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November - December 1997

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IFPI Special
Focus

Global Music Industry Looks to Brazil to Lead the Way in Fight Against Piracy in Latin America

Dateline: October 27, 1997

Brazil's flourishing music market has brought it world class status in a US \$40 billion global industry - but piracy at home and abroad jeopardizes the success story.

Latin America's biggest musical success story, Brazil is being threatened by piracy, and record industry leaders, and the Brazilian star Roberta Miranda on behalf of the Brazilian performers, today called on the Brazilian Government to give priority to this crime and to take strong and immediate action to defeat it.

IFPI, FLAPF and ABPD, the international, regional and national record industry associations are urging Brazil's government to be a role model for Latin America in the fight against music piracy, and to protect Brazilian music - by stronger enforcement, customs controls and approval by the Congress for alteration of the criminal law.

Brazil's Music Success

Now worth US\$1.4 billion at retail value, the Brazilian music market has grown by almost four times since the start of the decade, and has shot up in ranking from the thirteenth to sixth largest music market in the world. In 1996, the market grew by 32% and with half-year sales in 1997 already up by 12%, the signs for 1997 are looking good.

Brazil's unique melodies and musical rhythms - MPB (Brazilian popular music), Bossa Nova, rock, pagode, ax, music and sertaneja - make it one of the richest sources of repertoire in the world. And Brazil's global success can be attributed to the millions it invests every year in new, local talent; around 70% of all music sold in Brazil is of Brazilian origin - one of the highest levels of domestic repertoire in the world.

The success of Brazil's artists within the region, and internationally, has been phenomenal - Roberto Carlos, Tom Jobim, Caetano Veloso, Negritude Jr., Raga Negra, Legico Urbana e Exaltassamba, Paralamas do Suceso, Skank and Daniela Mercury amongst others, have contributed significantly to Brazil's overseas earnings.

Brazil could do even better - but its success is clouded by an illegal market for CDs and cassettes, which makes it one of the biggest consumers of pirate music in the world. Artists,

publishers, record producers and the government all lose out to piracy, as their revenues are stolen from them - and it also threatens the investment needed to nurture Brazil's next generation of artists.

The most serious threat of piracy in Brazil is its international/local underground infrastructure. The black-market of Paraguay's Ciudad del Este, contraband of products from Taiwan, China, South Korea, other Asian countries and even the USA, together with underdeclared imports and local pirate production, work together to create a real criminal network which mainly targets Brazilian music.

As serious a threat as the piracy itself is the lack of action to fight it on a national level. The Brazilian government is called on to take immediate action to protect this national treasure, and to stop this potential tidal-wave of piracy from flooding the Brazilian music market.

Cost of Piracy

Pirates in Brazil are estimated to have earned US\$200 million in 1996: losses to the industry are at least double this because the pirates only take the biggest hits from each company and produce illegal albums and compilations.

It is not just the music industry which loses out. Piracy also costs the Brazilian government hundreds of millions of dollars in lost tax revenues. Money which could, otherwise, go to support housing or education projects. At present, over 60,000 people are employed, directly or indirectly, by the music industry - and these jobs are all under threat by piracy.

Piracy in Brazil is now at 45% of the market. The cassette market in Brazil has been totally decimated by piracy. It is estimated that 60 million pirate cassettes were sold in 1996, representing 95% of the market, which is one of the highest levels in the world. CD piracy is estimated at 3.1 million units - but is rapidly increasing. If CD piracy is allowed to take a grip of the market in the same way that cassette piracy has - it will destroy Brazil's music market forever.

Paraguay is a major source of pirate cassettes and CDs coming into Brazil. Of the 60 million pirate cassettes sold in Brazil, it is estimated that half were from Paraguay. In addition, according to the industry's investigations, the pirates of Ciudad del Este are manufacturing pirate CDs of Brazilian music in far off places like China, South Korea, Singapore, Hong Kong and Taiwan. The pirate CDs are packed in Paraguay, and then sent to Brazil.

Local production of pirate CDs and cassettes in Brazil is also a problem - made worse because of unrestricted imports of duplicating equipment, unregulated sales of blank tapes and CD jewel boxes, and no control on imports of recorded CDs which are declared as blank CDs or which are imported with false information.

The piracy situation in Brazil is exacerbated by the massive distribution system of street vendors (camelos) - which is difficult to control via police actions. Determined action by the Brazilian government, however, could stop this.

Positive Developments in Brazil's Fight Against Piracy:

To deal with the increasing piracy, the industry created a special anti-piracy organization, 'APDIF do Brazil', with investment of almost US \$2 million a year. APDIF has produced a handbook to educate police about piracy, carried out a series of successful raids on CD and cassette manufacturers - seizing equipment and pirate product, and has launched a Number for information about piracy: 0800 - 11 57 51.

At the beginning of this year, the world's most ambitious hologram program ever was launched in Latin America. A 3D hologram which incorporates the FLAPF logo, has been introduced on all legitimate cassettes and CDs. The program will be continued in 1998, and already over 200 million holograms have been ordered for this purpose.

Actions Needed:

IFPI is calling on the Brazilian Government to protect Brazil's own music from piracy by strengthening enforcement measures on a nation-wide basis. Specifically, IFPI is now calling on Brazil to take the following actions:

- The Federal police should implement a National Program to enforce laws which protect sound recordings and other copyrighted material.
- The Finance Ministry and Customs should join in the fight against piracy to eliminate smuggling and tax evasion.
- Itamaraty (the Foreign Ministry) should provide for more controls on the large scale contraband of pirate material from Paraguay.
- State Governments in the major states need to be encouraged to begin anti-piracy programs. Coupled with this must be an education program to train enforcement agencies, prosecutors and judicial officers on copyrights and intellectual property rights.
- The Judges should recognize piracy for the crime that it is, and punish the crime with real deterrent penalties.

San Marino Moves to Wipe out Music Piracy

Dateline: November 25, 1997

It took the sale of pirate copies of Elton John's tribute to Diana, Princess of Wales, "Candle in the Wind 1997" in the shops of San Marino to finally convince the authorities there to take action against piracy. The recording industry was pleased with the recent announcement by San Marino's Foreign Minister Gatti that all local retailers have signed an agreement committing to sell only legitimate product purchased from an official distributor.

The move follows intense pressure over the last year from the international recording industry and the US and UK Governments. San Marino - the tiny republic and pirate haven - has for years been a problem for the music industry, with levels of piracy at over 90% of the market. Apart from a high level of local piracy, San Marino was notorious as one of the world's main import centers of bootlegs - which were distributed to the rest of the world, often via Internet sites offering mail-order services.

Bootlegging - the unauthorized recording of a live or broadcast performance - has been a major contributor to the estimated US\$ 5 billion lost by the legitimate recording industry each year to international piracy, and bootleggers in San Marino played a significant part in this - with catalogues including repertoire from the all of the world's best-selling artists, such as the Beatles, INXS, Oasis, Bruce Springstein, Madonna, as well as Italian artists such as Eros Ramazzotti and Zucchero.

The situation in San Marino was brought to a head at the end of September when music industry investigators found pirate copies of "Candle in the Wind 1997" on sale in numerous stores in the tourist area of the town. Following strong representation to the San Marino Authorities by the British Government, the pirate copies were immediately withdrawn from sale throughout the Republic. Gatti's new agreement with the retailers as a result of this will be supervised by the government, and is the first positive step in the fight against piracy in San Marino.

Speaking about the new retailers' agreement, IFPI's Director of Operations, Mike Edwards, said, "We are pleased to see that the San Marino Authorities finally seem to have taken decisive action against music piracy, which has dogged the market and damaged the Republic's international reputation for many years."

Edwards continued: "The US and British Governments should be commended for their work in consistently raising this issue. Although San Marino is now free of pirate sales, the two cassette plants there have lost a market overnight - and we will be monitoring the situation closely. We call on the San Marino Government swiftly to implement and enforce the

provisions of the new anti-piracy law controlling the manufacturing of sound recordings."

Enzo Mazza, head of FPM, the music industry's anti-piracy operation based in Milan, added "We are strictly monitoring enforcement of the agreement and are patrolling retail shops to ensure that products sold are legitimate. Information about any violations should be immediately reported to the appropriate enforcement authorities."

Notes:

1. IFPI (International Federation of the Phonographic Industry), represents some 1,300 record producers in over 70 countries around the world, including the six majors (BMG, EMI Music, PolyGram, Sony, Universal and Warner). IFPI campaigns for the introduction, improvement and enforcement of copyright and related rights legislation and co-ordinates the music industry's anti-piracy activities.
2. FLAPF (Federacion Latinoamericana de Productores de Fonogramas y Videogramas) is the Trade Association representing the companies which create, manufacture or distribute approximately 90% of the sound recordings sold in Latin America. FLAPF is an affiliate member of IFPI.
3. ABPD (Associaçao Brasileira dos Produtores de Discos) has 20 member companies in Brazil.

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(For additional information, see also Yahoo/Reuters, 10/7/97, Angus MacSwan;
Yahoo/Reuters, 10/29/97, Michael Christie

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Elton John's "Candle" Pirated - An Update

The sale of pirated copies of Elton John's tribute to Diana, Princess of Wales, "Candle in the Wind" in the shops of San Marino finally spurred immediate action from authorities there. ([Details here.](#)) See also related news in Worldwide Column (Canberra, Australia).

The European Union is preparing to tackle one of the most important legal concerns of the digital era-how to stop pirates from using new technology to make and distribute illegal copies of recordings, films or texts.
(Yahoo, 10/20/97 - Suzanne Perry)

The Singapore High Court struck out a civil suit against CD maker SM Summit for alleged software piracy.
(Reuters, 10/29/97)

Software thieves in Scotland stole nearly £ 10 million worth of Microsoft software. Officials are concerned because the bandits made off with 200,000 Microsoft "certificates of authenticity" which they can include with pirated software.
(BBC News Internet Site, 11/15/97)

The Software Publishers Association (SPA) filed a lawsuit against two individuals for software copyright infringement. The suit claims that the individuals were uploading copyrighted material to the Internet.
(PRNewswire, 10/23/97)

Recommended Reading

Leader's Legal Tech Newsletter, Volume XV, Number 7, October, 1977. "The Pitfalls of Software Piracy" by Ed Morin. (For additional information, telephone Leader's at (800) 888-8300 or e-mail: kkyle@ltx.com.)

You Can't Do That, Beatles Bootlegs & Novelty Records, 1963-1980 by Charles Reinhart, Popular Culture, Ink., Ann Arbor, Michigan, 1981. Telephone: (800) 678-8828.

Bootleg: "The Secret History of the Other Recording Industry" by Clinton Heylin, St. Martin's Press, 1994.

Headbangers: "The Worldwide MegaBook of Heavy Metal Bands" by Mark Hale, Popular Culture, Ink., Ann Arbor, Michigan, 1981. Telephone: (800) 678-8828.

Hot Wacks (Books in this series provide bootleg reviews.) Available from The Hot Wacks Press, P.O. Box 544 Owen Sound, Ontario N4K 5R1 Canada.

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Bootlegs Confiscated at Hillside Record Convention

More than \$125,000 worth of bootleg video and audio recordings were confiscated from 24 dealers arrested at the Hillside Record Convention in Illinois on October 1. Cook County Sheriff's Police, Hillside Police and RIAA officials participated in the raid. Nearly half of the vendors in the record convention were arrested and charged with one felony count of unlawful use of recorded sound, which is punishable by 1 to 3 years in jail and up to a \$250,000 fine. (RIAA Fast Tracks, 10/21/97; ICE, 11/97)

Brooklyn Raid Nets 30,000 Videos

Undercover police raided a Brooklyn, New York warehouse and "evicted" the biggest video counterfeiting operation ever uncovered in the U.S., according to officials. Nine people were arrested and 30,000 bootleg tapes-many of them current movies playing in national theaters-were seized. About 500 VCRs were also confiscated, said Brooklyn District Attorney Charles Hynes. The piracy ring released approximately 2 million tapes a year, costing the movie industry \$100 million in lost revenues. (New York Daily News, 11/10/97 - Corky Siemaszko)

15,000 Cassettes Seized by Manhattan D.A.'s Office

Zed Music of Brooklyn, New York was raided by the Special Frauds Division of the Manhattan District Attorney's Office with assistance from the RIAA. Zed was purported to be responsible for producing pirate cassette compilations. More than 15,000 cassettes of many popular recording artists were seized during the raid. (RIAA Fast Tracks, 11/18/97)

United Kingdom Police and BPI in Anti-Piracy Operation

U.K. Police seized 8,000 bootleg CDs and arrested four men in a joint anti-piracy operation with officers from the British Phonographic Industry's anti-piracy unit. (dotmusic.com, 10/24/97)

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Worldwide Update

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Australia

Bootlegged Video Compact Discs Seized by Customs

Canberra

A shipment of fake video compact discs of Elton John's tribute to Princess Diana was seized by Australian customs. The discs were among a consignment of fake VCDs recorded in the Philippines by sound-alike artists. Other discs seized featured the songs of Madonna, Rod Stewart, Whitney Houston and Mariah Carey.
(Yahoo/Reuters, 11/20/97)

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Germany

CD Piracy Ring Linked to Neo-Nazis

Kiel

Three men were arrested on suspicion of leading a compact disc piracy ring that helped finance neo-Nazis in Germany and Denmark, German police said Wednesday. The arrests were made after the seizure of around 265,000 CDs in the northern coastal region of Schleswig-Holstein. About 31,000 of the seized CDs had illegal extreme-right political content or included incitements to racial hatred, police said.

Record industry officials told a news conference in the northern town of Kiel that the operation was Germany's largest known case of music piracy. The three suspects, who were not named, all worked in the music industry and were alleged to have been involved through motives of profit rather than politics, police said. A fourth suspected member of the ring was a German neo-Nazi living near the Danish capital of Copenhagen.

The illegal CDs were produced at locations in eastern Europe for less than three marks* each and sold in Germany for between 25 and 100 marks, police said. *(\$ - 1.787 German Marks)
Reuters/Variety 10-22-97)

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Greece

Meeting Held to Discuss Curbs on Counterfeit Sales

Athens

European recording industry heads met Greek ministers recently to urge Greece to crack down on pirated compact discs pouring in across the European Union's eastern borders from Bulgaria.

"The really bad guys are Bulgaria, who are flooding the market with pirated products," Nic Garnett, Director General of the International Federation of Phonographic Industry (IFPI), told a news conference.

Industry heads met with two ministers to push for stricter measures to fight Greece's piracy rate, which has risen by 50 percent to 1.5 million pirated units sold in Greece -- but not manufactured there -- in two years. Greece has the EU's highest illegally copied music sales rate at 25 percent. Italy comes a close second with 22 percent of its CDs pirated, officials said. Officials and executives told the news conference Bulgaria had the capacity to produce up to 45 million CDs annually and was a major contributor to a worldwide \$5 billion a year industry in pirated CDs.

(Reuters/C-reuters@clari.net, 11/13/97 - Dina Kyriakidou; Yahoo/Reuters/Variety, 11/12/97)

Hong Kong

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Law Enacted to Fight CD Piracy

A new law will crack down on CD copyright piracy by forcing manufacturers to stamp identification marks on their discs or risk heavy fines and jail terms. Those who break the law will face fines of up to HK\$2 million (US \$258,000).
(Yahoo/Reuters/Variety, 11/8/97)

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United Kingdom

Spice Girls Film Copied by Pirates

Pirated copies of the Spice Girls' motion picture debut, which opens on Christmas in the U.K. (and on January 23 in the U.S.), have already hit the black market. One pirate attempted to sell a copy of the film to a British TV company. (MTV News Online, 10/31/97; <http://www.mtv.com/news/headlines/971031/story3.html>.)

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Internet News

Article Examines Bootlegs and Music Sites

Writer Daniel Rubin of the Philadelphia Inquirer interviews RIAA President Hilary Rosen, **GrayZone**, and other industry officials who have expressed concern about the proliferation of bootlegs and unauthorized music sites on the Internet.

See [The Philadelphia Inquirer, 11/9/97](#) for details.

The Three Stooges in Cyberspace

The most recent trademark infringement lawsuit over a Web site concerns the intellectual property of Moe, Larry and Curly, The Three Stooges. The site at the center of the controversy, <http://www.3-stooges.com/>, greets Web surfers with a version of the trio's theme song, and a disclaimer stating, "This site is not affiliated with Comedy III Productions."

Comedy III Productions, which oversees the estate of the Stooges aren't amused and have taken their case to Federal Court. Acting on behalf of the plaintiff is Bela G. Lugosi, son of the actor famous for his portrayal of Dracula and starring in numerous Ed Wood movies in his later years.

One of the more interesting aspects to this lawsuit concerns the use of the Curlyism, "soitenly." The estate claims to have the exclusive right to this word and have asked for an injunction prohibiting the Web page's author, Bruce A. LaLiberte from using the word on his site.
(Pollstar.com, 10/27/97)

Comedy Central Not Laughing

Some "South Park" Internet fans have been uploading 30-minute episodes in streaming videos to their Web sites. Others have been using their sites to sell bootleg videos of the irreverent and hip Comedy Central animated program. Larry Lieberman, Comedy Central's vice president of online and new business development estimates that "at least 100 sites" dedicated to "South Park" have been created since it premiered in August. So far no legal action has been taken, but unauthorized users could be subject to legal action, because the show is not in the public domain, but owned by Comedy Central. For details, see:



<http://www.latimes.com/HOME/METAHOLLYWOOD/NEWS/1031southpark.htm>.

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