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Who owns the music, MTV or me?

The rise of networking websites brings into question the role of record companies in the age of the mp3

[Video: Bragg challenges MTV Flux](#)

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The internet has revolutionised the way we distribute music. When I wrote *Between the Wars* in the middle of the 1984 miners' strike, the process of recording, designing, marketing and finding a place in my record company's release schedule meant the song wasn't available until the strike was almost over. Now, thanks to the internet, it is possible to write a song, record it and make it available for download within the space of 24 hours. The new technology also brings into question the role of record companies in the new media.

In the past, if they wanted to sell records, artists were obliged to sign to a big label. Only they had the muscle to ensure that your record got into all the shops and, crucially, that you got paid. Even the independent labels, who made a great show of standing apart from the majors, often relied on them for distribution and revenue collection.

Artists paid a high price for this service, signing away ownership of their recordings for the full life of copyright, effectively until no more could be earned from them. Sure, the artists made some money, but seldom more than 10-15% of what the record company kept from the retailers to cover manufacturing, marketing, promotion and distribution.

Unsurprisingly, the music industry has simply carried over this arrangement into the age of the mp3. iTunes charges 79p a track, of which it keeps around 29p, passing on the rest to the record companies who then give the artist - you guessed it - 10-15%. With back catalogue material, that's all profit for the labels. All they have to do is drag and click the relevant file on to iTunes.

Now that physical production and distribution are no longer necessary, the question arises as to whether new artists need to sign their rights away to record companies at all. A band which records and promotes its own music via the internet could sign a deal directly with iTunes, keeping all of the profits and retaining ownership of copyright.

Although the task of breaking an artist should not be underestimated, the financial incentives are so great that it can surely be only a matter of time before the first truly independent artist breaks through via the internet without relying on a record company to market them.

With a potential shift in power away from the labels and towards the artists, it becomes crucial that new talent coming into the industry retains the right to exploit the material that it creates. The rise of social networking sites offers unknowns the opportunity to build a career via the new medium. Artists no longer wait to be discovered, short-circuiting the old routes by posting their songs and videos up on to sites like MySpace and Bebo where they can gain a following through peer-to-peer recommendation. Already, the vast majority of those uploading their work on to the net have no contractual agreements with anybody: no publishing deal, no record contract, no lawyer or manager advising them and that is as it should be in the spirit of the internet - let a thousand flowers bloom.

However, some social networking sites are making claims of ownership on the material that users make available through their services. When challenged recently about this practice, both MySpace and Bebo swiftly changed their terms of use to reflect the view that ownership of content posted on their sites resides solely with the artists who originated it.

Others have not been so conscientious. On August 1, MTV launched a new social networking site called MTV Flux and invited users to post songs and videos to share with other members. Those clips which are the most popular will be aired on the MTV Flux TV channel, which comes on air on September 6, giving unsigned artists access to a medium that has previously been the sole preserve of the record companies and their stars.

Artists wanting to see themselves on MTV are unlikely to read the terms and conditions with which they are required to agree before joining the service. That is unfortunate; a close reading suggests that MTV wants to own their work.

In order to get on to MTV Flux, users have to grant MTV the right to transmit their material on the network "in perpetuity and gratis". They also claim "the right to commercially exploit, host, store, copy, distribute, modify, edit, incorporate into other material, and/or otherwise treat in any way your Material at (MTV's) discretion without any payment" to the artist.

It seems that MTV Flux will be a TV channel comprising solely user-generated content, the commercial exploitation rights of which are owned by MTV. Just so no one should be in any confusion about what such an agreement might involve, MTV's content submission conditions states: 'In particular, you agree to waive all moral rights to the Material.'*

Such terms are unprecedented in the music industry and could have serious long-term implications. It may be that any artist who breaks via the MTV Flux set-up might find that, years later, MTV has some claim to residual rights in their material or else have the use of it for life of copyright, without any payment to the artist, "in perpetuity and gratis".

The demand that users waive all moral rights to their material in order to join a service brings into question the role of social networking sites. Will they usher in a revolution in the music industry by allowing self-promoted artists to circumvent the major record companies who have stood as gatekeepers of public taste for so long? Or will they simply be the means by which the industry keeps its monopoly on copyright ownership and earnings through the silent harvesting of intellectual property rights?

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