



Recording Industry Association of New Zealand Inc

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The Commerce Select Committee
New Zealand Youth Parliament
WELLINGTON

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To the members of the Commerce Select Committee – Youth Parliament

YOUTH PARLIAMENT INQUIRY INTO DIGITAL COPYRIGHT INFRINGEMENT

Introduction

1. This submission is from the Recording Industry Association of New Zealand (“RIANZ”).
2. RIANZ is the trade representation body for the New Zealand recorded music industry. RIANZ represents 60 major and independent recording companies and more than 1,000 imprint labels that account for more than 95% of the sales of commercially-released recorded music in New Zealand. Importantly, RIANZ also represents more than 1100 New Zealand recording artists and producers.
3. RIANZ, together with Independent Music NZ (IMNZ), recently filed with the Commerce Select Committee of Parliament their submissions in support of the Copyright (Infringing File Sharing) Amendment Bill (“the Bill”).

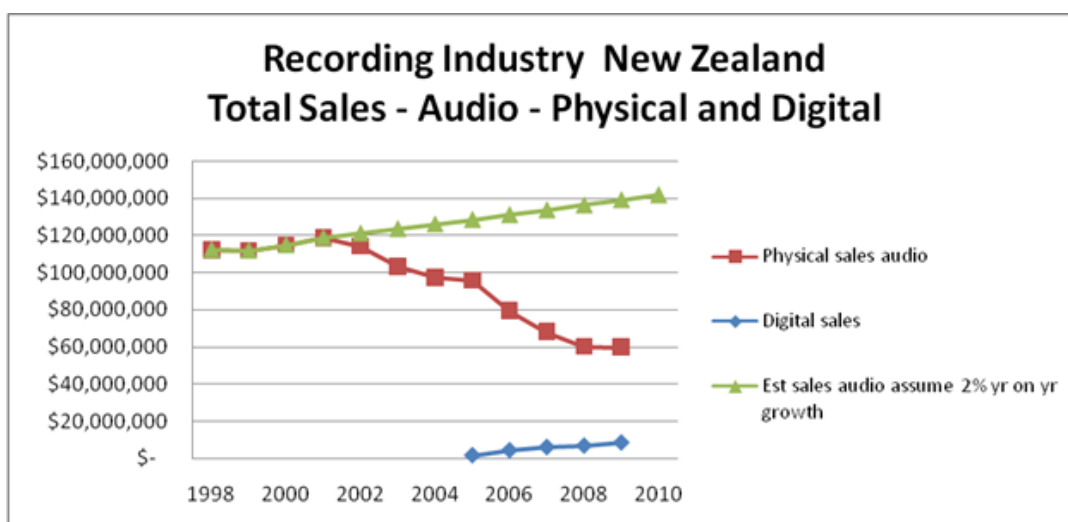
Need for the Bill

4. The current widespread problem of peer-to-peer file (“P2P”) sharing on the internet is causing great concern to RIANZ and its members.
5. The direct impact that P2P file sharing has on the record industry and its recording artists (including local New Zealand labels and artists) is substantial. Sales figures for the New Zealand music industry¹ (including New Zealand and international artists)

¹ RIANZ figures collected from its members on the number and value of albums and tracks sold each year.

show that for the period from 2001 to 2009, the **total** value of album and individual track audio sales dropped from \$119 million to less than \$70 million per year by 2009.

6. The following graph shows the decrease in the value for all artists' album and individual track sales in New Zealand for the years 2002 to 2009. It also shows where the value of all album and individual track sales would have been had the market continued to grow at a rate of 2% each year².

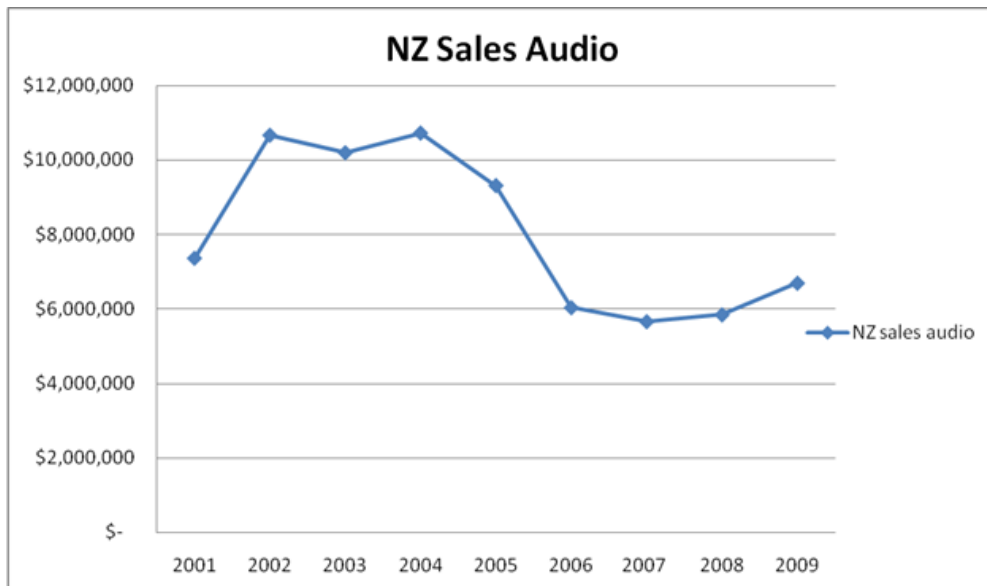


7. The graph shows the total value of all artists' combined album and individual track sales has substantially decreased.
8. Although in 2005 the music industry launched a legal digital download market, this market has been growing slowly. The value of all artists' album and individual track sales in 2009 was almost more than \$50 million **less** than where it was at its peak in 2001.
9. Copyright owners have been working to develop and implement new business models for digital delivery of music to consumers. However, any income received from these developments has come nowhere close to offsetting the loss in sales and income that artists and labels have suffered – despite claims to the contrary.

Decrease in sales for New Zealand artists and labels

10. When we turn to the value of sales for *only New Zealand artists and labels*, the sales figures show that New Zealand albums and tracks sales has almost **halved** between 2004 and 2009. This coincides with the period of substantial and ongoing illegal downloading of music via P2P file sharing.
11. The following graph shows the value of New Zealand artists' and labels' audio sales for the period 2001 to 2009:

² In the years 1999-2000 and 200-2001, the value of all artists' combined album and individual track sales in New Zealand grew 2% and 3% respectively. Since then the sales have been rapidly declining.



12. This very substantial decrease in sales has had an enormous impact on New Zealand artists and New Zealand labels. Even before the onset of illegal downloading, most New Zealand artists and labels had low earnings. The effect of illegal downloading diminished further the ability of New Zealand artists to make a living.
13. The impact of P2P file sharing on New Zealand's music industry has also directly undermined both the previous Labour Government's and the current National Government's policy of encouraging and investing in New Zealand's creative industries.
14. The need to properly and adequately address the continuing illegal downloading, and thus protect New Zealand's creative industries, also has broader ramifications for New Zealand's economy and its relationship with other countries.
15. The current ease of file sharing also impacts on the viability and growth of lawful alternatives and stifles the development of new business models for creative industries and content providers. Such models would provide greater choice and value for New Zealand consumers – especially the media savvy youth of New Zealand.
16. There are numerous new business models being developed and implemented around the world, including “all you can eat” subscription services and advertising supported services such as “Spotify”. No such models have yet been implemented in New Zealand, despite rigorous and on-going efforts by the local industry. This is primarily because the development and implementation requires significant investment and a reasonable projection of sustainability and revenue growth. Such a projection is impossible in a small economic market where illegal downloading is widespread.
17. RIANZ is concerned that some lobby groups are misinterpreting and misrepresenting figures to both this Select Committee and to Parliament's permanent Commerce Select Committee as to the scale of the problem of P2P on artists and labels. Some lobby groups have picked out the increase in certain figures, for example digital sales or public performance, however they ignore the substantial downturn in total sales that have incurred over the same years. To do this is misleading.

Graduated response system

18. Accordingly, RIANZ supports the Government's proposal to implement the Bill. The Bill proposes a graduated response system where infringers of copyright are put on notice that they have been found infringing copyright. The aim of the Bill is to educate the public that infringement of copyright is wrong and that there are legal alternatives out there which people can access in order to use copyright material.
19. However an essential component of the Bill is the ability for a copyright owner to apply to the District Court for a temporary account suspension where an account holder has been found to have infringed copyright on three separate occasions.
20. Although some groups may propose that a notice-and-notice system is the best solution, RIANZ disagrees.
21. The inclusion of sanctions in a graduated response system is necessary as notices alone are unlikely to change behaviour; certainly not once the lack of any further consequences becomes widely known. This conclusion has been borne out from surveys which show that a graduated response system can effectively influence internet users' behaviour, however that sanctions are *necessary* in order to achieve this effect. A mere notice-sending regime does not suffice; there must be deterrent consequences which make people change behaviour and switch to legal services.
22. Account suspension would only rarely be imposed, and only against infringers who are unwilling to stop violating the law even after being repeatedly warned and provided with information regarding legal download alternatives. The possibility of the sanction being imposed is fundamental to the effectiveness of the process.
23. International studies have shown that a graduated response mechanism combined with the threat of account suspension is the most effective way to reduce repeated online infringement of copyright. This is because account suspension offers a meaningful deterrent to internet account holders.
24. RIANZ accepts that there are legitimate concerns with the District Court's power to temporarily suspend an internet account. However the District Court's power under the Bill is carefully prescribed in order to take into account the interest of the account holder and his or her reliance on access to the internet through that particular account.
25. The Bill is not as punitive as some groups seek to represent it is. Rather, it introduces a carefully prescribed legal framework into the internet to take into account all persons' interest, both the copyright owner and user of copyright.
26. RIANZ invites members of the Select Committee to review its submissions on the Bill. The full submissions are available http://www.rianz.org.nz/rianz/rianz_news.asp.
27. Thank you for the opportunity to make this submission.

Yours sincerely



Campbell Smith
CEO, RIANZ