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Sharing – what else? Examining how independent musicians make a living today

ABSTRACT

The digital era has brought major changes to the music business, on the production side as well as to matters of distribution. Both illegal and legal platforms were created which are being used for free-of-charge music distribution. A debate has been going on about the practical and theoretical implications of the development of digital cultural markets and on the relationships between making money and giving things away for free.

The debate either focuses on the situation of the user or on the future of the music industry. In both cases the musician is being thought of as a subset of one of those groups. This does not at all do justice to the position of the musicians.

My study focuses on the situation of independent musicians in popular culture and their use of Free Culture licenses compared to traditional copyright use. “Independent musician” here means those who compose their own music and distribute it by means of self-management. Potentially they are deeply influenced by the developments on the digital market; yet only a few studies examine their situation.

In this article I'll give a brief description of the current state of research and debate and I will present my approach to examining the situation of musicians today. This includes some initial hypothesis. Furthermore I'll integrate some first hints to possible results from the research I am presently undertaking for this study.

1 Perspectives on digital markets

Today music is available online for free in many forms for the consumers. There are many platforms that offer free access to music and music videos, some of them are only being filled with content by the creators themselves,¹ others merely by the music industry.² On the most popular platforms,³ consumers and producers both find themselves in the role of users and upload, without being paid, content that has been produced in many different ways and for a diversity of purposes. This happens on the basis of terms of use that form a legal contract which makes them forego any income the platforms generates with the help of their content.⁴

This practice is situated in the context of a fundamental change in cultural production and distribution, that was already present with the audio cassette already⁵ but has been elevated by digital production and digital communication networks. In the process of this change the roles of the market participants change, and in the theoretical debate some of them are being given new names: consumers become users, or they blend with producers to become the prosumer. The roles blend and shift between casual users, hobbyists, amateurs, professionals. But even though the traditional boundaries blur, the market participants still act with different motivations.

According to Smudits in music the digital “Mediamorphosis” begins in the 80s on the production side.⁶ In the early 90s computers were already powerful and cheap enough they could be used by students and pupils to build small digital stu-

1 See www.bandcamp.com. -for instance.

2 For example www.musicload.com. There are many intersections and mixes in the concepts of digital content sites; the aim of this article is not to give a detailed description. We'll just highlight important trends to frame the situation musicians find themselves in today in a very short style.

3 E.g. youtube or soundcloud.

4 See the “terms of use” of any popular platform, e.g. that of youtube: Paragraph 6.E “...by submitting Content to YouTube, you hereby grant YouTube a worldwide, non-exclusive, royalty-free, sublicenseable and transferable license...”. <http://www.youtube.com/static?gl=US&template=terms>, 28.04.2012.

5 Johns, Adrian. „Die Moral des Mischens. Audiokassetten, private Mitschnitte und ein neuer Wirtschaftszweig für die Verteidigung des geistigen Eigentums“, *Zeitschrift für Medienwissenschaft* (Nr. 1 / 2012), 17.

6 Smudits, Alfred. „Soziologie der Musikproduktion“. *Musikrezeption, Musikdistribution und Musikproduktion: der Wandel des Wertschöpfungsnetzwerks in der Musikwirtschaft / Gerhard Gensch ... (Ed.) Wiesbaden: Gabler (2008), 255.*

dios in their bedrooms.⁷ Many productions in electronic dance music originate from those studios since then. This music starts to compete with expensive professional productions on the traditional music market.

Poschardt claims the rise of a new musician role model, the so-called “bedroom producer” who comes from DJing to music production⁸ and who uses digital collage techniques more and more: with sampling and remixing DJs and producers turn to musicians and take the central part in the new electronic dance music culture. The traditional boundaries between the occupational images of analogue music production blur here: musician, producer, arranger, audio technician, DJ. The protagonists are music makers with a diversity of qualifications.⁹

The implementation of digital communication networks at the beginning of the 21st century leads to major changes in music distribution. Cultural production and distribution are being freed from national boundaries, professionals as well as users can upload and download data worldwide, modify it and upload it again.¹⁰

The digital memory as a distribution media has potentially unlimited size. The distribution of digitalised products costs little money and can be done by anybody; the band next door is as many clicks away as Madonna's new record. Niche products potentially become visible like the products of the media industry and start getting into strong competition.¹¹ Users and amateurs become apparent at the side of the professionals, altogether they are creating faster and more content than ever before.¹²

7 Buckingham, David, Issy Harvey, und Julian Sefton-Green. „The Difference is Digital? Digital Technology and Student Media Production“. *Convergence: The International Journal into New Media Technologies*, Nr. 5 (1999), 13.

8 Poschardt, Ulf. *DJ-culture. Diskjockeys und Popkultur*. Reinbek near Hamburg: Rowohlt, 2001, 373.

9 Smudits, “Soziologie der Musikproduktion,” 260.

10 Geller, Paul Edward. „Copyright History and the Future: What’s Culture Got to Do With It“. *Journal of the Copyright Society of the USA*, Nr. 47 (2000), 237.

11 Anderson, Chris. *The long tail: Nischenprodukte statt Massenmarkt; das Geschäft der Zukunft*. München: Hanser, 2007, 30.

12 Cheliotis, Giorgos, Warren Chik, Ankit Guglani and Giri Kumar Tayi, “Taking Stock of the Creative Commons Experiment. Monitoring the Use of Creative Commons Licenses and Evaluating Its Implications for the Future of Creative Commons and for Copyright Law” (paper presented at the 35th Research Conference on Communication, Information and Internet Policy (TPRC), Sep 28—30, National Center for Technology & Law, George Mason University School of Law) 2.

Musical works and audio recordings which are part of musical productions are both present as digital data. The use of existing works as material for new works becomes an easily accessible idea; the digital collage called remix or mash-up becomes a widely spread and controversial cultural technique. For Lawrence Lessig and Paul E. Geller this is the core of digital culture and the initial point of a newly structured market for creative goods that carries the necessity of an adaptation of copyright and a new evaluation of authorship.¹³ The culture of remix exists side to side with professional production¹⁴ and incorporates the values of exchange and community. The different parts of the market need to be examined with different business models.¹⁵

From a historical perspective it can be said that every composer works with material created by his predecessors and colleagues. Only in the 19th century this process was frozen into the concept of original works, adaptations and presentations. These limits may not be relevant any more for digital music production.¹⁶

Another group of publications deals merely with the future of the media industry: the record companies, music publishers and big media corporations. It can be characterised by upholding the roles of the market participants in the pre-digital times of the late twentieth century and not discussing the situation of the musicians at all.¹⁷

A big part of the academic discussion is being carried out around the subject of copyright. It is being seen as central for the future of of creativity by all parties. They focus either on the perspective of the licensing industry or on the relationship between copyright and the users.

13 Lessig, Lawrence. *Remix. Making art and commerce thrive in the hybrid economy*. London: Bloomsbury, 2008.

Geller, "Copyright History and the Future".

14 Lessig, *Remix*, 77.

O'Brien, Damien, und Brian Fitzgerald. „Mashups, Remixes and Copyright Law“. *Internet Law Bulletin* 2, Nr. 2 (2006), 2.

15 Anderson, *The Long Tail*, 86. Lessig, *Remix*, 117.

16 Kawohl, Friedemann. „Die ‚Tracks‘ wie Instrumente spielen“. *Frankfurter Rundschau*, 107, 2006.

17 Clement, Michel, Oliver Schusser, und Dominik Papies. *Ökonomie der Musikindustrie*. Wiesbaden: Gabler, 2008.

Gebesmair, Andreas. *Die Fabrikation globaler Vielfalt. Struktur und Logik der transnationalen Popmusikindustrie*. Bielefeld: transcript, 2008.

In the latter part of the discussion the musician is often being treated as a subset of the user. For instance Lawrence Lessig, the creator of the creative Commons licences, does not distinguish any more between consumers and independent producers. For him in digital networks everyone becomes a publisher and everyone publishing digitally shall have a toolbox of copyright licenses at hand, easy to use and commercially exploitable at the same time. Volker Grassmuck takes a further step and asks to take the actions of users and creators into focus and to protect processes, not products in the future.¹⁸

According to Tschmuck a new music market emerges within digital networks. It is in a chaotic initial stage from which new structures will arise. These are carried by new businesses that incorporate the structural logic of digital communication.¹⁹

Like Tschmuck further authors state complexity and indetermination in a process of transition.²⁰ Prognoses on the future of the music markets are hard to make.²¹

Only very few publications deal explicitly with the role of the musicians in these contexts. Gensch and Bruhn draft a picture of the musician as an “artrepreneur”, a self-employed small business owner. He is equipped with manifold skills and wide-ranging literacy, he produces and distributes his work by himself. His creative work is not his primary source of income; he uses it as a business card to acquire jobs in the economy.²²

18 Grassmuck, *Freie Software*, 404.

19 Tschmuck, Peter. „Vom Tonträger zur Musikdienstleistung : der Paradigmenwechsel in der Musikindustrie“. *Musikrezeption, Musikdistribution und Musikproduktion : der Wandel des Wertschöpfungsnetzwerks in der Musikwirtschaft / Gerhard Gensch ... (Ed.) Wiesbaden: Gabler (2008)*, 159.

20 Siegrist, Hannes. „Geschichte des geistigen Eigentums und der Urheberrechte. Kulturelle Handlungsrechte in der Moderne“. In *Wissen und Eigentum. Geschichte, Recht und Ökonomie stoffloser Güter / Jeanette Hofmann (Ed.)*. Bonn: Bundeszentrale für politische Bildung, 2006, 76.

Gensch, Gerhard. „Der Musiker im Spannungsfeld zwischen Begabungsideal, Berufsbild und Berufspraxis im digitalen Zeitalter“. *Musikrezeption, Musikdistribution und Musikproduktion. Der Wandel des Wertschöpfungsnetzwerks in der Musikwirtschaft / Gerhard Gensch ... (Ed.)*, Wiesbaden: Gabler (2008), 3.

21 Geller, “Copyright History and the Future”, 237.

22 Gensch and Bruhn, “Der Musiker im Spannungsfeld”, 4.

Gensch and Bruhn state as well as Pfaller²³ that the economic situation of musicians worsened at the digital market. They indicate additionally that musicians in popular culture already had a second, non-musical job in the Seventies and Eighties already. We will get back to this in chapter four.

Empirical studies are even more rare. Two qualitative studies on the level of master thesis may be mentioned here. One examines the situation of independent record labels,²⁴ the other that of producers.²⁵

In summary it can be said that the musicians perspective plays a minor role in the majority of publications. He is mostly being integrated as a subset into the general perspectives of the user or the creatives. This is surprising as the music industry was the first to be hit by the effects of digital networks and the creative industries are widely seen as taking a leading role in the knowledge-based economy.

26

The publications that deal with the future of the music industry do not reflect on the situation of the musician at all while at the same time many lobbyists from the music industry claim to speak for the matters of the musicians as creators.

On the level of general perspective, Boltanski and Chiapello show that artists skills become the new paradigm of capitalism.²⁷ Images of the creatives play a major role in the present discussion, yet only few researchers so far investigate which strategies for action musicians and other creatives in popular culture develop with the use of digital networks. In the theoretical debate we find many contra-

23 Pfaller, Alfred. „Kultur- und Kreativwirtschaft: Postmaterielles Wachstum - materielles Elend“. *WISO direkt*, Juli 2010, 1.

24 Reinke, Daniel. *Neue Wertschöpfungsmöglichkeiten der Musikindustrie. Innovative Businessmodelle in Theorie und Praxis*. Baden-Baden: Nomos, 2009.

25 Sebastian Steinhardt, *Musikproduktion im Wandel. Welche Wertschöpfungsoptionen bietet der Wandel der Musikproduktion für Musiker und Produzenten?* (Hannover, Hochsch. f. Musik, Theater u. Medien, Masterarbeit, 2011).

26 Healy, Kieran. „What’s New for Culture in the New Economy?“, *Journal of Arts Management, Law and Society* 32 (2002).

Mitchell, William John. *Beyond productivity: Information technology, innovation, and creativity*. Washington, DC: National Academies Press, 2003.

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Boltanski, Luc, Eve Chiapello. *Der neue Geist des Kapitalismus* (Konstanz: UVK-Verl.-Ges., 2003).

27 Boltanski and Chiapello, *Der neue Geist des Kapitalismus*, 163.

dicting opinions, yet all agree that major changes are happening with the rise of the digital society. It would add an important perspective to the discussion if one would examine the actual situation of participants like independent musicians. One can investigate which changes did affect the actions and the self-concept of musicians so far and whether the changes are really as massive as it is being claimed.

My hypothesis is that the economic situation of independent musicians has not changed much in the cause of digital distribution. For them the situation was precarious in analogue times already and simply has remained so. The existing copyright regime was of little use to any but the most successful of them although they were all playing by its rules. That is why independent musicians are not as heavily affected as the major music industry. What did change, are the possibilities of self-management. Potentially independently produced musical content is visible much easier, but a lot of musical content is in competition for attention. This new situation carries many consequences for the strategies of self-management.

2 Free Software and Creative Commons: a set of conceptual approaches to digital publishing

Authors like Lawrence Lessig and others conceptualise the habits arising in networked digital environments as a culture of sharing. Concepts of economies of sharing are connected with the rise of the Internet. The basic ideas are the sharing of knowledge and collaborative work aiming to produce a use value from which all participants benefit. These concepts form part of the hacker ethics and are deeply rooted into the history of the development of the computer.¹ They are a central part of the mindset of the early computer programmers. Facing the commercialisation of the software production the concepts were systemised by Richard Stallman in 1985 into the legal framework called free or open source soft-

¹ Levy, Steven. *Hackers: heroes of the computer revolution*. Sebastopol, Calif. [u.a.]: O'Reilly, 2010.
Castells, Manuel. *Die Internet-Galaxie. Internet, Wirtschaft und Gesellschaft*. Wiesbaden: VS, Verl. für Sozialwiss., 2005, 51.
Grassmuck, *Freie Software*, 177.

ware. In short, it allows the free use and modification of software provided one grants the same freedom to the use of the modified versions of the software.

Copyright plays a major role here. The freedoms of use are incorporated into copyright licenses. Software production and creative works are connected ever since the WTO in the TRIPS agreement in 1994 declared software programs to be creative works² and thus a subject to copyright and not to patent law as was the case beforehand.

Even though the core of knowledge is freely accessible in free software, an economy of money earning arose beside the reputation economy around the programming and use of free software. Many small businesses offer services of adapting free software to special client needs. Most of free software programming today is being carried out by paid programmers; big companies integrate Open Source projects into their business strategies.

Soon after the development of free software licenses several tries followed to adapt the principles of sharing and the free software framework to cultural production.³ Some focused on designing licences for cultural artefacts while others started content production projects, among them the now widely used Wikipedia project.

The implementation of Free Software programming principles and the culture of sharing connected to it to the production of cultural goods raises some problematic implications. Free Software Programming can easily be split into small tasks that can be solved by a community of individuals while the main project is maintained by just a handful or a single person. The transfer seems to work well on cultural projects that can be split into single tasks like the work for an encyclopedia. In many fields of cultural production though the creation is connected to a notion of authorship; it is often a very personal process. How shall the principle of sharing fit in here? The idea of authorship might not easily be changed; it forms a key principle of the modern civil society with the individual person as proprietor

2 TRIPS Agreement, Article 10 paragraph 1: "Computer programs, whether in source or object code, shall be protected as literary works under the Berne Convention (1971)."

3 Mantz, Reto. „Open Source, Open Content und Open Access - Gemeinsamkeiten und Unterschiede“. In *Open Source Jahrbuch 2007: Zwischen freier Software und Gesellschaftsmodell* / Ed. und revised by: Bernd Lutterbeck ... Berlin: Lehmanns Media, 2007, 417.

of himself and his creative expressions at its center.⁴ Here Free Culture ideas are confronted with a very basic idea of modern western society.

The leading set of licenses for free or open content production today are the creative Commons licences.⁵ They were introduced to the public by Lawrence Lessig at Stanford University in 2002. They are especially designed to fit the use of independent creators in the digital age. The spirit of sharing is embodied in the licences in the sense that private copying is always allowed. At the same time they acknowledge the special need of authors and creators by making derivative works optional (instead of vital) and adding the possibility of commercial exploitation.

My study takes special account of the Creative Commons licenses as they are the leading programmatic approach to deal with the situation of independent musicians and other creators in digital networks. The aim here is to examine if it really makes a difference to use Creative Commons Licenses and what the differences are.

A special focus is set on the issue of money making. Although there are no hints in the theoretic debate that an economy of Open Content production exists I want to find out how musicians using such licenses make their money. This is also important as the Creative Commons licenses are often defamed as being “give everything away for free” licenses and not suitable for anyone how wants to make money with his music.

In order to be able to evaluate special effects of the use of CC licenses I examine the money-making situations of those musicians using other licensing models like standard copyright as well.

3 Options for musicians to act

Today many musicians among other creators use Creative Commons licenses for their works, even though an institutional base for their commercial exploitation is

4 Siegrist, *Wissen und Eigentum*.
Macpherson, Crawford Brough. *Die politische Theorie des Besitzindividualismus: von Hobbes bis Locke*. Frankfurt am Main: Suhrkamp, 1990.

5 <http://www.creativecommons.org>

not yet established. Even worse - in Germany and many other countries conflict arose between Creative Commons supporters and collecting societies which refuse to let their members use these licenses.

In this situation musicians have to decide to be either a member of a collecting society or to use free Culture licences or not to care about copyright at all, while at the same time in any case they face the fact that they need to distribute content for free. My aim now is a rather pragmatic one. I want to investigate: which distribution strategies do independent musicians in popular culture use and which role do free culture licenses play for them? Where do they spread their music for free, where do they charge for using it; from which activities and distribution possibilities do they gain income? How do they benefit from present copyright, where did it become an obstacle?

At the same time one needs to look at how theoretical concepts and concepts of self are connected to the strategies of self-management. Concepts of what a musician and a creative worker is have changed in theoretical literature;¹ the aim here is to find whether there are practical differences and differences in self-concept connected to the different use of copyright. In particular I want to find out whether there are differences between those using creative Commons licences as the most prominent example of open culture licenses and those using standard copyright.

4 Using the 80s as a point of reference

Being an independent musician in popular culture today is a role with a strong tradition. To explore possible changes in the self concepts of independent musicians in popular culture I'll examine the situation in the 80s and 90s, before the rise of digital networks. Especially in the DIY (do-it-yourself) movement connected to punk culture in the 80s of the 20th century self-management and the development of self-controlled, independent structures became a prominent role model. Many so-called independent companies developed from collaborative self-management structures started by independent musicians. Many of the successful independent

¹ see chapter 4

companies later became partners to the major music industry and were being bought in the end by the majors.

Even at that time, only few musicians could generate a living from their music making. There are not many studies available concerning the situation of independent musicians in the 80s and 90s. In those studies musicians are categorised in being amateur or hobbyist, semi-professional or professionals.¹ Being professional meant being able to live from music making. This division was connected with the notion, that only those, who could make a living from their music, were considered as real musicians. The majority of independent musicians was at least partly financing their musical careers with other jobs, taxi driving was a cliché job. Others sought job opportunities in music related businesses; audio engineer, Roadie, Live Booker, musical instruments sales person, music journalist. Only in the branch with the culturally claimed highest value, in Jazz, musicians could generate a living through teaching and this way gain their professional status.

Wilczek states that the different status is connected with different expectations concerning music making. He distinguishes „hobby-type“ and „professional type“. Hobby musicians do not expect to make money with their music while professionals live from making music. Wilczek also acknowledges that many musicians float in interim states with changing attitudes. These are often connected to the development of their job or educational occupations, changing from school to university, from unemployment to job occupation.²

For Hemming the amateurs form the basis of popular culture. A big amateur domain, textual and spacial mobility are the core criteria for popular cultures.³ He calls those musicians semi-professional who do not make a living from music but claim that music making is a central part of their live. Becoming successful is connected to the difficulty of leaving the local domain; becoming professional is a matter of success.

1 Hemming, Jan. *Begabung und Selbstkonzept*. Beiträge zur Musikpsychologie. Münster [u.a.]: Lit, 2002.

Wilczek, Andreas. „Populärmusiker in der Provinz. Eine empirische Untersuchung über Osnabrücker Musikschaffende im Zeitraum der frühen 1960er bis späten 1990er Jahre“. Universität Osnabrück, 1999.

2 Andreas Wilczek. *Populärmusiker in der Provinz*, 295.

3 Jan Hemming, *Begabung und Selbstkonzept*. 61.

When connecting the theoretical debate on independent musicians in the 80s and early 90s with today's discussion it becomes apparent that the judgement on the different activities of music making individuals has changed. Instead of being seen as marginal the amateur basis enters the focus of discussion as it becomes prominently visible in digital networks. The semi-professional of the analogue time is seen as the new professional: the creative person in the music business fulfills several roles at the same time – author, composer, teacher, manager. He must be a born entrepreneur, the sum of his different sources of income form the wage of the professional musician.⁴

This different view on the self-managing musician says nothing about its actual present situation. There is scattered data available in studies from the late twentieth century but none of today.

Media economist Michael Hutter claims that the spread of success in media or art production generally follows the powerlaw distribution of network mathematics. A few very successful persons and projects oppose a vast majority of players that have only little success and does not gain much money. If this is true it indicates that a change in the distribution possibilities will not produce any major structural change in the general dynamics in the relationships of market participants like the independent musicians. The question instead becomes one concerning the relationship between the few successful and the majority of not so successful artists. Should the benefits be spread in a way that also grants the majority of musicians a basic security of income? Does the current structure of the networks or the present use of CC licenses already lead into such a direction?

The study in progress here does not aim to answer such big general questions although say need to be asked. The comparison between the discourse of the pre-digital times and today shows a change in value judgement which needs to be examined. How do the so-called semi-professional musicians see themselves today?⁵ By conducting a qualitative study among musicians and comparing the results

4 Kusek, David. *Die Zukunft der Musik. Warum die digitale Revolution die Musikindustrie retten wird*, München: Musikmarkt-Verl, 2006, 20.

5 Value judgements are always connected to the matters of copyright. Take the "Threshold of originality". They are also essential when it comes to disbursement of royalties. In the german collecting society GEMA classical composers still get a higher percentage of the collected money than composing musicians in popular culture.

with data from studies that were made before the rise of digital networks it aims to create hypothesis on potential changes and continuities in the self-concepts and economic situation of independent musicians.

5 First steps in research

So far I have conducted a first round of interviews with two musicians, one manager and two experts. One musician is a member of a collecting society, the other musician and the manager use creative Commons licences. Far from being fixed results the first interviews hint to the following hypotheses: the music making individuals I interviewed see themselves as musicians no matter what licensing they use. These musicians live from music making or aim at living from their music through self-management of their music, regardless what licensing they use. The use of free culture licenses does not necessarily mean those musicians are willing to give everything away for free.

The use of Creative Commons licences is at least sometimes connected with a programmatic approach to the future of cultural production while traditional copyright is used more habitually and is connected to a lesser degree of consciousness on copyright matters. This is often connected to a notion that “being professional means to be a member of a collection society although I don’t know what it means in particular.” To some musicians obviously copyright is a matter of bad consciousness. This may give a hint to the fact that present copyright is being sensed by musicians as being far too complicated for them to handle.

There are first hints that the generally precarious situation of self-employed musicians did not worsen through the advent of free digital music distribution. New chances for self-management arise that are being pursued. There is also a clear understanding of the limits of self-management in form of time resources. Musicians seek help in form of an external management or collaborative forms of artist management.¹

Yet it remains unclear so far whether the different forms of licensing offer different marketing possibilities except for the fact that the CC context can be used

¹ By the way, this was also a common strategy among musicians in the 80s.

as a marketing context by itself. Though all participants so far wish to make money it is not clear which special benefits result from different copyright use.

For now I must mention that all hypotheses presented here are very preliminary and need to be tested by finding contrary cases. Some possible contradictory cases have already been chosen to be examined in the second round of interviews.

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