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Digital Music JRC Study is flawed, misleading and disconnected from commercial reality

Digital Music Consumption on the Internet: Evidence from Clickstream Data, published by the European Commission Joint Research Centre, aims to estimate the effects of illegal downloading on legal purchases of digital music. It uses Nielsen Netview data on the number of 'clicks' to legal and illegal services that contain music. The study concludes that music piracy does not displace legal music purchases in digital format. Although there is copyright infringement, there is unlikely to be much harm done to digital music revenues.

The authors note that their conclusion does not conflict with earlier findings that digital piracy negatively impacts CD purchasing and that since physical sales still account for the majority of the industry's revenues, illegal downloading "may well" negatively impact the industry overall.

IFPI believes the JRC study is flawed and misleading. The findings seem disconnected from commercial reality, are based on a limited view of the market and are contradicted by a large volume of alternative third party research that confirms the negative impact of piracy on the legitimate music business.

First, there is a major problem in how the data is employed to study sales displacement. Nielsen Netview data provides the number of 'clicks' or 'visits' to legal and illegal services which the JRC classified as containing music, across the five major EU markets. There is a fundamental gap in the data though – no music transaction is being measured or analysed, all conclusions are based on approximations and estimates of music activity.

The authors assume that visits to legal download sites, controlled for interest in music, are a good proxy for purchases. However, a closer look at the Nielsen data on legitimate consumption throws major questions over the validity of the results.

A key example of this problem is the treatment of iTunes 'clicks' by Nielsen. iTunes is a major legal music service and an essential data point in establishing legal music consumption. Nielsen measures use of the iTunes application, which involves any activity around iTunes - such as a user simply plugging their iPhone into the PC (which launches the iTunes application), a user listening to music via iTunes, a user synchronising their Apple device with their PC, a user renting a film on iTunes, or downloading a game app. Each one of these instances are counted as an iTunes 'click' and considered as legal music behaviour by the JRC. This severely impacts the results and is not a good proxy for legitimate music consumption.

The study is also confused over the overlap between the use of legal and illegal services. It is not news that some pirates are also legal buyers - this is consistently found in other studies. Recent data from Kantar Worldpanel¹ in the UK based on diarised music purchases (actual spend, music-based

¹ Data from Kantar Worldpanel shows the purchasing trends of 15,000 demographically representative individuals in the UK (2012).

measure - a more appropriate data source for this type of analysis) highlighted that while some file-sharers spend a lot on music (physical/digital), this is counterbalanced by many file-sharers that don't buy any music - as many as 44.8% of file-sharers in the UK buy no music at all.

In 2010 The NPD Group² research in the US also found that less than half of P2P users bought music – only 44% bought CDs and 35% bought downloads. A more recent study by Ipsos MediaCT³ across nine markets, found that only 35% of P2P users also purchase downloads via services such as iTunes.

These results contradict the JRC's finding that illegal downloading stimulates digital sales - if a large proportion of illegal downloaders do not buy any music (and yet consume, in some cases, large amounts of it), it cannot be logical that illegal behaviour stimulates legal download sales and inflicts no harm.

Arguments over the supposed positive effects of sampling, based on the assumption that consumers are motivated to purchase a legitimate version of a file when they already have a perfectly functional pirate copy, have been repudiated by various studies. For example, a government-sponsored study in the Netherlands⁴ found that 37% of music file-sharers never subsequently bought the content they downloaded illegally and a further 30% bought only once or twice, meaning a total of 67% of file-sharers never/rarely subsequently purchased songs they had pirated. In Australia, 57% of P2P users were found to rarely/never purchase songs they had downloaded⁵. If there is a sampling effect at play, it has a very small impact.

A further weakness is the JRC's finding that a reduction in piracy levels leads to increased digital sales. Danaher et al. (2012) studied how the HADOPI law in France impacted French music sales. They found that the publicity surrounding the HADOPI law caused a 20-25% increase in French digital music sales relative to the control group countries. Sales of most pirated genres were the ones to see the biggest increase. Adermon and Liang (2010) found that enforcement of the European Union IPRED directive in 2009 led to a decline in piracy and caused a 27% increase in CD sales and a 48% increase in digital music sales in Sweden. More recently, a paper by Danaher & Smith (2013) found that the closure of Megaupload led to an increase in digital sales of movies, providing evidence that internet movie piracy displaces digital film sales.

Another major flaw in the JRC's paper is the suggestion that copyright infringement online is unlikely to inflict harm on digital revenues. This suggestion is undermined by its use of a very narrow view of digital revenues, namely only digital downloads. This is a crucial omission, as downloads are only one source of revenues in today's digital music market. Subscription services and ad-supported streams already account for more than 30% of digital revenues in Europe (IFPI). Ad-supported services, for example, are free to the consumer and offer unlimited streaming. These are increasingly important elements of the digital music market. Making an authoritative assessment of the impact of online

² <https://www.npdgroupblog.com/driving-under-the-influence/>

³ Research commissioned by IFPI comprising of 7,502 interviews conducted via online survey in November 2012 amongst a representative sample of internet users aged 16-64 in nine countries (representing 80% of the global recorded music market) - the US, Brazil, Mexico, UK, Sweden, Germany, France, Japan and South Korea.

⁴ TNO, 2009.

⁵ Quantum Market Research, 2006.

piracy on legal digital consumption cannot be done if it does not go beyond the impacts on legal downloading. It is a more complex task, and one the JRC did not undertake, and this significantly weakens the study.

It is in fact clear that piracy is as great a threat to the growing subscription and free-to-user streaming sector as it is to download services. The JRC study finds that 73% of the sample 'clicked' on at least one illegal music website in 2011, compared to 57% who 'clicked' on a legal download site (as we have seen, their measure is likely to overestimate this figure). This higher engagement with illegal services in Europe is time spent away from legal services (whether legal download or streaming services).

This competition for consumer eyeballs from piracy affects the ability of legal services such as Deezer and Spotify to grow and monetise their audience. It limits their ability to grow their traffic, increase trial of their service and the prospects of growing their premium subscriber base. If a consumer can download a file for free illegally and transfer that song to their mobile, it removes some incentives for them to pay for a premium subscription. The fundamental problem of the music market place remains as true as ever: why pay for music when you can get it illegally free?

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