

Digital

Digitools. Here we focus on three key issues. First up comes an essay by Peter Jenner, “Partners or Parasites”, with a plan on how music creators and music distributors like the Internet and Mobile Service Providers can form an effective, mutually beneficial partnership.

Charles Caldas of Merlin explains the need for collective representation for independent music labels and rights owners so that they can better negotiate with the new means of distribution.

And here, too, we present the latest updates to virtualWOMEX, the indispensable online tool for world music professionals. virtualWOMEX is free to all WOMEX delegates who have registered for the current edition. Learn how you can take advantage. virtualWOMEX, open all day, everyday for all your world music business needs.



Partners or Parasites?

The Future of the Relationship Between Music and Digitisation

By Peter Jenner

President Emeritus of the International Music Managers Forum (IMMF)

The recorded music industry has always looked on the digital world with classic ambivalence, eager on the one hand to embrace new toys in the studio, on the road or for promotion, but intensely hostile on the other when digital attempts are made to distribute recorded music. Worse still is when the digital distributors want to reflect technology’s cost advantages in their price structures. Indeed technology’s potential as a distributor has been seen as its biggest threat to the traditional recorded music industry. By threatening the entrenched distribution structure, it has challenged not only the key leverage that the record companies have had in their relationship with musicians, but it also threatens the relationship between retail and the distributors, and all the power structures that came from those relationships. The digital revolution undermined the intermediated and structured relationships

between the artists and the public, thereby threatening those intermediating institutions like radio, the music press, the retailers and advertisers. This is not to say that the processes of distribution and intermediation do not have a continuing role, but rather that **the traditional structures rightly feel threatened by the new technology.** The inevitable response has been to try to have one’s cake and eat it too, by taking full advantage of the cost-saving benefits of technology while at the same time hindering or restricting the potential benefits of the new technology that threaten the existing game. The cost of distribution has been dramatically cut yet companies still try to use exclusive monopoly rights to insist on a price that the consumer finds totally unrelated to the marginal value of a piece of music.

Having one's cake and eating it was one thing, but then the recorded music industry tried to re-structure the industry so that everyone had to buy their record collections again for the digital world as they had done with the introduction of the CD, the greatest windfall that ever hit the industry. The ill-fated Secure Digital Music Initiative (SDMI) was such a catastrophic failure that it has now been virtually airbrushed from history.

The subsequent tactic for the music industry was to try to suppress every new service that used music unless that service tried to replicate the traditional business model. Hence **the demise of Napster, Kazaa, MP3.com, etc. has all served to drive the use of the new media further and further underground**, and more and more dispersed. The only legal service that has really flourished has been iTunes, and its very success has been seen to be a threat to the record companies' control of the market, despite its obvious inability to replace the traditional market for records. Apple's success can be attributed to its cross subsidy of its service with its sales of its proprietary device and computers.

Attempts to develop legal services have usually been buried in a cascade of lawyers, advance payments and multiple licences, which has made the initial costs of development impossible to carry while at the same time trying to build a business from scratch.

The response of the illegal market has been to develop ever more evasive services that are difficult to pin down and upon which to allocate blame and drown in lawsuits. The response of the Digital Service Providers (DSPs) has been to turn a blind eye to these developments and to build their business on the tolerance of the exchange of all sorts of copyright material on their services as a way of expanding their customer base. The most significant recent incarnations of such services are LimeWire and BitTorrent. The growing ease of CD burning, transferring music via USB sticks, and cheap portable hard drives mean that there has been a huge growth in the use of copyrighted material outside of the DSPs' networks.

It further enhances the value of the broadband connection while making its control even more challenging.

In most countries the competition for new customers, which incur minor additional costs to the DSPs, has led to a system of low monthly flat rate charges with a very substantial proportion of revenue being spent on customer acquisition, retention and marketing. Given that the implicit reason for getting broadband domestically is that it permits access to a vast quantity of copyright material, and that the margins for the services are getting tighter, especially in the light of growing use of the Internet to access data rich files, such as films and TV programming, and user generated content – the picture grows even more complicated.

It is thus quite easy to suggest that in some way **the DSPs have become parasitically involved in the use of copyright material to drive their business, while putting little, if anything, back into the creation of that content.** It is not only the DSPs but also services such as YouTube and Google who have developed very sophisticated online advertising models that deliver highly targeted “eyeballs” attracted by the content to advertisers. Ironically neither the DSPs nor the content creators get much if any benefit from this activity.

In the long run however the DSPs will find their product undermined by the inability of the content providers to produce enough compelling material to keep their customers happy in the present business structure.

But if, in addition, the DSPs need to change their business model and become more involved with value-added services at prices the public are likely to pay then **they need to start working on developing a symbiotic relationship with the content providers** (of all sorts). The interesting issue is converting the relationship between the content industries and the DSPs from being essentially parasitic, i.e. providing access to content without paying for it, or in any way contributing to the costs of developing or promoting the content, to

a symbiotic one **where their distribution and ability to collect money is allied to the content industries’ ability to invest in the creation of new content.**

The content industries would also need to change their attitude and accept that the DSPs are needed as partners in the distribution game, just as the DSPs would need to accept the idea that they need to become content distributors and not just dumb pipes. That would be good news for all parties as the alternative is unending conflicts between the DSPs and the content providers, which is bound to end up in litigation and legislation disputes, with all the uncertainty, cost and hostility that would be engendered. It is hard to see how this will not be the ultimate result, all parties can resist it in their respective bunkers, or else we could all accept it and start working together on finding ways to build all of our businesses in a spirit of mutual respect.

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Surviving the Digital Age

The Challenges and Opportunities for Independents

By Charles Caldas | CEO, Merlin

The independent music sector has enjoyed remarkable growth and success in the past two decades. The small-to-medium independent labels, which have emerged around the world, have been innovative, musically adventurous, culturally diverse, creative in the way they do business and have been at the forefront of every important new musical movement.

A global network of independent distributors and labels emerged that these labels could easily tie into to globalise the reach of their repertoire. At the same time as these companies have blossomed, the Internet has allowed music fans around the world, particularly those passionate about their particular niche or musical style, to find and consume more music than they ever have, with access to recommendations, articles, news and indeed the music itself just a click away. In theory, there has never been a better time to be a music fan, and consumption of music is surely at an all-time high.

At the same time, however, the entire recorded music industry is facing a total reinvention of its existing model and infrastructure, with almost weekly developments that change the way in which consumers can access music, each of which presents **a unique challenge in working out a simple question: How do we get paid for the use of our music?**

The first wave of digital business, as demonstrated by the iTunes' per-track, à-la-carte download model, was simple to understand. Granted, it changed consumption habits away from albums to single tracks, but ultimately this model relied on wholesale supply and retail demand that the industry had always used in the physical world. Wholesale distribution and delivery models quickly emerged to service these new

retailers, and the unlimited shelf space that these stores offer means that it should be easier for consumers to find what they are after, which spawned the long-tail theory and implied that this should be a great boon for independents.

However, **just as the download model was being widely accepted, we saw dramatic new ways develop for consumers to access music. Leaving the illegal file-sharing, BitTorrent and pirate sites aside, consumers are now faced with a mind-boggling array of ways to access music content,** including ad-funded streaming services such as YouTube, interactive and on-demand radio services like Last.FM, subscription models such as Rhapsody, legitimised P2P services such as Q-Trax, and the list goes on. The revenue and business models around these new models are complex, hazy and occasionally downright impenetrable, but what is clear is that, as a result of these massive changes, the business challenges facing independents have increased exponentially.

We are now in a world where huge corporations use music as the driving force behind their business and believe they can alter the value of copyright, where companies believe that it is acceptable to license from the big record companies for a fee, but tell independents that they should be happy to provide content on a promotional basis. We have seen start-ups who build a strategy around offering music without any model for compensating rights holders, then sell for vast profits on the back of their unauthorised copyright usage. There are others that grudgingly throw a few crumbs to independents in the hope that it keeps them quiet and happy.

At the same time, we have seen a trend emerging where many of these new services are being sued by the large record companies, and are left with no option but to offer up large settlements, give away equity in their companies, or pay massive up-front fees in order to keep operating. The result is that none of the independent labels or aggregators, even the largest ones, have been able to access anything near to the equitable settlements, up-front payments and equity deals achieved by the bigger companies in instances like YouTube, Imeem, Lala and others. This makes it incredibly difficult for independents to be able to compete in the new online environment.

On the other hand, independent content is also difficult to access for the services that wish to license their content. The regional licensing network that has emerged in the past decade is not equipped to handle licensing of global services and whilst there is a network of distributors and aggregators servicing the digital market, the majority of the companies that make up the biggest part of the independent market share do not use these solutions, preferring to handle their own digital business. **So in order to effectively license the approximate 30% of market value that the independent sector represents, (and which they can get in one place, with one deal in the case of the majors) services need to deal with hundreds if not thousands of independent parties.**

What has resulted is a market where even the biggest independents now find it difficult to access these new revenue streams or to obtain compensation for the infringement of their copyrights in a way that is equitable and competitive. And if the biggest find it difficult, then what hope is there for the small, local, niche-oriented labels to access these important new revenue streams which will represent a key element of the music business of the future?

As a result of this, we now face an incredibly competitive environment, ruled by shrinking physical sales, a digital market that is not replacing the fall in revenues, and where our ability to compete is being eroded by the

Who and What is Merlin?

Merlin is a licensing entity owned on a not-for-profit basis, which provides small, independent music companies with access to otherwise unavailable licensing arrangements, and with an advocacy voice to protect and exploit their copyrights in new media, worldwide. Membership is free and open to all independent companies controlling master rights. Merlin is owned and controlled by a not-for-profit foundation, supervised by an elected board representing the independent label community.

Merlin is neither an aggregator nor distributor, its remit is to proactively seek and negotiate new media deals that can't be easily negotiated locally or individually or are not covered adequately by existing arrangements. The focus is to provide access to new revenue streams for rights owners and better access to repertoire for services.

The intention behind the creation of Merlin is to use it only where it provides the most value to its members, which is in providing blanket licences for independent content where individual licensing agreements have proven to be inherently impracticable, and where existing aggregators, distributors, and collecting societies are not able to provide equivalent services. Merlin will also seek to enforce and remedy copyright infringement on behalf of members, who on their own do not have the resources to do so effectively. As a not-for-profit agency focused purely on new revenue streams, the agency's operations will be transparent, to the benefit of both licensees and Merlin's members.

The Merlin membership agreement grants Merlin a non-exclusive license regarding representation of certain of your rights in master recordings. Labels however always have the ability to opt out of any deals, litigation or settlements that Merlin may undertake if they do not wish to participate in these.

As Merlin is owned by a not-for-profit foundation, it will distribute 100% of all funds in excess of actual and budgeted operational, tax, legal and service costs back to its members.

www.merlinnetwork.org

major corporations that dominate the market, from both the supply and retail side.

It is for these reasons that the global independent community created Merlin. It is clear that the vast majority of independent music companies do not have the resources to enforce their own copyrights, or to capture the attention of potential music users and gain access to licensing opportunities. **If independents are to continue being able to compete fairly and equitably in the new business world, then they need to bring some of the required efficiencies to the market, and to create a body that will protect the value of independents' rights.**

The need for, and the support of the community for a solution such as this saw Merlin's initial membership swell to over 12,000 including labels, distributors and aggregators, representing, without a doubt, the largest and most commercially significant bundle of music rights holders outside the majors. Its current market share in the US alone is over 8%, equal to that of EMI Music. Support has come from a wide cross-section of the global independent community, from small independent labels in Brazil, New Zealand, Sweden, and Germany, amongst many others, through to some of the world's largest Indies such as the Beggars Group, Koch, PIAS, Domino, Concord and Epitaph, through to aggregators and distributors such as IODA, Finetunes, Kontor New Media and PIAS digital.

Clearly, these are challenging times, and challenging times need ambitious solutions. The global independent community has seen the challenges ahead, has taken its future into its own hands and created Merlin to be that ambitious and valuable solution.

There is no doubt that **the future health of the independent sector is absolutely vital to culture and creativity, but it also needs to be healthy in a business sense**, so that the passionate and dedicated people who make the sector so amazingly diverse and valuable can continue to operate in an environment that allows them open access to platforms, revenue streams and ensures the value of what they produce is protected. The independent community that stands behind Merlin is confident it has built and will support a vehicle which will ensure that the independent music sector is in the best possible position to participate and compete on as level a playing field as possible, in this ever-changing market.

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› Conference/Bios A – Z, Caldas

Network

The network – and networking – at WOMEX continues to expand, with new sessions this year, including an EU Outreach specifically to WOMEX delegates (with an explanation of their goals here on the following pages), the gathering of the European Broadcasting Union’s (EBU) annual World Music Workshop and so much more.

Here in the network chapter we feature a detailed follow-up to last year’s Conference Session on the artist visa crisis, which has gotten unforgivably worse this year. It’s a summary of a “white paper” published by Freemuse.

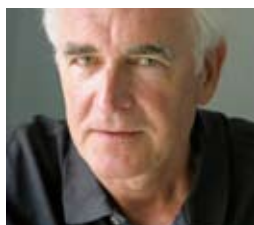
Plus we have a new partnership in our ongoing WOMEX Offspring project: South Africa’s Moshito

conference. This year we joined forces and co-developed conference sessions, worked international media and marketing and attended for our third straight year.

We also feature an update on our DISMARC sound archive project – another WOMEX Offspring – and the launching of the first four online compilations exclusively using DISMARC resources.

See also

- › [Schedules/WOMEX Day Schedule](#)
- › [Conference/Sessions A – Z, European Broadcasting Union, Session 3](#)
- › [Conference/Sessions A – Z, Freemuse/ELMF/Divano Production, Session 6](#)
- › [Conference/Networking Meetings & Presentations](#)



Artist Visas in Crisis A Threat to Diversity

By Ole Reitov | Freemuse

Put three organisers together in a room and they can tell a thousand and one visa stories. Arcane rules, weighty bureaucracies, broken promises. With each story comes a different reason for failure. **And with each failure come harmed careers, loss of exposure, and financial difficulties.**

Katerina Pavlakis of Kapa Productions has this to tell. When Abdulhamid Sidi, a member of Sidi Goma in charge of all the group’s visa applications since 2003, contacted the Danish Consulate in Mumbai on 30 May, he was told by the visa officer that she could not interview the 12 group members together. Sidi Goma was going to perform at the Roskilde Festival. That the visa officer hadn’t heard of the internationally renou-

ned festival, and hadn’t a clue of who Sidi Goma is, may not be surprising. Most visa officers around the world have to deal with anything from international scientists to artists, family reunion applicants to potential “economical refugees”.

Abdulhamid was given appointments on two separate days, Friday and Monday. Katerina had to pay for two round trips from the village where the members reside. In the end, he had to stay a full nine days, with Katerina footing a far higher hotel bill. She had applied for multiple Schengen entry as Sidi Goma was going to tour Europe later this year. But the Danish Embassy said no. Single entry only. In a later follow-up, the Danish Ministry of Immigration confirmed that a multiple entry visa could indeed have been granted.

But at least Sidi Goma got to perform. Worse is what befell Michel Winter of Divano Production. I include much of Michel's statement since it gives the clearest possible indication of a system in collapse.

Michel Winter had worked months to get Schengen and British visas for a summer 2008 tour of the acclaimed Konono No. 1 and Kasai Allstars. He had lined up strong support and guarantees from both booking agents and promoters. With over 30 years of experience in the field, he had done all he knew he must to deliver a standard application in anticipation of a standard approval. To be doubly sure he lined up media interest and applied graceful pressure on diplomatic missions in Kinshasa and abroad.

First problem: The members of Konono had to apply for new passports since the pages of their old ones were filled with the stamps of old visas. The Congolese government was not issuing passports and wouldn't for at least the next several months.

Problem solved: With much persuasion, the Congolese Ministry of Culture finally issued special cultural/diplomatic passports to get them through the bureaucracy.

Next problems: The French Embassy refused their visa application and the Swedish Embassy delayed so long that performance deadlines passed.

Result: The entire tour was cancelled.

Then came the trials of Kasai Allstars. They applied for Schengen visas with plenty of time to spare, in April, and were only granted an approval on 20 June. This was only four days before their scheduled departure to Europe, which meant there was no time to get the necessary UK visas. This would have meant a trip from the Congo to the British Embassy in Nairobi, Kenya, where the visas could be granted. They'd simply run out of time.

Said Michel, Without "granted visas, the flight reservation for the artists were lost... travelling costs doubled, and the band would have to stay 15 more days in Europe", with all the added hotel and food costs and no extra performances planned to cover them. "Taking in consideration the fact that British embassies in Europe do not deliver visas to non-EU residents," he added, "Kasai are not able to perform at WOMAD, which would have covered a part of the days" against the costs. "This is just an example to illustrate the disastrous financial situation of the tour."

Given that situation, the vastly increased costs and the loss of some of the performance dates, Michel had to accept that the tour was no longer viable. These failures have terrible consequences for the artists, for the people who would have been exposed to them, and for the companies themselves working so hard to present the fruits of the world's great musical cultures.

For Michel, the price may be the highest one to pay. "It is not the first time Divano Production is hit by this reality", he said, thinking of a similar Kasai disaster when they couldn't get visas to perform a WOMEX Showcase in 2006 and lost over 20,000 euros in plane tickets. "We doubt being able to continue in our activities, due to a financial collapse."

A broken visa system, and one of the finest, longest-running agencies is facing ruin.

When earlier Kasai and Konono visa troubles were explained at a WOMEX visa session last year, the resulting media stories in the UK, Sweden and France focused on the slow procedures at European Embassies in Africa. But they didn't cover the second part of the problem. Yes, there was a combination of slow, complex, opaque procedures at European Embassies, but so, too, is there experience with barely functioning embassies like those in the Democratic Republic of Congo, which withheld – or, rather, simply did not process – new passports for many weeks.

Visas: Breakdown

There is a huge discrepancy between governments' talk of "strengthening international cultural exchange" and the reality faced by artists, managers and festival organisers.

Touring artists from developing countries in Europe is extremely expensive and enormously time-consuming. **Administrative procedures are not only complex – they are sometimes impossible to navigate.** The experiences of Pavlakis and Winter are in no way exceptional. Organisers are often referred from "Herod to Pilate" and in this process even given much misinformation.

Embassy and Consular staff officers, however, present very different versions of events than those told by organisers and managers. They claim that organisers are not applying in good time or that key information is often missing. This is certainly true, but too many of those applying experience arrogant treatment, receive misleading information and suffer unreasonable delays from visa officers.

On the governmental level some politicians have raised these issues, and ministries have even requested Consular offices to deal more diplomatically and more efficiently with artists. But what is being said in Paris does not always reach the French visa office in Kinshasa or Senegal.

Time for Joint Action

We could offer dozens of stories like the ones above, but the point is made. It is time to look at constructive ways to deal with an issue that is harming diversity, exposure and the music industry itself.

When Freemuse last year offered to compile a "white paper" on visa issues, we also suggested that the music industry needs to explore political arguments in international conventions and then very specifically point out the problems to the EU and Schengen countries. As mentioned above, **politicians and cultural organisations do indeed speak about the potential of "using" culture as a bridge between peoples and nations, though they seldom refer to existing political agreements and how these should be implemented.**

Implementing the UNESCO Convention

Take the UNESCO Convention on Protection and Promotion of the Diversity of Cultural Expressions, adopted October 2005 and ratified by all European countries soon after.

Article 14 clearly states countries should support the strengthening of cultural industries in developing countries through:

- Facilitating wider access to the global market.
- Adopting, where possible, appropriate measures in developed countries with a view to facilitating access to their territory for the cultural activities, goods and services of developing countries.

In a more simple language it could have said: **The rich countries need to simplify their visa procedures for artists and more actively secure cultural representations from developing countries.**

The European Parliament, in a May 2007 report, called on the EU Commission to "reflect on current visa and work permit arrangements applicable to artists and begin to draw up Community rules in this area which could lead to the introduction of a specific temporary visa for European and third country artists such as already exists in some Member States".

The Parliament stressed the “need to take account of the difficulties currently being encountered by a number of European and third-country artists as a result of visa requirements with a view to obtaining work permits and the attendant uncertainties”, and the Parliament pointed out that “artists with short-term employment contracts currently find it difficult to fulfil the conditions for obtaining visas and work permits”.

Problems regarding mobility for artists coming from non-EU countries to Europe and non-EU citizens residing in Europe as artists have further been dealt with in other reports, as in the EU Commission-funded “Study on Impediments to Mobility in the EU Live Performance Sector”.

The European Live Music Forum (ELMF) has also established a working group on cultural diversity, visa and work permit issues involving both artists and production services. It covers artists coming into and leaving from the European Union and the impact of additional regulation by establishing requirements for work certificates. The working group notes that “the accumulated effects of the various problems related to visas and work permits now affect all segments of the live music industries”.

In short, the UN and the EU are well aware of the crisis and have made specific policy directives to address it.

On to Action

The documentation is there. What is needed is that all good forces join hands. “The white paper” prepared by Freemuse and the ELMF suggests that a number of problems could be avoided, provided if:

- Visa rules and procedures are simplified and made transparent.
- Consular staffs get increased knowledge about cultural industries and specific instructions to help stimulate them.

- One-stop handling is introduced (one EU country, say, the French Embassy in Ethiopia, could clear visas for the whole EU/Schengen area).
- Management and Artists certification is introduced.

At the moment bands like Sidi Goma, Kasai Allstars or Konono need to return to a Consular office every time they are going on tour. If the tour organiser and the members of the bands had a certification that was accepted all over the EU/Schengen area, they could in principle **get multiple entry visa/work permits issued for a period of several years, thereby saving a lot of money, transport, frustration, and, from the point of view of the visa officers themselves, paperwork on all sides.**

Realistically, it is not possible for the individual manager, festival or artist to do all the governmental lobbying. They need to organise and then collaborate with larger organisations. EU lobbying costs time and money, but so do cancelled tours, rescheduling or cancelling flights, lost hotels and advertising.

Freemuse offered to collect experiences and propose suggestions from “WOMEXicans”. In this process we’ve also experienced – no surprise, here – that many of you are top-level professionals. However, all need to rise to that same level, and to inform themselves more thoroughly on proper visa procedures. A catalogue of “remember to” or even “crash-learning courses” would be a valid way for newcomers in the business.

But you need to be united. You need to engage your colleagues in national and international lobbying. And join us at this year’s WOMEX visa session.

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- › Conference/Sessions A – Z, Freemuse/ELMF/Divano Production, Session 6
- › Conference/Bios A – Z, Reitov