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Record Labels, Artists, and Finance: A Contribution to the Economic Analysis of Costs and the Equity of Recoupment Practices in the Music Industry

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> *Editor's note: The following is presented as a comment on the paper* Are Music Recording Contracts Equitable? An Economic Analysis of the Practice of Recoupment *(Theo Papadopoulos, Victoria University,* MEIEA Journal*, vol. 4, no. 1, 2004).*

The relation between an artist and a label is potentially conflictive from the start. A label advances money for a recording project with the hope of recouping it later. Even if the artist sells, he or she will not collect artist royalties before the label reaches the breakeven point. In practice, breakeven can be fuzzy, and cause more tension.

Professor Theo Papadopoulos of Victoria University in Australia recently explored such issues in the seminal paper *Are Music Recording Contracts Equitable? An Economic Analysis of the Practice of Recoupment*.[1] For Papadopoulos, a label's fixed or "establishment" cost per release includes the recording advance, the budgeted marketing campaign, music videos, payment to independent promoters, retail product placement, and tour support. The variable cost per release depends on the marginal cost, and the article shows the following simplification for marginal cost:

$$\textit{Marginal Cost} = \textit{MPC} + \textit{DIST} + R_A + R_M$$

MPC is the marginal production cost, *DIST* is the distribution cost, R_A is the artist royalty, and R_M is the mechanical royalty. A label's total cost function for that release is:

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$$Total\ Cost = FC + VC$$

where *FC* is the fixed cost and *VC* is the variable cost. At a production quantity *Q*, total cost becomes:

$$Total\ Cost = FC + MPC*Q + DIST*Q + R_A*Q + R_M*Q$$

In Papadopoulos' elegant formulation, total cost is an expression of a disbursement that includes payment for an intellectual property component. This is the sum of the mechanical royalty and the artist royalty. A label tries to minimize this cost as it tries to maximize profit. It cannot avoid payment of the statutory mechanical rate but the artist royalty is another matter. Settlements over artist royalties can bring the label into conflict with the artist and raise the issue of contractual equity. Specifically, Papadopoulos asks at what point in the product cycle should a label consider the advance to the artist as paid from artist royalties? He then considers various scenarios.

Papadopoulos' analysis hinges on the definition of total cost, and therefore fixed cost. In fact, Papadopoulos' own treatment of the recording advance, a key element of his work, leads him to underestimate a label's breakeven point.

Papadopoulos is correct to describe the recording advance as a fixed cost. However, it is wrong to consider the sum handed to the artist at its face value. The label is parting with a sum of money that would otherwise be earning a steady stream of interest payments if invested elsewhere. When a label signs an artist, this opportunity cost of lending money is very real and has to be included as an additional fixed cost. When a business parts with a given sum of money *P*, it expects to earn a future sum *A*, which is greater than *P*. If the money were put in a fixed interest bearing investment that paid an annual rate *i* for *N* years then,

$$A = P(1+i)^N \text{ and } I = A-P, \text{ where } I \text{ is interest earned}$$

In the case of a label, it makes a recording advance *P* and it is potentially surrendering an interest earning *I* on an alternative investment that pays a rate *i*. The true cost of the loan to the label of its recording advance for artists who are not going to break even must therefore be close to *P+I*.

This is the majority of artists. This expression, which can be approximated by calculating the future value of the recording advance, is the relevant number for inclusion in a label's overall fixed cost.[2] The fixed cost for artists that will break even, on the other hand, should include the loss of at least one period of unearned interest on the recording advance.

The above reasoning is standard in financial breakeven analysis, and we conclude that a financial breakeven method is better suited to depict the label–artist relation than accounting breakeven.[3] It is interesting that this fundamental point is largely absent in any discussion of the equity of contracts in the recorded music trade. Like Papadopoulos, the existing literature proceeds as if there is no premium attached to liquidity. Cash, of course, is expensive. If artists were able to self-finance their musical projects, the cost of drawing from their own funds would be measured by the amounts they put down and the interest earnings they would forego—not just the temporary drop in their bank balances.

A label takes a risk when it signs an artist and the artist–label relationship is full of uncertainty. At the very least, future earnings need to compensate earlier disbursements. To deal with this, Papadopoulos introduces an exogenous stand-alone risk factor that he adds to the artist's total cost function. A label, he argues, is a multi-product firm in which not all of the artists in its roster will recover the recording advance. The label will budget for this loss, which he calls λ. Papadopoulos would then allocate the value of λ among the roster of artists.

The simplification makes sense, but begs many questions that we will address in future work where we hope to quantify the label risk factor in more depth and establish a statistical basis for analysis. Papadopoulos certainly opens up for discussion the issue of intra-artist equity and good artist–label relations, as he makes clear that the breakeven point for successful talent appears much later than otherwise would be the case. The implication is that successful artists are ultimately financing less successful ones.

We generally agree with the above. However, we are inclined to be less optimistic about the practical application of a new business model for risk sharing presented by Papadopoulos in the latter part of his paper. He suggests that artists agree to apportion royalties to defray the potential losses from λ, helping the label minimize the cost of artist royalties. By definition, the only contributors to such royalties would be successful artists, and there may be little reason for them to do much more than they are doing now.

Endnotes

[1] Theo Papadopoulos, "Are Music Recording Contracts Equitable? An Economic Analysis of the Practice of Recoupment," *MEIEA Journal* 4, no. 1 (2004): 83–103.

[2] In practice, labels do not give the artist the full advance upfront. The equivalent treatment would be to consider the loan as an annuity, and the relevant cost would then be the future value of that annuity.

[3] See Harold Vogel for a comparative discussion of entertainment company buyouts: *Entertainment Industry Economics* (Cambridge University Press, 2001), pp. 27–29.

The authors wish to acknowledge Don Gorder, Chair of Berklee College of Music's Music Business/Management Department, for his useful comments. Participants at the 2005 MEIEA Conference, including Keith Hatschek and Steve Marcone, also provided valuable feedback.

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Barry Sosnick is the president and founder of Earful.info, a provider of strategic marketing and risk management solutions to the recorded music industry. He is also on the faculty of Five Towns College, teaching classes in music marketing and public opinion research. Mr. Sosnick was a senior project leader with the prestigious political polling and market research firm Luntz Research Companies, where he guided political, legal, and marketing strategies for Fortune 500 companies, elected officials, and a foreign government. He was an equity analyst, most recently with Fahnestock & Co. (now Oppenheimer & Co.), where he provided research on the home entertainment and consumer electronics retailers, and assisted mergers and acquisitions, and public and private financings. He co-authored research with music business graduate students from the University of Miami entitled *The Changing Recorded Music Industry*, presented at Loyola University New Orleans to the Music and Entertainment Industry Educators Association (MEIEA). He presented to MEIEA, at the University of Miami, a paper entitled *A Capital Budgeting Approach to Understanding Artist–Label Relationships*, co-authored with Peter Alhadeff, an economics professor at the Berklee College of Music. Sosnick is a frequent speaker and panel member at universities and industry conferences, including the National Association of Recording Merchandisers (NARM). He also serves on the MEIEA advisory board.

Financial Risk and Return in the Music Recording Industry

Theo Papadopoulos
Victoria University

Editor's note: The following is presented as a reply to the preceding comment by Peter Alhadeff and Barry Sosnick (page 13).

Introduction

Alhadeff and Sosnick's comment (hereafter, A&S) on my recent paper on the economics and equity of recoupment practices (Papadopoulos, 2004) provides an opportunity to further explore the risk and return dynamics of investment in the music recording industry. A&S make two fundamental points: the first relates to the model and the supposed omission of opportunity cost relating to the time value of money; the second relates to the equity of recoupment practices and the workability of the proposed revenue distribution model. In this reply I will refute both points and demonstrate that the model is indeed robust. Notwithstanding, A&S raise a number of important issues and highlight the need for more research into the underlying fundamentals of financial risk in the music industry. The following section details my response to the A&S critique. Thereafter, I present a discussion of further issues stimulated by the A&S comments with suggestions for future work.

Opportunity Cost and Economic Profit

The first contribution of the A&S paper is the explicit recognition of the time value of money; namely, that a recording advance has an opportunity cost measured by the foregone interest payments of an alternative investment. This is not novel and I will discuss below how this can be explicitly incorporated into the analysis. However, A&S go beyond suggesting an elaboration of the analysis to asserting that, like Papadopoulos, the existing literature proceeds as if there is no premium on the recording advance. While the general point regarding the inappropriate use of account-

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ing profit is valid, this criticism cannot be applied to my paper, which utilizes economic profit. The distinction between economic profit and accounting profit is that the latter includes only explicit costs while the former defines costs as incorporating both explicit and implicit costs. That is, explicit costs are actual payments made for resources (wages, rent, utilities) while implicit costs represent the opportunity cost of these same resources employed in the next best alternative use (for example, the foregone interest on the money invested by the record company and the wages foregone by the artist in pursuing a career in music). The total cost function presented in Equation 1 is indeed economic cost, as evidenced by the preceding explanation that "A construction of costs and revenues utilizing elementary *microeconomic tools* (emphasis added) facilitates a comparison of the firm's breakeven sales volume to the volume of sales at which the artist is recouped" (Papadopoulos 2004, 91). Indeed, opportunity cost is explicitly discussed in the paper, for example, in the context of the relatively low success rate I state that "artists' investment of time, money, and effort would, in economic terms, seem somewhat irrational […] The non-refundable recording advance further encourages artists since (opportunity costs aside) the financial risk is borne by the record company." (Papadopoulos 2004, 97).

This misunderstanding arises partly from the cross-disciplinary nature of the *MEIEA Journal* and my own background in writing predominantly for an audience of economists. This may have been avoided with an explicit definition of economic versus accounting profit; but any student of Economics 101 should recall the distinction. Accordingly, the breakeven point as presented in my paper is accurate and not located at a higher sales volume as suggested by A&S. The authors are correct, however, in the observation that the time value of money is "largely absent in any discussion of the equity of contracts in the recorded music trade." The framework presented in my paper provides an opportunity for an analysis of this and other important factors that constitute the complex machinations of the recording industry. Economic modelling is by its very nature a simplification, the process of abstraction from reality (making simplifying assumptions) to develop a framework within which to evaluate the behavior of key variables. Thereafter, we relax our simplifying assumptions, moving away from the abstract toward reality by introducing more variables and greater detail. This is the challenge and opportunity for future work and it is encouraging that A&S have signalled intent to further investigate financial risk in the music industry.

Distribution of Risk and Return

The second point made by A&S relates to the uncertainty associated with new sound recording title releases in which approximately one in ten are supposedly financially successful. My paper illustrates how the existence of risk, and numerous failed investments, means that record companies must defray this cost with income generated from financially successful titles. A&S assert, "The implication is that successful artists are ultimately financing less successful ones." They describe as impractical the notion of risk sharing where "artists agree to apportion royalties to defray the potential losses [associated with risk] [...] helping the label minimize the cost of artist royalties." Firstly, I do not contend that the successful artist *per se* subsidizes less successful ones, but rather that the record label's share of income generated from sales of successful titles is used to cross-subsidize unsuccessful releases. The latter are essentially high-risk speculative investments akin to oil drilling where one successful strike pays for numerous unsuccessful investments. The risk factor λ is not imposed on the successful artist as suggested by A&S, but instead, enters the record company's cost function (Equation 7, p. 97) as a separate cost element as follows:

$$TC = \lambda + TFC + MC.Q \qquad (7)$$

The element λ is used to capture the risk and associated cost of numerous failed investments within the label's portfolio of investments. Its inclusion in the cost function for a title-specific investment recognizes the reality that a portion of revenue from successful titles is required to cover losses on failed investments. The objective here was to demonstrate that this resulted in a higher breakeven sales volume for our multi-product firm. Accordingly, revenue captured by λ can be thought of as a contingency fund, not so much for unforeseen events but for the predictable failure of numerous releases within the label's portfolio of annual investments. For the A&S comment to be valid, the element λ would need to be subtracted directly from the artist royalty (represented in Equation 7 as marginal cost, *MC*).

Secondly, with respect to the practical application of the risk-sharing model, I concur with A&S that it is unlikely to be adopted, particularly for established record labels for which accounting practices can be described as clandestine. However, it is important to note that the remuneration model proposed in my paper identified three stages over which a (variable) fraction κ was applied to the artist royalty, expressed in Equation 8 as follows:

$$\Pi_c = PPD - (MPC + DIST + R_M + \kappa R_A) \qquad (8)$$

It was proposed that, at sales volumes below the breakeven point $\kappa = 0$, while $\kappa < 1$ beyond the breakeven point, and finally $\kappa = 1$ for sales beyond the recoupment volume of sales. I then go on to say:

> "The value of κ between the breakeven and recoupment points would be negotiated between the parties and would ensure that both the record company and artist share in the rewards of a successful title release. Its value could also reflect the need for the record company to recover losses on unsuccessful titles." (p. 99)

In other words, the value κ can be adjusted by mutual agreement. It is at this point that the A&S contention of impracticality is appropriately focussed. However, the discount applied to the artist royalty is not central to the remuneration model itself. As demonstrated by the preceding extract, the value of κ *could* also reflect the need for the record company to recover losses on unsuccessful titles. In the ensuing numerical illustration, I do provide for a discount on the value of κ to compensate the record company for the risk inherent in multiple title releases.

Is it realistic to canvass this extension to the remuneration model? In negotiations of any kind it is often necessary to concede some ground in order to occupy another space. In the illustration of the remuneration model, artists would agree to receive less than the full royalty beyond the recoupment level of sales (and the full rate at some mutually agreed level beyond that) in exchange for record company agreement to pay a fraction of artist royalties prior to the recoupment sales level. This means that artists receive an income stream prior to being recouped, at the cost of a reduced (and uncertain) future income stream. As A&S rightly point out, the present value of money is higher than the future value, and even more so if the income stream is uncertain. Moreover, I would envisage that such a negotiation would include the payment of a higher royalty ($\kappa > 1$) at some mutually agreed sales volume (for example, when the title-specific target profit or rate of return has been achieved). I would imagine then that there would be many emerging artists (and their business advisors) that would find this proposition attractive, and that the driving force for its adoption would be self interest rather than altruism. Notwithstanding the above, the A&S comment has made me revisit this issue and encouraged a further exploration of earlier ideas, some of which I will briefly share here.

The Future Value of Breakeven Revenue for a Multi-Product Firm

Let us explore the first of the A&S points: that the recording advance is a fixed cost with an opportunity cost. Perhaps the best analogy to investing in a new sound recording title can be found in the pharmaceutical industry. Like investments in new titles by record labels, drug companies target R&D investments on the basis of an evaluation of potential future income. This selection process is made with imperfect information, and the uncertainty gives rise to considerable risk. The expected revenue stream will be discounted by the risk that the investment will fail to produce a product of merchantable quality. A simple numerical illustration of the breakeven point, utilizing a somewhat different approach to that presented in my earlier paper, is helpful.

First, it is helpful to distinguish between fixed cost and title establishment costs. For simplicity, my earlier paper implicitly assumed that these two components were combined and represented as *fixed cost* (see Equation 1, p. 91). Fixed costs are unavoidable and include rent, utilities, wages, and so forth—commonly referred to as overheads. I define establishment costs here as those related to the creation, development, and marketing of a new product—in this example a new wonder drug. Unlike expenditure of buildings and machinery, this is a sunk cost that is unrecoverable once expended. A drug company (like a record label) is a multi-product firm with a set of investments of varying value (not all recording advances are equal) and a corresponding variety of expected revenue streams. This means that fixed costs need to be apportioned across each investment using a somewhat complicated weighted formula, the formulation of which is best left for another occasion. For simplicity I will assume a set of new investments (ten new drugs) of equal value (say $1 million) totalling $10 million so that fixed costs are distributed equally across each investment. Assume also a fixed cost of $10 million per time period (per annum) that would be apportioned equally across each of the ten new drugs (at $1 million each). If one in ten new drugs is successful, the risk factor is extremely high with the probability of success equal to ten percent. This means that the breakeven revenue stream for these speculative investments is $10 million ($1m/0.10), and this covers only establishment costs. Like the A&R activity in the music industry, failed R&D in the drug industry often produces no income whatsoever.[1] Accordingly, the revenue stream of the one successful drug must generate the breakeven revenue stream (in the example above, $10 million). Factoring in fixed and variable costs, the breakeven revenue is considerably higher.

The reality is of course more complex than this. For example, our drug company owns patents on a number of established drugs that generate an ongoing revenue stream for the duration of the patent (monopoly supply). This is analogous to the music catalog of the record label. Accordingly, fixed costs would need to be apportioned across all products, new and established. Moreover, given the lengthy development cycle (the time from the initial investment to market entry) this future revenue stream needs to be discounted to account for the time this money has been tied to the investment. In the pharmaceutical industry the development cycle can be up to ten years, inclusive of trials and government approvals. In the music industry, the analysis is somewhat more complicated because "failed" investments can still produce a revenue stream that can contribute to establishment costs and overheads. To illustrate let us turn our attention back to music.

Table 1 presents data relating to a series of hypothetical A&R investments in new sound recording titles (emerging artists). For ease of exposition our investment portfolio includes five new titles (A to E) with investment (establishment cost) graduating successively by $1 million from $1 million up to $5 million (column two). Putting aside the revenue of back catalog, let's assume the label has overheads of $5 million (fixed cost) per time period.[2] Column three presents the ratio of each title-specific investment to total investment for the period ($15 million), and is used to calculate the weighted contribution to overheads (column four) required from each investment. For example, the investment of $3 million in title C represents twenty percent of the total investment ($3m/$15m) and should therefore contribute $1 million to total costs (twenty percent of $5 million).

To incorporate the time value of money along the lines suggested by A&S, we need to consider the length of the development cycle and the behavior of the ensuing revenue stream. The development cycle varies across titles and I assume here a period of two years from A&R to market entry. The timing and quantum of the revenue stream is somewhat more complicated. For a new wonder drug that has been approved and is ready for market, we can estimate the future revenue stream based on the number of people with the ailment and capacity to pay. The projected revenue stream will be relatively stable (subject to the development of competing substitutes) over the term of the patent, and lower beyond that point (as competing generic brands enter the market). The parallel in music is the investment in surrogate bands or artists—those that deliberately appropriate the sound and image of an established band or artist with a proven market. This is akin to brand proliferation in the soaps and detergents industry in which copycat brands are developed to regain market share.

For a sound recording title, the product life cycle is relatively short and displays the characteristics of a fad or fashion product. The revenue stream is "chunky" and typically concentrated within the first year of release. For the purpose of calculating the future value of breakeven revenue (FVBE) for this illustration, I assume that the label aims to achieve the profit target within the first year of release (while acknowledging that it will continue to generate revenue as back catalog and contribute to overheads thereafter). Column five presents BE revenue in constant dollars while Column six presents the FVBE for the three-year period (incorporating the two-year development cycle and one-year product cycle assumptions). For example, the FVBE revenue for title C rises from $4 million to $4.63 million (compounded annually at five percent over three years)[3], while the FVBE for the period (all investments) is $23.15 million, of which $3.15 million represents the opportunity cost to the label of undertaking these speculative investments. An added complication is that, unlike the drug industry, unsuccessful titles will generate a variety of unpredictable revenue streams, not necessarily related to the size of the initial investment or product quality.

To illustrate the implication of unpredictable revenue streams, let us now assume that title C is the label's only hit record, while the other titles have varying levels of market success. Column seven presents a series of hypothetical revenue streams for each title, excluding title C. The sum of these revenue streams is $8.61 million, which exceeds the label's overheads ($5 million) by $3.61 million. Subtracting the value of the label's investment portfolio ($15 million for all titles), we have a shortfall of $11.39 million (constant dollars) after accounting for the revenue of all other titles. Importantly, while the unsuccessful titles are disappointing (from both the financial and artist development perspective) and fall short of their respective FVBE revenue, this illustration demonstrates that these titles can nonetheless make an important contribution to the label's overheads and overall profitability. It is at the A&R stage that labels compete to sign emerging artists, the selection of which will determine the relative success of a label's overall investment portfolio. Each title-specific investment is a gamble, and failing superstardom, new titles can nonetheless generate revenue and contribute towards overheads and company profits despite falling short of the title-specific breakeven point.

Given these unsuccessful titles, what is the amount of revenue that title C must generate for the label to breakeven? Column eight presents the shortfall of title specific investments (FVBE less hypothetical revenue). For example, the hypothetical revenue generated from title D ($5.5 million), while substantial, falls short of the FVBE by $0.67 million. The sum of the shortfall in revenue across all titles (excluding title C which has deliberately been set to zero) is $14.54 million. This is the FV of sales revenue that title C must generate for the record label to breakeven.[4] This is considerably higher than the title-specific FVBE of $4.63 million but lower than the investment portfolio FVBE of $23.15 million.[5]

Of course, record companies are in the business of making profits and are accountable to shareholders looking to maximize return on investments. Let us assume that the label sets itself a target rate of return (r) of ten percent. Column nine presents the FV Target Revenue (FVTR) required to achieve the target r, and is obtained by applying a ten percent markup to the FVBE for each title. The sum of the FVTR, $25.47 million, represents a ten percent return on an investment of $23.15 million. As already noted, not all titles will achieve the FVBE let alone the FVTR. Following the same procedure for identifying the FVBE for title C, using the hypothetical revenues for all other titles, we can now identify the FVTR necessary for title C to deliver the target profit that represents a rate of return of ten percent across all investments. Column ten presents the shortfall of hypothetical revenue from titles A, B, D, and E over the FVTR (with title C again set to zero). The sum of this shortfall ($16.86 million) is the revenue from the hit record, title C, to achieve the target profit and rate of return. The target sales volume (number of albums sold) can be estimated by simply dividing the FVTR by the *Value of Sale* (unit price less variable costs).[6]

Conclusion

This hypothetical illustrates how record labels need to utilize revenue from successful titles to cross-subsidize speculative investments in other titles. As noted, the dynamics for a multi-product firm are complex, but the illustration does help to focus on some of the underlying fundamentals of financial risk in recorded music. The approach adopted in this illustration also provides a useful tool in developing problem-solving activities for music business students. For example, one activity could involve a sensitivity analysis (utilizing a simple Excel spreadsheet) whereby groups of students investigate the impact on the FVBE and FVTR by varying the underlying parameters (risk, hypothetical revenues, target rate of return, length of development cycle, etc.). For example, after assigning differential risk levels for mainstream artists (30%), surrogate artists (20%), and an artist from an emerging genre (5%), students could explore the appropriate allocation of investment funds across these titles and, given a set of hypothetical revenue streams, could explore the implications for the FVBE and FVTR necessary to achieve the label's profit target.

I have written more on this issue than I originally intended but found myself immersed in the subject matter once again. For this, I owe a debt of gratitude to Alhadeff and Sosnick for their examination and comments on my earlier work. Academic discourse of this nature is to be encouraged and is one of the objectives of the *MEIEA Journal*. Alhadeff and Sosnick are to be applauded for initiating this process. I look forward with enthusiasm to their continued contribution to research in music industry financial risk.

1	2	3	4	5	6	7	8	9	10
Title	Investment ($m)	Proportion of Total investment	Weighted Contribution to Overheads	Breakeven Revenue	Future Value of BE	Hypothetical Revenue	Shortfall	FV Target Revenue	Shortfall
A	1.00	0.07	0.33	1.33	1.54	0.10	1.44	1.70	1.60
B	2.00	0.13	0.67	2.67	3.09	0.01	3.08	3.40	3.39
C	3.00	0.20	1.00	4.00	4.63		4.63	5.09	5.09
D	4.00	0.27	1.33	5.33	6.17	5.50	0.67	6.79	1.29
E	5.00	0.33	1.67	6.67	7.72	3.00	4.72	8.49	5.49
Total	15.00		5.00	20.00	23.15	8.61	14.54	25.47	16.86

Table 1. Hypothetical Investment Portfolio (in millions of dollars)

Endnotes

[1] Citing SoundScan data Marcone (2005) reveals that 58% of new albums released in 2004 sold less that one hundred units each, while 81% sold less than one thousand units each.

[2] Alternatively, we could think of revenue from back catalog covering all but $5m of fixed cost. This would be the portion of fixed cost allocated to new investments.

[3] Interest on loans will typically compound daily rather than annually so the FVBE will be even higher. Offsetting this is the fact that the investment will be expended over a two-year period rather than at the commencement of the period as depicted. It is also important to note that the hypothetical revenue depicted in column seven is a stream rather than a lump sum received at the end of the period.

[4] For ease of exposition, variable costs (including publishing and artist royalties) have been excluded from this illustration. Accordingly, $14.54 million is the FVBE after variable costs have been paid.

[5] The implicit probability of success is twenty percent, or one title in five (1/5= 0.20). Coincidentally, since investment in title C represents twenty percent of a total investment ($1m/$5m), the FVBE for the investment portfolio, $23.15 million, is equal to the title specific FVBE divided by the risk factor ($4.63m/0.2 = $23.15m).

[6] As illustrated in my paper on recoupment practices, this itself is somewhat difficult as the variable costs change over the relevant output range (for example, as a result of varying royalty rates over sales thresholds).

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Decentralization and Growth in the U.S. Music Industry, An Emerging Paradigm: A Longitudinal Comparative Analysis

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Introduction

Recently, Taylor and Terrell (2004) published research on economic trends in U.S. music industry capitals. Their findings showed that:

1) despite a slowdown in the rate of growth, U.S. music industry capitals had experienced positive growth rates;
2) despite declining record sales, other sectors of the music industry were growing; and
3) patterns of decentralization were occurring among the cities they studied.

However, the researchers were unable to determine whether or not their data would extrapolate to a nationwide model. The purpose of this study is to determine the amount of decentralization, if any, that has occurred within the U.S. music industry. To this end, this researcher has adopted Taylor and Terrell's (2004) instrument—with adaptations—for comparison of the entire U.S. music industry to the nation's music industry capitals.

What is the significance of decentralization within the music industry? Put simply, decentralization is becoming a worldwide business trend; it is also reported to be occurring within the music industry. If decentralization is occurring, there are salient implications for both the music industry and its customer base.

Much has been written about the changing face of the music industry and what the future holds for it. There is no shortage of commentary concerning the issue of how the internet is changing the so called arcane business model that has defined the music industry. Perhaps the most succinct observation relevant to this study comes from André Gray, CEO and founder of the Digital and Electronic Music Organization.

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> When musicians discovered the Web in the early 1990s, it was apparent to them that they had finally found a medium that could quite possibly liberate them from the shackles of the music industry parasites. It did! For the last seventy years, the music industry has basically the same business model that allowed them to control the manufacturing and distribution of music. And the old adage in Hollywood concerning distribution is true: whoever gets their hands on the money first keeps most of it. For the very first time in music business history, the recording artists could have total control over their creative works and, at the same time, have a direct and interactive connection with music fans from around the world. This is by far, the single biggest change the music industry has ever seen since the creation of rock 'n roll […] Because of the advent of legal and illegal digital music, the music industry will no longer be centralized. The decentralization of the music industry is the greatest thing that can ever happen to musicians (Gray 2004).

This study is intended to determine, through a quantitative comparative analysis of current economic trends, whether or not decentralization is occurring within the music industry. To this end, the following definitions provide a contextual frame for the data contained in the methodology section of this work:

Decentralization: the planned, or spontaneous, redistribution of an industry, or industry sector's, resources (e.g., businesses, employees, and sales) from a state of relative spatial concentration to a more disbursed condition (Terrell 2005).

Growth rate: The rate of increase in size per unit (Webster 1996).

Market share: The percentage of the market for a product or a service that a company provides (Webster 1996).

Music industry (MI): The nine business sectors contained in this study.

Music industry (MI) capitals: New York, Los Angeles, Chicago, Nashville, and Atlanta (Taylor and Terrell 2004).

Per capita share: The percentage of businesses, employees, or sales that a company, or industry sector, possesses based upon population (Terrell 2005).

Is the music industry decentralizing? A proper examination of this question should begin with a consideration as to what industrial decentralization is, what factors precipitate this phenomenon, and whether the music industry has experienced decentralization in its past. A brief review of scholarly analysis and trade commentary provides context for this discussion.

Review of the Literature

The phenomenon of industrial decentralization has been an object of study by a significant number of scholars in the fields of business and economics. Additionally, industry insiders and observers have published numerous non-scholarly articles and reports on this subject often touted to be the business paradigm of the twenty-first century. Finally, a modest amount of music industry scholarship has been devoted to decentralization within the discipline.

Industrial decentralization is a concept with origins found in Marxist economic theory. The first generation of Marxist scholars was ardent apologists for industrial decentralization as an alternative to the negatives they observed in the centralized business structures of the industrial revolution. This is exemplified by Kropotkin (1906) who argued that "The tendency of trade, as for all else, is toward decentralization […] diversity is the surest pledge of the complete development of production by mutual cooperation, and the moving cause of progress, while specialization is a hindrance to progress" (p. 251).

In the ensuing years, Marxian decentralization theory developed additional nuances. For example, Krumme (1972), a geographical economist, examined the impact of what he referred to as "spatial decentralization" in industry. His research showed how the Triumph Motorcycle Corporation was able to increase its market share and productivity by moving from a one-plant production facility to a multi-plant inter-regional corporation during the late 1960s. Krumme's analysis also indicated that regional diversity in a company facilitated extended customer service hours and lowered payroll costs through the attraction of skilled personnel not having to relocate to a centralized facility.

Patrick McGovern, Professor of Information Systems at MIT's Sloan School of Management, represents the current school of scholarly thought on decentralization in business and technology. In a 2003 interview with Thomas Malone he stated:

> The old mode of centralized authority has been severely undermined […] Decentralization is being facilitated by advances in information technology and is enabling decision-making to be far more widely dispersed in both large and small firms. With cheaper communication costs, many more people can make decisions for themselves, because they have the information they need. And when more people make more of their own decisions, they are often more creative, more motivated, more dedicated. That means we'll be able to have many of the economic benefits of large organizations without having to give up human benefits of smaller ones—things like motivation, creativity and freedom (Malone 2003).

McGovern also sees industry decentralization transforming businesses in diverse sectors. "There is a huge amount of freedom for people at very low levels in the organization. Junior people can make multi-million dollar decisions about technology and even business acquisitions, in part because they have the information in their hands and can easily ask advice from people throughout the company […] companies today are moving away from the rigid, hierarchical ethos that was pervasive in business twenty years ago" (Malone 2003). In Malone's interview McGovern predicted that "many [of the] things that are done today by large corporations could be done by temporary combinations of very small companies, in many cases even individual freelance contractors. Most people don't begin to understand yet how important and far-reaching this and other decentralization changes will be" (Malone 2003).

McGovern's somewhat sanguine analysis that "industrial decentralization will shape the world for the rest of the century" is apparently shared by a significant number of industry insiders and observers (Malone 2003). For example, Kevin Werbach has postulated that "in the coming decade, decentralization will be a critical challenge for the technology, media and telecommunications industries […] Centralized systems are failing for two simple reasons: they can't scale, and they don't reflect the real world of people" (Werbach 2002). In the article "Tech's Newest Trend—Decentralization" Werbach observed that individuals instinctively seek to communicate and collaborate across artificial boundaries of organizations and geography. And, because decentralization inherently breaks down boundaries, it will inevitably cut across multiple industry categories. However, Werbach contends that decentralization is neither automatic nor absolute and that the most decentralized system does not always prevail. He believes that industry's challenge in the twenty-first century is to find appropriate equilibrium points containing optimum group sizes and viable models with the appropriate social compromises. In his summary, Werbach (2002) states, "Although decentralization is a long-term challenge, the good news is that it's also an opportunity. Businesses that can capitalize on decentralization—as both creators and users of technology—will be best positioned for the future" (Werbach 2002).

Other industry insiders, such as Balovich (2003), have observed that industrial decentralization is no longer restricted within our continental boundaries (e.g., offshore decentralization). In support of his claim he provided a partial listing of major U.S. companies, including IBM, Procter and Gamble, Dell, Microsoft, and Oracle, who have decentralized their operations to other countries. Balovich observed that the benefits of offshore decentralization for these companies included lower wages and the ability to work around the clock due to their presence in other countries.

The first scholarly analysis of industrial decentralization and the music industry was performed by Shore (1983). The researcher's historical rendering of the music industry showed that technological advancements had precipitated periods of decentralization followed by record label consolidation. Though the primary focus of his research was the impact of the U.S. major record labels on the international music market, Shore's discussion of the benefits of a decentralized domestic music industry provide important insight as to how both music and the commerce of music could benefit from a less centralized industry paradigm. Unfortunately, his recommendations for record industry decentralization were somewhat untimely, for his work was published during what Garofalo (1999) identified as a period of consolidation within the music industry.

The next music industry scholar to discuss industry decentralization in the context of his discipline was Garofalo (1999). He provided historical analysis of how forces external to the music industry precipitated temporary periods of decentralization within the industry. Garofalo explained how a policy decision by the U.S. government created unanticipated consequences for the music industry—specifically, the shellac shortage during World War II. This caused a cutback on the number of records that could be produced and led the major U.S. labels to make a strategic decision to abandon production of African-American music. "This decision, coupled with technological advances favoring decentralization, created the conditions in the 1940s under which literally hundreds of small independent labels—among them Atlantic, Chess, Sun, King, Modern, Specialty, and Imperial—came into existence in the United States" (Garofalo 1999, 3). Among the technological advances to which Garofalo referred is the development of low cost analog tape recorders, which were quickly adopted by the aforementioned indie labels (Terrell 2001).

Another technological advancement discussed by Garofalo was the invention of the transistor in the early 1960s. Because the transistor was capable of performing all the functions of the vacuum tube, "this advance encouraged decentralization in broadcasting and recording, which aided in independent production" (Garofalo 1999, 3). The work of this scholar is important to this study for his identification of periods of decentralization within the music industry, specifically the 1940s and 1960s, and the consolidation period that occurred in the 1980s.

The research of Taylor and Terrell (2002) represents the first attempt to identify and quantify decentralization within the music industry. In their concluding remarks, the researchers encapsulate the views of the literature.

> The salient findings of this study are [that] decentralization of the music industry, combined with local niche specialization, are replacing the monopolistic model of the previous century. These changes are precipitated by a combination of forces that include technological advances, population shifts, global economy and evolving musical preferences. Implicit in the findings of this study is that the decentralization patterns of the music industry present opportunities for a larger number of cities to develop significant music industry related businesses within their environment (Taylor and Terrell 2002, 257).

Taylor and Terrell's (2004) subsequent research has led them to more precisely identify the external factors of the current music industry decentralization cycle:

1) Federal Communication Commission (FCC) deregulation policies in radio broadcasting;
2) Internet file sharing;
3) varying business climates among the music industry capitals; and
4) technological advancement in audio recording.

Nevertheless, the researchers' findings failed to quantify music industry decentralization at the national level.

The body of literature indicates that industrial decentralization is a developing trend in both the world of business and the music industry. The forces that are perceived to precipitate industrial decentralization include:

1) technological advancements;
2) governmental policy decisions;
3) company profitability and productivity; and
4) a need for increased motivation, creativity, and freedom for a company's employees.

A comparative analysis was performed to determine if the currently perceived decentralization of the U.S. music industry is real, and if it is real, to what extent has decentralization occurred. A description of the data collection procedures and methodology are contained in the following section.

Methodology

Since the purpose of this study is to determine what quantitative evidence, if any, exists in regards to Taylor and Terrell's (2004), as well as other, claims of possible decentralization patterns within the U.S. music industry, a replication of the aforementioned researchers' instrument was adopted with the following modifications. A quantitative-comparative analysis was performed on the entire U.S.—all fifty states—and Taylor and Terrell's five Music Industry (MI) Capitals of New York, Los Angeles, Chicago, Nashville, and Atlanta for the years 2000 and 2003. The nine music industry sectors of this, and the 2004 Taylor and Terrell foundational study were:

1) Recording Studios
2) Artists' and Entertainment Managers or Agents
3) Entertainers and Entertainment Groups
4) Record and Pre-Recorded Product Outlets
5) Musical Instrument Stores
6) Musical Instrument Manufacturers
7) Licensing, Royalties, and Publishing Services
8) Creative Services
9) Broadcasting Services

As in the previous research, the databases included the 1997 North American Industry Classification System (NAICS) CD-Rom, the 2000 U.S. Census Report, and a research engine and databases from Dun & Bradstreet (DB) for 2000 and 2003. The NAICS database was used to identify and group music industry sectors by statistical index codes (SIC) into the nine industry sectors of the study. The 2000 U.S. Census Report was used to determine total U.S. and individual MI capital populations. The U.S. population figures and the stated populations for each MI capital (which was combined to produce a music industry capital group total) were used for the calculation of per capita share.

2000 U.S. Census Figures

U.S. Population: 281,421,906

MI Capitals: 27,868,622 (9.9% of the U.S. population)

The DB engine was loaded with the selected SIC numbers—separated by year and business sector—for analysis of the U.S. data. The data for the MI capitals for years 2000 and 2003 was taken directly from the Taylor and Terrell (2004) tables.

Limitations of this Study

For the sake of clarity, the scope of this study was limited to nine predetermined music industry categories. Among the music industry categories not included were business entities whose products or services are experiencing significant decline in market share, for example, hi-fi and other acoustic equipment manufacturer/wholesale and services. Support services such as audio cassette duplication services, musical instrument rental services, music education and instruction, and sound and lighting equipment rental were likewise not included due to lack of a significant market share. Finally, two of the most significant growth sectors for the music industry—entertainment legal services and web-based music delivery entities—were not included due to current limitations in the NAICS eight-digit protocols because they tend to overstate activity within these sectors. Therefore, while the results of this study encompass most of the music industry activity within the United States, they cannot be generalized to encompass all music industry activity within the country.

Results

The results of this study indicate that despite having a greater per capita market share than the U.S., MI capitals have lost market share over time. Additionally, the MI capitals show declining growth in four, and no growth in two, of the nine industry sectors of this study. In contrast, the U.S. experienced positive growth in number of businesses, total employees, and revenues in eight of the nine MI sectors. This quantitative evidence might indicate a decentralization cycle within the U.S. Music Industry.

Table 1 shows that the commercial recording studio sector in the U.S. is up in all three industry sector categories (number of businesses, number of employees, and total sales). The MI capitals likewise grew, but at a comparatively lower rate, in number of number of businesses and number of employees, but declined in total sales (-16.52%). Additionally, the MI capital's three growth rates (as shown in the columns entitled "Growth in %") are slower than the U.S. growth rate. As the row entitled "MI Capitals %" shows, the MI capitals have a greater per capita share than the U.S. as a whole (i.e., more than 9.9% of the national total) in all three categories. However, as the same row shows, the MI capitals have lost market share in the three categories since 2000.

The figures for Artists' Managers and Agents, as found in Table 2, show the U.S. experiencing healthy growth in all three categories. The MI capitals' growth rates are slower than the U.S. in number of businesses and number of employees, but greater in total sales. As in the recording studio sector, the MI capitals have greater per capita share in all three categories than the U.S. as a whole. Nevertheless, the MI capitals lost market share in number of businesses and number of employees and experienced only modest gains in total sales.

Table 3 contains the data for the live music sector. The figures show that the U.S. experienced significant growth in all three categories. The MI capitals experienced an equivalent growth rate to the U.S. in number of businesses, but they trailed significantly in the growth of employees and revenues. Again, the MI capitals show a greater per capita share in all three categories when compared to the U.S. as a whole. Nevertheless, the capitals show essentially no, or negative, growth in market share for all three categories.

The Record Retail sector, found in Table 4, shows growth in number of businesses nationally, but shrinkage (-4%) in employees, and is essentially flat in sales. In contrast, the MI capitals experienced modest growth in all three categories. Additionally, the MI capitals experienced a modest increase in market share and had greater per capita shares in all three categories. The comparative success of the MI capitals in this sector may be attributable to sales of recorded product via the internet, whose websites are generally maintained at the corporate headquarters of various national record retail store chains.

In contrast to the record retail sector, music retail trends in the opposite direction. Table 5 shows that the U.S. experienced healthy growth in all three categories. The MI capitals also grew in businesses and employees but lost significantly in sales (-53%); consequently, the MI capitals maintained market share in businesses and employees but lost ground in sales. Nevertheless, the MI capitals have a greater per capita share in businesses and employees but drop below the 9.9% floor in sales for 2003. Finally, the MI capitals show a depressed growth rate compared with the U.S. in employees and sales. These figures tend to support perceptions that the urban music store sector is overbuilt and is having difficulty competing with online music retailers in the Midwestern United States (Franklin 2003).

Although music instrument retail was found to be weak among the MI capitals, music wholesale and manufacturing was found to be a healthy sector for all stakeholders. Table 6 shows that the U.S. and the MI capitals experienced significant growth in all three categories. The U.S. had a slightly faster growth rate in number of businesses but the MI capitals' growth rate exceeds the U.S. in employees and sales. Additionally, the MI capitals saw a 5% increase in market share for employees and sales during this period.

As in the previous sectors, the MI capitals have greater per capita shares in all three categories.

Table 7 contains the data for licensing, royalties, and publishing services. The figures show healthy growth nationally in number of businesses and sales, but a loss (-20.4%) in employees. The MI capitals experienced modest growth in number of businesses and employees, but demonstrated larger growth in sales. Additionally, the MI capitals had substantially greater per capita shares in all three categories. This data lends support to Taylor and Terrell's analysis that industry consolidation may be occurring within this sector due to the dramatic increases in employees and sales (market share) for Nashville (Taylor and Terrell 2004).

The fields of songwriting, music arranging and composing, music video production, and disk reproduction were, as per Taylor and Terrell's instrument, included in the sector entitled creative services (Table 8). The results indicate that the U.S. is experiencing healthy growth in all three categories. The MI capitals show faster growth rates in number of businesses and employees, but are lagging in sales. Additionally, the MI capitals made modest gains in market share for the business and employee categories, but they lost ground in sales. However, the MI capitals do maintain a greater per capita share in all three categories.

The sector of broadcasting services (Table 9) includes SIC categories such as specific format radio station time sales, radio consultants, radio transcription services, and music distribution services. Broadcasting services was found to be the most prolific of the industry sectors in this study generating almost half of the nine sectors' total dollar output. The U.S. exhibited significant growth rates in number of businesses and employees, but registered negative growth (-22.5%) in sales. In contrast, the MI capitals showed more growth in businesses and employees and were less depressed (-7%) in sales. Also, the MI capitals registered modest increases (about 2%) in market share for all three categories. They had greater per capita shares in employees and sales, but failed to reach the statistical average of 9.9% in their number of businesses. These data, which show MI capital broadcasting to be more resilient than the nationwide industry sector downturn, tend to support reports of broadcast industry consolidation as a result of the deregulation of the telecommunication industry by the FCC (Clark 2003). Finally, this is the only industry sector to show negative growth in revenues in this study.

Table 10 contains the totals of the nine sectors of this study. U.S. trends show growth in the number of businesses and total employees but are down (-6%) in sales. It is a testament to the strength of the remaining industry sectors in that they were nearly able to absorb the dramatic loss of revenue experienced by broadcast services, the largest sector. The MI capitals experienced slightly larger growth rates than the U.S. in number of businesses and employees but were flat in sales. However, these combined figures mask the MI capitals' inability to maintain market share in industry sectors one through eight. This is examined in the next section.

Finally, the figures showing the MI capitals possessing greater per capita shares (i.e., more than 9.9%)—in all three categories—lends credence to the popular perception of their title. Nevertheless, the MI capital totals indicate an essentially flat market share in all three categories of the nine industry sectors.

Discussion

The results of this study indicate that a significant number of sectors in the U.S. music industry are in the initial stages of a decentralization cycle. Seven of the nine industry sectors under review show either stagnation or decline in growth rates and per capita shares for the U.S. music industry capitals. These data, viewed within the context of an expanding U.S. music industry market, provides quantitative evidence of structural change in the industry.

It should be noted that many industry insiders do not consider the music industry to be decentralizing; instead, they describe it as a consolidation phase. For example, Verna's (2003) interview with various major record label executives demonstrated that layoffs and cutbacks are the order of the day for their firms. However, these label executives' perceptions may be rooted in their environment, for the major labels have lost significant market share over time. For example, Baskerville (1983) stated that major label market share in the 1980s exceeded ninety percent with the independent labels having approximately five percent worldwide. Two decades later, the major record label market share has shrunk to seventy percent with indie label shares approaching thirty percent (Verna 2003). Some economists would interpret this data as an indication of decentralization within the record industry as a whole, and corporate consolidation within the major labels. Additionally, decentralization theorists would postulate that the majors are declining in prominence and the independent labels are beginning an ascendancy phase. Finally, because an industry sector can apparently experience decentralization and consolidation cycles simultaneously within its membership, it is also conceivable that the aforementioned may be occurring at the intra-sector level.

It was noted earlier that the broadcast sector's losses had a significant negative impact on the growth rates and revenue outputs of the music industry as a whole. Therefore, this researcher determined to gather supplemental information on the subject.

The Radio Advertising Board (RAB), the sales and marketing arm of the radio industry in the U.S., has published research and statistical data that are relevant to this study. In 2001, the RAB (2001) reported a 23% decline in national revenues for the radio industry, due mainly to the September 11 attacks on the United States. However, eighteen months later, radio broadcast revenues were reported to have recovered by 17% (RAB 2003). It should be noted that the RAB data confirm the accuracy of the Taylor and Terrell (2004) instrument, for this study's data showed a 22.55% decline in revenues for the U.S. Broadcast sector.

However, the RAB research and data failed to address this study's finding that the MI capital broadcast sector experienced a comparatively smaller decline in revenues (-7%) during this period. To this end, William McDowell, Vice President of Research for RAYCOM Media, was interviewed by the author. After reviewing the aforementioned data, and RAB research, McDowell explained that current radio revenues have now returned to their pre-September 11 levels. He considers the MI capital figures in broadcast to reflect the "unanticipated consequences of deregulation in the telecommunications industry" (Terrell 2005). Additionally, McDowell postulates that after the passage of the 1996 Telecommunications Act the large media conglomerates were able to own a larger number of radio stations in multiple markets. Given that most corporate headquarters of the media conglomerates are located in MI capitals, syndicated ad revenues from the secondary market stations bolstered their bottom lines (Terrell 2005). In summary, McDowell considers the radio industry to be in a consolidation mode caused by Federal Communications Commission (FCC) deregulation. Finally, the apparent consolidation cycle of the broadcasting sector contradicts Taylor and Terrell's (2004) prediction that FCC deregulation would cause decentralization in the broadcast sector.

Given the aforementioned, this researcher presents the following to examine the state of the music industry and its capitals without the inclusion of the broadcast sector data. Table 11 shows that the U.S. and MI capitals had positive growth in all three sector categories. The MI capitals had a slightly higher growth rate in number of businesses and employees, but the U.S. had more than twice the growth rate in sales. As in Table 10, the MI capitals were found to have greater per capita shares in all three sector categories. However, the MI capitals' market shares are either flat, or trending negative, in all of the three categories.

An overview of MI capital performance trends (market share) shows a declining prominence in recording, live entertainment, music retail, and creative services—and essentially no change in record retail and publishing. Seven of the nine industry sectors show evidence of decentralization while the others—publishing and broadcasting—are in a consolidation cycle. With modest revenue growth (4.12%) compared with the rest of the nation's music industry (9.59%), the MI capitals may have difficulty maintaining their industry presence over time. For during periods of structural change, there will always be winners and losers.

Decentralization in this initial stage, is not so much the vacating of businesses from the MI capitals as it is simply a stagnation of the industry within the capitals combined with more robust growth in other areas of the country. However, if this trend continues it is reasonable to conjecture that some MI capital businesses and industry personnel might eventually relocate to areas where greater profits and larger salaries are possible. If this relocation occurs, the decentralization process will have entered the second stage of its cycle. The third stage of the decentralization cycle is implied in Garofalo's (1999) historical analysis of the music industry. His accounting of the birth of the indie labels in the 1940s showed the sowing of the seeds of the new majors. For example, Atlantic Records is now part of the Warner/Electra/Atlantic (WEA) distribution group—one of "The Big Four" labels. Finally, if this hypothetical decentralization cycle continues, a new group of major record labels, talent and management agencies, recording studios, etc. will emerge to replace the current major players—as per Garofalo's analysis. Nevertheless, Werbach's (2002) observation that decentralization is neither automatic nor absolute is relevant to this scenario. The new major players will inevitably seek to enhance their market share through mergers and various other forms of acquisitions (i.e., consolidation) and thus complete the cycle.

History shows that the music industry, as with other business structures, has experienced periods of decentralization followed by a consolidation phase. Many factors have been shown to precipitate decentralization cycles. Some of these factors are beyond an industry's ability to foresee or control; therefore, predicting decentralization cycles is at best difficult. It is, however, possible to determine what type of company would best be able to adapt to these structural changes when they do occur. McGovern's (Malone 2003) proposed model of groups of small autonomous companies can provide numerous adaptive advantages when compared to the large corporate model. These advantages include the ability to broker temporary collaborations within their circle or, when needed, outsource task assignments with firms outside their group. It is therefore possible for a group of companies to offer clients a wider range of products and services at competitive price points. During a decentralization cycle, company associations can realign their membership to adapt to new business demands. When this business model is compared with large corporate models (that must endure wasteful downsizing, retooling, etc.) the McGovern model is more adaptive, resilient, and efficient. Finally, during industry consolidation cycles, these company groups can survive—if not thrive—by developing niche markets and staying "under the radar" of the large predatory corporations.

In summary, the findings of this study confirm many of the results of Taylor and Terrell (2004). Most of the industry sectors in this study are shown to be in the initial phase of a decentralization cycle, and the others are in consolidation mode. This study confirms Taylor and Terrell's 2004 postulation that the record industry is no longer the dominant force of the music industry (as of 2000, U.S. record retail employees and sales are now a distant second to broadcast radio). FCC deregulation policies are driving the current consolidation of broadcasting. The publishing sector has historically been a very closed community; therefore, its natural tendency is consolidation. More research is needed to determine why this sector seems so impervious to decentralization.

The music industry is not a monolithic structure; it is a group of businesses with only periodic common interests and goals. Intra-sector competition, as opposed to cooperation, has been the most frequently observed practice. The history of this industry teaches us that it reacts slowly to change. If the music industry is to compete successfully for the entertainment dollars of the U.S. consumer in the twenty-first century, it must learn to adapt more quickly to the various forces that impact it. Decentralization and consolidation cycles are indeed challenges, but they also present opportunities to those with the abilities to understand these cyclic phenomena and to adapt to them quickly.

Finally, the results of this study have important implications for music industry education in the United States. This author recommends that, as professors of music industry revise their institution's curricula to address contemporary developments, they consider adopting the following changes if they are not already in place.

1) Provide entrepreneurial instruction in industry sectors experiencing growth on the national level;
2) Teach recording technology students musical, technical, and managerial skills appropriate for the operation of project studios, as opposed to preparing them for work in a higher echelon recording facility; and
3) Music industry programs not located in industry centers should begin (if they have not already done so) developing internships at local and regional independent labels, project studios, music stores, instrument manufacturers and wholesalers, artist management and talent agencies, and radio stations.

	Number of Businesses		Growth in Percent	Total Employees		Growth in Percent	Total Sales*		Growth in Percent
	2000	2003		2000	2003		2000	2003	
U.S.	6,053	8,645	42.82%	30,784	34,548	12.23%	3,123.0	3,245.0	3.91%
MI Capitals	1,807	2,474	36.91%	14,373	14,962	4.10%	1,638.0	1,368.0	-16.52%
MI Capitals %	29.85%	28.62%		46.69%	43.31%		52.45%	42.14%	

Table 1. Comparison of M.I. Capitals with U.S. Recording Studios for 2000 and 2003.

* Sales figures are represented in million dollar units.

	Number of Businesses		Growth in Percent	Total Employees		Growth in Percent	Total Sales*		Growth in Percent
	2000	2003		2000	2003		2000	2003	
U.S.	11,301	15,681	38.76%	76,724	85,436	11.35%	5,240.0	6,236.0	18.99%
MI Capitals	2,652	3,604	35.90%	20,301	20,634	1.64%	1,652.7	2,094.6	26.74%
MI Capitals %	23.47%	22.98%		26.46%	24.15%		31.54%	33.59%	

Table 2. Comparison of M.I. Capitals with U.S. artists' managers and agents for 2000 and 2003.

* Sales figures are represented in million dollar units.

	Number of Businesses		Growth in Percent	Total Employees		Growth in Percent	Total Sales*		Growth in Percent
	2000	2003		2000	2003		2000	2003	
U.S.	9,177	14,222	54.97%	40,218	50,723	26.12%	1,856.8	2,441.2	31.47%
MI Capitals	1,141	1,769	55.04%	5,991	7,170	19.68%	276.7	326.3	17.93%
MI Capitals %	12.43%	12.44%		14.90%	14.14%		14.90%	13.37%	

Table 3. Comparison of M.I. Capitals with U.S. bands, orchestras, actors, and other entertainment groups for 2000 and 2003.

* Sales figures are represented in million dollar units.

	Number of Businesses		Growth in Percent	Total Employees		Growth in Percent	Total Sales*		Growth in Percent
	2000	2003		2000	2003		2000	2003	
U.S.	17,328	21,149	22.05%	126,757	121,692	-4.00%	17,405.2	17,406.6	0.01%
MI Capitals	3,080	4,044	31.30%	22,799	26,687	17.05%	3,336.2	3,434.5	2.95%
MI Capitals %	17.77%	19.12%		17.99%	21.93%		19.17%	19.73%	

Table 4. Comparison of M.I. Capitals with U.S. record and pre-recorded product outlets for 2000 and 2003.

* Sales figures are represented in million dollar units.

	Number of Businesses 2000	Number of Businesses 2003	Growth in Percent	Total Employees 2000	Total Employees 2003	Growth in Percent	Total Sales* 2000	Total Sales* 2003	Growth in Percent
U.S.	9,191	10,854	18.09%	39,295	42,109	7.16%	3,998.1	4,956.1	23.96%
MI Capitals	1,100	1,366	24.18%	4,630	4,949	6.89%	738.4	346.0	-53.14%
MI Capitals %	11.97%	12.59%		11.78%	11.75%		18.47%	6.98%	

Table 5. Comparison of M.I. Capitals with U.S. musical instrument stores for 2000 and 2003.

* Sales figures are represented in million dollar units.

	Number of Businesses 2000	Number of Businesses 2003	Growth in Percent	Total Employees 2000	Total Employees 2003	Growth in Percent	Total Sales* 2000	Total Sales* 2003	Growth in Percent
U.S.	1,310	1,641	25.27%	15,747	16,817	6.79%	2,241.7	2,527.7	12.76%
MI Capitals	292	363	24.32%	4,702	6,047	28.60%	591.4	790.3	33.63%
MI Capitals %	22.29%	22.12%		29.86%	35.96%		26.38%	31.27%	

Table 6. Comparison of M.I. Capitals with U.S. musical instrument manufacturers/wholesalers for 2000 and 2003.

* Sales figures are represented in million dollar units.

	Number of Businesses		Growth in Percent	Total Employees		Growth in Percent	Total Sales*		Growth in Percent
	2000	2003		2000	2003		2000	2003	
U.S.	1,385	1,809	30.61%	11,219	8,922	-20.47%	1,047.3	1,272.0	21.46%
MI Capitals	597	648	8.54%	3,936	3,977	1.04%	693.0	868.4	25.31%
MI Capitals %	43.10%	35.82%		35.08%	44.58%		66.17%	68.27%	

Table 7. Comparison of M.I. Capitals with U.S. licensing, royalties, and publishing services for 2000 and 2003.

* Sales figures are represented in million dollar units.

	Number of Businesses		Growth in Percent	Total Employees		Growth in Percent	Total Sales*		Growth in Percent
	2000	2003		2000	2003		2000	2003	
U.S.	5,224	6,592	26.19%	22,119	26,906	21.64%	2,424.4	2,834.9	16.93%
MI Capitals	1,206	1,621	34.41%	5,783	8,184	41.52%	990.5	1,097.8	10.83%
MI Capitals %	23.09%	24.59%		26.14%	30.42%		40.86%	38.72%	

Table 8. Comparison of M.I. Capitals with U.S. creative services for 2000 and 2003.

* Sales figures are represented in million dollar units.

	Number of Businesses		Growth in Percent	Total Employees		Growth in Percent	Total Sales*		Growth in Percent
	2000	2003		2000	2003		2000	2003	
U.S.	12,099	15,904	31.45%	168,753	200,071	18.56%	35,478.1	27,478.4	-22.55%
MI Capitals	958	1,467	53.13%	17,275	24,808	43.61%	5,616.6	5,213.9	-7.17%
MI Capitals %	7.92%	9.22%		10.24%	12.40%		15.83%	18.97%	

Table 9. Comparison of M.I. Capitals with U.S. broadcast services for 2000 and 2003.

* Sales figures are represented in million dollar units.

	Number of Businesses		Growth in Percent	Total Employees		Growth in Percent	Total Sales*		Growth in Percent
	2000	2003		2000	2003		2000	2003	
U.S.	73,068	96,497	32.06%	531,616	587,224	10.46%	72,815.4	68,398.0	-6.07%
MI Capitals	12,833	17,356	35.25%	99,790	117,418	17.67%	15,533.8	15,539.5	0.04%
MI Capitals %	17.56%	17.99%		18.77%	20.00%		21.33%	22.72%	

Table 10. Comparison of M.I. Capitals with U.S. number of businesses, total employees, and total sales in all industry categories for 2000 and 2003.

* Sales figures are represented in million dollar units.

	Number of Businesses		Growth in Percent	Total Employees		Growth in Percent	Total Sales*		Growth in Percent
	2000	2003		2000	2003		2000	2003	
U.S.	60,969	80,593	32.19%	362,863	387,153	6.69%	37,337.3	40,919.6	9.59%
MI Capitals	11,875	15,889	33.80%	82,515	92,610	12.23%	9,917.2	10,325.6	4.12%
MI Capitals %	19.48%	19.72%		22.74%	23.92%		26.56%	25.23%	

Table 11. Comparison of M.I. Capitals with U.S. number of businesses, total employees, and total sales in all industry categories *without broadcasting* for 2000 and 2003.

* Sales figures are represented in million dollar units.

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'Taking the Shirt Off Your Back' and Other Desperate Measures Used to Ambush the Ambushers in Sports and Entertainment

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Introduction

Imagine this: while attending a major sporting event, you are asked to turn inside out or remove your favorite logo-laden T-shirt. If you refuse, you are asked to leave the premises. This has already happened in South Africa and Greece, is about to happen in China and the West Indies, and if corporate sponsors have their way, spectators might want to bring an extra set of clothes to their favorite Hollywood film festival.

Ambush Marketing, the controversial guerilla marketing tactic employed by large and small companies alike, has become an international conundrum, causing controversy proportionate to the events where it is practiced. It has become a global phenomenon that typically rears its, some say, ugly head at major sporting events worldwide. However, ambush marketing is not restricted to athletics; a growing number of arts and entertainment-related events have become victims of the creative, unorthodox, and *mostly* legal antics of ambush marketers.

In an effort to combat the problem and punish the perpetrators, sporting event organizers and governing bodies have chosen to adopt strict, sometimes harsh, and often drastic measures to protect the substantial financial investments of their corporate sponsors. The most desperate of these measures involves venue regulations and ticket restrictions aimed at not only the various venue partners and rival companies but at spectators. Whether non-athletic event promoters can, will, or even need to adopt similar methods to control this practice will depend on the continued growth of corporate sponsorship in their industries.

Ambush Marketing

Traditional marketing occurs when a company pays a fee, often millions of dollars, to become an event's official sponsor. Ambush marketing occurs when a competing company, in an effort to either directly or indirectly associate with the event, or trade off the good will and reputation of

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the event, strategically advertises or places marketing materials at or near the event without having paid a sponsorship fee. The practice has increased and become so sophisticated over the years, that it can now be categorized into two types: ambush marketing by association and ambush marketing by intrusion.

Ambush by Association

Actionable, more traditional forms of ambush involve infringing upon an event organizer's exclusive intellectual property rights. Use of an organization's or an event's trademarked name or logo without permission, website domain name theft, and the manufacture, sale, or distribution of unlicensed merchandise are clearly in violation of a host of international, federal, and state laws, remedied by everything from simple cease and desist letters to complicated trademark and copyright infringement lawsuits.

Ambush by association involves an unauthorized affiliation with a sponsored event by a non-sponsoring business. The affiliation is created by attaching the non-sponsor's name, brand, product, or service to the sponsored event through a wide range of marketing activities. Although many of these activities do not rise to the level of trademark or copyright infringement, they may still be illegal or prohibited by statute[1] if they involve any form of fraud, misrepresentation, false advertising, deceptive trade practices, or passing-off.

The purpose of the unauthorized activity, (unauthorized in the sense that the association is neither licensed, sanctioned[2], or paid for), is to directly or indirectly establish a connection with the event, to cleverly tap into the good will, reputation, or status of an event, or to gain benefit from the exposure and publicity value of an event.

Some skeptics go so far as to say that the actual purpose of the ambush is to mislead and deceive the public into thinking that the intruding company is an official sponsor of, or contributor to, the event when it is not.[3] The skeptics also maintain that it is the ambushers intent to deprive official sponsors, suppliers, and partners of much of the commercial value derived from the "official" designation.[4]

Ambush by Intrusion

Contemporary ambush tactics are far more clever, original, outrageous, and for the most part, legal. They can take many forms, ranging from the conspicuous (a non-sponsor advertising a product on a building adjacent to an event venue, perhaps involving some loose reference to the event or the sport in general) to the more subtle (a non-sponsor giving away event tickets as prizes in a radio or press competition).[5]

These ambushers do not necessarily suggest a link to an event, they simply piggy-back on its spectator and media exposure.[6] This includes practices such as causing an airplane towing an advertisement for a product to fly over a stadium where a sponsored event is being held; running advertisements making reference to a sponsored sporting event without suggesting that the advertiser is a sponsor of the event; running a promotional competition, contest, or give-away making reference to a sponsored event; and causing a group of spectators attending a sponsored event to wear clothing that will attract the attention of television cameras in order to promote a non-sponsoring product or service, all without suggesting or implying any form of sponsorship or official connection with the event.[7]

Every reasonable means has been attempted to curb the growth and effect of ambush marketing by intrusion. Unfortunately, these innovative, unorthodox tactics cannot be adequately combated by traditional legal means because there is generally no misrepresentation or deception taking place and there is nothing overtly or otherwise illegal about the ambusher's activities. Categorizing the marketer's conduct as being "wrongful" is much more difficult.[8] Therefore, event promoters are left to employ alternative methods. They are encouraged to educate the public on the importance of supporting official sponsors while denouncing the ambushers.[9] Event promoters are also urged to use local littering and peddling laws to prevent outside-the-venue ambush positioning, to exercise pre-emptive purchases of surrounding area billboard and advertising space,[10] and to secure right of first refusal of broadcast rights. In addition, event organizers and the governing bodies that regulate them have been forced to develop and adopt their own innovative, highly restrictive, and often heavy-handed regulations to protect the interest and investments of their multimillion dollar corporate sponsors.

ICC Venue Regulations

The International Cricket Council (ICC) is the governing body that oversees and regulates the sport of cricket, its tournaments, championships, and its coveted Cricket World Cup. The World Cup is one of the largest, most prestigious sporting events in the world, overshadowed only by the FIFA World Cup of Soccer and the Olympic Games. In the spring of 2003, South Africa played host to the Eighth Annual ICC Cricket World Cup. Fifty-four matches were played between February 9th and March 23rd in at least twelve different venues across the country. It was announced that "an estimated 1.3 billion viewers will watch 210 men attempt to prove that they are the best cricketers in the world."[11]

Leagues participating in the event agreed to a number of sponsorship and personal endorsement restrictions in exchange for US$550 million for the commercial rights to ICC events through 2007. The country of South Africa received tens of millions of dollars to stage the tournament, including the funding for ground redevelopment, infrastructure, and additional venues.[12]

Each of the participating venues, in exchange for the right to host the tournaments, agreed in advance to certain restrictions in order to protect the integrity of the event and the rights of its official commercial partners. The ICC's website plays host to their Media Information Service (MIS) where venue regulations are made available to the media and the public. These rules are also printed on the back of each spectator's ticket:

> Entry into the venue and demarcated areas will not be allowed to persons bearing:
>
> 1. […] placards or other banners or commercial signs and/or leaflets which refer to or otherwise promote any party and any objects or clothing containing political or commercial identification which may be deemed in the discretion of Management to be "ambush marketing" (ambush marketing is an activity by a party which utilizes the publicity value of an event without having any official involvement or connection with the event)
>
> 2. Products including food, beverages, clothing, posters, etc. with branding of competitors of the official Event sponsors will not be permitted into the venue. Management reserves the right to confiscate or replace with product of an equivalent quality and value any non alcoholic beverages or other products including branded food and non alcoholic beverage products which, in its opinion, the importa-

> tion of which will or may infringe any party's rights or any party's safety or security.
>
> 3. No person shall engage in any form of "ambush marketing" and shall not breach or infringe the rights of any sponsors, suppliers, broadcasters or other parties commercially associated with the Match, nor conduct unauthorized promotions or other commercial activity.[13]

The effect that these regulations have on spectators is that the ICC can literally "take the shirt off your back" if that shirt displays the name or logo of a non-sponsoring company. Fans who do not comply with the rules run the risk of having their personal property seized or of being physically ejected from any World Cup venue.[14] Clifford Green, an attorney representing the interest of the Cricket World Cup's Anti-Infringement Program states, "If a fan is wearing a Coca-Cola T-shirt while our official sponsor is Pepsi, then that item could be confiscated."[15] Spectators are warned to read and abide by the rules printed on the back of their tickets. They are urged to avoid a breach of those rules, no matter how inadvertent or unintentional it may be.

The purpose of these drastic measures is to protect the interests of Cricket World Cup's associated partners and sponsors. The ICC takes its duty to ensure that its sponsors are not compromised very seriously.[16] If a sponsor's exclusivity and financial investment are not guaranteed, the prospect of future sponsorship is severely jeopardized.

The practicality of these measures is a whole other matter. When asked whether the police department was suddenly thrust into the T-shirt confiscation business, Superintendent Charmaine Muller, police spokesperson for the Cricket World Cup, said that police would do their job to ensure that "law and order was maintained" in general, but that they would not engage in "tracking down brand offenders."[17] Therefore, in order to enforce these regulations, each venue must employ dozens, if not hundreds, of private security personnel to patrol the stadium in search of unauthorized placards, banners, and flags as well as food, water bottles, and T-shirts. Patrons caught with restricted items will be asked to either conceal them or take them back to their vehicles.[18]

IOC Clean Venue Policy

In the summer of 2004, Athens played host to the biggest, most expensive Olympic Games in history. The $8.5 billion price tag served 11,000 athletes from 202 countries competing in twenty-eight sports. Corporate partners and sponsorships represented $685 million, over twenty-nine percent of the organizer's budget.[19]

The International Olympic Committee (IOC, the Olympic Games' governing body) with the cooperation of the Greek government, instituted what was popularly known as the "Clean Venue Policy." The essence of the policy was to ensure the integrity of the games by creating an environment free of commercial, political, religious, or ethnic influence and publicity. The result: a ban on direct advertising. All Olympic venues were advertisement free, including advertisements from official sponsors regardless of how many millions of dollars they paid for the privilege.[20]

Fortunately, the sponsors were given many other opportunities to promote their brands at the level of exposure that only the prestige of being associated with the biggest sporting event in the world can buy. Therefore, the real ramifications of the policy fell on the stewards, the volunteers, and the fans. Stewards and volunteers were supplied with uniforms but were required to purchase their own shoes. They were "urged" not to wear shoes bearing large, bright logos of any shoe vendor that competed with the official sponsor Adidas. As for the fans, strict regulations printed on the back of each ticket dictated that spectators might be refused admission to events if they carried food or drinks made by any company that was not an official financial supporter of the games.[21]

For example, it is common for spectators to bring bottles of water into outdoor stadiums. Coca-Cola paid more than $60 million to become one of the event's primary sponsors, and because Avra Water is a Greek subsidiary of Coca-Cola, fans were prohibited from carrying any brand of bottled water other than Avra into the venue. Staff security was under strict orders not to allow in rival brands of water unless their labels were removed.[22]

The restrictions even extended to a spectator's clothing. 70,000 private security guards and 45,000 Olympic volunteers were charged with the responsibility of monitoring not only security threats, but also possible breaches of the Clean Venue Policy.[23] They were hired and trained to spot patrons wearing merchandise from rival companies hoping to catch the eyes of television audiences.[24] T-shirts, hats, handbags, and any other items displaying the unwelcome logos of non-sponsoring marketers were subject to inspection. One exasperated fan with a front-row ticket to an Athens match was asked at the entrance to turn his shirt inside out because its logo was so large it would have undoubtedly been picked up by television cameras.25

And just in case the over 100,000 extra security guards didn't catch you in the act, not to worry, the ICC's Brand Protection Office set up an "ambush marketing incident reporting process," that official sponsors, employees, and even patrons could use to instantly and efficiently document any violations of the Clean Venue Policy:

> Documenting Observations – Please follow these guidelines when submitting a Brand Protection Incident Report:
>
> 1. Fill out a Brand Protection Incident Report form.
> 2. Describe factually the alleged incident in as much detail as possible.
> 3. Identify when and where the incident occurred.
> 4. Identify the parties involved.
> 5. Identify the medium used.
> 6. Specify what trademarks and/or copyrighted works were infringed.
> 7. Identify any laws or policies allegedly violated.
> 8. Describe what, if any, action was taken.
>
> Supply Evidence – Use good judgment and legitimate means for gathering solid evidence that will withstand the scrutiny of the courts. For example:
>
> - Purchase samples of infringing merchandise and obtain a dated sales receipt.
> - Obtain samples of infringing brochures and print ads.
> - Photograph infringing billboards and transit ads.
> - Photograph point-of-purchase materials or gather sample coupons, promotional offers and free "take-one" brochures.

- Obtain transcripts of on-air announcements and radio commercials, or make a written statement of the infringing copy.
- Get media clips, a videotape or a written statement of infringing television ads.
- Obtain samples of presentation materials used in fund-raising.
- Print hard copies of infringing web pages with date and web address.

The rationale behind the restrictions and the reporting is a result of the intensive television and print media exposure the games generate. The ICC and its official sponsors must effectively protect and exploit their rights by working to ensure that no photographs or panning camera shots reveal non-sponsored products.

Messages On Hold Australia

Messages On Hold Australia (MOHA) produces tailor-made audio productions for businesses to play to callers while on hold. They also specialize in ambush marketing through the strategic placement of their corporate logo at events that attract media attention.[26] Ambush marketing has secured MOHA more than $500,000 in free advertising and promotion since the company was founded in 1988 and has even won them recognition (in 1996) as Western Australia's fastest growing private company.[27]

Ambush tactics are more than just a passing fancy for MOHA; they are the company's primary marketing tool. MOHA spends a great deal of time and energy in the design and implementation of bigger, better, more daring ambush strategies. They perform extensive research to determine whether an event is likely to attract media attention and how they can incorporate the company logo into the media coverage.[28] "Pick a celebrity, sports team, politician, protest march, or any person, team, or event that will attract a throng of television camera crews and newspaper photographers, then be there with your logo as large as life. It's aggressive marketing and involves bluff and a dash of courage," says MOHA owner and founder Kym Illman.[29]

Some of their bold and clever tactics include a blonde model dressed in a white bikini with tire tread marks and the MOHA logo painted across her body at a Formula One racing grand prix event; large white golf umbrellas bearing the MOHA logo positioned in the sight line of television cameras covering the action at key golf course holes; giant hands featuring the MOHA logo positioned behind the goal posts and at key television camera angle sites at Australian Football League games; and strategically placed spectators bearing MOHA logo-ladened T-shirts at Wimbledon and the Olympic Games.[30]

Although ambush marketing is generally a sporting event phenomenon, it is by no means restricted to athletics. Companies like MOHA will target *any* event that is expected to have a certain level of media exposure. Opponents of ambush marketing, such as event sponsors, promoters, and governing bodies, have suggested that companies like MOHA are the real targets of these stinging venue regulations and ticket policies. They say that spectators have nothing to worry about so long as they understand why the regulations are in place, comply with the printed ticket restrictions, and recognize the potential seriousness of their failing to do so.

Ambush at Sundance

In 1981 Robert Redford established the Sundance Institute, dedicated to the support and development of emerging screenwriters and directors of vision, and to the national and international exhibition of new, independent dramatic and documentary films. A nonprofit corporation, Sundance Institute's $10.6 million budget is met by thirty-five percent earned income from ticket sales, fees, and government grants. The remaining sixty-five percent is comprised of contributed income from corporate and private sponsorships and donations.[31] The Institute is responsible for the Sundance Film Festival, held for ten days each January in Park City, Utah. One of the premier film festivals in the world, Sundance is a showcase for the best and latest work of independent American and international filmmakers. A diverse group of over 36,000 patrons attend the festival each year, including directors, actors, film industry executives, and film lovers.[32]

Like most major, multiple-day events, the festival attracts a bevy of corporate sponsors in search of opportunities to showcase their products, services, and brands. Sundance attracts more sponsors than the Emmys or Oscars. Many sponsors even use the festival as a client retreat.[33]

Sundance 2005's top three official corporate presenters were Entertainment Weekly, Volkswagen, and Hewlett-Packard. The top three unofficial ambush marketers were Heineken, Yahoo!, and Mercedes-Benz.[34] Ambush Marketing at Sundance has been occurring since the festival's inception—but on a much smaller scale. As the event has grown in popularity (and in revenue generation) the concern over the protection of sponsors' rights has increased as well.

Ambush marketing at Sundance took a slightly different form than it did at the South Africa's Cricket World Cup or the Olympic Games in Athens. Yahoo!, Heineken, and several other non-sponsoring companies converted a three-story shopping complex into a spa and VIP retreat called "Village at the Lift." They also hosted celebrity parties, press events, and gift lounges at other houses, lodges, and storefronts in the area. These "perimeter" venues provided food, drinks, internet access, spa services, and live entertainment—all complimentary to festival attendees.[35]

Crown Royal, a "Village at the Lift" sponsor for three consecutive years, said it never heard any complaints from Sundance organizers. As a matter of fact, complaints seem to be the current extent of the festival's anti-ambush campaign. Sundance representatives claim that the unofficial activities are responsible for the commercialization of the festival, stealing the limelight from paying sponsors, creating noise, confusion, and a very chaotic atmosphere, taking advantage of a nonprofit organization, and distracting from the festival's core purpose of showcasing independent films.[36]

But despite all of the recent attention and publicity showered on the guerrilla marketing tactics perpetrated at Sundance, organizers insist they have not yet experienced the most serious concern associated with ambush marketing: trouble attracting or keeping official sponsors. According to Elizabeth Daly, Director of Strategic Development for Sundance, this year's sponsorship return rate was seventy to eighty percent. There were twenty-two sponsors this year, compared to twenty-one in 2004, with only four new brands on board.[37]

The Ultimate Price

Ambush marketing has been referred to as "one of the biggest threats to the future of major sporting events [or any sponsored event for that matter] because it strikes at the deals that finance them."[38] Clearly, loss or devaluation of official sponsorship is not yet an issue for Sundance. Presenting sponsors paid up to $500,000 each for exclusive presenter and marketing rights. The festival itself generated upwards of $41 billion dollars in economic activity for the state of Utah in 2004 with international exposure (including attendees, print, radio, and television) estimated at 420 million people.[39]

The numbers are impressive, but minimal compared to those generated by the 2004 Olympic Games. For example, Coca-Cola alone paid $40 million for global Olympic sponsorship rights. They, in addition to other sponsors, also paid millions of dollars to activate and exploit those rights. Coca-Cola spent an additional $200 million worldwide on advertising, television broadcast rights, merchandise, an amusement park, and hospitality suites for press, VIP guests, and athletes. The games generated over $700 million in revenue and were exposed to an audience of five billion worldwide.[40] The difference in the figures is the difference between how vigorously the ICC/IOC and The Sundance Institute clamp down on the activities of ambush marketers.

Supporters of the Cricket World Cup and the Olympic Games pay almost one hundred times more in sponsorship fees than do supporters of the Sundance Film Festival. Sundance ambushers, although a nuisance to official presenters, might successfully argue that their activities enhance, support, and contribute positively to the overall success and media exposure of the event. Major sporting event ambush marketers, who impose and infringe upon the exclusivity and profit-making potential of multi-billion dollar companies, would find it difficult to make that same claim.

Conclusion

Having plagued major international sporting events for years, ambush marketing has become an undeniably effective means for getting a message across without paying millions of dollars in sponsorship fees. However, it's a practice seen in many circles as being parasitic, unethical, and immoral as it tends to undermine an event's integrity by affecting its ability to attract future sponsors. In an attempt to promote exclusive sponsorship and to protect the rights of commercial partners, event organizers and governing bodies have developed event regulations and lobbied governments for strict legislation to ensure that unwelcome competitors cannot associate with, or benefit from, their events nor reduce the benefits and value of official sponsorship.

Ambush marketing is not limited to sporting events and film festivals; it is found throughout the entertainment industry. When an entertainment event reaches a level of international significance that can attract multiple corporate sponsors at $40-$60 million each, the competitive marketing climate takes on a more serious tone leading to more desperate measures and fierce legal battles. Unfortunately, it is the fans and the spectators who get caught in the cross-fire.

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Music Industry Mentoring: An Evaluation of the FReeZACentral Program

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Editor's note: The following is an assessment of the FReeZACentral Program first described to MEIEA Journal *readers in the article "Community-Based Education and Training: Creating Pathways into the Music Industry for Youth" by Peter Chellew and Theo Papadopoulos published in the 2004 issue of the Journal.*

1. Introduction

FReeZACentral is a Victorian Government [Australia] initiative that provides a structured approach to youth training, aiming to support and encourage young people through a combination of intensive workshops, industry mentoring, and experiential learning, while creating pathways to employment and training in the music industry. The program is delivered by a consortium comprised of industry, university, and not-for-profit entities.

The consortium brings together Australia's foremost independent commercial music industry entity, the Mushroom Group of Companies (through its marketing and development arm Mushroom Marketing); not-for-profit agency The Push, Inc., a leader in providing youth-focused and -managed music events; Victoria University, a dual sector institution and leader in educational pathways that provides music industry education and pathways from certificate to degree level; and the Victorian Council of YMCAs, providing a presence for FReeZACentral in urban and regional communities through their network of YMCA facilities in 120 communities across the state of Victoria. This consortium is built on a common interest in supporting young people to explore pathways to education and employment in Victoria's thriving music and related industries.

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The program has three interconnected component stages:

- skills development, delivered through a program of intensive workshops;
- exposure to the music industry, delivered through an industry mentoring program and master classes; and
- participation in event organization and management, delivered through a series of music and cultural events conducted as a tour across the state.

This paper focuses on the industry mentoring program component and the collaboration between industry, academia, and the not-for-profit sector in delivering an innovative training program. The music industry mentoring program is a vital component of the FReeZACentral program and has potential to identify and develop the next generation of music industry professionals. In addition to nurturing new talent, the program provides the opportunity for a wide range of participating industry practitioners to identify young talent suitable for ongoing employment, delivering a vital outcome of the program: vocational pathways. Moreover, it is envisaged that numerous participants will gain the confidence and encouragement to pursue more formal educational in both the TAFE (Technical and Further Education) and Higher Education sectors. Indeed, over sixty per cent of mentoring program graduates have advised that they are subsequently employed in a music industry related business, or are pursuing further education in a music industry related course. As such, it is expected that the research presented herein will be of significant interest to both music industry educators and music industry professionals interested in the opportunities a program such as FReeZACentral may present to their organizations.

This paper provides an evaluation of the music industry mentoring component of the FReeZACentral program and details the achievement of a range of program outcomes as measured against predetermined targets. The paper is organized as follows: Section two provides an overview of the FReeZACentral Mentoring Program and the prescribed key performance indicators (KPI), evaluation methodology, and mentoree selection process. Section three presents results of the summative evaluation, while Section four outlines key findings and program outcomes. Section five concludes with a discussion of recommendations for improvement.

2. FReeZACentral Mentoring Program Overview

Of the 374 youth attending the 2004 FReeZACentral workshops, fifty were selected for the mentoring program. In addition to individual performance in the workshops stage, and their subsequent expression of interest, participants selected for the mentoring program have demonstrated their interest in developing a career in the music industry through involvement in FReeZA committees, other training projects, work experience, or through their own music practice. Mentorees were selected against a set of objective criteria as documented in *Evaluation of the FReeZACentral Mentoring* (2005).

Mentorees were individually matched with mentors. In addition to having substantive qualifications and expertise, mentors were selected for their willingness and ability to support young people to plan and deliver each leg of the FReeZACentral tour and to assist them in developing skills in their areas of interest. A mentor induction program, conducted by Victoria University, ensured that mentors were clear about their individual responsibilities in dealing with young people and that they were prepared to act as positive role models in a non-judgmental and supportive manner.

In addition to individually matched mentors, mentorees had additional mentoring opportunities in the planning and delivery stages of the FReeZACentral Tour. Music Industry personnel working on each leg of the tour had the responsibility of mentoring FReeZACentral participants working in project teams on specific tour-related tasks. This ensured that practical, experiential learning activities were built into the planning and operation of each music showcase. Project teams were formed around participants' interests and the four key learning areas: technical support, performance, event management and marketing, and publicity and promotion. Each project team worked on one element of organizing and delivering a music event under the guidance of industry mentors and event management staff.

The FReeZACentral Mentor Program was fully funded by the Department for Victorian Communities, which established a number of key performance indicators (KPIs) that formed part of the contractual obligation and assisted in structuring the program's performance review. KPIs for the mentoring program are:

- A minimum of five streams with ten participants in each stream;

- eighty percent of participants complete a FReeZACentral Tour project and through the process gain meaningful music industry experience in a large-scale production;
- eighty percent of participants derive a sense of friendship with a significant adult; and
- sixty percent of participants develop a vocational pathway in the music industry.

The mentoring program evaluation has been facilitated by the collection of data on the experiences of mentorees and mentors and the encouragement of reflection on this data by both groups of participants. The feedback mechanisms employed include:

- analysis of mentoree and mentor recruitment strategies;
- analysis of mentoring program evaluation questionnaire responses;
- reflective evaluation by mentors; and
- reflective evaluation by youth participants (mentoree focus group).

The inclusion of similar questions in the mentor and mentoree evaluation instruments facilitates a comparative quantitative assessment of mentoree attributes and performance.

3. Mentoring Program Evaluation

Mentoree Perception of Qualitative Outcomes

In this section we explore a range of qualitative measures of the mentoring program drawn from a survey of mentoring program participants. Each mentoree was asked to complete a questionnaire (*Participant Evaluation of FReeZACentral Mentoring Program*) that explored participant perception of the quality and effectiveness of various aspects of the program. The evaluation tool comprised four elements: measuring the quantum of hours engaged with a mentor; gauging participants' satisfaction with the level of support received from mentors; measuring the impact of the mentoring program on participant perceptions of their readiness to pursue careers in the music industry; and lastly, general feedback on program strengths, weaknesses, and educational or vocational outcomes. This last element took the form of written feedback on open-ended questions that allowed participants to communicate issues important to their personal experiences. To further explore key themes and issues identified in these written responses, a mentoree focus group was conducted.

Mentoree perceptions of the quality of a range of mentoring program components and activities are presented in Table 1, which presents the mean rating for each qualitative aspect investigated. The mean rating is calcu-

Activity	Mean Rating
My personal mentor demonstrated expertise and current knowledge of the music industry.	4.5
I have received meaningful feedback about my career-planning strategies from my personal mentor.	3.8
My personal mentor was accessible and open to my questions.	4.0
My personal mentor consistently anticipated my needs.	3.5
I was satisfied with the match made with my personal mentor.	4.2
My personal commitment to the FReeZACentral Mentoring Program ensured I got maximum benefits from the opportunities available to me.	4.0
The FReeZACentral Mentoring Program has helped me move toward my educational and professional goals.	4.1
I am very satisfied with the level of support I received in the FReeZACentral Mentoring Program.	4.2
I developed a strong positive relationship with at least one FReeZACentral staff member engaged in the Mentoring Program.	4.6
The FReeZACentral Mentoring Program included activities that were well structured, with clear goals or outcomes established for each session.	3.3
As part of your mentoring activities, did you establish clear goals and move towards them throughout the program?	3.6
The amount of contact time with FReeZACentral mentoring staff was adequate.	3.9

Table 1. Mentoree rating of mentoring program components.

lated on the basis of ratings of 1 for *Strongly Disagree* through to 5 for *Strongly Agree*.

Importantly, 95.7% of participants developed a strong positive relationship with at least one FReeZACentral staff member, recording a mean score of 4.6. These outcomes demonstrate an effective mentor selection and matching process and the achievement of considerable progress towards assisting mentorees move towards their educational and vocational goals.

International benchmarking of mentoring programs suggests that the incorporation of well-structured mentoring sessions, including the establishment of clear goals and outcomes, is a strong indicator of program efficacy (Rhodes, 2004). This element of the mentoring program received a mean score of 3.3, suggesting that individual mentoring sessions could be better structured, and/or that session goals or outcomes could be better communicated.

The need to improve structure and/or communication is illustrated by the following: about 65% of participants indicated that they had established clear goals with their mentors and moved towards these throughout the program. A mean score of 3.6 for this element would suggest that this is an area requiring further review to improve outcomes for mentorees, and is suggestive of the need for more structured activities with clearly defined short-term and long-term goals. This is supported by feedback obtained in the mentoree focus group discussions. Likewise, mentor anticipation of participant needs received a mean score of 3.5, suggesting that these elements of mentor training and pedagogy could be further explored in the induction program. Focus group discussions revealed a divergence of opinion on the role of the mentor, this divergence no doubt feeds into expectations of the nature of engagement and program outcomes. The information session for mentorees may need to emphasize the specific mentoring model being used so that expectations are realistic.

Mentor Evaluation

All thirteen personal mentors participating in the FReeZACentral Mentoring Program were given the opportunity to provide feedback on their experiences and perceptions of the program by completing the *Mentor Evaluation of the FReeZACentral Mentoring Program Questionnaire*. These responses were further explored by follow-up telephone interviews. As per the mentoree evaluation, mentors were asked to rate a number of activities on a scale of 1 to 5. The success of the program in identifying the next generation of music industry professionals is evident with the vast majority of mentors indicating that they had identified a mentoree they would consider employing, recording a mean score of 4.2 for this element. This indeed can be considered a major success of the program. Importantly, mentors described their participation in the mentoring program as a positive experience, recording a mean response of 4.0, and all respondents advised that they would recommend participation in the mentoring program to a colleague. Table 2 presents selected elements of this evaluation.

Activity	Mean Rating
The Mentoring Program was well structured, with clear activities and goals established for each session.	3.6
Did you and your mentorees establish clear goals and move towards these throughout the program?	3.8
The personal commitment of the mentorees ensured they received maximum benefits from the opportunities available in the Mentoring Program.	3.0
Mentorees demonstrated a high level of music industry and general business knowledge.	3.2
I was satisfied with the match made with my mentorees.	4.4
I believe the frequency and amount of contact time with mentorees was sufficient to meet program goals.	3.4
I identified personal experiences shared by my mentorees.	3.6
I identified mentorees with the requisite ability, knowledge and enthusiasm to pursue a career in the music industry	4.0
I identified mentorees that (assuming that there was a job opening) I would consider employing.	4.2
I would describe the Mentoring Program as a positive experience.	4.0
I developed a strong positive relationship with my mentorees.	3.6
I received adequate support from FReeZACentral personnel to facilitate my role as mentor.	4.6

Table 2. Mentors' qualitative feedback on the mentoring program.

Mentor responses reflect a view that increased contact time between personal mentors and mentorees was necessary, with a mean score of 3.4 for this activity. This relatively low rating could be explained by the relatively low average contact hours of 7.7 experienced with personal mentors. Further exploration of this issue during telephone interviews revealed that the majority of mentors believed that the most suitable session duration and frequency was one hour every other week. It is also noteworthy that both mentors and mentorees identified that the season in which the program is run should be moved to a less busy period for music industry professionals, in order to minimize clashes with competing work-related commitments and the holiday season.

Mentoree Focus Group

The mentoree focus group provided an opportunity to further explore the strengths, weaknesses, and opportunities identified in responses to the mentoree evaluation questionnaire. The two-hour session involved five mentorees, with each of the four streams represented. The results of these discussions are presented in the mentoring program report and the key findings documented therein are presented below. The key questions presented to the group were:

- What was the most important aspect of the FReeZACentral Mentoring Program with regards to your personal development?
- Were you satisfied with the number of hours spent with your personal mentor and other key personnel?
- Did you come up against any problems during the program? Was the resolution process suitable and timely?
- Was the program structure adequate for mentoree needs?
- What would be your advice as to the best time of year to run the program?
- If you were responsible for designing next year's program, name one key aspect you would keep, and suggest one element of change?

The focus group discussions confirmed the overall satisfaction with the program as evidenced by the questionnaire results. The group agreed unanimously that a major strength of the program was the ability to form music industry networks. These networks included both peer group networks and those formed with industry professionals via the mentoring program. It was noted that with initiative, mentorees were able to form contacts with professionals other than their assigned personal mentor. Involvement in the tour event was also identified as a major strength, as it allowed participants to develop skills in a practical context. Again, the importance of personal initiative was emphasized—as was the benefit of the steep learning curve associated with "jumping in the deep end," namely, being embedded into the production and delivery of a large-scale event.

4. Program Outcomes and Key Findings

Inspecting Table 3 (which presents a summary of performance targets and outcomes), it is evident that the consortium was successful in achieving all but one of the key performance targets.

Performance Targets	Achieved : Outcome
A minimum of five streams with ten participants in each stream.	Yes
80% of participants complete a FReeZACentral Tour project and through the process gain meaningful music industry experience in a large-scale production.	Yes: 94% Completion Rate No: 70% indicated that they gained meaningful music industry experience in a large-scale production.
80% of participants derive a sense of friendship with a significant adult.	Yes: 95.7%
60% of participants develop a vocational pathway in the music industry.	Yes: 65.2%
Participant gains including how qualitative outcomes were delivered and measured.	Yes

Table 3. Mentoring program performance targets and outcomes.

The summative evaluation results are presented in summary form:

- Duration of contact surpassed the minimum requirement of ten hours. Each mentoree experienced an average of 59 contact hours with his or her mentor(s). Over half of this time, 36.8 hours, took the form of one-on-one mentoring. This extension of duration and frequency of contact implies stronger relationships and program effectiveness. International studies suggest that duration may be the single best indicator of youth mentor program effectiveness and impact.[1]
- The mentor–mentoree relationship quality, another indicator of program impact, was found to be very strong with both groups rating this element very highly. 95.7% of FReeZACentral mentorees indicated that they developed strong positive relationships with a mentor, recording a mean score of 4.6 out of 5. This type of emotional closeness is often used as a benchmark of mentor program success. As a predictor of positive outcomes, this element augurs well for the achievement of longer-term program impact.
- The matching process proved successful with 78.3% of mentorees satisfied with their mentor matches, recording a mean score of 4.2. This success was validated by mentors recording a mean score of 4.4.
- Effective and responsive support systems have been established by FReeZACentral personnel. Both mentors and mentorees were very satisfied with the level of support provided by FReeZACentral personnel, recording mean scores of 4.6 and 4.2 respectively.
- The FReeZACentral Tour has improved participant skills and networks, with each element receiving a mean score of 4. An impressive 94% of mentorees completed the tour component of the FReeZACentral program, with 70% indicating that the tour provided a meaningful music industry experience in a large-scale production (recording a mean score of 3.8). This latter qualitative outcome falls short of our 80% target and reflects the divergent experi-

ences of mentorees engaged in smaller, as compared to, larger events (such as PushOver).[2]

- International benchmarking of youth mentor programs suggests that the incorporation of well-structured mentoring sessions, including the establishment of clear goals and outcomes, is a strong indicator of program efficacy. This element of the FReeZACentral Mentoring Program received a mean score of 3.3, suggesting that individual mentoring sessions could be better structured, and/or that session goals or outcomes could be better communicated. Mentoree focus group discussions confirm participant support for the inclusion of more structured activities.
- The success of the program in identifying the next generation of music industry professionals is evident with the vast majority of mentors indicating that they had identified mentorees they would consider employing, recording a mean score of 4.2.
- The program has assisted in the development of educational and vocational pathways with 65.2% of mentorees having commenced employment or formal education within the music industry, following completion of the FReeZACentral Mentoring Program.
- The program has proved to be a positive experience for mentors and mentorees alike. All mentors who participated in the evaluation process advised that they would recommend the program to a colleague. Mentors described the FReeZACentral Mentoring Program as a positive experience, recording a mean score of 4.0.

5. Conclusions and Recommendations

The evaluation documented herein forms one part of the program's continual improvement process, and a number of recommendations have been made to the FReeZACentral Steering Committee and FReeZACentral Management Committee for their consideration. Key recommendations for the possible amendment to the program for its second year of operation are:

- The provision of additional resources for mentors and mentorees outlining their respective roles and responsibilities. This could be achieved by providing a link on the FReeZACentral website to (selected) informative mentoring resources freely available on-line.
- Establish a Virtual FReeZACentral Community to better disseminate and share information and resources and further develop networking opportunities.
- Develop a range of structured activities for mentorees to selectively undertake in consultation with their mentors. These activities should be purposeful and have a connection to the agreed outcomes negotiated in the *Mentor Matching Agreement* and/or the specific pre-production elements of the FReeZACentral Tour.
- Provide opportunities for mentorees to participate in at least one of the larger events (such as PushOver), over and above participation in one of the relatively smaller tour legs. Explore the proposition of bringing all mentor streams together on a single event, held as a celebration and grand finale for the program.
- Develop collaborative mentor team activities and joint stream activities to facilitate the further development of teamwork, bonding, and professional networking. Intra- and Inter-stream and team activities would make a significant contribution to a sense of FReeZACentral Community, as would the strategic positioning of social activities at the beginning, middle, and end of the program.
- Expand the core training areas and mentor program streams to incorporate other key music industry sectors and occupations that reflect the diversity of participating youth interests, as well as preparing youth for a broader range of music-related vocations.
- Develop a more structured approach to the frequency and duration of contact with personal mentors and mentorees, while allowing for mentoree-initiated contact outside of designated times.
- Convene a committee of FReeZACentral staff, mentors, and mentorees to evaluate the timing of each

FReeZACentral component stage in the first year, and to develop a schedule for the second (and subsequent) year(s) that optimizes availability of all program participants by minimizing clashes with other activities and commitments.

The Mentoring Program outcomes documented herein demonstrate that the program has been successful in achieving short-term targets and outcomes. Importantly, using benchmarks of longer-term program impact, namely duration and emotional closeness, we are confident that the FReeZACentral Program has provided an important foundation for the development of rewarding music industry careers for youth. Notwithstanding, this paper identifies a number of areas in need of refinement and improvement, and will inform an action plan to be implemented by the FReeZACentral Management Committee for the second year of the program.

Endnotes

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Artists and Their Managers Take Control: The Evolving Role of the Artist in Today's Music Industry

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The music industry is in a perpetual state of transformation. Ever since its beginning, evolutions in technology, law, and the music itself, have empowered creative minds to invite humanity on a perpetual journey of artistic and entrepreneurial innovation. Today, artists have more options for production, distribution, and marketing than ever before. Working with their managers, artists can take more control over their careers, retain the rights to their masters and compositions, and provide a more stable and consistent income stream. It is no longer necessary to rely on a record label for a successful career. Artists can take advantage of creating their own masters, license their masters to record labels, manage their own publishing, seek licensing deals for additional revenue and alternative promotional opportunities, utilize the internet to reach a broader audience, and manage merchandising and touring opportunities.

Since August, 2004 there have been numerous articles supporting the model of artists assuming more responsibilities and pursuing different marketing avenues for their music. In his front-page article in the August 7, 2004 issue of *Billboard*, Michael Paoletta describes a slow transition from a full-service record label to a label that is essentially hired by an artist to promote and distribute an album. Record companies are not giving away this control without a fight. Michael Coren, in his August 20, 2004 article on CNN.com, "Simple Downloads, Complex Change: Online Music Transforms Experience for Fans, Industry," describes how record companies are struggling to remain the hub of the business. The article "Mobile Material Girl" in the August 26, 2004 *Wall Street Journal* illustrates another example of how artists are taking more responsibility for their music. The author describes how Madonna promotes her music without the assistance of her record label by offering to sell ring tones on her own website.

Traditionally, a record label facilitates the recording, manufacturing, distributing, and marketing of an album. However, these services come at a high price. In return for the record label essentially lending money to an

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artist to jump-start a career, the label takes a hefty fee. In most cases, the record label retains the rights to an artist's masters for the duration of its copyright. The record label takes a percentage of income from record sales and licensing revenue. Traditionally, artists do not earn any money from the sale or license of their recordings until all costs have been recouped as outlined in their recording agreements. Getting signed to a record label is not always the path to success—we've seen this with numerous artists whose names and careers we cannot recall. It often requires sales of a million units to recoup what the record company invested to create and market the recording. This is not a secure way for an artist to live. If an artist's CD does not enjoy significant sales, there is a strong chance that he or she will be dropped from the label. Under this business model, it is very difficult to succeed. In 2002, of the 35,000 albums released, fewer than 5,000 sold more than 1,000 units.[1] Artists need to take more responsibility for their business. Thanks to rapid advances in technology, and increasing opportunities in marketing, artists can now take more control of their careers.

Many consider the manager to be the hub of the artist's career. The reality for years, however, has been that the label has assumed the dominant role in developing musical careers. Recent developments indicate that a new model is taking shape—one in which the manager becomes the center of activity. Along with the traditional tasks, the manager is taking on even more responsibility. In this new model the manager is still a career guide and confidant. Increasingly, we will see the manager and the artist form an active team consisting of a lawyer, business manager, and agent. The manager will continue to be the link between the team, the record label, and the artist. In this model the manager will have better control over the artist's image and career because he or she will work for placement of music in film projects, television shows, videogames, ring tones and commercials. The manager will also advise on music publishing and merchandising deals. He or she will work with an agent to book live performances. Recording will now fall under the responsibility of the artist and the manager, not the record label. The manager already participates in many of these aspects of the artist's career. However, in this new scenario the manager is more active in seeking, negotiating, and following through on these opportunities. The principal differences between this model and the traditional one is that in the new model the artist retains the rights to his or her copyrights and the artist begins to earn royalties from record one rather than waiting to recoup the label's advance.

Recordings

Rather than pursuing a standard label deal, an artist and manager could choose to record and produce the music themselves and then pursue a licensing deal with a record label. The label would assume responsibility for distribution and marketing at the retail level and for radio promotion. It could either be a national or global license depending on the ability and interest of both the label and the artist. Under the new model the record label still distributes and markets the artist's album but the royalty structure and deductions become more negotiable. Because the label will no longer be responsible for funding the recording process, it will be more willing to negotiate better terms with the artist.

In this new scenario, the fact that the artist retains the rights to his or her masters is very important for building a secure career. While this type of deal can give the artist greater creative freedom, it is not a bad deal for the label either. The label will not have to invest as much up front as it might have with a signed artist because in a licensing deal the artist delivers a finished master.

Since the record company will no longer be responsible for funding the recording, the money has to come from other sources. These might include the artist, the management company, or an investor. Perhaps a management company and a recording studio will create a partnership or joint venture. Given the decreasing costs of recording, it is reasonable to expect an artist to fund a high quality recording. In the new model an artist might still need to repay recording costs but they will be based on a more reasonable cost structure. The artist will repay recoupable monies with interest. However, a portion of earnings will be used to repay seed money and a portion will be kept as the artist's income. Most importantly, the artist will begin to earn money from record one.

Publishing

Publishing can be a significant part of a singer/songwriter's career. Retaining one's publishing rights is a wise decision even in the current music business model. As a publisher, one can execute one's own paperwork, hire an attorney to do so, or assign this responsibility to one's manager for a fee. Income from publishing is an important revenue source that should not be negotiated away lightly. When signing a deal with a major publishing company, unless one is a top songwriter, there is a good chance that one's works will be lost among millions of other copyrights. The songwriter does receive an advance from the publisher against future royalties. However, little more is received until that advance has been recouped. If the songwriter's compositions are not actively solicited for synchronization licensing opportunities it can take a very long time to recoup an advance. Relying on mechanical royalties to recoup an advance can take years if the recording is not a big hit.

Given that synchronization deals can be such an important revenue stream, and that placement in film and television can be a powerful marketing tool, seeking synchronization licensing opportunities is a vital part of a manager's responsibilities. If the artist has retained the rights to the master and the composition, licensing music is very straightforward. This is because the artist has the ability to negotiate both sides of the copyright without having to seek approvals from label and publishing executives.

Innovative Licensing Opportunities

One artist who takes full advantage of licensing opportunities is Moby. When his album *Play* was released in 1999, there was little radio support. Music supervisors, however, were very supportive. The tracks on *Play* were licensed for use in television, film, and commercials. As of March 5, 2005, *Play* had sold 2.5 million units—a clear demonstration of the effectiveness of marketing music through alternative means.

Warner Brothers Television employs innovative marketing techniques that have the potential to benefit independent artists. At the conclusion of shows like the WB's *Smallville*, viewers often here the announcer say something to the effect of, "on tonight's episode music by The Shins was featured." While this type of marketing has been going on for years (music videos were sometimes featured at the end of *Beverly Hills, 90210* episodes), what's new is the fact that viewers can now log on to TheWB.com and find out exactly what music was played in each episode. The website conveniently directs visitors to Amazon.com to listen to, and buy, the CD. In some cases the website provides information about the artist. The internet has allowed creative people to add a new dimension to marketing music. It gives the consumer all the necessary information to find and buy music. A television show like News Corp.'s Fox Network's *The O.C.* is another example of the confluence of the music industry and popular television. In one script, the characters attend a concert by the band Rooney. This exposure for the band opened up many doors; ultimately Rooney's sales doubled.

In a similar manner, the Grammy Award winning soundtrack to the movie *Garden State* has been helping a number of artists break out.

Radio

Film soundtracks and videogames are powerful marketing tools; ring tones and ring backs also represent significant potential revenue streams. Because it can be so challenging and expensive to break an artist at radio, these alternative marketing avenues are often very important for an up-and-coming act. Radio play lists are severely limited and very few songs, if any, are added week to week. Fortunately, radio is changing with the advent of satellite radio, Clear Channel's "less is more" campaign, and "Jack," a newly-introduced radio format.

As of January 1, 2005 Clear Channel has cut back on advertising time on its 1,200 radio stations. They have cut ads from one minute to thirty seconds in hopes that the shorter spots ("less is more") will attract and keep more listeners. "Jack," which debuted in 2001 on CKLG-FM in Vancouver, Canada, is a radio format whose play lists consist of three thousand songs ranging from 1960s rock to current hits. Given these changes in radio, perhaps over time it will be easier to break an artist.

Advertising

Working directly with an advertising agency, artists can become involved in large campaigns. In the past, many considered taking part in an advertising campaign to be "selling out" but it is now becoming increasingly more acceptable. Today we see many contemporary artists offering up their music to peddle everything from cars to lingerie. Bob Dylan's music and image advertising a Victoria's Secret product was a shock to many, but it turned out to be an effective way for him to market his music to a new audience. There isn't enough time on radio to play all the new releases and, more importantly, radio is simply not interested in most music. Exposing a song on television, or through any of the other licensing opportunities mentioned above, allows an artist to reach audiences that might have not even known he or she existed.

Owning one's own master recording and working directly with an advertising agency can also be very lucrative—music licensing deals often reach six to seven figures. Leo Burnett, a major advertising agency, started an "artists-in-residence" program. This program bridges the gap between songwriters, producers, musicians, and advertising agency staff. The hope is that it will cut through some of the red tape and reduce the financial strain encountered by advertising agencies when they license music. As long as songwriters/artists retain the rights to their copyrights, the labels and publishers will no longer be needed for these types of collaborations. In the old model, where the record label and music publisher owned the copyrights, the two companies generally took fifty percent of all synchronization income in a typical deal. Under the new model (where artists retain their copyrights), even if the advertising agencies were to cut synchronization fees, artists would still be likely to earn more than under the old scenario. Agencies pay less, artists earn more, and labels and publishers are left out in the cold.

The Web

The democratizing nature of the internet gives artists a chance to promote themselves. Today, it is not unusual for artist websites to be developed, managed, and owned by record labels. In the new scenario the artist and manager will create and operate what fans will consider to be the artist's official website. The rights to the site and its content will belong to the artist. By linking the site to internet stores like iTunes or Amazon.com, the artist will earn revenue every time music is purchased through the site. Because a store on the internet does not have the same space limitations as a "brick-and-mortar" retailer, these online dealers can provide independent artists retail opportunities not available under the old model. Also, with the advent of websites like MySpace, artists have the ability to market themselves to millions of online users for free. According to an article in the November, 2005 issue of *Wired*, MySpace logged 9.4 billion pageviews in August.[2] MySpace has an organized structure for bands to showcase their music, post pictures, display lyrics, and post biographies. Fans can easily find their favorite bands or search for new music.

Touring and Merchandising

Live performances and merchandising represent important, and potentially lucrative, revenue streams. Sometimes a label will help fund a tour, but this is usually a recoupable advance, and therefore puts the artist further in debt. (Whether or not the label is helping to fund a tour, it should be informed of tour schedules so that the artist can be confident that promotions are running with local radio and that product is available at retail.) Sponsorships continue to play an increasingly active role in tour funding.

Creative managers and artists are always looking for innovative ways to increase tour income through sponsorship. Typically, a record label does not participate in merchandising deals. This type of licensing has always provided the artist with the potential to supplement earnings and help fund tours.

Conclusion

There are many benefits to an artist-manager team working independently of a record label. One is that the artist retains the rights to his or her music. Very few artists can claim that they control the rights to both their masters and their compositions. These copyrights are important assets, which if properly managed, earn money for a very long time. A second benefit is that the artist does not have to repay huge advances to the record label because the artist-manager team is accomplishing much the same tasks for a much smaller investment. Because there will not be a long wait until recoupment is reached, the artist will start earning royalties much earlier—usually from the first record sale. Third, because the manager will not have as many clients as a label, he or she will be able to devote more time and thought to securing creative licensing and innovative sponsorship opportunities that work best for the artist. Times have changed. Technology has changed. One major obstacle blocking artists from seizing more active roles in their careers is tradition. It's time to put the tradition of record label dominance behind us and move to a more equitable and honorable way of doing business.

Endnotes

[1] Peter Spellman, "The Future of Music Careers: Quantum Career Development in a Transforming Industry," *Future of Music Coalition*, March 2003 <http://www.futureofmusic.org/articles/spellman musicianbiz.cfm> (accessed March 18, 2004).

[2] Jeff Howe, "The Hit Factory," *Wired*, November 2005: 200–205, 218.

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Using the Malcolm Baldrige National Quality Awards Program Criteria to Determine Business Practices that Differentiate Successful and Unsuccessful Bands

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Introduction

This paper reports the findings of a Louisiana statewide study of the business practices of music groups. The goal of the study was to determine whether the same factors that differentiate successful businesses from unsuccessful businesses might also apply to music groups. The authors employed the Malcolm Baldrige National Quality Awards Program criteria to identify categories and factors of analysis and to structure the questionnaire.

Characteristics of Good Business Firms – The Malcolm Baldrige Awards

The Malcolm Baldrige National Quality Awards Program was founded in 1975 by the United States Chamber of Commerce and a coalition of business firms. Its purpose was to call attention to the need for building high quality into all aspects of our nation's businesses. Over the years, firms including General Electric, FedEx, and Rubbermaid have received this award.

The seven judging criteria of the Baldrige Awards are:

1. Leadership – What are the distinctive leadership characteristics and traits of this firm?

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2. Strategic Planning – What is the nature and the extent of planning done by this firm?
3. Measurement, Analysis, and Knowledge Management – What information does the firm collect and use in making its decisions?
4. Customer and Market Focus – What does the firm do to find, anticipate, and fulfill the needs of its customers?
5. Human Resource Focus – What does the firm do to find, anticipate, and fulfill the needs of its employees?
6. Process Management – Are processes in place to detect and react to changes in the industry?
7. Business Results – Intentions and processes are not enough. In order to be a great firm, you must have results.

The Language of Musicians

The researchers conducted thirty personal interviews with band leaders in order to translate the "business language" of the Malcolm Baldrige judging criteria into the language of performing musicians. The responses from these interviews were entered into a qualitative software package, NUDIST, for analysis.

Based upon the results of the interviews, the authors developed a questionnaire for musicians. It was pre-tested several times with music business classes and working musicians. Table 1 presents all the questions from the questionnaire. Question numbers (the order in which the questions appeared in the questionnaire) are shown in the left-hand column; Baldrige criteria are shown as subheadings (the category numbers refer to the Baldrige criteria presented above). An additional category (Category A) is used for classification questions and questionnaire maintenance items.

Table 1. Questionnaire Items Grouped by Baldrige Category.

Question No.	Question
Leadership (Category 1) Questions	
5	Our musical group has a leader or leaders.
6	Our leader(s) help us perform to our best.
7	Our leader(s) make all decisions for the group.
8	All members of the group participate equally in making decisions.
40	Our group always respects the copyrights of others.

41 Our group always fulfills the terms of its booking contracts.
42 I feel ethically uncomfortable with some business practices of our group.
43 Our group contributes its share of time to charity and community events.
44 Our group never knowingly violates codes or laws in its performances.

Strategic Planning (Category 2) Questions

9 Our group has a purpose that is agreed to by all members.
10 Our musical group has an artistic vision of what it wants to be.
11 Our group plans as a team.
12 Our group follows its plans.
13 Our group has group goals.
14 Our group sets group goals as a team.
15 We meet regularly to review our goals.
16 We try to get group members' opinions before making a decision.
17 Everyone in our group knows what each person is supposed to do.
18 Every member of the group works to accomplish our important goals.
19 Everyone in our group contributes equally to running the group.
20 We compare ourselves to other more successful bands to set our goals.
21 Every group member knows our goals.

Customer and Market Focus (Category 4) Questions

30 Our group knows what makes club managers happy with us.
31 Our group tries to please club managers or other venue managers.
32 We contact managers of important clubs or venues regularly.
33 We contact music writers/critics on a regular basis.
34 We regularly contact music stores.
35 We contact radio program directors regularly.
36 Our group receives frequent radio play.
39 Our group asks for feedback from club managers regularly.
50 Our group asks for feedback from its audiences regularly.
51 We talk to members of our audience at our gigs.
52 Our group knows what type of people like our music.
53 Our group tries to please our audiences.
54 We perform certain types of music to please our audience.
55 Our group knows what makes people like our performances.

Measurement, Analysis, and Knowledge Management (Category 3) Questions

22 Our musical group reviews our performances as a group.
23 Our group keeps track of how many people attend our gigs.
24 Our group keeps track of how many CDs and other products we sell.
25 Our group keeps track of its revenues and expenses.
26 Our group knows our local competition.
27 Our group compares its success to other local groups.
28 Our group compares its success to national groups.
29 Group members review the data we track.

Human Resource Focus (Category 5) Questions

56 We all know what is important to each member of our group.
57 Our group accommodates personal priorities of group members.
58 Sometimes we play a gig because one member needs the money.
59 We refer to songs written by one group member as our songs.
60 We thank each other for the work we do.
61 All members believe it is their responsibility to perform well.

Human Resource Focus (Category 5) Questions (continued)

62 We keep track of when each member is available to play.
63 Our group tries to improve the skills of all its members.
64 Generally speaking, everyone in our group works well together.
65 Our group has procedures for selecting new members.
66 Members are encouraged to provide suggestions for improvement.
67 Our group asks members about their satisfaction with the group.

Process Management (Category 6) Questions

1 Our music group performs on a regular basis.
2 We write much of the music we perform.
3 Our group usually performs at one type of gig (like parties).
37 Our group regularly reads music trade publications (e.g., *Billboard*).
38 We network regularly with more successful bands.
45 We know ahead of time which songs we will practice at rehearsal.
46 We rehearse the songs that we plan to rehearse.
47 We add new songs to our performances on a regular basis.
48 We rotate the songs we play at our performances.
49 We keep our music fresh.

Business Results (Category 7) Questions

4 Our group is successful.
68 Our group has met its objectives as a band.
69 Our group protects its intellectual property (copyrights).
70 Our group has met my individual objectives.
71 We have a growing number of people attending our gigs.
72 We open for more successful bands regularly.
73 Most of our CDs are purchased in the local area.
74 Our group has developed a local reputation.
75 Our group has developed a regional reputation.
76 Our group has developed a national reputation.
77 Our group has developed an international reputation.

Classification (Category A) Questions

78 Our group has gone on a week or longer tour during the past year.
79 Our group has now or has had a record/CD deal with an independent recording company.
80 Our group has now or has had a record/CD deal with one of the big five companies (BMG, EMI, Sony, Universal, and Warner).
81 How many members are in your group?
82 How many members have joined your group in the last six months?
83 How many members have left your group in the last six months?
84 How many times has your group performed in the past three months?
85 How many copies of all your combined CDs did your group sell in the past year?
86 How much money does your group typically earn from a gig?
87 How long has your group performed together?
88 Does someone from outside your group of musicians perform the following services for your band? Manager
89 Does someone from outside your group of musicians perform the following services for your band? Booking Agent

90	Does someone from outside your group of musicians perform the following services for your band? Lawyer
91	Does someone from outside your group of musicians perform the following services for your band? Accountant/bookkeeper
92	Does someone from outside your group of musicians perform the following services for your band? Publicist
93	Does someone from outside your group of musicians perform the following services for your band? Publisher
94	Which of the following roles do you play in this music group? Musician
95	Which of the following roles do you play in this music group? Musical leader
96	Which of the following roles do you play in this music group? Manager
97	Which of the following roles do you play in this music group? Songwriter
98	Which of the following roles do you play in this music group? Agent
99	Which of the following roles do you play in this music group? Other
100	What type of music does your group perform?

Research Design of the Study

The researchers identified bands in the state of Louisiana from the mailing list of a regional monthly music industry magazine. 2,845 bands were sent questionnaires. A second mailing was sent after three weeks. 338 usable questionnaires (a twelve percent response rate) was received.

Measuring the Success of a Band

Many different methods can be used to classify a band as successful or unsuccessful. For the purpose of this report only two will be examined.

1. Subjective Success – Respondents were asked, “Do you consider your band to be successful?” Some might say they are successful because they make a lot of money. Some might claim success because they are able to play on weekends while working regular jobs during the week. This success rating is a function of the objectives of the band, but it is measured subjectively: the band is meeting its objectives (doing what it wants to do), therefore it is successful.
2. Commercial Success – Several measures of commercial success were collected in this research. These measures include touring, securing an independent or national recording deal, CD sales, live performance income, and longevity of the band. Much debate could occur over which of these is the best measure of commercial success.

The authors used cluster analysis to determine statistically the strongest and most distinct success measure for this study. That measure was the number of CDs sold (several of the other measures were strongly correlated and produced fewer statistically significant results.)

Survey Results

Factors Differentiating Subjectively-Measured Successful and Unsuccessful Bands

Table 2 presents the factors that significantly differentiated successful and unsuccessful bands using subjective measurement (i.e., based on band objectives). These factors are presented in the categories of the Malcolm Baldrige Award.

The statements that differentiate subjectively-measured successful bands from the unsuccessful bands are few but revealing. The leadership statements that differentiated successful bands were "fulfill booking contracts" and "contributing back to the community." In the strategic planning category, a significantly higher number of successful bands reported an agreed-upon purpose for the band. Successful bands were differentiated by two statements of customer focus: "know what makes the customer like our performances" and "contact managers of successful clubs and venues regularly." Among the questions focusing on human resources, successful bands were differentiated by knowing what is important to group members and by having procedures for selecting new members. Within the process management category, successful bands were differentiated by rotating songs and adding new songs. No questions from the measurement, analysis, and knowledge management category differentiated successful and unsuccessful bands.

Overall, successful bands were differentiated by basic and well-balanced business practices in all categories except for working with data (measurement, analysis, and knowledge management). This speaks well for the position that successful bands do exhibit at least some of the same management practices as traditional business firms.

Baldrige Category	Differentiating Factor
Leadership	Our group always fulfills the terms of its booking contracts.
	Our group contributes its share of time to charity and community events.
Strategic Planning	Our group has a purpose that is agreed to by all members.
Measurement, Analysis, and Knowledge Management	
Customer and Market Focus	Our group knows what makes people like our performances.
	We contact managers of important clubs or venues regularly.
Human Resource Focus	We all know what is important to each member of our group.
	Our group has procedures for selecting new members.
Process Management	We rotate the songs we play at our performances.
	We add new songs to our performances on regular basis.

Table 2. Differentiating factors between successful and unsuccessful bands (subjectively-measured success).

Factors Differentiating Objectively-Measured Successful and Unsuccessful Bands

Table 3 shows the items with significant difference in ratings between bands with high CD sales and those with low sales.

Successful bands, as measured objectively by CD sales, operate distinctly differently from less successful bands. Successful musical groups emphasize using information in running the business, focusing on customer groups, and establishing management procedures similar to what is seen in

Baldrige Category	Differentiating Factor
Leadership	Our group always fulfills the terms of its booking contracts.
	Our group contributes its share of time to charity and community events.
	Our leader(s) make all decisions for the group.
Strategic Planning	Our group has a purpose that is agreed to by all members.
Measurement, Analysis and Knowledge Management	Our group keeps track of how many people attend our gigs.
	Our group keeps track of how many CDs and other products we sell.
	Our group keeps track of its revenues and expenses.
	Our group compares its success to national groups.
	Group members review the data we track.
Customer and Market Focus	Our group knows what makes people like our performances.
	Our group knows what type of people like our music.
	We contact club managers regularly.
	We contact managers of important clubs or venues regularly.

Table 3. Differentiating factors between successful and unsuccessful bands (objectively-measured success: CD Sales).

Baldrige Category	Differentiating Factor
Customer and Market Focus (continued)	Our group knows what makes club managers happy with us.
	Our group asks for feedback from club managers regularly.
	We contact radio program directors regularly.
	We regularly contact music stores.
	We contact music writers/critics on a regular basis.
Human Resource Focus	We all know what is important to each member of our group.
	Our group has procedures for selecting new members.
	We refer to songs written by one group member as our songs.
Process Management	Our group regularly reads music trade publications (e.g., *Billboard*).
	We rotate the songs we play.
	We add new songs on regular a basis.
	We network regularly with more successful bands.

Table 3 (continued). Differentiating factors between successful and unsuccessful bands (objectively-measured success: CD Sales).

successful business organizations. They were also differentiated in several other ways. The similarities and differences in management practices between subjectively-measured successful bands and objectively-measured successful bands (as measured by number of CDs sold) are itemized by Baldrige categories below.

Leadership – Successful bands, whether measured by CD sales or a subjective statement, were differentiated by their responses to two statements:

- Our group always fulfills the terms of its booking contracts.
- Our group contributes its share of time to charity and community events.

Bands with higher CD sales were also differentiated by their response to the question, "Our leader(s) make all decisions for the group." This does not indicate that successful bands are autocratically run; the difference actually goes in the opposite direction with successful bands indicating more group decision making.

Strategic Planning – Successful bands, however measured, were differentiated by their response to the question, "Our group has a purpose that is agreed to by all members." No other differences between successful and unsuccessful bands were found among strategic planning questions.

Measurement, Analysis, and Knowledge Management – There were no statements in this Baldrige category that differentiated successful from unsuccessful bands when a subjective measurement was used. However, a number of differentiating items emerged when an objective measurement (CD sales) was used:

- Our group keeps track of how many people attend our gigs.
- Our group keeps track of how many CDs and other products we sell.
- Our group keeps track of its revenues and expenses.

- Our group compares its success to national groups.
- Group members review the data we track.

Bands that don't measure and track these items may believe they are successful but they won't accurately know how they are performing. The lack of differentiation on these items between successful and unsuccessful bands (using the subjective measurement) may be due to the musicians' lack of accurate knowledge which could result in inaccurate responses.

Customer and Market Focus – Bands with high CD sales showed the same knowledge of what people like about their performances as did the subjectively-measured successful bands. In addition, the following questions differentiated bands with high CD sales from bands that subjectively identified themselves as successful:

- Our group knows what type of people like our music.
- Our group tries to please club managers or other venue managers.
- We contact managers of important clubs or venues regularly.
- Our group knows what makes club managers happy with us.
- Our group asks for feedback from club managers regularly.
- We contact radio program directors regularly.
- We regularly contact music stores.
- We contact music writers/critics on a regular basis.

This seems to indicate that bands with high CD sales focus more strongly on all customer groups. These bands may take steps that create customer satisfaction and lead to success.

Human Resource Focus – Successful bands, however measured, were differentiated by their responses to two questions:

- We all know what is important to each member of our group.
- Our group has procedures for selecting new members.

Only one additional management practice in this category differentiated objectively-measured successful bands from subjectively-measured successful bands. Bands with high CD sales respond differently to the question about accepting a band member's individual work as "work of the whole."

Process Management – Both types of successful bands answered positively to the following questions thus differentiating themselves from the unsuccessful bands:

- We rotate the songs we play.
- We add new songs on a regular basis.

These processes apparently help make a band successful. When success was measured by CD sales, two additional items emerged as differentiating factors:

- Our group regularly reads music trade publications (e.g., *Billboard*).
- We network regularly with more successful bands.

While these latter two questions didn't differentiate bands that were rated as successful based on a subjective statement, they may also contribute to the success of a band.

Several Baldrige categories clearly illustrate the differentiating factors in becoming a commercially successful band. Bands considered to be commercially successful monitor a variety of customers, track their results, benchmark against other bands, and update themselves as to what is happening in the music business.

Conclusion

This research, using the Malcolm Baldrige National Quality Awards criteria, shows that many recognized good business practices associated with successful businesses are also associated with successful bands.

What can bands learn from the results of this study? They should work on the basics first. Like the subjectively-measured successful bands, they should:

- have a purpose statement, agreeable to all band members (Strategic Planning);
- fulfill their contracts and take care of their local community (Leadership);
- know what their audiences like (Customer and Market Focus); and
- take care of the members of their band (Human Resource Focus).

Bands should also work on the areas that differentiated bands with high CD sales by:

- gathering and making use of data (Measurement, Analysis, and Knowledge Management);
- developing and managing processes to find and adapt to change (Process Management); and
- monitoring other customer groups like club managers and radio program directors (Customer and Market Focus).

A clear sense of purpose, understood and shared by all members of the band, is the most important management practice to develop. This is the key ingredient for success with large bands, small bands, large businesses, and small businesses. If this statement of purpose is developed with input from important parties outside the band (family, customers, support personnel, etc.), the chances for business success increase even more.

What can music business educators learn from this study? The Malcolm Baldrige National Quality Award Program was founded to call attention to the need for building quality into all aspects of our nation's businesses. High quality companies were found to keep their employees longer, receive fewer customer complaints, and have more satisfied and loyal customers. High quality companies also had more sales, larger profits, greater market shares, and higher stock values. Introducing music business students to the philosophy, criteria, and results associated with high quality companies using the Malcolm Baldrige Quality Award Program criteria might be a positive teaching and learning strategy.

Without rational criteria it is difficult to make an objective determination as to whether or not the business practices of a band are of a quality high enough to lead to success. The Malcolm Baldrige Award Program presents us with a set of criteria that has been developed and refined over the years by business leaders.

The authors of this article have carefully followed research procedures to reword the Baldrige criteria into the language of the music industry. Focus groups, personal interviews, multiple pre-tests, and two mailings of the survey were used to refine the language. We have shared the survey questions here so that music business educators will have an established questionnaire to build upon for classes or research. Continual improvement is one of the key themes of the quality movement. We hope that this article will generate this continual improvement.

Future Research

The authors continue to work with data gathered from the survey in an effort to better understand management practices as they relate to music groups. Presently, analysis is being done in the areas of:

- What factors are most important to band members and band leaders in judging the success of a band? (Why do band members consider their band to be successful?)
- Are bands with fewer changes in personnel more successful than those with more changes in personnel?
- What leadership style leads to the most successful bands?
- What data are most important to collect and monitor in building a successful band?
- What are the best success measures to use for bands?

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Do Recording Artists Deserve a Greater Share of Revenue in the Emerging Digital Age?

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1. Introduction

> The founders wrote copyright protections into the Constitution because they believed that they were necessary for progress. Movies, music and books require investments of money and time. If their creators cannot make money from them, many will be unwilling or unable to keep producing. Or they may have to finance their work in troubling ways, like by building in product placements or taking money from donors with agendas.[1]

While this passage is from an editorial supporting the position several entertainment companies have taken regarding a recent case argued before the U.S. Supreme Court, it could serve as a rallying cry to recording artists to demand a greater share of the revenue their record companies derive from various digital uses of their works in this, the emerging digital age.

Currently, the music industry is on the cusp of a new paradigm that has the potential to usher in an era of prosperity for both artists and music companies. In a keynote speech at the Grammy Foundation's Entertainment Law Initiative luncheon in February, 2005, Edgar Bronfman, Jr., Warner Music Group chairman/CEO stated, "The past few years are ones in which technology innovation has resulted in part in the trampling of the rights of artists, creators, and content providers. However, I believe this can be an anomaly and that we can and will find a way through this period. One which allows music artists to write and record, music companies to invest and promote, and new technologies and new channels—whatever they may be—to bring the beauty and wonder of music to consumers everywhere and allow all of us to be paid for our efforts."[2] While such a positive statement coming from the head of one of the few remaining major

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record labels may offer encouragement to recording artists who have become victims of the industry's recent financial downturn, it does not address the need for long overdue revisions to exclusive recording artist agreement royalty provisions which perpetuate the historically unjust treatment of artists in regard to being fairly compensated for their work.

In this article I discuss the emerging digital age in entertainment and explore issues related to royalty provisions in typical exclusive recording artist agreements relative to digital uses. The analysis of these concerns demonstrates what I perceive to be a need for artists to receive a greater share of the revenue derived from such uses of their work.

In part two I analyze the current state of the emerging digital age in entertainment and its effects on the music industry. I set forth information that indicates the entertainment industry is one of the strongest components of the U.S. economy, and discuss how the emergence of new technological forms of music distribution will dramatically increase future revenues and values of music companies. I also discuss problems artists are experiencing with traditional streams of income that justify the need for them to receive a greater share of revenue generated from digital uses of their work.

Part three contains my investigations of two key contractual provisions that demonstrate how record companies typically compensate artists for the digital exploitation of their works. I argue that a greater share will more fairly compensate the artists for their contributions to these products that are such an important part of our economy.

I conclude in part four illustrating the need for U.S. artists to be compensated in a more equitable way that will encourage them to write and create music that will continue to make the United States a leader in the global entertainment market.

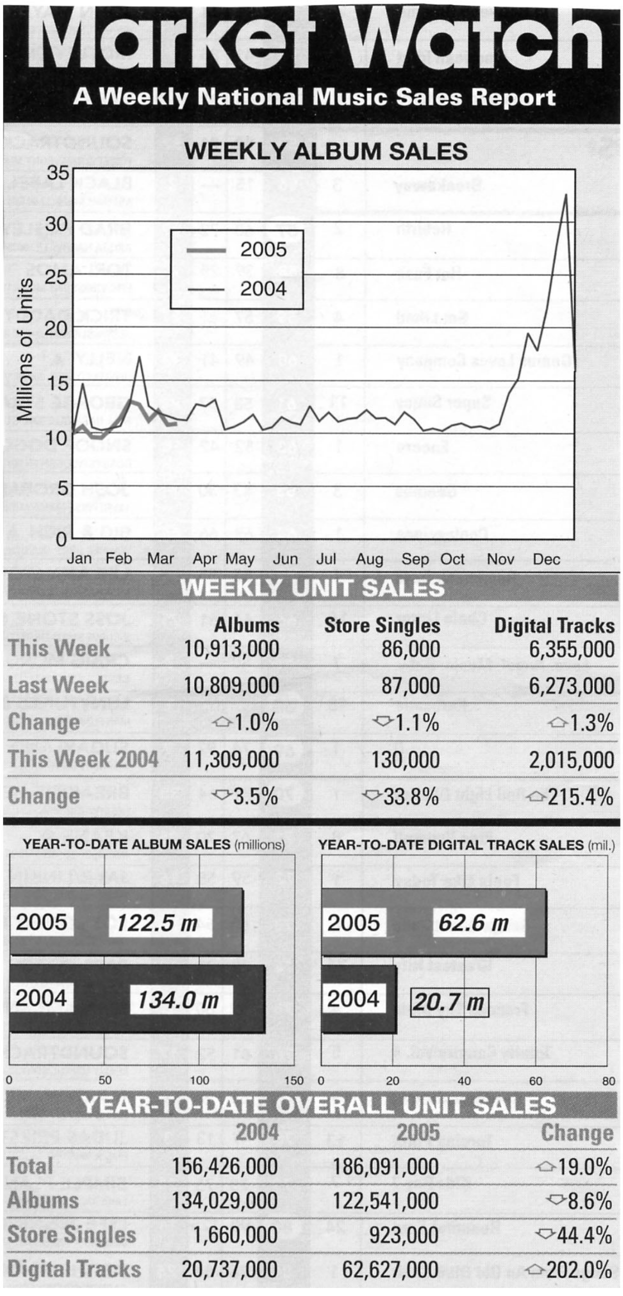
2. The Emerging Digital Age

A new era in the recording industry has rapidly developed since the beginning of the new millennium and it is destined to reshape what the industry was as little as ten years ago. Entertainment is a multi-billion dollar business that persists in showing signs of strength. A recent study by the International Intellectual Property Alliance (IIPA) reports that the core U.S. copyright industries (movies, television programs, DVDs, books, music, computer games, and software):

1) were responsible for 5.24% of the gross domestic product of the U.S. in 2002;
2) its share of gross domestic product grew more than two times as fast as the remainder of national economy in the past twenty-five years;
3) new job creation is three times the rate of the rest of the U.S. economy;
4) these industries represent approximately four percent of total U.S. employment (over five million workers);
5) have more international revenues than chemical and allied products, autos and auto parts, aircraft, and agriculture combined; and
6) at a time when the U.S. has a $400 billion trade deficit, the movie industry alone, unlike any other American industry, has a surplus balance of trade with every single country in the world.[3]

Music is the primary industry of the core in that it impacts each of the other industries and has the most global reach of all the entertainment businesses. The emergence of the digital era, where musical works are produced and delivered through digital means, has caused great anxiety within the ranks of recording companies and artists who argue that illegal internet peer-to-peer file sharing has decimated their earnings. While year-to-year record sales decreased from 2002 to 2003, the Recording Industry Association of America (RIAA) reported that total U.S. music shipments improved a meager two percent to 814 million units in 2004. However, according to RIAA, the industry's biggest trend and hope for the future is the sale of digital music. In 2004 more than 140 million digital tracks and 5.5 million digital albums were sold[4] and it is predicted that U.S. internet sales will increase five-fold, reaching $720 million, by 2006.[5] As digital sales increase dramatically, the sale of physical albums is declining. According to Nielsen SoundScan, sales of current albums decreased almost nine percent in the first quarter of 2005 on a year-to-year basis.[6]

The Weekly Unit Sales diagram (Figure 1) indicates that sales of digital tracks for the week ending March 27, 2005 totaled 6,355,000, a 215% increase over the same week in 2004. The Year-To-Date Overall Unit Sales section shows that through March 27, 2005, album sales were off by 8.6%



Market Watch

A Weekly National Music Sales Report

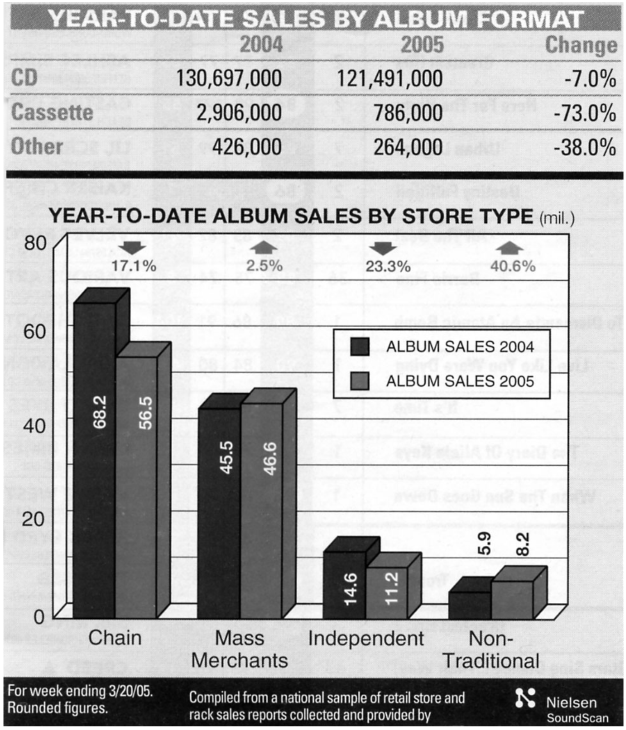
WEEKLY UNIT SALES

	Albums	Store Singles	Digital Tracks
This Week	10,913,000	86,000	6,355,000
Last Week	10,809,000	87,000	6,273,000
Change	⇧1.0%	⇩1.1%	⇧1.3%
This Week 2004	11,309,000	130,000	2,015,000
Change	⇩3.5%	⇩33.8%	⇧215.4%

YEAR-TO-DATE OVERALL UNIT SALES

	2004	2005	Change
Total	156,426,000	186,091,000	⇧19.0%
Albums	134,029,000	122,541,000	⇩8.6%
Store Singles	1,660,000	923,000	⇩44.4%
Digital Tracks	20,737,000	62,627,000	⇧202.0%

Figure 1. Weekly Unit Sales for the week ending March 27, 2005.[7]



YEAR-TO-DATE SALES BY ALBUM FORMAT

	2004	2005	Change
CD	130,697,000	121,491,000	-7.0%
Cassette	2,906,000	786,000	-73.0%
Other	426,000	264,000	-38.0%

Figure 1 (continued). Weekly Unit Sales for the week ending March 27, 2005.[7]

compared to the same period one year earlier. In contrast, the sales of digital tracks increased 202%.[7]

The rapid growth of the digital market is also demonstrated by significant recent spikes in the sales of digital music players and legal download services. During the first quarter of 2005 sales of Apple's digital music player, the iPod, increased to 5.3 million, a 558% increase over the first quarter of 2004 and sales from its iTunes Music Store and iPod accessories totaled $216 million.[8] In addition, Apple sold 4.6 million iPods in the last quarter of 2004[9], and a week before Christmas, iTunes enjoyed a one million track week-to-week increase in sales for the first time in its history.[10]

In furtherance of its plan to saturate the digital music player market, Apple introduced a smaller, lighter, and less expensive iPod named Shuffle in January, 2005. Heralded by supporters and critics alike for being a revolutionary technological advancement, the Shuffle offers unique features, which allow its users to store up to one hundred digital recordings and automatically shuffle their play lists with a simple slide of a bar. Another feature is the item's low price of $99. Industry observers maintain that with iPod sales currently at 10 million units, there is significant room for growth considering the fact that over the lifetime of the Sony Walkman, over 300 million units were sold.[11] With Apple leading the way, digital sales—which currently make up about 2% of overall music sales—are predicted to increase to 7.5% by the end of 2005[12] and 25% by 2008.[13]

Although Apple is the dominant player in the digital download sales market, several other forms of digital sales are leading us into an era of digital dominance. Ringtones and master tones, the exploitation of artists' website material, and digital delivery of full tracks to wireless phones are all methods of exploitation of music that didn't exist in the last century. Yet, in just a few years, the earning potential of these uses will form the basis for resurgence in the value of music companies.

Earlier this year, Edgar Bronfman, in support of his Warner Music Group's impending initial public offering, said, "for more than a decade now, the entertainment industry has been America's second largest exporter [...] American entertainment is a worldwide business. If you factor computers in the mobile phone equation and add the explosive growth of portable music players such as iPod, you have an almost unfathomable increase in distribution platforms of music [...] We're not just talking songs anymore, but ringtones, master tones, ringbacks, and other kinds of entertainment."[14] Approximately three months after making these statements, his company, which he purchased a little over a year earlier with financiers Thomas H. Lee Partners and Bain Capital for $2.6 billion, launched an initial public offering that raised $554 million. Though not meeting its financier's expectations, it did allow the company to pay off $300 million in debt and increase its enterprise value to in excess of $4 billion.[15]

While the rise of music's digital age seems to be fueling optimism in financial markets, such optimism does not seem to extend to recording artists. Linkin Park, Warner Music Group's biggest selling act, contends that the Warner IPO will only further strain its relationship with the company. The group maintains that only $7 million of the IPO proceeds are slated for company operations. As a result, the increased company value, based in large part on projections of income generated from digital uses of their product, will only benefit the company's investors and not artists.[16] Linkin Park's concern is only one of many recent problems negatively affecting recording artists' ability to generate income from their work. The following are four other significant problems negatively affecting artists' income that support the case for artists to receive a greater share of income from digital uses of their work as the emerging digital era matures.

Illegal Downloading

Even though digital download sales are increasing, the effects of illegal peer-to-peer (P2P) file sharing are still wreaking havoc on the earnings of record companies and recording artists alike. R&B recording star Gerald Levert notes that sales of his recent albums have decreased almost fifty percent from those of albums released prior to 2002—in spite of him having a number one Adult R&B hit in late 2003.[17] The consequences of illegal peer-to-peer file sharing have been vigorously debated by researchers and recording industry supporters. In March of 2004, Harvard Business School Associate Professor Felix Oberholzer and University of North Carolina at Chapel Hill Associate Professor Koleman Strumpf released a report of their research into the economic effects of illegal downloading from peer-to-peer networks. The report, in part, concluded that, "downloads have an effect on sales which is statistically indistinguishable from zero."[18] Their research supports the stance of recording industry critics who maintain that the drop in record sales may be attributed to other factors, including a slowing economy, fewer new releases, and the restricted playlists of newly consolidated radio companies that came into existence as a result of the 1996 Telecommunications Act. The act allowed such companies as Clear Channel Communications to become the largest owner of radio stations in the country, growing from 43 stations in 1995 to more than 1,200 stations in 2003. Many believe the listening public's disgust with the homogenization of what was being heard from coast to coast on these consolidated radio networks might also have been a contributing factor to the huge growth of P2P file sharing and the decline of CD sales. However, regardless of the causes, Steve Mark, general counsel of RIAA, maintains that P2P technology has been the main culprit that has "decimated the music business and left in the wake innumerable lost jobs, slashed royalties for songwriters and artists, and thousands of shuttered record stores. The total, a 22% decline in CD sales since 1999, has been unparalleled in the history of the music business." Marks also avers that the Oberholzer and Strumpf report used flawed methodology which flies in face of countless other studies and plain old common sense.[19]

Although there may be other contributing factors to the decline of CD sales, evidence of the four-year decrease in top-ten selling albums leads me to conclude that the rapid growth of the illegal P2P file sharing services during that time period was a precipitating factor in the abatement. According to SoundScan, in the year 2000, 60 million top-ten albums were sold in the United States, in 2001, 40 million units, in 2002, 34 million units, and in 2003, sales were down to 33 million units.

Most successful artists receive advances on their royalties paid on the commencement or delivery of albums. However, as a result of the stagnation of CD sales over the past four years, the size of these advances has generally decreased. "The money is smaller now when you renegotiate," says artist attorney Danny Hayes, managing partner of Davis, Shapiro, Lewitt, Montone, and Hayes, and counsel to the superstar group Linkin Park. "It could be 30% to 50% less than it used to be."[20] "On renegotiations, we're just plain saying 'no'," one label attorney says.[21] For many artists, advances provide the financing to construct project studios thus enabling them to create music spontaneously in their own time and space. The reduction of this important source of income is not only discouraging to artists, it also interferes with their ability to design an environment which is conducive to creating and producing great music. While illegal downloading will never be entirely eliminated, it is hoped that the growth of sales of digital downloads will eventually offset its drastic impact on artists' ability to obtain advances that enable them to continue their creative work.

Single Track Sales

Another factor affecting artists' income in the digital age is the consumer's transition from purchasing albums to purchasing digital single tracks. Over the past thirty-five years, successful recording artists have generated a large part of their income by receiving large recording funds from record companies to record albums. But in the emerging digital age, the sale of albums (physical and digital) may go the way of the eight-track tape: into extinction. Virgil Roberts, former President of Solar Records, the most successful African-American record company in the 1980s, notes how this change will affect the way record companies view recording funds. "We're really going back to the future because the record business started off as a singles business. What's happening with the internet consumers is, kids now want only what they want and it's almost unbundling what companies have been doing because if you go back to selling singles, it doesn't make sense to have big recording funds."[22]

Legal digital download services offer consumers the option to purchase individual tracks, in essence allowing them to "unbundle" an album to suit their own needs and desires at a more affordable rate than purchasing the entire album. This feature is certainly one of the attractions of the internet download method of obtaining music and any loss in CD sales incurred by record companies may be deemed justified, considering their unconscionable (and at times, illegal) method of charging consumers inflated CD prices over the years. The unfortunate by-product of this new market system will be, at least, a short-term reduction in artist royalties as more singles and fewer albums are sold.

As the digital age matures, artists will become more dependent on royalties generated from sales of singles rather than large album advances. Therefore, it will be even more important for artists to argue for a fairer share of revenue generated from these sales as it may be the primary source of income artists receive from the exploitation of their recordings.

Publishing

As a result of low album sales in recent years, recording artists who are also songwriters have suffered additional losses from a decline in mechanical royalty income. Large advances from publishing agreements with major and independent publishers, once a significant source of cash for the recording artist/songwriter, have also decreased over the past few years. University of Colorado at Denver Associate Professor Stan Soocher says, "Music publishing has long been idealized as the 'cash cow' of the industry, but with record sales down—and thus mechanical royalties income down—a big piece of hide is being skinned off the cow."[23] The latest international survey of music publishing revenues, published in 2001 by the National Music Publisher's Association, showed a twenty percent decline in domestic mechanical royalty revenue from the year 2000.[24] After polling several of his colleagues, L. Lee Phillips, attorney for The Eagles and Josh Groban, commented that he believed, in some instances, the downturn in advances for publishing deals could be as high as fifty percent.[25] In regard to the size of advances currently being given for publishing deals, David Renzer, Chairman and CEO of Universal Music Publishing Group says that, "it's half of what it was, if they get an offer at all."[26]

Most recording artists/songwriters who have become dependent on generating significant mechanical royalties from the sale of albums containing several of their compositions are receiving significantly lower royalties in the digital market as single track downloads dominate album sales. Considering the fact that during 2004 digital single tracks sold 140 million compared to 5.5 million digital album sales, it is likely that this trend will continue as the digital age progresses.

Live Performance

While most recording artists still generate the bulk of their income from live performances, the road has not been a very artist-friendly place recently. Last year's concert market was flat.[27] Statistics provided by industry magazine *Pollstar* reveal that business dropped dramatically at the nation's amphitheaters, known in the industry as "sheds." In the summer of 2004, ticket sales at sheds decreased by 1.1 million, a 35% drop from the year before.[28] With most costs increasing and revenue decreasing, artists and their tour managers have to devise unique touring plans in order to maintain profitability. Artists involved with 2005's summer touring season will be subjected to tighter federal transportation regulations and higher gas prices.[29] Michael Rapino, CEO of CCE SpinCo, the live entertainment division of Clear Channel Entertainment (the largest live music entity that has ever existed), said his concentration in the 2005 tour season would be to take the focus off artists' guarantees (fees guaranteed for an act to perform) and instead offer artists 100% of the back end (total ticket receipts less expenses).[30] Even though the offer of 100% of the back end sounds appealing, some, including Artists Group International president Dennis Arfa, says that the back end of a shed, "still may not maximize revenue potential for an artist [...] I know from experience an act that can sell 17,000 tickets at an amphitheater with reduced lawn tickets can walk out with more money in an arena."[31] Ever-increasing tour costs coupled with the reduction of artists' guarantees makes the revenue most artists expect to earn on the road more difficult to achieve and leaves them in a position of looking for alternative revenue streams to offset their reduced income.

Sponsorship

With touring income down and expenses increasing, artists are, more than ever, pursuing various forms of sponsorship to offset the rising costs of doing business. While a few of the most successful artists may obtain large endorsements from companies anxious to make an impact on the elusive youth and young adult segments, most artists are not as fortunate. Deals range from McDonalds' multi-million dollar agreement with Destiny's Child to sponsor its 2005 72-concert world tour to the Grand Ole Opry and the Alison Krauss and Union Station's tour partnering with restaurant chain Cracker Barrel. Tour sponsorship is projected to increase almost nine percent this year. However, in an effort to make impressions on teens and young adults, companies are sponsoring tours of Hispanic artists, whose deals are less expensive than mass-market acts.[32] While the total amount of money allocated for sponsorships may be increasing, it appears that companies are doing more deals with artists who are willing to take less money so that the advertisers can expand their reach to a wider, more diverse market.

On a different and more troubling note, in the spring of 2005 a new and controversial form of sponsorship was offered by McDonald's when the fast food giant announced that it will pay rap artists one to five dollars every time one of their songs with lyrics that include the words "Big Mac" is played on the radio. Maven Strategies, a marketing company with a history of pairing hip-hop artists with advertisers, was retained by McDonald's to woo rappers to participate in this campaign which, unlike most sponsorship deals, offers no upfront payment to artists. Instead, artists are paid based on the amount of radio spins the songs receive, a move which drastically reduces the financial commitment McDonald's traditionally makes to launch an advertising campaign.[33] This effort has met resistance from a number of sources within the music community. Tim Burrowes, Editor of *Mediaweek* decries the promotion as being, "a good strategy for McDonald's, but what does it do for the credibility of the artist, when their fans discover they're being paid to talk about it?"[34] Others expressed dismay at the company's plan not to pay the artists upfront. "You're only going to get a certain amount of money depending on airplay. That's a total insult to artistic integrity," said 1Xtra DJ Semtex.[35]

This type of sponsorship may backfire on the artists who participate as well as on McDonald's. Not only does this plan insult the artists' level of business acumen, it also has the potential of negatively affecting the creative process. An advertising campaign of this nature reduces the value of artists' integrity to their fans as well as to their record companies in that their works may be considered nothing more than glorified jingles.

The emerging digital age is growing at a fast pace and before the end of this decade digital royalties will become a significant portion of an artist's income. In light of the challenges to the artist's non-royalty streams of income, it is of utmost importance for artists and their representatives to be aware of, and carefully negotiate, provisions that maximize compensation for digital uses of their recorded product.

3. Digital Royalty Provisions

The following are two areas of concern regarding digital royalty provisions to which artists and their representatives should give special consideration when artist contracts are negotiated or renegotiated.

Digital Downloads

In typical recording agreements drafted in the late 1980s and early 1990s, CD, DAC (Digital Audio Cassettes), DVD audio, and any new software medium and transmission were defined as New Medium (NM) configurations for which the record company would pay a reduced royalty. Usually, the NM royalty rate was seventy-five percent of the artist's basic royalty rate (i.e., the rate paid for traditional vinyl and cassette configurations). Therefore, if an artist's basic royalty rate for vinyl and cassette albums was twelve percent, the NM rate would be nine percent. At that time record companies argued that the costs of research and development, and the investment in manufacturing plants required for the production of the new media products (particularly CDs), justified the paying of a lower royalty. However, by the onset of the new millennium, production costs had dropped dramatically and CD album sales experienced massive growth. This allowed record companies to generate substantial profits from CDs. While it took more than fifteen years for CD sales to dominate the market, the projected market-share growth of digital single tracks points to a more rapid transition from CD to digital single sales. Unfortunately, some form contracts from the late 1990s still define CDs and other new media (i.e., digital downloads) as new medium configurations, triggering the payment of lower royalties. The effect of these provisions lowering artist's digital royalties coupled with the aforementioned problems with other income streams may have a detrimental affect on an artist's ability and willingness to create the innovative music that makes such a substantial contribution to our nation's economy.

In addition, because a record company's profit margin is smaller on the sale of singles as opposed to albums, recording artists have traditionally received a lower basic royalty rate for singles. For example, if the basic royalty rate is fifteen percent for albums, the singles rate may be only twelve percent. This will have a dramatic effect on artist royalties if the primary form of digital downloads is singles rather than albums. Royalties for digital downloads may be further reduced by the imposition of container and free goods deductions (usually twenty-five percent of the suggested retail list price and ten to fifteen percent of sales respectively). While these deductions are considered traditional for CD sales, they cannot be justified in the world of digital downloads. Nevertheless, some companies still insist on these deductions. Kendall Minter, artist attorney to the stars Kirk Franklin and Damien Marley, says, "Some [companies] are calculating single track downloads as single sales and still apply a packaging deduction, even though we know there's no packaging cost for downloads."[36] However, Randall McMillan, Senior Director of Legal and Business Affairs of Island Def Jam Records, maintains that at his company, "We don't take traditional deductions with respect to downloads [...] We don't have container or freight deductions for downloads."[37]

It has been reported that artist royalties for sales through iTunes based on a single ninety-nine cent suggested retail list price will yield thirteen cents for an artist with a thirteen percent royalty rate depending on whether or not the company makes container or other deductions. Therefore, for an Island Def Jam artist who has a fifteen percent royalty rate for albums and a thirteen percent royalty rate for singles applied to the suggested retail price of the download without container or free good deductions, the resulting royalty will be $1.50 for albums and 13¢ for singles.[38]

Many industry leaders think that the next big distribution channel for music will be downloads to mobile phones. With a potential market of 1.4 billion people (a quarter of the world's population) who already have a mobile phone, this form of digital music distribution dwarfs Apple iPod's current ten million users[39] and has the promise to increase the digital sales market exponentially. As a result, in order for artists to maximize revenue from digital download royalties, clauses governing how artists are paid for these types of sales should be reexamined and renegotiated in existing contracts and completely redefined in new ones.[40]

Ringtones and Master Tones

Ringtones, customized twenty-second snippets of songs used on cellular phones, is one of the fastest growing segments of the digital music business and have become a significant source of income for record companies and publishers. In 2004 the U.S. market for ringtones more than doubled to $315 million and is expected by many industry estimates to spike an additional twenty to thirty percent by the 2005 holiday season.[41] Strangely enough, it appears that many of the same teenagers who are willing to purchase several ringtones a month (at a cost of up to $2.99 each) balk at paying less than a dollar for a legal download of a full recording! The sheer volume of this new source of revenue has been very attractive to artists who also are songwriters.

The right to utilize a composition for a ringtone is licensed from the work's copyright owner (usually the publisher). Royalties can vary from a set amount (for example, ten cents per ringtone download) to a percentage of the revenue per ringtone sold (e.g., ten percent) or the greater of the two. Licensing agreements also allow the wireless company that aggregates, markets, and distributes the ringtones to deduct a one-time fixing fee, usually twenty-five dollars per song uploaded to a server.

Master tones are portions of master recordings of songs. Aggregators are required to obtain licenses from the record companies that own the sound recordings and the publishers who control the underlying musical compositions. This market is developing slowly as aggregators are resisting record companies' requests for royalties of 30%-75% of the retail sale price of the tone. In addition, publishers usually demand ten percent of the retail sale price or ten cents per sale, whichever is greater. Industry sources indicate that record companies put this type of sale in the same category as a traditional sale in regard to determining the type of royalty due the artist. The designation of this type of use as a traditional sale could be problematic to the artist.

Economic Justification for Artists to Receive a Greater Share of Digital Download, Ringtone, and Master Tone Revenue

Major record labels have been slow to respond and adapt to the emerging digital age. This initial reluctance, along with their disregard for the consumer's desire to obtain music online, has resulted in internet software and hardware providers developing and maintaining the primary means of distribution of key digital products. Apple iTunes and several ringtone and master tone aggregators dominate the legal digital download and ringtone/master tone market. These companies are content aggregators and distributors of digital product who negotiate what could be considered third-party licenses with record companies and publishers to provide musical products to consumers through either the internet or mobile phone providers. Most recording agreements provide for artists to receive fifty percent of the record company's net receipts from any third-party license of their master recordings. However, some record companies don't consider these transactions to be third-party licenses; instead they categorize them as sales through traditional channels as far as artist royalty rates are concerned. In other words, the artist will receive a ten to fifteen percent artist royalty on these sales, rather than the fifty percent allowable under the typical third-party license. The record companies maintain that their transactions with the digital providers are comparable to sales through their traditional channels. But a close examination of economic factors impacting the record company indicate a significant difference between the two and provides a justification for artists to receive a fairer share of the revenue derived from these sources.

In the typical third-party license transaction the licensee, for example, Razor & Tie Records (a company specializing in manufacturing, marketing, and selling compilation albums), bears the cost of manufacturing, marketing (via TV commercials or infomercials), and distributing (in the case of Razor & Tie, via direct sales). The record company provides the master recording for a fee and/or royalty and bears no other costs. However, in the traditional sales model, the record company does bear significant costs of manufacturing, distribution, and marketing of the recording. A review of certain economic tools typically used in cost analysis offers insight into the real differences between the traditional and third-party license scenario. In an economic analysis of the practice of recoupment, Professor Theo Papadopoulos of Victoria University offers the following formulas as part of a breakeven analysis illuminating the physical and intellectual property characteristics of the product and the risk assumed by the record company and artists:

$$TC = TFC + TVC \qquad (1)$$

TC is the total cost, *TFC* is the total fixed cost, and *TVC* is the total variable cost. In the case of a record company, *TVC* is comprised of several components, assumed to be:

$$TVC = MPC.Q + DIST.Q + R_A.Q + R_P.Q \qquad (2)$$

where *MPC* is the marginal physical cost (manufacturing or duplication cost), *DIST* is the distribution cost, R_A is the artist royalty, R_P is the publishing (or mechanical) royalty, and *Q* is the quantity of the sound recordings manufactured.[42]

In the traditional sales model, the total variable costs borne by the record company would include the marginal physical costs and distribution costs, which increase the company's total costs, thereby enhancing the company's risk. However, in the case of the third-party license to digital aggregators and providers (e.g., Apple iTunes and ringtone providers) the marginal physical and distribution costs are borne by the third party, not the record company, thereby reducing the record company's risk. As a result, the record company is in a better position to share more equitably the revenue derived from these digital sources. The third-party license model incorporated in most artist contracts provides a precedent for equally sharing revenue in this type of situation. Unfortunately, record companies are unlikely to concede on this point without some form of pressure from either artist representative groups or legislators. Attorney, author, and former Sony record executive Steve Gordon contends that the record companies should, but most likely will not, voluntarily agree to an equal sharing of digital revenue with artists. He proposes the enactment of a federal statute legalizing the sharing of music online that requires those companies directly profiting from file sharing to pay compulsory fees to a central administrator acting on behalf of record companies and artists. The fees would be shared equally among the companies and artists with a separate fund for payment of music publishing fees. The statutory royalties would override contractual provisions providing artists with only ten to fifteen percent in royalties and instead provide them with fifty percent of the revenue derived from the digital use of their recordings.[43]

4. Conclusion

Entertainment is the second leading export of the United States and music is perhaps the most global of all the entertainment businesses contributing to the U.S. economy. As developers of one of the nation's major exports, it is very important for music creators, recording artists, and songwriters to be protected and encouraged to continue to develop these valuable, world-respected products.

The increasing role of digital distribution presents enormous growth opportunities for artists and record companies. Digital music sales are anticipated to experience tremendous growth within the next few years. However, artists are currently confronted with problems affecting their income caused by the growth of digital sales as well as other concerns. The ability of recording artists and songwriters to make a decent living is crucial to the continued vitality and viability of a large sector of the U.S. economy.

Royalty provisions in most recording agreements discount payments to artists for digital uses of their product. As the digital age matures such terms may have a detrimental affect on the artist's ability to continue to create music that makes such a significant contribution to our culture. There is precedent for an equal sharing of record company receipts with artists in certain instances. The relationship between record companies and digital providers of music is similar to the relationship the companies have with third-party licensees of their product. Most recording agreements provide for the record company and artists to equally share net income received from third-party licenses of their recordings. A comparison of the traditional music sales model with the digital sales model reveals that record companies incur less risk with the digital model. Record companies should be willing to consider licenses to digital providers as third-party exchanges and pay artists an equal share accordingly.

Record companies historically have been reluctant to share royalties on a more equitable basis with artists. Therefore, it is unlikely that the situation will change without pressure from artist representative groups or by the enactment of legislation to override unfair contractual terms and provide a mechanism to administer an equal sharing of digital revenue.

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John P. Kellogg, practicing attorney and Assistant Professor of Music and Entertainment Industry Studies at the University of Colorado at Denver and Health Sciences Center, is a graduate of Syracuse University where he received a Bachelor of Arts Degree in Political Science and a Master of Science Degree in Television and Radio. Mr. Kellogg attended Case Western Reserve University School of Law where he earned his Juris Doctor. While at Case, he also took some courses in the MBA program at the Weatherhead School of Management.

Licensed to practice in the states of New York and Ohio, Kellogg practices from his New York City offices. Since beginning his private law practice he has represented several successful recording artists including 2005 Rock and Roll Hall of Fame inductees The O'Jays, Gerald Levert, LSG, Stat Quo of Shady/Aftermath Records, and G-Dep of Bad Boy Records, as well as a number of music production companies and artist managers.

A former vocalist with the group Cameo, Kellogg now advocates for the rights of artists through his writings, which include his book, *Take Care of Your Music Business: The Legal and Business Aspects You Need to Know to Grow In the Music Business* (PJ's Publishing, 2000) , and articles "Adult R&B! Keep It Real," published September 18, 2004 in *Billboard* magazine, and "Livin' the Singles' Life" and "Royalty Audit Law Takes Effect in California," published December, 2003 and January, 2005, respectively, in *Entertainment Law and Finance Newsletter*.

Attorney Kellogg was recently elected to the board of the Music and Entertainment Industry Educators Association (MEIEA) and is a former board member of The Black Entertainment and Sports Lawyer's Association (BESLA), an organization in which he remains an active participant and exponent. He was inducted into the BESLA Hall of Fame at the organization's twenty-fifth annual conference in November, 2005.

Viewpoint

Curriculum Reform—A Perspective

Angela Myles Beeching
New England Conservatory

College curriculum reform seems to be everywhere in higher education these days, and music departments and independent schools of music are no exception. Some schools are trying to streamline their curricula, magically offering more choice while cutting back on budgets and requirements. Some schools are re-examining the core elements of a classical education, while others are experimenting with the best of both professional and liberal arts studies, or offering design-your-own flexible degree programs.

What is all this reform seeking to remedy? Many faculty and administrators are concerned about the "student as consumer" mentality, the general lowering of standards, and the ongoing issues of both grade and degree inflation. In this age of disillusionment, when most students view college as a passport to a paycheck, administrators and faculty are questioning what an undergraduate curriculum should provide.

Curriculum reform discussions are often mired in the particulars of credit hours, distribution issues, and what to include in a degree program. The view offered below comes from the perspective of hindsight and reported outcomes. But before tackling any specific recommendations, it's worth unpacking the broader mission to which we're all committed.

The Purpose of a College Education

The people who most often grapple with the purpose of a college education are upper administrators and people in graduate schools of education. Rarely would anyone ask a school's career counselor to weigh in. Far down on the food chain, most career counselors toil in obscurity in some corner of student services or in a separate building, removed from faculty and curricula. After all, we're the "end game" folks; we advise students and alumni, and teach career-related courses not considered part of the core. What would we have to add to the conversation?

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A Career Counselor's Vantage Point

The career counselors' perspective is colored by the fact that we see students at "crunch" moments. We see students when they're questioning the value of their college pursuits, when they're considering transferring to other schools, changing majors, or dropping out. We see them when their own ambitions and life goals are most in conflict with their parents', and when they write their first grad school essay, or cover letter, grant proposal, scholarship appeal, or study abroad application. We see them when the full weight of their student loan repayment fees sinks in. These are moments when students are assessing the value of their educational investment. Career counselors hear (often loudly) how a student's college experience lives up to, or falls short of the admissions office promise. And because we often advise both students and alumni, we gain from seeing how students change in their own perspectives, through their course of studies, through grad school, and as they launch themselves in the world. My years as a music career center director, tempered by my years as a faculty member teaching music career development courses, have given me a distinct vantage point for considering curricular issues.

The standard reason for getting a college education these days is to get a better job in order to have a better lifestyle. Certainly, for first generation college students, the issue of securing a decent future is paramount. But in the larger context of a student's future—a lifetime of work and family and community—what we see is a more compelling reason for attending college that fuels the more obvious one. Career counselors look beyond immediate outcomes. There's more to life than that better job. Hopefully, there's more to a college education, too. Getting an education to get a better job is the easy answer, not the whole answer.

The Ultimate Goal

Underneath the "get a better job" business is a more basic human yearning. People go to college hoping to find their life's mission or purpose. What people want ultimately (see Maslow's hierarchy of needs) is to live a meaningful life. And college is, in our culture, the usual route to the promise of finding a meaningful life. The process of learning—the real business of education—is to create meaning, and the ultimate goal is to create a life that has meaning. In life, we all want to make good use of our talents and to feel that our work matters in the world. Though it may be unstated or unconscious, this yearning is expressed in many ways, from students' angst over choice of major to their demand for relevancy in the curriculum. Some students arrive on campus with the drive to succeed and just a vague cause, but they're looking for ways to harness their energies to specific objectives. Others may be lacking in ambition and are seeking in college the cause that will ignite their passions. College is, we hope, a place for inspiration.

Delivering on the Promise

Providing the pathway to a meaningful life is a tall order. Complicating matters is the fact that there's often a gap between what the staff and faculty idealistically think we're providing and what students actually reap.

The undergraduate years, for most middle class Americans, mark the actual coming of age. For many students, college years are about learning to fend for oneself, managing one's time, choosing courses and majors, working part-time jobs, learning to balance checkbooks, live with roommates, and deal with one's healthcare, and sexuality—all the necessary hoopla of becoming an adult, a citizen. But if an undergraduate program is to be more than an adolescent holding tank, a laboratory for cultivating young adults, what should it provide?

A college education provides the opportunity to question and test ideas about how to live a life. And this brings us back to that quest for a meaningful life. It is during the undergraduate years that students struggle with what to believe, and they eventually choose the lives they want to lead and the people they want to become, based in part on the challenges they find in the curriculum. College provides the opportunity to question it all. What is life? What is of value? How shall I contribute to the world?

College In Hindsight

Through my own informal poll of friends, acquaintances, and clients, I've asked what people retain from their undergraduate years. These are people with ten, twenty, and thirty years to look back on their college years, trying to trace whatever they gained from their experiences.

Of the answers I've received, no one claimed to retain any specific knowledge or skills. They say their college years yielded them a few lifelong friends, a needed buffer between home and having to work full-time, a chance to grow up, and for a few lucky folks, an inspiring teacher who changed their lives by changing their thinking.

All of this makes me wonder, then, what does reforming the curriculum actually do? For a way to consider the curriculum, Andrew Abbott, of the University of Chicago, wrote in his "Aims of Education" address (<www.uchicago.edu/docs/aims.pdf>) "You can think of the curriculum as the shadows cast on the wall by the light of education as it shines over, under, around, and through the myriad phases of our experience. It is a mistake to take these shadows for reality, but they are something that helps us find or grasp or intuit the reality. The false notions that there *is* a fixed curriculum, that there *is* a list of things an educated person ought to know, and that the shadow-exercises on the wall themselves *are* the content of education—these false notions all come from taking too seriously what was originally a wise recognition—the recognition that the shadows do in fact provide a starting point in our attempt to fully envision reality."

Abbott's eloquent speech was designed as part of the orientation exercises, a rallying cry for the entering class to make the most of their opportunities. It's a useful reminder, though, to recognize that in the debate over curriculum reform, we must look at what in the long run makes an educational impact. We must look for clues as to which shadow-exercises we should devise.

The Two Top College Education Experiences: Where the Impact is Actually Made

In my own survey, when I've questioned friends, colleagues, and alumni decades after they graduated, I've asked what actually mattered most in their college experiences. There have been two phenomena cited time after time, two kinds of educational experiences that made the most impact, no matter where, when, or what the individuals studied. And from watching hundreds of students make their ways through degree programs and on out into the world, I've observed that those who have had these experiences are the ones who tend to fare the best in transitioning to the professional world. If I had a magic wand to wave over every school's curriculum deliberations, I'd wish these were the transformational experiences all students would have.

The Mentor Phenomenon

One of the most important experiences a college education can provide is that of making a strong personal connection with a caring faculty member who challenges, encourages, and dares the student to expect more of herself or himself. An ideal mentor is someone who coerces a student into having a more ambitious mission—not just a career—in life. Such mentors serve both as models and as mirrors, reflecting back on students a view of themselves as capable and full of potential. With such a mentor, a student dreams bigger. Music departments may have the advantage in this over others, since performance majors spend the most intense part of their programs studying one-on-one with a master teacher. However, true mentor-matches are probably made in heaven, not in studio teacher or advisor assignments; institutionalized mentoring programs often leave much to be desired. The important thing is satisfying a student's hunger for the attention of an inspiring adult role model and the challenge of working with a mentor. And schools can do better to help make more authentic, substantive mentoring possible.

Harvard Professor Richard Light's studies and finding on students' college experiences are detailed in his book, *Making the Most of College: Students Speak Their Minds* (Harvard University Press 2001). In his article "The Power of Good Advice for Students," Light writes, "Good advising may be the single most underestimated characteristic of a successful college experience." [See <www.psu.edu/dus/mentor/010501rl.htm>, the article first appeared in *The Chronicle of Higher Education* on March 2, 2001.]

Mentoring comes in all shapes and sizes. At Juilliard, Eric Booth directs an innovative mentoring program that pairs first-year students with a faculty mentor outside her or his major area (music students are paired with either a dance or theatre faculty member). The point of the program is to help students acclimate to college life, and to the wider world of the arts, to help them think and dream beyond their specific arts discipline, and to make a connection with a mentor who sees and hears them outside of their specific artistic *métier*. The faculty mentors receive extensive training to help them with non-judgmental listening skills and many have reported this has been a boon to their teaching. Eric Booth has written about the program in *Chamber Music* magazine (August 2005).

In the end, whether a student finds a mentor on his own, through a class, a work study job, or through a program, the objective is to make a connection with a trusted adult role model.

The Power of a Project

The second educational phenomenon I've found to have a lasting impact on students is the experience of becoming fully engaged in a challenging project, something that ignites her or his imagination and motivation. Projects that have lasting impact are those that demand the best of a student's intelligence and put to the test her or his assumptions and world views. These projects (in the best cases) involve working closely with other students and one or more faculty members both on and off campus. Such projects can connect a student's learning to a community beyond the campus and to a future the student can envision. I envy schools such as Oberlin that have a "winter term," with the month of January earmarked for such student projects.

But the most important aspect of any student project—whether it is a thesis or a community service project, starting a concert or lecture series, or working as editor of a fledgling newspaper—is that it be *fueled by the student's initiative*. The student ends up taking responsibility and therefore owns her or his learning. Such a project can be the light of an actual education (in Abbott's terms), or the petri dish where critical thinking, analytical skills, communication, organization, and interpersonal skills are all developed. But ultimately, it's where a student has the opportunity to discover her or his mission, and finally, to gain the confidence that she or he will live a meaningful life.

Recommendations

So here are my suggestions, for all of us involved either intimately or peripherally with curriculum reform efforts.

First, let's temporarily set aside the worries about specific course and distribution requirements for any major—the credit hours, the numbers and choices of electives, the nitty-gritty—so that we can consider the big picture. Let's consider the essential questions. What do we want an undergraduate degree to provide? What is the ultimate goal of an education? How can we best deliver on the promise of a college education? Struggling with these essential questions is an exercise that can transform the day-to-day interactions we have with students.

Then, consider how we can best help students own their learning, to engage fully with faculty, ideas, opportunities, and community offerings. Of paramount importance is establishing a strong one-on-one faculty connection, a true mentor relationship. And beyond this, the other essential college experience is that of a truly engaging independent project.

These are the two best ways I've found that programs deliver on the promise of an education. We should design curricula so that more students have these optimal experiences. We should design curricula for all majors that provide more opportunities for these experiences. We should ask that more courses provide for such connections and projects to flourish. By designing curricula with more connection points for students we will be well on our way to achieving real curriculum reform.

Since 1993, **Angela Myles Beeching** has directed the Career Services Center at New England Conservatory, a comprehensive music career center internationally recognized as a model of its type. As faculty at the Conservatory, she also teaches the Professional Artist Seminars. She previously taught at California State Fresno and at SUNY Potsdam. A Fulbright scholar, Ms. Beeching holds a doctorate in cello performance from SUNY Stony Brook. Her book, *Beyond Talent: Creating a Successful Career in Music*, was published by Oxford University Press in 2005.

Reviews

An Educator's Perspective on the Film, *Tom Dowd & The Language of Music*, produced and directed by Mark Moorman, 2003. Distributed by Palm Pictures, available on DVD.

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A Confidence Man Revealed

I'm one of the lucky ones. I can actually tell my students that on a fall evening in 1997 I got to meet and shake hands with one of the true giants of the twentieth-century recording industry—Thomas John Dowd. He was presenting a lifetime achievement award to my friend, engineer Al Schmitt, one of a long line of storied Dowd protégés. The admiration between the two recording masters was palpable, and standing between them backstage, the feeling can best be described as love. That intense feeling is one that is shared over and over throughout Mark Moorman's outstanding ninety-minute documentary, *Tom Dowd & The Language of Music*.

At its heart, this is a simple love story. Dowd, who passed away in 2002, found a way to create the ultimate environment, both artistically and technically: one that allowed an unbelievable range of artists such as Eric Clapton, Aretha Franklin, John Coltrane, Bobby Darin, Ray Charles, Thelonius Monk, and The Allman Brothers Band to achieve their most notable recording accomplishments. For that, he earned their eternal admiration and respect. Dowd represented a prefect balance between a passionate man of music and a technological revolutionary. It's safe to say that from Edison's invention of recording in the late nineteenth century, up until the latter twentieth century, there have been few, if any, whose imprint on recorded music is greater.

As an educational tool, the film is unparalleled for showing future generations of musicians, producers, and engineers the path to true greatness as an engineer or producer. Dowd's secret, if there was just one, was that no matter who he worked with, they trusted him implicitly as he brought out their finest musical achievements. In the words of Eric Clapton, "When I started out I didn't have any interest in 'background-boys' like Tom. [That changed] later when I'd seen how musically proficient he was […] he really [did] know music much more than I had any grasp of. So in those days whenever I had an idea or wanted to record something, I would always think of Tom first, above anyone else. He was like a father." For those seeking to master the art and craft of recording, there can be no higher praise. Simply put, great artists must have ultimate confidence in those whom they entrust to help them realize their art. Dowd was the master confidence man when it came to nurturing great music.

More importantly, from an educational perspective, he was a well-rounded, caring thinker, a far cry from some of the self-absorbed producers of today. This comes through loud and clear in many of the Dowd narratives Moorman interweaves throughout the dozens of clips featuring musical legends reminiscing about their relationships to their esteemed colleague.

As a teenager, Dowd's native intelligence in science was recognized and he was invited to work at Columbia University as part of the team developing the theoretical foundations for the atomic bomb. In 1946, he left military service. Upon finding out that he would have to re-enroll at Columbia as a freshman, and be forced to learn pre-1940 science (after he had basically helped rewrite the rules of physics and chemistry as a Manhattan Project team member) he opted out of academe and instead found his calling in the music recording industry.

Dowd's various talents are further articulated in two interviews with Southern rock icons, The Allman Brothers Band and Lynyrd Skynyrd. Both cite numerous examples of his amazing listening skills, boundless enthusiasm, and unrivaled innovation (he invented the use of the modern channel fader and revolutionized recording by popularizing eight-track recording a full ten years before the Beatles recorded *Sgt. Pepper's*). He had the ability to draw musicians further up the musical ladder, helping them achieve heights they may not have thought possible.

A talented musician in his own right, Dowd played piano, tuba, and bass. He could dissect an arrangement, instantly catch intonation problems, or suggest a new part that would turn a faltering song idea into a worldwide hit. The understated anecdote about his "Western movie" Indian drum beat (BUM-bum-bum-bum) suggestion for Cream's classic *Sunshine of Your Love* is worth the price of the DVD by itself.

Importantly, filmmaker Moorman also includes footage about Dowd's relationship with Stax Records and their integrated group, Booker T. and the MG's. Dowd rightly points out that in the 1960s, the MG's were not allowed to play in their hometown of Memphis or the South because of the strict prohibition of interracial acts. When he brought them to New York, and later London, they became internationally acclaimed. This sensitivity, be it musical or personal, is another hallmark of the truly great in the area of arts production.

Near the end of the film, Dowd comments that most people believe him to be a mega-millionaire due to the vast catalog of hit production credits associated with his name. He mildly states, "Nope. Ninety percent of the records I made were pay for hire," meaning his estate earns not one cent in royalties when you hear Clapton's *Layla* or Aretha's *Respect* on the airwaves today. This was before the day of the three-to-four percent producers' royalties calculated back to record one sales. But there is not one ounce of remorse in Dowd's statement. It's clear to students that his payoff wasn't in the form of so-called "bling"—it was in the lifelong respect and relationships that he enjoyed his entire career, a treasure more precious than gold.

The final lesson I hope students learn from this film is taught through the words and images that demonstrate how invisible truly great producers and engineers must be. Helping artists to shine and connect with their audiences should be the producer's sole *raison d'être*. In the words of legendary producer Phil Ramone, who cites Dowd's influence on the art of producing, "so the star is the star, and the crew, everyone else, is there for them. You have to be prepared [as a producer] that your name is on the back of the record—if you're lucky."

If we hear and understand music as a true language of its own, Tom Dowd was certainly one of the finest interpreters of that language in modern times and as such, has much to offer our students today.

Keith Hatschek

Keith Hatschek heads the Music Management program in the Conservatory of Music at University of the Pacific in Stockton, California. Before joining academe full time, he was a part-time instructor at San Francisco State University's Music and Recording Industry program for seven years. He has been employed in the music industry for more than thirty years as a musician, recording engineer, producer, recording studio owner and manager, and finally as founder of his own music technology marketing and public relations firm. He lectures frequently around the country on music industry careers and consults with a number of music industry companies.

He is the author of the book *How to Get a Job in the Music and Recording Industry* published by Berklee Press (2001). His forthcoming title *Golden Moments: Recording Secrets From the Pros* is a compendium of insightful conversations with more than sixty leading recording engineers and producers illuminating the technical and aesthetic facets of record-making. It is due to be published by Backbeat Books in late 2005. He contributes frequent essays on the music industry to various print and online publications. Professor Hatschek's professional affiliations include Voting Member and past chapter Vice President of the Recording Academy, an Associate Member of the Audio Engineering Society, a NAMM-Affiliated Music Business Institution (NAMBI) member, and Music and Entertainment Industry Educators Association (MEIEA) member.

***Beautiful Dreamer: Brian Wilson and the Story of SMiLE.* David Leaf, Producer/Director, Rhino, 2005.**

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This two-disc package of *SMiLE* features several pieces including the documentary *Beautiful Dreamer: Brian Wilson and the Story of SMiLE* and a 5.1 Surround Sound live concert performance of *SMiLE*. Also included are several extras such as recording outtakes, extra interviews, performances, a photo gallery, and a music video. This review focuses on David Leaf's documentary.

There have been several films that have tried to capture the essence of Brian Wilson during the *SMiLE* period including Don Was' *I Just Wasn't Made for These Times*, *Endless Harmony*: *The Beach Boys Story* and *The Beach Boys: An American Band*. However, it is Leaf's documentary that truly encapsulates both the history and contemporary struggles of Wilson during a thirty-seven year personal journey to complete this album.

We have all heard the stories: a kid from Hawthorne, California—deaf in one ear, abused and controlled by his father—co-writes, produces, and arranges twenty-three top-ten hits by the time he is twenty-one. Two years later, he goes on to make *Pet Sounds*, one of the most reveled art-pop records of all time. After *Pet Sounds*, Wilson embarks on his most ambitious effort yet, "a teenage symphony to God" entitled *SMiLE*. Then Wilson suddenly abandons the project and slips into a thirty-year depression;

SMiLE remains a mythical piece of music until 1995. So what is the real story? David Leaf attempts to resolve this equivocal question in his film.

Beautiful Dreamer portrays Wilson as a genius in the long lineage of American composers like Gershwin, Porter, Bacharach, and Bernstein. There are several key players on the DVD paying homage to Wilson, including Jimmy Webb, Burt Bacharach, Sir George Martin, Elvis Costello, Roger Daltrey, Rufus Wainright, David Anderle, and Danny Hutton. However, the most interesting dialogue and warmth is found in the conversations and interchanges between Wilson and Carol Kaye and, separately, with collaborator Van Dyke Parks.

The revealing scenes with Wilson at the piano are the highlight of the first half of the film. We get to witness the motifs of *SMiLE* flow effortlessly from Wilson's fingers. Wilson also concisely explains why he shelved the project.

Leaf attempts to shows us how *SMiLE* is a link in a chain of divinely inspired experimental art music along with *Rhapsody in Blue* and *The Firebird Suite*. He even employs a fascinating clip of Wilson singing *Surf's Up* on a 1967 Leonard Bernstein television special, *Inside Pop: The Rock Revolution*.

The film is quite humorous in parts with collaborators reminiscing about Wilson's eccentricity and silly pranks. Whether it's writing piano songs in a huge sandbox, setting up an Arabian-style tent in the front room of his Bel Air mansion, or hosting vegetable-eating exercise sessions, Wilson was definitely out there.

The second half of the film grows a little cumbersome as Leaf follows Wilson's band as it prepares the live rendition of *SMiLE*. Watching the songs come alive in rehearsal is inspiring. However, having to watch exposé after exposé about Wilson's depression and nerves gets tiring and the continuous spurring by band members to get out of the chair and sing could have been trimmed. And how could a camera magically appear in every important scene in Wilson's life? Perhaps some staging was involved in this part of the film.

Applications

Why is it important to ask recording students to watch this DVD? For one, it is a history lesson that spans thirty-seven years. Most students think of the Beach Boys as the "bubblegum" surf pop band of the 1960s and are not familiar with Wilson's legacy.

Secondly, Wilson can inspire students. His creative spirit was at its height in 1966 with his sandbox antics and his masterful compositions, arrangements, and productions. Watching Wilson perform *Good Vibrations* with Carol Kaye or compose *Wonderful* in a modular recording style (which Wilson invented) can demonstrate how a true innovator operates in the studio. This unfiltered look at the creative process reveals how to create musical works of art in the recording studio—not with Auto-Tune—but with true musical and technical skills.

Students see, through Wilson, how drugs may boost a career in the short run, but also drag one down the long road of depression and paranoia. They can see the dichotomy between being a touring musician and a studio rat. And they can see the true collaborative process in the interchange between Wilson and Van Dyke.

Students can learn how a young, visionary artist must take chances with a creative work. Leaf's film acknowledges that none of Wilson's friends had the vision to understand what he was doing. The Beach Boys disliked the record and Capitol would not release it. Yet thirty-seven years later, the album garnered three Grammy nominations and a "Best Rock Instrumental Performance" accolade.

Finally, students can gain from this film by absorbing Wilson's incredible spirit that persevered through periods of inexhaustible creativity and decades of darkness to finish what many consider a musical masterpiece. Leaf's film is a true gift for fans and students alike. As most of today's pop music longs for creativity and meaning, it is promising to see a film that portrays an artist who, like Van Gogh, "feels deeply and tenderly."

Dave Tough

Dave Tough, MBA is Instructor of Music Technology in the Entertainment Industry Center at the University of North Alabama. He has worked for Capitol Records, Warner Chappell Music Publishing, BMG Music Publishing, TAXI, and served as a consultant for WEA. Prior to coming to the University of North Alabama, Mr. Tough was Assistant Professor of Music Business at California State Polytechnic University, Pomona. He has also served as an adjunct professor of recording technology at UCLA and Belmont University. He holds a Bachelor of Arts degree in Music from the University of North Texas, a Master of Business Administration from

Pepperdine University, and an ADR certificate from Pepperdine School of Law. Mr. Tough is currently pursuing a doctorate degree in education at Tennessee State University.

His research interest is in the area of recording arts curriculum development. In addition to his university teaching, Mr. Tough has produced, engineered, and written for several independent artists in Los Angeles and Nashville. He has also written commercials for several area businesses. Tough operates his own music publishing and production company, Real Life Music (www.reallifemp.com). He is a member of The National Academy of Recording Arts and Sciences (NARAS); The American Society of Composers, Authors, and Publishers (ASCAP); the Music and Entertainment Industry Educators Association (MEIEA); and serves on the Audio Engineering Society (AES) committee in Nashville, Tennessee.

Robin Meloy Goldsby. ***Piano Girl: Lessons in Life, Music, and the Perfect Blue Hawaiian*****. San Francisco: Backbeat Books, 2005.**

https://doi.org/10.25101/5.12

Jacob Slichter. ***So You Wanna Be a Rock & Roll Star: How I Machine-Gunned a Roomful of Record Executives and Other True Tales from a Drummer's Life*****. New York: Broadway Books, 2004.**

https://doi.org/10.25101/5.13

Blair Tindall. ***Mozart in the Jungle: Sex, Drugs, and Classical Music*****. New York, Atlantic Monthly Press, 2005.**

https://doi.org/10.25101/5.14

These three books explore a portion of the broad spectrum of challenges involved in making a living in music. Goldsby is what is generally called a "lounge pianist," Slichter was a drummer for the one-hit-band Semisonic, and Tindall was a freelance oboe player in the classical music jungle of New York.

The three writer-musicians had different aspirations from the beginning. Goldsby *enjoys* sitting in a lounge and noodling for a group that varies from polite dinner guests to depressed alcoholics. Slichter's band had a brief go at the big time for MCA, which Slichter not so fondly describes as the "Music Cemetery of America." Tindall wanted to land an orchestral job with a major symphony, and although she did indeed sub regularly with the

New York Philharmonic, she ultimately became reconciled to playing Broadway shows, occasional jingles, and chamber music gigs.

The most intriguing aspect of the three books is the commonalities that faced these three musicians—despite the profound differences in their musical training and ambitions. Along the way each writer informs us about the nature of his or her chosen path. Tindall freely confesses that most of her gigs came from romantic relationships with other oboe players. Her entire musical lifetime has been a quest to find a reed that enables her to play up to her high standards. She doesn't reveal whether anyone ever tried to help her in this Don Quixote-like quest. Throughout the book she shares odd and interesting aspects of the classical music world. For example, in a piano-violin duo concert, Itzhak Perlman earned more than thirty times the $1,000 fee that Tindall's friend Samuel Sanders received for his services. Along the way we find that classical musicians are just as eccentric and competitive as their colleagues in the pop world, and just as likely to indulge in drugs, alcohol, and promiscuous sex. I doubt that this will come as too much of a shock to our readers. Of the three musicians, it is Tindall who burns out, moving to a career in journalism and limiting her playing engagements. Along the way she portrays the realities and hardships of auditioning for a symphony job, something she did on a number of occasions.

If Tindall is somewhat bitter about her unsuccessful lifelong quest for a symphonic gig, Jacob Slichter is more bemused at the chaotic world of rock and roll. Slichter is self-effacing in describing his musical abilities as a drummer, but he quickly catches on to the way the rock and roll business operates. The band goes through the honeymoon period with its label, and makes a series of expensive but ineffective videos. Nothing seems to be happening. The band's first album sells only fifty thousand copies, leaving them heavily in debt to MCA. The label isn't crazy about the next one either, but Nancy Levin, the new head of radio promotion for MCA, believes that *Closing Time* is a smash and she gets it played on KROQ in Los Angeles. Everyone's dreams come true—the song is a major hit. The bad news, of course, is that the band is unable to follow up with another hit, and the videos have cut so much into its royalty fund that the band derives no financial benefit from the record. Semisonic ultimately breaks up, although they remain friends, and Jake has written this enjoyable and very credible book.

It was very intriguing to find that Robin Meloy Goldsby actually enjoys her work as a lounge pianist. It has taken her to all sorts of fancy hotel piano bars and international resort gigs. Ultimately she married a bass player and now performs in Europe. Along the way she endures a stalking, insults by strange saloon habitués, and various romantic miseries before finally finding a husband and a niche in European society gigs. This book is an interesting study because while most musicians want to be listened to, a lounge pianist is basically musical wallpaper—the human face of Muzak. For the relatively unambitious musician, this is a low-pressure endeavor. The most consistent annoyance is that the maître d' invariably asks the pianist to "turn it down," no matter how softly she may be playing. Some customers seem to have a similar reaction. If the musician can get over that aspect of the gig, it isn't that difficult a job. The downside is that there are few occasions when anyone is really listening.

All of these books are fun to read, and represent an entertaining take on the reality of the life of a working musician.

Dick Weissman

Dick Weissman is an active performing musician and composer who has written eleven published books about the music business. His most recent book, *Which Side Are You On? An Inside Story of the Folk Music Revival in America,* is published by Continuum.