



Copyright, Piracy and Cultural Industries



Introduction

With the rapid advances and falling costs of information technology during the last decade, piracy of music, films or computer software has become a growing problem in both developed and developing countries. Piracy has disastrous results for the growth of local creative industries, cultures, creativity and economic development. It costs jobs and stifles cultural diversity by discouraging a more diverse supply of local cultural production in international markets.

It is therefore important that this growing criminal activity be tackled. UNESCO, which works to protect cultural diversity, is committed to playing an active role in initiatives that raise awareness and promote the importance of respecting copyright. Efforts to combat piracy fall into three broad categories: the need to improve legislation to deal more effectively with this problem, efforts to encourage more effective enforcement of existing legislation, and education of both citizens and law enforcement structures on its social, economic and cultural consequences of piracy.

What is piracy?

The term piracy describes, generally, the unauthorised manufacture and sale of content protected by copyright or neighbouring rights. The term piracy includes the production of counterfeit goods, produced to resemble the original product in every detail and sometimes to fool the consumer into thinking it is the genuine article, as well as 'bootlegging' – the illegal recording and distribution of live performances. A comparatively new phenomenon is piracy, where protected material is being made available online over the internet and copied without the consent of the authors and other rights owners.

Social and cultural impact

The trade in pirated goods directly threatens the livelihoods of authors, musicians, performers, photographers, artists, publishers, broadcasters and a whole range of secondary related professions involved in the production of cultural goods such as sound and light technicians, stage managers, those who work in recording companies, retail stores, graphic artists, music editors, video and film support and marketing, promotional and advertising experts. According to a recent estimate, piracy causes an estimated 120 000 job losses a year in the United States and 100 000 in the European Union. In developing countries, the figures are likely to be even higher and the cost in terms of lost development equally significant. The countries where piracy flourishes lose their creative assets and are culturally impoverished as a consequence. In the countries suffering the highest rates of piracy the development of local cultural industries has been decimated.

The uncontrolled spread of pirated goods prevents the growth of local creativity. Pirates tend to copy only the most popular types of music or films which flood the market. This strangles the production of local and less widely known artists because local investors, which have to bear all the legitimate costs of production, are simply unable to compete. This can kill off an otherwise vibrant musical or cinematographic culture with incalculable social and cultural costs, given that music and film are vehicles of historical memory and cultural dialogue. The collapse of local creativity and cultural industries also impoverishes international cultural dialogue, as the cultural voice of nations struggling against the threat of piracy, is silenced in international markets.

The financial cost of piracy

The nurturing of creative talent as well as the production, marketing and distribution of music, computer software and film is a high-risk, high-cost investment. Copyright creates incentives for companies to take investment risks by giving them the exclusive right to control the exploitation of the cultural products they produce. The abuse of copyright by pirates of cultural goods denies artists and performers the legitimate income from their creative efforts. Record companies are forced to cut their artist lists and have less money to reinvest in new talent. Governments lose enormous sums in potential tax revenues. As a result consumers suffer from a reduced and less diverse supply of cultural goods.

The global trade in pirated goods costs legitimate producers billions of dollars in lost earnings. According to the IFPI, the body which represents 1450 record companies in over 70 countries, the value of pirated music in 2003 exceeded 4.5 bln USD. The Motion Picture Association of America estimates annual losses due to piracy of the US film industry alone at some USD 3 bln. In 2003 international authorities seized a record 56 million fake units of music. Though this is an encouraging sign that more action is being taken to combat piracy, the higher number of seizures also reflects the growing scale of the problem. Global losses across music, film and computer software could run into the tens of billions of dollars a year.

A global problem needing global solutions

Piracy is a cross border, trans-national crime, often run by efficient organised crime groups, some of which even have links to terrorist organisations. These organisations have the scale of resources to invest in expensive technology and control the means of production and distribution to flood international markets with millions of pirated discs. As such piracy poses new challenges for industry, governments, and law enforcement structures who more than ever need to cooperate in order to successfully tackle the problem.

It is clear that a well functioning system of copyright laws and their rigorous international application are essential elements to build strong creative industries and ensure cultural diversity. Intellectual property rights such as copyright and neighbouring rights, enable law enforcement bodies to take legal action against those who copy and distribute creative content without the permission of the companies that invested in producing it. Without these legal rights artists have no way to protect their work and companies have little incentive to invest in cultural industries.

UNESCO's efforts to combat piracy

Inter-governmental action is particularly well-suited to resolving the crisis and UNESCO, has taken a strong lead in efforts to fight piracy. In May 2004, UNESCO co-ordinated a project called 'Anti-Piracy Training for Trainers', an advanced seminar for copyright enforcement officials from South Eastern Europe. Held in Sofia, Bulgaria, Phase 1 of the project brought together law enforcement officials, industry representatives, prosecutors and lawyers from six countries from the region which included Albania, Bosnia and Herzegovina, Bulgaria, Croatia, the Former Yugoslav Republic of Macedonia, Serbia and Montenegro and Romania.

These countries suffer particularly badly from piracy and though the EU and other intergovernmental organisations have provided them with significant technical and legal assistance, they still need support in the area of law enforcement, where they often lack the necessary training facilities to educate the officials tasked with the responsibility to apply the law. The UNESCO proj-

ect, funded by the Government of Norway, positioned within the framework of the Global Alliance for Cultural Diversity and carried out by UNESCO's Copyright programme, was designed to alert national authorities and enforcement officials to the importance of enforcing copyright laws and the economic and cultural consequences of piracy.

Run over 4 days, the course focussed on intellectual property protection, an introduction to different forms of piracy, mechanisms for detection and measurement of the problem, investigation and mechanisms for prevention and reducing the rates of piracy. Alongside discussions of theory the course was also very practical in nature, including a visit to a lawful CD manufacturing site, and presentations of illegal products and methods for distinguishing these from original ones given by professionals with hands-on experience. Case-study exercises at the end of the session allowed participants to test what they had learnt in close-to-real-life situations.

The Multiplier Effect

By training a select group of officials, the "Anti-Piracy Training for Trainers" created a 'multiplier effect' – ensuring that the knowledge and expertise acquired by the 20 participants will be passed on to national authorities involved in the anti-piracy struggle (law-makers, government, police, customs, magistrates, judges etc), through subsequent national seminars in Phase 2 of the project. That process has already begun and in December 2004 Romania conducted its own national training seminar, which was attended by over 50 participants from prosecutor's offices across the country.

Held over two days and supported by the UNESCO as well as by Romania's Prosecutor's Office attached to the High Court of Cassation and Justice, the seminar brought together representatives of Romania's private sector industries, local prosecutors, the Romanian copyright office and the police. 'The seminar was an excellent opportunity for the participants to discuss legislative and procedural issues they face in investigating these kind of cases,' says Dragos Dumitru, the prosecutor responsible for intellectual property rights infringements at the Romanian General Prosecutor's Office, who organised the seminar. 'That is why we consider that it was important for the participants to share their experience.'

Industry Participation

A key feature of the projects has been the enthusiastic participation of industry representatives, such as the IFPI, the Motion Picture Association and the Business Software Alliance. Keen to see action taken to protect and enforce their rights, these industries have devoted their time and knowledge, and have discussed at large with the participants all the different aspects related to piracy and enforcement of copyright laws. 'IFPI has devoted considerable resources to the prevention of piracy and the investigation of offences but cannot combat these crimes alone,' says Graham Hagger of the IFPI, who also attended the follow-up event in Romania, explaining why the organisation participated in the programme. 'The synergy developed by uniting with organisations such as UNESCO to promote the anti-piracy message across many countries can and does lead to reduction in crime and improvements in the marketplace.'

Thomas Dillon, legal counsel working on Anti-Piracy for the Motion Picture Association agrees. 'Unless we learn to protect intellectual property with the same seriousness as we protect tangible property, we shall never have a healthy and diverse film sector,' says Dillon. 'Piracy is a crime and fighting it is one of the responsibilities of government, but we, of course, make great efforts in the film industry to protect ourselves and have unique expertise which can help the authorities.' Another strength of the project was bringing together represen-

tatives of different fields of the enforcement and judicial professions, rather than concentrating just on prosecutors or police officers. This cross-disciplinary approach allowed each group to understand the challenges and possible solutions of piracy from different perspectives and to discuss ways of working together more effectively in the future.

The representatives of private industry are keen to develop these forms of cooperation further. 'We strongly support UNESCO's efforts to help officials from many countries share knowledge with industry experts and improve their ability to enforce their laws,' says MPA's Dillon. 'We see partnership with law enforcement as indispensable: the problem of piracy is too big for private industry to tackle on its own.'

'Training initiatives are the important first step in raising the awareness of a crime that is growing in scale across the world,' agrees Graham Hagger. 'IFPI would therefore like to see initiatives such as the Bulgarian project targeted towards countries and regions where IPR crimes are prevalent and growing.' Currently, national anti-piracy follow-up seminars are scheduled in the Former Yugoslav Republic of Macedonia (April 2005), Bosnia & Herzegovina (May 2005) and Bulgaria (May 2005).

Conclusion

Piracy is a growing problem with disastrous consequences for local cultures, economic development and cultural diversity. As a trans-national problem, piracy needs to be tackled by cooperation between countries, regions, associations and partnerships. UNESCO, with its mandate to protect cultural diversity, is committed to take a leading role in the struggle against this criminal activity and will continue to act as a catalyst for international cooperation and partnerships to deal with this problem.

To find out more about UNESCO's Anti-Piracy Training for Trainers please consult our website:

http://portal.unesco.org/culture/en/ev.php-URL_ID=19877&URL_DO=DO_TOPIC&URL_SECTION=201.html

Useful links

www.ifpi.org/site-content/library/piracy2004.pdf

www.mpaa.org

www.respectcopyrights.org

www.piracyisacrime.com