

# Social networks, legal innovations and the “new” music industry

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## Abstract

**Purpose** – *Digital technological innovations are commonly perceived to be radically disrupting the power or role of corporate actors within the music industry and their established industrial practices and interests. In particular, the internet is widely regarded as having produced a “crisis” for the music industry. While such assumptions reflect the predominance of technological deterministic thinking in relation to the music industry, this paper aims to draw upon historical insights from past research on radical technical innovation processes to inform this approach to examining some of the key innovations that have occurred in the music industry in the digital era.*

**Design/methodology/approach** – *This paper draws on a range of qualitative data obtained primarily from a recently completed Irish-based music industry research project, primarily comprised of interviews conducted with key music industry informants and personnel.*

**Findings** – *Key findings indicate that ongoing legal innovations, combined with the widespread adoption of social networking sites and other online content platforms are (amongst other factors) serving to maintain and bolster the position of major music copyright owners.*

**Originality/value** – *In the context of the contemporary “knowledge economy”, the authors propose paying special attention to one specific area of policy innovation – that related to the intellectual property rights (IPRs) regime. In particular, they place emphasis on the copyright strand of IPRs in shaping the outcome of digital platforms for the promotion and dissemination of music. In doing this, they consider the evolution of a re-configured music industry “structure” which re-conceptualises the music artist as an “all-encompassing bundle” of rights through which a diverse range of revenue streams are increasingly streamlined back to a small handful of major copyright owners.*

**Keywords** *Music, Copyright, Digital content, Social networks*

**Paper type** *Research paper*

## Introduction

For over a decade now, innovations in the realm of digital media technologies have been commonly perceived as threatening the medium/long-term viability of the music industry. Digital file-sharing, duplication and storage technologies are widely regarded as producing a “crisis” for an industry that had grown exponentially on the back of the CD-boom throughout the latter decades of the twentieth century. Beyond the perceived effects of digital distribution technologies on music industry revenue streams, many media accounts point to the role of social networking sites as platforms that are effectively replacing the artist and repertoire (A&R), marketing and promotion functions traditionally associated with major music companies (see, for example, Boyd, 2011; Topping, 2010; Van Buskirk, 2009). Here, aside from “mass-user” sites such as Facebook and YouTube, a wave of “niche” music social networking sites are increasingly regarded as rendering redundant the machinery of the major media corporation in mediating the relationship between artist and music end-user. In short, the internet is widely perceived as producing the conditions that radically reduces music industry revenues, while also serving to significantly disrupt the role

(and power) of the industry's major companies in terms of their relationship with their final consumers.

We argue, however, that the music industry has proved itself to be highly innovative in responding to the challenges of digitalisation. Here, we are concerned with mapping specific aspects of the response strategies formulated by major music copyright holders to negate the potentially harmful "effects" of digital technological innovations. While these response strategies incorporate a range of "matching" innovations in the organisational and institutional domains (too extensive to address with any degree of depth in a paper such as this), we concern ourselves with two key (and related) aspects of the established music industry "response". First, we examine how ownership of intellectual property lies at the centre of a new music "order" where, in very recent years, the music industry has reconfigured its own core structures. This process has enhanced the industry's efforts to "legally" lay claim to the internet as a delivery mechanism for music as well as serving to generate fresh revenue streams from electronic platforms as well as others. We are concerned with how online social networks serve simultaneously as sites of both promotion and direct revenue generation for major music copyright holders and, how recent developments in this sphere form one aspect of a much larger music industry restructuring process aimed at negating the potentially harmful effects of the "limitless substitution" associated with recorded music products. Second, we draw on a range of recently gathered empirical data to question and probe the extent to which social networking sites have diminished the power of major music industry labels by directly linking artist to audience. Here, we examine the extent to which social networking sites have enhanced the "do-it-yourself" to music promotion and distribution in terms of generating an audience for new music and artists and, in doing so, by-passing the traditional machinery of the music industry.

In the above, we draw on a recently completed Irish-based study comprising a series of 39 primary research interviews with key music industry personnel and informants. These interviewees are predominantly Irish-based and their activities span the range of music industry sub-sectors and related spheres. This includes artist managers, major record label executives, independent music company owners, music publishers, music industry trade body representatives and other key industry informants.

### **The "digital destruction" of the music industry?**

The digitisation of media and the evolution of online channels for its circulation and distribution came accompanied by much techno-centric hysteria proclaiming the (commercial) demise of all that could be digitised (see for example Kelly, 1999, 2002; Negroponte, 1995, 1996). Such perspectives pointed to social and economic structures undergoing fundamental transformation; digitalisation would ensure the death of copyright; the media "corporation" would collapse in an environment where it no longer held a stranglehold over channels of distribution; concomitantly, the "individual" would be empowered in ways previously inconceivable in terms of producing and delivering content to a mass audience. In short, the "new economy" deemed to arise from digital technologies means the demise of the "old" economic laws that have characterised the modern capitalist era (Kelly, 1999).

The market "works" for goods and products that may be characterised as "rivalrous" and "excludable" (Boyle, 2008). As Boyle (2008, p. 5) emphasises, it is copyright that makes the market work for "giant producers of culture" by enabling them to control the duplication, distribution and performance of content. Such argument echoes the logic of Shapiro and Varian (1999) who point to continuities in the rules of the economic game that underpin the information economy.

However, the "apparently" non-rivalrous and non-excludable characteristics of digitisable cultural or informational texts renders them, in essence, difficult to monetise. Commonly, such logic is applied to the outcome of the music industry over the past decade. Following two decades of significant growth, the turn of the millennium saw the record industry enter a

decade of (almost) consistent decline. Since then, the music industry has been “working extensively to control the flood of copyrighted music on the internet” (Burnett and Wikström, 2006, p. 579) that has threatened to diminish its significance, particularly the power and role of the established major industry labels. Peer-to-peer file-sharing and radically improved duplication and storage technologies are commonly viewed as inducing a loss of scarcity in an industry that previously reaped mega-profits, primarily through the peddling of scarce resources.

The notion of a “crisis of digitalisation” in the music industry has consistently echoed from various corners of the industry itself, the political establishment and from many quarters of the media. The primary evidence offered in support of this crisis argument is the decline in the trade value of recorded music sales since the late 1990s. Having more than tripled in value between 1982 and 1999 to a record high of US\$38.7 billion (Nurse, 2001), retail revenues have experienced significant downturn for more than a decade now, falling to US\$24.3 billion in 2010 (IFPI, 2011). Trade values have fallen from US\$27.3 billion in 1999 to US\$15.9 billion in 2010 (IFPI, 2011).

Sentiments of crisis 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” (Negroponte, 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 (Kelly, 2002, pp. 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” (Kelly, 2002). Indeed for Kelly (1999), the “new economy” deemed to arise from digital technologies means the demise of the “old” economic laws that have characterised the modern capitalist era.

Beyond such accounts of the decline or demise of the music industry itself, some more recent media coverage suggests that music’s “digital revolution isn’t discriminatory” with music journalists the latest casualties of technological innovation (Boyd, 2011, p. 32). Here, journalist Brian Boyd regards social networks as effectively replacing the “professional” music reviewer as a key taste maker in the internet age. Music critics are thus described as “clinging to the wreckage [...] playing catch-up with technological revolution” as artists and fans “bypass” the traditional gate-keeping function of journalists in an environment where fans rely on each others pronouncements and recommendations and enjoy a direct relationship with their favourite artists. Technology, Boyd (2011) proclaims, has made music journalism effectively “redundant”.

Equally, many accounts see social networking sites as increasingly significant players in the circulation and dissemination of music, but ineffective “monetisers” of content (Van Buskirk, 2009) as well as platforms that transfer the “power of discovery” of new music artists and songs into the hands of end-users like never before (Topping, 2010). The founder of Soundcloud – one of a recent wave of niche music social networking sites – puts it thus:

In the past, there were just a few gatekeepers [...] and you had a powerful network of labels, A&R, radio and TV executives and magazines who decided what you should be listening to. Now it’s so much easier to find out [...] what other people [...] on the other side of the world are recommending (Topping, 2010).

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.

### **Other potential outcomes to the “digital revolution”?**

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 evolution of a technology from its emergence from its general background to its social acceptance.

At the centre of Winston’s approach is the “law of the suppression of radical potential” which refers to the pressure and actions of established societal institutions to combat the disruptive potential of technology on existing social formations and power structures. For Winston (1998, p. 11), “the great corporation as the primary institution of our society”. 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 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. 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). The following section thus considers music as a “rights-based” industry.

### **Music is a rights-based industry**

Intellectual property law is “the legal form” of the knowledge economy, with “battles” over intellectual property serving as “the range wars of the information age” (Gillespie, 2007, pp. xii-xiv). Nowhere is this more vividly illustrated than in the sphere of music, the first of the media and cultural industries to experience the threats and opportunities arising from digital technological innovations. The music industry has long since evolved from an industry centred on the sale of products to one built on the exploitation of rights. It is now over 20 years since Frith (1987, p. 57) declared:

For the music industry, the age of manufacture is now over.

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 and 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. Frith (1987) states that: “each piece of music represents a basket of rights”.

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. 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 (2004, p. 176) 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.

So, music, as a cultural industry that had formerly been studied in terms of manufacture (e.g. Hirsch, 1972, 1990; Peterson and Berger, 1975) was, from the mid-1980s onwards, increasingly understood as a service industry based around the creation and exploitation of rights (e.g., Frith, 1987; Laing, 2004). As we will see in the sections ahead, copyright law is increasingly used by the music industry to extend its property rights and to defend itself against the threats carried by technological innovations to their revenue streams. The precise trajectory of copyright regarding the broader creative industries throughout the twentieth century is illustrated through various legal actions involving different industry 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. The evidence points to these IPR trends growing more acute as the decades have progressed.

### **The recent trajectory of music copyright – longer and stronger laws**

Over the period of a decade now, the decisions of the courts in favour of the Recording Industry Association of America against MP3.com, Napster, Grokster and, the more recent decisions in Europe that have ruled internet service providers (ISPs) responsible for the actions of their network users, have effectively 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. This approach legitimates and facilitates the extension of real-space property control mechanisms into the domain of cyberspace.

The IFPI web site, industry publications and the wider media have, over recent years, published a proliferating litany of accounts detailing the pursuit of the suppliers of file-sharing technologies and individual file-sharers. For example, October 2010 saw a Finnish district court sentence a peer-to-peer hub operator to a four-month suspended prison term and pay compensation to rights holders to the value of €307,450 ([www.ifpi.org](http://www.ifpi.org), 7 October 2010). Promusicae (2009), the organisation representing the record industry in Spain, filed a claim for €13 million against Pablo Soto with the Madrid Court for Commercial Matters. 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. 2009 has also seen 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](http://www.ifpi.org), 7 July 2009).

The pursuit of individual network users has also continued with, as of summer 2010, approximately 35,000 individuals awaiting court appearances in the USA alone for downloading and file-sharing offences. In November 2010, A Mexican court sentenced fourteen convicted “pirates” to five years and three months in prison for copyright infringement offences ([www.ifpi.org](http://www.ifpi.org), 23 November 2010). A recurring theme with Lessig (1999, 2001, 2004) relates to the increasingly severe consequences of contemporary

copyright protection. Recent cases suggest that this process has not abated. For example, June 2009 saw the much-publicised trial Jammie Thomas-Rasset, a Minnesota mother who was sued by the Recording Industry Association of America for sharing 24 songs on file-sharing network Kazaa in 2005. Thomas-Rasset was found guilty on 24 counts of wilful infringement and order to pay the relevant record companies a total of €1.92 million – precisely €80,000 for each of the 24 music files either downloaded or shared. The RIAA had sought €3.6 million in compensation, i.e. €150,000 per song.

Beyond pursuing the producers and suppliers of file sharing technologies and individual users of these technologies who use the available software and free music sites for uploading and downloading music files, the major record companies have more recently turned their attention towards ISPs in efforts to force them to regulate the actions of the network users.

The trajectory of these events resonates with the arguments of Boyle (2008), Gillespie (2007) and Lessig (1999, 2001, 2004). As Gillespie tells us, 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 re-imagined how and by whom culture is produced, sold, distributed and consumed” (Gillespie, 2007, p. 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” (Gillespie, 2007, p. 11).

### **A 360-degree “bundle” of rights – the new music industry model**

Beyond successfully lobbying for the extension of copyright control mechanisms into cyberspace, the music industry has also re-configured its core structures in a manner that bolsters and maintains existing relationships of power in the industry. The music industry formerly comprised of a set of related, but nonetheless discrete sub-sectors. The record industry, the music publishing industry and the live music industry lay at the industry’s core and, were surrounded by a broad range of ancillary activities. However, a symbiotic relationship had long-since existed between these core 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 is that these discrete but related activities are increasingly 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 music artists, particularly new or emerging acts. In the former instance, while existing largely as discrete sub-sectors, an actor in one sphere is 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 one artist manager, “the right gig, at the right time, in the right place” (personal interview) 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 merchandising functions.

However, 360-degree artist deals are made possible by the ongoing integration of music industry sub-sectors. The range of primary research interviews that we draw upon offers evidence 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 a number of interviewee accounts, 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.

### **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. These provide new avenues for the generation of revenue primarily for major recording and music publishing companies.

In late 2007 the Warner Music Group entered a licensing deal with YouTube that cleared all of its recorded music catalogue and music video catalogue for use by the consumer media giant, which 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](http://www.youtube.com), 9 October 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 one major music publishing company executive:

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 (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 I spoke with two directors of the Irish Music Rights Organisation (IMRO), both of whom indicated a similar arrangement being negotiated in an Irish context between IMRO and YouTube. 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.

A further implication of such licensing agreements sees “performing” (music publishing) royalties have been generated for music publishing rights owners via 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. Overall, user-generated content via concert footage, home videos and other has come to form a new revenue stream for major music rights owners.

Beyond YouTube, April 2009 saw the Universal Music Group announce the launch of Vevo, a music video service in collaboration with Google. Effectively, Universal owns 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.

In the case of the above-mentioned platforms, 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 one interviewee, a manager of an act currently signed to a large independent music label, 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 (personal interview).

As such, this manager contends that this is one area where major music companies, as the holders of recording and music publishing rights, are benefiting significantly at the expense of the artist.

### **Social networks as significant tastemakers?**

A range of interviewees (from the spheres of both the major and independent music companies, as well as artist managers) all explain that there are different routes to launching and promoting different types of acts. As one manager 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 independent record company interviewee, 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 one interviewee, MD of the Irish arm of a major music label, these sites are now hugely important in reaching “early adopters” whom he identifies as the section of the music

consumer market that will “actively seek out new music” (personal interview). He 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 [...] MySpace group. These have been influential (personal interview).

When I asked the same MD to elaborate on “infiltrate”, he explains that his company in 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 the label's catalogue and artists within these groups of “friends”. According to the company's MD:

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 (personal interview).

In essence, “friendship” is being actively commodified. While one member of this label's staff in Dublin is permanently engaged in “infiltrating” online groups, the company's 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 (personal interview).

Crucially, however, 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. The range of eight artist managers interviewed during the course of our primary research study argued that it was very difficult to quantify the “precise extent” to which the promise of the internet has been realised in terms of offering alternative channels of promotion for breaking a new music act. While some argued that using recent and new online spaces to generate a sufficient “buzz” about a new artist in order to achieve synchronisation licenses, a bigger live audience, music press coverage and digital sales is “a scenario that is perfectly valid and feasible” (personal interview), there was consensus among all eight interviewees in this category that the “effects” of using social media are relatively limited without the support of other more traditional tastemakers, most especially radio.

The field of tastemakers and gatekeepers has grown more complex since the advent of the internet. Not only can network users download recordings to computers, mobile 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 evidenced in the accounts of interviewees, artists can produce, market and distribute recordings independently, but crucially, these opportunities are largely confined to niche or “peripheral” markets. As numerous interviewees explained (within and beyond the sphere of artist management), 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. 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, our research indicates that Negroponte’s (1995, 1996) contention that digital makes for a more level playing field where the major media corporation no longer holds advantage over the small player remains largely unrealised.

Indeed, our 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.

## Conclusion

Our main preoccupation here has been 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. Ultimately we are proposing 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 digital technologies have also prompted and been accompanied by new opportunities for restructuring and reshaping of the scope and operations of the music industry. Arguments that digital technologies are killing the music 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. The evolution of the music industry since the advent of the internet as a major new communication platform is thus 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.

The music industry has colonised many new “cyber-spaces” that have been opened to it in recent years. That social networks and other digital platforms (along with an increasing range of more traditional platforms) enable major copyright holders to draw revenues from an increasing variety of streams across diverse sub-sectors.

In essence, our approach highlights the major limits of techno-centric analytical frames when it comes to understanding the evolving structures of the music industry. Well over a decade after Kelly predicted “new rules for the new economy” and Negroponte asserted that no longer would the media corporation hold dominance in the marketplace, pre-digital power structures remain in place. The outcome of the music industry in the digital era thus resonates much more intensely with Winston’s (1998) model where the “great corporation as the primary institution of our society” countervails the disruptive potential of technology on existing power structures.

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