

**From:** [REDACTED]  
**To:** [FN-OMB-IntellectualProperty](#)  
**Subject:** comments from an independent rock musician  
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Hello, first of all have to tell you how downright moved I am to hear that you all are doing this. As the bottom has dropped out of the music business it has come to seem inevitable and irrevocable, which maybe it is, but to hear that there is an active effort from the highest levels of government to do something about it is extremely nice to hear and makes one feel a little less abandoned.

I am a musician and songwriter who for the last ten years have made my living as a member of a touring rock band called French Kicks. We achieved some very modest success, built a loyal following, playing to 400-600 people in major cities when on tour, and selling 10,000-15,000 records on each of our four releases. At this level we have been just barely able to sustain a spartan existence, sometimes needing to supplement our band income with odd jobs. The dawn of internet music piracy arrived just as we were releasing our second record, and accelerated from there. While it is clear that the ease and speed with which people are able to share music now has helped us in the sense that more people may have found out about us, come to shows, bought merchandise, etc, it is also true that piracy has made the difference, essentially, between us making a decent living, and not.

It is difficult to pin down exactly how many people acquired our records for free, and further, how many who would have paid for them in a different era now got them for free. However, we estimate, judging from concert attendance and from conversations with fans ("I downloaded it, sorry"), that the number of people who have each of our records is at least double the number that paid for it. So in the case, for example, of our second record, which has soundscanned about 16,000 copies to date, let's say that in pre-internet-piracy days it might have sold around 30,000 copies. Our deal for that record is a 50-50 profit share after expenses are recouped. We were recouped on that record at around 12,000 units sold. So we would get 50% of each record sold over that number, or in this example 18,000 records. Each record clears about \$6, and we get \$3.  $18,000 \times \$3 = \$54,000$ . Split between the four of us is \$13,500. We have four full length records and four eps. The total of these small additional sums of money would actually be very significant in our situation, because it would essentially mean the difference between barely hanging on, (unsure of making rent, taking odd jobs to stay afloat) and some very modest comfort that rent and simple living expenses might be covered.

There is another, less direct but equally profound fall-out from internet piracy. As record sales plummet, bands and labels need to turn to other revenue streams to stay alive. The two that are left standing are touring and licensing music. License fees have evolved over time as a fair market price at which it becomes worth while for an artist to trade on their credibility and intellectual property, and license a song to a tv commercial, for example. The problem now is that with the records, artists' primary product, having lost their value, not only are people less able to say no to license requests, they are beating down the doors of ad agencies and music supervisors, hoping to get access to one of the only remaining revenue streams in the business. The inevitable result of this is that licensing fees are going down too, leaving two out of three possible ways to make a living from music heavily crippled. Live performance is perhaps the only one that can expect some measure of immunity from the problem, as

it's essentially not possible to pirate. However, if you are a band and your only hope of survival is constant touring, your situation is dire as well. It is very difficult to write and record new music while touring for example. Without new music you inevitably wear out your welcome. It is also difficult enough maintaining personal relationships when you are traveling 100-200 days a year. At 200-300 days a year it is a rare breed that can sustain it, particularly at the lower levels, where conditions are not excellent, but a crucial breeding ground for new music.

Anyway that's my take on it, hope that helps. Subscription-based internet sites like pandora, spotify, and, supposedly soon, itunes, seem to be the future. If I had one request as an independent artist it would be to establish and protect a fair, standardized rate of compensation for internet performance, and another for download, so that every artist, whether or not they have a major label behind them, gets a standard rate every time a song of theirs is played on or downloaded from the internet, no matter the nature of the site.

The people with the most power to regulate content and piracy are the internet service providers. The point has been made that if China and other less than perfectly open societies can regulate everything on the internet in their countries, so too can we make sure that, without compromising anyone's freedom or right to privacy, we are not by our hands-off approach effectively defending their right to piracy, and to keeping honest people from making a living.

Thanks very much for your time and again for opening a public discussion in this matter. Best- Nick Stumpf