

FROM PIRACY PANIC TO PLATFORM PRAISE (AND BACK AGAIN):
DIGITIZATION'S IMPACT ON MAKING, MOVING AND MONETIZING MUSIC IN
CANADA

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Abstract

When Napster, a peer-to-peer file-sharing platform, launched in 1999, the music industry declared a crisis — but this isn't new. For decades, the music industry has feared the presence and popularity of new technologies for the distribution of music commodities, especially ones that circumvent their copyright restricted system, but these technologies have never actually led to the industry's demise. Quite the contrary, in fact. The music industry, despite wide circulation of piracy panic narratives in the early aughts (and before), has never been meaningfully disrupted, and its power structure remains intact today.

Why, then, in 2017, after the global music industries were reporting an economic upswing from streaming, did major recording industry associations begin issuing reports proclaiming that, in the streaming era, music industries, and by extension musicians, are experiencing a value gap, or low remuneration? To answer this question, this dissertation employs a critical political economy of communication and culture alongside a cultural industries approach to assess the extent to which the availability of digital tools — for distribution, microfunding, and social media — has changed or reshaped the music industry, and in turn musician labour, in Canada.

Although discourses about digitization's impact on music have heretofore characterized it as disruptive, that disruption has been interpreted as either productive or restrictive. On the one hand, the industry proclaims that digitization enables piracy, which hurts musicians, so it must be stopped in order for the production and distribution of music to continue; on the other hand, digital optimists argue that musicians no longer need labels, and that discussions about the destruction of the industry are merely indicative of its potential for rebirth as a musician-friendly marketplace, where fan/artist connections are direct and disintermediated. Through evidence drawn from discourse analyses of policy documents, popular press articles, and in-depth

interviews with Canadian musicians, this dissertation asserts that neither perspective is correct, and instead demonstrates how digitization has culminated in a simultaneous reduction in recording-based revenue for musicians, an increase in the key responsibilities required for a musical career, and the preservation of a powerful industry hierarchy of economic power.

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document's final form. Steve inadvertently contributed one of the most important lines of my dissertation. As I was coming up with questions for a comprehensive exam dedicated to the music industry, Steve said, "It sounds like you want to debate the post-Napster proposition that the recording industry is dead" — and he was completely right. That one observation allowed me to bracket off my historical moment and has proved foundational in providing scope and focus to my eventual dissertation research.

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Chapter 1

Prelude: The Recording Industry is Dead?

If, to paraphrase McLuhan, the printing press made us all readers, then the Internet has made us all ‘pirates’.

— Graham Longford (2007, 204)

Introduction

In the summer of 1999 I turned thirteen-years-old. At that time, and to this day, one of the most important things in my life was listening to music. Growing up in a small, relatively remote community, however, I didn’t have access to record stores beyond the solitary music aisle at the local Zellers. On occasion, relatives would send cool musical wares from afar, but my access to new music was limited to radio listening and watching MuchMusic. This lack of access didn’t deter me from capturing my favourite music, however. I took a long bus ride into the city for school every day, and that time was predominantly spent listening to music — music I had recorded onto blank cassette tapes from the radio. Patiently, every evening I would sit on the floor in my bedroom next to my stereo with my headphones on, waiting for the DJ to announce the next song, and hoping for two things: 1) that it was a song worthy of recording, and 2) that I’d execute the timing just right, and press record as soon as the song started. Being able to secure a much-coveted tune on tape was a huge win for me personally, but was also valued among my friends, with a particularly good recording generally landing someone (at least momentarily) in the social spotlight.

That particular summer, an especially coveted song was “Pumping on Your Stereo” by British rock group Supergrass. I’d first heard the single while up late at night watching

MuchMusic's now defunct program *The Wedge*¹, hosted by Sook-Yin Lee. As an English band, Supergrass didn't get that much radio play at that time, in part because they were competing with other Brit Pop mega stars such as Oasis and Blur who were dominating the airwaves in the 1990s (and to a lesser extent Pulp and Suede). Finally, however, one late night, up way past my bedtime, I managed to catch the song on Buffalo's 103.3 The Edge (I grew up near the U.S. border and predominantly accessed U.S. radio stations). Oh, how I coveted that recording. I listened to that song on repeat until the tape warped and it was no longer listenable. So, you can imagine my delight, when later that summer a friend told me about Napster. All I had to do, he said, was type in the name of the song I wanted into the Napster search engine, and the program would find it for "free" online. Despite being a so-called digital native, I had no idea what he was talking about and could hardly even conceptualize it, but I downloaded the program and tried it anyway. Now, in those early days, there wasn't a lot one could access, and the quality of many tracks was terribly poor. I have vivid memories, for example, of downloading and listening to "MP3s" that were made by someone using an external computer microphone to record a song broadcast on the radio through their stereo, with snippets of DJ babble being captured on the recording itself. In any case, I was thrilled to have searchable access to downloadable music, even if downloading a single MP3 using dial-up internet took upwards of an hour. In that moment, aware of my own personal transition from taping songs from the radio to downloading songs from the Internet, I began to take notice of the change in how music was being talked about.

Seemingly over night, once the mainstream media (and music industries) caught whiff of what was going on online, there began a constant dialogue in newspapers, in magazines, on the

¹ The program was dedicated to indie music, or music outside produced and distributed of "the mainstream," released by an artist who wasn't signed to one of the major labels, such as Warner Brothers, Universal, or Bertelsmann.

radio, and on television about how downloading music from the internet is theft, and it is illegal. As a thirteen-year-old, I couldn't comprehend how there could be legalities surrounding music consumption because music seemed so ubiquitous — it was everywhere — but I was intrigued. Why was I allowed to buy inexpensive blank cassette tapes with my allowance with the express intent of recording songs from the radio, but downloading those same songs from Napster was considered illegal? The end goal was the same: I just wanted music to listen to on my Walkman. Well, I was told it's illegal because taking someone else's intellectual property without paying them for it — their ideas, their creations, their music — is a crime. But if the radio could play music that I could then listen to for free² and record, how come that wasn't illegal? This question stuck with me for a long time. All the way through high school, undergrad, and beyond, questions surrounding the “illegality” of music and downloading confounded me. If no one was selling the MP3s being downloaded from the internet, but simply sharing them, why isn't the practice authorized? If we can share and make copies of music using blank cassette tapes and CD-Rs,³ why not MP3s? Well, music industries, by pointing to rapidly declining CD sales, made the argument that in having access to downloadable music, consumers no longer think they're obliged to pay for it, and expect it to be free. As a result, according to industry officials, we downloaders were therefore contributing to the fall of Rome: the fall of the recording industry as we knew it was taking place, and with it all our favourite musicians would go starving, and no more new music would be made. Eventually, the argument insisted, the industry would be no more, the music would stop, and there would be silence — silence, and poverty: cultural poverty

² Of course, as a cultural industries scholar I'm well aware that advertising and copyright are what ensure that radio isn't actually making anything available “for free,” and that artists are paid royalties for air-play, and my listenership is packaged as part of an audience commodity that is sold to advertisers; but as a thirteen-year-old, these two ideas — recording a song you heard for “free” and downloading an MP3 for free — were, to me, easily conflated.

³ A CD-R is a blank compact disc that individuals can use to record MP3s or other digital files onto, one time only.

for listeners who would no longer have new music to enjoy, and economic poverty for musicians who no longer saw a reason to make music. But the music didn't stop, and the industry didn't die. So, what happened? For the past twenty years, scholars and critics have debated the central post-Napster proposition: "the recording industry is dead." Throughout the early aughts, this debate often revolved around the ways in which information and communication technologies (ICT) enabled the free circulation of MP3s via peer-to-peer file sharing platforms. At that time, the industry, most commonly represented by American business interests, such as those of the Recording Industry Association of America (RIAA), were bolstered by popular and trade press, who framed this particular practice of exchange as piracy: as direct theft of income from musicians by fans who "steal" music online. David Arditi (2015) articulates this account as "the piracy panic narrative." This narrative, Arditi writes, characterizes such file sharing as piracy; if piracy is stealing, and stealing hurts artists and labels, fans who download shared files are not listening for free but rather stealing income from their favourite musicians.

In the intervening years, numerous scholars (Hesmondhalgh, 2019; Stahl, 2013; Wikstrom, 2013; Arditi, 2015; Meier, 2017) and critics (Knopper, 2009; Kot, 2009; Witt, 2015) have debunked the piracy panic narrative by demonstrating that, despite a momentary dip in CD sales, the recording industry did not experience a crisis. Major labels not only maintained their dominant position controlling the production and distribution of musical recordings; but as streaming and downloading became increasingly normalized practices for the consumption of music, major labels, accompanied by ICT mega-corporations such as Apple and Google, came to dominate consumption in the digital scene, as well. With budding relationships between major labels and dominant platforms like Spotify, digitization is no longer cast as the bane of the recording industry. And because of the widespread availability of these new technologies,

musicians and fans, it is understood, have been afforded digitally-enabled access to the means of distribution, and in so doing the industry has become more democratic. Proponents of this perspective believe that, via social media, digital distribution and marketplace platforms, musicians now have direct, un-intermediated access to fans; digitization, they argue, has caused disintermediation. Disintermediation refers to the process wherein the availability of these digital tools has allegedly removed various middlepersons from the supply chain, thus giving musicians direct access to consumers and fans. With fewer people intervening in the process, it is assumed that musicians will see more of the net profits. New media celebrants argue that access to internet-enabled resources has freed musicians to pursue autonomous creative work as cultural entrepreneurs, but a vocal minority maintain a significantly more critical distance. My dissertation picks up these critical threads and analyzes the digital disruption within the music industry in Canada, the phenomenon of disintermediation, and their combined impact upon the labour conditions of emerging musicians. *From Piracy Panic to Platform Praise (and Back Again): Digitization's Impact on Making, Moving and Monetizing Music in Canada* assesses the extent to which digitization has indeed “liberated” the musician as a result of disintermediation, and examines this within the specific political, economic, and cultural confines of the Canadian cultural industries context. Through a close examination of the industry, the policy that undergirds it, the discourses surrounding the changes wrought by digitization, and in-depth interviews with musicians from across Canada, I argue that there is a disconnect between how musicians see themselves and conceptualize their labour practices, and how industry officials and cultural critics understand and characterize musician labour.

Objectives

The bulk of the attention paid to digitization in the music industries thus far has predominantly focused on the U.S. experience and response. Therefore, we must ask: What happened within the Canadian cultural production landscape during this time? To what extent does the country of origin change or reshape musician labour in the digital context? When compared to its American counterpart, the Canadian context for cultural production, distribution, and consumption is decidedly unique in that it is regulated and supported by federal (and sometimes provincial or municipal) cultural policy. To be sure, Canada is not unique for simply having this policy structure in place. Indeed, several other countries around the world make use of very similar policy frameworks to support homegrown cultural production. Comparable policy systems can be found in several other English-speaking countries, most notably the United Kingdom — the model after which Canada’s own system is designed — and Australia. But it is Canada’s immediate proximity to the United States, its shared language, and an inability to successfully exploit economies of scale within its own cultural industries that make it a unique case.

Historically, cultural policy⁴ in Canada has been preoccupied with “seeking the ways, strategies, symbols, and indeed the language by which to demarcate Canadian activities from American ones and provide the [necessary] space” to circulate and consume homegrown culture (Dorland, 1996, ix). For example, the 1951 Massey Commission was launched expressly for, and dedicated to, investigating the state of arts and culture in Canada, and was rooted in a particular concern for cultural sovereignty and a desire to bolster a national identity in the face of an onslaught of American television signals “crossing” the border. Overall, cultural policy in Canada is guided by three main objectives: the creation of media content; access to Canadian

⁴ Alternatively referred to as media policy or creative industries policy.

cultural products through ‘shelf space’ in Canadian-owned media; and freedom of choice for Canadian citizens from among a wide range of global cultural products and services (Bredin, 2013). Moreover, the broad range of policy rationales for Canadian cultural industries include: media as a public good; national interest and Canadian cultural sovereignty; national unity and Canadian identity; and economic growth, including job creation in cultural industries and addressing weaknesses in markets for specific cultural industries (Bredin, 2013). While recognition of and support for radio has existed since the 1929 Aird Commission, the music industry itself didn’t come under the purview of cultural policy until the late 1970s with the Applebaum-Hébert Commission. If early Canadian cultural policy was marked by an overwhelming preoccupation with both protecting and strengthening Canadian culture and identity through media production and consumption, Applebaum-Hébert marked the decisive shift from cultural to economic emphasis. In particular the policy emphasis narrowed on distribution, focusing on how music is heard and accessed, and what impact that has on growing local talent and sustaining local industries. As American popular music was dominating the airwaves, there was hardly any room — any shelf-space — for Canadian music, which in turn lowered the general awareness of Canadian music among Canadian citizens, but also produced a waning interest in pursuing a music career in Canada among musicians who fled to the United States for a chance at recognition and fame. For this reason, in January 1971, the Canadian government made its first meaningful foray into cultural policy in the music industries after it unveiled its Canadian

content⁵ (or CanCon) regulations: as a condition of their license renewal with the Canadian Radio-Television Telecommunications Commission (CRTC), radio stations in Canada were henceforth required to dedicate a minimum of 30 per cent⁶ of their prime-time air time to Canadian music.

Canadian cultural policies are now, for the most part, economic in nature, and in the music industries specifically, a combined regulatory and subsidy approach is employed to support the creation of, and allocation of shelf-space for, Canadian music. But how can this desire to enrich and safeguard Canadian cultural industries be achieved in an era where digital media is borderless? In the mid-1990s, the Canadian government elected not to regulate the internet, and therefore prematurely relinquished the opportunity to regulate the cultural industries as they transitioned to online spaces for distribution and consumption. To what extent, then, can Canadian cultural policy address issues faced by creative workers in cultural industries when that labour predominantly takes place in unregulated, online spaces? As digital technologies increasingly give consumers and producers alike the means to bypass traditional regulatory frameworks, it appears that the failure to regulate the internet in its nascent state has made it impractical — if not impossible — for a regulator to functionally intervene in the present. But

⁵ To ensure that the music played to satisfy Canadian content regulations for radio broadcasting was actually Canadian, the MAPL system was created by Stan Klees and then implemented by the CRTC. Canadian music as defined by the MAPL system, has to satisfy two of the following four criteria: the (M)usic is composed entirely by a Canadian; the music is, or the lyrics are, performed principally by a Canadian (A)rtist; the musical selection consists of a live (P)erformance that is recorded wholly in Canada, or performed wholly in Canada and broadcast live in Canada; or the (L)yrics are written entirely by a Canadian (Bredin, 2013, 11). After Bryan Adams failed to qualify for CanCon with his 1992 hit “(Everything I Do) I Do It For You” he set in motion an “extraordinarily acrimonious public debate” over state regulation of popular music in Canada (Wright, 2004, 83). The rules were then relaxed so as to award CanCon status to co-creation/collaboration cases like Adams’.

⁶ In 1999, after a series of public hearings and a review of radio policy by the CRTC, it was decided to increase CanCon regulations to 35 per cent (Shuker, 2003). The change was not meant to reflect a failure on the part of the previous requirement but rather a success on the part of the industry to provide enough viable recordings to fulfill a five per cent increase in requirements. However, Robert Wright (2004) argues that the change is somewhat arbitrary, especially given the fact that major acts — Daniel Lanlois, Céline Dion, Robbie Robertson, and Alanis Morissette — didn’t even qualify for CanCon yet were wildly successful in Canada and abroad (80).

although the traditional regulatory system may not be as successful in addressing market failure⁷ in the digital era, that doesn't mean we cannot envision a system that takes into account the unique characteristics of cultural production online.

The availability of digital distribution and marketplace platforms, it is argued, allows contemporary artists to bypass the traditional recording industry and its middlepersons by uploading content to these platforms and selling directly to their fans and listeners. Because of their access to these digital platforms, it is purported that musicians no longer need to secure a recording contract to gain access to necessary distribution and promotional resources because they can do this themselves. But un-intermediated access to the means of distribution and promotion doesn't mean that the tasks, skills, and labour required to do so disappear. Elimination of middle-persons, or disintermediation, means that a growing number of musicians perform more and more tasks that were once carried out by intermediaries. Increasingly responsible for promoting, recording, distributing, and selling their musical wares, it has therefore become progressively more difficult to separate creator from promoter, artist from distributor. My research interrogates this phenomenon by tracing the contours within which Canadian emerging musicians create, distribute, and ensure the consumption of their music online. More specifically, my project poses the following questions: To what extent have digital distribution and marketplace platforms changed or reshaped musician labour? To what degree have these

⁷ Market failure refers to the the notion that, in Canada, our small markets cannot support enough of our own domestic media products to generate adequate profits (Bredin, 2013). Media economists define market failure “not as the lack of commercial success of media content, but in a larger sense as ‘the failure of the market as a whole to do what markets are presumed to [do] best that is, to lead to the best possible outcome for the greatest possible number of participants’” (Grant & Wood, 2004, 58, in Bredin, 2013, 12). The U.S., for example, has a population ten times greater than that of Canada but our geographic landmass is nearly twice the size. Given our proximity to the U.S., our small, dispersed population clustered near the border, and shared common language, it's easier — and cheaper — for Canadian stations to buy the inexpensive rights to air American content instead of undertaking the highly expensive and highly risky effort of making original Canadian content. It is for these reasons that the Canadian government has intervened, especially at an economic level, in ensuring and fostering the production, distribution and consumption of Canadian-made media products.

platforms, and the cultural and political responses to them, re-articulated the music production landscape within Canada? What are the implications of these changes for public policy?

Theoretically, my research is framed by a critical political economy of communication and culture (CPE). In this instance, CPE offers a particularly good theoretical lens as it works to decentre media products as the object of analysis and helps to elucidate the broader political, economic, and social factors that enable and constrain the work of musicians. While some scholarly accounts are optimistic about digital media's potential to facilitate openness and accessibility, and to disrupt the old notions of top-down production and consumption (Jenkins, Ford & Green, 2013; Bruns, 2008; Beer, 2008; Jenkins, 2006), others are more critical and maintain that the corporate structures that undergird these platforms are suspect to say the least (Meier, 2017; Dyer-Witheford, 2015; Huws, 2014; Morris, 2015; Taylor, 2013). The CPE lens thus allows for a decidedly sober assessment of change within the music industry. However, addressing some of the known shortcomings of CPE (including, at times, a failure to address the specific roles of creative workers within the cultural industries, and the lived experiences of those workers) I employ a cultural industries framework alongside what is otherwise a more traditional critical political economy framework. For this, I turn to David Hesmondhalgh's (2019) invaluable assessment and explanation of what he terms "the cultural industries approach." While firmly grounded in a critical realist tradition, the cultural industries approach is interdisciplinary in nature, and borrows methods from critical political economy of communication and culture, sociology of culture, and cultural studies. Moreover, Hesmondhalgh's (2019) approach highlights the importance of recognizing contradictions within the cultural industries, of recognizing the presence of continuity *and* change; of structure *and* agency; and of exploitation *and* pleasure. While it is undeniable that change within cultural industries regularly occurs, it is important that

we ask the extent to which these changes are actual epochal shifts, as there are many continuities that remain alongside much-celebrated change. Hesmondhalgh urges scholars to be wary of falling into a neophilic trap of innovation idolatry, and encourages his fellow researchers to stay grounded by keeping a strong eye toward patterns of continuity and change throughout the history of specific cultural industries, such as the music industry. But how does one assess continuity and change? According to Hesmondhalgh (2019), it requires an understanding of the complex intermeshing of economic, political, and cultural power drawn from a CPE tradition; a sociological analysis of what happens inside cultural production and how this might shape different cultural experiences; and an understanding that social and cultural theory provide an explanation of the complexity and importance of culture — including its relationship to power, inequity, and social justice.

Conceptual Model: The Artist-as-Intermediary

Built upon Pierre Bourdieu's (1984) concept of the cultural intermediary, my project puts forth the concept of the artist-as-intermediary to examine the phenomenon of conspicuous complexity, of continuity and change within music industries. For Bourdieu, a cultural intermediary is a class of cultural worker, but not an artist; rather, a cultural intermediary is a tastemaker, someone working at the intersection of culture and economy whose primary goal is to legitimize the commodity, and thus give it value — both economic and symbolic. For Devon Powers (2015), cultural intermediation is therefore “the process by which art, music, and other forms of cultural production circulate, assume meaning, and gain value,” as well as “a dynamic process of circulation that involves, people, symbolic forms, and objects as much as it involves the modes of transportation and transmission that allow these elements to be linked” (122). That is to say, intermediaries are the workers who come between creative artists and consumers (or, more

generally, between production and consumption). According to Keith Negus (2002), the concept of the intermediary, and intermediation more broadly, “challenges us to think about the reciprocal interrelationships of what are often thought of as discrete ‘cultural’ and ‘economic’ practices” (cited in Powers, 2015, 122). Working between production and consumption, these intermediaries traditionally unburdened musicians of their need to think about the commercial aspects of music production, thus permitting them the freedom to focus on creative endeavours. In their work on cultural intermediation in indie games, Felan Parker, Jennifer Whitson and Bart Simon (2018) build upon Negus’ definition, and explain that the articulation work performed by intermediaries — the “work that enables work” — is often tedious, unremarkable, and routinely invisible (1962). Within their respective industries, however, these intermediaries and the various tasks they do, are often well-recognized, but it is consumers who remain mostly unaware of intermediaries and the specific activities they engage in.

Throughout music industries’ stuttering progress in the late 1990s and early aughts, “musicians were pushed to be entrepreneurs,” forced to reach out to the audiences that the mass distribution and consumption of music had distanced them from in the first place (Baym, 2018, 26). And as digital technologies continue to open the gates of access, discourses about their ability to catalyze the lowering of the barrier to entry have become increasingly widespread. By removing routinized business-practices involving middlepersons, disintermediation, it is argued, accords musicians greater access to the means of production and distribution. In its most extreme form, disintermediation would essentially result in de-industrialization, allowing creative labourers complete and unlimited control over all facets of the creative process (Jones, 2002, 223). In reality, the level of disintermediation we are currently experiencing is considerably more tempered, but many musicians are undeniably enjoying greater control over the means of

production, distribution, and promotion; often achieved by using a web of internet platforms to reach audiences and distribute wares, disintermediation has created more direct links between musicians and fans (Galuszka, 2015). Altogether, the presumed advantage of disintermediation, aside from greater and more direct access to fans and consumers, is that musicians will have greater creative independence and autonomy. Without needing a record label to find them an audience means that musicians (should) make more money; even if record sales are low, the fact that there are fewer people intervening in the process and taking a percentage of the revenue means that musicians should see greater profit (Galuszka, 2015). Indeed, within our current era, it is frequently argued that musicians armed with nothing more than a laptop and an internet connection can write, record, distribute and promote their own music without being fettered to a label.

Free from label constraints, artists can autonomously create and independently sell their music, but “in the digital field of cultural production,” Cecelia Suhr (2013) writes, “artists have not one but many roles, which include being self-promoters, distributors, creators, and advertisers” (21). The freedom that comes with being label-less is somewhat of a myth. The artist may be free from a label, but they are also free from support, from industry connections, and from insider knowledge. Now, in addition to the work required to make music, Suhr continues, “new types of labour are emerging in the digital field of cultural production,” and, “unlike the traditional roles of agent and manager, who represent the artist, the artists often do the work themselves in the digital field” — and for free (22). In order to meaningfully pursue a professional career as a musician in the digital era, one therefore requires “an array of nonmusical interests and skills in business, technology, and most of all, relationship building,” something many musicians and others in the music industries “neither have nor want” (Baym, 2018, 69). In this

light, the claims made by those touting the emancipatory power of disintermediation appear rather chimeric: while there have been many outward changes to the industry's appearance and structure, many of the tasks required to make the industry function are still necessary, they're just increasingly performed by less and less people — namely, the musician. The artist-as-intermediary is therefore a concept that articulates how contemporary musicians are dual figures, both economic and cultural in nature, and expresses the intermeshing of creative, social and entrepreneurial labour that emerging musicians undertake to make a living.

Historically, within the music industry, the coterie of cultural intermediaries performing this mostly invisible articulation work — the work of connecting artists to audiences — has largely consisted of managers, artist and repertoire (A&R) executives, and promoters. A&R in particular has a long and mythic history within music industries discourse as taste-makers and trendsetters responsible for spotting the hottest new music, and signing the right acts at the right time. Aside from cool-hunting and taste-making, however, the work of the intermediary is primarily commercial in emphasis, so cultural intermediaries within music industries could at times more accurately be described as *promotional intermediaries*: their primary concern is to identify a saleable product, a potential audience, an appropriate communications medium, and a message (Davis, 2013). In the digital era, however, intermediaries aren't distinct workers carrying out the necessary tasks of adding value to cultural commodities and connecting production to consumption on behalf of artists; rather, the artist is their *own* intermediary. A hybrid of musician, promoter, distributor, and manager, the artist-as-intermediary writes, and sometimes records, her own music; she aggregates, maintains, and grows a fanbase via ongoing and sustained interactions on social media sites, including Twitter, Instagram, Facebook, YouTube, and TikTok; she circulates her music through digital distribution and marketplace platforms such

as Bandcamp; and she fundraises for herself using microfunding and crowdfunding platforms, such as Patreon and Kickstarter. Indeed, the artist-as-intermediary does all her own creative *and* promotional work, but not to liberate herself from the shackles of the industry, per se. Rather, I argue that the artist-as-intermediary builds an audience in the hopes that she may sell that listenership to a potential record label as valuation of her work. Occasionally, the artist-as-intermediary even employs other intermediaries, including content aggregators, like TuneCore or CD Baby, that arrange to have her music made available on streaming services such as Spotify and Apple Music. The artist-as-intermediary therefore reflects the dual nature of musician labour in the digital era: while the need for the duties traditionally carried out by intermediaries remain prevalent, these tasks are increasingly and predominantly performed by the musicians themselves — musicians who are not *de facto* economic workers, but typically (if not primarily) creative ones.

In referring back to Hesmondhalgh's cultural industries model, I want to stress the continuities of what I'm outlining here, as much as the changes. That is to say, I don't suggest that musicians labouring on their own behalf to make, move, and monetize music is something new or even something exclusive to the digital era; rather, for almost as long as musicians have been trying to make a living through their music, they have in various ways acted as their own intermediaries. The post-punk movement in the 1970s, for example, was specifically rooted in an (at times) anti-commercial and/or anti-industrial ethos that rejected participating in the existing system, and opted instead to form cultural networks of Do-it-Yourself (DIY) production, distribution, and promotion (Jones, 2021; Hesmondhalgh, 1997). This ethos also involved a desire to flatten industry hierarchies, as represented by the label Rough Trade, which was initially run as a co-operative (Jones, 2021; Hesmondhalgh, 1997). Within these particular DIY cultural

networks, musicians were involved in almost all aspects of the making, moving, and monetizing of their music: they put up posters and handed out flyers promoting shows; they often recorded and produced their own records, as well as contributing to the recordings of others; they designed album art, flyers, and posters; and some even participated in distribution, hand delivering records to individual record stores themselves (Jones, 2021; Hesmondhalgh, 1997). Likewise, 1980s American hip hop culture was similarly rooted in a DIY ethos. Anthony Kwame Harrison (2006) characterizes hip hop as a folk music, as a genre of music “which has developed in isolation from the commercial music industry’s geographic centres” (288). As a result of this isolation, and the culture’s location “on the streets,” musicians in this realm also acted as their own intermediaries: they produced and circulated tapes of live recordings; hosted and promoted parties to showcase local talent; organized tape-trading events; and breakdanced and performed on street-corners. These DIY cultures have heretofore represented a *space* of cultural production, consumption and distribution; but in the digital realm, ideas of belonging to a particular genre are less tied to physical *space* than they are to a particular sound, style, or aesthetic. As a consequence, despite a lengthy background of acting as their own intermediaries at numerous points throughout the history of industrialized music, I argue that digitization has extended and intensified this particular practice.

No longer limited to the genre-specific cultural enclaves of post-punk or hip-hop, for example, contemporary musicians of all stripes now act as their own intermediary, and through social media and digital distribution platform use they are indirectly participating in a global DIY music culture. As in previous iterations of DIY music culture, the experiences of the artist-as-intermediary in the digital era are mixed: it is a practice that is at once enjoyable *and* unpleasant. Throughout my research I was able to identify eight characteristics of artists-as-intermediaries

that reveal the complex nature of their working lives in the digital era, making space to consider the continuities and changes, the pleasures and pitfalls that they experience as a result (see Figure 1.1). Similar to post-punk and hip hop DIY cultures, some of the pleasures of artist-as-intermediary labour involve being independent, and somewhat autonomous: the artist-as-intermediary self-manages, meaning that they control their schedule and independently make business decisions for themselves; they also self-promote and are personally responsible for — and in control of — their brand and public image; the artist-as-intermediary administers their own platform use, and sees greater returns on the sale of individual goods (such as downloads and merchandise sold on Bandcamp) because fewer intermediaries intervene in the process; and finally, they also enjoy direct engagement with fans and consumers, harkening back to the pre-industrialization of music, where musician-fan connections were more direct and unmediated.



Figure 1.1
The eight characteristics of the artist-as-intermediary.

Unfortunately, the artist-as-intermediary also endures pitfalls. In addition to enjoying independence and autonomy, they experience insecurity and exploitation, as well: artist-as-intermediary independence comes with tremendous financial risk as they operate without meaningful support from a label; and without structural support, many artists-as-intermediaries, even successful ones, are multi-jobbing, working a part- or full-time job to help support themselves and keep a roof over their head, and often to finance their musical career goals. The artist-as-intermediary is therefore a precarious figure, one whose independence may at first blush appear liberating, but is actually one highly dependent on chance, and for whom being untethered to even the most basic and fundamental supports offered by waged labour, like employment insurance, makes working life uncertain and, at times, perilous. Finally, artists-as-intermediaries are consistently under-paid, exploited by not only the platforms who profit from their music's availability via the service, but also the labels or aggregators who license that music without paying the musician directly. In many ways then, it is the presence of and dependence on platforms — for socializing, promoting, distributing, selling and consuming music — that both intensifies and distinguishes artist-as-intermediary labour from its earlier, more industry-resistant forms.

So, has digitization indeed enabled access to emerging and aspiring musicians? Or does the industry continue to exploit them? Does access to digital tools facilitate agency for musicians? Or does the presence of these new platforms and services merely suggest a restructuring of the industry? Suffice to say, it's complicated. This dissertation untangles and answers these questions through an in-depth examination of emerging musicians acting as their own intermediaries, writing, distributing and promoting their work: artists-as-intermediaries. Smith Maguire and Matthews (2014) argue that, "thinking with cultural intermediaries is fruitful for investigating the

present and future intersections between production and consumption, and economy and culture” (11). Likewise, Devon Powers explains that “cultural intermediation is an eminently useful way to explain the emerging contours of popular music production, distribution, and consumption” (Powers, 2015, 123). David Hesmondhalgh and Leslie Meier (2016) also argue that the music industry is often the test field for new technologies and, for this reason, is a productive site for examining the increasing power possessed by the IT sector. Additionally, because the artist-as-intermediary speaks to the dual nature of the contemporary digital artist, a simultaneously cultural and entrepreneurial independent individual, the model can be applied to future research devoted to studying the work of a wide range of creative professionals who use platforms to popularize and monetize their creations, including visual artists, graphic and web designers, writers, filmmakers, poets, game developers and more. And if, as gig workers, musicians have been the vanguard of the new employment economy for decades, it’s reasonable to assume that the artist-as-intermediary could offer a potential conceptual blueprint for analyzing the future of independent and entrepreneurial (cultural) work.

Methodology

If one wants to analyze the cultural industries in any meaningful, scholarly way, adopting a reflective methodology is paramount. In the introduction to their 2011 collection *Cultural Industries.ca*, Ira Wagman and Peter Urquhart stress that scholars of cultural industries must be cognizant of the tools they use and the objects they study when making claims to “doing research” on the cultural industries. They argue that the approaches for conducting research in the cultural industries are necessarily interdisciplinary and eclectic and that, because of the unique nature of these industries, we as scholars must be attentive to the wide-ranging needs of our object(s) of study. Accordingly, they encourage scholars to draw from an extensive array of

sources when sketching the contours of any one cultural industry, recommending that researchers prioritize the collection and examination of “policy reports, annual financial statements, research by private firms, newspaper accounts, demographic information, marketing theory,” and more (12). They endorse a research approach like that of David Hesmondhalgh, who confidently mixes aspects drawn from cultural studies, sociology, communication studies, and political economic approaches to media in his cultural industries approach. And when considering the very specific qualities of the Canadian context, Wagman and Urquhart (2011) argue that an abundance of data on the cultural industries are “collected and made available” to the public in various forms, such as “Statistics Canada reports, or reports of the CRTC, or [...] studies from Royal Commissions, or Senate reports” (11). Data of this kind provides an unparalleled glimpse into, and gives material form to, the often-abstract notions of production, distribution, and consumption within the cultural industries.

Methodologically, I therefore take a twofold approach: I combine a critical political economy of communication and culture (including document analysis, historical research, and market analysis), with a cultural industries approach (which includes semi-structured interviews and an examination of the lived experiences of creative workers in cultural industries). Grounded by the concept of the artist-as-intermediary, this project outlines the socio-historical context of the development of digital distribution and marketplace platforms, and identifies the extent to which these platforms emancipate or exploit emerging musicians. This dissertation therefore contributes to a growing corpus of research focused on the emergence of digital technologies and their impact upon the production, distribution and consumption of new music, but also the cultural industries and creative labour more broadly. The project also draws on document analysis and interviews, and emphasizes a combined macro- and micro-approach; scrutinizing

the institutional arrangements governing the production, distribution, and dissemination of new music, and comparing that with the lived experiences of musicians as conveyed to me during interviews. Despite their differences, the CPE and cultural industries approaches for studying musician labour in the digital era are not at odds with one another, but rather complementary. Specifically, CPE and the cultural industries approach share four key characteristics: a dedication to historical materialism through an emphasis on examining social change (and continuity); an emphasis on approaching cultural industries not as isolated objects but as one part of the larger the social totality that is connected to and influenced by economics, culture, and politics; an emphasis on moral philosophy, and a general commitment to practicing social theory that necessarily assesses the moral implications of a situation, and how it might impact society as a whole; and, finally, a commitment to social justice, and to putting theory into practice through praxis.

Methods

Document Analysis

Drawing on a wide range of legal and policy documents, this project begins by sketching out the Canadian political landscape in the late 1990s, explaining the Canadian Recording Industry Association's (CRIA)⁸ response to the ways new technologies were re-articulating the modes of production, distribution and consumption of music at that time. In particular, it examines an array of legal documents pertaining to the proceedings surrounding illegal downloading in the

⁸ The Canadian Recording Industry Association (CRIA), now called Music Canada, is an industry organization that represents Canada's major record labels, including Sony Music Entertainment Canada, Universal Music Canada and Warner Music Canada. Their mandate is to advocate "for a healthy and vibrant Canadian music ecosystem which includes labels, performing artists, publishers, songwriters, managers and others" (Music Canada, 2021). The association, and others like it, including the Recording Industry Association of America (RIAA) and the British Phonographic Industries (BPI), represents Canada's recording industry to government/public agencies regarding legislative/regulatory matters; represents the Canadian recording industry internationally as a member of the International Federation of the Phonographic Industry (IFPI); conducts research about Canada's music industry that it shares publicly; and more (Music Canada, 2021).

late 1990s and early 2000s, in Canada and the United States, and compares the two outcomes. In the latter portion of the dissertation, recent music industry reports, such as the 2017 Music Canada report on *The Value Gap* and the 2019 Music Canada report on *Closing the Value Gap*, are evaluated for their commentary on the state of the industry in the streaming era. These particular reports argue that there exists a gap in the value of music being made and consumed, and that specific policy interventions are required to correct it. Likewise, the 2019 *Shifting Paradigms* report from the Standing Committee on Canadian Heritage on Remuneration Models for Artists and Creative Industries, and the 2019 *Statutory Review of the Copyright Act*, have been selected for examination because they express a shared commitment to better understanding the challenges and opportunities brought by digitization, and to identifying what needs to be done to ensure that the Canadian cultural industries and workers remain strong in the future. The *Shifting Paradigms* report, for example, discusses the cultural industries with a specific emphasis on examining and improving remuneration models for artists and creative industries, including rights management and the challenges and opportunities of new access points for creative content. The *Statutory Review of the Copyright Act* is much more broad in scope as it covers all aspects pertaining to Canadian copyright law, but several of the recommendations nevertheless intersect directly (or indirectly) with the experiences and needs of those working in the music industries, especially the issues pertaining to safe harbour exemptions and artist remuneration. I want to stress that is not my intention or goal to “isolate texts and practices from their material context,” rather, in the vein of critical sociologist Simone Browne (2009), I want “to explore the ways in which texts and practices are produced by, and are constitutive of, relations of power,” especially documents endowed with the power to influence policy and legislation (141).

Interviews

While the CPE approach has at times been criticized for failing to consider the agency of its research subjects, my project mitigates this particular shortcoming by employing cultural sociological methods: in-depth, semi-structured interviews. So in addition to the extensive document analysis outlined above, I conducted eight semi-structured interviews with emerging Canadian musicians who rely on digital distribution and marketplace platforms (Hesmondhalgh and Baker, 2011; Campbell, 2013; Fauteux, 2015; Meier, 2017; Baym, 2018). I use a semi-structured interview format in order to “make better use of the knowledge-producing potentials of dialogues” (Brinkmann, 2018, 579). That is to say, “in the process itself, rather than hiding behind a preset interview guide,” I use a flexible interview structure to allow for a freer flow to the dialogue, one that permits me to pursue follow-up questions (579). It is therefore my intention to use these interviews as a supplement to the knowledge I gain from a wider set of discourses, and to mobilize them as “descriptions of *how* interviewees experience their world, its episodes and events” (Brinkmann, 2018, 580). The interviews do not form the basis of this research project itself, but are constitutive of it, a necessary component for understanding the immensity the changes wrought by digitization in music.

Selection Criteria

Potential interview subjects were required to be English-speaking Canadian adults aged 18–65; who identify as unsigned/independent musicians; from Vancouver, Montréal or Toronto⁹; and who use digital distribution and/or microfunding platforms to sell/distribute/support their music. Ultimately, because I am interested in understanding how emerging musicians navigate and labour within the digital realm, it was imperative that I include only those musicians who: a)

⁹ I selected these three cities in particular because these are the country’s three largest cities, and music centres, which provide a sampling of West Coast regionalism, Southern Canadian regionalism, and Montréal regionalism.

rely on these platforms for remuneration, b) rely on these platforms to sell/circulate/support their music, and c) do so without major label support. I therefore excluded those who might be considered hobbyists, or who are not actively selling their music.

Recruitment

I employed purposive sampling and recruited potential interview subjects directly from Bandcamp. While I had intended to use Patreon and TuneCore to recruit as well, in the end I only used Bandcamp because the other two platforms do not make their users public. While Patreon used to be searchable and had a discovery page for patrons to find new artists to support, by the time I began the recruitment process, for reasons unknown, their website and approach had changed and that feature was removed. Now, one can only locate the specific individuals they know to be using Patreon by visiting their individual Patreon pages, rather than using key words to generate a list of potential artists to explore and possibly support. In any case, using Google, I was able to cross-reference the list I generated from Bandcamp to see which artists were also using Patreon, and several were.

On Bandcamp, I looked for interview subjects by searching for music tagged with “city” (e.g., Toronto, Montréal, or Vancouver). Because that produced several thousand results, I elected to narrow the pool of prospective interviewees by searching for music tagged as “all-time best selling.” This generated a list of results that consisted of musicians who were a) using Bandcamp to make a living, not as a hobbyist, and b) were experiencing success in doing so. This helped produce a manageable pool of potential active participants, and ultimately generated a list of 16 musicians/groups per city, for a grand total of 48 potential recruitment contacts. From the list of 48, I had to eliminate soundtracks and compilations, as well as podcasts, because they do not fit the specific search criteria outlined above. I also omitted exclusively French language music. It is

important to note that the omission of Francophone singers/artists does not reflect a dismissive mindset about French-Canadian music and musicians. Quite simply, because I only have a functional knowledge of the language, I wouldn't be able to adequately conduct an interview with a Francophone musician.¹⁰ Additionally, I had to eliminate musicians/bands who were no longer active — two out of the 48 were deceased, and two were no longer working. Finally, the potential interview subjects actually had to be from the cities selected: one group was listed as being from Toronto, but upon further examination, it turned out they were in fact located in Pittsburgh, Pennsylvania. Some of the artists I interviewed had relationships with record labels, but didn't necessarily describe themselves as “signed” to that label, meaning they had working relationships on promotional and/or distribution levels, but were not actively represented by that label. All identified, in some way or another, as being an independent artist, but these definitions change depending on individual perspectives.

After filtering the results, I had 28 potential interviewees remaining and, on August 14, 2019, I used a prepared script (see Appendix A for Email Recruitment Script and Appendix B for Informed Consent Form) to contact them via email or directly through their Bandcamp page. Of the final 28 prospective interview subjects, there were some relatively famous artists who I didn't expect to hear back from, such as Toronto's Alvays and Vancouver's/Montréal's Grimes. In total, I heard back from 12 out of the 28 contacts, and eight eventually agreed to being interviewed (see Appendix D for List of Anonymized Interview Participants). Given the relatively

¹⁰ The Québec marketplace, and Québec cultural policy, are unique and require a level of knowledge and specificity I simply do not possess. Nevertheless I take seriously the needs and issues faced by Francophone musicians, but am limited in service as I cannot sufficiently communicate with these musicians, nor can I competently navigate French-language policy texts. For a thoroughgoing English-language examination of youth cultural labour in the cultural industries in Montréal, see Chapter 6 of Miranda Campbell's *Out of The Basement: Youth Cultural Production in Practice and in Policy* (2013). Furthermore, Nathalie Casemajor, Guy Bellavance, and Guillaume Sirois (2020) provide a rich analysis of the successes and failures of Québec cultural policies responses to the digital age. Importantly, they identify Québec's unique position in Canada, arguing that it is “distinguished from the other provinces by the breadth of its cultural intervention, which rivals the federal level in its ambitions” (4).

small sample size it is important to note that the interviews do not, are not intended to, form the basis of my research but rather act as a supplement to what is otherwise a cultural industries and political economic analysis. The sum of their responses cannot, and are not meant to, be representative of musician experiences on the whole, but they can illustrate and bring nuance to a discussion of broader trends within and among cultural industries and musician labour.

Sample

In total, I interviewed four musicians from Toronto, two from Montréal and two from Vancouver. The majority of the interviewees were well-educated, and all had at least completed some post-secondary education, even if they didn't finish the program they enrolled in. Three respondents specifically studied music, but the majority did not. While there were no specific demographic questions posed, many demographic details about the participants were revealed organically throughout the interview process; seven out of eight interviewees self-identified as white Canadians and one participant identified as Nigerian-Canadian; and two participants identified as women whereas the remaining six identified as men. In terms of employment, the participants were quite varied. Four participants worked a full-time job outside of music, but nevertheless considered music to be their top priority. One participant worked a number of different jobs in addition to touring as a guitarist with several different bands, including being a music teacher and a warehouse worker; one participant worked in an adjacent industry, and is employed full-time at Bandcamp managing their SEO; and the remaining interviewees worked in extremely varied fields, such as industrial lighting sales, advertising and marketing, and curator at a museum. The genres for each interviewee also varied widely: two participants were in metal bands, one was a jazz crooner, one was a roots and country guitarist, one was an indie drummer, one was an Afrobeat performer, one was an electronic musician, and one was a folk singer-songwriter. The

interviews lasted between 35 and 75 minutes, were audio-recorded, and manually transcribed. Subjects were interviewed based on the following themes: the pleasures and pitfalls of working life for musicians in Canada; compensation or lack thereof; expectations for work/life balance as a musician; use/enjoyment of social media; and the use/enjoyment of the key platforms being analyzed (see Appendix C for sample interview questions.). Their responses throughout are anonymized, and each interview participant is represented by a different letter of the alphabet, assigned in order of the sequence in which the interviews took place (see Appendix D for Anonymized List of Interview Participants). Participants were guaranteed anonymity to encourage them to feel unembarrassed to share personal details about making money (or struggling to) and to feel unencumbered by future business arrangements should the participant want to speak critically of some aspect of their working life or industry experience.

Discourse Analysis

The interview transcripts were analyzed discursively to identify how emerging musicians frame their own practices as creative labourers in the digital era. For this, I used Foucauldian discourse analysis (FDA), rather than critical discourse analysis (CDA), to study language, and its role in constructing social life. According to Jonathan Potter (2008), FDA is more commonly used to work with interview material and should not be confused with post-structuralism or Foucault. Foucault specifically rejected the kind of focus on meaning that is commonly associated with FDA, therefore the approach is more so inspired by his notions of structure and power, rather than an example of strictly applying them. The insights drawn from this analysis are woven throughout the chapters and are used to compare the ways musician labour is framed by individual musicians, in the various platforms' "how to" guides and blogs, and in policy discussions and documents. Finally, to illuminate how musician labour is framed within popular

culture, a secondary discourse analysis of popular and critical press is undertaken, with the results similarly woven throughout the entirety of the dissertation. I used two methods for collecting and culling my press sources. For older sources covering the Napster-era discourses, I used the Nexis Uni and Canadian Business and Current Affairs (CBCA) databases to search for legal documents, trade articles, and press coverage of the specific legal cases, and of digitization, MP3s, and Napster more broadly between the years of 1997 and 2007, using the following keywords in various combinations: CRIA, RIAA, MP3, Napster, and Demonoid. In total, I had 151 news articles pertaining to the Canadian cases and, after removing duplicates, was left with 108 sources; for the American context, after following a similar culling method, I nevertheless yielded 495 results, so I decided to sort by relevance, and then selected the first 100 articles for analysis. For more contemporary discussions, I employed a Google alert for the platforms I am studying (Bandcamp, Patreon, Tunecore, and Spotify) between September 2017 and January 2021, and received hundreds of results. I filtered through the various results by relevance and discarded or omitted any irrelevant articles. On occasion, in an effort to answer a specific query that emerged in results drawn from the discourse analyses, I would employ specific searches, using either Google or the CBCA database to find clarifying or relevant sources.

Literature Review

Dominant Perspectives: Digitization and the Music Industry

Theoretical and expository analyses regarding digitization's impact on the music industry remain focused on the ongoing transmutations happening not only to the (mostly American) music industry's external appearance, but to its internal structure as well. Scholars Reebee Garofalo (1999) and Simon Frith (1999) each provide a richly detailed historical overview of the industrialization of music leading up to the digital transformation of the recording industry.

Garofalo and Frith separately provide historical accounts of the transformation of the musical object from a form of expression into a global industrial commodity, with a particular emphasis on the role technological innovation plays in this process. Garofalo (1999) specifically traces the contours of the history of the music industry and recorded music, and segments it into three key phases, beginning with the first copyright laws in the 18th century and Edison's gramophone in 19th century, and concludes with the 20th century and the MP3, the 1998 Digital Millennium Copyright Act, and Napster's launch in 1999 (see Figure 1.2). In the first phase, the power center of the industry was occupied by publishing houses, when sheet music was the primary mode for

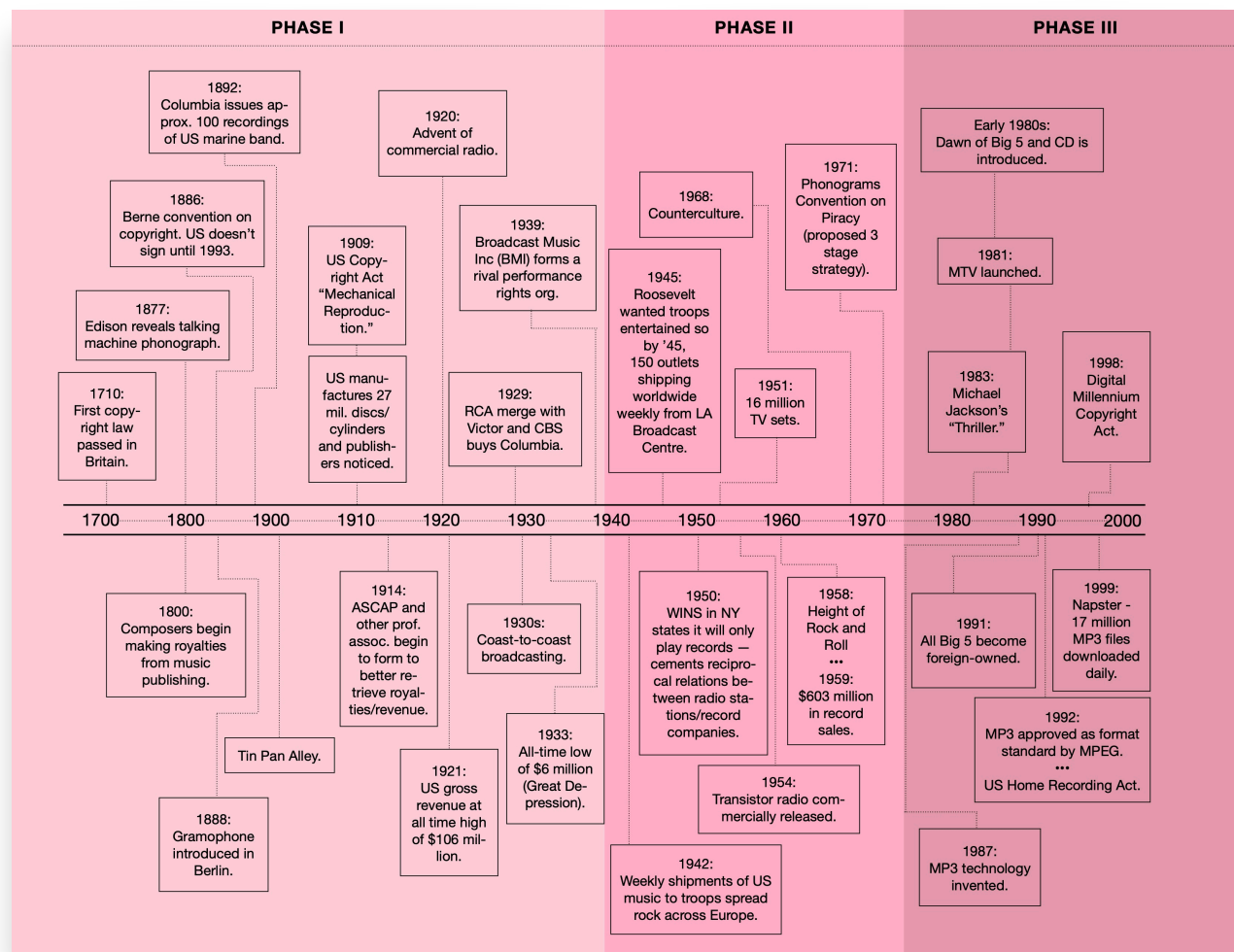


Figure 1.2
Timeline of Reebee Garofalo's (1999) three phases of music industry history.

disseminating and monetizing popular music. In the second phase, recorded music became the preferred commodity form, and record companies assumed the locus of control. Garofalo's third and final stage is the period that concludes when digital music is just developing as a possibility. While my project remains focused on the past two decades (1999–2019), these early historical accounts chart the continuities and permutations within the industry following various format changes and leading up to digitization. My project builds from and contributes to these historical accounts by tracing the contours within which contemporary musical production, distribution, and consumption occurs in Canada.

Journalists Steve Knopper (2009), Greg Kot (2009), and Stephen Witt (2015) have also written detailed histories of the (American) industry crash, emphasizing the origin of the MP3 and how the format revolutionized the distribution and consumption of popular music. The well-researched histories captured in these books usefully demonstrate that most of the technologies that have shaped music consumption in the contemporary era were developed and established by IT and engineering companies. Likewise, Jonathan Sterne (2013) and Jeremy Morris (2015) have also contributed expert theoretical accounts of the MP3 and the digital music commodity respectively, but their work is at times too moored in the social and technical history of the format, and thus overlooks some of the political and economic factors governing the production, distribution and consumption of MP3s. As such, to maintain a focus on the political and economic factors undergirding the digital transformation of the music industry, the literature I primarily draw from is best described as Neo-Marxist.

David Arditi's (2015) *iTakeover*, for example, describes the profound shifts the political economy of the music industry has undergone as a result of the digital distribution made possible by information and communications technologies, such as file-sharing platforms. While his work

is largely focused on a macro examination of changes within the industry, he does scrutinize the impact digitization has had on the musician as labourer. Central to the piracy panic narrative forwarded by the RIAA, he explains, is the notion that file sharing hurts musicians. But, he asks, how is musician labour exploited? Arditi suggests that because musicians are often labelled as artists, “their labour tends to be disregarded as inherently different from other workers” (73). That is to say, music careers are often framed as passion work, as work that isn’t “work” but rather leisure you get paid for. His research provides useful insights into the industry’s exploitation of musicians but doesn’t grant much agency to musicians: he doesn’t take their subjective experience into account, something that I mitigate by conducting interviews with musicians. It cannot be understated how much influence Arditi’s work has had on my own. The dissertation is in many ways in active dialogue with his work, not in a dialectical sense per se, but in agreement with and extending his logic, applying the specific observations and perspectives he makes about the mobilization of the piracy panic narrative in the U.S. to the Canadian context, and augment it with first-hand musician experiences shared with me in with interviews.

Adopting a similar critique in *Unfree Masters*, Matt Stahl (2013) scrutinizes the ways in which successful musicians are represented to us as paragons of autonomous self-actualization when, in reality, “the successful artist is a double-figure” (2). A musician, he argues, “is a symbolic figure offered for our consumption who enacts forms of expression,” but also a political and economic actor, a working person, “whose contractually governed relationship to her company is sometimes one of real subordination” (2). Of course, this subordination is intensified along intersectional lines as well: race, gender, class, ability, and ethnicity play an important role in a musician’s ability to successfully and satisfactorily negotiate their contract. As workers, musicians are a valuable site for examining the future of work. Indeed, Stahl argues that recording artists

point simultaneously to the future of work and exemplify the individual autonomy promised by neoliberal ideology. Stahl's work is vital, to be sure, but his emphasis on contracts and copyright results in a minor blindspot: he overlooks emerging musicians — those without contracts or meaningful copyright to exploit. As a result, I build upon Arditì's and Stahl's critical work, but devote significantly more attention to the under-studied emerging musician — the artists outside the industry — and the efforts they make to break in.

In *Popular Music as Promotion*, Leslie Meier's (2017) critical treatise of the music industry throughout the period of digitization, provides a productive starting point for my research. She argues that, while Napster was busy courting the contempt of copyright owners by leading the charge in facilitating peer-to-peer file sharing, the music industry and promotional industry¹¹ were quietly eloping; and the marriage between promotional industries and music industries, she suggests, has strengthened their respective positions. While “we may see considerable music production ‘from below’” in the digital era, “much of music's monetization still comes ‘from above’, as a handful of corporations continue to monopolize profits” (Meier, 2017, 13). She concludes that an unfortunate consequence of the increased access to sound recordings and distribution technologies in the “new” music industries is that “more recording artists are competing for fewer dollars” (15). Although her analysis of the changes within the industry over the past two decades is extensive — especially her important research on the legal framework around music and issues of copyright — it isn't until her concluding chapter that Meier acknowledges that these changes have had an impact on musician labour. She does, however,

¹¹ Broadly speaking, the promotional industries are made up of a constellation of business preoccupied with the promotion of branded and unbranded messages, including advertising, marketing, public relations, political communication, journalism, and more.

indicate that there is a need to take up an analysis of musician labour in the digital era for future research — a call taken up in this project.

These sources are indispensable for their research on the digital transformation of recorded music, the American industries' responses to these changes, and their combined impact on musicians and fans. This research, however, is predominantly rooted in an American context, and as a result, overlooks some of the more specific and unique aspects of the Canadian context that I draw attention to in my own research. The corpus of research whose sights have remained trained on the Canadian music industry and its policy is slight to say the least – but that seems to be changing. In December 2018, for example, The Cultural Capital Project (led by Brian Fauteux, Brianne Selman, and Andrew de Waard) jointly submitted a report to The Standing Committee on Industry, Science and Technology for the Statutory Review of The Copyright Act. The report made a series of recommendations that would help “protect a vibrant and diverse Canadian artistic community, while providing more opportunities for independent creators to share in the profits from the industry” (6). Specifically, they suggest more direct support for musicians through policy and funding, limiting copyright term extensions, and addressing issues of intense market consolidation. In concert with this, my own research on digitization and the music industry will prioritize the Canadian context.

Dominant Perspectives: Labour in the Cultural Industries¹²

As I indicated above, in more industry-focused approaches, such as the Schiller-McChesney tradition of political economy for example, symbol creators are often absent. To remedy this shortcoming, in my own research, I employ the cultural industries approach. This approach constructively places workers in the analytical picture, by drawing upon methods from the sociology of culture to emphasize the conditions facing these workers as a result of the processes — old and emerging — that structure their existence. Furthermore, the approach encourages scholars to identify patterns of continuity *and* change within the cultural industries, instead of being swept up in the excitement of the digital sublime; or, conversely, suggesting that digitization is purely an extension of corporate control and capitalist ideations. Identifying contradiction within the cultural industries, Hesmondhalgh writes, is “absolutely fundamental to understanding what has happened during the first two decades of the twenty-first century” (265). In this final portion of the review, I narrow my focus to explore labour within the cultural industries in the digital era.

Like the music industry analyses described above, the wide-ranging phenomenon of “digitization” and the ongoing sedimentation of neoliberal ideologies and policies within the cultural industries have pushed contemporary scholars into a lively debate about how to best define or conceptualize creative workers today. To present-day lawmakers, businesses, and

¹² Throughout this dissertation, there is at times, what might appear to be slippage in my use of the terms “creative industries” and “cultural industries” but this is largely due to quoting materials that prefer the designation of creative industries over cultural industries. Because I align my research approach with the cultural industries approach forwarded by David Hesmondhalgh (2019), I use the term “cultural industries” in lieu of “creative industries” because creative industries tends to be more wide-reaching in its definition of creativity, and might therefore include hairdressing, tattooing, and cooking — activities that the cultural industries approach may not consider part of its purview; by contrast, cultural industries, is more conceptually dedicated to understanding particular industries in their own right, but also their connection to and relationship with broader related industries of culture, including film, television, music, book publishing, theatre, and more. From my perspective, I distinguish between the cultural and creative industries by noting that cultural industries are undergirded by copyright law, and are often protected by cultural policy in countries like Canada; in comparison, the broader, service-based creative industries are not necessarily governed/protected by copyright law/cultural policy, such as hairdressing, cooking, or tattooing.

occasionally the popular press, creative labourers have come to represent “the new model worker” (de Peuter, 2014). Innovative, flexible, precarious, and self-reliant, this new model worker possesses all the hallmarks of the ‘starving artist,’ a myth that readily conjures images of a creative genius toiling independently and suffering for the privilege of experiencing self-expression through art. Christian Fuchs and Marisol Sandoval (2013), for example, delineate the contours of one such formative debate between David Hesmondhalgh’s (2013) narrowly defined concept of creative work and Vincent Mosco and Catherine McKercher’s (2008) all-encompassing notion of knowledge labour. While the former emphasizes the importance of recognizing the unique characteristics of creative labour in the cultural industries, the latter make great efforts to include and take into consideration all those whose labour contributes to knowledge production — from authors to librarians, publishers to postal workers. My own research is modelled after that of Hesmondhalgh and will thus deploy the concept of creative labour in an effort to recognize the distinctive qualities of work performed by musicians, including the fact that creative labour is an exemplification of creative expression that contributes to society.

In a close examination of another group of creative labourers, Nicole Cohen’s (2016) *Writer’s Rights*, provides a sharp analysis of “the working conditions of freelance journalists, the political economic and cultural context in which they work, and their efforts to collectively address the challenges they face” (6). Cohen argues that contemporary freelance media workers are best understood through the “multiple contradictions that construct their lived experiences,” most of which she says, “flow from the form of employment under which freelancers labour in contemporary capitalism” (Cohen, 2016, 9). Similar to the musicians described by Stahl (2013), she argues that freelancers are inaccurately represented in the popular press as unencumbered by

a wage-relationship, and free to experience creative autonomy. According to Cohen, what these accounts neglect to cover is that an unanticipated side effect of freelancers' so-called "freedom" is that they must instead submit to relations of intense commodification instead. In other words, freelancers are free to create, but they must orient their work to the market and produce only what will sell should they expect to be remunerated, and in so doing, compromising their creative autonomy in the process. To be successful, like independent musicians, freelancers must also sell themselves, and engage "intently in self-promotion, self-branding, and self-marketing" (53). Cohen's critical framework for independent creative labour is something after which I model my own research, and her perspectives on the double-edged nature of freelance work dovetail nicely with my own examination of the artist-as-intermediary.

Correspondingly, Brooke Duffy's (2017) work on fashion bloggers as creative workers is pertinent to my research. In her analyses of how bloggers self-promote and self-brand via social media, Duffy builds from the cultural sociology of work conducted by Arlie Hochschild (2012/1983) and Angela McRobbie (2016). Duffy deftly combines Hochschild's (2012/1983) *emotional labour* — the work of managing one's own emotions that is required by certain professions — with McRobbie's (2016) *creativity dispositif* — a term that speaks to the widespread transformations in labour and conditions of precariousness in the cultural industries — to provide her own key concept: *aspirational labour*. According to Duffy (2017) aspirational labour is "a mode of (mostly) uncompensated, independent work that is propelled by the much-venerated ideal of getting paid to do what you love" (4). In my own research, I deploy the term labour in much the same way as she does: to capture "the productive, purposeful, task-oriented, and value-generating function" of online activities that, although not immediately compensated, are done with the express intent of generating future paid work (Duffy, 2017, 8). What's most useful to me

in Duffy's research is that, instead of attempting to *define* the specific characteristics of fashion bloggers, she forwards the concept of aspirational labour in order to understand and explain the bloggers' *motivation*, that is to say, the impetus that drives them to pursue this work. Duffy's efforts to more fully explain "aspirational labour" lead her to a close examination of the subjective experiences of her respondents — via interviews — something I reproduce in my own research. Duffy's perspectives reflect the larger consensus among labour scholars that, ultimately, "the hope for loveable work clashes with the realities of capitalist labour" (Sandoval, 2017, 114).

Finally, my project is informed by Nancy Baym's extensive study on musicians and how they reach fans in the digital era. In *Playing to the Crowd* (2018), her key conceptual contribution is the notion of *relational labour* and, like Brooke Duffy, she builds upon Hochschild's emotional labour. For Baym, relational labour "emphasize[s] the relationship building and maintenance at stake in this work, while calling attention to the 'labor' context of work and the concerns about the self and alienation raised by Hochschild and others" (Baym, 2018, 18). Relational labour, she explains, is "the ongoing, interactive, affective, material, and cognitive work of communicating with people over time to create structures that can support continued work" (Baym, 2018, 19). Like Duffy, Baym distinguishes her concept of relational *labour* from relational *work* to emphasize "that even if relationships become voluntary or pleasurable, this kind of relational work is done as part of a job (paid or otherwise) or in hopes of securing one" (Baym, 2018, 20). Baym also defends her emphasis on musicians by articulating their position as "cultural forerunners" (7). I align myself with Baym in this respect and agree that the tensions musicians face as they try to negotiate the boundaries of their relationships with audiences, and the strategies they devise to manage these tensions, "have implications for workers in countless fields as they strive to build and maintain markets for their work" (Baym, 2018, 7). My research builds from her accounts and

assesses how new musicians navigate these waters; if/how they gain access to the industry; and, what support mechanisms are available to them.

Ultimately, music making is a specific cultural endeavour that is markedly different from other forms of creative labour for a number of different reasons. For one, selling music, necessitates the creation of copyright, and an automatic engagement with the copyright legal system, which is not a requirement of all creative labourers. Music making can often be a loud and noisy undertaking, which in turn requires the rental (or securing) of rehearsal space to practice so as not to violate noise by-laws and anger neighbours. Music performance also requires access to a venue for exhibition, because the sale of their primary product (musical recordings) isn't actually how musicians earn their living, it's from performing. Finally, musician labour is specifically known for leading the movement in digital content creation, and for being the historical "vanguard of the gig economy" (Kreuger, 2019, 55). As Alan Kreuger (2019) argues, "musicians are distinguished by the fact that they earn very little income from their most popular product, recordings," which he says makes up no more than 15 per cent of musician income (37–38). When compared to other cultural industries labourers, such as visual artists or fashion designers, for whom the sale of their primary product is among the chief means through which they're remunerated, we begin to see the peculiarities and particularities that necessitate close examination of musician labour, especially in the digital era. Fashion designers can and do design on their own, but likely they will nevertheless need access to some means of production should they want to manufacture and sell a garment, even at small scale; likewise, visual artists can create independently, but will generally look to galleries of various sizes (even virtual ones) to eventually assist in the promotion and sale of their art. Both could achieve fame online and independent from institutional support, like musicians, but what's significant is that they are still

producing a particular *product* that is sold, whereas musicians produce a product, often circulate it knowing they'll see no profit, and do so with the hope of building a fanbase that will instead pay for tickets to see them perform live in the future. Conversely, other live performers, like theatre actors, aren't expected to build a fanbase online that they attract to a physical theatre. Throughout this dissertation, the specificity of musician labour in the digital era, and the needs of musicians specifically, will be brought into sharper focus, as I examine both how musicians navigate the digital environment, and the political and economic structures that enable and constrain musician labour.

Chapter Outline

In what follows, the four proceeding chapters outline how the artist-as-intermediary emerged out of necessity and context in the piracy panic era because the discursive focus primarily remained on the industry and the consumer, not the musician. It proceeds by examining the lived experiences of the artist-as-intermediary during the transformational era of platform praise, and the ways in which the value gap narrative has revived piracy panic and again overlooked artist needs in the streaming era. The dissertation concludes by offering several solutions to address some of the problems regarding musician labour in the digital era raised throughout, including platform unionization, co-operatives, public ownership models, and more. Before turning to the next chapter, however, I outline the the dissertation's remaining chapters in more detail.

Chapter 2, *Piracy Panic Proceedings: American and Canadian Music Industries' Legal Responses to (Unauthorized) Digital Distribution*, outlines the litigious history that immediately followed the introduction and rise in popularity of peer-to-peer file-sharing practices initially facilitated by platforms such as Napster. Using David Arditi's (2015) piracy panic narrative as a guiding conceptual framework, I outline and compare the American and Canadian recording industry

associations litigious responses to file sharing, and argue that the piracy panic narrative was mobilized by industry players to naturalize their aggressive lawsuit campaigns against file-sharing platforms and their users, and to justify this approach as the most productive way to maintain their control over, and preserve their standard of expertise in, the production, distribution, and consumption of musical recordings, while at the same time discouraging future “pirates.” The chapter outlines the recent historical context from which the artist-as-intermediary emerged out of both circumstance and necessity. To begin, I delineate the distinction my use of three key terms: music industry, music industries, and The Music Industry. I then provide a brief historical overview of panic in the music industries, emphasizing the continuity of this panic in the face of technological change, ending with the contemporary piracy panic narrative. Next, the chapter covers the key legal battles surround Napster and early unauthorized file-sharing practices, including RIAA vs Diamond Inc., A&M records vs Napster, Metallica v Napster, and the RIAA’s many (fruitless) lawsuits against average citizens. For the Canadian context, I outline the BMG Canada v John Doe case, the contentious ruling, the CRIA’s Appeal and the CRIA’s final, semi-successful litigious venture: CRIA’s takedown of torrent tracker site Demonoid. Outlining these piracy panic proceedings helps to explain the specific conditions within which the artist-as-intermediary figure emerged, and what particularities it was responding to. Most plainly, it demonstrates how musicians were featured prominently as symbolic figures within the piracy panic narrative, as artists whose fans were betraying them through theft and who the music industry was set on rescuing. Within this context, music industries are positioned as the saviour, but in so doing, the musician is commonly talked about, and rarely gets to speak.

If the historical moment of analysis in Chapter 2 can best be described as a period marked by piracy panic, then Chapter 3 is inversely devoted to discussing a period marked by

platform praise. In *Producer-Oriented Platforms and The Artist-as-Intermediary: Seizing Digital Prospects/Managing Digital Precarity*, I explain the outcome of the various actions examined in the previous chapter, namely that, in the absence of consultation throughout two decades of legal proceedings and policy decisions, the artist-as-intermediary emerged out of both necessity and circumstance. Digital distribution platforms, it is argued, have emancipated artists, enabling more contributors as the tools of production and distribution have become cheaper and more easily accessible. This process is called disintermediation: middlepersons are removed from the supply chain, directly facilitating connections between musicians and fans. The primary objective of this chapter is to explore and scrutinize both the production and practices of the artist-as-intermediary, and the discourses that surround this process. To begin, I define two types of platforms for digital distribution: consumer- and producer-oriented. I then move on to three separate case studies centred around three different types of platforms pertaining to digital distribution: producer-oriented (Bandcamp), micro-funding (Patreon), and content aggregation (TuneCore). To conclude, I draw on the perspectives shared with me by my interview participants, explaining the pleasures and pitfalls they experience first-hand as artists-as-intermediaries navigating the contours of the contemporary digital distribution landscape. Altogether, the chapter argues that the notion of distribution having been radically democratized through digitization is not only deceptive but inaccurate.

Next, Chapter 4, brings us back to the beginning as I outline the revivification of the piracy panic narrative in the platform era, retrofitted for streaming as the value gap narrative. In recognizing the failure of the piracy panic narrative's litigious approach, the value gap narrative instead promotes the music industries desire to rewrite the legal framework that undergirds the production, distribution and consumption of musical recordings: copyright. Once again, the

musician features prominently in the narrative, but only as a symbolic figure, rarely allowed to speak. And, like in the Napster era, I show how the value gap narrative's exclusion of musicians' needs is done so because the narrative is circulated precisely by and for the industry, with the hopes of convincing lawmakers to redefine the copyright system in their favour by tightening regulations. To begin, I briefly outline the contours of the platform economy, its supporters and detractors. Next, I explain the value gap and its causes according to industry and legal perspectives: that dated copyright policy and safe harbour exemptions enable piracy; and that the "playing field needs levelling," and Spotify — not YouTube — is the platform model to emulate. I contrast this with the value gap as articulated to me by the artists I interviewed. They concur that, yes, the "playing field needs levelling" but not in the way the industry says, and that while YouTube may return low revenues, this is common across the board, not least of which with Spotify, the platform The Industry most readily props up as the model for authorized streaming. To conclude, I provide perspectives shared with me by my interviewees, briefly addressing some of the unique Canadian perspectives and outlining supports musicians use for sustaining themselves.

Before I conclude, in Chapter 5, *Peroration: Prospective Supports for The Artist-as-Intermediary*, I pause briefly to reflect on how the COVID-19 pandemic has simultaneously laid bare and exacerbated the existing inequalities within music industries, and illuminated the general precarity experienced by all musicians who are, almost completely, dependent on live touring to make a living, despite the ongoing debates, rhetoric and discourses surrounding digital distribution, streaming, and poor artist remuneration models. The pandemic has exposed the reality that artist remuneration is an issue of labour, not distribution or sales, and until music industries, lobbyists and lawmakers recognize this, there is a good chance we won't ever right

these wrongs. To conclude the dissertation, I reflect broadly on the contributions to and interventions into various fields the dissertation has made, including the music industry in the digital era and creative labour in cultural industries. The conclusion also provides a summary of problems/issues noted — such as ongoing exploitation at the platform level, poor artist remuneration, and precarity — and then offers possible solutions and future directions, including: a universal basic income; platform unionization; and promoting alternatives to the existing form of the platform, such as user-centric payment models, publicly-funded and -operated platforms, and platform cooperatives.

Chapter 2

Piracy Panic Proceedings: American & Canadian Music Industries' Legal Responses to (Unauthorized) Digital Distribution

The winners of the digital economy won't be companies that have superior products or services, but just the ones with the best lawyers.

—Joe Chidley (2000, 88)

Introduction

On May 27, 1997, *USA Today* published what is now known to be the first media account of the unauthorized downloading of MP3 music files (Witt, 2015). In “Sound Advances Open Doors to Bootleggers, Albums on Web Sites Proliferate,” journalist Bruce Haring (1997) recounts the ease with which young people enter queries into an “internet search engine” and locate websites offering (free) sound files “using a technique called MPEG Audio Layer 3.” He reveals that the popularity of such sites has “mushroomed on the Net” over the past few months, particularly among college students. Initially, record executives and industry associations harboured misgivings about the circulation of MP3s, concerned that the format signalled a burgeoning sect of pirates-cum-entrepreneurs. Yet in spite of this, there were small overtures of more accepting views. Jim Griffin, for example, then-Director of Technology at Geffen Records, is quoted as commending the MP3, arguing that, despite its current limitations, the online circulation of MP3s represents the “future of music distribution” (Haring, 1997). Indeed, when the major music labels began looking in earnest at the possibilities for monetizing the movement of music online, “the focus was on the sale of digitized products in the form of paid individual downloads” (Gillen, 2000). Some bristled against the idea of shifting the circulation of music from the

material to the digital world, but even in those early days, a future with digital music not only felt possible, but was clearly on the horizon. So, what went wrong?

As music industries rallied against file-sharing platforms and their alleged ability to supersede its long-standing gatekeeping initiatives, discourses from the popular, trade, and critical press were chiming the death knell of music industry and decrying fans for being bootlegging thieves. Headlines ranged widely, from arousing fear — “The Danger of Digital Download” (Christman, 1999) — to admonishing fans — “The Trouble with MP3: Twenty Million Downloading Fans Think all Music Should Be Free” (Evans, 2000). According to David Ardit (2015), this is the “piracy panic narrative,” and it was highly influential in reconfiguring the relationship between producers and consumers, from that of musician and fan to one of victim and criminal. By contrast, a number of alternative discourses generally acknowledged the threat downloading posed to music industries’ control over production and distribution, but didn’t necessarily consider it as deadly a force as industry stakeholders did. These discourses instead championed the possibilities that digitization, the MP3, and downloading could provide for *musicians*, with headlines ranging from the supremely idealistic — “Digital Age Set to Rock: MP3 Threatens Music Biz, Gives Artists a Voice” (O’Brien, 1999) — to the simply economic — “Artists Can Use MP3 to Boost Bottom Line” (Lavin, 1999) — suggesting that not everyone felt the same way about the availability of downloading in the late 1990s. For the most part, however, the piracy panic narrative was the dominant discourse, and competing discourses ultimately occupied a more marginal space and, as a result, were less heard.

In what follows, I provide a close examination of the American and Canadian music industries’ responses to digitization and, more specifically, their hostile aversion to the availability and free circulation of MP3 files via peer-to-peer file-sharing networks. Altogether, these

responses can be summarized in one word: litigious. It was the contention of both the Recording Industry Association of America (RIAA) and the Canadian Recording Industry Association (CRIA) that an aggressive lawsuit campaign against file-sharing platforms and their users would be the most productive way to maintain their complete control over and preserve their standard of expertise in the production, distribution, and consumption of musical recordings, while at the same time discouraging unauthorized downloading in the future.

To begin, I distinguish between and define the terms music industry, music industries and The Music Industry (Jones, 2012), after which I provide a brief history of panic and piracy in contemporary music industries. The remainder of the chapter offers a detailed account of the legal proceedings surrounding industry efforts to quash file-sharing practices between 1998 and 2008, in both the United States and Canada. This particular history charts the decade wherein the MP3 went from internet novelty to mainstay format; from the birth of Napster to the death of Demonoid. This particular period signifies the epochal shift from the material to the digital distribution of recorded music, but also marks the moment wherein digital platforms became a significant contender in the media distribution market, beginning with music. I first discuss the proceedings that followed the popularization of Napster, the lawsuits that occurred throughout the late 1990s and early aughts, including: *RIAA v. Diamond Multimedia Systems, Inc.*; *A&M Records, Inc. v. Napster, Inc.*; *Metallica, et al. v. Napster, Inc.*; and the *RIAA v. its consumers*. I begin with the American context because Napster is *the* emblem of the digital zeitgeist of the 1990s, and because Napster was created (and ultimately dismantled) in the United States. Importantly, the model set by the RIAA was impressive enough to the CRIA that, five years after Napster's launch, it embarked on its own series of lawsuits to stop piracy within Canada — or, at least attempted to. In the final section, I cover the CRIA's venture at an RIAA-style shutdown of

peer-to-peer file sharing. First, I discuss the *BMG Canada Inc. v. John Doe* lawsuit, Judge von Finckenstein's contentious ruling, and the CRIA's appeal. To conclude, I describe the CRIA's pivot toward BitTorrents in its last legal push against file sharing and the ultimate takedown of Demonoid.

Putting it Into Words: Delineating the Distinction Between Music Industry, Music Industries & The Music Industry

Jacques Attali's (1985) core argument in *Noise: A Political Economy of Music* is that music, as a cultural form, is intimately tied up in the modes of its production. These modes, he argues, are bound to structures that both enable and constrain creativity, and these structures shape the conditions of production experienced by the musician as well as the conditions within which relationships are created between musicians and audiences (Attali, 1985, 9). And it is *through* the industrialization and commodification of music, Jonathan Sterne (2012) argues, that the aforementioned relations are transformed from that of musician and fan into one between records and cash (190). This relationship, of course, is exemplified by the industry/musician/consumer dynamic. When music is industrialized, Nancy Baym (2018) writes, "it often becomes a source of inequity, driving a system in which a few — be they elite musicians or, more likely, well-paid executives and computing professionals — profit immensely while most cannot afford to devote their work life to music" (25). The inequity Baym is referring to is based in capital and speaks to the reality that wealth begets power, meaning that those with the greatest access to funds will likely have the greatest success in navigating the contours of music industry. In turn, this reinforces the position of those in power who continue to accrue wealth, which again reasserts their power, which leads to more wealth — and the cycle continues. Those without access to wealth, have no access to power, and will therefore remain on the lower hierarchical

rung, so long as those in power maintain their wealth. And this inequity¹ cuts across intersectional lines, too, with individuals lacking the necessary cultural and social capital required to navigate music industries being excluded or over-looked. Compounding the existing lack of fairness for individuals who possess less social and cultural capital are the intersecting structural barriers, including systemic racism, classism, sexism and ableism, as well as systemic bias regarding gender identity, ethnicity, ability, and sexual orientation, that discriminates against who can and cannot participate in the system successfully. This compounded discrimination affects both producers and products alike, meaning that when certain producers are undervalued, their work, and their products are undervalued in kind, not properly supported, compensated or celebrated as a result. As this and subsequent chapters will continue to illustrate, music industries are part of a recalcitrant system entrenched in inequity, and despite momentary instances of rupture, it is a system that will, at all costs, seek to maintain this imbalance to its own benefit.

Ordinarily, evoking the term “music industry” conjures a mental image of a giant corporate monolith, one fixed in form and function — but it’s far more complex than this. Patrik Wikstrom (2014) argues that in order to understand the dynamics of music industry, it is first of all necessary to recognize that it is not a solitary unit, rather it is composed of a number of different intersecting yet independent industries. Making sense of these complexities, Matt Jones (2012) helpfully delineates the nuanced differences between three specific yet interrelated

¹ Mark Banks (2017) and Anamik Saha (2018) each provide useful, detailed accounts of the inequities within and across cultural industries. Banks’ work explores the incessant inequities plaguing the cultural industries, and thus proposes a plan for achieving what he terms creative justice — justice to the cultural industries, to their products, and in turn, their producers. This examination cuts across many intersectional lines, whereas Saha’s work focuses more explicitly on race and racism in the cultural industries. Saha’s central thesis argues that, as a tactic for overcoming racism in the cultural industries, there has been a push for representation at the employment/production level, which is meant to trickle down into content, and therefore representation. However, merely increasing the presence of racialized people in the cultural industries, Saha argues, does not in itself demonstrate a gesture toward change, as individuals are often limited and constrained by the industry within which they’re working and its hierarchical power structures, and/or internalize the systemic racism within the industry, inadvertently reproducing the very racialized tropes their presence is meant to correct.

concepts: music industry, music industries, and The Music Industry. *Music industry*, for example, refers to the “unstable mixture of entrepreneurial instinct” combined with “industrial and business latitude” held together by a “legal framework of contract and intellectual property law” (Jones, 2012, 5). The term best captures “the mass or repeated actions made by record companies, music publishers, and live agents” (Jones, 2012, 5). It is, in essence, the *business practices and procedures* that make up the industry devoted — at least in some way — to music production, distribution, and consumption; and indicates the doing of actions and processes by music industries and The Music Industry (Jones, 2012). Narrowing his focus somewhat, Jones (2012) uses *music industries* to recall the specific *practices and products of music industry*. As a whole, the term encapsulates recording, publishing, and live performance; music commodity forms that can, and do, vary; and licenses (Jones, 2012). Music industries thus refers to the particular *businesses* involved in producing and distributing music commodities, and also those involved in licensing music and putting on shows. Finally, Jones (2012) refers to the commonly *shared perspectives and practices* among industries involved in the publishing, recording and live performance of music as *The Music Industry*, and characterizes these interactions and inter-dependencies among these industries as both necessary and commonplace. Echoing what Max Horkheimer and Theodor Adorno² long ago recognized, Jones (2012) argues that “The Music Industry exerts a standardizing cultural force” (175); its impetus is the preservation of The Music Industry “standard” of expertise and the maintenance of the formulae that demonstrate guaranteed returns on investment. It is important to distinguish among these three ways of conceptualizing

² In their pivotal essay on The Culture Industry, Horkheimer and Adorno (2006/1944) argue that the capitalist entertainment industry exerts a standardizing force, one that strives for technical rationality and relentless unity. Their concern is rooted in the sociological and political problems that stem from overconsumption of mass-produced standardized cultural entertainment that is filled with political propaganda and consumed passively. While theirs isn’t a concern I will necessarily be addressing in this discussion, their recognition of the industries’ efforts to maintain a standard helps explain why the RIAA and CRIA went to such great lengths to preserve their total control over the production, distribution and consumption of cultural products.

the production, circulation, and consumption of recorded music because it is necessary to carefully parse the distinction between individual yet interconnected businesses related to musicians and their practices, and the ideologically informed industry associations that act as, and represent publicly, music industry as a whole. I use the terms music industry and music industries to distinguish between the actions of business involved in music, and The Music Industry to signify a simultaneously literal and symbolic institution, one that circulates the rhetoric of industry associations, and stands in for the totality of national and international music industries, representing its locus of power.

Although some scholars attempt to eschew the invocation of such an ambiguous term by focusing on what they deem “the recording industry” — that is, those industries concerned exclusively with the sale and circulation of recorded music, within the era of 360-degree contracts and a waning dependence on physical music commodities, the notion of “the recording industry” fails to fully capture the complex actions and interactions concurrently taking place (Meier, 2017). Consider, for example, this shift in Canada: during the early aughts, the pre-existing Sound Recording Development Program changed its name to the Canada Music Fund (CMF); and the Canadian Recording Industry Association likewise changed its name to Music Canada. While seemingly minor semantic differences, these changes speak to a wider shift in the understanding and expectation of what constitutes music commodities: the recordings, the performer, *and* the licensing rights. Throughout this dissertation I will use the three terms in accordance with the definitions above, and I elect to use the terms music industry, music industries and The Music Industry because “recording industry” is not all encompassing enough; and as evidenced by the research conducted throughout, The Music Industry *does* often act as a monolith, and is regularly represented by singular associations at national, and even

international, levels such as the Recording Industry Association of America (RIAA), the Canadian Recording Industry Association (now Music Canada), The British Phonographic Industry (BPI), the International Federation of Phonographic Industries (IFPI), and more.

Panic: Music Industries, Crisis & Piracy

The history of music industry reveals battles over playback formats, and tensions between recording companies seeking to boost their bottom line and consumers who demand cheap or free music (Sirois & Wasko, 2011). These battles tend to disrupt the status quo and receive an exorbitant amount of media attention where they are regularly framed as moments of crisis.³ The introduction of radio, for example, temporarily lessened the appeal of records, but this was eventually overcome as record labels and radio stations developed a synchronous relationship: radio stations get cheap content in exchange for records getting cheap promotion (Garofalo, 1999). The availability of cassette tape in the 1970s and 1980s led to widespread panic about home-taping and on October 28, 1981, then-BPI chairman Chris Wright launched the anti-piracy campaign: “Home Taping is Killing Music and It’s Illegal” (see Figure 2.1). At



Figure 2.1
“Home Taping is Killing Music and It’s Illegal”
campaign logo.

³ The concept of moral panic fits logically enough into a conversation about the piracy panic narrative, especially when considering the role of the news media and popular press in circulating these narratives. Indeed, the piracy panic narrative could be read as a form of moral panic, as the press and relevant corporate stakeholders consistently frame the issue of piracy as a matter of morality (e.g. “stealing music is theft and theft is bad”). However, moral panics are most often generated from issues that incite fear *within* and among the public, like those discussed in Stanley Cohen’s book (2002/1972) *Folk Devils and Moral Panics: The Creation of the Mods and Rockers* (e.g. fear of muggings, terrorism, gangs, shootings, tainted Halloween candy, etc.); by contrast, the piracy panic narrative generates fear *of* the public. The piracy panic narrative is the most effective way to understand this particular issue because it recognizes the fact that, in this so-called crisis of industry, it’s the public who are characterized as “pirates” of intellectual property—a faceless mass to be feared.

the same time, in the United States, “the major recording labels launched a strategy to make production significantly more restrictive, making it far more difficult for emerging artists to enter the fray” (Garofalo, 1999, 342). These efforts were met with resistance from consumers, but also musicians critical of The Industry. The Dead Kennedys, for



Figure 2.2

B-side of Dead Kennedys' *In God We Trust, Inc.* deliberately left blank, encouraging home taping.

example, an American hardcore punk band, deliberately didn't record on the B side of the cassette for their 1981 album *In God We Trust, Inc.*, and included the text: “Home taping is killing record industry profits! We left this side blank so you can help” (Otter Bickerdicke, 2021) (see Figure 2.2). Despite resistance from musicians, no matter how marginal, these actions demonstrate that The Music Industry is most often concerned with maintaining its control than it is about the well-being of its artists.

In 1983, panic arose over the presence of a newly available format: the compact disc. That January, *Rolling Stone* published an article with the headline: “The Digital Revolution: Will the Compact Disc Make the LP Obsolete?” (Knopper, 2010). Swap the words “compact disc” and “LP” for “MP3” and “CD”, and the article could easily be read as if it were written in 2003 — even 2013. What we see, then, is a pattern, and a consistent one at that. As Simon Frith (1988) helpfully explains, while innovations in recording and distribution are in their own rights important, “there is more to be learnt from the continuities in pop history than from the constantly publicized changes” (12) — continuities such as exploitation and inequality. These so-called crises are generally evidence of nothing more than the industries' temporary failure to respond to the ebb and flow of industry and innovation.

Changes in technology remain the central focus of the crisis narratives widely circulated in and among popular discourses about technology, digitization, and music industry. Nancy Baym (2018) explains that “with each new technological innovation — sheet music, printing, the player piano, recording, the internet — music’s form, flow, and ability to be contained and owned have been changed” (74). Despite The Music Industry’s ability to overcome and adapt to many of the challenges it has faced, the MP3 and the digitization of the music commodity remain a contradiction within music industries as they simultaneously help to propel the music commodity to the far reaches of the globe, while at the same time severing it from its material core (Sirois & Wasko, 2011). Technological innovations have never fully or fundamentally reconfigured the interdependencies of music industries, but digitization has arguably been the most transformative (Jones, 2012). But it’s not the changes wrought by digitization that deserve our attention, rather it’s the *responses* to these changes that warrant further consideration because they can, and often do, influence future policy decisions and legal outcomes. If the music industries hadn’t been given a platform by news outlets to lambaste file-sharers and denounce the illegality of file sharing, David Arditi (2015) argues that “the discourse over whether file sharing is illegal may be different structurally” (xxiii). Throughout the period of piracy panic, the RIAA composed carefully crafted public relations messages that were given to and circulate by the press. These message were designed to persuade the public to believe that file sharing is illegal, reinforcing and naturalizing the logic of the piracy panic narrative, which in turn justified the future litigious actions it planned on carrying out. Moreover, the circulation of these narratives often acts as evidence when industry associations lobby the government to introduce legal measures that would restrict and criminalize file sharing. I don’t meant to suggest, however, that the relationship between discourse and policy is a causal one, but how people understand particular changes in industry,

especially around complex technological innovation, is in part informed by individuals' consumption of media discourses.

At the height of the piracy panic narrative's circulation in the late 1990s and early aughts, the MP3 was regularly referred to in the press as an unstoppable viral plague or imminent threat, as if its existence was not the outcome of specific actions and practices⁴ of music industries, but some organic and punishing force with an agenda set to end The Music Industry as we know it. A 1999 article from *Computer Dealer News*, for example, lamented that "there's no stopping the spread of digital music" (O'Brien, 1999, 49); another denounced the MP3 and downloading as an evil spirit haunting an innocent industry, referring to it as "the ever present spectre of digital piracy" (Oppelaar, 2003). The fear even elicited reference to military language and tactics: in order to stem the flow of piracy, there would need to be significant efforts made "to combat the threat," but not to worry because "battle plans [were] being formulated" (O'Brien, 1999, 1); even the series of lawsuits the industry representatives launched against file sharing platforms and their users was dubbed "the war on piracy" (Nestruck, 2003). From the serious to the inane — "CD Piracy: The New Drunk Driving?" (Bouw, 2001) — the headlines and coverage were extensive in their variety but many managed to toe the same company line: that piracy is theft and theft is illegal.

Describing the downloading disputes in Canada and the rhetoric circulated by The Music Industry at that particular time, Graham Longford (2007) writes:

At stake in the music downloading controversy, according to the industry, are the rights of artists and copyright holders to just compensation for their creative works and intellectual property, and the very survival of music itself. Failure to protect copyright, so the argument goes, removes the incentive for artists to innovate and

⁴ Cultural industries, like the music industries, and the products they produce are not natural or inevitable, but rather are the outcome of specific policy decisions that carve out a legal, political, and economic framework within which these industries operate and products circulate.

create new works, depriving the rest of society of the fruits of their efforts. Music file sharing and downloading, the industry argues, embody a malignant disregard for ownership and property rights and are tantamount to committing theft (197).

Longford's passage very clearly demonstrates how the piracy panic narrative characterizes file sharing as piracy, and piracy as stealing, indicating that stealing hurts artists and labels alike. As a result, the rhetoric continues, fans who download shared files are not listening for free but rather stealing income from their favourite artists. Slighted, musicians will then lose their incentive to continue making music, culminating in cultural poverty for society and economic poverty for musicians. The objective of labelling file-sharers as property thieves is therefore to construct the musician as a victim and the fan as the victimizer. In so doing, musicians are pitted directly against their audiences, fans, and consumers; "that is, the people who already financially support [them]" (Arditi, 2015, xxii). Importantly, and not by happenstance, in this scenario, The Music Industry assumes the role of empath, and positions itself as speaking to the needs of (and speaking for) the affected parties — musicians. Characterizing a stubborn public as thieves and attempting to coerce them into consuming music according to industry desires through the circulation of crisis narratives remains a relatively common reprieve throughout music industry history; but within the context of digitization and the circulation of the piracy panic narrative specifically, The Music Industry extended their efforts even further, exerting a significant amount of litigious energy for years after the initial crisis occurred, and even once it appeared to be somewhat resolved or contained.

Proceedings: MP3s, Napster & The RIAA's Response to File Sharing

The fundamental goal of the music business is to "transform cultural products into financial rewards," a process that has been significantly influenced by various technological advances that inevitably determine the production, distribution, and consumption of musical recordings

(Garofalo, 1999, 318). In large part, its success as a commodity industry revolves around ensuring that it maintains complete control over its commodity: the musical recording. Richard Sutherland and Will Straw (2007) explain that, in the broader sense of the term, music has for some time been a commodity, but what the MP3 and digitization have done is change “the means by which its value is realized in the marketplace” (141–142). This is why there has been such significant panic surrounding the sudden change in consumer behaviour: because this particular change threatens the gatekeeping initiatives that ensure that The Music Industry maintains its control over all aspects of the musical commodity, from its production to its consumption — and, more importantly, its profit margins. Furthermore, these gatekeeping measures help to ensure that the value of the commodity is decided according to music industry standards, rather than being influenced by consumers or outside industries, such as IT.

Despite having sensed the implication of “a tectonic shift in consumer habits for some time,” The Industry nevertheless “adopted a variety of strategies and tactics aimed at inducing, disciplining and, if necessary, coercing music audiences into compliance with its own interpretation of its members’ rights” (Longford, 2007, 206). When the MP3 emerged onto the scene, it therefore appeared to industry stakeholders in much the same way every other technological innovation had before it: as something to be feared, stopped and denigrated at all costs. But not every industry player felt the same way. For some artists, however, like articulate industry-critic Chuck D, the MP3 seemed like a promising way to revolutionize The Music Industry because the technology makes possible “a business model that links artists directly with consumers,” allowing musicians and consumers to bypass the record labels completely (Garofalo, 1999, 349). To these artists and industry critics, the MP3 “was generating a momentum that the industry [couldn’t] afford to ignore” (Garofalo, 1999, 349) — yet that’s exactly what it did.

Instead of seeing the MP3 as the way forward, it was staunchly resisted, and efforts to keep the CD as the go-to format were set in motion. The MP3's near instantaneous rise to popularity on the internet was interpreted as a direct threat to the recording industry and its distribution models by reducing the labels' ability to control "the promotion of art" (Gonzalez, 2000, 71). The following sections cover those resistances in detail, closely examining the American and Canadian music industry associations' responses to digitization as well as the legal actions collectively taken to stop so-called piracy.

The RIAA v. Diamond Multimedia Systems, Inc. (1998)

In 1998, Diamond Multimedia Inc. was set to release the Rio, the company's first portable MP3 player that promised consumers it would move the MP3 "beyond the computer desktop" — a promise that "really caused the industry to take notice" (Garofalo, 1999, 350). The RIAA was incensed that such a device was about to enter the market because, to them, the creation and legal authorization of a portable MP3 player was an implicit acceptance of the MP3, and thus piracy. Therefore, on October 16, 1998, at the behest of the RIAA, "the district court issued a temporary restraining order enjoining Diamond from manufacturing or distributing the Rio" (Gonzalez, 2000, 75). In its defence, Diamond argued that the Rio should be protected under the 1992 Audio Home Recording Act (AHRA) because its function is limited to copying a file from a computer hard drive.⁵ The device cannot serve as a source for producing musical recordings and is therefore not capable of making a prohibited MP3 (Gonzalez, 2000, 75). From Diamond's perspective, the device is nothing more than a vessel, a container, or a storage unit, so the

⁵ The Audio Home Recording Act 1992 was designed to prohibit the unlawful recording of media by consumers, but lawyers for computer companies demanded an exemption, stating that consumers should have the right to back up material via CD-Rom. It was fiercely opposed by music industry executives, but their lawyers realized it wouldn't pass without the compromise, so they made it. Therefore, IBM et al pay no royalties to music industries, nor did they install a chip to restrict the number of copies one can make. This was a crucial oversight, of course, and can be pointed to as one of the key reasons The Music Industry (temporarily) lost its control over music circulation/distribution/consumption (Knopper, 2010, 160).

company filed an appeal and, in a precedent-setting move, the courts decided that possession of personal digital copies does not infringe on copyright, and that having a portable MP3 player does not enable illegal file sharing (*per se*). While the court “opined that if it excluded computer hard drives as a source for digital musical recordings, the AHRA would be effectively eviscerated,” and ceded that the Rio is “probably a digital audio recording device,” it nevertheless concluded that the Rio “ultimately does not violate the AHRA” (Gonzalez, 2000, 76). By citing the AHRA, Diamond was spared by a legislative loophole: they successfully argued that the law was focused exclusively on *recording* devices but that the Rio was merely a passive *storage* device — a player, not a recorder (Garofalo, 1999, 350). And so, with the injunction quashed, other MP3 players were also free to enter the market — and enter they did.

The reactions to the final verdict were mixed. On the one hand, some framed the outcome as a boon for the digital consumer: Ken Wirt, then-Vice President of Corporate Marketing of Diamond Multimedia, for example, described the outcome as “a win for consumers and a win for musicians” (Reece, 1998, 8). He went on to say that if the big record labels “got on this train instead of standing in front of it trying to stop it,” they’d likely stand to benefit handsomely (Reece, 1998, 8). On the other hand, critics perceived this as an imminent threat and a dangerous precedent to have set. The outcome “set off industrywide panic over record companies’ ability to control the digital distribution of their content” (Reece, 1998, 8). Indeed, then-Chief of the U.K.’s Music Publishers Association, Sarah Faulder argued that the lawsuit’s outcome was an implicit legal acceptance of piracy, explaining that “whatever Diamond’s claims, this device clearly enables Net surfers to copy and pass on copyright material without reference or payment to the authors or copyright holders” (Reece, 1998, 109). Perhaps it was this lack of initial success to use the law to stop anything that might challenge their control over the

production, distribution and consumption of musical commodities that fuelled the RIAA's desire to pursue any and all possible legal actions to abolish piracy thereafter.

A&M Records Inc. v. Napster, Inc. (1999)

On June 1, 1999, Shawn Fanning debuted Napster, an independent peer-to-peer file sharing service that allowed users to upload and download MP3s via a user-friendly interface, the likes of which hadn't yet been seen online (Witt, 2015). That same summer, Frank Creighton, then-head of the RIAA's anti-piracy division, was first within the organization to officially recognize online file sharing after being shown Napster at a board meeting. By October 7, 1999, there were 150,000 registered users trading 3.5 million files, and by October 27, Hilary Rosen, then-head of the RIAA, instructed the association's lawyers to draft a letter of complaint to Napster (Knopper, 2010). Napster declined to oblige, so on December 6, 1999, the RIAA proceeded in filing its first official copyright-infringement lawsuit against the platform in the US District Court in San Francisco. For its defence, Napster attempted to use the 1992 AHRA (like Diamond did for the Rio), and the 1984 Supreme Court precedent, *Sony Corp. of America v. Universal City Studios*, also known as *The Betamax Case*.⁶ The file-sharing platform argued that, if Sony can sell VCRs for people to record TV, the same logic should apply to their situation; but Judge Marilyn Hall Patel disagreed with their argument and Napster lost the case (Knopper, 2010). On June 12, 2000, with the copyright-infringement lawsuit outcome still to be decided and heading toward a settlement, the RIAA and the National Music Publishers Association filed a motion in the U.S. District Court in San Francisco that sought to remove songs owned by its member companies from Napster directories (Fitzpatrick, 2000). In a *Music Week* article from mid-July, it stated that,

⁶ In this precedent-setting case, the United States Supreme Court ruled five to four that consumers making copies of TV shows to be viewed later using a VCR didn't technically count as copyright infringement. The outcome was considered a boon for consumers as it "flew in the face of one of the record industry's favorite warnings: Home Taping Is Killing Music" (Patrin, 2020).

in their defence, Napster planned to cite a “university report” showing “70% of Napster users surveyed had used the service to sample music before buying a CD,” much like individuals first hearing a song on the radio or music television before going out to purchase an album (Napster mounts defence to ward off threat of impending closure, 2000). But this argument also didn’t hold much weight in court. Undeterred, however, by July 2000 Napster was hosting almost 20 million users, and in October of that same year, Fanning struck a deal with German media giant Bertelsmann for \$60 million dollars (Knopper, 2010). In the meantime, while Napster continued to face litigation, the company attempted to appeal Judge Patel’s original verdict. Unfortunately for Napster, in February 2001, the US Court of Appeals for the Ninth Circuit upheld Patel’s decision, and the site was officially declared illegal (Witt, 2015; Knopper, 2010). Napster engineers then began blocking file names according to a list provided to them by the RIAA in March of 2001, and by May 14, 2002, Napster had officially declared bankruptcy (Knopper, 2010).

Throughout this period, the RIAA tirelessly circulated their piracy panic narrative through mainstream media. Occasionally, marginal discourses that either supported the new platforms or disapproved of the industry’s litigious approach would circulate in and among the broader discussions of the MP3, Napster and piracy, but for the most part, the mainstream press discourses regurgitated industry press releases condemning Napster specifically and piracy broadly. Without equal opportunity to meaningfully engage in a discursive debate with the RIAA, Napster was in some ways silenced out of the argument; and so, too, were fans and musicians alike. Even when Napster was part of the discussion, it was often only to defend its actions in contributing to and facilitating piracy, not how it might imagine a new or different method for remunerating the very artists the platform was alleged to have harmed. The RIAA was able to

naturalize the piracy panic narrative through its circulation in the mainstream and popular press, which in turn helped The Music Industry garner steadfast political and legal support. Be that as it may, after pushing around its weight to block the largest file-sharing site from continuing to operate, the RIAA hadn't grown battle-weary, and instead of adapting or amending their business models according to the technological changes unfolding in front of them, they proceeded to rail hard against the cultural shift. But these discussions largely emphasize The Industry and its foes — where was the musician during all of this?

Metallica, et al. v. Napster, Inc. (2000)

Musicians Tom Petty and Alanis Morissette, for example, were early supporters of the possibilities presented by the MP3 and digital distribution — and their actions will be discussed in further detail in Chapter 3 — but a (loud) vocal minority of major label stars were vehemently opposed to Napster. For example, there was the formation of the organization called Artists Against Piracy, a group which derided Napster and its ilk, launching a campaign to raise awareness about the ills of downloading, starring the likes of Britney Spears, Brian Wilson, and Eminem (Keefe, 2000). But Napster's most vociferous (and arguably most famous) critic was Lars Ulrich, drummer for the heavy metal group Metallica.⁷

In early 2000, it was reported that Ulrich became irate at the discovery of several unfinished versions of the band's song "I Disappear" being played on radio stations throughout

⁷ Metallica's highly publicized judicial takedown of Napster in the late 1990s serves as a pervading example of how musicians felt (and how some still feel) about the unauthorized circulation of their music via internet-enabled MP3 file-sharing platforms. But not all musicians responded to the practice of file sharing in such a litigious manner, and even fewer appeared to feel as vitriolic as Metallica. One strategy employed by musicians to respond to the unauthorized and early release of their music online was the prankster approach. In 2000, for example, Canadian band Barenaked Ladies adopted a jocular line of action. Upon discovering their yet-to-be-released album circulating on file-sharing services, the band flooded the likes of Napster with what are called trojan horse songs: an MP3 file disguised as a Barenaked Ladies track but that actually contains little more than promotional material for the band's newest album (Keefe, 2000). What these two examples — Metallica and Barenaked Ladies — most clearly demonstrate, is that the reactions to the availability of MP3s and the internet were quite varied among musicians, and for some it presented an ideal opportunity to begin giving back to fans.

the U.S. (Hartley, 2009; Patrin, 2000). At the behest of Metallica generally, and Ulrich more specifically, Artists Against Piracy traced the songs back to Napster, discovering that in a 48-hour period more than 300,000 users had made 1.4 million free downloads of Metallica's music (Hartley, 2009). So, on April 14, 2000, an outraged Metallica sued Napster in the U.S. District Court for the Northern District of California in a case focusing on copyright infringement, racketeering, and unlawful use of digital audio interface devices (Napster mounts defence to ward off threat of impending closure, 2000). In so doing, Metallica became the first band or recording artist to file a lawsuit against Napster for emboldening users to trade songs and recordings without the band's explicit permission (Arditi, 2015, 95). "Napster hijacked our music without asking," Ulrich told the U.S. Senate Judiciary Committee on Downloading Music on the Internet in July of 2000 (Hartley, 2009). "They never sought our permission," he continued, "our catalogue of music simply became available for free download on the Napster system" (Hartley, 2009) — and the repercussions of this, it is implied, are financial in nature. David Arditi (2015) notes, however, that at the time, the group was the "fourth all-time highest-selling band," yet in spite of widespread success, "Metallica was apparently in desperate need of finding ways to sell even more music" (91). To be sure, it is both disconcerting and unproductive to assert that once a band or musician reaches a particular plateau of fame they should no longer expect to be fully remunerated for their work. Notwithstanding that however, it's worth recognizing Metallica's status as stars, because it recasts their claims of money loss as a result of the premature release and illegal downloading of their album as somewhat dubious. Of course, it's reasonable to expect that the band should be able to maintain control over their intellectual property and its circulation, but at the same time, taking these complaints to the courts suggests a level of tone-

deafness to their fans and other musicians needs, as many other artists welcomed the disruption to an industry they see as nothing more than vampiric.

Metallica were not alone in their misguided pursuit, however. Other artists, including rap icon Dr. Dre also “joined in the music industry’s quest to quash Napster” (Hartley, 2009). On April 18, 2000, Dr. Dre lashed out at Napster, writing a letter demanding the file-sharing software company remove his music from its directory (Johnson, 2000). The following week, on April 25, “Dr. Dre and his record label, Aftermath Entertainment, filed suit against Napster” after the site failed to heed their letter’s warning (Johnson, 2000). Just as Metallica did before him, the rapper charged Napster with copyright infringement and unlawful use of a digital audio interface device, arguing that “Napster has built a business based on large-scale piracy” (Johnson, 2000). Despite much ado being made about Metallica’s and Dr. Dre’s litigious efforts in the popular press, both lawsuits were ultimately settled out of court. No specific details regarding either settlement were made public, but according to a statement, both parties agreed to make some of their music available on Napster “once an acceptable model is in place that insures [sic] payment to artists and publishers for the use of their works” (Metallica, Dr. Dre Settle Napster Lawsuits, 2001). Much like in the the lawsuits pursued by the RIAA, there is little evidence to suggest “that artists who have had intellectual property stolen receive monies from settlement action,” bringing into question both the purpose and desired outcome of these cases (Doloswala & Dadich, 2011). Is it to return lost wages to artists, or to reinforce industry power and increase revenue? Given the lack of financial reward it seems reasonable to assume that merely flexing one’s litigious muscle reinforces a particular idea of power within The Music Industry, as even a small settlement can bankrupt a common a citizen. From the examples above, it can certainly be inferred that fear is the desired outcome: fear of political reprisal, fear of legal action, and fear of the deluge of

piracy itself. At the material level then, fear functions to discipline both the consumer *and* producer, reinforcing the musician/music industry/consumer dynamic, where industries operate as intermediaries and reap the economic benefits of being the sole facilitator of the musician-fan connection.

The RIAA v. Consumers

When Apple debuted iTunes on January 9, 2001 at MacWorld San Francisco, it finally created a viable space for record labels to sell digital music to eager consumers. Yet, in March of 2002, just five months after iTunes' stable release date, the RIAA initiated a legal campaign that targeted its own customer base in a continued effort to stop piracy (Knopper, 2010). Uncomfortable with the turn that the war on piracy was taking, RIAA President Hilary Rosen openly disagreed with the lawsuits, refused to be the face of the campaign, and resigned in protest on September 7, 2003 after 16 years of heading the organization (Witt, 2015). Undeterred, on the same day, the RIAA proceeded with "Project Hubcap," described by the Association as a series of "educational lawsuits" designed to teach file-sharers that music piracy hurts the industry and, most importantly, musicians (Witt, 2015; Knopper, 2010). In the end, the lawsuits were not only entirely ineffective, they were misguided and unproductive, doing little to deter piracy and recoup supposed losses. The RIAA initially targeted 261 individuals — including single mothers, families without computers, senior citizens, children, the unemployed, and "people who'd been dead for months" — requesting damages of up to \$150,000 per song (Witt, 2015, 160). One case in particular received significant media attention: Brianna LaHara, a 12-year-old girl who lived in a New York City housing project, downloaded the theme song to *Family Matters*, and was then subsequently sued and forced to settle for \$2000. These educational lawsuits were brought against a total of 16,837 people, almost all of whom were average citizens like LaHara with

absolutely no connections to elite or entrepreneurial piracy (Witt, 2015). Thinking back to my own excursions in downloading around that time, it's difficult to imagine how a young person living in social housing could possibly pose a significant enough threat to the well-being of the industry that suing her was necessary, even if it was in a performative, disciplinary way. It's reasonable to assume she will have grown up with a hostile aversion to The Music Industry and notions of supporting it. Moreover, if the goal of the lawsuit was indeed to discipline young LaHara, to encourage her to purchase music through the appropriate channels, where exactly would the RIAA have suggested she go to purchase the song? Theme songs for television sitcoms weren't what I would categorize as readily available — on any format — in that time period, or even now. Although there are undoubtedly copyrights held for the song, surely her actions do not demonstrate that of a pirate: of a criminal intentionally robbing the RIAA of intellectual property it possesses.

In total, by 2006, the RIAA had settled approximately 6000 suits, averaging \$3000–\$4000 each (Knopper, 2010, 351). Despite the fact that the RIAA and the IFPI were publicly blaming file sharing as the cause for a dramatic decline in CD sales, as early as 2005, in their annual report, the IFPI recognized that the 'free market', a recession, and a change in the buying cycle are what collectively contributed to the overall decline in revenues (Arditi, 2015). But by choosing to shut down peer-to-peer file-sharing programs, and suing average citizens who used them, the RIAA demonstrated that what was at stake was not the availability of music online but rather "the structure of profit-making in the recording industry" (Arditi, 2015, 116). Stephen Witt (2015) argues that the American war on piracy ended up looking a lot like their war on drugs: "costly and probably unwinnable, even in the face of felony prosecutions" (226). In the end, the lawsuit campaign had little impact on the amount of copyrighted music that is illegally

downloaded, highlighting the ineffectiveness of employing legal proceedings to discipline consumers into buying and consuming commodities according to the desires of music industry.

Proceedings: The (delayed) Canadian Response to File-Sharing

Throughout the early aughts, when the RIAA was fervently pursuing legal actions to stem the free flow of copyrighted MP3 files online, all was surprisingly quiet in the Great White North. But it wasn't as if the CRIA was unaware of peer-to-peer file sharing or the RIAA's piracy panic narrative. On the contrary, as early as 1999, then-President of the CRIA, Brian Robertson acknowledged the rising popularity of MP3 file sharing online and said of the practice: "You've essentially got a lawless society, [...] an out-of-control area whereby tens of thousands of sound recordings are illegally posted" (O'Brien, 1999, 1). "What is going on," he continued, "is mostly illegal and right now we have no way to control these actions" (O'Brien, 1999, 1). Much like the RIAA did before it, the CRIA was quick to resort to panic and eagerly circulated narratives supporting a campaign to control digital downloading, forcefully asserting that "downloading music for free is stealing" (Evans, 2003). Therefore, despite early assumptions that the Canadian music industry turned a blind eye to downloading, these statements indicate that the CRIA's perspectives were aligned with those of its U.S. counterpart, it just happened to pursue matters at a much slower pace. But by 2004, two years after the RIAA began Project Hubcap, the CRIA's President stated that the industry in Canada had been, and continued to be, "devastated by file sharing" (Ingram, 2004). As a result, Robertson said, the CRIA would be engaging in lawsuits with file-sharers: "It's regrettable that we'll have to take this action," he clarified, "but we've been forced to" (Ingram, 2004). The CRIA claimed that file sharing had caused a significant slump in CD sales over the past five years, a financial nosedive that culminated in a \$450 million decline in revenue — a 23 per cent decrease since 1999 (Thompson, 2003; Evans, 2003). Citing the CRIA's

own documents, the figure is even higher according to Sutherland and Straw (2007), who place the loss at \$465 million between 1999–2004 (144). However, in spite of the impressive dollar amounts, prominent Canadian law critic and professor, Michael Geist (2004) warns that in reality it is extremely difficult to determine the actual financial impact of music downloading. Whatever the causes, however, the losses reverberated throughout the industry. The overall decrease in revenue served as justification for massive layoffs across the sector with more than 20 per cent of staff at music labels throughout the country getting laid off throughout that period (Thompson, 2004, February 17). For the CRIA, the slump in sales was an indication of The Industry's foreseeable demise, and thus, in the eyes of The Music Industry, swift juridical action was to be undertaken to rid the industry of this apparent digital pest by disciplining consumers via legal proceedings like the RIAA had before it.

BMG Canada Inc v. John Doe (2004)

Between the months of October and December 2003, the Canadian Recording Industry Association worked diligently, collecting evidence to build a case against what it considered to be a group of rank uploaders (Wright, 2005). On December 15, 2003, the CRIA made an official statement regarding its intent to launch lawsuits against 29 internet users that were sharing music files — files they do not own the copyright for — using peer-to-peer file-sharing software (Thompson, 2003). Despite the relative failure of the RIAA's own Project Hubcap, the CRIA made it very clear that it would proceed with its own series of lawsuits closely modelled after the American's (Ingram, 2004). The 29 defendants were characterized as “prolific music uploaders” and were expected to face fines of up to \$1 million if the CRIA was able to successfully pursue criminal charges (Damsell, 2004; Thompson, 2003). The official notice of motion was filed on February 16, 2004, but there was one significant snag: the CRIA couldn't identify its defendants

(Wright, 2005). Fundamentally, then, what it was actually doing was making an application under the Rules of the Federal Court to compel five Internet Service Providers (ISPs) — Bell Canada, Rogers Communications, Shaw Communications, Telus, and Vidéotron — to divulge the account information of the 29 IP addresses that the CRIA believed had downloaded approximately 1,000 copyrighted music files through both KaZaA and iMesh file-sharing software (Damsell, 2004). Once the identities were turned over and the CRIA had the defendants' names in hand, it could begin the Canadian version of Project Hubcap.

Immediately, the inability of the CRIA to identify its defendants presented a major obstacle. With only user names/screen names to work from, the Association was in an extremely difficult position because under Canadian law, in order to file a lawsuit, you are obliged to furnish the legal name(s) your defendant(s). Consequently, the CRIA was remarkably dependent on the various ISPs to do the work necessary to identify their defendants, and the fate of the lawsuit ultimately rested on this. The CRIA had hoped that the precedent set by the RIAA in the U.S. would help them in obtaining access to the identities of their to-be-named defendants. While there are arguably many similarities between the Canadian and U.S. recording industries — especially considering that most Canadian labels represented by the CRIA are merely branch plants of other international, namely American, conglomerates — the key difference is that they are enabled and constrained by the legal framework of the country within which they operate. In the U.S., the RIAA had successfully lobbied for the implementation of the 1998 Digital Millennium Copyright Act (DMCA) making it “illegal to circumvent technological measures for protecting sound recordings and other copyright material” (Garofalo, 1999, 349). Under this law, the act of downloading an MP3 file for free via peer-to-peer file-sharing sites constitutes an act of circumvention, one that is considered illegal. The law also enables the RIAA to send subpoenas

to ISPs compelling them to obtain and deliver the personal details of subscribers in order for the RIAA to proceed in pursuing legal action against them. Armed with the DMCA, American record labels were able to legally compel the ISPs to provide the names and addresses of specific downloaders without having to seek permission from a judge, or apply for a formal court order (Ingram, 2004). Initially, there was resistance, and several American ISPs attempted to fight the subpoenas, but eventually they all turned over the requested information (Thompson, 2003). By contrast, the CRIA spent an appreciable amount of time lobbying to have a similar bill introduced in Canada, but the exertion was, in the end, ineffectual (Borland, 2004). So, unfortunately for the CRIA, no legal framework exists in Canada that would force Canadian ISPs to hand over their users' identifying data. Therefore, the CRIA eventually turned to alternative methods and hired Media Sentry Inc., an American firm that monitors internet users, to track down and identify the alleged infringers (Thompson, 2004, April 2). The company was to act like a private detective of the virtual realm, set to locate and reveal the identities of unauthorized file-sharing targets from a list provided by the CRIA.

Early in the proceedings, most of the Canadian ISPs had informally agreed to furnish the identities of the unnamed defendants, but at the February 16th hearing, the majority of the ISPs had changed their position. Joel Watson, a lawyer representing Telus, for example, argued that Canadian ISPs don't want to become de facto detectives for The Music Industry (Thompson, 2004, February 17). Moreover, in terms of privacy, the *BMG Canada v. John Doe* (2004) court documents reveal that all parties were in agreement: "that internet service provider account holders expect that their identities will be kept confidential" but that under the Personal Information Protection and Electronic Documents Act (PIPEDA), paragraph 7(3)(c), "an ISP may disclose personal information if so required by court order" (*BMG Canada v. John Doe*,

2004). This meant that, in some ways, the framework was in place to reasonably expect the courts to compel the five ISPs to identify the 29 unnamed individuals, but that they aren't technically obliged to do so.

Complicating matters further, the Copyright Board of Canada openly tolerated the practice of downloading music. In the early 2000s, the Board made an arrangement wherein "private copying levies [were] placed on blank media such as MP3 players, CD-ROMs, audio cassettes and mini-discs" in an effort to recoup apparent losses that occur from the practice of "home taping" or, more contemporarily, downloading (Evans, 2003). The Canadian Private Copying Collective (CPCC) was then created to administer the collection of royalties and pass along the money to copyright owners (Evans, 2003). As a result of the existing copying levy, the Board ruled that "downloading songs is permissible, regardless of the sources" in so far as the music is ultimately being "stored on media for which a levy has been paid" (Evans, 2003). Therefore, "PC users who download can argue that since a levy is paid on blank media, musicians are being compensated for lost sales" (Evans, 2003). Predictably, the CRIA wholly rejected the Copyright Board's decision, as it flies directly in the face of the case it is attempting to build. But Mark Evans (2003) of the *Financial Post* posed an important and niggling question: "If the CPCC is not credible then why are the levies being applied?" Indeed, if the CPCC's position is so disagreeable to the CRIA, then the levy shouldn't be collected at all. If, however, the levy is being successfully collected and distributed, then wherein lies the problem?⁸

⁸ For many years, the private copying levy was a major source of revenue and the CPCC was successful in generating over \$300 million in revenue for 100,000 music creators (Bouchard, 2018). Once the popularity of recording onto blank CDs waned, however, and individual users trended toward the use of portable MP3 players, the annual revenue from the private copying levy has decreased dramatically. From a peak of \$38 million in 2004 to less than \$3 million in royalties in 2016, the overall revenue has dropped upwards of 89 per cent (Bouchard, 2018). Because the levy applies only to "media" and not to "devices," there is no levy collected for the sale of MP3 players, which the CPCC argues has resulted in music industry losses of \$240 million from 2012–2017 alone (Bouchard, 2018).

Ruling

The final judgment in the *BMG Canada Inc. v John Doe* case was delivered by Justice Konrad von Finckenstein on March 31, 2004. The ruling disclosed that the courts were unwilling to legally compel the ISPs to hand over the user data, fundamentally preventing the CRIA from moving forward with its lawsuit. What's more, the court found "that both downloading music and putting it in a shared folder available to people online appeared to be legal in Canada" (Borland, 2004). The court ruled that "downloading songs for personal use or having files available on a computer connected to the internet doesn't violate copyright laws" (Alexander & Ford, 2004). Essentially, it was determined that the action of saving a copyrighted file that you didn't pay for doesn't technically constitute stealing. It's the same as borrowing a CD from your friend that they paid for and making a copy of it for yourself; a practice that is considered legal in Canada as a result of the personal copying levy (CPEC) described above.

In what would become the ruling's most infamous — if not categorically controversial — quote, Justice von Finckenstein said of downloading and personal copying: "I cannot see a real difference between a library that places a photocopy machine in a room full of copyrighted material and a computer user who places a personal copy on a shared directory linked to a P2P service" (Alexander & Ford, 2004). The quote suggests that the court understands photocopying and downloading as synonymous; and in so doing, von Finckenstein was decidedly questioning whether the CRIA had a copyright case at all (Borland, 2004). That is to say, if the courts felt that downloading was akin to making photocopies, there was absolutely no legal recourse available to the CRIA to prevent such a practice from occurring. In the end, however, it wasn't so much the semantics of downloading and copying that were the biggest issue; for von Finckenstein, the biggest concern was that the CRIA had brought little to no evidence to support several of their key claims (Fewer, 2005). Indeed, the evidence brought before the courts by the CRIA were

“sketchy” at best (Fewer, 2005). Because MediaSentry couldn’t precisely explain how they were able to link IP addresses to the user aliases on KaZaa⁹ that they had identified, the court could not accept their evidence, and “the judge discarded much of [their] findings as ‘hearsay’” (Thompson, 2004, April 2). Furthermore, in an effort to entrap the guilty parties, the CRIA had MediaSentry distribute fake files on KaZaa, which the company admitted to having done during the hearing. By attempting to confirm the identities of the alleged infringers with bogus files planted by MediaSentry as opposed to genuine copyright versions to confirm their identities, the case was severely compromised (Longford, 2007, 209). The CRIA’s inability to furnish evidence in accordance with Canadian law ultimately undermined not only the strength of their case but the eventual viability of it.

CRIA Appeal

Immediately after the hearing, the CRIA indicated that it would appeal the decision; and on July 13, 2004, it did (Thompson, 2004, July 10). The CRIA argued that, in his ruling, Judge von Finckenstein had made several key errors, the most egregious of which being that he had fundamentally misinterpreted the Canadian Copyright Act (Thompson, 2004, July 13). In particular, von Finckenstein’s point that file-hosting sites enabling peer-to-peer file sharing are akin to a library keeping a photocopier on site was roundly rejected by the CRIA and its supporters. Dan Cameron, for example, a lawyer from Toronto, questioned the analogy, arguing that the technology is vastly different and that “the facility with which you can access information is different” (Mayeda, 2004). Indeed, to compare a photocopier with an internet-enabled file-sharing platform is a bit like comparing apples and oranges, but in terms of the law, von Finckenstein was correct: if private copies of any kind are allowed, and levies are paid for the

⁹ KaZaa was a popular peer-to-peer file-sharing platform, similar to Napster, launched in 2001.

purchase of blank/storage media with which to make copies — including computers — then there is little room within the existing legal system to make an exception for music, especially when faced with the questionably culled evidence presented by the CRIA.

After much deliberation, on May 19, 2005, the Federal Court of Appeal rejected the findings of the motions court with respect to copyright law (*Canada NewsWire*, 2005). They concluded that the CRIA's case and appeal relied on outdated and faulty evidence — “hearsay” — and that to move forward on such evidence risked exposing potentially innocent people to unwarranted invasions of privacy (Restivo, 2005; *Canada NewsWire*, 2005; Geist, 2005). However, the panel did encourage the CRIA to return to the court in the future, albeit armed with “stronger and more current information,” and clarified the steps necessary to obtain disclosure of the identities of alleged large-scale uploaders (Restivo, 2005). Despite the encouragement to return, and the clarification of steps needed to identify potential defendants, the CRIA ultimately didn't follow through after the appeal was denied. Surprisingly, the CRIA wasn't deterred by its lack of success in the court system, however, and after a brief litigious hiatus, it set its sights on a new internet presence tormenting industry titans: BitTorrents. As web culture shifted away from the downloading of MP3 files via peer-to-peer file-sharing networks toward BitTorrents at the end of the 2000s, the CRIA's piracy panic narrative followed along with it. Without skipping a beat, in a February 2007 speech, CRIA President Graham Henderson reignited the piracy panic narrative, bemoaning BitTorrents and Canada's indefatigable “culture of piracy” (Williams, 2007). This clearly illustrates both the salience and endurance of the piracy panic narrative, for even when it has been exhausted in one context, it can be easily revived within new contexts in order to sustain the logic of crisis and panic, and in turn the legal actions that ensue.

The CRIA Takes on Torrents

Launched in 2003, Demonoid is a semi-private BitTorrent tracker and website.¹⁰ Demonoid, and others like it, include file-sharing related discussion forums as well as a searchable index for the tracker. Similar to other trackers, Demonoid does not host any media content on its site directly, rather it hosts the BitTorrent files that users can download to link to other users who are sharing the same music or video content (George-Cosh, 2007). When the CRIA discovered the presence and popularity of sites such as Demonoid, they acted swiftly and immediately put pressure on the site to cease activity. On September 25, 2007, the CRIA was successful in its efforts and Demonoid.com was taken offline in Canada; the site was banned access to all Canadian IP addresses following threats of legal action by the Association (Gilbertson, 2007; Anderson, 2007). This maneuver turned out to be a lucky one for the CRIA: it had been discovered that the leased server space Demonoid was using was hosted by a Canadian company (George-Cosh, 2007). Therefore, supported by their geographic jurisdiction the CRIA could effectively intervene in Demonoid's operations as it was backed by Canadian law.

After a brief interruption in service, Demonoid was back online within a few days, but by November 9, 2007, however, *Wired* reported that the site had officially been taken down for good. On that day, the Demonoid homepage read: "The CRIA threatened the company renting the servers to us, and because of this it is not possible to keep the site online. Sorry for the inconvenience and thanks for your understanding" (Gilbertson, 2007). Taking down Demonoid can certainly be read as a victory, but given the fact that the majority of torrent trackers are hosted all over the world, far outside the CRIA's jurisdiction, the success is middling at best.

¹⁰ A BitTorrent is a peer-to-peer file transfer protocol that enables an atomized download, wherein each part of a file downloaded by a user is transferred to other users. A BitTorrent tracker, then, is a particular type of server that facilitates communication between those peers using a BitTorrent protocol (Das, 2020). Oink's Pink Palace was arguably the most popular torrent track in its time (Witt, 2015).

Several other sites — even Demonoid — still operate but they run their servers in countries that are less likely to impose restrictions or intervene legally with regard to their involvement with the circulation of copyrighted material online. Triumphant in their evasion of the law, the Pirate Bay, for example has skirted countless legal skirmishes by switching servers to ones that operate in the more laidback Sweden; or KickassTorrents, whose servers are changed with regularity, relocating from the United States to the Philippines, from Tonga to Somalia, from the Isle of Man to Costa Rica, and beyond.

To date, there hasn't been a single case heard against peer-to-peer site owners in Canada, and "finding a case against an individual Canadian P2P user is like finding a needle in a haystack, or harder" (Dunlop, 2015). While the "CRIA's rhetoric may serve the purpose of [temporarily] scaring young people away from using peer-to-peer networks to share music" evidence from its fruitless lawsuit and the suits carried out in the United States, however, "shows that these bull tactics don't work" (Fewer, 2005). What the CRIA's eager circulation of piracy panic rhetoric ultimately accomplishes is to act as a distraction. In so doing, it ultimately "obfuscates crucial policy questions about freedom of expression and Internet privacy" in favour of championing stricter copyright regulation, and loosened ownership regulations, for the benefit of industry (Fewer, 2005). The unfortunate consequence of the "aggressive industry tactics aimed at preserving the old model by using copyright to bludgeon consumers into compliance," explains Graham Longford (2007), is that it threatens "to stifle the development of alternative, more collaborative and participatory forms of musical production, distribution and consumption enabled by technologies like P2P networks, along with the new social networks and communities that emerge as a result of them" (199–200). Indeed, if we are to take seriously the idea that the internet can facilitate more democratic production, distribution and consumption of music, it

seems that a viable first step involves reimagining the process in its entirety. A more thoroughgoing discussion of the alternative possibilities for digital distribution via internet platforms, including, for example, platform cooperativism and national ownership models, is provided in Chapter 5.

Conclusion

All the way back in 1999, in an interview with *Billboard*, Transworld Entertainment Executive Vice President Jim Litwak asked two prescient and important questions: “How will digital distribution be used?” and “Is that a conversation between labels and distribution companies, or between labels and artists, or between artists and retailers?” (Christman, 1999, 88). At that moment, the RIAA (and eventually the CRIA) were under the distinct impression that the conversation about digital distribution should be had exclusively between labels — and no one else. It is this refusal to see the potential in new arrangements that eventually led to the launch of anti-piracy campaigns that at the present time are recognized as complete and utter failures. Instead of seeing the internet as possibly opening up new revenue streams, “the recording industry was [more] concerned that their control over the promotion and distribution of sound recordings would be diluted” (Gonzalez, 2000, 78); that artists would be able to distribute their music directly to their fans on the internet and then leverage online popularity in negotiations with the record labels, or even bypass their control in its entirety (Christman, 1999, 88). And bypass them they did.

Knopper (2010) rightly insists that it was the piracy panic narrative, and the industry’s litigious responses, that were the real cause of the 2000s crash, which reflects a common pattern of resistance to change within music industry. “If we are to reimagine an alternative, better world for musicians and listeners,” writes Jonathan Sterne (2012), “we will need to look past both the

old monopolies over distribution and exciting practices of peer-to-peer file sharing for new models that support a robust musical culture, one not just based on buying and selling” (28). He argues that piracy was a productive economic force, and while the recording industries see it as a threat to capitalism, other industries benefit handsomely — consider, for example, consumer electronics, broadband, internet service providers, and other kinds of intellectual property rights holders (Sterne, 2012). The Industry’s inaction up to 1997 is crucial, he continues, as it allowed other industries, such as new media and technology, commonly represented by companies like Apple and Google, to develop and organize around the online media environment.

Sutherland and Straw (2007) explain that “what has changed” in the post-Napster environment, “are the kinds of businesses involved in selling music to consumers” (154). “A distribution network dominated by the major record labels,” they continue, “is giving way to a supply chain that involves new media and technology companies from outside the industry,” and we see this manifesting in successful web ventures including Spotify and Apple Music (Sutherland & Straw, 2007, 150). Despite changes in its outward appearance, however, “in many respects,” writes Leslie Meier (2017), “the power structure inherited from the ‘old’ music industries remains intact in the era of digital distribution” (154). Although declining CD sales and widespread, unauthorized circulation of music were regularly cited as evidence of The Music Industry’s brush with fatality, music industries did not succumb to digital downloads, and continue to reap the benefits of a system rigged in their favour. Indeed, although digitization has had significant repercussions for the nature of the music commodity, music industries have recently reconfigured themselves around the distribution, circulation, and presentation of music digitally, and The Music Industry’s position as the locus of power has yet to be meaningfully disrupted (Morris, 2015). Ultimately, it is The Music Industry’s ability to maintain a monopoly over the means of

distribution that remains a key issue inciting panic among music industries throughout history, but one that has come to a head in the digital era (Jones, 2002; Sirois & Wasko, 2011). However, as Leslie Meier (2017) argues, “the business logics and tendencies inherited from the old music industries still play a vital role in shaping the asymmetrical distribution of risks and rewards found in the contemporary music industries” (53). They have reinserted themselves in the supply chain by shutting down and/or buying up existing (illegal) distribution platforms, receiving exorbitant licensing fees to allow access to their catalogues (i.e., Spotify), or by creating entirely new platforms (e.g., Vevo, founded by Doug Morris, former Chairman and CEO of Universal Music Group and Sony Music Group).

In spite of their ability to maintain their dominant position and standard of expertise, The Music Industry has spent, and continues to spend, significant resources decrying file sharing, digital distribution, and piracy claiming that they collectively pose a threat to the value of recorded music, and in turn, music industry livelihood. In reality, however, the power held by The Industry remains undisturbed, and the inequalities between industry and artist have in some ways intensified in the presence of digital distribution — it’s often the musician, not the industry, that suffers (Morris, 2015). Indeed, Leslie Meier (2017) argues that “technological changes to the tools used to produce, distribute, and consume sound recordings have not fundamentally disrupted the distinctive economics of the old recording industry” (63). To be sure, consumption patterns have changed substantially — especially the shift to an emphasis on access over ownership — and The Industry has adjusted some of its methods to accommodate this, resulting in economic recovery.¹¹ But as digital distribution platforms have become the mainstay of

¹¹ In 2018, for example, the RIAA reported that sound-recording revenues had risen by 12 per cent to a monumental \$9.8 billion, the highest level reached in a decade, with streaming revenues alone growing by 30 per cent (Bridy, 2020, 332).

distribution (and access), musicians have been forced to reconfigure their own methods for earning a living as well. Endowed with direct access to fans, some musicians — especially those with an established audience — can seize the internet and digital distribution platforms as an opportunity to carve out a path toward a label-less future. For emerging artists, however, those who have yet to build such an audience, carving out a niche yet monetizable market within a highly saturated digital music landscape is as (if not more) difficult as attempting to build an audience in person. Music industry therefore remains a field of, and site for struggle over, power — “the power to decide who controls effort and decides what efforts are appropriate to market success” (Jones, 2012, 204). Although piracy panic was initially directed at platforms and consumers, there was also percolating fears among industry stakeholders that these platforms would not only allow consumers to bypass the industry, but would also allow artists to reach audiences directly, rendering labels obsolete in the process. Digital optimists, conversely, were hopeful about the possibilities platforms provided, proclaiming democratization in the field of digital distribution as a result of disintermediation. However, in the following chapter, we will see instead that the industry was not disintermediated by digitization and the availability of platforms, rather the industry has reinserted itself into the supply chain, by absorbing and reincorporating these alternative distribution models and platforms, causing inequities to persist.

In the following chapter I narrow my focus by examining the specific role digital distribution platforms have played in shaping the artist-as-intermediary, and clarifying the distinction between consumer- and producer-oriented platforms. To begin, I define different platforms for digital distribution, and categorize them as either consumer- or producer-oriented, assessing how they exclude or assist the artist-as-intermediary. I offer a close analysis of three producer-oriented platforms, Bandcamp, Patreon, and TuneCore, and through these case studies

evaluate the extent to which they enable or constrain the ability of the artist-as-intermediary to make, move, and monetize their music online. To conclude, I compare the perspectives as shared with me by my interview participants regarding the pleasures and pitfalls of making a living in the platform era to the discourses that circulate around the enabling of access, and in turn the democratization, these platforms are said to have facilitated.

Chapter 3

Producer-Oriented Platforms & The Artist-as-Intermediary: Seizing Digital Prospects/ Managing Digital Precarity

Musicians have long been the vanguard of the gig economy, facing many of the same problems gig workers face today: obtaining health insurance, saving for the future, paying down debt, planning for taxes, and record keeping

— Alan Kreuger (2019, 55)

Introduction

To promote the release of his upcoming album, *Echo*, in March of 1999, Tom Petty made available for free a downloadable MP3 of the LP's first single, "Free Girl Now," on the website MP3.com. This promotion also invited unsigned artists to participate in a contest. Participants were to submit a cover of one of Petty's new songs, with the results of the contest to be determined by MP3.com voters, who were offered free tickets to see Petty on his next tour, and contest winners were awarded an opportunity to play at a Petty concert that summer (Sullivan, 1999). To Petty's surprise, however, just 48 hours after he put the song up on the website, the MP3 file was taken down at the behest of his label, Warner Brothers, because it had not approved the promotion (Jones, 1999, April 27; Nelson, 1999; Sullivan, 1999). Much to Warner Brothers' chagrin, however, before the song was removed it had already been downloaded in excess of 150,000 times (Jones, 1999, April 27). Despite having taken the song down, Warner Brothers' then-Senior Vice President of Marketing, Bob Merlis, said that the label actually didn't "have a gripe about it," and that it was "hopeful this will generate additional sales for [Petty's] album," but was clear in stating that the label was not specifically involved in this promotion (Sullivan, 1999). Notwithstanding this conflicting commentary on the events, the song was nevertheless taken down. This particular exchange is among the earliest I discovered that showed

there was a tangible difference between some musicians' goals online and their labels' desire to constrain those goals under the guise of protecting rights holders (e.g., labels). This example therefore provides an early site for observing a struggle between an artist and their desire to simultaneously reward fan loyalty and promote their work by circulating a free MP3 download of one of their songs; and a label's desire to maintain control over the circulation of their primary commodity good in order to maximize its potential to exploit economies of scale, promote false scarcity, and realize profits. And Petty wasn't alone in this respect, with other examples like Alanis Morissette's "groundbreaking alliance with the MP3.com" in 1999, that her manager had hoped would ease "music-industry fears about the near-CD-quality [of the] MP3 format and other methods of digital delivery" (Nelson, 1999). In addition to Morissette, singer-songwriter Tori Amos was also set to be included in a new partnership with MP3.com at that time, and acts such as the Goo Goo Dolls, Green Day, Seal, Luscious Jackson, Weezer, Jude, and Savage Garden were all expressing interest in pursuing similar promotional deals with the site (Nelson, 1999). It is evident from these few examples, that in the late 1990s, there was a significant and expanding, albeit relatively unnoticed, contingent of emerging and established musicians who were keen to harness the potential the internet provided through various digital distribution platforms.

Contrary to the post-Napster anti-piracy/anti-internet rhetoric circulated by lawmakers and industry figures via the piracy panic narrative that insisted musicians needed protecting from exploitation online, several bands and artists clearly perceived digitization as a positive — as an avenue for "regaining control over [their] master recordings" (O'Brien, 1999, 49). That's not to say there existed a groundswell movement of anti-label anarchists, *per se*, but these examples demonstrate a collective desire among some musicians to make tangible changes within the industry, and to their working lives through the use of digital distribution technologies. To be

sure, what these examples most clearly speak to is the significance of digital distribution's impact upon music industries, and they reveal that, despite a few critical outliers, several musicians have had an interest in using platforms to engage with fans since as far back as the late 1990s. It's not surprising then, that when producer-oriented, user-friendly platforms, like Myspace and Bandcamp, emerged alongside the concurrent rise in availability of software¹ for recording and producing music, many musicians were keen to harness this newly available access to not only the means of production, but more importantly the means of distribution.

In *Understanding the Music Industries* (2013) Chris Anderton, Andrew Dubber and Martin James argue that understanding digital distribution is the key to apprehending many of the changes that affect 21st century music industry ecologies (93). As noted in the previous chapter, the history of recorded music is marked by disturbances to The Industry's ability to maintain control over distribution and consumption. Routinely, the emergence of new distribution technologies pose not only a forbidding presence, but also a significant threat to the status quo. Despite much consternation over the presence and popularity of these new distribution technologies, however, little about The Music Industry's operations and position of power has changed. As noted in Chapter 2, since the late 1990s, digital distribution platforms such as Napster have received significant attention, and are said to have obstructed The Music Industry's ability to exert a totalizing control over the distribution and consumption of their primary commodities: musical recordings. Conversely, digital optimists proclaim that what digital distribution platforms are said to have accomplished is disintermediation: they have removed various intermediaries (middle-persons) from the supply chain, rendering labels and the services they offer obsolete. Indeed, digital technologies have made production and distribution more

¹ Such as Apple's GarageBand that debuted as part of the Apple iLife software suite in 2006, and has since become a feature part of all Mac operating system's software packages.

accessible to creators, and consumers with internet access can easily find their favourite artists and discover new music online — legal and pirated copies alike — through myriad digital distribution platforms. As a result, the optimists argue that emerging artists can, without a label, record, produce, distribute and promote their own albums, rendering several music industries obsolete in the process. In the end, however, both The Industry account of digitization's disruption to its revenue accrual and optimist accounts of disintermediation were inaccurate. Throughout this chapter, I argue that while the outward appearance of The Music Industry looks decidedly different in the digital era, the risks and responsibilities assumed by traditional intermediaries are not eliminated by the so-called process of disintermediation, rather they are downloaded onto the musician. Using producer-oriented platforms to reach fans and promote music, musicians have increasingly become their own intermediaries: what I call the artist-as-intermediary. On top of the already challenging creative labour musicians perform to make their music, in the digital era they are required to undertake numerous technical and entrepreneurial tasks, tasks that would have once been carried out by experts, or intermediaries.

In what follows, I explain the outcome of the various actions examined in the previous chapter, namely that, in the absence of consultation throughout a decade of legal proceedings and policy decisions, the artist-as-intermediary emerged out of both necessity and circumstance. The primary objective of this chapter is to explore and assess both the production and practices of the artist-as-intermediary. To do this, I provide case studies of three different producer-oriented platforms commonly used by emerging and independent musicians: Bandcamp, Patreon, and TuneCore. Collectively, these platforms enable artists to bypass traditional industry networks, but don't altogether alleviate them of the responsibilities that come with being an artist-as-intermediary; instead, these platforms offer tools for distributing music to a monetizable

fanbase that the artist sustains through ongoing interactions on social media. To complement these analyses, I compare the perspectives shared with me by my interview participants to the widely circulating disintermediation discourses, highlighting the need for second-jobbing in the face of digital success, and the pleasures and pitfalls of artist-as-intermediary labour. I argue that musicians aren't *liberated* by disintermediation and digital distribution platforms, rather they are *transmuted* into the artist-as-intermediary, and the responsibilities of intermediaries — promotion, management, distribution, A&R, and so on — are transferred to the musicians. Before turning to my final analysis, however, I begin by defining four categories of digital distribution, and articulate the difference between consumer- and producer-oriented platforms. Ultimately, I conclude that digital distribution did not disintermediate the industry, it instead concretized the formation of the artist-as-intermediary.

Platforms for Digital Distribution: What are they?

Early versions of digital distribution² consisted primarily of peer-to-peer file-sharing networks and torrent sites that operated outside of industry purview and in direct opposition to the copyright legal system. As noted in Chapter 2, these platforms received significant attention from the Recording Industry Association of America (RIAA) and the Canadian Recording Industry Association (CRIA, now Music Canada) via a slew of widely publicized lawsuits against the platforms and their users. Since this period, however, different modes of digital distribution have arisen, many of which operate with the express consent of The Music Industry as music industries have slowly worked toward enclosing the digital realm.

² Technically speaking, digitization refers to “the increasing use of electronic storage and transmission technologies that allow images, words, sounds” and more “to be converted into binary code that can be read and stored by computers” (Hesmondhalgh, 2019, 262). Digital distribution of music thus specifically refers to either the practice of distributing MP3 files to an end user, or the storage of MP3 files on a website or platform for the purposes of providing streaming access.

Philipp Peltz (2013), a seasoned music producer and interdisciplinary researcher outlines four models of digital distribution in his contribution to the book, *Music Business and the Experience Economy*: the free model, the download-to-ownership (DtO) model, the music-as-a-service (MaaS) model, and the crowdfunding model. In the free model, musicians offer their music against no or involuntary payments, and the music is delivered to consumers as a downloadable or streamable file via an artist's website or third party platform, such as Soundcloud or Bandcamp (Peltz, 2013, 103). While this is a viable method for "getting the music out there" Peltz concedes that it's a difficult balancing act to strike. On the one hand, the free model allows any emerging or established artists to give back to their fans or self-promote by releasing a free download, like the Tom Petty example above; whereas, on the other, in so doing, musicians without a substantial following or reputation risk devaluing their primary product by offering it at no cost.

Next, the download-to-ownership model (DtO), was (for a time) the preferred digital distribution method once industry-authorized platforms such as iTunes were launched, and unsanctioned sites like Napster were either taken down or taken over. The DtO model was initially preferred because it most closely resembled the structure of the traditional recording industry, wherein consumers buy individual songs or albums as digital files (e.g., MP3, FLAC, AAC, etc) and permanently download them to their computers and various devices (Peltz, 2013, 110). Recently, however, the Music-as-a-Service model, most commonly represented by streaming platforms such as Spotify, has surpassed the DtO model in both popularity and sales. In 2014, the revenue from streaming surpassed CD sales in the United States, and in 2017 it surpassed it on a global scale (Palermino, 2015; Sanchez, 2018, April 24). In the MaaS model, the service provides music to listeners without the transfer of ownership through the use of streaming platforms, whereas the DtO model allows consumers to possess digital copies of the music, copies they could

potentially share or duplicate — something The Industry is now more wary of (Peltz, 2013, 107). Many MaaS providers offer two tiers of service. One tier employs a “freemium business model” where the service provides music for listening at no direct cost to the consumer, and the service accrues revenue through site-based advertising (107); the second tier, paid subscriptions, allows users to listen to unlimited amounts of music ad-free in exchange for a monthly fee (107). Arguably, the most well-known example of this model is Spotify, but it also includes Apple Music, YouTube Music, Google Play, Pandora, Amazon Prime Music, Tidal, and more.

Finally, Peltz outlines the fourth model of digital distribution: crowdfunding. In this model, artists use third party sites such as Indiegogo and Kickstarter to request donations from fans and listeners. These donations are used to fund tours, the creation of an album, the production of merchandise and music videos, and general financial support for artists who otherwise see little return on their creative investments. Through the crowdfunding model, artists provide incentives at various levels of funding, be it unique merchandise, exclusive passes to events, early releases of music, and so on. As a distribution model, crowdfunding demands more than just music from musicians, in effect doubling their creative labour as they are expected to provide not only their primary commodity — music — but supporter incentives, as well.

Although Peltz provides a clear and descriptive account of what forms digital distribution assumes in music industries, and its technical processes, his work is rooted in a business logic that omits considerations for the specific and necessary questions around the power dynamics involved, or even what constitutes the platform economy within which these digital distribution platforms operate and profit. For example, his account primarily considers the most popular, industry- and consumer-approved methods for digital distribution, ones tethered to established and existing industries, such as music industries, and new industries, including tech startups like

platforms. Moreover, the list of digital distribution methods he provides isn't exhaustive. This might be a matter of timing, or perhaps it reflects a small blindspot in the research, but there are more nuanced ways of categorizing and characterizing the various platforms for digital distribution now available. Consider for example the different types of ownership models that platforms could and sometimes do assume, like co-operative or publicly-owned distribution models, which will be discussed in more detail in Chapter 5. Finally, although these distribution models have undoubtedly made musician-fan connections easier, allowing the artist-as-intermediary to bypass labels in some instances, we must remember that not all platforms are created equal. As The Music Industry enclosed on digital distribution practices, many of the power imbalances of the old system were carried over into the new, digital system. To better understand the impelling force behind the creation of these platforms, two important questions remain: Whose platform is it? and Who is it for?

Producer-Oriented Platform Pioneers

According to David Hesmondhalgh, Ellis Jones and Andreas Rauh (2019), today's most popular platforms for streaming music are prime examples of consumer-oriented platforms. That is to say, they are "the formalised inheritors" of the unauthorized "peer-to-peer pirate services" from the late 1990s (2). They argue that consumer-oriented platforms, including Spotify and Apple Music, represent "the principal means by which the challenge to the recorded music industry once afforded by digital technologies has been contained" (17). These industry-sanctioned platforms are so authorized for a number of complex reasons, not least of which being that major American labels now own a sizeable stake in Spotify and that, in 2020, Apple Music signed deals with Universal Music Group, Sony Music and Warner Music Group for further promotion and streaming allowance of songs from artists on those labels, including Taylor Swift, Lizzo and

Adele. Anderton, Dubber and James (2013) argue that platforms such as these facilitate a two-sided market that serves both listeners and advertisers, but not musicians. Most digital consumption of music worldwide now takes place via these industry-approved streaming services that have secured access to enormous musical copyright repertoires through negotiated partnerships with rights owners, mainly the major music labels. Ultimately, what these platforms represent is The Music Industry-cum-internet. The Industry has therefore not been disintermediated, rather it has reinserted itself in the supply chain, not by eliminating the so-called enemy — digital distribution platforms — but by assuming its identity. These industry-approved, consumer-oriented platforms reinstate music industry gatekeeping functions by prohibiting or limiting access: independent and unsigned musicians, those not represented by a substantial label, are not free to discuss terms with the likes of Spotify and Apple Music, for those platforms outright refuse to negotiate with small rights holders, further entrenching and extending music industry power online.

In contrast to consumer-oriented platforms, there exists a second set of streaming services and digital distribution platforms: producer-oriented platforms. Started in 2003 by Chris DeWolfe and Tom Anderson, one of the earliest examples of a producer-oriented platform is Myspace. Although it was initially designed for social networking purposes, the platform's eventual positioning as a leading digital distributor for new music in the early aughts was not simply a matter of tremendous fortuity. Nancy Baym (2018) explains that Myspace was “created and based in Los Angeles,” so it logically “seeded its network with people in the LA music scene, betting that musicians’ need to build and reach audiences could serve the company’s need to convert people, be they musicians, fans, or anyone else, into users” (10). The platform is now well-known for helping launch the careers of such musicians as Soulja Boy, Arctic Monkeys, Panic! At

the Disco and Lily Allen, and from 2005 to 2008 it was the most visited social networking site in the world, “often surpassing Google in number of visitors” (Kozlowski, 2012); but once Facebook launched in 2008 it rapidly eclipsed Myspace in both popularity and use. Hesmondhalgh, Jones and Rauh (2019) nevertheless consider Myspace a noteworthy platform because it was the first major industry-sanctioned, producer-oriented, web-based service that facilitated a direct link between musicians and new or existing fans. Indeed, although Napster possessed some of the same characteristics as Myspace, it was the platform’s individual profile pages that helped distinguish it from Napster — not a searchable repository for downloadable music, but a searchable, networked site for music promotion and discovery.

Hesmondhalgh, Jones and Rauh (2019) further explain that these platforms, including Soundcloud and Bandcamp, serve a somewhat different purpose than their consumer-oriented counterparts. By “allowing free and easy uploading and labelling of digital files containing music,” the authors note, these producer-oriented platforms “provide a means by which musicians can find audiences without necessarily working with major and independent recording and publishing companies” (2). Simply put, producer-oriented platforms are designed as a space *for* musicians — from hobbyists, to emerging artists, to professionals — to share their music with an audience (nascent or established), not a space for building an archive of high-cost copyright material to exploit. For this reason, I argue that producer-oriented platforms better support the needs of emerging artists than consumer-oriented ones. Despite facing their own challenges, including at times being limited by a lack of reach, popularity, and quality, producer-oriented platforms nevertheless exist first-and-foremost to provide a space for musicians to self-release music in a centralized location, and to facilitate a direct link between artists and listeners; in so doing, they also contribute to the formation and sedimentation of the artist-as-intermediary role.

In the following section, I describe Bandcamp's origins, assess its merits as a producer-oriented platform, and provide a short case study of Bandcamp-success-story and exemplary artist-as-intermediary, Car Seat Headrest; the section also incorporates and reflects on interview participants' first-hand experiences using Bandcamp, concluding with a discussion of the need to maintain a second job in the face of Bandcamp success.

Bandcamp

Bandcamp was launched on September 16, 2008 in Oakland California by Oddpost co-founder Ethan Diamond and programmers Shawn Grunberger, Joe Holt and Neal Tucker (Hesmondhalgh, Jones & Rauh, 2019, 3). As of this writing³ the company has overseen the payout of over \$587 million to musicians and independent labels, paying out \$17.2 million in September 2020 alone (Bandcamp, 2020). When compared to the penny fractions that artists are seeing from streaming royalties paid out by the likes of Spotify, these figures are rather impressive.⁴ The site combines the MaaS and DtO models to create a hybrid platform: Bandcamp makes music available to listeners for free through streaming, but also allows listeners to download tracks and albums for an artist-determined fee. Artists set the parameters around what they would like to make available for free, for download, for streaming, and at what costs. Musicians get free access to Bandcamp and there is no charge to upload music for streaming, but should an artist sell their music to a listener she/he must pay 15 per cent to the site for digital sales, and 10 per cent for physical goods. Once a musician reaches \$5000 in sales, however,

³ September 26, 2020

⁴ Although discussions about pay-per stream rates from platforms such as Spotify being fractions of a penny — and they are — it's difficult to provide a concrete counter example to Bandcamp's payouts. What I mean is that Bandcamp withdraws a certain percentage of sales for themselves, but the rest goes directly to musicians. With Spotify, for example, consumers pay a subscription fee which is added to a pool of revenue. Spotify automatically takes 35 per cent of that pool, record labels take another undisclosed percentage, and then the rest is divided up among the artists, from most to least popular. So the amounts per stream change depending on the overall amount of the pro rata subscription pool that's collected. Figures pertaining to the ad-supported streaming services are even more difficult to ascertain as the company doesn't make this information publicly available.

Bandcamp lowers their commission fee to 10 per cent. That means, the remainder, usually 85–90 per cent, goes directly to the artist on a daily basis. By contrast, traditional recording contracts would see the inverse disbursement of revenue: 90 per cent to the label and 10 per cent to the artist who must pay back their advance with proceeds from their share.

One of my interview participants, by total happenstance, turned out to be an employee of Bandcamp's in addition to pursuing her music career with her band. She has had a long career working in the music industry at labels, in music journalism, and as a musician, but had in the past year or so been hired by Bandcamp to work remotely on their website's search engine optimization (SEO).⁵ She, along with most interview participants I spoke with, was a huge fan of Bandcamp's. Understandably, one might assume she is merely toeing the company line, but she assured me that the reason she even applied to the Bandcamp position in the first place was because it fit with her personal politics: "Bandcamp is an outsider's platform," she said, "it is an incredibly egalitarian — and very intentionally so — platform" (Participant B). She spoke fondly of Bandcamp Daily, for example, the platform's editorial arm, that promotes reviews and features "about under-the-radar artists and scenes" that are "flourishing around the world" (Mejía, 2019). Bandcamp's human- as opposed to algorithmically-curated suggestions on their homepage, actively recommend and promote a variety of artists, genres, and regions. It is this emphasis on highlighting underexposed musicians and promoting outlier artists that Participant B, and other musicians like her, feel drawn to Bandcamp: it is because of the platform's treatment of musicians that she says she "position[s their] band as being a 'Bandcamp band' — like, in quotes [*laughs*]." Participant B explained that Bandcamp takes its editorials "very, very serious[ly]," and

⁵ Search engine optimization is a method used in web programming to increase the amount of web traffic search engines help drive to an individual website. Good SEO increases the likelihood that a particular webpage will appear in the results, and appear higher up in those results.

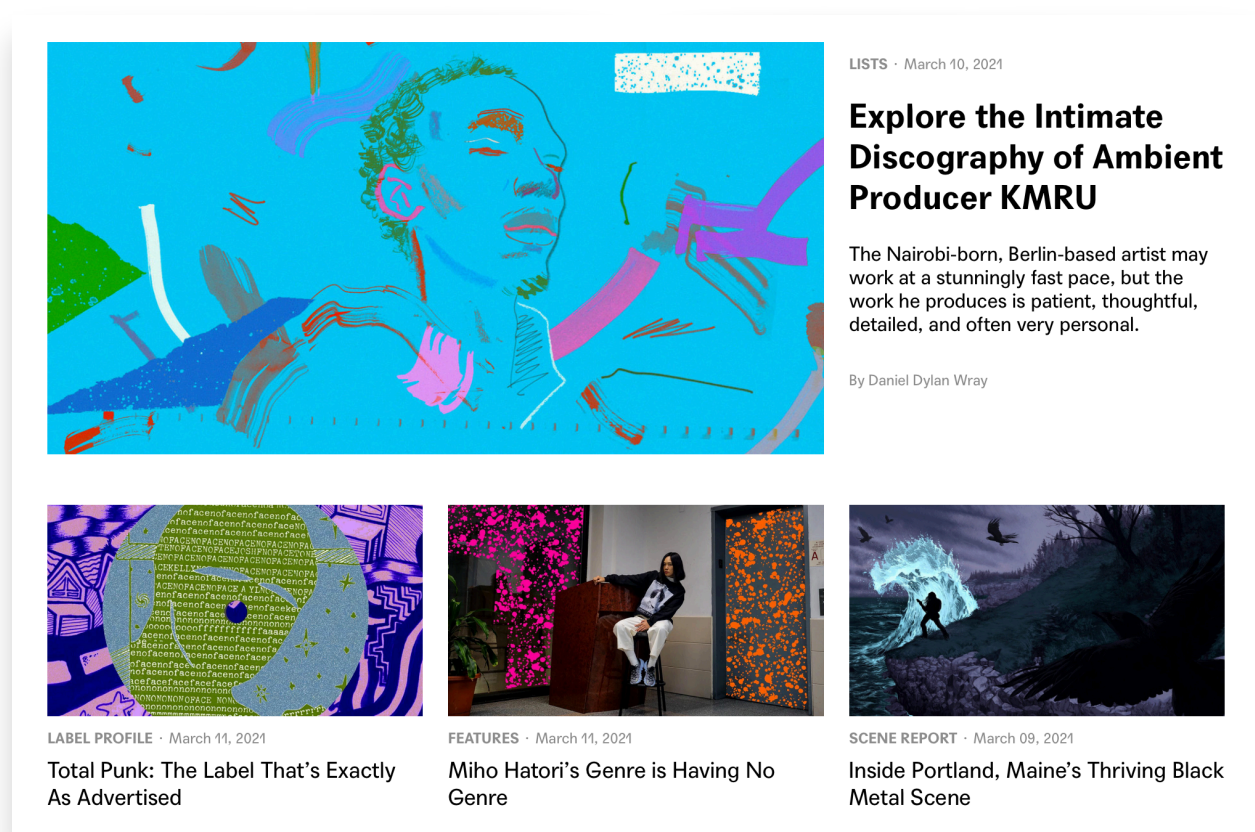


Figure 3.1
Screen capture of Bandcamp Daily page (daily.bandcamp.com) taken March 11, 2021.

stressed that the company is conscious “about reflecting the diversity on the platform,” an ethos she considers to be a “really beautiful thing.” In the image above (see Figure 3.1) we see a temporary snapshot of the Bandcamp Daily page, highlighting in this instance a Nairobi-born Berlin-based ambient producer, KMRU, but also includes a broad ranges of features: one on a punk label, another on Japanese singer Miho Hatori’s “no genre,” and a final one on a thriving American indie black metal scene in Portland. Curated with the active intention of highlighting a variety of music types, from a variety of locations, from a variety of performers, the Bandcamp Daily page is one small yet significant characteristic that differentiates it from consumer-oriented platforms, such as Spotify.

The mindful, human curation in many ways demonstrates that Bandcamp values the community of musicians it simultaneously helps to build and profits from. In an interview with NPR, Diamond (2021), explains that at Bandcamp, “community is really the key to the entire thing.” In 2017, when President Donald Trump introduced a travel ban⁶ from seven Muslim-majority countries, sometimes referred to as the “Muslim ban,” Bandcamp held a fundraiser on behalf of the American Civil Liberties Union (ACLU), donating 100 per cent of their proceeds to the cause. Held on February 3, 2017, the event raised a total of \$1 million, leaving \$120,000 for the donation (Tsioulcas, 2017). Furthermore, to promote the artists living in the countries affected by the travel ban, Bandcamp’s editorial arm composed a series of playlists that promoted the music of artists from the banned countries, and Mexico (Strauss, 2017). Later that year, in August 2017, Bandcamp also held a fundraiser for the Transgender Law Centre in L.A. as a response to the government ban on transgender people in the military. Over 200 labels and artists participated, including Car Seat Headrest, to be discussed more below, and his label Merge (Tsioulcas, 2017). This type of commitment to community and awareness of social issues reflects Bandcamp’s core company mission, one that clearly expresses a deep respect for the creation of music and its contribution to culture, and the company’s strong conviction that artists need to be paid for their labour. On its site, the mission is listed as follows: “Bandcamp believes that music is an indispensable part of culture, and for that culture to thrive, artists must be compensated fairly and transparently for their work” (Bandcamp, 2020). “Since we only make money when artists make a lot more money,” the mission continues, “our interests remain aligned with those of the community we serve” (Bandcamp, 2020). Bandcamp therefore provides a producer-oriented

⁶ The countries that were first affected were Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen. Iraq and Sudan were eventually removed, and then Chad, North Korea, Venezuela, Eritrea, Kyrgyzstan, Myanmar, Nigeria, and Tanzania (along with Sudan, again) were added. In January 2021, President Joe Biden reversed the ban.

space for music distribution but the onus nevertheless remains on musicians to manage their marketing and promotional initiatives.

The creative labour practiced throughout the cultural industries already requires a substantial amount of discipline and devotion to craft, but to face the additional burden of ongoing self-promotion and self-management, a tension described by Nancy Baym (2015) as “the relational labour of connection” — in the digital era, traditional musician labour is recast as artist-as-intermediary labour. In addition to the creative labour expended writing and recording music, musicians must also tactfully manage labour-intensive promotion, as well: they have to “hype their material across a raft of social networks” (Duffy, 2017, 68–69). The problem is, “connecting with audiences may be expected, but it is rarely directly compensated” so musicians must see this labour “as an investment toward building and maintaining an audience that will sustain a career” (Baym, 2015, 14). Musicians are therefore faced with the uncomfortable task of trying to remain true to their personalities and style, while at the same time trying to package and promote their identity, and then actively selling that identity along with their music to the audience they are trying to build; the case of artist-as-intermediary and Bandcamp star Car Seat Headrest below will clearly illustrate some of these tensions.

Car Seat Headrest

A lo-fi indie pop band and the creative project of frontman Will Toledo, Car Seat Headrest (CSH) is an exemplar of the artist-as-intermediary and the poster child for producer-oriented platform success. Hailing from Leesburg, Virginia, but currently residing in Seattle, Washington, Toledo is the sole auteur for all of CSH’s material, though he occasionally recruits others for recordings and live performances. Beginning in 2010, Toledo started recording his music onto his MacBook using the freely available GarageBand software and a low-cost USB interface plug for

his guitar (Aguilar, 2015). Quite quickly and with seemingly tremendous ease, Toledo produced an expansive repertoire of recordings. The bulk of these recordings, especially the vocals, took place in Toledo's parents' minivan to an audience of car seat headrests, hence the name. During these early days, immediately after recording and editing, Toledo would upload his music to his Bandcamp page where he built an expansive catalogue of 11 albums that he made available for listening and purchasing, all prior to getting signed to a label — *and* turning 24-years-old. Via Bandcamp, Toledo sold over 25,000 copies of his works by 2015, amassing a small but loyal following of devotees (Hayden, 2015). To this day, he is an active social media participant, engaging with his fans regularly through Twitter, Facebook, and Tumblr, often posting several times in a day.

With a prolific recording history already behind him, by age 23, Toledo was beginning to find the solo journey to be exhausting, saying in an interview that while he found self-releasing material to be rewarding as a practice, “the payoff is super slow,” and that he would have liked to continue in this model, but he “needed money” (Rettig, 2015). So, when Matador founder Chris Lombardi emailed him in 2015 after being turned on to his music by an intern, Toledo was quick to reply (Aguilar 2015; Rettig 2015). Shortly thereafter, Lombardi travelled to Seattle to see a CSH show which, according to Toledo, had “a shoddy turnout” and was a poor performance (Rettig 2015). In spite of the allegedly abysmal performance, however, Matador signed CSH straightaway, releasing a compilation (or “taster”) album called *Teens of Style* in October 2015. Shortly after its release, *Teens of Style* secured a number 19 spot on the *Billboard* “Top Heat Seekers” chart for new and emerging artists, remaining there throughout the week of November 21, 2015. Toledo has since released three more LPs: *Teens of Denial* (2016), *Twin Fantasy* (2018), and *Making a Door Less Open* (2020). Like *Teens of Style*, both *Teens of Denial* and *Twin Fantasy* were

primarily composed of material culled from Toledo's existing catalogue, with a few new tracks on the former, whereas *Making a Door Less Open* is CSH's first entirely original LP since having signed to the Matador label.

A shy individual, known for being somewhat reticent in interviews, we nevertheless gain partial insight into Toledo's own experience getting signed when listening to the fifth track, "Times to Die," from his debut album with Matador, *Teens of Style*. The actual song predates Toledo signing the deal with Matador, but he re-wrote some of the lyrics to incorporate his experience signing the recording contract in the song's release on *Teens of Style* (Deusner, 2015). The 2012 version of the song expresses the anxieties the narrator (likely Toledo) is experiencing as he watches from what feels like the sidelines as his friends move forward in their lives, submitting defeatedly that pursuing a career in art is — at least at that moment — lonely and unrewarding:

All of my friends are getting married/All of my friends are right with God/All of
my friends are making money/But art gets what it wants and art gets what it
deserves.

Here, he is explicit in linking his feelings of failure to his work as a musician, or his desire to do it for a living. In another verse later in the song, Toledo describes his desire to secure a recording contract, suggesting that his labour on Bandcamp was done so expressly with the intent of getting signed to a label, not to exist outside of it or continue to work independently. In the original version, Toledo (2012) sings:

Worming my way into your heart/Worming my way onto the charts/I want a
deal/Let's make a deal/Let's cut a covenant.

After signing with Matador, however, Toledo changed the lyrics in the song's 2015 release to the following:

Got to have faith in the one above me/Got to believe that Lombardi loves me/It's
a deal/I want a deal/Let's cut a covenant.

The experience of getting signed is told as a loose biblical⁷ parable: he goes on to sing about being taken “to the temple,” where “they fed him to the devil,” and that when he was taken to the temple, he’s told they’ve “listened to” his “demos,” after which he’s “invited into the divine council” (Toledo, 2015). Before completing the refrain, Toledo (2015) sings: “I’ll get to heaven standing on your shoulders,” to which an omniscient voice replies, “You’re good kid, but do you have what it takes to be invited into the divine council?” We can assume, here, that Toledo sees getting signed as an opportunity, as step toward reaching fame — “heaven” — and he’s clear that it’s Lombardi’s invitation into the “divine council” of Matador that’s foundational to his success. Nevertheless, even though he can “stand” on Lombardi’s shoulders, he’s aware that the question of his worthiness, of the validity of his invitation, is in constant question. Although it is not my intention to engage in any sort of deep textual analysis regarding Toledo’s catalogue, this particular track and the changes he made to its lyrics post-record deal sheds light on his first-hand experience, before and after getting signed. Emerging as a Bandcamp artist and transforming into a signed artist, we can see that Toledo’s anxieties are easing but not necessarily quelled but the record deal. His fears about getting signed are now transferred into doubt or fear that Lombardi/Matador now has his future in his hands.

Toledo’s use of Bandcamp was undoubtedly *the* catalyst for his career. Without that platform, it is unlikely that anyone from Matador would have ever come across his music and forwarded it to Lombardi. Toledo’s career trajectory is therefore the stuff of creative labour

⁷ The song makes several direct references to the bible and biblical figures, including Job for example, but I am in no way qualified to begin or undertake such an analysis. These types of references, however, are common throughout his work, and despite not being a Christian musician genre-wise, these types of allegories work their way into much of lyrics, likely because of his own upbringing, but I certainly cannot say for certain.

dreams, much of it conjuring a promising image of a future wherein digital technology catalyzes the lowering of the barriers to entry. But, if we dig a little deeper, a few examples suggest that more restrained jubilation is perhaps in order. Prior to being signed to Matador, Toledo had never toured, instead spending the bulk of his time managing thousands of downloads through Bandcamp, and (sometimes reluctantly) engaging with fans and listeners through social media sites. This suggests that getting a recording contract is still the most lucrative way to achieve musical celebrity, as a label's networking and promotional reach far exceeds that of any viral sensation. Having produced 11 full-length albums in a five-year span only to see 25,000 units sold (including singles) illustrates that Toledo laboured exponentially more, but saw significantly less payout, than a musician signed to a label during that time; certainly not the fault of Bandcamp, but illustrative of some of the limitations musicians face when trying to use producer-oriented platforms in lieu of (or in hopes of eventually) getting signed to major or even independent labels. In such cases as Toledo's, the platform doesn't replace the label; instead, it contributes to the formation of the artist-as-intermediary who, if successful, can sell the fanbase built on that platform to a label as valuation of her/his work. What this demonstrates is that, in the digital era, musicians have a better chance of getting signed to a label if they've already laboured continuously to establish an audience and a catalogue. Notwithstanding his support for Bandcamp, as noted above, even Toledo acknowledges that although self-releasing is rewarding for many reasons, the amount of labour needed to manage the online recordings and fan interactions is exhausting and, in the end, frequently pays very little.⁸ What this implies, however, is that the DIY model of digital distribution might not be a practical model for sustainable,

⁸ For example, economist Alan Kreuger (2019) explains that, in the year 2017 musician income broke down in the following way: 80 per cent came from touring, 15 per cent came from sale of recorded music, and the final five per cent comes from publishing fees (37). Since less than a quarter of musician income can be attributed to the sale of their primary commodity good, it becomes evident that arguing for stricter copyright laws won't benefit musicians in any meaningful, material way because touring makes up the most substantial portion of their income.

independent creative production. Instead, it's an accessible tool that musicians can use for bolstering their popularity in order to get the attention of a record label; once signed, the label will offer the support structures necessary to book international tours, distribute worldwide, and offer significant promotion.

Ultimately, Toldeo's case reinforces my argument that digitization did not disintermediate the industry. The tasks and responsibilities of former middlemen still exist and still must be completed. Instead of the label hiring individuals to undertake A&R, management, or promotion, the pre-signed musician is expected to do all of this themselves. In many cases, musicians are still keen on securing label support or a recording contract, but they have internalized the understanding that it is up to them to generate a following — a brand, really — that they can sell to those labels as valuation of their worth as a performer. Musicians using social media and digital distribution platforms to garner a substantial following that they hope to sell to a record label does not mark a distinctive shift in the organization of music industries or the distribution of power. As creator, producer, promoter and distributor of his own music, Toledo exemplifies both the successes and struggles of the artist-as-intermediary. His case, however, is an unusual one, and we must conclude that Toledo proves the exception, not the rule — his success is one of a few outstanding cases that exist among a sea of ordinary ones, of musicians who persistently toil in relative digital obscurity.

Rewarding musicians who devote considerable time and energy into optimizing their discoverability and listenability on various platforms might seem fair on the surface, but as Christina Baade argues, this simply perpetuates the pre-existing and historically entrenched biases within the industry specifically with regard to race, genre, and gender (citing Pell 2018, in Bannerman et al, 2020, 478). Toledo, for example, fits the historical industry standard of white,

male, youths who play guitar-based music (e.g., rock) being “discovered” by labels who make them stars. So, despite the producer-oriented nature of platforms like Bandcamp, not everyone is equally rewarded with recording contracts for their labour. Increasingly, however, harnessing the power of the platform’s outsider ethos, there is a burgeoning network of musicians making a meaningful and monetizable name for themselves through Bandcamp. A growing contingent of Canadian transgender musicians, for example, have been seizing digital tools and platforms like Bandcamp to build loyal fanbases and noteworthy reputations, such as the members of the self-taught Toronto-based noise-pop duo Black Dresses, Devi McCallion and Ada Rook, and 2020 Polaris Music Prize winner Backxwash, a Zambian-Canadian rapper based in Montréal.⁹ In the image above (see Figure 3.2) we see an example of a new-found Backxwash fan (Twitter user @68tilinfinity)

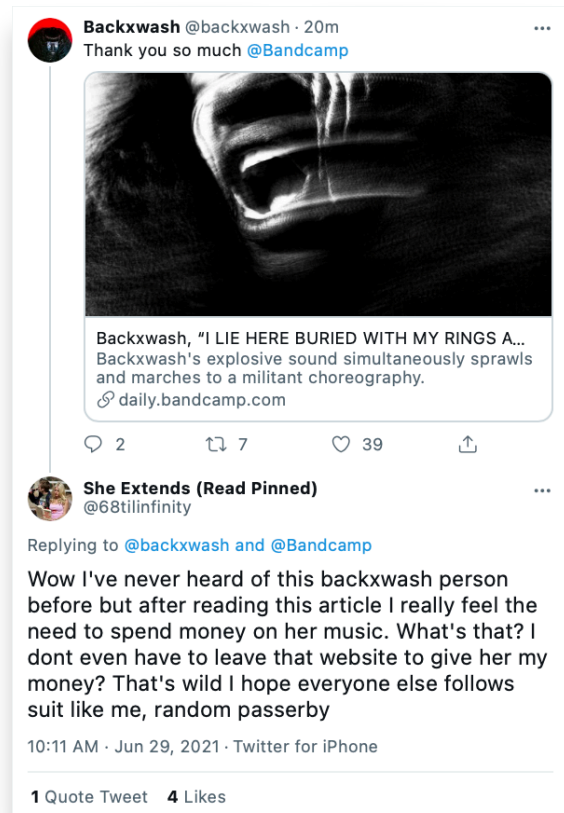


Figure 3.2

June 29, 2021 screen capture of a tweet from Backxwash and a fan (@68tilinfinity) expressing gratitude for Bandcamp on Twitter.

⁹ Black Dresses debut LP *Wasteisolation* (2018), created entirely through online collaboration (McCallion in Toronto, Rook in Vancouver) received critical praise from popular music criticism sites, including *Noisy*, *Stereogum* and *Fader*, but the group’s success didn’t result in getting signed to a label or going on tour. Moreover, on May 26, 2020, Rook posted to the band’s Twitter page that the two would no longer be continuing as a group, citing ongoing harassment targeted at group member Devi McCallion (Black Dresses, 2020). Rook also indicated that they would be pulling their music from all streaming platforms, with the exception of Bandcamp, which the group feels close to. Backxwash, by contrast, in addition to her Polaris success, has received not only critical acclaim, but has been signed to Grimalkin records, a label which prioritizes QTBIPOC musicians. In her most recent album, *I Lie Here Buried With My Rings and Dresses* (2021), two tracks feature McCallion and Rook respectively, suggesting that Black Dresses may be disbanded but that the artists are nevertheless comfortable continuing to pursue music with other musicians from their trans community via Bandcamp. As we can see, Bandcamp remains a treasured space for many different musicians, even when the desire to pursue a musical career or project has waned, or, as in the case of Black Dresses, have been forced out of the spotlight because of harassment.

specifically attributing a Bandcamp feature article on the artist for exposing her/him to the artist's music while also providing a space wherein the individual can buy her music, as well.

Like Toledo, however, these examples also tend to epitomize the exception — not the rule — and so despite representing small glimmers of progress, rampant inequity within music, even among producer-oriented platforms, remains. Building and maintaining monetizable fanbases it is a lot of work, and even more so to do it successfully. As one of my interview participants (Participant D) explained, “the Bandcamp side of things ... it's a lot of work. There's literally no financial reward in it” but what is rewarding about using the platform, he said, is that you can tangibly see “people who [have] genuinely taken the time to spend their hard-earned money to communicate [with you] and to share something that you've created. To me, that is the most important thing.” So, even if using Bandcamp is for some musicians a loss-leader, many are nevertheless grateful for the intimate musician-fan experience it helps facilitate.

Second-Jobbing in the Face of Bandcamp Success

Despite the relative Bandcamp success secured by my interview participants, all but one maintained a second job in addition to, and in order to, sustain their music career. Second-jobbing and the slash generation are valorized in media coverage of contemporary labour, generally pitched as young people taking their careers by the reins by picking and choosing between the jobs and tasks they want to do, creating their own, autonomous and fulfilling work life (Duffy, 2017, 94). Millennials¹⁰ are often referred to as the “slash” generation, as we are the first cohort in a long time to face incessant job insecurity, necessitating multiple job-holding to combat astronomical living costs, almost no access to full-time employment, and little benefits. The constant pressure to pursue passion work over what might be deemed more practical work

¹⁰ A term used to describe those who came to early-adulthood in the 21st century, usually those born between 1980 and 1995.

has also driven many young people to undertake massive loans to enrol in educational programs to set them on the path toward their “chosen” career. Because self-employment of this kind is fundamentally different from wage labour, as it is untethered to any major institutional support, it requires individual knowledge and deployment of a distinctive set of communicative and relational practices, “and demands that workers invest their ‘entire human capital’ to compensate for the lack of any organizational structure” (Baym, 2018, 8). In the NPR interview with Bandcamp co-founder Ethan Diamond referenced above, Diamond explains that Bandcamp is not meant to be, nor was it created to be, the only source of income for a musician, and that all artists on Bandcamp “should be doing a lot of [different] things” to earn a living.

For the majority of the musicians I spoke with, “doing a lot of different things” most commonly meant working a full-time job outside of their music career, and all of them said that while they liked Bandcamp, it’s simply a perk — almost a virtual tip jar — that supplements their regular income but it no way supplants it. In fact, only one of the musicians I spoke with, Participant D, said that their music career is their full-time gig. Although I didn’t ask my interview participants for any specific demographic details in an effort to help conceal their identities, throughout the interview, certain details were revealed that suggested Participant D is somewhat older than the other participants I interviewed, and has had a much longer, more established career in music, garnering the most success just prior to the streaming era. Participant D also revealed details that suggests his family connections to prestigious music organizations and education enabled international touring while still in his youth. Even still, Participant D concedes that as a full-time musician, he currently isn’t making enough money, especially since streaming has become popular: “My lifestyle requires me to be more than just a musician,” he explains. So, he takes portions of his revenues and provides investments for startups and small businesses —

something he feels is more predictable than selling music. “Every time you buy a can of paint,” he explains, “there’s a margin,” but every time you produce a song there remains a good chance that there will “be *no* margin [*laughs*]” (Participant D). What he’s suggesting here, even if humorously, is that pursuing his music career digitally seems less worthwhile and inherently more risky than taking what capital he has accrued and investing it into safer, more predictable business models.

Primarily, the musicians I interviewed all referred to the compensated work they do that enables their musical work as a necessity — not their intermediary work of labouring relationally, but paid work outside of, within, or adjacent to the music industry. Participant B, for example, the only participant whose additional job was music-industry related, said of working full-time outside of her musical pursuits: “I think most people do. It’s a matter of necessity. I work in the music industry, I work for Bandcamp ... and I’m a freelance journalist” (Participant B). And this was a common refrain among the remaining participants: “We all still do have day jobs,” explained Participant C. For her and her bandmates, the income earned from their music success is thus far just a perk, and not at all sufficient enough to sustain themselves on music income alone: “It’s not quite at the point where we can live off it yet. I mean, we’re getting there. It’s a nice bump in the income now but we still have [to] work [regular] jobs” (Participant C). Speaking at length about the irreconcilable feelings he has around wanting and needing a full-time job to live, but seeing that necessity as a hinderance to his ability to succeed as a musician, Participant E was evidently conflicted:

It’s kind of [a] chicken or the egg issue because in order to live off music, you have to take that leap where you only tour, you only play music, you put out a record every year. You constantly have something going on, something new to bring in new income. But, if that doesn’t work, and you’ve just quit your job to do this, you’re living off ramen in a 250-square-foot apartment. So, what do you do first? Give up the day job and just go for it? Or do you continue on the way things

are? When you keep your day job, it's difficult to tour. You have to save up all your vacation time and you take three months off, and half of it is unpaid, you're doing what I'm doing: you work all day, you come home, you have dinner, and you work all night.

Here, Participant E is indirectly speaking to the issues that arise when pursuing passionate work, like music, because individuals are taught to pursue doing what they love at all costs, but the literal and material reality of those costs can be extraordinarily prohibitive. Having familial support, for example, (like Participant D, mentioned above) can make taking the leap from holding multiple jobs to pursuing music full time much easier. With a financial safety net in tow, those with familial support, as opposed to those who are economically independent and/or in debt, can take far greater risks in pursuit of passion work that provides them with a greater opportunity for realizing success, even if it's not guaranteed.

Having at one time taken the leap, Participant E told me that he had gone deep into debt trying to do what he was being advised, which was pour everything he had — physically, emotionally, financially — into his music career. Even though he was met with modest success and his band was receiving regular airplay on CBC, it was not enough to make ends meet, let alone pay down the debt accrued. Participant E said that people regularly ask him “Well, why do you still have a job?” He explains that are a few reasons why he still maintains his full-time job outside of music, but primarily, it's because he doesn't want to do any music “he doesn't want to do.” In keeping his ‘day job’ he's permitted to be more selective about what gigs he takes on. Similarly, Participant F said, “If I have a day job, it means I can be picky about ... the work I take” whereas if he were forced to take on *any* paying music gig, it would, for him, defeat the purpose of pursuing passion work like music at all. For these musicians, the point is to enjoy what you're doing, to derive pleasure from the toil, but if music becomes grunt work, then some don't seem to see a point. For them, it's more valuable to work multiple jobs and put their music online

rather than commit to the slog of playing events and performing covers of music they don't particularly care for — of turning music into a paycheck just for the sake of a paycheck. As Participant G explained, he seeks out full-time employment that allows for the flexibility required to not only make money as a musician, but to do so and maintain it as passion work: “I try to find jobs that are ... open to ... creative endeavours, and stuff like that,” he explained. In the end, however, what these comments most clearly illustrate is that, in order to pursue passion work relating to music in the digital era, these musicians in some ways compartmentalize living work and music work: living work provides a wage that enables them to live comfortably enough and pursue music work with the hope of one day being able to make a full-time living from their music careers.

Even those who I interviewed that approach music like a business, the 9–5 job is necessary but not enjoyable because they would prefer to devote all their waking energy to music business and music making. Participant H, who holds a full-time job in corporate marketing, told me that his ideal day would be “to wake up at whatever time I wake up and, you know, spend 9am to noon doing the more music admin stuff, and then spend the day until 5pm–6pm actually making music [...] the necessary evil is the 9–5.” What the preceding comments most clearly illustrate, is that “the artists with the best odds are creative about business as well as music *and* are willing to take risks” (Baym, 2018, 69, emphasis mine). If musicians possess the business acumen, creativity, and ability or willingness to take on enormous financial risks or work multiple jobs, the odds are increased for their success. But these are just odds — a gamble — and not at all predictive of whether or not a musician can sustain themselves with music. In its final form, this appears in many ways to represent the continuities of inequity within cultural industries, as much as it represents change, as independent musicians have, for decades, embodied the hustle-and-grind

ethos expected of cultural labourers; but it's the expectation that a musician will have formed for themselves an immediately monetizable audience that they have cultivated online and can sell to a future label, as opposed to being discovered for having a hip sound or image, that makes this particular moment distinct. Even with producer-oriented, community-minded, artist-first platforms such as Bandcamp, artists in the digital era must nevertheless navigate convoluted economic pathways to sustaining themselves that involve a complex mixture entrepreneurship, relational labour, and musical skills, but also a willingness to compartmentalize that, and dedicate a significant portion of one's waking life to (likely) un-related waged work.

Of Patrons and Pals: Crowdfunding, Microfunding, and Patreon

Emerging in part as a response to the structural limitations experienced by musicians and other creatives, platforms such as Kickstarter and Indiegogo provide a functional space for raising funds, promoting projects, and occasionally distributing new musical wares. Peltz (2013) explains that crowdfunding¹¹ is one of several new tactics musicians deploy to simultaneously finance and release their music, wherein the fundamental aim is to have fans raise money to finance a band's endeavours, such as the production of an upcoming album or live tour. In launching a crowdfunding campaign, Peltz (2013) argues that musicians "monetize their superior social status" via the platform, capitalizing on their ongoing relational labour on social networking sites (112). David Hesmondhalgh (2019) notes that critics and creators alike have "hailed crowdfunding as a potential democratization of culture, bypassing problems of financing by large cultural industry corporations and financial institutions" (267). Indeed, generating significant enough crowdsourcing funds to finance an album or tour outside the purview of a label is

¹¹ Crowdfunding and microfunding, according to *TechCrunch*, might more accurately be characterized as a Software-as-a-Service (SaaS) model rather than a distribution model (Peckham, 2019).

liberating, but being successful in doing so demands of musicians a monetizable fanbase, one they've likely yielded through significant, sustained, and unpaid online interactions.

Crowdfunding has undoubtedly become an increasingly relevant component of funding for some musicians, but we should be hesitant to characterize it as a distribution platform. There is an intense amount of administrative and relational labour required to run a successful crowdfunding campaign that is entirely absent from managing the distribution of physical or digital music recordings. For example, a 2013 report on crowdfunding produced by the Canada Media Fund, an arms-length institution that administers public funds for production and distribution of Canadian television¹² both online and off, outlined eight key components of a successful crowdfunding campaign. According to the report, the components of a successful crowdfunding campaign include having: a compelling project, an existing passionate audience, a strong existing network, high-quality promotional materials and high level of promotional effort, good audience engagement, compelling contributor incentives, a realistic funding goal, and a clearly-defined fund allocation plan (Canada Media Fund, 2013, 22). These eight components are logical and arguably effective, but when considering the type of quality product, access to promotional material, and size or existence of fanbase many emerging musicians may have, it becomes harder and harder to see this as a long-term (or even immediate) solution to sustainable production, free from label support.

Moreover, the ability to produce and provide compelling contributor incentives on top of the existing administrative, relational and creative labour being put forth, it is increasingly difficult to imagine how many emerging (or even established musicians) could successfully

¹² Although the report is emphasizing television's production, and is not explicitly describing the crowdfunding experience for music production, the experience of using of crowdfunding to produce and/or monetize any cultural products is, in many ways, analogous.

manage incorporating all eight components into their campaign. To be sure, however, regarding its status as a digital distributor, content can be — and sometimes is — distributed via these platforms, but I argue that consumers primarily seek out crowdfunding platforms with the express intent of offering support for specific musicians, rather than, say, going to the site expecting to access or download music. Semantic quibbling aside, these platforms are currently an important aspect of digitization and music industry discourse, and are therefore an important site for examining the production and practices of the artist-as-intermediary.

Microfunding, a version of crowdfunding, seeks support from fans to raise money for creative endeavours and to secure funds when approaching traditional lenders is not an option. Originating from micro-lending,¹³ microfunding generates small recurring payments from fans that ensure an ongoing income for creators with the addition of offering graduated incentives. An important and well-known example of a microfunding platform is Patreon, of which musician Amanda Palmer is an early adopter and successful user. A performance artist and former member of the Boston-based punk-cabaret duo The Dresden Dolls, Palmer has arguably received the most significant attention for successfully using Kickstarter and Patreon to fund her musical endeavours after quitting her label and going solo. As discussed by Devon Powers (2015), Palmer desperately wanted to separate herself from her label, citing gross incompatibility, and so devised a plan to turn her fans into donors by rewarding their loyalty with a variety of “home-grown, intimate, and experimental forms of compensation” (124). Palmer’s success in using producer-oriented platforms, it should be noted, is in large part derived from already having a sizeable loyal fanbase, her fierce commitment to ongoing interactions with those fans, and her dedication to and experimentation with artistic practice and production. She is an active agent in

¹³ Described as the “peer-to-peer” economy, micro-lending/microcredit is the act of providing small loans, issued by individuals, rather than banks or credit unions (Hayes, 2019). A popular example is the non-profit platform Kiva.

the promotion of her music and gives a lot of her time and herself to her fans and, in turn, her fans reward her monetarily. Her initial fundraising goal for her debut 2012 campaign was \$100,000, but ended up amassing more than \$1.2 million. According to Powers (2015), this put Palmer in the class of Radiohead and Nine Inch Nails, just two examples of bands/musicians who've circumnavigated labels to self-distribute albums to both critical and commercial success (Powers, 2015, 125). In many ways, we can therefore understand crowdfunding and microfunding platforms in much the same way as the producer-oriented platforms mentioned above. Like Bandcamp, crowdfunding and microfunding platforms facilitate a direct link between fans and artists. This link allows artists to collect monetary compensation from their fans, while the platforms take a percentage of the total amount raised for its facilitation role.¹⁴

The following section provides a short case study of microfunding platform Patreon. A particularly unique case, Patreon was founded by a musician who was dispirited by the pitiful revenue he received despite investing thousands of dollars into creating high-quality music videos and yielding millions of YouTube views. Patreon is an exemplary producer-oriented platform because it offers creators a space where they can accrue ongoing financial support from fans; it is designed first and foremost for creators. Moreover, Patreon stands as a distinctive platform in the digital realm precisely because it was *created* by a musician.

Patreon

Patreon is an American microfunding and distribution platform created by video-maker and musician Jack Conte, along with his former roommate and web developer Sam Yam. Prior to launching Patreon, his membership as part of musical duo Pomplamoose with wife Nataly Dawn is arguably what Conte was most well-known for. For more than a decade, Conte and Dawn

¹⁴ Kickstarter, for example, takes five per cent of the total amount raised, whereas Patreon takes 10 per cent — five per cent for platform use, five per cent for transaction fees.

earned viral and commercial success with their cute, quirky covers of popular songs and accompanying videos, together receiving millions of YouTube views and shares (Ruiz, 2016). Their cover version of and video for Beyoncé's "Single Ladies" in 2009, for example, has secured more than 11 million views on YouTube; similarly, their 2010 cover of Lady Gaga's "Telephone" has received nearly 10 million views on YouTube, and their current subscriber membership has reached a monumental 1.16 million individuals. Despite achieving viral success, however, the pair was frustrated by paltry revenues trickling in from video views and unreliable, sporadic income from commercial work. So, Conte set forth to create a better solution, "for himself, and all creators of digital media," he says (McKinney, 2014). In May of 2013, Conte and Yam launched the platform whose name, Patreon, is a combination of two words: patron, a person who provides financial support; and eon, "used rhetorically meaning an indefinite or long amount of time" (Billig, 2016). An apt description of the site's function, the name articulates exactly what Patreon does: it creates a space for creative producers to receive regular funding from fans (or patrons) in the form of micro-payments that allow them to sustain ongoing creative production.

Patreon is open to any amateur or professional creatives seeking ongoing support, and anyone can become a patron. The site is not limited to musicians, but the fact that it was started, and is overseen, by a musician who has primarily reached his own audience via the internet, it is a worthy platform to ponder in a dialogue about *how* musicians make a living, and the kind *labour* that is required to make that living. Patreon works similarly to other crowdfunding platforms, but rather than have a campaign to collect one lump sum of money, creators collect micro-payments from a group of supporters on an ongoing basis to fund continuous creative endeavours (Ruiz, 2016). As a microfunding platform, Patreon is noticeably different than its crowdfunding counterparts: it operates on a subscription model, and is not goal-based like Kickstarter or

Indiegogo. The subscription model enables recurring funding for ongoing production — patrons donate a specific amount of money to the creator on a schedule determined by the creator.¹⁵ Support is typically given per month or “per thing” and commonly ranges from \$1 to \$500, though this varies from creator to creator. It is more typical, however, for musicians on Patreon to collect support per “thing,” such as the release of a music video, whereas illustrators and writers tend to collect per month for the ongoing delivery of content.

At the 2016 DIY Musician Conference¹⁶ in Chicago, hosted by online distributor and content aggregator CD Baby, Conte was invited to deliver the keynote address. In his speech, he emphasized the need for musicians to “Work to Publish.” According to Conte, working to publish “is about getting shit done.” “It’s selfless, it’s outward focused, it’s results, it’s giving back to the world,” which he compares to working for pleasure — a labour he sees as a “luxury” that’s “inward focused” and “self-indulgent.” Here, Conte’s reference to working for pleasure, or pursuing what one loves, is reminiscent of the Do What You Love (DWYL) ethos that has long been part of Western values pertaining to work, and was crystallized in the 1980s (Tokumitsu, 2015). But instead of the way Conte is interpreting it, as something that is just the pursuit of pleasure in and of itself, Miya Tokumitsu (2015) explains that, “central to the myth of work-as-love is the notion that virtue (moral righteousness of character) and capital (money) are two sides

¹⁵ In the years since its launch, Patreon has morphed from a platform tailored to artists and creators (in the broader cultural industries sense — writers, artists, video makers, etc.) to earn monthly payments from fans, to a more vast platform where anyone with an audience can monetize their ideas, brand, or self. Jordan Peterson, for example, a University of Toronto psychology professor and controversial public figure, is an acutely abhorrent example that comes to mind when thinking of the ways unexpected audiences have harnessed Patreon’s potential. Peterson has become well-known for being a high earner on the platform, spouting nonsensical sexist rhetoric and bolstered by his fans. This was not the platform creators’ intentions, of course, though in creating a mandate that ultimately focuses to making the platform profitable, it would appear that these types of concessions — allowing controversial public figures to monetize their troubling perspectives — become unavoidable.

¹⁶ The conference took place September 30 to October 2, 2016, in Chicago, Illinois. I attended the conference to listen to talks on music, digitization and promotion given by a number of professionals working in the field, such as Alexandra Patsavas, a Chicago local and well-known music supervisor for shows such as *The O.C.*, *Grey’s Anatomy*, and *Gossip Girl*, and Jack Conte, member of Pomplamoose, and co-founder and CEO of Patreon.

of the same coin” meaning that, “where there is wealth, there is the hard work, the industriousness, and the individualistic dash of ingenuity that makes it possible” (Tokumitsu, 2015, 7). So, working for pleasure, in the way the DWYL ethos suggests, actually dovetails nicely with Conte’s “work to publish” approach, because it is intimately tied up with the ideas of both doing something you love but also that your success in pursuing something you love or derive pleasure from will be a direct reflection of your moral righteousness of character, of your work ethic. Moreover, the idea of continuous production is the undergirding principle of the very site Conte has created: musicians and other creators churn out an endless stream of content to appease patrons and maintain their support, and in turn yield revenue for the platform. Patreon initially appears more practical by providing ongoing support rather than the lump-sum investment of a crowdfunding initiative, but it demands ceaseless production from the artist. Musicians must not only “work to publish” by churning out an endless stream of content, they also labour to provide the incentives promised at each level of funding. This productive labour is compounded by the continuous need for musicians to labour relationally, to make ongoing efforts to foster relationships with fans and patrons on social networking sites.

Although it clearly possesses many strengths, Patreon is afflicted by a number of shortcomings as well. Most notably, Patreon demands an excessive amount of creative and administrative labour from its creators through its “work to publish” logic. The promise of securing small monthly payments from fans is reminiscent of Kevin Kelly’s seductive 2008 promise of the 1000 true fans¹⁷ theory, but creators lament that before monetization can begin one needs an active and loyal fanbase, and that Patreon is not the place to build such an audience

¹⁷ Kevin Kelly is the founding editor of *Wired* magazine and so remains a strong proponent of the possibilities afforded to individuals via technology and the internet. In 2008, he wrote that “to be a successful creator,” an artist doesn’t “need millions of dollars ... or millions of fans.” The idea was, to be successful, a musician/artist need only establish 1000 true fans — fans who will buy anything the artist produces. If those true fans spend \$100 per year on the artist, then she/he will have \$100,000.

(Ruiz, 2016; Nugent, 2016). According to some critics, the fastest way to build a committed fanbase is to “give your work away for free” (Ruiz, 2016). This, as many emerging musicians can attest to, is not an ideal situation, and certainly not possible or sustainable for all. There is an enormous gulf between those who can and cannot afford to work for free, or afford to give away music for free.

In addition to the financial limitations experienced by those in debt and/or without familial support to sustain them, these issues are compounded by intersectional barriers and systemic discrimination pertaining to gender presentation, race and ethnicity, sexual orientation, ability, education and more. While it is true that “maybe anyone can do what he or she loves,” it is in reality often “only the wealthy [who] can avoid going deep in debt to pay for it” (Tokumitsu, 2015, 18). And “herein lies the initial treachery of [the] DWYL [ethos], the falsely democratic exhortation of the ‘do,’ which seems to apply equally to everyone,” but most certainly does not (Tokumitsu, 2015, 18). Securing a paying fanbase is but one small (yet simultaneously enormous) hurdle a musician must clear to earn a living via platform labour — navigating all other structural barriers individuals regularly face only makes it all the more exhausting and unequal. Even Peltz (2015) agrees that, although distributing one’s music for free is an easy way to get it out there, it’s risky: once work has been distributed at no cost, it becomes devalued, making it difficult to begin asking fans for monetary support in the future. Damon Krukowski, drummer for the alternative rock band Galaxie 500, argues that “the downside of Patreon-esque ventures is that it only works for specific kinds of artists, particularly those who are hands-on and have preexisting fanbases” (Mejía, 2019), someone like Amanda Palmer. According to one Patreon user, “as it is now, creators have to do all the leg work and it is only working for 5–10% of the popular few,” which mirrors trends present in the very industries musicians are working outside

of but, in many cases, attempting to break into (Ars Fantasio, comment to T. Arnold, 2016). Another user states that the site really “isn’t as artist friendly as it says,” and that those without a massive fanbase are left in the lurch (Comic Squid Queen, comment to T. Arnold, 2016). Therefore, to make a living on Patreon an artist must have a very well-established audience, and one that’s willing to give money on a regular basis. In this context, it becomes clearer as to why someone like Amanda Palmer, with her extraordinary dedication to a deeply loyal fanbase, was able to mobilize crowdfunding campaigns and microfunding platforms so successfully.

Crowdfunding and microfunding may be producer-oriented platforms, but they don’t necessarily work for emerging artists to become established, rather, it would seem that one brings their success to a platform like Patreon in order to monetize it — you don’t build it *on* Patreon. This issue is further compounded by the fact that, for some unknown reason, Patreon changed their search function so that you now need to know exactly which creator you’re looking for in order to support them. By contrast, on the Bandcamp discover page users can search utilizing a number of different subcategories such as location, genre, mood, etc., and the site will generate recommendations — their search tool even actually indicates that it’s for search *and* discovery. Early in Patreon’s existence, they too had a similar search function but in recent years it’s been removed. No longer offering recommendations, Patreon’s search function returns results based on the creators’ total number of patrons and amount being earned. The most successful artists are therefore always first to appear in the search results — mirroring the ranking style common to search engines and social platforms alike — again suggesting that this site is not meant to help an artist establish themselves, rather it’s for artists with followings to grow their existing career. For example, in a search for “music” using Patreon’s website’s search function (performed September 11, 2020), Conte’s own band, Pompalmoose, appears on the first page, as number 14 in the

results. There are 50 pages with 22 results per page for a total of 1100 music-related pages being promoted. After scrolling to the last page, the creator account with lowest number of patrons was 115, so it's reasonable to assume there are many other music-related creators on the site whose accounts don't bolster enough attention to deserve being promoted — a somewhat contradictory practice if promotion is your game.

Although the money raised by artists via crowdfunding and microfunding platforms can free them to pursue creative endeavours, or tour without having to appeal to a label, in so doing, they too contribute to the formation of the artist-as-intermediary. For example, Sara Bannerman (2013) observes that, when operating a crowdfunding site, there is considerable time spent on administrative tasks, which is ultimately distracting from the creation and production of music itself. Similarly, a microfunding site requires sustained, ongoing attention and administrative work which eventually detracts from the time musicians are meant to have liberated for themselves now that they aren't required to secure a recording contract to circulate and sell their music. Indeed, if an artist seeks crowdfunding as a means to free themselves from their label, like Palmer, they will be required to assume the administrative responsibilities and duties the label might have otherwise offered. In this light, crowdfunding and microfunding platforms reproduce an entrepreneurial framework, one that necessitates that musicians assume business roles. Devon Powers (2015) argues that this meshes well within the neoliberal creative economy; crowdfunding and microfunding platforms, she writes, primarily serve “those who approach creativity like entrepreneurs” (124). David Hesmondhalgh and Leslie Meier (2015) concur, arguing that “web utopians hail crowdsourcing as a new form of financing but freedom from the majors has impelled musicians to remodel themselves and their careers according to more entrepreneurial terms and to take on new forms of promotional work” (11). Streaming and downloading have

proven to yield low or pitiful revenues for the majority of the artists who use them, so crowdfunding can be used to fill the financial gap. These platforms are therefore fuelled by the administrative, relational, and creative work undertaken by musicians, a complex web of intersecting labour forces. For that reason, the presence and popularity of crowdfunding platforms confirms the concretization of the artist-as-intermediary.

Phoenixes Rise, Platforms Re-Inter-mediate: Power Returns to The Industry

As we have already established, having greater access to fans and distribution channels doesn't necessarily mean there are no or fewer intermediaries (Galuszka, 2015), and as the influence of traditional intermediaries is reduced, some argue that power within The Music Industry has not disappeared but rather transformed into new power structures, including digital distribution and streaming platforms (Swords, 2017). As a term, Patrick Vonderau (2015) finds disintermediation to be misleading "insofar as it overlooks a basic law of distribution — channel partners may be eliminated *only* if somebody else takes over the essential functions they perform" (emphasis my own, 720). New intermediaries, such as content aggregators,¹⁸ thus intrude into, and fundamentally alter, existing retail chains or information channels, including retailers, distributors, and companies that license music (Vonderau, 2015). In other words, producer-oriented platforms don't disinter-mediate The Music Industry, they *re*-inter-mediate it.

Selling digital music is highly complex and, as mentioned above, Apple Music and Spotify are often difficult, if not impossible, for emerging musicians to access without label assistance, so aggregators help facilitate this on a fee-for-service basis. Most significantly, aggregators help artists to overcome bargaining asymmetry. As the retailer is typically in a position of power, they

¹⁸ Unlike a distributor that focuses on physical and digital releases, an aggregator enables artists to distribute their music on a global scale through specifically digital services like Apple Music, Spotify, and Tidal, and typically charge an upfront fee for services. Companies like TuneCore, for example, are a hybrid distributor/aggregator (Songtrust, 2021).

tend to offer take-it-or-leave-it distribution contracts to small rights holders such as musicians — contracts that usually favour the retailer. Thus hiring an aggregator with a significant repertoire to negotiate on behalf of the musician might help ensure that the bargaining power is more level. With new players entering the fray to facilitate these transactions, upon closer inspection, the digital distribution chain looks quite similar to the traditional distribution chain: instead of a label hiring a distributor on behalf of a signed musician to access a brick-and-mortar or digital retailer, artists-as-intermediaries hire aggregators to access digital retailers (Galuszka, 2015, 268). Even if the presence of aggregators and digital retailers changes the appearance of the distribution chain in certain cosmetic ways, the process and tradition of gatekeeping that undergirds The Music Industry nevertheless obstinately persists. As one of my interview participants explained: “Now, with all these streaming services, you can’t directly upload your music to Spotify or Apple Music [...] you have to go through these third-party distribution platforms” (Participant G). The following TuneCore case study thus illuminates how artists-as-intermediaries are not necessarily freed from industry shackles via disintermediation, but rather they are re-positioned as entrepreneurs, responsible for inserting their own products into the supply chain by hiring new intermediaries that have emerged through a process of re-intermediation.

TuneCore

Founded by Jeff Price, Gary Wells, and Peter Burke in 2005, TuneCore is a New York-based digital music distribution service and aggregator. It principally offers musicians and other rights-holders the opportunity to distribute, sell, or stream their music through the biggest online retailers including iTunes, Apple Music, Spotify, Amazon Music, Google Play, Tidal, and so on. The platform is competitively priced, and costs for services are on par with other, similar digital

platforms. TuneCore, for example, charges a flat setup fee for albums¹⁹ and singles,²⁰ whereas CD Baby, its leading competitor, charges flat setup fees *and* takes a nine per cent commission on all sales revenue. Put simply, TuneCore is a producer-oriented service hired by musicians to negotiate on their behalf when arranging deals to have their music made available on popular streaming and digital marketplace sites that would otherwise be difficult or impossible for small rights holders to negotiate with.

In addition to securing distribution arrangements for musicians, TuneCore also offers users access to its proprietary service: TuneCore Social.²¹ TuneCore Social debuted in October 2016, after TuneCore acquired UK social media metrics startup JustGo, and began offering the service for free to all registered users. According to TuneCore, it is an “all-in-one solution for social media management with the capabilities of multiple apps all in one place to simplify social media for artists on the go.” It helps musicians schedule engagements, connect with fans, and analyze their success from their TuneCore account in addition to providing up-to-date social media analytics and streamlined posting. Initially, the basic services were offered for free to TuneCore distribution users, but in April 2017, TuneCore Social Pro was launched. While the starter version remains free to all distribution users, the pro version, and its unlimited access, shareable social media reports and access to the app, is only available for an additional \$7.99 per month.

In a promotional video²² for TuneCore Social we get a first-hand glimpse as to who exactly TuneCore imagines is using its site, and who it believes would benefit from this additional

¹⁹ \$29.99 USD for the first year, \$49.99 each year thereafter.

²⁰ \$9.99 USD each year.

²¹ <https://www.tunecore.com/social>

²² <https://www.youtube.com/watch?v=ifHhLYPhBGY>

service: a young, white, independent and upwardly mobile male, who is both tech- and business-savvy, in addition to being creative. In my determination, then, it is undoubtedly the artist-as-intermediary who is the ideal imagined consumer of TuneCore and TuneCore Social, but a very specific version. In the video (see Figure 3.3), we watch as New York musician Zuli²³ goes about his day: writing new music in his sprawling, pristine apartment; engaging with fans on social media; rehearsing music; meeting with club managers; recording music using his (modest) home studio setup; managing payments and checking social media metrics on his various apps; and, of course, performing. The one-minute video simultaneously exemplifies and naturalizes — even “cool-ifies” — the intensification of responsibilities and level of engagement that’s expected of emerging and unsigned musicians. On its own, it stands as implicit advice, an exhortation of what the artist-as-intermediary’s working lifestyle should look like. The short video is upbeat, and is designed to serve as an inspirational view into “a day in the life” of a TuneCore musician, but when coupled with the explicit suggestions in the body of their self-published how-to literature discussed below, the limitations of this type of service become apparent.

In addition to their for-cost services, TuneCore publishes a series of posts on their website that are dedicated to explaining how best to utilize the services it offers. The posts are authored by a range of individuals working within or alongside music industries. Examining the discourses present in the advice and guides provided for musicians by TuneCore illustrates how musician labour is discursively understood in the context of re-intermediation. For example, in one series of posts devoted to teaching musicians how to become their own LLC (corporation), media and entertainment lawyer Justin Jacobson (2016) argues that, “every aspiring musician thinks of

²³ A curious observation about the video: despite being about a platform *for* musicians to promote and manage their music, featuring an *actual* musician, the song that plays throughout the video isn’t by Zuli, the musician who we see. In fact, the song is “Caribou Lou” by Los Angeles’ band Mountaineer! from their 2014 EP of the same name. Not a particularly heinous endeavour on TuneCore’s part but a curious decision given the promotional nature of the site and its services.

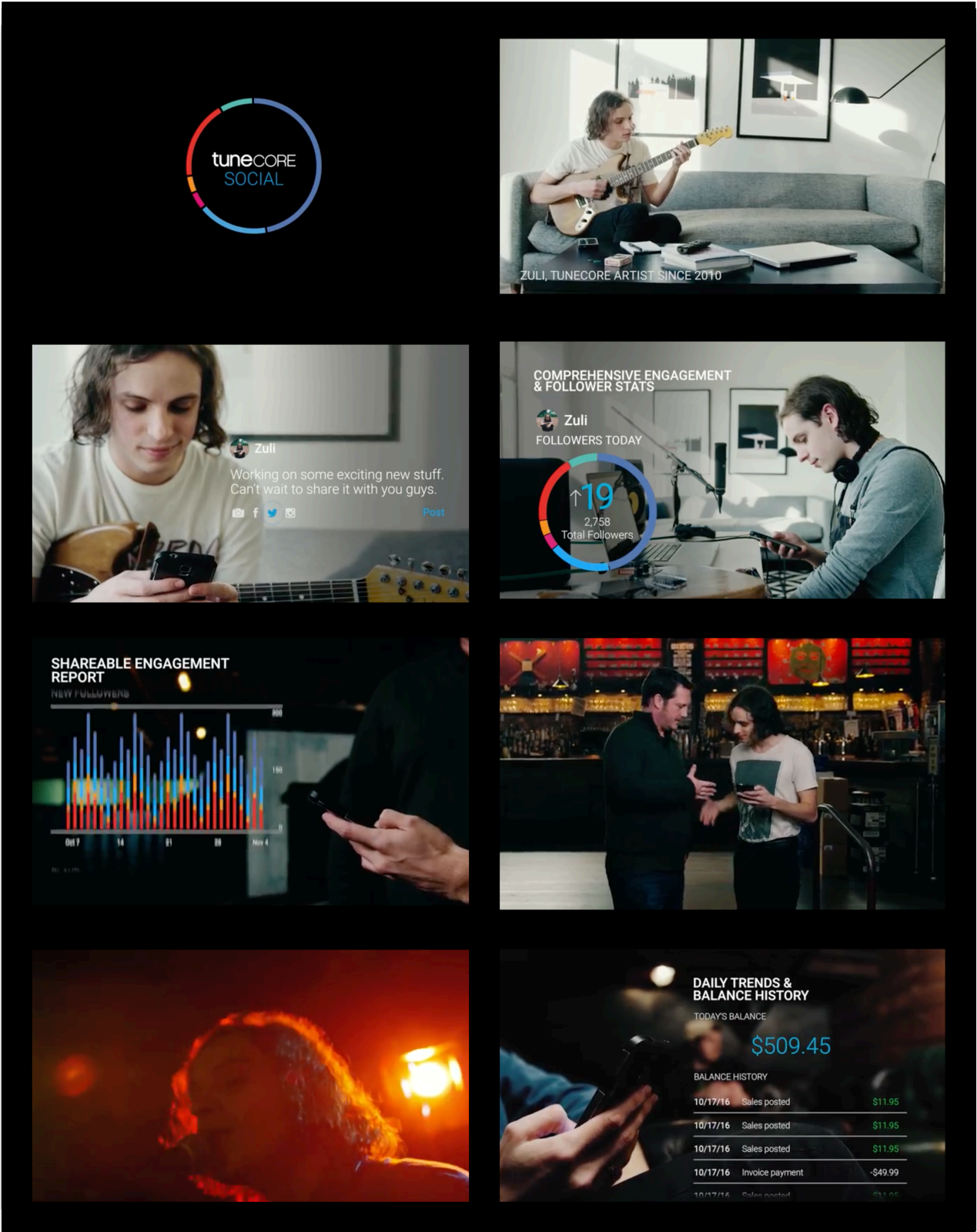


Figure 3.3
Selection of screen captures of TuneCore Social promotional video.

themselves as an entertainment mogul.” Making astonishing generalizations about the goals of musicians, Jacobson goes on to encourage musicians to convert their band/project into a “loan out company” for the purpose of hiring themselves and other musicians. What this illustrates is that, in the confounding world of business, a musician has more rights as a corporation than they do as a creative worker. “While signing yourself to your self-managed company,” Jacobson continues, “as a loan out, you can sign, and capitalize on” other fellow musicians. Not only does this generalization take for granted that entrepreneurial goals are foremost in a musician’s mind, it also assumes that musicians would be willing to exploit other musicians — their friends and colleagues — in order to advance their own careers.

In another post titled “A Mini Finance Guide for Indie Musicians,” Michelle Aguilar, a writer and digital artist based in Los Angeles, discusses the five key financial goals a musician should have. The goals include setting automated investments and paying yourself first; putting money into retirement savings plans and planning for the future; and creating a reasonable budget. The most important financial goal, according to Aguilar, is to pay off credit card debt, and she cautions musicians to never use a credit card to buy equipment or fund tours. As of 2017, through its partnership with Lyric Financial, however, TuneCore *offers* credit to musicians for exactly these purposes: to buy equipment and fund tours. In essence, she’s arguing that it’s okay to assume debt for your career, so long as it’s through TuneCore. Her final suggestion is, for me, the most glaring example of how the supposed new system is just as exploitative, if not more so, than the traditional one: to be financially stable, Aguilar glibly suggests that a musician simply needs to find ways to make more money. “We must be able to sustain ourselves,” writes Aguilar. “How do we do that?” she asks, “By making more money” (Aguilar, 2017). Indeed, a salaried job is among the key tickets to not only sustaining oneself, as illustrated by my interview participant

comments shared above, but it is also essential for securing a loan should you need additional money. The risk of being an independent artist is then compounded by the fact that your independence makes you appear like a risk to key support institutions, such as banks.

Aguilar provides three suggestions for earning more money that further evince her unfamiliarity with the ways musicians maintain sustainable digital creative production. Some musicians, she suggests, “make more money” by holding numerous jobs, whereas others can simply ask their family for support or have access to private funds. Moreover, Aguilar fails to recognize that some musicians simply cannot get more money, and instead experience poverty and/or accumulate debt to survive. Notwithstanding these oversights, however, she first advocates that musicians earn more money by using Venmo, a payment app, to seek tips from fans at live shows. Reminiscent of the claims made by Amanda Palmer in her book, *The Art of Asking*,²⁴ where she implores her readers to ask for the money they need, Aguilar suggests that musicians “announce before, during and/or after [their] show that [they] accept tips in the form of Venmo,” (Aguilar, 2017). Like Palmer, she is thus suggesting that, in the digital economy, if you don’t have money, it’s probably because you didn’t ask for it. Aguilar then goes on to encourage her readers to seek and secure licensing arrangements (or, syncs) as another way to earn money. This may seem logical enough, but the process isn’t quite that simple; to be successful in securing a sync placement, the musician must first have licensable music (genres that fit into commercial contexts easily) but, secondly, likely has to seek the services of an additional aggregator to even

²⁴ The book provides the content for Palmer’s well-know Ted Talk, “The Art of Asking” which has since garnered almost 6 million views on YouTube. In the talk, she links her success in the music industry to her early “career” as a street performer — the Eight-Foot Bride. There, she asked for money from strangers. At times, people would harass her, yelling “Get a job!” but for Palmer, this was her job, and in her mind, now stands as excellent training for her career in the music industry. There, she says, you perform, you bare your soul, and in turn you ask for money. Indirectly, then, Palmer’s message throughout is that, if you want to make money as a musician but aren’t, you are in part responsible — you simply didn’t ask. This carries with it heavy neoliberal implications for self-sustaining and independence: it is no one’s responsibility but your own if someone’s profiting and you aren’t.

make the deal: a music publishing house. Just like Spotify and iTunes, most production companies and advertising agencies don't negotiate with small rights holders, so musicians must employ yet another intermediary.

Finally, Aguilar suggests that musicians in need of money seek session work, which, according to her, "shouldn't be too difficult to find, given that most musicians can play more than one instrument." Again, this is extremely presumptuous, not only about what type of work is available to musicians, but about musicians' individual capacities as creative workers. Likewise, this suggestion ignores the very real trends observed in music production by David Arditi (2014), who argues that digitization's impact is most strongly felt by independent labels and studios, not the majors, as digitization has, in many ways, replaced the need for musicians in the recording process and as a result, studio work has dwindled. However, the most damning evidence that Aguilar undervalues the creative labour process comes in her conclusion, when she declares that "financial literacy is vital for everyone, especially for entrepreneurs" (Aguilar, 2017). In addressing the musician as an entrepreneur whose product just happens to be music, the very real creative labour regularly performed by musicians is rendered obscure. Consequently, the success or failure of a musician's career becomes dependent upon, not their capacities as a musician, but their deftness in navigating the contours of capitalism.

While the aforementioned services are undoubtedly useful, not all musicians are buying the hype. The Who's Pete Townshend argues that digital media services such as TuneCore aren't doing enough. He insists that they should take on the role A&R people at record labels once did: "offer a little constructive guidance to bands [and] provide some 'creative nurturance'" (Dixon, 2012). For Townshend, intermediaries such as TuneCore "are really just another form of banking" (Dixon, 2012). The question then remains: does a fee-for-service industry get a

musician heard or just throw music out to consumers? (Dixon, 2012). Timothy Taylor (2014) argues that it's the latter, and as a result, there is an over-saturation of the digital marketplace making it difficult for musicians to be heard among the cacophony of so many new entrants, an issue that will be addressed in more detail in Chapter 4. Because there's no immediate risk linked to TuneCore in terms of a musician's success, it is not in their interest to expend energy promoting and publicizing a record like a traditional label would. Conversely, a label that has invested in an album has a more immediate financial connection related to the outcome, or success, of the music — the label seeks a return on its investment, whereas TuneCore has a guaranteed return in the form of annual fees. In April 2019, it was announced that Sony bought a major stake in Believe — a French distribution company that bought TuneCore in 2015 (Trakin, 2017). Consequently, not only does TuneCore's distribution chain now strongly resemble a traditional one, it is no longer technically an independent entity, and has actually been folded into, and become part of, a major corporate entity: Sony, who owns Sony Music, one of the Big Three labels that emerging artists are supposedly evading through digitized means. Moreover, “because the music industry has so many intermediaries” like Bandcamp, Patreon, and TuneCore, “and because the consumption of music is so fragmented across various platforms,” in the end, “the artist captures very little of the aggregate revenues” (Sanchez, 2018, April 7). In the following section, I address how the artist-as-intermediary experiences these platforms first-hand, and I outline the their experiences using digital distribution, marketplace, and social media platforms to build a monetizable audience, and make and move their music.

Positioning the Player: Pleasures & Pitfalls of Artist-as-Intermediary Labour

In her extensive, in-depth research on relational labour within music, Nancy Baym (2018) explained that one manager she interviewed told her “that musicians should treat reaching out to

their audience and peers online ‘like a full-time job’,” directly speaking to and recognizing the need for artist-as-intermediary labour in the digital era (9). According to that same manager, however, the caveat is that no matter how much promotional and relational labour musicians undertake or perform, there is always more to be done, “and no matter how optimistic the dream of staying professionally afloat through personal connection, or how enriching the connections people form may be,” Baym (2018) explains that “the daily practices of relating can also be boring, confusing, unsettling, and a source of stress, anxiety, and fear” (9). The following outlines the various instances in which the musicians I interviewed spoke directly to their experiences of what I call the artist-as-intermediary, the tasks they undertake, and the pleasure and pitfalls they experience while doing so.

First and foremost, the musicians described in detail their experiences wearing many hats, undertaking a variety of tasks and responsibilities beyond music-making that are required to build and monetize an audience. Participant B, for example, described her experience performing relational labour and being responsible for her own digital distribution as all-encompassing: “I am the band manager. I manage everything. I make all of our decisions. I manage our money, I book our shows, I do all that stuff,” and she’s also “the promoter, and the booking agent and everything else [*laughs*].” Participant B then went on to say that she essentially balances two full-time jobs: her day-to-day work that pays for living expenses, and her artist-as-intermediary work that is helping to establish her band. Likewise, Participant H described how he carves out time in his day outside of work to not only make music, but to specifically manage the administration aspects of his independent music career:

I try to actually ... devote at least an hour before my 9–5 to some of the more music admin stuff — like sending emails, promoting, PR, checking out my analytics, my data, checking out apps and how they’re doing. I try to do it in the morning, so when I come home, I can just go straight into being creative.

What we can see from comments such as those from Participants B and H is that, as Angela McRobbie (2016) argues, “the entrepreneurial spirit” has become so entangled in the practices of everyday life that the differences between work and leisure have become almost indistinguishable, that the line that previously demarcating the two spheres as separate has all but vanished (74). The blurring of labour and leisure is, however, a mixed experience for many musicians, something that produces both pleasures and pitfalls; not all find the experience troubling, but this perhaps speaks to the larger issue of internalizing capitalist ideologies of work, especially ones tethered to complicated and controversial notions of *Doing What You Love*.

A number of the musicians I interviewed spoke bluntly about the fact that, in order to pursue their career, they must engage in constant social media labour, engaging fans and promoting their music — an activity that might have once otherwise been part of their leisure time, that is now occupied by relational work, in addition to the administrative work required to manage online sales, distribution, etc. Participant C said that there was a period when her band was beginning to gain significant traction, and as a result, she “basically had a second job taking care of everything” online, spending “around 30–32 hours a week” managing the band’s digital presence. “Every night I would be online, making sure everything was updated, talking to the fans ... just doing little things here or there,” Participant C continued, and that “a big part of that is talking to our fans” (Participant C). This wasn’t work, however, that the artist considered drudgery. Rather the opposite, in reality. Participant C discussed at length how much pleasure she derived from the experience of engaging with fans precisely because, as a fan herself, it meant the world to her when/if she was acknowledged online by a musician/artist she liked. So, Participant C expressed a belief that relational labour is both a necessary and integral part of being a musician, though she admits that it is a lot of work — near constant, in her words:

So, I answer all the messages on Facebook, always like or reply to comments on the page. I try and reply to comments on Instagram and probably, I should do it more often, but once a month or so I'll go on Twitter and I'll answer every single Tweet or like a Tweet if we're mentioned in it. Things like that.

What Participant C's story speaks to is the reality that, "online and off, freelancers and entrepreneurs court social bonds in what used to be free time, blurring the boundaries between social life and work life, colleagues and audiences, friends and fans" (Baym, 2018, 11). Moreover, it speaks to the reality that the sense of community derived from online engagement has become an important part of contemporary musicianship.

Nancy Baym (2018) explains that "today's musicians strive for participatory communal experiences based on emotion and social connection but are caught in market realities that define their relationship with audiences as producers making goods or providing services to customers," — something my participants regularly spoke of (55). Participant H, for example, an Afrobeat musician, spoke very fondly of what he deemed his local online music community, an invite-only Facebook group whose administrators release new music from group members each Friday. Even though the group is relatively small, Participant H explained that he and others in the group derive significant pleasure from the sense of community it produces. As Nancy Baym (2018) reminds us, however, although this practice of incessant relational labour has become normalized and commonplace, even enjoyed by many musicians, such as the ones discussed above, "we have barely begun to understand it" (11). What she means is that even those participating in the experience, let alone those of us observing from the outside, haven't yet fully comprehended what the nature of this 360 degree enclosure of our personal/social lives by our working lives might mean in the long run, both for individuals and for society. Ongoing relational labour cannibalizes a significant amount of an individual musician's free time; time that many of the musicians I

spoke with can only carve out during what would otherwise be leisure time, as their waking hours are already spent devoted to working jobs to sustain themselves, usually unrelated to music.

Others described a more pragmatic approach to social media and promotion, such as Participant A, who said that the music industry is itself entirely built around networking, and therefore using and incorporating social media into his business routine as a independent musician seems natural: “Honestly, all of this [success] has to do with networking and talking to people, and getting knowledge from other people” (Participant A). All the musicians I spoke with in some way articulated experiences of pleasure derived from engaging with their fans and labouring relationally, but where that relating takes place, and under what circumstances, really changed the individual outlook, often altering the experience from pleasure to pitfall. Participant F, for example, explained that, regarding networking as a practice, “I love people, I love being social, I’m a total social butterfly: I love to hang out and do stuff” but once that feels contrived, he no longer enjoys it. He explained that he doesn’t like for socializing or networking to feel forced, and that he doesn’t want to feel like he is pushing himself on people, a practice which he compared to the expectation that he make himself available and active on social media.

For those for whom networking in the digital realm felt completely unnatural, the experience was not at all pleasurable, and because it felt like work rather than leisure, the lack of compensation felt glaringly obvious when compounded by the already unpaid labour expended writing and recording music. Of this experience, Participant E bluntly explained: “Social media, I don’t get paid for. Writing songs, I don’t get paid for. Promotion, I don’t get paid for,” highlighting that it is only the transaction around the music commodity, or performance, that produces any music-related income. Moreover, the fact that social media platforms are regularly updated and changed, led to some musicians concluding that the venture was becoming too

difficult, leaving them to feel increasingly alienated from the practice by the platforms themselves. For example, Participant A, a fan of digital networking, nevertheless aired his frustrations with Instagram, a platform he used regularly to engage with and update fans:

It's getting more convoluted. I mean, all this stuff is changing. All these companies and avenues of getting yourself out there are constantly changing. Like, Instagram changes its algorithm weekly ... So, no one's making it easy for anyone, that's for sure. I mean, they're all just trying to maximize their profits.

So even those artists for whom toiling relationally is logical and enjoyable, the inability to control the platforms they must use, and the algorithms that govern those platforms, creates unwanted tensions and frustrations.

The artist-as-intermediary is an independent figure, one pushed toward social media to connect with their audience, and if they are capable and successful in mastering the necessary relational skills required to do so effectively, it's possible, as Nancy Baym (2018) argues, that “they might get by” (55). However, as evidenced by several comments shared above, “this perceived need to be more social has created new anxiety” among musicians for whom the virtual presentation of self doesn't come naturally, yet upon which their career is seemingly entirely dependent (Baym, 2018, 55). Altogether this speaks to the fraught and complicated existence of the artist-as-intermediary, who is at once pulled in several different directions — social, cultural, entrepreneurial, technical — and is expected to know how to best navigate these new and uncharted territories with both flair and aplomb.

Conclusion

If the late 1990s can best be characterized as the period for debating the death of the recording industry, then the 2010s should rightly be characterized as the period for debating the death of the middleman. Through the close examination of producer-oriented platforms Bandcamp,

Patreon and TuneCore, I've demonstrated how the emergence of digital distribution platforms did not disintermediate The Music Industry or upend its control. Rather, these platforms have afforded musicians greater and more direct access to fans with fewer middlemen garnishing their earnings, but what the rise in popularity of digital distribution platforms most clearly illustrates, however, are the ways in which music industries have incorporated and enclosed digital spaces, expecting from artists the ability to demonstrate salability *before* being offered a recording contract. No longer willing to take a gamble on talent, labels expect artists-as-intermediaries to establish themselves as a viable brand by successfully undertaking a number of entrepreneurial, relational and administrative tasks before it is willing to offer a deal. As illustrated above, for artists-as-intermediaries to sustain an economically viable fanbase, an abundance of ongoing and intensified interactions combining relational and entrepreneurial labour (labour carried out with the intent of building a brand or business) are requisite — and all in addition to a musician's existing responsibilities as a creative labourer.

While it's undeniable that the artist-as-intermediary has greater access to distributive and networked technologies than ever before, it is still difficult for many emerging musicians to adequately compete with the traditional recording industries in terms of their capacity to promote and circulate content, save for an exceptional few. In 2015, for example, the IFPI reported that over the past five years, record companies have invested more than \$20 billion in A&R and marketing alone (22). John Rees, Vice President of Digital Strategy and Business Development for Warner Music, explains that the ongoing challenge in the distribution of music “is to reach the mass market and that requires significant investment in marketing and promotion” (IFPI, 2015, 17). Therefore, while digitization may have lowered barriers to entry, facilitating easier access to the means of distribution, those with the greatest economic resources

(e.g., major labels) ultimately out-promote those without. And so the desire (or need) to secure a recording contract with, ideally, a major label — but also a smaller indie label — remains a priority. The protection, promotion, and power that a label brings to the table is outmatched by those efforts of a single musician or band hiring a constellation of intermediaries to act on their behalf. Again, this is emblematic of the need for researchers to maintain focus on and examine the continuities within cultural industries as much as the changes because outward change often belies inward continuity: emerging and independent musicians have long made use of networking and independent skill-building to “break into” an industry that is otherwise closed off, but the intensification of this practice is nevertheless unique to this particular historical moment.

Though early, unauthorized digital distribution channels such as Napster and Demonoid were cause for much consternation from The Industry, music industries have since reorganized their business practices and enclosed on these digital spaces. As music industry inserts itself into digital spaces, it becomes increasingly difficult to see these platforms and practices as existing outside of, let alone in resistance to, the traditional industries; because the artists are using platforms and systems that are deeply embedded in capitalist relations, independent production, distribution or consumption therefore doesn’t occur entirely outside of or in direct opposition to The Music Industry or its powers. The disparities from the traditional, off-line model of distribution have not consequently been entirely upended as not everyone has equal access to the same tools for production and distribution, and for many musicians, the capacity to attract a monetizable audience remains elusive (Taylor, 2014). Hesmondhalgh, Jones and Rauh (2019) argue that, within this new system, producer-oriented platforms “represent the residues of the hopes for a democratisation of cultural production and consumption that were so widely heard in the first decade of the twenty-first century” (17). Some aspects of producer-oriented platforms,

they continue, “speak to positive values and emancipatory aspirations,” but like older forms of alternative cultural production and distribution, “these services are compromised and problematic, in ways that demonstrate contradictions in the political economy and culture of digital media” (17). Ultimately, we can conclude that the notion of distribution having been radically democratized through disintermediation is not only deceptive but inaccurate.

David Arditi (2015) argues that despite changes in its outward appearance, the traditional recording industry and the major labels that it is comprised of have maintained their position as gatekeepers. Indeed, digital distribution has “created the potential for musicians to distribute music directly, but internal limitations to their interactions on the internet maintain power imbalances in the larger music industry,” in effect, not disintermediating it, but re-intermediating it (Arditi, 2015, 89). In sum, the structural position of the intermediary remains unchanged in the wake of digitization, even if digital distribution has reorganized the actors involved; the outward perception of change belies the ongoing, underlying continuity of industrialization. While this chapter has traced the production and practices of the artist-as-intermediary through an assessment of producer-oriented platforms, the following chapter examines the revivification of the piracy panic narrative in the platform era. Fuelled by the value gap narrative circulated by Music Canada and its ilk, I demonstrate how piracy panic is reinvigorated in streaming discourses by The Music Industry in order to convince lawmakers of the need to tighten copyright regulation, but that this is ultimately a ruse, and the proposed solutions for overcoming the value gap — something I don’t disagree exists, but don’t agree with The Industry’s definition of — largely ignore the needs of musician who, in the piracy panic narrative of the 1990s and 2000s, was silenced out of the discussion, spoken for and rarely to.

Chapter 4

Piracy Panic Returns: The Value Gap Narrative in The Era of The (Streaming) Platform

If the goals of Canadian cultural policy are social goals, then the important questions do not concern what culture is, or how it should be distributed or consumed, but might instead consider who creates culture and media content, and what skills and supports they require.

— Marian Bredin (2013, 32)

Introduction

After nearly a decade of discursive dormancy concerning digitization and music industries, piracy panic was reinvigorated when in April 2016 both the Recording Industry Association of America (RIAA) and the International Federation of Phonographic Industries (IFPI) issued separate reports lamenting the arrival of a new industry albatross, and the rhetorical concept du jour: the value gap. According to these reports, the value gap refers to the specific amount of revenue rights holders are seeking to recoup from streaming platforms that The Music Industry argues enable unauthorized access to copyrighted material. By October 2017, Music Canada had joined the chorus, issuing its own value gap report and citing many of the same causes as its American and international counterparts, like outdated copyright policy and internet safe harbour exemptions, but also including Canadian-specific causes, such as the definition of a sound recording and the \$1.25 million radio royalty exemption.¹ As I previously argued in Chapter 2, throughout the late 1990s, the piracy panic narrative was a fallacious correlation forwarded by The Music Industry that argued that downloading music is commensurate with stealing money from one's favourite artist or band. This configuration constructed the artist as a

¹ While the definition of a sound recording in Canadian copyright law and the \$1.25 million radio royalty exemption are both aspects of the value gap narrative worth examining, they are outside the scope of this particular discussion pertaining to digitization, monetization and the platform economy.

victim and The Music Industry as their defender, a logic David Arditi (2019) argues is currently being reproduced in debates about streaming (18). We can therefore understand the value gap narrative as a resuscitation of The Industry's piracy panic narrative from the 1990s amended for the streaming era. But why amend it at all?

Despite being on a relatively upward trajectory since the early 2010s, The Music Industry still doesn't appear to be satisfied with the level of growth it is experiencing. However, in lieu of engaging in another lengthy series of fruitless legal proceedings as it did throughout the 1990s and early aughts, The Industry has opted to undertake intensive lobbying initiatives, seeking copyright reform instead (Frosio, 2017). Much like in the Napster era, in the streaming era discourse the musician is positioned as the victim in need of protection, and The Music Industry is just the crusader musicians need fighting for them. This positioning, of course, is a ruse, just as specious as the piracy panic narrative before it, and I argue that the value gap narrative is instead shrewdly and deliberately designed and deployed by The Music Industry for its own benefit, not by or for musicians. In Chapter 2, I argued that a period of piracy panic is marked by the discourses mobilized by key industry players that are not only circulated to *dissuade* consumers from participating in copyright-infringing practices but also to *persuade* lawmakers to create policies in their favour; policies that enable music industries to maintain their gatekeeping position and to freely concentrate and conglomerate their businesses to exploit synergies and realize maximum revenue. In the Napster era, The Industry put forth its energy into dissuading piracy through legal redress, but in the streaming era, it has shifted its focus toward changing the legal structure that undergirds the production, distribution and consumption of musical recordings: copyright.

Reports and documents issued in response to the value gap and artist remuneration rights in the digital era contain important and revealing discourses about digitization and musician labour. For example, when examining the discourses that circulate in and around the value gap in Canada specifically, the *Statutory Review of the Copyright Act*² (2019) and the *Shifting Paradigms*³ (2019) report are both substantive documents dedicated to examining key issues pertaining to musician labour, including copyright law and artist remuneration rights; and because they contain synopses of the testimonies heard, the recommendations made by the Committees, as well as the reasons for those recommendations, they therefore provide productive sites for analysis. Simone Browne (2009) argues that these meetings and reviews, as well as the documents and reports that they produce, are evidence of important social events “that represent and constitute a particular kind of political and discursive space” (140). In this space, Browne explains, “certain participants are produced and positioned as subjects with rights to speak and be heard, some are positioned as subjects with interests to represent, some are produced as having expertise, while other individuals and groups are just talked about” (140). Despite the differences in our research goals and subject matter,⁴ I turn to Browne’s work because it offers a useful sociological framework for analyzing these kinds of documents.

Much like in the industry reports produced by the RIAA and Music Canada, I argue that within the *Statutory Review of the Copyright Act* and the *Shifting Paradigms* report the participants

² The Statutory Review of The Copyright Act is a report generated for the Standing Committee on Industry, Science and Technology. As the document explains, these types of reports are presented to the House as a way for the Committee to make its findings and recommendations publicly accessible on a particular topic, which in this case is copyright and the Canadian Copyright Act, the legal framework that governs copyright law in Canada. It is periodically reviewed and updated to keep up with current changes.

³ The Standing Committee on Canadian Heritage submitted the *Shifting Paradigms* report to the House of Commons as part of its study on Remuneration Models for Artists and Creative Industries. The report provides recommendations related to the *Statutory Review of the Copyright Act*.

⁴ Simone Browne’s work, in this particular case, is analyzing discourses in policymaking around race, identity and biometrics, but her focus on the influence of discourses within the legal and political realm resonates with my own research on discourses and policymaking in the cultural industries.

positioned as subjects with rights to speak and be heard primarily include major industry stakeholders, including Jason Kee of YouTube, Graham Henderson of Music Canada, Jeff Price of TuneCore, and Darren Schmidt of Spotify.⁵ Others positioned as subjects with rights to speak and with interests to represent include adjacent industry associations, such as the Copyright Board of Canada, the Canadian Retailers Association, the Canadian Music Publishers Association, and many more. Those positioned as experts included copyright lawyers, scholars, businesspersons and a small number of musicians. Musicians are sometimes positioned as having expertise within these discussions but are, for the most part, just talked about: the subject to be discussed, but not heard from. The few musicians who are granted the status of expert are typically well-established and argue on behalf of or in favour of the The Music Industry's position, such as Miranda Mulholland and Bryan Adams, who are both known to make regular appearances at these types of meetings. Some other musicians speak, like Pierre LaPointe and David Bussi res, for example, who each offer their expertise regarding how much musicians are being remunerated by online streaming platforms. Notwithstanding these few examples, however, I argue that musicians are, on the whole, talked *about* — what their needs are, how they're being victimized — and that, in the failure to directly consult with them, the suggested legal interventions do not necessarily support musicians, and instead, to a great extent, favour The Industry by ensuring copyright owners⁶ see exceptional returns on their content when it is streamed. In emphasizing the need for stricter copyright, The Music Industry obfuscates how

⁵ More specifically, Jason Kee is the Public Policy and Government Relations Counsel at Google Canada, owner of YouTube; Graham Henderson is the CEO of Music Canada, the music association that represents the Big Three — Universal, Sony, Warner — and a constellation of independent labels; Jeff Price is the CEO of Audiam Inc. and founder of TuneCore; and Darren Schmidt is Senior Counsel at Spotify.

⁶ Although musicians may possess their own copyright, it's the possession of a bundle of copyrights that is most valuable, and what music labels own in great quantities. Possession of bundled copyright on large scale gives labels greater bargaining power with platforms to ensure that they receive the greatest benefits for use of/access to their vast catalogues of copyrighted content.

musicians actually make a living in the digital era⁷ — through touring, merchandise sales, and some album sales — and persuade government powers to pass laws falsely predicated on the fact that they will benefit musicians directly when, in reality, they largely benefit the growth of The Music Industry and its various stakeholders.

While it would be logical to presume that expanding the protection rights of copyright owners is directly beneficial to musicians who own their own copyright, unfortunately, that could only be the case if negotiating how copyrights were licensed on streaming platforms were an egalitarian process, or in the very least an equitable one. Instead, small rights holders, including musicians and independent labels, typically have difficulty negotiating with major streaming entities, and in many cases those entities outright refuse to negotiate with small rights holders, requiring them to hire an aggregator — or digital intermediary such as TuneCore or CD Baby — to negotiate on their behalf.⁸ In this case, it is music industries and their various representatives and stakeholders that are the subjects granted the greatest amount of discursive space, where critical or dissenting voices, and more specifically the voices of the musicians, are least heard. Consequently, giving direction to the discourses around emerging technologies and their purported impact on cultural industries is an incredible power to wield; while these discourses do not necessarily determine the outcome of any specific scenario they certainly do influence how policymakers come to understand these technologies and the methods for responding to the changes they bring.

⁷ Via her extensive, in-depth interview with musicians around the world, Nancy Baym (2018) determined that, altogether, musicians sustained themselves financially by patching together revenue from as many as 42 different sources, including but not limited to: “advances, commissioned jingles and soundtracks, licensing, ringtones, salaried employment with an orchestra or ensemble, live and studio session fees, teaching, fan funding, speaking honoraria, awards, [and] grants” (15).

⁸ See extended discussion of content aggregators in Chapter 3 for further information.

Throughout this chapter, I argue that the mobilization of the piracy panic narrative throughout the 1990s and early aughts laid the foundation for a future discursive advantage for The Music Industry; and that in the streaming era, the piracy panic narrative is revived in opposition to unauthorized streaming (primarily YouTube) in the hopes that specific policy will be enacted that sanctions music industry efforts to proceed unabated in realizing substantial profits and maintaining authority over the production, distribution, and consumption of musical recordings. Ultimately, I argue that despite the fact that musicians are discursively centred as a point of concern, industry stakeholders instead promote the value gap narrative to curry favour with policymakers, who in turn tighten copyright regulations for the benefit of industry. In this particular context, the musician is but a rhetorical device used to put a human face on a business problem. To be sure, musicians are undoubtedly facing a value gap, but this is something they have long experienced and needed addressed (Arditi, 2020). Musician labour has routinely been exploited through record deals and licensing arrangements, and in the digital era appears to be no better.

Although the revivification of piracy panic through the value gap narrative may at first glance appear to represent a collective desire among policymakers and industry stakeholders to consider music industries along more producer-centric lines, close analysis reveals that this rhetoric is primarily mobilized to quell creator fears rather than actually representing a concrete plan of action that would positively affect the material reality of cultural creators broadly, and musicians specifically. Before turning to my analysis, I outline the contours of the consumer-oriented platform economy that streaming exists in. In the first half of the chapter, I offer a detailed examination of the revivification of piracy panic discourse through the circulation of the

value gap narrative. In addition to a close analysis of Music Canada's two reports,⁹ *The Value Gap* (2017) and *Closing the Value Gap* (2019), I also examine the *Shifting Paradigms* report (2019),¹⁰ and the *Statutory Review of the Copyright Act* (2019).¹¹ Altogether, the reports collectively recognize the importance of Canadian cultural industries, such as music, by arguing that they are essential for two key reasons: one, that they are a crucial component of the Canadian economy; and two, that they make significant contributions to the country's social fabric. Economically speaking, the cultural industries in Canada account for 630,000 jobs and contribute \$54.6 billion each year in economic activity (Canadian Heritage, 2017). The Canadian music industries in particular create 11,000 jobs and contribute over \$560 million annually to the national economy (Canadian Heritage, 2017). Socially, cultural industries, including the music industries, are a crucial outlet for sharing and accessing Canadian voices and perspectives, and they are the primary means by which Canadians can represent themselves and their culture to one another and to the world.

Three key themes that arise from the discourses in these reports are that: poorly formed copyright legislation continues to enable piracy in the platform economy; safe harbour provisions protect persistent piracy and need to be removed; and the playing field — or virtual marketplace — needs levelling — or equalling out — to create fairer remuneration and ease of access for artists. To achieve this, The Industry argues that Spotify, its preferred and most-supported platform for streaming, should be the industry-wide model for artist (and Industry) remuneration,

⁹ Music Canada's two reports centre on what they call *the value gap* in Canadian music industries. The value gap refers to the revenue that isn't being realized through unauthorized streaming, and is both defined and discussed in great detail in the 2017 report titled *The Value Gap*, and possible solutions and prospective methods for overcoming the value gap are discussed in the 2019 report *Closing the Value Gap*.

¹⁰ The *Shifting Paradigms* report discusses the cultural industries in Canada but with a specific emphasis on examining and improving remuneration models for artists and industries alike, including rights management and the challenges and opportunities of new access points for creative content.

¹¹ The *Statutory Review of the Copyright Act* is certainly more broad in reach than the other documents since it covers all aspects of copyright law, but several of the recommendations made in the review nevertheless intersect directly (or indirectly) with the experiences and needs of those working in music industry.

and that unauthorized streaming services such as YouTube should be forced to adopt Spotify's model.¹² In the second half of this chapter, I challenge the points raised through The Industry's value gap narrative, and articulate the artist-as-intermediary's perspective, making clear the reasons musicians feel they are experiencing a value gap: The Music Industry is wrong, and the playing field doesn't need levelling, nor would adopting Spotify's model change or improve the material conditions within which musicians work; and that even if it does pay, *all* streaming pays poorly, with musicians experiencing paltry revenue across the board. Finally, to supplement my discussion of the musician-defined value gap, I incorporate standpoints and personal perspectives on artist remuneration in the streaming era as shared with me directly by the musicians I interviewed.

The (Consumer-Oriented) Platform Economy: What is it?

The value gap is an economic concept deployed by music industries to articulate the recasting of their businesses as digital economies, and the threats posed to those business practices by the rise and spread in popularity of new forms of digital piracy, namely platforms for user-generated or -uploaded content (UGC/UUC) that enable anonymous users to share copyrighted material without authorization. As an economic term it is therefore important to establish just which economy the value gap is referring to. In the case of The Music Industry's use of the concept, the value gap is referring to the *platform economy*. The platform economy, compared to a more traditional retail economy for example, is a digital economy that Kenney and Zysman (2016) describe as a complicated "mixture of software, hardware, operations, and networks" (64).

Beyond this operational description, however, the platform economy is more complex, and there

¹² It's important to note, however, that characterizing YouTube as a site for "unauthorized" streaming is a misnomer. Much of what is on YouTube *is* licensed, and the site actively removes unauthorized content as quickly as possible, but The Industry still doesn't approve of their method for remunerating artists, and wants to enforce that the site uses Spotify's pro rata model, instead.

are fine distinctions to be made in what its material influences are on the production, distribution, and consumption of digital music commodities. For that reason, it is vital to articulate the differences between the platform economy and other economies wherein cultural goods circulate, primarily because the platform economy produces two distinct (and seemingly competing) outcomes: they facilitate direct connections between audiences and producers; but in so doing, produce a particular type of precarious and exploited labouring subject — the gig worker, or the artist-as-intermediary.

On the one side, the discourse surrounding the platform economy focuses on its production of a particular type of distribution and consumption environment. David Hesmondhalgh (2019) writes that, “as the effects of digital networks on cultural production, circulation, and consumption became apparent, digital optimists proclaimed” these platforms would enable a “democratisation” of the cultural industries (265). Broadly speaking, platforms are therefore praised for linking services and products with the appropriate audience, and enabling monetization in the process. Within the cultural industries specifically, platforms are sometimes seen as a progressive correction, equipping creators with access to a monetizable distribution and consumption milieu that exists outside of, but in harmony with, traditional channels for distribution and consumption. In effect, this perspective characterizes the platform economy as a digital retail- and service-based environment for small-scale producers and creators to reach and monetize an audience or consumer base (Kenney & Zysman, 2016). In this view, a platform is less like a digital retailer, and more like “a network that brings two or more different sides together, like a shopping mall that links shops to customers” — they are passive retailing intermediaries (Eriksson et al, 2018, 13). “The problem,” Hesmondhalgh (2019) argues, “is that collective misplaced optimism can blind us to potential dangers, problems, and abuses” (263).

Indeed, this is exactly what has transpired: like the early digital optimism of the 1990s, platform praise was wrapped up in its potential to democratize overwhelmingly undemocratic industries — such as The Music Industry — but increased access to the tools of production, distribution and consumption did not democratize The Industry.

On the other, more critical, side of the platform economy discourse, the worker remains the locus of concern, and celebratory discussions regarding increased capacity for the distribution and consumption of cultural commodities are assuaged by frank conversations about the exploitation enabled by this new economy. Astra Taylor (2013) aptly argues that “we should be skeptical of the narrative of democratization by technology alone” because discourses of internet-enabled amateurism are “a lazy substitute [for] real equality of opportunity” (64). As a twentieth-century vertically integrated business, The Music Industry continuously struggles to adapt to new market conditions, and the main asset they have to exploit — copyright — becomes something to be resold in multiple forms, on multiple platforms, for multiple audiences. But having lost control of the distribution of music digitally in the late 1990s and early aughts, The Music Industry is now forced to sell to intermediary distributors — digital streaming platforms — and settle for a smaller share of the profit, with the financial squeeze largely downloaded onto the musician (Huws, 2016). Ursula Huws (2016) explains that platforms make their profits by simply “extracting rent” — they intervene in the exchange process and take a percentage without doing anything of significance; they assume no risk and reap all the rewards. This critical view argues that platforms are not passive, rather they are active in producing a particular type of working subject, one who is at once an entrepreneurial (Neff, Wissinger & Zukin, 2005), aspirational (Duffy, 2017), and relational labourer (Baym, 2018): the artist-as-intermediary. As I previously argued in Chapter 3, the artist-as-intermediary emerged out of both necessity and circumstance,

so it is no surprise that musicians figure prominently in early discussions about the impact of “illegal” downloading, yet their voices — aside from a few outliers — are commonly absent. In the platform era, this same pattern has again emerged in the form of the value gap, where consternation over artist remuneration in the face of digital piracy is once again meant to signal the slow yet imminent death of The Industry, while simultaneously ignoring the lived realities of musicians attempting to make a living in an increasingly precarious environment.

While government regulations have historically influenced how new technologies are deployed, in the platform economy governmental influence is noticeably absent. When in the mid-1990s the decision was made by Canadian and American governments not to regulate the internet, the online environment was truly in its nascent state, a version that today would be unrecognizable. As the capacity to share larger and larger file sizes increased, so too did the presence of mediated entertainment on unauthorized downloading and streaming platforms. And because governments opted not to intervene in those early years, they have been ceaselessly lobbied by music industries and others invested in protecting copyright ever since, forcing them to play policy catch up. As a result of government absence, in the meantime, “platform owners are seemingly developing power that may be even more formidable than that of the factory owners in the early industrial revolution” (Kenney & Zysman, 2016, 62). Kenney and Zysman (2016) explain that although public policies are important, even if we were to begin introducing regulations now, corporate strategies and lobbying will undoubtedly have an even farther-reaching effect. To that end, legislative confirmation of the value gap narrative would ultimately serve to reinforce rather than undercut existing industry power, which will continue to foster an environment of exploitation and inequality in the circulation and consumption of digital music commodities, which is in turn exacerbated further by existing inequalities built into music

industries that cut across intersectional lines, including gender, sexuality, race, ethnicity, class, religion, and ability.

Post-Napster Piracy Panic: The Value Gap Narrative and Streaming

Notwithstanding the widespread recognition that The Music Industry is experiencing a pecuniary pick up thanks to the popularity and prevalence of streaming platforms, the piracy panic narrative has, surprisingly, been reborn. For example, twenty years after the birth and subsequent death of Napster, in a 2019 article from *Music Business Worldwide* titled “The Music Industry Shouldn’t Kid Itself: Piracy was Never Killed By Streaming” Andy Chatterley, CEO of MUSO,¹³ insists that piracy not only still exists, but is running rampant — a convenient perspective for someone in charge of a company whose mandate is to monitor global digital piracy. For Chatterley (2019), to argue that piracy is on the rise is a gross mischaracterization and misunderstanding of how digital music is shared. He, and others of his ilk, insist that while people may not *download* music illegally with the frequency they once did, they certainly and willingly *stream* music illegally. “Anti-piracy technologies,” Chatterley (2019) insists, are therefore “as crucial as they have ever been in stemming the illegal distribution of content.” He acknowledges that Spotify has done wonders to curb illegal downloading habits, admitting that only about six per cent of people download music from torrent sites, but nevertheless insists that illegal streaming, enabled by UUC platforms like YouTube, are pulling at the newly mended music industry threads.

Though Chatterley is speaking on a global scale, these same concerns are being shared here in Canada. Both the *Shifting Paradigms* report and the *Statutory Review of the Copyright Act* accept that peer-to-peer piracy is on the decline, but insist that other forms of piracy have instead

¹³ MUSO is a UK-based company that monitors global copyright piracy.

emerged: illegal streaming (Dabrusin, 2019, 8; Ruimy, 2019, 92). Technology, according to the *Shifting Paradigms* report, for example, “can be used both to increase access to culture, but also to bypass the system and steal content” (Dabrusin, 2019, 16). The report goes on to explain that the effects of this are two-fold: *consumers* have greater access to content, but payout to *creators* hasn’t risen accordingly. The report flirts with the idea that the issue of poor musician payment is at least in some way related to the new remuneration models of these platforms, but more forcefully asserts that insufficient remuneration is primarily the fault of piracy (Dabrusin, 2019, 8). Like in the piracy panic of the late 1990s, this position mistakenly assumes that every “illegally” streamed or downloaded song would have been a purchase had it not been available for “free” online — there is, however, little evidence to support this logic, yet the argument nevertheless persists. The report further maintains that the best way to combat piracy is “both by creating new rules and enforcing those already in place in the Copyright Act” (Dabrusin, 2019, 16). Just like in the Napster era, in the platform era, the blame for poor artist remuneration is placed on the consumer, while the musician figures prominently as a rhetorical symbol — as the criminal victim of piracy — but minimally as an independent voice, an agent in their own right. Moreover, perspectives such as these obscure the role of The Music Industry in contributing to, and in many ways determining, these payment schemes.

Another common refrain in the documents regarding piracy is that, in knowing that content exists “freely” online, consumers have developed a bad attitude toward paying for music, only willing to pay, at most, for access, but never for the entire product. The *Shifting Paradigms* report, for example, argues that “in the past, consumers paid for the product, such as a book or a CD,” but that today, however, “consider that paying for access to cultural content is sufficient” (Dabrusin, 2019, 10). This sentiment reflects what Arditi (2015) stresses in his explanation of the

piracy panic narrative: that in positioning the artist as a victim and the consumer as the thief, The Industry can pretend as though it doesn't contribute to the problem of low artist remuneration models in the first place. Sweeping generalizations about how consumers did things in the past compared to today are deeply flawed, and the causal connections being made are tentative at best. Asserting that artists are making less money because there is greater access to digital copies of previously physical works is, quite simply, a false equivalency. Let us not forget: consumers have had the capacity to make and circulate "illegal" copies of copyrighted works since cassette tapes were made available. Home taping didn't kill The Music Industry then, and digital downloading and streaming has yet to kill off The Music Industry today.

In sum, what the circulation of the value gap narrative most clearly signifies is that piracy, "one of the earliest battles of the Internet," is an issue that "remains far from settled" (Arditi, 2019, 18). In a refreshing twist, however, unlike in the Napster era, where Industry energy was expended most vociferously in deterring individual downloaders through legal proceedings, the *Statutory Review of the Copyright Act* (2019) recommends that the fight against streaming piracy should focus more on large-scale, commercial infringers, and less on individual Canadians who may or may not understand that they are engaged in infringement (97). This is a significantly different approach than the Napster era's anti-piracy proceedings, but it is yet to be determined how effective the new emphasis on deterring large-scale, commercial infringers — in a word, YouTube — will be in increasing artist remuneration and improving the material conditions within which musicians labour to create the coveted copyrighted content. What the revivification of piracy panic in the platform economy most clearly demonstrates, is that the value gap narrative is principally a discussion about copyright.

Poorly Formed Policy: Copyright in the Platform Economy

For the past several decades, and especially since the onset of Napster's epochal shift, copyright has come to represent the "dying canary in the digital coalmine [sic]" of The Music Industry (Degen, 2019). According to Music Canada (2017), a prodigious part of the problem stemming from the value gap can be directly attributed to the premature adoption of digital media policy long before the digital media environment had fully crystallized. In accordance with this perspective, the *Shifting Paradigms* report (2019) asserts that the value gap is not the result of music industries' or even artists' failure to adapt and evolve along with the changing digital landscape, rather it's "the inability of policy to evolve with technology" that has ultimately "prevented artists from receiving fair market value for their work" (Dabrusin, 2019, 7). In this discussion, of course, "policy" is really meant to refer to copyright legislation, which the reports maintain is terribly outdated. "According to witnesses," the *Shifting Paradigms* report continues, "these outdated rules have diverted wealth from creators to large digital intermediaries on which artistic content is consumed" (Dabrusin, 2019, 7). Likewise, Music Canada (2017) insists that the value gap is really a problem two decades in the making, "the result of how government policies were implemented around the world as part of [the] early digital landscape" (10). In other words, these reports insist that the rule books that govern the contemporary digital marketplace were drawn up in uncertain times, when predicting how things would unfold and what consequences these new rules — or lack of rules — might have was entirely speculative. Indeed, the 1996 World Intellectual Property Organization (WIPO) Copyright Treaty, and Performances and Phonograph Treaty (WPPT), translated longstanding copyright protections for the digital environment, but did so more than two years before either Google (1998) or Napster (1999) existed — YouTube didn't even enter the fray until 2005 (Music Canada, 2017). However, in asserting that it is the failure of dated policy

that has resulted in poor artist remuneration, these reports eschew The Music Industry's own role in establishing these remuneration models in the first place.

Richard Sutherland and Will Straw (2007) argue that copyright has been the most significant issue within Canadian music industries, and it's also the issue upon which industry stakeholders have shared the most consensus, resulting in a considerable amount of lobbying. More than a decade later, this observation still prevails: copyright, as we can clearly see, remains a central focal point throughout the majority of the discussions regarding digitization, music industry, and profit. For these reasons, many consider the ideas presented in the 2019 *Statutory Review of the Copyright Act* a welcome change to the existing system (Owens, 2019). Those who support the proposed changes feel that the voices of Canadian artists and producers are finally being heard over what has been characterized as the “sterile and impractical theorizing of the copyright ‘elite’ and the loud voices of big tech, such as Google, which makes so much money from under-rewarding artists” (Owens, 2019). But is that really the case? Are artists the main beneficiaries of the proposed changes? Susan Crean (2000) explains that economies of art tend to move in contrary directions, and that the closer one is to the original creative act — in this case, music — the smaller the returns tend to be (202). So, despite the fact that the discourses surrounding intellectual property and copyright often appear to champion the struggling artist, “in practice, the result is a very imprecise and uneven system” (Garofalo, 1999, 346). In fact, it is acknowledged within the *Statutory Review of the Copyright Act* (2019) that even with significant amendments, the Act “alone does not and cannot suffice to ensure that Canadian creators and creative industries receive fair compensation” (82). That being said, what approach *should* be taken to ensure that creators receive fair compensation from industries that routinely underpay and exploit them?

The legal system, Crean (2000) argues, mostly favours “those who manage, administer, produce, distribute or market art and culture rather than those who make it,” and this is consistently evident in the suggestions raised in the various reports that encourage musicians to better their business savvy as a competitive market player, and to increase their capacity to exploit the copyright they possess, rather than passing legislation that would force businesses to be more creator- or musician-friendly (202). In the *Shifting Paradigms* report, it is suggested that musicians are struggling in the platform era precisely because “artists often require support in developing entrepreneurial and business skills,” (Dabrusin, 2019, 15). Likewise, Music Canada’s President and CEO Graham Henderson argues in the *Statutory Review of the Copyright Act* that “every musician is a businessman, now more than ever,” implying that if a musician isn’t experiencing success, a large part of that may be attributed to their failure as a businessperson, not as an artist (Ruimy, 2019, 39). But improving a musician’s business savvy won’t improve their remuneration, for it is the possession of a collection of copyright — not just an individual’s musician’s or band’s catalogue — that yields significant value for rights holders. Sutherland and Straw (2007) explain that because the value of large music companies always resides “less in what they are able to do (which is increasingly uncertain) than in what they own,” and what they own is “the rights to millions and millions of musical compositions,” strengthening copyright law will benefit industry directly, but not necessarily individual musicians (152). And because corporations can never create intellectual property, they can “only acquire, manage, or exploit it,” there will forever be an inequitable distribution of power between the creators of intellectual property, the possessors of its rights, and those with the capacity to exploit them (Crean, 2000, 208). Within these policy discussions, the musician is therefore merely a discursive figure, one that stands in for a bundle of copyright. In using the value gap narrative to sway policymakers to tighten the regulations

around the copyright — and value — that they own, the suggestions made in these Standing Committee meetings and industry hearings don't necessarily reflect an awareness of musician needs, rather they reflect a desire to support the reinstatement of music industry authority over the distribution and consumption of musical recordings through a fortification of copyright law.

Although improving artist remuneration models is framed as the primary rationale behind contemporary policy interventions into the cultural industries in Canada, a large problem stems from the fact that the outcomes considered regularly mischaracterize creators, and the very industries that are failing to commensurate them fairly, as one and the same. For example, in a background written for the *Statutory Review of the Copyright Act*, Canadian Independent Music Association (CIMA) President Stuart Henderson explains that music *industries* want to be considered, and protected, in much the same way as *creators*. He argues that it is important to consider artists and industry as equivalents because to him creators are the artists *and* the industry alike:

It is important to note that “creators” must be defined as everyone in the music ecosystem of creating, recording, performing and commercializing music. Creators are the artists, songwriters, composers AND the companies that support them such as labels, managers and publishers.

In putting these two groups — creators and cultural industries — into the same category of “need” stakeholders reveal that the necessities of artists and industries are considered interchangeable, and that both parties are equally affected by the changes brought about by digitization and the rise in popularity of the platform. Consequently, lawmakers miss the mark entirely; the needs of a worker will never be the same as the needs of the employer or, more precisely, the owner of the means of production or distribution.

In the Statutory Review of the Copyright Act, it is argued that in the platform economy, “rights-holders are pushing for simpler, cheaper and faster methods of enforcing their rights”

(Ruimy, 2019, 93). But in this specific context, “rights holders” refers exclusively to labels and aggregators because the platforms being discussed, such as Spotify, do not negotiate licensing agreements with small rights holders, like independent or emerging musicians not signed to a label. And as I demonstrated in the previous chapter, most musicians rely very little on the sale of their musical commodities — digitally or materially — because they tend to see hardly any income from these transactions, so shoring up copyright law ultimately means little to them. Horace Trubridge, General Secretary for the UK Musicians Union, explains that although streaming is “generating huge dividends,” it isn’t the musicians, rather “it is the rights’ owners,” predominantly the major labels and a constellation of independent labels, “who are benefitting chiefly” from streaming profits, and that “artists and performers who write and deliver the music that the whole ecosystem depends on are, at best, the poor relations” (Musicians Union, 2021b). Consequently, increasing or strengthening copyright restrictions to help “rights holders” to “enforce their rights” online won’t necessarily provide a clear model for improving artist remuneration, as it is live touring, not commodity exchanges nor copyright royalties, that makes up the most significant portion of musician income.

In her analysis of the UK and EU hearings on the value gap, Annemarie Bridy (2020) argues that “the upshot of the value gap as a copyright policy proposition is that music industry stakeholders want more money from YouTube, and they want to reshape the law to get it” (326). It is this particular level of access to policymakers and amount of persuasion possessed by industry stakeholders that musicians simply cannot compete with. In point of fact, David Arditi (2020) explains that, “whether or not musicians want to participate in the copyright system, the law already establishes the order, so they must participate in it if they want to earn a living through music” (72). In such a lopsided system, can there ever really be an equitable distribution

of power, and in turn, wealth? Henderson Cole, an entertainment attorney from New York, suggests that it is not possible for there to be equitable distribution in copyright because the system itself needs to be entirely redesigned. “How our legal system is built,” Cole explains, “is that instead of usually rewriting something, they’ll just build on it. And we’ve been putting Band Aids on this for I don’t know, 100 years?” (Mejía, 2019). So, while the *Statutory Review of the Copyright Act* was met with praise by industry stakeholders, it’s difficult to say how positively these changes will affect musicians and other cultural labourers long-term.

Provisions Enabling Piracy: Safe Harbour Exemptions

The second key theme that arose out of the discourses circulating within and around the value gap narrative, copyright, and piracy, is the role of safe harbour exemptions. Safe harbour exemptions were initially designed and implemented to limit Internet Service Providers’ (ISPs) and Online Service Providers’ (OSPs) liability for acts of copyright infringement committed through their services. The exemptions were established during the late 1990s at a time when the technology companies responsible for providing internet service compared their job to that of a “dumb pipe”: like water carried through plumbing, the internet simply flows along the lines of its providers who remain entirely unaware of what’s being carried along them. The pipe, in this analogy, is merely a conduit, oblivious to what travels along the path it provides; and such is the way that internet and online service providers maintain they operate. Technology companies have therefore argued to policymakers that they shouldn’t be held responsible for the actions of their users, and so the exemptions were introduced (Grier, 2019). While the dumb pipe analogy might have been a more apt depiction of the internet in the early 1990s, for current ISPs and especially OSPs to feign ignorance about what exactly is transpiring on the channels they provide isn’t entirely accurate given that they’re generally aware of their users activities. For proponents

of the value gap narrative, safe harbour exemptions have had the “unintended consequences” of “allowing a massive relocation of economic value from copyright-owners to ad-supported online platforms that purport to qualify for the hosting exception while effectively functioning as streaming services” (Ruimy, 2019, 74). According to The Music Industry, the most predominant example of an OSP hiding behind safe harbour exemptions is YouTube.

Music Canada (2019) argues that as the world’s dominant ad-supported, user-uploaded streaming service,¹⁴ YouTube’s claims of ignorance about exactly what, where, and when music is being distributed over its platform hardly seems plausible. In its report, Music Canada (2019) therefore argues that the popularity and “prevalence of ‘free’ services such as YouTube depresses not only consumer demand for paid subscription services [...] but also royalties paid by those services” (28). According to Barry Sookman (2018), the availability of “free” streaming content on YouTube is one of the primary reasons consumers cite for choosing not to sign up for a paid subscription (Sookman, 2018). While it might very well be true that the percentage of individuals who do not have a paid streaming subscription cite YouTube as their “free” source, arguing that its existence suppresses consumer demand across the board is flawed given the rise in popularity of paid subscriptions overall. If the availability of “free” music allegedly de-incentivizes listeners from purchasing it, then why was radio play ever sanctioned at all?¹⁵ For years this was the primary mode for popularizing and circulating new music, music people readily bought hard copies of. Like YouTube, the radio was initially railed against by The Music Industry but eventually agreements were settled upon and a synergistic relationship between broadcasters and

¹⁴ According to Alexa.com, as of this writing (March 2021), YouTube is the second most-trafficked site in the world after Google (who own’s YouTube). Moreover, Tim Ingham (2020b) explains that YouTube has two billion monthly users around the world, whereas Spotify, by comparison, has approximately 270 million monthly users.

¹⁵ As noted in the introduction, radio music is not disseminated for free, of course, rather advertising and copyright are what ensure that radio isn’t actually making anything available “for free,” and that artists are paid royalties for air-play, and that listenership is packaged as part of an audience commodity that is sold to advertisers.

labels emerged; not unlike the one between Spotify and major labels Sony, Universal and Warner Music, who collectively own a nearly 15 per cent stake in the platform.¹⁶

In addition to their ownership stake, Tim Ingham (2021, February 26) explains that major record labels' current licensing deals with Spotify include a 52 per cent royalty rate for their music, which does not include the revenue paid out to publishing rights holders, which he estimates to be roughly 13 per cent, meaning that Spotify pays out approximately 65 per cent of its total net revenue to music rights holders. And, because Spotify doesn't negotiate with small rights holders, such as independent or emerging musicians, we can confidently speculate that the rights holders receiving this revenue are predominantly major labels, some independent labels, music publishing companies, and content aggregators, but not individual musicians. Ingham (2021, February 26) goes on to illustrate that 65 per cent of Spotify's revenues in 2019, for example, would have resulted in "an annual music industry/rights holder payout of \$4.94 [billion]," making the value gap The Music Industry claims it's experiencing appear smaller and smaller. Moreover, Alan Willaert, Vice-President of the Canadian Federation of Musicians (CFM), the Canadian branch of the American Federation of Musicians (AFM) — the national musician union — explains that "when Spotify approaches one of the major labels and acquires access to the catalogue, there's a several million dollar fee for that access," in addition to the per stream fee, as well (Ruimy, 2019, 80). The problem, however, Willaert continues, is that in that huge amount of money that is paid for catalogue access, the musicians see none of that at all — zero" (Ruimy, 2019, 80). In these figurations we can therefore see that the gulf of wealth that the value gap is meant to represent is more accurately one between artists and rights holders — not

¹⁶ While it was rumoured to be as high 20 per cent, the numbers reveal that the three labels own an estimated 13.7 per cent stake in Spotify: Sony possessing 5.7 and the other two with approximately four each — SEC rules only require the disclosure of shareholders with a five per cent or more share (Variety Staff, 2018).

consumers and artists — and exists precisely because of the failure of platforms and labels to compensate creators fairly, not because consumers are no longer accustomed, or willing, to pay for music.

Despite the extraordinary source of revenue from Spotify The Music Industry is receiving, it nevertheless insists that YouTube, enabled by safe harbour exemptions, is redirecting valuable resources — income — from music industry and, in turn, musicians, and that this practice needs to be stopped. To quell this supposed copyright oversight, Music Canada and other supporters, including the Canadian Musical Reproductive Rights Agency (CMRRA) and the Canadian Music Publishers Association (CMPA), propose that the safe harbour exemptions should only be available to technical, automated and passive intermediaries who possess no knowledge of alleged infringements (Ruimy, 2019). More specifically, these associations are proposing that section 31.1.(4) of the Copyright Act be amended so as to clarify that the exemption is not available to services who act directly or indirectly as a content provider (Ruimy, 2019).

Unsurprisingly, throughout the review these propositions drew strong objections from Google Canada, a subsidiary of Google, which operates YouTube. Google Canada adamantly defended itself against accusations of rampant copyright infringement from The Music Industry, resolutely declaring that the majority of the content on Google’s platforms is already licensed, as is the case with Spotify (Ruimy, 2019). What is surprising, however, is that Music Canada president Graham Henderson actually agrees with Google, conceding that “98 [per cent] of everything that’s on YouTube is licensed” (Ruimy, 2019, 77). If almost everything on YouTube is in fact licensed, then there is little veracity to the claim that YouTube is a pirate haven given the fact that licensing is the basis of copyright law with regard to music and the internet, and it alone

ensures that rights holders (labels and musicians) are receiving at least some royalties — in piracy exchanges, they’d see none. Moreover, as part of Britain’s 2021 Digital, Culture, Media and Sport’s (DCMS) inquiry into the economics of music streaming, Katie Oyama, senior policy counsel for Google, states that safe harbour exemptions are not a “get out of jail card” as evidenced “by the \$12 billion the company has paid out to rights holders (up to the year 2019)” (Krol, 2021).¹⁷ Jason Kee (2018) of Google Canada also clarifies, that in addition to its substantial royalty payouts, the platform deals with copyright issues as quickly as possible, but with 400 hours of content uploaded to YouTube every minute, the company has no choice but to use a massive, automated system to deal with these matters at the front end (INDU, 2018, Evidence 1600). Despite the evidence of active removal of copyright-infringing content, significant payouts from the platform to rights holders, and both sides acknowledging that most content on the platform is licensed, the general critical consensus held by The Music Industry nevertheless maintains that, protected by industry-maligned safe harbour exemptions, YouTube functions as a pirate haven, one that is harming musicians and constraining The Industry’s capacity to realize profit.¹⁸

The *Shifting Paradigms* report calls attention to the failings of Canada’s safe harbour laws, recommending that the government be more proactive, inhibiting modern forms of piracy by reviewing or removing the safe harbour exemptions that limit creator’s ability to be fairly compensated (Dabrusin, 2019). In accordance with that perspective, the *Statutory Review of the*

¹⁷ As previously mentioned in, “rights holders” are predominantly labels, not musicians. Even when musicians own their own copyrights, they do not possess the bargaining power of labels who own vast repertoires of copyright, that the label can bundle together for sale. It is therefore fair to assume that the majority of the “rights holders” being referred to within these discussion are labels, and that those labels are meant to pay out a portion of the revenues they receive to the musicians, but how those rates are determined and distributed is not clear, but what it does illustrate is that the majority of the revenue paid out from streaming goes directly to labels.

¹⁸ Spotify is often argued to pay better royalties than YouTube, but several witness spoke to the contrary. Because there is no true “per stream” amount from Spotify since revenues changes each month, the actual per stream payout is dependent on so many different factors. According to *Soundcharts*, “Spotify paid the artists \$0.0032 per stream; Apple Music got the average rate of \$0.0056; Google Play Music landed a \$0.0055 payout rate; and Deezer fell slightly lower at \$0.00436” (Pastukhov, 2019).

Copyright Act's (2019) twenty-first recommendation is therefore that the government amend the legislation and make safe harbour exemptions available to online service providers under the stipulation that they take immediate measures against copyright infringement occurring on their platforms when detected (83). Likewise, the *Review's* twenty-second recommendation argues that the government should ensure that the content management systems employed by online service providers that are protected by the exemption “reflect the rights of rights-holders and users alike” (83). In all, the two recommendations seek to strike a balance between appealing to industry desires to limit coverage of the exemption while at the same time ensuring that individual consumers still have reasonable access to all facets of the open internet.

Once again, however, the position of musicians in these equations is unclear, and their needs are not explicitly considered, with industry demands supplanted for their own. These recommendations explicitly refer to the permissions and entitlements of rights holders and users, suggesting that the issue at hand is primarily one between labels and consumers, not between musicians and consumers — or even musicians and labels. Moreover, there is no evidence to suggest that adjusting the safe harbour exemptions would in any way ensure that musicians see greater portions of revenue. Therefore, the goal in taking down the safe harbour exemptions is, first and foremost, to take out YouTube as a competitor, which is reminiscent of The Industry's reaction to Napster in the late 1990s. Of greater concern, it would once again appear, is maximizing the value extraction for commodity exchanges between music providers and music consumers, but to the detriment of the artist, the labourer, the invisible producer of the goods both bought and sold. This is really similar to the dichotomy present during the piracy panic proceedings of the 1990s and early aughts, when The Music Industry was indeed more

perturbed by the consumer's ability to circumvent the exchange system and shirk payment than it was about the circumvention's failure to adequately compensate musicians.

Canada, of course, is not alone in this fight: industry stakeholders are seeking “to redefine the scope of existing copyright safe harbors in the European Union and the United States to exclude YouTube from their protection,” as well (Bridy, 2020, 326). The desired outcome, of course, is that YouTube would be forced to renegotiate existing licenses with record labels on terms that are more favourable to music industries, not unlike in the Napster era (Bridy, 2020). But in the Napster era, while The Industry was busy picking legal fights with the average citizen, quibbling over hundreds of dollars at times, Apple unveiled iTunes and the iPod, and The Industry, without much hand of its own to play, was to some extent forced to negotiate on Apple's terms. Likewise, Spotify emerged shortly after the dust had settled in the courtrooms of the early aughts. Founder, Daniel Ek, said in a 2010 interview with the *Daily Telegraph*, that Spotify came to him when trying to think of a solution to piracy and that, while legislation has its place, he concedes that “the only way to solve the problem was to create a service that was better than piracy and at the same time compensates the music industry” (Lidsky, 2018). Ek has therefore always been chiefly concerned with correcting the ills of piracy but to the benefit of The Music Industry and its consumers, with musicians factoring little into the overall equation. And, not unlike with Apple, licensing conditions have largely been negotiated on Spotify's terms, and the musician, in both situations, hasn't even been invited to the discussion — always talked about but rarely allowed to speak.¹⁹ Spotify's origins are therefore clearly undergirded by a desire to engage with major industry players and stakeholders, not small rights holders, like independent musicians, as evidenced by the platform's unwillingness to negotiate with unsigned musicians.

¹⁹ One remarkably amusing, very public insult levied against Spotify came from Radiohead's Thom Yorke, a noted anti-Industry musician, who likened the platform to “the last desperate fart of a dying corpse” (Schatz, 2020).

What this reveals is that the safe harbour exemption debate within contemporary copyright is not really about the adequate remuneration of the artists whose wares are being consumed freely on streaming platforms such as YouTube.²⁰ If it were, then Spotify would be disparaged just as widely as YouTube for failing to provide fair and transparent compensation models for the artists who make the platform possible (and profitable). Instead, The Industry pushes for the introduction and enforcement of Spotify's pro rata model²¹ with the argument being that Spotify's model has higher payouts, and that this would ultimately "level the playing field." However, in the *Statutory Review of the Copyright Act*, for example, Pierre LaPointe explains that Spotify's payouts are in fact quite low, and that's even as a musician who is capable of securing hundreds of thousands, and sometimes even millions of streams. For one of his songs that reached the million stream milestone on Spotify, LaPointe explained that he earned only \$500 in royalties: "That's \$500 for a million streams. If I'm receiving \$500 for a million streams, I'm not mentioning others who are not as well known as me" (Ruimy, 2019, 79). Interestingly, in the reports, both Spotify and YouTube argue that the issue of remuneration is actually the fault of the label, not the platform. Both platforms insist that their revenue payouts go directly to

²⁰ Because Spotify and YouTube operate under different business models, explains Annemarie Bridy (2020), they don't face the same legal risks. Spotify is a closed distribution platform, so it directly chooses and controls its entire universe of available content, and knows exactly what content is available on its service at all times. Conversely, open services such as YouTube face "uncertain and continuous exposure to legal claims arising from their users' activity," which is primarily copyright infringement (Bridy, 2020). Safe harbours were created *because* policy makers knew that infringement is inevitable on open, public-facing platforms. In sum, Spotify isn't protected by safe harbour exemptions not because it's being treated unfairly but because closed services like Spotify don't need it; the laws were drawn up precisely because the policymakers drafting them were aware that open services exist online.

²¹ Spotify uses the pro rata model which is also used by many major streaming platforms, but not YouTube: monthly subscription revenue is pooled and then distributed according to a variety of metrics (Roche & Smith, 2019; Vonderau, 2019; Hogan, 2019). In Spotify's case, the platform takes 30 per cent off the top of the pool, labels take another percentage (estimated to be approximately 50–65 per cent), and artists are paid out of the remaining revenue. What exactly each artist makes is directly tied to their *total* listening numbers, and where they rank when compared with others. Top artists tend to receive top pay, whereas fringe acts receive nominal amounts at best. By contrast, when you buy an album, the artist is automatically paid a (very) small portion of that sale — but it's guaranteed. When you stream music, even if all your listening went to one artist, they aren't paid a proportional amount — there really isn't a per-stream royalty, it depends on what percentage of the total listenership an individual artist/band has managed to secure.

labels who are then charged with the responsibility of disseminating the royalty dividends to the artists on their roster. For this reason, Spotify and YouTube argue that they cannot be held responsible for the remuneration issues, per se, because the label's practices regarding distributing royalties is completely opaque to outsiders like them — only the labels and artists know the real breakdowns.

Instead of pushing for and ensuring fair compensation across the board, just like in the piracy panic era of long ago, it appears as though The Industry instead remains fixated on the idea of closing the gate that digitization has opened, and determined to frame the issue as a matter of piracy: a conversation where the musician features prominently as a symbolic figure, as a martyr of The Music Industry, but who is rarely the beneficiary of the changes proposed and implemented. Instead of proposing methods for better fostering revenue growth for artists directly, by suggesting of a fortification of copyright law, *Shifting Paradigms* reveals that its devotion to artist remuneration models is, it appears, more so in name than in practice. The final document demonstrates greater concern for fostering revenue growth among platforms and labels, which is meant to trickle down to the artist. The argument for making improvements at the corporate level with the intention of the overflow and abundance spilling over and making its way down to the artists upholds a persistent neoliberal myth that leaves those with little negotiating power the hope that some of the extraordinary wealth they help to generate will be returned to them in some small way.

Playing Field Needs Levelling, and Spotify is the Model to Look To

Over and again, proponents of the value gap argue that payout rates/models for musicians “need to be modernized and [that] the playing field for artists and creative industries needs to be levelled to create a properly functioning marketplace” (Sookman, 2019). Indeed, Music Canada

makes it very clear in the Standing Committee meetings that The Music Industry isn't seeking public funds to compensate for the losses caused by the value gap. To be sure, Music Canada President and CEO Graham Henderson explains that what The Industry is asking for is instead a "level playing field," that is to say, "a creative economy in which money flows from distributors back to creators" (Taylor, 2017). The *Shifting Paradigms* report (2019), also recommends "modernizing remuneration models" which it insists would "[level] the playing field for artists and creative industries" (Dabrusin, 2019, 51). In this instance, we clearly see how industry and artist are considered one and the same, and that in addressing The Industry's needs, it is assumed that artists' needs will be met in kind. What this ultimately demonstrates is that the call for a "level playing field" is simply code for Industry desire to have the marketplace function exactly to its liking — in the same way as Spotify, in this instance — and to lessen competition.

On the whole, the voices that express support for Spotify conform to a standard beat: piracy is hurting the music industry, and YouTube enables piracy, so YouTube is bad. Protected by the much-maligned safe harbour exemptions discussed in the previous section, YouTube is framed in the value gap narrative as public enemy number one, and it is consistently contrasted with the Industry-approved streaming giant, Spotify. The Industry perspective maintains that if Spotify's pro rata model were adopted (and forced upon) all other streaming platforms, such as YouTube, then the playing field would be level — market competition, in its opinion, would then be fair and better artist remuneration would follow. Even though the practice of streaming has become more popular, and its overall contribution to Canada's recorded music revenue keeps growing,²² The Music Industry nevertheless feels threatened by its inability to exert complete and

²² Between 2014 and 2018, for example, recorded music revenue in Canada grew significantly, with 2018 marking the first year that streaming contributed to more than half of the country's total recorded music revenue (Music Canada, 2019, 24).

totalizing control over the digital circulation of its sound recordings and, as such, demands that the playing field be levelled: that YouTube be forced to adopt the Spotify model for remuneration so that market competition in streaming is “fair.”

As is customary, throughout all of the discussions asking for a level playing field, the musician features prominently as symbolic figure unless what they have to say aligns directly with Industry perspectives, then they are treated as experts. Musician Miranda Mulholland, for example, regularly appears at public hearings and Standing Committee meetings to speak on behalf of Music Canada, and she is quoted widely within its documents and reports. For Mulholland, the value gap is not about an inability to find work; she is a busy and respected professional musician, but admits that she is barely making a living. Why? Because the digital distribution of music, she argues, is not fairly compensating the people who create it — the playing field isn’t level — and continual touring cannot make up the difference. In the end, she places the blame squarely on YouTube — not Spotify, not even torrent sites, but YouTube (Taylor, 2017). Mulholland is therefore straightforwardly in support of The Industry’s position that YouTube, and the unauthorized streaming it enables, is what ultimately detracts from musician revenue in the streaming era; but this does not resonate with the experiences shared with me by my interview participants, discussed below. It’s possible, however, that Mulholland’s position on the Music Canada board of directors skews her standpoint somewhat, resulting in her echoing industry needs in her statements. While she is indeed a working musician whose perspectives are real and valid, and whose opinions I have no legitimate authority to challenge, her close personal working relationship with Music Canada means that she might have conflicting goals in sharing her testimony, both as an individual and as an industry supporter. In the following section, I challenge The Music Industry’s claims regarding the causes of the value

gap, its proposed solutions rooted in copyright law, and its outright rejection of YouTube by incorporating opinions and perspectives from the interviews I conducted.

Perspectives from the Front Line: The Artist-as-Intermediary's Value Gap

Despite the value gap narrative's incongruity with the lived realities of the musicians who are navigating the platform economy first hand, there is nevertheless a consensus among industry *and* artists alike that there is a value gap of some sort. Notwithstanding this consensus, however, solutions for how best to confront and overcome the value gap musicians are experiencing are not clear, and sometimes altogether unhelpful. For example, policymakers and industry stakeholders similarly prefigure the artist-as-intermediary as an entrepreneur, as an individual whose primary goal is to establish a business, take on risk, and make profit. As a result, the suggestions and supports offered tend toward business-oriented solutions, which do not always address musician needs. This characterization of the musician as an aspiring businessperson is, however, consistent with the neoliberal ethos of free-market growth and independent wealth generation. Although the musicians I spoke with all, to some extent, demonstrated an internalization of this logic, their feelings toward this reality ranged widely. Some responded to the business logic of being a musician as a necessary evil: something to be cognizant of but certainly not enjoyed; whereas others were candid in acknowledging that they pursued their music careers with a business logic firmly in mind, keeping careful track of their social media metrics, streaming statistics, and sales figures.

A common theme among interview participants was an acknowledgement of the reality that, if you want to pursue a career as a musician, you must dispel of any romantic notions of what a music career is, and approach it coldly — almost pragmatically — as a business. According to Participant D, “The music business? It’s just a business. You’re not selling music —

you're selling songs, or a t-shirt, or whatever." For some, this particular reality causes tensions within themselves, citing desires to simply write music, play shows, and make a decent living from it, but not necessarily to fulfill any sort entrepreneurial goals, such as building and promoting their brand to make it rich. Participant E explains:

I'm kind of in between wanting to be this artist that just bums around the world and travels, and then just being serious about wanting to have an actual career that lasts, and having a business sense, and so on.

Participant E is explaining a common tension experienced by many musicians where they feel torn between the desire to create, express themselves, and reach audiences, but also to make a sustainable living. For others, there is less tension around this matter because they are armed with the awareness that, as Participant F argued, music isn't a career one pursues because they expect to make it rich. Instead, he continues, musicians are forced to confront the reality that you do this work because you are drawn to it, not because you're intending to become famous:

You have to do it because you love it and because it's all you want to do. And if it's not all you want to do, you're hopeless because there's very little money to be made, very little opportunity ... there's more people than ever trying to put their hat in the ring, there's so much white noise, there's so much crap going on, that if you're not committed, forget it.

Part of what Participant F is alluding to with the references to "white noise" is the idea that with increased access for creators there comes with it a flooding of the virtual marketplace, resulting in a cacophony of new entrants fighting for attention on the global digital stage. Disintermediation has in some ways over-filled the marketplace, making it even more challenging for emerging musicians to break through the noise. Contrastingly, as mentioned above, the discourses circulating within and around the value gap narrative repeatedly call for a levelling of the playing field, which has historically referred to the need for more democratic access to the means of production and distribution within cultural industries; but what The Music Industry is really

calling for when it asks for a level playing field in the platform era is not greater and easier access for new entrants, but for a fortification of the marketplace, one that ensures it operates unilaterally in a manner designed by Spotify and approved by music industries.

Playing Fields Need No Levelling

Arguments about the need for a “levelling of the playing field” abound in cultural industries discourses, but especially in music industry discourses pertaining to the internet and digital distribution. In fact, the argument has existed as long as the capacity for digital distribution has. For example, in a May 1999 *Billboard* article titled “Artists Can Use MP3 to Boost Bottom Line,” journalist Christine Lavin writes: “For the first time ever, there could be a major *levelling of the playing field* in the music business” (Lavin, 1999, emphasis mine). What Lavin is referring to is direct, un-intermediated access to audiences, something not easily accessible prior to the MP3 or the Internet. For musicians, a level playing field refers to both the ease of access to the tools of distribution made possible by digitization, as well as accessibility to audiences. Yet, despite the fact that the platform economy was heralded for doing just that, for disintermediating the industry and making it more accessible to more individuals, the contemporary narrative from the Industry perspective insists that the “field” is not level, and that *this* is a big part of why musicians are under-compensated — but that’s not how musicians portray it. From The Industry perspective, then, a level playing field doesn’t refer to access but to a marketplace wherein all commodities are exchanged using the exact same methods. That is to say, The Music Industry wants all other streaming platforms to adopt Spotify’s pro rata remuneration model in order to, as they argue, make the playing field level — to remove unwanted competition that is undercutting their business model and profits. For The Industry, this would correct the value gap

by ensuring all platforms must pay out, and pay out exactly the same way as Spotify. But that's not what musicians have been asking for, exactly.

The suggestions put forward by The Music Industry to achieve a level playing field belie the narrative's claims that The Industry simply wants to improve artist remuneration, and instead demonstrates that it desires to collectively strengthen its hold on digital copyright, and to boost its bottom line. Graham Henderson's playing field — referenced above — is not level at all, but rather one that tilts in The Music Industry's favour. Indeed, The Industry's version of a level playing field more accurately refers to increasing the flow of money from platforms to labels, and has nothing specifically to do with improving artist remuneration. For The Music Industry to claim that their power has been compromised by the presence of so-called piracy in the era of the streaming platform (or any era) is a gross mischaracterization, and asking for the government to intervene to make the playing field more level — or for it to eliminate competition — it once again reproduces a familiar tone-deafness that was roundly demonstrated throughout the fruitless proceedings undertaken by the RIAA and CRIA (now Music Canada) against so-called internet pirates during the late 1990s and early aughts.

Ultimately, what the levelling of the playing field is arguing for is an unbalancing of the playing field — The Industry wants it tilted in its favour — to have their models reinforced from the top down, and for any new or emerging platforms to be forced to use these methods as well. Given the poor remuneration experienced by musicians from most platforms, it would seem that their interests are not being considered in this argument. The horizontal structure of the internet seems to forbid organizing in the vertical fashion that twentieth century media companies are so fond of, so the levelling of the playing field then is simply The Industry asking for their complete and totalizing control over music's production, distribution and consumption to once again be

restored. It's not the levelling of a field but the rebuilding of a hierarchical pyramid, at the top of which The Music Industry would once again like to find itself.

Paltry Digital Revenue Across the Board

Twenty years ago, amidst the cacophony of criticism from industry supporters, there were murmurs among the optimists about the potentials digital distribution platforms like Napster presented. Should the people who own the rights and the people capable of exploiting it — including musicians and industry figures alike — be able to reach a compromise, it might result in a situation wherein “everybody made some dough” (Chidley, 2000). As we know, however, this didn't happen, and the value gap narrative, to an extent, illustrates this: greater ease of access to the tools of (digital) production and distribution was not accompanied by greater and more democratic access to the funds generated by those online activities, as evidenced by the *Shifting Paradigms* report's acknowledgment that “a growing number of artists [are] living below the poverty line” (Dabrusin, 2019, 7).²³ In any case, although there may be disagreement about the causes or particularities of the value gap, there is nevertheless a consensus that *some* type of value gap exists, but its causes and impact are not as The Music Industry claims them to be. In the first paragraph of its section devoted to music industries, the *Shifting Paradigms* report acknowledges that the *industry* has actually been stable since the advent of streaming — thriving, even — but that the *artists*, the very producers of the content being quarrelled over, are receiving inadequate remuneration. Natalie Théberge²⁴ confirms that, between 2010 and 2015, “overall revenues from

²³ Alan Kreuger (2019) explains that, of the top 48 musicians globally, in 2017, they earned an average of 80 per cent of their revenue from touring, 15 per cent from recordings and merchandise sales, and five per cent from publishing fees (37). What this illustrates, is that improving remuneration rights at the platform level won't make a significant impact on the livelihood of musicians living below the poverty line, if sale of recordings doesn't even make up a quarter of their total income.

²⁴ Director General, Creative Marketplace and Innovation and Deputy Director of Investments, Department of Canadian Heritage

sound recordings in the Canadian music industry remained relatively stable,” and this was directly related to an increase in streaming revenues (Dabrusin, 2019, 23). Notwithstanding this newfound stability, however, artists’ remuneration has not risen or stabilized in kind. Several witnesses cited in the *Statutory Review of the Copyright Act*, and elsewhere, “expressed strong dissatisfaction with the revenues they receive from any streaming service, not just YouTube” (Ruimy, 2019, 79).

While many artists agree that YouTube, for example, doesn’t pay them adequate royalties, several musicians remain quite vocal about the fact that *all* streaming models have a substandard payout structure. Author-composer Pierre Lapointe, mentioned above, relayed his views on the matter to the Committee for the *Statutory Review of the Copyright Act*, illuminating the fact that, even if he garners one million streams on Spotify, he only earns \$500 (Ruimy, 2019, 79). Another artist, author-performer-composer David Bussi res, was cited in both the *Statutory Review of the Copyright Act* and the *Shifting Paradigms* report, explaining that, for each of his songs, he thoroughly researches his royalty statements. In his research, he’s discovered that despite holding all copyrights for his song “Lumi re,” for example, the returns from *all* streaming sources were relatively pitiful, and that radio play actually generated the highest return (see Figure 4.1). Indeed, after generating 30,000 streams on Spotify, Bussi res’s band was paid only \$10.80; conversely, after generating more than 60,000 views on YouTube they earned \$153.04 (Dabrusin, 2019, 23; Ruimy, 2019, 80). In either case, the earnings are measly but the disparity between the income earned on the legally-sanctioned Spotify and the income earned on the industry-loathed YouTube is surprising. In situations such as these, it becomes apparent that the reason why The Music Industry does not criticize Spotify, despite it so clearly contributing to the value gap musicians are experiencing, is because it is a stakeholder in the platform itself. Not typically given

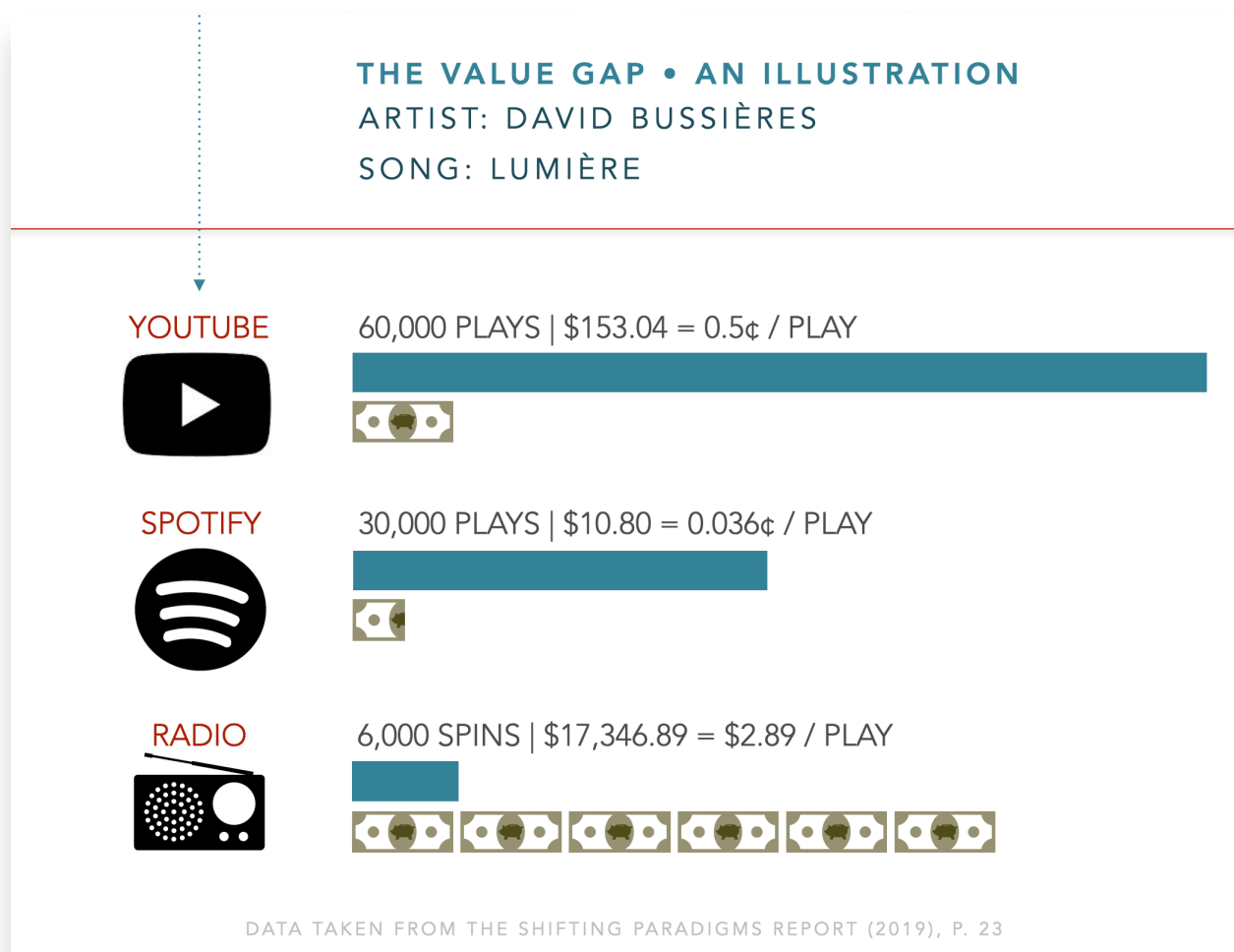


Figure 4.1

Illustration of value gap by author — data taken from David Bussi res’s testimony in the *Shifting Paradigms* report.

to self-criticism, or self-awareness, however, this behaviour is predictable of The Music Industry, and reminiscent of a long history of an industry unwilling to adapt, make alterations, or remodel itself in the face of unavoidable environmental change.

In a Facebook post from Canadian musician Danny Michel (2018) he outlines his own frustrations with the transition from downloading to streaming, arguing that, recently, he earns more from digital downloads than he does from streaming. As a result, he and others like him are inadequately remunerated for their music, and are experiencing a financial regression late in their careers:

Everywhere I go musicians are quietly talking about one thing: how to survive. And I've never worried about it myself UNTIL 2018 [*emphasis original*]. What I can tell you is my album sales have held steady for the last decade until dropping by 95 [per cent] this year due to music streaming services. Note my earnings for "Purgatory Cove": this song has been in the TOP 20 charts (CBC Radio 2 & 3) for 10 weeks, climbed to #3. In 2018 that equals \$44.99 in sales. (An artist earns \$0.003 per play on Spotify). I know I'm not alone. As a result bands/musicians are downsizing, recording at home, cutting corners where ever [*sic*] they can. Studios are losing business. Session musicians, techs, administration, grant writers are all losing work. And with every band in the world back on the road, venues are clogged and ticket prices have tripled. For me it means being away from home and taking on more work than I ever have.

What Michel's comment clearly illustrates is, not only does streaming not pay, but downloading *did*. Having experienced success in the downloading era, Michel is explicit in noting the transition to streaming and the impact that it has had on his ability to realize profits from the sale of his music, forcing him to rely entirely on touring, which takes him on the road and away from his home for longer than he wants to be, especially at this late point in his career. So, while the value gap narrative is anchored by language expressing concern with regard to artists' ability to be adequately remunerated, as illustrated by the comments above, the needs of musicians aren't being met or even fully heard. And the issues The Music Industry is bringing to the table don't reflect a desire to fulfill the needs of the musicians they claim to be arguing in support of. The Industry proclaims that piracy in the form of illegal streaming and stream ripping are a significant reason why the value gap exists, and that closed systems like Spotify are the only way forward given the consumer demand for streaming content. Yet, musicians themselves say that Spotify royalties are just as poor if not worse than YouTube's, suggesting that positioning Spotify as the answer to The Music Industry's problems is primarily, if not exclusively, done for the benefit of industry, not musicians.

Indeed, a 2011 Nordicity study conducted on behalf of the Canadian Independent Music Association (CIMA) found that individual artists in Canada earn an average of \$7,228 per year

from 29 hours per week of music-related work — that’s less than \$4.80/hour (Music Canada, 2017, 26). Despite an exponential increase in the output of new music,²⁵ the average Canadian musician — and musicians more broadly, we can assume — receive measly, un-livable wages from streaming. Samantha Martin, of the Toronto blues band Samantha Martin and Delta Sugar, explains that once an artist has deducted the fees for managers, labels and distributors, and the costs for recording, mixing, mastering and manufacturing records, “the pittance” earned from streams breaks down in such a way that the majority of musicians are left in debt, “owing rather than making money” (Grier, 2019). It should be noted, however, not all musicians are signed to a label or are paying to record, but earnings are nonetheless objectively poor or low. Martin’s perspective exemplifies the fact that there remain ongoing disparities and uneven power dynamics within music industries that have been exacerbated — not eliminated — by digitization. In the value gap narrative, the majors blame the streaming platforms for the way streaming income is distributed, conveniently ignoring the much bigger issue of recording contracts and the role they play in the determination of artist royalties.²⁶ As previously mentioned, neither Spotify nor YouTube know how the royalties they pay out to rights holders — primarily, labels — are distributed to artists.

Journalist Daniel Sanchez (2018, April 7) wrote for *Music Business Worldwide* that, although major labels have been recovering from streaming, artists shouldn’t expect to make a living from these platforms any time soon “nor pretty much any other music-related source of income.” In fact, a study released by Citigroup confirms that in the United States, in 2017, “only

²⁵ For example, in the 1970s, roughly 4,000–5,000 new albums were released per year; by 2008, at the height of The Music Industry’s cry for help, approximately 105,000 new albums were released (Meier, 2017).

²⁶ Both Arditi (2020) and Stahl (2013) offer more thoroughgoing accounts of the impact of recording contracts as binding legal documents on the working lives of musicians which is a valid node of analysis but somewhat outside the scope of this particular discussion.

approximately 12 per cent of the music industry’s revenue went to artists, which speaks to the financial precariousness experienced by many musicians” (Pelly, 2019) — and that’s of the \$43 billion in total revenue generated by The Music Industry (Sanchez, 2018, April 7). In other words, the power to ensure that artists are paid equitably is — and always was — firmly in the hands of The Industry, yet the long history of unequal distribution of profits remains unchanged, with the majors and only a handful of elite stars receiving the lion’s share of the income; the rest are only able to eek out a meagre living, with some becoming grossly laden with debt, owing the label their advance after poor to no sales.

This historical reality is being reproduced in the platform economy, as well. Not unlike in the older, brick-and-mortar model, the top streaming artists receive the majority of the wealth. In the case of Spotify, for example, the top 20 artists account for around 22 per cent of all streams, and therefore receive a formidable fraction of the pro rata pool (Mulligan, 2018). Spotify receives high monthly subscription fees from hundreds of millions of users, and major labels are paid for licensing their catalogues to Spotify, but in neither exchange is the musician directly paid, evidence of the fact that, “while streaming continues to evolve at a breakneck pace, the system through which artists are paid for the music being listened to hasn’t evolved in tandem” (Mejía, 2019). Exhibiting a level of insensitivity not unknown to The Music Industry, Spotify routinely reveals itself to be ignorant of musician needs, consistently contributing a lack of financial success on its platform to the musicians’ individual failure to hustle accordingly.

Spotify CEO and co-founder Daniel Ek, for example, was recently quoted in a *Consequence of Sound* article, saying that if an artist isn’t seeing a high payout from Spotify rates, it’s because *they’re* not producing enough quality output (Schatz, 2020). This is reminiscent of the “work to publish” rhetoric proposed by Jack Conte of Pomplamoose and Patreon fame. “Artists today that

are making,” says Ek, “realize that it’s about creating continuous engagement with their fans. It’s about putting the work in, about the storytelling around the album, about keeping a continuous dialogue with fans” (Schatz, 2020). In other words, they must embody all artist-as-intermediary traits, and model them expertly. The ideal platform musician labourer must produce a constant stream of content to appease their audience’s insatiable demand for continuous access; they must engage with fans and consumers on a regular basis to keep them interested and motivated to purchase; and they must actively monitor and maintain their social media, digital sales, and other metrics. In sum, they must become an independent music entrepreneurial entity, equipped and prepared to compete with other independent music entrepreneurial entities like them, and if a musician should fail to make a living, it is simply a reflection of their failure to become a model artist-as-intermediary. But, as we know, this isn’t true: the power to improve artist remuneration for streaming is firmly in the hands of both labels and platforms, and has little to do with the fickleness of the consumer, or failure of an individual artist to act entrepreneurially.

So, how might these paltry revenue structures be rectified? As part of its series of recommendations to improve artist remuneration models, the *Shifting Paradigms* report recommends that music streaming services be regulated like other Canadian music services, although it isn’t exactly clear what regulating streaming “like other Canadian music services” refers to, or how that might directly benefit musicians. Further yet, it’s not evident how regulations might be imposed upon streaming services given the fact that the reason they aren’t regulated in the first place is because the federal government established decades ago that it would not regulate the internet — how would it be able to argue for the exception of music? The

musicians I spoke with said that it was government grants and direct expenditures,²⁷ not CanCon regulations, that they felt were most helpful. Only a handful said they received radio royalties through SOCAN or other means, so touring remained their primary focus, which is why touring grants are of greater importance than regulations around distribution for the majority of musicians. When asked if she and her band get paid radio royalties, Participant C said that she and her brother, who is also a musician, will commiserate together over their pitiful royalty payments:

My brother is also a musician, and it's so funny. He'll be like, 'Quarterly payments came out today! How much did you make?' and I'll be like, '\$8.75!' [laughs] and he'll be like, 'I got \$5.15. Woo hoo! High five!'

Imposing regulations or increasing royalty amounts therefore wouldn't likely provide a substantial enough increase to Canadian musician pay to make a meaningful difference in their income.

Touring makes up the most substantial portion of income for all the musicians I interviewed, but going on tour is itself expensive, and wrought with its own financial barriers. For that reason, many of the musicians I interviewed cited touring grants as both significant and necessary for sustaining themselves on tour. Receiving grants, Participant E said, has been “immensely helpful” with regards to touring outside of the province, but has also helped make in-province tours more profitable, “which — in my case” he said, “we’re sort of re-injecting all of that money into everything we do.” The grants are therefore understood as an investment rather than a hand out: they help the musicians tour without going into debt, allowing them to funnel their earnings back into the band, and eventually paying themselves. “The granting stuff is great

²⁷ Direct expenditures are an example of a government tool or instrument used to address and overcome market failure in a variety of industries, including music industries. They typically assume the form of grants, subsidies, loans, or transfer payments. In the case of the music industries, and small rights holders/independent musicians, these direct expenditures are paid out directly to the musician to accomplish tasks such as recording, promoting, and/or touring, though the former two are most commonly awarded to labels that distribute them to the artists on their roster at their discretion (Bredin, 2013).

and it can be very helpful,” said Participant F. “What I found more helpful,” he continued, “are the grants that are on the more provincial level.” Smaller grants, like Music BC’s Artist Travel Grants, for example, that provide funding at the provincial level, and often don’t require that the band match the money. The Artist Travel Grants range from \$2,000 all the way up to \$20,000, and one artist/band can collect up to \$40,000 in a calendar year (Creative BC, 2018). By contrast, with FACTOR, for example, if a band were to secure a substantial grant for \$20,000, they would have to demonstrate that they already have earned \$15,000. Participant D explained that, from an economic point of view, the national grants are “like the cherry on the top but it doesn’t represent the whole sundae.” In essence, the larger, national grants are a reward for success, not a means by which to foster an emerging career. Moreover, with a smaller pool of participants to compete with at the provincial levels, artists stand a better chance of securing a grant when it is local rather than national, such as FACTOR grants. As Participant F explains, “the thing is, you need the money ‘cause you don’t have the money to match it. That’s the thing about being an artist, you know?” This comment illuminates that, for Participant F, being an artist is about being in a constant state of need, moving from paycheque to paycheque with little to no security in-between.

While all the artists I spoke with argued that touring was most important, not all felt as though the grants were that useful. Some felt these types of interventions were unnecessary or unhelpful. One participant said that he was successful enough without provincial or municipal funding: “I do well enough on my own that I don’t need grants, luckily” (Participant A). For others, their rapid success has permitted them to forego applying for grants. “Everything’s just proceeded so quickly,” said Participant B, “and we’ve been so lucky financially, that it hasn’t been necessary” for them to even apply for small grants. Others yet expressed a desire to apply, but

were discouraged by the overall complexity of the undertaking, like Participant G, who said his band was deterred by the opaque judging process:

We've considered it. Like, we've thought about applying, but it's pretty easy to feel like you don't really have a chance ... even trying to figure out what level of demos to submit — like how good your demos have to be.

Similarly, Participant H had applied, but found the system confusing. In the first year he applied, he was told he needed more live shows and videos. Taking the adjudicator's advice, he played more shows, produced a video, and added those things to his resume. The second time he applied, however, got an even lower score, which confused him greatly:

I think you're required like 85 per cent — a score of 85 per cent to pass or get approved, and I got like 83 per cent. I was like two per cent off. I was like, 'What the hell?!' Some of the feedback was that ... I had to increase my amount of live performances. I had two songs out, but they wanted to see a music video. They wanted to see more examples of me performing live and kind of actually building my fanbase locally ... And a year from that, I had done all of that. I released two more songs. I had one music video out. I had a couple of shows under my belt. All of it was the same application, but all with these added things, and I got scored less!

That being so, it would seem that calls for the lowering of the barriers to entry or levelling the playing field could be applied more productively to things like grants, rather than The Industry's push for locking up YouTube. As evidenced by the statements from just the handful of musicians I interviewed, it is quite apparent that forcing all consumers to use Spotify won't increase musician wages enough to make a difference, let alone to allow musicians to sustain themselves financially from streaming revenue.

What much of this illustrates is that a key part of correcting the value gap musicians are experiencing involves treating them as labourers, emphasizing that what they do is work, rather than as craftspeople-cum-businesspeople. Artists and entrepreneurs are framed as one and the same in the neoliberal discourses about digitization and music, as individuals in pursuit of

individual goals or passion projects, and not as workers contributing to the growth of the platform economy. In a roundtable discussion on the platform economy in the cultural industries, Christina Baade argues that “a crucial strategy for critiquing streaming platforms involves being mindful about questions of labour,” especially for artists, “whose labour has historically been recast as avocation while being exploited by record labels and other industry actors” (Bannerman et al, 2020, 478). “Insisting on the importance of labour,” Baade continues, “offers a counterweight to the language of streaming, which casts music as a free-flowing, natural resource, rather than as the result of musicians’ creative, intellectual, and physical work” (478). Writing about musician labour in the streaming era, music journalist Liz Pelly (2018) argues that Spotify operates in a similar manner as Uber, meaning that, as a platform, Spotify is, by its very nature, designed to exploit the labour of the individuals whose services and products the platform facilitates the exchange of and extracts a rent from.

Jeff Price, CEO of Audiam and founder of TuneCore, explains that copyright-dependent industries such as music industries routinely suffer from what he refers to as a “black box” problem, where “creators create, users use, and somewhere in between, increasingly large sums of money are collected by a plethora of intermediaries, including producers, publishers, labels, distributors, OSPs, studios, and collective societies” (Ruimy, 2019, 81). This is an example of what Pelly (2018) describes as streaming services absorbing and rebounding the broader “platform economy’s diabolical approach to labour, selling it back to financially compromised artist-workers whose lack of power companies like Uber were first designed to exploit.” As interview Participant D explained to me with devastating accuracy: “If you’re not a top five artist, you’re everyone else.” On that account, it is apparent that calls for the levelling of the

playing field *are* needed, but that they're needed for artists to be compensated fairly, not for The Music Industry to realize even more tremendous profits.

Personal Standpoints: The Canadian Artist-as-Intermediary in the Streaming Era

Throughout this chapter I have over and over again emphasized the fact that, in the discourses about digitization, music, and piracy, musicians feature prominently as rhetorical figures to be discussed, but rarely as active agents in their own right. In the interviews I conducted, musicians shared with me their perspectives on the value gap, the conditions of what they are experiencing first-hand, and what material effects streaming and the platform economy have had on their working lives. The musicians I spoke with had varying perspectives on what constitutes a value gap, and how to overcome it: while some expressed a desire to return to doing things the “old” way, prioritizing live performance and feeling resentment toward being obliged to brand and promote themselves online; others felt that social media and streaming was clearly the way forward, collectively providing unprecedented access to fans and listeners around the world, but that these platforms ought to better and more transparently remunerate the very artists who make them profitable.

For those for whom the situation felt dire, there was a general awareness that music, as a career, rarely pays, and that the impetus for pursuing it is largely a response to an internal drive, rather than the promise of big payouts in the future. There was a common refrain among the participants that working as a musician means that you will inevitably work for free. Some felt this was a matter of paying one's dues, and working their way up, but it was predominantly framed as a trying matter:

You work all the time for free. I mean, in the music industry, there is no set fee ... it's all perception of value. And some people think you're worth a million dollars, and some think you should pay *them* a million dollars, you know, for exposure.
(Participant D)

The whole thing costs a ton of money and right now, people mainly consume music by Spotify, who pays \$0.0001 per stream — you *cannot* recoup the costs. (Participant F)

What we can see from these perspectives is that the idea of doing what you love (Tokumitsu, 2015) often means doing so at any cost, even if that results in making little money, going into debt, working tirelessly to make ends meet, or simply failing to turn a profit whatsoever. These musicians' comments reflect an internalization of the neoliberal hustle-and-grind work ethos that so many of us, like artists-as-intermediaries, are meant to emulate. When asked if they receive revenue from music shared on streaming platforms the responses were definitely mixed, and seemingly dependent upon the genre of music in question. Participant D, a jazz musician, said that he didn't really see any income from the digital side of things:

Ninety-five per cent of revenue for most artists, like 99.9999 per cent — including the Beyoncés, the Drakes — comes from live touring revenue. Where the digital side, or the actual music itself, is a very, very, very small percentage of the total revenue stream.

While all the musicians were earning at least some income from digital sources, for the most part, it was not enough for them to sustain themselves. Instead, musicians more commonly earn a living from a number of different revenue streams because, even though the artists receive a greater proportion of the royalties from music sold via producer-oriented platforms such as Bandcamp, the sale of individual music commodities frankly doesn't yield substantial enough revenue on its own. Participant E explains that it's not that his band doesn't collect royalties from Bandcamp and other online sources, it's just that they, and many others like them, make their money from a collection of sources — “from like a hundred different sources of revenue.” The “hundred different sources” he is referring to are not only the myriad digital distribution platforms he and other contemporary musicians use to circulate their music, and full-time jobs within, outside of or adjacent to music industries, but also the physical sale of albums and

merchandise, tours and live shows, teaching, gigging,²⁸ and full- or part-time work within, adjacent to, or even outside of music industries.

Of course there are some musicians who say there isn't even a value gap, at least not the one that's being portrayed by Music Canada. "It's incredible actually ... to see that digital music actually does pay," Participant C explains, "we're definitely seeing income from streaming."

When asked if he got paid from streaming, Participant A also answered with emphatic certainty:

Yeah, totally. I mean, it's part of the reason — I know tons of people complain about it. There's loads of articles out there saying it's terrible and all this stuff, but ... like, I'm an independent musician self-releasing my music, and I manage to turn a profit. And, you know, it does pretty good for me. But, I mean, my music's pretty catchy, and ... accessible in comparison to a lot of other electronic music in my style.

In this statement, Participant A touches on a very important aspect of his streaming success: his genre. Being the only electronic musician I interviewed, he alone spoke highly of Spotify but acknowledged that his genre is well-suited to being popularized on the platform because of its dedication to generating playlists, especially ones featuring ambient music like his. In our interview, Participant A directly attributed his streaming success to his genre and its overall compatibility with Spotify's playlist algorithms. Likewise, the metal bands I interviewed attributed much of their success to Bandcamp, as did the folk and roots rock musicians, explaining that they see revenue from selling digital copies of albums and singles, rather than streaming.

Eventually, however, Participant A revealed that doing live performances and touring were where he generated the most substantial portion of his income. For the most part, for all the musicians I spoke with, streaming and digital sales revenues were, in reality, only complementary

²⁸ For the musicians I spoke with, gigging was a term used to describe a type of employment where the musician is invited to join a band to perform live. This might be a one-time thing, or a for a tour, but it's generally understood that they're an addition to the band, rather than a member of it, and these relationships are very much pecuniary in nature.

to the overall dependence on live performance. Although Participant A had spoken positively and confidently of his returns on Spotify, he later explained that he nevertheless relies on international touring to sustain himself financially: “Primarily, what I do and how I make money is from travelling [and performing]. And it’s all international” (Participant A). So, despite earlier saying he makes a living on Spotify, when asked if the majority of his income comes from touring, he replied, “Totally. Hundred per cent” (Participant A).

Unfortunately, however, for many musicians, even touring isn’t all that great: it’s physically and psychologically demanding, requires a lot of time (sometimes away from family and friends), and can often be expensive, making it difficult to reach a break-even point. The smaller acts especially struggled in this respect, as they were also often unable to confidently demand an upfront fee from the venue and ensure payment. This, of course, is a huge power imbalance that has long-existed within music industries, but that clearly hasn’t been alleviated in the digital era. Participant G, for example, described a moment following a tour, when a booking agent told the band, weeks after the show, that they’d have to return to the venue — located far outside their home city — for their cheque:

We had a show [in another city] recently where the promoter was like, ‘Yeah. Just a head’s up: we’re not gonna be paying you the night of. We’re gonna send you a cheque in the mail.’ And we’re like, ‘Why? You’re taking cash at the door.’ Then it was like four, five, six weeks later and we’re like, ‘Hey, where’s the cheque?’ And the guy’s like, ‘Oh, it’s at the venue. You have to come pick it up.’

Stories like these speak plainly to the persistent power disparity within music industries in the platform era, and they demonstrate a need for government intervention into improving artist remuneration, but not necessarily in the ways promoted by the industry. Interview participants instead spoke about the direct benefits of government grants for supporting tours and helping

achieve musical goals, making clear that forcing platforms like YouTube to employ the pro rata model won't alleviate any of the existing remuneration problems they are experiencing.

Conclusion

Just as Music Canada was releasing its first report on the so-called value gap, in 2017 the Canadian music industry was ranked by the IFPI as sixth largest in the world, with one of the highest overall growth rates. The following year, the IFPI noted that Canada's domestic music industry should be encouraged by the marked growth in subscription audio streaming, "which grew in trade value from USD \$95 million in 2016 to almost \$170M in 2017 — an increase of over 40 percent" (Bliss, 2018). And while Canada was experiencing "massive growth of Internet streaming revenues," with a "music market outpacing global competitors by almost any metric," The Industry was nevertheless claiming that it was suffering from a value gap (Geist, November 2017). In spite of that, even though the Canadian industry was actually thriving, recovering with revenue from streaming no less, it launched its attack against YouTube just the same. As I've previously noted, whenever new technologies are introduced, their mere existence feels routinely threatening to music industries. But time and again, The Music Industry recovers from its momentary bout of instability, never bottoms out, and, quite often, once it has regained its footing, flourishes. In all kinds of industries, and certainly in the cultural industries, fluctuation is a feature characteristic, yet music industries have been routinely quickest and loudest to protest change, if not outright condemn it.

Ultimately, what this chapter has most clearly demonstrated is that the value gap is a resuscitation of a long-standing Industry trope: citing crisis and panic at the introduction of new technologies. The value gap is merely the latest in a long line of rhetorical devices and panic narratives forwarded by The Music Industry in its lobbying efforts to persuade lawmakers to

make changes to the copyright legal system that are to its direct and immediate benefit. Speaking as a witness to the Standing Committee on Canadian Heritage Remuneration Models for Artists in Creative Industries, Canadian music scholar Brian Fauteux made the indelible argument that what copyright has in the end been most effective at building, is “assets for powerful oligopolies,” and that as a result, “Canadian musicians and users are at the mercy of non-Canadian media and tech companies” (Fauteux, 2018).²⁹ Furthermore, when the particularities of Music Canada’s value gap are compared to the particularities of the value gap according to musicians, the differences are noticeable, suggesting that the claims made by and for The Industry are exclusively forwarded to protect and bolster its preferred business models, business models for which copyright is the foundational legal structure, rather than correcting course on artist remuneration and compensation in the era of the platform.

In a *Northwestern University Law Review Online* article, researcher and lecturer Giancarlo Frosio (2017-2018) makes the important and crucial observation that, despite vocally decrying the existence of the value gap, there is scarcely enough empirical evidence to support such a claim, as evidenced by the IFPI’s recognition of the Canadian music industries’ recent recovery and success (27). Frosio (2017-2018) argues that “there is no clear evidence on the scale, nature, or effects of copyright infringement in the digital environment, or the effectiveness of more aggressive enforcement strategies” (28). For these reasons it is important that the claims of the value gap narrative be carefully considered and critically compared to the factual reality represented by the staggering sales figures and revenue realized by The Music Industry as of late. In the 1980s and 1990s, “the internet and world wide web were being framed by powerful individuals and institutions as democratizing, life-enhancing forces in culture and

²⁹ Fauteux (2018) further explains that Universal, Sony, and Warner control roughly 86 per cent of the North American music market.

communication,” while in reality, David Hesmondhalgh (2019) argues, the intersection of neoliberalism, marketization, and commodification were actually inhibiting “the realization of their emancipatory potential” (265). Indeed, as this chapter has illustrated, “streaming platforms have not brought liberation for musicians,” but have instead “reinforced the corporate power of the major labels” (Haynes & Marshall, 2018). The rise and spread in popularity of streaming platforms has not liberated musicians from industry control and has instead been accompanied by the downloading of risk onto individual musicians, and the formation and sedimentation of the artist-as-intermediary.

Discussing the prevalence and popularity of video streaming platforms such as Netflix, Amazon Prime and HBO Now, David Hesmondhalgh (2019) explains that this shift is not, “a case of boring old ‘legacy’ media companies giving way to a smart, dynamic, tech-driven sector that will give the world better television” (288–289). “It is better understood,” he continues, “as an effort by IT corporations to further extend their power and influence in the cultural industries” (288–289). Within music industry, this clearly began in earnest with Apple’s introduction of the iPod in 2001 and iTunes in 2003, and we can see this culminating in the power currently vested in Spotify. While The Music Industry decries practices of digital distribution that occur outside its control, behind the scenes it negotiates with IT companies and the platforms they own to reinstate power and control access. Therefore, what the revivification of piracy panic through the value gap narrative ultimately reveals is not a collective desire among policymakers and industry stakeholders to consider music industries along more producer-centric lines, or to right the wrongs of platform exploitation; rather, close analysis of *The Value Gap* (2017), *Closing the Value Gap* (2019), the *Shifting Paradigms* report (2019), and the *Statutory Review of the Copyright Act* (2019) reveals that the value gap narrative is summoned only to placate creators.

Instead of presenting a concrete plan of action that would positively affect the material reality of cultural creators more broadly, and musicians specifically, the reports largely paid lip service to the idea of addressing artist remuneration rights, but instead remained focused on amending and maintaining the existing system.

If, as Marian Bredin (2013) has argued, the goals of Canadian cultural policy are social goals, then the important questions should not emphasize how cultural products are distributed or consumed, “but might instead consider who creates culture and media content, and what skills and supports they require” (32). While distribution has appeared to be the crux upon which all decisions are made regarding cultural policy and music in the digital era, these goals are largely economic in nature, firmly rooted within a neoliberal cultural industries paradigm. If it is indeed more productive for policy goals to be social in nature, and for them to focus on who creates culture and what supports they need to sustain themselves, in so doing Bredin (2013) is indirectly calling for a recasting or re-articulating of policy goals as social goals in order for meaningful change to become a reality. The musicians I interviewed, for the most part, revealed a particular digital deftness, and that support for building skills in that arena are not wanted or necessary. Instead, greater fiscal support for musicians, especially in the form of small-scale direct expenditure for touring and production, is needed. Amending the Copyright Act as per Music Canada’s wishes would not provide the necessary support musicians need, and it’s this type of disconnect between how The Industry and government understand and portray musician work, and how musicians characterize their labour practices themselves, that leads to a perpetually uneven system that favours business and entrepreneurial logic over protecting and supporting homegrown cultural production, distribution, and consumption.

In the following and concluding chapter, I explore some potential solutions to mitigate some of the ongoing problems musicians face in the digital era. The first involves the implementation of a Universal Basic Income. Returning to the idea of direct-expenditure as a useful method for supporting artists, as a starting point, I promote the notion of a basic income, if not for the entire country, then for those in precarious labour markets, like musicians and other creators, but also gig workers and freelancers more generally. The second involves musician unionization. While there have for over a century existed musician unions, there are new labour collectives organizing around specific platforms. This has been happening more commonly in the field of journalism, but has recently been occurring in music, as well. The final approach involves rethinking how platforms are run and organized, and how their payouts are determined and distributed. In the digital environment, platform co-operatives are a burgeoning economic model for platform ownership, one that music streaming might benefit from by ensuring more equitable distribution for creators — musicians — and is thus explored in detail in the concluding chapter.

Chapter 5

Peroration: Prospective Supports for The Artist-as-Intermediary

The pandemic is only exacerbating the inequities of a system that is rigged against the people who make it run.

— Andy Cush (2020)

Pausing for the Pandemic

In March of 2020, the world was put on pause as the deadly COVID-19 pandemic spread rapidly throughout. With events being canceled indefinitely, and record numbers of venues shuttering around the globe, the pandemic has supercharged the artist-remuneration problems at hand. As my interview participants and other musicians have argued, touring is the cornerstone of musician income, and digital or physical sales of recordings and merchandise are supplemental. Indeed, as live music was among the first economic sectors to be hard hit, musicians immediately experienced the full force of the pandemic pause and its ensuing economic strain. Even though touring can be a risky and onerous undertaking for established and emerging musicians alike, often prohibitively costly with no guaranteed returns on the initial investment and the potential for finishing in debt, facing the death of live music presents an even more grim and uncertain future. How will musicians continue to make a living if they cannot tour? If touring was the cornerstone of musician income, the primary means by which the musicians I interviewed (and others) earn the majority of their income, what can they do?

Despite the decimation of live music both the RIAA and BPI reported an increase in music consumption during the pandemic (Weaver, 2021). In the United States, for example, “for the first time since the CD industry’s collapse in the 2000s, revenues from recorded music — a projected \$30.4 billion — will far exceed the money made from touring” (Hogan, 2020). In fact,

stay-at-home orders have pushed people to “consume more art,” and music sales in particular have risen, but the money being generated through that consumption isn’t reaching musicians directly — not always, anyway (Weaver, 2021). In Canada, for example, Music Canada conducted a survey during the summer of 2020 with 700 musicians volunteering their insights. The survey indicated that professional musicians in Canada perform, on average, 96 times per year across the country and globe (Smith, 2020). More than three-quarters of respondents indicated that, should they be unable to perform, it will be difficult to proceed as a musician (Smith, 2020). Indeed, according to the National Endowment for the Arts in the United States, near the end of September 2020, the overall unemployment rate had reached 8.5 per cent, but among musicians that number was 27 per cent, a percentage that illuminates how many musicians live precarious working lives (Cohen, 2020). The industries that support and sustain music careers have also been severely damaged, including promotional industries, venues, agents, and rehearsal spaces. Making and performing music requires access to specific spaces, spaces that have largely been shuttered throughout the pandemic, and for which it is unclear as to whether or not they will return, and in what capacity if they do.³⁰ Without the ability to regularly rehearse, and with such a substantial portion of the touring potential and possible income generation completely lost, it’s become difficult for many musicians to imagine a future in their career.

As I have argued throughout Chapters 3 and 4, performing live has been the mainstay of musician income for decades, but the global COVID-19 pandemic has completely halted this. Within music, the pandemic has thus plainly exposed the precarious nature of relying on live

³⁰ The type and genre of music is very much indicative of and influential on individual musicians needs. Acoustic folk singers, for example, can not only freely write and rehearse at home, they can possibly record and stream performances too without disrupting their neighbours. Musicians that play louder, electronic, or guitar-based music (that includes drums, bass, etc.) will likely struggle to achieve the same tasks all at home without disturbing their neighbours, and potentially being cited for infractions, like noise violations.

performance to make a living, as the inability to tour has translated into significant income loss for most musicians. So, how can this be countervailed? One of the first ideas that comes to mind might be to turn to concert streaming or live digital performances, reproducing the touring model in a virtual space, but this harkens back to the basic issues faced by the artist-as-intermediary in the first place. An artist can really only meaningfully monetize their digital presence if they have a dedicated audience large enough to exploit via pay-per-view access, or to package and sell to potential advertisers. Many artists with large enough platforms did seize the opportunity, including major stars such as Katy Perry headlining the virtual version of the EDM festival Tomorrowland; Billie Eilish, who hosted a global livestream for her fans on October 24, 2020 for \$30 per ticket; and Justin Bieber's New Year's Eve concert, done in partnership with T-Mobile, with subscribers getting a ticket for free, while for others a ticket was \$25 — and the list goes on (*Billboard*, 2021). Alternatively, some musicians turn such an opportunity into a fundraising event, like the one hosted by Lady Gaga in April 2020 that raised \$128 million for the World Health Organization (Applefeld Olsen, 2020). When there is an expectation that musicians should use this moment as an opportunity to fundraise for those in need, attempts at monetization might be read as crass or unseemly in this particular context, potentially constraining musicians' ability to meaningfully monetize a streamed concert or live performance.

Further complicating matters is the problem of access. There doesn't yet exist a centralized place for the live-streaming of musical performances, so issues of quality and availability arise. YouTube, for example, might seem like a suitable space for streaming concerts, but it's unclear how ticket sales would work or how access would be monitored. Moreover, it seems reasonable to assume that major labels and the artists signed to them wouldn't be willing to

partner with the platform on overcoming these issues, especially given the fact that YouTube, and others like it, are routinely characterized as recalcitrant.

Not all is beyond repair, however. At the beginning of the pandemic, Bandcamp unveiled what the internet would eventually dub “Bandcamp Fridays” (Diamond, 2021): a Friday where the entirety of the proceeds raised goes directly to the artist — Bandcamp forgoes its revenue portion, giving 100 per cent of the sale to the musician. Since March 2020, there has been a “Bandcamp Friday” scheduled for the first Friday of every month for a total of nine in 2020, with the company committed to extending it into the 2021 year. In an interview for NPR, Bandcamp CEO and co-founder Ethan Diamond also explains that the platform is taking its “toe dip” into the post-COVID world by offering for the first time a live streaming service. The streaming service, Diamond explains, allows artists to live-stream from their Bandcamp page to anybody, but are welcome to sell tickets; the site has even included an integrated virtual “merch” table where the artists can sell CDs, vinyl records, cassettes, t-shirts, and more. Altogether, Bandcamp has offered the service to approximately 100,000 artists so far, with plans to expand the roster in the future (Diamond, 2021). Despite the intensified reach of digital services such as these, however, the majority of the musicians I interviewed, the smaller and emerging acts, would likely struggle to meaningfully monetize an online performance in the same way that their more famous counterparts can. This is not the fault of Bandcamp, however, nor is it the fault of individual artists, but it is nevertheless evincive of the ways in which The Music Industry continues to reap benefits from the shift to streaming, while the lived reality for musicians has become more foreboding than favourable.

Long obfuscated by the “do what you love” work ethos (Tokumitsu, 2015), the realities of cultural industries labourers have been consistently ignored in favour of boosting the neoliberal

myth of the artist — the passion worker who does it for love, not money — but has come to a head in the pandemic. The idea of pursuing passionate work at any cost, Angela McRobbie (2016) reminds us, is not merely a choice, but rather evidence of the fact that striving for “passionate work” is increasingly a requirement for succeeding in the competitive field of cultural work, but in the post-pandemic era this field appears more murky. Christina Baade argues that, “in this time of COVID-19, with its devastating impact on live performance and touring, this question [of how musicians earn a meaningful living] is all the more urgent” (Bannerman et al, 2020, 478). The COVID-19 pandemic has in point of fact laid bare the struggle experienced by musicians and other precarious cultural industries workers, but also essential and service workers around the globe as well.

Reminiscent of the financial crises of the recent past, including the 1930s, 1970s, 1990s and early aughts, we are once again forced to reckon with the precariousness of creative work in cultural industries that are entirely “too dependent on private patronage and increasingly consolidated ownership” (Kaiser-Schatzlein, 2021). What we therefore need are democratic platforms to help facilitate democratic (digital) cultural production. Platforms and games scholar Daniel Joseph (2019) argues that democratic platforms “would put people before profit,” meaning that they would involve “proactive community regulation and decision making; a clear path for content creators to disseminate their work while making a living; and a serious commitment to many forms of meaningful cultural diversity.” While the proposed solutions have heretofore focused narrowly on tweaking the ways we buy and sell art (copyright reform, encouraging artists to think and act more entrepreneurially), what we really need is a complete reimagining of the system. In this final chapter, I provide some possible solutions to the many problems I have outlined throughout this dissertation, solutions that are a far distance from the

well-trodden territory of copyright reform and the entrepreneurial ethos of creative labour. There are three key solutions that I argue have the potential to attend to the pressing issues of precarity, exploitation, and poor remuneration experienced by musicians in the platform era: implementing a Universal Basic Income program; platform unionization; and a complete re-imagining of platform remuneration and ownership models, including user-centric models, publicly-funded or nationally-operated models, co-operative models, or a combination thereof. In closing, before offering my final thoughts, I reflect on the contributions this dissertation has made to the fields of digitization and music, creative labour in cultural industries, and Canadian cultural policy. I will also outline areas for improvement, and I will conclude by suggesting future directions for related research.

Providing a Universal Basic Income

Establishing a base amount of income for all adult citizens would allow for many individuals, not just musicians, to live a more comfortable life knowing that some basic expenses are covered. A Universal Basic Income (UBI) is not meant to replace employment but rather supplement it, designed to ensure everyone has the same minimum support available to them at all times. On April 10, 2021, the Canadian Liberal Party caucus “overwhelmingly endorsed a resolution calling for the establishment of a universal basic income (UBI) in Canada,” with a vote of 77 per cent in favour of permanently implementing an income program (Tasker, 2021). The *National Strategy for a Guaranteed Basic Income Act*, or Bill C-273, is Canada’s first draft of a Universal Basic Income. It calls for a permanent \$500/month universal dividend for all Canadian adults as part of a \$2,000/month guaranteed minimum income. Critics of the UBI argue that it will de-incentivize workers, in effect providing them enough means of subsistence that they will no longer feel compelled to work, but there is no empirical evidence to substantiate such a claim.

And besides, \$1400–\$2000 is not enough money for the average adult to subsist on exclusively, considering that the rent for a one-bedroom apartment in Toronto is currently averaging \$1431 per month.³¹ As we can see, a basic income provides just that: *basic* income. Few, if any, people would be able to live exclusively on that income, but it nevertheless would ensure that individuals can make basic ends meet in most circumstances. I don't, however, want to offer it as a primary or exclusive solution to the precarity, exploitation and poor remuneration experienced by the artist-as-intermediary, but rather as a complimentary one; a small piece of the larger structural puzzle that needs to be improved.

Though I fully support the UBI, I am concerned that offering fiscal support will merely paper over, or provide a bandaid for, the existing problems and inequalities. Even more disconcerting would be the possibility that providing a UBI would justify the implementation of austerity measures in other important social sectors, including welfare, disability benefits, healthcare, and education, among others. Providing basic subsistence income, and ensuring musicians can keep a roof over their head, is one half of “doing justice” to cultural workers, but the other half requires doing justice to the cultural texts that they produce: paying them adequately for the music they give us (Banks, 2017). Although having enough money to survive is a positive step toward ensuring musicians experience a just life, it isn't exactly what I would characterize as achieving true creative justice because it doesn't address structural inequalities, barriers, and discrimination.

A UBI is an enormous government expenditure, however, so it wouldn't be to anyone's benefit if unveiling it led to significant clawbacks for other social services, like the ones mentioned above. If the cost of a UBI is indeed prohibitive, a smaller benefits scheme could be implemented

³¹ This figure was taken from the City of Toronto website (2021) for public and community housing, that provides the average rent costs for calculating appropriate affordable housing costs.

for those who don't qualify for employment insurance. I'm primarily speaking of freelancers, of cultural and creative industries workers, individuals that are not protected by the same measures as waged labourers. Such a program would take into account the unpredictable nature of cultural industries and freelance employment, like that of musicians, and could be modelled after France's *intermittent du spectacle*: an unemployment benefits program that recognizes that creators need to prepare, practice, buy supplies, and repair tools and instruments in order to perform to make a living.

Being between gigs is costly because individuals still have to pay rent and complete ongoing work-related tasks, even when they're not seeing an income. Originally called the *régime salarié intermittent à employeurs multiples*, which translates to "system for intermittently salaried workers with multiple employers," the plan was first introduced in France in 1936 and designed to support the development of the technical crews in the country's burgeoning cinema industry (Jousse, 2019). These workers' specialized skills were, at the time, quite rare, in part because of the unpredictable (and thus, for many, unattractive) nature of film production. *Intermittence*, the government believed, would provide a solution: the right to publicly-funded unemployment benefits for each day that these *techniciens* didn't have paid work on a film project. The system has since expanded over the years to include other cultural sectors such as music, and currently has as many as 250,000 beneficiaries (Beardsley & Kheriji-Watts, 2021). To qualify, individuals must complete 507 hours of work every 12 months, which for some musicians might admittedly be a challenge: quantifying their work exclusively through live performance hours negates a lot of the work that goes into being an artist-as-intermediary, such as writing, recording, distributing, maintaining social media, administrative platform work, live performance, and more. Finding another metric, or lowering the number of required hours would make the program more easily

obtainable to those who need it. In Canada, with some adjustments to ensure that it's more inclusive and accessible, this program could be administered through existing benefits systems. For musicians, for example, funds could be added to and administered through the Canada Music Fund. The Foundation Assisting Canadian Talent on Record (FACTOR) is the agency currently responsible for awarding and disseminating grants from the Canada Music Fund for Canadian musicians and record labels, and it seems logical enough to assume they could incorporate this into their system as well.

Platform Unionization

Another possible solution to the problems regarding artist remuneration rights is platform unionization. In journalism, there has been a groundswell movement toward unionizing around digital-first media platforms, such as Gawker, Guardian, Salon, BuzzFeed, VICE and Mic.com, to name just a few (Cohen & de Peuter, 2018; Cohen & de Peuter 2020). Likewise, within music industries we are beginning to see organizing, and a push toward unionization, around specific platforms. The Justice for Spotify campaign is one such movement that is organizing a worldwide campaign to seek better remuneration for artists. On March 15th, 2021, The Justice at Spotify campaign organized a global day of action where rallies were held outside of Spotify headquarters in over 15 cities around the world, including Berlin, Madrid, London, Paris, Melbourne, São Paulo and Toronto; and in the U.S., in Birmingham MI, Boston, Chicago, Los Angeles, Nashville, New York and San Francisco. The campaign members also delivered their demands to each office, armed with a petition containing 28,000 signatures (Justice at Spotify, 2021). The Justice at Spotify campaign's specific demands are that Spotify: pay musicians at least one cent per stream; adopt a user-centric payment model; increase transparency by making all closed-door contracts public; reveal existing payola, and immediately terminate it; credit all

labour in recordings; and end legal battles intended to further impoverish musicians (Justice at Spotify, 2021). Although the campaign is in its nascent state, it is a testament to the possibilities platform unionization and organizing provide for countervailing the ills of streaming, and for boosting artist remuneration. If successful, this campaign will set a groundbreaking precedent.

Similarly, the UK Musicians Union has been collectively organizing around the #FixStreaming initiative that hopes to have UK copyright laws amended to better reflect and incorporate changes to remuneration brought about (or worsened) by streaming. Similar to the Justice at Spotify campaign, fairness and equitable distribution of wealth is a key part of what the #FixStreaming campaign is seeking to have addressed. The campaign's (2021a) three specific demands are: that the UK Government amend language in the 1988 Copyright, Designs and Patents Act to modernize the law and ensure that performers today receive an equitable share of streaming revenue, similar to what they receive from radio; that the government immediately make a referral to the Competition and Markets Authority to increase streaming revenue from a 15 per cent share for the artists, to a 50 per cent share; and that the UK government establish a regulatory system that oversees and facilitates the lawful and fair treatment of all those involved in music making across the industry. These demands reflect the desires of musicians across the globe to be treated fairly, equitably, and to be adequately remunerated for the work they produce and culture they contribute. The call for a regulator to be installed to oversee the lawful and equitable treatment of all musicians by the industry is striking because of the possibility it presents in Canada, where there exists a readiness and an historical precedent to accept regulatory oversight within the cultural industries. The *Shifting Paradigms* report (2019) explicitly calls for streaming platforms to be regulated just like other music services in Canada (e.g., radio)

as a possible solution to the value gap (see Chapter 4). Therefore, it is evident that there is already a willingness, at the state level anyway, to undertake and administer a similar solution in Canada.

People's Platforms: User-Centric, Public Ownership, and Co-Operative Models

The thrust of this dissertation's core argument suggests that, yes, individual creators have greater access to the means of production and are afforded direct connections to audiences through the availability of new digital technologies and the internet; but also that, unfortunately, greater access to these technologies has not resulted in true disintermediation. What we have witnessed instead, is a reinstatement of industry control, and the solidification of platform power. As Astra Taylor (2014) explains, "the advances of technology did not, in the end, liberate the worker from drudgery, but rather further empowered those who own the machines" (55). That is to say, The Industry might look different in the platform era than it did in the brick-and-mortar era, but it's nevertheless still in control, despite the fact that it regularly circulates narratives to the contrary, consistently lamenting poor returns on music consumed online. What I have thus far illustrated, however, is that although musicians have greater access to platforms and audiences, the work required to meaningfully monetize that remains elusive for most, and the traditional methods for securing an income — namely, touring — remain the same despite drastic changes in the outward appearance of The Music Industry as it transitioned into the platform economy. Even so, that doesn't mean that platforms cannot be re-imagined to better address the needs of musicians.

One of the key findings from a music industry survey conducted by *The Creative Independent's* Willa Köerner and musician René Kladzyk, creator of the Future Music Industry list, indicated that there is an urgent need for digital streaming services to reform their models. When asked to identify which sector of music industries they felt had the greatest opportunity to

make specific changes to their operations that would immediately and directly improve the lives of musicians, 37.4 per cent of survey respondents singled out streaming platforms (Köerner & Kladzyk, 2019). An overwhelming number of survey participants indicated in their responses that “putting collective pressure on services such as Spotify to pay artists fairly, and investing in more cooperative models for distributing music, would help” (Köerner & Kladzyk, 2019). We can see this happening with the Justice at Spotify campaign and the collective efforts of the UK Musician Union, but there is a more urgent need for the platform economy to be rethought altogether; that we might imagine a completely different remuneration system and platform model entirely. As my dissertation has thus far illustrated and argued, the platform economy is primarily responsible for circulating new music, but it is also responsible for the increasingly poor remuneration artists receive. Indeed, a reimagining of the platform economy’s remuneration models is desperately needed, and in what follows, I outline three specific alternatives to the existing streaming platform models for remuneration and ownership: user-centric payment models, publicly-funded and -owned platforms, and platform cooperativism. Altogether, these demonstrate a possibility for new and better payment structures that are centred on the musician, and even the consumer, but not The Music Industry. This is an important distinction and shift away from the discourses around the piracy panic narrative and the value gap narrative that centre The Music Industry and supplant musician needs with industry needs.

User-Centric Payment Models

The Music Industry has been pushing for all streaming services to adopt their preferred model, and the one it sees as well-suited to overcoming the value gap: the pro rata model employed by Spotify. More recently, however, new platform models have emerged that challenge this model. One such model is the user-centric platform model for streaming. Where the pro rata model

quantifies streams and pays artists royalties based on the percentage of the total number of streams secured, by contrast, in the user-centric model, royalty payouts are directly proportional to the number of plays received. It's called the user-centric model precisely because it is entirely dependent upon user listenership rather than the complicated black-box formula employed by Spotify to determine popularity. Like the pro rata model, the user-centric model collects user payment through subscriptions on a monthly basis, but in lieu of distributing the total pool of money "based on popularity," the returns are administered based on what *each individual user* listened to (Roche & Smith, 2019; Mejía, 2019). Essentially, it distributes the individual user's subscription contribution relevant to the listening that they did. If you listened only to your favourite band all month, the money from your subscription fee would, in theory, go directly and in its entirety to that band. Although Spotify, supported by The Music Industry, maintains that their approach is the most logical and fair, different platforms are arguing otherwise. In 2017, for example, the Paris-based streaming service Deezer announced that it would be working alongside record labels to establish a user-centric model for paying out royalties by compensating artists based on their share of each subscriber's listening (Hogan, 2019). Spotify nevertheless insists that their current approach works better for more artists, but Deezer and others like it are certainly challenging that perspective.

Publicly Funded/Owned Platforms

Another alternative platform structure that has been under-explored but that possesses much potential for democratizing both access and royalty payouts is the public ownership model. Entertainment attorney Henderson Cole has ruminated on the possibilities that could come with publicly-owned streaming platforms, and "wonders if bringing music streaming fully into the hands of the government — which would also mean building a different kind of royalty system

altogether — might make it a more equitable system for everyone involved” (Mejía, 2019). Over the past several years, Cole has been working on a proposal “called the American Music Library, a taxpayer-funded streaming service that at once would act as a repository for all recorded music and also would guarantee free access to all listeners across the United States, not unlike the public library system” (Mejía, 2019). Daniel Joseph (2019) argues that “control of these vital channels of communication is too important to be left to the capitalists and imperialists.” After all, Joseph continues, “we need democratic platforms and democratic cultural production” in order to realize the objective of putting people before profit. In the United States, Cole’s pitch might be harder to sell to a government that has been historically disinclined to act as a regulator, but in Canada, there has been a long history of government intervention into and support of the cultural industries, so imagining a platform run by or through the Canadian Broadcast Corporation/Radio Canada, for example, doesn’t sound entirely far-fetched.³² There is publicly-owned television and radio in Canada’s two official languages, English and French, as well as seven Indigenous languages, so couldn’t we also have a platform for the archiving, management and distribution of Canadian music? If the library, for example, is one such physical institution that makes available thousands of physical and digital literary resources on loan without a fee to the user, and the Canadian copyright system ensures that those whose works are displayed in the library are remunerated, a similar digital-only system for music could logically fit into the existing legal framework. It’s not an infallible solution, and would be an extraordinary undertaking, but is worth consideration given what an immense contribution to Canadian culture it would be to

³² Currently, CBC/Radio Canada offers digital streaming of their radio and television broadcasts, and have web-first content as well, but the specific formation of a nationally-owned streaming platform, much like a library system, is different than what is currently being offered. CBC’s various apps and platforms are more so an extension of the radio to the digital realm, than it is a streaming platform that is nationally- or publicly-owned, per se. The current CBC iterations of web-based content tend to mirror the broadcast realm, at least with radio, anyway, but that’s not to say that the current platforms couldn’t be used as the basis for a new, more expansive, all-inclusive platform, that acts less as a streaming resource and more as a digital archive.

make available the breadth of Canadian music — in English, French, all Indigenous languages, and more. Such a collective repository would fulfill both cultural and economic policy objectives, by ensuring citizens continue to have access to a wide range of musical recordings, and that musicians get compensated for the procurement of and access to their music.

Co-Operative Platform Models

The final alternative platform model I want to suggest is a co-operative (co-op) one, a business owned and run by its members on a democratic and equitable basis. There are two different kinds of co-operative models: consumer- and worker-oriented. In consumer-oriented models, members receive dividend payments equivalent to the members' level of patronage; whereas with worker-oriented models, workers receive a share of the annual profit according to each person's contribution to the business. Overall, the co-operative model provides an alternative to the neoliberal logic of "individualization and competition that characterizes much of cultural work" (Sandoval, 2018, 120). Predominantly, within the cultural industries, entrepreneurial models have been most heavily promoted at both the policy and higher education levels. Angela McRobbie (2016) argues that "this motivation towards self-expressive work now intersects with and is nurtured as well as managed by the prevailing governmental discourse of business, entrepreneurship and self-organized work across the particular terrain" (McRobbie, 2016, 38). To that end, Dave Boyle and Kate Oakley (2018) explain that, as a result, co-operatives and similar social enterprises have not yet received similar attention.

The biggest advantage afforded by co-ops, I argue, is the fact that they tend to operate along horizontal lines, meaning that "regardless of how much financial stake in the co-operative a member has, everyone gets one equal vote in the big decisions" (Boyle & Oakley, 2018, 2). Instead of decisions being made from the top down, power is horizontally distributed. This is a

common practice among alternative media publications, for example, whose organizational structure tends to follow along “collective or prefigurative lines,” rather than hierarchical ones (Skinner, 2012, 26). In my opinion, this is the type of democratization that has been largely out of reach in regards to digital distribution platforms despite its prominence within discourses of disintermediation. Co-ops offer the potential to maintain greater control over production and distribution of cultural products, “exactly the sort of control that many creatives want, but are told is only available to them as ‘entrepreneurs’” (Boyle & Oakley, 2018, 2). Furthermore, co-ops also have structural features that enable greater artist autonomy, while simultaneously “delivering greater equality — economic and cultural — than that typically found in non co-operative businesses” (Boyle & Oakley, 2018, 2). Ultimately, it’s owning the means of production, not having greater access to it, that “generates the most significant wealth” (Tokumitsu, 2015, 8). Greater autonomy and shared ownership over the means of production (or, in music’s case, distribution) means that musicians using platforms will not only see greater returns and have a say in their business, they will ultimately be less alienated from their labour.

In 2014, digital labour scholar Trebor Scholz introduced the concept of “platform cooperativism” as a way of bringing the co-op model into the digital economy, and has since formed the Platform Cooperativism Consortium (Platform Cooperativism Consortium, What Is a Platform Co-op?, 2021). Radically different than their venture capital-funded and centralized counterparts, platform cooperatives put stakeholders before shareholders. Based on principles such as broad-based ownership and worker control of the technological infrastructure, platform co-ops give workers oversight and control over production processes, algorithms, data, and job structure of the online platform, granting them unprecedented levels of worker agency and access in the platform economy, an economy based on black box technologies, and maximizing

worker (and user) exploitation (Platform Cooperativism Consortium, What Is a Platform Co-op?, 2021). These platforms practice democratic governance, wherein all stakeholders of the platform have an equal voice in operations, but also in the technical design of the platform. All stakeholders are included in the design and creation of the platform to ensure that software grows out of their needs, capacities, and aspirations.

When musicians become owners of the platform distributing their music, they have a valuable say not only in the business decisions and profit-making schema it establishes, but they have a say in how the platform actually operates. It is truly out of this type of democratic, horizontal governance that platforms might begin to accommodate the needs of the artists whose creative content is the basis for their profit, and an exorbitant one at that. “Getting to use something and having a meaningful say in its operation,” Joseph (2019) argues, “are two different things — and only one is really democratic.” Further to their commitment to maintaining democratic governance within the individual platform operations, the ethos of platform cooperatives encourages openness among platforms more broadly. The Platform Cooperativism Consortium website explains that one of the key aspirations of their organization is to encourage open source development and open data so that new platform co-ops can lay the algorithmic foundations for other co-ops; a sort of sharing of the resources not only within but among platforms, moving away from the competitive market structure to a cooperative, democratic and community-based structure.³³

³³ A major obstacle in the creation of cooperative platform models is raising the capital necessary to begin the platform in the first place. The fact that most platforms are born out love story that’s rooted in venture capital and located in Silicon Valley often makes it difficult to imagine an alternative. But it’s not unheard of, and thinking outside of the Silicon Valley box is perhaps exactly what is needed for platform liberation. It’s possible to imagine initial fundraising being accomplished through crowdfunding methods, for example, though that’s often difficult, and there is a significant failure rate for crowdfunding campaigns. Direct government expenditure for assisting in co-operative platform start up, however, could be an ideal starting point. In Sweden, for example, CrowdCulture is “a matching platform with an ambition to modernize cultural funding” where funds raised from donors are matched by public partners — they co-finance the funds raised by the crowd (CrowdCulture, 2021). In Canada, the government could offer a similar program, matching crowdfunded resources for those trying to raise capital for a platform co-op.

One such example within music is Resonate, a hybrid consumer- and worker-oriented platform started by musician Peter Harris in 2015. Resonate operates transparently on what they call the “stream2own” model (Mejía, 2019). The stream2own model works “by splitting the cost of a digital download into several streams; after listening to a song nine times, paying a small amount that slightly increases with each listen, the person then owns it” (Mejía, 2019). Because the company is a hybrid co-op platform, “everyone, from listeners to artists, has a say in profits and decision-making” (Mejía, 2019). According to its website, what this means is that listeners using Resonate will actually own something of real value for their subscription money, rather than simply paying for access — something that’s hard to come by in the cultural platform economy that’s best known for providing ephemeral, un-guaranteed access rather than ownership of a commodity, even a digital one. The site also says that Resonate hopes the newfound relationship to a materiality of music means that consumers will think more about music as the creative product of an actual human, not just and needless stream of ambient noise for mindless consumption. For musicians, then, Resonate hopes that owning their work, and owning their networks, will bring about fairness and control. In allowing creators to set the terms on which to distribute their art, Resonate is attempting to return agency to individual artists, and power to creative workers in the platform economy.

So, how much better are the returns from a co-operative streaming platform for musicians than the pro rata model? Let’s reflect back to Canadian musician David Bussi  res’s comments in the *Shifting Paradigms* report and the *Statutory Review of the Copyright Act* regarding his song “Lumi  re” and its pitiful streaming royalties³⁴ discussed in Chapter 4 (see Figure 4.1). If Bussi  res’s band had been using Resonate, at 50,000 plays for example, they would have earned

³⁴ After garnering 60,000 plays on YouTube, he yielded \$153.04 in royalties; and after 30,000 plays on Spotify earned a measly \$10.80 (Dabrusin, 2019; Ruimy, 2019)

\$736, which is a difference of several-hundred dollars — almost \$600 — when compared to the \$153 earned from 60,000 YouTube plays (see Figure 5.1). Resonate’s stream2own payout system involves a complicated mathematical formula for determining payouts and costs, but one that nevertheless returns a higher per-stream royalty than many other streaming services. As the play counts go up, the user’s per-play cost also goes up, but after a nine plays have accrued, the individual “owns” the song and can then continue to play it freely. Listeners may also elect to outright buy a track/album, should they to do so choose. Likewise, the royalty amount per stream decreases as the number of streams increases, but the artist still sees a significantly higher proportion of streaming revenue than with Spotify, YouTube or Apple Music. From the fees generated, Resonate currently takes a 30 per cent commission to build the platform, with 70 per cent going directly to the artists. It’s quite a bit higher than Bandcamp’s percentage, for example, but Bandcamp isn’t a streaming platform, and 70 per cent going directly to the musician is still significantly higher than other streaming income sources. Resonate is therefore a prime example

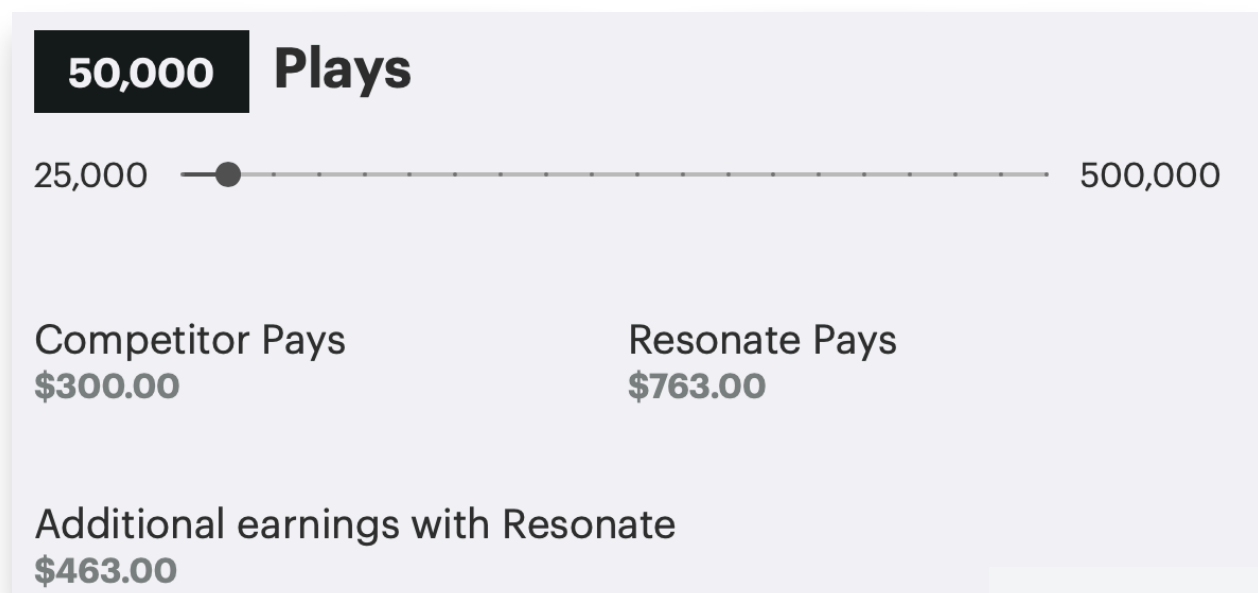


Figure 5.1
Screen capture of Resonate profit calculator.

of the possibilities co-operative models may have for alleviating many of the ills artists experience while making, moving, and monetizing music in the digital era by returning agency and control to the musician.

Pondering the Prelude: A Return to the Start

At the beginning of this dissertation, I sought answers to the question: Has the shift to digitization in fact “liberated” the musician? While it is always difficult (even risky) to make definitive statements about the “state of things,” this dissertation has provided a rich discursive contemporary history of digitization and its capacity to “liberate” musicians. So, what, exactly, are musicians seeking liberation from? This issue is commonly framed as the musician’s ability to depart from the traditional label and recording contract dynamic because of the availability of both social media and digital distribution technologies; in so doing, the removal of those particular middlemen are said to grant the artist greater and more direct access to fans and a larger portion of the revenues generated. This particular narrative, however, doesn’t carefully parse what being “liberated” as a musician might mean or look like — it supports the logic that maybe we’re all just undiscovered stars, and that if we put ourselves out there, the right audience will find us and we will “make it.” Although I don’t disagree that digitization has enabled greater *access* to the tools of production and distribution, what the argument I’m making more clearly illustrates is that power rests in *owning* the means of distribution. The debate has heretofore centred the musician as a symbolic figure in need of saving from greedy platforms and cheap fans, but in reality, what musicians need is for their voices — *their needs* — to be considered, to be taken into account and acted upon at the platform level as well as the policy level, and to be treated as labourers. In reality, disintermediation means being “free” to produce one’s own work, build an audience, and then sell that audience as valuation of one’s work to a record label —

not exactly a paragon of autonomous labour. To be fully liberated would mean to be free from industry control by being endowed with the capacity to produce *and* distribute their music on their own terms. While signing a recording contract may very well be a goal many musicians readily harbour, I argue that that is in part because there are few alternatives that individuals can envisage. If we can reimagine how music makes its way to listeners, and how artists are compensated when doing so, we might be able to produce a better alternative for musicians.

Let us not forget: it is in the music industries' and the platforms' best interest to maintain their current position, not because of some misguided delusion about wanting complete and totalizing power, but because this is the most profitable way to sell music that they've ever devised. The musician's voice and perspective likely factors little in the discourses about platforms, digitization and streaming because the real goal is to train the audience — the consumer — to become comfortable with paying endlessly for access, and access alone. Once a consumer terminates its access relationship with a platform, the platform — and the royalties they've sent to the labels and artists — has its money, but the consumer has nothing in return. As David Arditi (2021) explains, the consumer pays almost \$120 every 12 months for “access” to Apple Music or Spotify, but at the end of the year has nothing to show for it. Instead, Arditi suggests that had consumers purchased the equivalent of physical copies, or even in digital downloads, they would still have more to show for their purchase than with streaming. In my opinion, *this* is the crux of the issue, and the primary reason why musicians have figured symbolically, rather than actively, from the piracy panic narrative to the value gap narrative: it has always been about disciplining the consumer to the benefit of the industry, and the musician's only function is a rhetorical one.

Overall, the dissertation's primary contribution is its core conceptual model, the artist-as-intermediary because it calls attention to and delineates the specific contours of musician labour

in the platform economy. The specific characteristics that distinguish the artist-as-intermediary from other gig workers in the platform economy is the promotional component they are meant to execute, as well as the fact that they are to produce the very product “being sold” — both the music and their “brand.” Gig workers, by contrast, remain somewhat more anonymous, employed through algorithms and rated by individual users, a model that is quite different than the one used by musicians and other creative labourers to promote and disseminate their cultural wares.

This dissertation therefore directly engages with and contributes to cultural industries research broadly, and music industries studies specifically, as well as creative and cultural labour studies, and policy discussions about copyright and artist remuneration in the digital era. Providing detailed historical coverage of the piracy panic narrative forwarded by the music industry, Chapter 2, *Piracy Panic Proceedings: American & Canadian Music Industries’ Legal Responses to (Unauthorized) Digital Distribution*, analyzes the discourses circulating in and around piracy since the birth of Napster, and the legal proceedings undertaken by the RIAA and CRIA. The chapter outlines the origins of the artist-as-intermediary figure, and argues that they emerged out of necessity and context, a result of their absence in the legal discussions pertaining to piracy panic.

Chapter 3, *Producer-Oriented Platforms and The Artist-as-Intermediary: Seizing Digital Prospects/Managing Digital Precarity*, locates the artist-as-intermediary online, their methods for managing precarity and seizing digital prospects. The chapter carefully distinguishes between consumer-oriented and producer-oriented platforms and examines three producer-oriented platforms, assessing the extent to which digital distribution has indeed disintermediated music industries. It goes on to analyze discourses circulating in and around notions of disintermediation caused by the rise in popularity of digital distribution platforms, and ultimately argues that it is a false

narrative, and that although digitization temporarily challenged The Music Industry's power, it has since re-intermediated the industry.

Examining the revivification of the piracy panic narrative in the platform era, Chapter 4, *Piracy Panic Returns: The Value Gap Narrative in The Era of The (Streaming) Platform*, interrogates claims made by The Industry that it is experiencing a value gap. While I don't disagree that a value gap exists, I argue that the one forwarded by The Music Industry is as specious as the piracy panic narrative of the 1990s, and that it too fails to adequately give space to musician voices and, in turn, recognition of musician needs.

In this final chapter, I have considered how pausing for the pandemic has laid bare the existing inequalities in the industry, and has exposed the precarious reality experienced by musicians in contrast to the liberation discourses that so readily circulate in and around discussions of the digitization. It offers three possible solutions to the problems outlined throughout the dissertation: a universal basic income, platform unionization, and new platform models that put people before profits.

Attempting to overcome some of the shortcomings of critical political economy research which can at times remain rather distant from its object of study, and has a tendency to maintain a blindspot to individual agency, I conducted semi-structured interviews with Canadian musicians. The musicians were able to speak to both the pleasures and pitfalls of making a living as a musician in Canada. While the primary research conducted is arguably one of the dissertation's most original contributions, there are aspects that might have been amended to strengthen its usefulness. For one, increasing the number of interview participants would have helped make for a stronger data sample: a more substantial participant pool would have allowed me to more effectively extrapolate my findings by drawing from more varied responses. This was

difficult for a number of reasons: musicians being notoriously difficult to access, methods for tracking down individual musicians and bands being inconsistent, and the demanding schedules of musicians not always making interviews an ideal method for communicating with them. Nevertheless, the small pool of participants I did secure offered keen insights into the lived realities of Canadian musicians.

Secondly, I would have liked to improve my interview questions somewhat. Because my dissertation evolved as I was writing, not all of the interview material was usable or useful. I think that had I begun with a survey, this might have helped me better hone my research questions. A little more focus on identity and self-perception of the individual, and a bit more about their backgrounds (family contributions to their income, for example), would have also been useful. Moreover, including myself more forwardly by more actively positioning myself as the researcher, rather than as a distant interviewer, would help enrich the interview dialogues and ultimately their contribution to the document. This, I believe, comes with practice but it's nevertheless an aspect of my own research that I have reflected on, and intend to improve. Finally, one last aspect of the research that would benefit from further analysis is sustained examination of the intersectional aspects that plague emerging musicians' access to platforms, The Music Industry, success, and, ultimately, wealth.

Fundamentally, what the dissertation clearly demonstrates, is that digital distribution and platform ownership models have not disintermediated music industries and that, in order to better address the needs and well-being of the very artists who make these platforms profitable, they urgently need to be reimagined. As Boyle and Oakley (2018) argue, if we want the cultural industries to remain “a successful part of our national story — economically and otherwise — then looking at work and at ownership models is vital” (2). This dissertation has provided a useful

framework for interrogating discourses of openness and accessibility in the cultural industries via the platform economy; and it has actively integrated musicians into the platform economy discourse by expanding the sometimes narrow focus on gig-workers (e.g., Uber, Skip The Dishes, Deliveroo) to incorporate musicians and other cultural industries workers into platform labour discussions. Returning the focus to musicians and creative workers in the platform economy allows for the creation of specific solutions at the platform and policy level to address their particular needs. Whereas contemporary gig workers, such as Uber and Lyft drivers, experience exploitation and alienation by offering their services and time to others for a minimal fee through a platform, musicians produce an actual commodity — even if it never achieves material form. The artist-as-intermediary then uses the platform to sell this commodity to an audience that they must also actively cultivate. This is significantly different than the working experience of a gig worker who is, by contrast, directly and actively linked to a “customer” through platforms such as Uber. Moreover, with streaming platforms, the musician is alienated two-fold: first, through the exchange process; second, through the maintenance and production of a branded self that is a necessary component of realizing value in the exchange process. It is this particular distinction that necessitates a clearly defined and separate examination of the life of the musician as labourer — and the working lives of other cultural industries labourers — in the digital era because their working circumstances are decidedly different. That is not to say one is more or less exploitative, but that the nature of the exploitation experienced is caused by different factors. Furthermore, each individual sector of the cultural industries presents unique parameters and confines within which emerging and established creators work and navigate, in turn necessitating equally distinct research frames for understanding these specific conditions and their outcomes.

As historical forerunners of the gig economy,³⁵ musicians broadly, and the artist-as-intermediary specifically, are exemplary new model workers (de Peuter, 2014): they are independent, risk-bearing, self-exploiting, flexibly precarious workers within cultural industries, untethered to union support and who have come to represent the ideal figure of neoliberal capitalism, one whose exploitation we must vigilantly resist as the nature of work increasingly transforms, and platform-based, task-oriented labour becomes more and more normalized.

³⁵ The late Alan Kreuger (2019) argued that “musicians are the vanguard of the gig economy,” as it is from their work “gigging” that the term (and its meaning) originates (55).

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Appendices

Appendix A. Interview Recruitment Script

Hello, [Artist Name]!

My name is Kait Kribs, and I'm a PhD student at York University, and I am studying the pros and cons, challenges and successes of making a living as a musician in Canada.

As one of Bandcamp's top-selling artists in [City], I'm inviting you to answer a few questions regarding your role as a Canadian musician. The questions will focus on your experiences as a musician both online and off.

This semi-structured interview will take place at a mutually convenient time and place/medium (either over the phone, face-to-face, or Skype), and will take a maximum of one hour of your time.

If you have any questions or would like to participate in the research, I can be reached at this email address.

Best,

Kait Kribs, PhD Candidate | York University
Joint Program in Communication and Culture

Appendix B. Informed Consent Form

Study Name:

Enabling Access or Exploiting Artists? Digitization and Musician Labour in Canada

Researcher Name:

Kaitlyn Kribs, Principal Investigator

Joint Program in Communication and Culture, Doctoral Program

Purpose of the Research:

This project is an in-depth examination of the political, economic, and social conditions within which contemporary Canadian musicians work. It assesses the extent to which access to digital distribution, marketplace, and microfunding platforms (including Bandcamp, Patreon, and TuneCore) has changed or reshaped musician labour. Through a cultural industries approach that uses a combination of document analysis and semi-structured interviews, the overall goal of this project is to identify the degree to which these platforms enable or constrain musician labour; and to provide viable policy solutions to the unique challenges faced by Canadian musicians as identified in the interview process. This research will not only form the basis of my dissertation, it will be presented at academic conferences, and will be included in articles and book chapters.

What You Will Be Asked to Do in the Research:

For this project, you will be asked to answer a few questions regarding your role as a musician, and as creative worker in the cultural industries. Questions will focus on your experience as a musician online and off. This semi-structured interview will take approximately one hour, at a mutually convenient time and place/medium (either over the phone, face-to-face, or Skype). The interview will take approximately one hour of your time. With your consent, the researcher will record the interview on a digital audio device with the researcher taking additional notes. Alternatively, the researcher will take detailed notes.

Risks and Discomforts:

Though participation in the interview process presents minimal risk to you, it is possible that you may feel uncomfortable or embarrassed to discuss your earnings/income as a musician. Additionally, discussing your employment status may make you feel uncomfortable or embarrassed. If at any time a question or topic makes you uncomfortable, you may stop to take a break, skip that question, stop the interview, and/or withdraw from the study altogether.

Benefits of the Research and Benefits to You:

There are no direct benefits to participating in this project. However, as a participant, you will be given the opportunity to reflect upon and discuss your role as a musician/labourer, and to gain knowledge about new/existing avenues for promotion, distribution, and funding. Furthermore, you will be contributing to an important discussion of creative labour within the cultural industries more broadly.

Voluntary Participation and Withdrawal:

Your participation in the study is completely voluntary and you may choose to stop participating at any time. Your decision not to volunteer, to stop participating, or to refuse to answer particular questions will not influence the nature of the ongoing relationship you may have with the researchers or study staff, or the nature of your relationship with York University either now, or in the future.

In the event you withdraw from the study, all associated data collected will be immediately destroyed wherever possible. Should you wish to withdraw after the study, you will have the option to also withdraw your data up until the analysis is complete.

Confidentiality:

The information you provide will be stored digitally in a password protected computer and external hard drive. Hard copies of transcripts and consent forms will be promptly digitized and shredded. All digital data will be stored on a password protected personal laptop. Information will be stored for research verification and future research purposes until 2030 (approximately 10 years after the completion of this project), at which point, original recordings and transcripts will be destroyed. Digital files will be permanently deleted. Only the researcher involved will have access to the information you provide. Unless you choose otherwise, all information you supply during the research will be held in confidence and unless you specifically indicate your consent, your name will not appear in any report or publication of the research. Confidentiality will be provided to the fullest extent possible by law.

Questions About the Research?

If you have questions about the research in general or about your role in the study, please feel free to contact me or my supervisor, Dr. Miranda Campbell, by email. You may also contact the Graduate Program in Communication and Culture. This research has received ethics review and approval by the Delegated Ethics Review Committee, which is delegated authority to review research ethics protocols by the Human Participants Review Sub-Committee, York University's Ethics Review Board, and conforms to the standards of the Canadian Tri-Council Research Ethics guidelines. If you have any questions about this process, or about your rights as a participant in the study, please contact the Sr. Manager & Policy Advisor for the Office of Research Ethics.

Legal Rights and Signatures:

I _____, consent to participate in “Enabling Access or Exploiting Artists? Digitization and Musician Labour in Canada” conducted by Kaitlyn Kribs. I have understood the nature of this project and wish to participate. I am not waiving any of my legal rights by signing this form. My signature below indicates my consent.

Signature_____

Participant

Date_____**Signature**_____

Principal Investigator

Date_____**Additional consent:**

1. Audio recording

☐ I consent to the audio-recording of my interview(s).

Appendix C. Interview Questions

1. How long have you been a musician?
2. What sparked your initial interest in pursuing a career as a musician, or how did you get your start working as a musician?
3. What platforms or services do you use to make, sell, or promote yourself or your music?
 - Why do you use these ones over others (or none at all)?
 - How long have you been using them?
4. What social media or networking sites do you use to connect with fans?
5. What kinds of challenges have you encountered in your pursuit of a music career?
 - What drives you to continue pursuing a career in music?
6. How would you describe your experience making/trying to make a living as a musician?
 - Has it gotten more or less difficult over time?
 - Why do you think that is?
7. Have you ever applied for arts subsidies (federal, provincial, municipal) to support your work? If yes, explain how you find out about them, and what made you apply. If not, please explain.
 - Was it difficult navigate this process?
8. Are you a member of any union or professional association (e.g., the Canadian Musician Union, Canadian Independent Music Association)? Explain why or why not.
9. What does a typical day, week, month or year look like in your career as a musician?
10. What parts of your work are uncompensated, meaning you receive no direct financial benefit for at the time? (e.g. writing or recording music before it is sold; mentoring others; performing for free or for exposure; promoting events or concerts you'll be performing in; networking; practicing your craft.)
 - In a given day/week/month, how much time do you think is spent on these uncompensated tasks?
11. Have you encountered the expectation that you should perform for free/exposure, or give away your music for free? Please explain.
12. Have you encountered the view that your work is not really "work" because you get to do something creative or do what you love? Explain.
13. Do you find your work time and your leisure bleeding together? Is this pleasurable or problematic?
 - Can you think of examples where this felt pleasurable or problematic?
14. What aspects of being a musician do you find most rewarding?
15. What do you know now that you wish you knew at the beginning of your career?
16. To conclude the interview, I want to invite you to speak to your social location (e.g., age, race, gender, level of schooling, etc.) and to think through how this may affect your experience as a musician. I am interested in this information not as a means to identify you or your answers specifically, but rather as a way to get a sense of what populations of musicians are using these platforms and self-promoting their music.
 - Do you think any of these factors have an impact on your experience as an emerging artist, positive or negative?

Appendix D. Anonymized List of Interview Participants

Participant	Genre	Location	Interview Date	Method
Participant A	Electronic	Montréal	August 21, 2019	Phone
Participant B	Metal	Toronto	August 31, 2019	Phone
Participant C	Metal	Vancouver	September 15, 2019	Skype
Participant D	Jazz	Toronto	September 3, 2019	Phone
Participant E	Folk Rock	Montréal	September 5, 2019	Phone
Participant F	Roots Rock	Vancouver	October 23, 2019	Skype
Participant G	Indie Rock	Toronto	November 17, 2019	Facetime
Participant H	Afrobeat	Toronto	November 24, 2019	Phone