



Future of Music Coalition

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Statement of Michael Bracy, Policy Director, Future of Music Coalition

National Broadband Plan Workshops, Federal Communications Commission

September 17, 2009
Washington, D.C.

On behalf of the Future of Music Coalition I want to express our appreciation for this workshop and the overall process that the Commission has undertaken. We believe strongly that the public needs to be engaged in the complicated policy debates that the FCC is taking on, from reforming radio to developing a national broadband plan, and we appreciate your efforts and being invited to participate in today's workshop.

In many ways, the questions that you raise to frame today's discussion mirror the questions FMC has been asking since our formation nearly a decade ago. We launched FMC in the year 2000 because we recognized that the introduction of digital technology to the music marketplace was — by the very nature of these technologies — going to fundamentally disrupt the way music is produced, marketed and distributed. We felt it was critical for musicians and their advocates to be fully educated about and engaged in the debates that would determine the future of the music community.

Clearly, the digital transition has presented historic opportunities for musicians. We've worked with dozens of artists over the years who speak passionately about the previously unthinkable options made available to them because of broadband, ranging from communicating with their fans, to organizing their tours, to the possibility of global distribution with the click of a mouse.

However, significant challenges also exist. Some recording artists and songwriters express concerns about how to replace the income they once received from sale of physical products. Some express anger and outrage about the high level of unauthorized file trading, while others feel that unauthorized trading builds their visibility and lead to increased ticket and merchandise sales. In the midst of such robust debates about the best strategies for growing this nascent digital music marketplace, it has been particularly important to ensure that artists themselves are directly engaged in the discussions that will determine the future structures of the music economy.

The first file-trading sites were launched when FMC was only a few months old. At that time, we had a simple mantra: the only antidote to an illegal Napster was a legal Napster.

What we mean by that is that the focus for artists and the music community needs to be an evolution toward a legitimate digital music marketplace that compensates artists for their work. Indeed, we have supported and will continue to support policies, technologies and business models that will accelerate innovation and the introduction of creative, forward thinking applications into the marketplace that will generate income for musicians and the broader music community.

We will continue to express concern about the role that Federal action — or, in some cases, inaction — can play to facilitate this legitimate digital marketplace. As just one example, the disastrous impact of the 1996 Telecommunications Act on localism, competition and diversity in the commercial radio marketplace serves as a reminder of the significant impact policy has on musicians' livelihoods.

We recognize that this evolution involves many more issues than just music licensing and pricing. Infrastructure buildout, monopoly or duopoly pricing in the broadband marketplace, innovation in consumer electronics and music delivery applications, allocation of spectrum, digital inclusion strategies, and the shifting nature of the music industry itself are all factors in play. Even issues that seem tangential to today's workshop, such as comprehensive policy reform in the terrestrial radio industry, are important in the music ecosystem.

So these issues are complex, in part because they present a number of if/then scenarios that are challenging to game out. They are also difficult because of the sheer size and scope of the music community — hundreds of thousands of songwriters, musicians and entrepreneurs are attempting to manage this transition in real time. There are real concerns and vibrant debates about issues like contract and copyright reform, how to address unauthorized distribution of music, and the emerging new structures of the digital music landscape. And as the music economy shifts, some jobs are threatened while new jobs are created. There are, quite simply, no easy answers.

With that in mind, we would like to present four key ideas to workshop participants:

1. There is a significant public interest in ensuring that economic structures develop that allow for creators to be compensated. A healthy, vibrant music community is vital to our economy and culture. As the music economy continues to evolve, some traditional jobs are threatened, while new vocational possibilities emerge.
2. Ongoing collaboration and innovation is the key to the development of a legitimate digital music marketplace that compensates creators. We live in an era where, as our friend Jim Griffin likes to say, purchasing music is optional. We are not aware of a workable scheme that prioritizes government-mandated technology workarounds like content filtering by network operators or industry overseers. We firmly believe the focus should be on development of innovative solutions that encourage consumers to participate in legal, licensed music delivery platforms. Equally important to the long-term sustainability of new models for music acquisition is ensuring that these technologies are

available to more Americans. Only then can we benefit from the economics of scale that could become the bedrock of tomorrow's music industry.

3. We are just beginning to see how this new legitimate digital music marketplace will take shape. Over the past few years we've seen a vast array of new products and services that provide a variety of music experience for consumers. These range from subscription services like Rhapsody and eMusic, digital download stores like iTunes and Amazon, radio stations delivered via satellite and the web, and emerging streaming services like Spotify. In a short few years, we've been introduced to products and brands like iPod, iPhone, Zune, Ibeza, Sonos, MySpace, Twitter, Guitar Hero and Rock Band. The way that music is accessed and consumed has been - and will continue to be - completely transformed. And, in a market where well over 80 percent of music released domestically comes from independent record labels, we've see a matching burst of ingenuity as bands and labels use these new tools to leverage their copyrights and brands across multiple platforms and reach new fans.
4. This transformation is nowhere near complete. No one is sure about the "future of music", but one thing is for sure: we firmly believe that universal access to a competitive broadband market — combined with strong enforcement of transparent net neutrality principles — is a critical step in the evolution of this legitimate digital music marketplace. If and when we reach the goal of universal access to a competitive and open Internet marketplace, we anticipate that more consumers with disposable income will be able to access a robust range of licensed, legitimate means of listening to and purchasing music. And that, in turn, will generate more revenue for artists and the music community as a whole.

In closing, I want to reiterate our appreciation for being invited to participate today. And, in particular, I want to express my appreciation to Alex Shapiro for making the long trip in from Washington State to speak with you today. Alex in many ways is a model for today's music community — hustling to make technology work for her, fully engaged in the discussions about the structures of the new music ecosystem, and eager to participate in these critical discussions.

We appreciate her taking the time to travel to DC, and we appreciate you holding today's workshop.

For more information visit www.futureofmusic.org



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FMC Analysis: Election Impact on Artists and the Music Community

November 5, 2008

Washington D.C.

Last night, America gave a sweeping mandate to Barack Obama and Democrats in the House of Representatives and the Senate. What does this mean for the music community? While we are still weeks away from determining some of the details how this will shake out – including who will lead the FCC and the makeup of key committees in Congress – this brief update spells out some key themes that will determine the direction of the media, internet and IP policy issues that will affect the future landscape for the music community.

Access: Rethinking How Policymakers Relate To The Arts

FMC believes the election represents good news for the artist community. The outcome is a repudiation of years of “pro-corporate” politics – the kind of policymaking focus that led to runaway consolidation in the radio marketplace and a duopoly stranglehold on Internet access. We now believe there is an opportunity to rethink how policy relates to the arts, moving beyond a politics driven by broadcast, telecommunications and entertainment conglomerates in favor of a more holistic approach that prioritizes the sustainability of local creative communities and artists. This approach recognizes:

- the importance of ubiquitous access to communications and broadband technologies
- artists’ ability to access the marketplace without unnecessary gatekeepers
- innovative content delivery models that enhance local arts and culture and facilitate a legitimate digital music marketplace where musicians are compensated for their work
- Support for arts and cultural institutions rooted in an acknowledgement of sustainable, local cultural communities.

We anticipate the new administration will support artists on internet and media access issues such as:

- **Greater Access to Broadband:** Artists will benefit from the Obama administration’s focus on broadband deployment and its consistent support of Net Neutrality as a major public policy goal.

Better broadband deployment will connect more artists to potential audiences and expand the legitimate digital music marketplace.

- **Greater Access to Spectrum:** The Obama administration will look at reforming how spectrum is allocated in this country, prioritizing wider access to the public beyond the major telecom and media groups and the NAB.
- **Radio Ownership Will Become More Diverse:** Radio ownership issues need not break down along partisan lines, yet Democrats in Congress and the FCC have been much more aggressive in efforts to rein in consolidation, expand community radio and address structural payola.
- **LPFM in Urban Markets:** We're cautiously optimistic that Congress will move quickly to overturn the longstanding ban against the FCC issuing licenses for non-commercial Low Power FM radio stations in urban markets.
- **FCC Oversight of Payola Allegations:** The election will likely lead to improved FCC collection of playlist and station ownership data, as well as greater oversight of existing payola regulations resulting from the March 2007 settlements.

The Future Landscape for Copyright and Anti-trust

Copyright remains one of the few issues not dependent on partisan politics, so the election will not have as much of an impact here. Still, it remains a critical part of our work to engage in ongoing debates about proposed changes to copyright law. FMC feels strongly that the transition to a legitimate digital music marketplace is starting to take root, and we believe Congress and the Administration will continue to play an important oversight role as that market proceeds to take shape.

This administration will likely be the first to appoint an IP Czar to coordinate the various government agencies' IP enforcement agendas and streamline the enforcement process. We also expect continued congressional movement on a performance right for sound recordings, which retains bi-partisan support.

The anti-trust agenda of new administration could also impact artists. If the Department of Justice pursues anti-competitive and monopolistic practices more in the manner of the European Union and less like the Bush administration, it could put the brakes on additional rapid horizontal and vertical consolidation in the music, media and telecommunications industries and help establish a more level playing field.

Towards Sustainable Local Cultural Economies

Taking a broader view, FMC believes that the Obama administration will more generally reverse a longstanding trend toward policies that are fundamentally anti-artist and anti-culture. FMC believes that the combination of aggressive policies aimed at increasing diversity of media ownership, a strengthened non-commercial media sector and increased deployment of and access to technology will significantly aid what we consider sustainable local cultural economies. As access to digital technology increases, the chain of businesses that make up the cultural economy – including artists, performers, retailers, distributors, venues and record labels – will be less bound by geography. Radio's return to a diverse, live and local medium with strong community ties will be tremendously beneficial.

Arts advocacy groups and cities like Seattle and Austin have documented the economic importance of thriving music communities. We anticipate a new political outlook that values local culture both as an economic driver and as a symbol of regional identity. Too often, government policies and processes on issues ranging from radio ownership to arts funding have not been open to public input. They are simply too complicated and hidden from view, with outcomes that benefit conglomerates at the expense of local cultural communities and artists. The incoming Administration must take a broader view that understands and values the interconnectedness of policy decisions and their impact on artists and communities.

For more information visit www.futureofmusic.org



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Tips For A More Sustainable Tour

ATC knows that touring remains fundamental to a successful music career. We have seen how in recent years artists are touring more, and at the same time incorporating sustainable business practices into their tours. ATC receives a steady stream of requests from artists and managers who want to do more to lessen the environmental impact of their touring. Our research around these requests has allowed us the opportunity to capture and compile valuable "*lessons learned*" from a variety of artists, industry leading experts and organizations that have been implementing sustainability into concerts, festivals and tours. What follows is a quick and prioritized list of how to make your tour more environmentally sustainable based on this collective knowledge:

1.) Play Venues Accessible By Public Transit.

Fan transport to and from venues accounts for the largest environmental impact of a tour. Book and play venues that are easily accessible by public transportation, and encourage fans to utilize that public transportation by posting information about it to your website and social networking platforms. Offering incentives to fans to do so (for example, hold a lottery for public transporters to win free downloads or backstage passes, etc) will help to lessen the carbon output of each show. *This is the most important and effective thing an artist can do to reduce carbon emissions.*

2.) Route Tours Wisely.

Book your tours in the most efficient way possible. Whether you're working with a booking agent or scheduling your tour yourself, try to book your shows within hours of each other and take the shortest routes possible between city stops to avoid unnecessary mileage and eliminate backtracking.

3.) Encourage and Promote Carpooling.

If there are no public transit options available or in addition to those you are already promoting, encourage fans to carpool with friends and/or use services such as PickupPal. Again, offer incentives to do so (for example, hold a lottery for carpoolers to win free downloads or backstage passes, etc).

4.) Keep Flying To A Minimum.

Flying has the highest climate impact of any form of transportation. When you have to fly, do it during the day whenever possible as studies have shown that night flights release more emissions. Also try to fly airlines with environmentally sustainable policies and practices.

Air Traffic Control Education Fund, Inc.

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5.) Tour Lightly.

Consolidate the number of trucks and buses on your tour as much as possible and use trucking, busing and van rental companies with sustainable policies. For example, [Bandago](#) is a van rental company that caters specifically to the music community while continually finding ways to incorporate new technologies and greener policies into the services they provide.

6.) Create an Eco-Rider.

Incorporate environmental requests for venues directly into your rider. Many of the tips listed here can appear in your rider. Here are some examples of what other artists have included in their eco-riders: venues will have a complete recycling program backstage, throughout the audience area and parking lots; venue to allow concertgoers to bring their own bottles and provide free refills to reduce packaging waste; venues to purchase renewable energy credits or carbon offsets for each show; caterers will provide washable plates, cutlery, and biodegradable cups for all meals; venue to have an in-house composting program for catering scraps; concessions company to use 100% biodegradable food ware and/or recyclable plastic cups and bottles to be recycled by venue; dressing room and backstage facilities to have water-efficient appliances.

7.) Request That Bike Racks Be Provided At Venues.

If cycling to the venue is possible, request that bike racks be provided or team up with local bike advocacy organizations to provide a bike-check station at your show and/or to organize community bike rides to your show.

8.) Use Reusable Water Containers.

Instead of getting cases of bottled water for your travel, bring along reusable bottles for each person on tour and keep a jug in the car that can be refilled at rest stop water fountains or grocery stores. In your rider, request the venue provide water coolers backstage for use with your refillable water bottles.

9.) Stay At Hotels That Promote Sustainable Practices.

Staying with friends and family along your tour is probably a greener option than staying in a hotel as well as a must for those bands on a budget. For those of you who stay in hotels, try to find one with eco-friendly practices and policies. The [Green Hotels Association](#) maintains a list of hotels that have pledged to conserve resources and increase energy efficiency.

10.) Produce And Promote Your Merchandise And Music Responsibly.

Produce all materials and signage with ecologically friendly materials. Use organic cotton shirts or shirts made from fibers such as bamboo, hemp, and soy. Plan ahead and limit excess overnight shipping of t-shirts and other merchandising products to venues. Use eco-packs and digipacks when distributing CDs, which can

be made from biodegradable, recycled or recyclable materials and printed with vegetable inks. Eliminate plastic packaging and wrapping whenever possible.

11.) Partner With Local Organizations.

Get involved in energy and environmental policy efforts with local organizations in some of the states you are touring through. ATC has a large database of organizations that have worked with musicians on a wide-range of issues in cities across North America, and can help put you in touch with the right folks. Contact us for more information. Also, make sure any organization you are working with has ATC's [tips for tabling at concerts](#) and tips for [working with musicians](#).

12.) Offset What You Can't Reduce.

After all other carbon reduction activities have been exhausted, purchase carbon offsets and renewable energy credits to help neutralize your tour's remaining contribution to global warming. Remember that while offsets can be part of a comprehensive solution, they should not be seen as a substitute for changing behavior. ATC encourages you to exhaust all other carbon reduction activities first. [Native Energy](#) and [Green Mountain Energy](#) are two artist-recommended offset providers that have specific teams dedicated to working with the music community and can help you calculate the carbon emissions for your specific tour.

As always, please contact us with any suggestions or questions. For more in-depth information, visit the [sustainable touring](#) section of our website or contact [us](#) directly.