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Rogers MusicStore

CANADIAN MUSIC WEEK

BY: CONNECTUS CONSULTING INC.



Forum

SUMMARY AND ANALYSIS
2008

SUBMITTED TO THE CANADIAN RECORDING INDUSTRY ASSOCIATION,
THE ONTARIO MEDIA DEVELOPMENT CORPORATION AND
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Global Forum 2008

Executive Summary

Music piracy.

The importance and future direction of regulation.

The role of ISPs in the world of unauthorized downloads.

All of these issues – and many more – were on the minds of participants at the Canadian Music Week 2008 Global Forum held in March, in Toronto.

This year's version of the Global Forum was attended by some 120 leaders from the international music industry, and kicked off by compelling remarks from two leading academics in the world of business, economics and the dynamics of technology.

When participants got down to the business of discussion and debate, there was no shortage of opinions on the state of the international music world, and on solutions to its problems.

From a compelling presentation by Professor Debora Spar of Harvard University, on the history of communications innovation and the fall of piracy in favour of regulation, Forum participants debated the state of music piracy – and ways of dealing with it through regulation.

Participants were near-unanimous in their view: rules for commercial relations are necessary in a global economy. Without rules – in part through a fresh round of copyright reform – new business models in the music industry may never get off the ground.

Furthermore, participants suggested that rules can encourage rather than inhibit innovation in an industry. This is especially critical given the rise of ISPs as key players in the world of unauthorized downloading.

Global Forum 2008

Executive Summary

(continued)

Professor Olivier Bomsel of Ecole des Mines de Paris, France suggested that the music industry is faced with a massive shift in its distribution system – and piracy is a key tool for rolling it out. But France is among the first of nations afflicted by piracy to bring ISPs to the table to have them take action.

ISPs in the U.K. may not be far behind, with Virgin Media currently in discussions with rights holders organizations about how a voluntary scheme to curb illegal filesharing on the ISP's network could work. ISPs in Britain are under government pressure to find a voluntary solution with the industry, or face legislation from early 2009.

Forum participants were crystal clear in their views: more of this is needed. It's time for ISPs to step up to their responsibility as carriers of content, and to take action against piracy with the huge market power they wield. Perhaps some momentum on this is finally being seen.

At the same time, participants were forceful in their opinion that the next round of copyright reform must hold ISPs accountable for the content of traffic on their networks.

Of course, there were differences of opinion. Expressing them is what the Global Forum is about.

But participants also expressed optimism for what the future holds for the music industry on a global level, and that the power of technology and weight of regulation will soon begin to work in their favour.

INTRODUCTION



Global Forum 2008

Introduction

The Canadian Music Week 2008 Global Forum was an invitation-only workshop attended by some of world's leading music industry thinkers, who gathered for a dynamic morning of discussion to explore issues concerning unauthorized downloading, copyright reform and the role of ISPs in the business of producing, distributing and listening to music.

This is the second consecutive year for the Global Forum event, and proved again to be both thought provoking and provocative.

In this year's format, discussion opened with plenary presentations by two of the world's leading music business researchers: Professor Debora Spar of Harvard University, and Professor Olivier Bomsel of Ecole des Mines de Paris.

Following presentations by Professor Spar and Professor Bomsel, 120 Forum participants were divided into 12 roundtables for discussion and debate on the issues, lead by a music specialist facilitator.

Following each roundtable discussion, participants were asked to complete a brief survey designed to gather additional opinion and perspective.

Our Report is based on (i) scribe notes taken during roundtable discussions, (ii) survey results and (iii) observations of roundtable proceedings. The notes provided by table scribes - students in the Journalism Program at Ryerson University and Centennial College in Toronto – were especially informative for this year's Report.

A summary of remarks by Professor Spar and subsequent discussion and survey results on music piracy and the future of regulation are presented in the first part of our Report.

A summary of remarks by Professor Bomsel and subsequent discussion and survey results on the role of ISPs is presented in the second part of our Report.

A list of Forum facilitators is presented in the Appendix to the Report.



Debora Spar
Author, Senior Associate Dean,
Harvard Business School



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GLOBAL Forum

SUMMARY AND ANALYSIS
2008

MUSIC PIRACY & THE FUTURE OF REGULATION



Part I: Music Piracy and the Future of Regulation

Debora Spar is the Spangler Family Professor and Senior Associate Dean at Harvard Business School, where she teaches courses on the politics of international business, comparative capitalism, and economic development.

Professor Spar opened the 2008 Global Forum with her remarks on Ruling the Waves: Business and Politics along the Technological Frontier.

In Professor Spar's perspective, the Internet is an historical phenomenon that demonstrates patterns of development – and the ebb and flow of government intervention – not unlike that experienced by other revolutionary moments in communications: the compass, printing press, telegraph, telephone and broadcasting among them.

Professor Spar notes that these critical periods in communications history were marked by their revolutionary technology, impact on the way in which we work and play, and variable models of governance. As she notes, while other transcendent periods in communications history tended to

...push governance out of the hands of governments, there will be rules in cyberspace, and government will play a not insignificant role in their creation.

This is because cyberspace is following along the 'path of the technological frontier':



Stage 1 – Innovation, is characterized by exploration and discovery, no real commercial market and no need for formal rules. In Professor Spar's view, this Stage is essentially the birth of a new, revolutionary technology – in this case, the Internet.

At **Stage 2** – Commercialization, technology move from the lab to commercial mass markets and 'the staking of claims' by pioneers. It's time of 'creative anarchy' with no rules – yet – and no formal governance.

Pirates follow – borrowing technology and reaping substantial gain with no investment.

At **Stage 3** – Standardization, the market expands and as the cost of anarchy rise, the demand for rules emerges. The response to demands tends to be private regulation through the development of standards, protections and restrictions.

Pirates have not yet departed.

At **Stage 4** – Regulation – technology has become normalized and integrated into the mass market, but private regulation is not longer sufficient for social or business needs. At the point, government intervenes to enforce rights and provide security.

And, prevent piracy.

With respect to the music business, Professor Spar argues that anarchy is 'not so much fun anymore...because the need to run a business in the music space' has become so great. Her sense is that the U.S. is now at Stage 4, where government is seeking to regulate more firmly since the industry is pushing hard for order.

The benefits of regulation and 'orderly commerce' according to Professor Spar outweigh anarchy.

Discussion by Roundtables and Survey Results

Professor Spar's presentation elicited a strong reaction from participants gathered for the first Forum roundtables. Discussions opened with the following question.

Does anyone have the right to claim ownership of music in the digital world or does the internet change everything, including the notion of private property? If we believe in property rights in the digital realm, who should enforce those rights – governments or private entities? Does it depend on the circumstances?

Forum participants seemed to come down decisively on the side of Professor Spar when she argued that property rules will reassert themselves.

While some did offer a view that the Internet had undermined the notion of private property, the majority believe that the Internet has not and will not change anything in terms of ownership rights – property rights will remain as important as they have always been.

Participants also indicated a strong consensus on a number of points. This was especially the case concerning opinions on the consistent need for property rights, as reflected in the survey of participants.

Some have argued that recorded music will be "free" and that owners will eventually give up property rights, whereas others have said that property rights are essential to the music business.

What is closest to your view?



Some participants believed that the music business was "still stuck in the old ways of doing things" others disagreed.

Many participants expressed the view that our copyright framework in Canada was preventing us from harnessing the Internet to the benefit of creators, investors and consumers

While many participants argued that the distinction between private property rights and ownership rights in the digital and non-digital worlds was a false one. It was suggested that our government has failed to act to assist in the effective enforcement of rights.

The central barrier noted by a number of participants is (as summarized by one participant) the 'inability of government to enforce these rules...to wake up' to the reality of the Internet's impact on creator rights in Canada. There was a sense that the protection of creator rights was not on the government's legislative or policy agenda

The participants clearly felt the government needed to act to establish boundaries, rules and a framework. They felt that the private enforcement of rights under the existing regime, was achieving very little. There was also a consensus that the root of the problem lay with the ISPs and their refusal to play a role in solving the problem. A common view was that ISP's would not take any action unless they saw it as somehow benefiting themselves.

It was further noted that government's hands may also be tied when it comes to developing effective means of enforcement, given limited resources. As noted by one participant, 'If you want to stop speeding, you need a cop at every corner – but you can't afford that.'

Finally, several delegates noted that government's enforcement regime is potentially curtailed by the vastly different approaches to rights protection in different international jurisdictions. Thus another key barrier arises: the Internet and music piracy is an international phenomenon, but creating a single international solution is simply not possible.

What good is stronger copyright legislation if there is no intention of using it to sue infringers?

Focused more on effective methods of enforcing copyright protection, this second discussion question elicited a number of strong opinions from participants.

A number of participants noted the differences in Canadian law versus other jurisdictions, citing the murky state of Canadian law on the subject of file swapping. Several participants called into question the effectiveness of lawsuits, "since end customers should not be the targets. American law suits have been a disaster."

In general, participants agreed that consumers should not be the focus of lawsuits – but that government should take steps to provide both tools for rights protection and legal remedies targeting music piracy itself.

Some participants pointed out that copyright reform in any event was not focused on using individuals but was rather focused on making it possible to put intermediaries, such as the Bit Torrent sites, out of business. Similarly, a law requiring ISP to remove persistent offenders from the network would also have an effect.

Canada may introduce copyright reforms soon. Some have suggested that a reformed copyright regime can be used to diminish online piracy by consumers, do you agree or disagree?



The consensus was clearly that copyright reform would have a positive effect.

Some participants noted that Internet piracy is not just about music and pointed out that criminal groups were using the Internet to infiltrate the legitimate supply chain. One cited the example of Louis Vuitton. Louis Vuitton has been troubled by replica sites that appear as

sponsored links on Google, and were forced to sue Google in an attempt to have the links removed.

And as expressed by participants in response to the following survey question, the majority believe that copyright reform may have some impact on the reduction of websites that encourage illegal downloading. It was pointed out by more than one participant that the real focus of copyright reform was enabling creators to attack the major source of the problem, the Bit Torrent sites.

It has been suggested that a reformed copyright bill can be used to reduce the number of P2P and other sites that encourage illegal downloading by consumers.

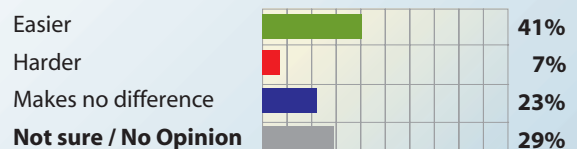
Do you agree or disagree with that assertion?



Similarly, a number of participants indicated that Canadian ratification of World Intellectual Property Organization (WIPO) treaties would potentially alleviate difficulties the industry encounters in conducting business internationally – or would at least do no harm.

Finally, a number of participants noted that Canada's enforcement laws – those focused on downloading – are outdated and well behind the laws of other jurisdictions, especially in France (as discussed later in our Report).

And do you think ratification of the WIPO treaties will make it easier for Canadian music companies to conduct business worldwide, make it harder or will it make no difference?



Clearly, the status of other jurisdictions and their approaches to the enforcement of creator rights

remains a concern for Forum participants – but there is more uncertainty about how the future will unfold in China.

Commentators have suggested that, unlike today, the Chinese will become the most adamant defenders of intellectual property rights as their industries and global reach expands.

Do you feel that the Chinese government will get tougher on piracy soon or just let things remain as they are?



Should regulation help protect old business models or help create new ones? Is this a false dichotomy? Can it do both? What role does the marketplace play in choosing business models, and what role does regulation play in all this?

Discussion then turned to the specifics of regulation in supporting business models in the music industry.

In general, participants agreed that regulation is a much needed element in supporting business models, whether traditional or new. Regulation provides a framework that encourages investment and innovation. The post-discussion survey of participants indicated this as well.

Would you agree or disagree with the following statement:

'Rules governing commercial relations are necessary for businesses to survive in a global economy?'



Participants were united in the belief that regulation should not drive business models, but should instead facilitate their development and implementation. In this

sense, regulation should be 'business model neutral'. The point made by many in the room was that the current rules favoured the "music for free" and the touring models, but discriminated against both traditional businesses and even the newer digital enterprises that want to monetize music on the internet. Songwriters in particular saw their way of life under threat by lack of rules which allowed their work to be taken for nothing. .

A number of participants suggested that regulation should take the form of tools (such as marketing support and subsidies) for artists and songwriters, in order to assist their entry into the market. But it was felt that regulation should not become overly intrusive. The overwhelming consensus was that market forces should ultimately determine winners and losers, and that regulations should merely provide a level playing field for all participants. Surprisingly most in the room were of the opinion that given the right rules, echoing Deborah Spar, they could prosper in the new digital environment. Some participants cited the booming digital markets in Europe and South East Asia – all of which are traditional in the sense they rely on paid models and property rights.

Would you say that you are optimistic or pessimistic about the prospects of the market "rebuilding" itself in the music industry in the next 5 years?



This perspective may be attributable to the optimism felt by a large majority of participants concerning the future of global market for music.

Some participants argued that a more firm regulatory hand is in order, in part because a lack of regulation 'is hurting the music industry'. Nonetheless, while

regulation can protect legal rights in theory, it is less effective in preventing consumers from 'getting the music they want'.

Discussion also turned to the effectiveness of various business models currently in play, such as subscription models, pay-as-you-go and other variations. It was generally agreed that (i) margins are excessively low and (ii) creators can be driven from the marketplace if unable to derive compensation for their work. Participants also noted that regulation can have a variable impact on innovation in the music industry. During roundtable discussions on innovation, the subject of ISPs arose once again. Some delegates noted the 'hands off' approach of ISPs, in that they play a major role in the current transition of business models (from traditional to new) yet abdicate responsibility for content downloading. It was suggested that some regulatory enforcement be directed toward ISPs.

Some say that rules, like those granting protection for Intellectual property, inhibit innovation, others say that such rules protect property and encourage innovation. Which is closest to your view?



Beyond this, it was generally acknowledged by participants that regulation should not focus on efforts to control markets.

As for Professor Spar's commentary on the rise of orderly, rule-governed markets as the outcome of the current phase of piracy, a majority of participants agreed that the historical precedents she noted apply to today's music industry.

Dr. Spar's work analyzes what has happened in a number of historical circumstances as rules were asserted and piracy largely eliminated – would you agree or disagree that these historical precedents apply to music today?



It appears as though Professor Spar's views resonated with already existing views held by those in the audience. Throughout the session there was general agreement with her thesis and examples and as a result, participants by and large did not change their pre-existing views. Over 80 percent of participants indicated that their views had remained the same – consistent and impassioned.

What is your view? Based on what you heard today, in Dr. Spar's address, and the roundtables, has your view on the issue of piracy and music changed, remained the same or do you have no opinion?





Olivier Bomsel
Professor of Economics,
Cerna, Centre of Industrial Economics



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THE ROLE OF ISPs



Part II: The Role of ISPs

Olivier Bomsel is Professor of Industrial Economics at the Ecole des Mines de Paris and senior researcher at Cerna, the Center of Industrial Economics at the school.

Professor Bomsel opened the second part of the Global Forum with an important discussion on The Big Switch of Music Distribution Systems. His presentation centered on the decline in CD sales and rise in popularity of digital distribution, and the difficulties in ensuring investments in digital distribution remain strong – and paid back.

Professor Bomsel's research indicates that consumers have developed a willingness to pay about 20¢ – for each consumer, per month – for broadband access, driven largely by the ability to access P2P sites for file sharing. Indeed, piracy acts as a kind of subsidy that incents consumers to purchase the terminal equipment and related services required for music downloading.

At the same time, he argues that a 'Digital Rights Management standards war' has erupted among key players in the digital distribution of music, involving Apple, Sony, Microsoft and RealNetwork – which, in fact increases incentives for music piracy.

Professor Bomsel notes that in France, ISPs agreed that there was no longer a need for content piracy – but as a consequence of this agreement, digital distribution has become heavily concentrated. In this new system, rights holders may ultimately find it difficult to deal with a single dominant player.

And in the struggle for setting an industry standard, Professor Bomsel suggests there is a winner in all of this...

To summarize Professor Bomsel's presentation:

- The music industry is confronted with a major switch in its distribution system...and piracy is the tool for rolling it out.
- Competition between new entrants has given rise to a standards war...which the iPod and its operating system have now won.
- Piracy is to be 'gently fought' when the rollout is completed...but digital distribution is nonetheless heavily concentrated.
- Given this, the key question is how rights holders will cope with its dominant player?



Discussions by Roundtables and Survey Results

Once again, this presentation by Professor Bomsel initiated a significant buzz among Forum participants. Roundtable discussions opened with the following question.

With so many people using peer-to-peer file sharing on their broadband service, are ISPs getting a free ride on the back of music? If so, is this a net positive for creators? For consumers?

Professor Bomsel suggested that ISPs have been able to sell connectivity on the basis of the value of the pirated content that consumers can access if they purchase the connection. He also suggested that at some point, ISPs must switch to legitimate commercial models if the connectivity marketplace is saturated and they want to continue to grow their businesses.

Many of the Forum participants agreed with Professor Bomsel's views – and expressed in sometimes strong terms that ISPs are indeed getting a 'free ride'. For example, many participants acknowledged their belief that ISPs use the prospect of piracy to sell service to Canadians.

Some Canadian commentators have suggested that ISPs have used access to unauthorized copyright materials as a means of promoting the sale of high speed connections, either implicitly or explicitly...whereas others (including the ISPs) say they are just selling the connections... which would you say is closest to your view?



Given a general consensus on the notion of ISPs and the free ride, several participants suggested that 'now is the time to monetize piracy' – and more than just music piracy, since 'ISPs are riding on the back of just about all

content'. More pointedly, some participants points to the role of telecom companies as 'standing by and doing nothing' when offering five gigabyte service and 'knowing people are downloading anything they want'.

As noted by one participant, government should 'tax the hell out of them and regulate them to death. The ISPs should take some responsibility.'

While disappointment with the behaviour of ISPs was pervasive, support for this sort of tax-based solution was thin. 61% of participants (See page 17) believed that such as solution was not viable.

Would you say that ISPs should be responsible for the materials that travel across their networks that they know is infringing and are able to control or that should they always simply be treated as the "pipe" – regardless of knowledge or control — and not be responsible?



As for taking action, participants echoed the notion during roundtable discussion, that ISPs should 'step up to the plate' and eliminate piracy altogether.

Others suggested that ISPs must shoulder some of the responsibility for ignoring piracy as they continue to invest heavily in broadband infrastructure. For users, the value extracted from broadband justifies the higher prices that ISPs will charge them, according to several participants. But ISPs should be taking action and 'cutting pirates off from access'

Do you think that now the network has been established in Canada, ISPs should turn to legitimate commerce and start to shut down the pirates or should they do nothing about piracy?



There was a strong consensus regarding the need for ISP's to focus on legitimate sales of music products and move away from their reliance on selling bandwidth to consumers who use it to download cultural products for free without authorization. Very few people believed that the ISPs have no responsibility.

If a new copyright law is introduced in Canada, would you agree that it should contain provisions that hold ISPs responsible for the content of traffic on their networks that they know is infringing and can control?



Once again, the view that ISP's should be responsible in situations where they become aware their networks are being used to infringe copyright was dominant. This led to some discussion about a generation of consumers who have come to believe they are entitled to music for free. The idea of paying for music has lost ground thanks to the ease with which users can access "free" content over ISP networks.

However, there was some cause for optimism. As noted by one participant, 'people will pay to be a part of things' – and this may well apply to today's youth, in the future. This reflected the view of Deborah Spar that the behaviour we see today is not necessarily going to be the behaviour we will encounter tomorrow.

Thus there was near consensus that ISPs are in fact getting a free ride – and while this potentially translates into "a positive for consumers, who are getting music for free that they would otherwise have to pay for." As for creators, the picture is by no means so clear. Opinion was more divided on whether file sharing is a net positive or negative for them. One participant noted that while file sharing does not a source of income, it nonetheless creates commercial exposure – i.e. there are 'rewards for creators, but these are non-financial'. Others, however pointed out that it is by no means clear that artists have benefited from the free access to their music. As the songwriters noted, it takes away a principal source of income, which only a few can supplement with touring income.

However, it was noted that this effect might be variable, in that consumers need some guidance in finding new artists and will generally seek out established artists instead. As a consequence, established artists may derive greater benefit, limited as this might be.

The Songwriters Association of Canada has proposed a universal internet levy allowing unlimited access to music. Is it fair to charge every internet account \$5/month, regardless of whether or not they download music? Will such a move solve the music industry's woes, or does it further devalue music? What about other copyrighted materials (e.g., film, TV)? Where should the levies stop?

There was a general sense among Forum participants that the proposal from the Songwriters Association of Canada for a universal Internet levy was likely not viable.

A number of problems with the proposal were noted by participants, including:

- Challenges in collecting and funnelling fees
- Impact on individual licensing agreements
- Impact on international treaties
- Less resources for the industry, as less music may be purchased by consumers

In Canada, one solution proposed is to assess a \$5.00 levy on every Internet household to compensate music rights holders for their work. However, some have said that this is not a viable solution, as it is not "market driven" and would be impossible to implement.



Yet some participants expressed their views during roundtable discussions that the levy might have some merit. Several participants noted that ISPs were more the issue, since they could create conditions making it impossible to administer such a levy. Others suggested that consumers should be empowered to decide, given that 'people are willing to pay \$3 or \$4 for a ringtone.'

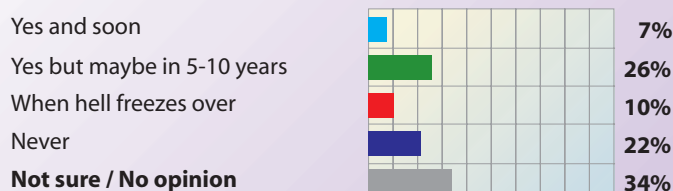
Others suggested it would not be 'fair to charge a levy against consumers who are not using peer-to-peer.' Some suggested a negative option approach, 'like the cable companies' (i.e. consumers would need to tell their ISP that they do not wish to be charged the levy). In fact, a number of participants likened the Songwriters Association proposal to the very behaviour engaged in by cable and satellite television distributors – to the very rich gain of those companies.

Still, the majority of participants indicated that administrative barriers – i.e. the collection and fair distribution of the levy – would likely prove its undoing. Another major hurdle was thought to be Canada's international treaty obligations. There is a consensus that the imposition of a global levy of the sort proposed by the Songwriters would require Canada to either abrogate its treaty obligations or renegotiate them – neither of which was likely to happen soon, if ever. Finally, the overwhelmingly negative reaction to the levy from consumers was cited by participants as a barrier to adoption of the Songwriters proposal. Consequently few participants were willing to bet on the introduction of a levy anytime soon.

Notably, Professor Bomsell was dismissive of global levies, noting that France had considered such an

approach and abandoned it; preferring instead to focus on a three strikes rule combined with filtering (see below).

Whatever you think of the proposal, do you think that a universal levy on Internet consumers to compensate creators and owners of music will be instituted in Canada? What is your view?



In addition, participants were largely divided on the impact that this type of levy would have on paid sites. This goes to the heart of the issue. Is, as the Songwriters suggest, income derived from such a levy incremental or would it cannibalize existing business models. Opinion was divided

And if such a levy were put in place, do you think that other paid sites like iTunes, Puretracks and other download sites would survive? Or would they lose most customers as music consumers turned to P2P? What is your view?



The French ISPs and IP industries have signed an agreement to block services that deal in the illegal trading of music files and to institute a "three strikes and you're out" policy for large scale individual uploaders. Are these reasonable approaches? Why would the ISPs agree to them?

In France it has been suggested by the Olivennes Commission, that if a person is detected sharing files they should be cut off for some period of time. The same regime has been suggested for Great Britain.

In Canada and most other jurisdictions, ISP terms of use usually warn that service may be suspended for copyright infringement and other abuses – but in practice such terms are rarely enforced. Canadian ISPs have, however, agreed to block access to alleged child pornography with no notice whatsoever to posters.

Based on this, the final roundtable discussion of the day turned to agreement developed by the French ISPs and IP industries.

Clearly, there was both sympathy and support among Forum participants for the approach taken in France.

While some expressed their contempt for ISPs – for capitalizing on illegal downloads as a way of selling services – others suggested that ISPs in Canada (and the U.S.) would never agree to such a policy – unless it somehow ‘benefits them directly’.

Other participants raised questions about the policy in France: How is it policed? What constitutes a large-scale downloader? How is it administered? This might account for a somewhat larger percentage of participants indicating they did not have an opinion to offer.

Finally, a number of participants suggested that ISPs may soon ‘want to play ball’, and actually initiate action against peer-to-peer activity. Once again, any prospective action was viewed squarely in the court of self-interest. It was suggested that ISPs would rather act on their own than be forced to by regulation.

It was also suggested that ISPs are simply running out of bandwidth – when piracy becomes a drain on capacity and a drain on revenue, that is when they will act.

Do you think that persistent copyright offenders who ignore repeated warnings should have their accounts suspended for some period of time, as under the proposed French system (and ISP terms of use), or should ISPs be free to take no action in response to such chronic infringement by their subscribers?

Three strikes and you’re out
ISPs shouldn’t have to deal with
subscriber infringement
Not sure / No opinion



However, others saw some opportunity in the approach taken in France. For example, some participants suggested that ISPs could initiate a charge or a penalty ‘against users who exceed their recommended bandwidth’. This in turn could bring consumers to ‘turn off their sharing folders’ and thereby limit the content available through peer-to-peer networks.

SURVEY RESPONSES



Discussion Questions

ROUND TABLE 1

1. Does anyone have the right to claim ownership of music in the digital world or does the internet change everything, including the notion of private property? If we believe in property rights in the digital realm, who should enforce those rights – governments or private entities? Does it depend on the circumstances?
2. What good is stronger copyright legislation if there is no intention of using it to sue infringers?
3. Should regulation help protect old business models or help create new ones? Is this a false dichotomy? Can it do both? What role does the marketplace play in choosing business models, and what role does regulation play in all this?

ROUND TABLE 2

1. With so many people using peer-to-peer file sharing on their broadband service, are ISPs getting a free ride on the back of music? If so, is this a net positive for creators? For consumers?
2. The Songwriters Association of Canada has proposed to replace internet copyright in music with a universal internet levy allowing unlimited access to music. Is it fair to charge every internet account \$5/month, regardless of whether or not they download music? Will such a move solve the music industry's woes, or does it further devalue music? What about other copyrighted materials (e.g., film, TV)? Where should the levies stop?
3. The French ISPs and IP industries have signed an agreement to block services that deal in the illegal trading of music files and to institute a "three strikes and you're out" policy for large scale individual uploaders. Are these reasonable approaches? Why would the ISPs agree to them?

Survey One

Dr. Spar has talked today about how traditional forms of piracy have been eventually replaced by orderly and "rule-governed" markets and has suggested that this is the likely outcome of the Internet piracy phase we are now in...and that those who benefit from piracy will seek the protection of the "rules".

1. Some have argued that recorded music will be "free" and that owners will eventually give up property rights, whereas others have said that property rights are essential to the music business. Again, what is closest to your view?

Recorded music will be free 10%
There will always be property rights 85%
Not sure / No opinion 5%

2. Canada may introduce copyright reforms soon. Some have suggested that a reformed copyright regime can be used to diminish online piracy by consumers, do you agree or disagree?

Agree 64%
Disagree 20%
Not sure / No opinion 16%

3. It has been suggested that a reformed copyright bill can be used to reduce the number of P2P and other sites that encourage illegal downloading by consumers. Do you agree or disagree with that assertion?

Agree 61%
Disagree 31%
Not sure / No opinion 8%

4. And do you think ratification of the WIPO treaties will make it easier for Canadian music companies to conduct business worldwide, make it harder or will it make no difference?

Easier 41%
Harder 7%
Make no difference 23%
Not sure / No opinion 29%

5. Commentators have suggested that, unlike today, the Chinese will become the most adamant defenders of intellectual property rights as their industries and global reach expands – do you feel that the Chinese government will get tougher on piracy soon or just let things remain as they are?

Tougher 47%
Leave things as they are 25%
Not sure / No opinion 29%

6. Would you agree or disagree with the following statement?

Rules governing commercial relations are necessary for businesses to survive in a global economy?

Agree 83%
Disagree 6%
Not sure / No opinion 10%

7. Would you say that you are optimistic or pessimistic about the prospects of the market "rebuilding" itself in the music industry in the next 5 years?

Optimistic 76%
Pessimistic 18%
Not sure / No opinion 7%

8. Some say that rules, like those granting protection for Intellectual property, inhibit innovation, others say that such rules protect property and encourage innovation. Which is closest to your view?

Rules inhibit innovation 31%
Rules encourage innovation 63%
Not sure / No opinion 4%

9. Dr. Spar's work analyzes what has happened in a number of historical circumstances as rules were asserted and piracy largely eliminated – would you agree or disagree that these historical precedents apply to music today?

Agree, they apply to music 72%
Disagree, they don't apply to music 13%
Not sure / No opinion 15%

10. What is your view? Based on what you heard today, in Dr. Spar's address, and the roundtables, has your view on the issue of piracy and music changed, remained the same or do you have no opinion?

My view has changed 10%
My view has remained the same 81%
I have no opinion 9%

Survey Two

Prof. Bomsel has suggested that ISPs have been able to sell connectivity on the basis of the value of the pirated content that consumers can access if they purchase the connection. He also suggests that at some point, ISPs must switch to legitimate commercial models if the connectivity marketplace is saturated and they want to continue to grow their businesses.

In France it has been suggested by the Olivennes Commission, that if a person is detected sharing files they should be cut off for some period of time. The same regime has been suggested for Great Britain. Most ISP terms of use warn that service may be suspended for copyright infringement and other abuses, but in practice such terms are rarely enforced. Canadian ISPs have, however, agreed to block access to alleged child pornography with no notice whatsoever to posters.

1. Some Canadian commentators have suggested that ISPs have used access to unauthorized copyright materials as a means of promoting the sale of high speed connections, either implicitly or explicitly...whereas others (including the ISPs) say they are just selling the connections...which would you say is closest to your view?

They use unauthorized access to copyright materials to sell connections 69%
They only sell connections 18%
Not sure / No opinion 13%

2. Would you say that ISPs should be responsible for the materials that travel across their networks that they know is infringing and are able to control or that should they always simply be treated as the "pipe" – regardless of knowledge or control – and not be responsible?

They should be responsible where they have knowledge and control 65%
They should never be responsible 22%
Not sure / No opinion 13%

3. Do you think that now the network has been established in Canada, ISPs SHOULD turn to legitimate commerce and start to shut down the pirates or should they do nothing about piracy?

Should support legitimate commerce and shut down pirates 62%
Should do nothing about piracy 14%
Not sure / No opinion 23%

4. If a new copyright law is introduced in Canada, would you agree that it should contain provisions that hold ISPs responsible for the content of traffic on their networks that they know is infringing and can control?

Agree 69%
Disagree 18%
Not sure / No opinion 13%

5. In Canada, one solution proposed is to assess a \$5.00 levy on every Internet household to compensate music rights holders for their work. However, some have said that this is not a viable solution, as it is not "market driven" and would be impossible to implement. What is your view?

Support it 30%
It is not viable 61%
Not sure / No opinion 9%

6. Whatever you think of the proposal, do you think that a universal levy on Internet consumers to compensate creators and owners of music will be instituted in Canada?

Yes and soon 7%
Yes but maybe in 5-10 years 26%
When hell freezes over 10%
Never 22%
Not sure / No opinion 34%

7. And if such a levy were put in place, do you think that other paid sites like iTunes, Puretracks and other download sites would survive? Or would they lose most customers as music consumers turned to P2P?

iTunes and Puretracks would be toast 39%
iTunes and Puretracks would survive 41%
Not sure / No opinion 20%

8. Do you think that persistent copyright offenders who ignore repeated warnings should have their accounts suspended for some period of time, as under the proposed French system (and ISP terms of use), or should ISPs be free to take no action in response to such chronic infringement by their subscribers?

Three strikes and you're out 57%
ISPs shouldn't have to deal with subscriber infringement 15%
Not sure / No opinion 28%

APPENDIX



Appendix – 2008 Global Forum Discussion Facilitators

Hosts:

Kelli Richards

President & CEO, The All Access Group, Los Angeles

Steve Mayall

Founding Director, Music Ally, London, UK

Facilitators:

Christian Castle

Attorney, Christian L. Castle Attorneys, Sherman Oaks, CA

Steve Corn

CEO, BFM Digital, Los Angeles

Jim Griffin

Managing Director, OneHouse LLC

Jon Mcildowie

Group Operations, Barfly - The Great Escape, London

Paul Brindley

Managing Director, Music Ally, London, UK

David Hughes

Sr. Vice President, RIAA, Washington

Geoff Campbell

VP Strategic Bus., Sony DADC, Los Angeles

Tony Tobias

President, Pangaea Media & Music Inc., Toronto

John Parikh

CEO, Joint Communications, Westport, CT

Dr. Catherine Moore

Director, Music Business Graduate Program, New York University

Don Mclean

Dean, Schulich School Of Music - McGill University, Montreal

Catherine Saxberg

Executive Director, CMPA, Toronto

The Canadian Music Week 2008 Global Forum Summary and Analysis was compiled and written by Richard Cavanagh, Partner, CONNECTUS Consulting Inc. He has extensively researched and analyzed issues in the Canadian and international music industry, and has recently completed a major year-long study on the impact of digital technology on the value networks of the arts and cultural industries in Canada.