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‘The new radio’: music licensing as a response to industry woe

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One of the biggest music stories of 2000 involved the sudden fame of electronic recording artist Moby who, having never achieved commercial radio play or significant record sales with previous releases, found his album *Play* on the pop charts following the placement of all 18 of its tracks. Snippets turned up in films and television shows, and, for a period of time, in what seemed like every other commercial spot in markets around the world. *Play* tracks were licensed to Nissan, Rolling Rock, Maxwell House, Volkswagen, Nordstrom and American Express, among others. The licensing orgy around *Play* ultimately led to radio airplay that almost certainly would not have been conceivable otherwise, and record sales in the millions. Moby’s success validated advertising as a launching pad for lesser-known or new musicians in both the independent and major label music worlds, where suddenly licensing became seen as not simply an extra source of revenue, but a way to break an artist.

The use of newer and younger artists in commercials can be partly credited to changes in advertising: by the mid-1990s, music selection in spots began to reflect the advertising creative demographic, many of whom were young men with a passion for alternative and underground music. By the new millennium there had been a major shift in advertising music from the old soul often employed in the 1980s to new and unfamiliar tracks (Simpson, 2000). But if the cause of the shift seems obvious, then the major consequences for at least some of the artists licensed were surprising. Conveniently, and not by chance, the rising incidence of acts that have broken through advertising has occurred as the radio and music industries have undergone multiple and sometimes disastrous changes. As transformations in the US radio and music industries have resulted in narrower opportunities for a narrowing range of artists, the

advertising industry gladly stepped in to offer musicians and labels large amounts of money and potential widespread exposure. The sum of all of these shifts and changes created a distinct environment for the production of music culture, and cast relationships between popular music and advertising in a new light, with advertisers playing hero to the damsel-in-distress of the struggling artist. Through this partnership, the role of advertising in popular music culture became redefined; instead of a last resort for, and admitted compromise with regard to the creation and distribution of popular music, advertising was portrayed as a champion of music that might otherwise be unheard. However, celebration of the benefits of licensing to commercials must be weighed against the perceived damage resulting from the relationship between music and advertising. In this article, I consider the association between industry changes and the increasing use of popular music in advertising through an analysis of press coverage, and in-depth interviews with musicians, advertising creatives, music supervisors and licensing managers.

Industry context and the production of culture

An exploration of the various processes involved in the production of culture can help to provide an understanding of how organizational, legal and technological factors constrain the creation and distribution of popular music, and why the music industry's interest in licensing to television commercials has risen significantly. Responding to theories of the culture–society relationship that have either formulated culture and society as two autonomous systems or as causally connected, research into the production of culture seeks an alternative approach by turning away from the content of culture and ‘focusing instead on the processes by which elements of culture are fabricated in those milieux where symbol-system production is most self-consciously the center of activity’ (Peterson, 1976: 10). The increased use of popular music in advertising speaks not simply or necessarily to changes in the content of popular music, but also to changes in the context through which popular music is created, distributed and consumed.

By considering the entire cycle of a cultural product, the production-of-culture perspective helps to compensate for the structural determinism of political economy and the audience privileging of cultural studies. The economic structure is a factor that requires the consideration of cultural studies – and, indeed, ‘discussions of capitalism have always figured centrally in its work’ (Grossberg, 1995: 1) – yet it is one factor among many. Further, by attending to the underlying processes of production, the notion of production is complicated. Production is neither as simple as the creative work of the artist or the meaning-making work of the audience, nor as inhuman as the mechanized factory assembly line pressing compact discs. As in the fine arts, the production of popular culture ‘involves the joint activity of a number, often a large number,

of people' (Becker, 1982: 1). And yet because of its mass production, popular culture cannot afford to take the same risks that a painter might; decisions involving the nature of the content are thus linked to the manufacturing processes. A broad audience appeal is required to support the structure of mass production, which means that, despite industry claims to 'give the people what they want', audience *choice* tends to take a backseat to audience *purchase*.

'The type of industrial structure', wrote Crane, 'has important implications for the characteristics of culture in the cultural arena' (1992: 50). The growing presence of popular music in advertising takes place against a backdrop of significant organizational, legal and technological changes in both the radio and music industries. Consideration of the impact of deregulation and 'the digital revolution' on radio and music constructs a framework through which licensing of popular music, long favored by advertisers, became an appealing option for artists and record companies as well. Successful interactions between popular music and advertising require some degree of mutual interest and benefit, and cases like Moby's provide musicians and labels with a rationale for working with advertisers that previously did not exist.

Media deregulation

The increased use of popular music within commercial settings can in part be attributed to the homogenization of radio that has resulted from increasing media conglomeration, which has locked many musicians out of traditional avenues of exposure in the United States. While most of the concern that has been expressed in policy debates is focused on the deteriorating connection between radio stations and their local community with regard to news, the standardization that has resulted from deregulation is further evident in music playlists. These are no longer dictated on a local level, but by national conglomerates and programming consultants. Where maximizing profits led to standardization and predictability within commercial radio stations (Rothenbuhler, 1987: 81–2), the consolidation of radio has resulted in standardization and predictability between markets, such that artists who formerly may have been denied airplay on some stations and granted airplay on others are now practically locked out of all. Just as it is important for citizens to have access to a variety of political voices, so too should a democratic media system offer a variety of cultural forms, popular music included: 'The media system is not simply an economic category; it is responsible for transmitting culture, journalism and politically relevant information' (McChesney, 2003: 130).

In the aftermath of the 1990s deregulatory acts, most of the US commercial radio market is controlled by a handful of radio groups (Prindle, 2003), resulting in the type of anti-competitive practices we have come to expect from deregulated media industries. 'Pay for play', a modern form of payola

involving independent record promoters, presents a 'glaring example of anti-competitive behavior enhanced by consolidation' (Prindle, 2003: 307). Regular, and legal, radio routines (not least the low-risk playlists anticipated from anti-competitive markets) also systematically exclude lesser-known artists. Multiple factors, then, can be understood to have assisted in reducing the range of music on commercial radio: 'Between payola and the conservatism built into large commercial organizations, the range of music getting extensive airplay in the United States has shrunk, and the notion of localism in music content has been nearly eliminated' (McChesney, 2004: 232).

The Future of Music Coalition, a not-for-profit collective of musicians, public policy analysts and intellectual property law scholars, was formed in 2000 specifically to address the impact of deregulation on music radio. By combining public opinion polling with statistical analyses of changes within the radio industry, including ownership consolidation and playlist shortening, the Future of Music Coalition has linked the results of deregulation to public dissatisfaction with commercial radio. The organization's 2002 report (DiCola and Thomson, 2002) illustrated how format consolidation limits the opportunities for musicians to receive radio play, greater format diversity does not translate to diversity in programming, and radio's relationship with the recording industry leads to playlists dominated by bands signed to one of the five major label conglomerates. The results of their public opinion poll indicated that citizens are not satisfied with the consequences of deregulation; radio listeners prefer radio stations to be independent and locally owned, and desire a wider range of music that includes local offerings and longer playlists (DiCola and Thomson, 2002). The disconnect between the realities of the radio industry and the wants of radio listeners provides evidence that the Federal Communications Commission has failed in serving the public interest, not only with respect to news programming, but also with music.

The advertising world has happily stepped in to fill the void left by the consequences of deregulation, offering artists who might not have access to traditional channels of distribution the chance to have their music heard. The moderator of a panel on music and marketing at the 2004 American Advertising Federation conference made this connection between radio and marketing explicit: 'I think that more and more, as the music business gets dominated by gigantic radio station conglomerates, the artists are going to try to find ways to get around that. And I promise you, it's in marketing and advertising' (Loomis, 2004). As an alternative to courting radio play, music licensing affords opportunities to labels big and small; of the forms into which music is placed, advertising offers both the largest payments for music and the greatest number of potential listeners. Jack McFadden, owner of the March Records label, described the paradox confronting independent labels and artists: 'You're locked out of commercial radio, but you're not locked out of commercials. Which is hilarious' (interview, 2005).¹ Jenn Lanchart, director of film and television for the Beggars Group, explained the independent label position on radio:

We don't have the kind of budgets to pour into radio promotions companies and independent radio promoters to get adds [to a playlist] on radio stations and the money is a huge factor in that. So a band will be very happy to get a commercial spot and be paid all this money, and then if a radio station sees it and they hear it and it makes sense to them and they get an add from that, great. And that can happen. (interview, 2005)

Licensing to advertising is seen as not only an alternative avenue for reaching the ears of potential buyers, but also a way to reach the ears of radio programmers. As closed off to risks as radio may be, tracks that create a buzz through their use in television commercials can jump the line and be added to radio playlists. Major labels, too, have attempted to take advantage of music licensing, in the hope that such exposure will lead to radio play. Particularly in the aftermath of payola scandals, major labels are turning to advertising as another method of promoting new releases. Tim Barnes, music supervisor and sound designer for *Lost Planet*, considered how the narrowing of radio resulted in labels looking instead towards licensing:

There's so little room in what's called mass appeal possibilities.... And what has happened is that this music licensing thing has grown a second head for the possibilities of the record industry. You used to need a lot of money to go talk to anyone at a major label to license music.... And then all of a sudden they're calling you. (interview, 2005)

While the 'second head' of licensing used to provide support to more traditional music industry interests such as radio and sales, over the past decade its significance has increased, as can be seen both through the growth of music supervision for advertising as a discrete position and by the attention labels now pay to placing tracks in moving-visual media. Carianne Brown, the director of film and television music for Universal Music Publishing, noted that film and television placements are 'almost like a new radio, because radio stations are a lot more limited now' (interview, 2006), a view invoked by musicians, too. Joe Pernice, whose group the Pernice Brothers has licensed to ads for Southern Comfort in Europe and Sears in the United States, echoed Brown's sentiments: 'It's almost like commercial and television placement are the new radio' (interview, 2006).

Music supervisors often frame their work as similar to that of a radio DJ, suggesting that music licensing is being treated by those close to the practice as picking up the slack of commercial radio, giving listeners what radio is not. Tricia Halloran, a music supervisor at HUM, also works as a DJ for KCRW in Los Angeles, and sees the two positions as a perfect match: 'The things that both a music supervisor and a DJ do are spend a ton of time listening to new music and kind of analyzing it and just having a great knowledge about music, so it's actually a really good fit' (interview, 2005). The music supervisors and ad creatives I spoke with described feeling proud to have helped introduce a band to listeners through a commercial placement. Particularly

when placing artists that do not have access to commercial radio airplay, music supervisors understand their work as serving both the bands and the audience, much like radio DJs.

If radio is doing a disservice to listeners, its impact on musicians is even more severe. Within the increasingly consolidated media environment, licensing songs for use in television commercials has become an attractive option for the many groups excluded from radio play, as both a quick payday and an opportunity for broad exposure. Those who may have previously dismissed the licensing of songs for use in advertising as, on the whole, compromising, have been forced to re-evaluate the option and generate more detailed criteria to apply to specific instances. Thus, while to many it may appear that the stigma attached to commercial affiliation has been lifted, an examination of music in advertising against changes resulting from deregulation suggests that some musicians are licensing not because they are indifferent, but because they are seeking alternative venues for their music. Success stories, like that of Moby, are evidence that licensing to commercials has the potential to triumph over radio and music industry systems that seem determined to exclude most artists from ever being heard on a wide scale.

When *Play* was released in 1999 Moby found himself in a position not unlike most other musicians with respect to radio: essentially locked out. Not only was Moby on an independent label, but he also created within a genre of music that, at the time and still today, is given little attention on commercial radio: one journalist identified the 'pragmatic reason that electronic music is making an instantaneous leap to commercials and soundtracks: No one else will play it' (Lynch, 2000: I6). In 2005 Moby explained the circumstances under which licensing became the main channel of distribution for *Play*: 'Radio is opening up a bit now, but when *Play* came out all the stations had been bought up by corporations and rigidly formatted.... The only people who seemed interested were music supervisors for movies, TV shows and ads' (quoted in Dickie, 2005: 46).

Moby has described his and his label's approach to licensing as 'indiscriminate', reiterating that, at the time, radio and MTV play evaded him (Harris, 2000: 9). For lesser-known artists who license to advertising, a similar indiscriminate approach is expected; the more desperate an artist is for exposure and revenue, the less room there is for ethical qualms, either regarding the philosophies of specific corporations or commercialism more generally.

The impact of Moby's success can be seen in the sheer amount of new music being used in advertising and the growth of professional positions built around music licensing. Moby's was 'a music industry success story that was written early on, largely without radio, defying the traditional view that airplay is key to making a music star' (Boucher, 2000: F1), and its result was an industry re-evaluation of that traditional view. A reporter for *Billboard* magazine concluded that, after successes like Moby's brought a new perspective to licensing:

... placing music in TV commercials and TV shows has become a viable, as well as increasingly competitive, way to break, market and promote dance/electronic artists, particularly when there are less adventurous souls at radio and video networks willing to take a chance with the genre. (Paoletta, 2003: 39)

Claims that the stigma attached to licensing to advertising has diminished or disappeared are almost always linked to the benefits to artists, from the compensation received for the use of their music to the potential for being picked up by radio as a consequence of the exposure: 'The crush of music heading into television commercials has changed the mindset of new acts hoping to follow Moby and break through in electronic and DJ-oriented genres' (Boucher, 2000: F5).

By providing an environment in which music success stories could take place, advertising received a boost in turn. Slowly, the shame attached to 'selling out' and commercial affiliation was replaced in the press by declarations of new marketing approaches and victories for musicians locked out of radio. Becoming 'the sound of commerce' (Segal, 2002: C01), as Moby did, was a badge of honor, not shame. Positive experiences like Moby's recontextualized the use of music in commercials for artists eager to be heard, but even more so for labels, worried about another source of changes to the way the music industry works: the so-called 'digital revolution'.

The digital revolution

With technological developments in digital music and the growth of broadband, the illegal downloading of music has caused panic for the recording industry, which has traditionally relied heavily, though never fully, on record sales for profit. The actual threat to record sales posed by P2P platforms and piracy has been called into question by critics who point to other explanations for dips in sales, as well as various and inconsistent estimates of sales that do not suggest a simple, steady decline. Whether or not the threat is real, the anxiety felt by the music industry certainly is. As the industry seeks legal and technological solutions to illegal downloading and piracy, it has simultaneously explored alternative revenue streams to record sales.

The influence of the internet over the terms of music distribution has forced record companies to seek other ways to stay in business (Breen and Forde, 2004: 81), and the licensing of performance and publishing rights is a particularly ripe area. Downloading will not necessarily replace physical formats of music; the industry is becoming increasingly involved in legitimate downloading services and lawsuits to decrease the use of illegitimate services (Breen and Forde, 2004: 84–5). Forde identified 'how the music industry is reconfiguring to capitalize on developments' such as the sale of ringtones and 'the immense revenues that synchronisation licensing departments (for music use in ads, in films, on TV and increasingly in computer games) bring in'

(Breen and Forde, 2004: 85). Likewise, Jones noted that the internet, by problematizing where and when the point-of-sale occurs, forced the music industry to shift its focus to music licensing and performance royalties, and that the focus on copyright has overshadowed other issues surrounding digital distribution, including its effect on social exchange (2003: 221).

To date, there is no solid evidence that illegal downloading is damaging sales: 'Despite the RIAA's [Recording Industry Association of America] claims that Napster-driven piracy was eating into profits, recorded music sales in the US reached an all-time high of 785.1 million units in 2000, up 4 percent from 1999' (McCourt and Burkart, 2003: 339). The digital revolution, then, can be interpreted as simply a convenient excuse for problems that very well may have surfaced even in the absence of the internet. McChesney highlights how the music industry has chosen almost entirely to blame digitization for its woes, and has sought to maintain its control through restrictive legislation:

[I]n a genuine democracy, policies would be crafted to structure a music industry that better served the public in light of the new technologies. But in the United States music firms can use their immense political and economic power to get technical standards changed, PR campaigns launched, and copyright laws altered so they can maintain control over the industry. (McChesney, 2004: 222)

However much the threat of digital music has been overstated, the recording industry has not wasted time in looking to other sources of revenue to counter dips, or potential dips, in record sales. It follows that synchronization rights have become an increasingly valuable resource to record companies. Michael Nieves, whose company Sugaroo! represents the catalogues of many independent labels, explained: 'with all the obvious stuff, the file-sharing and the downloading and all the things that are causing record sales to plummet, licensing is doing nothing but going up' (interview, 2005). The implicated consequences of the digital revolution, such as file-sharing, represent a complementary threat to the threat of narrowing radio, and licensing appears to present a solution to both. On the one hand, licensing offers the opportunity to compensate for the exposure lost by changes in radio, which have left most artists without a reliable outlet for being heard. On the other, licensing provides an alternative source of revenue to make up for what is purportedly being lost to piracy and illegal downloading. But the antidotal potential of licensing is limited by the actualities that it exists as one of few viable alternatives and that it relies on partnerships with industries that are focused on the bottom line. As the advertising world becomes more aware of the music industry's reliance on licensing as a source of exposure, the tradition of paying a fee for such placement may be reconsidered.

Paradoxically, while the music business has become increasingly reliant on license fees, it has also found it necessary to pay for media exposure, which raises the question, when do the effects of promotion 'outweigh the forfeited

rights income' (Frith, 2004: 180)? The suggestion that song licensing to television commercials can serve as an alternative source of revenue to record sales has provided a rationalization for musicians who are perceived to have crossed a line between cultural and commercial objectives, but whether licensing popular music to advertising will resolve the financial difficulties of musicians and labels in the long run remains unclear.

Weighing evils: major labels and MTV versus advertising

Independent labels have also begun to view licensing as a way to circumvent the major music corporations – which they originally sprung up to oppose. Licensing to advertising provides an avenue that avoids corporate-owned and -operated commercial radio that has never been kind to independents, but it also challenges the importance of major label record contracts and MTV, both embodiments of the dominance of corporate control in the music industry.

While on the surface it may seem contradictory for artists who have made the decision to work only with independent labels to then license their music to giant corporations, some independent label owners, employees and musicians consider music licensing a way for artists to maintain their independent status while still making a living from their work. Joe Pernice of the Pernice Brothers explained how licensing to advertising allowed him to more easily establish his own record label on which to release his music: 'I walked away from a record deal. I wanted to have control over my career so I walked out of a record deal, and I had to pay for my own albums' (interview, 2006). Sugaroo!'s Michael Nieves described the situation of 'fiercely independent' artists who are:

... incredibly talented, have gotten major label offers, seven-figure major label offers that they've turned down, but then conversely have licensed their songs to commercials because that enables them to continue their indie lifestyle.... So by taking the corporate dollars it keeps them out of the clutches of the music business corporate dollars. (interview, 2005)

In conversations about licensing, it is perhaps surprising that MTV is often referenced by musicians and independent label owners as the most egregious offender when it comes to taking advantage of artists' desire for exposure. After all, MTV was created as an outlet for promotional videos, and artists were 'paid' in exposure. Over the years, however, the network has replaced blocks of videos with original programming, which is where the griping about licensing emerges. Jeff Price, co-founder of independent label spinART, explained that when a video is submitted to MTV, MTV reserves the right to uncouple the music from the visual component and use it as soundtrack to its shows (interview, 2005). Artists are rarely credited (occasionally a credit is

provided after the program or as a link on MTV's website) and the usual synchronization fees are not applied. Jack McFadden, owner of March Records, discourages bands on his label from signing contracts with MTV:

I think MTV exploits [bands]. I never say yes to any MTV show. They don't pay, they prey on indie labels and why should I sign my rights over so that you can use this song in any of your crappy *Real World* shows? Just so I can hear it? (interview, 2005)

In the end it could be claimed that, by licensing music to advertisers, independent artists and labels are snubbing the major music corporations by running into the arms of other, and arguably more malevolent, corporations. How could aligning oneself with Coca-Cola, or Nike, or Sears, through the implicit endorsement of licensing, challenge the fundamental problems associated with the big music companies, when all of these corporations in essence share the same economic blinders that privilege the obvious and obviously profitable over the riskier but culturally progressive? Like all of the choices artistic parties must face when involved in partnerships with advertisers, distinctions become ever more complex, and individual cases a matter of weighing a series of pros and cons. Calvin Johnson, founder of K Records, recognized the importance and intricacy of the distinctions, and the extent to which the decision to license to advertising becomes particular to a specific artist and situation as a result:

When those offers come in, I just pass it along and it's entirely up to the band. I personally wouldn't do it because I just feel like it's a line I don't feel comfortable crossing, but I think it's a personal decision and every artist has to decide those things for themselves. (interview, 2006)

Many artists favor licensing music to advertising over working with major labels or MTV, abetted by a belief that the contracts with advertisers are reasonable by comparison, and a confidence that a licensing deal would not be entered into blindly. Although most of the artists I talked to admitted that a product or company would have to be particularly heinous for them to turn down a large sum of money, there have been reported cases of musicians refusing offers from companies such as GE and Hummer for ethical reasons. Individuals who represent catalogues keep track of the guiding principles to which their artists adhere. Universal Music Publishing's Carianne Brown explained that it is her job 'to know the sensibility' of bands, 'to understand what they're going to be okay with and not' (interview, 2006). Even Moby refused to cross certain lines, vetoing some car commercials and, because of his stance on animal rights and cruelty, ads for cosmetics companies (Harris, 2000).

Pros and cons of licensing as an alternative

It cannot be denied that this is an era that demands alternatives, and, from multiple perspectives and for varying reasons, licensing music for use in

commercials has presented itself as an attractive alternative. However, just as licensing to television commercials appears to offer a solution to radio and music industry woes, it simultaneously contributes to the crisis of hypercommercialism and raises important questions about the role of advertising in popular music culture. Further, insofar as they can be measured, the celebrated benefits of licensing to advertising versus radio play and record sales are neither reliable nor guaranteed.

The current state of the radio and music industries leaves much to be desired, and it is no surprise that many entertainment journalists and cultural commentators have expressed a need for new music gatekeepers, whether they be podcasters, music bloggers or music supervisors. As a writer for *The Guardian* suggested (the problem of conservative radio and MTV programmers is not simply an American one):

If we are to have our records chosen for us, perhaps they're better coming from a hip young ad exec or TV researcher than an industry-soaked Radio 1 producer. Daytime Radio 1 is dominated by R&B, boy bands and the business's hot projects. TV is less predictable. Sky, for example, have championed Flaming Lips and Six By Seven. They haven't made them hits, but as Sky becomes more mainstream it might be just a matter of time. The more power that can be removed from Radio 1 and MTV, the better it will be for consumer choice. (Simpson, 2000: 14)

One of the presumed benefits of licensing is that ad creatives are more willing to take risks and provide exposure for bands neglected by those running traditional avenues, such as commercial radio. The suggestion that exposure can lead to hits relies on the expectation that, through licensing, artists will see an increase in record sales, ticket sales, other licensing opportunities and radio play. These expectations appear to be validated by the success stories and claims such as this one from the singer of Dirty Vegas, whose 'Days Go By' broke through a Mitsubishi ad: 'If we hadn't had the ad behind us, we wouldn't have gotten the song on the radio, and people would never have heard us' (Farber, 2002: 46). In reality, licensing to advertising does not guarantee any of these benefits and, more often than not, artists see little to no change in record sales and radio play. Even for the artists and genres that did break into radio through advertising, the response was not permanent: 'Yes, Moby and Fatboy Slim and the Crystal Method have received some station exposure, but they're hardly in heavy rotation' (Lynch, 2000: 16). Though The Walkmen saw a substantial increase in record sales after a song was licensed to a Saturn commercial, singer Hamilton Leithauser minimized the impact of the ad, hesitating to make the connection to later radio play:

It definitely made a lot more people aware of who we were. But, I don't know, we weren't played on the radio until we had another song that really deserved or sounded more radio. And that was the only reason we got on the radio is, I think, because of that song. (interview, 2005)

The only guaranteed benefit of licensing to advertising is the flat synchronization fee. In Moby's case, the *Play* licensing bonanza earned a substantial amount of money, not only for the artist but also for the label; however, this was an extreme case in which an album was fully and repeatedly exploited for commercial placement. Although licensing has become a more significant source of revenue for indies, it is hardly a dependable source of income; Jack McFadden of March Records described licensing opportunities as a 'lottery ticket' (interview, 2005).

The irony is that the artists and labels that could use the additional revenue the most are often paid the least. The Rolling Stones and The Who can demand seven-figure fees to license their work, while lesser-known artists might settle for 1 percent of those fees. Plus, as the stigma attached to licensing has been lifted and as advertisers have begun to recognize the powerful position they are in with respect to music distribution, synchronization fees appear to be steadily decreasing. To StarTime International owner Isaac Green, the reason the fees are decreasing is because the debate over selling out has changed; it used to be that:

... the ad agency was compensating the band for the damage they would be doing to their career. No one feels that way anymore. Mitsubishi had this Dirty Vegas song and on the strength of it Capitol sold half a million records. And I'm sure Mitsubishi was like, 'Oh, Capitol would do this for free. We just did them a huge favor.' (interview, 2005)

Certainly cases like this prompt important questions: how much longer will advertisers be willing to pay for music? Will there come a time when labels will pay to have songs placed in advertisements? For now, music supervisors try to ensure that artists are being fairly compensated. JWT music supervisor Dan Burt described negotiating a fair fee for artists as his responsibility:

... part of what people at my job here are supposed to do is when people come to me with crazy ideas like that, we'd say, 'No, not only is that really low, but it's kind of demeaning.' Can we use your song and give you a Twizzler? (interview, 2006)

The opportunities presented by licensing do not relieve us of the responsibility we have to examine and repair the radio and music industries. That we can hear music in other places does not mean that commercial radio is no longer relevant. Even in this age of digital radio, internet radio and music licensing, when new music can be heard in a number of new places and ways, commercial radio remains the source through which most listeners are exposed to new music. There is also a need to scrutinize the practices of the major record companies. *DIG!*, a documentary film recounting the friendship and competition between two bands, the Dandy Warhols and the Brian Jonestown Massacre, offered a cautionary tale in its illustration of the pitfalls of major label contracts. In the film, TVT Records' A&R representative Adam

Shore commented on the typical success ratio of major labels: 'I don't think there's another business in the world where you can have a 90 percent failure rate and still say you're successful. It's crazy. You should be able to make money off every record. You just have to spend accordingly' (*DIG!*, 2004). (The Dandy Warhols, notably, found success in Europe through a song licensed to Vodafone.) This model would be less problematic if labels continued to offer support to the losing 90 percent, but those acts instead tend to be dropped or, worse, neglected while still being held under contract. The major label system, driven only by profits, discourages art and encourages standardization. The recent surge in independent record sales is a heartening development, but, again, should not absolve us of our responsibility to monitor industry practices.

For bands that do not get commercial radio play or the support of major labels and MTV, advertising provides a distribution channel to millions of potential listeners. For independent bands especially, licensing fees can be far greater than the profits earned from record sales or touring. But it is not an ideal alternative. To begin with, television commercials hardly provide an optimum environment in which to hear music: unless the television is connected to a sound system, television audio does no justice to complex stereo recordings. In addition, typically only 30 seconds or less of a song is included in a television ad, and there is rarely any indication that the music comes from an actual recording artist, crediting of the artist, or information about how the music might be procured. Lastly, the more significant the role played by advertising in distributing music, the more likely advertising will become like major labels in terms of power and pressures. The relationship between music and companies does not stop at licensing for commercials; more and more, corporations are partnering with music companies for expansive music tie-ins, such as streaming radio stations and promotional CDs (Garrity, 2001).

To understand the production of culture, it is imperative that we also understand the factors that have the potential to change the process of production. In this case, legal, technological and organizational transformations have all influenced the way that music is being distributed. The changes in US media that resulted from mid-1990s deregulation legislation paved the way for widespread organizational changes in radio, and specifically for a small number of owners to control almost all commercial radio stations. Technological developments, from the digitization of music to peer-to-peer networks, have forced record companies to consider sources of revenue outside of record sales. Music licensing, particularly lucrative placements in advertising, promises to solve the problems of exposure and revenue presented by the radio and music industries. The defense of licensing as a response to industry woe further endorses interactions between popular music and advertising. Advertisers are characterized as almost heroic in their ability to support and break bands that the traditional routes overlooked.

But advertising's newfound role in distributing and financially supporting popular music is not simply the consequence of a variety of causes; it becomes a variable in the production of culture as well. Josh Rabinowitz, director of music at advertising agency Grey Worldwide, is optimistic that in the near future the advertising world will go beyond licensing music to actually recording and creating hit music. Rabinowitz, who contributed an editorial to *Billboard* on the subject, told me: 'essentially we don't need the middleman, you don't need the labels. A lot of people would prefer to associate themselves with a big corporation instead of a big label corporation' (interview, 2005). Advertising could conceivably cut out the record companies, but it is not removing a middleman: it is replacing a middleman and with real ramifications. A serious concern is that the success of artists through licensing to advertising will lead to commercialism infiltrating the creative process more than it already has. *Rolling Stone's* Rob Sheffield reflected on Moby's success:

You had to worry that the sequel would beat the formula into the ground, turning ancient spirituals into ad jingles: 'Nobody Knows the Arby's I've Seen,' 'Nike's Blood Never Failed Me Yet,' 'Colonel Sanders Gonna Make Up My Dying Bed' or 'Oh, Lawdy, I'm Not Gonna Pay a Lot for This Muffler.' (2002: 77)

The growing trend of companies like Seagram's and McDonald's paying rappers to mention their products corroborates such concerns, but the apocalypse is hardly imminent: unprofitable and non-mainstream music cultures will always proliferate in some form, if often through word-of-mouth distribution. Although advertising may not destroy music culture, it is easy to imagine this channel of distribution being as limited or more limited than commercial radio and the major record label system.

In the context of the myriad crises facing the radio and music industries, licensing to advertising has offered itself as an uncompromising DJ and a generous patron of musicians. But as a major gateway, television commercials provide a channel that, like contemporary commercial radio, is necessarily narrow and, for the musicians who do license to spots, not a guaranteed career-booster. Licensing to television commercials does not provide a solution to radio and music industry problems. At best, it provides different problems. At worst, the turn to licensing removes focus from the radio and music industries, both of which require overhauling in order to fulfill the reputed goal of regulatory bodies such as the FCC to serve the public interest through the diffusion of a wide variety of culture, not just the most profitable.

Note

1. All interviews were carried out by the author.

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