



## **CHAPTER 8. Signing A Deal With Off-Line and On-Line Record Labels**

Getting signed to a recording contract is a goal to which many musicians aspire. A record deal provides a certain legitimacy to a musical act in an industry choking with wannabes. Whether the signing company is a major label or a tiny independent, a record deal can provide a greater promotional reach and put a larger support system behind your music career.

The traditional approach to signing unknown artists depended on A&R (artist and repertoire) staff going out to the highways and byways to sniff out talent. They would get their leads from insiders, such as managers and attorneys, or from industry “tastemakers,” such as radio DJs or music magazine editors, and then hop on a plane and catch the act at one of its performances. If the act lived up to its reputation, it would be offered a deal.

The Internet has now brought this rather clunky (and expensive) system to the desktop. A&R staffers can now monitor the success of emerging talent via the Net.

That’s what happened last year to Canadian world fusion act, Mohenjo Daro. With little more than a listing at MP3.com and their own modest homepage, the fledgling band was noticed by an A&R scout from Tandem Records (<http://www.tandemrecords.com>).

“When we got the call, we thought it was a joke,” recalls band member Zach Mechlem. “Tandem sent the contract and we met with a music attorney. She said it was one of the best distribution deals she had ever seen! Well, that’s all we needed to feel confident about signing.” The gist of the deal is a co-publishing/distribution agreement in which the label funds the promotion and distribution of their CD while the band organizes the booking and touring.

Mechlem and his bandmates are so far happy with the deal. "Our album has received great reviews and has made it onto several radio charts, including Canada's main world music chart, "Mundial." We have distribution throughout Canada as well as parts of the U.S., and our contract includes 'worldwide' distribution so things will only get better."

Composer and keyboardist Bradley Joseph caught the attention of New Age recording artist Yanni in 1988. After five years of touring and recording with Yanni, Joseph decided to start promoting himself using a new (it was 1994) tool known as the World Wide Web. In 1997, a person working for Narada/Virgin Records was browsing the Web, ran across his Web site (<http://www.bradleyjoseph.com>), and downloaded some music. This sparked their interest and resulted in them contacting Joseph and signing him to a multi-record deal.

Besides supporting traditional record labels, the Net has also spawned numerous "on-line" or "virtual record" labels. Some sell only physical CDs; some only downloads, a few only custom discs, and most, various combinations of the three.

On-line music labels often make big promises to new artists—wide exposure, an increased share of revenues, and the freedom to create music without fear of meeting sales quotas. But do the pluses of recording for an on-line label make up for the minuses? Sites such as MP3.com seem to promote themselves more than the emerging artists whose music they offer, so you have to be careful where you fish.

On-line labels turn away few artists looking to distribute music on-line, as opposed to major labels, who turn away just about everyone. But the big five recording companies are well-oiled publicity machines, manufacturing as many lucrative hype opportunities as CDs. Ultimately, on-line music distributors will have to offer more than higher royalties to keep talented artists from bailing if traditional labels come calling.

This is what made Universal Records' "FarmClub" so appealing when it appeared in 1998. The brainchild of Doug Morris, the idea was to give aspiring talent a chance at a major record deal via the Internet. Unfortunately, some of the more constrictive and onerous elements of traditional record contracts also marked the deals offered by FarmClub. The major label enterprise didn't count on one of its early finds, the Rosenbergs (<http://www.therosenbergs.com>), to reject the deal it was offered. The

band's main gripe was over Universal's demand to own the band's domain name. To the Rosenbergs, this was going too far. Their rejection of the deal became a media magnet and an enormous PR black eye for Universal. As a result, the label has since backed down on its domain name ownership demands.

And the Rosenbergs? Their actions, according to band member Evan Silverman, "resulted in us getting a deal with Robert Fripp's Ryko-distributed label, Discipline Global Mobile (DGM), which allows us to retain control of our masters while still receiving money for tour support, promotion, and so on."

The "open-door" policy of many on-line record labels hasn't exactly resulted in a flood of high-level music. In fact, indiscriminate signings often lead to *lower* quality music. "There's a lot of crappy music on the Net [and] on our site," says Michael Robertson, CEO of MP3.com. "But somebody has to make the choice. Should it be a record label or a consumer?" Robertson said he's signing up one hundred bands a day to his D.A.M. on-line record label, which promotes physical CDs with free MP3 files and splits sales 50/50 with the artist.

Some feel that the digital record companies bear too close a resemblance to major labels. They sometimes demand exclusive three- to five-year deals, even though the technology is moving too fast for these kinds of long-term commitments. Many artists are also concerned about the "cash-out" strategy a number of these companies employ where they create a media buzz for themselves, splash the market with a huge IPO (Wall Street lingo for "initial public offering"), and then sell out to a mega-corporation a year later.

Founded by former Talking Heads keyboardist Jerry Harrison, on-line record label Garageband.com takes an intentionally new approach to developing artists and getting signed. Along the way, Harrison teamed with Sir George Martin (famed Beatles' producer) who serves as chairman of an advisory council that includes Brian Eno, Steve Earle, Steve Lillywhite, and other industry heavyweights. These guys know how "standard industry practices" can kill a music career, and they're out to reform them.

In May, 2001, Garageband.com announced a novel program called "The New Deal," a marketing and distribution program for unsigned musi-

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The power to decide which new bands get the big breaks.	Earn \$\$\$ selling your band's CDs!
Unlimited free MP3s.	Free gig promotion to over 500,000 music lovers
Tomorrow's biggest acts... today.	Expert advice from world-class producers such as Jerry Harrison, Sir George Martin, and Brian Eno.

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Fig. 8.1. Garageband.com offers a "New Deal."

icians. Using a tiered approach, five bands drawn from the site's bi-monthly, top-20 charts receive an initial infusion of cash (around \$10,000 each). Bands also receive a wide range of legal, marketing, and distribution services in order to help them to chart a successful course. As a band's success develops, so does the level of the site's financial participation. If a band achieves its sequential sales targets, it becomes eligible for a \$250,000 recording contract that includes artist ownership of the master, full publishing rights, and a 13 to 15 percent royalty rate.

The value of this kind of deal is that it demonstrates a commitment to the artists for their long-term development. Unlike a “normal” recording contract from a major label, which must yield to the relentless pressure for quarterly profits, this deal allows bands to grow in a smart, sequential way, with just enough support to keep the artists solvent and their audiences growing.

### **Signing Guidance**

If you are going to sign with an on-line record label, you will want to hire an attorney to look over the contract just as you would if a traditional label offered you a deal. Also, be sure to ask the following questions as you assess various label options:

1. How well known is the label? Have you seen its name in the news? Are people talking about it? The label needs to attract visitors to sell your music and to attract visitors; it needs to be visible.
2. How will people find your music at the label’s Web site? It’s no good being listed with a label if no one will ever find your songs. Look for smart navigational tools on the label’s Web site so that people can find you easily.
3. What software do you need to access the site? Avoid sites that demand that the user download proprietary software in order to access its music holdings. That kind of process can be a turn-off.
4. When will you be paid? Remember, the label gets its cut however many times your song sells, but you don’t really make anything until they send you a check.
5. What’s the royalty rate? If you receive an advance, then a lower royalty rate is normal. If you don’t receive an advance, don’t fall for anything below 50% of gross sales today.
6. How quickly can you terminate the contract, and does the label retain any rights over your music? This should require no more than a clean and quick letter of termination. Never sign with a label that claims ownership of your masters.

7. Does the label offer any extra values, such as affiliate programs, contests, and so on, that will drive more traffic to the site and more money into your pocket? Be sure to explore these.
8. Does the label require exclusive rights to anything? Most Net labels are non-exclusive. Those that are exclusive must be able to show good reason to be (for example, they're plugged into terrestrial radio and retail, or they have strong media presence).
9. Is the site design consistent with your band's image? If you're a metal band, you don't really want to be at a site that looks like a peaceful forest or a tropical island.
10. Does the site allow you to have your own Web site and domain name in addition to your page at the label's site? If you don't have your own Web site, you should look for a label that will give you your own corner of the Web with an address you can promote on your posters and flyers.
11. What does it cost you? A lot of labels have setup costs, which you might recoup through higher royalty rates. But be sure you know and trust what you're buying, because plenty of sites are totally free.
12. Finally, speak to similar acts already with the label to see how much success they've had with it.