

Focus | Entertainment Law

The Evolution of the Music Industry Today

BY JESSICA R. BROWN

There is a great debate as to why the music industry has become what it is today. Some blame digital technology, others blame Napster, the “entitlement syndrome” of today’s youth, or the inability of major record labels to adapt quickly. That topic is a different article altogether, but there is no doubt that the music industry is not the same today as it was just a few years ago.

The music industry is dramatically different since the 1990s, with the most notable change being the ability to digitally download music. CDs are now relics for the “older generation,” and those who purchase CDs usually burn them onto their iPod and then toss the CD aside. This change seems rather expected. After all, 8-tracks and cassettes were replaced, so it’s not surprising that new technology would replace the CD. But the extinction of the CD has repercussions and consequences to labels, artists, and everyone else in the music industry.

To the major record labels (“the majors”), the death of the CD may be their demise, as there is a correlation to the steep decline in CD sales and the crumbling of the imperial giants.

For more than 30 years, the majors operated with stable extravagance. They controlled the industry. There was no such thing as a successful independent artist, and independent labels just could

not compete. The majors were known to throw their stature and opulence around, promising musicians riches and fame. But this business model only worked as long as the majors had a monopoly on music and record sales.

The problem is that the major labels did not significantly change their business model in response to digital downloads. Any entertainment lawyer will tell you that the majors have definitely made changes in how and what they offer to artists, but at this point, it appears to be too little, too late.

The most notable change the majors made was in mid-2007, when they all moved to “360-Deals.” Interestingly, all of the majors started offering 360-Deals almost simultaneously, as they all made strikingly similar, yet drastic, changes to their deals, and it happened across the board.

A 360-Deal is the industry term for a recording agreement where the label takes in all artists’ revenue streams. Prior to this change, the majors made their money almost exclusively from CD sales. All other revenue streams, such as the sale of merchandise, touring revenues, and publishing revenues (income from the copyrights), remained in the control of the artist.

Now, the majors offer deals to artists where the labels get a cut of every revenue stream the artist has. So, Sony BMG is likely making money from every t-shirt Metro Station sells. The majors

now take the position that they make a significant investment in the artists, in their development and marketing.

Enter the entertainer’s lawyer. Now, more than ever, it is imperative that artists have a great lawyer. For the first time in more than 30 years, musicians can actually negotiate creative terms of a contract. And if the lawyer is tenacious, a 360-Deal can be turned into more of a 180-Deal or a 270-Deal, with the artist keeping some key revenue streams, or at least whittling down the rights and income designated for the major label.

Artists are the most affected by the new face of the music industry. It appears that getting a record deal with a major is no longer the “holy grail.” Performers signed to a major label have to work harder than ever to be successful. Artists are not just sharing their revenues with their managers and attorneys. They are now sharing their revenues with their label.

Merchandise sales and touring have

become the bread and butter for artists. Since there is no longer much money to be made selling CDs, musicians are forced to develop a creative business and brand themselves.

Despite all of this, it is not all doom and gloom for artists. Entertainers can now achieve success without a major label behind them. With the advent of MySpace, PureVolume, and similar music sites, artists in the most remote parts of the country can reach a national and international audience.

The music industry will continue to evolve. Without a doubt, tomorrow will be different than today. But artists, labels and attorneys should embrace this brave new world, because the opportunities are limitless for those who can creatively think outside the box. **HN**

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