January 2004

CALIFORNIA COPYRIGHT CONFERENCE

NEWSLETTER

An Entertainment Industry Organization

50th Anniversary

The President's Corner

Teri Nelson Carpenter

November's meeting and December's holiday party were each a huge success. Our November panelists and moderator, Darryl Franklin, kept the discussion rolling along at a fast pace with many questions being fielded from the audience. Thank you to all of our panelists for talking so openly about issues of concern to so many copyright holders.

Our December holiday party was a great time for all. The food, venue and goodie bags were perfect. A special thank you to Judi Pulver, Ilene Goldberg and David Hirshland for all of their hard work. Rosemary also deserves a high five for keeping tabs on all the reservations, waiting list, etc. Everyone who attended can attest to the fact that this was "The Holiday Party of the Season". While it was a cozy venue, we had a great time and sold out to the tune of 110 people.

This month's meeting is quite special. Our very own past president, Susan Slamer along with current board member Marrsha Sill, have put together an impressive group of professionals to discuss the impact of music on TV today. We look forward to the lively discussion and Q & A period that will surely follow.

The Music Biz in 2003: Desperate But Not Serious

by Dan Butler

For the first three quarters of 2003, the music business continued its three-year slide. Sales were down and axes were falling at record companies everywhere. Young people continued to illegally download music with piratical abandon. An entire generation of music fans was firm in its belief that music should be free because artists are rich and record companies charge too much for CDs. Artists voiced their complaints about unfair record company practices to legislators. The RIAA and Studios saw their winning streak in legal actions against illegal download services end with two controversial decisions that encouraged the continued operation of those services. In Grokster, a federal district court held that the Grokster service could not be held liable for vicarious or contributory infringement for the unlawful actions of its users. In Verizon , a federal appellate court ruled that the RIAA could not use provisions of the Digital Millennium Copyright Act to expedite subpoenas to force Verizon to turn over the names of some of its subscribers who were suspected of large-scale illegal file sharing, but instead must use the traditional route of getting a judge to issue the subpoenas. Both decisions employ questionable legal interpretations, and the RIAA and MPAA have both vowed to continue the fight on appeal.

Not all news was bad, however. A strong fourth-quarter slowed the decline in CD sales to only 2% for the year, well below the 10% that was expected. The second half of the year saw consumers actually pay money for almost 20 million downloaded tracks. Internet album sales, while still a small percentage of total sales, were up 20% from last year. Apple's iTunes became the first download service to not only be legal, but cool. Answering many consumers' complaints that CD prices were too high, Universal Music Group took a bold step by dropping prices by 25% and eliminating co-op ad money to major retailers. Responding to artist lawsuits and legislative probes into alleged unfair record royalty accounting practices, UMG, Warner Music Group and BMG all took steps to simplify and streamline the way they account to artists. The RIAA took the bold step of suing individual downloaders, dramatically increasing public awareness that kids and their parents may be held liable for copyright infringement.

The Labels

The Big Five record labels danced about in merger mania. First it was WMG's tango with BMG, followed by WMG's rumba with EMI.

Then Sony cut in to pair up with BMG, thinking it would beat WMG/EMI in a race for regulatory approval. UMG waltzed in and bought DreamWorks Records for $100 million. Time-Warner then left the floor entirely when it sold WMG to an investor group led by Edgar Bronfman, Jr., for $2.6 billion, a move designed to lessen its corporate debt in a hurry by eliminating an expected slow dance to regulatory approval. Now it appears there will be two big labels: UMG, with 28% of combined new release and catalog sales in 2003; and the new combination of Sony/BMG (which also includes BMG's recent acquisition of Zomba), totaling about 29%. The lesser two labels will be Bronfman's new WMG, with about 16% of total sales, and EMI with about 10%. While several parties made overtures, by year's end, EMI remained without a partner.

Of course, the biz always features surprising executive shuffles. The biggest of the year, of course, was the forced exit of Tommy Motola from his 14-year reign atop the throne of Sony Music. His successor from outside the music world, Andrew Lack, presided over the merger with BMG as well as the layoff of 1,000 jobs. Epic President Polly Anthony left the Sony fold for that of UMG's new acquisition, DreamWorks Records. Former Warner Bros. veteran Phil Quartararo took over at EMI/Virgin and it looked briefly as if he would be rejoining WMG via the WMG/EMI merger - until Bronfman entered the winning bid. Island Def-Jam Chairman Lyor Cohen weathered a whacking by the courts, losing a multi-million dollar fraud lawsuit brought by TVT Records.

Music Publishers

On the music publishing front, the general business climate remained much healthier than on the record side. There were few large catalog acquisitions. In May, Windswept announced the acquisition of the Trio/Quartet catalogs from Leiber & Stoller, comprised of classic 60's rock and R&B songs like "Fever," "The Twist" and "What a Wonderful World." (The sale did not include those compositions written by Leiber & Stoller themselves.) While Sony and BMG agreed to merge their record labels, music publishing was not included in the deal. Apparently, both Sony and BMG felt their publishing businesses were healthy enough to not need consolidating. The biggest publishing news of the year, however, was the sale of Warner/Chappell. While much attention was paid by the media to the purchase of the WMG record labels by Bronfman's investor group, little mention was made of the fact that the sale included the world's second largest publishing catalog, Warner/Chappell. Many in the music industry were surprised that a content company like Time-Warner would sell such a valuable asset. The failed merger with EMI was not to have included Warner/Chappell (partly because of concerns that the regulators would not approve a union of EMI, the largest music publisher with the second largest), but Bronfman's offer was for both records and publishing, which gave TW more cash to pay down its corporate debt. Bronfman is gambling that the record business is ready for an upturn. He hedged that bet with the acquisition of the solid cash flow of Warner/Chappell's one million copyrights, which can be held or easily sold. Warner/Chappell is looking ahead to increase publishing revenue streams from ring tones and other new media sources in addition to performance and licensing income. TW's management, on the other had, bet that the music business will continue its downward trend, and decided to get out of the game. TW's management did, however, build a provision into the deal allowing a buyback of a small stake of WMG at a good price in case of an industry recovery in the near future.

Retail

At retail, the box stores like Wal-Mart, Target and Best Buy continue to administer a beating to smaller chains by undercutting their prices. Virgin Mega Stores are hanging on, but once-mighty Tower Records is looking for a buyer, the Wherehouse and Musicland chains have been sold, with many locations closed and not coming back. It is too early to tell if UMG's 25% reduction in wholesale CD prices and elimination of co-op ad dollars to the box stores will equalize the playing field for the smaller record retailers. So far none of the other major labels have followed suit, and consumers have not seen much of a reduction in price at the retail level. It appears retailers may not be passing on the lower price to consumers and are taking advantage of the opportunity to improve their profit margins.

Internet retailers (e.g. Amazon.com), while still a small percentage of the overall market, are thriving by catering to those who wish to browse for music online, with total sales up 20% to almost 22 million albums. Apple's iTunes is a big hit, with over half a million songs available for legal downloading. Apple already controls 31% of the portable download device market, and the new card-sized Mini iPod , which is only a half inch thick, holds up to a thousand songs and retails for $249, should help keep them competitive as other companies introduce similar devices.

Lucky for those of us who live in Los Angeles, Amoeba Records is one of the few ongoing success stories at brick and mortar retail, continuing to offer an old-fashioned record store experience. The continuing carnage wrought by the box stores and inroads from internet-based services will likely ensure that the traditional record store becomes an endangered species.

Film and TV

2003 was a very good year for the movie business. Domestic box office fell 1% in 2003 to $9.4 billion, following 2002's all-time record year of $9.5 billion. This decline, although slight, was the first drop in twelve years. Actual ticket sales, however, totaled more than 1.5 billion, the second-best figure since 1957. Many big-budget studio releases saw huge drop-offs in their second week of release, continuing a trend from 2002. One explanation is that word of mouth has become almost instantaneous. Nothing can kill a movie faster than bad buzz spread by cell phones and Internet instant messaging. Some industry observers worry that the second week drop-off phenomenon may be an early sign that internet file-sharing and movie piracy is beginning to affect box office sales the way internet file-sharing has affected CD sales. Studio blockbusters regularly show up for sale as DVDs on the streets and over the Internet prior to initial release. Digital camcorders smuggled into theaters account for many bootleg copies. In response, the MPAA is encouraging exhibitors to crack down on this practice and legislators are passing new laws to make such actions a felony. Studios are now featuring cards at the beginning of the film warning against unlawful copying and encouraging audience members to report to management individuals attempting to camcorder the film.

Although the last two years at the box office were the best ever, 2002 was a terrible year for soundtracks and 2003 was no better. Fewer soundtrack albums were released in 2003, and most of those were less costly than in years past, as studios and record companies became increasingly risk-averse in the down market. Only four soundtracks sold a million units all year: "Chicago," "The Lizzie McGuire Movie," "8 Mile" and "Bad Boys II". Only six other soundtracks exceeded 500,000 units: "Tupac Resurrection," "2 Fast 2 Furious," "Daredevil," "American Idol Season 2," "The Matrix Reloaded," and "Cradle 2 the Grave". The soundtrack business shows little sign of improving in the near term, although increasing numbers of soundtracks derived from television shows and video games are being released.

One big success story in TV music has been Fox's "American Idol," which generated not only good ratings, but launched several performers' recording artist careers. Three contestants receiving record company label contracts with BMG debuted with number one albums last year, Clay Aiken, Ruben Studdard and Kelly Clarkson. Other new musical shows include a revised version of "Star Search" and the dramatic series "American Dreams," set in the 1960s and featuring American Bandstand appearances by classic performers portrayed in the show by contemporary stars like Vanessa Carlton and India.Arie.

Sync licensing for film and television continues to be a big source of revenue for publishers and record labels alike. Unfortunately for studios and production companies, prices have seen an increasingly upward trend, as big label and publishing licensing departments are under greater pressure to meet higher numbers to offset falling CD sales.

Video Games

In 2002, Americans spent $12 billion on video games, more than was spent on either movies or music, and they spent an average of 75 hours playing video games, more time than was spent watching rented videos and DVDs. This trend has been seen as bad for labels and studios, because the multiplicity of choices for consumers may translate to less interest in, and money spent on, music and movies. However, this trend may increasingly be good for music in general, as video gaming companies have graduated from cheesy repetitive synth scores to licensed tracks from successful recording artists and even real composers, orchestras and union musicians. Studios are also turning hit films into hit video games, under both licensing and joint venture arrangements with video game companies. Publishers and labels are licensing more compositions and recordings for video games uses, and prices are going up as game companies get used to the idea of paying for real music, fueled by consumer demand. The video gaming industry is growing at an annual rate of 20%, which should guarantee a lucrative source of future sync licensing income.

The landscape of the music business at the end of 2002 looked bleak indeed. While many problems remained at the close of 2003, particularly the ongoing crisis of illegal file sharing, the vista ahead seems a bit brighter for 2004.

UPCOMING MEETINGS

Feb 17
"An Evening With...(A Special Guest)"
Mar 23
Part 1 of our Publisher Series: "Return of the Foreign Sub-Publishers"
Apr 20:
Part 2: "U.S. Indie Publishers"
May 25
50th Anniversary Celebration

MEMBERSHIPS

The price of an individual membership is only $55 annually. Enjoy each dinner seminar at the special member rate of $28 (the non-member rate is $35). We also offer Corporate Memberships for $250 annually. Corporate Sponsors can send up to 10 people to each dinner seminar at the member dinner price. In addition, each member can bring a guest at the discounted member rate. A Corporate Sponsor can save $60 per meeting, with a potential savings of $480 for the year.

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