

Effects of Music Piracy on the Nigerian Public: A Case Study of Enugu Urban

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ABSTRACT

Piracy is the unauthorized use or reproduction of copyrighted material. Some people view it as a violation of copyright law or the illegal duplication and distribution of sound recording or computer software. Definitely it is not a natural occurrence but a deliberate misappropriation of the fruit of another man's labor. The paper examines the magnitude of the crime "piracy" in the Eastern part of Nigeria especially in their markets like to the damaging effect it has on intellectual property rights of the individuals. A 20-item questionnaire was designed, distributed, collected and analyzed. The effect revealed that it had far reaching negative consequences on the individuals as well as the government of the day. Strategies for the combating of piracy in Nigeria were also outlined.

INTRODUCTION

Music production in Nigeria has over the years experienced some challenges and financial loss due to piracy and other acts that exert undue infringement on the copyright laws of the country. Study revealed that loss to copyright piracy alone apart from other forms of infringement amount to more than ₦100 billion annually.

The US department of commerce estimated Nigeria to be the largest market in Africa for goods that infringe on intellectual property rights with about 80 percent of international music CDs and 40 percent of local music CDs copied, counterfeited and sold illegally.

Nigeria is the home to a rich and dynamic creative sector. Prominent among these are the Nollywood, the world's third largest film industry with annual revenue of between \$200 to \$300 million. Nigeria's creative industries however stretch far beyond the film industry. This include activities ranging from music and publishing, to computer software and media broadcasting each with enormous potential for growth. Preliminary data indicates that while Nigeria's copyright - based industries are already contributing as much as 1.2 trillion naira (US \$7.5 Billion) each year to the Nigerian Economy, they have the potential to contribute 5 and 10 percent annually. If we are to fully realize the potential of our creative industries and if Nigerians are to reap the multiple benefits inherent, we need to create an environment in which the rights of creators are respected - an environment with zero tolerance for piracy^[1].

Definition of Piracy

Piracy is defined as the stealing or theft of another person's intellectual property. Piracy according to Freitas is defined as "the reproduction for the purpose of seeking a profit or otherwise, of the property of the copyright owner, without his permission".

The use of the word piracy, originated from the activities of robbers (pirates) who attacked ships on the high seas and steal from them.

It is defined as "the unauthorized use or reproduction of copyrighted or patented material. Furthermore, it viewed as "a violation of copyright's law or illegal duplication and distribution of sound recording or computer software. "Piracy is not a natural occurrence in the ordinary pursuit of creative people. It is a crime and a deliberate misappropriation of the fruit of another's labor. It kills the creativity of creators". Who are they: Experts have highlighted that one major difficulty to the development of the industry is piracy. It has ripped off many producers, artists, marketers and stake holders. It has prevented the industry from rapid financial

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growth and advancing in major areas, due to low income from their intellectual materials. One begins to wonder who these pirates are. Where do they live? Some allege that they are the marketers, unauthorized producers while others say that there is a cartel domicile at the Onitsha head bridge market and in Alaba International market Lagos. Of late, it was reported that some pastors have had their messages pirated and sold in large quantities to unknown worshippers. This had made some preachers to sensitize their members to beware of the church products they purchase. In December 2007, Nigerian Copyright Commission (NCC) in a statement said that the film industry loses an estimated sum of four billion, two hundred million naira (₦4,200,000,000) annually to illegal digital duplication, on-line piracy and unauthorized rental of video works within the country. Also a report by the Nigerian Television Authority (NTA) in August 2008, estimated the total annual loss of the content industries Music, Software and Video to piracy within the nation to be well over one hundred billion naira (₦100,000,000,000). This is really a great loss ^[2].

Location

Enugu is usually referred to as Enugu state. To distinguish it from the city of Enugu or Enugu Urban was created on August 27 1991 with the city of Enugu as its capital. The state derives its name from the capital city which was established in 1912 as a small coal mining town, but later grew to become the capital of the former Eastern Region of Nigeria (Ministry of Information, 1992).

Demographics

Enugu State had a population of 3,267,837 people at the census of 2006 which was later estimated at over 3.8 million by 2012. It is the home of the Igbo people of southeastern Nigeria. Enugu urban covers three local government areas: Enugu East; Enugu North and Enugu South. Within the three local government areas which is the focus of this research, there are four major markets namely: Ogbete Main Market; Abakpa market, Kenyatta and Garriki markets.

Scope

The scope of this research covers the four main markets in the three local government areas plus the under mentioned radio station – Federal Radio Corporation of Nigeria (FRCN), Enugu State Broadcasting Service (ESBS) and Solid FM.

Definition of Terms

Marketers: Marketers herein represents persons or groups of persons who display or offer their articles for sale at retail outlets.

Awarawa: This is a nickname given to the fake or non-original articles that are found in the streets or in the markets.

Naija: This is a nickname used when one is referring to Nigeria, especially in the entertainment world.

The Copyright Act

On eligibility and qualification, the Copyright Act in its section one, named literary musical and artistic works, cinematography, films, sound recordings and broadcasts, eligible for copyright states as follows:

- Literary, musical or artistic work shall not be eligible for copyright unless
- Sufficient effort has been expended on making the work to give an original character

The work has been fixed in any definite medium of expression now known or later to be developed, from which it can be perceived, reproduced or otherwise communicated either directly or with the aid of any machine or device and held that any of these works, can be protected on the grounds that it is original and is fixed in a definite medium of expression. This view is also shared by the Nigeria Law School (2003).

Copyright by the provisions of its Act shall be confined on every work eligible for copyright of which the author is a qualified person and that is to say:

- a. An individual who is a citizen of or is domicile in Nigeria; or
- b. A body corporate incorporated by or under the laws of Nigeria

Duration of Copyright

The right of authorship in copyright is perpetual, inalienable, imprescriptible, just as it is exclusive (copyright Act, ss.5 I, II) as shown in **Table 1**. These intellectual properties include copyright, trademark, patent etc. Reports have shown that the violation of intellectual property is rampant in Nigeria However in the First Schedule of the Nigerian Copyright Act, the terms and duration of copyright was tabulated thus:

On a similar provision, the Copyright Act in section 23, described the right of a performer as well as what constitutes a performance' and then in section 24, stated that:

The right conferred by section 23 of this Act shall subsist in relation to the performance until the end of a period of fifty

years from the end of the year in which the performance first took place.

Type of Work	Date of Expiration
1. Literary, musical or artistic works other than photographs	Seventy years after the end of the year in which the author dies; in the case of government or a body Corporate, seventy years after the end of the year in which the work was first published.
2. Cinematography films and photographs	Fifty years after the end of the year in which the work was first published.
3. Sound recordings	Fifty years after the end of the year in which the recording was first made.
4. Broadcasts	Fifty years after the end of the year in which the broadcasting first took place.

Table 1. Nigerian Copyright Act, Terms and Duration of Copyright.

Sole, Right and Authorship

Copyright, is a sole right. It is exclusive and the exclusivity of the right according to study it means that “the owner, and the owner alone, can exercise those rights”. It also pointed out that the owner of a copyright is generally, but not always, the author of the work. The author according to the copyright Act (S.II (3) includes his heirs and successors in title. Person legally representing the author can well exercise these rights. There are situations whereby the author of a work may not be the owner of the copyright^[3].

The ambassador further maintained that theft of IP deprives Nigerian professionals of the revenue they have rightly – earned and the government of the taxes that can be derived from that and re-invested in the economy. The infringement on intellectual property rights not just in Nigeria, but globally is a serious issue that causes a great financial loss to rightful owners, governments and the public. The copyright industries contribute about 2.9 percent of the country’s gross domestic product, which was greater than the motorcar manufacturing industry.

For example in the United States of America, a study published in October 1993, concluded that the copyright industries contribute 5.6 percent of the US GNP and employed more than 5.4 million people (about 4.8 percent of the US workforce).

He therefore posited that:

The dimensions of the copyright industries are manifestly large, and their ramifications are woven intricately into the fabric of today’s society. Any serious malfunction of the intellectual property system, or any significant erosion of the rights upon which it is based, must therefore correspondingly affect society as a whole^[4].

Causes of Piracy

The causes and motives for piracy are many and in different dimensions. According to study, its prevalence is attributable to a number of significant contributory factors – the scarcity and high cost of genuine products, poverty, poor distribution networks, a slow judicial system, poor co-operation in some quarters of the creative sector and inadequate funding of regulatory agencies, including the Nigerian Copyright Commission (NCC).

The other aspects are the challenges posed by the new digital technologies which themselves create opportunity for illegal mass reproduction of copyright – protected works. The internet currently serves a big outlet for the distribution and marketing of music files online. Technology has made it possible for artistes to sit on their laptops to record sound tracts and market directly to a big global market in the internet. Through this they bypass the traditional studio recording sessions, record label companies and distributors at the same time. In the same vein Albay.edu viewed the computer as:

A global personal jukebox offering nearly any kind of music an individual can imagine. It is an excellent way for a recording artist, signed or non-signed, to promote their music and themselves to a great, growing, interactive, reasonably uncensored, direct, multi-mediated audience and market.

Just as this advanced method of distribution is spreading, so also is piracy on the internet. This practice of online piracy is as rampant as the use of internet fraud is common in the world today^[5].

Statement of the Problem

Piracy is “the unauthorized use or reproduction of copyrighted or patented material” and others view it as “a violation of copyrights law or illegal duplication and distribution of sound recording or computer software”. In spite of its illegality this business has thrived so much in Nigeria. As a result of this, this research titled “Effects of Music Piracy on the Nigerian Public: A Case Study of Enugu Urban” is poised to ascertain the reasons for its continuous persistence and progress and suggest possible ways of curtailing this menace.

Purpose of the study

The purpose of this work is to investigate the level of awareness of the marketers on the Nigerian Copyright Act. Particularly it is to;

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- i. Bring to the lime-light the potentials of our creative industries
- ii. Emphasize that the intellectual property rights of musicians, artistes, actors etc. need to be protected
- iii. Create the awareness on the marketers that they may be indicted if caught selling pirated works
- iv. Create the awareness of the effects of piracy on music owners and the buyers of the pirated works respectively ^[6].

RESEARCH DESIGN

The researcher employed a descriptive survey research design set out to find out the level of awareness of marketers to the Nigerian Copyright law as well as their perception on the effects of piracy on the right owners and the buyers.

Population of the Study

The target population of the study consists of about one hundred and fifty (150) music outlets plus broadcast personnel from three radio stations in Enugu urban.

Sample

A random selection of the marketers from the music outlets in the area of study was taken and one hundred (100) music outlets including some personnel of the broadcast stations were accessible to the researcher.

Instrument of Data Collection

The instrument used for data collection was a 20 item questionnaire developed from the five research questions. These were designed to provide information required to examine the topic in question.

Part A: Information on the personal data of the respondents.

Part B: Information got for techniques for research analysis containing five research questions for each of the research questions ^[7].

Validation of the Instruments

The instrument was presented to two experts (Lecturers) for content and face validity.

Method of Data Collection

Several assistants were used to distribute and also collect the questionnaires from the marketers and the broadcast personnel.

Method of Data Analysis

The data collected were organized and analyzed using percentages. The acceptable level of score was 50% and above..

Research Question 1

Is Music piracy a crime to individuals and the society?

S/N	Questionnaire Item	Total Response	Yes	%	No	%
1	Do you think music piracy is a crime?	93	88	81.84	5	1.86
2	Five out of ten local Naija music audios and videos are reproduced without permission	93	85	79.05	8	7.44
3	Do you think the common man on the street can differentiate between original and awarawa video and tapes	94	28	26.3	66	62
4	Does piracy offer economic benefits to the producer/author	93	26	24.2	67	62.3
5	The retailers of pirated works know that it is a crime.	95	75	71.2	20	19
6	Buyers of pirated works know that it is a crime	94	40	37.6	54	50.8

Table 2. Data above revealed that the common man on the street cannot differentiate between the genuine and awarawa video and tapes.

Furthermore, it confined the fact that music piracy is not a crime and half of these products are pirated as shown in **Table 2**. These were represented by 62%, 7.44% and 1.86% on the negative while 26.3%, 79.05% and 81.84% confirmed the positive aspect. It further confirmed the fact that piracy does not offer any benefit to the producer (24.2%) and also that buyer of pirated works does not know that it is a crime (37.6%). Rather they purchase those materials because of the low price attached to them and the present economic down turn ^[8].

Research Question 2

Are there economic benefits for the producers of pirated works?

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S/N	Questionnaire item	Total Response	Yes	%	No	%
1	It is a means of getting quick money	92	86	93.5	6	5.5
2	It is a sure way of self-employment	94	72	67.7	22	20.7
3	It robs the government of huge sums of revenue	95	68	64.6	27	25.7
4	Producers and authors are denied huge sums of money	92	82	75.4	10	9.2

Table 3. Data above revealed that a lot of economic benefits accrue to the producers of pirated works.

Thus it is a means of getting quick money and a means of self-employment represented by 93.5% and 67.7% respectively as shown in **Table 3**. It also robs the government of huge sums of revenue and denies authors large sums of money. These were reflected in the data being 64.6% and 75.4% in the affirmative.

Research Question 3

Has Modern Technology aided or discouraged piracy?

S/N	Questionnaire item	Total Response	Yes	%	No	%
1	Internet has helped to promote piracy	92	80	73.6	12	11.04
2	The sale of "awarawa records" is an offense	92	88	81	4	3.7
3	Selling "awarawa in the name of original is deceptive and unfair to the buyer	83	76	63	7	5.8

Table 4. Data above indicates with 73.6% that the availability of internet services.

The first questionnaire item in table above indicates with 73.6% that the availability of internet services had further moved the activities of the pirates a step forward as shown in **Table 4**. Awarawa records are deceptive as well as an offense. These were confirmed by the data which had 81% and 63% respectively attached to items 2 and 3.

Research Question 4

What are the roles of broadcast stations in this act?

S/N	Questionnaire item	Total Response	Yes	%	No	%
1	Radio/TV stations do not pay royalties to composers	91	59	53.7	32	29.1
2	Radio/TV stations encourage piracy	92	30	27.6	62	57.04
3	Broadcast stations are aware of intellectual property rights	90	78	68.4	12	10.8

Table 5. Data above revealed that radio/TV stations do not pay royalties to composers (53.7%) but actually they also do not encourage piracy, recording a no answer of 57.04%.

In table above, it revealed that radio/TV stations do not pay royalties to composers (53.7%) but actually they also do not encourage piracy, recording a no answer of 57.04% as shown in **Table 5**. It went further to emphasize that these stations are aware of intellectual property rights and actually what should accrue to a composer as a result of his/her creative works^[9].

Research Question 5

Do you think that N. C. C. has lived up to its responsibilities?

S/N	Questionnaire items	Total Response	Yes	%	No	%
1	The Nigerian Copyright commission is alive to its responsibilities	91	49	44.6	45	41.10
2	Nigerian Copyright Commission need to educate the public	92	89	81.09	3	2.8
3	It is right to punish anyone who violates the Nigerian copyright law	94	85	80	9	8.5
4	Ignorance of the copyright law can put marketers into trouble	92	87	80.04	5	4.6

Table 6. Data above confirmed with (44.6%) that the copyright commission has not be up and doing with regards to its responsibilities.

Table 6 above confirmed with (44.6%) that the copyright commission has not be up and doing with regards to its responsibilities. Furthermore the commission needs to widen the scope of its educational activities to the public. It confirmed that it is right to punish offenders and that a contravention of the copyright laws will put marketers into trouble. These recorded 80% and 80.04% respectively in the affirmative.

DISCUSSION OF FINDINGS

In general the larger members of the Nigerian public cannot be convinced that piracy is a crime against the creators, the government and leads to a downward trend in the realization of government objectives.

Therefore the efficient enforcement of copyright laws is a critical element for future development of Nigeria's creative indus-

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tries. Since the establishment of Nigeria copyright commission in 1989, following the implementation of copyright Decree No 47 of 1988, the NCC has been working tirelessly to clamp down on piracy. Campaigns such as the Strategic Action Plan against piracy (STRAP) and the copyright Litigation and Mediation Program (CLAMP), launched in 2005 are testimonies to these efforts^[10-13].

Strategies for Combating Piracy

1. The NCC should roll out more plans to enforce copyright laws in the country.
2. It should establish strategic alliances with other development agencies and international organizations such as UNESCO, USAID, World Customs Organization (WCO) etc. to enhance the scope and effectiveness of its anti-piracy operations and awareness drive.

The Nigerian Copyright law should be reviewed to bring it in line with the current international best practices and standards designed to mitigate the copyright challenges.

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