

# Recording industry giants vie for Napster user base

Mike Ingram  
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As the online music swap service Napster attempts to comply with the terms of an injunction brought by the recording industry, a number of strategic alliances are underway aimed at harnessing the mass user base that it has attracted.

RealNetworks, makers of Real Player and the first widely used audio and video streaming technology, has brought together three of the five major record labels—Warner, EMI and Bertelsmann's BMG—and America Online (AOL) to form MusicNet. The service will be paid for by user subscription fees and is fully licensed; it has potentially tens of thousands of songs available from each label.

MusicNet, due to launch in the autumn, is the latest stage in an effort by Real to secure the dominance of its technology over the rival Microsoft Media Player. It comes on top of a recent \$20 million alliance with Major League Baseball that gives Real exclusive rights to the Webcasting of their games. This means “Major League Baseball won't be available for the next three years using the Microsoft media player. Anyone who wants to listen to a baseball game online, they'll have to come to us,” RealNetworks CEO Rob Glaser told *USA Today*.

For Real, online music is central to its business plan. “The success of Napster shows us that people like having access to digital music, where they can download it, organise it and share what they're interested in with their friends,” Glaser said.

A study by the Pew Internet & American Life Project shows that 29 percent of all adult Net users, including more than half of all Net users between the ages of 18 and 29, have downloaded music files. On any given day, six million adults are downloading music, twice the number making any retail purchases online.

Despite employing filtering technologies that block out the availability of songs by a number of prominent artists, such as Janet Jackson, Metallica, Madonna and The

Beatles, over 12 million individual users still hooked up to Napster in March. According to the analysts Jupiter Media Metrix, at its peak in February, Napster's file sharing system and Web site attracted 17 million users in the US, or almost 20 percent of those who went online that month. Of these, 15.2 million logged on to the Napster system, which allows users to download songs from each other's computers.

As the number of Napster's users begins to decline due to the filtering system introduced on March 4, and which was greatly extended last week, alternative music swap sites are growing. The survey by Jupiter estimated that BearShare.com had climbed to 520,000 visitors, and Aimster.com had grown to nearly 300,000.

When Napster was first set up the Recording Industries Association of America (RIAA) reacted with immediate and ferocious hostility, declaring that Napster users were robbing artists of royalty payments through illegally trading copyright-protected material. Harnessing the support of groups such as Metallica, the recording giants were able to claim they were making a moral stand in defence of the rights of the artist and their intellectual property.

Far from being concerned that the artists get the financial rewards due to them through royalty payments, the multi-billion dollar conglomerates of Warner, EMI, Bertelsmann, Sony and Universal were responding to what they saw as a fundamental challenge to their oligopoly controlling the distribution of popular music. Speaking with one voice they condemned Napster and demanded its immediate shutting down.

In recent months, however, it has become increasingly apparent that Napster's success lies in the fact that it is fulfilling an almost inexhaustible demand. This led to a certain shift in the thinking of the recording studios, with Bertelsmann being the first to break ranks, announcing a strategic alliance with Napster and declaring it would

drop its law suit once a suitable business plan for a subscription based service had been agreed.

On the face of it, Bertelsmann's new alliance with Warner, EMI and AOL, through the initiative of RealNetworks, appears to be a shift. Upon closer examination, however, it seems that Bertelsmann has had some initial success in bringing around the other labels. At Bertelsmann's urging, MusicNet's contract with the record labels calls for it to license its content to Napster, after legal and security hurdles are cleared. "We're actively talking to them, and I hope we can put something together," said Glaser.

For Real it is not a problem that Napster and MusicNet could end up with identical content. The aim in launching the MusicNet service is to expand the base for the Real Player technology, and the 70 million registered users of Napster will prove crucial to this.

For the record companies, the deal recognises that online music is here to stay, and they may be more successful in controlling it than in attempting to kill it off.

As part of the preparation of the recording giants for their entry into online music, they have already tested out several new technologies aimed at encrypting digital music files to limit their distribution.

*Reuters* reported April 26 that researchers who cracked four anti-piracy technologies in a contest sponsored by the music business decided not to publish their findings after the industry threatened a lawsuit.

The hacking contest was launched by the Secure Digital Music Initiative (SDMI) last September. In November, after weeks of speculation and embarrassment, the SDMI announced that it would pay the \$10,000 prize money to two hackers who had broken the system.

Students and professors from Princeton and Rice Universities, and an employee of Xerox Corporation's Palo Alto Research Centre, made up the research group, headed by Edward Felton, a Princeton University researcher. They had intended to make their findings known at a conference on Thursday April 26, but on April 9 Felton received a letter from SDMI and a senior lawyer for the RIAA threatening legal action under the 1998 Digital Millennium Copyright Act. Under this act, which was passed in 1998 as an extension to copyright law, efforts to defeat copyright protection methods are deemed illegal.

Felton said in a prepared statement, "We decided not to expose ourselves, our employees and the conference organisers to litigation at this time."

Universal and Sony also plan to launch their own

subscription-based service on Yahoo this summer. Duet will differ from MusicNet in that it will be a streaming only service. Subscribers will be able to listen to music while connected to the Internet but would not be able to download it to their computer, allowing Universal and Sony to control ownership of the files. Cable music channel MTV is to offer a pay-per-song download service on its MTV.com and VH1.com websites from all five major labels. A handful of tracks are already available, with 10,000 expected by the summer.

Fans can also look forward to continuing free music file download systems, as new Napster clones and other services based around the Gnutella open software project emerge daily. According to the Gnutella News Web site, "Gnutella is a fully-distributed information-sharing technology. Loosely translated, it is what puts the power of information-sharing back into your hands." Unlike Napster, Gnutella has no central server and is therefore extremely difficult to shutdown.

"There are a few things that will prevent Gnutella from being stopped by lawyers, FBI, etc. First, Gnutella is nothing but a protocol. It's just freely accessible information. There is no company to sue. No one entity is really responsible for Gnutella," writes Gnutella News. Initial complaints about the difficulty of using the service are rapidly being addressed, with new software being developed everyday.

For the subscription-based services to compete with their free counterparts, they will have to offer unique content. It is possible that we will see a situation in which publicly released music would be widely available for download, with previews of unreleased tracks only being available via streaming technologies.



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