OP-ED CONTRIBUTOR

Broken Record

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Chicago

THIS is not a pretty picture," declared Eliot Spitzer, the New York attorney general, at a press conference on Monday to trumpet his office's yearlong investigation into corrupt dealings between big music companies and broadcasters. "What we see is that payola is pervasive. It is omnipresent. It is driving the industry and it is wrong." But the picture might look a little different to Mr. Spitzer were he to pick up a few history books.

The music industry's use of bribes to buy exposure for songs actually long predates broadcasting and was one of the defining traits of the New York-centered empire of melody known as Tin Pan Alley. To reach as many ears as possible, music publishers in the late 19th century would ply itinerant vaudeville performers with gifts to carry their most promising melodies across the country by rail. If audiences liked what they heard, the publishers would profit from the sale of copyrighted sheet music. Star singers stood to make as much from pay-for-play as they did from their theatrical salaries; even essentially nonmusical acts like jugglers and...
dancers that had musical accompaniment enjoyed some trickle-down benefit from the system. So did the shills who were paid to sit in the cheap seats and applaud for or sing along with a given song.

With the advent of silent movies, Tin Pan Alley publishers took measures to motivate theater organists and pianists to incorporate specific melodies into the medleys they played. A payola-supported class of entertainers called "illustrated slide singers" projected still photographs subtitled with song lyrics before the movie showings and invited the audience to sing along while "following the bouncing ball." When movies switched to sound, the organists and slide singers disappeared, but the music publishers struck up new promotional romances with Hollywood studios.

When radio came along in the 1920's, Tin Pan Alley greeted it about as warmly as today's music conglomerates have greeted the Internet. As far as songwriters and publishers were concerned, all broadcasting did was overexpose potential hit songs before they could reach their profitable prime. In fact, radio was magically expanding the market for musical goods: it used to take months to infect the public with hunger for a particular tune, and hits would remain current for up to two years. Radio shrunk the life cycle of a hit first to months and eventually to weeks, meaning that more songs could be turned into moneymakers.

By the early 1930's, the NBC network was openly musing about formalizing the covertly entrenched pay-for-play practices by charging music publishers a flat rate for each exposure of a new song. The weakness of this plan was that the era's star bandleaders and singers would have never put up with it because that would have interfered with their own payola arrangements.

But by the 1940's, singers and bandleaders had to share the take with the emerging disc jockeys, with the latter coming into their own as the gatekeepers of pop music in the 1950's, when television usurped radio's place as the nation's alpha medium and encouraged the courtship of a youth demographic. Around 1955, middle-class white teenagers decided en masse to tune out the likes of Frank Sinatra, Rosemary Clooney and Andy Williams in favor of Chuck
Berry, Wanda Jackson and Elvis Presley. Soon thereafter, politicians, the press, the clergy, P.T.A.'s and other moralists seized on pay-for-play arrangements to explain the unfathomable success of such a degraded musical idiom as rock 'n' roll: the poor innocents had been bamboozled by corrupt D.J.'s into thinking that Elvis could sing. In a ludicrous series of Congressional show hearings, rock D.J.'s who spun records by black artists got pilloried, while those who favored the white-faced pop à la Pat Boone walked away unharmed.

The moral panic over rock 'n' roll brought about incoherent legal changes that would only worsen payola's worst effects. Radio companies handcuffed their D.J.'s by forbidding them to broadcast songs not on approved playlists, but that only shifted the song-picking power higher up the corporate ladder and further out of sight, thus raising the price and favoring large record labels over small ones of the kind that led the rock revolution. Nonsensically, the rewritten rules also permitted music companies to lobby broadcasters generally while forbidding them to make specific efforts on behalf of individual songs.

Music professionals have always agreed that hits cannot be bought. To this day, when a label backs the wrong song, it loses money. Moreover, systems of "bribery" analogous to payola operate in many retail markets. Most supermarket chains, for example, make a chunk of their revenue from "sloting fees," which are the rents that food distributors pay them for shelf space. That such rents are paid says nothing about the flavor or nutritional value of any given item on the shelves. Where music is concerned, however, the concept of payola somehow seems intuitively revolting.

Yet, like it not, every popular song you've ever loved has reached you via some chain of pay-for-play machinations. The technological landscape has changed over time, as have the laws supposedly governing music promotion, but payola has been as constant and pervasive a force as gravity for more than a century now. A rational set of regulations would probably acknowledge this reality and aim at leveling the playing field so that small players can compete against big ones, just as they used to do in the early heyday of rock 'n' roll, when tiny labels like Sun
briefly had the likes of RCA on the ropes.

Mr. Spitzer is doing his duty by enforcing the existing laws. But he might want to at least acknowledge that earlier attempts to kill payola, when they had any effect at all, have tended to leave the beast stronger.

Cliff Doerksen, a film critic for Time Out Chicago, is the author of "American Babel: Rogue Radio Broadcasters of the Jazz Age."