
THE MUSIC INDUSTRY CASE ANALYSED THROUGH THREE DIFFERENT THEORETICAL FRAMEWORK

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Abstract

The music industry has been facing a crisis since the end of the 90s due to the development of a series of technological innovations that allowed the rise of online piracy, and this has led to a number of actions from the music labels and its representatives to try different actions to diminish and/or eliminate this piracy. In this article we seek to analyze this situation of crisis and change in the music industry through the perspective of three different theoretical frameworks: the Neoclassical Economical Theory, the Economics of Transactions Costs and the Theory of Fields. This article utilizes a bibliographical research on articles and books that utilizes any of these theoretical frameworks to explain and study the crisis in the music industry.

Key words: *music industry, Neoclassical Economical Theory, Economics of Transaction Costs, Theory of Fields*

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1. Introduction

In the late 90s the music industry begins to show declining sales and profits. According to the music industry associations, major labels and a numbers of scholar researching the subject, the cause of this decline was the emergence of virtual piracy, which allows internet users to obtain music for free, although illegally. In turn, the virtual piracy has become possible thanks to the emergence of a number of technological innovations: MP3 files, broadband internet connections, file sharing softwares, CD and DVD burners and MP3 players.

The music industry, especially the major labels and their associations have responded to this new reality through processes against file-sharing networks and later against the users of these networks. Nevertheless, the volume of downloads has not decreased on the long term, so these actors quit this approach. Concurrently these organizations have also developed marketing campaigns aimed at educating the public about the illegality of piracy virtual. These organizations also resorted to pressure and campaigns in favor of copyright laws tougher and broader.

But recently, the major labels have adopted at least some of the technologies that are appointed as the source of the fall in sales and profits. They did this by establishing virtual stores and purchase of file-sharing networks. And according Pfanner (2013) sales in digital format are responsible for increasing the overall sales of the music industry, for the first time since 1999.

The crisis in the music industry was the beginning of a crisis that began to affect several if not all cultural industries, such as motion picture industry, publishing industry and the game industry. According to Power and Nielsen (2010) in 2006 the creative industries employed 6.5 million people in Europe alone, showing that they have significant impact on the economy as a whole.

The situation of the music industry has been analyzed from various theoretical frameworks, in this paper we analyze and compare three of the most popular theoretical frameworks when analyzing the music industry situation. These theoretical frameworks tend to analyze not only the artistic impact of virtual piracy but also the economic impact of the situation, the actions of the main actors and the legislation in question. So we chose to analyze the treatment given to the subject by Neoclassical Economic Theory, New Institutional Economics and the Theory of Fields. This paper will be constructed through bibliographical research about the literature regarding the three theoretical approaches and analysis that each one of them makes of the crisis in the music industry and its subsequent ramifications.

2- Neoclassical Theory and the music industry

The neoclassical theory considers music to be a information good, also, it considers that actors have unlimited rationality and perfect information. According to Shapiro and Varian (1999) Information goods have high fixed costs and low marginal costs. Thus, if the market for information goods have free entry is possible that new players enter the market in question, making it difficult for the actors who engaged in the initial fixed cost to recover that

amount. Thus, making these markets less attractive, and that happens due to the risk of not recovering the initial fixed cost for the production of the good.

Information goods are also described to possess characteristics of public goods, and these characteristics are: non rival consumption and imperfect ability to exclusion by the owners of the property in question. With respect to non-rival consumption, this implies that the consumption of an individual does not impact the consumption of other individuals, which means that the consumption of an individual does not diminish the benefits that others can get by consuming the good. Regarding the imperfect ability of exclusion by the owner of the good, it means that since the product was released is impossible for the owner of the good to stop actors who have not paid for the good from benefiting from it.

According to Andersen et al. (2000) these characteristics of public goods mean that the production of this type of good faces great uncertainty and risk. According to the authors the production of these goods is still facing great uncertainty regarding the demand side, as this is significantly influenced by factors such as fashion and trend, bringing uncertainty to the investment.

Shapiro and Varian (1999), Andersen et al (2000) and Molteni and Ordanini (2003) claim that another source of uncertainty regarding the production of cultural goods is the experimental characteristic they present. That is, the consumer only knows the value of the product when she experiment the good, and according to the authors, this uncertainty can cause problems of coordination.

The neoclassical theory sees information goods, such as cultural goods, as a market failure, that due to the characteristics of public goods they possess. As noted by Liebowitz (2011), ideal conditions for the production of this kind of good occur to the point where marginal revenue equals marginal cost, thereby producing the greatest possible benefit for all involved (both for society and for the producer). In normal conditions, according to neoclassical theory, a free market tends to maximize total surplus (consumer surplus plus producer surplus), the surplus is the benefit that a particular good provides for society.

However, according to Liebowitz (2011) and Varian and Shapiro (1999), when we consider the market for cultural goods such as music market, we observe a market failure, which means the production of these goods does not reach the level where marginal revenue equals marginal cost. This is because the free market entry prevents producers who incurred the initial fixed cost from recovering it. Thus, there would be no incentive to produce these goods.

The neoclassical theory sees the establishment of copyright law as a measure to remedy the market failure that would lead to underproduction of cultural property. According to Liebowitz (2004c) and Shapiro and Varian (1999) legislation serves to establish a legal monopoly, whose goal is stimulate the production of cultural goods. The legislation does this by establishing barriers to market entry, and providing that the actors have invested in the production of the good are able to recover the amount invested. According to Landes and Posner (1989), because the target is economic efficiency, the purpose of copyright law is to maximize the benefit created by the new good less losses from limiting access to this work, so the legislation seeks balance between limiting access to goods and benefits to stimulate the creation of new goods, a point which is emphasized by Shapiro and Varian (1999). This is because cultural goods are not only a result of the creative process, but also an input for new cultural goods (ANDERS et al. 2000; NADEL, 2003; DEMERS, 2006). Thus, limiting in excessive way the access to cultural goods can hinder the production of new cultural goods.

According to Landes and Posner (1989), once established copyright law, production should be established at the level where the expected revenue is equal to marginal cost, since the demand is not known. Thus, the difference between revenue and cost should be sufficient to cover the cost of expression (first cost).

The cost of expression is different for each actor considered. Thus, according to the theory the production of cultural goods increases in response to stimulus generated by the copyright laws, to the extent that the return of the last good is equal to its cost of expression.

However, according to Liebowitz (2004c) the establishment of the legal monopoly does not warrant the establishment of an economic monopoly, which according to the author minimizes the negative effects of the monopoly. That happens because the establishment or not of the monopoly depends on consumer's perception and lack of substitutes goods. According to the author this means that only the goods that consumers consider valuable will have the legal monopoly converted into economic monopoly. However, according Ramello (2004c), considering that the producers of cultural goods are rational agents that implies that they should try to transform the legal monopoly in economics. And, according Ramello (2004a) cultural goods tend to be differentiated, with little possibility of substitution.

So according to Liebowitz (2004c) the copyright law is designed to remedy market failure, and tries to minimize the impact on the market, being neutral. However, some authors such as Andersen et al (2000) and Ramello (2004a and c) claim that the law, being an instrument of market regulation, has an impact on the market. According to Ramello (2004c) the legislation may even trigger rent seeking behavior by some actors, since the authors should seek the transformation of the legal monopoly into economic, and according to the author, actors should seek to maintain a monopoly for as long as possible .

Ramello (2004c) further states that copyright law can lead to waste of resources, because, the transformation of the legal monopoly economic depends on consumer perception. According to the author that makes most of the investments turn to a few artists, and also favors market concentration, since it allows producers to try to raise barriers to entry by acquiring a large amount of goods. Thus, copyright law causes waste of resources and would affect the market structure. Also, according to the author the waste of resources can be seen in the amount of resources spent in marketing, as shown by Peitz and Waelbroeck (2004b) in 2002 marketing took about 25% of a CD production costs. According to Nadel (2003) and Ramello (2004a) marketing campaigns have the function of shifting consumer preferences and also represent wasted resource. Thus, the legislation would have a long term impact on the market structure, and would also impact on the behavior of consumers and producers

As instrument of economic policy, the copyright law is to promote economic efficiency and therefore protects cultural property, protects expressions of ideas, but not ideas (LANDES, Posner, 1989). And according to Landes and Posner (1989), the fact that the law protects expressions of ideas and not ideas is because of the question of economic efficiency. And that is because if the legislation would allow protection of ideas that would guarantee protection for the first actor, while others would be forced to spend time and effort developing new ideas or incur high transaction costs by negotiating the copyright. And any of these possibilities would cause general welfare of society to fall, and reduce the production of cultural goods. Moreover, Landes and Posner (1989) also claim that the protection of ideas could lead to rent seeking behavior by the actors due to the low cost of producing an idea. The authors also highlight the high administrative costs of protecting an idea, because the boundaries between one idea and another would have to be analyzed case by case.

October 07-08th, 2013

Center for Organization Studies (CORS)

USP (University of São Paulo); FGV (Getúlio Vargas Foundation); Insper (Institute of Education and Research); UFBA (Federal University of Bahia); UFRJ (Federal University of Rio de Janeiro) and UFSCar (São Carlos Federal University)

Nevertheless, Landes and Posner (1989) and Ramello (2004c) claim that the difference between idea and expression of idea is not always clear, and that the boundaries between them are confusing.

Also regarding the efficiency of copyright, Towse (2000), states that despite the fact that legislation ensure the possibility of an economic monopoly over the cultural goods, many artists do not enjoy the benefits of this monopoly, and this happens because of the contracts most artists have with publishers (labels, publishers etc.). According to Ku (2001), copyright is designed not only to protect the authors of cultural property, but also the actors responsible for the production and distribution (the publishers: record labels). This becomes possible because of the separation of moral rights of the goods, which are always of the author, and the ownership of the economic rights that can be sold. And because of this, Towse (2000) and Ku (2001), state that the efficiency of copyright is diminished, since the percentage of incentive that goes to the authors is smaller than at first sight.

Furthermore, Ramello (2004a) states that the market and industrial production are unable to understand and integrate the whole dimension of cultural creation, because according to the author, knowledge has aspects not related to the market. According to the author this is because cultural creation, as well as the knowledge, has a social origin. And according Ramello (2004a) and Molteni Ordanini (2003) because of its social origin, cultural good increase their value as it spreads.

2.2 – Technological innovations and strengthening of copyright law

As answers to a series of innovations initiated in the 90s, with MP3 files, which led to the dematerialization of music and facilitated online piracy, the Majors and their associations have been lobbying the government in favor of a strengthening and extension of the terms of copyright. That is because, according to Lessig (2004), this set of technological innovations has weakened the legislation, and as an answer the big entertainment companies and their associations have been pressuring governments seeking stronger and more comprehensive laws.

However, this strengthening of the law has caused controversy, especially with regard to its economic efficiency. According to Akerlof et al (2002) for this extension of the legislation to be economically efficient it is required that the costs are equivalents to the benefits. Both Akerlof et al (2002), Liebowitz (2004a) and Varian (2004) argue that there is an increase in benefits due to the extension of copyright terms. Nevertheless Akerlof et al (2002) argue that the increase in costs are significantly higher than the increase in benefits, according to the authors the increase in the benefit is too small and too far in the future, when we consider the creation of new goods. The authors also do not agree with the statement that the extension of the term of copyright should stimulate the production of a greater amount of cultural goods. That's because, according to the authors, considering that the producers of these cultural goods are rational actors they should invest in projects that present higher return than the cost of capital, and therefore will not invest in subprojects, and therefore will allocate these resources to other investments.

On the other hand, Liebowitz (2002a) counter arguments building an elastic supply curve, which responds significantly to increases in production incentive. And to restate his argument the author builds a sample of best-selling books of 19020, of which half remains posted for a long time. And in order to rebate Liebowitz's (2004a), Varian (2004) states that even with an elastic supply curve of the incentive remains small, and that if the work continues to be published for a long period of time means that it is a work of great merit and

that this good would bring great social benefit by passing to the public domain. Still regarding this discussion, Lessig (2004) argues that most of the material stops being published very fast in the Unstated States, and according to him only 25% of the material published in 1973 had the copyright renewed.

Thus, Landes and Posner (1989) state that when considering new goods, to extend the length of copyright protection brings little benefit, but also brings a few costs. However, the authors point to the fact that when we consider the work already completed the increase in costs derived from the extension is inversely proportional to the time left for the good to turn in the public domain. Thus, the shorter the time the higher the cost. The authors state that due to the fact that copyright allow producers to set the price above marginal cost (because the marginal costs of the music industry, as well as other cultural industries, is very low) and an extension of the period of protection would increase the time that the price can be set above marginal cost. With regard to consumers Landes and Posner (1989) state that these will be in a worse position and should experience a negative effect, derived from the fact that their surplus is being transferred to producers. It also increases the time that dead weight loss due to the monopoly will occur.

However, Liebowitz (2004a) states that the deadweight losses of monopoly should not be considered when analyzing the efficiency of copyright law, because according to the author, this is the only way to make cultural property available, so society would otherwise suffer with sub production due to these goods characteristics of public goods. Nevertheless other authors suggest alternative systems or modifications to copyright law.

This strengthening of the legislation has threatened to reduce or eliminate the legal restrictions that now exist for the use of copyrighted material. In the United States they are called fair use and serve to ensure the limitation to the law of copyright, in the UK the clause is called fair dealing, as Brazilian law there is a list of excesses. Generally these excesses assure the use of these goods for the purposes of parody, satire, criticism, teaching, research and journalistic coverage. In the U.S. fair use has been used also as a defense in cases of copyright infringement (DEMERS, 2006).

According to Liebowitz (2002) mechanisms such as fair use are necessary when the cost of collecting the payment is greater than the payment itself, thus working within a cost-benefit analysis.

According to Wendy Gordon (in Depoorter and Parisi, 2002) mechanisms such as fair use reallocate the ownership of knowledge in order to minimize the negative effects of raising the barriers of entry in the relevant market. Thus, when there are obstacles for the formation of the market, that are able to frustrate the establishment of consensual transfer models, mechanisms such as fair use helps in the dissemination of information and cultural goods.

3 - Economics of Transaction Costs

Likewise the Neoclassical Theory, Economics of Transaction Costs also consider that cultural goods are information goods, however, ECT have different assumptions. According to Williamson (1985) ECT is part of the New Institutional Economics, and focuses on the study of organizations.

According to Williamson (1985) the actors have limited rationality, which prevents them from obtaining and processing all the information. According Farina (1997) the limitations of human behavior is based on neurophysiological and language limitations, which results in limited ability of actors to process, accumulate and transmit information.

Moreover, according to Williamson (1985) the actors have different degrees of opportunistic behavior. According to Fianni (2002) opportunistic behavior manifests primarily through the manipulation of information asymmetries with the goal of generating a profit. However, according to Williamson (1985) the actors do not behave opportunistically all the time, but can behave opportunistically at certain times.

Therefore, the economic agents in the music industry have limited rationality and present opportunistic behavior. Because of the limited rationality the copyright legislation is not flawless, and because economic agents present different levels of opportunistic behavior these agents could explore these flaws in the legislation in order to gain economic benefits.

The economic agent for ECT is the contractual man, who has limited rationality and presents opportunistic behavior (WILLANSON, 1985 Benze et al, 2009) and the unit of analysis is the transaction. According to Benze et al (2009) the transactions are carried out by economic agents within a given institutional environment.

Institutions can be defined as behavioral norms that are internalized by members of a society, and thus affect the behavior of these individuals (ULLMANN-Margalit, 1977; ELSTER, 1989; PLATTEAU, 1994; BENZE et al, 2009). Scott (1995, p.45) states that "institutions are multifaceted systems incorporating symbolic systems - cognitive constructions and normative rules - and regulative processes, both are put into practice through social behavior, as it is constructed.". Furthermore the author believes that this type of analysis has three main pillars: regulation, normalization and cognition.

Thus, institutions are rules of behavior, which may be formal or informal rules, and these rules form the institutional environment, over which the economic activity develops (Farina et al, 1997). And according to North (1994) the formal rules need to be legitimized by the informal rules, and if that does not happen the chances are the formal rules will not be respected.

This way, in the case of the music industry according, to Benze et al (2009), the copyright law is a formal rule, but the occurrence of physical and virtual piracy work against the legitimization of the formal rule. Also Rowan and Meyer (1991, 1997) affirm that the condition of illegality reflects a value that is being internalized by the society, and that the very illegality condition tends to reinforce this value. Thus, according to Benze et al (2009) the fact that piracy is higher in some countries than in others show in these countries the piracy is an internalized value, that it is not considered immoral. And according to the authors a number of marketing campaigns were released in order to try and revert this situation showing piracy as a damaging and immoral act, being this an attempt to internalize the value (to make people consider piracy immoral, and this way help legitimize the copyright laws).

It is clear that institutions affect both the economy as a whole as well as the arrangements for cooperation and competition among actors. So, different institutional environments will allow different kind of actions for the actors. Therefore, the level of opportunistic behavior depends on the institutional environment.

As noted before the analytic unity for ECT is the transaction itself. And according to Benze et al (2009), considering that this transaction occurs among economic actor that are seeking to optimize the solution in a given institutional environment, the result is that the existing structures and institutions are those that minimize the transaction costs. According to Feltre (2005) transactions costs are those involved in the negotiation and development of the contract, in fiscalization and measurement of the property rights, adaptation, organization, monitoring and other costs.

Transactions have 3 basic characteristics according to ECT: asset specificity, risk and frequency. Asset specificity refers to the degree in which an asset can be renegotiated once the transaction to which it was destined fails to occur. That means that some assets cannot be used in alternative transactions without a loss. So if the possibility of renegotiating the asset if the initial transaction fails is right it is expected that the transactions costs are lower than if the possibility of renegotiation is low. In the last case the economic actor should, before completing the transaction, take measures to safeguard himself against the possibility of fail in the transaction, and this should raise the transaction costs.

About the second characteristic, the risk, every transaction presents a degree of risk, and that is due to the expectations of losses and winning of the parts involved in the transaction. Transactions with a lower risk tend to have lower transactions costs, while when the risk is right the costs are also right. In the case of the music industry the demand is unknown and that increases the risk in the transactions in this industry.

The last characteristic is the frequency of the transaction; the transactions can be occasional or recurrent. If the transaction is recurrent the agents can divide the transaction costs throughout the period in which the transaction will occur. Also opportunistic behavior is more likely to happen in occasional transactions, that happens because if economic agents incurs in opportunistic behavior in recurring transactions this could jeopardize continuity of the transaction. So the transaction costs are lower in recurrent transactions than it is in occasional transactions.

As pointed out by Benze et al (2009) transaction costs are divided in ex-ante and ex-post. The ex-ante costs are those that can be identified before the transaction takes place, while the ex-post cannot be identified before. The ex-post costs are caused mainly by the limited rationality and opportunistic behavior. Because of the limited rationality the contract is incomplete, and this makes it frail in face of opportunistic behavior. And that is the reason for the importance of the enforcement structure, which is designed to guarantee that what is established in the contract will be followed.

The enforcement structure in the case of the music industry has not being able to effectively repress piracy. According to Benze et al (2009) if piracy was considered a legit practice in a society, even though being an illegal practice, if the enforcement structure was strong it would be possible to punish people who engaged in piracy in a way to dissimulate the practice making it less common. This way, through the enforcement structure would be possible to shorten the distance between what is in the law and contracts and what happens in reality. Therefore the enforcement structure would help legitimize formal rules that before were not respected. But in the case of the music industry the enforcement structure has not being capable of diminishing the illegal behavior, and with the development of new technologies that so easily allows people to practice online piracy the efficacy of this enforcement structure is decreasing.

The consequence of this is the increase of the transaction costs. And that happens because the bigger the enforcement structure the higher are the transaction costs, and in consequence the higher the prices of the product tend to became. Therefore more attractive the pirate products became.

However, according to Scott (2000) The Economics of Transaction Costs does not allow a thorough analysis of how institutions are formed, or how they change through time. Thus this approach may not be appropriate to analyze crisis and changes in the environment or in institutions. And considering that the recent events in the music industry are market for

the chances and crisis ECT may not be the best approach to study this industry. Also, according to the author Williamson's approach ignores the normative and cognitive elements.

4-fields and habitus

According to Bourdieu (2005b) there are arenas where the actions unfold and the actors construct relationships, these are the fields. According to Bourdieu (2005b) fields exist and are formed by field sources, which are the different actors, and their respective resources, these actors relate to each other forming the field. Thus, are part of the field actors and institutions that are somehow affected by the field, or in any way affect the same field (Bourdieu, 2005a).

Also according to Bourdieu (1983) despite the different fields having different characteristics, they also have "invariant rules of operation.". Thus, according to the author in every field there is a fight. It is also characteristic of field to have objects of interest in dispute, and these objects of dispute do not have the same value in other fields. However, we need players willing to play the game in this particular field and we need these players to possess the habitus of the field, otherwise they will not be able to understand the field or the disputes occurring in it

Each actor has a set of resources or capital that helps determine your position on the field, as these capital help determine the power that this actor has about what is happenings within the field. Thus, Bourdieu (2005b) states that the field structure is shaped by the distribution of forces between the agents within the field. This is because these features help the actor to try to coerce or force the cooperation of other actors.

Fligstein (2011) and Fligstein and McAdam (2012) develop the concept of Strategic Action Fields (SAF) According to Fligstein and McAdam (2012) SAFs are socially constructed spaces, and they are socially constructed in relation to three aspects: 1) membership - rules that determine which actors belong to the field tend to be more subjective than objective, 2) the Field boundaries are not fixed, but change according to the situations, 3) are socially constructed because they are based on a set of shared understanding (about what is at stake in the field, on the positions of the actors in the field, as well as in the rules of the field and on the interpretive structures that actors use to analyze the actions of other actors, according to Fligstein (2009), these are similar to the concept of habitus, Bourdieu). Thus, the habitus does not correspond to an immediate and thoughtless response, but it is an intelligent answer, according to reality. Bourdieu (2005b) argues that the habitus is relatively constant and durable in time. The choices are embedded in a social and historical context, and are recognized as rational in a particular region within a certain period of time.

According to Fligstein and McAdam (2012) when analyzing a field there are seven elements relevant to the analysis: 1) the field itself, 2) incumbent actors, challengers governance units, 3) social skills; 4) Broader field environment; 5) exogenous shocks; 6) episodes of contention, 7) settlement.

According to the authors the SAFs are not isolated but are related to other SAFs, and these can be far or near from each other and can present dependent, independent or interdependent relationship. Thus, as the field is connected, a change in one field can have consequences in other fields; but only dramatic changes would be able to pose a threat to stability in the nearby fields. When these changes are large enough to break the balance of the fields, there can be seen episodes of contention, which are defined by the authors (McAdam, 2007, p. 253 in Fligstein and McAdam, 2012, p.21.) as a "period of emergent , sustained

contentious interaction between ... [Fields] actors Utilizing new and innovative forms of action vis-à-vis one another. " These episodes bring with uncertainty about the rules of the field and the power relations established within it. Through changes in the rules of the field or through the reestablishment of the status quo, the episode of contention should lead to a settlement, so that the field does not find more in crisis and reach a new equilibrium.

So, what happened in the music business, when considered as a field, is that disturbances and innovations in nearby fields (the MP3 files, CD/DVD burners, broadband internet connections, file sharing softwares, etc.) had a destabilizing impact on the music market, causing a crisis that shook the foundations of the field. Thus, the appearance of this set of innovations which enables the realization of virtual piracy is the external shock that cause destabilization in the music field, causing an episode of contention.

According to Fligstein (1995, 2009) the formation, maintenance and change of the field depends largely on the social skills of agents within this field. Since, according to this author, social skills can be defined as the ability to induce the cooperation of other agents. According to the author some actors are better at inducing cooperation than others, and why he calls social actors more adept.

Within the fields Fligstein and McAdam (2012) distinguishes three types of agents: the incumbents, who are those agents with lots of resources to support their actions and viewpoints, and the challengers, who are the agents with little influence and little control over the countryside. According to Fligstein (1990) the incumbents not only provide a price leadership, but also help define the internal structures of firms, their culture and organization. And lastly Internal Governance Units, which are structures with regulative action, and seeking to ensure the proper functioning of the field.

In the case of the music industry the incumbents are the three major labels: SONY Music, Universal Music, Warner Music and their representing organizations. These majors labels actors with greater resources and whose actions exert stronger impact on the field. They are also responsible for establishing organizational cultures and business strategies. The challengers are the small independent labels, which usually specialize in niche markets (SILVA; RAMELLO, 2005).

According to Fligstein (1995) one of the main problems within a field is to determine what the rules are and how to ensure that they are met. As these rules do not benefit all agents the agents incumbent must have the required amount of resources to ensure that their strategies are followed, otherwise must rely on their social skills. According Bourdeiu (1983), once established the rules of field, even challengers, that tend to engage in subversive activities, remain within certain limits, since if they cross certain boundaries the actors run the risk of being expelled from the field.

The establishment of the rules to be followed and the way to ensure that these are met becomes possible because, as pointed out by Fligstein (1995, 2009), the social agents skillful use the opportunities offered by the field and are able to convince the other agents what will happen goes against their interests.

Thus, according to Fligstein (2009) the field is formed through the joint efforts of existing resources, the pre-existing rules and social skills, and according to this author these skills play a crucial role in the formation, stabilization and destabilization of fields.

According to Fligstein (1995, 2009) and Bourdieu (2005b) society is made up of several fields, which may overlap. And according to Fligstein (2001) many of these fields are the government. And these fields depend not only on the actions and motives of incumbent actors, but also on the society and its rules so that there is stability.

According to Fligstein (1990) the state's regulation may act to mediate the interests of the state and the interests of other stakeholders. However, it is common that the state favors the interests of large firms. Fligstein (2001) also states that these rules are instruments of power, because the incumbents actors will use these rules to their benefit, and also "the current set of institutions also provides actors with a way to figure out how to apply the old rules to new situations" (FLIGSTEIN, 2001, p. 36). Spheres and government institutions also act trying to ease crisis in several markets. According to Fligstein (2001) this is because markets are constantly being disorganized or destabilized, and during this process firms and workers exert pressure on the government demanding some type of intervention.

In the case of the music industry the incumbents actors also focused in the state, as indicated by Fligstein (2011) by asserting that in these moments incumbents actors turn to the state for support to restore the status quo. The major labels and their associations lobbied several local governments (like the U.S. and Europe) in order to extend and strengthen copyright law. More recently these organizations have pushed governments toward agreements such as ACTA (the international agreement governing copyright, ACTA has not been approved).

According to Bourdieu (2005) cultural goods have two distinct camps: the field of erudite production and the field of mass production. The first is an autonomous field, while the second targets and profit depends on the demand, which is external. The music industry analyzed in this paper is in the mass production field, and therefore Fligstein (2001) approach of analyzing a market as a field is useful to study the situation.

According to Fligstein (2001) markets are camps focused on the production, sale and purchase of goods and services, according to the author, these are social arena in which buyers and sellers meet. However, market dynamics may vary between sporadic and unstructured negotiations to structured and frequent negotiations. For the analysis of the music market, let us consider these two perspectives, that the market is a field and that this field is part of the field of mass production of music.

Relations of firms in a particular market with other markets are usually relations between firms, relations of customers and/or suppliers. These relationships help determine the relationships between incumbents and challenger in the market in question, as well as help to determine what firms are incumbents and what firms are challengers.

Thus, a market becomes stable when the product being traded has legitimacy among consumers. It is also necessary that the producers of that good or service are able to build a hierarchy, usually large firms dominate small, and this hierarchy helps incumbent actors to repeat, period to period, its advantages.

Once the hierarchy that allows stability in the market is established the relationship between firms that are part of this field shall be as follows incumbent actors are expected to produce cultural significance for this field and the other firms must follow.

Thus, the stability of a given field depends on the stability of its incumbent, the survival of the organization. So in a stable market the incumbent, or incumbents, reproduce and reproduce their advantages periodically. And is what was happening before the late '90s, when the music market was stable, presenting growing sales and profits. This shows that the incumbent players had the ability to reproduce their advantages from period to period, a fact which is confirmed by the domain that the four major labels mentioned above had on the market for over ten years.

According to Fligstein (2001) to analyze the markets as fields one needs to identify which rules and understandings are necessary to be able to consider the trade as socially

structured. Thus, according to the author there are four types of rules relevant to this: property rights, governance structure, rules and standards for the exchange and concepts of control. Each category serves to solve different problems. However, these categories do not refer to specific rules, but the abstract categories, which may include rules, practices of common market or a shared understanding within the actors.

With respect to property rights Fligstein (2001, p.33) states that the absence of such rules would preclude the exchange and therefore the establishment of a stable market. This legislation has the effect of balancing the market; it helps to define the relationships between agents, between owners of firms and other actors, determining who receives the return for the investment, and who is risking accomplishing it. Nevertheless the law of property rights is not fixed but undergoes continuous changes due to pressure from groups such as workers and associations of undertakings. For the cultural industry, music industry included, the property rights legislation is the copyright law and international treaties regarding cultural production (TRIPS, Berna Convention etc.) as well as acts like Digital Millennium Copyright Act (USA).

In relation to the governance structure, according to the author, this refers to the general rules of society that define what is competition and what is cooperation, and how firms should be organized, since the legality or illegality of competitive practices affect the internal organization of the firm. These rules can be divided into two categories: formal rules and laws and informal rules or institutional practices.

Trade rules (rules of exchange) help stabilize the market, as they establish what can be traded, how and with whom, so that these rules are valid for all without distinction. In this category we have law like the anti-trust laws, used for example, to rule situations like the sale of EMI.

Finally, conceptions of control refer to:

the market-specific agreements between actors in Firms on principles of internal organization (ie, forms of hierarchy), tactics for competitions or cooperation (ie, strategies), and the hierarchy or status ordering of Firms In Given the market. The conception of control is a form of 'local knowledge'. "(Fligstein, 2001, p.35)

Another point that should be noted is that the conceptions of control are historically and socially formed, so that are specific to certain markets, certain companies and certain periods of time. And when we consider a stable market from the point of view of analyzing this market as a field, it means that the relationship between incumbents and challengers are being defined through the concepts of control and that the incumbents will try to reproduce these relations in the coming periods.

Thus, Fligstein (2001) states that through the concepts of control firms can avoid the use of competition through price. According to the author price competition exerts pressure for firms to diversify and specialize in market's niche in order to protect themselves from competition through prices. This is because the competition by price has the effect of reducing the price and returns of the field in question, making the reproduction of the incumbent advantages from one period to another more difficult.

4.3.3 - change in markets

Fields, even when they are stable, are in constant negotiation and constant adjustments. Thus incumbents, despite being ever vigilant about what happens on the field, incur in two risks: of not recognizing the crisis, and not recognizing the crisis because that would mean that they are not in control of the situation(FLIGSTEIN, 2011 .) Thus, due to the constant adjustments, when changes happen this disruptions are "sporadic disruptions and

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turbulent." (Fligstein 2011, p.179). That may be the cause of the delay of the music industry in reacting to the development of virtual piracy.

In fact, since the concepts of control are established, and the field becomes stable, actors start to suffer restrictions due to the conceptions of control. This means that the analysis that these actors make of the actions of other actors, as well as of the crisis is linked to the conception of control established in this field, thus the attempts of incumbents actors to eliminate or minimize the crisis are also linked to the conception of control (Fligstein, 2001).

Thus, the incumbent actors of the music market, the major labels and the associations that represent them (like the RIAA) first utilized the actions related to the established conception of control and initiated legal law suits against those responsible for the software file sharing, getting to eliminate many of these software. However, constant changes in these new software prevented lawsuits against their owners. So the record labels and their associations began lawsuits against users of file-sharing software, who should be potential consumers of the music market, but these processes do not have the desired effect of reducing or eliminating piracy virtual.

After the failure of this actions the incumbents have also adopted the technologies that have been accused of causing the crisis, as pointed out earlier by Fligstein (2011) incumbents try to adopt the attitudes and strategies of challenging, so that they do not lose the meaning of subversion. Major labels have incorporated the internet as a distribution channel and installed several online stores, it has also increased the sale of music for mobile phones. And also started to invest in alternative business a model, like paid downloads.

With regard to the crisis that threaten not only the stability of the market considered as a field, but also the legitimacy of the rules, these happen when the incumbents are no longer able to reproduce their advantages from one period to another

In these situations the incumbents actors tend to try to restore the status quo, through which they are able to reproduce their advantages. However, one of the effects of the crisis that prevents incumbent actors from reproducing their advantages from one period to another is that as the fights become fiercer the internal structure of the field begins to be questioned.

5-Conclusion

As seem above, the Neoclassical Economic Theory has limitations when it comes to analyzing the situation in the music industry. This theory offers a static analysis and considers the production of cultural goods as a market failure and the copyright law as a neutral instrumental to correct this failure. Nevertheless, Andersen (2000) and Ramello (2004a, c) affirm that this instrument is not neutral, but has an impact in the market. Also, the Neoclassical Economic Theory focuses on the economic factors, excluding cultural, social or historical factors.

And although the Economics of Transaction Costs tries to analyses the music industry situation utilizing not only the economic factor, doing so through the institutions, formal and informal rules, it also lacks the possibility of explaining change. According to Scott (2000) the Economics of Transaction Costs does not allow the study of the formation of the institutions or how they change, the theory presupposes that the institutions and rules present in given institutional environment are those more adequate to this environment. This way this theory may not be appropriated to analyze the crisis and change in the music industry.

The Theory of Fields is capable of utilizing different factors to analyze the crisis and change in the music industry. This theory is capable of utilizing economic factors, social, historical and cultural factors. Through the Theory of Fields it is possible to analyses the

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dynamics of the interaction among major labels and small labels, as much as the relations among consumers and labels. It is also possible to analyse the crisis and the measures incumbents have been taking to reestablish the status quo, it is also possible to analyse the settlement.

Through this comparisons we believe that utilizing the Theory of Fields to analyse the crisis and change in the music industry could lead to a more complete explanation and analysis of the situation, because it would take into account social, historical and cultural factors as much as economic factors. And that could help explain why artists like Amanda Palmer are successfully being paid for music they offer for free.

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