

LONG TAIL OR BOTTLENECK: WHAT'S NEXT FOR SPOTIFY?



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I. INTRODUCTION

The recording industry can be understood as a self-contained ecosystem that evolves continually without arriving at a determinable equilibrium. Competitors in the music industry learn and respond through interrelated strategies related to technological advances, organizational design, and the evolution of methods for production, procurement, and distribution. At this time, the ascendant market winner in the evolution has been the transformative Spotify music service, which made interactive streaming the most popular delivery services and now controls the largest share of the market for musical recordings. This paper will review organizational issues and strategies at the Spotify service.

In the parlance of economists and strategists, organization strategies consider *core competencies and dependencies* that may provide temporary or strong competitive advantages over existing or potential market rivals. Core advantages include barriers to entry, intellectual property, and isolating mechanisms that actuate and extend idiosyncratic knowledge, specific human capital, and relationships and organizational routines. Organizational awareness and advantages can also include processes that facilitate transactional efficiency, create dynamic advantages, generate new information, channel feedback, promote new forms of market hierarchy, and bring about new forms of self-organization. On an oligopoly analysis, technological evolution and core competencies may commend market reorganizations such as horizontal mergers, innovative contracts, shared ownership, joint ventures, strategic alliances, and vertical intermediation or disintermediation.

These market dynamics are apparent in the recording industry. With the emergence of digital technologies, new download and streaming channels have displaced the traditional record store, and reduced the importance of radio. Major label concentration has dissipated and significant digital technologies and organizational hierarchies have opened. Independent artists and labels are now more able to promote new acts, reach new fans, and learn about listener tastes. And a new technology – streaming – has emerged. Nonetheless, the evolving market process will now determine whether or not content markets continue to loosen, or whether bottlenecks reemerge that allow major labels to maintain greater control over market shares.

The paper is organized as follows. Section 2 explains the concept of a record label, and Section 3 the general structure of the existing market for record production and distribution. Section 4 discusses how the general business model and hierarchy of the industry has evolved in the digital era, and Section 5 the disruptive download and streaming technologies at Apple and Spotify that generated such market evolution. Section 6 discusses recent events at Spotify and how market bottlenecks may yet reemerge in the emerging record industry. Section 7 considers future issues for strategy at Spotify.

II. RECORD LABELS

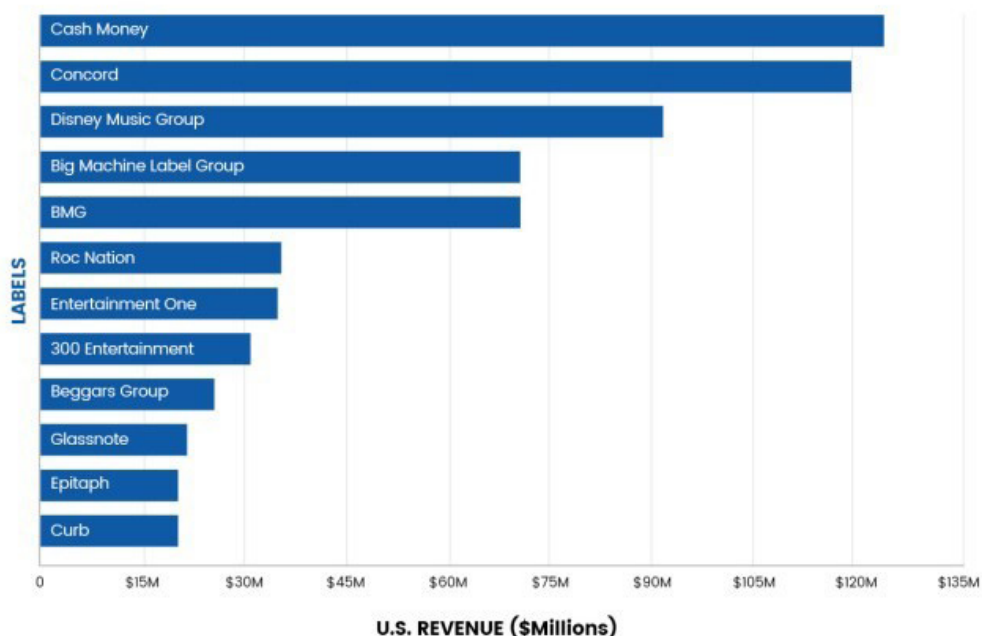
Copyright law (17 U.S.C. §101-1332) protects both the *sound recording* and the underlying *musical composition* in any record track. The term *sound recording* implicates the sounds imprinted on a record album or track derived from a studio or live master recording, while *musical composition* implicates underlying lyrics and melody of the actual underlying work created by composers and songwriters. The relevant copyrights implicate different rights owners – the record label (sound recording) and the music publisher (musical composition) – who collect royalties for any use of its controlled element and so distribute to the artist(s) or writer(s). This paper will focus on the sales and streams of the former, which is the product familiar to the ultimate consumer.

Record labels are engaged in the financing, production, and distribution of tracks and albums derived from *master recordings* produced in the recording studio. The larger U.S. labels are owned by or affiliated with one of three fully integrated music companies that together account for 65 to 70 percent of global sales of records and videos.²

1. *Universal Music Group (UMG, 32 percent share)* – e.g. Capital Record Group, Def Jam Recordings, Interscope Geffen A&M, Island Records, Republic Records, Decca. Universal artists include The Beatles, Elton John, Lady Gaga, Jay-Z, Taylor Swift, and Justin Bieber.
2. *Sony Music Group (Sony Music, 20 percent share)* – e.g. Epic Records, Columbia Records, RCA Records. Sony artists include Avril Lavigne, Gloria Estefan, Pink, Jennifer Lopez, and Tim McGraw.
3. *Warner Music Group (WMG, 16 percent share)* – e.g. Warner Records, Atlantic Records, Electra Records, Parlophone. Artists include Beyonce, Cardi B, Faith Hill, David Bowie, and Led Zeppelin.

The number of major companies has reduced (from six as recently as 1998), with PolyGram, EMI, and BMG soon to merge with other major labels.

A number of other independent companies own competing labels but distribute to stores and music services through platforms controlled by one of the three majors.³



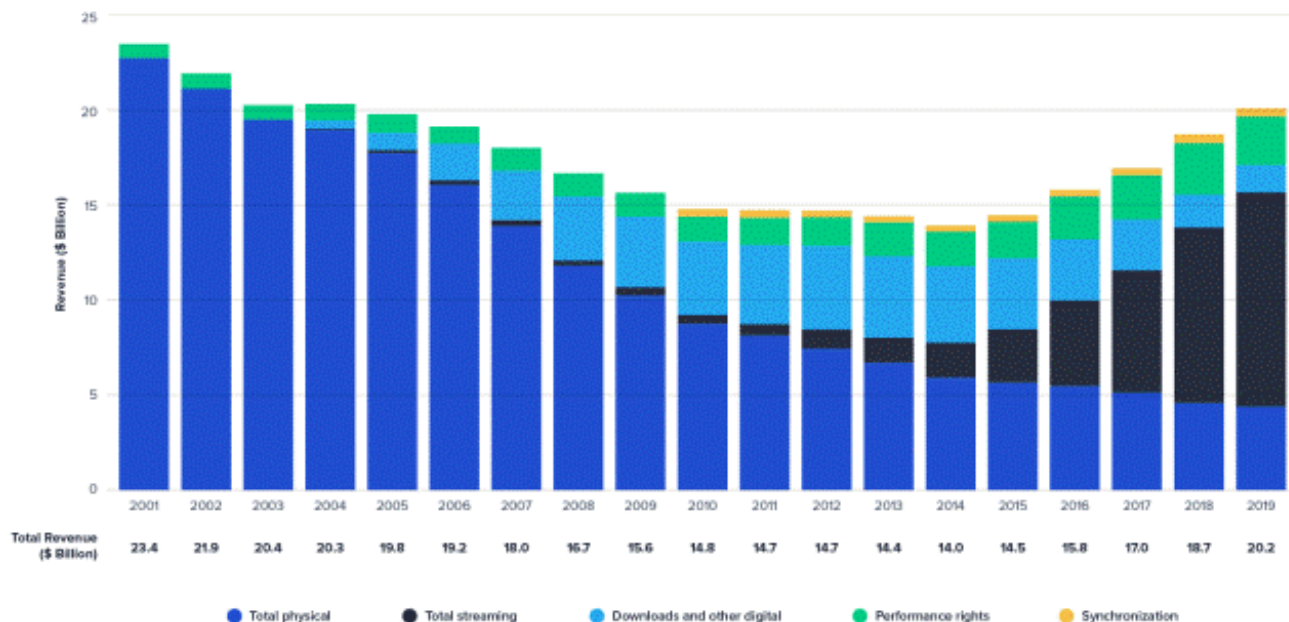
Note: Billboard estimates based on Nielsen Music data and other sources.

² Respective publishing shares for the “Big Three “are somewhat less concentrated – Sony (25 percent), Universal Music Publishing (21 percent), and Warner Chappell (12 percent).

³ From Billboard data, available at <https://haulixdaily.com/2019/04/indie-labels-revenue>.

III. THE MARKET FOR RECORDED MUSIC

As is evident from data provided by the Federation for the Phonography Industry covering 2001-2020, the music industry has evolved from exclusive reliance on physical product to a market dominated by interactive streaming.



Source: International Federation of the Phonographic Industry (IFPI)



Interactive streaming services now account for over fifty percent of total retail revenues for record companies in the U.S. Streaming services provide immediate access to some sixty million songs. The streaming listener does not take ownership of the track and is subject to digital rights management restrictions.

Major streaming providers in the U.S. include Spotify, Apple Music, Amazon Music, Napster, YouTube Music, and TIDAL. Interactive streaming revenues are now based largely on ad-free subscription – i.e. full paid subscription revenues (\$5.9 billion, up 27.5 percent) and limited subscriptions (\$829.5 million, up 11.0 percent). Without any subscription fee, ad-supported service remains popular with new listeners at Spotify (\$908.1 million, up 19.6 percent). Streaming services license tracks through private negotiations with record labels.

The market leader in *interactive streaming* is Spotify AB., a Swedish pureplay service launched in 2008 that grew through twenty acquisitions that allow, *inter alia*, curated and personalized recommendations, algorithmic learning, user-generated playlists, produced video, independent podcasts, ad insertion, and an open platform for application software. Other subscription services are offered by integrated tech companies, and combine streaming features with wider ecosystems built around the sale of bundled goods (e.g. Apple Music) or services (e.g. Amazon Prime).

Non-interactive streaming services may be based on monthly subscriptions, mobile satellite radio, and webcasts. Key non-interactive providers include *Music Choice* (home service), *Rockbot* (business service), *SiriusXM* (mobile satellite radio), and *Pandora Music* (webcast). Sirius, Music Choice, and Rockbot are subscription services that monetize cable and satellite transmissions to the user with subscription fees. Pandora offers to listeners different service tiers with subscription and advertising-based services. Non-interactive services mostly license tracks through statutory rates established by the Copyright Royalty Board and collected and distributed through administration at SoundExchange (per 17 U.S.C. 114).

Once the market leader in the digital space, *permanent download* revenues of albums and singles (introduced at Apple iTunes in 2004) fell in 2019 (\$855.7 million, down 17.6 percent). Since 2015, Apple has offered interactive streaming at Apple Music but suspended the sale of new downloads once popular at iTunes. As of this writing (December, 2020), Amazon continues to sell *unit downloads* to users for its Music and Prime services. For the first time, total download sales in the U.S. are below physical retail (\$1.1 billion, down 0.6 percent), which has declined considerably in the past decade, leading to the closure of a great number of record stores.

While offsetting the appeal of file-sharing, the new digital technologies have allowed listener access to individual tracks unbundled from the multi-track album, thus depleting the revenue stream of its album release for a record label. Further, spoken-word podcasts and video – now popular at Spotify – may displace music listening altogether, thus depleting paid royalties earned by labels and artists. This has put the blockbuster model built around big albums under great stress.

IV. THE TRANSFORMATION OF BUSINESS MODELS

In the traditional business model of the record industry, each major label performed vertically integrated roles in discovery, production, financing, promotion, manufacture, and distribution of recorded music. Label promotion sought here to “cut through the noise” to reach undiscovered audiences with new album material bearing some collection of tracks recorded by an artist. The major labels had critical advantages that contributed to scale economies, first-mover advantages, and isolating mechanisms⁴ that new entrants could not replicate, namely deep pockets, an ability to find new acts, and the capacity to achieve volume-based efficiencies in production, distribution, and promotion. The industry then embodied gatekeeping layers with bottlenecks that limited new entry.⁵

Economic competition among labels involved horizontally competitive entities that priced similarly but not collusively and so generated Nash behaviors based on acquisition and restructure. Radio stations had local market power to make public airwaves available to labels in local markets. Stations and labels were “frenemies,” and the latter created bottleneck events. From this position, many stations have been able to extract from supporting labels considerations placed through independent promoters (advertising, tickets, merchandise, contributions) for music placements that evolved after Congress in 1960 legislated direct payola to be a misdemeanor.

Despite the economic advantage, most album releases yet failed to cover costs. Risky individual releases were collateralized by other commercial successes that sometimes generated great profit; adaptive risk-sharing was made possible by the size and scope of the label’s investment portfolio. The traditional deal then followed a “blockbuster” business model that attempted to maximize label gains earned from big product volume releases.⁶

Big labels yet still enjoy the benefits of financing resources and organizational experience; only big labels can afford high-quality video production, broadcast placement, and tour promotion. While pressing and distribution of digital tracks is nearly costless, such activities at major companies may profit from transactional efficiencies and negotiating leverage with music providers that need access to the larger catalogs

Record labels made three adaptations in organization and business model to accommodate transactional and administrative efficiency

A. Adaptive Risk-sharing

Artist contracts traditionally worked as follows: The signing label provided the artist with royalty advances, and bore fully the initial risks of recording and promotion, which were recouped from later due royalties before first payout. After an act recouped costs, the releasing label earned a majority share of net album sales (circa 80 to 90 percent), but was excluded from a share in songwriter royalties and concert merchandising, or endorsement revenues that the artist may have enjoyed as a consequence of release.

Starting with Robbie Williams and EMI in 2002, record labels and artists have put together a number of different risk-sharing models (metaphorically termed 180, 270, or 360) that collateralized label expenses from the artist’s income that may involve songwriting royalties,

4 Rumelt R.P. “Towards a strategic theory of the firm,” in: Lamb R. (ed.) *Competitive strategic management*. Prentice Hall, Englewood Cliffs, (1984).

5 See. Caves, R.E. 2006, “[Organization of Arts and Entertainment Industries](#),” [Handbook of the Economics of Art and Culture](#), in: V.A. Ginsburgh & D. Throsby (ed.), [Handbook of the Economics of Art and Culture](#), edition 1, volume 1, chapter 17, pages 533-566, Elsevier.

6 A. Elberse, “Blockbusters: Hit-making, Risk-taking, and the Big Business of Entertainment,” Harvard Business School Press, 2013.

concert earnings, merchandising, and/or endorsement. In addition, labels have sometimes come to replace the big album release entirely for a smaller number of “trial” tracks tested online with digital tracking. Though contractual reorganization, the label’s wider participation provides diversification, protects initial investments, and justifies more album releases.

B. Open Interfaces

Each major record company has come to leverage distribution economies through a wider interface of bilateral and cooperative arrangements enacted with independent labels and promising acts not signed otherwise. Record companies now may recoup up to twenty five percent of sales revenues in distribution deals for a substantial profit margin.

In this regard, major companies now offer distribution through *direct pressing and distribution*,⁷ *alternative distribution alliances*,⁸ *fulfillment deals* with a third-party distributor, or *piggyback* arrangements with another artist release. A major company may also move upstream to finance studio recording, make an equity investment in the independent entity, negotiate a buyout option for successful acts, or fashion some type of joint venture contract that specifies obligations and shares profits. The arrangements economize on transaction costs, enable more diversification, and facilitate experimentation in new content. For independent artists, Merlin Networks negotiates collective licenses where artists must arrange upload and collect royalties with any music service so engaged; independents may self-record and distribute product through the physical and/or digital services of CDBaby, TuneCore, Stem, or Distrokid.

Finally, independent publishers (such as Kobalt Music) can directly load to services tracks recorded by their writers, who are then credited for all global royalties and allowed to retain full copyright. As the world’s largest music publisher, Kobalt offers innovative tracking technology and can appeal particularly to digital-oriented artists who would not collect as efficiently through controlling labels and national collecting rights organization.

C. Information Deepening

With digital interfaces, artist departments at record labels now have access to more market information regarding potential audiences, and the financial means to afford them. Detailed information on radio play is now available from Media Monitors, RCS MediaBase, Chartmetric, and Nielsen Broadcast Data Systems, inter alia. Record labels may also acquire data on online usage or web mentions – e.g. Gracenote, Nielsen Media, Shazam, Next Big Sound. Large labels also have deep pockets to promote use on video, social media, music-based websites, and podcast on, e.g. YouTube, Vimeo, Facebook, Instagram, Snapchat messages. Through several tracking, recommendation, and insertion technologies, digital music providers may complement artist discovery at big labels.

V. DISRUPTIVE INNOVATION

Sales in the record industry began a decline in the late 1990s, when more accurate reproductions and transmissions enabled through new digital technologies came to displace product sales. Unlicensed services related to storage and directories (e.g. mp3.com, Napster, Aimster, and Grokster) further worsened the decline of sales. Despite some market advantages (e.g. no viruses), for-pay label-based ventures – MusicNet and Pressplay – failed to attract a considerable base of legitimate users.

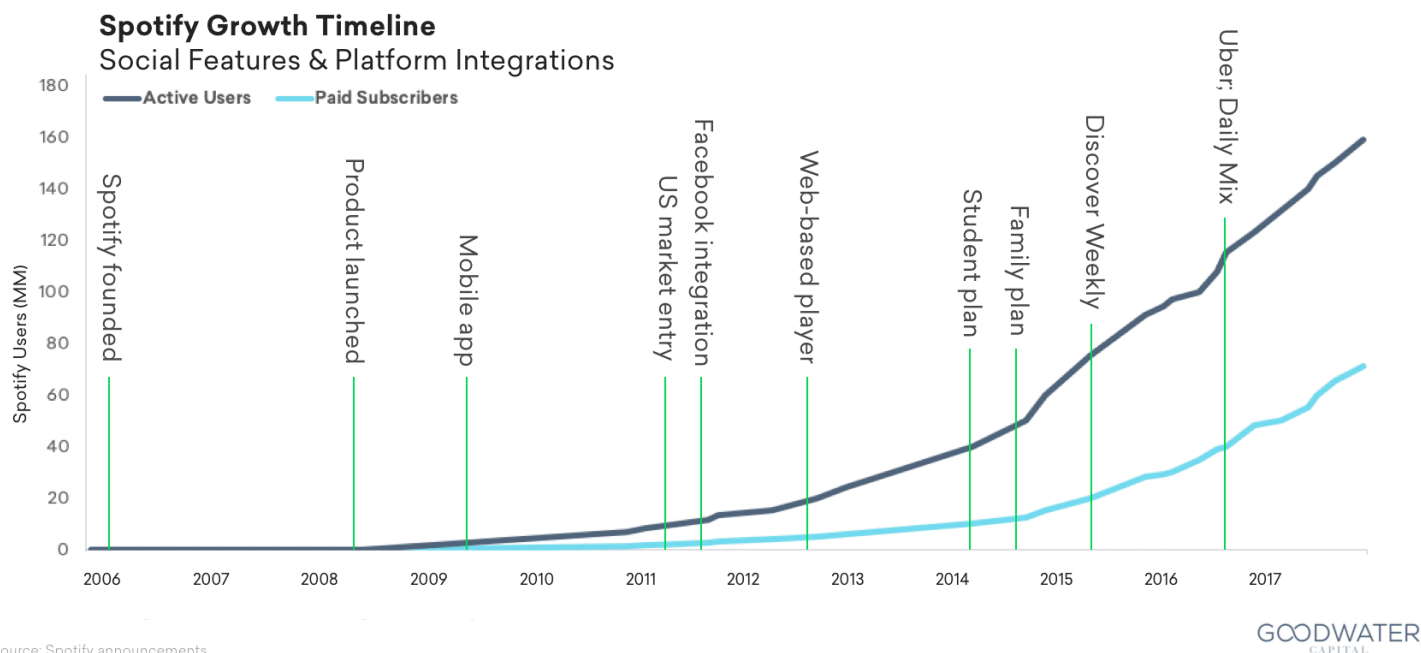
Apple released its iPod in 2001 and thus provided an MP3-based mobile device that made possible the storage capacity of up to 1,000 CDs. Unprotected by digital rights management, the iPod device made possible the sharing of tracks previously ripped from personal collections or downloaded through file-sharing software. Apple in 2002 negotiated use licenses with each record label that enabled the launch of its new download service, the iTunes Music Store, which was launched in 2003. iTunes allowed users to download and own label tracks for \$0.99 and albums at \$9.99. Apple shared about 75 percent of revenues with labels and publishers that owned respective recordings and compositions. Apple also earned substantial unshared profits on the sale of the iPod itself, as well as later iOS devices. In the course of time, Amazon, Google, Rhapsody/Napster, and Tidal Music came to offer competitive download services made available with highly profitable bundled goods or services.

⁷ UMG distributes for the four country labels in the Big Machine Label Group.

⁸ UMG’s Ingrooves, Sony’s RED and The Orchard, and Warner’s Alternative Distribution Alliance (“ADA”) comprise many independent labels.

A. Spotify

The industry began to transform again in 2008 with the launch of Spotify in Sweden. Spotify provided an *interactive streaming* service that allowed a subscriber or ad-supported free user to access the entire track catalog of licensed songs for immediate listening, though not permanent ownership. The attached chart from Goodwater Capital shows important market events since launch.



Spotify went public in April 2018 in a direct listing, with a first-day share price of \$165.12 that has grown to \$314.25 (as of January, 2021).

Spotify now provides access to sixty million songs and 1.9 million podcasts and videos to a global base of 144 million subscriber and 185 million free ad-supported users in ninety-two countries. Spotify now pays rights owners based on percentage of royalty, prorated to individual tracks on a unit basis (averaging approximately \$.004 per stream). Over 85 percent of recorded music streamed from Spotify belongs to Sony, Universal, Warner, and Merlin (i.e. the licensing agency for independent labels).⁹

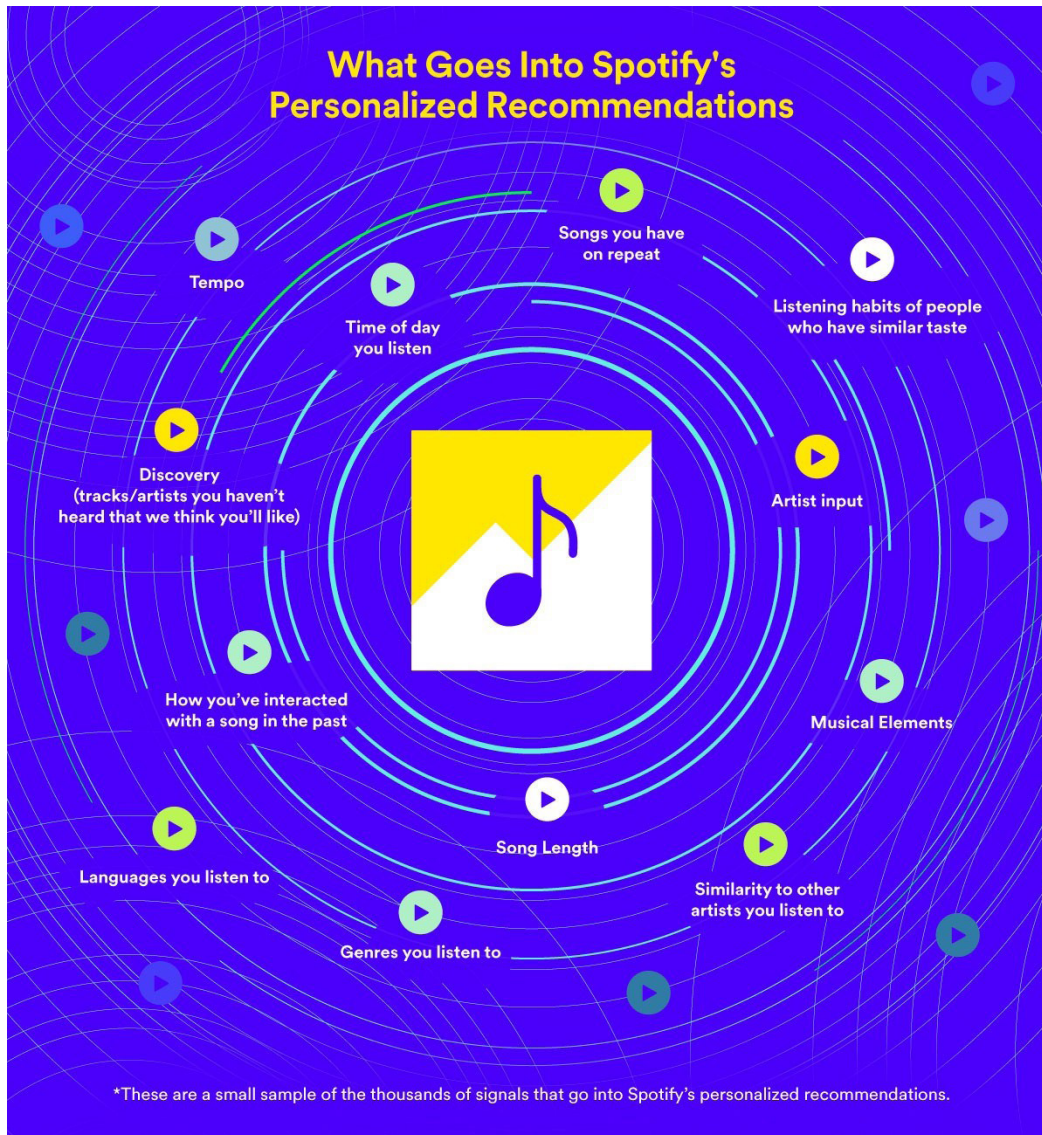
Both Apple and Spotify implicated *disruptive innovations* that generated a new product, process, or business model that displaced existing competitive product lines, organizational modes, or processes of production and marketing. (*The Innovator's Dilemma*) Clayton Christensen distinguished disruptive innovation from *sustaining innovation* that improves the quality of existing products, the means of producing them, or the creation of useful complements that generate more incumbent sales. Rather than engage the existing market with competitive pricing and incremental share growth, disruptors seize first mover advantages through initial niche entry, network efficiencies, and scale economies that facilitate buildout and displace the incumbent regime.

Neither Apple nor Spotify enjoyed competitive advantages due to their IP-protected control of digital transmission technology. Rather, Apple levered first-mover advantages resulting from its introduction of the fashionable iPod device that enabled storage of music tracks. Spotify levered first-mover advantages resulting from its buildout of audiences for advertisers.

⁹ <https://www.businessofapps.com/data/spotify-statistics/>.

Both major labels and new artists now reach audiences most often through interactive streaming platforms. Digital access can be complemented with listener tracking, market analytics, artificial intelligence, popup advertisements, and autoplay that may implicate personalized recommendations and curated playlists. Labels and independents may complement releases with video (e.g. YouTube, Vimeo), social media (e.g. Facebook, Instagram), performance clips (TikTok, Snapchat), mixtape and track postings (Soundcloud), artist profiles (ReverbNation), fan communications (WR1), and live events (Bandsintown).¹⁰

Since its early acquisition of EchoNest in 2014 (\$100 million), Spotify has accommodated search algorithms and song filtering that enabled curated or personalized recommendations, as well as sharing of user-generated playlists from other users.



Amplifying Artist Input in Your Personalized Recommendations¹¹

10 Independent musician deals are explained more fully in C. Knab, *THE MUSICIANS' BUSINESS AND LEGAL GUIDE*, Prentice Hall. Independent artists also can now use digital interfaces to post tracks for listening and sharing (e.g. Bandcamp, Soundcloud), post new beats (e.g. Airbit, Beatstars), offer musical works for synchronization on film and other video. (e.g. AudioSocket), provide integrated global performance rights (AllTrack), and clear record samples from major rights owners (The Music Bridge), other independent artists, (Trackcs), or sample libraries (TrackLib). Artists may now use artificial intelligence for composition (Jukedeck, Amper) or digital master (LANDR). Other possibilities include crowd-sourced financing (GigFunder), branding (Tuned Global), do-it-yourself software (Splice), beta testing (Venice Innovations Lab), big data tracking (Instrumental), and royalty auctions (Royalty Exchange), as well as websites, blogs, email lists, and merchandising.

11 Spotify, Amplifying Artist Input in Your Personalized Recommendations, November 2, 2020, <https://newsroom.spotify.com/2020-11-02/amplifying-artist-input-in-your-personalized-recommendations/#:~:text=This%20might%20sound%20complicated%E2%80%94and,similar%20tastes%2C%20and%20much%20more.>

User-generated playlists and algorithmic recommendations are critical parts of the Spotify audio service. The two features now account for two thirds of Spotify's streaming volume, which is evenly split between playlists and recommendation. The average Spotify user may now expect to hear forty artists within one week. Most popular curated lists (e.g. RapCaviar (12.8 million followers), Viva Latino (10.6 million)), are able to break new acts (e.g. Migos and Chance the Rapper) and are highly sought by content owners.¹²

However, while digital service may promote music awareness of more music tracks, the flood of content may introduce more noise and so dissipate ongoing attention for previous breakthroughs. Spotify estimates that it adds to its catalog some forty thousand new tracks per day, or 14.6 million per year. With a catalog of roughly 60 million songs total, the current growth rate would double the library in a little more than four years. Unless royalties and revenues are able to keep pace, the growth of catalog could expectedly dissipate usage-based payments to individual acts

VI. AN EMERGING BOTTLENECK?

Yet the promotion of music tracks seems to be problematic to Spotify itself. Based on existing procedures for paying royalties,¹³ combined payments to labels and publishers now account for 65 to 70 percent of Spotify revenues and are a major reason why the service has never generated positive annual net earnings since launch in 2008. In the first nine months of 2020, Spotify generated an operating loss of €224 million, down from a positive income of €4 million in the previous year. The deficiency resulted from higher royalty payments and delivery costs, a dilution of the revenue base to lower-paying subscribers in new countries, and significant amounts paid for podcast content. Spotify also paid more for R&D and sales and marketing

Spotify now hopes to use spoken-word content to reduce minutes of music use and royalty payments.¹⁴ Through recent acquisition of podcast and video content and technology, Spotify aims to advertise more to its base of free ad-based users, which comprise the larger part of the user population but the smaller part of the revenue base.¹⁵ Operating margins also would expectedly increase if Spotify can activate more subscriptions through exclusive video content.

A number of key acquisitions come to mind. In 2019, Spotify began services built around high-quality video technology available from its acquired Gimlet Media (\$195 million) and Parcast (\$55 million). It also acquired Anchor Media (\$154 million) in order to allow smaller artists to create podcasts through computer or cell phone interfaces.¹⁶ Among the new launches are podcasts by Michelle Obama, Kim Kardashian, and LeVar Burton. Spotify reported in 2020 that 22 percent of total monthly average users ("MAUs") engaged with podcasts and that podcast advertising revenue increased by nearly 100 percent from the previous year.

On March 6, 2020, Spotify acquired 100 percent of Bill Simmons Media Group, LLC, a leading creator of sports, entertainment, and pop culture content. (\$200 million). Spotify allows the Group to expand its content offering, audience reach, and podcast monetization from spoken-word content.

In September, 2020, Spotify signed its largest podcast deal with highly popular YouTube talk host Joe Rogan (\$100 million), The *Joe Rogan Experience* was the most popular podcast on Spotify in 2020. The deal went exclusive in December, 2020. Spotify also announced a recent podcast deal with Prince Harry and Megan Markle.

¹² <https://www.forbes.com/sites/stevenbertoni/2013/11/26/how-spotify-made-lorde-a-pop-superstar/>.

¹³ <https://www.waterbear.org.uk/blog/spotify-royalties-explained/>.

¹⁴ "Less than two years ago, we announced that audio—not just music—would be the future of Spotify. We believe that streaming audio, including music and podcasts, is poised to be the next great frontier for listeners, creators, and advertisers." <https://newsroom.spotify.com/2020-11-10/how-spotify-is-strengthening-our-investment-in-podcast-advertising-with-acquisition-of-mega-phone/>.

¹⁵ As of September, 2020 (6-K Report), Spotify had 144 mill. subscribers (revenue = €5,248 mill.) and 185 million ad-based users (revenues = € 464 mill.).

¹⁶ <https://www.musicbusinessworldwide.com/spotify-has-acquired-three-podcast-companies-this-year-total-cost-404m/>.

Spotify announced in November, 2020 the intent to acquire Megaphone (\$235 million), which facilitates the insertion of high-quality advertisement into video content through a Spotify-developed technology called *Streaming Ad Insertion*.¹⁷ Podcast publishers will be able to offer viewing audiences to advertisers based on ad impressions that could be personalized for individual tastes, demographics, and locations. Spotify would make its business case for the acquisition of Megaphone:

Less than two years ago, we announced that audio—not just music—would be the future of Spotify. We believe that streaming audio, including music and podcasts, is poised to be the next great frontier for listeners, creators, and advertisers. That’s why today, we’re excited to announce Spotify’s acquisition of Megaphone, one of the world’s leading podcast advertising and publishing platforms . . . Advertisers are ready to realize the full potential of podcasts. The combination of Spotify and Megaphone will allow them to activate across Spotify’s Original & Exclusive podcasts while scaling reach through the Megaphone Targeted Marketplace.¹⁸

Spotify finally announced in November, 2020 the testing of an experimental placement services (Marquee) that allows artists and labels to promote specific tracks through the autoplay functionality, playlists, and personalized recommendations.¹⁹ Spotify later claimed that twenty five percent of users who see a Marquee listen to the promoted music – a highly effective draw.

In this new experiment, artists and labels can identify music that’s a priority for them, and our system will add that signal to the algorithm that determines personalized listening sessions. To ensure the tool is accessible to artists at any stage of their careers, it won’t require any upfront budget. Instead, labels or rights holders agree to be paid a promotional recording royalty rate for streams in personalized listening sessions where we provided this service.²⁰

The new form of placement through ad insertion would be similar to slotting allowances once found at strategic locations in retail record outlets (*inter alia*). Slotting allowances enable bundled promotion, defray costs, widen audience choice, and boost store earnings. They can draw antitrust attention from time to time.

Podcasting has recently become more and more competitive. Amazon Music announced on December 30, 2020 that it has signed an agreement to acquire the rapidly growing independent podcast-maker Wondery. Amazon can support the \$300 million acquisition through advertising, television licensing, and delivery made possible through Audible Books. Market expansion through the music service through Amazon Prime would be predictable. The well-healed Amazon is now in the same space as Spotify.

VII. IS THERE A FUTURE FOR THIS BOTTLENECK?

I close with three critical points regarding the future of Spotify’s podcast strategy in its evolving market

Though independent artists have gained market share and exposure through Spotify’s wider catalog, recommendation, and curation, artists now fear that Spotify may now attempt to reduce usage and negotiate lower royalty rates through streaming ad insertion.²¹ Major labels here may have the enhanced means to produce and place new tracks on popular playlists/personalized recommendations²² and cross-collateralize royalty reductions through other earnings in the artist contract. By contrast, independent labels and artists may be less advantaged to afford good placement. This may lead to more concentration of audience share and accusations of “payola.”

Second, podcasting may pose a problem to Spotify’s business model itself. Paid subscribers will receive ad-free music but not ad-free podcasts, which are accounted under ad-supported revenue. Spotify’s strategy then reduces the positive incentive of some prospective podcast users to switch to subscription in order to avoid interrupting ads. Spotify has then spent \$500 million on podcast acquisitions and \$40 million in content costs that have no benefit to the premium users for whom it had been claiming to grow.

¹⁷ <https://newsroom.spotify.com/2020-11-10/how-spotify-is-strengthening-our-investment-in-podcast-advertising-with-acquisition-of-megaphone/>.

¹⁸ *Id.*

¹⁹ <https://newsroom.spotify.com/2020-11-02/amplifying-artist-input-in-your-personalized-recommendations/>.

²⁰ *Id.*

²¹ <https://celebrityaccess.com/2020/03/02/spotify-hopes-artists-will-pay-to-promote-their-music/>.

²² <https://newsroom.spotify.com/2020-10-05/discover-the-releases-rocking-the-world-with-spotifys-weekly-music-charts/>.

Third, Spotify may face cost increases that affect investment. Spotify last reported costs of revenues at 74.5 percent (gross profit margin 25.5 percent); royalties account for some 66 percentage points of the total. Spotify channels gross profits into R&D (10.6 percent of sales revenue), sales and marketing, (12.9 percent of sales), and general and administrative (5.7 percent of sales). Spotify yet operates at an operating loss.

This brings into play publisher royalties for musical compositions. Copyright owners of records and compositions now respectively split royalties about 80/20. In February, 2019, the Copyright Royalty Board CRM (which administers statutory royalties for musical compositions) ruled that digital providers should increase songwriter payments by 44 percent over 2018-2022; the D.C. Circuit Court vacated the rates in August, 2020 based on a procedural issue. Yet future royalties at the CRB yet will expectedly increase following rehearing and enactment of the Music Modernization Act of 2018 (“MMA”) that establishes a willing-buyer, willing-seller standard that is foreseeably higher than the adjusted historic and/or policy-based benchmarks heretofore enforced. If song royalties increase by an expectable fifty percent, Spotify’s gross profit margin will decline to 19.4 percent (down 23.9 percent from 25.5). To avoid reducing R&D and marketing, Spotify might attempt to increase subscriber prices or move from music to podcasts, on the presumptive belief that podcasts will pay off. With the evident intelligence and means to build a platform industry around big data, Amazon’s entry into podcasting may be a major market event that may determine in 2022 the course of the bottlenecked industry.



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