Personal Managers:

An Examination of the Music Industry's Business Model, Its Evolution, and How It Can Be Reformed by One Integral Player

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Abstract: The past two decades have seen momentous change in the music industry. The digital age has seen millions in losses in music sales, but it has also created a shortage of music per artist. While the millions of artists currently on the market have, as an aggregate, produced more songs than there ever have been available to the public to purchase or to hear, artists are losing motivation to create music as often. This is because they profit far more from tours than they do from the recorded music that they distribute to the public before those concerts. This study intends to find a way to fix this issue, since the decrease in artists' time spent on music creation will decrease the quality of the music the public hears. I propose the current music streaming system, if split into several paid subscriptions, where each has a different price tag and a different royalty earned for artists on that specific subscription tier. If an artist's songs are played a sufficient number of times, an algorithm could switch them into a higher-paying subscription tier. This would motivate artists to try to earn higher royalties and spend more time on their music creation to gain popularity. I came to this conclusion by analyzing several potential courses of action, each of which would be possible only through the implementation or approval of artists' personal managers. I concluded the best of these options is reforming the currently successful system the streaming service Spotify employs, offering a free service and a paid subscription, would be the most advantageous for the industry.

I. Introduction:

Despite the fact that several years have passed since the era of digital music began, the music industry has still not recovered from this dynamic change to the way they can sell music. Record companies, who have dominated the recorded music business since its inception, are struggling to stay relevant in the current business layout, and artists are gaining more power than ever before. Virtually none of the profit earned from the artist's musical abilities come from record sales, the production of which they once had so much influence. Instead, the platform of live performance has become the most important source of profit for all of those in the business. Those who have found the best way to capitalize off of those profits have found the most success in the business model that is currently in a state of flux. Consumers are suffering from the steadily decreasing amount of time and money being invested in higher quality recorded music and consumers receive a lower quality product.

Another aspect of the music business that is changing as a result of the live performance focus is the amount of music produced by each individual artist. There is currently a massive amount of music being produced, arguably far more than there has ever been before due to the extremely low barriers to entry for artists to produce music. However, individual artists are finding that producing records is a far less lucrative business than singing the same songs at hundreds of concerts for years at a time and are producing far few records for casual listeners. With the glut of music often being too overwhelming to listeners to sift through for music, they are stuck listening to the same artists' songs time and time again, thereby leaving the quality of available and easily accessible music in a state of decline.

One player that has excelled in the past decade from the industry's dramatic shift in power is the artist's personal manager. The manager's primary job is to gain as much success, as much name recognition, and as many prime performance deals as possible for their artist. The only way to begin changing the course of the vicious downward spiral in music quality is to find those with enough power to make that change. The artist managers' significant influence in the industry is the best way for the music business model to see any positive change. They will only see that kind of change as something worthy for them to tackle, though, if the solutions are profitable. The true challenge is finding a course of action that does this while simultaneously increasing the satisfaction of the consumers.

In this paper, I will propose and evaluate several courses of action that increase music's quality and music managers' profits. Before selecting a course of action, however, I will chronicle the transformation that the music industry has experienced.

There will be an emphasis on how the role of the artist's personal manager has evolved over time. The business model will be separated into the general layout, advertising, and catalysts of change into the next model. The three models that will be deconstructed are the old model (1945-1995), the newer model (1995-2012), and the current model (2012-now).

II. The Old Business Model (1945-1995):

i. The Players

In order to understand the sheer amount of influence record companies once had in the music industry, one must understand the initial setup of the modern music industry and define the roles of those who participated in the system that fostered recorded music's power. According to Gerben Bakker of the Department of Economic History in the London School of Economics, since the explosion of demand for recorded music following World War II, recording studios, and the companies that ran them, began acquiring large amounts of power in the industry (Bakker 4). Multiple middlemen operate the music business, and all of them were a part of the same overarching organization called a "multinational." The system obtained this name because of the international hold that each company had over each country's individual music markets.

Although the industry initially started down a path that indicated it would produce an infinite number of record labels and artists, the efficiency of the multinational model produced by those powerful enough to market to the international music market was too strong against which to try to compete (Bakker 12). Moreover, if large conglomerates began buying individual labels, the relationship was mutually beneficial for both parties.

While the large companies had the marketing skills and business connections to provide to the labels, individual labels provided record companies with specific "knowledge about the local value of artists and genres; the label's market segment; the national A&R market; the various market parties; and the local rules, conventions, and institutions (Bakker 21)" Thus, with this wealth of knowledge, "the multinational was in a better position to make subsequent acquisitions" (Id. 21).

Vertically integrated multinationals ran the industry with control over every aspect of music production. The pivotal player, the artist, created the product (a record) that was cultivated and selected by A&R talent scouts from multiple other options of songs on the market. The product was then given to one of the labels from the company's portfolio of "various different labels focusing on different musical styles and genres and often in different locations" and taken through A&R management for final approval (Bakker 28). Next, it was mass-produced through manufacturing into portable forms of recorded music (Id. 28). The product was then given to multiple large distribution channels, which gave them to international repertoire centers found all over the world (Id. 28). These centers were "the function of multinationals that [coordinated] the marketing of a particular kind of repertoire on an international scale" (Id. 28). This step in the process of distribution is imperative to the international popularity of the songs. A product can be available all over the world, but, if consumers in other countries are not aware of a product, then there is no reason to sell it there. Finally, it was distributed to various country organizations, which could distribute the product amongst various channels and segments that could sell products directly to consumers (Id 28). The segments were not controlled by multinationals, but multinationals saw no need to own

these players. The only benefit to be gained from their vertical integration came from the aforementioned participants that were specifically made a part of their system.

The oligopoly structure in the music market, with only six multinationals worldwide, refined itself further as the decades went on. The business of music relied upon speed of distribution, due to the inherently short lifespan associated with individual music singles (Bakker 19). The incentive for increasing the quality of the songs, the product of the industry, was high for each participant in the process of recorded music. "On the demand side, then, the reward for offering a higher perceived quality had increased substantially" (Bakker 6). Additionally, making a higher quality song was far easier for participants since "…the cost of generating, delivering and marketing this increased quality" were lowered by supply factors (Bakker 6). With demand and supply factors both naturally stimulating each other to produce a quality race in the industry, the multinationals could charge premium prices for their premium-quality recorded music. Recorded music was the bedrock of the industry because, what with concerts having a limited number of seats per performance, listeners found recorded music to be the better option (Id. 38).

Better yet for the industry, the multinationals had exclusive control over the copyrights of multiple pieces of very unique products to distribute. Since every song is a unique product, the few people who have rights to that product have a monopoly over those rights. With an inherent monopoly on those profitable products, multinationals' production systems made millions of records for millions of consumers. This high rate of production equated to economies of scale that the multinationals could use to their advantage, and large profit margins were inevitable (Bakker 7).

A song's identity as a "quasi-public good" was the foundation of how the music industry could make money. Though quality did not diminish over time, a song's tendency to decrease in popularity after a relatively short span of time caused entrepreneurs to have to be especially cunning in order to make sure that gains in profit could still be made from the product long-term. As such, "[throughout] the history of the music industry, entrepreneurs…developed business models that kept price above marginal costs by making them own the point where consumers could get excluded and extract all rents there" (Bakker 8).

While the listeners at the inception of this model generally demanded mainstream music, with one genre pleasing the majority of recorded music listeners, listeners began demanding far more niche styles of music. This required further record companies to change their strategy away from putting great effort into a few songs that would gain mass appeal (Bakker 22). Successful companies dealt with this change in consumer tastes by owning multiple separate labels. This was different from their previous model, which involved acquiring multiple labels and mashing them into one label focused on one genre as one piece of the conglomerate structure. Each label could better refine different types of music to satisfy different types of tastes. Additionally, with this added product differentiation, more distribution outlets and accompanying consumers added a diversification of areas in which profit could be gained. Gerben Bakker sums up the new roles of the levels of vertical integration:

> "In the multidivisional structure, or M-form, the central management makes the entrepreneurial decisions, and the divisional managers make operational and

> managerial decisions. Within the emerging rights-based multinationals, strategic and entrepreneurial decisions were made for the corporation as a whole; operational and managerial decisions were made for each national distribution system, and creative-entrepreneurial matters were decided for each label. The label manager generally had all the responsibility for creative performance and sometimes owned part of the label" (25).

Back when this old model was in place, recorded music was the ultimate product that consumers were seeking; live performances were, in turn, used to promote new albums that the artists had produced. In fact, some prominent record labels gave free concerts for their "new acts" so that listeners would know what to buy (Frith, Brennan, Cloonan, Webster 6). Live performances have always been artists' primary source of profit, and they gained the great majority of the profits earned from such performances. There is, however, a completely different setup of players than those of the multinational, a group of middlemen that focus on live performances. According to Geophrey P. Hull in *The Recording Industry*, "There are five key roles in the live entertainment stream: performer, personal manager, talent agent, promoter and venue operator" (100). In several instances, the lines of these players' responsibilities can be blurred; after all, they are all working together to achieve the same ultimate goal. However, each player has proven integral enough to stay relevant through the decades of the modern industry as we know it today.

The first of these middlemen is the personal manager, who has always born the broadest and heaviest of responsibilities. The personal management business "is run by a

large number of firms and managers, who generally manage only three or four acts" (Hull 100). Although the initial business model for recorded music contained a personal manager for the artists, managers performed many other roles besides those associated with live performance. Their first, and most important, job was to "get the artist to the point where they are ready to sing a recording contract, then help them get such a contract" (Id. 102). When the artist obtains a recording contract, the manager then "works to see that the recording is released and is successful (Id. 102). Eventually, with an artist's growing success, the manager will seek to get that artist any available name recognition through "variety show appearances" or an occasional movie" (Id. 102).

The second player, the talent agent, otherwise known as the booking agent, is in charge of the general responsibilities associated with facilitating a live event for an artist. An agent is best thought of as "an employment agency…capable of obtaining work for its clients but generally doesn't become involved in long-term career planning or record deals" (Bernstein, Sekine, & Weissman 32). A booking agent or agency will often charge 15 to 20 percent of the profits earned from the event for which the agent helped provide a service (Id. 33). Agents normally "represent a substantial number of artists," and must balance that responsibility while also keeping promoters and venue operators happy (Hull 105). Their status as the middleman between all of these live performance participants makes them far too busy to spend significant time pleasing individual artists.

The third player, the promoter, "[presents] live entertainment events" by "[obtaining] some talent to present, presumably from an agency, and must have some place to present it" such as "a club or other venue" (Hull 108). The promoter's role was largely "managerial" in regards to "the ultimate presentation of the event" (Id. 108).

Their ultimate goal was to gain the most amount of profit possible from a business venture, and their role in connecting the audience to the artist didn't involve many particulars regarding the actual details of the concert, besides where it was going to be held.

Promoters have always been highly concentrated in terms of who dominated a particular region (Connolly & Krueger 23). In the old model, they were "a highly independent entrepreneurial group, working only in one or a few cities, willing to risk large losses in order to make substantial profits" (Hull 108). Promoters took away 15% of the profits, but the most important tool that they gained was the "personal relationship between the artists and the promoter" since the promoter "could count on presenting the artists whenever they played in the promoter's city" (White & Preston 15). Throughout the 1960s, promoters made agreements with agents and managers so as to have a monopoly over their particular region (Id. 108). Thus, they ended up gaining a monopoly for their area on a particular artist. This also guaranteed high future earnings for the promoters from future business ventures with that artist.

The fourth player, the venue operator, requires an agreement from the promoter that involves "the venue's rental fee and what other services are to be provided by the venue to the promoter" (Hull 112). Venues could additionally "charge the artist a percentage of sales from artist concessions such as T-shirts…that are sold at the shows" and often provided different food and beverages for additional income" (Id. 112). They became all the more important to artists the more successful an artist became. For example, if a highly successful artist wanted to perform in a particular town, they would like to play in a large, state-of-the-art arena. Although this depended a great deal on the

promoter's relationship with that venue, the issue was important to artists nonetheless. Therefore, certain venue operators who were in charge of such facilities were imperative to have on their side in business.

Although artists were the center of the entire process of production, they were largely shunted from any real advantages besides any fame they obtained. This was an unfortunate result of how record companies insured themselves in their risky game of investments. To gain as much as possible from any investment, record companies constructed contracts with artists that provided record companies the greatest share of any profits earned from record sales and royalties associated with copyright ownership.

The reason why this was so important to record companies was because of the immense sunk fixed costs associated with each artist. According to Paul Hirsch of the University of Michigan, record companies typically underwrote thousands of dollars spent on equipment, marketing, manufacturing, and other A&R expenses that were all associated with the recording process (27-28). Many times, however, the artists were not popular enough with consumers to cover all of these costs over time. Although the artists were contracted to pay this debt off, they rarely earned enough to be able to do so in a timely manner, leaving record companies with wasted investments and bills to pay. Thus, the model they created to protect them from any significant losses made a great deal of sense on their end. However, from the standpoint of the artist, this meant that it took years of hard work, practice, and a great deal of luck in order to earn any sort of reasonable profit from their endeavors. If they were not successful, then they received no royalties at all (Hirsch 36). Therefore, artists largely did not receive much of the

generated profit because the record companies ultimately owned a far larger share of the copyrights to songs for decades after the artists wrote and performed them.

ii. Advertising: The Height of the Radio

Although there were several other ways to advertise artists' music, such as the aforementioned live performances, the best way for artists to market their product and obtain consumer loyalty was through the medium of radio. At the end of World War II, when recorded music first became a regularly purchased product, television was beginning to obtain the attention of mainstream audiences. That attention was obtained through forms of entertainment created with the intention of broad appeal. Therefore, television filled radio stations' previously held role as provider of mainstream entertainment.

Conversely, radio stations evolved to possess the freedom to spend more of their money on niche crowds and could focus on unique demographic tastes instead of playing radio shows with widespread appeal. As a result, "[general] interest lowest-common denominator radio programs moved to television, which led, first, to more music being played on radio, and second to more market segmentation, with many radio stations focusing on distinctive musical styles" (Bakker 6). With so many different genres available on the airwaves, all types of artists had the opportunity to get their music broadcasted to those who would most likely appreciate their style of music.

While this medium provided great opportunities for many types of artists, there were only a limited number of time slots on the radio for an artist to be heard. The radio was the only available way for artists to market their products to potential consumers

besides live concerts, a far more expensive form of promotion. "The radio medium [was] the major link between record companies and…consumers (32). The radio could get the musician's product out to consumers in a way that no other available medium could at the time. Thus, even if an artist went through the time, effort, and expense to get an album, or even a single, produced, if the artist could not get it heard by potential consumers, then they were not going to gain any name recognition or subsequent profit.

Radio stations had to complete several legal steps in order to play songs owned by record companies, including multiple licenses and rights that needed to be acquired. For example, one of the most important rights to obtain for a station is the public performance right. This "gives the copyright owner the exclusive right to authorize the use of the musical work in public," which includes "any type of public establishment" (Connolly & Kruger 39). Additionally, "anyone who [wanted] to legally play a copyrighted song on the radio…must acquire a license to do so from the copyright owner" (Id. 39). Music publishing firms collected and distributed the income accumulated from these licenses to artists and others who own the copyright (Id. 39). Music publishers "[acquired] administrative rights from the copyright owner, which [entitled] them to find users, issue licenses, collect money and pay the songwriter" (Id. 39). The songwriter would normally pay the publisher for his or her services by only taking half of the money earned and leaving the other half with the publisher (Id. 39).

However, although record companies forced radio stations to play along with their legal requirements to play their music, radio disk jockeys at these stations held a great deal of power over the record companies. After all, they were the ones who ultimately selected the songs that were to be played in the list of Top 40 songs. Thus, disk jockeys,

and eventually music directors who replaced the disk jockeys as selectors of music played at the stations, were "wined, dined, and bribed to induce them to play a record company's offerings," bringing about the prominence of a practice known as "payola" (Bernstein, Sekine, & Weissman 37).

Payola is, according to Adam Renhoff in the Review of Industrial Organization, the process during which "record labels (upstream firms) make payments to radio stations or to the disc jockeys that are responsible for selecting the music that is played at these radio stations (downstream firms) in return for favorable treatment: more "spins" or airplay for their records" (134). The practice, which was made illegal in the 1960s, was seen as harmful to the industry because it prevented the disk jockeys' ability to choose music that they thought their listeners would enjoy more. Instead, they would choose the music for which they were paid the most to play, whether or not there were other more enjoyable or more potentially profitable songs from which to choose. Because they could pay to have their songs be what listeners all over the country heard, the radio became another aspect that record companies controlled to make their songs more profitable.

iii. Contracts

In order to succeed in the music business, artists had to overcome several obstacles. Since artists were such risky investments, they had to earn the approval of multiple people in the music business for even the smallest of hopes of gaining access in the music market through a record deal. As such, once the issue of a contract with the record company was reached, artists jumped on the chance to utilize the vast number of

sources to which record companies had access through the multinational rights-based system.

A&R men were either in the employ of the record company or members of one of the multitude of record producers who competed for these artists (Hirsch 25). The nature of their job led them to be constantly scouting for new talent in the hopes of hitting it big with at least one artist (Id. 25). Independent producers brought this talent to record companies to begin the contracting process and write themselves into contracts to share artists' future profits and to negotiate what rights went to which parties. In addition to negotiating the relevant rights, both types of producers would look after and "underwrite the costs of recording sessions for the artists with whom they hold contracts," and these costs were "'deducted off the top' from any royalties received by the artist from the sale of his record(s)" (Id. 27-28). The capital that the producer supplied in advance, which was required in order to underwrite the aforementioned costs, was often the loan that the producer made to the artist with which he is contracted (Id. 27-28). The intent of this highly leveraged deal was for the record to become a hit and subsequently pay off the recording costs through royalties earned from that hit (Id. 27-28).

Unfortunately for artists, the standard contract in the music business was not designed in their favor. Contracts were typically set up as long-term documents that "[specified] an advance on royalties and a royalty rate" (Connolly & Krueger 8). However, since bands had very little power over what portions of the royalties earned on their recorded music, not much came back to them as payment for their services. In fact, unknown artists had to settle, on average, for only three percent of the royalties earned from their songs (Hirsch 38). The publishing companies, typically, would earn more than

the artists from the royalties, especially if one of the artists' songs became a Top 40 hit and was recorded by multiple companies (Id. 38). These royalties "rarely [covered] the recording and promotion costs, which [were] usually charged to the band," and fixed costs associated with each band were essentially the same for each musician, no matter that musician's level of fame (Id. 8). Consequently, in order to even turn a profit, musicians had to earn incredibly high amounts for their record sales (Id. 8).

iv. Record Sales versus Ticket Sales

The music business relied heavily upon the multinationals' setup and control. Because of this reliance, a great deal of the industry depended upon the production and sales of records, the record company's main business. Concerts were tools used to promote record sales so that each contributor to the production of that music would gain a higher profit. Artists who came out with records that did not sell phenomenally well did not last more than two years in the industry (Hirsch 26). This is because, if they did not gain a high level of success, the record company with whom they initially signed would not sign another contract with that artist. Instead, they went in search of an artist that would gain them profits that were high enough to keep everyone who was involved in the multinational system paid enough to stay in the business (Id. 26).

In 1964, after two decades, the record business was worth $758-million, or $5.80 billion in today's dollars (Sanjek 367). Even at such a time of prosperity, however, "manufacturers were investing $68.7 million [$525 million in today's dollars] yearly to create new products, at an average cost of $2500 [$19,114 in today's dollars] for a single and $15,000 [$114,685.5 in today's dollars] for an LP album" (Id. 367). Additionally,

"whereas the disk industry's profits after taxes had fallen from $6.1 million in 1960 to $4 million in 1964 [$30.6 million in today's dollars], royalties paid to copyright owners had risen from $17.4 million to $25.2 million [$133 million to $193 million in today's dollars] in the same period" and the number-one company in terms of retail sales, Capitol Records, "had only realized a 3.3 percent net profit from sales" (Id. 368). With such a slim profit margin on such high investments, the industry relied heavily upon the extra contracted profit gained from the inherent monopoly on copyrights.

v. Advantages

Although the system was clearly not perfect, it stayed in place for so many decades because of the benefit given to the record companies and to all of those who helped in the multinational's sale and distribution of music. Each participant earned their respective portion of the artists' profits by contributing a service to that product that brought its quality to the highest possible levels. Thus, due to a quality race between the various multinational members in the industry, music was always at the cutting edge of technology and at a superior level of listening quality, thereby giving the consumers the best products their money could buy (Bakker 7). After all, in a quality race, vertical integration "aligns the interests of the participants in the various segments of the value chain, and so makes sure that marginal retail profits reach the producer and artists, and this in turn gives the producer the incentive to make marginal improvements in product quality that will lead to additional sales, and thus more profits, also for the producer" (Id. 7).

The consumers were not the only ones to benefit from this setup. The record companies monopolized the multinational business system. Their profit margin on overall sales was relatively low. However, the reality was there were few artists that could generate enough sales to produce significant returns, and those who did not ate into the profits that were gained by the monumentally successful artists. Despite this phenomenon, record companies still gained a great deal of profit from the royalties earned on successful music. After all, anytime a song was played in public, those contracted to do so would earn profit from that song, and that typically involved the record company as a payee (Connolly & Kreuger 39). Because of the multinational system's ability to efficiently get these songs overseas during the time span in which the single would stay popular, radios across the world ended up paying royalties for these songs (Bakker 19). This resulted in the record companies and their respective multinationals earning a great deal from royalties. The music business was therefore incredibly lucrative for each party involved in the sales and royalties contracting process.

Artists usually gained nothing more than a brief opportunity to gain fame and thousands of dollars of debt owed to the record companies, but the advantages available if the artist gained superstar status were large enough for the risk to be worth it for many artists. Artists in contact with these conglomerates had managed to successfully navigate the numerous requirements presented by the talent sector of the record companies. The reward was getting a contract with the business and the accompanying access to a vast range of marketing connections to which they would never have dreamed of accessing without the record company. As the multinational system had refined every step of their process to the highest degree, and the artist who gained access to that system could

thereby make a high quality product that was sold by the best marketing teams using the best distributors. The debt included investment cost in the artists for loans to produce their albums, but artists knew it could eventually be paid off if they gained the type of fame they sought with the aid of multinational conglomerates.

Additionally, because of the available advantages gained by artists who were approved to work for multinationals, competition to stay relevant and profitable was absolutely cut-throat. Performers had to stay in demand to remain so in the record companies' good graces. Artists worked constantly, fighting against other artists, to stay in the Top 40 on the radio each week. After all, the average life of a hit only lasted "60 to 120 days," so staying in the public eye was a necessary struggle to keep listeners interested (Hirsch 25). The goal was to keep potential customers listening so as to invest their time and money in concerts, requesting the songs from the Top 40 on the radio, and buying those artists' records. Though this was a disadvantage for the artists, this gave consumers a substantial advantage. They never had to settle for whatever music was put out by a successful artist. If that music was not of good quality, then they would not purchase the song. They had the ability to listen to new music each week, if it made it to the Top 40, and keep choosing music that they enjoyed listening to through record purchases. This was one of the main ways stations selected songs for the Top 40 (Hirsch 52).

Although payola certainly factored in as a way to keep artists funded by the record companies on the airwaves, it also gave a great deal of power to the consumers to choose what songs they would like to hear broadcasted. This kept the music produced by artists at the highest quality. After all, the theory of Porter's Five Forces suggests that, in

an industry with multiple, evenly matched competitors, the intensity of the competitors' rivalry will be immense. Consumers, therefore, were able to listen to music that was of the utmost quality in terms of sound quality and musicality.

III. The Newer Business Model (1995-2013):

i. The Players

Although the setup of multinationals' participants and those in the live performance business stayed largely the same, their power lessened and new players entered into the music business. The creation of these new industry participants came from changes in listening technology through the Internet. While technological improvements, and the fixed costs associated with them, once brought in more profit for multinationals, it now decreased those profits substantially (Bakker 6). This was a direct result of technology having made music cheaper and more accessible to those who used the Internet. After 1993, anyone with access to a graphical web browser "could easily locate information on the Internet" (Hull 255). This only became relevant, however, when music could be transported through the Internet to people who had not purchased the song originally. After all, "Internet distribution of recordings was not really practical until the Moving Picture Experts Group developed the MPEG-3 (MP3) protocol for compressing audio files into small enough packets that they could be more readily transmitted via the Internet" (Id. 257). Programs became widely available in the mid-1990s through which the public could convert songs on CDs to MP3 files (Id. 257).

In 2001, when "the industry began to sell or rent downloads," record companies immediately began having trouble figuring out "how to harness the power of peer-to-peer

sharing and sales" (Hull 257). Unlike the songs found on cassettes and CDs, the copying of these songs did not lessen the quality of the music with each successive copy. Record companies no longer had control over the sales of songs. This is because record companies could control music as a quasi-pubic good, but could not control it once it became a public good found somewhere on the Internet to download. Those who wished to obtain music without purchasing it could now find it online on pirating websites for free.

When mp3's became a regular part of the music market, websites such as Napster became available that created the multinationals worst possible scenario. Not only would the songs be free to download to any Internet participant, but they received no royalties from the website downloads (Hull 263). The two main tenants of their participation in the music industry were the income from purchased songs and royalties from repeatedly played songs. These tenants had become irrelevant, and record companies fought mercilessly in court until Napster was "shut down" (Id. 263). Still, the reality remained that songs were easily obtainable as a free substitute through piracy to songs purchased in a store. One company, however, aimed to take on this decline and gain profits from music: Apple.

Although others had tried to pioneer the creation of online marketplaces and subscriptions to music, their business models failed from lack of customers and subsequent profit to make up for the immense sunk costs invested into "various digital media initiatives" (Hull 258). More importantly, they failed without record company permission. Steve Jobs met with many record company executives "to win over skeptical music-industry officials" (Tam & Matthews). Apple had become successful enough so as

to gain immense profits from their technological products. Furthermore, their products had evolved so as to allow users to have a cache of music in playlists to listen to at any time.

In order to capitalize on their products' ability to store and play music, they proposed the online marketplace iTunes, where owners of Apple products could buy music online for incredibly low prices - $0.99 for any song, to be exact (Hull 259). Despite the fact that they were so low, they were still significantly "closer [than previous song prices were] to projected price points" (Gasser 9). Listeners seemed to agree. According to a *Billboard* poll in 2003, "many consumers thought even $0.99 cents was too high a price for a single download…[thirty-two] percent said it was too much to pay, and 29 percent said they would rather download for free" (Hull 260). Mr. Jobs' goal was to persuade them that iTunes, "armed with Apple's trademark elegance and simplicity, could win over consumers to the idea of paying for online music" (Tam & Matthews).

The solution was not advantageous to the record companies. They were no longer earning as high of profits on music sales due to the prevalence of piracy. So, before the launch of iTunes in early 2003, record companies began agreeing to release their products to be sold on iTunes to get customers to be willing to pay anything for their product (Smith 21). One of the main things it provided customers was music in a high quality format that also did not need the questionable downloading software featured on illegal downloading websites (Id. 21). Mr. Jobs argued that the available online music services "offered by companies owned by the labels" were "difficult to use" and that the only barrier facing people who want to enjoy online digital music is the lack of a good legitimate service" (Tam & Matthews). They also were criticized for the limited music

that was made available on each label's programs (Id.). Due to the multiple issues that accompanied digital music sales, any gain from the purchase of songs became enough reason for the companies to agree to Mr. Jobs' proposition.

While record sales declined, the vertical integration employed in that area of the music business began being reassigned to the live performance sector. "Links between the recording companies, radio stations, promoters, and venue operators have tightened as a result of recent consolidation," thereby giving "incentives for these controlling companies to target their own artists" (Black, Fox, & Kochanowski 165). Radio stations began being bought out by the conglomerate organization Clear Channel, and stations began playing music that was "more formatted and formulaic, less personalized and more national" (Foege 13). More specifically, the listeners received "fewer musical formats and insanely repetitive playlists" in place of the diverse sounds offered by radio stations before (Id. 13).

This decrease in albums played on the radio also decreased the awareness, and the royalties used to fund this awareness, for the majority of artists. This, in turn, aided in the decline of album sales. With the decrease in albums sales transferring power to individual artists, the managers that help those artists became far more powerful. Since their primary job for an artist is to get a good recording contract for their artist, managers' ability to negotiate a more satisfactory contract with record companies increased dramatically. Artists had agents to schedule their performances, and managers made sure that the performances that were scheduled advanced their career further for potentially higher gains in the future. For example, a concert in a large, prominent venue in a large city that is advertised sufficiently will attract many people to the concert. Some of those people

will be new customers, which would increase demand for tickets. With a rising demand, ticket prices will rise as well, generating higher future profits for the artist.

Artist managers had “a very small roster of employees” and, hence, could invest more time in what would bring about their artists’ potential success. Furthermore, since artists were gaining increased profits from their ticket sales, the cut that personal managers were gaining from artists’ profits was growing as well. Due to managers’ long-time role as a mediator for the artists’ needs with deep personal relations with the record companies, their ability to cut a good deal with the record company for their artist became all the more imperative. Those close relations not only helped them earn their artists higher returns from their songs, but they also helped the manager become an integral part of how to make the songs the artist produced more profitable. a few of the activities in which they have a role are “choosing what will be the single from an album, working on videos, timing the release of a CD so that it can be followed immediately by a tour, and so forth” (Bernstein, Sekine, & Weissman 33).

Management firms are also deeply involved with the promotion of their artist. Since record companies could not afford to support artists they way they used to, “[some] of the larger firms actually [were] hiring their own promotional people, in an attempt to ensure that their act gets the proper promotional push” (Bernstein, Sekine, & Weissman 33). Artist managers began taking on more roles to get their artists sufficiently advertised to the public. Management of their artists’ creativity became imperative, since their songs had to stand out amongst the sudden glut of other artists without the aid of conventional advertising methods.

The advent of the Internet also produced a number of other online businesses. One of those that began taking off was the business of selling concert tickets through the Internet. The forum that became most popular, Ticketmaster, began providing tickets online for hefty service fees in return, for the fees "can amount to 50% of a ticket's face value" (Smith A1). These service fees helped keep the website relevant while simultaneously making it far easier for venues to sell tickets. Even if the prices were higher online, customers leapt onto the convenient purchasing format; by 2002, "40% of [Ticketmaster's] sales were online" (Hull 256). Ticket prices were rising and providing higher profit for those involved in that industry. The primary reason for the high profit provided from live performance was the money that was ultimately saved by live performance participants. For example, when customers bought their tickets online, the process was so "efficiently run" that "promoters could save advertising money" (Id. 256).

ii. Advertising

Unfortunately for consumers, the radio became less of a reliable medium through which to discover new, high quality songs with mass appeal. One of the main tenets of the radio's existence was to get the top songs in the country out on the radio for others to hear, catering to a broad audience and getting the artists who were competing for those spots to consistently produce their best music. However, when the Texas-based conglomerate Clear Channel began purchasing thousands of radio stations around the country, the freedom of individual station managers and disk jockeys to pick what music they played music decreased significantly. Instead, Clear Channel did extensive research on what songs consumers liked, and the songs with the broadest appeal were the Top 40

hits (Foege 97). Even if radio under the previous industry model was largely influenced through payola, at least those record companies had significantly more songs to offer than record companies do now. Consequently, the majority of radio stations owned by Clear Channel did not cater to the many musical taste niches and instead gave their stations only the list of Top 40 to play (Id. 97).

Without the radio's ability to discriminate against good and bad artists, artists who stayed on the air were artists who were produced by well-known record companies. Even if the oligopoly of record companies were struggling in the new model, they still had strong ties to marketing tools like the radio. These record companies saw no need to take risks, since doing so would likely not be a profitable investment with the small amount they earned from recorded songs (Hracs 453). Additionally, "the ongoing corporate and geographic concentration of the music industry was leading to a reliance on formulaic artist and repertoire processes and an ongoing trend whereby the majors were signing fewer new musical artists and focusing promotion and resources on a declining number of top-selling artists" (Id. 447). Therefore, the number of songs that cycled through the Top 40 sharply decreased, for the number of artists record companies took on did not produce songs at as fast a rate as the Top 40 used to take songs in the previous industry model. Also, since the conglomerates that own radio stations have a large stake in how well certain artists do, they will use the radio as a form of promotion for their artists over others, so as to gain more in ticket sales (Black, Fox, & Kochanowski 165).

Music blogs came forth as a way for consumers to discover of new music via the Internet. After all, the Internet has been proposed as a democratic institution insofar as selecting and discarding artists from an infinite pool. Music web logs, or blogs, first

gained recognition in 1998 and were the prominent way of finding new artists for a time (O'Donnell & McLung 71). The reason the innovation was so different and succeeded as a separate entity from the radio was because, instead of "[featuring] music found at the top of the current popular charts," music blogs instead "focus on up-and-coming bands in the indie music scene" (Id. 75). Because the Internet provided a way for artists to reach the public without signing a disadvantageous contract with a large record company, indie bands became important and prolific. However, the issue with blogs was their requirement for users to proactively search for new music. Most music consumers of music are "passive consumers" who only listen to new artists when those artists are presented to them in some medium so that they do not have to actively discover new artists (Tapscott 6). Listeners continued to listen passively to the radio and did not fully utilize the available music blogs.

Another issue associated with music blogs was their proven ineffectiveness, generally, as a marketing tool. For the hundreds of bands that used blogs and provided free songs for listeners to download, "only a few reached success on a larger scale" and would likely be more effective as a "promotional tool" than as a way to try and market music to listeners (O'Donnell & McClung 84). Many artists, especially those without name recognition, provided a great deal of their music for free so as to entice consumers to buy more of their songs or purchase tickets to attend their concerts. However, this cheapened the songs' value and made it easy for any consumer to find most of the songs from an album they liked on various promotional blogs. As a result, they did not bother spending money on the entire album (O'Donnell & McClung 84-85).

Worse still, because an artist is popular in the music blog sphere does not mean that success will translate to monetary gain. After all, “[the] number of blog readers is still small and not likely to propel an artist to mainstream success or to the top of the charts” (O’Donnell & McClung 84). However, “[it] can help develop a dedicated fan base composed of individuals willing to support he band by purchasing albums and attending concerts, and for many bands that may be the goal” (O’Donnell & McClung 84). For most artists who wish for their artistry to be their livelihood, though, that small and dedicated fan base will likely not be enough for them to continue devoting all of their time to recording and touring.

Additionally, consumers felt they could consult their friends on what music they liked as well. This was an alternative that far more easy and successful for consumers than searching through the glut of music individually. Not only could they sample music on iTunes and the different available blogs, but they could also obtain that same music from a website through “peer-to-peer” sharing. Peer-to-peer (P2P) networks involve a user accessing a shared database online, “enabling a user to search for and access digital copies of recordings” and allowing the user to “acquire the required song within minutes” (Douglas). Because of the ease involved in copying an MP3, this became a prominent way of obtaining new music.

iii. Contracts

The decline in music sales reduced the contracting power of record companies. In fact, one of the only ways they could gain as much profit as they once did was to guarantee some form of payment from the live performance business, a sector of the

industry that they once had nearly nothing to do with. The way they made these contracts profitable for them was to construct a "'360-degree contract" (Bakker 8). In these contracts, "they [shared] all of the artists' profits through all channels, including live performance and appearances in advertisements" (Id. 8).

The decline in record sales made radio royalties all the more important to those who contracted the profits generated from recorded songs. While the regulation of royalties was largely under the same organizations as before, how often songs were played was recorded through "logging" of the amount of times it was played on the radio (Bernstein, Sekine, & Weissman 36). Computer technology began recording each time songs were played and sending those logs to the ASCAP and BMI (Id. 36). These two organizations thereby pay those contracted to receive royalties, and the payment is based upon "a complex set of formulas" based upon those logs (Id. 36). The rewards for these types of contracted profits were immense. For "a hit song that crosses over into more than one radio format [could] earn more than a quarter of a million dollars in a single year," further showing how much technology influenced the money earned in the industry (Id. 36).

What is more important is, until the digital era, "performers never received income from performing rights in the United States, unless they were also songwriters" (Bernstein, Sekine, & Weissman 37). With that in mind, the prominence of music managers became infinitely more important in being able to gain better deals for their artists, gaining as much as they could from the contracted distribution of royalties. Further, since there are so many more media upon which an artist's songs can potentially be played, gains from royalties could be found from "[web] simulcasters, satellite

broadcasters, and cable television owners," which were "split between record companies and performers" (Bernstein, Sekine, & Weissman 37).

iv. Ticket Sales versus Records

Record companies began losing profits that they gained from copyright royalties. Additionally, they were losing what slim profits they once gained from record sales. Even with iTunes as an available and popular way for listeners to obtain music, record sales continued to decline. One of the reasons for this decline was the increased ease and affordability associated with buying singles instead of whole albums. Because of this increased customer focus on singles instead of albums and the little time artists could spend on their songs, each song on an album was crafted to be a hit rather than being part of a whole album sound. What Steven Wilson of *Billboard* calls the "true album" was becoming less prevalent, and the album that offers a compilation of songs strung together without meaning or purpose (other than to sell a hit single)" was becoming more common (Wilson 4). After all, even if an artist produced a whole album full of songs, the likelihood is very low of any individual customer buying that artist's whole album when they have the option of buying the only song on the album that they know and love.

The vertical integration in the live performance sector had a large effect on ticket sales. The few large record companies left got the radio stations they owned to play the songs they produced. As such, they had even fewer barriers than before to get their songs played on the radio. Despite the fact that fewer people were listening to radio than in previous decades, with fewer than 50% of teens listening to Top 40 stations by as early as 1990, this tightening of control over one medium while losing the control of another was

incredibly influential (MacFarland 76). After all, "[consumer] interest is swayed by what they hear most frequently," and, since there were very few other places where consumers could have found new music, "[the] recording companies and promoters [designed] concerts and tours increasingly based on positive consumer feedback" (Black, Fox, & Kochanowski 165). Because there was little else provided to listeners besides the music provided by the select, controlling record companies, consumers provided feedback based only upon the few songs they heard regularly. This lack of musical diversity listeners received advanced the problem of fewer artists being able to obtain success in the industry and created the recent phenomenon of the " superstar phenomenon" (Black, Fox, & Kochanowski 150).

The superstar phenomenon largely was the reason why tickets prices began advancing and why large stadiums were obtained as venues for huge artists. According to Marie Connolly and Alan Krueger, ticket prices have seen a "sharp increase" (19). "In 1982, the top 1% of artists took in 26% of concert revenue; in 2003 that figure was 56%" and "The top 5% of revenue generators took in 62% of concert revenue in 1982 and 84% in 2003" (Id. 40). This effect is a result of findings suggesting that "the mean…of the gross profit distribution would exceed the median…since the mean is pulled toward extreme values in the distribution," which has occurred "[in] every year starting in 1997 and ending in 2005" (Black, Fox, & Kochanowski 171). In other words, the top performing artists earned a significantly higher amount from their tours than artists who were slightly less popular. Superstars did not have much room to grow in terms of how much more they could earn per show, since, most likely, they could not gain any more name recognition than what they already possessed. Although this effect certainly existed

before this new business model, its effects were further advanced by the nature of the industry's concentration of artist awareness to a small group of performers (Bakker 8).

However, even those who saw significant percentage gains in the amount they earned for live performances could not hope to earn what the top echelon earned for their performances (Black, Fox, & Kochanowski 159). Those who could gain incredibly high profits from their concerts began searching for the largest venues they could find, thereby selling far more tickets while also still charging premium prices. But when concerts began regularly having empty seats in the early 1990s for these superstars, they had to decrease their regular venue sizes once again (Cox A13). Despite these periodic fluctuations, concert attendance has steadily increased and has done so at an especially quick pace for superstars.

Under this organization, artists in general once again were disadvantaged by the vertical integration present in the industry. The industry's oligopoly controlled every step of the live performance arrangement process. Therefore, "[artists] outside the promotional umbrella of these firms [found] it more difficult to organize, promote, and produce concerts successfully" while "artists who find themselves under the umbrella likely face higher costs" (Black, Fox, & Kochanowski 166). If anything, the situation was made worse for artists, since the majority of their profits had historically been earned from live performances.

v. Advantages

Although the old business model held some clear advantages for all parties, the reason for the business model's switch was fairly evident: customer satisfaction.

Consumers could obtain the same songs they had before far more conveniently and cheaply. Additionally, through the rise of the Internet came services like Ticketmaster, through which they could obtain tickets conveniently online as well. The rest of the parties, however, largely saw significant decreases in the advantages afforded to them by the previous model.

While vertical integration was once again obtained through the live performance aspect of the industry, the clear losers of this new business model as a whole were the record companies. They obtained fewer royalties than they did in previous years. Record companies' few popular artists, who they fiercely promoted, were played frequently on radio stations, but their lack of artists from whom companies could earn royalties caused their overall profits to quickly decline over the course of a decade.

Although there were significant advantages gained by consumers, artists also obtained a large amount of the power. They gained more control over the course of their careers than they ever had before. Record companies could no longer charge them large amounts of money to produce their records. Since "[technology allowed] musicians to enter the market and sell directly to consumers," they could market their songs without the help of a record company (Hracs 459). So, they were no longer forced to go into thousands of dollars in debt to pay off recording fees imposed upon them in their recording contracts. The artist largely pocketed any money earned off of concerts, no matter how few that artist played.

Although it became more difficult to gain national success to any degree, all kinds of artists could still make a decent amount of money from their profession if they gained any kind of fan following. Moreover, they could put their songs on a forum that virtually

all music consumers visited, and they did not have to worry about what prominent brick-and-mortar music stores sold their physical copies. The "superstars" also gained an advantage. Despite the higher costs associated with working under a large conglomerate corporation, the connections in the industry were good enough and dedicated to few enough artists to give higher benefits than eve before. Overall, most artists had something to gain from the music industry, while those who once had unfathomable power in the industry, such as record companies, began losing their place in the profitability of music.

vi. Solutions Proposed

While flaws existed in the previous model, there was little motivation for those involved in the business process to try and change it. However, the evolution of new music technology forced the industry to change drastically, and parties involved who once held immense amount of power over consumers suddenly found themselves with none. Embracing this new environment, parties that once held power now searched for ways to change the business model in a way to either conform to its previous setup or otherwise make the new setup beneficial to them once again.

Researchers have spent time on tackling the rising issue of piracy and subsequent peer-to-peer (P2P) sharing (Janssens, Van Daele & Vander Beken 11). After all, this began reducing gains on one of the main pinnacles of the industry's success: copyright royalties. Piracy is generally considered to have been one of the main causes of the decrease in record purchases (Waldfogel 37). After all, consumers saw no point in buying something for which they could find a free substitute very easily online. In fact, the direct "impact of peer-to-peer music sharing practices has also been demonstrated to range from

a decrease of up to 30% in the probability of purchasing music to an actual decrease of 20 to 25% in music CD sales" (Hadida & Paris 84).

The second common way people have thought about increasing gains once again from royalties is to change the copyright laws that preside over earned royalties. Many view these laws as anachronistic, for they had been applied more efficiently to the business models and technological advances of the past (Matthews B6). The way copyright laws were set up at the time allowed "music publishers" to be "paid in two different ways: once when songs are performed, and once when they are recorded" (Id. B6). Neither options included digital music, so researchers and industry participants argue music publishers that they should be paid a fee for each song download. When music publishers are paid, that means they can distribute the royalties to those who own the copyrights to those songs. The matter is sufficiently complicated so as to have not been sufficiently covered in copyright law yet. However, that advanced Internet technology has completely changed the way music is distributed, the laws should be made to catch up so as to properly regulate it.

IV. Current Model (2012-now)

i. The Players

The detachment that consumers held towards the product of music became dramatically more pronounced within a span of two years. Listeners started to feel entitled to hear whatever music they liked at no cost. The reason they began feeling this way was the prevalence of piracy. The detachment advanced at such a fast pace because of the advent of the age of streaming music. Streaming services "allow users access to

millions of tracks from any web-connected computer legally and free of charge" (Swanson 208). When streaming a song, the listener only listens to the song online instead of downloading it onto their device to keep an owned product. Downloading a song was no longer in vogue; if a listener could easily obtain a song at no cost, the principle of ownership was no longer worth any price. Thus, businesses like iTunes that were based on this core principle of ownership began losing consumer interest. Instead, streaming businesses began embracing music as a public good due to its having been subject to pirating for many years, perceiving it the way consumers had been for years.

Because records were becoming less of an excludable and profitable good, less time has, overall, been devoted per artist to their creation. Instead, the artists' focus on touring for long spans of time only intensified. The resulting profit streams, especially for artists who could spend one or two years on world tours, were immense. Even as early as 2008, "Pollstar reported the average price at $62.07," while Connolly and Krueger found that, for the same period, "concert prices grew slightly faster than inflation" (Schultz 735-736). Artists who had the ability to easily transport their equipment from place to place to tour in multiple venues in a short span thrived, and those who could not transport their equipment easily were forced to find a way to do so if they wished to continue earning a decent profit stream from their job. The era of the Beatles, in which their decision stop touring in 1966 made them "artists rather than performers," was clearly over (Id. 754).

The resulting profit and power artists gained also increased the amount of power managers had over the industry. Considering that the personal manager of any individual artist virtually has some level of control of every aspect of that artist's career, the wellbeing of the manager depends a great deal on the artist. The more leveraging power

the artist has with parties that depend on that artist's talent and product, the more leveraging power a talented manager can extract from any given business situation in which an artist is involved. For an inexperienced musician, the market for music is uncharted and terrifying to navigate. With no personal entrepreneurship skills, the presence of a manager to help the artist succeed in these unknown conditions is imperative. While record companies used to develop and produce an artist to create the most profitable music possible, companies that do take new artists expect them to already be at a refined stage in their career (Hracs 453). Most expect new recruits to have even produced several CD's with independent labels before they take them on (Id. 453). With new players emerging and older, familiar ones fading out of relevance, the presence of a manager to help the artist overcome the competition is one of the things that an artist needs the most.

Record companies, again, were disadvantaged in this new industry setup. Although businesses like Spotify give record companies and artists royalties every time the song is played and Pandora acquires licenses for the songs that it plays for its listeners, the dollar amount for each song is dismally low. According to Ethan Smith of The Wall Street Journal, a single play on Spotify Free was worth an average of about 0.14 of a cent." The songs would have to be played a phenomenally large number of times to earn the kind of money record companies once earned. Even so, like they once did with iTunes, they accepted this low stream of profit because it was the only way to earn any profit from their songs. Spotify, in their powerful position to that of record companies, essentially can set the amount they like for royalties given for each song.

With even less profit earned from their involvement in the music industry than ever, record companies' days of relevance in the industry are truly becoming shorter.

ii. Advertising

Although many people still listen to the radio, it is no longer the premiere place for listeners to find new music. The record companies' close relationship with the few conglomerates that own almost all popular music stations essentially guarantees every song played on those stations to be produced by the few large record companies. For all of the other artists, who are the large majority, using radio as a form of advertisement is not realistic anymore. Other forms of advertisement have been created to fill this gaping hole in the advertising sphere of music. Most of these new forms of advertising can be found through the Internet. Because the Internet is where most listeners go to find music, advertising on the Internet has become all the more effective, even necessary, for listeners to discover those artists' music. This is especially true for the independent artists who would have absolutely no way of getting onto the radio to be heard. With all the more artists now fitting in this category, marketing online is now one of the main ways, overall, that artists advertise themselves to listeners for recognition.

One form of advertisement that has come from this change is commercials between songs on the free version of streaming programs like Spotify (Swanson 207). Commercials, paid for by the artist or the record company that sponsors that artist, are much like radio ads but can also provide an Internet-style ad banner on which the listener can click to find the artist that is being advertised. The sound portion of the advertisement shows a quick sound bite of one of the artist's songs, something very similar to what

consumers could once listen to on iTunes before purchasing a song. In this instance, however, the artist is proactively getting the listener to know that the artist exists and attract listeners that would potentially like that artist's style of music.

Another form that has become incredibly popular over the past few years is corporate sponsorship. This is somewhat akin to the model of patronage that was seen in previous centuries, where one wealthy patron could pay a classical composer for all of his or her work (Schultz 758). In the more modern model, the large company will pay the artist to write or sing a song over which that company has exclusive ownership. This can be advantageous to the company if that company wanted to use what could become a very popular song as a jingle for their ad. Recent examples include Chris Brown and Double Mint, where he only revealed later on that Double Mint commissioned his Top 40 song "Forever" (Id. 758). In this way, they can associate their brand with something that their consumers will already enjoy, thereby creating a positive relationship between the two.

Pandora has been around longer than Spotify, but it has been eclipsed by Spotify in popularity. Pandora has become a public company with 80 million active users (Ingram). In 2015, it had 60 million active users," both paid and free (Id). Furthermore, while Pandora's paid subscription service was attracting fewer users, in May of 2014, Spotify had 10 million paying users. November, that same year, the number jumped to 12.5 million (Hansegard). It also did not become a proper replacement for radio in terms of advertising new music because their business model is reliant upon the licenses that it can obtain, with the permission of the government, for the songs from several publishing companies that conform to most listeners' preferences (Karp). These licenses are only

given to Pandora when the government approves the licenses that Pandora seeks, which often takes enough time for the freshness of a hit to fade (Karp). This perpetuated the habit of consumers listening to the same Top 40 songs for months longer than the previous industry setup would have ever allowed. As a result, the industry morphed around superstars who earned reliable money for companies associated with these artists and largely shied away from the numerous risky investments they once made.

Pandora is also attempting to compete as a relevant streaming service much like the setup provided by Spotify, for it recently signed deals with several publishing companies. It is now signing deals directly with the publishing companies so it can also provide "on-demand streaming and expand overseas" like Spotify, "neither of which the federal government has the authority to license (Karp). By avoiding the slow cogs of government approval, Pandora's business wishes to expand and innovate to thrive in the new, uncharted areas of the music business.

iii. Tickets vs. Streaming

Although streaming predictably decreased record purchases even further, it increased growth in ticket purchases (Nguyen, Dejean, & Moreau 328). However, even if the live performance industry is finding increasing success, the shift in demand is generating a decline in the amount of music individual artists create for listeners. According to Mark Schultz of the University of Richmond School of Law, "The fact that musicians are getting paid to play music does not ensure that they are creating new music or, if they are, that such music is being preserved in the form of recordings" (703). Arguments for a model based solely on using recorded music as a method of

advertisement rather than another form of profit discount the other many ways that copyrighted products earn money.

Copyright royalties can still be earned in many different places, such as movies and broadcast radio, where permission to play songs must be obtained. In any case, in about any business that involves the creation of a unique art form, compensation for the enjoyment of that art form is the main way to fund the continuation of creation of new forms of art. After all, “Although there is more than one way to extract profit from the interest of one’s audience, charging them directly remains the most common way to do so in most creative endeavors” (Schultz 705). If this is not done, then popular artists “resting on their laurels” instead of creating “compelling new music” becomes a more prevalent issue (Schultz 756).

While the numbers of listeners who are streaming their music are increasing dramatically each year, this increased embrace of music being public good will likely bring down the quality of the products. A free product, after all, only brings costs upon the producer without providing a way to pay for those costs. Even if there are sponsors who help the artist and those involved with creating the product break even, artists will spend their time doing something more profitable if other ways to earn more profit exist. Hence, while recorded music is a good way of promoting the more profitable concerts, the artist will more likely than not spend more of his or her time and efforts on these tours and devote minimal time to creating music. If listeners expect to receive new music products that have sufficient time spent on them so that they are of the best possible quality, then the encouragement of obtaining recorded songs freely on demand through streaming should decrease.

iv. Advantages

From the way the market has followed consumer preferences, consumers seem to think it is to their advantage to obtain recorded music for free. If one follows that line of thought, then the way that the industry is currently functioning is clearly presented in their favor. However, if one sees the industry from the consumer's preference for the highest possible quality of goods, they are surely gaining no advantage. If a consumer has a free substitute available, he or she will take advantage of it; however, the resulting decrease in quality is disrupting the way that the industry normally functions.

Normally, if a product an artist offers is not of the highest quality, the consumer will find a better artist's songs to listen to instead. However, if artists overall are devoting less time to the quality of their recorded product, then consumers experience lower quality recorded products. This is especially true for popular music, for most listeners will not attempt to sift through the monumental amount of music on the market today on their own and, instead, will choose to listen to songs by artists who they can more easily find. Perhaps the market has not reached a low enough level for the majority of listeners to balk at the limited quality and amount of music presented to them, but the time will surely come when they do. What often happens is listeners listen primarily a small group of artists whose songs the radio has repeatedly played for years. Even if the radio is the oldest available source of new music, and has narrowed immensely in what it offers, it is still utilized by many listeners today.

For artists, recording technology is decreasing in price and, hence, becoming far more available to artists from all backgrounds. This at least gives each aspiring artist a

shot at their music reaching the public, while, in the past, an artists' only option used to be sinking a great deal of money in hopes of reaching a mass audience. The Internet, by definition, is a mass audience. Getting their music on the Internet is therefore simple and listeners can hear it on the Internet if they can find it. Moreover, the artists will present higher quality products through the top-notch sound quality produced by this new technology. As a result, the artists can present their best work to the public and get closer to selling their concerts to the listeners they gain as well. However, although this lends a huge advantage to artists who, until recently, could not access the general public without a record company's help, it also increases competition dramatically for all artists. The number of artists, because of this availability of recording technology, has skyrocketed within the past few years. According to one artist, "The best thing about technology is that now anyone can make music but the worst thing is that now anyone can make music" (Hracs 459).

The number of artists marketing their music to the general public has increased dramatically, so their chances at finding a large, dedicated fan base has decreased dramatically as a result. Again, listeners are overwhelmed by the sheer number of artists from which they have the ability to choose and listen, and the only way that the artist will stick out from the other artists is if that artist finds a creative way to advertise to those listeners. Several methods are listed above, but only so many ads can be presented to listeners before those overwhelm the listeners as well. The superstar effect, as a result, becomes all the more prevalent, for listeners will continue listening to the artists that they know and continue to shy away from the massive number of available songs. Even with their increased control over live performance profits within the past few years, they will

not see any benefit from this control if they cannot generate a large enough fan base to ify profitable concerts.

To make matters worse, the time devoted to jobs that, otherwise, would have been carried out by record companies and their vertically integrated system must be accomplished by the artists alone. One independent artist named Charlie Mars started his own label to stay in business as a musician, since the major label under which he was previously employed decided he was no longer profitable and did not sign him again (Brass). He told the Wall Street Journal that, as a result, "[he]…had to get involved with the nuts and bolts of touring in a way that he didn't have to do when he was attached to a label" and "now had to absorb all the costs, including hotels and gas, and make reservations and other arrangements" (Id.). When artists have to spend a great deal of time on the particulars of their business, they have less time to spend on recording. Artists have even less time for recorded music when they are constantly touring. To Mr. Mars, and many other artists, "touring was an even more substantial source of revenue, and he would be on the road constantly—both performing shows and visiting radio stations to try to boost airplay" (Id.). "On one hand, independent musicians have gained complete creative control over the direction and content of their music and related products…On the other hand, to realize these opportunities, musicians must first overcome a new and dynamic range of barriers to success" (Hracs 459).

Musicians have described the current music marketplace as the "wild west," since "[barriers] to entering the market have been significantly lowered," resulting in the market being proliferated with "uncertainty and above all competition" (Hracs 459). Although the old model controlled by record companies was not set up to the advantage

of the artist, the current model no longer allows artists to spend a great deal of time in the studio. Since artists are devoting most of their time to multiple jobs and less time to music, less music is being produced per artist as a result.

v. Solutions Proposed

While the literature on decreasing piracy has been prolific within the past decade, the shift to the most current model has been so recent that fewer scholarly articles exist. However, industry participants that hope to get the industry back into its best functioning state have proposed one solution. That solution is the increased focus on subscription services. According to one industry participant, Spotify, a successful streaming service, is "the best thing the industry has ever done to fight piracy" (Driscoll). Multiple companies have tried and failed to subsist purely off of the subscription model, but those who have continued as hybrid companies that offer a free option in addition to the subscription, such as Spotify and Pandora, have done very well.

While there is something to be said for the low royalties paid out to each artist, streaming services are paying more than artists were earning on iTunes a few years ago. While artists might never again earn the amounts they once did from record sales in the industry model that spanned from the 1950s to the 1990s, they should be looking to aid the service that is currently paying higher amounts for their music than they were receiving before. An article by Michael Driscoll of The Wall Street Journal puts the matter into perspective:

While royalty arrangements vary widely from label to label and artist to artist, in a typical deal, the amount making it back to the musician might only be about 0.15 cent for each song streamed, say people familiar with how royalties break down.

> Compare that with more-conventional compensation: A compact-disc retailing for $15 and featuring 10 original songs might return about $1.50 to the writer and performer, or 15 cents a song. But a CD is played more than once, of course. Played twice, the artist has gotten 7.5 cents per song listen. Played 15 times, one cent. In this model, the CD would need to be played 100 times before the payout per play, per song, would equal what the artist receives from a Spotify stream. Even for a favorite tune, 100 spins seems a high bar.

Apple, though, has come in as they did with the last model and taken advantage of their presence as a company large enough to continue with a costly model. They have done so by presenting a model that only allows paid access, not including the three-month free trial. Their ability to sustain their business model and simultaneously charge for the music they provide has attracted famous artists who know they will benefit greatly from this charge. These artists know that, although there is a chance that their music will be pirated, they will be gaining more from the subscription fees than from the minimal royalties paid out by companies like Spotify that generate most of their customer base from free users.

They also hope to grab the public's attention and alert them of how they are harming the industry as a whole. Taylor Swift was recently very vocal in her protests against the small amount Apple was paying its artists in royalties, and wrote an open

letter protesting the fact that “Apple Music,” Apple’s streaming service, “will not be paying writers, producers, or artists for…three months” because they were “offering a free 3 month trial to anyone who signed up for the service” (Chai). Although it is definitely beneficial to artists looking for a change in the system for big names like Taylor Swift to speak out on artists’ behalf, this attention is not all that is required to spark a movement. A change must be proposed that will be supported by multiple powerful parties in the industry. Even though artists have gained a lot of power over the past decade, they alone cannot sway how the conglomerates that rule the industry conduct their business.

Although there are few solutions that have been presented on this issue currently, I have analyzed below the ones that are currently available as ways to potentially change the market for the better. I initially had seven potential courses of action, but, after further analysis, I narrowed the list down to the three most feasible options. While all have their strengths and weaknesses, I will present one as the most beneficial solution.

Additionally, to further narrow down how the courses of actions can be implemented, and to further increase the likelihood of their implementation, I have made the personal manager the industry participant who puts the proposed course of action in place. If the one in the industry who, arguably, holds the most power at the moment does not find the solution optimal for their future career and profit-generating ability, there is no reason for that player to allow that course of action to occur. Moreover, if there is any industry participant that would implement change, it should arguably be the player with the best ability to do so due to their possession of the most power.

V. Proposed Solutions

i. Course of Action 1

The purpose of the first proposed course of action is to increase consumers' awareness of a larger number of artists, thereby giving consumers more choice in what they can purchase. I propose a way to achieve that goal is to increase the effectiveness of current streaming advertising ploys. More specifically, for the big names, there are a number of venues through which their influential managers can implement advertising. For example, managers can match them with a brand, thereby bringing up the brand equity of both the artist and the associated product. For smaller artists that desire name recognition, however, more creative uses of the available streaming platforms are necessary in order to get the necessary name recognition. Bigger artist management firms that are talent scouting are able to discover talent fairly well, thereby giving them new artists to advertise. They have the money to place frequent advertisements of a particular artist during the commercial breaks of streaming services. A more effective method of advertising could be the increased implementation of suggested artists through the technique of micro-marketing; if a listener listens to a certain artist or genre frequently, perhaps the new artist looking for recognition to pay for a certain frequency of suggestions to listeners.

This proposed course of action has several strengths. First, there is a better possibility for artists to get heard, giving consumers greater selection and a venue to find new artists. There is no substitute service for them to conveniently find new artists they may like, excluding blogs specializing in niche music genres. Moreover, prominent artist

managers can shell out the funds necessary to get their musicians suggested more often than others instead of spending more time on other venues of advertisement.

The solution also, however, has several weaknesses. For example, small artists may not be able to afford to pay the fees necessary for the cost-benefit analysis to balance out sufficiently. Streaming services will likely see the profit potential of this solution and charge as high a fee as they can for minimum suggestions. More notably, though, large artist managers may see further suggestions of their mid-tier to high success artists that already have a great deal of publicity and name recognition as it is. If a large stream of profit does not come in from those who can afford to pay large amounts for suggestions, the idea may not be adopted long-term by streaming services that do not see the additional service as beneficial to them.

ii. Course of Action 2

The purpose of this second proposed solution is to get artists better compensation for music, thereby motivating them to record more and better music for consumers. After all, one of the main issues with the current system is the disadvantaged position of the consumer, for the consumer has no access to products that are quickly produced and of the highest possible quality from each artist.

The way I propose to achieve this goal is by changing the availability of music to consumers through a tiered system. Spotify has begun this process, in a way, by offering one tier for those who pay and one that does not. However, I believe that this system can be further improved by adding different levels for which the consumer can pay for different kinds of music. Each tier would have a different level of name recognition. For

those who wish not to pay for any music, there are the artists who have minimal to no name recognition who are chosen for the listener based upon an algorithm that bases what artists they may like off of those who are more easily recognized that the listener normally listens to. As the tiers progress upward, the name recognition will increase, as will the price. Although the prices are minimal, they are more than what the artists would otherwise be earning for recorded music. If an artist becomes popular enough on one tier, the personal manager has the potential negotiate the artist to move up the tiers and thus earn higher royalties. After all, if the manager can prove that the artist is viable enough for listeners to feel like they are paying the correct amount for the caliber of musician they are receiving in return, then the addition of the artist as a potential to keep or, even better, attract customers to the upper tier is ified.

This model has several notable strengths. For example, this model is especially advantageous for an artist who has no recording studio and therefore has no debts to pay off with royalties. Under these conditions, the artist is not saddled by having to choose any available means to gain royalties from their songs. If they use recording technology that they obtain themselves, they can take any extra money as additional profit. For artists who already possess a reasonable amount of success, the missed profits from giving out music for practically nothing on a free streaming service can be renegotiated by powerful artist managers and be gained to as high a level as is possible in the current world of easily pirated music. Although music can be pirated as an alternative to gaining these services, it is altogether far easier for listeners to obtain music through streaming services, especially in the highly organized and beneficial layout for the consumer to discover more artists and types of music.

There are also some fairly problematic weaknesses. First, there is a high possibility that consumers will balk at the new, tiered system and go back to pirated music, which is a nearly identical substitute product. After all, when consumers in the past were presented with ways to pay for music through iTunes, many chose to obtain the free substitute. Next, since there may be little change in additional money earned by streaming services with this tiered system, and since there is a good risk that the streaming services will be rejected by consumers if they are made to be further tiered, there is little motivation for the services to make the change. If the system, which has a great deal of power in this current model, does not approve of this change, then any other potential advantages for other players are irrelevant and the tiered system will not be put into place.

Furthermore, although less-discovered artists will be grateful for the ability to gain recognition on such a well-known platform, the platform may once again fall out of style. In that case, any artists affiliated with it will no longer see the benefit of allowing their music on the service, thereby completely eliminating an alternative for listeners to pirating music. This would further the issue of pirating and the royalties gained from the songs will decrease even further for artists. One last issue could be that, although this is ultimately meant to be a better way for undiscovered artists to filter their way through to listeners, consumers may find this imposition unwelcome. There is currently a system with which consumers are satisfied. If they feel in any way inclined to have more control over which songs they play or want to listen to the very few artists that have limited themselves to paid subscriptions, they can do so. If not, the free option offered by companies like Spotify and Pandora are sufficient for hundreds of millions of other

consumers. Decreasing the availability of songs even further could anger many of these consumers, not seeing the future benefits of better music as something to celebrate since the future benefits are, by definition, not immediate.

iii. Course of Action 3

The purpose of this third course of action is to get artists better compensated for music. This will hopefully motivate them to create more music, thereby giving listeners higher quality products from which to choose from the extra time spent on distributable products. I propose this goal can be achieved by changing the current copyright laws and laws associated with what can be distributed as free on streaming websites. The large firms with which many prominent artist managers are associated likely could have a great deal of influence with delegates of Congress if they so desired. They could also send influential amici briefs to the Supreme Court if they wished to back up one of what are likely to be thousands of royalties or copyright cases circulating in the appeals courts. Such laws could limit the ability for streaming systems to impose a free option for listeners that is virtually the same as the paid subscription version.

There are a few strengths associated with this model. First, this could help gain government support for the artists. This would allow the law to incorporate current evolution the music industry, thereby abandoning the antiquated system currently in place. Additionally, managers would be better able to negotiate with streaming services that currently give them nearly nothing for their music. The reformation of laws that regulate songs should be molded to include streaming models and decrease their chokehold on the profits that artists can gain from their songs.

This model does have a few weaknesses. As could happen with the second proposed course of action, this reformation could send listeners away from the streaming services. The increase in what Spotify has to pay artists will inevitably trickle down as costs are passed to consumers. A free version of Spotify will likely no longer be feasible with these overall increased costs, and those who are currently satisfied with freely obtaining streaming services will not switch over to the paying system. Instead, they could go back to pirating songs. Though this practice is highly illegal, it is not well regulated due to its widespread prevalence. Worse, the streaming services could use their in-house lawyers to circumvent the murky statutory phrases that will likely be used to impose changes on the industry, keeping the music free for listeners. This would completely undo years of work to influence changes of laws, and further years of interpretation of the laws through the court systems would be necessary to get the laws implemented as intended. The intent to increase the quality of products that consumers could receive would be completely undone or take years to actually get it put in place.

VI. Conclusion

Clearly, no model is perfect. When choosing ways to reform any system, there will inevitably be some involved who will be disadvantaged and ways for people to undermine that new system. However, to choose the best option, I looked to the option with the largest available benefits with the least amount of associated risk. The option with this best combination was Course of Action 2, or the system calling for tiers of music.

Industry experts are beginning to say that, since streaming is decreasing the amount of music pirated and converting a greater number of people to paid subscription services each year, it is the best thing that has happened to the music industry in years. Though its profits pale in comparison to those earned by CD sales fifteen years ago, it is bringing the industry out of a dark place where customers did not pay a dime for listening to music. Now, even if customers have become morally detached from the crime of piracy, they now have the motivation to pay a fee for their music. Expanding upon this gain in the industry is what could not only give consumers more options for which they would already be willing to pay, but it would also give sufficient payment to artists to devote more time to the studio and be further compensated for their work.

Though this may risk the delicate balance that the music industry has currently achieved after the past decade of tumultuous shifts and technological advances, the benefit of the consumer should always be the top priority for which the industry takes risk. After all, they have the power to make the music industry no longer a powerful provider of entertainment if they no longer want the product. If the consumer, down the road, becomes unhappy with the way that the industry has begun to turn, then the balance maintained in the industry will have been for naught. The highest possible product quality given to the consumer is a basic tenet of capitalism. If there is no reason for the consumer to choose new music as a means of casual entertainment, then they will find the closest substitute. If artists continue to spend most of their time on live performance and continue to decrease the amount of time spent on new music creation, then listeners' attending concerts will become less enjoyable for listeners that have heard the same songs repeatedly at the same performances. Repeat concert attendees will become a thing

of the past. Consequently, even if this proposed solution has its downsides, staying the course that the industry is currently riding would be a mistake in the long term.

Music is one of the oldest forms of entertainment. Its continuation as a thriving business, however, requires a change in the current balance. And, if the music industry is to see this change, then artist managers, the industry participants with the most power, should be the ones implementing it. Without these changes, the future of the music industry as a whole could continue to spiral downward to levels unforeseen currently unforeseen by industry participants. If a solution is viable and beneficial to those creating new music, then the solution should be implemented.

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