To Be Online Or Not To Be Online –
A Brief Foray Into Music Distribution On The Net

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You’ve Come A Long Way Baby...Evolution Of The Internet

Remember the ‘information super-highway’? I loved that term - no one seemed to know what on earth it meant. It was another information super-cliché born from politicians and PR schmoozlers. It heralded a new age of technological wonder for all in the new ‘global village’. While everyone seemed to enjoy bandying around the term to put form to the embryonic system of inter-connecting computer networks, it was unclear what it was actually going to do. Now, the Internet’s bastard childhood of military paranoia and geek anarchy has reached its spotty adolescence. It’s bought its first car and is having trouble with Mum and Dad. OK too many analogies. The point is this: as with many (r)evolutions, the process of mass acceptance and the development of social utility are slow and ultimately driven by commercial interests.

Show Me The Money...E-Commerce And The Music Industry

The people who are currently making real money are the people who are selling the concept of Internet commerce rather than selling the products, the gidgets and widgets for the family home. Internet support industries such as ISPs, web designers, advertisers and programmers are the bold capitalist pioneers in a mild mild West. Slowly now, come the entrepreneurs. Proponents of E-commerce tout the likes of amazon.com (booksellers in the US) and greengrocer.com (fruit vendors in Australia) as examples of successful on-line businesses.

Now that there is growing commercial interest, the music industry is tentatively making its first steps into the latest of a long line of technological advances that
have kept it alive. We’ve gone from gathering around the piano and singing favourite ballads, the pianola roll, phonograms, radio, records, cassettes, CDs to mini-discs. Now we have the ability to search for, listen to, select, pay and collect music on-line. It’s even cheap. Sometimes free in fact.

**Size Doesn’t Matter…Independent Distributors**

Technological advances have also meant that promotion of music on-line is not restricted to major corporations. Indeed smaller operations are in many ways better suited to such developing markets. From the Internet’s anarchic side of the family comes a host of emergent independent organisations that promote music on-line. Organisations like Cerberus (www.cdj.com.au), Chaos Music Market (CMM) (www.cmm.com.au), the Australian Independent Artist Network (www.aian.com.au) and individual artists such as Charlie Chan (www.charliechan.com.au), allow you to listen to the music over the net and order a CD delivered to your door without leaving the sanctity of the terminal. Alternatively, you can download the track onto your computer, listen to the track from there or burn that track onto your own CD with your own CD Burner (which have dropped in price from a couple of thousand dollars to a couple of hundred dollars). For those without their own CD Burner, Cerberus will allow you to select individual tracks from separate artists and they will ‘burn’ your own mix CD for you, promising a thankful end to those tiring teen days of sitting in front of the stereo mixing your own tapes for those long surf trips out to Cactus Beach. This new form of distribution and publishing is potentially great for the consumer and the distributor but what does it mean for the artist?

**Love Is In The Air…On-Line And Traditional Distribution**

On-line distribution differs from traditional distribution processes in a variety of ways, most of all in its geographical and financial scope. The Internet is a truly global medium and music can be sold to any country in the world without actually having to have an office anywhere. The overheads are comparatively low and the returns per unit sale for the artist are high - again the potential is
great. The reality is of course less rosy. However, a web presence should be considered by all music entrepreneurs.

Any good on-line distributor will have an agreement setting out the procedure involved in getting your music on-line and the rights of both the artist and the distributor. While there are many similarities between traditional and on-line distribution systems, some of the differences make for some interesting legal issues. The basic on-line distribution process is outlined below:

(a) The artist provides the distributor with copies of the music and any artwork that is to be displayed on the site.

(b) As the Internet requires that people visit the site, the address must be communicated to potential customers. This will require promotion by the artist and the distributor and proposed methods should be compared and evaluated. While there is a growing culture of people regularly visiting distribution sites and browsing for new music, some offer a service where new releases are emailed to subscribers.

(c) The distributor may create hyperlinks on their site or other sites to direct visitors to the artist’s page. That page may have samples to listen to or download and then a process by which the music may be purchased.

(d) Sample Music

There are various systems which allow people to listen to music on-line. These can be divided into two types: streams and downloads.

(i) A stream is a system where the music is sent from one computer to another in a continuous stream of information as it is being listened to. A bit like listening to the radio. The music is being continuously compacted and fragmented by the sending computer and then expanded and reconstituted by the receiving computer just before
the next part of the track is to be played. *Streaming* music usually does not leave the music on the user’s hard drive.

(ii) *Downloading* music copies the music from one computer to another and the copy is stored on the hard drive of the receiving computer. The copy can be accessed, copied, sampled, remixed and re-used time after time with software which is included as standard on all new computers today.

(e) The distributor will sell copies of the music:

(i) by mail-order as CDs or cassettes;

(ii) as a collection of tracks ordered individually and burnt onto a compilation CD by the distributor; or

(iii) as a download files such as a .wav or MP3 file.

**Now Let Me Get This Straight. You Put the Lime In the Coconut...**

**Considerations When Signing An On-Line Distribution Deal**

**Exclusive or non-exclusive deals**

On-line distribution is in its embryonic stages and while some have significant success distributing product it is not currently a true alternative to traditional distribution channels. This is one of the reasons why exclusive deals are extremely uncommon. It is not practical for an artist to be so limited. Unless there are compelling reasons otherwise, the deal should be non-exclusive. Record companies have proven promotion and distribution methods and some are tentatively exploring on-line distribution. An exclusive deal with an independent on-line distributor may interfere with the artist’s chances for securing another more lucrative deal.

While the majors reserve rights to distribute their artists’ music on-line, none have yet joined the independent pioneers of on-line distribution. They are
waiting. Retail stores are the life-blood of the record companies and for major labels to market directly to consumers with systems like those of Cerberus would be to risk upsetting those retailers. What is starting to happen is that retailers are beginning to distribute on-line under extended licence deals with their record companies.

**On-line liability**

If the distributor is to publicise and sell the artist’s work then the artist should be protected from liability arising from the distributor’s action. As the Internet is a global marketing tool and may attract visitors from every country in the world, there are complex legal issues surrounding the offering for sale of products to other countries. Different countries and even different states within those countries will have their own laws as to what is acceptable in such circumstances.

While it may be OK to promote CDs with prize winning competitions in Australia, it may be illegal in Botswana. Similarly, album artwork in one country may be perfectly acceptable but be grossly indecent and defamatory in another. While unlikely, it is conceivable that legal action may be taken against the distributor and the artist in such cases.

Ideally, the distributor should indemnify the artist from any legal action that may arise from on-line promotion or distribution undertaken by the distributor.

**Piracy**

Most artists in their early careers are happy to get their material out to the public and piracy is not a significant concern. However, that attitude is bound to change when someone samples your work and makes a packet while you are still struggling. Consider the following:

(a) *Samples of tracks for potential buyers*

From the discussion above, streamed samples provide more protection than downloads as streams do not generally leave a copy of the sample on
the hard drive. That said, streams are of poorer audio quality and may not
provide the potential customer with a clear impression of the track due to
a jumping effect from the system failing to accommodate the passage of
large packages of information. As compacting technologies become more
adept at cramming more information into smaller information packages
such problems should become less of an issue.

(b) Other artists sampling your work and pirate copies of your work on other sites
New technologies such as the liquid audio system (see
www.liquidaudio.com) and the proposed MP4 format provide significant
protection against piracy with a permanent ‘watermark’ embedded into
the sound file which can be identified even after mixing and sampling.
That said, the protection it gives you is akin to the protection a zebra-
crossing gives you against being run over by Jose Carreras in his Barina.

Alongside commercial developers, collaborative organisations such as
European Intellectual Multimedia Property Rights Model and
Terminology for Universal Reference (IMPRIMATUR) and parallel
organisations in the US, are endeavouring to create standards by which
intellectual property rights (and thus the rights of the artist) are protected,
bought and sold. Such standards of protection will greatly facilitate the
expansion of on-line music distribution.

Everybody Loves The Sunshine...Get Out And Play
On-line distribution offers artists an excellent way to increase their profile and
sell more music. Beyond such pursuits, it provides artists with a more direct way
to keep in touch with their fans. For independent artists, along with home
studios, it is another means by which careers can be developed without the
support of record companies. However, given that on-line distribution systems
are in their early days it is important to keep your options open.

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