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The social construction of music markets: copyright and technology in the digital age

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Abstract:

Just as vinyl records transformed local into national music markets several decades ago, digital technologies and the Internet have recently constructed a new kind of popular music market. Given that the existing legal frameworks impeded this transformation, new legislation was required to accommodate new music consumption patterns and new distributions channels. Peterson's production of culture framework suggests that popular music markets are being transformed in terms of legislation, technology, industry structure, organizational structure, market demand and occupational careers. Yet it is legislation regarding copyright and related rights that is the key element in limiting or fostering the construction of a new kind of technology-based popular music market. We analyse the role played by legislation and technology in socially constructed music markets and show how these have transformed the music market in the digital age.

Keywords: (3-5):

Music industries, social construction, copyright, digital age.

1 Introduction

In the early 1970s sociologists proposed studying cultural expressions, not as symbolic systems, but as the product of the social contexts in which cultural expressions were developed (Hirsch 1972; D & Hirsch 1976; Peterson & Berger 1971, 1975). In other words, they proposed applying sociology of knowledge methods to the study of the conditions that gave rise to cultural expressions, as opposed to studying the meaning of symbolic objects as represented by the set of values, norms and beliefs shared by their producers.

Early studies of this paradigm, which Peterson (1976) labelled the “production of culture”, focused on the social conditions that gave rise to innovation in music creation. In particular, the diversity of musical genres marketed in the 1960s and early 1970s was studied by Hirsch (1970, 1971, 1972) and Peterson and Berger (1971, 1975) using tools developed to study the structure of organizations and industries.

This novel perspective on the production of culture departed from the idea that the symbolic content of cultural expressions depends on the social, legal and economic contexts in which these expressions are created, edited, produced, marketed, purchased and evaluated. Even though this approach may have relied on the analytical tools of organizations and industry, the ultimate goal was to describe the social context in which cultural expressions are created, produced and marketed. In the mid-1980s Peterson (1985) proposed that the social conditions of cultural production could be described according to six distinct facets: (1) technology, (2) legislation, (3) industry structure, (4) organizational structure, (5) the market (in the demand sense) and (6) occupational careers (of artists and technical experts). These six facets constitute a set of institutional and organizational constraints that describe and explain, for instance, the emergence of new music genres or the relationship between market concentration and musical diversity. Peterson (1990) subsequently used this analytical scheme to explain the emergence of rock and roll in 1955.

The production of culture along with the economic, organizational and creative forces that drive the production of cultural expressions determine new technological uses in the same way that new technologies shape cultural objects. Peterson and Anand have acknowledged that “changes in communication technology profoundly destabilize and create new opportunities in art and culture” (2004:314). Nonetheless, although the new technologies may offer new creative possibilities, it is the social context that determines how cultural industries change (Klinenberg & Benzecry, 2005). Technological innovation only gives rise to new expressive possibilities, however, when legislation constructs the selfsame legal object that is to be regulated (Kretschmer & Pratt, 2009).

Below we describe the different popular music market models that have developed since the invention of sound recording. We do so in a manner similar to White and White (1993), who described how the academy system evolved into the dealer-critic system in the art world. In particular we demonstrate how legal regulation created markets while also creating the objects to be traded in those markets. Our goal is to contribute to the literature on the social construction of music markets by highlighting how technology and legislation governing copyright and market regulation play a role in constructing music markets in the digital age. In order to show how music markets are built by the interaction between legislation, technology and stakeholders, we adopted the constructionist perspective of Latour and Woolgar (1986), Latour (2002) and Callon and Law (1982).

Our research is based on data drawn from a number of sources. We first mined the literature for previous research — especially studies that adopted a production of culture perspective (Peterson, 1975, 1985, 1990, 2004) — in order to document the social construction of music markets from the invention of analogue records to date. We also collected and analysed recent music industry reports and statistics. Finally, we analysed the most important technological advances and copyright and related rights legislation in the USA and Europe (mainly) with a view to describing their role in constructing modern-day music markets.

2. From local popular music markets to regional commercial markets (circa 1900 to 1939)

Before the invention of the gramophone, popular music was performed in local markets in what could be called a community model of production, with local artists versioning the most popular songs of the day. There were few concerns about copyright, as little economic damage could be wrought in the local markets of other artists. With the advent of the gramophone and recordings of musical productions on flat discs, local markets were transformed into regional commercial markets, giving rise to what Peterson and DiMaggio (1975: 497) called “emerging culture classes”. Cultural differences based on ethnic, regional and socioeconomic class were thus removed, as documented by Peterson and DiMaggio (1975: 497) for the country music genre. This fact laid the groundwork for the hypothesis of omnivorous musical preferences (Peterson 2005).

Before the arrival of the gramophone and flat discs, the impact of artists was geographically and physically limited, and, consequently, the market was mainly populated by artists generally known only locally. Gramophone records removed this physical and local constraint, resulting in some performers becoming known outside their local markets. Record labels soon realized, however, that if they held the copyright on any successful song that they recorded and distributed, they could prevent others from recording a new version that would eat into their sales.

The invention of gramophones and flat discs along with changes in the regulation of sound recording copyright thus changed the course of popular music markets. In the USA in 1909, paradoxically, opposition by successful performers and composers/lyricists to recorded discs led Congress to review the Copyright Act of 1790 and introduce a 50-cent fee for mechanical reproduction (Tschmuck, 2009; House Report 1 on the Copyright Act of 1909). This change in copyright law laid the groundwork for the creation, in 1920, of the American Society of Composers, Authors and Publishers (ASCAP), as an organization to license music to radio stations, collect fees and redistribute revenues to members. From this

point on, the interests of sheet music publishers and of record labels merged. Another change that completed the social construction of the popular commercial music market was that record labels would only cut records for musicians and performers whose rights they held (Peterson, 1990). Thus, in this market model, the roles of composer/lyricist and performer were separated.

Major labels associated with ASCAP could control regional music markets through ASCAP by exercising a monopoly over both production and promotion and by building a distribution and retailing network that enabled them to decide which music consumers could buy. On the production side, ASCAP members could decide which recordings merited protection under the umbrella of the Copyright Act of 1909. ASCAP could thus control the transformation of a musical creation into a commodity, that is, a private commercial object that could be traded by record labels and then sold to consumers in a monopoly setup. On the promotion side, radio stations were obliged to negotiate rights to broadcast both live performances and reproductions with ASCAP, which meant that only productions registered with ASCAP could be played on air.

Record labels, as well as controlling radio in this regional market model, also enjoyed a high level of control over distribution and retail sales. Although the flat shellac discs used for gramophone recordings were less costly than phonograph cylinders, they were also more fragile, which meant that they were expensive to distribute. Hence, only the major labels (Warner Music Group, Electric and Musical Industries (EMI), Decca Records and Polygram) were able to finance and so control the means of distribution and they eventually set up their own retail chains to sell music discs to the end consumer (Peterson 1990).

3. The construction of national markets (circa 1939 to 1980)

A new transformation of the music markets was launched in 1939. The pressure exerted by ASCAP on national radio stations led Columbia Broadcasting System (CBS) to buy Columbia Records in 1938. Nonetheless, this kind of vertical integration was affected by

new technologies and by regulatory changes — governing both radio and the new TV media and copyright over new music genres — that played a major role in shaping a different kind of market.

Record labels initially distrusted radio stations — just as the successful composers and performers of the early 1900s had distrusted recorded music and record labels. Their fears for their record sale revenues, as protected by ASCAP, led record labels to impose broadcast fees that radio stations considered intolerable. In 1939 a dispute arose between ASCAP and the National Association of Radio Broadcasters (NARB, now called the National Association of Broadcasters, NAB) as a result of a substantial increase in licensing fees announced by ASCAP. This conflict led to the creation, in 1939, of Broadcast Music, Inc. (BMI) by the NARB, as a lower-cost alternative source of licensing for music users, including radio stations. To compete with ASCAP, BMI had to first record and then protect new musical creations. It thus enthusiastically welcomed songwriters and publishers from niche musical genres — like jazz, country, Latin, hillbilly, rhythm and blues, and later rock and roll — that tended to be ignored by ASCAP (Hirsch 1971: 383). These products were thus turned into commercial commodities that generated copyright revenues from airplay by radio stations and from the sale of records promoted by the same radio stations.

TV as yet another new medium brought about further changes in the music industry. Historical evidence shows that TV broadcasting regulation mimicked early radio broadcasting regulation, with almost identical stakeholders. By 1946 the large federal stations, CBS, RCA, etc., had entered the TV sector, bringing with them their technical and organizational expertise. A new legislative change liberalized the radio licence market, leading to an increase in the number of radio stations. The impact of BMI combined with this explosion in radio broadcasters resulted in the creation of a new national market. Thanks to the popularity of TV and to BMI's achievement in reducing the cost of recorded music, radio station programming underwent a radical change. From the 1950s the network model started to be replaced by a music radio format based on the "top 40" popular music hits for specific genres, which, in turn, led to the rise of the disc jockey (DJ). Radio, by this stage, was ready

to become the main launching pad for the phenomenally successful new genre of rock and roll (Peterson, 1990).

The construction of a national market was facilitated in 1948 by further innovation from Columbia Records in the form of the long playing (LP) 33 ½ rpm microgroove vinyl record. This invention enabled recording duration to be lengthened from the 5 minutes of the 78 rpm shellac to more than 20 minutes on each side of the vinyl LP. The LP also led to a reduction in delivery costs as the vinyl record was more robust than the shellac disc. This robustness of the vinyl record also facilitated the entry of independent distributors who supplied new musical genres to independent retailers. Independent distribution and retailing was further aided by the invention of the smaller 45 rpm vinyl record by RCA in 1949. The diffusion of new musical genres, like country music and rock and roll, was thus facilitated by a succession of developments, described in detail by Richard A. Peterson in his book *Creating Country Music: Fabricating Authenticity* (1997) and in his suggestive article on rock and roll *Why 1955?* (1990).

Musical innovation was featured by a developing relationship between market concentration and musical diversity. According to Peterson and Berger (1975), the concentration of market share among four or eight major labels led to a reduction in the variety of music in the top 40 lists. Lopes (1992) reanalysed this hypothesis on finding that the regularity encountered by Peterson & Berger (1975) was the outcome of the production, promotion and distribution systems used by the major labels.

With the liberalization of radio, promotion strategies changed, with live performances giving way to music programmes and DJs acting as gatekeepers of popular music trends. DJs became so powerful, in fact, that they could bring fame to a musical group overnight (Peterson, 1990). Although the system required the media to be independent, the majors tried to influence music programming by presenting DJs with the music that they wanted to promote and even bribing them to give air time to specific music. Influencing what consumers listened to became vital to controlling the market. The major labels tended to favour concentrating their promotional efforts in a small set of productions and so needed to

make decisions early on about which productions to favour. Their interest in influencing the media was therefore aimed at 'ensuring' that their decisions would be profitable.

The importance of DJs as market gatekeepers was further enhanced when new formats facilitated the private recording of music programmes. By the early 1970s most households had good quality cassette players that made acceptable hi-fi recordings. The introduction of portable cassette players (like the Sony Walkman) in the late 1970s and the inclusion of radio-cassette players in cars led to the cassette tape becoming the most popular format by the mid-1980s, even for pre-recorded music. Record labels again reacted to this new invention and, just as CBS — a broadcasting company — had acquired Columbia Records in 1938, so too did Sony — a technology company — take over CBS Records in 1987, renaming the new group Sony Music Entertainment in 1991.

4. The construction of transnational markets (circa 1980 to 2000)

Philips and Sony independently invented the compact disc (CD) and collaborated to produce a standard recording and playback format — made commercially available from 1982 — that ultimately led to the digitization of music and launched the construction of a transnational market model. Initially Polydor Pressing Operations in Germany and a Japan-based plant supplied the world market for blank CDs. The first popular music CD produced by Philips was Abba's *The Visitors* in 1981, whereas Sony began marketing the new format with its release of 16 new titles through CBS Records in North America. In 1985, Dire Straits' *Brothers in Arms* album broke the record of one million CD sales and David Bowie became the first artist to have an entire music catalogue recorded on CD. Newer formats like DVD and Blu-ray, even though they improved the technology, did not usher in major changes. By the early 2000s the CD had replaced the radio-cassette player as standard equipment in new cars.

The digitization of music led to a new market configuration, which — following the designation of transnational corporations proposed by Burnett (1990) — we will refer to as the transnational market. This transnational model consisted of three types of operators: transnational corporations, independent majors and indies (smaller, independent labels).

Holding predominant market shares and producing and distributing their own productions were transnational corporations like CBS, EMI, RCA, Warner and Polygram, which, in 1987, represented 84% and 81% of the LP and singles markets, respectively. The traditional majors were now worldwide entertainment conglomerates and, in the 1980s, they adopted what Lopes (1992) termed an “open system of production”, which facilitated the incorporation of musical innovation and diversity as a strategy to control the market. The majors started out by buying up specialist jazz, country, rhythm and blues and rock and roll labels and by negotiating distribution agreements with other record labels, to later branch out into other entertainment and leisure markets (as happened with Warner Brothers, which started out in music and then entered film).

Transnational corporations constructed transnational markets through vertical semi-integration and, in the open system of production (Lopes, 1992), exercised control through artist recruitment and distribution agreements signed with the new independent majors and indie record labels. These corporations also controlled recording studios, disc copying and packaging technologies and international marketing, promotion and distribution networks (Burnett 1990). This American industry model of transnational entertainment company now dominates international markets.

The second type of operator was the independent major — typically an innovative company with independent recording studios, copiers and distributors — that entered the market through distribution agreements with transnational corporations. One such example is Virgin, which has further diversified into film, video and passenger transport. Finally, indie labels — often founded by independent recording studios that decided to form their own labels — operated with other independents in the production and distribution chain.

Profitable distribution and promotion by transnational corporations in international markets required, however, that the nations that made up the international market regulate musical productions to protect corporate interests. Hence, negotiations under the auspices of the World Trade Organization (WTO) eventually led to a 1994 agreement encapsulated in a document called Trade-Related Aspects of Intellectual Property Rights (TRIPS), raised as a transnational legal instrument that would protect, beyond national borders, the rights of intellectual property owners (mainly transnational corporations from developed countries).

Enacted two years later — in the framework of the World Intellectual Property Organization (WIPO) — were what came to be known as the “Internet treaties”, aimed at adapting copyright and related rights to the digital era: the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT). This reconfiguration of the global legal system governing intellectual property in defence of the interests of the most powerful industries (Drahos, 2004:335) was the outcome of intense lobbying by international corporations.

The EU not only adhered to the WIPO Internet treaties; to ensure that the single market was not fragmented by different levels of protection (Larsson, 2011), it enacted Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonization of certain aspects of copyright and related rights in the information society. This directive was part of a package of measures aimed at establishing a coherent pan-European legal framework that would protect intellectual property rights. In the interest of fostering e-commerce, it horizontally aligned rights, while setting aside sectoral harmonization previously performed for computer software, databases and broadcasting via cable or satellite. The directive adapted EU law to the digital environment with such precision that it has left little room for member states to legislate in accordance with their own existing legislation and culture. Consequently, it has been considered to be more of a binding regulation than a mere standard (Garrote, 2001:221).

The EU took the view of defining property rights broadly and of accommodating different interests by way of exceptions (Garrote, 2001:317). However, a new right was

created for authors, which was the right to authorize making available on-demand services for interactive transmissions to the public, and maintained was the traditional broadcasting services right of public communication. The EU also increased the number of actions that could be criminalized, thereby expanding and strengthening copyright and related rights in Europe (Larsson 2011).

5. The construction of global markets (circa 2000 to date)

The transformation of musical productions into intangible products was the result of two technological advances: (1) the invention of the MP3 (MPEG audio layer III) compression format; and (2) the development of Internet services for sharing compressed files. Other proprietary formats exist that allow music file-sharing (e.g., AAC, ALAC and AIFF, used by Apple for iTunes downloads, and WAV and WMA, developed by Microsoft) but these have not disrupted music market functioning because they are used in digital distribution channels that mimic traditional channels.

The combination of the MP3 format and new Internet services has meant that music has recovered the public good property it had in the local popular music markets of the beginning of the 20th century, notwithstanding copyright law provisions (Hougaard & Tvede, 2010). These technological advances have meant that musical productions could be digitized and compressed with hardly any quality loss for online distribution beyond the control of record labels. They consequently laid the foundations for the transformation of the structure, organization and legal system underpinning transnational markets.

The record labels (along with other entertainment sectors) reacted by manifesting their opposition to these developments that were undermining their business model based on material sales and control over promotion and distribution. They took their fight to the international scenario, where they exerted pressure on national governments to expand copyright and related rights and to limit exceptions (which, by affecting technological tools, contravened the laws of a number of countries, including Spain). This response is hardly a

novel one, as the historical evidence shows that copyright and related rights legislation has invariably been characterized by the protection of traditional monopolies against changes in reproduction and communication media (Frith, 1987). This is why Frith (1987) suggests that copyright is no longer merely a question of morals but is also a political and economic matter.

Digitized music and the Internet have opened up new ways of promoting musical productions. Competing with radio and television stations operated by major corporations — often controlled by transnational corporations — are new socially organized media such as file-sharing networks and social media like YouTube. Thus, the important qualitative difference between promoting musical creations through the traditional media and through the new online social media is that music promotion can no longer be monopolized by music transnationals and the market is coming to be populated by artists, consumers and new economic stakeholders.

The new media have a transcendence that goes beyond the size of the markets, as they imply a radical change in perspectives on sources of income for artists and record labels. Whereas live concerts and traditional media typically promoted selected artists (Hirsch, 1972), nowadays anyone can use the social media to promote their musical creations and so attract followers and create a fan base. Furthermore, the fact that demand for live music concerts has grown — along with the cost of tickets — since the beginning of the 21st century has benefited creators and performers with little exposure to traditional media and also web-based technology businesses.

The violent opposition of the record labels — whether transnational corporations, new majors or even indies — to the sharing of musical productions online was only to be expected. The transnational corporations' response was to focus on harmonizing mechanisms to protect their economic rights. The EU responded by enacting Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights, which seeks to guarantee monopolies over cultural productions by harmonizing legislation on implementing measures in order, in turn,

to harmonize the enforcement of intellectual property rights in the internal market. However, although the initial Commission proposal contained measures aimed at harmonizing penalty proceedings, the directive as finally adopted only included provisions to regulate civil proceedings (Berenguer, 2004). In addition, the final version of the directive merely provides that states may adopt measures other than those specified. Berenguer (2004:28) argues, consequently, that the fact that only civil proceedings and not penalty proceedings have been harmonized is evidence of the presence of new economic interests in EU negotiation procedures.

As for artist revenues, the record labels have retaken control over these via the new 360° deals. With these agreements, record labels derive revenues from all possible income sources, thereby compensating for the reduction in income from CD sales and taking advantage of the growth in demand for live concerts. Thus, in return for record label support in marketing and promoting their musical productions, artists agree to give the record label a percentage of all their income, irrespective of whether it comes from sales, live concerts, merchandising or any other source.

Technological advances and demand for digital music have created the conditions for the development of other approaches to distribution and sale. One example is the digital variant on traditional distribution channels, as represented by Apple's iTunes store and Amazon. Whereas Apple transforms musical productions into intangible products that are rematerialized via the iPod, Amazon combines the analogue and digital concepts by simultaneously selling its customers physical disks and a digital version. Although this business model may seem to represent yet another channel, the difficulties experienced by both Apple and Amazon in negotiating distribution agreements with music transnationals would suggest otherwise. Unlike traditional outlets, which merely offered information on demand and its geographical distribution, digital distribution channels collect detailed information on what people are listening to, listener profiles, trends, etc.

Another very different business model is music streaming, represented by companies such as Spotify, Deezer and Musicover, and based on the creation of their own rights

management societies. Since the sheer numbers of musical productions is such that the cost of contacting all owners of copyright and related rights would be impractical, these services rely on content aggregators to negotiate streaming rights with artists and record labels. Copyright fees are paid to authors according to the number of times a musical production has been streamed by clients. A streaming service, which is like radio on demand, is typically offered in the form of free and paid options. Free streaming usually aims to promote musical productions and, as with traditional radios, the source of income is advertising. Paid streaming typically gives access to a larger catalogue of recordings, allows unlimited reproduction and offers additional services such as the exclusion of advertisements, higher quality audio, etc.

Given the ubiquity of the digital environment it was evident that users of music for commercial purposes needed a policy on licensing. As new stakeholders have acquired economic importance, they have become increasingly vociferous in their demand for an advantageous regulatory environment for their companies. At the EU level, a regulatory framework is gradually being built that, by granting legal protection to the opportunities offered by the digital technologies, favours the development of new business models.

The lack of a single EU-wide licence or equivalent mechanism initially posed a major obstacle to business expansion into new territories and the enlargement of music catalogues. Almost ten years ago a study by the European Commission (2005) highlighted the need to reconsider cross-border management of online music copyright and related rights. It proposed — in response to a demand from commercial users of the new digital music services, who had to negotiate in different conditions from country to country — that rightholders should be able to freely choose their rights manager for the entire EU.

Commission Recommendation 2005/737/EC of 18 May 2005 on collective cross-border management of copyright and related rights for legitimate online music services was a first step to improving licensing at the EU level so as to include new webcasting, streaming and on-demand download services. This recommendation, even with its inherent limitations, has established more favourable conditions for online music service providers.

Very recently the EU enacted Directive 2014/26/EU of the European Parliament and of the Council of 26 February 2014 on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market. This minimum harmonization directive provides for transposition into national legislation by 10 April 2016. Its guiding principles are the rightholders' freedom to choose their rights manager and to withdraw authorization by giving a maximum of six months' notice. Regarding multi-territorial licenses for online musical production rights, rights managers are required to be able to accurately and transparently determine which works and which rights belong to their catalogues. They are also required to be accurate and timely in invoicing and delivery. This new model of collective rights management prevents monopolies and promotes competition by facilitating new entrants.

The digital technologies have transformed the global monopolies held by the major labels over the production, promotion and distribution of musical productions. Thus, currently coexisting along with the CD are multiple products and services designed to meet all market segment needs (Waelbrock, 2013). To brick-and-mortar stores we can now add online stores, music streaming and cloud storage services. New Internet spaces in which to connect with the public coexist and develop alongside traditional promotional channels. Laws on copyright and related rights have helped to create a new model of collective rights management at the EU level that has undone the monopolies of the collecting societies, enhanced competition and opened up new business opportunities.

6. Discussion and conclusions

The above description of the construction of regional, national, transnational and global markets demonstrates how technological advances have opened up new creative and business opportunities that only materialize once suitable legislation is in place. Although technological advances have launched a series of different transformations of the music market, it is legal regulation which, in fact, has allowed transformations to happen. In all the

cases described, dominant market stakeholders launched processes to ensure legal protection against new technological developments and product innovations. Their interest has always been to keep firm control of the music markets in order to limit the repercussions of the new technologies on privileged revenue flows. This was also the reason behind the modification of US copyright law in 1909, demanded by popular artists of the day, who failed to see the transformation that was underway in their markets.

The ability to fix sound recordings on a suitable support reduced the physical limitations of local markets, allowed the emergence of new stakeholders in the form of record labels and transformed music into a commodity that could be traded in the marketplace. This process facilitated the construction of the first commercial markets at the regional level, based on the new record labels taking control of musical productions from artists. Something similar happened once technological advances perfected the hardware and made music broadcasts possible through radio and later TV.

TV, in fact, played a major, if indirect, transformative role. Radio stations expanded into the TV sector, bringing with them their creative and technical expertise, at a time when the radio licences market was liberalized. The media, by becoming the main instruments for the promotion of new commercial musical genres, thus built a national market.

With the digitization of music, markets again changed course, with control over promotion and distribution in transnational markets enhanced by the CD, which offered better quality and greater capacity. However, digitization required legislative changes to international trade agreements; multinational corporations lobbied their governments, first under the WTO and then under the WIPO, to sign agreements that ensured the protection of their rights. These agreements would facilitate the construction of transnational markets.

However, further advances in digital technologies (MP3 and file-sharing networks) subverted the transnational business model based on material musical productions. Further legislative changes were necessary, so, again under the umbrella of the WTO and WIPO, transnational corporations influenced legislation at the national level (as is widely

documented for countries like Spain, France and Brazil). They also lobbied their own governments to extend copyright duration.

Transnational corporations have also resisted the dematerialization of digital music production. In focusing on the promotion, distribution and sale of material productions, they lost out on the technological innovations that characterized the early 21st century. It is no accident that the CD as a musical support was invented, not by music corporations, but by two consumer electronics corporations: Sony in Japan and Philips in the Netherlands. In the construction of transnational music markets, therefore, technological innovation took place in the consumer electronics sector. Eventually, however, as had happened in the early 20th century, technological innovators entered the music market.

Global markets needed to be able to compress music productions to facilitate their circulation over the Internet. This technology was held, however, by companies such as Apple, Amazon and Google. Rather unwillingly, record labels finally signed agreements with these companies to distribute their music catalogues, but at a high price: (1) they have ceded control over distribution to new online music providers and intermediaries; and (2) they have ceded control over promotion to the new social media.

In conclusion, both law and culture reflect and define the values and interests of a society. Changes to copyright and related rights legislation, however, over and above any consideration of rights, have also reflected pragmatic decisions about who should benefit and how from musical productions (Frith, 1987). In the construction of music markets, the major industry stakeholders have secured control over production, promotion, distribution and access to musical productions by redefining, for each advance of the technological frontier, what should be protected, how and for how long.

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