Orchard Enterprises, Inc.
Form 10-K
March 25, 2010

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 10-K

(Mark One)

x **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For The Fiscal Year Ended December 31, 2009

or

o **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For The Transition Period From to

Commission File Number: 000-51761

THE ORCHARD ENTERPRISES, INC.

(Exact Name of Registrant as Specified in Its Charter)

Delaware (State or Other Jurisdiction of Incorporation or Organization)	20-3365526 (I.R.S. Employer Identification No.)

23 East 4th Street, 3rd Floor
New York, NY 10003

(Address of Principal Executive Offices, Including ZIP Code)

(212) 201-9280

(Registrant s Telephone Number, Including Area Code)

Securities Registered Pursuant to Section 12(b) of the Act:

Title of Each Class	Name of Exchange on Which Registered
Common Stock, $0.01 par value	The Nasdaq Stock Market LLC

Securities Registered Pursuant to Section 12(g) of the Act:
None

Indicate by check if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Act:Yes o No x

Indicate by check if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act:Yes o No x

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days:Yes x No o

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Website, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files).Yes o No o

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant s knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. o

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of large accelerated filer, accelerated filer and smaller reporting company in Rule 12b-2 of the Exchange Act. (Check one):

Large Accelerated Filer o	Accelerated Filer o
Non-accelerated Filer o (Do not check if a smaller reporting company)	Smaller Reporting Company x

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act):Yes o No x

As of June 30, 2009, the aggregate market value of the registrant s common stock held by non-affiliates was $6,298,792 based on the closing sales price for the registrant s common stock, as reported on the NASDAQ Global Market System on such date.

As of March 19, 2010, the registrant had 6,378,252 shares of common stock outstanding.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the registrant s proxy statement for the 2010 Annual Meeting of Stockholders are incorporated by reference into Part III of this annual report on Form 10-K to the extent stated herein.

THE ORCHARD ENTERPRISES, INC.

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FORWARD-LOOKING STATEMENTS

This annual report on Form 10-K contains forward-looking statements within the meaning of the federal securities laws. These statements relate to future events or our future financial performance and involve known and unknown risks, uncertainties and other factors that may cause our actual results, levels of activity, performance or achievements to be materially different from those expressed or implied by the forward-looking statements. In some cases, you can identify forward-looking statements by terminology such as may, likely, will, should, expect, plan, anticipate, believe, estimate, predict, potential, continue or the negative of these terms or other comparable terminology. These forward-looking statements are subject to a number of risks that could cause them to differ from our expectations. These include, but are not limited to, risks relating to:

Our financial condition and results of operations, including expectations and projections relating to our future performance and ability to achieve profitability;
Satisfaction of the conditions of the pending merger with Dimensional Associates, LLC, or Dimensional, including the approval of a majority of our stockholders unaffiliated with Dimensional;
The costs and expenses associated with the pending merger;
Contractual restrictions on the conduct of our business included in the merger agreement, and the potential loss of key personnel, disruption of our sales and operations or any impact on our relationships with third parties as a result of the pending merger;
Any delay in consummating the proposed merger with Dimensional or the failure to consummate the transaction;
The outcome of, or expenses associated with, any litigation which may arise in connection with the pending merger with Dimensional;
Our ability to capitalize on our business strategy, including shifting our revenue to a more diversified revenue mix, including physical distribution;
Our ability to take advantage of opportunities for revenue expansion, including through acquisitions, delivery of video content, organic growth in distribution and revenue growth from higher margin owned and controlled content;
Ongoing growth in our industry, particularly gaining market share in the growing digital music and mobile distribution markets, as well as the developing market for digital delivery of video;
Our ability to continue to acquire digital rights and market our value-added services to content owners;
Complexities involved in the payment and collection of royalties for digital distribution of copyrighted material and risks associated with availability of indemnities to protect us from liability for copyright infringement;
Distribution of our music and video content;
Evolving digital entertainment services which offer variable or other forms of pricing which may reduce the cost per download per track;
Music and video piracy;
Rapidly evolving and changing competitive and industry conditions in the digital media industry, including potentially significant additional competition for digital distribution;
The impact of general economic recession and other market and economic challenges on our business; and
Our ability to maintain the listing of our common stock on The Nasdaq Stock Market.

You should not place undue reliance on these forward-looking statements, which are based on our current views and assumptions. In evaluating these statements, you should specifically consider various factors, including the foregoing risks and those outlined under Risk Factors. Many of these factors are beyond our control. Our forward-looking statements represent estimates and assumptions only as of the date of this annual report on Form 10-K. Except as required by law, we undertake no obligation to update any forward-looking statement to reflect events or circumstances occurring after the date of this annual report on Form 10-K.

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PART I

Item 1. *BUSINESS*

Executive Summary

In this annual report on Form 10-K, all references to we, us, our, or the Company mean The Orchard Enterprises, Inc. and its consolidated subsidiaries, except where it is clear that the term means only The Orchard Enterprises, Inc., the stand-alone parent company formerly known as Digital Music Group, Inc., which we sometimes also refer to as DMGI. When we use the term Orchard NY we mean our principal operating subsidiary, Orchard Enterprises NY, Inc., and its consolidated subsidiaries that we acquired in the Merger.

Background and Basis of Presentation

On November 13, 2007, The Orchard Enterprises, Inc. (formerly known as Digital Music Group, Inc. or DMGI) consummated a business combination with Orchard Enterprises NY, Inc. (formerly known as The Orchard Enterprises Inc., which we refer to as Orchard NY) through a merger of a subsidiary of DMGI with and into Orchard NY (the Merger). As a result of the Merger, Orchard NY became our wholly-owned subsidiary, with the former stockholders of Orchard NY collectively owning shares of our common and preferred stock representing approximately 60% of the voting power of our outstanding capital stock. The Orchard Enterprises, Inc. and its subsidiaries are referred to collectively as we, us, and the Company.

For accounting purposes, the Merger was treated as a reverse acquisition with Orchard NY being the accounting acquirer. Accordingly, the historical financial results prior to the Merger are those of Orchard NY and its consolidated subsidiaries and replace the historical financial results of DMGI as it existed prior to the Merger. The results of operations for DMGI and its pre-Merger consolidated subsidiaries are included in our consolidated financial results beginning on November 13, 2007.

Orchard NY was incorporated in New York in September 2000. On April 28, 2003, Dimensional Associates, LLC, or Dimensional, an entity formed by a group of private investors, invested in and acquired operating control of Orchard NY through the purchase of a convertible debt instrument followed by subsequent periodic funding events under similar conditions as the original convertible debt instrument. These debt instruments were redeemed or converted prior to completion of the Merger.

Asset Acquisition

On July 3, 2008, we acquired substantially all of the assets of TeeVee Toons, Inc. s record label business operations (TVT) in a bankruptcy auction. The assets we acquired included, but are not limited to, master recordings, artists agreements, certain inventory, accounts receivable and a real property lease. In addition, we assumed certain liabilities relating to the assets. For accounting purposes, the acquisition was treated as a business combination and the results of operations are included in our consolidated financial results beginning July 3, 2008.

Pending Transaction

On March 15, 2010, we entered into a merger agreement with Dimensional and a wholly owned subsidiary of Dimensional, pursuant to which Dimensional s subsidiary will be merged with and into us, with the Company continuing as the surviving company. Under the terms of the merger agreement, all of the outstanding shares of our common stock (other than shares held by Dimensional and its affiliates) would be converted into the right to receive $2.05 per share in cash and a contingent right to receive additional cash under certain circumstances up to six months following the merger. We hope to close the merger by the end of September 2010, subject to the approval of the merger by our stockholders, including by the holders of a majority of our outstanding shares (other than shares held by Dimensional and its affiliates), and the satisfaction or waiver of other customary closing conditions.

Business Overview

We are a global leader in digital media services, controlling and distributing more than 1.8 million music and audio recordings and approximately 5,000 titles of video programming and other materials through hundreds of digital stores (*e.g.,* Amazon, eMusic (which is controlled by our majority shareholder, Dimensional),

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Hulu, iTunes, Rhapsody, YouTube) and mobile carriers (*e.g.* Orange, Telefonica, Verizon, 3) worldwide. We generate income for our label and retailer by making these music and audio recordings and videos available for purchase and consumption at online stores and through innovative marketing and promotional campaigns, film, advertising, gaming and television licensing and other related services.

Today, our core business is derived from the retail sale (through digital stores) and other forms of exploitation of our controlled, licensed music catalogue; this core business represents 90% of our total revenues for the year ended December 31, 2009. Three customers, Apple iTunes Music Service, or iTunes, eMusic, and Amazon account for a significant portion of our total revenue and related accounts receivable. For the year ended December 31, 2009, iTunes, eMusic, and Amazon represented 60%, 5%, and 5%, respectively, of our total revenue and at December 31, 2009, accounts receivable from iTunes, eMusic, and Amazon represented 26%, 6%, and 5%, respectively, of our total accounts receivable. While revenue generated from eMusic declined approximately 26% from 2008 to 2009, revenue generated from Amazon increased by approximately 87% during the same period. We expect to generate more revenue from Amazon than from eMusic in 2010 as Amazon continues to grow in the market place and as revenue generated from eMusic declines primarily due to the addition of Sony s music catalog to eMusic s library in the third quarter of 2009 which increases eMusic subscibers options when downloading content. It is generally expected that digital music products will overtake and surpass physical music products (*i.e.,* the compact disc) and become the primary means of retail music consumption. We believe that this trend away from physical music products will be sustained, long term, and irreversible. We believe that the purchase of music content in digital format offers many advantages to consumers over physical form including larger selection, the ability to sample before purchasing and to purchase single tracks rather than entire albums, 24-hour access and portable format. We expect to derive revenue growth as a result of this trend.

However, currently most successful labels continue to generate the majority of their sales revenue from physical music products. In order to better compete with distributors who are primarily in the physical business but who insist on the inclusion of digital rights in their deals with labels, we expanded our menu of services by repurposing TVT s existing physical distribution infrastructure to provide physical distribution in the United States for select labels. For the year ended December 31, 2009, physical distribution represented 5% of our total revenue and 12% of our total accounts receivable.

We believe we will achieve growth through:

- Increased global sales on our existing catalogue as the market continues to shift to digital exploitation;
- Increased global sales as new entrants develop additional sales channel opportunities through existing and prospective retail business models;
- Comprehensive cross-channel opportunities exploiting digital and physical sales;
- Continued improvements in our marketing and promotion effectiveness; and
- Exploiting new content made available by existing clients, new clients who have yet to make their content available for digital exploitation and new clients that we win from our competitors.

We believe we are differentiated and well positioned as a digital music marketer and distributor relative to our competition. We have developed an effective global organization of employees, consultants and companies operating in 25 countries that source local repertoire for distribution by us, expand and service our network of digital entertainment service retailers and provide our ancillary services and products within their local territories. We believe the combination of a functional organization and orientation with strong local delivery capabilities is a powerful and advantageous combination for us and unique in the industry.

We believe that we have changed traditional notions of distribution by pioneering a broad suite of client services in addition to our primary music distribution and marketing business. These services range from placing a music recording for use in film, TV and advertising programming (referred to as synchronization), to global publishing administration (whereby we research and administer the publishing copyright royalties on behalf of master recording owners). Historically, we have often been first to market these types of new, nontraditional services to our clients and to make independent music that is not controlled by the four

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major music companies (Sony, Universal Music Group, EMI and Warner Music Group) available in new digital sales channels. For example, in 2009 we launched an industry first, scalable solution, for artists and record labels to launch their iPhone applications via turn-key technologies, resulting in the 2009 nomination for *Best Mobile Innovation Award.*

Our business requires limited capital expenditure and is highly scalable in terms of operating expenses. Following the implementation of a staff reduction initiative during the third quarter of 2009 that resulted in an elimination of approximately 20% of our pre-reduction headcount, we believe our fixed costs are right-sized in terms of our staffing, organization and technology and operations infrastructure and can support substantial revenue growth with minimum incremental costs. We expect there to be a positive impact on our earnings over time as we participate in the market growth of the digital music sector, provide physical distribution on a select basis, participate in the anticipated market growth in the video sector and continue to improve our capabilities and win new clients.

We also believe that our technology platform, marketing expertise and client services capabilities are directly applicable across a broad array of other entertainment media, particularly video, and that we can capture material incremental growth by moving into additional digital entertainment licensing areas when and as those sectors emerge as attractive investment opportunities.

Market Context

The digital segment of the worldwide recorded music market, which includes use of the internet and wireless, cable and mobile networks to select and download purchased music, is continuing to grow, albeit at a slower pace than we expected. For 2009, the International Federation of the Phonographic Industry (IFPI), an industry trade organization, has estimated digital sales of recorded music at 27% of the total market. According to the PricewaterhouseCoopers Global Entertainment & Media Outlook: 2009   2013, global spending on digital recorded music will reach $14.8 billing in 2013, up from an estimated $7.6 billion in 2008, a 14.2% compound annual gain, and digital sales will overtake physical (*i.e.,* compact disc) sales in 2011 for the North America and Asia Pacific. The pervasive and steady consumer adoption of digital music as a widely accepted format has created new opportunities for both content owners and digital entertainment services.

iTunes, which was launched in 2003, remains the dominant internet-based digital music retailer and offers consumers a pay-per-download service. However, other digital music retailers such as Verizon, Amazon, eMusic, RealNetworks, Spotify, and Napster offer consumers additional choices, with some offering broad access to content on various types of subscription bases. Consumers are also purchasing digital music in new ways, such as via applications on mobile handsets.

The global television and film video industry, like the music industry in 2003, appears to be experiencing the early stages of a transition from sales and rentals in physical formats such as digital video discs (or DVDs) and consumption through subscription cable services and ad-supported broadcast television to digital consumption through the internet, mobile-based downloading and on-demand subscription services. iTunes introduced television episode downloads in late 2005 and began offering feature-length film downloads in 2006. In addition to iTunes, a number of other significant digital video retailers, including YouTube, Netflix, Hulu and Amazon, have launched video download and streaming services. While the emergence of the digital video marketplace is nascent, we believe that it will offer us material revenue opportunities over time, in the form of permanent ownership downloads, rental downloads, subscription services providing access to large catalogues of video content and advertising-supported free viewing.

Business Description

We perform four basic business activities:

License or acquire digital rights and, in some instances, physical rights to music and video content from labels and other content providers;

Ingest, manage and deliver this content to our digital retail and other clients;

Develop and manage a global digital retail channel network to exploit our controlled catalogue and then proactively market to this channel network; and

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Drive additional value to our content suppliers, digital retailers and other clients through innovative new means to generate income.

License or Acquire Rights and Service Our Supplier Clients

We license or acquire the digital rights to music and video content from record labels, artists, television and film production companies and other content owners. As of December 31, 2009, we had over 1.8 million music and audio recordings (or tracks) for sale. Our music catalogue has been sourced from over 87 countries, encompasses thousands of labels and covers a broad and deep array of music genres and historical eras. Additionally, we control approximately 5,000 titles of video content and other materials. In 2007, we began making a portion of our video content available for sale.

In 2009, we continued our global effort to secure high profile long form video content to increase our offerings to current and potential video outlets and drive our video revenue. Successful signings included National Lampoon, VAS Entertainment, TrustNordisk, and independent film distributors Indiepix and Dogwoof Films. We believe we can continue to sign high profile film and television catalogs and that revenue will continue to grow as our video client-base increases, the digital video market advances and our retail footprint expands. As of December 31, 2009, we had approximately 5,000 titles of video programming and other materials available for sale.

We acquire digital rights to music and video content as follows:

Shorter-Term Distribution Rights. We obtain shorter-term digital rights for music and video content through distribution agreements with content owners that typically have terms of three to five years, often with renewal opportunities. Unless renewed, we do not retain any continuing rights upon expiration of the agreement. We pay a fixed revenue sharing percentage to the content owner upon receipt of revenue from digital entertainment services or other services. In certain instances, we may pay a fixed sum of money in the form of an advance against future sales royalties or fees to be paid to the content owner. After we recoup our initial payment, we generally pay the fixed revenue sharing percentage to the content owner;

Longer-Term License. We obtain longer-term licenses to digital rights for music and video content from content owners that currently have terms of five to ten years, typically with renewal options. Similar to short-term distribution arrangements, we retain no continuing rights after the term of the license expires. In exchange for longer-term licenses, we generally pay a fixed sum of money in the form of an advance against future sales royalties or fees to be paid to the content owner. After we recoup our initial fixed payment, we may pay additional advances and once recouped, we generally continue to pay revenue sharing fees to the content owner in accordance with the terms of our agreements;

Purchase of Digital Rights. In exchange for the purchase of digital rights of music and video content, we generally pay a fixed sum of money as the purchase consideration. We retain all revenue received, less payment of any required artist and statutory publishing royalties; and

Purchase of Master Recordings. When we acquire master music recordings, we pay a fixed cash sum and receive all rights to such recordings. We retain all revenue received less payment of any required artist and statutory publishing royalties.

For the year ended December 31, 2009, we generated approximately 27% of our revenues from music content we owned, including digital rights and master recordings, or licensed under long-term licenses (representing 75% of total digital agreements) and approximately 73% of our revenues from music content licensed under short-term licenses (representing 25% of total digital agreements). We consider a long-term license to have a term of five years or more.

We seek to obtain the broadest territorial distribution rights from our clients. From time to time, however, we enter into digital rights agreements with less than worldwide distribution rights (generally due to pre-existing rights restrictions on the part of the client), which we factor into the contractual terms that we negotiate with the content owner. Digital rights agreements for which we have exclusive worldwide rights

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represented approximately 90% of our total digital and mobile revenues and 80% of our total revenues for the year ended December 31, 2009. We have exclusive worldwide rights in 97% of the total distribution agreements at December 31, 2009.

We seek to maximize sales by meeting our record label clients product release dates (*i.e.*, the date on which the album is scheduled to be released for sale physically and/or digitally). Generally, the release of an album will be accompanied by a marketing and promotional plan developed and executed by the label. We may also develop and manage a comprehensive digital marketing plan and, if we are providing physical distribution, our marketing plan will cover the release in all forms. We maintain a company-wide release schedule that is reviewed on an ongoing basis to manage our priorities and targets and to make adjustments in our marketing and promotion programs as warranted. In connection with our review and maintenance of our release schedule, in the U.S. we also monitor the progress of previously issued tracks and albums through a review of SoundScan™ data regarding total album/track sales and the ratio of physical to digital sales, placements and promotions programs achieved, online press coverage and other means. We also work with our record label contacts to adequately manage time, resources and expectations with regard to the sales and performance of a given product. This management includes managing our internal resources to ingest, encode and deliver an album to digital and mobile stores and managing said stores to ensure that the album is available on the clients product release date.

We also advise our record label clients on new digital and mobile outlets that we add to our distribution network, monitor delivery and availability status of their catalogue, and assist them in analyzing digital sales data. The majority of this information is available to our label clients in an online account interface, a proprietary, sophisticated administration and analytical tool set branded as the Artist/Label Workstation℠, or ALW℠. The ALW℠ offers our artist and label clients with web-based administration and reporting tools and control over catalogue and new release management, digital marketing reporting and analysis, accounting administration and royalty analysis. The ALW℠ offers a one-stop resource for our clients to manage their participation in the various services we offer. As we identify tools that may allow our clients to exploit their catalogues, we can deploy such tools through ALW℠. For example, from within the ALW℠, clients can order promotional and retail download cards through our arrangements with Dropcards, and create customized iPhone Apps, among other features and functions.

We believe we provide a high level of personalized service and attention to our clients and view this service orientation (as opposed to a product or technology provider orientation) as a major strategic advantage. We consider our focus on service to be a key factor behind our ability to achieve and maintain licensing terms that we believe may be materially higher than the industry average and why, even when presented with terms that are more economically attractive, many label clients nevertheless choose us over the competition. In addition, by providing physical distribution within the United States to select labels, we believe we can provide a one-stop shop for such labels distribution needs.

Ingest, Manage and Deliver Our Assets to Our Digital and Mobile Retailers

We have developed a proprietary system to receive process, store, manage and deliver content to digital music retailers and other digital entertainment services. This system is branded as V.E.C.T.O.R.™ (Very Efficient Conduit To Our Retailers) and is used for content delivery to both internet-based and mobile-based retailers, among other clients. V.E.C.T.O.R.™ enables the digital encoding of content into multiple formats for distribution to digital entertainment services operating over the internet and over wireless, cable and mobile networks. End consumers can then listen to, view and purchase the content for use on their personal computers, digital music and video players, and music and video-enabled mobile phones. We continue to work to improve and further develop V.E.C.T.O.R.™. In the first quarter of 2008, we launched a proprietary video delivery component of V.E.C.T.O.R.™ with the goal of managing all video deliveries internally without reliance on third-party technology providers (unlike, to our knowledge, most of our competitors). We believe that this provides a competitive advantage with respect to our exploiting our large video catalogue.

We believe that our proprietary V.E.C.T.O.R.™ delivery system has had a positive impact on label relations with our content owners and the digital entertainment services we supply by considerably reducing time to market which helps to ensure that new releases from labels are available on the internet in conjunction with the physical and/or digital product release date. We believe, based upon historical data, that meeting this deadline (typically referred to as a music recording s release date) has a positive impact on sales of those recordings.

As of December 31, 2009, V.E.C.T.O.R.™ was integrated directly with content management systems of 106 internet retailers and 36 mobile operators, and these delivery points in turn powered a total of over 663 discrete retail storefronts in over 75 countries. We regularly add digital entertainment services and expand our delivery capabilities and believe that we will not be constrained with respect to the number and types of services.

During 2009, we transacted a total of approximately 50.3 million track deliveries via V.E.C.T.O.R.™, which supported an average of approximately 138,000 daily deliveries during the year ended December 31, 2009. Even taking into account the full integration of all of our music, audio and video assets as part of integration activities after our Merger, we do not currently anticipate ingestion, storage or delivery constraints for at least the next two years.

Develop Global Sales Channels and Proactively Market to Them

After we distribute our music and video content to leading digital entertainment services worldwide, we then sell and promote our content to consumers. We design and execute global marketing and promotion programs locally, with experts in major music territories managing initiatives tailored to each country s unique market characteristics and dynamics. We currently offer digital music and video for sale in 75 different countries, although the United States remains our largest market. For the year ended December 31, 2009, approximately 70% of our revenue was generated in the United States, with the remaining 30% coming from outside the United States.

Our digital entertainment service retailers sell to end consumers via two primary business models: permanent copies of entire albums, individual recordings or mastertones on a pay-per-download basis; or broad access to a substantial quantity of content in various manners on a subscription basis. We receive revenue from the digital entertainment services based on the number of times our supplied content is downloaded or streamed by end consumers. Our digital entertainment service retailers include: iTunes, eMusic, Amazon, Hulu, Real Rhapsody, Spotify, YouTube, Verizon, Orange, Telefonica, 3 and many others.

In 2009, we gathered market statistics from 2008 video sales and feedback from our video retailers, continued our distribution strategy focused on premium film and television services, and also worked to expand our distribution footprint for our music videos. We signed comprehensive film/TV deals with iTunes Canada, iTunes United Kingdom and Hulu. We integrated our video delivery platform with these new outlets and also added Amazon Video On Demand, Thumbplay, MySpace, IMO Video, and YouTube. We pushed a large volume of video content to retail, continued to focus resources on expanding successful retail models and increased our video system s speed to market without increasing personnel.

We believe we have strong business relationships with iTunes and other digital entertainment services to which we provide content. Historically, we have been able to obtain premium placement for some of our distributed content on the digital entertainment services, and we intend to continue to work closely with our digital retail clients to achieve optimum placement which generates sales of our content.

Because of the flexibility of the digital format, we are able to market our music content in creative ways by mixing-and-matching our individual recordings to create new digital music albums. This permits us to target our music content to consumers of a particular lifestyle or age group or related to an event type, holiday or live music concert. We believe our expertise in this activity is a competitive advantage.

Our digital entertainment retailers operate across multiple business models, which continue to evolve as the market develops. We seek to maximize revenue across our digital entertainment service providers by working to increase the availability and visibility of our distributed content across the principal models from which we generate revenues, including the following:

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A-la-carte Download Services on the Internet. These digital entertainment services offer consumers the ability to download individual recordings or albums for permanent use for a fixed price. Examples of these services include iTunes, Amazon, Virgin, and Musicload. In such models, we typically receive either a fixed wholesale price per track or album downloaded or a percentage of the consumer retail price.

Subscription Download Services on the Internet. These services offer consumers the ability to download up to a certain number of recordings each month for a fixed subscription fee. One example of these services is eMusic. In such models, we typically receive a percentage of the total revenue pool generated by the service, after costs and deductions, based on our share of total downloads in the service during the billing period.

Subscription Streaming Services on the Internet. These services offer consumers the ability to stream unlimited content on their computers for a fixed monthly fee. Example services include Napster and Rhapsody. In such models, we typically receive a percentage of the total revenue pool generated by the service, after costs and deductions, based on our share of total streams in the service during the billing period.

To-go Subscription Services on the Internet. These services offer consumers the ability to carry unlimited quantities of content on portable devices for a fixed monthly fee. On termination of the subscription, the files on the portable devices expire and the consumer no longer has access to that content. Example services include Napster and Rhapsody. In such models, we typically receive a percentage of the total revenue pool generated by the service, after costs and deductions, based on our share of total tracks played by consumers on their devices during the billing period.

A-la-carte Full Track Download on Mobile. These services offer consumers the ability to download individual music recordings or albums over wireless networks onto mobile devices for permanent use for a fixed price. Some services allow consumers to download the tracks purchased on their mobile device to computers. Example services include Verizon, Sprint, 3 and Orange. In such models, we typically receive either a fixed wholesale price per track or album downloaded or a percentage of the consumer retail price.