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*Series on Upgrading in Small Enterprise Clusters  
and Global Value Chains*

## **Promoting the Culture Sector through Job Creation and Small Enterprise Development in SADC Countries: The Music Industry**

by

Cecile Ambert

InFocus Programme on Boosting Employment  
through Small Enterprise Development  
Job Creation and Enterprise Department



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## Foreword

This research report is part of a set of five studies commissioned by the ILO in the framework of the project “Small enterprise development and job creation in the culture sector in the SADC region”. This project was funded by the Ford Foundation and implemented by the InFocus Programme on Boosting Employment through Small Enterprise Development (IFP/SEED). This project explores the possibility that the promotion of cultural entrepreneurship that harnesses local talents, skills and heritage may be especially resistant to the competitive pressures of globalization and may provide innovative possibilities for boosting incomes and generating quality employment in a sector that is normally overlooked by policy-makers or addressed with piecemeal and traditional approaches.

IFP/SEED’s work in the area of Market Access is based on the premise that small enterprises can only grow and become competitive economic ventures when they have clear and well-developed channels for selling their outputs. The lack of adequate markets for the consumption of cultural goods and services is frequently identified as a major obstacle to the development of a truly vibrant and economically viable culture sector. This finding is highlighted repeatedly in these SADC region studies. The use of a value chain analysis, adapted to the culture sector, has been a particularly effective tool in these studies to identify strengths and weaknesses and help inform policy recommendations for bolstering the weaker “links” in this chain. The partnership forged between the Ford Foundation and the ILO for this project aims to marry the concerns of the Education, Media, Arts and Culture division of the Ford Foundation with the ILO’s tools and approach for creating more and better jobs for men and women, in order to transform the culture sector into a sustainable form of job creation and income generation for developing countries.

Over the past 15-20 years, a majority of both developing and industrialized countries have initiated policies and programmes aimed at promoting the micro, small and medium enterprises in view of their important job creating potential. Support has been directed toward the major sectors of the economy, yet the economic potential of local artistic talents and a nation’s cultural heritage has been largely untapped.

Although the presence of cultural activities may be perceived to be widespread, the development of the culture sector is rarely treated as a serious economic venture and few practitioners are actually able to make a living solely based upon their artistic trade. Few examples exist where government policies have given systematic and strategic business support to this sector. As a result, the culture sector in most developing countries plays a much more limited role – as a source of jobs, revenues and foreign exchange – than in industrialized countries where it contributes to a significant proportion of gross national product, indicating the need to promote what might be called “cultural entrepreneurship” among developing country artists. Furthermore, limited data exist and the true scale and dimension of local cultural activities are generally not well documented. In particular, few culture sector studies have been undertaken in Southern Africa.

For this reason, original field research was commissioned by the ILO to provide more detailed information and case studies of culture enterprises in the SADC region, with an eye toward providing policy prescriptions that would help ameliorate the major constraints preventing the growth of small enterprises. Five studies were conducted in the following cultural areas: crafts and visual arts; music; performing arts and dance; TV and film; and ethno-tourism. These five studies have been published as SEED Working Papers and readers may find various studies from this set to be of interest.

This present report focuses on the music industry. It is estimated that the value of the global music market stands at US\$36.9 billion, with total unit sales of 3.5 billion. In comparison, monitored record sales of Africa’s music market reveals this to be the world’s smallest regional market, worth only US\$207 million in 1998, representing a mere 0.6 per cent of total global sales. The African market is dominated by South Africa, in terms of legal and recorded units sales. One of the most severe obstacles

to growth of the industry in the region is often considered to be directly linked to the limited purchasing capacity of the African market. However, the recording industry is a young industry in most African countries. This implies that its means of production, circulation and distribution are in their infancy, and that it has not yet reached its full potential in terms of per capita sales. This is reflected in the recording industry's institutional profile by the fact that the different functions performed in the course of production, circulation and distribution tend to be undertaken by a relatively low number of actors with limited institutional specialization. The growth of the industry is, however, evident in terms of the emergence of numerous recording labels, music venues and events throughout the region.

The lack of effective protection of the intellectual property rights of local artists is another crucial issue in this sector, and local practising artists are generally unaware of the implications raised by their mastery of specific know-how and use of traditional practices and designs. In this regard, these studies have benefited from a collaboration with the Director, Mr. Guriqbal Singh Jaiya, Small and Medium-sized Enterprises Division of the World Intellectual Property Organization (WIPO) (<http://www.wipo.int/sme>). Comments on intellectual property related to the music industry were added in the text, as well as Annexes 4 and 5.

Ms. Cecile Ambert, the author of this study, is a consultant with Development Works, South Africa and can be contacted by email at: [devworks@global.co.za](mailto:devworks@global.co.za). Ms. Anne Posthuma, Senior Specialist, Small Enterprise Development, IFP/SEED was the Project Coordinator responsible for backstopping this project. Ms. Avril Joffe was the Consultant and Project Advisor who oversaw the development of these studies. The internal reader for this study was Mr. John Myers, Media and Entertainment Industry Specialist, Sectoral Activities Department (SECTOR), ILO. It should be noted that the views presented in this document are those of the author and do not necessarily reflect the view of the ILO or its constituents.

Kees van der Ree,  
Director a.i.  
InFocus Programme on Boosting Employment  
through Small Enterprise Development.

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## Executive summary

Music is an art form that spans a range of human activities, from entertainment to religious and social rites, political activism and lobbying, education and commercial interests. At the socio-political level, it can serve as a bridge across cultures and national boundaries, as well as to keep conflict-ridden and poverty-stricken societies together. Music has also been used as a tool to challenge the political and socio-economic status quo. Finally, music has been used as an instrument for fund-raising for development and poverty alleviation.

Because it is an art form, its artistic value can often only be measured subjectively. Attaching a commercial value to music is intrinsically partial. It cannot reflect the whole gamut of values generated in the process of creating and consuming music. Yet, the existence of industries entirely dedicated to this process demonstrates the viability of engaging with the sector's economy as they affect local economies, by providing employment, leading to the consumption of music products, and supporting other industries. As such, they are linked to specific local development levels and processes. Understanding the nature of these linkages is, therefore, an important consideration for socio-economic development. Understanding the manner in which the music industry operates within a particular locality, country or region to generate those linkages and resulting impacts provides clues on how to maximize the development potentials of the industry in the Southern African development community (SADC) countries.

Section 2 of the report presents relevant information about socio-economic issues relating to the role of music as a sector and an industry and presents global trends affecting the industry.

Estimates of the value of the global music market stand at US\$36.9 billion, with total unit sales of 3.5 billion. In terms of monitored record sales, Africa's music market is the world's smallest regional market, worth only US\$207 million in 1998 or a mere 0.6 per cent of total global sales. The African market is dominated by South Africa, in terms of legal and recorded units sales. One of the most severe obstacles to the growth of the industry in the region is said to be directly linked to limited purchasing capacity of the African market. However, the recording industry is a young industry in most African countries. Its means of production, circulation and distribution are in their infancy, and that it has not yet reached its full potential of per capita sales. This is reflected in the recording industry's institutional profile: the different functions performed in the course of production, circulation and distribution tend to be undertaken by a relatively low number of actors with limited institutional specialization. Despite this, the music sector is growing, as this report shows. It also assesses the impediments to growth and suggests recommendations to potentialize the opportunities inherent in this burgeoning industry.



# 1. Introduction<sup>1</sup>

## 1.1 Background

Music is an art form that spans a range of human activities, from entertainment to religious and social rites, political activism and lobbying, education and commercial interests. Since time immemorial, music has filtered through the streets of all cities, villages and fields, in melody, in rhythm and in movement. It transcends the boundaries of language, nationality and ethnicity and acts as a vehicle for social memory. Music is both an instrument of change and a symbol of tradition.

The existence of industries entirely dedicated to this process demonstrates the viability of engaging with the sector's economy. These industries affect local economies, by providing employment, leading to the consumption of music products, and supporting other industries. As such, they are linked to specific local development levels and processes. Understanding the nature of these linkages is, therefore, an important consideration for socio-economic development. How the music industry operates within the South African development community (SADC) to generate those linkages and resulting impacts provides clues on how to maximize the development potentials of the industry. In so doing, the focus of the research is threefold. It comprises:

### (a) *The recording industry*

The production and consumption of tangible music products

The recording industry in the region is multifaceted. Up until the late 1990s, the recording industry operated primarily in two SADC countries, South Africa and Zimbabwe. Since then, several small-scale independent recording labels have mushroomed across the region. This recent development has changed the nature of the music industry in those countries where a recording industry is emerging. In some instances, this process represents the birth of the formal music industry. Previously, in countries such as Malawi, little if any formal market economy existed in the creative industries, in spite of the intimate relationship between music and everyday life. There, although the recording industry is still in its infancy, it is now making great strides in establishing itself as a formal economic sector.

**Key issue:** In the SADC region, the recording industry is in its infancy, but the emergence of independents across the region is a positive sign for the local and regional music industry.

### (b) *The performance industry*

Live performance

Income generation for the majority of musicians is primarily tied to live performances, as the supply capacity of the recording industry and its market remain limited.

<sup>1</sup> This research drew extensively on the input from a number of industry actors in the region, which is gratefully acknowledged. In particular, support received in the field research countries, Zambia and Zimbabwe, deserves specific acknowledgement.

## **(c) The multidisciplinary sector**

The multidisciplinary sector is increasingly important for the growth of the creative industries on a global scale.

### **1.2 Socio-economic issues in the music industry**

#### **1.2.1 Importance of the sector to the cultural industries**

Music is a core component of the cultural industries, as it provides a suitable medium to support the multidisciplinary sector. It is a core element of cinematographic production. Even soap operas rely on the obligatory opening musical segment. Similarly, few commercials are aired without a selling jingle. This relationship is often mutually beneficial. On the one hand it facilitates branding and the definition of corporate identities; on the other it opens up opportunities for composers and musicians to gain exposure to music markets and generate an income in the process. For example, Ladysmith Black Mambazo's Heinz baked beans commercial has not only upped Heinz's sales considerably, but it has also propelled the South African band to the top of the UK music charts.<sup>2</sup>

Music provides an opportunity to promote local cultural products nationally and internationally. Festivals, where music is at the core of artistic events, play a critical role in exposing musical genres and artists to new markets, and promote specific countries and regions as attractive tourism destinations. The Celebrate South Africa Festival in London, and the Zimbabwe Music Festival in United States are a case in point.<sup>3</sup> The potential of the industry in terms of the growth of tourism in the region is twofold. First, by drawing audiences to specific locations, music tourism also enables the entire domestic tourism industry to grow. Second, by showcasing music performances together with visual arts and crafts, as well as other performing arts, they act as a multi-faceted platform for a range of artistic products in a single event.

**Key issue:** Music is a catalyst for and provides support to a range of creative activities, industries and initiatives.

#### **1.2.2 Music as a bridge across culture, national boundaries and conflict**

*"I had to use my music as a weapon."*

In Angola and the Democratic Republic of the Congo, music has also been an important factor for keeping conflict-ridden and poverty-stricken societies together. The collective peace song effort by Angolan musicians, called "A paz é que o povo chama" (The people are calling for peace), is a case in point.

Music has also been used as an instrument for fund-raising on behalf of development and poverty alleviation. For example, in 1984 Bob Geldof, Irish singer and guitarist, organized Band Aid which, by means of large benefit concerts, recordings and television

<sup>2</sup> <http://www.suntimes.co.za/1999/10/10arts/ane04.htm>

<sup>3</sup> <http://www.zimfest.org>, <http://www.celebratesouthafrica.com>

appearances, raised more than GB£50million to fund poverty relief in Africa.<sup>4</sup> Currently, album releases are also used to support organizations active in fighting HIV/AIDS, and raising popular awareness of the pandemic, as box 1.1 shows.

**Box 1.1**

**Role of the music industry in fighting HIV/AIDS in Zambia**

In Zambia, a local recording company – Mondo Music has, with donor funding, distributed to truck-drivers tapes on which popular songs are punctuated with a short AIDS-awareness segment.<sup>5</sup> As a through-road for goods across the SADC region, Zambia has been particularly vulnerable to the spread of HIV/AIDS. By targeting truckers directly, the initiative seeks to alert key actors in the spread of the pandemic across the country and in the subregion.

**Key issue:** Music can play a key social development role and provides a platform to disseminate topical messages and mobilize people to address issues affecting their lives.

### **1.2.3 Development issues in the music industry**

Although development is a key focus area of the research, it is important to note the economic dynamics of the music industry in the region. Where it is most active, in South Africa, the music industry is associated with consumption of mainly foreign repertoire, which results in an import-export deficit in favour of international products and international intellectual property revenue flows.<sup>6</sup> This is not the case in the other SADC countries, where local content production and consumption are the majority. However, in those countries, the existence of a parallel economy in the recording industry, mainly through piracy in the informal economy, means that revenue generated does not necessarily contribute to supporting the creative economy per se or the overall national and regional economy.<sup>7</sup>

The music industry also plays a significant role in other, non-cultural industries. The tourism hospitality and retail industries often benefit directly from the broadcasting of music. Music supports those industries by enabling the creation of a particular ambience or setting. Its multiplier effect is therefore much broader and more potent than its direct industry-specific impact.

**Box 1.2**

**Supporting musicians as a micro-marketing initiative in tourism destinations**

In some tourist destinations, such as the Victoria Falls in Zimbabwe and Cape Town in South Africa, music serves to draw shoppers to curio shops and to restaurants. In Victoria Falls, shop owners in the city centre have grouped together to hire several local performers, organized as groups, to perform in front of their stores on a rotational basis. This arrangement enables the musicians to complement the income that they derive from performing in hotels and restaurants, by drawing a regular – albeit small – salary and receiving donations from the public.

<sup>4</sup> <http://www.ifpi.org>

<sup>5</sup> C. Folotiya, interview Aug. 2001.

<sup>6</sup> D. Shabala, interview June 2001.

<sup>7</sup> M. Ottou, in “Conférence panafricaine sur le statut du musicien”, *La Nouvelle Vision*, No. 9, 2001.

Because the performance and recording industries are highly technology dependent, they are extremely vulnerable to the degree of regulation and openness of the economy. Where strong import regulations exist, the availability of imported music instruments, public address equipment, recording and reproduction equipment is generally limited. Historically, this has tended to limit the growth of the industry in most countries of the region. However, recent trade liberalization processes have facilitated the acquisition of the “tools of the trade”. In Zambia, this is the primary factor, which is enabling the birth of the recording industry. In Zimbabwe, where severe foreign exchange regulations have recently been set up, recording industry actors and musicians alike are already deploring the difficulty of importing music equipment.<sup>8</sup> Even in South Africa, which is relatively more developed economically to its neighbours in the region, the changes to the exchange rate of the rand against the US dollar have limited the availability of imported sheet music. The ability of music industry actors, from musicians to record labels, to import music and recording equipment may, in the short term, negatively affect some countries’ balance of payments. However, it is critical for facilitating local production of music products for domestic and export consumption, which in the long term can provide a significant boost to the local economies.

Domestic consumption of music products, from radios to tapes and CDs, or live performances, is also influenced by the overall level of development within a particular country. Physical infrastructure levels (from telecommunication and electricity to live venues and retail outlets) impact on the operations of the industry. For example, the frequent power cuts in cities such as Nairobi make setting up a concert, without powerful generators, extremely arduous. Infrastructure throughout the region is often minimal or poorly resourced, although significant efforts are being made in addressing basic services needs.

**Key issue:** Without the availability of basic infrastructure levels, the existence of musical assets cannot be harnessed to generate the emergence of vibrant music industries.

## 1.3 Global trends

A number of significant global trends impact on the prospects for growth of the music industry in the SADC region. These are related to market trends, institutional and organizational dynamics of the industry, technological innovation, trends in music genres, as well as pirating and informal economic activities.

### 1.3.1 *Global players’ perspective on global market trends*

In 2000, IFPI announced that the global recording industry was under severe strain. In 1996, the total wholesale value of the global music industry was US\$39.8 billion and the global music industry grew by 4 per cent in terms of the total volume of unit sales,<sup>9</sup> whereas global sales of recorded music fell by 1.3 per cent in value and 1.2 per cent in units in 2000.<sup>10</sup> North America was said to have experienced the most severe decline,

<sup>8</sup> V. Kapepa, M. Kabuki, “TNT” and J. Hozheri: interviews Aug. 2001.

<sup>9</sup> *The Economist*, 17 May 1997.

<sup>10</sup> <http://www.ifpi.org>

offsetting improved album sales worldwide and strong market performance in several European countries.

In 2000, IFPI estimated the value of the global music market at US\$36.9 billion, with total unit sales of 3.5 billion. Global sales of CD albums grew by 2.5 per cent to 2.5 billion units, whilst sales of singles and cassettes fell by 14.3 per cent and 9.4 per cent respectively. Currently, cassettes dominate many of the developing markets, although the overall global level was down by 11 per cent in 1998, to 1.2 billion units.

**Key issue:** Globally, the music industry is experiencing a serious strain, both in terms of unit sales and turnover.

### Statistical sources: Accuracy and availability

Those involved in the music industry from the SADC region are not actively represented in IFPI, except for the global majors and the independent record labels from South Africa. This situation results in two related outcomes. First, there are no statistical sources in regarding the recording industry for the region as a whole, and only in specific cases for individual countries. Second, the information released by IFPI might paint an erroneous picture of the actual size, composition and dynamics of the recording industry globally, and in the SADC region, by representing South Africa as the only SADC country with a recording industry. The figures presented in the following sections should, therefore, be seen to represent a partial reality, in terms of the performance of the industry in the region and in respect of South Africa's actual contribution to the global recording industry.

Figures may misrepresent the true economic value generated by the music industry in other developing markets. Based on its membership profile, IFPI posited that in 2000, "84 per cent of the recording industry's value is located in three regions – North America, Europe and Japan".<sup>11</sup> *The Indian Times*, on the other hand, stated in early 2001 that the Indian market has emerged as the second largest music market after the US, fetching values of US\$5 billion.<sup>12</sup> The publication attributed this situation to the crucial role which music plays in local film production. It is indeed very likely that the role of the music industry in supporting the multi-billion dollar Indian film industry contributes to making the former a large money generator. However, by focusing on the wholesale figures for distribution of recorded music of its members, IFPI's statistics can only be approached as a partial and perhaps skewed representation of the actual value of the global industry.

**Key issue:** There is a critical lack of qualitative and/or quantitative information about the condition of the music industry across the different countries of the SADC region and within each country.

According to IFPI's figures, the African music market is the world's smallest regional market, worth only US\$207 million in 1998 and representing a mere 0.6 per cent of total global sales. The organization also noted, however, that over the 1990s unit sales for the SADC region had grown by an annual average of 5 per cent, and real value at 1 per cent. This improved performance was attributed to growth in the South African market that represents 94 per cent of sales in the region. The South African market grew steadily throughout the 1990s, increasing in volume from 12 million units to 21 million between 1992 and 1996. However, this growth was short-lived, with a 12.4 per cent drop in annual

<sup>11</sup> [www.ifpi.org](http://www.ifpi.org)

<sup>12</sup> *The Indian Times*, 1 Jan. 2001.

sales value and a 16 per cent decline in annual unit sales in 2000.<sup>13</sup> One reason most interviewees cited for the downturn in profit and turnover is the country's current economic strain, which is affecting purchasing power. Similarly, in Zimbabwe, severe economic crisis and exponential inflation is undermining advances made over the past two decades by the local music industry, by shutting tight the purses of music product consumers.<sup>14</sup> In South Africa, in the 1990s, the importance of the CD increased, with CD sales representing almost 65 per cent of all albums sold. This is in sharp contrast to the other African countries, where CD sales are only a small proportion of the market.

Excluding South Africa, local repertoire dominates the region, with an average 65 per cent of consumption of domestic music. In South Africa, the international repertoire accounts for over 75 per cent of sales, although the share of the local repertoire is growing. In fact, over the last three years, local music genres, such as kwaito and Afrikaans pop have dominated the charts, capturing more than 80 per cent of the best-selling albums' market share.<sup>15</sup> One of the possible causes for this trend – aside from a rise in popularity of local music genres – is that the retail cost of local repertoire products tends to be lower than that of music products developed in South Africa under licence from the global majors. For example, the retail cost of a Brenda Fassie CD will fetch between US\$8 to 10, whereas a Michael Jackson CD will range from US\$12 to 15. What this suggests, in turn, is that more affordable local products can potentially attract a greater share of the market than international products.

While album sales in Africa are lower than in parts of the world where both infrastructure and income levels are higher, it should be borne in mind that the recording industry is young in most African countries. This implies that its means of production, circulation and distribution are in their infancy, and that it has not yet reached its full potential in terms of per capita sales. For example, in Zimbabwe, record sales of 100,000 units per album were never heard of until the early 1990s, when significant investment was made to enhance production, circulation and distribution by Zimbabwe's major record labels.<sup>16</sup> Similar experience – albeit on a more limited scale – has emerged in Malawi, United Republic of Tanzania and Zambia.

**Key issue:** The African and SADC markets are small because they have not realized their potential for development. This is in contrast to other markets, which are well established, and nearing saturation.

### **1.3.2 Institutional and organizational dynamics**

The wave of corporate agglomerations throughout much of the secondary and tertiary economic sectors globally in recent years also affected the music industry. Recording majors, such as EMI, Sony and Vivendi-Universal established themselves as global actors by purchasing local labels and acquiring subsidiaries active in the different segments of the music industry value chain.<sup>17</sup> Typically, the recording industry production process is composed of three phases – manufacture, from the recording of a master and the pressing

<sup>13</sup> U. Lebuso. "SA artists sing their own tune despite world slump", *Sunday Times*, 2 Sept. 2001.

<sup>14</sup> A. Wilson, interview Aug. 2001.

<sup>15</sup> U. Lebuso, op. cit.

<sup>16</sup> D. Metcalfe, M. Sibanda and A. Wilson, interviews May–Aug. 2001.

<sup>17</sup> G. Hardie, interview June 2001; see also <http://www.risa.org>; <http://www.gallo.co.za>



of multiple copies, distribution and retail. Global majors own a significant proportion of facilities and actors comprised in each phase. For example, EMI has a practice of, as far as possible owning production facilities in any territory that it is based in. This gives EMI the capacity to produce a reported 3 million compact discs daily.<sup>18</sup>

The global recording industry is dominated by five multinationals that have subsidiaries in the majority of the world's major music markets. Of these companies, four – BMG, EMI, Vivendi-Universal and Sony – are present in only one country in the region – South Africa. The music industry is one of the world's most thoroughly globalized industries. This characteristic is partially captured by the pronouncements of some of the world's largest music companies, for example: "Think globally – act locally" (Sony).<sup>19</sup>

**Box 1.3**  
**Mergers and agglomeration<sup>20</sup>**

The purpose of the merger between EMI and Time Warner was to make them number one in the global market position. The idea of a strategic merger was timely – right in the middle of the music breakthrough into the Internet. A Deutsche Bank report on the merger states that "the deal should accelerate Internet initiatives in the music industry in terms of developing digital downloading technology standards and copyright protection." The merger also made sense because the companies are diversifying their risk. The replacement cycle of CDs for LPs and cassettes in the early 1990s represents the last and highest historical revenue growth rate of 8 per cent. With the end of this replacement cycle, the music industry has been in a lull and, as a result, the music majors have been competing for market share. By merging, EMI and Time Warner would diversify their risk of losing or gaining in such a volatile market. The merger would provide vertical integration in what could be a key e-commerce consumer product – where music can be exploited through AOL's 22 million-customer franchise base. The merging of EMI/Warner did not take place finally due to a veto from the European Commission (DG-Anti-Trust).

**Key issue:** Internationally, the music industry is increasingly controlled through global oligopoly.

To a large extent, the agglomeration process is mitigated by a process of fragmentation and specialization of small independent companies, securing niche-markets for musical genres, or focusing on providing specific services in production, circulation and distribution of music products and processes.

In the SADC region, one of the key features of the independents' institutional profile is that, because the industry is young and relatively undeveloped, the different functions performed in the course of production, circulation and distribution tend to be undertaken by a relatively low number of actors. For example, Zambia's Digital Network Solutions or Mondo Music both have their own recording studios, both undertake the production process and have to circulate their repertoire themselves to retail outlets or other delivery mechanisms. This is in contrast to practices in areas where the industry is well established and where a high level of industry specialization exists.

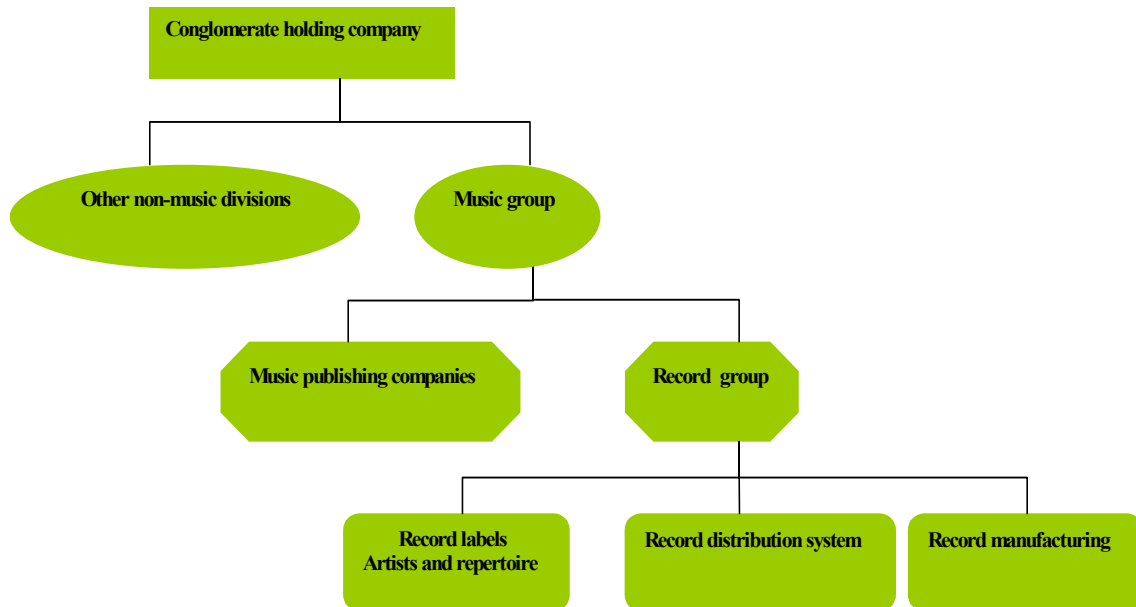
**Key issue:** The wave of agglomeration of global music industry actors is also giving rise to the establishment of small and specialized independents.

<sup>18</sup> DACST. 1998. *Industry Strategy for Music*, one of four studies for the Cultural Industries Growth Strategies.

<sup>19</sup> R. Burnett, in DACST, op. cit.

<sup>20</sup> <http://www.soc.duke.edu>

**Figure 1.1 Industry supply chain**



The agglomeration of the majors and the niche-market specialization of the independents have been enhanced by the emergence of new technologies. For example, the electronic media is proving to be a remarkable opportunity for the distribution of recorded music at relatively minimal costs. It is also enabling music genres to reach a global market. Further, information technology has facilitated and enhanced the affordability of the production of music, bypassing the need for complex recording studios and production plants.<sup>21</sup> In the region, some artists are even taking the lead in recording, producing and distributing their own music directly.<sup>22</sup> This technology comes at a price, however. While it has enabled the mushrooming of small independent recording and production activities in the region over the past five years, few are currently able to acquire it.

**Key issue:** Technological changes can revolutionize the nature, scale and performance of the music industry globally but technology requires seed capital.

### **1.3.3 Growth of World Music across cultural divides**

The third global trend is the emergence of an amorphous music genre loosely labelled “World Music”, in which regionally developed music is finding a niche. In developed countries’ retail outlets, music from the continent is often slotted into this niche. World Music is not traditional music, but fuses local tradition with exogenous influences. Artists from the region that are considered world musicians include Remmy Ongala of the United Republic of Tanzania, Orchestra Marrabenta Star de Moçambique, Kende Bongo Man of the Democratic Republic of the Congo and Oliver Mutukudzi of Zimbabwe. With the rise to fame of such artists internationally, interest is also generated in other local products and music genres, which further enhances production in the artists’ country of origin.

<sup>21</sup> H. Forbes, interview June 2001.

<sup>22</sup> C. Moyama, interview Aug. 2001.

**Box 1.4**  
**WOMAD, a celebration of World Music**<sup>23</sup>

WOMAD stands for World of Music, Arts and Dance, expressing the central aim of the WOMAD festival – to bring together and to celebrate many forms of music, arts and dance drawn from countries and cultures all over the world. The first WOMAD festival was held in 1982. The festivals have allowed many different audiences to gain an insight into cultures other than their own through the enjoyment of music. As an organization, WOMAD operates through festivals, performance events, through *recorded releases* and through *educational projects*. Since the first festival, WOMAD has presented more than 90 *events* in 20 different countries.

Importantly, this trend reveals that local music originating from parts of the world as culturally diverse as Latin America, Africa and Asia are marketable across cultural divides. Unfortunately, for these music genres to be recorded, produced, circulated and distributed in the richest and most active markets (i.e. Western Europe, Japan and North America) the involvement of foreign actors is often a prerequisite. Whereas a particular local musician may be recorded and produced by a local company, the intermediary of actors such as Lusafrika, Melt 2000, BMG, EMI or AOL Time Warner becomes necessary for the artist to be distributed internationally. The outcome of this situation is that much of the commercial value generated in the process of circulating and distributing local music products internationally risks being lost to the local actors.

**Key issue:** World Music is an important niche market for music actors and stakeholders in the SADC region but much of the commercial value generated in the process of circulating and distributing local music products internationally is lost to the local actors.

### **1.3.4 Music piracy and parallel economies**

The fourth global trend is the remarkable growth of music piracy, facilitated in part by technological advances. It has spurred a collective response of organized global industry actors in fighting against pirate activities. The IFPI estimates that, globally CD piracy is worth US\$4.5 billion per year. It identified that one root cause of the problem is the massive over-capacity of CD manufacturing plants. The total global manufacturing capacity of plants is estimated at nearly double the legitimate demand. Cassette piracy is highly active in the developing world.

**Box 1.5**  
**Impact of piracy on a developing country's recording industry**<sup>24</sup>

Mexico City, 17 May, 2001 – Mexican artists and record companies have developed a US\$666 million music business that ranks eighth in the world, but the industry's future is now under threat because of soaring levels of music piracy.

Of an estimated 181 million recordings sold in Mexico last year, three in every five was a pirate copy. With a piracy rate of more than 63 per cent of the total market, piracy is costing the legitimate industry estimated losses of US\$300 million annually. A massive increase in illegal sales of CDs led to an 8 per cent fall in the legitimate music market last year and a further estimated 4.7 per cent slump in the first quarter of 2001.

**Key issue:** Piracy is a global phenomenon which impacts directly on the performance of the music industry by undermining value generation for all those who invest in the development of music products, from musicians and composers to recording studios owners, sound engineers, record labels, to distribution and delivery actors.

<sup>23</sup> <http://www.womad.co.uk>

<sup>24</sup> <http://www.ifpi.org>

## **2. The music industry value chain in the SADC region**

### **2.1 Conceptual framework for analysing the music industry**

The following section provides a brief overview of the manner in which the music industry can be a value chain analysis adapted for the cultural industries.

This methodology was developed to support strategy-making in the cultural industries and comprises five phases, or segments of the chain, where economic value is created and enhanced, including:

- beginnings;
- production;
- circulation;
- delivery mechanisms; and
- audience reception and feedback.

A key assumption in respect of the value chain in the cultural industries is that these industries are able to grow not so much due to the strengths of actors and processes active in a particular segment of the value chain, but rather as a result of:

- highly effective and well-utilized links between its different segments and other industries; and
- the effective communication of information within and between the different segments and their role-players (or “actors”) and between the music industry and allied industries.<sup>25</sup>

The segmentation of the process of generating value in the music industry comprises both the supply of tangible products (i.e. cassettes, CDs, concert tickets, recording and broadcasting of live performances ...) and intangible services (music education, royalties collection, promotion, artist management ...). Both aspects contribute to the growth of the industry in different but often complementary ways and are presented, in this report, in relation to how they contribute to the value chain.

### **2.2 Generic actors**

The music industry comprises of a number of generic actors and stakeholders, who participate in the value chain differently as described below.

- **Originators:** The musicians, composers and songwriters provide the raw material that, once transformed through the processes of recording and marketing, generates the income stream of the music industry.

<sup>25</sup> DACST, 1998.

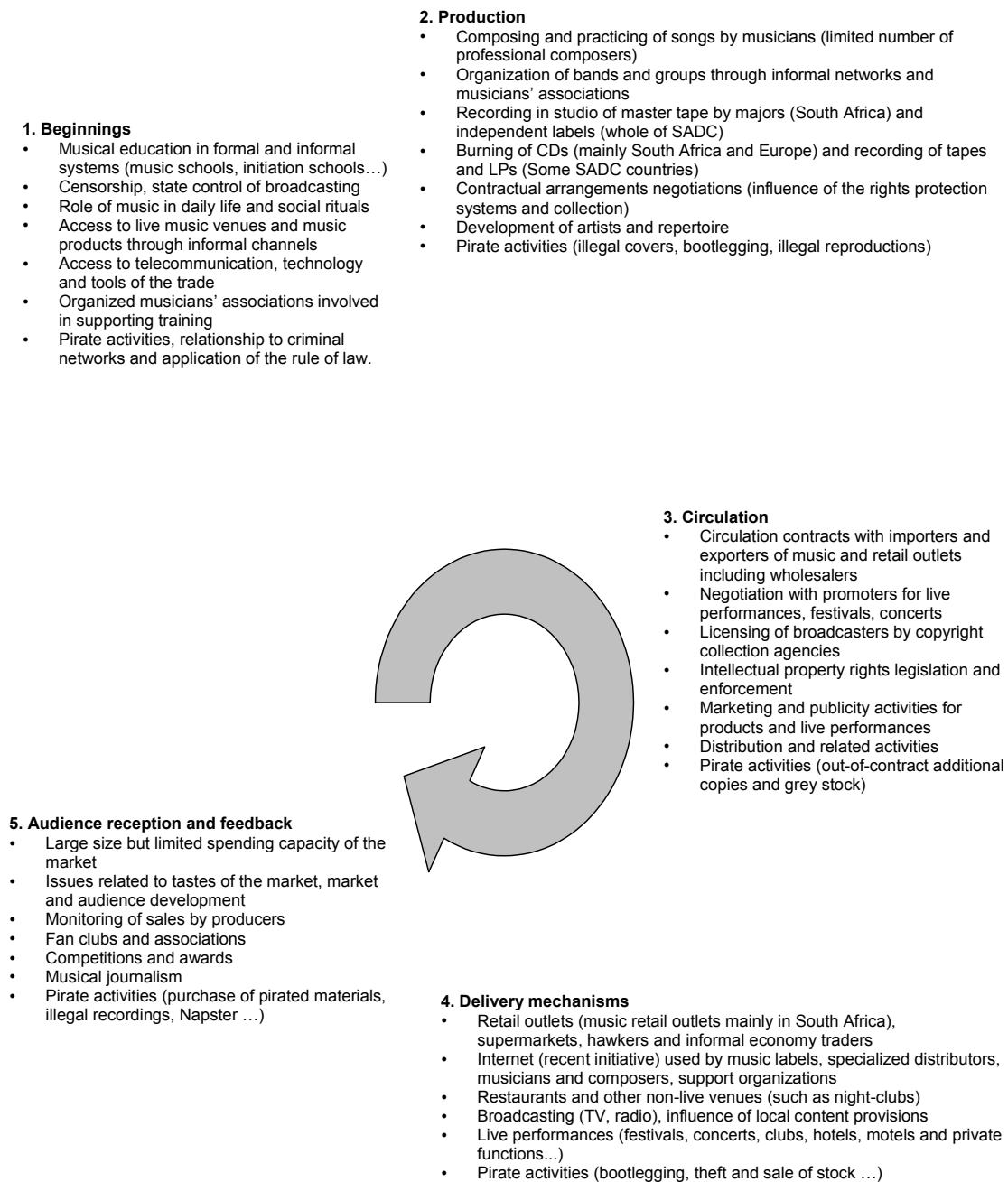
- Agents and managers: Act as an intermediary between the originators and the other actors to generate and negotiate contract opportunities, and to develop the artists and their repertoire.
- Publishers: These actors publish musical works as composed by songwriters and lyricists. To sustain their role in promoting the work of songwriters, by making it accessible to performing artists, they collect royalties known as publishing rights.
- Record companies: Record companies are responsible for sound recordings, the promotion and marketing of recording artists, the development of artists and their repertoire, and ensuring the manufacture and distribution of phonograms.
- Manufacturers: Responsible for the reproduction of phonograms from masters produced by the recording studios. These commonly take the form of tangible products such as cassettes and compact disks.
- Promoters: Negotiate and organize live performances with agents, broadcasters and venue agencies.
- Broadcast, retail and entertainment sectors: These constitute the three sectors through which the product of the music industry reaches the market.
- Intellectual property rights administrators: These agencies operate to protect the range of intellectual property rights (from composing, to publishing, performing and broadcasting rights) and collect licensing fees and royalties from users.<sup>26</sup>

### **2.3 Diagram of the value chain in the music industry in the SADC region**

Figure 2.1 provides a schematic representation of the value chain in the SADC region and is detailed in the following subsections.

<sup>26</sup> Annex 4 summarizes intellectual property, copyright and related rights and the collective management of rights. It also reviews the current status of copyright protection in the SADC countries.

**Figure 2.1 Diagram of the value chain in the music industry in the SADC region**



## 2.4 Beginnings: The first segment of the value chain

### *Music education in informal and formal systems*

Southern Africa is rich in musical traditions and music is mainstreamed into all aspects of daily life.<sup>27</sup> For example, the pivotal role which music plays in society in the

<sup>27</sup> <http://www.archive.ilam.ru.ac.za>

Democratic Republic of the Congo, where every boy is expected to know how to sing and dance, is a critical factor of creation within the chain.<sup>28</sup>

**Box 2.1**

**Music education through initiation processes<sup>29</sup>**

Girls who are initiated into the Lunda People of Zambia perform in a dance called the Chilumwa-lumwa. The dance is mainly performed by women during initiation ceremonies for girls who have become of age. This is the time when the girls are taught about adulthood. Learning the songs that form the backbone of the dance is an important factor in developing music appreciation, establishing a baseline for music education, and fostering a tight bond between music and everyday social rituals.

### ***Role of musicians' associations***

Established musicians are often involved in training and developing the talent of local performers. In Zambia for example, experienced musicians are invited to run musical workshops for local performers. In Swaziland, the Musicians' Association organizes a workshop animated by experts to the attention of musical performers on a yearly basis. In South Africa, music education and music business education is often promoted and undertaken by local musicians. Similarly, some established musicians make use of their international exposure and networks to promote emerging artists or to develop recording infrastructure in their countries of origin.

### ***Role of government***

The role of government in introducing and promoting local cultural development can be critical. For example, former President Mobutu's role in instilling national cultural pride facilitated the development of a national appreciation of local artists and music. Similarly, the introduction of dance and culture groups in Zambian public schools as an extra-curricular activity enabled several young artists to develop musical skills.

The composition of new songs, the creation of lyrics and the development of arrangements take place in this segment of the value chain. In the region, most songs are composed and created by the musicians and performing artists themselves.

In some countries, such as Mozambique, specific attention has been given to developing cultural life, specifically in urban areas. For example, in Maputo, the proliferation of cultural centres has been associated with the emergence of a richly creative milieu. These are developed through government initiatives as in Mozambique, private sector interventions in South Africa, or donor involvement as in Zimbabwe.

<sup>28</sup> Dr. Lema, interview 2001.

<sup>29</sup> Zondali Sakala email: [chinyanja.chanaf@channelafrica.org](mailto:chinyanja.chanaf@channelafrica.org)

**Box 2.2**  
**Lack of formal education in music**

Music education is relatively absent from most school curricula in the region. In Botswana, for example, music education does not form part of the syllabus. Where it is present, it is mostly in the form of music appreciation programmes. A remarkably limited number of music schools exist, and like tertiary education institutions, they tend to focus on musical performance, with little attention to the supporting technological, financial and institutional aspects of the music industry, such as sound engineering, artist management and production management. It is important to note that few successful artists were ever exposed to formal music education. Most professional musicians are unable to read or write musical notation, which is resulting in the following hindrances to the growth of the industry:

- Composers are not able to control the publishing of their music, as they are unable to affix their compositions to paper. This is often done by recording companies' publishing sections, which then lay claim to composing rights.
- Composers cannot easily establish themselves as professionals in their own right, as their trade is not readily marketable.
- Problems are experienced by artists wanting to record their music, as most studios require that music be transcribed to facilitate the recording and music engineering process.

Where they are formally educated, musicians are seldom educated with the skills required to manage their profession. In the words of South African jazz artist, Vusi Khumalo: "in music schools, they teach you to make music, not how to be a musician". While musicians are often expected to treat their skills as a profession, they are seldom equipped with adequate financial and administrative skills to manage their careers. Initiatives launched by the South African Recording Rights Association Limited (SARRAL), and the Midi Trust in South Africa have sought to remedy this situation by training composers and musicians in areas such as music literacy, rights protection and contract negotiation.

The availability of support skills for industry growth is also critical. However, in the region, those involved in managing the industry, the leaders of record labels, lawyers, agents and stage managers have not been exposed to music business education. For example, in South Africa, where professional skills are more abundant than in the rest of the region, one interviewee noted that there are currently at most 20 lawyers who understand the entertainment industry. Of these, few are involved in the music industry and those who are involved work for record companies. As a result, little professional support is available to musicians, particularly regarding the negotiation of contracts for live performances and recording purposes.

**Box 2.3**  
**Musical milieu in Maputo<sup>30</sup>**

Very few African cities boast more cultural centres and associations than Maputo, mostly dating from the Machel Government. Here, the arts are lived; they are part of the daily existence. Life in Maputo is like a permanent festival.

Musicians' associations and organizations can play a major role in supporting the Beginnings segment of the value chain, by providing training and support. For example, the Dorkay House Trust in South Africa was the sole provider of training and management support to black musicians during the apartheid era.<sup>31</sup>

<sup>30</sup> J.N. Ntone, "In Search of the Lost Rhythm"; <http://www.afribeat.co.za>

<sup>31</sup> W. Sabrowzky, interview May 2001.



**Key issue:** Although the SADC region has a wealth of musical talents and assets, few opportunities exist to develop the quality and value of these “raw materials” through training and capacity building.

## 2.5 Production: The second link in the value chain

Production refers to the process whereby a product or service is produced. In the music industry, the production process comprises different activities in respect of the recording industry and the live-performance industry. Both involve the composition, practice and rehearsing of songs, as preliminary steps in the process, which can be referred to as pre-production. However, studio recording and editing are steps associated with the recording process that may not be required in terms of live performance.

In the recording industry subsector, production refers to both the creation of a master in a recording studio and to the mass production of cassettes or CDs in a manufacturing plant.

### **Box 2.4 Quality control and production facilities in South Africa<sup>32</sup>**

One of the greatest strengths of the South African music industry is that it has such a comprehensive structure – from record company to manufacture to retail. There are four multinational subsidiaries, one independent major and approximately 80 small independent record companies.

Manufacture of cassettes and compact disks is done locally with high-quality plants existing in the Gauteng region. Quality control in one of South Africa’s cassette manufacturers is so good that in 1996 the reject rate from consumers was a mere 2 units out of 6 million units produced. In addition to the quality control in the production process, this cassette manufacturer sends cassette samples three times a year to Sony in the UK to have their quality checked against international standards. One of South Africa’s largest CD plants is rated as one of the top 20 CD plants in the world.

To record master tapes, the most accessible resource for musicians in the region is the country’s national broadcaster’s studios. For example Radio RTK in Mozambique, Radio Tanzania Dar es Salaam, and the South African Broadcasting Corporation offer their services to musicians at relatively affordable rates. During the 1980s the only two private recording studio and record labels in Zambia (Teal Records and Malachite Records) were closed because of the severe economic crisis in the country. The only recording opportunity in the country became the national broadcaster’s one-track studio, which emerging artists had to resort to. Since the late 1990s several studios and labels have opened their doors in Lusaka, one of which even boasts a 24-track studio, affording musicians alternative opportunities to record and distribute their music.

In the past five years, a host of small independent studios has emerged in most countries of the region, and this has enabled musicians to make use of local facilities. However, interviewees mentioned quality problems.<sup>33</sup> This results in situations where some musicians still opt to record in Europe or in South Africa. For the receiving country, this market can be fairly lucrative and contributes to supporting the local recording industry.

Until recently, South Africa was the only country in the region where a fully fledged CD burning facility was available. Recently, the Zimbabwe Music Corporation in

<sup>32</sup> DACST, op. cit.

<sup>33</sup> M. Mumkitiwa, D. Metcalfe, T. Langa, W. Yav, interviews May–June 2001.

Zimbabwe and Digital Network in Zambia have acquired similar capacity.<sup>34</sup> Most of the available reproduction facilities are still cassette-based, although in Zambia there is also a vinyl pressing plant. This situation is not only influenced by the availability of infrastructure and equipment, but also corresponds to the means available for the local market to use the products delivered. In the region, few households have the means to purchase tape players, let alone CD players and the cost of a cassette is also more affordable than that of a CD.

#### Box 2.5

##### Radio Tanzania recordings – An opportunity and a piracy risk<sup>35</sup>

The United Republic of Tanzania has virtually no recording industry, save for the continued activities of Radio Tanzania Dar es Salaam (RTD), over the last 25 years. Once or twice a year, bands come to its one-track studio for a session, recording about five songs at a time. This enables both parties involved in the process to benefit; on the one hand the broadcaster accesses music cheaply, whilst the bands are then able to benefit from the publicity that the broadcasts provide for their live performances. The instance of piracy in the region has soured this relationship. For example, RTD recordings are often pirated and released in neighbouring countries such as Kenya. As a matter of fact almost all releases featuring Tanzanian bands in the last ten to 15 years have used tapes stolen or illegally copied from the library of RTD, without the permission of the bands or any remuneration accruing to the band. Some support associations, often Internet based, have begun distributing dance band music.

**Key issue:** In the past five years, numerous entrepreneurs in the region have begun acquiring equipment to produce music products enabling the capitalization of musical assets into nascent industries.

Given the fragmented nature of the music industry, production occurs in a number of sites and forms. Recording and production take place in the SADC region in four main formats:

- *The production and distribution of international repertoire under licence from the global majors.* These are primarily located in South Africa.
- *The production of local goods for local and trans-regional consumption.* These processes are spread across the region. The manner in which different actors are involved in the production networks for specific product is largely influenced by factors such as musical genres (the growth of Kwaito in Botswana and Zimbabwe), institutional systems (i.e. the collection system), technological infrastructure (i.e. the availability and quality of recording studios) and socio-linguistic factors. Although the global majors are involved in the production of local content, the market tends to be primarily represented by independent production companies and record labels active in the region.
- *The production of local products for international consumption.* This aspect is driven through local actors, but often requires the involvement of other actors outside the region, such as international record companies, primarily those based in France, the United Kingdom and Germany.
- *The pirate production and distribution process.* This aspect of the production process covers only partially the production aspects, as it can only truly begin once a sound has been produced and/or distributed, although it may take advantage of live performances to record sound previously unrecorded. This network is extremely

<sup>34</sup> R. Sombe, Jr., J. Ngandy, D. Medcalfe, A. Wilson: interviews May–Aug. 2001.

<sup>35</sup> Webber and Wagner, 1996.

significant in most of the African continent, and some of its actors can be linked to international criminal organizations in Asia and the Middle East.<sup>36</sup>

**Key issue:** In South Africa, the development of local production facilities has taken place primarily to support the international industry (i.e. South Africa has been seen as a market). Conversely, in the SADC region, the development of local production facilities is geared to support local consumption of local repertoire and products.

The production aspects of live performance are closely tied to the delivery mechanisms and platform. Delivering music to a live audience requires arranging a live venue and setting up public address and sound engineering systems. Lighting and special effects engineering, as well as event and stage management functions can also be performed to enhance the quality of a live performance. However, these means of production and delivery are not prerequisites for production; for example, many performing artists perform “unplugged” at small venues. This, however, limits the size of their audience, and in turn, their livelihoods.

## **2.6 Circulation: The third segment of the value chain**

The circulation of music products across borders and regions is often contingent on reciprocal licensing and distribution deals signed between record companies in different territories or between record labels and distribution agents.<sup>37</sup>

In established markets, the circulation aspects of the recording industry are highly sophisticated. In countries such as the Democratic Republic of the Congo, the United Republic of Tanzania and Zambia, where the market is primarily performance and/or piracy-driven, the legal circulation networks for recorded music is weak and marketing and publicity rarely happen, although intricate circulation networks have been developed for parallel processes. Circulation involves actors such as music buyers, exporters and importers of international products who are extremely active in Botswana, Mauritius, Zimbabwe and South Africa, and focus on the distribution of imported products often under licence from international companies. Wholesale distributors who sell to hawkers and small retail outlets, such as Reliable and Jumbo Cash and Carry in South Africa, and Portuguese Shopping in Malawi, play a critical role in the circulation process, through informal trading networks.

### **2.6.1 Live performance circulation**

In the region, circulation actors include individuals operating as agents to specific artists, to musicians’ association active in placing musicians and negotiating with venues, to parastatal organizations in the United Republic of Tanzania, for example, and to major international conglomerates bringing a specific artist or event to perform in a set of venues. The role of promoters can be both extremely lucrative and risky. One reason this activity can be risky is linked to a lack of professionalism: of artists (who sometimes whimsically fail to honour their contracts) and/or of promoters (who do not secure sufficiently formal agreements from artists or miscalculate the costs of production of live events).

On the other hand, promotion can also involve significant profit-making, where promoters contract musicians to perform for an unlimited number of performances in a

<sup>36</sup> Hoiijer, R., interview July 2001.

<sup>37</sup> DACST, op. cit.

given country and then resell performance rights to smaller local promoters. For example, in Belgium, a host country for Congolese music, a promoter can pay a band up to US\$20,000 to tour for a month, host a major concert to recoup the initial investment (and more), then sell-out the band to other promoters for smaller events.

**Key issue:** Circulation in the recording and performance subsectors is largely informal and undeveloped and suffers from a lack of professionalism.

## 2.7 Delivery mechanisms: The fourth segment of the value chain

A multiplicity of delivery mechanisms exists. Delivery mechanisms are those structures that make music available to the market, thereby laying the foundations for returns on investment. The delivery mechanisms range from retail, broadcast and live music. The retail component comprises intermediaries between the record companies and the retail outlets. Including:

- *Formal retail outlets.* Specialized music retail outlets are rare in the region. In South Africa, three chains operate currently: Musica; the Compact Disc Warehouse; and Look and Listen. In Zimbabwe, Express Toll is the only music retail outlet and is only present in Bulawayo and Harare. In Zambia, Sound Investments is the market leader in the retail of music, although most music products are retailed through supermarkets, petrol stations shops and through informal vendors.<sup>38</sup> In most of the region, the purchase of delivery of music in formal retail outlets takes place in supermarkets, as in Namibia, or clothing stores, as in Zimbabwe.
- *Informal retail networks.* These networks are extremely significant in terms of the role that they play in bringing legal products to consumers, and represent a large proportion of the total sales of a particular product (from 25 per cent in South Africa to 99 per cent in Malawi). Informal traders retail music products at a more affordable cost than formal retailers, and distribute products in parts of the region that are not serviced by formal retail. However, they often obtain their music products via the intermediary of pirate producers, and as the nature of their operations takes place beyond the ambit of the formal and controlled economic sector, they are a key distributor of pirated products. In parts of the region where intellectual property legislation and enforcement are lacking, the distribution of pirated products takes place in direct competition with the legal distribution process.
- *Internet distribution networks active in promoting and exposing artists to new markets.* These are sometimes directly linked to the production segment of the value chain and bypass the circulation aspects, for example where a record label posts albums on their web sites. Some composers and artists are also using the Internet as a means to promote and market themselves directly to the public without having to go through an intermediary.

<sup>38</sup> C. Folotyia, interview Aug. 2001.

### Box 2.6

#### An example of good practice in Zimbabwe: Fighting piracy through right-pricing and regulating the distribution network

In Zimbabwe piracy has historically been a problem facing local producers. Over the last two years, recording industry actors initiated a process to regulate the distribution of music by informal traders – who are key in delivering musical products to the market. The initiative is twofold and involves the issuing of permits to informal economy traders to control trade and enabling licensed traders to purchase tapes at the reduced wholesale price of US\$2. Producers such as the Zimbabwe Music Corporation, hold “hawkers’ days” for this purpose. The price of the legally acquired music together with the policing of informal trading places to ensure that traders are licensed has made the legal route attractive to traders. This has, however, required a change in strategy for recording industry actors, who have had to reduce their profit margins considerably to operate entirely on increasing the scale of turnover. In turn, this has also enabled more diversity in musical consumption and production, which is also enhancing access of musicians to the recording market.

What makes this approach a “good practice” are the strategic decisions taken to:

- Develop cooperation between actors;
- Formulate operational strategies that are embedded within the local economic framework conditions (informality and low-income market); and
- Target interventions to leverage outcomes that address more than one issue affecting the industry (i.e. fighting piracy and increasing production).

Source: Debbie Metcalfe, CEO, Frontline Promotions Private Ltd., Zimbabwe.

**Key issue:** The role of formal actors in enabling the informal distribution and delivery systems (through which most music products are delivered), within the ambit of the legal system (as in Zimbabwe) is critical.

### 2.7.1 Live performance delivery mechanisms

Live performances are a key contributor to the functioning of the value chain. In South Africa, for example, the local artists most active in the live performance sector also often achieve the highest record sales.<sup>39</sup> In other parts of the region, they are generally the primary means of income generation for artists. Conversely, in parts of the region where opportunities for live performances are few, such as Angola, the promotion of artists and the development of the local music industry are threatened. The profile of each artist and the country and context in which they perform drastically influence their income levels. These range from US\$15,000 for artists such as Yvonne Chacka Chacka, Papa Wemba and Lucky Dube when performing outside of their country of origin, to US\$400 in small local venues and night-clubs, to US\$200 for local stars performing in private functions, or to a percentage proportion of gate takings. Finally, live performances provide an opportunity for bootleggers associated with pirate networks to record, produce and distribute materials illegally.<sup>40</sup>

<sup>39</sup> R. Katz, D. Forbes, C. Folotyia, interviews May–Aug. 2001.

<sup>40</sup> W. Zabrowsky, interview Apr. 2001.

### Box 2.7

#### The paucity of live performance opportunities stifles livelihoods and music industry development in Angola<sup>41</sup>

There are many nightclubs in Luanda, and numerous possible concert venues. Recently, although a number of new clubs have opened up, the gigging situation has stagnated. This war-ravaged city is bereft of live music because it has no infrastructure or support and hence no development of new acts. The stars are based in Europe, visiting Angola occasionally to perform. Radio and television offer little support – the emphasis is on American content in music programmes on TV, and the big commercial radio stations such as FM Stereo stick almost exclusively to American hit radio.

**Key issue:** The live performance subsector has a key role to play in supporting the performance of the recording industry sector and in providing livelihood opportunities for musicians. Yet, in the region, it is largely under-regulated in terms of contractual arrangements and the protection of intellectual property, and also lacks organizational capacity.

A growing component in the live performance sector of the industry has been the emergence of numerous music festivals across the region, in particular in South Africa, which now counts more than 20 different festivals, ranging in styles from jazz to rock, kwaito and classical music. These festivals are generally as important for creating performance opportunities for artists as they are for providing a platform to their sponsors who seek to leverage specific brands or products. In the region, national breweries are key sponsors of music events.

### Box 2.8

#### Encouraging local performers: Music festivals are a growing industry

The Splashy Fen success story demonstrates how the entrepreneurial spirit can foster live music audience development. "Let's have a music festival," said Peter Ferraz, a trout farm owner and former journalist, to his friend, Bart Fokkens, a former forester who was in the process of setting up a computer rental company in Durban. The date was early 1990. Several months later, the first Splashy Fen festival was held over two days. It attracted about 1,200 enthusiasts who camped on Ferraz's farm to listen to local artists. Infrastructure was rudimentary – a makeshift stage, a tractor-powered generator and a few portable toilets. From humble beginnings, the Splashy Fen festival has snowballed into a major event on the South African music calendar. The 1998 event was held over four days and attracted 10,000 people.

The festival is held on the farm Splashy Fen, which is situated 19 kilometres from Underberg in the Southern Drakensberg Mountains. The focus of the music in the early years was folk and light folk rock, as well as music styles such as mbaqanga and isicathamiya.

Only genuine original music is played at Splashy Fen, and this has played a part in creating a fusion of styles and cultures and a feeling of shared co-existence between previously disparate artists.

The running of song and performance contests, such as the Shell Road to Fame in South Africa, the Malawi Gin Song Contest in Malawi and Radio RTK Competition in Mozambique have played an important role in fostering exposure of new talent.<sup>42</sup>

## 2.7.2 Broadcasting

Across the region, the number of radio stations and television stations vary although airways have been opened up in countries where political transformation has occurred. Box 2.9 encapsulates the influence of the current broadcasting system.

<sup>41</sup> Iain Harris, [www.afribeat.co.za](http://www.afribeat.co.za)

<sup>42</sup> B. Kwilimbe, T. Langa, interviews June 2001.

**Key issue:** Festivals and music competitions present an important opportunity for attracting private and public sector funding to the music industry. They also have a key role to play in the development of new artists.

### Box 2.9

#### Broadcasters – Makers and breakers in the music industry

The broadcasting system has an important role to play in fostering the local music industry. From commissioning jingles to using tracks as theme songs for local television productions, public and private broadcasters can contribute to the livelihood of musicians and composers. In South Africa, because local television production is relatively important compared to the rest of the region, commissions can be an important source of income. South African musician and composer Vusi Khumalo explained that his largest source of income is derived from the soundtrack he produced for a local sitcom – “Backstage”. Increasingly however, local broadcasters are forcing composers to sell-out their rights on commissioned works.

In some countries, local content provisions have been set up in legislation and policy. In South Africa this amounts to 20 per cent of broadcasting. Local content is often credited with fostering the local music industry. However, measures to enforce these provisions are often lacking. This is particularly the case where institutional capacity is weak. Further, the extent to which broadcasters are able to play local music and still maintain a high number of auditors – thereby satisfying their sponsors – is largely dependent on the quality and the existence of a fairly wide local repertoire. In Zambia, former President Kaunda’s 90 per cent local content requirements in the 1980s never really materialized, because of the limited scale of the local repertoire, together with a strong penchant of Zambian listeners for Congolese Rumba. As a result, the national broadcaster – directly under state control – had to bypass these quotas. In addition, the practice of payola, where DJs are paid by record labels to play particular songs is alleged to be widespread. This skews the broadcasting content in favour of those recording labels that have most financial capacity.

**Key issue:** The policy framework on broadcasting, the number of broadcasters in a given country, and the extent to which local broadcasters support local music production and delivery has a strong impact on the local music industry.

## 2.8 Audience reception and feedback: The fifth segment of the value chain

Audience reception and feedback allow for the reformulation of investment strategies on the basis of audience responses. The nature and scale of the market also influence audience reception. Here, intangible factors, such as the existence of a culture of live-performance attendance or localized musical tastes, interact with tangible factors such as income levels and are critical in determining how investment decisions are made. For example, they may determine what level of investment should go into production by considering the costs of production in relation to the spending capacity of the market, and the desirability of adapting specific musical genres to the tastes of the market.<sup>43</sup> Such processes include chart shows and awards, music journalism, and the tracking of record sales.

Record sales are monitored by recording companies in terms of artists, not in terms of where a sale has taken place in the region. Similarly, collection agencies tend not to differentiate between specific countries in monitoring royalties and licence rights payments.<sup>44</sup> When albums and singles are introduced into a country by importers and wholesalers, it cuts out an important opportunity for artists to receive feedback. Numerous artists from the region and labels are thus focusing on adapting their styles for international

<sup>43</sup> D. Forbes, interview June 2001.

<sup>44</sup> G. Hardie, interview May 2001.

consumption, in particular with the growing wave of World Music popularity. Similarly, record labels, such as Sheer Sound in South Africa, are specifically targeting the emerging black middle-class.

Key issue: Mechanisms for supporting audience reception and feedback in the region are extremely under-developed which means that actors in the industry lack valuable information on which to base investment decisions.

Overall, the market has tended to define the nature of the supply process, except for South Africa whose market is highly biased in favour of international music (Western rock and pop, rap and R&B).<sup>45</sup>

### **2.8.1 The global recording industry-driven import market**

The global record industry-driven import market is primarily active in South Africa (the only SADC country where global majors are represented and legal sales are recorded). The active import market actors are large multinational companies, who package international products for local consumption. This market represents close to 75 per cent of the total turnover of the South African market, which itself represents 98 per cent of the total African market.<sup>46</sup> This may suggest (if one considers the music industry in terms of legal sales of recorded products alone) that this market and its actors dominate the music sector in the region – a false assumption. Music buyers import legal products into most SADC countries, although products are not monitored and seldom quantified, in particular in countries such as Botswana and Namibia. Significantly greater production and distribution of international artists and product takes place through the intermediary of pirate networks.

Key issue: South Africa is the only country in the region where the global majors are present, which means that in other parts of the region, international products are distributed through importation or via the pirate network.

### **2.8.2 The international consumption market for SADC products**

The international consumption market of local products is a specialized, niche sector. In general, no specific music genres are developed and produced for this market. South African jazz has been heavily influenced by its northern American counterpart, Congolese Rumba and the Afropop and Afrojazz developed in the Lusophone countries, by artists such as Angola's Waldemar Bastos, and Congo's J.B. Mwenda. Artists like Werason or Lucky Dube have sold over 5 million albums in countries as varied as Australia, France and Sweden; considerably more sales than they could hope to achieve in their countries of origin.

<sup>45</sup> V. Khumalo, D. Mashaba, R. Katz, D. Dyson, interviews May 2001.

<sup>46</sup> <http://www.ifpi.org>



### Box 2.10

#### Artists developing a sense of the market: Papa Wemba, an artist of two musical worlds<sup>47</sup>

Papa Wemba's singing style is reminiscent of his traditional and rural beginnings in Kassa and of his mother, who sang traditional mourning songs. Papa Wemba began his career in the rough and tumble world of downtown Kinshasa, where he received musical training of the highest order in Kinshasa, with legends such as Tabu Ley Seignieur Rochereau and Jean Bosco Mwenda.

As part of this movement, Wemba was a founding member of Zaiko Langa Langa who shook the older gentler "Afro-rumba" of the 1950s and 1960s to arrive at a meaner, leaner, heavier version known as 'soukous' which has since become the dominant pop sound in Africa.

Wemba moved to Paris in the mid-1980s and proceeded to live two parallel lives, one as a world music star releasing slickly produced records for Western audiences and another as the frontman of Wenge Musica pumping out raw soukous for African audiences.

Key issue: Although this market represents a significant opportunity for artists and composers, most local recording industry actors have yet to take greater advantage of this potential export market, currently dominated by specialized record labels located primarily in Europe.

Specific artists have developed styles that slot them into the loosely defined World Music genre. Originally, these artists may have targeted their products at local or trans-regional markets. Reaching international markets may be highly dependent on factors such as international migration of the local market, due to political and economic hardship in specific countries. In fact, this has been a key factor in building not only a market for African music in Belgium, France and the United Kingdom but also a recording industry entirely dedicated to this type of music in those countries. The key recording industry actors in these markets are generally located in France, Germany and the United Kingdom.

### 2.8.3 The trans-regional market

The trans-regional market is shaped by factors such as ethno-linguistic linkages, geographical proximity and trans-regional migration patterns and facilitate the cross-pollination of music genres. Examples of musicians who are consumed regionally are Yvonne Chaka Chaka – otherwise known as the Princess of Africa, Bonga Kwenda of Angola and Thomas Mapfumo of Zimbabwe. Linguistic linkages are also critical in shaping the involvement and the location of actors in the value chain. For example, Mozambican and Angolan artists have strong linkages with their Latin American counterparts, especially in Cuba and Brazil.

Exposure to broadcasts from neighbouring countries, for example, those parts of Zambia that border the Democratic Republic of the Congo, popularizes certain genres of music and enables musicians to tour in these countries, often via pirate operators. The latter's economic interests do not always favour artists who, fearing piracy and aware of the poor performance of local collection systems, frequently seek to release their work in South Africa, rather than in their country of origin.

The role of live performance is also critical in promoting the exposure of artists to new markets across the region. As they are generally remunerated up front, often in hard currency, this market is more profitable for artists in the region than those of their respective countries of origin. Artists from the region frequently tour neighbouring

<sup>47</sup> Real World Records (2000).

countries as a means of generating revenue, which they can use to sponsor their own recording and even production costs.<sup>48</sup>

**Key issue:** Regional trade in legal music products is extremely undeveloped. As a result the main opportunity for consumers to access such products is through informal or pirate networks.

#### **2.8.4 Local production for local consumption**

The local production for local consumption exists in each country of the subregion. Typically, local artists use local compositions that may be heavily inspired by regional and international musical genres, but are directly targeted at the local market. In the past five years, numerous independent companies have emerged.<sup>49</sup> Their involvement may not span the entire scope of activities required to lead to the production of a tangible music product (i.e. a cassette or a CD), but are significant in enabling artists to prepare their work for distribution. This is particularly the case in the Democratic Republic of the Congo where most artists may begin recording but have to take their work to major record labels in France and Belgium. This gives artists access to the major production and distribution companies for African music. Importantly, live performances are critical in the development of artists and enable them to gain sufficient following and financial resources to enter the recording and production realm. A second example is the Mondo Music Corporation,<sup>50</sup> Zambia's leading musical entertainment company. Started by music-lover and entrepreneur Chisha Foloty, it is home to a diverse roster of artists striving for professionalism and production quality. A key contributing factor to the company's success is that its leadership views the industry as a business.

**Key issue:** Local production for local consumption – although only emerging in most countries in the region – is unevenly developed between the different countries in the region. This results in a situation where production of a single product may take place in different countries within and outside the region, which may in turn raise the wholesale and retail price of such a product.

### **2.9 The pirate value chain**

Multinational recording industry organizations actively cooperate to fight piracy by monitoring, negotiating and supporting countries to stem pirate activities. However, as noted earlier, the majors focus mainly on South Africa.<sup>51</sup> Little if any monitoring of piracy activities has taken place: industry figures range from 25 per cent to 90 per cent of sales and broadcasting in the different countries of the region.<sup>52</sup> For example, in early 2001, three pirate operators were arrested and admitted to having sold more than 6,000 tapes of the Zambian Hip Hop stars, Black Muntu, within the first two weeks of the release of the album – a figure substantially higher than that of the legal retail sales achieved within that time-frame. This demonstrates two key characteristics of the pirate network's success: it is both affordable and accessible. This competitive advantage should be taken into

<sup>48</sup> V. Kapepa, M. Kabuki, "TNT", M. Sakhala, M. Khumalo, interviews May–Aug. 2001.

<sup>49</sup> T. Langa, B. Kwilimbe, M. Munkhondia, M. Simbungo-Nyapa, M. Mumkitiwa.

<sup>50</sup> <http://www.mondomusic.co.zm>

<sup>51</sup> See <http://www.ifpi.org> and <http://www.risa.org>

<sup>52</sup> R. Hoiijer, interview July 2001.

consideration by formal/legal actors, in formulating their own approaches to dealing with piracy.

It is useful to explore how and where in the different segments of the value chain the pirate activities are initiated to create a secondary chain. In the pirate network, the financial returns do not accrue to those situated in the “formal” chain and permission to use materials and intellectual property has not been granted. Hence, the characteristics of this parallel value chain in the network of pirated music is described below.

### ***In the beginnings segment***

The formal production and distribution sectors are non-existent, unaffordable or inaccessible and the enforcement of intellectual property rights is not effective. The only way consumers access musical products is through informal and pirate networks. This situation generates consumption patterns that function beyond the structure of the mainstream music industry value chain. For example, pirated tapes with hand-written titles are distributed widely in the Democratic Republic of the Congo and in Zambia. In Lusaka, pirated tapes are sold in front of music outlets, at a fraction of the price, with little or no police intervention. Consumers have become accustomed to buying in the pirate market, and results in artists shunning the local recording industry in favour of alternative production, circulation and distribution networks, as they are aware of the devastating impact which piracy may have on their long-term gain in their country of origin.

### ***In the production segment***

A master tape could be sold “informally” to a separate producer who reproduces the tape and passes it on to retailers and distributors. Sometimes artists or their agents participate in this process in cases where contractual arrangements are not perceived to be adequately advantageous for the musician.<sup>53</sup>

A record producer can make copies illegally of distributed materials and distributes them through an informal distribution network. The availability of affordable CD burning and tape copying infrastructure makes this a widespread process. In Malawi, for example, this was a key problem which the copyright protection legislation and mechanisms introduced have sought to resolve.<sup>54</sup>

A recording company could source published materials and recruits artists and musicians to perform cover versions without the permission of the rights holder and distributes the “illegal” products in the formal distribution process.<sup>55</sup>

### ***In the circulation segment***

Stocks of recorded material may be stolen and then re-distributed through formal or informal sector distributors.<sup>56</sup>

<sup>53</sup> W. Zabrowsky, interview Apr. 2001.

<sup>54</sup> M. Munkhondia, interview May 2001.

<sup>55</sup> L. Mashigo, interview May 2001.

<sup>56</sup> D. Forbes, interview June 2001.

Record labels might circulate and distribute material by artists from their repertoire in different countries without informing the artists and by withholding royalty payments.<sup>57</sup>

Stocks of discontinued material may be “deleted” (officially discontinued) from the circulation chain and then re-released through formal and informal retailers.<sup>58</sup>

### ***In the delivery segment***

Live broadcasting and performances can be recorded illegally by pirate operators and then distributed (the latter being a secondary source of income for promoters who organize artists’ live performance and bootleg the performance).<sup>59</sup>

Unauthorized Internet transactions are included in this segment.<sup>60</sup>

The range of pirate activities suggests that sometimes the pirate and the “mainstream” actors may act side by side and cooperate.<sup>61</sup> Such is the prevalence of piracy in the region, that all actors mentioned it as a hindrance to industry growth. This situation attests to the weak institutional structure in the music industry throughout the region and the need to strengthen the individual components of the value chain, as well as the linkages between them in the SADC region. Clear implications for policy arise here, in order to provide the support and the encouragement, including financial and trade policies toward this industry, in order to increase the gains from operating through formalized channels and compliance, rather than evasion of regulations.

**Key issue:** Mainstream industry actors need to consider what practices of the pirate network make pirated goods more advantageous to the consumer, and how they can adapt their own practices to efficiently undermine pirate activities. This approach also means that industry actors need to become familiar with the specific manner in which piracy operates within their own country, market and sector of the industry.

## **2.10 Stakeholder bodies: Low capacity and bargaining power**

Stakeholder bodies in the region are few. They comprise musicians’ associations or unions, as representatives of composers and musicians. They are relatively weak and lack administrative and technical support.

In South Africa, the musicians’ union has been seeking to strengthen musicians’ rights and has been actively promoting the development of legislation and a collection system that acknowledges neighbouring rights. However, its success has been extremely limited, which suggests that its bargaining power tends to be restricted. This situation is symptomatic of the low profile that such institutions hold in the region. Mostly, such organizations reflect the manner in which musicians operate in their trade, with little

<sup>57</sup> M. Sibanda, interview Aug. 2001.

<sup>58</sup> G. Hardie, interview June 2001.

<sup>59</sup> W. Zabrowski, interview Apr. 2001.

<sup>60</sup> KPMG. 2001. The South African Music Industry. KPMG.

<sup>61</sup> W. Yav, J. Ngandy, G. Hardie, G. Atkinson, A. Wilson, C. Folotyia, R. Sombe, Jr.: interviews May–Aug. 2001.

technical and management ability, and little impact on the manner in which the recording industry operates, which highlights the need for capacity building among artists and their representatives as well as their associations.

Other stakeholder bodies in the region include music educators and the institutions they represent. These are seldom organized or structured and lack both financial and administrative capacity. Collection and rights protection organizations are operating in all the countries of the region, but again, their impact is often limited and, in some countries, such as the Democratic Republic of the Congo, they exist mainly in name.

Recording industry stakeholder bodies are only present in South Africa, under the aegis of the Recording Industry of South Africa (RISA), which has primarily provided a platform for formal sector recording companies to cooperate in fighting piracy.<sup>62</sup>

## 2.11 Lack of coordinating bodies

Few coordinating bodies exist in the region. Where they do, they primarily operate at the national, not regional, scale. Non-governmental organizations, such as the MIDI Trust (See box 2.11) tend to focus on training and education, networking and industry development. However, such initiatives are rare.

### Box 2.11

#### The MIDI Trust: An example of good practice in South Africa

The MIDI Trust is a Section 21 company that began operating in October 1996. Since its inception, The Trust has received an annual grant from Peter Stuyvesant for operational costs.

The Trust focuses on:

- Industry Development
- Training and Education
- Information Dissemination
- Networking

The MIDI Trust plays a coordinating role, and is focused on South Africa; not enough funding exists to allow for operating with other countries:

- The MIDI Trust, in partnership with the Department of Arts, Culture, Science & Technology (DACST) and the National Arts Council, host the annual South African Music Week. This event celebrates South African music and strategic partnerships are formed with many industry stakeholders.
- Administering of organizations
- Allowing access to young entrants to make use of office facilities
- Administering of Interim Export Council. The MIDI Trust was mandated by the industry to proceed with this project, at a Conference held during South African Music Week 2000.

The MIDI Trust, in conjunction with Music Africa, publishes an annual music industry directory, the only comprehensive guide to the South African music industry.

**Key issue:** Stakeholder and coordinating bodies are institutionally weak and/or operate within limited and partial frameworks. Some coordinating bodies also lack adequate legitimacy to operate as representatives of the music industry.

<sup>62</sup> <http://www.risa.org.za>

## 2.12 Policy issues

Legislative and policy issues impact on the nature and performance of the value chain in different contexts. First, in most developed countries with an established music industry, significant attention has been given to setting up supportive policy frameworks, which typically entail promoting music and music business education, economic support for the arts and provisions for local content regulations of broadcasting. For example, in Canada, the government has invested approximately \$45 million in the sound recording industry; in return, revenues of over \$230 million have been generated.<sup>63</sup> Second, in such countries, the protection of copyright and the efficient administration of rights legislatively ensure that the intellectual property and investments of all actors in the industry are protected and remunerated. Finally, issues relating to freedom of expression, censorship and control of the media play a role in shaping the different segments of the value chain, by impacting directly on the content of music, its circulation and distribution.

### 2.12.1 Copyright protection and collection systems

The extent to which the rights<sup>64</sup> are effectively monitored and redistributed varies extensively. In some countries, copyright protection agencies exist only in name. Variations also exist in terms of the origins of either the artists or the music products distributed. In the first instance, in the Democratic Republic of the Congo, the law provides that only local musicians can access copyright protection. In Malawi – where local production and consumption is amply copyright-protected – the vast majority of international products, whether from the region or from beyond its borders, are of pirate origin.

Governments in the region have made a significant effort to develop copyright protection legislation.<sup>65</sup> In South Africa, in May 2001, the Department of Trade and Industry published draft amendments to copyright legislation proposing the introduction of a public performance royalty for performers and record labels,<sup>66</sup> which would generate extra revenue to musicians and labels. Broadcasters would pay for this additional revenue every time a particular song is played. In Zambia, the role of the Musicians' Union in lobbying for the passing of copyright protection legislation and its resulting impact on protecting – albeit in limited terms – the recording industry has been noteworthy. UNESCO and the World Intellectual Property Organization have provided important

<sup>63</sup> DACST, op. cit.

<sup>64</sup> Usage rights can be divided into two categories – mechanical usage and performance royalties.

**Mechanical usage** refers to each time that a given recording is used in its original form. Thus mechanical usage rights would be collected each time that a copy is made of a particular musical composition.

**Performance royalties** are collected each time that a composition is used, whether re-interpreted by another musician; used as the backing to an advertising jingle (synchronization); or used in its original form.

**Sound recording royalties** refer to those recordings that are the result of an artist's recording of a particular composition. The record company usually holds these rights. Again, there are two forms of usage rights – mechanical usage and performance royalty.

<sup>65</sup> National copyright offices in the SADC region are provided in Annex 5.

<sup>66</sup> KPMG. 2001. "The South African Music Industry", KPMG.

assistance to governments.<sup>67</sup> Similarly, some copyright organizations, such as SARRAL have set up support systems and cooperation agreements with governments and local organizations to assist in the development of collection agencies. A key challenge here is the need to ensure a fit between the legislation, the rights protection framework and the institutional capacity available locally. For example, whereas the Zimbabwe Copyright Protection Association only accessed computers in the course of 1991, most of their counterparts in the SADC region still manage collection systems manually.<sup>68</sup> Whilst this does not significantly affect licensing agreements for local repertoires, it hinders greatly both the licensing of international repertoires and the protection of mechanical and neighbouring rights.<sup>69</sup>

**Key issue:** While much attention has been given to the development of copyright protection policy and legislation, a lack of consideration of the institutional capacity available to apply, monitor and enforce this legislation and collect copyright payments from users, tends to limit their value and contribution. Each country should be encouraged to develop systems that are mindful of its own institutional capacity limitations, while providing sufficient protection to local and international services and goods.

### 2.12.2 Contractual arrangements

There are currently no guidelines on the nature of the contracts or the manner in which musicians and composers should be remunerated. These vary from 5 per cent to 20 per cent of the retail-selling price depending on the status of the artist, where mechanical rights are protected.<sup>70</sup> In much of the region, where mechanical rights are not protected, remuneration of musicians occurs as a once-off buy-out payment with no claim on royalties. In South Africa, concern was expressed that musicians who compose their own songs are forced into ceding their composing rights to recording companies, in the process of negotiating for the production of an album.<sup>71</sup>

In terms of live performance, remuneration arrangements range from a flat fee to a percentage or even to the whole of gate takings, and possibly some other payment through gifts and tips from the audience, or from “name-dropping”. In the region, a number of hotels, motels and restaurants have resident bands who perform on a regular basis. Often, these arrangements are based on verbal agreements, and on average, musicians’ earnings – although more regular – tend to be lower than earnings that are generated from once-off concerts or performances. The band or group leader often takes responsibility for sourcing new touring or contract opportunities. Arguably, this detracts from the musicians and composers’ focus on artistic creation and practice. It also means that where bandleaders are not equipped with adequate negotiation and organizational skills, this may impact negatively on the band’s overall success.

<sup>67</sup> <http://www.wipo.org>. Of special interest is *Intellectual property for small and medium-sized enterprises*, CD-ROM in English, French and Spanish, <http://www.wipo.int/sme>

<sup>68</sup> D. Metcalfe, interview Aug. 2001.

<sup>69</sup> R. Hoiijer, interview May 2001.

<sup>70</sup> D. Forbes, interview, May 2001.

<sup>71</sup> G. Hardie, V. Khumalo: interview, May 2001.

**Key issue:** Negotiations for contractual arrangements in the sector reveal a lack of professionalism and the inaccessibility of support actors such as lawyers and managers to musicians and composers. This impacts negatively on the conditions of employment of artists in the region.

## 2.13 Making a living

Throughout the region, the majority of the industry is based on contract labour or part-time employment.<sup>72</sup> Musicians and composers constitute the greatest percentage of people working in the music industry. While this work is very rarely full-time, it provides a point of access into the job market and a source of income.<sup>73</sup> Estimates on the number of individuals employed on a full-time basis in the music industry (from musicians to record labels, broadcasting, promotion and collection agencies), range from 1,000 in Malawi to 20,000 in South Africa. In most countries, making a living from music is arduous. In the United Republic of Tanzania, bands have to play for five or six nights a week and up to six hours at a time, a task beyond the capability of a small ensemble. Thus, bands are large, featuring from 20 to 30 musicians. In Mozambique, well-known musicians have to perform in up to three different gigs per night to support themselves. In countries such as Zimbabwe where alternative sources of employment are few, musicians are “professionals” by default, as they are unable to find other sources of income. However, even in this context, some musicians opt to leave the industry in favour of more regular employment opportunities. In countries such as Malawi, where agricultural activity is a key source of household income, most musicians partake in agriculture to support themselves. In Zambia and Malawi however, a number of interviewees noted that recently, with the emergence of the recording industry, making a living from music is possible, as income generation can be achieved from the sale of records. They also explained that as broadcasting relies on recorded music products, they had gained exposure in new parts of the region and countries of origin through recording, which now made it possible for them to perform in other places, and expand their income-generating opportunities.

### Box 2.12

#### Government or parastatal intervention in the United Republic of Tanzania

An example of policy support to the social conditions of artists and stability of the music industry is provided in the United Republic of Tanzania. In the 1970s and 1980s, the organization of some Tanzanian bands, some comprising more than 20 musicians, was taken under the wing of government or parastatal organizations. They owned the instruments used for practice and performance and employed the musicians as waged employees. The musicians complemented this income with a percentage of the gate takings from their live performances. Bands in the scheme included Mlimani Park, Tancut Alimasi, and Vijana Jazz, for example. Tanzanian musicians enjoyed a financial ‘security’ un-matched by any other country in the region. Employee benefits in these organizations included access to housing and health care.

**Key issue:** Although making a living from the music industry is arduous, anecdotal evidence suggests that the birth of the recording industry and the liberalization of the broadcasting system are auspicious in facilitating income generation.

<sup>72</sup> DACST, 1998, op. cit.

<sup>73</sup> *ibid.*



## 2.14 Location

In terms of recording production, urban environments with adequate economic, infrastructure and population thresholds are necessary for the emergence of a viable recording industry. Dense urban areas offer opportunities for industry clustering. This applies both in terms of production facilities and in terms of live venues. For example, in Johannesburg, the majors are almost all located within a 15 km radius.

Wholesale of music products occurs close to the production facilities (i.e. in the cities of the region) retail, and especially informal retail, brings goods to a range of locations – not only the dominant cities and towns. Furthermore, whereas highly urbanized environments are easily controlled in terms of the dissemination of pirated goods, more rural areas offer favourable environments for pirate operators.

Finally, in relation to the “raw material” of the southern African music industry, artists are drawn from all parts of the subregion, from rural to highly urbanized environments. Inevitably, artists who want to access the recording market must locate in areas where recording opportunities exist. This process may prove to be a difficult, costly and daunting task, especially where information about actors and the music industry production processes is nearly non-existent.

**Key issue:** Production of music product is agglomerated in the larger cities of the region, although the “raw materials” and the markets spread across urban and rural areas.

## 2.15 Gender and racial issues

In the region, an overwhelming finding of the research is that most of the production, circulation and delivery functions is performed by males. In addition, in a number of countries in the region, the means of production (studios, cassette and CD manufacturing, retail outlets and independent radio and TV stations) are owned by men. The presence of women in the music industry tends to be limited to composing and performing. Even within the ambit of these roles, women seldom play an instrument, and are clustered in backing vocals or as vocalists. This does not necessarily mean that in terms of income, music stars who are female earn less than their male counterparts, but that overall fewer women who earn a living from the music industry than there are men. Often, white nationals also own these means of production. A number of musicians explained that, in terms of negotiating for recording or performance deals, white managers were more sought-after, as they allegedly command greater respect from the producers and venue-owners than their black counterparts.<sup>74</sup>

**Key issue:** The industry is dominated by male ownership and employment, especially where value is added to music services and goods.

## 2.16 Main characteristics of the music industry in the SADC countries

Table 2.1 specifies the status of both the recording and live performance sectors and points to initiatives and supportive factors that have contributed to the development of the industry in the SADC countries.

<sup>74</sup> M. Sibanda, “TNT”, Papa Victor, P. Salim, “Shane”: interviews, Aug. 2001.

**Table 2.1 Summary overview of main characteristics of the music industry in the SADC region**

Country	Recording industry	Live performance	Supportive initiatives*
Angola	Non-existent	Very limited – extreme paucity of live venues	N/A
Botswana	One label	Limited but some linkages with tourism activities (hotels and lodges)	N/A
Democratic Republic of the Congo	Intricate linkages with European labels, for production and distribution networks High piracy levels	Extremely active, supportive role for other economic sectors (hospitality), high levels of linkages with recording industry Linkages with local, trans-regional and international markets	Historically strong cultural awareness and nation-building drive during the Mobutu period
Lesotho	Non-existent	Some primarily in hotels	N/A
Malawi	Emerging and growing industry but high levels of monopoly in recording, production and distribution	Active and growing	Gin Music Competition New and effective copyright protection and collection system
Mauritius	No local industry, but linkages to Indian and European industry Emerging activities through electronic media	Strong primarily because of tourism industry	Strong government support to the arts and music education
Mozambique	Emerging industry, historical role of the national broadcaster High linkages with European and South African industries for artists seeking production opportunities High levels of piracy	High and competitive and supported by donor-funded centres	Historical role of government and more recently NGO's in promoting cultural activities National broadcaster's role in organizing competitions
Namibia	Strong linkages with the South African industry actors which has tended to undermine the local industry	Active, across musical genres and supported by donor-funded centres	Strong role of NGOs and companies in sponsoring events and festivals
Seychelles	Non-existent	Limited to tourism	N/A
South Africa	Historically active industry, with presence of global majors and growth in the number of independents (playing an important role in scouting new talent)Stagnating sales Some piracy	Fairly active, emergence of music festivals but lack of audience development Numerous venues with high quality equipment	Strong role of the State in developing growth strategy Role of copyright protection and collection agencies in education and capacity building in the region Role of NGO's in music education
Swaziland	N/A save for national broadcaster High levels of piracy	Active in hotels, few venues	N/A, high levels of censorship

<b>Country</b>	<b>Recording industry</b>	<b>Live performance</b>	<b>Supportive initiatives*</b>
United Republic of Tanzania	Emerging studios and labels Important role of the national broadcaster historically High levels of piracy (hub for pirate networks)	Extremely active and organized through large bands	Involvement of World Intellectual Property Organization Historically strong state support and promotion of the arts Organizational capacity provided to some bands Organized activity in Hip-Hop Broadcasters' competition
Zambia	New labels emerging since economic and political liberalization CD & vinyl pressing plant Some piracy	Highly active in motels, hotels	Role of the musicians union in supporting live performance New copyright protection and collection system
Zimbabwe	Historical activity currently experiencing strain because of political situation, but still fairly active and growing through changes in operational strategy or recording actors	Fairly active industry with several festivals, although currently under strain	Strong initiative in operational shift of the music industry to support informal distribution processes, make music more affordable and stamp out piracy New copyright protection and collection legislation and framework Role of NGOs in providing access to tools of the trade Music competitions and festivals

\* In the majority of these countries, the World Intellectual Property Organization has been involved in numerous activities related to the updating of intellectual property systems, human resources development, promotion of creativity and innovation, and information technologies

Note: N/A = not applicable.

### 3. Analysis of key issues and proposals for targeted actions and interventions

#### 3.1 Key issues and dynamics emerging from the research

The following section presents an issue-based assessment of opportunities and impediments to the growth of the music industry in the region.

##### 3.1.1 *Contextual preconditions for the growth of the industry*

###### Access to infrastructure

Access to infrastructure is critical in shaping the creative process. In some countries, access to telephones and communication systems is almost impossible. For example, the limited capacity of the fixed-line telecommunications systems in the Democratic Republic of the Congo during office hours means that the only access to communication is through cellular operators, which is unaffordable to most. Gaining access to international and national music industry actors in or from such countries is extremely difficult.

**Key issue:** In those countries and areas in the SADC region that have least access to physical infrastructure, such as electricity and telecommunications, the growth of the industry is seriously compromised.

###### Economic policy, access to the tools of the trade and seed capital

Aspects such as import taxation and regulation systems are related to a country's economic policy. In most SADC countries, musical instruments and music recording equipment are not manufactured locally. Therefore, the tools of the trade have to be imported. In countries with strong foreign exchange regulations, the availability of equipment is sorely lacking. In Zimbabwe for example, the foreign exchange crisis makes it almost impossible to import equipment for live performance, recording or even administering property rights. Conversely, in the United Republic of Tanzania, the establishment of new bands was greatly facilitated by the economic liberalization programme, which allows importation of musical instruments by private businesses. Taxation systems for imported goods can also have a detrimental impact on the availability of music equipment. For example, in Zimbabwe, whereas most industrial equipment is treated as capital goods, music equipment is treated as a luxury good and carries a 25 per cent import tax.

**Key issue:** The degree of economic liberalization in a particular country and across the SADC region impacts directly on the access of music industry actors to the "tools of the trade".

This issue also relates to the availability of seed capital for potential music entrepreneurs, which affects their ability to enter and compete in the market. The lack of access to capital is a major factor limiting the growth of the industry. Independent record companies often have little disposable income to invest in improving the quality of sound

recordings or in marketing campaigns to build the profiles of domestic artists.<sup>75</sup> The final product delivered to the consumer is often of a poorer quality than the competing product of a popular international artist, is less well marketed, and consequently has a lower market profile.<sup>76</sup>

**Key issue:** Access to capital to develop the industry is a key determinant of any business venture. In the SADC region, this aspect is critically lacking, for musicians, recording studios and labels, as well as venue owners.

### Managing HIV/AIDS impacts

HIV/AIDS infection rates are as high as 25 per cent of the population in some countries of the region. In Zambia and Zimbabwe, for example, where the pandemic has been rife for the past decade, numerous artists have succumbed to AIDS-related illnesses. This has a significant impact on the investment patterns which a record label follows in managing each artists' album releases: the artist is required to record and release more albums within a relatively short period of time. This decreases the shelf life of a particular album, which in turn decreases the internal rate of return of the investment made in the production and distribution of the album. Further, HIV/AIDS also has an overall macro-economic impact that can reduce the size of the local market for music products.

**Key issue:** Music actors are extremely vulnerable to the HIV/AIDS pandemic. Many have already succumbed to the disease and recording companies are changing their investment patterns by releasing more albums more quickly.

### 3.1.2 Supportive policy and legislative measures

#### Local content drive

A major aspect of local content drives is that, in those countries where such policies have been effectively applied, this has often been linked to a quasi-monopoly of the State in broadcasting, which has made them easy to enforce. This means that in countries where liberalization has taken place, regulating local content may be less efficient in promoting local music than measures to facilitate broadcasters' support. In Zambia and Zimbabwe, specific radio programmes are dedicated to scouting and exposing new local talent. These efforts are critical in promoting the consumption of local music.

**Key issue:** Whilst in some countries local content regulations have in the past assisted in popularizing local music, it is unclear how successful such measures would be if the broadcasting system were not under the direct control of government.

#### Recognition of intellectual property rights and collection agencies

In most countries of the region, intellectual property rights are not always recognized or enforced. This directly affects the income-generating opportunities of musicians, composers and others involved in the industry. In instances where legislative processes were engineered to protect rights, educating actors about rights protection has not been an easy task and collection agencies sorely lack the institutional capacity to enforce the systems. In this respect, it is important to note the initiatives taken by the World

<sup>75</sup> DACST, 1998.

<sup>76</sup> DACST, 1998.

Intellectual Property Organization (WIPO) to establish or modernize intellectual property systems through its Cooperation for Development Programme in the region. Linked to this role of intellectual property is the widespread practice of piracy.

**Key issue:** The lack of remuneration systems through copyright collection for artistic creation and the production of music services and goods is a disincentive to actors and stakeholders in the music industry to increase trade and investment in this sector.

### 3.1.3 Professionalism and entrepreneurship

The music industry as a business:  
The approach of the emerging independents

A significant number of independent music producers, in South Africa, Zambia and Zimbabwe, in particular, are being set up and driven by individual entrepreneurs who have prior experience running commercial ventures, but share a common passion and historical involvement in the music industry on an amateur basis. This enables them to source sufficient capital to set up production facilities. Further, these individuals have often been educated outside of their country of origin, in the United Kingdom and in the United States, and been exposed to the workings of the entertainment and music business in areas where it has operated successfully (see, for example, box 3.1).

#### Box 3.1

##### Independent-driven music industry in the United Republic of Tanzania<sup>77</sup>

Tanzanian producer Master Jay began making inroads in the country's music industry in the 1990s with his small studio built in a freight container in Dar es Salaam. During the third and fourth year of his university studies (in the UK), he befriended a studio-owner who introduced him to music and how to run a recording studio. He was taught theory of music and sound engineering by his friend, and went for a short course in sound engineering. While studying at university he was working in the university kitchen. He used his earnings to purchase the studio equipment. On returning to the United Republic of Tanzania in 1996, he had acquired all the equipment needed and opened a studio. He is aware that the local market for the industry is limited. For example, whereas a Tanzanian rapper will sell at most 40,000 tapes, in Kenya the sales figures go up to 100,000 tapes. He perceives this situation as linked to the much more established Kenyan recording industry, which started in the 1960s. The Tanzanian industry is only 10 years old. His entrepreneurial ambitions are to rise in the music industry by purchasing duplicating machines and then to participate in distribution.

**Key issue:** Emerging independents in the region perceive their enterprises as fully fledged business ventures, requiring the application of professional management and business development practices.

### Management and leadership

In most countries of the region, music management and leadership are almost non-existent. This hinders the circulation process for musicians who have to market, administer and coordinate their entire professional activities without any form of support.

**Key issue:** A major obstacle is the near absence of dedicated artist management capacity to support musicians in their trade and to enhance their ability to maximize the value generated by their talent and profession.

<sup>77</sup> www.africanhiphop.com

## Managing costs of production by using technological opportunities

The digitalization of recording is providing a significant opportunity to change the manner in which the production process operates, making the process of production faster, simpler and more affordable. This has reduced the costs of equipment and human resources. Musicians, composers and songwriters are able to create digital recording studios in their own home; they are also able to manufacture the end products of the process, the CDs and cassettes. The Internet takes this a step further, as musicians, composers and songwriters are able to distribute and expose their work over the Web, without having to resort to publishers and record companies.<sup>78</sup>

**Key issue:** Technology can facilitate the production of music goods and services and contribute to reducing the cost of production.

## Protecting artists' labour

Artists' conditions of employment for live performance generally do not meet the minimum outlined in international labour conventions, in terms of workplace safety and contractual obligations – in spite of the existence of labour legislation and labour movements in all the countries in the region. For example, a number of resident band members interviewed deplored situations where they had found themselves bound to perform on a daily basis without leave, for fear of losing their jobs.<sup>79</sup> A few performers also reported that they had experienced situations where promoters had failed to pay them after a regional tour or concerts.<sup>80</sup>

**Key issue:** Most industry actors are insufficiently aware of the existence and functioning of copyright protection and labour rights, and this makes them vulnerable to exploitation and unfair conditions of employment.

### 3.1.4 Developing local and international markets

#### Festivals as a tool for audience development

Numerous festivals have emerged in the region over the past five years. Of note is the multiplier effect that festivals generate in terms of large audiences and sponsorship. For example, the recent Solipse Festival in Zambia, and the Harare International Festival of the Arts are significant local and international drawcards.

**Key issue:** Multi-cultural and trans-regional festivals have an auspicious role to play in developing new markets for local and regional artists and their products across the region.

#### Fostering cross-pollination

The process of cross-pollination between musical genres is providing significant opportunities for artists to develop cutting-edge musical genres. Music genres such as

<sup>78</sup> G. Hardie, interview June 2001.

<sup>79</sup> Papa Victor, T. Bene, P. Pumelo, "TNT": interviews Aug. 2001.

<sup>80</sup> Papa Victor, P. Salim, L. Sakhala, C. Andiyanbo: interviews June–Aug. 2001.

Afropop (African + Pop) and Zamragga (Zambian + Ragga) exemplify the process whereby a new genre is created through the melding of different musical traditions.

Cross-pollination between music genres also enables artists to use established production and circulation networks in regions or for music genres that were previously inaccessible to them. Some organizations, such as UNESCO, and artists are also involved in setting up residency programmes and musical exchanges. This also develops trans-regional markets for artists and actors involved in the industry.

**Key issue:** The cross-pollination of music genres and collaboration between artists occurs beyond the ambit of government or private sector intervention (i.e. it is mostly initiated by the artists themselves). It plays a significant role as a catalyst for creation and encourages the development of new music markets across boundaries in the region.

## World Music

The rise of World Music as a music genre should be seen as a strong signal for the opening up of international markets to receive music from the region.<sup>81</sup> Currently, much of African music never makes it beyond market vendors' stalls, which suggests a general lack of business savvy in the local music industry to promote their products both locally and internationally. However, the growth in the number of studios and labels in the region suggests an increasing interest on the part of entrepreneurs in developing not only the local market for local production but also the export market. Recently established record label and production companies Sheer Sound of South Africa and Mozambique Recordings of Mozambique have carved a niche in this market.

**Key issue:** World Music is a niche market, which local labels should consider in terms of expanding their commercial activities.

### 3.2 Gap analysis of the key issues and dynamics

Table 3.1 presents a summary of the needs, assets and gaps raised by the issues identified during the research process.

<sup>81</sup> See for example sites such as the following, which support African music as World Music: <http://www.musicafrika.com>; <http://www.dandemutande.com>; <http://www.afromix.org>; <http://www.melt2000.com>



**Table 3.1 Needs, assets and gaps: An overview of the music industry in the SADC region, 2002**

<b>Needs</b>	<b>Assets</b>	<b>Gaps</b>
Industry growth requires access to equipment, but there is extremely limited access to capital to acquire the tools of the trade (music instruments, sound engineering equipment, PA systems, production equipment).	Skilled musicians and performers and some venues. Limited NGO funding for social development projects, which can facilitate access to equipment.	Lending facilities for industry actors. Taxation systems on music instruments and equipment as capital goods. Greater accessibility of foreign exchange for importing music equipment.
Development of local repertoire	Role of music in everyday life. Rich cultural heritage. Competitions for new talent and repertoire.	Music education and training, limited music literacy among musicians and composers. Supportive partnerships between the broadcasters and local industry actors from musicians and composers to studios and labels.
Business development support and mentoring, strategic planning for industry.	Business persons involved in music industry.	Music business education for musicians, composers, studios, labels and broadcasters. Industry incubator measures. for studios
Marketing support and distribution.	Liberalization of the broadcasting system.	Lack of marketing knowledge and strategy. Financial capacity of labels and venues to invest in marketing and promotion.
Access to markets and retail outlets.	Accessibility and efficacy of informal networks for distribution. Growth of World Music. Internet distribution and circulation.	Fighting the competition of pirate products. Poor quality of music venues across the region. Under-developed circulation networks for legal products.
Access to market information on the national and regional scale.	Record labels monitoring of sales by record labels. Broadcasters chart-shows.	Coordinated monitoring of sales, consumption patterns (unit sales and turnover) per country, genre, and across the region. Development of statistics and indicators for the music industry across industry actors, in each country, within the SADC region and in relation to export markets.
Training in business and life skills for musicians and performers.	Involvement of established musicians in mentoring and grooming.	Lifestyle awareness training. Basic financial administration and organizational skills for musicians and performers. Development of management skills for support actors.
Greater affordability of production costs.	Technology for recording, production and technology. National broadcasters studios.	Plug-and-record programmes in partnership with local studios and labels. Improved PA systems to enable live recordings.

<b>Needs</b>	<b>Assets</b>	<b>Gaps</b>
Integration with multidisciplinary initiatives and industries.	Growth of festivals in the region and internationally. Advertising industry. Growth of tourism and link with tourism locations. Use of music, film and performing arts by NGOs to convey social messages.	Poor coordination of events across the region. Broadcast industries underdeveloped. Dedicated multidisciplinary industry growth strategy. Partnerships between creative disciplines.
Effective control of intellectual protection and collection of rights and royalties.	WIPO initiatives. Understanding of the manner in which pirate networks operate. Possibility to craft partnerships with informal operators.	Legal and policy framework adapted to each country's specific industry profile and institutional capacity to enforce and manage intellectual property protection. Coordination and cooperation of governments and industry actors in fighting piracy.
Professionalism in live performance.	Some live music venues, musicians and festivals.	Training in event management and events promotion. PA systems rental facilities. Grooming of musicians and performers for live performance.

### **3.3 Targeted actions and interventions**

The following section draws on the issues discussed above and proposes areas for targeted action and interventions to foster the growth of the music industry in the region. These relate to:

- education and training;
- developing localized, role-player specific business growth strategies; and
- establishing a facilitative framework for industry growth.

#### **3.3.1 Institutional responsibility for driving actions and interventions**

As noted earlier in this text, capacity and legitimacy issues limit the outright identification of programme and project formulation and implementation partners. In the region, no institution is representative of the whole gamut of actors and stakeholders for a given country. Even where organizations have some degree of legitimacy, their institutional capacity limitations restrict the extent of involvement. This means that part of formulating and setting up country-specific and regional programmes and projects, based on the recommendations below, will require the establishment of dedicated programme and projects teams. Potential implementation partners and actors could include, in different capacities:

- international organizations (SADC Culture Desk, ILO, WIPO, UNESCO);
- government actors (especially in respect of policy and legislation issues, as well as taxation systems);
- recording industry stakeholders (as they are often the main drivers behind the development in the music industry in their respective countries of origin);

- collection and intellectual property organizations (especially in respect of policy and implementation of anti-piracy mechanisms and royalty payment systems);
- musicians' associations and unions as well as arts councils (with the proviso that they are able to demonstrate their legitimacy);
- individual musicians, performers and ensembles organized at the city or province levels;
- broadcasters; and
- training institutions involved in music education and/or business education.

### **3.3.2 Education and training**

Enhancing the skills base of actors and stakeholders in the music industry could seek to achieve the following targeted objectives:

#### **Institutional support actors**

A key skills-development area for the growth of the music industry in all the countries in the region is to ensure that the music industry's support professionals (such as managers, lawyers, and financial advisors) are equipped with sufficient industry-specific knowledge to interact meaningfully in the process of negotiating contracts and sourcing financial support. Industry knowledge entails a sound understanding of the copyright protection framework and practices, payment structures and financial relationships between the different actors in the production process. Training for managers would also need to include basic management aspects such as fundraising, negotiation, coordination and administrative processes.

#### **Enabling artists to manage their careers effectively and professionally**

A required training outcome is to ensure that the artists that comprise the creative basis of the music industry (composers and musicians) are better equipped to manage their careers, in the absence of existing management actors. A strong emphasis could be placed on basic financial administration and management skills (from writing up invoices to developing personal finance cash flows, applying for funding from commercial and non-commercial institutions). Another key area of focus is to ensure a sufficient understanding of the copyright protection and collection system applicable in the artists' respective countries of origin, as well as in those regions where artists' intellectual property is distributed.

The majority of music education institutions in the region do not currently provide such training. Therefore, in the short term, offering skills development directly to musicians and composers would be required. However, to ensure the sustainability of such a capacity-building process, it would be advisable that music educators were themselves made aware of those aspects of the industry, so that they could – in turn – impart this knowledge to their students.

Musicians and composers in the region, who have not been exposed to a formal music education process, may be lacking the skills required to take greater control of their intellectual property. For example, musical literacy is not highly developed among musicians or composers. This means that in order to have their works published, they have

to use the intermediary of a music-publishing agency, thereby relinquishing some of the royalties that may have accrued to them.

Finally, promoters and record label actors interviewed during this research deplored the fact that lifestyle issues tend to impact negatively on the professionalism of artists and on their quality of life – which in turns affects negatively the career of the artists and their productivity. Raising artists' awareness about lifestyle issues such as HIV/AIDS, alcoholism and drug abuse, which affect many artists in the region, is therefore critical.

### Technical support providers

The current music education system focuses on musical performance. Little, if any, training in composition, lyrics development, sound engineering and stage management skills is currently being offered by music education institutions. This skills development gap not only affects the nature and quality of music creation in the region, but also tends to limit the skills pool required for both the live performance and recording industries to flourish. It is unlikely that the provision of such technical training could be standardized across the countries in the region, as the range of available technology in those countries differs significantly. In addition, where the information technology is fast becoming an accessible alternative for the recording, production and distribution of music products, it seems that the knowledge and skills about the management of such resources and processes is lacking, and needs to be attended to.

### Targeted capacity-building for institutional coordination

Those organizations and institutions formally tasked with supporting the music industry in the countries of the sub-region, from intellectual property rights associations to government departments in charge of arts and culture, would also benefit from a capacity-building effort. Of note are organizations such as SARRAL and WIPO, whose expertise is in this area, which could be approached to help in delivering training in the region to support intellectual property protection. A key objective of training and capacity-building for this type of actor is to promote institutional development approaches for industry support that are mindful of general institutional limitations, both in terms of budget and labour. Learning from country experiences with similar institutional contexts, rather than duplicating training processes developed to support solid and established institutional arrangements, would best benefit such actors. The most appropriate learning outcomes are those that include aspects such as industry trends and dynamics globally, regionally and nationally; coordination and integration support with relevant government sector departments (departments of trade and industry, culture, education and labour); as well as developing and sustaining partnerships with non-governmental and industry actors from musicians' association and record labels, to lending institutions and informal sector operators.

### Consumer education processes

Consumer education and advocacy to inform the consumers of music products of the value of purchasing legal products and, conversely, of the quality risks involved in purchasing pirated materials would also need to form part of training initiatives. However, in areas where the availability of music products is solely possible through pirate markets and distribution channels, such an awareness campaign would clearly be of little value.

### **3.3.3 Developing localized, industry actor-specific business growth strategies**

Recording industry actors have a critical part in supporting the development and promotion of local music industries. A common denominator of all successful independent recording companies approached in the research process is the manner in which they view the music industry: as a business. A passion for music and a strong vision can be a significant motivating factor for industry actors; however, adopting sound business practices to the production, marketing and distribution process is what gives specific companies a competitive edge. Key questions that companies need to consider are provided in Box 3.2.

This set of questions was developed specifically to focus on the needs of the recording industry. However, different actors could make a strategic assessment of the manner in which they approach their business and/or career, and target their operations accordingly, to professionalize their respective contributions to the industry, using a similar set of headings and questions.

**Box 3.2**  
**Proposed set of key questions to facilitate strategic thinking in the music industry**

**Market**

Who is our market? (What age? What gender? Where are they living? What do they do?)?

What income do they have at their disposal to purchase our product – whether CDs or cassettes?

How do we ensure that they spend this income on our products rather than on the competition (including local and international repertoire and pirated products)?

How do we generate a new market and increase our market share locally, in the region and internationally (what does this mean in terms of our relationship with different broadcasters)?

**Raw materials**

Who provides our raw materials – Artists, composers, performers and technical support actors (sound engineers, producers, designers...)?

How do we generate new “raw material” that corresponds to our demand (competitions, festivals...)?

What contractual and financial conditions are best suited to ensure that they are productive and dedicated (i.e. how can we contribute in fostering creation, and enable artists to focus on composition and/or performance)?

What skills training support do they require (in terms of artistic performance and lifestyle management)?

What management support do they require (financial management support, grooming, brokerage)?

*What support do they require in terms of access to equipment and instruments?*

**Production facilities**

How do we use existing recording and production facilities to manufacture our products?

What is the opportunity cost of developing our own facilities (independently or in coordination with other actors) as opposed to making use of existing facilities (locally, in the region or internationally)?

What steps can we take and what steps should others be taking to ensure greater accessibility to music equipment?

What quality can be achieved using different production facilities in respect of the expectation and purchasing capacity of our market (and what medium should we use – cassette or CD)?

**Circulation and distribution**

What circulation and distribution channels can we utilize to make our products more accessible and affordable to our market?

Should we develop our own circulation and distribution channels or should we co-opt existing channels (locally, regionally and internationally)?

How do we monitor the nature and extent of audience reception for our products (sales, airplay, competitions and awards, market research...)?

How do we use the feedback in terms of audience reception to refine our operational strategy in relation to our understanding of the market, our selection and development of artists, repertoires, genres and music products, promotion and advertising, production and circulation and distribution processes?

**Partnerships and growth strategies**

What strategic partnerships can we develop to ensure that our business interests are protected and promoted in terms of issues such as fighting piracy, developing copyright protection frameworks, capacity-building and skills training?

What complementary business partnerships can we craft to facilitate the growth of our business, in terms of relationships with broadcasters and the media, as well as commercial and non-profit organizations who have a stake in the media or that rely on the operations of the media to operate?

What can we learn from the factors that make informal and pirate processes successful, namely pricing of products and services and spatial accessibility to the market?

**Trends, contextual impediments and opportunities**

What are the global, regional, national and local trends affecting our business?

What do they mean for the growth of our business and that of our competitors?

How do we diminish the negative impact of contextual impediments to the growth of our business?

How are competing or complementary businesses responding to these impediments?

How do we maximize opportunities to leverage growth in our business?

What actors have a stake in these opportunities and how should we relate to these other actors?

### **3.3.4 Establishing a facilitative framework for industry growth**

Additional intervention is also needed to ensure that the context in which industry actors and stakeholders operate is an enabling one. The role for defining and implementing these measures is one where governments should take the lead. To ensure the sustainability of such a process, extensive participation with industry actors and stakeholders would need to occur. Interventions could include:

- *Setting up an enabling environment for industry growth:* Recording industry actors, such as the independents that have emerged in the past five years, can be supported to develop their specific business development requirements in terms of access to infrastructure and business incubator measures. Access to appropriate technology and the tools of the trade should be facilitated through the development of suitable lending facilities for artists and organizations involved in the industry, and training in the use of the technology. Facilitating access to import permits for music equipment and providing for tax and VAT exemption on music equipment may also be considered.
- *Discovering local and regional talent and promoting audience development:* One of the success factors in discovering and grooming new talent and promoting audience development has been the running of original song contests in some countries in the region. These have managed to generate sustained interest in specific artists, where they are linked with some form of talent grooming and recording arrangement. In addition, because they can easily be linked to mass media events, they offer attractive opportunities for leveraging corporate sponsorship. Such processes could be initiated in several countries in the region where independent recording labels are

emerging. In addition, the development of a regional song competition, where different countries expose their respective original talent could foster the emergence of collaborative practices around issues such as joint marketing and promotion, cooperation for copyright protection, and opening up markets for artists regionally and internationally.

- *Coordinating bodies*: These should be structured to facilitate the development and alignment of initiatives in the region and nationally, in terms of copyright protection, import regulations, multi-disciplinary activities (i.e. music tourism, arts festivals...), recording industry promotion, and local repertoire promotion. At present, coordinating bodies are mostly local and operate on a small and fragmented basis with limited institutional capacity. Establishing and working to achieve common objectives for the growth of the industry in the region and in its respective countries is therefore a key area of intervention.
- *Intellectual property and rights management*: Intellectual property protection and remuneration systems, that are mindful of institutional capacity constraints, should be set up and provisions made for their enforcement. In the first instance, it would be necessary to begin with the protection of local repertoire products, following up with imported content rights protection and collection systems can be set up. Because music piracy is often driven by multinational criminal organizations, coordination and cooperation between governments in the region would be critical. Similarly, piracy can also result from the direct involvement of the mainstream actors, who should be sensitized and monitored to avoid activities such as bootlegging and the illegal reproduction and/or distribution of music products.
- *Local content*: As the enforcement of local content legislation is an arduous task in institutional environments that are weak, and where the broadcasting system has been liberalized, local content promotion should focus on facilitative measures. The range of music industry stakeholders and actors (from government to the recording industry, musicians and venue owners) should cooperate in marketing and raising consumer awareness of local and regional repertoires, nationally and internationally. Further, the promotion of local content in broadcasting, live performance and retailing should form the basis of technical and other types of support provided to actors.
- *The development of statistics and indicators to measure the industry*: A key gap identified from the onset of the research is the lack of access to documented statistical information on the music industry, for example, systems to record the number of professional musicians in a specific country, the number of persons employed in supporting the industry, or those whose economic activities are supported by the music industry. Record sales and industry turnover are only monitored by the majors in South Africa, not in the other countries in the region. The lack of records and statistics means that the nature of the information collected is generally anecdotal. Indicators and statistical records should be developed and applied to monitor and further support the manner in which the music industry operates, what its employment capacity is, what multiplier effect it generates, and how it contributes to the local and regional economy. This is an area of intervention that should be driven in partnership between government, musicians' associations, and recording industry actors.
- *Liberalization of the broadcasting system*: Opening up the airwaves provides an important boost to the music industry, as it generates a demand for a diversity of music products. The deregulation of the broadcasting system can also lead to greater coverage of broadcasting. This can raise overall audience numbers in a given

country and even in neighbouring countries, which effectively results in the opening of new markets for artists and music products.

### **3.4 Concluding statements**

Up until the late 1990s, the music industry was a self-sustaining industry in only two SADC countries, South Africa and Zimbabwe. In the rest of the region, by and large, music merely existed as a cultural asset, albeit a rich and vibrant one, with great but untapped economic potential. Since then, in the majority of the SADC countries, the recording and live performance sectors are emerging as viable enterprises and income-generating opportunities.

The present research has identified that the role of particularly entrepreneurial, innovative and dedicated individuals in developing cultural assets into industries is critical in this process. However, the analytical components of the research also draw significant conclusions pertaining to specific contextual factors that have enabled such individuals to play their role. Among these contextual factors, the liberalization of economic and political frameworks, together with broadcasting deregulation, intellectual property protection systems and the presence of minimum infrastructure levels stand out as basic preconditions for enabling both the production and consumption of music products.

In parts of the world where the music industry has long been established, the saturation of music markets is high, and competition between and among global majors and independent record labels is rife. In the SADC region, on the other hand, whilst competition between record labels is relatively limited, the primary threat to the continued growth of the recording industry comes from pirate operators. Piracy draws on highly effective networks of production, circulation and distribution, and often co-opts mainstream industry operators to source, produce and distribute counterfeited or bootlegged music products. Its ease of operation is symptomatic of a relatively low institutional capacity to enforce and monitor the protection of intellectual property. Whilst the policy and legislative frameworks pertaining to intellectual property protection have increasingly received support from international and multilateral agencies, the need for institutional capacity-building remains.

Other capacity gaps were identified in the course of the research. These affect all actors differentially. However, the main thrust of such capacity-building considerations is clearly a requirement for greater professionalism, strategic decision-making and technical capacity among all actors, each according to his or her respective contribution to the industry. In the short term, the greatest challenge facing such capacity-building efforts would probably be to ensure that it accommodates overall contextual limitations, be they economic, social, political or infrastructural.

Finally, the research identifies a wealth of opportunities and assets to be drawn upon by music industry actors and stakeholders. The role which music plays in everyday life in the sub-continent bears witness to this statement. Its socio-cultural and developmental contributions are also manifold. Similarly, the use of music in sectors ranging from the hospitality, retail and tourism, to film, performing arts, product branding and advertising, internationally and in the region highlight the versatile contribution that the music industry can make to the micro- and macro-economy. As these sectors develop, they also generate further demand for music products and services, nationally and internationally. Because the music industry is a young industry in the region, its full potential is yet to be unlocked. In many respects, its pioneers are demonstrating that, through determination and the application of sound business practices, the industry can be a potent income-generator for individuals, communities, cities and even countries.



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<http://www.ifpi.org>

<http://www.suntimes.co.za/1999/10/10/arts/ane04.htm>

*The Indian Times*, 1 January 2001.

*The Economist*, 17 May 1997.

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## **Web pages**

### ***General country and culture information***

<http://www.africa-insite.com>

<http://www.sadc-online.com>

<http://www.angola.org>

<http://www.bbc.co.uk>

### ***Music sites listing organizations and stakeholders***

<http://www.powerzone.co.za>

<http://music.org.za>

### ***Intellectual property organizations***

<http://www.cisac.org/cisac/webcontent.nsf/homepage>

*Intellectual property for small and medium-sized enterprises*, CD-ROM in English, French and Spanish, <http://www.wipo.int/sme>

### ***Recording industry initiatives***

<http://www.ifpi.org>

<http://www.risa.org.za>

### ***International organizations***

<http://www.wto.org>

<http://www.unescostats.unesco.org>

<http://www.wipo.org>

<http://www.worldbank.org>

[http://www.ilo.org/dyn/empent/empent.portal?p\\_prog=S](http://www.ilo.org/dyn/empent/empent.portal?p_prog=S)

<http://www.ilo.org/public/english/dialogue/sector/sectors/media.htm>

### ***African music sites***

<http://www.afribeat.worldonline.co.za>

<http://www.musicafrica.com>

<http://www.mbira.org>

<http://www.dandemutande.com>

<http://www.afromix.org>

<http://www.www.africaonline.com.na>

<http://www.africaonline.co.tz>

<http://musicafrica.com>

### ***Organizations***

<http://www.masa.francophonie.org>

<http://www.archive.ilam.ru.ac.za>

<http://www.freemuse.org>

<http://www.fim-musicians.org>

### ***Music labels***

<http://www.melt2000.com>

<http://www.lusafrica.com>

<http://www.tequila.co.za>

<http://www.sheer.co.za>

<http://www.gallo.co.za>

<http://www.mondomusic.com>

## ***Festivals and venues***

<http://www.zimfest.org>

<http://www.celebratesouthafrica.com>

<http://www.backstage.co.za>



## Annex 1

### Key organizations in the region

Country	Organization	E-mail	Contact persons
Angola	Ministry of Education	Http:www/angola.org/ poitics/index.htm	
	National School of Music		Tiago Langa
Botswana	SADC Secretariat		
Democratic Republic of the Congo	Société Nationale des Éditeurs, Compositeurs et Auteurs	-	Y Ifosela (CEO) M Domba (MD)
Lesotho	Dept of Mining, Sports and Culture		
	Lesotho Academy of the Arts		
Malawi	Copyright Society of Malawi	Cosoma@sdpn.org.mw	
	Department of Culture and Education		Bernard Kwilimbe (Director)
Mauritius	Ministry of Culture		
	Music Association		
	Mauritius Society of Authors		Elie Riviere (President)
Mozambique	Ministry of Culture		Minister: Miguel Costa Mkaïma
Namibia	Namibian Society of Composers and Authors of Music	Nascam@iafrica.com.na	Deidre A. De Klerk
	National Arts Council		
Seychelles	Arts Council		
South Africa	Southern African Music Rights Organization		Robert Hooijer (CEO) A. Emdon (Chairman)
	South African Recording Rights Association Limited	Sarral@pixie.co.za	George Hardie (MD) Mothobi Mutloase (Chairman)
	Representing the Recording Industry of South Africa	Risa@risa.org.za	Charles Khun (Chairman) N Sibisi (General Manager)
	Musicians Union of South Africa		Howard Belling
	Midi Trust		Rosie Katz
Swaziland	Ministry of Education		
	National Council of Arts and Culture		
Tanzania	National Arts and Culture Trust Fund		
Zimbabwe	Zimbabwe Music Right Association	Zmra@mweb.co.zw	Gill Atkinson (GM) Tendai Mupfurutsa (Chairman)
	National Arts Council		Titus Chipangwa (Director)

<b>Country</b>	<b>Organization</b>	<b>E-mail</b>	<b>Contact persons</b>
Zambia	Zambia Music Copyright Protection Society	Zamcops@zamnet.zm	Emmanuel Chandla (Director) Stanley M'kandawier (Acting Manager)
	Zambia Union of Musicians (ZUM)		Wapolina Mukandawire Maureen Lilanda
	National Arts Council		Mumba Kapumpa (Chairman)
	ZAMCOM	Zamcom@zamnet.zm	Edem Jokote (Training Manager)

## Annex 2

### List of interviewees

- Caroll Andiyanbo, Travelling performer (Zimbabwe)
- Gill Atkinson, Zimbabwe Music Rights Association (ZIMRA): General Manager (Zimbabwe)
- Leo Bweupe, Black Muntu: Artist (Zambia)
- Thando Bene: Traditional music performer and band leader (Zimbabwe)
- Mwembe Chulu, Black Muntu: Artist (Zambia)
- Edem Djokote, ZAMCOM: Training Manager (Zambia)
- David Dyson, Dyson Ndlovu Attorneys: Partner (South Africa)
- Chisha Folotiya, Mondo Music Corporation: Managing Director (Zambia)
- Damon Forbes, Sheer Sound: CEO (South Africa)
- George Hardie, South African Recording Rights Association Ltd: Managing Director (South Africa)
- Herrol Hickey, Radio Phoenix: Managing Director (Zambia)
- Robert Hoiijer, Southern African Music Rights Organization (SAMRO), CEO (South Africa)
- Josh Hoshari, Jazz 105: Owner and manager (Zimbabwe)
- Saboi Imboela, Shatel: Artist (Zambia)
- Moses Kabuki, “Summer Breeze”, Musician (Zimbabwe)
- Ben Kangwa, Zambia National Broadcasting Corporation: PR Manager (Zambia)
- Vincent Kapepa, “Summer Breeze”: Band leader (Zimbabwe)
- Rosie Katz, Music Industry Development Initiative Trust: Managing Director (South Africa)
- Bernard Kwilimbe, Department of Culture and Education: Director of Arts and Craft; part time musician and band manager (Malawi)
- Vusi Khumalo, Jazz musician and composer (South Africa)
- Tiago Langam National School of Music: Director (Mozambique)
- Chilum Lemba, Radio Phoenix DJ and artist (Zambia)
- Andre Le Roux, Department of Arts and Culture (South Africa)
- Keith Lister, BMG Records, CEO (South Africa)
- Rick Louw. Southern African Music Rights Organization (SAMRO), Manager Licensing Administration (South Africa)
- Daphne Mashaba, South African Recording Rights Association Ltd: Composer Liaison Manager (South Africa)
- Lorraine Mashigo, Dyson Ndlovu Attorneys: Legal Counsel (South Africa)
- Herbert Markoye, University of Dar el Salaam: Lecturer (Tanzania)
- Debbie Metcalfe Frontline Promotions Private Ltd: CEO (Zimbabwe)
- Peter Mubi: Owner of several music venues in Harare and Victoria Falls (Zimbabwe)
- Mutty Munkhondia, Copyright Society of Malawi: Licensing Manager (Malawi)
- Michael Mumkitiwa, Mumkitiwa Tours and promotions: Manager (Zimbabwe)
- Frank Mutubila, Digital Business Associates: Media consultant (Zambia)

- Milla Muyova, Mondo Music: Marketing Manager (Zambia)
- Charles Muyamwa, Musician and composer (Zambia)
- Roshnie Naicker: Promoter (South Africa)
- Josheph Ngandy: Home College of applied arts and commerce: Lecturer (Zambia)
- Barbara Njovu, Shatel: Artist (Zambia)
- Elizabeth Pemba, Radio Phoenix: Marketing Manager (Zambia)
- Patience Pumelo: Traditional musician (Zimbabwe)
- Peter Salim: Musician (Zimbabwe)
- Moses Sakhala, Sakhala Brothers: Artist (Zambia)
- Luvy Sakhala, Sakhala Brothers: Artist (Zambia)
- “Shane”: Musician (Zimbabwe)
- Roger Sombe Jr., Sound Investment: Producer (Zambia)
- Matala Suba, Sugar Shack Sounds: Director (Zambia)
- Victor Sembe: Informal music trader (Zimbabwe)
- Maxwell Sibanda, The Zimbabwe Daily News: Entertainment journalist (Zimbabwe)
- Mundia Simbungo-Nyapa: Café d’Afrique: General Manager (Zambia)
- “TNT”, Mama Africa Café: Manager and musician (Zimbabwe)
- Papa Victor: Musician and band leader (Zimbabwe)
- Peter Vundla: Informal music trader (Zimbabwe)
- Alan Wilson, Gramma Records & Zimbabwe Music Corporation: Managing Director
- Willie Yav: Yav Productions: Director (South Africa)
- Wolfgang Zabrowsky: Afrika Vision: Director (South Africa)



## Annex 3

### Country cases

#### Zambia

Zambia boasts a wealth of musical assets. Music is mainstreamed throughout everyday life, and informal musical education and appreciation permeates Zambian society, from church choirs to dance and culture groups in Zambian public schools, and regular live performances in motels and hotels throughout the country.

During the 1980s, the only two private recording studio and record labels in Zambia (Teal Records and Malachite Records) folded because of the severe economic crisis in the country. The only recording opportunity became the national broadcaster's 1-track studio, which emerging artists had to resort to.

Since the late 1990s, several studios and labels have opened their doors in Lusaka, one of which even boasts a 24-track studio, affording musicians alternative opportunities to record and distribute their music. Two factors have greatly enhanced the ability of musically inspired entrepreneurs: the deregulation of the broadcasting system and the liberalization of the economy.

The recording industry, whilst exhibiting significant advances, is still in its infancy. This is evidenced, in terms of the lack of specialization of actors. For example, Zambia's Digital Network Solutions and Mondo Music both have their own recording studios, both undertake the production process and have to circulate their repertoire themselves to retail outlets or other delivery mechanisms.

Zambia hosts a number of international and regional development organizations. The use of cultural activities to support developmental issues, such as the HIV/AIDS awareness tapes distribution to truck drivers, offers an avenue for further sustaining the music industry.

Piracy is still a factor hindering the growth of the industry, although the role of the Association of Zambian Musicians in lobbying for the passing of copyright protection legislation and its resulting impact on protecting – albeit in limited terms – the recording industry has been important. Sound Investments is the market leader in the music retail sub-sector, although most music products are retailed through supermarkets, petrol stations, shops and informal vendors.

#### Proposed areas of interventions for Zambia:

##### **Targeted skills training**

Because of the lack of specialization of the industry, specialist technical and music business skills are not adequately available. Such skills include in particular sound engineering, artist management, music marketing and events management. Further, a number of artists who were interviewed for the research deplored their lack of music literacy, which limits their ability to engage with the production process on a more informed basis. Existing training institutions could be co-opted and upgraded to offer training into such skills targets, to actors involved in the industry.

##### **Stamping out piracy**

Music piracy is rife in the country and contributes to limiting returns on investments made by all actors in the recording industry. One possible way to address this problem would be to place greater effort on policing informal vendors who distribute pirated products. Co-opting such actors by facilitating their access to the distribution of legal products, would be an area that would require attention. The distribution of pirated Zambian music products outside of the country's boundaries was also cited by interviewees as problematic, and would require bilateral intervention between Zambian actors and their regional counterparts. This is an area of intervention in which all actors in the recording industry have a stake, and which, therefore, requires cooperation and coordination between recording industry actors.

### **Market research**

Mechanisms to monitor audience reception and to encourage investment towards production, circulation and distribution are almost non-existent. Market research is, however, a critical source of information for all actors in the industry, as it would enable them to better manage investment decisions. It would be particularly critical for such actors to have access to information about the income and demographic profile of consumers of music products, and to target marketing strategies to enhance access to markets.

## **Zimbabwe**

Zimbabwe has a rich musical tradition and appreciation of traditional music genres – such as Mbira (thumb piano) music – is not only wide within the country, but stretches as far as the United States and Asia. Music education opportunities, although often limited to musical appreciation education exist, and a high number of bands and groups have been able to record and distribute their music through established Zimbabwean recording labels.

In Zimbabwe, record sales of 100 000 units per album were never heard of until the early 1990s, when significant investment was made to enhance production, circulation and distribution by the Harare-based major record labels Gramma Records and the Zimbabwe Music Corporation. Smaller recording labels exist both in Harare and Bulawayo, but their production and circulation capacity is fairly limited.

Express Toll is the only specialist music retail outlet in the country and is only present in Bulawayo and Harare. Distribution of music product is primarily driven through the informal market, and actively supported by record labels. Broadcasters play a significant role in supporting emerging talent and promoting local content. Other delivery mechanisms such as live performance are fairly undeveloped, as live music venues are not readily equipped with quality PA systems, which limits livelihood opportunities for artists. The Harare International Festival of the Arts has been an important music event.

Foreign exchange regulations mean that access to music instruments, recording and public address equipment is literally impossible for most actors. Similarly, inflation has considerably decreased affordability levels, thereby reducing unit sales and, in turn, the financial viability of the recording industry. This situation is aggravated by the fact that whereas most industrial equipment is treated as capital goods, music equipment is treated as a luxury good and carries a 25% import tax at the time of writing this report.

## **Areas for intervention**

### **Developing regional markets**

Because of the high level of economic strain affecting the local context, actors are already examining ways in which to limit their dependency on the national market by seeking export opportunities of music products and live performances contracts outside of Zimbabwe. Whilst this risks precipitating further the attrition of the local market, it also offers a number of opportunities. For example, Zimbabwe's production facilities could be utilized by record labels or distributors operating in the region whose access to production facilities in their country of origin is limited. This concept would require quite an extensive marketing drive of Zimbabwean actors who, in coordination with other industry actors in the region, could co-host a series of industry infrastructure and network marketing processes.

### **Supporting access to the tools of the trade**

Access to finance for purchasing and importing basic music equipment is currently lacking in Zimbabwe at the time of writing this report. However, given the recording infrastructure and dedicated body of musicians, enhancing access to the tools of the trade would contribute to at least maintaining the existing musical assets base. This would aim to stem the loss of productive capital, currently emanating from the inability of industry actors to import music equipment. Specific support measures may include considering rating musical instruments as capital goods exempt from the luxury import tax, developing micro-lending arrangements for musicians and live venues, and supporting musical equipment rental and sharing facilities.

## **Annex 4**

### **Intellectual property, copyright and related rights and collective management of rights**

#### ***Intellectual property***

Intellectual property (IP) relates to the type of property that results from the creations of the human mind, the intellect (creativity). The law that protects such creations is known as intellectual property law. This is to say once an individual or an enterprise considers that he/it has made such a creation it is important to take measures to legally protect the creation. Such measures are known as acquisition of IP rights. Once IP rights are acquired the creator would have exclusive right to legally use the creation for commercial purposes (economic gains). Others can lawfully use the creation for commercial purposes only after the owner of the IP right has granted consent, usually after an agreement of some form of remuneration (usually known as royalties). The effective use of such IP rights would not only enhance the competitiveness of the holder, be it an individual, small, medium or large enterprise, it will also create opportunities that would lead to benefits that can ultimately be translated into financial gains. IP is usually divided into two branches known as “industrial property” and “copyright.” Different types of IP rights can be used in order to maximize the benefits resulting from protected creations (product/work). For more information on the existing types of IP rights visit the following web site [http://www.wipo.int/sme/en/ip\\_business/acquire\\_protection.htm](http://www.wipo.int/sme/en/ip_business/acquire_protection.htm)

#### ***What is copyright?***

Most of the creations (works) in the cultural sector/industry are protected by copyrights and other rights related to copyright generally known as “related rights” or in some cases “neighbouring rights”.

When a person creates a literary, musical, scientific or artistic work, he is the owner of that work and is free to decide on its use. That person (called the “creator” or the “author” or “owner of rights”) can control the destiny of the work. Copyright is a legal term describing rights given to that person for his literary and artistic works. Copyright protection covers literary works such as novels, poems, plays, reference works, newspapers, computer programs, databases, films, musical compositions; and artistic works such as paintings, drawings, photographs, sculpture; architecture; advertisements, maps and technical drawings.

The economic rights are the rights of reproduction, broadcasting, public performance, adaptation, translation, public recitation, public display, distribution, and so on. The moral rights include the author’s right to object to any distortion, mutilation or other modification of his work that might be prejudicial to his honour or reputation. Both sets of rights belong to the creator who can exercise them. The exercise of rights means that he can use the work himself, can give permission to someone else to use the work or can prohibit someone else from using the work. The general principle is that copyright protected works cannot be used without the authorization of the owner of rights. Limited exceptions to this rule, however, are contained in national copyright laws. In principle, the term of protection is the creator’s lifetime and a minimum of 50 years after his death.

These legal aspects are specified in international conventions to which most countries are now party. On their accession, member States should have national legislation that is in line with the international standards. At the international level, the economic and moral rights are conferred by the Berne Convention for the Protection of Literary and Artistic Works, commonly known as the “Berne Convention”. This Convention, which was adopted in 1886, has been revised several times to take into account the impact of new technology on the level of protection that it provides. It is administered by the World Intellectual Property Organization (WIPO), one of the specialized international agencies of the United Nations system. Angola, Mozambique and Seychelles are the only SADC member states, which are yet to accede to the Berne Convention, though all SADC member states have national copyright legislation.

A created work is considered protected by copyright as soon as it exists. There is no formality to be complied with, such as registration or deposit, as a condition of that protection. Mere ideas in themselves are not protected, only the way in which they are expressed. According to the Berne Convention literary and artistic works are protected without any formalities in the countries party to that Convention. However, many countries have a national copyright office and some national laws allow for registration of works for the purposes of, for example, identifying and distinguishing titles of works. In certain countries, registration can also serve as prima facie evidence in a court of law with reference to disputes relating to copyright. It is important to note that ownership of copyright of a creation does not necessarily mean physical ownership of the said creation e.g. ownership of a copy of a novel does not mean ownership of the copyright of the said novel.

The 1994 Agreement on Trade-Related Aspects of Intellectual Property Rights (or TRIPS Agreement), which is administered by the World Trade Organization (WTO), as well as the WIPO Copyright Treaty (WCT) incorporate this international protection.

For more information visit the following web site:  
<http://www.wipo.int/treaties/ip/berne/index.html>

### **What are related rights?**

Whereas the rights provided by copyright apply to authors, “related rights”, also known as “neighbouring rights” concern other categories of owners of rights, namely, performers, the producers of phonograms and broadcasting organizations. Related rights differ from copyright in that they belong to owners regarded as intermediaries in the production, recording or diffusion of works. The link with copyright is due to the fact that the three categories of related rights owners are auxiliaries in the intellectual creation process since they lend their assistance to authors in the communication of the latter’s works to the public. A musician performs a musical work written by a composer; an actor performs a role in a play written by a playwright; producers of phonograms – or more commonly “the record industry” – record and produce songs and music written by authors and composers, played by musicians or sung by performers; broadcasting organizations broadcast works and phonograms on their stations.

At the international level, related rights are conferred by the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations, better known as the “Rome Convention”. This Convention was adopted in 1961 and the United Nations Educational, Scientific and Cultural Organization (UNESCO), the International Labour Organization (ILO) and WIPO jointly administer it. As of February 15, 2002, among SADC member states only Lesotho had acceded to this convention. However several SADC member states do have national legislation on related rights.

The basic related rights granted are, in general, the following:

- *Performers*: are provided the rights to prevent fixation (recording), broadcasting and communication to the public of their live performances without their consent, and the right to prevent reproduction of fixations of their performances under certain circumstances; the rights in respect of broadcasting and communication to the public may be in the form of equitable remuneration rather than a right to prevent. Due to personal nature of their creations, some national laws also grant performers moral rights, which may be exercised to prevent unauthorized uses of their name and image, or modifications to their performances that present them in an unfavourable light.
- *Producers of phonograms*: are granted the rights to authorize or prohibit reproduction, importation and distribution of their phonograms and copies thereof, and the right to equitable remuneration for broadcasting and communication to the public of phonograms.
- *Broadcasting organizations*: are provided the right to authorize or prohibit rebroadcasting, fixation and reproduction of their broadcast.

Also, the WIPO Performances and Phonograms Treaty (WPPT) grants protection to the performers in sound performances and producers of phonograms, particularly in the digital environment.

Though the duration of protection of related rights may differ from country to country the minimum period provided by the Rome Convention is twenty years. However the WTO agreement

on Trade Related Aspects of Intellectual Property Rights (TRIPS) and the WPPT provide 50 years of protection to the rights of performers and producers of phonograms.

The 1994 Agreement on Trade-Related Aspects of Intellectual Property Rights (or TRIPS Agreement), which is administered by the World Trade Organization (WTO), incorporates or refers to this international protection.

For more information visit the following web site: <http://www.wipo.int/treaties/ip/rome/index.html>

### ***Collective management of rights.***

The exclusive right of the author to exploit his work or authorize others to do so is the basic element of copyright, and such a right, where recognized, is also important for the beneficiaries of related rights. An exclusive right can be enjoyed to the fullest extent if the owner of the right himself may exercise it individually. In such a case, the owner maintains his control over the dissemination of his work, can personally take decisions on the economic conditions of its exploitation and can also closely monitor whether his rights are duly respected. As early as at the time of the establishment of the international copyright system, there were, however, certain rights that their owners were unable to exercise individually, and later, with the ever newer waves of new technologies, the field in which individual exercise of rights was impossible or, at least, impractical, became constantly wider.

The reason for which, in a number of cases, copyright and related rights cannot be exercised individually is that the works and/or the objects of related rights are used by a great number of different users. An individual author or other rights holders, in general, does not have the capacity to monitor all the uses, to negotiate with users and to collect remuneration. In such a case, collective management of rights is the appropriate solution. It is obviously a great advantage also for users since it decreases their administrative costs and facilitates lawful use. The importance of collective management societies is crucial especially where they provide “one stop shop” services, a coordinated collective management of all relevant rights, established on a global basis. These can go as far as the organization of public awareness campaigns, training and providing legal advice and assistance on issues such as the signing of contracts between the owners of copyright and related rights works and users of such works, where implications of intellectual property must be taken into account.

Given the importance of this aspect of the protection of copyright and related rights, a new WIPO guide on “Collective Administration of Copyright and Related Rights” is under preparation and will be published soon. It describes the main fields of collective management, analyses the most important issues of this form of exercising rights, including the digital environment and offers some basic principles for the establishment and operation of collective management organizations. All of the SADC member states except for Angola, Botswana, Lesotho, Seychelles and Swaziland have copyright societies. Namibia, South Africa, Zambia and Zimbabwe have private copyright collecting societies, while the rest have either parastatals or State-funded societies. In most cases, the “parastatal” collective management societies have dual responsibility i.e. that of administering the economic rights of their members but also that of enforcing the provisions contained in the national legislation e.g. in Malawi, Mauritius and the United Republic of Tanzania.

For more information visit the following web site:  
<http://www.wipo.int/africa/en>

### ***Current status of copyright protection in the SADC countries***

WIPO has a long history of cooperation with SADC countries in the field of Copyright in which it has provided legal advisory and technical assistance aimed at modernizing and/or establishing national copyright protection regimes.

As of 30 April 2002, none of the SADC States had ratified either the WPPT or the WCT. However it is important to note that initiatives are underway in Mauritius, Malawi, United Republic of Tanzania and soon it is hoped Botswana and Mozambique to ratify the two treaties.

All SADC countries, with the exception of Angola, Mozambique and Seychelles, are party to the Berne Convention. **Swaziland** is the only SADC country that, according to WIPO records, does not have copyright legislation. In the remaining Member States, copyright is protected as described in the list below:

- **Angola** – Copyright Act N 4/90 of 10 March 1990.
- **Botswana** – Copyright and Neighbouring Rights Act No. 8 of April 2000.
- **Democratic Republic of Congo** – Copyright and related rights are protected by Order No. 86-033 of 5 April 1986.
- **Lesotho** – Copyright Order No. 13 of 1989, which is currently being reviewed.
- **Malawi** – Copyright Act No. 9 of 26 April 1989, which is currently being amended to comply with current international norms.
- **Mauritius** – Copyright Act No. 12 of July 1997.
- **Mozambique** – Copyright Act No. 4 of February 1997.
- **Namibia** – Copyright and Neighbouring Rights Act No. 6 of 14 April 1994.
- **South Africa** – Performers’ Protection Act No. 11 of 1967, Copyright Act No. 98 of 1978, as amended by respective Copyright Amendments Acts No. 56 of 1980, No. 66 of 1983, No. 52 of 1984, No. 39 of 1986, No. 13 of 1988, No. 61 of 1989 and No. 1125 of 1992, Intellectual Property Laws Amendments Act of 1997.
- **Seychelles** – Copyright Act No. 25 of 29 December 1982 and the Copyright (Registration) Regulations No. 12 of 14 February 1984.
- **United Republic of Tanzania** – Copyright and neighbouring Rights Act No. 7 of 2 June 1999.
- **Zimbabwe** – Copyright Act of 2001.
- **Zambia** – Copyright and Performance Rights Act No. 44 of 31 December 1994.

## **Annex 5**

### **National copyright offices in the SADC region**

#### ***Angola***

Ministry of Culture  
National Institute for Cultural Industries (INIC)  
National Directorate of Entertainment and Copyright

**Address**

Rua Civilo de Conceição 72 andar  
Luanda

**Mailing address**

Caixa Postal 1252  
Luanda

Telephone: (244 2) 33 13 71

Telefax: (244 2) 33 13 62

#### ***Botswana***

Ministry of Commerce and Industry  
Department of the Registrar of Companies,  
Business Names, Trade Marks, Patents and Designs

**Address**

P.O. Box 102  
Gaborone

Telephone: (267) 580 754

Telefax: (267) 371 539; 580 987

Telex: 2674 TRADE BD

Email address: roc.mci@gov.bw

#### ***Democratic Republic of the Congo***

Ministry of Culture and the Arts  
Directorate of Research, Planning and International Cultural Relations  
Secretariat General of Culture

**Address**

B.P. 3090  
Kinshasa I

#### ***Lesotho***

Office of the Registrar General  
Copyright Office

**Address**

P.O. Box 52  
Maseru 100

Telephone: (266) 31 30 34

Telefax: (266) 31 01 94

Telex: 4228 SADCTU LO

## **Malawi**

Ministry of Sports and Culture  
Copyright Society of Malawi (COSOMA)

**Address**

P.O. Box 30784  
Lilongwe 3

Telephone: (265) 751 148; cellphone: 865 211  
Telefax: (265) 752 717  
Email address: [cosoma@sdpn.org.mw](mailto:cosoma@sdpn.org.mw)

## **Mauritius**

Ministry of Arts and Culture  
(Mauritius Society of Authors (MASA))

**Address**

7th Floor, R. Seeneevassen Building  
Maillard Street  
Port Louis  
Mauritius

Telephone: (230) 212 5848  
Telefax: (230) 212 9366  
Email address: [copyrightsoc@intnet.mu](mailto:copyrightsoc@intnet.mu)

## **Mozambique**

Ministry of Culture and Sports  
National Institute of Books and Records  
Department of Copyright

**Address**

Av. 24 de Julho 1921  
Maputo

**Mailing address**

P.O. Box 4030  
Maputo

Telephone: (258 1) 42 02 57; 42 03 73  
Telefax: (258 1) 42 02 09

## **Namibia**

Ministry of Information and Broadcasting  
Copyright Services

**Address**

Government Offices  
Provost Building  
Windhoek

**Mailing address**

Private Bag 13344  
Windhoek, 9000

Telephone: (264 61) 22 22 46; 22 10 77  
Telefax: (264 61) 22 49 37  
Telex: 665



## **Seychelles**

Ministry of Youth and Culture

### **Address**

Ministry of Youth and Culture  
P.O. Box 1383  
Victoria  
Mahe

Telephone: (248) 321 333

Telefax: (248) 322 113

Telex: 2305 MINED SZ

## **South Africa**

Department of Trade and Industry

Office of the Registrar of Patents, Trade Marks, Designs and Copyright

### **Address**

Private Bag X400  
Pretoria 0001

### **Mailing address**

Zanza Buildings  
116 Proes Street  
Pretoria 0001

Telephone: (27 12) 310 8700

Telefax: (27 12) 323 4257

Telex: (9) 35-0168 TRIN

Email address: mcdonaldn@dti.pwv.gov.za

## **Swaziland**

Ministry of Justice

Registrar General's Office

### **Address**

3rd Floor, Justice Building  
Mbabane

### **Mailing address**

P.O. Box 460  
Mbabane

Telephone: (268 40) 46 010/9

Telefax: (268 40) 43 531

## **United Republic of Tanzania**

Copyright Society of Tanzania (COSOTA)  
Business Registrations and Licensing Agency (BRELA)  
Ministry of Industry and Trade

### **Address**

Cooperative Bldg.  
Lumumba Street  
Dar es Salaam

### **Mailing address**

P.O. Box 9393  
Dar es Salaam

Telephone: (255 22) 812 760839 (Mobitel);  
Direct lines: (255 22) 2180048; 2180139; (255 22) 2180141  
Telefax: (255 22) 2180371; 2184727  
Telex: 41689 INDIS TZ  
Email address: usajili@intafrika.com

## **Zambia**

Ministry of Information and Broadcasting Services  
Copyright Administration

### **Address**

P.O. Box 51025, Lusaka

Telephone: (260 1) 25 17 73; 25 17 66  
Telefax: (260 1) 25 34 56; 25 34 57; (260 1) 25 17 67  
Telex: 40113 INFORM ZA

## **Zimbabwe**

Ministry of Justice, Legal and Parliamentary Affairs  
Office of the Controller of Patents, Trade Marks and Industrial Designs

### **Address**

Private Bag 7704  
Causeway  
5th Floor Forner House  
Corner Leopold Takawira Street and Samora Machel Avenue  
Harare

Telephone: (263 4) 775 544/6; (263 4) 773 443; (263 4) 781 835  
Telefax: (263 4) 772 999; 772 993  
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