

## Consumer Taste Sharing Is Driving the Online Music Business and Democratizing Culture

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New features of online music stores, as well as stand-alone products and services, are designed to help users share their taste in music and satisfy the inherent desire that music fans have to share their favorite music. Additionally, these tools have important potential cultural benefits that reinforce the value of music and the music economy.

### Key Findings

- Nearly one-fourth of frequent online music users say that the ability to share music with others in some fashion is an important criteria when selecting an online music service.
- One-tenth of early adopters stated that they often make music purchases based on others' recommendations.
- One-third of early adopters of digital media surveyed by Gartner stated that they were interested in online music discovery and recommendation technology that is actually powered by their taste in music.
- Some of the most-regular users of online music services, whether free peer-to-peer (P2P) or paid services, are the most interested in consumer-generated recommendation tools.

### Predictions

- By 2010, 25 percent of online music store transactions will be driven directly from consumer-to-consumer taste-sharing applications, such as playlist publishing and ranking tools built into online music stores or external sites with links to stores.

### Recommendations

- Music labels and artists should closely investigate the dynamics of playlist sites and applications and how they can be used to augment or redesign marketing and promotion strategies.
- Rights holders should investigate the potential of providing more-flexible licensing and use rules for their content to allow consumers to easily publish playlists to third-party sites or include their content in podcasts, video podcasts or blogs.
- Online music services should enhance playlist-publishing capabilities and strengthen links to third-party consumer-to-consumer taste-sharing sites to drive incremental traffic.

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## Analysis

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### 1.0 Tools Enable Consumers to Share Their Musical Tastes

During the past eight years, we've witnessed a heated debate over whether music "sharing" (in the form of distributing copyrighted music on P2P networks) is good for the music industry, artists, consumers and our culture. Buttressed by continuing litigation, this seemingly endless struggle has often delayed achieving what ultimately everyone in the digital music space should want: unleashing the potential of digital media and the Internet to help music fans more deeply engage the art that they enjoy while getting artists paid.

Consumer-to-consumer music recommendation tools may help refocus this debate and forge the way out of this conflict. These tools allow consumers to share their musical tastes in different forms and, in turn, be informed by others doing the same. We will examine the possible benefits of these tools from business and cultural perspectives. In subsequent documents, we will examine the legal implications of such tools.

Online consumers have access to unprecedented, ever-increasing music catalogs from many sources. Consumers may need help to refine their searches, be made aware of new or unfamiliar music, or be reminded of old favorites. However, while simple in concept, locating online music sources and songs that satisfy one's tastes is often complex in practice. Significant opportunity remains for tools that improve the consumer experience and drive transactions.

Recommendation systems have generally been considered a key manner of improving the consumer experience. Broadly speaking, recommendation systems can be used to tell consumers about music they might like.<sup>1</sup> One familiar form is "collaborative filtering," which produces recommendations by comparing a consumer's previous selections with other consumers who have made similar selections. (For example, Amazon.com's "People who bought this also bought ....") Such recommendations are passive and automated and rely on aggregate consumer behavior.

Consumer-to-consumer recommendation tools, which enable consumers to actively present their individual tastes to each other, are becoming increasingly common and taking many different forms. One focal point for the purposes of this report is sharing playlists — typically a compilation of songs from different artists and albums, sequenced by the consumer to express their tastes or a theme. These sites generally take two forms:

- Stand-alone — Examples include MusicStrands and SoundFlavor. These Web sites allow consumers to see and play 30-second samples from user-published playlists. Users can rate playlists and can then follow links to music stores to make purchases. At MusicStrands, more than 500,000 playlists have been published since the site opened to outside users in early 2005.
- Service-tied — Examples include iMix on iTunes Music Store or Rhapsody's Playlist Central tool. These playlist-publishing services are built into music stores, and consumers can purchase or access the songs in the playlists directly. In iMix, more than

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<sup>1</sup> While slightly different from our discussion here, Chris Anderson provides a useful taxonomy of these tools: [http://longtail.typepad.com/the\\_long\\_tail/2005/07/six\\_kinds\\_of\\_fi.html](http://longtail.typepad.com/the_long_tail/2005/07/six_kinds_of_fi.html)

320,000 had been published as of 5 September, 2005, with more than 1.3 million user votes/rankings submitted.

Not every playlist site fits these descriptions. For instance, Webjay allows users to link to downloadable songs freely available on the Web.

Other tools also enable consumers to provide access to the full songs. Example of this include:

- P2P streaming radio — Mercola allows consumers to create their own streaming radio station using music on their hard drive. They can search for user-created Mercola stations playing a particular artist. Though still relatively new, Mercola's users are delivering 45,000 individual channels of streaming music at any point in time.
- Blogging and podcasting — Users can link to or post content on blogs and include their own editorial comments. In other cases, users might allow people to download the song as part of a radio-style podcast. Two prominent examples are Fluxblog and Accident Hash.
- Private group sharing — iMeem is social-networking software that enables users to send files, including music, to their friends. Grouper allows users to create 30-person private, invite-only groups and stream (but not send permanent copies of) music from their hard drives to other users within the group.

Community-building and social-networking components are not restricted to services such as iMeem, however. For instance, Soundflavor users can set up their own profile and then mark people as friends; they can leave comments on each other's playlists. Mercola users can communicate via instant messaging and message boards.

By focusing on consumer-to-consumer recommendation tools, we do not mean to suggest that they are by definition superior to other recommendation systems. Rather, we want to highlight their apparent importance as part of the music information-gathering experience. As we will discuss, recent consumer surveys suggest that these tools may be desirable and factor into consumer perceptions about how they want to access and consume media. Collaborative filtering may be enough for some consumers, but others might be attracted to interacting and sharing with actual people; they may trust them more, or it may simply be more enjoyable. In various ways, different types of tools can be used in conjunction. For instance, MusicStrands provides collaborative filtering based on what is featured in similar playlists.

## **2.0 These Tools Help in Driving Online Music Transactions**

These technology dynamics dovetail with recent consumer surveys that show, among other things, that a significant portion of online music consumers feel that their use of online systems exposes them to a wider variety of music. Given consumers' present ability to comb through thousands of artists at online music stores or P2P networks and hear samples, the need to help them better refine their searches — to be made aware of new music or reminded of old — seems to be a requirement to maintain market growth in licensed online music services. One early indicator of consumer interest in these sorts of tools is the number of individual playlists posted in iMix and MusicStrands.

Sharing music and musical tastes is nothing new. Music as a social currency is well-understood if one simply recalls the last time he was at a party where music was playing. Yet the transition of physical to virtual access and consumption is expanding communications among groups of consumers and making them more fluid.

These tools are emerging in an environment filled with licensed online music services. Though burgeoning, these services still face significant challenges. There are more than 300 legitimate online music sites worldwide, according to the International Federation of the Phonographic Industry.<sup>2</sup> Revenue from these services is growing rapidly, with the U.S. market in 2005 to likely double 2004's revenue from legal downloads and subscriptions of \$169 million (including subscriptions services). However, according to RIAA data, sales traffic on the licensed services is dwarfed by the revenue of physical CD sales (\$11.4 billion in the United States in 2004) and the hundreds of millions of tracks being moved around constantly on P2P networks.<sup>3</sup>

What's more, the licensed services remain hampered by digital rights management restrictions, including limits on compatible portable devices.

To encourage and sustain growth, industry participants must keep early adopters and other frequent users of online music services, especially those who use online music stores and P2P networks, engaged in purchasing music legally.

### **3.0 Active Consumers Will Demand Tools to Enhance the Experience**

While still a small segment of the music market, the online music consumers, especially the early adopters, are an active bunch, using their PC to acquire, organize and listen to music. Significant amounts of early adopters, as shown in Figure 1, are either buying, downloading or listening to music many days per week. Other data points in terms of use cited by early adopters:

- Thirty-seven percent said that they use their PCs to listen to music one to four hours per week.
- Thirty-six percent spent the same amount of time listening to music on their home theater/living room systems.
- Thirty-three percent said that they spent one to four hours per week listening to music in their car.

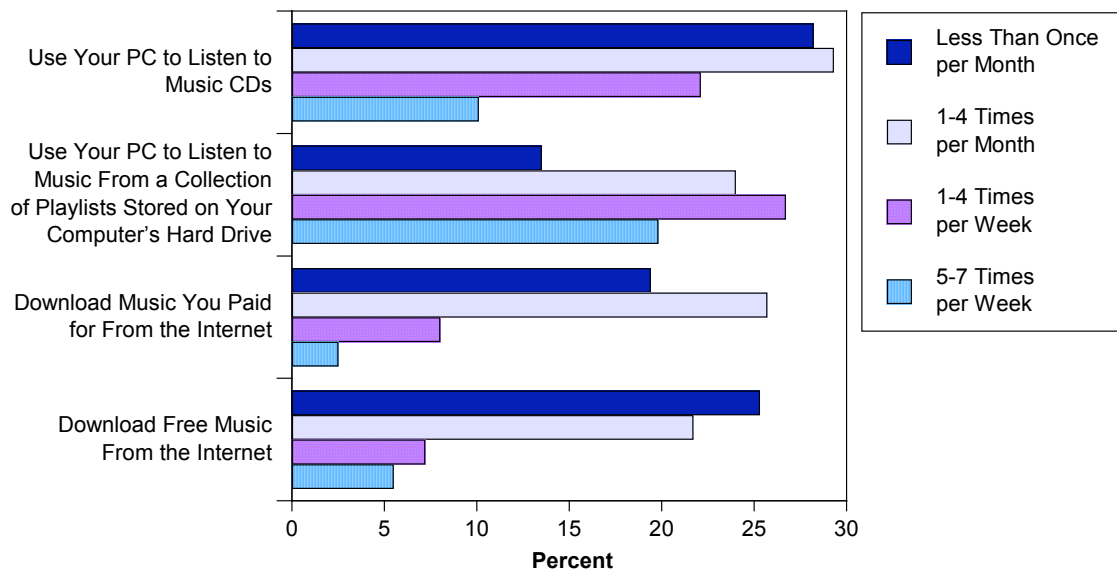
Given the amount of time spent listening to music — and the different locations — this establishes a fairly regular consumption of music, and the data in Figure 1 is underscored. Of particular interest is that nearly 20 percent of online music listeners in the survey reported listening to music via playlists at least five days per week, and more than 25 percent of online music listeners were listening to music in playlists one to four days per week.

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<sup>2</sup> <http://www.ifpi.org/site-content/press/20050802.html>

<sup>3</sup> <http://www.riaa.com/news/newsletter/pdf/2004yearEndStats.pdf>

**Figure 1. Frequency of Online Music Use by Early Adopters**



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Source: Gartner (May 2005)

More importantly, listening to music via playlists is nearly as frequent as simply listening to CDs on a computer. This tells us that PC-based music listening is about consumer self-programming, taking advantage of software to tailor a listening experience.

With those use patterns in mind, it's important to understand how consumers believe their behavior has changed and what it can mean for the future of the music industry. Given that the early adopters' survey was designed to only include early adopters, it is not representative of the national audience. Readers should view data from this survey as solid anecdotal information that can be used as the basis for creating more in-depth surveys.

These are early days for the online music market, yet consumers are perceiving a significant shift in their own behavior as it relates to music consumption and purchase. Some key points to consider:

- Fifty-eight percent of online music listeners feel that they are exposed to a wider variety of music since using any online music service. Of those, 28 percent said that they consider the ability to share music with others to be a desirable feature of the online music store that they would use.
- Thirty-two percent say that they buy fewer CDs, while 23 percent say that they buy more as a result of using online music services.

#### 4.0 From 30-Second Samples to Multisong Playlists

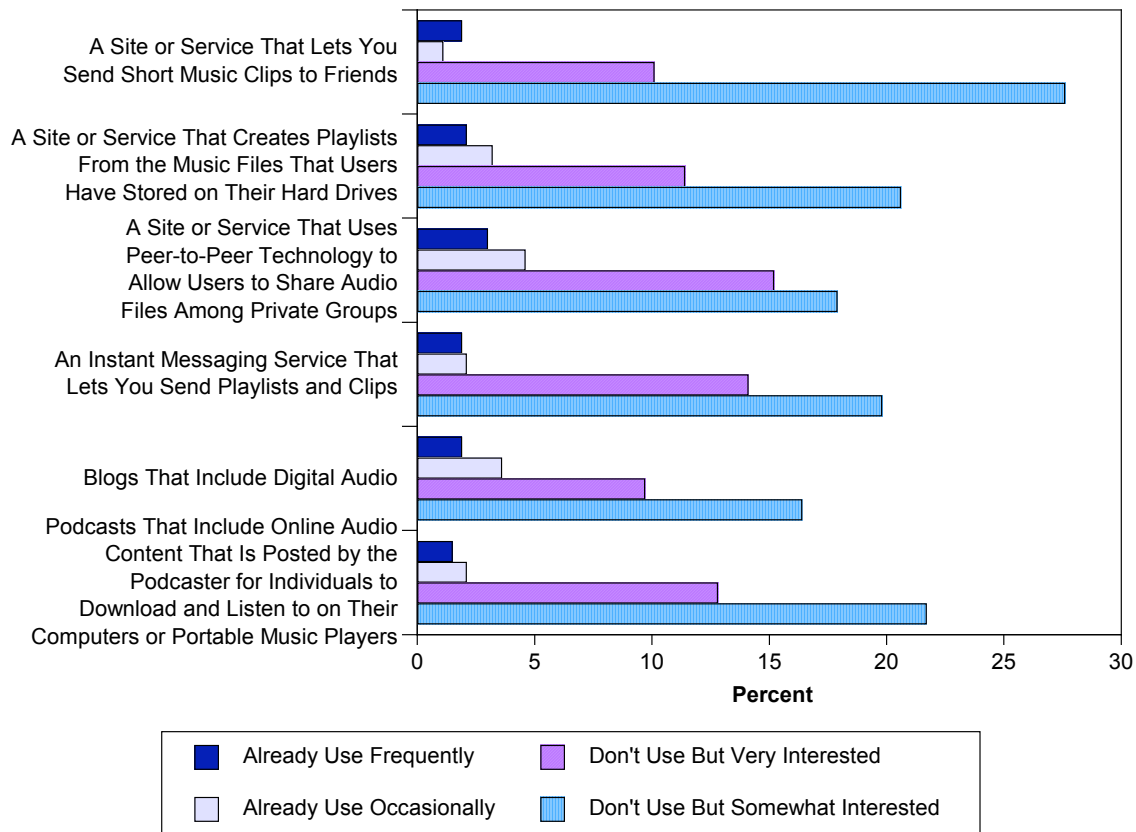
The transition to online music distribution is occurring at the same time that consumers have an exploding number of sources of information about music, from established media sources to Internet-connected friends and strangers. As a result, getting the word out about new material, new bands or back catalogs is made more difficult for music marketers and artist promoters. Harnessing the instinct of consumers to share music and information about music and the

communications tools available will be an important strategic thrust for music labels and distributors.

Gartner's recent surveys show early indications that frequent customers of the legitimate online services, as well as devotees of acquiring music for free (and, generally, illicitly) over P2P, want to share music and use technology to become aware of music that's new to them. The data is based on cross-tabs of a survey conducted in May 2005. As a result, the respondent sample sizes are small. However, these data points are instructive and should be used as the basis for targeted research. Figure 2 shows responses from early adopters of online music services regarding their interest in features that are proposed or actually deployed in services that are designed to allow people to experience music based on a fellow consumer's tastes and preferences. Setting aside MP3 blogs and podcasting, the tools in this list enable sharing while still preventing downloads of entire songs in unencrypted formats.

(Podcasts and blogs are designed to enable file transfers of copyrighted music content only in the same sense that any typical file server or Web site is. The other services do not provide impervious barriers to downloads, however. For instance, with some technical knowledge, it is possible to record Mercora streams.)

**Figure 2. Online Music Listeners' Interest in Sharing Options**

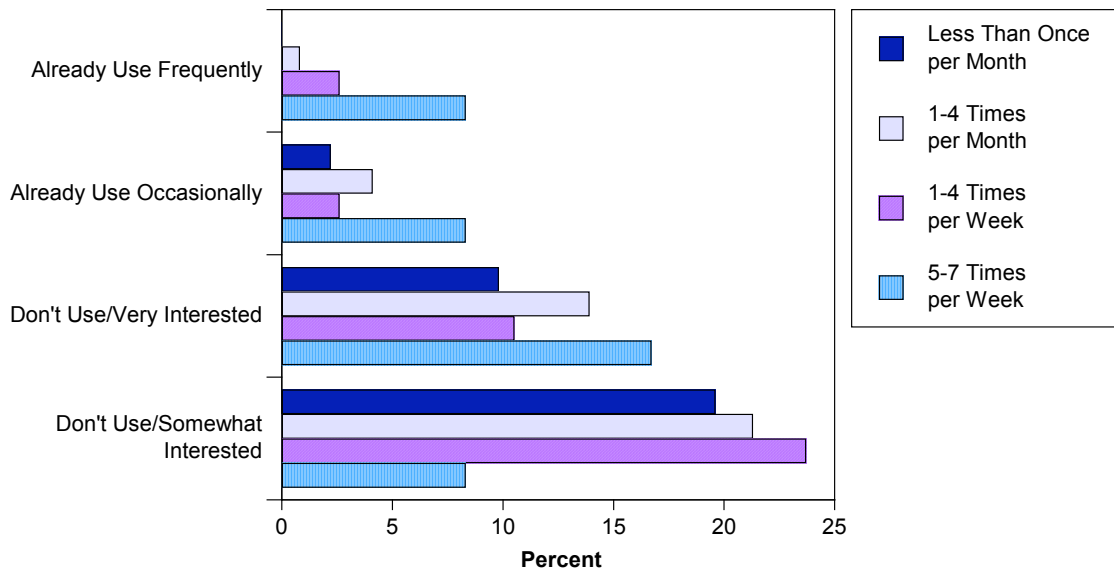


Source: Gartner (May 2005)

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It is important to determine how to keep these early adopters engaged in using legitimate online stores, or at least participating in the legitimate economy of systems, in which artists will be compensated. Consumer surveys indicate that providing them with a set of tools that allow them to sample others' recommendations and playlist compilations would be an important step. Figure 3 shows the strong interest that users of paid online music sites have in a services such as Mercora, which creates playlists from the music files that users have stored on their hard drives.

**Figure 3. Interest in Playlist Sites and Sites That Allow the Legal Sharing of Songs**



Source: Gartner (May 2005)

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## 5.0 Impact of These Tools on Evolving Music Business Models

By enabling consumers to share their favorite works while providing a short path to a "transaction," such as a purchase from an online service or adding a song to a user's library provided by a subscription service, the music industry can use the viral spread of content that online consumers are increasingly coming to expect. According to ChoiceStream, eMusic has reportedly turned its personalization tools into true transaction drivers. By working with ChoiceStream's personalization tools, based on a customer's selections, ratings, purchase and download history, eMusic has seen that users of the personalization tools tend to be twice as likely to commit to higher-priced subscription plans, are more loyal (remain subscribers 2.9 times longer) and download 3.5 times more per month than other subscribers.<sup>4</sup>

## 6.0 Breaking Bottlenecks and Monetizing the "Long Tail"

During the past 25 years, the record industry has become highly concentrated, and radio and TV have acted as a marketing bottleneck, playing a principal role in shaping tastes. Those forces

<sup>4</sup> [http://www.choicestream.com/pdf/cs\\_press050912.pdf](http://www.choicestream.com/pdf/cs_press050912.pdf). These stats applied specifically to users of the "Neighbors" and "Top Fans" features, which allow users to view the preferences and purchases of others.



have contributed to the dominance of a few hit albums, with consumers only exposed to a narrow range of music. Shelf space in brick-and-mortar stores has limited access to the market.<sup>5</sup>

As the data indicates, recommendation tools can provide important stimuli for increasing the diversity of music, from genres to artists, to which consumers are exposed. Recommendation tools can be a crucial component in driving demand for back catalogs as a source of high-margin revenue for rights holders, as well as toward niche artists and music that they otherwise would not encounter.

In his seminal article on niche content called "The Long Tail," Chris Anderson suggests that aggregating music beyond the traditional "hits" and driving people toward those works with recommendation systems can provide a substantial revenue stream for online music service providers. He suggested in the article that almost all of the songs in Rhapsody's catalog, which is more than one million songs, are played at least once per month.<sup>6</sup>

Certainly, hits still dominate consumption, Anderson contended in a July 7, 2005 posting on his LongTail blog, noting that 5 percent of the catalog makes up 72 percent of consumption, and 1 percent makes up half of consumption. However, a typical Wal-Mart only holds the equivalent of 5 percent of Rhapsody's catalog. That means that 28 percent of consumption on Rhapsody is spread among the vast content that music buyers never could access in a mainstream brick-and-mortar environment.<sup>7</sup> Anderson indicates that this is typical of online music stores.

## 7.0 Velocity

As mentioned previously, the shift to digital and the attendant exploding in channels of information create a more-complex environment for promoting music, whether from new artists or back catalogs. In the online world, getting content to consumers is relatively simple and quick, leaving almost no time to develop the elaborate marketing/promotional efforts on which the industry has relied. What has become critical in the market is being able to create initial demand and then finding as many paths to spread it as quickly as possible. What we are describing is an environment in which the "velocity" with which a new song — or songs from a back catalog — can quickly get from initial distribution (or reintroduction) to the maximum number of paying customers.

Playlist browsing and publishing show signs of being two drivers of song velocity. Assembling a playlist is often an endorsement of the songs, although playlists of bad or disfavored songs are published and generally denoted as such.

By linking songs by theme, artist, year or genre, a playlist publisher provides context for those who read the list. These factors, when combined, make for an intriguing possible transaction trigger. Early feedback from playlist sites or applications confirms this, as mentioned previously.

## 8.0 Potential Cultural Effects

Music is much more than business; it is a significant part of our daily lives as well as our cultural environment. Along with the business benefits, consumer-to-consumer recommendation tools could have broader cultural benefits by transforming the way consumers become exposed to and

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<sup>5</sup> See William W. Fisher III, *Promises to Keep*, (Stanford University Press, 2004), 26-31, 75-81; Chris Anderson, "The Long Tail," *Wired* (Oct. 2004), at <http://www.wired.com/wired/archive/12.10/tail.html>

<sup>6</sup> Anderson, "The Long Tail"

<sup>7</sup> [http://www.thelongtail.com/the\\_long\\_tail/2005/07/updated\\_data.html](http://www.thelongtail.com/the_long_tail/2005/07/updated_data.html) (presenting updated data as of July 7, 2004)

interact with music. As noted above and described by Professor William Fisher III in his book *Promises to Keep*, "over the course of the 20th century, the power to make cultural meanings in most Western countries has become ever more concentrated."<sup>8</sup> Digital technology, the Internet in general and consumer-to-consumer recommendation tools in particular could help make a more-participatory, democratically defined culture, taking influence from powerful legacy tastemakers and encouraging creativity. In the process, they might help establish communities and connections between consumers. Their impact is not easily measurable, and we can only offer several overarching hypotheses at present; however, given these indicators, these tools and their potential effects are worth further attention.

First, exposure to a greater diversity of content is important, culturally. The social value of supporting artistic diversity is commonly recognized, for example in public funding for the arts or museums. To the extent that music is intimately connected with shaping our identities, engaging, diverse music can be important in letting us develop ourselves more freely. Fisher suggests that the more varied ideas and forms of art that people are exposed to, the more that they are forced to "decide for themselves how to think and act."<sup>9</sup> These tools could play a critical role in letting consumers navigate and avoid being overwhelmed by the cornucopia of selections, while more actively selecting and defining their own musical interests.<sup>10</sup>

The potential to democratize culture stretches beyond the heightened ability to select what to consume. Consumers can shape the prism through which music is viewed.<sup>11</sup> By standing beside (or replacing) traditional tastemakers, they may diminish the control that traditional tastemakers have had on how we engage music. Instead of primarily disc jockeys and music videos shaping how we view music, we have a greater opportunity to hear from each other — music fans creating playlists to organize the themes of a particular genre or commenting on an artist's style in a podcast. These tools allow people to play a greater role in shaping culture, which, in turn, shapes themselves.

In this way, recommendation tools encourage music fans to engage in expressive acts, becoming creators.<sup>12</sup> Professor Jack Balkin describes the performative value of such acts in a recent essay: "When people are creative [and] become producers of their culture, they exercise and perform their freedom [to speak and create] and become the sort of people who are free."<sup>13</sup> As Professor Rebecca Tushnet suggests, consumers have used mix tapes or CDs for self-expression,<sup>14</sup> and

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<sup>8</sup> Fisher, at 30.

<sup>9</sup> Fisher, at 26-27.

<sup>10</sup> See Virginia Postrel, "Consumer Vertigo," *Reason* (June 2005), available at <http://www.reason.com/0506/cr.vp.consumer.shtml> (countering arguments that dramatically increasing choices in the market makes people worse off); Alex Pham and Jon Healey, "Telling You What You Like," *Los Angeles Times*, (Sept. 20, 2005) available at <http://www.latimes.com/business/la-fi-preference20sep20,0,109300.story?coll=la-home-business> (discussing the potential benefits of recommendation engines in this regard as well as considering the danger of limitless choice and balkanizing cultural interests).

<sup>11</sup> See Jack Balkin, *Digital Speech and Democratic Culture: A Theory of Freedom of Expression for the Information Society*, 79 N.Y.U.L. Rev. 1 (2004), 32-42, available at <http://www.yale.edu/lawweb/jbalkin/writings.htm#digitalspeech>; Fisher, at 28-31;

<sup>12</sup> See *id.*

<sup>13</sup> Balkin, at 33.

<sup>14</sup> See Rebecca Tushnet, *Copy This Essay: How Fair Use Doctrine Harms Free Speech and How Copying Serves It*, 114 Yale L.J. 535 (2004), 545, available at <http://www.tushnet.com/copythisessay.pdf> (discussing the expressive aspect of mix CDs)

people might make playlists shaped around themes and meanings that otherwise could not be expressed. Novel recommendation tools can significantly expand this creativity in many ways.

Once they find others that have similar or at least interesting tastes, consumers might interact with each other. Some of these interactions may be simple and fleeting, but others may help form stronger bonds. Sometimes these communities may be focused around one individual tastemaker, such as a podcaster; in other cases, a group of people may join to discuss their favorite genre, as in Mercora's message boards. To the extent the tools can create bonds between people, the creation of these communities may have beneficial spill-over effects into the rest of our social lives.<sup>15</sup>

Of course, recommendation tools are not the only way that the Internet can unleash such benefits. However, the impact of consumer-to-consumer recommendations is particularly worth focusing on for two reasons. First, the convergence of business benefits and consumer interest is leading to increased innovation in and adoption of these tools. Second, they provide a particularly accessible way for consumers to engage their culture and become creators. In academic literature and popular press, much has been made of the increased ease with which consumers may become creators themselves by sampling or remixing music as DJs do.<sup>16</sup> Even so, many consumers may never develop the technical skill to do so; however, as shown by the data, many consumers are already creating playlists and are interested in sharing such tastes in different ways.

## 9.0 Copyright Law and Consumer-to-Consumer Taste Sharing

Some potential downsides of these tools have been sidestepped. For instance, tools such as iMeem or podcasting, which enable the sharing of entire copyrighted work, might draw immediate comparisons to illicit distribution on P2P — that sharing may interfere with the ability of copyright holders to derive revenue from and control licensing of their works. Particular uses of the tools might in some cases occupy a legal gray area. Many news and trade-industry articles have noted the music industry's concerns and criticisms of Grouper, Mercora, MP3 blogs and podcasting. At the same time, some signs point to resolution without litigation.<sup>17</sup>

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<sup>15</sup> See also Charles Leadbetter and Paul Miller, *The Pro-Am Revolution*, (November 2004), 49-50, available at <http://www.demos.co.uk/catalogue/proameconomy/> (discussing how amateurs working to professional standards and seriously engaged in an interest area together can build social capital. Music recommenders can be thought of in these terms as pro-am music critics.)

<sup>16</sup> See, e.g., Thomas Goetz, "Sample the Future," *Wired* (Nov. 2004), available at <http://wired.com/wired/archive/12.11/sample.html>; Lawrence Lessig, *Free Culture*, (Penguin Press: Mar. 25, 2004).

<sup>17</sup> See Jon Healey, "Testing Copyright Limits," *LA Times*, (Apr. 12, 2005), available at <http://grouper.com/Media/LATimes.pdf> (on Grouper); John Borland, "P2P radio morphing into free music search," *News.com* (June 6, 2005), at [http://news.com.com/P2P+radio+morphing+into+free+music+search/2100-1027\\_3-5734405.html?tag=sas.email](http://news.com.com/P2P+radio+morphing+into+free+music+search/2100-1027_3-5734405.html?tag=sas.email) (on Mercora); Brian Garrity, "Blogs Build Buzz, Raise Copyright Questions," *Reuters via Billboard* (Aug. 14, 2004) available at <http://www.entertainment-news.org/breaking/3342/blogs-build-buzz-raise-copyright-questions.html> (on mp3 music blogs); John Borland, "Hope for legal music podcasts on the rise," *News.com* (June 16, 2005) at [http://news.com.com/Hopes+for+legal+music+podcasts+rise/2100-1027\\_3-5749988.html](http://news.com.com/Hopes+for+legal+music+podcasts+rise/2100-1027_3-5749988.html) (on podcasting).

In upcoming documents, we will address some of these concerns. For the moment, we are setting aside those questions purposely while acknowledging their potential merit. As we have discussed, early-adopter indicators suggest that consumers will want to take advantage of novel consumer-to-consumer recommendation tools. To sustain the nascent online music industry, it is incumbent on the music industry and online music services to satisfy these early adopters, and they would accrue significant benefits in doing so, as would our culture. As much as possible, the focus should remain on embracing and using these tools to everyone's benefit.

## 10.0 Predictions and Recommendations

By 2010, 25 percent of online music store transactions will be driven directly from consumer-to-consumer taste-sharing applications, such as playlist publishing and ranking tools built into online music stores or external sites with links to stores. The experience and interest shown by early adopters will drive music labels and online music retailers to enhance the link between sharing tools and their transaction platforms. Music labels and rights holders will have to ensure that their contracts with online retailers are designed to allow for maximum flexibility in the consumer sampling of content.

Music labels and artists should closely investigate the dynamics of playlist sites and applications and how they can be used to augment or redesign marketing and promotion strategies. By allowing more flexibility in licensing terms to allow full-song sampling for songs, including in published playlists, whether they be integrated features of a store or a third-party site, online stores will be able to drive additional sales by taking advantage of consumer interest in taste-sharing tools.

Rights holders (including publishers and performance rights organizations) should look to create licensing schemes, such as blanket podcasting licenses, which provide the flexible use of content by consumers. Easing a consumer's ability to publish playlists to third-party sites or include content in podcasts or blogs should be a strategic imperative. These emerging tools will complement collaborative filtering tools, such as those being provided by many companies.

Online music services should enhance playlist-publishing capabilities and strengthen links to third-party consumer-to-consumer taste-sharing sites to drive incremental traffic. Working examples of such relationships include GoFish and MusicStrands, providing links to online services such as Rhapsody, Napster and iTunes.

### Recommended Reading

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[Better Search and Legal Sharing Can Harness Power of Consumers](#)

[Court Victory for P2P Software Vendors Raises Stakes for All](#)

[Copyright and Digital Media in a Post-Napster World](#)

[Copyright and Digital Media in a Post-Napster World: International Supplement](#) "Promises to Keep," Professor William Fisher, Stanford University Press.

"[The Long Tail](#)," Chris Anderson, Wired Magazine, October 2004

"[Copy This Essay](#)," Professor Rebecca Tushnet, Georgetown University,

"[Digital Speech and Democratic Culture](#)," Professor Jack Balkin, Yale University,