Best Practice Cases in the Music Industry and their Relevance for Government Policies in Developing Countries.

(Dr Roger Wallis, Visiting Professor of Multimedia, Royal Institute of Technology, KTH, Stockholm, Sweden. Extra contributor Dr Zelijka Kozul-Wright UNCTAD)
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1.Introduction – critical issues

A characteristic of many developing countries is the combination of poor economic conditions and a rich supply of unique raw materials that can be commercially exploited in the richer nations. In the case of the music industry they are a basin of creativity which has influenced international commercial activities for decades. With new communication technologies, both physical and virtual, allowing for cultures and cultural expressions to interact ("transculturation" - see Wallis & Malm 1984), it is likely that this creative and commercial potential will grow even stronger. This report seeks to identify both the opportunities as well as the threats to such a potential for badly needed export earnings.
More specifically, the paper asks:

- ♦ Can current trends in the global music industry support a fair flow of revenues back to poorer nations when their music is exploited globally?
- ♦ How flexible is the music industry value chain, and does it allow new technologies to work in the interest of all creative parties?
- ♦ Does vertical integration in the entertainment industry pose a threat to economically poorer players, and if so, which global and regional reactions are required in areas such as antitrust competition regulation?
- ♦ Which intermediaries are needed to look after the global interests of creators and rights holders in the less developed nations, and what is the current status of the copyright regime in this context.

Such questions lead to a focus on a variety of critical issues:
- music education and music industry training,
- local access to music industry technology (production resources),
- financial credits and subsidies for entrepreneurial activities,
- forms of collaboration with international music industry players,
- access to media distribution channels, and not least,
- the legal structure and institutions required to underpin a functioning copyright system.

The international copyright regime and its institutions also warrant particular attention in this analysis. A firm conclusion is that the copyright system, despite its failings, is the best way forward to protect the interests of creators in the developing nations. However, the system must be developed on the local level, or there is a real risk that it can be highjacked by global players whose top priorities are not the maximisation of returns to the poorer nations. This will require concerted efforts by organisations such as WIPO, and the international organisation that represents authors' copyright protection societies (CISAC), as well as strong support from national, regional and global antitrust authorities.

2 Structure of the report

The first section will seek to identify current trends in the music industry, noting their relevance in a global context. The value chain, both historic and present will be described; particular attention is paid to aspects and practices which provide hinders to smaller or less financially strong players in the market.

The growth of digital distribution channels such as the Internet has led many commentators to predict that suppliers/producers and consumers could have a far more direct relationship, without the need for a multitude of middlemen as in conventional commerce. And that such visions will apply to "anyone, anywhere at any time"(Negroponte,N.1996, Tapscott,D et al 2000). In the music industry context this has been interpreted as; a musical creators anywhere can do business with a consumer anywhere without the need of middlemen. Many of these "e-commerce" visions, however, have not been realised in practice (Gerdes,J, Roland, E. 2000, Kretschmer, M.,Wallis, R. 2000).

Each and every musician, wherever he or she lives, can hardly establish a commercial relationship with individual members of a global Public (even if the Internet knows no national boundaries). The music industry still requires efficient intermediaries who can act as financiers, brokers, promoters, collectors and distributors of revenues (Ahlgren 2000).
This report will focus on the essential intermediaries that creators and performers need to be able to enjoy reasonable economic returns for the global and local exploitation of their works. Small and large publishers, record companies and copyright collection societies feature in this analysis.
Conclusions propose forms of necessary support from and actions by international bodies such as WIPO, UNCTAD, CISAC as well as by regional and national governments and bodies.
As an example of best practice, albeit with a number of reservations, the case of the Swedish music industry is presented as an illustration of how limited but wise infrastructure support can provide a huge stimulus for creative and commercial activity.
Other Best practice examples have been identified in Ireland, Brazil, India and Canada.
The final section contains recommendations as regards Best Practices and Policies for the less developed countries.

3 Current relevant trends in the music industry

3.1. MARKET STRUCTURE: Mergers, amalgamations and resulting initiatives

Current changes in the music industry are – as in all media industries – the result of a mix of technological, economic and cultural factors, with the latter including both social and legal aspects. The music industry is of particular interest as we move into the world of information delivery through digital networks. Music is the glue that holds many complex media-products together. In the face of uncertainties about the future, music is often the sector chosen by the media industries for experimentation, following the principle that it might be better to learn from mistakes with media products that only include sound rather than multi-billion dollar investments such as feature films. On the other hand, even the music industry has gone through a period of concentration of ownership to international corporations with resources being focused on a smaller number of global superstars.

Such mergers have been mirrored by a concentration on internationally viable superstars, a trend which has become stronger in the international music industry as up-front investments in talent have increased. An inevitable result of this is that larger players prioritise the protection of such large up-front investments, seeking market control via advantages of size. It follows that smaller players might experience less freedom to act in the marketplace, if their interests are not supported strongly by anti-trust regulation and/or fair independent intermediaries between producer/creator and consumers (Wallis,1990; Malm & Wallis 1992; Choi & Hilton 1995, Burnett 1996).

At the same time, few industry observers would deny that most of the creative, as opposed to the financial risk-taking, occurs in the plethora of smaller firms (known as “The Independents”), representing a multitude of cultures and sub-cultures. This is where new ideas result from experimentation. This is where many smaller and poorer nations have a valuable R&D resource which can only be exploited if assistance is available at this creative stage. Such assistance can be of various forms and magnitudes; it can involve such diverse areas as providing technological expertise, developing products, providing assistance and advice relevant to the protection of ownership rights (such as IPRs or Intellectual Property Rights)..

“Vertical integration” has been a characteristic of the international music industry over the past decades – this involves increasing control over different stages in the production and distribution process. It has led to a series of significant mergers within and between different sectors of the media industries. This includes the amalgamation of organisations that produce recorded music (record or ”phonogram” companies) and organisations that own the copyrights to the music that is recorded (music publishers). These trends have shaped an increasingly consolidated industrial landscape.

As a result of a wave of mergers and take-overs during the 1980s and early 1990s, a few multinational media corporations now ”own” most of the superstars as well as a very large repertoire of music copyrights. Together, Sony (Japan), Universal-Vivendi (France), AOL Time Warner (US), EMI-Virgin (UK) and BMG (Germany) consistently account for 70-80% of global music sales. Preliminary figures for two markets (Australia and the United Kingdom) for sales of physical music products during the first 6 months of 2001 show the five Majors controlling 74% in the market in Australia and over 90% in the UK (Source: MBI – Music Business International -, October 2001, London).

Recent developments under the General Agreement on Tariffs and Trade (GATT), the North American Free Trade Agreement (NAFTA) and in the European Union (EU), include extension of the term of copyright protection to a minimum of 70 years after an author’s death in the EU and 75 years in the US. These legal developments have made such rights even more attractive as long-term investments. The extension in US law was also coupled to a liberalisation of the demands on some music users - certain categories of restaurants and bars were made exempt from the need to pay for the use of music in their premises. This in its turn led to a rift between the EU and the US, and was later found to be unacceptable by the World Trade Organisation..

Developments in copyright protection, combined with the risks provided by new digital technology, wer4e certainly major factors behind the attempt in 2000 to merge the music businesses of Time Warner with both AOL (the world's largest Internet service provider) and EMI. The proposed EMI - Time Warner merger did not pass the regulatory hurdles in the EU mainly because of concerns regarding what the regulators term "collective dominance", i.e., the implications for both vertical integration and overall market dominance in certain music-business areas. EMI and Time Warner withdrew their application to merge. Had they joined, their publishing businesses would have had a market share of around 50% in Sweden and nearer 70% in Finland. Globally, EMI and Warner enjoyed average market shares of around 13% each, with large variations between geographical regions. EMI has traditionally been strong in Europe, and Time Warner has had a similar strong position in the US.

The spate of music and entertainment industry mergers witnessed over the past decades are the result of a number of catalysts:

- the desire to realise economies of scale and scope (selling global hits in a global market)
- the desire to decrease uncertainty in a market which is inherently risky
- the desire to a) increase control over production and distribution by controlling both rights and means of exploitation, and, b) at the same time,

avoiding losing existing degrees of control in ”unmanaged” digital networks such as the Internet.

It is easy to understand the power of these incentives for those superstar artists and authors who are already established and enjoy impressive contracts with publishers and record companies. The linking of rights ownership to rights exploitation, on the other hand, can have negative effects on the economic conditions of the majority of authors, particularly those reliant on new collecting societies which do not represent large amounts of repertoire (and therefore do not enjoy a position of authority internationally). It is even questionable whether such “bundling” of authors’ and performers’ copyrights with exploitation rights (production and distribution) is good for competition or even for long-term growth in the industry. Vertical integration /collective dominance can seriously limit creators’ access to different channels to a potential audience, which is probably the most important prerequisite for healthy creativity in a cultural market.
Such types of vertic al integration can reduce competition, leading to collusion and to anti-competitive behaviour that poses a major source of market inefficiency.
On the other hand, the dominance of the Majors as regards international distribution and promotion cannot be ignored. They will be involved in any international success in the music market. It is therefore essential for artists, entrepreneurs, music institutions and even governments in developing countries to establish and monitor fair relationships with the international music industry.

Channels to consumers

In parallel to these trends of concentration and integration, there has been a dramatic change in the channels that convey music. During the 1980s, many Western governments sought to deregulate the media, resulting in a proliferation of new local radio channels and television channels, including cable and satellite broadcasting. A similar trend could be observed in the 1990:s in a number of developing countries. More recently, the Internet has exploded as a communication medium in the developing world. Even if access to a telephone, let alone a computer, is far from common in poorer nations, even these do have the ability to make cultural products available via the Internet. Availability, however does not guarantee protection or a revenue flow. But the potential for global promotion cannot be ignored.
The Internet by its very nature is largely unregulated: there is no ”The Internet Company” to turn to when seeking redress. This raises a number of largely unresolved issues regarding responsibilities in ”cyberspace”, including privacy, security and copyright. Ready access to sites where music is stored and made

available in an established and convenient data format (e.g., as MP3 files) has caused major problems for those controlling large up-front investments in artists. File-sharing applications such as Napster have been eagerly embraced by consumers but fought in the courtrooms by the major players in the music industry. Many of these legal tussles, however, have already been solved either out of court (e.g., between some major record companies and MP3.com) or via collaborative deals seeking to make the new applications "legal" (e.g., between Bertelsmann [parent company of BMG Records] and Napster). Bertelsmann now controls Napster. Universal-Vivendi enjoys total control over MP3.com.
“Moral panic" in the established industry over the activities of rich consumers in the Internet environment has taken a route via the courts to a state of pragmatic solutions which are rapidly attracting the attention of regulators in both the US and the European Union. Such developments, of course, have considerable relevance for the opportunities for music creators in the DCs to use new digital channels to reach a potential global audience.
Two digital distribution initiatives by the Majors, MusicNet and Pressplay, could result in 80% of the world’s commercially available recorded music forming a distribution duopoly. Pressplay will offer music controlled by Vivendi-Universal and Sony (in collaboration with Microsoft). MusicNet will offer works owned by the other three multinational conglomerates (EMI, Time Warner and BMG). Both are based on subscription models, where consumers pay a fixed monthly sum allowing them to download a fixed number of recorded works of music. If the subscription lapses, then the customer loses access to all material previously downloaded. Both services have delayed their proposed launch dates (September 2001). It is far from clear that consumers in the West will be willing to pay up to 10 US dollars per month for such services and conditions. Both Congressmen and organisations representing smaller music producers in the USA have already expressed serious concerns about the risks for collective dominance embodied in the Pressplay and MusicNet initiatives (Financial Times, London 4th December 2001 “Record labels launch online music ventures”, MBI, London October 2001 Opening Shots).

The Growing importance of IPRs
Such on-going developments are significant in the context of the changing ways in which music and culture are distributed. One of the most important trends concerns the structure of intellectual property right (IPR) revenues. IPRs in this context refer to the rights of creators or their representatives to control and demand remuneration for the exploitation of their creations, as well as the extension of protection to cover *performers* and *producers* in countries which have signed the 1961 Rome Convention on “Neighbouring Rights”. If a record from a “Rome” country is performed, say, on national radio in Sweden, the slightly over 10 US dollars per minute is shared between the producer of the

recording (the record company) and the performers, assuming that the record was produced in a country that has signed Rome (Malm & Wallis 1992).

Not only is there a general growth in the IPR revenue stream but there is a shift from revenues based on the physical distribution of tangible carriers, such as the sale of CDs and tapes, to income from licensing fees for the use of music in media channels. The main factors here are the growth of music television, the proliferation of private radio stations, and the use of music in advertising and game products. There is thus an increased dependence by actors in the global media arena on *immaterial rights* as sources of revenue. The expanding electronic media are more difficult to monitor than sales of tangible items, and this means that the structure and collection of intellectual property rights have become a more pressing issue than ever before.

In summing up, the main current trends in the music industry are:
- Widespread diffusion of new digital technologies for recording and distribution, providing wider access to technology with satisfactory quality at an affordable price.
- The deregulation of existing analogue channels and the growth of the Internet and new digital channels as global means for conveying music to businesses and consumers.
- The removal of national boundaries in distribution (through satellite and Internet distribution), leading to globalisation of media products.
- Increased opportunities for revenue flows from IPR-related intangible as opposed to tangible sources. At the same time, many observers have clearly exaggerated the demise of physical carriers such as the CD and the pre-recorded cassette.
- Increased integration of rights ownership and rights exploitation (production, distribution) amongst the global media conglomerates.

3.2. Developments in Music Industry technologies

The deregulation referred to above has had a large impact on the media industries. Deregulation has fostered and been fostered by changes in technology. At one time, television and radio transmission required large up-front investments in capital equipment. Now, a local radio station can be set up for as little as $10,000; a cable television station need not cost much more than 30,000 US dollars if the delivery infrastructure is available; and distribution on the Internet is virtually free. Similarly, new technology has emerged to make it easy to produce CDs and cassette tapes, affecting both legitimate and illegitimate users. Unlike analogue recordings, material in digital form can be copied time and time again without any loss of quality.

The technology that supports the music industry has become more and more globally available. Evidence from the 1980:s showed that multi-track cassette-based recording technologies spread at a high pace to virtually every nation (Wallis & Malm 1984). At the same time, however, the economics of the music business have become more global as conglomerates have increased in size through various forms of mergers. Even so, most of the real business of music production starts at the local level, where creativity blossoms in a myriad of different forms.
Let us consider how digital technology has affected the rules of play, both globally and locally.
A general observation is that the introduction of new technology which is widely available (even in low-income countries), coupled to the growth of a large global industrial oligopoly decreases the difference in opportunities for smaller players in both rich and poor nations.

This is because digitisation is in the process of universally permeating the industry, from the production process through manufacturing to both physical and non-physical forms of distribution (Wallis et al 1998,Kretschmer et al 1999).

Production technology: High quality digital recording equipment is becoming more and more widely available with falling prices. Digital sampling and simulation techniques have decreased studio producers' dependence on hiring the services of live musicians. These trends apply virtually everywhere in the world.

Production process: Input to the manufacturing process of the dominant physical products (recordings on CDs, printed materials) is more and more frequently in a digital form. Digital distribution, in other words, could allow for the elimination of traditional manufacturing costs, if the "distance" between creator and consumer could be shortened.

Distribution technology: Networks and associated software allowing the creator, in theory, to meet a world-wide audience are becoming more sophisticated as well as user-friendly. Peer-to-Peer file-sharing techniques such as those used in Napster, allow interested potential consumers to exchange samples of music at will. Anecdotal evidence suggests that a number of musical groups in Africa have created their own "communities of interest" in Finland based on individuals who have discovered them after someone has made recordings available via Napster or similar file-sharing programmes. The process of creating groups of fans (sub-cultures) in the physical world can, to a certain extent, be replicated in the virtual environment. Even if bandwidth constraints still constitute limitations of delivery speed and quality, the potential is there. The same technologies, however, can allow consumers to bypass constraints related to payments of revenues for IPRs (Intellectual Property Rights), which is the basis for the traditional industry's attempts to block such technologies (or control them by buying in).

Music industry revenue sources: Throughout the 1990s, there was a shift in developed markets from tangible to intangible sources of revenue. In Sweden, as early as 1992, over 50% of the music industry’s net revenue came other sources than the sales of physical products such as CDs, i.e. primarily from publishing and performance rights. More recent figures from one of the five major players in the industry, EMI, show publishing activities (generating revenue via exploiting or trading in Intellectual Property Rights assigned to EMI by composers) accounting for 17% of the EMI groups turnover, but no less than 47% of net revenue in the year 2000 (Music & Copyright 2000). In 2001, "revenues of music publishers rose by 4% to 3.5 billion US dollars" (according to Music & Copyright # 220, January 2002), despite a decrease in record company revenues from sales of CDs. Such figures explain the gigantic sums paid when publishing catalogues are bought and sold, a process over which the individual author has virtually no say.

4.Standard Music Industry practices in developeed market economies.

The traditional music industry value chain (illustrated in Fig 1 in the appendix) involves a number of intermediaries. It assumes that a writer creates a work of music, and assigns the right to exploit the work to a publisher. The publisher was originally part of the production process, investing in and distributing sheet music. A 50/50 revenue split with the composer was regarded as reasonable because of the publisher's investment requirements for producing sheet music. The publisher would also seek to find artists and record companies willing to record and distribute the composer’s works. Once a combination of work and artists had been decided, the record company would produce the recording, manufacture phonograms, promote the product and distribute.
Income is generated from physical and non-physical sources. Mechanical Rights refer to moneys paid to composers and publishers when musical works are duplicated on physical carriers such as the CD. Performance rights provide income to composers/publishers and in most territories to performers and producers, when recordings are performed in public (see figure 2 & 3 in the appendix). The USA is the notable exception as regards the latter, though this could change with the introduction of the new US Millennium Digital Copyright Act.

Despite a number of radical changes in the functioning of the music business, the value chain remains more or less intact. New technology has not led to a major degree of disintermediation (the removal of intermediaries).
This observation becomes even more surprising if one considers the following:

4.1. The Creators' Roles.
The roles of composers and artists have tended to merge in many musical genres. The combined *singer-songwriter* (an artist singing his or her own songs) is now the rule rather than the exception in many Western pop genres. This has been common for decades in many developing nations, particularly where local songs are regarded as the collective property of the community. Common industry practice in these countries involves paying the artist/creator a lump sum covering both rights to the song as well as to the performance ("bundling of rights"). By signing such contracts, the composer has essentially allowed a process to start whereby his rights as an author can be transferred at will to other legal entities, guaranteeing them a share of income generated for as long as he lives plus anything up to 70 years (depending on territory). Where copyright regimes and institutions have been weak and creators have sold their rights for a one-off sum, then their ability to earn future revenues has been even weaker, if not non-existent.

4.2. Publishers' Roles
Sheet music production is no longer the core activity of most major music publishers in the industrialised world. It was never the case in the LDCs. New software programmes for writing music have been adopted by many IT literate composers thus eliminating the need for a publisher who invests in a manual operation.

4.3 Technological expertise/access to technology
The availability of technology which is fairly simple to operate has resulted in many creative artistic talents achieving a high degree of IT literacy, leading to the emergence of the combined studio producer/ writer role. Max Martin from Sweden, writer and producer of the majority of songs recorded by artists such as Britney Spears, is such an example. This has been a critical factor in generating revenue flows back to Sweden via the IPR regime

4.4 Mergers amongst intermediaries
Some publishers have moved gradually into traditional areas of record company operations, particularly that of A&R, i.e. the matching of repertoire with choice of artists. By building their own studios and contracting singer-songwriters to both write and record demonstration recordings, (which then may or may not be

released and distributed by a record company) they have moved further up the value chain in the direction of the consumer. That this potential source of conflict has not come out into the open can be ascribed to the many mergers that have integrated ownership of both publishing and recording interests.

4.5 Implications for new entrants in the value chain

Knowledge of the business norms that apply in established music exporting nations is critical for new players/nations that wish to succeed in the international music market. Market forces in the UK and the USA have allowed composers, for instance, to increase the of copyright revenues collected in other territories which is returned to them. This requires both legal and management expertise from the international arena - qualities often absent at a local level in many developing nations.

5. Implications for new entrants of the stability in the established Music Industry value chain

5.1 The potential for e-commerce revisited

The observations above suggest that a radical restructuring of the music industry is under way, one which should automatically enhance a shift in favour of the e-commerce visions noted earlier. Singer-songwriters and their studio producers should be able to bypass the established industry and find their own audience anywhere in the world via the Internet (as long as they can make themselves known and heard in all the noise in this distribution channel).

In 1998, the market research organisation, Jupiter Communications was predicting the collapse of the 5 major music corporations' oligopoly control over music production and distribution. "Although a viable distribution model is still far from being established, development continues a nd online music industry players are slowly wresting the rights away from the traditional distribution dominance of the major record labels" (Jupiter Communications 1998)

What actually happened hardly supported the predictions of analysts. The five leading music corporations (AOL-Time Warner, Universal-Vivendi, Sony, EMI and BMG, known as the "Majors") were very slow to adopt the Internet as a distribution channel. Their fear was that they would lose control over their copyrights once music was let loose in this "unmanaged" network. While they were slowly deciding how to possibly embrace the on-line environment, others were doing it in very different ways. MP3.com and related companies quite simply made music available, in a fashion which was clearly incompatible with intellectual property legislation. Napster followed with what turned out to be a "killer application", a remarkably simple application allowing users to share access to music stored on their own hard discs.

The so-called Secure Digital Music Initiative (SDMI) was the music industry's most highly publicised attempt to provide a secure digital environment for music distribution. The SDMI consortium, a mixture of music companies, companies specialising in digital security technology, telephone companies, consumer electronic firms, banks etc., was formed in early 1999. The aim was to produce watermarking standards which could be observed by both the hardware and the software industries (Financial Times 1999, Prast,J. 1999). SDMI did not materialise probably because of the wide range of personal agendas characterising the members of the consortium. A challenge to hackers in late 2000 led to the codes being cracked within hours by researchers at Princeton University in the USA.

Currently the Majors are seeking to develop new technology which will prevent consumers from copying CDs or even “burning” their own CDs from digital downloaded files. Historical evidence does not suggest that they will find a perfect technological solution to any of the business problems created by new technology.

On-line sales have not taken off in a spectacular fashion. The on-line share of the music US sound carrier market in 2000 was 3.2%, up 0.8% from 1999. In reporting these figures from the Record Industry association of America (RIAA), the London-based “Music and Copyright” newsletter noted that the figures:“ supported the view that delays by the major international record companies in developing their online strategies have slowed down the expansion of the US online market” (Music & Copyright 2001).

A second type of reaction can be observed in the case of smaller independent recording companies (the “Indies”), that have been keen to test the new technology. They saw the Internet as an amazing opportunity for music creators to discover the shortest distance to a potential audience anywhere in the world. Often working with lesser-known artists or less popular musical genres, these companies naturally saw such opportunities to bypass the mainstream industry as particularly attractive. Even here, however, success was limited. Consumers showed little willingness to pay for digital downloads of recorded music. Their propensity to pay was decreased even further by the emergence of companies such as MP3.com and file-sharing applications such as Napster which made recorded music available “for free”. That said, there is evidence that the increased availability of music in virtual form as MP3 files leads to an increased consumption of physical products such as CDs. For example, in an address to the annual PopCom music trade fair in Germany in 2000, the forecasting company Jupiter presented findings suggesting that 26% of those who used Napster while searching for music on-line actually increased their purchases of CDs whereas the corresponding figure for non-Napster users was only 16% (Jupiter Communications 2000)..

5.2 Lack of flexibility in the value chain and the challenge to building national competitiveness.

Mergers within the industry, combined with support for business practices related to the traditional value chain, are the most significant reasons for the survival of the traditional music industry value chain, with all it intermediaries. Composers are often tied into the existing system via long contracts and advances. The simplest form is a sum of money “up front” for a song coupled with a “life of copyright” contract, i.e. a contract with a publisher/record company which lasts as long as the composer lives plus up to 75 years (depending on territory). As the composer becomes more valuable, the sum becomes an advance in return for everything the composer creates during a specified period of time, still in many parts of the world under “life of copyright” contractual terms. The resulting catalogue of the composer’s works can then be sold at will. As they merge with other works in a large publisher's gigantic catalogue, the notion of individual, active promotion for each and every work becomes a misnomer. On the other hand, size grants the large publisher enormous clout in the copyright world. This process is not so obvious in mature music exporting countries such as the UK or the USA. Here, creators and their lawyers have been able to increase their bargaining power, or retain control by building their own publishing companies (for their own works**). Such legal/business acumen is often lacking in many poorer nations.**
In many LDCs, the "publishing" contract is of a type know as 50/50 Receipts, which essentially means that every time moneys are passed from one publisher to another in a chain leading back to the composer, then 50% plus a fee for administration is deducted. A result is that a composer registered in, say, Kenya, who has a hit in the USA could end up retaining less than 20% of certain copyright moneys collected in the USA. Add to this the terms of a "life of copyright" contract (the life of the composer plus 75 years in the USA and 70 in Europe), and it becomes clear that publishing has become one of the most lucrative activities of the international music industry.

Even if the majority of music publishers are small to medium-sized enterprises, the five largest control around 80% of the business, just as their record company equivalents in the same corporations control almost the same share of their market. If the proposed EMI-Time Warner deal of 1999/2000 had gone through, the result would have been a publishing empire which controlled over 50% of all published works in Sweden, and no less than 70% of that business in Finland. With such dominance, a publisher can more or less dictate exploitation terms in the market. Some works will be actively promoted, others might lie dormant, and a third category might even be removed from the market to create delayed demand. As they grow larger, it becomes harder to regard them as intermediaries who are independent of rights exploiters. “Bundling” of rights, whereby a singer-songwriter gets a recording contract if his/her publishing rights are handed over to the same company, is a common practice. In the less developed countries, many of which are a gold mine full of creativity, such processes are the rule rather than the exception.

5.3 Industry Dynamics - The Big and the Small.

The Music Industry's history is inextricably linked to the dynamic relationship between the Big and the Small (the small group of multinational conglomerates which control almost 80 - 90% of the global music business, and the plethora of smaller enterprises which function as talent incubators all around the world).
The majority of artists and composers suffer a negotiating disadvantage in this relationship, partly through lack of knowledge/good advisers, and partly because the lure of becoming a star tends to cloud wisdom and common sense.
On the other hand, the Big play a vital role in every aspect of the international trade in music products and artists. Subsidiaries of the major publishers in Sweden, for example, have established the contacts necessary for offering Swedish compositions to leading American artists. Success in this form of trade has been so remarkable that leading world stars (e.g. Britney Spears) now come to Sweden to record in studios owned by small groups of local songwriters/technicians. The small studio gets the recording business, the multinational publisher earns a share of the copyrights and the recordings are manufactured and distributed by a combination of majors and independents.

Successful international trade ventures will most likely involve such combinations of local entrepreneurs and international companies. A prerequisite for such success is expertise in the area of "reasonable deals", including a firm understanding amongst creators of the disadvantage of signing away rights for a small down payment.
It is imperative for the DCs that good principles and practices can be established as regards relationships between players in the local and national industries and their international counterparts. Without knowledge of the standards that apply in, say, established music exporting nations, then a national music industry will be at a considerable disadvantage, irrespective of the value of its creative assets.

The "small is beautiful" approach has always been attractive to musicians, but it has its shortcomings. A creator casting out recorded works into the Internet wilderness, is unlikely to find an audience without some form of marketing assistance such as aggregation with other similar works which search engines can pick up. The smaller operator will still need some form of intermediary than can identify works, collect revenue, set reasonable prices, and distribute income correctly.
The US Internet music distributor, MP3,com did this in a limited fashion, with a limited repertoire. Telephone companies have the expertise in micro-billing, but the only candidates as regards works databases are the collecting societies

interlinked internationally via virtual databases. Should the major publishers' share of the market be allowed to increase even more, then they might claim the right to compete with or even bypass completely the collecting societies. For smaller players, this would be a disaster because of the close ties the largest publishers have with the dominant exploiters of rights (record companies and other intangible forms of distribution). The fact that Time-Warner has merged with the world's largest Internet Service Provider (AOL) is not insignificant in this context

6 Collecting Societies as essential intermediaries.

6.1. International rules and national demands.

The liberty to create requires an environment conducive to creativity, one in which the creator is comfortable that those representing or looking after his assets perform efficiently and fairly, that he/she does not get cheated.

The history of collecting societies representing composers in the poorer nations is very fragmented and not always impressive. In many former British colonies, local embryonic societies were started by the UK performing rights society with a prime aim of collecting revenue for UK works, not for establishing a local or an international market for domestic creations in the new independent nation. As such young societies have matured many have been plagued by claims of incompetence or even corruption.

The global framework of rules for collecting societies (embodied in the CISAC charter) allows for local copyright agencies to retain 10% of incoming moneys to be used for "social and cultural purposes". This gives a society an opportunity to support local music, and generally link the issue of creativity to protection of IPRs. For a country like Ireland or Sweden, such moneys have been essential for establishing functioning composer's organisations which can both monitor and support the running of their collection societies.

The demands for a powerful, independent copyright collection society are straightforward but exacting. An intermediary that identifies usage of music works, collects and distributes revenues must have:

- correct, up-to-date and efficient data bases covering authors and works
- efficient transaction processing systems
- efficient, comprehensive negotiation and collection routines in their own geographic area of operations
- efficient local distribution routines as well as fair and functioning reciprocal agreements with sister societies in other countries.

The main challenge concerns the quality of the data which is fed to the collecting societies. Another challenge concerns the linking of different data bases so that each society is not forced to register all data itself, but can seek in other data bases via suitable search engines. The only functioning examples of this can be found in the Nordic area where the music performing rights societies of Sweden, Finland, Denmark, Norway and Iceland have linked their sources of data concerning musical works and authors via a virtual data base, Norddoc. A similar attempt to provide a centralised global data base, the IMJV project (supported by collecting societies in the UK, USA and Holland) was discontinued in late 2001 as a result of financial, technical and "cultural" problems.

The collecting society model is illustrated in Figure 2 (appendix). The societies function as ostensibly independent intermediaries between rights holders (publishers and authors) and users (exploiters of music). Since they often function as de facto monopolies, they have received an increasing level of scrutiny from official bodies such as international regulators and competition authorities. Users have frequently complained that the societies have used their monopoly status to extract rates which are unfairly high. In Europe until the issue of the Time Warner-EMI merger, the European Commission even encouraged competition between societies, and probably saw the power of certain users as a guarantee against society abuse. The Commission's argument against the proposed Time Warner-EMI merger, on the other hand, was that the resulting giant could bypass Collecting Societies, thus putting smaller players at a serious disadvantage.

6.2. International challenges to the independence of Collecting Societies.
The past two decades, however, have seen a weakening of the basic principles which have held the collecting society system together, namely, reciprocity and solidarity.
In 1987, the Dutch mechanical collection society, STEMRA, agreed to sign a Central European Licensing (CEL or later CLA) agreement with the Polygram record company (later to become Universal-Vivendi)., Polygram's motivation was that they were complying with competition authority demands, allowing one major record company to pay in all dues for mechanical rights over Europe at one point. But this also had the effect of extending the collection society part of the value chain, by breaking the principle of reciprocity. Moneys for composers active in Sweden would be paid firstly to Holland, and then sent back to Scandinavia for re-distribution via NCB. The process also allowed Polygram records a rebate, thus lowering the value of copyright.
Central Licensing resulted in a reaction from the major Publishers demands from the major publishers – most of their works were released on these so-called CLA records from their related Record Companies. They demanded better terms

from the collecting societies, in other words lower commission fees to the Societies for royalties collected from CLA records. Such demands resulted in the implementation of the so-called Cannes agreement, an inevitable consequence of which was a de facto penalisation of rights holders whose works were released on smaller record labels (not subject to CLA rebates). The principle of solidarity, whereby administrative commission rates charged to authors by the societies are the same for both large and small, had been eaten into.
There are even indications that major publishers are planning to start their own competing "societies", which write exclusive contracts or Memoranda of Understanding with the major record companies' subsidiaries (parts of the same corporation). This is currently the case in Turkey where the official MESAM organisation is being challenged by MSG (supported by the multinational publishers)
There is a very real risk that similar developments could weaken the power of fledgling collection societies in the developing nations. Through allowing international repertoire (global products form the major music corporations) to bypass a local society, then administrative costs rise for local composers and smaller rights holders.
One can also note signs of a growing tendency towards internal competition between societies, particularly between large and small. This will also pose a serious threat to the independence of the copyright system.
Such observations have a number of implications for collective societies in the developing countries. They must clearly be efficient, transparent and enjoy both moral and legal support from government authorities. They must become part of the international family, but at the same time demand that the same rules apply to them as to larger, more established players. With the costs of computing power steadily decreasing, it is essential that they can invest in state-of -the-art data base and transaction processing technology, and that the necessary expertise to run such systems is present.

6.3 The CISAC Common Information System initiative (CIS).

CISAC is the international organisation of authors collecting societies, based in Paris, France. CISAC creates the international rules of play which govern relationships between collecting societies.
Virtual databases allowing all societies the same opportunities for efficiency are essential elements of a fair global regime. In the mid 1990s, CISAC launched a major initiative in this direction, namely the CIS or Common Information System, allowing for unique forms of identification (and links to ownership) of works. Linkage to such a system is the best way for a small copyright society to defend its members' interests globally. Any bypassing of this system by larger players would have the opposite effect. The unique registration of works which

allows only one entry/number per work could also provide considerable financial advantages for creators in poorer nations. Anecdotal evidence from Brazil suggests that it has been common practice for persons ion the USA to discover music in Brazil and then register it as their own in the USA. A functioning CIS regime, for instance, would make it hard for less than honest persons to claim they had written works which had already been registered by creators in a developing country with a unique identification in the CIS system.

This would seem to be the only way of stopping the age-old practice of borrowing works from a developing nation and re-registering them as one's own property in the developed world. The principle should even be extended to cover some folklore material, now that many archives are being digitised, and their contents are made available over the World Wide Web.
By making folklore materials freely available over the Web (often with an academic audience in mind), one opens the risk for a range of exploiters to discover and utilise such materials without ever being required to share the profits with the originating nation. If they have already been registered within the CIS system, and their rights have been claimed locally (e.g. via publishing by a national publishing house), then such activities will become much easier to police and rectify.

The above argument illustrates how important it is for the developing countries to establish functioning collecting societies which can perform such registration duties efficiently - and that this task includes even the registration of arrangements of local traditional music. Another danger of internal competition for business between societies is the temptation to poach members (by offering sweeteners). An efficient local system is the best guarantee for a) getting revenues earned by successful members to return to the home country and b) not losing local composers to societies abroad..
With the major demands on the efficiency of IT systems, there is also a risk that groups of societies will seek more business outside their own area to pay for investments in new joint systems. Even within the Copyright community, the term “merger” can have significance.
<u>Collaboration between mature and younger societies will be essential, as long as it occurs on equal terms</u>. A good example of collaboration can be found between the Swedish composers’ collection society, STIM, for instance, that has given both financial and technical assistance to the fledgling societies in the Baltic states (Estonia, Lithuania and Latvia). Without this assistance, the Baltic composers who enjoyed success in the international “Eurovision Song Contest” over the past two years, would never have been able to receive a reasonable return of IPR revenues to their countries. The Swedish . Baltic model, based on collaboration and assistance rather than control is probably the ideal model for

many countries seeking to establish their own, efficient copyright protection institutions.

6.4 Concentration of ownership and its effects on the Collecting Society system.
Figure 4 suggests that the Collecting Society enjoys a pivotal position in the music industry. They can act as a strong, fair buffer between the interests of rights holds and exploiters, setting tariffs via reasonable negotiations with users on behalf of all authors (thereby being able to offer a universal repertoire), balancing the reasonable demands of both rights holders and users. Vertical integration via business mergers has a considerable effect on this independence. The major publishers function as an international oligopoly. Their local subsidiaries can well be represented on the Boards of local copyright societies - their representatives thus end up having dual loyalties, both to the local Board of the collecting society and to their international masters.

For the major publishers, the result of mergers has been that they can play one or more of three roles as members or owners of collecting societies:

- They can continue to function as members supporting principles of solidarity, without demanding any preferential treatment. This was certainly the case prior to Central Licensing and the Cannes accord in Europe.
- They can act as large customers, demanding better commission rates than smaller players or individuals.
- They can even compete with the local collecting societies, the ultimate threat being to bypass them altogether.

Amalgamation of different sectors in the music and entertainment industry, or Vertical Integration, has changed the rules of play beyond recognition, even if the old value chain seems to survive.
Figures 4 and 5 comprise an attempt to illustrate how these processes have affected the role and status of collection society intermediaries.
The major corporations have divisions on both sides of the intermediary line, causing problems of conflicting loyalties for publishers and their local subsidiaries in different territories. This inevitably weakens the status of the collecting society as a powerful but fair, impartial negotiator which can represent even the weakest author via strength in numbers. The major players get access to information from “both sides of the negotiating table”, and can thereby win extra advantages.
Such a situation is not unknown in many parts of the world. In many territories in Asia and Africa, it is almost impossible to distinguish between the publishing and the recording arms of music companies. This serves to radically weaken the prerequisites for strong, local collection societies.
But vertical integration is not only a case of record companies and publishers joining together. Even broadcasters and internet content providers can have the

same masters as both publishers and record companies. Some broadcasters have even started “pretend publishers”, which publish commissioned works (often as a condition for the author to get the work broadcast), thereby providing a mechanism for the broadcaster to recoup some of the copyright fees paid to the collection society. Once again we see an example of structural changes which could decrease the revenue returns to individual creators, via intermediaries retaining a larger portion of the value created.

6.5 Fair Rules of Play – international, regional and local challenges

The observations above lead to the powerful conclusion that CISAC's role as an integrator of the activities of collecting societies, as well as a guardian of the principles of reciprocity and solidarity, must be strengthened. WIPO, as a guardian of the global rules of play, also has a strong responsibility in this context.

CISAC has established a set of rules, many of which still apply but have their origin in a music industry which was very different.

An example is the CISAC rule which states that 50% of sums received for performance rights (eg revenues for performances on radio/TV stations or at concerts) in another country must be returned to the author, via his/her collecting society in the country where the composer is registered. This assumes that the composer does have a local reliable collecting society, and that the works in question have been register locally and that this data is available internationally.

The “other” 50 per cent is usually paid out to a local publisher who represents the composer’s original publisher in the territory in question.

The 50/50 split is an old rule and has its origins in the time when even a local “sub-publisher”, e,g, a representative for a German song in the USA, would print sheet music. Many established composers, via “at source” deals, have assured themselves of a larger direct share than 50%. In the United Kingdom music industry, 70/30 "at source" deals are common even for less established composers – in other words the composer is guaranteed 70% of all moneys collected (less taxes and collection society administration fees). Some successful composers have negotiated 90/10 deals – in other words where publishers can never retain more than a total of 10% of incoming moneys.

It is interesting to note that knowledge and implementation of this common practice has only recently reached Sweden, despite the success of Swedish composers in the international market.

The proposition that international rules and conventions should be geared to help poorer nations develop their own functioning copyright management regimes, is supported both by cultural as well as by commercial (competition) arguments. The long-term health of the music industry and its level of creativity can never be guaranteed in an environment of vertical integration that only guarantees easy access to mainstream distribution channels for a few superstars. The goldmine of creativity that exists in so many poorer nations can contribute its most to the world via strong, efficient local organisations and functioning markets. This is the only way to guarantee that a reasonable share of revenues earned internationally returns home for re-investment in the local music business.

The onus must to a certain extent be on the creators themselves, supported by reasonable programmes of education. The success of the Swedish music industry is not only a matter of talent and luck - professionally active Swedish composers are heavily involved in the running of their national composers' collecting society (STIM). The composers' own democratic organisations elect members to the Boards of their collecting society. This serves to guarantee a) access to a transparent organisation, and b) to strengthen the credibility of the organisation amongst composers in general. The same applies in all the Nordic countries (Finland, Sweden, Norway, Denmark and Iceland); composers from all these countries have a high level of regional collaboration, as do their collecting societies. The integrated Nordic database covering works of music (NordDoc) is probably the most advanced and efficient in the world.
The growth of the Irish music industry is not only a matter of talent and tax breaks - the establishment of an independent Irish collection society (IMRO) encouraged Irish composers who had previously been forced to rely on other collecting societies to "return home". Brazil and India, on the other hand are such large territories (in terms of population) that a demand for domestic productions and artists is ensured. They too, however, must rely on a functioning, reciprocal international copyright system if the proceeds of international exploitation are to return home.

6.6 Start-up problems for fledgling societies and international relationships
Many younger societies, particularly in Africa, have reported that the larger societies representing publishers and authors in the Anglo American sphere (the PRS, ASCAP and BMI) have refused to sign bilateral contracts unless the CISAC 10% deduction right (for social and cultural purposes) is excluded. This puts the young society in an almost impossible position (if they cannot enjoy generous state support). If they want to be able to represent British composers such as Elton John (thereby generating a revenue flow), then they must forego the 10% cultural deduction right as a form of financial support for local composers.

7 Piracy in Developing Countries

The global industry often reminds the world that piracy is costing artists and composers billions in lost revenues. Piracy in some nations certainly is rampant. On the other hand "piracy", via the unauthorised copying of music, which does not involve a "lost sale" cannot strictly be equated with a loss of revenue. Those who cannot afford to pay 10 US dollars for a CD and prefer a pirated copy for 2 dollars would not necessarily buy as many CDs at thee higher price if pirated versions disappeared. The same argument can be proposed for consumers who download music from the internet via services such as Napster. Indeed a number of studies have indicated that the use of Napster for downloading music from other users' hard discs, has actually led to an increase in the propensity to purchase physical music products such as CDs (or even physical experiences such as attending concerts.

Naturally, the control of illegal entrepreneurs with factories producing pirate CDs and recorded cassettes must be a major priority in all countries.

On the other hand, it would be naive to assume that effective control will automatically lead to a legitimate business, with the same number of products being sold at much higher prices, especially if average earnings in that country are extremely low.

The control of piracy is most effective if local institutions have an economic incentive to eradicate it. A functioning local copyright society, for instance, can benefit form effective anti-piracy activities, since they should generate revenue for the society (vis IPRs from lawful sales).

Once again, this highlights the value of strong, efficient and transparent local copyright institutions backed up by supportive national legislation and adherence to relevant international conventions.

The "grey zone" between unlawful piracy and copying for personal use (permitted under most copyright legislation) is a particularly tricky area. The best solution appears to involve some form of compensation via levies, e.g. on blank tapes/CDs or even on equipment for copying (as is the case in Germany and Japan).

The case of levies on blank CDs in Sweden is interesting. Swedish Law does not, as yet, specify the blank CD as an item for compensation. Fees are collected from imports of blank CDs (for CD Burners) as a result of a voluntary agreement between the importers of blank CDs and COPYSWEDE, a collecting body representing a wide variety of rights holders whose works are copied in different forms (e.g. in paper copying machines, from TV transmissions to video cassettes etc). COPYSWEDE then distributes these funds as compensation for copying to different interested parties - these include photographers, musicians, composers, authors etc. Some 35 million blank CDs were sold in Sweden in the year 2001, generating a levy total of 10 million US Dollars.

The levy system represents an important potential mechanism for coming to terms with piracy, via the principle that any activity which earns revenue from exploiting authors' works should be forced to return a share of those profits back to the creators. In some countries (Japan and Germany, for instance) the levy

system has been extended from blank CD-rs and other carriers which can be used by individuals to store music, to equipment which can be used for copying (CD-burners).
Other approaches include encryption programmes and devices which inhibit copying - the track record of such technology, however, is hardly impressive. Consumers Interest groups in the developed nations have also criticised such moves as an infringement of the consumer's reasonable rights.

8 Financing of Cultural Industries.

8.1 the need for Risk Sharing

Cultural production, unlike other business, does not end without capital. Indeed much of it is in the public domain, produced for free and offered for free. It has a definite public good component that makes it so different from other goods and services. But in order to become a wealth-generating component of the economy, matters of profitability and business practice must become an integral part of cultural production. This has traditionally not been the case and most developing countries have failed to realize the
Commercial and economic value of this sector to their national economic performance.

The long-standing debate over the constraining role of finance to development has again come into focus following the financial crises in East Asian economies. Rapid and excessive financial liberalization has produced destabilising impact on the economies in the region. Like finance, culture has a strong public goods dimension and developing countries need to look for new windows of opportunity. Cultural industries represent an important area for trade expansion. Although finance is an issue of general importance for all business, studies show that cultural enterprises face higher obstacles. Difficulties for artists and creators in obtaining finance are common worldwide. They generally face discrimination on the part of traditional financial service providers, i.e. commercial banks, not only because of the high risks involved but because their collateral is of a highly intangible nature. In order for the sector to grow, new and innovative sources of finance need to be sought and pursued. Current funding practices are particularly unsatisfactory in the start-up and development phases of cultural enterprises. Since adequate finance represents a significant constraint for this sector, it is imperative to secure innovative financing and resource mobilisation.

What are different mechanisms for financing of cultural industries in some advanced countries?

1) The state (public) through direct market intervention;
2) Domestic financial instruments;
3) International assistance;
4) Mixed public-private financing schemes;
5) Foreign investment.

8.2 Role of the state in development of cultural industries

Sadly, most developing countries lack a comprehensive sectoral policy for the development of the cultural industries sector in the economic sphere. Correcting this is a first step to improving the image of the industry as a potential financing opportunity. In addition to its integrating function in any society, the economic case for culture in all countries rests on its significant employment potential (very labour-intensive industries); economic turnover worldwide; direct and indirect economic and social impact on the rest of the economy; hence income-generation and value-creation. Cultural industries generally have a high level of local sourcing and are marked by a high level of linkages with other sectors signifying a high degree of inter-industry trading. Although SMEs play an important role in this sector, particularly in developing countries, the global music industry is dominated by only a small number of giant media conglomerates that control the music industry, along with most of international repertoire and the IPRs. While currently most music-related businesses are SMEs, developing countries will need to develop medium to large sized firms in order to enter the global markets as competitive players with obvious financial obligations. Moreover craft-based clusters or industrial districts can serve as alternatives to large-sized, vertically integrated enterprises (Kozul, 1993).

Constraints to private financing of cultural industries

A number of important constraints to financing of this sector have been identified, (See UNCTAD, 2000), including:

- High levels of risks
- Firm size
- Asymmetric information about business practices, market conditions and partners
- Lack of information about international commercial practices
- Intangible collateral on the part of the artistic community and their representatives
- Lack of guarantees for cultural industry participants
- Uncertainty in financing innovative enterprises
- Lack of professionalism among all concerned
- Lack of familiarity on part of cultural entrepreneurs

- Inadequate level of understanding between the sector's participants, and the artistes themselves and the investors, as well as the entrepreneurs and the financial investors,

Professional bridges need to be improved between the creative and of called "non-creative" elements of the sector in order to overcome these differences. This is not limited to developing countries by any means. The economic case for state interventions rests on the well-known market failure argument and the public goods nature of cultural products. Under conditions of market failure, under investment will take place in productive activities resulting in under supply, as fragile financial markets fail to perform optimally. A common barrier to start-ups and growth among cultural enterprises relates to the lack of capital and start up funds. Current commercial financing initiatives basically fail to deliver. Both at the start up phase and development phases go business development, most cultural enterprises face major challenges in the area of finance.

8.3 Private-public sector partnerships (PPP) for financing cultural development

The European model of financing cultural goods is essentially a mixed model of PPP with great variations between countries and sectors at different levels of development. The financing model evolved gradually over time and is constantly shifting in balance between the public and the private sector that responds to the dualistic nature of cultural goods discussed above. In Europe, there exists a vast array of various public, private and mixed financial schemes available to cultural enterprises business development available for this purpose, including the availability of business loans, soft loans, grants, and specific grant schemes particularly tailored for development cultural SMEs (EU, 2000). Most businesses that make up the cultural sector in developing countries are either micro-businesses or SMEs that require assistance from the state. SMEs, if functioning alone cannot compete with large firms and cannot obtain the kind of credit necessary for their expansion and development.

Successful cases of policy interventions in support of cultural industries can be found throughout Europe, through measures such as:

- Promotion of clusters and networks (or physical agglomerations of firms working closely together in a system of vertical disintegration). Enterprise clustering is common in all cultural industries, whether supply-oriented production-based clusters; or both supply and demand types of clusters in multi-sect oral industries, science, technology, etc.). Some such initiatives are government-led; others emerge from purely private initiatives or both (mixed public-private sector initiatives). Most successful music industries are located in geographical clusters, e.g., Los Angeles, New York, New Orleans, Chicago, Nashville, Dublin, as well as in Kingston, Rio de Janeiro, Mumbai, etc.

- Creation and support of cultural intermediaries, voluntary organisations interest and lobby groups; business and professional associations;

- Strengthening and development of national collective management organisations;

- Improving supply networks;

- Support for learning and human resource development (formal and informal, on the job training, etc);

- Provision of business support services;

- Regulation of broadcasting;
- Fiscal incentives to encourage artists to stay and attract foreign artists to reside in the country (e.g., the case of Ireland);
- Provision of business support services to cultural enterprises include a wide range of support and networking initiatives that need to be finely tailored toward the special need of cultural industries;
- Assistance with marketing and participation in international trade fairs.

In addition in Europe, numerous ***cultural industries support agencies*** have been set up for the purpose of supporting the sector's development. Their functions range from running run grant schemes for businesses in cultural industries, e.g. the UK's creative Business Investment Fund, that offers grants, R & D financing and support, market development, product investment, joint marketing, etc.

Another important policy tool inn this regard are **loan guarantees**: a public-private loan-guarantee system with associated financial supports, such as the IFCIC in France, SODEC in Quebec, Canada, etc. similar independent corporate

entities act as financial partners to the governments and involve a range of partners by offering generous credit guarantees and other financial services for the benefit of cultural business development. They are generally supported by both public and private entities with common interest.
Loan guarantee schemes also exist in Africa, for example the GARI (Loma, Togo), FANG (Tunisia), and others. Although not a surrogate for bank lending, they can provide a type of insurance for the banking sector in support of business development. It is important to remember that the organisation and content of any such scheme needs to be finely tuned and tailored to the country's needs and level of development, as their effectiveness may depend on the level of development of other financial institutions. But in general, a Public Private Partnership (PPP)- based loan guarantee system represents a viable and important mechanism of financing cultural industry.

- There is a need to apply flexible support mechanisms particularly tailored to the specific requirements of the firms in question.
- Private-sector sponsorships of the arts is not sufficient to guarantee a dynamic and vibrant arts and cultural sector.

Setting up targeted, sector-wide financing schemes, e.g. the Creative Advantage Fund in UK Cultural Business Venture Fund, etc. provisions of subsidized funds to provide "seed capital" to SMEs, as well as larger investments to medium-sized businesses.
Moreover, governments should re-consider setting up independent, national development banks in support high-risk ventures

8.4 The Role of private investors

With the growing commercialisation of this sector, the role of the private sector has been on the increase. Although in most developing countries there area a very few purely privately based finance schemes in this sector, in Europe, there are commonly known as private sector devolvement initiatives, such as: (not exclusive to cultural industries sector): provision of the following:

- Debt instruments, such as micro credit and different forms of direct and indirectly subsidized credit;

- Equity instruments: e.g. venture capital to seed new business and to develop already established business

- New money instruments, e.g., local exchange trading schemes, of the kind set up in the UK, for example, that need to be adapted to the local circumstances.

Some of these types of schemes available to cultural industries in Europe evidently signify the presence of a thick or robust financial institutional underpinning sadly lacking in most developing countries. It is important to note here that developing countries need to establish or strengthen domestic independent financial institutions. It is important to note that automatic replication alone may not necessarily succeed. Similar development models may not have the same impact in developing countries owing to the different levels of development of both the private and public sectors.

Nonetheless, the 1990s have witnessed a growing role of the private sector investors as the industry becomes increasingly commercialised and market-driven, whereas traditionally, the state was the main player in funding of culture. This is slowly changing with the increased role of the private sector in cultural industries inmost developing countries. There is a need for greater private sector involvement in culture. Investors need to be urged to support the cultural industries sector owing to its significant economic development potential. In most developing countries, equity funds, especially venture capital (VC) funds cannot serve cultural enterprises that severely limit the amount of capital available for the expansion and development..

What can be done? Better links need to be forged between entrepreneurs and professional investors, who have generally not been interested in the sector, form a short terms financial perspective.

8.5 The Gap in financing cultural enterprise development

Most enterprises in developing countries, especially in LDCs, face acute financial constraints to their development. The problem of financing is particularly acute in the cultural industries sector owing to the prevalence of high risks, uncertainty and the need for significant investments especially in distribution and retail.

The private sector is likely to have higher profile in the future as the sector becomes more commercialised and market driven However, this new reality may also present important challenges to many LDCs since their private sector suffers from shortages of start up and development capital as the existing financial markets remain non-responsive to their development needs.

8.6 Public/private sector partnerships

As most governments in the developing world do not have the resources more generally to replicate successful cultural development models in the developed market economies, and since the private financial markets are only weakly developed in most countries, innovative forms of public-private partnership may offer possible alternatives for financing of cultural industries in developing countries.

Stimulating and encouraging private sector investment in Cultural industries is an essential part of the new PPP-based policy design toward this sector. Examples of some successful financing schemes that exist in Europe can be found at all levels: international, regional, national and local. For example, European Union's the Banking for Culture Project, and numerous other national, regional and sect oral (via business associations themselves) financing initiatives include the provision of credit via:[1]

Business sponsorship of the arts (virtually non-existent in the South): is generally based on fiscal incentives, etc –US model if financing, particularly in arts and culture (market –based) vs. the mixed model. The PPP approach implies participation and involvement of all of the main players in design of new and innovative financing strategies for this sector. The actual design may vary from one situation to another and should be tailored to the particular needs of the country or sector that should include all the key stakeholders/players in the system in very effective policy design for development of cultural industries.

8.7 Promotion of public-private sector partnerships (PPP) in the area of HRD

Support of learning, through human resource development, HRD, and entrepreneurship though both formal and informal schemes (exchange programmes, training, etc).is a vital part of an effective cultural policy. In Europe, for example, some examples of successful business support services for cultural industries include the following initiatives: Business start-up and development finance; Free or subsidized consultancy services; Direct marketing support; Support for cultural intermediaries (producers, agents, cultural entrepreneurs, collection agencies, etc.); Establishment of cultural industries development agencies to act as strategic coordinator and leader/or "advisor" of the entire process (e.g. CIDA in UK, Sheffield, Manchester, Glasgow, etc.).

Partnerships need to be struck between financial institutions, business associations, networks of entrepreneurs and business development service providers. The PPP model has worked well in a number of middle-income developing countries, such as Brazil and the East Asian countries. The multi-

[1] It is beyond the scope of this paper to discuss these in detail, but see EU's paper " Banking on Culture", 2000 (ww.EU.org).

party approach to financing is mot likely to succeed in providing risk capital required for supporting high-risk innovation-based cultural enterprises.

Risk and burden sharing, needs to be an important guiding "best practice" in financing cultural enterprises in developing countries.

- provision of finance should be closely linked to the redelivery of business lowest services;
- Long-term finance for productive purposes in developing countries.
- A number of "best practices" facilitating SMEs' access to finance are:

♦ **External financial markets**: these are not likely to be responsive to cultural entrepreneurs from developing countries as the obstacles for private firms to entry on external financial are directly are almost impossible to overcome by cultural entrepreneurs.

♦ **TNC** /or the major corporations in the cultural sphere increasingly serve the function of major providers of capital distributed directly to the artistes themselves, as per their contracts with the major record labels. In many cases, TNCs are already present but this is insufficient to support infant industries and domestic industrial development.

♦ **Donors' external assistance**
♦ **Foreign investment**

With the decline of ODA over the last 10 years, this source is not very promising or likely to be forthcoming with financial capital for cultural enterprises.

8.8 The role of the multilateral institutions an the international community

If private financial markets and international financial markets do not fill the enterprise development gap, new innovative financial schemes that involve some sort of multilateral funding will be needed to fill this gap (e.g., see case of WB involvement in the music industry in Senegal).

With support of the international community, interested governments could establish special funding programmes, especially tailored to the needs of this sector. In addition to providing resources directly to cultural enterprises, (direct state involvement (e.g., through public firms), governments in more successful advanced countries, have provided complements to finance, such as insurance and guarantee schemes, aimed at enhancing the commercial bank's ability to "service" cultural enterprises both for SMEs as well as large firms.

Development agencies also can play an important role in providing capital for cultural enterprises. For example, international agencies, such as UNCTAD and UNIDO can support SME associations in setting up cultural industries' clusters, that can bring expertise and technical assistance to associations of cultural enterprises, can provide external aid and resources to governments, can increase current aid budget aimed at strengthening local financial institutions.

Additionally, there is an important role for International Organisations, such as UNCTAD, and obviously UNESCO, WIPO ‘, and CISAC in continuing their ongoing work in this area; UNCTAD in particular in carrying out policy-oriented research on development of cultural industries in developing countries;

- to offer policy support and development assistance to developing countries in seeking new ways and means of integration into the global economy by becoming global players in cultural industries;

- to develop, together with other relevant international agencies, joint programmes with a view to promotion and development of this sector, including facilitating their access to finance and external assistance.

9 THE MUSIC INDUSTRY IN SWEDEN – a unique success story for a small nation in the international music arena.

9.1 The growth of a music export industry

In 1999, a government report estimated the annual export value of the "Swedish" music industry at around 250 million US dollars.
Sweden is a remarkable case of a small nation (population under 9 million) achieving a positive trade balance in certain music industry revenue flows, even though the domestic share of the local Swedish music market is around 30%. ABBA, Roxette, Ace of Bass etc are all groups hailing from Sweden. Another important source of international revenue has been the combination of singer-songwriters and writers providing material for international stars such as Britney Spears. Max Martin, Paul Rehn, Anders Bagge are just a handful of the many successful Swedish writers providing material for international "super stars".. Many of them are also studio engineers, thus attracting international stars to Sweden to produce recordings. This success is reflected in the development of money flows to and from Sweden for performance rights.

The international music industry has seldom demonstrated a high degree of transparency as regards economic deals and flows. As noted above, only one of the Majors makes data public as regards publishing activities and revenue earned. The record industry trade organisations seldom give details of individual sales of recordings, though some data is made available regarding market share of different actors.
The collecting societies, however, with their demands on transparency, are a source of valuable facts and figures.
Figures of revenue flows to and from Sweden for performance royalties (moneys paid to composers via the societies for performances of their works on radio/live and at concerts) are available. They show a remarkable development over the past 10 years:

Year	Received from outside Nordic area	Paid out to same societies
1989	US 2.6 million	US 3.3 million
1999	US 6.0 million	US 8.7 million
2000	US 8.5 million	US 8.3 million

Table: Revenue flows for performance rights income between the Swedish Copyright Society (STIM) and equivalent copyright societies outside therr Nordic area. (*Source: Annual Reports from STIM*)

The above table demonstrates that for the first time ever, in 2000, more income was paid to Sweden for performances of Swedish works in all reporting countries outside the Nordic area, than Sweden paid out for domestic performances of foreign repertoire.
It is important to note that these figures are significant only as indicators. The absolute values reflect only a small part of money flows generated by Swedish music enjoying international success. They equate to the 50% of incoming revenue which collecting societies are bound by CISAC rules to forward to individual composers - but they reflect a lot more (radio plays, promotional activities, concerts etc). It is very hard to estimate the actual returns to Sweden. Much revenue generated remains in the international music industry arena, via shares of IPR revenues retained by publishers. An interesting exception is the artist/singer songwriter duo Roxette. They control virtually all of their own creative materials.

What are the factors which can explain this development in a small, albeit rich country?

A number of observers have pointed to government social and cultural policies in the 1980:s which, paradoxically, were not implemented with the aim of creating a successful music industry.

Available data suggests the following reasons for the establishment of this new national resource:-

- Music educational programmes in the 1970s/80s aiming to give school children basic proficiency in at least one instrument.

- Familiarity with Anglo-American pop culture and the English language.

- Social programmes at municipal level providing rehearsal venues for pop and rock groups.

- Immigration - many successful Swedish stars come from immigrant or semi-immigrant backgrounds.

- High levels of local entrepreneurial activity with recording studios, record production and music publishing firms (with very little state involvement or encouragement).

- Easy access to affordable, good quality technology and widespread technological expertise.

- Inspiration from the international successes of Swedish artists/songwriters (this can be compared to the Bjorn Borg effect in the late 1970s and 80s, producing a stream of would-be and successful tennis stars).

- Effective and efficient copyright collection/distribution bodies.

- The municipal music school. This was a government cultural policy aimed att giving every child the ability to learn the basics of at least one musical instrument.

- Social policies were introduced which encouraged municipalities to provide venues where young people could meet during a down turn in the economy. Empty warehouses were turned into meeting places where young people could start bands, rehearse and create new music in order to encourage creativity and cultural expression.

9.2 The institutional support for the music industry in Sweden

Sweden was one of the first nations in the Western hemisphere to expend public sector support for music beyond the area of Art (or "Classical") music to other genres, including what is generally referred to as popular music. Via the Arts Council, record producers have received support for phonogram productions which are regarded as not immediately commercially viable, but of cultural value and importance. It would be rash to claim that this has played a major role in the international success of the music idnustry. I is clear, however, that without such support, many traditional genres of music (and indeed much youth music) would not have been able to survive and develop as actively as has been the case.

There is a thriving industry. Some two thousand publishers are registered with the composers copyright society, STIM, but most of these are one-person operations, formed by composers to retain control over their works. The official music publishers association has 70 members, but the Big 5 dominate the market. Of 200,000 new works registered in 1999, some 140,000 came form the five major international publishers. On the other hand, no less than 26,000 works were registered individually by local composers, thereby entrusting STIM with the task of monitoring use of their creations (without involving a publisher).
There are over 1000 Swedish record labels, run by some 600 different companies. Once again, the majority of these are one-person operations. There are about 50 more established record companies. As in most countries, the Majors dominate, both in terms of market share and control over physical distribution.

The Copyright Society representing authors is owned jointly by two composers' associations and the music publishers. State representatives also sit on the Board as a guarantee against abuse of its monopoly status.

Even other rights societies have been established and now play an important financial role in supporting local cultural and industry activities.

- STIM, mentioned above, collected SEK 545 million (app US 52 million) from performance licences in Sweden during 2000
- SAMI, which represents performers collected SEK 86 million (app US 8 million) for public performances of phonograms.
- IFPI. Since SAMI and IFPI share the above source of revenue, one can conclude that record producers shared US 8 million during 2000 from the same sources
- COPYSWEDE collects money from private and public copying of works. This includes both copying in schools and libraries, as well as levies on blank

cassettes and CD discs of works. The organisation collected SEK 122 million (app US 12 million).

Such institutions are vital in a world where income revenues will shift from tangible to intangible forms. The Swedish example illustrates the value of establishing such functioning bodies. Gradually the systems for remunerating performers and those whose works are copied will become more and more international. Here too the principles of reciprocity and solidarity must be applied if the developing countries are to derive any financial benefit.

Sweden, despite the above, is not a crystal clear success story. Many publishing contracts still retain the same wording as in the old days when the publisher's main activity was the printing of sheet music. The somewhat antiquated "receipts" clause still exist in a "life of copyright" environment, as opposed to the "at source" contracts which are the norm in the UK and the USA. "At source" signifies that a given percentage of moneys collected in another country will return to the creator in his home country, without any other deductions than sales taxes and possible copyright society administrative charges. In mature music-exporting countries, publishing contracts for popular music rarely extend for periods over 15 years - five to ten years is the norm. In Sweden publishers (understandably) have been less than eager to depart from age-old lucrative practices. Many composers sign complex contracts which they do not really understand, often coupled to seemingly attractive advance payments.

Media access, so vital for creators to meet an audience, has also been problematic in Sweden. The amount of music broadcast over radio and TV has multiplied by leaps and bounds over the past two decades. Range of choice, however, has decreased. Figures compiled from copyright returns indicate that even public service, licence-financed Swedish Radio's output has shown a 50% decrease in range of choice during the 1990:s. Frustration amongst local artists and composers regarding the opportunities to hear Swedish creations over the airwaves led to the formation of a cross-industry initiative in 1999, the Swedish Committee for Music in the Media. This body has presented statistics covering output, genre etc - the data received considerable coverage in the Swedish press and seems to have had an effect on music policy in the Swedish radio and TV media.

The fact that leading figures in the current government (representing both Trade and Culture) have taken a personal interest in the music industry has certainly served to raise the industry's status. The Minister of Foreign Trade was personally active in securing financial support for a large Swedish "showcase" of artists at the annual international MIDEM music trade fair (Cannes, France) in 1999.

Both state and other public institutions have exhibited a marked desire to co-operate in supporting the export of music by creators active in Sweden. The Copyright Organisation (STIM), the Musicians Union, the local record industry (IFPI- Sweden) have all supported a cross-industry body (Export Music Sweden) which actively promotes Swedish Music world-wide.

10 Best Practices and Policy recommendations

The variety of approaches (and the variety of results) noted above demonstrate that there is no universal patent solution to problems experienced by developing countries, including the most least developed, in the music industry arena. Each country needs to develop its own solution to suit its own social, economic and cultural conditions and traditions. Nevertheless, there are important lessons that can be learned from the successful examples of music industries in all countries. The following have been identified as critical success "ingredients" or elements found

10.1T he existence of strong, independent national copyright management institutions

An overall conclusion is, however, that a focus of copyright institutions and revenue flows is essential. Developing countries, where necessary, need tomodernise their copyright legislation, and facilitate the establishment of an efficient copyright regime which can guarantee a level playing field between their own creators and those they are competing with internationally.

DC's should receive moral and some financial support from the international copyright community to nurture their own copyright protection bodies, bodies which are efficient, fair and transparent. This means that they can satisfy stringent, independent audits. Also that both music users (who pay money to the societies) and music creators (who receive distributions) are reasonably satisfied that incoming revenues are distributed to those whose music was performed. Any global moves in the music industry that weaken the principles of reciprocity and solidarity which have traditionally held the copyright system together (or even worse, to bypass it altogether) can only have negative consequences in this context. Here, international organisations such as WIPO and CISAC, playing a combination of advisory and watchdog roles have important responsibilities.

10.1.1.Widespread knowledge of Rules and Regulations - Knowing and using international Rules of Play.

The Copyright system is not, and can probably never be perfect. Although this report has demonstrated its problems stemming from a number of destabilising factors, it is the best guarantee for the long-term return of international revenues to an individual. Any other solution involves the risk of either getting a less than reasonable one-off payment and never seeing any more future returns ("a song for a bottle of whisky"), or being at the far end of a chain of middlemen, each of whom retains a slice of the cake.
The copyright system, with collecting societies following international rules of play, allows for minimum levels of returns to individual creators to be decided and implemented. That said, music industry knowledge in the legal field, is an essential prerequisite for actors within the copyright field. Even the best set of rules can hardly protect the naive from being cheated.

We have referred to a CISAC rule which is vital for smaller societies (which play an important local role, policing copyright, controlling piracy etc), namely the 10% deduction right for cultural and social purposes. If the larger societies, representing international repertoire refuse to access this rule in their reciprocal agreements with smaller, fledgling societies, then this can only have a negative effect.
Many of the larger music collection societies would argue that they have always been keen to help LDCs start their own operations. Usually this has been seen as a means of fighting piracy and protecting international (Anglo-American) repertoire, rather then helping establish a money flow back to the LDC for exploitation of its music internationally. Such initiatives often failed to realise that a nation which is economically poor, or even suffering a huge burden of foreign debt repayments, is hardly likely to prioritise the use of hard currency for payments for international hit music.

WIPO and CISAC should work closely to a) strengthen the principles of reciprocity, and solidarity in the system, and b) oversee the rules and practices which bind the international copyright systems together, and both update and adapt these to the needs of all parties in the system.
Even smaller societies will obviously need a high level of technological proficiency and resources. Expertise in the area of database construction and operation is another area where assistance could be provided. Sweden has been providing such assistance to the Baltic states, helping them establish their own independent collective rights management organisations. Sweden has also provided them with technological assistance, and has successfully negotiated with the 5 Major publishers a higher commission rate for returns from the Baltic States (to pay for this initial development initiative).

Although not a poor nation, Ireland provides a fine example of the value of establishing a local collecting society. IMRO can now offer service to Irish composers that were not previously available in the home territory (the PRS in the UK “ran” Ireland).

10.1.2. Expanding copyright protection to generate revenues for other groups of rights holders

Other flows of rights revenues can also be of significance. These include primarily neighbouring rights which allow performers and record companies to receive moneys for public performances of recordings. Neither the USA nor Canada have signed the Rome Convention on Neighbouring Rights. In Canada, a recent Task Force, established to study the Canadian music industry, expressed serious regrets that the Government had failed to ratify the Rome convention, thus depriving performers and local record companies of revenue.

Like many aspects of copyright, this can be a two edged sword, if there is not general support for a convention, and if a functioning system for distribution of revenues is lacking. Adding more rights holders does not immediately mean that the total revenue “cake” expands. By not joining the Rome Convention, records produced in a country can be “cheaper” to play on radio stations in a country which has signed up. Rome records in Sweden, for instance, generate around 10 US dollars a minute when performed on national radio. Such moneys are divided 50/50 between a performers’ collecting society, SAMI, and the local branch of IFPI(the organisation representing the international recording industry). By playing non-Rome records (primarily those produced in the USA but also in many LDCs), the radio station can thereby save 10 dollars/minute in running costs. If however a country signs Rome but does not have a functioning distribution society (with data on performers, recordings etc which is internationally available) which has a reciprocal agreement with its counterparts in Sweden, then the revenues paid will stay with the Swedish organisations and be treated as “non-distributable” funds.

Similar arguments can be presented as regards organisations for collecting and distributing income for copying of books, sheet music etc (organised in IFFRO). It its likely that such organisations will play an important role in collecting and distributing various types of levies which are introduced to compensate creators from losses through various forms of uncontrollable personal copying (e.g. on blank CDs).

With increasing demands by both music users and regulators for “one stop shops” to facilitate rights clearance for multimedia products, it is likely that more and more rights holders will stake their claim to a share of the income. Even poorer countries must be aware of these developments and where deemed necessary, form the relevant institutions at home, together with functioning international reciprocal agreements.

- Copyright Societies – legal enforcement institutions (“police”) or essential intermediaries providing services and guarantees?

It is not surprising that many users of music do not exactly enjoy paying fees to composers. It is equally important that organisations that collect and distribute copyright royalties are not regarded simply as policing authorities. It is important that they promote the image of intermediaries between rights holders and users, providing for a balance of interests, in the interest of the industry as a whole.

The Swedish collection society STIM has stressed this in both its internal training programmes and its external image-building activities. But it has also stressed its role in monitoring the use of Swedish music internationally (through its agreements with other collecting societies). Promoting this international role has clearly given STIM a goodwill boost at home which has enabled it to stress its intermediary/service role better. IMRO in Ireland has followed a similar, positive strategy. This is a small but vitally important case of good practice.

It is equally important that both music users who pay for these rights as well as composers who receive distributions are satisfied that distributions reflect actual usage, and that administrative costs for the activities of collecting and distributing revenues are reasonable.

Recommendations for developing domestic music industries:

Developing Countries (DCs) should become part of the copyright community, but demand reasonable conditions which will allow them to establish functioning institutions. In many cases this will involve:

- Modernisation of their copyright laws where relevant
- Signing international conventions where deemed relevant (e.g. Rome convention on Neighbouring Rights)
- Encouraging musicians and composers to form common-interest bodies which can take an active part in the running of local copyright management societies
- Providing the necessary start-up funds for creating functioning copyright management institutions which are efficient, and transparent.
- Where possible encouraging creators to retain their original rights at home (via a domestic original publisher), with contracts for international exploitation being based on “reasonable” terms (terms which are regarded as reasonable in mature music exporting nations).
- Seeking forms of knowledge and technology transfer and operational support from other smaller nations in the developed world which have managed to create local, independent successful copyright management institutions (e.g. Ireland, Sweden).

♦ Co-operating with international bodies such as WIPO to provide local musicians/composers and music industry entrepreneurs with improved music industry knowledge.

10.2 Media Policy, Music Content in the Media, Media Access

Access to channels to a potential audience is essential for any creator. Support and encouragement by media channels provide an important boost to any artist/composer. Absence of such access can have an equally negative effect. This is especially important for young, unknown artists.

Once again, there are no universal solutions. France has preferred a quota system for Radio, as has Canada. As with many rules and regulations, they can cause unexpected negative effects, or be bypassed by the "creative thinking" of those who wish to circumnavigate such cultural rules.
The French demand for a fixed percentage of French music has resulted in a few popular artists being performed many times – this has hardly supported the goaal to provide a wideer range och media access to French music as a whole. The French Government is currently looking for means to redress this problem.
The Canadian task force, referred to above, found that the so-called CAN-CON rules had gradually been watered down after a series of complaints from entrepreneurs wishing to start new media channels. As in France, these rules specify the percentage of Canadian music productions which should be aired in radio stations with different formats.
Australia introduced content rules, based on a system of voluntary music industry agreements (resulting from a potential threat of government intervention). The system allows for a guarantee that a certain percentage of new Australian records are always aired. Local industry observers claim that the introduction of this system resulted in a market share increase for domestic repertoire from under 2 to over 11%.

In most larger countries, access of domestic music to the airwaves is not a major problem because of the volume produced (with the exception of smaller genres). Brazil and Spain, for instance, have several radio stations which play around 70% local content. Kenya, on the other hand, experienced two attempts in the 1980s to force the media to play more local music. This was seen as a way to counteract the dominance of Congolese and Tanzanian groups. Both attempts failed, though lack of both public and media support.
Governments can introduce quota rules, but their reliability and longevity is in doubt. There is always the risk that such measures can come into conflict with other international obligations which outlaw the subsidisation of domestic products (e.g. in the TRIPS agreement). Even if cultural products will probably

be excluded by many nations from the TRIPS trade agreement, it seems that a variety of voluntary agreements backed up by national music industry led campaigns are the most successful ways of providing reasonable media access for local music.

A Swedish initiative involving a pan-industry committee which publicises relevant statistics seems to be working. It has also enjoyed considerable support from other sections of the media (e.g. the Press). One result is the inclusion by the government of the following text in the charter for public service radio and television: “the broadcasters have a particular responsibility for Swedish music. Composers and artists”.

Wherever possible it is vital that governments encourage in the media the duty to allow local creators reasonable access to media channels. Forums in which a dialogue can take place are essential, forums where the sometimes conflicting interests of editorial or commercial freedom and different forms of creative expression can meet. Here, once again, globalisation and international mergers can pose problems. International chains of radio stations where programme policy is decided at one central point, without consideration of local interests and cultural expressions can block the media access which is so essential for creativity.

Recommendations

- When granting broadcasting licences, favour media businesses which promise to include a wide range of musical choice in their output, or, contribute to a general increase in the range of choice. Stress their duty to the local environment where they do their business.
- Where forms of state controlled or Public Service broadcasting survive, give clear instructions regarding their duty to promote and develop local cultural activities.
- Scrutinise carefully risks associated with collective dominance in the case of business mergers which involve both rights ownership, and rights exploitation (eg record companies, publishers and broadcasters or even Internet Service/Content Providers in the same conglomerate). Apply antitrust rules where appropriate.
- Give public support whenever possible for creators reasonable demands for media access.

10.3 Forms of Industry support (fiscal, investment policy, export)

10.3.1 Building and supporting a local industry

The creative base starts at the local level. A thriving entrepreneurial climate that encourages smaller independent companies to produce a wide range of music products can provide the foundation for export successes. This, in its turn can even encourage local subsidiaries of the Majors to invest in local repertoire and artists. Such a climate can foster the growth of local entrepreneurship which can find synergy values from collaboration with subsidiaries of the multinational music conglomerates (as the example of Sweden quoted earlier has demonstrated).

Some countries have introduced different programmes for direct and /or partial funding of local production. Canada's Sound Recording Development Programme (SRDP) was created in 1986 to provide support to Canadian-owned companies for the production of Canadian audio and video music and radio programmes, as well as marketing and distribution facilities. Annual funding was originally 5 million Canadian dollars per annum. The Canadian Government's Task Force report (noted above) observes that despite the fact that this sum has decreased some 27% in constant dollar terms, the programme had a very positive effect on the local sound recording industry. A critique was that SRDP provides far too little support for marketing and distribution.

Sweden, for instance, introduced a system of partial support for the production of phonograms with "non-commercial" music in the 1970s. This has also included support for an independent distribution company that offers services to smaller labels. The funds were originally distributed to projects with genres which the subsidiaries of the major music companies would not normally support. The system has supported on average 90 album productions per annum with a budget of 1 million US dollars – this production amounts to approximately 10% of all albums produced annually in Sweden. An unexpected somewhat negative result of this programme has been that phonograms based on this state support seem to receive far less media attention (measured in terms, say, of radio plays) than those produced without grants.
Sweden also has a system of state support for music groups – even rock artists have received such grants. In the year 2000, 120 groups covering a variety of musical genres shared a total of 750,000 US dollars. Such groups apply for these grants, specifying particular projects they intend to work on – an independent committee consisting of respected musicians and academics organised by the state-run Arts Council decides who gets what.
The Swedish grants for phonogram productions as well as grants to groups for projects have also fostered an entrepreneurial climate, since many music groups build their own recording studios and soon get involved with small-scale industrial activities, supporting the notion that "it is easier to make a businessman out of a musician than a musician out of a businessman".
The Swedish music industry's export activities have been heavily supported, above all morally but also financially by the Ministry for Foreign Trade. The Minister in charge (over the past 6 years) has taken a keen interest in what he sees as a sector with a huge foreign earnings potential. Such personal interest by the political establishment clearly serves to boost morale in such an industry. The Minister has also arranged for government support in the form of, for

instance, a one-off grant to finance a showcase of Swedish music at the international Midem trade fare in Cannes, France. The government has also encouraged both local and international counterparts in the Swedish music industry to work together to promote Swedish music at home and abroad. This resulted in the formation of the organisation Export Music Sweden which promotes Swedish music internationally in different ways, via printed materials, via the Swedish Music Information Centre (“STIM/Svensk Musik”) web site, and via physical showcase presentations at various international gatherings (PopCom in Cologne, German, for example).

10.3.2. New forms of distribution which can bypass some traditional players

One of the more interesting examples of state support for increasing media access for local music production is the Norwegian Phonofile electronic distribution system. Most local music in Norway has traditionally been recorded by independent Norwegian companies. The subsidiaries of the majors have been inactive in this area. A private/state initiative involving a commercial TV channel, the trade organisation for independent Norwegian record companies (FONO), and the National Library embarked in the late 1990:s on a project involving digitisation of all available Norwegian recordings. This material was catalogued, established in a database and a system for Business to Business distribution was created. The idea was to simplify the process whereby broadcasters or other business users of music could search for works to be exploited. The National Library is responsible for the digitisation process (and storage of analogue originals).
FONO together with the Norwegian association of popular music composers owns a majority share in Phonofile.
ARTSPAGES is a global extension of the Phonofile concept, and has received financial support from Norwegian international development funds. Artspages has established a network of contacts and some contracts with owners of music recordings in Asia and Africa. The principle is that composers and artists or their representatives must enjoy majority control over any such local initiatives.
There is a clear potential here for a number of DCs, not least in conjunction with the planned digitisation of various folk music archives. Any system which merely makes such archives available in an uncontrollable fashion over the internet (albeit for academic research purposes) could result in such music being borrowed and used without any compensation returning to the developing country.

Recomendations

Role of governments (Finance)

(a) To improve prudential supervision of their financial sector;
(b) To design loan guarantee schemes that ensure balanced risk sharing and avoid moral hazard;
(c) To promote a framework for SME-support services;
(d) To support PPs - public-private sector partnerships for PPP VC funds and investment funds, that would ensure a level playing field for all market participants;
(e) To create conditions for promotion of local capital markets in a gradual and sequenced manner;
(f) To provide finance and guarantee schemes for cultural enterprises.

(g) To support the development of local financial service providers.

Public and private sector: joint objectives

(a) to create a pro-investment environment;
(b) to adopt flexible regulations aimed at creating a supportive institutional environment to encourage public-private cooperation in the financial sector;
(c) to encourage a variety of partnership and joint ventures between local and foreign financial service providers;
(d) to support cultural enterprises in acquiring technologies and skills, as well as entering into joint ventures with foreign partners.

Governments in developing countries would be well advised to consider carrying out following types of initiatives in support of development of cultural enterprises:

- to provide, whenever possible, medium and long term finance for cultural enterprises;
- to consider finance and guarantee schemes in local currency;
- to assist business with business development services;
- to share the risks and responsibilities with cultural enterprises;
- to disseminate information on financial innovations;
- to assist commercial banks in developing their core competitiveness in providing financial services to SMEs in cultural industries;

- to assist cultural enterprises in developing their core competencies;
- To join with private partners in creating public-private funds and investments banks to assist SMEs especially those in Cultural industries;
- To set up/strengthen development banks to adopt a sect oral approach toward cultural industries;
- to promote policy dialogue between governments, domestic commercial banks, and other partners to create a supportive financial environment for cultural industries;
- to provide long-term assistance through loans and equity;
- to engage in complementary capacity-building for specialized financial institutions and SMEs in cultural industries toward business development service providers;
- To accelerate the inclusion of SMEs in CULTURAL INDUSTRIES into the formal financial sector (UNCTAD, 2001).

10.4. Training, education, job creation

10.4.1. Creating skills in the Music Industry

The music industry has always thrived on the dreams of young creators to be superstars. Few make it. Many are willing to sign away their rights for a pittance in the hunt for the goal of stardom. This is a universal rule.

Educational needs exist on the infrastructure level - the example of the Swedish Municipal Music School attempting to give each child the basics of at least one instrument – is a prime case of best practice.

EXAMPLE FROM IRELAND

On a higher level there is also the need for educational forms which demystify the industry. Training which explains how the industry works, the principles of copyright etc. Training which gives the would-be creator the ability to avoid the worst pitfalls.

Such initiatives can serve to instil a form of entrepreneurial confidence which will encourage successful creators to re-invest their earnings in the local scene. It is interesting to note that when Swedish tennis stars were ruling that world in the 1980:s, most of the big name players (Bjorn Borg, Mats Wellander) moved away to tax havens such as Monaco. Their equivalents in the music industry (Bjorn and Benny of ABBA, Per Gessle of Roxette) have stayed in Sweden despite high levels of taxation. Quite uniquely, Per Gessle claims that there is only one song he has ever written where he does not retain control of all the rights.

Jamaica experienced the value of local investment throughout the 1980s when local studios such as Tuffgong became a goal for many artists from the USA and Europe. This is another example of the value of basic infrastructure investments (via public or private initiatives).

Even limited international success for an artist from a developing country or a smaller nation (in economic terms) can be hard to handle without knowledge of the industry, some level of influence (e.g. over copyright societies) and reliable advisers.

Exchange programmes between such countries and their musicians can be of great benefit. In August 2001, the Irish copyright organisation IMRO hosted a writers workshop with participants from Ireland, Sweden, Greece, the UK and Spain. Apart from the stimulus of cultural and creative interaction, the workshop gave the writers the opportunity to discuss copyright, management deals, changes in the music industry from an international perspective. Such initiatives should be encouraged by WIPO, CISAC and concerned governments.

In today’s world, it is naive and simplistic to assume that the successful musician merely wants to play the guitar and not bother about the realities of the surroundings. Creators must have the basic information to be able to exert a reasonable measure of control over their financial and creative destiny.

No measure of training, or even marketing exposure can guarantee global success in the music industry – but knowledge of how it works is essential for self confidence and the avoidance of serious career or business mistakes.

The combination of talent, music education, music industry and music technology training are fine prerequisites for developing business entrepreneurship – this has clearly been demonstrated by the examples from Sweden, Ireland and Jamaica quoted in this paper.

Recommendations

- Music education related both to local culture and traditions as well as to international developments should be given high priority by governments in LDCs.
- Talented musicians and composers should be given access to education in areas such as the music industry business and music industry technology.
- Governments should collaborate with other interested governments and parties in the organisation of workshops where creators can meet, work together and learn together.

11 Conclusions

The trends towards Globalisation summarised above have not invalidated the concept of national or even regional music industries. Global distribution channels such as satellites or the Internet admittedly show no technological respect for national, territorial or cultural (linguistic) boundaries. On the other hand they do not solely have the effect of promoting a diminishing number of global entertainment stars and products. Napster has demonstrated the enormous power of the human being, given the right technology, to discover new forms of music. Napster has also demonstrated how had it can be to get paid for this activity when applying traditional music industry business models.

- A combination of local factors such as culture, education, economic conditions, access to technology, even when interacting with international impulses can lead to high levels of local activity. The aggregate effect can thus constitute a de facto national resource. This has been the case for decades in the UK and the USA. More recently, other countries, even small ones such as Ireland, Sweden and Jamaica, have shown that they can develop their own thriving industries. There is no reason what increased competition from local activities should not continue to take market share from established global superstars.

This does not negate the need for some form of collaboration between small local players and established global players. All business starts locally – if it is firmly established, with a good grasp of international rules of play, a reasonable amount of local government and media support, than the potential is very real.
Once again we reiterate: you can make a businessman out of a musician, but it's much harder to make a musician out of a businessman. The opportunity is there for the taking.

12 Directions for Further Research

A number of areas can be identified. They relate to the key issues described above: the collective management system, forms of government and private support for building local industries, and the development of music industry skills through education and training.
Examples:
The expansion of IPR revenues to cover more groups of rights holders. How fast, if at all in some specific cases, should LDC integrate themselves in this process?
How best can knowledge and technology transfer be organised in an efficient, neutral (i.e. avoiding vested interests), fashion. Which international organisations should take initiatives? WIPO, UNCTAD, CISAC, UNESCO etc.?
The existing traditions within the international copyright regime (rules and institutions) and their relevance for LDCs. Should some of the rules be changed facilitate the growth of local industries and the return of revenues in conjunction with international exploitation?

The above are highly significant, not only for poorer nations, but also for the international cultural industries as a whole. If the world is to benefit from the huge basin of cultural wonders in the poorer nations, then they must never be ruthlessly exploited. They must be traded on equal and under fair conditions. This requires a level playing field, with a suitable level of international knowledge even on the local level.

Appendix 4 figures with legends

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