

THE STATE OF ROYALTIES IN THE MUSIC INDUSTRY IN GHANA

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Abstract. Royalty collection and distribution are very important so far as ownership of creative works is concerned. Similarly, there is an upsurge of pirating of music productions in Ghana. These acts present a challenge for most musicians, especially, those who do not have any education on royalties; its collection and distribution as far as economic advantage of their creative works is concerned. This paper investigates the state of royalties in the music industry in Ghana and highlights some of the factors responsible for pirating many music productions in Ghana. Interview was used to garner data from three (3) purposively sampled members of Ghana Music Right Organization (GHAMRO). It was revealed that the extent of royalty payment law enforced in Ghana is minimal and the Ghana music right organization is the body licensed by the government for the collection and distribution of royalties. However, this body is constrained with software and log-in systems to enable them enforce the law in Ghana for the collections and distributions of royalties. It is envisaged that when the Ghana music right organization is resourced with the needed apparatus, all musicians will be educated to register with the organization so as to receive royalties that would reduce the rate of pirating of such property in Ghana.

Keywords: *royalty, musiga, GHAMRO, PRO, pirating, music industry*

Introduction

It is generally known that music is an art that is admired and accepted in almost every part of the world. All over the world, the music industry provides entertainment to satisfy some form of entertainment needs. Like Diane (2004) postulated, music speaks to us with the messages, carries and connects people who have different background and may not be speaking same language. Indeed, music plays an essential role in every aspect of our lives as it is a common saying that “it is the food and joy of the soul”. In the Ghanaian society, music is played at many social functions including birthdays, marriage ceremonies, festivals as well as funerals. On the electronic media, it is worse as music is the hub of their entire operations. It is very common to see people playing songs and other genres on their phones and other sound systems everywhere they find themselves. This shows how music affects humans and widely accepted in Ghana. The Ghana music industry keeps growing but the artistes do not get the desired economic benefits from the industry. This is because it is palpable to see some Ghanaian musicians complaining about pirating of their music and attributing it to the absence of the implementation of the existing royalty payment enforcement law. Most of these musicians are seen struggling for other jobs to make ends meet. Our preliminary interaction with some popular musicians to establish this problem confirmed a colossal neglect of the implementation process to make them get the royalties due them. They have their songs pirated every now and then and that is a big challenge to their growth as much as their creativity is concerned. With this in view, some of the musicians die out in show business because they do not get enough income to manage their career. All because they are denied of the royalties they are entitled to. This is not like other

countries such as the United States, United Kingdom, Germany, South Africa, among other countries who uphold and abide by the royalty enforcement law.

As stated above, in most parts of the world, musicians benefit from royalty payment when their songs are used in an advertisement, in a film, television programme or other mediums. Radio airplay which is also considered as public performances, generate royalties for composers are usually collected by Performance Rights Organization (PRO) as opined by Stone (2015). In Ghana music industry, there is lack of royalties for musicians' intellectual and professional property because in Ghana, it seems the law is not enforced. Usually, musicians must register their songs and assign their rights to the organization to manage these works on their behalf (Sternberg, 2004). Over the years and still counting, Ghanaian musicians do complain and are still complaining of how GHAMRO does not enforce the law of collection of royalties, although their songs are registered. Secondly, the Ghanaian music industry is not consistent in effective organization hence musicians are written off quickly paving way for some artistes to fizzle out of the system. This is due to clear infrastructural problem that makes revenue streams quite narrow, so people do not make money from making music, making it necessary for the formation of an interim board to aid ineffective organization. Artistes who are fortunate to have started their career outside Ghana receive royalties from the Music Right Organization that takes care of profits they make from their music there. Typical examples are; Bessa Simons and Gyedu-Blay Ambolley. In this regard, Waelbroeck (2013) commented on piracy:

Illegal music downloads put an end to royalty services that established artistes get. Artists get royalties and advances as per their recording contracts but when instead of buying their music legally, people pirate it, it is not just a loss of the artist but also the record label. Hence, pirating music of just one artist affects the whole industry, forcing record labels to pay smaller advances to even more established artists. The industry does not house singers and musicians. It is an industry for a number of people with different backgrounds and music piracy does not just affect the singers or the record label executives; lower – level workers in the music industry. This means the songwriters, sound engineers, music producers and even less than the artiste itself.

In effect, issues of royalties are very worrying and need to be addressed. This paper therefore sought (i) to investigate the extent of royalty payment enforcement law in Ghana and (ii) to find out the reasons for pirating many music productions in Ghana. The study was limited to Ghana Music Right Organization (GHAMRO), a body of the music industry in Ghana responsible for law enforcement on royalties.

Literature review

Royalty and royalty benefits

Makeen (2018) indicated how over the years, music has always been appreciated worldwide. There are moments when language serves as a barrier but music still finds a way to affect the listener. People have gone further from just listening as a hobby to pursuing it as a full-time career even though some people do not believe in that vision. Some countries adapted to that change and have devised a process that could help the

Arts to travel far and allow the copyright to enjoy the profits they are able to make, pursuing it as a profession.

Indeed, music royalties provide strong income streams. They are paid to owners of copyright music for its use. Under royalties, we have mechanical licenses which refer to the permissions granted to produce music onto some type of media such as CDs and tape for public distribution and the mechanical royalty is paid to the recording artiste, song writer, and publisher based on number of recordings sold (Hervas-Drane and Noam, 2017). Performance rights and royalty allow music to be performed live or broadcast on any media. Hervas-Drane and Noam (2017) explained the various royalties further:

The performance royalty is paid to the songwriter and the publisher when the song is performed live or on the radio. Synchronization royalty is paid to songwriters and publishers for the use of a song used as background music for movies, TV shows, or commercials. Printed royalties are paid to songwriters and publishers based on sheet music. Audio Home Recording Act of 1992 brought another royalty payment which requires the manufacturers of digital audio recording devices, blank recording tapes, CDs, DVDs, to pay their percentage of their sales price to the Register of Copyrights to make up for loss of sales due to the possible unauthorized copying of music. This money goes to the artiste and the record company.

Furthermore, royalty is the source of income that allows musicians to fend for themselves and also push their business to the next level. Herbert and Leclercq (2003) have indicated that until recently, individuals in the music industry have been slow to tap into the financial resources that the capital market provides and in order to get projects done, music industry participants traditionally relied on their own savings, unfavourable banks, infamous music advances, or the next royalty to roll in. Royalty benefits really help musicians to add much value to what they do for a living and also to push their talents, albums and images very far. In this case, enforcing the royalty law stringently in Ghana will be good news to all musicians.

Ghana Music Right Organization (GHAMRO)

Adoma (2016) indicates that GHAMRO is an organization that protects intellectual property rights. It promotes and develops the collection and distribution of music royalties, foster music creation to promote the value of music to the creative, cultural and business sectors in Ghana. Infact, the organization was established under section 49 of the copyright law, Act 69/ of 2005 and regulated under L.I 1962 of 2010 to collect and distribute royalties accruing to authors and owners of copyright and neighboring rights. GHAMRO is duly authorized by written assignments and affiliated to composers, authorizes all those societies all over the world through the execution of reciprocal representation agreements with societies outside Ghana whose works Ghana protects under treaties. GHAMRO authorizes all those societies to administer the music of Ghanaian composers and authors in their particular countries. GHAMRO administers in the territory of Ghana, not only music of its Ghanaian members, but also the great store of music in the repertoires of all those societies.

Furthermore, GHAMRO is mandated by law to license and collect royalties when music is played and performed. Additionally, they are responsible for music registration policy, agreement registration policy, samples and arrangement, infringement claims

and disputes service standards and many more. GHAMRO is supposed to collect royalties for the use of music from radio, banks using music at their working hall, malls, shops, drinking bars, restaurants, live concerts or performances etc. The actual fee payable varies from user to user depending on the extent of musical content. They provide detailed and easily understood royalty payment system. They also have a dedicated team that monitors overseas performances and international income to ensure timely, accurate and complete royalty payments. In fact, the organization has access to broadcaster logs that ensure accurate payments for radio and TV usage, to identify other usage (GHAMRO, 2017).

As part of GHAMRO's functions, it is to ensure that musicians have their fair share and not allow musicians support themselves in diverse ways making their existence questionable. Even though outside Ghana, these laws governing the music right organization stands firm to push the income of musicians. GHAMRO has also got the certification by law to restructure and establish standard operating systems to achieve enforcing these laws (GHAMRO, 2017), which made it necessary for the copyright law to be drafted and enforced by the copyright office, making sure creative works are being registered and helping in the education of copyright and other rights in the music industry.

Piracy effect on the music industry

There is also the worldwide industry problem of piracy. Piracy is the unauthorized use or reproduction of another's work, copying someone's work and selling it (Nwogu, 2014). This act is done illegally most of the time. Piracy is one thing people use to cut off the income of others who have struggled with their works which is supposed to yield and create much income for their business to grow and go far. Especially the recording companies continue with a great effort to combat internet piracy (Higgins et al., 2008).

In this regard, Higgins et al. (2008) again postulated that the music industry is a business whose success depends on certainty in the legal environment and on copyright law. This is a constant and ever – changing challenge – the music market internationally continues to be distorted by unfair competition from unlicensed services. IFPI estimates that forty percent of internet users access unlicensed music content. The industry devises a way to cut down the rise of piracy in the system with the concept of streaming which is bringing money back into the music industry, after being crushed by piracy so many times. Artistes upload music on the internet or applications and allow users to have the experience they want at a price they can afford (GHAMRO, 2017). In Ghana, the music industry is still fighting piracy. Though there are phone applications where they can stream their work.

In another context, Collins (2006) gave vivid details by expressing his view that indigenous notions of the multiple components (tune, words, rhythm, movement and dance) of performance and the inseparability of performer and composer are challenged by imported music as just melody and lyrics, and place the onus of authorship solely on the composer. The seemingly militant anti-copyright- piracy campaign in Ghana during the 1980s, that involved the active intervention of foreign record companies, wiped out a whole generation of young Ghanaian entrepreneurs, preventing them from establishing a legal, decentralized music production industry based on cassette technology. Due to the combined effects of recommendations by World Intellectual Property Organization (WIPO) and royalty payments to Ghana by the American musician Paul Simon for the WEA/Warner release 'Rhythms of the Saints', the idea of a

folkloric license or tax being applied to Ghanaian nationals for the commercial use of their own indigenous folklore was muted for some years. In 2006 this idea was incorporated amidst opposition, into the country's new Copyright Bill.

Music piracy is a developing problem that affects the music industry in many ways including being responsible for unemployment. The clear argument of this undisputed fact revealing the impossible ways to interpret how the consumption of pirated music affects the music industry is quite alarming. Not to talk of the music industry unable to understand the meanings people give to their uses of such recordings. Meanwhile, Marshall (2004) described piracy to be categorized into simple, counterfeit and bootlegs. Simply put, piracy is the unauthorized duplication of an original recording for commercial gain without the consent of the rights owner. Counterfeits are products copied and packaged to resemble the original as closely as possible while Bootlegs are the unauthorized recording of live or broadcast performances which are duplicated and sold often at a premium price without the permission of the artiste, composer or record company. These things are to be rectified to build a strong music industry for the artistes. There should be education on all of these acts which would help people use the emergence of technology for their benefit that is to protect their works since piracy cannot be fought out of the system completely, but get their works on sites that would not allow the misuse of other people's creativity rather, help minimize the spread of copyright infringement by paying before getting to use their works or creativity.

Materials and Methods

The study was approached using the case study research design that seeks to delve into an in-depth investigation of a single individual, group or event to explore the causes of underlying principles. Simons (2009) explains case study as an in-depth exploration of the complexity and uniqueness of a particular project, policy, institution, programme or system in a 'real life' context. In this case, the research was conducted in the organization, GHAMRO in Accra, Ghana. The organization is located in former COSGA building, next to Teachers' Hall, off barns road, Adabraka, Accra, Ghana. The study targeted the board members of GHAMRO made up of chairpersons, composers or authors of music, publishers of music, performers and a producer of sound recordings. In sampling them, we considered those with the core leadership of the board. We selected three (3) of them purposively, made up of (1) the chairman, who is a Ghanaian highlife artiste associated with a number of organization; copyright office in Germany, the coalition of concerned copyright advocates and others (2) the vice chairperson, a Ghanaian gospel singer, CEO for GH Music publishing and management, Co-founder and Deputy Director Center for Peace and Reconciliation (CPR), former president of MUSIGA, and (3) a composer, a veteran musician who served as deputy to Obour, president of MUSIGA for the past eight years. He is a musician, producer, a band leader to Bessa band and sound engineer at MD Dibess studio Ghana. The selection was therefore based on such wealth of experience they have in issues of copyright, royalties and pirating of intellectual property. Interview was mainly used to detail information on royalty enforcement law as well as issues of music pirating in Ghana. Semi-structured interview was used in the process to allow the interviewees openly express their thoughts on the crux of the discussion.

In collecting the data, permission was sought at an early stage as Bell (2014) indicates. The three (3) board members agreed to provide the necessary information

after the essence of the research had been explained to them. Each of the participants was met at different venues and stipulated time to grant me the interview. In each of them, interview questions were around the operations of GHAMRO, issues of royalty law enforcement as well as pirating. Responses were recorded using sharp smart phone recorder as well as a note book to take account of significant information that was not supposed to be recorded although, confidentiality was assured. Other issues investigated included the way forward for the organization to do its work effectively. Data collected were analyzed using narrative data analysis procedure. Narrative data analysis evaluates the speaker or writer who provided the information, asking what their statement says about them as well as what it says about the issue being studied (Riessman,1993). Information gathered were transcribed and crosschecked for objectivity.

Results and Discussion

According to the findings, the extent of royalty payment law enforced in Ghana is maximal. There is a society licensed by the government to do the collection of royalties for the musicians from users (using other people`s creative works). The society collects and distributes the royalties to the owners. The unfortunate thing is, not every musician understands the processes involved, hence making the work a little difficult since they do not register their works which gives them the mandate to enable the organization have it easy tracking the usage of songs. It was revealed that GHAMRO can only be efficient if musicians register to enable the organization meet the needs of their members. It was also found out that equipment and software are needed to help fast track the collection of royalties. The absence of the equipment and the software makes tracking the usage in every part of the country very difficult.

In another context, it was also revealed that the organization made sure the aged in the music business who may not have the strength to keep composing for hits and who might not have their songs aired or played on radio or television channels every time are also taken care of. GHAMRO now has a welfare system where every member has a personal pension that does not come from the royalty but a token from them which the member can decide to instruct GHAMRO to pay all the monies earned into his/her pension account. There is an established life insurance policy for their members which covers the member and family (four children) although the money is not much. All these are rights each member is entitled to apart from the royalties the organization collects for its members and it is only done when the musician registers his or her work before the organization can have the right to do so.

Pirating has a copyright act that protects the works of people and GHAMRO also has a legal instrument that regulates that acts as to when someone infringes on one`s music. Results indicated that most of the musicians don`t have their works on streaming sites where one would be able to make money and prevent piracy from occurring. One respondent for instance had this to say;

We cannot control piracy if musicians don`t put their works on streaming sites. I am aware that piracy or copyright infringement destroys one`s work since it is a crime but most countries are also trying to battle and the emergence of new technology is making this a tough one. (Respondent 1)

It was also revealed that most people do not register their songs and that when any song goes viral and not registered, GHAMRO may not have any control. One of the respondents also commented on this;

Any song that is done should be copyrighted and the copyright office is there to claim ownership of your property in your name and even though there are people still stealing works, copyright office has been established using the copyright law as a mandate to fight copyright infringements and looking out for the owner`s interest. (Respondent II)

Respondents also indicated how piracy has become a global fight:

Piracy was concluded as one of the biggest crimes and the one the world is finding it difficult to combat totally is internet piracy because one does not know where they are coming from and they are always ahead of the system, always finding new ways to make quick money on the internet through pirating and it is a very big challenge. (Respondent III)

In the discussion, the result was revealed on the song owners might take advantage of technology to boost the creation and performances of their works. In this regard, they will be able to make minor income easily. So, one must know what to do at any time, using and making sure the emergence of technology works for them.

Conclusion

GHAMRO is working hard to reward hardworking music by enforcing royalty payment law in Ghana. In fact, maximum effort is being put in place to ensure that they operate at an appreciable level to yield the maximum benefit, however, they have some challenges. GHAMRO is faced with the needed equipment including log-in software and systems that would enable them track usage of songs across the country with ease. It is worth stating that most of the Musicians do not understand the royalty payment enforcement law processes and thereby keep complaining when they are affected. It is recommended that artistes register their works with the organization to grant them the access of looking out for their interest as mandated by law. Music piracy is a problem in Ghana because most musicians have no streaming sites. In reality, many music productions in Ghana are pirated due to non-enforcement of the act that protects the creative works of people. The copyright office responsible for taking on offenders who break the rule lack the necessary logistics for their operations. Again, the emergence of technology has increased the rate at which pirating is destroying the works of artistes in the industry.

Indeed, copyright infringement cannot be eradicated fully but with the appropriate measures, one could use this technology era to help minimize these acts by uploading it on streaming sites that would cease the misuse of their works. Also, it would help them enjoy the success of their business which is, making money and also enjoying the profits coming out of their creativity. It is also recommendable that GHAMRO takes upon itself to educate musicians to understand royalty payment enforcement law through training, workshops, symposium and thorough media discussions since limited number of such exposures are organized. Also, the musicians have the responsibility to

enquire about GHAMRO and attend meetings organized by the organization to be enlightened on the existing welfare packages for members. This surely will increase the productivity level, growth of the organization and uplift the works of its members.

Finally, the effect of piracy on the music industry can be remedied by putting measures in place to stop pirating activities done by people who use works of others and not acknowledging them or paying something for using their works. Also, using the emergence of technology to provide streaming sites where musicians can have their works protected and also make profits to boost their music business. Without a doubt, I believe and emphasize strongly that education about the existence of the copyright law and office must be a priority so that artistes would be able to protect their works from thieves who steal other people's creativity.

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Conflict of interest

The authors confirm that there are no conflict of interest involve with any parties in this research study.

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