Berklee College of Music
Music Business Journal

Volume 10, Issue 1 www.thembj.org April 2014

Mission Statement

The Music Business Journal, published at 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.

Inside This Issue

(Forcefully) Down the Stream
Page 4

Understanding Crowdfunding
Page 8

Beats, Spotify, & SoundCloud
Page 6 & 7

The State of US Copyright
Page 13

Surprise!
Page 5

Music Intelligence for Sale

By Kyle Billings

Information is changing the music industry; not only in the ways we consume and discover music, but as well in the ways companies are arming themselves for competition. Streaming services see gold in the figures that fuel recommendation algorithms, and now content companies, driven too by the alluring growth of digital tech, are proudly announcing their latest partnerships with leading software-as-a-service companies and the terabytes of social data multiplying on their servers.

The future of music discovery—and potentially, of artist development—is now in the numbers.

Music Discovery

Algorithms are the most influential development in music discovery since the mixtape. Spotify, iTunes, Last.fm, Pandora, Amazon, and YouTube are a fraction of the innumerable services running numbers to build playlists and suggest music to fit moods and tastes. Active listeners can explore similar artists and delve deep into niche genres, while passive listeners can launch endless playlists with a single click. As competition spreads the streaming industry thin, robust recommendations are a desired commodity.

The Echo Nest, an MIT startup from Cambridge, MA, has become the preeminent provider of musical data since its founding in 2005. Empowered by both public grants and venture capital funding, the company's computer scientists comb the Internet, building arrays of tempo, key, acoustic features, and other aural imprints. As of February of 2014, The Echo Nest boasted nearly 1.2 trillion data points about the songs in its library, yielding the most comprehensive "musical brain" of its kind.

The Echo Nest was originally founded to act as a reference for hundreds of companies, apps, and websites, giving both nascent and established developers the intelligence to build dynamic musical experiences. It has triumphed through multiple rounds of financing, raising a total of $25.6M. Early in March, moreover, the Swedish streaming platform Spotify purchased "The Nest" for between $100M to $125M—the majority being in equity .

The Echo Nest thrived on neutrality; the "musical brain" grew and gained support as a central database for music intelligence. Spotify's acquisition will undeniably affect

(Continued on Page 3)

Editor's Note

These days, writing about the music industry isn't easy. When information becomes available, it is soon out of date. Nevertheless, at the Music Business Journal we strive to keep you informed as best we can. This issue continues to track the latest in music intelligence, streaming, copyright, and promotion.

In response to several major developments of data in the music industry, this issue's cover story considers the latest acquisitions, partnerships, and strategies in the tech-meets-music space and calculates what they might someday mean for music discovery and artist A&R. The arrangements between Twitter and 300 Entertainment and between Shazam and Warner show the potential of social data; and Spotify's purchase of the Echo Nest suggests a volatile future for algorithmic music consumption.

Crowdfunding has become important to musicians and, generally, all forms of creative endeavors. Yet there is little to guide the campaign project manager in the preparation of a sound budget. We are proud to offer our own workshop on the subject.

Since its founding in 2008, Soundcloud has built a community of over 250 million active monthly users; it is now the most frequently mentioned music site on Twitter. The MBJ backtracks to identify the key factors of the platform's success, and addresses its current standing as the rapidly growing company approaches future hurdles.

Music streaming is the technological response to the modern consumer's demand for convenience; its quick adoption is forcing the industry to act. This issue provides a still-frame of streaming in 2014—its worldwide proliferation and relationship with existing formats in the US and abroad. Social media has changed marketing, and celebrities are changing social media. Instagram—the wildly popular photo sharing application—became a viral launchpad for Beyoncé's fifth studio album. Standing in the aftershock, the MBJ unlocks the details of her release, providing a recap of the most astonishing word to caption an Instagram post: "Surprise!"

The American Society of Composers, Authors, and Publishers—widely recognized as ASCAP—is the oldest and largest Performance Rights Organization in the United States. This issue provides an in-depth retelling of the company's founding, growth, pitfalls, current standing, and potential future amongst new technologies. U.S. Register of Copyrights Maria Pallante recently called for a comprehensive update to United States Copyright. The revision would be the first major reform since the Copyright Act of 1976. The MBJ boils down the details, delivering a balanced perspective of the potential changes to Performance Rights and Fair Use, as well an informed look to the future.

Beats Music is the latest challenger in the streaming space. Following its high-profile Super Bowl ad, the service is reporting bullish figures. This issue compares the features and strategies of Beats with those of existing platforms such as Spotify or Rhapsody.

From all of us at the Music Business Journal, thank you for reading. We look forward to producing our next issue already. MBJ

Kyle Billings, Editor-in-Chief

Please Note: Endnotes for the articles in this issue can be found at www.thembj.org.

Table of Contents

Business Articles
A Taxonomy of Music Impressions.........1
A New Way to Access Music..................4
Beyoncè's Startling Release....................5
On the Spot and on the Beat...................6
The Rise of SoundCloud.........................7
A Crowdfunding Workshop....................8
ASCAP's Anniversary...........................13

Law Section
The US Copyright Frontier...................14

MBJ Editorial
Mission Statement..................................1
Editor's Note..2

Sponsorship
Berklee Media...................................... 15

Management

Editors.......... Kyle Billings
Content Editor..........Christian Florez
Webmaster.......... Haven Belke, Itay Shahar Rahat
Faculty Advisor and Finance.......... Dr. Peter Alhadeff
Layout Editor.......... Haven Belke

Contributors

Editor's Note.......... Kyle Billings
Business Articles..........Peter Alhadeff, Kyle Billings, Luiz Augusto Buff, Athena Butler, Griffin Davis
..........Christian Florez, John Lahr, Linnéa Lundgren, Dan Servantes
Law Section..........Griffin Davis
Staff..........Natalie Cotton, William Kiendl, Corliss Lee, Brooke Stephenson, Nina Thistlethwaite, India Thomson

Business Articles

Music Intelligence (cont.)

(From Page 1)

its reputation as the go-to music data API. While many of The Echo Nest's clients have yet to publically react, the streaming service Rdio has announced the end of its relationship with the company, opting to work more closely with Rovi, an alternate data provider . Several hopefuls are now eyeing the vacancy including Musikki and OpenAura. Joao Afonso, CEO and co-founder of Musikki, assures that "Spotify competitors won't have to wait long for a complete solution ."

Now, with the most advanced database of musical knowledge at its fingertips, and a newly established credit line of $200M, Spotify is likely approaching an IPO. Three years after its US launch, going public is a major milestone.

Data and Content Creation

Can the algorithms that power music discovery on streaming services be adjusted to spot undiscovered hits? In the same way that Spotify searches for the perfect song to energize athletes, can equations identify artists at the earliest stages of their potential? The question is keeping top minds in the music industry awake.

At South by Southwest, a computer called Watson applied inductive reasoning to solve what is now termed a 'computational creativity' problem. By combing through a database of recipes, flavors, and meal reactions, Watson was able to create foods that excited people. Similarly, with an encyclopedia of genres, instruments, lyrics, social reactions, and locations, the next world-renowned act could be the output of an ingenious collaborative filtering program.

300 Entertainment Takes to Twitter

In his keynote speech during 2014 MIDEM conference in Cannes, France, Lyor Cohen—former executive of Def Jam and Warner Music—announced a partnership between his new company, 300 Entertainment, and the newly public social media network, Twitter. The agreement allows 300 to analyze Twitter's data to inform the production of software tools, and to identify trends that may optimize the A&R process.

Musicians and Twitter have long been linked. In April of 2013, the relationship yielded Twitter #Music, a stand-alone music discovery application with strong intentions but an unfortunate fate (there were few adopters). With its latest partnership, Twitter aims to make an impact where #Music fell short. Twitter's head of music, Bob "Moz" Moczydlowsky hopes to "[build]… something that everybody in the music business can benefit from" by leveraging a dedicated music data set to create advanced A&R and targeted marketing tools that will teach the industry how to "best invest in artists or… direct their marketing campaigns."

As Twitter gains a redemptive shot in the music industry, 300 Entertainment is looking to access an ideal data set. "The noise of the Internet has drowned out the voices [that matter]," Cohen believes, "wouldn't it be great if technology today moved past that noise instead of trying to understand it?" In his perspective, the searing individualism that once marked music's most influential fans has been extinguished by the mass democracy of YouTube views and Facebook likes. If the industry considered all 1s and 0s equally, music would screech to a halt of stylistic stagnancy.

Cohen is positioning 300 to identify the few; he is searching for the same early adopters that snuck out at night to see shows during his earlier years as a record executive. Could there be, for instance, someone in Chicago who, when she tweets, makes a meaningful impact on the exposure of an artist? If so, that is what Cohen would be looking for. He is not interested in what he calls the 'massive-passive' audience of today.

Warner Music Links up with Shazam

Lyor Cohen is not alone in his quest. Hot off the tails of 300's announced partnership with Twitter, Warner Music linked up with Shazam—a popular mobile application that listens to and identifies music playing nearby its users. Rob Wiesenthal of Warner says that "by partnering with Shazam, a brand which is synonymous with music discovery for fans all around the world, we have forged a potent proposition: the first crowd-sourced, big data record label."

In any given minute, Shazam is processing over 10,000 songs. Their swelling database, used as a tool by Warner's tried-and-tested A&R team, will be leveraged to catch unsigned artists right as their popularity begins to surge. Few listeners need to scan hit songs; Shazam is designed as the go-to app for music lovers as they hear something new that catches their ear. Warner is rightly excited by this fact.

"There's so much information that we've never had before as an industry, and Shazam is at the forefront of that," Wiesenthal said. As Shazam's 88 million users scan songs they like, a geographical map of music is formed, defining not only what music is on the rise, but also when and where these songs are heard.

Like Twitter, Shazam stands to benefit from its music industry relationship. The app aims to improve user experiences by integrating artist promotion directly into the software, not unlike Bruno Mar's performance at the Super Bowl or Wiz Khalifa's release of "We Dem Boyz." Shazam CEO Rich Riley envisions the application as "the place you go for lyrics, the place you go to see video, the place you go to engage around a particular artist. "

The Future

Jim Lucchese, CEO of the Echo Nest, sums up the state of the music industry as follows: "the massive amount of data that's available is incredibly exciting, [and the] reality is that there is a scarcity of people out there who really know how to make sense of it." After a decade or more of missed opportunities, executives have at last opened their arms to the data scientists that may discover the next world-changing artist.

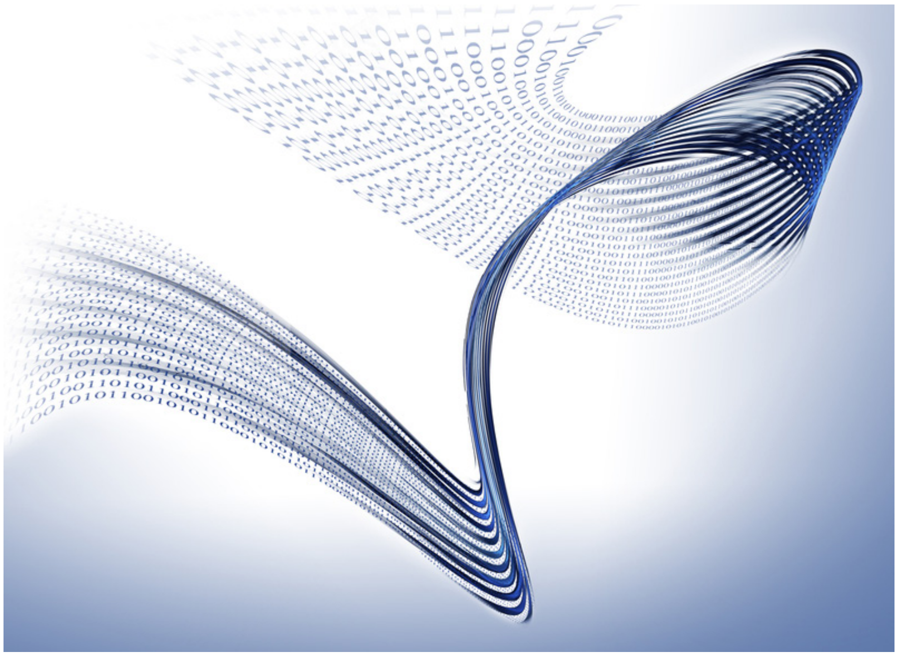
But will data convey the competitive advantage that its advocates intend? Social media can narrate an industry, but can tweets and scans replace the ears of traditional A&R scouts? Both 300 Entertainment and Warner are led by time-tested musical minds, integrating one-part computers to four-parts instinct. At the same time, pioneering experiments in computational creativity are setting the stage for a future of experiments.

Moore's law holds that computing power is growing exponentially. Fifteen years ago, iPods could not play videos, video blogs weren't yet called "vlogs," and laptop computers were still a tentative technology. It is true that programs are unlikely to override the music industry we all know and love anytime soon. For instance, in Lyor Cohen's world the industry mogul is still the gatekeeper for new artists and he takes advantage of pointed and relevant data to make a better A&R choices. But music data companies continue to test the waters we all may one day sail because investors are voting for the future of computational creativity with large sums of money. MBJ

Business Articles

Streaming's Global Momentum

By Christian Florez



In January, various speakers at the MIDEM Show in Cannes suggested that music streaming may no longer be considered a complement to traditional music sales but the new way to access music. The momentum seems to be global.

In the United States, the growing popularity of streaming has impacted the livelihood of competing distribution channels. "Streaming services are starting to generate real consumer interest, [and] download sales are suffering as a consequence." Platforms such as Spotify and YouTube each claim to have broken the $1 billion mark in total generated payments to rights holders since the inception of their services .

Other countries are experiencing similar success stories. In the year 2012, France's streaming industry had a market share of 13%, which rose to 15% in 2013. Internet downloads and mobile downloads decreased, while subscriptions and physical sales went up. The upward growth in both traditional and radically new platforms displays an interesting trend. Subscriptions are dethroning downloads in the French digital space, while the steadfastness of physical media remains unaffected—if not supported—by the shift.

In Sweden, a country particularly known for championing streaming services, record companies generate one-third of their primary revenues from music streaming. "According to figures published by Swedish trade association, earnings from streaming eclipsed those from sales of all other formats last year. Although the sales boost meant that annual trade revenues increased for the third year running, the overall growth rate for recorded-music sales was much lower in 2013 than in 2012, with all other format sales suffering big falls" . Swedish consumers have taken a huge preference towards streaming, which has indelibly impacted the sales of all other formats.

The dominance of streaming in Sweden will likely be mirrored in other countries as knowledge of streaming platforms continues to grow. With the presence of companies like Rdio, iHeartRadio, Spotify, Pandora, and the recent newcomer Beats—which advertised their platform in the Super Bowl—the mass proliferation of streaming amongst mainstream society in America, and consequently the rest of the world, is only a matter of time.

In the United States, the rise in streaming has yet failed to atone for the continued plummeting of recorded music sales. As streaming continues to make itself known to new audiences across the country, physical sales continue to drop all across the United States. "According to Nielsen SoundScan, the number of music unit sales (albums, singles, music videos and digital tracks) last year slipped 6%, to 1.6 billion from 1.7 billion in 2012. Album sales were down 8 %, from 316 million in 2012 to 290 million in 2013, and album sales plus sales of track-equivalent albums (10 digital tracks equal one album) fell another 8%, from 550 million to 415 million" .

If recorded music consumers in America are in fact no longer supporting older models of media consumption, they will likely flock to online streaming. According to Nielsen, "while overall music sales (including albums, singles, music videos, digital tracks) were down 6 percent year over year, streaming consumption grew a whopping 32 percent since 2012; Nielsen Consumer Research is showing that 68 percent of U.S. consumers reported streaming music in the past year, [and that this type of] music consumption should continue to surge forward into 2014" .

The end goal of most streaming services is to have a dominant market share in the music industry. But right now, the streaming market is segmented and no single streaming service is commanding top dollars from the advertising industry. Since advertising is the primary form through which streaming companies generate revenue, profits will likely remain uninspiring until one or two services claim a dominant market share.

As streaming continues to take a foothold in America, the rest of the world is most likely to follow. In the meantime, Sweden can be viewed as a predictor of future outcomes in regards to what streaming can bring to the music industry's table. There, the size of venture capital investment in the medium is staggering. Spotify, for example, has $600 million in international funding for a market cap of $5.2 billion—proof that the optimism of big money may be well founded. The affordability of the service, paired with ease of access, makes it a highly appealing platform capable of cannibalizing digital media sales and emerging as the top contender among equals.

In short, the growth of streaming is already changing the way music is accessed. There will be more to come. But it must be remembered that the allure of physical product will not go away suddenly, and the case of Finnish data of recorded music sales is illuminating. In that country, also a North European nation, CD and vinyl album sales continue to be attractive even as the market trades tangible mobile and download sales for the more intangible format of music streaming. MBJ

Business Articles

The Hit that Broke the Mold

By Dan Servantes

On December 12, 2013, Beyoncé released her fifth studio album exclusively on iTunes without any radio promotion, roadside billboards, or viral campaigning. By the end of December 15, her album had sold 828,773 copies worldwide.1 This speaks volumes about not only the current state of the music industry, but the current state of consumer culture and whether or not this is a viable album release model.

The marketing for Beyoncé's self-titled album release was simple. It was a short Instagram video with the caption, "*Surprise!*" That video was sent to 10 million Instagram followers, followed by 53 million fans on Facebook. Within 12 hours, Twitter reported 1.2 million tweets about the album.2 On top of this, Beyoncé orchestrated an iTunes front page takeover, using all of their featured slots to promote her album. These combined strategies culminated in first day sales of 365,000 copies, a testament to the marketing powerhouse of Beyoncé.

The marketing strategy was not the only unique aspect of this release. For the first week after the launch, iTunes was the sole retailer of the album. The physical release would not be available until December 21. In addition to this being an iTunes exclusive, the 14 song, 17 video album was only available as a complete bundle (for $15.99).

Both the marketing and album-release format of this release are very rare in the Top-40 music industry, and for good reason. Album-only releases have been unheard of for years. Ever since Apple opened up the iTunes store in 2001, the *à la carte* model of cherry-picking individual songs to purchase from albums has become the norm. With streaming now taking a larger market share and cutting away at download rates, an album-only release is even more rare. A curious listener may stream a song on Spotify or YouTube. A casual fan may purchase a song or two from iTunes. To bet the success of your album on your fans being loyal enough to pay nearly $16 for an album is a heavy risk, especially considering the size of investment required to create and record a Beyoncé-level album.

An album of this caliber can cost upwards of a million dollars to record, excluding the 17 videos included in this release. An investment of that size poses a large risk to the label, and is therefore marketed accordingly, to assure as much of a success as possible by making sure all fans are aware of the album well before the release.

Lady Gaga is a model example of how you expect a superstar artist to prepare for an album release. Lady Gaga spent the better part of a year promoting her album, ARTPOP. She utilized her large social media audience, gave interviews, and wore a 'hover' dress. Her label, Interscope did its part by spending advertising dollars on billboards, buses, and pop-up stores in New York and Los Angeles. The end result? ARTPOP sold 305,000 copies in its first two weeks.3 Not the year-defining release that Interscope was hoping for.

Perhaps the public is numb to the over-commercialized releases of major artist albums. With every major release being given the same release treatment, it is startling to see an album of this caliber released in a method so contrary to the norm. In fact, that is the single most genius aspect of the marketing of the release. The shock factor of the abrupt album unveiling created a word-of-mouth ripple effect. Core fans on social media at the right time were the first to hear about it, followed quickly by mainstream media, and, before long, the rest of the world.

Curiously, this is exactly the opposite of what Beyoncé wanted this album to be about. In a press release about the album, Beyoncé talked about this album being about the music, the art that occurs at the intersection of music and video, and eradicating the middleman between her and the fans. While she certainly released the album when and how she wanted to, she failed to make this album about the music. By releasing it in such a radically unique and creative way, Beyoncé shifted the conversation away from the musical content of the album and towards the (lack of) release strategy.

Regardless of the reason for the discussion, everyone was still talking about the album. Beyoncé reaffirmed her position as a powerhouse in the music industry, later acknowledged by Billboard giving Beyoncé and Jay Z their number one spot in The Power 100.

Of course, a release of this magnitude doesn't come without ruffling a few feathers. While the fans may have enjoyed the spectacle of the surprise album release, others were less enthused. Specifically, Target and Amazon were up in arms over the iTunes-exclusive release. Both retailers refused to stock the physical copy of the new album (although Amazon sells the digital version, and the physical version can be found through third party retailers).

Erica Julkowski, a Target spokesperson, told Billboard, "At Target we focus on offering our guests a wide assortment of physical CDs, and when a new album is available digitally before it is available physically, it impacts demand and sales projections."4

While this may seem like a somewhat antiquated idea of how music is sold in the modern industry, it is ultimately a power play and a statement of Target's perceived power in the industry. If you don't release according to Target's terms, you get blacklisted. Recent albums released featuring a Target exclusive version include Justin Timberlake's "The 20/20 Experience" and Taylor Swift's "Red". Target may only have a 5% share of the market as a music seller in the US, but their marketing power presents a powerful perk for artists.5

This is not the first time that Target has refused to sell an album that was released on iTunes first. In July 2012, Target refused to carry Frank Ocean's "Channel Orange" CD.5 However, Target eventually caved and agreed to stock the CD.

Walmart, however, did agree to stock Beyoncé's self-titled album. This resulted in a huge publicity stunt by Beyoncé at a Walmart en route to her Boston, MA performance just before Christmas. She gave out 750 $50 gift cards at a Walmart in Tewksbury, Massachusetts, while announcing via loudspeaker that her new album was now available in stores.6 This resulted in huge press coverage for both Beyoncé and Walmart. Walmart has a 10% market share of music sales in the US.5

Retailers weren't the only parties surprised by the sudden release. Radio companies such as Clear Channel and CBS radio, usually the cornerstone of new music promotion, were caught completely off guard.

In an interview with Billboard, John Sykes, Clear Channel Entertainment Enterprises president, talked about how his stations quickly adapted to the release. "Tom Poleman and his team run such a well-oiled machine that within minutes, five "Beyoncé" tracks were playing on our stations across the country, as well as on other radio groups. It happened in an instant. Radio can react instantly, since it's a live medium."8 Beyoncé has to be careful with relationships with radio. While the shock factor of the release will boost initial sales, radio will play a large factor in determining the longevity of Beyoncé's album.

Since the December 12 album re-

(Continued on Page 16)

Business Articles

A Comparison of Beats and Spotify

By John Lahr

As of January 21st Spotify now has a legitimate contender in the music streaming market, as Dr. Dre and Jimmy Iovine's Beats Music steps into the ring. It is the culmination of eighteen months of development after Dr. Dre's lucrative consumer electronics company purchased MOG in July of 2012. Entering with a soft launch in late January, the service announced its arrival in spectacular style with a Super Bowl advertising blitz featuring T.V personality Ellen DeGeneres. While Beats Music and Spotify have many similar features, both services have very different views of the future of the streaming marketplace, and different ways of communicating their vision to consumers.

Features

Like Spotify, Beats Music offers a library of over 20 million songs to choose from, the ability to create playlists and sync them to your mobile device for offline listening, and a radio feature . However Beats offers far more advanced features for discovering music thanks to its "Sentence" radio and "Just For You" curated playlists tailored to taste preferences you give when signing up. The Sentence radio helps find the right music for the moment by taking into account your location, mood, who you are with, and the type of music you want to hear. For example, a user could say, "I'm on my way to work, and need to wake up to rock music" and a specially curated radio station would come on to perk up your morning commute. The music curation doesn't end there: the "Highlights" feature offers promoted content, such as a given artist's influences, and the "Find It" feature creates genre and activity focused playlists for dancing and cooking out . Beats Music also steams FLAC files, which provide better audio quality than Spotify's 320 Kbps. Such personalized service and higher sound quality bodes well for Beats Music, allowing it to stand out in a crowded market.

A Departure From Freemium

Beats Music's choice to be a paid only service is a radical change from the current "Freemium" model services of Spotify and Rdio. While this choice is likely to turn away potential users, it shows Beats is committed to monetizing digital streaming, and making the service sustainable.

Many have expressed concerns over the sustainability of the Freemium model, including Rhapsody CEO Jon Irwin, who claims Spotify's strategy is "to give music away for free as a way to communicate the value proposition around on-demand music. They said, 'we're going to raise capital and fund paying for music for free and then gradually introduce restrictions so that people move toward paying for music in a truly mobile setting.'" By being a paid only service, Beats is hoping to make a profit early on by relying on paid subscriptions more than advertising revenue .

These sentiments seem to be justified after Spotify announced that its net loss increased from $61 million in 2011 to $79 million in 2012. The increase, which occurred despite a growth in the user base to over 24 million, 6 million of which are paid subscribers, is largely due to their cost of sales, which totaled $494 million in 2012, almost double their 2011 total of $253 million.

The Advertising Splash

Beats Music has chosen to market itself in the same spectacular fashion it chooses to sell its high-end headphones: with a lot of hype. Aside from the flashy and expensive Super Bowl ads, the company has advertised on the Grammys, in the New York Times, and has cultivated partnerships with Target, and principal partner, AT&T. Customers of the phone carrier get an extended trial period of 90 days for families and 30 days for individuals. This is a significant improvement over the seven free days for non-AT&T customers, and, should they decide to buy, AT&T families have the option of having up to five Beats accounts on ten devices for around $15 a month .

All of this clearly fits within the company's self-proclaimed marketing objective of "building awareness". It encourage people to "'try the next generation of music services.'" As a latecomer to the streaming game, Beats is betting on flashy marketing to leverage its brand. And it is clear that it is targeting a different consumer than Spotify, including moms in middle and suburban America. That is why they chose Ellen DeGeneres as their spokeswoman, and the Super Bowl as their platform. According to Ryan Anes, co-founder of the brand development agency, Edge Collective, more women watch the Super Bowl than the Grammys and Oscars combined. DeGeneres pushed a family discount plan there.

If this maneuver works it has the very real possibility of breaking digital streaming out of a young, cool, niche market and making it a service that every parent in America can get behind. "[It] would put Beats Music in the right place at the right time" according to Forrester analyst Jim Nail.

Spotify on the other hand has always had a more conservative marketing strategy, which Ryan Anes says reflects its Swedish roots. He describes Sweden as "a culture of 'what we've got is good' and '[we] don't always need to tell the world about it.' This word of mouth style of marketing is what put Spotify on the map when it first came to the States, and explains why the service resonates with urban young consumers between 25 and 35.

What It All Means

All of these differences suggest that each player has their own distinct idea of what the future of on demand digital streaming will look like. Beats Music sees it as a mass-market product that users can tailor to their tastes and mood, and as a platform that puts music discovery front and center. Spotify, on the other hand, is looking to give music listeners a better free experience in the hopes that they will eventually be persuaded to switch to a paid subscription.

Both services' goals of expanding the market and keeping the barrier to entry low are ultimately good for artists and good for music consumers. By creating more value for music, services like these could, at the very least, convince consumers who used to pirate content that paying is a good alternative to stealing music of lesser sound-quality. It may be early in the race to tell if the market is big enough for both services or if digital streaming will turn a profit. But that doesn't seem to bother investors yet. They are colonizing the market in droves. MBJ

Business Articles

A Note on SoundCloud

By Athena Butler and Linnéa Lundgren

SoundCloud is one of the leading sources of audio sharing on the net, with 250 million active monthly users up from just ten million two years ago. The user base is a quarter of Facebook's. Moreover, each passing minute it purportedly adds twelve new hours of original uploaded music and miscellaneous audio, nine-tenths of which is played back within a day. Swedish sound designer Alexander Ljung and electronic musician Eric Wahlforss founded the platform in Stockholm, Sweden in October 2008. When the company began to grow, it moved its base to Berlin. From there it has gone on to acquire offices in London, New York, San Francisco and Sofia, Bulgaria, and now staffs more than 200 employees.

SoundCloud's intent was to create a platform where people could distribute and comment on audio and it is a good tool for musicians to circulate their music. It is now an evolving as a social platform wherein established artists may connect with their fans, and where budding artists may push their repertoire into the online community for discovery. For this reason, CEO and co-founder Alexander Ljung has referred to SoundCloud as the YouTube of audio.

Certainly, their no-cost structure has been a leading motivator for users. Anyone can sign up for an account and start uploading their sounds for free; the standard quota caps off at two hours of content. From there, if the user wants more time, there is an inexpensive fee of $38 a year, yielding four total hours of uploads, or $130 a year for unlimited upload time. The pro accounts also offer the benefits of analytics—being able to see exactly who listens to the user's uploaded audio, and where the plays are coming from.

SoundCloud has also gained a lot of traction simply because of its clean design, high-resolution format, and embeddable functionality. The site is built in a minimalistic style with simple ways of connecting uploaded audio to other sites. A SoundCloud widget can easily be embedded in any HTML-coded site or Wordpress. When a user updates on SoundCloud, it shows in the widget as well, and this is a hot ticket for the company. Musicians regularly release new music through social media like Facebook and Twitter by quickly uploading their files to SoundCloud and punching in a widgitized URL to their respective launch point. Thus, SoundCloud is an easy go-to for self-releases.

Moreover, multimedia demands a platform like SoundCloud in which artists can communicate directly with potential fans and receive instant feedback from their Internet peers for free. Many music creators today deem free streaming a necessity. In part, this is because artists must first have a chance at connecting with the outside world before, say, asking for funding. SoundCloud, therefore, fills a void in the arsenal of aspiring musicians.

Because SoundCloud doesn't pay out royalties to its users, it has the opportunity of keeping between 50-70% of its revenue. This makes the business model very attractive to investors. CrunchBase reports that the last five years have seen SoundCloud raise more than $123 million in funding. According to the site, investors include Union Square Ventures, Index Ventures, Kleiner Perkins Caufield & Byers, GGV Capital, and Doughty Hanson Technology. Most recently, SoundCloud has been a participant in a round of fundraising through the Institutional Venture Partners together with the Chernin Group. As a Berlin-based, European startup, this is big news. Having the confidence of American Venture Capital firms says good things for the future of the site and of Berlin's startup scene.

Such investments are fuelling SoundCloud's growth. Its team is now focusing on the mobile market, and SoundCloud Apps for iPhone, iPad, and Android have already generated much conversation in multimedia circles. Additionally, SoundCloud has taken the opportunity to work with the licensing-site Getty Images. SoundCloud's subscribers can license their songs through Getty, and get them played in alternate media, commercials or radio. Not long ago, SoundCloud also cooperated with Instagram, so that users could upload artwork from their Instagram account. These partnerships bode well for SoundCloud, as is the matchup of venture investors that bring more expertise to grow the company in tandem with co-founders Alex Ljung and Eric Wahlforss.

Right now, there is speculation that SoundCloud is in talks with the major labels. It remains to be seen what kind of business venture the site plans to undertake with these deals: iTunes or Amazon MP3 sales, a radio service like Pandora or iTunes Radio, or an interactive streaming service like Spotify with competitively priced subscription options.

However, it is not clear what SoundCloud would do with all of the unsigned and often nonprofessional music that makes up most of the site and sets it apart from others. Although SoundCloud has never revealed the percentage of users who pay for subscriptions, the likely figure, according at least to Forbes, is one-in-twenty. As investors clamor for returns and the company incurs more expenditures, it might be just a question of time before the site starts using ads to maximize profit, just like Facebook and YouTube did. Otherwise, the site's "freemium" allure will make way for mandatory monthly or annual subscription payments. This transition may not be easy. MBJ

Business Articles

Budgeting for Crowdfunding Rewards

By Luiz Augusto Buff and Peter Alhadeff

Abstract

Musicians, artists, and music business entrepreneurs need cash to start a project and nurture it to fruition. They are hardly unique in this respect, and face many of the considerations that the general public does: i.e. is the need for money for the short term or for the long term, is there a small or a large amount of risk involved? Today, fortunately, there is more flexibility in the marketplace. Resources can be marshaled on a piecemeal basis, as needed by entrepreneurs or musicians to achieve a particular and often tactical goal. Crowdfunding and venture capital are two examples of a new type of milestone or ad hoc financing that both blurs the distinction between short and long money and helps defray risk. The implication for artists, musicians, and music business entrepreneurs could be momentous.

This paper will focus on crowdfunding only. It suggests a simple methodology for a musician or music entrepreneur to budget her own project. The costs of rewards for fans are variable and depend on the number and category of fan pledges. Knowing ahead of time what the possible distribution of such rewards may be is key, and so is the understanding of the average pledge per contributor gathered from historical data. The authors argue that raising funds online in return for rewards is based on too much guessing, when it should be more informed. Starting from recent Kickstarter data, they show, step by step and with a spreadsheet, how to prepare a professional crowdfunding budget that includes taxes, service fees, and contingency arrears. This type of budgeting is not as obvious as it seems, and the paper fills a gap in the current music business literature.

Introduction

More than fifteen years ago, when the World Wide Web was still in its early years and its full potential as a social network was yet to be revealed, the British band Marillon was able to raise $60,000 to finance their US tour through an Internet campaign. In the following years, we witnessed the rising of collective financing online. The music website ArtistShare was created in 2000, becoming the first online platform for fanfunding, successfully raising funds for a Grammy Award-winning album by Maria Schneider, amongst other projects. Since then, raising funds using the Internet has grown by leaps and bounds. Today, crowdfunding is incorporated in the vocabulary, meaning online contributions by the general public, above all, to a diverse pool of creative projects. Gradually, other online platforms actually crowded ArtistShare out– notably among them, Kickstarter. Kickstarter broke the music financing record with Amanda Palmer's $1.2 million campaign, which paid for her new album and tour. The power of crowdfunding seems to grow by the day and the phenomenon now goes well beyond music. Recently, Ouya brought to market, also with Kickstarter, an Android-based videogame console: the required pledge of $950K led to collections of $8.5 million, with 63K contributors advancing, on average, $135 each. The total compares in size to a first round of venture financing.

According to Crowdsourcing.org, a trade organization, there are currently four categories of crowdfunding platforms available on the Internet, defined as Equity-based, Lending-based, Reward-based, and Donation-based. In the first two, contributors expect financial returns in exchange for their pledges; in the reward-based model, a person contributes to a campaign in exchange for a reward and the degree of exclusivity in those rewards generally grows with the size of the contribution; finally, in donation-based crowdfunding funders contribute without expecting anything in return because the project appeals to their personal beliefs. However, the most popular crowdfunding model is still the rewards-based model, representing 43% of the global crowdfunding industry, with an expected market growth of 524% in the next year. There are an increasing number of crowdfunding platforms in this category such as Indiegogo, Pledge Music, Rockethub, and, of course, Kickstarter, which we will use as a reference in this paper because it is the largest and most widely known.

The rewards-based crowdfunding model strongly appeals to music projects because it permits artists to raise funds before they start working on the project; the project can be executed only if the goal is met. Artists can then cover their production costs, and possibly break even before the project even starts. Kickstarter launched more than 22,000 music campaigns in its four-year lifespan; however, only around 54% have succeeded in reaching the campaign goal. That means that one in two projects fail to raise the necessary money. Most importantly, but less discussed, is the fact that even when they succeed in meeting their goal, project owners might have not budgeted correctly, having to access other funds to conclude the project, delaying the expected delivery date of the campaign, and sometimes never fulfilling the project. Since crowdfunding functions also as a marketing platform, non-fulfillment, or less-than-par fulfillment, jeopardizes the image of artists, and make them lose credibility with their fans.

Guesswork, Misconception, and Method

The reason for these failures is that most of the campaigns are being planned based on guesswork and misconception.

On guesswork: Despite the availability of general data provided by some of the crowdfunding platforms, a more professional and statistical approach is missing. It would be extremely useful for new music projects to use the information available in order to realistically set goals and more accurately estimate the number of contributors needed to realize a successful endeavor.

On misconception: Successful campaigns fail at the fulfillment stage if the campaign asks only for the amount needed to realize the project, i.e.it seeks only to cover the studio costs to record an album, or the price of a van for a band to go on tour. Yet the costs of raising money via crowdfunding far exceed the initial budget goal of the project, and include the costs of delivering the rewards, platform fees, taxes and other unexpected costs.

The fact is that budgeting for a crowdfunding campaign is often problematic because it is difficult to know ahead of time what the possible distribution of rewards that fans will choose will be. Moreover, it is even harder to guess what an average pledge can be, and this is a critical piece for a successful crowdfunding campaign.

In this paper we have compiled information from one hundred successfully funded Kickstarter music projects completed between February 11 and 23, 2013. However, any crowdfunding campaign would have to start from current examples of comparable campaigns, and the main object of the paper is to outline a simple methodology for a musician or music entrepreneur to properly budget his or her own crowdfunding campaign. Therefore, more data points than one hundred campaigns would have added only marginally to the value of the paper. If the method is understood, the user can update the Excel template that is supplied at http://bit.ly/13taRoN, with current data and be as thorough as he or she wishes.

As budgeting properly for crowdfunding rewards is a craft that is learnt only by doing the numbers, we recommend that the reader plough through the various sheets of our Excel template, either in unison while reading the rest of the paper or even ahead of the following text.

General Crowdfunding

Researching similar campaigns to the one in mind is critical. It can bring fresh ideas to the table, perfect a pitch, better define a product, find potential partners, and get insights for different offerings. Scott Steinberg, in his book The Crowdfunding Bible, offers a comprehensive list of what to look for. Additionally, compiling data from similar projects might be a very useful tool for correctly budgeting a campaign, especially because it can offer examples of how contributors were distributed amongst the different tiers of rewards in successful campaigns, and what the average pledge per backer was. It turns out that both metrics are the two key drivers in the budgeting methodology we are now proposing.

Attempting to find hard data about music crowdfunding projects is difficult. For instance, the Kickstarter Stats section of the website gives only aggregate data, not music data, about funding success rates, dollars pledged, and identifiable trends among successful and unsuccessful projects . The Kickstarter School page is more pointed, but music projects are not separately identified: "To date", it reads, "the most popular pledge amount is $25 and the average pledge is around $70."

Indiegogo's help desk suggests a simple calculation to estimate the number of backers a project will require, i.e. "divide your goal amount by 100, [and this will be] the estimate of how many people need to donate to your campaign in order to meet your goal." An Indiegogo blog post does suggest how to price perks: "perks at the $25 level are the most popular and help you extend your network and boost publicity; perks in the $51-100 range will support the bulk of your fundraising" . Two interesting graphics are also offered revealing (i) the percent of pledges by perk amount, and (ii) the percent of total dollars raised by perk amount. However, once again, the data set is not exclusively about music projects.

Another platform, Rockethub, maintains that the average contribution, where music is presumably included, is $75 per person. Rockethub gives a general estimate of the numbers of contributors needed to reach different goals: to raise $1,000 to $10,000, forty to two hundred contributors are necessary; to raise between $10,000 and $100,000, one hundred and fifty or more contributors are necessary; and to raise more than $100,000, a project owner will need to reach more than one thousand people.

Finally, award-winning filmmaker and seasoned crowdfunder Lucas McNelly has collected much disaggregated data for film and video projects. His empirical approach is an inspiration for what follows, but the analysis of music projects is, understandably, lacking.

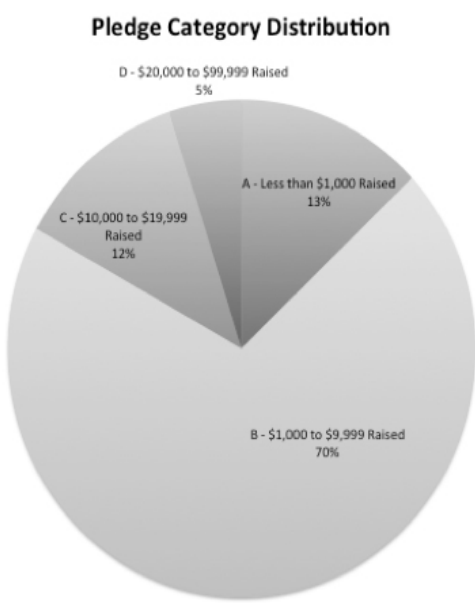
Music Crowdfunding

As mentioned, we analyzed one hundred successfully funded music projects from Kickstarter. Our sample size is representative of the entire range of music projects on the Kickstarter platform, specially considering the pledge categories as defined on the Kickstarter Statistics page. Most successfully funded music projects raised between $1,000 and $9,999. We have left out of our sample pledge categories above $100,000, as they account for much less than 1% of the total. Fig. 1 demonstrates how the campaigns in the data set are distributed among the different pledge categories.

An important factor extracted from the research is the average amount of money that contributors donate in exchange for the rewards offered—which we call the average pledge per backer. At the table on Fig. 2, we notice that projects that raised larger amounts of money had, on average, larger contributions from their backers. We take note too that the average pledge per backer, in the aggregate, is $62. Particular music genres, of course, are different to the average.

Another factor is the historical distribution of rewards chosen by contributors. There are multiple tiers of rewards offered in a crowdfunding campaign. In Figure 3 we aggregate the different pledge amounts into reward tiers and calculate the percentage of backers that contributed to each tier ('undisclosed backers' are contributors that either decided to simply donate their pledges without receiving any rewards in exchange, or preferred not to disclose to each tier they have contributed). The data set of Figure 3 provides in-depth insight into the history of successful music campaigns.

Fig. 1: Overview of Music Pledges, in $



Business Articles

Fig. 2: Average Pledge per Music Genre

Pledge Category and Genre	Qty	Avg Goal	Avg Pledge	Avg Backers	Avg Pledge/Backer
A - Less than $1,000 Raised	13	$454	$576	17	$34
Classical Music	1	$250	$305	14	$22
Country & Folk	2	$550	$715	28	$26
Indie Rock	3	$450	$563	14	$41
Music	2	$675	$700	21	$34
Rock	5	$370	$532	14	$38
B - $1,000 to $9,999 Raised	70	$3,261	$3,814	69	$56
Classical Music	8	$2,938	$3,248	43	$75
Country & Folk	7	$3,386	$4,207	75	$56
Electronic Music	1	$3,250	$4,434	108	$41
Hip-Hop	3	$2,167	$2,467	53	$47
Indie Rock	12	$3,542	$4,145	86	$48
Jazz	2	$2,800	$3,327	58	$57
Music	18	$3,981	$4,554	74	$61
Pop	3	$2,183	$3,541	96	$37
Rock	11	$2,479	$2,731	40	$67
World Music	5	$3,540	$4,134	87	$47
C - $10,000 to $19,999 Raised	12	$9,523	$13,547	196	$69
Country & Folk	3	$9,333	$12,432	124	$100
Indie Rock	1	$6,500	$17,935	106	$169
Jazz	1	$10,000	$10,647	155	$69
Music	3	$11,257	$13,227	144	$92
Pop	1	$6,000	$14,804	668	$22
Rock	3	$10,000	$14,066	205	$69
D - $20,000 to $99,999 Raised	5	$17,900	$22,974	321	$71
Country & Folk	1	$15,000	$21,611	515	$42
Indie Rock	2	$22,500	$23,765	78	$307
Music	1	$10,000	$21,090	575	$37
Pop	1	$19,500	$24,638	362	$68
Grand Total	**100**	**$4,379**	**$5,519**	**90**	**$62**

Fig. 3: Backers per Reward Tier

Pledge Category	Qty	>$0 <$5	>$5 <$10	>$10 <$25	>$25 <$50	>$50 <$100	>$100 <$250	>$250 <$500	>$500 <$1,000	>$1,000 <$2,500	>$2,501	Und
A - Less than $1,000	13	9.50%	14.48%	34.39%	17.19%	5.43%	0.90%	0.00%	0.00%	0.00%	0.00%	18.10%
B - $1,000 to $9,999	70	5.32%	13.63%	38.00%	18.41%	9.40%	3.13%	1.42%	0.25%	0.04%	0.00%	10.40%
C - $10,000 to $19,999	12	15.21%	8.78%	33.57%	18.19%	11.08%	3.71%	1.32%	0.60%	0.13%	0.09%	7.33%
D - $20,000 to $99,999	5	1.06%	12.57%	39.51%	30.24%	6.78%	2.92%	0.81%	0.37%	0.06%	0.12%	5.54%
Grand Total	**100**	**7.24%**	**12.19%**	**37.03%**	**20.44%**	**9.27%**	**3.19%**	**1.25%**	**0.36%**	**0.07%**	**0.04%**	**8.92%**

Budgeting Methodology

We now discuss our budgeting methodology. There are significant costs associated with running a crowdfunding campaign that should be considered when setting a final goal. Our formula factors in those costs and returns a corrected goal value.

$$\text{Final Goal} = \frac{\text{Initial Budget Goal}}{1-(\%\text{ Rewards Cost} + \%\text{ Fees} + \%\text{ Taxes} + \%\text{ Contingency})}$$

Each part of the formula is elaborated below.

The Initial Budget Goal

The first step towards creating a budget is to understand the project, research it, and negotiate prices with service providers and manufacturers. To demonstrate the application of the formula we will simulate a fictitious campaign, where a band has to develop a budget for the recording of an album. After factoring all the expenses, including rehearsals, recording studio, equipment rental, producer fees, copyright filings, artwork design, mixing, mastering, transportation expenses and other similar expenses for the recording of the album, the project owner comes up with the following budget:

Fig. 4- Sample Recording Budget (Initial Budget Goal)

Category	Total
Preproduction (arrangement, rehearsals, etc)	$500
Copyright Administration (licenses, registration. etc)	$1,200
Recording Studio	$5,000
Mixing/Mastering	$3,000
Transportation	$1,000
Equipment Rental	$500
Producer Fees	$1,500
Union/Musician Fees	$3,000
Artwork (photoshoot, graphic design, etc)	$1,000
Manufacturing	$1,500
Unforeseen Expenses (10%)	$1,800
Total	**$20,000**
Band Savings	$12,000
Remaining Balance (to be raised via crowdfunding)	**$8,000**

The band already has $12,000 in savings, so only $8,000 will be required. A common mistake in crowdfunding is to set the goal of the campaign at $8,000. According to the statistics mentioned above, the project would fit into the most successful pledge category, considering that more than 70% of the successful music projects raised between $1,000 and $9,999. However, as we are going to demonstrate, for this campaign to be viable, the goal must account for several other costs beyond the initial budget required for the realization of the project.

Reward Costs

Apart from the amount necessary to realize the project there are costs associated with the rewards being offered for different contribution tiers. It is common in crowdfunding campaigns that at every new reward tier a new perk is offered alongside the rewards from the previous tiers. Hence, every new tier should include the costs of previous tiers when estimating costs of production. Below is a list of rewards created for our campaign. We can see from Fig. 5 that the cost of every reward factors in the costs of previous rewards.

Fig. 5 - List and Cost of Rewards

Contribution	Rewards	Reward Cost	Total Tier Cost
$5	Album Download and Stickers	$ 0.49	$ 0.49
$10	All of the Above + CD	$ 1.79	$ 2.28
$25	All of the Above + Autographed CD	$ -	$ 2.28
$50	All of the Above + T-shirt	$ 12.99	$ 15.27
$100	All of the Above + Poster	$ 4.89	$ 20.16
$250	All of the Above + 1h Skype Class	$ -	$ 20.16
$500	All of the Above + Visit to the Studio	$ -	$ 20.16
$1,000	All of the Above + Concert VIP Ticket	$ 129.00	$ 149.16
$2,500	All of the Above + Producer Credit	$ -	$ 149.16
$5,000	All of the Above + Private Concert	$ 500.00	$ 649.16
Donation	N/A	$ -	$ -

It is important to think creatively when defining rewards, adding value to each level without necessarily increasing the costs. In the example, autographed CDs are more appealing for fans then regular CDs,

Business Articles

and there are no significant costs associated with an autograph. Hence, the margins of return are higher, especially for the most popular reward tiers, between $10 and $50. Additionally, it is imperative not to underestimate the costs for shipping and handling rewards. If the projects scales and there is no provision for shipping costs, most of the proceeds from the campaign might end up having to be spent in fulfillment, instead of being used to finance the project.

Historical data plays an important role in estimating the costs of rewards. Dividing the initial budget goal by the average contribution per backer found in Fig. 2, i.e. $62, we estimate the number of contributors necessary to reach the goal. Then, applying the distribution of backers from our research in Fig. 3, we can estimate the number of contributors in each tier--thus predicting the total costs of rewards. The total cost of the rewards can then be expressed as a percentage of the total, and it maintains that proportion in any goal that is set; see Fig. 6.

Fig. 6 – The Percentage Cost of Rewards

					Straight Budget Goal	
					$8,000.00	
Contribution	Rewards	Reward Cost	Total Tier Cost	Distribution	Estimated # of Backers	Estimated Cost
$5	Album Download and Stickers	$ 0.49	$ 0.49	7.24%	9.42	$ 4.62
$10	All of the Above + CD	$ 1.79	$ 2.28	12.19%	15.86	$ 36.16
$25	All of the Above + Autographed CD	$ -	$ 2.28	37.03%	48.16	$ 109.80
$50	All of the Above + T-shirt	$ 12.99	$ 15.27	20.44%	26.59	$ 405.96
$100	All of the Above + Poster	$ 4.89	$ 20.16	9.27%	12.06	$ 243.14
$250	All of the Above + 1h Skype Class	$ -	$ 20.16	3.19%	4.15	$ 83.58
$500	All of the Above + Visit to the Studio	$ -	$ 20.16	1.25%	1.62	$ 32.73
$1,000	All of the Above + Concert VIP Ticket	$ 129.00	$ 149.16	0.36%	0.46	$ 69.19
$2,500	All of the Above + Producer Credit	$ -	$ 149.16	0.07%	0.09	$ 12.97
$5,000	All of the Above + Private Concert	$ 500.00	$ 649.16	0.04%	0.06	$ 37.64
Donation	N/A	$ -	$ -	8.92%	11.60	$ -
				TOTAL	130.06	$ 1,035.79

DATA	
Avg. $/Backer	$62
Budget Needed	$ 8,000.00
Rewards Cost Percentage	12.95%

In this particular example, we observe that with the given costs of rewards, the percentage of the total money raised that is going to be spent on rewards is 12.95%. Manipulating the costs of each reward might significantly change the percentage destined to rewards fulfillment. Notice that results can be updated from the latest Kickstarter data, extended to other sites such as Indiegogo, and even broken down by musical genres, pledge categories or other relevant factors. Even when historical data from older projects do not seem relevant for a new crowdfunding campaign, the methodology has its use: a subjective distribution of rewards can be guessed, together with its average backing, to reveal the likely cash goal.

Service Fees

The Kickstarter business model is based on retaining a small percentage fee of 5% from successful campaigns. Additionally, there are payment-processing fees that in the case of Kickstarter are collected by Amazon Payments. The fees for handling the money average between 3% and 5% of the total money raised. Other websites such as Indiegogo or Pledge Music have different fee structures, and budgets should be properly adjusted to reflect the processing fees of the platform in use.

Taxes

Beyond the costs of the rewards and the fees charged by platform, project owners should expect to pay taxes on the money raised via crowdfunding. Kickstarter and its payment processor, Amazon Payments, are required to send a 1099-K Form reporting "Merchant Card and Third Party Network Payments" to the IRS for any project that exceeds $20,000 with more than 200 transactions. The taxes owed for a crowdfunding campaign vary in every case, and might include federal income tax, sales tax, gift tax, and self-employment taxes, among others. On the other hand there are a series of deductions and tactics that can be applied in order to reduce the amount owed. Furthermore, the type of business entity chosen by the project manager, as well as the accounting method used—accrual, or cash basis-- significantly impact how taxes are going to be handled in any specific campaign.

In the paper we think it is reasonable to allocate 10% of the final goal for taxes. The figure is speculative and dependent on the means of the project manager. If crowdfunding monies are perceived as income, we've erred on the side of less wealthy individuals, who would not be paying the highest income tax rate. A less likely scenario would be if an aggressive tax professional could justify rewards for a particular campaign as just donations. In that case, the tax rate would be non-existent, although the fees of the tax professional would need to be accounted for. It is advisable to consult with a professional accountant in order to properly estimate the amount owed.

A Contingency Correction

The last item in the budget is a contingency factor for unforeseen expenses. This is an arbitrary percentage set to cover unexpected costs in general, including extra costs of fulfillment or taxes. To illustrate the necessity of a contingency factor, a possible scenario could be if one of the rewards offered in a specific tier is a t-shirt, and 26 people are expected to receive that reward, but the manufacturer requires that the minimum order be for 50 t-shirts; costs would be higher than expected. Once a contingency factor is considered, it can add a degree of flexibility to the collection process. A 5% contingency is set in this sample budget.

The Final Goal

In our example, the band collects $8,000 for its recording project. The initial goal is exceeded by the costs of running a crowdfunding campaign, which we have identified as the rewards costs, at 12.95%; the fees,

$$\frac{\$8{,}000}{1-\left(0.1295+0.10+0.10+0.05\right)}=\$12{,}892.29$$

(Continued on Page 13)

Business Articles

Fig. 7 - Breakeven and Adjusted Goals

	Straight Budget Goal $8,000.00		Breakeven Goal $12,892.29		Adjusted Goal $13,000.00	
Contribution	Estimated # of Backers	Estimated Cost	Estimated # of Backers	Estimated Cost	Estimated # of Backers	Estimated Cost
$5	9.42	$ 4.62	15.18	$ 7.44	15.31	$ 7.50
$10	15.86	$ 36.16	25.56	$ 58.27	25.77	$ 58.76
$25	48.16	$ 109.80	77.60	$ 176.94	78.25	$ 178.42
$50	26.59	$ 405.96	42.84	$ 654.22	43.20	$ 659.69
$100	12.06	$ 243.14	19.44	$ 391.83	19.60	$ 395.11
$250	4.15	$ 83.58	6.68	$ 134.69	6.74	$ 135.82
$500	1.62	$ 32.73	2.62	$ 52.75	2.64	$ 53.19
$1,000	0.46	$ 69.19	0.75	$ 111.50	0.75	$ 112.44
$2,500	0.09	$ 12.97	0.14	$ 20.91	0.14	$ 21.08
$5,000	0.06	$ 37.64	0.09	$ 60.66	0.09	$ 61.17
Donation	11.60	$ -	18.69	$ -	18.84	$ -
TOTAL	**130.06**	**$ 1,035.79**	**209.59**	**$ 1,669.22**	**211.34**	**$ 1,683.16**
	Taxes	$ 800.00	Taxes	$ 1,289.23	Taxes	$ 1,300.00
	Fees	$ 800.00	Fees	$ 1,289.23	Fees	$ 1,300.00
	Contingency	$ 400.00	Contingency	$ 644.61	Contingency	$ 650.00
	Net Balance	$ 4,964.21	**Net Balance**	$ 8,000.00	**Net Balance**	**$ 8,066.84**

We have said that a common mistake is making the goal of the crowdfunding campaign identical, or almost identical, to the initial budget goal. As can be seen from the projections in Fig. 7, the band would be setting itself up for some economic hardship with $8,000 as their goal. Applying the budget formula, however, it is easy to estimate a breakeven goal. We recommend adjusting results to a round number to play it safe. Note that in this example the band was using $12,000 from their savings, and needed $8,000 from crowdfunding, so in order for the band to really breakeven they would need to recoup their $12,000 either by exceeding their goal with pledges from the campaign, or in future sales of the album.

The formula also provides useful insights about the number of contributors necessary to reach a given campaign goal. A project owner can better evaluate his or her chances of success by (i) comparing the number in the model to his or her actual fan base, (ii) make judgments about Facebook friends and Twitter followers that may turn into backers, and (iii) generally set standards for a more targeted marketing and public relations effort.

Conclusion

Crowdfunding is not for the faint of heart, but properly harnessed, it can help artists and creators achieve their goals. There is substantial work involved at every step of the way, starting with the pre-production of the project, continuing through the execution of the actual campaign, and ending well only after the hurdles of fulfillment are overcome
.

Sound budgeting is at the core of any serious attempt at the medium. But, right now, crowdfunding needs to be infused with a healthy dose of realism. It can be done better and produce more successful and sustainable campaigns. We provide an Excel template to that end. The spreadsheet, which makes our methodology clear, can be (i) adapted for specific music campaigns by desired goal or genre, (ii) used in the simulation of different scenarios and for data updates, and (iii) extended to non-musical projects; once again, please see http://bit.ly/13taRoN. MBJ

ASCAP: A Retrospective

By Griffin Davis

February 13, 2014 marked the 100th anniversary of the founding of the American Society of Composers, Authors, and Publishers, known colloquially as ASCAP, the nation's first, and largest performance rights organization. As a Performance Rights Organization, ASCAP's primary role has been protecting the copyrighted compositions of their members by monitoring public performances of their works and compensating them accordingly. ASCAP, however, has not limited itself to this role and has become one of the most influential forces in the music industry.

The Early Days

The story of ASCAP's founding goes that in early 1914, the great Italian opera composer, Giacomo Puccini, was having lunch in New York with Victor Herbert, a prominent American composer. At some point during the meal, the restaurant's band began playing one of Herbert's compositions. According to Paul Williams, a songwriter and the current president of ASCAP, an enraged Puccini said to Herbert "Why are you not licensing this music? You should be paid for this music, because in Europe, we are." Inspired by Puccini's comments, Herbert assembled a group of the era's most prolific composers, including Irving Berlin and John Philip Sousa, to found ASCAP.

Despite a strong conviction and the support of the Copyright Act of 1909, which affirmed the rights of songwriters to be paid for the exploitation of their work, ASCAP had a difficult time convincing venues to pay them for something they had previously gotten for free. According to Bruce Pollock, author of *A Friend in the Music Business: The ASCAP Story*, the ASCAP representative charged with the task "of being [the] guy who has to go into a place that isn't licensed and tell the owner, 'Uh, now you have to be licensed'…[had] the most dangerous job. People would wind up in jail, they would get beat up, they would be threatened."

It wasn't until 1917 that ASCAP received the backing they needed to collect money from venues. This backing came in the form of a landmark decision in the case of *Herbert v. Shanley Co.*, in which Chief Justice of the Supreme Court Oliver Wendell Holmes upheld a composer's right to be compensated for the public performance of their

(Continued on Page 16)

Law Section

Rumbles in the Copyright Frontier

By Griffin Davis

On March 20, 2013, following an address at Columbia Law School entitled "The Next Great Copyright Act", U.S. Register of Copyrights Maria Pallante appeared before the House Judiciary Subcommittee on Courts, Intellectual Property and the Internet to call for a comprehensive update to the Copyright Act. Pallante argued that an overhaul of the Copyright Act is long overdue as the last major revision occurred in 1976. Though some adjustments have been made since then, most notably the 1996 Digital Millennium Copyright Act (DMCA), which was the first act to address the impact of digital technologies on copyrighted material, the Copyright Act still largely reflects a pre-internet world. The issues that Pallante feels should be addressed include "clarifying the scope of exclusive rights…reviewing the efficacy of the DMCA…reforming the music marketplace…and improving the systems of copyright registration and recordation."

A little over a month later on World Intellectual Property Day, Subcommittee chairman Bob Goodlatte (R-VA) announced that the Judiciary Committee would begin a top to bottom review of the copyright act. The first step in the process of revision is a series of hearings, which began on May 8, 2013 and will conclude some time in the spring of 2014. The hearings have consisted of testimonies from a wide range of professionals in industries that are affected by copyright, including, among others, musicians, authors, digital entrepreneurs and photographers. Hearings have addressed the roles of both copyright and technology in innovation, the impact of voluntary agreements on the U.S. intellectual property system and the scope of copyright protection.

Performance Rights for Sound Recordings

The most important development produced thus far by the hearings came as a bit of a surprise. At the beginning of the Judiciary Committee's July 25th hearing entitled "Innovation in America: The Role of Copyrights", Rep. Mel Watt (D-NC) announced that he would introduce a bill to establish a performance right for sound recordings on terrestrial (AM/FM) radio. Under U.S. copyright law, every song receives two copyrights, one is for the sound recording, and the other is for the underlying composition. Currently, performance rights for terrestrial radio exist only for the composition. This means that when you hear Jimi Hendrix's version of "All Along the Watchtower" on the radio, Bob Dylan, the song's composer, is paid, but Hendrix's estate receives nothing.

An overwhelming majority of the world's industrialized nations recognize this right, leaving the U.S. in the company of countries like North Korea and Afghanistan, both of which do not recognize terrestrial radio performance rights for sound recordings. This discrepancy in U.S. copyright law means that not only do American recording artists miss out on income from domestic radio plays, they also lose millions of dollars in international royalties as countries with this performance right will not pay American artists for radio play since the U.S. does not have a reciprocal right.

This debate is not a new one however, as Pallante points out "Congress has already had more than a decade of debate on the public performance right for sound recordings". Several bills similar to Rep. Watt's, which is officially known as the Free Market Royalty Act, have been proposed as recently as 2009, however, all such bills have been defeated due to massive lobbying efforts on the part of radio broadcasters. The broadcasters contend that the exposure an artist receives from radio play is more than sufficient compensation. While this may have been true a decade ago, the continuing decline in record sales has made the potential earnings from radio play a much more significant factor in a recording artists income. Rep. Watt officially introduced the Free Market Royalty Act on September 30, 2013, but has since left Congress to become director of the Federal Housing Finance Agency, leaving the bill's future somewhat unclear.

Fair Use

The most recent hearing, held on January 28, focused on the fair use doctrine. Fair use is an interesting legal exception that allows for the use of copyrighted material without the permission of the rights holder. Fair use does not mean that you can use whatever you want with impunity. Instead, section 107 of the Copyright Act delineates the four factors to be considered when determining the fairness of a use, the factors are:

1. the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
2. the nature of the copyrighted work;
3. the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
4. the effect of the use upon the potential market for or value of the copyrighted work.

Fair use has generated a lot of debate recently in the Goldieblox v. Beastie Boys dispute. Goldieblox, a toy company whose products aim to inspire young girls to pursue careers in the male-dominated fields of science and engineering, released an online advertisement that used the Beastie Boys song "Girls". The song's lyrics, which originally expressed sexist attitudes, were changed to reflect the mission of Goldieblox. While parodies that provide criticism are often considered fair uses, the commercial nature of the use along with the Beastie Boys' longstanding refusal to license their work for use in advertisements raised doubts as to the fairness of Goldieblox' use.

In the fair use hearing, the first two testimonies came from Peter Jaszi, a professor of law at American University, and June Besek, a professor of law at Columbia University. Jaszi testified that he felt the courts were doing a good job of applying the fair use doctrine, but suggested exemptions from statutory damages for noncommercial uses as a possible revision. Besek, on the other hand, feels that the courts' have relied too heavily on whether a use is transformative in determining its fairness, claiming that this reliance has expanded the scope of fair use beyond what it should be.

Later in the hearing, Naomi Novik and David Lowery spoke about the impact of fair use on creators. Novik, a science fiction author and representative for the Organization for Transformative Works, argued that licensing is cost and resource prohibitive, and therefor not an option for many creators who look to make use of existing material. Novik cited herself as a prime example, having made a name for herself writing fan fiction, which she contends should be considered a fair use. Lowery, a musician known for his work with Cracker and Camper Van Beethoven, said he had no problem with uses that are commonly considered fair, such as parody, instead focusing his attention on unlicensed copies that claim to be fair, but are in fact not. Lowery claimed that finding the author of a work and obtaining a license is "easier than ever", citing the growth of hip hop as proof that licensing does not make sampling impossible.

Though Novik and Lowery's discussions of licensing are interesting in the context of fair use, the problems they addressed could be addressed better through changes to licensing systems, such as compulsory licensing for derivative works, than through changes to the fair use doctrine.

* * *

Though a date has yet to be set, the next hearing on "Notice and Takedown Provisions" will focus mainly on the DMCA, particularly its safe harbor provisions which protect online service providers against copyright infringement liability. While the U.S. is not alone in reviewing intellectual property law for its suitability to existing international practice and technical change, such hearings continue to engage the creative community in the public arena and likely raise the burden of proof for technology providers who arguably benefit from the legal status quo. MBJ

Berklee College of Music
Music Business Journal
Volume 10, Issue 1 www.thembj.org April 2014

100 Years (cont.)

(From Page 13)

composition, even when the venue does not charge directly for admission. *The Herbert v. Shanley* decision gave rise to one of ASCAP's most prominent regulatory mechanisms, known as the blanket license. Under a blanket license, businesses pay ASCAP an annual fee in exchange for the right to play any composition by an ASCAP member.

The Growth of ASCAP

With their new legal backing, ASCAP was able to turn their attention to promoting the interests of their members. Among their early victories was a 1919 deal made with Great Britain's Performing Rights Society establishing reciprocal representation for each other's members in their respective territories. Today, ASCAP has made similar deals with PROs in over 100 countries.

The 1920s and 30s were a period of great growth for ASCAP. Many great composers, including George Gershwin, Cole Porter, and Duke Ellington joined ASCAP's ranks. Additionally, ASCAP embraced the new medium for music discovery that radio presented by licensing radio stations, thereby creating a substantial, new revenue stream for composers.

Troubling Times

By the late 1930's ASCAP had become one of the most dominant forces in the music business. ASCAP's control over music was so great that they were considered to be in violation of the Sherman Anti-Trust Act, and were sued twice by the Justice Department. The first suit was brought in 1937, but was quickly abandoned; the second suit, brought in 1941, resulted in a consent decree, which forced ASCAP to set rates fairly and not discriminate between licensees who are in similar standing.

The Anti-Trust suits were not the only challenges ASCAP faced during this era. In 1940, in response to ASCAP's attempt to double license fees, radio broadcasters began a boycott of ASCAP. During the ten-month boycott, none of ASCAP's songs were broadcast on NBC or CBS radio stations. Ultimately, ASCAP settled the issue by agreeing to lower rates, but not before broadcasters founded Broadcast Music Incorporated, or BMI, a competing PRO.

Continued Growth and the Digital Age

Despite the setbacks of the early 1940s, the next four decades were by and large a period of great success and growth for ASCAP and its members. The 1950s brought another major revenue stream for composers, the television. The 1960s, 70s, and 80s saw major increases in ASCAP's diversity and star power, with members ranging from rock stars like Jimi Hendrix and Janis Joplin, to country legend Johnny Cash, to pop stars like Madonna.

The late 1990s and 2000s saw an end to this unchecked growth. The growth of digital technologies and the rise of peer-to-peer file sharing caused radical changes to the music industry. Though ASCAP was not immune to the effects of file sharing, they refused to allow digital technologies to get the best of them. In 1995, ASCAP issued its first performance license to a website, RadioHK.com, and later became the first PRO to pay royalties for digital performances. More recently, ASCAP has faced challenges from online music streaming services, most notably Pandora, who are fighting to lower licensing rates.

ASCAP Today and Beyond

Despite past setbacks and current conflicts, ASCAP has remained a fixture of the music industry. At 100 years old it is the nation's oldest PRO, and remains the only composer-run PRO in the country. ASCAP is also the world's largest PRO; its nearly half a million members will receive an estimated $851.2 million for their roughly 250 billion performances in 2013.

By identifying the need for collections from venues of all sorts and, eventually, from the public airways of radio and TV, ASCAP has served the industry well. It definitely changed the value of music in the U.S.—and in so doing, the net worth of composers and songwriters alike. How ironic, though, that it took a classical music star, Giacomo Puccini, to pave the way for a better livelihood for generations of popular tunesmiths. MBJ

Beyoncé (cont.)

(From Page 5)

lease, "Beyoncé" has far outsold the previous album "4", which was released in June 2011. As of February 2, 2014, her album has sold 1,668,000 copies.7 There is no question that this release was a major success. The question now is, *is this repeatable?* While only time will tell, there is certainly room for assumptions.

For independent artists, this is nearly definitely not repeatable. The first requirement is a large, loyal fan base. Fans need to be willing to purchase an entire album as soon as the artist says "Go". As mentioned before, Beyoncé has an immense social media following and can reach the world quicker from her smartphone than from any marketing campaign. Outside of a modest core audience, the vast majority of independent artists could never get enough people interested in their un-marketed album to make it go viral.

Secondly, Beyoncé was already a huge public figure. With or without a major album release, news sites, tabloids, and the world at large is following her every move. To do something as dramatic as releasing an album with a single Instagram post is going to alert every single news outlet with even a slight interest in Western pop culture celebrities.

However, Beyoncé is not the only artist with a vast, loyal fan base. She is certainly not the only celebrity on TMZ's radar. Katy Perry, Lady Gaga, and Justin Bieber all have social media accounts that more than rival Beyoncé's.

Beyoncé simply had the advantage of surprise and being the first to attempt it. In her nearly 17-year career, she's never done anything like this, yet has always maintained a consistent image. Aside from the well-maintained length of her career, other artists have similar followings and loyalty from their fans.

It is unlikely that this release strategy will be successfully repeated. Beyoncé's release was shocking and creative. The next artist to attempt it would be looked at as a copycat and uninventive.

The greater lesson to be learned from this is that the public needs more than billboards and talk show appearances to create an exciting buzz for an album. A creative campaign is becoming increasingly necessary. The Samsung release by Jay Z, Kanye's 66-city 'New Slaves' promotion, and now Beyonce's album have all been successful in causing a stir to promote their music. Perhaps other artists can take a cue from these hip hop moguls on the new standard of music marketing. MBJ