

Midemnet: "Turning consumers into paying customers"

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As a prelude to the 2003 edition of the International Music Market, MIDEM, this year's Midemnet conference took place on 18 January in Cannes and was entitled "Turning consumers into paying customers."

As well as giving an account of this day's events, we touch on the general situation in the music industry and take a more detailed look at the recent developments in the copy protection and rights management industries.

The music market

An overall drop in sales

According to the IFPI (International Federation of the Phonographic Industry), year-on-year retail sales fell 9.2% in value and 11.2% in volume for the first half of 2002. This slump concerns the United States and Japan in particular. A few countries go against the general trend and continue to enjoy a substantial increase, particularly France (+5.2 %), making it the world's number four market ahead of Germany, but also Singapore, Brazil and Chile. France's figures for the first nine months appear to indicate that the market has grown 8.8% in volume.

Worldwide sales had already experienced a slight decline in 2001 with CD sales totalling 2.4 billion compared to 2.5 billion one year earlier.

With numerous explanations

Various explanations are provided. They include poorer music quality, the general economic crisis, people preferring to spend on DVDs, and obviously, what players call piracy. This umbrella term encompasses a variety of meanings, including the industrial piracy of printed CDs, the increased use of CD-Rs and burners and the downloading of music from the web, in particular. The Midemnet conference was a chance to take stock of economic and technological developments alike.

Midemnet

The RIAA

Hilary Rosen, Chairman and CEO of the RIAA (Recording Industry Association of America) gave her diagnosis of the American situation, and that of consumer piracy in particular (use of the term piracy for both home copies and downloads and manufacturers engaged in fraudulent activity, occasionally related to the Mafia, was the subject of much controversy throughout the conference.) She considers that the generation of 12-24 years olds is dedicated to downloading, burning and making CD-R copies for cultural reasons. On the other hand, adults have a variety of motives: zero cost and also poor record information and distribution through both shops, radios and the Internet. She stresses a number of points:

- increasing the number of legal online services: particularly by intensifying marketing efforts, making it easier to acquire licences and developing surround music;
- anti-piracy systems are primarily a problem for public authorities, but the Chairman demands public action — speaking of Kazaa, based in Vanuatu, she declares: "You cannot target millions of US customers without being subject to US law."

She also implicates those who benefit from downloading, and telecommunications operators offering broadband in particular. She refers to an Internet tax, or even compulsory licensing, the proceeds of which would go to the music world, but describes this kind of evolution as "difficult."

She mentions the agreement reached the previous week with the BSA (Business Software Alliance) organization,

which counts Microsoft and Apple among its members, and the CSPP (Computer Systems Policy Project) which includes Intel, Motorola and Dell. These players announced their decision to work together to solve piracy-related problems on 15 January 2003. It should be noted that the MPAA is not involved in this agreement.

It is difficult to clearly understand the consequences of this deal, but it appears that these organizations will no longer be lobbying public authorities separately, will be collaborating to combat piracy, and will be jointly supporting any legal action taken.

We may be sceptical about the scope of this agreement, however: a new lobbying organization called "Alliance for Digital Progress" was announced in San Jose (California) as early as 24 January 2003. This organization includes Microsoft, Dell, Motorola and the "Information Technology Association of America", and according to its members, aims to counterbalance Hollywood's efforts to impose the use of anti-copy devices in all equipment.

New services: "How to compete with free"

One of the sessions was dedicated to the new service offering, in other words, to paid offers distributed over the Internet. It brought together major players in the field, including, notably, the CEOs of Wippit (UK), Pressplay and MusicNet, along with representatives of Yahoo and Tiscali, and was entitled "How to compete with free".

Obviously, all eyes were on MusicNet and Pressplay, given their difficult beginnings, to say the least.

Both CEOs said that, as far as they were concerned, business was not really underway and they both refused to give any figures concerning either their turnover or their number of customers. MusicNet announced agreements with the five majors and independent companies, in addition to technological developments. Pressplay (a joint venture of Sony and Universal) described a quest for value-added functions, the bid to find new distribution partners and emphasized artists' support. Pressplay reminded us that it had overhauled its offering in August 2002 by introducing a basic unlimited access service priced at under 10 dollars and fee-paying bundled sales enabling customers to burn CDs.

The two players agreed that they had made headway with regard to publisher relations and that it would be easier to obtain rights. What's more, they spoke in favour of revenue-sharing, with no guaranteed amount, since no one knows what these revenues will be. Both of them also said that they would not be targeting the European market for a long time, as it is too divided (language, regulation) and rights-related problems are even more complicated than those in the United States. On the other hand, they have no cross-licence agreement. Providing access to their entire catalogue through a single website is not on the agenda. As regards bringing online music into people's homes, and consequently, using other devices than the PC, this is the accepted target, but depends on the fall in price of the consumer products used; the year 2005 was mentioned here.

D. Goldberg from Yahoo, which works with Pressplay, speaks of a finding a halfway model, i.e. a blend of subscription and advertising. He refers to a licence system that has been "completely destroyed", and which make it too difficult to obtain rights from publishers. He is convinced that technological solutions are not effective: all that copiers require is one good-quality analogue copy.

A. Mariani from Tiscali reminds us that Tiscali is Europe's leading number one player, thanks to its Audi2 offering, which has been trialled in several European countries for two years but is still considered as experimental. He makes it clear that, as far as he is concerned, Kazaa is a distribution system like all the other others.

British company Wippit unites 175 independent labels and distributes legally over the web.

The session on mobile telephony allowed us to review the situation in the mobile market, thanks to representatives of NTT DoCoMo, Faith (leading Japanese company in the polyphonic ringtone market), Yacast (French company which develops its services using automatic music recognition tools), Vodaphone and Universal. We were reminded that handset will never sport a Pentium 3 (it would be boiling and impossible to hold!) and that it also has limited battery life. On the other hand, the telephone can be carried around at all times and allows for easy payment. Its use for promotional or sales purposes is obvious, but additional revenues have yet to be validated: downloading, browsing...

In a separate presentation, Dave Fester from Microsoft presented the audio aspects of its new software Windows Media9 (WM9), and announced the launch of British company Music Choice's (already broadcast music via cable and satellite) web music distribution service using WM9. He demonstrated the software's various features, including the ability to deliver 5.1 Surround sound.

Distribution

The discussions revealed the disparity between Europe and the United States: distribution is structured differently in the former area where two major groups of players are present: large supermarkets like Carrefour and specialist chain stores (Virgin, Fnac). Virgin's online services went live 9 months ago, and Fnac has been active on the net since 1999. According to Virgin, obtaining rights from the majors is a long and difficult process for distributors wanting to carry out their activities online. Catalogue access is one of the subjects currently under discussion. Bricks and Mortar is an advantage for digital distribution.

The introduction of anti-copy systems, especially if not clearly indicated, can have a major impact on the customer: the distributor and record companies must cooperate to explain the system. A recommended solution is offered as a bonus in order to compensate. GERA, the European association of retailers, supports CD protection and online distribution.

Music Choice's CEO took the floor to indicate that he bought rights "here and there", and that his concern was to establish a bricks-and-mortar distribution partnership so as to provide joint services.

PJ McNealy from GartnerG2 presented his figures for 2002:

The US was apparently home to 500,000 music subscribers in 2002, including services provided by Pressplay, MusicNet, RadioXM (digital satellite), Full Audio and others. RadioXM announces 350,000 subscribers year-end 2002 and is aiming for strong growth, along with its direct competitor Sirius Satellite Radio.

The sector's revenues are said to total 29.9 million dollars in the US, and will roughly double each year, according to predictions, reaching 618.2 million dollars in 2006.

Industry's attempts to fight back

The players taking part in the session were occasionally very cautious when it came to their actual projects. The accent was placed on education, i.e. making people understand that this type of downloading is illegal, and on levels of security proportionate to the risks run.

Emphasis was put on the need to act on all fronts: make copying more difficult, making it harder to make copies available and providing viable alternative offers.

US firm OVERPEER presented its spoofing system which aims to discourage players who download music. In response to a search on Kazaa's site, for example, the web user may receive an empty file, a sample file or even another promotional track. The company refuses to reveal the name of its customers.

France's not-for-profit company RETSPAN aims to identify hackers and to combine blocking access to websites with explanations.

AUDIBLE MAGIC (USA) links up a database of music tracks to an automatic recognition system. It targets the reproduction company market, amongst other things. In return for a subscription, these players are able to check that their customer is a rightsholder.

In view of the demise of the SDMI, the emergence of new standards is not all that easy. Only the MPEG group's efforts were mentioned. This work makes it possible to provide a joint framework for the various standards. The company Macrovision claims to adapt to as many standards as possible and speaks against the premature adoption of a single standard.

Session dedicated to artists

This was by far the most lively session and plenty of strong words were exchanged, particularly those expressed by the EFF's (Electronic Frontier Foundation) representative "no one can pillage artists any more than the majors" or by the ADAMI "Music is primarily suffering from bad practices." The majors' profits and substantial margins were alluded to. Other artists' representatives were more opposed to downloading. Alternative solutions for artists were mentioned, particularly distribution through ISPs.

Industrialists and antipiracy tools developing fast

Numerous (and contradictory) explanations have been put forward to account for the decline in sales in most countries around the world. Similarly, analyses of the reality of piracy and the economic importance of downloading differ very greatly.

From a regulatory perspective, two treaties concerning copyright developed under the aegis of WIPO (World Intellectual Property Organisation) came into force in May and March 2002, after being ratified by more than 30 countries. These were the WPPT (WIPO Performances and Phonogram Treaty) and the WCT (WIPO Copyright Treaty). The 15 member countries of the European Union are expected to have adopted copyright laws in compliance with the European directive of 22 May 2001 before the end of 2003. Talks are to be held within WIPO mid-2003 to draw up a treaty on audiovisual works, and on improving the protection of TV programme broadcasters.

The IFPI (International Federation of the Phonographic Industry) considers that piracy and copyright infringement are chiefly responsible for the market slump, and that the use of CD-Rs and the involvement of organized crime pose a major problem.

As far as organized crime is concerned, the IFPI has been taking action to limit the distribution of illegally pressed CDs for years. It thinks that it is now going to come up against more CD-R reproduction, related to micro-

manufacturing centres situated in distribution countries and associated with structured groups linked to organized crime. Spain, in particular, was mentioned as an example of this type of phenomena — apparently copying takes place in dozens of flats, the CDs are grouped together and sold on the streets by illegal vendors.

The weight of "individual" downloading is also taken very seriously, although it is much more difficult to estimate figure-wise and its economic impact is occasionally questioned. This is expressed by the very subject of Midemnet "turning consumers into paying customers."

On this occasion, we are able to take stock of recent developments in the anti-copy protection system and DRM spheres, and of the great many industrial moves in particular:

2001	Sony announces the launch of Key2Audio. Over 30 million equipped CDs are said to have been sold at the end of 2002. Key2AudioXS is announced at Midem 2003.
May 2001	Thomson Multimedia unveils SmartRight, a smartcard-enabled copy protection system offering an additional level of security.
July 2001	DVB launches a call for proposals for a copy protection and content management system.
April 2002	Announcement of Sony's PASSAGE system aimed at protecting content received via cable, for existing and heterogeneous cable systems.
May 2002	The MPA (Motion Picture Association) submits a 5-point plan for combating piracy, including the necessity for all CD or DVDs manufactured in Europe to carry a SID (Single Identification Code).
July 2002	Microsoft launches "Palladium", a long-term plan to protect software from viruses and control computer files.
August 2002	Sony announces OPEN MG X, a tool making it possible to know and control the number of times a file has been read. OPEN MG X is to be supplied to Pressplay (which uses Microsoft's DRM). It employs the proprietary compression format ATRAQ3 (audio and video) and the MagicLip player.
September 2002	Appearance of the logo suggested by the IFPI to indicate that audio CDs are equipped with an anti-copy device. BMG and Sony have already developed their own means of signalling.
September 2002	Microsoft announces Windows Media 9, which includes full DRM (developed over the last four years and costing 200 million dollars according to Microsoft).
November 2002	Macrovision acquires Midbar, the Israeli company that developed Cactus Data Shield (CDS) technology for controlling PC-based CD audio copying. According to Midbar, this technology has been integrated into over 30 million CDs (10 in Japan and 20 in Europe).
December 2002	Winding up of LiquidAudio, the company that sold its patents to Microsoft in September 2002 for 7 million dollars.
December 2002	Sony and Philips take over Intertrust, a small (37 people) US company which has developed a host of digital distribution technologies since 1990. Microsoft owns a 25% stake in Content Guard, an Xerox subsidiary and Intertrust competitor.
January 2003	The record and computer industry seal a deal to cooperate in the fight against piracy.
January 2003	Real Networks announces DRM Helix, supporting Real standards and also MPEG4, MP3 and H.263, to name but a few. Beyond the PC, it targets a broad range of consumer terminals, and is positioned as WM9's rival.
January 2003	MPO International unveils its audio CD copy protection system Private Audio, making it possible to control private copying without prohibiting it.

In spite of initial teething problems, 2002 saw the rapid development of anti-copy protection technologies in particular. This growth is taking place relatively unobtrusively. In France, at least, it was stimulated by the draft bill aiming to transpose the European directive, as mentioned in the press, and which may include a ban on the

distribution of decryption techniques enabling the circumvention of protection systems, similar to the one imposed by US law through the DMCA (Digital Millenium Copyright Act). Progress on the legal front, and that of private copying legislation in particular, in addition to the public's acceptance of this type of system will probably have a major impact on technological developments.

Among the announcements made at Midem, Macrovision declared that, thanks to its acquisition of the Midbar firm, it had produced 60 million protected CDs in Japan and in Europe, and that its new release of Cactus Data Shield software allows purchasers to listen to a disc on their PC and record it on their hard drive. As for Microsoft, it has made its first foray into the music protection market with the Windows Media Data Session Tool Kit, which it will be providing to record houses. There are two tracks on the CD: the standard audio format protected by Sunn-Comm's technology, called MediaMax CD-3 and a PC readable format.

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