Apple Sour As French Opt For Interoperability

PARIS—After weeks of heated debate, the French Parliament adopted its highly controversial copyright bill March 21. And while lawmakers at least temporarily sidestepped the legal- ization of file-trading, they stepped right into another her- ets—insisting that digi- tal music retailers sell in stores price with each other.

The new legislation intro- duces the right to interoper- ability and limits the control that digital music retailers, like Apple's iTunes Music Store, have over the devices users serv- ice to proprietary devices, such as the iPod.

French lawmakers voted 296- 193 in favor of the bill, which would make it illegal to work with any digital music player or software. The Parliament also mandated that digital rights management developers make public all information needed to reach interoperability. This would permit users to bypass DRM technologies in order to listen to digitalized music on any device. It would force Microsoft, Apple and Sony to disclose their DRM protocols — the WMA, FairPlay and Atrac systems, respectively.

Should users circumvent DRM for piracy reasons—a difficult motivation to define—they can face fines up to €3,750 ($4,800).

The French government said the law is designed to ensure that no single company domi- nates the rapidly growing music download market.

It took Apple—currently the dominant digital music retailer with an estimated 75% world- wide market share—less than a day to respond. The Cupertino, Calif. based company claimed the bill would kill the “interoperability that users expect.” In a state- ment, Apple said, “If this happens, legal music sales will plummet and will cause irreparable damage to the music business.”

Patrick Jaffray, an analyst at London-based consulting company Ovum, calls the legislation “potentially a big blow for Apple,” arguing that Apple's business model with iTunes and the iPod is built on its very lack of interoperability with other devices and services. “This could force Apple to withdraw from France or certainly rethink its strategy in the country,” he says. But Apple might want to con- sider the upside of the law. Stan Waw, an analyst at American Technology Research, feels the move could boost iPod sales. The ability to add music from other music services would make the iPod “more universal and versatile” and therefore more valuable.

“We do not believe Apple is that dependent on its iTunes Music Store, as we estimate that about two to three dozen songs are purchased from iTunes over the life of each iPod, meaning most consumers get their music another way,” Wu said.

France's digital music market grew exponentially last year, selling 16.6 million units, up from 3 million in 2004. Such sales accounted for 4% of the French music industry’s rev- enue, with a value of €15 million ($18.2 million). According to re- search company GFK, there are about 20 online music retailers in France, including Amazon's music market leading iTunes Music Store, FranceMusic, Virgin Mega, Universal Music's Ecomਪl и, and Sony Connect.

Piper Jaffray analyst Gene Munster estimates that France represents only about 2% of Apple’s iPod/iPhone business. French minister of culture Re- naud Demeure de Valere, who sponsored the bill, told traditional media in February that he did not want technology to serve as an alibi for any kind of "commercialization." "We added dat to companies, such as Apple or Microsoft, would eventually come to interoperability. This will be a cons- tant and open market," he adds.

The French industry has gen- erally welcomed the bill, though with reservations. Here’s director general of labels trade body SNEP, says, "We certainly are in favor of interoperability, but with the need to prevent be its victims with anyone en- tering by them.”

The bill addresses music indus- try concerns in other ways as well. It introduces a range of fines for copyright infringement, starting at €80 ($104) for downloading prot- ected files for free and €150 ($182) for sharing them. This puts an end to disproportionate penalties such as sending an inter- net user to jail,” Demeure de Valere said during the debate.

The lack of rules on how to apply those fines is a source of concern for the industry. "If we are talking about €18 for each file, that’s too much," Roy says. "But if it’s for each 10,000 files, then it is just absurd.”

The bill also includes a €10,000 ($12,000) penalty for distributing technical means to circumvent the law. The Parliament finally did adopt a peer-to-peer amend- ment stating that distributors of a software "patenty" geared toward the distribution of copyrighted works without author- ization are liable to a €10,000 ($12,000) penalty.

The March 22 vote ended de- bate that started last December. Two subsequent votes—one on the bill's compatibility to the legal- ization of file-sharing—by members of the French assembly temporar- ily adopted, but ultimately ex- cluded from the bill.

The "the debate on global license will remain in debate," says Patrick Bloch, a member of the Socialist party who sponsored the global license amendment. The legislation requires Senate approval—would put France in agreement with the European Union's Copyright Directive, which was adopted in 2001.

The study shows that the physical-goods world could still grow slightly over the next year or two, if merchants take the right steps, which include better display organization and improved shipping experi- ences for customers. As for the labels, the study found that traditional radio is on the downsizing as a moti- vator to buy music, but "TV is really powerful" in driving sales. That finding was not quantified in the study, but was conveyed anecdotal, Donio says. "Other tactics to the CD bases, such as pack- aging music soundtracks with movies or videogames, are promising," he says.

The study—which had 1,700 respondents, 2,600 of whom bought physical music—found that the 13-17 age group ac- counted for 18% of all physical music sales last year, that is up from 15% in 2002 and up from 16% last year. In total, the av- erage respondent in that group spent $77 last year on music, a rise that also reflects digital sales.

On the other hand, the older demographics—people 36-50 and older—continue to drop in total physical sales. The 36-50 group went from accounting for 27% of physi- cal sales in 2002 to 25% in 2005, while the over 50 group accounted for 17% of physical album sales, down from 18% in 2004.

The study also broke out music sales by dollars for var- ious age groups. Respondents older than 55 averaged $46 in purchases, while the 45-54 age group averaged $70. Those 35 to 44 years old averaged $76 annually, while

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New Life For CDs?
Study Says There is Room For Physical Product Sales To Grow

Even as consumers switch to digital mu- sic and physical sales decline, a study finds that physical product is still in demand and not going away. The study shows that even teenagers increased their purchases of physical music by 13%.

The study, conducted by the NPD Group for NARM, dis- covered that while practices like file-sharing and legitimate downloading have an impact on physical sales, "there is still opportunity for the CD," NARM president Jim Donio says. "There are still pockets of heavy buyers out there that em- brace the physical product, and the industry needs to market to and provide them with a better in-store experience to boost sales," he says.

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grographic skew younger. Less than half, or 44%, of the 25-34 age group buy CDs, and only 19% of 18-24-year-olds buy CDs. Currently, a greater percentage, 27%, of the 13-17 group bought CDs. Almost two-thirds of 13- to 24-year-olds say they are more likely to acquire music through unauthorised file-sharing, while 88% said they are likely to get music through unauthorised file-sharing.

The survey also broke out re- spondents by how much they spend on music. Slightly less than half of respondents were light buyers (spending up to $10 per year on music), who, on average spent $18.45 and buy music 2.4 times per year, averaging 1.3 items on each trip. Those buyers generally shop at a discount department

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store, but also shop for music at consumer electronics stores and online.

The survey said 39% of re- spondents are medium-level buyers (between $31 and $100), spending an average of $62.77 per year on physical music. Those respondents make music purchases on al- most five occasions (46), and average 1.8 items per occasion. Like the light buyers, they also tend to shop in mass merchants’ music depart- ments, but will also go to con- sumer electronics chains and online stores.

Finally, the heavy buyer (more than $100) comprised 10% of respondents, spending $314 annually on music, buy- ing it seven times per year. On each occasion, they spend 22 minutes in the music section. Their preferred destination is the con-

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Apple’s Next iPod Push ‘Vingles,’ Video Bundles

Apple Computer is exploring new ways to market and sell music videos in bulk as interest in downloadable video grows. In a first, iTunes is selling all the clips from Tori Amos’ “Fade to Red”—a 21-song music video collection released on DVD via Rhino Entertainment—as individual downloads for $1.99 each or as a complete package for $24.99. The iTunes Music Store has been steadily selling one-off music videos of current and catalog hits for $1.99 apiece since late last year. But the company is just now moving into higher-margin packages. The Tori Amos offer is part of Apple’s larger video bundling push that includes iTunes-only “video albums” (offers of six to seven videos from an artist that have not been released as physical collections) and “vingles” (a bundled offer of a video and its corresponding single). Apple officials expect video collections to be a growing trend.

“It’s a natural fit,” says Eddie Cue, VP of applications for Apple. “These are not replacements for people buying individual songs or albums. But they’re great for well-established artists with a fan base behind them that wants more product.”

John Whatherspoon, Amos’ manager, says that the rising number of consumers who have video iPods or other portable video players gives artists new opportunities to expose videos that were not available through cable music channels. Cue says some of the most exciting opportunities are around products that have no equivalent in the physical world. “We are taking advantage of the medium,” he says.

“Tori Amos’ ‘Fade to Red’“This is the stuff that you can only do in digital music.”

Indeed, Apple has worked with such bands as Green Day and Foo Fighters to sell special “video albums” that compile a number of their respective videos not available for sale in stores. Another area of opportunity is vingles, which take advantage of demand for hit songs by selling the video and a music download together for $1.99. Currently, iTunes is selling vingles from such acts as NeIl, the Pussy Cat Dolls and Josh Turner.

“Over time there is no reason why we can’t have a vingle for every video.” Cue says. “Not every song has a video but every video has a song.”

Consumers Hot For ‘Hee Haw’ New Twist On Direct Marketing

“Hee Haw” was Time Life’s best-selling DVD collection of 2005—and that ain’t bad. Time Life says it has sold more than 1 million units of the multi-title series since it began marketing it via infomercials and TV ads in November 2003. The company has spent more than $5 million promoting it over the last 28 months.

Time Life is no stranger to pushing sales of music and video series into the millions. But “Hee Haw”—the Gaylord Entertainment-controlled country music variety show, which ran on TV from 1969 to 1992—is an anomaly in the DVD business.

John Esposito, president/CEO of WEA. Time Life’s retail distributor, says while blockbuster feature films often achieve this level of sales, it is rare for a TV-on-DVD product to show such strength. Also notable in the case of “Hee Haw” is where and how the sales are made. Time Life executives say consumers purchased almost half of the “Hee Haw” titles in stores like Walmart and Target rather than over the phone, as is typically the case with many direct-response campaigns. In fact, Time Life executives report the success of “Hee Haw” validates an expanding strategy to supplement direct-response sales with traditional retail distribution.

Time Life has pushed select CD titles to merchants since the late 1990s, but it is just starting to acquire retail-distribution rights for DVD product. The company is looking to ramp up retail presence of all product categories across the board.

Rack diversification is central to the new strategy. Retail sales can add legs to a direct-response campaign. Such sales can also offer TV advertising expenses Time Life incurs promoting more modest-selling collections. Time Life, which claims $300 million in annual revenue, spends more than $70 million a year on TV advertising in the United States alone.

“We don’t want to be at the mercy of just licensing narrow direct response rights,” says Jeff Petch, head of Time Life’s video division. “In places where we can acquire all rights, retail included, that’s what we want to do.”