Re-Thinking Crisis in the Digital Economy: A Contemporary Case Study of the Phonographic Industries in Ireland

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Declaration:

I hereby certify that this material, which I now submit for assessment on the programme of study leading to the award of Doctor of Philosophy is entirely my own work, that I have exercised reasonable care to ensure that the work is original, and does not to the best of my knowledge breach any law of copyright, and has not been taken from the work of others save and to the extent that such work has been cited and acknowledged within the text of my work.

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Abstract

Many commentators and reports popularly place the record industry in an increasing state of crisis since the advent of digital copying and distribution. This thesis addresses how the interplay of technological, economic, legal and policy factors, particularly the copyright strand of intellectual property law, shape the form and extent of the Internet's disruptive potential in the music industry. It points to significant continuities regarding the music industry in an environment where it is often regarded as experiencing turbulence and change, and in doing so the thesis challenges the form and extent of the crisis the music industry currently claims to be battling.

The thesis questions the impact the internet is having on the power or role of major music companies, their revenue streams, their relationships with other actors in the music industry chain and their final consumers. The thesis further questions the extent to which the internet has evolved to realise its disruptive potential on the organisation and structure of the record industry by democratising the channels of distribution. It also serves to illuminate the impact of the internet on the role of more traditional intermediaries, particularly radio, in the circulation and promotion of music in the contemporary era.

For its primary research material, the thesis draws on a series of thirty-nine interviews conducted with record industry management and personnel as well as key informants from the fields of music publishing, artist management, music retailing, radio, the music press, related industry bodies and policy fields, and other key commentators.

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Chapter 1: Introduction

1.1 Introduction

For over forty years Simon Napier-Bell has worked as a songwriter, record producer and author, but he is best known as the manager of a number of successful international recording acts including Eric Clapton and the Yardbirds, Marc Bolan and T-Rex, Boney-M, Japan and Wham!. In a 2008 newspaper article entitled 'The Life and Crimes of the Music Biz' he somewhat gleefully describes the music industry as 'careering towards meltdown' (*The Observer – Music Monthly*, 20th January 2008, p.41). Focusing on six key music industry executives from the present and recent past, Napier-Bell dramatically outlines how just four major music companies[1] have usurped almost all rivals and grown to increasingly dominate a business that is 'distinctly medieval in character: the last form of indentured servitude' (ibid). In Napier-Bell's sensational account, a core group of notorious moguls control and operate these companies and use bullying and thuggery to extract products and performances from their employees and artists. He accuses these companies of being 'intentionally fraudulent' and practising 'systematic thievery' from their artists (ibid: 45). However, he now sees each passing week heaping more gloom on these majors who are seeing their record sales plummet, and consequently losing their grip on the industry as the internet renders the machinery of the music corporation obsolete. The music companies, Napier-Bell concludes, were never the guardians of the music industry, they were greedy bouncers who have now become irrelevant. The internet has produced, for artists:

> …the moment to take things into their own hands. Artists no longer need to be held [by a label] for ten years, and they no longer need to sign away ownership of their recorded copyrights. These days, an artist working closely with his manager can ensure that everything is done in the artist's best interest. (Napier-Bell, 2008: 41)

Napier-Bell's account is decidedly sensational and not only must we consider that it reflects the biases he evolved over four decades of negotiating and battling with the big industry players, but also that Napier-Bell himself is a character of considerable

[1] These companies are the Universal Music Group (UMG), the Warner Music Group (WMG), Sony Music Entertainment and EMI – the four corporate players whose combined share of the global recorded music market has, over the past decade, fluctuated between 70%-80% and, by 2007 had grown to account for 92% of the Irish market (IFPI, 2008).

controversy and notoriety[2]. Sensationalism aside, his perspective on the evolution of the music industry to this point in history is illustrative of two commonly held and frequently relayed assumptions:

1) The first is that major music companies - the 'bad guys' of the music industry – are facing ruin in light of recent and ongoing technological developments centred around the internet.
2) The second is that such technological developments, which enable the distribution and promotion of music online, have revolutionised the industry's core structure by enabling interface between artists and consumers minus the mediation of a large corporation.

Thus, the internet is widely perceived as having severely disrupted the roles and interests of established industry actors, and producing a 'new music order'. In short, change is the order of the day for the music industry.

Much discourse within and surrounding the music industry over the past decade has been predicated on two major themes:

1) A significant decline in recorded music sales and with this, questions surrounding the long-term viability of the music industry.
2) The concomitant transition to a digital milieu which has generated several salient problems for the record and music publishing industries, and how they make money.

The notion of a 'crisis of digitalisation' in the music industry has consistently echoed from various corners of the industry itself[3], and from the political establishment. For example:

> We run the risk of witnessing a genuine destruction of culture…The internet must not become a high tech wild west, a lawless zone where outlaws can pillage works with abandon, or worse, trade in them in total impunity. And on whose backs? On artists' backs.
> (Nicolas Sarkozy, President of France, November 23rd 2007)

Drawing upon these comments, the manager of U2 appealed to national governments around the world to force internet service providers to remove music file-sharers from their networks:

> I believe President Sarkozy truly caught the spirit of the age with that statement… It is a good rule of thumb that when it is the manager and not the artist getting the headlines, something is

[2] In the late 1980s he paid the UK Inland Revenue approximately £5m in a settlement relating to unpaid taxes; he also threatened to sue a British daily paper for defamation of character over allegations that he was heterosexual.

[3] See, for example, any International Federation of Phonographic Industries (IFPI) *Music Industry In Numbers* annual sales report from 2000 onwards.

> out of kilter. Well there is certainly something out of kilter with the music business today…The record industry is in crisis.
> (Paul McGuinness, speech delivered at *Music Matters* conference, Hong Kong, 4th June 2008)

Such crisis rhetoric has also consistently flowed from many quarters of the media. Headlines such as ‘The music industry…knee deep in a downloading crisis’ (*The Sunday Business Post*, April 6th 2008); ‘Industry crisis as album sales drop’ (*The Irish Independent*, January 14th 2008); and ‘Music industry in a flat spin’ (*The Sunday Times*, January 27th 2008); have become commonplace in news stories, features and opinion columns. Magazines such as *Globe and Mail* have carried features entitled “Want a snapshot of an industry in crisis? Take a look at the music business right now” (*Globe and Mail*, January 31st 2008). Such headlines are nothing new. In 2003 the *Financial Times* reported how the downturn in record sales revenues experienced by the Universal Music Group ‘underlined the severity of the crisis facing the world’s biggest record companies…a crisis created by the combination of stagnant sales, internet theft and rampant piracy’ (*The Financial Times,* June 17th 2003).

Furthermore, in 2002 Britney Spears, Eminem and Luciano Pavorotti headed a coalition of ninety recording artists and songwriters that placed full page advertisements in *The New York Times* and *Los Angeles Times* condemning the practice of internet downloading on the grounds that it threatened their careers. ‘It may seem innocent enough, but every time you illegally download music, a songwriter doesn't get paid’ the Dixie Chicks are quoted in the ad (*The Associated Press & Wire*, September 26th, 2002). Subsequently, established international artists such as Metallica and The Corr’s have appeared on main evening news bulletins denouncing the use of peer-to-peer services and claiming the future of the industry that enables them to pursue their artistic endeavours is under threat, as are their livelihoods and the conditions that facilitate musical creativity and the production of music recordings. Summer 2009 saw English pop singer Lily Allen, supported by counterparts James Blunt and Gary Barlow launch a blog campaigning against internet music ‘piracy’ (idontwanttochangetheworld.blogspot.com). Soundings from industry seminars and trade fairs have consistently echoed similar sentiments. Perhaps this doomsday scenario is captured most succinctly by *Irish Times* journalist Conor Pope who asks:

> Has music had its day?...Of the all the upheavals wrought by the internet revolution over the last fifteen years, the shake up in the world of music has been amongst the most profound. The consequence of free music downloads could end up destroying not just the shops that used to sell music, but an entire industry. (*The Irish Times,* Monday April 27th 2009, p. 15)

Moreover, such sentiments are also to be found echoing in the chambers of academia, most notably through the comments of those who argue the transformative power of digital technologies. As far back as the mid-1990s, Nicholas Negroponte, a professor at MIT and celebrated *guru* of the information age, argues that copyright would ‘disintegrate’, with everything capable of being reduced to streams of ones and zeros being potentially ‘up for grabs’ (*Wired.com*, February 1995). Society’s digital future would revolutionise traditional social and economic structures. Such an outcome could, potentially, collapse the established music industries. According to Negroponte’s intellectual peer, Kevin Kelly, the associate editor of high-tech publication *Wired* magazine: ‘The recording industry as we know it is history…[with] digital file-sharing technologies…undermining the established economics of music’ (*New York Times* Magazine, 17th March, 2002: 19-21). For Kelly, concomitant with the downfall of the major music company is the empowerment of the individual recording artist. Free from the shackles of entertainment corporations, those ‘musicians with the highest status are those who have a 24-hour net channel devoted to streaming their music’ (ibid). Indeed for Kelly (1996), the ‘new economy’ deemed to arise from digital technologies means the demise of the ‘old’ economic laws that have characterised the modern capitalist era.

Taking these various accounts at their word, we may deduce that from a lay person’s perspective, digital technologies pose a grave threat to the established music industry as a whole. Furthermore, this threat is being realised and the various attempts at nullifying or reducing its effects either through the application of technological safeguards (such as encryption or digital rights management technologies) or, via legislative means (i.e. the pursuit of infringing parties through the courts and the lobbying of institutions of governance at national and global level by the major music companies) have largely been ineffective. In short, the very existence of a recorded music industry in the near to medium-term future is commonly perceived as hanging in the balance with artists, record companies and retailers all facing the prospect of economic destruction. Media accounts critiquing these accounts of crisis and the extent of the claims made by the music industry regarding its collapse have been extremely rare, although not unheard of: for example, ‘The Big Question: Is the Crisis Facing the Music Industry as Bad as the Big Record Labels Claim?’ (*The Independent*, February 14th 2007).

The sum of the above accounts is that the music industry is experiencing radical upheaval in the wake of the ‘internet revolution’. In the more extreme cases, these accounts spell out changes that are leading to the destruction of an entire industry. These notions of change have become common-sense assumptions in much discourse surrounding the recent evolution of the music industry. It is against this background that the core questions of this research study have evolved. Thus, the central concern of this thesis is to examine change in the twenty-first century music industry. The key questions it asks are:

- ‘What’ has changed in the twenty-first century music industry?
- ‘Why’ has it changed?
- ‘How’ has it changed?

These questions in turn direct us to ask a number of others: Is the internet, as some of the afore-mentioned accounts have reported, inducing a ‘crisis’ that is signalling the collapse of the music industry? Or is it the case that it is producing a period of pressure that is resulting in an intensified restructuring and reordering within the industry? What, if any, implications do the widely reported decline in recorded music sales have for other music industry sub-sectors? Over a decade after the internet first emerged as a medium for the distribution and promotion of music, has the structure and organisation of the overall music industry been significantly altered? What are the characteristics of the contemporary music industry? To draw on Kelly’s words, does the contemporary music industry illustrate the ‘new rules for the new economy’ that were predicted to arise from the ability to digitise content and the rapid and widespread diffusion of internet technologies? Does this signal, as Negroponte predicted, the disintegration of copyright law? To what extent has the music industry ‘playing field’ been ‘democratised’? – By this, I refer to the increased opportunities offered to smaller businesses and recording artists for self-promotion and distribution. And how have the established music companies responded to the threats, challenges and opportunities associated with ‘being digital’? Furthermore, what continuities have been carried into the digital era? Do the changes that have occurred mark a radical transformation of this cultural industry sector, or do they merely mark a new way of doing the same things?

In producing answers to these questions this thesis will adopt a multi-level approach to institutional and organisational aspects of the industry's evolving trends as well as engaging with the context of wider political-economic change induced by the adoption of neo-liberal doctrine as the dominant political ideology of the Western world.

As the music industry is the key focus of this study, it is necessary to define more precisely how I interpret this term. This forms the next task of this introductory chapter.

1.2 Matters of definition: Which music industry is under scrutiny here?

While the term 'music industry' is now part of everyday parlance, defining the term can be problematic. Firstly, 'music industry' implies a homogenous industry with a unified and cohesive set of interests and aims. Such an interpretation of the term oversimplifies the organisational structure of the industry and overlooks the complexities of an industrial arena comprising of several disparate entities with some shared interests and objectives (Williamson and Cloonan, 2007). Thus, representations of the music industry are frequently misleading and confusing. Thinking in terms of music industry 'singular' misrepresents the organisational structure of the global music economy in the first decade of the new millennium. Viewing this economy as anything other than:

> …music industries plural is simplistic and does little to aid understanding of those cultural industries which are primarily concerned with the creation, management and selling of music either as a physical/digital product, a performance, or as a bundle of intellectual property rights. (Cloonan and Williamson, 2007: 305)

What is more significant for this research and thesis is the frequent conflation of the music industry as a whole with just one of its constituent industrial sectors – the recording industry. Such a misleading representation is partly fuelled by the record industry's own representative trade bodies. For example, on its website, the International Federation of Phonographic Industries (IFPI) – a trade body representing the interests of the recording sector globally, but dominated by the four major record companies that account for almost eighty per cent of the global market (Sony-BMG, Universal, Warner's and EMI) – proclaims 'music' as 'one of the great global industries' (www.ifpi.org). Thus, the record industry portrays itself as representing the music industry. IFPI proceeds to state its aim as 'promoting the value to modern economies of a thriving, legitimate music industry' (ibid). Such an overstatement is misleading and distorts the picture of what constitutes the music economy. The IFPI consistently lobbies for the extension and expansion of copyright laws to tackle the problems and issues they present as threatening the music industry as a whole. For example, IFPI's most recent *Digital Music Report* states that:

> The vast growth of illegal file-sharing quite simply threatens to put the whole music sector out of business…95% of all music is downloaded without payment to artists or producers … [Governments must] accept that in the debate over 'free content', and engaging ISPs over intellectual property rights, 'doing nothing' is not an option. (IFPI, 2009a: 3).

The record sales revenues published by the IFPI are most commonly treated as music industry revenues, to the neglect of other sources of income. Thus, the downturn in sales revenues reported by the IFPI throughout the first decade of the new millennium is popularly perceived as a music industry 'crisis' where the music industry requires saving from the threats of online file-sharing networks and piracy.

This blurring of distinctions between the record industry and the music industry has been assisted by media use of the term 'music industry' when describing what is exclusively a recording industry downturn. The media accounts referred to in section 1.1 above illustrate this. In addition, the various legal actions taken during the past decade by the major record companies or their representative trade groups against the producers and suppliers of file-sharing technologies, network users, and network service providers are routinely portrayed in the media as legal proceedings instigated by the music industry. Portraying the 'music industry' as a unified whole rather than identifying the recording industry as a smaller, less economically significant component within the broader music industries serves to increase the lobbying influence of the four major record labels and the IFPI. It must also be noted that the statistics produced by the IFPI are almost always relayed as fact via the press, and rarely critiqued or questioned.

As noted, many academic accounts have also long since adopted the term 'music industry'. Harker (1997), Laing, (1986), Rothenbuhler and McCourt (1997) and Lopes (1992) all conflate the record industry with the music industry, referring to their respective studies a 'music industry' studies, yet focusing solely on the recording industry. In other accounts, such as Burnett (1996), Chapple & Garofalo (1977), Frith

(1978, 2001), Frith & Goodwin (1990), Longhurst, (1995), Negus (1992; 1999), Shuker (2001) amongst many others, the recording industry is privileged in the level of coverage it receives relative to other sectors on music industry activity. For example, Negus (1992) devotes only two pages of his entire book, *Producing Pop*, to factors other than the recording industry. Here, I wish to flag an imbalance in their accounts and highlight how easily the conflation of record industry with music industry can occur.

However, it is essential to recognise that recording is just one component of a broader chain of industrial activities. In this research study, the use of the term 'music industry' will therefore imply a core group of industrial sub-sectors, namely, the record industry, the music publishing industry, the live music industry and the music merchandise industry. Surrounding this core there also exists a broad network of ancillary activities. Given that this study is conducted from an Irish base, and primarily within an Irish context, it is best categorised as a study that focuses upon the music industry in Ireland. Here, it is necessary to further clarify what this study infers (and doesn't infer) by the term 'music industry' in a specifically Irish context.

Over the past three decades, Ireland has become synonymous with music industry success stories. In terms of market size, Ireland has consistently ranked inside the top twenty-five recorded music markets in the world, and as such is 'significantly ahead of markets with larger populations such as those in Denmark and Greece' (O'Flynn, 2004: 53). Equally, the global success of such acts as U2 and Enya in recent decades has seen them as listed amongst Ireland's largest exports. In terms of music production, Strachan and Leonard (2004) cited Ireland as the fourth largest producer of hit records in the EU through the mid-1990s (behind USA, UK and Germany). The Music Board of Ireland (2002) estimated that global album sales for Irish artists exceeded 56 million units in 2001 – This accounted for no less than 2.3% of the world market. However, as O'Flynn indicates: 'A narrow selection of Irish-produced music enjoys a disproportionately high share of international music sales' (2009: 200), and as such, the above examples and statistics serve to illustrate but a small portion of the spectrum of music production and practice in contemporary Irish society. In the case of Ireland, O'Flynn identifies three specific spheres of music production and practice: beyond the popular, O'Flynn also points to a folk and traditional music industry as well as a classical/art music sector that in itself comes heavily subsidised by the state. Here, it is necessary to further clarify the parameters of this research study by explicating the realms of music production and distribution that it does not address or (intentionally) comment upon. While the findings of this study *may* well be seen to apply to the two latter categories identified by O'Flynn, the study does not itself claim to address these spheres of activity. As will be indicated in section 1.5 below (and expanded upon in much greater detail in chapter 5), the core empirical research produced during the course of this study is based on indepth interviews with thirty-nine key music industry professionals/informants. Here, it must be acknowledged that the vast majority of these participant interviewees are primarily engaged in what may be most accurately described as the 'popular' music industry. As such, this thesis should primarily be seen as a study of the popular music industry from an Irish perspective.

1.3 The music industry is a rights-based industry

It is now over twenty years since Simon Frith declared: 'For the music industry, the age of manufacture is now over' (Frith, 1987: 57). Frith's declaration was premature given that the compact disc, then in its (relative) infancy, would evolve to yield super-profits for an industry that would, on the back of this technological innovation, enjoy significant year on year growth for almost a further decade an a half. Frith's key point here, however, is extremely pertinent and central to forming a more in depth perspective on the state of the music industries at the end of the first decade of this new millennium. The music industries are organised less around the making of 'things' and more around the creation and exploitation of 'rights'.

As Frith states: 'each piece of music represents a basket of rights' (ibid). So, aside from the direct sale of physical (and subsequently digital recordings), when recorded music is re-used for other purposes, copyright holders receive royalties from the use of recordings and the use of the content contained on them. The proliferation of outlets for music across a variety of media platforms in recent decades means that the decrease in demand for compact disc by music consumers as illustrated by industry sales statistics coincides with a concomitant increase in multi-use music content. Thus, the 'secondary' use of music by, for example, broadcasters, filmmakers and advertisers and, across a range of digital platforms provides revenue streams for recording and music publishing rights holders alike. Examining the reported collapse of record sales revenues in the context of these expanding traditional and emerging avenues for the exploitation of music copyrights helps to paint a fuller picture of the music industries, even if one potentially less useful to the IFPI and its constituent members when it comes to lobbying policy makers for legislative changes to produce longer and stronger copyrights. As Frith noted:

> Providing sounds for radio and television, for films and advertisements, for computer games and mobile phones, for public spaces generally, is nowadays as commercially important as directly pleasing the public. (Frith, 2004: 176)

So music, as a cultural industry that had formerly been studied in terms of manufacture (e.g. Gillett, 1975; Hirsch, 1972; 1980; Peterson, 1976) was, from the mid-1980s onwards increasingly understoond as a service industry based around the creation and exploitation of rights (e.g. Frith, 1986; 1987; Laing, 1993; Litman, 1991; 2001). As we will see in the chapters ahead, copyright law – the legal 'form' of the information age (Boyle, 2008) – is increasingly used by the music industries to extend their property rights and to defend themselves against the threats carried by technological innovations to their revenue streams. According to King (2002), the term 'music industry' describes 'a complex network of rights owners and network users, a continual flow of rights income which seems inexhaustible, and sometimes, indeed, quite random.' (cited in Frith, 2004: 176). It is therefore necessary to consider the role of copyright in relation to the evolution of digital technologies, and the overall outcome of the music industry to date. In fact, beyond any pre-occupation with music, a research study that proposes an examination of the internet as a medium for the distribution and circulation of culture per sé, must consider the question of legal rights and issues arising from copyright (Boyle, 2008; Gillespie, 2007).

Music copyright and the shaping of the digital distribution domain

Ever since the industrial revolution, radical technological innovations have frequently operated to disrupt the existing industrial and organisational structures and the prevailing 'rules of the economic game' between different players and interests within the established industries. Often such radical innovations have given rise to entirely new industries and/or enabled the rise of significant new firms within particular economic sectors. The same applies to the internet, even if we must seriously deflate much of the transformative hype and digital deliria that surrounded its initial diffusion curve in the late 1990s. For, like other radical technological innovations, the internet, with its relatively rapid and widespread diffusion may be taken as having the potential to seriously disrupt the existing industrial structures and rules of the economic game, especially between different players within the media industries. This includes the potential to disrupt the power or role of existing media firms and their established industrial practices and interests, not least in the case of the music industry which is our primary concern here (Preston, 2001; Burnett and Marshall, 2003). Indeed the power of entrenched interests may also serious limit or subvert any disruptive potential (Winston, 1998).

Indeed, with regard to the music industry, the internet has been widely perceived as possessing a particularly disruptive potential, especially in terms of the established music corporations' relationships with (or modes of service delivery to) their final consumers. This is because the internet's application and use in the music industry has been widely defined as having most direct impact on the sphere of distribution, the key control stage or moment the overall value chain in the music industry (as in all other media industries). In this sense, the internet may be defined as having relatively more disruptive potential than the prior major technical innovation that preceded it in this industry: the development of the CD player and disc. (The latter proved to be a real boom technology for the music industry since it provided the platform for a decade-long period of super-profits, despite some tame and relatively fruitless efforts at regulatory intervention to protect consumer interests).

However, a historical perspective also indicates that the precise socio-economic outcomes of radical technological innovations (such as the internet) have rarely been read or predicted with any accuracy from the latter's apparent technical features, not least those envisaged and proposed by their designers and suppliers (Winston, 1998). Rather, the widespread adoption and appropriation of radical technological innovations (especially inter-related clusters of same) must also be accompanied and facilitated by a diverse set of 'matching' innovations. The latter may be considered as relatively autonomous from any 'inherent' technical considerations, characteristics or trajectories and they include organisational, industrial, social and institutional (including policy) innovations. Hence, the precise outcome of any radical technological innovation (i.e. in terms of its socio-economic effects) is always the product of conflicts and struggles between different interest groups in domains that are often far removed from any predominantly ‘technological’ logic or trajectory (Winston, 1998). The full working out and embedding of such complex sets of innovations involves a process of social learning which may require a relatively extended phase of social struggles, trial and error experimentation, and social learning processes (Preston, 2001).

We can draw upon historical insights from past research on radical technical innovation processes to inform our approach to the internet and its applications in (and social or economic implications for) the music industry today. These indicate how we must move beyond technology-centred analysis to address the empirical interplay of key socio-economic interests and powers that are framing the practical application and/or appropriation of the internet. In this light, we are here concerned with how such interplay shapes the form and extent of the internet’s disruptive potential in the music industry. In the contemporary ‘information society’ or ‘knowledge economy’, this also means that we must pay special attention to one particular area of conflict and struggle over ‘matching’ policy innovation – that related to the intellectual property rights regime. Thus, this research must be attentive to the shaping of digital distribution technologies, their implications for the relationship between music industry determinations and music-user sovereignty. The significance of the copyright strand of intellectual property law to the shaping of digital culture is most lucidly illustrated through the works of Boyle (1997, 2008), Lessig (2001). Equally, as Gillespie argues, the widespread adoption of the internet changes ‘the game’ not only technologically, but politically, economically and culturally as ‘copyright now faced a technology that dramatically reimagined how and by whom culture is produced, sold, distributed and consumed’(Gillespie, 2007: 5). In such a threatening environment, ‘those in power turn to the stability and authority of existing law; using the law they tame the new technology into submission’ (ibid: 11). Thus, it is imperative that this research study examine the evolving ‘nature’ of copyright to the evolution of the music industry in the internet era.

Thus, copyright is a key thread that runs through the spine of this thesis.

1.4 Why study the music industry through its relationship with the internet?

Napier-Bell details an industry that has been and is controlled, almost exclusively, by a small group of very powerful players. Since the late 1970s concentration has increased significantly and, for the first two of these decades so too did profits. It will soon be a decade since compact disc sales reached saturation point in the majority of advanced capitalist societies. Since then, the record companies own sales statistics detail a significant and continuing decline[4]. This, combined with their extensive staff cuts and the closure of many significant retail outlets, paints a decidedly unhappy picture for the record industry as a whole. All of this contrasts greatly with the decade prior to the turn of the millennium when year after year, this same industry boasted remarkable growth.

The past decade has seen developments, primarily associated with digital technologies, that are widely viewed as key causes of the decline of this industry and the diminishing power of the major record companies. Developments in hard-drive recording have greatly reduced the costs associated with generating recordings and greatly increased accessibility to the whole recording process. The development of the MP3 file and subsequently peer-to-peer file sharing software has enabled the duplication and circulation of music among consumers to proliferate, and provide the major companies in the industry with questionably the most significant challenge of their history. As noted above, much commentary has detailed the collapse of the recorded music industry as peer-to-peer file-sharing is widely perceived to have decimated the market for physical recordings (e.g. Liebowitz, 2002). Napier-Bell's conclusion echoes the perception of many commentators (e.g. Barfe, 2004) that such developments have consigned the record industry as we know it to its deathbed. Like many other commentators, Napier-Bell heralds this situation as an absolute good as it democratises the entire music industry by giving greater power to both creative artists and music consumers and freeing them from the shackles of multinational entertainment/media corporations. In essence, the recorded music industry is in the throes of significant change and is still in the process of negotiating an extremely turbulent and critical junction. Developments in the record industry are being keenly

[4] Each year the International Federation of Phonographic Industries (IFPI) produces a world sales report entitled *The Record Industries in Numbers*. Each year of the new millennium has seen them detail falling overall global sales figures.

observed by the cultural industries as a whole, because the record industry is the first major sector of cultural production to face the challenges and opportunities associated with the internet. Peter Gabriel puts it thus:

> In some ways we are the canary down the mine, the first battle ground, but behind us goes anyone who creates anything that can be turned into data whether its software, films, pictures, music. (www.petergabriel.com)

For Boyle (2008), an assumption held by society is that in order for the market to 'work', goods must be 'rivalrous' – to use Boyle's analogy of a petunia farmer: 'If I have the petunia, you can't have it'; and also 'excludable' – 'The farmer only gives you petunias when you pay for them' (Boyle, 2008: 2-3). The received wisdom is that digitisation brings with it non-rival and non-excludable products, thus making digitised content extremely difficult to monetise. Here, Boyle invites us to 'pause…and inquire how closely reality hews to the economic story of non-rival and non-excludable public goods' (ibid: 3). This research study accepts Boyle's challenge and interrogates the 'received wisdom' regarding the economic impact of digitalisation on the music market.

MySpace, YouTube and internet blogs are now perceived as key intermediaries necessary for the generation of profile at consumer/user level. Traditional intermediaries such as radio and the music press are perceived to carry a decreasing level of significance. Furthermore, in this era of crisis for the record industry, we are increasingly told of the growth of the live music market, and the necessity for artists to be able to generate income through this, and other sources such as synchronisation fees as the market for recordings declines, possibly terminally.

In short, we are being invited to accept that prevailing relationships of power within the record industry are currently undergoing radical transformation. In the course of this thesis, I question the extent of this change, and ultimately contend that we are witnessing as much continuity as change in the structure and character of the music industry. Again, however, we must be mindful to acknowledge that while this thesis ultimately concerns itself with activities across the range of music industry sub-sectors, it does so almost exclusively within the realm of international popular music. The reader should thus be conscious that any similar such studies conducted in the realms of other major music styles clearly hold the possibility to produce different sets of findings and conclusions regarding the implications of the internet.

1.5 Methodological approach

This thesis first proposes a conceptual framework for understanding the dynamics of the record industry and broader music industries in terms of the discourse of contemporary capitalism, and how contemporary capitalism functions in relation to the production and consumption of recorded music. Furthermore, it must provide a framework for examining the role of digital technologies, particularly the internet in shaping these relationships, and other matching innovations from the social world in influencing or shaping the outcome of these technologies.

This thesis is predominantly qualitative in approach. The modus operandi incorporates an extensive literature review across several fields of enquiry relevant to this research. The theoretical framework arrived draws on the field of political economy of the media and, theories of techno-social relations. The former is crucial in understanding of the political-economic context within which the music industry has evolved in recent years. Given the primacy afforded to technology in the media, industrial and academic accounts outlined earlier, perspectives on the relationship between technology and society constitute an essential aspect of any analytical framework constructed to examine the role of the internet in the evolution of the music industry. Overall, this framework provides the critical structure for assessing, understanding and explaining the changes that have occurred in the music industry in recent years.

The core empirical research interrogating these relationships has primarily involved a qualitative methodology based on an extensive series of indepth interviews with thirty-nine key informants. The interviewees comprise of record industry personnel, music publishers, artist managers, live music promoters, record producers, recording artists, music broadcasting personnel, music journalists, policy makers and other key informants [see appendix A for a full list of interviewees and accompanying biographies]. This has produced approximately eighty hours of audio material, with the interviews ranged in duration from forty-five minutes to three hours. Many of the interviewees have worked in more than one field across these areas of occupation. The assembly of such an array of informants for my primary research has provided me with a unique, and extremely rich, information resource, based on the accumulated (and often tacit) knowledge of highly-experienced actors in the relevant fields directly related to his research. Many of these informants were very generous with their time and, indeed in some cases, recommended colleagues or former colleagues to be interviewees.

1.6 Outline of Chapters

Chapter two forms a conceptual framework that addresses the specific characteristics of the recorded music sector as a core institutions within the broader cultural and media industries. In examining how the characteristics or operations of the recorded music industry are shaped, it is necessary to follow Hesmondhalgh's (2006; 2007) lead and seek an understanding of how contemporary capitalism functions in relation to the production and consumption of cultural texts. This involves considering how cultural and media industries are situated within developments in capitalism as a whole. Chapter two aims at an understanding of cultural production in an era of neo-liberalism. This process requires a historically-grounded analysis of capitalism's early development to more comprehensively understand neo-liberalism's increasing emphasis on information, knowledge and culture. This, in turn, has the effect of highlighting the role of the intellectual property system in the contemporary cultural environment.

Given the central role attributed to technology, particularly technologies of digital reproduction and distribution, in inducing the apparent 'crisis' for the major music companies, and the potential associated with internet technologies for making the recorded music market more accessible and democratic, chapter three is concerned with examining theoretical perspectives on techno-social relations. Two core schools of thought are discussed here: technological determinism; and social shaping approaches to technology. Technological determinism assumes a paradigm shift in social relations and social organisation deriving from technological developments. It assumes a causal relationship between technology and social change. The predominance of technological determinist ideals in contemporary society is reflected in the fatalistic accounts of the record industry in the digital environment referred to earlier in journalistic, industry and academic spheres. Social shaping theories, on the contrary, offer approaches that afford primacy to the ability of social forces to mould the outcome of technology. While acknowledging the implications of technological innovation and development, this thesis ultimately emphasises the role of other political, economic, legal and cultural variables in shaping the outcome of internet technologies in the music industries and, the evolution of these industries over the past decade and a half.

Chapter four primarily examines literature concerning the role and implications of the internet with regard to the music industry over the past decade. It is informed by perspectives that are attentive to the interplays of technological, economic and policy factors (especially the copyright strand of intellectual property rights) in the evolution of online distribution of music. I address how these factors have been shaping the form and extent of the internet's disruptive potential in the recorded music industry since the late 1990s. I also explore contrasting perspectives on the relationship between digitalisation and the downturn being experienced by the recorded music industry during the first decade of the new millennium. Tensions between these two conflicting views form the basis of the remainder of the chapter. Drawing on Benkler (2006) and Vaidhyanathan (2001), I examine Lessig's (2001; 2004) contrasting futuristic visions of the internet, one as a technology of increased freedom that enhances creativity and commercial innovation; the other as a technology of increased control. Lessig places contrasting concepts of intellectual property at the heart of both these 'visions'. Emanating from this the chapter then provides a review of literature outlining the historical trajectory of copyright and its relationship with the music industry to date. Beyond this, chapter four also examines literature that explores ownership trends in the music industry and perspectives on how this has evolved before and during the era of internet music.

Chapter five provides a more detailed overview of the methodological approach employed in conducting this research, and the reasoning behind applying such an approach. It examines the nature of the research questions and outlines appropriate strategies of enquiry.

Chapters six, seven and eight present the findings of this research study. The responses of interviewees to questions about change in the music industry may best be categorised under two headings: one, focusing on 'problems' generated for the music industry either directly or indirectly by digitalisation; and the other, strategies formulated by the industry to provide ‘solutions’ to these problems, or to compensate in other ways for any losses incurred through falling record sales. As such, chapter six focuses specifically on interviewee’s perceptions of the challenges being faced by the contemporary music industry, i.e. ‘problems’. Chapter seven focuses on mapping the ‘solutions’ or core strategies of the established music companies as they reposition themselves to respond to the challenges posed primarily by the disruptive potential of internet technologies. Beyond these issues, chapter eight, the final chapter of findings, is fundamentally concerned with encouraging interviewees to consider and reflect upon issues of power in the music industry. It essentially evaluates if and how the decentralisation of power that was promised by the widespread of the internet has been realised in the music industry. A brief outline of each of these three chapters follows below:

In chapter six, I ask each participant to consider any key changes they regard as having occurred over the past decade. Perhaps unsurprisingly, all interviewees signal the internet as the most significant development, and most link this to a downturn in record sales revenues. However, beyond this they advance additional factors that they claim provide evidence of severe record industry decline, as well as forwarding perspectives on a range of phenomena that they perceive as causing these problems. While some of these factors extend beyond technological logic, most are related to various aspects of digitalisation. This leads us to consider recent employment trends across the major music companies; the decline of ‘bricks and mortar’ retailing; criticisms levelled at the major music companies over long-term inefficiencies and a failure to realise or grasp opportunities afforded by the internet at an earlier stage; consequences arising from the shift from physical to digital formats; and the effects of supermarket retailing.

Chapter seven sees interviewees advancing and highlighting the strategies or solutions of the music industry in relation to the problems raised in chapter six. These include legal developments that were unfolding during the course of my primary research, as well as the development of new business models and licensing systems that enable music companies to profit from emerging and growing digital distribution opportunities. Overall we will see how the emergence and proliferation of new digital platforms and the ongoing formation of alliances and partnerships between music companies and actors on the technology sector is serving to accelerate the growth of the overall digital music market, increase the number of revenue streams open to music companies relating to recording, publishing and other related products and services. Interviewees also consider how opportunities for revenue generation from 'intangible', secondary sources (such as synchronisation fees) have evolved, and how this shapes the overall picture of the music industry. Beyond this, the chapter sees interviewees reflect upon the current state of the live music industry in the context of its increasing convergence with other core music industry sub-sectors. The emergence of new territories within which recorded music can be sold is also highlighted.

Chapter eight, the final chapter of research findings, essentially asks 'has digitalisation, and particularly the internet, produced a new music economy with a new set of rules?'. In doing this, the chapter first examines the composition of the contemporary recorded music market, outlining the current market share breakdown between major and independent companies. We proceed to consider the roles of and relationships between major and independent actors. My interviewees are asked to reflect upon earlier techno-centric predictions which point to more independent actors achieving increased and easier access to the marketplace and offer their perspectives on and experience of the current relationship between major and independent actors. Beyond this, drawing largely on the contributions of the artist managers who participated in interviews, we examine contemporary processes for getting new music to market and the role and implications of internet technologies in evolving these processes. Then, acknowledging the ongoing significance of the major record labels in shaping the market, my interviewees offer insights into why this is the case. A number of interviewees outline what they perceive as the current working model for breaking a recording artist into the mass market. This leads us to consider the role of tastemakers in the internet age and which 'intermediaries' are most effective in growing a consumer base. Leading on from this, interviewees are asked to reflect upon and advance their concepts of the contemporary music consumer and the consumer bands that constitute the music consumer market.

Chapter nine proceeds to present the major conclusions of this study. Ultimately this chapter contends that, based on the research undertaken throughout the course of this study, the music industry has undergone significant change during the past decade.

However, the chapter raises significant questions as to whether these changes represent a significant shift in power away from the industry's traditional oligopolistic structures. Rather, it contends that the key restructuring and reconfiguration of the broader music industry that has taken place, derives from successful strategies designed to 'manage' the outcome of technological innovations or negate their potentially harmful effects on the established industry's core centres of power. Ultimately, a new, more consolidated music industry model has emerged within which the conception of the recording artist has been radically altered. This development provides the established music industry companies with new avenues for revenue generation at a time when one of their most significant revenue streams, i.e. the sale of recordings, has been under challenge. Such processes, the chapter concludes, reveal the dynamic nature of contemporary capitalism and also highlight significant flaws in techno-centric approaches which advance the transformative effects of technology on the social sphere. This chapter also makes some recommendations for future study in the area.

Chapter 2: Theories of Market and State

2.1 Introduction

Examining the recent evolution of the music industries requires consideration of the evolving features of the capitalist industrial system overall, including the role of new and emerging communication technologies in shaping these relationships, and other matching innovations from the social world that influence or shape the forms and outcome of these technologies. Such a study must be embedded in a conceptual framework that addresses the specific characteristics of the music industries as core sets of institutions within the broader cultural and media industries. Forming such a framework is the focus of this chapter. There are two levels of institutional influences that must be considered in constructing an appropriate theoretical framework for this thesis. On one level we must consider perspectives that focus on the interfacing of the music industries with the internet. Chapter four will be dedicated to this task. However, the operations of the recorded music industry and its relationship technology are shaped by the political-economic changes that have occurred over the past three-to-four decades. Thus I must contextualise and connect the core relationships under scrutiny here with broader patterns of society, culture and economy. To echo Habermas, the two key 'steering mechanisms' in modern society are money and state/policy. Therefore, in this chapter we consider macro-level theories of the evolving role and relations between market and state.

To understand how the characteristics or operations of the recorded music industry are shaped, it is necessary to examine how contemporary capitalism functions in relation to the production and consumption of cultural texts. This involves considering how cultural and media industries are situated within the evolving development of capitalism as a whole. This chapter aims at an understanding of cultural production in an era of neo-liberalism, focusing on the contemporary relationship between economics, politics and culture. However, we require a historically-grounded analysis of capitalism's early development to fully understand neo-liberalism's increasing emphasis on information, knowledge and culture. This analysis will draw predominantly on the work of Ellen Meiksins Wood's work on the early development of capitalism. Historically, capitalism has been characterised by a cyclical process alternating between booms and crashes. The early 1970s saw the advanced capitalist economies enter a period of stagnation and crisis – the 'long downturn' – the effects of which lasted for two decades. This chapter also examines the response of the advanced capitalist states to this crisis of 'over-accumulation' of capital, and how broader changes in the political-economic sphere shaped change in the cultural domain. Here, I outline the dismantling of established rationales around telecommunications and broadcasting as public resources (both of which impact on the production, mediation and consumption of recorded music), shifts in investment towards service industries and the linked expansion of the cultural industries as a whole, within which the recorded music industry has been a prime sector.

Then, taking as a cue the recent work of David Hesmondhalgh (2006, 2008) on new cultural 'imperialisms', where he has drawn on the works of Arendt (1968), Arrighi (1994) and Harvey (2005), I explore how Marx's notion of 'primitive accumulation' enables us to understand the private appropriation of knowledge and culture as one key feature of the latest chapter of capital expansion. This requires analysis of intellectual property, and in particular the emergence of a new form of global governance of intellectual property via the 1993 World Trade Organisation (WTO) treaty chapter on the Trade Related Aspects of Intellectual Property Agreement (TRIPS). Making intellectual property rights (IPRs) a key object of focus in the study of cultural production and consumption brings to the fore fundamental questions about the restructuring of cultural industries and where the money generated from the creation of cultural 'texts' goes. IPRs also highlights how, despite the declared tenets of neo-liberal discourse, the state is continually involved in the formation of markets and wealth creation processes. Such an approach emphasises the relationship of ownership of companies to the idea of knowledge and culture as 'property'.

These are all issues relevant to understanding the contemporary music industry environment, particularly in light of current debates surrounding the evolution of the internet as a platform for the circulation, marketing and distribution of recorded music in a 'new' information age. As the first of the cultural industries to face the challenges and opportunities of the internet, the recorded music industry is proving a testing ground for the cultural industries as a whole. Film and television industries have also started to move down this route with developments such as the BBC iPlayer and the sale of films on iTunes and other similar platforms.

2.2 Early capitalism and the emergence of 'appropriation by dispossession'

Capitalism has emerged as the Western World's dominant economic system, within which the means of production is largely privately owned, and goods and services are developed as commodities to be traded in the market place. As Wood explains, the key difference that distinguishes capitalist society from all earlier societal forms derives from property relations between producers and appropriators:

> Only in capitalism is the dominant mode of appropriation based on the complete dispossession of direct producers, who (unlike chattel slaves) are legally free and whose surplus labour is appropriated by purely 'economic' means. Because direct producers in a fully developed capitalism are propertyless, and because their only access to the means of production, to the requirements of their own reproduction, even to the means of their own labour, is the sale of their labour-power in exchange for a wage, capitalists can appropriate the workers' surplus without direct coercion. (Wood: 2002: 96)

Capitalism thus implies a thoroughly 'market society' where, at least theoretically, opportunities for the maximisation of profits are optimised and choice to the consumer is maximised. However, rather than affording us the 'opportunity' to access the market and benefit from it, Wood argues that we are actually 'compelled' to enter the market as to ensure access to the 'means of life'. All actors in the process may thus be seen as market dependent. Producers are dependent on the market in order to sell their labour. Appropriators are dependent on the market in order to buy this labour power, and generate profit through the sale of goods and services derived from this labour power. Capitalism is thus a system where:

> …the bulk of society's work is done by propertyless labourers who are obliged to sell their labour-power in exchange for a wage in order to gain access to the means of life and of labour itself. In the process of supplying the needs and wants of society, workers are at the same time and inseparably creating profits for those who buy the labour power. (ibid: 3)

While markets have existed throughout history for the sale or exchange of goods or services, Wood argues that the market in capitalism is unique insofar as almost everything in capitalist society may be treated as a commodity produced for the market. The centrality of the market to all parties and actions thus ensures that the maximisation of profits is the key objective of the capitalist system. Such an objective means that capitalism must:

> …constantly accumulate, constantly search out new markets, constantly impose its imperatives on new territories and new spheres of life, on all human beings and the natural environment. (ibid: 97)

History provides the clues as to why appropriator-producer relations have evolved to be market dependent. Wood argues that historical accounts of how capitalism came into being work on the assumption that it is/has been a natural evolution that realises ever-present tendencies. Classical political economy and enlightenment conceptions of progress present us with accounts of:

> …historical development within which the growth and development to maturity of capitalism are already pre-figured in the earliest manifestations of human rationality, in the technological advances that began when Homo sapiens first wielded a tool and in the acts of exchange human beings have practised since time immemorial. (ibid: 4)

Such a perceived link or process of continuity between non-capitalist and capitalist society denies the specificity of capitalism. In challenging the naturalisation of capitalism, Wood tells us that it occurred not as "a simple extension or expansion of barter or trade" but rather a radical transformation "in the most basic human relations and practices" (ibid: 95). While this shift in established relations and practices might be traced back indefinitely throughout history, the first instance of such a new market 'dynamic' being clearly evident may be localised to rural England in the sixteenth century (Hesmondhalgh, 2006; Wood, 2002, 2003).

Politically, by the sixteenth century England had evolved into the most cohesive and unified state in Europe. The political centralisation of the English state, as Wood explains, made it the one significant exception in the pre-capitalist European economy. The 'material foundation' underpinning the English economy was agriculture. However, while the state served to protect the property of the landed gentry, the relatively weak 'extra-economic' powers of the aristocracy meant that wealth was generated through the productivity of the tenant, rather than through rents/direct coercion. The high concentration of ownership of land in England meant that a very significant proportion of it was farmed by tenants as opposed to peasant-owners. Rents were quite frequently determined by market conditions – effectively a market for lease agreements between owners and tenants. There emerged a rental market where tenant-producers actively competed for access to land as a means of producing the goods that enabled them to compete in a market for consumers. Success in this latter market was essential for security of tenure. In such a competitive environment, those tenants who were most productive saw their lease holdings increase, while those who were less productive lost access to the land. Agricultural producers were thus in every sense market dependent.

So, as Wood emphasises, when competition and market forces became established:

> The famous triad of landlord, capitalist tenant and wage labourer was the result, and with the growth of wage labour, the pressures to improve labour productivity also increased. The same process created a highly productive agriculture capable of sustaining a large population not engaged in agricultural production, but also an increasing propertyless mass that would constitute both a large wage-labour force and a domestic market for cheap consumer goods – a type of market with no historical precedent. (Wood, 2002: 103)

Thus within English agriculture, the world was witnessing the emergence and rise of capitalist property relations. This process would not have been possible without the state providing the legislation and judicial interventions necessary to ensure such a transformation of the agricultural sphere. Thus the state was an essential tool in making property rights market-dependent, a point that we will address in greater depth later on.

In the drive to maximise productivity, the concept of 'improvement' took hold (Wood, 1998; 2002). Improvement, in this instance, relates to techniques designed to render land more productive and thus profitable. As the decades progressed, volumes of literature were generated which extolled the virtues of improvement and detailed processes and techniques designed to achieve improvement. What is of interest here is how this concept of agricultural improvement is linked to processes of reclamation, and more significantly enclosure:

> Improvement did not, in the first instance, depend on significant technological innovations… [and] improvement meant something more than new or better techniques of farming. Improvement meant, more fundamentally, new forms and conceptions of property. 'Improved' farming' for the enterprising landlord and his prosperous capitalist tenant, ideally, though not necessarily, meant enlarged and concentrated land-holdings. It certainly meant the elimination of old customs and practices that interfered with the most productive use of land. (Wood, 2002: 107)

Wood proceeds to tell us that:

> Peasants have since time immemorial employed various means of regulating land use in the village community. They have restricted certain practices and granted certain rights, not in order to enhance the wealth of landlords or states, but in order to preserve the peasant community itself, perhaps to conserve the land or redistribute its fruits more equitably, and often to provide for the community's less fortunate members. Even private ownership of property has been typically conditioned by such customary practices, giving non-owners certain use rights to property owned by somebody else. (ibid.)

In England there once existed common lands to which the public possessed grazing rights for their animals, the rights to collect firewood and leavings of the harvest. Such long-established practices were clearly not conducive to the most profitable application of property. Thus, from the sixteenth century onwards, property rights were significantly redefined. The pressures to change long-established customs and traditions regarding property were reflected in legal proceedings deriving from conflicts and disputes over specific property rights, or disputes over private and common land where two or more parties claimed various usage rights (Wood, 1998). The principles of 'improvement' demanded a new conception of property – one serving capitalist imperatives, and this meant redefining property as not only private, but as exclusive (Wood, 2002). The law was thus required to ensure the exclusion of the community at large from access to property. Property was, in effect, deregulated. The community could no longer impose restrictions on land use in the interests of providing for or sustaining itself.

Hannah Arendt sees capitalism as being dependent upon 'a fund of assets outside itself' in order to relieve 'pressures of accumulation' and thus, capitalists pursue 'the original accumulation of capital' in new areas (Arendt, 1973, cited in Harvey, 2003: 143). This new market dynamic was facilitated by what Adam Smith had labelled 'primitive accumulation'. Marx defines this process as 'divorcing the producer from the means of production' (Part VIII Volume 1 chapter 26) and outlines the major forms of primitive accumulation as including:

> …the expulsion of the peasants; the appropriation of assets; monetization of exchange and taxation; the commodification of labour power and the suppression of alternatives; usury, national debt and the credit system; the slave trade; the conversion of common, collective property rights into exclusive, private property rights; and the suppression of rights to the commons. (cited in Hesmondhalgh, 2006: 11-12)

Harvey (2005) sees these major forms of accumulation by dispossession as remaining central to capitalism, and he describes such actions as 'accumulation by dispossession'. Hesmondhalgh (2006, 2008) argues that two specific strands of such accumulation by dispossession remain particularly relevant to recent developments in the cultural sphere: the conversion of common, collective property rights into exclusive, private property rights; and the suppression of rights to the commons. Of particular significance here is the process of 'enclosure'. From the beginning of the sixteenth century onwards, enclosure meant not only the physical marking of a boundary around a property, but more significantly, the abolition of use rights to the community at large. Wood describes the process of enclosure as “the most vivid expression of the relentless process that was changing not only the English countryside, but also the world: the birth of capitalism” (2002: 109).

Thus, the medieval commons were transferred into the hands of private landowners for commercial exploitation. But the ‘commons’ is a term that has (particularly since the advent of internet and the world wide web) found its way back into more general parlance, particularly in debates and discussions surrounding intellectual property rights. These days it is frequently used to describe cultural texts or knowledge which many (Boyle, 1997, 2008; Lessig, 2001; Vaidhyanathan, 1999 amongst others) argue should be common, accessible, sharable resources for the benefit of all. Equally, the term ‘enclosure’ is used to describe the process (usually involving copyright or patent law) to further the private appropriation of culture and knowledge.

The concept of ‘accumulation by dispossession’ enables us to understand not only the early acts of enclosure in the transition from feudalism to capitalism that were designed to turn common land into privately owned profitable commodities, it also enables us to understand the private appropriation of knowledge and culture as the latest chapter in the ‘long-term march of capitalist relations into evermore areas of life’ (Hesmondhalgh, 2006: 13). Forms of knowledge and creativity that were not formerly regarded as being ownable are now being induced into the intellectual property system. They are made available for the investment of capital and the generation of profit. Thus, the productivity of former common resources is maximised to the advantage of private owners. The twenty-first century cultural commons merely represents another area of capitalisms ‘fund of assets outside itself’ used to avoid the recurring problem of over-accumulation (ibid).

The onward extension and expansion of intellectual property rights into the cultural and media industries is illustrated by Lessig (2001) who uses a variety of examples from the motion picture industry to show how creative control has now become a legal matter[5]. Copyright law demands that many elements of the audio-visual

[5] The movie *Twelve Monkeys* was stopped by a court 28 days after its release because an artist claimed a chair in the movie resembled a sketch of a piece of furniture that he had designed. The movie *Batman Forever* was threatened because the batmobile drove through an allegedly copyrighted courtyard and the

experience (and indeed everyday cultural life) now require clearance, and usually payment, before they may be used by a director in the final cut. Lessig is less concerned with 'ordinary and reasonable limits on the creative process' such as permission from record companies or publishers for the use of songs or music. Rather, he is highlighting the extension of intellectual property rights to 'the stuff that appears in the film incidentally' (Lessig, 2001: 3). Likewise with music, the growing acuteness of this trend is illustrated through such cases as the legal action brought by Peters Edition, the company who owns publishing rights to the work of the late American composer John Cage against British composer and songwriter Mike Batt regarding Batt's infringement of Cage's exclusive right to silence as the basis of a musical composition[6]. We can also consider the use of digital rights management technologies[7] (DRM) by major music companies which 'lock(s) up content through trusted systems in which copy protection is built into every component sold' (McCourt & Burkart, 2003: 342). While the four major record companies dispensed with DRM for many physical products throughout 2007 and 2008, they have retained it for many of their digital products.

2.3 Political-economic context of changes within cultural and media industries

Any analysis of the contemporary recorded music industry and its relationships with radio and the internet must be attentive to the context of patterns of change and continuity in the broader cultural industries over the past three decades. These changes are themselves intertwined with processes of political-economic change that mark an important historical shift away from the post-World War Two decades' emphasis on social expenditure towards 'ventures that have been hugely profitable for a new international class of Chief Executive Officers and investors' (Hesmondhalgh, 2006: 6).

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original architect demanded money before the film could be released (Lessig, 2001: 4). Also, Trinity College Dublin threatened to sue Lucas Films over a claim that a Jedi temple resembled a section of one of their libraries.

[6] Mike Batt was sued by John Cage's publishers Peters Edition after he released a silent piece on his 2001 album *Classical Graffiti*. Cage had originally released his own silent composition entitled *4'33''* in 1952. Batt reached an out of court settlement with Peters Edition for ST£160,000.

[7] The Digital Millennium Copyright Act enables copyright owners to write their own intellectual property regime in computer code which, for example, in the case of music CDs can be used to prevent the disc being played in particular devices or prevent the disc being copied.

Historically capitalism has been characterised by a cyclical process alternating between booms and crashes. The boom-to-bust feature of capitalism was characterised by the Russian economist Nikolai Kondratieff as a series of 'long waves' which lasted on average fifty-four years between economic peaks (Wilden, 1987). Boom periods witness growth and expansion (fundamental to capitalism) leading to increased profits. On the other hand, economic downturn means over-accumulation, which Harvey defines as:

> …a condition in which idle capital and idle labour supply could exist side by side with no apparent way to bring these idle resources together to accomplish socially useful tasks. A generalised condition of overaccumulation would be indicated by idle productive capacity, a glut of commodities and an excess of inventories, surplus money capital (perhaps held in hoards), and high unemployment. (Harvey, 1989: 180-1)

Harvey (1989) proceeds to identify 'spatio-temporal fixes' as capitalisms well-worn response to such crises of over-accumulation. Essentially there are two ways in which excess capital is absorbed:

1) The first involves long-term capital investment – i.e. 'temporal' fix - which can either be profit-oriented (such as the launch of a new product) or alternatively, social expenditure (such as the provision of public services or resources).
2) The second form of response that Harvey identifies is spatial, and might involve attempts at creating new markets, or re-organising existing resources or seeking to find new ones (e.g. land / labour / raw materials).

In practice, Harvey tells us, these two process or forms of response combine to offer resolution to the crisis of over-accumulation.

Spatio-temporal fixes are shaped by the policies of both nation states and international governmental institutions. The re-organisation or management of both national and international economic processes following the economic downturn of the 1970s thus provides the most promising starting point for understanding patterns of change in the cultural industries. This long downturn, (see, for example, Hesmondhalgh, 2007) served as the key agent accelerating processes of political-economic change that were already in motion.

The long downturn

The Bretton-Woods agreement of 1944 shaped 'the form and substance of the capitalist management of international development for the post-war period' (Hardt and Negri, 2001: 264). This was a system of US-led economic hegemony which differed from earlier international monetary systems as it placed controls in the hands of governmental and regulatory organisations rather than private bankers and financiers (Arrighi, 1994). These institutions included the International Monetary Fund (IMF) and the World Bank. Such monetary hegemony:

> …was secured through the strategic choice of a liberal development based on relatively free trade, and moreover by maintaining gold (of which the United States possessed about one third of the world total) as the guarantee of the power of the dollar. (Hardt and Negri, 2001: 265)

With the Bretton-Woods agreement, the 'pegged rate' currency regime evolved, where members agreed to establish a parity of their national currencies in terms of gold, however as the principal reserve currency was the US dollar, the agreement meant other countries would peg their currencies to the US dollar. With other currencies now defined in relation to the US dollar, and with the European warring nations in significant debt to the United States, the dollar effectively became the world currency. The US ensured its economic hegemony throughout the latter half of the twentieth century via the Bretton Woods agreement, the IMF, the World Bank, the subsequent General Agreement on Tariffs and Trade (GATT), and later the World Trade Organisation (WTO). European economies were to be reconstructed, and third world economies developed within the framework of conditions imposed by these international institutions.

Under the governance of relatively stable Keynesian social democratic regimes, the decades following the end of World War Two saw the advanced capitalist economies of Europe, North America and Australasia enjoying significant economic growth and improved standards of living. Evidence even existed which indicated the reversal of trends regarding growing social and economic equality (Hobsbawn, 1995). Such a 'golden age' of capitalism would last for over two decades during which many mainstream economists foretold the death of 'boom and bust' cycles (Hesmondhalgh, 2007). These decades witnessed economic competition – in 'uneasy tandem' with the co-operation amongst advanced capitalist economies required to guarantee their markets (Wood, 2003) – rise to replace military rivalry among the key capitalist powers.

However, by the 1970s, in keeping with the historical trend of boom and bust cycles, the system of political and economic balance established under the Bretton-Woods agreement had destabilised. Profits dropped significantly across many industrial sectors, most notably manufacturing.

Table 2.1: Comparing the post-war boom and the 'long downturn' (average annual rates of change):

Manufacturing

	Net Profit Rate		Output	
	1950-70	**70-93**	**50-73**	**73-93**
U.S	24.35	14.5	4.3	1.9
Germany	23.1	10.9	5.1	0.9
Japan	40.4	20.4	14.1	5.0
G-7	26.2	15.7	5.5	2.1

Private Business

	Net Profit Rate		Output	
	1950-70	**70-93**	**50-73**	**73-93**
U.S	12.9	9.9	4.2	2.6
Germany	23.2	13.8	4.5	2.2
Japan	21.6	17.2	9.1	4.1
G-7	17.6	13.3	4.5	2.2

Source: Hesmondhalgh, 2007 adapted from Brenner, 1998

A variety of explanations are offered as to why advanced capitalist economies suffered this economic downturn. The capitalist crisis of the 1970s, according to David Harvey (2006) was caused by a combination of economic and political factors. These included the unravelling of the state interventionist model which had prevailed in most of the advanced capitalist countries since 1945 and delivered significant rates of growth. Another key factor that we must consider is the effects of the oil crisis of 1973. The increase in oil consumption which had accompanied the boom, was, by the early 1970s, threatening to deplete oil reserves (Armstrong et al, 1984). Then in October 1973, war broke out in the Middle East. The Arab members of OPEC (Organisation of Petroleum Exporting Countries) introduced an oil embargo which saw the supply of oil to the US and its allies in Western Europe dramatically reduced over their support of Israel in its conflict with Egypt and Syria. This unfolded within the wider context of a global process of decolonisation which included the defeat of the US in Vietnam. Between autumn 1973 and spring 1974 the price of oil effectively quadrupled. Given the manufacturing sectors reliance on oil, manufacturing activities were substantially suppressed.

Running parallel to these developments, Hesmondhalgh (2007) points to the growing involvement of German and Japanese corporations in manufacturing, and a subsequent crisis in over-production in the United States.

Alongside the movement for decolonisation mentioned above, labour unrest was 'rampant' with the political movements of the Left making significant advances internationally (Harvey, 2006). Even within the US, the power of established political and economic elites was being increasingly undermined by 'the combination of the anti-war movement, civil rights movement and a student movement' (ibid: x). We should also consider the role of the women's movement and the emerging green / ecological movements as part of this challenge to the existing elites.

This is the political-economic context in which the neo-liberal response to the crisis emerged.

The growth of neo-liberalism

Such a crisis as outlined above is not necessarily negative from the perspective of capitalism. As Hardt and Negri explain:

> Marx claims that capitalism does indeed have a fundamental interest in economic crisis for its transformative power…Economic crisis can…destroy unprofitable sectors, restructure the organisation of production and renew its technologies. In other words, economic crisis can push forward a transformation that re-establishes a high general rate of profit…
> (Hardt and Negri, 2001: 264)

The political changes instigated by this economic depression, which in turn would impact significantly on the regulation of the cultural industries, are succinctly summarised by Hesmondhalgh:

> The various advanced capitalist states responded to the crisis that hit capitalism in the late-1970s by attacking the institutional strength of labour movements and by moving away from the arrangements for state intervention in economic life that had prevailed in the post-war period, whereby government spending was used to supplement consumer spending whenever consumer spending was inadequate to sustain economic growth…From 1979, after some years of attempting to reflate western economies, governments made permanent a set of anti-inflation strategies that had been tried in 1974-75. Emergency cutbacks in public spending and stripping away of regulation by democratically elected governments were promoted from emergency measures to permanent policy. (Hesmondhalgh, 2002: 97)

As such, the unregulated, free-market approach gained prominence, or more accurately, regained prominence. The origins of such 'laissez faire' ideology are to be found with a group of 18th century French economists called The Physiocrats who attacked state intervention in industrial affairs as harmful to society as a whole. Government action should only exist as a last resort to break up private monopoly. A similar approach to the role of government was taken up in Britain by Adam Smith:

> The Statesman, who should attempt to direct private people in what manner they ought to employ their capitals, would not only load himself with a most unnecessary attention, but assume an authority which could safely be trusted not only to no single person, but to no council or senate whatever, and which would nowhere be so dangerous as in the hands of a man who had folly and presumption enough to fancy himself fit to exercise it.
> (Smith, The Wealth of Nations, Book IV, Chapter 2)

Smith believed that the economic system was harmonious and essentially self-regulating and thus it required the minimum of government interference. Although each individual in the marketplace would be motivated by self-interest, competition (i.e. what Smith termed as the 'invisible hand' of the market) would act to ensure that each individual's self-serving actions would work for the good of society at large. Thus the market mechanism delivers consumer sovereignty as a result of the pursuit of self-interest on the part of the producer. Thus, for Smith, free competition, and the freedom of industrialists from government regulation was central to achieving economic efficiency.

Harvey (2005) charts the evolution of neo-liberalism, as a political doctrine, from the 1930s onwards. The ideas and perspectives of such thinkers as von Hayek, von Mises, Friedman and Popper, which effectively condemned 'all forms of active government intervention beyond that required to secure private property arrangements, market institutions and entrepreneurial activity' remained for over three decades on the periphery as 'an isolated and largely ignored corpus of thought' (Harvey, 2005: 157). It was only in the aftermath of the long downturn, or what Harvey refers to as 'the general crisis of over-accumulation' that neo-liberal think-tanks were regarded as providing a framework for confronting immediate economic crises. Adam Smith's belief in the efficiency of the market system echoed loudly in 'Reaganomics' and 'Thatcherism' and the election of regimes that worked to diminish the power of labour movements and reduce wage-costs to the economy. Interest rates were raised and credit was consequently severely limited. This shaped a 'survival of the fittest' environment within which unprofitable business folded and unemployment consequently rose. Harvey outlines how Thatcher and Reagan radically shifted the focus of state activity away from the welfare state and towards "active support for the 'supply-side conditions of capital accumulation" (Harvey, 2005: 157). The IMF and the World Bank swiftly transformed their policy frameworks. As the 1980s progressed, neo-liberal doctrine rose to dominate policy internationally. Hesmondhalgh (2007) describes the sphere of communication policy by the 1990s, internationally, as witnessing 'four waves of marketisation': first, deregulation occurred in the United States, second, in other advanced capitalist states (notably UK, France, Germany, Australia), thirdly in Eastern Europe, Latin America and Asia. The fourth wave relates to convergence of cultural industries with telecommunication and information technology from the early-to-mid 1990s onwards, and the growing significance of international policy agencies in enabling 'free trade'.

Privitization, according to Harvey, marks the "cutting edge of accumulation by dispossession" (2005: 157). The mainstreaming of neo-liberal doctrine made a fresh wave of enclosure of the commons a key policy objective in advanced capitalist states. The waves of marketisation described by Hesmondhalgh illustrated the relatively swift reshaping of global political-economic order where new territories for the profitable investment of over-accumulating capital opened up courtesy of the release of state-owned or commonly-held resources and assets into the marketplace. Thatcher's Britain, for example, saw the selling off of publicly owned companies and the privitization of utilities and resources such as water, electricity, energy, transport and telecommunications, as well as opening up the sphere of broadcasting to the free market. Thus, capital was looking to 'its outside, as Rosa Luxembourg said, on its non-capitalist environment in order to realise and capitalise its surplus value and thus continue its cycles of accumulation' (Hardt and Negri, 2001: 270).

All of this provides the political context for understanding changes in the cultural industries in recent decades, as the emergence of such neo-liberal models of governance marked fundamental changes regarding the regulation of broadcasting and telecommunications, both of which hold significant implications for the cultural industries.

Change in the spheres of telecommunications and broadcasting

Traditionally, the resources of telecommunications and broadcasting have been owned and operated by the state. This, until recent decades, was true for liberal democracies and authoritarian regimes alike. In most liberal democracies, the installation of telecommunications infrastructure and provision of telecommunications services fell under the aegis of the existing state postal company. The early decades of the twentieth century saw national postal organisations upgraded to become postal, telegraph and telephone authorities (PTTs). Telecommunications were thus treated as a public utility. Even in the United States where private ownership was the preferred model, and where the American Telephone and Telegraph company (AT&T) had been granted a monopoly for the installation and provision of telecoms (in the interests of standardisation and delivering a 'universal' service), a tight system of regulation was nonetheless in operation. Up until the 1980s, for example, AT&T was not permitted to become involved in the production and distribution of programming and had its pricing structure tightly controlled (Hesmondhalgh, 2007).

As the 1980s progressed, however, widespread accessibility to telecoms services in advanced industrial countries led for calls for the sector to be opened up to competition on the grounds that it no longer required 'protection' as a public utility (De Sola Pool, 1983). The logic underpinning the neo-liberal argument was that a 'free' telecoms market meant competition, which would serve to accelerate technological advancement as companies would seek to outdo each other in the attempt to secure market share. This improved effectiveness and efficiency within the sector would carry benefits for all industrial sectors and thus help to propel the economy as a whole out of 'long downturn'. Hesmondhalgh (2007) also emphasises how such arguments were supported not only by the major telecoms firms, but also from within the long established PTTs, whose senior executives stood to profit substantially from privatisation. Paradoxically, these same executives lobbied governments to restrict and limit the entry of rivals in to the marketplace as to enable them to compete at international level. Such 'contradictions in the discourses of marketisation' have come to characterise the policy landscape over recent decades (Hesmondhalgh, 2007: 123).

The evolution of broadcasting illustrates a not dissimilar pattern. While the early history of radio is that of a point-to-point system of communication used primarily by the military and subsequently by radio enthusiasts, the post-World War One period saw it transformed into a broadcast medium. In the United States a subsequent radio craze resulted in chaotic and cluttered airwaves. Despite America’s bent towards private appropriation of resources and it’s reluctance towards state interference and intervention, it was widely argued that broadcasting, as a resource limited by the range of frequency spectrum, was in need of regulation. Consequently the Federal Radio Commission (FRC) was formed in the late 1920s to allocate spectrum space and regulate the airwaves.

In Europe, where there was an established tradition of public ownership of resources, the desire to provide public service broadcasting had become significant in discourse around national cultures and identity. State appointed governing authorities (e.g. BBC) were thus handed the responsibility of delivering the service.

A further rationale supporting an interventionist role for the state with regard to broadcasting is to be found in the perceived social power of radio (Scannell and Cardiff, 1991). Radio’s potential for propagating political and commercial messages left it susceptible to abuse. It was widely accepted that the state must act to ensure that no such abuse occurred. Even in the USA, radio’s perceived social power meant it accepted much higher levels of regulation and monitoring than other industrial sectors. It thus seemed natural that some three decades later, the innovation of television should come matched with the same regulatory frameworks.

By the 1980s, the notion of broadcasting as a national and a limited resource was coming under attack. The neo-liberal argument centred on how technological advancement had rendered the necessity for state control of broadcasting redundant. Cable and satellite (and subsequently digital) technologies increased broadcast ‘capacity multi-fold without suffering the spectrum scarcity associated with analogue broadcasting. Technological determinism thus provided the ammunition for such a pro-market approach. These new technologies were portrayed as evolving precisely as a result of private sector investment, though many originated within state (particularly military) research funding. As key drivers behind social change, cultural industry companies argued that these technologies demanded the relaxing of regulation as to facilitate their competition in the international marketplace.

The proliferation of cable and satellite technologies further served to diminish arguments supporting the maintenance of tight regulation based on the grounds of threats around the social power of broadcasting. The social penetration achieved by television over the previous three decades, according to the proponents of neo-liberalism, diminished televisions authority. However, televisions perceived declining power was less the argument for dismantling public ownership of broadcasting. Rather, documents such as the Peacock Report (1986) pointed to public service broadcasting (PSB) failing to meet the needs of the viewer regarding choice. Peacock recommended the provision of more commercial channels as the means to satisfying this need. Similarly with radio, 'complimentarity' was becoming evident in the way the public service stations position themselves in relation to their independent rivals, thus rendering PSB redundant (Barnard, 2000). Subsequently, the early 1990s saw the National Economic Research Associates call for the privatisation of BBC Radio One on the grounds that its output was largely similar in content to its commercial rivals both at local and national level (Hendy, 2000). This shifting political-economic landscape shaped significant change in the strategic approach of businesses in advanced capitalist states.

Shifts in investment towards service industries

From the 1970s onwards there was a shift in investment strategies towards service industries. This, as Harvey points out, formed part of a much longer-term trend (Harvey, 1989: 157). However, as the 1970s progressed, this trend became irreversible (Hesmondhalgh, 2002). Table 2 indicates the pattern that emerged over a two-decade period from the outset of the long downturn:

Table 2.2: The shift to services

Industry	US 1970	US 1991	Japan 1970	Japan 1991	France 1968	France 1989	UK 1970	UK 1990
Extractive	4.6	3.5	19.8	7.2	15.6	6.4	3.6	3.3
Transformative	33.0	24.7	34.1	33.7	39.4	29.5	46.7	27.3
Distributive Services	22.4	20.6	22.4	24.3	18.5	20.5	18.7	20.6
Producer Services	8.2	14.0	4.8	9.6	5.0	10.0	5.0	12.0
Social Services	22.0	25.5	10.3	14.3	15.1	19.5	17.7	27.2
Personal Services	10.0	11.7	8.5	10.2	8.2	14.1	8.1	8.1

Figures refer to the percentage of total workforce. (continued overleaf)

Sector definitions:

Extractive: agriculture and mining
Transformative: construction, utilities and manufacturing
Distributive services: transport, communication and wholesale

Producer services:	banking, insurance, real estate, engineering, accounting, legal services, miscellaneous
Social services:	medical, hospital, education, welfare, religious services, non-profit organisations, postal services, government organisations, miscellaneous,
Personal services:	domestic service, hotels, eating and drinking places, repairs, laundry, barbers and beauty shops, miscellaneous and unclassifiable services.

Source: Hesmondhalgh, 2007, adapted from Castells, 1996: 282-3

While Hesmondhalgh bemoans the fact that Castells' data fails to include a breakdown of trends in specific cultural industries, information on this is available elsewhere (e.g. Preston, 2001). For example in Ireland, by the mid-1990s, cultural industries accounted for approximately 33,800 full-time equivalent jobs (FAS/ESRI, 1994 cited in Smith, 1995), with the music industry serving as the most significant cultural employer in the sector, representing 41.9% of these positions. The recorded music industry indicates a 15% per annum expansion between 1999 and 2003, making it the twenty-fifth largest music market in the world by 2003 (IFPI, 2004). A study compiled by Goodbody Economic Consultants on behalf of the Music Board of Ireland in 2001/02 shows the scale of the industry in terms of value added to be estimated at €478.4m representing just under half of one per cent of Gross Domestic Product. Based on the mid-1990s valuation of the Irish music industry by An Bord Trachtála (now Enterprise Ireland), this figure represents a staggering 250% increase in the annual value of this industry to the national economy since 1995. In Britain, by the late 1990s, cultural industries accounted for approximately 4% of the overall workforce (Dept. of Culture, Media and Sport, 1998). Cultural employment in other European territories also increased exponentially from the early 1980s onwards: Germany saw 23% growth between 1980-94; France saw 36% growth between 1982-90; Spain saw 24% growth between 1987-97 (European Commission, 1998 cited in Hesmondhalgh, 2002: 100). This mushrooming of attention to the cultural industries in Europe is indicative of the overall change in investment strategies towards service industries as illustrated by Castells.

Technology and shifts in organisational strategies

For Castells (1996), the above changes are driven by technology:

> …information generation, processing and transmission become the fundamental sources of production because of new technological conditions emerging in this historical period. (Castells, 1996: 21)

Garnham succinctly summarises Castells' overall approach as thus:

> Drawing on Innis, McLuhan and Bell, while acknowledging the influence of Schumpter and Weber, the [Castells'] argument is that a small group of innovations responded to capitalism's crisis of profitability by introducing a set of new technologies that massively raised productivity. (Garnham, 2001: 132)

Such radical technological innovations, according to Castells, spawned the 'network firm' amidst the increased competition derived form 'accelerated innovation' and production cycles. Furthermore, the development of real-time, computerised telecommunications networks enhanced the ability of firms to operate globally, thus fuelling the globalisation process. Technology also delivered a new division of labour between network savvy 'inter-actors' or knowledge workers, and those workers in other less secure sectors who operate 'at the mercy of network flexibility' (Garnham, 2001: page unknown).

For Castells, this new network society is a capitalist society, but a capitalism that is "profoundly different from its historical predecessors …[in that] it is global and is structured to a large extent around a network of financial flows" (Castells, 1996: 471). Castells argues that this new strand in capitalisms evolution is evidenced by the growing dependence of finance capital on IT generated 'knowledge'. While Garnham agrees with the core tenets of Castells' argument here, he raises significant concerns in relation to the extent of the 'novelty and wider determining powers' that Castells associates with information and communication technologies. The impact of ICTs is thus substantially exaggerated, and Garnham advances some key criticisms: Most significantly, he rejects Castells' concept of a 'network enterprise' as central in the 'causal chain of determination' between technology and culture (Garnham, 2001). Further, he rejects Castells' accounts of processes of vertical disintegration and organisation restructuring of businesses around networks. Instead, Garnham asserts that:

> …we need to distinguish between the firm as a set of property relations and control over income flows, a set of principle/agent relations directed at accumulation through profit on one hand, and the organisation of specific production or labour processes on the other. The relationship between the two has always been variable…But its dialectic is contained for the capitalist mode of production to continue, within the bounds of property relations. (Garnham, 2001: 139)

Thus the relative rigidity of organisational boundaries emphasises the importance of social relations of production over the technological. The global development of communication and information networks, according to Garnham, is driven by the 'goal of accumulation'. The dominant political and economic models shape the outcome of technological innovation appropriate to their sustenance and needs. But networks are characteristically 'collaborative' rather than 'competitive' systems that operate to facilitate the sharing rather than the trading of information and resources. In an environment where everyone is connected to the 'network', there is an absence of the 'barriers' necessary to control the flow of, and extract tolls based on the exchange of such information / resources. Thus Garnham, writing at the turn of the millennium asserts that:

> …the future development of the internet will undoubtedly demonstrate using the network for the mutual exchange of information with seamless interconnection of all with all is inherently incompatible with using the network as a technical infrastructure for competitive market relations. (Garnham, 2001: 140)

A notable example confirming the accuracy of Garnham's prediction is the evolution of the online music economy, and the growing significance of intellectual property rights in shaping the outcome of digital distribution software and its application and adoption by producers and consumers of music alike. The legal shaping of online networks is evidenced by the major entertainment corporations using their considerable power and resources, including political influence to guarantee the ongoing extending of copyright control mechanisms in cyberspace, and the consequent enclosure (private appropriation) of the web as a commons for the exchange of music. This illustrates how the web, as an ICT network, held the potential to collapse the market system. Policy innovation, not technological innovation, ensured the erection of the necessary barriers within the network to reshape it as a profit centre.

2.4 The de-regulation of international finance capital and the role of the state in contemporary capitalism

In most advanced capitalist economies, the social concessions and emphasis on social expenditure which marked the first three decades following the end of World War Two has largely been reversed. Neo-liberal policy has succeeded in directing over-accumulated capital towards private ventures. The past two decades has also seen the de-regulation of international finance capital, thus enabling a significant increase in the transnational activity of finance. The US treasury, Wall Street, and to a lesser extent London 'City' have come to exert a growing influence over these activities and dominate institutions such as the International Monetary Fund and the World Bank. As Wood argues, this period, which is commonly referred to as 'globalisation' saw:

> …the internationalisation of capital, its free and rapid movements, and the most predatory financial speculation around the globe……The US used its control of financial and commercial networks to postpone the day of reckoning for its own domestic capital, enabling it to shift the burden elsewhere, easing the movements of excess capital to seek profits wherever they were to be found in an orgy of financial speculation. (Wood, 2003: 133)

Wood details how the IMF and the World Bank coerced developing economies into adopting a range of measures designed to render them more vulnerable to the pressures of global capital. What became known as the 'Washington Consensus' required that developing economies:

1) Privatize public services (thus opening up the possibility of takeovers by multi-national corporations or companies based in advanced capitalist states);
2) Dismantle import regulations (thus opening up national markets to international competition).
3) Impose higher interest rates, combined with steps to deregulate finance (thus generating profits for US financial interests while simultaneously creating a debt crisis in developing economies).

Through the medium of global institutions of financial governance the US can:

> …compel other economies to serve the interests of the imperial hegemon in response to the fluctuating needs of its own domestic capital – by manipulating debt, the rules of trade, foreign aid, and the whole economic system. (ibid: 134)

So globalisation, as Wood emphasises, is not about 'free trade', and neither is it about an integrated world economy. Rather it is characterised by the imposition of strict trading conditions designed to serve the interests of imperial capital. Multi-national corporations almost always have an international base within a specific state, along with its key shareholders and boards. Moreover the magnitude of international trade as a share of GDP, or global exports as a percentage of global product provide further indicators as to the 'failure' of global integration. However, the most compelling argument offered by Wood in this respect centres on the fact that wages, prices and conditions of labour remain highly diverse across the world, but:

> In a truly integrated market, market imperatives would impose themselves universally, so compelling all competitors to approximate some common social average of labour productivity and costs, in order to survive in conditions of price competition. (ibid: 136)

On one hand, the international movements of capital demand free transborder access to labour, resources and markets. On the other, they also require restrictions to be placed on opposite movements 'as well as a kind of economic and social fragmentation that enhances profitability by differentiating the costs and conditions of production' (ibid).

There is an assumption, according to Woods, that the 'detrimental' effects of capitalism can be overcome by reshaping multi-national corporations as more 'responsible' and socially conscious institutions. This, she argues, is indicative of a prevailing oppositional view that centres on capital's global reach rather than capitalism itself as the chief cause of social injustices, the increasing gap between rich and poor, the failing ecological state of the planet and most of society's other ills. This is evidenced by the fact that the anti-capitalist movements have, over the course of the past decade, focused protests and demonstrations directly at multi-national corporations and global institutions such as the WTO, IMF, World Bank and the G8 (who have arguably been at the centre of the most high profile demonstrations). There is thus an assumption that global capital means the highly intense global political organisation of capital. What such an assumption misses, and what Wood is at pains to argue, is that any accurate assessment of the forces at the disposal of capital depends upon a much closer scrutiny of the relationship between global capital and the nation state.

The economic survival and success of corporations is dependent upon their playing by the 'laws of the market' which requires them to, in Chomsky's words, place 'profit before people' and operate specific economic imperatives around competition, the maximisation of profits, and accumulation. Thus, as Wood points out, however much globalisation has intensified these economic imperatives that drive capitalism, globalisation is their symptom or effect rather than their cause. As Greenfield argues:

> …corporations, as powerful as they are, are only vehicles for capitalists…It's often assumed that corporations are a power in themselves, rather than a particular way in which capitalists organise their wealth. (Greenfield, 1991: 13-14)

Where capitalists may lose through a specific corporation faltering, they may subsequently restructure their wealth and recoup losses / generate additional profits via an alternative enterprise. Furthermore as the UK Economic and Social Research Council highlight:

> …multi-national enterprises are not particularly good at managing their international operations' and profits tend to be lower while costs are higher than in domestic operations. These enterprises 'have very little control over their own international operations, let alone over globalisation'. Any such success they have had in the global economy has depended on the indispensable

> support of the state, both in the locale of their home base and elsewhere in their multi-national network. (ESRC, 2000, summarised by Rugman, cited in Wood, 2003: 139)

All of the above factors require a detailed consideration of the role of the state in the neo-liberal phase of capitalism and how the state may be acting to facilitate the opening of borders and removal of restrictions to global capital, whilst simultaneously (as argued by Wood and others) acting to prevent the very integration that globalisation claims to promote, as to ensure against an equality in social conditions amongst the global workforce. For Wood, Harvey and Hesmondhalgh, the state is essential to the current era of capitalist development. Globalisation is to a degree, a contradiction in terms because, while the free movement of capital is of necessity, globalisation also requires fragmentation. It requires that the world remains comprised of unique national economies with their own unique conditions of labour.

As evidenced from Wood's accounts of the early 'enclosures' dating from sixteenth century, 'primitive accumulation' would not have been possible without the state intervening via judicial and legislative means. The expansion of capitalism thus demands the imposition of specific economic imperatives (detailed above) in terrains where they do not already exist. Such an 'imposition' requires the legal reach of the capital economy to be extended.

Croteau and Hoynes (2003) emphasise the necessity for a focus on the role of government in regulating ownership, technology, content and distribution of media. Government acts as "an organising structure that can, to varying degrees, constrain or promote the free activity (or agency) of the media" (ibid: 77-8). This then, is the tension between structure and agency as it applies to cultural and media industries and the state, and it raises issues regarding the impact of economic interests and the role of government. Croteau and Hoynes brief case study of pirate radio in the United States (ibid: 78-80) illustrates a number of common features of media regulation debates:

1) Technology and regulation go hand in hand, and each time a new technology emerges, new rules are created to regulate the environment within which it operates, and by extension, shape its outcome.
2) While many in the media industries cite the merits of deregulation, there is a desire among all, or at least most parties within the media industries for

regulation of some form to exist. The debate is not whether or not there should be regulatory frameworks, but rather what form regulatory frameworks should take.

3) Most importantly, according to Croteau and Hoynes, regulatory structures that constrain the behaviour of one particular actor within the media industries will almost invariably profit another. They insist that the media industries would not, nor could not exist in their current form without the intervention of government to introduce and enforce regulations and controls. We must thus consider who benefits from the introduction of regulation, and who is constrained by it.

2.5 Copyright: an evolving form of global governance of culture

Hesmondhalgh (2006) suggests that the increasing emphasis on information, knowledge and culture in neo-liberal discourse points to neo-liberalism making its own 'cultural turn'. In particular, developments such as the Trade Related Aspects of Intellectual Property Rights Agreement (TRIPS) underlines how the emergence of a 'new nexus of state and financial power underpinned by neo-liberalism' is increasingly linked to new forms of global governance of cultural production, with 'marked effects on how creativity is conceptualised and practised' (ibid: 11).

Since the early 1980s, the growing importance of global markets has seen US companies that trade in copyright focus their attention on achieving the removal of barriers to American copyright exports globally. This period has witnessed the formation of the International Intellectual Property Alliance (IIPA), an umbrella group representing, amongst others, the Recording Industry Association of America (RIAA) and the Motion Picture Association of America (MPAA). An intense period of lobbying resulted in the Omnibus Trade and Competitiveness Act of 1988. Under this act, any nations alleged to be damaging to the US copyright industries could find themselves subject to the imposition of trade sanctions by the US courtesy of the Office of the United States Trade Representative (USTR) [see below]. The 1993 World Trade Organisation (WTO) treaty was the most significant development in the political economy of culture over the past two decades according to many authors. This treaty created a new form of global governance of intellectual property in the form of a chapter on the Trade Related Aspects of Intellectual Property Rights Agreement (TRIPS). TRIPS came into effect from 1995 and covers patents, trademarks, copyright and other forms of intellectual property. It is an agreement that is aimed at establishing minimum international standards for intellectual property.

TRIPS essentially emphasises the rights of authors, performers and producers already prioritised in the Berne and Rome conventions, however it also stipulates precise courses of action to be pursued by the courts and customs services in relation to copyright infringement. The private sector of the advanced industrial countries, especially that of the USA, played a major role in these developments. While developing countries were granted permission to introduce TRIPS provisions on a phased basis, the agreement largely favours Western copyright holders by opening up the markets of less developed states in a more comprehensive manner than before (Houtart, 2003; Laing, 2004). As such, TRIPS facilitates the imposition of the products and content of multi-national corporations on the developing world. Furthermore, May argues that:

> …the net effect of the TRIPS agreement is, actually, to critically reduce the area of public knowledge, especially in areas where new technologies are important or even vital to socio-economic development. (May, 2000: 77)

Laing (2004) illustrares how the changes to national legislation regimes brought about by TRIPS are complemented by the actions of the USTR. From the early years of the Reagan era, the USTR has played a significant role in the extension of intellectual property laws around the world. With responsibility for US trade policy and bi-lateral and multi-lateral level, the USTR is essentially an executive branch of the American government operating within the Executive Office of the President (EOP). US trade law requires the compilation of an annual report – i.e. Special 301 – which identifies and examines 'those countries that deny adequate and effective protection for IPR or deny fair and equitable market access for persons that rely on intellectual property protection' - [we should remember here that corporations are categorised as individuals/persons for the purposes of law]. 'Countries…that have the greatest adverse impact (actual or potential) on the relevant US products must be designated as Priority Foreign Countries'. Under Section 306, the USTR 'monitors a country's compliance with bi-lateral intellectual property agreements…[and] may apply sanctions if a country fails to satisfactorily implement and agreement' (www.ustr.gov). May's (2004) research shows how developing countries are currently receiving extensive technical support in training legislators and administrators from a variety of international, government and non-governmental organisations. According to Hesmondhalgh, “this is cultural neo-liberalism, buttressed by US trade power” (2006: 9) and it is enabled by the ‘geopolitical-economic’ developments outlined above. In many ways we may see this as the logical ‘next step’ in the process of accumulation by dispossession. As Harvey tells us:

> Free trade and open capital markets have become primary means through which to advantage the monopoly powers based in the advanced capitalist countries that already dominate trade, production, services and finance within the capitalist world. The primary vehicle for accumulation by dispossession therefore, has been the forcing open of markets throughout the world by institutional pressures exercised by the IMF and the WTO, backed by the power of the United States (and to a lesser extent Europe) to deny access to its own vast market to those countries that refuse to dismantle their protections. (Harvey, 2005: 181)

TRIPS is a means of ensuring the normalisation of a neo-liberal approach to culture across the world (Hesmondhalgh, 2006). This perspective on culture sees intellectual property rights as the ultimate tool in motivating an incentive to produce creative works. The compensation of the individual for his/her creative or artistic labour is painted as the main driver behind such activity. However we note the success of shareware software and such shared resources as the online encyclopedia Wikipedia as examples of counter-vailing social movements. As Boyle, (1997, 2008), Lessig (1999, 2001, 2004), Vaidhyanathan (1999) and many others argue, intellectual property laws and practice present significant barriers to the production, mediation and consumption of information, culture and knowledge. The spread of TRIPS represents the increasing privatisation of knowledge and culture.

At the core of this extension of intellectual property laws lies the idea that economic prosperity is now reliant on the successful expansion of commodified cultural and knowledge intensive services, or what some define as the creation of an Information Society. The major corporations have subverted many key elements of the original Information Society thesis to argue that their economic base needs building (for the sake of national prosperity in an increasingly globally competitive marketplace) and so copyright terms should be extended. The US corporations have been very successful in this respect. While the Rome Convention of 1961 had set the minimum period of protection for recordings at twenty years, the 1996 World Intellectual Property Organisation (WIPO) Performances and Phonograms Treaty increased this to fifty. This was taken to the extreme by the United States Congress who, courtesy of the 1998 Sonny Bono Copyright Term Extension Act set the term of protection at ninety-five years for film, recorded music and broadcasts. The actions of Congress were significantly influenced by extensive lobbying by various Hollywood studios, most notably Disney (Laing, 2004). This law has succeeded in preventing vast quantities of creative works from passing into the public domain. If, as Lessig and others argue, creativity is often, or in part based upon recycling the old to produce the new (ie 'remix culture') through shared/social processes, then restricting access to creative works ultimately hinders creativity.

TRIPS pushes upon society the concept of creative work as being based upon the individual property model. While copyright law in theory protects the individual author, the reality is that the majority or benefits or entitlements attaching to copyrights tend to be owned by corporations. Cultural corporations thus become more wealthy and powerful, and thus more effective in lobbying governments for more extensions of copyright laws.

2.6 The music industry in the neo-liberal era

A critical examination of cultural and media industries in the neo-liberal era reveals an ongoing process of change and continuities (Preston 2001, 2008). Croteau and Hoynes (2003) and others point to the proliferation of new communication technologies, and the fresh application of old ones. They highlight how the products / texts generated by cultural and media industry companies increasingly circulate beyond national boundaries. Regulation has experienced key shifts (as illustrated earlier through the opening up of the broadcasting and telecommunications sectors to the rigours of the market). While the enforcement of policy is still very much dependent on the institutions of state, policy decisions are increasingly made at international level. Cultural and media industries have assumed greater economic significance, and concentration of ownership in these industries has evolved to a situation of media synergy where the largest companies enjoy networks of alliance and partnership and operate across a variety of industries (Thussu, 2006). However against this backdrop, and increasing volume of small and medium-sized companies have evolved that experience increasingly complex relationships with larger companies. Hand in hand with these changes there have been some important continuities, and there remains enduring issues relating to all forms of mass media. We observe the continuing significance of broadcast media as sources of information and entertainment; how stars remain the key vehicles for selling products / texts; how the US is still perceived as the world centre for popular culture; and also how copyright, has been and remains fundamental to understanding these industries.

Thus, interweaving patterns of change and continuity in the cultural and media industries since the late 1970s form a central theme in many of the recent texts on the reshaping of the media industries. Both processes must be considered in understanding the evolving music industries, and the relationship of internet technologies with same.

Critical political economy

Within this thesis, the music industry is examined as a cultural and media industry, and the study is informed predominantly by a socio-political perspective. Political economy is itself a broad term for 'an entire tradition of economic analysis at odds with mainstream economics, in that it places much greater emphasis on ethical and normative questions' (Hesmondhalgh, 2002; 30). Golding and Murdock (2000) highlight a number of key departures that political economy makes from mainstream economics in its approach to the media: Critical political economy (so-called as to distinguish itself from the writings of 'conservative classical theorists' such as Smith and Ricardo) views the economy as experiencing a mutual relationship with political, social and cultural life as opposed to occupying a separate domain. It is concerned with 'long-term changes in the role of state, corporations and the media in culture' (Hesmondhalgh, 2002: 31). Critical political economy is centrally concerned with the balance between private enterprise and public intervention, and engages with the issues of justice, equity and the public good (Golding & Murdock, 2000). To these distinctions, Hesmondhalgh further adds that critical political economy differs in that it regards the fact that 'culture is produced and consumed under capitalism as a fundamental issue in explaining inequalities of power, prestige and profit' (2002: 31) and it makes central debates around ownership and control of the cultural industries.

Hesmondhalgh warns against portraying the political economy of culture as a 'single unified approach' (ibid: 32) and points to particular strands of political economy thinking as being more effective in assessing what lies behind patterns of change and continuity in the cultural industries than others. In this respect, the most appropriate models for consideration are the North American Schiller – McChesney tradition and the European cultural industries perspective. In his comparative evaluation of these traditions, Hesmondhalgh finds the cultural industries approach more useful for a number of reasons: While the Schiller – McChesney tradition highlights the strategic use of power and assumes a 'simplistic polarity between corporations and non-profit alternative producers' (ibid: 33), the cultural industries approach provides an understanding of 'contradiction within industrial, commercial cultural production' (ibid: 33). Furthermore, this adeptness at dealing with contradiction is linked to the fact that the cultural industries approach combines a wide scope interest in relations between 'general economy and cultural industries...with an analysis of what distinguishes cultural production from other forms of production' (ibid. 34). This approach also engages with both production and consumption as different stages in the same process and thus concerns itself with connections and tensions between these entities that are ignored by the Schiller – McChesney model. While the Schiller – McChesney tradition emphasises processes of concentration, conglomeration and integration, the cultural industry perspective links these processes to 'the organisation of cultural production and the making of texts on an ordinary, everyday level' (ibid: 34). As such, Hesmondhalgh regards it as better placed to evaluate whether or not 'cultural production is organised in a socially just manner' (ibid: 34). A significant difference between these two political economy approaches derives from the fact that the Schiller – McChesney tradition is focused on information to the neglect of entertainment. While both approaches concern themselves with history, Hesmondhalgh finds the cultural industries approach to be more 'sensitive to historical variations in the social relations of cultural production and consumption' (ibid: 35).

Golding & Murdock: historical processes central to critical political economy of culture

Golding and Murdock, themselves two important contributors to the field, point out four specific historical processes that form the basis of a critical political economy of culture: the growth of the media; the extension of the corporate reach; commodification;

the changing role of state and government intervention. They highlight Thompson's description of the 'process by which the transmission of symbolic forms becomes increasingly mediated by the technical and institutional apparatuses of the media industries' (Thompson, cited in Golding and Murdock, 1996: 16) as pointing to the media industries as the logical starting point of analysis of contemporary culture. While media production has long since been 'commandeered' by major corporations, and shaped in accordance with their interests, the corporate reach 'has been considerably extended in recent years by the pull towards 'privatisation' and the declining vitality of publicly funded institutions' (Golding and Murdock, 1996: 16). The corporate domination of culture is characterised by, on one hand, major media conglomerates that largely control production and distribution across a range of media sectors, and on the other hand, corporations from outside the cultural industries that invest in them through advertising and sponsorship and thus acquire influence on cultural activity.

The above processes lead to another significant process – the commodification of cultural life, which was emphasised earlier by the Frankfurt School. Golding and Murdock briefly trace the evolution of commercial communications corporations which initially produced 'symbolic commodities that could be consumed directly' by those with literary or other competencies such as books, newspapers, theatre performances and music recitals (ibid: 16). Through the development of domestic technologies such as radio, television and recording, consumers required hardware as a 'condition of access'. Golding and Murdock argue that this 'compounded the already considerable effect of inequalities in disposable income, and made communicative activity dependent on ability to pay' (ibid: 16). While, on the surface, this may appear to have little to do with the shaping of commercial broadcasting, there are two significant factors that suggest otherwise: First, audiences contribute to the costs of programming through the retail price of advertised products; and second, audiences themselves are commodities as commercial broadcasting centres on 'the exchange of audiences for advertising revenue' (ibid: 16). The need of the broadcaster to attract the largest audience possible means that programming is inevitably designed around the more familiar formulas and formats to the neglect of the more innovative and risky. Thus, for Golding and Murdock, 'the position of audience as a commodity serves to reduce the overall diversity of programming and ensure that it confirms established mores and assumptions far more often than it challenges them' (ibid: 17).

This 'commodification of communicative activity' has traditionally been countered by institutions funded by the taxpayer and aimed at 'providing cultural resources for the full exercise of citizenship' (ibid: 17) – i.e. public service broadcasting. Golding and Murdock quote John Reith, the first director general of the BBC who stated the ideal of public service broadcasting to be a resource that 'may be shared by all alike, for the same outlay and to the same extent...there need be no first and third class' (Reith, 1924, cited in Golding and Murdock, 1996: 17). In recent years, such a vision of public service has been dented, for example, by the BBC's growing commercial activities in its quest to generate revenue. More generally, PSB has been under pressure from neo-liberal policies throughout the EU. On the other hand, the BBC has experienced pressure from the political arena, particularly in the area of news and current affairs. The significance of the role of the state in managing communicative activity has been highlighted through issues such as the former ban on interviews with members of Sinn Fein, and public attacks by the government on the impartiality of the BBC resulting in the restriction of public discourse on particular issues (Golding and Murdock, 1996). Critical political economy is therefore concerned with 'determining the scope of public intervention...It is concerned with changing the world as well as analysing it' (ibid: 17). While classical liberal political economy, such as that associated with Adam Smith, argued for minimal state intervention in market activity, critical political economy highlights the 'distortions and inequalities of market systems and argues that these deficiencies can only be rectified by public intervention' (ibid: 17). Furthermore, while classical political economy does acknowledge that private enterprise cannot satisfy all of the needs of society and recognised difficulties in the 'sphere of culture' that do require public intervention, critical political economy goes much further in arguing the extension of citizenship rights as pre-requisite in the shaping of a 'good' society.

The history of modern communications media is therefore 'not only an economic history of their growing incorporation into the capitalist economic system, but also a political history of their increasing centrality to the full exercise of citizenship" (ibid: 18). An ideally functioning media would provide citizens with the information necessary for them to know and pursue their interests and rights. It would also provide citizens with the optimum information and analysis with regard to political choices.

Production and consumption: two aspects of a political economy of the media

According to Golding and Murdock, there are three core areas that illustrate the concerns and distinctive priorities of a political economy of media and communication: production, consumption, and textual analysis. Below, I consider production and consumption. However I am choosing not to include textual analysis given the specific concerns of this thesis.

<u>*(1) The Production of Cultural Goods*</u>

The above-mentioned notion of an ideally functioning media has been severely dented in recent years by technological and economic developments that promote a 'shift away from involving people in societies as political citizens of nation states towards involving them as consumption units in a corporate world' (Golding and Murdock, 1996: 19). An important issue for critical political economy therefore is to 'investigate how changes in the array of forces which exercise control over cultural production and distribution limit or liberate the public sphere' (ibid: 19). Tackling this issue involves analysing issues of ownership and control of media and communications institutions, as well as examining their relationship with state regulation.

Golding and Murdock examine how the growth of media and communications conglomerates extends the 'old debate' around potential abuses of owner power through strategies of synergy, and the growing impact of digital technologies that has led to an era of media convergence. While the promise of these changes has been the transfer of power from owner to audience, it has thus far proved false. As Golding and Murdock point out, in the emerging environment:

> ...power will lie with those who own the building blocks of new communications systems, the rights to the key pieces of technology, and even more importantly, the rights to the cultural materials – the films, books, images, sounds, writings – that will be used to put together the new environment.(Golding and Murdock, 1996: 21)

With regard to intellectual property, the major media corporations possess an enormous advantage in that they already own the rights to very large repertoires. On the issue of diversity in the marketplace, these corporations, through their control of distribution channels, can exert considerable influence over smaller companies trying to enter the market. Those that do manage to enter and survive must compete by offering 'similar products to the leading concerns, and employing tried and tested editorial formulae' (ibid: 20).

Traditionally, the main 'interruptions' to this process have derived from state regulation of commercial enterprises aimed at preserving and maintaining diversity in cultural production. This cultural diversity has also been fed through public subsidy. Golding and Murdock point to these regulatory systems being changed over the past quarter-century to 'favour the freedom of operations for owners and advertisers' and in doing so greatly increase the potential reach and power of the major communications companies so as to 'reinforce the danger that public culture will be commandeered by private interests' (ibid: 21). Charting these changes and assessing their impact on cultural diversity is a central concern for critical political economy. It must also analyse 'how and in what ways the relation between the media and the state has consequences for the range of expression and ideas in the public arena' (ibid: 22). The autonomy of media industry personnel is also a concern for critical political economy that aims to assess the extent of this autonomy within the context of the broad economic structure of the media, and the degree to which some products and forms of expression fail to find an access route to an audience. Overall of Golding and Murdock, we can say that the political economy of cultural production 'is concerned with the concrete consequences for the work of making media goods and of the broad patterns of power that are their backdrop' (ibid: 24).

(2) Consumption – Sovereignty or Struggle

Proponents of free market ideology argue that optimal production and distribution of goods is achieved through the market. Under such a philosophy, the same principle applies to cultural goods, so in effect, cultural goods are just the same as any other. The critical political economy of cultural consumption takes issue with this approach. Cultural studies and liberal pluralism adopt the view that consumer sovereignty is achieved through individuals imposing their own meaning on goods that are 'polysemic'. Golding and Murdock point out that 'consumer sovereignty is in any total sense clearly impossible – nobody has access to a complete range of cultural goods as and when they wish, without restriction' (ibid: 26). Critical political economy is thus concerned with examining the barriers (which Golding and Murdock define as material and cultural) that restrict such freedom.

Instrumentalism and structuralism

Devising an analytical model to probe the cultural industries from a cultural industries perspective requires an awareness and careful avoidance of the pitfalls instrumentalism and structuralism (Hesmondhalgh, 2007: 15). Instrumentalism argues that capitalists, by virtue of their economic power 'ensure that the flow of public information is consonant with their interests' (ibid: 15). The economically powerful have at their disposal the means by which to 'fix the premises of discourse, to decide what the general populace is allowed to see, hear and think about, and to manage public opinion by regular propaganda campaigns' (Herman and Chomsky, 1998: ix). Golding and Murdock contend that such a view is only partly right. Analysing media and cultural industries demands recognising contradictions in the system. Media and cultural industry owners also operate within 'structures which constrain as well as facilitate, imposing limits as well as offering opportunities' (Golding and Murdock, 1996: 15). Critical political economy must necessarily investigate these limits and constructs.

Proponents of a structuralist view argue that political economy relates the outcome of the media process to the economic structure of media organisations (Schudson, 1989). Golding and Murdock argue that critical political economy analysis of culture goes beyond this to examine the processes through which meaning is 'made and re-made through the concrete activities of producers and consumers' (1996: 15).

Critical political economy is therefore urging us to re-think the concept of economic determination to arrive at a situation where economic forces, while playing a crucial role in shaping the media and communications environment, must combine with other factors in order to provide a complete explanation of activity in this area.

2.8 Chapter Summary

The twenty first century recorded music industry cannot be understood without consideration of the late capitalist economic system within which they evolve, and the broader political, social and cultural environments in which they are embedded. This chapter has provided an overview of the crucial political-economic context within which the relationship between the recorded music industry and music radio has evolved, and within which the record industry has become the first sphere of cultural production to face the challenges and opportunities associated with the internet. We must thus interpret these specific industries and institutions in light of those broader trends outlined above. In short, it is important to recognise that my 'meso-level' study is connected to these 'macro-level' trends.

We have seen that what is special or different about such institutions as the music industries at present is that we are not only living in an increasingly informational society or a more technological society, but that it is a neo-liberal information society. We must remember that the seminal period of the information society theory in the 1960s-70s saw it emerge in Keynesian society – a very different vision from that of neo-liberalism. It was a vision of de-marketisation where the autonomy of knowledge and culture was based on the removal of the market and the creation of new insulated spaces where scientific knowledge and other types of knowledge could take place in relative autonomy (Preston, 2001). So the political-economic is crucial in avoiding a linear, technological view of development.

In addition to the political-economic factor, this chapter is also placing emphasis on changing business investment strategies that have fuelled the growth of service industries as a response to the economic downturn (in particular in manufacturing) of the 1970s and 1980s. Furthermore, while I have addressed technological change, I have emphasised a focus on the role of policy and institutional innovations in shaping the outcome of technological developments, particularly the (continuing) significance of copyright as a legal innovation and a fundamental factor in understanding the evolution of cultural and media industries in the digital era. This holds particular resonance for my study of the record industry in the advent of the internet.

Chapter 3: Key Perspectives on the Power and Role of Digital Technologies

3.1 Introduction

We are often told that we live in ‘the internet age’ or ‘the digital era’. The branding of Ireland as a ‘knowledge economy’ (and more recently ‘smart economy’) illustrates this trend for apotheosis through technological innovation, and it mirrors a similar campaign in Thatcher’s Britain in the 1980s (Preston, 2001). The production, distribution and consumption of music can, amongst other things, be seen as technological practices. Given the centrality of digital technologies, particularly the internet, to arguments surrounding the apparent crisis in the music industries and to debates surrounding change in music production, distribution and consumption practices, it is useful to incorporate some key perspectives on relationships between technology and actors in the social world into the analytical framework underpinning this thesis. There is much debate among researchers and theoreticians as to the role and place of technology in society. While some theoretical approaches label technology as a discreet, independent, autonomous force that determines social change, others argue that it is impossible to separate technology from the social environment within which it emerges, and that the reification of the technological is flawed (Lister et al, 2008).

Today, the transformative potential of apparently new and emerging technologies is frequently touted. The internet has been widely proclaimed as a transformative technology, profoundly impacting upon the entire fabric of human society, let alone the music industries. Digital technologies are at the centre of an ongoing debate as to the disruptive potential of technological innovation on existing industrial structures, established industrial practices, relationships of cultural industry firms with, and methods of content delivery to their end-user market.

This thesis is primarily concerned with examining the crisis popularly perceived as afflicting the ‘music’ industry. Given that digital technologies, particularly the internet, are commonly regarded as inducing this apparent crisis, a critique of the determinist account of role of technologies in the economy and society is implicit throughout this study, Here, it is necessary to explicate some of the perspectives on techno-social relations that inform the overall analytical approach in this thesis.

Two key theoretical perspectives are of note: ‘technological determinism’, which emphasises the transformative characteristics of technologies which are seen as the drivers of change throughout society; and ‘social shaping’ of technology approaches, which emphasise the primacy of social forces in shaping the outcome of technological innovations in society. While both traditions have established historical trajectories, for the purposes of this study it is sufficient to focus on two relatively recent perspectives on the outcome of digital technologies in society that illustrate each tradition. First, we will briefly outline the techno-centric approaches of Kevin Kelly (1999) and Nicholas Negroponte (1995, 1996) that emphasise the transformative ‘effects’ of digital technologies on contemporary human society. Second, and more significantly in terms of the research questions being pursued in this study, we will consider two ‘models’ that illustrate how social innovations evolve to ‘match’ technological innovations, and thus shape technological outcomes. The first model analysed is Winston’s model for the nature of change in media technologies; the second is Lessig’s model for ‘malleable’ internet architecture.

Overall, the two sets of arguments articulate radically different views on the power and role of technology with regard to the social world.

Digital Deliria: Kelly and Negroponte

Kelly (1999) continued Toffler’s (1970, 1980) theme of a break with the old relations of industrial capitalism, arguing that in the age of the internet, a whole new set of economic rules and relations are required. Kelly’s approach can, perhaps be most succinctly summarised in the following quote:

> Technology creates an opportunity for a demand and then fills it… Supply and demand are no longer driven by resource scarcity and human desire. Now both are driven by one, single exploding force: technology. (Kelly, 1999: 55)

Writing specifically in relation to music Kelly argues: ‘The recording industry as we know it is history’ as internet technologies transform the entire spheres of music production and consumption (Kelly, 2002: 19). In Kelly’s account, technology assumes the characteristics of a cognitive being (Cawley, 2003) and effectively determines society's path.

Following on in technological determinist tradition is Kelly's contemporary, and professional and ideological ally Nicholas Negroponte. Negroponte argues that technologies are the product of 'purely technological imperatives' (1996: 81). In Negroponte's account, technological innovation occurs, followed by diffusion and appropriation. Virtual reality and internet technologies will facilitate global networking are 'creating a totally new, global social fabric' (1996: 183). Society must adopt to technological change and form new sets of socio-economic and political relations as a consequence.

The concept of 'revolution' is intertwined with technological determinism, not least in the postulations of Negroponte. For example, he espouses the radical potential and determining forces he perceives as inherent in digital technologies – revolutionary technologies that imply an eschewal of much of what has gone before. This sense of revolution is most starkly conveyed in his assertion that: 'Copyright law…is a Gutenburg artefact' (1996: 58), and: 'Copyright law will disintegrate...Bits are bits indeed. But what they cost, who owns them, and how we interact with them are all up for grabs' (Negroponte, *Wired.com*, February 1995). Such statements, bluntly outlining the revolutionary quality of the internet on the cultural and media spheres holds a particular resonance in the context of this thesis. The death of copyright implies a drastic reordering of the relationship between cultural corporations and consumers. Negroponte further asks: 'If moving these bits [of digital data] around is so effortless, what advantage would the large media corporations have over you and me?' (ibid).

Moreover, digitalisation can serve to 'flatten organisations…decentralise control' and make the nation-state 'go away' (ibid). All of these assertions underlie claims of revolution in the music industries and thus ring loudly in the ears of the student of these industries. In Negroponte's terms, the internet brings with it the democratisation of the music economy where the small independent artist faces the large cultural corporation on a level playing field. As the newspaper headlines detailed at the outset of chapter one indicate, popular and media discourses on the state of the music industries tend, largely, towards the deterministic and revolutionary.

The ideology of Kelly and Negroponte can be seen to inform policy and investment decisions of both state and industry alike. Although technological determinism remains the dominant informant of political, industrial and media accounts of techno-social relations, it finds significant opposition in the academic world, primarily in the arena of social shaping approaches to technology. As we shall see in the two models related below, such techno-centric perspectives are vehemently criticised by those who argue that there are many actors and interest groups – often with wide ranging and even conflicting interests, and often quite far removed from any predominantly technological logic or trajectory – involved in shaping the outcome of technological innovations.

Far from following a predictable, linear path producing revolutionary impacts on the socio-cultural order, Winston urges us to consider technology's trajectory as the outcome of a complex process of negotiation involving many actors. It is to Winston's model that we shall next turn our focus.

3.3 Winston's model for the nature of change in media technologies

While Raymond Williams stresses the role of 'real decision-making groups' such as political and economic elites in shaping technological evolution, he does not expand on how social actors serve to accelerate or decelerate technological development, or how interest groups (possibly far removed from any predominantly technological logic or trajectory) serve to influence the extent to which these social needs are fulfilled or not. Winston (1995, 1998) serves to illuminate these processes by providing a model for technological change, based in part of Saussurian linguistics, which deals with the emergence of a technology from its emergence from its general background to its social acceptance. This section outlines Winston's approach and, section 3.6 proceeds to illustrate the relevance of this model to the contemporary environment by examining Lessig's (1999, 2001, 2004) four key and interdependent constraints - (the architecture and design of the technologies; legal forces, particularly copyright law; social norms; and market forces) - that regulate social practice and behaviour in cyberspace, factors crucial in understanding the implication of internet technologies in the recent evolution of the music industries.

Winston's (1995, 1998) detailed studies shed light on the complex set of social needs, political expedience and economic forces that are behind the creation and dissemination of media technologies. Taking a long-term, historical perspective, Winston refutes the concept of sudden technological change arguing that his study 'reveals the 'Information Revolution' to be largely an illusion, a historical gambit and an expression of technological ignorance' (1998: 2). Winston proceeds to describe manifold historical continuities that underlie apparently radical technological change. He illustrates how new technologies are suppressed by 'general social constraints' that 'coalesce to limit the potential of the device to radically disrupt pre-existing social formations' (ibid: 11).

Winston emphasises a fundamental continuity in Western civilisation as opposed to the accounts of 'monumental and increasingly frequent change' driven by information and communications technologies that are widely disseminated via many academic as well as popular and journalistic accounts (1998: 1). For Winston, that which is propagated as 'revolutionary' should rather be understood as part of an 'evolutionary' process. Broadly speaking, continuity underlies seemingly seismic changes.

For Winston, technological change is facilitated and accommodated by 'pre-existing social formations'. In Winston's model, technological innovation draws upon an already evolved body of scientific understanding. It is a response, by technologists, to this 'ground of scientific competence' (1998: 3).

Within Winston's model, a series of transformations occurs. The first transformation, he terms ideation. This is where technological possibilities that have been envisioned or hypothesised are tested, i.e. built as devices and diffused in the social world. Such devices may be thought of as prototypes. The success or failure of a prototype is determined by a second transformation that impacts upon this 'technological performance'. This is what Winston terms as supervening social necessities, which lie at 'the interface between society and technology' (1995: 67). This, in essence, is the emergence of an application for a prototype.

Supervening social necessities serve to move the prototype out of the laboratory and into the social world. For example, the supervening social necessities that related to the rise of television include the nature and form of the family, the rise of the home and the spare industrial capacity in the years following the end of World War Two (Winston, 1995). Likewise, the supervening need for the rotary press and automatic typesetting is evidenced in the introduction of the first universal education acts and the removal of newspaper taxation (Winston, 1974). It is these supervening social necessities that transform prototype into invention. Invention is a further stage of 'technological performance' that is informed or shaped by the application of social forces to earlier prototypes. As such, the device produced now purports to serve social needs. This invention is subsequently unveiled in the market place. Winston argues that society displays schizophrenic characteristics regarding technological devices:

> On one hand… we still believe in the inevitability of progress. On the other, we control every advance by conforming it so it 'fits' to pre-existing social patterns. (Winston, 1998: 11)

As such, upon moving into the market place, a third transformative phase is entered – what Winston terms as the law of the suppression of radical potential. This refers to the pressure and actions of established societal institutions to combat the disruptive potential of technology on existing social formations and power structures, with 'the great corporation as the primary institution of our society' (ibid: 11).

It is thus, the interaction, conflict and struggle between, on one hand, supervening social necessities and, on the other, the law of the suppression of radical potential that serves to hinder and constrain these processes that ultimately shape the outcome of a technology. In Winston's account, television overcame the oppressive forces of the established entertainment corporations to satisfy the supervening social necessities of family, home and spare electronic manufacturing capacity. This relationship between the accelerator of supervening social necessities and the brake of the law of suppression of radical potential is, for Winston, a much more effective and more 'powerful' way of explaining 'the nature and change in media technologies…than any that the technological determinists can produce' (1995: 68).

The latter phase of Winston's model is particularly pertinent to this thesis. With regard to the recorded music industry, the internet has been widely perceived as possessing a particularly disruptive potential, especially in terms of the established music corporations' relationships with (or modes of service delivery to) their final consumers. However, a historical perspective also indicates that the precise socio-economic outcomes of radical technological innovations (such as the internet) have rarely been read or predicted with any accuracy from the latter's apparent technical features, not least those envisaged and proposed by their designers and suppliers. Rather, the widespread adoption and appropriation of radical technological innovations must also be accompanied and facilitated by a diverse set of 'matching' innovations. The precise outcome of any radical technological innovation is always the product of conflicts and struggles between different interest groups in domains that are often far removed from any predominantly 'technological' logic or trajectory. In the contemporary 'information society' or 'knowledge economy', this means that we must pay special attention to one particular area of conflict and struggle over 'matching' policy innovation – that related to the intellectual property rights regime, and more specifically for the case at hand, copyright. This, to borrow and bend Winston's phrasing, forms one of the key suppressants of the radical potential associated with the internet and other digital technologies in the context of the music industries (as will be illustrated later).

3.4 Lessig's model for malleable internet architecture

A key reason why the music industries are so threatened by internet technologies is because the idea of freedom, not control is embedded within the internet's technical and organisational features (Latonero, 2006). For Lessig (2001), the internet represents a 'commons', a public space that is shared by all who use it, but owned by none. However, legal developments are transforming it from an open, democratic, if chaotic sphere, into a highly controlled experience.

By placing 'intelligence' in the computers and servers at the end of the 'wires', the network itself remains unintelligent. Lessig refers to this as the end-to-end (e2e) characteristic which is at the core of internet design. By its inability to discriminate what travels across its wires, this characteristic of the internet makes it amenable to being a commons. Drawing on Benkler's (2000) layer concept, a model outlining the different layers within a communication system that combine to make communication possible, Lessig reduces the internet to three such layers: code. physical and content.

The end-to-end design of the internet is implemented by a set of protocols implemented at the middle layer, the code layer. This is where decisions get made about what gets produced and distributed. Traditionally, in real-space physical distribution environments, the code layer refers to the non-creative intermediaries (such as, in music terms, record company executives, radio station managers etc.) that filter content and influence the nature and form of creative endeavour, or indeed influence the creative artist to create or not. Lessig argues that with the advent of digital distribution and the architecture of the wires, the code layer possesses the ability to dramatically improve the way the market works by enabling new technologies to be accessed and used:

> If you want to sell very weird widgets and only a hundred thousand people are in range, then you're not likely to be able to sell enough widgets to make it worthwhile. But if you had the world as your market – if the code layer facilitated the broad distribution of selective information about widgets, thus lowering the cost of information – then you might have a market large enough to make your weird widget factory work. (Lessig, 2001: 114)

Below the code layer is the physical layer, representing the unintelligent architecture of the wires, the layer across which communication travels. It is this layer that allows content to flow, thus making possible interaction, collaboration and innovation. Above the code layer is the content layer, referring to creative output, the l material delivered by the protocols over the wires – 'the actual stuff that gets said or transmitted…digital images, texts, online movies and the like' (ibid: 23). It is this layer at which the law intervenes to strike a balance between access and control with much of the content being protected by copyright law.

The most salient feature of this tripartite structure is its end-to-end form, the lack of intervention or 'intelligent' interference to disrupt communication between users. Much of the transformative hype and digital deliria postulated about the music industries and the collapse of their established corporate structures is (albeit unconsciously, perhaps) underpinned by the assumption of the continued existence of such an end-to-end structure - an unfiltered, democratic code layer, operating upon an unintelligent physical layer, and the futility of legislators and judiciary in exercising control over access to material at the content layer.

Lessig argues that each of these layers in cyberspace is being transformed by the forces of market and state in such a manner that has led to the private appropriation of the layers. For Lessig, this represents the development of intelligence in the layers, thus transforming them from an indiscriminating commons into increasingly discriminating filters. This points to a 'blind spot' in our culture where the creativity of artists and internet entrepreneurs is compromised through the establishment of 'old' economy power over 'new' technology sphere. Lessig cites the AOL-Time Warner merger - a marriage between technological medium and content - as an example of this process in the physical layer: 'the forging of an estate of large-scale networks with power over users to an estate dedicated to almost perfect control over content' (ibid: 7). To emphasise the dangers of such developments, Lessig cites Tim Berners-Lee, the man who unveiled the world wide web:

> Keeping the medium and content separate…is a good rule in most media. When I turn on the television I don't expect it to jump to a particular channel, or give a better picture if I choose the channel with the right commercials. (Berners-Lee, cited in Lessig, 2001: 166)

Lessig argues that the success of the major music companies in pursuing 'illegal' music distribution services such as MP3.com and Napster through the courts highlilghts the shifting nature of the code and content layers of the internet as the courts extend the definition infringement and consequently constrain public use of code and content. Thus, for Lessig (1999, 2001, 2004), the internet is, under pressure from economic and political forces, evolving to prevent change rather than induce it:

> When we see the path that cyberspace is on…we see that much of the "liberty" present at cyberspace's founding will vanish in it's future. (Lessig, 1999: 6)

For Lessig, social order is produced by activities in four realms: technology; economy; civic institutions; and the polity. Social practice and behaviour is regulated I these realms by four key distinct but interdependent constraints: architecture; norms; law; market (1999, 2004). The same factors converge to regulate practice and behaviour in cyberspace.

By architecture, Lessig refers to technologies, how they are designed, how they are built, and how they serve to constrain or determine particular behaviour or practice. It is the underlying software and protocols on which the internet is based, but also the kinds of applications that may run on top of that software infrastructure. Regarding market, Lessig identifies pricing structures around paid-access services and the drive for advertising revenues as shaping the actions of providers and users of online services. Thinking specifically in terms of music services, the utilisation of customer relation management (CRM) technologies can also be seen as the regulation of user-behaviour driven by market imperatives. Regarding norms, as a set of understandings or agreed do's and don'ts among particular 'communities' or users. Lessig also identifies law as the regulator of cyberspace, identifying defamation law, obscenity laws, but most significantly in relation to this thesis, copyright law as constraining online behaviour and practice. Much like Winston, Lessig's model implies an interplay between technology and market forces, the legal sphere and broader communities of users that ultimately shapes the outcome of internet technologies in the social world. Each of these four factors or constraints can influence the others. The architecture of internet technologies is ultimately shaped by other factors.

Lessig (1999) highlights that the ability to regulate cyberspace is dependent upon 'architectures of control'. He particularly points to identity and authentication. As commerce was increasing in significance on the internet, pressures to develop the architecture to limit opportunities of anonymous interaction and to improve methods for authentication also increased, thus making cyberspace more governable or regulable. Lessig identified cookies and encryption as two such developments already applied by the late 1990s. Digital Rights Management (DRM) technologies provide a subsequent example with particular relevance to online music. For Lessig, the application of these new architectures of control to the sphere of intellectual property holds significant imperatives for the relationship between copyright holders and wider society. Such developments, for example, diminish fair use. In doing so, this shifts the balance in favour of copyright holders – frequently entertainment and media corporations - and away from users.

An argument reinforced throughout Lessig's work (1999, 2001, 2004) is that internet architecture is malleable and thus can be shaped by human beings and groups in society that may wish to implement an agenda. When it first realised as a technology of mass communication, the architecture of the internet emphasised openness and flexibility. Lessig (2004) argues that the possibilities arising from the advent of peer-to-peer file-sharing technologies on the internet has induced new conditions within which copyright protection has become more far reaching than at any point in history. Lessig expresses significant concern at the stifling and potentially detrimental effect that this has on creativity and cultural production. Technological innovations have frequently appeared to threaten content producers and suppliers and to disrupt their established practices and revenue streams. For Lessig, previously regulation had managed to balance the interests of copyright owners with the interests of society in having intellectual property available and accessible. However, its subsequent reshaping by commerce – driven on one hand by the need to identify consumers and share data about them, and on the other by the desire to protect intellectual property – brought with it technologies of encryption, technologies that limit usage possibilities, identification architecture, and the extension and expansion of real-space copyright mechanisms into cyberspace to restrict access to intellectual property.

Lessig emphasises that his point is not about the removal of copyright protections. While the debate is commonly framed as no copyright protection free-for-all versus complete copyright protection as the only available options, Lessig suggests a middle-ground of shorter copyright durations, a registration requirement and the re-introduction of renewable copyrights. Regarding registration, Lessig notes that for most of the history of American copyright, it was necessary to register a work in order to make it eligible for copyright protection. Authors were required to mark a work with the © symbol or the word copyright, and to deposit it with the US government. In Lessig's account, during the early years of the American republic, ninety-five per cent of works that were eligible for copyright were never copyrighted. Regarding renewable copyrights, early US copyright law had a duration of fourteen years. If the owner was still alive at the end of this period he had the option to exercise renewal of his copyright ownership for a further fourteen years. However, Lessig notes that only a small percentage of copyright holders ever availed of this option, thus releasing the bulk of copyrighted work into the public domain where it could be freely accessed and used.

However, Lessig is not hopeful for a return to any such middle-ground in the contemporary environment. He details how many of these early copyright 'formalities' in the US were dispensed with in favour of a European model where copyright is automatic and exists whether you make a copy available for others to copy or not. Big corporate powers use their economic clout to organise a reshaping of legislation as to extend and expand copyright protection and intensify enactment against infringing parties. So, as Lessig laments, new opportunities offered by the potential of internet technologies cannot be explored because of legal constraints. Along with the consolidation of the media (which we will consider in chapter 4), real-space content outlets, and also increasingly in cyberspace, are largely under the control of a few major corporations. For Lessig, all of this means that despite the potential offered by the internet, it is becoming increasingly hard to derive creative benefits or enhance commercial innovation on the back of this potential.

Lessig's model on constraining forces, the primacy he affords to law in exerting influence over architecture, and his accounts of the evolution of cyberspace, all seem to resonate with Winston's law of the suppression of radical potential.

A recurring theme in Lessig's work is the consequences of contemporary copyright protection. Lessig (2001) highlights the penalties imposed for file-sharing offences in the digital world as being phenomenally burdensome relative to those imposed for the theft of physical products. The justification forwarded by the courts for handing out financial penalties up to one hundred and fifty times more severe for file-sharing offences is that file-sharing makes available music files for mass 'illegal' consumption. While Lessig highlights the inordinately high costs of patent infringement, he also emphasises how the 'legitimate' use of music is stifled by copyright processes.

Ultimately, Lessig directly challenges the assumption, perhaps asserted most pointedly by Negroponte, that the very edifice of copyright law is going to crumble in the digital era. Lessig observes how copyright holders have moved to force changes in technology and changes in the law. As a result, technologically implemented copyright protection and copyright management schemes evolved, with governments putting in place mechanisms to prohibit the circumvention of such schemes. This has resulted in an environment in which the traditional exercise of 'fair use' of a copyrighted work becomes less and less meaningful because, as Lessig implies, the fact that an individual can technically engage in fair use is of little consequence when one can't engage in any unauthorised copying.

3.5 The 'negotiable' outcome of the phonograph

'Negotiability' is a concept bound up with social shaping approaches. Negotiability refers to the ability of different groups and forces in society to shape the outcome of technologies to their own ends. Given the preoccupation of this research study with the music industry, and in particular it's evolution in the context of recent technological developments, an interesting and useful example illustrating negotiability can be found in various accounts of early music recording technology. Latonero (2003) offers a long-term historical overview of music technology that supports the theoretical efficacy of the social and cultural shaping of music technologies. The historical relationship between music and technology is well established with music stating its case as one of the earliest imperatives of communications technology[8]. However, as Latonero points out, it was not until the late 1800s and the unveiling of Edison's phonograph that technology moved the music experience away form 'live' performance. For the first time in history, technology provided for the storage of musical sounds, and their retrieval at a subsequent place and time. According to Conot (1979), Edison's device emerged through his attempts at solving four key problems: first, a speaker for the telephone; second, a copying machine; third, a telegraph for the transmission of handwriting and drawings; and fourth, how to employ the telephone in Western Union operations. It's subsequent evolution as a (primarily) music technology is somewhat ironic given that Edison, first and foremost, regarded it as a device for recorded speech to be employed for business purposes (Gellat, 1977; Middleton, 1990; Laing, 2004), and secondly as a device to be used for producing phonographic books for blind people (Gellat, 1977). According to Garofalo's (1977) account, when Edison unveiled this 'legendary talking machine' in 1877…the reproduction of music was fourth down his list of intended uses' (1999: 232). Jones also argues that:

> It is surprising that the phonograph came to be a primarily music device given that there was nothing in its technical development that vigorously pointed in that direction. (Jones, 1992: 24)

Winston (1998) provides an account that illustrates how music subsequently came to be the key application of phonographic devices. By 1889 phonographic companies experienced little demand within the business community for their devices.

[8] According to Turk and Kunej (2000), a flute believed to be 43,000 years old was discovered made from bones; Clottes (1999) tells of a 15,000 year-old wall engraving in Ariège, France, that illustrates a harp made from a hunting bow.

In efforts to generate greater public interest, exhibitors attached coin-operated listening tubes to these phonographic devices. In Latonero's account:

> To gain more attention, some exhibitors experimented by playing recorded music during the presentation instead of diction. It was an instant hit. Hearing music from a device fitted with rotating cylinders and a horn lured much larger crowds. (Latonero, 2003: 5)

This demonstrates that 'the real supervening social necessity for was not the office, but the amusement requirements of the urban masses' (Winston, 1998: 63). As such, it was the exhibitors, not the inventors/producers of phonographs, interfacing with the general public, who discovered the value of music recordings for entertainment and in doing so, played a significant role in shaping the outcome of the device. The evident willingness of the public to place a coin in a slot to play a tune or a song at these exhibitions subsequently led to what popularly became known as the jukebox, and the widespread installation of these coin operated machines in public spaces. According to Welch and Burt (1994), Edison was loath to see the dictation function of his device diminished in favour of entertainment and 'warned' phonographic company representatives 'not to neglect the original purposed of the their companies' organisation – the promotion of the phonograph as an adjunct to business' (Welch and Burt, cited in Latonero, 2003: 6). Nevertheless, by the dawn of the twentieth century, music had established itself as the primary application of sound recording technologies.

Beyond the phonograph, the history of music technology provides numerous examples of outcomes illustrating negotiability. Music production technologies are unveiled with an intended meaning fixed to them by their producer. While these meanings serve to impose pressure and limits on the music making process, Frith (1986) argues that creative artists / musicians often subvert these meanings or intended uses/applications. Goodwin (1992) provides a series of examples to illustrate Frith's point, describing the 'history of pop' as the 'history of corruption of musical instruments' (ibid: 95). As Goodwin details:

> Think of Jimi Hendrix and the discovery that noise 'feedback' could be musical. Sampling, after all, is often deployed as a high-tech version of an earlier practice – the re-appropriation of the record turntable to steal and scratch sounds in the dance clubs. The drum machine was developed after composers such as Daniel Miller…had redeployed the electronic synthesiser to create drum-like sounds. The multi-track tape machine exists because musicians and composers…improvised recording techniques using existing equipment, that the manufacturers had not anticipated. The mixing desk, designed to produce the 'best' final' mix of a song was reworked ion the 1980s as a place where songs could be remixed, deconstructed or perhaps destroyed. (Goodwin, 1992: 95)

As such accounts indicate, it is the subversion of music technologies, rather than their adoption on the terms of the producers and manufacturers that shapes innovation in pop music. While there are aesthetic implications arising from changing music making and recording technologies, such technologies do not determine a path for musical creativity or production techniques (see, for example, Channan 1997). Rather, they serve to provide for fresh possibilities and practices that are frequently beyond the control of the producer or manufacturer. In many cases, these practices feed back into the subsequent modification of technological devices. For example, DJs in underground Harlem clubs in the 1970s started using two record turntables to facilitate alternating directly from the instrumental break in one track to the instrumental break in the next. This unorthodox use of turntables led, through its growing popularity, to the production of the twin-deck console as standard for mainstream club DJs.

Equally, at the consumption end, the Walkman was launched in 1979 with twin headphone sockets. Its producers, Sony, conceived of music only as a shared experience, as opposed to a purely individual listening experience (Du Gay et al., 1997). It was only upon observing the application of the device by users that the device was modified to contain single headphone sockets.

Thus, the technical application of a device as intended by its producer need not be the application that achieves popularity for that technology. Morton's history of sound recording further emphasises this point:

> The phenomenon of consumers appropriating recording technology, or redefining the uses and reasons for making a sound recording, is one of the most important aspects of sound recording history. Often, the process of appropriation was the transgression of boundaries. Underlying many of the different artistic, commercial, scientific and engineering applications of sound recording, for example, is a history of subversion. (Morton, 2000: 178)

Also, Middleton (1990) urges us to see the outcome of the phonograph as a device for the reproduction of music in the context of 'a nineteenth century history of instruments for mechanical reproduction' (ibid: 84). Thus, he sees its evolution shaped by a social world that placed increased emphasis on the development of leisure and entertainment markets where music boxes, barrel organs and pianolas grew mass market commodities.

As such, it is the problems and solutions acted out by forces beyond the technological that have thus far shaped the outcome of music technologies.

3.6 Chapter summary

Given the centrality of technology to popular discourse surrounding the recent evolution of the recording industry, both technological determinism and social shaping approaches to the relationship between technology and the social world (and the tensions between these two sets of approaches), are key informants of any analytical framework examining the role of the internet in the recording industry and wider music industries.

Williams argument that technological hegemony is achieved by the constant repetition of technological deterministic rhetoric in media and other sources, leading to the uncritical acceptance of techno-centric ideology in the mainstream, is particularly relevant given the 'received wisdom' of contemporary society regarding the detrimental effects of file-sharing technologies on both economic and cultural processes surrounding music, and the futility of legislation in combating these effects. While acknowledging the implications of technological innovation and development, this thesis emphasises the role of other political, economic, legal and cultural variables in shaping the outcome of internet technologies in the music industries and, the evolution of these industries over the past decade and a half.

Chapter four will proceed to examine literature concerning the role and implications of the internet with regard to the music industry over the past decade. In light of these perspectives on the roles and outcomes of technology, it will be informed by approaches that are attentive to the interplays of technological, economic and policy factors (most especially, the copyright strand of intellectual property rights) in the evolution of online distribution of music. I will draw on the available literature to address how these factors have been shaping the form and extent of the internet's disruptive potential in the recorded music industry since the late 1990s.

Chapter 4: Literature Review: The Internet Music Economy

4.1 Introduction

This chapter primarily examines literature concerning the role and implications of the internet with regard to the music industry over the past decade. It is informed by perspectives that are attentive to the interplays of technological, economic and policy factors (especially the copyright strand of intellectual property rights) in the evolution of online distribution of music. I address how these factors have been shaping the form and extent of the internet's disruptive potential in the recorded music industry since the late 1990s. I also explore contrasting perspectives on the relationship between digitalisation and the downturn being experienced by the recorded music industry during the first decade of the new millennium.

Radical technological innovations have frequently operated to disrupt the existing industrial and organisational structures and the prevailing rules of the economic game between different players and interests within established industries. The internet, with its relatively rapid and widespread diffusion may be taken as having the potential to seriously disrupt the existing industrial structures and rules of the economic game, especially between different players within the cultural and media industries. This includes the potential to disrupt the power or role of existing firms and their established industrial practices and interests, not least in the case of the record industry (Preston, 2001; Burnett and Marshall, 2003). Indeed, with regard to the recorded music industry, since the late 1990s the internet has been widely perceived as possessing a particularly disruptive potential in terms of the established music corporations' relationships with (or modes of service delivery to) their final consumers. This is because the internet's application and use in the music industry has been widely defined as having most direct impact on the sphere of distribution, the key control stage in the overall value chain in the music industry.

In the recorded music industry, control over the channels of distribution is crucial, and they have long since been monopolised by the major players in the global recorded music industry (Negus, 1992). In this chapter, I first consider literature (e.g. Burnett, 1996) detailing the promises of the internet with respect to the circulation of music, and the potential for disintermediation and restructuring of distribution channels along more democratic lines. Then, drawing on Théberge (2001) and Bakker (2005) I briefly outline the digital technological developments that emerged to threaten the power and control of the major music companies, and detail chronologically the key attempts that have been made at establishing a new music order. However, against the general drift of academic and journalistic accounts (which tend to emphasise the transformative affect of internet technologies on the music industry), I proceed to consider those authors who question the view that digitalisation is significantly unsettling prevailing relationships of power in the music industry. The tensions between these two conflicting views forms the basis of the remainder of the chapter. Drawing on Benkler (2006) and Vaidhyanathan (2001), I examine Lessig's (2001) contrasting futuristic visions of the internet, one as a technology of increased freedom that enhances creativity and commercial innovation; the other as a technology of increased control. Lessig, Hesmondhalgh and others argue that copyright is central to the outcome of the internet in the cultural industries. This leads me to a review of literature detailing the historical trajectory of copyright and its role in the evolution of the music industry. The final task of this chapter is to engage with the literature that examines ownership trends in the music industry. This, as we shall see in chapter seven, proves particularly relevant when it comes to understanding the opportunities that are arising for music companies to generate revenue in the contemporary era.

4.2 The promise and potential of the internet

As noted earlier, cultural and media industries are marked by a high degree of uncertainty when it comes to new products or product innovations. In sum, individual companies cannot control or pre-determine what is going to be commercially successful. The best that recorded music corporations can do 'is struggle to monopolise access to recording facilities, promotional outlets, manufacturing arrangements and distribution systems, and be in a position to appropriate the profits' (Negus, 1992: 152). Many authors have addressed the potential of the internet to greatly enhance the ability of artists to produce, market and distribute their own work independently. While acknowledging that the digital distribution of music held the potential to serve the interests of the major music corporations, Burnett makes the point that it ‘could open a Pandora’s box that could ultimately destroy their own control of popular music’ (1996: 148). In the latter half of the 1990s, such commentary and analysis pointed to the advent of digital distribution technologies inducing a process of disintermediation - removing the middle layers of distribution channels. It was widely predicted that such a process would ultimately lead to the collapse of the traditional music industry. Producers of music would be able to directly access their public without the machinery of a multi-national corporation mediating this relationship. Costs associated with distribution and retailing would be eliminated (retail outlets currently take approximately one-third of the retail price of recordings exclusive of value added tax). Rather, the rapid diffusion of internet technologies would mean anyone could potentially enter the market. Burnett suggested that the internet could, in theory, ensure that ‘a small group of users spread out geographically, could generate sufficient demand to sustain the product of small independent producers’ (1996: 144).

Three related technological/commercial ‘laws’ relating to advances in the performance of networks and devices fuelled such assumptions: Moore’s Law, Metcalfe’s Law and Gilder’s Law (Verhulst, 2006). Moore’s law states that the number of transistors that can be placed in an integrated computer circuit doubles approximately every two years. Thus, the performance capabilities of devices are continuing and rapidly being enhanced in such areas as the processing power of a microchip, memory and other. Metcalfe’s law ‘describes a technological and economic force’ that drives that drives the growth of the internet: ‘As a network grows, the utility of being connected to that network grows even more’ (ibid: 333). Gilder’s law states that bandwidth increases at three times the rate of processing power, thus, it doubles every six months. These laws, combined with Kryder’s Law regarding price and capacity trends are all based on the observation of radical improvements in such areas as the speed of networks, RAM and hard-drive storage capacity, and relative price trends. During the primary research phase of this thesis project, such arguments were seen to underpin many of the arguments forwarded by record industry personnel and others regarding the role of technology in inducing a crisis in the music industries. As Verhulst concludes, these laws imply a 'loss of scarcity' and a 'shift in the locus of power' from the content provider to the content user (2006: 332-334).

Developments such as digital recording and the compact disc saw digital technologies enter the worlds of music production and consumption in the 1980s (Goodwin, 1992). In the 1990s digital communication technologies provided the medium to connect these worlds. Effectively, the internet held the potential to enable direct interface between artist and consumer. The promise of the technology was that the traditional role of the established record companies would be diminished or even eradicated, thus realising the *Gatesian* vision of friction-free capitalism in which *no noise* interrupts the process of consumption (Herman & Sloop, 2000). Artists would be free to exercise their creativity free from the constraints imposed by the major recording companies; consumers would experience greater choice and exercise greater control over the music they listened to. Many of these arguments echo techno-centric notions of the collapse of corporations and the decentralisation of control such as those advanced in chapter 3.3.

Here, we may also consider arguments examined in the previous two chapters regarding the role of the nation-state in contemporary society. Authors focusing on the contemporary music world such as Authors such as Harley (1993) imply a diminishing significance of the nation-state as a result of the increasingly global reach of communication technologies. Harley argues that for the evolving music industry, geographic boundaries are increasingly irrelevant. Cloonan (1999; 2008) challenges these arguments primarily on the grounds that the nation-state regulates music broadcasting within its borders and can exercise music censorship. Most significantly in relation to this research study, Cloonan highlights that it is the willingness and the capability of the nation-state to adopt and enforce copyright law that makes the nation-state of continued importance within the business of music.

4.3 The internet as a technology of opportunity?

Regarding the internet, Benkler tells us that:

> …the networked environment makes possible a new modality of organising production: radically decentralised, collaborative and non-proprietary; based on sharing resources and outputs among

> widely distributed, loosely connected individuals who cooperate with each other without relying on market signals or managerial commands. (Benkler, 2006: 60)

This is what Benkler labels 'commons-based peer production' where 'commons' means 'a particular institutional form of structuring the rights to access, use and control resources' (ibid). Over the past decade there have been a number of contributions that detail the merits of a creative commons approach and highlight the threats to culture that copyright poses (Benkler, 2006; Benkler and Nissenbaum, 2006; Lessig, 1999, 2001, 2004; Vaidhyanathan, 1999). Lessig identifies one *potential* future in store for the internet as a network that can enable as individuals to have greater control over our lives and the various institutions that shape and regulate our lives. Lessig points to the benefits of this future: a future where developments in digital technologies bring with them reductions in costs of both production and distribution of knowledge, information and cultural texts. Benkler and Nissenbaum (2006) emphasise important moral and political virtues deriving from participation in commons-based peer production. Lessig (2001) highlights the essentiality of access to existing texts and ideas in order to facilitate creativity and greater diversity in cultural production as well as the enhancement of commercial innovation. Vaidhyanathan argues that a 'leaky copyright system allows users to enjoy the benefits of cultural proliferation' (1999: 184). Music has always involved recycling what went before to produce something new. By lessening the constraints of copyright law, the advent of digital could mean that individual consumers would be enables to freely access, and actively add to, modify or remix their version of the content. This would foster the establishment of free culture – diminishing restrictions around creativity and opening up the internet to the broadest possible spectrum of commercial innovation.

While copyright is central to the creative process in that it provides an incentive to produce creative works, Lessig argues that the loosening or even absence of copyright protection can be a benefit as well as a cost to creative artists. This is because 'creative works are both an input and output in the creative process; if you raise the cost of the input, you get less at the output' (Lessig, 2001: 108). Lessig cites historical precedents that emphasise the benefits of 'loose' control in terms of creativity, and by extension diversity of content. He uses the example of piano rolls in the late nineteenth / early twentieth century to illustrate how limiting the rights of the originators of musical works expands the creative opportunity of others: Producers of piano rolls in the United

States were effectively stealing the content created by composers and songwriters to use in their machines. The refusal of the United States Supreme Court to recognise this as a violation of existing copyright law prompted Congress to change the law. The result was a compromise that brought about the introduction of a compulsory licensing right which enabled the reproduction without permission of music or songs that had already been commercially recorded, provided a statutory royalty was paid to the owner. New performers now had the right to enter the market by performing and re-recording the music of other artists. Such compromise solutions became the rule in relation to creative rights.

Specifically with regard to music, while the traditional system of copyright primarily benefits non-creative intermediaries, the emerging internet would be devoid of intermediary organisations to filter content for consumers. Writers such as Lessig point to statistical data that indicate a significant increase in the concentration of ownership across media industries, including music, over the past two decades. Such developments affect the character of the market as well as its structure, and have provided us with homogenous media. Lessig's analysis suggests, however, that the architecture of the internet could re-shape the media sphere and change these concentrations as 'it neither needs nor permits the centralisation of control that real-space structures demand' (Lessig, 2001: 119). This digital music market would be more contested, and as such encourage and accommodate new forms of music. This, in turn, would influence the major music corporations to take greater risks in terms of the range and diversity of repertoire they promote and distribute in an environment where their power and control was under threat. The result for consumers would be lower retail prices and an increased variety of content to choose from.

The is one rather utopian vision of the internet future, but Lessig (2001) also provides us with a contrasting futuristic vision that positions the internet as a technology of control, where those corporations that have power wrest control of the network to bolster and consolidate their dominance of the recording industry. Lessig tells us that a key assumption contemporary society holds in relation to intellectual property is that control is good: 'A time is not so much marked by the ideas that are argued about as by the ideas that are taken for granted' (Lessig, 2001: 5). In a similar vein Benkler argues that:

> …policy makers and their advisors came to believe toward the end of the twentieth century that property in information and innovation was like property in wristwatches and automobiles. The more clearly you defined and enforced it, and the closer it was to perfect exclusive rights, the more production you would get. (Benkler, 2006: 461)

This assumption that control is good leads to the creativity of artists and internet entrepreneurs being compromised through the establishment of *old* economy power over *new* technology sphere in an environment where creative control has now become a legal matter. Ultimately Lessig (2001, 2004) argues that those threatened by key developments in digital technologies are coalescing and forming a strategy to reconfigure the internet so as to protect their own interests. This strategy amounts to what Lessig terms 'the enclosure of the digital commons'. Such a strategy will, according to Lessig, have the effect of nullifying the internet's potential for social benefit.

At this point, it is helpful to consider some accounts of the key early attempts at creating a 'new music order' on the internet, and the initial response strategies of the established music companies.

MP3.com and Napster

Théberge (2001) and Bakker (2005) succinctly outline technological developments around the duplication and circulation of music from the latter half of the 1990s onwards that have become a major cause of concern for the music industry. Initially, the large size and slow transfer speed of audio files made the digital distribution of music troublesome. However, the development of file compression techniques and significant improvements in the speed of computer networking has now enabled the circulation of music in cyberspace to proliferate phenomenally. There are a number of key developments to note: First, the popularisation of the MP3 file – a digital file format that sees audio files reduced to a fraction of their normal size; and second, the evolution of the Napster software programme.

It is worth noting that the widespread application and outcome of the MP3 file was neither instant nor predicted. In 1987, following a series of collaborations in Germany between the Fraunhofer Institute for Integrated Circuits and the University of Erlangen, a new method for compressing digital audio for broadcasting was unveiled.

However, there was little to indicate the role that this ‘invention’ would play in the music industries, let alone any claims of the impending ‘revolutionary’ status that would be conferred upon it (Latonero, 2003). For almost a decade after its unveiling, MP3 technology remained in relative obscurity. Latonero outlines a series of subsequent developments, modifications and refinements to this technology over a twelve-year period, involving actors operating with commercial and cultural imperatives that shaped the evolution of the MP3 file as a user-friendly format for music distribution. These processes illustrate that internet music technologies emerged along a non-linear path, shaped by social actors and, as such, proffer support to many of the arguments of social shaping of technology approaches examined in the previous chapter.

Ultimately, these developments, combined with the speed of networks, led to the MP3 format providing for the start-up of a variety of websites that offered a new form of distribution. The most notable was MP3.com, launched in 1996, which represented ‘a new type of business model based on the potential of digital technology and computer networks’ that offered users access to a centralised bank of music files (Théberge, 2001: 21).

The second significant development relates to the Napster software programme. While the MP3.com era saw a relatively low number of MP3 files being downloaded by a minority of internet users, the advent of Napster brought with it a vast increase in the number of people using a centralised database system that enabled users to access music files on their peers computers.

In addition to Napster, the late 1990s witnessed the arrival of numerous other digital music start-ups, all of which held fast to the proposition that online music possessed the potential to diminish the power of the major corporations that controlled the music industry. Following the demise of Napster in the wake of a successful copyright infringement case taken against them by the Recording Industry Association of America (RIAA), sites such as Grokster and Kazaa emerged to fill the void. Their subsequent downfall under foot of copyright litigation saw Limewire and others rise to the fore as key networking sites facilitating free access to and downloading of music. Along with to these factors, Bakker (2005) highlights the introduction and proliferation of multimedia computers with increased storage capacity, improved soundcards, and CD players and burners.

The generation of profits in the cultural and media industries requires the production of 'artificial scarcity' (Garnham, 2000; Hesmondhalgh, 2007). The developments outlined by Théberge and Bakker renders the duplication and distribution of any information relatively easy and threatens that scarcity. Music files demand less disk space and bandwidth than other non-print media, and unlike print media, music can be experienced through a computer with greater ease and comfort. It is for these reasons that the music industry has been the first of the cultural and media industries to confront digital distribution.

Copyright law and DRM/CRM

We may highlight two 'strategies' that illustrate Lessig's 'second vision' for the internet, where it evolves as a technology of control (Bakker, 2005; Burkart and McCourt, 2003, 2004): These relate to the extension and expansion of copyright law, and also the application of digital rights management technologies (DRM).

Whilst the record industry initially ignored the threats and possibilities arising with the internet, they subsequently moved to 'fight' the initial online music distribution sites with the courts providing the key mechanism that enabled them to do this (Bakker, 2005). Likewise, The Record Industry Association of America initially charged Napster with copyright infringement in 1999. Napster sought to protect itself by selling a controlling stake to the Bertelsmann Music Group. MP3.com subsequently settled with the major labels for $160m before being bought by Universal in early summer 2001. Also at this time Universal purchased Emusic.com and Bertelsmann bought Cdnow and MyPlay.com.

A further point to be observed in this respect are that the emphasis on piracy by the established record companies has been little more than a 'public relations foil', and their actions illustrate a 'successful counter-strategy to relieve anti-trust pressures' (McCourt and Burkart: 340). The timing of the case against Napster was particularly significant given that it coincided with lawsuits taken in the United States against the then five major record companies over price fixing.

The late 1990s saw differences emerge within the international community towards the protection of copyrights. While the United States approach to intellectual property makes:

> …copyright the financial concern of an industrial group and its stable of artists. In contrast, the European model of moral rights affords creators greater control over the alteration of their works, and assigns pecuniary rights traditionally a secondary or derivative value.
> (Vaver, cited in McCourt & Burkart, 2003: 342).

Such differences have prompted the European Union to mobilise 'tariff and non-tariff barriers to free trade with the US' in the audio-visual products sector (ibid: 342). In order to manoeuvre around international differences in copyright enforcement, the major music corporations have given their backing to Digital Rights Management (DRM) technologies. These technologies have been developed to cover "description, identification, trading, protection, monitoring and tracking of all forms of rights usages over both tangible and intangible assets" (Iannella, 2001). They effectively 'lock up content' through trusted systems in which copy protection is built into every component sold (McCourt & Burkart, 2003: 342). As such, Digital Rights Management is the digital management of rights and not just the management of digital rights.

The Organisation for Economic Co-operation and Development (OECD) – a key institution in the global diffusion of neo-liberal trade and related policies – emphasises that:

> …developers of DRM, players in the market employing DRM, and users of DRM-protected material should be equally concerned to ensure appropriate usage rights, transparency, privacy, as well as ease and reliability of access. (OECD, cited in Gasser and Begue, 2005: 9)

However, the decisions of the courts in favour of the Recording Industry Association of America against MP3.com, Napster and the like, and the more recent action against Grokster have legitimised online rights management and determined a cost basis for legal claims against infringing parties. These court decisions have made official the practice of extending intellectual property controls on the internet. This has had the effect of re-affirming the major record industry's power in relation to content and distribution of product. In stark contrast to the vision of a creative commons feeding musical innovation and consumer choice, the assumption that control is good and the business as usual approach of the established music industry point to online music services offering a one-way transmission system where individual users are fed content when they demand it:

> What gets offered will be just what fits within the current model of concentrated systems of distribution: cable television on speed, addicting a much more manageable, malleable and sellable public. (Lessig, 2001: 7)

This approach legitimates and facilitates the extension of real-space property control mechanisms into the domain of cyberspace.

Ultimately, record companies have been faced with two specific challenges relating to the internet. One is that of preventing the duplication and circulation of music for free. The other is finding a way to get people to pay for music on the internet. The optimal strategy employed by the established music companies to achieve the latter objective is customer relations management (Burkart and McCourt, 2004). Customer Relations Management (CRM) is designed to 'steer the right content to the right consumers at the right moments of their online activities' (ibid: 354). CRM technologies are thus used in a process of 'push marketing' designed to promote the 'preferred content' to each individual consumer (ibid). CRM thus enables companies to know their audience and grow it.

Ultimately, for Bakker (2005) and Hesmondhalgh (2008), file-sharing is associated with a niche group, and the record industry's strategies for pursuing both software distributors and individual users serves to deter many from becoming involved in such sites.

Given the emphasis placed on the role of copyright law in many of the above accounts, it is thus necessary to consider the role of copyright in relation to the evolution of digital technologies, and the overall outcome of the music industry to date. Section 4.4 will be dedicated to this task.

4.4 Music as a copyright industry

Copyright was effectively born of a matching policy or institutional innovation that accompanied and facilitated new publishing activities based on early technical innovations in print technologies (Pardo, 2003; Rose, 1993). While music was initially excluded from statutory protection [because, bizarre as it may seem to the contemporary reader, music publishers prior to the nineteenth century commonly accepted that musical works would not remain in fashion for very long (Hunter, 1986)], music would become the key 'trend-setter in defining abstract work identity through the newly restricted acts of public performance and adaptation' (Kretschmer and Kawohl, 2004: 22). As Frith notes:

> …for music business executives, most business problems are legal problems…while other creative industries have their own interests in the ownership, management and exploitation of intellectual property rights…they seem not to share the record company belief that all problems can be solved via the right legislation. (Frith, 2002: 197)

In this light, copyright can be conceptualised as lying at the core of the music industry. The trajectory of copyright regarding the broader cultural industries throughout the twentieth century is illustrated through various legal actions involving different interest groups and players. Numerous cases around music and film (documented by, amongst others, Bettig, 1996; Goldstein, 2003; Lessig, 2001; Vaidhyanathan, 2001) emphasise the increasingly constraining and restrictive character of copyright in relation to creativity and innovation. Before considering perspectives on the role of copyright law in shaping the outcome of digital technologies in the music industry (as I will do in the next section), I wish to use the existing literature to briefly trace the trajectory of music copyright, as to emphasise its historical significance to the expansion and sustenance of the music industry. Understanding copyright's history and development is helpful in explaining how threats to the major music companies dominance (detailed in section 3.2 above) might not, after all, carry the dire consequences for the established players in the industry that declining record sales statistics might have us believe.

The rights of the author

For many, the first defining moment in the process of shaping music copyright can be traced to the Café Concert des Ambassadeurs, a Parisienne café along the Champs-Elysées. In a much documented story dating from 1848 (Attalli, 1985; Frith, 2004; Laing, 2002, 2004 amongst many others), three French composers - Ernest Bourget, Victor Parizot and Paul Henrion – were angered to discover that a guitar quartet employed by the café, were using their material for the purposes of entertaining guests. The composers first refused to pay for their food unless the proprietor of the café compensated them for the use of their music. They subsequently demanded separate reimbursement from the guitar quartet. The failure of the various parties to reach any agreement in the matter resulted in Bourget, backed by his two friends, instigating legal proceedings. The subsequent court ruling in favour of the composers confirmed the existence of a ‘performing right’ for creators of musical works, and led to the establishment of provisions for compensating them whenever their work was used in the ‘public domain’. Thus a new relationship between music owners and music users had emerged.

As such, we might regard copyright as a positive step: composers and songwriters had the right to benefit from the fruits of their own labour, and were thus given an incentive to produce more. The 1848 ruling in Paris resulted in the formation of internationally networked rights societies which operated with the objective of collecting royalties on behalf of composers when their material was performed (Laing, 2004; Petri, 2002; Wallis and Malm, 1984; Wallis, 2004). By the dawn of the twenty-first century, the annual value of performing rights in the global market had reached $US3 billion (NMPA, 2003) with over one hundred ‘networked’ societies in existence. Laing (2004) labels this early period of music copyright from the mid-nineteenth century onwards as ‘the rights of the author’ era where copyright was promoted as a device to encourage the generation of ideas and information, and accommodate their exchange.

This is all very much in keeping with the early founding principles of copyright related to print publishing. Looking further back through history, the 1710 Statute of Anne (which is widely regarded as the world’s first copyright act) was entitled *Act for the Encouragement of Learning by Vesting the Copies of Printed Books in the Authors or Purchasers of Such Copies During the Times Therein Mentioned*. The enactment of the Statute had signalled an attempt at shaping a balanced legal system that secured and represented the rights of printers, vendors, and for the first time, authors. Declaring his support for America’s first copyright act in 1790, George Washington stated that the promotion of science and literature would help to secure:

> …a free constitution…[by] convincing those that are entrusted with public administration that every valuable end of government is best answered by the enlightened confidence of the public; and by teaching the people themselves to know and value their own rights; to discern and provide against invasions of them; to distinguish between oppression and the necessary exercise of lawful authority. (Washington, cited in Netanel, 1996: 359)

Thus, for Washington, Madison and the other contemporary legislators, the diffusion and exchange of ideas and information through texts was fundamental (at least theoretically) to a functioning democracy. Thus, copyright was a mechanism devised and designed for the benefit of the public and to provide incentives for creativity (Goldstein, 2003). However, granting copyright meant granting monopolies, and monopolies possess the scope to generate profit by generating 'artificial scarcity' (Garnham, 1990; Hesmondhalgh, 2002). Such an outcome was feared by Thomas Jefferson almost two centuries ago who viewed copyright as 'a necessary evil…not to be granted or expanded lightly' (Jefferson 1813 cited in Vaidhyanathan, 1999: 24).

Neighbouring rights

A further key stage in the history of music copyright evolved in response to the advent of phonographic recording. The 1911 Copyright Act in the UK recognised record companies as the 'owners' of music recording. Significantly, under this piece of legislation, the act of purchasing a gramophone record also brought with it to the user the right to public performance of that recording (Frith, 1987; McFarlane, 1980). Lord Gorrell, the then Chairman of the Copyright Committee stated:

> The purchaser of a disc should not merely acquire the right to use it in his own private surroundings like the singing of a song, but to use it in public? Yes. And therefore to perform the songs publicly? Yes. We think it perfectly reasonable to grant that concession. It is not a matter that would affect us directly as manufacturers, but it would affect a considerable number of our clients and customers…it should be understood to be part of the sale of the phonographic print. (cited in McFarlane, 1980: 141)

However, this 'loose control' approach to the use of recordings was radically re-evaluated in the succeeding decades. The advent and spread of broadcasting and the use of recorded music in public venues stemmed numerous successful 'test cases' in the early 1930s which resulted in the formation of new rights management organisations to administer recorded music usage rights on behalf of record companies. The Carwardine Case in 1934 illustrates this shift in sensibility regarding 'secondary' usage rights (McFarlane, 1980). This case saw The Gramophone Company take a restaurant to court for the unlicensed public use of one of its recordings. The ruling deemed the record company to be 'the owner of the sole right to use that record for a performance in public' (ibid: 131). Such developments ultimately led to the formation of the IFPI which, according to McFarlane, operated with the primary brief of promoting the performing right in gramophone records at international level. Three decades of lobbying eventually saw the IFPI achieve the Rome Convention for Protection of Performers, Producers of Phonograms, and Broadcasting Organisations (1961). This treaty ensured that the performers on a particular recording, as well as the record company that produced the recording both held the right to control its reproduction and performance. Like the Berne Convention of 1886 with respect to performing rights, the Rome Convention granted national governments the scope for the compulsory licensing of broadcasting and sound recordings.

The Rome Convention set the minimum period of protection for recordings at twenty years. The 1996 World Intellectual Property Organisation (WIPO) Performances and Phonograms Treaty increased this to fifty. This was taken to the extreme by the United States Congress who, courtesy of the 1998 Sonny Bono Copyright Term Extension Act set the term of protection at ninety-five years for film, recorded music and broadcasts. The key arguments used in justifying the 1998 extension were delivered in a Congressional Research Service Report (Rappaport, 1998). This estimated the contemporary value of copyrights originating between 1923 and 1942 (the earliest years covered by the new proposed extension, at that time) to be US$ 317m.

The era of economic interests

While the 'rights of the author' era and 'neighbouring rights' era saw emphasis placed on the development of international conventions, more recent history has witnessed the foregrounding of trade agreements, most notably Trade Related Aspects of Intellectual Property Rights (TRIPS). Over the past three decades the established music companies have developed a new lobbying strategy that has mobilised the economic and political support of the most powerful states and trading blocs (Laing, 2002; 2004). Their approach highlights the commercial significance of music and other cultural industries rather than merely asserting the legal rights of copyright holders.

This strategy is driven by the growing significance of global sales to the entertainment industries. Prior to the 1970s, American record companies were satisfied to license their recordings to local companies in international territories. From the 1970s onwards US companies began to take a more direct presence in foreign territories. While the music industry has, since its origins, experienced a situation where a relatively small number of companies own and control the key production and distribution processes (Chapple and Garofalo, 1977; Frith, 1978), this trend accelerated from the 1980s onwards to a point where mergers, acquisitions and joint-ventures ensured an oligopoly of four major trans-national companies. Such developments emphasise the increased significance of international markets for copyrighted music and recordings. For example, core copyright industries generated US$89 billion for US companies internationally in 2001 (International Intellectual Property Alliance 2002, cited in Laing, 2004). This figure includes revenues generated from sales of music, film, television, video/dvd, and computer software. This signalled a 300% increase in the value of US copyright industry exports in just over a decade, surpassing both the chemical and motor vehicle industries in significance to the US economy (ibid).

TRIPs and music

The TRIPs agreement, a treaty aimed at establishing minimum international standards for intellectual property emerged from the Uruguay round of the General Agreement on Tarifs and Trade (GATT) in 1993. TRIPS essentially emphasises the rights of authors, performers and producers already prioritised in the Berne and Rome conventions. However it also stipulates precise courses of action to be pursued by the courts and customs services in relation to copyright infringement. While developing countries were granted permission to introduce TRIPS provisions on a phased basis, the agreement largely favours Western copyright holders by opening up the markets of less developed states in a more comprehensive manner than before (Houtart, 2003; Laing, 2004). As such, TRIPS facilitates the imposition of the products and content of multi-national corporations on the developing world. Furthermore, May argues that 'the net effect of the TRIPS agreement is, actually, to critically reduce the area of public knowledge, especially in areas where new technologies are important or even vital to socio-economic development' (May, 2000: 77).

The key message to be gleaned from all of the above is that while performing rights administration societies (from SACEM onwards) were formed and for many years functioned in the interests of composers in the spirit of that famous Paris court ruling of 1848, the rise and dominance of global entertainment corporations has eroded those 'founding' principles. The early concept of copyright as a policy to incentivise creativity has been transformed into a property right. This reflects a broader trend in the status of cultural industries in economic and employment policy in advanced industrial countries where cultural and media industries are perceived as moving 'closer to the centre of the economic action' (Hesmondhalgh, 2007: 1). Garnham (2005) argues that there is 'an unjustified claim of the cultural sector as a key economic growth sector within the global economy' that is being fuelled by information society ideology

(Garnham, 2005: 15). This 'creates a coalition of disparate interests around the extension of intellectual property rights' (ibid). For Garnham:

> the use of the term "creative industries" and related terms such as "copyright industries", "intellectual property industries", "knowledge industries" or "information industries" serves a specific rhetorical purpose within policy discourse' (ibid: 15-16).

Hesmondhalgh further argues that the Congressional Research Report (1998) detailed earlier echoes the grandiose claims which are in turn used by the 'creative' or 'copyright' industries to exert influence on policymakers (Hesmondhalgh, 2008: forthcoming). Such a 'coalition of interests' around the value of cultural and media industries is itself a reason to take claims about a crisis in the music industry 'with a heavy flavouring of salt' (ibid).

4.5 Concentration, synergy, conglomeration: historical trends in music industry ownership and organisation

From the early twentieth century onwards, media and cultural services experienced the increasing presence of large corporations, with new technologies such as recorded music, radio, film and television serving to both maintain traditional forms of cultural activity as well as give rise to new ones (Williams, 1981). This, for Williams, was the age of the 'corporate professional', contextualised by the increasing significance of commercial cultural production as the twentieth century progressed. One of the most striking characteristics of this era was the evolution of vertically integrated companies that combined to form oligopolies in individual cultural industries (Garnham, 1990). Since its origins, the music industry has experienced a situation where production and distribution channels fall under the ownership and control of a small number of companies (Chapple and Garofalo, 1977). By 1992, six major multi-national corporations controlled over seventy per cent of the entire world market and approaching eighty per cent of the American market (Negus, 1992). These six have since become four, namely, the Universal Music Group (UMG), E.M.I., the Warner Music Group (WMG) and Sony Music Entertainment.

Concentration means that fewer owners dominate the market. In tandem with the increasing concentration of music markets, a processes of synergy has been occurring. Music companies have, particularly since the late 1980s, become part of much larger corporations which operate with a broad range of interests across the spectrum of media/cultural spheres (Croteau and Hoynes, 2003; Thussu, 2006). This involves music companies 'horizontally integrating' with actors in broadcasting, film, print media, digital games and other (see, for example, Thussu, 2006: 98-111).

By the 1980s, the majority of record sales and music publishing revenues were being generated by no more than a few dozen multi-million-selling, global superstar acts (Garafalo, 1999). For Garofalo, it was from this point that the major music companies began to think of themselves more as exploiters of Frith's 'basket of rights' than producers of records. The emphasis shifted from selling discs to developing as many revenue streams as possible. Since the late 1980s, the Sony Corporation have bought C.B.S. Records and subsequently acquire Columbia (both film and music). Universal purchased the Phillips Polygram label. Warner's had recording interests from 1947 until the sale of the music arm to a consortium led by former Universal chief Edgar Bronfman in 2003. Thus, the music, television and film industries are inextricably interwoven:

> The video promoted the movie. The movie sold the record. The label cashed in at every step. Advertising was also institutionalized as a source of revenue…The music industry had effectively harnessed all the technology and marketing tools at its disposal to create an international roster of superstars who were capable of generating unheard-of profits with less product. (Garofalo, 1999: 344)

Further to the television and movie industry links referred to above, B.M.G., Universal and Time-Warner all have print publishing interests. Murdock and Golding (1996) explain that these companies' interests and activities in a variety of media forms derives from their need to maintain profits if and when certain media sectors experience a reduction in consumer demand. As Longhurst explains, strategies of diversification throughout media sectors therefore facilitate:

> …the maintenance of overall profits when individual sectors suffer from a lack of potential for expansion due to falling demand and…the process provides the opportunity for one sector to cushion another where profitability has declined due to other factors. (Longhurst, 1995: 32)

So, one of the effects of the 'long downturn' was a push towards industry restructuring, and one outcome was that cultural companies increasingly tended towards synergy. Different arms of a corporation were now relating to each other in such a manner as to provide for cross-promotion and cross-selling of cultural industry products (Bagdikian, 2004; Croteau and Hoynes, 2003; Hesmondhalgh, 2007). In short, the same product was simultaneously marketed and sold across a variety of media forms, and generating revenue through its exploitation across the various media forms.

Also, in recent decades, music companies have become part of much larger conglomerates that operate across a diverse range of industrial sectors. By the 1960s, conglomeration was extending across cultural industries as part of a broader trend throughout industries as a whole. According to Fligstein (1990), in 1939 seventy-seven of the largest one hundred companies in the United States operated in a single industry only. By 1979 only twenty-three of the top one hundred still operated in this manner. Since the long downturn this process has intensified and accelerated. By the mid-1990s, the major music companies had 'never been more closely linked with the power centres of the media and electronics industries in America, Europe and Japan' (Burnett, 1996: 12). Throughout the 1970s and 1980s non-cultural industry corporations bought into 'content-producing' cultural industries (see, for example, Hesmondhalgh, 2007; Negus, 1997). This trend is perhaps best illustrated by the acquisition of CBS Records by Japanese consumer electronics producer Sony in the 1980s. Such actions facilitated and accommodated the cross-promotion of content and technology. Repertoire catalogues and star performers from the spheres of music and cinema were now employed as mechanisms through which to market and sell new technologies.

Negus (1997) argues that this 'dream of synergy' between 'hardware' manufacturers and 'software' producers transpired as failure, arising from a 'lack of fit' between the production cultures of both sets of organisations[9] (Negus, 1997: 83-99). Nevertheless, synergy-based cultural industry conglomeration has intensified over the past decade and a half. Sánchez-Tabernero et al. (1993) outlines three forms of cultural conglomerate that have come to characterise the contemporary environment: media conglomerates (such as News Corporation); leisure conglomerates (such as the Disney Corporation); and information-communication conglomerates where media, telecommunications and computers corporations have merged and formed alliances in an environment of increasing convergence between these markets. As Thussu explains, the convergence of these arenas means that:

[9] Evidence supporting the apparent clash of cultures is perhaps best illustrated by the highly publicised court case involving George Michael and Sony in the 1990s when the recording artists unsuccessfully sued his record label on the grounds of restraint and inequality of earnings. Negus details various

> …a whole range of new revenue earning opportunities has surfaced as the media and communication sectors intersect globally. The expanding bandwidth coupled with the rapid globalisation of fixed and mobile networks, as well as the digitization of content and growing use of computers worldwide have considerably helped global media and communication conglomerates to capitalize on emerging markets and new media products. (Thussu, 2006: 99)

Furthermore, conglomeration also increases the 'scope and power' of cultural industry corporations and intensifies their lobbying strength and their ability to influence how cultural production is carried out (Hesmondhalgh, 2007: 164-168).

Post-fordist disintegration in the record industry?

The 'central element of a Fordist economic structure is mass production articulated to mass consumption' (Bagguley, cf. Longhurst, 1995: 38). Adorno's culture industry can be said to characterise a Fordist structure. In the case of the record industry the suggestion is of standardised, homogenised music content produced by an arm of a global media conglomerate – under the supervision of a hierarchical management structure ranging from senior executives that sanction the initial signing of the artist(s) and release of the product, to junior artist and repertoire (A&R) staff that first bring the act to the attention of the company – for consumers with limited choice. Lash and Urry (2002) argue that the 1960s/70s saw the record industry acquire 'definitive Fordist profiles' manufacturing 'large batches of very few formulaic models' (ibid: 113). They assert, however, that the record industry has shifted from this centralised, Fordist mode of production to a decentralised, flexible, post-Fordist manner. The crux of their argument is that the culture industries have developed flexible production systems that operate a process of 'vertical disintegration'. This post-Fordist disintegration of centralised production coincides with increasing concentration and globalisation of distribution where 'only these concentrated distributors can provide the finance for these decentralised producers' (ibid: 113). The result of all this is a 'transaction-rich nexus' linking small firms.

Such an approach to understanding the production of music links well with Burnett's system of 'open production' operated by the major record labels (2002). Here, each major label comprises of a plethora of widely dispersed independent production units to handle artist and repertoire activities and the recording process, while the parent company takes charge of manufacturing, marketing and distribution. This allows the majors to benefit from a global network of research and development units to source potential successful new talent while having at their disposal the machinery to imminently mobilise large-scale distribution. In effect:

> ...the modern transnational phonogram company consists of many independently operating units at the input side and concentrated manufacturing and distribution at the output side. (Burnett, 2002: 12)

An internal market is in operation that regulates the flow of products through the channels of the major record companies – a system of internal competition in which the various national offices of the label are fighting to have their products released through the local arm of the same label in other territories.

According to Lash and Urry, disintegration is evident through all elements of these independent creative units. While all aspects of production were once conducted in-house, the past three decades have seen such arrangements transformed:

> The old A&R man was like multivalent publisher prior to the specialised modern firm. He was the producer as well. The music had to be arranged and the songs assembled; this too was the A&R man's job. Functional departmentalization serially took away these jobs from A&R. Today's A&R will primarily find and develop the acts. (Lash and Urry, 2002: 119)

Contemporary A&R may still work to promote an act that they were involved in signing within the marketing, promotion and other departments within the company, but their 'centrality and indispensability' has withered. In many cases A&R in national or regional offices operate on a part-time freelance contract basis. For example, in Ireland EMI are the only major company to actually employ an A&R worker. The function of A&R is effectively subcontracted to individuals.

Recording studios and producers have also become externalised from record companies. While the big record labels still own their own studios (the most famous being EMI's Abbey Road), advancements in MIDI (Musical Instrument Digital Interface) technologies means that many artists now own and control their own recording facilities. Regarding record producers, they are independent operators that work across the spectrum of record companies and whose relationship with those companies is 'more a market than a subcontracting one' (ibid: 120). Thus, within the major labels, finance, distribution and marketing departments function with an increasing importance relative to production.

Lash and Urry's interpretation of production in the record industry suggests a shift from a mass production economy where large institutions are perceived to regulate production and consumption to a process of ‘flexible specialisation’ where ‘innovation is supposedly encouraged by the creation of interdependence among producers’ (Hesmondhalgh, 1996: 470). Negus (2002) challenges the validity of taking such an interpretation to the production of music on the grounds that it misrepresents the past. Since its advent and early development in the late nineteenth century the recording industry has always ‘been organised according to small-scale productions and the selling to changing niche markets alongside the creation of big hits and blockbusters’ (Negus, 2000: 242-3). The main implication of the Lash and Urry argument is a decentralised, largely autonomous record production sector selling recordings to a fragmented market. This marks a shift of power away from the major corporations. However, the fact that record companies target specific market sectors with their products indicates little beyond the fact that they have developed a greater degree of sophistication in exploiting the mass market.

Hirsch (1990) offers support to the flexible specialisation argument, concluding that production in the music industry is now organised along craft lines as opposed to bureaucracy. The implication here is of a fragmented music marketplace, the emergence of niche markets catered for by a more diverse range of independent companies, and a shift in power regarding the production of music away from the major labels. Hirsch’s explanation for this restructuring of the production process lies in what he interprets as unpredictable and changing behaviour of both consumers and the broadcast / music media gatekeepers that determine those artists that gain profile over those that don’t. Hesmondhalgh offers a somewhat different approach to understanding this shift in production structures, arguing that:

> …reproduction costs are so cheap that the occasional big success wipes out lots of failures – the search for the ‘Hit’ is vital and means that artists and scouts are, to a certain extent and for a certain time, trusted. (Hesmondhalgh, 1996: 480)

Thus, it is of little relevance to the major record company whether or not all the individuals or teams involved in the processes of scouting, development, recording and manufacture are in-house or external.

The model of production in the record industry advanced by Frith (1988) is the ‘talent pool’ scenario where the independent recording sector, encompassing an ever-increasing variety of musical genres in local / national markets, feeds into the global corporate sector. Even if we move to associate a reasonable degree of autonomy with independent labels, we must still recognise their need to guarantee economic survival through sales. This requires distribution to an audience and sufficient marketing and promotion to generate profile at retail level. As smaller companies often do not possess the machinery to achieve this independently they must seek promotion and distribution through a major label and, subsequently submit to a filtering process that influences and shapes the content of the music they are seeking to exploit. The reality of what exists is then:

> …a complex weave of licensing and distribution arrangements [that] creates a high degree of interdependence between major and independent companies while, in the non-corporate sector the scale of companies may range from substantial organisations whose turnover is measured in millions (such as the formerly independent Virgin Records) to 'backyard' and 'garage' concerns, with several scales of company size in between. (Rowe, 1995: 24)

Power is centred in the areas of finance and distribution. The dominance of the major labels is not affected by any shift to flexibility in production. Suggestions to the contrary by proponents of post-Fordist disintegration and flexible specialisation are misguided as they exclusively emphasise production to the neglect of finance and distribution.

We will return to these issues when considering my primary research in chapters seven and eight. Empirically grounded research on recent trends and developments outlined here, and how they have evolved during the first decade of the new millennium is crucial to understanding how the major music companies have maintained and sustained themselves in the context of digitalisation and an era of falling recorded music sales.

4.6 Chapter Summary

In this chapter we have examined literature outlining the disruptive potential of the internet with regard to established roles and practices within the music industry; contrasting theoretical approaches to the internet as a medium and platform for music; the centrality of copyright to the music industry, and a brief overview of its evolution to date; and ownership trends in the music industry.

The case of online music distribution reinforces two property-rights factors as being central to the music industry: ownership of content, and control of the channels that distribute it. The core activities of record companies and music publishers are the creation and exploitation of copyright. As we have seen, the technology-centred models promised that anyone who can access the web can enter the market and threaten the dominance of the major music corporations. Two issues are therefore of central concern to these corporations: the unwarranted use of their copyrighted material on the internet, and the potential for new material to be created independently and by-pass them en route to consumers.

While serving to provide new methods of circulation and distribution, the online music sphere, through its short but eventful history, emphasises how the economic value of music remains primarily determined by the process through which it accesses its final consumer. This case shows that while new communication technologies may threaten to diminish the power of those who control content and distribution, such technologies can ultimately be shaped to further the existing structures of an industry.

Chapter 5: Methodology

5.1 Introduction

The earlier chapters outlined the various theoretical perspectives and intellectual traditions that this research draws upon. This chapter is concerned with drafting a research methodology. Creswell states that the process of formulating a research methodology is primarily shaped by two key factors: 'the nature if the research issue being addressed', and 'the worldview assumptions the researcher brings to the study' (1998: 3). These two factors remain at the fore of my mind during the task of drafting a workable research methodology. The quality of the research is largely determined by the quality of the methodology employed. A strong focussed methodology provides a framework in which to gather information in a reliable, consistent manner and allow the researcher to make productive use of the limited time with his informants. The methodology also makes the research process transparent so weakness of the approach can be factored into a reading of the research.

Before proceeding, we will recap on the core research questions driving this research study. The central concern of this thesis is thus to examine change in the twenty-first century music industry. The core questions it asks are:

- 'What' has changed in the twenty-first century music industry?
- 'Why' has it changed?
- 'How' has it changed?

5.2 Research framework

This doctoral research project primarily employs a qualitative research framework for conducting our investigation of recent developments in the music industry. The overall aims of the study demand such an approach

The 'open-ended' characteristics of the research questions at the core of this thesis are designed to offer an insight into key informant's lived experiences of the evolving music industry, and the dynamics currently underpinning the industry in an era where it is widely reported as undergoing radical transformation. Crucially, as Cook et al. state, qualitative research questions 'tend to inquire less about "whether" or "how much", but more about "what", "how" and "why"'. (2001: 469). Such an approach thus fit with the current research questions and the overall aims of this study.

While, over the past three-to-four decades a large body of research has been accumulating on various aspects of the music industry, this is the first time a study such as this has been carried out in an Irish context. Furthermore, what makes this contemporary study unique is that it is focussed on gathering the inputs and perspectives of a broad cross-section of actors from across the range of music industry sub-sectors. Examining processes of change and continuity in the music industry is aided by an understanding 'of depth and complexity in…people's situated or contextualised accounts and experiences' (Mason, 1999: 65). As such, a qualitative approach is an appropriate choice. With all of this considered, , I have elected to use ethnographic interviews as the methodology that would be most appropriate. The reasons for this are outlined in the following section.

5.3 Ethnographic interview as a research methodology

Unlike a research project that employs closed questions (yes/no answers etc), which is a one-way process, ethnographic interview implies an exchange 'in which the analyst is [him] herself caught up and examined as much as the person [he] she is submitting to the investigation' (Bordieu, 1996 cf. Deacon et al., 1999: 7). Thus, a key question to consider at the outset of the primary research phase of this thesis was whether I was about to embark on data collection, i.e. 'excavation', or data generation, i.e. 'construction' (Mason, 1999: 68). Obtaining an insight into the evolution of the music industry since the internet emerged as a medium for music and, current industry trends has, for me, involved asking questions which examine the lived experience of individuals who work or have worked in relevant fields.

As Deacon et al (1999) detail, there are six main ways in which questions can be delivered in research: self-completion questionnaires; standardised face-to-face interviews; telephone interviews (which can be structured or unstructured); semi-structured face-to-face interviews; non-directive face-to-face interviews; focus groups. Semi-structured interviews are one of the most commonly recognised forms of qualitative research method. For this reason, Mason (1999) argues, it is not unusual for a researcher to assume that their project will involve qualitative interviews, without actually giving due consideration as to why this should be the case. Mason thus advises that researchers examine the usefulness and drawbacks of a semi-structured, open-ended 'conversation with a purpose' (ibid: 67) in relation to data gathering.

In electing to pursue such 'conversation with a purpose' I have sought to draw from the experience, knowledge, understanding, perspectives and perceptions of a broad range of individuals within the context of the areas under scrutiny in this thesis. I have sought to interact and engage with these individuals by talking, asking questions, listening and responding as an effective and meaningful way to access their accounts and views, and of generating data on the afore-mentioned ontological properties. The style of interviewing pursued is what Schutt describes as 'intensive interviewing', which entails relatively unstructured questions and which aims at eliciting indepth information about the interviewee's feelings, experiences and perceptions (2006: 311). Such a technique enables or allows interviewees to respond in their own words. It allows for active engagement with the subject and for lengthy explanations and follow-up questions. Unlike surveys or more structured forms of interviewing, semi-structured or qualitative interviewing enables a depth and roundedness of understanding rather than a broad understanding of surface patterns. Less structured questioning techniques held a significant advantage over more structured as they offered scope to elaborate and raise questions as to ensure greater clarity and understanding between interviewer and interviewee. While the questions I asked in each interview all fell broadly under a small number of headings, questions varied from interview to interview, or more appropriately depending on the occupational group(s) of the interviewee. As such data was achieved, not by asking a standardised set of questions, but rather by tailoring the questioning to the context(s) within which the interviewee operates in order to generate situated knowledge. Furthermore, semi-structured and open-ended interviewing generates a 'fairer and fuller representation of the interviewees' perspectives' (Mason, 1999: 67).

However, as Mason warns, the interviewer must be aware that the extent of the effectiveness of such a method of gathering research data is largely dependent upon the ability of the interviewee to 'verbalize, interact, conceptualize and remember' (Mason, 1999: 63-4). Equally, while Lewis (1991) argues that there are no set rules for the open-ended, semi-structured style of questioning, the interviewer must be alive to the consequences of his choice to either follow a carefully constructed schedule or else let the conversation flow more freely. There are a couple of examples to relate here from my research interviews. In a number of instances interviews, particularly when interviews were held in participants private residences, a rapport was developed over extended informal chat at the outset. In some of these cases the participant would become side-tracked, prompted perhaps by personal recollections of events or instances or by something I said in response to their comments. Given that I did not wish to break the rapport that was being developed I remained largely unobtrusive and waited for an appropriate moment to redirect the conversation back on course by re-stating the previous question or asking a new one. This does mean, however, that some of the material recorded during these interviews is tangential to the core research interests.

Selecting and approaching interviewees

Interviews were initially requested from forty industry professionals and key informants courtesy of a formal letter that outlined the overall theme of the research. From these, a total of thirty-four participants were interviewed across 2007-08. In addition to this, five other earlier interviews were drawn upon from a 2003 research project[10].

I elected to approach potential candidates from across the core range of music industry sub-sectors and, from a variety of directly related or ancillary fields. Drawing perspectives from such a wide range of actors holds the potential to offer a more holistic overview of the recent evolution of the music industry. A breakdown of the various occupation categories pertaining to all interviewees is included below. Here again, however, we must me mindful of the three spheres of music production and practice identified by O'Flynn (2004; 2009) in an Irish context: popular; folk/traditional; art/classical. While not exclusively focusing on the popular, it is on the popular that the main emphasis of this thesis lies. This is reflected in the range of interviewees who

[10] Jane Bolton, Elvera Butler, Keith Donald, Eddie Joyce & Niall Stokes were interviewed for a 2003 MA research project buy same author.

participated in this research study. I must also concede that while those interviewees that may be categorised under the heading of 'traditional' in terms of their spheres of activity, it is, perhaps, more appropriate to view them as active agents in a traditional-derived 'popular' music industry.

In some cases those approached for interview initially responded by phone or email to accept or decline. However, in most instances those approached did not respond to this letter, but an interview was secured courtesy of a follow-up telephone call. During this phone call, I also sought their consent to having the interview recorded. Initially, thirty-five accepted and nine declined. Of those who declined, most emailed their response or else rejected the approach during the follow-up phone call. In three cases, while the individual (either directly, or through their secretary) signalled their willingness to be interviewed, or their willingness to give further consideration to the matter before proceeding, no interview subsequently occurred. In these cases, having failed to obtain a definite response after a short series of follow-up phone calls and/or emails (over a matter of weeks, or in some cases months), I ceased pursuing the individual.

In one other case where an individual declined an interviewee, his company did forward me a copy of speeches he had just delivered at two international music industry seminars on a topic directly related to my research interests. This relates to Paul McGuinness, manager of U2. I initially approached Principle Management seeking to obtain an interview with McGuinness. This request was declined through an email I received from Principle Management's MD Steve Williams, however Principle subsequently furnished me full transcripts of two keynote speeches delivered by McGuinness to two international music industry seminars in 2008. Both of these speeches relate directly to the relationship between internet technologies and the record industry. The first was delivered at MIDEM seminar, Cannes, France; the second at the Music Matters Conference, Hong Kong. While the tone of both speeches is broadly similar, the latter speech delivered in Hong Kong sees McGuinness place more emphasis on the role of ISPs and argue that ISP monitoring is not an intrusion on privacy. Both transcripts are reproduced in full below in Appendix H.

The final thirty-nine participating interviewees consisted of thirty-five of those initially approached, plus an additional four interviewees whom I was guided to by another interviewee, or with whom an interview became possible as a result of another pre-arranged interview. For example, following artist manager Ben Barrett's consent to an interview, it subsequently became necessary to travel to London to conduct this interview. I thus approached George Ergatoudis, Head of Music at BBC Radio 1 and was granted an interview on the same trip. During the course of my interview with Barrett she recommended that I also approach another artist manager, Peter Jenner and provided me with contacts for same. After researching Jenner's work history I pursued and was successful in achieving an interview with him. Similarly, my interview with artist manager John Williamson prompted a subsequent interview with another provider of management services, Bruce Findlay.

Three participants were interviewed twice. In one of these cases, the initial interview was left incomplete due to unforeseen commitments arising which caused the participant to cut the interview short. In order to compensate they agreed to a second interview. In another instance, the interviewee agreed provisionally to be interviewed, provided we first conducted a short 'rehearsal' interview that would not be recorded. Upon completion of this, he consented to a full interview that was recorded some weeks later. In the third instance, the interviewee requested a second interview at a later stage in the research process. This relates to my interview with IFPI Chairman and CEO John Kennedy. His stated reason for requesting an additional interview was that a number of ongoing legal developments relating to questions I had asked him were likely to have reached a conclusion within a matter of months.

The final thirty-nine interviewees were as follows:

Bailie, Stuart:	CEO – Oh Yeah Music Centre; Music presenter – BBC Radio Ulster; ex-Deputy Editor *NME*; ex-music journalist / contributor – *Q, Mojo, Uncut*
Barrett, Ben:	Manager – Damien Rice; ex-live music promoter – The Mean Fiddler
Bolton, Jane:	Managing Director – Claddagh Records [2003 interview]
Butler, Elvera:	Owner – Reekus Records [2003 interview]

Carroll, Jim:	Music Journalist (*Irish Times*); ex-owner – Lakota Records; ex-A&R – Go Discs!, WEA and Rondor; ex-press & promotions officer – London Records
Cooney, Steve:	Record producer; musician
Curtis, P.J.:	Record producer; musician; broadcaster; Educator
D'Ardis, John:	Owner – Trend Studios (manufacturing); ex-record producer; songwriter
Donald, Keith	Musician – Moving Hearts; Chairman – Irish Music Rights Organisation (IMRO); Educator [2003 interview]
Doyle, Dick:	Director General – Irish Recorded Music Association (IRMA); Chief Executive – Phonographic Performance Ireland (PPI)
Durnin, Eamonn	Tesco, Ireland
Ergatoudis, George:	Head of Music – BBC Radio 1
Findlay, Bruce:	Manager – Aberfeldy; Simple Minds; China Crisis; ex-owner – Zoom Records; ex-owner 'Bruce's (independent retail chain)
Graham, Ross:	CEO – Northern Ireland Music Industry Commission (NIMIC); ex-Promotions Manager – Island Records
Hanrahan, Dermot:	Chief Executive – Electric media (digital advertising); Radio entrepreneur: Director – 4FM; Chairman – Red FM, ex-CEO FM104; ex-Manager – Virgin Megastore
Harford, Gerry:	Manager – Therapy; ex-live music promoter
Hayden, Jackie:	General Manager – *Hot Press* (magazine); ex-Promotions Manager –Polydor Ireland; CBS Ireland
Hennessy, Shay:	Managing Director – Crashed Music (independent recording and publishing label); ex-chairman Irish Music Rights Organisation (IMRO)
Jenner, Peter:	Manager – Billy Bragg; Eddi Reader; Secretary General – International Managers Forum
Johnston, Una:	European Representative – South By South West international music industry trade fair (SXSW - Texas); music event manager
Joyce, Eddie:	Owner – Danceline Records [2003 interview]

Kavanagh, Willie:	Managing Director – EMI Music Ireland; Chairman – Irish Recorded Music Association (IRMA)
Kennedy, John:	Chairman & CEO International Federation of Phonographic Industries
Lappin, Johnny:	Music publisher – Chairman – Music Publishers Association of Ireland; Board member – Irish Rights Music Organisation (IMRO)
Lindsey, Steve:	Independent music publisher; ex-Professional Manager – Warner Chappell Music Publishing; ex-General Manager – Go Discs! Music
Lockhart, Jim:	Radio producer – 2FM, RTE Radio 1; musician - Horslips
Murray, Frank:	Manager – The Pogues; ex-Tour Manager – Elton John, Thin Lizzy
O'Ceallaigh, Fachtna:	Manager – Sinead O'Connor, Lissy Trullie; ex-manager Clannad; Boomtown Rats
O'Grady, Dave:	Owner – Independent Records; Manager – David Kitt, Mundy
O'Reilly, Willie:	CEO – Today FM
O'Riordan, Michael:	General Manager – Rosette Music Publishing; Board member – Irish Music Rights Organisation (IMRO)
Pandula, Petr:	Owner – Magnetic Music (independent record label / publishing label / live music promotion / music retailing)
Sheehan, John:	Former Chair – Sony Music Ireland
Stokes, Niall :	Editor – Hot Press [2003 interview]
Vignoles, Julian:	Television commissioning editor; radio producer; former music journalist
Wenham, Alison:	Chair & CEO Association of Independent Music; President Worldwide Independent Network (Independent record industry trade body representative)
Whelan, Bill:	Composer; record producer; music publisher
Williamson, John:	Manager – Belle & Sebastian; former live music promoter

Wilson, Ian: Producer, RTE Radio 2 FM

The ‘occupation’ breakdown of the final thirty-nine interviewees is as follows:

- Eight are or were employed by a major record company in either senior management or personnel roles
- Nine either own, work or have worked for an independent record company
- Three are or were employed in senior management roles by a major music publishing company
- Six either own or work or have worked for an independent music publishing company
- Eight are artist managers
- Four work or have worked in live music promotion
- Four work or have worked as record producers
- Five are either employed by, or sit on the board of management of music royalty collection societies
- Four are or have been recorded music retailers. Three of these are/were independent retailers, the other a manager with an international music retail chain
- Six are professional musicians/creative artists
- Eight are representatives of music industry trade bodies/lobby groups
- Four are music journalists
- Eight work/have worked in the management and production of music radio
- Three have produced specialised music programming for television
- One is a record/CD/DVD manufacturer
- Two provide public relations services to music companies
- One is a former music industry lawyer
- Three work or have worked in training and education for the music industry
- One is a music industry trade fair co-ordinator / event manager

As the sums indicate, a significant number of those interviewed have worked across two or more spheres of activity throughout their careers. Appendix A provides a list of all interviewees who participated, accompanied by a short biographical note.

Within the above, the eight artist managers provide particularly interesting and useful informants. As managers representing the interests of recording artists, they engage with all of the other actors throughout the music industry chain and surrounding spheres of activity and, as such, offer an additional insight into and perspective upon the role of all other actors.

It should also be noted that only a small number of the research participants in this thesis are women – five out of a total of thirty-nine. This may be seen as a reflection of overall gender trends within the music industry.

Conducting the interviews

Of the final thirty-nine industry professionals and key informants who consented to an interview, thirty-three were interviewed face-to-face and the other five by telephone. The face-to-face interviews were held in a variety of locations including the participant's work place, the participant's home, and a variety of public spaces including hotel lobbies, restaurants and cafés. Rapley (2004) points to the importance of location when it comes to interviews, given that interviewees may not feel completely at ease in certain locations. In all cases I allowed the interviewee suggest their preferred location and, providing it was a suitable venue for recording our conversation. In almost all instances it was possible to accommodate their request or suggestion. Prior to formally commencing the interview I thanked the interviewee for their participation, checked to see that they were happy with the location (in the case of it being a public space), reassured them about confidentiality, re-capped on the overall purpose of the research and requested that they ask for clarification if they found any questions unclear. I also encouraged them to critique any questions I asked if they felt the need to.

All interviews bar two were recorded. In these instances, the participants had asked not to have the interview recorded on tape, so I depended solely on note taking for a record of the conversation. Rapley (2004) advances that the use of audio recording facilitates interaction as the interviewer is not so engrossed in note-taking. While Thomas et al. (2005) acknowledge the potential for recording to induce nervousness in the interviewee, they also state that the interviewee usually tends to overcome this during the course of the interview, gradually becoming less conscious of the recording device. During the course of my face-to-face interviews for this study, this did not arise as an issue, with the exception of the afore-mentioned two interviewees who had indicated at an earlier stage their discomfort with the matter of recording.

The length of the interviews varied in length from forty minutes to approximately two hours. I personally transcribed all of the interviews. This allowed me to re-live the interview and familiarise myself with the data at an intimate level. As such, the act of transcribing was in itself part of the data analysis process.

5.4 Issues of subjectivity on the part of the author

It must be noted that this research study is contextualised by my decade-long employment history in the vocational training sector. My role as an 'external' training programme co-ordinator with FAS saw me assigned to the management and administration of technical and business skills training projects within the cultural industries. This involved regular first-hand contact with actors across the music industry including the marketing, distribution and A&R departments within one of the major record labels; independent record and publishing companies; a variety of recording studios and related technical support services; music broadcasters and journalists; live music promoters and venue operators; and a number of official bodies and lobby groups. This period shaped my knowledge and understanding of the 'nuts and bolts' of the music industry and engendered within me an intense interest and curiosity about it.

5.5 Chapter Summary

This chapter has focused on the methodological approach used to answer the research questions driving this research study. At each stage the decisions taken have been explained and justified by reference to existing literature. I believe the process has generated rich findings which will now be presented in the following three chapters.

Chapter 6: Findings 1 – Music Industry 'Problems'

6.1 Introduction

The starting point of this thesis is the 'assumption' that significant change has been visited upon the music industry in recent years. The primary research phase of this study is charged with constructing a reality of the recent evolution of the music industry in place of this assumption. The raw materials for the construction of this reality are the insights and perspectives of thirty-nine industry professionals and key informants from across the spectrum of music industry sub-sectors and related spheres.

Encouraging these industry professionals and key informants to articulate their particular perceptions of change in the music industry allows them to reflect on processes of change, which in turn may provoke and facilitate a more thorough, holistic examination of the process. In many instances, the responses of interviewees to questions about change may best be categorised under two headings: one, focusing on 'problems' generated for the music industry either directly or indirectly by digitalisation; and the other, strategies formulated by the industry to provide 'solutions' to these problems, or to compensate in other ways for any losses incurred through falling record sales. While chapter seven will be dedicated to mapping the responses and 'solutions' they perceive as evolving, this first chapter of research findings focuses specifically on interviewee's perceptions of the challenges being faced by the contemporary music industry, i.e. 'problems'.

At the outset of our interviews I asked each participant to consider any key changes they regard as having occurred over the past decade. Perhaps unsurprisingly, all interviewees signalled the internet as the most significant development, and most linked this to a downturn in record sales revenues. However, beyond this they advance additional factors that they claim provide evidence of severe record industry decline, as well as forwarding perspectives on a range of phenomena that they perceive as causing these problems. While some of these factors extend beyond technological logic, most are related to various aspects of digitalisation. This leads us to consider recent employment trends across the major music companies; the decline of 'bricks and mortar' retailing; criticisms levelled at the major music companies over long-term inefficiencies and a failure to realise or grasp opportunities afforded by the internet at an earlier stage; consequences arising from the shift from physical to digital formats; and the effects of supermarket retailing.

6.2 Primary perception of change: file-sharing = downturn in sales

When asked to consider if change has occurred in the music industry over the past decade, the starting point for almost all interviewees is two factors: the rise of the internet; and the concomitant fall of record sales. These responses follow closely many of the media and journalistic accounts referred to in chapter one. In some cases, the 'effects' of the internet are presented as being more extreme or fatalistic than in others, but ultimately, *most* interviewees concur that very significant change has occurred and it's mostly for the worse. For example:

> People aren't paying for music anymore. That's the problem. I think the majors have collapsed and it is over for them.
> (Dave O'Grady, MD, Independent Records, personal interview)
>
> With moving online…the bottom has fallen out of the music industry's sales…
> (Michael O'Riordan, Ritz Records and Rosette Music Publishing, personal interview)
>
> Digitalisation has totally rattled the industry. The internet is certainly hurting the industry…The big record companies have taken a real pounding in the last year or two.
> (Peter Jenner, artist manager, personal interview)
>
> We put the downturn almost exclusively down to peer-to-peer networks and illegal uploading of music. Our estimates are that worldwide there are fourteen illegal downloads per one legitimate download at this stage which is phenomenal. Fourteen illegals for every one legal.
> (Dick Doyle, Director General, Irish Recorded Music Association (IRMA))

My interview with Dick Doyle was conducted in May 2008. By January 2009, IRMA's parent body, the International Federation of Phonographic Industries (IFPI), revised Doyle's estimation upwards to a legal:illegal ratio of one in twenty, claiming that 95% of all music traffic on the internet related to illicit file-sharing and distribution (IFPI, *Digital Music Report 2009*, p.3).

Ex-Virgin (Ireland) MD Dermot Hanrahan describes the record industry of the 1980s and 1990s as being dominated a small number of 'aggressive, domineering businesses' that 'oozed arrogance' (personal interview). Hanrahan described each of the major record labels as 'a monopoly in their own right' as they held exclusive access to the stars on their label and thus dictated the terms upon which retailers or third parties accessed the recording and publishing copyrights they owned. However, Hanrahan sees such an era of dominance as having been 'destroyed' by the advent of the internet file-sharing technologies: 'Peer-to-peer means the game is up for the big record labels. It's over. Finito' (personal interview).

A similar sentiment is echoed by Billy Bragg (and former Pink Floyd) manager Peter Jenner who stated that the 'crisis' facing the record industry is now potentially terminal based on what he perceives as the industry's inability to generate opportunities for monetising creativity in an internet environment:

> The internet means the whole funding of music is now in question. How do we fund it? Where does the money come from? Where can we make money? How can we make money? What do we have to do to make money? (Peter Jenner, personal interview)

Record industry trade body representatives from the IFPI, IRMA, the Association of Independent Music (AIM) and Phonographic Performance Ireland (PPI) advanced a number of specific cases of mass-infringements of copyrights to support their argument that file-sharing is severely damaging their market. These accounts also suggest a large quantity of users 'stealing' vast quantities of recorded music. The implication is often that having access to free music on the internet means that many users will only consume pirated music, and many cases they will pirate all files at their disposal. For example:

> Peer-to-peer sharing, it's a bit like this: a kid records something at home, and it's like he's stealing a chocolate from Willy Wonka's factory, but the problem with peer-to-peer is that it opens up the whole factory and they steal the lot. You know, there is this kid we are suing now who has uploaded 37,000 copyrights…People go: 'the poor kid, you shouldn't be doing that to him', but the problem is he's hurting us… 37,000 copyrights stolen…37,000 copyrights…37,000 copyrights.
> (Willie Kavanagh, MD, EMI Music Ireland, personal interview)

Dick Doyle cites an additional case where IRMA are pursuing an individual who has 30,000 song files on their pc: 'When you think of it, 30,000 songs being shared worldwide – the loss to our industry is colossal' (personal interview). It remains extremely unlikely that every illicitly shared music file would otherwise correspond to a 'legitimate' sale on the part of the record industry, but, as Doyle continues:

> How much is file-sharing hurting [the record industry]? It's definitely hurting badly. In Ireland you can see that we are down from about 145 million to 110 million so that's about a 35 million drop since 2001…that's 25%. So it is definitely hurting it badly.
> (Dick Doyle, personal interview)

For AIM chair Alison Wenham:

> The major industry has always controlled the means of distribution up until the digital era, and that control has been lost. Not just the major companies, *all* copyright owners have lost that control with the internet. (Alison Wenham, personal interview)

Wenham proceeds how state that 'everything' can be accessed for free on the internet. IFPI Chairman and CEO John Kennedy advances that there are no historical comparisons to the challenges faced by the record industry since the advent of peer-to-peer networks. What makes the plight of the record industry unique in his eyes is the perpetration of:

> …wholesale theft which is tolerated by society, governments and the media. It is sometimes even seen as virtuous that people are indulging in taking music for free…A small microcosm of one of the problems we have with society nowadays is whilst the music industry has suffered from illegal copying, copying has become part of kids instinct now, to the extent that it's such a problem in education that teachers, university lecturers are having huge problems with plagiarism which is damaging our education system and the young people within it in a very material way. (John Kennedy, personal interview)

Dick Doyle stated that his organisation were involved in an ongoing process of issuing lawsuits against individual network users, and that all individuals they were pursuing had infringed a minimum of five hundred copyrights:

> Obviously the pricing of the CD was very good before because people saw it as a high value product and they were prepared to pay for it, where as now people think music should be for free. A lot of young people have been brought up on the fallacy that music is for nothing because they can get it on the internet and they can share it with friends. So there is a whole cultural change going on now compared to what was happening twenty years ago…We have spawned a whole generation of people now who never have bought music…and they have never appreciated that there is an economic value in music...Maybe with the next generation we can try to get back to where there is a value in music…where we can say that there is an artist who needs to be fed. (Dick Doyle, personal interview)

Doyle's comment regarding the pricing of CDs must here be considered in the light of anti-trust allegations levelled at the record industry such as those highlighted in chapter 4, section 4.6 [see Burkart and McCourt (2003) reference]. Doyle's arguments regarding the 'artist who needs to be fed' is echoed among many of my interviewees. Both major and independent record and publishing company representatives alike ultimately reduce debates surrounding copyright infringement to an attack on the creative artists who produce the industry's raw material. Thus, some interviewees saw this problem not only leading to the decline of record companies and broader music companies, but also the demise of musical creativity resulting from mass copyright infringement. They regard the evolution of a culture that regards music as a 'free' service as removing incentives for artists to engage in creativity and produce music and recordings. A number of key informants from the spheres of recording and music publishing point to an impending crisis around creativity arising from a dirge of artistic endeavour amidst a culture that fails to place economic value on musical texts. For example:

> This is *the* problem. The culture has seeped in where by people are beginning to think that music is *free*. If you take that to its logical conclusion, well when the music runs out there'll be *no more music*…That is the flux that we are in at the moment…If people think that music is free, songwriters are going to stop making music because there will be no point. They are not going to make any money from their efforts so they'll go and do something else…*There'll be no more music*.
> (Johnny Lappin, Managing Director, Liffey Music Publishing, personal interview)

> You know, if you take it to it's natural conclusion, nobody wants to pay for music…If people, young people think that music is free, well…there's no incentive for people to write new music unless they can get paid for it.
> (Eddie Joyce, MD Danceline Records and Jeeldaire Music Publishing, personal interview)

> Because its there for nothing on the internet, people think music is free. Music should *not* be free, but it is…If copyright law can no longer protect you against somebody running off copies, then you will no longer have any creativity. This is what people don't realise.
> (Michael O'Riordan, Ritz Records and Rosette Publishing, personal interview)

IFPI Chairman and CEO John Kennedy agrees that removing incentives to produce creative works, courtesy of a 'broad devaluing of music' resulting from mass copyright infringements serves to make performing and creative careers in music less attractive propositions. Pointing to the mid-teens to mid-twenties age bracket as the 'key offenders' in terms of illegal file-sharing, Kennedy outlines how this section of consumer society has traditionally been the group providing the ignition for new artists, new investment and new revenues. The large-scale withdrawal of this group from the recorded music industry revenue chain holds implications for the long-term 'health' of the industry as it 'hurts those who provide its raw material' (personal interview). However Kennedy rejects ideas of a potential dearth of creativity killing the music industry. As he explains, for the organisations he represents, 'the plus' is that more music than ever is being consumed, 'the minus' is that less music is being paid for. Kennedy's optimism for the survival of his industry derives from what he considers to be a shift in attitude towards the internet by broader society. He sees such change as primarily driven by society's concerns over such issues of pornography, and the need for commercial operators to measure their bandwidth in a more effective way. As such, the internet is becoming an increasingly regulated environment:

> Five years ago the idea of any policing of the internet would have been considered sacrilege, but the idea now that the internet wouldn't be policed for any number of reasons is just naïve.
> (John Kennedy, personal interview)

Kennedy sees such an attitudal shift as 'potentially breeding hope' for a record industry as it implies governments are now displaying an increasing willingness to act on online activities that ‘cannot be good for society’. Kennedy argues that the extent of actions taken by legislative and judicial systems against file-sharers, technology suppliers and networks within various nation states around the world is ‘too little, but I will not say too late’. He contends that governments are beginning to understand the problems faced by the member companies that his organisation represents, and are beginning to play a role that will assist the record industry in transforming consumption habits towards a point where more people start purchasing music again.

All of the above comments must be considered in the context of IFPI statistics which report how the global recorded music market has largely been in decline throughout the first decade of the new millennium. They indicate an initial drop of 17.3% from a record high of US$38.7 billion sales 1999 to US$32 billion in 2003. While there was a modest recovery of 4.7% throughout 2004 and sales held (almost) steady throughout 2005, the subsequent period to the end of 2006 saw a further drop of 5.4% to an overall global retail value of US$31.8 billion. By the end of 2008 this figure had dropped to US$26.5.

Table 6.1: Retail value of recorded music sales 1999-2008 (combined physical and digital formats in $US billions)

	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Total	38.7	36.9	33.7	32.2	32.0	33.6	33.5	31.8	29.9	26.5
US	14.3	14.8	13.4	12.6	11.9	12.2	12.3	11.5	10.4	8.4
Rest of world	23.4	22.1	20.3	19.6	20.1	21.4	21.2	20.3	19.5	18.1

Source: Author, compiled from *IFPI Recording Industry In Numbers* reports 2000-2009

This pattern is also reflected in an Irish context where record sales revenues dropped from a high of €145.6m in 2001 to €108.8m by the end of 2008 (IRMA/IFPI, 2009).

However, not all interviewees are at ease with the general consensus that peer-to-peer file-sharing technologies have led to such a significant decline in record sales revenues. Two of the artist managers I interviewed and a small number of other interviewees from beyond the recording sector problematise this picture. First and foremost, Bruce Findlay and John Williamson point out that the source of these figures, the IFPI, is primarily, the representative trade body of the Universal Music Group, the Warner Music Group, Sony Music Entertainment and EMI - the four major music companies. The published sales revenue statistics are supplied by these four companies.

In most instances, these figures are uncritically relayed to the public via the media. Instances questioning their accuracy are extremely rare. As Williamson advances:

> …the whole 1999 meltdown period…who knows whether that's true or not because we're relying on the figures that come from guess where? The major record companies themselves…
> (John Williamson, personal interview)

Williamson proceeds to state that the majors are adept at creating the perception that best suits their current agenda 'with a bit of creative accounting and a good PR team' (ibid). He then tempers this somewhat by stating that he is not arguing that these figures are deliberately inaccurate or misleading, but rather that we must recognise how such a picture of declining revenues offers support to the lobbying power of record industry in their quest to encourage the legislative and judicial arms of nation-states to adopt and enforce longer, stronger copyright laws (the trajectory of which was detailed in chapter 4, sections 4.4. and 4.6). During the course of my primary research interviews, IFPI Chairman and CEO John Kennedy, and IRMA Director General Dick Doyle both emphasised their primary roles as that of lobbyists, in Kennedy's case, at international level, in Doyle's case, specifically in an Irish context. In just over a decade in his role at IRMA, Doyle claims to have spent 'two to three years' of this period in Leinster House:

> At one stage, lobbying for the 2001 Copyright Act to come in. I was in the Dáil every day for seven or eight months lobbying TDs, trying to get them to understand what the issues were etc etc. I am mentioned in the records of the Dáil because I got to so many of them at so many different times that people started getting annoyed and asking is this the Dick Doyle copyright act or is it the Irish copyright act? So my most important job is lobbying.
> (Dick Doyle, personal interview)

The picture of declining record sales revenues and its conflation with a wider music industries downturn also strengthens the arguments of major players in the music industries when it comes to receiving the blessing of institutions of governance for mergers, joint-ventures and alliances such as the Sony-BMG[11] merger in 2004. In 2006, the European Court of First Instance annulled the European Commission's original clearance decision from 2004 on foot of an appeal from IMPALA, an independent record industry umbrella group. However, the merged parties successfully appealed this decision. In obtaining the original go-ahead for the merger they cited, amongst other factors, the necessity for consolidation 'to help our artists realise their creative goals while at the same time…address the important issues that will enable this artform to evolve and prosper' in the face of a shrinking market (Sony Music Entertainment press release, 5th August, 2004). Ironically, 2004 was the only year in the past decade when

[11] Sony subsequently subsumed BMG in 2009 and now operates entirely as Sony Music Entertainment.

the IFPI posted an (albeit mild) upturn in record sales. Similar arguments are being used at present to justify the merging of Live Nation and Ticketmaster who combine to share significant interests in recording, music publishing, touring, primary and secondary concert ticketing, artist management services, merchandising and the administration of all aspects of artist-related rights.

Bruce Findlay focuses less on the statistics produced by the IFPI and more on the media's reporting of same. Findlay advances that the IFPI sales data might be 'exactly right…close to right…or nowhere near right' (Bruce Findlay, personal interview). The point for Findlay, a point that is also supported by Williamson and another interviewee, Jim Carroll, is that these statistics are rarely if ever analysed in the media and are most often uncritically relayed as fact. The net effect of this, Findlay concludes, is to 'hoodwink' legislators:

> …nobody actually questions the figures. Journalists don't or cannot either. So you are in a situation where anyone who has got the resources to put together something that is reasonably impressive and has a whole lot of figures in it is going to get somewhere with the politicians. (Bruce Findlay, personal interview)

Furthermore, all of the above statistics relating to recorded music sales revenues must be considered in the context of reported revenues for the combined music industries as a whole. A recent economic report issued by the Performing Rights Society in the UK indicates that despite a decade-long decline in the value of recorded music sales, overall revenues have been on the increase. The royalty collection society estimate a year-on-year rise of 4.7% with total combined revenues from recording, publishing and live streams rising from ST£3.2 billion in 2007 to ST£3.6 billion in 2008 (*PRS Economic Insight*, 20th July 2009). Marketing and media research analysts eMarketer estimate the global combined revenues from these core streams to have risen from US$60.7 in 2006 to US$62.6 by the end of 2008 (eMarketer, *Global Music*, 2009). Placed in an even wider context incorporating musical instrument sales, portable digital players, music reproduction hardware and advertising revenues generated by music radio, Price Waterhouse Cooper estimated the 2007 value of 'music driven' industries at US$130 billion (PWC, 2007). Thus, it is important to note that music has an economic relevance that extends far beyond the scope of record sales.

Contradictory reports on the 'effects' of file-sharing

A further point I raised regarding the relationship between the internet and the decline in record sales stemmed from a confusing array of reports and surveys on the outcome to date of internet file-sharing technologies regarding user behaviour and practice. These accounts, outlined in reports by trade bodies, consumer lobby groups, industry consultants and policy makers offer various, often contradictory and conflicting data on the 'effects' of internet file-sharing. Below I outline the headline findings of some of these reports and the response of my interviewees to them.

A 2007 market research survey by NPD Group indicated that legal download sales were the fastest growing digital music category in 2006, and, despite having increased by 47% over the previous 2 years, activities on peer-to-peer file-sharing networks was slowing (*NPD Group* online, 26th February 2008). The report further argued that it was likely that the annual number of legal downloaders would surpass peer-to-peer file-sharers by the end of 2007. Conversely, in its annual digital music survey for 2007, Entertainment Media Research suggested pirate downloads had reached an all-time high in 2007 and were continuing to rise (cited in The Guardian, Monday, July 30th 2007). However, the same report also found online social networking sites to be boosting interest in music that translates into recorded music sales. Bebo and MySpace are listed as the most popular sites with 30% of respondents in a survey of 1,700 users claiming to make regular or occasional physical and/or digital purchases based on music they had discovered on a social networking site.

While the annual IFPI *Digital Music Reports* and *World Recording Industry In Numbers* reports illustrate strong year-on-year growth in overall digital sales since 2003, these reports invariably point to proliferating file-sharing activities preventing digital market increases from off-setting physical sales losses, and thus plunging their industry into crisis. However, according to Jim Carroll, MD of the Sony-owned Lakota Records:

> We need to draw a line here: In terms of the death of the record industry, it is a story, a media story. It is a media story and it is being fed through the media.
> (Jim Carroll, personal interview)

Carroll argues that popular media accounts of crisis in the record industry are based on 'half truths' in so far as evidence of any downturn in terms of recorded music sales revenues has long since long since existed. However, overall revenues from recording and music publishing remain high. As Carroll continues:

> They are still making fucking money and people are still buying music. Every year I go into HMV on Grafton Street as near to Christmas as I can stand and I just marvel at the amount of people in there buying CDs and I wonder why it can't be like that all year round. And sure there will be times like Christmas or when there is a big release, like Coldplay or U2 when there will be big fast sales. (Jim Carroll, personal interview)

Regarding the legitimate digital market, a 2006 sales analysis report by Forrester Research on the iTunes Digital Music Stores indicated a 65% drop in sales at the Apple store throughout 2006, with file-sharing labelled as the primary cause. Their findings on iTunes were based on analyses of credit card transactions over a 27-month period. While Apple labelled this report as 'simply incorrect', it did not publish any statistics. However IFPI statistics illustrate year-on-year growth in the overall digital music market to be in the region of 50%. Nielssen Soundscan sales data points to year-on-year growth in the digital market in the US to be approximately 75%. Both bodies emphasise iTunes as by far the most dominant player in the digital music store market.

Other reports indicate a significant level of ambivalence regarding the outcome of peer-to-peer file-sharing for the record industry. Research commissioned on the domestic recorded music market in Canada- compiled by Anderson & Frenz (2008) for Canadian government department *Industry Canada* - found that music file-sharing has no detrimental effect on recorded music sales, in fact it is associated with generating physical sales. Upon garnering responses from 2,100 participants, Andersen and Frenz concluded in their government sponsored research data, that among Canadians who engage in peer-to-peer file-sharing, for every twelve songs-files shared, physical sales increase by 0.44 CDs. In effect this means that for every two albums shared on peer-to-peer networks (or the equivalent amount of songs in single track downloads), one additional 'legal' sale is generated. Overall, Andersen and Frenz found that:

> Analysis of the Canadian population does not uncover either a positive or negative relationship between the number of files downloaded from peer-to-peer networks and CDs purchased. That is, we find no direct evidence to suggest the net effect of P2P file-sharing is either positive or negative for Canada as a whole. (Andersen and Frenz, 2008: 24)

An earlier study by music research agency The Leading Question (2005) claimed that active file-sharers spend four-and-a-half times more money on recorded music purchases than consumers of legal downloads.

While initially attacking peer-to-peer file-sharing as a major contributory factor to a crisis within the record industry, EMI MD Willie Kavanagh proceeded to place such 'piracy' into a perspective that was, in the longer term, somewhat less threatening to his industry:

> I don't think that this is a bad kind of analogy: When television took off in the sixties the idea was that film companies were fucked. Why would anybody go to the cinema when you could watch moving pictures for free on your telly? But the reality decades later is that there are still new movies released every single week. Cinema is a business model that works…It's about consuming and how people want to consume. There will always be illegal ways to consume music, but there are illegal ways to consume most things and these really hurt legitimate producers. (Willie Kavanagh, personal interview)

Kavanagh was also eager to stress that when it comes to file-sharing, the level of tolerance society possesses for the 'illegality of it all' is currently at a point that is 'way beyond being palatable' (personal interview). He views file-sharing technology as a 'damaging but not fatal' development for the record industry.

Jim Carroll is equally at pains to emphasise that file-sharing, while significantly hurting the record industry, must be placed in a broader context. Carroll related an account of his attendance at the 2007 South By South West (SXSW) international music industry conference in Texas:

> I sat in on one very interesting panel where this guy actually broke down, in terms of file-sharing, how an album gets spread around – where it begins and where it starts getting shared and downloaded. It was amazing to me that the likes of Limewire and eDonkey are only number five in the sequence – There are four levels before that, four levels before it gets to the commoner garden peer-to-peer file-sharing services that we have all heard about. And the amount of people doing this are a tiny, tiny number relatively speaking.
> (Jim Carroll, personal interview)

Research on the symbiosis of peer-to-peer and iTunes at the Harvard Business School argues that the major record labels should give greater consideration to peer-to-peer traffic when formulation online pricing schemes. A study compiled in conjunction with the Universtat Autonoma de Barcelona argues that prices low enough to encourage users away from peer-to-peer networks are not optimal in large markets (Casadesus-Masanell and Hervaes-Draue, 2007). Rather, the study argues that the record labels are better off setting higher prices and attracting those consumers that are willing to pay due to congestion on peer-to-peer networks. Furthermore, the study finds that legal attacks by the record industry against software suppliers and individual file-sharers carries a harmful effect for peer-to-peer networks.

A further study published by the Berkman Centre (Harvard) and Gartner in December 2005 based on a survey of 475 early adopters suggests that the capacity to share music files with other consumers is an important consideration for users when choosing an online music service. The report also highlights file-sharing to play significant role in determining subsequent recorded music purchases.

It is also worth remembering at this point, that claims of new technological developments harming established content producers are nothing new. In his testimony to the US House of Representatives in 1982 as part of their hearing on 'Home Recording and Copyrighted Works', Jack Valenti, then President of the Motion Picture Association of America (MPAA) accuses VCR technology of carrying detrimental consequences for the movie industry:

> I say to you, the VCR is to the American film producer and the American public what the Boston strangler is to the woman home alone…It's like a great tidal wave just off the shore…One does not have to be trained in sophisticated marketing and creative judgement to understand the devastation on the after-theater marketplace caused by the hundreds of millions of tapings hat will adversely impact on the future of the creative community in this country [USA]. It's simply a question of basic economics and plain common sense.
> (Valenti cited in Committee of Judiciary records, Monday 12th April 1982)

Valenti subsequently labelled the MPAAs campaign against internet 'piracy' as his 'own personal war' (see, for example, Lessig, 2004: 26). The record industry's 'home taping is killing music' campaign in the 1970s and 1980s in response to the widespread diffusion of cassette duplication technologies as standard in home stereo systems echoes similar sentiments.

6.3 Other key evidence of record industry decline

Beyond declining recorded music sales statistics, interviewees advanced two key strands of evidence pointing to record industry decline:

1) The shedding of jobs at major music companies in recent years;
2) The collapse of 'bricks and mortar' retail outlets for recorded music

Job cuts at the major labels

Referring to the Irish context, radio producer Jim Lockhart tells of 'swathes of people cut out of the record labels here'. In his ongoing dealings with labels regarding the acquisition of licensing rights amongst other factors, Lockart is more frequently referred to the London offices of the companies who increasingly administer their Irish operations. Lockhart's testimony is borne out in the 2005 closure of Sony's distribution depot in Dublin. Sony was the last major to retain an Irish-based distribution facility. Its closure also coincided with the stripping back of its local marketing personnel.

Many other interviewees describe the major record companies evolving into a smaller, tighter more controlled set of businesses than they previously were, in an environment where their ongoing viability is threatened. For example, according to Dave O'Grady, managing director of Independent Records:

> If you look at how many people they lay off and have being laying off in the last couple of years…I heard a figure quoted recently at South by South-West[12] that in America three years ago there were 500 major label A&R men, now there is 70. It is as simple as that.
> (Dave O'Grady, personal interview)

Association of Independent Music (AIM) chair Alison Wenham echoes a similar message:

> For major companies there have been massive cutbacks worldwide. They have lost about one-third of their workforce in the last four years and one-third of their artist rosters too so there is increasing contractions in labour and artists and repertoire activity.
> (Alison Wenham, personal interview)

Such comments come in the wake of a series of staff-cutting announcements by major labels and, for Ross Graham, Chairman of the Northern Ireland Music Industry Commission (NIMIC), these cuts are:

> …solid evidence that the majors are becoming less profitable. There have been savage staff cuts left, right and centre because the margins are so slim. It's all about survival in a retracting market. (Ross Graham, personal interview)

For supporting evidence, Graham draws upon Sony's 2007 announcement of an undisclosed number of job cuts as part of a broader restructuring operation with its internet music retailing division. Furthermore, in October 2007, the Sony website predicted up to sixty imminent or near-future job losses from US and international offices after announcing an US$8m loss over the previous month alone which it blamed on the depleting CD market. This move followed the closure or downsizing of some of its regional/national offices earlier in 2007, including its Canadian head office in Toronto.

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[12] South by South-West (SXSW) is an annual international music industries trade fair held annually in Austin, Texas, USA.

In 2008, Universal announced the downsizing of its Island-Def Jam and Geffen-Interscope-A&M label groups. However, by far the most notable staff-cutting exercise came in January 2008 when EMI's recorded music division sliced two thousand jobs internationally reducing its workforce to 2,500 following a three-month review by new owners Terra Firma. According to Guy Hands, the founder and CEO of Terra Firma, this was a direct response 'to the challenges posed by a digital environment' that required the company to reduce costs by £200m a year (cited in *The Guardian*, Tuesday, January 15th 2008). For John Williamson, the case of EMI is the most stark example of the major labels developing 'much more efficient mechanisms' of operation:

> Suddenly, jobs started getting cut back. There is far fewer staff now, that's an obvious change, and obviously that has a knock on effect as regards what a record company can actually do. Similarly the way that they were structured and how much they would actually pay people at a junior level has actually changed downwards over the past few years. If you are at entry level in these industries it's like 'you should be privileged to be working for us' so you'll on work experience and get virtually no money and you might actually get a job at some point in the future. (John Williamson, personal interview)

The collapse of retail outlets

Another factor which is flagged by interviewees as a symbol of crisis is the decline of physical retail chains and outlets for music. Primarily, the transfer from physical to digital and the concomitant spread of peer-to-peer file-sharing is perceived as reducing the market for recorded music, with physical retail a resultant prime casualty.

According to artist manager Peter Jenner: 'what's really on the frontline of query is what's happening to retail and what that means' (personal interview). Jenner explains that a combination of falling 'legal' consumption and shifting purchasing patterns are combining to 'kill off' physical retail outlets. Jenner's comments come in the midst of ongoing closures of record 'megastores' and retail chains. For Ross Graham, CEO of the Northern Ireland Music Industry Commission (NIMIC), music retail was:

> …bound to collapse. Physical retail has become the most dangerous business to be in in this game. It has been in decline for years, sometimes reducing steadily, and sometimes you get very sharp large jumps downward. You can get a quarter in a year now where suddenly there will be a 12% drop in sales. (Ross Graham, personal interview)

Peter Jenner further explains that, primarily as a result of digital distribution, the turnover time for hit records is becoming shorter and shorter as record companies 'front-load the charts' in a strategy to combat falling sales. Jenner sees the proliferation of formats upon which a single recording is now released as an attempt to 'maximise the return on any one fan of a record'. Jenner's experience is that consumers of singles are likely to purchase multiple remixes of one song and he argues that they growing importance the record labels afford to this market sector indicates a level of desperation on the part of the labels, aiming products at 'an increasingly focused fanbase'. In the midst of this process, which is conducted largely via digital distribution:

> …physical retail is what's really taking a hit, the bricks and mortar store, and that is a symbol, as is all of this heavy marketing and heavy, heavy finance used to front-load the charts, of dwindling consumers. (Peter Jenner, personal interview)

For John Sheehan, former Chairman of Sony Ireland:

> …it all comes back to the technological developments that are ongoing. Digitalisation places question marks over the future of all aspects of the industry, but in particular retail is really suffering…the record shops. They got a second lease of life with the emergence of DVD and the back catalogue of films. It was that which really sustained their revenue growth. But that is slowing down now…The sad aspect for me is that I don't see the physical carrier in the music business growing at all. (John Sheehan, personal interview)

Beyond this, former independent retailer Bruce Findlay highlights the rise of online 'dispensers' of physical recordings such as Amazon, CDNow and other mail order services in 'forcing bricks and mortar guys off the map' (Bruce Findlay, personal interview).

All of these comments come in the context of a series of physical retail closures over the past two years. For example, summer 2007 saw independent retail chain Fopp close down all of its 105 outlets across the UK. Media reports primarily blamed the 'surging popularity of downloading music from the internet' for the demise of Fopp (*BBC World News*, Friday 29th June 2007). The same week, HMV announced that its annual profits had been more than halved (*RTE News*, Thursday 28th June 2007). On Christmas Eve 2008 retail chain Zavvi, formerly Virgin Megastores, went into administration. It subsequently closed the majority of its stores throughout January and February 2009 – (HMV purchased 19 of the Zavvi outlets across the UK and Ireland). In February 2009, the High Court in Dublin appointed an examiner to the Golden Disc music retail group, which has 20 stores throughout Ireland. The court heard that Golden Discs was currently insolvent with liabilities of €9.5 million, primarily due to the downturn in sales and increased competition from online sources (*Irish Times*, Tuesday 24th February 2009). Independent Dublin retailer Road Records also closed its doors in spring 2009.

Having detailed declining sales revenues, job losses across the industry the demise of physical retail as evidence of crisis in the record industry, many interviewees proceeded to outline a number of different causal factors relating to these negative trends. Based primarily on the accounts of twenty-three of my interviewees, the remaining sections of this chapter outline and summarise these various factors in turn. These respondents comprise of major and independent record company representatives; major and independent music publishing company representatives; artist managers; representatives from the recorded music retail sector; and representatives of record industry trade bodies. Additionally, I have drawn upon information and statistics detailed in industry reports, press releases, trade publications and the coverage of these issues in the wider media.

6.4 Other digital factors perceived as causing record industry decline

In most cases I opened interviews by asking a general question about the recent evolution of the broader music industry and the state it is now in. Perhaps unsurprisingly, the initial response of *all* interviewees from the recording industry, music publishing industry and recorded music retail sector, and *most* artist managers was to single out digital technologies as the most significant *negative* development relating to their business in the past decade. Interviewees identified three primary factors relating to developments in network technologies and consumer electronics that are damaging their industry: first, compact disc duplication technologies combined and digital media libraries as standard utilities on personal computers; and also the increased capacities associated with portable digital storage devices.

These two factors, combined with the issue of peer-to-peer file-sharing are placed by interviewees at the core of the problems facing the music industries.

CD burning technologies

For John Kennedy, digitalisation has spawned an even bigger problem than peer-to-peer file-sharing on the internet. He details how the compact disc (CD) has been available on the market since 1982 and remains the standard playback medium for commercial music recordings to the present day. While the earliest CD recorders cost in the region of ST£25,000 in the early 1980s, CD burning technology has been mainstream in personal computers since the turn of the millennium. According to Kennedy, the copying of CDs has now become ‘a major problem around the world’ for the music industries because it crosses much greater demographics than the early adopters who embrace new and emerging internet file-sharing technologies. This sentiment is shared by record producer and manufacturer John D’Ardis who argues that ‘CD burners’ have delivered ‘a devastating blow’ to the broader music industry:

> I would seriously think the whole music industry model is seriously in trouble. The main problem is that it is so easy to burn a good quality copy of what you like and transfer it to everybody that likes it without charge. Given that situation, it is very difficult for a company to try and make money… (John D’Ardis, personal interview)

D’Ardis proceeds to state that digital libraries can be used to ‘infinitely’ store material ripped from CDs from where the material can be transferred shared and copied repeatedly. Furthermore, he argues that such digital libraries potentially remove the necessity r the user to upgrade their music collection to a newer format at a future stage. This factor was a key driver of the CD market, where users re-bought on CD what they had previously bought on vinyl or cassette. Echoing a similar perspective, former Sony Ireland chairman Sheehan argues that it is a remarkable achievement for record companies to have maintained the level of revenue generation that they have in such an environment where the ripping of CDs was now a ‘commonplace activity’.

According to former CBS Records and Polydor marketing and promotions manager Jackie Hayden, the concept of buying music is alien to a growing percentage of young music users. A combination of free access to internet databases and the proliferation of CD burners as standard devices within personal computers makes purchasing music ‘so out of date as to be almost laughable’ to a generation of ‘rip and burn merchants’. Hayden details much anecdotal evidence in support this argument. For example:

> A guy recently told me that he was going out with his mate for a few drinks. He called to his mate and while he was waiting for him to come downstairs or whatever he was talking to his mate’s son who was watching MTV. The video for the new My Chemical Romance single came on and this guy said ‘That’s a fucking great song, I must get that’. Within about 15 seconds the mate’s son had downloaded it, burned it and gave it to him on a CD.
> (Jackie Hayden, personal interview)

As with peer-to-peer file-sharing, some interviewees regard CD burning activities as not only depleting recorded music sales revenues, but also removing any incentive to produce creative works. For example:

> You can copy CDs so easily now, everything can be burned, Jesus, so what's the point in recording anymore? At the end of it you get nothing out of it. What's the point?…But that's the way that life is going to be because nobody wants to pay. And nobody wants to pay for it because they can copy it and get it for free. So they are stifling creativity, they are stifling it. (Michael O'Riordan, personal interview)

O'Riordan, Sheehan and others also identify side-loading is a key activity that drives down revenues. CD recordings that may have been purchased 'legally' in the first instance, and/or tracks that have been downloaded from the internet are entered into digital libraries such as Windows Media Player, Real Player or iTunes from which CD copies may be burned. Windows Media Player or Real Player come as standard on many PC/laptop packages. The widespread existence of such digital libraries casts doubt over the need to replace music collections in the future in the way that new formats such as the CD have been used to replace vinyl or cassette in the past. As such, some interviewees argue that back catalogue will lose its value in the future.

Portable storage devices

In response to a general question about the evolution of the digital era, former MD of Virgin Ireland Dermot Hanrahan argued that we must place the advent of the internet and MP3 files in a longer-term historical context. Hanrahan described a series of technological developments that either served to transform, or sought but failed to transform music consumption up until the advent of the MP3 file. He outlined how vinyl, cassette and CD technologies grew the market for music companies and bolstered the dominance of the most powerful ones. While minidisc and digital compact cassette technologies were employed to do likewise, they failed to repeat the success of the CD.

Hanrahan proceeds to argue that with these technologies, the dominance of the major record companies was assured by their ownership of the content these formats carried. Copying and sharing of music prior to the internet and MP3 was never significant enough to stunt the growth of the record industry and, was largely the preserve of organised crime. However, Hanrahan, John Kennedy and other interviewees argued, digitalisation has transformed the arena of duplication and circulation to a point where 'the masses have become the pirates' (Dermot Hanrahan, personal interview). As

Hanrahan, John Sheehan and Willie Kavanagh explained, an additional key difficulty for the record business is the growing capacity of storage devices, and the growing ease with which music can be transferred. During the course of our interview Hanrahan produced a 60GB Apple iPod with sufficient storage capacity for approximately 20,000 songs. This, as Hanrahan pointed out, was roughly the equivalent of 2,000 CD albums which vastly exceeds the 'average record collection in the average Irish home'. Citing Kryder's Law as the basis for his thesis, Hanrahan points to the rapidly increasing memory capacity of digital devices. This, combined with the ready availability of free music files and ever-increasing network speeds will serve to:

> …spread free music at a rate that was never conceived of before…Ten years from now iPods will theoretically have enough space to store the recorded catalogue of all the major record labels and carry it around in your pocket. Can you imagine what a nightmare this is for the music industry? The game is up.
> (Dermot Hanrahan, personal interview)

Although less fatalistic than Hanrahan in his analysis, ex-Sony Ireland Chairman John Sheehan sees the damaging potential of such storage devices for the record, arguing that: 'there's no doubt about it, that kind of technology is already in the stocks' (John Sheehan, personal interview).

EMI Chief Executive Willie Kavanagh, however, takes a more moderate view. Kavanagh initially argues that file-sharing and duplication are severely hurting the record business, and acknowledges a very significant threat posed by evolving storage devices. However, he rejects such doomsday scenarios as outlined by Hanrahan. The latter explained that EMI conduct market research on a bi-annual basis, each time updating, refining and building on a model encompassing 'the broadest possible base of music consumers'. Conceiving of this recorded music market consumer base as 'complex and multi-layered' comprising of 'whole different levels or categories' of music users, Kavanagh argues that beyond a minority of early-adopters who purchase or acquire large amounts of music, many consumers fail to possess sufficient interest or technological knowledge to update their files or music library on a weekly or even monthly basis. Kavanagh further makes the point that while new releases generate big sales in the short-term, back catalogue is hugely important to his company and constitutes upwards of fifty per cent of sales in any given year. He explains that one of the biggest groups of buyers of back catalogue are people that buy either physical or digital recordings as a replacement product for recordings they already have in an earlier format:

> But are the buyers of back catalogue hugely technically savvy? And are they likely to improve to in their savvyness? Would they, for example, ever have known to go to Kazaa? They could have got anything they wanted there for free, but they still came to us…
> (Willie Kavanagh, personal interview)

Shifting formats and associated consumption habits driving revenues down

While interviewees largely related peer-to-peer file-sharing technologies, CD burning appliances and digital storage devices to the 'illegal' distribution and duplication of recorded music, further problems arise from the restructuring of the 'legitimate' recorded music retail market in the internet era. Their core argument is that the decline of the album as the key industry format is resulting in lower profit margins. This is as a result of a process known as 'unbundling' and has produced a marketplace where consumers now purchase single tracks at digital music stores such as iTunes for 99 cents per song, rather than buying entire 'bundled' albums or collections.

According to the BPI (2009), sales of singles in the UK grew by 33% in 2008 alongside a 3.2% decline in album sales. As table 6.2 below indicates, single sales over the five year period to the end of 2008 in the UK market increased by in excess of 350%. So, while the market for singles is expanding rapidly, the market for albums is concomitantly contracting.

Table 6.2: UK unit sales 2004-08 (combined physical and digital formats in millions)

	2004	2005	2006	2007	2008
Albums	163.4	159.0	157.7	138.1	133.6
Singles	32.3	47.9	67.0	86.6	115.1

Source: British Phonographic Industry (BPI) 2009

One interviewee, Fachtna O'Ceallaigh outlines how music as a unit as been unbundled from whole albums to single songs via MP3s and subsequently unbundled further in ringtones to clips of music no more than a few seconds long. This, for O'Ceallaigh, is changing the habits and patterns associated with the music consumer in a manner that is causing the market to shrink:

> The Western consumer that consumes music is demanding instant gratification. They will download maybe two songs from an album on iTunes, and some of them might eventually pay for the whole album…but many who might previously have bought the album will now remain satisfied with their two 99c songs. (Fachtna O'Ceallaigh, personal interview)

Music publisher Steve Lindsey goes much further, stating that the shift in formats to single-track downloading is the primary cause of crisis in the recording industry:

> I think unbundling certainly has had a massive effect on the business as a whole. I have a bit more of a generalised view on all this. The public have more options now before them upon which to spend their money. When I was young, I'd go out and buy albums. I'd plan what I wanted to buy, I'd be in the record shops leafing through stuff for ages and ages, and the cost of an album was relatively high so you'd have to save your money to get them. Then the internet hadn't been invented, there was no such thing as computer games, cinemas were fleapits – there were no multiplexes. But these days you have cinema and DVDs as commonplace. People, with their leisure time and leisure money spend it on things other than music. This is the main reason that the music business is in trouble. People don't place any importance on albums anymore. For music, they just cherry-pick the tunes the want from iTunes. They are not necessarily interested in the albums that people are making anymore.
> (Steve Lindsey, personal interview)

Lindsey's contention is supported by another relatively recent report on the music industry is of interest here. The Value Recognition Strategy working group was created in the UK in 2006 primarily through the endeavours of independent music companies and royalty collection societies, but with the backing of the industry as a whole. A 2007 report commissioned by this group to examine the declining value of revenue from sound recordings, and compiled by IT and business consultancy firm Capgemini, lays the primary blame for falling sales revenues with format changes rather than piracy[13]. According to the Capgemini report, sound recordings revenues in the UK have dropped by ST£480 million between 2004 and 2007. However their research indicates that only ST£86.4 million of this can be attributed to piracy, i.e. 18% of the total estimated loss. Rather, the primary cause of revenue loss they identify is the unbundling of compact discs into an individual selection of digital songs. This process, according to Capgemini, has cost record industry ST£368 million over the same period, i.e. 77% of the total estimated loss. As such, the report suggests that lawsuits against illegal file-sharers and the suppliers of file-sharing software should not be the primary concern of the major music labels. Rather they should apply themselves to finding a consumer-friendly digital bundle.

[13] In addition to format changes as the primary cause of falling record sales revenues, Capgemini's findings indicate the discounting of recorded music products by established supermarket chains to be the secondary factor inducing the decline – again more threatening to the long-term viability of the record industry than internet file-sharing. Arguments around supermarket retailing are detailed in section 6.6 of this chapter.

IFPI Chairman and CEO John Kennedy also outlined a shift from an album to a non-album world in which he argued single track downloads were costly to produce and disseminate, and fail to offset physical losses:

> The digital business is not in its overall business as profitable as the physical, not least because the album model has fallen out in the digital world. It is not true that there are no distribution costs, or manufacturing costs just because it's all done on the net. These are replaced by different types of costs like digitisation. On a single track model, in theory it is possible for that model to be more profitable, but you have marketing monies and promotion monies and recording cost investment which in the past would have driven an investment that would have given a return more often on an album than a single, and online it's a much more per track business. So the economic model is much worse from that point of view. And remember too there are credit card costs. (John Kennedy, personal interview)

However Kennedy's claims contradict an earlier assertion made by EMI Chairman Eric Nicoli. In a keynote address delivered at the 2006 Midem Music Industry Trade Fair in Cannes, Nicoli stated that the digital market would grow to account for 25% of the overall music market by 2010. According to Nicoli, allowing consumers to download individual songs from an album – the so-called 'unbundling' of music – rather than requiring them to buy all of the tracks in an album package, is crucial to the ongoing success of the digital market. Nicoli stated that 'The day is surely within our sights when physical growth outstrips physical decline and we can all compete for a share of a growing pie' (Nicoli cited on *The Register* online, 23rd January 2006).

Kennedy's assertion about the lack of profitability arising from a shift from album to single track sales is also contested elsewhere. For example, Terry McBride, founder and CEO of Nettwerk Productions, the largest independent record label in Canada has consistently argued that profit margins from internet downloads are approximately 300% greater than with physical formats (Terry McBride blog on www.nettwerk.com). As such, the sale of 3 to 4 single track digital downloads can generate the equivalent profit of one CD album for record labels.

This is in turn countered by independent record company owner Jim Carroll who views the logic of reduced costs surrounding manufacture, duplication and distribution as resulting in greater profit margins from single-track download as:

> …a very sensible bean-counter economist approach to things. *But* you must remember that the fucking record labels are still spending the same amount getting the product to market in the first place. The recording budgets haven't shrunken, the amounts spent on marketing and distribution hasn't shrunken. The packaging might be gone, but they are still paying out big advances to bands. They are still paying for recording studios. They are still paying big producers big fees. In terms of the major labels, there hasn't been any cognisance taken of the fact that they are

> recording and dealing in reduced revenues form digital downloading. (Jim Carroll, personal interview)

However, John Williamson contests this point somewhat, arguing that reductions in costs regarding packaging and physical manufacturing 'ensures that the profit margins remain as high as possible from both dealer price and subsequently retail price' (personal interview).

As such there are arguments and counter-arguments regarding to the benefits and drawbacks of the proliferation of single-track downloads for music companies.

6.5 Perceptions of record industry inefficiency

A number of interviewees who participated in the primary research phase of this research study level two main criticisms at the record industry itself for helping to induce the conditions within which its own revenues have being falling. The first, and most common accusation, relates to the industry initially choosing to ignore the emergence of the internet as a medium for the distribution of music, and for failing to recognise or grasp the opportunities it offered by the internet for monetising digitised music files. This echoes Bakker's (2005) research on the Dutch record industry (see chapter 4, section 4.6). The second accusation interviewees brought against the industry is that it became complacent during the CD boom years which yielded super-profits for the major labels and, that those same major labels were careless and wasteful in their investment in new talent. Given that MP3s and digital distribution originated outside of the realm of the dominant players in the record industry (unlike key previous innovations regarding cassette and CD technologies), some interviewees argued that the record industry was slow to evolve a response to such developments. For example:

> The record industry has got itself into a lot of trouble by doing a lot of short-term thinking and short-term planning and by failing to look at long-term shifts. I can't say that that isn't a very difficult thing to do, but they are left trailing in the wake of every key digital change. They weren't on board with file-sharing early on trying to legitimise it in any sensible way…So regarding key areas, key drivers that have been fundamental on how the music industry goes, they've been late at looking at how they can monetise those.
> (George Ergatoudis, Head of Music, BBC Radio 1, personal interview)

> The record industry is largely to blame and I'm not talking about the Irish industry, I'm talking internationally. They have been incredibly sluggish about developing some kind of system for dealing with this. It's not like it just came out of nowhere. This has been a very distinct possibility for the past ten to fifteen years. The record companies have not been creative in terms of dealing with the advance of technology.
> (Bill Whelan, record producer, music publisher and composer, personal interview)

Other interviewees emphasised a wastefulness that they traditionally associated with the major labels, and an incompetence that grew from the complacency of having long maintained a stranglehold on the channels of recorded music distribution:

> Having worked for two companies, I think the major companies have squandered obscene amounts of money carelessly on artists who took the money that record companies should never have given them in the first place. A good example here would be the band An Emotional Fish. Record people tend to give people money, people who have no experience of dealing with it… They just give money away, and then if they have a big hit, they forget. The issue becomes blurred as to where all of the other money went… It all became a bit fanciful really. In one sense they deserve everything they've got from letting the whole situation get out of control…Burying their heads in the sand from the internet is just another example of the same attitude.
> (Jackie Hayden, personal interview)

Such actions as described by Hayden also emphasise the extremely loose control they maintained over the process of music production. Artist manager John Williamson advances similar sentiments based on his experience of representing artists in negotiations with labels since the early 1990s:

> You could build up mountains of anecdotal evidence about how inefficient they used to be. Even recently there was that report about how the new owners of EMI were deciding that they had to cut back on the £20,000 a year budget for candles that they had! That sort of story can be replicated across all of the major record labels in terms of sheer wastefulness. The number of bands in the eighties and nineties that were using their taxi accounts to take them half way across the country… (Jackie Hayden, personal interview)

However, others argued that while record companies were guilty of such ignorance, this is now irrelevant as technology has rendered the outcome to be out of their hands:

> The record industry has been playing King Canute for a decade now. They are almost like a version of the 1920s Detroit Guild of Blacksmiths, trying to stop the rollout of the motorcar. They ignored the internet and have done everything in their power to try and block the advantages of the internet… They ignored it and believed that the world would remain theirs forever. But now they are running around in a flap wondering what to do next, so they sue the kids. (Dermot Hanrahan, ex-MD Virgin Ireland: personal interview)

Such an outlook, viewing technology in such stark deterministic terms, implies a futility to the actions of the record labels or their representative trade bodies, and a hopelessness regarding their future.

One particular development, concomitant to the early digital start-ups such as MP3.com in the 1990s, serves to support views that the major music companies misjudged the potential associated with developments in the digital domain. The inclusion of enhanced CD / CD ROM tracks as bonus tracks became standard on many CD album releases throughout the mid-to-late 1990s. Such add-ons often featured the video relating to one of the single releases from the album, or documentary footage or photographs pertaining to the making of the album. The widespread use and promotion of such a format for pitching their products at PC-using music consumers suggests that the major music companies treated the personal computer primarily as a stand-alone reproduction device without considering or engaging with the possibilities associated with networks.

Unsurprisingly, record industry trade body representatives defended the actions, or lack of action of their members. While acknowledging that the record industry was slow to respond regarding the internet, IRMA Director General Dick Doyle argues that it could not have been any other way:

> Did the record industry ignore the internet? I think yes, yes. That's been said for many years, many years. But ten years ago nobody could ever have seen its growth. It's been said that the industry had their heads in the sand for too long, and my response to that is yeah, it's probably true…(Dick Doyle, personal interview)

However, IFPI Chairman and CEP John Kennedy argues that the response of the record business could not have been any faster or any different:

> As I travel around the world and speak to governments and media, when they continually throw the criticism at me that the record industry didn't do enough to help itself, or didn't move quickly in response to the internet, I always ask them to tell me what we should have done differently. Nobody has ever given me a great answer to that.
> (John Kennedy, personal interview)

Kennedy further argues that the response of the record industry to the advent of the internet is exemplified in how it migrated to a very successful online model initially via a-la-carte download digital music stores, and subsequently via other platforms. He then presented the mobile model as an example of the record industry 'flying the flag' for creative industries at the digital coalface:

> In 2007 digital music went from two billion dollars to three billion dollars. Our digital industry has grown fifty per cent over the past year. Any industry would be very proud of that.
> (John Kennedy, personal interview)

However, Belle and Sebastian manager John Williamson is fast to highlight what he regarded as an obvious solution that could have been implemented almost a decade ago. He focuses on the rapid and widespread diffusion of the Napster software programme between 1999 and 2001:

> What strikes me most is what a wasted opportunity Napster was for the record companies. The number of chances they had during the 1999-2001 period to monetise things like Napster and set up a model at the beginning that would yield them profits for years, but they didn't. I still think the really obvious one was, that when the Napster court cases were going on in 2001, at one

> point there was an offer of compensation, and there was the opportunity to take it as well. Napster had however many users globally, and at that point, if they had had the vision to see forward. (John Williamson, personal interview)

Napster had started unauthorised sharing of copyrighted music files in 1999. By 2001 had become one of the world's most popular peer-to-peer file-sharing services. According to Napster's own newsletter in 2000, it had 50 million users. If accurate, or close to accurate, that figure would make Napster comparable with AOL, the world's largest ISP in terms of users. Williamson continues:

> I think a lot of people bought into Napster more so than the subsequent file-sharing services, because everything was there, it had absolutely everything. You could find the most obscure seven-inch single from the seventies there and you could find the latest Madonna album there and everything in between, because it was there, somebody would have digitised it and uploaded it. People love the idea of being able to find anything. You could never get access to that much stuff in any record shop. So there was, through this mechanism, an opportunity to access and rope in a vast percentage of Napster users if, at that point, the record companies had decided to just take the compensation, buy out Napster, keep everything – all of the content, and pick up a small subscription fee every month. I've seen the calculations before – If 10% of all of the people who used Napster subscribed, then the turnover of the global record industry would have been bigger than it was from physical at the time. That was the opportunity they had.
> (John Williamson, personal interview)

A number of interviewees including Williamson, Jim Carroll, ex-Sony Ireland Chairman John Sheehan and IRMA/PPI DG Dick Doyle detailed how the major companies were unable to agree on an appropriate business model for any such prospective digital venture. While subscription models and pay-per-download models were considered, none were pursued at the time. Dick Doyle offers a reason as to why no swift decisions were taken at the time, and why it was only in the years subsequent to the Napster case that digital business models emerged:

> It is much, much more difficult to set up a legitimate business model than it is an illegal business model. An illegal business model is simple – you just put someone else's content up, and you make your money out of advertising. But to set up a legitimate business, you have to negotiate with all of the stakeholders in the industry. I'm not just talking about record companies here – record companies are just part of the industry. You also have publishers, the artists, and then you have to negotiate with the people who are going to deliver the service, so you buy SPs. Then once you've done all of that, you've got to set up a secure system for payment. So out of every ninety-nine cent track that you sell, there are about 5 or 6 stakeholders taking a cut. *That's* a legitimate business model. You *have* to talk to everyone. To set up an illegal one, it's simple, you just don't talk to anybody. *This* is why it took so long to respond. *This* is why it took so long to get everyone involved. (Dick Doyle, personal interview)

Williamson, however, contests this explanation arguing that there were solutions the major companies could have taken much earlier, but the most potentially 'dangerous' factor was their indecisiveness. He contends that 'any bold decision' taken by the major companies during the MP3.com and Napster period such as the 'full-scale launch' of either à la carte, subscription or other models of service 'would have worked' because at that point in time the major record companies 'were so powerful that they could almost make the market bend around them' (personal interview).

Furthermore, until recently the majors have adamantly refused to do the kind of deals necessary to replicate what the original Napster, Kazaa or eDonkey had provided – i.e. The consistently refused to issue blanket licenses that would enable internet service providers to sell music via an 'all you can eat' music buffet to network users whereby users could download, burn and swap files in return for a subscription fee. This, according to John Williamson, was a key mistake. However, in the light of recent legal successes against the ISPs, by the summer of 2008 the reticence of the major labels to engage in such licensing agreements was relenting somewhat. According to John Kennedy, 'the labels would be willing to engage' in discussion 'should ISPs want to explore such a move as part of a wider process of assisting the record labels in the fight against piracy' (personal interview). Kennedy's remarks reflect a significant change in the attitude of the major labels towards online business models, and the potential for revenue generation now seen from blanket subscription. . In the UK such a move is already underway with a venture called Playlouder MSP who are negotiating deals with record companies and music publishers for an internet access service that will include the right to download millions of songs, transfer them to portable devices and subsequently share them. Under such an agreement copyright owners will be compensated from a royalty pool deriving from subscription fees based on the popularity of their recordings on the service. To monitor the network and enforce its borders, Playlouder MSP uses technology that can identify songs as they pass through the network, and if necessary, block them. To date, several independent companies in the UK have agreed licensing deals with Playlouder MSP. Of the key labels that Kennedy and the IFPI rpresent, Sony-BMG and EMI have this far agreed to supply songs to Playlouder, but with the added security of electronic locks to inhibit sharing.

Recognising that such agreements held 'some potential' for music companies, former Sony Music Ireland Chairman John Sheehan held that revenue streams would be limited as 'record companies would be competing over a fixed pool of money' (personal interview). However the fees that consumer would pay under subscription to such services account for only a portion of the monies that such ISP music services can generate for recording and music publishing copyright holders. There is also potential revenue from advertising, mobile phone companies, device makers and other music services that wish to have themselves incorporated into the network.

6.6 Supermarkets driving revenues down and stifling creativity

Another significant development highlighted by many interviewees as influencing recorded music revenue trends relates to the increased market-share enjoyed by supermarkets in music retailing. Supermarket giants such as Walmart in the US and Tesco in Britain and Ireland have gained market share in CDs through low prices. Chains such as Wal-Mart and Best Buy accounted for 65% of all physical recorded music retail purchases in the US in 2008 (Nielssen Soundscan cited in *The New York Times*, January 1st 2009).

As supermarket chain outlets have proliferated, so too has shelf-space for recorded music products. For example, according to Tesco Ireland Assistant Company Secretary Eamonn Durnin, as of spring, Tesco operate a total of 107 stores throughout the Republic of Ireland, all of which are licensed to carry music (personal interview). On the surface, this appears to carry obvious benefits for record companies, given the added profile available for their recordings at retail level. According to Brian Rose, the Commercial Director of Universal Music UK and Ireland, supermarket music retailing:

> …fits well with the music market's strongest growth demographic, the over-forties…They [supermarkets] make music easier to purchase for a mass market purely through convenience and the fact that fifteen million people who shop on Tesco each have music put in front of them. (cited in *The Guardian*, Thursday December 21st 2006)

In recollecting the entry of supermarkets into the spectrum of music retailing in the 1990s, IFPI Chairman and CEO John Kennedy recollects how music retail chains stocked vegetables on their shelves as an act of protest against their new competition. However Kennedy, Willie Kavanagh and Sheehan point to supermarkets as an additional and valuable point of outlet for their products. Failing to 'do business' with supermarkets would be 'unthinkable', according to Kennedy, given the vast consumer base that is reachable via these retailers. However Kennedy, Kavanagh and Sheehan do concede that supermarkets deals make for more difficult negotiation parties given their sheer size. Their subsequent ability engage in levels of bulk buying provides them with a significant level of leverage relative to other forms of retail such as dedicated music/entertainment stores.

Many other interviewees almost exclusively regarded the deals between music companies as damaging the long-term viability of their industry and levelled three main criticisms at the supermarket sector which they regard as contributing to the state of crisis:

1) The negotiating power of giant supermarket chains and their in-store pricing structures have forced down retail prices of recordings and consequently driven overall sales revenues downward.
2) Supermarket music retailing feeds a growing perception of music as a low-value (or no-value) product. In combination with a number of other factors, supermarkets contribute to recorded music being perceived as a product with little value in its own right, rather recorded music's value is seen as an 'add-on' to other associated products.
3) In addition to arguments around the effects of file-sharing on traditional recorded music retailers [see chapter 6, section 6.2], some interviewees argue that by virtue of their pricing structures, supermarkets are hastening the decline of specialised music retailers.

I shall briefly examine each of these three factors that are seen as devaluing the recorded music market.

Supermarkets driving down recorded music sales revenues

Some interviewees see the deals between the record industry and supermarkets as a short-term panic-induced strategy on the part of the labels aimed at increasing unit sales and market share in a declining market, but with diminishing returns:

> With fewer records being bought, the record labels are doing whatever the can to try and get people to buy music, and this is what has driven them to the situation with the supermarkets. (Steve Lindsey, music publisher, personal interview)

As key bulk buyers of recorded music, supermarkets are perceived as having the negotiating power to acquire cheaper wholesale prices than specialised music/entertainment stores. For example, according to former London Records A&R man Jim Carroll:

> The supermarkets have become big powers in terms of pushing the price of the physical product down. They are happy to carry CDs as a loss leader because they need to have everything there. And they have got the power of the multiple buyer. They are so vast and massive, and they operate with the record labels the same way the operate with the people who are selling them in milk or bread or cheese or whatever commodity they are buying in. So they are pushing wholesale prices down. (Jim Carroll, personal interview)

In a similar vein, IFPI chairman and CEO John Kennedy argues that in most businesses people get volume discount from their suppliers. But what happens with supermarkets in particular is that they reduce their margins to next to zero. According to Kennedy, one of the key reasons that music is such a valuable commodity to the retail sector because of the vast amount of marketing and promotion there is in music, so 'it drives footfall in supermarkets' (personal interview).

Other interviewees regard the major record labels as being complicit in driving their own revenues downwards by agreeing to terms laid down by the supermarkets, who in turn sell on the records at reduced margins, or even as a loss-leader in order to attract consumers to their stores for other more traditional supermarket products and goods. According to Independent Records MD Dave O'Grady:

> The majors fucked up. I don't personally believe that their decline is specifically to do with digital. I think it is to do with the way they bent over for the supermarkets, and let the supermarkets sell their biggest sellers…For the labels it was just greed too. They wanted market share and units. They saw something and got greedy. They saw a million Westlife albums getting sold in a supermarket. They just bent over and took it.
> (Dave O'Grady, personal interview)

However, according to Steve Lindsey and John Williamson, the pricing structures and strategies of the supermarkets are in fact of little consequence to the major record companies as it is retail and not wholesale prices that are primarily affected:

> It is the supermarkets that are taking the hits on the profit margins, not the record labels. The record labels are certainly doing deals, they are doing deals for bulk that might not be as profitable as previous, but Tesco and the like will sell CDs at cost price or less than cost price in many instances just to attract shoppers. (John Williamson, personal interview)

The views of those who regard supermarket-record industry deals as hurting ultimately serving to contract the record companies are reflected in the Value Recognition Strategy working group's report examining declining revenues from sound recordings (Capgemini, 2006). As well as highlighting the decline of the album and proliferation of peer-to-peer file-sharing networks, this report highlights the ongoing deals between music companies and large supermarket chains such as Tesco and Sainsbury's as the third most significant factor in driving down revenues from record sales and reducing the value of recorded music products. The report found that supermarkets had succeeded in forcing the overall price of CDs and DVDs downwards.

Tesco Ireland's Eamonn Durnin refutes accusations of his company selling music as a loss-leader. He states that Tesco's:

> …objective is to give customers convenience and value…The music and DVD aspect of our business has shown strong growth in recent years, showing that our customers like what we do. (Eamonn Durnin, personal interview)

Durnin further argues that sales of such items as CDs, DVDs, books and electronics experienced double-digit growth during 2008 in the context of growing its overall sales revenues in Ireland by 5.2% to €3.2 billion. In 2008, Tesco relaunched a revamped music download service, seeking to position itself as yet another challenger to Apple's iTunes. By early 2009, Tesco had licensed in excess of five million songs which it made available for download as MP3s. This is in contrast to its previous download store (www.tescodownloads.com) where songs were available in Windows Media format only. All of this, according to Durnin, 'is a sign of Tesco's intentions to diversify and increase its revenues by expanding into areas beyond traditional lines like food and clothing' (Eamonn Durnin, personal interview).

Supermarkets narrow-casting and devaluing music

In addition to (economically) devaluing music, the second major criticism levelled at supermarkets is that they contribute to recorded music being perceived as a product with an ever-decreasing 'stand-alone' value. For music publisher and former Polygram executive Steve Lindsey, supermarket retailing combines with other contemporary circulation and distribution trends to generate a growing perception of recorded music as a free product, or a product that comes as a free add-on linked to other products or services:

> Supermarkets selling albums at the prices they are selling at, well that's just business. You also have the Sunday papers giving away albums. This doesn't help because it means the public perceives music as being either free or else not having much value at all. So snapshot at this moment in time is that people can download it illegally where they just take what they want to take, they can get it for free from a newspaper or buy it cheaply in a supermarket. I think it is that devaluing of music that is the biggest problem. That's the main problem that the music business is now facing – finding the ways and means of getting music bought and that it does have a value as it once had. (Steve Lindsey, personal interview)

Alison Wenham, the CEO of the Association of Independent Music, the trade body representing independent labels in the UK and Ireland, argues that by only offering an extremely limited mainstream catalogue, supermarkets are driving society towards a conformist music scene where:

> …the industry pursues 'sound-a-likes' for James Blunt in a market in derivatives…The stranglehold that supermarkets now have on the CD retail market is ultimately bad for music… The independents are the originators of all new trends and if you stifle the means with which they get into the market at an early stage, you will stifle the music market.
> (Alison Wenham, personal interview)

Thus by virtue of the fact that they only carry select Top 50 and classic hits recordings, supermarkets not only preclude vast catalogues of recorded music repertoire from access to an audience via their shopshelves, such narrow-casting also hinders artistic and creative innovation which, ultimately will carry commercial consequences for the industry as a whole:

> The one thing to remember about the major record companies and the supermarkets is that they don't give a shit about what is on the records they sell. They don't care. That is another element that I am sorry to observe at the moment. The public are being sold very mediocre and very safe stuff and the record companies are trying to keep the accountants happy.
> (Steve Lindsey, personal interview)

Alison Wenham, Dave O'Grady and Jim Carroll also argue that while Tesco's digital service provides a vastly broader repertoire than the physical supermarkets that only carry Top 50 albums and select back catalogue, Tesco's digital store is almost exclusively licensed from the four major labels.

Even when independent labels gain access to supermarket shelves, a further problem comes to light. Tesco, for example, operate exclusively on a sale or return basis in terms of their dealings with record labels. Such agreements are carry the potential to be significantly more problematic for smaller labels rather than the majors:

> If Tesco want to stock that in all of their shops in the UK they might initially buy 50,000 copies of that album. If they only sell 20,000 copies then suddenly, six months down the road that label is finding itself being shipped back 30,000 copies. So this affects the way the record labels work because the supermarkets work in a totally different way.
> (Jim Carroll, personal interview)

Supermarkets collapsing music retailing

One sector which has suffered significantly from the move by Tesco and other supermarket chains into music retailing is the traditional record store. According to Jim Carroll, supermarkets are most damaging the independent retail sector. Price sensitive consumers, according to Carroll, no longer go to specialised music retailers who cannot compete with the supermarkets on retail prices. While the range of stock on the shelves of specialised stores usually far exceeds the narrow band of recordings retailed through supermarkets, outlets chains such as HMV and Zavvi are losing a significant portion of their consumer base. We have seen the disappearance of Tower in New York and London and Virgin in Dublin. According to John Kennedy, price competition based on the volume discounts supermarkets can negotiate makes it increasingly for music stores to sustain themselves. However, as former independent music retail chain owner Bruce Findlay emphasises, it is smaller chains such as Golden Discs and Dolphin Discs as well as independent stores that are suffering most. In the UK, independent retailer chain Fopp went out of business in 2007. Road Records closed in Ireland in 2009. The loss of such stores also means the loss of a traditional means of acquiring knowledge and information about new music for music fans:

> What people forget about, and this is something that the independent retail sector hasn't been great at pushing is the fact that the independent sector was the place to go to get information about records, but that's gone now. (Bruce Findlay, personal interview)

The demise of more traditional recorded music retail outlets must also be contextualised in the broader transition to digital, the emergence of new online outlets for physical such as Amazon and My Play, and rising high street rents.

Table 6.3: Retail (list) price (£) of top ten selling albums in *UK Album Chart* - Week of Monday July 6th 2009

Pos.	*Artist*	*Title*	*Label*	*HMV*	Tesco
1	Michael Jackson	The Essential Michael Jackson	Epic (*Sony*)	18.99	8.93
2	La Roux	La Roux	Polydor (*Universal*)	9.99	8.93
3	Michael Jackson	Number Ones	Epic (*Sony*)	16.99	6.47
4	Kasabian	West Ryder Pauper…	RCA (*Sony*)	9.99	8.93
5	Michael Jackson	King Of Pop	Epic (*Sony*)	10.99	8.93
6	Michael Jackson	Thriller	Epic (*Sony*)	16.99	6.47
7	Paulo Nutini	Sunny Side Up	Atlantic (*Warner*)	9.99	8.93
8	Lady Gaga	The Fame	Interscope (*Universal*)	16.99	8.93
9	Greatest Hits	Bruce Springsteen	Columbia (*Sony*)	16.99	8.93
10	Michael Jackson	Off the Wall	Epic (*Sony*)	10.99	6.00
	Average			**13.89**	**8.15**

Source: Author

Note: Prices obtained from HMV, High St., Sheffield; Tesco, Berkeley Precinct, Ecclesall Rd., Sheffield.

Belle and Sebastian manager John Williamson questions a disparity between unit sales and falling revenues, and argues that declining revenues from sales at retail level does not imply that significantly less units of recorded music are being purchased. Williamson also highlights supermarkets as a key actor in reducing wholesale and retail revenues:

> Increasingly HMV and Zavvi are competing with Tesco on chart releases but keeping prices up on the kinds of releases that don't make it into Tesco. I'm sure it's the case that unit sales are not necessarily down as far as falling revenues suggest. The average price of a music unit is much lower than it was ten years ago. Looking at BPI statistics, they show that the actual decline in

> unit sales in the UK have held up pretty well. They have gone down, but not substantially, yet revenues have decreased substantially.
> (John Williamson, personal interview)

Williamson further argues that supermarkets are unfairly vilified by many over the decline of overall industry sales and the collapse of the traditional retail sector. He considers the actions of the supermarkets in 'playing hardball' to achieve greater volume discounts as 'no different from what Fopp or HMV or any of the music-specific retailers have actually done over the years' (John Williamson, personal interview). In negotiating lower wholesale prices, supermarkets have, as Williamson sees things, merely taken advantage of the fact that record companies are now in a weaker bargaining position.

However, alongside the decline of specialised music retail stores, new physical outlets for recorded music have emerged. While artist manager Ben Barrett explains that on one hand physical retailing has become 'so crunched up' in recent years 'that the margins are becoming smaller and smaller so its harder to make traditional retail work' (personal interview). On the other hand, she proceeds to outline how non-traditional 'bricks and mortar' retail outlets for physical recordings have become increasingly important to both artists and record industry. Supermarkets such as Tesco in the UK and Wallmart in the US form one example for Barrett. Starbucks coffee shops provide another: 'Starbuck's is becoming a massive retailer of music in America, and it's very important for people like who want to sell records' (personal interview). Similarly, Universal's Lost Highway record label partnered with Wal-Mart to give the supermarket exclusive 'physical' retail distribution on The Eagles 2007 album *Long Walk Out Of Eden*. Also, Paul McCartney chose to release his 2007 album Memo*ry Almost Full* exclusively though Starbuck's.

6.7 Chapter Summary

Ultimately the initial response of interviewees to questions of change in the music industry serves to reinforce common-sense assumptions advanced in media, journalistic and other accounts referred to at the outset of the introduction to this thesis. For many, the record industry has seen its power fundamentally diminished as a result of technological change, primarily the proliferation of file-sharing software on the internet.

Declining record industry sales statistics is taken as the key evidence of a crisis, alongside the consequent loss of jobs in the sector and the decline of physical retail outlets. A variety of causal factors are advanced as explanations for these problems. Primarily, the evolution of digital distribution, duplication and storage technologies, resultant 'piracy' and the related factors of from shifting formats, changing consumption habits and the rise of supermarket music retailing. With all of this we must consider the confusing and contradictory array of research on the 'effects' of file-sharing as well as arguments around the record industry acting to induce its own problems.

The above accounts, however, become problematised in chapter seven. It must be noted that while my initial question asked for consideration of change in the music industry, the vast majority of responses initially focussed on the record industry. While the recording sector has been the most dominant force within the music industry for many decades, it constitutes only part of the larger framework that is the music industry. In addition to this, publishing, live performance and increasingly merchandise and other music services serve to form a network of business that increasingly generate revenues via the exploitation of rights from a broad, and increasing body of sources. As such, by focussing exclusively on recording, many other potentially significant revenue streams are precluded from consideration in the argument. As we shall see from the evolving trends across the broader music industries outlined by interviewees in chapter seven, arguing that there is a crisis in the record industry is distinctly different from arguing that there is a crisis in the music industry.

Chapter 7: Findings 2 – Music Industry ‘Responses’

7.1 Introduction

Chapter six identified the key problems currently being experienced by the record industry. In this second chapter of research findings, we focus on the core strategies of the established music companies as they reposition themselves to respond to the challenges posed primarily by the disruptive potential of internet technologies. Drawing primarily upon research material from my interviews, supplemented by data from industry reports and trade publications, this chapter examines the opportunities that have evolved for these companies as a result of new and emerging digital platforms.

This chapter also places the record industry in the context of a broader range of music industry sub-sectors. It examines how proliferating revenue streams from both new and traditional channels around recording, music publishing, live performance, merchandise and other are increasingly falling under the umbrella of the core players that dominate the global music industries.

The first task of the chapter is to detail the ongoing roles of legislative and judicial systems in evolving and enforcing copyright law. In addition to their pursuit of file-sharing software suppliers and individual network users through the courts, this chapter initially outlines how trade bodies representing the interests of the major music companies have more recently switched their attention to internet service providers (ISPs). Concomitant with these developments is the rise of the digital music market. While ‘legal’ digital music stores have proliferated to grow the digital music sales market, the major companies have also been adept at engaging the services of social networks as avenues of both promotion for their products, but also as sources of direct revenue through licensing agreements. These developments illustrate a trend where the major music companies have sued a social media network, settled, licensed and then gained equity in the service.

Beyond this, the chapter examines the benefits for both the recording and music publishing sectors accrued from synchronisation fees deriving from the use of music in film, television and, perhaps most significantly in the contemporary environment, royalties generated through the ongoing proliferation of advertising. In particular, the year-on-year growth in music publishing revenues suggests that more opportunities for the exploitation of music in public spaces now exists, and also that the royalty collection societies have become more assiduous in targeting music users on behalf of their members. Next, the chapter focuses on the growing live music industry and it examines how actors in this industrial chain are becoming increasingly vertically-integrated, with power across all aspects of the live industry increasingly falling under the control of the same core group of actors. Furthermore, it examines the convergence of the live industry with the other core industrial sectors, i.e. music, publishing and merchandising. The chapter then addresses a broader process of conglomeration whereby music recordings, music publishing repertoires, technological devices and the enabling software and services are all increasingly falling under the ownership of the same corporations. Such a convergence of interests between manufacturers and suppliers of technology and music companies enables the cross-promotion of products, services and content. Then, within the context of all of the above, a number interviewees offer perspectives on the evolution of 360-degree deals for music artists. Here, the rights to all artist-generated revenues are increasingly centred at one corporate entity. Finally, we discuss the opening up of new markets for recorded music in China and Russia since the turn of the millennium.

7.2 Copyright, internet service providers and the courts

On a number of occasions during the course of both of my interviews with IFPI Chair and CEO John Kennedy, he makes reference to widespread internet ‘piracy’ on various networks across the world. For evidence of this, he directs me to visit the ‘news’ page on his organisation’s website (www.ifpi.org), the contents of which, he states, highlights the scale of the problem facing copyright holders. This site publishes a proliferating litany of accounts outlining the pursuit of the suppliers of file-sharing technologies and individual network users. Below are a handful of examples of recent and archived stories.

July 2009 saw the IFPI achieve the shutdown of Qsound, a South American file-sharing network and Colombo-BT.org, the largest BitTorrent tracker site in Italy (www.ifpi.org, 7th July 2009). Promusicae, the organisation representing the record industry in Spain, filed a claim for €13m against Pablo Soto with the Madrid Court for Commercial Matters (Promusicae press release, cited on www.ifpi.org, 5th June 2009). Soto is accused of profiting from the design of the Blubster, Manolito and Piolet networks that allow for the transfer of music for free on the internet. In July 2008, the Sunnydale Hub which provided file-sharing services was shut down by authorities in Mexico (www.ifpi.org, 16th July 2008). In May 2008, Zhongzou, a Chinese internet search engine, was found guilty of infringing recording copyright by the Copyright Bureau of Hebei Province and Cangzhou City following the lodgement of a complaint to the Copyright Bureau by the IFPI (www.ifpi.org, 21st May 2008). In Prague, following an investigation and subsequent complaint by the IFPI Anti-Piracy Unit, Czech police shut down a computer server at the Academy of Sciences of the Czech Republic that was being used to store and upload music onto the internet via a site called Blind Alley (www.ifpi.org, 23rd April 2008). December 2007 saw a landmark case in China where a Beijing court ruled that Yahoo China's music delivery service violates Chinese law by facilitating mass copyright infringement. The initial claims filed in the No.2 Intermediate People's Court concerned infringement of key international artists such as U2 and Destiny's Child. November 2007 saw Dutch peer-to-peer file-sharing site Shareconnector.com closed by authorities following a successful case taken by BREIN, the Dutch anti-piracy watchdog, in the Civil Court of Appeal in Amsterdam.

These accounts represent a handful of representative samples of the type of story relayed via this source on a near daily basis. Kennedy also advances that the pursuit of individual network users has intensified with, as of late 2008, approximately 35,000 individuals awaiting court appearances in the US alone for downloading and file-sharing offences. As Kennedy suggests, such accounts imply the problems posed by digitalisation to copyright owners to be many and widespread. But, we recognise also that many of these stories are stories of success for the same copyright owners against 'infringers' in the courts. Thus they advance another reality – the continued and successful pursuit of 'pirates' by the record industry's various national offices across the world.

The severity of the consequences for copyright infringement imposed by the judicial systems within nation-states around the world is perhaps most starkly illustrated by the much publicised 2009 trial of Jammie Thomas-Rasset, a Minnesota mother who was sued by the Recording Industry Association of America (RIAA) for sharing twenty-four songs on file-sharing network Kazaa back in 2005. Thomas-Rasset was found guilty on twenty-four counts of wilful infringement and ordered to pay the relevant record companies a total of US€1.92m – precisely €80,000 for each of the twenty-four music files either downloaded or shared. The RIAA had sought €3.6m in compensation, i.e. €150,000 per song. It is, again, sobering to contrast this with the €1,000 maximum penalty imposed in the state of California for the theft of a CD from a bricks and mortar store. Taking the average CD album to contain approximately ten tracks, that amounts to a maximum penalty of approximately €100 per track. Thus, the penalty for sharing something in cyberspace is eight hundred times greater than stealing it in real-space. We are reminded here of a recurring theme in Lessig's work (1999, 2001, 2004) relating to the increasingly severe consequences of contemporary copyright protection.

One of the most high profile copyright infringement cases of 2009 featured The Pirate Bay, a Swedish website providing file-sharing services. According to *The Los Angeles Times*, Pirate Bay operated as:

> …one of the world's largest facilitators of illegal downloading… the most visible member of a bourgeoning anti-copyright – or pro-piracy – movement that is striking terror in the heart of an industry that seems ever less capable of stopping it.
> (*The Los Angeles Times*, Sunday April 29th 2007)

However, in April 2009 The Pirate Bay's four founders, Peter Sunde, Fredrik Neij, Gottfrid Svartholm and Carl Lundström were each found guilty of aiding and abetting copyright infringement and sentenced to a one year prison term and a fine of US$3.6m. June 2009 subsequently saw software company Global Gaming Factory X acquire The Pirate Bay. Global Gaming Factory X announced that they had devised 'a new business model' for The Pirate Bay which 'satisfies the needs of all parties, content providers, broadband operators, end users and the judiciary' (Global Gaming Factory X, press release, Monday 30th June 2009). This new business plan centred on making the site 'legitimate' via licensing agreements with the four major music companies for the vending and streaming of their recorded music content. The music companies subsequently issued a fresh lawsuit against the former Pirate Bay owners, seeking a share from the proceeds of the sale of the site to Global Gaming on the grounds that the value of the website derived primarily from its 'illicit' use of their copyrighted material (www.ifpi.org, Wednesday July 16th 2009).

The pursuit of internet service providers through the courts

Beyond pursuing the producers and suppliers of file sharing technologies and individual users of these technologies, a more recent trend has seen the major record companies turn their attention towards internet service providers (ISPs).

According to EMI Chief Executive Willie Kavanagh, who is also the current Chairman of IRMA, the selective targeting of individual file-sharers is both time-consuming and costly. Kavanagh emphasises how the company he works for and the industry he represents has suffered losses in revenue of approximately 30% since 2001. He argues that the record industry is being 'savaged' and that internet service providers must be placed under an obligation to filter traffic on their networks as to curb illegal file-sharing by their users. In a similar vein, a speech delivered to the Music Matters conference in Hong Kong in June 2008 by U2 manager Paul McGuinness saw him launch an assault on ISPs. McGuinness argues that recorded music is experiencing ongoing devaluation 'that has been anything but inexorable' since the advent of internet file-sharing:

> The record industry is in crisis, and there is crucial help available but not being provided by companies who should be providing that help… The real problem here, I believe, is the lack of willingness of ISPs to act. That is why legislation could well have to be the answer.
> (Paul McGuinness, Music Matters conference, Hong Kong, 4th June 2008)

According to McGuinness, 80% of ISP network traffic is accounted for by peer-to-peer networks such as BitTorrent and Limewire. He argues that ISP revenues have 'soared' from broadband subscriptions concomitant with the 'collapse' of record sales. If we want an idea of just how much the expansion of broadband means to large ISPs, McGuinness urges us to consider that BT generated profits of £5.8bn sterling, 40% of which came from broadband and IT services.

> Of course the champions of the ISP and technology industries spring from the internet free-thinking culture of California and Silicon Valley. Their passion for innovation and liberal hippy values in one sense sits well with the creativity of the music business. But at a deeper level there is a bigger problem and it's one those brilliant minds never resolved: I'm talking about the problem of paying for music…The music business once had to bear the accusation that it was full of dinosaurs who looked back to an old business model rather than embracing a new one… The visionaries and dinosaurs have perhaps changed places. If there are dinosaurs around today I think they are the internet free-thinkers of the past who believe that copyright is the great

obstacle to progress, that the distributors of content should enjoy profits without responsibilities and that the creators and producers of music should simply subordinate their rights to the rights of everyone else.
(Paul McGuinness, Music Matters conference, Hong Kong, 4th June 2008)

As far back as May 2003 the Record Industry Association of America succeeded in a case brought against the internet service provider Verizon, forcing it to reveal the names of four service users suspected of offering music downloads for free download. November 2005 saw Ireland become the site of a similar court decision when, following a round of lawsuits issued by Irish Recorded Music Association, the High Court in Dublin set a new precedent for the region by forcing local internet access providers Eircom, BT Communications (Ireland) and Irish Broadband to reveal the identities of 49 suspected file-sharers. However, legislation from governments regarding the actions of ISPs, and cooperation from ISPs is what the record industry has been successfully achieving since 2007. While some ISPs, such as Sky in the UK moved to enter into partnerships with the music companies to provide additional platforms for the sale of recorded music, the record industry has also been successful in obtaining legal judgements that hold ISPs responsible for activities that result in copyright infringement on their networks. Summer 2007 saw a landmark ruling delivered in a Brussels court when the Belgian society of authors, composers and publishers, SABAM, secured a court ruling stipulating that one of the countries internet service providers must install a filter to prevent users from illegally sharing and downloading music. A brief overview is outlined below, as is an overview of the proposed solution – the application of the Audible Magic *CopySense Network* system.

SABAM versus Scarlet Extended, and the Introduction of Audible Magic's CopySense Network system

On June 29th 2007, Belgium's Court of First Instance instructed Scarlet Extended SA to ensure that filtering technology was installed not later than six months from the date of the ruling or else face paying the IFPI compensation of €2,500 per day there after. The Brussels ruling was based on Belgium's interpretation of the European Union's Information Society Directive, otherwise known as the EU copyright directive. The ruling was welcomed by the IFPI as a measure that sets the mould for government policy in other countries around the world to act to ensure that ISPs operating in their jurisdiction acted to control copyright infringement.

In order to enable it to arrive at a decision in the SABAM versus Scarlet case, the court ordered an expert opinion on the feasibility of such filtering on an ISP network. The court ruling details that:

> …in his report the judical expert has identified eleven (11) solutions "technically pertinent in short term for filtering P2P" in which seven (7) are "applicable to Scarlet's network" (p.30 expert report; That among those seven (7) solutions, the expert concluded that only one (1), called "Audible Magic" (CopySense Network Appliance) "seeks to identify the protected music content in P2P flows"…
> (District Court of Brussels, No.04/8975/A. Decision of 29 June 2007)

Audible Magic have in essence provided a filtering technology that enables networks to identify, track and monetise the flow of digital media moving through their networks.

According to EMI Chief Executive, and IRMA Chairman Willie Kavanagh, the SABAM versus Scarlet ruling is proving to be hugely influential:

> The court listened to what the ISP had to say, it listened to what the copyright owners had to say, and it also commissioned independent research to assist the judge in coming to a conclusion. The independent research was delivered. The ruling that the judge made was that it is not the sole responsibility of the owner to chase somebody in breach of copyright. As gate-keepers of the internet, ISPs have a joint responsibility not to have their premises used, for want of better words, by people to set up shop and do things illegally. Here in Ireland we are in the process of negotiating with the ISPs to discontinue and disconnect people who are doing that. Since that ruling I have had communications with Eircom and BT Ireland to try and get them to put in place Audible Magic. (Willie Kavanagh, personal interview)

During the course of our interview Kavanagh subsequently provided me with an overview of the Audible Magic *CopySense* Network system. It essentially connects into an ISP network via a 'monitor port' to which the ISP routes or sends all network traffic. As such, Kavanagh explains, it acts like 'a burglar alarm on your home' – an intrusion detection system that monitors all IP flows. Courtesy of the Audible Magic manual, Kavanagh points out that it does this via 3 key functions:

1) It works to filter peer-to-peer traffic by blocking all peer-to-peer traffic on the network, or else by blocking specific works from being traded by peer-to-peer applications.
2) It can shape peer-to-peer bandwidth consumption by limiting peer-to-peer traffic to a specific level of bandwidth.
3) It can track violations using a point system and provide an escalated programmed series of communications and sanctions

As such the *CopySense Network* system can identify and block the illegal sharing of copyrighted content without interfering with the circulation of sharing of other 'non-infringing' material.

The interview with Willie Kavanagh was conducted in September 2007. The subsequent failure of IRMA to negotiate an agreement with ISPs in Ireland meant that by March 2008, Kavanagh was pursuing Eircom, Ireland's largest ISP, through the courts. Subsequent to the Belgian ruling, since late 2007, the legislative and judical systems of various nation states have been active in building cooperation and partnership between ISPs and the record industry. A variety of examples are outlined in appendix B.

7.3 Growing the digital market: proliferating platforms for music in the digital era

In recent years, digital platforms for music have proliferated, as have digital music sales. As John Kennedy states, the internet may the biggest challenge that the record industry has faced in recent years, but it is also a site of opportunity. Boasting that the value of the digital recorded music sales almost doubled between 2006 and 2008, he advances:

> …fifty per cent growth year on year…not many industries have managed to harness the advantages and opportunities that the internet has in the way the music industry has done.
> (John Kennedy, personal interview)

He does quickly move to state that digital gains do not compensate for losses in physical sales: 'That' says Kennedy, 'remains the problem' (ibid).

There are, in 2009, over 500 legal online music services worldwide with more than 13 million tracks licensed to the major services (IFPI, 2009). Since the launch of iTunes in October 2003, digital sales have, according to IFPI statistics, grown to account for 20% of overall recorded music sales, globally (IFPI, 2009). Ireland has, at present, 12 different 'legal' online services available to music consumers: 3 Music; 7digital; Bleep.com; Downloadmusic; Eircom; e-Music; iLike; iTunes Ireland; Last.fm; MySpace; Nokia Music Store; and Universal Music. Beyond such digital music store models that offer a-la-carte and/or subscription services, IRMA director general Dick Doyle points to a variety of recent models including mobile services, streaming services, social networking sites, brand partnerships and other direct to consumer sites.

Since 2007, major record companies have been entering into joint initiatives or partnerships with ISPs for the first time. For example, Sky in the UK, Neuf Cegetal in France and Eircom in Ireland, amongst many others internationally, have started offering music services to consumers. Thus, the record industry has increased the number of channels through which music can access its final users/consumers exponentially over the past half decade. Former Sony Ireland Chairman John Sheehan sees a positive outcome for the big music companies in the digital experience arguing that copyright mechanisms will evolve to protect copyrighted musical works sufficiently to ensure control over them, and their continued exploitation. Regarding copyright infringement, Sheehan argues:

> There will always be a fix to that…We've had mechanisms in the past of embedding codes in the music to stop people making copies. There are now more advanced versions of that, that will be able to control the distribution of it. (John Sheehan, personal interview)

Furthermore, Sheehan sees recent digital platforms for the delivery of music providing significant new avenues for exploitation of new and, more importantly, established record industry catalogues:

> It [the record industry] got a second lease of life with the emergence of CD and DVD, and the back catalogue…That really sustained revenue growth. But that is slowing down now. However you have the new generation of formats and that'll give it another spurt. There'll be a huge release of back catalogue on those formats. (John Sheehan, personal interview)

The range of this 'new generation of formats' that Sheehan talks of is illustrated most vividly through the 2007 Justin Timberlake album *Future Sex/Love Sounds*. According to the IFPI (2008), this was the biggest selling digital release of 2007, selling over 15 million digital units across no fewer than 115 formats including ringtones, mobile full-track downloads, video, bundled album digital music store downloads and other. It sold a total of 19 million units, only 20% of which were CDs (IFPI, 2008). According to the IFPI *Digital Music Report* which is published each spring since 2004, the value of digital music sales has grown from approximately US$20 million in 2003 to in excess of US$3.7 billion by the end of 2008. Digital revenues now account for 15% of overall global sales revenues. In the US, the world's largest recorded music market, digital sales represent 30% of the overall market, in South Korea that figure is 60%. All of this serves to emphasise the recent success of the digital music store model and their growing importance to the major companies.

Table 7.1: Global Digital Recorded Music Sales Market Value 2003-2008 (US$ billions)

	2003	2004	2005	2006	2007	2008
Total	0.02	0.4	1.1	2.1	2.9	3.7

Source: Author based on IFPI Digital Music Reports 2004-2009

During the second quarter of 2005, an average of 700,000 digital tracks were sold each week in Europe (Nielsen Soundscan, 2007). However, by the first quarter of 2007 this figure had risen to 2.8 million per week (ibid). In the UK, 77.6 million single tracks were purchased online throughout 2007, a 47% increase on the previous year. This figure jumped to 110 million in 2008, with an additional 10.3 million full-length albums being downloaded (IFPI, 2009). Single and album downloads in the German digital music market grew by 22% and 57% respectively over the same period (ibid).

It should be noted that overall recorded music sales statistics, as published annually by the IFPI, do not take into account the growing revenue stream generated by ringtones, nor revenues generated for record companies through licensing, synchronisation or from advertising-supported business models (such as Limewire). Even more promising news for the record industry came in 2008 when Juniper Research published a report predicting that the total value of the global mobile music market alone is expected to increase to more than US$17.5bn by 2012, driven primarily by rental music services and full-track downloads. According to report author Dr Windsor Holden:

> I think it's fair to say that 2007 marked the tipping point as far as mobile adoption was concerned. Far more subscribers began downloading and subscribing to music content in developed markets, and it must be said that that the publicity surrounding the iPhone launch undoubtedly contributed to consumer awareness of mobile music services per se.
> (Juniper Research, 26th February 2008)

The volume of commercially released music is also increasing. In 2006, 75,774 new albums were released in the US compared with 60,313 in 2005 (Nielsen Soundscan, 2007). This represents an increase of approximately 25%. Of these, almost 25,000 were digital only release, however these accounted from only 1% of all new release album sales in 2006, with 95% of digital only album releases selling less than 100 units each (ibid). 2,900 digital only albums were released by the 4 major record companies which accounted for 40% of overall digital only new release sales (ibid). Furthermore, Nielsen Soundscan note that overall music purchases, which includes sales from albums, singles, digital and music video, were up 17% through the first three months of 2007 with a total of 416 million music purchases being made in the United States through first 16 weeks of 2007 compared to 356 million purchases in 2006.

7.4 New licensing rights deals for new digital formats

The major music companies are involved in an ongoing process of forging alliances and pacts with established and emerging social media networks and also other online and mobile content platforms. Below I examine some of the key licensing rights agreements that have been struck, primarily on the back of legal actions regarding copyright infringement taken against the social media networks. These provide new avenues for the generation of revenue primarily for major recording and music publishing companies.

YouTube

In late 2007 the Warner Music Group entered a licensing deal with YouTube which cleared all of its recorded music catalogue and music video catalogue for use by the consumer media giant that enables users to watch and share video content through a web experience. At that stage Sony Music Entertainment, had already signed a similar deal with YouTube. According to a YouTube press release upon the signing of this licensing agreement, the company will work with record companies 'to expeditiously remove certain copyrighted materials which are not available for exhibition on the site' (www.youtube.com, October 9th 2007). YouTube employs a content identification architecture that enables content holders to identify their content on the site and thus the opportunity to authorise and monetise the use of their works within the user generated content on the site.

A number of rights are triggered by YouTube usage that now generates revenue streams for music recording and publishing companies. While deals with the major music companies as outlined above brings in revenue from the use of the music companies recording, performance and synchronisation rights, royalties are also generated by users who perform or stream the songs in the making of their own content.

To this end, publishing royalty collection societies have struck deals with YouTube. In autumn 2007, YouTube obtained a blanket license from the British Music Industry (BMI) which covers the site's right to stream all of the society's repertoire and catalogue in return for an undisclosed annual payment. This particular deal covers a catalogue of ten million songs. According to music publisher Steve Lindsey:

> The MCPS-PRS alliance and YouTube will not disclose the terms of their agreement…Nobody knows anything about the deal. It is part of the deal that it remains utterly confidential. Nobody knows what the amount of money is that YouTube has paid over to PRS, and nobody knows the nature of the license is. It's secretive for business reasons for both sides…There are all sorts of reasons. I would guess that they don't want to set any precedents for any other deals that are done in the future involving wither party. Other societies around the world would see that PRS got x amount of money from YouTube so they will ask for same or better than that. So we might deduce from that that the PRS got a bloody good deal. It's a bit like asking a colleague what his salary is and then going to the boss for a raise. (Steve Lindsey, personal interview)

Subsequent deals were negotiated with the American Society of Composers, Authors and Publishers (ASCAP), the Society of European Stage Authors and Composers (SESAC) and Japanese Rights Clearance (JRC).

During the course of my interviews, IMRO directors Michael O'Riordan and Johnny Lappin indicated the likelihood of a similar arrangement being negotiated between IMRO and YouTube. Both argue that monitoring and processing such material on YouTube is extremely difficult given the vast amount of user-generated content on the site. In the UK, Cambridge University monitor user behaviour on the site and provide the PRS with an 'analogy' of which videos get played and how often they get played. Royalty payments are distributed to copyright owners on this basis. By the spring of 2008, when the first YouTube payments commenced, a similar deal had been brokered between the PRS and the popular social networking site Bebo.

What is also important to remember is that these deals only take into account music publishing copyrights; separate license fees are paid by social networking sites to the same music companies in respect of recording copyrights. For example, during 2008 all of the major labels forged relationships with social media network Imeem, making audio and video content available via on-demand streaming in return for a stake in advertising revenues generated by the site.

Vevo

April 2009 saw the Universal Music Group announce the launch of Vevo, a music video service in collaboration with Google. Effectively, Universal own the site, with Google/YouTube providing the technology. Users will be able to access and play music videos for free, with revenue generated from advertising being shared by Universal and Google. June 2009 saw Sony Music Entertainment sign up to this venture. The other major companies are in negotiations with Universal over potential licensing agreements regarding the use of their content on the site (*CNET News*, Thursday 4th June, 2009).

MySpace

September 2008 saw the recording and publishing arms of all four major music labels launch partnerships with social networking site MySpace. These partnerships involve MySpace providing on-demand and ad-supported streaming, music downloads, a subscription plan and a variety of other music related features such as the sale of concert tickets and merchandise. In effect, these deals cover the entire 360-degree spectrum of potential revenue streams. Users are also enabled to assemble and share playlists using the cast catalogues of Universal, EMI, Warner's and Sony. The pay-for-download and music streaming aspects of this service directs users to purchase tracks and albums via Amazon. As part of this overall deal, the music companies receive an equity stake in MySpace Music, which, according to the MySpace website boasts 68.6 million users in the US alone.

One of the key early success stories of this service was the album *Chinese Democracy* by US artists Guns'n'Roses. During its initial twenty-four hours of availability for streaming on the bands MySpace site, the three most popular tracks (*Shackler's Revenge*, *Chinese Democracy* and *Better*) achieved 1.3m plays (*Digital Music News*, 20th November, 2008).

In the case of Imeem and the three above-mentioned platforms, Vevo, MySpace and YouTube, the outcome in all cases is illustrative of an ongoing trend where the major music companies have sued a social media network, settled, licensed and then gained equity in the service.

According to artist manager John Williamson, the fact that many of these online and mobile platforms are recent means that they would not have been a consideration when many artists negotiated their recording and music publishing contracts:

> I know from the perspective of managing recording artists that if you take something like Facebook or Last FM or MySpace or some other such space…This is such a recent factor that it wasn't necessarily have been taken into account at the time many acts signed deals…so they won't really benefit from it yet via their recording or publishing contracts. From Universal's point of view, for example, it, I suspect, might well yield significant royalties.
> (John Williamson, personal interview)

As such Williamson contends that this is one area where major music companies are benefiting significantly at the expense of the artist.

Ad-supported streaming partnerships

Since 2006 ad-supported music streaming sites have also evolved as a significant source of finance for music companies. Following a spate of lawsuits taken by the record industry against such sites as Bolt and Grouper, revenue sharing models have emerged whereby these companies that were formerly streaming audio and music video content online have now entered alliances and partnerships with the four major music companies.

Since 2006 Spiralfrog has provided major label catalogues via its ad-supported download service. Universal became the first label to sell licensing rights to Spiralfrog for its entire catalogue. Downloads from the site are free of charge to the user, but come accompanied with advertising. License fees are thus paid for through advertising revenues. Similar deals have now been struck between all of the major labels and lesser profile sites such as Amie Street, Sellaband and Magnatune.

February 2008 saw the Universal Music Group enter a partnership with Dutch-based online live music platform Fabchannel.com, whereby Fabchannel acquired multi-territory rights for the streaming of recorded concert performances by Universal recording artists.

In August 2008 the Warner Music Group became the first of the major music companies to license content to We7, the first European-based ad-supported music service. Based on the Spiralfrog model, We7 grafts a series of short adverts into the start of music tracks based on consumer demographics such as location, age and gender. Users may stream content or take full-track downloads. September 2008 saw Warner's and online music jukebox Deezer announce a global content and revenue partnership. Warner's full catalogue of audio content is available for on-demand streaming as part of Deezer's free to access service. Under the terms of the agreement both companies will share revenues generated by Deezer's ad-supported platform.

In summer 2009, Universal partnered with UK-based Virgin Media to provide a streaming and download service. As with the other major partnerships in this sphere, the other major labels, publishers and stakeholders are likely to follow. The Association of Independent Music in the UK and Ireland, and the American Association of Independent Music are also pursuing similar deals for the independent music sector. From the perspective of independent labels, in addition to providing revenue from advertising, such platforms carry significant additional benefits. According to AIM CEO Alison Wenham they 'provide value as additional bandwidth providers to indies that can't afford to stream [music content] directly fro their own sites' (personal interview). Furthermore, as Wenham and Reekus Records MD Elvera Butler point out, the rise of such portals and social networking sites can enable many independent labels to cut back on the amount of content they are offering on their own pages.

A brief overview of some additional alliances between the music industry and other internet and mobile platforms is contained in appendix C.

7.5 Proliferating revenue streams from secondary sources

As we established in chapter 4.4, the 'rights of the author' era saw the formulation of the Berne Convention and the evolution of performing rights that operate to ensure compensation for music publishers and composers, generated from the use of their repertoire. Neighbouring rights operate to provide recompense for record companies and recording artists, as well as publisher and composers arising from the use of their recordings. Beyond income generated through the sale of physical recordings, these sets of rights also serve to provide revenue via numerous secondary sources. The sections below examine current trends regarding the trajectory of performing rights and neighbouring rights revenues for music publishing and record companies in the contemporary era.

The growing music publishing market

A number of interviewees highlight the fact that in the contemporary environment, new revenue streams are opening up for music publishing in particular. For example:

> I've studied the ins and outs of the deals that music companies have done with a lot of the new outlets and both record companies and publishing companies are in a strong position because there are more films and more TV opportunities now for music than ever before, and they've got their income from all these new internet sources. But while these are also sources of money for record labels, publishers don't have falling sales to contend with in the same way record companies do so the spin-offs of all these changes have been much, much better for them. (John Williamson, personal interview)

Significantly, as Williamson, Jackie Hayden, Jim Carroll and others explain, while music publishing rights yield smaller returns than recording rights for the major music companies, the profit margins for publishing are far higher as music publishers only incur a fraction of the overheads that a record label must contend with. Pointing out that the global music publishing market is dominated by the publishing arms of the four major record labels – UMG, WMG, Sony and EMI – Williamson argues that Universal and EMI 'seem the most transparent' of the majors 'in terms of their business planning and shareholder briefings' and increasingly 'they are placing more and more eggs in the publishing basket' (John Williamson, personal interview). Music publisher and artists manager Steve Lindsey reinforces Williamson's point on concentration in publishing industry:

> It is pretty much the same as recording. The major publishers collect the major amount of money by a long way…Non-major publishing companies will only make real money by picking up the publishing rights of an artists on a major (record) label. If you have an artist then with a very successful album then the non-major publisher will benefit…But it does tend to be the major that benefits most often and will turn over a big revenue just because of the massive catalogue they have. (Steve Lindsey, personal interview)

That royalty collection agencies are becoming more assiduous in monitoring public space on behalf of their clients is illustrated in the table below which indicates how gross music publishing revenues gathered within the Republic of Ireland since the latter part of the 1990s have effectively doubled to a figure of €36.8m in 2008. The net distributable income from music combined performing and mechanical copyrights increased by almost 225% in a decade (IMRO, 2008).

Table 7.2: Gross performing royalties collected by the Irish Music Rights Organisation (IMRO) 1996-2006 (€m):

1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
16.7	18.5	19.9	22.1	24.7	26.7	28.2	28.1	29.4	31.6	33.8	36.8

Source: Author, compiled from IMRO Annual Financial Statements 1997-2007

Similarly gross collection of performing and mechanical royalties by the PRS in the UK amounted to ST£608m in 2008 (PRS, Economic Insight, 15th July 2009). This reflects a year-on-year growth of 14%.

Table 7.3: Gross music publishing revenues collected by the PRS-MCPS Alliance 1997-2008 (ST£m):

1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
392	408	435	452	482	490	510	517	528	547	562	608

Source: Author, compiled from MCPS-PRS Alliance 2007 Results; & PRS Economic Insight, July 2009.

These figures reflect revenues collected from a broad array of music users that now include radio, television, film production, digital platforms, advertising agencies, night clubs, hotels, shops, restaurants, cinemas, sports arenas, buses and airlines amongst others, in fact, almost any public space within which music is heard. As indicated in chapter 2.3, radio and television broadcasters have proliferated across Europe since the early 1990s. This has brought with it a vast increase in music licensing revenues from this sector. For Lakota Records MD Jim Carroll:

> This is making it look like very good shareholder value which is why you see a lot of investment in music publishing at the moment because there will always be revenue coming in from publishing sources. There will be money coming in from films, from ads, television, radio, all that sort of stuff. (Jim Carroll, personal interview)

What we must also note is that many of the sources of music publishing revenue also provide revenue for record companies as they involve the use of recordings. 2008 saw a reported rise of 16% in such income with record companies taking US$1.5bn in global recording performance rights payments (Informa Telecoms and Media press release, Wednesday 14th October 2009). While relative to the EU countries, such payments to record companies within the US remain relatively small, US performance rights payments still rose by 176% during 2008 to in excess of US$100 million (ibid).

Synchronisation fees

Within the above picture of growing music publishing revenues, we must consider the revenues currently being generated through synchronisation fees – the monies paid when movie and television production companies, advertisers, and the producers of computer games license the right to use songs and/or music from the repertoires of record and music publishing companies in their productions. These particular agreements are usually negotiated between a music company and the licensed user independently of any existing performing rights licensing agreement. According to one interviewee, Úna Johnston, the integration of recorded music with other media forms and products has increased in recent years with more media meaning more openings for the synchronisation of recordings than ever before:

> There are so many new outlets and platforms…It's become so much more sophisticated in recent years. So many other things using music. Music to sell a film. Music to sell television. Advertising. Music to sell a brand. You have advertisers migrating to link with bands and music brands and more and more… Music revenues are more and more generated by the application of music in other things. It's music as a secondary factor. Music used as an emotional hook to attach you to other brands. There are just so many of forms of media now for music.
> (Úna Johnston, personal interview)

The synchronisation market is hugely lucrative for music companies. While the music industries are now competing with a broad range of media types and products for the attention of consumers, many of its competitors provide a significant source of income for both record and music publishing companies. We are thus reminded again of Frith's definition of the music industry as a 'complex network of rights owners and licensed users' (Frith, 2004: 176).

Another interviewee, John Williamson argues that for both record companies and publishing companies, synchronisation is:

> …definitely more important now than it was in times gone by. We (Belle & Sebastian) have entered into any deals for ads and I know plenty for whom it is a source of income and quite a substantial one at different points in their career. (John Willamson, personal interview)

Williamson explains that the income generated through synchronisation rights depends on a variety of factors. Sometimes advertisers and production companies will opt to pursue material by lesser known acts because it can be significantly cheaper than more popular catalogue. Furthermore:

> Much can depend on how much they want a particular song. This is not necessarily artist-related, it just depends if there is a piece of music that suits a particular ad or programme or film. The other factor is where and when it's being used. If it's for use in Eastern Europe the amount can

> be small but if it's going out in the US or the UK it can be a lot, comfortably up into three figures**.** (John Williamson, personal interview)

Another informant, Steve Lindsey states that some record and publishing companies are better at this than others and 'have identified the need to be more aggressive in this area…as TV can yield a lot of money' (personal interview). According to Lindsey and fellow music publisher Johnny Lappin, the range for use of a popular song in an advert can run from €10,000 to well in excess of €250,000 depending on the context of its use.

Many interviewees emphasise the value of the US television market in particular to the major music companies. For Jim Lockhart:

> *The OC* is a good example. You get a fee for the original usage plus a fee for subsequent usage plus a fee for further exploitation on DVD and box sets and things like that. So you can gain further gain from all that. (Jim Lockhart, personal interview)

This view is reinforced by Ben Barrett, manager of Damien Rice. She outlines how Rice's music has been licensed to television productions in excess of thirty times, most notably to *Grey's Anatomy*, *The OC*, and *Scrubs*. Aside from the promotional benefits, Barrett states that the synchronisation fees 'can be very lucrative…if you land the right shows' (Ben Barrett, personal interview).

Referring to recent trends at the South By South West (SXSW) global music industries trade fair (of which she is UK and Ireland co-ordinator), Úna Johnston advances that the presence of music supervisors at this event has become more visible in recent years. She states that their role in television production 'has mushroomed in importance' as music brands become a more integral part of selling television productions internationally.

Jim Lockhart further advances that the top three selling compact discs in the US in 2006 were all television programme soundtracks: *The OC*, *Grey's Anatomy*, and *Scrubs*.

Artist manager Peter Jenner points to legislation presently being formulated in the US that will increase the benefits of such television exposure as well as radio airplay to music companies in the US. During the summer of 2008, the House Judiciary Committee's Subcommittee on Courts, the Internet and Intellectual Property heard arguments for and against the updating of the Performance Rights Act. The Recording

Industry Association of America (RIAA) was seeking broadcasters to pay increased royalty rates to its member companies for use of their records in radio and television broadcasts. June 2008 saw the US Department of Commerce issue a letter of support for the Performance Rights Act on the grounds that:

> Granting copyright owners of sound recordings a full performance right coupled with extending an existing statutory license is an appropriate and workable approach to providing compensation to recording artists and record labels for the transmission of their works in over the air broadcasts. (cited on www.coolfer.com/blog/archive/academia/)

The National Association of Broadcasters (NAB) opposed the Act on the grounds that in addition to the statutory royalties being paid to the record companies by its members, broadcasters already play a significant role in promoting sales of recordings via airplay for records. However spring 2009 saw the House Judiciary Committee pass the bill and, at time of writing, it is currently before the US senate.

Recent trends regarding music in advertising

Synchronisation rights for music in advertising have also become increasingly lucrative for record labels and music publishers. For example, Steve Lindsey, publisher and former catalogue manager at Universal Music states that:

> …advertising is more lucrative now than even getting a track in a Hollywood movie. Advertising synchronisation fees have come down in general in the last ten years, but there are a lot more of them. I used to work for Polygram in London and even back in the early 1990s we could charge fifty thousand pounds for the use of a modestly successful tune in a national advertising campaign. Now there is satellite and cable that has really taken off in the last five or ten years. Now advertisers can really look at the demographic they are aiming for and just advertise on those particular channels that they know their target audience will be watching, and by doing so that means that they can go for a much shorter term licenses on fewer stations or channels and they are not obliged to buy a 12 month network TV license for the music anymore for the whole of the UK and Ireland. (Steve Lindsey, personal interview)

The significance of songs in advertising is illustrated through the increasing presence of music industry representatives at the Annual Cannes Lions International Advertising Festival. According to the festival website, entries for the best use of music category increased 23% from 2007 and 50% over the past 5 years. The increasingly aggressive efforts of record labels and music publishers to licence their products to advertising agencies has increased the competition experienced by dedicated jingle-writing companies. According to Andy Bloch of Human Worldwide – a New York based music production company – since 2007 there has been ‘a palatial shift in the record and publishing industries to monetise their back and current catalogues, and for emerging artists to find an outlet for their music’ (cited in *USA Today*, 29th July 2008). As such, according to Bloch, his company are losing clients to the major music labels, clients who used to pay between $10,000 and $200,000 for advertising music, depending on the length of the music used and when and where the advert would run. According to Martin Bandier, Chairman and CEO of Sony/ATV Music Publishing:

> If a brand is going to spend tens of millions of dollars for TV, radio or web time, they want a song that has immediate recognition and that can put you in a particular place or time…This is a good time to be in the music publishing industry. (cited in *USA Today*, 29th July 2008)

Interviewees Jim Carroll and John Williamson both allude to US trade publication *Billboard* which has started tracking when the use of a song on a commercial causes its sales to increase. According to *Billboard*, advertising is playing an increasing role in raising the profile of current releases. On the level of personal observation, an examination of recent (2008/09) observance of commercial breaks on television channels broadcasting within Ireland provides numerous examples of major labels artists and catalogue used in this way. Furthermore, websites selling downloads from vast databases of songs used in adverts have emerged in recent years. Examples relating to both of these phenomena are advanced in appendix D.

All of the major record companies now actively promote the advertising synchronisation services they provide on their company websites and, to a greater or lesser degree, enable to prospective clients to listen to song selections, carry out searches for 'easy to clear' copyrights, preview new and upcoming releases on their labels, and to create and compile project folders.

Of the four major companies, EMI and Universal provide more detailed online synchronisation services. At EMI UK and Ireland, the synchronisation service - **www.sync.emirecords.co.uk** - provides detailed information on current EMI recording artists, available back catalogue, and a full schedule of forthcoming EMI releases that will be available for licensing to advertisers and film and television production companies. For example, in the third quarter of 2008 EMI UK and Ireland were promoting 63 new releases for synchronisation in addition to the existing back catalogue (**www.sync.emirecords.co.uk/ecm/release_schedule_catalogue.htm**).

Steve Lindsey explains that such a drive towards advertisers increased momentum during his time as Creative Director at Island Music, a Universal company. He states:

> I remember on the Universal [web]site seeing the description of the Thin Lizzy song *The Boys Are Back In Town* as being ideal for a 'lads night out drinking scene'. Quite a lot of work has

> gone into pushing that sort of thing, but it is logical that we were doing it and economic necessity is driving it. This is something that the record and publishing companies should have been working much harder on in years ago. (Steve Lindsey, personal interview)

UMG's synchronisation service, SynchExpress (**www.synchexpress.com**), provides the most comprehensive and proactive service to prospective licensees. This website details a catalogue of recordings dating from 1923 to present and forthcoming releases on Universal and its various labels. The SynchExpress homepage breaks all of the Universal content into 31 different musical genres. For the benefit of the music supervisor or advertising executive SynchExpress further subdivides the Universal catalogue into no fewer than 109 song categories that are designed to relate to all possible user synchronisation purposes. For example, they offer 'cooking/food songs', 'telephone songs', 'feeling better songs', 'clean/dirty songs', 'female empowerment songs', 'travel/road songs', 'ready songs', 'nature/earth/environment songs', 'sports songs' and 100 other categories of song matched to product or service type.

In terms of the precise value of music license fees from advertising, it has proven extremely difficult to acquire data, and the accounts of different interviewees vary somewhat. However, their accounts, combined with the available data from music publishing royalty collection societies indicate that it is an extremely lucrative and growing market. As with television and film, many interviewees explain that the licensing fee with advertising companies depends on many variables. For example, the range of media across which the campaign will be issued, the geographical territories across which it will be broadcast and the duration of the advertising campaign and also the existing popularity or status of the music or song being pursued by an advertiser. John Williamson states:

> For use within the UK, the ranges that I've seen for advertising can be as low as £10,000 and the highest is probably about £100,000. For global use it can be much bigger but you have to remember too that sometimes big gas-guzzling companies can extract a good deal from bands or record companies because the bands and companies might want to be associated with the product or get the publicity and the rest of it. (John Williamson, personal interview)

Steve Lindsey also offers a sample range:

> At Island I represented the Bob Marley catalogue, and because Bob Marley's stature is such, you could ask way more, where as for an unknown artist, for exactly the same amount of music over the same duration and terms, you might get one-fifth of what you would get for Bob Marley… You then might have a song that is familiar to people but isn't by a mega artist and a UK network campaign might get you forty or fifty thousand pounds, and if that's only for a UK campaign for just 3 months, then you might be down to twenty thousand pounds…Where as with Bob Marley, or a Madonna, or a U2, you can be talking millions. For an artist that big for a global campaign, you would at least ask for millions.
> (Steve Lindsey, personal interview)

All of the above points to the increasing contemporary relevance of Frith's conceptualisation of music as a 'basket of rights'. Another market worth noting is that of private events that incorporate music into entertainments. Alhadeff (2008) estimated performing royalties generated at weddings throughout the US in 2007 to be approximately US$2.3 billion.

Digital games and music revenues

By the middle years of this decade, the digital games industry had evolved to form a significant component of the broader cultural industries with revenues comparable to the box office intakes of the Hollywood film industry and global recorded music industry (Kucklich, 2004; Thomas, 2003). The estimated value of the global digital games industry in 2008 was US$44 billion (NPD Group/Retail Track, 2009; Morgan Wedbush Securities estimates, 2009). Within this, the US digital games market had grown to in excess of double the combined value of the US movie box office and DVD market. The value of the global online games market was estimated to be US$7 billion. While these statistics may suggest that an expanding digital games market is providing growing competition for the music industries in terms of providing alternative forms of entertainment for consumers, the digital games industries also provides revenue streams for music companies on various levels. Games have grown to provide not only marketing and promotion for the music content they carry, this content generates licensing revenues for record and music publishing companies via the sale and use of the digital games themselves, and many games generate direct music sales by offering exclusive music and artist related content.

Recent years has seen traditional content owners such as Universal and Warner's move into mobile games courtesy of licensing agreements with games providers. The convergence of content providers with digital games hardware and content providers works to their mutual benefit ultimately bringing profits from both sectors back under the one roof. Sony is a key example in that it is not only a key player in the music industries, it also produces and supplies the various generation of the Playstation consoles and games.

While almost all games use licensed music, games such as *Song Pro*, *Rock Band*, *Guitar Hero* and *Singing Star* are of particular relevance. Song Pro is a cartridge that can download music to be played on a Gameboy console. The *Song Pro* package includes a flash memory card, headphone, music management software and a USB line to enable users to access the internet for music downloads. Song lyrics and artwork can also be downloaded from the *Song Pro* website. The significance of such music-based games is illustrated by statistics released by Microsoft in October 2008 showing that the computer company sells 3.8 million song downloads a month via the Xbox for the games *Rock Band* and *Guitar Hero* (Digital Music News online, 21st October 2008). Figures for the previous twelve months indicate music download sales of 45 million tracks. The figures don't take into account song download sales for the same two games on Sony Playstation format. October 2008 also saw Harmonix, the company behind *Rock Band*, gain licensing rights to The Beatles catalogue for use in the game.

A selection of other examples that highlight the growing significance of digital games to the music industry are provided in appendix e.

7.6 The live music industry

The value of the live music industry has experienced sustained growth in recent years. For artist manager Peter Jenner:

> …people who are not really interested in buying The Rolling Stones latest album are still prepared to pay money to see them play live, or Genesis, or The Police. Have The Police put out a new album? No, nor does anyone care. But do they do huge live business? Yes…a goldmine there. (Peter Jenner, personal interview)

Likewise Bruce Findlay, who has produced the *T In The Park* music festival on a number of occasions explains:

> For years the price of a concert ticket and an album kind of remained the same…but the top price of a new album now is £13 or £14 or whatever the equivalent is in euro. But if you want to see the same band live it'll cost you £50 or £60 or more. The price of live tickets is astronomical. There are more festivals than ever, more concerts than ever, and it all means that more people are willing to pay more money than ever for music.
> (Bruce Findlay, personal interview)

Another interviewee, NIMIC CEO Ross Graham argues that while less profit is being generated from record sales in recent years, the live industry is thriving:

> A lot of artists are generating huge profits on the live circuits and the thing about that is that it's not just income direct from the tour, it's merchandising too. In fact some artists are making most of their money out of merchandising…Gigs make money and gigs let you sell other

> things. A ticket for a once-off live show for an hour and a half's entertainment can now often cost you two or three or four or five times as much as a product like a CD that would be a product for life. But that's the way the market is at present, for the industry's elite, live is where it's at for the big money, and the market is always right.
> (Ross Graham, personal interview)

Pollstar, a live music industry trade publication in operation since 1981, and *Boxscore*, published by *Billboard* magazine collect, organise and publish data on concert ticket sales and concert tours. Over the past decade, both publications have published year-on-year record-breaking figures for global live concert revenues. They estimated the global value of the live music industry to have grown to US$19.4 billion in 2008, accounting for almost one-third of the revenue generated by the overall global music industries that year. According to *Pollstar* (2009), the value of the US live concert industry has more than doubled between 2002, generating approximately US$4.2 billion in 2008. The global turnover of the live music industry exceeded US$25 billion in 2008. These figures comprise of data collected regarding ticket sales, ticketing fees, venue ancillary, sponsorship and other miscellaneous related revenue streams.

Table 7.4: The value of US concert industry revenues 2002-08 (US$)

Year	2002	2003	2004	2005	2006	2007	2008
Revenues	2.0	2.5	2.8	3.1	3.6	3.9	4.2
% change	-	+20.0	+12.0	+10.7	+16.1	+8.3	+7.8

Source: Author, based on Pollstar *and* Boxscore

The Performing Rights Society (PRS), the performing royalty collection society in the UK, published statistics indicating that music publishing royalties generated by UK concert revenues exceeded £400m for the first time ever in a single year in 2008 (PRS press release, 3rd July 2009). This marks a 30% increase on 2007 revenues. In addition to this, the PRS estimate that 2008 saw primary ticket sales grow by 13%, secondary ticket revenues increase by 4% and ancillary revenues increase by in excess of 18% (PRS, *Economic Insight*, 15th July 2009). Overall, they place the value of live revenues in the UK at ST£1.4 billion for 2008. With the BPI placing the UK value of recorded music sales at ST£1.309 billion for 2008 (IFPI, 2009), live revenues actually surpassed record sales revenues UK last year. In Australia, ticketing agency receipts compiled by Live Performance Australia (2008) indicated that the live concert industry was experiencing year-on-year growth of approximately 12% to the end of 2007, when it had an estimated value of AUS$503m.

Former Polydor and CBS marketing manager Jackie Hayden highlights how the large touring profits that have been generated in recent years have largely derived from older, established acts with extensive recording histories and catalogue. Many of these acts, Hayden states, were once defunct but have reformed primarily to avail of the 'concert cash cow'. Hayden cites superstar acts such as The Eagles, Yes and The Police provide evidence, as do smaller acts like Orchestral Manoeuvres in the Dark. Hayden details how his role of a concert reviewer for his magazine *Hot Press* has, in recent years, involved a 'never-ending string' of incoming major international artists such as Bruce Springsteen, Bob Dylan, Leonard Cohen, Barbara Streisand, Neil Diamond, U2, Ry Cooder and a host of others. Hayden notes how acts such as Dylan, The Eagles and Springsteen are effectively on 'a never-ending tour', travelling the globe annually including visits Ireland for (often multiple) stadium or big arena shows. Acknowledging that the annual volume of live concerts by touring international acts has proliferated over the past five years, Hayden is doubtful of the sustainability of this in the long term, arguing that the record industry will 'pay the price' for banking on established acts to the detriment of investing sufficiently in newer emerging acts over the past decade. However, as Ben Barrett explains, touring is not just profitable for older superstar acts. In the case of her artist, Damien Rice, who has released two albums through the Warner Music Group, touring revenues form an important part of the artists overall annual income:

> You can tour and make money, but it's about being clever in the first place and not exceeding your means. There is a certain investment of time and money and then touring becomes lucrative. When it works it also brings income from merchandise and income from increased record sales, and if all of the stars align then it financially makes sense… Looking at it over a year, we'll come out at the end making good money. (Ben Barrett, personal interview)

Irish Times music columnist Jim Carroll outlines how in decades gone by, outdoor concerts were occasional events, with no more than 'two or three' major international touring acts visiting each year. This, according to Carroll, has evolved into a plethora of stadium concerts and outdoor festivals occurring from late spring until autumn and, 'near nightly' performances by major international acts in Dublin's main indoor concert arena, The Point Depot (now the O2 arena), as well as 'medium-size gigs' in theatre venues such as Dublin's Olympia. This, for Carroll, marks as 'quantum leap' in the profitability of touring, which, formerly, according to Carroll and former Moving Hearts musician and manager, Keith Donald, was primarily a vehicle for promoting records and selling merchandise, without being necessarily profitable in its own right.

Another interviewee, Ian Wilson, advances :

> You can see from the proliferation of live music events in Ireland, there is certainly something going on... There must be a festival, or live music event every day throughout the summer in Ireland, and they are all big business. So there is obviously something going on out there, the music industry is not just necessarily related record companies.
> (Ian Wilson, personal interview)

Crashed Music MD Shay Hennessy concurs, stating that artists and music companies now view touring and live performance in a new light:

> There is much money in live performance. I think there is. Look at all of the international acts that come. There are very few international acts who come to this side of the Atlantic who don't have Dublin on their gig dates. Yet we are frequently told by the big acts and big labels that touring doesn't pay? Well Westlife don't do five nights in the Point Depot to please a record company and sell records. They do it because it works in its own right. Dolly Parton doesn't come to Millstreet because it doesn't make money. It's more than just promoting a record. Absolutely. There are very few people who will perform of it's not making money. (Shay Hennessy, personal interview)

Hayden and Carroll both question the sustainability of this 'cash cow' in the context of an overall economic downturn. However, festival promoter Bruce Findlay and artist managers John Williamson and Gerry Harford point to the continuation of a decade long trend regarding increases in advance ticket sales for major acts. Online ticketing has accelerated this trend.

Many other interviewees such as music publisher Johnny Lappin and artist manager Fachtna O'Ceallaigh highlight the growing age range of concert-going audiences as a factor contributing to the sectors continuing growth, with many established artists attracting a 'seven to seventy' patronage. O'Ceallaigh, Frank Murray and Independent Records owner Dave O'Grady cite social networking platforms and other similar sites in the digital domain as another factor driving increased attendances at concerts and concomitant growing revenues form the sector. They detail how there is no longer a time lag between hearing about a band and hearing a band. MySpace, YouTube, artists own websites and other online sites means, according to O'Grady, that audiences are 'primed' for seeing artists live much earlier now than was previously the case. They all emphasise, however, that this development is more usually the case with new acts reaching peripheral markets. Nevertheless, Peter Jenner advances that this 'grassroots' live industry needs to be strong to facilitate success further up the chain, and that it is a significant contributor to overall revenues in the sector, primarily through the generation of performing royalties in the multitudes of small venues throughout the country.

Secondary revenue streams generated by the live music industry

Beyond the generation of revenue for agents, promoters and artists directly by the sale of concert tickets, live sponsorship and other related ancillary activities, live concerts also generate significant income for the music publishing industry courtesy of both primary and secondary performance sources. Music publisher Johnny Lappin cites the live music industry as a key area within which music publishing companies have benefited in recent years with 'more and more people going to see live concerts than ever before' (personal interview). The live performance itself generates publishing 'performing' royalties based on every song or piece of music performed in a concert venue. These license fees, calculated on the basis of gross (primary) ticket revenues, are collected from the promoter and administered by performing rights collection societies on behalf of publishing copyright owners. In cases where copyrighted music recordings are used as part of a live performance, as is the case in many rap and hip-hop acts, a licence fee is also collected on behalf of the recording rights owners by the local phonographic performance royalty collection society. Performing royalties generated through live concerts in the UK in 2008 totalled almost ST£1.3 billion (PRS, 2009).

Since 2008, more performing royalties are generated through the popular practice of concert patrons recording sections of live performances on camera phones and subsequently uploading the contents onto sites such as YouTube. As YouTube video plays are now covered as part of a licensing agreement between royalty collections societies and the sites owners, amateur concert footage containing their copyrighted songs and music generates publishing revenues for rights owners.

Secondary ticketing

Another indication of an expanding live music industry is the increase in traffic relating to secondary ticketing. According to its *Concert Ticket Revenue Report* (2009), StubHub - the eBay-owned online ticket market - grew its business by 91% during 2007 and a further 40% throughout 2008. Ticketmaster also provides a secondary service called TicketsNow where concert tickets can be resold.

In 2007, the UK Music Managers Forum, with the support of major recording artists such as Radiohead, The Verve and over 200 British recording artists launched the Re-sale Rights Society – an industry group seeking to regulate the secondary sale of concert tickets. By early 2008, agreements between this group and online secondary ticketing sites such as Ebay, StubHub and TicketsNow! were forged in the wake of artists rights to an interest in the secondary sale being written into British law [check accuracy of this out]. The Re-sale Rights Society estimated the value of the online secondary ticketing market to be in excess of £200m in 2007. Similar processes are currently being negotiated in the US or other. According to IMRO director Johnny Lappin, the sale of concert tickets is effectively a contract between the seller and the consumer. Lappin argues that the seller should be able to dictate the terms of use of the ticket, including the right to re-sell the ticket in territories where such activities are legal.

Live Nation Entertainment: growing concentration and vertical integration in the live music industry

The live music industry, internationally, is becoming increasingly concentrated and vertically integrated. This is most vividly illustrated by the merger announced in February 2009 between Live Nation and Ticketmaster. This marked the alliance of the world's largest touring agency with the world's largest ticketing retailer under the banner of Live Nation Entertainment.

In many instances, local promoters are engaged in exclusive agreements with Ticketmaster, whereby Ticketmaster have exclusive retailing rights regarding primary ticketing. Furthermore Live Nation, formerly the live entertainment arm of Clear Channel Communications, has in recent years acquired numerous live music promotion companies internationally. Examples include Milano Concerti (Italy), Gunnar Eide Concerts (Norway) and MCD (Ireland) amongst a multitude of others. The case of MCD (McCann-Desmond) in Ireland provides an example of how concentrated power has become in this area. MCD delivers live music events through approximately forty venues which it either owns or operates across Ireland. These include The Olympia, The

Academy and The Ambassador in Dublin. Through its joint acquisition of London-based promotions company Mean Fiddler (re-branded Festival Republic) MCD also promotes and manages some of the biggest music festivals in Ireland, the UK and Europe on an annual basis. These include Oxygen (Ireland), Heineken Green Energy (Ireland), Electric Picnic (Ireland), T in the Park (Scotland), the Reading and Leeds festivals (England). From 2005 until 2007 its partner in Festival Republic was Live Nation, at which point Live Nation acquired MCD. Subsequently Live Nation also acquired a 50% stake in Dublin's largest indoor concert arena, The Point Depot (re-branded as the O2 in December 2008).

Live Nation already owns and/or operates hundreds of venues, predominantly in the US but with a growing international portfolio consisting of ampitheatres, arenas, theatres, clubs and festival sites. They radically increased this aspect of their business in 2008 with the formation of a strategic alliance with the American Capital owned venue operator SMG, bringing a further 216 venues under their management. Live Nation Entertainment is thus the predominant player in the global market regarding the sale of tours, concert promotion, primary and secondary ticket sales, merchandising, and, in the case of artists signed to 360 degree contracts with the company, the additional ownership of recording rights, music publishing rights, artist image rights and all other artists related licensable rights.

With 360 degree deals providing Live Nation Entertainment with the rights to new recordings from some of the most established artists in the world, users visiting Ticketmaster sites are now, in some cases, offered the option of buying music recordings or merchandise as an alternative to paying the booking fees added to concert ticket prices.

In 2008, Ticketmaster had itself acquired Front Line Management, one of the world's most prominent artist management companies. This means that in addition to owning 360 degree rights relating to artists like Madonna, Shakira and Jay-Z and 180 degree rights to U2, Live Nation Entertainment now manage The Eagles, Aerosmith, Christina Aguilera, Guns'n'Roses and over two-hundred additional recording artists internationally.

Peter Jenner argues that it is becoming harder for independent touring agents and promoters to sustain themselves:

> Anyone with a fucking brain knows that with this merger you are reducing competition across the entire industry. They'll probably have investigations for two years to try and work out how they can pretend it's not reducing competition. But it is self evident. (Peter Jenner, personal interview)

Likewise for AIM chair Alison Wenham, this merger marks the further consolidation of the established music industries and the continued evolution of a trend that is 'detrimental to smaller operators in all areas of the business'.

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Overall, the live music industry is an expanding sector that carries increasing benefits for its stakeholders in terms of direct revenues for agents, promoters, ticket retailers, merchandise companies and artists accruing from live events. It also produces significant indirect benefits in terms of performing royalties for music publishers and secondary ticketing revenues for outlets facilitating these activities. Liver concerts are also a vehicle for promoting records and stimulating record sales. Power within this sector is becoming more centralised with the sector evolving into a vertically integrated structure, with many of the core stakeholders falling primarily under the umbrella of Live Nation Entertainment.

7.7 Ongoing content-technology conglomeration

A further matter for consideration in examining the apparent crisis in the record industry relates to conglomeration of music and electronics companies. A number of interviewees, most notably Bruce Findlay and John Williamson point to music industry companies actually gain from internet downloading and CD burning via sales of various electronic devices and software programmes used for these activities. Music recordings, publishing repertoires and electronic items and the software that enables them are increasingly falling under the ownership of the same corporations.

We must consider that each of the big four companies also forms part of a larger conglomerate corporation that own various other media companies that generate products and content across a variety of media formats. With such structures of vertical and horizontal integration, processes of production, marketing and distribution are integrated throughout various media holdings in efforts to reduce costs and increase revenues. The parent companies of UMG, WMG, Sony Music Entertainment and EMI all own holdings in other areas associated with media entertainment and electronics. For example the Sony Corporation has interests in electronics, CD manufacturing, battery production, movies, television, digital games and mobile phones. Warner has interests in movies, television, the internet, book publishing and mobile phones. Universal has interests in film, the internet and telecommunications. Bertelsmann has interests in print publishing and broadcast media. While EMI is now in the hands of financier Guy Hands, and as such can claim to be the largest stand-alone music company, it had until recently interests in consumer electronics and information technology.

The parent companies of the big four music companies have created new media and hardware in attempts to urge music consumers to repurchase music recordings on fresh formats. For example with CDs, consumers have ended up buying content they already owned on vinyl and cassette formats. From the launch of the CD onto international music markets in 1983 until the global peak of record sales in 1999, record industry sales units and revenues increased consistently. In terms of full-length formats, annual units sold from 1.5 billion in 1983 to 3.3 billion in 1999 (IFPI, 2007) at which point the global retail value of record sales was US$38.7 billion (IFPI, 2000). The big music companies have more recently looked to the internet, video game consoles and new audio formats to generate revenues. For artist manager and ex-label owner Bruce Findlay, one key goal of the parent companies is to force people into buying additional hardware, software or services that enable access to music and allow it to be reproduced and/or stored.

Equally the parent companies of the music majors may be seen to have a foot in both camps when it comes to CD burning. While John Kennedy and others argue that the music companies are losing money through CD burning technologies enabling users to duplicate music recordings quickly and easily, their parent companies generate revenues from sales of the same CD burning technologies. Some of the biggest music companies in the world operate under motherships that sell a combination of hardware enabling CD copying, blank CDs or software for CD duplication. For example, Matsushita, which part-owns the Universal Entertainment Group (which is the parent company of UMG) also owns Panasonic, a manufacturer of CD burners, DVD burners as well as various storage and reproduction devices. Matsushita also manufactures JVC CD burners. Also, Sony Music Entertainment now operate the RCA Music Group which in turn manufactures electronic hardware enabling CD burning. Sony manufactures blank CDs. Sony and UMG also own stocks in Roxio who, according to the company's own webite in 2008, claimed to have a share of approximately 70% of the global market for CD burning products. Furthermore BMG, who despite selling their recording interests to Sony Music Entertainment still remain one of the five largest music publishers on the planet, have a stake in software company RealNetworks which enables CD burning amongst other digital services. We must also remember that blank CDs are taxed within several states around the world, with subsequent monies providing revenues for the major record companies.

For artist manager Bruce Findlay, alliances between content providers and technology providers serve the continuing interests of both sectors:

> This idea about free music pisses me off a wee bit. I'm going to sound old-fashioned here, but we don't get music for free, we buy computers, we pay for software, we pay for connections, we buy iPods and lots of us subscribe to music services. They say it's free. It's never free. Even when the content doesn't cost you anything, you buy the machinery from the same fucking people, so there is always a cost to the end user. (Bruce Findlay, personal interview)

Findlay proceeds to argue the 'add-on' value of music to technological devices, where music is used to attract consumers or entice them to purchase devices, and 'telecommunications licence music and the payments go into a kitty for intellectual property rights owners' (ibid). He further compares the present environment with that of the 1970s when he owned an independent chain of recorded music retail outlets across Scotland. He argues that:

> all that's changed is the means of receiving music…with the internet and iPods all of the stuff that goes with it, they've just found another way of cutting out old record shop men like me. (Bruce Findlay, personal interview)

With regard to arguments that the sharing of digital audio files is contributing to a crisis in the record industry, the afore-mentioned hardware manufacturers with links to major music companies also produce and distribute MP3 players. While the iPod by Apple has been the biggest selling MP3 player, operating only in conjunction with the iTunes digital library, it serves not only to converge two technologies in order to make one product more appealing and functional for users, it also works to ensure that neither content nor hardware enable ‘unauthorised’ copying or transferring of files.

Such convergence of interests between manufacturers and suppliers of technology and music companies also enables the cross-promotion of products, services and content, e.g. recording artists are used to promote hardware, software and services; technologies are used to promote recording artists and content. For example, Dire Straits, who were signed to the (then) Philips-owned Polygram label released a 1985 album entitled *Brothers In Arms* album which, along with their subsequent world concert tour was used to promote the CD internationally. Some six years later, the bands next album and tour – *On Every Street* – was used as a key promotional vehicle for Philip’s somewhat less successful Digital Compact Cassette (DCC). More recently, artists such as U2 have allied with Apple in cross-promotional exercises around the iPod. Also, Hewlett Packard offer exclusive designed tattoos featuring Universal recording artists latest releases to place on the Apple iPod.

7.8 360-degree artist deals

In recent years the major music companies have executed broader, all-encompassing deals with the artists on the respective rosters. The emphasis has been on growth through diversification. Not only have the spheres of recording, publishing, live music services and merchandising grown more concentrated, they have also become more integrated. The four major recording and music publishing companies have become more aggressive in securing touring rights for both new and established acts on their rosters. Artist managers Gerry Harford, Fachtna O’Ceallaigh, Bruce Findlay and John Williamson all state that while record labels have traditionally applied pressure to sign to their publishing arm, recent years has seen them increasingly push for touring rights in recording negotiations. Equally companies that have traditionally focused on live aspects of the industry are now moving into the terrains of recording, publishing and associated marketing and promotion of recordings and repertoire. As Damien Rice’s manager Ben Barrett explains:

> From our dealings with Warner over Damien [Rice], the labels are obviously very keen to get their share of every aspect of an artist’s income, from recording to publishing to merchandising to live to whatever. That’s very much one way that they look at the future, one sort of big umbrella organisation with everything under the same roof.

> (Ben Barrett, personal interview)

360-degree deals, thus, see artists sign contracts with one company, assigning to them the handling of all facets of the artists career including recording, publishing, live performance, primary and secondary ticketing for tours, merchandising, endorsements, all aspects of image rights, and all other artists related rights. For Ross Graham, CEO of NIMIC:

> The majors will not be on the ropes if they can more readily access merchandising and live incomes. Merchandising incomes are more important than they ever were and live incomes are certainly much more important than they ever were. (Ross Graham, personal interview)

The most significant and high-profile 360-degree signings include acts such as Madonna, Jay-Z and Shakira who departed from their respective music labels to sign deals with Live Nation, the hitherto (almost) exclusive live touring agency. U2 also signed a 180-degree deal with Live Nation, giving them rights to touring and merchandising, while retaining a licensing agreement with the Universal Music Group in relation to recording and publishing.

For artists with the stature and (current) selling power such as these, such deals mean greater revenues can be generated and greater economies of scale achieved through such consolidation. Dedicated online and print music publications have carried numerous accounts of music companies across the recording, publishing, merchandising and live music spheres staffing increasingly broader levels of expertise. Examples include the Warner Music Group's acquisition of a majority stake in Spanish artists management firm Get In. This company oversees the career of Spanish chart-topping group La Oreja de Van Gogh, a band that has also achieved significant commercial success in Mexico and other Latin American countries. Similarly Warner's carry a majority stake in Japanese management company Taisuke as well as substantial investments in online properties Lala and Imeem.

While the Paradigm booking agency has traditionally functioned as a touring agency, more recently the company developed a 'Head of Marketing and Branding' position (*Digital Music News*, September 18th 2008). Since then Paradigm has forged alliances with all four major music companies to source additional avenues of revenue on its roster via endorsements, sponsorship, merchandising and branding deals as well as integrating artists such as Aerosmith, Coldplay, Pharrell Williams and Lily Allen into television and film projects being managed by the agencies sister Paradigm divisions, and beyond. Such alliances between companies from different strands of the music business also means more muscle within bigger negotiations, especially in the areas of non-traditional/ancilliary revenue streams such as endorsements, merchandising, sponsorships, acting or book deals.

As my interviewee John Williamson stated, it is no longer about how many units of an album a band can sell, rather its ‘how much profit can be made across various sectors or earnings and revenue’ (personal interview). In effect, recorded music and songs represent two of an increasingly broader variety of products and services available from major music labels and their allies. As such, a more holistic structure encompasses all aspects of an artistic career and all potential sources of revenue deriving from that career, and the fruits of artistic labour.

A number of interviewees point to such developments leaving recording artists at a distinct disadvantage. Festival and music conference organiser Úna Johnston argues that it has always been in an artists best interests to ensure that the administration of each discrete activity is kept in the hands of separate actors. For example, she outlines the drawbacks associated with artists signing a ‘cross-collateralisation’ clause in a recording contract – Under the terms of this clause, the artist signs their repertoire over to the publishing arm of the same record company. Johnston describes a scenario whereby a band or artist might generate a profit through publishing, but make a loss on a recording. If this artist has signed ‘independent’ publishing and recording deals, then they will receive their agreed share of publishing profits. However if they have signed to the same record and publishing company, then cross-collateralisation means that the record company are entitled to recoup their loss from any publishing profits before the artist qualifies for any payment. For Johnston, cross-collateralisation is ‘rarely a good deal for a band’ (personal interview).

Former manager of trad-rock band Moving Hearts, Keith Donald, advanced an identical scenario during our interview. As Johnston and others argue, 360-degree makes such scenarios the norm for artists in their dealings with all music industry sub-sectors, and removes any autonomy to engage with actors outside the one company. As Ben Barrett, John Williamson state, already ‘superstar’ acts are rewarded with huge advances in exchange for handing over all rights, however smaller or new acts are increasingly only offered an ‘all or nothing’ deal when it comes to negotiating with major labels. In these cases, without the ‘clout’ of a successful catalogue or established artist brand behind them, they have little leverage in these negotiations. Furthermore these deals also include management services. As Keith Donald also stated, having ‘all eggs in the one basket’ means that ‘too much power lies with one source’ (personal interview).

7.9 New ‘physical’ markets and new possibilities for music

This research finds that whilst global sales revenues have been falling, it should also be noted that fresh markets with fresh possibilities are opening up for the major labels. A number of interviewees have identified China and Russia in particular as countries that have grown their recorded music markets significantly during the last decade. For example:

> You would hope it [China and Russia] is positive for the record companies. If you add India into the equation you have three huge potential music markets. A lot depends on economic movement I those countries as well. Over the next five to ten years there is great predicted potential because over the past five or ten years these economies have grown and there has been access for Western music companies there. It remains promising… and it is an avenue that music companies should be avidly pursuing. (John Williamson, personal interview)

When I raised this issue with IFPI Chairman and CEO John Kennedy, his initial response was to state that recorded music sales figures gathered by trade bodies in China and Russia are unreliable primarily due to the high level of piracy in those countries. For example, the IFPI place the annual value of the digital music market in China at $700m, but argue that 95% of this is accounted for by pirates (IFPI, *Digital Music Report*, 2008). As Kennedy states:

> You only need to look at the statistics for what is happening in the market, our statistics on the use of file-sharing, the statistics in the music industry…it’s 95% piracy, and even if we’ve got it wrong, the film industry are quoting 99%. (John Kennedy, personal interview)

The size of these markets is nevertheless considerable. China and Russia combined account for over a quarter of the world’s population, thus offering huge potential to the music industry. Kennedy expresses disappointment at the ‘Russian market has not achieved the potential everyone had expected' primarily as a result of what he regards as the failure of the Russian authorities to 'co-operate' more enthusiastically on copyright infringement. He is much more optimistic about the long-potential of the Chinese market, stating:

> The Chinese market will fulfil its potential, but it, like other markets, has to contend with the fact that if free is available then consumers aren't going to pay. But based on my dealings with them I do think the Chinese government will get more engaged and will have instant success with litigation there as well. (John Kennedy, personal interview)

As another interviewee, Jim Carroll advances, the major music companies have, since the turn of the millennium, been developing their presence in China. EMI has launched a joint venture with Chinese-based Push Sound; Sony Music Entertainment have entered a partnership with Shanghai Audio and Visual Press; the Universal Music Group has formed a partnership with the Shanghai Media Group; and the Warner Music Group has set up Warner Music China.

The IFPI website details how China accounts for 'nearly half of all the broadband lines in Asia' and also boasts 'almost half a million mobile phone subscriptions' (www.ifpi.org). In a speech delivered to the China International Forum on the Audio Visual Industry in Shanghai in 2006, John Kennedy stated that in China, sales of music via mobile phone alone accounted for 15% of industry revenues, some 5% higher than the global average for digital sales (www.ifpi.org). This has all occurred in the context of a booming national economy. According to the IMF, the world economy averaged a growth of 4.9% in 2007, China experienced a growth of 11.4% (IMF, 2008).

In an interview preceeding the merger of Ticketmaster with Live Nation, Sean Moriarty, CEO of Ticketmaster stated that significant growth for the live industry in the near future would come not only from demand for 'high-end talent' in developed markets, but also from 'construction overseas', where he listed China as a key site for significant growth (*The Music Business Journal*, February 2009, p.4).

Success for the major companies in the courts in China is also in evidence. Zhongsou, one of China's top five internet search engines, was found guilty of infringing record companies copyrights by the Copyright Bureau of Hebei province and

Cangzhou city in May 2008. The authorities ordered the internet company to stop infringing immediately and pay the maximum penalty of RMB 100,000 (musicweek.com).

Like China, overall economic growth and investment has accelerated in Russia in the past decade. According to the World Bank, Russia experienced a full-year GDP of over 7% in 2007 (worldbank.org). This is consistent with growth trends since 2003. Household consumption in Russia is 'bouyant' with improving access to credit fuelling demand (*The Economist*, June 18th 2007). Jim Carroll outlines how, since 2002, the major music companies have been developing their interest in the Russian market, primarily through the formation of the National Federation of Phonographic Producers (NFPP), a body that is backed by the IFPI and unites the major Russian and international companies. Sony, EMI, Universal and Warner's have all subsequently opened Russian offices. Between 2002 and 2006, the IFPI's, possibly conservative (considering their arguments regarding unreliable data due to piracy) value of the Russian recorded music retail market, grew from US$297.5m to US$406.5m (IFPI, 2007).

In my interview with John Kennedy he pointed to the potential joint initiative involving the major record labels and leading Russian labels aimed at compiling an extensive database of file-sharing sites operating in the country. This alliance will also promote legal methods of accessing online music. To this end, Kennedy states that copyright holders and major web portals will create streaming services to provide for listening to music online without having the capacity to download it. Following my interview with Kennedy, one of Russia's biggest internet firms launched such a service. Yantex, having signed licensing agreements with all the major copyright owners and funded by advertising and subscriptions went online in July 2009.

Overall the sheer size of these two markets and the opportunities that come with them paint a much more optimistic picture than the official IFPI statistics portray. The IFPI are keen to emphasise how piracy is blocking the development of these markets for music, and how the effective enforcement of copyright regulations is central to the future of the music sector in these territories. However, as we have earlier noted, arguments regarding poor or unreliable sales figures deriving from piracy boosts the lobbying power of the major music companies by strengthening arguments that domestic industries need government support in shaping legislation and the administration/application of copyright law.

7.10 Chapter Summary

The ongoing pursuit of individuals, producers and suppliers of technologies and internet service providers reinforces property-rights factors as being central to the music industries. Ownership of content and control over the channels that distribute it remain crucial. The ongoing formation of alliances and pacts between content and technology sectors indicates that both record companies and music publishers are creating business models and licensing systems that enable them to profit from emerging and growing digital distribution opportunities. Overall the emergence and proliferation of these new digital platforms, and the alliances and partnerships between music companies and actors in the technology sector is serving to accelerate the growth of the overall digital music market, increase the number of revenue streams open to music companies relating to recording, publishing and other related products and services. When we also consider the expansion of outlets for music content through already existing intermediaries such as radio, television and advertising and the significant growth of the live music industry, the broader music industries landscape paints a significantly healthier picture than the digitally induced Armageddon suggested by published record sales data and popular media reports. Continuing processes of convergence and conglomeration and the evolution of 360-degree artist contracts points to a growing centralisation of power within the music industries.

Given the emphasis placed on declining record sales in much media and industry discourse surrounding the relationship between the internet and the music industry, chapter eight will now proceed to examine the organisation and structure of the contemporary record industry over a decade after the internet emerged as a conduit for recordings. In doing so, chapter eight will focus on the disruption caused to established distribution and promotion practices, and, given the proliferating range of platforms for music to reach an audience, examine the potential of new technological platforms to enhance the ability of independent artists or smaller record labels to get to market.

Chapter 8: Findings 3 – New Rules of the New Music Economy?

8.1 Introduction

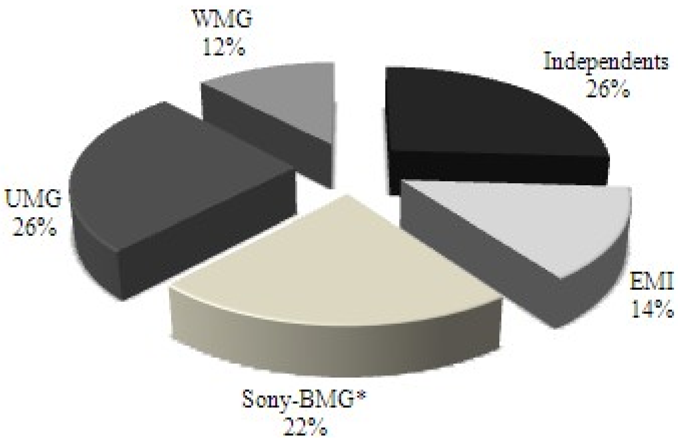
Chapter six examined the case forwarded by those contending that the music industry is in crisis, and evidence offered in support of such crisis. Chapter seven placed this crisis, predominantly associated with the recording sector of the music industry, in the context of the broader music industry. It highlighted copyright as central to the sustenance of the industry and also detailed the expansion of traditional revenue streams and the emergence of new sources of income for the music industries in the digital era, all of which serves to illustrate a different reality to the picture of a music industry in crisis as illustrated commonly in media accounts. This chapter is primarily concerned with another aspect of the internet music 'revolution', – the promise of disintermediation and the potential for digital distribution and internet promotion to provide creative artists with the necessary machinery to access and succeed in the marketplace, independent of the intervention of the major record labels. It is useful to recall here the extent of internet-induced disruption predicted to the 'rules of the economic game' by Kelly and Negroponte, the two foremost 'information-age gurus'. Such predictions, keeping suit with Toffler's theme of a break with the old relations of industrial capitalism suggest a much more level playing field upon which cultural corporations no longer hold advantage or power over the individual content producer [see chapter 3, section 3.3]. This chapter thus examines the extent to which a 'do-it-yourself' approach to the promotion and distribution of music has been enhanced by internet technologies.

To meet these ends, this chapter first examines the composition of the contemporary recorded music market, outlining the current market share breakdown between major and independent companies. We proceed to consider the roles of and relationships between major and independent actors. My interviewees are asked to reflect upon earlier techno-centric predictions to the effect that more independent actors would achieve increased and easier access to the marketplace and offer their perspectives on / experience of the current relationship between major and independent actors. Beyond this, drawing largely on the contributions of the artist managers who participated in interviews, we examine contemporary processes for getting new music to market and the role and implications of internet technologies in evolving these processes. Then, acknowledging the ongoing significance of the major record labels in shaping the market, I draw upon research material from my interviews for insights into why this is the case. A number of interviewees outline what they perceive as the current working model for breaking a recording artist into the mass market. This leads us to consider the role of tastemakers in the internet age and which 'intermediaries' are most effective in growing a consumer base. Leading on from this, interviewees are asked to reflect upon and advance their concepts of the contemporary music consumer and the consumer bands that constitute the music consumer market. The evidence gleaned from this aspect of my primary research interviews serves to problematise accounts indicating that file-sharing activities are having a detrimental effect on recorded music sales.

8.2 The composition of the contemporary recorded music market

The combined market share of the four major record companies currently stands at approximately 74% of the global market (IFPI, 2009).

Fig. 8.1: Global record industry market share 2008

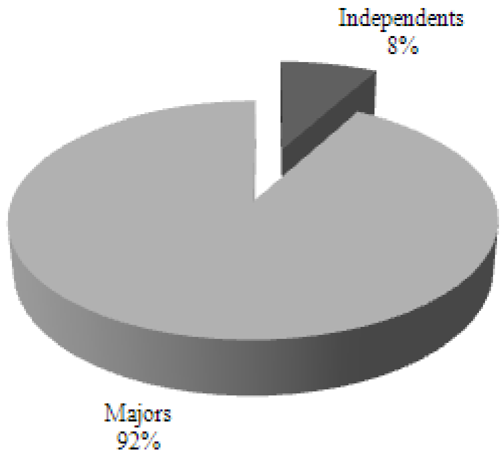


*Source: Author - based on IFPI figures from 2009 [*Now operating as Sony Music Entertainment]*

Alison Wenham, president of the Worldwide Independent Network (WIN) – a body representing over 20 independent music trade associations globally – argues that the recorded music market is 'a market that is suffering from the features of collective dominance'. While, according to Wenham, the record industry operated on a 'relatively territorial' basis up until the early 1980s, it has subsequently evolved to experience increasing consolidation of control. This affects artist and repertoire acquisition, sets increasingly global/international priorities for majors operating in national territories, and raises the cost of entry into markets for independent companies. Such 'massive concentration' has created 'a vicious circle where the larger you get the larger you need to be' (Alison Wenham, personal interview).

The Irish recorded music market is one of the most highly concentrated in the world with the four major labels accounting for 92% of the market (IRMA, 2008).

Fig. 8.2: Irish recorded music market share 2008



Source: Author - based on IRMA figures from 2008

Another interviewee, Úna Johnston echoes Wenham's statements, advancing that, in the Irish context, while the ease with which recordings can be produced these days means that there are many more independent labels in existence, those of 'any [commercial] significance have been subsumed more quickly into the major labels in 'an ongoing process of takeovers, mergers and consolidation' (personal interview).

As the existence of WIN indicates, there has also been a strong international coagulation of independent music companies in recent years. IMPALA in Europe, A2IM in the United States, Cirpa in Canada and AIR in Australia all provide examples of independent music company trade associations. In 2006 these national/international associations formed into a global coalition that is WIN. The Association of Independent Music (AIM), of which Alison Wenham is also chair, represents various sizes of independent companies in the UK and Ireland. The only criterion for membership is that a major company cannot own more than a 50% stake in the independent company.

Wenham detailed how the size of independent companies relative to major companies has diminished significantly in recent decades. She focused particularly on the Beggars Group. Beggars is one of the largest independent labels in the world consisting of 4AD, Matador, Rough Trade and XL Recordings. It has headquarters in London and 5 additional offices in North America, Europe and Japan.

> If you look back fifteen to twenty years you will find that the market was populated by dozens of larger companies – the largest independent was only half the size of the smallest major. Now, after the acquisition of those companies by the majors and the ongoing concentration which the industry has experienced over the last ten years you will find that there is not one of our member companies in Europe that has more than 1% of the market. So they are all small players, even if in comparative terms the size of a company of Beggars stature versus many of our new members is also staggering. But the point is that the size of someone like Universal compared to Beggars is also staggering. (Alison Wenham, personal interview)

Since the turn of the millennium some of the largest independent music companies in the world have been brought under the umbrella of the major labels. For example, 2002 saw BMG purchase Zomba, what was then the world's largest independent company for a reported US$3bn. It is now a division of Sony Music Entertainment. Mute was acquired by EMI. Rykodisc, the company once owned by former Island Records founder Chris Blackwell, was bought by the Warner Music Group in 2006. V2, the label started in the 1990s by Richard Branson following the sale of Virgin to EMI is now owned by Universal. Until July 2007 Sanctuary Records was the largest independent record label in the UK until it too was acquired by Universal. For the four major companies, the corporate structures are global, so they have global marketing initiatives and global distribution networks. Even for an independent company the size of Beggars, they remain reliant on separate independent distribution systems in different territories. Former Island Records representative Ross Graham, who is now chairman of the Northern Ireland Music Industry Commission (NIMIC), argues that beyond the issue of distribution, 'the majors also have a stranglehold on media control for pushing their artists'. All of this, according to artist manager Peter Jenner combines to make it increasingly difficult for non-corporate labels to access the market:

> They're pretty hostile towards each other because the majors make it very hard for the independents to get to market. What they do is they drive up the price of admission. Whether it's the price of bribing a DJ, or the price of getting your record displayed in the shops, the price of bribing a journalist – they have a lot of power and they use that power to make it harder for the indies. (Peter Jenner, personal interview)

Prior to the advent of the internet as a technology of mass communication, digital had long since established itself in the spheres of music production and consumption and provided a key tool that enabled and facilitated this increased concentration – the compact disc. Amongst my interviewees, the accounts of (primarily) independent record company bosses Petr Pandula, Dave O'Grady and Jim Carroll indicate that the independent recording sector was unable to make significant gain from the premium profit market in CD sales from the late 1980s onwards. The shift in format from cassette to digital saw the multi-nationals employ their extensive back catalogues to grow the market and their market share. The potential for re-hashing former releases as 'digital re-masters' explained, in part at least, the willingness of the major labels to acquire the catalogue of the larger, more established independent companies in the late 1980s - Motown, Island and Virgin provide examples. The dearth of back catalogue places newer and emerging independent companies at a disadvantage. Former Polydor marketing manager Jackie Hayden emphasises this point:

> If you take a small company, say Setanta for example, they might need to sell 20,000 or 30,000 copies of a CD to have any kind of income from a record. But for a small label like that, generating the equivalent return from what are largely going to be individual single track downloads is very, very difficult…So *they* suffer in a way that the bigger companies don't…So I see the internet as a much bigger threat to smaller companies than it is for the majors. The majors have vast back catalogues to exploit at little or no additional cost to themselves, and they have the resources to market newer artists and records and the Justin Timberlake's of this world through which they can sell millions in a way that the Setanta's of this world can't.
> (Jackie Hayden, personal interview)

Likewise sees the vast catalogues under the ownership of the major labels as buffering them against potentially harmful effects of technological change and bolstering their dominant position in the marketplace. According to music publisher Steve Lindsey, 'the actual medium of how people receive their music is academic' once a company has ownership of a sizeable repertoire (personal interview). Lindsey emphasises that the larger the catalogue of recordings under the ownership of a company, the greater the opportunities for exploiting it across a variety of media and platforms. Successful back catalogues are perennial 'cash cows' for the major labels so one key strategy for maintaining dominance is to 'batten down the hatches' on spending on new acts and divert funds to the further marketing and promotion of already popular repertoire (ibid). At the time of my interview with Lindsey in late 2008, UK Culture Secretary, Andy Burnham, had just recommended the extension of copyright term in sound recording from fifty to seventy years. This was in the wake of EC Internal Markets Commissioner Charlie McCreevy's proposal to increase the term of protection to ninety-five years in order to bring Europe into line with the US. This proposal was subsequently amended to seventy years. The European Parliament voted in favour of the amendment on April 23rd 2009. At the time of writing, the draft directive is still being considered by the EU Council of Ministers so, as yet, has not become law. A number of my interviewees point to the success the major music companies have had in lobbying for the extension and expansion of copyright laws in recent years [see also chapter 6, section 6.2]. While they acknowledge that such changes carry potential economic benefits for all copyright owners, the consensus is that such developments as an extension to copyright term will enable further major labels to weather the 'digital storm' and maintain their position in the recorded music market. As Lindsey describes the marketing budgets for re-released and re-mastered back catalogue as 'astronomical' and 'quite obscene' but based on the reality that 'millions of people are still buying *Hotel California*' (personal interview).

Beyond the above arguments, history indicates that the concentration of ownership in the record industry has enabled the major companies to exercise their power against the interest of consumers. For example, a Commons National Heritage Committee report (1992) criticises the over-pricing of CD's in the UK. The report concludes that the blame for unfavourable price comparisons between the US and UK in the early 1990s can be placed on copyright restrictions, and the Committee recommended accordingly that the UK Department of Trade and Industry re-examine legislation around copyright issues with particular reference to its anti-competitive effects in the recorded music industry. The publication of that report coincided with the House of Commons Committee monopoly enquiry into the over-pricing of CDs in Britain in the 1990s.

According to Alison Wenham, in a territory like Ireland it is almost impossible for an independent company to survive unless it is attached to a major label. For Wenham, the ability of a record label to sustain itself in a local market is largely a matter of geography and a matter of local market practice. Despite the evolution of internet music markets with the ability to transcend physical boundaries, Wenham contends that 'local' remains a huge feature of the independent sector. She states that the US recorded music market is approximately 5 times the size of the UK market and 'many, many times bigger' than the Irish market. Wenham explains that there are hundreds of local independent companies who serve local markets within the US and 'survive very happily on their local reach' (personal interview). These companies rarely generate national or international chart successes and tend to shift volumes of recordings in tens of thousands rather than hundreds of thousands or millions, but economies of scale enable them to turn a profit. As Wenham explains:

> By 'local' I might be talking about Nashville, or Miami, or West Coast. There are plenty of consumers within any given constituency that create an eco-system upon which you can run a successful business. The same applies but to a lesser extent in the UK where local geography would see, for example, the North-West sector being particularly strong and Scotland maintaining a relatively decent industry around what is essentially locally-produced music. London and South-East is another one. (Alison Wenham, personal interview)

Outlining how the UK and Irish markets have seen high street retailers and key taste-makers like radio consolidate, many interviewees argue that there is less choice for the consumer on the shelves. As Wenham continues, supermarkets in particular are adept at 'taking the cream' by selling recordings at low prices and thus upsetting the retail economy (see chapter 6 section 6.6).

The evidence gleaned from Wenham and the independent label operators I interviewed points to a decrease in the number of independent record distribution companies in existence that serve the UK and Irish markets. Again, they relate this to issues of consolidation and the aggressive entry of supermarkets into music retailing from the 1990s onwards. Given that much independent recorded music product is unsuitable for supermarket shelves, they regard a whole hinterland of independent music as operating increasingly beyond mainstream margins. While many of the independent label owners and artist managers I interviewed point to the potential of the internet to bypass these processes, they predominantly argue that it has not transpired to transform the retail of independent music.

Despite its significant growth up until 2007, the overall size of the Irish market is relatively small. In such a market, where the four major companies dominate, many of my interviewees argue that it is extremely difficult for an independent label, indigenous or other, to have a commercial life.

As a number of interviewees explained, the distinction between major and independent companies has become increasingly blurred and, the ability of an independent label to enjoy a commercial life increasingly relies on a relationship with one or more of the major corporate actors. Fachtna O'Ceallaigh advances that independent record labels that have 'any substance to them or any longevity to them or any capacity to sell records' would of necessity have 'some kind of relationship with a major' (personal). This point is reinforced by Bruce Findlay who states that independent labels face only two possible fates: they either 'get swallowed up' by the majors, or 'go bust' (personal interview). Findlay explains that those labels showing promise will almost without exception move under the umbrella of a major if they are to enjoy a commercial life over time. He outlines how this relationship may involve one or more factors including distribution, marketing and promotion, licensing rights for a variety of purposes. O'Ceallaigh points to a number of cases where one of the major labels is the minority or majority stakeholder in a given independent label. In other cases, an independent label may be solely funded by a major label. This latter scenario as forwarded by O'Ceallaigh is exemplified by Lakota Records, the label operated until recently by another interviewee Jim Carroll.

> You could call us a 'mindy' label – a major-indie. To all intents and purposes we were an independent label in Ireland and the UK and were distributed by an independent distribution company, but we were entirely bankrolled by Sony. It was two incredibly bright people at the distribution and marketing end of Sony who basically did deals with labels… Lakota was owned by Sony but all our records in the UK came out through Vital because we needed to *look* independent. We had to because there is an awful lot of kudos involved.
> (Jim Carroll, personal interview)

Sony has similar deals in operation with Setanta Records and Creation Records. Similarly there are companies such as Loog and Be Unique who are tied to the Universal Music Group. These, as Carroll explains, are all labels that effectively carry an 'independent tag' but are funded by majors.

In some cases, as with Lakota, the impetus behind the formation of the indie label comes from the major. In others, as with Creation, an independent entity already exists and it is usurped by a major. Other independent labels find themselves simultaneously engaged with more than one major label. This scenario is best illustrated through the case of County Clare based independent label Magnetic Music. During the course of our interview, the label's owner, Petr Pandula advanced that two of the most lucrative deals signed by Magnetic in recent times saw them contracted to provide promotion and distribution services in the German and Irish markets for new releases by Moya Brennan and Carlos Nunes, signed to Universal and Sony respectively. Pandula states that his success in attracting such contracts is attributed to his company's thirty-year reputation as a promoter of 'world music' concerts and recordings, particularly in the German market. Another interviewee, artist manager Frank Murray, states that this process illustrates how the independent sector increasingly exists as a 'shop-front' for majors, taking them into sections of the market that were 'once the preserve of niche' suppliers (personal interview). Murray states that major companies 'need the kudos' of independent labels and will place bands on the rosters of those labels 'that they know will benefit from an indie gloss' (personal interview).

Jim Carroll points out that even in the case of larger independent labels such as Domino and the Beggars Group (both of whom remain independently owned), they have entered into distribution deals with major actors Columbia and Epic (both Sony companies). Thus, while they may have 'no obvious allegiance' to those companies, 'Domino and Beggars are nevertheless reliant on the machinery of major companies distribution networks' (personal interview).

For Steve Lindsey, the process of majors 'bank-rolling what you and I otherwise perceive as independent labels' is not new, but has accelerated throughout the past decade. As Lindsey advances:

> Genuine independent labels are very, very few and far between now…[In the UK] majors will put aside several million quid as seed money for any independent labels they like the sound of… Independents with any degree of success will, to one degree or another have support from a major. It might just be distribution, or it might be marketing and distribution, or the independent label might be in effect the A&R office of the major. (Steve Lindsey, personal interview)

Ultimately the picture the picture suggested by my interview materials is one where many independent companies are inextricably interwoven into the make-up of major companies. For those independent companies existing outside of this loop, sustaining a commercial life is extremely difficult with access to distribution, marketing and promotion and key tastemakers / intermediaries very limited. The opportunities and challenges around accessing the marketplace independently of major companies are examined in much greater detail in the following sections.

8.3 Getting new music to market in the internet era

Many interviewees highlight the advantages of digital in terms of production, promotion and distribution for independent artists and labels. They emphasise the growing potential for adopting a do-it-yourself approach in terms of the production of recordings and the promotion of artists and their wares. In addition to highlighting digital platforms for the circulation of music such as online streaming and video-sharing sites, a number of interviewees point to the emergence of new digital intermediaries such as social networking sites, weblogs and online music magazines as new key tools in helping to break a new artist. Other interviewees also point to the emergence of various public and privately funded information and training initiatives which, they argue, makes for a much broader awareness of the music industries and enhances the do-it-yourself approach to producing recordings and the marketing and networking involved in launching artists. Crucially, interviewees also point to the limits of an independent, do-it-yourself approach, arguing that for successful acts, access to mainstream revenue-generating markets remains almost exclusively the preserve of major music companies. The remainder of this section looks at each of these factors in turn.

Digitalisation enhancing the do-it-yourself approach

As with many of my interviewees, Independent Records owner Dave O'Grady and Magnetic Music's Petr Pandula point to cost reductions in making recordings and the increasing ease with which they can be produced as a primary benefit accruing to artists and 'small operators' associated with digitalisation. O'Grady also proceeds to explain that many artistic and administrative functions surrounding the production of recordings are now more efficiently executed than in the pre-digital environment:

> There was always someone who would charge you *more* for something very simple, but something you couldn't do without. There were all these little ancillary industries that were built around the production of CDs, or film for artwork or other stuff where you always had to pay a little more than you thought. You can do that stuff yourself now. You don't have to pay to get an MP3 encoded anymore. You don't have to pay to adjust and look at your own artwork. You don't have to pay to burn a CD-R. It's become a lot faster and cheaper to do these things and disseminate stuff…From a small independent labels point of view, you can definitely run an operation with less staff and less costs than you might have needed in the eighties and nineties. (Dave O'Grady, personal interview)

For festival organiser Úna Johnston, digitalisation has produced a significant level of independence for Irish acts and labels in particular. Johnston argues that digital means that Irish acts and labels are no longer 'bounded by geography and tied to majors in England, and that levels the playing field a bit' (personal interview). The fact that digital bypasses many traditional manufacturing costs and provides independent platforms for distribution and promotion means, according to Johnston, that:

> …bands are empowered to have direct access to the market and to have direct access to an audience who can be anywhere. The fifth member of the band is the webmaster…We're talking ten years really since the internet happened and because of its viral nature it's changed in ten years what would have taken a hundred years to change before. Artists don't need record companies the way the used to. (Úna Johnston, personal interview)

Johnston proceeds to explain that the internet has bred 'a culture of entrepreneurial spirit' that has hitherto been poor in an Irish context:

> Bands doing it for themselves? That culture of entrepreneurial spirit or business development has been poor in Ireland in the past. Bands setting up businesses and actually being their own business would be at odds with the current model of the way the majority of people work in Ireland. Eighty or ninety per cent of people don't set up their own businesses here, they go and work for somebody else…We've got the major labels in the music industry the same way we've got multi-nationals in other industries…Our model has always been to bring in the multi-nationals and let them pay us wages…Now, with a new internet-based approach we can set up labels and companies to run the music industry here. There is a real, real opportunity now for a band as a business if you are clued in. (Úna Johnston, personal interview)

Much of the evidence from my interviews (such as the above) serves to highlight the potential for greater independence and disintermediation in the digital music world fit comfortably with predictions regarding the outcome of the internet made in the mid-to-late 1990s [see chapter 4, section 4.2]. During the course of my interview with artist manager Fachtna O'Ceallaigh, he sought to explain the extent to which this potential has been achieved and the extent to which it remains unrealised. O'Ceallaigh initially argues that two key factors combine to enhance 'do-it-yourself' opportunities for breaking new music in the contemporary environment: primarily, the proliferation of social networks and other online avenues for self-promotion combined with relatively cheap and reliable digital recording technologies for the home computer; and second, O'Ceallaigh points to 'the spread of knowledge' about how to put out records, make them digitally available and promote them (primarily) via the internet. Beyond this, O'Ceallaigh emphasises that a digitally-facilitated do-it-yourself approach has limits that can only be surpassed by using the support and resources of a major music company. Drawing initially on the account of O'Ceallaigh, and subsequently on other interviewees, the remainder of this section outlines the changes and continuities that have evolved over the past decade in respect to breaking new artists and promoting independent content.

Using digital platforms and new digital tastemakers to break an artist

At the time of our interview, Fachtna O'Ceallaigh was in the process of developing a public profile for a singer-songwriter he was managing called Lissy Trullie. Trullie was being promoted and exposed via a plethora of online sites as part of the process of self-promotion. For example, social networking sites such as MySpace and Facebook with an interactive user-submitted network of friends where users may post music, videos, blogs, photographs internationally; video-sharing website YouTube; Last.fm, the internet radio website owned by CBS Interactive. These sites are, according to O'Ceallaigh, useful but limited as they are also inhabited by many of the biggest recording artists in the world and their record labels. Furthermore with social networking sites MySpace and Facebook boasting tens of millions of registered users, gaining visibility and achieving significant hits on your audio files can prove difficult.

Other niche/underground sites that Trullie uses more effectively to gather 'friends' and hits include Vbs.tv, a New York based online broadcast network that carries news and features on 'underground' music and pop culture; MusicRemedy.com and BandWeblogs.com, sites where artists and users can post songs, videos, photographs, reviews; Stereogum.com, another user-driven site offering free MP3s, video clips and reviews. In addition prefixmag.com, papermag.com and filter-mag.com are three online daily music magazines offering live reviews, album reviews, links to blogs, and in the case of prefixmag.com, links to video clips and access to free MP3 files. Trullie also has a presence on such sites as thefourohfive.com, an online music and film magazine containing reviews, interviews, audio-clips and video-clips, as well as promoting and reviewing her live performances on tourfilter.com and songkick.com – songkick.com also provides links to a variety of music-related blogs. Trullie is also a contributer and 'friend' to a wide variety of weblogs which includes *mog*, *realprettyinblack*, *villagevoice*, *frictionnyc,* and *nylonblogs*.

Regarding the usefulness of blogs O'Ceallaigh talks of his collaboration with US public relations firm Big Castle in the marketing and promotion of Lissy Trullie:

> When I was in New York two weeks ago I had a meeting with this woman [from Big Castle] and she produced an outline of how they saw things developing with Lissy…There were all the usual kind of print things like *Rolling Stone*, *Spin*, *The New York Times* etc etc etc. Then there were the various digital publications but first, before any of these, there were blogs. Now I said I wanted to have a t-Shirt that said 'Kill All Blogs' because I just hate them. She said she knew what I meant, *but*, when I asked if they had any impact she said that they definitely have an impact and

> that their research shows how people will sit there religiously and absorb what's being said… They [Big Castle] are pushing this as an important form of dissemination and enthusiasm and excitement for breaking new acts… So in the olden days when I was trying to break The [Boomtown] Rats we had *NME*, we had *Melody Maker*, we had *Sounds* and *Disc* and *Record Mirror* full stop. You only got in *NME* if you got in *Sounds* first, and you only got in *Sounds* if you got in *Melody Maker* first, and they only wrote about you if they wanted to say they hated you. At least this [blogs] opens that up a little bit. (Fachtna O'Ceallaigh, personal interview)

O'Ceallaigh proceeds to state that he finds it difficult to quantify the 'precise extent' to which 'the promise of the internet has been realised', but argues that using these recent and new online spaces to generate a sufficient 'buzz' about a new artist in order to achieve synchronisation licenses, bigger a bigger live audience, music press coverage and digital sales is 'a scenario that is perfectly valid and feasible' (personal interview).

The emergence of public and private funded training initiatives

O'Ceallaigh's point regarding the spread of knowledge is also taken up by various other interviewees who highlight the emergence of a number of music industry information, training and education initiatives, both state-sponsored and private, that evolved from the early 1990s onwards. For example, IMRO chairman Keith Donald and record producer PJ Curtis provide an overview of music management and technology programmes offered at the Ballyfermot College of Further Education – delivered by the City of Dublin Vocational Education Committee (CDVEC). Donald also describes Musicbase and First Music Contact: the former was an Arts Council funded popular music information and education resource of which Donald himself was director in the 1990s. The latter is a free information and advice service for musicians and bands funded by the Arts Council of Ireland since the mid-1990s. Independent label owner Eddie Joyce and ex-Polydor promotions manager Jackie Hayden point to the FAS Music Training Programme; Festival organiser Úna Johnston argues that such initiatives have provided artists and prospective industry professionals with an awareness of the mechanics of the music industries and enhanced the do-it-yourself approach to developing a career in various aspects of the music industries. As Jackie Hayden argues:

> Those initiatives are hugely valuable in a way that is almost impossible to quantify. If you have government money put into that area, and even if it never produces a single hit record, it still is a huge input into education in Ireland, never mind culture or music or anything fanciful like that. But it *is* teaching people basic skills. There are a whole range of social skills, technical skills and business skills…simple things that some people might not have any other way of learning. (Jackie Hayden, personal interview)

In addition, *Hot Press* magazine, which Hayden co-owns, publish an annual music industries directory and have, over the past fifteen years organised numerous music business seminars and workshops.

Some of these interviewees also point to the many private training courses offering technical tuition and training for business that evolved. It is worth noting that a small number of the industry professionals interviewed during the primary research phase of this thesis participated as trainees in some of the above-mentioned initiatives. For example, Ben Barrett attended a music management programme at Ballyfermot College of Further Education.

Limits of the do-it-yourself approach in the contemporary environment

All of the factors considered above in section 8.3 combine to provide for, or comprise essential resources for an artist or small label taking significant steps towards commercial success without the finance and resources of a major music company behind them. As many interviewees stated, major record companies are now more reluctant than ever to invest in the early stage development of recording acts. While the independent recording sector has long since been regarded as the research and development arm of the industry, artists and their managers are increasingly adopting a do-it-yourself approach. As Fachtna O'Ceallaigh argues:

> You're going to wait and you're going to hold on to your ownership of your copyright, make your music available, develop your audience, because you've nothing to lose…
> (Fachtna O'Ceallaigh, personal interview)

However, he immediately proceeds to emphasise that this approach has limits that can only be surpassed by using the support and resources of a major music company:

> It's all in this relatively small little box. You might even kind of permeate out of Ireland and the UK and across into Europe until you are at the point where you have been doing this for two or three years and…somebody comes along and says: 'Now that you are selling 100,000 records in the UK or whatever and so many more in the US, do you want to change that to one million in the UK and five million in the US? Well the only way you'll do that is by having my [major label] machine behind you'. (Fachtna O'Ceallaigh, personal interview)

Artist manager John Williamson offers a similar argument, stating that smaller labels and artists are more empowered and independently capable of going much further than before, but 'while more and more people become more competent and knowledgeable' it still remains to be seen if there are individuals or companies in the industry, beyond the major labels, that are 'actually capable of seeing it through to its conclusion' and breaking into a mainstream market (personal interview). As with O'Ceallaigh, Williamson still sees the potential of the internet as a force inducing disintermediation as largely unrealised potential. So, while digitalisation greatly enhances the potential for successfully adopting an independent, do-it-yourself approach, this only works up to a certain point.

Six of the eight managers I interviewed stated that making their artists as attractive as possible to major labels, primarily for the promotion and distribution benefits this brings, remains a key objective. Many interviewees argue that it is not necessary to commit to a major at an early stage, but they exclusively conclude that moving from a peripheral market where record sales may reach tens of thousands, to a mainstream market where they move into hundreds of thousands or millions, still requires the marketing, promotion and distribution power of one of the major industry players. As O'Ceallaigh concludes:

> Musically, the majors don't know what's going on, so the minute you come up with something that is a little different, or is different to what they've heard before, and you can show that your MySpace page has eight thousand friends, they are going to buy you up immediately if they can possibly buy you. (Fachtna O'Ceallaigh, personal interview)

Employing recent and emerging digital platforms and new types of intermediaries ultimately forms part of a strategy to increase the stature of the artist, engage the interest of a major label and enhance the bargaining power of the artist or independent label when it comes to dealing with the major. Section 8.4 will proceed to further examine the role of the major record companies in the contemporary environment.

8.4 So why has disintermediation not occurred?

Many authors have addressed the potential of the internet to greatly enhance the ability of artists to produce, market and distribute their own work independently. From the mid-1990s, many commentators predicted that digital distribution technologies would induce a process of disintermediation – the removal the middle layers of distribution channels. Producers of music would be able to directly access their public without the machinery of a major music company mediating that relationship. Yet, as the research findings advanced in section 8.3 has indicated, this much of this potential has not been realised. Here, we draw upon the interview material to examine why, and to what extent the major labels remain key record industry 'middle-men'.

In his keynote address to the 2008 *Music Matters* conference, U2 manager Paul McGuinness stated that international record labels remain crucial to the future of the music industry:

> They [record companies] bring to the mix unique and valuable skills: A&R, marketing, financial management and career building. The truth is that there is always a long list of artists who are either succeeding with their record deal, or desperate to get one.
> (Paul McGuinness, manager U2, keynote speech delivered at *Music Matters* conference, Hong Kong, 8th June 2008)

Such sentiments were echoed by the majority of my interviewees, who still perceive the major music companies as crucial to the present and future of the industry. While many interviewees regard digitalisation as greatly enhancing and democratising the production process and providing the potential for artists and independent music labels to market, promote and distribute their recordings, the level of success achievable without the aid of a major label is seen as limited. As Gerry Harford, manager of Therapy and Nina Hynes explains:

> If you want to sell records which is what we all want to do… you need to be connected to a big label to put the money behind you to tour and to pay for the advertising, the press, the video etc, the people with the infrastructure and the way of doing that are the big record labels. You need to have that clout…You *do* need to sign to a major label. (Gerry Harford, personal interview)

Another artist manager Frank Murray advances an almost identical perspective on the failure of the internet to remove the major labels from the process of intermediation:

> People don't have the time to go to a computer and listen to hundreds of bands every day. So how am I going to find out about a band? The industry hasn't changed that much. Supposing I have an artist and he puts up ten tracks on MySpace and on his website…so it might start off with ten people listening to it, but then they've got to tell everybody around the world. People are still going to have to become aware of the act. You are still going to need somebody to get you that…Getting press, radio, TV, distribution is still only available large-scale through the major companies… Where you have a major record company behind you, you can get into the right spaces. (Frank Murray, personal interview)

MD of Danceline Records, Eddie Joyce states that the internet has 'undeniable potential', primarily for 'established mainstream' recorded music markets and labels that serve 'very narrow niche markets'. However Joyce vehemently rejects the suggestion that smaller independent labels such as his own can now, as a result of the internet, avoid the machinery of the corporate industry in reaching the market place:

> Fine. You can sell records to the world over the internet, which is quite true in theory, but when a small pop label like us release an album, how does anyone know to type that into a search

> engine? We're not niche, we're not alternative, so no, I'd have to be quite frank and say that it hasn't changed very much for us. (Eddie Joyce, personal interview)

Lakota Records MD Jim Carroll echoes similar sentiments stating that those who 'bought into the idea of the internet taking the major companies out of the picture was wrong from the start. That has *not* happened and is *not* going to happen' (personal interview). He points to the dominance of a small number of corporate players maintaining a stranglehold over the channels of distribution. Beyond this, Carroll sees the same major actors as being best placed to exploit the potential of new and emerging media:

> He who pays the piper calls the tune…Sure you can use MySpace to create a bit of a buzz about your band or your label, but in terms of record labels the majors dominate that arena too because they have the money to spend on bumping up the amount of MySpace friends they have and all that. (Jim Carroll, personal interview)

My interview with Carroll indicates the potential the internet holds for the promotion of independent artists and labels. As with Fachtna O'Ceallaigh, he outlines for me various online platforms through which artists can generate a public profile. However, in terms of labels using these platforms to sell significant quantities of recordings independently, Carroll acknowledges that this potential remains largely theoretical. While he regards independent distributors such as ADA in the US and City Slang in Europe as 'viable ways of getting your music out [and] being in the game', the market they serve is:

> … peripheral…removed form the main centres of activity…You have got to be realistic about it. It ain't going to happen just because you think the internet is where everyone's playing on the same playing field… You still need a distributor, you still need a marketer, you still need a big promoter. (Jim Carroll, personal interview)

Carroll argues that the seed capital needed to market and promote an artist or independent label can be acquired from sources other than major record labels**:**

> But you will probably take a major labels money at some stage, because, to use a football analogy, the major labels are like the Real Madrid's of this world, they will buy up talent when it reaches a certain stage as they are the primary means of getting it to the next level.
> (Jim Carroll, personal interview)

Steve Lindsey advances a similar perspective stating that:

> The majors are still the only ones that can bring into force large promo budgets to push the artists they want to push…So if you're not signed to a major label it's extremely difficult to make yourself known…In many ways this picture is exactly the same as it was pre-internet. In fact it's exactly the same as it was even thirty years ago. That hasn't changed at all.
> (Steve Lindsey, personal interview)

Both Carroll and Lindsey echo the words of Paul McGuinness at the *Music Matters* conference, he proceeds to qualify this by outlining that majors most readily possess the infrastructure and experience necessary to generate a profile at mass-market level for recording artists. This, according to Carroll, is primarily achieved through the established relationships that the major labels have fostered with broadcasters, print media and other key taste-makers.

All of the managers I interviewed state that it is these companies that most readily possess the necessary contacts and alliances to achieve broadcast exposure for recordings and music videos, press coverage and synchronisation licensing deals. Further, they state that the primary source of funding for the necessary marketing and promotion to make a hit lies with the major music labels. For Gerry Harford, without this finance the opportunities for recording artists to gain profile are very limited:

> What you need to break an act internationally is a bank, and that's what the major labels still are. My artist Nina Hynes is a good example. We did a Nina Hynes album on Reverb [independent label]. It was a very good album, but there was nothing behind it. Reverb had no money…and they didn't have anybody to take it up and market it. Marketing is expensive. It's a big investment. To make your band leap out at people you are going to need some sort of finance behind you. (Gerry Harford, personal interview)

Steve Lindsey further emphasises this point stating that an independent recording artist might:

> …bring things up to forty miles an hour by themselves, but a major will cone in and say 'we'll take it up to a hundred miles an hour'. And to be honest, that is still the only way forward beyond a certain point for any artist. (Steve Lindsey, personal interview)

Furthermore, many interviewees state that when it comes to new or emerging acts, major music companies are oftentimes a crucial source of financial support for promotional touring. Beyond new and emerging acts, some interviewees also point to established acts still needing the machinery of a major label. As John D'Ardis advances:

> It all still relies on the big companies. If the record companies promote you, you'll be okay. But if they want to kill you, you'll be dead. Even artists as big as Prince have discovered this. Once he cut himself off from Sony look at what happened. Commercial suicide.
> (John D'Ardis, personal interview)

This ongoing significance of the major record labels as industry gate-keepers is perhaps most succinctly outlined by Ben Barrett in her account of the career trajectory of her artist, singer-songwriter Damien Rice. According to Barrett, the key to independently breaking Rice into peripheral markets was a broad combination of factors. She outlines in detail how, over a two-year period following the recording and release of his self-recorded debut album *O*, Rice achieved sales of 15,000 copies in Ireland and approximately 50,000 in the UK. This, according to Barrett, was achieved through their formulation of a 'whole plan' of promotional activities aimed at specialised music press, specialised radio and television shows, and word of mouth in physical and digital realms, as well as constant and extensive touring through small venues. Having negotiated with independent distribution networks such as Pinnacle and Vital, Barrett initially secured distribution for Rice with 3MB, a small independent company. She defines this process not as an end in itself, but rather as a 'plot' to convince a major label to 'back a horse that's going to win…You just present them with the whole plan as something that has already proven itself somewhere, however small' (personal interview).

Barrett's 'plot' ultimately resulted in Rice's album O subsequently being licensed to Warner's for international release. The blueprint for re-launching Damien Rice internationally was the earlier marketing and promotion plan used to promote David Gray, also signed to the same management company, Mondo Management (under the auspices of Barrett's boss, Rob Holden) and released through Warner's. Barrett states that within twelve month's of Warner's issuing *O*, sales of 65,000 in Britain and Ireland jumped to 2,000,000 internationally. Barrett concludes:

> It's really all about who is spending the money, and increasingly about who is spending the money at the very top level, with the power to get promotion and distribution in all its forms sorted out at a global level…To cut a very, very long story short, this is the way that that it's increasingly going. (Ben Barrett, personal interview)

Another interviewee, Bruce Findlay, advances a similar approach to breaking his current act, Aberfeldy. Findlay places more emphasis than Barrett on the role of internet platforms on this process stating that:

> In terms of getting your music to would-be labels, agents, promoters, distributors who might want you – they can look at you, see what you're doing, hear what you're doing, see live concert footage, read what people are saying about you, read fans reviews and all in an instant on their computer screen. (Bruce Findlay, personal interview)

Ultimately Findlay concludes that these platforms are tools for engaging the interest of an established label. The role of these tools in bringing artists to the attention of major labels is also highlighted in my interviews with record company management and personnel. EMI's Willie Kavanagh and Sony's John Sheehan highlight MySpace as a key artist and repertoire (A&R) tool. A&R is the department in the record company charged with finding new talent.

Findlay and Fachtna O'Ceallaigh both compare the contemporary environment with that of the late 1970s when, at the outset of their careers in artist management, they were working to achieve an international breakthrough for Simple Minds and The Boomtown Rats, respectively. Both argue that while the range of promotional platforms available to bands and platforms has proliferated, these platforms operate on two levels: On one level, sites such as YouTube, MySpace and other online platforms serve to promote establish artists directly to their audience / consumer base; on the other level, these platforms serve to promote unsigned or independent artists and acts to the established music companies. Both of these long-established managers thus view the internet as an additional tool for attracting, and gaining leverage in negotiations with the major music companies. While technology has evolved to place a new range of media at their disposal, the process of breaking an artist internationally remains largely filtered through the same channels as it previously was.

Akin to Barrett's account of Damien Rice, Fachtna O'Ceallaigh pointed to the almost parallel trajectory of American recording artists Arcade Fire who, having achieved moderate success with two independent releases on the Merge record label in North Carolina, subsequently signed to Universal through which they achieved a major international breakthrough. O'Ceallaigh states that he is presently plotting a similar trajectory with one of his current artists, Lissy Trullie:

> …because, in my opinion her music has that cross-generational spread to it, there is a good reason for me to talk to majors. At a certain point there *is* still a very good reason to have that big machine by your side. (Fachtna O'Ceallaigh, personal interview)

Further emphasising the contemporary importance of engaging with a major label, O'Ceallaigh proceeds to state that there are:

> …two different layers to this industry – one huge, and the other one, this gritty underbelly that don't generate articles in the paper about what it's like to sit in a van going from Cork to Ballybofey overnight to play to 75 people and then getting in the van again and driving back down to Waterford to play to 150 people and keeping your dream alive. It's all well and good doing it once, or doing it twice, or maybe even doing it three times, but when it's three years later and you're sitting in the same van playing to the same people, even if the material is new… That's the reality of the thing. All of this talk about touring and internet sales and merchandising making it possible to do it yourself is fine, but no more than theoretical in a lot of cases…The reality is that there's a well-established path. (Fachtna O'Ceallaigh, (personal interview)

These accounts suggests that using the internet as the primary means for launching or promoting a recording is of limited benefit to independent artists. However an example frequently cited in the media as exemplifying the transformative affects of the internet on the sphere of music distribution is the album *In Rainbows* by the band Radiohead. Following the expiration of their recording contract with EMI, Radiohead initially released *In Rainbows* in late 2007 for sixty days only as an exclusive digital download that customers could order for whatever price they saw fit. Echoing the sentiments of a variety of media reports, *The New York Times* labelled this as 'the most audacious experiment in years' to increase the misery of 'the beleaguered recording business' (*New York Times* online, 9th December 2007).

I asked my artist manager interviewees if this independent, 'digital only' release provided evidence of the ability of the internet to enable artists to bypass corporate machinery. They unanimously responded that this example is illustrative of how the internet works most effectively as a promotional tool for already established acts. By 2005, Radiohead had already issued seven albums over a thirteen-year period on EMI labels Parlophone and Capitol records. This included hit singles and chart-topping albums on both sides of the Atlantic and reputed overall album sales of approximately 30 million units. As such, by the time they departed their record label and released *In Rainbows* exclusively via the internet, Radiohead were a well established international act. All eight artist managers that I interviewed argued that the successful independent launch of an album akin to the *In Rainbows* model requires the artist concerned to be an already established brand with significant marketing and promotional support behind them. As Fachtna O'Ceallaigh states:

> Radiohead's all well and good but that's not the Flaws from County Monaghan, or Director or whoever. Republic of Loose, look at them, where do they find themselves? They've put out a couple of records that have been acclaimed in Ireland and done very well. But they can't really get a sniff anywhere else. So what does the fucking internet mean to them? Fuck all.
> (Fachtna O'Ceallaigh, personal interview)

Likewise, Gerry Harford argues:

> Smaller bands can't do what Radiohead did. Internet or not, you still need the same package that you always needed. Everything is still fairly traditional in that respect.
> (Gerry Harford, personal interview)

Neither Radiohead nor its management have made public statistics or information relating to the number of downloads achieved or revenues generated from this experiment. It's launch, however, generated widespread media coverage and earned them exposure as a mainstream news story. *In Rainbows* was subsequently released for retail across a variety of physical and digital formats via licensing agreements with various major and independent companies in different territories.

8.5 Making 'hits' in the internet era

Section 8.3 of this chapter advanced the potential usefulness of blogs, online audio and video streaming services, social networking sites and other online music discussion and review platforms in assisting an emerging artist to independently generate a public profile. In this section I examine the key ways in which big-selling hits are achieved, and mass market audiences reached based on my interviewee materials. One of my questions for interviewees had initially sought to ascertain if the internet had evolved as a tastemaker for new music, and if so to what degree. While highlighting some potential benefits associated with social networking sites, interviewees almost invariably switched the conversation to the medium of (terrestrial) radio as crucial tastemaker. Television and music press were also highlighted, but only to signal their limited and diminishing effectiveness in the contemporary environment. These issues and related findings are elaborated on in the remainder of this section.

The role of internet tastemakers

Major music companies are generating revenues directly from licensing agreements with social networking sites, amongst other online and mobile platforms for music as was outlined in section 7.4. These same social networking sites form an important constituent element in the major labels marketing plans for new artists or fresh recordings. Sony's John Sheehan, EMI's Willie Kavanagh and Peter Jenner all explain that there are different routes to launching and promoting different types of acts. As Jenner advances, managing an artist or label 'is a bit like horses for courses' (personal interview). While many 'mainstream pop' artists are launched directly at a mass market audience primarily through radio, other acts, for instance singer-songwriters or certain types of rock acts will require a more long-term strategy. This means building a fan-base that was traditionally primarily achieved through the music press and specialised 'off-peak' radio programmes. While these intermediaries retain importance they state that this process is increasingly linked to blogs and social networking sites. For another interviewee, Jim Carroll, these sites have evolved as crucial 'word-of-mouth' mechanisms. While word-of-mouth once meant those peers in your immediate geographic environment, the internet means those that are potentially much more widely dispersed and significantly larger in number.

For Willie Kavanagh, these sites are now hugely important in reaching 'early adopters' who are the sector of the record consumer market that will 'actively seek out new music' (personal interview). Kavanagh proceeds to state that when 'pursuing' an early adopter group as a strategy for breaking a new act:

> …the internet has become a very big part of that…getting your message out there to the early adopter now, you have to infiltrate the Bebo generation and the MySpace group. These have been influential. (Willie Kavanagh, personal interview)

When I asked Kavanagh to elaborate on 'infiltrate', he explains that EMI Ireland have one full-time member of staff dedicated to generating online 'IDs' and profiles with the aim of joining and engaging with as many user 'groups' on social networking sites as possible and promoting EMI catalogue and artists within these groups of 'friends'. According to Kavanagh:

> He's got lots of IDs and will invite you to become a 'friend'…It's about getting the message to the small group, who then take the responsibility, because they become fans of the band, to expand that and get it to the next layer. It's like an onion, and we're only at the inner layer…Say in your info on Bebo you say you like Guns and Roses, and if we had a band that was a guitar band with a screeching vocal, we will send the robot in to everybody who likes Guns and Roses and say, 'I see you like Guns and Roses, why don't you have a listen to this' and we'll send them a link to something else. It's just getting people to sample it.
> (Willie Kavanagh, personal interview)

In essence, 'friendship' is being actively commodified. Kavanagh forwards the band Thirty Seconds To Mars as an example of an act that was successfully promoted in this way by his label. While at the outset the band had an extremely small fanbase, he outlines how EMI used profiles on social networking sites to 'increase the whole community base and try to broaden it as much as we could' (ibid). This process, according to Kavanagh, grew the bands fanbase exponentially and provided his labels 'pluggers' with significant leverage in promoting the band's debut album to daytime music radio programmers and producers.

> It was getting no radio play, but as soon as it became popular it got radio play and that takes it to the next level. Sales in August [2008] for Thirty Seconds to Mars saw a 500% increase for the sales in July, purely through such internet marketing at the outset. It is word of mouth, that's exactly what it is. (ibid)

While one member of Kavanagh's staff in Dublin is permanently engaged in 'infiltrating' online groups, EMI offices operating in different territories use other means of achieving the same end:

> There's lots of ways to do it…I had a meeting with a French counterpart not so long ago and they send robots into those sites, and robots will pick out the groups and friends. (ibid)

According to many interviewees, while the internet has evolved as a medium through which music is promoted by copyright owners and acquired by consumers, its various facets are in themselves unable to produce mass market sales of recorded music, or broader music revenues. This according to many of my interviewees still requires the intervention of a more traditional and long-established medium – radio.

The contemporary role of radio

As one interviewee states:

> …in our rush to believe in communications revolutions and digital revolutions we can overlook the importance of radio…It has certainly maintained itself in the contemporary music world. (Ross Graham, personal interview)

The extent to which radio may be measured as a contemporary active promoter of music is elaborated on by Fachtna O'Ceallaigh who states that:

> …there is huge evidence to suggest that radio sells records…The only way that a [artist's] first single is going to succeed is if BBC Radio 1 puts it on their playlist…played thirty-five times a week for six weeks or so – hit record. Second single, played thirty-five times a week – hit record. Put out the album – hit album. So there is a specific pattern…They release a record to radio and they desperately hope radio will play it and if they don't their record is buried.
> (Fachtna O'Ceallaigh, personal interview)

O'Ceallaigh has managed new and emerging acts to international success in the 1970s, 1980s and the new millennium and contends that the significance of radio to breaking an artist and selling records is common to all periods. He views online streaming sites such as Sirius and XFM as an extension of traditional radio and, while individuals may exercise control over the content they choose to listen to on these sites, argues that they form useful tastemakers. However, O'Ceallaigh and his managerial counterpart John Williamson were the only interviewees who dwelled on internet radio to any degree. Most interviewees failed to make reference to it as tool in promoting music and when I introduced the topic into our conversation, reduced its role to minor significance. Many perceived it as pursuit associated primarily with music fans who actively seek out music.

In his earlier comments regarding the trajectory of Thirty Seconds To Mars, EMI MD Willie Kavanagh advanced that creating a 'buzz' about an artist on social networking sites and other internet spaces provides significant ammunition to major labels in when it comes to plugging recordings in radio stations. In fact, for Kavanagh as for many of my other interviewees, these new and recent online taste-making sites are most effective as tools for engaging the interest of daytime radio programmers. Thus radio, one of the oldest mediators between record industry and audience, remains hugely significant to achieving commercial success. Based on his experience of working for London Records and Sony, Jim Carroll explains:

> You can quantify radio. Brian Adams, the music programmer at Today FM, has produced a private radio listenership survey. I've seen it. It's goldmine data…Radio is still the most important medium for the major labels. They fucking die where radio is concerned. It's radio, print, television, carrier pigeon and the internet. And it's in that order with radio leading by a mile…As far as the permanent establishment are concerned, radio is vital. That's it.
> (Jim Carroll, personal interview)

John Sheehan, former Chairman of Sony Ireland, illustrates Carroll's point during the course of our interview:

> This is very simple. If you don't get it on the radio you're not going to sell it. I don't care how good it is… One of the things you talk about when you're in the studio and they're mixing it is a radio mix. You're looking for a radio mix. You're looking for three minutes twenty-five seconds, and as you're listening you're asking 'will this work on contemporary radio'… And it's always been the same. That's not changed. (John Sheehan, personal interview)

The evidence from my interviews effectively describes a pool of intermediaries that has, in the words of Sheehan, become more 'cluttered and complicated' over the years. The positive within this for Sheehan is that there are now many more outlets, both traditional and new, through which music can be promoted and exposed than in former times. However, Sheehan validates Ben Barrett's claim that radio remains central by stating: 'Without radio, the others [intermediaries] don't work… It is fundamental to the whole marketing mix' (personal interview). This point is further emphasised by artist manager Peter Jenner who states that music magazines such as *Q*, that serve a larger, less specialised audience essentially follow the lead of radio regarding the acts that their editors choose to feature. He states that this is likewise for other lifestyle and celebrity-centred publications. According to Jenner:

> Why will magazine editors know that they should write about you? Because they've heard you on the radio. That's how it works. Radio play marks your output as being from someone who is *in the game*. (Peter Jenner, personal interview)

Jenner continues:

> …radio is still a pretty crucial thing…Look at the results…I mean nobody takes seriously a book that is released straight to paperback or a film that goes straight to dvd. Likewise, radio a sort of badge of honour in commercial terms. (ibid)

Willie Kavanagh advances a similar sentiment: 'Radio is crucial. Absolutely crucial in breaking any new artist or selling any established one'. Kavanagh explains how his label, EMI, also expend resources on marketing and promotion through various new and recent digital platforms such as social networking sites and blogs, and entering into cross-promotional alliances with online music stores and outlets. He describes the promotional process as 'a synergy' of radio, television, press, touring and all of the available online spaces, however he concludes that, of all of these intermediary spaces: 'Radio is number one by a landslide'. For supporting evidence, Kavanagh outlines the trajectory of The Plain White Tees, an act signed recently to a distribution deal on the EMI label:

> We had a huge hit with a band called The Plain White Tees who have a track called Delilah. It is disproportionately successful here compared to the UK or elsewhere. Two months ago, nobody here had ever heard of The Plain White Tees, now they've had a number one single and a number two album, and all of the back of their very first single which is very unusual…That's the power of radio…So still to this day, in any country in the world, and I'm including America very much in this, and the UK, there is nowhere in the world that I can think of where radio isn't the number one way to get your music heard and sold.
> (Willie Kavanagh, personal interview)

For another interviewee, music journalist and broadcaster Stuart Bailie, the plethora of radio formats for a daytime audience may essentially be broken down into stations that fit two broad categories: 'those for the housewives market with DJs that grow old with their audience…or they'll be more youth orientated' (personal interview). In the case of either, from a station manager's point of view, 'the persona of a daytime DJ is a lot more important than the musical content' in stating the persona of the station, so record companies will 'invest heavily' in accommodating radio programmers with records that fit 'the orientation' of the station (ibid).

Radio also remains a key priority for independent artists and music labels. For Danceline Records owner Eddie Joyce:

> Radio is the main way to let people hear a song. If people don't hear it there, for most, it's never really going to enter their consciousness to think of buying it…So that's why I think radio is so important. (Edie Joyce, personal interview)

For Joyce, and other interviewed independent label owners such as Dave O'Grady (Independent Records), Elvera Butler (Reekus Records), Petr Pandula (Magnetic Music) and Shay Hennessy (Crashed Music), their core stated problem in this respect is the difficulty in accessing the airwaves. For labels other than those operated by the four major music companies, lack of radio play is widely regarded as hindering their development. According to Elvera Butler:

> Whilst there might be more music infrastructure and outlets now, the situation has not become easier for alternative or independent music as the market has shrunk with the dominance of the major labels. The crucial factor in getting to an audience is broadcasting, but the problem of

> getting broadcast is more difficult than the problem of getting distribution…It's hard to do either without a major label. (Elvera Butler, personal interview)

For Crashed Music owner Shay Hennessy, launching and promoting an artist in the contemporary environment can be a 'nightmare' because there are:

> …so many angles that you have to hit. You've got the local radio stations, the national radio stations, television stations, the mass of print media that now exists, and all of the internet spaces. It's great in that you have so many opportunities, plenty of opportunities, but…radio is important…The big record companies take the approach that they have to get airplay and they go out and try to demand it…For a small company, this stuff breaks your heart, it really does. The number of artists that we've got and that we can't get played, just can't get played at all.
> (Shay Hennessy, personal interview)

Hennessy states that for the artists on his label, the pursuit of a music career remains a part-time activity due to their inability to generate sufficient revenues to sustain themselves through music. Achieving distribution through one of the major companies remains a key priority for Hennessy with all of his acts. Engagement with a major label, for Hennessy, is what will most readily open the door to mainstream radio airplay, other intermediaries and a larger audience.

The success of radio as a promotional tool relates to the fact that it is both pervasive and invasive, as many interviewees emphasise. Beyond the role of specialised music shows in helping to introduce new music to niche audiences, many interviewees highlight how the public are exposed to mainstream daytime radio in a range of both voluntary and involuntary settings. We experience radio in our homes, our cars, our places of work and various public and social settings. As Sony's John Sheehan puts it: 'Radio is everywhere' (personal interview).

The account of Ben Barrett regarding the success of Damien Rice is again highly pertinent here. Barrett attributes his success to one primary factor: the increased radio exposure gained following Rice's alliance to the Warner Records:

> I still fully believe that radio is the thing that did it for us. There is no way that we would have sold two million records without the singles that we had on the radio. It just wouldn't have happened…Radio is crucial…yeah, radio is essential. (Ben Barrett, personal interview)

Barrett proceeds to detail how having a presence on 'certain new media outlets' help in gaining access to a 'younger MySpace generation', but for the broad mass of 'people like us working in offices, commuting to work, shopping, driving or whatever, radio is absolutely key, because radio is everywhere' (ibid).

Barrett describes the 'before' and 'after' of radio for Rice on an imaginary graph illustrating Damien Rice's record sales trajectory. Prior to gaining access to mainstream daytime radio, she traces a slight gradual incline over a lengthy period of time. Post-mainstream radio playlisting, she traces a sharp, steep incline. She subsequently outlines how mainstream radio exposure opened the door to key television appearances and areas of print press beyond specialised music publications that would not have been available previously. As such, Barrett's testimony validates John Sheehan's claim that radio opens the door to other gatekeepers and taste-makers.

Aside from the promotional aspect of airplay for recordings as evidenced by these accounts from my interviewees, we must note that radio is also a direct source of revenue for both recording and music publishing companies. As noted in section 7.5, a growing music publishing market, of which performing royalties from radio-play feature as one of a number of core revenue streams. Equally, record companies benefit from the broadcast of their copyrighted recordings through licensing arrangements between broadcasters and phonographic royalty collection societies such as Phonographic Performance Ireland and the British Phonographic Institute. As John Williamson explains:

> If you get onto the A-list of a BBC station you are getting paid £80-90 per play and you are getting played forty to fifty times per week over a number of weeks, then this does add up to a lot of money. The publishers and the record companies get money which is possibly why they still pursue radio maybe more vigorously than proportionately they should.
> (John Wiliamson, personal interview)

Remixing for radio

While, in the case of the album *O*, Damien Rice initially, independently recorded the songs for the album, many of these tracks were returned to the recording studio on a number of occasions for modifying and remixing for different platforms and markets, but primarily for radio exposure:

> When we sat down with Warner's, there was absolutely nothing on Damien's record that would work on radio, no matter how good it was, so we had to remix the tracks for radio… They argued that people want to hear something with a beat, something with a pulse. They want to hear something that is a bit fluffy. So yeah, radio does dictate…And you know, even with the edits that we give them [Warner's], they'll shorten it, take bits out or whatever…
> (Ben Barrett, personal interview)

Barrett then outlines how these initial remixes only met with limited success:

> Radio pretty much still said no, and said no to many, many things. So away we went and did other remixes of the tracks. If they say no, you've just got to go back to the drawing board again…We had *Cannonball* [promotional single] released for the first time, and we had certain

> friends in BBC Radio 1 and Radio 2 that played it, but that didn't take it over the tipping point. So we had to go back and do another remix, and that one flew, it really took off on Radio 1, then Radio 3 and the other stations. In all of these cases it was the same songs we were working with, the very same ones we had started out with but were doing and re-doing…so I guess it's all a big game really [laughs]. (Ben Barrett, personal interview)

Barrett argues that the more formats, both physical and digital, through which a single or album is released these days, the greater chance of commercial success. It is important to 'cover all angles', and this frequently involves remixing Rice's tracks primarily for radio, but subsequently for use by DJs in nightclubs, for specialised genre-specific radio shows, for pitching at specific television and films productions, and also for a variety of different internet and mobile platforms.

The producer of the international release of *O* was David Arnold. Arnold is the long-established producer of global, multi-million selling acts such as Bjork, George Michael, Tina Turner, Joe Satriani, and other European-wide successful rock acts as The Kaiser Chiefs and Cast as well as artists such as Cliff Richard, Natacha Atlas, and Propellerheads. He is also a successful producer and composer of film and television scores and soundtracks, most notably all James Bond movies since the early 1990s. From Barrett's account, the willingness of Arnold to act as producer for Rice's album proved 'helpful' in engaging Warner's, and his contribution in remixing various tracks proved crucial in engaging radio producers and other intermediaries. In Barrett's account, all of this constituted 'the drawing board' they returned to for constructing a successful international release.

In many ways, the Plain White Tees trajectory resembles that of Damien Rice. From Kavanagh's account, the band, from Illinois, self-released two albums, Come On Over and Stop in the early years of the new millennium before the latter album was licensed to Warner label, Fearless, in the US, and subsequently remixed and relaunched. The recently successful album Kavanagh details in the above quote is Every Second Counts, which was recorded on The Walt Disney Company's Hollywood Records and distributed via Universal in the US and, in the case of Ireland, EMI. The track Hey There Delilah had originally been released in 2005 but failed to make an impression on the charts. The track was remixed by Ariel Rechtshaid, producer of such acts as The Hippos (for Universal's Interscope label), We Are Scientists (for EMI's Capitol Records), Taking Back Sunday (for the Warner Music Group) and Valencia (for Sony

Music Entertainment's Columbia Records). Rechtstaid's remix became a global chart hit.

Ultimately, according to Ben Barrett, amidst proliferating avenues for promotion and exposure, many established practices and continuities remain. When it comes to generating 'serious' revenues from music:

> …it's about hearing somebody on the radio… it's radio that really makes the difference…It helps you cross over to an audience that might not as individuals buy a whole lot of records, and it's access to a big new market. That's what radio is to us. (Ben Barrett, personal interview).

The contemporary role of television as a promoter of recorded music

The various accounts of my interviewees point to the relationship between television and recorded music being decidedly problematic. Television brings benefits to the record industry courtesy of licensing fees emanating from synchronisation rights, as noted in section 7.5. Yet, many interviewees argue that the use of specialised music television output has long since been decreasing in its significance to the promotion of recordings.

Within an Irish context, two popular primetime weekend RTE television shows form key targets in the marketing strategies of the major labels and other – *The Late Late Show* and *Tubridy Tonight*[14]. Julian Vignoles, a deputy commissioning editor at RTE, states that these outlets provide 'the only *real* opportunity for music on television here' as they broadcast to a large audience that encompasses the 'broadest possible' demographic (personal interview). However, Vignoles moves quickly to advance that the music output on such television shows is largely irrelevant to their success, rather, the audience the show commands makes these slots lucrative for record company executives. Along with the exposure gained through synchronisation on the international distribution of hit US dramas such as *The OC*, *Grey's Anatomy* and *Ghost Whisperer*, he contends that this is the one of the few areas where television works to promote music. Vignoles states that specialised music programming for television has 'had its day' and 'doesn't really work' in terms of audience:

> Music just doesn't work on television. Radio is still the king for music, compared to television. Even with Jools Holland on BBC2, they'll never chance it before half-eleven, and it has a tiny audience. It's a cool audience…but it's tiny. (Julian Vignoles, personal interview)

[14] *Tubridy Tonight* ceased production in May 2009 when its presenter, Ryan Tubridy, moved to become host of *The Late Late Show*.

Vignoles proceeds to outline how RTE research[15] indicates that the teenage audience-base categories that constituted the main target group of such output have largely migrated to YouTube and various internet sites where videos are streamed to access music video. He states that beyond this, the broad mass of potential viewership has little interest in music television.

Vignoles views are shared by many working within the record industry. Artist manager John Williamson advances that specialised music stations and output has been continually decreasing in importance over the past decade as its audience has 'rediscovered social networking…a more interesting way of finding out about music and sharing it with your friends' (personal interview). Ross Graham, Johnny Lappin, Jim Carroll and Jim Lockhart advance similar perspectives. Jim Lockhart states that the 'MTV generation…has stopped picking up stuff on television anymore' (personal interview). Stating that the 1980s and early 1990s saw specialised music television stations become prominent as sites for the promotion of music, their effect has long since dissipated with the output of such stations as MTV and VHI increasingly veer towards reality and lifestyle programmes.

Senior management at major record labels further emphasise many of the above perspectives. EMI MD Willie Kavanagh states that in the late 1980s getting promotional videos aired on MTV was crucial to breaking a record, particularly in America. Once it broke America, MTV Europe picked it up and 'then the whole ball started rolling' (personal interview). However Kavanagh and Sony's John Sheehan, amongst others, advance that the influence of music television has dissolved. While its effectiveness as a promotional vehicle for recorded music was confined to a specific period in time, it also produced limited results in terms of generating sales. As Kavanagh states:

> The whole message of video-play, because it was a great form of entertainment for a period of time, but it only produced relatively shorts spurts of consumption. Like, there was a programme here in the 80s called *MT USA* with Vincent Hanley. That was enormous, but only enormous with teen audiences. It was hugely influential in what sold across record shop counters to them. But they are only one part of the picture…Television just doesn't have the same punch as it used to. So it is absolutely radio. (Willie Kavanagh, personal interview)

In short, television is perceived by my interviewees as possessing limited potential for the promotion of recorded music. While limited 'prize' slots on primetime

[15] Vignoles states that both RTE television and radio services carry out both quantitative and qualitative research on a regular, periodic basis. Much data is garnered from focus groups.

chatshows and drama can bring artists and repertoire to mass audiences, specialised music programming output enjoyed a significant but very short-lived appeal before seeing its importance largely dissipate. Many interviewees perceive one-time specialised music television audiences to have gravitated to internet platforms.

The contemporary role of the music press

For most, the music press is viewed as having limited and ever-decreasing reach. Many interviewees reflect upon the 1970s and 1980s as a time when access to such specialised music publications was vital, particularly when it came to breaking a new act. While radio was also cited as the most influential tastemaker in making hits back then, Peter Jenner, Fachtna O'Ceallaigh, Bruce Findlay and others advance that the music press was a key mechanism for building an initial fanbase and bringing an act to the attention of radio. As Findlay advances, making the cover of the *NME* and *Melody Maker* was once 'a big statement', but that this is much less the case in the contemporary environment (personal interview). Findlay and others outline how significant record company investment was once directed towards securing 'cover story' status in such magazines as these. However, the dwindling size of the market for these publications is a reflection that this section of the music consumer market has gravitated else where and the interest of the record companies has accordingly dwindled. Some interviewees point out that blogs and online publications have replaced the dedicated music magazine for many consumers. This was noted earlier in Fachtna O'Ceallaigh's contemporary experience of working to break Lissy Trullie (chapter 8, section 8.3). Former deputy editor of *NME*, Stuart Bailie, describes a 'then' and 'now' scenario relating to specialised music press:

> You had these dedicated music organs like the *NME* around the late seventies and eighties selling 300,000 copies a week. It was almost absurd. That was incredible. It was called the music business bible and it almost had that authority about it, to make and break reputations… When I arrived in London [in the mid-1980s] there were *New Musical Express*, *Record Mirror*, *Melody Maker* and *Sounds*…The turnover was immense in those days…The *NME* do about 60,000 per issue these days. That used to be 300,000. (Stuart Bailie, personal interview)

Bailie then proceeds to outline the demise of *Melody Maker*, *Sounds*, pop magazines like *Smash Hits*, hard rock publications like *Metal Hammer* all went out of business, and *Record Mirror* was assimilated into *Musicweek*. Bailie highlights how all of these changes have occurred since the arrival of the internet. While not laying the blame for the demise of these once significant tastemakers solely with the internet, he advances:

> In an environment where they were increasingly under threat, the music press have done a very bad job of safe-guarding their own reputation. Tabloids, pop and lifestyle magazines were all taking slices of their market, and then the internet came. And that was that. So by and large, that era of the rock bible has been over since the 1990s. (Stuart Bailie, personal interview)

Music magazines with a commercial life in the contemporary world are perceived, by some interviewees, more as lifestyle magazines pitched at an over-30s market than specialised music publications. While these magazines are hugely important sites in terms of advertising and promotion, they write about already successful artists and material. As Bailie again states:

> ...magazines like Q and Mojo are about re-selling the sixties and the seventies to a new audience, so the service the major record labels in this respect. All very consumer-orientated. They fall into a cluster of broader print publications that follow that demographic, that older consumer.
> (Stuart Bailie, personal interview)

In the case of newer acts, as Peter Jenner and John Sheehan most notably advance, these magazines will follow radio.

In the case of *Hot Press*, Jackie Hayden boasts of significant coverage given to new or unsigned acts, particularly Irish acts. However he also states that the ‘cover’ of the magazine is vital to generating sales, therefore the face on the cover must be already familiar to a potential readership. As with many of the UK publications, Hayden states that his magazine now has a reduced but hardcore readership and also ‘keeps afloat’ by the fact that it is only available online through paid subscription.

In summary, while interviewees point to the dedicated music press as having once been of immense importance to both established and emerging artists, and major and independent labels, that has now diminished considerably. The music press retains significance in terms of the overall ‘plot’ outlined by Ben Barrett and Fachtna O’Ceallaigh earlier in this chapter to bring new acts to the attention of major labels or distributors. However regarding its effectiveness at helping acts reach a wider audience, the role and potential of dedicated music press is now quite limited compared to previous decades.

8.6 Concepts of the consumer in the internet era

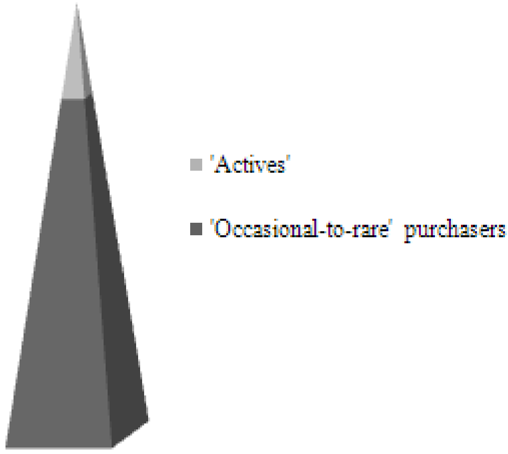
Within the context of this highly concentrated recorded music market it is worth considering the contemporary consumer base. Accounts in chapter six detailing various causal factors producing the decline in recorded music sales over the past decade raise issues around evolving consumer practices and trends. Arguments in particular around the proliferation of file-sharing and the illicit circulation and duplication of recordings as well as shifting formats imply important changes in the realm of consumption. The remainder of this section is dedicated to examining concepts of the contemporary music consumer based primarily on the accounts of key informants within and around the music industries.

The record buying public can be seen to comprise of ‘actives’ and ‘passives’ according to some of my interviewees such as ex-Virgin Ireland MD Dermot Hanrahan. From his experience in the record industry and in music radio, Hanrahan argues that the actives tend to be predominantly male in the 15-35 age bracket, highly literate, ‘disproportionately well educated’, heavy readers and heavy consumers of movies. Hanrahan is at pains to point out that the ‘actives’ represent a small minority of the overall music consumer market and they largely move in homogenous circles:

> There are people who comment on the industry, who are interested in or work in or around the industry like myself, who *do* collect music, who *are* interested in music, who *read* about music, who want to know the names of band members. But *most* people don’t. *Most* people aren’t like that. *Most* people couldn’t give a flying fuck. (Dermot Hanrahan, personal interview)

Hanrahan describes the market for recorded music as a ‘consumer pyramid’, of which ‘a small wedge’ at the thin end is populated by the small minority of actives, while the bulk of the pyramid is occupied by ‘occasional-to-rare’ purchasers of music. He continues:

Fig. 8.3: Virgin 'consumer pyramid' model



A typically Irish home has a chipped Sanyo sitting in the corner that was bought ten years ago on hire purchase. There's seven or eight albums leaning up against it, there's probably Phil Spector's Christmas, a U2 album, probably a Michael Jackson album, a Now That's What I Call Music and the little brothers Arctic Monkeys album. That's a typical Irish home. These are typical music consumers. They have no interest in who produced the album. They don't even know there's such a thing as a producer on the album. They have no interest in that kind of stuff, but they are a much bigger force to be reckoned with than the actives.
(Dermot Hanrahan, personal interview)

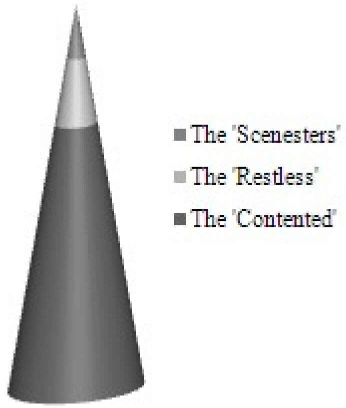
Hanrahan qualifies this latter comment by highlighting how the occasion-to-rare purchaser constitutes by far the greatest share of the consumer pyramid. By their sheer numbers, this consumer group are hugely significant to the record industry.

> Most Irish people visit a record store twice a year. Usually both visits are within ten days of Christmas. 50% of those two visits are to buy something for somebody else. This is far more typical of how the record business works, than the *Hot Press* reader or the *NME* reader or *Q* reader who knows their music and is in on the day of release. These people are *not* the public. The twice a year guys are. (Dermot Hanrahan, personal interview)

Hanrahan further argues that radio stations that 'kowtow to actives' will win critical acclaim, but will quickly go out of business as such a policy only serves to alienate the greater percentage of the potential music-listening audience. Hendy's (2000) analysis of the re-branding of BBC Radio 1 as the promoter of Britain's regional music scenes during the mid-to-late 1990s offers support to this contention. The key point, however, to be gleaned from Hanrahan's evidence is that the music buying public comprises of a consumer base that extends far beyond the boundaries of the 'music fan'.

The music consumer scenario outlined by Hanrahan is repeated elsewhere by other key interviewees. George Ergatoudis, Head of Music at BBC Radio 1, describes a 'music industry cone model' operating on a similar basis. This cone model, which is used by BBC Radio 1 in devising its programming output, is divided into three distinct segments. Radio 1 define the thin narrow end of the cone as the 'scenester' segment.

Fig. 8.4: BBC Radio 1 'consumer cone' model



This, according to Ergatoudis, is a group of up to ten thousand people in the UK that effectively create the domestic music scene – i.e. tastemakers. Within this group he places artists; music industry professionals across recording, publishing and live sectors, as well as other related fields; people that edit or work on music magazines and online sites; and music broadcasters.

This is the group that Radio 1 define as creating, nurturing and driving music consumption and consumer scenes across the UK. According to Ergatoudis:

> …this group is definitely about carefully balanced reflection, and leading… There is no question that there is an element of subjectivity to this, about who are the most exciting, innovative, relevant, interesting new acts, and then gauge that and follow it and work with it.
> (George Ergatoudis, personal interview)

Beyond 'the scenester' end of this cone model, we move into what BBC Radio 1 define as 'the restless' segment. They place 'a few' million people in this category. This group represents the segment of the music consumer base that is actively interested in finding music, i.e. the active music fan:

> They are the ones that listen to Zane Lowe. They are the ones who read the NME, Q Magazine or whatever. They are active music fans. They go out to gigs. They like telling their mates about new bands or new artists but they are not people initially driving or nurturing the scene rather they are the next wave… Now those are the people who listen to BBC Radio 1 to some degree in daytime, and enormously so in our specialist night-time output.
> (George Ergatoudis, personal interview)

For Ergatoudis, this group represents a significant, but relatively small minority of the overall music radio listenership / music consumer market.

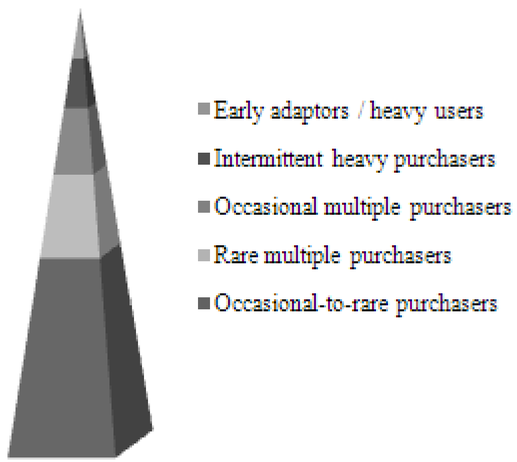
The final segment of the cone model consists of what Ergatoudis terms as 'the contented'. This segment, at the broad end of the cone, represents the mass market and covers by far the greatest section of the music listening / consumer base. According to Ergatoudis:

> Many of these will probably never listen to the new Radio 1…They will find Radio 1 ultimately too challenging because we cover too many genres, play too much new music, and they will find us a difficult listen. (George Ergatoudis, personal interview)

However, for Ergatoudis, this segment of the music consumer market is 'most representative' of the record buying public. They are most likely to choose a classic hits / top forty format radio station to listen to, and will occasionally purchase recordings. Again, as Ergatoudis explains, it is the sheer size of this market segment that makes them so significant to the music industry and also the commercial radio sector.

As with Dermot Hanrahan, EMI Ireland MD Willie Kavanagh employs a pyramid to describe how EMI conceive of their consumer market. However Kavanagh outlines a more complex consumer pyramid within which there exists a variety of different levels of consumer categories. Kavanagh informed me that when he became chief-executive of EMI in the early 1990s he commissioned extensive research on the make-up of the recorded music consumer market in Ireland. This led to the construction of the consumer pyramid model which EMI Ireland update and upgrade on a two-yearly basis.

Fig. 8.5: EMI 'consumer pyramid' model



The broadest consumer sector at the base of the EMI pyramid consists of the once or twice a year purchaser. These consumers almost exclusively purchase an already-popular recording, oftentimes compilations released for the Christmas market, existing *Greatest Hits* or *Best of* packages, or contemporary chart albums.

Towards the tip of the pyramid, EMI place the 'early adopters' who are 'heavy users' of music that purchase regularly (i.e. on a weekly basis, or more). This group acquire music, both new and old, across a wide variety of record genres. The methods of consumption employed by this group include physical music stores, second-hand music shops, digital music stores (e.g. iTunes), electronic mail order stores (e.g. Amazon). Consistent with the accounts given by Dermot Hanrahan and George Ergatoudis, they are heavy consumers of music-based media in print, broadcast and electronic forms. Kavanagh further state that this sector of 'active' music fans incorporates an increasingly wide age range. Although significant in the process of breaking new acts and making certain types of new acts accessible to a broader market, this group do, however, represent a small minority of the overall population of the EMI consumer pyramid.

However, a range of consumer bands gradually expands outwards from early adopter / heavy users to the once or twice a year purchasers. As Kavanagh proceeds to explain: ‘It’s not just divided into two. It’s not just early adopters and the rest, or music ‘heads’ and the rest. That ‘rest’ is made up of quite a few parts’ (personal interview). Below the frequent heavy purchasers of music come the intermittent heavy purchasers, i.e. individuals that buy music on a regular but ‘relative infrequent’ basis (i.e. approximately monthly). It is not unusual for consumers within this band to acquire two to three items each time they purchase. Below this in the pyramid there exists a significantly larger grouping who make multiple purchasers on an occasional to rare basis. According to Kavanagh, this consumer band represents:

> …a more recent phenomenon…and [an] interesting bunch of people out there right now who might only buy records twice a year, but they do a multiple purchase thing where they might walk in and buy ten albums…I’m one of them myself. They mightn’t buy music for two or three months or more, but when they walk in they buy everything they meant to buy for the last three months…We do research on a regular basis as to who is buying what, what influences them and how to get to them blah, blah, blah. They way to get to the multiple purchasers is to somehow encourage them to get into the shop every now and again, and when they do they’ll buy around them. (Willie Kavanagh, personal interview)

Once again, below this group in the pyramid lie a variety of types of occasional purchasers including those who visit physical and/or digital retail outlets occasionally and purchase (often multiple items) on each visit; those who visit occasionally and sometimes purchase; and those who visit occasionally but rarely purchase. Then at the bottom of the pyramid lies the broad mass of people who buy an album once or twice a year. So, as Kavanagh concludes, ‘it doesn’t hold true that there are just two types of consumer, it’s a multi-layered thing, and there are multi-layered awareness levels’ (personal interview). In the views of the three above interviewees, the general rule of thumb regarding methods of purchase is that the further down the pyramid you go towards the broader consumer bands, the less likely digital (i.e. online or mobile) purchases become.

Former Sony Music Ireland chairman John Sheehan provided a similar but somewhat cruder conception of the music buying public courtesy of his description of a consumer 'triangle' which, as with the Virgin, EMI and BBC Radio 1 models, placed a small band of 'serious music buffs' and the thin end of the wedge, with a broad mass of occasional-to-rare purchasers at the base. The latter are the most significant for the music business. As former independent record label owner and retailer Bruce Findlay puts it:

> I've been in the business all of my life…Who is most important? The guy with the big stack of records? *Personally*, yes, I'm a lover of music junkies. But who is most important to my *business*?...There is culture, and then there are the cultural industries, the business of culture. Now, the business of culture can fuck it up big-time, but equally the business of culture can get the music spread…So the business of culture needs the biggest audience possible.
> (Bruce Findlay, personal interview)

For artist manager Frank Murray, the mainstay of the record industry has most often been ephemeral pop acts that sell to a mass market of occasional buyers. For Murray, this consumer band is largely uncritical and by virtue of the fact that the people within it only purchase music on very rare occasions, it is the easiest market for record executives to satisfy:

> For boybands and pop acts there is nothing indepth to say. Bouncy, cheery songs. You could review the whole Westlife catalogue in two paragraphs…[but] they sell millions of albums…It is the same in any of the arts. Barbara Cartland sold millions, but will I read any of her books? No. Was she a great boom to the publishing industry? Yes. So you have the Westlife's, the pop acts…For record company executives, it's like selling water in the desert, and this is the stuff they are interested in…They're after the housewife who goes out and buys two copies and you don't see her again until next Christmas. (Frank Murray, personal interview)

Murray emphasises that it is not essential to sell to this mass market in order to achieve commercial success, however, it is this segment of the consumer base that generates the biggest hits, essential to sustaining the major labels.

Such a picture of the recorded music consumer market as gleaned from the combined accounts outlined above complicates the view of a market decimated by illicit downloading. If the implication from many media and industry accounts is that file-sharing is widespread and thus having a detrimental effect on the record sales, the suggestion from the above consumer profiles is that it is *most likely* the preserve of niche or minority groupings located towards the narrow end of the models illustrated where 'actives', 'early adopters' and 'the restless' are located.

8.7 Chapter summary

This chapter has highlighted a number of key characteristics of the contemporary recorded music market. There remains a high concentration of power in the recorded music market with four major record companies continuing to dominate the marketplace. For independent record companies, access to this marketplace is largely and increasingly mediated through the major companies, with the distinction between both parties becoming more blurred. In short, the power of the major labels has intensified. Recent and emerging digital technologies and internet spaces provide new opportunities for unsigned artists and wholly independent labels (i.e. those not connected to the corporate sector) to generate a profile at retail level. However, this access is largely restricted to 'peripheral' markets as the resources and relationships vital to accessing mainstream or mass markets remains under the control of the main corporate actors. This is most vividly illustrated through Ben Barrett's account of the career of Damien Rice where they sold records in tens of thousands based on the utilisation of both traditional and new promotional tools. However moving this into a mass market with sales of hundreds of thousands and millions of units required of necessity, the distribution links, marketing resources and access to key 'intermediary' spaces (predominantly daytime radio) provided by a major label.

The research findings indicate that internet platforms for the promotion of music essentially work on two levels: on one hand, they function as platforms through which already established artists access their fanbase; on the other hand, they serve as a platform through which independent artists and labels compete, less for the attention of a mass audience, but more for the attention of a major music company that can provide them with the resources to access a larger market. What is key to note here is that the research findings indicate that while digital technologies have provided a new range of platforms for the promotion of music, the process of breaking an artist internationally remains largely filtered through the same major-industry-controlled channels as before.

Furthermore, in the 'internet era', it is radio, one of the oldest mediators between record industry and consumer, that holds the position of most influential tastemaker. Finally, this chapter advanced the perceptions held by those working within and around the record industry of the contemporary recorded music consumer market. Most interestingly, the findings here suggest that the largest and most significant band of consumers as identified by my interviewees (i.e. those who make rare or occasional purchases) are among those least likely to engage in file-sharing.

Chapter 9: Discussion and Conclusions

9.1 Introduction

This chapter presents the major conclusions of this doctoral research study and engages more explicitly with the prior literature and the theoretical issues and conceptual frames discussed in the opening chapters of the thesis.

The previous three chapters described the main trends and findings from my primary research grounded (or derived) primarily in the perspectives, and invaluable tacit knowledge, afforded by my interviews with thirty-nine key informants – all of the current or recent actors from across the spectrum of music economy sectors or related spheres of activity. Some have been active over a number of decades, thus providing historical context to the insight and perspectives they offer. Many have been actively involved in more than one sphere of music industry-related activity throughout their career, thus the perspectives advanced are frequently shaped by a 'cross-sectoral' experience. Overall our findings so far clearly suggest that the evolution of the music industry since the advent of the internet as a major new communication platform is a much less straight-forward process than the mere story of decline in the face of novel file-sharing technologies as so frequently circulated via popular media and by other, often highly partial, sources.

Given the trends, perspectives and issues that have been described in chapters six through eight, it is now necessary to distil and reflect on how they relate to the initial research questions as well as how they relate to the theoretical perspectives outlined in earlier chapters. Thus, this chapter seeks to re-examine the key trends and issues described above by explicitly relating them to the theoretical frames and concepts identified in the earlier chapters of this thesis. In sum, the chapter will reframe the findings so-far in terms of the theoretical and conceptual frames afforded by the relevant academic research literature in order to yield a more intellectually robust and strategic understanding of the key contours of change (and of continuities) in the music sector.

Ultimately this chapter contends that the music industry has indeed undergone a complex set of significant restructuring processes during the past decade. These changes primarily stem from the diffusion of internet technologies and other digital applications that have evolved to produce both threats and opportunities, particularly with regard to the record industry. However, the evidence collected posits that the changes that have occurred are not determined by technological developments. Rather they represent a restructuring and reconfiguration of the broader music industry based on strategies designed to 'manage' the outcome of technological innovations or negate their potentially harmful effects on the established industry's core centres of power.

9.2 Convergence of music industry sub-sectors

Music industry consolidation has resulted in the convergence of the various music sub-sectors, as will be indicated throughout this section. This process has seen five major multi-national corporations come to share dominance of all music industry sub-sectors. What were until recently largely discrete but related music industry sub-sectors have now become synergised.

This research underlines the value of reframing the music industry as a horizontally-integrated chain of sub-sectors where record companies, publishing companies, live industry actors, and music merchandise companies all fall increasingly under the umbrella of a small handful of trans-national entities. In this light, my research paints a significantly different picture of the music economy than that commonly illustrated in media reports that focus purely on the fortunes of the recorded music sector. It indicates how the largest players in the music industry draw revenues from an increasing variety of streams across diverse sub-sectors and how such shifts allow them to spread losses incurred from any downturn in record sales across a broad line of activities. It also brings profits from a much wider range of sources increasingly under the roofs of a small handful of super-powers. While traditionally, record and music publishing companies have existed under the one roof, the merging of these sectors with the live sector as well as merchandising is a recent phenomenon. In addition to the four major record companies having sister companies dominate the music publishing marketplace, these companies are now significant players in the live and merchandising sectors. Given the rapid expansion of the world's largest live music actor, Live Nation Entertainment, into the spheres of recording, publishing and management, this research describes a situation where five corporate entities dominate all spheres of music industry activity globally. Furthermore, the evidence from the primary research (as reported in chapter eight) clearly points to the increasing blurring of lines between major and independent recording companies. Indeed the evidence gathered in this research study suggests that it is almost impossible for an independent label to enjoy a commercial life with being allied to or supported by one of the major labels and that many apparent independent labels are in fact 'majors in disguise'. This, in turn, clearly implies an ongoing centralisation of power in the music industry over a decade into the life of the internet as a mechanism for distributing and promoting music.

In essence, these research findings highlight the major limits of techno-centric analytical frames when it comes to understanding the evolving structures of the music industry. A decade after Kelly predicted 'new rules for the new economy' and fourteen years beyond Negroponte's assertion that no longer would the media corporation hold dominance in the marketplace, all music sectors have grown more concentrated. The only significant threat to the position of Sony, UMG, WMG and EMI in the recording and music publishing sectors comes from a Clear Channel Communications spin-off that had already quickly grown to monopolise the live music sector. Far from the diminishing of corporate and the dismantling of corporate structures, the dominance of the few has expanded and intensified. Such an outcome resonates much more intensely with Winston's model where the 'great corporation as the primary institution of our society' countervails the disruptive potential of technology on existing power structures.

The integrating live music value chain

My research reveals rather similar trends unfolding in the live music sector – the one sub-sector of the music industry that traditionally has not experienced the same level of vertical integration as the record industry or music publishing industry. While a small handful of global touring agents dominated the international touring sphere, and live music promotion was dominated by a small number of players in each country or territory, from the point of view of ownership these specific activities remained unrelated. As such, the live music industry chain comprised of separate and discrete actors at the various stages of the process linking artist to audience. As noted in chapter

7.6, concomitant with the growth of this sectors economic value, the live industry has also experienced rapid vertical-integration over the past half decade. While, in terms of revenue, the live industry has become more and more lucrative, the various stages in the vertical chain have rapidly integrated. This is illustrated most vividly by the merging of Live Nation and Ticketmaster to form Live Nation Entertainment, thus providing one dominant actor with control over touring rights, promotion, ticketing, venue operation and all other ancillary revenue streams surrounding the live industry. This research indicates how we must also consider this in the context of music industry convergence where all sectors / services including artist management, recording, publishing, live, merchandise and other are controlled and administered from the one source. In this light, the live music industry has developed a more integral role in the activities of the music industry's largest actors and has moved closer to the heart of the industry's economic action.

Re-conceptualising the recording artist

In light of the industry restructuring processes outlined above, the recording artist has been repositioned or re-conceptualised as a universal source of revenue for one central rights holder. This is best exemplified through the evolution of 360-degree deals whereby all revenues generated through the exploitation of artist copyrights, trademarks, patents and other are funnelled back to the same corporate entity.

In essence, the major corporations embrace of 360-degree deals effectively serve to sidestep any downturn in recorded music sales revenues. For copyright owners, recorded music sales now forms the source of one set of potential revenue streams alongside music publishing, touring, merchandising, sponsorship and other. The fact that touring agents and live concert promoters have been moving into the spheres of recording and publishing, and that record companies have moved into touring and merchandising illustrates the creation of a new industrial paradigm a decade into the internet music economy.

This research points to how ongoing processes of vertical and horizontal integration in the music industry have facilitated the evolution of artist-label deals that involve studio recordings, music publishing, touring, television and film projects, merchandise and, essentially, anything that is licensable and that can make gain from the brand of the artist. As such, the twenty-first century recording artist is now conceived as all-encompassing bundle of rights where all artist-related exploitation ultimately channels all revenue streams back to one overall rights owner. While recording and music publishing have long-since been siblings, the introduction of live rights, merchandising, management services and other artist-related rights are recent introductions to the same family. This illustrates how record labels, live music actors and investors have changed the business of underwriting recording artists. With a sole actor in charge of all aspects of rights, risks are now being hedged against all facets of an artist's entire career rather than different actors controlling each discrete industrial strand of activity.

With many established recording artists signing all rights over to one of the major industry actors for hugely lucrative lump sums up front their long-term income from copyright exploitation and other sources is guaranteed to either Live Nation Entertainment or one of the four major record labels. The significant growth of live music markets in recent years means that Live Nation, the core actor in this sector, is increasingly able to offer huge advances to established artists to encourage them to surrender their 360-degree rights. However such activities are not just the preserve of already established hit-making artists. These 360-degree developments make smaller acts increasingly lucrative to major labels. While, for smaller acts, no single revenue stream may be sufficiently significant to attract the attention of a major company, the potential for an act's combined revenue streams to generate profit makes them a more lucrative proposition. As noted in chapter seven, Belle and Sebastian, the band managed by interviewee John Williamson, provide an example here. While 'superstar' artists such as U2, Madonna, Jay-Z and Prince have all reportedly been able to command advances of up to US$100m for the surrender of their 360-degree (or 180-degree in the case of U2) rights to Live Nation, lesser established artists may well lose out to the benefit of one of the major corporate actors as revenues that were once, frequently untouchable by record labels, such as music publishing royalties – both performance and mechanical, touring, merchandise, image and other, now become open revenue sources. With the same actor owning every potential revenue generating source, the potential exists for conflicts of interest to arise that may affect viable income for artists [this is dealt with in greater detail in the next section of this chapter]. The established music companies, the dominant live music industry actors, and their merged and allied entities are the key winners in these developments as, in many cases, they now own every viable revenue stream an artist has.

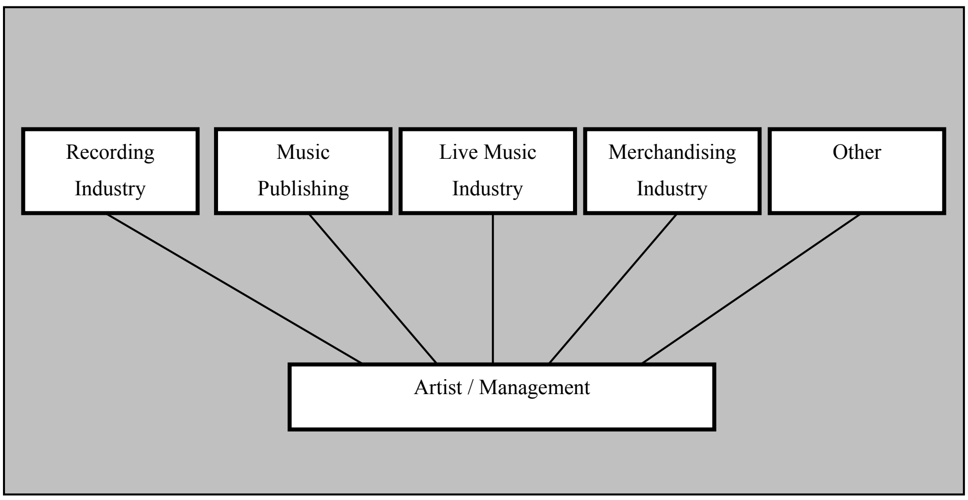
The level of advances offered to some of the world's top revenue generating artists indicates that Live Nation have the ability to leverage superstar acts away from the top four music companies. While this means that hugely lucrative recording and publishing revenues are now being diverted away from their traditional 'big four' owner, the underlying oligopolistic power structures are nevertheless being strengthened, not diminished.

In addition to copyright, 360-degree deals means that trademarks and patents now play an increasingly significant role in overall revenue generation. When any actor in the industrial chain can avail of the 360-degree business model with a recording artist, the entire *brand* of the artists becomes securitisable as the actor is no longer dependent on just one of many revenue streams as has traditionally been the case. *All* artist related rights are owned by the one actor.

A new music industry model

In essence, such developments as described in this research indicate a reconfiguration of the music industry, away from the discrete but related sub-sectors model, and towards a more thoroughly integrated and networked model. Fig. 1 below illustrates how a recording artist has traditionally experienced individual relationships with each music industry sub-sector.

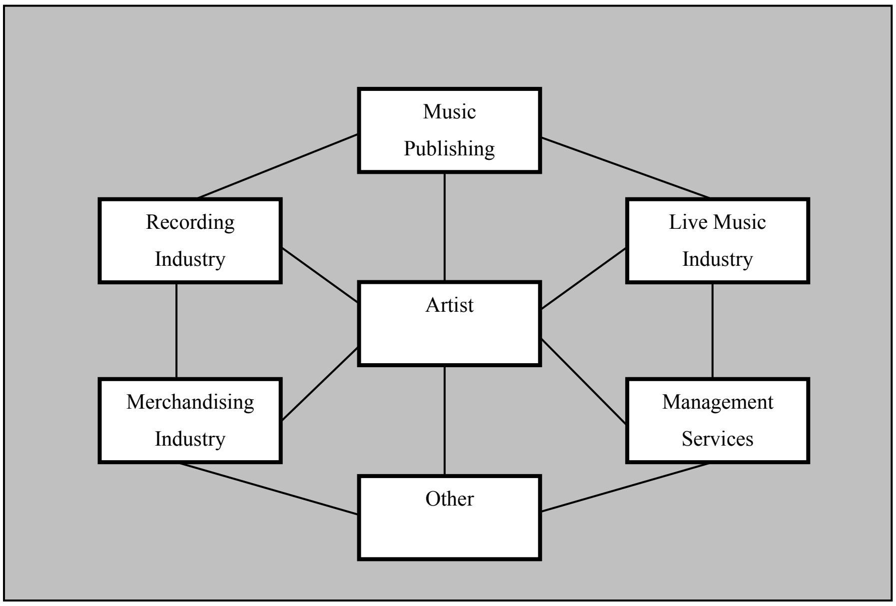
Fig. 9.1: 'Former' discrete but related music industry model



The music industry formerly comprised of related, but nonetheless discrete sub-sectors. However, a symbiotic relationship had long-since existed between these various industry sub-sectors. Record industry investment has provided the ‘hits’ and ‘stars’ that have been the mainstay of the live music industry, which in turn has promoted recordings, sold merchandise, and generated performing royalties for music publishers. The record industry has also generated ‘mechanical’ royalties for publishers (through the use of their copyrighted repertoire on their recordings) and, music publishers have marketed and licensed their catalogues to a host of users which has in turn generated licensing revenues and sales for record companies. This symbiosis has not altered. What has changed, as fig. 9.2 below indicates, is that these discrete but related activities have been streamlined under a central power whereby revenue channels deriving from activities across all sub-sectors increasingly lead back to one corporate entity.

This development holds significant implications for recording artists, particularly new or emerging acts. In the former instance, while existing largely as discrete sub-sectors, an actor in one sphere are best served when an actor in another sub-sector moves most efficiently to promote and sell their interests. For example, it is in a music publishing company’s best interest to have a record company produce, distribute and market a recording as effectively and efficiently as possible, because once the record is being marketed, sold and used in the public domain, it is generating publishing revenues. Likewise, a record company will want a touring agent and live promoter to provide promotional concerts ensure that the artist gets, to quote my interviewee, Keith Donald, ‘the right gig, at the right time, in the right place’ as this has traditionally been viewed as a key mechanism to generating record sales. Within these processes, the artist has most usually been represented by a manager who is charged with getting the best return possible for his client in dealing with all of the other actors. While, as noted earlier, those companies providing recording and music publishing services to an artist have sometimes operated under the same roof, many artists avoided the pitfalls of ‘cross-collateralisation’ by signing recording and publishing deals with different companies. Achieving mass market access and ‘hits’ did not require an artist to sign all rights over to one actor. Rather, the artist was often signed to different companies to fulfil recording, publishing, live and merchanding functions.

Fig. 9.2: 'New' converged music industry network

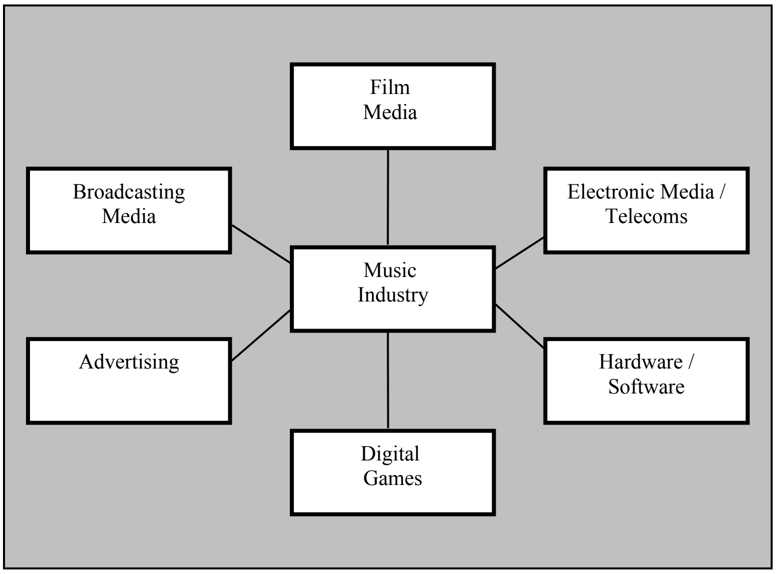


However, as fig. 9.2 above indicates, 360-degree artist deals are made possible by the ongoing convergence of music industry sub-sectors. Some of the literature reviewed in chapter 4.7 (e.g. Chapple and Garofalo, 1977; Garofalo, 1999) highlighted a historical trajectory of convergence 'within' the record industry itself. This research has provided extensive evidence (see chapter 8.2) of an intensification of this process in recent times with the record market becoming increasingly concentrated, and the distinctions between independent and major companies becoming more and more blurred. It is within this model that the role of the recording artist has been reconceptualised. Such developments serve to place the recording artists at a distinct disadvantage. With all roles and functions administered from under the same umbrella, the potential for the artist's interests to be (albeit incidentally) promoted by independently standing industry actors applying pressure to each other in their own self-interest, has evaporated. As evidenced from various interviewee accounts in chapter 7.8, the position of the artist in dealing with this 'converged' music industry network is thus significantly compromised. This is particularly so in cases where artists sign management clauses in 360-degree rights thus assigning management service duties to the same entity as owns all other rights. As such, the traditional marriage between artist and manager is undergoing separation with the evolution of this new, converging music industry model. This is most starkly illustrated by the fact that Live Nation Entertainment provides management services for in excess of two hundred major international recording artists (see chapter 7.6). The artist increasingly has representation 'within' the music company he/she is signed to, as opposed to external independent representation.

This research further highlighted the increased tendency of media corporations towards synergy to combat the effects of the economic downturn of the 1970s/80s (see chapter 4.7). With this, opportunities to simultaneously market and sell the same product across a variety of platforms expanded. Chapter 7.4-7.6 all indicate the further intensification of such synergies in the wake of digitalisation. We considered how the parent companies of major music companies own holdings in other areas of media. Alongside these processes, we outlined how music companies are engaged in an ongoing process of forging alliances and indeed gaining a stake in the ownership of online and mobile content platforms. What must be noted here is how copyright law has been used as the mechanism to incorporate new digital platforms that have emerged into this synergy. As chapter 7.4 illustrated in the cases of platforms such as Vevo, YouTube, Imeem and MySpace, the major music companies first sued, then settled with the sites. They then signed licensing agreements with them for the use of their content and finally, they acquired an equity stake in the company.

The internet and mobile music value chains consist of a wide range of companies and the industry trends show that the actors are converging in order to compete for a larger share of the value chain. However the recorded music distribution chain is less than transparent given the constant development of new digital distribution partnerships and business models. As noted, initiatives such as Nokia *Comes With Music*, Orange-Sony Ericsson's *Let's Go Mobile* music partnership, EMI-SendMe's mobile music alliance in the US and other similar developments serve to highlight music as a key enabler within the mobile entertainment sphere. As chapter 7.8 indicated, more intense alliances have formed between music companies and the technology companies that in many instances supply the consumer electronics and hardware that the record industry claims are a primary cause of damage to its welfare. Arguments that digital technologies are killing the record industry might thus be more accurately defined as successful attempts at legally securing a claim to these technological platforms as distributors of the major music companies' copyrighted content.

Fig 9.3: Media synergy: secondary revenue sources for music



Again, the fact that it is now increasingly converged music companies that form part of this synergic network means that more of the benefits accruing from the exploitation of copyrights, patents and trademarks via these proliferating media channels are directed to an increasingly smaller group of bigger companies.

Another important aspect of the restructuring processes arising from this research comprises the increased blurring of the distinction between sites of promotion and sources of revenue. The research indicates how potential sources of revenue for the music industry have expanded with, for example, the increase in terrestrial broadcast space and the proliferation of cable, satellite and digital radio and television channels over recent years. This means first, more dedicated airtime for music, second more television programmes licensing music, and third, more advertising that increasingly licenses music from the industry's major suppliers. Suppliers here, as we have earlier noted, means two core music industry sub-sectors: recording and publishing. Beyond this we have shown how the film industry, the digital games industry and a multitude of online platforms of various natures increasingly license recorded music [or, perhaps more appropriately, are increasingly forced to *legally license* recorded music] from copyright owners. All of these sites serve to promote music recordings, and all of these sites are equally sources of direct revenues for music labels. As we have established, the most significant owners of recording and publishing copyrights, i.e. Sony, Warners, EMI and Universal have now become evermore industrious and assiduous in marketing their wares for license to all of the afore-mentioned users of music. These developments also point to an increased centralisation of marketing, where major 'hits' are produced through the simultaneous promotion of artists and music across an increasing number of platforms, each of which also pays licensing fees to music companies for the use of their repertoire.

One further implication of this research is worthy of note here. Given the emphasis placed on the increasingly intense relationship between recorded music and advertising by many interviewees, we observe a change in attitude towards the interface between music and advertising/marketing functions. When we consider the range of established and new artists and repertoire (see for example, appendix D) that are used in advertising campaigns, and how aggressively they are promoted to advertising executives by the major record labels (as outlined in chapter 7.5), this trend effectively goes against the traditional trope or standards for authenticity in rock/critical music culture. While this is something of an aside from the core points being addressed in this thesis, it does emphasise the increased commodification of this cultural form. These trends resonate with Harvey's 'spatio-temporal fixes' and Hannah Arendt's arguments that capitalism is dependent upon a 'fund of assets outside itself' in order to relieve pressures of accumulation. The broader proliferation of media has produced a multi-fold increase in advertising space which has in turn produced rich new soil for the exploitation of their music copyrights. Such arguments also lend themselves to the music industry's appropriation of internet spaces and platforms courtesy of the extension of copyright control mechanisms into cyberspace which has seen them wrestle control of social networking sites, streaming services and others as outlined in chapter 7.4.

All of the above serve to refine the logic of the contemporary music industry as a growing network of marketing/promotion activities and revenue generating activities, all of which hold resonance for each other. It is no longer the case that marketing and promotion occurs purely in order to sell music recordings or music products. Rather, marketing and promotion avenues are revenue streams in their own right for the music industry. Marketing and promotion opportunities generate revenue and revenue streams provide increased marketing and promotion. While in the case of broadcast and film, we can argue that this has been the case for many decades, this research suggests that their significance as direct revenue streams to record and publishing companies has increased in recent years. As this has occurred, many new platforms/outlets that both use music while simultaneously promoting it have emerged. Marketing mechanisms are revenue streams, and revenue opportunities are promotional tools. This is the logic of the contemporary music industry, a logic within which the notion of the industry revolving around the 'basket of rights' advanced by Frith over two decades ago is ever more pertinent. Music publishing deserves particular note here. The strategies of the music industry over recent years illustrate the continuation and intensification of their capacity to act as exploiters of copyright. Unlike recording, music publishing is a low cost activity for music labels. The expansion of sites for the use of their repertoire and trends of growth in the live music industry as described in this research all seem to suggest that publishing copyright will continue to grow in importance to the overall music economy in years to come.

9.3 Unfolding record industry structures and value chain

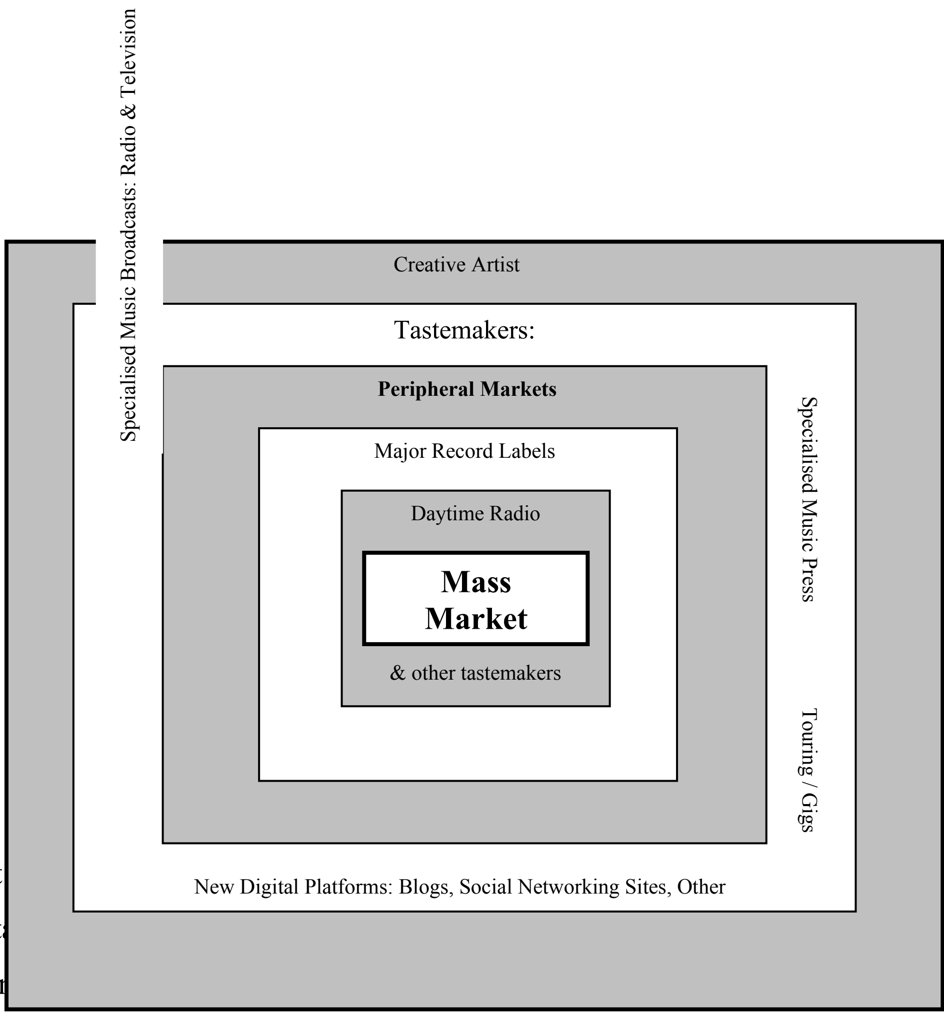
As we established in chapter seven, the 'crisis' rhetoric commonly circulated regarding the music industry is primarily based on perceptions of one of its sub-sectors, the recording industry. The evidence presented in chapter eight tells us something of processes of change and continuity in the record industry over a decade after the internet emerged as a mass medium for the distribution and promotion of music.

One of the most salient features of globalisation is the spread and intensification of social practices across space and time (Giddens, 1990). Theories of globalisation centre on the transformation of spatial and temporal practices by evolving media and communications technologies. The oligopolistic music industry has long since established the technological and organisational infrastructure underpinning the circulation and distribution of music across time and space on a global scale. For example, the record industry has always operated on the basis of a chain of technological processes required to produce, manufacture and distribute its products. The powerbase of the major record labels was traditionally to be found in maintaining the vertical integration of these processes which serve to present a significant techno-economic barrier to new entrants in the market. On the evidence of independent labels and artist managers gathered during the primary research phase of this research study, the power and role of the major music companies is actually reinforced by the need of recording artists and smaller record labels for this vertically integrated industrial structure that transcends time and space so that music can be recorded, packaged and distributed globally.

Contemporary 'music-to-market' model

Based on the various accounts described and discussed throughout chapter eight, Fig. 9.4 below indicates the path music must travel in order to achieve a mass market audience in the contemporary era.

Fig. 9.4: The path of music to market in the contemporary environment



It ents a field of t ent of the inter nobile phones and digital portable music players from a host of digital music stores and 'illegal' online outlets, blogs and social networking sites now form new 'word-of-mouth' marketing mechanisms while streaming forms what may be best described as personalised or individualised online radio services. The expanding plethora of such sites in cyberspace complicates the job of the music marketer in an environment where we must also recognise that music users have the potential to experience music without ever purchasing a music recording. Overall, the various platforms for promotion and distribution of music that now exist on the internet have enhanced opportunities for independent artists pursuing a 'do-it-yourself' approach. As the evidence in chapter 8.3 indicates, artists can produce, market and distribute recordings independently, but crucially, these opportunities are largely confined to niche or 'peripheral' markets. As numerous interviewees explained in chapter 8.4, moving beyond this still requires the intervention of the industry's traditional middlemen. Mass market distribution as well as the marketing and promotion resources necessary to sell records in the 'mainstream' are still largely only attainable through a major label. As noted earlier (in chapter 8.4), electronic platforms such as blogs and social networking sites can now be combined with more traditional media such as specialised music press and broadcast media to successfully promote an artist, but if the ambition of artist and manager is to extend sales beyond the tens of thousands, then all of these promotional activities must serve convince a major label 'to back a horse that's going to win'. Thus, on the evidence derived from Ben Barrett and others evidence and that of others, as reported in chapter 8, Negroponte's (1995; 1996) contention that digital signals a more level playing field where the major media corporation no longer holds advantage over the small player remains largely unrealised.

Indeed this research reveals another significant continuity within the process of marketing music. Despite the expansion of a more complicated field of tastemakers and gatekeepers in which many more sites for the promotion of music now exist, terrestrial radio is still the most potent force when it comes to influencing the consumption habits of a mass audience.

We might also consider that in many respects, the role of new platforms regarding tastemaking and gatekeeping may be seen as extensions of, or the electronic equivalents of already existing functions based on older technical platforms. As noted in chapter eight, streaming can be seen as the extension of radio and social networking sites are frequently referred to as expanded 'word-of-mouth' mechanisms by many interviewees. Equally blogs may be viewed as an additional contemporary manifestation of the music press/music critic. As evidenced by a number of interviewees, the demise of music television as a significantly effective promoter of recordings coincided with the migration of its core audience to the online world and sites such as YouTube, which in itself can be seen as an extension of television.

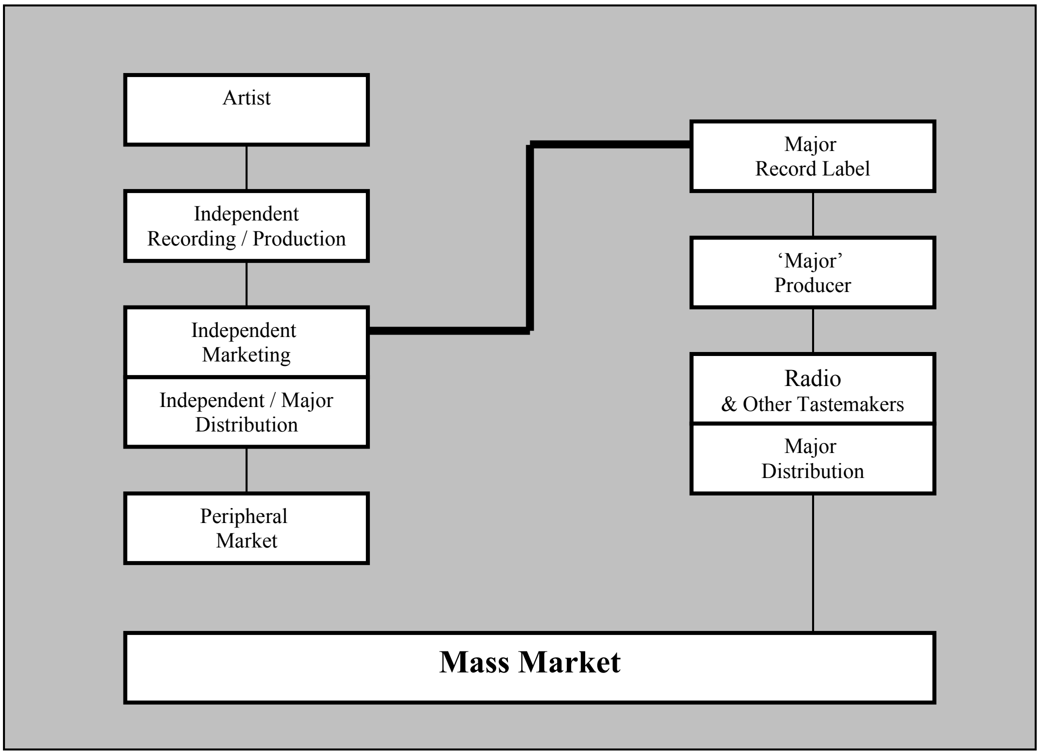
In chapter three we noted how prior researchers such as Marvin (1988) have argued that new technological practices are frequently fashioned out of existing practices to facilitate a new technological system. In short, new technological worlds are essentially 'elaborating an old one' (ibid: 232). The contemporary internet music economy is essentially fashioned in the likeness of the older, established music economy. Furthermore this digital economy sits comfortably within the context of the broader music economy that encompasses long established industrial practices and revenue streams across a plethora of new and previously existing platforms. In many cases, the internet is merely extending or modifying established revenue paths.

From the primary research discussed in chapter 8.5 we can also observe another recent trend in the record industry which further emphasises that despite technological developments, the major labels still exercise control over record production for the mass market. This relates to the role of the record producer in the production process.

The 'cult' of the record producer

In considering the literature on debates surrounding changing models of production in the record industry since the 1970s, chapter four noted how some have argued that the record industry has shifted from a centralised, Fordist mode of production (where all activities in the vertical chain from the point of production to the point of wholesale distribution are directly under the ownership and control of the record company), to a decentralised, post-Fordist process of 'flexible specialisation' where the disintegration of this vertical chain results in much looser control over the production process and consequently a decentralised, largely autonomous record production sector generating recordings to a fragmented market (Hirsch, 1990; Lash and Urry, 1994). In essence, that perspective argues a shift of power away from the major corporations. On the other hand, some authors recognise increasingly loose control over processes of production as a characteristic of contemporary cultural industries and argue that it is of little relevance to the major record company whether or not all the individuals or teams involved in the processes of scouting, development, recording and manufacture are in-house or external as long as they retain tight control over distribution (e.g. Burnett, 2002; Hesmondhalgh, 2002, 2007). While these accounts have somewhat different implications for the power of the major record labels, both accounts indicate a significant degree of autonomy regarding the production process. The primary research discussed in chapter eight above, however, clearly points to major labels exercising a significant level of control over production processes in more recent times. This relates to the evolution of the record producer as a brand in his/her own right, and the role of this 'actor' in achieving greatly enhanced profile at consumer level for the recordings that they produce or remix, or perhaps more appropriately, to which they lend their brand.

Fig. 9.5: 'Major' record producer 'interrupting' path of music to mass market audience



The evidence afforded by several of my informants, most notably EMI MD Willie Kavanagh and artist managers Ben Barrett and Fachtna O'Ceallaigh, is that bridging the gap between peripheral market and mass market now increasingly means employing the right producer to remix recordings for mass market tastemakers (most notably radio), and a mass audience (chapter 8.4). Barrett's account, which focussed on the role of record producer David Arnold in the trajectory of Damien Rice's debut album *O*, vividly illustrates how having the brand of a celebrity producer applied to the recording of a new artist enables the record label, Warner's in this case, greater leverage in pitching this recording to daytime radio programmers and mainstream print media. A key point here is that Arnold, and other big-name producers are largely only accessible through one of the major labels. Thus, while the recording may have been independently created and produced in the first instance and, enjoyed a commercial life to a point, it is of necessity returned to the production phase of its development, under the direct control of a major label, in order to be re-branded for mass consumption, i.e. in order to become a 'hit'. So, while recent digital technology makes the recording process easier and cheaper and enhances a do-it-yourself approach to promotion and distribution to a point, this only moderately reshapes the industrial structure at the level of peripheral markets. Beyond this, a process that we may term 'the cult of the producer' helps to maintain and bolster an oligopolistic industrial structure.

Implications arising from profiles of the 'consumer' in the record industry chain

The assumption that 'early adopters' or, to draw upon BBC Radio 1 terminology, 'restless' consumers are indicative of the actions of the majority is erroneous. Yet, this assumption is commonly implied in media and other accounts. The findings reported in chapter 6.2 largely support this assumption. As noted, the IFPI claim 95% of all music traffic on the internet to be 'illicit' file-sharing. We also noted that perspectives advanced by many interviewees in chapter 6.2 imply the perception of widescale internet 'piracy'. Comments such as: 'People aren't paying for music anymore' (Dave O'Grady); '…wholesale theft…' (John Kennedy); '…nobody wants to pay for music…' (Eddie Joyce) were frequently articulated.

However, if the assumption based upon these claims, and commonly reported accounts in the media is that free access to music on the internet is terminally wounding the record industry, the primary research findings reported in chapter 8.6 complicate and problematise such an assumption. When it comes to generating big hits, the 'contented' or 'rare-to-occasional' consumers, by far the largest consumer band according to all of the accounts reported, are crucial. The sheer size of this consumer band makes their rare-to-occasional contributions to the record industry hugely significant. While this research study did not employ a consumer study and thus has not gleaned any information directly from end users/consumers of recorded music, the perspectives of senior management in major record labels, and others (on the profile of their overall record buying public), implies that file-sharing activities remain the preserve of minority or niche groupings. These findings also need to be digested in the light of the various reports that combine to outline conflicting and contradictory 'effects' of file-sharing as advanced in chapter 6.2. In sum, the research indicates that the relationship between file-sharing and falling record sales is far from straight-forward.

Here, we might also consider the potential for 'cannibalisation' to be occurring, whereby the emergence of online streaming services, but also the proliferation of other sources of music (via digital, and more traditional sources) has an impact on sales. The variety of spaces where music can now be 'legitimately' accessed/consumed without actually purchasing it has, as noted particularly in chapter 7, been expanding. So, a downturn in recorded music sales may be explained in many ways, not just peer-to-peer file-sharing and other explanations that interviewees offer. The 'legal' availability of music via new platforms may also eat into the traditional sales market. However, at this point, my views on this are largely speculative. In terms of future research, clearly a study focusing on the consumption habits of the music consumer from their own perspective would supplement and enhance the findings produced in this research study.

Network gatekeepers and issues of scarcity

What we must also note here in relation to consumption is that the various licensing arrangements, and other transactions between copyright owners and online/mobile platforms serves to put in place network 'gatekeepers' and 'intermediaries' which ultimately aid scarcity.

The rise of dominant discourses and assumptions regarding the detrimental effects of file-sharing on the music industry and the relative futility of legislators and judiciary in combating this trend, rest on very specific assumptions regarding the loss of scarcity. While technological determinist approaches point to the end of scarcity for that which can be reduced to 'bits', i.e. digitised, this research study indicates that increasingly, network intermediaries/gatekeepers are not neutral. Alliances and agreements between recorded music content providers and online outlets dictate what recorded music content these intermediaries will deliver, the form the content will take (e.g. bundles/packages, single-track downloads etc), the cost to the consumer, and who will be able to access the content or not (e.g. pay-per-download, subscription etc). Furthermore, legal precedents set in courtrooms in cases between content providers and technology providers and internet service providers, and resolutions and agreements between these parties have established grounds for denying some users access to the network per se.

In sum, the potential loss of scarcity suggested by the combination of Moore's law, Metcalfe's law, Gilder's law and Kryder's law has, to a significant degree, remained unrealised.

Other record industry 'spatial' fixes

Harvey's analysis of the strategies employed by capitalists and nation-states to combat stagnation have, as noted earlier, resonated with the music industry's colonisation of new spaces that have been opened to it in recent years courtesy of its media neighbours. Likewise, as we saw throughout chapter 7, the music industry has also colonised many new spaces in cyberspace. Here, however, we note the expansion of the record industry into new 'physical' markets. The investment of the major labels in developing a foothold in the Russian and Chinese markets as reported in chapter seven signals such a spatial strategy. While Warner's are the only major to date to open an office in China, the other major labels have all entered partnerships and alliances with existing media actors in the Chinese market. Since 2002, Sony, EMI, Warner's and Universal have all opened up Russian offices. Despite the protestations of the IFPI, the potential for growth in these two markets that combine to provide approximately a quarter of the world's population is clearly significant.

9.4 The reinforcement of music as a copyright industry

As noted earlier, issues regarding ownership and control are central to political economy debates, and this research study has drawn upon such approaches. The evolving trends outlined in section 9.2 above indicate that the student of the music industry needs to place emphasis on questions of ownership by examining issues of concentration, vertical integration, horizontal integration and conglomeration. But what this study also indicates is that the student of the contemporary music industry must also concern themselves with another form of ownership – ownership of 'rights', particularly copyright, but also, increasingly, other strands of intellectual property rights in the form of patents and trademarks. Issues of intellectual property lie at the heart of the vertically integrating live music value chain, the re-conceptualisation of the recording artist and the converging of the music industry from a body of discrete but related sub-sectors to a more integrated industry network. These processes all emphasise trends towards an intensification of the exploitation of rights. Within these processes, this research highlights how, to an increasing extent, the recording artist exists as a 'bundle' of rights to be exploited through as many channels as possible.

Successive generations of increasingly cheaper and better technologies of production, distribution, duplication and consumption have often emerged to threaten these structures. McLuhan's ideas have experienced a renaissance over the past fifteen years, underpinning much commentary in both media and academic output since the internet became a technology of mass communication. The approach of McLuhan and the subsequent work of others advancing techno-centric perspectives holds significant attraction for those who see the internet (or wish to have the internet seen) as the driver of radical change in society, not least for those who argue that it is causing the radical transformation of, or even terminal decline of the music industry. Some (e.g. Negroponte, 1995; 1996) contend that digital technologies have effectively rendered copyright law obsolete, or, as a number of my research informants argue (e.g. chapter 6.2), make it significantly ineffective from the point of view of protecting sound recordings. As Boyle (2008) noted, the common-sense assumption of the 'information age' is that copyright cannot any longer be protected in the wake of digital developments. The characteristics of digitizable cultural or informational texts – in Boyle's terms, that which is 'non-rival' and 'non-excludable' (Boyle, 2008: 3) – is in essence, extremely difficult to monetise, or so goes the received wisdom. The call of the record industry has consistently been for a stronger legal hold on their copyrighted catalogues in the wake of recent and new digital platforms. The stated grounds upon which they base this call are that their industry will not survive unless copyright laws are strengthened to counter the threats viewed as arising from these technologies, particularly the widespread 'piracy' that occurs over the internet. As the accounts of

IFPI's John Kennedy and IRMA's Dick Doyle testify, the record industry presents their arguments to legislators and judiciaries in nation-states across the world on a regular and ongoing basis. The litany of court cases reported on the IFPI website and elsewhere clearly suggests, they are frequently successful in their petitioning. For the major record companies, the severity of the threat of technology to their ability to control the exchange and flow of recorded music is lessened by strengthening copyright law, which itself acts as yet another barrier to new competitors entering the market.

The fear of technology enabling individuals and groups outside the established industrial power centres to independently engage in the distribution of recorded music results in legal responses to technological innovation. Given that most copyright are owned by the recording and publishing arms of the major music companies, it is these companies themselves that are the primary beneficiaries of longer and stronger copyright laws. Such developments and trends again resonate strongly with Winston's 'law of the suppression of radical potential' in that the pressure and actions of established music industry actors are shaping the role and outcome of the internet and other digital technologies in the music industry. We are also reminded here of Lessig's (2001) second 'futuristic vision' of the internet, where it evolves as a technology of control, shaped and regulated by evermore restrictive intellectual property constraints. As we have seen, a now familiar pattern has evolved where by digital distribution technologies arrive, initially with the promise and potential of radical disruption to existing industrial interests and social practices, but only to find themselves embroiled in conflict and struggle with regulation. There is an inherent conflict with the new potentials arising from new or emergent technology and the established music industries. This has been the case from Lessig's (2001) account of the piano roll, to Frith's (1978) and Scannell and Cardiff's (1991) account of radio in the post-World War One years, to the cassette duplication technologies of the 1970s as detailed by Lister et al. (2003), to the technologies of digital reproduction and distribution as dealt with in this thesis. The relationship between internet technologies and the record industry thus point, not to the 'Gatesian' promise of fiction-free cyber-capitalism, but rather to an interrupted process of consumption where the various court actions have ensured friction. To apply Winston's model to the key trends reported in the current research study, the capacity of the internet for the circulation and distribution of music has been suppressed by the 'brake' of the established entertainment corporations. The need of capital to create new markets is the force applying the brake that suppresses the radical potential of internet technologies with regard to the mediation of music. As we have seen, the digital world has been shaped to provide a plethora of new platforms and opportunities through which major copyright owners can exploit their intellectual property. The reality that has unfolded is one where these corporations have been using their legal muscle and economic power to disable and subsequently usurp many of the online entrepreneurs that have emerged to challenge them.

The underlying principle emerging from the various copyright infringement cases taken by the major companies and/or their representative trade bodies - against the suppliers of file-sharing software programmes, individual network users, and most recently, internet service providers – is that the law is as significant in shaping the outcome of a new media as is the technology itself. The extension and application of copyright law in these cases have constrained the potential of the technologies to disrupt the roles and interests of the major music companies, their established practices and the nature and form of their relationship with their consumers. In addition, the subsequent licensing agreements and other forms of alliances between the major music companies and the various digital outlets/platforms illustrate how the technical possibilities arising form the technologies for digital distribution and copying can be made subordinate to corporate interests.

Furthermore, this research observes that issues surrounding the recent trajectory of copyright and its growing centrality to the evolution of the music industry and the outcome of technologies within it also shed light upon another - debates around the nation state.

The role of the nation-state

Chapters two and three offered contrasting perspectives on the roles of the nation-state in contemporary society. As we saw in chapter two, Harvey (2003; 2005) and particularly Wood (2002; 2003) emphasise the role of the state in the neo-liberal phase of capitalism and how it is acting to facilitate the opening of borders and removal of restrictions to global capital, whilst simultaneously acting to prevent the integration that globalisation purports to promote. Examining contemporary media industries, we also saw emphasise that these industries would not or could not exist in their current form without the intervention of state regarding regulation and control (Croteau and Hoynes, 2003). Conversely, chapter three considered techno-centric perspectives that envisaged, at their most extreme, the nation-state becoming effectively obsolete. To recall Negroponte's claim: digitalisation will 'flatten organisations…decentralise control' and make the nation-state 'go away' (cited in *Wired,* February, 1995). As we saw in chapter 4.2, authors such Harley (1993) point to an ever-decreasing role for the nation-state in the music industry. The role of copyright in shaping the outcome of the internet in the music industry to date leads me to reject these latter claims, based on the primary and secondary research findings reported earlier. In recent history (where capitalism has developed a significant interest in culture and information) the necessity for the state legislative and judicial systems to capitalism is exemplified through developments in the intellectual property domain. This has become particularly evident in an era of music downloading, where, as we have seen, the major record companies use copyright law as a means of repositioning themselves in response to actual or potential disruptions associated with novel technological innovations in the area of digital distribution. The nation-state's legislative and judicial systems are required to implement and enforce international copyright laws, and it is the willingness and/or capability of the nation-state to do this that determines the success or failure of copyright law. The role of the state in implementing changes in and extensions to copyright law is thus crucial preconditions for capital accumulation. The legal system within the state is thus called upon to impact upon the production, distribution and consumption of recorded music. Copyright regulates both economic and cultural processes when it comes to recorded music.

Developments within the twenty-first century music economy thus evoke parallels with Wood's account of the 'enclosures' that characterised early capitalism so that 'primitive accumulation' was enabled courtesy of state intervention via legislative and judicial means. This was vital to the expansion of capitalism as it imposed specific economic imperatives where they did not already exist. Similarly with contemporary capitalism, state laws and policies operate as crucial preconditions for private capital to enhance its profit via new forms of enclosures and scarcities in music and other information service sectors.

9.5 Concluding Summary and Remarks

This research study on the recent evolution of the music industry has examined the complex relationships unfolding between technology, socio-economic factors and media cultures in the new millennium.

Through chapters two, three and four, a conceptual framework was developed which was applied to this study of the contemporary music industry at both macro and micro levels. This multi-level approach is important in that it provides the student of the music industry with a sense of the various forces and influences shaping the recent evolution of the industry. It offers a more nuanced alternative to the transformative ideas associated with techno-centric notions that inform some academic, and much industrial and journalistic discourse surrounding music and the internet.

This framework then underpins a critical interrogation of the popular idea that technological trends are producing a fundamental decay or decline in the role, place and power of the music industry. Instead, this research study proposes that whilst the initial disruptive effects of the radical new digital technologies may have induced a certain 'crisis' for the prevailing models and practices of the recorded music industry, these 'effects' are largely restricted to this one industry sub-sector. Beyond this, these digital technologies have also prompted and been accompanied by new opportunities for restructuring and reshaping of the scope and operations of the record industry.

Chapters six, seven and eight moved to a more detailed, empirical level investigation. These chapters examined how new digital technologies are perceived as inducing a certain 'crisis' for the prevailing models and practices of the recorded music industry. But we note and explore how these developments have also prompted the music industry to mobilise its considerable resources to promote institutional, policy, regulatory and other kinds of innovations to meet these challenges. In essence, these chapters comprise a grounded empirical analysis of recent restructuring processes unfolding within the music industry as a whole as well as key shifts in the industry's relationships with other media sectors. We examined how various new business models launched by the music industry have opened up many new revenue-generating opportunities from music culture despite the relative decline in recorded music sales.

The concept of convergence has particularly been applied in conducting and describing this grounded empirical analysis. Ultimately, we examined how the interplay of technological, institutional, and policy/regulatory innovations have provided new opportunities for a restructuring of the music industry's scope, practices and operations over the past decade, leading to the evolution of a new 'music industry model'. Here, as noted previously, we recognise that such manoeuvres have actually served to grow overall revenues from combined music industry sub-sectors.

All of the processes that we have explored are embedded in a socio-cultural geography and, they are also embedded in a specific way of doing economics, i.e. capitalism. There are routes that exist between a recording artist and the audience/user for their recordings. While these routes exist in space and time, they also exist within a specific political-economic dynamic. The space and time within which recorded music is produced and accesses its audience is embedded in capitalism. The processes outlined in this chapter, and earlier, reveal aspects of the dynamic nature of capital, its continuing drive and capacities to expand into new markets, often facilitated by state laws and policies such as intellectual property rights.

While the structure and organisation of the music industry has altered on a number of levels in recent years, no decentralisation of power has occurred. The decline in physical sales has primarily affected traditional physical record retailers. Job cuts within the record industry and consolidation across the wider music industry has ensured the retention and sustenance of oligopolistic structures. In the midst of the online music 'economies' (both 'legitimate' and 'black market'), new business models have emerged and evolved. These do not constitute the 'new music order' promised by the potential of internet technologies and those commentators and analysts who drove the transformative hype that accompanied the diffusion of the internet as a mass communication technology.

Furthermore, I have argued that the commonly reported 'crisis' that is largely attributed to digitalisation has, in light of the developments outlined, been much overstated. However, such a perception of an industry in crisis has served the interests of the major music companies when lobbying for policy change, particularly in relation to copyright law, and also in obtaining approval for mergers and alliances.

Overall, this research study illustrates that the music sector provides an increasingly suitable site for exploring the evolving meanings and relevance of processes of integration and synergy in media industries, and also in examining techno-social relations in the early twenty-first century. The study indicates how the music industry comprises, in many respects, the leading edge sectors in terms of the opportunities and challenges posed by radical technological change for the media and cultural industries more broadly. Thus analysing how this sector has responded to new technological developments can serve to illuminate more general trends of the shifting global media, culture and technology.

The industrial concentration of cultural distribution and exchange represents power and control over global markets. As noted in chapter four, the increasing flow of cultural products from an oligopoly of corporations, and their control over the means of distribution has been a cause of concern for many authors (e.g. Bagdikian; 2004 Thussu, 2006). This research study illustrates that long-established concepts applied in the analysis of media industries, such as concentration of ownership and convergence, are still relevant to grounded analyses of the key trends unfolding in the music sector over the past decade and for understanding the scope and meaning of these changes. Beyond this, it indicates that another concept of ownership – the ownership of intellectual property in all its forms – is increasingly relevant to gaining a deeper understanding of the outcome of technological innovation in media and cultural spheres.

We must also consider a certain naivety in the notion that many of the digital 'start-ups' that purported to disrupt the interests and roles of the established music companies were ever acting with the intention of democratising the distribution of music. Those such sites that have proven successful in attracting network users have relied largely on the use of existing sound recordings copyrighted to the major labels, and making the distribution of this content easier. In doing so, they turned themselves into highly valuable tools to be acquired and taken advantage of for the further development of their services by the large and established players in the industry. This again is evidenced most recently through the cases of Vevo, Imeem and others discussed earlier.

While serving to provide new methods of circulation and distribution, the online music sphere, through its short but eventful history, emphasises how the economic value of music remains primarily determined by the process through which it accesses its final consumer. This case shows that while new communication technologies may initially threaten to diminish the power of those who control content and distribution, such technologies can ultimately be shaped to further the existing structures of an industry.

A note on implications for further music industry research

A key implication for further research on the music industry relates to concepts of the term 'music industry' itself. During the introductory chapter I outlined how the music industry is frequently conflated with the record industry in many of the media and journalistic accounts that emphasise a 'crisis of digitalisation'. Furthermore, this conflation results in the common conception of the music industry as a single industry. As this thesis has emphasised, the record industry is one of a core group of music industry sub-sectors – albeit increasingly converging sub-sectors – which combine to paint a larger and more complex picture than the notion of a single industry. Conceiving of the music industry as a single industry is inaccurate and, conflating the record industry with the music industry as a whole makes for an inadequate model for analysis of economic processes and other surrounding music. I do not propose a rejection of the work of those academics referred to in chapter 1.2, amongst others, who have helped to make the record industry synonymous with the music industry. However, given the primacy hitherto afforded to the record industry by music industry studies, it is necessary now, more than ever to redress this imbalance. Music industry studies must recognise, not just the role of the record industry, but the role of the other industrial sub-sectors and consider all their respective contributions to shaping the form and trajectory of the industry as a whole. This is increasingly important given convergence of music industry sub-sectors which is materialising. It is also vital to producing a more holistic and thorough understanding of the evolution of the industry since the internet materialised as a medium for music. Such an approach can serve to deflate some of the transformative hype surrounding the role of the internet in relation to the music industry. As such, this research study has sought to aid in the redressing of this imbalance.

Also, while this research study has emphasised that accounts of the demise of the music industry are, at best very premature (or at worst, downright nonsensical), and that far from decentralising power, the era of music downloading has actually seen a growing centralisation of power, this should not be interpreted as an outright rejection of many of the developments that risen to challenge the major music companies in recent years. The very fact that I have been able to readily obtain a collection of news stories such as those related at the outset of the introductory chapter suggests that in recent years, the music industry has entered public discourse on an unprecedented level. Frequent media reports of copyright cases involving individuals, software suppliers and internet service providers may serve to generate an interest in, or sense of the social relations of music production for many of those resting in the categories towards the broader end of the consumer/user models. While power has not been shifted away from a small group of dominant actors, many of the online developments highlight significant retaliatory aspects in social or cultural attitudes towards music. As indicated earlier (chapters two and four in particular), all of this has served to move copyright and other strands of intellectual property further into academic debates around media and cultural criticism. Digitalisation makes such material increasingly significant in terms of conducting music industry analysis, and indeed wider cultural or media industry analysis.

Gender: a lens for future study

The male-female breakdown of participating interviewees in this research study suggests that gender would provide an interesting lens through which to conduct a future study on the music industry. As was noted, only five out of thirty-nine of the participants in this research study are women. This may be seen as a reflection of overall gender trends within the music industry. Within an Irish context, this point is evidenced by the small percentage of female music industry personnel listed in recent publications of the *Hot Press Yearbook*, an annual music industry directory. There are indications that this trend is changing elsewhere, e.g. in the USA the CEO of MTV Networks, Chair of Atlantic Records and the Co-President of Sony/ATV Music Publishing are all women.

Finally…

This research study has sought to provide a more indepth understanding of the role of the internet in relation to the music industry, and the changes that have been taking place within and around the music industry since the advent of the internet as a technology for the mediation of music. Overall the patterns and trends presented in this study illustrate the resilient nature of the established music industry in the light of the widespread diffusion of digital technologies which, theoretically, hold the potential to radically diminish their role and power. Hopefully, this research has demonstrated that the terminal decline of corporate power celebrated by Napier-Bell in the midst of the 'digital revolution' proclaimed by the likes of Kelly and Negroponte remains, in the music industry at least, a distant and unlikely outcome.

Bibliography

Ackroyd, S. and Hughes, J.A., (1981), *Data Collection In Context*. New York: Longmand.

Alhadeff, P, (2008), "US Music Industry Statistics: An Appraisal" in *The Music and Entertainment Educators Association Journal* (MEIEA), Vol. 8 No. 1. New Orleans: Loyola University.

Allen, K, (2007), "Survey Finds Pirate Downloads At All-Time High And Set To Rise" in *The Guardian* [online], Monday 30th July 2007. Available from: <http://www.guardian.co.uk/business/2007/jul/30/newmedia.musicnews>. [Accessed: 17th July 2008].

Allen, K, (2009), "Music Industry Sees Rise In Royalty Payments" in *The Guardian* [online], Thursday 15th October. Available from: <http://www.guardian.co.uk/business/2009/oct/14/music-industry-royalty-payment-revenue>. [Accessed: 15th October 2009].

American Society for Composers, Authors and Publishers, (2009), "ASCAP announces unprecedented collections for members in 2008" at *ASCAP* [online], Tuesday 17th March 2009. Available from: <http://www.ascap.com/press/2009/0309_financials.aspx>. [Accessed: 29th May 2009].

Andersen, B. and M. Frenz, (2008), *The Impact of Music Downloads and P2P File-sharing on the Purchase of Music: A Study for Canada*. Dynamics and Institution of Markets in Europe (DIME) Working Paper [online]. Available from: <http://www.dime-eu.org/files/active/0/WP82-IPR.pdf>. [Accessed: 25th September 2008].

Anderson, C., (2007), *The Long Tail: How Endless Choice is Creating Unlimited Demand*. London: Random House.

Anderson, J, (2009), "The merger of Live Nation and Ticketmaster" in *The Music Business Journal*, Vol. 5 No. 1, February, p.4.

Andrews, A, (2009), "Live music helps us beat the doom and gloom" in *The Daily Telegraph*, 26th March 2009.

Arendt, H., (1968), *Imperialism*. New York: Harcourt Brace Janovich.

Armstrong, P., Glyn, A. and Harrison, J., (1991), *Capitalism Since 1945*. Oxford: Blackwell.

Arrighi, G., (1994), *The Long Twentieth Century: Money, Power and the Origins of our Times*. London: Verso.

Associated Press, The, (2002), ‘Music Stars Wage Campaign To Stop Online Piracy’ in *The Associated Press State & Local Wire*. September 26, 2002. Available at: <http://www.lexisnexis.com/uk/nexis/results/docview/docview.do?start=996&sort=RELEVANCE&format=GNBFI&risb=21_T6539992730>. [Accessed: May 11th 2009].

Bakker, P., (2005), “File-sharing – Fight, Ignore or Compete: Paid Download Services vrs. P2P Networks” in *Telematics and Infomatics*. Vol. 22, Issues 1-2, Feb. – May.

Barfe, L., (2004), *Where Have All the Good Times Gone? The Rise and Fall of the Record Industry*. Boston: Atlantic Books)

Barnard, S., (1989), *On The Radio: Music Radio in Britain*. Milton Keynes: Open University Press.

Barnard, S., (2000), *Studying Radio*. London: Arnold.

Barnes, K., (1990), “Top 40 Radio: A Fragment of the Imagination” in Frith, S. (ed.), *Facing the Music: Essays on Pop, Rock and Culture*. London: Mandarin, pp. 8 – 50.

Barnes, J.J., (1974), *Authors, Publishers and Politicians: The Quest for an Anglo-American Copyright Agreement (1815-1854)*. London: Routledge.

Baskerville, D., (2001), *Music Business Handbook and Career Guide* (7th Edition). Thousand Oaks, London, New Delhi: Sage Publications in association with Sherwood Publishing Partners.

BBC News, (2004), “Music industry sues file-sharers” on *BBC News* [online], Wednesday 21st January 2004. Available at: <http://news.bbc.co.uk/2/hi/entertainment/3418057.stm>. [Accessed: 16th March 2006].

BBC News, (2007), “Fopp closes down its 105 stores” on *BBC News*, Friday 29th June 2007 [online]. Available at: <http://news.bbc.co.uk/2/hi/business/6252300.stm>. [Accessed: 4th October 2008].

BBC News, “Arctic Monkey’s Make Chart History” at BBC News [online]. Available from: <http://news.bbc.co.uk/1/hi/entertainment/4660394.stm>. Accessed on 27th November 2008].

Benkler, Y., (2000), “From Consumers to Users: Shifting the Deeper Structures of Regulation Towards Sustainable Commons and User Access” in *Federal Communications Law Journal*, Vol. 52, pp.561-79.

Benkler, Y., (2006), *The Wealth of Networks: How Social Production Transforms Markets and Freedom*. New Haven and Lodon: Yale University Press.

Bennett, T. et al. (eds.), (1993), *Rock and Popular Music: Politics, Policies, Institutions*. London and New York: Routledge.

Berkman Centre for Internet and Society, (2004), *iTunes: How Copyright Contract and Technology Shape the Business of Digital Media - A Case Study.* Berkman Centre for Internet and Society (Digital Media Project) [online]. Available from: <http://cyber.law.harvard.edu/home/uploads/370/iTunesWhitePaper0604.pdf> [Accessed 1st November 2008].

Berkman Centre for Internet and Society and Gartner, (2005), *Consumer Taste is Driving the Online Music Business and Democratising Culture.* Berkman Centre for Internet and Society (Digital Media Project) [online]. Available from: <http://cyber.law.harvard.edu/home/uploads/511/11ConsumerTasteSharing.pdf>. [Accessed 15th December 2008].

Bettig, R., (1996), *Copyrighting Culture: The Political Economy of Intellectual Property*. Boulder (CO) and Oxford: Westview Press.

Bhattacherjee, S and R. Gopal, K. Lertwachara, J.R. Marsden, R. Telang, (2007), "The Effect of Digital Sharing Technologies on Music Markets: A Survival Analysis of Albums on Ranking Charts" in *Management Science*, Vol. 53 No. 9, pp.1358-1374.

Bijker, W., T.P. Hughes, and T.J Pinch, (1987), *The Social Construction of Technological Systems : New Directions in the Sociology and History of Technology*. Cambridge, Mass: MIT Press.

Boosey, W., (1931), *Fifty Years in Music*. London: Ernest Benn.

Boyle, J., (1996), *Shamens, Software and Spleens: Law and the Construction of the Information Society*. Cambridge (MA) and London: Harvard University Press.

Boyle, J.,(2008), *The Public Domain: Enclosing the Commons of the Mind*. London and New Haven: Yale University Press.

Brenner, R., (1998), "Uneven Development and the Long Downturn: The Advanced Capitalist Economies from Boom to Stagnation: 1950-1998" in *New Left Review*, Vol. 1 No. 229. pp. 1-264.

British Phonographic Industry, (2009), "UK reports resilient music sales in 2008" in *BPI* press release, 7 January 2009.

Brown, J., (2001), "The Music Revolution will not be Digitized" on *Salon.com*, [Online]. Available from: <www.salon.com/tech/feature/2001/06/01/digital_music/index1.html>. [Accessed 21 January 2007].

Burkart, P. and McCourt, T., (2003), "When Creators, Corporation and Consumers Collide: Napster and the Development of On-line Music Distribution" in *Media, Culture and Society*. Vol. 25, London Thousand Oaks, New Delhi: Sage Publications, pp. 333 – 350.

Burkart, P., and McCourt, T., (2004). "Infrastructure for the Celestial Jukebox" in *Popular Music*, Vol. 23, pp. 349- 362.

Burnett, R., (1996), *The Global Jukebox: The International Music Industry*. London: Routledge.

Burnett, R., (2002), Global Strategies and Local Markets: Explaining Swedish Music Export Success, in Gebesmair, A. and Smudits, A. (eds.), *Global Repertoires: Popular Music Within and Beyond the Transnational Music Industry*. Aldershot and Burlington, VT: Ashgate Publishing Company, pp. 9 – 19.

Burnett, R. and Marshall, P.D., (2003), *Web Theory: An Introduction*. London: Routledge.

Burrell, I., (2009), "Music's next big act: Live Nation has reinvented the music industry's business model but a merger with Ticketmaster now looms" in *The Independent*, Business section, Thursday 5th February, p.42.

Castells, M., (1996) *The Information Age: Economy, Society and Culture; Volume 1: The Rise of the Network Society*. Oxford: Blackwell.

Cawley, A., (2003), *Innovation in the Irish Digital Media Industry Between 1999 and 2002: An Emergent New 'Content' Industry*. PhD Thesis, Dublin City University.

Chanan, M., (1997), *Repeated Takes: A Short History of Recording and Its Effects on Music*. London: Verso.

Chapman, R., (1998), "Now That's What I Call Music" in Ralph, S. (ed.), *Youth and Global Media*. Luton: University of Luton Press.

Chapple, S. and Garofalo, R., (1977), *Rock and Roll is Here to Pay: The History and Politics of the Music Industry*. Chicago: Nelson-Hall.

Clancy & Twomey, (1997), *The Popular Irish Music Industry: An Application of Porter's Cluster Analysis*. Dublin: National Economic and Social Council.

Cloonan, M., (1999), 'Pop and the Nation-State: Towards a Theorisation' in *Popular Music* Vol. 18, No. 2: 193-207.

Cloonan, M. and Williamson, J., (2004), "The Popular Music Industry Doesn't Exist, And if it Does, it Doesn't Matter" – Paper presented at Popular Music: Issues of Culture and State. *International Association for the Study of Popular Music* UK and Ireland Biennial Conference. July 13th, Mary Immaculate College, University of Limerick.

Clottes, J. (1999). "The Sorcier: A More Recent Tracing", in *PAST*, No. 31, [Newsletter of the Prehistoric Society, Institute of Archaeology, University College London]. Available at: <http://www.ucl.ac.uk/prehistoric/past/past31.html>. [Accessed: 17th May 2008].

Commission of the European Communities, (2004), *Communication for the Commission to the Council, the European Parliament and the European Economic and Social Committee: The Management of Copyright and Related Rights in the Internal*

Market, [online]. Available from: <http://europa.eu.int/eur-lex/en/com/cnc/2004/com2004_0261en01.pdf>. [Accessed 7th November 2006].

Committee of the Judiciary, US House of Representatives, (1982), "Home Recording Of Copyrighted Works", Second session hearing before the Committee of the Judiciary, House of Representatives, Monday April 12th. Washington: US Government Printing Office [online]. Available at: <http://cryptome.org/hrcw-hear.htm>. [Accessed: 25th November 2006].

Cook, D.J., Meade, M.O. and Perry, A.G., (2001), "Qualitative Studies on the Patient's Experiences of Weaning from echanical Ventilation" in *Chest*, Vol.20, No.6, (Supplement), pp.469-473.

Creswell, J., (1998), *Qualitative Inquiry and Research Design: Choosing Among Five Traditions*. Thousands (CA): Sage.
Crisell, A., (1986), *Understanding Radio* (Second Edition). London and New York: Routledge.

Croteau, D. and Hoynes, W., (2003), *Media Society*: Industries, Images and Audiences (Third Edition). Thousand Oaks, London, New Delhi: Pine Forge Press.

De Sola Pool, Ithiel, (1983), *Technologies of Freedom*. Cambridge: Harvard University Press.

Deacon, D. and Pickering, M., Golding, P., Murduck, G., (1999), *Researching Communications*. New York: Hodder Arnold.

Department of Culture Media and Sport, (1998), *Creative Industries Mapping Document* [online]. Available at:
http://www.culture.gov.uk/Reference_library/Publications/archive_1998/Creative_Industries_Mapping_Document_1998.htm [Accessed: August 24th 2007]

Digital Music News, (2005), *IFPI Announces Massive P2P Enforcement Wave* [online]. Available from: <http://www.digitalmusicnews.com/#111505ifpi>. [Accessed: November 15th 2005].

Digital Music News, (2006), *French Court Rules in Favour of P2P File-Sharing* [online]. Available from:
<http://www.digitalmusicnews.com/#020906france>. [Accessed: February 9th 2006]

Dunmore, T., (2003), "The Future of Music: MP3 Goes Legal", *Stuff Magazine*. Volume 7, Issue 8, August.

Economist, The (2005), "The Music Industry" in *The Economist* [online]. Available at:
<http://www.economist.com/research/backgrounders/displaybackgrounder.cfm?bg=655601>. [Accessed: 24th October 2006].

Financial Times, The, (2003), 'Vivendi Earnings Hit by Music Industry Crisis' in *The Financial Times* [online]. Available at:

<http://www.lexisnexis.com/uk/nexis/results/docview/docview.do?docLinkInd=true&risb=21_T6540287359&format=GNBFI&sort=BOOLEAN&startDocNo=26&resultsUrlKey=29_T6540287367&cisb=22_T6540287366&treeMax=true&treeWidth=0&csi=227171&docNo=26>. [Accessed on May 11th 2009].

Finfacts Team (2005), "European Music Copyright: European Commission Recommendation on Management of Online Rights in Musical Works" on *Finfacts.com* [online]. Available at: <http://www.finfacts.com/irelandbusinessnews/publish/article_10003552.shtml> [Accessed: October 12th 2008].

Forte Task Force, (1996), *Access All Areas: Irish Music – An International Industry, Report for the Minister for Arts, Culture and the Gaeltacht*. Dublin: Government Publications Office.

Frith, S., (1978), *The Sociology of Rock: Communication and Society*. London: Constable.

Frith, S., (1987), "Copyright and the Music Business" in *Popular Music*, Vol. 7, no. 1 pp. 57-75.

Frith, S., (1988), *Music for Pleasure: Essays in the Sociology of Pop*. Oxford: Blackwell.

Frith, S., (1991), Critical Response in Robinson, D.C., et al, (eds.) *Music at the Margins: Popular Music and Global Cultural Diversity*. London: Sage Publications.

Frith, S., (1992), The Industrialization of Music *IN* Lull, B. (ed.), *Popular Music and Communication*. London: Sage Publications.

Frith, S., (1996), Popular Music Policy and the Articulation of Regional Identities: The Case of Ireland and Scotland *IN* Rutten, P. (ed.), *Music in Europe Part Two: Music, Culture and Society in Europe*. Brussels: European Music Office, pp. 98 – 103.

Frith, S., (2001), "The Popular Music Industry", in Frith, S., Straw, W. & Street, J. (eds.), *The Cambridge Companion to Rock and Pop*. Cambridge: University Press, pp 26 - 52.

Frith, S., (2002), "Illegality and the Music Industry" in Talbot, M. (ed.), *The Business of Music*. Liverpool: Liverpool University Press.

Frith, S., (2004), "Music and the Media" in Frith, S. and Marshall, L. (eds), *Music and Copyright* (Second Edition). Edinburgh: Edinburgh University Press, pp.171-88..

Frith, S. and Goodwin, A. (eds), (1990), On Record: Rock, Pop and the Written Word. London: Routledge.

Frye, N., (1957), *Anatomy of Criticism: Four Essays*. New Jersey: Princeton University Press.

Garnham, N., (1990), *Capitalism and Communication*. London: Sage.

Garnham, N., (2000), *Emancipation, the Media and Modernity*. Oxford: Oxford University Press.

Garnham, N. (2001), "Information Society Theory as Ideology: A Critique" in *Studies in Communication Sciences*, Vol 1 No 1, Winter 2001, pp. 129-66.

Garofalo, R., (1999), "From Music Publishing to MP3: Music and Industry in the Twentieth Century" *in American Music*, Vol. 17 No. 3, pp. 318-154.

Gasser, U. and Begue, R.B., (2005), "iTunes: Some Observations After 500 Million Downloaded Songs", *Berkman Centre for Internet and Society – Digital Media Project* [online]. Available from: <http://cyber.law.harvard.edu/BerkmanPress/iTunes_August_update_final %5B1%5D.pdf>. [Accessed 10th March 2008].

Gellatt, R., (1977), *The Fabulous Phonograph 1877-1977*. New York: MacMillan Publishing.

Global Gaming Factory, (2009), "Acquisitions of The Pirate Bay and New File-Sharing Technology p2p 2.0", Global Gaming Factory press release, Monday 30th June 2009 [online]. Available at: <http://feed.ne.cision.com/wpyfs/00/00/00/00/00/0F/26/BC/wkr0011.pdf>. [Accessed: 30th June 2009].

Globe and Mail, (2008), "Disharmony and the music business" in *Globe and Mail*, Saturday January 31st, p.18.

Golding, P. and Murdock, G., (1996), "Culture, Communications and Political Economy" in Curran, J. & Gurevitch, M., (eds.), Mass Media and Society (Third Edition). London, New York, Sydney, Auckland: Arnold.

Goldstein, P., (2003), *Copyright's Highway: From Gutenberg to the Celestial Jukebox* (Revised Edition). Stanford: University Press.

Goodwin, A., (1992) "Rationalization and Democratization in the New Technologies of Popular Music" *in* Lull, B. (ed.), *Popular Music and Communication*. London: Sage Publications.

Greenfield, G., (2001), "Devasting with a Difference: From Anti-Corporate Populism to Anti-Capitalist Alternatives" in *Against the Current*, No. 93 (July-August). pp. 12-14.

Gronow, P. and Saunio, I., (1998), *An International History of the Recording Industry*. London: Cassell.

Hardt, M. and Negri, A., (2000), *Empire*. Harvard University Press.

Harvey, D., (1989), *The Condition of Postmodernity*. Oxford: Blackwell.

Harvey, D., (2005), *A Brief History of Neo-Liberalism*. Oxford: University Press.

Hedtke, J., (1999), *MP3 and the Digital Music Revolution*. Lakewood (USA): Top Floor Publishing.

Hendy, D., (2000), "Pop Music Radio in the Public Service: BBC Radio 1 and New Music in the 1990s": *Media, Culture and Society*. Vol.22, London, Thousand Oaks, New Delhi: Sage Publications, pp. 743 – 761.

Herman, A., and Sloop, J.H., (2000), "Red Alert! – Rhetorics of the World Wide Web and 'Friction Free' Capitalism", *in* Herman, A. and Swiss, T. (eds.), *The World Wide Web and Contemporary Cultural Theory*. Routledge, London and New York, 2000.

Hesmondhalgh, D. (1996) 'Flexibility, Post-Fordism and the Music Industries' in *Media, Culture and Society*, Vol. 18 No. 3, p. 469—88.

Hesmondhalgh, D., (2005), "The Production of Media Entertainment" in Curran, J. and Gurevitch, M. (eds), *Mass Media and Communication* fourth edition. London: Hodder Arnold.

Hesmondhalgh, D., (2006), "New Imperialisms, Cultural and Otherwise". Paper presented at the Conference of the International Association for Media and Communication Research (IAMCR), American University, Cairo, Egypt, July 27th.

Hesmondhalgh, D., (2007a), *The Cultural Industries* second edition. London, Thousand Oaks, New Delhi: Sage Publications.

Hesmondhalgh, D., (2007b), *Digitalisation, Copyright and the Music Industries* - Centre for Research on Socio-Cultural Change (CRESC), working paper no. 30. London: Economic and Social Research Council.

Hesmondhalgh, D., (2008) "Neoliberalism, Imperialism and the Media", in Hesmondhalgh, D. and Toynbee, J. (eds), *The Media and Social Theory*. Abingdon and New York: Routledge.

Hesmondhalgh, D. (forthcoming, 2009) "Music, Digitalisation and Copyright", in Golding, P. and Murdock, G. (eds), *Understanding Digital Dynamics*. New York: Hampton Press.

Hesse, C., (2002), "The Rise of Intellectual Property 700 BC – AD 2000: An Idea in the Balance" in *Daedalus*, Volume 131 No. 2, pp. 26-45.

Hickey, Shane, (2008), Industry Crisis As Album Sales Drop" in *The Irish Independent*, Monday January 14th 2008.

Hirsch, P., (1990), 'Processing Fads and Fashions – An Organisation-Set Analysis of Cultural Industry Systems', in Frith, S, and Goodwin, A., (eds), *On Record*. London: Routledge, pp. 127 – 139.

Holliday, A. (2002), *Doing And Writing Qualitative Research*. London: Sage.

Houtart, F., (2003), “Knowledge, Copyright and Patents” in Fisher, F. and Ponniah, T. (eds), *Another World is Possible: Popular Alternatives to Globalisation at the World Social Forum*. London: Zed Books, pp. 144-9.

Hugenholtz, (2000), “The Great Copyright Robbery: Rights Allocation in a Digital Environment”. Paper delivered at *A Free Information Ecology in a Digital Environment* Conference. New York University: April 2nd 2000.

Hughes, J., (1980), *The Philosophy of Social Research*. London and New York: Longman.

Hunter, D., (1986), “Music Copyright in Britain to 1800” in *Music and Letters*. pp 269-82.

Iannella, R., (2001), “Digital Rights Management (DRM) in the Higher Education Sector”. *Commonwealth Department of Education, Science and Training*, [Online]. Available from: <http://www.dest.gov.au/archive/highered/eippubs/eip02_2/eip02_2.pdf>. [Accessed 16 March 2005].

Informa Telecoms and Media, (2009), *Global Performance Rights Payments Top USD 1.5 Billion in 2008*, press release [online], Wednesday 14th October. Available at: <http://www.lloydsmiu.com/itmgcontent/icoms/s/press-releases/20017707909.html;jsessionid=0B9756838AB0B567478CBB00DCC896CF.065acf6a61c52eed94766d1ba7da5d95d4ecd58a>. [Accessed: October 14th 2009].

International Federation of Phonographic Industries (IFPI) – Market Research Department, (2002), *Recording Industry in Numbers*. London: International Federation of Phonographic Industries.

International Federation of the Phonographic Industry, (2006), *IFPI: 06 Digital Music Report* [online]. Available from: <http://www.ifpi.com/site-content/library/digital-music-report-2006.pdf>. [Accessed 21st January 2006].

International Federation of Phonographic Industries (IFPI) – Market Research Department, (2007), *Recording Industry in Numbers*. London: International Federation of Phonographic Industries.

International Federation of Phonographic Industries (IFPI) – Market Research Department, (2008a), *Recording Industry in Numbers*. London: International Federation of Phonographic Industries.

International Federation of Phonographic Industries, (2008b), “11 charged for violating public performance rights in Italy” on *IFPI* [online], 21st April 2008. Available at: <http://www.ifpi.org/content/section_news/20080421.html>. [Accessed: 19th July 2008].

International Federation of Phonographic Industries, (2008c), “Czech police shut down illegal server” on *IFPI* [online], 23rd April 2008. Available at: < http://www.ifpi.org/content/section_news/20080423.html>. [Accessed: 19th July 2008].

International Federation of Phonographic Industries, (2008d), “Zhongsou found guilty of copyright infringement” on *IFPI* [online], 21st May 2008. Available at: <http://www.ifpi.org/content/section_news/20090622.html>. [Accessed: 19th July 2008].

International Federation of Phonographic Industries, (2008e), “Anti-piracy raids in Mexico continue” on *IFPI* [online], 16th June 2008. Available at:
<http://www.ifpi.org/content/section_news/20080619.html>. [Accessed: 18th August 2008].

International Federation of Phonographic Industries, (2008f), “Recording industry welcomes arrest of British DJ on suspicion of music piracy” on *IFPI* [online], 19th June 2008. Available at:
<http://www.ifpi.org/content/section_news/20080619.html>. [Accessed: 18th August 2008].

International Federation of Phonographic Industries, (2008g), “Largest BitTorrent Site Closed in Italy” on *IFPI* [online], 29th July 2008. Available at:
<http://www.ifpi.org/content/section_news/20080729.html>.
[Accessed:19th December 2008].

International Federation of Phonographic Industries, (2008h), “Finnish illegal file-sharer settles copyright case” on *IFPI* [online], 7th August 2008. Available at:
< http://www.ifpi.org/content/section_news/20080807.html>. [Accessed: 19th December 2008].

International Federation of Phonographic Industries, (2008i), “BREIN takes down chain of 75 illegal P2P sites” on *IFPI* [online], 12th December 2008. Available at: < http://www.ifpi.org/content/section_news/20081212.html>. [Accessed: 29th January 2009].

International Federation of Phonographic Industries (IFPI) – Market Research Department, (2009a), *Recording Industry in Numbers*. London: International Federation of Phonographic Industries.

International Federation of Phonographic Industries, (2009b), “20 individuals sentenced to jail time for selling pirate CDs on eBay” on *IFPI* [online], 29th April 2009. Available at: < http://www.ifpi.org/content/section_news/20090429.html>. [Accessed: May27th 2009].

International Federation of Phonographic Industries, (2009c), “Police raids hit four pirate gangs in Turkey” on *IFPI* [online], 17th June 2009. Available at: <http://www.ifpi.org/content/section_news/20090617.html>. [Accessed: July 1st 2009]

International Federation of Phonographic Industries, (2009d), “Milan court orders website operators to forfeit more than €2.4 m for online music piracy” on *IFPI* [online], 18th June 2009. Available at: < http://www.ifpi.org/content/section_news/20090618.html>. [Accessed: July 1st 2009].

International Federation of Phonographic Industries, (2009e), "Man arrested as part of pre-release music uploading investigation" on *IFPI* [online], 22nd June 2009. Available at: < http://www.ifpi.org/content/section_news/20090622.html_>. [Accessed: July 1st 2009].

International Federation of Phonographic Industries, (2009f), "Major forum shut down in Argentina" on *IFPI* [online], 7th July 2009. Available at: <http://www.ifpi.org/content/section_news/20090707.html>. [Accessed: July 7th 2009]

Irish Times, The, (2009), "Record Firms Take Downloading Action" in *The Irish Times*. Tuesday July 7th, p.4.

Japan Times, "Sony Cutting Jobs, Shaking Up Online Music Business" in *The Japan Times* [online], Thursday June 21st 2007. Available from: <http://search.japantimes.co.jp/cgi-bin/nb20070621a3.html>. [Accessed 19th May 2008].

Jones, S., (2000), "Music and the Internet", in *Popular Music*. Volume 19/2, Cambridge: University Press, 217 – 230.

Jones, S., (2002a), "Music That Moves: Popular Music, Distribution and Network Technologies", in *Cultural Studies*. Vol. 16 No. 2, March, pp. 215 – 234.

Jones, S., (2002b), *Pop Music and the Press*. Philadelphia: Temple University Press.

Kelly, K., (1999), *New Rules for the New Economy: 10 Ways the Network is Changing Everything*. London: Fourth Estate.

Kelly, K., (2002), "Towards a post-napster music industry" in *The New York Times* Magazine. March 17th, p. 19-21.

Kretschmer, K. and Kawohl, F., (2004), "The History and Philosophy of Copyright" in Frith, S. and Marshall, L., (eds), *Music and Copyright*. Second edition. Edinburgh: Edinburgh University Press, pp.21-53.

Kretschmer and Wallis, R., (2000), "Business Models and Regulation in the Electronic Distribution of Music" in Stanford-Smith, B. (ed), *E-Business: Key Issues, Applications and Technologies*. Amsterdam: IOS Press, pp. 197-204.

Kruse, H., (1998), Fields of Practice: Musical Production, Public Policy and the Market, in Swiss, T., Sloop, J., and Herman, A. (eds.), *Mapping The Beat: Popular Music and Contemporary Culture*. Malden, MA and Oxford: Blackwell Publishers, pp. 187 – 201.

Kucklich, J., (2004), "Precarious Playbour: Modders and the Digital Games Industry" in *Fibre Culture: Internet Theory, Criticism and Research*, issue 5 [online]. Available at: <http://www.fibreculture.org/issue5/kuckligh_print.html>. [Accessed: 17th July 2009].

Laing, D., (1986), "The music industry and the cultural imperialism thesis" in Media Culture Society. Vol. 8, pp. 331-341.

Laing, D., (1990), "Record Sales in the 1980s" in *Popular Music*, Vol.9 No.2, pp.235-6.

Laing, D., (1993), "The International Copyright System", in Frith, S., *Music and Copyright*. Edinburgh: University Press, pp.22 – 39.

Laing, D., (1997), Rock Anxieties and New Music Networks, in McRobbie, A. (ed.), *Back to Reality: Social Experience and Cultural Studies*. Manchester and New York: Manchester University Press, pp. 116 – 132.

Laing, D., (2000), "George Michael's Contract, or Copyright and Power in the Contemporary Recording Industry" in Doyle, P., Mitchell, T., Johnson, B. (eds), *Changing Sounds: New Directions and Configurations in Popular Music (Papers from the 10th International IASPM Conference).* Sydney: University of Technology.

Laing, D., (2002), "Copyright as a Component of the Music Industry" in Talbot, M., *The Business of Music*. Liverpool: Liverpool University Press, pp.171-94.

Laing, D., (2004), "Copyright, Politics and the International Music Industry" in Frith, S. and Marshall, L., (eds), *Music and Copyright*. Second edition. Edinburgh: Edinburgh University Press, pp.70-85.

Lash, S. and Urry, J., (2002), *Economies of Signs and Space*. London, Thousand Oaks, New Delhi: Sage Publications.

Latonero, M., (2003), "The Social and Cultural Shaping of Music Technology". Paper presented at the annual meeting of the *International Communication Association* (ICA), Marriott Hotel, San Diego, CA, May 27. Available at: <http://www.allacademic.com/meta/p111836_index.html>. [Accessed: 29th November, 2008].

Longhurst, B., (1995), *Popular Music and Society*. Cambridge: Polity Press.

Lehman, B.A., (1995), *Intellectual Property and the National Information Infrastructure: The Report of the Working Group on Intellectual Property Rights*. US Department of Commerce [online].
Available at <http://www.uspto.gov/web/offices/com/doc/ipnii/ipnii.pdf>.
[Accessed: 15th May 2008]

Lessig, L., (1999), *Code: And Other Laws of Cyberspace*. New York: Basic Books.

Lessig, L, (2001), *The Future of Ideas*. New York: Vintage.

Lessig, L., (2004), *Free Culture: The Nature and Future of Creativity*. New York: Penguin.

Liebowitz, S., (2002), "Record Sales, MP3 Downloads, and the Annihilation Hypothesis," Working Paper, University of Texas at Dallas.

Liebowitz, S., (2004), "Will MP3 Downloads Annihilate the Record Industry?" in Libecap, G (ed), *Intellectual Property and Entrepreneurship*. Series on Advences in the Study of Entrepreneurship, Innovation and Economic Growth, Vol. 15, p.229-260.

Liebowitz, S., (2007), *What Are The Consequences Of The European Union Extending Copyright Length For Sound Recordings*. A (revised) report prepared for the IFPI, August 2007.

Liebowitz, S., (2008), "Testing File-Sharing's Impact on Music Album Sales in Cities" in *Management Science*, Vol. 54 No. 4, pp. 852-859.

Lister, M. and J. Dovey, S. Giddings, I, Grant and S. Kelly, (2008), *New Media: A Critical Introduction*, second edition. London and New York: Routledge.

MacKenzie, D and Wajcman, J, [eds.], (1999), *The Social Shaping of Technology*. Philadelphia: Open University Press.

McFarlane, G., (1980), *Copyright: The Development and Exercise of the Performing Right*. Eastbourne: Kohn Offord.

McLuhan, M., (1962), *The Gutenberg Galaxy: The Making of Typographic Man.*

McLuhan, M., (1987), *Letters of Marshall McLuhan*. Toronto: University of Toronto Press

McLuhan, M., (2001/1964), *Understanding Media: The Extensions of Man*. London: Routledge.

Marglin, S.A., and Schor, J.B., (1992), *The Golden Age of Capitalism*. Oxford: Clarendon.

Martin, P., (2000), On Changing Technology in Scott, D.B. (ed.), *Music, Culture and Society – A Reader*. Oxford: University Press.

Marshall, L., (2004), "Infringers" in Frith, S. and Marshall, L., (eds), *Music and Copyright*. Second edition. Edinburgh: Edinburgh University Press, pp.198-207.

Marvin, C., (1988), *When Old Technologies Were New: Thinking About Electric Communication in the Late Nineteenth Century*. New York: Oxford University Press.

Mason, J., (1996), *Qualitative Researching*, London: Sage.

May, C., (2000), *A Global Political Economy of Intellectual Property Rights: The New Enclosures?* London: Routledge.

May, C., (2004), "Capacity Building and the (Re)production of Intellectual Property Rights" in *Third World Quarterly*, Vol.25 No.5. pp.821-37.

Miles, M.B. and Huberman, A.M., (1994), *Qualitative Data Analysis: An Expanded Sourcebook* (second edition). Newbury Park (CA): Sage.

Middleton, R., (1990), *Studying Popular Music*. Philadelphia and Milton Keynes: Open University Press.

Morton. D., (2000), *Off The Record*. New Brunswick: Rutgers University Press.

Music Board of Ireland, (2002), *Shaping the Future – A Strategic Plan for the Development of the Music Industry in Ireland*. Dublin: Government Publications Office.

Music Board of Ireland, (2003), *The Economic Significance of the Irish Music Industry*. Dublin: Government Publications Office.

Napier-Bell, S., (2008), "The Life and Crimes of the Music Biz" in The Observer – Music Monthly, 20th January, p.41.

National Music Publishers Association (NMPA), (2003), *International Survey of Music Publishing Revenues*. New York: NMPA.

Negroponte, N., (1995), "Being Digital: A Book (P)review" in *Wired.com* [online], Issue 3.02, February. Available from: <http://www.wired.com/wired/archive/3.02/negroponte.html?pg=2&topic=>. [Accessed: 13th January 2009].

Negroponte, N., (1996), *Being Digital*. New York: Vintage.

Negus, K., (1992), *Producing Pop: Culture and Conflict in the Music Industry*. London: Arnold.

Negus, K., (1995), *Producing Pop: Culture and Conflict in the Music Industry*. London: Arnold.

Negus, K., (1996), *Popular Music in Theory – An Introduction*. Cambridge and Oxford: Polity Press in association with Blackwell Publishers.

Negus, K., (1997), The Production of Culture in Du Gay (ed.), *Production of Culture / Cultures of Production*. London, Thousand Oaks, New Delhi: Sage Publications in association with the Open University, pp. 67 – 104.

Negus, K., (1999), *Music Genres and Corporate Cultures*. (2004 Reprint), London: Routledge.

Negus, K., (2000), Music Divisions – The Recording Industry and the Social Mediation of Cultural Production, in Curran, J. (ed.), *Media Organisations in Society*. London, Arnold, pp. 240 – 254.

Negus, K., (2002), The Corporate Strategies of the Major Record Labels and the International Imperative, in Gebesmair, A. and Smudits, A. (eds.), *Global Repertoires: Popular Music Within and Beyond the Transnational Music Industry*. Aldershot and Burlington, VT: Ashgate Publishing Company, pp. 21 – 31.

Netanel, N.W., (1996), "Copyright and Democratic Civil Society" in *Yale Law Journal*, 106, November.

New Music Express, (2008), "FBI question 'Chinese Democracy' leak man" in *New Music Express* [online], June 25th 2008. Available at: <http://www.nme.com/news/guns-n-roses/37600>. [Accessed: 13th July 2009].

Ni hEilidhe, E., (2000), "The music industry seems only to see the dangers of online music distribution, not it's opportunities", *New Age Media*. Centaur Publishing Ltd., Dublin, 2000.

NPD Group (2008), *NPD Digital Music Study* [online]. <http://www.npd.com/press/releases/press_080226a.html>. [Accessed: 26th February 2009]

O'Flynn, J., (2004), *Perceptions of Irishness in Irish Music: A Sociological Study of National Identity and Music*. Institute of Education (London), PhD thesis.

O'Flynn, J., (2009), *The Irishness of Irish Music*. Surrey: Ashgate.

Oberholzer-Gee, F., and K. Strumpf, (2009), *File-Sharing and Copyright. Harvard Business School Working Paper 09-132* [online]. Available from: <http://www.hbs.edu/research/pdf/09-132.pdf>. [Accessed 29th June 2009].

OECD Directorate for Science Technology and Industry: Committee for Information, Computer and Communications Policy - Working Party on the Information Economy, (2005), *Digital Broadband Content: Music*, [Online]. Available from: <http://www.oecd.org/dataoecd/53/39/34579763.pdf>.
[Accessed: 9th November 2007].

Paine, A., (2009), "Euro sales up for Universal Music" in *Billboard*, May 15th.

Parales, J, (2007), Pay What You Want For This Article" in The New York Times, December 9th 2007 [online]. Available at:
<http://www.nytimes.com/2007/12/09/arts/music/09pare.html?ex=1354856400&en=ec2f1c29937292be&ei=5090&partner=rssuserland&emc=rss&pagewanted=all>. [Accessed November 27th 2008].

Pardo, J.R., (2003), *Copyright and Multimedia*. The Hague, London, New York: Klumer Law International.

Patterson, L.R., (1968), *Copyright in Historical Perspective*. Nashville: Vanderbilt University Press.

Patry, W.F., (1994), *Copyright Law and Practice*. The Bureau of National Affairs [online]. Available at: <http://digital-law-online.info/patry/patry2.html>. [Accessed 2nd May 2006].

Performing Rights Society, (2007), "Artist managers form Resale Rights Society to regulate secondary ticketing market" at *PRSformusic* [online], Tuesday 4 December 2007. Available at: <http://www.prsformusic.com/aboutus/press/latestpressreleases/mcpsprsalliance/Pages/Newbodyformedtoregulatesecondaryticketingmarket.aspx >. [Accessed: June 27th 2009].

Performing Rights Society, (2008), "Fans boost online performances" at *PRSformusic* [online], Tuesday 12 August 2008. Available at: <http://www.prsformusic.com/aboutus/press/latestpressreleases/prs/Pages/Fansboostonlineperformances.aspx >. [Accessed: 17th June 2009].

Performing Rights Society, (2009a), "Retired rockers and iPods grow music market" at *PRSformusic* [online], Friday 27 January 2009. Available at: <http://www.prsformusic.com/aboutus/press/latestpressreleases/Pages/RetiredrockersandiPodsgrowmusicmarket.aspx >. [Accessed: 27th January 2009].

Performing Rights Society, (2009b), PRS for Music announces licensing deal with Beatport" at *PRSformusic* [online], Monday February 12th. Available at: <http://www.prsformusic.com/aboutus/press/latestpressreleases/Pages/PRSforMusicannounceslicensingdealwithBeatport.aspx >. [Accessed May 12th 2009].

Performing Rights Society, (2009c), "PRS for Music, Chrysalis Music, peermusic, Sony/ATV, and Warner/Chappell Music support Nokia's European Roll Out " at *PRSformusic* [online], Thursday 14th May. Available at: <http://www.prsformusic.com/aboutus/press/latestpressreleases/Pages/InnovativeComesWithMusicserviceextendingtootherEU.aspx >. [Accessed [20th July 2009].

Performing Rights Society, (2009d), PRS for Music Launches New Rates for Music Streaming" at *PRSformusic* [online], Tuesday 26 May 2009. Available at: <http://www.prsformusic.com/aboutus/press/latestpressreleases/Pages/PRSforMusicLaunchesNewRatesforMusicStreaming.aspx >. [Accessed: 3rd July 2009].

Performing Rights Society, (2009e), "British festivals to generate £450m in 2009" at *PRSformusic* [online], Monday 1st June 2009. Available at: <http://www.prsformusic.com/aboutus/press/latestpressreleases/Pages/Britishfestivalstogenerate450min2009.aspx>. [Accessed 20th July 2009].

Performing Rights Society, (2009f), "UK music tour revenues up 30% to more than £400m in 2008" at *PRSformusic* [online], Friday 3rd July. Available at: <http://www.prsformusic.com/aboutus/press/pages/default.aspx>. [Accessed 9th July, 2009].

Performing Rights Society, (2009g), *Economic Insight* Issue 15, 20th July 2009.

Peterson, R.A. and Berger, D.G., (1990), Cycles in Symbol Production: The Case of Popular Music, in Frith, S, and Goodwin, A., (eds), *On Record*. London: Routledge, pp. 140 – 157.

Petri, G., (2002), *The Composers Right*. Stockholm: Atlantis.

Preston, P., (2001), *Reshaping Communications*. London, Thousand Oaks, New Delhi: Sage Publications.

Promusicae, (2008), "Record companies claim €13 million from Blubster, Piolet and Manolito networks", Promusicae press release published by *IFPI* [online], 5th June 2008. Available at: <http://www.ifpi.org/content/library/promusicae-blubster-050608.pdf>. [Accessed: 19th July 2008].

Punch, K.F., (2005), *Introduction to Social Science: Quantitative and Qualitative Methods* (second edition). London: Sage.

Putnam, G.H., (1962), *Books and Their Makers During the Middle Ages*. New York: Hillary.

Recording Industry Association of America, (2009), "Federal Court Hands Record Companies Decisive Verdict In Usenet.com Lawsuit" in *RIAA* press release [onlne], July 1st 2009. Available at: <http://www.riaa.com/print.php?id=B82854F8-F5A1-77A1-E1B6-846E516D90B0>. [Accessed: 14th July 2009].

Ridley, D., (2004), "Puzzling experiences in higher education: critical moments for conversation" in *Studies in Higher Education*. Vol.19, No.1, pp.91-107.

Ritchie, J., Lewis, J. and Elam, G., (2003), "Designing and Selecting Samples" in Ritchie, J. and Lewis, J. (eds), *Qualitative Research Practice: A Guide for Social Science Students and Researchers*. London: Sage.

Rob, R. and J. Waldfogel, (2006), "Piracy on the High C's: Music Downloading, Sales Displacement and Social Welfare in a Sample of College Students. *Journal of Law and Economics*, Vol. 49, No. 1, pp.29-62.

Rolling Stone, (2008), "Radiohead Publishers Reveal In Rainbows Numbers" in Rolling Stone [online]. Available at: <http://www.rollingstone.com/rockdaily/index.php/2008/10/15/radiohead-publishers-reveal-in-rainbows-numbers/>. [Accessed 27th November 2008].

Rose, M., (1993), Authors and Owners: The Invention of Copyright. Cambridge (MA) and London: Harvard University Press.

Rothenbuhler, E., and McCourt, T., (1992), "Commercial Radio and Popular Music: Processes of Selection and Factors of Influence", in Lull, B. (ed.), *Popular Music and Communication*. London: Sage.

Rowe, D., (1995), *Popular Cultures: Rock Music, Sport and the Politics of Pleasure*. London, Thousand Oaks, New Delhi: Sage

RTE, (2007), “HMV’s annual profit plunges” on *RTE Business News*, Thursday 28th June [online]. Available at: <http://www.rte.ie/business/2007/0628/hmv.html>. [Accessed: 4th October, 2008]

Rutten, P., (1993), Popular Music Policy: A Contested Area – The Dutch Experience, in Bennett, T. et al. (eds.), *Rock and Popular Music: Politics, Policies, Institutions*. London and New York: Routledge, pp. 37 – 51.

Scannell, P. and Cardiff, D., (1991), *A Social History of British Broadcasting, Vol. 1: Serving the Nation 1922 - 39*. Oxford: Blackwell Publishers.

Sessario, B., (2009), “Music Sales Fell in 2008, But Climbed On The Web” in *The New York Times* [online], Thursday 1st January. Available at: <http://www.nytimes.com/2009/01/01/arts/music/01indu.html?_r=1&pagewanted=print>. [Accessed: January 13th 2009].

Shuker, R., (1998), *Key Concepts in Popular Music*. London: Routledge.

Shuker, R., (2001), *Understanding Popular Music*. London: Routledge.

Siebert, F., (1952), *Freedom of the Press in England 1476-1776*. University of Illinois Press.

Silverstone, R. and E. Hirsch, (1992), *Consuming Technologies: Media and Information in Domestic Spaces*. London and New York: Routledge.

Smith, R., (1995), *The Ronanstown Music Programme: Education and Training for the Irish Music Industry*. Dublin: Catholic Youth Council.

Smyth, G., (2005), *Noisy Island: A Short History of Irish Popular Music*. Cork: Cork University Press.

Sony Music Entertainment, (2004), “Sony Music Entertainment and BMG Unite to Create Sony-BMG Music Entertainment” in *Sony Music Entertainment* press release, Tuesday 5th August.

Sony Music Entertainment, (2009), “Vevo and Sony music entertainment join forces for world-class premium online music video service” in *Sony Music Entertainment* press release, Thursday 4th June.

StubHub, (2009), “Stubhub Concert Ticket Sales Report”, in *International Business Times* [online]. Available at: <http://www.ibtimes.com/prnews/20081212/2008-stubhub-concert-ticket-annual-report.htm >. [Accessed: July 8th, 2009].

Strachan, R. and Leonard, M., (2002), “A Musical Nation: Protection, Investment and Branding in the Irish Music Industry”. *Irish Studies Review*, Vol. 12 No. 1, pp. 39 – 49.

Straw, W., (2001), “Consumption” in Frith, S., Straw, W. & Street, J. (eds.) *The Cambridge Companion to Rock and Pop*. Cambridge: University Press, pp 53 - 72.

Streeter, T., (2003), "That Deep Romantic Chasm: Libertarianism, Neo-liberalism and the Computer Culture" in (Lewis and Miller, eds.), *Critical Cultural Policy Studies*. Oxford: Blackwell.

Sunday Business Post, (2008), "Artistic license: Heed the music lessons" in *The Sunday Business Post*, April 6th.

Sunday Times, (2008), "Music industry in a flat spin" in *The Sunday Times*, Arts, Culture and Entertainment, January 27th, p.5.

Taylor, T., (1997), *Global Pop*. New York and London: Routledge.

Technology Daily, (2007), "Music industry sues over piracy on web board" in *Technology Daily*, Vol.10 No.9, Thursday 18th October.

Teather, D., (2005), "Music industry victory will spark file-sharing lawsuits" in *The Guardian* [online], Tuesday 28th June. Available at: <http://www.guardian.co.uk/technology/2005/jun/28/usnews.netmusic>. [Accessed: 16th March 2006.

Tesch, R., (1990), *Qualitative Research: Analyses Types and Software Tools*. New York: The Farmer Press.

Théberge, P., (2001), "Plugged In: Technology and Popular Music" *IN* Frith, S., Straw, W., & Street, J. (eds.), *The Cambridge Companion to Rock and Pop*. Cambridge: University Press, pp 3 – 25).

Thussu, D.K., (2006), *International Communication: Continuity and Change*, second edition. New York: Hodder Arnold.

Thomas, A., (2004), *The Dynamics of Games*, fourth edition. London: Informa Media.

Toffler, A., (1970), *Future Shock*. London: Pan.

Toffler, A., (1990), *The Third Wave*. New York: Bantam Books

Toynbee, J., (2000), *Making Popular Music*. London: Arnold.

Turk, I. & Kunej, D. (2000), "New Perspectives on the Beginnings of Music: Archaeological and Musicological Analysis of a Middle Palaeolithic Bone Flute" in Wallin et al (eds), *The Origins of Music*. Cambridge, MA: MIT Press.

Universal Music Group, (2009), "Universal Music Group Distribution Expands Digital Services With Tunecore" in *UMG* press release [online], Thursday 9th July. Available at: < http://new.umusic.com/News.aspx?NewsId=787>. [Accessed July 13th 2009].

Vaidhyanathan, S., (1999), *Copyrights and Copywrongs: The Rise of Intellectual Property and How it Threatens Creativity*. New York and London: New York University Press.

Van Buskirk, (2009), “Google, Universal to launch music hob Vevo” in *Wired*, Thursday 9th April 2009 [online]. Available at: <http://www.wired.com/epicenter/2009/04/vevo-is-real/>. [Accessed: 10th April 2009].

Venn, C., (1987), “Popular Music and Cultural Imperialism: Reply to Dave Laing” in *Media, Culture & Society*, Vol. 9, No. 3, pp. 384-388.

Verhulst, S.G., (2006), “The Regulation of Digital Content” in Lievrouw, L.A. and Livingstone, S. (eds), *Handbook of New Media: Social Shaping and Social Consequences of ICTs*, updated student edition. London: Sage.

Verna, P., (2009), *Global Music: Tuning Into New Opportunities*. New York: eMarketer.

Wolcott, H., (2001), *Writing Up Qualitative Research*. London: Sage.

Wallis, R., (2004), “Copyright and the Composer” in Frith, S. and Marshall, L. (eds), *Music and Copyright* (Second Edition). Edinburgh: Edinburgh University Press, pp. 103-22.

Wallis, R.and Malm, K. (1984), *Big Sounds from Small Peoples: The Music Industry in Small Countries*. London: Constable.

Wallis, R. and Malm, K, (1990), Patterns of Change, *IN* Frith, S, and Goodwin, A., (eds), *On Record*. London: Routledge, pp. 158 – 178.

Wallis, R. and Malm, K, (1992), *Media Policy and Music Activity*. London: Routledge.

Waters, D., (2004), “A Year of Revolution for iTunes”, *BBC News* [Online]. Available from: <http://news.bbc.co.uk/1/hi/entertainment/music/3665765.stm> [Accessed: 4th November 2007].

Webster, F. (2002), *Theories of the Information Society* second edition. London: Routledge.

Webster, F., (2006) “The Information Society Revisited” in Lievrouw, L.A. and Livingstone, S. (eds), *Handbook of New Media: Social Shaping and Social Consequences of ICTs*, updated student edition. London: Sage.

Wilden, A., (1987) *Man and Woman, War and Peace: The Strategist’s Companion*. London and New York: Routledge and Kegan Paul.

Williams, R. and Edge, D., (1996), “The Social Shaping of Technology” in *Research Policy*, Vol. 25, pp. 856-899.

Williams, R., (2003/1974), *Television: Technology and Cultural Form* [edited by Ederyn Williams]. London: Routledge.

Winston, B., (1974), *Hardware Software: A Background Guide to the Study of the Mass Media*. London: Davis-Poynter.

Winston, B., (1995), "How Media Are Born" in J. Downing, A. Mohammadi and A. Sreberny Mohammadi (eds), *Questioning the Media*, Second Edition. London: Sage.

Winston, B., (1998), *Media, Technology and Society: a history from the telegraph to the internet*. London and New York: Routledge.

Wood, E.M., (1998), "The Agrarian Origins of Capitalism" in *Monthly Review*, July-August [online]. Available from: http://www.monthlyreview.org/798wood.htm. [Accessed: 5th October 2007].

Wood, E.M., (2002), *The Origin of Capitalism: A Longer View*. London and New York: Verso.

Wood, E.M., (2003), *Empire and Capital*. London and New York: Verso.

Appendix A: Interviewee Biographies (in alphabetical order)

Bailie, Stuart: Music journalist and broadcaster

Stuart Bailie was a critic and feature writer with *NME* for a period of ten years, ultimately serving as deputy editor in the late 1990s. He has subsequently worked as a freelance music journalist, writing for such publications as *Q*, *Hot Press*, *Mojo*, *Uncut* as well as music columnist with *The Times* and *The Sunday Times* in London. Since 1999 he has been a producer and presenter with BBC Radio Ulster. He has also written and researched music documentaries for BBC Radio 2 and BBC Television. Since 2007 he has combined his work at the BBC with the role of *CEO* of the Oh Yeah Music Centre in Belfast. He founded this dedicated music recording, rehearsal and performance centre in Belfast with support from recording artists Snow Patrol, Ash and David Holmes.

Barrett, Ben: Artist manager; live music promoter

Ben Barrett is the manager of international recording artist Damien Rice. She has also worked at Mondo Management in London as assistant to Rob Holden, manager of David Gray and Orbital. Previously she worked as a live music promoter with the Mean Fiddler organisation. Initially booking Irish tours for international artists, she subsequently worked for the company's London office where she promoted UK tours as well as music festivals in Boston, Chicago, San Francisco and London.

Bolton, Jane: Independent record label manager

Jane Bolton is managing director of Claddagh Records, a Dublin based record label that primarily focuses on traditional, folk and some contemporary popular music forms. Artists that have recorded and released records on the label include Sinead O'Connor, The Chieftains and Kila.

Butler, Elvera: Independent record label owner

Initially working as a live music promoter in Cork, Elvera Butler worked with such acts as The Frank and Walters and Microdisney. She subsequently worked in the film industry in London for a number of years before returning to Dublin to set up Reekus Records. Since the turn of the millennium Reekus have released and promoted records for new Irish artists such as The Radio, Perry Blake and Saville. Butler also serves on the board of IRMA as independent sector representative.

Carroll, Jim: **Independent label owner; major label press officer; journalist and radio presenter**

Jim Carroll is currently music columnist with *The Irish Times* and a DJ with Dublin based rock radio station Phantom FM. Until recently he operated Lakota Records, a joint-venture with Sony Records. Previously he worked as press and promotions records with London Records where he represented acts such as Goldie, Echo and the Bunnymen and Armand Van Helden. He has also worked in the artist and repertoire department of GoDiscs! (Universal), WEA (Warner's) and Rondor (Universal). Over the past decade he has also written music features for *Hot Press, NME* and *Melody Maker*.

Cooney, Steve: **Record producer; musician**

As a session musician Steve Cooney worked with artists such as Jerry Lee Lewis and The Bushwackers. In the 1980s he was guitarist with successful Australian rock band Red Gum before joining Stockton's Wing. Over the past two decades has also recorded, performed and toured with Sharon Shannon, Altan, Martin Hayes, Mary Black, Sliabh Notes and many others. Cooney has also worked extensively as a record producer, most recently working with Sinead O'Connor.

Curtis, P.J.: **Record producer; musician; broadcaster; educator**

Having initially served as artists and repertoire manager with independent label Mulligan, PJ Curtis has subsequently worked as a freelance record producer. At the time of our interview, Curtis had 54 album production credits to his name over a period of almost thirty-five years. Working in the US, Ireland and the UK, his album credits include Albert Lee, Rory Gallagher, Altan, Pumpkinhead, Liam Clancy & Tommy Makem, Dolores Keane, Maura O'Connell, Scullion, Stockton's Wing, Mary Black, Frances Black, Arcady, Sean Keane and Davy Spillane. Records he produced for Altan have won both Grammy and NAIRD (National American Independent Record Distributors) awards. Between 1980 and 2004 Curtis also enjoyed a professional broadcasting career producing and presenting specialist music programmes and documentaries with RTE Radio 1, 2FM, Lyric FM, Clare FM and BBC Radio Ulster.

Since 2006 he has served as lecturer in Irish Music Studies at NUI Galway. Formerly, he was instrumental in setting up music performance, music business studies and music management training programmes with the City of Dublin Vocational Education Committee (CDVEC).

D'Ardis, John: **Record manufacturer (Trend Studios); record producer; songwriter**

For the past four decades John D'Ardis has owned and operated Trend Studios, a sound recording, manufacturing and video production facility in Dublin. To this end he has worked with all the major record labels and a host of independent music and film companies. He is also a songwriter and music publisher. Along with Bill Whelan he was instrumental in the creation of the Irish Music Rights Organisation (IMRO) which replaced the Performing Rights Society (PRS) in the 1990s.

Donald, Keith: **Musician; Chairman IMRO; educator**

Keith Donald is currently the chairman of the Irish Music Rights Organisation (IMRO), the royalty collection society that administer performing publishing rights in the Republic of Ireland. He formerly served as popular music officer with the Arts Council of Ireland and was also the director of Musicbase in the 1990s, an Arts Council funded popular music advice and information service. As a session musician he has worked with Van Morrison, The Pogues and Christy Moore among others. He is also a member of the band Moving Hearts. For over two decades he has been actively involved in designing and delivering music performance, music business studies and music management training programmes with the City of Dublin Vocational Education Committee (CDVEC).

Doyle, Dick: **Director General, IRMA; Chief Executive, PPI**

Dick Doyle is director general of IRMA, the umbrella trade body for the record industry in the Republic of Ireland. He is also chief executive of Phonographic Performance Ireland (PPI), the organisation that oversees the collection and distribution of royalties to record companies for the use of the copyright on recordings they release. He formerly served as personal secretary to Fianna Fail government minister Seamus Brennan during his tenure at the Department of Trade and Marketing in the late 1980s/early 1990s.

Durnin, Eamonn **Tesco, Ireland**

Eamonn Durnin is assistant company secretary of Tesco Ireland. His responsibilities include music licensing across the range of Tesco outlets in the Republic of Ireland.

Ergatoudis, George: **Head of Music BBC Radio 1**

Since 2005 George Ergatoudis has worked as Head of Music at BBC Radio 1. Prior to this he served as a producer at Radio 1 while also managing BBC Radio 1Xtra's music policy. In the 1990s Ergatoudis served as senior producer with Kiss FM in London where he won a Sony Gold Award for producing *The Steve Jackson Breakfast Show*. During his time as producer at BBC Radio 1 he also won a Sony Award for his radio documentary *Last Night A DJ Saved My Life: A History Of The Remix*. Before pursuing a career in radio, Ergatoudis worked in the record industry with Island Records as Club Promotions Manager at the urban/dance label 4th & Broadway.

Findlay, Bruce: **Artist manager, label owner, retailer**

Bruce Findlay is currently the manager of Scottish band Aberfeldy as well as working as a promoter with Scottish festival T In The Park. In the past he has worked with major international acts such as China Crisis and most notably the multi-million selling rock band Simple Minds, whom he managed for a period of twelve years. Formerly he ran a chain of independent record shops across Scotland (Bruce's). He also founded and operated an independent record company (Zoom).

Graham, Ross: **CEO NIMIC; ex-major label promotions manager**

Ross Graham is chief executive of the Northern Ireland Music Industry Commission, a state sponsored initiative to provide strategy and services towards accelerating music industry development in Northern Ireland. The organisation provides a range of information and consultancy services to emerging artists and industry professionals. NIMIC have been to the fore in the early promotion and management of recording artist Duke Special. Formerly, Ross Graham worked as promotions manager with Island Records, now part of the Universal Music Group.

Hanrahan, Dermot: **Radio and entertainment entrepreneur; ex-music retailing executive**

For a period of fourteen years Dermot Hanrahan acted CEO of Dublin radio station FM104. He is currently one of the investors behind 4FM and also has the managerial reins at Cork station Red FM. In 2007, in a joint investment with *The Irish Times* he launched www.entertainment.ie. Formerly, Hanrahan was MD of Virgin's retail division in the Republic of Ireland.

Harford, Gerry: **Artist manager; live music promoter**

Gerry Harford has been manager of Irish band Therapy since 1990. 2008 saw the band's twelfth international album release on A&M Records. Harford has also managed Tindersticks, singer-songwriter Nina Hynes and Norwegian heavy metal band Magdalena. Throughout the 1980s Harford worked as an independent live music promoter in Dublin.

Hayden, Jackie: **Journalist; ex-major label promotions manager**

Jackie Hayden is co-owner and general manager of *Hot Press* magazine where he also authors a column on new and emerging Irish acts, 'First Cuts'. He formerly worked as promotions manager in the Republic of Ireland for CBS Records and Polydor Records. In the 1990s he served on the FORTE Music Industry Task Force and acted as chairman of the committee to examine the international marketing of Irish music. In the new millennium he has worked with the independent recording sector as chair of two lobby groups aimed at generating increased exposure for Irish music on Irish airwaves – Jobs In Music, and Fairplay For Airplay.

Hennessy, Shay: **Independent label owner; ex-chairman IMRO**

Shay Hennessy is the managing director of independent music group, Crashed Music. He was formerly general manager of Pickwick Records and K-Tel Records. He also served as press and promotions officer for A&M Records, Ireland. He has also served on the board of IFPI and chaired the board of IMRO.

Jenner, Peter: **Artist manager**

For the past four decades Peter Jenner has worked in artist management. His clients have included Pink Floyd, Syd Barrett, T-Rex, The Clash, Roy Harper, Ian Dury, The

Disposable Heroes of Hiphoprisy as well as Eddi Reader and Billy Bragg who he currently represents. He is currently secretary-general of the International Music Managers' Forum. In the past, Jenner has also worked as a live music promoter.

Johnston, Una: **Music industry trade fair organiser; music event manager**

Based in Thurles, County Tipperary, Una Johnston is the European representative for the South By South West festival (SXSW), a global music industry trade fair which takes place annually in Austin, Texas. She previously organised unsigned Irish artists to perform at the annual New Music Seminar in New York. She also co-owns and operates a music event management company, Carpe Diem, whose projects include In The City and the Guinness Blues Festival.

Joyce, Eddie: **Independent label owner**

Eddie Joyce is co-owner of Danceline Records and Jeeldaire Music Publishing. Since 1984 the label has been releasing once-off singles and albums for new Irish artists. They have also handled publishing for international acts such as Fish. He has also served on the board of IMRO and is a founder member of both the Jobs In Music campaign and Fairplay For Airplay.

Kavanagh, Willie: **Major music label executive; Chairman – IRMA**

Willie Kavanagh has been managing director of EMI Music Ireland for almost twenty years. He is also the current chairman of IRMA, the Irish arm if record industry trade body IFPI and was also a board member of the Music Board of Ireland. He was formerly promotions manager at CBS Records, Ireland.

Kennedy, John: **Chairman & CEO IFPI**

John Kennedy is chairman and chief executive of the International Federation of Phonographic Industries (IFPI), the trade body representing the record industry, globally. He started his career as a lawyer working at several record companies. In 1983 he set up a private agency specialising in the music industry and in 1985 was awarded an OBE for his work as a trustee of the Band Aid Trust and Live Aid. In the 1990s he became chairman of Polygram Music and Film, and subsequently chief executive of Universal Music UK.

Lappin, Johnny: Music publisher

Johnny Lappin has been an independent music publisher since the 1970s. His clientele include Clannad, The Celtic Tenors and Sharon Shannon. He is also managing director of Liffey Music Publishing, the company set up to handle publishing for the *Celtic Woman* show internationally. He is chairman of the Music Publishers Association of Ireland and has also served on the boards of the Irish Music Rights Organisation (IMRO) and Mechanical Copyright Protection Society (MCPS).

Lindsey, Steve: Music publisher

Steve Lindsey has worked with major record and publishing companies for twenty-five years. He served as professional manager with Warner/Chappell Music Publishing before moving to Go Discs! Music as general manager. Following its takeover by Polygram he worked for Island Music as creative director and general manager. He has also worked as an independent music supervisor on such film productions as *Mission Impossible* and *Welcome to Sarajevo*.

Lockhart, Jim: Musician; Radio producer

Jim Lockhart is keyboardist and flute player with trad-rock band Horslips, who having enjoyed significant success across Europe in the 1970s and early 1980s, have recently reformed. For almost twenty-five years he has worked as a music radio producer at RTE with responsibility for a variety of weekday shows on both RTE1 and 2FM.

Murray, Frank: Artist manager

Frank Murray is currently manager of Dublin act The Mighty Stef. He has formerly manager such artists as The Pogues, Black 47 and Kirsty McColl. He formerly worked as tour manager for Elton John and Thin Lizzy.

O'Ceallaigh, Fachtna: Artist manager

Fachtna O'Kelly currently manages international recording artist Sinead O'Connor, and emerging New York based singer-songwriter Lissy Trullie. In the past he has managed Bob Geldof & The Boomtown Rats, Bananarama, and more recently US rapper Amon. His career in music started in the 1970s as music writer with *The Irish Press*. He also briefly managed Mother Records, an Island Records label in the late 1980s.

O'Grady, Dave: Independent record label owner; artist manager

Dave O'Grady is managing director of Independent Records, a Dublin based record label which has been releasing records since 1994. The labels also specialises in licensing independent US albums for the Irish market. He is also the manager of two Irish recording artists, David Kitt and Mundy, both of whom have achieved international releases.

O'Reilly, Willie: Radio station manager; record producer

Willie O'Reilly is managing director of national radio station, Today FM. He was formerly a producer at RTE Radio 2FM. He has occasionally produced records, most notably *Man United Man* which spent five weeks at number one in the Irish charts in 1996. He also worked in recording studio sessions with The Waterboys in the 1980s.

O'Riordan, Michael: Independent publishing and record label manager

Michael O'Riordan is general manager of Rosette Music whose roster includes Daniel O'Donnell. He was formerly manager of Release Records, a label that dominated the domestic market in the 1960s and 1970s courtesy of numerous showband releases. He chairs the public relations committee of IMRO and has also serves on the board of the Music Publishers of Ireland.

Petr Pandula: Independent record label owner; publisher; live music promoter; music retailer

Petr Pandula is the managing director of Magnetic Music, an independent company with interests in recording, publishing, live concert promotion and record retailing. Originally working as a live concert promoter in Germany, Pandula launched Magnetic Records in 1998. The company has offices in Germany and Ireland.

Sheehan, John: Major music label executive

John Sheehan spent twenty-four years as chairman of Sony Music Ireland (formerly CBS Records) until the merger of the company with BMG in 2004. Since then he has remained with the company as head of artist and repertoire (A&R) for their Irish office. He has also served as chairman if IRMA and was a member of the FORTE Music Industry Task Force and the Music Board of Ireland.

Stokes, Niall: **Journalist; media owner**

Niall Stokes if the founder and editor of *Hot Press* magazine, which in 1977 became Ireland's first dedicated rock music publication. He also served as chairman of the Independent Radio and Television Committee in the 1990s. He has also co-written music documentaries for television.

Vignoles, Julian: **Television commissioning editor; radio producer**

Julian Vignoles is assistant commissioning editor for entertainment at RTE television. He has also worked as a producer in Radio 2FM and as a music journalist at *Hot Press*.

Wenham, Alison: **Independent record industry trade body representative**

Having worked for fifteen years in both the major and independent recording sector, Alison Wenham has been Chair and CEO of the Association of Independent Music (AIM) since its formation in 1998. The member companies of this independent record industry umbrella trade body represent approximately 20% of the UK recorded music market. In 2006 Wenham was elected as founding President of Worldwide Independent Network (WIN), an umbrella organisation comprising of more than twenty national/regional independent trade associations representing thousands of independent music companies globally. Wenham is also a Trustee of Creative and Cultural Skills, a Fellow of the Royal Society for the Arts, Special Music Adviser to the British Council, attends PPL and VPL Board meetings and sits on a variety of government and industry committees.

Whelan, Bill: **Composer; record producer; music publisher**

As a composer Bill Whelan is best known as the creator of Riverdance. As a record producer he has worked with numerous artists including U2, Kate Bush and Charlotte Church. Over the past decade he has set up a music publishing company with U2 manager Paul McGuinness, McGuinness-Whelan. He also launched Irish Film Soundtracks, a music production company aimed exclusively at film and television production companies.

Williamson, John: Artist manager

John Williamson is the owner of the artist management company Banchory Management. He is current manager of international recording act Belle & Sebastian. He has also worked as live music promoter.

Wilson, Ian: Head of Music RTE Radio 2 FM

Ian Wilson is head of music production at RTE 2FM, a position that he has held since 1989. Between 1997 and 2003 he was chairman of the European Broadcasting Union's (EBU) 'Eurosonic' group, representing sixty-eight stations across Europe. As a producer at 2FM he was the long-time producer of the Dave Fanning Show where he introduced 'The Fanning Sessions' – the recording and broadcasting of new Irish talent. He also 'Eurodance', one of the first live online dance events which brought together a network of seven 'dance centres' across Europe. These shows have involved up to 48,000 'real video' participants.

Appendix B: Record Industry – ISP Court Cases and Negotiations

UK: From the Gowers Report to ISP-BPI Memorandum of Understanding

Prior to the decision in the SABAM versus Scarlet case, December 2006 saw the publication of the Gowers Report in the UK which recommended that government request ISPs to 'cooperate' with creative industries in the interests of protecting copyright in cyberspace and, to draw up appropriate legislation in the event of the ISPs failing to cooperate. In February 2008, in the wake of the Gowers Report and the Belgian ruling, the UK government published a strategy paper on cooperation between ISPs and the record industry, and stated that it would introduce legislation in the event of an agreement failing to be reached. Subsequently, July 2008 saw the publication of a Memorandum of Understanding between ISPs and the BPI, representing all of the major players in the record industry in Britain. Both parties have signed the agreement with the key stated aim of realising a 'significant reduction' in the level of file-sharing on UK networks. As part of this agreement, six ISPs in the UK have undertaken to write letters of warning to network users suspected of peer-to-peer file-sharing.

France: The Olivennes Agreement

In November 2007, the Olivennes Agreement saw a pact made between French ISPs, copyright owners, and government. The agreement was struck under the supervision of the Olivennes Commission, named after its chairman Denis Olivennes - President-Director General of FNAC, the largest French retailer of cultural and consumer electronics products. This pact essentially approves the adoption of a 'three strikes and you're out' approach to copyright infringement by network users. Users receive a warning from the ISP for each illegal download they make. In the event of the user making this 'mistake' on 3 occasions, they risk losing their internet access. An independent authority has been set up in France under the management of a judge that will determine if and when network abusers will lose access to the network.

Denmark: IFPI versus DMT2

In February 2008 courts in Copenhagen ordered Danish telephone company DMT2, who provide one of the country's largest ISPs, Tele 2, to block access to a service that indexes torrent files containing copyright infringing music. The case concerned the Swedish website The Pirate Bay, a peer-to-peer service which enables users, provided they have downloaded a specific software application, to generate links to music, films etc. on other websites on the internet. The Danish branch of the international record industry trade body IFPI filed for an injunction against DMT2. IFPI on the grounds that Pirate Bay reproduced and made publicly available copyrighted works, without the consent of the rights holders, and that DMT2 contributed to the infringement by allowing its subscribers access to the Pirate Bay's website. The Bailiff's Court of Frederiksberg, Copenhagen found that 'by giving its customers access to www.piratebay.org 'DMT2 assists in the violation of the copyrights administered by the claimants' and as such 'engages in actions that conflict with the rights of the claimants'. The court subsequently ordered them to 'undertake the adequate measures suitable in the prevention of DMT2 customers to the website of **www.piratebay.org** and related sub-pages and sub-domains' (School of Law, University of Vienna - English translation of IFPI Denmark v. DMT2 A/S Bailiff's Court of Frederiksberg, Copenhagen).

Ireland: IRMA versus Eircom

In spring 2008, the Irish arms of the four major record labels, under the umbrella of their representative body IRMA, instigated legal proceedings against Ireland's largest ISP, Eircom, in an attempt to force it to block peer-to-peer file-sharing by its users. During my interview with IRMA Chairman Willie Kavanagh, he argued that Eircom were 'not oblivious' to the actions of their users and they were, in effect, facilitating and accommodating the illegal circulation of music via their network. February 2009 saw an out of court settlement reached where by Eircom agreed to implement a 'three strikes' policy similar to that formulated in the Olivennes Agreement negotiated by President Sarkozy between French internet service providers and entertainment corporations operating there. Under the terms of this agreement, Eircom consent to remove network users who persist in file-sharing activities after two warnings have been issued. The ISP also consent to the sharing and exchange of information with IRMA regarding suspected file-sharers.

During the course of our interview, IRMA Chairman Willie Kavanagh stated that two other ISPs operating in the jurisdiction, BT Ireland and UPC, were subsequently asked to consent to and implement the measures laid out in the Eircom agreement. Both companies refused – wrongfully in the eyes of Kavanagh - on the grounds that such agreements failed to consider the rights and interests of the ISPs subscribers (personal interview). Consequently, July 2009 saw IRMA issues legal proceedings against both parties on the grounds of aiding 'illegal' file-sharing by, amongst other factors, wilfully neglecting to employ the means at their disposal (i.e. filtering technologies such as Audible Magic) to curb these activities. According to IRMA, approximately 45,000 copyright infringements per month on BT Ireland, while 75,000 such infringements take place on UPC (*Irish Times,* July 7th, 2009, p.4).

A simultaneous development worthy of mention is the issuing of legal proceedings by Phonographic Performance Ireland (PPI) against the State on the grounds that it has failed to amend a law that exempts hotels from paying royalties for music played in hotel bedrooms.

***** IRMA, BPI and IFPI websites and publications also indicate that 2008 and 2009 saw discussions begin in Japan, the Netherlands, New Zealand and Spain between ISPs, governments and record industry trade bodies aimed at addressing copyright infringement and introducing legislation to terminate the accounts of users who have repeatedly infringed copyright.

Appendix C: Overview of Additional Music Industry Internet/Mobile Alliances

2007 saw EMI Music Publishing finalise a deal with global internet communications company Skype. Under the agreement Skype acquired licensing rights to song copyrights from the EMI catalogue for sale as downloads or mastertones via the sites online retail store. EMI Music Group has also signed the first ever pan-European download agreement for a peer-to-peer music service with one of Europe's biggest mobile entertainment provides, Arvato Mobile. The deal enables Arvato to offer retailers the ability to provide users with music downloads or a subscription package from a catalogue of 300,000 recordings (EMI press release, June 2007).

2007 also saw the Warner Music Group enter a global strategic partnership with mobile operator Telenor. In a deal that encompasses nine out of Telenor's thirteen mobile phone companies, users can now access Warner music content in a variety of formats including full-track downloads, ringtones, ringback tones, mobile music videos and wallpapers.

Sony Music Entertainment, the Warner Music Group and the Universal Music Group announced in April 2008 that they had completed deals with a Danish telecoms operator TDC which opened digital catalogues of over one million tracks to mobile and broadband users as part of their monthly contract/subscription. This development, according to IFPI CEO and Chairman John Kennedy signals a key result form such ongoing negotiation with telecoms companies (personal interview). Universal have also struck a deal with Zune where by they will receive royalties from the Zune MP3 player as well as download revenues in exchange for the use of its catalogue on Microsoft's digital music service. With Sony and Warner following suit in deals with Microsoft, such deals now provide the four major labels with the leverage to negotiate with Apple for a percentage of iPod sales once existing iTunes contracts expire.

While 2007 and 2008 saw the major labels peeling back on digital rights management (DRM) software on CDs and some other digital formats, the material on many services, including the TDC deal outlined above remains DRM protected, thus requiring users to periodically renew their access to the music tracks they download courtesy of a keycode made available to them by TDC, conditional on their ongoing subscription to TDC services. At the time of my follow-up interview with John Kennedy in late 2008, similar deals were being pursued by all of the major labels in the UK. Sony-BMG and Universal have joined forces on this initiative under the umbrella of a partnership called Total Music which is offering the combined catalogue of both companies in return for a share of monthly revenues from mobile and broadband providers. Warner's and EMI are meanwhile involved in separate negotiations with mobile and broadband providers.

EMI has itself forged links with various digital platforms. In 2007 Microsoft and Apple both reached agreements to sell EMI catalogue without DRM protection via their respective Zune and iTunes platforms.

Appendix D: Examples of Music in Advertising

Artists with current or recent releases that appear on high profile television adverts either nationally or internationally include The Yeah Yeah Yeah's (Yves Saint-Laurent), The Flaming Lips (Dell), Groove Armada (Marks & Spencer), Girl's Aloud (Homebase), Stellar Sound and Paula Flynn (Ballygowan), The Plain White T's (Parker Pens), Craig Armstrong (Channel), Moby (Nokia), The Scratch Perverts (Lucozade Sports), Mis-teeq (Armani), Madonna (Motorola), Coldplay (Play.com), The Klaxons (Wrigley's), The Zombies (Bulmer's) among a host of others.

Examples from the back catalogue of the major music companies include Sting (Jaguar), The Cranberries (Open University promo), Canned Heat (Bus Eireann), The Rolling Stones (Bulmer's), Pink Floyd (Road Safety Authority), The The (M&Ms), Status Quo (Pimm's), Oasis (Sky Sports), Queen (Cadbury's), Guns 'n' Roses (EA Games), Iggy Pop (Carnival Cruises), and specifically in the United States, Bob Dylan (Victoria's Secret), Meat Loaf (AT&T), The Beatles (Target).

Websites selling downloads from vast databases of songs in adverts have also emerged in recent years. For example, **www.songsof**thesalesman.co.uk have licensed (from the major record companies) the rights to 348 separate recording artists whose music features in current or previous television advertising campaigns in the UK and Ireland by 293 different advertisers. This site includes Tesco Digital as one of its key sponsors / advertisers and provides links to iTunes and a number of other 'legitimate' music download services for users wishing to buy the tracks listed on their database. Promoting itself as the prime UK television advert database, www.commercialbreaksandbeats.co.uk offers links to songs and music from 2,469 past and present adverts listed in reverse chronology. Soundsfamiliar.info provides, among other services, links to songs from 744 new and old UK television adverts that are available for purchase on iTunes and/or via the amazon.com website. Claiming to have a database of information on approximately 4,500 television adverts, **www.uktvadverts.com** also provides links to iTunes and amazon.com for numerous entries in its database.

The growing significance of ad synchronisation to record and music publishing companies in breaking new artists is illustrated through English vocalist Natasha Bedingfield's 2006 debut album *Unwritten*. During the course of our interview, Sony Ireland Chairman John Sheehan stated that personnel at the Sony-BMG owned record label Epic, and at SonyAV Music Publishing achieved no fewer than 30 licenses for the album which contains 14 tracks. For example, songs from the album have been used internationally on TV promotion spots for the series *Ugly Betty*, on the soundtrack of the feature film *Flicka*, and in a number of different advertising campaigns, the most notable being a global campaign for Pantene shampoo from late 2006 onwards. In addition to generating revenue from each of the 30 licensing deals, its widespread in promo spots spurred on both physical and digital sales of the album – which became a million selling album in the United States with the title track having become the eighth most downloaded track on iTunes in 2006 (Nielssen Soundscan statistics cited on reuters.com), and one of the top 10 selling singles of 2006 in the UK, whilst achieving a number 5 placing in the US *Billboard* charts.

Appendix E: Examples of the Growing Use of Music in Digital Games

Beyond the music-based digital games outlined in chapter 7.4, all four major music companies are providing music content for games. In some instances popular back catalogue material by established recording artists is used as a constituent element of the digital game experience – for example artists like Blur on *FIFA Soccer* and Run-DMC and Ozzy Osbourne on *Grand Theft Auto*. In these three examples, all three recording acts are Sony Music artists generating direct recording and music publishing revenues for the company, as well as receiving promotion via their use on Sony Playstation. Equally digital games are used for promoting exclusive material and releases that are only accessible through digital games consoles. For example a limited edition version of *Payable on Death* by the band P.O.D. (issued on the Atlantic label, that is in turn owned by the Warner Music Group) included an accompanying exclusive Sony Playstation 2 DVD that contained music not available on the standard album release. The game *NFL Street* features eleven exclusive previously unreleased tracks by various Sony recording artists that only play on Sony Playstation 2, Microsoft Xbox and Nintendo GameCube consoles.

Other examples of music-digital game cross-promotion include a deal between Universal and Electronic Arts (EA), one of the world's largest producers of digital games, which has been in existence since 2003. The deal sees music recordings owned by Universal's Def Jam label incorporated into EA games. For example, the first version of the game *Vandetta* featured twelve Def Jam recording artists including Method Man, Scar Face, Ghost Killah and others. This game allowed users to play recordings from selected artists in a wrestling ring. This was the chosen method for initially releasing new music by these artists. New singles would only be released in other physical and digital formats, and for radio broadcast, subsequent to being released via the digital games. Snoop Dogg, The Black Eyed Peas, Vanessa Carlton and Marilyn Manson all had new music previewed exclusively through the games. Chicane, Beyond this, The Bare Naked Ladies, Metallica, Aerosmith, Blink-182, Papa Roach, Apollo

440, Paul Oakenfold, Naughty By Nature and Nelly provide just some examples of artists whose repertoire is currently (or recently was) being used in games.

In April 2008 US rock band Motley Crüe released their *Saints of Los Angeles* single exclusively as a downloadable track via the *Rock Band* game on both Xbox and Playstation formats. Furthermore the 2008-09 Motley Crüe US tour was used as a platform for promoting the game. Concert-goers were invited up on stage during the intervals between support acts in order to play the game on a giant screen and compete with each other to become the *Rock Band* champion.

In addition to all of this, revenue streams are also generated for artists and music companies by incorporating the personas/characters of popular recording artists into characters in the games themselves. For example, the voice of Geffen (a Universal label) recording artist Eve is used in the Ubi Soft game *XIII*; the character of Interscope (also a Universal label) recording artist Marilyn Manson features in the game *Area 51*; Atlantic Records (a subsidiary of Warners) artist Cupid features in the Acclaim Games online game *Dance*. This latter game enables users to 'virtually' dance to music tracks they choose from a catalogue that is exclusively licensed from the Warner Music Group. This particular game is also used to promote and directly sell a variety of artist-branded virtual items as well as clothing, accessories and other physical merchandise. Other similar dance games include Roxio's *In The Groove*, Nexon America's *Audition Online* and Disney's *High School Musical Dance*.

Other games are in themselves brand-products of specific artists. For example *Britney's Dance Beat* allows users to guide a representation of the character of Britney Spears through a variety of dance sequences and scenarios.

Many digital games have, based on their success, spawned music soundtrack releases. For example the EA game *Sims 2* audio soundtrack released in 2008 features such artists as Natasha Beddingfield, Datarock, They Might Be Giants and Great Northern. The soundtrack also features an 'in-game' which features Natasha Beddingfield singing her chart hit *Pocketful Of Sunshine* in the language of the Sim characters, Simlish. Also, in addition to incorporating music into the game experience itself, the various versions of the Rockstar Games game *Grand Theft Auto* have spawned no fewer than thirteen soundtracks on the Epic and Interscope labels. These soundtracks are designed around a variety of musical genres: dance/techno, rock/pop, jazz, classical.

Appendix F: Sample Interview 1

Interviewee: John Williamson

Venue: By telephone

Date: 22nd September 2008

Duration: 1 hour

JW - John Williamson

JR - Jim Rogers

ON THE KEY CHANGES IN THE INDUSTRY OVER THE PAST DECADE…

JW

I think by and large the majors have changed a lot, particularly in the last ten years. I think a lot of that is down to the ownership of the labels. That's the key thing. What's happened with Warner's and with EMI over the last two or three years is the logical extension of where it's being going overt he past twenty. When major hardware manufacturers like Sony started buying into record companies it didn't immediately create a knock down effect in the record companies as regards management structure and so on. For the first few years, as far as I could see, Sony operated exactly the same as CBS had. The cultural changes were much slower in happening. Also, through most of that period, record companies were successful, so whether it was Seagram or whether it was any of the various other companies that have owned majors over the past twenty years, so long as the whole recording industry part of things was doing well, there was no momentum for change. It took the whole 1999 meltdown period for people to waken up and realise that in spite of being successful for a long number of years and to have an industry that seemed to be growing all that time – and again, who knows whether that's true or not because we're relying on the figures that come from guess where? The record companies…

ON RECORD INDUSTRY DECLINE

JW

The thing that really strikes me is that the majority of the record companies are still trading quite profitably. There are lots of instances in other industries, maybe newspapers are good to look at in parallel to music, where the nature of the industry is that it is still possible to be hugely profitable in ways other than just off the back of physical sales. I think it is very easy to say that the industry is in crisis, but an industry can be more profitable even if it sells less, by employing less staff and being less wasteful and less inefficient and if it exploits its international opportunities better and if it is continually looking at new sources of revenue. Conflating high turnover and high volume of sales with success is misleading. Universal are selling less music but still reporting good quarterly profits this year, so there is evidence that record companies can still make money of they get their business models right.

Equally the record companies have to accept hat they are probably never going to sell the same volume of records that they did in 1999 and they have to adjust how their businesses operate and the deals that they do accordingly, but that does not preclude the possibility of them being profitable and successful entities.

JR questions if the record industry was over-inflated for a number of years and what's happening now is part of the market 'adjusting'…

JW

There is certainly an element of that going on. Ten years ago, around about the time music on the internet started, there was all this outrage about the price that CDs had gone up to. In a lot of people's minds that was used as the justification for people turning to Napster and the like. All of the record companies were charging too much and the reason they were able to charge too much was that they'd had an unparalleled run of success from 1983 to 1999 when sales went up every year. The big factor in this was the CD and people re-buying on CD what they'd previously had on vinyl. But that boom can only sustain at that level for a certain number of years and when you take that factor out of the market it will leave a whole. When we talk about digital music we tend to talk about MP3s from 1999 but the move to digital in terms of selling music came with the CD in the 1980s. The move from analogue to digital with the CD was the key technological development because on one hand it created a new format and gave the recording industry an opportunity to resell everything that they had; but at the same time it was the first part of the digital technologies that would make it easier for people to copy and exchange music.

There is a brilliant Dave Harker article from an old edition of popular music in the early nineties where he is pulling apart all of the anomalies in the IFPI figures regarding the value of the global industry. Again that sort of thing just shows that we've chosen to believe it. Whether that's the record companies making it look like they are doing well with a bit of creative accounting and a good PR team – maybe they've been putting on a much better front on how they've been doing than actually was the case. I'm certain it was at least spun to make success like great success or moderate success look like good success. I think that the kind of critical point came when record companies stopped making the same money around 1999-2000 period. Suddenly, whoever the owners were would start looking at things, and this was when the jobs started getting cut back. There is far fewer staff now, that's an obvious change, and obviously that has a knock on effect as regards what a record company can actually do. Similarly the way that they were structured and how much they would actually pay people at a junior level has actually changed downwards over the past few years. If you are at entry level in these industries it's like 'you should be privileged to be working for us' so you'll on work experience and get virtually no money and you might actually get a job at some point in the future.

Supermarkets are unfairly vilified because I don't think what they are doing is any different from what Fopp or HMV or any of the music-specific retailers have actually done over the years, which is to put pressure on record companies to do them better deals and sell them stock at better prices. In negotiating prices, supemarkets have taken advantage of the fact that record companies are now in not such a good bargaining position but I certainly they can't be held responsible for the fact that the record industry sells less records.

Increasingly HMV and Zavvi are competing with Tesco on chart releases but keeping prices up on the kinds of releases that don't make it into Tesco. I'm sure it's the case that unit sales are not necessarily down as far as falling revenues suggest. The average price of a music unit is much lower than it was ten years ago. Looking at BPI statistics show that the actual decline in unit sales in the UK have held up pretty well. They have gone down, but not substantially, yet revenues have decreased substantially but the average price has dropped.

Also, in terms of what the record companies do, it's changed a lot as well. If you look at the content of a major label now and compare it with the content of a major label like Virgin or EMI in the mid-to-late eighties there are huge changes. Less artists signed, no obvious sense of, I was going to say adventure…There is a management culture of safety first. Now I know people have always criticised major labels for this, but I don't think it stands up. If you look at the roster of Island Records in the 1980s, if you look at the roster of Virgin up until the point (1993) that it was bought over, you can look and see stuff that was just pulp and would sell hundreds of thousands of copies, but there was also a lot of jazz and folk that would never get anywhere near a major label these days, there was obscure art project stuff – Virgin are a good example of this. Now they clearly were making more money, but the balance was always with some blockbuster type acts. Like U2 would pay Island for signing Polly Harvey, and I know she's been quite successful, but it was quite an adventurous signing at the time. They cannot do that anymore. There has been a huge shift away from that with the bigger record companies, there has been a shift away from fulfilling any sort of A&R function to just becoming a marketing machine. It tends to be other people who find acts these days – whether that's some guy in the press, whether that's some guy with his own studio who'll take an act to a company with a business plan – 'we've signed this artist, we've had this many hits on MySpace so we think he can do this.this and this. Do you want in?' The whole thing has changed. And from an artists point of view there is probably a lot less money going around, and again that goes to back to record companies – they may have less employees now, but they are much, much more efficient than they used to be. You could build up mountains of anecdotal evidence about how inefficient they used to be. Even recently there was that report about how the new owners of EMI were deciding that they had to cut back on the £20,000 a year budget for candles that they had! That sort of story can be replicated across all of the major record labels in terms of sheer wastefulness. The number of bands that were using their taxi accounts to take them half way across the country. I think they have much more efficient mechanisms now. Record companies take something that is already presented to them and make it really successful. But what they cannot do is find something…

ON THE RELATIONSHIP BETWEEN MAJOR AND INDEPENDENT COMPANIES

JW

This is extremely complex. That (dichotomous relationship) has always been a quite simplistic view, even ten or twenty years ago, even though it was much more relevant then. A lot of the academic writing about notions of independent against the majors is quite stuck in that era. There are a couple of Dave Hesmondhalgh articles from the mid-nineties where he was doing case studies of Creation and labels like that, where he was trying to show that they were clinging on to the punk and post-punk ideals…labels like Rough Trade first time round. And that's all well and good, you can just about make a sustainable case there, but the whole notion of independents has been watered down so much…

Of the independent labels that are operating now, I don't think any of them can claim to be genuinely independent. If they've not had money from a major label, the chances are that they've had money from a venture capitalist. If they are a Scottish indie label they might have money from the State these days. This is at a slight tangent, but it's going back to what we were talking about earlier, but labels like Chemical Underground have on at least one occasion got money from the State. Now to actually get that money you have to fill in a lot of forms and go through interviews where the whole premise is based on enterprise culture. You have got to prove that you are going to make money and that they need to invest in you. That's the way the state is viewing the '*Music's Future*' thing that they did last year in Scotland. Now, by buying into that, you are buying into the exact same premise that Universal… It's not like the state is giving them a handout. The State is saying that 'we want you to produce records and make money'. Now if you took money from a venture capitalist, probably the repayment terms would be worse from Sony or Universal or whatever… But so many independents, Sanctuary being the best example, have become stock market playthings. What they do is dictated by share-holders as much as by any sense of direction. There are very few outside the micro-sized independent labels that can put their hands up and say that they are genuine independent labels.

Even bands that are on independent labels, and this has been true since the eighties when bands like New Order and Sugar cubes and acts like that were first becoming successful – They were always perceived as big indie bands in the UK, but they were signed to major labels in America and it was through doing that that they made it. When I managed Bliss that was what they did – They were signed to a small indie label in the UK but signed to Capitol in America. You couldn't have subsidised being on an independent label without signing to a major. And similarly, all of these independent companies are all out there now, and if they're not a subsidiary of a major label, the chances are they'll be using a major labels distribution network or other services, or they'll be licensed to a major in Japan or wherever. The whole kind of notion of independents is so far-fetched now that it has reduced real independents to a microscopic 1% of the bottom end of the indie market which is the genuine people in bedrooms, producing fanzines, producing records and selling them online or by mail order. So the whole idea of independents is completely blurred. I think has all to do with the ownership of both the majors and he independents and how both realise that they need each other to survive. It is a completely symbiotic relationship. The majors need strong independents for new and emerging talent that they can pick up after it's been worked on and market tested, and the independents are always going to need the majors for financial survival.

In some ways the relationship has become much more transparent…

ON THE POTENTIAL OF THE INTERNET TO FOR DISINTERMEDIATION, AND THE EXTENT TO WHICH THIS HAS BEEN REALISED

JW

I don't think it's really been doing that. I think to it's been realised to a certain extent. There are cases where people have the taken the possibilities pretty far. Again when it comes down to it – even if you take your Arctic Monkeys as the most successful aspect of this, how much of that success was down to their MySpace site and all the stuff that was hyped up about it around about the time they came out, and how much of it was down to the fact that they eventually signed to record labels that had the contacts and the wherewithal to take them to a global market by entering into contracts, partnerships with bigger labels worldwide in order to get distribution. It's hard to know, there are always prophesies of doom with any type of new technology – it happened with Betamax and VHS but film and television industries are still there.

What strikes me most is what a wasted opportunity the internet was for the record companies. The number of chances they had during the 1999-2001 period to monetise things like Napster and set a model at the beginning that would yield them profits for years. But they didn't want to do that, they had no interest in that. Their sole objective was to obliterate the problem. It's taken until now to realise that saying it can't happen and it's wrong and it's got to be banned is the wrong way of doing it. And it's certainly too late now to salvage their existing business models. And I guess how the majors survive depends on whether they can come up with business models quickly enough that will work.

The one thing I do wonder about though, is that until recently there has always been a good smattering of music people, whose backgrounds are in music, in the senior management of majors labels. But if you start looking around at EMI and looking around at senior management you've got people who've got no experience in music at all. I'm not so sure that these will tolerate the things that went on in the past in terms of inefficiency and loss-making. It might be that the biggest danger to the record companies is themselves in some ways. Bringing in management from other sectors coupled with the existing problems might change things. Nobody's going to keep EMI alive just because it's an historical artefact and released a few good records in its time. These are the type of hard-headed capitalists that I don't think the music industry has traditionally experienced. You can go back through you entrepreneurs, the Richard Branson's and David Geffen's and the like – they were obviously very successful and undoubtedly hard-headed capitalists, but they also had plenty of leeway associated with them. There is plenty of evidence of these examples and others working on things because they loved them and were totally passionate about it. And that element is gone, and when that element is gone, there is just the bottom line on a spreadsheet for the management of record labels. If they don't get it together over the next few years I don't think there'll be any rope running for another ten years to see if they can sort it out. It'll be game up and the money will move into something else.

I'm very wary about making predictions about the future. I remember writing an article about recording studios in 1992 where I was convinced that with cheaper, better recording equipment becoming available I thought why would anyone still want to record in a recording studio? I wrote stuff along the lines of recording studios becoming obsolete by the year 2000. To a certain extent the recording studio market has been decimated, but the big ones are all still there plodding along. I kind of think the same sort of thing could happen. I don't think record labels are ever going to entirely go away. But I think people are going to be more empowered. You will be able to get much further. There is a situation now with all of the new technology on the internet that people know what the possibilities are, but at the moment there is only a very small number of people in the music industry actually capable of seeing that through to its natural conclusion and actually doing something about it. I think gradually more and more people will become competent and knowledgeable. If I was in a major record company I'd still be worried about that. I think increasingly it doesn't make sense to be signed to a major label. If you are am established artist it doesn't make sense to be signed to a major label, or to any record label. If you have got a solid market then I don't see the advantages in giving away the rights, giving away the 50% or however much of your income.

It doesn't make sense for you Radiohead's, Blur's, Madonna's to remain signed to a major label. Even on a smaller level, were it not for, in the case of Belle and Sebastian, personal loyalty to the people at Rough Trade, I'd have been very, very wary of taking that option up. Even at their (B&S) moderate level of success, it would make more sense to not be on a record label and licence stuff. So it is a really interesting situation. When Radiohead and other bands start doing this it suddenly gives people the confidence that this is a viable way of going about being an established band. But then there's this big void where the major record companies are suddenly no longer of use as a bank for big artists, which is traditionally where they have always made their money. And they have cut back on their talent and nurturing processes. So they are getting squeezed at the top end by top artists, but they are also getting squeezed at the bottom end because they don't have the wherewithal and know-how to develop acts.

JR

This is okay if you are Radiohead… But surely the marketing and promotion from a major record company is still needed if you are to break an act and get to that stage?

JW

Possibly. I don't know. Although I think increasingly as people become more empowered and more knowledgeable – I mean to a certain extent I think the majors have always relied on, maybe not quite exploitation because bands do know what they are getting themselves into… But… I think there are two ways... There was a lot of bands from Glasgow that got signed in the late 1980s that had million of pounds spent on them by major record companies and sold no records. And it was always interesting to see how they reacted to that. Some of them were really bitter about how the record company fucked them over – But you say, 'Hang on. Somebody invested £1.5m in you, you've been all over the world trying to make a record that somebody might like, working with all of these amazing people but it hasn't happened…' Some people are very bitter about it, but some people will say 'Somebody indulged me to the tune of £1.5m to make three albums. I don't care of nobody bought them, I still had great fun'… So I think that depends on people's attitudes towards the record companies. You'll always have certain bands that will say they are just musicians and let other people sort the business out. I think when that mentality prevails, there always is the need for majors or record companies. Increasingly must be at a point where they can think, 'Okay, Radiohead can do this. We don't have the fanbase Radiohead have but we still have the technologies that they've used available to us. Maybe we don't want to go tens or hundreds or thousands of pounds in debt to a record company when maybe we can do it in partnership with somebody else'. I just think there are more options to people that challenge the record companies monopoly of that position. That could be going and borrowing money from a bank of a venture capitalist to take your band to the next stage, or setting up your own label… There are different ways, and my point is that there are more options now and, unless the major labels are able to reposition themselves again – and I think they are capable of it, I mean they have had to do it historically in a position where they become the must visit, only option again. Then I think that the position of artist, success, intermediary, record company is possibly on the verge of cracking… I think that is what the record labels fear and they are trying to fill I the holes or come up with a new model…

And I think part of the problem is contracts – and this is true for independents as well – I think that the contracts they are still offering are still stuck… They haven't updated the contractual stuff forward in line with the technology, and they have this outdated business model that doesn't work anymore. They are still trying to work around it in the hope that it might actually work again…And it's kind of depressing when you see small independent labels that are quite credible and quite successful offering the kind of contracts that as a manager you wouldn't want an artist to sign. They want you to sign away the rights on your album in perpetuity. It's insanity but that's what a lot of the independents are doing now. They're saying 'oh we don't make as much money out of records now because they don't sell as much as they used to therefore we need more rights, and by the way we'll sign you a publishing deal for £2,000 while we're at it'. They're trying to but in to all the different forms of rights these days. I think smart artists will take a bigger picture than that – and this is true whether you are at the top end of the scale of the bottom end – you look at it and say 'what are our potential sources of income, and what are the ways we can combine these so that we can make a living'… There are so many more options and so many more routes that they can navigate through now… To go and sign a record deal isn't the only solution that is on the table. In fact it may very well be for a new artist, one of the least likely solutions in terms of their development.

JR

What could or should the major labels have done, or what could they do in order to monetise p2p?

JW

I still think that the really obvious one was, that when the Napster court cases were going on, at one point there was an offer of compensation, and there was the opportunity as well – Napster had however many users globally, and at that point if they had had the vision to see, because I think a lot of people bought into Napster more so than the subsequent file-sharing services and the like. Because everything was there.

You could find the most obscure 7 inch single from the seventies – because it was there. Somebody would have digitised it and uploaded it. And you could find the latest Madonna album. People loved that idea of being able to buy everything. You couldn't get that in a record shop. No shop could be physically big enough to store all of these tracks. But there was through this mechanism, and I think for a vast percentage of the Napster users, if at that point the record companies decided to buy out Napster, take the compensation, keep everything (content) and pick up a small subscription every month from… - I've seen somebody do the calculations before – If 10% of all of the people who used Napster subscribed, then the turnover of the global recording industry would be bigger than it was at the time. That was the opportunity. But they fussed about and couldn't work out if the subscription was the way to go, they couldn't if pay per download was the way to go, the couldn't work out the digitisation things… And I think there are lots of different solutions they could have taken at different points. But the most dangerous part was the indecisiveness. Any bold decision during that period, the chances were that it would have worked because at the point in time, the record companies were still powerful enough that they could almost make the market bend around them. But I suspect they've been weakened so much over the last 5 or 6 years, and suddenly you've got people like Apple becoming a big player in the music industry now… Suddenly you've got all of these external factors now, and it's not as easy for the record companies now…

I think there's evidence that they were – particularly during that whole anti-file-sharing period – a sense that they were operating as a cabal. They would work in a pack, the big four, and they would all be competitors, but when it came down to the big issues, suddenly they would all be working together. I just think that their positions have been so weakened that even if they make the right decisions now, it is going to be harder for them to actually enforce them on the market. I think in that period when everything was so uncertain – Nobody in 2003 really knew what the impact of Napster was, everybody had their suspicions but nobody really knew what it all meant. I think it was the kind of approach of prohibition – stop this and make it go away – This wasn't followed up by any sense of how they could neutralise this, and when they did it was so complicated and so user unfriendly that people thought why should they pay for something that's got a whole lot of digital rights attached to it when we can download it for free somewhere else. I think there were opportunities in there but I don't think anybody was bold enough at the time. In a way there was an opportunity for the majors of that period to stitch up the global music market and keep 80% of it to themselves forever. To a certain extent they've still managed to do that…

ON THE EMERGENCE OF NEW MARKETS AROUND THE WORLD

JW

I'm sure that this is true of every capitalistic organisation in the West, but it appears to be their answer to everything, China and Russia, and I'm sure that it is in a lot of cases. I'm not sure if it is in the case of recorded music, but I'd love to think that it is.

You would hope it is positive for the record companies. If you add India into the equation you have three huge potential music markets. A lot depends on economic movement I those countries as well. Over the next five to ten years there is great predicted potential because over the past five or ten years these economies have grown and there has been access for Western companies there. It remains promising. Politically there are probably a whole series of issues that could derail the prospect of Western music companies making a whole load of money in these markets. But it is an interesting one though and it is an avenue that music companies should be avidly pursuing.

ON SYNCHRONISATION AND ADVERTISING

JW

Synchronisation is definitely more important now than it was in times gone by. We (Belle & Sebastian) haven't entered into any deals for ads but I know plenty for whom it is a source of income and quite a substantial one at different points in their career.

The income you get for synch rights depends on a lot of factors. Sometimes advertisers and production companies will go for lesser known acts because they can get their music for less than if they go for more established groups. And also it can depend on how much they want a particular song. This is not necessarily artist-related, it just depends if there is a piece of music that suits a particular ad or programme or film. The other factor is where and when it's being used. If it's for use in Eastern Europe the amount can be small but if it's going out in the US or the UK it can be a lot. For use within the UK, the ranges that I've seen for advertising can be as low as £10,000 and the highest is probably about £100,000. For global use it can be much bigger but you have to remember too that sometimes big gas-guzzling companies can extract a good deal from bands or record companies because the bands and companies might want to be associated with the product or get the publicity and the rest of it.

Some record companies are better at this than others and have identified the need to be more aggressive in this area. I remember seeing on the Universal site seeing the description of the Thin Lizzy song *The Boys Are Back In Town* as being ideal for a 'lads night out drinking scene'. I think quite a lot of work has gone into pushing that sort of thing, but it is logical that they are doing it and economic necessity is driving it. This is something that the record companies should have been working much harder on in years ago.

TV can sometimes yield a lot of money. Over here Channel 4 doesn't pay that well and getting stuff on the satellite channels doesn't either. But getting on some of the American series can be good. *The OC* is a good example. You get a fee for the original usage plus a fee for subsequent usage plus a fee for further exploitation on DVD and box sets and things like that. So you can gain further gain from all that.

REVENUE STREAMS FROM VARIOUS DIGITAL FORMATS AND MONIES FROM YOUTUBE AND MYSPACE ADVERTISING REVENUES

JW

It is too early to say. I know from the perspective of managing recording artists that if you take something like Facebook or Last FM or MySpace the record companies are in a bad negotiating position from a reaching an audience point of view. The founders of these sites know this. It's not necessarily yielding that much money for the artists but it is possible it's yield something for he record companies. This is a recent factor and as such a factor that wouldn't necessarily have been taken into account at the time many acts signed deals with their record companies so they won't really benefit from it yet. From Universal's point of view, for example, it, I suspect, might well yield significant royalties.

Publishing companies are in a stronger position because they don't have a big hole to fill like the record industry does. There are more films and more TV opportunities now for music than ever before, and they've got their income from all these new internet sources. They don't have falling sales to contend with in the same way record companies do so the spin-offs of all these changes have been much better than them.

Trying to think about the ownership of major publishing for a second, effectively it is still EMI. Universal, Warner's and Sony so I guess it's going back to the same place. Universal and EMI seem the most transparent of the majors in terms of their business planning and shareholder briefings and all that, and increasingly they are placing more eggs in the publishing basket.

360 DEGREE DEALS

I feel strongly about the way companies are pursuing 360 degree deals nowadays. There are fundamental flaws with them from an artists perspective. If you are an artist with any kind of negotiating power…well…Sanctuary Records claimed to be a 360 degree record company and to a great extent they were in that they were a record company, a publishing company, a management company and all the rest. But the reality was that they didn't have 360 on any individual artist. They might have had 270 or 180 on various artists. They managed Destiny's Child, but didn't have recording or touring. They were Franz Ferdinand's agent, but had neither recording nor publishing on them. 360 is a misnomer as at most it is a 270 degree model. But the idea of bulk buying rights and getting what they can is certainly a potential solution to any problems music companies have. It's good for the music companies but for the artists all of their eggs are in one basket. But for the big acts there is a minimisation of risk in terms of the upfront payouts they get, if the reports of figures we hear bandies about are accurate or even vaguely close to accurate.

At the other end of the scale 360 is a bad strategy. As an artist manager, I would never allow one of my acts to sign a 360 degree deal with any record company or any sign. To be giving away *that* degree of rights to your work for any period of time is illogical. It makes more sense to sell your various sets of rights to different companies in each area rather than bundling them up in a package for one company to try and get some kind of value back. But of course all this is hypothetical because there *is* the need for a band to realise cash. So on a strategic level they make no sense and from a management point of view I feel very strongly against them but you might still have to go for them.

I do think the future is now in artists signing over bundles of rights where artists sign over more rights to one organisation or company than they would have in the past. As a manager you would also want shorter term deals with companies on this but of course the companies are looking for longer deals. So from an artist perspective there are a number of issues that I think are probably ultimately unresolvable. Record companies will say that you can release a record through us if you give us everything else as well. But you know I don't think there is actually anything new in this. If a new band has no money or no means of getting their record out there, they will too often take a small advance and sign their rights away for a crap royalty that they might never realise. This has often been the way that it has worked…Yes there is bullying going on, if you want to call it that. But that's just the pressures of the market and record companies or music companies of any kind are always going to want to exploit musicians as much as they can.

That is very much the way it will go. When Universal bought Sanctuary it was primarily to get their hands on Sanctuary's touring agency Helter Skelter and, to a certain extent, that breaks with the kind of tradition where majors have bought smaller record companies for their rosters. In that instance Universal bought over Sanctuary not for the record company or their artists, but for the expertise in other areas that they reckoned would make profit in other areas. So there will be lots of cross-fertilisation on these kinds of deals, although it will still be very hard to direct all of the income from one artists into one company, which is clearly their aim so you will probably have more than one company involved when it comes to covering it all.

ON WHERE ELSE MONEY WILL BE GENERATED IN THE FUTURE

JW

All the coverage recently has been in how live music has overtaken recorded as a source of income. It used to be that people went on tour to promote albums, whereas now they go on tour and it's the other way around, they release a record to promote a tour – The Charlatans are a good example of that recently, and bands like that who can make a healthy amount of money from touring but don't sell any records anymore. So the fact that they're giving away their album for free? Well so what, they make their money from touring…

JR

But that's okay if you're The Charlatans or someone established… But what about new acts??

JW

There are two caveats on that live thing – One I don't think the live industry can sustain it's current level of growth or success either. It may just be that it's lagging behind the record industry. I think one of the things that's happened is that as people are under more pressure to make money out of playing live, it has resulted in greed, so you have ticket prices rocketing and booking fees rocketing. But the minute there is any sort of economic downturn like what everybody is saying what is going to happen soon, then the first thing you are going to stop spending money on is concert tickets for Road Stewart or whatever. So I'd be cautious, I think live music should be a valuable part of any artist's revenue, but equally that doesn't preclude people who don't play live from making money out of music. But again, increasingly the reality is that it is far more likely that you'll make you £30,000 from licensing your music to a TV advert or a film of whatever. There are more ways of making money now, and I think the smart artists are the ones that are able to draw in modest amounts from four or five different areas, and I think sometimes now it's more important to have someone who is really good at synchronising music working for you than have a record company, and I think that will become more and more the case over the next few years.

ON THE ROLE OF MUSIC MEDIA GATEKEEPERS / INTERMEDIARIES

JW

I think radio is still really important but not as important as it used to be. It is quite possible to be successful without radio play of the other parts are working – If there are four or five different aspects to how you can make money as an artist – from licensing recordings, from publishing, from merchandise, from associated products… There have always been these different areas, and getting radio play might help you sell some records and it will help you get to the next stage, but on it's own it used to be that a solid burst of radio play would quite often make an act successful and then they could consolidate on that. I don't think that's the case anymore. I think you can get played on the radio but you need other things as well – streaming on the internet is really important as well. If you view that as being an extension of radio, like radio stations that you can hear online, then radio is still really important because people still have to hear things before they will pay to buy it or go out and see it live, or the advertising executive still has to hear the someplace before he decides that he wants to use it in a car advert or whatever…

I think that music journalism and music television have all decreased in importance because of the amount of other ways of finding out about music. In a way, all of the other interesting social-networking, they are going back in some ways to the kinds of ways that music sold before it became big corporate marketing – Somebody would buy an album and they would share it with their friends and they would tape it and there's be this kind of word of mouth thing where albums sold over a two or three period because people were talking about them. When you look at relatively unknown bands online who've had 500,000 people listen to them on MySpace you'd be hard pushed to get that out of any radio exposure. But it's difficult to know what that actually leads to as nobody has done a scientific survey of where it all fits in the jigsaw. But it has kind of weakened radio, because for a long time it was the primary way to get your band heard and get a hit record. Now it's just one of the many factors in doing that but I still think it's significant. If you took radio out there's be a big gap there. The other reason it's important is that radio-play generates money so, if you get onto the A-list of BBC station you are getting paid £80-90 per play and you are getting play x number of times per week over a number of weeks and this does add up to a lot of money. And the record companies get money as well which is possibly why they still pursue radio maybe more vigorously than proportionately they should…

ON MIXING/REMIXING RECORDINGS FOR RADIO

JW

Every band I've ever worked with has had radio pluggers coming back to us saying if you do this and if you do that it'll get played on the radio. I think myself that most of the artists don't actually believe that. If they want to play it I'm almost certain that they will. I always suspect that if you chop a minute off you song just to make it fit their format, well, if they didn't like a 3 minute 40 second version they won't like a 2 minute 40 second version. And I've had numerous debates with radio pluggers over the years about this. Maybe because the likes of Belle and Sebastian have never done that and never followed the radio pluggers line might be why they stick at the 250,000 global sales for every album compared like someone like Damien Rice. Maybe it is a plausible explanation that radio-play is the difference between these two, but I think there is probably far more to it than that…

JW

There are not many bands that will release twelve albums… But you can still sell a lot of records and extend the life of the band doing things your own way… In around twenty years time the people who'll have been around a long time will have had a moderate level of success. The people who get absolutely huge over two, or if they are luck maybe three albums tend to fade away from a high peak down to nearly zero really quickly like it goes from zero upwards really quickly. If you've been in a band selling 50,000 in the UK, and 100,000 in America and 100,000 in the rest of the world where maybe one album might do a bit better in one country or a bit worse in another but where your mean or your average is going to be the same all the way through, then probably longer term you are going to be better off. Obviously the fact that you've been around that long also makes the brand more recognisable and more solid in all sorts of ways, like selling merchandise or doing gigs. It has its advantages. Again, this can be a conscious decision, and making these decisions, the decisions that could propel you to that next tier of success, particularly in a band context… Like if Therapy suddenly had a massive hit in the mid-nineties the chances are they wouldn't still be making records now… That seems to be the way it works. I'm not sure if you can apply that across the board. If you can maintain it within a certain level and do things on your own terms there is the potential for durability, where as I think, and again Snow Patrol is a really good example of this, I mean how much in control of what they are doing can you be when there is that many people to please in terms of record companies, managers, audiences… Effectively you do have to make a decision and they've made their decision and in a lot of ways I respect what they've done, but whether it's true to what they set out to or whether it's just a convenient tool to selling a lot of records I'm not sure. But I don't believe that once you reach that level that you can control things. It's like you are at the wheel of the car but you are not in control of where it's going. I guess, to get any level of success involves compromises of different types, but the bigger you get the more difficult it is to keep what it is your vision is of the band together.

ON THE EXTENT TO WHICH COPYRIGHT IS SHAPING THE NEW INTERNET TECHNOLOGIES

JW

That's such a huge question I'd have to sit down and think about it for a while, but my gut response to it is that think about music and reducing it to ownership of the rights associated with it, the business models that have sprung up around new technologies and around record companies, and certainly if you look at the whole towards this kind of 360 degree model that first of all Sanctuary and then some of the other record companies posited, I think that you find the whole notion is that rather than having a percentage of the rights to something, they want to buy up the rights to everything – they want to make money out of selling your t-shirts… Again the whole copyright extension thing is also very much about that, to get control…and instead of making vast amounts of money really quickly this looks like a defensive strategy to secure some income over a longer period of time and to procure more income from more sources over a longer period of time. I guess copyright is at the heart of how people are trying to address new business models and they are hoping to move towards the extension of term is about making that even more lucrative than it would be already…

There are fundamental questions about the rights and wrongs of even the existing copyright terms., and artists having to…what buys out their copyright, how they should do that, and the various other rights associated with it… But I'd need to think that through a bit…

Everything is so fluid at the moment. You think you have a take on something and then something happens to take it and completely disrupt that viewpoint – for example that whole move away from digital rights management over the last six months…I'd have answered that question that you've just asked differently six months ago or I'd have had an answer to it. Where as now I'm thinking that I thought I had an answer to it, but the goalposts have moved again so I'm not entirely sure…

Appendix G: Sample Interview 2

Interviewee: Ben Barrett (manager, Damien Rice)

Venue: Starbucks, Angel, London

Date: 5th June 2008

Duration: 1 hour

BB - Ben Barrett

JR - Jim Rogers

ON LAUNCHING DAVID GRAY AND DAMIEN RICE

BB

My daily life is people management and psychology and whatever else…But it is a very interesting time with all this change. I don't think anybody really knows what they are doing and nobody really seems very sure of the future…I've worked with Rob Holden for the last seven years, and I cut my teeth working with him on David Gray. David had made *White Ladder* and nobody wanted to know. They had just ended up making the record themselves having already had four records with very little success at all… They made the record themselves and then decided that they were going to license the record…They released it themselves in Ireland. Something stick, and continues to stick over there. People in the UK watched that. Irish people are quite different from anybody else. It became something that just tipped over, it just connected with people for whatever reason. The labels in the UK started to get interested. Rob had licensed the record to Warner's for distribution.

To cut a very, very long story short, for every artists this is the way it is increasingly going is that all the nuts and bolts and day-to-day stuff is really quite simple, but it's really all about who is spending the money, and increasingly about who is spending the money at the very top level and the power to get physical distribution sorted at a global level. But even that is becoming less important with the digital thing…If you take

Damien's [Rice] last record which came out in November 2006, 40% of the sales were digital in the first week of release in America which is just phenomenal. Through *iTunes*. This is just flabbergasting really. We've done some digital only singles now for him and it just sticks, it really sticks.

Now we are sitting in Starbucks, and Starbucks is another non- traditional music retailer America that is becoming a massive music retailer in America and it's very important for people who want to get records into shops. The 'mom and pop' stores are becoming more important again. Retailing has become so crunched up over the past couple of years that the margins are getting smaller and smaller and smaller and it's becoming very difficult to make traditional retail work, especially in the last year or so…

JR

So is it retailers who are losing out as opposed to big record companies at present regarding file-sharing and the free availability of music in the net?

BB

Well it depends on what free or piracy means. I mean is piracy, what we used to call boot-legging, taking from the radio? Or is it people in Eastern Europe running off copies? I remember telling me recently that one of the key speeches at SXSW, one of the record executives said that everything changes all of the time, it just constantly evolves… In the 1930s record executives were trying to get their records not played on radio because they figured if people heard it on the radio then they wouldn't go and buy the record, so it is extraordinary really the way it does come full circle. At the end of the day, a lot of major labels have had it very good for a long time and, I'm not sure if everybody would agree, but they haven't been very good at developing new young artists, the next Radiohead, the next Bruce Springsteen, the next Bob Dylan and all of that… Artists with long-term careers are becoming increasingly less because there are so few artists that have been developed. Over the last ten years, if you don't sell a million copies of your record you get lost, or you get dropped and left on a pile somewhere…

JR

Is that because major record labels just aren't interested in developing artists or because the relationship between major and independent labels has changed in some way?

BB

Independents will always exist, independents will always do what they do. I think the majors have just become a machine that are so financially depressed, so financially driven, so financially focused that…they spend so much money on records and it is a really, really expensive habit to make it work… You gotta sell the units.

Even on an indie level it is fascinating to see some of the bigger acts in the States recently, like The Shins were at no.2, Madhouse Mouse?? were at no.1…It's like independent records flying high in the charts and a lot of the major labels struggling to make it work. That's been really interesting and I would say digital and new media methods for kids who are buying those records makes them amazingly accessible to them.

ON THE INDEPENDENT ROUTE TAKEN BY DAMIEN RICE

BB

Damien had his own record deal literally from day one. He recorded the whole thing himself, it was self-financed, did his own artwork, released it in Ireland, got distribution through RMG. It went top 10. He played gigs all around the country and built up a really nice little following before the record came out. Then the record came out and it did really well. We picked it up over here and we released it ourselves on our own label. We did a word of mouth sort of promotion on it and we did around 15,000... And then we realised that we could only do so much with it and if we wanted to cross over a little bit or make a bigger impact, then we would need help with distribution and marketing. So that is when we got involved with Fourteenth Floor which is a subsidiary within Warner's, set up by Christian Tattersfield who used to be at Warner's… They are the sort of people who can get it into Woolworth's and the sort of places that we can't get it into.

JR

How do you get them [retailers] to take it?

BB

You need to go through a distributor like Pinnacle or Vital or 3MB we were working with at the time, and they sell in on our behalf. So we have the label, we sell to distributor, distributor sells to retailer.

JR

But how do you get them [distributor] to actually take the record, take x number of copies and send it to HMV, Woolworth's etc?

BB

Everything is about a plot. Nothing works in isolation. I think if you have the single, show them what's done already, show them the list of dates and blah blah blah… If you have a plan, if you have a scheme and some sort of marketing budget, no matter how small, and you just present the whole thing as something that has already proven itself somewhere, like it was in Ireland, and you have this live thing going on, then I think everyone will want to back a horse that looks like it is going to win. Nobody is going to put their money on something initially and everybody is quite cautious in placing their orders. But once it's selling, people have a bit of faith… So initially you just present the whole plan… Lots of gigs, radio…

ON THE SIGNIFICANCE OF RADIO AND OTHER MUSIC MEDIA GATEKEEPERS / INTERMEDIARIES

BB

For Damien, radio came in quite late, we'd probably done about 50,000 records in the UK just by word or mouth and him doing shows and doing a bit of press. But certainly for somebody like him, the pecking order would be that you'd get the press, then you'd get radio, then you'd get TV and then it all eventually makes sense. Through all of it you are working really hard doing shows…

JR

Obviously radio isn't crucial to selling records at all if you sold 50,000 without it?

BB

That was through a word of mouth campaign, for sure…and then we got a little bit of TV – he'd done Glastonbury, but I still fully believe that radio is the thing that did it for us. There is no way that we would have sold two million records without the singles that we had on radio. It just wouldn't have happened…radio is crucial…yeah, radio is essential…

JR

Has it's significance been diluted somewhat by having so many other different competing media these days for people's attention and for circulating music?

BB

I still think radio is crucial in so far as you can access people's lives on a day-to-day basis. I mean obviously there is certain new media outlets for a younger generation, but I think for those of us working in offices daily, or commuting to work or whatever I think radio is absolutely key.

JR

So by having Damien placed on high rotation on BBC radio 1or whatever, that point marks the point where record sales go up?

BB

It's like a graph that goes like that [illustrates slight incline] and then goes like that [illustrates steep incline]… There is no question about it at all…And there is something that I have more faith in as the years have progressed – At the time Christian was very adamant about TV advertising, which relative to the amount of records that we were selling at the time didn't seem like the right thing to do as it was so expensive, but it absolutely paid off… It's that synergy, if you have the press, you have the tour, you have the radio and you have some TV shows – Jonathon Ross, Jules Holland or whatever, and then you do TV advertising – and again you could spend a million quid on advertising but if you are now on radio and people don't know who you are they are not going to buy something just because it’s advertised as being out on DVD or whatever…

JR

So how do you get radio to play it?

BB

[Laughs] That’s a bone of contention…It’s down to…[long pause]…That person you met in BBC today, were they in programming?

JR

He was the head of music at Radio 1.

BB

Right…okay… I’d be interested to meet him.

JR

He said there were two Radio 1s…

BB

What does that mean? Radio 1 and Radio 2?

JR

There is Radio 1 daytime, and then there is Radio 1 after 7 o’clock in the evening and there is a very different approach to both…

BB

Well I am still unsure of what the demographic, but they have always been – I think and certainly from what I hear on Radio 1 – just for 18-20 year olds. So it is incredibly difficult to qualify what their target audience is. I’m not sure if they even know… There have been a lot of changes there over the last couple of years…But it is true, there is daytime and night time play.

Basically, Christian had this fantastic plugger, and after much friction between myself and Damien, we had to remix a track for radio because there was absolutely nothing on Damien's record that would have worked on radio, nothing, no matter how good it was. People want to hear something with a beat, something with a pulse, they want to hear something that is a bit fluffy or whatever so we had to remix the tracks for radio.

JR

So radio feeds back very much into the creative process?

BB

Yeah, it does dictate, and you know I have been told, again by quite reliable sources, that even with the edit that we give them – if it's too long they'll shorten it, takes bits out, speed it up, whatever…

JR

What happens if radio says no?

BB

Radio have said no. Radio have said no to many, many things. So then we go and try another remix. And if they still say no you've just got to go back to the drawing board again and just… Well there is no other drawing board really…

JR

So if radio doesn't like it, is it a case of scrapping everything and start again?

BB

We had released Cannonball for the first time, and we had certain friends within Radio 1 and Radio 2 who played it, but it didn't pass over that tipping point, so we did another mix, and that was the one that flew. That was the one that people liked. So it was like getting somebody cool to remix it, that made it look good… It's all a big game really.

[JR details how there are a variety of different mixes of single tracks these days and questions if this is designed to fit into radio formats]…

BB

It's like covering all possible angles. The formats you have out there the better chance you have of charting. But it is an interesting one if radio says no. I think that there are a couple of things – I mean there are so many records nowadays that do seem to do quite well without radio. And then there is the odd thing that comes along that breaks all the rules like that Jose Gonzales track or that Gary Jules *Mad World*. There are always rules that are broken… But it is extraordinarily difficult…it's just accessing people. You have to access people driving in their car or whatever because people just are not going to buy a record they haven't heard. They are not going to buy a record based on a print-out or a poster…If you see somebody live and you hear them on the radio – It has to be accessible. Nowadays that means the internet or radio.

ON THE SIGNIFICANCE OF TV IN GENERATING RECORD SALES

BB

TV is invaluable, but maybe not so much through advertising. I remember in the fourth quarter last year (2006) it just became completely ineffective. It was as if nearly every single release was doing TV advertising, so I think people just switched. At the time we were doing Damien's first record it was a unique thing to do, and it was a real statement to spend so much money on taking out TV advertising. It was the same with David Gray's records. But then it just became so commonplace that it just diluted the effect of it. I think any sort of TV appearances are good because they reach so many people in their homes, and I do think that all the internet radio, the search engines is invaluable as well, all that new media.

ON THE ROLE OF PRINT MUSIC MEDIA

BB

It has a certain value and it will reach a certain audience, but there are only so many people who will read *Mojo* and *Q* and *Select* and the other music mags and whatever. But in terms of creating awareness it is a first step on the rung. If something is reviewed favourably it can be instrumental in getting other media interested.

JR

Would you buy the front cover of *NME*?

BB

Interesting question. Obviously it depends on the artists. I mean it would be a lot more value to somebody like *Muse* than Damien or David Gray. It all helps…I think we've always been in favour of big sweeping statements where we take out full-page ads announcing concert tours rather than little ads. A lot of this is about perception. If you issue big sweeping statements, it is very helpful in launching a record.

ON WHETHER BEING INDEPENDENT IS EASIER THAN IT PREVIOULY WAS

BB

I think there are people out there making records who are being successful but are just not appearing on the radar. It's so much easier to do now, the whole physical process of recording. You don't have to go into a recording studio to make a record. You can do so much from home. If you are in any way savvy there is so much available to make your own music. So that is a huge transition from the days when you *had* to go into the studio for six months to make a record. It's difficult to say if it is easier now because personally I haven't experienced it any other way, but it would be better for the artists that we work with to do that rather than signing all their rights in perpetuity to a label. But I do really think that it is getting to a point where music is going to be free anyway. So I don't quite know how that would work out and how everybody is going to get paid…

JR

So is the power-base of the major companies seriously damaged?

BB

I'm not sure if it's the internet, or if it's society or whether it just that everything is so much more transient now and happens so much quicker, everything is so much more short-term…

I think the fact that you can…ten years ago I'd say to you 'you've got to go and buy this record, you've got to hear this song' but now I'd just email it to you. So that's the way people are now sharing music, or even simpler than that. So yeah, the internet has obviously had a massive, massive impact. But a lot of the music companies really haven't being paying that much attention to developing the power to hold on to what they have. It's basically the computer companies…

JR

The *power*? But have they not been successfully lobbying for copyright changes?

BB

Well I mean the power in terms of the technology. Certainly I think their interests have been well protected when it comes to copyright control…

JR details creative commons approach and asks if loosening of copyright laws can feed creativity and innovation? Would this be useful to music as an industry?

BB

It is damaging the fabric of the industry because the industry is obviously commercial, and what you describe is obviously non-commercial because it is free. That is the dilemma though, how you would turn that around to make it make sense for everybody. I think yes, there would be some massive creative benefits from that accessibility, but it is just harnessing that in a way that seems fair that the artists copyright and financial interests are upheld… I think that is what we are all struggling with at the minute. Not even struggling with, more a challenge…but how do you make that work long term if you have enormous amounts of websites that you can go a buy Damien's records on for 7 pence a track. How does that work? How does that get carved up down the line. We are still trying to find out about how we are getting accounted to in terms of all of the digital rights and whatever. It just doesn't seem to be…It is certainly not clear at this point.

I remember Rob said years ago that mobile phones are going to be the future, and I'm like 'Nah'. [He said] people will be using them to listen to music and do this and do that… And we were in Australia and one of the guys had a sonar system where you pay a monthly subscription, it's amazing, you basically pay a monthly subscription to a mobile phone company and then you can access their database and they've got like millions of songs.

JR

I this material form primarily the four major companies or does it include independents?

BB

I think there are majors there, yeah??

ON THE IMPACT OF CONCENTRATION ON THE INDUSTRY

BB

That's the structure, that for me has seemed to have broken down in the development world because it's all number crunching… It's very, very pressurized going into a system like that [major's] because everybody's investment is so high, therefore everybody's expectation is so high. The numbers don't really stack up for a young artist on their first record, and there are some fantastic examples of…I can think of about ten acts off the top of my head that have just broken through and are doing phenomenal live business and on their first record are selling out multiple nights at the Brixton Academy and those kinds of venues, which is kind of unusual…

ON ACCESS TO FINANCE FOR SMALLER INDEPENDENT COMPANIES

BB

I think for the amount of money that is required it is quite difficult because it is also a longer term return. Again from our own point of view we knew we had to lock into somebody else's system at that point because we just couldn't do it on our own. I don't imagine very many bands could.

BB

This is a very interesting time in that I don't think anybody actually knows what they are doing…

ON THE LIVE MUSIC INDUSTRY

BB

I think recordings are diminishing in value, let's say, where as people will always want to go and see shows. This has upped the ante for live shows to be better, and the labels are obviously very keen to get their share of every aspect of an artists income, from publishing to merchandising to live to whatever. That's very much one way to look at the future, one sort of big umbrella organisation with everything under the same roof. But I mean you look at Prince – He's issued a whole string of dates, and included in the ticket price is a copy of the new record. That's fascinating. Who would have ever thought of that happening even two years ago.

JR

How lucrative is playing live now?

BB

There is a certain investment of time and money and then it becomes lucrative. And fun from the artist's point of view. And then they have merchandise and income from increased record sales, and if all of the stars align then it financially makes sense! But for somebody like Damien (Rice) we don't take a penny of tour support from the label. We look after that ourselves. Therefore we are not beholden to them to do promos for them and whatever when we are on tour. There can be a lot of pressure to do that, particularly in America, it can be very, very, very challenging out there as the schedules are so intense. There is this massive work ethic that nobody is shy of, but they forget that they are dealing with people who may not have done this before, and that can be really difficult. A load of bands in America on this tour – Lily Allen and a few others that we met – were just all burned out… That is just so, so, so easy to happen…

JR

Can touring be profitable?

BB

Yes… Yes you can tour and make money, even for somebody at the level of Damien or David, but it's about being clever in the first place and not exceeding your ovolution so if you can afford to tour in a Hiace van, or in our case, Damien and myself going around in a Ford Fiesta, but that's what you do. You build up your fanbase and you take it from there. But now we are touring with two trucks and two buses and it is just about balancing out, but looking at it over a year, we'll come out at the end making good money. You have to make money. It doesn't make any sense not to.

Merchandise is increasingly more important if you have the kind of deal where you can see CDs and you can sell…

JR

In terms of all of the various potential sources of income you have, how do each of them break down as a percentage of overall income…

BB

It's difficult because it all depends how much the marketing budget for the record is, but publishing seems to be the most steady and consistent because of radio play and all of the other aspects to it. There comes a point where after a certain amount of records, recording royalties become quite lucrative as well, but that certain amount of records is quite high. The nature of the deals that we have done is lower than the traditional deal… But live can be, again without going down the sponsorship route, live can be quite lucrative. But it can be a long road. In 2004 we were in America every single month. You just have to put in the time and energy there and once people are on board they are on board for life.

But it's radio that really makes the difference. If you get on radio and you are successful on radio it is the difference between hardcore music audiences who read the music press, and people who might buy two records a year. Once in a blue moon they might step into the petrol station on the way home and buy a record there. That's the difference. It helps you cross over to an audience that might not as individuals buy a whole lot of records, and it's access to a big new market. That's what radio is to us.

Appendix H: Transcripts of Speeches by Paul McGuinness, Principle Management, Manager of U2

Below are full transcripts of two keynote speeches delivered by Paul McGuinness to two international music industry seminars in 2008. Both of these speeches relate directly to the relationship between internet technologies and the record industry. The first was delivered at MIDEM seminar, Cannes, France; the second at the Music Matters Conference, Hong Kong. While the tone of both speeches is broadly similar, the latter speech delivered in Hong Kong sees McGuinness place more emphasis on the role of ISPs and argue that ISP monitoring is not an intrusion on privacy. Both transcripts are reproduced in full below:

Transcript of speech delivered by Paul McGuinness at MIDEM, Cannes, France, January 28th 2008:

McGuinness: Good afternoon and thank you for giving me this opportunity. I don't make many speeches and this is an important and imposing occasion for me. What I'm trying do here today is identify a course of action that will benefit all: artists, labels, writers and publishers.

I have been managing the best-known of my clients, U2, for exactly 30 years. Sure we've made mistakes along the way but the line-up hasn't changed in 31 years. They are as ambitious and hardworking as ever, and each time they make a record and tour, it's better than the last time. They are doing their best work now. During that time the music business has been through many changes.

At the beginning U2's live appearances were loss-making and tour support from our record label was essential for us to tour and that paid off for the label as U2's records went to No.1 in nearly every international territory starting in the mid '80s and I'm happy to say that continues to the present day. They have sold about 150 million records to date and the last album went to No.1 in 27 territories.

U2 own all their masters but these are licensed long-term to Universal, with whom we enjoy an excellent relationship. With a couple of minor exceptions they also own all their copyrights, which are also licensed to Universal. U2 always understood that it would be pathetic to be good at the music and bad at the business, and have always been prepared to invest in their own future. We were never interested in joining that long, humiliating list of miserable artists who made lousy deals, got exploited and ended up broke and with no control over how their life's work was used, and no say in how their names and likenesses were bought and sold.

What U2 and I also understood instinctively from the start was that they had 2 parallel careers first as recording and songwriting artists, and second as live performers. They've been phenomenally successful at both. The Vertigo Tour in 2005/2006 grossed $355m and played to 4.6m people in 26 countries.

But I'm not here to brag. I'm here to ask some serious questions and to point the finger at the forces at work that are destroying the recorded music industry.

People all over the world are going to more gigs than ever. The experience for the audience is better than ever. This is proved by the upward trend in ticket prices, generally un-resisted. The live business is, for the most part, healthy and profitable. Bands can gig without subsidy. Live Nation, previously a concert and venue company is moving into position with merchandising, ticketing, online, music distribution as one of the powerful new centres of the music industry.

So what has gone wrong with the recorded music business? More people are listening to music than ever before through many more media than ever before. Part of the problem is that the record companies, through lack of foresight and poor planning, allowed an entire collection of digital industries to arise that enabled the consumer to steal with impunity the very recorded music that had previously been paid for. I think that's been a cultural problem for the record industry -- it has generally been inclined to rely for staff on poorly paid enthusiasts rather than developing the kind of enterprise culture of Silicon Valley where nearly every employee is a shareholder.

There are other reasons for the record business's slow response to digital. The SDMI (Secure Digital Music Initiative) of the '90s pan-industry, was a grand but ill-fated plan to try and agree rules between the content and technology industries. It went nowhere. SDMI, and similar attempts at cooperation by record companies, have partly been thwarted by competition rules. The US government has sometimes been overzealous in protecting the public from cartel-like behaviour.

I love the record business, and though I may be critical of the ways in which the digital space has been faced by the industry I am also genuinely sympathetic and moved by the human fall-out, as the companies react to falling revenues by cutting staff and tightening belts. Many old friends and colleagues have been affected by this. They have families and it is terrible that a direct effect of piracy and thievery has been the destruction of so many careers.

Nonetheless there is one effective thing the majors could do together. I quote from Josh Tyrangiel in Time Magazine: - "The smartest thing would be for the majors to collaborate on the creation of the ultimate digital-distribution hub, a place where every band can sell its wares at the price point of its choosing". Apple's iTunes, despite its current dominance, is vulnerable. Consumers dislike its incompatibility with other music services, and the labels are rebelling against its insistence on controlling prices. Universal the largest label in the world has declined to sign a long term deal with iTunes. "There's a real urgency for the labels to get together and figure this out," says Rick Rubin of Columbia Records.

There is technology now, that the worldwide industry could adopt, which enables content owners to track every legitimate digital download transaction, wholesale and retail.

This system is already in use here in Cannes by the MIDEM organisation and is called SIMRAN. Throughout this conference you will see contact details and information. I recommend you look at it. I should disclose that I'm one of their investors.

Meanwhile in the revolution that has hit music distribution, quality seems to have been forgotten. Remarkably, these new digital forms of distribution deliver a far poorer standard of sound than previous formats. There are signs of a consumer backlash and an online audiophile P2P movement called "lossless" with expanded and better spectrum that is starting to make itself heard. This seems to be a missed opportunity for the record industry -- shouldn't we be catering to people who want to hear music through big speakers rather than ear buds?

Today, there is a frenetic search for new business models that will return the record business to growth. The record companies are exploring many new such models -- some of them may work, some of them may not.

Sadly, the recent innovative Radiohead release of a download priced on the "honesty box’ principle seems to have backfired to some extent. It seems that the majority of downloads were through illegal P2P download services like BitTorrent and LimeWire, even though the album was available for nothing through the official band site. Notwithstanding the promotional noise, even Radiohead's honesty box principle showed that if not constrained, the customer will steal music.

There is some excitement about advertising-funded deals. But the record companies must gain our trust to share fairly the revenues they will gain from advertising. Historically they have not been good at transparency. Let's never forget the great CD scam of the ’80s when the majors tried to halve the royalties of records released on CD claiming that they needed this extra margin to develop the new technology even as they were entering the great boom years that the CD delivered. It's ironic that, at a time when the majors are asking the artists to trust them to share advertising revenue they are also pushing the dreadful 360 model.

As Allen Grubman, the well-known New York attorney said to me recently... ‘God forbid that one of these acts in a 360 deal has success. The next thing that will happen is the manager gets fired and the lawyer gets sued for malpractice.’

Maybe it would help if they were to offer to cancel those deals when they repair their main revenue model and the industry recovers, as I believe it will.

But that's an issue for the future, when we're out of the crisis. Today, there's a bigger issue and it's about the whole relationship between the music and the technology business. Network operators, in particular, have for too long had a free ride on music -- on our clients' content. It's time for a new approach -- time for ISPs to start taking responsibility for the content they've profited from for years. And it's time for some visionary new thinking about how the music and technology sectors can work as partners instead of adversaries, leading to a revival of recorded music instead of its destruction.

It's interesting to look at the character of the individuals who built the industries that resulted from the arrival of the microprocessor. Most of them came out of the so-called counterculture on the west coast of America. Their values were hippy values. They thought the old computer industry as represented by IBM was neanderthal. They laughed at Bell Telephone and AT&T. They thought the TV networks were archaic. Most of them are music lovers. There are plenty of private equity fund managers who are "Deadheads."

They were brilliantly innovative in finance and technology and though they would pay lip service to "Content is King" what many of them instinctively realized was that in the digital age there were no mechanisms to police the traffic over the internet in that content, and that legislation would take many years to catch up with what was now possible online.

And embedded deep down in the brilliance of those entrepreneurial, hippy values seems to be a disregard for the true value of music.

This goes back some decades. Does anyone remember Abbie Hoffman? He was one of the "Chicago 7," the 'Yippies" of the Youth International Party who tried to disrupt the 1968 Democratic Convention in Chicago and got beaten up and put on trial by Mayor Daley's police. He put out a book with the title "Steal this Book". I think he has a lot to answer for.

I've met a lot of today's heroes of Silicon Valley. Most of them don't really think of themselves as makers of burglary kits. They say: "you can use this stuff to email your friends and store and share your photos". But we all know that there's more to it than that, don't we? Kids don't pay $25 a month for broadband just to share their photos, do their homework and email their pals.

These tech guys think of themselves as political liberals and socially aware. They search constantly for the next "killer app." They conveniently forget that the real "killer app" that many of their businesses are founded on is our clients' recorded music.

I call on them today to start doing two things: first, taking responsibility for protecting the music they are distributing; and second, by commercial agreements, sharing their enormous revenues with the content makers and owners.

I want those technology entrepreneurs to share their ingenuity and skill as well. Our interests are, after all, steadily merging as lines get more and more blurred between the distributors of content, the makers of hardware and the creators of content. Steve Jobs is now in effective control of the Walt Disney Studio and ABC Television so his point of view may be changing now that he owns content as well as selling those beautiful machines that have changed our world. Personally I expect that Apple will before too long reveal a wireless iPod that connects to an iTunes "all of the music, wherever you are" subscription service. I would like it to succeed, if the content is fairly paid for. "Access" is what people will be paying for in the future, not the "ownership" of digital copies of pieces of music.

I have met Steve Jobs and even done a deal with him face to face in his kitchen in Palo Alto in 2004. No one there but Steve, Bono, Jimmy Iovine and me, and Lucian Grainge was on the phone. We made the deal for the U2 iPod and wrote it down in the back of my diary. We approved the use of the music in TV commercials for iTunes and the iPod and in return got a royalty on the hardware. Those were the days when iTunes was being talked about as penicillin for the recorded music industry.

I wish he would bring his remarkable set of skills to bear on the problems of recorded music. He's a technologist, a financial genius, a marketer and a music lover. He probably doesn't realize it but the collapse of the old financial model for recorded music will also mean the end of the songwriter. We've been used to bands who wrote their own material since the Beatles, but the mechanical royalties that sustain songwriters are drying up. Labels and artists, songwriters and publishers, producers and musicians, everyone's a victim.

For ISPs in general, the days of prevaricating over their responsibilities for helping protect music must end. The ISP lobbyists who say they should not have to "police the internet" are living in the past -- relying on outdated excuses from an earlier technological age. The internet has moved on since then, and the pace of change today means a year in the internet age is equivalent to a decade in the non-internet world.

Remember the 1990s, when the internet was being called the Information Superhighway? At that time, when the U.S. Digital Millennium Copyright Act and the EU Electronic Commerce Directive were drawn up, legislators were concerned to offer safe harbours restricting the responsibilities of ISPs who acted as a "mere conduit". This was a different era: only a few hundred thousand illegal files could be accessed from websites. There was no inkling
at that time of the enormous explosion of P2P piracy that was to follow. If legislators had foreseen that explosion, would they have ever offered immunity for so-called "mere conduits" and, in doing so, given ISPs a decade of excuses for refusing to protect our content?

And as it turned, the "Safe Harbour" concept was really a Thieves' Charter. The legal precedent that device-makers and pipe and network owners should not be held accountable for any criminal activity enabled by their devices and services has been enormously damaging to content owners and developing artists. If you were publishing a magazine that was advertising stolen cars, processing payments for them and arranging delivery of them you'd expect to get a visit from the police wouldn't you? What's the difference? With a laptop, a broadband account, an MP3 player and a smartphone you can now steal all the content, music, video and literary in the world without any money going to the content owners. On the other hand if you get caught stealing a laptop in the computer store or don't pay your broadband bill there are obvious consequences. You get nicked or you get your access cut off.

It is time for ISPs to be real partners. The safe harbours of the 1990s are no longer appropriate, and if ISPs do not cooperate voluntarily there will need to be legislation to require them to cooperate.

Why does all this matter so much? Because the truth is that whatever business model you are building, you cannot compete with billions of illegal files free on P2P networks. And the research does show that effective enforcement -- such as a series of warnings from the ISP to illegal file-sharers that would culminate in disconnection of your service -- can address the problem.

A simple "three strikes and you are out" enforcement process will see all serial illegal uploaders who resist the law face a stark choice: change or lose your ISP subscription.

Fortunately, there has recently been some tremendous momentum to get ISPs engaged -- notably in France, the UK, Sweden, Norway and Belgium. President Sarkozy's plan, the Olivennes initiative, by which ISPs will start disconnecting repeat infringers later this year, set a brilliant precedent which other governments should follow. In the U.K., the Gowers Report made it clear that legislation should be considered if voluntary talks with ISPs failed to produce a commitment to disconnect file-sharers. I'd like to see the U.K. government act promptly on this recommendation.

In Sweden, the Renfors Report commissioned by the Ministry of Justiceg ISP cooperation. And in the courts, the Sabam-Tiscali ruling spelt out, in language as plain as could be, that ISPs should take the steps required to remove copyright-infringing material from their networks. The European Union should now take up the mantle and legislate where voluntary intra-industry agreement is not forthcoming. This is the time to seize the day.

ISPs don't just have a moral reason to step up to the plate -- they have a commercial one too. IFPI estimates say illegal P2P distribution of music and films accounts for over half of all ISP traffic. Others put the figure as high as 80%. This is traffic that is not only destroying the market place for people who are trying to make a legitimate living out of music and films, it is hogging bandwidth that ISPs are increasingly going to need for other commerce, especially as a legitimate online market for movies develops.

I think the failure of ISPs to engage in the fight against piracy, to date, has been the single biggest failure in the digital music market. They are the gatekeepers with the technical means to make a far greater impact on mass copyright violation than the tens of thousands of lawsuits taken out against individual file-sharers by bodies like BPI, RIAA and IFPI. To me, prosecuting the customer is counter-intuitive, though I recognise that these prosecutions have an educational and propaganda effect, however small, in showing that stealing music is wrong.

ISPs could implement a policy of disconnection in very quick time. Filtering is also feasible. When last June the Belgian courts made a precedent-setting ruling obliging an ISP to remove illegal music from its network, they identified no fewer than 6 technologies which make it possible for this to be done. No more excuses please. ISPs can quickly enough to block pornography when that becomes a public concern.

When the volume of illegal movie and music P2P activity was slowing down their network for legitimate users recently in California, Comcast were able to isolate and close down BitTorrent temporarily without difficulty.

There are many other examples that prove the ability of ISPs to switch off selectively activity they have a problem with: Google excluded BMW from their search engine when BMW started to play games. This was a clear warning to others not to interfere. Another show of power was Google's acceptance of the Chinese Governments censorship conditions. The BBC has spent a fortune on their iPlayer project and the ISPs are now threatening to throttle this traffic if the BBC doesn't "share costs of iPlayer traffic." All this shows what the ISPs could do if they wanted. We must shame them into wanting to help us. Their snouts have been at our trough feeding free for too long.

Let's spare no effort to push the ISPs into taking responsibility. But that's only one part of the story. There's a huge commercial partnership opportunity there as well. For me, the business model of the future is one where music is bundled into an ISP or other subscription service and the revenues are shared between the distributor and the content owners.

I believe this is realistic; the last few years have shown clear proof of the power of ISPs and cable companies to bundle packages of content and get more money out of their subscribers. In the UK, most ISPs offer different tiers of services, with a higher monthly fee for heavy downloaders. Why are there "heavy" downloaders? Isn't that our money? News Corporation offers free broadband to light users if they take at least a basic Sky Television package for £16 [$31.78] a month.

Looking at the events in the last year, this revenue-sharing model seems to be taking hold in the music business.

Universal -- U2's label -- recently struck a deal with Microsoft that sees it receive a cut of the revenues generated by sales of the Zune MP3 player. It's unfortunate that the Zune hasn't attracted the sort of consumer support that the iPod did. We need more competition.

Under the agreement, Universal receives $1 for every Zune sold. When you consider Radio Shack sells Zune players for $150, you'll see that Universal has asked for less than 1% of revenue -- for a company that is supplying about a third of the U.S. market's chart music at the moment. This isn't really enough, but it's a start, I suppose, and follows from the U2/Apple deal, the principle that the hardware makers should share with the content owners whose assets are exploited by the buyers of their machines. The record companies should never again allow industries to arise that make billions off their content without looking for a piece of that business. Remember MTV?

Nokia has announced it will launch "Comes With Music," a service that effectively allows consumers to get unlimited free downloads of songs for 12 months after they buy certain premium Nokia phones. At the end of the 12 months consumers will be able to keep the songs they download. Nokia gets to supply premium content and Universal gets to boost competition in the digital marketplace, to make it more competitive and open new channels to customers. A proportion of the revenue generated by sales of the handsets will flow back to Universal. The question must be asked; will they distribute that revenue fairly? Do artists trust the labels? Will artists, songwriters and labels trust the telcos and handset companies?

These are obviously commercial deals driven by self-interest. But there is a moral aspect to this too. The partnership between music and technology needs to be fair and reasonable. ISPs, Telcos and tech companies have enjoyed a bonanza in the last few years off the back of recorded music content. It is time for them to share that with artists and content owners.

Some people do go further and favour a state-imposed blanket licence on music. Let me stress that I don't believe in that. A government cannot set the price of music well any more than a rock band can run a government. The market has to decide. The problem with the global licence proposed in France two years ago was that it would not have worked in practice. But it is in France recently that legislators have been most innovative and have shown most willingness to act to support recorded music rights. France leads the world on this.

So far I've focused mainly on the role of ISPs. But there are similar issues in mobile too. The mobile business accounts for half the world's digital music revenues and, crucially, is starting out from a much better position than the internet music market. You only have to look at a market such as Japan to see the amazing potential of mobile music for getting to the young demographic.

I believe that in mobile music we have the chance to avoid the problems that have bedevilled the recorded music industry's relationship with ISPs: and I'm not talking just of their tolerance of copyright theft. Other problems, like the lack of interoperability between services and devices; the lack of convenient payment mechanisms except via credit cards -- which of course are not available to all music users; the hacking and viruses that have undermined people's trust in online payment. All these problems can be avoided in the mobile sector, this is a task that should command the support and cooperation of labels, artists, publishers and writers. We're all in the same boat here.

That's a lesson for the mobile industry internationally. Don't go the way that many of the ISPs have gone. Mobile is still a relatively secure environment for legitimate content -- let's keep it that way.

So, to conclude -- who's got our money and what can we do?

I suggest we shift the focus of moral pressure away from the individual P2P file thief and on to the multi billion dollar industries that benefit from these countless tiny crimes -- The ISPs, the telcos, the device makers. Let's appeal to those fine minds at Stanford University and Silicon Valley, Apple, Google, Nokia, HP, China Mobile, Vodafone, Comcast, Intel, Ericsson, Facebook, iLike, Oracle, Microsoft, AOL, Yahoo, Tiscali etc, and the bankers, engineers, private equity funds, and venture capitalists who service them and feed off them to apply their genius to cooperating with us to save the recorded music industry, not only on the basis of reluctantly sharing advertising revenue but collecting revenue for the use and sale of our content. They have built multi billion dollar industries on the back of our content without paying for it.

It's probably too late for us to get paid for the past, though maybe that shouldn't be completely ruled out. The U.S. Department of Justice and the EU have scored some notable victories on behalf of the consumer, usually against Microsoft. They have a moral obligation to be true, trustworthy partners of the music sector. To respect and take responsibility for protecting music. To work for the revaluation, not the devaluation of music. To share revenues with the community fairly and responsibly, and to share the skills, ingenuity and entrepreneurship from which our business has a lot to learn.

And the message to government is this: ISP responsibility is not a luxury for possible contemplation in the future. It is a necessity for implementation TODAY -- by legislation if voluntary means fail.

There's more exciting music being made and more listened to than at any time in history. Cheap technology has made it easy to start a band and make music. This is a gathering of managers; our talented clients deserve better than the shoddy, careless and downright dishonest way they have been treated in the digital age.

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Transcript of speech delivered by Paul McGuinness at Music Matters conference, Hong Kong, 4th June 2008:

Title: 'Why won't the ISPs stop defending the past, start embracing the future and partner the legitimate music business?'

McGuinness: Good morning. I am delighted to have this chance to address the Music Matters conference in Hong Kong. I don't get up on stage like this that often and I don't usually live my life in the limelight, even though I manage people who do. It is a good rule of thumb that when it is the manager and not the artist getting the headlines, then something is out of kilter. Well there is certainly something out of kilter in the music business today.

I'm here because I believe in something quite passionately. I would like to identify a course of action that will benefit all: artists, labels, writers and publishers, big and small. The recorded music industry is in a crisis and there is crucial help available but not being provided by companies who should be providing that help - not just because its morally right but because its in their own commercial interest.

I have been managing the best known of my clients, U2, for exactly 30 years. They are as ambitious and hardworking as ever, and each time they make a record and tour, it's better than the last time. They always understood instinctively that they had 2 parallel careers – first as recording and songwriting artists, and second as live performers. They've been phenomenally successful at both. U2 have also been good at business and at investing in their own future. We were never interested in joining that long, humiliating line of artists who made lousy deals, got exploited and ended up broke and with no control over how their life's work was used and how their names and likenesses were bought and sold.

U2 has succeeded gradually over time from modest beginnings 30yrs ago, they have seen their records consistently reach No. 1 across the world since the 1980s, and continue to do so. They have sold about 150 million records to date and the last album went to No.1 in 27 countries. The Vertigo Tour in 2005/2006 grossed $355 million and played to 4.6 million people in 26 countries. At the same time we have an excellent relationship with our record company, Universal. U2 own all their own master recordings which are licensed to Universal and the copyrights to all their songs which are also licensed to Universal.

People often wonder whether the era of the international superstar band is over. I don't believe it is Even as I speak, there's probably a group in Paris or Dublin or London or New York or Tokyo or Bejing practising in a room right now, today, that are figuring it out a new way, themselves, and they will be big stars all over the world in a couple of years and they will have done it a different way to their predecessors - that's the exciting thing about this business.

The people who make it tend to have this extraordinary skill set of artistic and creative talent but they are also intuitively marketing people and politicians; in close touch with young culture, they think about style and all the other elements of that equation. When those skills and talents come together, you get the magic of an Elvis Presley or Faye Wong or Jay Z. They are always extraordinary people. If you could spot them in advance, it would be great but you can't which is why you have A & R departments who try it with many, knowing that not everyone is going to succeed globally and most will fail.

Meanwhile record companies are reinventing themselves for a much more complicated world. Their star-building function has taken a battering, but I can't see the need for the record company ever going away. They bring to the mix unique and invaluable skills - of A&R, marketing, financial management and career-building. Sure, some artists, like Radiohead and Madonna, have proved that at different points in the artist's career they may not all need all those functions all the time. The truth is that there is always a long list of artists who are either succeeding with their record deal, or desperate to get one.

So what is the challenge facing the future of our business? Let me start with great news. Music consumption is soaring. At the same time as more people are listening to and enjoying music than ever before, more people are making it, playing and recording it. Almost anyone with talent can now record, market and distribute their songs for next to nothing. It is fantastic how the digital world has democratised the relationship between artist and audience in this way.

More good news is that, although the recorded music business is far from thriving, it is helping to drive a much larger group of businesses which are. IFPI did some interesting maths. They worked out that if you combine the total economic activity of the music sector and the businesses that it drives you have a sector worth around 155 billion dollars– that's nearly eight times the size of the recorded music business. And most of that business grew healthily last year. Live music was up 9%, music publishing up 5%, sales of portable devices up 16%, music revenues from public performance up 13%, musical instrument sales up 9%.

The recorded music business is itself, however, in a crisis. Growth of digital sales is not offsetting the decline of physical CDs. Sales of the blockbuster artists that have traditionally funded investment in large rosters have sunk dramatically. There has been real pain right across our business, thousands of livelihoods put at risk and jobs lost.

Amid this gloom, there are also great reasons to be optimistic. The digital music business today is vibrant and full of experimentation and innovation. Record companies are full of the people with the right expertise to face the opportunities and challenges of the revolution we are going through. In the past I always felt they were over-inclined to rely for staff on poorly paid enthusiasts rather than developing the kind of enterprise culture of Silicon Valley where nearly every employee is a shareholder.

The record business is redefining its role in relation to virtually everything and everyone – its consumers and its partners, the live industry, management companies and artists. But – and here I speak with 30 years experience as a manager – record companies have to look at themselves too. Fairness, transparency, morality and efficiency have never been more precious qualities for them to prove than now. In a fast-declining market, we are being asked by the recorded music companies to accept that they will distribute fairly their new income streams from advertising or from subscription services bundled into telephone devices. The recorded music companies must earn the trust they are asking for from artists. It's hard to forget that these are the same corporations that perpetrated the old 50% CD royalty scam in the 80s and to this day still have contracts full of packaging deductions and breakages clauses. Executives at the major labels (and some of the small ones) should stop this nonsense once and for all and provide clear, easily understood contracts and accounting statements which will make clear where the money comes from and who gets it.

I have been auditing labels and publishing companies for nearly 30 years and I can tell you I have never once found an error in the artist's favour. Record companies are repositioning themselves. The 360 degree deal is a popular concept, but it's still fairly experimental and personally I dislike it. As Allen Grubman, the well-known New York attorney so eloquently said: "God forbid that one of these acts in a 360 deal has success. The next thing that will happen is the manager gets fired and the lawyer gets sued for malpractice".

The biggest challenge of all though, without any doubt, is monetising the future of recorded music at a time when money is being sucked out it by other parties. There is enormous interest in the idea of monetising "access" to music and not just selling individual tracks and albums. What that will look like isn't clear: maybe an iPod or a phone with all the music available through it? Maybe a beautiful, non-clunky, subscription service that is compatible with mass market portable players and bundled into a phone or ISP bill? No one can second guess Apple, but personally I expect that Apple will before long reveal a wireless iPod that connects to an iTunes "all of the music, wherever you are" subscription service. I would like it to succeed, if the content is fairly paid for.

The argument seems to be about price. If the price is fair perhaps artists and labels can begin to recover from the financially devastating P2P era. Apple will take care of the ease of use. They make beautiful machines. But the future isn't just about Apple. Recent months have seen a fair share of important initiatives: QTrax, albeit still recovering from a shaky start at Midem in January; in Europe, Nokia's "Comes with Music"; in Denmark, a fascinating world's first widely-licensed ISP music service called TDC Play; Omnifone's mobile download initiative; a venture into music downloads by MySpace; We7's free-to consumer ad-supported service, iLike the exciting music platform on Facebook. And others.

In a world where people are not paying for content, but where the money has to come from somewhere, ad-supported services have a potentially huge role to play. I have to confess I am not a huge fan of the concept. But the business model may work. The recently-announced MySpace Music service will offer a mix of free streaming of songs and videos, supported by advertising, as well as paid-for downloads. Chris de Wolfe, the CEO of MySpace, has talked of "killing piracy with convenience". I hope he is right. Live Nation also have big plans as they get their ticketing rights back from Ticketmaster this year in North America, next year in the rest of the world. They have discovered that when customers are online to buy tickets, they are inclined at the same time to buy other products including physical and digital music and merchandise.

Some of the best brains in the business are working on all these services. But there is a sad, unalterable fact and it has been around for some time. The market is rigged against them. You cannot monetize a business in an environment awash with unauthorized free content. And this is a crisis that is not just affecting music and record companies. It is affecting the whole world of cultural and creative content. Earlier this year in Britain the Society of Authors, representing 8,500 professional writers, warned that book piracy will ultimately drive authors to stop writing unless radical new methods are found to compensate them for lost sales. The movie industry, long protected simply by the technical difficulty of shifting movie files, is now waking up to much more worrying future. Internet piracy is now a bigger problem for the UK film industry than home copying of DVDs. Meanwhile the value of live sports rights on TV is currently under threat because all events are available free on the internet. The big soccer leagues are deeply worried. Man United's live TV rights are plunging in price world-wide.

Some say this is the inexorable advance of technology. But I believe the devaluation of music by the internet in recent years has been anything but inexorable. A "free music culture" is undoubtedly percolating upwards from the teenagers and college students and establishing the mindset for future generations of music consumers.

But they are the symptom, not the cause. To find the cause, you just ask this – where has all the money gone? The answer is that it has gone to corporations – cable operators, ISPs, device manufacturers, P2P software companies - companies that have used music to drive vast revenues from broadband subscriptions and from advertising. They would argue they have been neutral bystanders to the spectacular devaluation of music and the consequent turmoil in the music business; I don't believe that is true – they turned their heads the other way, watched their subscriptions grow, and profited handsomely.

Researchers estimated at the end of last year that up to 80% of ISP traffic is accounted for by peer-to-peer networks like BitTorrent and Limewire, and we know that the large majority of that traffic is unauthorised music and movies. ISPs revenues from growing broadband subscriptions have soared during the exactly the same period that has seen recorded music sales collapse. From 2004 to 2007 broadband subscription sales rose from US$60 billion to US$113 billion, while the music market fell by about 20% in the same period.

And if you want an idea just how much the expansion of broadband means to a large ISP, look at last year's profits of BT in the UK. Profits of £5.8 billion pounds sterling, 40% of which came from broadband and IT services. I'm not picking on BT in particular - I'm sure the situation is similar among its competitors.

Of course the champions of the ISP and technology industries that have driven these impressive revenues are not bad people. They spring from the internet freethinking culture of California and Silicon Valley. They are fantastic entrepreneurs, wonderful engineers. Their passion for innovation and liberal hippy values in one sense sit very well with the creativity of the music business. But at a deeper level, there is a bigger problem and it's one those brilliant minds never resolved: I'm talking about the problem of paying for music.

Today, encouragingly, there is definitely a change in the air. First, the gold rush of broadband expansion, in most developed markets at least, is over. ISPs are looking at a future where their added value is going to come not just from pipes and cables but from tiered packages of commercial content. Throughout the ISP and cable industries, the lines between distribution and content are getting blurred. Look at the fascinating position of a company like Rupert Murdoch's News Corporation – part-ISP via Sky Broadband in the UK; part broadcaster offering different levels of cable packages; part stakeholder in social networking sites via MySpace; and part music content provider as MySpace moves from the world of music discovery intothe world of monetised music downloads. Part movie and TV content production via Fox Studios part sports content owners and distributors.

Apple is another example. Steve Jobs is now a serious content owner – he is effectively in control of Disney Pixar Studios, ABC TV Network and ESPN Sport. Hollywood Records is a successful record company. Steve has a better reason today than he ever had to apply that genius of his not just to beautiful machines, but also to protecting music and all his other content.

Another big change is happening, as network capacity increases and technology allows the distribution of bigger and bigger files. Movies, broadcasting, music videos and live sports are all online now. The BBC iPlayer in the UK is already estimated to be accounting for 5% of all internet traffic, and use of it has been increasing at a rate of 20% a month since its launch at the end of last year.

From being in a position where they simply couldn't get enough unauthorised free content, ISPs suddenly have reason to feel dangerously deluged by it. In the UK they have even had the audacity to demand funding for investment in new capacity from the BBC to meet the increased demand from the iPlayer. This is truly outrageous. It's like helping a shoplifter carry stolen goods from someone else's store and charging him AND the store for the service. Life must be good as an ISP: when there is a deluge of illegal content over your networks, you have no responsibility for getting rid of it; when the pendulum swings the other way and your pipes cannot cope with the traffic, you ask the content creators (and the license fee payers in the case of the BBC) to help bail you out!" And change is happening in the corridors of government too. Governments in a growing number of countries have woken up to the catastrophe that their cultural industries are facing. They have seen the statistics, understood the inherent benefits of a system which addresses piracy near its source, via the ISPs who can help to do something about it. For the first time there is the prospect that if ISPs do not cooperate at least with steps to help tackle copyright theft, then legislation may require them to do so. This is on the agenda in France and Britain, with discussions proceeding in other countries such as Japan and Hong Kong.

There are broadly two things I would like to see from ISPs. One is a real commercial partnership with the music business in which they fairly share their revenues. The other is action to stop facilitating mass copyright theft themselves.

Let's look first at the commercial model. Let me make clear here I'm talking about commerce here, not a state-imposed flat fee. I'm convinced the global license, with governments setting the terms and the price for music distribution, is totally unworkable. Privately-negotiated revenue-sharing partnerships are, I believe, a key model for the future. This is where the "Comes with Music" from Nokia concept could succeed on a large scale. The signs are not perfect but they are promising. Nokia has signed up Universal and Sony BMG as partners for its "Comes With Music" phone. It is a fascinating model that needs to succeed, can succeed, and if it does, could spawn a genuine competitor to the iPod and iPhone. The business model incorporates the cost of an annual music subscription service into the purchase price of a handset. Nokia's "Comes with Music" phones may be launched in the second half of this year. The launch date has been postponed several times, but it is crucial to get it right. I hope Nokia realise that the graphics for and visual presentation of online music and mobile music have to be as good as the artists, the industry and the fan is accustomed to.

Another different mobile subscription model is Omnifone. For a small weekly fee, the company's Music Station phones offer consumers access to a library of more than 1.4 million tracks from all the majors and many independents. The service is already live with Vodafone in the UK and is being rolled out around the world.

Unfortunately no similar deal yet exists with ISPs. Today, in Denmark, there is one of the very few examples of a major national ISP launching a licensed music service where downloads are bundled into the costs of an individual's monthly subscription. The TDC Play service is free to the user and funded by a flat monthly fee that is paid to rights holders in proportion to the sale of track downloads. Denmark is a long way from Hong Kong but I think this is an interesting deal. TDC is a major national ISP which has made an important commercial decision – it has decided that it is worth paying for recorded music in order to add value to the subscription package that it offers its customers. It is using music legitimately to gain commercial advantage over its competitors.

One way or another, ISPs and mobile operators are the business partners of the future for the recorded music business – but they are going to have to share the money in a way that reflects what music is doing for their business. That's true nowhere more than in China. China Mobile makes hundreds of millions of dollars each year from sales of ringtones and ringback tones, yet pays a miniscule fraction of that to performers, producers and composers. That to me is not a fair business partnership.

But it's not just about business deals. There is a very widespread support across the music sector now for ISPs to cooperate in helping curb piracy. But the lack of any concrete proposals from the ISP sector in response is quite deafening. The power of their lobby is astonishing and dwarfs the resources of the music, movie and sports industries.

Fresh thinking is desperately needed and, I'm happy to say, fresh thinking is happening. The general international legal framework is only of limited help. The ISP "safe harbour" rules put in place by legislation in the US and Europe were really designed for a different vision and a different era of the internet. They were a blueprint for developing an internet unfettered by needless regulation and in which P2P piracy was barely even imagined. They were good for the mid 1990s. Not so good for today.

In France last November President Sarkozy, acting on the now famous report by Denis Olivennes, offered a new vision of the internet, pledging that it cannot become the "Wild West". He launched a groundbreaking plan to bring together the film, music and ISP industries, to implement a scheme to disconnect large-scale illegal file-sharers and explore the filtering of copyright infringing networks. That plan is moving forward. It will go to the National Assembly in France this summer. It has many elements which are a great model for the rest of the world.

The British government has taken up the case too. In the last few months, Britain has promised to introduce legislation requiring ISPs to help tackle online piracy if they fail to do so voluntarily. In Japan a government-supported consortium has been formed involving entertainment companies, ISPs and the national police. In New Zealand a new Bill passed in April has required greater cooperation from ISPs in curbing repeat copyright infringers.

Unfortunately, this groundswell has not visibly shifted ISP attitudes. On the contrary, there has been an enormous amount of resistance, helped by a fair amount of misinformation put out by their powerful lobbyists. For instance, no one is asking ISPs to be the police force of the internet. There will be no snooping on people's emails. No monitoring what websites they visit. ISPs would just be reacting to rights holders' complaints when copyright infringing music is uploaded to P2P networks.

Perhaps the really telling data here is not what the regulators and legislators who are the recipients and targets of well funded ISP lobbying campaigns worldwide think, but what consumers think. Last week IPSOS published research in France showing that 3 in 4 French consumers support a scheme of graduated warnings, culminating in disconnection, for repeat copyright infringers on ISP networks. They also said the proposals would work: 90% said they would stop downloading illegally after receiving two warnings. That all strikes me as so much better a proposition than having to take legal actions against tens of thousands of individuals for illegal filesharing. I am personally opposed to prosecuting the customers.

The alarm has been raised about rights to free speech and privacy. A serious issue if it were justified, but in fact it's just scaremongering. Of course privacy and freedom of speech are sacred rights. And so too is protection of intellectual property rights - a recent court case in Europe, involving the Spanish ISP Telefonica confirmed it. The balance can be struck and we must make every effort to strike it. We are waiting to have that discussion, to agree that balance. What are the ISPs proposing on their side? What are the solutions they would offer? Let's end the deafening silence.

And it's been argued that the ISPs don't have the means to help. I don't believe that argument stands up any longer. The modern history of the internet is chockfull of examples of ISPs intervening in the traffic on their networks when it suits them. Comcast did it in the US, throttling traffic on BitTorrent until falling foul of concerns over net neutrality. Last year, in a precedent-setting copyright case, a Belgian court ruled not only that an ISP had to stop copyright abuse on its network but also identified six technologies that could be used for filtering.

It is time to re-evaluate our expectations of the role ISPs must play in sustaining a safe and legitimate internet. This goes beyond music, and it must go beyond narrow commercial interests. Today there is a rightful concern everywhere about how to regulate the internet for young people. In Britain recently, a groundbreaking Government paper was published, the Byron Report. It identifies all the risks and harmful content that young people are exposed to online, but it mysteriously fails to propose a role for the ISPs who are best placed to solve them. Why the reticence? This letter to the Financial Times in February from Richard Yarlott suggests the answer more eloquently than I could:

"The transfer of responsibility from large corporations to parents, carers, teachers and even child-minders is the most disappointing aspect of the review. The ISPs have clearly had their say in managing its conclusions, while the search companies, the only entities capable of classifying content, are largely exonerated."

The real problem here, I believe, is a lack of willingness by ISPs to act. That is why legislation could well have to be the answer. This issue is really all about recognizing the value of music and fairly rewarding those who create and produce it. Value of music is an issue for other partners too, not just ISPs. Music is driving the profits of radio broadcasters and is being used as never before in a host of third party businesses. Music is ubiquitous in modern life, in stores, airplanes, gyms, hair salons, everywhere. This is a big issue internationally today, and especially in China.

You would think that the existence of basic rights to ensure that the performers and producers get a share in these profits would be taken for granted. Certainly you would be right to expect that in any country which values its musical culture, nurtures its repertoire and values its international reputation. Yet the absence of such rights in China is a missed chord. China's commercial radio sector is worth hundreds of millions of dollars in advertising revenue. I think is important for China's music community and for its international reputation that that money is shared.

The same principle applies to China's huge internet companies such as Baidu, Yahoo China and Sohu. Baidu, listed on the New York stock exchange, reports ever larger profits each financial quarter. To the artist and record companies whose tens of thousands of copyrighted tracks are being distributed in order help generate those revenues it seems very wrong and very unfair. The legal action record companies are involved in now against Baidu and Sohu is a sad necessity. I hope they will help shape a better landscape for music and other industries in China which depend on real respect of intellectual property rights. We have a long way to go: Yahoo China has a service that has already been ruled illegal by the Chinese court but refuses to respect the judgement. What kind of respect for the law is that?

This goes far wider than just the internet companies. I would like to think that the organisers of the Olympic Games, so protective of their 95-year old logo and of their brand, would know a thing or two about doing the right thing for the respect of intellectual property. They have certainly not hesitated to enforce their rights over their own brand, as they did against the French group Carrefour. Yet when the record companies protested repeatedly to the Beijing Olympic Committee that Sohu, the official ISP of the Olympic Games is running a massively copyrightabusing download service, they met with stony silence. I hope that will change. If music and the creative industries are to survive in the digital world, turning blind eyes to big-time copyright abuse is not acceptable. This is bad for the reputation of modern China where IP protection will become increasingly important for their own economy.

So what is the future for the music industry? Well, the world has never been so full of commentators who are so certain how it all went wrong. Most of them don't seem to have much real responsibility for putting it right. Someone told me this joke recently. How many record execs do you need to change a light bulb? The answer used to be forty: one to change the bulb, one to hold the chair and thirty-eight to lig on the guest list.

That world has gone. These days the answer might well be one person, but with 39 people telling him how he should do it differently and how he should change his business model if it weren't already too late, and how he should really have seen the light bulb fading years ago.

So to finish – we need new business models, yes. We have to reach the consumer in a way the consumer wants. To a very large extent that is happening already. But we also need a fair partnership between the makers and creators of the content, and those who distribute it. That partnership is about fair rewards to creators, and it is also about using the ability that ISPs so plainly have to help protect content.

The real challenge for our industry is to monetise music and avoid going out of business. The task for the ISP industry is this: to pay for content fairly and ensure that there will still BE content in the future. Building and expanding the internet only makes sense if there's going to be new content in the future. The ISPs, if they carry on the way they are will have to explain to future generations why there’s nothing new to listen to but bad demos and nothing new to watch but reality TV shows.

Sometimes I think they are like latter day Medicis with the crucial difference that, as they are building their vast and wonderful cyber galleries, they are ignoring the fact that the artists are dying out and not being replaced because artists don’t get paid any more. It’s stupid really isn’t it?

The music business once had to bear the accusation that it was full of dinosaurs who looked back to an old business model rather than embracing a new one. Today, though, it is the music business that is charting the way to the future. We are the ones exercising the brains of government about how to balance a free internet with an internet that respects intellectual property, is properly regulated and is not the Wild West. I believe President Sarkozy truly caught the spirit of the age with that statement. The visionaries and the dinosaurs have perhaps changed places. If there are dinosaurs around today, I think they are the internet free-thinkers of the past who believe that copyright is the great obstacle to progress, that the distributors of content should enjoy profits without responsibilities and that the creators and producers of music should simply subordinate their rights to the rights of everyone else.

We have not reversed the troubles of the music industry yet - but at least the dinosaurs are no longer running the show.