

**Freedom, Music and the RIAA: How the Recording Industry
Association of America Shapes Culture by De-politicizing
Music**

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Abstract

Since the development of widespread sound recording and distribution, the music industry has become increasingly consolidated among fewer companies. Max Horkheimer and Theodor Adorno described how the commodifying forces of the music industry lead to a predictable formulaic music that lacks any critical approach to society in their groundbreaking book, first published in 1944, *Dialectic of Enlightenment* (1972). Today, the patterns have not changed as there are now four major record labels known as the “Big Four” that produce commodified music with a business model that optimizes their profits at the expense of art, creativity and original style. Using the Recording Industry Association of America (RIAA) as its lobbying group and appointed vigilantly, the “Big Four” attempt to limit the access of independent artists and labels to music consumers.

This thesis argues that in the process through which the music industry works to co-opt and commodify genres of music, the music is (de)politicized to appeal to a larger audience. While technological advances in digital media and the internet would seem to bring a decentralized (even democratized) structure that diverts the costly music distribution system allowing for more artists and labels to compete, the RIAA has acted to prevent these technologies from developing their greatest potential. First, I demonstrate how music is commodified and marketed towards consumers. The second part of this thesis uses hip hop as an example to demonstrate how the music industry co-opts a genre of music to sell to the largest number of consumers and in the process changes the political significance of that genre. Finally, I argue that the RIAA’s attack on file-sharers in the name of copyright protection is a technique for the “Big Four” to stop competition from independent artists and labels.

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Chapter 1: Introduction

The Recording Industry Association of America's (RIAA) pursuit of "criminal" music downloaders is a blatant example of how the "Big Four"¹ is more concerned with making profit than creating art. My thesis contends that the "Big Four" through its interest group arm, the RIAA, attempts to not only pursue profits, but also shape culture by influencing legislation and societal norms. By "shaping culture" I mean that the "Big Four" co-opts musical trends, or applies the "pop music" formula to that music, and introduces other popular commodities such as fashion, television, and movies in the framework developed by Max Horkheimer and Theodor Adorno in 1944 with their book *Dialectic of Enlightenment*: "The culture industry as a whole has molded men as a type unfaithfully reproduced in every product" (Horkheimer and Adorno 1972 p.127). This thesis explores how the RIAA shapes culture and societal norms by looking at the "democratic" nature of the market; mainly the argument that popular music is chosen by the people ("the listeners") because it is what they want (as measured by record sales) regardless of the fact that they are given few options.

The purpose of this study is to explain how the RIAA shapes culture through the commodification of music. It demonstrates that major record labels use the RIAA to influence legislation not only to protect profits, but also to limit the ability of small music producers from distributing their music and lowering the major record labels' share of the market. In the process the political messages developed in specific genres of music are lost as the record companies try to produce music that is politically accessible to a larger audience.

Digital technology has the potential to make it easier for independent musicians to compete with the major record labels by circumventing the costly distribution systems of the past. Printing hard media (compact discs, records, tapes, etc) is capital and labor intensive; the major record labels have a large competitive advantage over independent

¹ "Big Four" represents the group of major record labels that sell the most records each year; this group includes Electric and Musical Industries Ltd (EMI), Sony BMG Music Entertainment, Universal Music Group (UMG), and Warner Music Group. These corporations far exceed the record sales of other record labels and are the true power brokers in the music industry. The RIAA includes a much larger group within the music industry, but these four are the most important in determining the direction of the RIAA. It is also the case that many of the smaller yet well-known record labels are subsidiaries (acquisitions) of the 'Big Four.'

labels and independent artists because they have both the capital to print hard media and the resources to distribute those media across the United States and the world. File sharing on the internet has the capability to break down these distribution barriers (disintermediation) by allowing upstart artists to distribute their music for free online, but the RIAA is fighting the democratizing properties that the internet possesses by not allowing music sharing on the internet. “The costs of advertising, which finally flow back into the pockets of the combines, make it unnecessary to defeat unwelcome outsiders by laborious competition” (Horkheimer and Adorno 1972 p.162). There have been several new musical mediations on the internet from internet radio and Napster to MySpace.com and “iTunes” (and other online music stores that allow people to download music by the song for a small fee) that force the debate over where to draw the lines between profit for the artists and the music industry and the availability of an art form for the general public. Whenever a new form of music distribution is developed, the RIAA acts quickly to slow its progress in the name of enforcing copyrights and royalties; however, a consequence of this is that the RIAA stifles the production of smaller businesses that may see the new technology as a way of getting their music distributed.

Music is an effective way to express political ideologies in a form that can be much more accessible to people who may not want to think about politics. Many people in the United States have a negative conception of politics, but it is difficult to separate oneself from politics altogether. Musical genres form around cultural groups and as a result tend to express the interests of that group. Those genres that have politically oriented lyrical content have the ability to allow people to become conversant with political ideology without having to follow political institutions directly. With the co-optation of these genres by the larger “popular” music business, the political message has to be removed to appeal to larger audiences. In some cases the genres are transported to other geographic regions and their original political message can adapt to the culture of the new location (Mitchell 2001). There is a distinct difference, however, between the transnational adaptation of genres and the “popular” adaptation of music. I will show that it is more important for a genre to retain its original political meaning or acquire new political meaning as opposed to washing out its political meaning or furthering the views of mainstream society.

A systemic picture must be drawn of the music industry to fully realize not only how music is commodified, but *why* music is developed as a commodity. Music cannot be taken solely on its face value because to do so would be to ignore the cultural background through which musical genres develop. Removing a genre from its context distorts its “aura” (Benjamin 1936); to a certain extent an “aura” can be created through mechanical reproduction, but the mediation must still allow the music to be interpreted through the context in which it was originally developed. The production of music must be reversed so that it is created by the artists from the bottom up instead of from the record executives influencing the sound of the music from the top down; this is one of the key ways that music can authentically represent the cultures that create it. Through economic processes, culture becomes commodified, listeners remain subjects and the RIAA helps to sustain a society that reinforces capitalist consumption.

Culture and Critical Theory

Culture is a process of defining symbolic meanings that can be found in any human society (Williams 1958). In this process Raymond Williams explains that while the society has an affect on the individual’s view of culture, the individual shapes culture with his/her interpretation of symbols. Culture is both the common meanings of a group and the creative processes and art of that group. The important point with regard to the “Big Four” is how music can influence the individual’s perceptions of symbols in his/her culture and also how the “Big Four” can influence how the individual perceives the “other’s” culture. A group may use creative processes within itself to develop a genre of music; that music is contextual to the sociopolitical dynamics of that group – this would be defined as a culture under Williams’ definition. When the “Big Four” co-opts that genre of music, it creates its own definition of that group, and individuals, inside and outside of that culture, begin to perceive the symbols re-presented through the music in new ways. The re-interpretation of the music from the first culture then begins to reshape the original culture along with those cultures that observe and absorb the music from the outside.

Two powerful outcomes happen as a result of the “Big Four” shaping culture. One is that that culture begins to resemble the conceptions that “Big Four” CEOs have of the

people whom they are making the music for, instead of the people influencing the music that is created. I will show that one way that industry leaders do this is through “popular” forms of music: pop music tends to take the ideological bite (strength) out of musical movements in order to co-opt them. The second outcome is that by allowing record sales to define “good” music, the most widely purchased music can reinforce stereotypes because some people purchase music that adheres to their preconceived stereotypes. The end product of this process is a society that resembles what those elites who run the recording companies conceptualize as “the audience” (e.g. concert-goers or music media-buyers).

The Frankfurt School’s assessment of the impact of culture on society is important because so many of the problems that Adorno, Horkheimer, Benjamin and Marcuse saw are still relevant today. Adorno and Horkheimer’s approach to the culture industry has laid the foundation for cultural theorists to critique the overpowering structure of the culture industry (Horkheimer and Adorno 1972). I am taking the role of critical theorist in their tradition in order to describe the problematic nature of the “Big Four.” The role of the critical theorist is to emancipate individuals, Timothy Luke explains in *Screens of Power*, and critical theorists “hope to equip individuals with a new consciousness of what must be done and how to do it” (Luke 1989 p.9). In this sense, I am advocating an ideology that runs counter to the existing capitalist ideology that pervades American Society.

Politics

Inherent in my argument is the ideology that music should somehow help stress socioeconomic equality. I am also discussing a specific type of politics: this goes with the idea that people should be concerned with their class interests (Carter 1996; Cowie 2004; Frank 2004). From that perspective it makes perfect sense for people who have “made it” in the music business to be concerned with singing about the luxuries which they enjoy from their fame and wealth. It also should mean that the vast majority of music listeners would want to listen to music that represents their own class interest.

I refer to popular music as (de)politicized because in taking politics out of music, it is being substituted with a covert type of politics. If everything is political, then the

absence of politics is always-already a political statement. First, it is encouraging society that not thinking of politics in everyday life is the norm for society, which helps to advance the current structure of the system; it reinforces the belief that things are the way they are because that is how they are supposed to be. Second, the presence of commodity fetishism in music videos and celebrity cameos reproduces the culture of consumption; “Commodity fetishism in this new stage of capitalism focuses not exclusively on the *product*, but rather on the *sign values* invested in the product as an object” (Luke 1989). People believe that their consumption actions are a way of expressing individualism, but that individualism is truly based on assimilation. As Michel de Certeau explains,

a rationalized, expansionist, centralized, spectacular and clamorous production is confronted by an entirely different kind of production, called “consumption” and characterized by its ruses, its fragmentation (the result of the circumstances), its poaching, its clandestine nature, its tireless but quiet activity, in short by its quasi-invisibility, since it shows itself not in its own products (where would it place them?) but in an art of using those imposed on it (de Certeau 1984 p.31).

This allows the ideology of consumption to reproduce itself because it is invisible to most consumers. Third, Individuals that buy into commercial culture help reproduce the inequalities of society by not adequately addressing the economic conditions that create social inequality. Progress is part of politics and commercialized culture’s failure to deal with issues of inequality does not allow for society to eliminate income gaps.

Hip hop is important here because as Robin D.G. Kelley explains, the whole point of hip hop is as an expression of personal experience located primarily among youth in inner-cities. From this perspective music is political because it creates a public sphere (Dewey 1991; Habermas 1989) where a discourse can exist that may run counter to mainstream media representations. For Tricia Rose,

Rap’s cultural politics lie in its lyrical expression, its articulation of communal knowledge, and in the context for its public reception. As is the case for cultural production in general, the politics of rap music involves the contestation over public space, the meanings, interpretations, and value of the lyrics and music, and the investment of cultural capital. In short, it is not just what you say, it is where you can say it, how others react to it, and whether you have the power to command access to public space (Rose 1996).

Artistic expression in music is a vital way of communicating political ideas of marginalized people and creates a space outside of the mainstream for discourse. Politicized music is that music that explicitly deals with the problems facing individuals and society.

RIAA

American society is designed around special interest groups. James Madison argued in the Federalist Papers that one of the only things inevitable about democracy was the formation of “factions.” The music industry is no different than any other large organization with its many representative factions within: RIAA, American Federation of Musicians (AFM), American Society of Composers, Authors and Publishers (ASCAP), etc. These groups often exist with their own competing interests

One group in particular, the RIAA, tries to assert its authority as *the* group that represents the entire music industry when it lobbies Congress. It is important to note that the RIAA regards itself as “the trade group that represents the U.S. recording industry” (www.riaa.com); this is of importance because it professes to represent the U.S. recording industry in its entirety including musicians. It is also clear that by “trade group” the RIAA is implying that it is a lobbying organization because Mitch Bainwol, Chairman and CEO of the RIAA, is credited on the website for his credentials as a top lobbyist. Prior to gaining his position with the RIAA, Bainwol had been a top GOP aide, moving from being Chief of Staff for Sen. Connie Mack 1988-1997 to being Senate Majority Leader Bill Frist’s Chief of Staff in 2003 (MacMillan 2003). However, I have been unable to find that Bainwol has experience playing a musical instrument, working anywhere in the music industry, or handling copyright law prior to his ascension as CEO of the RIAA.

Part of the RIAA’s mission statement says that “the RIAA works to protect intellectual property rights worldwide and the First Amendment rights of artists” (www.riaa.com), but this is only a partial truth. Record labels and artists have conflicting interests when it comes to the production of music. When artists sign record contracts, they sign away the rights to their music (Hull 2004); this takes away all rights of the artist to have free speech. For instance, if a band wants to play a charity benefit, the label will

usually only allow them to perform recorded songs if they get paid. Furthermore, artists are typically discouraged from speaking out against their record label, but the RIAA is not going to defend their First Amendment rights in that case. Issues of free speech and the internet will be dealt with in the fifth chapter.

According to William Domhoff (2006), we should expect to see overlap between powerful corporations and the board of directors of policy interest groups. The RIAA meets this paradigm by giving its most powerful members the most power on its board of directors. The members of the “Big Four” have a combined total of 14 members of the RIAA’s Board of Directors (<http://www.riaa.com/about/leadership/board.asp>); since there are only 27 members, they have an automatic majority on the board. Many of the other members of the Board of Directors are CEOs of subsidiary record labels owned by the “Big Four”². There is not one person included on the Board of Directors that is associated with musician’s interests. This demonstrates that the RIAA is only in line with the interests of the major record labels.

In direct contrast to the RIAA is the Future of Music Coalition (FMC) whose mission is:

to educate the media, policymakers, and the public about music/technology issues, while also bringing together diverse voices in an effort to come up with creative solutions to some of the challenges in this space. The FMC also aims to identify and promote innovative business models that will help musicians and citizens to benefit from new technologies (<http://www.futureofmusic.org/manifesto/>).

Its contention is that there must be a way to use new technologies to create income for the artist as opposed to trying to dismantle technological advances in the name of greater profits. There is a direct contradiction between the RIAA’s ability to represent the “Big Four” *and* musicians because “it is funded by, and represents the interests of, the major record companies - the same corporations traditionally known to be the primary exploiters of the musicians that the RIAA claims to represent” (from the FMC’s Manifest on its website). It is difficult to say that the RIAA can represent any interests outside of those record labels that seek to gain the largest profit margins.

² For more on the agglomeration and structure of the “Big Four” see All J. Scott’s “The Cultural Economy of Cities” Scott, Allen John. 2000. *The cultural economy of cities : essays on the geography of image-producing industries*. London ; Thousand Oaks, Calif.: SAGE Publications.

Overview of Chapters

The general (non-critical) public has a tendency to define music as “good” when it sells a large quantity of units, but part of selling a large quantity of units requires capital. Chapter 2 deals with a theoretical approach to the commodification of music. In a capitalist society there is no way for professional musicians to avoid making profit off of their art, but profits alone should not determine the quality of a song. At the same time, there has to be a balance between a market driven approach to quality and an elitist approach (i.e. only musical genre X is any good) because it is unfair to say that only certain individuals have the ability to know “good” music. The aesthetics of music is an important feature of how we can define the quality of music. This section aims at rethinking how we view musical products and their larger role in society.

Chapter 3 is a case study on how the processes of commercialization and commodification have (de)politicized hip hop music. Alan Light explains in “About a Salary or Reality?” (2004) that while the primary goal of rap is to entertain, “rap by definition has a political content; even when not explicitly issues-oriented, rap is about giving voice to a black community otherwise underrepresented, if not silent, in the mass media” (Light 2004 p.144). In *Hip Hop Matters: Politics, Pop Culture, and the Struggle for the Soul of a Movement* (2005), S. Craig Watkins develops a consciousness of why hip hop is a social/political force that must be acknowledged for its impact on American society today and how that will increase in the future. The commercializing forces have made it so that, in a post SoundScan era, hip hop is appealing to the largest audience possible: white America. In the process hip hop becomes (de)politicized as the politics of groups such as Public Enemy, dead prez and Mos Def do not appeal to as many listeners. This chapter demonstrates that the evolution of musical genres can be predicted as it gains popularity.

Technological advances shape the way we conceptualize the media that we consume. As these technologies change, the “Big Four” feels the necessity to protect its old interests instead of actively trying to develop the new technology. Chapter 4 develops a concept of Friedrich Kittler’s transmediation to follow music technology into the digital

age. It presents concepts such as Peer-to-Peer file sharing, online music stores and mp3 technology for definitional purposes.

In Chapter 5, I analyze why the RIAA is opposed to certain technologies discussed in Chapter 4 in order to make larger profits. The RIAA labels all individuals who download music as “criminal” because they are “pirating” the record labels’ music. This argument is made in defense of protecting the artists who create the music, when in reality, the record labels are only looking out for their own profit. Musicians have always been exploited as labor by the record labels and this has not changed with the current state of enforcing copyright law. The Digital Millennium Copyright Act (DMCA) was designed by the major record labels to limit digital copying; there are instances when musicians would like to be able to make their music available through the internet to listeners. The RIAA acts like a private police firm that ensures that copyright law is followed on the internet. It is, however, the independent artists who suffer the most as they are unable to get their music out to a broader audience with file-sharing capabilities.

Chapter 2: Commodification of Music

That catchy tune that you heard on the radio (and cannot get out of your head) is the product of a Fordist industrial process. This process makes the creation of music resemble the design and construction of a new car more than the practice of creating an aesthetic experience. Music can be seen as a form of entertainment, a form of communication, an art, a way to express feelings, and as a commodity. This last use of music is what concerns me here. While it may seem obvious that a person who has music as a profession would hope to have some economic gain out of his/her musical creation, profit is not what should drive musical (and as a corollary artistic) creation. There should be some line drawn between the artistic form of music and that which becomes purely a commodity.

Large record labels have monopolized markets so that their commodities maximize profits; “the music industry has grown into a tenacious corporate machine powered by a few key numbers” (Watkins 2005 p.36-37). Those “few key numbers” are the record sales, primarily from *Billboard*, that the “Big Four” keeps track of in order to tell who is on top. The key is that the four major record labels are the ones that hold the majority of the top spots on the *Billboard* charts every week; “From almost every perspective, the recording industry is in an oligopolistic state” (Hull 2004 p.121). The capital intensive production and distribution costs for selling an album are usually too high for independent record labels and independent artists to overcome. Monopolization has made it so that the “Big Four” can perfect a formula; even as music evolves, those four major record labels will remain on top.

As a founding text on the culture industry, Max Horkheimer and Theodor Adorno’s essay “The Culture Industry: Enlightenment as Mass Deception” from their book *Dialectic of Enlightenment* (1972) is a useful critique of how the culture industry works to degrade art so that the masses do not have to think. If music can be made in a formulaic way, then people become listeners with “no independent thinking” (Horkheimer and Adorno 1972 p.137). This is precisely what is taking place when you hear a “popular” song and you can sing along to it even though you have never heard the

song. Adorno calls this “the fundamental characteristic of popular music: standardization” (Adorno 1992 p.211).

The relevance of Horkheimer and Adorno’s essay remains important today because of its analysis of the formulaic attributes of “popular” music. If there is one thing common to all pop music, it is that all pop songs must follow a formula regardless of the song’s musical style; it is the formula that creates the melody that you cannot get out of your head and the rhythm that gets your head bobbing. The formula is what drives the capitalist consumption of music as a commodity. Just as quickly as the rhythm infects us and we feel the need to purchase that new catchy album, the rhythm of consumption takes control and introduces us to a new catchy album because the record labels recognize that there has to be a rhythm in their “strategy of desire” (Lefebvre 1984).

Neo-liberalism is the form of capitalism that is perceived as natural in American society today. In *Spaces of Global Capitalism* (2006), David Harvey shows that neo-liberalism has engulfed all concepts of freedom, liberty and property to the point that the mass of people believe that neo-liberalism is inseparable from the three. Harvey shows that the “neo-liberal attachment to the individual is allowed to trump any social democratic concern for equality, democracy and social solidarities” (Harvey 2006 p.51). Discourses on rights for the individual are aimed at the property rights of the individual; personal/civil rights are of little concern because law is presumed to give equal justice. The space of neo-liberalism does not require universal principles of rights. In turn there is an “accumulation by dispossession” which is the accumulation of wealth by some at the expense of others. In America, individualism is valued, so that people feel that capitalist consumption becomes a freedom where every citizen has a right to consume; if a country does not support this “right” to consume, it must not be democratic.

Capitalism invades every aspect of our lives as we are confronted by consumption at every moment, even during our leisure. By commodifying everything, including leisure, Arjun Appadurai explains that time becomes commodified:

‘Free’ time, whether for workers, professionals, or schoolchildren, is seen as quintessentially the time of consumption, and because discretionary consumption calls both for free time (time freed of commodified constraints) and free money, at least to some degree, consumption becomes a temporal marker of leisure, of time away from work (Appadurai 1996 p.79).

In American society people think about work when they are on vacation, they think about how limited their leisure time is, and they constantly consume when they are away from work. Industrialization, Adorno and Horkheimer note, continually recreates itself in the commodification of time,

By subordinating in the same way and to the same end all areas of intellectual creation, by occupying men's senses from the time they leave the factory in the evening to the time they clock in again the next morning with matter that bears the impress of the labor process they themselves have to sustain throughout the day, this subsumption mockingly satisfies the concept of a unified culture which the philosophers of personality contrasted with mass culture (Horkheimer and Adorno 1972 p.131).

Capitalism reproduces itself by the worker consuming either that which he/she produced or consuming what others produce and therefore creating the need for more labor.

Concepts of the aesthetic value of music fight against being pigeonholed in two competing forces in the "high/low" distinction of art (Jensen 2002). There is a need to be able to define "good" music without sinking into the pretentious idea on the one hand that only experts or connoisseurs can define what is "good" or on the other hand, allowing the market (and by association the "Big Four") to define "good" around record sales and radio "spins." Not all "popular" music is bad, and to that end, there must be a constructive view of music that attempts to assail these divisions by making all pop music "good" music.

In order to get a grasp on the overarching cultural theory dealing with music and its commodification, this chapter will provide a brief overview of the aspects of music's commodification that have to do with its overall (de)politicization. It will begin by placing "authenticity" in a context in which I will use the term throughout this thesis. This chapter will then provide an account of how capitalism is the main force creating music to make large profits for record labels. Next, I will explain the ironic position of musicians that have to make a living on their music and are willing to "sell-out" some aspects of their art in order to meet their basic needs. There is an ever-present debate about the aesthetic value of culture and I discuss this debate by reflecting on my personal distinctions between "good" and "bad" art. Copyright law enforcement has always been

problematic in the music industry and here I hope to explain the importance of licensing and publishing. The last section of this chapter introduces the impact that *Billboard* and SoundScan have had on record sales. This chapter's objective is to bring to light the theoretical framework of *why* the RIAA is concerned with limiting the broad music availability created by the internet.

Authenticity: Cotton-Eyed Joe

The “Big Four” strives to make music that is authentic because people only buy the music which they perceive to be “authentic.” I decided to subtitle this section of the paper “Cotton-Eyed Joe” because of the presence of the song, by that name, in American folk history. The Rednex, a Swedish band, recorded a version of the song in 1994 that was frequently played on MTV. In this case, the song was a standard authentic part of American folk music for over 100 years, a Swedish dance band transnationally adapts the song to what it sees as “authentic” American music (one which is mocking Americans, nonetheless, just look at their band name) and the song reemerges in a much different form than the original back in the United States. The Rednex do everything they can to prove their authenticity as country music performers in their fake biographies on the band's website (www.rednex.se), but it appears much more to be a mockery of Southern Americans. This is exactly what Richard Peterson is claiming to be the fabrication of authenticity in *Creating Country Music* (1997).

History is the driving force behind creating authentic identities in a number of disciplines, but the confusing part is distinguishing the authentic form. Authenticity provides the evidence that what a certain performer is creating is ‘real’ and that in turn is the evidence people use to purchase what the record labels are selling. While authenticity has at least six basic definitions, two are more important than the rest in the context of musical authenticity: “Credible in Current Context” and “Real, not Imitative” (Peterson 1997 p.209). Developing “popular” music requires looking at authenticity as:

a living art form [which] can have a number of meanings, but [*sic*], in popular culture, where experts and authorities do not control the particulars of the word's meaning, the definition centers on being *believable* relative to a more or less explicit model, and at the same time being *original*, that is not being an imitation of the model. Thus what is taken to be authentic does not remain static but is continually renewed

over the years. The changing meaning of authenticity is not random, but is renegotiated in a continual political struggle in which the goal of each contending interest is to naturalize a particular construction of authenticity (Peterson 1997 p.220).

This discussion of authenticity is broad and related to most genres/styles of music in the “popular” music industry. In the end, all musicians have are claims to authenticity and the word itself becomes problematic because it is difficult to define what is always-already authentic. Authenticity is often the basis around which popular images are created for marketing purposes.

Marketing the Image: Inducing Capitalist Consumption

The market is seen as the most democratic institution in the United States. People feel that they “vote” for what they want to watch on television by watching certain shows; consequently, network executives develop their next shows based on which shows get the highest ratings. The “Big Four” claims to act democratically through the use of the *Billboard* charts’ sales figures to “know” what people are listening to; the individual’s purchasing power then appears to be represented in record sales and radio “spins.” If something is selling, then the “Big Four’s” logic is that that must be what the people want to hear. Record labels do not acknowledge that the American public is only exposed to a small minority of the music in the United States (even less to music around the world) because it is the record labels who promote the music.

Marketing is one of the most vital components of selling music because the consumer must be produced to buy the music. Here is the first dilemma that the “Big Four” faces: in order to maximize profits they have to have the “next new thing,” but if they stray too far from what has been selling, they run the risk of not selling much of anything. This is where musical aesthetic creativity ceases and the pure commodification of music begins. If a record label takes a chance by investing in music that has not been tested, then they will lose money if their investment fails; however, if they do not make some attempt to encourage (slightly) new music, then they risk consumers becoming bored with what they produce. Dick Hebdige argues that to succeed in capitalist markets “the element of risk was to be eliminated through the preparation and control of the

market” (Hebdige 1988 p.93). Record companies “control” the risk of the market by barely changing what already sells and pouring a large portion of their profits into marketing.

One clear sign of the commodification of music is the development of MTV: is music television a new art form or is it just another way to advertise music? It seems to resemble closely what Adorno and Horkheimer called “*l’art pour l’art*, advertising for its own sake, a pure representation of social power” (Horkheimer and Adorno 1972 p.163). The music video is made to advertise the song and the artist/group that it presents, while at the same time advertising the fashion and life style that the video exposes and the products advertised in the commercials. MTV is the best advertising tool because “the circulation of the Image precedes the selling of the Thing” (Hebdige 1988 p.95), which means that by marketing the lifestyle of celebrities MTV is sure to sell everything that the celebrities have in the videos. A *Financial Times* article written November 4, 2006 features the embracement that MC/CEO Shawn “Jay-Z” Carter has had with marketing brands of champagne and a deal with Reebok “the first ever with a non-athlete” (Wilkinson 2006).

Henri Lefebvre explains that we live in a society where the only “freedom” that we possess is the “freedom” to consume in *Everyday Life in the Modern World* (1984). Obsolescence is the key to why songs only remain on the top of the *Billboard* charts for such short periods of time. That concept is what drives the “Bureaucratic Society of Controlled Consumption” because businesses keep statistics which

are part of the demography of objects and are correlated to the cost of production and profit; production-organizing offices know how to exploit them to reduce life-expectancy and accelerate the turnover of products and of capital (Lefebvre 1984 p.81).

People in society can never fully satisfy their needs and most consistently consume as part of what is mandated in capitalism. Social comedian Chris Rock summed up Lefebvre’s cycle of obsolescence best when he said,

That’s like Cadillac making a car that can last for fifty years . . . They ain’t gonna do that, ain’t no money in that and you know they can do it. They got metal on the space shuttle that can go around the moon and withstand temperatures of up to 15,000 degrees, but you mean to tell me you don’t

think they can make a Cadillac where the [sic] bumper don't fall off . . .
they can, but they won't! (Rock "Insurance" 1999)

While music cannot physically get worn out (music does not have a "bumper"), there is a tendency to "overplay" music on the radio, on TV, and everywhere one goes to the point where people never want to hear that music again. At that point some other song becomes popular, people go out and buy it, and that too becomes "overplayed." Ironically, most people are aware of this cycle; the "triumph of advertising in the culture industry is that consumers feel compelled to buy and use its products even though they see through them" (Horkheimer and Adorno 1972 p.167).

Capitalism relies on ever-expanding markets and one way to expand a market is to always frame products in a new way. Heritage tourism has grown out of the idea that Americans have become bored with "tropical tourism" and they want to experience new cultures (Boxill 2004; Scarpaci 2005). The capitalist economy has been the driving force behind creating new cultural forms as people begin to see music, television, literature and movies as a form of tourism. These new forms of "tourism" allow people to observe other cultures without leaving their home. Harvey explains:

The search for monopoly rents on the part of capital creates a premium on the commodification of phenomena that are in other respects unique, authentic and therefore non-replicable. Pillaging of cultural histories, the collection and exhibition of unique artifacts (museums of all sorts) and the marketing of places as somehow unique environments has in recent years become big business. But for this to occur entails the wholesale appropriation by capital of all manner of things which it has little or nothing to do with creating. Furthermore this appropriation carries over into the realms of individual creativity (consider how the music industry has pillaged regional traditions as well as new genres of music generated out of the conditions of daily life (such as hiphop and rap)) (Harvey 2006 p.92).

This voyeuristic approach to cultural tourism has interesting adaptations in popular music as what sells frequently feeds into stereotypes that consumers have of the commodified cultures. Craig Watkins shows that white teenagers' consumption of hip hop music has not resulted in less racism, "but, rather, a more complex expression of racism," namely, that it was more of a "strange form of cultural tourism for many young whites" (Watkins 2005 p.97). Music is "authentic" when consumers see it as such, not necessarily when it

is culturally recognized as authentic by its original culture. Old time music and its performers in the early 20th century, Richard Peterson explains, “were, for the most part, taken by the radio audiences and record buyers as bemusing novelties” (Peterson 1997 p.5). People buy music that represents their current views and record companies have no problem fabricating music that represents those views if it means making money. Taking risks is not something record labels want to do when they are marketing albums to sell over one million units; they want to make sure what they produce sells.

A well defined image for musicians can assure the sale of music by creating a desire among consumers to be like the celebrities they see on television. If a record company is smart, it will diversify its commodities by making clothing and other trendy products which people associate with music. The monopolistic tendencies of the major record labels in the “Big Four” are examples of how “popular” music goes beyond the realm of music to seek profits. Record labels can find musicians who are willing to be a part of this process because many musicians dream of acquiring fame and fortune.

Making music to make money

The opulence showcased on *MTV Cribs* and many “red carpet” awards shows convince people that the life of a musician is the life of a consumer’s dream; however, this picture of musician-celebrity is rare in reality (Madden 2004). Most musicians struggle to get by often having to sacrifice their artistic integrity while playing at weddings and bah/bar mitzvahs or playing their songs for change in seedy bars, while working as bartenders, waiters or waitresses to make enough money to pay rent. They frequently dream of artistic freedom and/or fame and fortune, but have no chance of experiencing this dream. These jobs that musicians hold to pay rent are rarely thought of as their career. Usually, asking a person “what do you do (for a job)?” implies “what do you do for a living?” but musicians will almost always reply “I’m a musician,” even if more than 90% of their income comes from a different job. Dreaming of gaining celebrity and wealth through being a musician is as unlikely as becoming an NBA star or the President of the United States.

It is not difficult to find musicians who will perform the music that the record labels want to produce because musicians need money to survive like everyone else. Just

as there are different ways to perceive of music, musicians play music for different reasons; the “complex motivations behind artistic creation include love of the beautiful, love of money, love of fame, personal arrogance, and inner compulsions” (Cowen 1998 p.15). Most musicians play music because it is what they like to do and if they can make some money from making music, they are even happier. Some musicians take artistic integrity to heart and have a difficult time making ends meet. Other highly skilled musicians do “session” work where they are paid by the hour to go into the studio and record other people’s music. While others make it “big” and end-up as the celebrity that people dream of being. With all of these different ways of perceiving being a musician as a job, how much should musicians get paid for their musical creations?

There is no clear answer to this question within a capitalist economy. One could argue for an economic system where everyone doing anything gets paid relatively the same, but that utopia does not exist in American Society. I do not wish to argue that those musicians who sell more do not deserve the money they make; instead, I envision a music “industry” where what sells is associated with what is “good” music (defined below). Musicians should be treated as more than labor because the creativity which they use to create music is not a reproducible/exchangeable skill (Florida 2004); without musicians there would be no music, but meanwhile musicians rarely profit from the sale of their albums³ (Gantz and Rochester 2005 p.85).

Government funding for the arts is difficult to obtain and some argue that it is a waste of tax money (Cowen 1998; Jensen 2002). In Tyler Cowen’s critique of government funding of the arts in favor of capitalist markets, *In Praise of Commercial Culture*, he argues that “artistic independence requires financial independence and a strong commercial market” (Cowen 1998 p.16). The first part of this statement could not be anymore right, while the latter part could not be anymore misguided. Musicians are not free to practice their art without having a way to support their lives, but he is arguing that the best way to be financially independent is to be financially dependent on a record label. Yes, this surely allows musicians to practice music as a profession, but it frequently

³ On a \$17 CD, a group/artist will make around \$2.04 with a decent contract. For a four person band that is \$0.51/member. If a band actually sells a considerable amount of CDs, then they may be able to pay back the money that they were fronted to record the album (Gantz and Rochester 2005 p.85). In other words, bands/artists are not making their money off of album sales.

forces them to create music at the whim of corporate executives. Throughout the music industry (no matter how small the label is) a non-independent musician will have to conform to some degree of commands from executives, producers, directors and technicians. This is hardly artistic independence.

Answering to people in a hierarchy is the exact opposite of being independent; as soon as a musician has to take orders with regards to making music, his/her artistic independence has ceased to exist. The problem with Cowen's logic is in his faith in the economy because he equates artistic freedom with making a product. Cowen sees freedom in having a record contract, but being bound to a contract does not allow freedom because it is then the musician's responsibility to do as the record executives ask as mandated by their contract. It is with the obligations of a contract that musicians become labor workers. Those musicians who work hard to make ends meet, but at the end of the day, make the music of which they choose, are the most artistically independent; they answer to no one in the name of gaining listeners. While the musician that makes money outside of his/her musical abilities does not get as much time to practice his/her craft, when he/she plays music it is what he/she wants to play. There are few musicians in the "popular" music industry who retain their artistic independence and the "financial independence" that Cowen speaks of actually makes musicians financially *dependent* on their record label.

Becoming the celebrity-musician frequently has nothing to do with talent, but has to do with creating the image for the total marketing phenomenon mentioned above. This is easy to see in television shows such as *American Idol* because to be the "American Idol" and win a recording contract, a performer must do more than sing well. Most highly skilled singers in America can sing better than any *American Idol* finalist or winner, but they are not given the chance to make it that far in the contest. The winners and finalists must have a certain image that includes their look, image, lack of a deviant past ("Idol Contestant Booted over Scandal" 4/1/2003), and ability to dance. To be an "American Idol" the person has to be the representation of the person that everyone wants to be and the irony is that that person is not always the best singer. The "Big Four" needs the next person that has the marketable total image to sell consumerism to America.

Aesthetic value

There are several prominent paradigms through which discourse occurs on cultural studies. One of the primary foci of the literature is on a dichotomy between “high” and “low” (mass) culture (Jensen 2002); “high” culture is focused on the aesthetic nature of art and culture, while “low” culture is that which is typically known as “pop,” “popular” or mass culture where the aesthetic qualities are simplified for mass consumption. My focus here will be on critiques of “low” culture and how music can be both aesthetically “good” while still appealing to the masses. There are scholars who support the idea of “pop” culture (Cowen 1998), but I find that their concepts degrade the idea of art. There is no logical reason why “high” art cannot appeal to the masses and why “low” art cannot be aesthetically valuable. This dichotomy between low/high arts must be eliminated in favor of something that can be more incorporative.

It is important to note that I am not arguing from the perspective that “high” culture is better than “low” culture. “The connoisseur and the expert are despised for their pretentious claim to know better than the others” (Horkheimer and Adorno 1972 p.134), Horkheimer and Adorno are correct in this statement and I feel that they tend to sound pretentious in their analysis of music. I think that music should be both aesthetically valuable and appealing to the masses. There is “good” pop music and the “popular” music industry must focus on that which does not sound like every other pop song.

Music listeners have a tendency to only appreciate music from their past as they grow older; however, we cannot fully remember the past because “the past is stored and interpreted by social institutions” (Halbwachs and Coser 1992 p.24). Someone might say “I like the ‘80s music,” but when he/she turns on the ‘80s radio station, he/she finds out that the music on that station never appealed to him/her. As people get older they tend to listen to music that they listened to in their youth because, ironically, that was when they were most affected by the “popular” music industry (Hebdige 1988). As people get older, they begin to realize with their “good sense” (Harvey 2006 p.84) that pop music is “bad,” but they tend to only realize that youth “popular” music is “bad” and begin to listen to other forms of commodified music marketed toward older generations (e.g. Smooth Jazz).

Joli Jensen argues in *Is Art Good for Us?* (2002) that too many people look for qualities in the arts that can cure social ills. She wants “us” to see art as something that is

good in and of itself from an “expressive perspective”(Jensen 2002 p.3). One of the primary discourses in contrast to Jensen’s view on art has been with an “instrumental perspective” of it; this explains that art has medicinal effects on society (frequently associated with the “Mozart effect”) (Jensen 2002 p.3). The instrumental view allows art to play an active role in society by making us smarter, eliminating crime, creating social justice and equality. Her contention is that art critics (primarily academics) do this in an unachievable manner because as “high art” begins to be accepted by the masses, she sees the critics begin to reject that art as mass culture. If Jensen would have looked at why art critics look at specific art forms and draw certain conclusions, she may have been able to see why they have an instrumental view of art.

In “On Popular Music” (1992) Theodor Adorno tries to go beyond the distinction between “high” and “low” art by using the terms “popular” and “serious.” He argues that the “division into the two spheres of music took place in Europe long before American popular music arose” (Adorno 1992 p.211). Essentially, Adorno is arguing for a form of music that makes people think and more importantly makes people think about politics. This is the direction that I think music should pursue and that does not mean that it needs to be overtly political. Horkheimer and Adorno saw fascism in the regimented nature of the culture industry as illustrated by the formulas that all popular music follows and they worried that what happened in Nazi Germany can happen in the United States, something that remains very relevant today.

Music can be political by expressing the realities of life without ever referring to politicians or political parties. It can be political by just making people think in a different way thereby conflicting with their ideas; new musical sounds can force individuals to rethink conventional wisdom. The act of rethinking conventional wisdom is a useful tool in the political realm because too often people are afraid of governmental change. New and different should not be equated with a scary unknown world; just because things in the world are constructed the way that they are does not mean that that is the way that they have to be. Music should encourage people to think about the world and the structure of society. The market should not dictate how we conceptualize of the quality of music. “Good” music should be conceived as that music which makes people think

“outside of the box” and/or about society in general, while “bad” music should be that which allows people to take the world at face value.

Licensing and Publishing

Copyright law in the United States was developed with the hope of protecting intellectual property rights. For musicians, the protection of their musical creations is important for their survival because if there is no way to protect their songs from being copied, then they have a limited way of making profit off of their music to survive⁴. Unfortunately, when the US government passed copyright legislation in 1909, it passed it without any mechanism to collect royalties from the reproduction or use of copyrighted material (Ryan 1985 p.14). This created a gap that needed to be filled in order for copyright law to have any meaning. The American Society of Composers, Authors and Publishers (ASCAP) was created in 1914 as an organization that enforces copyright legislation by forcing people who use music for public commercial use to pay a fee (Hull 2004; Ryan 1985). Copyright laws are important because “the person who [has] owned the copyright to a song [has] profited not just from the selling of sheet music, but also from each commercial use of the material” (Peterson 1997 p.39). ASCAP collects the fees from those who commercially use copyrighted music and distributes royalties to the composers, authors and publishers who created the music. Controversy has surrounded the way that ASCAP collects fees and distributes royalties since its inception (Ryan 1985).

John Ryan examines in *The Production of Culture in the Music Industry* (1985) why ASCAP was so controversial because it attempted to solidify its position as *the* performance rights society and as a result spent much of its early years in the US Supreme Court for acting as a monopoly. Accordingly, Broadcast Music, Incorporated (BMI) was created in 1939 as a combination of court cases and artists and broadcasters’ ill temperaments towards ASCAP reached a peak (Ryan 1985 p.83). Since then SESAC and SoundExchange have been created to further spread the task of royalty distribution.

What is most controversial about the licensing and publishing organizations is in the way that they pay royalties to their members. Ryan shows how during ASCAP’s

⁴ This will be addressed at length in Chapter 5.

beginnings, it frequently paid more royalties to the better established composers, authors and publishers than the artists that were being played the most (Ryan 1985). Today, the system works better, but now it is biased towards those artists who are being played the most. For example, a restaurant owner could insist on playing only one band's music and he/she never plays anything else in the restaurant. When the owner pays the ASCAP or BMI fee, that money goes into the pool of money that pays royalties. The royalties are then primarily determined by radio airplay and if the band that the restaurant owner only plays does not have much airplay, then the fee that the owner pays does not go to that band. This is further complicated by how bands get radio "spins."

"Payola" is the main system through which music hits the airwaves; "payola in the recording industry is paying a bribe to someone to perform or play a certain song or recording in the hope that the exposure will lead to increased sales" (Hull 2004 p.186). Among the problems with this system is the fact that this helps decide who gets paid for the public commercial performance of an artist's works and will lead to larger royalty payments. Tyler Cowen thinks that payola controversy is overstated because it "does not differ from the ordinary purchase of advertising time. Instead of hearing a jingle, we hear a song" (Cowen 1998 p.167). In Cowen's view, payola is just another form of marketing because people buy what they hear on the radio, which makes playing music on the radio a form of advertising. Once again those with capital have the ability to promote their music on a much larger scale and make more profits than independent artists.

Billboard and SoundScan

If the music industry is going to be even quasi-democratic, then it has to have a way for the people to vote. The main mechanism that the music industry has to "poll" its consumers (voters) is through the *Billboard* rankings. It is through *Billboard* that the term "Top 40" originated to represent the top 40 songs in the *Billboard* charts and as such, the most popular songs of the time. Popular music is defined by what sells the most and *Billboard* keeps track of what song has the most sales.

Billboard's listings of the top-selling albums and singles determine who is recognized as the industry's leading performers, which in turn impacts radio and video airplay, sales, industry accolades, and finally, of all things,

chart position. The *Billboard* charts, in short, have the power to make or break careers (Watkins 2005 p.36).

However, the methodology that *Billboard* has used has always been controversial. There have been changes made to the system but there remains an inherent problem with trying to quantify the top musical groups/artists by tracking record sales.

Billboard acts like a thermometer of what is “hot” in the music business; record labels use it to gauge what is selling, which then determines what they should produce⁵. This system encourages only incremental changes to the sound of pop music; “any additions to the well-proven culture inventory are too much of a speculation” (Horkheimer and Adorno 1972 p.134). This makes it nearly impossible for new genres/styles to enter the market.

The way that *Billboard* measures record sales is important to Craig Watkins in *Hip Hop Matters* (2005) because hip hop was frequently at the short end of the stick in music sales until *Billboard* changed its system to SoundScan. Before SoundScan, record stores reported record sales by filling out a weekly survey which detailed the albums that were their highest sellers. The problem with this system was that the record stores did not have to report actual record sales, store clerks reported their *perception* of what was selling the most;

the subjective nature of the method created an obvious incentive for the music companies to try to influence the reports. There was rampant suspicion that the charts were affected more by hype than actual sales and may not have represented an accurate account of what product stores were actually moving. Over the years there were numerous stories about how reps from the major labels doled out free concert tickets, special promotions, and other perks as a way to encourage the kind of over-reporting by stores that enhanced the profile and sales of the artists (Watkins 2005 p.36).

There was a definite need to take subjectivity away from ranking what was the highest selling music.

SoundScan was developed by Michael Shallet in 1989 to track record sales using Universal Product Code (UPC) to track sales (Hull 2004 p.199). It is with this method that tracking record sales went from a survey based system to a point-of-sale (POS) data

⁵ This exemplifies Lefebvre’s theory that is discussed on p.15-16 of this chapter.

system. The new SoundScan system has data open to the public for a fee that is accessible via the internet (www.soundscan.com).

Billboard finally put SoundScan into affect on May 25, 1991 and ever since this has had a huge impact on which music is considered “popular” (Watkins 2005). Major record labels immediately began claiming that the system was “not fair to new acts for which the labels desired to have a good chart performance” (Hull 2004 p.200). Independent labels faired the best, especially rap, dance and country labels because it turned out that they were selling more albums than what was previously thought based on the old survey system (Hull 2004; Watkins 2005). This in turn makes it so that those independent labels become desirable acquisitions for the major record labels; since record labels want to produce what sells, they are more inclined to produce music that has already proven that it can sell substantial albums. This is where the co-optation and commodification of new genres of music into the pop music industry begins.

Conclusion

It is important to note at this point that what I have laid out is the framework of *why* the RIAA would want to limit the decentralized distribution of music. Money is the most important factor for the RIAA as it tries maximizing profits for its most powerful members. The thesis will later look at *how* the RIAA suppresses musical progress by limiting cheap distribution methods. Whether or not the RIAA interferes with the production of music one thing remains constant: the commodification of music is a necessary evil in a capitalist system.

Record labels realize that the way to get people to purchase music relies “increasingly upon the regulation of desire” (Hebdige 1988 p.93). Producing music does not mean that there will be any consumption of music; to create consumption, the record labels have to convince people that they need to buy the latest-greatest album through marketing. Without some type of marketing, there would be a lot of music sitting on shelves (or on a mainframe computer) in record stores with no one listening to it. No musician wants their art to be ignored; marketing becomes a necessity.

Musicians have to eat, pay rent and buy the tools of their trade, but to do these things they have to make money for the product that they make. Whether that musician is

playing on a stage in front of 5 people in a seedy bar or at a football stadium in front of 95,000 people, each musician deserves to be compensated fairly and I do not profess to know how much they should be compensated for their art. The more important point here is that music cannot always be free and as long as people depend on music's performance, recording and sales to make a living, it will have to be commodified to some degree.

The distinction that I am making between "good" and "bad" music is not supposed to represent a concrete dichotomy similar to the one between "high" and "low" culture. Instead, I see the difference between "good" and "bad" music on a spectrum, where the individual consumer has the ability to subjectively choose what he/she feels is "good" music absent of focus groups and major marketing schemes; the music should be allowed to speak for itself. More importantly, I want "good" to not be synonymous with sales figures or some aesthetic judgment by pretentious connoisseurs. What I hope is clear at this point is that there are winners and losers in the music business and that the winners have a particular marketability to them.

The RIAA has a desire to make sure that all music that sells is from their top members. When the corporate Artist and Repertoire (A&R) departments decide which music they will produce, they are aware that what they want is a fabricated authenticity that appeals to the largest number of people. The third chapter of this thesis will demonstrate how record labels consciously craft an image of their performers. In a way, the major record labels see what Adorno and Horkheimer feared about the "cultural industry" (Horkheimer and Adorno 1972), but they embrace the formulaic nature of popular music as the foundation of an effective business model. The bottom line for music becomes that of making a profit at whatever cost, whether that profit comes in album sales or shoe endorsements. It is in this way that music is commodified at the cost of the subjection of artistic creativity in music.

Chapter 3: How did Hip Hop Die? The (de)Politicization and Formulation of a Genre

When Lenny Kravitz made the claim that “rock and roll is dead” (1995), he was not making the claim that rock and roll, as a style, ceased to exist; rather, he was making the claim that characteristics of rock and roll, as a genre, had been commercialized to the point where image displaced musical integrity. Rock and roll is still being recorded, performed, and sold worldwide twelve years after Kravitz wrote “Rock and Roll is Dead” (1995); however, the problems that Kravitz voiced in his song continue to exist today. Rock groups (all musicians in all musical styles) believe the story that they can achieve stardom from their roots of being a “garage band” and that from there their musical talent will lead them to be the group that other groups aspire to be. Unfortunately, commercial forces in rock and roll, for the most part, no longer allow this grassroots style⁶ way of being “discovered” because the developed rock and roll formula can be imitated by most talented musicians.

It is important to note here that this approach is that of a critical cultural theorist as noted in Chapter 1. Inherent in this argument is the idea that socioeconomic status should be linked to the politics re-presented in art (in this case specifically music). It is the role of art to fight back against societal norms and allow art consumers to critically engage with the sociopolitical system. This chapter directly confronts *why* the “Big Four” feels the need to (de)politicize⁷ music in order to sell it as a commodity to a larger audience. In arguing that music should be a platform for class-based discourse, this approach is a Marxian argument for socioeconomic equality. Furthermore, I am using the term “(de)politicize” because the process of depoliticization is also an act of politicization; for example, anti-capitalist messages in hip hop are replaced in mainstream popular rap with messages of commodity fetishism.

⁶ By grassroots style, I mean that the development of the style of music comes from the people up to the executive board of the music label because people were going to see this music performed and purchasing the music on local/street level (Melly 1970, Watkins 2005). This is juxtaposed against the trained musician who is considered “talented” (Frith 1996) and is hired to go into the studio and record a song for an artist (who may or may not be talented) that fits into the style that had been co-opted and commodified (see Chapter 2, and Shapter 2006).

⁷ For a definition of “political” see Chapter 1.

In order for a genre to die, the genre must have an essential existence on which it can be defined. Simon Frith explains that it “sometimes seems, indeed, as if a genre is only clearly defined (its secret revealed) at the moment when it ceases to exist, when it can no longer be exclusive” (Frith 1996 p.88). Genre labels serve to benefit the music industry by labeling music in clear distinct ways that help purchasers find the music that they like and help Artist and Repertoire (A&R) departments to figure out what music to produce (Frith 1996 p.86-87). It is difficult to label music until the music industry has defined a style of music by giving it a sales rack label; until that point that style appears to be a new adaptation of an old style. Labeling is a way of marketing music because people know which sales rack to look for specific music and which radio station to tune into; however, it also leads to the end of the genre’s original existence as the music is commodified and begins to ascribe a formula for how the music should sound. In this manner, genres become the formulas that represent a sound of music that previously existed and consumers have few alternatives to experience the original musical sound. “There is nothing left for the consumer to classify. Producers have done it for him” (Horkheimer and Adorno 1972 p.125).

Nasir “Nas” Jones has taken to the tradition of acting as genre coroner by outdoing Kravitz’s declaration of rock and roll’s death in a purely hip hop fashion. Where Kravitz asserted the death of rock and roll to the tune of an original rock song, Nas struck-out at hip hop by sampling the Iron Butterfly song "In-A-Gadda-Da-Vida" (1968), a psychedelic tripping hippie song frequently heard at proms, in his album’s title track “Hip Hop is Dead” (2006). In marking this transition, Nas has acknowledged that Frith’s theory, all-inclusive music destroys the soul of a genre, applies directly to the current state of hip hop. The primary path to gaining “street cred” (street credibility) in hip hop has been by knowing its history (Watkins 2005) something Nas explains in “Carry on Tradition” is lacking in hip hop’s state today. Ghostwriters⁸, such as Mad Skillz, have become increasingly prominent in the popular rap industry and this allows rapping to become a singing style that individuals can perform without any ability to write their own lyrics; lyrical originality has been one of the strongest claims to authenticity. As rapping

⁸ Ghostwriters are similar to commercial song writers because they write songs for other people to perform. Mad Skillz is an emcee who has made a living ghostwriting and has a song entitled “Ghostwriter” where he names the names in live performances whose music he has written.

has become an act that one can learn without having to learn to write lyrics, it has allowed any “wanna-be rapper,” with the right image, to go on to a successful music career.

Theodor Adorno and Max Horkheimer’s ground breaking critical view of the formulaic entrapments of popular music in "The Culture Industry: Enlightenment as Mass Deception" (1972) is important for understanding the depoliticization of hip hop music. As a commercial formula has grown to dominate the production process in hip hop, ideas critical of the system have been lost; Adorno and Horkheimer explain that the “development of the culture industry has led to the predominance of the effect, the obvious touch, and the technical detail over the work itself – which once expressed an idea, but was liquidated together with the idea” (Horkheimer and Adorno 1972 p.125). Music has been separated from political ideas because of a need to opiate the masses, but this has deeper uses than expressed political ideas because it is also prevalent in instrumental music (Adorno 1992). Freedom is found in an individual’s ability to think critically; art is one of the media that allow us to develop this skill. The formulaic nature of music helps to oppress the masses by not critically engaging them.

(De)politicizing hip hop is important for the “Big Four” because record labels are businesses that rely on maximizing profit (Hesmondhalgh 2002). Critically conscious lyrics about the disempowerment of African Americans and the oppressive nature of white power will not be appealing to the “Big Four’s” leadership or its number one consumer: white males. Tricia Rose explains that the political aspects of rap may be affronting to American society because:

Rap music is fundamentally linked to larger social constructions of black culture as an internal threat to dominant American culture and social order. Rap’s capacity as a form of testimony, as an articulation of a young black urban critical voice of social protest, has profound potential as a basis for a language of liberation (Rose 1996 p.253).

People with power are inherently in the interest of maintaining their power and, as a result, will network together to maintain power (Domhoff 2006). The nature of multinational corporations is, David Harvey explains, that “the need to perpetuate dominant power relations necessarily creates [*sic*] relations of oppression that thwart the drive towards individualized freedom” (Harvey 2006 p.29). Furthermore, it is frequently

the role of media technologies to maintain/perpetuate uneven power distributions between elites and the masses (Luke 1989).

The primary purpose of this chapter is to focus on how and why hip hop is formulated to limit its political attributes. It will explore why the leftist tilt contained in so-called “conscious rap” has had a difficult time in reaching mainstream audiences. Particularly, “a concentration on class struggle has been central to defining the cutting edge of rap music” (Boyd 2004 p.327), but that definition of class struggle has changed over time. Today’s expression of class struggle is created in the corporate boardroom and those struggles that are created tend to reinforce class oppression instead of opening a public sphere for individuals to become class conscious.

It is important to note at this point that people listening to music for entertainment is beyond the scope of my research. In saying that, I want to be clear that my view here is that music can be entertaining whether it is political or not. “The deception is not that the culture industry supplies amusement but that it ruins the fun by allowing business considerations to involve it in the ideological clichés of a culture in the process of self-liquidations” (Horkheimer and Adorno 1972 p.142). There also is not a clear distinction between what is political and what is apolitical and that is why I use the term (de)politicization; the music that is not political is always-already political because a lack of politics is actually demonstrating a type of politics. Nor will this analysis be concerned about issues of culture; it could be argued that the “Big Four” is having an adverse affect on culture, but that is beyond this scope. While these issues are highly important to understanding the full range of responses to why hip hop has died, they require their own studies to develop this theory fully. The focus here is to be able to explain why the “Big Four” commodifies and (de)politicizes hip hop music.

This chapter will proceed by first arguing that the “Big Four” initially had a difficult time co-opting (or did not have the need to co-opt) hip hop music. Second, I will explore the impact that SoundScan had on the knowledge of album market performance. Third, the chapter will explore the impact of the white consumer that the “Big Four” discovered after the implementation of SoundScan. The next section will deal with how commercialization and white consumption has limited the rhetorical impact of so-called “conscious rappers” in the popular music industry; this section will also provide two

examples of conscious rappers and why their music has not appealed to larger audiences. Finally, I will provide my concluding thoughts as to why the capitalist “American Dream” interferes with the development of oppositional forces by influencing individuals to do anything in their capacity to make money and advance in the market system.

Inception away from the Mainstream

As a folk music, hip hop was formed on street corners and at DJ block parties in urban centers. It took time for major record labels to create a formula for the style of music because it was so new and different from what was being produced at the time. Touré, a staff writer for *Rolling Stone* magazine, explains this problem in an interview on PBS’ *Frontline: The Way the Music Died*:

In the '80s, the record industry didn't really know how to market hip-hop, didn't know how to control it. So there really seemed to be [*sic*] this sort of creativity that was allowed. You could do whatever you wanted because it was, like, "We don't know why this succeeds and that doesn't, so y'all just, you know, record and go, and we'll figure it out later." But then by the late '80s, early '90s, it started to be, like, "Hey, we kind of know how to shape this and mold this." You really started getting really packaged and processed people and, you know, corporate things. And now you have-- you know, in the 2000s, you have lots of really sort of corporatized, slick things. And you know, the old-school fans are, like, "Eww. It's not hip-hop" (Kirk 2004).

Hip hop began exclusively as a representation of everyday life for some black youth in some cities as a way of expressing societal impressions.

Michael Eric Dyson describes in “The Culture of Hip-Hop” how hip hop has gone through various phases since the recording of “Rapper’s Delight” by the Sugarhill Gang (Dyson 2004p.61). While most people recognize that rapping as a vocal style goes back much further, Dyson uses “Rapper’s Delight” because it is considered the first hip hop song to be commercially recorded; however, it is important to note that “historians and cultural critics trace it back to the early and middle 1970s, back to a time and place affectionately known as the ‘Boogie Down Bronx’” (Watkins 2005 p.9). Central to hip hop prior to “Rapper’s Delight” (and ever since) has been the recording and distribution of mixed tapes (Harrison 2006). “As it evolved,” Dyson explains, “rap began to describe and analyze the social, economic and political factors that led to its emergence and

development: drug addiction, police brutality, teen pregnancy, and various forms of material deprivation” (Dyson 2004 p.61). Hip hop began as a discursive form of expression that helped deal with the harsh realities of urban plight in the 1970s that only increased with Reaganism in the 1980s.

Part of the cause of urban plight in the 1970s and 1980s was caused by a white conservative “backlash” movement against the New Deal programs of the 1930s, the Civil Rights Movement and the Great Society programs of the 1960s (Carter 1996; Cowie 2004). This situation was created as social welfare programs became politically associated with African American poverty and the “War on Drugs” became a way to imprison young African American men (Kelley 1996). Problems in urban centers became explicitly linked to changes made as a result of the Civil Rights Movement by social conservatives. The result has been the re-empowerment of conservatives (Republicans in particular), with the core power being neo-conservatives who wish to take American Society back to an idealized past that never qualitatively existed in America as a way of gaining power (Frank 2004; Luke 1989). What is important to note here is that the white backlash was not only on Civil Rights programs; it has been a movement that has changed the “War on Poverty” to a war on the poor (Carter 1996; Cowie 2004).

A concept of democracy has to be much deeper than just the state and must fully incorporate the concepts of civil society and the public sphere (Dewey 1991). In *The Public and Its Problems*(1991), John Dewey explains that the people must be able to express themselves through dialogue in order for a society to progress forward; “The idea of democracy is a wider and fuller idea than can be exemplified in the state even at its best” (Dewey 1991 p.143). Hip hop operated in the 1970s and 1980s as a form of discourse in the public sphere that gave some urban black youth the opportunity to dialogically engage the realities even though their everyday life was neglected and abused by institutional state power. While hip hop music has been “first and foremost” about having fun, Alan Light explains that “rap by definition has a political content; even when not explicitly issues oriented, rap is about giving voice to a black community otherwise underrepresented, if not silent, in the mass media” (Light 2004 p.144). It is in this way that expression in hip hop has become a way of communicating in the public sphere.

As hip hop began to be recorded and distributed over a larger geographic region, it began to express an alternative view of the United States in larger networks of African American culture. Some artists, such as Arrested Development, began to focus on Afrocentrism (Boyd 2004 p.328); while others such as Public Enemy began to focus on black power. Chuck D of Public Enemy sees rap's role as the "black CNN," a way of creating an alternative representation to what mainstream mass media consider important. Inherent in this role as the "black CNN" was an implication that rap music was outside of the mainstream media. Without corporate A&R departments to determine what sells, hip hop artists were free to make political statements on records prior to the widespread commodification and popularization of hip hop after the implementation of SoundScan. Being "independent" or part of an "independent label" allows an artist room to choose the music and the lyrical content that he/she feels is expressive; this allows the public/consumer to determine what he/she will chose to purchase. It was not long, however, before the "Big Four" co-opted and commodified hip hop and it quit being a place of public discourse. Jürgen Habermas' concern that "the world fashioned by the mass media is a public sphere in appearance only" (Habermas 1989 p.171) came to realization when the major record labels discovered the market potential of hip hop.

SoundScan

As discussed in Chapter 2, determining the top selling albums appeared more as an oligopolistic racket more than a democratic representation of market forces. SoundScan revolutionized tallying record sales from a system of unsubstantiated surveys in a very limited number of places to a barcode computer system that automatically tallies sales in a wider, but still limited number of places (Hull 2004; Sernoe 2005; Watkins 2005). Prior to SoundScan, record executives knew that hip hop albums were selling because groups such as the Beastie Boys, Run DMC and Public Enemy and artists such as LL Cool J were already selling large quantities of records, but they were on small independent record labels, such as Def Jam. With the old system in place, artists/groups that had contracts with the major record labels always appeared to sell more albums.

When SoundScan made its debut in May of 1991, hip hop and country albums were in fact selling more in the market share than had been previously believed to be the

case (Sernoe 2005; Watkins 2005). Jim Sernoe used *Billboard's* year-end music charts for the 10 years prior to SoundScan and the 10 years following its implementation in “‘Now We’re on the Top, Top of the Pops’: The Performance of ‘Non-Mainstream’ Albums Charts, 1981-2001” (Sernoe 2005). Sernoe was concerned that not many “studies have looked at the chart performance of marginalized groups” (Sernoe 2005 p.641). Instead of looking strictly at sales figures, he decided to look at chart performance over the course of each year by assigning certain point values to year-end top 100 pop album chart positions and adding all of the points in the top 100 by genre.

Sernoe demonstrates that the average number of points per year had increased for hip hop from 167.7 pre-SoundScan to 650.5 post- SoundScan (Sernoe 2005 p.647). Hip hop along with latin, country and metal/hard rock all showed a considerable rise in chart performance over the 20 year period. However, Sernoe believes that “rap/hip-hop’s increases can probably be linked more strongly with changing public tastes . . . the genre’s ascent began in 1987, before SoundScan, unlike country’s ascent, which coincided with the advent of SoundScan” (Sernoe 2005 p.658). This is a valid argument, but I feel that it falls short of truly explaining the explosion of hip hop. The first time that Sernoe demonstrates that hip hop made the *Billboard* top 100 year-end charts was 1985, so it can be expected that hip hop would grow when also considering that “Rapper’s Delight” was recorded in 1979. He also explains that the Beastie Boys reached number 3 in the 1987 charts, but many people in hip hop considered the Beastie Boys “outsiders” (Light 2004) and part of their success could have been attributed to their cross-over onto rock stations.

If we look further into the rise of hip hop, the growth that Sernoe explains may not hold when looking at the contextual signs of hip hop following the implementation of SoundScan. For instance, Sernoe explains that “In addition to the Beastie Boys, Snoop Doggy Dogg ended the year in the No. 3 position with *Doggy Style* in 1994, as did Eminem with *The Marshall Mathers LP* in 2001” (Sernoe 2005 p.656); however, two out of those three albums were by white MCs, a group of people that have been a minority in hip hop. It is also after the implementation of SoundScan that “gangsta” rap began to reach commercial viability and hip hop began to be co-opted and commodified by the “Big Four” to be marketed to white suburbia as a “strange form of cultural tourism for

many young whites” (Watkins 2005 p.97). Post-SoundScan is when the major record labels began to purchase all of the independent hip hop labels and create the “pop” formulas that Adorno saw as fascist. Furthermore, just ranking “hip hop” albums in *Billboard’s* top 100 year-end charts does not fully explain the impact that the genre had on other genres and commercial culture as a whole; other genres began ascribing musical attributes associated with hip hop and commercial culture began using other aspects (i.e. break dancing and graffiti). A contextual approach must be analyzed to fill in Sernoe’s approach to the growth of hip hop in order to see how it has been signified as a commodity.

Musicians have no choice but to be commodified in some manner under our current economic system, if musicians/artists are to earn enough money off of performing to make performance their full-time occupation (see Chapter 2). What Michael Shalett started hoping to change the way the music industry measured album performance (Watkins 2005 p.33), has resulted in a new system that the major record labels can use to help market their products. SoundScan’s reworking of the methodological practice to measure the top performing albums differentiates the point where hip hop goes from being an artistic/cultural form to being a commodity co-opted by the “Big Four” for capitalistic consumption. It is this post-SoundScan era that must be analyzed to fully understand the (de)politicization of hip hop music.

The Impact of White Consumers

The development of hip hop as a powerful commercial success could not be discussed without addressing white, primarily teenage, male consumers. “Big Four” executives are determined to sell the most albums as possible, which involves marketing music towards the widest possible demographics. According to 2000 US Census Data, roughly 75.1% of the United States population was white while only slightly more than 12.3% was black or African-American in the year 2000. For a major record label it would make no economic sense to produce albums that would appeal to a primarily black audience if they are trying to maximize profits. “A style might be called artificial which is imposed from without on the refractory impulses of a form” (Horkheimer and Adorno

1972 p.129) The resultant music becomes less the “black CNN” and more of a formulated consumption of time as Adorno and Horkheimer have explained.

David Samuels discusses the impact of white audiences on rap music in “The Rap on Rap: The ‘Black Music’ that Isn’t Either” (2004). Samuels shows the irony of the white consumer in two ways: (1) “although rap is still proportionally more popular among blacks, its primary audience is white and lives in the suburbs” and (2) “the more rappers were packaged as violent black criminals, the bigger their white audiences became” (Samuels 2004 p.147). A&R employees recognize and exploit this irony with little concern for the original hip hop audience. Following this logic, one can imagine hip hop with an almost completely white audience following a similar pattern to the co-optation of rock and roll by whites.

What is important here is that many white consumers view hip hop as an anthropological look into the lives of African-Americans, which recording companies exploit. Gangsta rap in particular “attracts listeners for whom the ghetto is a place of adventure, unbridled violence, and erotic fantasy, or an imaginary alternative to suburban boredom” (Kelley 1996 p.122). If whites are consuming black music, one would expect that to be a sign of declining racism, but Samuels states that the “ways in which rap has been consumed and popularized speak not of cross-cultural understanding, musical or otherwise, but of voyeurism and tolerance of racism in which black and white are both complicit” (Samuels 2004 p.153). Anthony Kwame Harrison explains that three dominant tropes grew out of the late 1980s and these “distinct yet at times coexisting movements in hip hop authentication have dominated [hip hop’s] history: Afrocentricity, ghettocentricity, and authentication through ostentatious displays of consumption (a.k.a. *bling bling*)” (Harrison 2006 p.287). Businesses want to maximize their profits, so the white consumer’s tastes are allowed to dominate markets as they always have controlled markets. This in turn allows white consumers to become the signifiers of hip hop. White consumption exiled themes of Afrocentricity to the underground scene while “gangsta rap (the most popular form of ghettocentricity) and *bling bling* rap reflected commercial hip hop’s movement towards more mainstream media representations of violent criminality and wealth accumulation” (Harrison 2006 p.287). Mainstream representations of hip hop have grown to reinforce the capitalist mentality that produces it.

Street cred is one of the defining aspects of hip hop; not everyone has the right or privilege to be “in” hip hop because the authenticity of those in the movement is directly tied to the socioeconomic, racial, and relational (those people that a person has contact with) characteristics of the individual. For anyone to be accepted within the movement, they must show that they have an understanding of the roots of hip hop (Light 2004; Samuels 2004)⁹. Proving a person’s authenticity was one way that gangsta rap made vast record sales. In some cases, record labels have actually marketed a rapper’s criminal record to prove that that MC is authentic (Watkins 2005 p.103). One way to build a reputation (rep), outside of gangsta rap, was to battle other MCs or DJs and therefore show who has more talent (Watkins 2005 p.13). Racial undertones tend to be a driving force behind perceptions of hip hop even though Watkins shows that hip hop is multicultural (Watkins 2005 p.150). Authenticity claims are a way that the signified try to express their position as a form of agency, but in effect reestablish their selves as the signified.

The view of hip hop that most Americans have is the one driven by the forces of the popular culture industry. This is a view that is incongruent with the reality of the way hip hop was created. After *Billboard* began measuring record sales with SoundScan (Sernoe 2005), it became apparent not only that hip hop album sales were a considerable amount of the market, but also that the primary consumers of hip hop were white teenagers (Sernoe 2005; Watkins 2005). As Watkins notes, “corporate hip hop, though few would admit it, was manufactured first and foremost with young white consumers in mind” (Watkins 2005 p.96). Because of the sheer numbers of sales to white youths, the recording industry realized that they could market to the stereotypes of whites and sell more albums than if “conscious” or black power hip hop were produced. While there are dimensions of hip hop that could be used as ways to overcome racism, those avenues have been mostly overlooked for a stereotypical representation of blacks. Record companies take what sells at the expense of racial justice.

Economists tend to avoid the idea that these representations are anything more than market choices by consumers; producers do not want to make anything that will not sell, so they have to actively produce those things that consumers are buying. Tyler

⁹ Similarities can be seen across genres in rock, punk, R&B and country, too.

Cowen, an Economist at George Mason University argues in *In Praise of Commercial Culture* (1998) that cultural theorists are inherently against commercial (pop) culture. The problem with this argument is that it does not address why most cultural theorists are cultural theorists: to bring culture back into pop culture. Cowen demonstrates that he is completely unaware of the impact of white consumers because when he is discussing rap music he says, “most of today’s ‘popular’ music (a misleading term) is a highly refined product that targets specialized minorities” (Cowen 1998 p.172). By not being aware of the impact of the white consumer, he is not only generalizing about a certain genre’s demographics, but he is also failing to see why the market is so misleading in describing culture. A further testament to Cowen’s lack of understanding of cultural criticism is in his distinction between “Hard and Soft Rap” (Cowen 1998 p.175), a distinction not evident in hip hop literature; this distinction is inadequate because in it Public Enemy and Dr. Dre both end up being “hard” rappers, while the members of Public Enemy (a product of Long Island, New York) are not considered “suburban rappers.” This is more generally a problem with economists trying to define issues in the cultural industry.

Some who believe in the “democratic” nature of the market may argue that white pop music consumers are buying the exact same music that black consumers are buying and that defines the music’s authenticity (Cowen 1998). They argue that if music is popular among African Americans in inner-cities, then it must neither be stereotypical nor alienating because it is what is listened to on the streets. However, this argument seems to exemplify what Adorno and Horkheimer are arguing that the culture “industry submits to the vote which it has itself inspired” (Horkheimer and Adorno 1972 p.134). Everyone is subject to the power of the music industry. Co-optation makes it so that a particular genre loses whatever original authenticity claims it originally possessed and the new form of the genre is marketed in the popular music industry. Since most people do not critically engage the music that they consume, they buy the music that they are “supposed” to buy because it is defined as “popular” by the popular music industry. The conglomeration that has been taking place across culture industries has made it so that the signifiers in one culture industry, which help define what is “in” in another culture industry, are owned by the same corporation (Hesmondhalgh 2002); for example, Universal Music Group (UMG) owns Def Jam Records and is conglomerated with

Universal Studios (which is partners with NBC), by association and ownership it would not be surprising to see Jay Leno talking about how much he likes the newest 50cent album.

Where hip hop first opened up the public sphere for dialogue in urban areas across the United States, its co-optation has not only closed most of those spaces, but has created negative discourse in the news media. While white consumers have had a large impact on the degradation of hip hop, that is not to say that white people should no longer consume hip hop. On the contrary, all I am arguing is that market forces should no longer play a role in determining what music should be produced and promoted (see Chapter 2); the music industry has worked much more equitably when artists/groups are chosen for record contracts based on stage/local sales performance (Shapter 2006). If one of the best performers in hip hop happened to be a Black Panther, advocating black power or speaking of the problems of white power, it is unlikely that as many white consumers would be interested in the music. It is much easier for most white consumers to purchase music that fits their stereotypes, than for them to be exposed to a new way of thinking. One of the final public spheres left for political discourse in hip hop is within underground or “conscious” hip hop.

Silencing the “Conscious Rapper”

At this point it is important to address the question of whether or not a political hip hop aesthetic exists. This is no doubt an issue addressed by any fan, musician, producer or critic discussing genres of music and will only have a clear answer when it is no longer worth arguing (Frith 1996). Part of the irony of the death of hip hop is in the linguistic distinction between rap as it has been popularly commercially signified and the idea of “conscious” rap; this distinction is to say that there is something fundamentally wrong with expressing left leaning political ideology within hip hop music. “Overall, the message tends to portray, in vivid and urgent terms, the contours of existing social breakdown, and in the best of cases may offer a vision of a new and more just way of life” (Allen 1996 p.160). Historically, the exclusion of politics from the main hip hop narrative does not seem to exist as some of the best known hip hop artists were highly political; for example, KRS-One, Afrika Bambaataa, Public Enemy, De La Soul and

Arrested Development were around pre-SoundScan and were not labeled any different than hip hop. What caused this segmentation off of conscious rap from its more mainstream counterpart? There are two dominant explanations for this division: first, many white consumers do not necessarily want to see an alternative to their stereotypical narratives of African Americans; second, business executives do not want to promote the progressive politics (which are frequently Marxian) in conscious hip hop because that could disturb the capitalist economic, sexist, racist system from which they have benefited; “there is the agreement—or at least the determination—of all executive authorities not to produce or sanction anything that in any way differs from their own rules, their own ideas about consumers, or above all themselves” (Horkheimer and Adorno 1972 p.122). A different picture of the world has the potential to undermine the power of the “Big Four” and corporations in general.

The importance of this division between political music and apolitical music is a central theme in all music that is commodified because the theory on the culture industry that Adorno and Horkheimer developed in 1944 of an all encompassing consumption machine has come to a realization; they could not have imagined how powerful the advent of MTV and the internet would be for this process. Totalization and conglomeration within the popular culture industry has more or less stifled political discourse. Todd Boyd explains this dilemma,

Rap represents the emotional range of urban, mostly male existence. At the same time, the commodifying impulses of the music industry have opened a space for selling cultural products that in their very construction undermine the structure that distributes them. It is well known that rap’s massive popular audience consists of dominant and marginal audiences. Nor is it a revelation that the capitalistic courting of this massive audience at some level solidifies the music’s political message. However, there is a point at which radical political discourse meets the demands of the marketplace and the two merge. The space between the points where radical political discourse can critique dominant culture and dominant culture becomes financially viable through the selling of this contrary discourse is the only available space for a reasoned understanding of contemporary political culture (Boyd 2004 p.327).

Hip hop, in and of itself, questions the institutional forces that both produce and consume it because of its marginalized position in society.

Gangsta rap was originally one of the most potent forms of political rap in its initial phase prior to its co-optation. In “Kickin’ Reality, Kick Ballistics: gangsta rap and postindustrial Los Angeles,” Robin D.G. Kelly demonstrates that gangsta rappers construct narratives about police repression, economic exploitation and misrepresentation by the media in order to deal with the harsh realities of plighted inner-cities (1996). For instance, Tupac Shakur’s politics were a by-product of his mother’s participation in the Black Panther Party and his involvement in gangs and gangsta rap was a direct threat to the status-quo¹⁰. Today, gangsta rap has become so nihilistic for the sake of being nihilistic because “gangsta rap has become so formulaic that capturing even a modicum of reality no longer seems to be a priority” (Kelley 1996 p.147). Corporations recognize the profitability of gangsta rap and the strength of its lyrics at the same time. It is for this reason that there is such a strong desire to sanitize rap’s lyrical recognition of society’s problems while retaining its economic prowess.

Record executives have to work hard to reign in the politics of hip hop because 1) they do not fully understand the music and 2) what they do understand of it, they do not like. What it took for hip hop to become of concern to record executives was the raw numbers provided by SoundScan. As Watkins explains,

While it is true that most culture industry executives neither understood nor respected hip hop, it is also true that they could not ignore the sales data SoundScan provided. In an industry that had long sold its soul to the guardians of capitalism, the commercial compulsions that operate among culture industry executives are a powerful force. In reality, only something as authoritative and compelling as the story SoundScan began telling could triumph over the racial inhibitions and cultural antagonisms that marked rap as a renegade genre. Though they still harbored ill feelings toward the genre, industry executives could no longer dismiss the huge financial payoff it offered (Watkins 2005 p.41-42).

“Big Four” executives are primarily concerned about the “Benjamins” (money) and will do almost anything to increase profits. The goal then becomes producing and marketing hip hop in a non-threatening way.

The involvement of “Big Four” executives led to the creation and commodification of the “authentic” hip hop image that eventually forced conscious rap

¹⁰ This is one reason why so many people feel that Tupac Shakur’s death was the result of a government assassination.

underground. The image that ended up dominating the market was both the “gangsta” and the commodity fetishism found in *bling bling* rap (Boyd 2004; Harrison 2006; Watkins 2005). Afrocentrism as an image of hip hop lost its significance when the Eurocentrism of big business signified hip hop.

Interestingly enough, one of the forces that has kept conscious rap alive is white consumption (Dowdy 2007; Swedenburg 2004). Many artists only half-jokingly complain that they would not be making music if it was not for white consumers, as dead prez mentions in Byron Hurt’s documentary “Hip-Hop: Beyond Beats and Rhymes” (2006). Or when Common mentions in The Roots’ “Act Too (The Love of My Life),” “live and direct when we perform/It's just coffee shop chicks and white dudes.” The underground hip hop scene is prospering at the Cat’s Cradle in Carrboro, NC, but in Michael Dowdy’s case study of hip hop shows there, he notes that the audience is predominately white (Dowdy 2007). These white consumers actively accept the politics found in this underground division of hip hop, which separates them from their pop culture consuming counterparts.

At this point it is important to outline some of the content found in the lyrics and actions of several prominent conscious emcees. While this section is limited in scope, I feel that it represents the concepts of how hip hop has been commodified and (de)politicized that I have been discussing up to this point. This section will not explore those hip hop artists who are mainstream and are deficient of the political content that I have been exploring. The artists/groups that I will discuss are first the group dead prez and second, the emcee Mos Def.

dead prez

Beginning with dead prez is important because the politics of this group are some of the most powerful politics in hip hop today. They follow closely in the tradition of Public Enemy, a group which Mark Dery refers to as the “best known and best-selling” of the radical rap groups and “the Black Panthers of rap” (Dery 2004 p.408). dead prez’s power is in their deconstruction of everyday life in America and how capitalism is the white man’s tool of oppression, which is explicitly linked to the Black Panther Party. With album titles like “Lets Get Free,” “Get Free or Die Trying” (a response to 50 cent’s

album “Get Rich or Die Trying”), and “Revolutionary but Gangsta,” dead prez is advertising itself as explicitly against the system.

The song “Hip-Hop” takes aim at the two main blockages that create the (de)politicization of hip hop: the record executives who produce commodified hip hop and primarily, the emcees who allow for their own exploitation. For dead prez, emcees who rap about what record executives want to hear are “liars” and the focus is on “keepin’ it real”:

In the real world; these just people with ideas
They just like me and you when the smoke and camera disappear
Against the real world (world)
It's bigger than all these fake-ass records
When po' folks got the millions and my woman's disrespected
If you check 1-2, my word of advice to you is just relax
Just do what you got to do; if that don't work, then kick the facts
If you a fighter, rider, biter, flame-ignitor, crowd-exciter
Or you wanna just get high, then just say it
But then if you a liar-liar, pants on fire, wolf-crier, agent with a wire
I'm gon' know it when I play it (dead prez 2000).

Every emcee should have agency to express their own voice, but dead prez wants commercial rappers to know that if they are fake with their lyrics, people will know it.

More importantly, dead prez is trying to bring awareness of the system to their listeners by writing songs that explain the workings of institutions. In “They Schools” dead prez explains how public schools are designed to teach the “American Dream,” only teach a Eurocentric curriculum, and form an integral part of the system of oppression. “Police State” gives a working definition of “the state” and proceeds to explain that we are watched at every moment society similar to a “Panopticon” (Foucault 1977). Their songs on “Lets Get Free” are also balanced by songs such as “Mind Sex” a song that talks about how conversation and intellectual intimacy is more important than physical sex; “Be Healthy” describes how living a healthy vegetarian life is more important than wealth; “Discipline” discusses how being disciplined in life can help one to succeed. The lyrics and ideas expressed by dead prez confront the dominant tropes that signify African Americans in popular culture and the economic system that keeps millions of people oppressed.

Mos Def

Arguably one of the most political emcees that gets considerable visibility, Mos Def's (real name Dante Smith) lyrics are not as revolutionary as dead prez's, but he is not afraid to expose the corruption of people in power. In August of 2006 Mos Def made news for being arrested for performing a song outside of MTV's Video Music Awards (VMAs) show at Radio City Music Hall (Welte 2006). The song that Mos Def was slighted from performing at the VMAs was an indictment of the Bush Administration's handling of Hurricane Katrina's clean-up effort entitled "Dollar Day (Katrina Clap)" (2006). His impromptu performance of the song on the back of a flatbed truck was at first permitted when his entourage claimed to have a permit to perform; however, Mos Def was arrested after slightly more than one minute into the song (Firebrand 2006). After he was arrested and taken to the police station Mos Def was given a summons for performing without a permit. The YouTube video

(<http://www.youtube.com/watch?v=m6-LgAfRtEs&mode=related&search=>)

demonstrates how being politically aware in hip hop can result in excessive police force¹¹ for expressing an opinion that can be subversive to the current political system.

While Mos Def has done moderately well with *Black on Both Sides* getting certified "Gold" by the RIAA and three albums reaching at least as high as the top 25 on the *Billboard* charts for a short period, he has not reached pop-stardom¹². His first major release with Talib Kweli, *Black Star*, reached #53 on the *Billboard 200*. *Black Star* is a notable allusion because of Marcus Garvey's shipping line which he hoped would ultimately end the African Diaspora by taking Africans back to Africa. In that capacity *Black Star* is definitively Afro-centric with lyrical content in its songs that strive to redefine hip hop. So while Mos Def has gained moderate success, his political ideology has kept him from being one of the performers at the VMAs and must retreat to passive resistance outside to get his message heard.

¹¹ It would be difficult to imagine Brittany Spears or Justin Timberlake being physically arrested for performing without a permit.

¹² This is demonstrated by the fact that the mainstream news media more or less ignored Mos Def's arrest. If he was a bigger star, then the video would have been constantly on the cable news channels and pictures would be all over the media.

Conclusion

Commodifying processes have led to the destruction of mainstream political messages in hip hop. Talib Kweli (one of the so-called “conscious rappers”) sums up the death of hip hop as a neatly dichotomous division: “Nowadays rap artists coming half-hearted/Commercial like pop, or underground like black markets” (“Too Late” 2006). SoundScan demonstrated the economic value of producing popularized hip hop, but it also demonstrated how to market the music to white consumers. It is in the voyeuristic consumption of hip hop music by white consumers that has led to the destruction of Afro-centric content in popular rap music. Ironically, it is also the large contingent of seemingly progressive white consumers (Dowdy 2007) that has led to the success of conscious rap in the underground scene and the college circuit after the separation of conscious rap from other rap. By not giving conscious rappers the same mainstream media attention as “popular” rappers receive, the political message of these individuals can be almost entirely ignored.

When people say that “hip hop is dead” (a statement expressed by many more than just Nas), they express as many reasons for hip hop’s death as when they define what “is” hip hop. Mainstream hip hop killed hip hop’s capacity to express anti-systemic political messages to society. The public sphere can only be an effective space if ideas are permitted to be free even with the opposition of the capitalist system that produces it. “Moreover, because the medium of rap—its production and distribution—is filtered through the corporate pipeline, it is to be expected and lamented that market forces will play a decisive role in shaping and propagating the message itself” (Allen 1996 p.160). As long as the current state of the music industry fails to incorporate political discussion in its music, people must seek out new technologies to circumvent the power of the “Big Four.” Hip hop as a political force will continue to struggle until people can convince record executives that they no longer want to hear “whitewashed” (Gabriel 1998) music that does not represent the reality of American society.

At a certain level this still does not answer one fundamental question: why do so many MCs subject themselves to the image that corporate America and white America have of African Americans? In the documentary, “Hip-Hop: Beyond Beats & Rhymes” (2006), filmmaker Byron Hurt poses this question to some aspiring MCs on the street

outside of a “Hip Hop Summit” sponsored by Clear Channel. After the MCs had just proudly rhymed songs about shooting people, degrading women, and selling drugs, Hurt confronts them about their lyrical content and they respond by saying that that’s what corporate America wants to hear now and that the music industry does not want to hear conscious songs. Since rappers such as 50cent and Nelly are capitalizing on that content, these MCs feel they should do the same thing. It all comes down to the “American Dream” because most people in America will do what they have to do to get ahead. Adorno and Horkheimer put down the “American Dream” in saying that “the deceived masses are today captivated by the myth of success even more than the successful are. Immovably, they insist on the very ideology which enslaves them” (Horkheimer and Adorno 1972 p.134).

While the major record labels are not forming a large conspiracy to (de)politicize hip hop, they are allowing market forces to dictate a genre of music started by a culture that has always been ignored by the market. There is at least one group that actively facilitates the “Big Four’s” ability to pursue its interests: the RIAA. By influencing Congress through lobbying, the RIAA has the ability to advocate for or against specific technologies that could free up the flow of ideas in hip hop within the public sphere. It is explicitly with the RIAA that the “Big Four” limits the ability of artists to circumvent the (de)politicization of hip hop music through new technologies. Without the concerted effort by the RIAA to limit the free-flow of informational resources, conscious rap albums could have the ability to increase their audibility to a broader audience.

Chapter 4: Transmediation of Music

Total album sales have dropped for the major record labels over the past several years, but it is nearly impossible to pinpoint the cause of the decline in sales because of so many intervening variables. Blaming Napster and other Peer to Peer (p2p) file sharing programs is an easy scapegoat for the “Big Four”, but that completely ignores other likely causes. This chapter will provide examples of how new technologies have changed the landscape of the current media technologies through which people can access and listen to music.

A change in mediation is not equivalent to a loss in profits for the music industry because as discussed in Chapter 2, profit is not the only reason why people create music. If music is considered as something other than a commodity, then new media technologies must be seen as a way to potentially free musicians from the high-cost distribution in which they must now participate. There should be a way for individuals, as artists, to participate in the public sphere without having to have a record contract with a large record label.

The critical issue is that as new technologies are developed, the “Big Four” tends to ignore the technologies until they become so popular that the industry feels it needs to do something about the technology. Vanita Kohli describes the “Big Four”’s reaction as cyclical in “Mutilating Music” (2001):

If you look at how technology evolved in the music business, how it influenced the law and the evolution of the business, you can see a pattern. For decades, the one thing that the music industry has consistently failed to learn is that technology is its friend. It has always equated the excitement and ease of playing, accessing or copying music that every new technology offers—from the phonograph, to the gramophone, radio, analogue tapes or CDs—with piracy. Every time it comes up against a new technology the industry’s reaction is to tout numbers on revenues lost due to piracy (Kohli 2001 p.19).

Once the “Big Four” realizes the profit potential of a new technology, it begins to enforce copyright legislation so that it can control the technology. This is what has happened over the past decade with online music. Originally only used by computer “geeks”, mp3s were not threatening to “Big Four” profits, but as the mp3 technology has become

universalized (especially with the advent of broadband internet) there is reason for major record labels to be concerned about profit losses (Kohli 2001). The “Big Four” is in a phase where it is working to co-opt technologies that were permitted to develop, but the major record labels now realize that they must contain new technology before they lose too much profit. In response to the development of new technologies the Recording Industry Association of America (RIAA) has acted in an overly oppressive way that will be explored in greater detail in the fifth chapter of this thesis.

The goal of this chapter is to provide an overview of new audio media technologies that have the potential to change the current audioscape; this will involve comparing newly developed media to older forms of media. First, I will set forth a theoretical framework to establish the importance of studying the development of new mediations. Second, this chapter will explore how technologies have developed over the past several decades to create new mediations.

The Significance of Transmediation

Live music was, at one time, the only way through which people could enjoy music, but with the advent of the gramophone, audio music was able to be written (Kittler 1999). Previously, music was publishable through music notation and the written medium was a score that had to be performed in order to be heard. Scores allowed people other than the author to perform music with a certain degree of the author’s intent, but important aspects of the annotated music could not be conveyed by the performers: much was left for interpretation. With the invention and refinement of the gramophone, the original author of a piece could be heard performing the music without being physically present. In effect, recordings have become the written record of musical performances. Friedrich Kittler explains in *Gramophone, Film, Typewriter* (1999) that the transmediation of music takes music from being an aural media to a written media and back to an aural media (Kittler 1999). That process of changing mediations has an affect on the final product that is heard by the listener of recorded music.

Copying and recording have also become easier as new mediations develop and become available to consumers. Today, individuals can relatively cheaply purchase the equipment (primarily computer software) to create a professional sounding recording.

Most computer users now have digital technology that can rip and burn CDs that they purchase, which makes it simple to make near perfect copies. Computer technology has also made it so that record producers can take a singer's out of tune voice and correct the pitch on the recording (Shapter 2006). The proliferation of digital technology has redefined how we conceptualize music. Written music is no longer that music which is annotated on a score by a composer; instead, music is recorded in analog, manipulated by a producer in front of a computer, stored in digital 1s and 0s, and consumed by individuals that have the technology to alter the original.

What I would like to represent here is that music has developed a knowledge base similar to that of works of literature. When musicians record music, the performance of it has a value that is distinct from its recorded mediation. Where the written score used to have the value of collecting the knowledge base of music, today's music is most frequently stored on recorded media (tape, CD, mp3, vinyl). Recorded music has become the modern text that musicians have to disseminate their music to others; if people are to study the intellectual/cultural attributes of music, they must do so with the recorded text. The music industry's codification of copyright law is distinctly different than this conceptualization of the musical text (Hamelman 2005). Steven Hamelman demonstrates in "It's a Legal Matter, Baby: Fair Use Law and the Rock 'n' Roll Scholar" (2005) that academics are not given the access to use copyrighted music in research the same way that they can use copyrighted books. This makes it so that the so-called "Fair Use" doctrine is lost for the academic using musical texts because the "Big Four" only wishes to profit from a product instead of developing a textual concept of music.

With the advent of the compact disc (CD), people were exposed to a new mediation that they saw as a more affective way to store their record collection. As Kittler explains, new mediations give rise to new consumption practices. There was a massive increase in record sales during the 1990s as older music consumers bought "classic" albums, that they already owned in vinyl or tape formats, on the new CD technology. After they had bought all of the classic albums (which they most likely previously owned in a different mediation), the record companies had to base their sales solely on new music. In fact, in this process, music no longer becomes the product, but rather the media technology becomes what the music industry is selling and the music

itself becomes the marketing tool (Kittler 1999 p.94). This comes back to Henri Lefebvre's society of bureaucratically-controlled consumption discussed in Chapter 2 (Lefebvre 1984); it is not only the consumption of music that is being timed, but also the consumption of technology. While consumption may not be the driving force behind the development of new technologies (Kohli 2001), consumption has been the primary force behind the proliferation of technologies.

Changing Radio

Radio has consistently evolved from a time when families used to gather around their radios to listen to nightly programming to today's internet stations that allow users to choose from thousands of stations. The advent of AM radio receivers allowed users to have access to a limited number of radio stations, which developed channels with specialized genres and programs (Alper 2006). Eventually, AM radio became known for top 40 programming with short advertisements between songs; everyone began to look to a more artistic cadre of djs on FM radio for an alternative to the popular music industry (Alper 2006).

FM radio started as an alternative to the top 40 format prevalent on AM radio, but the newer media with better clarity quickly became popular and began to outperform the AM frequency channels. It also did not take long for Lee Abrams to develop a new way to approach market research and create the foundation for advertising and focus groups to dominate FM radio, too (Alper 2006 p.507). This can change what people perceive as their choice and "corporate capital and the service state, in effect, can attain a considerable degree of social regulation through the 'freedom of choice' in market exchange" (Luke 1989). Clear Channel has developed as the leading analog radio conglomerate in the United States and has achieved such wide success on a business model rather than by playing the best selection of music. What I mean by that is that Clear Channel is more concerned with selling consumer goods (toothpaste, diapers, cereal, etc.) rather than selling music (Shapter 2006).

According to the Future of Music Coalition's report "False Premises, False Promises: A Quantitative History of Ownership Consolidation in the Radio Industry," Clear Channel owns 27.2% of the radio market share in the United States (DiCola 2006

p.5). The consolidation of radio stations means that people have less options in the public sphere; Peter DiCola fears that,

With speed exceeding Wal-Mart's ascent to retail dominance, Clear Channel and, to a lesser extent, Viacom/Infinity/CBS Radio gained unprecedented market shares both nationally and locally. But Clear Channel's rise presents greater problems than Wal-Mart's. Radio is not about shelf space but about the public airwaves, one of the only free and ubiquitous media through which the public can access culture and information. And Clear Channel's gains in market share came through a regulatory experiment in which Congress allowed more mergers and acquisitions than ever before. These changes have shown cause for alarm (DiCola 2006 p.10).

There is reason to fear an all pervasive culture industry as Horkheimer and Adorno (1972) did because it limits the flow of information and creates the platform for authoritarianism. DiCola presents an extensive amount of quantitative data in his research to demonstrate that consolidation exists (DiCola 2006); the point of this discussion is not to demonstrate the societal impact of consolidation, instead I only mention it to demonstrate the role of radio consolidation in the evolution of radio.

Satellite radio is the newest form of radio to be transmitted by wireless frequencies over large areas. There is a substantial amount of discussion that satellite radio has the ability to reverse the trend of radio advertisements and marketing focus groups and as a result allow for more diversity in music. Garth Alper acknowledges the benefits of having a radio station based on user fees in "XM Reinvents Radio's Future" (2006). XM radio charges its users a monthly fee to have access to unlimited commercial free radio via satellite that works on a business model similar to that of HBO (Alper 2006). Ironically, it is Lee Abrams (the person who destroyed FM radio with the use of market research) who founded XM (the first satellite radio station).

While the future of radio looks bright with the advent of satellite radio, caution needs to be taken because satellite radio has not been without controversy. On February 19, 2007 XM and Sirius announced their plans to merge the only two satellite radio stations into one large radio station (Ellis and Monica 2007). Congress and the Federal Communications Commission (FCC) are not allowing this merger to happen because it goes against anti-trust legislation aimed at preventing monopolies (Diaz 2007). It is unclear whether this merger would have a positive or a negative affect on the diversity of

music played, but it would likely cause an increase in monthly fees as people would no longer be able to choose their satellite radio provider. Some merger supporters contend that satellite radio's competition is free terrestrial radio, so free competition would be a disincentive for satellite radio to raise its prices (Diaz 2007). At this time it is unclear what will happen between the two satellite companies.

Another controversy facing XM involves the RIAA. Some XM receivers have had the capacity to record the satellite feed for a while, but those models recorded music similar to how one can record terrestrial radio with a tape deck; the industry could have chosen to attack this use as piracy under copyright law, but has abstained from doing so because of the difficulty the record industry does not see itself losing much business from it (Kohli 2001). Also the Audio Home Recording Act (AHRA) of 1992 permits home recording devices as long as they pay a fee to licensing organizations (e.g. ASCAP and BMI)¹³. Converting these live feeds into mp3 songs is a long process that involves dividing the recorded content into individual songs with a wav editor, converting wav files to mp3 files and labeling them. However, new devices such as the Pioneer Inno (see <http://xmradio.com/pioneerinno/index.jsp>) can record up to 50 hours of new feeds that are in a more computer friendly format. XM satellite radio has been sued by major record labels in *Atlantic Recording Corp., et al., v. XM Satellite Radio, Inc.* alleging that XM has only paid to perform music not distribute music, which would charge a higher fee to XM.

Internet Radio is a transmediation of music that has been around longer than satellite radio, but is only now beginning to develop its own niche apart from conventional radio. The internet is a powerful medium to transmit radio stations because it allows the user to have a large choice of radio stations; however, until recently radio stations primarily offered terrestrial AM/FM radio stations broadcast on the internet that worked on the same advertising and marketing principles of AM/FM radio. People who subscribe to XM can also access the regular XM broadcast through the internet (<http://xmro.xmradio.com>).

One internet radio station, Pandora Internet Radio, is attempting to revolutionize the radio using the internet (<http://www.pandora.com>). Pandora uses algorithms to determine characteristics of radio that any listener with an account prefers. As the listener

¹³ There is an in-depth discussion of this act in Chapter 5.

listens to a station that he/she created, the listener can choose whether or not he/she likes a particular song on that station; Pandora then adjusts the station to the listener's preferences. To pay licensing fees, Pandora works on a business model that uses advertising to generate revenues; within a business model where advertising is used, this also helps for marketers to specialize ads towards users because of the data collected over the internet(Fox 2004). There is also a way for artists and listeners to submit music to Pandora and have it reviewed for their play lists. The "Music Genome Project" is the name for their algorithm that Pandora develops and uses; currently the "Music Genome Project" has over 10,000 artists accessible in their radio formulas. This presents a bright future for radio as a format that could stretch beyond the commercialized/commodified music industry.

Music Collection/Storage Media

As Kittler described, the gramophone changed the way by which people conceptualized music (Kittler 1999). Ever since the invention and adaptation of the gramophone there has been a continual transmediation and remediation of the mediums that facilitate individual's ability to listen to music. It is this transmediation that has changed the "aura" that Walter Benjamin feared was lost in the recording of music and the separation of music from live performance (Benjamin 1936). Applying Kittler's concept of transmediation, it is possible that people experience different types of auratic effect from music depending on the situation they are in at the time that they listen to it.

The development from gramophones to computer mp3s has greatly changed the portability and adaptability of an individual's music collection. With mp3 files people can listen to their music on mp3 players (there is a large variety outside of "iPods") whenever they choose. Previous music technologies were limited in their capacity to fully satisfy the listener more so than music contained in computer files. Records are not portable and run the risk of getting scratched; tapes (and 8-tracks) are more portable, but overtime diminish in quality (making a copy of a copy proved to destroy music) and are impossible to search for specific songs; CDs are portable and easy to search, but require special technology to stop skipping when jolted and are easy to scratch.

It is with the advent of digitized music compressed into small files (typically mp3s) that music has adapted to a media that seems to have eliminated most of the old problems with previous technologies. The expanding memory capacity of computer devices allows for almost unlimited access of individuals to vast portable music collections. These files are virtually indestructible unless the file somehow becomes corrupted; however, if one can back-up their music files, he/she can just eliminate the corrupted file and reload the working file.

The RIAA is most concerned about this new digital format because of its portability and adaptability. As mentioned above, record companies used to count on new mediations to increase record sales by rejuvenating the market with a new product for consumption; there was no way for the average consumer to convert tapes to CDs (nor did they want to due to quality). With the advent of digital music for computers all one has to do is “rip” the CD onto his/her computer and it is immediately in the new format (no purchase necessary). The record labels feel like they are losing one avenue that has historically given them increased revenue by not being able to capitalize on consumers re-purchasing their favorite albums in a new format (Fox 2004; Kohli 2001). In the next chapter, I will explore the implications of this concept on the formation of the Digital Millennium Copyright Act (DMCA).

Music Distribution

One of the most revolutionary advances in music technology is the ability to distribute music online. As mentioned in Chapter 2, the exorbitant costs to distribute and market music create a barrier for independent artists and labels to compete with major record labels. The internet has made it possible for people to get their music distributed without having to pay the high costs of printing and distributing their music. Mark Fox explains:

Technological changes have heightened competition for the major labels. The distribution of music over the Internet requires only a single master copy, whereas distribution of music as a physical product requires producing, shipping, and warehousing CDs, audio cassettes, etc. When music is stored and sold as a computer file, disintermediation (the cutting out of middle layers of distribution channels) occurs (Fox 2004 p.204).

In allowing for a decentralized distribution system, the internet, at least initially, makes it so that the major record labels are at a slight loss at competing on a level playing field with independent labels. The result has been that “downloadable music and its associated technologies have brought about a redistribution of power from major record companies to music consumers and, arguably, artists” (Fox 2004 p.205).

What is important here is that music can now be purchased through the internet, which is a largely un-codified distribution system. As people invent new technologies, there are huge questions of what is legal. In a technical sense, anything new is by default legal because law has not been written yet. The response is that “Big Four” executives work to influence Congress to pass laws favorable to their interests as the new technologies develop. In the next chapter I will demonstrate how the “Big Four” has used the RIAA to create laws favorable to its interests, but presently I will give some brief definitions of certain technologies that are used in distributing and marketing music online.

Peer-to-Peer (P2P)

Peer-to-peer (P2P) file sharing programs have arguably been the most controversial method of online music distribution as evidenced by such cases as *A&M Records v. Napster*, *MGM Inc. v. Grokster, Ltd* and *UMG Recordings, Inc. v. MP3.Com, Inc.* Napster was the first and most notorious P2P program, but following several lawsuits it has reformed its downloading procedures. With P2P programs, individuals can post/upload files from their computer to share them with other program users (Langenderfer and Cook 2001). This technology allows users to download files directly from other users’ computers. Since P2P works by having users download music directly from other users, it makes it difficult to tell who is sharing illegal files because the only people who can see who is downloading files are the users directly corresponding with each other. The next chapter will spend a considerable amount of time dealing with this technology and its implications for music distribution and decentralization.

Online Music Stores

Recently there has been a veritable explosion of websites that specialize in selling music files online. These sites allow customers to buy music by the song or by the album; usually songs cost somewhere between \$1-2 and albums are cheaper than buying their

CD counterpart. iTunes is the most recognizable name in online music stores (others include mp3.com, eMusic and Rhapsody), but other stores such as Wal-Mart have also begun to sell downloadable music online. These online stores allow people to buy and download music from the comfort of their home, but do not usually come with a hard copy of the music on CD.

Some of these sites have become increasingly available as a subscription service (Fox 2004). This mode of music distribution allows music consumers to pay a monthly fee and have access to a certain number of downloads per month. These services work well for those consumers looking for music from the major record labels, but it is not so accommodating for independent music.

Social Networking Websites

With the development of social networking websites, individuals have a new way of getting their music distributed around the world to people who would have otherwise never heard of their music. Through a network of people, individuals can find other people with similar interests based on who is their “friends”; this allows people with a specific musical taste to find other people with that same taste in music and in turn find musicians that they may have previously never heard. Myspace is the most notable networking site; it began specifically as a way for musicians to network with other musicians and fans and creates fan bases over large disparate areas. This has given independent artists the capability to get the public without explicitly being a part of the larger popular music scene.

One drawback to this technology is that it may create access for too many artists making it impossible to find music that appeals to the listener; it is a similar problem to the one created by giving free speech to everyone. The over-access to getting one’s music heard on the internet with websites such as Myspace could be detrimental to creating more freedom of choice by giving too many choices, which may actually benefit the “Big Four.” There has to be some way of distinguishing the quality of music because some musicians who are not signed on with a record label are actually in Simon Frith’s terms “unskilled” musicians (Frith 1996). A more democratic alternative measurement to the market approach would help distinguish skilled musicians from unskilled musicians, so that people are not inundated by too many choices.

Conclusion

What I have demonstrated here is that the advent of new media technologies raises new concerns regarding the implementation of those concerns for the capitalist economic system. If music is considered an “art”, then technological advances should be seen as a way to bring wider access to it as new mediations change the aura of music. However, it is always the case that business sees innovative technologies as new ways to make money. The transmediation of music is neither a new form of oppression nor a way to expand the listening capabilities of the general public.

Kittler’s theory is helpful in understanding the great confusion around technology today. It seems as though the technologies described in this chapter will keep transforming into newer technologies thereby redefining theories of the use of music and technology. Furthermore, the advent of new technologies will continue to initially create a vacuum that the law will have a difficult time filling. The RIAA lobbies (and sues) to help the “Big Four” shape favorable legislation defining new mediations as either beneficial to industry profit or labeling those actions as “piracy”. The next chapter will explore specific details about how the RIAA goes about changing public policy to benefit its clients.

Chapter 5: Exploitation by the RIAA

Technological advances have created an environment where copyright law is either inadequate or untested. Without precedent to go by, courts have responded in varied ways in order to deal with complaints by organizations such as the Record Industry Association of America (RIAA) and the Motion Picture Association of America (MPAA). Their lawsuit threats are ways to force consumers to change their downloading practices to legal avenues that avoid the democratizing affects of peer-to-peer (p2p) file sharing programs. The constant fear of being prosecuted (persecuted) for downloading music has made people apprehensive about using p2p services. By inducing fear on music consumers, individuals see using internet music stores as a better alternative to getting sued. Internet music stores have the same inherent problem as brick and mortar music stores: they only sell music that is mainstream and “popular.”

Much of the literature that deals with copyright issues on the internet puts it in terms of “piracy” – a term that is used to make copyright violators sound like hardened criminals. In this chapter I will analyze the effects of technological advances in normative terms to describe the threat of new technology on the “Big Four.” What is at stake is the leveling of the playing field between major record labels and independent labels and artists.

Why is there so much concern about copyright legislation? According to Simon Frith in “Music industry research: Where no? Where next? Notes from Britain” (2000), issues of copyright law are important because of the structure of the record industry:

The music industry is not a manufacturing industry, it is a rights industry; it is organized around the management and exploitation of talent. The contemporary record company may well use familiar business school techniques – portfolio management, for example (it is not entirely different from other sorts of company) – but it does so in the context of a kind of knowledge and a system of trust that have unique features. Like other cultural industries, the music industry can be described in terms of the rational management processes that link two sorts of irrationality: talent and taste (Frith 2000 p.388).

Record labels do not make their money off of the mechanical production of CDs; they make it from the content contained on those albums. Digital Rights Management (DRM) is so important to the music industry because it creates an ostensible way to limit the

sharing of music; it changes consumer ownership explicitly to the content medium instead of the content itself. When someone purchases a CD, they are not purchasing the rights to do whatever they want with the music; rather, they are purchasing the ability to listen to the music. DRM allows for digital encryption of media, so that it can be tracked and limited in the amount of times that the music is copied/transferred (Gantz and Rochester 2005 p.274).

Executives from the “Big Four” collude together within the RIAA to make sure that their interests are advanced in the United States. “The people at the top in the culture agencies, who work in harmony as only one manager can with another, whether he comes from the rag trade or from college, have long since reorganized and rationalized the objective spirit” (Horkheimer and Adorno 1972 p.135-136). The internet has brought record executives together for the sole purpose of exploiting musicians and consumers. This chapter will begin by first dealing with issues of digital copying in order to bring this thesis into the current context of why the RIAA is trying to limit the amount of unauthorized reproduction of copyrighted material. Second, I will explore what the RIAA is trying to do to encourage licit downloading of music; this section of the chapter will explore concepts of panoptic control as advanced by Michel Foucault. Third, I will discuss the role of Digital Rights Management (DRM) in trying to prevent the illegal copying/transferring of music among consumers. Fourth, there is a needed discussion on how the RIAA has replaced ASCAP and BMI as a private copyright enforcer. Finally, I use the results from the Pew Internet & American Life Project survey of musicians to look at the diverse views of how they use the internet to better their musicianship.

Copying

Computer savvy people will always find ways around laws devised to place restrictions on the internet, but the point of winning important court cases and establishing favorable legislation in Congress for the RIAA is to scare the average person from using these technologies. For p2p programs to be the most affective they must have a sufficiently large enough user base to provide an immense library of music. When the majority of people are once again afraid to download “free” music and have grown accustomed to downloading music off of the internet, they will resort to buying music at

online music stores. Some have argued that Napster actually created a market for digital music that had not previously existed (Jeweler 2002). At a certain point those people circumventing the legal music distribution system once again becomes limited to the computer “geeks” that Vanita Kohli mentioned in “Mutilating Music” (Kohli 2001). This makes it so that the RIAA can once again resort back to standard practices associated with the Audio Home Recording Act (AHRA) of 1992 (pre-DMCA).

Copying media for personal use has been an accepted practice for individuals since the advent of the video tape recorder (VTR and later the VCR) allowed people to record television from their home. *Sony Corp. of America v. Universal City Studios, Inc.* allowed the recording of television shows to be watched at a different time (time-shifting) under fair use. This ruling has stood as precedent for individuals to record media on analog tape formats for personal use. With the advent of digital media, such as the digital audio tape (DAT), minidisks (MD) and recordable CDs, the concept of reproduction became murky as near perfect reproductions could be produced by individuals. Digital media brings about new issues of what constitutes personal/fair use that were not of issue with analog recording devices.

The AHRA was designed to compensate media corporations for the reproduction of their copyrights on digital formats. The dominant philosophy behind the AHRA is that people will use digital media recorders to copy the media that they already own and there must be some way to compensate copyright owners for the reproduction of their works. What the AHRA does is set up a system of compensation that gives a percentage of profits for all blank digital media and media recorders to copyright owners (Gantz and Rochester 2005 p.118). In turn major record companies are making money for all blank CDs and CD-R drives; that is to say that these companies profit from writable digital media that may not necessarily be used to record copyrighted material (after all CDs are the new floppy disks). Royalties obtained by record labels through the sale of recordable digital media does not make its way to the artists or composers of the music because ostensibly there is no way of telling whose music is being copied into digital format (Bishop 2004). It is telling that these additional profits do not make it to either the artists or independent companies whose music might be what is being copied.

A discussion of the AHRA and *Sony* are important here because they demonstrate that the music industry and the Justice system are tolerant of a certain level of copying music. The existence of home recording devices makes it impossible to enforce copyright laws on individuals copying music for personal use. The RIAA understands that it cannot stop all people from copying digital music and they profit from the sale of recordable digital media because of provisions of the AHRA; eliminating the capabilities for individuals to record digital media would reduce the “Big Four’s” profits. What the RIAA wants is to limit the number of people downloading music from p2p programs.

Once the RIAA can reduce the number of individuals using p2p services, they will no longer worry about people using those programs. Computer savvy people will always find a way to get around barriers on the internet and those individuals will always find ways to circumvent digital copyright law (Gantz and Rochester 2005; Kohli 2001). The RIAA wants people with fewer computer skills who just casually listen to music to buy music as a commodity. Enforcing the Digital Millennium Copyright Act (DMCA), in the form that it currently exists, is a way to reduce the number of file sharers to the point where the DMCA becomes obsolete.

Encouraging Licit Behavior

The scope of the internet and the use of p2p services make it impossible for any entity to enforce the laws that protect copyrighted material. In order to stop individuals from downloading music illicitly, the RIAA must act in a way that creates a higher perceived cost for individuals that download music illegally than the perceived benefits of “free” music. To do this, the RIAA has submitted lawsuits to individuals that they have found to be sharing music on p2p file-sharing networks (Seadle 2006; Woodworth 2004). As discussed above, it would be impossible to file litigation against all users who illegally downloaded music from the internet. Instead of even trying to sue large numbers of file-sharers, the RIAA decided to make a highly visible “spectacle” (Foucault 1977) out of the lawsuits that it filed against a smaller number of individuals. Michel Foucault’s theory of “panoptic surveillance” can help to explain the way by which the RIAA has attempted to limit the number of people using file-sharing software.

One problem inherent in the internet is that it is difficult, if not impossible, to tell who is watching an individual's internet usage. When people surf the internet, they are typically unaware of whether or not someone is monitoring what they are downloading. The internet operates as a "telescreen" in an Orwellian sense because while a person sits in front of the computer screen surfing the internet, there is no telling if anyone is watching (Orwell 1983). By making its lawsuits highly visible to the public, the RIAA was trying to make people realize that the RIAA could use the internet as a panoptic device. Just as Foucault described in *Discipline and Punish*, people will conform to the law if they believe that someone may be watching their illicit behavior (Foucault 1977). Before the RIAA filed the first round of lawsuits in 2003, users of p2p networks felt that even if they were breaking the law, there was no way to enforce the law against them because of the perceived privacy of their computers (Gantz and Rochester 2005). Frances Grodzinsky and Herman Tavani explain that "users of P2P networks assumed that they were immune to surveillance because of the decentralized and distributive nature of the network" (Grodzinsky and Tavani 2006). Following the first round of lawsuits it became apparent that the RIAA had a way of peering into internet user's computers to determine whether or not they possessed illegally obtained files.

News media was an important part of the perceived enforcement of the DMCA by the RIAA. With an estimated 50 million users using file-sharing programs at that time (Gantz and Rochester 2005), it is unlikely that most p2p users knew one person facing a lawsuit. However, the spectacle created by the news media made it seem as though litigation was imminent for anyone who downloaded music illegally. Without being highly visible, the number of lawsuits would not have been sufficient for the public to perceive them as a threat; "the chances of getting caught and subpoenaed by the RIAA were less than one in 200,000 – about the same as getting struck by lightning" (Gantz and Rochester 2005 p.205). The reaction by the press affected the discourse on the issues of downloading music as "Napster's users have been subjected to a certain degree of penal appropriation from the RIAA and the press. This has come in the form of name-calling – users are recast as hackers, pirates, and criminals" (Woodworth 2004 p.173). The news media has allowed the RIAA to become the signifiers of p2p users and it has signified illegally downloading music as a deviant behavior.

Grodzinsky and Tavani are concerned that the implications of *Verizon v. RIAA* have far reaching steps towards the invasion of individuals' privacy. The Supreme Court decided in *Verizon* that under the DMCA certain types of Internet Service Providers (ISPs) must provide information on their users who are illegally downloading music or stop their activities. This means that the "mere threat of litigation based on liability was sufficient to shut down web sites and to violate anonymity" (Grodzinsky and Tavani 2006 p.247). ISPs turn over information about their users to the RIAA because they are afraid of being sued even if they could potentially win their case. Universities have acted particularly cautiously "by monitoring downloading activities at their institutions" (Grodzinsky and Tavani 2006 p.248) and using:

clandestine speed bumps in the form of bandwidth restrictions for dormitories with an unusual amount of outbound traffic (often an indication of peer-to-peer file sharing). This is important because of a growing concern among universities about how much liability they have for providing network-based disincentives to discourage potential infringement (Seadle 2006 p.155).

ISPs, especially universities, want to error on the side of giving their users' information away instead of spending time and money on litigation for protecting the privacy of their users. By relinquishing their users' personal information or not allowing file-sharing on their networks, ISPs have affectively sided with the major record labels in limiting their users' access to music outside of the realm of the "Big Four."

The RIAA's lawsuits have resulted in the reduction of people using p2p file-sharing program. "In retrospect, the RIAA didn't really expect to lock anybody away for violating copyright—or even make back in settlement fees a fraction of what it spent on enforcement, but that was not the goal. The goal, pure and simple, was to scare the dickens out of downloaders" (Gantz and Rochester 2005 p.205). As a result, the digital environment that we live in today is one in which new business models have taken root to develop online music sales (Fox 2004). DRM (discussed below) is used to track and limit digital media purchased at these online music stores. However, online music stores do not create the diverse musical environment developed by p2p programs because these websites strongly favor the same major industry distribution interests that brick and mortar stores have favored. Ironically, the "Big Four" is using marketing firms to

research how to use p2p networks to market towards individuals; Gantz and Rochester explain:

It turns out that by tracking downloads on KaZaA, record labels can find out where radio stations are underplaying their songs and use the data to increase radio play, which, they believe, increases record store sales (Gantz and Rochester 2005).

While the RIAA has effectively limited the number of people participating in the illicit downloading of copyrighted material on p2p programs, it has also successfully limited individuals from accessing a diverse and extensive amount of music that could be available by independent artists for licit download.

Independent Artists/Labels Lose, Again

Many people have viewed the internet as a technology with endless possibilities that could have positive affects on everything from the way we communicate with individuals to a liberating democratization on society. However, there are always powerful interests that benefit from the way society already exists that will try to limit the progress of new technologies. The DMCA is a clear example of how the “Big Four” record labels have acted to maintain their dominance in a new electronic environment. In helping craft the DMCA, the RIAA pre-empted the growth of opportunity that independent artists/labels could have had to compete with the “Big Four”. Online distribution of music removes some of the most difficult barriers for independent artists and labels face in getting their music heard, but the DMCA and the RIAA’s fight against p2p file-sharing have erected new barriers to the freedom that the internet has to offer independent artists and labels.

At this point it is important to revisit a distinction that I have been making throughout this thesis: the distinction between the “Big Four” and the music industry. The RIAA professes to act in the interests of the entire music industry, but its primary interests are with the four largest record labels. Most of the music industry lies outside of these four large corporations; these four corporations have vastly different interests from other entities within the music industry. Hesmondhalgh explains that

most texts that we consume are circulated by powerful corporations. The corporations, like all businesses, have an interest in making profits. They

want to support conditions in which businesses in general – especially their own – can make big profits. This raises a crucial issue: do the cultural industries ultimately serve the interests of their owners and their executives, and those of their political and business allies? (Hesmondhalgh 2002 p.3)

In fact, there is competition between the four largest record labels and any other record label that tries to compete with them. It would be difficult for an organization (i.e. the RIAA) to be able to represent entities with opposing interests; in that case the RIAA would be expected to serve the interests of the most powerful companies that are members of the association. Many of the smaller entities that make up the RIAA outside of the “Big Four” are in it either because they are subsidiaries of the “Big Four” or for some of the other benefits of being a member: the RIAA certifies “Gold” and “Platinum” sales awards and carries prestige as a trade association. This is why the RIAA and the “Big Four” are synonymous when referring to the legal actions that the RIAA takes regarding music and digital technology.

As discussed in Chapter 3, there are specific reasons why certain music is marketed to the public over other kinds of music. One way to circumvent the music that is chosen by the major players in the music industry is to allow a broader group of people to have access to other types of music. Peer-to-peer file-sharing allows individuals from around the world to share and access music that it would be impossible to find anywhere else. An aspiring artist could give all of her/his music for free to her/his friends; if s/he has 20 friends that are always logged on to a file-sharing service, then there is a chance that someone downloading music from one of her/his friends may like the friend’s taste in music and download the aspiring artist’s music. Now that artist’s music is on 21 people’s shared databases. All of this is legal as long as the copyright owner gives permission for this activity to occur. At issue in all of the court cases against p2p services is that copyrighted music is being downloaded without authorization (Kohli 2001; Langenderfer and Cook 2001; Litman 2003), but there is little discussion about those people who are using file-sharing programs to *legally* download music.

Griffin Mead Woodworth explains in “Hackers, Users, and Suits: Napster and Representations of Identity” how people who download music with p2p programs are immediately designated the deviant category of “pirate” (Woodworth 2004). If everyone

that downloads music using p2p programs is a “pirate,” then there is no longer a way to use that technology benignly. Courts have avoided making normative distinctions between different uses of p2p programs and have consistently reprimanded these services. This has had the affect of making it impossible to use p2p programs in a licit manner; however, there is nothing inherently illegal about using one of these programs.

The problem with attacking file-sharing as an explicitly illicit activity is that much of the music available on the internet is available by permission of the copyright owner. “Digital downloading of copyrighted music is a fraction – which even the RIAA cannot quantify – of all the music there is on the net. Most of the music out there is unknown artists who are not signed up with any record label” (Kohli 2001 p.20). The courts and the news media (entities that are often part of large media conglomerates with major record labels) have consistently sided with the RIAA’s depiction of the criminal downloader, something that results in labeling a large percentage of the population as “criminal” (Gantz and Rochester 2005; Woodworth 2004). If downloading music from file-sharing programs automatically makes one a criminal, then all independent artists who share their music on a p2p network must be deviant because they found a way to compete with the major record labels at a low entry cost.

The decentralized distribution allowed by the internet is an ideal environment to allow for independent music to flourish. However, as Woodworth states, “technology alone can never effect real change. It takes a confluence of economic, technological, political and social factors to change substantively how the majority of people conceive of and listen to music. Just such a confluence occurred around Napster” (Woodworth 2004 p.162). Disintermediation has the ability to eliminate barriers set-up by the distribution system for independent artists/labels to enter the music market. “Digital distribution raises the possibility of mass dissemination without the assistance of professional distributors, via direct author-to-consumer and consumer to consumer dissemination. Digital distribution, thus, invites us to reconsider the assumptions underlying the conventional copyright model” (Litman 2003 p.2). Internet distribution would be ideal only if the law acknowledged that there are legal forms of downloading music for free with the permission of copyright owners.

Lawsuits, such as *RIAA v. Napster* and *Verizon v. RIAA*, have effectively made it so that independent artists/labels can no longer benefit broadly from the reduced costs of distributing music online. Today, while p2p software is still available for use, their networks are considerably smaller; many casual computer users are afraid that they will be subpoenaed with a large lawsuit if they download. The decrease in the number of people who use p2p programs makes those programs less affective at bringing diverse musical tastes to users and society in general. Independent artists/labels still have free access to MySpace and cheap websites, but so many people use these mediations that it is difficult for consumers to find what Simon Frith would define as “good” music (Frith 1996). The proliferation of cheap websites have made it so anyone can place their music on the internet, but it makes it impossible to find music that an individual may enjoy; its similar to any form of media projecting speech because its free to speak, but expensive to be heard. In its heyday, p2p file-sharing allowed users to find independent artists that had similar characteristics to the music that they liked based on other music that they were downloading from other users. Independent artists have once again lost in the competition to get their music out to the public.

Digital Rights Management

In a preemptive move to limit unauthorized access to digital content, media conglomerates have created Digital Rights Management (DRM), as permitted under the DMCA. Gantz and Rochester describe DRM as “software that takes copy protection to the next level, giving the content publisher the means to tailor (or restrict) the content user’s rights” (Gantz and Rochester 2005 p.274); this is a form of encryption that can make it so that a person can only transfer a file a certain number of times or track the usage of the file. By placing limits on how a consumer can use a product, the music industry has redefined what it means to purchase music.

Apple has been one of the biggest offenders of limiting how people can use media that they buy from iTunes and transfer to their iPods. Advanced Audio Coding (AAC) is the file type used by apple if one purchases music from iTunes. On Apple’s website (<http://www.apple.com/quicktime/technologies/aac/>), this file format is described as a better “more efficient” format than other digital technologies; after reading this page, the

AAC format seems like the most sensible way to store music. However, when one looks at the Apple “trouble shooting” support page (<http://docs.info.apple.com/article.html?artnum=93071>), a completely different view of the costs and benefits of the AAC file format becomes apparent. This webpage explains that iTunes users who try to burn their songs onto a cd will be unable to do so in AAC format and it is also not possible to convert these files into another digital format. Furthermore, music purchased on iTunes can only be “authorized” to be used on five computers at any given time (<http://www.apple.com/support/itunes/store/authorization/>). This is problematic because it limits the ability for consumers to use/listen to music that they purchased in a format of their choice; when people purchase music, they want to be able to listen to it on CDs, their laptop, their work computer, the family PC and a mp3 player without having to purchase the same song in each instance.

The heavy restrictions on digital content created by DRM have led to some individuals developing forms of resistance to the encryption of music. For some people, DRM is only a barrier that slows them down from copying files with ease; people who are good with computers either figure out how to hack the encryption code or find ways around the encryptions altogether (Gantz and Rochester 2005; Woodworth 2004). Some of my own students surprised me when they described to me how to get around digital encryption. A legal battle is brewing in some European countries over the use of DRM by Apple (Sparks 2007). Europeans tend to be dissatisfied with DRM and instead of just assuming that people find a way around the encryptions, they are actively trying to defeat the legal basis for DRM. Steve Jobs, Apple CEO, believes that this legislation is unnecessary because as record labels figure out that DRM does not stop piracy they will give up on DRM (Sparks 2007). People should not have to develop illegal means to be able to enjoy music that they legally purchased.

The tides are changing in the world of DRM encrypted files, but that does not mean that the “Big Four” is being any less exploitative. Less than a month after the Newsweek article on how Europe is resisting iTunes’ DRM files (Sparks 2007), Jobs in partnership with EMI (one of the “Big Four”) announced that there will be a new system for downloading DRM-free iTunes parallel to the old system (Arrington 2007). The new DRM-free service will be available for all EMI tunes at \$1.29/song \$0.30 more per song

than iTunes' regular service. Is DRM-free music really worth more than DRM music? This is definitely a step in the right direction towards eliminating DRM encryptions, but it should not cost extra money to eliminate this invasion of privacy. DRM must be eliminated so that people can freely listen to the music that they purchased in the mediation that they choose.

Royalties in a Digital Age

Early in the twentieth century copyright law had no enforcement mechanism in place to make sure that artists got paid royalties for the performance of their works. As I described in Chapter 2, the American Society of Composers, Authors and Publishers (ASCAP) was created to ensure that copyright owners received royalties. Ryan explains how unfair this system initially was and has been ever since its inception (Ryan 1985), but things have become more fair with the breaking of the ASCAP monopoly and the creation of Broadcast Music, Incorporated (BMI). The issues of enforcing music licensing have remained relatively unchanged as these two organizations have made sure that artists get paid for the use of their works. However, copyright enforcement in the digital age has been more and more frequently attributed to the copyright owners who tend to be the major record labels. The "Big Four" then uses the RIAA to act as the police that make sure copyrighted material is used legally (Seadle 2006). The distinction between copyright owners and artistic creators is an important one that will continue to have an impact on labor and economic relationships.

When artists sign contracts with record labels, they are signing away the rights to their artistic creations in return for the business benefits and potential profits that labels offer. Essentially, the artist is signing a contract for an advance, recording, marketing and distribution for an album; the record company is buying all of the rights to the artist's recording and agreeing to give him/her royalties on sales (Hull 2004). These contracts make record labels the copyright owners of music. "Copyright is no longer about creative expression and the protection of that expression by the law – the original intention of the law. It is about protecting the monopoly, which the law gives copyright owners who are big contributors to GDP" (Kohli 2001 p.14). Instead of protecting the artist's works,

copyright has become a mechanism for large corporations to exploit talent to generate profits.

The AHRA was the first amendment to American copyright law that allowed the “Big Four” to earn compensation from copyrighted material that did not compensate artists in any capacity. All proceeds from the AHRA go directly to the corporations that profess to be advocating for the protection of the artists’ rights; meanwhile, artists do not actually see any royalties from these activities (Bishop 2004). This opened the door for the RIAA to become the copyright protector for the “Big Four” in the digital age.

Historically, ASCAP and BMI have acted to protect the rights of artists and composers, while the RIAA acts to protect the business interests of the “Big Four.” Michael Seadle refers to the RIAA as the “copyright police” because of their enforcement of the DMCA (Seadle 2006). The role that Seadle feels that the RIAA is taking resembles that of a vigilante group:

If, for example, the driving laws were enforced in a manner similar to copyright, it would mean that the police would not ride the highways looking for speeders, but anyone (or their representative) who felt another driver had infringed on their safety by speeding could take the driver to court (Seadle 2006).

As a private organization, the RIAA can be selective in who it decides to take legal action against for violating copyright law. People working for the RIAA could decide that an individual who has the largest amount of copyrighted material is not worth prosecuting because all of the music he/she has is owned by the “Big Four” and this is free advertising; on the other hand, a person who has thousands of songs legally downloaded from independent artists and one song owned by the “Big Four” could be prosecuted for that one song because he/she is helping expose/distribute music that the “Big Four” sees as competition. There is no telling against who the RIAA chooses to enforce copyright law; this type of enforcement is not conducive to American democracy because it lacks the due process and equality of the law upon which the United States justice system is supposed to stand.

Musicians and the Internet

With any large group of people it is important to note that there will always be a diverse set of ideas among individuals in a group; this is no different for musicians and their views on the internet. As a musician myself, I find it interesting to discuss these issues with other musicians and observe the intricacies of feelings between different individuals. The Pew Internet & American Life Project conducted surveys of artists and musicians in late 2003 to find the feeling of musicians towards music on the internet (Madden 2004). While many musicians have conflicting views on certain aspects of music on the internet, most agree that it is an important tool that can be used for musicians.

Logic would seem to be that those musicians who make their living off of copyrighted music would be opposed to file-sharing, while struggling artists would be in favor of p2p networks. Judging by the information that the Pew study found, it does not seem to be so cut and dry between artists who benefit from copyright laws and those who do not earn much from copyrights (Madden 2004 p.35). A visible divide has existed between two big name musicians: Lars Ulrich (Metallica) and Chuck D (Public Enemy). Both of these musicians have made millions of dollars from writing and performing music, but they have quarreled in Congressional Committees over the use of file-sharing. Woodworth discusses how Metallica has alienated many of its fans for filing lawsuits against users that were downloading their music illegally on p2p programs (Woodworth 2004 p.168-172). Meanwhile, Chuck D has become a strong advocate of the free distribution of music that the internet provides by going on college speaking tours and advocating against the RIAA, publishing albums on the internet for free download, testifying in front of Congress and giving speeches at major policy forums (Watkins 2005 Chapter 4). Some musicians see the internet as a marketing tool, while others see it as yet another way that they are getting ripped off for their art; this conflict exists on all levels and does not show signs of being resolved in the near future.

Musicians need access to a diverse library of music in order for them to perfect their craft; only listening to a narrow range of music is detrimental to a musician's musical progress. Ever since I was a child when I first began to learn to play the drums, my teachers stressed to me that I need to learn the history of the drumset and as many

styles as possible. However, musicians do not have access to the same type of information that academics have access to in libraries; they can only learn what they hear or can afford to purchase. The Pew survey shows that “musicians now have access to a wealth of music knowledge and tools online: music composition and recording software, educational material, music libraries, other communities of musicians, and music blogs (to name a few)” (Madden 2004 p.28). Songs are usually compilations of what musicians have heard from other musicians placed together in a musician’s individual style; the internet has increased each musician’s access to the ideas of others.

It is impossible to say how musicians feel about the use of the internet to distribute music because musicians have diverse and often divergent views on the issue; however, it is clear from the Pew Internet & American Life Project that musicians use the internet in a wide array of ways. Were the RIAA to represent the entire record industry, instead of just a few powerful interests, it would realize that what it should be doing is finding a way to incorporate the needs of musicians into a virtual environment; for instance, it could develop an online library of music where musicians could find music for educational purposes. There will be more digital mediations that take place and musicians will tend to be at the forefront in developing technologies as they have to create their own methods that meet their musical needs.

Conclusion

The internet is a resource that has the capabilities to level playing fields for aspiring artists trying to enter the music industry. If the *Recording Industry Association of America* was looking out for the interests of all individuals in the *recording industry*, then it would be primarily concerned with harnessing the internet for its most productive capabilities. Instead, as I have demonstrated, the RIAA is primarily concerned with limiting anything on the internet that has the potential to cost its most powerful members’ profits.

The RIAA’s crusade against “pirates” could alienate its consumers as they become aware of the unnecessary nature of its strong arm lawsuits to scare people from illegally downloading music. Internet technologies change the characteristics of pirates from people who sell illegal copies of music in dark alleys to children obtaining music

for free on the internet. This change in the signified has broadened the category of pirate to the point where a significant percentage of the population is considered deviant by practice. People can frequently get past being characterized as deviant, but they do not like to have their privacy invaded for such a minor offense.

Adorno and Horkheimer were shocked by the oppressive behavior of the cultural industry during their time (Horkheimer and Adorno 1972). If the internet had been around while Adorno and Horkheimer were alive, they may have seen hope in the dissemination of information available on it; however, they would not be surprised to see that the “Big Four” has reacted with a heavy fist to stop the spread of decentralized music. Since the “Big Four” always tries to (de)politicize its music, one would hope to look to independent music for political music; the internet provides an avenue for independent artists/labels to distribute their music without the high entry distribution costs. By not allowing p2p file-sharing to blossom (and actively pursuing their demise), the “Big Four” has explicitly shown that it is concerned more with profits than artistic integrity. The “Big Four” wants to make sure that it has a monopoly on music distribution and will do anything to stop others from entering the market.

While independent artists lose the most from not being able to effectively share music on the internet, musicians from all levels lose their ability to have their art form respected as art. Musicians need to be able to use the internet for the purpose of gaining exposure to an extensive range of music, marketing their music, forming community and gaining knowledge. The RIAA has never been concerned about the needs of musicians; while the RIAA claims that “pirates” are exploiting musicians by not paying them for the copyrighted material, it is the RIAA that does not pay the musicians their share of the profit. The “Big Four” used to just exploit musicians by giving them unfair contracts (Baskerville 1990; Hull 2004), but today, in addition to still exploiting musicians with unfair contracts, the RIAA earns extra cash that it does not have to pay musicians by claiming that it is the “pirates” who exploit the musicians. The RIAA may have honest interests in protecting their profits, but it should be honest to its consumers that it is not fighting the internet for the musicians’ sake.

There will continue to be new musical mediations in the future and the RIAA, the courts and Congress should embrace these changes by shaping policy and law in a way

that creates opportunities for musicians to get appreciation. The legal framework needs to shift in a way that accommodates the greatest amount of good for the largest number of people instead of creating the largest profit for business interests. It is unfair to allow technologies develop, try to shut them down and then harness them once it is discovered how they help business because a new technology is either undesirable in of itself or it is beneficial to society; using P2P file-sharing programs cannot be both a form of “pirating” and a constructive way of marketing. The RIAA’s exploitation of its consumers and musicians will eventually breakdown the system it is trying to protect when people realize both that the RIAA is only working to help itself and that there is nothing inherently wrong with copying/sharing music.

Chapter 6: Conclusion

Commercial music relies heavily on the ability to be marketed towards people that are receptive to being its buyers. What this has led to is a society of people that are pacified by a need to consume what is marketed to them. “Having ceased to be anything but style, [the music industry] reveals the latter’s secret: obedience to the social hierarchy” (Horkheimer and Adorno 1972 p.131). Music is produced in a way that appeals to the maximum amount of listeners to increase returns on investments made in production and distribution. In the process, music becomes (de)politicized to ensure that the politics in music do not get in the way of music sales. Then, the RIAA acts in a manner to make sure consumers have no functional way around the entrapment created by the oligopolistic nature of the “Big Four.” The end result is consumer obedience as it is just too difficult to find ways to listen to non-mainstream music.

Music’s commodification is only an example of how invasive business has become on the production of culture. This is a period in history where the logic of the market has become so pervasive that if something sells, then there must be something inherently “good” about it. It is only logical from this point of view that music is judged by how many albums an artist/group sells as tallied by *Billboard*. As long as this mentality prevails, society will continue to be trapped in a vicious cycle where albums sell because they are determined to be popular after other people have bought them. People continue to buy music as long as they are convinced that there is something new and desirable to buy because “[t]he culture industry perpetually cheats its consumers of what it perpetually promises” (Horkheimer and Adorno 1972 p.139). Consumption has become almost exclusively driven by demand that is created by the producers of culture.

There is a certain degree of irrelevance when it is revealed that an artist cannot sing because as long as he/she is attractive then he/she can continue to sell music¹⁴. Music has become secondary to image; as Dick Hebdige notes “the circulation of the Image precedes the selling of the Thing” (Hebdige 1988 p.95). Popular music is created in the interest of supplying consumers with a type of individualism that hides its

¹⁴ As evidenced by Ashlee Simpson’s appearance on Saturday Night Live when she was lip synching to the wrong song (10/24/2004).

standardization. Theodor Adorno calls this “pseudo-individualization” by which he means “endowing cultural mass production with the halo of free choice or open market on the basis of standardization” (Adorno 1992). Producers know what sells well based on formulas that have been tried and tested (Horkheimer and Adorno 1972), there is little economic benefit in reaching too far away from the norm in producing new music. If music can be marketed in a direct way to consumers that appeals to the visual sense as well as the aural sense, then the record label is assured vast sales before the album hits the stores.

As demonstrated in Chapter 2, the development of SoundScan was a benevolent methodological change based on the idea of obtaining more accurate sales figures. Initially, the “Big Four” were ardently opposed to the concept of SoundScan (Watkins 2005), but after its implementation, the major record labels discovered that they could use SoundScan to figure out where they needed to invest more in A&R. Chapter 3 outlined how the development of SoundScan led to the co-optation and commodification of hip hop music. This demonstrates that a disturbance to the status quo in the music industry is met with opposition by the “Big Four,” but after the major record labels develop a way to harness the new development, they use that development for their own benefit. With the development of the internet and online file-sharing, Chapter 5 shows that the current debates about “piracy” and digital copyrights are new developments in technology that the “Big Four” are just beginning to harness to make larger profits.

The bottom line is that people listen to music for entertainment and that fact cannot be lost in arguing for a more political music industry. It is also the case that music is commodified by corporations that are interested in selling their products to the largest quantity of consumers. Through the pursuit of pure entertainment, people consume music designed to preoccupy consumers’ brains. “The liberation which amusement promises is freedom from thought and from negation” (Horkheimer and Adorno 1972 p.144). American society’s constant quest for amusement satisfies the American desire to free oneself from having to think when one is away from work. The whole concept of amusing oneself allows people to consume cultural products. This has led to the pacification of American society while also reinforcing the consumption driven attitude of the music industry.

It, however, is problematic to develop music without having a sense of how a genre can be formulated. The chapter on hip hop's (de)politicization demonstrates that the "Big Four" does not know how to react to a new genre until it becomes firmly established. Once the "Big Four" figures out how to market a genre to maximize its profits, the record labels do everything they can to gain the largest share of the market. In the case of hip hop, the "Big Four" was aided by the implementation of SoundScan, which showed executives that their most lucrative audience was white males, as is the case with most music. There was a necessity for the "Big Four" to distill politics out of hip hop in an effort to appeal to whites who may have a problem listening to lyrics about black power. Instead of accepting that those individuals just will not listen to hip hop, the "Big Four" made the lyrical content more appealing to white consumers. As a result, MCs that rap about politics are segregated into a separate group known as "conscious rappers" as if they are somehow different from regular rappers.

What is left is an exploitative picture of hip hop that sells a stereotyped violent misogynistic image of African American males. Most popular rappers are more than happy to accept the fame and fortune in exchange for being exploited. dead prez explains this in their "Hip Hop (Remix)":

*Ay dogg that label is that slave ship
Owners got them whips and rappers is slaves
If you really wanna eat, you gotta hear the same thing*

This exploitation is not limited to rap music; chapter three could have been written using almost any genre of music including, but not limited to, country, rock, punk, Motown, big band, Christian and so-called "smooth" jazz. Since record labels happen to be the biggest exploiter of musicians, it is difficult for the RIAA to argue that it is in some way representative of both musicians and record labels. Acting in the interests of the major record labels is tantamount to acting against the interests of musicians. The RIAA helps perpetuate the exploitation of musicians (and consumers) by the major record labels.

During periods of earlier musical mediations, copyrights were enforced by non-governmental organizations developed to protect the licensing and publishing rights of certain writers, performers and publishers. These organizations, mainly ASCAP and later BMI, have made sure that artists have been paid for the works that they have created.

While Chapter 2 demonstrated that ASCAP and BMI's system of allotting the royalties collected may not be the most fair (Ryan 1985), it also showed that artists have been paid some of the royalties for the use of their copyrighted works. The RIAA's newly acquired position of digital copyright enforcer has not been as beneficiary¹⁵ for musicians as the publishing and licensing groups. Royalties that have been collected for violation of copyright laws in a digital environment have not been redistributed among musicians, but rather those royalties have been kept by record labels. Chapter 5 explained how royalties for digital copyrights began to be defined under the Audio Home Recording Act (AHRA) of 1992 as only owed to major record labels; this mentality continued into the Digital Millennium Copyright Act (DMCA). Copyright enforcement has become one of the roles of the RIAA, while the RIAA has redefined the distribution of royalties as something owed to the major record labels.

New technological mediations have the ability to change the balance of power in the music industry to favor a much more diverse musical environment. The RIAA, however, is strictly concerned with maintaining the power in the hands of the "Big Four" record labels. Technology will be allowed to inch forward until the "Big Four" realizes that there is a potential to lose profits. Instead of trying to compete in a new mediascape, the "Big Four" uses the RIAA to influence legislation and take entities to court. Labeling a large segment of the population as "pirates" is a short sighted solution to dealing with the violation of copyright law by file-sharers. Not only is this a short-sighted solution, but it appears that the "Big Four" sees benefits to file-sharing itself (i.e. a new way to conduct market research). The pattern for the music industry is to ignore new technologies, try to eliminate those technologies after they have formed and then figure out how to use those technologies for their own benefit.

Cheap home recording technology and Peer-to-Peer (P2P) distribution have the potential to advance the ability for independent artists/labels to compete with the major record labels; this is exactly what the RIAA is aiming to stop when it prosecutes individuals and P2P programs for "pirating" music. The RIAA is not actually concerned about people illegally downloading music because it appears that on a certain level file-

¹⁵ I use the term "beneficiary" lightly considering the unfair mechanisms that both ASCAP and BMI have used in the past in determining the distribution of royalties.

sharing may help the “Big Four” with sales (Gantz and Rochester 2005); the problem is the music consumers who are downloading legal music for free. Giving consumers access to “free” music from independent record labels and artists creates competition in the form of opportunity costs for the major record labels. Music consumption is not only limited by how much money a person has to spend, but also by how much time a person has to listen to an album; therefore, album sales are influenced by time as much as money. When someone legally downloads an album from an independent artist for free, he/she probably will not purchase an album from the major record labels because of lost listening time. The “Big Four” wants to stop people from downloading music for free off of the internet to make sure that other artists and labels outside of the “Big Four” are unable to compete in an open market.

Since the major record labels are businesses first, their main goal is the replication of capitalist logic among consumers to ensure an expanding market. Allowing any type of music that expresses an ideological viewpoint that contradicts popular notions of consumption threatens the capital potential of producing music. The competition created by the internet’s disintermediation allows independent artists and labels to compete with the “Big Four” with little to no capital. Media conglomerates own a monopoly on the conveyance of ideas in the public sphere and represent a large barrier to the “freedom of speech.” It is in the interest of the “Big Four” to eliminate its competition or risk losing sales directly from competition and indirectly from the exposure of consumers to a new ideology.

Implications

The consolidation of media conglomerates makes it so only a few individuals and corporations have control over the music and entertainment that are available to consumers. Limiting the number of people who control the production of music that consumers have readily available has a profound effect on the music that people get to listen to. If everyone at the top of the industry has one ideology or belongs to the same political party, then there would be little interest for them to produce music that expresses a contradictory view of the world to their own ideology. Record executives at the “Big

Four” get to determine what music is produced and in blocking competition with legislation created by the RIAA, they have the power to stop unfavorable political speech. Maintaining the status quo of this system maintains the status quo of American Society.

Powerful lobbying groups, like the RIAA, present one of the largest challenges to freedom and democracy for the legitimacy of the United States government. There are a plethora of interests in digital copying technology, many of which are opposed to one another¹⁶. Moneyed interests have the power to influence Congress to pass favorable legislation in order to eliminate their own competition. In effect, the “Big Four” acts in an anti-free market fashion by eliminating competition; neo-liberalism is built on the idea of survival of the fittest, but the “Big Four” ensures its survival by asking Congress and the courts to make illegal any technologies that may oppose it. The influence that the RIAA has on Congress makes it so that the rich get richer by establishing their own rules.

Suggestions on future research

A comparative study across genres could help to further demonstrate the commodification and co-optation of music by the major record labels. While there have been many authors who have focused on one genre or another, I am unaware of any studies that exhibit the similarities across genres in detail. A study of this nature would help focus this discussion by demonstrating that there is a specific pattern that the “Big Four” follows in order to maximize profits. Horkheimer and Adorno describe the problem generally, but provide no specific details in *Dialectic of Enlightenment* (1972). Richard Peterson demonstrates the problem in country music, Craig Watkins shows how it works in hip hop, and Robert Walser examines how this occurs in heavy metal¹⁷, but none of these explore the cross-genre similarities.

I had hoped to be able to do a detailed analysis of the influence that the RIAA had on helping to pass the DMCA, but was unable to do so due to constraints¹⁸. It would be

¹⁶ A small list would include major record labels, independent labels, musicians, celebrities, terrestrial radio, satellite radio, consumers, companies that make recording technologies, ISPs, etc.

¹⁷ Walser, Robert. 1993. *Running with the Devil : power, gender, and madness in heavy metal music, Music/culture*. Hanover, NH: University Press of New England.

¹⁸ My contact that worked for a congressman and specialized on digital copyright legislation and technology issues left the congressman’s office. In order to conduct the analysis that would have been needed here, I would have had to spend a considerable amount of time in Washington, D.C. collecting data

interesting to look at the votes and statements of members of Congress in the passing of the DMCA and those members' relationship with RIAA lobbyists. Unfortunately, the passage of the DMCA came on a voice vote and there is no record of who voted for its final passage before being signed into law. A study of this nature would explicitly document the logic behind different aspects of that law. I believe that it would further demonstrate how calculated the RIAA was in creating legislation that outlaws the personal use of digital copying technology.

Future studies on this topic could involve exploring how the (de)politicization created by the commodification and co-optation of music affects specific cultures. It may be the case that as music is (de)politicized, it politicizes cultural groups in ways that are beneficial to large corporations. An anthropological analysis of how music consumers have re-adapted the culture that was co-opted and commodified could help to explain political implications. By analyzing cultures before and after commodification, a researcher may be able to describe the impact that this process has on culture and politics.

and conducting interviews. This type of research would have been more fitting for a dissertation than a Master's Thesis.

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Virginia Polytechnic Institute and State University (Virginia Tech), Blacksburg, VA
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HONORS/Awards

- Graduate Congressional Fellowship, Spring 2006
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RESEARCH INTERESTS

- Cultural production of music
- Politics of race and ethnicity
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- Congressional corruption

TEACHING INTERESTS

- American government: Congress and Voting/elections
- Cultural Political Theory
- Music and Popular Culture

RELATED EXPERIENCE

Teaching

Teaching Assistant, Department of Interdisciplinary Studies, Religious Studies, Virginia Tech

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- Taught classes when professor was unavailable to teach
- Graded quizzes, tests and essays

Teaching Assistant, Department of Political Science, Virginia Tech
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- Taught recitation sections of Comparative Government (Spring 2007)
- Graded essays for Introduction to American Government (Fall 2006)

Research

Multicultural Academic Opportunity Program (MAOP) Research Internship,
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Blacksburg, VA (June 2004 - August 2004)

- Researched Rastafari and its symbolic use by the Jamaican Government
- Reviewed and studied multiple published sources concerning Rastafari
- Developed a theory involving the Rastafari and its relation to Black Nationalism

OTHER EXPERIENCE

Legislative Assistant, Representative Rick Boucher (VA-09)
Washington, DC (February 2006-June 2006)

- Researched legislation to keep the Congressman aware of current legislation related to Education, Science, Government Reform, Welfare and the Arts
- Responded to constituents
- Met with lobbyists
- Drafted reports

Field Staff, Representative Rick Boucher (VA-09)
Ninth Congressional District of Virginia (2006 Congressional Campaign August 2006 – November 2006)

- Co-ordinate County Chairpersons
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- Campaign

Drum Instructor, Blacksburg, VA (June 2004 – January 2005)

- Taught students of all ages the fundamentals of music
- Geared individual instruction towards each student's experience
- Taught beginning through advanced levels of many styles

Student Judicial Committee Member, Virginia Tech (2003-2004 academic year)

- Review and adjudicate student school judicial infractions
- Determine whether a policy should be invoked upon a student in individual circumstances

PRESENTATIONS

“Rastafari’s Conflict with and Co-optation by Babylon” (August 2004)

- Presented at MAOP conference
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Virginia Tech Service Learning Volunteer, Christiansburg Institute,
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