

Musical shares

Back in the good old days of Napster, PC users could download audio tracks for no more than the cost of a dialup connection and infinite patience. Then the music moguls got shirty and sued the benevolent music-sharing site out of existence. Paul Rincon charts the progress of the online music scene now file-swapping has gone legit

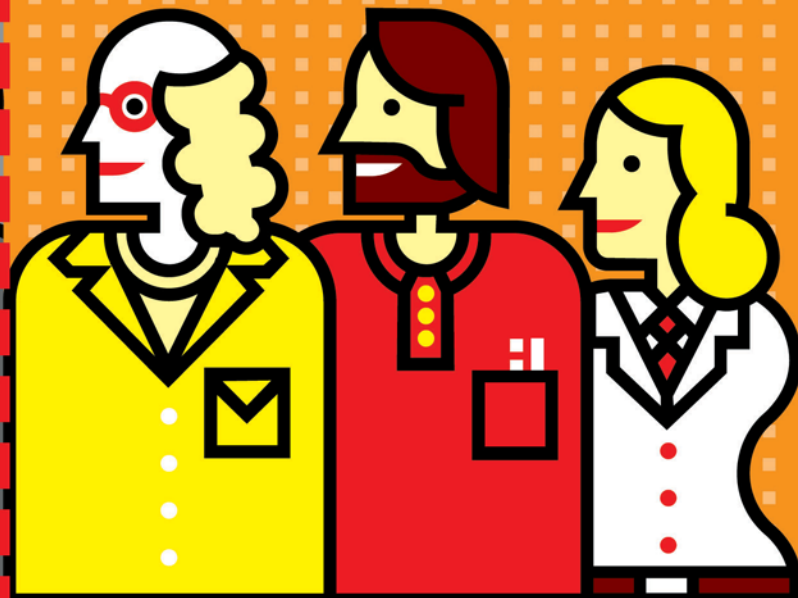
On 7 January, hundreds of people assembled in an airy hall at Georgetown University on the outskirts of Washington DC. The casual visitor would have been struck by the unusual sight of skateboard punks with orange hair mingling with reptilian lawyers in Armani suits, while bookish computer geeks held in-depth conversations with slick boardroom sharks. These unusual allies were drawn together by one single pressing matter: how to save the music business.

The Future of Music Coalition's second annual conference, which ran for two days, featured such luminaries as Chuck D from rap group Public Enemy; Hilary Rosen, president of RIAA (the Record Industry Association of America) and US

Senator Orrin Hatch as guest speakers. Many proposals were discussed, but unfortunately no satisfactory conclusion was reached. After years of comfortable tyranny, the record industry and its 100-year-old business model had been dragged kicking and screaming into the 21st century by a handful of entrepreneurs and one killer application.

This small band made last year one of the worst in living memory for the music industry. Sales of all music formats in the US fell by 10 percent, while sales of CDs in Germany dropped by the same proportion. Inevitably, many in the business blamed this on the rise of the file-swapping services: websites that enable people to download music from the internet for free.

Online
Pirates



\$9.95
per month



"Hi, I'm Bernie
let me help you
download the tracks!"



Peer group popularity

The phenomenon of free music began with a 19-year-old college dropout from Massachusetts named Shawn Fanning. Tired of the download services offered by early pioneers such as Scour.net, Fanning hit on the idea of developing a peer-to-peer program that would allow people to swap MP3 files by directly connecting to other people's PCs. The software, christened Napster after the 'nappy' hair, or crewcut, that Fanning sported under his ever-present baseball cap, was launched in May 1999. Driven entirely by word of mouth, in a year the service had 38 million registered users worldwide.

The music industry was outraged that this democratic and, more importantly, free system was undermining its business, and took Napster to court in December 1999. After much legal wrangling, Bertelsmann formed a strategic alliance with Napster in 2000. It has now agreed to buy Napster and, according to Napster's website, is working with it to create "a secure music file-sharing service that benefits artists and consumers alike".

It didn't take long for Fanning's company to be superseded by a new generation of file-swapping services. In October 2001, the record companies filed two more lawsuits against two of the biggest new peer-to-peer sites, Morpheus and Grokster. Kazaa, which is now the biggest peer-to-peer file-swapping service, has so far escaped the grasp of the lawyers, as has Audiogalaxy, another popular free operation.

"It is time to get co-ordinated and aggressive with the new round of peer-to-peer services," barked RIAA president and chief executive Hilary Rosen in a leaked memo. "The amount of music being downloaded is, as you know, reaching unprecedented levels. Since college started last week Morpheus traffic was up to 19 million downloads per day. And that's just Morpheus."

Musical differences

The music industry's message was hard-hitting, but the response from the file-swapping community was clear – shut one service down and five others will

appear in its place. Musicians themselves are split by the issue. Some, like Chuck D, are enthusiastic campaigners for the MP3 movement, while others, like Metallica and Eminem, are vehemently against it.

There are those who believe the major labels had it coming. For years the recording industry has been fending off accusations of CD price-fixing. In August 2000, 28 US states filed a lawsuit against the big five music labels – AOL Time Warner, EMI, Sony, Vivendi Universal and Bertelsmann – alleging they kept CD prices high by subsidising the advertising of retailers that agreed to keep prices at a minimum set by the labels.

Despite their initial reluctance to embrace the internet, the major labels soon hit on the idea of exploiting the medium to their advantage. The result was MusicNet and Pressplay, the major labels' own online music services, offering tracks for customers to stream and download for a subscription fee.

However, the licensed music download services are still heavily outnumbered by their unlicensed counterparts. According to



figures from internet research agency Jupiter MMXI, peer-to-peer services notched up an average of 11 million unique visitors in Western Europe alone from January to March 2002. Legitimate music sites averaged just 2.5 million visitors in the same period.

As Mark Mulligan, an analyst for Jupiter MMXI, says, no one is going to pay for something they can get elsewhere for free. Mulligan admits that

Deals with internet service providers and web portals are important to Pressplay and other licensed services because they provide an established base of users

the recording industry has a tough fight on its hands. He says the need to "aggregate content" is vital to the subscription services' success. But he also claims that little of the decline in CD sales can be blamed on the unlicensed file-swapping services.

"Last year was one of the worst years in living memory for the recording industry," he says, "but that's mainly because people are no longer replacing their old vinyl collection on CD."

Get ready to Pressplay

The biggest legitimate subscription services offering major label content are Pressplay, MusicNet, Emusic and Listen.com. They are joined by other services such as Vitaminic and MP3.com that offer free streaming content from indie labels and unsigned artists along with some major label content.

Pressplay is jointly owned by Sony and Vivendi Universal and offers music from both their own catalogues plus some content from EMI. Customers can stream, download music tracks and burn CDs using Windows Media Player. The basic plan costs \$9.95 (£7) per month and lets you stream 300 tracks and download 30. To burn CDs you have to sign up for the \$14.95 (£10.40) per month Silver plan. It lets you burn

10 songs, but you can only put two songs by the same artist on any one CD. It currently offers no support for Mac users.

Pressplay also makes its content available through several affiliates, including MSN Music, MP3.com, Roxio and Yahoo. Deals with internet service providers and web portals are important to Pressplay and other licensed services because they provide an established base of users. The service offers content from a range of popular artists such as Aaliyah, Daft Punk, Marilyn Manson, Michael Jackson and Sheryl Crow. However, if you go to the website many of these artists are listed as coming soon – in other words not yet available for download.

But Pressplay is in a good market position. It has potential access to the broadest scope of audio multimedia content and has struck affiliation deals with some of the internet's biggest hitters.



➤ Pressplay is currently only available to those living in the US, but rumours abound of plans to launch in the UK

✗ Rhapsody allows its users to stream music but not to download tracks

Big audio dynamite

Even among the subscription music sites, Pressplay is far from alone. There are a number of sites popping up to exploit this lucrative corner of the market. Rival service MusicNet is co-owned by EMI, AOL Time Warner and Bertelsmann. It offers music from the catalogues of all these companies and also from Zomba records. The list includes Frank Sinatra, Radiohead, Wu Tang Clan and Fatboy Slim.

While Pressplay uses Windows Media Player, MusicNet enables its users to stream and download music using RealOne Music Player, which delivers content more quickly. While Windows Media Player streams songs at 20Kbps

(kilobits per second) or 32Kbps, depending on your modem connection, RealOne music streams at 64Kbps.

Then there's Rhapsody, available from Listen.com, which offers tracks from four of the five major labels but has not managed to sign a deal with Vivendi Universal. It includes a relatively broad range of content from 8,000 major artists including Aerosmith, Aaliyah, Christina Aguilera, Jay-Z and REM. A spokesman for Listen.com says the major labels have been more amenable to licensing music to Rhapsody because users can stream tracks but cannot download them. He cites an easily searchable library of music as one of the best features of the service. Like Pressplay and MusicNet, it costs \$9.95 (£7) per month and lets you stream music only. It's not available yet in the UK.

Emusic (www.emusic.com) is a service owned by Vivendi Universal and has





↕ Many independent websites offer music from mainly unsigned bands and smaller labels, although some sites, such as MP3.com, feature some major label content too

partnerships with AltaVista, AOL, Listen.com and Yahoo. For \$9.99 (£7) per year or \$14.99 (£10) for three months, users can stream an unlimited amount of content from Emusic's library of 200,000 songs. MusicNet, Pressplay and Rhapsody are currently only available to customers resident in the US. However, rumours persist of an imminent UK launch for MusicNet and Pressplay. Listen.com says it might look at expanding operations worldwide in 2003. All three services refuse to disclose how many users they have. "I can tell you it's not gangbusters," admitted a spokesman for Listen.com, "but that's what we expected at first."

"If they can provide a service at an affordable price that's easy to use, then they can be successful," says Julian Midgley, co-ordinator for the Campaign For Digital Rights.

Indie hits

The industry's fringe independent scene has also found a voice on the internet. MP3.com (<http://uk.mp3.com>), which has secured perhaps the best domain name yet, mainly offers music from unsigned bands and indie labels. However, it also has some major label content, usually offered for download as part of a promotion. It only provides streaming content and makes money by selling artists' CDs.

This year MP3.com will also offer something no other service offers – music downloads via mobile phones. "Music downloads and mobile technology work

very well together," says Yoel Kenan, chief executive of MP3.com in the UK. "This will definitely occur in 2002."

Vitaminic's (www.vitaminic.co.uk) content also comes from grassroots and indie labels. It has a small amount of licensed music from BMG, EMI, Sony and Universal, too. The company says it has 2.8 million registered users and a database of more than 375,000 tracks from 87,000 artists in 250 music genres.

Like MP3.com, Vitaminic's streaming content is free. A spokesman said it makes much of its revenue from running promotional campaigns for other companies such as Sony. It also makes money through content syndication to other businesses and through the sale of custom compilation CDs.

Other online music companies, such as OD2, started by singer Peter Gabriel and IT executive Charles Grimsdale, make their money licensing content from the major labels to other businesses and web portals.

CD underbelly

Unlicensed peer-to-peer sites appear to have a number of crucial advantages over licensed download services. In addition to providing music for free, they offer a broad range of music acts from almost every major

genre. Many observers believe legitimate download services will not take off until the record industry shuts down the file-swapping operations, which may be an impossible task. But litigation isn't the only weapon in the record industry's arsenal.

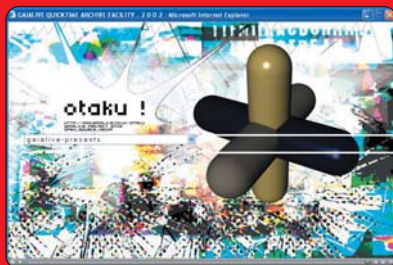
On 15 May last year, country music singer Charley Pride became the first musician to release a CD with embedded copyright protection, also known as digital rights management. The album, *A Tribute To Jim Reeves*, which ironically includes the song *I'm Going To Change Everything*, plays in a hi-fi, car stereo or portable CD player but resists attempts to rip tracks to MP3 files on a PC.

"CDs have to conform to a technical specification that lays down what it needs to do to perform correctly," says Midgley. "The difficulty comes when you buy a new stereo system and you find that some proportion of your record collection simply



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Radio days



Download sites aren't the only way to listen to music over the web. There has been an explosion in online radio stations that broadcast over the internet. Most major UK radio stations, such as BBC Radios 1 to 5, Virgin, Classic FM, Capital FM and XFM now broadcast over the web.

But there is also a clutch of dedicated online radio stations that broadcasts exclusively over the internet and other digital networks. This includes BBC 6 Music (which was the first new national music station in 32 years when it was launched in March this year), Radio Paradise (www.radioparadise.com) and GaiaLive (www.gaialive.co.uk).

Other websites like Live 365 (www.live365.com) offer users the opportunity to set up their own radio stations using the MP3 files stored on their hard drives. In addition, web portals such as MSN broadcast exclusive live webcasts of concerts from artists such as Madonna and Kylie Minogue. However, internet radio stations and live concert broadcasts occupy a specific niche and don't allow you to choose what you want to listen to. Therefore, they are likely to be used in addition to download services, rather than as an alternative.



doesn't work on that device." Indeed, the creator of the CD, Philips, has questioned whether copy-protected discs can even be classified as compact discs under the normal description.

Eminem's *The Eminem Show*, Natalie Imbruglia's *White Lilies Island* and Celine Dion's *A New Day Has Come* are all recent releases that feature copy protection. Opponents argue this is simply an inconvenience to customers and is easy to crack if you know how.

"Log on to any of the free file-swapping services now and you'll find every track from Celine Dion's new album," says Midgley. But the technology has many supporters. Mulligan thinks it is essential to building a workable business model for subscription services.

"There are always going to be people who walk out of a record store with a CD slipped under their jacket," he counters. "What we're talking about is a situation where the majority of consumers think it's unacceptable to use unlicensed services."

Songs from the big house

One way the major labels have been attempting this is through an education drive. However, most of their attempts

to preach to the public have been clumsy to say the least.

One of the most amusing attempts was an episode of Disney's cartoon, *The Proud Family*, which lambasted free file-swapping. In the episode *EZ Jackster*, Penny, a teenage girl gets caught downloading music free from the internet. Her house is surrounded by police in helicopters brandishing flashlights, Swat sharpshooters with rifles trained on her bedroom and sinister G-Men with megaphones. But we shouldn't chortle too much. Record companies have expressed their

tackling the internet," says Midgley, "but it's very likely they'll come out of this with more power than they had before."

The music labels are currently hoping to drive through a proposed bill brought by two US senators that prohibits the manufacture, import and traffic of any device that does not employ copy protection.

Dance to your own tune

Despite efforts to remove it from the equation, the PC is likely to remain a vital component in our music consumption. Many online music supporters anticipate



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wish to go after the 'super-nodes', high bandwidth users whose machines act as servers for other users in the network used by Kazaa, Grokster and, until recently, Morpheus. What has stopped them so far is the encryption used by the software manufacturer FastTrack.

"The record companies were certainly slow on the uptake with regards to

listeners using their PCs as a hub to download music to other devices such as MP3 players, car stereos and mobiles.

If the lesson of three years' worth of upheaval in the music industry tells us anything, it's to expect the unexpected. What's clear, though, is that in the music industry of tomorrow, nobody will be singing from the same song sheet. ■