewer licenses--it has signed 80 direct licenses to date but believes it could have done better. According to the lawsuit, SoundExchange is seeking to increase the rates from the current 8 percent to possibly 13 to 20 percent during 2013-2017. SoundExchange also wants that percentage to exclude a carve-out for any direct licensing deals that Sirius brings to the table. This would eventually force Sirius to pay twice for the music it licenses directly--once to SoundExchange and then again to the right holders.

All of this is happening while Sirius XM has embarked on more one on one negotiation with the record labels. As well, Sirius wants a single license covering all of its platforms, including satellite, Internet, mobile devices and more. This is apparently advantageous for the record companies, because they get more value than they would by relying just on distributions from SoundExchange. The problem is SiriusXM can only acquire these platforms running afoot of SoundExchange’s statutory license.

Rebuttal

SoundExchange argues that its revenue collections are steadily growing, and that the income it provides is a tide of new money that raises all music industry boats equally. As of January 2012, SoundExchange announced a fourth quarter 2011 distribution of $89.5 million with more than 18,000 payments, bringing annual estimated royalty payments to $292 million, up 17% from the prior year. For Michael Huppe, President of SoundExchange, “Royalty payments are proof positive that digital performances continue to grow at a rapid clip.” And, of course, if distributions grow, the case for unfair competition is not as glaring. Moreover, Huppe would likely add that such collections would not have been possible without either the legislation that created SoundExchange nor its early collection efforts.

Others support this view. On March 30th, an anonymous artist manager was published in Digital Music News validating the modus operandi of SoundExchange.

He got good answers from management when he had questions on behalf of his clients and regular checks every quarter. Not once did he have to negotiate percentages for his clients and he contrasted this with the lengthy bartering that a label engaged, for instance, with Spotify. Moreover, he argued that without the statutory rate everyone would be paid differently: direct licenses with master owners, typically the large labels, are subject to non-disclosure agreements and hide the fact that superstar artists are given preferential treatment in terms of per stream royalties. SoundExchange, he believed, guaranteed equal treatment for all, “as all cash paid is split 50/50 between the master owner and the performing artists and the artist share is paid directly to the artists, not to the labels and then delayed in ‘unrecouped accounts’”. Finally, the artist manager derided any notion of “big brother” in SoundExchange, alleging that the license that Sirius XM offers to indie labels comes with a threat of not playing their music in the future if they don’t sign up. (All of this, of course, would be more credible if the source of DMN had gone put a name for the record.)

Monopoly and the Law

Sirius is not asking for compensatory payments to offset damages. Rather, it is making a bold move to cut out the middleman so it can negotiate royalty payments directly with the record companies. It is strictly a strategic business move and, if successful, the irony is that it would benefit its competitors; i.e. Pandora, iHeart Radio, and various other smaller IP distribution platforms that would take advantage of the royalty reductions. Therefore, Sirius XM can stand tall arguing that the complaint promotes a more competitive marketplace.

That, in the end, is where Sirius XM will likely stake its case: on the validity of its anti-trust action. However, at a time when the business is attempting to simplify music transactions, it may be difficult for Sirius XM to curtail SoundExchange’s operations. The latter, after all, is the product of landmark legislation in 1995 that granted a new performing right for music in the U.S., albeit only in the digital domain.
The Epic Saga of Finnish Metal

By Toni-Matti Karjalainen

Finland, the small and remote country in the Northeastern corner of Europe, is highly regarded by the global metal-head community. Its capital Helsinki contends for the title of metal world’s top spot. A look at the gig listings of the numerous venues and clubs in Helsinki, and elsewhere, confirms that heavy metal and hard rock bands take to the stage daily, Finnish album sales and download charts feast on the heavy stuff.

Finland is still a marginal player in the global music industry. Music exports are twenty times smaller in value than they are in neighboring Sweden, and Finland’s main music markets are in Europe and the US—which accounts for one-tenth of the total. Nevertheless, Music Export Finland (Musex) claims that exports have risen ten times in value since the millennium and were worth 32 million euros in 2009. A significant proportion of this is likely to have been in heavy metal sales.

To have a unique product proposition is important for a small country like Finland, proud of its distinctive character. As the Finnish Music Information Center suggests: “In our sparsely populated country there is room for music to grow and blossom. There is space for the most diverse of phenomena, with the new and the eccentric rubbing shoulders with the traditional and conventional.” Indeed, the Finnish metal apparatus has brought forth many pioneering musical concepts that combine eccentricity with tradition and this has fuelled a crossover appeal to the metal genre.

For example, Amorphis has created a progressive symbiosis of melody and growl rooted in Finnish folklore, particularly on the “Kalevala”, the nation’s epic work of poetry. Turisas, Finntroll and other acts, have made their mark with “folk/pagan” metal. Nightwish, the prime metal group of the country, has paved the way for throngs of followers that have embraced the domain of operatic landscapes and screaming female sound-alikes. While Children of Bodom is known for death metal, HIM has preached its “Love Metal” to fans abroad. If there is someone who comes up with the idea of playing metal with four cellos, like Apocalyptica did, it likely is a Finn.

Heavy metal is fractured into dozens of style categories and sub-categories, many of which have a relatively small yet devoted fan base dispersed across the world. In the wake of the best-known acts, others are resorting to promotion using social media and touring abroad. Swallow The Sun, Insomnium, and Moonsorrow have reached individual fans and earned respect beyond the Finnish border.

Thus, metal music exports have changed perceptions about Finland. Metal has recently become a major ingredient of Finland’s branding—and is perhaps as influential as its classical music, with composer Jean Sibelius, ever was. Following the unexpected victory of the monster group Lordi in the Eurovision Song Contest in 2006, it was not unusual to hear the Finnish president or foreign minister mention the importance of metal in media, or to witness the prime minister publicly showing the sign of the horns for the press. The ‘Finnish Metal’ motto, often used both by media, and music practitioners, and internalized by audiences, has propelled a number of smaller and novel bands with notoriety. Through metal, many fans of Finnish bands have also become interested in the history and geography of the country.

Nightwish, a band from Kitee, a small city in the Finnish countryside, is the biggest export article and has sold millions of records. “Imaginaerum”, their latest, sold triple platinum in Finland just a couple of days after its release. Total sales have now exceeded 100,000 copies in a country of only 5.4 million inhabitants. The band has truly managed to tack their grandiose atmospheric metal sound into the mainstream. To date, it has gathered over 2.7 million likes on its Facebook site, an impressive number for a Finnish group. Of course, Nightwish has work to do to become a top player in the world stage. Industry giant Metallica has 24.3 million likes and even Evanescence, stylistically the distant American kin of Nightwish, has gathered some 13.6 million hits. But the progressive metal kings Dream Theater are behind with just 2.4 million.

Traditionally, the American music market has been difficult for Finns. Gaining recognition crossing the Atlantic requires intensive touring in geographically dispersed locations. Nightwish has gained most of its international success in mainland Europe and in some South American countries, playing at venues of a capacity of 4,000 to 10,000 and sometimes reaching gold record status. Recent tours covered the whole Globe, yet the challenge is still to win a stronger foothold in the US market.

The current Imaginaerum World Tour kicked off in Los Angeles, unofficially and undercover. The band played at the Key Club in January 2012 and continued its tradition of playing a secret small-scale show with a pseudonym, and used “Rubberband Of Wolves”. It was followed by the official tour start in front of some 4,000 people at the Gibson Amphitheater. Imaginaerum also debuted on the Billboard 200 chart at #27 in its first week of release.

Imaginaerum is a concept that is taking Nightwish to a new narrative, a hybrid of an album and a full-length feature film (to be released later in 2012). Novel ideas are also (CONTINUED ON PAGE 16)

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Grammys 2.0: Back to the Drawing Board

By Mical Klip Franklin

At the inaugural Grammy Award ceremony in 1959, recipients were culled from a meagre twenty-eight categories. These indicated the socio-political status quo under the Eisenhower administration as much as the country’s fledgling acceptance of African-American genres as a key tenet of its cultural inheritance. The changing face of American society brought forth new styles of music, and, with time, new Grammy categories with which they could be recognized.

Cut, then, to 2011. In that year, the Grammy roster comprised a generous one hundred plus categories, spanning “Best New Age Album” and “Best Hawaiian Music Album”, in addition to coveted mainstays like “Record of the Year” and “Best New Artist.”

It was in 2009, however, that the Grammy Academy, under the leadership of president and CEO Neil Portnow, decided that the awards ceremony needed a facelift. Portnow describes the gradual increase in categories prior to 2011 as having been “approached one category at a time, without a current overall guiding vision, [like] a collage without consistency across the varying genre fields.” He adds: “a transformation of the entire awards structure would ensure that all fields would be treated with parity.”

Less Awards

Now, the biggest night in music has just gotten a little smaller, and not everyone is cheering. The so-called Grammy Restructuring process, purportedly implemented in the interest of equality among genres, has trimmed away nearly one-third of last year’s categories. It is a euphemism that affects lesser-known artists, that benefited more from the awards than their mainstream counterparts.

The musicians most affected by the cuts are those who work in the World Music and Latin genres. For instance, Larry Rohrer of the New York Times cites the compression of many regional forms of Latin music into a paltry two categories as suggestive of the Recording Academy’s reluctance to accept Latin music as prevalent and, more importantly, a legitimate part of the American tradition. Hispanic Americans, of course, are the fastest growing minority in the country, but the Recording Academy has yet to acknowledge their relevance in broader American culture beyond the niche Latin Grammy awards.

In particular, the outright elimina-
tion of the Latin Jazz award comes as a sting to many artists who fought hard to assert the ascendancy of their music. Eddie Palmieri, who won the Latin Jazz Grammy twice, was outraged, and called the overhaul of the awards “an insult to our genre and many others; we fought for seventeen years to get this recognition, and then [the Academy] turns around and takes it away without informing anybody.”

More Dissention

It may not surprise, that accusations of behind the scenes racism are driving opponents of the measure. On February 9th, a group of musicians and community leaders presented a 23,000-signature petition at the Academy’s headquarters, demanding that the thirty-one eliminated categories be reinstated.

Though this outpouring of response did nothing to alter the outcome of the most recent Grammy awards, its impact could be felt moving forward. The group has received support from various Latin American advocacy groups, among them the National Hispanic Media Coalition. Inez Gonzales, the coalition’s senior vice president, issued an indictment of the Academy and Neil Portnow’s leadership, saying that it has “failed in its mission to honour, propagate and nurture all forms of American born music, and to educate the general public about all genres, not giving preference to one over the other.”

In fact, many of the arguments that Ms. Gonzales makes for the integrity of Latin music in the awards ceremony can be extended to other minority genres whose awards were also trimmed down, including R&B, rap, and gospel. Locally bred music, especially, should not have to be the unwanted guest at the Grammys. The archetypal American art form is jazz, which, it must be remembered, was banished to the margins of our society’s culture while being recognized abroad.

Moving Forward

Neil Portnow, of course, is not oblivious to the controversy. “The greater purpose of promoting unity within the music community”, he says, “outweighed the natural inclination to resist change.” That unity, no doubt, will benefit from Portnow’s purported goal to run the Academy under a new “overall guiding vision”, taking input from its members as needed. But it could be argued that with the rise of the digital age, music is being produced in unprecedented quantity, and in categories that are increasingly difficult to delineate. In that context, the idea that an overarching vision can be applied to all genres and all artists seems reductive. Some may even see it as both dangerous and contrary to the fundamental ideals of artistic exchange, for new music deserves to be judged on its own terms.

Obviously, there has to be merit in the move. NARAS says that it has increased the minimum number of entries to forty artists per category, up from twenty-five. While this will mitigate the loss of nominations in minority genres—and strengthen the Grammy’s image as a highly selective organization—it will hardly make up for the accolades and publicity that followed a win in the categories that were dropped.

Portnow is aware that the Recording Academy needs to be more inclusive, however unwieldy the process may become. He has used the image of a collage of different interests co-existing within the Academy. But for many Grammy members the changes are testing old allegiances, and legitimacy is the one currency that the Academy trades in that it cannot afford to give up.
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brought forward to add to the visual experience. The concept is praised as a rather unique endeavor not only by the band and fans alike, but also by the metal press. Marketing can be unorthodox with a mix of conventional campaigns, contests, and other means of fan engagement. The first single of the album, the song *Storytime*, was released through the website of ‘Aku Ankka’, the Finnish Donald Duck comic. Tuomas Holopainen, the band’s keyboard player who is a serious Disney fan, suggested the move. Nightwish also collaborated with Battery Energy Drink, owned and produced by Sinebrychoff (a Finnish company that belongs to the Carlsberg Breweries Group from Denmark). Battery was named as “the official energy drink of Nightwish”, and the joint business is being marketed in various ways including the launch of a “Battery Limited Edition by Nightwish” with Nightwish graphics on the can.

Nightwish represents Nordic eccentricity in terms of its concept, but the band is not characteristically Finnish in its appearance. Traits of Finnish culture and mindset are surely present, but the Nightwish narrative, manifested through the lyrical, musical, and visual landscape of the band’s albums and concerts, is more universal. The Nightwish universe and mythology is Holopainen’s personal vision entangled with many external references to well-known messengers of fantasy fairylands. It contains reminiscences of J.R. Tolkien and Edgar Allan Poe, Walt Disney and Tim Burton, Ennio Morricone, Neil Gaiman and Salvador Dali. All are personal favorites of Holopainen and great inspirations for his song writing.

Conclusion

This confluence of Finnish and foreign interests may explain the band’s appeal. It may be proof too that music will always embody the values of a particular culture at a given time, but that such values are much more universal now than they have ever been. In the meantime, Finnish metal music may well be said to be coming a full circle, seemingly returning value to the world that inspired it.

References: