AllofMP3's problems

Russia's reluctance to police illegal music downloading is a problem not just for the entertainment industry but for the global trading order.

October 25, 2006

HOLLYWOOD'S FOREIGN policy is not the nation's — nor should it be — and the U.S. trade agenda is not the same as the entertainment industry's. But their interests occasionally converge in some unexpected places. One of them is Moscow.

The United States and Russia have long been negotiating the terms for Russia's entry into the World Trade Organization, which Russia would dearly love to join. It is one of the few remaining geopolitical issues in which U.S. negotiators still have the upper hand with Russia. But talks are stalled over a Moscow-based website that sells music downloads at a discount.

The site, AllofMP3, has a novel, consumer-friendly business model: It sells music by the megabyte. Users pay about 20 cents a song, which is 80% below the price charged by the most popular online music store, Apple's iTunes. Of course, it's hard to offer a deal like that when you're paying wholesale prices of upward of 65 cents per song, which is what the major record companies charge. AllofMP3's parent company, Mediaservices Inc. of Moscow, solves that problem by not paying wholesale prices, period. Instead, it stocks its servers by copying songs directly from CDs.

The major record companies have been complaining about AllofMP3 for years, calling it a thinly disguised music bootlegger. U.S. Trade Representative Susan Schwab publicly endorsed the labels' cause last month, saying in a speech to the U.S. Chamber of Commerce that the site was the leading illegal seller of downloadable music. "I have a hard time imagining Russia becoming a member of the WTO and having a website like this up and running that is so clearly a violation of everyone's intellectual property rights," she told the news service Reuters afterward.

This is not a case of the U.S. entertainment-industry tail wagging the U.S. government-policy dog. The AllofMP3 case isn't a problem just for copyright holders, and the United States isn't the only country pressing Russia to do something about it. The website is emblematic of fundamental problems in Russia's legal system that call into question its ability to play by the WTO's rules, resolve important commercial disputes and integrate itself into global commerce.

Ultimately, the United States has much more at stake in these talks than reining in one of many global sources of bootlegged music. A successful Russian entry into the WTO would be a boon to world trade and to the former communist country's transformation into a free-market economy.

Mediaservices argues that the site is fully licensed by Russian authorities and that it pays at least 15% of its revenue to Russian royalty collection agencies. But even if that's the case, it just means that the agencies usurped the music industry's rights and granted licenses they had no authority to grant. For instance, AllofMP3 offers more than 40 downloadable Beatles albums despite the fact that the band has never given permission for its songs to be sold online.

The major labels have tried for several years to shut down AllofMP3, and Russian authorities have essentially shrugged. By contrast, Italian agents quickly forced the
shutdown last year of an Italian version of the site, and a German court granted a preliminary injunction against AllofMP3’s sales there — a stricture that Mediaservices has ignored.

If Russia wants to show that it’s ready to join the WTO and live up to international trade commitments, it should start by following the example of Italy and Germany and stop the global infringements by AllofMP3. The importance of intellectual property will only increase as the world’s economy becomes more connected. By taking a stand against the website, the United States is showing that it cares about everyone’s intellectual property, not just the entertainment industry’s.