



**THE RECORDING INDUSTRY 2005
COMMERCIAL PIRACY REPORT**



representing the
recording industry
worldwide

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INTRODUCTION



John Kennedy, Chairman & CEO, IFPI

“The music industry fights piracy because if it did not, the music industry would quite simply not exist.”

FIGHTING PIRACY – SIGNS OF PROGRESS IN 2004

For all the importance of the internet to the future of the music business, commercial piracy, largely of physical discs, remains a critical problem for our industry worldwide. Illegal traffic in pirate music was worth US\$4.6 billion last year; 34% of all discs are illegal, meaning that one in three discs sold worldwide is a pirate copy; and in a record 31 countries of the world, fake recordings outsell the legitimate alternative.

These are not dry statistics: they reflect the real damage that this mass-scale copyright theft is doing – to investment in music worldwide, to the livelihoods of artists and creators, to the wellbeing of hundreds of thousands of people working in the sector, and to innovation and economic growth.

The music industry fights piracy because if it did not, the music industry would quite simply not exist. We have already seen our business decimated by piracy in certain regions of the world. The music market of Latin America today is two fifths of what it was in 1997; the Asian market outside Japan has shrunk by almost half in the same period.

Our industry is a risk business which depends totally on the protection of our core intellectual property – artist recordings. We invest a bigger share of our turnover – at least 15% – in developing talent

than nearly any other industry invests in research and development. We spend billions of dollars releasing and marketing over 100,000 albums in a single year. And we re-invest our profits back into new talent.

This is the virtuous cycle of investment and re-investment that is at the centre of our business – and which can only work when there is good, effective enforcement of copyright.

This report looks to governments to take action against piracy. They have every interest in doing so. Intellectual property is, in the development of modern economies, a jewel worth protecting. Copyright industries are worth over 5% of the GDP of the US and European economies, a sector worth around 1 trillion US dollars globally*. Sectors like entertainment and media far outpace growth rates in most other industries. Lost industry revenues means lost tax revenues – in the hundreds of millions of dollars. These points are widely accepted among governments, but unfortunately, not sufficiently illustrated in practical policies.

This report includes a shortlist of top ten priority countries – these are markets which have unacceptable piracy rates that urgently require addressing. There is, in 2004, however, some good news too.

For example:

- In Taiwan, a concerted offensive has helped significantly reduce physical piracy – although internet piracy is a fast-growing problem
- In Brazil, the government has taken some action, raising penalties and forming a new National Council to combat intellectual property crime – a body from which much will be expected in the next year
- In Spain, government anti-piracy efforts are in the spotlight, with a comprehensive package of anti-piracy measures proposed
- There is good progress also in Paraguay; and in early 2005 there was the first big action against CD plants in Pakistan
- In Mexico, a new experiment combining intensive enforcement with a programme to convert pirate traders into legitimate vendors has in the early stages achieved good results.

These are positive stories. We look to make more progress in these countries in 2005, and for similar actions from the other top ten priority countries in the coming months.

Over the next few years society is going to have to learn to take piracy more seriously – piracy not just of music, but in all its forms. It is no longer acceptable for governments and individuals to turn a blind eye,

or to regard piracy as merely a small irritation to society. The illegal music trade is destroying creativity and innovation, eliminating jobs and livelihoods and bankrolling organised crime.

But it is not just an isolated problem for the music industry. Piracy is a malaise that today affects all aspects of people's lives. Almost all goods are being counterfeited – from films to foodstuffs, from brake pads on cars to life-saving drugs. This year piracy will have a detrimental effect on every individual.

The message is clear – these are not problems the private sector can deal with alone; governments have to take their share of responsibility. For the music industry, there is some good progress reported in this edition of the Commercial Piracy Report. That is encouraging, but nowhere near enough. We look for a lot more progress in the coming year.

* Figure compiled by PWC: Global Entertainment and Media Outlook 2004–2008

MUSIC PIRACY FACTS AND FIGURES

One in three discs sold worldwide is a pirate copy

PIRACY WORTH US\$4.6 BN

Global pirate sales of music totalled an estimated 1.5 billion units in 2004, worth US\$4.6 billion at pirate prices.* The value of the world pirate market for music equates to the entire legitimate music markets of the UK, Netherlands and Spain combined.

Disc piracy, which makes up the bulk of the problem, grew only 2% in 2004 to 1.2 billion units. Despite this, global pirate disc sales are almost double the level of 2000, and 34% – one in three – of all music discs sold worldwide in 2004 was a pirate copy.

Sales of all pirate recordings (discs plus cassettes) fell slightly in 2004, mainly due to falling cassette piracy and, particularly in Asia, to piracy on the internet. There were stepped-up anti-piracy initiatives in several territories, including Mexico, Brazil, China, Hong Kong and Spain. However, disc piracy increased overall with particular growth in India, Eastern Europe and parts of Latin America.

DISC PIRACY TRENDS

Internationally, the shift towards more smaller-scale CD-R operations continued in 2004. Disc plant piracy is estimated to have dropped by 4% to 575 million units, helped by a slight fall in China, which remains by far the world's largest pirate market. CD-R piracy, on the other hand, increased by 6% to 560 million units, spurred by growth in Latin America – which accounts for nearly half of all global pirate CD-R sales – and a sharp increase in

India, where 120 million pirated CD-Rs were sold last year. There were also increases noted in the Middle East and in Eastern Europe, particularly Turkey.

Disc piracy is now evenly split between two methods of manufacture and distribution – on the one hand pre-recorded discs produced in optical disc plants and, on the other, CD-R discs which are mass copied on high speed burners in small laboratories or offices. Disc plant piracy predominates in Asia and Russia, whereas CD-R piracy is more common in Latin America and southern Europe.

HIGH PIRACY IN 31 COUNTRIES

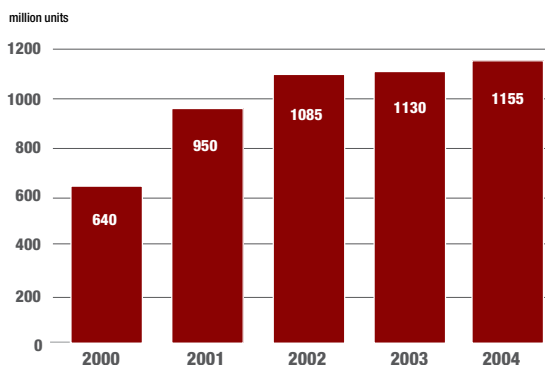
There has been a notable increase in the number of countries where illegal music sales outnumber legal sales (see table). A total of 31 countries had piracy levels equivalent to or greater than their legitimate music markets compared to 23 in 2003. The new countries whose piracy rates have moved them into the 50% or more bracket are: Central America, Chile, Czech Republic, Greece, India and Turkey.

FAKE CASSETTES DOWN

Cassette piracy is concentrated in Russia, China, India, Turkey, Pakistan as well as Middle Eastern and African countries. Sales of pirate cassettes fell by 28% to 390 million in 2004, with discs

*The value estimate is for commercial physical pirate product only – it doesn't include illegal downloading via the internet – and it is calculated at pirate selling prices. Commercial losses to the music industry from piracy are substantially greater.

DISC PIRACY GROWTH SLOWS IN 2002–2004



Source: IFPI, National Groups

DOMESTIC MUSIC PIRACY LEVELS IN 2004

Country	Over 50%	25–50%	10–24%	Less than 10%
North America				Canada, USA
Europe	Bulgaria Czech Republic Estonia Greece Latvia Lithuania Romania Russia Serbia/Montenegro Turkey Ukraine	Croatia Cyprus Hungary Italy Poland Portugal Slovakia	Belgium Finland Netherlands Slovenia Spain	Austria Denmark France Germany Iceland Ireland Norway Sweden Switzerland UK
Asia	China India Indonesia Malaysia Pakistan	Philippines Taiwan	Hong Kong South Korea Thailand	Japan Singapore
Latin America	Argentina Brazil Central America Chile Colombia Ecuador Mexico Paraguay Peru Uruguay Venezuela			
Middle East	Egypt Kuwait Lebanon	Israel Oman Saudi Arabia	Bahrain Qatar UAE	
Australasia				Australia New Zealand
Africa	Morocco	Nigeria South Africa Zimbabwe		

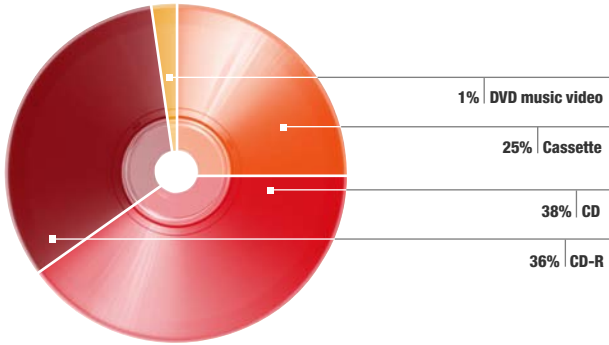
Domestic music piracy levels are calculated as pirate units divided by legal units plus pirate units. Source: IFPI, National Groups

HOW MUSIC DISC PIRACY IS CHANGING

The trend in music piracy towards the CD-R format (much of which now uses material illegally sourced from the internet) has added to the music industry's piracy problems. For example:

- The ease with which discs can be copied – either via industrial burning machines which can burn 60 CD-Rs an hour, or through computers and stand-alone disc burners – has substantially reduced market entry and production costs for pirates.
- CD-R burning labs are easier to hide and much more portable.
- Where larger pirate operations tend to concentrate on major international artists that they can export, smaller scale CD-R pirates have moved in on local repertoire.
- A CD-R containing mp3 files can easily hold five or more full-length albums. Pirates are now turning to DVD-R, which in single-sided format offers at least six times the capacity of CD-R.

PIRACY BY FORMAT 2004



Source: IFPI, National Groups

- Globally, pirate music worth US\$4.6 billion
- 1.2 billion pirate discs sold
- In 31 countries piracy is over 50%

continuing to replace cassettes. IFPI has included figures on DVD music piracy for the first time, reflecting the sharp increase in use of the format. At least 20 million pirate DVD music videos were sold in 2004. DVD music video is the music industry's primary growth format accounting for 8% of global music sales.

GLOBAL OPTICAL DISC OVER-CAPACITY

Global over-capacity in the optical disc industry is a major contributing factor to the piracy of music, film, games and other software produced on optical discs (see table).

During 2004 the supply of recordable discs for all media – including CD-R and DVD-R – considerably exceeded demand. Factory output of recordable discs continued to grow during 2004 when legitimate demand for CD-R media actually fell in major markets such as the US, Japan and Western Europe.

Taiwan remains the largest supplier of blank recordable discs although there were notable improvements against music piracy in 2004.

RECORD HARDWARE HAUL IN 2004

Anti-piracy enforcement is helping significantly in containing music piracy. A record amount of plant lines and equipment were decommissioned in 2004. Disc manufacturing line seizures increased from 68 to 87, representing annual production capacity of 380 million discs – equivalent in scale to nearly half the legitimate CD music market in

the US. In addition, 28,350 CD-R burners were seized last year, almost twice as many as in 2003. Seizures of pirate music products totalled 45 million* in 2004.

PRE-RELEASES TARGETED

Albums by well-known artists are a profitable target for music pirates. Illegal copies are made available before the record is commercially released. Since new releases make up two-thirds of total music sales in most markets, the effect is to undermine investment from record companies in marketing and promotion, particularly of new acts.

The internet is compounding the problem, as pre-releases can be illegally posted, downloaded and burned onto CD-Rs and distributed worldwide within hours. Key new releases by Eminem, 50 Cent and Oasis have been found online weeks before release. Record companies have sometimes had to bring release dates forward in response.

IFPI and its record company members work to curb piracy of pre-release recordings. IFPI's pre-release database helps anti-piracy personnel track pirate copies. Seizures of pre-release pirate albums have fallen by 50% over the past two years. During 2004 there were 52 titles seized.

Sophisticated security systems and tighter controls by record companies have been implemented as new albums are recorded, pressed and prepared

for release. As well as closing opportunities for 'leaks', this has also greatly reduced the pre-release availability of new records on file-sharing networks and internet sites.

*This figure excludes many millions of discs seized in China, of which a significant proportion is believed to contain pirate music.



Anastacia's latest album – official release



A pirate copy found before the release date

DISC OVER-CAPACITY

The table below lists the 11 territories with the the largest disc manufacturing over-capacity. Capacity exceeds demand by thirteen times in these territories combined

Territory (Million units)	Capacity	Demand	Over-Capacity
Taiwan	10,700	300	10,400
China	5,800	1,100	4,700
Hong Kong	2,700	90	2,610
Malaysia	2,500	60	2,440
Mexico	1,600	110	1,490
Singapore	700	60	640
Brazil	600	120	480
Thailand	600	50	550
Poland	600	150	450
Russia**	450	60	390
Pakistan*	400	30	370
Total	26,650	2,130	24,520

Source: Understanding & Solutions Ltd. *IFPI National Groups
 **Russia Demand: source is IFPI estimates for CD and DVD only
 Formats include CD, DVD, CD-R/W, DVD-R/W, CD Rom, DVD Rom, Video CD

BEHIND MUSIC PIRACY: ORGANISED CRIME

PIRACY IS NOT VICTIMLESS

There is much more to music piracy than a cheery market trader giving a knock-down price for the latest hit CD.

Piracy is not a victimless or 'soft' crime, but is often a lucrative source of revenue for serious and organised international crime gangs who exploit music and a wide variety of other products. The large profits made can fund other serious crimes including people and gun smuggling, drug trafficking, credit card fraud and money laundering.

Organised crime syndicates are attracted to music piracy because of the low entry costs and high potential profits involved. This is exacerbated by the traditionally low risk of prosecution coupled with a lack of real criminal penalties.

Some recent cases illustrate the complexity and global reach of the pirates.

ITALY: POLICE OFFICER SHOT

An Italian police officer, coordinator of a unit involved in a major anti-piracy operation, was shot at in Naples in November 2004. The fiscal police officer came under concentrated gunfire in his car from two people in a jeep near the city's Gianturco police station.

Forensic police specialists confirmed the attack was intended to kill. It is believed the attempt is related to the recent anti-piracy operation which uncovered an extensive organisation involved

in counterfeit music and movies, and linked to a well-known Camorra 'mafia' gang.

The Camorra's historical involvement in music piracy was confirmed in May 2005 by Naples Deputy Attorney General Franco Roberti, who said of 1,800 people sentenced to jail for piracy offences in 2000, 213 were active Camorra members, and a further 121 were linked to various mafia gangs.

HONG KONG CONSPIRACY

A six-year international investigation concluded last year with heavy jail sentences for two individuals involved in a major piracy operation.

Two former directors of Golden Science, a Hong-Kong based disc manufacturing company, were convicted of their involvement in a massive disc piracy operation in July 2004, and given 'exemplary' jail sentences of six and a half years. Significantly, the pair was charged not with simple copyright infringement but with the more serious 'conspiracy to defraud.'

The case originated from one of the world's single biggest-ever pirate disc seizures of 19 million discs in Hong Kong, back in 1998.

A six year international investigation followed, with the two principals jumping bail. Eventually, with the assistance of national police in Hong Kong, China and Canada as well as Interpol, both were returned to Hong Kong to face trial.



Seizure of multiple CD-R burners in Valencia, Spain

BRAZIL BUSINESSMAN CHARGED WITH BRIBERY

A prominent businessman was jailed in Brazil in 2004 accused of active corruption, following an on-camera arrest made as he allegedly attempted to bribe the head of Brazil's Congressional Anti-Piracy Commission (CPI). The CPI was set up in 2003 mandated with tackling the country's huge piracy problem.

Law Kim Chong was arrested in June 2004, charged with allegedly offering a bribe to Luiz Antonio de Medeiros, chairman of the CPI, to leave him and his retail and import businesses alone.

It is believed that Chong's businesses had been damaged by a CPI operation which seized tonnes of apparently counterfeited and smuggled goods during raids in his shopping centres. Following initial approaches made to the CPI, Law allegedly took up negotiations directly with the CPI chairman. An offer of payment of between 1 and 2.3 million US dollars is alleged to have been made by Law in return for the CPI report to "protect and exempt" him.

The courts allowed police to monitor and film the payment of the first instalment of the alleged bribe (US\$75,000), after which Law and his lawyer were arrested.

In November 2004 there were further raids on a warehouse which was identified by the CPI as one of their main targets, and believed to be associated with Law. Over ten million blank CD-Rs and DVD-Rs were seized.

Law Kim Chong has been jailed accused of active corruption and all his businesses and activities in Brazil are subject to investigation.

PARAGUAY PIRATE JAILED OVER IMPORTS

A key organised crime figure was jailed for seven and a half years in Paraguay in April 2004 in relation to the first organised crime case involving blank CD-R importers. It was the result of three years of co-operation with law enforcement and continuous lobbying of the Paraguayan government.

Antonio González Neira was one of the most powerful and influential pirates ('contrabandistas') in Paraguay. Two accomplices were also given six-year prison sentences. One captained the vessel bringing the illicit CD-Rs into Paraguay and the other was the venture's financier and front man.

POLICE DISMANTLE SPANISH CD-R PIRACY NETWORK

Thirty nine people were arrested in Spain in a crackdown on an organised gang alleged to be producing and distributing pirate CD-Rs. Spanish national police executed a series of eight raids in April 2004, successfully dismantling the gang based in Granada with links to other cities in Andalusia and elsewhere.

The officer in charge of the operation alleged that the gang was also connected with illegal immigration networks. During the searches 82 machines capable of copying 720 discs per hour were discovered.



Raid on pirate vendor in Guadalajara, Mexico



An arrest is made (R) in Mexico during police raids on the notorious Tepito market

Among other products seized were approximately 25,000 recorded CD-Rs and DVD-Rs containing music, films and video games, fake Rolex watches and forged driving licences.

CHINESE CRIME SYNDICATE HEAD GETS SEVEN YEARS

In the largest trial of its kind in China, the head of a criminal syndicate was sentenced to seven years in jail on March 13, 2004 for his involvement in the sale of more than six million illegal audiovisual products. The other defendants involved, 16 people in total, were sentenced to jail terms of between one and six years.

State prosecutors in China indicated that the syndicate had been responsible for one third of all pirate CDs seized nationwide over a period of several years.

The head of the syndicate admitted having set up his business in 2001, renting a warehouse and importing illegal audio visual products from Hong Kong.

It was discovered that between 2001 and March 2003 the syndicate had imported more than ten million pirate discs from overseas.

MALYSIAN ORGANISED CRIME GANG TARGETED

Malaysia’s Ministry of Domestic Trade and Consumer Affairs (MDTCA), acting on IFPI information, targeted Malaysia’s largest alleged pirate music distribution syndicate with a raid on a storage facility in January 2004. Over 350,000 discs were seized.

A two-year ongoing investigation by IFPI had identified the premises as a local distribution hub used by wholesalers and retailers in the Ampang area of Malaysia. All the discs contained audio product – both Chinese and international repertoire, and all the discs bore logos linked to a single distribution network.

“It is increasingly evident from the industrialised scale of counterfeiting that trans-national organised criminal groups are heavily involved in a wide range of intellectual property crime. This is a cause for concern especially as some of these activities have significant implications for public safety and security. It provides law enforcement agencies with an added incentive for engaging in collective efforts to combat these criminal activities.”

John Newton, Interpol Intellectual Property Crime Programme Manager, 2005

CHARACTERISTICS OF ORGANISED CRIME GROUPS AND THEIR ACTIVITIES

- Collaboration by a minimum of three people
- Criminal activity which has, or is intended to be, continued over a prolonged period
- Commission of serious criminal offences, or offences which, taken as a whole are of considerable importance
- Motivated by the pursuit of profit or power
- Operations are international, national or regional
- Uses violence or intimidation
- Uses commercial or other business-like structures
- Engages in money laundering
- Exerts influence upon politics, the media, public administration, judicial authorities or the economy

Source: National Crime Intelligence Service (NCIS) UK

Daniel, Brazil

“The work of the artist is serious. Year after year we struggle and work hard to achieve our dream. And, when we finally achieve it, we must endure this crime. The Brazilian people must understand this crime. They should know that buying pirate product means cooperating with organised crime. We must do our part in destroying – and not buying – pirate material.”

(Published in O Globo and Diario de São Paulo)

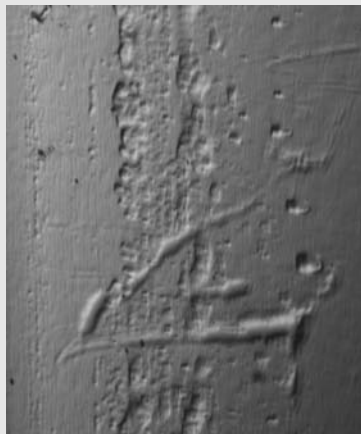


Pirate discs are destroyed in Spain

THE INDUSTRY FIGHT AGAINST PIRACY



Anti-piracy efforts made a clear impact in 2004, with record quantities of equipment seized and optical disc plant lines decommissioned



IFPI's forensic lab uses a high magnification microscope to compare the reference disc from a known manufacturing source (L), with a pirate disc (R). This can determine the origin of the disc

THE FIGHT BACK IN FIGURES IN 2004

- **A total of 87 disc manufacturing lines were taken out of operation**, up from 68 in 2003 – the majority from plants in South East Asia. These lines have a combined production capacity of 380 million discs – equivalent to almost half of the legitimate CD market in the US.
- **Total of 28,350 CD-R burners were seized**, almost double the number seized in 2003. The total potential production capacity of the seized burners is estimated at 800 million discs.
- **Around 71 million blank CDs were seized**, up from 40 million in 2003, along with 100 million inlays. Seizures of blank discs and inlay cards are indicative of the quantity of recorded discs pirate syndicates plan to produce.
- **Seizures of all formats including cassettes and DVDs totalled 45 million***.
- **Law enforcement officers reported over 12,000 arrests** in raids involving pirate music. Despite the lack of precise data on convictions and sentencing, it is clear that far too few pirate operators are convicted and effectively punished.

SOME MAJOR ACTIONS WORLDWIDE

- Major seizures in the Latin American region included: over 1.3 million pirate CD-Rs in Guadalajara, Mexico during February 2005 – part of a special project to clean up the local market; the largest-ever seizure of blank CD-Rs – 15.8 million – in Mexico City in November 2004 following an eight month investigation.
- A shipment of over 3 million blank CD-Rs en route from Taiwan to Brazil via Paraguay was stopped at Asuncion in Paraguay in November – one of many shipments entering Brazil carrying blank discs for the pirate market.
- Customs in Mexico City seized 7,600 CD burners, originating in China, in June 2004.
- Customs discovered 1.8 million counterfeit CDs during a ship search on Chinese waters. Eight people were arrested and indicted for tax evasion and smuggling.
- Customs who stopped a lorry, supposedly carrying hair products, on the Bulgarian/Romanian border found well over 100,000 DVDs and 54 stampers – the 'master copy' used to press illicit discs.
- A plant in Lagos, Nigeria, suspected of producing counterfeit product was raided and 25 illegal stampers along with one million discs seized.

*This figure excludes many millions of discs seized in China, of which a significant proportion is believed to contain pirate music.

THE ANTI-PIRACY RESPONSE

The recording industry fights music piracy with a global team of 250 investigators and analysts backed by forensics, training programmes, intelligence databases and undercover surveillance.

FORENSICS

IFPI uses an advanced forensic laboratory which helps track pirate production from source by matching pirate discs with moulds at their plant of origin. Forensics has played a major role in identifying plants producing pirate product – some 198 plants in 40 countries to date. It has provided evidential support for US government 301 submissions and was key to the imposition of trade sanctions against Ukraine in 2002.

In May 2005, efforts by the forensic department produced a spectacular result. Pakistan has become an increasing source of pirate product, with optical disc plants exporting at least 230 million pirate discs in 2004. Painstaking forensic work tracked product from the Pakistan plants to 46 countries worldwide. Pakistan's Federal Investigation Agency arrested nine people, seized 400,000 pirate discs and 10,000 master discs or 'stampers' and closed down five plants.

In another case, international investigators submitted 100 CDs from a freight container in Durban, South Africa as suspected counterfeit product. These discs were forensically matched to plants in South East Asia, leading to raids on a number of plants.

ENFORCEMENT TRAINING

IFPI trains and advises law enforcement agencies worldwide. It is a member of Interpol's Intellectual Property Crime Action Group (IIPCAG) and collaborates with UNESCO and the World Customs Organisation (WCO). This involves providing data to the WCO for example, that enables customs officers to access up-to-date information about shipments through a secure worldwide intranet system.

Cooperation with customs has reaped results. In March 2005, IFPI Latin America and the Panamanian customs authorities signed an anti-piracy agreement that will help stop the movement of pirate traffic into Latin America.

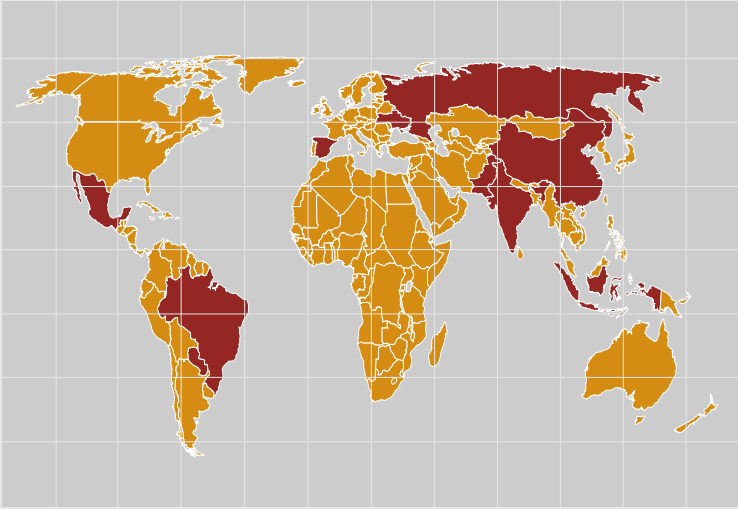
MONITORING CD PLANTS

IFPI regularly advises disc plants worldwide to help them avoid pirate orders.

In 2004, IFPI created a CD plant database where information is held on over 1,000 active optical disc plants worldwide. It has already been used to identify the original manufacturing plant from the mould codes of seized discs, trace the movement of second-hand equipment and prioritise plant visits.

Investigation and raids on CD plants are showing results. Russia's Roff Technologies optical disc plant agreed a substantial settlement with IFPI and eight member company plaintiffs in March 2005 over the manufacture of counterfeit CDs. IFPI has also filed a criminal complaint against a Taiwanese plant Delphi Technology.

PRIORITY COUNTRIES



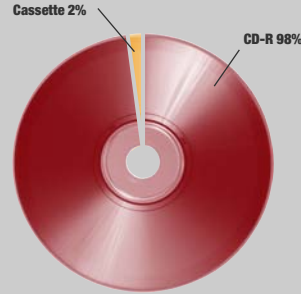
BRAZIL	MEXICO	SPAIN
CHINA	PAKISTAN	UKRAINE
INDIA	PARAGUAY	✘ 🔥
INDONESIA	RUSSIA	

For the third year running, IFPI is publishing the international recording industry's top ten priority countries in the fight against music piracy



CD-R discs smuggled into Brazil by bus

Piracy by format 2004



Brazil statistics

Legal Market Value	US\$ 374m
Legal Market Units	66m
Pirate Market Value	US\$ 79m
Pirate Market Units	73m
Piracy Level	52%

BRAZIL



Brazil's legitimate music market saw a partial recovery in 2004, following a drastic fall in 2003. Pirate sales outweigh legitimate unit sales, crippling an important market. Legitimate sales in Brazil were 108 million in 1997, but now only reach 66 million.

Piracy remains a big obstacle to the development of new acts and the health of the local industry. It is estimated that approximately 200 million blank CD-Rs entered the country from Paraguay in 2004, many destined for the pirate market.

The Brazilian government has recognised the threat to its copyright industries, as well as piracy's detrimental effect on international trade. As a result, it has started to take steps to combat the problem. Some of these important actions include:

- Increasing minimum penalties for piracy as of August 2003
- The commissioning of a comprehensive report from the Congressional Anti-Piracy Commission (CPI) in the first half of 2004. This led to the detention of a major suspected pirate in Sao Paulo and large seizures of pirate product
- Additional operations at the border with Paraguay to restrict the importation of blank CD-Rs
- Massive and ongoing press coverage on piracy that has raised public awareness of the problem
- The creation of the 'National Council to Combat Piracy and Crimes against Intellectual Property' (National Anti-piracy Council)

Pirate product is still readily available in commercial districts in all major cities in the country. Adjacent to legal shops are small illegal replication facilities which are on the increase due to cheaper access to equipment and blank discs.

Recent investigations and raids by the police indicate that organised crime groups are still involved in the importation of blank CD-Rs and the reproduction of illegal discs in Brazil. These groups have connections to individuals and organisations in Paraguay and Southeast Asia. A sign of things to come was a major raid at the border town of Foz do Iguaçu in December, seizing over 200,000 blank discs.

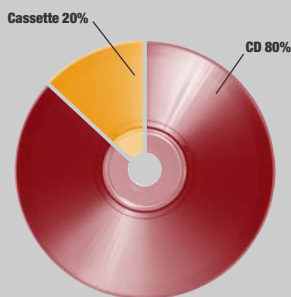
The National Anti-piracy Council appears to be a serious commitment by the government to address the piracy problem. The council has prepared a plan with 100 individual actions that are being executed to combat piracy. In a very encouraging move, the government invited private copyright industries, including APBD, to participate in the council.

The Brazilian government should:

- Implement the anti-piracy plan produced by the National Anti-piracy Council, under the direct supervision of the Ministry of Justice
- Setup mechanisms to monitor the results of the implementation and its eventual positive effects on the affected industries

PRIORITY COUNTRIES

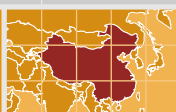
Piracy by format 2004



China statistics

Legal Market Value	US\$ 212m
Legal Market Units	124m
Pirate Market Value	US\$ 411m
Pirate Market Units	460m
Piracy Level	85%

CHINA



China has the world's largest pirate market. Despite rapid economic growth and rising incomes, widespread and entrenched piracy remains the major obstacle to realising China's huge potential as a music market.

Pirate music continues to flood the major Chinese cities and retail markets.

The Chinese government has, to a certain extent, responded to global criticism of its poor track record in protecting intellectual property. The Chinese government has increased raids and seizures throughout the country, and announced in December 2004 that it will lower the threshold for applying criminal penalties for copyright infringements.

The government also announced a year-long anti-piracy campaign to be carried out in twelve cities, to tackle piracy from the manufacturing level to distribution at retail.

However, the absence of clear coordination between different government agencies, coupled with a lack of political will and resources at lower levels of government, have prevented any substantial progress.

The majority of the actions taken so far have only led to civil penalties, with a few exceptions where infringers were convicted by the criminal courts. To the continuing frustration of the creative industries, there has been little effective action taken against manufacturing plants producing large volumes of pirate optical discs.



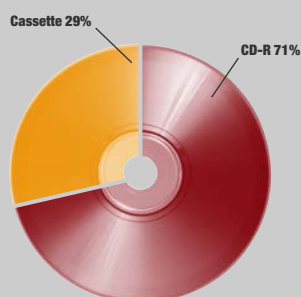
Seizure of discs by Chinese customs

Despite a nationwide effort led by Premier Wu Yi, more persistent efforts are urgently needed in conjunction with tougher action by local and regional enforcement authorities. Pirates have to be criminally prosecuted, convicted and sentenced at a deterrent level.

Recommended action for government:

- Criminal cases not just administrative proceedings must be initiated against infringers
- The criminal courts must be urged to view copyright infringement as a crime and impose deterrent sentences against infringers
- Enforcement and copyright management agencies should consult more often with the copyright industries and work closely with them to fight piracy
- The government should expand the level of market access provided to foreign record companies so that they can play a better role as partners in the fight against piracy and in providing legitimate products to Chinese society

Piracy by format 2004



India statistics

Legal Market Value	US\$ 153m
Legal Market Units	130m
Pirate Market Value	US\$ 88m
Pirate Market Units	170m
Piracy Level	56%

INDIA



India has seen a rise in piracy largely due to the sharp increase in the use of new disc formats, the availability of mp3 files, and the proliferation of large-scale CD-R burning.

The main hurdles to effective enforcement of intellectual property rights are the lack of support from enforcement agencies and the slow pace of the courts.

The police are often reluctant to act against pirates due in part to inadequate manpower and more pressing law and order problems. Corruption is an unfortunate reality and frequent leaks to pirates result in the failure of raids.

The huge backlog of legal cases means trials progress very slowly – in some cases taking over five years. Pirates are often acquitted since witnesses cannot be traced and product may have deteriorated. Of over 8,000 cases registered by IMI since 1998, less than 1,000 have been resolved, of which only 708 resulted in a conviction (66 of these involved prison terms). With such insufficient deterrence, pirates act with impunity.

Regular training by recording industry group IMI has led to notable success in enforcement. Police in Kerala carried out up to 30 raids per month against illegal vendors, and recently police in Patna, Bihar seized over 500,000 CDs in raids in one day.

IMI has been involved in 8,826 raids since 1998, seizing over 1,700 CD burners, 3.2 million pirate CDs and 33,000,500 inlay cards.

The government has been slow to respond to proposals on anti-piracy actions.

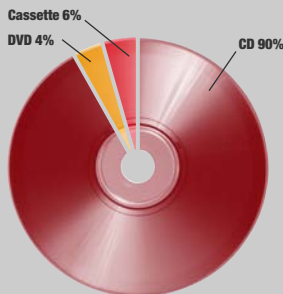
A notable exception is the government of Tamil Nadu, which recently amended an act dealing with bootlegging and drug offences to include music piracy. Since it came into force in late 2004 at least nine notorious pirates have been detained. This disrupted the pirate market and legitimate sales increased by 30% in the state.

Recommended action for government:

- States should revise relevant acts similar to the action taken in Tamil Nadu
- IPR-specific officers should be designated for each district in all states
- The Customs Act should be amended and customs authorised to seize imported pirate products
- Optical disc regulation should be enacted without delay
- Fast-track courts should be created to handle IPR cases and allow consolidation of cases
- Tax rebates should be given to members of associations like IMI who contribute towards anti-piracy operations



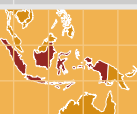
Piracy by format 2004



Indonesia statistics

Legal Market Value	US\$ 85m
Legal Market Units	40m
Pirate Market Value	US\$ 91m
Pirate Market Units	159m
Piracy Level	80%

INDONESIA



Indonesia is a top ten priority country for the first time. The piracy rate has steadily increased over the past few years, and has now reached 80%.

The country has at least 15 optical disc plants where regulation is urgently needed to control the production and export of pirate product. There is growing evidence of Indonesian pirate CDs being exported to established markets such as Australia.

The government is aware of the problem, and a draft of a new Optical Media Act to regulate disc plants has been tabled. However the act is weak throughout and fails to tackle the issues central to copyright protection. For example, it omits the mandatory source identification – SID – codes on all discs. Also omitted is the need for plants to keep production reports for at least three months. Administrative penalties are too weak, currently including only the revoking of the licence and publication of infringements.

Controls are also needed over importation of replication machinery. The Indonesian government has recently taken over the provision of SID codes to plants.

Pirate product is openly and widely sold in established shopping malls. There were raids against a number of pirate retail outlets in 2004, but enforcement and prosecution remain an insufficient deterrent.

The notorious pirate retail and distribution area of Globok market – closed temporarily by the



Production machinery at illegal disc plant

authorities during the Pan African Summit meeting in mid April 2005 – was, until then, flourishing.

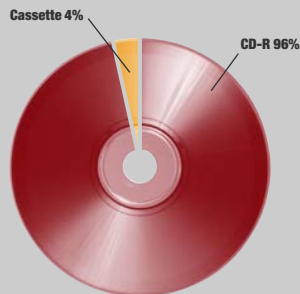
It is estimated that the market was distributing three million pirate discs every day. Such blatant and large-scale activity illustrates the lack of commitment to intellectual property enforcement.

A more recent phenomenon has been the emergence of pirate music DVDs imported from China and Malaysia. However, the vast majority of pirate pop titles are produced locally.

Recommended action:

The government needs to urgently address the lack of resources given to fighting piracy, and apathy throughout the enforcement and judicial system. Political will is needed to get local enforcement authorities to take sustained and immediate action. The regulations governing disc plants need to be further improved to prevent large scale pirate disc production in the country.

Piracy by format 2004



Mexico statistics

Legal Market Value	US\$ 360m
Legal Market Units	56m
Pirate Market Value	US\$ 111m
Pirate Market Units	76m
Piracy Level	60%

MEXICO



The Mexican pirate market is estimated at 76 million units, with a distribution network of about 50,000 street and fixed market vendors. Although piracy levels have improved slightly – mainly as a result of stepped-up enforcement and a better economic climate – more has to be done in order for Mexico to regain its position within the world's top ten music markets.

The industry's anti-piracy campaign has seen measurable results with seizures slightly up on last year, of some 8 million recorded CD-Rs, 27 million blank CD-Rs, and 9,000 burners in the course of some 2,000 raids in 2004. The judicial system returned positive results with 172 detentions and 26 sentences that involved jail time or fines.

The legislative climate has also improved. As part of a reformed criminal code, piracy has been classed as an organised crime activity, which allows for the imposition of harsher criminal penalties and provides additional protection to witnesses.

Mexico also implemented a new regulation for optical discs, which should allow more government agencies to confiscate pirate product on the streets. Despite all the progress, the anti-piracy campaign remains hampered by the requirement to present a complaint for every raid that the authorities carry out.

In 2004, IFPI and its Mexican affiliate Amprofon launched a special project in Guadalajara, Jalisco, combining enforcement, lobbying

and marketing in support of a state programme to convert pirate vendors into legitimate points of sale. Two notorious pirate markets have been raided regularly, and practically cleaned up. The four major municipalities making up metropolitan Guadalajara have committed to revoking the licenses of offenders that continue to sell pirate product.

In addition, the industry is releasing targeted products for this market to assist local distributors in the conversion programme. This campaign is proving to have a positive effect.

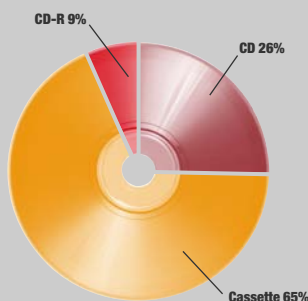
Despite these efforts, the high level of piracy in Mexico continues to severely undermine music sales.

Recommended action:

- Dismantle the organised crime groups involved in importing blank CD-Rs and burners supplying the pirate market
- Exercise stricter control at state and local level over commercial permits for street traders, and revoke the licenses of those selling pirate product
- Seek approval of the bill in Congress that provides for ex-officio actions in cases of piracy
- Promote educational campaigns in schools and colleges to raise awareness of the detrimental effects piracy has on creativity, innovation and society as a whole

PRIORITY COUNTRIES

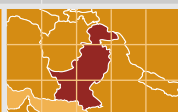
Piracy by format 2004



Pakistan statistics

Legal Market Value	US\$ 24m
Legal Market Units	40m
Pirate Market Value	US\$ 30m
Pirate Market Units	55m
Piracy Level	59%

PAKISTAN



Pakistan is one of the largest exporters of pirate discs in the world with an estimated 230 million discs exported in 2004.

In early 2005 there were nine known disc manufacturing plants operating in the country. With annual legitimate demand in the country estimated at less than 30 million units in all formats, the vast majority of what Pakistan produces is exported outside the country.

Neighbouring regions are awash with product from Pakistan, but discs originating there have also been found in Europe, Africa and the USA. Domestic and international repertoire are both affected.

In 2004, a new phenomenon was the production of pirate 'pre-release' material. This is particularly damaging to the music industry as it affects the single most important phase in the commercial life cycle of a sound recording.

There have been some positive moves however. The Pakistani government took action against optical disc plants in May 2005. In a major action, the Federal Investigation Agency arrested nine people, seized 400,000 pirate discs and 10,000 master discs or 'stampers' and closed down five plants.



Discs seized in raid on Pakistan plant

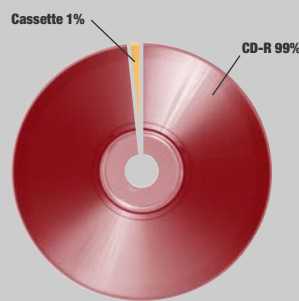
Customs has also acted. The Pakistani Central Board of Revenue has issued a directive requiring customs officers to inspect every shipment for export to ensure it contained only Pakistani repertoire. The customs authorities of Karachi enforced this directive and pirate exports were temporarily disrupted.

Seizures at transshipment points, such as Dubai airport, have however revealed smuggling of discs in hand luggage and courier services.

Recommended action:

Pakistan needs substantially stepped-up and sustained enforcement. The action taken against the plants this year must continue and be followed up with strong optical disc regulation. Until then Pakistan will remain a key priority for the recording industry.

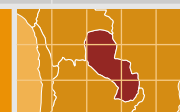
Piracy by format 2004



Paraguay statistics

Legal Market Value	US\$ 2m
Legal Market Units	0.4m
Pirate Market Value	US\$ 18m
Pirate Market Units	20m
Piracy Level	99%

PARAGUAY



Every year an estimated 250 million blank CD-Rs are imported into Paraguay and then shipped out to neighbouring countries. The overwhelming majority are destined for the pirate market.

The Paraguayan and Brazilian governments are trying to restrict the flow of contraband across 'The Friendship Bridge' which connects Ciudad del Este in Paraguay and Foz do Iguacu in Brazil. However, a lack of resources on both sides undermines the effectiveness of these border operations.

Nonetheless, the government in Paraguay has made progress. A specialised anti-piracy unit (UTE) was launched, under the direction of the Ministry of Industry and Commerce (MIC) to address the need for more actions. The UTE has started to raid pirate locations in Asuncion and Ciudad del Este, as well as investigating suspect blank CD-R importers. Meanwhile, due to operations organised with the MIC, authorities have been able to seize over 11 million blank CD-Rs and 4,000 burners.

In addition, twelve indictments were issued in two major organised crime cases related to piracy and 57 import permits of suspected 'front' companies trading in blank CD-Rs in 2004 were revoked.

There is no question that these developments reflect a clear commitment to fighting piracy.

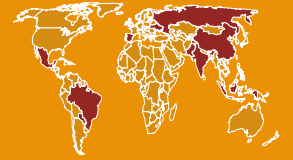
However, the government still faces important challenges in dealing with the disproportionate importation of CD-Rs, the sizeable export of discs, and the weak criminal penalties available for copyright infringement.

Recommended action:

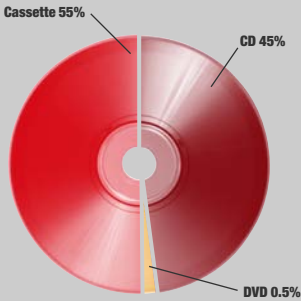
- Instruct customs to scrutinise all blank CD-R and DVD-R imports for incorrect valuation or fraudulent documentation, as well as restrict contraband travelling across The Friendship Bridge
- Seek approval of an existing bill in congress that provides for stricter penalties for those engaged in piracy, which is backed by most copyright industries in Paraguay

Presuntos Implicados, Spain

"Every day I see people using all their efforts and talent to try and succeed in this beautiful profession of music. But I also see how music piracy and illegal copying from the internet stops these people earning their living. This kills the only chance they have to be a musician or composer and live with dignity from their job. Do not drown us, keep buying legal music. Do it for the sake of the dreams of the upcoming musicians."



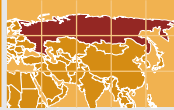
Piracy by format 2004



Russia statistics

Legal Market Value	US\$ 491m
Legal Market Units	119m
Pirate Market Value	US\$ 449m
Pirate Market Units	243m
Piracy Level	66%

RUSSIA



Russia is the second biggest pirate market after China. Pirate sales grew from US\$330 million in 2003 to US\$450 million in 2004. With far too much disc manufacturing capacity to meet local demand, Russian exports pirate CDs world-wide in large quantities. Rising piracy, coupled with Russian-based websites offering unlicensed music files, compounds the problem.

As of April 2005, there were 34 licensed optical disc plants with a combined annual production capacity of 450 million discs – a figure which has tripled in three years. Of these, nine plants are located on government-owned military/industrial sites. Forensic analysis by IFPI has helped prove that Russia is exporting pirate discs widely.

Enforcement is sporadic and has little deterrent effect. While plants are occasionally raided, convictions are rare. Of 12 raids between 2002 and 2004 only four resulted in criminal cases, with conditional sentences granted.

The Russian government's efforts to tackle music piracy are a chronicle of unfulfilled political promises. The government set up a commission on intellectual property (IPR Commission) in 2002, but it has shown no significant results. A further offensive promised by Russian officials in 2003 again came to nothing. Currently, the intellectual property industries are calling on the US government under its 301 trade procedures, to revoke Russia's 'GSP' duty-free import benefits and for Russia to be made a Priority Foreign Country. These

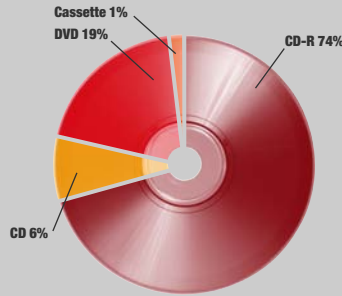
industries are also urging that Russia not be permitted to join the WTO until it takes effective action against its severe piracy problem.

Russia needs a comprehensive state strategy on copyright and neighbouring rights protection, with participation from the copyright industries. Political will, from the highest quarters, is necessary to implement this. Fighting piracy must be a top priority.

Recommended action:

- Make regular unannounced inspections on all known optical disc plants, and close lines and seize machinery found to be producing pirate product
- Direct the Supreme Court to issue sentencing guidelines for judges including the imposition of deterrent criminal penalties
- Take down websites offering infringing products (physical or online) and criminally prosecute those responsible
- Modify optical disc licensing to control plant operations more effectively
- Increase the number and type of criminal prosecutions brought by police and prosecutors
- Ensure Russia signs up to the World Intellectual Property Organization (WIPO) Treaties
- Ensure Russia fulfils its obligations under the Rome Convention and creates a clear regime for the operation of collecting societies

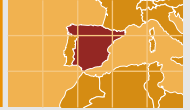
Piracy by format 2004



Spain statistics

Legal Market Value	US\$ 573m
Legal Market Units	50m
Pirate Market Value	US\$ 77m
Pirate Market Units	16m
Piracy Level	24%

SPAIN



Spain's piracy rate has hovered for several years around 24% and contributed substantially to a market downturn of 32% over the past five years.

Enforcement was stepped up in 2004, with a total of 13,400 actions over the year. Seizures were on a par with 2003, with nearly four million pirate units and more than 2,300 burners taken out of circulation, and the arrest of 2,866 people.

The legal climate has seen some positive developments. New criminal code regulations on offences relating to intellectual property, which entered into force in October 2004, are a welcome improvement. However they are not being implemented effectively by the judiciary.

Spain's cultural industries have lobbied politicians hard. This included a personal meeting in June 2004 between the then recently elected country's president, Jose Luis Rodriguez Zapatero and the heads of the main associations representing music in Spain accompanied by an influential group of local artists. As a result the government committed to an integrated plan to fight piracy, which was approved by the cabinet in April 2005 and is to be confirmed by Royal Decree before June 2006.

This extensive plan includes the creation of specialised enforcement units dealing with IP offences; orders to Spain's public prosecutors aimed at standardising the criteria by which the courts take action; public awareness campaigns; ongoing training for police and judiciary and the

creation of a cross-sector committee with representatives from government, the cultural industries and consumers.

Recent years have seen more organised groups focusing on music piracy in Spain – evidenced in part by the 74 piracy networks dismantled in 2004. Many of these groups have links to other criminal activities.

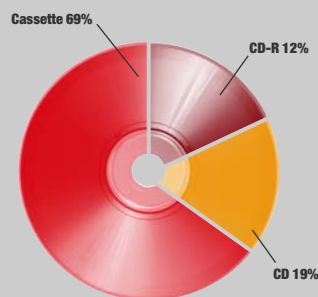
Spain has also seen a rise in the illegal download of music files via the internet. As of March 2005, there were 3.8 million broadband connections in Spain, and over 60% of users said they had broadband installed to regularly access music and film through peer-to-peer networks. The industry is pressing for the government's integrated anti-piracy plan to include regulations to reduce illegal internet usage.

Recommended action to government:

- Local authorities must get involved decisively in the fight against piracy, and use police to crack down on street sellers of pirate product
- Judges and prosecutors must be trained in piracy and become aware of its links with organised crime
- Public awareness campaigns must seek to reverse the current tolerance of piracy and make clear the damage it causes to industry, culture and society
- The fight against internet piracy requires amendments to the law and the promotion of good practice among ISPs

PRIORITY COUNTRIES

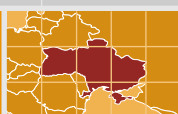
Piracy by format 2004



Ukraine statistics

Legal Market Value	US\$ 42m
Legal Market Units	15m
Pirate Market Value	US\$ 42m
Pirate Market Units	35m
Piracy Level	68%

UKRAINE



Three years after trade sanctions were imposed by the US government, and despite highly encouraging signals from the new Yushchenko administration, Ukraine maintains very high levels of music piracy.

Despite targeted police action, street sales of pirate music product remain widespread. Ukraine's legitimate demand for optical media is only around one third of the country's annual disc production capacity – an estimated 500 million.

The problem is clearly one of political will rather than lack of resources. Police action against street sales of pirate product leading up to the Eurovision finals shows that Ukraine's law enforcement agencies are capable of at least temporarily limiting retail piracy. This is even visible at the Petrovka market in Kiev, where over 300 stalls usually sell exclusively pirate and counterfeit material.

However, as pirates are well organised and often enjoy high-level protection, it remains to be seen whether this action can be sustained.

Ukraine's slow and cumbersome court system and the complete lack of deterrent sentencing are jeopardising lasting results.

Most illegal discs found in Ukraine are now produced in local underground CD-R burning labs or are smuggled in from Russia.

In addition, Ukraine still hosts optical disc plants where, backed by forensic research, it is evident that pirate CDs and DVDs are produced for local consumption and export.

Despite regular training and industry support, the authorities are still incapable of applying the optical disc regulation in order to prevent continued illegal production at Ukraine's plants. Follow up to well-documented industry complaints is slow, indecisive and incomplete, allowing the pirates a sense of impunity. Under these circumstances the production of even more unauthorised material is highly likely at any time.

Ukraine's previous government failed to adopt the necessary reforms. The new government of Ukraine appears more willing to tackle the problem. However, despite strong commitments from the president and key members of the council of ministers, the Ukrainian parliament once again failed to pass urgently needed amendments to the optical disc law. Consequently US trade sanctions are expected to remain in place.

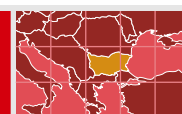
Recommended action:

- Ukraine must amend the 2002 Optical Disc Law, which has proven too weak to stop illegal production
- The criminal code must be strengthened
- Specialised IPR units should be established
- Border controls have to improve

SPECIAL FOCUS

Certain territories outside of IFPI's top ten priority countries merit special attention because of the particular nature of their piracy problem

BULGARIA



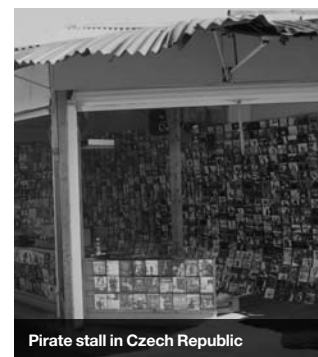
Bulgaria has failed to prevent a resurgence of the production and export of pirate optical discs.

Bulgaria's domestic piracy level is among the highest in Europe. Street piracy is widespread and the illegal production of optical discs has not been eradicated.

There are loopholes in Bulgaria's criminal code, such as the lack of criminal liability for storage of pirate goods, inefficiency of prosecutors, and courts refusing to impose serious penalties for copyright crime.

While Bulgaria is also a transshipment point for discs from Ukraine and Russia through to the Balkans, Greece, Turkey and beyond, recent seizures and forensic examination show that it is once again becoming a source of pirate discs.

In the past Bulgaria was a major source of pirate CD production, and the licensing system for plants that it subsequently



Pirate stall in Czech Republic

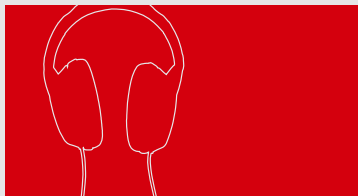
adopted in response was seen as a good model. However it is now proving insufficient. Industry efforts to get a new optical media licensing system adopted have met with political resistance and complacency.

The country's law enforcement authorities have become more active in targeting piracy but to produce a lasting effect Bulgaria must urgently strengthen its laws, better control its CD plants and task its judicial system to take copyright crime more seriously.

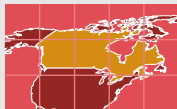
Ruslana, Ukraine

"Ukraine has a vibrant music scene and I am proud to be part of it. It is a crying shame that the talent, time, money and effort that artists like me put into making music is allowed to be destroyed by rampant piracy... I call on President Yushchenko and his new government to take strong measures to truly protect musicians and the record labels that support them against copyright crime."

(Published in European Voice)



CANADA



There is a special focus on Canada because of the government's inaction on copyright reform, and, in particular, its failure to ratify and implement the WIPO Internet Treaties that would afford protection to copyrighted works in the digital environment.

Canada is already in the international spotlight. The Office of the US Trade Representative (USTR) in 2005 maintained the country's placement on its Special 301 Watch List, singling out Canada as a country that must address significant problems with its intellectual property rights (IPR) regime.

According to research company Pollara, it is estimated that more than 130 million unauthorised downloads largely via file-sharing occur in Canada each month. This translates into 1.6 billion downloads per year that do not earn royalties for artists or tax revenue for the government.

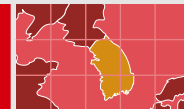
Canada also faces difficult challenges with respect to enforcement against physical piracy. Illegal CDs and DVDs originating from South East Asia,

Russia and Pakistan flow freely into Canada due to weak border enforcement.

Once the goods enter into the retail stream, enforcement becomes even more problematic as police do not always have adequate resources to address operations at this level. While priority is given to investigations that deal with importation and distribution, historically there has been little cooperation between federal police and customs agents. Some progress is being made through joint operations, the establishment of a coalition of rights holders, and training workshops.

However, Canada's overall lack of effective legislation and enforcement is evident. The USTR has been compelled to conduct an out-of-cycle review to monitor the territory's progress "in providing an adequate and effective IPR regime that is consistent with its international obligations and advanced level of economic development, including improved border enforcement."

KOREA



Korea has rampant internet piracy which continued unabated in 2004. Broadband access, at 80% household penetration, is the highest in the world.

In addition, mp3 downloads from unauthorised sources to mobiles have increased sharply. Legitimate music sales have fallen drastically, by more than 55% since 2001.

In 2004, legal cases against unauthorised file-sharing services progressed through the courts, and in January 2005 the injunction issued against the operators of the file-sharing service Soribada was affirmed by the court of appeals. However, on the same day, a separate criminal court upheld the dismissal of separate criminal charges against Soribada.

The owner of Bugsmusic, the largest streaming site in Korea with over ten million members, was found guilty of copyright infringement and given a suspended jail sentence of 18

months and fined approximately US\$20,000. Despite these court decisions both services continue to exist. Indeed, in early 2005 Soribada started to charge its users for the service.

The Korean government has acknowledged that serious problems confront both the international as well as the domestic recording industry and has begun to address the deficiencies in the legal framework and enforcement structure. Amendments to the copyright law, which granted a transmission right to record producers came into effect in January 2005.

There were also recent proposals by three national assembly members for a comprehensive reform of the copyright act and the setting up of a joint enforcement agency.

However these proposals do not go far or proceed quickly enough to adequately help the industry. The government urgently needs to ensure that provisions within the copyright laws deal effectively with unlawful reproduction over the internet.

Drugie Pavila, Russia

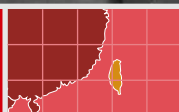
"After we realised how many people and how much investment is needed to create a band like ours, we started to see piracy differently. The competition we won involved 8,000 participants, who all dreamed of becoming artists. The level of piracy in our country means that almost none of these talented young singers will have the chance we had to start a career, as the record company will not be able to reinvest the money from sales of our album."



SPECIAL FOCUS



TAIWAN



Anti-piracy efforts are achieving results in Taiwan, but they are hampered by the move from physical piracy towards online piracy, and an increase in the distribution of pirate products through catalogue shopping and by home delivery.

In 2004, Taiwan finally saw some benefits from past years' painstaking efforts against physical piracy. Arrests dropped by over half from 673 in 2003 to 357 an indication of successful enforcement. Taiwan's night markets saw around 50 stalls in operation – a huge improvement on the 300 stalls operating daily in 2001.

A combination of vigorous enforcement activity and amendments to the copyright laws has resulted in an improvement to the piracy situation. The Intellectual Property Rights Taskforce finally became a permanent enforcement agency. The governing body for optical disc regulation also stepped up its efforts with manufacturing plants. For example, well over 1,000 inspections on plants were made in 2004 – a significant increase on previous years.

However, there has been a notable shift from pressed CDs to CD-Rs, which are also seeing distribution via catalogue and home delivery in addition to street sales.

Sandra, Argentina

“The problem is the huge organisations, real companies, which sell pirate CDs for \$5. They not only evade all the taxes but also trample on artists' work. I give the best of me in my records, and these people don't respect it”.

(Published in Clarín)

Also contributing to the drop in physical piracy is the surging number of consumers turning to the internet to acquire music. The criminal and civil litigation against Kuro and Ezpeer, the two largest file-sharing services remain a major focus for the music industry in Taiwan, while other infringing activities on the internet were closely monitored. More and more infringing services are relocating their servers outside of Taiwan to escape detection and possible prosecution. In 2004, 91% of the websites found to be offering illegal music files for download in Taiwan were located in China.

The local music industry has, as in the past, devoted substantial resources to fighting piracy, though the focus has shifted from physical to online. There have also been links forged with Internet Service Providers (ISPs) to help in regulating internet activity.

However, the music industry does not enjoy adequate protection by way of legislation, or effective enforcement action when rights are infringed online. The IPR Task Force must also be provided with adequate training to enhance their capability in fighting the new trends in piracy.



COMMERCIAL INTERNET PIRACY

Commercial piracy is increasingly spreading from the physical disc format to the internet. This report deals with internet businesses which have been specifically set up to make money from the unauthorised distribution of music. It does not deal with illegal file-sharing, uploading or downloading by individuals using those services.

UNAUTHORISED SERVICES

■ Download

The record industry filed criminal complaints and civil actions alleging such infringement in Spain against the commercial service Weblisten, which resulted in numerous injunctions and the eventual closure of this major unauthorised download site in May 2005. Criminal complaints are also pending against the allofmp3.com site in Russia, which prosecutors have rejected to date – despite the fact that it is offering hundreds of thousands of music files without authorisation from, or payment, to the rights holders. In May 2005, the German IFPI group obtained an injunction against allofmp3.com confirming that the service is illegal outside Russia.

■ Commercial file-sharing services

Several countries have seen unauthorised file-sharing or 'peer-to-peer' (p2p) services start up. China and Taiwan are home to several unlicensed p2p services including Kuro and EzPeer, currently subject to civil injunctions and criminal prosecution in Taiwan. The original Soribada p2p service in Korea has been discontinued and ordered to pay compensation,

even though a parallel criminal case was dismissed. (Soribada has re-invented itself with a different structure and continues to operate.)

The recording industry's two highest profile legal cases involve unauthorised file-sharing services with international scope. At the time of going to press, a judgement was awaited from the US Supreme Court on the liability for copyright infringement of US-based file-sharing service Grokster. In Australia, local record companies brought a case against the parties involved in Kazaa. Both judgements were expected imminently.

■ Streaming

Korea has a number of unauthorised internet music 'streaming' sites. In September 2004, the court issued civil injunctions against the Bugsmusic streaming site. The local industry also filed criminal complaints against Bugsmusic and four other large unlicensed streaming sites. Bugsmusic owner Park Sung Hoon was found guilty on the criminal charges in January 2005.

■ Disc piracy on the internet

In several of the top ten priority territories, commercial pirates have started to rely on the internet as the distribution channel for their counterfeits and illegal CD-R discs. Pirates also use the internet to illegally source the music copied onto discs. These types of illegal disc distribution sites and offers on the internet have been found, for example, in Russia, Ukraine, Brazil, and Argentina.

REGIONAL OVERVIEW



ASIA-PACIFIC



Most governments in the Asia-Pacific region increased their efforts and provided more resources towards fighting piracy in 2004, and there have been modest gains in reducing piracy levels.

However, Asia still has the world's highest production capacity of both pressed and blank optical discs. Encouragingly, a number of territories' piracy rates have now fallen slightly, but piracy levels in China and Indonesia remained unacceptably high at over 80%.

The experience in Asia shows that success against music piracy is achievable where government demonstrates a strong and visible political will to rid the territory of piracy.

Piracy in Asia tends to seek out the points of weak enforcement. There has been a shift of disc production facilities from territories such as Singapore, Hong Kong and Taiwan to Vietnam and others places in the Mekong Delta, where there is little or no copyright protection and a lack of real enforcement. At the same time CD-R piracy is on the increase in many territories.

Malaysia for example, continues to be a major exporter of pirate discs, while Pakistan is now one of the biggest exporters of pirate discs in the world. Exported discs

manufactured in China are increasing throughout the Asia region.

In the Philippines, the fight against piracy is hampered by a lack of government resources and a lack of adequate legislation to regulate the numerous optical disc plants producing pirate products for the domestic and international markets. It is believed that some of these factories are set up with the help of funds from organised crime groups based in Malaysia and Taiwan.

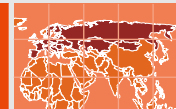
Pirate products manufactured in the Philippines have in the past found their way into many international markets. However, the Philippine government in 2004 introduced new legislation for disc plants, which it is hoped, will help to control the manufacture of illegal discs in the country.

Optical disc regulations have also been passed in Indonesia and Thailand, and are under consideration in India.

Improvements in the physical piracy situation in Asia are offset by a sharp increase in the illegal distribution of music via websites and file-sharing. Taiwan and South Korea have seen the size of their legitimate markets drop drastically.

Immediate remedies are needed to resolve and control the spread of online piracy in those countries.

EUROPE



EUROPEAN UNION

Markets in Western Europe, and in particular Southern Europe where organised crime is heavily involved, continue to suffer from CD-R piracy. The problem is exacerbated by the accession of new countries in Eastern Europe, and weak border controls and rogue plants in the EU.

Spain has seen stepped-up enforcement and the new public-private commission, aimed at addressing problems in intellectual property protection and reinforcing laws, is a step in the right direction.

Italian organised crime groups remain actively involved in music piracy. Police are clamping down but court procedures are slow and there is a lack of deterrent sentencing.

Greece has one of the highest piracy rates in the EU at 50%. There is an inefficient court system and leniency towards even notorious repeat offenders.

The eastward expansion of the EU, and the relaxing of border controls, has facilitated the influx of infringing discs into Western Europe. There is poor enforcement at the EU's borders with pirate hot-spots Russia, Belarus, Bulgaria and Ukraine. Once pirate product crosses these borders it can circulate freely within 25 countries.

There are now several EU instruments to fight piracy: The EU Enforcement Directive due to enter into force by April 2006 includes civil measures and procedures concerning injunctions, the freezing of assets and guidelines on awarding damages. Significantly, it also allows for a presumption of ownership if a rights holder's name appears on a sound recording.

The European Commission has also made proposals aimed at increasing criminal sanctions, for example, prison sentences of at least ten years for leaders of organised crime groups.

The Council and the Commission both reinforced their customs regulations to halt pirate products at EU borders. In February 2005, the Commission released figures showing a 172% increase in the seizure of pirate discs for 2003 and the first three quarters of 2004.

The Commission adopted in 2004 a new plan which provides a global approach to the issue of IPR enforcement in third countries and sets out eight proposals for EU action, from the drafting of a 'priority countries list' to bilateral and multilateral trade actions and technical assistance.

EASTERN EUROPE

Although high quality counterfeit CDs are found throughout the region, the pressed disc is losing ground to burned CD-Rs, which are prevalent in the pirate markets of the Balkans, Bulgaria, Romania, Turkey and Ukraine.

Romania's piracy level is 55%, due to a continued lack of focused enforcement action and serious judicial shortcomings. Serbia & Montenegro, where music piracy is around 80%, slipped back after a slight improvement in 2003. The new Serbian government has prioritised IPR enforcement, but the necessary clamp down on pirate street sales has yet to materialise.

The piracy level in Turkey has increased to 56%, despite the ban on sales of audio-visual products, which has reduced the number of blatant pirate sellers in Turkey's cities.

Russia's piracy problem remains one of the world's worst, with a piracy level of 66%.

The industry's priorities in the CIS states are Kazakhstan, Belarus, Moldova and Georgia. Elsewhere the markets are too small (or, as Uzbekistan too distant) and unregulated. There is no meaningful activity by police, customs, or judiciary throughout the CIS.



Pirate product seized in Taiwan

REGIONAL OVERVIEW



MIDDLE EAST/AFRICA



MIDDLE EAST/NORTH AFRICA

A climate of impunity for pirates exists in most parts of the region, with several governments ignoring the blatant copyright infringement in their markets. Local enforcement authorities often show a lack of interest in tackling intellectual property crime and despite relatively sophisticated copyright laws, courts fail to impose deterrent penalties.

Lebanon remains the country with the highest level of piracy in the Middle East at 75%, followed by Kuwait at 59% and Saudi Arabia at 43%.

In North Africa, piracy ranges between 51% in Egypt and almost 100% in Morocco. In line with global trends, CD-R piracy is growing fast and has even surpassed cassette piracy in a number of territories. Illegal compilations, burnt on the spot from computer hard-drives in retail outlets, are now a widespread phenomenon.

A number of spectacular raids in Lebanon took place in late 2004. More than 200,000 pirated optical discs and cassettes were seized and key members of a pirate syndicate were arrested.

However, the political crisis following Prime Minister Rafiq Hariri's assassination has prevented law enforcement agencies from sustaining this increased activity. There is a lack of prosecutorial follow-up, pre-raid leaks and the practice of leaving seized goods with the infringer.

Enforcement in Egypt has improved, with police in Cairo raiding traditional pirate retail outlets as well as sales points offering ringtones and true-tones for downloading.

In Saudi Arabia massive raids in Riyadh netted over a million illegal optical discs. However, the lack of transparency in their enforcement system prevents the private sector from assessing whether such raids are followed by prosecution and suitably deterrent sentencing.

The establishment of an Intellectual Property Rights unit within Kuwait Customs led to a welcome improvement in border enforcement. However, there is a lack of pro-active follow-up.

REST OF AFRICA

Piracy levels across Africa remain high and optical disc production is growing throughout the region, with 40 disc replication lines operating in South Africa, Nigeria and Senegal. The cassette currently remains the most-pirated format but CD-R piracy is a growing problem in Kenya, Mozambique and Nigeria.

South Africa is Africa's most viable legal market for music, despite ongoing problems with poverty, crime and AIDS. Although sales value rose 21% in 2004, boosted by strong local repertoire and rising DVD sales, South Africa's piracy level is over 30%. Pirate and counterfeit product is openly available at flea markets and street stalls.

Following raids on optical disc plants in Nigeria in mid-2004, Nigeria's Copyright Commission (NCC) has pledged to pursue action against plants involved in producing infringing product.

Youssou N'Dour, Senegal
"Music piracy in Africa constitutes today the biggest obstacle to the development of the cultural institutions linked to music. Whether it is a small domestic operation or on an industrial scale, piracy remains a dangerous threat to the economic and social development of artists. It is a systematic theft carried out against the heritage of the creators and professionals who work in music."

LATIN AMERICA



The region saw a partial market recovery during 2004 and an increased level of enforcement actions. However, high levels of piracy in most Latin American markets remain a major obstacle to industry stability and investment in new talent.

In 2004, legitimate music sales in the region totalled 155 million units, well below the 222 million units sold in 1999. This represents a 30% fall over the past five years.

CD-R piracy continues to be the main problem for all territories. This is despite the industry's seizures. In the region's biggest markets, Mexico and Brazil, more aggressive anti-piracy efforts yielded combined total seizures of some 41 million blank CD-Rs and over 17,000 burners in 2004.

In Paraguay, the government has shown a genuine will to combat piracy despite resource constraints. Among many other actions, authorities in Paraguay seized over 11 million blank CD-Rs at the borders. The industry recognises the Paraguayan government's efforts and looks forward to more actions. The high level of blank media imports remains a major concern and the piracy level remains 99%.

Following devastating political and economic turmoil in 2002, Venezuela is seeing some stability and an influx of 'petro-dollars' from higher oil prices although piracy is still 80%. Peru's economy grew by at least 5% in 2004 but piracy is at 98%.

Despite being the top-seller of the Andean region, sales in Colombia have been declining over the past few years. The legitimate market today is half the size it was in 1997. Piracy has risen to 71%. The local industry is making huge efforts to maintain an anti-piracy campaign with little government commitment. Local legislation is inadequate and resources are limited.

Piracy has practically eliminated the legitimate markets in Peru and Ecuador. Despite some support by local authorities in Peru, and a small anti-piracy effort by the industry, the piracy level is so high that most record companies have closed down. Local legislation in Peru and in Ecuador is more than adequate if the governments had the requisite political will to combat piracy.

Argentina's market recovery continues following the economic and political collapse of 2002. The level of piracy is 55% despite actions against groups involved in the manufacturing and distribution of illegal products.

In Chile, where the piracy rate is 51%, the police are cooperating with the anti-piracy campaign, but efforts are mostly limited to the city of Santiago.

Central American countries suffer from the weakest legal structures to combat piracy. An industry campaign in Costa Rica is also carrying out operations in other countries. Most governments lack the commitment to reduce high piracy levels except the Panamanian government, whose customs office made an agreement with industry to curtail pirate imports.

Sandy, Brazil

"Other people, not just the artist, suffer as a result of piracy. All those involved in the creation of the work are directly affected. Musicians, producers, authors, arrangers, recording studios, photographers, and also the manufacturing staff involved in CD replication are victims of the detrimental effects of piracy. . . Piracy is a crime and we certainly cannot support it."

(Published in O Globo and Diario de São Paulo)

THE CALL TO GOVERNMENTS



Like any other crime, commercial music piracy flourishes where governments fail to take action

The international recording industry takes an active role in protecting the works of artists and creators which are the basis of its commercial success. These self-help measures are not in themselves enough. Strong legislation and effective enforcement as well as robust political commitment are needed from governments.

COPYRIGHT LAWS

Copyright laws should be clear, consistent and up to date

Countries must ensure they have good copyright laws. The legal rights of record producers need to be clear in order to proceed against infringements. Loopholes that may allow commercial pirates to go free must be closed. The internet and other digital activities may need new legislation if not sufficiently covered by existing rules. International copyright treaties including the Berne and Rome conventions, World Trade Organization (WTO) rules and the World Intellectual Property

Organization (WIPO) Treaties for example, need to be adopted and implemented effectively.

JUDICIAL PROCEDURES

Investigative and judicial procedures should be fast and practical

In some countries the law is clear but copyright crime is not actively pursued. Police, prosecutors and courts need effective procedures in place to deal with it. For example, police should have the power to collect evidence and customs officials should be able to take action against suspect shipments without prior complaints from rights holders.

Courts should give full effect to presumptions of rights holders' ownership in copyright cases, without requiring unnecessary levels of evidence. Court procedures should be fast-tracked to ensure offenders are punished speedily.

CRIMINAL SANCTIONS

Criminal sanctions must deter – pirates should go to jail

Where sentences are suspended, or fines or jail terms imposed at a low level, sanctions simply become a cost of doing business for the pirate. Effective penalties include confiscation of equipment and seizure of criminally-earned profits.

Substantial compensation orders and heavy jail sentences must be in the criminal code and used in practice. All of these help to deter anyone seeking to profit from piracy.



Paraguayan authorities examine evidence at a distribution centre for illegal product

GOVERNMENT PRIORITIES IN THE FIGHT AGAINST PIRACY

- Up to date and effective copyright laws and procedures
- Deterrent criminal penalties for copyright crime
- Regulation of optical disc manufacturing
- Political will to prosecute copyright crime
- Aggressive enforcement by police, customs and prosecutors
- Fulfilment of international copyright and enforcement commitments – backed up by political or WTO pressure where required

DISC PLANT REGULATION

Optical disc plants should be regulated

High-volume production of counterfeit and pirate music CDs take place at a limited number of mastering and pressing plants worldwide. Optical discs plants need to be regulated effectively to help prevent illegal production. Plants should be licensed, and good business practices, including the use of source identification (SID) codes, should be implemented.

Countries that have adopted such regulation include China, Macau, Hong Kong, Malaysia, Indonesia, Taiwan, the Philippines, Turkey, Bulgaria, Ukraine and Poland. Of IFPI's top ten priority countries in 2005, Russia, Pakistan, and India need such regulation as a matter of urgency.

LAW MUST PROSECUTE

Enforcement agencies and judiciary must prosecute

Like any other crime, commercial music piracy flourishes where governments fail to take action and lack the will to indict pirates. High-level political commitment from government is needed to attack and deter commercial copyright crime.

Intellectual property crime should be made a priority by law enforcement officials and may need specialised judges. Judges, prosecutors and police should also be appropriately trained.

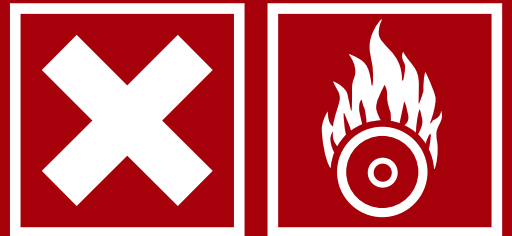
Copyright law must be brought into line with international norms to create a proper legal basis on which to prosecute pirates. International trading rules such as the WTO TRIPS agreement now require that governments must provide for 'effective action against any act of infringement' including penalties which 'constitute a deterrent'.

Best-selling Chinese duo Yu Chuang, have supported anti-piracy initiatives including a message on their albums asking consumers to only buy legitimate products



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recording industry
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