Fee for All  
by Sam Gustin  ▶ Mar 27 2008

Jim Griffin will lead Warner Music's fight to tame the Web’s lawless music frontier.

The plan—the boldest move yet to keep the wounded entertainment industry giants afloat—is simple: Consumers will pay a monthly fee, bundled into an internet-service bill in exchange for unfettered access to a database of all known music.

Bronfman’s decision to hire Griffin, a respected industry critic, demonstrates the desperation of the recording industry. It has shrunk to a $10 billion business from $15 billion in almost a decade. Compact disc sales are plummeting as online music downloads skyrocket.

"Today, it has become purely voluntary to pay for music," Griffin told Portfolio.com in an exclusive sit-down this week. "If I tell you to go listen to this band, you could pay, or you might not. It's pretty much up to you. So the music business has become a big tip jar."

Nothing provokes sheer terror in the recording industry more than the rise of peer-to-peer file-sharing networks. For years, digital-music seers have argued the rise of such networks has made copyright law obsolete and free music

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Jin-Young Park is the new web guru at Warner Music. The rise of such networks has made copyright law obsolete and free music distribution universal.

Bronfman has asked Griffin, formerly Geffen Music's digital chief, to develop a model that would create a pool of money from user fees to be distributed to artists and copyright holders. Warner has given Griffin a three-year contract to form a new organization to spearhead the plan.

Griffin says he hopes to move beyond the years of acrimonious record-industry litigation against illegal file-swappers, college students in particular.

"We're still clinging to the vine of music as a product," Griffin says, calling the industry's plight "Tarzan" economics.

"But we're swinging toward the vine of music as a service. We need to get ready to let go and grab the next vine, which is a pool of money and a fair way to split it up, rather than controlling the quantity and destiny of sound recordings."

In the last year, the Recording Association of America, the industry group that represents the major labels, has sent 5,400 threatening letters to students at more than 150 schools, and reached settlements with more than 2,300 of them. It has filed formal lawsuits against 2,465 others, who did not respond.

"I don't think we should be suing students and I don't think we should be suing people in their homes," says Griffin. "We want to monetize the anarchy of the internet."

Griffin says Warner Music is "totally committed to this." The fundamental issue, he says, is whether music consumers will buy songs and albums individually, or whether they will subscribe monthly to access a "universal" database of songs.

Will Tanous, Warner Music's communications chief, said Griffin's initiative is part of Warner's "ongoing effort to explore new business models in the music industry."

In recent weeks, major music industry players have signaled their interest in the "music as a service" model. Sony BMG Music Entertainment is said to be developing an online music subscription service that would give users unlimited access to its catalog.

Apple is reportedly negotiating with the major record labels to offer consumers free access to the entire iTunes library in exchange for paying a premium for Apple hardware. Warner's plan would have consumers pay an additional fee—maybe $5 a month—bundled into their monthly internet-access bill in exchange for the right to freely download, upload, copy, and share music without restrictions.

Griffin says those fees could create a pool as large as $20 billion annually to pay artists and copyright holders. Eventually, advertising could subsidize the entire system, so that users who don't want to receive ads could pay the fee, and those who don't mind advertising wouldn't pay a dime.

"Ideally, music will feel free," says Griffin. "Even if you pay a flat fee for it, at the moment you use it there are no financial considerations. It's already been paid for."

While few of the plan's details have emerged, critics have begun their attacks.

David Barrett, engineering manager for peer-to-peer networks at Web content-delivery giant Akamai, says Griffin's plan is tantamount to extortion, because it forces everyone to pay for the service regardless of whether they want it.
to join.

"It's too late to charge people for what they're already getting for free," says Barrett. "This is just taxation of a basic, universal service that already exists, for the benefit a distant power that actively harasses the people being taxed without offering them any meaningful representation."

Griffin, who in 1994 was part of the team that made Aerosmith's "Head First" the first song available on the internet, goes to great pains to emphasize that the collective licensing plan is not "his" plan.

"This isn't my idea," says Griffin. "While I would gladly take the credit, blanket licensing has over 150 years of history behind it."

"Collective licensing is what people do when they lose control, or when control is no longer practical or efficient," Griffin says. "A pool of money and a fair way to split it up replaces control."

Griffin was quick to point out that the $5 figure is arbitrary.

"We negotiate in every place," Griffin says. "Clearly $5 per month would be an insane number in China or India. If you could get a nickel a month you could grow the business tenfold in those countries. In another country that had a high G.D.P., a nickel per month would be ridiculously cheap. So you negotiate. Fair is whatever you agree upon."

Griffin says Bronfman and Michael Nash, the company's digital-strategy chief, brought him into Warner to create an organization to negotiate collective licensing deals. But Griffin's ambitions extend far beyond just Warner Music.

"We're building a [as yet unnamed] company inside Warner that is not intended to be solely owned by Warner," Griffin says. "We hope all of the rights holders will come in and take ownership with us, and Warner will not control it. Our goal is to create a collective society for the digital age."

Meanwhile, critics have already attacked the plan as a kind of mandatory "culture tax."

"Jim will vehemently deny the 'tax' label," says Akamai's Barrett. "But it's a tax nonetheless. It'll be a government-approved cartel that collects money from virtually everyone—often without their knowledge—and failure to pay their tax will ultimately result in people with guns coming to your door."

"Jim's proposal does nothing but direct money to the very people that tried to prevent this future from coming to be," Barrett adds, "while further legitimizing the terror being waged in the courtrooms against their members."

Griffin dismisses such criticism.

"I understand what David is thinking, but I assure you, we have no such interest in government running this or having any part of it," he says.

Griffin says that in just the few weeks since Warner began working on this plan, the company has been approached by internet service providers "who want to discharge their risk."

"But more important than the risk for an I.S.P. is the marketing," Griffin says, drawing a comparison to Starbucks' marketing of "fair trade" coffee.

"I.S.P.'s want to distinguish themselves with marketing," Griffin says. "You can only imagine that an I.S.P. that marketed a 'fair trade' network connection would see a marketing advantage."

Gerd Leonhard, a respected music-industry consultant who has advised Sony/BMG, which recently announced plans for a flat-rate-subscription model for digital music, rejects Barrett's argument that the monthly fee amounts to a tax.
“This is not a tax,” says Leonhard. “It’s bundled into another charge.”

“People should not be too harsh on Jim for trying to get the ball rolling,” says Leonhard. “At this point, 96 percent of the population is guilty of some sort of infringement, whether they’re streaming or downloading or sharing.

“What we have here is the widespread use of technology that declares all of the population to be illegal.”