



With new technology and the music industry at odds, the climate at this year's Consumer Electronics Show (CES) could best be described as a Mexican standoff. To most in attendance, the annual Las Vegas event is a chance to discover the latest cutting-edge technologies. To some in the music industry, however, this year's show was the front line in a battle for the future of music. Threats are seemingly everywhere. New technologies are allowing broadcasts to become "free" digital downloads, songwriters have yet to be paid for streaming services, and the convenience of music portability is reducing the quality of what consumers hear.

And yet, this same explosion of technology is allowing music creators to reach new audiences, consumers to discover new artists, and labels to develop new revenue streams. So is technology the music creator's friend or foe?

THIS WAS THE QUESTION I pondered as I walked the 1.6 million square feet of exhibit space—along with 130,000 other attendees—at CES. Produced by the Consumer Electronics Association (CEA), CES is the country's largest trade show. But CEA is equally known for representing the interests of the electronics industry and taking positions in Washington that put them squarely at odds with the movie studios and record labels. Framing the debate as consumer versus the entertainment industry, the CEA has opposed the Recording Industry and Motion Picture Associations on numerous issues, most recently the Supreme Court *Grokster* case. In that landmark case, the court ruled unanimously in favor of the entertainment industry (against the file-sharing companies Grokster and Streamcast) that those who induce copyright infringement

by others are liable for that infringement.

It was in the shadow of that decision that the music industry went to Vegas. In what could be compared to establishing diplomatic relationships among hostile nations, the RIAA and the National Music Publishers Association sponsored an area of CES called "Legal Downloading" which highlighted legitimate music services that work with the industry. My organization, the Recording Academy (representing artists, songwriters, producers and other recording professionals), also participated in CES for the first time, producing a thought-provoking roundtable by its Producers and Engineers Wing.

IS IT A BROADCAST OR A DOWNLOAD?

Perhaps the biggest buzz at CES among those in the music industry was created by new

devices from the satellite radio broadcasters, XM and Sirius Radio. The second generation of satellite radios goes far beyond allowing the user to passively listen to the broadcasts.

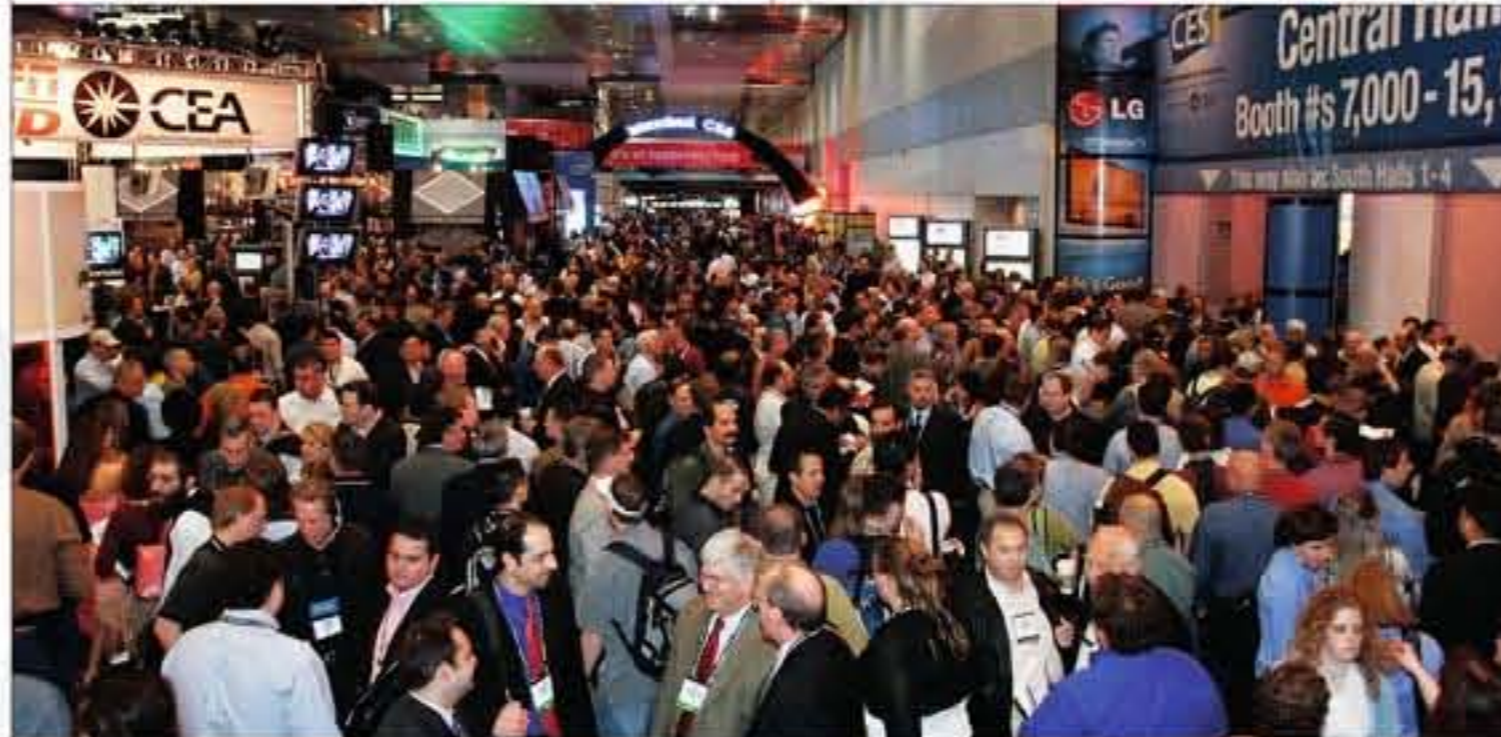
In October, Sirius released the S50, which promised to "allow users to capture and store up to 50 hours of Sirius content ... enabling listening on the go." Most notably, the device advertises that it "allows the user to save favorite songs or talk shows with the press of a button." XM Radio devices with similar functions will hit the market in March.

The key is "disaggregation," a technical term that simply means the user is able to not only record blocks of time, but also manipulate the individual tracks played during the recording. In practical terms, a user could use this device to record, organize and store tracks from satellite radio for no additional charge, instead of paying

the download fee to a service like Apple's iTunes. That in turn means songwriters, artists, labels and publishers would see no additional revenue for what is essentially a stored download—a sale.

The satellite broadcasters maintain this function is simply a new form of recording from radio, a practice done for generations. However, to the music industry, this is a certain path to displaced record sales. For example, a fan of Garth Brooks need only record 50 hours of a satellite radio's country station, save all the Brooks tracks, and store them on the device.

for their works because no rate has been agreed to with the subscription services. This past spring, intense negotiations ensued to address both problems: a streamlined license to allow easy access to more music and a rate to be paid to songwriters and publishers. At the urging of Rep. Lamar Smith (R-TX), Chairman of the House Subcommittee on Courts, the Internet, and Intellectual Property, the parties engaged in numerous rounds of negotiations. By late summer the talks had broken down with no deal. The services continue to operate, and songwriters continue to wait for their



As of this writing, several industry groups—including the RIAA, NMPA and the Recording Academy—are in discussions with satellite radio broadcasters to seek ways to address compensation models for the new technology. The results of those discussions will determine whether this new technology is a friend to creators (providing fair compensation) or a foe (unfairly competing with downloads).

SUBSCRIPTION STALEMATE FOR SONGWRITERS

Wandering through the legal downloading section at CES, I was particularly impressed by the wide variety of devices that work with subscription services. With such services as Yahoo!, Rhapsody and Napster, a user can pay a flat monthly fee (as little as \$6), fill and refill his or her MP3 player, and take thousands of songs to go. Subscriptions have all the attributes of peer-to-peer systems: unlimited listening, shareable playlists and recommendations based on tastes. And all this for a low monthly fee and without the risk of spyware or lawsuits. Could this be the magic bullet that kills illegal file sharing?

Perhaps, but there is a long way to go. First, most of these services have less than 1.5 million songs. Although that is a healthy catalog, much commercially significant music is not yet licensed for these services. Even worse, songwriters are not being paid

checks. So are subscription models friend or foe? I'd put this cautiously in the friend column. Although there are many issues to work out, these are quality services that ultimately will pay for content—and if we're lucky, provide a viable, legitimate alternative to illegal file sharing.

CONVENIENCE VERSUS QUALITY

Even with important looming issues of law, economics and technology, everything ultimately boils down to the music. How has technology affected the music itself? Is quality suffering at the expense of convenience and portability? This was the topic of a closed-door roundtable produced by the Recording Academy's Producers & Engineers (P&E) Wing. "Convenience Plus Quality: Joining Together to Grow the Business" brought 14 key industry figures together to discuss the crucial issue of how to continue to supply the portability and innovation that consumers expect while also providing a high-quality sonic experience.

The event was moderated by multiple Grammy-winning engineer Bob Ludwig, who led a wide-ranging discussion with panelists working daily on the front lines of music. Panel members included Grammy-winning producers and engineers Michael Bishop and George Massenburg, as well as Best Buy

Senior V.P. of Entertainment Gary Arnold; Vice President Marketing, New Formats, Universal Music Group's eLabs Paul Bishow; EMI Music, Senior Vice President, Digital Development & Distribution, Ted Cohen; Panasonic Senior Manager, Marketing, Tom Dunn; co-owner and president of Thiel Audio and former chairperson of the CEA Kathy Gornik; Microsoft-MSN Entertainment Manager, Business Development, Jon Kertzer; Surround Music Award-winning engineer Nathaniel Kunkel; Noel Lee, founder of Monster Cable/Monster Music; XM Radio Executive V.P. of Programming Eric Logan; game music producer Tommy Tallarico; and Motorola's Senior Director of Marketing for Digital Media Services Dave Ulmer.

The discussion centered on reconciling the tension between the studio pro's desire to create the most sonically pure record, and the technologist's goal of making access to that music as convenient as possible. Portability and fast download rates nearly always require file compression. But is the rich, complex sound quality getting compressed right out of the recording?

The answer is yes—to a degree. Historically, many convenient technologies have produced some sacrifice in sound quality. Cassettes, 8-tracks and even the early CDs were largely criticized for poor sound quality.

But technology advances, and as these devices improve, quality and convenience may not be mutually exclusive. The key is a continued dialogue like the one produced by the P&E Wing at CES. Studio pros must keep their standards high, and consumers must demand quality as well as convenience. And our partners in the tech industry must do what they do best—innovate—to ensure that technologies reach for ease and portability while ultimately respecting the music.

TAKING SIDES?

During CES, I served on a panel about the *Grokster* case. Although the panel offered an interesting discussion about the ruling's impact on the future of innovation, what struck me most was the session's title: "Taking Sides: The Music Industry versus File Sharing Consumers."

There it was again. The debate as "music versus consumers," or "music versus technology." And yet, artists, songwriters, producers and engineers all seem to embrace new technology. And publishers and labels are continually adapting to the changing landscape. As David Israelite, President and CEO of the NMPA, told me at CES, "[Our legal downloading] exhibit featured some of the most exciting developments in the digital music arena. Music publishers have

always embraced new technologies as long as property rights are respected."

And that sums it up: an embrace and a caveat. One can be pro-copyright and pro-technology, pro-artist and pro-consumer. Technology has allowed consumers to experience more music in more ways and in more places than ever before. It has allowed artists to create a personal connection with each fan through blogs, e-mail and virtual chats. And as CD sales decline, digital music is a much-needed growth sector in the record business.

This is a time of transition and, as such, a time of apprehension. Innovation is taking place at lightning speed, and the entertainment business and the law are continually playing catch-up. But they will catch up. And "as long as property rights are respected," technology can be nothing but our friend.

Perhaps at a future Consumer Electronics Show, there will be no panels called "Taking Sides"—just the electronics industry and the music industry working together with a desire to grow the business in a way that meets consumers' needs and compensates creators fairly.

One can hope. ■

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AS SEEN IN

Performing Songwriter

Be Heard.



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