# The Future of the Music Industry

Bohdan Pikas Niagara University

Anastasia Pikas Niagara University

Candice Lymburner Niagara University

The music industry has a problem with the advances in technology which allows for obtaining music for free. The industry cannot rely on the sales of CDs as a primary source of income. The industry must decide to spend millions of dollars in defending against illegal downloading or succumb to the release of free music. The government is trying to deter this by instituting laws. The industry recently gave up on preventing copying and downloading of purchased music by lifting the Digital Rights Management software. Distributing music for free will become the future.

### BACKGROUND OF MODERN MUSIC

The sales of the music industry had been on the decline since 1979, until the emergence of the compact disk, or CD, to the market in 1984. The sales of recorded music then reached about \$4 billion for the first time since 1978. As the popularity of CDs grew, cassette tapes and vinyl LPs became gradually more insignificant in the music market, together accounting for less than 40 percent of total market share in 2000.(Krasilovsky and Shemel 4) Since that time, CDs are still the leader in the music industry, even surpassing the increasingly popular online music downloads. However, the sales of CDs are on the decline, with 361 million CDs sold in 2008, which was down almost 20 percent from the previous year. About 84 percent of all album purchases were CDs, down from 90 percent the year before. As these figures exhibit, music downloading websites, including iTunes, are gaining a share of the sales for the industry. (Stone)

With the topic of music downloading, it is important to address the history of the MP3, which enables the sharing and downloading of music to computers and portable music players. MPEG Audio Layer III, more commonly known as MP3s is a system involving audio compression, making any music file smaller without losing the quality of sound. This system was developed and patented in 1989 by the Fraunhofer Institut in Germany, and did not receive a patent in the United States until November of 1996. After a few years of tests and trials, MP3s reached the American market on a large scale in 1999, and in that same year began the sales of portable MP3 players. (Bellis) With this MP3 technology came the opportunity to download music to computers and share songs with friends, leading to the file sharing industry and the problems that followed.

In the last few years, music piracy has been a growing problem and according to the International Federation of the Phonographic Industry, lost sales due to piracy in 2004 reached about \$4.6 billion world-wide. (Krasilovsky and Shemel 4) That number has been inevitably growing as downloading sites for free file sharing have become increasingly accessible and popular. When downloading sites first began, sites such as Napster and LimeWire required only registration information, and the user was given access to all the free songs they wanted. While it may seem impossible to stop all music piracy across the internet, a court case began in 2000 to attempt to stop one of the biggest illegal file sharing companies of that time. The company was Napster, and the legislation that it was in hot water with included the Audio Home Recording Act of 1992, and more importantly, the Digital Millennium Copyright Act of 1998.

# Legislation and the Napster Court Case

The Digital Millennium Copyright Act, known as the DCMA, deals directly with issues related to copyrights in the digital environment. (Krasilovsky and Shemel 10) The way that Napster worked, was with each song uploaded onto a user's computer, any other person registered to the system could download songs directly from someone else's music library. Napster, therefore, did not have its own library of songs, but rather was software that enabled users to connect directly to each other's computers and download the MP3 music files. The problem laid in the fact that the files that were being duplicated and shared were protected under copyright law, and the Napster system was replacing potential sales of physical recordings of the same works, leading to copyright infringement. (Crews 2) This issue was brought to the courts in the case of A&M Records, Inc. v. Napster, Inc.

The DCMA legislation's "fair use" policies are where Napster's case against copyright infringement failed. It was determined that Napster's file sharing between individual users violated the fair use guidelines, which are determined according to four principles, known as the "safe harbor provision" of the DCMA: 1. the purpose of the use, 2, the nature of the work being used, 3. the amount of the work used, and 4. the effect of the use on the market for or value of the original work.

Napster failed the first guideline on two counts, first the use of the music was not seen as "transformative," because simply changing the medium of how it can be listened to from CD to MP3 is not changing the song into a new work with new utility. In addition, the users of Napster gained a "commercial" benefit because the repeated copying and distribution of the recordings kept the users from needing to purchase the music. As for the nature of the work, the court ruled that all music is creative in nature, and the copying of such works was against the fair use policy. They also ruled that the users were engaged in "wholesale copying" of entire works, which violated the "amount of work used" standard. Finally, Napster did not stand a chance against the last guideline of fair use that determines the effect on the market. (Crews 4) The court determined that the actions of Napster led to the loss of sales of CDs and a "heightened barrier to entry by the music industry into the market for electronic delivery of music." (Crews 6)

As this case concluded, the court ruled in favor of all the plaintiffs, which ended up being all the music companies that are members of the Recording Industry Association of America, or the RIAA. As a result, the Ninth Circuit Court of Appeals ruled on February 12, 2001 that Napster committed repeated infringements of copyright law. The file sharing service was dismantled and only allowed to return as a subscription service that pays royalties to the music industry. This case was a major step toward the proper sharing of files across the internet, and a huge warning sign to companies to comply with the legislation regarding music sharing. So when it came to the emergence of the iPod, Apple wanted to provide its own music library service, called iTunes, to allow users to buy new music. The RIAA estimated that the illegal file sharing via Napster by an estimated 20 million people worldwide cost the music industry more than \$300 million in lost sales. (ABC News) In order to ensure the music industry was going to receive its share of the profits this time around, and would not face repeated download of the purchased songs, Digital Rights Management Software was imposed.

# **Digital Rights Management Software**

Digital Rights Management Software, known as DRM, puts a lock on downloaded music, limiting the share of a purchased song. For songs that have the DRM software encoded onto them, restrictions are placed on the type of music players that can play the song, as well as on the number of computers that the music can be placed on. For Apple, this system had been used from the beginning, restricting songs purchased from the iTunes Store from being played on unauthorized devices, but allowing users of their program to play their DRM protected music on up to 5 computers and on an unlimited number of iPods. (Jobs)

Applying this program was not entirely the choice of Apple, but an agreement reached between them and the big four music companies to prevent illegal copying of their music. Universal, Sony BMG, Warner and EMI had to provide Apple with the license to distribute their songs, which collectively accounts for 70 percent of the world's music. (Jobs) Since Apple wanted to legally distribute their music over the Internet, their solution to the potential of illegal sharing was the implementation of this DRM system.

Even with the restrictions placed on any music purchased from iTunes, through the end of 2006 Apple announced that sales of music from its online store reached just under 2 billion songs. Although, there was still an issue related to the DRM software and the related problem of music piracy. Despite the locks on the music sold by the online music downloading leader, Apple, illegal downloads were still increasingly apparent throughout the Internet. Websites continuously arise that allow for the illegal sharing of songs to an unlimited number of sources or computers. The problem laid in the fact that the same big four music labels that were requiring iTunes to use the DRM system, were selling all their CDs without any type of Digital Rights Management encoding. So, in 2006, when online music stores sold fewer than 2 billion songs protected with DRM software, 20 billion songs were sold completely unprotected on CDs by the music companies themselves, accounting for over 90 percent of the music sold. (Jobs) That is because the sale of CDs is still the majority of revenue for these companies, and the many different outlets on which they will be played do not always support the DRM encoded system. The benefit then to requiring certain online music stores to use this system seemed to become overshadowed by the hassle of technical expertise and overhead required to manage such a system.

#### The Switch to DRM-Free

On January 6, 2009, Apple announced that several changes were being made to the iTunes Store, including the release of the Digital Rights Management software on its songs. Following the role of the many other music downloading websites, such as Amazon and LimeWire, Apple gained the permission of the four major music labels—Universal Music Group, Sony BMG, Warner Music Group and EMI, along with thousands of independent labels, to sell their music through the iTunes Store without restrictions as to who else can gain access to it. The permission came nearly a year after Amazon and similar sites had already lifted the lock on the music sold through their stores. Since Apple holds such a large share of the legal downloading market, the music labels were reluctant to allow them to follow the same trend and lose more sales once sharing became unlimited. However, for Apple, profits are still gained through the purchase of the songs, based on what the music labels charge Apple, songs on iTunes are available at one of three price points: 69 cents, 99 cents and \$1.29, with most albums still priced at \$9.99. In addition, the songs that are now free of the DRM software are of higher-quality, with 256 kbps AAC encoding, making the songs practically indistinguishable from original recordings. (Neumayr and Roth)

These decreased prices for certain songs, as well as the potential decrease in sales once users can share their purchased songs with as many people as they wish, are not going to hurt iTunes as much as one might think. Apple has a secondary mode of potential profits to coincide with the release of the DRM software. They are allowing all iTunes users the opportunity to upgrade their entire iTunes library of previously purchased songs to versions of the same songs, but without the Digital Rights Management lock. The catch is that it will cost 30 cents per track, essentially paying for the songs in each library all over again. Since the beginning of Apple's iTunes music store, over 6 billion songs have been sold, and at 30 cents per upgrade, Apple can make up to \$1.8 billion in upgrade fees alone. (Schonfeld)

## The Future of the Music Industry

If sales of the actual music were to decrease or become completely free, the music industry would have to gain profits through other outlets. One mode that is already a successful aspect of the industry is live concerts. In 2008, concert ticket sales in North America reached \$4.2 billion, a rise of 7 percent from the previous year. While actual tickets sold for the top 100 tours decreased by 3 percent, the average ticket price increased by 8 percent, to \$66.90 each. (Sisario) As more music downloads become available at little or no cost, and file sharing continues to grow, people will be exposed to a much larger array of bands, artists, and even genres of music. With the opportunity of increased exposure at the expense of lost song profits, artists all over the world may reap the benefits in other ways, including that of larger audiences at their live concerts.

In order to gain a greater share of these growing profits, many major labels have already begun requiring new and previously signed artists to enter into what is called a 360 deal. These contracts provide the company with a much greater share in all aspects of an artist's income, including marketing and product endorsements, as well as concert ticket sales. The label's cut of the artists CD and downloading shares are still in the mix as well, while also including basically anything that uses the artist's music or brand. While many artists and skeptics see these deals as taking advantage of the bands or singers, the labels requiring these deals justify them by claiming it offsets the risks of investing in artists at a time where CD sales, the main source of revenue, are decreasing. One of the "big four" music labels, Warner Music Group, is now making the 360 contract mandatory for all new artists, with approximately one-third of its current clients already signed to it. The CEO of Warner, Edgar Bronfman, even claims that these deals are essential for the company if they keep putting money into the artists, they can start to offer the music as a promotional campaign to initiate the merchandise and concert sales. (Arrington "360")These deals act as a protection for the music industry, if or when music downloads eventually become free and are the basis for marketing for the other sources of revenue. While some may see these deals as an inevitable end to the industry for artists that do not want to share more of their hard-earned money, there are also many artists that could truly benefit from 360 deals if the companies can provide the marketing and promotions, and increased exposure, as promised.

Following the theme of digital music sales, the sales of ringtones also generate profits for the artists and labels they belong to. Since cell phones started being produced with custom ringtone capabilities a few years back, the business of ringtones has reached multi-million dollar status. Once text-messaging became the newest craze and cell phone providers switched to digital technology, it was also much easier for ringtones to be transferred via texting. That was when websites began to provide 30-second "snapshots" of songs that could be purchased, sent to the cellular phone, and set to ring when the cell user received a text message or phone call. These novelty items have become an ideal way to set your individual music tastes, or keep up with pop culture. As a result, cellular service and ringtone providers have been able to charge a premium price for these short bits of songs. They often start at \$.99 each, and as the quality of the song-bits have increased, the cost has reached up to or even surpassed \$6.00 per ringtone. (Krasilovsky and Shemel 425) There is also an addition to the ringtone business in the form of "ring-back tones" where customers can buy songs that people will hear when calling them, instead of hearing the normal ringing. Needless to say, with over 2 billion cell phone users in the world and growing, these custom ringtones and ring-back tones will be a continued fad that is likely to stay for years to come.

In recent years, MySpace, the well-known social networking site, has created a "music" section dedicated to any and all artists, signed or otherwise, to create a page. On this page, the artists can upload as many songs as they please for any of the nearly 125 million MySpace users to listen to and stream for free. Users can also add songs to their own personal profiles, further increasing the coverage of an artist's song. With the music industry focusing less on mass markets, and more on mass niche markets for genres, MySpace is the perfect place to gain coverage for the lesser-known or unsigned artists. (Kot 2) While this whole system may seem like another way for the music industry to lose potential profits, there is a business side to it. While the users can listen to the songs an unlimited number of times on MySpace, they also have the opportunity to buy and download the song through Amazon or a ringtone version right from

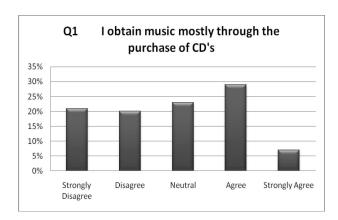
the artist's page, each of which labels can share the profits in. (Arrington) In addition, the music pages feature an artist's concert schedule and usually link to their merchandise stores as well. The benefit for the music industry is that as of 2008, the large labels already own around 40 percent of MySpace Music, accounting for nearly \$800 million. Every time a song is streamed, the label that is associated with that artist makes money off of it, and with 20 billion songs streaming per month and growing, music labels are looking at tens of millions in revenue each year from this source alone. (Arrington)

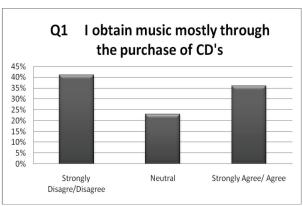
## **Research and Survey Analysis**

The following charts and analytical results represent the questions contained in the survey that had the most profound impact on the topic of the Future of the Music Industry. The sample was drawn from a younger demographic. This demographic included ages 17-24, middle class, some college, and an equal distribution of male and female. The survey was conducted randomly in order to get a representative sample.

### Question 1: I obtain music mostly through the purchase of CD's.

36% of the survey respondents agree or strongly agree that they obtain their music mostly through the purchase CDs which expanded to account for all respondents, shows with 95% confidence that the percentage would be in the range of 25.28% to 46.72%.

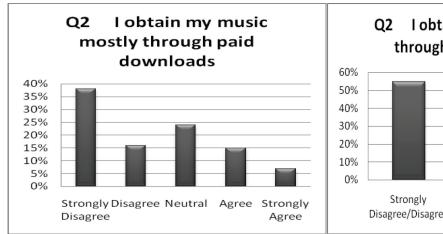


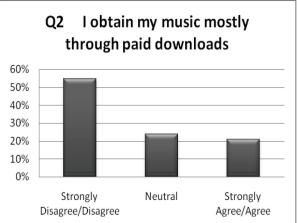


Compact Discs are still the most profitable format of audio sales in the music industry, and the most dominant format on which physical copies of music are found. However, only 36 percent of survey respondents are obtaining music through CDs. This statistic can be very telling for the future of music, because fewer people are purchasing physical copies of music. They must be obtaining it through other outlets, including downloads and file sharing. Just as cassette tapes were phased out with the invention of CDs, it seems CDs may be following a similar path, only with MP3s.

# Question 2: I obtain my music mostly through paid downloads.

21.34% of respondents agree or strongly agree that they obtain their music through paid downloads. With 95% confidence, if that survey were to include the entire population of the demographic, the percentage would be in the range of 12.19% to 30.49%.

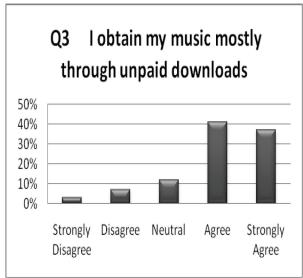


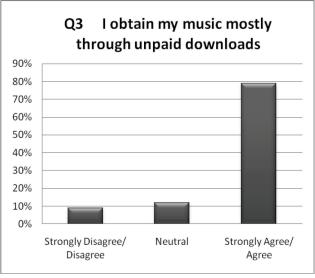


Of the respondents surveyed, only 21 percent claimed to obtain songs through the purchase of downloaded music. This number, while very small, does not vary from the norm when it comes to music downloads. Sites such as iTunes are still reaching large profits for the sale of music, but expect that to decrease once the market adjusts to the DRM-free songs.

#### Question 3: I obtain my music mostly through unpaid downloads.

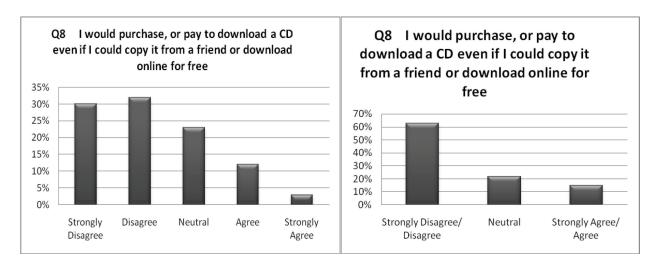
78.66% of respondents agree or strongly agree that they obtain their music via unpaid downloads, if expanded to cover all the demographic, with 95% confidence the results would be in the range of 69.15% to 87.81%.





The response for unpaid downloading was almost 80 percent that admitted to such behavior. This reiterates the trend seen by the music industry already, as stated before that the lost sales due to illegal file sharing reached over 4 billion in 2006. More and more people are sharing music or obtaining it from free sites, which is what the music industry has been worried about and dealing with. This statistic follows the path that even some leaders of the music industry see as the inevitable march of all music toward free.

Question 8: I would purchase, or pay to download a CD even if I could copy it from a friend or download online for free.

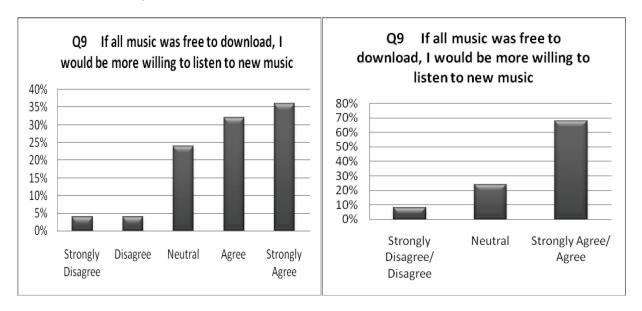


62.67% of respondents disagreed or strongly disagreed that they would pay for something they could have for free. If that were expanded to cover all the demographic, with 95% confidence the percentage would be in the range of 51.87% to 73.47%.

While some people like having the physical copies of CDs for their favorite bands to collect, or do not have the means for accessing downloading sites, others are not as willing to pay for what they could have for free. This is hardly a surprising revelation, because given the age group of people surveyed and those in the greater population that download music the most, it is mostly teens to people in about their 30s. The younger half of this age group is dominated by students and minimum-wage workers who have little money to spend as it is. So, if someone can have access to music at no cost, they will more than likely choose that option over payment any day. As the survey shows, over half of the respondents would not pay for a CD that they could illegally download, or rip from a friend.

# Question 9: If all music was free to download, I would be more willing to listen to new music.

68% of the respondents agreed that they would be more willing to listen to new music if all downloads were free. When expanded to cover all the demographic, the percentage would be in the range of 57.58% to 78.42%, with 95% confidence.



If music downloads do completely reach "free" status, it would have two separate effects on artists. For the artists that are already well-established and can count on their fans to purchase their new music in an effort to support them, they would be losing substantial "guaranteed" profits by giving away the music to market themselves. However, for new, up and coming artists, or the lesser known bands, this use of the music as a marketing tool could truly benefit them. The easier it is to obtain music from unknown or new artists, and if it is at no cost, the more people would be exposed to these lesser known bands. The more exposure could in turn mean higher attendance at concerts, higher merchandise sales and even promotional events. The popular artists would have the same opportunities for increased exposure and revenues, but would still be missing out on the main revenue source they are accustomed to with music and CD sales.

#### Question 10: I download my music mostly through iTunes.

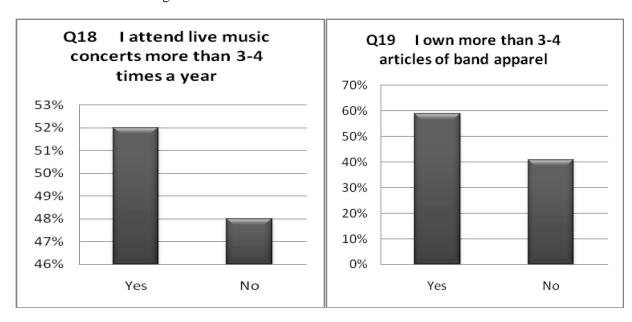
56% of respondents stated that they download their music mostly through iTunes, the Apple online music store. To include the entire population the results would conclude with 95% confidence that the percentage would be in the range of 44.92% to 67.08%.

The fact that this number is fairly large, with over half of the respondents downloading from iTunes, gives insight into how popular the Apple products are, with their iPod currently holding nearly 75 percent of the digital music market. Another interesting observation regarding these survey results is that of the respondents, only a combined 1.33% said they download mostly through Zune and Amazon. Zune was Microsoft's attempt at a worthy competitor for Apple's iPod and Amazon is the downloading site that partners with MySpace. With such a small amount of people using such file-sharing stores, it further proves iTunes' domination of the market and the inevitable continuation of success.

# Question 18: I attend live music concerts more than 3-4 times a year.

52% of the respondents said that they attend more than 3-4 concerts a year, expanded out to cover all the demographic, there will be 95% confidence that the percentage would be in the range of 40.84% to 63.16%.

Live concerts are a hopeful future main source of revenue for artists as well as the music industry given the possibility of free music. In recent years, as stated earlier, concert sales for the top 100 tours are down but revenues are up due to increased costs of tickets. Though, when expanded to include all the small tours of the underground, indie, or lesser-known bands as well, concerts are an ever-popular form of entertainment for teens and young adults. With increased file sharing and exposure of music already through streaming on MySpace and free downloading sites, many artists are reaping the benefits of larger fan bases and larger concert and merchandise sales. As more music becomes available for less and less money, the exposure will only increase. Even if it does not cause more people to begin attending concerts that would not have before, there is still the potential for the already avid concert-goers to increase their attendance to a wider range of artist's shows.



# Question 19: I own more than 3-4 articles of band apparel.

41.33% of the respondents do own more than 3 to 4 articles of band apparel, and expanded out to include the entire population would show with 95% confidence that the percentage range would be 30.33% to 52.33%.58.67% of those surveyed do not own more than 3 to 4 articles of band apparel. Of the entire population considered, with 95% confidence the percentage would be 47.67% to 69.67%.

Less than half of the survey respondents admitted to owning more than 3 or 4 articles of band apparel. This could include hoodies, t-shirts, shirts, bags, hats or anything else that could be worn that features a band logo. While it is not a substantial amount that own 3 or 4 pieces of apparel, the other respondents that answered negatively to the question may still own one or two articles of merchandise, not necessarily none. Either way, this statistic shows that not everyone that attends a concert or listens to an artist is going to purchase merchandise from them. Therefore, this outlet is not necessarily a key frontrunner for the leader in music sales as payment for downloading songs begins to be phased out. Unless the music industry and leading labels are able to substantially promote the sale of merchandise, bands and artists cannot count solely on their apparel as a source of income.

# Question 21: How many songs have you downloaded in the past month?

84.79 was the average number of songs downloaded per person, given the data found in questions 2 and 3 it can be inferred that 21.34% or 18.09 songs were downloaded legally (paid for) and 78.66% or 66.7 songs were downloaded illegally.

The survey data concluded that the respondents downloaded an average of about 85 songs per month, mostly on illegal or file sharing terms. While there were a number of people that denied downloading any songs for the previous month, the maximum amount of songs in one month reached 1,500. There are probably more people in the entire music listening population that follow the trend of high amounts of downloads. As they become less expensive, or legally free, more people may be inclined to partake in downloading that may have not done so before. As stated before, the more people are exposed to music, the more likely they are to participate in the concerts and merchandise sales that go along with it.

#### **CONCLUSION**

Since the emergence of the CD in the mid-1990's, the sales of recorded music were on the rise. That is until compressed downloadable music files, known as MP3's, became a popular mode of storing and listening to music. With the increase of free file sharing websites such as Napster and LimeWire, and even paid downloads from stores like Amazon and iTunes, CDs began to face a decline and are continuing along that trend still today. Legislation has been passed to prevent companies such as Napster from allowing for the unlimited duplication and sharing of songs from computer to computer, in the form of the Digital Millennium Rights Act of 1998. With the laws in place and court case that followed, the music industry was able to gain some ground against music piracy and illegal file sharing.

When other companies decided to work with the music labels to form an online music downloading store, the music industry wanted to prevent the unlimited file sharing with one purchase from occurring. When industry giant Apple started iTunes, it made a deal with the industry, namely the big four labels, to use software to prevent the copying of music purchased from the store. This Digital Rights Management software was put in place and every song purchased, at 99 cents a piece, could only play on a limited number of devices. After years of upkeep on this costly software, the sales of CDs were still on a decline and piracy continued to rise. The DRM was soon lifted from songs purchased at stores such as Amazon, but remained with the industry leader Apple for another year. Finally, in January of 2009, Apple was free to remove the Digital Rights Management from all of the songs sold in iTunes, and instead changed the prices of certain songs based on popularity. This leaves the industry with the reality that once one song is purchased, from essentially any outlet, including CDs, that song can (and most likely will) be shared with as many other people that want it, free of additional charge.

After conducting a randomized survey to gain insight into the download and purchasing habits of recorded music, the results were telling. Many respondents already participate in the illegal downloading of music or file sharing, with over 70 percent defining that as their main source of obtaining music. As for purchasing physical CDs or downloading from legal online stores, the results were only about 50 percent combined. The download of music, whether paid or unpaid, is an increasing trend of acquiring music that does not seem to be stopping anytime soon. Respondents downloaded an average of about 85 songs in one month, a number that is likely to be increasing. A telling statistic for the music industry and the artists alike, is that over 60 percent of the survey respondents claimed they would be more willing to listen to different or new music if they could have unlimited free access to it. The good news comes in the fact that more publicity could mean more sales in other areas of the artist's brand.

With what logically seems to be the inevitable march of all music toward becoming free, the songs will become the major marketing tool to sell the other products and services related to the artists and musicians. The implications for how the music industry will cope and continue to remain profitable rely upon multiple factors. Some big labels are relying on 360 deals with artists, contracts promising a share with the music label of basically any and all profits the artists receives. Others are relying on increased concert revenues and merchandise sales to coincide with the increased exposure of the music to

any and every person willing to listen. Even websites that allow artists profiles and the streaming of their music, such as MySpace, stand to be sources of revenue for the labels that are representative of the artist, gaining a certain amount of money each time anyone listens to a musician's song. Whatever methods the industry decides on to keep the profits coming, music will become the biggest marketing effort as the labels continue to make money in alternate ways; this giant is here to stay.

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