

STILL PROFITABLE AFTER ALL THESE YEARS

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In March 2014, the International Federation of the Phonographic Industry (IFPI) announced that global industry revenues declined 3.9 percent in 2013.¹ IFPI claims that “digital piracy is the biggest single threat to the development of the licensed music sector and to investment in artists.”² Notwithstanding these dire pronouncements, the record labels remain profitable and the music industry as a whole is thriving.

PROFITABILITY OF THE RECORD LABELS

IFPI acknowledges that revenue from digital subscription services such as Spotify grew by 51 percent. Similarly, performance rights revenue from Internet radio services, broadcast, and venues increased by 19 percent.

More importantly, the three major record labels³ remain highly profitable. The following chart shows the operating profits of the three major labels over the past 10 years.

Record Label Operating Profit, 2004-2013⁴

Year	Sony (\$M)	UMG (\$M)	WMG (\$M)
2004	\$186	\$491	\$18
2005	\$86	\$657	\$84
2006	NA	\$1,018	\$283
2007	NA	\$531	\$228
2008	NA	\$515	\$207
2009	\$272	-\$445	\$135
2010	\$357	\$192	\$90
2011	\$380	\$694	\$32
2012	\$360	\$719	\$109
2013	\$361	\$688	\$75

¹ <http://www.ifpi.org/news/music-subscription-revenues-help-drive-growth-in-most-major-markets>.

² Id.

³ Sony Music Entertainment is owned by Japan-based Sony Corporation. Universal Music Group is owned by France-based Vivendi. Warner Music Group is owned by Access Industries, which in turn is owned by Len Blatvatnik, who lives in the UK. These three companies have an 80 percent share of the U.S. market for recorded music. Jonathan Band and Jonathan Gerafi, *Foreign Ownership of Firms in IP-Intensive Industries* (2013), available at <http://infojustice.org/archives/28840>.

⁴ Thomson One Banker and <http://investors.wmg.com/phoenix.zhtml?c=182480&p=irol-sec>.

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The operating profit margin (operating profit divided by revenue) of the three major labels over the past ten years was also positive.

Record Label Operating Profit Margins, 2004-2013

Year	Sony (\$M)	UMG (\$M)	WMG (\$M)
2004	3.90%	7.20%	1.02%
2005	4.05%	9.81%	2.40%
2006	NA	15.02%	8.05%
2007	NA	7.97%	6.74%
2008	NA	8.09%	5.93%
2009	7.67%	-7.45%	4.21%
2010	7.14%	3.15%	3.01%
2011	8.27%	12.05%	1.12%
2012	8.56%	11.54%	3.92%
2013	8.43%	10.74%	2.61%

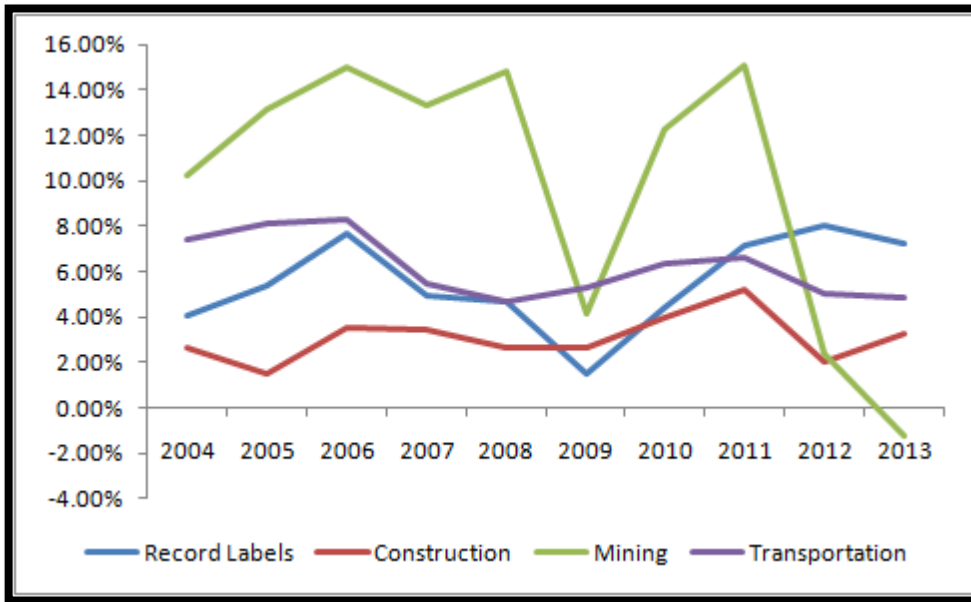
These profit margins compare favorably to those of other industries. The following chart compares the average operating profit margin for the three record labels with the average profit margins in three other leading industries: construction, mining, and transportation.

Average Industry Operating Profit Margins, 2004-2013⁵

Year	Record Labels	Construction	Mining	Transportation
2004	4.04%	2.67%	10.20%	7.44%
2005	5.42%	1.46%	13.13%	8.08%
2006	7.69%	3.54%	14.97%	8.30%
2007	4.90%	3.40%	13.35%	5.50%
2008	4.67%	2.60%	14.82%	4.68%
2009	1.48%	2.66%	4.16%	5.32%
2010	4.43%	3.98%	12.29%	6.34%
2011	7.15%	5.19%	15.06%	6.65%
2012	8.01%	2.03%	2.39%	5.01%
2013	7.26%	3.25%	-1.20%	4.89%

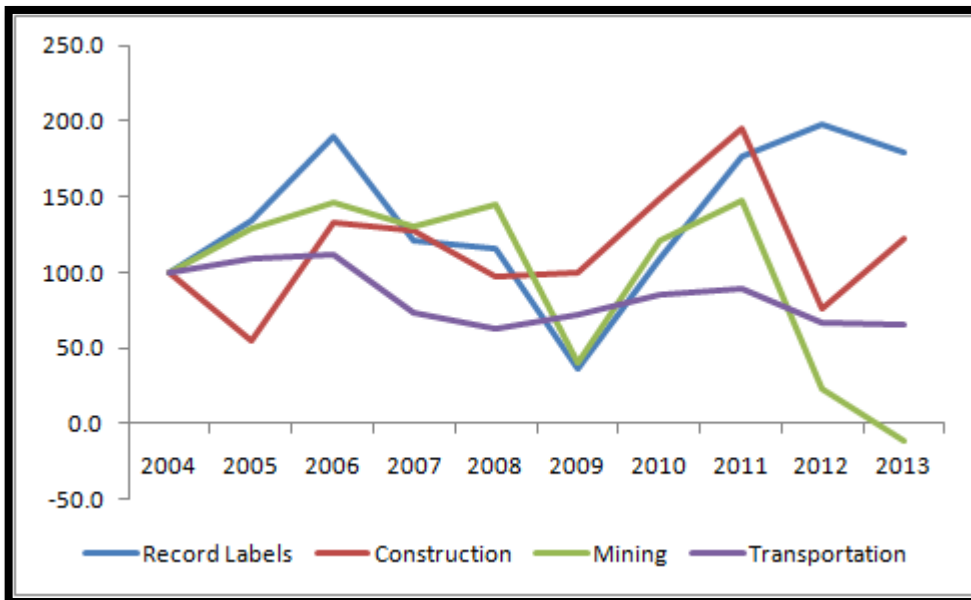
⁵ The margins of the construction, mining, and transportation industries were derived from Jonathan Band and Jonathan Gerafi, *Profitability of Copyright-Intensive Industries* (2013), available at <http://infojustice.org/archives/29916>.

Average Industry Operating Profit Margins, 2004-2013



The changes in operating profit margins of the record labels also compare favorably to these other industries, as demonstrated in the following graph where the margins are indexed to 2004.

Average Industry Operating Profit Margins, 2004-2013 (Indexed)



Another indication of the health of the record labels is the high prices that have been paid for them in recent years. In 2008, Sony Corp. of America bought out

Bertelsmann, its partner in Sony BMG Music Entertainment, for \$1.2 billion.⁶ In 2011, Access Industries purchased Warner Music Group for \$3.3 billion.⁷ In 2012, Universal Music Group purchased EMI for \$1.9 billion.⁸

THE BROADER MUSIC INDUSTRY

The recorded music industry is part of a much larger eco-system that supports the creation and distribution of music. The profits of that larger eco-system are difficult to measure, but one indication is the profitability of singing competition television show *American Idol*.⁹ During the 2012-2013 season, *American Idol* grossed \$836 million in advertising revenue.¹⁰ (Total ad revenue for the first eight seasons was estimated at \$6.4 billion.¹¹) Sponsorships by companies such as Ford and Coca Cola for logo and product placement added another \$60 million.¹² The production cost of a season is approximately \$170 million and the salaries of the judges are around \$30 million.¹³ Fox has not disclosed the amount of license fees it pays music publishers for the right to perform the songs, but the license fees for an episode of *Glee* have been estimated at \$200,000 an episode.¹⁴ Using that figure for the 56 hours of a season of *American Idol* translates to \$11,200,000. This indicates that Fox could net as much as \$600 million for a season of *American Idol*.

Fox further benefits from its ability to promote other Fox shows during an *Idol* broadcast, and the increased viewership in shows before and after an *Idol* episode. For their part, the music publishers benefit not only from the license fees they receive from Fox, but also from the license fees they receive from iTunes for downloads of the songs (either the original covers or the covers by the *Idol* competitor) stimulated by their performance on *Idol*. *Idol*'s producers receive fees for *Idol*-licensed products, on which consumers spent over \$200 million in 2004.¹⁵ (*Idol* is produced by Fremantle Media Entertainment, which ultimately is owned by media giant Bertelsmann.¹⁶)

⁶ <http://www.bloomberg.com/apps/news?pid=newsarchive&sid=awvLxyBIODc4&refer=japan>.

⁷ <http://www.wmg.com/newsdetails/id/8a0af8122fba3f26012fc5604ec004ab>.

⁸ <http://www.hollywoodreporter.com/news/universal-music-completes-19-billion-374965>.

⁹ See also Michael Masnick and Michael Ho, *The Sky is Rising!*, <https://www.techdirt.com/skyisrising/>.

¹⁰ <http://www.nydailynews.com/entertainment/tv-movies/american-idol-huge-moneymaker-article-1.1706415>.

¹¹ http://en.wikipedia.org/wiki/American_Idol.

¹² <http://variety.com/2011/tv/news/coke-builds-harmony-with-idol-1118036860/>.

¹³ <http://www.nydailynews.com/entertainment/tv-movies/american-idol-huge-moneymaker-article-1.1706415>.

¹⁴ <http://www.eonline.com/news/222911/does-having-your-band-s-song-on-glee-big-bucks>.

¹⁵ http://usatoday30.usatoday.com/money/media/2005-03-29-media-usat_x.htm.

¹⁶ http://www.fremantlemedia.com/About_Us/Structure.aspx.

Idol has launched the careers of many recording artists such as Kelly Clarkson and Carrie Underwood. 345 songs recorded by *Idol* alumni topped the *Billboard* charts in the first ten years of the show.¹⁷ Concerts by *Idol* alumni had \$30 million in ticket sales in 2004.¹⁸

The success of *American Idol* has spawned imitation singing competition shows such as *The Voice* and *The X-Factor*. It has also led to the creation of dance competition shows such as *Dancing with the Stars* and *So You Think you Can Dance*. Further, *American Idol* has had a global impact. It is broadcast in over 100 countries, deepening the popularity of American music. Additionally, the producers of *American Idol* and the UK show on which it is based, *Pop Idol*, have created over 40 other singing competition shows in regions around the world, which have over 6.5 billion viewers in 150 countries.¹⁹

To be sure, relatively little of enormous revenue generated by *American Idol* and its progeny makes its way directly to the record labels. But it has greatly enriched the larger entertainment industry by funneling billions of dollars of advertising revenue to media companies such as 21st Century Fox and Bertelsmann. It also has created a new generation of performers, and introduced older genres and songs to a new generation of listeners, thereby promoting the vibrancy of the global music industry.

Likewise, little of the \$5.1 billion in revenue for the North American concert business goes to the record labels. Instead, the performers themselves receive the profits. Growth in the concert business has been strong, tripling from \$1.7 billion in 2000.²⁰

CONCLUSION

The record industry points to its declining global revenue as justification for stronger copyright enforcement measures. But the continued profitability of the record industry belies that justification. Moreover, the music industry as a whole is flourishing, thanks in part to alternate revenue streams such as programs like *American Idol*. The fact that sectors of the entertainment industry other than the record labels are reaping most of these financial rewards should be of no concern to policymakers.

Additionally, the recent decline in the ratings of singing competition shows, and the revenues they generate, cannot be blamed on copyright infringement. Rather, this decline is attributable to market saturation and changing consumer preferences. The entertainment industry surely will soon find ways to replace this depleting gold mine.

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¹⁷ <http://www.billboard.com/biz/articles/news/1093819/ten-years-of-american-idol-chart-dominance-clarkson-underwood-daughtry>.

¹⁸ http://usatoday30.usatoday.com/money/media/2005-03-29-media-usat_x.htm.

¹⁹ [http://en.wikipedia.org/wiki/Idols_\(TV_series\)](http://en.wikipedia.org/wiki/Idols_(TV_series)).

²⁰ http://www.pollstar.com/news_article.aspx?ID=808976.