

DIGITAL TAKEOVER: THE REALITY OF MUSIC IN THE TWENTY FIRST CENTURY

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SPEA Undergraduate Honors Thesis
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Abstract

Digital Takeover: The Reality of Music in the Twenty First Century

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Abstract submitted for SPEA Undergraduate Honors Thesis Presentations

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In the past, music was purchased from a retail store in exchange for a physical copy of music in the form of an 8-track tape, cassette tape, Compact Disc, or vinyl record. In today's world of digital technology, music can be purchased on a cell phone, computer, or tablet, just as long as there is an Internet connection. iTunes was created in 2001, and by February 2010 the music retailer had sold ten billion songs. Digital music sales have had a significant impact on the music industry in the way musicians, labels, and managers are able to earn profit for their work.

The first portion of my study will examine the current state of the music industry since the advent of iTunes and Napster, which have forever changed the music business model. I will compare digital sales to hard copy sales, comparing record store sales statistics to that of the largest online music sources: iTunes, Amazon, and Napster. My initial research also will provide an overview look at webcasting, considering sources such as Last FM and Pandora, and music trends of today's youth. I will conduct a survey on campus to see where students purchase or download their music, and compare this to national sales statistics.

The second portion of my study will be based on interviews conducted with people who work in the music industry and who have been affected by the digital changes that have occurred over the past decade. Many bands have taken it upon themselves to discover new business models that allow for instant consumer gratification and direct artist compensation. Interviews with individuals who have experienced these changes first-hand will provide a basis for summarizing the state of the recording industry and what can be done to salvage what many people believe to be a dying art; the record.

2010 was the first year digital sales exceeded hard copy sales, revealing drastic changes in buying trends since the advent of Napster in 1997 and its legal counterpart, iTunes. The results of my research will paint a picture of the current music industry, while suggesting what can be done to help artists and business professionals operate successfully in the current recording industry.

Introduction

For the first time in history, digital music sales have far surpassed the sales of physical, hard copy music. According to Nielsen SoundScan, digital music sales account for 50.3 percent of all music sales, an 8.4 percent increase from 2010.¹ Last year was a turning point in the recording industry, revealing new trends that no one is quite sure how to analyze yet. The only absolute fact is that the music business as we know it is experiencing an extremely accelerated rate of change. The music environment of today is wildly different than that of the past, but there are ways to make it work. Evolving digital technologies threaten the state of the business as legal and illegal downloading and web streaming services have taken center stage, forcing physical formats of music to become a relic of the past. It is the job of band managers to combat these changes by creating revenue in unique, creative ways. Consumers no longer understand the point of purchasing music at all when in reality, they don't have to; everything can be accessed at the touch of a button for free, forcing managers to create a more innovative business model.

The past ten years have been a rollercoaster, forcing industry insiders to ask themselves, how did we get here? How can we move forward? Where *can* we go from here? It seems that once those within the industry embrace a new technology, an even newer technology is developed, turning everything upside down once again. The question that must be asked if the recording industry is to rise above the steadily increasing dent digital technologies have created in the music industry, is where do *we want* to go from here and how can we reach those goals? It is the job of those within the industry to decide

¹ Rolling Stone, "Digital Sales Eclipse Physical Sales for First Time"

what the next step should be, take initiative, and work to shape the recording industry in a way that is sustainable for artists and industry figures alike. Once this balance is formed, opportunity exists to shift control from the hands of the consumer to the hands of those working in the music business once again.



Problem Statement

The greatest problem plaguing the recording industry in the twenty first century is the prominence of digital technologies and digital music. Every song, movie, or album can be accessed digitally, whether it is a good quality version or not, it is always convenient. The creation of the iPod resulted in music that was compact, fashionable, and easily accessible to all for the first time. The youth of today and those generally consuming music are unaware of the poor quality of the music they are receiving, because simplicity and convenience trumps all. Sound is delivered out of tiny ear buds that rest in the curve of your ear, making music portable but compressing it to a quality unable to compare to the beauty of vinyl. The creation of the .mp3, iTunes, and web streaming technologies has caused a significant decrease in record sales and jeopardized the state of the recording industry over the past twelve years. The Internet is the main catalyst prompting this

change, and as speed and convenience continue to improve, the Internet's impact will increase if a solution is not found.

History of Recorded Music

Is it possible for music to survive another drastic technological transition? When Thomas Edison invented the wax cylinder, society wondered if the art of performance would be able to survive. When the single was produced and met with overwhelming approval, people began to wonder if lengthy music and albums would survive. By now, it is obvious that regardless of changes in technology and the way people choose to obtain and listen to it, music *will* survive. The current upheaval in the recording world has been magnified by the publicity digital retailers are receiving, and the bills and laws being written by concerned parties in an attempt to rescue the recording industry, by counteracting the downturn in music sales. We are currently living in a digital age, where the question is not will music survive, but are people willing to pay for it?

For the purposes of this paper, history will begin with the switch from analog to digital music. Phillips introduced analog cassette systems in 1963, taking over a segment of the market that had been dedicated to the 8-track, but analog was not widely accepted by all, keeping the market open for new technological developments.² Digital music is similar to analog, which stores sound as a continual wave in the media, and is recorded as a stream of discrete numbers, representing the original audio. Digital music is processed through an analog-to-digital converter that measures the level of the analog wave, representing the audio in each moment, and then stored onto a magnetic tape, hard drive, optical drive, or

² http://www.randomhistory.com/2008/08/04_ipod.html

solid-state memory.³ The transition from analog to digital involves taking: “an analog signal [which] is a continuously variable waveform, while a digital signal is a numeric representation of that waveform... [made by] measur[ing] the waveform at many regular intervals (called ‘sampling’), and then stor[ing] these measurements as numbers” (Hart-Davis and Holmes 2001). Digital did not, by any means, signify better quality, as it tended to sound cold and harsh compared to previous technology, but it was a more compressed format of storing and dealing with music that was also extremely portable.

The Compact Disc format was the first used to store digital music. James T. Russell, a General Electric employee, invented the CD in the late 1960s, although it was not patented until 1970. Russell had 26 different patents for CD-ROM technology, which eventually peaked the interest of audio companies including Sony who would choose to purchase licenses.⁴ The invention of the compact disc boosted music sales because people repurchased their entire catalogue of music on the new format, believing it to be better than vinyl. When analyzing current yearly album sales, the CD is still the most popular medium to buy full-length albums on. Downloaded albums account for a small fraction of units sold in the 2000s.

Music mediums have seen constant change over the past forty years, so the CD did not stay in the forefront for long. In 1998 the .MP3 was introduced as a format, gaining traction from labels and consumers in 1999. Record companies did not embrace the .MP3, clinging to the compact disc as if it would remain current indefinitely. This did not become a widespread issue until the introduction of the now infamous Napster, a free downloadable program that allowed anyone with a 56k modem and an Internet connection

³ http://en.wikipedia.org/wiki/Digital_recording

⁴ <http://web.mit.edu/invent/iow/russell.html>

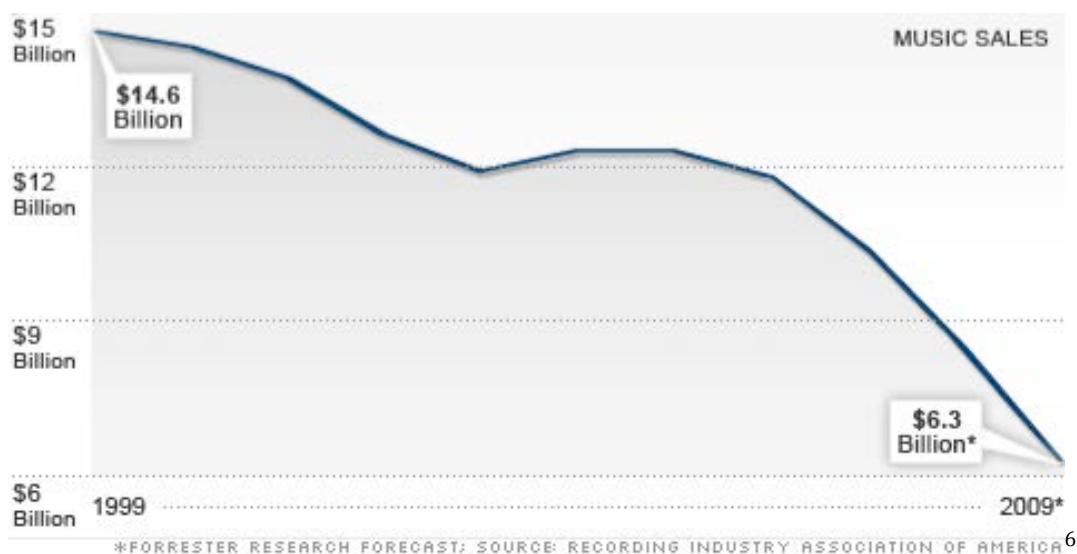
to download copyrighted music free of charge. Shawn Fanning, the creator of Napster, introduced the idea of peer-to-peer file sharing networks (P2P). This technology allows people to share files directly from their hard drive with other members of their network. With increasing popularity and a growing user base, Napster is often considered a major force in the demise of the recording industry. Scott Steinberg, a writer for Rolling Stone magazine, stated that evidence in an upcoming trial would demonstrate; "There has been a \$55 billion decline in record industry revenue over the last decade," (Steinberg). Napster was a major catalyst prompting significant change, negatively impacting the industry in more ways than one.

The next significant change the recording industry faced was the advent of iTunes and the iPod. Ten years after Steve Jobs created Apple technologies they are the most prominent digital products in use. iTunes was created as a place to store a personal music library, and to promote the iPod, but it quickly began selling more music than expected. Although people began buying music digitally via iTunes, the iPod made transporting any type of downloaded music easy, causing a significant decrease in revenue. Labels offered their support of iTunes in late 2003, agreeing to have all of their music available in the digital store. This made iTunes the first, all-inclusive shop for digital music.⁵

Music sales have been cut in half over the past ten years; "total revenue from U.S. music sales and licensing plunged to \$6.3 billion in 2009... in 1999, that revenue figure topped \$14.6 billion," (Goldman, cnnmoney.com). With the rise in popularity of the compact disc came a rise in sales as many music lovers repurchased their entire music collection on the new format. The rise in digital music did not lead to the same sales boom

⁵ Harris, Mark. "iTunes Store History - The History of the iTunes Store." About.com: Digital Music. Available from http://mp3.about.com/od/history/p/iTunes_History.htm

because the possibility of “free” was easy to achieve. iTunes helped encourage legal sales, but the harm from free sites like Napster and Limewire had done their damage, causing over a 50% sales decline in ten years, as seen on following chart.



Web streaming is yet another, more recent technology that has begun to take over the United States music market. Pandora Radio was founded in 2000, allowing users to create radio stations based on a musician or a song they select. Last.fm was founded the same year as Pandora in the United Kingdom. The site keeps track of what the user listens to or what is on their computer, and by 2011 Last.fm had more than 50 million users. An even more widely embraced streaming technology is Spotify. This service provides the opportunity for a paying user to eliminate commercials, or stream for free with sporadic commercial interruptions. Spotify offers the opportunity to create playlists that you can save and listen to later, or share with your friends. It is possible to look up any CD, at any time, and listen to it for free on your computer.

⁶ CNN Money, http://money.cnn.com/2010/02/02/news/companies/napster_music_industry/

Spotify has made free a realistic option for consumers, encouraging more streaming and legal peer-to-peer sharing. As technology continues to improve, sales will continue to decline because purchasing music is no longer a necessary. The Swedish DRM-based service was launched in October 2008 and later adopted by Austria, Belgium, Denmark, Farce Islands, Finland, France, the Netherlands, Norway, Spain, Sweden, Switzerland, the United Kingdom, and the United States.⁷ The web streaming service hosts music from artists signed to labels such as Sony, EMI, Warner Music Group, and Universal, although some artists have chosen not to allow their music to be shared on the site.

Major Label's Gravest Mistake

Record labels have made extremely significant mistakes that band managers must work to rectify for the artists they represent if the industry is to move forward in hopes of creating a more profitable business model. The first mistake the major record labels made was their refusal to accept the .mp3 as the hot new format. When the CD was created, record labels embraced it because consumers were required to repurchase all of their music on the new portable format, resulting in a substantial increase in sales. Instead of choosing to take the next technological step forward and use .mp3 files to sell music, major labels decided to fight the CD format, using the Recording Industry Association of America (RIAA) as their weapon. By definition, the RIAA is, “[An organization designed to] protect the intellectual property and first amendment rights of artists and music labels; conduct consumer, industry and technical research; and monitor and review state and federal laws, regulations and

⁷ <http://en.wikipedia.org/wiki/Spotify>

policies. (RIAA.com)”⁸ In order to protect the rights of artists, the RIAA began a string of law suits against peer-to-peer offenders, many of whom were young pre-teens or elders who did not even own a computer. Their pursuit of lawsuits was unsuccessful, and began to give the organization a bad name. Roughly 30,000 cases were brought against peer-to-peer offenders between 2003 and 2007, many of which ended in settlements, default judgments for amounts that were not worth collecting, or a dead end for the RIAA⁹

Major labels attempted to make legal downloading sites of their own, but restrictions about what music they could include, fees for the service, and a lack of music from other labels that were not partners in the business lead to their demise. Warner, EMI, and BMG formed MusicNet while Sony and Universal created Pressplay. These tools were set up similar to Napster, but the restrictions consumers faced drove them back to illegal downloading. People hungered for the convenience of the .mp3, but by the time record companies found an effective way to embrace the technological transition, it was too late; “The tools of the digital age are de facto the tools of infringement: email, instant messaging, the World Wide Web, search engines, and wireless technology. Any communication technology, any desktop computer, any portable storage device can and will be used ... for infringement, often on a massive scale, (Gordon Second Edition).” The bandwagon had already taken off and the labels seemed to be chasing something they could not catch.

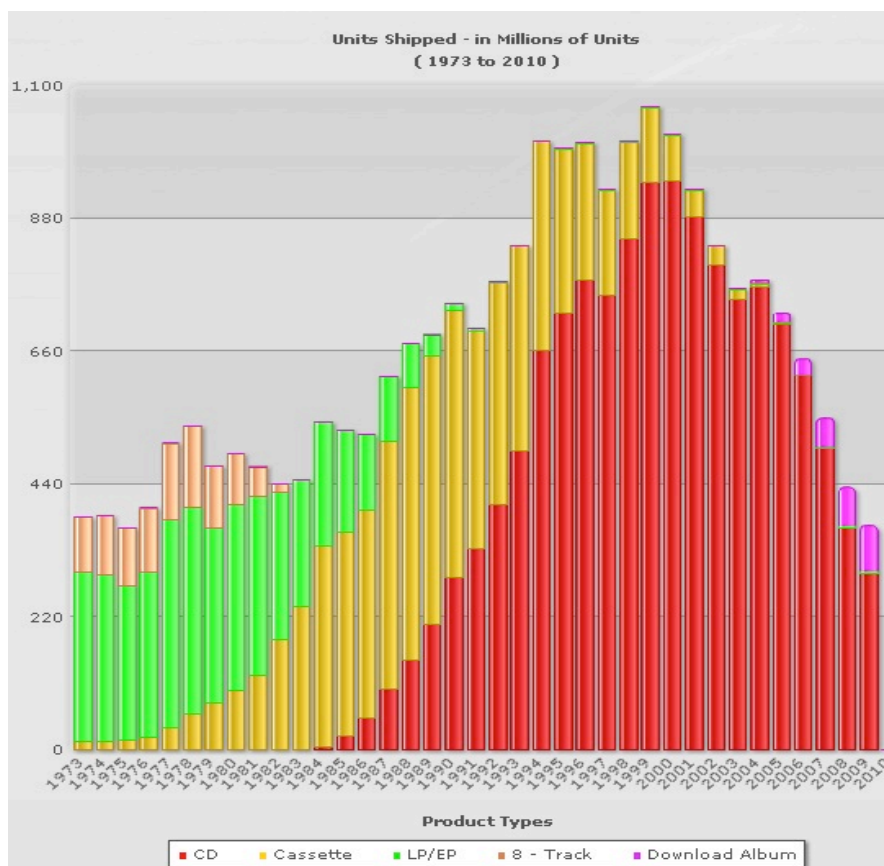
⁸ “For Students Doing Reports.” [RIAA.com](http://riaa.com). Available from <http://riaa.com/faq.php>.

⁹ Gordon, Future of the Music Business

Current Trends

To understand the status of the recording industry in 2012, it is important to understand the progression of sales. Many consumers are still purchasing music, but the medium through which they choose to purchase it has changed. While sales figures are still in the millions and billions for some artists, the status of gold and platinum albums is not reached by as many artists, regardless of how commercially popular they become. It is imperative to understand the current state of the recording industry by examining total record sales, the sale of singles, and download figures.

Album vs. Single



10

¹⁰ Digital Music News, <http://digitalmusicnews.com/stories/021711disruption>

The chart above shows the number of albums sold, in millions, between 1973 and 2010. A steady sales decline can be seen beginning in 2000, the year after the .mp3 gained widespread acceptance and popularity, steadily decreasing until 2010. Napster is a common scapegoat for the decline in recorded music sales, which has seen losses exceeding nearly \$55 billion.¹¹ In 2011, 50.3% of music sales were purchased digitally, an 8.4% increase from 2010. Nicki Minaj had the most streamed song of the year (“Super Base”) while Adele had the top selling album, with *21* receiving six Grammy’s for album of the year, best pop vocal album, record of the year, song of the year, best short form music video, and best pop solo performance.¹² Is it necessary to sell 5,824,000 albums to be successful like Adele? Not every artist has this ability.

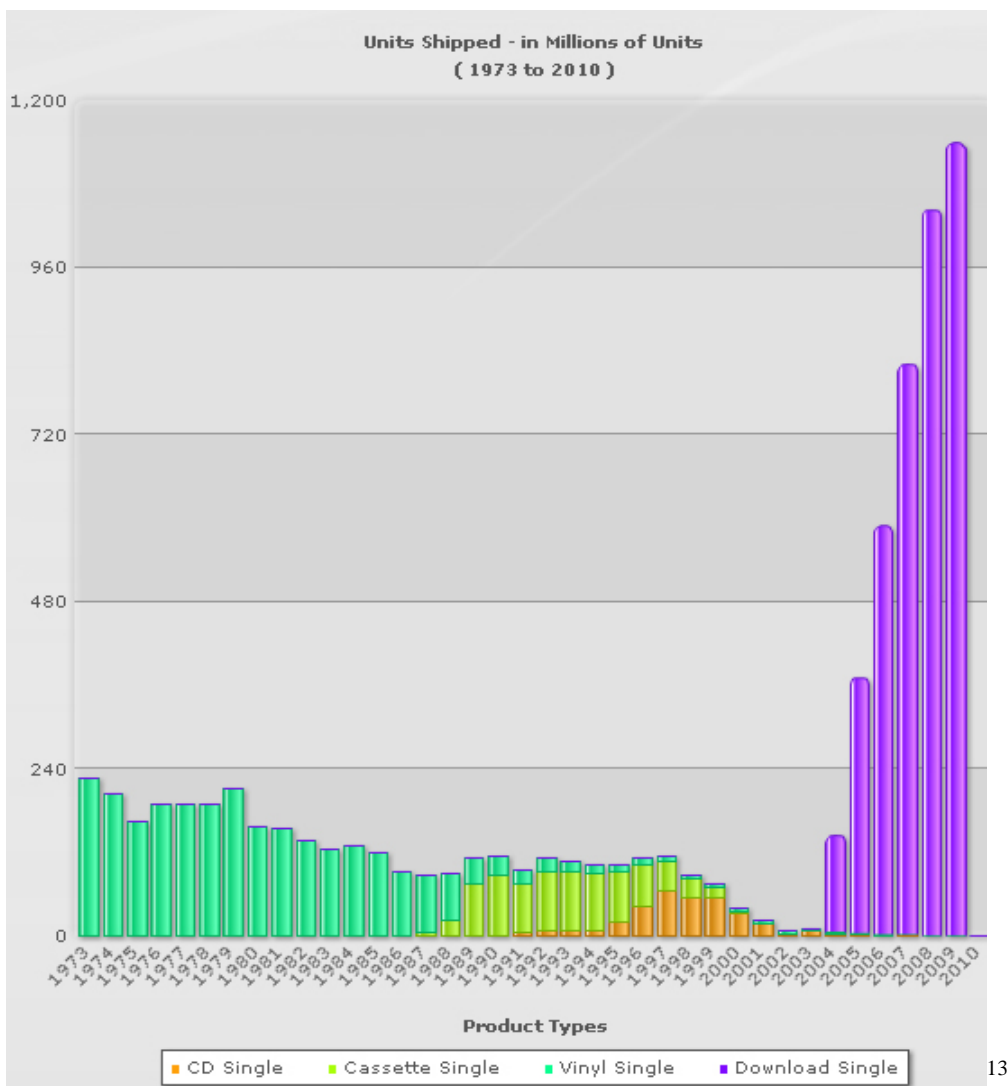
Most news sources only talk about the dismal state of the industry, convincing consumers that the decrease in sales is a slump the recording industry is unable to recover from. This does not seem to be the case. There is still hope; “For the first time since 2004, total album sales – including both physical and digital – rose compared to the prior year. They increased 1.3% in 2011 to 331 million units. Adele’s *21* sold 5.8 million units, which was enough to lift the entire album category into positive territory for the year” (Segall, cnmoney.com). Although Adele was able to act as the saving grace for record sales in 2011, what will provide that type of cushion for 2012? It is not realistic for the industry to count on one artist each year to counteract loss in sales due to music downloading; therefore, a viable solution is crucial.

The easy availability of the single has been able to assist music sales, because people do not always wish to purchase an album in its entirety. The practice of selling singles was first made successful by the sale of vinyl singles, with a remarkable 230 million singles shipped in 1973. The sale of singles did not explode until 2004 with the continuous rise in popularity of

¹¹ Rolling Stone Article

¹² “Digital music sales top physical sales” by Laurie Segall cnmoney.com

iTunes. In 2010, approximately 1,000-million units were shipped, making the number of singles sold in 1973 seem insignificant by comparison. By 2004 the number of vinyl singles sold was so small that the vinyl singles (green section of the bar) is barely visible in the following graph.



The spike in the sale of singles since 2004 reveals a trend that appears to remain unchanged in 2011. The sale of singles over the past seven years dwarfs the number of albums sold the same year. It can be predicted that this trend will remain constant in future years as iTunes continues to expand globally. The most sold single of 2010 was Katy Perry’s song “California Gurls,” resulting in 4.4 million downloads sold, (Perpetua, rollingstone.com). The

¹³ Digital Music News, <http://digitalmusicnews.com/stories/021711disruption>

top selling single in the United Kingdom during 2011 was Adele's "Someone Like You," with 1,242,000 downloads, followed by "Moves Like Jagger" by Maroon 5 featuring Christina Aguilera with 1,043,000 downloads. Singles selling almost one million songs each include "Party Rock Anthem" by LMFAO (995,000), "Price Tag" by Jessie J featuring BOB (981,000), and "We Found Love" by Rihanna featuring Calvin Harris (902,000).¹⁴ The top selling singles in the United States were almost identical to the UK statistics. The top five songs, in order, were "Rolling In The Deep" by Adele, "Party Rock Anthem" by LMFAO, "Firework" by Katy Perry, "E.T." by Katy Perry featuring Kanye West, and "Give Me Everything" by Pitbull featuring Ne-Yo, Afrojack & Nayer.¹⁵ With singles that account for close to one million sales each, it is apparent that the sale of singles has greatly enhanced revenue streams that would have been lost to illegal downloads. Consumers prefer to buy only popular radio hits, as seen by the top five singles of 2010, or specific songs from an album without buying the complete record.

This is a trend that, if embraced by major industry executives, will lead to successful sales. However, when not embraced, this will lead to a decrease in profits generated from sales and concerned parties claiming that the industry is dead.¹⁶ In 2008, the price of singles was changed in the iTunes store. Songs were no longer consistently ninety-nine cents: "Under Apple's new pricing plan that will take effect in April, Mr. Schiller said songs will cost 69 cents, 99 cents or \$1.29. He said the "vast majority" of the songs will cost 69 cents, though people familiar with the matter said the most sought-after songs -- which generate most of the sales on the service -- will likely cost \$1.29 as both Apple and the major record labels try to boost revenue growth," (Wall Street Journal).¹⁷

¹⁴ <http://www.theofficialcharts.com/chart-news/the-top-20-biggest-selling-singles-of-2011-revealed/>

¹⁵ Billboard Charts: <http://www.billboard.com/charts/hot-100#/charts-year-end/hot-100-songs?year=2011>

¹⁶ <http://www.nuvo.net/indianapolis/the-music-industry-is-dead/Content?oid=1329326>

¹⁷ Apple Changes Tune on Music Pricing: <http://online.wsj.com/article/SB123126062001057765.html>

By altering the price of individual songs in the iTunes store, consumers are forced to pay more for popular songs of the day. This results in higher revenue for Apple, artists, and record labels, making the store even more effective as a distribution center. The top selling singles in the United States and United Kingdom in 2011 cost \$1.29 to \$1.99 individually, almost doubling the profit margin per song. Over the past three years, Apple's new pricing system has proven successful, because the demand for popular songs has remained consistent.

Current Industry Status

While each of my sources had a different opinion about where the industry was headed and what should be done, most believe that the industry has leveled out. Monika Hertzig, a professor at Indiana University and a jazz musician, believes the industry has found a status that can be maintained; "This is the first year that we have reached the bottom of the profit spectrum—there are minimal profits and losses. We have found the level that seems to work. Up to 2000, we had this unbalanced structure of an industry that was inflated because consumers were willing to pay for CDs because there was no competition."¹⁸ It is next to impossible for record stores and other music outlets to generate profit selling physical products, or any music product of cost--period. The public has become so accustomed to the idea of free music that to return to a model where consumers are consistently paying for the product is unrealistic. It is Monika's belief, however, that solutions are coming to light now because the current situation is one that can be maintained. There will always be the nostalgic people who buy CDs and vinyl records, but this is not enough to make an impact on the overall profitability of the industry. It is an interesting concept that the

¹⁸ Appendix B: Monika Hertzig

industry has leveled out at a niche level, with everything fulfilling a small portion of the industry but no overwhelmingly popular genre raking in significant profits above the rest.

Digital Takeover

Innovative digital technology is a hot topic that everyone in the industry has been impacted by. Music consumption is at an all time high. Consider our daily activities, whether watching a movie, viewing commercials, going to a store, or using the telephone, music is everywhere. The storing of music on one's phone and other portable devices, such as an iPod, allows people to constantly be surrounded by music. According to Dave Richards, Vice President of Programming and Operations at Entercom Communications, the change began with the rise in popularity of web streaming sites, and the ability to send audio and video files over the Internet¹⁹. While it is obvious that downloading songs or entire albums without permission is illegal, people did not expect the organizations that support those within the music industry, to react to digital revolutions the way they did.

Lars Ulrich, guitarist in Metallica, was quoted bashing fans for their use of Napster, which was one of the gravest mistakes an artist can make. People had been following the band since they released their debut album, *Kill 'Em All*, and simply wanted to hear their material. The reaction the band received after filing the law suit was extremely negative, many people unsure of why they felt the need to sue Napster and call out Universities such as University of Southern California, Yale University, and Indiana University for the use of Napster on their campuses. Instead of sounding like concerned artists Metallica came off as pompous and whiny after Ulrich's comment; "We take our craft -- whether it be the music, the lyrics, or the photos

¹⁹ Reference Appendix C: Dave Richards

and artwork -- very seriously, as do most artists. It is, therefore, sickening to know that our art is being traded like a commodity rather than the art that it is. From a business standpoint, this is about piracy -- a/k/a taking something that doesn't belong to you; and that is morally and legally wrong. The trading of such information -- whether it's music, videos, photos, or whatever - is, in effect, trafficking in stolen goods." At the time, Napster was such a new monster that it was difficult for bands to understand how the new technology could have a positive impact on their career, prompting Metallica to take the initiative of filing a lawsuit before ever speaking with the company.²⁰ Norm Winer, Program Director of legendary rock station, WXRT in Chicago, believes the industry made a mistake, "I think overall the record industry blew it, and blew it in a big way by holding off or distancing themselves, I think from some of the opportunities and rise in technology." Industry insiders did not think in the long term, only considering the loss in physical sales they would experience from the rise in use of the .MP3 as a format to share music. 2000 was an important year in the transition of music formatting from CD to a purely digital, intangible form of music that was easily accessible and most importantly, free, and the industry as a whole is still paying the price today.

Napster, co-founded by Shawn Fanning, John Fanning, and Sean Parker, was a large catalyst for digital change. The music site made it easy for consumers to download music in an MP3 format, free of charge. While Metallica is one of the bands most recognized for fighting Napster to protect their music from illegal download, Dr. Dre sued Napster as did record companies such as A&M Records.²¹ While MP3.com was established before Napster, the site did not receive as much negative attention because it offered a place for unsigned artists to provide their music to the public for downloads. MP3.com differs from Napster in many ways,

²⁰ Wired: <http://www.wired.com/politics/law/news/2000/04/35670>

²¹ <http://en.wikipedia.org/wiki/Napster>

but its early transition from peer-to-peer to “Pay for Play,” or P4P, clearly demonstrates that they were ahead of the game. Each artist who had music on MP3.com would receive compensation based on the number of streams and downloads of their songs that were recorded on the website.²² When people discuss free streaming sites, the most prominent two discussed are Napster and Limewire, but MP3.com has been able to find a formula that continues to work for them today. While both streaming sites still exist, Napster, as a peer-to-peer system, caused great controversy on the music scene, and is currently still defined as one of the greatest sparks igniting a change in technology.

The Saving Grace of Apple

On April 28, 2003 Apple introduced its iTunes store, a digital music retailer offering songs at a standard price of \$0.99 per song. In a time when consumers were becoming accustomed to the MP3 format and the idea of Internet downloading, Apple provided a forum where that could be done at a small price. Many people continued to download illegally, but those looking for convenience and not necessarily a free download were quick to convert to the iTunes store. Since 2008 the store has been recognized as the number one music vendor in the United States, and the number one music vendor in the world, reaching ten million song downloads on February 24, 2010.²³

The introduction of Apple’s iTunes store presented a new opportunity for the recording industry. iTunes, in a way, saved the day according to Dave Richards; “All of a sudden Apple comes around saying we have a portable player, Internet store, and products that you can use. I have the biggest store so you probably want to stock your product on my shelves and make 50-

²² MP3.com: <http://en.wikipedia.org/wiki/MP3.com>

²³ http://en.wikipedia.org/wiki/iTunes_Store

cents [a song] instead of no money at all²⁴.” Steve Jobs opened the door to music sales once again, providing an opportunity for those who want to pay for music to receive it at an extremely reasonable price and in a convenient manner. The new price model created by iTunes in 2011 has generated more revenue for iTunes as well as for the artists.

The goal of a musician is to get their music into the hands of consumers. The Apple store has reopened the possibility of generating income from music sales and reaching an extensive audience. While many artists are still producing vinyl albums, it is a niche market that does not generate a great deal of income. Musicians are no longer releasing singles on CD or vinyl, because physical singles are not profitable. iTunes provided consumers with the opportunity to once again purchase single songs, and for artists to profit from them, prompting them to begin releasing singles or short EPs as opposed to full length albums. The digital store has also reduced the cost of producing, and purchasing an album for all parties involved. Musicians have the capability to generate revenue by simply providing their music in an .MP3 format online, as opposed to producing a physical CD with packaging, which can result in a significant reduction in profits. Consumers can receive new music at the touch of a button, never having to leave their home to purchase all the new music they would like. Apple was the music industry’s answer to illegal downloading, granting an opportunity to preserve music sales as much as possible, creating a one-stop shop for consumers.

In a very new, and incredibly important twist, there is currently a lawsuit pending in the music industry, which asks the question: how much should a song on iTunes or another digital music service be worth to the performer? Marshall Mathers, who goes by the stage name Eminem, has placed himself at the center of this controversy, as his producer, Joel Martin, who collects all of the artist’s royalties filed suit four years ago against Universal Music Group. The

²⁴ Reference Appendix C: Dave Richards

artist's contract states that he receives 50 percent of royalties for licensed music and 12 percent for music sales. The question at hand pertains to digital music: is it a licensed song or a sold product? The lawsuit claims record companies have reached a deal with digital retail outlets, which mimics that of a license deal. If the way artists are paid for digital music is altered in favor of the artist, musicians stand to earn significantly greater profits from digital sales. In reference to Eminem's catalogue, Joel Martin believes; "As of now it's worth \$17 million or \$20 million, but on a future accounting basis, five or 10 years from now, it could easily be a \$40 million to \$50 million issue."²⁵ The lawsuit is not debating an insignificant amount of money, instead dealing with a policy that could double profits for the artists in question.

Any artist that is in the iTunes catalogue and receiving 12 percent for each song sold could, in fact, be earning the rate stated in their contract for a licensed song, which in the case of Eminem is 50 percent, a 38 percent difference in profits. Appendix E provides a breaking down of lost sales discovered in an audit by Martin.²⁶ The chart references lost royalties from July 1, 2005 through December 31, 2009, amounting to a total of \$3,810,256 in lost profits. While it is important for artists to include their music in digital retail outlets, it is imperative that their manager is aware of the specific wording in each deal they take part in, as it could be the difference of a 38 percent profit per song, or, in the case of Eminem, \$3,810,256 over the course of four years. As the U.S. 9th Circuit court attempts to discover where the line for online royalty rates is drawn, it is the job of band managers to utilize the laws debated in this suit in favor of their artists, generating profits that were not available prior to this lawsuit.

²⁵ http://www.nytimes.com/2011/03/28/business/media/28eminem.html?_r=1&pagewanted=all

²⁶ <http://www.billboard.biz/bbbiz/industry/legal-and-management/eminem-s-digital-royalties-lawsuit-leaked-1006261552.story>

Future Business Model Steps: How Band Managers Can Find Success

If the court's decision stands, that digital music should be treated as a license and not a sale, the fortunes of musicians, past and present, have been significantly changed. They will profit from their work in a much more fair and equitable manner. But it is still necessary for managers to consider if music *sales* remain important and viable, or are they a thing of the past? What are the most significant ways band managers can produce revenue for their artist? It is the responsibility of every successful band manager to answer these questions, creating a specific business model that fits the needs of the artist. The prominence of illegal downloading has resulted in record sales no longer being a primary source of income, forcing managers to seek out other options. While managers are still capable of creating revenue through touring and merchandise sales, it is important to push the envelope, going a step further to get creative and find revenue wherever possible. Through licensing music in television and film soundtracks, integration with streaming websites, and package deals, band managers can generate consumer interest and revenue for their artist. In today's music environment, the most important factor is not which kind of label you are signed to, as both independent labels and major labels are able to reach a significantly large audience. Bon Iver is an indie band signed to Jagjaguwar, an indie rock label based in Bloomington, Indiana. He was awarded the Best New Artist Grammy Award at the 2012 Grammy's. This example proves that it is possible to achieve a high level of success regardless of the size of your label, but it is imperative that management find even more creative streams of revenue.

The opportunity to generate income from music licensing is almost endless. Rights must be obtained to play music on a radio station, in a restaurant as background music, in a

commercial, a film, or if you want to sing it on a hit television show such as “American Idol” or “The Voice.”²⁷ If an artist has written a song and had it registered with a publisher, a third party cannot use it without permission. For example, Phillips wanted to use the Beatles song “Getting Better” in their commercial with the band Gomez singing the lyrics; “According to the licensing expert, the company, no doubt, ‘paid a fortune’ for the Beatles hit: an estimated \$1 million. The source suspects Gomez made no more than \$100,000.”²⁸ It is possible to make money off of a Master Use License, Synchronization License (TV), Transcription License (radio), Mechanical Rights License, and Performance Rights License. Band managers must take advantage of these licensing opportunities, generating revenue without having to do anything.

The American Society of Composers, Authors and Publishers, known as ASCAP, help artists earn royalties for their music. If any business such as a restaurant, ice rink, marching band, or venue wants to play music the general public will hear, they must pay ASCAP or Broadcast Music Incorporated, BMI, each of which handle a catalog of over four million songs, for permission to play the song. These businesses must complete a form and are then required to pay a specific amount to each company. ASCAP and BMI have created a simpler way for artists to earn money for their written works that would be difficult to track and collect otherwise. Band managers should require their artists to register with ASCAP and BMI when considering licensing their music; otherwise they may be missing out on valuable opportunities to earn the income they are entitled to. Artists like Moby, for example, have used licensing to generate significant profits from their music, proving the validity of licensing as a tool to generate revenue.

²⁷ <http://entertainment.howstuffworks.com/music-licensing2.htm>

²⁸ <http://entertainment.howstuffworks.com/music-licensing.htm>

Alternative packaging is also a significant way band managers can work to create revenue, encouraging consumers to purchase hard copies of their product. Creating a unique package to hold your product, or a distinct design of a CD, makes the product a piece memorabilia, rather than only being a compact disc with music on it. Bands such as Daft Punk, Nirvana, Pink Floyd, and Metallica, have created unique packaging to prompt sales of their physical products. For old school music consumers, this is a great incentive to buy the product. Some bands have taken a different spin on the idea of unique packaging entirely, with the most popular example today being Radiohead.

When British band Radiohead was about to be released from their contract with long time record label EMI, the band decided not to re-sign, instead standing on their own, without a major-label to represent them. Their seventh studio album, *In Rainbows*, was released on October 10, 2007 as an exclusively digital download from Radiohead's website, radiohead.com, in a



manor that had never been done before. There was no established price, allowing customers to choose the album's worth for themselves.²⁹ Many bands would not be able to successfully release an album with a "pay what you wish" model, but Radiohead opened the door for the possibility of once again generating record sales on a site besides iTunes or Amazon. The innovative style of releasing an album brought a significant amount of attention to the band, creating a model that band managers could work to mimic in the future. "Pay what you wish" may not work for bands who have yet to develop a fan base, but if a solid base is there, it is an alternative sales model that could work to help promote an artist. Managers much consider this non-traditional pricing strategy as a viable opportunity to enhance sales revenue.

²⁹http://www.npr.org/blogs/monitormix/2009/11/the_in_rainbows_experiment_did.html

Radiohead refuses to release the actual numbers of sales generated from their experiment, but people have estimated that the average price is between \$6 and \$8. If the average was \$6, the band netted \$2,736,000 from digital sales. When comparing sales figures of the amount customers chose to pay for the album, 62% paid \$0.00, 17% chose to pay \$0.01-\$4.00, 6% paid \$4.01-\$8.00, 12% paid \$8.01-\$12.00, and 4% chose to pay between \$12.01 and \$20.00.³⁰ Given the option, 48% of Radiohead fans that chose to purchase the album on their site chose to pay for it. While the album was still downloaded from unauthorized digital sources at a significantly higher rate than other new releases the band was still able to generate a profit.

One month after the release of the album, more than 2 million copies of the song had been shared on file sharing networks besides inrainbows.com where the band initially offered the album, even though it could be downloaded for free on the website. Consumers are creatures of habit. For music consumers who are accustomed to the free business model of digital music, it is easier for them to return to the file-sharing site they are comfortable with to retrieve the album. The option of free downloads for *In Rainbows* was made available by the band, so this high download rate cannot be a marker to define the album's success; "*In Rainbows* entered the *Billboard* chart, the U.K. Album Chart and the United World Chart at No. 1, and went on to sell millions worldwide. According to Radiohead's publisher, Warner Chappell, *In Rainbows* made more money before the album was physically released than the total sales for the band's previous album, *Hail to the Thief*."³¹ Album sales are an inaccurate measure of success in today's music environment. Chart placement is a point of greater accuracy when considering the popularity of an artistic work, and in this case the price fans chose to pay for the album. Today the idea of "pay what you wish" does not seem as revolutionary, but when Radiohead chose to break the

³⁰ Wired: http://www.wired.com/listening_post/2007/11/comscore-2-out/

³¹ http://www.npr.org/blogs/monitormix/2009/11/the_in_rainbows_experiment_did.html

common cycle of music sales and release a digital album themselves, allowing consumers to choose their price, they opened the door for a new model of success for bands with a steady following.³²

An important method of alternative packaging in today's music environment is also vinyl. While vinyl may seem like a relic of the past, many consumers who still purchase music choose to purchase vinyl. National Record Store Day consists of record stores, which are defined as "a stand alone brick and mortar retailer whose main primary business focuses on a physical store location, whose product line consists of at least 50% music retail, whose company is not publically traded and whose ownership is at least 70% located in the state of operation."³³ 2012's National Record Store Day occurred on April 21, with many artists releasing their albums on vinyl or creating an exclusive vinyl product for this special music holiday. According to Norm Winer: "Last year, record store day had more vinyl bought on one day than there had been in decades... Turntable sales are growing and I don't have the stats but the fact is, last year's record store day sold more vinyl than ever before."³⁴ This year, on April 20, *CBS This Morning* did a five-minute segment on this subject, highlighting the significant difference in the audio quality of vinyl and the fact that today's young music consumers don't even realize what they are missing. It is important for artists to continue releasing hard copies of their albums in some form, because although sales are not as high as they were ten years ago, people are still purchasing vinyl records and CDs. Managers should take full advantage of National Record Store Day as a way to increase sales of unique products such as vinyl records or exclusive

³² Prefixmag.com stated that according to Jane Dyball, a rep from Radiohead's publishing firm, the average price paid on inrainbows.com was closely monitored with the intention of shutting down if the average went below a pre-determined figure (<http://www.prefixmag.com/news/in-rainbows-sales-stats-revealed/22365/>)

³³ <http://www.recordstoreday.com/CustomPage/614>

³⁴ Reference Appendix D: Norm Winer

projects released for record store day. If enough artists, manager, and labels embrace this day, releasing new and exciting product, with uniquely original artwork, the interest and passion for the medium could potentially grow. There are many different techniques band managers can use to cultivate a successful career for themselves and their band if a combination of different techniques is used to reach the broadest audience possible, utilizing all tools available to them.

According to Winer, “The tangible quality of owning an album is something that a lot of people still insist upon, and one thing we have learned, because certainly technology terrifies people in my business, because they worry that they are going to become outmoded. They are worried that their role in the whole media food chain will be obsolete.” Band managers must continue to release albums, involving their artists in many different types of projects, working to remain as relevant and accessible to the public as possible.

Music Sales: The Law Is Not The Answer

The general public in the United States prefers to illegally download music for free, so industry figures and managers alike must ask themselves if sales are still a relevant revenue stream to focus their efforts on. The format music is sold in has been in constant flux since the switch from analog to digital, but seems to have found the simplest and smallest format to work with today; the .MP3.

It has become strikingly obvious, according to David Field that nothing can be done to prevent music piracy; “There are laws against marijuana but people still smoke it. You can make laws in America about piracy but people in Brazil are still going to download those songs if they want to. You have a culture of consumers who are accustomed to not paying, so it is hard to re-educate people in a tough economic time that they must pay \$5.00 or \$10.00 for a CD that they

know they don't have to. Unless a technology comes along, 'Mission Impossible' style, that destroys your software if you try to download, there is no way to stop piracy."³⁵ People will continue to steal no matter what laws are written, or what consequences are established for those who break them. The Stop Online Piracy Act (SOPA), Protect IP Act (PIPA), the Combating Online Infringement and Counterfeits Act (COICA), and the Anti-Counterfeiting Trade Agreement (ACTA) have all attempted to counteract the problem at hand. It is my belief that the problem the recording industry is facing does not involve the law anymore. We have surpassed that.

COICA³⁶ was introduced on September 20, 2010 as an attempt by the government to protect record labels, music publishers, and other parties involved in producing the music product. This bill gives the Department of Justice the power to create blacklists of Internet domain names that are, "dedicated to infringing activity," which is defined very broadly—any site where counterfeit goods or copyright material are "central to the activity of the Internet site" would be blocked.³⁷ Bills written with vague language allow the federal government to hold too much power over the Internet, creating an environment of censorship comparable to that of China. It would be all too simple for the Department of Justice to create censors on sites such as YouTube, Dropbox, and BitTorrent, for example, which are used for purposes other than downloading music. If a law of this type passes, companies who currently had U.S. servers will move overseas, finding a way around the problem. Placing the power of censorship in the hands of government officials at their own discretion will allow them to shape the Internet as they choose, taking away first Amendment rights as well as the right to share information.

³⁵ Reference Appendix A: David Field

³⁶ Bill No. S.3804

³⁷ <http://demandprogress.org/blacklist/coica>

SOPA is a new Internet blacklist bill that will allow entire websites to be blocked much like COICA. Websites around the United States chose to go dark on January 18th to protest SOPA and PIPA, which go hand in hand to “threaten prosperity, online security, and freedom of expression.”³⁸ These bills are working to create the same method of censorship used by China, Iran and Syria. This is not what the recording industry should be working to achieve. It is not possible to completely prevent illegal downloading, even with extreme censorship. If a single user has used the website to infringe music, film, or other products they are unauthorized to obtain, the entire site may be blocked. These websites face the possibility of having their U.S. web traffic, ad revenue, and search traffic blocked if they are found to have violated the guidelines laid out in SOPA and PIPA.

The United States has thrived on its reputation as the “home of the free,” but these bills are an attempt to remove part of that freedom. Although both bills have dropped the ISP-blocking provision that was previously included, SOPA’s extreme definition of what an infringing site is creates the dangerous possibility of too much censorship. These bills were countered by a possible solution with fewer restrictions, OPEN, that places less control in government hands. The January 18th protest blackout was able to, “underscore[ed] the flawed approach taken by SOPA and PIPA to the real problem of intellectual property infringement. OPEN is a smarter way to protect taxpayers’ rights while protecting the Internet.”³⁹ The OPEN Act, which stands for Online Protection & ENforcement of Digital Trade Act, was a counter solution formally introduced in the United States House of Representatives on January 18, 2012. The act allows the Internet to remain accessible to the public, protecting creative ownership by monitoring cyber-security threats without shutting websites down because of one case of

³⁸ <http://americancensorship.org/>

³⁹ http://www.pcworld.com/article/248298/sopa_and_pipa_just_the_facts.html

infringement. The two fundamental principles of the act are, “first, Americans have a right to benefit from what they’ve created and second, Americans have a right to an open Internet. Our duty is to protect these rights.”⁴⁰ This bill provides a greater opportunity for a solution for the industry, protecting Internet sites and musicians who choose to use the open Internet to provide their music and merchandise for their fans. Censorship laws are not the solution to the rapidly increasing problem of illegal downloading, but the Online Protection & Enforcement of Digital Trade Act proposes a more realistic solution to align with the ethical and moral structure of the American Constitution.

The Importance of Music in Television & Film

Many artists have found uniquely individual ways to generate profits in today’s musical landscape. When working to maintain a successful career in band management, it is important to expose your artists in any way possible. Music is entwined in every aspect of life today, whether people are aware of it or not. Music is in the background of every store while you shop, nearly every commercial, television show, and film. Each of these mediums offers the opportunity to create revenue aside from merchandise and music sales, which do not produce as much revenue as in previous decades.

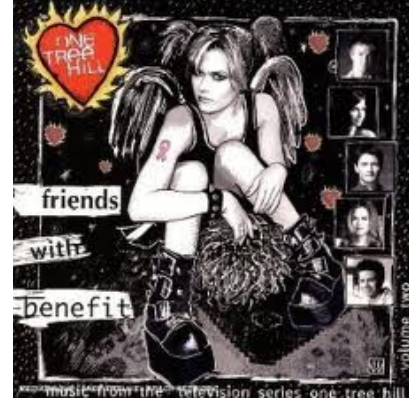
David Field, whose career has consisted of working at labels, management companies, and eventually his own businesses, believes in the importance of having an artist’s music in a commercial or popular television show. A band does not make as much money from having their song featured in a commercial, for example, as they used to. The exposure, however, is priceless according to David who said; “In Russia, there is a 99% piracy rate, and it has been that

⁴⁰ <http://www.keepthewebopen.com/open>

way forever. I am producing a Russian record [for Pratavertra], and I have written a good chunk of it. The emphasis has been on getting in a television ad or TV show.”⁴¹ Many people in the United States now have a TV in every room of their home. As a manager, having your artists’ music on a television series presents a significant opportunity for bands to gain exposure that will lead to an increase in profits, although their appearance on a show or in a commercial will not guarantee quick profits from the spot itself.

Artists have experienced great benefits from including their music on film and television soundtracks, licensing songs for commercial use, and exercising unique ways of promoting an album. Artists such as Moby, Bruce Springsteen, and Radiohead, have been able to maintain extensive and commercially profitable careers by using business models that differ from the norm, while other artists have begun to realize the importance of movie soundtracks to help generate interest and sales. Independent artists have found a path to success by having their songs featured in movie and television show soundtracks, which promote their music and work to launch their careers. Film and television soundtracks, Late Night talk shows, alternative packaging, and social media tools are a significant way to achieve this goal, consistently working to remain relevant to the general music consumer population.

⁴¹ Reference Appendix A: David Field



Soundtracks

Many artists have used television show and movie soundtracks in hopes of exposing themselves to the public and promoting their career. Independent movies are known for their extensive soundtracks that promote up and coming artists. The OC was one of the first television shows to use their soundtrack to bring independent artists to light. The theme song, “California” by Phantom Planet, remained the same for all four seasons, and was featured on two of the show’s soundtrack albums. Each episode featured a plethora of artists, whether they made the cut for the CD or not. Bands that benefited greatly from these soundtracks were South, The Dandy Warhols, Nada Surf, Jem (who was featured in Volume 1 and 2), Imogen Heap (also on two mixes), and Death Cab for Cutie. Many of these musicians’ works made multiple appearances in the television series over the years, working to promote the artist. One of the lead characters, Seth, was an indie music nerd whose favorite band was Death Cab for Cutie. The O.C., in four short years, was able to increase the presence of indie music on television, bringing indie artists and labels to the forefront.

One Tree Hill was another show that worked to endorse uniquely different bands. The show’s theme song, “I Don’t Want to Be,” by Gavin DeGraw, helped his career explode on the popular music scene. The show also helped artists such as The Wreckers, Tyler Hilton, Bethany

Joy Lenz, Band of Horses, and Kate Voegelé's careers thrive. Many bands made appearances on the show including Fall Out Boy, Band of Horses, and The Wreckers. The other aforementioned artists (Joy Lenz, Voegelé, and Hilton) were all characters on the show. One Tree Hill did something different by featuring actors on their show with a hidden talent for music. Kate Voegelé played herself, and as part of the show's story, was signed to a record label that was run by one of the main characters. Since then Voegelé continues to tour the United States, appearing at trendy venues such as the House of Blues. She has released three albums, one of which reached the number ten spot on the US charts. Bethany Joy Lenz and Tyler Hilton appeared as a duet on the show, performing multiple times through the show's nine season run. One Tree Hill took The OC's model of heavily interspersing music in the story line of the show and endorsing artists to help boost the music careers of featured characters on the show, as well as other, already more established groups.

Garden State's soundtrack has been praised since its release in 2004 as a simply phenomenal compilation. On the album are songs recorded by Coldplay, The Shins, Iron & Wine, Frou Frou, Nick Drake, Simon & Garfunkel, and more. Zach Braff, who wrote, directed, and starred in this comedy-drama film is responsible for the soundtrack. Braff handpicked the soundtrack, earning a Grammy Award in 2005 for Best Compilation Soundtrack Album for a Motion Picture, Television or Other Visual Media. When discussing his song choice for the film's soundtrack, Braff said, "Essentially, I made a mix CD with all of the music that I felt was scoring my life at the time I was writing the screen play." If a Grammy is not proof enough that a soundtrack can help launch a musician's career, the trailer won best music at the Golden Trailer Awards.⁴²

⁴² [http://en.wikipedia.org/wiki/Garden_State_\(film\)](http://en.wikipedia.org/wiki/Garden_State_(film))

Soundtracks have become increasingly more important projects for musicians to be involved in, as people begin to pay attention to more than the actors on the screen. Having a song featured on a television show can launch an artist into the mainstream music scene, as their name and album cover appears on the screen following the episode of the show. Film soundtracks, especially for independent films, have proven to be a successful way for indie musicians to increase their visibility as a musician, and make their way into the eyes, ears, and hearts of music consumers.

Late Night Talk Show as a Promotional Vehicle

David Letterman, Jimmy Fallon, and Jay Leno are all late night talk show hosts who have featured bands on their shows, promoting new music to their viewers. David Letterman has used his show as a platform to showcase new talent over the last couple of years with a segment called “Live On Letterman.” At the end of each episode, an artist performs a song, usually off of a new album they are releasing. When the show ends, the audience is ushered out of the theater and a new audience is brought in for the band to play a forty-five minute to ninety-minute set that CBS then posts as a webcast, later archiving it on their website. Norm Winer greatly believes in the power of this segment; “It does well for [the bands] to have that kind of exposure and the level of production and the professionalism of it. They really present it in a very favorable light and to give their fans access to that content for free.”⁴³ If a manager is capable of having their artist recognized by a large corporation such as CBS, they are on the path to successfully utilizing mass media to its full capacity, paving the way to a commercially successful and profitable career.

⁴³ Appendix D: Norm Winer

Bruce Springsteen

On March 5, 2012 Bruce Springsteen released a new album, *Wrecking Ball*, his seventeenth studio album. For artists whose career has been as enduring as Bruce Springsteen's, it is almost unnecessary to promote new albums and tours because their fans follow their career so closely as it is. *Wrecking Ball* debuted at No. 1, making it Springsteen's tenth number one album. He is known for writing albums with a purpose or a theme, for example *The Rising* was written about the September 11, 2001 terrorist attack, and *Wrecking Ball* is no exception. Springsteen and the E Street Band wrote the album as a tribute to Giants Stadium, a venue that was scheduled to be demolished.⁴⁴ Music consumers have a significant level of appreciation for albums that mean something to them, connecting to their life. Managers should encourage their artists to take a page out of The Boss's book and write albums their fans can relate to, encouraging them to purchase it.

When Bruce was a guest musician on Late Night with Jimmy Fallon, Springsteen was given the entire hour of the show to perform. Many artists who appear on late night talk shows are given a small spot to perform one or two songs to promote a new release, but this show was different. Springsteen and the E Street Band performed songs from



his new album, along with current radio hits. The highlight of the night was when Fallon, dressed as Neil Young, paired with Springsteen to sing LMFAO's "Sexy And I Know It,"⁴⁵ and "Whip My Hair" by Willow Smith. An artist of Springsteen's caliber does not need to promote new releases, but does need to remain in the

public eye. This was a genius way to promote a new album. Springsteen appeared on a popular

⁴⁴ [http://en.wikipedia.org/wiki/Wrecking_Ball_\(Bruce_Springsteen_album\)](http://en.wikipedia.org/wiki/Wrecking_Ball_(Bruce_Springsteen_album))

⁴⁵ http://theclicker.today.msnbc.msn.com/_news/2012/03/05/10584011-fallons-neil-young-gets-sexy-with-bruce-springsteen

television program, sang songs from his new album as well as covers of current popular songs, and put on a fantastic performance. This is not the most common way to promote a new album, but Bruce Springsteen is not a common musician.

Moby

Moby is a techno artist that has worked hard to reach the level of success he has obtained, which at the time of his rise in popularity was not common for techno artists. *Animal Rights* was the album that helped spur his commercial success in music, but *Play* provided a different type of opportunity for the musician. The album was ranked on *Rolling Stone* magazine's list of the 500 greatest albums of all time, elevating Moby to a higher level of commercial success. It was also the first album to have every track licensed for use in films, television shows, or commercials, contributing greatly to the success of the album as a whole. By licensing each song, Moby was able to reach a significantly broader audience than he would have by only releasing the CD as an independent product. Moby has struggled to gain mainstream recognition, using any outlet possible to achieve his goal. Tracks from the album were used in a commercial featuring Tiger Woods, the films "Gone in 60 Seconds" and "Swing Vote," *The X Files* television series, and many other lesser transactions. The album was considered financially successful long before it gained multi-platinum status.⁴⁶



Topspin

Topspin is a software company based out of Santa Monica, California, that builds software to help artists generate revenue. Peter Gotcher and Shamal Ranasinghe created the

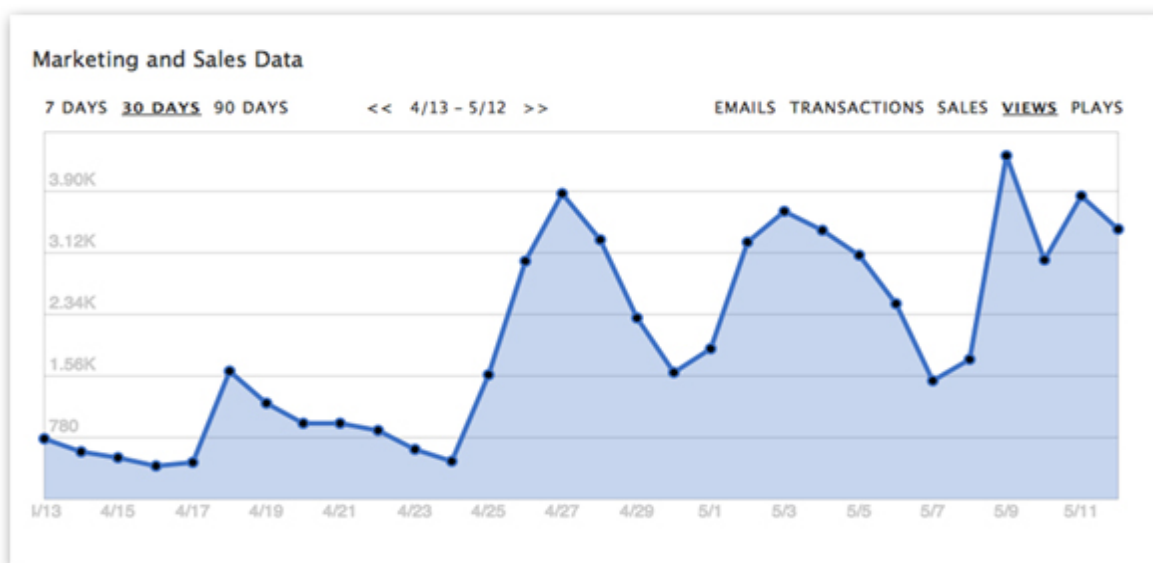
⁴⁶ Moby: http://en.wikipedia.org/wiki/Moby_play

company in 2007 with the goal of assisting artist to make money, focusing on innovative ways to help some of the largest and smallest artists in the music industry generate profits. Topspin is a useful distribution platform assisting bands and their managers on a personal level, allowing them to provide the music directly to the site without the assistance of a record label. The company promotes themselves as a way to spread your content anywhere, increase fan connections through email, Facebook, or Twitter, earn money, and turn your band's fans into paying customers. Artists and managers also have the capability to sell concert tickets directly, offering packages consisting of tickets, meet-and-greets, backstage access, etc. Topspin creates the opportunity for bands to create merchandise bundles to sell with their tickets, creating different combination packages of concert tickets, posters, LPs, and albums to prompt sales.

Topspin makes it simple for managers to analyze how their bands are doing, what is working, and what must be changed to obtain the desired level of success. The site keeps track of all sales data and data on your fans, stores, and widgets to help create a clear portrait of your bands current status. It is now possible to see what is getting the most views, clicks, and conversations, what is successfully being consumed by fans visiting the Topspin page, and to “get a breakdown of your audience’s age, location, gender, interests, social-media influence, and other demographic traits, and send target emails to groups of fans.”⁴⁷ It should be noted, that while Topspin helps the artist succeed, and profit, the technology, which allows them to bypass agents, managers, promoters, ticket brokers, etc., hurts those that are eliminated from the promotion and sales cycle the tool creates. Following is an example of the analysis Topspin can provide, as seen on their website. Artists who have already found success with Topspin include the likes of Linkin Park, The Civil Wars, Beasite Boys, The Boxer Rebellion, Fink, George Strait, Sigur Ros, Lil Wayne, Paul McCartney, and Arcade Fire. The site continues to gain a

⁴⁷ Knowledge is Power: <http://www.topspinmedia.com/features/analytics>

wider user base and spread globally. For a standard membership, artists pay \$9.99/month or \$99.99/year. A Topspin Plus membership offers greater capabilities for \$49.99/month or \$499.99/year. Artists of all genres and levels of commercial success have found a new way to distribute their music and generate record sales in a predominantly digital world. To manage an artist successfully it is important to keep an open mind, be aware of trends and emerging technologies, and to explore all possible avenues of revenue and success, and in the twenty-first century that includes Topspin.



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Subscription Web Streaming & The Importance Social Media

Spotify

Web streaming music services have become more prevalent in the United States as streaming sites offer an affordable, relatively unlimited option. Spotify began as a Swedish site in October 2008. Of the approximately ten million users the site had tracked as of September 15,

⁴⁸ Knowledge is Power: <http://www.topspinmedia.com/features/analytics>

2010, 2.5 million were paying members. Spotify is now available in Austria, Belgium, Denmark, Faroe Islands, Finland, France, Germany, the Netherlands, Norway, Spain, Sweden, Switzerland, the United Kingdom, and the United States. The Swedish company has been able to generate revenue through paid subscriptions, advertisements for non-subscribers and music purchases from partner retailers.⁴⁹ All users are able to create playlists, follow other Spotify users, download apps, have files sent to their inbox, and upload the iTunes library. Each app on Spotify offers subscribers a chance to listen to their playlists or the albums of artists they have chosen to promote. For \$10.00 per month users can access all of these perks on their cell phone.

Spotify offers an alternative option for consumers who would like to pay for the music they are listening to but do not feel the need to physically own any files. All music is not available on the site, with artists like Adele, Tool, and ACDC choosing not to be a part of Spotify. Musicians from Sony, EMI, Warner Music Group, Merlin, The Orchard, and Universal have all made their music available on the web-streaming site. In 2009, Spotify made a deal with CD Baby, one of the world's largest distributors for independent musicians, to include their catalogue on the web-streaming site. CD Baby brought over one million new tracks to Spotify, as they represent over 175,000 independent artists.

The founder and CEO of Spotify, Daniel Ek, saw the great potential his idea for a world wide streaming site possessed; "From day one we wanted to create a catalogue with the widest possible choice for our users. CD Baby gives us access to the world's most immersive independent music catalogue and brings us even closer to our dream of gathering all the world's music in one place. Welcome on board!"⁵⁰ Spotify continues to expand, keeping true to Ek's vision of success. Artists do not make a significant amount each time their song is listened to, but

⁴⁹ <http://en.wikipedia.org/wiki/Spotify>

⁵⁰ Spotify: <http://www.spotify.com/us/about-us/press/spotify-seals-major-music-deal-with-cd-baby/>

they are able to earn more than they would with people illegally downloading, making Spotify a significant music platform for band managers to help their artists become a part of.

Social Media

YouTube is a social media outlet that has created an even greater possibility of establishing a name for musicians, helping them acquire a record deal or finding representation. Some of the most famous success stories via YouTube have been Justin Bieber, Arnel Pineda, Esmee Denters, Sophia Grace & Rosie, and Gotye. Scooter Braun discovered Canadian singer Justin Bieber from his videos on YouTube. Braun became his manager as Bieber signed with Usher, was named the hottest star of 2009 by J-14, newcomer of the year, and Celebuzz named him a member of the Top 10 YouTube stars of the 2000s.⁵¹ Arnel Pineda performed cover songs for Journey, Survivor, Aerosmith, Led Zeppelin, Air Supply, The Eagles, and Kenny Loggins in 2007, and was asked to be the lead singer of Journey by the end of the year. This method of exposure was not possible before the advent of YouTube, which now allows talented people to expose themselves to the general public by simply posting videos on the Internet. Justin Timberlake signed Esmee Denters, a Dutch singer-songwriter, to his label Tennman Records in 2008 after he was impressed with her videos on YouTube. Sophia Grace and Rosie, two adorable British girls, became YouTube sensations when their mother posted a video of the girls singing “Super Bass” by Nikki Minaj. The original video, as of April 7, 2012, has 1,203,217 hits, and the pair have appeared on Ellen multiple times, the red carpet, had tea with Taylor Swift, met Rihanna, and that is only the beginning. The opportunities presented from exposure via YouTube are priceless.

⁵¹ <http://977music.com/blog/2010/03/musicians-discovered-on-youtube/>

Gotye, an Australian musician originally from Belgium, is one of a recent YouTube success story. His career began years ago in Australia as an indie musician, releasing both of his previous albums independently. Although Gotye found indie success, it was not until the people at Universal saw his YouTube video that he was discovered in America. According to Norm Winer, of WXRT; “The Universal people, one of the largest labels, they have sat and watched phenomena come up on the Internet. They saw this incredible video, this man and this woman singing a catchy song, and they signed Gotye, that is now a multi format smash group and it was all because this guy in Australia who had a few of their albums out created this very artistic, very riveting video, and they said that’s a good song, let’s get it.”⁵² Gotye had yet to sign with a major record label, and Universal pounced on the opportunity, making a deal that was dirt cheap. The release of Gotye’s third album, *Making Mirrors*, achieved immediate public acceptance as “Somebody That I Used To Know” reached the number two spot on iTunes “Top Songs” chart.

A&R, Artists & Repertoire, is a department that no longer functions as it used to, with labels and managers now able to sit back and wait to witness a phenomenon happen via YouTube. Industry figures are able to see the actual number of times a video is viewed on YouTube, which they utilize as a way to evaluate the success of a song or album before signing the artist, and then pounce on the opportunity to “discover” the artist at hand before another manager claims them first. YouTube is a place where managers can go in hopes of discovering a potential artist or new band to represent, or work to have their artist discovered by a record label. The site is multipurpose and has proven its success through multiple artists that have released number one hits, achieving worldwide acclaim after posting videos on YouTube.

Facebook and Twitter are often listed as the two most popular social media outlets, making artists involvement with them extremely important. Social media allows consumers to

⁵² Appendix D: Norm Weiner

feel as if they have an inside look at the celebrities and musicians they are fans of. Many large corporations have accounts on these websites, as do countless musicians, helping them reach their audience in a more direct, personal way. WXRT is a company that has chosen to take advantage of the online community to benefit their radio station; “for us to be cultivating the community of XRT followers and developing social media skills from our DJs, it is another way people can interact with us. It is another way the radio station is relevant to people of all ages and some people utilize those devices more than others, but it keeps us broadly available for them—we don’t have our heads in the sand.”⁵³ Band managers must follow this same through process, working to remain relevant to the general music consuming public, achieving a level of accessibility to fans. Facebook and Twitter allow for personal updates, pictures, videos, and thoughts to be shared, which will benefit a band by constantly reminding people that they are there and what they are doing. These websites are also free to create a profile, making them even more significant to use because they do not cost the manager or the artists a penny.

YouTube, Facebook, and Twitter are only a few of the online social media resources available for bands to utilize while trying to achieve success and stay relevant to their fans. It can also be useful to offer live streaming of concerts online and the possibility to hear coverage of live performances. WXRT is working toward taking advantage of every tool available to their company, an important concept for managers to mimic when working to achieve success. The twenty-first century is a world of instant gratification, as people expect to be able to reach anything at the touch of a button. People expect the world to be at their fingertips. By taking advantage of the different technologies available via the Internet, managers can generate consistent interest in an artist, remaining relevant to the public and opening the door for greater profits and a higher level of commercial success.

⁵³ Appendix D: Norm Winer

Conclusion

The music industry is not in trouble so much as it is in flux. The door has simply opened for a new business model for selling music. Much has changed in the recording industry, but it is possible to generate significant revenue without depending too heavily on record sales. The recent Supreme Court decision to let the lower court's ruling stand, regarding the way artists are paid for music downloads - based on license royalty rates rather than sales royalty rates, is a game changer, and an important one since consumers are unlikely to ever revert back to the former model of purchasing their personal music catalogue in a physical format, or perhaps purchasing music at all. The trends in music consumer purchasing habits make creativity and innovative thinking the most important skills for a band manager to possess. Artists such as Bruce Springsteen, Moby, Radiohead, Nirvana, and countless others have discovered new outlets to help achieve success by using a "pick your price" model, licensing music for television shows and film soundtracks, appearing on late night television, utilizing social media to its full extent, using Topspin, and web streaming sites. YouTube has created a way for artists to be discovered by band managers and record labels, gaining worldwide exposure not possible before the advent of the Internet and widespread popularity of digital music sales. Other large social media sites such as Facebook and Twitter have opened up the possibility of giving fans an inside view on an artist, allowing them to receive constant reminders about what an artist is currently doing, keeping them both accessible and relevant. Band managers must be proactive in discovering alternative ways to generate profits, creating their own personal formula for success.

The solution for how to solve the problems band managers must face in a predominately digital world in dealing with album sales does not lie in the hands of the law. While it is important to have rules and regulations in place, a law will not prevent people from downloading

music. SOPA caused a great deal of controversy and highlighted just what is wrong with the legislation attempting to combat piracy. It is the responsibility of managers to use their creative ability to develop their own personalized formula for success. The changing state of the industry can be viewed as a problem, or an opportunity. An aggressive approach to understanding and embracing the constantly evolving technology is a necessary strategy. The changes and innovation of the past decade have made success attainable to a much broader base of artists. The "lucky break" can come in more ways than ever before.

Film soundtracks, especially for independent films, have proven to be a successful way for indie musicians to increase their visibility as musicians, and make their way into the eyes, ears, and hearts of music consumers. YouTube and reality shows such as American Idol and The Voice provide incredible opportunities for talent to be discovered. Once discovered, the research that is available today can provide actionable insight to help a band or an artist propel their success to a much higher level. By understanding a band's fan base, it is easier to know what marketing tools to use while working to generate profits and to be successful in the ever-changing business that is the recording industry. It is now time for band managers and industry insiders alike to decide where they would like to take the music industry from its current status in 2012, moving towards a stable, profitable business model that allows bands to achieve commercial and financial success. One thing we can thankfully be certain of, rock and roll is here to stay.

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Appendices

Appendix A: David Field

David began his career as a singer, at 14-years old in his home city of Birmingham, England, singing in the vocal style of “reggae sound clutch, which went hand in hand with punk music. Sound clashes became a popular music form before rapping existed on a global scale. A DJ would play dub beats and guys would “toast” to the beat, which was the original form of rapping, which David would sing background melody for. At this time David also was in a band, and started playing the saxophone. The band was sent to jail for attempting to smuggle drugs from Amsterdam to London, prompting David to leave home and become a street musician on the streets of London for about a year. A man saw him playing saxophone on Bakers Street, and stopped to talk to him for an hour, running into him again at a gig he had at KOKO (in London). The man turned out to be the president of Electra Records and gave David a job working in the A&R department at the company.

After working at Electra Records, David eventually moved on to work at Capital, where he released his first gold record, only to begin working on an album with the infamous British rock band, Radiohead. He convinced Capital to release the band’s second album because he was convinced that “Creep” was a hit, and he was right. After eventually leaving Capital, David spent two years traveling the world and wrote a book and album titled “The Plant that Sleeps,” which came out on Sony as a collaboration with UNICEF. He then moved on to work in Sony’s international department, later moving to the A&R department at BMG for four years, before starting his own company, You Are Here.⁵⁴

Currently, David’s sole project is working with a Russian band named Pratavertra. With this group he has taken a completely hands on approach, made possible by his range of experience in the business. David wrote some of the lyrics and music, produced the album, and worked on the cover art. Following are some of David’s opinions about the recording industry and the current state of industry affairs:

What are your thoughts and opinions on music piracy?

⁵⁴ David sold this company yesterday, March 7, 2012 because of disagreements with his partner.

“In Russia, there is a 99% piracy rate, and it has been that way forever. I am producing a Russian record, and I have written a good chunk of it. The emphasis has been getting in a television ad or in a TV show. The revenue from that, unless it is a huge commercial or very popular TV show, is very slim. There are hundreds of bands vying for the same spot. The average price is about \$5,000 or \$10,000 when before, bands could earn \$50,000 on average for a commercial. The advertising money isn’t there because people watch recorded shows—nobody has the money to spend that they used to.”

What do you think can be done to stop piracy at this point?

“Nothing can be done to stop piracy because you can pass laws in America, but there are laws against marijuana but people still smoke it. You can make laws in America about piracy but people in Brazil are still going to download those songs if they want to. You have a culture of consumers who are used to not paying so it is hard to re-educate people in a tough economic time that they must pay \$5.00 or \$10.00 for a CD that they know they don’t have to. Unless a technology comes along ‘Mission Impossible’ style that destroys your software if you try to download, there is no way you can stop it [piracy]. The main consumers that use iTunes are the people who have traditionally paid for music, as well as some kids who want the authentic article and to show support for music.

“If you are going to steal candy, you stole something you could not afford to buy. You did not steal bubblegum; you would steal a large candy bar or something. If you made the music ten cents for a single song and a dollar for an album, it is almost embarrassing to steal it because for that price you do not have to. If you sold seven or eight million singles that way, it is still a significant amount of money. More than record companies and artists are making now because of illegal downloading.”

How do bands make money in today’s environment?

“Back in the days of MTV and CDs, you could figure out where your breakout markets were to help navigate your sales and your tours. It is not that way anymore—markets are much more spread out. In the time of U2 and The Cure, you kind of knew where your core fan base was and it was easier to know where to go and where your profits are. Why bother going to the smaller markets, like a Minneapolis, when you have more fans in San Francisco? Travel costs make it hard.”

Where do you see the majority of your record sales? How does this differ in different markets?

“In certain parts of Europe, like Germany, sales are still 60-40 physical. In England it varies by act but you are still looking at 40% physical sales and a 60% download rate. HMV [the largest record store in the UK] went under last year and was helped out by another British music company. If HMV did not exist, there would be no point in producing CDs just like when Virgin went under. For example, when the movie Suckerpunch came out, the movie

did not do well but the soundtrack did, Yoav was on it, and the soundtrack helped boost sales.”

*If a band goes to the merchandise booth after their show, people are much more likely to buy the product.

Have you been required to change the format in which your CDs are produced? What type of packaging do you prefer?

“I prefer to take paper booklets on the road as opposed to a jewel case or sleeve. They are less heavy, easier to sign, more environmentally friendly, and will not break in travel.”

What is the largest difference you have noticed about ticket sales today? What is one of the greatest concerns people in the record industry are currently discussing?

“Bands will say they are selling more tickets than ever but that is for bands that already have a foot in the door and have broken the mold. They must already be established for this to be true. For a new band, you can do well in the big cities if you have popular national radio. In the UK, you can [sell] 5,000 tickets in London and between 1,000 and 500 tickets for a new band in a smaller city.

“Everyone is worrying about where the next stadium band is going to come from. I wonder if we have reached that point where everything we have known in the music industry has peaked. Bands used to go out all on the same bus together and tour city by city, having a different level of reach. The plane crash that Buddy Holly died in killed many musicians, because musicians all used to travel together. Music was important culturally and socially, but it was not on the Shea stadium level until the Beatles. No artist would play in front of an extremely large audience until the time of Elvis Presley and the Beatles. That was when stadium bands became so big and important.”

Who do you think the next big act, or big stadium act is?

“Two years ago, Lady Gaga would have been that person to me. Now, I would say a Jay-Z or Beyonce area for that level of celebrity and superstardom. Artists are going to have to collaborate more like Jay-Z and Kanye West’s collaboration, *Watch the Throne*, and those large acts are going to have to take on the responsibility for finding and endorsing new talent. This is seen in the R&B and pop genre more than others; you don’t see Bono doing that but you should. Artists need to help endorse and cultivate the industry. It used to be when a band chose their supporting act, the band would go out of its way to endorse their opening act. REM supported their opening band, Buffalo Springfield, greatly helping their career. Imaginative interaction is interesting and out of the ordinary.”

Appendix B: Monika Hertzig

Monika Hertzig is a jazz musician and professor in the School of Public and Environmental Affairs in Bloomington, Indiana. Her career began as a jazz musician, and she is still working at it. The biggest difficulty for her was leaving Germany and trying to make a career of her passion. Monika had a scholarship at the University of Alabama, receiving her masters in music education before moving to Bloomington to complete her doctorate in music education and jazz studies; “Jazz for me is just a creative process kind of idea where you get to make music while you do it, and it is one of the few [forms] left while everything else is so product based. This is one of the last art forms where you have the whole creative process open,” explained Monika. With her diverse career as an artist, professor, music lover and consumer, Monika was able to offer a unique perspective on the state of the recording industry today.

How has your business model and career been forced to change since the advent of Napster and increasing popularity of illegal downloading?

“It has changed a lot. Up to [2000], we pretty much easily came out even when we put out a release. We started putting CDs out in 1992, we had a fusion band with six or seven releases and it was such an easy process. You get it out, record it, and recoup your money really quickly. And when that happens, even for us little artists, it dropped the bottom off for selling things.

“Online has worked pretty well for sales but licensing deals have been good moneymakers too. That is a new income stream that was not there before, that changed in a positive way because that was not really accessible before. They were partnered with large labels before but they now realized they could get the tracks much cheaper so they began working with smaller artists. Digital downloads have increased, at first it was kind of slow getting started and then we had a few that had interesting spikes that I still have no idea where it came from... There was this spike where this CD sold over a few months, and we had over \$1,000 coming in every month. We could not figure it out, it was just all over, and there was no special location or explanation. The Internet has opened up all these possibilities.

“It is a nice thing because for digital sales it does not cost you a penny. Uses CD Baby, IODA, The site takes a percentage of sales: the iTunes model takes about 1/3 of the sales price (that is then divided between the artists and the label) if you are independent you can earn a lot more money.”

Have these new technologies affected your teaching?

“Music industry class started in 2004 (5?), the thing being usually as you develop a class young and find your materials, you can teach it the same every year but with that one I have to redo it every year because everything is always changing. Some things stay the same like copyright and licensing because they are way behind technology! But the way to get stuff out there changes every year pretty much. Every time there is a new aggregator or new model—360 deals or new big conglomerates evolving, like Ticketmaster and Live Nation joining, or EMI getting sold. All of these changes change the landscape of the music industry. Larry Jacobson was an IU graduate whom Started Live from Bloomington and worked from Universal Music Group. He wants to come back here. He said that the average life span of all his colleagues is about 3 years.”

What did you add to your curriculum year?

“I changed the new efforts with SOPA, PIPA, ACTA, to see the new ways they are guarding content and safeguarding things—part of the piracy part of the class. Last year the question was will the Internet service providers do this, and now they are going to as of this summer.”

What is your opinion on the new bills that are attempting to rectify the problem, such as SOPA and ACTA, and the popularity of Spotify, which is quickly spreading globally?

“SOPA is just too open ended. Especially with Google and the big sites with so much content if they run the risk that everybody can sue them for activity that they cannot even supervise, if they run that risk they cannot operate anymore so we run the risk of losing something we use so much like Google and Wikipedia. It stifles the way we move ahead. The law has to be better regulated.”

What do you believe to be the best possible solution for the current state of affairs?

“This is the first year that we have reached the bottom of the profit spectrum—there are minimal profits and losses. We have found the level that seems to work. Up to 2000, we had this unbalanced structure of an industry that was inflated because consumers were willing to pay for CDs because there was no competition.

“Solutions are kind of coming out because the level we are at now seems to be working. We have found some good things to do because either digital market is finding its balance: how people get their music and how it’s sold. Stores seem to find their balance, with the niche markets with LPs still doing very well. They are finding the spots that work, after these ten years, to find what’s the new market and what works. The concert market is a bit fluctuating and had this huge boom at first but now that is going down because people are no longer willing to pay the over inflated ticket prices. The other thing you have seen happening is the demand for artists to perform so much has taken its toll on the artists. Selling product does not make your voice so hard but over extending is hurting the artist.

The income stream has changed because you have to be out there and tour much more because that's where the income comes from."

What is the best advice you have for people trying to enter the music industry on the artist or management side?

"Knowing as much as possible about as many sides as possible is the way to prepare you for the industry. Whatever you do, you will end up doing a little bit of everything. The more things you can do and get—the more you can go out and say I did all these things, the more likely you are to have a greater knowledge. You will either have to work in those areas or deal with those people so it is better to be educated about them to create a career. Versatility and knowledge are the key components."

Appendix C: Dave Richards

Dave Richards' career began when he was leaving Temple University in search of any job in music. He ended up working in RCA Records in sales and merchandise, spinning at the dance club, writing articles for a local free weekly paper, and almost took a job at another record company in New York at a new hip hop label that was starting up. His first radio gig was in Allentown.

A year and a half after that, Dave got a call from the first promo guy he worked for and he asked him to be a Promotions Director. Dave initially declined because he wanted to work at an ad agency in New York—but ended up visiting the company and accepting the position. Finding your spot in the industry, according to Dave, is just trial and error. Like everything else, you figure it out.

Richards worked his way to Seattle around 1991, working at a radio station that was owned by a capital investment company. When the company was sold years later, he moved to Chicago and helped launch a new radio station. WRCX, the Rock of Chicago, was a hit and they were able to create their own brand of radio that was copied all over the country called "active rock." It was a new take on rock, shifting the focus from the classic artists like Bruce Springsteen and Eric Clapton to more newly released music. After that Dave eventually worked at Q101, an alternative rock station in Chicago before moving back to Seattle. The move was more of a lifestyle decision than a career move, but Richards was

confident he would be able to take radio stations that were broken and recreate them. His tenth anniversary with the company, Entercom, was just celebrated. He is currently running one station, overseeing four stations, and collaborating with other radio stations within the company. Below are some of Dave's opinions on the state of music today and where the industry is headed next.

What do you think has changed the most in the scope of the music business since you began your career?

"Opportunity is usually the biggest catalyst for change. I went to a Rolling Stone concert for their Tattoo You tour in college and saw it was sponsored by a cologne and thought, hmm, this was something different. It was the beginning of tours brought to you by a sponsor. Over time, things change. The delivery message continues to change. I remember the switch from vinyl to CDs—giant tape machines for recording commercials to digital machines where no tape is involved. Nobody saw the difference until radio stations started saying, "Budweiser presents the so-and-so tour." Advertisers found a new way to make money. Along the way, people realized we can raise ticket prices, album and CD prices, the price of *everything*, and make more money.

"I have a soft spot for the artist because the artist so often gets nothing. Record companies for years and years from the 1970s, 1980s, and 1990s, made a lot of money. Musicians, it is their art. Record companies essentially work real estate for artists. It is not to say they do not have a place or a function but there are artists who did not invest their money or take care of it the right way, but they did not make that much money either. People are seeing now that artists did not get the right deals over the years and managers are much more savvy now.

"I saw everything change with delivery systems [for music] but I've watched the music change. Watching us go from classic rock based artists, and all of a sudden all of the bands known as the hair bands blew everything up in the 1980s and that was all that mattered. People like John Mellencamp and Robert Cray were blown out of the water by bands like Guns and Roses. That changed in one year when "Smells Like Teen Spirit" came out and blew everything out of the water again. Through the period of post grunge and the late 1990s and 2000s, hip-hop was the big change and even that had a limited life. It went from an acute format to a somewhat serious format to be an angry format. Hip-hop will always be around but it has seen its ups and downs.

"Country music and pop music will always be around. You will not have that for rock music. Death Cab for Cutie and the Beatles are so different so you will not find someone who loves both. Traditional jazz, however, may be music that will stick around forever to jazz fans. It is never going to be a major path in America, but it will stick around forever with people newly discovering Miles Davis and John Coltraine. But country music will always stick around in America and it is constantly changing but it is more or less American

popular music now. The artists change. With rock music, the artists from the 1960s to 1990s are going to be celebrated for the rest of our lives and will be celebrated forever. They are American masters who will never disappear. Bruce Springsteen put out a new album and nobody needs to play it on the radio to be in the top 10. The Ramones sell a lot more now (music and t-shirts) than they did as a band. A lot of bands are bigger in their afterlife than in their life.”

What is your opinion on digital music technologies? Do you think they have been the greatest catalyst calling for change over the past ten years?

“When I first heard of [web streaming sites], it was called Kazza, which was the one I got turned on to. At the time, it was really the first boom of the Internet, all of a sudden things could be sent over the Internet and it wasn’t just text. It was video and audio. The first thing that occurred to me was, somebody really does own that, you cannot just steal it. It caught fire so quickly that record companies looked at their lives as not necessarily threatened; they looked at it as we are big and giant and nobody and nothing can affect us. Everything is like going through a strainer: people were taking what they wanted. All of a sudden millions of people could have copies of leaked songs. So record companies started caring. Lars Ulrich said he was going to sue his fans [for stealing his music], which was a major mistake, because [the fans] just wanted their music.

“Then all of a sudden Apple comes around saying we have a portable player, Internet store, and products that you can use. I have the biggest store so you probably want to stock your product on my shelves and make 50-cents instead of no money at all. iTunes saved the day. They were the first big store online for music when people were stealing music.

“I don’t think people paid that much attention until record companies were losing money and the movie industry saw the impact too. Record companies with all their brains were not at the right place at the right time and could not stop the hole in the ship. Once people get a taste of it, they are never going to stop.”

How has your job been forced to change since the advent of Napster and popularity of illegal downloading, if at all?

“Well I was turned onto Kaaza, not Napster, and I found a whole bunch of bootleg stuff from bands I love and live, performance from bands like the Grateful Dead, Uncle Tupelo, etc. Napster was the one though—I wasn’t savvy enough to really know what was what at the time.”

What has been the biggest change you have been forced to make because of the changing status of the industry?

“I think what has happened to the recording company hasn’t forced [radio] to make a change. It showed us that everyone is vulnerable. It showed us that the Internet is really real. When the Internet first exploded in the late 1990s was when commerce first started

on the Internet (when amazon came out) you could do business online, it was not just an exchange. It started becoming a free world. AOL charged \$20 a month for their “news” but you were paying for email. Nobody would do that anymore! Different forms of free email were coming out. We were entering a world where you are given a product for free and you must create a business world around that.

“The pipelines were all of a sudden getting bigger and bigger. Sooner or later you would have to look at different opportunities for their radio stations and record labels [to make money], who had lost 60% of business over time so they thought they were done. They were consolidating and what ultimately happened from my perspective is they were much pickier on the music they were releasing. They had to be better business people. It was an art business for a long time and now it has become a business about art. They have to pay attention to spreadsheets now.

“I remember Atlantic records in the 1970s through the 1990s, they signed more artists than any other label. Philosophy was, the more artists we sign the greater chance we have of getting a hit. They were successful but spent a fortune signing contracts for people that never made it. Arista signed fewer artists, released fewer records, and had a lot more success stories but spent an incredible amount of money marketing them so his cash flow was not as big. And then there were small labels with not a lot of acts but their track record was better.

“Creed’s first label only signed Creed for their first three years, then Finger Eleven, Evanescence, Seether—very few bands but so successful. Labels are doing business in a much different way. They do not pour millions into producing albums; you better have a rich and deep album if you hope to get signed.”

What do you think is the easiest and most important way to earn profits in the recording industry in 2012? Are album sales still important?

“There are four avenues of making money: albums, tickets, merchandise, or you sell your songs (or movies, TV episodes, commercials.) I don’t know that I have the answer on what the best one is but it all comes down to any other business, which is building a brand. You have to build something sustainable as a band. A band like Radiohead, no matter where they go, they sell 30,000 tickets. It doesn’t matter how many albums they sell anymore because they sell so many tickets. Dave Matthews Band doesn’t sell albums anymore but he will always sell out because people love the performance. New artists will sell hella albums but they can’t sell concert tickets to save their life.

“For example, Black Label Society, Zach Wild every year and a half we have another album and it could be the worst shit in the world. He is never going to grow his base but no matter what, he will sell the same every year in every place. He sells an insane amount of merchandise no matter where he is. Motorhead is another example—the amount of shirts they sell is insane.

“M-Ward or somebody like Moby doesn’t sell a whole lot of music but sells his music through other places like TV, movies, or commercials. More intelligent movies generally have these independent artists placed where people can find the music from the soundtrack. People have found success through movie soundtracks.”

Do you believe there is a solution for the problems plaguing the recording industry today or do you think we are witnessing the industry’s downfall? What do you think the best possible solution is?

“I think the music has been saved as much as it is going to be. There are always going to be people stealing over the Internet. People steal music, movies, games, and books—but fortunately iTunes came in and saved the day saying here you can buy it cheap. As for saving the business, it is just a very different world for them [everyone involved], take a higher stock on their artists, and give away things for free. They have had to look at opportunities for their artists to work harder and be more involved in a lot of other things. The fact that you get artist like Christina on TV [The Voice] it gives musicians a much better opportunity to be marketed. These guys are all getting involved in a lot of different things and showing up at places like South by South West to say hey, look at me! Or people like Jimmy Fallon who has found different ways to present artists. It is just getting a name out there for the period they are launching the album. These guys have to look at every opportunity for their artists to make money, reach a huge mass, and reach as many people as possible. They have had to cut back the money we spend...”

“The subscription model seems to be growing but that is not necessarily putting an album out and reaping the benefits the way they used to. You no longer own music, you have access to the massive library, which is smart. It is the new normal. I think the expectations that artists and record companies have now is the new normal. Radio still gets 92% of the audience every single day. Everyone who says they don’t listen to the radio that is still the number. Our population grows every year and so does the number of people listening to radio. Radio has tightened up over the years and record labels have had to find another way to expose their artists.

“I understand why you want to use all of the services because the more you are listening to music the more different formats you want to check out. It is the music lovers who still purchase anything. They have to try a lot of different things. What we will see forever is an ongoing change and manifestation—people are going to continue to try things as long as they are working. If you look at social networks, over the past six years they have existed, it has changed dramatically. So is the way you market music and so is the way you purchase it.

“Years ago, there was only one way to find a new song and that was the radio. Reality is unless you were on the radio, you would never hear about the artists.”

What do you think about the current changes happening such as the new SOPA Bill being brought to the forefront in the United States and the popularity of Spotify, which is quickly spreading globally?

“America was built on freedom of speech and of information and I think that where he was going was a dangerous place, the whole we have a right to now. I don’t think we have a right to know about government secrets. Telling people what they can and cannot do on the Internet, just because the arts community hasn’t figured out the best way to do it does not mean everyone should be controlled. This is not China. You cannot control everything, no matter what you try to do, people will find a way. These people who write code are evil geniuses and it is just going to start a bigger war.

“When Lars [Ulrich] told his fans if you steal our stuff we are coming to get you, it really hurt the band. He goes down as being one of the biggest assholes in the world. If you are threatening your fans for stealing music they will turn on you. Try to find other ways to monetize and stop putting a knife to people’s throats.”

What do you see as the biggest challenge to being successful in music today?

“I guess it all goes back to the product. I listen to radio stations talk about if we only had more marketing money and if we only did this and if they didn’t attack us—but I go back and say if your product were great you would have no problems. If you had no vulnerability this wouldn’t be a problem. U2 is brilliant in that they never rest on their laurels and they have had shitty albums but they are successful. Bruce Springsteen has a new purpose for each album and it always works for him.

“Must have reasonable expectations and great management to see your art go to the next level. It is always a struggle. You are going to starve. Gaga took a page out of country music and said I am going to stay true to my fans because that is what I’ve got. As long as she is in tune with her fans, her record company can kiss her ass.

“When Rick Ruben heard Adele, they had to make sure her voice was the most important thing on the album. For every Adele, there are a thousand singer songwriters who create great songs but have not found that great mix of production, management, and people who can take them to the next level.

“I, however, think the opposite. Every year I go back and it is just songs. I always go back and for years and years I track my favorite album on a list and I look back and say why wasn’t that a massive album? There have been songs over the years that have been amazing and should have launched the artist into the stratosphere and they never made it. I look at why didn’t that happen? You know they are on nobody’s radar and radio and they never get further than opening for club bands but sometimes there are songs that are just insanely good and you wonder how did that never work? Even songs on the radio that were great but never become a huge hit. Big Star—plenty of people owe their career to them but they never made it. As far as a band that wrote the most incredibly great pop songs but never happened. The Jam, who was a huge band in the UK, never made it in America. Oasis was the biggest band in London but didn’t exactly explode in America.”

What was your favorite album last year?

“The Civil Wars will blow up at some point in an Allison Krouse sort of way. They have no natural road—they are too pop for country and too country for anything else. There are a lot of singer songwriter types like this.

Album from last year: Tom Morello, “ (Springsteen esqu).”

Appendix D: Norm Winer

Norm is from Brooklyn, New York, went to Brandeis University working towards a degree in sociology and musicology, and has been working in the music industry for over thirty years. Norm had initially intended to be a professor upon graduation, but decided that he would instead work to change the world by working in radio. In Boston, the radio station WBCN had a great influence on the city where Norm worked as a news director and overnight DJ. Shortly after this he moved to Montreal to help launch a radio station before moving back to Boston, and then worked at KSAN in San Francisco, dipping his toes in every aspect of the music industry he could. In 1979 Norm had the opportunity to come to Chicago and work with WXRT, seeing the station through many changes of format. Winer has worked at independent companies and radio stations as well as giant corporations, forming a well rounded career, although he has worked at CBS for the last twenty-years.

Do you prefer working with smaller companies or larger corporate companies?

“I like both. It is easier to move and stop and go on a dime when there is not as much protocol. But on the other hand you have more resources and opportunities when you are in a larger setting. I have corporate allies though the company that makes things easier to do. Over the last seven years, I have spearheaded what I like to call our CBS taskforce, a small group of us who cover most of the rock festivals around the country: Bonaroo, Coachella, the jazz fest in New Orleans, Lollapalooza, and we gather content digitally and send it out to CBS radio stations who are interested in such things. Now working for an independent company, it would be harder to finance that kind of thing and have the exposure that we have.

“We have been doing a series for the last couple of years called “Live On Letterman” where we book artists to perform on the Late Night Show and at the end of the taping which runs at night they kick out the audience and bring in a whole new audience for the artist to play a 45 to 90-minute set that we post as a webcast. We then archive that content on our

website. It does well for them to have that kind of exposure and the level of production and the professionalism of it. They really present it in a very favorable light and to give their fans access to that content for free. Projects like that are very advantageous to have access to and that is a plus to working for a large corporation... Because of the history of XRT, a lot of people project that we have problems dealing with the giant corporate types but the fact is, as I mentioned earlier, I was the VP of rock and I was the person from the corporation that was in charge of WXRT so literally if my general manager wanted to change the format or fire the program director, he would have to get my approval to do that. He would have to get my approval to fire me.”

What do you think has changed the most in the scope of the music business since you began your career? How have technologies such as Napster and downloading sites affected how you do business?

“I think the major change over the last ten or fifteen years is that people now have so many sources of music. There are so many sources to hear new music, to access music—radio used to be the only game in town and with the development of and the revolution of—well iTunes alone was revolutionary so it seems hard to imagine that it is so much a part of the landscape. Pandora has massive numbers now in terms of the number of consumers who access it on a daily and a weekly basis and in a lot of places that affects the degree to which people still turn to radio. I guess it depends on the style of music people prefer and the market you are living in, although obviously with streaming radio people can hear any station they want to and any stations that are online only, whenever they want to. Needless to say access to those stations is no longer limited to the home; you can hear them in your car on your handheld devices and mobile device. I think it raises the bar for us because it makes us try that much harder to be better. Theoretically, it makes us realize that we do not need to be all things for all people. There are so many specialized outlets that cater to one chunk of the audience as opposed to another.

“Particularly when you get to advanced styles of music, you know if you like old country, or cool new bluegrass bands, electronic and so on, whether it’s satellite radio and has not made the impact the media thought it would. The media totally overblew the numbers that reflect subscribers for satellite radio; really they reflect rental cars that are sitting in parking lots. The number of units that have been installed in cars, whether or not people activate their subscriptions or activate them after the free 30 month subscription. Really the statistics around satellite radio are distorted in terms of the number of people who are willing to pay those monthly subscriptions after a certain point in time. Depending on how active consumers are in terms of interacting with the music, creating their own playlists, passive software devices like Pandora is almost insulting to people who are passionate about music because the algorithm is reducing people to a stereotype and not dealing with the individual. It deals with a generalization. For certain people, certain taste, for people with a limited amount of musical knowledge. In dealing with a local radio station where I think the strength of the medium is and dealing with a radio station that is part of a community and has a better sense of what sort of artists and cultural influences really mean the most to them, to elicit the kind of passion that gets people to engage with the

medium whether it's a cultural institution or a media outlet, that is something we are better at doing because we are dealing with a specific market."

Do you see these personal radio stations and new technologies such as satellite radio as a positive or a negative since you mentioned they do generalize people, even though they make it easier for some people to access music?

"Well it exposes people to some music but it is also not geared towards an active participant. It is more passive and is not for people who are engaged with the medium or the style of music and the artist. I think in terms of dealing with the massive humanity that is out there who wants to have music on in the background but isn't necessarily going to act upon it, I mean one of the areas as you know, in selling music, and given the different formats that music is now available in, people are not buying music from retail outlets or online in the numbers that they used to. For the most part because people are downloading one song at a time and their awareness of certain styles of music and artists are limited because of the outlets that they can access. Pandora doesn't necessarily expose people to styles of music or, well what am I saying, sort of the substance of it. It is not as tangible when it is being downloaded.

"I don't know if you are familiar with a Andrew bird, local artist, but he just released a new album and he is playing giant venues and festivals, smaller venues, but his conception of his music in addition to being available on iTunes he has album packaging, he has posters. The style in which he presents his music to his fans is such that if you are only downloading his music, you are getting a small fraction of his overall artistic inception. In the early days of classic rock, CSN with their first album in 1969 they had the album design created by these genius art directors who spent extra money to convince their record company, Atlantic Records, to spend considerably more money for the stock that the album cover was made out of. Jackson Browne, same deal, I think it was 1972; his debut album had a very specific substance that the album was made out of so it would be more substantial and have the desired effect from the graphics on the cover. And there was a great debate because the record company wants to make as much money as they possibly can. To raise the overhead of the project because the artist had a conception of a different artistic presentation, that is something they tried to talk them out of but they insisted on it. The fact that there are still artists that see their work in the context that goes beyond just the audio. And there are artists with the rise and renaissance of vinyl, for example, as opposed to simply CDs and digital downloads that want to have the audio quality that is only available on vinyl. The major resurgence of that technology is something that also is a reflection of artists having a more fully fleshed out conception of how they want their music presented and consumed. On the one hand you might think that is a small lunatic fringe, but on the other hand keep in mind that that section is growing and growing and growing.

"Last year, record store day had more vinyl bought on one day than there had been in decades and that is coming up on April 21. More and more artists are making their music available from Adele to the lowliest indie band are having their music made available on vinyl simultaneously, while releasing them digitally and on CD as well. Turntable sales are growing and I don't have the stats but the fact is last year's record store day sold more vinyl

than ever before. I just came back from Jack White's recording studio, Third Man Records that he founded three-years ago, just had their anniversary in Nashville. I love him and was dying to hear his new record so I went to this party. This was a whole building where you walk in and there is a store, and all they were selling was vinyl and these were singles and albums and the singles were things [White] has recorded in the last few years of all the bands he loves, the pressings he has made and records he has produced, and some of them are well known and some are new artists on their way up. Then he had vinyl, all the WS stuff, all the records he has worked on. Then he has a pressing studio in the building, he's got a recording studio, and he gave us as a memento from the night, a 12-inch colored vinyl compilation of all of the singles they have recorded at his studio. Here's the hook, because he is so weird but a genius, to squeeze in all the music on this album it was recorded on 3-rpm which isn't playable on any turn table. I've talked to some engineers and they said maybe in the studio where you can do it manually you can hear it, but that's it.... His devotion, he was just in Austin last week at SXSW and he had two mobile Third Man Truck hanging around outside for a few hours a day selling vinyl exclusively, and then moving around the city to be a pop up vinyl shop. It was great."

What is your opinion on new technologies such as the iPhone as a way to listen to music and the iPod? Do you think it is significant that kids no longer understand the difference between analog and digital, and that they cannot hear the difference?

"Well I think, to give more people access to music is a positive thing and to have music so convenient for people and audio, of all kinds is a positive. To have people have access to radio and some of the handheld devices and that includes news and information as well, that's a very positive thing, to have people in touch with whatever they want to be in touch with. To give them access to online streaming stations, news info, sporting events, you know that's always what we thought life in the 21st century would be about. I don't know where the jet packs are, we are still waiting for the jet packs by the way, and the robot maids to come out of the wall, but anything that is only positive, but we also have to be aware of the limitations.

"The compressed sound that comes out of an iPod is not flattering for the way the music was recorded and the way the artist meant it to be. It is convenient, but it is not the ultimate and for the generations of people who only listen to music on ear buds and iPods and do not really listen to music with a degree of quality and purity, they are not listening to it the way it is intended to be heard. Whenever I can—listening to it on speakers, listening to music on a quality system, or better quality recordings, wave files vs. MP3, all of that is more representative of the music the way it was meant to be heard. Another aspect, and this is something that our research has proven, and it is partly because my radio station and other stations that are geared like WXRT for older listeners that had other consumer experiences growing up, the older audience and by that I guess I mean people who are thirty-five years-old and older, still buy music. They still want to buy an album or a CD or whatever forms it is in and they want to have an album by an artist they care about. Whether it is DMB, LCD Sound System or Adele, and you like an artist with such success like Adele, which spans the generations, and last we checked, probably by the time you submit this she will have broken a few more records with her album *21*.

"The best selling album or the one longest on the charts since 1984, since *Purple Rain* (by Prince), last time I checked, was Adele. She's being played on so many different types of radio

stations all over the county and all over the world and nobody anticipated this from somebody who is no nonsense, straight ahead just a beautiful voice, combination of musical styles and influences but the thing is people who really love music want to have the whole album they want it in their hands. They bought the DVD she did of a live performance in England, that was one of the best selling DVDs of the year as well. The tangible quality of owning an album is something that a lot of people still insist upon and one thing we have learned because certainly technology terrifies people in my business because they worry that they are going to become outmoded they are worried that their role in the whole media food chain will be obsolete. The reassuring thing about at least my type of radio station is that we are a vital part of the process. People simply don't have the time in the course of their normal lives to pursue music in every waking hour. People are not reading Rolling Stone anymore, they are not reading reviews in whatever publication or blog post, they are not hanging on critics' every word, they want to discover the music for themselves and discover the artists that are worthy of their attention. Radio serves that function. My radio station still satisfies the discovery function in terms of turning people on to new music, new artists, and to peruse a little bit further, but the process has to begin somewhere and rather than Pandora that keeps people in that same groove or rut, radio turns people onto things. Radio remains for a lot of people, maybe geographically specific, but for a lot of people radio is still the source of initial information that will lead people to go on and be consumers and to pursue things further and to buy concert tickets, which are exorbitantly priced, and to support the artists they care about. We are a rare radio station in that we appeal to people that are mostly above 25- 30 years old, but its not like they have whether the economy or the technology, has all of their consuming habits, people are still passionate about consuming music that they still will buy tickets and albums and pursue artists and develop new favorites as time goes on and not get stuck listening to only classic rock, or 80s or 90s or whatever. There are still artists worthy of your attention if they become aware of them.

So you still do believe radio serves that function of exposing people to new music? I ask because many of the people I have talked to believe its things like the iTunes free download of the week or other sites?

“I absolutely do but it is not every radio station that does that and it is not every single market in the country that does that. In Bloomington you are lucky to have a good radio station, WTTS, which does that, but perhaps not to the same degree as we do here in Chicago. And perhaps the style of music that every radio station supports does not match up to your taste, there are stations like that here and there but if it does not match up with your personal taste it might be irrelevant. But if you can find the outlet that does some of the time, it makes it easier on you. Our success is based on having respect for the audience, so far be it for me to say anything negative about people who listen to the radio but the fact is we are all so busy that people are a little lazy. We only have so much time and radio is for people who are a little bit lazier and when the initial iPod phenomenon emerged and shall I say exploded, it was a certain period of time say six to eight or ten weeks after people initially purchased their iPod, when people just backed off on downloading music on creating their own playlists, and they just lapsed back to listening to what they have already accumulated on their iPods and that is when people went back to radio. They wanted to hear new songs that they could buy and download that they could put into their iPods again so radio to one degree or another still serves that function. It is not just the ads or the billboard ads that pop up on iTunes or other websites that are going to call your attention to

things, you are skeptical of that and do not have time to listen to them, you are not going to pay money for something you are not familiar with. If you hear a song and it grabs you on the radio, that is motivation to pursue it further, to download a song or an album or whatever if it matches up to your taste.”

How have these changes forced your specific position within CBS, and specifically WXRT to change?

“We have become much more, well we reactivated a website our company bought a few years ago, actually the original downloading website MP3.com. CBS bought that and we just let it sit there for awhile where it lost its buzz and vitality for a while, but last summer I went around with some other program directors, each representing a different format, there was a top 40 person, somebody from the hip hop format, and me, the rock guy, and an alt guy, and we went to LA and NY and met with industry leaders to say we wanted to provide a source for our listeners to access for free the best new music around, regardless of genre. Last June we ended up launching 30 downloads in 30 days, and we offered free downloads to all of our format types throughout the company on MP3.com to bring attention to the rebirth of the site. We know that people download music, we want them to hear it, but we want them to hear it through the vehicle of also being exposed to our radio stations where they can hear it. We have had, for almost two years now, a page on our website sponsored by Toyota, so it is also profitable, and it is called the “Toyota Download of the Day” so every day people can download songs that are consistent with our format or consistent with their taste and that is us basically giving them options that they did not have otherwise.”

“Last April we did Arcade Fire, a live broadcast from UIC pavilion. What we offered, we didn’t want to webcast it because we did not have the capability and that makes it extravagantly expensive, and we didn’t want that either, but what we offered was sort of an innovation that we called a “Live Photo Stream.” What we had was a photographer in the pit, great access, great vantage point, and they just snapped away throughout the entire show, simultaneous with people hearing the stream of the audio they could see the movement of the artist, it was a great camera, and they could see what the band looked like and the motion of the movement. All of the pictures weren’t keepers but during the course of the show itself they could see the motion, the action, the visual themselves, and the reviews were through the roof. We did a few other broadcasts as well; we did a Widespread Panic broadcast, Wilco, and Paul Simon this fall. It was unique to XRT, and because we have a wider audience, a more intelligent audience, we know that people of all ages are going to be very interested, more so than their contemporaries, which we hope. But the numbers are always huge and that’s a source of revenue for us and we want to pursue that kind of thing.”

Has the number of listeners of WXRT changed in a positive or negative way since the rise of iTunes or since the demographic you are reaching for is different than iTunes, has it stayed fairly consistent?

“Not at, well the, we have never had higher ratings than we have in the last three or four years. We used to average 500k listeners a week for many, many years give or take and for the last two years, we are averaging 1million listeners per week. Here is the asterisk, there is also a new

audience measuring system, which as much as anything else may affect that but everyone agree this measurement system is more accurate than what was in place before. It is the same radio station, same competitive market, but the fact is we have twice as many listeners as we have ever had before. A traumatic drop off would be more symptomatic of us being threatened by technology but that is not the case, as I mentioned some of the special programming that we do and coverage of festivals around the country those are the things that have, as we are driving people to listen to us, to listen to our coverage and live performance content, we are taking full advantage of everything. And we haven't even talked about social media yet, which drives people to and makes people aware of the things we are doing in a more immediate fashion."

Did you see a greater positive change from the use of social media?

"I would say not yet because the percentage of people whom, the number of Facebook friends and followers, still dwarfs the number of people reading our tweets. We have seen it all with the rise and fall of Myspace and the huge growth of Facebook in the last few years, but I can't help but think because of history that Facebook at some point will be replaced by something else. It is not going to be Google+ but for us to be cultivating the community of XRT followers and developing social media skills from our DJs, it is another way people can interact with us. It is another way the radio station is relevant to people of all ages and some people utilize those devices more than others, but it keeps us broadly available for them—we don't have our heads in the sand.

The other thing is that one of the challenges is not totally commercializing that stuff, to not cheapen it. To have it be self-servingly to put advertisers on and hold them at arms length, so that it is still something that is mostly of interest to the audience and not of our own self interest, that is one of the biggest challenges. I see all of these commercials and pop up ads where there are mayonnaise companies that want you to be a Facebook friend of theirs. I don't want to be friends with mayonnaise, that's not what I do! Every company in the world is asking you to friend them or like them and that seems very odd. The timeline thing is something I know college students are very skeptical of. It reveals too much private information, which I think smart people can see through. It's getting creepy. And yet we have been here for so long as an old school media outlet that this year is going to be WXRT's 40th anniversary so what I am working on now is making our plans for the end of the year for the anniversary. We want to make it contemporary and instead of looking back over 40 years, we want to look forward and deal with our current listeners and having it be things they can relate to and not just painful nostalgia. That is one of the challenges, but doing it in a way so that we are utilizing all of our technology that we can and all of our online stuff and social media, to make it fun and participatory, and interactive, even though we are an ancient radio station where everyone has worked much longer than you should at a radio station, we are still having fun with it. And that is where you have to combine the elements and I think we can do that."

Now taking a step away from radio and looking at the recording industry in the broader sense, what do you think is the most important way to earn profits and do you think album sales are still important for artists?

“I think album sales should be the most important but I think there is, and I think fundamentally people in the industry know that, but I think their short term goals often distract them from that. I think sometimes it is the week to week airplay information and marketing issues, I think overall the record industry blew it, and blew it in a big way by holding off or distancing themselves, I think from some of the opportunities and rise in technology, I don’t know. Having done this MP3.com tour last year I became aware that a lot of people that I respect are totally aware of the oversights that were made in the last ten or fifteen years. When people held Napster at arm's length, and when people fought tooth and nail to prevent the march of progress, putting them at a total disadvantage, and I don’t think they will be able to regain that.

“I think people buying music the old fashion way is something we may never be able to recapture and that is the way it goes. Whether the record companies still have a strategy that will allow them to profit from album sales, as much as they should, being the source of all of the information, some of the greatest success stories in recent years have been the independent labels that are more involved in profit sharing and revenue sharing with the artists, and it’s more control in the hands of the artists and they present finished profits to the labels and share in the profits and the proceeds. This seems to be the new model, and it keeps much more artistic control in the hands of the artists, and the labels are being left out in the cold as they deserve to be given the fact that they blew it. There are not many major labels left anymore, and if I had the answer I would offer my service as a consultant to them, and it’s a sad thing but the fact is with so many indie labels it increases the chance that many talented artists can find an outlet and reach the public, and the fact that there are so many different sources for discovery of new music and there are labels too, with ingenuity of watching traffic on YouTube for example. Watching these obscure band from Iceland and New Zealand that have captured the public's attention, and then they can offer them deals that will enable this artists to gain wider distribution on one continent or another and enable the spread of quality music. Artists really can’t complain anymore that they cannot be heard or they can’t find their audience because it is out there and it is at very reasonable prices. They no longer need to be nurtured by a giant corporation in order to reach a large-scale audience, which is a very positive thing. That is why the great music over the last few years and probably the next ten or fifteen years is going to be from independent sources. Everybody can afford to record an album or post a video and people will hopefully be able to find their audiences and when they travel around the country, maybe they make their money on t-shirt sales or something, on merchandise, but I think there is a great audience out there for quality music of all kinds and the technology enables them to do that.

Do you think that major labels are a dangerous place to be working right now because they are downsizing or do you think they still have a chance of keeping their head afloat and rebuilding?

“Well, it is interesting you ask that. Again because of the consolidation involved, they are sort of gathering their forces, and I just spent a great deal of time in Austin, during South by South West, and with a friend of mine from Sony Music who is now RCA, and Columbia, and where as they were the big bloated record company for so long that really wasn’t taking any chances or looking at talent development, I’ve been impressed by the fact that Columbia, in the last year, is the Adele label. And obviously that gives them a certain amount of pride, and a certain amount of courage because they have seen an artist that was totally unknown and also extremely young just totally dominate the industry. But they took on Foster the People and just signed Jack White

and his first solo album is going to be on Columbia, Sony. The Foo Fighters exploded for them, and that's in the RCA branch. They have a new Wallflowers album that is coming out which is a little bit off base, and that particular label is now feeling as though they have the resources to take some chances which is all from the leadership. They have a lot of these major labels where as Warner Bros., for example, was run since the 60s by people who loved music, hated music, were musicians or whatever, they were then taken over by in some cases Europeans who were much more conservative about how the business was run and did not feel the magic of the industry or the idea of changing the world or sweeping people off their feet with incredible artists. Now there seem to be a handful of people who are coming into positions where they are fans, they are believers and hopefully they can combat the corporate forces that are only looking at the bottom line, but that is how it is done, they are stockholders and such. And they can figure out a way to keep their expenses down and keep the music coming.

“The Universal people, one of the largest labels, they have sat and watched phenomena come up on the Internet. They saw this incredible video, this man and this woman singing a catchy song, and they signed Gotye, that is now a multi format smash group and it was all because of this guy in New Zealand who had a few of their albums out, created this very artistic, very riveting video, and they said that's a good song, lets get it. And they got it relatively dirt cheap, it's not like they had to sign them to this massive deal, and the results are one of the biggest records of the year. It's a way of just waiting in the weeds, and they saw this phenomenon happen, and back in the old days A&R people used to scout the clubs, spending a lot of time in New York, Seattle, or Boston depending on what city was supposed to be cool, you know a lot of bands say they are from Brooklyn and I'm sure there are a lot of clubs where they were going night after night to try to find the unsigned bands. But the other way of doing it is being aware of what is happening internationally and finding things that are making an impact, and you watch the number of hits on a video and apparently that is exactly what they did with Gotye. They said this is something, and they did it before anybody else, and came with the right amount of money and reassurances and boom, its all theirs.

“They did the same thing with this other band from Iceland called Of Monsters and Men, which is just emerging now, and again it was just a matter of them being aware of what the public's response was already. It's beyond test marketing. They already have a bonafied track record before they even release the music in the United States.”

What do you see as a solution to solve the problems currently plaguing the current state of the industry if you see any solution in site, or do you think we have leveled out at the bottom of the spectrum, at the bare minimum of what we can do to be successful as an industry?

“That's a good essay question. It's hard to tell, I would never give them credit for having bottomed out; things can always still get worse. But I think some of the people, I don't know I'm more optimistic than not. I would like to think there are smarter people running the companies now, there are people that have come through the ranks and have enough experience that they are not going to make the same stupid decisions that their predecessors did. And I would like to think that people are savvier and more familiar with the technology and the whole process so they will be able to take advantage of it. That is what I would like to think. It is pretty hard for them to make the same stupid decision that the previous generation of executives made.

They will never cease to surprise me with the dumb decisions they make. But it is true of broadcasters too. There have never been more classic rock stations on the radio, so who knows.”

What is your opinion on Congress' look on the issue as they try to enact bills that try to prevent copyright infringement and illegal downloading?

“I am not totally up to speed on everything but in general, it is my opinion that artists deserve everything they can get, but part of that comes from the historical component that rock and roll was based on businessmen exploiting helpless individuals and that goes back to the birth of R&B and blues, the Chess brothers here in Chicago and just totally exploiting individuals that don't have legal representation, and exploiting song writing royalties and publishing. Unfortunately that is the basis on which the music industry was built. It is sickening in a lot of ways. On the other hand some of the bills that have been out in recent years include artists receiving royalties from radio, and speaking very personally and from my own company and self-interest, I don't think that is fair. I think they deserve that money from record companies and other sources. I think it would be very short sighted to penalize these radio stations with airplay. That being said, in terms of cable television royalties and DVD and Blue-ray royalties and I think if there is anyone profiting from their artistry, performances, likenesses, and images I think they deserve to share that to some extent or another. I don't have an overall sweeping comment about that, however. It really depends.”

“The industry is still suffering from the fact that the economy tanked a few years ago and you heard this, and it's true. We are barely getting by in TV and radio to a certain extent, although TV is more bloated, to say the least, but radio is still in the throws of significant downturn. And additional expenses they have anticipated like this, to pay royalties to artists on radio stations who work to expose them, I don't think we can absorb it. I really don't. It is not like [radio stations] are rolling in dough.

What do you see as the significant challenge to being successful in music today? What is different today from when you began your career?

“I think you are entering the business while it is in transition. You are going to have people, actually there is a great song by Allen Tasant, a New Orleans pioneer, called “On Your Way Down” and I don't think I will get the lyrics right but it is something like, “People you meet on the way up, you are going to meet again on the way down.” Talking about stepping on people to get to where you want to be. The metaphor is that there are people clinging to their positions though they don't really have the insight or the knowledge to justify them continuing with their jobs because the rules have changed, the media has changed. On the other hand there are people on their way up that don't get how to grasp how the game is played, who still have to learn the ropes and have the skills, ideals and knowledge, but when you have to put yourself in the context of dealing with the people who are currently in power. And getting a sense of that is the tricky part because it really is in transition right now. When I was starting out, we made pitifully little money just for the sense of hanging around, watching everything that was going on, and figuring out how things worked and how people did things and really having the patience to do that while still trying to get by and make ends meet. We would take any job we could, just trying to get lucky enough to be in the so called right place at the right time. I think there is an awful lot to be

learned from the old guard as you are hoping the old guard will become unemployed as quickly as possible to make way for the new folks. I also worry that some people think you need less people working, and with the advanced technology, you really need humans. You need creative people and ingenious people, people with good ears and sensibility and people who are more sensitive to consumers and the masses to serve that and come up with things that haven't been thought of yet. It is a very exciting time but because there are people coming and going and positions at giant corporations consolidating, it is very tricky to know when you can step right in, when to lay back in the weeds a little bit, and when the right opportunity emerges.”

Appendix E

FBT Productions, LLC –w- Aftermath Records
 Summary of Findings
 July 1, 2005 through December 31, 2009

1. Incorrect Royalty Rates	
A. Black Vinyl Rate Reduction	\$ 12,069
B. Black Vinyl Rate Escalations	307
C. Military Sales Escalations	574
D. Litigation Settlements Participation Percentage	386
E. NA	
F. Permanent Digital Downloads	3,810,256
G. Budget Sales – “Curtain Call”	152,374
H. Mid-price/Budget Permanent Downloads	18,906
I. NA	
J. Foreign Licensing	131,749
2. Failure to Report Royalties	
A. Factoring Returns for Free Goods	3,865
B. Excess Record Club Free Goods	8,302
C. Excess Foreign Free Goods	207,357
D. Video Clip Income	
3. Third Party Royalties	
A. “Stan” – “Curtain Call”	130,878
B. Dr. Dre Compact Discs	4,720
C. “Encore”	26,834
D. Foreign Pricing	32,188
E. TV Advertising Costs – Understated Producer Credit	17,371
4. Other	
A. Overstated Costs	40,895
B. Overstated TV Advertising Costs	361,915
C. Aerosmith Sample Allocation	11,165
D. TV Advertising Cost Allocation	28,169
E. Foreign Income Taxes	68,680
F. TV Advertising Costs Reserve – “Relapse”	15,527
G. YouTube Litigation Settlement Income	86,398
H. Legal Hold	2,068,337
I. Dr. Dre Shared Costs	
J. Public Performance	
K. Other Income	
5. Interest on Claims	