

# **Ringtones & The Music Industry:**

## **Present Impact and Future Implications**

By Melody Ewing

The music industry has seen many technological developments and advancements in recent years. With these advancements have come new revenue opportunities for artists, record labels, songwriters, and publishers. This is especially important as these new developments help compensate for lost revenues from other sources, such as CD sales. Additionally, consumers have benefited from the many ways of obtaining music digitally or through other electronic means. One such example of this is the ringtone.

Ringtones are, at the most basic definition, a sound generated by a telephone to indicate an incoming call. This has evolved from the standard bell sound of the common corded telephone and the beeping tones from cordless and early cellular phones. As cell phones continue to skyrocket in popularity, with over 219 billion cell phones in the USA in 2005 alone, the desire for distinctive ringtones has become more prominent. Initially, the idea of stocking a cell phone with a few ringtone choices was to allow an individual to distinguish when their cell phone was ringing in the company of other cell phone owners. With the advent of polyphonic and master tones, ringtones have taken on a whole new identity.

Polyphonic ringtones are capable of producing several notes at once, which results in a more realistic representation of the song being played. Additionally, polyphonic ringtones are able to imitate the sounds of different instruments using MIDI technology. The particular make, model, and synthesizer chip of the cell phone will dictate how many notes (or voices) can be played simultaneously. This can range from 4 to 40 notes or more.

Master ringtones are one of the newest and most popular ringtone formats. More aurally advanced than the polyphonic ringtone, master ringtones use a snippet of the original sound recording. This higher-fidelity alternative has resounded well with many cell phone owners, given the authentic nature. Master ringtones are also important for artists and record labels. These parties, along with songwriters and publishers, earn a profit from the sale of each master ringtone. This is another noteworthy contrast from the polyphonic ringtone, being that artists and record labels do not share in any royalties generated from the sale of polyphonic ringtones. Originally, with polyphonic ringtones, the only required license was from the publisher. Since polyphonic ringtones weren't subject to fall under the statutory mechanicals law, negotiations of the free

market rate arrived at a “standard” of about 10% of the download price, payable to the publisher.

This was, in turn, split with the writer(s.) When master ringtones arrived at the forefront, licenses were required from record labels who typically demanded 40% of income. Based on the percentage of the 40% income, the artist either got 50/50 or 75/20 split, or a reduced royalty rate. Additionally, record labels strongly opposed paying 10% to the publisher (in order to provide the master tone recordings) when they were accustomed to paying the statutory rate for other recordings. Because of this, record labels encouraged the Copyright Office to examine whether or not ringtones should be subject to a compulsory license, an issue that will be discussed later.

Not only do ringtones serve the basic purpose of allowing an individual to discern which particular phone is ringing, they also allow the user to enjoy a more personal and customizable experience. Gone are the days when a weekend stroll through the mall would guarantee a handful of encounters with the William Tell Overture from a nearby mobile phone. Now, many cell phone owners are opting to load their phones with excerpts of recordings from their favorite artists. Users may also assign separate ringtones or sound effects for individual callers, text message and voice mail alerts, and alarms.

Since their introduction in popular culture, ringtones have increased so greatly in popularity that Billboard established a chart for ringtone sales in 2004. In 2006, ringtones generated sales of over \$600 million, up from \$500 million in 2005 and \$245 million in 2004.

At an average of \$2.99 per each 20 to 30-second clip of audio, ringtones have demonstrated a sizeable market for income for copyright holders of songs and original recordings, as well as the content providers. Interestingly, consumer attitudes also seem to differ in regard to paying for ringtones. Many individuals are hesitant to spend \$0.99 for a full-length download of a song from iTunes, but will gladly spend the extra \$2 required for a ringtone that plays only a fraction of the original recording.

In the annual projection released by performance royalty collection society, BMI, it was forecasted that ringtone sales would fall to \$550 million in 2007, citing that the growth of the ringtone market had matured. The projection also noted that the forecasted dip in sales would be offset by the first major upswing in ringback tone sales, a relatively new phenomenon in the USA.

Ringback tones, or Answer Tones to which they are sometimes referred, replace the standard ringing sound a caller hears when placing an outgoing call

to a mobile phone subscriber. The ringing sound normally heard is, instead, replaced with a snippet of an original recording of a song (much like the master ringtone) or other sound effect as specified by the mobile phone user being telephoned. Also like ringtones, ringback tones can be assigned to specific callers so that each individual hears an assigned ringback tone upon calling the mobile phone owner. Ringback tones may also be shuffled so that the caller hears a different ringtone each time they place a call to the mobile participant.

Ringtones and ringback tones alike are a clear representation of a cultural phenomenon, serving a multitude of purposes aside from just alerting a person of an incoming call. Many individuals view ringtones as a mode of self-expression, using the capability to customize specific sounds to one's emotions and moods, particular music tastes, and current music trends.

According to Matthew Donahue, a popular-culture studies professor at Bowling Green State University in Ohio, "People judge each other based upon what they're into in popular culture, so there's some degree of status to ringtones. It's definitely about highlighting one's sense of individualism." Having secured themselves as a fixture in pop culture, ringtones have also become a popular marketing tool. Madonna's song, "Hung Up," was released as a ringtone a month before being commercially released as a single, a bold move by Warner Music Group, and one that further demonstrates the impact ringtones continue to have on the music industry. Record labels have taken note of this impact. In an attempt to garner more profits, the RIAA approached the Copyright Office and encouraged them to review ringtones and how they fall under the compulsory license specification.

In October 2006, the Copyright Office convened to answer the question of whether or not ringtones should be subject to the compulsory license provisions of section 115 of the Copyright Law.

According to the Register of Copyrights, Marybeth Peters, "as long as the ringtone is merely an excerpt of a musical work or of a pre-existing sound recording, then the composition used for the ringtone is subject to the compulsory license." The decision has sparked a great deal of contention in the industry. It has been a clear victory for record labels, allowing them the ability to offer a package of publishing and master rights to ringtone operators, which could ultimately result in cheaper ringtones. These savings would then be passed on to the consumer.

Music publishers, on the other hand, weren't as happy with the decision. Prior to the Copyright Office's determination, publishers enjoyed a free market rate, negotiating license and royalty rates for each use. Since the decision, ringtones are now subject to the federally regulated statutory rate, which

translates into significant income loss for songwriters. According to an article on billboard.biz, negotiated rates for licensing ringtones equaled about 10% of the manufacturer's suggested retail price. Given that many ringtones sell for \$2 on average, publishers received about 20 cents. The current statutory rate is 9.1 cents, demonstrating a discrepancy in revenues earned prior to the Copyright Office's decision. The article also states that the switch from market rate to statutory rate could result in publishing revenues plummeting \$700,000 or more per week.

Ultimately, the decision will afford record labels and content providers the ability to mobilize new product offerings to consumers in a quicker, more efficient manner. On the downside, songwriters income could suffer substantially as a result of being newly subjected to a government regulated rate rather than the negotiated rates to which they've grown accustomed.

While ringtones have carved out a space for themselves in the digital revolution, the industry seeks to forge ahead with new developments, mobile services, and product offerings. Many cell phone companies now carry multimedia-enabled phones capable of streaming high-quality live TV content, and downloading music from services like Napster Mobile.

In light of album sales slumps and concern over the state of the music business, the mobile market offers promise to an industry many have considered ailing. Ringtones have proven this in recent years, and new product lines and service offerings for cell phones continue to unlock new and exciting revenue streams for recorded music.

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