Musicians and Digital Pirating: A Paradox

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Abstract

Previous studies have shown that two predictors of digital piracy are affinity toward music and attitude toward the music industry, suggesting that musicians themselves may be frequent downloaders of copyrighted material. Three hypotheses are proposed: (1) that musicians are more likely to engage in digital piracy than non-musicians; (2) that people who hold a negative view of the music industry are more likely to engage in digital piracy; and (3) that musicians who hold a negative view of the industry are more likely to engage in digital piracy than other groups. A sample of 423 respondents (54 musicians, 369 non-musicians) was used to test the hypotheses. The data analysis supported all three hypotheses. If musicians themselves are more likely to engage in digital piracy than non-musicians, then the objectives of copyright laws may be called into question.

Keywords: Digital piracy, illegal downloading, music industry, musicians, copyright laws, intellectual property, information technology, ethics

1. Introduction

On August 16, 1969 at the Woodstock Music and Art Fair in Woodstock, NY seven words were uttered into a microphone that would signal a surrender of sorts by the gatekeepers of the music industry and a victory of sorts for the hundreds of thousands of interlopers who had "crashed" the fair without buying a ticket. The words were: "it's a free concert from now on."

This iconic moment from Rock and Roll history illustrates that a tug of war between producers in the music industry and the consumers of music has been ongoing for many years. One manifestation of this war is "bootlegging" – a term borrowed from the liquor prohibition era to refer to reselling or redistributing recorded music without permission of the artist –which has been going on for as long as there has been recorded music (Marshall 2005). The practice gained great prominence in the USA during the 1960's and the emergence of pop music "superstars" such as The Beatles, Bob Dylan and The Rolling Stones. All of these artists found themselves victimized by opportunists who recorded their live performances and sold illegal record albums known as "dubs" or "bootlegs."

The precursor to today's online social marketing network was the people-to-people markets that existed and still exist to facilitate consumer-to-consumer retailing: swap meets, parking lots, city streets and back alleys. A number of bootlegged records are now regarded as classics, including The Beatles' 1962 *Star Club Hamburg Recording* and Pink Floyd's *Brain Damage*.

Although bootlegging music is not a new phenomenon, it has gained a great deal of prominence and legitimacy in recent years as a result of the Internet and the predominance of illegal digital downloading by music lovers.

2. Literature Review

Illegal downloading of digital content (also known as "pirating") has grown substantially in the early 21st century. The use of peer-to-peer sites, most of it for illegal sharing, amounts to over one-fourth of all Internet traffic.

While that fraction is expected to shrink as legal services such as iTunes, Amazon and Netflix expand, file-sharing is still expected to grow by 23 percent annually until 2015. Moreover, music industry sales have plunged since illegal downloading became mainstream. Album sales, including digital singles added up into album equivalents, fell from 755 million units in 1999 to 458 million units in 2011 (Porter 2012). The nearly 40 percent global market decline in music sales is directly attributable to the pervasiveness of digital piracy. Global music sales dropped from $25.5 billion in 1998 to $18.4 billion in 2008, representing a $6.9 billion loss of revenues to the music industry alone. The effect on all media sales, including television, movies and print media, is estimated to be $12.5 billion annually (Dilmperi et al 2011).

A growing body of literature is emerging on the subject of digital piracy, most of it focused on attitudinal and demographic determinants. Nearly 50 percent of Internet users worldwide engage in digital piracy regularly; and more than 70 percent of young, active Internet users regularly download illegal digital material ranging from software to music to movies (Robertson et al 2012). Among young people, males are slightly more inclined to engage in the practice; whereas among older people, illegal downloading is something engaged in primarily by men (Massad et al 2013). Digital pirates report that their primary motivations for snatching content are saving money and convenience (Wang and McClung 2011).

The primary focus of previous research in this area has been on the attitudinal determinants of digital downloading. Of particular interest has been the degree to which digital pirates differ from others based on perceptions of right and wrong, or personality traits such as opportunism. One such study compared downloaders to non-downloaders and examined whether downloaders were characterized as having lower ethics, being likely to engage in illegal behavior, and a propensity toward stealing a CD from a music store under varying levels of risk. The comparison between downloaders and non-downloaders revealed downloaders were less concerned with the law, demonstrated less ethical concern, and were more likely to have engaged in other illegal behaviors (Robertson et al 2012). In another study, those who were likely to engage in illegal downloading regarded the price of music to be unfairly high and the structure of the music industry to be exploitative toward musicians (Jambon and Smetana 2012).

The “illegality” of digital piracy is the direct function of copyright laws that were designed to encourage artistic endeavor in society by providing incentives to those who create original material for others to consume. There has been much discussion regarding the lack of efficacy in these laws to stop illegal digital downloading, and there is general agreement that current copyright protections are outmoded, impotent and insufficient, given the current state of technology. However, prescriptive solutions range from relaxing current laws in favor of allowing the consumer greater legal access to online material (Edwards et al 2013), to levying taxes on Internet Service Providers (ISP’s) in order to compensate the affected industries for lost revenues (Veiksa 2012).

The increasing practice of digital pirating creates both opportunity and potential peril for new product planners. The first users of digital products, a group known as ‘innovators’, are very likely to be digital pirates who access a new digital product without cost. While this may be expensive to the product’s developer in terms of lost revenue from sales, the innovators are also likely to promote the item through word-of-mouth and social networking, thus accelerating the rate of diffusion (Gupta et al 2004). Thus, digital pirating can be thought of as an online system of ‘free samples’ that enables innovators to try things out and pass judgments to ultimate consumers who pay.

Khouja and Rajagopalan (2009) point out that many purveyors of digital media now view the market as a progression in which the early adopters access material without cost in exchange for disseminating information to later adopters who pay. In this framework, the lost revenues from digital pirating are offset by both the increase in the rate of diffusion to paying customers and higher prices charged to those markets that pay for content. While those who engage in digital piracy are likely unaware of the significant role they play in diffusion and the evolution of marketing as it applies to selling digital goods (Chiou et al., 2005), their illegal activities are clearly having a major impact on the digital media industry, with both negative and positive consequences.

In the music industry, for example, professional musicians now expect relatively low income from sales of their music in comparison to their counterparts from the pre-digital age. Instead, they count on the ‘underground’ network of file sharers to promote their music to more traditional listeners, some of whom will pay for downloads from legitimate sites or purchase their music on CD’s. While the revenues from these sources will not be as great as they were in the past, the channel allows obscure musicians more efficient and accelerated exposure than the old system, which was burdened with gatekeepers.

Additionally, the mass exposure of viral success affords musicians the opportunity to leverage their fame through live concerts and promotional affiliations (Beekhuyzenet al., 2011).

One relevant issue that has so far gone unexplored in the academic literature on digital pirating is the attitudes of musicians themselves toward the phenomenon. Are they for it, or against it? Do their attitudes differ from those of members of the public at large? Are their attitudes toward digital pirating modified according to their attitudes toward the industry as a whole? These are the questions addressed in this research, and it is hoped that the findings in this area will add to the growing body of literature on illegal downloading.

Musicians of the present generation are finding themselves in a profoundly different business environment than that of the pre-Internet era. In earlier times, the record label contract was the primary determinant of success, and record label marketing drove musicians' income. Today's musicians are increasingly taking control of all creative and business aspects of their music, including production, marketing, and distribution. Under this new business model, artists own the copyrights to the music they record, along with the rights to any and all licensing royalties received there from. They market themselves as musical brands and sell products in many different venues, including recordings, concerts and merchandise licensing (Day 2011). Some musicians take this responsibility upon themselves, while others outsource the responsibility to others via a new arrangement known as a "360 deal" (Marshall 2013).

This new business environment may create a different set of winners and losers than the previous environment. Success in the new environment is much more dependent on linkages between one's music and traditional media, social media, concerts and merchandise sales. A musician may, for example, give his music away to a popular brand to use in a television commercial knowing that the exposure and association with that popular brand will drive sales in other areas. It would seem that an artist who has unlocked the secrets of database management and social networking is more likely to succeed than one who has focused solely on musicianship and songwriting. In short, the musician of the future may have to adopt a services marketing approach to his craft as opposed to an entertainment or purely artistic approach (Vaccaro and Cohn 2004).

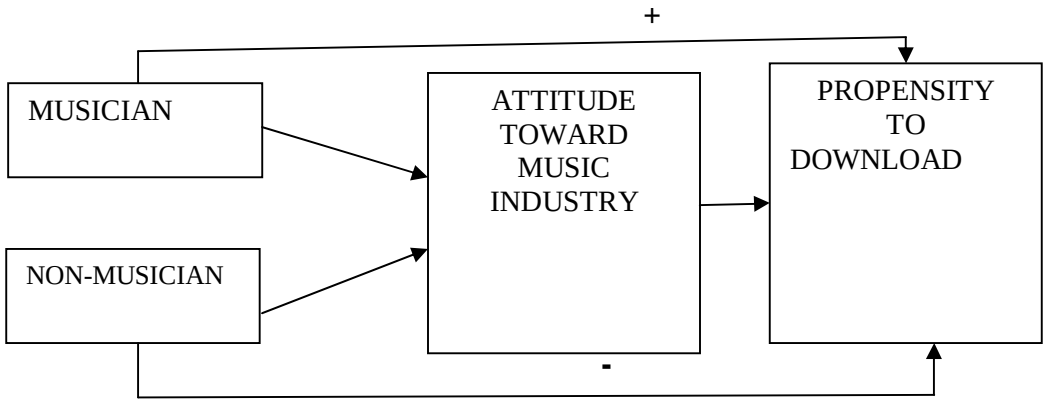
3. Theoretical Framework

It has been established in previous research that, in spite of their ethical predispositions against the practice, active music lovers are more likely to engage in illegal music downloading than those who are less enthusiastic about music (Bonner and O'Higgins 2010). There is also support in previous literature for the proposition that musicians are more likely to feel strong affinity for music than non-musicians (St. George et al 2013). One logical extension of these two findings is that musicians themselves are more likely to engage in digital pirating than non-musicians.

Beyond affinity toward music, another key predictor of digital pirating is the downloader's attitude toward the music industry. Among the many attitudes and norms that predict propensity to engage in illegal downloading is one's attitude toward the music industry. Those who think the industry is exploitative toward musicians are far more likely to participate in digital piracy than those who do not (Wang and McClung 2012).

The foregoing arguments support the theoretical framework shown in Figure 1. The framework predicts that musicianship will predict propensity to engage in illegal downloading, and that the intensity of one's propensity to download will be moderated according to one's attitude toward the industry in such a way that those who hold a negative attitude toward the industry will have higher propensity to illegally download than those who hold a positive attitude toward the industry.

Figure 1: Predicted Propensity of Musicians and Non-Musicians toward Illegal Downloading Based on Music Industry Attitudes



Since these effects are more relevant to musicians whose livelihoods are dependent on the industry, it is expected that the combined effects of being a musician and holding a negative attitude toward the industry will have a more profound effect on propensity to download than being a non-musician with the same attitude.

Therefore, the following hypotheses are proposed:

H1: Musicians will demonstrate a higher propensity to illegally download music than non-musicians.

H2: People with a negative opinion of the music industry will have a higher propensity to illegally download music than those with a positive opinion of the industry.

H3: Musicians with a negative opinion of the industry will have a higher propensity to illegally download music than non-musicians with a negative opinion of the industry.

4. Sample, Methodology and Findings

A total of 1,150 internet users were surveyed via an online survey. The survey was distributed via social networking through sites such as Twitter and Facebook. A link to the online survey was initially posted to social media sites by 75 undergraduate students. The posting encouraged others to 'share' the link on their own sites, and the survey was passed along accordingly. In addition, the survey was promoted via e-mail to a list of high-tech workers in the Northwest United States. These workers were also encouraged to pass the survey along via e-mail or social networking sites. The responses were submitted anonymously over a period of several months as the survey 'went viral'. Ultimately, the number of respondents stabilized at 1,150.

While the sample was nearly equally weighted between males and females, it was skewed toward younger, less affluent respondents than would have been the case had the sample been better representative of the population of US-based internet users. Therefore, the sample was stratified by randomly eliminating younger respondents from the sample until a sample more representative of the population was arrived at. The ultimate sample that emerged was made up of 423 respondents. Table 1 shows the characteristics of that sample.

Table 1: Sample Characteristics

Attribute	Number	Percentage
GENDER		
Male	171	59.6
Female	252	40.4
AGE		
15-25	72	17
25-35	108	25.5
35-50	126	29.8
Over 50	117	27.7
INCOME		
Less than $10K	36	8.5
$10K-$25K	27	6.4
$25K-$50K	117	27.7
$50K-$100K	108	25.5
Over $100K	135	31.9
MUSICIAN		
YES	54	12.8
NO	369	87.2
TOTAL	423	100

In addition to age, gender, income and musicianship (MUSICIAN), two other variables were utilized for this study. One variable was INDUSGREED (mean=2.38) , a five-point scale measuring the degree to which each respondent agreed with the proposition that "People in the industry are too greedy and not much money gets to the artist." The second variable, the dependent variable in this study, was IDOPIRATE (mean=2.21), a five-point scale measurement of the degree to which each respondent agreed or disagreed with the statement "I download free pirated material from the Internet."

H1 and H2 were tested by using multiple regression analysis. MUSICIAN and INDUSGREED were entered as predictor variables and IDOPIRATE as the criterion variable. The analysis yielded an adjusted R-square statistic of .395, suggesting that nearly 40 percent of the variance in IDOPIRATE can be explained by these two variables. Both predictor variables turned out to be strongly significant with INDUSGREED (t=13.7) more contributive to the variance in IDOPIRATE than MUSICIAN (t=8.16).

H3 was tested by creating a new variable, MUSICGREED, by multiplying MUSICIAN times INDUSGREED. The new variable was then entered into a linear regression analysis as a predictor variable to IDOPIRATE. This variable alone yielded an R-square of .395. MUSICGREED (t=16.6) as a standalone variable was more predictive of IDOPIRATE than either MUSICIAN or INDUSGREED.

Thus, all three hypotheses were supported. The results of the regression analysis are shown in Table 2.

Table 2: Results of Regression Analyses

VARIABLES	R-SQUARE	T SCORE	SIGNIFICANCE
Model	.426 (F=157.9)		
H1: MUSICIAN		8.16	.000
H2: INDUSGREED		13.71	.000
Model	.395 (F=274.8)		
H3: MUSICGREED		16.58	.000

5. Limitations and Discussion

There are a number of limitations to this study. The sample was not a random sample of the population of US Internet users, but one that was acquired through convenient means and then stratified in order to appear more representative of the population. While this is not an unusual method for acquiring data in the social sciences, it is reason to suspect the external validity of the findings.

Given the strength and nature of the relationships found, it seems likely that a more scientific sampling would yield similar results. Also, it is hoped that the groundbreaking nature of the research – this is the first documented discovery of a relationship between being a musician and digital pirating – will render the study worthy of dissemination. Further study is recommended.

The variables used in this study were single question scale items on a survey instrument. It would have been preferable to administer numerous questions per variable and then refine the variables with factor analysis. The fact that this was not done diminishes the internal validity of each of the variables to an unknown extent.

One question that emerges is whether the respondents who self-reported being musicians were professionals or amateurs. The degree to which their livelihoods were dependent on copyright laws might have affected the criterion variable. Amateur musicians may hold the attitude that music should be derivative and cross-fertilized between artists, whereas professionals may feel a great deal more proprietary about their work. This would be a fruitful area to investigate in the future.

The most significant finding herein is that musicians are significantly more likely to engage in digital piracy than non-musicians. This is paradoxical because digital pirating is a violation of copyright laws that were created to benefit the artist in two important ways: (1) to give artists incentives to work so that society itself will benefit by more creative expression; and (2) to ensure that artists are fairly compensated for what they produce (Sterk 1996). If artists themselves do not honor and appreciate copyright laws, what justification is there for the remainder of society to abide by them?

Certainly this study adds important information to an ongoing discussion of our times as politicians, lawyers, media intermediaries, artists and the public at large come to grips with dynamic technology that renders laws from the printing press era (at the very least) unenforceable, and (at most) obsolete. The music industry has shifted from one in which revenues were primarily driven by sales of recordings to one that is primarily driven by revenues from concerts and merchandising, with sales of recorded music taking a secondary role. This shift was driven by fundamental changes in the market. Although the market has less direct influence over the political and legal environment, willful public disregard of a law has far-reaching consequences that cannot remain unaddressed for long. Sooner or later, policy-makers, industry members, artists and consumers must find consensus on whether artists' rights are worth protecting, how much artists should be compensated, and what legal institutions will be necessary for enforcement. This study suggests that, among artists themselves, there is perhaps less support for copyright protections than might be assumed.

Another implication of this study is that attitudes toward the industry itself are highly predictive of digital pirating behavior, and therefore negative perceptions of the industry have demonstrable economic damages. Therefore, the importance of positive public relations for record companies, recording studios, artist managers and others in this industry is elevated to a degree that was not present before digital piracy became so mainstream. Marketing that emphasizes the bond between artist and fan, and demonstrates to fans that accessing an artist's work without paying has a negative impact that affects the artist personally, may be more effective than marketing that simply promotes the quality of the music. More and more artists are offering their music over their own web sites rather than using intermediaries such as iTunes and Amazon. Some even offer their music for free and request a donation in lieu of a fixed price. These and other alternative distribution strategies have been gaining momentum in recent years as industry music sales have plummeted. Nonetheless, in spite of lower sales the quantity of new music produced has increased dramatically, a fact that calls into question the public interest rationale for copyright protection (Waldfogel 2012).

The intention here is to be neither an advocate nor a detractor of laws that protect intellectual property, but to shed light on the issue with new information, and to highlight the pertinent aspects that have been transformed by the information revolution. Hopefully, this discourse will stimulate further research, discussion and debate.

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