

the recording industry
commercial
piracy report 2003



representing the
recording industry
worldwide

Introduction



The organised commercial music pirate trade remains a key threat to the recording industry, with pirate disc sales topping the one billion mark for the first time ever. No fewer than 40%, or two out of every five physical recordings sold in the world, are pirate copies.

Piracy on this massive a scale is badly damaging sales of legitimate music. The victims are the hundreds of thousands of people currently employed directly or indirectly by the music industry, and governments who lose millions in tax revenue every year. Local artists and culture also lose out, as piracy undermines investment in the development of local talent. And local repertoire, let's not forget, is the backbone of this industry, accounting for over two thirds of global music sales.

Who gains? The pirates. These people are often members of organised criminal gangs involved in all kinds of criminal activities besides piracy - ranging from fraud and drug trafficking to prostitution. Piracy is their lowest risk activity because the penalties are minimal. But the profits rival those of the drug trade. It's little wonder that these criminal networks find piracy appealing.

As an industry, we are determined to raise awareness of this long-underestimated criminal enterprise and to fight back against the epidemic of commercial piracy. The figures show that we are containing what would, without our efforts, be a catastrophe: for example, worldwide seizures of illegal music discs have risen dramatically to over 50 million units, almost four times the level of 2001.

Governments can ill-afford to let music piracy continue to drain investment from their economies. Music is only one of a raft of intellectual property-based industries - from film to leisure and computer software - which depend critically on adequate protection and enforcement of its

rights. In the US alone copyright industries account for 5.2% of GDP with a value of \$US535 billion*.

Whether we can succeed in fighting piracy depends on whether law enforcement bodies and governments around the world engage and support our efforts. This will be particularly important in those ten territories (Brazil, China, Mexico, Paraguay, Poland, Russia, Spain, Taiwan, Thailand, Ukraine) we have identified as top priorities for the coming year. Piracy hits these markets hard, stifling local talent, funding organised crime and diminishing economic growth. Tackling this problem is in the interest of the governments of those territories, as it is everywhere.

Jay Berman, IFPI Chairman and CEO

Music piracy: the facts

1. Pirates add no value to creative industries. They illegally copy and sell only the most popular acts - international stars and local icons. They leave the legitimate record business to do all the marketing and take all the risks. Pirate profit margin is close to 100% but the pirates pay society nothing back.
2. Piracy is not a victimless crime. The proceeds from pirate sales fund ruthless criminal enterprises. They are encouraged by poor laws, weak enforcement and inadequate legal penalties.
3. Most pirates are sophisticated and organised. They are able to obtain and sell valuable intellectual property before it is even released in the legitimate marketplace, damaging sales.
4. Piracy sucks the lifeblood out of local culture. Talented artists in high piracy markets in China, India, Africa, Middle East, Eastern Europe and elsewhere cannot get recording contracts and have to try to make a living from touring, or move to other places at a loss to their home country.
5. Pirates are increasingly able to move operations between borders. The most effective way of fighting piracy is by inter-governmental co-operation and global enforcement strategies.

*Source: Stephen E. Siwek, for IIPA, Copyright Industries in the U.S. Economy, 2002 Report

Piracy Statistics

Music piracy totals 1.8 billion units: Disc piracy up 14%

The global pirate market is estimated to have totalled 1.8 billion units in 2002. Disc piracy rose to an all-time high of 1.1 billion units, which represents a rise of 14% on 2001 and is more than double the 510 million units sold in 1999. The pirate cassette market fell by over 20% as pirate discs continued to replace cassettes.

Discs: 1 in 3 worldwide is pirate

An estimated one in three discs sold in 2002 were pirate products. IFPI estimates that, including cassettes, two in five physical recordings are pirate. Pirate products accounted for a greater proportion of the total market in 2002 as the global piracy level reached 40% in the context of a shrinking legitimate market.

Piracy of songs before they are even released is becoming more widespread. More than 50 of the most popular titles of 2002 were seized before their release dates.

Global pirate sales hit \$US4.6 billion

The value of the pirate market is estimated at \$US4.6 billion in 2002, an increase of 7% on 2001*. This value estimate is based only on the prices of pirate products sold - actual losses to the recording industry are substantially greater.

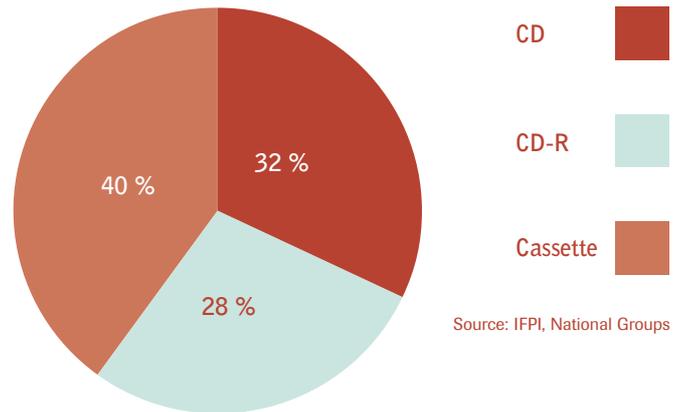
The global pirate music market is bigger than any individual national legitimate music market except for the USA and Japan.

Value growth was driven by the continued switch from cassettes to higher-value discs. The increase was contained to some extent by falling disc prices.

Seizures sharply up in 2002

More than 50 million pirate music discs were seized in 2002, up sharply from the 13 million reported in 2001. The vast majority of seizures were in South East Asia and Latin America.

Composition of pirate product in 2002



Music piracy takes different forms in different regions. Globally, CD pirate sales are split roughly equally between pressed discs and CD-R.

Pressed discs, made on factory production lines, dominate the pirate disc market in Asia and Russia. Pressed disc piracy in Asia rose by almost a third, largely due to growth in China and Indonesia. Over three-quarters of the world's pirate pressed discs are sold in the region.

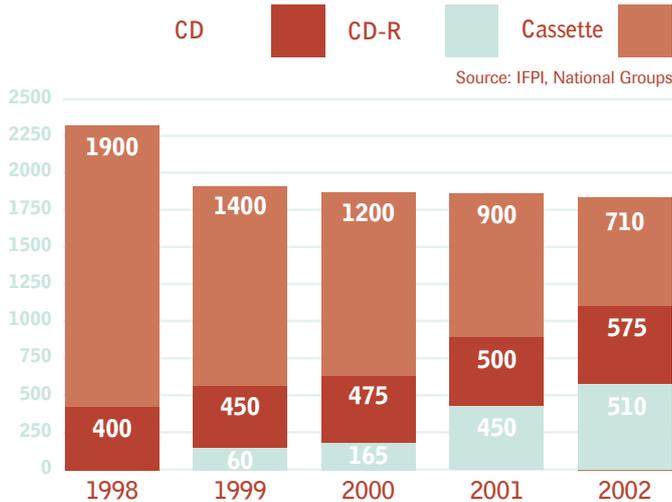
CD-R piracy, where music albums are created using CD burning computer software and then sold to consumers, dominates in Latin America and Southern Europe, and is growing rapidly in Eastern Europe. The CD-R format is a serious threat as it allows mass pirate production, using cheap high speed burners that can be stacked in a lab, office or garage and easily dispersed to avoid detection.

Pirate cassette sales mirrored those of the legitimate cassette market in 2002, with sales falling by 20%. Cassettes make up 40% of global pirate unit sales, down from over 80% five years ago. Cassettes are the main pirate format in the Middle East and are still very visible in Asia, Africa and Eastern Europe, where over 90% of the world's pirate cassettes were sold in 2002.

*This report covers only commercial piracy of illegally produced and sold CDs and cassettes. It does not cover private copying by consumers or the distribution of unauthorised files on the internet.

Piracy Statistics

Global piracy by format 1998 - 2002



CD capacity proliferates

Underlying the continuing spread of music piracy is global overcapacity in the manufacture of optical discs, i.e. discs carrying all media including music, film and computer software. IFPI estimates that there are approximately 1,000 optical disc plants worldwide.

Such increases underline the lack of adequate regulation of optical disc manufacturing. This is a recipe for increasing illegal pirate sales, as supply of discs is far outstripping legitimate demand. For the combined ten territories shown, capacity outstrips local demand by over twenty times.

Current estimated pressing capacity 2002

Territory	Estimated Capacity: all disc formats (million units)	Total Legitimate Demand: all disc formats (million units)
Taiwan	7600	230
Hong Kong	2700	150
China	2500	700
Malaysia	1600	65
India	800	160
Singapore	720	73
Thailand	500	53
Poland	320	120
Russia	300	70
Indonesia	190	17
Czech Republic	170	37

Source: Understanding and Solutions Ltd.

Priority territories

IFPI is for the first time publishing a list of ten top priority territories in the global fight against piracy.

These markets were scored against a set of criteria designed to assess the extent of the piracy problem in 2002 and trends in the pirate and legitimate markets. The specific criteria were: \$US pirate market value; total legitimate market size; piracy level; pirate unit growth vs. 2001; legitimate unit growth vs. 2001.

The following ten markets, based on these criteria, are featured in this report:

- Brazil
- China
- Mexico
- Paraguay
- Poland
- Russia
- Spain
- Taiwan
- Thailand
- Ukraine



Piracy Enforcement

Enforcement stepped up in 2002

IFPI and its national affiliates have a global anti-piracy team of around 250 investigators and analysts, made up largely of ex-law enforcement personnel. They work in close collaboration with governments, police forces and customs departments worldwide.

Forensic analysis

The industry uses a unique forensics laboratory that traces the manufacturing source of pirate CDs through microscopic examination and measurement. This has helped link infringing discs to source factories and resulted in many raids on suspect plants worldwide. This in turn encouraged several governments including Malaysia, Poland, Bulgaria and Russia to establish their own forensic programmes.

International co-operation

IFPI works with government enforcement agencies and international crime investigation organisations. Interpol has recently created the Intellectual Property Crime Action Group (IIPCAG) in response to the growing incidence of counterfeit or copyright infringing goods, which represents at least 7-9% of world trade (OECD study, 1998).

IFPI also maintains a crucial partnership with the World Customs Organisation's intellectual property strategic group to make IP protection a priority for customs authorities worldwide.

Seizures increase in 2002 as piracy grows

Seizures of pirate music discs increased by 37 million in 2002. 50 million pirate discs were seized, split equally between illegally produced pressed music CDs and illegal copies made on CD-R.

The vast majority of pressed pirate discs (around 85%) were found in South East Asia, source of most manufactured discs. There were also significant actions against two Russian CD manufacturing plants in which over 250,000 discs were seized. CD manufacturing capacity increased dramatically in Russia in 2002

where the number of CD plants increased from 18 to 28 between late 2001 and 2003. This manufacturing base is supplying the pirate market throughout Russia and the Commonwealth of Independent States (CIS) and is affecting markets worldwide.

Latin America remains the region worst affected by CD-R piracy. Some 60%, or 14 million units of seized pirate CD-R discs were found in this region. In Europe, CD-R piracy is at serious levels in Italy, Spain, Greece and Portugal.

Tackling piracy at source

Increasingly, enforcement actions are being concentrated at the source of pirate operations, where raids and seizures can result in the confiscation of manufacturing or copying equipment. In 2002, 71 CD manufacturing lines were de-commissioned, 49 of them in Asia, up from 42 the year before. This represents a production capacity of over 300 million units, bigger than any legitimate music CD market except the US.

Nearly 7,000 CD copying machines were seized, with a production capacity of 250 million pirate discs per annum – up from 4,500 seized in 2001.

Seizures of blank discs and artwork inlays also rose sharply. In 2002 just over 90 million blank discs were seized with nearly 80% of these found in Latin America. They included huge one-off seizures of 13 million discs in Paraguay, 12.5 million in Mexico, 3 million in Colombia and 1.2 million in Argentina.



Piracy Enforcement



Organised crime and the industry response

There is a well-established link between piracy and organised crime, which uses music piracy to divert huge sums of money to other criminal enterprises.

Recent testimony by a Mafia boss from Forcella, Naples (February, 2003), clearly illustrated that the Mafia are directly involved in the production and distribution of pirate music, carving up the territory between various gangs and paying a share of profits to 'godfathers'. These Naples clans earn tens of millions of euros dealing with drugs, extortion, illegal betting and music piracy.

Raids in London, Vienna and Luxembourg uncovered further evidence of highly organised cross-border trade by seizing over 800,000 discs, disrupting a huge international bootlegging operation

IFPI stepped up its fight against organised crime in 2002, with notable successes:

- Police in Luxembourg made the largest-ever seizure of pirate CDs in Europe in November 2002. The raid uncovered a major international illegal bootlegging ring. Two warehouses were raided and one million infringing CDs with an estimated value of over ten million euros were seized.

- Police in the Tepito district of Mexico City raided 15 CD-R and two cassette replication laboratories with a production capacity of 13 million discs and 32 million cassettes in February 2002. In July five people were arrested operating a CD-R laboratory in Michoacan, Mexico and five kilograms of cocaine were discovered. Another raid in Mexico City netted 12.5 million blank CD-Rs destined for pirate laboratories in the region.
- Authorities in the Philippines dismantled a major CD-R piracy ring by targeting nine separate locations in January 2003. The ring is believed to be responsible for providing at least half of the pirate music and film products available in Metro Manila. Over 190 CD burners and several hundred thousand finished music and film products were uncovered, along with jewel cases, inlay cards and other associated products.
- Spanish police conducted 13 raids in the Madrid area in January 2003 in one of the largest operations ever mounted against piracy in the country. 346 CD-R burners were seized as well as several thousand blank CD-Rs, recorded CDs, DVDs, VCDs with films, jewel cases and inserts and 48,000 euros in cash. Some 40 people were arrested. The criminal organisation used a number of computer shops and restaurants to launder the proceeds.

CD plant education and litigation

Civil claims against CD plants involved in piracy have continued to be at the forefront of IFPI's litigation strategy. The costs of failing to screen for pirate orders were demonstrated when a Brazilian court awarded IFPI damages totalling over \$US 1 million against two Brazilian plants. The plants had manufactured infringing stampers and some 150,000 CDs. This judgment has sent a clear message to other plants around the world.

IFPI has continued to conclude settlements with CD plants that accept their responsibility to implement proper copyright compliance procedures and to pay compensation for the damages that they have caused. Settlement agreements have been concluded with

Piracy Enforcement

CD plants and distributors in Germany, UK, Sweden, Luxembourg, Czech Republic, Singapore and the Philippines, resulting in the payment of significant civil damages..

The recording industry also registered an important victory in April 2003, when it secured judgment against the EasyInternet Café chain, which was burning illegally downloaded music on to CD-Rs for its customers. The chain paid substantial damages and costs to IFPI and

BPI (the UK recording industry body) for its infringements of copyright. The ruling confirms the illegality of such services, sending out a warning to similar operations involved in copying music without permission.

Education of plants is also critical. IFPI sent its *Good Business Practices for Optical Disc Mastering and Manufacturing Plants* and *SID Code Implementation Guide* to hundreds of CD plants worldwide in June 2003.

Domestic music piracy levels around the world in 2002 (units)

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

Source: IFPI, National Groups

Regional Reports

Western Europe

Spain, Italy and Greece stand out as countries worst affected by piracy. In these markets, the CD-R format dominates. Counterfeit discs are sold openly on the streets and markets in a business largely run by crime syndicates. Piracy rates in Spain and Greece have risen sharply in recent years; Italy's remains at 25%.

Increasingly, the cross-border fight against piracy is depending on help from the European Union. The European Commission proposed an EU Enforcement Directive in January 2003. The proposed text falls short from what is required to effectively fight piracy and the industry is now urging the European Parliament to make some essential improvements to the text, by extending both the criminal and civil scope of the proposed legislation and strengthening its measures. Among other priorities, the recording industry is calling for genuinely deterrent damages, improvements in evidence rules and mandatory source identification codes (SID codes) on all discs manufactured in Europe, so pirate product can be traced back to its plant of origin.

Also in January 2003, the European Commission proposed a revision of the Customs Regulation with the aim of helping customs officials trying to stop pirated and counterfeited products at EU borders. According to Commission statistics, EU customs seized 40 million optical discs (CDs, CD-Roms, DVDs) in 2002, which amounted to 42% of all infringing products seized.

The European Parliament has sent an important political signal that piracy will not be tolerated. In June 2003 it adopted a Declaration on Piracy and Counterfeiting in the Enlarged EU, calling for concerted action against the alarming levels of piracy in the Member States and the piracy epidemic in the EU accession countries of Eastern Europe. The Declaration refers to the job losses, economic damage and lost tax revenues resulting from this illegal trade. It calls on the European Commission and the Council to ensure that current and future legislation provides strong and harmonised measures to combat piracy. This was only the fifth Parliamentary Declaration to be adopted since the current Parliament took office in 1999.

The European Commission is now planning new legislation to fight organised crime involved in piracy and counterfeiting. The proposal would aim to harmonise criminal sanctions at European level.

Eastern Europe

Huge optical disc manufacturing over-capacity, fast growing CD-R piracy and the export of millions of illegal CDs and DVDs from Russia throughout the region dominate the landscape in Eastern Europe. However, Romania, Ukraine and Serbia & Montenegro have seen piracy levels drop compared to 2001.

The capacity of optical disc plants in Poland grew from 180 million units in 2001 to 320 million in 2002, showing the urgent need for a comprehensive optical disc regulation. Bulgaria has licensed four new plants, including CD-R and DVD plants, despite little local demand for legitimate discs. Street enforcement and prosecution in Bulgaria have not improved. The Union of Serbia & Montenegro hosts at least four CD plants, one of which was caught with a record stock of 750,000 pirate CDs in the summer of 2002.

US trade sanctions introduced in December 2001 against Ukraine for failure to bring an end to rampant optical disc piracy remain in force, resulting in the movement of the bulk of illegal production to Russia. Transshipments of pirate CDs through the Baltic States, particularly Lithuania, continue to affect markets in the Baltic Sub region, as well as Poland and Germany. Lithuania has however introduced presumption of rights ownership for phonogram producers, which will significantly facilitate anti-piracy litigation.

The enforcement systems in the Baltics fail to stem the flow of illegal products from Russia and other CIS countries. Czech Republic and Hungary, once healthy markets for recorded music, saw legitimate sales drop for a second year due to widespread CD-R piracy. Piracy in Romania remains high while the industry's anti-piracy operations are frustrated by counter-productive government intervention and weak or non-existent prosecution of copyright crime.

Regional Reports

Asia Pacific

Three of IFPI's top ten priority markets most affected by piracy are in Asia: China, which has the biggest piracy problem in the world, Taiwan and Thailand. As demand for cheap, 'quality' pirate recordings grows around the world South East Asia's pirate market has increased accordingly.

Organised crime has taken over in many countries throughout the region. These cross-border criminal syndicates are highly organised and in some less well-regulated countries have powerful and influential contacts within governments and law enforcement. They are particularly prevalent in countries with historical and demographic links to Hong Kong, China and Taiwan.

Elsewhere in Asia, piracy in Pakistan, Indonesia and India is now endemic. Indonesia experienced a growth of 15% over the past year. In Pakistan, disc plant capacity (150 million discs) runs at over ten times legitimate demand. The problem grew out of control in 2002 and enforcement by the government is practically non-existent. Pakistan is now one of the largest exporters of pirate discs. Governments need to urgently implement an optical disc law, shut down plants and regulate imports of new materials.

Middle East

Lack of enforcement drives high piracy levels across much of the region. Priorities are to ensure the passage of effective legislation, to fight corruption and to ensure adequate enforcement and prosecution. The rate of piracy is highest in Lebanon at nearly 70%, crippling a market that is an important creative source for Arabic repertoire. Israel, Egypt, Kuwait and Saudi Arabia also have high levels of piracy.

The CD-R is the fastest growing pirate music carrier. CD-R pirates now sell a 'Master' CD-R and 50 blank CD-Rs including the artwork, jewel-boxes and inlays to small-scale offenders. This protects them from big losses and hinders enforcement efforts.

Anti-piracy efforts in the region are difficult to implement, with the authorities reluctant to initiate any proactive anti-

piracy operation. The region continues to be mired in symbolic gestures and short-lived campaigns that focus more on appearance than substance.

Customs departments in Dubai, Kuwait and Lebanon are positive exceptions in the fight against piracy. They have seized large numbers of pirated discs from Pakistan, and also from South East Asia and Eastern Europe. Israel finally adopted the long-awaited enforcement bill, strengthening its law and raising penalties.

Latin America

Total piracy in the region rose from 260 million units in 2001 to 300 million units in 2002, an increase of 15%. Mexico, Brazil and Paraguay continue to be major centres but the whole region suffers from high piracy levels. In Venezuela the legitimate market has largely disappeared due to turmoil surrounding the Chavez administration. The unofficial government position is that pirate product street vendors are untouchable. Police resources are diverted by political unrest and public demonstrations. Anti-piracy efforts have had to be postponed until the political situation in Venezuela is resolved. The latest estimate is that more than 75% of the music market is pirate.

Colombia suffered the turmoil of presidential elections in 2002. Pirate units reached 17 million, at a rate of 65%. The government has paid little attention to the industry's calls for stricter enforcement, mainly because it has been battling terrorist activities. The judicial system has not handed down deterrent sentences for offenders in the few cases where pirate product replicators and/or distributors have been convicted.

Argentina suffered a crushing political and economic crisis in 2002 that fuelled piracy growth. From just under 50% in 2001, the piracy rate jumped to 60%, which equates to some nine million illegal music products. There have been some successes by customs authorities, but more assistance is needed to investigate and raid major pirate labs. Current criminal penalties provide no deterrent and need to be urgently amended.

Priority Territories

Latin America

Brazil

Pirate market value (\$US)	166 million
Legitimate market size (units)	80 million
Piracy level	53%
Pirate unit growth	19%
Legitimate unit growth	2%

Piracy has exploded during the past five years, soaring from 5% of the CD market in 1997 to 55% in 2001. In 2002, the piracy rate was 53%, which translates to 114 million pirate units. In the past two years, piracy has directly contributed to the closing of two thousand legal points of sale and in the loss of about 55,000 jobs. The legitimate cassette market has ceased to exist.

Piracy largely attacks sales of Brazilian repertoire, which represents more than 70% of all record sales. Brazilian music, one of the country's greatest assets internationally, is now seriously under threat. Since 1995, the record industry has been investing in an anti-piracy campaign. In 2002, the Brazilian police confiscated some eight million blank CD-Rs along the country's borders, and four million counterfeit recorded CDs.

To address the piracy problem in a coordinated manner, the Brazilian Congress recently formed a Special Commission to investigate piracy of industrialised products. ABPD (the industry's national group) is actively participating with this Commission. However, these individual efforts are not sufficient to stem the piracy growth. To save Brazilian music and its industry, the Brazilian government needs to implement the following steps:

- Confirm that saving Brazilian music is a cultural and economic priority for the current administration.
- Direct the Federal Police and Customs to intensify inspections along country borders, and adopt more efficient norms to fight contraband, blank CD-Rs and pirate recorded CD imports.

- Increase the minimum penalty for those committing copyright violations, which is well on the way with the signing into law of Bill 2681/96 in July 2003.
- Speed up prosecutions in the criminal arena and expedite judicial orders to destroy confiscated counterfeit CDs.
- Assign dedicated prosecutors in each major province to lead anti-piracy campaigns that include major investigations of organised crime groups as well as keeping major commercial areas free of pirate product street vendors.

Mexico

Pirate market value (\$US)	211 million
Legitimate market size (units)	54 million
Piracy level	68%
Pirate unit growth	26%
Legitimate unit growth	-4%

Mexico has been badly hit by piracy in recent years. In 2000 Mexico was the eighth largest music market in the world, valued at \$US665 million. By 2002, it was the tenth largest market at \$US445 million – two thirds of its size just two years before. Some 91 million illegally reproduced recordings were sold in 2002. The piracy rate is 68%, up from 60% in 2001. Almost 90% of pirate product is produced on CD-R.

Thorough research was undertaken into pirate operations in 2002, revealing 53,000 points of sale for pirate music, including street markets, street booths, public markets, and mobile vendors. Of 17 million CD consumers in Mexico, 58% buy only pirated CDs and 8% buy both pirated and original CDs. Only 34% faithfully buy original CDs, illustrating the constraints on the legitimate market.

As a result, legal points of sale have fallen by more than 50% over the last five years to less than 1,000 in the whole of Mexico. Major releases have fallen by 30% in the last year and the industry has laid off one third of its employees.

Priority Territories

Another concern is CD burning via the internet in cyber-cafés. A study was conducted in Mexico City in late 2002 showing that there are approximately 1,400 cyber-cafés, with more than one million frequent users. Some 163,000 of them admitted burning music on CD-Rs, illegally recording around seven million songs per year.

Some important steps have already been taken towards fighting piracy through an agreement with the Ministry of Finance and Public Credit. By implementing some border measures - which included creating a register of importers, reducing the number of points of entry to eight official custom offices and adding specialised agents - 47 million blank CD-Rs were confiscated in 2002 in a number of different raids. These steps, among other actions taken by the local police authorities in coordination with the industry anti-piracy team, resulted in additional seizures of seven million units of recorded CD-Rs and sentences for over 30 pirates.

Despite these efforts the situation continues to worsen. A more effective anti-piracy campaign by the Mexican authorities needs to:

- Address the proliferation of pirate music street vendors.
- Institute additional border measures to reduce the importation of illegal blank CD-Rs.
- Support current legal projects to characterise piracy as organized crime and combat it as a matter of public policy.

Paraguay

Pirate market value (\$US)	39 million
Legitimate market size (units)	0.2 million
Piracy level	99%
Pirate unit growth	1%
Legitimate unit growth	9%

Paraguay has one of the highest piracy levels in the world and is also a notorious entry point for illegal goods into the Americas. A massive border seizure in

April 2001 alerted the industry to the sheer scale of this problem. Acting on information from IFPI, local authorities intercepted 12 trailers on the Argentina/Paraguay border containing 4.8 million blank CD-Rs and copying equipment destined for pirate use. In 2002 an estimated 100 million blank CD-Rs were imported into the country - far in excess of a legitimate demand of ten million at most.

In 2002, some measures were implemented at the borders that resulted in seizures of 18 million units of blank CD-Rs. The border programme called for:

- Creation of a register of importers.
- Inspection of a significant number of deliveries for propriety documentation, value and destination/importer.
- An increase in customs officials.
- Greater cooperation from industry.

The country continues to be a main trans-shipment point for pirate products, despite the government authorities' efforts to stop the large flow of blank CD-Rs. Pirate discs flow out of Paraguay due to lack of border restrictions to neighbours such as Brazil and Argentina.

Piracy will continue its stranglehold on the music market until the government of Paraguay decides to make the anti-piracy campaign a national priority and cleans up the many replicating and distribution centres located primarily in Asuncion and Ciudad del Este. The US Trade Representative in Washington has called upon the government of Paraguay to comply with the commitments made under the 1998 Memorandum of Understanding with the USA and the accompanying Enforcement Action Plan.

This plan originally set out key objectives for tackling piracy, but many of them have not been implemented - including the formation of a 'Quick Response Team' and specialist IP prosecutors for fast tracking prosecutions. Criminal penalties for copyright violations are needed to provide a real deterrent.

Priority Territories

Europe

Spain

Pirate market value (\$US)	66 million
Legitimate market size (units)	65 million
Piracy level	25%
Pirate unit growth	0.2%
Legitimate unit growth	-19%

Piracy rates have risen dramatically in recent years, from approximately 5% in 1998 to 25% in 2002. This upsurge in counterfeiting activity is seriously undermining the legitimate market in Spain. The industry is now immersed in an economic crisis, with total sales in 2002 down 15.6% (\$US542 million) from the previous year.

CD-R piracy dominates in Spain. International organised crime networks are involved in the copying and distribution of counterfeit CDs. In most cases, these groups rent apartments where their workers churn out pirate discs on stacks of replication machines called CD-R towers. While Madrid is a major focus of pirate activity, the syndicates distribute counterfeit discs all over Spain, often targeted at the tourist trade. The so-called 'manteros' (blanket men) can be found selling discs in most city centres, at street markets and beach resorts. The discs generally have low quality photocopied inlay cards and often no printing on the actual discs.

The local music industry is worst hit. Spain's substantial national repertoire is suffering the most severe losses from piracy. Share of sales from local artists fell from 41% to 38% in 2002.

IFPI and its Spanish national group, Asociación Fonográfica y Videográfica Española (AFYVE), work closely with law enforcement agencies in Spain to fight piracy. Investigations carried out in the first five months of this year led to the arrest of 1,194 people and the seizure of more than 752,000 pirate CD-Rs. In the course of one investigation that culminated in a series of raids in apartments in Madrid on June 4, 2003, 13 people were arrested. Over 46,000 music

and video CD-Rs were seized as well as duplicating machines and 200,000 blank CD-Rs.

In addition to continued enforcement activity, the Spanish industry's priorities are to:

- Improve legal conditions to facilitate the prosecution and punishment of infringers.
- Raise the public's awareness to the damage that such criminal practices are inflicting to local culture and the critical role music piracy plays in strengthening organised crime.
- Get a clear commitment from the political authorities that they will combat music piracy with the goal to end the proliferation of organised crime.

Poland

Pirate market value (\$US)	28 million
Legitimate market size (units)	14 million
Piracy level	41%
Pirate unit growth	n/a
Legitimate unit growth	-45%

After an all-time low of around 20% in the mid nineties, music piracy in Poland stabilised at around 30% from 1999 to 2001. However, piracy increased to over 40% in 2002. CD-R piracy is growing and so is piracy of local Polish repertoire. The bulk of industrially made pirate CDs are pressed outside Poland and smuggled into the country, especially from Russia, Ukraine and Lithuania. Polish plants are also engaged in illegal manufacturing.

The high level of piracy is mainly caused by the enforcement agencies' failure to effectively clamp down on organised criminal activity. This includes the continued condoning of blatant illegal trade at the Warsaw Stadium, the sluggishness of the judiciary system and insufficient monitoring of the Polish borders. Poland also lacks effective optical disc regulation. Apart from setting up an intergovernmental Task Group for fighting copyright infringement, the Polish government has failed to carry out concrete actions to solve the problem of production

Priority Territories

and distribution of pirate CDs. In order to achieve any progress in the fight against music piracy the following steps should be taken:

- An anti-piracy working group consisting of representatives from police, border guard and prosecution should be appointed at the executive level.
- The government should urgently adopt a regulation prohibiting the trade of optical discs outside authorised distribution networks.
- Poland should, without delay, introduce a comprehensive optical disc regulation in accordance with the recently developed copyright industries' model.

Ukraine

Pirate market value (\$US)	32 million
Legitimate market size (units)	17 million
Piracy level	75%
Pirate unit growth	14%
Legitimate unit growth	n/a

Piracy of international repertoire in Ukraine in the late nineties was over 95%. Under unprecedented foreign pressure and in the wake of US trade sanctions, the Ukrainian government took several steps to change the situation. Measures included introducing a hologram sticker law in 2000 with mixed results, amending the copyright law in 2001 and introducing CD plant regulation.

The CD plant regulation will have to be improved to meet key copyright industry requirements. In the meantime, US trade sanctions remain in force as of July 2003. The US government is still not satisfied the conditions for termination have been met. The much-needed amendments to the CD plant law were delayed and enforcement of this law leaves, for the time being, much to be desired. As a positive step, the State Department on Intellectual Property set up a team of IPR inspectors, who are supposed to take countrywide

action against copyright piracy and carry out CD plant controls.

The recording industry is actively involved in training the inspectors. Despite remaining shortcomings in the enforcement system, Ukraine is no longer the main producer of illegal optical discs in Eastern Europe. Increased law enforcement activity in the markets has started to yield some results. A growth in legitimate sales indicates that the situation is improving. However, piracy of recorded music is still around 75% - among the highest levels in Eastern Europe.

The government should urgently improve and effectively enforce the optical disc law, including implementing a comprehensive plant inspection program. Police should take ex officio action against street trade in pirated materials and pirates should receive deterrent sentences. The local recording industry representation and well-known artists work hand in hand to raise awareness of the piracy problem.

Russia

Pirate market value (\$US)	312 million
Legitimate market size (units)	113 million
Piracy level	66%
Pirate unit growth	12%
Legitimate unit growth	2%

Russia has taken over from Ukraine as Europe's most serious piracy problem territory, and is also a major source of exported pirate CDs around Europe and the world. Russia is out of step with international standards of intellectual property law enforcement, undermining political support for Russia's accession of the WTO from many of its leading trading partners.

Russian record companies grouped together in 2002 to form the first Russian national industry organisation, NFPP, which comprises 13 producers representing over 70% of the market. However music piracy in Russia was worth an estimated \$US312 million in 2002 (up 28% on 2001), and the problem is getting worse.

Priority Territories

There are two main roots of the problem. First, Russian CD plants are producing far beyond the country's legitimate market needs, and the excess capacity is being exported around Europe and the world. There is evidence that two thirds of all plants in Russia are involved in producing pirate CDs. The number of CD plants is increasing dramatically. There are now 28 CD plants (up from 18 in 2001) with an annual capacity of over 300 million discs, in comparison to a legitimate disc market of only 70 million.

Second, Russia's anti-piracy declarations are severely hampered by flawed legislation, ineffective enforcement by the authorities and insufficient deterrent penalties in the courts. Despite regular raids only a minority of cases ever make it to court, and of those, only a small number are sentenced. In Moscow for example, according to the Moscow City government, only 30% out of all infringing cases discovered by the police were passed onto the prosecutor's office. Only 8% of these cases were brought to court between 2001 and 2002. There is also poor coordination between different ministries involved and a lack of consultation with the industries affected.

A new anti-piracy task force appointed in October 2002 (GOR Commission) was a positive step. But the Commission's progress is too slow and has found pirate operations to be influential in slowing down progress.

The Russian government's top priorities must be to:

- Urgently introduce the new Optical Disc legislation that will bring under control the massive excess of CD production.
- Initiate an anti-piracy drive from the highest political level, speeding up the work of the anti-piracy commission, ensuring better coordination between relevant ministries and arranging much more dialogue with the industries affected.
- Stop illegal CD manufacture and distribution, taking immediate steps to enforce copyright law and relevant licensing regulations by withdrawing licenses or placing plants under surveillance.
- Create enforcement legislation compliant with the WTO Agreement on Trade-Related Aspects Of Intellectual Property Rights (TRIPs) and implement Intellectual Property Rights (IPR) legislation in order to facilitate criminal convictions.
- Pass the proposed amendments to the Copyright Law as soon as possible.

Priority Territories

Asia Pacific

China

Pirate market value (\$US)	533 million
Legitimate market size (units)	58 million
Piracy level	91%
Pirate unit growth	24%
Legitimate unit growth	9%

With a population of more than 1.2 billion people, the music industry in China should be thriving today, but is not. Legitimate sales of sound recordings stood at \$US110 million in 2002 whilst pirate sales are estimated to be worth \$US533 million. Chinese recording companies struggle to make a profit and with local repertoire accounting for over 40% of legitimate sales and only one in ten music products sold legally, record companies cannot justify further investment in local artists or business infrastructure.

High piracy rates in China are a result of limited enforcement resources and inadequate criminal penalties for pirates. Although civil remedies are available and the Chinese courts generally handle cases quickly and effectively, the cost for civil litigations is high and the process of providing necessary evidence too cumbersome and at times overbearing.

Meanwhile the legitimate market – a huge long-term prospect – remains restricted by red tape and censorship surrounding imported recordings, and market access limitations on foreign companies that could inject the much needed capital and expertise to revitalise the legitimate industry and assist in the anti-piracy fight. The legitimate market improved between 2000 and 2002 and it is vitally important that this momentum is sustained.

The Chinese government must invigorate and coordinate nationwide enforcement and implement punitive criminal penalties for piracy offences. The establishment of an anti-piracy taskforce with real influence in government has to be a priority. Finally, full ratification of the World Copyright Treaty (WCT) and World Phonograms and

Performances Treaty (WPPT) would at least lay the groundwork for critical law reform.

It has been more than a year since China joined the World Trade Organisation (WTO) but piracy rates in China remain among the highest in the world. During 2002, enforcement agencies in China made an increasing number of raids and have cooperated with rights holders more effectively. However, the resources and manpower of enforcement agencies are inadequate for tackling such a massive problem. High piracy levels will continue to devastate the local industry and rob China of its colourful culture until the Chinese government takes effective action to combat piracy.

Taiwan

Pirate market value (\$US)	46 million
Legitimate market size (units)	17 million
Piracy level	48%
Pirate unit growth	n/a
Legitimate unit growth	-7%

Taiwan is Asia's third largest music market (\$US145 million) but it is a market in crisis. Legitimate market value slumped 14% in 2002, the third year of substantial decline. Album sales of 16.6 million are just 60% of what they were in 1999 and represent less than 10% of CD audio production capacity. The crumbling legitimate market correlates with increasing music piracy. Taiwan's piracy level in 2002 was 48%. Back in 1997, when the piracy rate was 17%, legitimate sales were nearly three times the level of 2002.

The main reason for this situation is inadequate copyright and optical disc laws, lenient court decisions placed on identified pirates and ineffective control of a rampant optical disc manufacturing sector in which capacity exceeds local demand by over 30 times. In 2002 there were 53 optical disc plants in Taiwan (five inactive) producing approximately 4.4 billion CD-Rs – 60% of the world's supply – and some 600 million CDs (all formats).

The optical disc law desperately needs amending to cover the management of masters/stampers and to

Priority Territories

ensure serious penalties, including license withdrawal for flagrant manufacture of non-legitimate orders. Proactive and efficient enforcement by police and customs are also critical.

Industry anti-piracy efforts are being stepped-up in Taiwan. On April 4, 2002 over 7,000 participants, including 100 Asian pop singers, retailers and representatives from the music industry, marched in protest at the lack of government action against piracy. IFPI held a global recording industry summit in Taipei in October 2002 to raise the issue with administrative authorities. During the summit, 18 Taiwan pop singers called for tougher efforts against pirates. The Taiwan government promised to set up an empowered IPR police task force to begin to address the problem.

Some progress has been made since. In January 2003 an IPR police task force of 220 officers was set-up. Raids and seizures have increased but a radical ramping up of enforcement – both will and resources – is required.

Amendment of the Copyright Law was adopted by the legislative department on 6th June, 2003 but the Taiwanese government must tighten it substantially. While it makes piracy a public crime, allowing the police to take direct action without the need for a formal complaint from a rightholder, it contains many ambiguities and loopholes.

Thailand

Pirate market value (\$US)	38 million
Legitimate market size (units)	29 million
Piracy level	35%
Pirate unit growth	8%
Legitimate unit growth	-19%

Thailand is a market dominated by local Thai repertoire and has a piracy level of around 35%. Thailand remains on the USTR Priority Watch List and is subject to a Generalised System of Preference petition concerning its trade status with the USA.

A major concern is the significant increase in optical disc production plants that have migrated to Thailand in the past 18 months. IFPI investigations indicate that pirate production syndicates from countries such as Hong Kong, Taiwan, Macau and Malaysia have migrated to take advantage of Thailand's lack of customised optical disc manufacturing laws. It is estimated that there are now over 50 operational plants in Thailand. There is also entrenched organised crime and a limited enforcement structure.

The Thai government is currently taking certain steps towards addressing the problem of optical disc piracy. There appears to be a genuine commitment at the highest levels of government to tackle this situation, as witnessed by recent directives made by the Thai Prime Minister and a number of government officials. These directives are now being turned into action with the launch on May 1, 2003 of a high-profile three-month crackdown on optical disc piracy. There are promising indications that the government is willing to embrace a closer working relationship with the global music industry.

In light of the situation, the government also needs to:

- Urgently pass and implement an effective optical disc law.
- Maintain the 12 special task forces established in August 2001 for IPR enforcement and make the Special Investigative Division fully functional, with independent powers to investigate.
- Continue the crackdown on optical disc piracy, with prosecutions leading to swift and deterrent sentencing, and extend the special enforcement period beyond three months.

The Call To Governments Worldwide

Global priorities in fighting music piracy

The music industry's self-help measures against piracy cannot succeed without cooperation from governments.

governments' top priorities in fighting piracy can be broadly summarised as follows:

- Copyright laws and enforcement practices that adequately protect recorded music.
- Regulation of optical disc manufacturing.
- A national commitment that requires copyright crime to be prosecuted aggressively.



Effective copyright and enforcement-related legislation

It is essential that governments provide adequate rights and protections under the copyright law against unauthorised copying, distribution and communication to the public of sound recordings. Providing adequate rights is, however, only the first step in actually protecting recorded music. It is equally important to provide the law enforcement authorities and the rightholders with the effective means to enforce such rights in practice.

Effective enforcement rules should cover both civil and criminal procedures and measures. Key provisions in this context include:

- Damages that both compensate rightholders and deter infringers.
- Search and seizure orders to make sure that evidence can be obtained.
- Reasonable evidence rules, such as presumptions regarding ownership of rights and provisions recognising "sampling".
- Injunctions requiring offenders to stop infringing.
- Deterrent-level criminal penalties for infringements that are committed for economic benefit or that cause substantial harm to rights owners.
- Effective border measures empowering customs officials to seize infringing imports, exports and trans-shipments on their own initiative.

Important work is taking place at international, regional and national levels on enforcement practices. The World Customs Organisation (WCO) has developed model legislative language, and the World Intellectual Property Organisation (WIPO) recently established a division to work on enforcement related issues internationally.

The European Union has started work on its proposed Enforcement Directive (see Regional Reports – Western Europe, page 7) and many national governments are presently working on improvements to their own enforcement laws.

The Call To Governments Worldwide

Regulation of optical disc manufacturing

The replication of commercial CDs and other optical discs (OD) takes place in a relatively limited number of mastering and manufacturing facilities in each territory. Anti-piracy regulation covering optical-disc plants can help to stop the production of counterfeits at source, before they are dispersed widely in the national or international markets.

Any territory with high CD production capacity, and in particular overcapacity, should adopt OD plant regulation. This helps to maintain the level of transparency and the business practices necessary to promote legitimate manufacturing and deter piracy. OD plant regulation is already in place in China, Macau, Hong Kong, Malaysia, Taiwan, Bulgaria, and Ukraine. Drafts are pending in Indonesia, the Philippines and Thailand.

Many more countries are in need of OD plant regulation based on the experience of the enforcement teams. At present, a number of countries clearly stand out, such as the Russian Federation, Poland, India, Singapore, Indonesia, Pakistan and Thailand.

Effective prosecution and deterrent penalties

Even where adequate laws are in place, rights are not effectively protected unless governments commit resources and political will to bringing prosecutions and seeking deterrent penalties against copyright infringers. It is also critical that they put in place teams of prosecutors that have experience in intellectual property crimes.

The inexperience of many courts in copyright matters can also make it difficult for governments or rightholders to enforce their rights through the legal process. Intellectual property courts that can hear piracy cases have been established in some territories, notably in China, the Philippines and Thailand, and these are to be welcomed. Whether or not such courts are established, it is essential that the judiciary treat copyright infringement as a serious matter and impose penalties that act as an effective deterrent to music piracy. This is a legal obligation on members of the WTO under the TRIPs Agreement.



The Key Facts

Commercial music piracy 2002

The key facts

- Global sales of physical pirate recordings totalled \$US4.6 billion in 2002, up 7% on the previous year. This is valued at pirate prices: actual losses to the legitimate recording industry are significantly greater.
- Global sales of pirate CDs more than doubled between 1999 and 2002, from 510 million to 1.1 billion units. They increased 14% in 2002.
- Including cassettes, sales of pirate physical recordings total 1.8 billion units annually – in other words, two in five recordings sold worldwide is a fake.
- Some 50 million pirate music CDs were seized in 2002 by enforcement authorities, aided by the recording industry's anti-piracy teams. This was more than four times the seizures in 2001.
- In 25 countries sales of pirate CDs outnumber sales of legitimate CDs.

Copyright and the global recording industry

- Copyright-based industries account for roughly 5% of the GDP of the European Union, according to the European Commission. Intellectual Property accounts for 5.2% of the US economy, worth \$US535 billion, according to the International Intellectual Property Alliance.
- The recording industry invests in local artists. Seven in every ten albums sold worldwide carries local repertoire.
- World sales of recorded music fell by 7% in value and 8% in units in 2002. The global music market was worth \$US32 billion, with total unit sales of 3 billion.
- The international recording industry ploughs a large share of its revenues into developing new talent, and this is undermined by piracy. At least 15% of industry turnover in Europe is invested in artists and repertoire.

IFPI representing the recording industry worldwide

- IFPI represents 1500 record companies in 70 countries. Its mission is fighting music piracy; promoting fair market access and good copyright laws; helping develop the legal conditions and technologies for the digital era; promoting the value of music.
- **For more information about copyright and the music sector visit www.pro-music.org**



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