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## The Many Futures of Music, Maybe One of Them Real

By JON PARELES

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ASHINGTON, Jan. 9 — These are some of the possible futures of music:

- a) Everything ever recorded will be available on demand via the Internet, through a high-speed wireless connection to your wristwatch.
- b) No one will be willing to pay for any of that music, leaving songwriters destitute and bands trying to make a living from touring and selling T-shirts.
- c) A handful of multinational corporations will control virtually all recorded music, limiting public access to it while ruthlessly exploiting musicians.
- d) Musicians will reach listeners around the world instantaneously, with no need for intermediaries, so fans can support their favorite performers directly.

Those forecasts and others were in the air at the second annual Future of Music Policy Summit, held Monday and today in Gaston Hall at Georgetown University. Musicians, members of Congress, recording-company executives, Internet entrepreneurs, copyright lawyers, union representatives and computer experts gathered to wrangle over what boiled down to a basic question: How will musicians make a living in the Internet age, preferably without a day job?

The conference was presented by the Future of Music Coalition, which has sought to represent musicians and listeners while legislation and technology reshape the music business. The coalition, which includes a full-time lobbyist, has taken up both technological visions and the sometimes numbing but financially crucial technicalities of contracts, licensing and royalties.

Representative John Conyers Jr. of Michigan, the senior Democrat on the House Judiciary Committee, spoke to the meeting on Tuesday morning. "Technology is forcing the record labels and the artists and the writers and the composers to come together," he said. "The Internet says to the industry that you folks are yesterday's news, you're following outdated models, your business strategies don't work anymore, and your profit motive is showing rather vulgarly."

Last year was a time of disarray and repositioning in the music business. "We have to rethink our business, and it may not be the record business anymore," said Miles Copeland, who owns Ark 21 Records. Soundscan, which tabulates retail sales, says the number of albums sold in 2001 dropped 2.8 percent from sales in 2000, the first decline since Soundscan began in 1991.

A panel of recording-company executives at the conference depicted a beleaguered business

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in which a major-label album needs to sell at least half a million copies to break even and only 10 percent of albums ever recoup their investment. Marketing and promotion costs are high: good placement in retail stores can cost up to \$250,000, and promoting a single Top 10 hit to radio stations can cost millions.

Representative Conyers said he hoped to hold Judiciary Committee hearings this year on what he has called payola: promotional payments to radio stations, often channeled through independent consultants. He also denounced the consolidation of the media business, saying it pressured musicians into signing unfair contracts.

Five multinational companies now dominate the record business. And since the Telecommunications Act of 1996 removed limits on how many radio stations a single company could own, two companies, Clear Channel Communications and Infinity Broadcasting Corporation, a subsidiary of Viacom, have come to control the leading stations in most major markets. "The music business is getting more and more and more concentrated," Mr. Conyers said, "which makes it in the end, and not so far away, harder to get into the business and start up."

Musicians and listeners have been looking to the Internet as a way to exchange music without corporate bottlenecks. The music business has been shaken up by unlicensed file-sharing services: first Napster, which is dormant, and more recently Kazaa, Audiogalaxy, Music City's Morpheus, Grokster and others.

"If you don't offer it on the Internet, people are going to take it for free," said Cary Sherman, the general counsel of the recording-industry association. The free file-sharing services do not pay royalties. Late in 2001 the major labels introduced their alternatives. Two competing paid, licensed music-subscription services have begun: MusicNet, with music from AOL Time Warner, BMG and EMI; and Pressplay, with music from Sony and Universal. Both limit the number of songs that can be received and what the listener can do with them.

But the major labels have not licensed their full catalogs to other outlets. Mark Cuban, the founder of the Web site Broadcast.com and the owner of the Dallas Mavericks basketball team, said: "The people who had the keys to the mall decided to burn it down rather than try to make money from it. The premium wasn't on making money, the premium was on control."

Record retailers who contacted the major labels for licenses have been offered only the chance to carry Musicnet or Pressplay rather than designing their own sites, said Pam Horowitz, the president of the National Association of Retail Merchants, which represents record stores. She said that retailers' credibility depended on being able to inform customers objectively about albums rather than simply carrying the labels' own promotions.

Konrad Hilbers, the chief executive of Napster (which is now in partnership with BMG), said he still hoped to license major-label music for a revived, paid version of Napster. But he warned that if the labels continued to hold back, he would seek government action to spur competition. Representative Rick Boucher, Democrat of Virginia, spoke at the conference about his Music Online Competition Act, which would require companies to license their music to all comers on equal terms. But that bill faces an uphill battle.

At the conference, Kevin Murray, a Democratic California state senator, announced that he was introducing a bill that would make musicians free agents after seven years. In California, personal-service contracts are limited to seven years except for recording contracts. Mr. Murray wants to remove that exception, comparing it to indentured servitude.

Recording contracts usually call for a specified number of albums rather than a length of time. The Recording Industry Association of America, the trade group, released a statement opposing the change, saying, "No one can compel an artist to record," and adding that the losses from musicians who did not fulfill their commitments would make it difficult to invest in new talent. To prevent contracts from being signed in jurisdictions outside California, Mr. Conyers said he wanted to introduce a federal version of Senator Murray's bill.

While it grappled with such pragmatic issues, the conference also featured more utopian notions. Grass-roots entrepreneurs like Ian MacKaye, the leader of the band Fugazi and the owner of Dischord Records, said that through simple hard work and without written contracts for the bands on his label, he had been making a good living in the music business and even providing health care to his employees. Derek Sivers of CD Baby, a company that sells independent CD's from about 14,000 groups, said he had recently passed \$1 million in payments to musicians.

Sandy Pearlman, a lyricist for Blue Oyster Cult who is the vice president for media development of Multicast Technology, envisioned having all recorded music available on demand through wireless connections. He called unlicensed file-sharing a disaster but suggested that an "invisible tax" on Internet connections, paid through service providers, could be channeled to musicians and copyright owners.

"It really is a pretty trivial accounting problem," he said. "But decisions would have to be made at the highest levels to stop fighting shadows and deal with the hand we've been dealt."

Eben Moglen, a professor of law at Columbia University and the general counsel of the Free Software Foundation, supported a similar accounting mechanism but in voluntary form. He urged the conference to think back to "music before Edison," before it became a commodity in the form of recordings. "Everything that can be shared will be shared," he said. "But people make music because they love it, and they'll pay for it because they love it."

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