



## Pop music production and regulation online in select African countries and Brazil

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**Abstract:** Over the last quarter of a century, the sources of the global recorded music industry's revenues have changed fundamentally, from 100 per cent physical sources (mostly compact discs [CDs]) in 1999 to diversified sources between 2010 and 2015, to mostly intangible sources (mostly streaming) thereafter. However, such global statistics tell us little about developments on the ground in countries with very different socio-economic and cultural circumstances. This special issue examines, from a multidisciplinary and comparative perspective, how technology, particularly the internet, cultural practices and law have interacted in the field of popular music in three African countries (Nigeria, Cameroon, South Africa) and Brazil. The socio-economic and legal situations in these countries have been far less studied than those in the Global North. In addition, they are of great importance from an overall perspective because of their population and market size, as well as their 'cultural influences' on the regional and even global music scene – suffice it to mention Afro-beats, Bossa Nova and Amapiano. Remarkably, the studies featured in this special issue reveal more similarities than differences.

**Keywords:** popular music, copyright, digitalisation, Nigeria, Cameroon, South Africa, Brazil

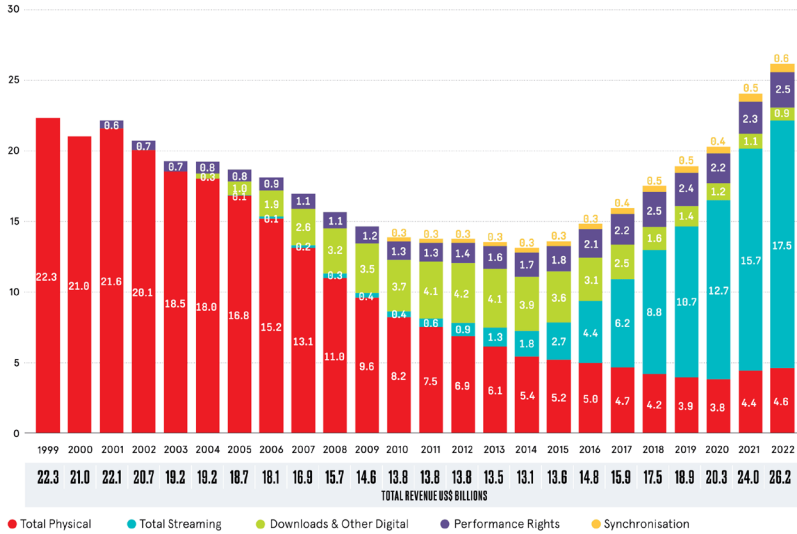
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Digitalisation and the internet have opened up novel opportunities for cultural creativity and the global exchange of immaterial cultural expressions including in the field of popular music (Born 2022; Fossler-Lucier 2020). They have encouraged transregional dynamics of appropriation and recombination of styles and have clearly transformed music production and consumption. These transformations have in turn enabled users and creators to benefit from greater independence and a wider reach-out beyond geographic boundaries while also complicating market control for the music industry.

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**Figure I.** Global Recorded Music Industry Revenues 1999 - 2022 (US\$ Billions).  
Source: IFPI 2023

Along with the new digital developments, new types of sound carriers and ways of consuming music have emerged. Over the last quarter of a century, the sources of the global recorded music industry’s revenues have changed fundamentally (Fig. 1), from 100 per cent physical sources (mostly CDs) in 1999 to diversified sources between 2010 and 2015, to mostly intangible sources thereafter – that is, streaming (IFPI 2023).

The study of this global transformation is complicated by the fact that developments in technology, cultural practices and copyright law interrelate and influence each other. For example, the use of new services like streaming and User Generated Content (UGC) platforms by musicians and their audiences has repercussions on the further development of these services. Moreover, the uses of digital technologies are regulated by copyright law but also influence the evolution of copyright law itself. Last but not least, these complex interactions of technology, cultural practices and the law are not homogeneous across the globe. While copyright laws have been harmonised to a significant degree through numerous international treaties administered by the World Intellectual Property Organisation (WIPO) and the World Trade Organisation (WTO), such as the TRIPS Agreement, each country implements



its international obligations independently and with a view to its own socio-economic needs. National copyright laws and accessory regulations differ substantially, for example regarding Collective Management Organisations (CMOs). The practices of local music production and consumption, the relevant stakeholders, and the power relations in which they interact are even less uniform.

Against this background, it is a very challenging but promising task to consider on-the-ground forms of how technology, cultural practices and law interact in the field of popular music. This raises questions about the extent to which various local approaches might diverge or converge alongside similar trends in or characteristics of online pop music production and regulation that may be observed, in general, across most countries, if not all. Our theme also allows to challenge common assumptions about the benefits and the limits of socio-technological globalisation.

This special issue examines the implications of these developments in selected countries of the Global South where unauthorised copying frequently has become the predominant mode of music distribution and the enforcement of copyright remains complicated. In these contexts, it is significant to examine how digitalisation has transformed music distribution and consumption practices but in locally different ways. These issues are explored from a multidisciplinary perspective and using a comparative approach.

The contributors have disciplinary backgrounds in law, anthropology, communication sciences and ethnomusicology. Wale Adedeji offers significant immersion in the music industry as both a musician and a music scholar. Ute Röschenthaler draws on long-term anthropological research and more recently on digital ethnographic methods. Malebakeng Forere examines the role of copyright from a legal point of view. Leonard De Marchi provides insights into the complex development of copyright and piracy from the perspective of communication studies. Collectively, this research seeks to illuminate the complex and diverse developments of pop music production and regulation in the internet age.

In addition, each contribution reflects that technological, cultural, economic and legal developments cannot be understood in isolation, but that law and cultural practice have to be analysed in a holistic manner (Röschenthaler forthcoming). The special issue covers accounts from the researchers in four countries, three of them African (Nigeria, Cameroon and South Africa) and one of them South American (Brazil), to demonstrate differing music traditions. The selection of these

countries is based on the following views. First, the socio-economic and legal situations in the countries covered are far less studied than those in Europe, the United States, and other countries of the Global North (in particular Canada, Australia and New Zealand) (Aguiar 2017; Bulajenko et al. 2021; Towse 2020). Second, the four countries in the Global South are nevertheless highly significant from an overall perspective because of their population and market size and their ‘cultural influences’ on the regional and also the global music scene – suffice is to mention Afrobeats, Bossa Nova and Amapiano (Erlmann 2022; McGowan and Pessanha 1991; Simmert 2020). Further, particular insights emerge from assessing forms of high economic, cultural and legal diversities. Studying these varied examples together reveals important commonalities amidst significant differences in dealing with the new digital media, piracy issues and the responses to the pressure to enforce copyright laws.

## Overview of the articles

The articles in this special issue reveal the entrepreneurial creativities of local actors in coping with the different interests involved in music production. They also highlight resilience against unifying tendencies through international legal regulations. In his article ‘Copyright policy and the Nigerian music industry in the era of digitalisation’, Wale Adedeji details a strong record of Nigeria regarding copyright law on the books. While the best way to distribute one’s music and become widely known used to be to commission a pirate, this has been disrupted with digitalisation, which now offers new avenues of distribution and revenue generation. Nigeria was subject to the UK Imperial Copyright Act of 1911, which also applied to the Southern Protectorate of Nigeria, in which Lagos, the capital of cultural creativity, is situated. After independence, the first copyright act went into force in 1970. It was regularly amended, the last time in 2022, with the overall aim to improve the effective administration, regulation and enforcement of copyright. The Nigerian government also plays an important role in the administration and enforcement of copyright via the Nigerian Copyright Commission (NCC), which *inter alia* authorises and supervises the two major music CMOs.

Adedeji makes it very clear that copyright and its enforcement were not the major drivers of the development of music production and distribution in Nigeria. He traces the Nigerian music industry back



to three Lagos-based multinational recording companies which were established in the early 1970s, when the manufacturing of vinyl records took place at Philips Vinyl Records and Records Manufacturing Nigeria Ltd. That structure came into crisis in the early 1990s, which Adedeji attributes to an instable political climate with several coups and rampant unauthorised cassette-copying. The year 1999 marked the beginning of another chapter in the Nigerian music industry. Politically, the country returned to democracy, and with Hip-Hop a new music culture emerged. Enthusiasts with computer skills started experimenting with producing music at home and copying their songs directly onto CDs. What they lacked, however, was a distribution network. That lacuna was quickly filled by electronics merchants at the Alaba International Market in Ojo, Lagos, who became 'music marketers' in the creation, duplication and distribution of music CDs and video CDs (VCDs). Most consumers still rely on the Alaba physical copy distribution channel to get the latest releases from the Nigerian music scene. However, as regards solely digital music distribution, several locally created streaming platforms were launched, but most of these ventures no longer exist. One reason Adedeji gives for this failure is the availability of international streaming platforms such as Spotify and the Chinese service Boomplay, which prides itself on being the biggest music-streaming platform in Africa with the hub of its operations in Lagos. He also points out that mobile internet data is expensive and that there is an abundance of heavily used illegal music blogs often patronised by DJs. Despite all these circumstances, Adedeji observes a 'booming music industry' that has succeeded in making a tremendous impact on the global music scene as evidenced by the current mainstream youth-driven hip-hop hybrid music genre known as 'Afrobeats'.

Ute Rösenthaler's article, 'Streaming platforms and the music industry crisis in Cameroon', presents a related situation of ongoing change through which established forms of unauthorised copying are left behind in favour of mobile forms of distribution and innovative local projects. Paid music streaming, however, still needs stronger popularisation to cater for musicians' livelihoods, at least in the Francophone part of the country. Like Nigeria, Cameroon was de facto covered by the international copyright system during colonial times, which in the 1940s and 1950s in the urban centres saw the emergence of Makossa and Bikutsi as popular music genres. The colonial structures with their ties to the French metropole remained intact into the 1980s, when all LPs by Cameroonian musicians were still produced in France and artists were paid by the French Société des Auteurs, Compositeurs

et Éditeurs de Musique (SACEM) every three months, in particular for broadcasts of their songs on the Cameroonian radio stations. The 1990s heralded an era of ‘piracy’. Individuals went to a music shop or an internet café with a blank CD or other data carriers and downloaded the music from websites or paid a shopkeeper to do it for them. In the 2000s and 2010s, there were hardly any music-producing companies in Cameroon left.

During this period, mobile internet access and Chinese electronic gadgets became available and affordable. Coping with the lack of local music producers, Cameroonian musicians increasingly produced themselves and copied and uploaded their music onto platforms which were developed by Cameroonian cultural entrepreneurs. Röschenthaler presents the core features of a number of these streaming platforms, which contributed to the rebirth of the music sector in Cameroon in the mid-2010s. However, as Röschenthaler observed in a survey with twenty-five Cameroonian music users in the capital, Yaoundé, the move from physical ‘piracy’ to the mobile world did not result in a widespread adoption of licensed streaming services, which are now also provided by global players such as Spotify and Boomplay. Instead, most users download their music from YouTube and unauthorised websites. Sharing these files is seen as a social obligation to render stars popular and provide friends with music rather than as an illegal act. Not to share, Röschenthaler notes, would be interpreted as ‘selfish and un-social’. Röschenthaler nonetheless observes ‘a great upswing in the popular music sector’ in Cameroon.

Again, all of these developments appear to be largely unrelated to black-letter copyright law. Unauthorised copying and sharing of music were, in principle, illegal all the time. Yet neither was the law enforced at scale against rampant ‘piracy’, nor were other measures (such as mandatory levies) adopted to make sure that authors and performers actually benefitted from the use of their creative output. Instead, Röschenthaler finds a considerable gap between social practices and the law also regarding the functioning of CMOs in Cameroon, which are generally considered key for monetising copyright to the benefit of authors and performers but which failed to pay any royalties to Cameroonian musicians at all for several years in the 2010s. This dire situation changed with a significant payout in 2022, and there are high hopes that this improvement will be stable.

Much less optimistic is Malebakeng Forere in her overview article, ‘The South African music landscape and the Copyright Amendment Bill’. Although she lists a great variety of South African music genres



such as Kwaito and more recently Amapiano, she notes that musicians still die ‘as paupers despite their fame’. Forere refers to several socio-economic reasons for this finding, but her article shows that the changes of the technical modes of music production and distribution do not appear to play a major role in this respect. If the revenues of CD sales ever resulted in income for South African musicians, this source is now gone, with the last music chain stores going out of business in 2014 and 2021.

The availability of licensed streaming platforms such as Spotify has not changed the situation fundamentally. First, Forere points to objections also from Western artists who get paid very little – as low as the equivalent of \$15 per hour for 300,000 streams – working as a full-time artist. Second, music markets and online streaming platforms are winner-take-all markets, where few global stars thrive and the great majority of authors and composers earn very little. This situation also negatively affects the South African music scene. Even the South African population mostly enjoys Western, American-style pop music. As a result, the royalties distributed by South African CMOs to South African musicians make up only a tiny fraction (R108,000) of the royalties wired to foreign rights holders (R150 million). Last but not least, half of the South African population does not have access to sufficient bandwidth to stream music much less enough money to pay the subscription fees. As a result, many artists no longer see music as a direct source of income but only use their music for promotional purposes.

Forere’s article lays out in detail that copyright law has not played a significant role in these developments to the benefit of South African authors and performers. Already in 2010, a Copyright Review Commission was established that was tasked with investigating the problems facing musicians. The 2011 report of that commission made several recommendations, including the formulation of standard contracts, a stricter regulation of CMOs and a fifty–fifty split of copyright royalties between performers and record labels. These solutions also feature in a Copyright Amendment Bill, which has been discussed ever since 2015 but has still not been enacted. As if this failure of the legislature to improve copyright law was not bad enough, Forere explains that key stakeholders, including the music industry, mostly focus their lobbying efforts on fighting a proposed expansion of copyright exceptions and not on ways to improve the economic situation of musicians. She instead pleads for introducing a thoroughly administered copying levy and also a mandatory quota of local songs to be played on the radio in order to support the South African music sector.

Leonardo De Marchi's article, 'The digitalisation of the music industry in Brazil: New productive structures, the legal framework and challenges for peripheral music in the digital age', examines a very different cultural and socio-economic context. The digitalisation of the Brazilian music industry occurred, according to De Marchi, in several steps. When the CD was introduced in the early 1990s, major record companies abruptly diminished the production of vinyl records and cassette tapes and charged the standard international price for each CD (\$15). The following golden decade of the music industry saw an increase of 114.38 per cent in revenues and 46.6 per cent in unities sales in Brazil. Between 1999 and 2009, that situation changed drastically. Units sold decreased by 70.8 per cent, and the revenue of the music industry fell by 61.2 per cent. Music consumption migrated to pirated CDs sold by street vendors for less than \$2 and later to P2P platforms. These circumstances led to a situation in which local start-ups sought to develop systems for digital music distribution over the internet, while independent artists made their music freely available to boost attention and become 'individual microentrepreneurs'. Absent sufficient possibilities to appropriate returns on their investments, artists found that their efforts became economically unsustainable. The final and current phase of the digitalisation of the Brazilian music industry is characterised, according to De Marchi, by international streaming platforms and digital distributors which have, since around 2015, inserted Brazilian music into a 'celestial jukebox'. In 2021, Spotify reported to have around 77 million users monthly in Brazil and thus a market share of 62 per cent. Streaming accounted for 85.6 per cent of the total revenues of the Brazilian music industry. While these numbers appear promising from an economic point of view, De Marchi comments critically on the cultural implications of the rise of global streaming platforms for local music scenes and genres.

### **Commonalities, differences and avenues for future research**

A comparative synthesis of the four contributions reveals, perhaps surprisingly, more commonalities than differences. First, digital technologies of music production and distribution have, with certain delays, been introduced and widely adopted in all countries studied. Vinyl, cassette tapes and also CDs are things of the past, at least in urban areas. Music consumption mostly occurs via mobile devices that allow individuals to access and use streaming platforms. Lack of purchasing

power, accessible alternatives, access points and available bandwidth appear to be the biggest hurdles for the widespread adoption of streaming services.

Second, all countries studied have for a long time been bound to the major international copyright treaties and also have copyright statutes that grant exclusive rights to authors, performers and phonogram producers. Thus, the basic features of copyright law to secure a fair deal for authors and performers are present. The content of these laws often reflects post-colonial structures or other forms of international pressure (Röschenthaler and Diawara 2016). At the same time, the existence of copyrights has nowhere been the main driver of events and has often also not been a main source of revenue for musicians. More decisive for the development of local music scenes have been geopolitical shifts such as the neoliberal phase after 1990, with its privatisation projects, and local political events such as coup d'états, with their respective cultural policies. CMOs also exist in most countries, yet their contribution to supporting authors and artists is often limited or non-existent. It appears that these actors are mostly concerned with themselves rather than with the artists and performers they represent.

A third fascinating communality observed in all four studies is the persistent and often disruptive force of the unauthorised copying and sharing of music. Whether born out of necessity or knowingly tolerated or even fostered by the musicians themselves, 'piracy' is and remains significant simply because of its scale. If many or even most people consume music in informal, unauthorised ways, this behaviour de facto significantly marks the music landscape of a country. Moreover, 'piracy' forces musicians and other players in the music sector to find alternative sources of revenue and thus become creative entrepreneurs (Röschenthaler and Schulz 2016). The results are local distribution networks, streaming platforms and aesthetic practices. If copyright is a global phenomenon, piracy is a local one. Or in other words, piracy localises the copyright system.

The fourth communality concerns the current countermovement against local piracy and local entrepreneurship by global streaming platforms of Euro-American or Chinese origin. These services are now available in all countries studied. Due to their technical and financial capacity and the breadth of their music catalogues, they easily tend to marginalise local competitors. This development not only threatens the local information and communications technology start-up scene but also relegates the larger part of revenues to big global payers. Even locally well-established musicians have a hard time making a living

from streaming royalties if they only appeal to a limited community of consumers and not to global audiences.

Compared to these communalities, the differences between the country reports mostly concern matters of degree. For example, technologies of music production and distribution become available and affordable at different points in time, leading to different piracy rates and to different rates of global streaming platform adoption. Moreover, the influence of non-copyright cultural policies varies greatly. Finally, some national copyright systems perform better than others, resulting in higher copyright revenues. This observation does not, however, put into question the overall finding that the role of copyright is in general negligible.

The most striking differences between the articles concern the normative assessments of the current situation and the available options to improve the status of authors and performers. While Forere criticises global streaming platforms for their exploitative revenue schemes, Adedeji stresses the emancipatory potential of these services for authors and performers, who may now bypass middlemen and other bottlenecks to reach their global audiences, not least in the diaspora. A related diversity in opinion concerns the evaluation of copyright's role. While Forere considers an effective and functional copyright system as a *sine qua non* for a sustainable music industry, Adedeji, Röschenthaler and De Marchi point out that copyright can pose barriers for upcoming artists and the public at large by limiting the transmissibility and continuity of cultural practices. Remarkably, two articles (Forere and De Marchi) strongly advocate an active, non-copyright cultural policy in the age of global streaming platforms in order to support the local music industry.

Forere's and De Marchi's emphatic call for an active cultural policy to the benefit of local authors and performers deserves further discussion. Is it possible to identify a global audience or global music mainstream? Is it true that streaming platforms reify and possibly worsen the winner-take-all structure of analogue and early digital music markets? Or do recommender systems allow the 'long tail' to become more visible than ever before? Do streaming platforms thus strengthen or weaken diversity in the global music landscape? And as a corollary to these socio-cultural issues, is the remuneration of authors and performers on streaming platforms fair, or is there a need to intervene via mandatory contract rules or copyright levies (German Bundesregierung 2021: 123)? In all these respects, it would obviously be insightful and desirable to include more countries than the four studied here in the analysis. Of particular interest is the situation in countries of the former

Eastern Bloc and East Asia (Fuhr 2016), which have undergone fundamental socio-economic and cultural transformations.

Another area where this special issue suggests further research is the question of whether and under which conditions ‘piracy’ is a sustainable business model. Whereas the Nigerian and Cameroonian examples appear to show that a thriving music scene with global significance can exist under conditions of weak copyright enforcement and the widespread non-authorised use of copyrighted content, De Marchi’s article suggests that in the long term highly formalised and stable transactions are required to fill the pockets of musicians. Again, studies of other countries beyond those analyzed here will undoubtedly shed further light on this complex issue.

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