



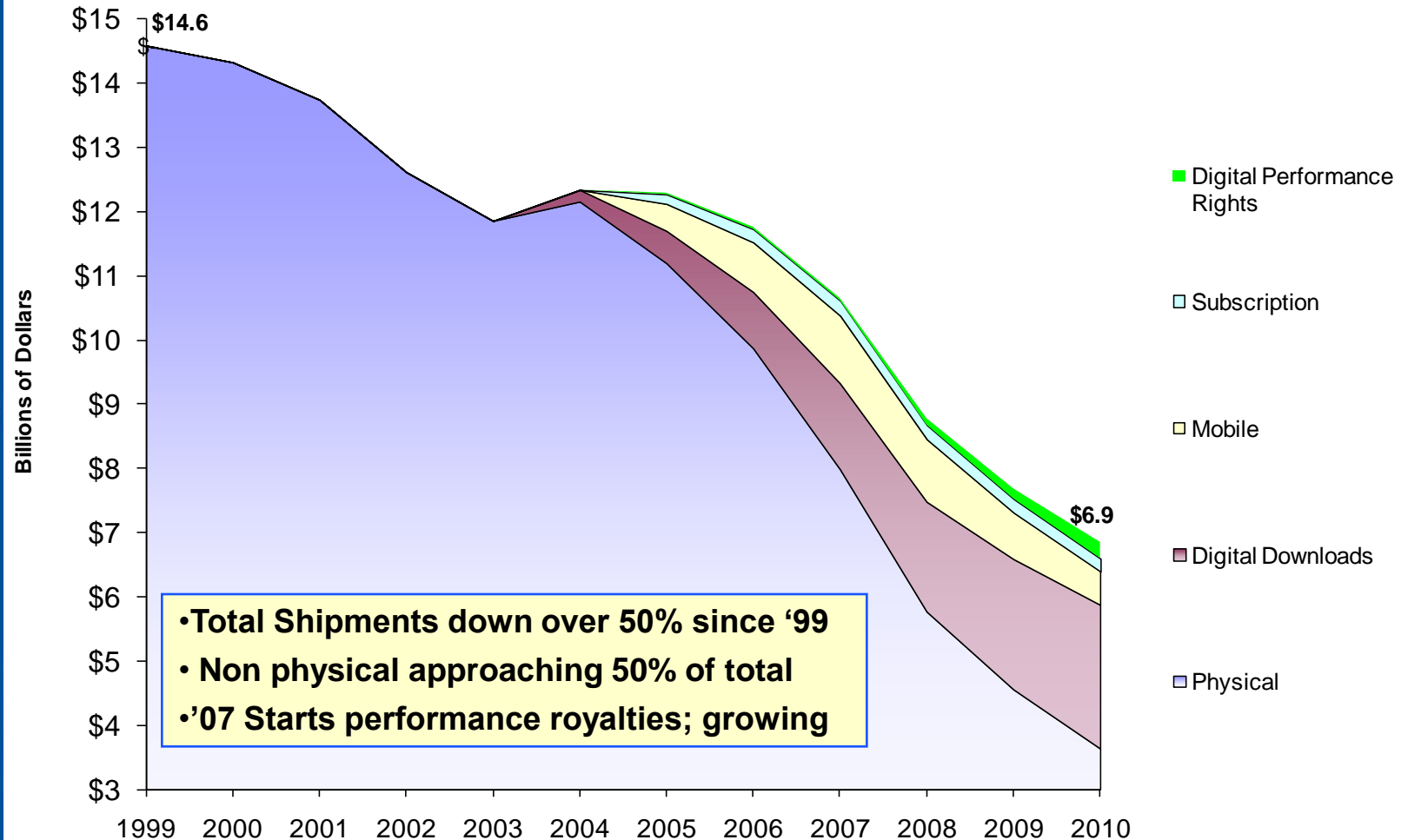
music matters

a presentation to the
**Chattanooga
Technology Council**

Mitch Glazier
Executive Vice President, Public Policy and Industry Relations

April 14, 2011

A Challenging Decade

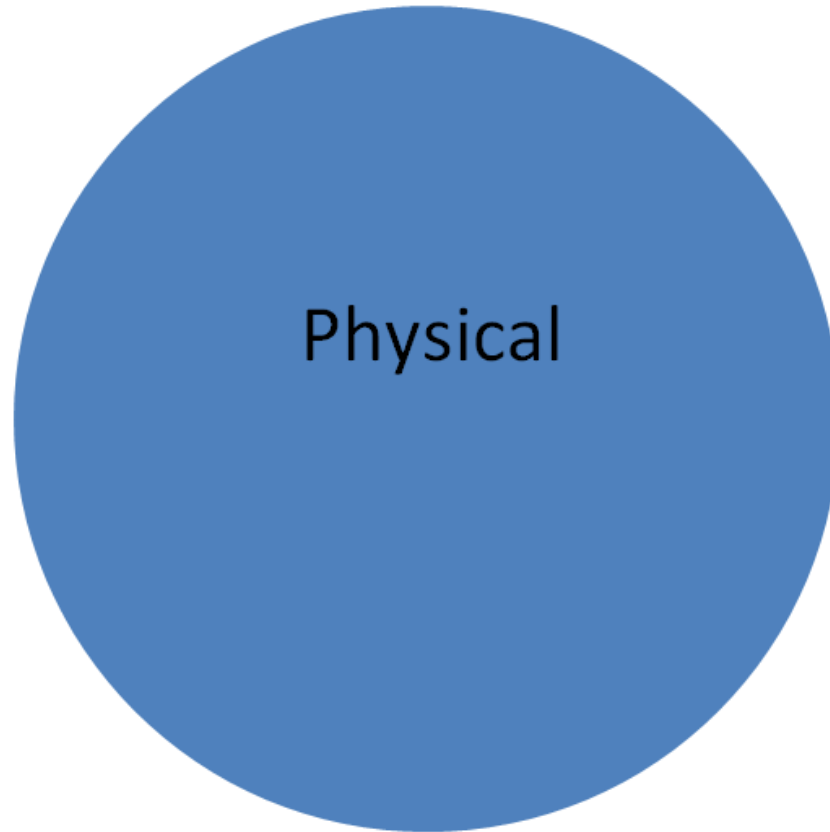


Note: 2009 data is projected and proprietary, Source: RIAA

The Evolving Music Market

1. As recently as '03, entirely physical

2003

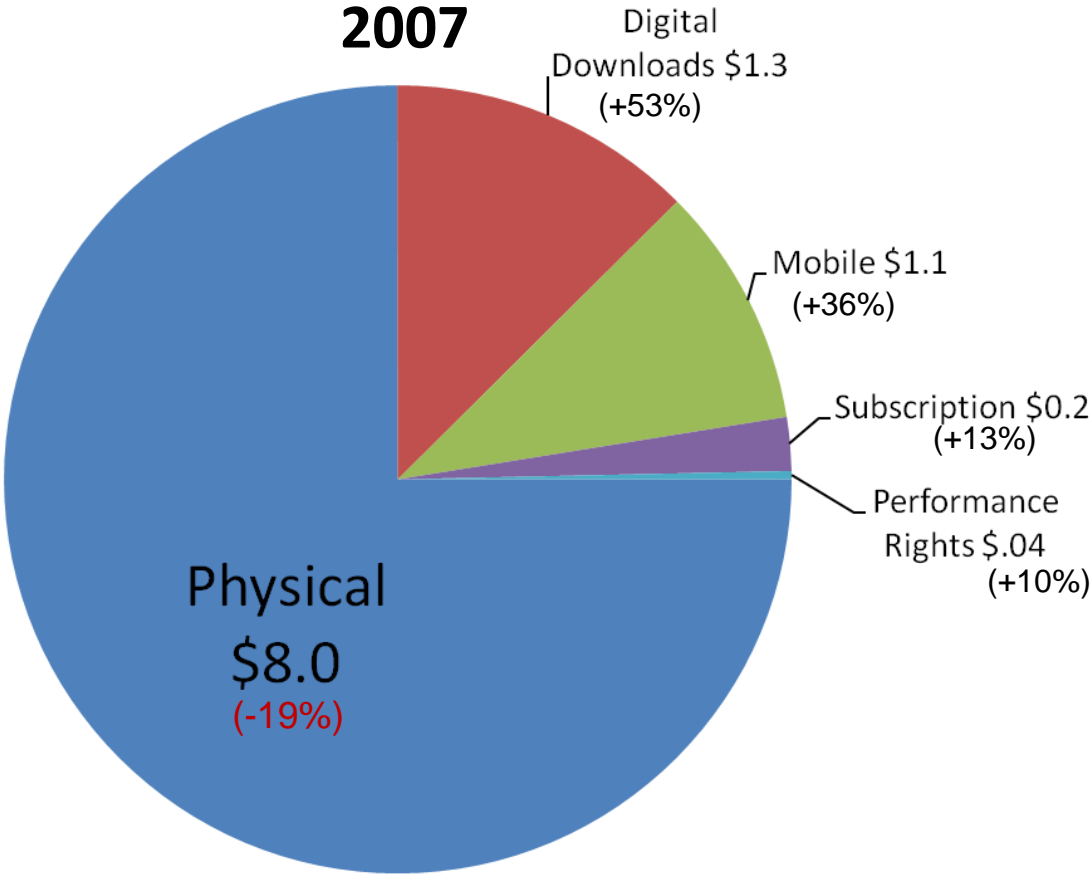


\$11.9 Billion

Source: RIAA

The Evolving Music Market

Note 1
Note 2
Note 3



\$10.7 Billion Total

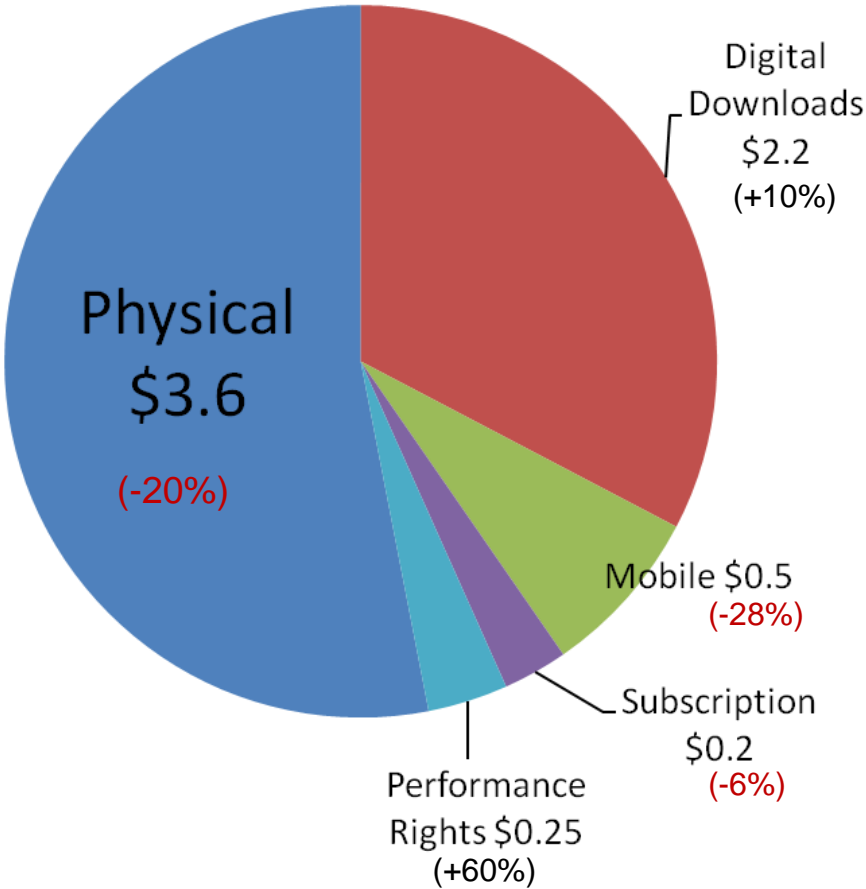
(-9% Y-o-Y)

Source: RIAA

The Evolving Music Market

2010

Note 1
Note 2
Note 3

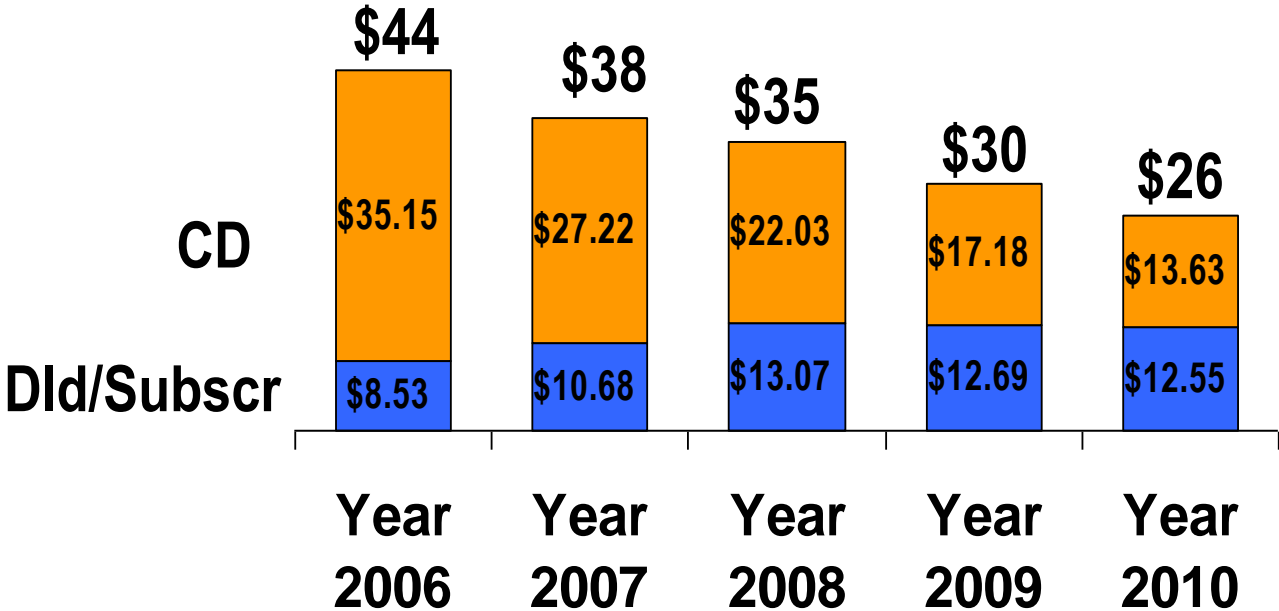


\$6.9 Billion Total
(-11% Y-o-Y)

Source: RIAA

Per Capita Spending on Physical and Digital Combined Declined by 12 percent Last Year

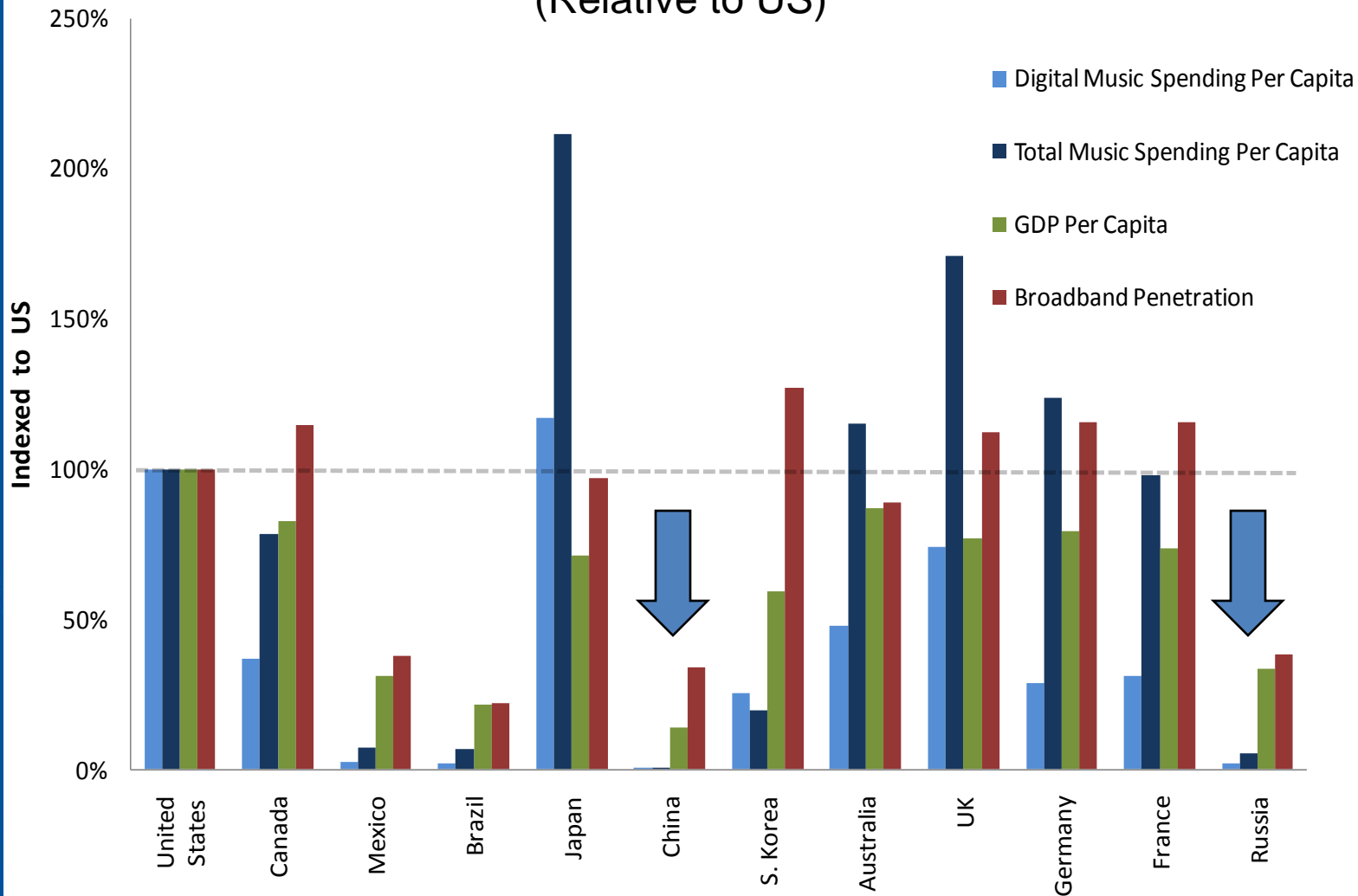
Per Capita Music Spending (Past 12 Months)
(among the US internet population age 13+)



40% Decline in Per Capita Spending Since 2006

Source: NPD Digital Music Study December 2006, 2007, 2008, 2009, 2010 (US Internet Pop. Age 13+)

Music Spending, GDP, and Broadband Penetration (Relative to US)

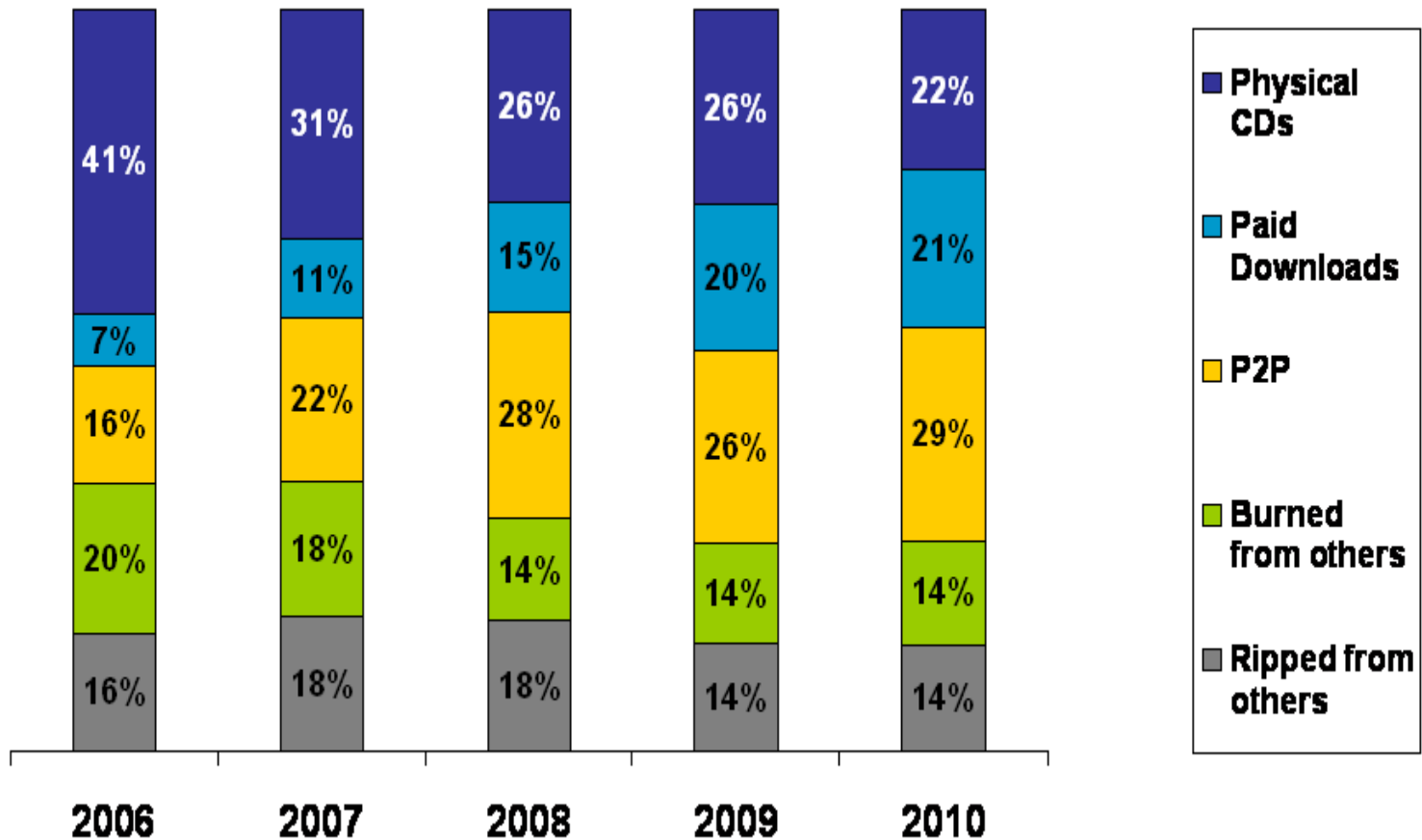


1. Japan and UK per capita spend significantly higher than U.S.
2. Russia and China lag is massive; S. Korea lag is significant

“Traditional” View - Volume Of Music Acquired*

(among the US internet population age 13+)

P2P Exceeds CDs as Top Source of Acquisition



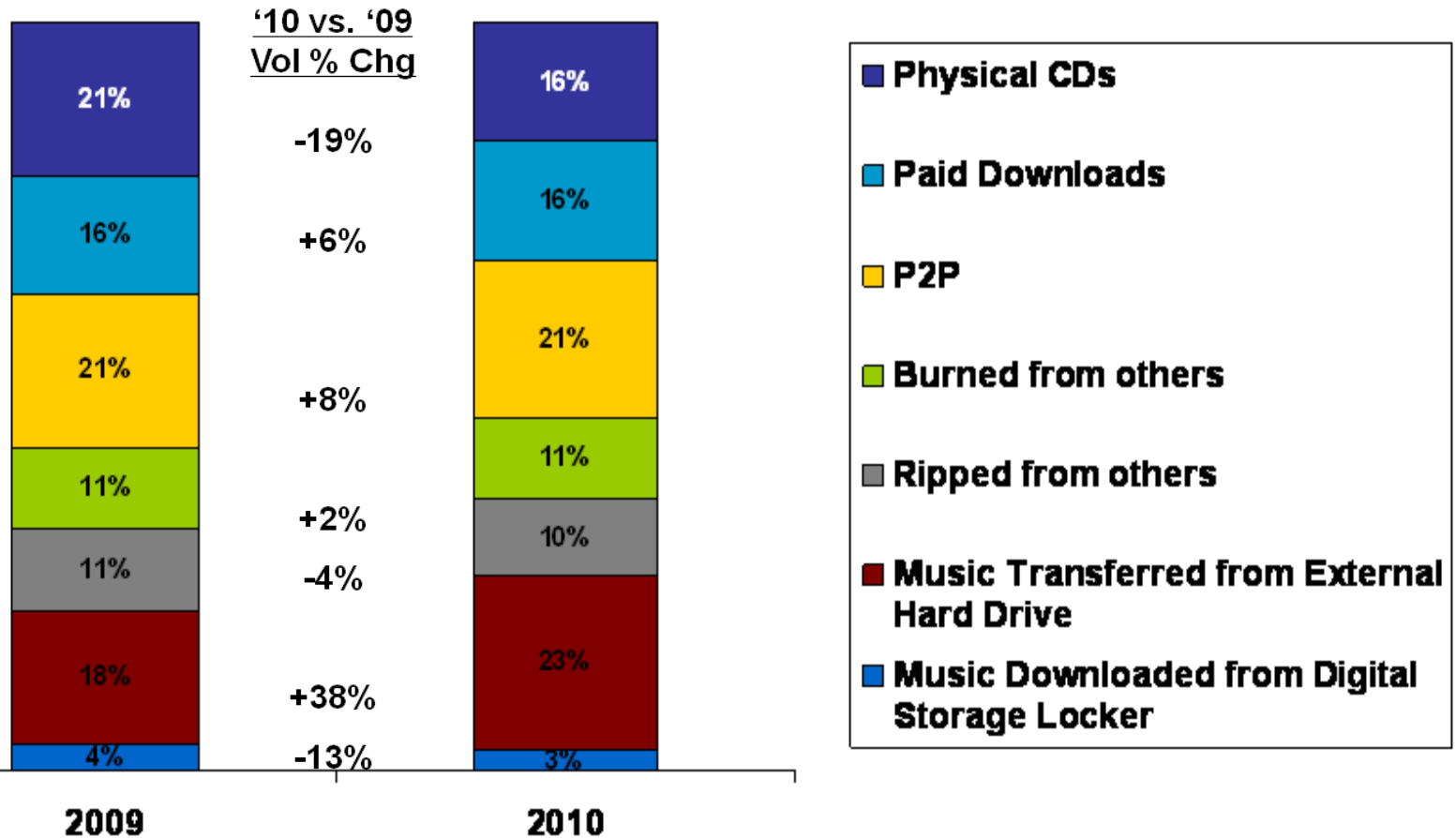
* Equivalent units (10 songs = 1 unit)

Source: NPD Digital Music Study December 2006, 2007, 2008, 2009, 2010 (US Internet Pop. Age 13+)

“Modern” View - Volume Of Music Acquired*

(among the US internet population age 13+)

Though the incidence of transferring music from an external hard drive is lower than other acquisition sources (11%), the sheer magnitude of songs transferred made it the top source of total volume acquired



Consumption Pattern Changing

First from Legal to Illegal and
then from Acquisition to Access (“The Cloud”)

Music “acquisition” patterns:

- A few years ago, the pattern moved sharply from [legal to illegal](#), even as the volume of acquisition was rising (P2P). People were acquiring more music than ever, but not paying for it.
 - Now we see another important shift – the [decline in volume of acquisition](#) as music becomes ubiquitous... with all the listening options out there, consumption is moving away from acquisition towards access.
- Ironically, legal [access models](#) (advanced radio platforms, ad supported services, social networks) and illegal models (“locker” services) are cannibalizing both plastic and downloading
- Bottom line: Music pattern has three phases: (1) all plastic, (2) plastic to bits (units), and (3) units to listening (access, perf right). We are in the middle of phase two



What does this mean?

Our Future Success Hinges on New Access Models

- Plastic collapsing
- Digital units leveling
- Existing mobile revenues (ring tones, downloads) fading
- Performance rights rising as new platforms strengthen
- Ad revenues surfacing slowly
- Subscription is flat but offers significant potential, either by way of devices, phone or ISP service



RIAA Goals



1. To facilitate new business models / revenues...
2. To protect the integrity of existing commerce – both digital and physical during this transition...

Speaking With A Common Voice



UPDATED: Industry Execs Call Out PC Mag For Encouraging Piracy November 23, 2010 – Digital & Mobile

MUSIC COMMUNITY CALLS FOR SWIFT ACTION TO ENHANCE GLOBAL IP PROTECTION AS PART OF SPECIAL 301 PROCESS

A New Era Of Unity

Cooperation is Emerging in The Music Industry

BY MITCH BAINWOLD, DAVID ISRAELITE and NEIL PORTNOW

The creation of music is rarely a solitary experience. It requires tremendous collaboration to bring a song from a writer's pen to a listener's ears. The same is true for the music business. Without harmony among the various members of our community we are vulnerable to discord that can hold back our mutual aspirations. Fortunately, the long-fragmented industry has found ways to work together in recent years.

CEOs. Subsequent negotiations led to a solution that will allow new business models to flourish while providing fair compensation to all parties.

■ The recording and music publishing industries agreed to resolve a decades-long division over a terrestrial radio performance right, with publishing interests agreeing not to oppose legislation currently before Congress that would establish that right.

■ Label representatives agreed not to

gress would hear a consistent refrain from policymakers: "Don't expect us to solve your problems; agree as an industry on solutions and we will implement them."

We took those words to heart, and the significant accomplishments listed above are a testament to our collective resolve. As our community works together to continue the transition to a digital marketplace, cooperation is more important than ever. This sense of unity among the following organizations will produce great results for music creators and music fans:



From left: Mitch Bainwold, RIAA's Mitch Bainwold, NMPA's David Israelite and the Recording Academy's Neil Portnow

joining hands in unprecedented fashion and achieving results.

Each of us represents a different constituency within the music community: labels, music publishers and recording artists. Together with the heads of other trade groups representing nearly every sector of the industry, we've all been working together in ways that were once unthinkable. Consider:

■ The U.S. Copyright Office recently published mechanical rates for interactive streaming and limited downloads. Unresolved for more than seven years, the re-establishment of the new rates was the result of a landmark agreement partly developed at a summit of the trade group

■ The CEOs of every music trade association banded together last fall in Washington, D.C., for the first time as a single unit to help pass copyright enforcement legislation. That bill, held up in Congress for more than a year, passed the House and Senate 10 days after our meetings and was subsequently signed into law.

This new spirit of cooperation emerged through meetings of leaders of all key music trade groups. We had a simple goal in mind: to develop a productive framework for regular discussions at the highest levels in each sector of the music community.

When we began our meetings nearly four years ago, the need for such discussion was clear. Our industry was wrenched by infighting and during our visits to Con-

Mitch Bainwold is chairman/CEO of the RIAA. David Israelite is president/CEO of the National Music Publishers' Assn. Neil Portnow is president/CEO of the Recording Academy.

FOR THE RECORD

- Dutch auction-based ASB managers added \$200 billion (\$283 billion) in assets. A Play 2 story was featured on this point.
- Scott Francis is president of Warner/Chappell Music and chairman/CEO of Warner/Chappell Music U.S. A Play 18 story illustrated Francis' title.

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October 3, 2010
Hon. Bill Haslam
1701 West End Ave., Suite 300
Nashville, TN 37203

Dear Mayor Haslam:

We, the undersigned, are thousands of music industry professionals who are particularly concerned about the impact of piracy on the music industry. We are writing to you to express our support for your efforts to address this issue.

Dear Mr. McWhorter:

We wish to offer you our congratulations on your successful primary election to be the Democratic Nominee for Governor of Tennessee.

As you know, the music industry is particularly impacted by piracy. The coming years will be particularly challenging for the industry as we work to address the impact of piracy on the music industry. We are writing to you to express our support for your efforts to address this issue.

As a representative of the music industry, we are looking for ways to offer you our support for your efforts to address our mutual interests. We are writing to you to express our support for your efforts to address this issue.

- Assist in the development of a music industry task force to address piracy.
- Work with the Tennessee State Music Commission to address piracy.
- Establish a music industry advisory committee to address piracy.
- Lead in the development of a music industry task force to address piracy.

February 3, 2011

Louis J. Brinkman, Esq.
Executive Vice President & General Counsel
CBS Corporation
51 W. 52nd Street
35th Floor
New York, NY 10019-6188

Dear Mr. Brinkman:

We are writing to you to express our support for your efforts to address our mutual interests. We are writing to you to express our support for your efforts to address this issue.

November 11, 2010

Viviek Shah
CEO
Zeit Davis, Inc.
Corporate Headquarters
28 East 28th Street
New York, NY 10016

Dear Mr. Shah:

We write to express our deep disappointment with your decision to publish Chloë Albanese's October 27 article, "LameWare is Dead: What are the Alternatives?" as well as Sarah Jacobson Purnell's November 9, 2010 article, "LameWare is Quietly Resurrected: It's Back!" Both articles are nothing more than a roadmap for continued music piracy. The disclaimer in the first "PC Magazine does not condone the download of copyrighted or illegal material," rings hollow to say the least.

Let's be honest. The vast majority of LameWare's users were interested in one thing and one thing only: downloading our music for free with the full knowledge that what they were doing was illegal. The harm done to the creative community when people are encouraged to steal our music is immeasurable. Disclaimer or no, when you offer a list of alternative P2P sites to LameWare -- and include more of the serial offenders -- PC Magazine is still encouraging people to steal music and place at risk the tens of thousands of music industry jobs -- including singers, composers, musicians and the technical professionals who put it all together. Even worse is offering a direct link to a "resurrected" LameWare as follows: "I went ahead and downloaded LameWare Private Edition for "about" research purposes, and can report that it appears to be working very smoothly. In the event that you, yourself, would like to do some research, you can download the client here (direct link)."

Our argument is buttressed by the fact that PC Magazine offered an alternative that is 100% legal. In fact, legitimate download services, who have developed business models based on a respect for copyright and have entered into mutually beneficial arrangements with the music industry are unduly outaged by your feeble attempt to undercut their ability to compete in the legal marketplace. We would hope that your sense of decency and the realization that even PC Magazine has a responsibility to the rule of law, would have influenced your editorial decisions in this matter. We respect you if feel differently about this issue if, like the music industry, you'd had to let go more than half of the talented writers and journalists who create your magazine because of uncontrolled piracy of their work. Unfortunately, it is clear that the rule of law was an afterthought.





2011 Key Initiatives:

- 1) Engaging Intermediaries
- 2) Enforcement Legislative Initiatives

Engaging Intermediaries

- Online piracy cannot be effectively combated by content community alone
 - Problem too vast
 - Pirates too nimble
 - Piracy too global
 - Profit too appealing
- Need help from other legitimate industry and university sectors, each doing their part
- Symbolizes cultural shift that piracy is actually bad and responsible actors need to act responsibly



Engaging Intermediaries

- Intermediaries role
 - Assure they are not enabling piracy
 - Assure they are not profiting from piracy
- Intermediaries are already key players in Order vs. Chaos on the Internet
 - Wikileaks
 - Child pornography
 - Identity theft, phishing and other online frauds
 - Spam
 - Copyright?
- Business interests converging for many (congestion/digital content interests)



Voluntary efforts with political support

- **White House Engagement**
 - Roundtables with ISPs, Ad Networks/Exchanges/Payment Processors
 - Reports to Congress
 - Interagency Coordination
- **Report to Congress:**

Facilitating Cooperation to Reduce Intellectual Property Infringement Occurring Over the Internet

The U.S. Government supports the free flow of information and freedom of expression over the Internet. An open and accessible Internet is critical to our economy. At the same time, the Internet should not be used as a means to further criminal activity. The Administration encourages cooperative efforts within the business community to reduce Internet piracy. The Administration believes that it is essential for the private sector, including content owners, Internet service providers, advertising brokers, payment processors and search engines, to work collaboratively, consistent with the antitrust laws, to address activity that has a negative economic impact and undermines U.S. businesses, and to seek practical and efficient solutions to address infringement. This should be achieved through carefully crafted and balanced agreements. Specifically, the Administration encourages actions by the private sector to effectively address repeated acts of infringement, while preserving the norms of legitimate competition, free speech, fair process and the privacy of users. While the Administration encourages cooperative efforts within the business community to reduce Internet piracy, the Administration will pursue additional solutions to the problems associated with Internet piracy, including vigorously investigating and prosecuting criminal activity, where warranted.

Voluntary Efforts with Political Support

- **Congressional Hearings/Inquiries**
- **Broadening the public debate about responsibility for a safe and secure Internet**
 - Alignment with other interest groups
 - Counterfeit pharmaceuticals
 - US Chamber of Commerce/Counterfeiting
 - Family groups/Anti-child pornography



Which Intermediaries?

- **ISPs (commercial and universities)**
- **Payment processors**
- **Advertisers/ad networks and exchanges**
- **Search engines**
- **Mobile app stores**





ISPs

- University Program (Higher Education Act)
- Discussions with Commercial ISPs
 - Major ISPs
 - RIAA and its member companies
 - A2IM and members that opt-in
 - MPAA and its studios
 - Motion picture indies

Key Elements to discuss



- Copyright Alerts
 - educational alerts to consumers regarding infringement
 - acknowledgement alerts
 - Mitigation measures, subject to last chance waiver
- Independent Review
- Consumer Information Center for Copyright --
for educational initiatives, legitimate content
information, validating technical methodologies

Importance of the proposed program



- Shared responsibility
- New Partnership
- Complement to International Efforts



Payment Processors

Payment Processors

- Payment system essential for piracy to be profitable for some sites/services
- Only a handful of major processors
 - Visa
 - Mastercard
 - American Express
 - Discover
 - Paypal
- Logos of processors lend legitimacy to pirate sites
- Far quicker and more efficient than litigation
 - Especially in foreign countries



Payment Processors - International



- Negotiated cutoff of Russian site in 2006 with Visa
 - Visa sued in Russia, and lost
 - Amended its agreements with banks (in 2007) to require that transactions be lawful in originating and receiving countries

Payment Processors -- US

- Mastercard made decision to lead
 - Party to counterfeit pharmaceutical deal
 - Extended same thinking to copyright
 - No investigation fees
 - No indemnification
- Visa “coming along”
- White House hosting industry meetings





Advertisers / Ad Networks and Exchanges

Advertisers / Ad Networks and Exchanges

- Because of how advertising inventory is sold and resold among networks, too difficult for advertisers to prevent appearance on pirate sites through insertion orders; also uncertainty about which are pirate sites
- Now engaging with Interactive Advertising Bureau – mechanism for industry negotiations and technical standard-setting
- White House Facilitation

Ad Network +
Search Engine +
Mobile App Store

=

Google



POLITICO

Google: Online piracy public enemy No.1?



Google Faces Piracy Questions at Congressional Hearing

Billboard.biz

Google Defends Commitment to Copyright At Congressional Hearing Despite Doubts



Lawmakers tell Google to do more on antipiracy

Making Copyright Work Better Online

Thursday, December 2, 2010 at 11:31 AM ET
Posted by Kent Walker, General Counsel

There are more than 1 trillion unique URLs on the web and more than 100 hours of video uploaded to YouTube every minute. It's some of the best stuff - content that makes us think, laugh, and learn new things. We couldn't have imagined ten years ago - iTunes, Netflix, YouTube, and others - help us access this content and let traditional and emerging creators profit from and share their work with the world.

But along with this new wave of creators come some bad apples who use the Internet to infringe copyright. As the web has grown, we have seen a number of issues relating to infringing content. We respond to takedown requests to remove such content from our services, and have refined our procedures over time. But as the web grows, and the number of creators grows with it, we are working to develop new ways to better address this underlying problem.

That's why today we're announcing four changes that we'll be implementing over the next several months:

- We'll act on reliable copyright takedown requests within 24 hours. We will build tools to improve the submission process to make it easier for rightsholders to submit DMCA takedown requests for Google services (starting with Blogger and web Search). And for copyright holders who use the tools responsibly, we'll reduce our average response time to 24 hours or less. At the same time, we'll improve our "counter-notification" process for those who believe their content was wrongly removed. We'll also improve public searching of takedown requests.

BETTER MUSICAL GOOGLING

December 02, 2010

You may have heard Google announce today (<http://googlepublicpolicy.blogspot.com>) its plans to "make copyright work better online."

We certainly have a deep interest in these issues. Our first blush take? These announcements are encouraging and positive **first steps** towards a more sensible online experience for both users and the music community. Google **deserves credit** for proposing a constructive set of reforms and undertaking useful steps to better protect the rights of creators and encourage legal ways to enjoy music. While there is **much more work to be done**, this announcement is an important acknowledgement that everyone involved in the online ecosystem has a **shared responsibility** to constructively address the online piracy problem that is devastating the creative industries. Obviously, the details of implementation will be critical, and we look forward to working with Google on all the steps necessary to effectively combat infringement.

Mitch Bainwol, Chairman and CEO, RIAA

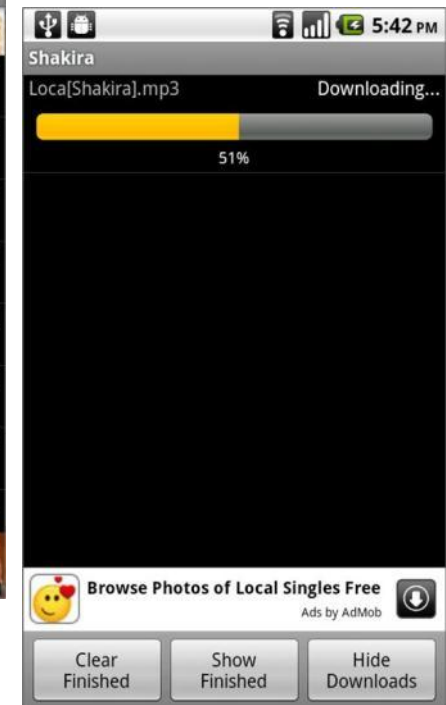
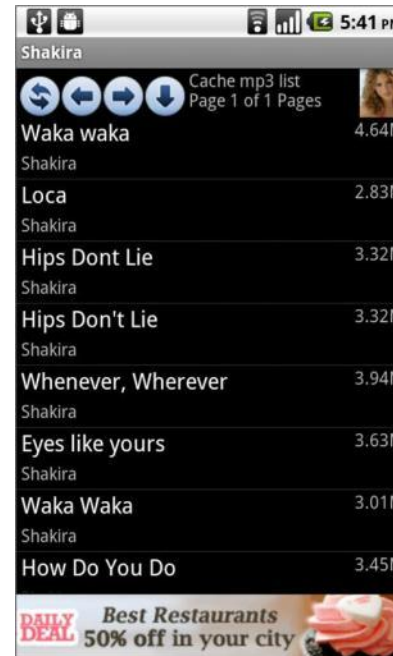
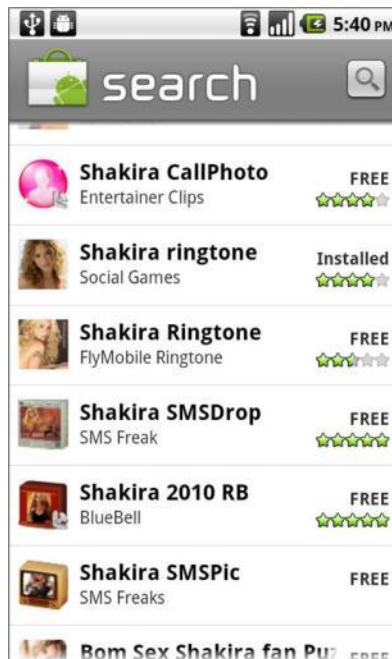
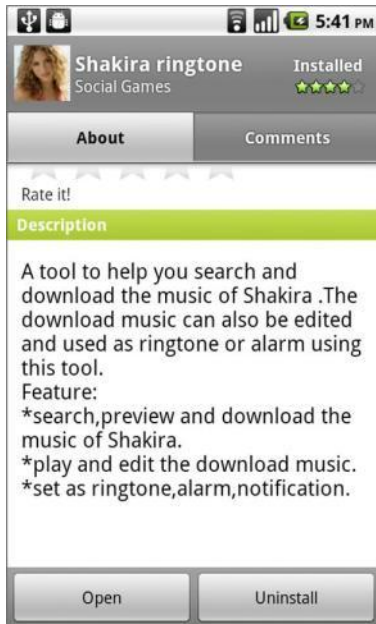
Google's Proposed Reforms



- Improve takedowns
 - Provide search Application Program Interfaces to us (without cost)
 - Enable bulk uploads of takedown notices
 - 24-hour goal
- Remove “auto-complete” terms that encourage piracy
- Improve AdSense antipiracy review
- Make legitimate “previews” more readily available in search results
 - NOT prioritization of legitimate sites
 - Collaborate with us to identify
- Improve takedown procedures for Android Market

Apps

- Mobile apps with basic search functionality



Apps

- Availability of mobile apps on Android platform
- Advertising on pirate apps, sites, blogs
- Accelerated takedowns for pre-release
- Repeat infringer policies
- “Search neutrality” generally



“Lockers” or “Distribution Hubs”?

Focus on Lockers

- Lockers are a significant source of piratical files
 - Rapidshare, Megaupload, etc.
- Lockers are a significant business opportunity to monetize music collections
 - licensing opportunity
 - Risk of abuse

The logo for Megaupload, featuring the word "MEGA" in black and "UPLOAD" in orange, both in a bold, sans-serif font.The logo for Filesonic.com, featuring the word "FILESONIC" in blue with a stylized "F" and ".COM" in black, with the tagline "THE WORLD'S BEST FILE SHARING SITE!" below it.The logo for hotfile, featuring the word "hotfile" in white lowercase letters on a yellow rectangular background.The logo for Rapidshare, featuring a stylized blue and grey arrow pointing right, with the word "RAPIDSHARE" in bold blue letters and "EASY FILEHOSTING" in smaller grey letters below it.

Piratical Lockers

- Developing “best practices” for lockers, with IFPI
- Seizure Actions by ICE/DOJ
- Politics
 - Rapidshare has hired DC lobbying firm
- Litigation against piratical lockers?
- Outreach?



Welcome to *RapidShare!*

Access your files worldwide! Store large files online and access them wherever you are and whenever you want to. Share your data with your friends, colleagues or family - quickly and comfortably with just one click! RapidShare anti-waiting style as you love it...



Enforcement Legislative Initiatives

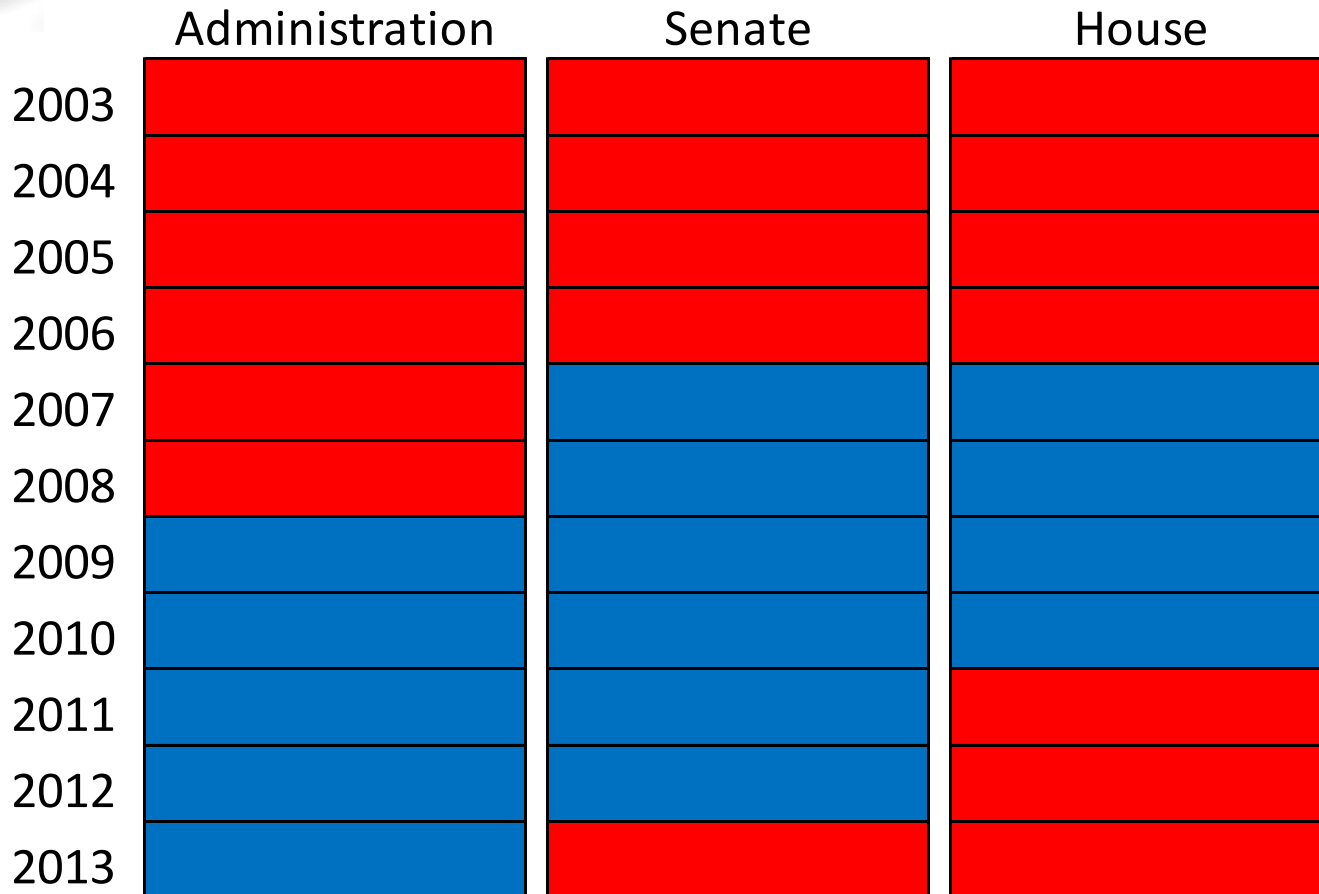


The State Has Taken Some Steps:

- In 2008, Tennessee enacted a law requiring universities to address illegal file sharing on peer-to-peer (p2p) networks, a major problem on college campuses across the country.
 - First such bill in the country
 - Schools required to adopt and implement a computer use policy, and reasonably attempt to prevent infringement on their networks
- In 2009, Tennessee strengthened its physical piracy laws to cover digital storage devices and provide for mandatory fines and payment of restitution.
 - Strengthening enforcement always a good thing
- In 2010, the state enacted a law to prohibit the installation or activation of file sharing software on another's computer without notice or consent.



Our Dynamic Political Environment





The "*Combating Online Infringements and Counterfeits Act*"



Rogue site fight urged

Pols support legislation to crack down on piracy

“Senate and House leaders made a bipartisan show of support for expected legislation to crack down on so-called rogue websites that traffic in pirated content. Such a bill would be the most significant effort of this Congress to attack online copyright infringement and is a centerpiece of Hollywood's lobbying efforts this year.”

“Rep. Howard Berman (D-Calif.) called it an "international challenge" and said, "We need to find new ways to address this problem.”

...But Leahy, in the news conference, said that it's possible to go after rogue sites and still protect the First Amendment. He also challenged the notion that the legislation would be an attempt by powerful entertainment and media lobbies to protect dying business models, saying, "They shouldn't have to compete against stolen property. They shouldn't have to compete against criminals.”

Rep. John Conyers (D-Mich.), ranking member of the House Judiciary Committee, said that under any legislation "due process and First Amendment rights would have to be carefully observed." Yet he also said that under consideration in the House version is a provision that could stoke some consternation: the right to private action, allowing studios and other copyright owners to pursue lawsuits against rogue sites or "those that allow them to work," like payment processors, Internet service providers and search engines.

Rep. Bob Goodlatte (R-Va.), chair of the House Judiciary Subcommittee on Intellectual Property, Competition and the Internet, said he wanted to take a "broader look" at "other types of criminal infringement," not just rogue sites. He, too, talked of finding a balance. "One of the problems is not enough attention is paid to it now," he said afterward. "But you can go the other way too.”



Congress of the United States
Washington, DC 20515

April 1, 2011

Peggy Conlon
Chief Executive Officer
The Advertising Council
1203 19th Street NW; 4th floor
Washington DC, 20036

Dear Ms. Conlon:

The Ad Council has a long history of using public awareness campaigns to encourage safe and lawful behavior. From the Smokey Bear campaign, to campaigns stressing the dangers of drugs or not wearing seat belts, you have encouraged Americans to look after themselves and obey the law. We applaud those efforts. As co-chairs of the Congressional International Anti-Piracy Caucus, however, we write to express our concern that you are not discouraging – and even may be unintentionally encouraging – illegal online piracy of American intellectual property.

As you know, online piracy of music, books, movies, or software deprives the American economy of billions of dollars. It costs America jobs, discourages creativity and free expression, and hurts both our tax base and our trade balance. Pirate websites also frequently expose consumers to dangerous computer viruses and other malware. All responsible participants in the online ecosystem, including advertisers, thus should avoid dealing with these rogue websites or otherwise encouraging their continued illegal activity.

It has come to our attention that several current Ad Council campaigns recently have run on websites that illegally distribute copyrighted materials. We are attaching several examples to this letter. They show Ad Council ads on websites that were clearly violating federal law: at the time of the screenshots, these rogue sites were distributing songs before they were available in the legitimate marketplace.

We are troubled by these incidents. The presence of the well-known and highly-regarded Ad Council logo lends undeserved legitimacy to websites whose illegal business models jeopardize American artists and American jobs. We, therefore, ask you to take all reasonable measures to prevent the display of your advertisements on websites that clearly offer pirated content.

We also ask you to use the extraordinary talents and gifts within the advertising industry to combat online intellectual property theft. A wide-scale public awareness campaign to discourage online theft is needed now more than ever. We ask the Ad Council to

“We, therefore, ask you to take all reasonable measures to prevent the display of your advertisements on websites that clearly offer pirated content.”

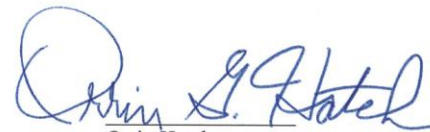
consider developing such an advertising campaign against this illegal threat to all the Americans who hold jobs in the content industries.

We look forward to working together to increase public awareness of the damage caused by illegal online piracy and to encourage more responsible behavior online.

Sincerely,



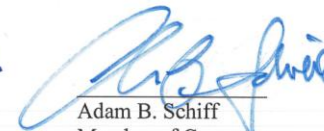
Sheldon Whitehouse
United States Senator



Orrin Hatch
United States Senator



Bob Goodlatte
Member of Congress



Adam B. Schiff
Member of Congress

The Problem



- “Rogue” websites that have been set up domestically and overseas, offering consumers unlicensed copyrighted and trademarked works.
- The sites often are very professionally done, made to look legitimate to fool consumers.
- While the Departments of Justice and Homeland Security have recently taken steps to seize domain names registered domestically, authorities and content owners have been helpless to deal with sites housed overseas.
- Hence the need for legislation...

The Fix: “Rogue Sites” Legislation



- Bipartisan legislation allowing the US government to block access and funding to foreign sites that deal in pirated US works and counterfeit US goods
- Introduced in the Senate last Fall. Passed 19-0 out of the Senate Judiciary Committee. Still described as highly controversial.
- Senate Hearing in February
- House hearings in March and April
- Complements seizures of sites with domestic ties conducted by ICE and DOJ
- Complements voluntary efforts and best practices initiative of IPEC focused on payment processors and ad networks/exchange

Rogue Sites: The Battlefield



Supporters

- US Chamber of Commerce
- National Assn of Manufacturers
- Content Associations and Companies
- Trademark/Counterfeiting Associations and Companies
- AFL-CIO/Labor Unions

Opponents

- Google
- Consumer Electronics Assn
- Computer/Tech Associations and Companies
- Engineer groups
- Library Groups
- ACLU/Human Rights Groups
- Electronic Frontier Foundation
- Center for Democracy and Technology

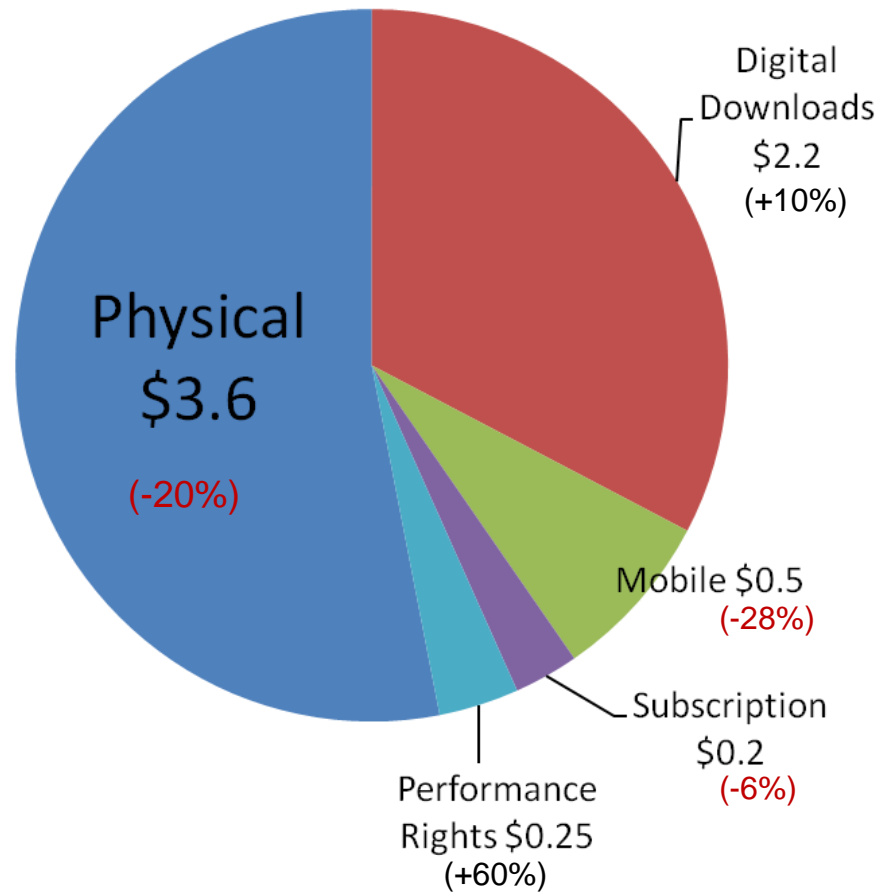


There is no magic bullet...

NOW WHAT?

Where Will We Go From Here?

2010



\$6.9 Billion Total
(-11% Y-o-Y)



Despite all this, why
are we optimistic?

- 1) 4G/Apps/Streaming Services
- 2) Tech Partnerships
- 3) Music has to survive!