



Chapter 4: The Flat Rate for Digital Music - From Controlling Distribution to Deserving Attention

Note: In this chapter I will focus on the flat rates for music; I will address other media industries later in this book.

The music industry makes a great case study as far as relentless obsession with control is concerned: Despite a long, hard struggle to retain (or even increase!) control over what people do with music, the music industry has in the most spectacular fashion irretrievably lost control over the distribution of its product.

The only thing left for the music industry to do is to admit it, as is now happening with EMI's new Terrafirma'ed management team (they have a long way to go but what a relief to have someone wake up and actually do what needs to be done!).

Not that the impending loss of distribution control wasn't obvious more than ten years ago which is why the steadfast refusal of the music industry's "leaders" to acknowledge and act on the fact that the user is now the one in control of distribution is utterly astounding. Many music executives still think they are entitled to running their content-is-king-doms as they see fit (copy protection et al) while the consumers should remain relegated to the good old take-it-or-leave-it role. Thus, the End of Control over distribution is hitting major label music executives particularly hard, and the longer they wait to accept this basic fact of control-loss, the less likely they are to survive this shift to a new ecosystem, never mind prospering in the 'Music2.0' world. Long-term denial does have its side effects.

Access Replaces Ownership

The reality is that it has never been easier to share songs and get free music via P2P filesharing (still a popular pastime but contrary to popular myths, far from being the most popular way of sharing music), Bluetooth, USB-stick swapping, hard-drive trading, instant messaging, Skype, Gmail, social networks, MP3 blogs, stream-ripping, and hundreds of music widgets that offer the world's music catalogs on demand, for free. Even in free sharing environments, access now replaces ownership, and a vast cornucopia of music-sharing tools has recently opened, making Napster 1.0 look like a soda straw.

Let's face it: music sharing is alive, well, and growing exponentially. Just wait until we have 100 million iPhones and 200 million WiFi-enabled iPods, with Apple's new iPhone SDK luring thousands of enterprising young developers into creating the coolest new music-sharing applications which those pesky digital natives will gobble up at the speed of sound! Add another two billion second-generation, inter-connected Nokia, Samsung, LG, and Motorola mobile communication computers (aka cell phones), and you have a mobile sharing nirvana. Still dreaming of controlling distribution? Still not interested in putting a metering device into this digital music-like-water stream?

Anyone who still argues that music distribution is not totally out of control must either be a highly paid and reality-numb lawyer for the RIAA or drinking some really serious DRM-laced Kool-Aid.

Embrace the End of Control

If it wants to stay alive, there is now only one option for the music industry: Embrace the end of distribution control, and move forward to share access-based revenues that are already generated by all those "pirates" that have free access to music, regardless of lack of permission. The very use of the term "pirate" is, of course, indicative of the music industry's dilemma: Its (mis)leaders still can't fathom that the People Formerly Known as Consumers★ (PFKACs) have finally had enough and actually dared to search and find their own sources of music, outside of the controlled domains of major music labels. The industry's response: criminalize its own customers, equating them with those hard-core piracy operations that produce billions of counterfeit CDs and DVDs in some Mongolian pressing plant. Talk about warping public perception!

In any case, history has already shown a pretty good path out of this dilemma, in the shape of the blanket licenses that public performance societies such as SACEM or BMI and ASCAP (which were formed precisely for this reason) have been providing for over 100 years now - since 1851, in the case of France's SACEM, to be precise. Rather than asking each and every user (or each service provider) to get individual permissions for each individual musical work, the industry - often aided by some not-so-gentle government pressure - instituted a negotiated, default, and standardized license that is available to everyone who cares to be licensed.

Even though they can be improved upon, as well, these existing public performance blanket licenses, granted by copyright collectives, are generally easy to get as well as economically realistic, and they can cover just about every usage scenario. At least, they used to - until the advent of the Internet.

This sometimes clumsy but legally straightforward system, administered via national performing rights organizations such as ASCAP, BUMA, and SACEM, has allowed listeners to enjoy the benefits of public performances in clubs, restaurants, concert venues, and radio for quite some time now. Collective blanket licenses, although often contested and sometimes renegotiated by the involved parties, provide all-inclusive access for the users and to a very large degree solve the problem at hand: enabling every user - and the companies that serve them - to be legal while filling up a nice pool of money on a recurring basis. A win-win-win, really, until now.

A new blanket license for the use of Music on the Net

It is becoming more obvious by the minute: what we need is a new blanket license for the use of music on digital networks, voluntarily agreed upon and provided by the creators and their representatives, and a fair way to split it up: Music Like Water. And I believe that this new license is very likely to be the music industry's only realistic option to create a new basis for re-monetizing music in the age of uncontrolled distribution. But take note: the flat rate is just the beginning of a new music ecosystem in which many new revenue streams will become available.

The End of Control of distribution is here now, just like the End of Control of Public Performance (aka broadcasting) arrived 100 years ago, forcing the music industry to adjust.

The fact is that a blanket-license scenario works just fine for the use of music on cable TV and for radio (and yes, eventually for Internet radio as well), and a flat fee-based model for basic water, power, and wireless services works well, too: Pretty much everyone can become a legalized user, and those who don't (for whatever reason) can easily be absorbed, as well, without breaking the system.

Depending whether we're discussing unique, tangible atoms or lossless reproduced bits and bytes, a flat fee either ensures my basic connection (as with water) or includes unlimited use (as with TV). And this is indeed a fundamental difference we should note: Water is not freely reproduced unlike copies of music files, a liter of water used in one location can no longer be used somewhere else. The reproduction cost of digital music is, however, essentially zero, and we must therefore not provide just flat-rate access but also flat-rate consumption - unlike water where the access is flat-rated but the use is not. Bits and bytes require licensed ubiquity.

With many flat rates, the payments are woven into other service offerings and therefore become less obtrusive, morphing into an accepted and even expected mode of getting what you want without having to make a new decision every single time (such as iTunes still requires). No excessive granularity can be employed (e.g., counting how many hours of TV you watch, or how many people are actually sitting in front of the tube), few restrictions on usage are imposed (e.g., there are no extra charges if you get more than the usual number of emails on your Blackberry), and no substantial harm is done if some determined users really do circumvent the system (such as freeloading on cable TV).
Attention is the New Distribution

In the immediate Future of Music we need to get our heads around the fact that the less control we impose on the users of content the better. In music, our goal will always have to be to attract and retain large and engaged audiences; to enthrall the highest possible number of interested people, and by extension to have everyone share their music discoveries with others, thereby driving exposure through the roof. Again, since all audio files are now freely available anyway, the more we control, limit, or otherwise inhibit the sharing process, the less attention we will get to take advantage of: Attention is indeed the new distribution. And real money will be paid for real attention. (See Chapter 1.)

Based on the realization that it is no longer just the copies of sound files (or pieces of plastic) that we want to monetize, but the entire range of assets that the artist's brand represents, we simply can no longer ignore the powerful solution that the flat rate for music represents.

Granted, a sharp-minded reader may retort that we are now simply moving from controlling distribution to controlling attention, which isn't entirely wrong but probably wishful thinking, too. While the large music and media companies were indeed able to control distribution with iron fists that clung to their exclusive copyright ownership, attention must be earned, kept, and maintained, again and again. And only the most daring wordsmith would still call that "control." Instead, I believe the users are now controlling whether a media provider still qualifies to get their attention, every time they click. They're dealing in trust, in other words. That's tough luck for large companies that look for large margins at low costs, and I think they are not very likely to engage in music ventures, going forward, for that very reason.

Music That Feels Free - but generates real revenues

SIDEBAR: Get Flat

I have written extensively on the flat rate for music in the past (see www.musiclikewater.com) and have created several presentations on this, as well.

So, the key question remains (and I will investigate this more extensively in the upcoming chapters): How will content creators actually monetize this attention and turn it into real dollars, euros, kroners, rupees, or yen?

Let's start by giving everyone "feels like free" access to music (and later, other media). Access that in itself already generates real money, be it through subscriptions, advertising, bundling, sponsorship, product tie-ins, or by simply generating traffic in the context of another service or product (see Gmail or Google Adwords).

Radio now generates billions of dollars in ad revenues based on music licensed via the now-compulsory music license. In fact, radio churns out more cash than the recorded music industry itself! In 2006 Kagan Research projected U.S. radio revenues would grow to as much as \$25 billion in 2011. Bizarrely, though, by the time the rights holders got around to actually licensing radio (in the U.S.), they were no longer able to argue that the use of the recording should be paid for (just like the use of the composition), and so in the U.S. the overall flow of money from radio remains less than it would have been if a license had been made available much earlier. Take note, law makers.

The flat-rate-licensed usage of music on digital networks, be it for streaming or downloading, would quickly generate billions of dollars of revenue that could be expeditiously and efficiently distributed to the creators that are now ill-served by their representatives refusing such licenses, and denying the use of music more often than actually allowing it.

The music industry must move towards allowing the use of music on a blanket basis rather than asking for individual admission deals - in other words: Give up control of those entry gates.

And that is where the trouble lies. Read my feed: Flat-rate or flat-line - those are the options.

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