

The Digital Debacle:

A Musician's Guide to
Distributing Music
on the Internet

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table of contents

Intro	page 4
Copyright	page 6
Why You Shouldn't be Afraid...	page 7
Hip Hop, Remixing & Sampling	page 8
Established Musicians	page 11
Research	page 16
Industry Revenue	page 24
Tecnobrega	page 27
Online Resources	page 29
Credits/Sources	page 32

intro

Old ways of thinking about music and the distribution thereof have come into conflict with the ease and fluidity of sharing files through the internet. With so many options and conflicting viewpoints, it can be complicated to make the right decisions that will not only make you, the musician, happy but will also be the right business choices.

For free, though? Giving away your work for free might seem counter-intuitive at first, but new mediums require new ways of thinking. It goes like this: a listener will hear of your music through any sort of platform: through a blog, on a radio, etc. Then, if they like what they hear, they will seek out more. If they have the income to use, they might even buy a CD! But what if they do not? Many listeners are turning towards peer sharing to get their music.

Emerging musicians should see free distribution as a way to easily distribute their music without racking up large costs. Posting music on YouTube or on their website in mp3 downloads allows listeners to easily share their music with friends who will then be able to access your music.

Contemporary musicians are faced with a
new dilemma:
the Internet.

This publication is going to provide you with information on the sharing of music via the internet, how it relates to copyright and how you, as a musician, can go about being successful on the web.W

We will also provide research we have conducted as well as resources you can use to promote yourself in the future!

Good luck!

Copyright Law

Remixing in copyright law is a relatively indeterminate sector of copyright law governed by only one or two real principles, and racked with a diversity of examples and cases all of which have been decided differently based on the specific circumstances surrounding the work and the methods used to distribute it. However, the main principle governing remixing is the Fair Use agreement, a provision of the Copyright Act of 1976, which reads as follows:

“Notwithstanding the provisions of sections 17 U.S.C. § 106 and 17 U.S.C. § 106A the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include:

- 1. the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;**
- 2. the nature of the copyrighted work;**
- 3. the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and**
- 4. the effect of the use upon the potential market for or value of the copyrighted work.**

The fact that a work is unpublished shall not itself bar a finding of fair use if such finding is made upon consideration of all the above factors.”

Because of the open-ended nature of the agreement there are a myriad of misunderstandings, misinterpretations and abuses of the provisions given here.


Why You Shouldn't Be Afraid of Your Work Being "Stolen"

A common misconception about pirating is that it is equivalent to stealing, as if from a store, the pirated material. However, the way that pirating actually works is incompatible with this presumption.

Pirating makes a copy of the file, whether it is a song or a movie, and adds that copy to your hard drive, as opposed to ripping the original file from the previous owner. If for this reason alone, to call piracy stealing is inaccurate and should be dealt with according to an entirely different set of principles.

That being said, I also believe there is an argument to be made on behalf of the inherently social nature of art. When considering the morality or immorality of piracy, the first question that must be asked is, of what value is art without an audience? The second is should that audience be restricted to only those who can afford to pay to experience art?

For better or for worse piracy leads to the democratization of art and allows it to reach a larger audience. Which, any artist would tell you, is a good thing.



**PIRACY.
IT'S A CRIME.**



Hip-Hop, Sampling, Remixing and the Implications of Copyright Legislation

In the late seventies early eighties, a “folk-culture” emerged in the South Bronx neighborhood of New York city. This culture - including DJing, MCing, graffiti art and B-Boying- is what became known as ‘hip-hop’.

The music was unlike anything the world had heard before. It was created using old vinyl records and looping samples from those records to mesh multiple musical parts from different records and even different musical traditions to create something revolutionary.

The tradition of hip-hop garnered major following in urban areas all over the country, and sparked a spirit of competitive creativity that drove hip-hop artists to the highest levels of musical composition and innovation. Some of the greatest names in the music’s history emerged in a short period of time: RUN DMC, N.W.A., Pete Rock, De La Soul, A Tribe Called Quest, DJ Premier and Jay-Z all emerged during this period of creative proliferation.

Then, in 1991, Harlem New York artist Biz Markie released his album I Need a Haircut that featured the now classic hit single “Alone Again”. The song contained a sample from Gilbert O’Sullivan’s 1972 “Alone Again (Naturally)” that as used without permission from the artist or the record label under which the record was released.

The lawsuit that O’Sullivan then filed against Markie that forced record stores to pull I Need a Haircut from shelves all over the country and laid the foundation for copyright law as it specifically applies to music for the next two decade. The landmark ruling stipulated that all musical samples, no matter how short or minute, need to be cleared by the owner of the original copyrighted record.

As the rest of the music industry giants caught on to the financial benefit of leeching from hip-hop’s now booming market and sales potential, a slew of similar lawsuits followed against a myriad of different artists. The real effect that this decision had, however, was far beyond what the court could have foreseen and was a tragic boon to the development and progress of hip-hop as an art.

Now, record labels had to clear every sample their artists used on a record. Complex pieces of music often featured hundreds of samples even on a single song. Needless to say, the process of sample clearing cost the record labels a lot of time and money, and not infrequently, the label or artist would refuse to grant hip-hop labels the right to use their music at all. So the palette of music history hip-hop producers used to create their art, a palette so diverse, telling and endless became significantly reduced in size and scope to the point where the industry didn't find sample clearing a lucrative pursuit after a certain point.

As a result producers began moving away from the methods that had originally defined the art. If they used a lot of samples releasing their material would cost the labels more money than it would make them, so they had a smaller chance of being signed to a label. In the pursuit of money, methods changed, the art of hip-hop production was diluted to the level of cheap pop melodies with huge bass.


Enter modern hip-hop music.

What does this have to do with piracy?

Everything.

Modern anti-piracy legislation aims to end the largescale music-sharing that the internet has enabled. However, what it ignores is the massive creative proliferation that has occurred as a result of the democratization of music.

Many people who pirate music use it to recreate the music into something new and different. This trend is most apparent in the phenomena of remixing. Look up any song on youtube, soundcloud, bandcamp or any similar website and you will find hundreds of remixes, mashups and uses of samples from one original record. This explosion of creative material is a direct result of this widespread dissemination of music files, anyone with a computer and a creative vision can create their own art, their own music.



“Here’s something I discovered:
If your music’s dope, post it up and people are not just downloading it for free to try it out, they know about it, they’re trying to get it and they’re telling people about it. When people are talking about music being dope, not talking about it being free, then all of a sudden I’m actually selling records and that’s what’s happening. I give away my music, and the majority of the music that people get of mine comes off my website, but that doesn’t mean I’m not selling a s---load of music on iTunes as well. That’s sort of the loophole that’s occurred

I still make a significant income off record sales, because I give away my music for free.”

pretty lights

Jack White

I don't mind [piracy] that much, really. I wouldn't do it because I really need to have the album in my hands--preferably the vinyl. I like to have the artwork and the notes and the lyrics. When it's on the internet, it feels like it's invisible. You think that it's there, but you can't see any moving parts and that's somehow disappointing.



Liam Gallagher

of Oasis

Downloading's the same as what I used to do--I used to take the charts of the songs I liked [off the radio]. I don't mind it. I hate all these big, silly rock stars who moan--at least they're f*cking downloading your music...and paying attention, know what I mean? You should f*cking appreciate that--what are you moaning about?



Ed O'Brien

of Radiohead

I have a problem when people in the industry say, 'It's killing the industry, it's the thing that's ripping us apart'....I don't actually believe it is. [Pirates] might not buy an album, but they're spending their money buying concert tickets, a T-shirt, whatever.





Shakira

I like what's going on because I feel closer to the fans and the people who appreciate the music. It's the democratization of music in a way. And music is a gift. That's what it should be, a gift.



Nelly Furtado

If you love music, you're going to make it anyway, and you're going to find an audience. And you might not make, like, millions of dollars, but you'll make enough money to have a living and have a family and have a house and a car. And I don't know. Maybe it's limited. Maybe the clock is ticking.



Björk

I'm not supposed to say this probably, but I'm trusting that the pirates out there won't tie their hands behind their back. That's why we really made sure when we wrote all the programs that they will transfer to other systems.

Joss Stone

I think it's great. I love it... Now, if music is free, then there is no business. There is just music. So, I like it. I think that we should share it. It's okay. If one person buys it, it's totally cool. Burn it up. Share it with your friends. I don't care. I don't care how you hear it, as long as you hear it. As long as you come to my show and, like, have a great time and listen to the live show, it's totally cool. I don't mind. I'm happy that they hear it.



Neil Young

Piracy is the new radio. That's how music gets around. That's the real world for kids.



Norah Jones

If people hear it, I'm happy. I'm not going to say go steal my album, but I think it's great that young people who don't have a lot of money can listen to music and be exposed to new things. But I also understand it's not ideal for the record industry, and a lot of young artists who won't make any music off their album sales, but at least they can tour.



lady gaga

You know how much you can earn off touring, right? Big artists can make anywhere from \$50 million for one cycle of two years' touring. Giant artists make upwards of \$100 million. Make music--then tour. It's just the way it is today.



Research Results

In order to illustrate our point and understand our audience, we have conducted some basic surveys of listeners. This allowed us to get a better idea of what listeners are looking for from the music industry.

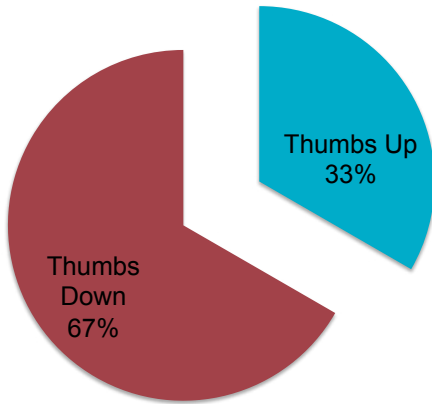
During our research we conducted several surveys to reach out and learn from both musicians and listeners throughout the web via mobile apps, websites, social networks and emails.

Our primary online listener survey was conducted through a smartphone app called 'Thumb' where we received feedback in the form of 'thumbs up' and 'thumbs down', essentially a positive and a negative reaction. The results are as follows.

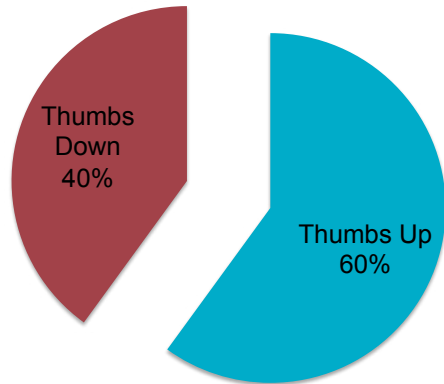
Note: All red + blue graph data was collected via the smartphone app "Thumb". All participants were smartphone users with the app installed.

All multi-color graph data was collected via a paper + website survey distributed to students at the University of Oregon.

Music Piracy is Bad

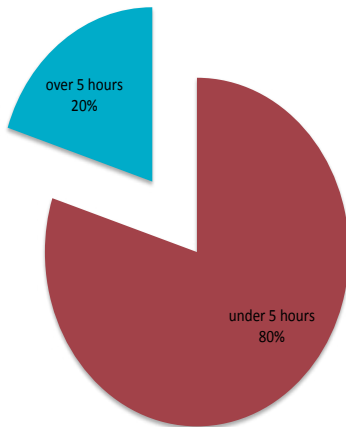


Music Should be Free

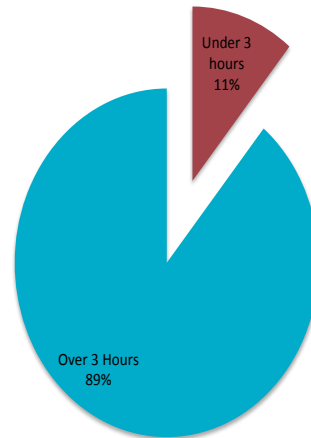


It is clear that a majority of people feel that music should be free. 33% of people feel that music piracy is bad. Interestingly a higher percentage, 40% of people, thinks that music should be bought for a cost. We surmise that some survey takers seem to agree that music should be bought for the sake of the artist making money but dislike the stringent laws of piracy.

How many hours a day do you listen to music?



How many hours a day do you stream music online?



Listeners stream music (off YouTube, Pandora, BandCamp, etc), often over 3 hours a day.

Having your music available to stream, instead of only being available in physical form, will increase your fanbase and increase your chance of being heard. This also makes your music more likely to be distributed.

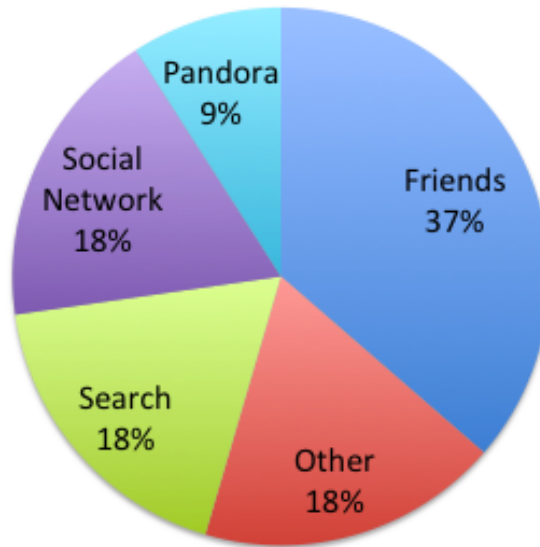


“All day every day” “Got to have music around while at home or out”

“Frees the soul” “All day at work”

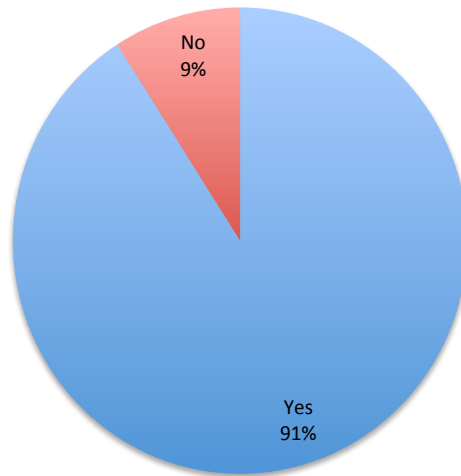
Moreover, if artists post their music for stream and download, listeners have the greatest amount of choice. Listeners want to choose how, when and where to listen to their music. People enjoy having the audio files of their favorite songs. As the graphs (see left) illustrate, listeners listen to music on their iPod, radio, and computer programs, such as iTunes and Windows Media Player, more often than merely streaming the music. Artists should note that listeners want to be able to download and own the music, not just access it via streaming sources such as Pandora, Grooveshark, Bandcamp and Youtube.

What is your preferred online strategy to discover new music?

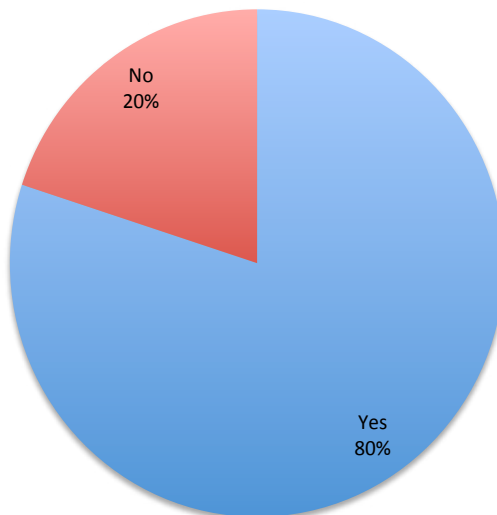


A most popular way to find new music is to rely on friends to introduce new music to the listener population, topping the chart at 37%. Social networks, search engines, and 'other' tied for the second most popular way to discover new music at 18%. Perhaps the radio, or top charts contributed to the 18% of people who voted 'other'. One thing worth noting is that people on social networks are generally connected to friends on the network. This further illustrates the value and influence of friends on the listener's preferred method of discovering new music.

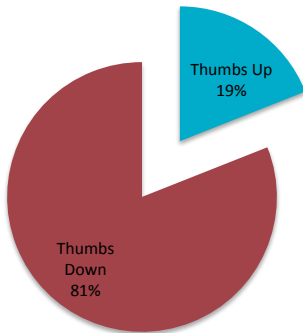
Have you downloaded music *legally* from the internet within the last 30 days?



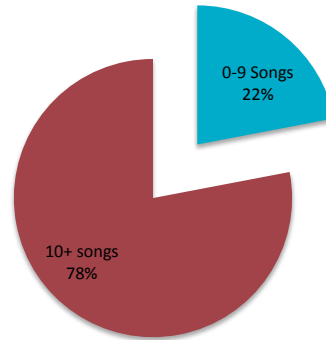
Did the artist distribute the music for free?



Have you illegally traded / downloaded music in the last month?



How many songs have you illegally traded/downloaded in the past month?



This evidence shows that listeners are willing to trade music, despite the laws against it.

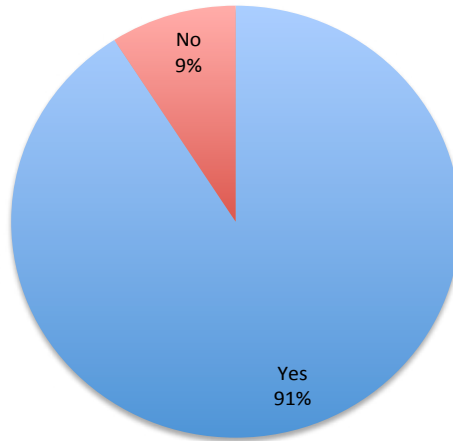
** An interesting confounding variable that may play into our evidence is the fluidity of the definition of 'illegal'. Many listeners do not realize that simply burning or copying a CD for personal use is, in fact, illegal. So, survey takers may have answered this question, not considering the exact parameters of the law.

Upon reflection, some of the online responses to the pirating questions seemed to be falsified because some people were concerned with the repercussions of their answers. One survey taker (on smart phone app thumb) voted as if he or she did not illegally trade or download any music and responded: "**What are you [the] RIAA?**" It is reasonable to assume that not everyone was telling the complete truth but our data stands as is.

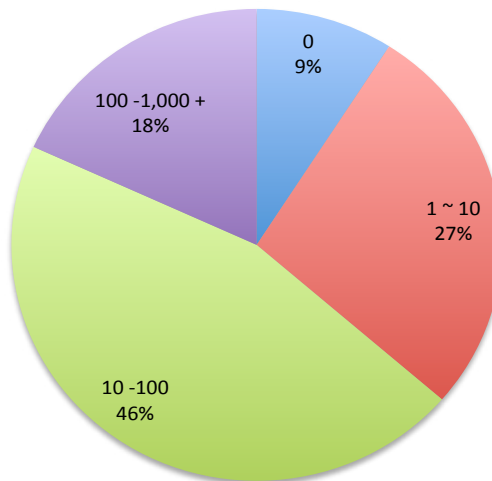
There is a large discrepancy between the 81% of people who claimed to not have 'illegally' downloaded or traded music and the 78% of people who admitted to illegally trading or downloading over 10 songs. This discrepancy rightfully leads one to question the accuracy of the graphs.

Have you *illegally* traded/downloaded music in the last month?

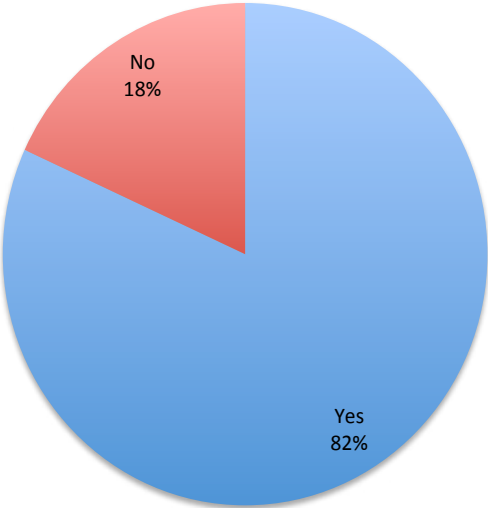
ie: DropBox, e-mail, P2P, torrent, burning CDs



About how many songs have you *illegally* traded/downloaded?



Have you gone to any concerts or bars with live music?



Revenue and Profit

As shown in the thumb surveys above, most adolescents are very active in downloading and sharing music. This has sparked extreme controversy in the philosophical concepts of “stealing” via the internet and who owns the material that is spread across the cyber realm.

There have been various law suits about the illegal sharing and distribution of property, but in reality who does this effect? The record companies have been taking a hit financially as production equipment has become less expensive and more professional with each coming year. Technological progress always infringes on a section of the market, so this decline in profits is to be expected.

However just because piracy might have a negative effect on the multi-billion dollar production monopolies, that does not mean that it is effecting the artist in the same way. If anything, artists are benefitting from piracy because it helps to spread and publicize their music. Music began as a live form of entertainment and that is what is where the majority of the profits are coming from now as well—just as it should be.

Variance of Industry Revenue

There are a myriad of difference in the profits and publicity accumulated by each individual artist or group. This makes it difficult to give a general statement on the profits made by a specific band. There are an infinite number of recording companies, producers, managers, and each of these take a certain percentage. This convinces many that being an independent artist would be a better bet, but most people don't have the starting capital to publicize themselves as well as most record companies can.

Rihanna for example makes about four hundred and ten thousand dollars for each of her one hundred and six concerts performed on her "Loud" tour throughout June to December in 2011. That's \$43,460,000 total.

On the opposite side of the spectrum, the reader is presented with a band that is signed with no label that perhaps might travel around the Northwest, and only make about two thousand per show. Therefore, the money by the artist specifically could be more while the money made overall is less.

Because of the vast difference of profit between each individual artist is so great, finding a clear definition of the monetary differences between albums and concerts, is also difficult to pin down. Some artists go on more tours, while others release more CDs/EPs. However, there is a thread of commonality—all artists have to divide their money around the band, the distributor, and the promoter. The amount of people that must be paid is highly increased when a venue is introduced, because the money is then being split between the event staff as well. The reality is however, that the quality of live music will not change and will continue to be a big phenomenon. Live performances have been a key form of entertainment throughout the majority of human history, while tangible modes of entertainment (CDs, DVDs, etc.) are a more current addition to hominid society.

The physical shape of music has been altered with each decade and with that the musical distribution has changed as well. Most artists don't produce their music in vinyl or 8 track form, and eventually CDs will become obsolete as well (just as tape players and pacmans have). Therefore, the profit

of concerts will continue to be a large portion of the profits for artists while physical album sales will continue to diminish.

Also, note the recently emerging use of digital music to promote and distribute the work of artists. Record labels have been used to provide the band or artist with their first capital so that they can record and distribute their music. However now that music can be made and recorded without using the expensive soundrooms and recording instruments, and music can also be distributed without actually having to make hard copies, record labels are beginning to become obsolete. Digital production is now at the forefront of distribution for not only music, but all forms of entertainment. The, “physical sales of music dropped 15.4% globally between 2007 and 2008....but in that same year, digital sales rose 24.1%” (gizmodo.com).

So although the physical version of music is becoming less necessary, music is still being bought by the listeners and therefore still making money for the artist.



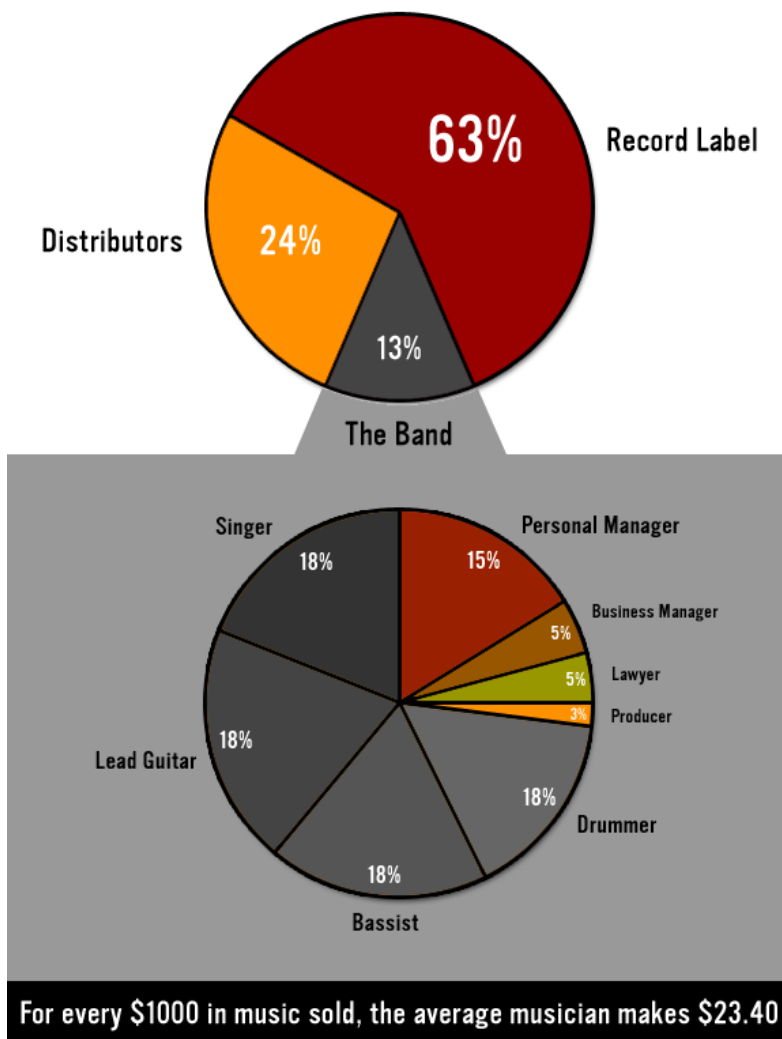
Tecnobrega

One culture that is fully embracing free distribution of their music is the Brazilian Tecnobrega movement. Before choosing to using digital distribution of their music, they would burn a CD and give it to the street market vendors to burn and sell more of the CDs with no profit being returned to them.

Many would ask: “why someone would put in so much effort just to give something away? How can one make a career out of that?” However, what the Tecnobrega movement has realized is that the money is in **the live performances**, not the CDs. If the music costs nothing, the more likely people are to take it and listen to it, then share it with their friends who also pay nothing, and then post it online for others to listen to—but who also pay nothing. Then, although money is not being made by the artist, the name of artist is being spread and they are becoming popular. Later when the group creates a small tour, those who know of the band will go to the concert, where the real money is made. Tecnobrega is, and continues to be, an excellent example of how free distribution of music creates a large fan base and provide profit in the future.

The Great Divide

Who's getting paid (and how much) in the music industry.



(The figure above shows how much of the profits are actually given to the artist after the revenue has been divided between all of the middle men. This graph depicts the monetary positive and negatives attached to musicians who sign with a record label.)

Online Resources

There are many online resources for budding musicians that allow you to distribute your music. This is not a completely exhaustive list, but compiled here are the ones at the forefront and some short descriptions.



Bandcamp is a site in which you can upload your music and design a website for listeners to listen and download your music. What makes Bandcamp so different is that it is truly the leader of the pack at the moment. It has exciting features that many other services cannot compete with. The number one of which is the choose-your-own price feature. Besides that gem, there are dozens of other features that make this site leave iTunes in a cloud of dust: choose the design of the site, choose a variety of formats, and the ability to sell not just digital music, but physical merchandise as well.



CD Baby is a site that acts as a distributor for your music. Instead of distributing through a record company, CD Baby takes your music and distributes it to every major music distributor (iTunes, Amazon, Spotify, as well as selling physical versions). While sites like Bandcamp act as a replacement for a distributor, CD Baby takes distributing to the next level, reaching out and networking many sources to give the artist as much exposure as possible.

If you're attempting to stay away from big corporation, iTunes might not be the best option. However, many artists choose to host their music on multiple distributors. So, if you want to distribute your music to a wider audience, iTunes will still be a good idea.



iTunes has become the forefront of the modern digital music scene and is the most trafficked distributor of online music. iTunes has the advantage of being the most popular, but the list of features really end there. You need to go through a lot of hoops to be able to upload your music and you don't have the clear access to fans that a lot of other distributors offer.



MySpace is another forefront to the music distribution scene. A lot of listeners go through MySpace to check out new songs and MySpace provides the opportunity to download the song right there. Although, it is similar to iTunes in that it is rather featureless and not as easy to use. However, it is good to have a presence on MySpace simply because it is so popular.



BandZoogle is a site that helps you develop your own website for your band. It gives you options to embed a music player and downloader directly on a site to keep everything together. This is a nice system, because often a band will become stretched out on the internet trying to keep many sites connected. Having one personal site for your band will keep your fans connected and more easily updated.

Conclusion

The internet has enabled musicians to reach a wider audience with greater ease and less cost than ever before in history.

Now, the musician needs to take advantage of this new tool!

Do your best!

Image Sources

All images were found through Flickr under Creative Commons!

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