SAME OLD SONG

AN ANALYSIS OF RADIO PLAYLISTS IN A POST-FCC CONSENT DECREE WORLD

Executive Summary

April 29, 2009

In April 2007, the Federal Communications Commission issued consent decrees against the nation's four largest radio station group owners – Clear Channel, CBS Radio, Citadel and Entercom – as a response to collected evidence and widespread allegations about payola influencing what gets played on the radio. In addition to paying fines totaling $12.5 million, the station group owners also worked with the American Association of Independent Music (A2IM) to draft eight "Rules of Engagement" and an "indie set-aside" in which these four group owners voluntarily agreed to collectively air 4,200 hours of local, regional and unsigned artists, and artists affiliated with independent labels.

It has been two years since the FCC, radio station group owners and independent labels met around the table. The immediate questions for the music and policymaking community are: Did these agreements serve their purpose? Have payola-like practices been curtailed? Did the agreements have any effect on what gets played on the radio?

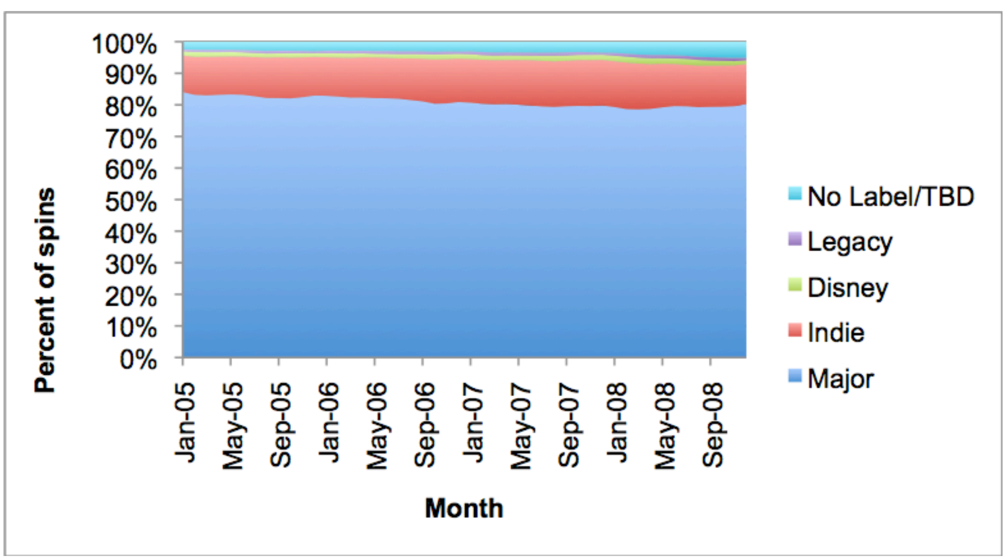
Using playlist data licensed from Mediaguide, Future of Music Coalition (FMC) examined four years of airplay – 2005-2008 – from national playlists, and from seven specific music formats: AC, Urban AC, Active Rock, Country, CHR Pop, Triple A Commercial and Triple A Noncommercial. FMC looked at each playlist and calculated the "airplay share" for five different categories of record labels to determine whether the ratio of major label to non-major label airplay has changed over the past four years.

The data in the report indicates almost no measurable change in station playlist composition over the past four years. While this may lead some to conclude that payola is alive and well, and that the Spitzer and FCC agreements were ineffective, the report instead views these results through the a broader lens and uses the data to describe the state of radio thirteen years after the passage of the 1996 Telecommunications Act. The playlist data analysis underscores how radio's long-standing relationships with major labels, its status quo programming practices and the permissive regulatory structure all work together to create an environment in which songs from major label artists continue to dominate. The major labels' built-in advantage, in large part the cumulative benefit of years of payola-tainted engagement with commercial radio, combined with radio's risk-averse programming practices, means there are very few spaces left on any playlist for new entrants. Independent labels, which comprise some 30 percent of the domestic music market, are left to vie for mere slivers of airtime, despite negotiated attempts to address this programming imbalance.

Specifically, the report shows that:

1. **Playlist composition has remained remarkably consistent over the past four years, despite policy interventions.** (Pages 16-21) Neither the national airplay nor the majority of format-specific playlists show much measurable change in the share of airplay for major label versus non major label songs over the past four years, despite specific policy interventions in 2007 that were designed to increase access and airplay share for independent artists.

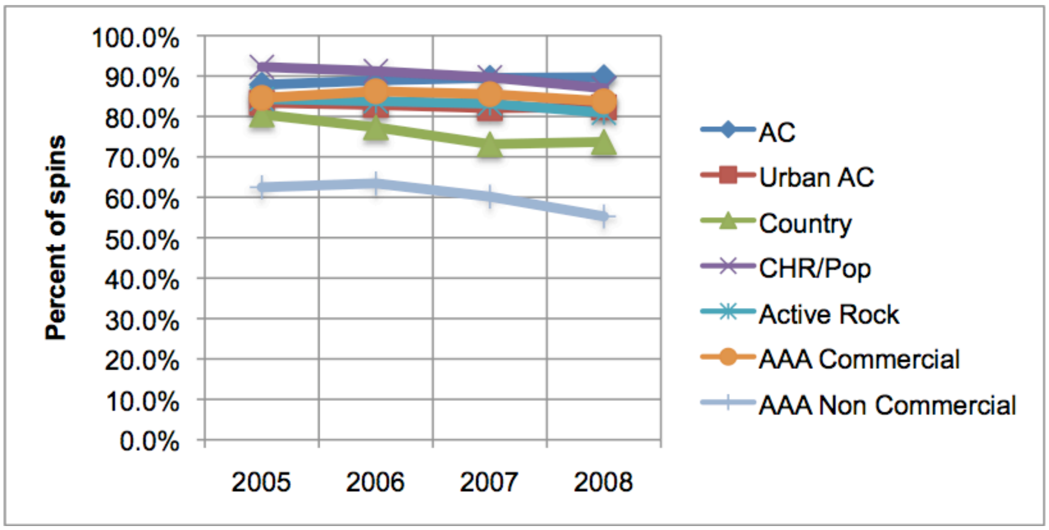
Chart 2: Airplay Share by Percentage of Spins: National Charts
2005-2008



FMC also looked at the airplay share for seven well-known and relatively distinct programming formats – AC, Urban AC, Active Rock, CHR/Pop, Country, AAA

Commercial and AAA Noncommercial – for the years 2005, 2006, 2007, 2008. The report found that major label songs are consistently dominant in most formats, though Disney and independent labels have been gaining airplay share in single digit percentage points over the past few years, in particular in the in the Country and AAA Noncommercial formats. (Pages 21 – 25)

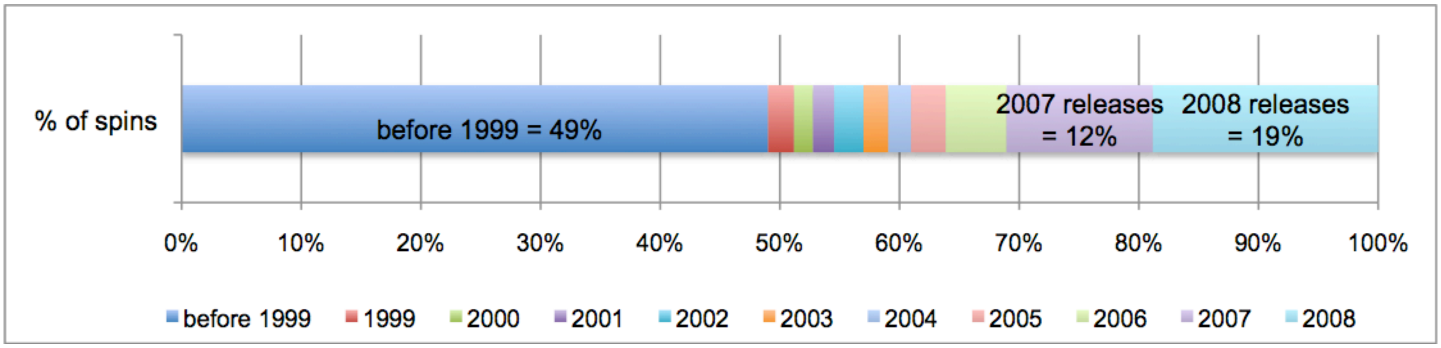
Chart 3: Summary of Major Label Airplay Share by Format
2005-2008



Country radio is a format in which some of the genre's large and well resourced independent label artists and Disney-signed artists have had some success attaining commercial airplay. AAA Noncommercial remains a format that caters to the independent music community.

2. Radio relies on the hits. (Pages 25 – 31) One of the primary programming goals of most commercial radio stations is to aggregate the largest number of listeners, and to keep them listening for as long as possible. Radio station programmers and music directors know that most audiences can only tolerate so much "newness" before they flip the channel, so it's understandable that playlists would show a mix of new songs, recurrents and classic hits. But when FMC looked at airplay share by release date, the data showed that in almost every format measured, a large share of the spins on any given format's annual playlist were comprised of songs more than five years old. In the case of AC, Urban AC and AAA Commercial playlists for 2008, almost 50 percent of the airplay was of songs released prior to 1999.

Airplay by Release Date for AAA Commercial
2008 Playlist



<< older songs **newer songs >>**

This demonstrates that radio tends to play it safe; it sandwiches new material in between recognizable hits from the past to keep its core audience from changing the dial when content becomes too unfamiliar. But this strategy also points to the problems of the forced scarcity that commercial radio represents. Because there are so few slots available for new material on any given playlist, these slots become highly coveted and valuable. Examining this ratio of new releases to recognizable hits in a post-consent-decree environment underscores how radio's programming practices constrain access, and that the business climate that makes payola so enticing has not changed.

3. **Indie labels do garner a small percentage of airplay, but even this is largely attributed to a handful of labels.** The data in this report indicates some incremental gains in airplay for non-major label songs, especially in the Country and AAA Noncommercial formats. However, the playlist data demonstrate that airplay for new releases is still very constrained and dominated by a small set of labels.

First, FMC looked specifically at which categories of labels are successful in gaining airplay for new releases in a given year. The report shows that major labels are modestly more successful at getting new songs added to the charts, but are vastly more successful at garnering more spins on new releases in almost all formats.

While these data cannot prove that radio stations and major labels are engaging in payola, they do reinforce the notion made earlier that major labels' longstanding relationships with radio, and their tacit promise to devote additional resources to a release (tour support, retail placement, ads, sponsorships) incentivizes radio to play their songs more frequently than those of indie labels.

Second, FMC examined the subset of indie labels that had been successful in having new releases added to each format's playlists. FMC found that gains are largely attributed to songs released by a relative handful of established indies. In fact, in some formats, songs released by just ten indie labels account for over 90 percent of the new indie releases that make it into the top 5,000.

Format: Country	2008	
New songs in top 5,000	# songs	# spins
Total # unique indie labels with new releases in top 5,000	39	
Total # new indie label songs in top 5,000	109	518,117
# new indie songs attributed to 10 indie labels	61	494,895
10 indie labels represent % of songs, % of spins	56%	96%

While it's important not to diminish their success in attaining airplay, this data underscore that not all independent labels have shared these small increases in airplay equally.

This report was designed to look at radio station playlists from 2005-2008 to determine if the payola-related investigations, and the subsequent policy interventions, had any effect on the programming behavior of radio stations. The National data indicated very little measurable change in airplay share from 2005-2008, with major label songs consistently securing 78 to 82 percent of airplay. The format data showed some modest increases in airplay for indies on some formats (Country and AAA Noncommercial, in particular) but otherwise the data from year to year changed very little. Then FMC looked at airplay by release date and discovered than many formats leave only small portions of their playlist for new material, choosing to sprinkle in new songs with well-worn hits. While this is clearly a programming choice that might make sense for a given station's target audience, the outcome is that there are very few spaces left on most airplay charts for new releases. FMC looked at the airplay pattern for new releases and found that new major label songs typically get more spins than new indie label songs. Finally, FMC looked at the indie labels themselves, and found that only a handful of indies have enough resources and clout to garner airplay consistently. For the remainder of indies, airplay is infrequent and modest, if it happens at all.

Does this mean that payola is influencing what gets played on radio, even after the Spitzer and FCC investigations? FMC references the work of UCLA sociologist Gabriel Rossman who suggests that payola is somewhat of a predictable outcome given the circumstances of forced scarcity and the high value placed on airplay. But the report states that it's difficult – in fact, counterproductive— to claim this without any conclusive evidence. Instead, the picture that emerges from these data is one of status quo: radio that is simultaneously risk-averse and controlling of its greatest asset – access to the airwaves – a circumstance that is greatly compounded by the consolidating effect of the 1996 Telecommunications Act. The major labels continue to have the most success in getting access, in large part because of the cumulative effect of cozy relationships and incentives paid over the years, as well as the "twin bottlenecks" that the oligopolistic radio and music industries represent.

Policy Recommendations

FMC's report also articulates a brief set of policy recommendations that will enhance the Federal Communications Commission's oversight of this public resource and improve the radio landscape for both listeners and the music industry.

1. Improve Data Collection

The radio and music industries participate in and employ some of the most robust and timely data monitoring systems available. There are private companies that measure audiences, that keep track of radio ownership transactions, market share and revenues, that track retail sales and box office grosses, and at least three services that monitor what is being played on commercial and noncommercial radio. Many radio stations, music labels and advertisers subscribe to these services so they can get up-to-the-minute information about their own activities, and those of their competitors.

In other words, radio stations are already very data rich. What's now required is the political will and organizational capacity at the FCC to determine what questions need to be asked, how frequently, and of whom, and then to seek out or collect the information it needs to be an effective regulator. Nonprofit organizations have been conducting much of this oversight work on behalf of the public interest, but clearly the FCC needs to play a greater role. The FCC could acquire data from commercial sources, or it could request data from stations as part of their responsibilities as broadcast licensees, or some of both. Regardless of the method, the FCC needs to clarify its oversight role, then rigorously and consistently monitor what's happening in radio in order to craft more effective policies and enhance accountability.

2. Refocus on Localism

Both anecdotal and empirical evidence indicate that commercial radio has become a risk-averse media that employs cookie-cutter formats across many radio properties. In recent months, commercial radio has also been the source of layoffs and downsizing as it struggles with both reduced ad revenue and huge debt loads racked up during the station buying spree following the passage of the 1996 Telecommunications Act.

The radio industry is clearly in crisis. Stations have lost touch with their local markets, but unfortunately, the industry seems to have responded by pushing for greater consolidation and syndication. FMC believes this is the wrong way forward, as radio's chief advantage in the modern media landscape is "live and local."

FMC joins others in the media reform movement – and many in the radio industry itself – in calling for commercial radio to regain its local foothold and build programming in which serving its local community is its primary goal. FMC simultaneously calls on the FCC to revisit the localism proceeding and design clear guidelines about how to measure whether its licensees are honoring their obligations to the communities in which they operate.

FMC knows that locally oriented programming isn't as cost-effective as running a station using pre-programmed playlists and automated DJs, but it is radio's strongest asset in an increasingly saturated media environment. FMC and its partners have engaged in pilot projects with small commercial operators to determine best practices for engagement between programmers and the independent sector to set goals and identify mutually beneficial marketplace solutions, and FMC hopes that these project help us to convey information that other stations can use in the future.

3. Expand the number of voices

This report also shows us that major swaths of the music economy aren't currently represented on commercial radio. It outlines the many structural barriers to airplay for all types of labels, but for independent musicians in particular. Using other metrics to measure the profile of some indie artists, including retail and digital sales, TV appearances, large live shows, and licensing deals that place their songs in movies, video games and in ads, the lack of airplay on commercial radio for the same artists seems counterintuitive. Independent music belongs on commercial radio and is just as vital as the music currently receiving heavy airplay. Changing the prevailing culture at commercial radio will take a concentrated effort with all parties working in good faith basis; identifying structural barriers to airplay in this report represents part of this ongoing effort.

Finally, this also moment in time when the government can make a conscious effort to expand the number of broadcasters in this country. The passage of legislation to allow Low Power FM in more American towns and cities would provide local groups and organizations with an opportunity to serve their communities.

Radio is a vital public resource with universal penetration, low-cost access, and a rich history of cultural impact. Regulators should strive for clear and transparent rules, so goals and policy initiatives can be measured and parties held accountable. Commercial radio has seen its market influence wane in recent years, but by asking the right questions, expanding community radio and enforcing the law, we can hopefully assist the industry in regaining its historic role and relevance to culture and community.

About the Report's Primary Author

Kristin Thomson is a community organizer, social policy researcher, entrepreneur and musician. After graduating with a BA in Sociology from Colorado College in 1989, Kristin moved to Washington, DC where she worked for two years as a national action organizer for the National Organization for Women. She left NOW to co-run Simple Machines, an independent record label, which released over seventy records and CDs in eight years. She also played guitar in the band Tsunami, which released four albums from 1991-1997 and toured extensively. In 2001, Kristin graduated with a Masters in

Urban Affairs and Public Policy from the University of Delaware. During her graduate program she was a recipient of a School of Urban Affairs and Public Policy Fellowship, and the Urban Affairs Association Award that recognized her thesis, *The Internet as an Agent of Change*, as a valuable contribution to the body of usable social knowledge. Kristin has been with Future of Music Coalition since 2001, and was co-author of FMC's 2002 study *Radio Deregulation: Has It Served Citizens and Musicians?*, the organizer of FMC's 2003 Analysis of Public Comments filed in the Broadcast Ownership Proceeding (which found 96.8 percent of comments filed at FCC opposed to further media deregulation), a contributor to FMC's 2006 study *False Premises, False Promises: A Quantitative History of Ownership Consolidation in the Radio Industry*, and a reader/editor of a book on the sample license clearance process titled *Creative License*, to be published by Duke University Press in 2010. She lives in Philadelphia with her husband Bryan Dilworth, a concert promoter, and their son, where she also plays guitar in the lady-powered band, Ken.