

The Evolution of Defined Property Rights in the Music Industry: From Band to Brand

Prepared for

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Economics 5900

Spring Semester 2004

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October 1, 2004

ABSTRACT

Musicians have traditionally served a dual role of both artists and entertainers. The advent of technological ability to record and store music separated these two roles. As transaction costs for the transfer of music began to fall, recorded music increasingly became a public good. This paper examines the evolution of property rights with respect to recorded music as distribution technology has developed. It focuses on the subsequent effect of separating the entertainment and artistic roles of musicians and how “entertainment musicians” are evolving into brands. The labels have been reactionary in dealing with impending change. If they are truly interested in self-preservation, they must endorse the emerging industry model and relinquish exclusionary rights to recorded music.

THE EVOLUTION OF DEFINED PROPERTY RIGHTS IN THE MUSIC INDUSTRY: FROM BAND TO BRAND

Musicians have always served as both artists and entertainers. The development of technology allowing recording and playback created the first differentiation between these two roles by defining a for-profit focus. Further technological progress has enhanced the distinction between music for artistic and for entertainment values. The gap has now widened to the point where the functions are nearly musically exclusive; one is either an “artist” who creates work for cultural value or an “entertainer” who is interested in creating and selling a product. The more progressive the distribution channel, the larger the potential for income and greater incentive to create music for entertainment value.

The property rights for entertainment musicians have traditionally been held by corporate interests and used for revenue generation. Artistic musicians have generally retained ownership of their music, which they use to foster creative interests. Until recently, the recording labels that sponsored entertainment musicians retained a substantial amount of control over their product, but the information age has dramatically challenged traditional distribution channels. Upon closer examination, the property rights shift in favor of becoming a non-rival, non-exclusionary public good has been a gradual change, beginning with the introduction of LP records and continuing through half of a dozen major media formats. Technology that allowed inexpensive replication undermined the original allocation and transfer ownership incentives to the consumer. At each stage

the creator's benefit in reserving exclusionary rights has been eroded and the public has expressed more interest in controlling distribution.

The information age rapidly transformed entertainers into brands, powerful social tools to be harnessed by corporate interests and used for cross-promotion. Continued evolution of information distribution, coupled with the high cost of trying to monitor and police information sharing, caused an inevitable breakdown of the current distribution system and property right allocations. The idea of the musician was separated from the idea of music as a product and gained a new focus: the musician's image, a brand with intangible value to be cultivated. This transformation restructured the music industry and helped to redefine who held the incentives to property rights. Now both musicians and consumers are demanding severance from the proprietary distribution channels held by record labels.

As the record industry grew and shifted the emphasis from artistic functions to capitalistic functions, cultural counter-revolutions formed, challenging popular ideas of what defines music and what constitutes its appropriate use. A backlash against corporate sponsorship of music resulted in the complete separation in the definition of musicians and extinguished all potential for a dual nature. Musicians are now either *artists* or *brands*. Although the public rarely makes a distinction between the two, it is important to understand the fundamental intellectual difference to understand the conflict that has arisen between the traditional view of property rights and the amalgamated version that has been produced by the information age.

What the music industry has failed to understand is the shift recorded music has undergone, away from a product and towards a promotional tool. The product is the band,

a manikin icon, used to sell a host of other products. In the new model primary revenue generation no longer comes from recorded music, but from concerts, merchandise and cross-promotional activities. Sales from recorded music were \$10.1 billion in 2003, the same concert revenues exceed record sales for the first time since the introduction of the 45 (Smith). The industry has bitterly fought unauthorized music distribution without realizing, that by doing so, they allow consumers to break the collusive oligopoly the industry now enjoys by exploiting alternative distribution channels. To solidify their power in the new model continually myopic approaches need to cease. Embracing the new system by releasing exclusionary rights to recorded music and capitalizing on the hyper-branding of artists is the only effective way to insure longevity; the current Luddite approach will ultimately fail.

EVOLUTION OF DISTRIBUTION CHANNELS AND PROPERTY RIGHTS

The production of music is arguably as old as human civilization. Throughout time it has served a variety of key cultural purposes including communication, religious ritual and socialization. Until the last hundred years music could be experienced only by live performance. Without recording equipment, musicians retained ultimate control over when their music would be performed and who could listen to it. Five major phases of invention have changed the way recorded music was distributed: LP records, AM/FM broadcast, cassette technology, compact discs and digital encoding. At each step, some of the property rights were transferred from the creating interest to the consuming interest

until the most recent phase, where the consumers have almost completely absorbed the ownership incentive and transformed recorded music into a public good.

The first mainstream consumer technology able to capture and preserve recorded sound was a wax lacquered disc known as an LP. There were several competing protocols including phonographs, Victor 78rpm, RCA 45rpm, and Columbia 33 1/3rpm. With the introduction of this technology, consumers now gained some control over listening habits. Once they purchased a record, they were entitled to unlimited use and free to share the listening experience with whomever they chose (Schoenherr). Musicians relinquished some control over who could listen to their music and when in favor of turning a profit from this technology.

The first skirmish in recorded music property rights occurred around the turn of the century as use of phonographic records in jukeboxes was questioned. Phonographs were initially played in “virtual halls” where listeners could come and listen to the album for pennies. This model generated initial interest in home consumption, but once LPs became available for domestic consumption, record labels became worried that public play of the phonographic records would undermine consumer sales (Almind). This is the first instance of myopia in the record industry, as it failed to understand how public exposure of its product drove sales. Limited introduction of phonographic jukeboxes help the industry grow steadily into a \$106 million industry by 1920. (Almind)

The technology to use radio waves to transmit sound had existed since the beginning of the twentieth century, but in 1920, KDKA Pittsburgh became the first radio station to air commercials and adopted a musically focused format. The growth of radio media expanded the audience created by the early “virtual halls” (Schoenherr). The

consumer did not have to travel to enjoy recorded music. Musicians now yielded more control to the listening audience as the consumer began to dictate the where and when of consumption.

Radios were much less expensive than LP players in the first half of the century, and live AM/FM broadcasts suppressed nearly all-record sales from 1930 to 1945. The record labels fought with broadcasters to keep recorded music off the airwaves. The industry's insistence on airing only live performances led to a 50% deflation in record sales since their peak in 1920 that corresponded nearly identically to the proliferation of commercial radio, (Burns). This tactic became characteristic of the record industry's overall strategy, an attempt to halt change and preserve the status quo instead of embracing and capitalizing on innovative forces. Had the record labels embraced broadcast of studio tracks as a promotional tool to sell records, the suppression of sales probably would have been offset. Ironically enough, jukeboxes, the technology that labels had sought to obviate, became their saving grace.

As radio popularity grew, the incorporation of jukeboxes in saloons and other public areas became pervasive and had increased to 300,000 installations by 1934. They generated a new interest in recorded music and coupled with the falling prices of phonographs once again found their way into home consumption (Burns). Disorganization and resistance in the recording industry allowed further property rights to slip away. Consumers now had a choice of listening to music in their home via purchased phonograph, live radio or jukeboxes in public establishments, yet the industry was only generating notable income from the first channel (Almind).

The next twenty years were dominated by the awkward and bulky LP technology, and when Philips released stereo cassettes in 1963, the recording industry was hit with mixed experiences. The new technology, which allowed easy storage and more reliable stereo systems, boosted lagging recorded music sales. The original 8-track cassette technology was pure growth for the industry, but upgraded 4-track cassette stereos allowed consumer recording functions (Schoenherr). Intergraded consumer stereos could duplicate audio from radio, LPs and other cassette tapes. This led to widespread sharing of recorded music and threatened to undermine the demand for original recordings.

Consumers seized control of more property rights because they could now duplicate recordings on their own, having to rely on record companies only for production. Fighting against this practice turned out to be futile, as in 1984 the US Supreme Court handed down a decision, in *Universal City Studios, Inc. et al. v. Sony Corporation of America Inc. et al.*, which meant that consumers were permitted to copy programming for “personal use” (Haris). This case, more commonly known as the Betamax case, dealt with video programs, but the important by-product of this case was the court’s endorsement to empower individuals and keep consumer recording equipment available.

The next major advance came in the form of compact discs. CDs became popular for their portability and easy functionality. Consumers began creating “mixes”, homemade tapes with personally selected tracks, destroying record industries traditional concept that music must be listened to as a radio single or as an album. Consumers gained more say in when, where and how they consumed music, but the truly great effect

of the compact disc emerged when it was used in conjunction with rapidly advancing computer technology.

CURRENT STRUCTURE OF THE MUSIC INDUSTRY

The earliest recording contracts required musicians to surrender nearly all ownership of their material to record companies. This is a structure consistent with other industries that have required creative employees to sign intellectual property agreements. Work produced by musicians while employed by the record company becomes its property, but record producers are hired independently and retain some controlling interest in the product. Thus, ownership of the product is divided among three parties: the labels, the producers, and the musicians.

The label owns the rights to the physical recorded tracks, music videos and all of their subsequent distribution. Once a song is laid down on a studio track the record label generally owns rights to the lyrics, music, recording and graphics permanently. Some musicians have managed to gain ownership of their work by arm-wrestling labels in contract negotiation, but these cases are rare and are exclusive to bands who have gained notoriety beyond their initial contract and had leverage to successfully negotiate better terms (Cumberland). The recording industry has been very serious about keeping this ownership scheme in place, even to the point where it has faced allegations of collusion from artists and consumers.

The gaping exception to this policy is music ownership by producers. Nearly every major record label release credits a producer, but there are two distinct types. When the musicians write their own songs, a producer is hired to assist with the recording process

and help clean up the tracks for airplay. In this scenario, the musicians write the music and the record labels own it. When a musician specializes in performance and not songwriting, the producer becomes the songwriter. If this is the case the third-party producers generally own the music and any associated licensing rights for the original score (Halonen-Akatwijuka).

The record labels and producers consume most of the ownership interests, and the actual musicians retain very little. Rarely do the musicians actually have a financial stake in their product, because they received little or no revenue from the individual sale of it. Their benefit comes from the brand value established by notoriety and fame, but they have little control over how the product is used. Hence, rather odd associations are created, such as Credence Clearwater Revival's Vietnam protest song "Fortunate Son" being played in background of a television commercial making a patriotic appeal to sell jeans.

REVENUE GENERATION IN THE MUSIC INDUSTRY

Three primary ways exist to make money from music: the sale of recorded music, licensing fees and live performance. The recording industry has been very bullish in defining recorded music as the primary product and closely guarding its right to use it as a revenue generation source. Labels derive the majority of their revenue from album sales, licensing fees and royalties, but pass only a very small portion of it, 6% on average, on to contributing parties (Bach p 19).

Musicians do not make money from the sale of their music, only record labels do. They gain a small percentage of each album sold, but once the costs charged by the record labels are figured into the equation, the band is paid just over \$10,000 a year per member by the record company (Love). As a result they have been forced to explore other avenues and have settled on generating profit from live performances and merchandising. Products sold in association with musicians but not directly related to their work have become the primary source of income as the labels have become the only ones generating income from the sale of recorded music (Love).

As recording labels came to power, production was far too expensive for individual musicians to afford. A few industrious individuals willing to invest capital created a pawnshop style system of credit for musicians interested in producing albums. The label would front the money for recording, but the musicians would never regain control of their work. In the adolescent days of the industry this was the only option musicians had available, and it was “take it or leave it” (Schoenherr). The first labels created a dominant position for themselves in which the musician was subservient and, in some cases, forced to change elements of their music to suit the investors.

The real money to be made was in the distribution of recorded music. Once the initial investment in recording was made, production and distribution costs were very low. The oligopolistic nature of the industry allowed very tight control of the distribution channels, and the record labels were handed the power of handpicking the musicians to make famous via the label’s promotional powers in-store and across radio. Individuals who chose not to participate in this scheme were essentially shut out of the system entirely.

NEW MEDIA FORMATS AND THE CREATION OF A PUBLIC GOOD

Compact discs have been the dominant media format for the last decade, but the way they were used drastically changed as personal computers and the Internet became widely used in-home. The personal computer provided a means of digitally encoding music directly from a CD and using the digitized version to create new copies. Given that consumers had been making duplicates on cassette for quite some time, this innovation did not disturb the industry too much. What happened next opened the floodgates and set recorded music on its way to fully transforming into a public good.

As personal computers became linked through the Internet, their ability to share and exchange files continually increased. Once transfer speeds became high enough, users began to share their digitized music. Several software clients were developed to facilitate this exchange and create utility by capitalizing on network externalities. Transaction costs for online distribution were near zero, and almost overnight the entire catalog from each of the five major labels was available for free and on demand in this new environment.

The expected knee-jerk reaction from the labels was a flurry of lawsuits directed at both facilitators of and participators in online music exchange. Even with the legal system backing their side, online music proliferation continues to grow. It is simply too expensive to continually police and prosecute perpetrators. Contrary to the intuitive notion that given the choice between a full-priced good and a free substitute good the consumer would choose the free item, little empirical data exist in favor of the argument that online file sharing currently has a negative impact on recording music sales.

Oberholzer and Strumpff in their analysis on the current effect of file sharing on records sales found “no statistically significant effect on purchases of the full-length albums” (p 24).

Reaction to this change in property rights by musicians has been twofold. Most major label musicians scream out against the push for recorded music as a public good, while independent musicians support it. This is the point at which one can make an explicit distinction between musicians as entertainers and artists. Those musicians who speak against online file sharing are entertainers, with no vested interests in their product as having artistic value. Artists speak for the freedom of information as their music is created as an art form, and they wish to expose the largest population possible to it with money as an inferior concern (Bricklin 2). In the hopes of breaking the oligopoly of the four major labels that control 90% of the industry, the endorsement of online music sharing has a very strong appeal because it challenges the prominence of the labels’ control over the sole distribution channels by creating an alternative option (Bach p 23).

REDEFINING THE PRODUCT

The introduction of new distribution channels and the onset of media culture have dramatically undermined the traditional economic structure for recorded music. The product is no longer an album; it is now the musician. Property rights for the consumption of music have been shifted almost entirely to the consumer, and when the transition is complete a permanent divergence will be realized between entertainment musicians and artistic musicians. Although the industry has fought hard against the

impending change, several foreseeable developments in the near future will solidify the new economic model and exclude reactionaries from participation.

The overwhelming penetration of media-driven commercialism has reshaped the way society constructs its icons and heroes. Entertainers, athletes and media figures now occupy the societal benchmark once held by clergy, warriors and aristocrats. These groups occupy the collective attention of the populace, who found great utility in knowing the intricacies of their personal lives and strive to emulate their sense of style, fashion and personality in an attempt to gain analogous popularity in their reference group. To this extent entertainment musicians have begun to accrue brand value not associated with the intrinsic utility of their music.

Musicians are increasingly featured in roles outside their normal creative environment. Madonna has starred in numerous major motion picture movies, Ice T plays a leading role in Law & Order: SVU and Xhibit hosts MTV's Pimp My Ride. These functions, in along with numerous guest appearances on talk shows, news vignettes and in an increasing body of entertainment literature, create a brand personality independent of the music. Consumers become equally, if not more, interested in the drama and iconoclast status of their favorite musicians than the music they produce. The musician transcends the actual music and established role to become a brand unto itself.

The extension of brand imaging is shown through development of widely available musician paraphernalia. In previous stages of the evolution limited edition collector's items were not uncommon, but today merchandise, or "merch." as it is dubbed in the industry, has become nearly as widely distributed as recordings and carries a higher profit margin. Consumers purchase t-shirts, stickers, hats or other promotional items simply

because they bear the musicians' names (Karnitsching). They are not paying for intrinsic value of the music; they are paying for a brand image. Purchasing these items allows the consumer to be associated with the style or image the musician holds in popular culture.

Taking the next step musicians who have achieved brand status sell rights to their image to cross-promote other products. Recent examples include Tommy Hilfiger's presentation of the Rolling Stones "Bridges to Babylon" tour and Apple's release of the U2 Special Edition iPod (Klein p 46). The musicians association with these products had nothing to do with their music, but the ability of their brand to move units. The musician is a marketing brand more powerful than a celebrity spokesperson, product placement or a consumer ratings endorsement because it is not a promotion of a single brand, but rather a cross-promotional convergence of two.

Given the consolidation pattern of the music industry over the last one hundred years it is likely small number of musicians will eventually achieve brand status (Karnitsching). As this point grows closer the separation between artistic musicians and entertainment musicians will more be complete. The small group of entertainment musicians will be a fraternity of brand powerhouses; and the masses of artistic musicians will be separated from commercial culture. No longer able to compete for media attention, they will continue to thrive on alternative distribution channels and appeal to consumers interested in the consumption of music as art and who do not see it as an entertainment venue. The select group of musicians who achieve brand status will dominate mainstream media the same way most commercial entertainers do now. Only the select group will be featured on television, in magazines or commercial radio, but with shrinking variety.

The musicians, who receive little revenue from the sale of their music in the first place, gain more from the free distribution of their music in an effort to reinforce band value. If brand power musicians will dominate revenue generation so greatly that the record labels will lose what little interest they have in cultivating artistic musicians into mainstream capacity. Instead, there will be a further reliance on formulaic bands constructed by producers and record label executives to fit a specific “sound” marketing research shows to be popular. The number of unique musicians achieving a number one spot on the Billboard Singles Chart has fallen for the last five consecutive years (Love). The primary interest of record labels is to make a profit. In the end they are firm operating in a market attempting to maximize revenue, not to serve as cultural incubators. Thus, if all mainstream musicians become entertainers who have achieved brand power status they will be replaced only when necessary by artificially created bands in order to match changing consumer tastes.

Artistic musicians will turn to alternative channels to distribute their music. Already, Internet sites such as MP3.com, purevolume.com and hxcmp3.com distribute millions of digital tracks yearly at the request of participating bands. Artistic musicians aim to gain exposure and win acclaim. Most do not enter the industry as a profession but as a claim to a high societal calling, generating not even enough revenue to recoup costs. Free distribution of their recorded works is desirable and facilitates their objectives (Halonen-Akatwijuka p 4). Artistic musicians have been a driving force in the creation of electronic distribution channels and their defense against attacks by corporate record label interests.

The split, when finalized, will leave record labels at a loss. Since the inception of the industry the sale of recorded music has been the primary revenue generator, but now pressure is being applied to that model by both sides. The musicians, whose work they are selling, would have a significant stake in promoting its free distribution to enhance their own brand value. Conversely independent musicians freely distribute their music in the hopes of gaining recognition and, in doing so, help to undermine the demand for traditional, packaged albums. The record companies have failed to realize that the product is no longer recorded music, it is the brand value of the musician, and recorded music has now been transformed into a promotional tool to further that purpose.

REDEFINING PROPERTY RIGHTS FOR RECORDED MUSIC

Viewing recorded music in its evolved state as a marketing tool and not as a product allows reconsidering the distribution of property rights for the industry as a whole. Logically, the firms should endorse the economic model that will provide the greatest profits while planning for the long run, yet the record labels have been very reactionary in adapting to the changing environment. In the history of recorded music each new format cannibalizes the preceding medium. With the onset of the information age, free digital music will eventually replace the currently predominant medium of compact discs. It is understandable while record labels are weary about this chance, but to attempt to adapt and incorporate their interests would be the most viable strategy.

The two major reasons for this transition are (1) the evolution of recorded music into a marketing tool that requires massive distribution to be effective and (2) the

negligible transaction costs required for obtaining digital music. Once a minimum expenditure is made for a personal computer and Internet access, the actual cost of acquiring an album and the marginal cost of additional albums is near zero (Bach p 5). In addition, the same investment makes it very easy to duplicate compact discs at a low marginal cost. The implementation and proliferation of computing technology essentially eliminates the transaction costs for distribution of recorded music.

Two conditions must exist for recorded music to be classified as a public good. First, it must be non-rival, that is, one person's consumption does not diminish the ability of another to consume. Second, it must be non-excludable, meaning that once it is produced there is no cost-effective way to prevent any given party from consumption (Bach p 15). Once these two conditions are satisfied the property right incentive is transferred away from the producer to the consumer and the item in question becomes a public good.

Music has always been a non-rival good. Even when live performance was the exclusive method of distribution, one person's enjoyment did not infringe upon another's. As recording processes were developed, production was driven by supply and demand, and only in rare instances did limited editions or scarce pressings of a recording have rival characteristics. The introduction of digital made it very easy for consumer to duplicate rare tracks and distribute them, thereby disarming the last rival characteristic. The first condition of a public good, non-rival, is now wholly satisfied.

The evolving non-exclusiveness of recorded music is a direct result of the introduction of the digital format. Prior mediums for distribution more or less retained the exclusiveness, with some gray area surrounding the ease of copying for cassette tapes and

compact discs. The proliferation of personal computers and Internet access spreads the new distribution system, which enjoys increased efficiencies as a result of network externalities. The non-exclusiveness of recorded music is directly proportional to the number of operators in the digital distribution structure. When personal computing and Internet access become ubiquitous, recorded music will transform entirely into a non-excludable good, satisfying the second condition. When this happens recorded music will be permanently established as a public good, beyond the reach of current controlling interests (Bach p 6).

The effect of falling transaction costs and the establishment of recorded music as a public good removes the property rights incentive from the record label and places it in the hands of the consumer. The labels have made several attempts to retain their controlling interest by placing artificial barriers that generate economic inefficiencies, but in essence, they are only delaying the inevitable. The economic model has shifted, and it is no longer efficient for labels to control the distribution channel (Halonen-Akatwijuka p 3). Regardless of reactionary measures they may implement, the market will adjust in the long run and consumers will control the property rights (Bach p 2).

ARTIFICIAL BARRIERS AGAINST THE TRANSFER TO A PUBLIC GOOD

Given the fundamental shift in distribution for recorded music and the evolution of music into a public good, one must then ask why some consumers would still pay for recorded music. There are four major why a consumer may not have yet taken advantage of the emergence of recorded music into a public good. Yet, in each case, social trends

undermining the validity of the arguments and creating an environment in which the public good stature of music will be ubiquitous.

First, the consumer may fear reprisal from legal entities. The record industry has attempted to create deterrents to file-sharing by filing lawsuits against individuals and facilitating institutions. In 2003 and 2004 the RIAA has filed 1,500 lawsuits alleging damages of \$4.6 billion dollars against individuals who used peer-to-peer networks to distribute music (Hui p 3, Dean). Given that nearly 15 million users participate in what is now classified as ‘illegal downloading’ the expected cost to each user of the legal action is about \$300, or the cost of 25 compact disks. (McBride) These lawsuits create an artificial deterrent for digital music file-sharing by erecting barriers that would not normally exist in the market. Although not one of the lawsuits has led to a conviction, the attempt was to instill fear in the consumer about participating in this distribution channel. The lawsuits filled by the RIAA have come under extreme opposition from groups like Downhill Battle and large firms in the technology industry (McBride). The high cost of this litigation, combined with the null conviction rate and the limited effect on public perception, will not create a long-term deterrent to the new distribution system.

Second, consumers may believe that consuming a musician’s work without remuneration is unethical. Western culture emphasizes the individual and his or her entitlement to the rewards of his or her labor and as such has heavy sociological barriers against the transition to a new economic model. Eastern societies are more focused on collectivism and take part in piracy regularly, much to the disgust of their Western counterparts. The Western ownership mentality seems to be very strong in older generations, but weaker with youth. Those who have grown up with the technology and

the capacity to utilize the new system generally fail to see the ethical argument posed by their elders. The age bracket 18 to 25 accounts for 63% of all peer-to-peer file sharing users (“Usage and Population Statistics”).

Finally, consumers may perceive a high enough value in the packaging to warrant purchase of the actual album. To induce those who are large consumers of digital music to legally purchase recorded music, the industry has restructured its approach to packaging. Prior to the advent of digital music, compact disc packaging was mundane and could be generally summarized by a few stock photos of the musician and possibly printed lyrics for an album. In an attempt to increase value, labels have begun adding more content to the album purchase, including enhanced video sections on the compact disk, hidden tracks, bonus DVD’s and non-traditional packing. These innovations have helped to improve the value of an album purchase, but it is unlikely that, except for the most devout fans, this will make a significant difference in choosing to purchase over choosing to download.

FUTURE SOLIDIFICATION OF THE NEW ECONOMIC MODEL

The introduction of the Napster digital file-sharing service in 1998 challenged the current way in which the recording industry was structured and marked a fundamental transition of music to a public good. The record labels have fought hard against this impending change, but several inexorable forces will ensure that recent developments are made permanent. The breakdown of traditional distribution channels, increased efficiency in the new system and an aging Internet-savvy populace will solidify the new distribution

structure and the transfer of property rights to the consumer and create more social utility as Halonen-Akatwijuka and Regner observed. “The main element of music in the digital age is likely to be the improved quality of the music itself, while the era of label ownership can be described by relatively low quality music which is packaged and marketed well” (p 20).

In previous shifts in distribution mediums the new format cannibalized sales from the one it was replacing. Gradually the new format phased in as the old format phased out, but the distribution system remained intact. Before the introduction of the digital format, music was distributed from producer to consumer via conventional outlets such as retail outlets and mail order. With digital music, consumers gained the ability to distribute peer-to-peer; once a producer released a product consumers could laterally transfer it with near-zero marginal cost (Bach p 4). The existing supply chain is rendered obsolete by the new model.

Initially consumers may not have the proper computing resources to take advantage of the new distribution system. The number of Internet users in America has doubled over the last four years to 200,000,000 users, almost 70% of the population (“Usage and Population Statistics”). As the technology becomes more ubiquitous, not only will the functionality of the system improve, but more people will participate in the use and distribution of free digital music. Coinciding with the growing network, the necessary technologies continue to advance, providing wider bandwidth for faster transfers and larger storage capacities to hold more music. Both of these refinements also increase the actual quality the tracks can be in encoded and raise the incentive to use the digital format as an alternative to a purchased copy. The growing externalities of the peer-to-peer

distribution system will ensure that the old distribution model will continue to lose efficiency and eventually be entirely replaced by digital distribution.

The vast majority of consumers engaging in the digital distribution system are under the age of twenty-five (Bridis). This generation, having grown up with the integration of the microchip into everyday life, is much more likely to participate on the fringe of the introduction of the new model. Older consumers have tended to shy away from digital music, preferring to stay with the traditional formats they are more comfortable with. As the populace ages, a new generation of tech-savvy consumers will find the older generation's technologies and distribution systems inconvenient. In response, their endorsement of new distribution channels and the idea of music as a public good will become an ideology that dominates the market. This occurrence will be the final stage in the complete dismantling of the existing distribution system and the absolute establishment of recorded music as a public good.

CONCLUSION

Technological change is a force that cannot be easily stopped. Once it takes root, technological innovation becomes a juggernaut of change, and interfering with its natural course can lead to severe economic inefficiencies. Institutions that oppose the shifting economic and social constructs are swept away, while those which support the change find themselves key players in guiding and participating in the new market. Up to this point the recording industry has not been forgiving or understanding of the cultural and

economic shifts that are exerting pressure on the traditional structure to which they cling and if they are not careful, will see their role eliminated entirely.

The liberation of recorded music into the public good market is an inevitability based on the economic incentive model. Transaction costs for music sharing have become so low that the expenditure and resources necessary to prevent it are simply too high. Restructuring of the industry and the associated distribution channels is inevitable given the forces acting on the market. The evolution of recorded music into the public good market is symptomatic of greater societal changes brought on by the information age.

The separation of musicians into *artists* and *brands* is a change driven by sociological forces competing in a capitalist environment. The arrangement of the recording industry is not a natural economic phenomenon; it is an artificial construction of manifested social values. The current structure and the evolving structure are not inevitabilities; cultural pressures dictate them. The medium-run changes facing the system are reasonably predictable, but the long-run outcome is more capricious. The economic model may take an erratic course depending on how cultural values and norms change.

During the Industrial Revolution drastic changes to the economic structure violently uprooted industry, workers and consumers from traditional patterns. The interests of the participating parties are marginalized in the interest of greater macroeconomic efficiency. Successful participants embraced and adapted to the changing times. The information revolution is no different; those parties who fight against impending restructuring will lose their vested interest in the market. If the record labels continue to take a reactionary stance, they will find themselves outdated when the changing economic model becomes

fully manifest.

To effectively participate in the new system the record labels need to understand that recorded music is no longer the product. The product is now musician brand value. After making this concession they will share the marketing incentive to release exclusionary rights to recorded music and cease lawsuits on peer-to-peer file-sharing users and supporting institutions. Creating a new focus on live performance and merchandise as the chief revenue generators is essential. If they wish to maintain going concerns these changes are good initial steps, but may not be enough to solidify a place in the new system.

The record labels' necessity as an intermediary for distribution is quickly evaporating. Their initial stubbornness in fighting against changing structures has made them tremendously vulnerable. Had they helped to guide the restructuring they could have provided necessary functions and created value to consumers. In its place they have acted as a barrier to progress and have alienated their consumers while other organizations have filled the emerging markets. If the current record labels want to secure a place in the new economic model, they will need to curtail their reactionary behavior and be extremely proactive from this point forward to make up for lost ground.

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