

Copyright: the dark side of music business

*Paper presented at Iaspm's 5th International Conference,
Paris, 1989.*

Popular music studies often pointed out the lack of reliable sources on music consumption, and thus concentrated on the most accessible data, related to the exchange of visible goods: record sales, or even simply charts. But a considerable part of the overall turnover of the music industry is based on the exchange of immaterial items: the rights to reproduce a musical 'work' or its performance. Relevant data are accessible to record companies', music publishers' and performing rights societies' executives, and (as far as they are concerned) to authors and (much less) to performers. But they are not public, even for research purposes. In a world where, for various reasons, the actual sales of phonograms become less and less important compared to the trade of rights, copyright stands as an unknown continent that music researchers must explore. A few figures will probably strengthen this assumption: according to an almost official source like Billboard's *This Business Of Music - A Practical Guide to the Music Industry for Publishers, Writers, Record Companies, Producers, Artists, Agents*, "The greatest source of revenue in the music industry comes from public performance payments collected and distributed by ASCAP and BMI" (please note that

this means U.S. music industry, which is assumed to be the music industry all across the Guide). “In 1983, ASCAP alone collected some \$198 million in performance fees from broadcasters and other sources. BMI’s collection from such sources for the fiscal year ending June 30, 1984 was almost \$125 million, and SESAC, a third licensing organisation, for 1983 collected about \$5 million. The three organisations thus received an aggregate of some \$328 million. This may be compared with 1976 collections of approximately \$94 million for ASCAP, about \$60 million for BMI, and over \$3 million for SESAC, or a total of some 157\$ million. Total collections thus more than doubled in the interval.” (p. 182)

The introduction of copyright in various national legislations, and in international conventions, is an official acknowledgement of the ‘new’ role of the bourgeois artist (poet, writer, playwright, composer, fine artist) after the French Revolution (although in some cases much later on). Current laws and conventions are still shaped around that role; in music they reflect the idea of the score as the actual musical ‘work’. Twentieth century media like cinema, phonograms, radio and television are somehow subsidiary and peripheral to that nineteenth century conception of art and communication, in various national laws and international conventions (computer software still waits to be dealt with in copyright acts in many nations).

It is not surprising, then, that the very idea of ‘intellectual property’ is being threatened in the last decades of this century, by new technologies and by the new boundaries that these introduce between collective freedom and individual rights. The disputes about home taping, copycode, sampling, are in front of us, and present the music industry as the defender of long established collective and individual rights against abuse and exploitation.

An exploration of the inner mechanisms of record and music publishing would reveal a different reality. A number of composers and performers from Third World countries, a well known example, wouldn’t probably agree with the industry’s self-projected image. However, a less frequently debated subject deserves even more attention. Since decades, now, music pub-

lishers' involvement in actual publishing (i.e. printing) of popular music has been radically reduced. But popular music composers still do sign contracts with publishers, on assumptions that to a significant extent belong to the old age of Tin Pan Alley publishing, and have very little to do with the actual service offered to composers in return of about half the income related to the 'work'.

In few years, this will probably be the case of contemporary classical music too, as 'desktop music publishing' software becomes available to composers, who still have to depend on publishers for the very expensive process of score and parts reproduction. So, by the end of the century, the only task of a very large part of the music industry (and an equally significant part of its turnover) will be mediating about rights between authors and the media. But will both of these agree?

Let us now examine a few figures, drawn from the annual report of the 'Direzione della Sezione Musica' of the Italian performing rights society (S.I.A.E. - Società Italiana degli Autori ed Editori). In the following table the overall annual income of the Sezione Musica (the music division) is split according to the different sources; figures are in dollars:

Lire/\$= 1350	Year 1987	%	Year 1988	%	Var.
CLASSE I					
Balli	65,542,355	30.79	75,375,080	31.43	15.00
Concertini	5,633,244	2.65	7,178,049	2.99	27.42
Totale I	71,175,599	33.43	82,553,129	34.42	15.99
CLASSE II					
Film spettacolari	7,535,165	3.54	7,250,324	3.02	-3.78
Film pubblicitari	166,361	0.08	139,926	0.06	-15.89
Totale II	7,701,525	3.62	7,390,250	3.08	-4.04
CLASSE III					
Radiofonia/Televisione	38,624,354	18.14	46,031,764	19.19	19.18
Filodiffusione/App. radio	1,382,153	0.65	1,438,639	0.60	4.09
Apparecchi FD	1,414,469	0.66	1,406,907	0.59	-0.53
Apparecchi TV	3,586,330	1.68	3,968,638	1.65	10.66
Radio private	1,882,652	0.88	1,809,110	0.75	-3.91

TV private locali	1,196,488	0.56	1,182,963	0.49	-1.13
TV private network	885,185	3.84	8,603,159	3.59	5.11
Totale III	56,271,631	26.43	64,441,180	26.87	14.52
CLASSE IV					
Concerti	4,698,723	2.21	5,363,233	2.24	14.14
Riviste-Conc. Mus. Legg.	12,141,564	5.70	14,658,355	6.11	20.73
Varietà	5,579,821	2.62	6,311,095	2.63	13.11
Bande	1,604,307	0.75	1,710,115	0.71	6.60
Strumenti meccanici	8,838,500	4.15	10,166,953	4.24	15.03
Totale IV	32,862,916	15.44	38,209,751	15.93	16.27
CLASSE V					
Dischi e nastri	20,199,577	9.49	23,572,800	9.83	16.70
Licenze centralizzate	1,686,577	0.79	2,382,537	0.99	41.26
Diritti di registr.	4,496,962	2.11	5,359,393	2.23	19.18
Produtz. progr. RF-TV	28,244	0.01	33,212	0.01	17.59
Videocassette uso priv.	552,607	0.26	644,501	0.27	16.63
Totale V	26,963,966	12.67	31,992,443	13.34	18.65
ESTERO					
Diritti di esecuzione	11,529,349	5.42	9,116,080	3.80	-20.93
Diritti di ripr. mecc.	6,381,418	3.00	6,142,834	2.56	-3.74
Totale Estero	17,910,767	8.41	15,258,915	6.36	-14.81
TOTALE	212,886,404	100.00	239,845,668	100.00	12.66

We see from these figures that although the Italian record market compares very unfavourably with many others (including those of much smaller countries, like Holland, for example), copyright turnover is not far from the U.S. figures mentioned above: if we deduct foreign rights ('Estero') and mechanical rights ('Classe ') we come to about \$192.6 million, which can be compared to the \$328 million for the U.S. in 1983. Even if we deduct some \$15.6 million for performing and mechanical rights paid to foreign copyright owners, we still have the picture of a well established and profitable industry, much more adequate to 'the fifth most industrialized power' in the capitalist world than record sales figures would suggest. We can conclude that any account on an individual country's music industry based only on record sales figures is very little significant, and cannot be in any way taken as an indicator of actual music consumption in that

country.

If we take a closer look to some of the categories listed in the S.I.A.E. report, we find a few surprising figures: first of all, we notice that the largest slice of the annual turnover (34.42%) comes from 'Classe I', specially from 'Balli', i.e. discos. If we add this to the figures from 'Classe IV', which is concerts and juke-boxes, we discover that slightly more than 50% of the annual income comes from social modes of music consumption, the rest coming from more typically individualized modes of consumption, like buying a record, listening to radio and television, etc.. Figures may be misleading in this case, as it is obviously easier for the music industry to control social gatherings than individual consumption, and also because of the particular state of confusion of broadcasting in Italy, which allows many of the commercial broadcasters to pay less than they should, or even nothing; however, these figures anyway indicate areas which can be considered safer for the industry's investments, and so can be used to explain production trends that would appear mysterious if we only considered record sales. Again, copyright figures show their importance as a tool for popular music research. Unfortunately, as I mentioned, more detailed figures are not accessible: that is, one cannot know how much money came to the copyright owners for a particular piece of music, unless he is one of them; so one of the most reliable indicators of the actual consumption of an individual piece is unavailable to researchers. We may sometimes be informed that this or that song is 'the most performed ever' (*Yesterday* being the most credited candidate, at least recently), but there is no way to verify even these rumours. It must be said, also, that even when available such figures wouldn't be very easy to understand, the total sum due to a copyright owner for an individual piece being the result of complex calculations, specially in the case of broadcasting. However, investigating the procedures used by performing rights societies to do these calculations (and these are public, and available) is another very interesting task for research. In fact, one can find in these apparently 'neutral' bureaucratic documents some of the mostly ideologically loaded assumptions on genre hierarchies, on music consumption, on the musicians' work, and so on.

Copyright may (or must) be seen as the area where ideology on art, individual rights and collective freedom, intellectual work and property, and so on, is re-encoded to support the existing system of production. As such, it deserves the utmost attention: IASPM should consider to include in its research plans, possibly in view of the next conference in Berlin, an international observatory on copyright. That could give concrete support to any statement about 'Popular music and social reality'.