



Taking On Digital MUSIC PIRACY

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The size of the Indian music industry is estimated to be around ₹ 980 crore and is expected to grow annually at 14% from 2014-2019. Piracy is one of the biggest challenges for the industry given the ease with which music is downloaded and shared.

It is estimated that India already has 300 million internet users and is well on its way to reaching 500 million users by 2018. The last five years have seen a steep rise in internet penetration in India, mainly fueled by the sharp fall in prices of smartphones, which are now available for as little as ₹ 5,000 (approximately \$75). By the end of 2014, India had around 116 million internet enabled smartphones and the number is expected to reach 435 million by the year 2019. In the current environment, internet, media and telecom industries are fast merging and the borders of these industries are fast blurring. Thus bringing in a fresh set of challenges for stakeholders to build business models that can not only deliver content but preserve their revenue.



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Growth of Digital Music

On account of rapid increase in internet savvy users, preferences of people have also changed over the years. The audio cassettes which were replaced by CDs/DVDs are no longer the preferred choice of users for listening to music, watching movies etc. The reason being music tracks are available for free online or the price is so low that CDs can't compete with them.

According to a FICCI-KPMG Indian Media and Entertainment Industry Report 2015, the revenue from distribution of music through digital channels already accounts for nearly 55% of the overall size of the music industry in India. 20% of the revenue comes from physical sales, with TV and radio accounting for 15% and public performances making up the final 10%.

Predominantly, three models of digital distribution of music are prevalent. The first is WAP based content delivery by telecom operators for services like caller ring back tones (CRBT). This category continues to account for a big share of digital music. The second most important source is legal download of music from marketplaces such as iTunes and Google Play. Music streaming services such as Saavn, Hungama and Gaana are the latest destination for consumption of digital music.

As more and more customers choose to go mobile for their music needs, it has become essential for digital music companies to think beyond credit cards, debit cards and net banking. The youth of today, prefer hassle-free 'mobile wallets' to credit or debit cards. Well-funded mobile wallet companies are coming up with innovative products to make the payment experience hassle free. Thus mobile wallets are becoming the preferred choice for buying music. It is widely believed that micro transactions through pre-loaded mobile wallets are easier compared to entering credit/debit cards details every time a user wants to download a song. Further, with the increasing smartphone penetration, the potential for increase in mobile wallet penetration seems big as compared to credit and debit card penetration.

2014 witnessed record breaking investments and acquisitions in the online space. The story of the digital music industry was no different. Music streaming is becoming a serious business with the market already heating up due to investments in venturebacked music streaming sites and with big players (such as Rdio and Guvera) announcing their arrival into India. Telecom operators further intensified the competition by launching their own music streaming services.

Challenges that lie ahead for the Digital Music industry

According to a FICCI-KPMG Indian Media and Entertainment Industry Report 2015, there has been a decline of around

35% in physical sales, 30-35% drop in user base for caller ringback tones due to TRAI regulations and the inclusion of regulations like two-step authentication for online transactions.

While digital music players have introduced innovative product offerings, the penetration of these services in remote areas is limited due to inadequate internet infrastructure in these areas which impacts overall user experience. It appears stakeholders across the board would need to come together to find solutions in the year ahead.

There seems to be a constant endeavor from digital music companies to make user experience better, understand tastes and provide customized and personalized content to new age subscribers. Moreover, the payment mechanism for digital music content needs simplification for attracting young users, senior citizens; illiterate users who wish to try and buy music at one touch.

Many top digital players are struggling to chalk out a scalable model, whereby users would see value in paying for listening to music. It is widely accepted that India is a tough market due to rampant piracy. It is also a typical market wherein majority of users prefer services without incurring any cost. One study estimated that only 1-2% of music consumed in India is by way of legal purchase whereas 99% of the music consumption is still illegal i.e. pirated. The challenge remains in converting non-paying users into paid users through innovative pricing strategies and compelling alternatives to mitigate piracy. With a younger generation that is born in the age of smartphones, and heavily influenced by sources offering pirated content, streaming services should look at ways to catch them young and convert them into paying loyalists.

Copyright Law

Certain important changes were introduced into the Copyright (Amendment) Act 2012 with regard to the law against piracy. The relevant provisions are the additions of Section 65A and Section 65B to the Copyright Act, 1957.

Section 65A provides for protection of technological measures used by a copyright owner to protect his rights in a work. Any person, who circumvents effective technological measure applied for protecting any rights with the intention of infringing such rights, shall be punishable with imprisonment, which may extend to two years and shall also be liable to fine. The rationale is to prevent the possibility of high rate infringement (digital piracy) in the digital media. Section 65B provides that any person who knowingly removes or alters any rights management information without authority or distributes, imports, broadcasts or communicates to the public, without authority copies of the work or performance knowing that electronics rights management information has been

removed or altered without authority shall be punishable with imprisonment, which may extend to two years and shall also be liable to fine.

The introduction of Sections 65A and 65B is expected to help the film, music and publishing industry in fighting piracy in online environment.

Changing landscape

While piracy is a non-bailable, cognisable offence under the Copyright Act, its enforcement requires extensive measures to restrict criminals in the trade. As an enforcement practice, the music industry has continued to obtain court orders to address online piracy. In this regard, the concept of John Doe has been instrumental in protecting the interests of copyright owners especially in preventing movie piracy on the internet through unauthorized websites and showcase of the movies through cable network. John Doe order is an injunction sought against someone whose identity is not known at the time it is issued. There have been cases where people have copied music and other copyrighted material and have made the same available either free or for a very nominal sum on the internet. T-series (that controls 70-80% of market share) is very active in initiating legal actions and has been increasingly taking legal route to combat piracy which is evident from the cases discussed below reported in the press:

1. In the case of T-series v Guruji.com, the founder and CEO of Guruji.com was arrested in Bangalore in 2010 along with other company executives on the charges of copyright infringement by making musical content online free which was originally owned by T-Series. The users of Guruji.com were able to locate and play music from sites like songs.pk, musicplug.in, PZ10.com and bollymobile.in. The action was filed by music label T-Series whose music catalogue was allegedly exploited by the website Guruji.com.
2. T-Series has filed lawsuits against several major companies like YouTube, MySpace, Yahoo and Ibibo for unauthorized streaming alleging copyright infringement.
3. In 2012, the Calcutta High Court granted an ex-parte injunction restraining 387 Internet Service Providers (ISPs) from blocking access to 104 websites that were indulging in piracy of Bollywood music tracks. The petition was filed by Phonographic Performance Ltd. (PPL), Indian Music Industry (IMI) and Sagarika Music Pvt. Ltd against various ISP's.

Further, in the case of Super Cassettes Industries Ltd. v. Myspace Inc. & Another (2011(48)PTC49(Del)), the Delhi High Court granted an interim injunction in favor of the plaintiff and against the defendant, who allowed its 'webspaces' to be used for sharing infringing materials. The Court held that Copyright Act shall prevail over the Information Technology Act, 2000. The Court took the view that it is no longer adequate for an intermediary to avoid liability by demonstrating due diligence. The court observed that MySpace could not seek shelter under Section 79 of the Information Technology Act, 2000, which protects intermediaries that merely provide access to a system for the storage of data or the transmission of third-party information.

Conclusion

Thus, with the advent of internet since 1990s, digital music has seen tremendous growth over the years. The next big challenge is coping up with convergence of various industries and platforms that require co-operation of stakeholders in addressing them. In the ever changing and evolving world, controlling piracy across industries and platforms require combination of measures that technology, education and legal framework has to offer.



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